

# HAWAII OVERFLIGHTS

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## HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS  
AND PUBLIC LANDS

OF THE

COMMITTEE ON  
NATURAL RESOURCES  
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

**H.R. 1696**

TO PROVIDE FOR THE REGULATION OF THE AIRSPACE OVER NATIONAL  
PARK SYSTEM LANDS IN THE STATE OF HAWAII BY THE FEDERAL  
AVIATION ADMINISTRATION AND THE NATIONAL PARK SERVICE, AND  
FOR OTHER PURPOSES

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NOVEMBER 18, 1993—WASHINGTON, DC

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**Serial No. 103-63**

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Printed for the use of the Committee on Natural Resources



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1995

87-820

For sale by the U.S. Government Printing Office

Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-046801-9

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## HAWAII OVERFLIGHTS

THURSDAY, NOVEMBER 18, 1993

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON NATURAL RESOURCES,  
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS,  
AND PUBLIC LANDS,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:05 a.m. in room 1324, Longworth House Office Building, Hon. Bruce F. Vento [chairman of the subcommittee] presiding.

### STATEMENT OF HON. BRUCE F. VENTO, A U.S. REPRESENTATIVE FROM MINNESOTA, AND CHAIRMAN, SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS

Mr. VENTO. The Subcommittee on National Parks, Forests, and Public Lands will come to order. The subcommittee is meeting today to consider the initiative by our colleague on the subcommittee, Congresswoman Patsy Mink, H.R. 1696. This measure provides for the regulation of air space over the NPS lands in the State of Hawaii by the Federal Aviation Administration and the National Park Service.

The initial law, which was passed in 1987, the National Parks Overflight Act of that year, required the National Park Service to conduct a study to determine the proper minimum altitude which should be maintained by aircraft flying over units of the National Park System. This law specifically directed the National Park Service to study the Haleakala National Park on Maui and the Hawaii Volcanoes National Park on the Big Island and imposed restrictions of flight over certain areas of these parks. The study required by the law which passed in 1987 was supposed to be done by 1990.

Although the law is several years overdue, it is my understanding that much of the data on it has been collected, but the overall report is not expected to be done for several more months. While I understand that the National Park Service may not be prepared to offer final recommendations about aircraft overflights in the park units in Hawaii, I would be interested in the data collected concerning the impacts of aircraft overflights on park resources and on visitor enjoyment, as well as any preliminary recommendations and findings they may have.

Although there are a number of other issues concerning overflights, particularly at Grand Canyon National Park, today's hearing will focus on the issues addressed by Congresswoman Mink's bill. She introduced her bill after receiving complaints from constituents about noise, unsafe flying practices and other harmful

impacts from park overflight activity. I understand that she has held several meetings in her district and in Washington to try to come up with solutions which respond to those concerns while being sensitive to the needs of aircraft operators.

I might say, in reviewing the bill, it does offer some new insights and perhaps policy paths for dealing with this serious problem.

[The bill and background may be found at end of hearing.]

Mr. VENTO. Congresswoman Mink, did you have an opening statement? I know that you have done a lot of work on this, and I am pleased to see that you have joined in this issue. It is an issue that the subcommittee considered extensively in 1987.

#### **STATEMENT OF HON. PATSY T. MINK, A U.S. REPRESENTATIVE FROM HAWAII**

Mrs. MINK. Thank you, Mr. Chairman. Mr. Chairman, I am very pleased that you have decided to have a hearing on this bill. It is a matter of enormous concern to my constituents and, in effect, this is a continuation of the efforts of my predecessor, who I am sure had a great hand in inserting into that Public Law that you mentioned the request to the Department to conduct a study; because even then, 5 or 6 years ago, complaints were coming in with respect to the noise element at Haleakala.

My bill enlarges the scope of that inquiry beyond Haleakala to the Volcanoes National Park, and so it is, in that sense, comprehensive with respect to concerns for both.

On both islands remain enormous concerns about the invasion of the tranquility of the two parks. I firmly believe that the country has set aside these two giant volcanoes not only for the idea of conservation and preservation, but because they stand as huge monuments to our national heritage. I am originally from Maui where Haleakala is located, and I recall spending many wonderful days during my childhood enjoying the tranquility and the grandeur of Haleakala in particular.

Today, however, that grandeur and that tranquility is no longer. The state of the situation, in fact—as tourists have become the dominant industry in my State, we have had all these corollary kinds of services that naturally emanate from a burgeoning tourist activity, whether it is diving or following the humpbacked whale or whatever it is, coral diving and all of these things which are invasive to our natural environment, have become problems for conservation and protection.

And so we are here today with this bill asking the Congress to help us carry on the work of my predecessor in trying to lay out some specific areas in these parks where overflights would be totally banned, areas where they may be permitted but only at certain heights, and other kinds of safeguards.

Mr. Chairman, I must say that my bill actually was a proposed draft which came from the Parks Division and is something which I did not produce myself. It has been worked on, I assume, because of the interest that had been expressed some years ago. So I am hoping that these hearings will not only incorporate the concerns and the necessity for legislation, but that this committee will rapidly report out the bill.

I know that many colleagues in the House have expressed to me similar concerns about parks in their areas. And as staff have indicated, there may be an appropriate moment in which all of these efforts or concerns can be joined together in one bill.

I have with me here a stack of petitions that have been signed by people who either live on one of the two islands, or are tourists who visited the parks and have expressed extreme concern; and accordingly, am asking the subcommittee to endorse my bill and to report it out.

I would like to say that the Sierra Club and the Citizens Against Noise, the Conservation Council of Hawaii and numerous other groups—many community organizations, as you will see reflected in these petitions—have joined forces to try to get something done.

And so, if it is appropriate—if not, I will carry them back to my office, but I simply wanted to indicate the enormous concern.

Mr. VENTO. I think if the gentlewoman would yield with regards to the treatment of the petitions, we could reference them in the record and highlight those which represent important and significant organizations, and the number of individuals that have signed such petitions and/or Members of Congress, and reference them in that manner, if that is appropriate. So in the event we were to print the record, we would not be faced with—

Mrs. MINK. If it is appropriate, I would like to ask this my entire testimony be submitted.

Mr. VENTO. Without objection, the statement of Members and witnesses will be made a part of the record and the treatment of the referencing of the petitions and documentation as outlined by Congresswoman Mink will be part of the record.

[The statement of Mrs. Mink follows:]

#### STATEMENT OF PATSY T. MINK

Chairman Vento and members of the Subcommittee, I appreciate this opportunity to appear before you and to testify in support of my bill, H.R. 1696, which seeks to reduce helicopter noise pollution over Haleakala National park on the island of Maui and Volcanoes National Park on the Big Island of Hawaii.

Having been born and raised on Maui, I can attest to the beauty and grandeur of Haleakala National Park. And, as a visitor to Volcanoes National Park, I have experienced its unique and captivating natural brilliance. I can attest to the tragic loss—one might even say sacrilege—of the pristine and gentle beauty that is Haleakala and Volcanoes National Parks despoiled by constant helicopter noise.

The residents of Maui and the Big Island have unsuccessfully attempted to resolve the noise problem afflicting Haleakala and Volcanoes National Parks. The noise problem persists at these parks despite years of community action and agitation.

The burgeoning helicopter tour industry is a testament to the popularity and great natural beauty of Haleakala and Volcanoes National Parks. While helicopter overflights are a unique way for visitors and residents alike to experience the beauty of Haleakala and Volcanoes National Parks, the lack of regulation of the helicopter tour industry has resulted in serious noise and safety problems.

My bill seeks to find an acceptable solution to the safety and noise problem, while at the same time respond to the competing interests of the helicopter tour industry, of residents and of visitors to our national parks. H.R. 1696 does not propose to eliminate helicopter tour overflights, but to regulate its operation to ensure optimum safety and enjoyment of our national parks.

H.R. 1696 creates flight-free zones in certain areas of Hawaii's national park system, and establishes a minimum altitude of 2,000 feet for helicopter and fixed-wing flights over the remaining areas of the park system. The proposal contained in H.R. 1696 is based on regulations in other parks, notably the Grand Canyon, that addresses similar problems.

The residents of Hawaii and visitors to our parks are subject to often overbearing noise from helicopter overflights.

The noise from helicopter overflights cannot be prevented from infringing on those who are hiking and camping in our national parks. The noise from low flying helicopters cause distress to the native bird life already on the verge of extinction.

The increasing number of fatal helicopter tour accidents has intensified the call for government regulation, by enacting reasonable regulations governing airspace over our national parks, we can insure safe helicopter overflights, calm local residents and satisfied visitors to our national parks.

Many residents on each of Hawaii's major islands are calling for an immediate and long-awaited solution to this noise problem. This bill is a promise of relief to a frustrating, aggravating and serious problem, and a way to preserve the natural beauty and enjoyment of our parks for everyone.

Mr. Chairman, I strongly urge this Subcommittee to endorse H.R. 1696, and to take immediate action to give back to the people of Hawaii and to the visitors to Haleakala National Park and Volcanoes National Park, the pristine beauty, the physical enjoyment and the natural magnificence of these parks.

Mr. VENTO. I will also put the two editorials in The New York Times and USA Today, the editorial from yesterday, in the record without objection.

[The information may be found at end of hearing.]

Mrs. MINK. If I may, Mr. Chairman, also have permission to submit these endorsements which have come from organizations, also for the record?

Mr. VENTO. Without objection. I assume that the documentation had some endorsements or letters from organizations and those should be made part of the record.

[The material may be found at end of hearing.]

Mr. VENTO. Congressman Williams sat through and worked with us on the actual study and implementation of the Act which placed limitations on overflight on Haleakala, on Hawaii Volcanoes, on Glacier and other key sites that Members were concerned about. We specifically legislated with regards to the Grand Canyon, based on some Park Service work that had been done.

I recognize Congressman Williams. I understand that there are some agreements that have been reached on Glacier.

#### **STATEMENT OF HON. PAT WILLIAMS, A U.S. REPRESENTATIVE FROM MONTANA**

Mr. WILLIAMS. Thank you, Mr. Chairman. I want to thank Patsy Mink for the leadership that she has demonstrated on what many of us believe is a critical and growing problem. Not only, of course, as Patsy knows, in the beautiful State of Hawaii, but in many other States and many other national parks.

On one warm day last summer the new Director of the National Park Service, Roger Kennedy, and I went on a couple of long walks in Glacier National Park, a place that we think is one of America's nicest corners, America's alps. People go to Glacier for tranquility and solitude. They go there for a wilderness experience. And the pop, pop, pop of low-flying helicopters has no place over Glacier National Park.

I recognize that there are a few people—very few, but a few people who would prefer to experience that national park from a helicopter. They should be denied that experience.

Glacier National Park is a wilderness park. People go there to get away, and they should not be disturbed by low-flying aircraft. And the FAA is going to have to get that through its head. And

if that means that the National Park Service has got to be given the right to govern air space by this Congress and the President, then we ought to go about doing that and take that away from the FAA.

The FAA drags their feet, they procrastinate, they claim they have got agreements when they don't have them—for example, in Glacier National Park, an agreement that satisfies no member of the Park Service.

The American citizens who want to continue to enjoy parks, such as Mrs. Mink is proud to have in her State and I am proud to have in mine, have a right to experience those parks without disturbance from low-flying aircraft. And I am hopeful, Mr. Chairman, that before this Congress is out next year—this body, the House, and hopefully the Senate will have passed legislation which will grant the Park Service, in conjunction with the FAA, the right to regulate and, if necessary, completely restrict aircraft flying in the near proximity of the parks.

Mr. Chairman, Patsy and I, and others as well, are grateful for your attention to this, and we hope you keep riveted on it.

Mr. VENTO. Thank you. I guess I misspoke when I said that there was an agreement at Glacier, and I note that the government's comments with regard to that—and we will pursue that—and also that Volcanoes National Park did not have limitations put on it. It was only Haleakala and Yosemite. We included other areas beyond those.

Mr. de Lugo, Did you have an opening statement or comments.

Mr. DE LUGO. I don't have an opening statement. I would like to say that I am here to support my colleague, Patsy Mink. I try to follow her leadership as much as possible. And I think that certainly her approach here is a wise approach. I was supportive of the 1987 legislation. I am disappointed that the studies that were mandated haven't been completed. This is a frustration that we face on a continuing basis.

I was fortunate enough to visit Haleakala prior to the passage of that legislation. I certainly associate myself with everything that has been said by Mrs. Mink and also my friend, Mr. Williams, and yield back the balance of my time.

Mr. VENTO. And, Congresswoman English, did you have any statements?

Ms. ENGLISH. I don't have a prepared statement, but I do want to thank you for having this hearing and for my colleague, Patsy Mink, in pursuing this.

I don't currently represent but have been involved with for years the same issue over the Grand Canyon, and it has taken years. And I will tell you from firsthand experience that I think Mr. Williams is correct. People have an opportunity to enjoy some of our national parks, and sometimes those opportunities are difficult and time consuming. And to have that experience interrupted by low-flying aircraft is truly a disruption in that experience. And I think we need to do everything we can to protect what I believe is a natural resource for our tourists. And anything I can do to support this legislation, I will be happy to do.

Mr. VENTO. Congressman Underwood.

Mr. UNDERWOOD. Yes, thank you, Mr. Chairman. I have no prepared statement, but I would currently like to associate myself with the earlier statements made by the Members of the committee and issue my strong support for Congresswoman Mink's legislation here. And I am sure that—eventually I hope that it will have wider implications and cover all the national parks that are threatened by these low-flying aircraft.

We had one—although the national park on Guam is very small, and Guam itself is very small, and all low-flying aircraft will eventually impact the park, we had one incident in the national park when recreating the invasion of—the American reinvasion of Guam of 1944, a low-flying aircraft came over at a critical moment in that, disrupted it and moreover it had a political message attached to the low-flying aircraft to vote for someone. Needless to say, that candidate did not win.

So this is important legislation, and I want to lend my support to it. Thank you.

Mr. VENTO. Thank you.

Mr. Hansen.

**STATEMENT OF HON. JAMES V. HANSEN, A U.S.  
REPRESENTATIVE FROM UTAH**

Mr. HANSEN. Thank you, Mr. Chairman. The issue of aircraft noise is certainly an emotional one, whether we are talking about noise impact on the residents in the vicinity of airports, impacts from low-level military flights or aircraft use in national parks. The fact is that aircraft travel is vital to commerce and for defense of this country and every indication is that all segments of aircraft use will continue to increase in the future.

Mr. Chairman, the Park Service has already adopted a position endorsing aircraft tours as a legitimate way to experience parks at areas ranging from Grand Canyon to Denali, where a park concessionaire conducts unrestricted air tours over wilderness areas.

Clearly, there are times and places where the government must exercise some control in terms of limiting aircraft noise. To that end, seven years and nearly \$4 million ago, this Congress directed the Park Service and Forest Service to conduct studies to determine what impacts, if any, were resulting from overflights of areas they manage.

The Forest Service report, received one-and-one-half years ago, finds no significant impact on Forest Service wilderness areas. We are still awaiting the results of the National Park Service studies.

Mr. Chairman, the Park Service correctly requests in their testimony today deferral on this legislation until they have furnished us with the results of their study. While I realize that continued delays in receipt of these studies will frustrate some people who wish to act now, I would hope that you would agree that objective research is vital and that any necessary congressional action should be on a nationwide basis, rather than a piecemeal approach, and I am curious to know when that study will come in.

As you may recall, Mr. Chairman, a few years ago we got into a lengthy debate on the Grand Canyon. The Chairman of the committee then, Mr. Udall, confessed to flying a Cessna down the middle of the Grand Canyon, at which point the rest of us confessed

our sins, because I flew a Supercub right down the middle of it one time, and then Danny Smith flew an F-4 down it and to top that off, John McCain said he flew an F-14 down it. So we were all sinners in the Grand Canyon.

Since that time, we have changed that, but it seems like we are doing it on a per-park basis; and I would be very curious to know if the Park Service could ever come up with it. Mr. Chairman, as you know, we have the mining bill back on the Floor and I am going to go back over there, but I am going to ask unanimous consent that the questions that I have here, that the Park Service would answer those and refer them to the committee.

[The replies were not available at time of printing.]

Mr. VENTO. Without objection, the Park Service and the FAA may have questions submitted to them and other witnesses, in writing, and respond to the Members in a timely manner.

Mr. Abercrombie, did you have any opening words this morning?

Mr. ABERCROMBIE. Yes, Mr. Chairman, I would just like to associate myself in every respect with the testimony and commentary of Representative Mink.

Mr. VENTO. Thank you.

Mr. VENTO. We are pleased to welcome John Reynolds, the Deputy Director of the National Park Service. His testimony has been made part of the record. I think he had answered Congressman Hansen's question that, sometime this spring, they are going to have the study back, which is any time from March 21 to June 21. It is not good enough.

Mr. Reynolds, please proceed with your statement.

**STATEMENT OF JOHN T. REYNOLDS, DEPUTY DIRECTOR,  
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR**

Mr. REYNOLDS. Thank you, Mr. Chairman. It is a pleasure to be here. I have with me Wes Henry, who has been doing yeoman's work for the National Park Service, getting the study completed.

Before I do the testimony, let me say that the studies will be completely done this spring. The information reports will all be finished in the next couple of weeks, and people will be able to see those. Some of that information is already available.

Mr. Chairman, thank you for the opportunity to appear before the committee today to present testimony on H.R. 1696, a bill to provide for the regulation of the air space over National Park Service lands in the State of Hawaii by the Federal Aviation Administration and the National Park Service.

We support the intent and appreciate the concern underlying H.R. 1696, but believe that legislative action is premature. Instead, we believe it is preferable to wait until the spring when a draft of our report to Congress on the overflight study will be available and we have had time to get a detailed response from the Federal Aviation Administration on how it will assist the Park Service with problems associated with overflights throughout the National Park System.

We view your interest as an added means of strengthening the working relationship between the Park Service and the Federal Aviation Administration that has been developing, especially within the last several months under this administration. We do, how-

ever, wish to take this opportunity to communicate the great concern among many of our superintendents and their staffs who are concerned about overflight issues.

The auditory and visual intrusions of aircraft overflying national parks in Hawaii generates more public complaints than any other issue in those parks. Our research suggests that when aircraft are audible, a high percentage of the time, a significant proportion of the visitor population will be annoyed.

Parks such as Hawaii Volcanoes and Haleakala are incredibly quiet places in their natural condition. At Haleakala, for example, we have measured background sound levels as low as 8 decibels. Most people can't hear below 20 decibels. Aircraft sounds ranged from the threshold of hearing to over 90 decibels. Acoustically, this is a startling range of difference.

We also have several safety concerns which the FAA is addressing, helicopters are flying too low over active lava flows, over the ocean near the lava flows, and through related volcanic fumes. This not only endangers the air tour pilots and passengers but also the Park Rangers, who must conduct rescues in the event that there is a crash. Low-flying helicopters can also be dangerous to people on the ground, as hovering can subject them to a shower of volcanic gas, debris and toxic fumes. We are making progress on resolving issues.

Hawaii Helicopter Operators Association, the Federal Aviation Administration and Hawaii Volcanoes National Park have been negotiating to develop a voluntary agreement to mitigate problems caused by low-flying aircraft over the park. The agreement identifies restricted areas and minimum standoff distances for the helicopter operators overflying Hawaii Volcanoes. It is a useful start, but its effectiveness is yet to be tested, and it does not deal with parks other than Hawaii Volcanoes.

I would like to reiterate that the Park Service supports the intent, appreciates the concerns underlying H.R. 1696, but believes we should provide an opportunity for current Park Service-FAA initiatives and strengthening relationships to prove themselves before considering the legislative response.

Before I conclude my testimony, I would like to add an observation or two, both representing the National Park Service as Deputy Director and also as a former superintendent of a natural area of the National Park System.

First, I would like to thank Congresswoman Mink for bringing this subject to the Congress.

I would like to thank you, too, Mr. Vento for holding the hearing. I believe this is one of the most important resource and visitor enjoyment issues that face the National Park Service now, and even more so in the future; and the ability to have this discussed openly in the Congress and to take action to deal with the situation is extremely important to the National Park Service.

This concludes my prepared remarks, and I would be pleased to answer questions.

[The statement of Mr. Reynolds may be found at end of hearing.]

Mr. VENTO. Thank you, Deputy Director Reynolds. I have been looking, too, and I think other Members expected the study back much sooner than is the case.

Has Mr. Henry been the principal, lead person in this since the initiation of such a study?

Mr. REYNOLDS. No, Mr. Steve Hodapp was; and I believe that when Steve left the Park Service, Wes took over.

Mr. VENTO. What has been the delay? It is an extraordinary delay. We have been waiting for this.

Your suggestion is to wait until next spring sometime, and I don't know if that means June or March. If it is the first part of March, it is a reasonable request, but June is difficult.

Mr. REYNOLDS. I will have to ask Mr. Henry to amplify, but I believe the reasons are twofold.

Number one is the initial delay of not having any funding to start the studies. Following that, I believe that the Park Service's primary reason has been, since then, that the Park Service found that this issue is much more complicated and difficult to understand and deal with than anybody had originally anticipated and the studies have taken longer.

Is that correct?

Mr. HENRY. That is correct, Mr. Chairman. I would say that we lost about a year in the slack time between Steve's leaving and my coming on board.

Mr. VENTO. I might say that the Park Service or the Department of the Interior didn't request funding after the authorization. It was a congressional add-on at the insistence of Congressman Coehlo, who was the principal lead in this in the House, as well as others.

There were some other problems here. I think, fundamentally, to all of us, this gets to the core of why we have parks or why we have set-asides in terms of land. The organic act, the initial laws that established the Park Service, didn't anticipate the sort of intrusion and presence of a significant number of aircraft being used. Of course, everyone knows that we get into commercial or military or other type of activities.

What we are talking about is the type of aircraft that are exclusively there because this is a park, a historic site, a natural feature; that is why they are there. They are directly related to visitors or users to the park and, at the same time, they are in sharp conflict with the experience others may have on the ground or at a visitor center or some other location in and around that historic or natural site, that park. It really gets right to the core of what the visitor experience is.

It is evoking very strong responses in places where it has really become overbearing. To say it is a difficult problem is probably an understatement, because it does get right to the experience in terms of what is happening here.

I think everyone understands that if we can't define this, maybe we have got to set out some new policy with regards to this if we have to look back and say, "Well, does this affect the preservation of this? Does this affect the species or how does this fit in?" If it doesn't affect of any that, then it has to go on.

But I think that misses the point. I think the fact that we have half a dozen Members here from these areas certainly speaks to the issue. The study will be done. The FAA has been cooperating

insofar as you have asked them for data, Mr. Reynolds or Mr. Henry?

Mr. HENRY. Mr. Chairman, yes. We started a process, for example, in Glacier two years ago; and this past summer, there has been quite a lot of activity trying to get some forward movement in that area.

Mr. VENTO. Cooperation in terms of information, or what are you talking about, movement?

Mr. HENRY. In putting together an agreement that would satisfy the park.

Mr. VENTO. That is interesting. I mean, Mr. Williams had some observations with regards to it. What I am talking about is in terms of getting the study done and you are talking about getting final agreements in place?

Mr. REYNOLDS. I think in terms of the FAA, none of us would argue prior to the last few months the response of the FAA has been as helpful as we would appreciate. However, the last few months, and particularly in the last month, the FAA has shown some real willingness to work very directly with the National Park Service.

Mr. VENTO. As an example, in your view, has there been adherence to the voluntary and mandatory compliance of aircraft overflights in the national park units in Hawaii? Haleakala, do you know what the situation is there? Or at Yosemite or Grand Canyon?

We read about the intensity and the number of flights. But what about the voluntary and mandatory compliance issues at these sites? How do we monitor it? What do we know about it? Has there been compliance or not?

Mr. HENRY. I don't believe compliance is the issue in either the case of Haleakala or Yosemite. The law put altitude restrictions on those parks. Compliance is not the issue; effectiveness of those altitude restrictions is.

Mr. VENTO. Do have you any control of the frequency of flights at these sites?

Mr. HENRY. None.

Mr. REYNOLDS. And I believe the studies and particularly what managers are saying show that the increase in the numbers of flights have—

Mr. VENTO. Increased?

Mr. REYNOLDS. They definitely have increased, and the effect on the parks has been adverse.

Mr. VENTO. What role has the Park Service taken in terms of being present and involved in FAA hearings or other types of activities that would bear on the expansion and increase in the number of flights at these sites? Has the Park Service taken any role in the interagency, interdepartmental role in terms of speaking out in terms of how this affects the parks?

Have you offered testimony? Have you protested? Have you offered any counsel or guidance? Have you been sought to offer any counsel or guidance? Have you been notified?

Mr. REYNOLDS. I don't know the answer to that. I know that in Hawaii, the park has been working with the FAA. And the results of that are not in.

Mr. VENTO. Of course, you are working with them on the study, but my question is—

Mr. REYNOLDS. No, this is working with them to get a voluntary agreement.

Mr. VENTO. I am talking about transboundary issues where there are permits and other issues where the airports are being expanded and the number of flights are increasing specifically with the purpose of tourism and flying into that park and having an impact on it in terms of the visitor experience.

I want to know whether the Park Service is standing up to speak up for these parks or not.

Mr. REYNOLDS. I believe that the superintendents, in fact, are; and they are supported by this administration and the National Park Service to do so wholly and openly and freely.

Mr. VENTO. I would like to know the instances and examples of when that has been done, because the impression I get is that these types of transboundary issues fundamentally get at the basis for establishing these units and are not being addressed in a forceful way by the Park Service. I think the low priority or the fact that this study isn't before us after this long is an outrage in terms of what has happened and the examples I have heard.

If it is the FAA's fault, then they should get the contract for it, but I must say that I am disappointed in the role. The Park Service should be leading this rather than waiting for an individual Member to come up here and try to get this together. We ought to be out in the forefront and be on the cutting edge of dealing with policies like this. This ought to be at the top of your legislative priorities for January of 1994.

You are putting together a legislative program. This had better be in it, as far as I am concerned; and if it isn't, I will put it in and I will have the help of these Members to do it.

Mr. REYNOLDS. I don't think that you can be any more frustrated about this than I am or the NPS. We are embarrassed that the studies are not complete. We are only asking today that we use this bill as a vehicle with good information so that when the prescriptions that are made are applied, that they work and that we take, no matter how frustrating it—just a little bit more time to be able to, in fact, have prescriptions that apply directly to each national park and its individual problems and that it addresses that for the Nation as a whole.

It is very important to the National Park Service, and I agree with you.

Mr. VENTO. I think you should be leading the way on this stuff. You are new in this role, and this is a new opportunity here. But I think that we have got to come up quicker in terms of meeting these issues in a way that carries a sort of urgency that I think they deserve; it should have been done earlier.

I blame myself for not doing more, but candidly, I think we have to get on with this when you have this sort of impact on the parks. Congressman Williams.

Mr. WILLIAMS. If you would, give us an idea where we are, where you are in the process of the study, preparing the study.

Mr. REYNOLDS. Yes, I am going to ask Mr. Henry to do that, sir.

Mr. HENRY. We have probably a dozen studies that have been in process. I will run through them quickly.

We have reviews, looking at the effects of aircraft on wildlife and cultural resources. We have a visitors' survey that ran in over 40 parks. This is part of the complexity of it. We want to be able to tell you system-wide what is going on. We can't do that for one or two parks. That report, for example, is not in yet. I expect it in next week.

We have also looked at the relationship between noise-dose and visitor response in Hawaii and Grand Canyon situations. That report will be out next week officially.

There are visitor surveys from Grand Canyon separate to the ones I just mentioned. We have a lot of acoustic monitoring data from both the Hawaii parks and the Grand Canyon. We have a white paper on the relationship of altitude and noise propagation.

As you mentioned earlier, all these reports will be finalized and on the street by sometime in December.

Mr. WILLIAMS. Are any of those elements completed and have you moved on to others, or are they all in about the same stage of noncompletion?

Mr. HENRY. There are several that are complete. And there are three or four that will be—I have already cleared them—released shortly. It is just a matter of the printing and so on to get them on the street.

The only big one that is missing is the major visitor survey and the national park managers survey. Both of those have to go through a final clearance.

Mr. WILLIAMS. Okay. Mr. Henry and Mr. Reynolds said that for the first few years, up until about 30 or 60 days ago, cooperation from the FAA was, I think he said, a little less than desirable, or some such statement.

Do you agree with that, Mr. Henry? The cooperation with the FAA hasn't been as good as it might be?

Mr. HENRY. As a general statement, yes. I think if I could express it, not necessarily based on my experience here with the FAA people I deal with in Washington, but based on the experience of our field people, getting cooperation from FAA has been very frustrating.

Mr. REYNOLDS. May I add, obviously, Mr. Henry has had some very good working relationships with the staff people in the FAA; and in my remarks, I hope that I implied that policy level has been—in terms of implementation, has been somewhat different up until the last few months.

Mr. WILLIAMS. What do you think caused that improvement? If that is what you mean by "different"?

Mr. REYNOLDS. I think that the major cause for the improvement has been the Assistant Secretary of Interior, Fish, Wildlife, and Parks and the Secretary of Interior having spoken directly to their counterparts in the FAA about the importance of protecting national park units.

Mr. WILLIAMS. I noted, Mr. Chairman, that a few minutes ago Congresswoman Shepherd came in. And, Karen, I was talking about our walk—you and I and Director Kennedy—one day; and then he and I after you moved on, he and I went on a walk the

second day. But I remember visiting with you at a time when a helicopter went overhead and not flying as low as they sometimes do. But it was disturbing.

And many of the people who go to Glacier to enjoy the solitude that we were enjoying that day are greatly bothered by those popping helicopter sounds.

I don't intend here to speak for Director Kennedy, but I believe, Mr. Chairman, that the Director's attention is riveted on this problem and that he would like to see a resolution of it. Of course, he wants to cooperate with other agencies.

But speaking for myself, I really believe that the Director of the Park Service and the individual superintendents need to have significant authority to make determinations with regard to the appropriate use of the space above the national parks.

Thank you for being here, gentlemen. I know that it is a tough time for you, but we hope that you will do the best job that you can in completing the reports in a timely fashion. Spring in Washington comes sooner than spring in Montana. I assume you are talking about spring in Washington. I suggest that you double-time.

Mr. REYNOLDS. Two things before I leave. One is that I really did mean thanking you as a committee for bringing this to the fore.

Congressman Williams, what you just said about Mr. Kennedy's desires is the case. We can provide—as soon as these reports are back from the printers, in the next week or ten days, we can provide those reports to the committee; and it has not been a bad time to be here. It has been very pleasurable to be here talking about this.

Thank you.

Mr. VENTO. Thank you. Congresswoman Mink.

Mrs. MINK. I want to echo—

Mr. ABERCROMBIE. I want to ask some questions. I hope that the folks are not leaving.

Mr. VENTO. No, they are not leaving.

Mrs. MINK. I want to echo the comments of the Chair. I am enormously frustrated about this issue.

And I take personal affront in your testimony here, Mr. Reynolds, your statement in particular that this legislative action is premature. It is long overdue in my view.

We have been agonizing over this issue for a long time, and since you acknowledge that this is a problem that your field people experience and the questions of tranquility and the invasion on that tranquility are not at issue—they are obvious; they are recorded daily. The complaints come in to your superintendents.

The people out in the field in my State are fully in accord with the necessity of doing something.

I am impatient even to have to wait for the reports that are six years in coming, but I am content to see those documents, because I have no doubt that they will underscore the necessity of doing something. But fundamentally the issue is, why do not the Park Service and the Department of the Interior declare that this is a matter of their responsibility and authority?

Why are you so reluctant to make a determination that this is something which is in the scope of management of these resources

that have been given to you to guard and protect? If you accept that responsibility of guardian and preserver, then it would seem to me that support of this legislation or something like this would be natural.

No one is saying that we have the exact criteria as to what the flight pattern must be over every park or what the height level should be over every park or where the damaged areas are that should have our special attention. All we are saying is that the Park Service must take command over this issue and assume authority and responsibility. And if the FAA may have a part in it, fine, but if they don't, leave them out.

And my search is for any indication on the part of the administration here of a willingness to assert that kind of authority and responsibility. And that is my question to you, because I don't understand your statement saying—about it is much more difficult to understand than we thought. It is not difficult to understand. All you have to do is to be there in the parks and to experience what that nuisance and pollution is.

Mr. REYNOLDS. Mrs. Mink, you are absolutely correct. It is our responsibility and we accept that. We will, and we are in fact making that solution a very high priority.

I apologize if my wording was not as good as it could have been. In terms of premature, I only mean that I would very much like to have the solutions crafted based on scientific basis.

You are absolutely correct. We know—we know that—we know that it is a problem, a major problem. I do not mean to imply in any way that we do not know that.

Mrs. MINK. Well, the Congress doesn't in any minute way micromanage how you run the parks. It seems to me that if you are ready to take responsibility for this issue, for this degradation, your charge that you have been given, the responsibility to manage, then the details as to whether it applies to this park, and in what way, or that park, and in what way, and what areas should be specifically protected, that is something that you should work out.

And the fact that you have not made a determination on the specific solutions for specific areas and parks ought not to delay a precise statement by the Congress that we expect you to assume this responsibility and not have to wait on cooperation from another agency or voluntary discussions with the very people against whom we are making accusations that they are callous and have little regard for these areas that are of particular concern.

Mr. REYNOLDS. We would welcome such legislation. We only ask that it take into account the studies that we will provide for you. We very much would welcome the legislation.

Mr. VENTO. We have a vote here, we can probably recognize Congresswoman English first, and then we may have to see where we are.

Ms. ENGLISH. Thank you. I have one quick question.

The Grand Canyon, I believe, has a rather restrictive policy on—itself, the Park Service, for flights in the canyon for rescues, for repair of equipment and that sort of thing. And so I believe that the Park Service themselves understand the sensitivities and develop policies that make for the best experience for tourism.

And knowing that is the case, why is it so difficult to take that understanding to the companies that you deal—that the Park Service deals with—I will use the Grand Canyon, in Tusayan and even Las Vegas and Flagstaff, why is it so difficult to sit down with folks and talk to them about it, rather than waiting until it comes to the point of being legislation?

I think that a lot of—since you think there is—since you develop policies for yourself that you think take into consideration the needs of all the tourists, I think that this has gone so far beyond what it needed to go, had there been cooperative discussions early on. And I encourage those kinds of discussions, even with legislation.

Do you want to comment on that at all?

Mr. REYNOLDS. Sure. Number one, I agree with you. And I think that—well, I agree with you; and many of the attempts to sit down and arrive at conclusions with operators have not been fruitful. And I think that is part of the reason that legislation is introduced today and that we would like to see both administrative action and legislation take place, because we haven't been able to accomplish it in the past.

Ms. ENGLISH. Mr. Chairman, I have one more question. If it hasn't been fruitful or there has been less than cooperation, do you believe either the Park Service or the FAA has the authority to regulate without that cooperation?

Mr. REYNOLDS. It is my understanding that the Park Service has the authority to fight for protecting the parks and that the FAA has authority to restrict the use of air space. I think, however, that an expression of the national will from the Congress could do a great deal to get the resolution that is needed to protect the resources of the parks.

Ms. ENGLISH. Has there been a lack of expression from past administrations or past congressional—from Congress in the past on this issue? Or has there been a different direction?

Mr. REYNOLDS. Congress has been straightforward in passing the overflights study bill and understanding that the problem existed in the national parks and wanting to know what the extent of that problem was and how to fix it. I don't think that this committee or the Congress has a whole has ever gone against that in the parks.

I would have to say that in previous years we have not been successful, even at the Grand Canyon, in establishing the kinds of restrictions that we believe are necessary to protect that park and provide a visitor experience that is worthy of that kind of a resource.

Ms. ENGLISH. Why haven't you been successful? Is it because Congress refuses to give you the authority to implement them or—

Mr. REYNOLDS. No, I do not believe it is a problem with the Congress. I think it is a result of the natural conflict between hugely increasing visitor demand and the affluence to be able to have this kind of visitation coming up in opposition to protection of the very resources that other folks are trying to enjoy at the same time; and I think that the Park Service has not been able to marshal the forces necessary to do it on its own.

Ms. ENGLISH. An argument for ever-increasing options in a decreasing world, isn't it? Thank you.

Mr. VENTO. The threats to the parks have been recognized. Congress didn't initiate a strong reaction in 1987. And the Park Service never reacted.

The decade of the 1980s was like a vacuum because nothing was coming up. There is a backlog of issues and that is why it should be on the agenda. And I want you to put it there, Mr. Reynolds.

Mr. REYNOLDS. I will assure you that we will.

Mr. VENTO. We have to go vote and we will be back to ask more questions of you and Mr. Henry. We have back-to-back votes. It is a motion to recommit. But we should be back in 15 or 20 minutes.

[Recess.]

Mr. VENTO. We will get going again if we can with the testimony or the questions to the Park Service.

Sorry I was delayed.

Mr. Reynolds and Mr. Henry, can you provide the subcommittee any type of insight from the data, from the annoyance of interference or data concluded about the overflights on resources, visitor experience, and the impact on resources? Does any of the data suggest any insights?

You suggested that you were going to try to get the information up to us in the near future, notwithstanding the fact that you have not had the information out to complete comments on, and the final study before us until the spring. I guess what I am asking is to go beyond the testimony today and try to provide the subcommittee with some insights.

Mr. REYNOLDS. I might start by talking a little bit about Haleakala and Hawaii Volcanoes in terms of the percentage of time that aircraft are audible and how audible they are.

The percentage of time that those two parks, according—from the studies that aircraft are audible, ranges from about 36 percent or so to about 85 percent of the time, ranging from about 22 decibels up to as high as 65 decibels. And in the case of the 65 decibels at Hawaii Volcanoes, that is up there at the 85-percent-of-the-time level. So it is pretty intense stuff at that point.

Mr. VENTO. What is the percentage of time at the higher decibel levels?

Mr. REYNOLDS. At the one site in Hawaii Volcanoes, it is approximately 85 percent. I am reading from a chart so I may be a percent or two off.

Mr. VENTO. You are suggesting that it has increased from 35 to 85 percent, is that an increase over a period of years or is that the variation of the basic range?

Mr. REYNOLDS. That is the range, sir.

Mr. VENTO. This is during the visitor hours; it isn't evening when you can't fly. So the hours that the park is open and available for the public to visit?

Mr. REYNOLDS. Yes, sir.

Mr. VENTO. So you are saying 85 percent of the time, in one instance, at one site, there is audible sound from tourist or other type of aircraft. Most of it is tourist aircraft here, though, and so one would have to then extrapolate what the visitor experience would be in terms of those sites.

At least part of the visitor experience would be the hovering of helicopters or aircraft for 85 percent of the time. So it has become part and parcel of the experience at least a third of the time in all sites. Would that be an accurate description of the sites that you monitored or that were monitored by Mr. Henry's staff?

Mr. REYNOLDS. I am not sure that the aggregation is, but the range is. They vary tremendously from site to site.

Mr. VENTO. If it is 36 percent, it would seem to me that at least a third of the time during the visitor hours there was an aircraft hovering.

Mr. REYNOLDS. I would have to provide that for you. I don't have the information to be able to infer that.

[The information follows:]

#### TESTING SITE DATA

	Average time audible (per- cent)	Ambient Range (dBA)	Aircraft Range (dBA)
Haleakala N.P.:			
Sliding Sands Trail (Top)	39	15-35	35-60
Sliding Sands Trail (Bottom)	43	15-30	35-60
Kalahaku Overlook	76	13-23	27-65
Pu'u Mamane	56	8-15	39-69
Hawaii Volcanoes N.P.:			
Wahaula Temple (Road)	36	35-40	30-75
Wahaula Temple (Temple)	39	35-45	30-75
Halemaumau Crater	17	16-23	32-65
Tree Fern Kipuka (1 mile west—Pu'u O'o)	85	16-29	37-77

Mr. VENTO. Mr. Abercrombie has returned but since I asked a question concerning the impact of overflights on natural, cultural or historic resources outside of the visitor experience, I guess we just have to leave that to our own common sense in terms of what it means to have aircraft from 36 to 85 percent of the time at one site at these particular decibels.

But what about the impact on the resources? Did you have any comments about that, or insights?

Mr. HENRY. We could provide a few comments right now and more details if you need.

Mr. VENTO. I know that you don't have the study, but I was trying to give the committee a little flavor of what is likely to be the information that you are going to be presenting to us.

Mr. HENRY. For example, on cultural resources, we have looked at the literature very closely and one of our concerns, for example, would be vibrations from the main plain of the rotor too close to ruins, or a helicopter hovering off the Statue of Liberty, which they do, which could do damage to the structures. We would be able to set up some recommendations on what kind of limits we think are necessary to establish.

Wildlife is a lot more complex. I could say one thing about what the literature says. There is potential for impact; but we don't know how much. There is very little significant literature out there. A lot of observational kinds of research. There is just a lot we don't know.

And as for the kind of research that it would take to prove population damage, I would call that research equivalent to seeing how

many angels can dance on a pinhead. You are talking multimillion dollar studies over a period of years to prove population damage.

We can start to point out species, like grizzly bears or shore birds or other waterfowl, where we know that there are problems. It is intuitively obviously some literature supports this. And what this points to is, you need to look at mitigation beforehand; you know going into it that multimillion-dollar studies will be needed to prove that there is an impact. It is a better use of taxpayer dollars to do some abatement or mitigation up front on these issues.

Mr. VENTO. It could affect everything, predator-to-prey relationships or migratory birds, where they are disturbed by sound waves, or auditory differences may make a difference. It could lower or make them more susceptible to predation and make them poorer at the job of predation.

Mr. HENRY. Those are very difficult relationships to establish. It is another thing we have labored over, to be able to say with some accuracy what is known.

Mr. VENTO. Well, some of it is common sense. If the—if an avian is actually capturing its prey by virtue of sound and you have an 86 percent incidence of change here that is affecting it, it doesn't leave much. I don't know how much further you have to go than that. I think there are some matters that can be pretty persuasive in terms of recognizing that there is certainly a significant potential for problems and the air movements come from a different direction in terms of helicopter props and so forth affecting the rain forests and other areas.

Let me recognize Mr. Abercrombie, who has now returned from the vote.

Mr. ABERCROMBIE. Thank you, Mr. Chairman.

Mr. Reynolds, let me run over a little history with you and see if we are in agreement as to what that history is, and then I will ask you some questions and hope I get your observations.

Before I do this, you are speaking for the Department of the Interior today?

Mr. REYNOLDS. Yes, I am.

Mr. ABERCROMBIE. Very good.

Now, I am going over some background here and I am going to recite it to you to see, if you agree. This is background material provided to me, and I want to make sure absolutely I have it accurate, because it informs the questions I am going to ask and the position I am taking. This is background material on Representative Mink's bill.

Now, the National Park Service entered into a memorandum of agreement with the FAA in 1984 to help achieve compliance with voluntary recommendations concerning parks and overflights; is that correct?

Mr. REYNOLDS. Yes.

Mr. ABERCROMBIE. 1984, 1987—nothing happens for three years, essentially.

1987, this legislation passes requiring the Secretary of Interior to conduct these studies. Now, with all due respect to the Chairman's comments about birds and species and your comments, Mr. Henry, about multiyear studies and all the rest of it, this basically comes down to policy as to what you want the national parks to be like.

Now, some of the things that were involved in this legislation, 1987—impact of aircraft noise on safety and visitor enjoyment, impairment of visitor enjoyment, values of whether the aircraft flight should take place at all—I will give you my example. The equivalent example is these damn water jets that go out in the water and spin around and then people start talking, well, economic impact. We never had these things before the last few years. Now the oceans and lakes and all around the country are spoiled and destroyed and your enjoyment destroyed by some idiot on a jet ski running around in circles, including out in Hawaii.

So it is a matter of policy. Who is in charge?

Now, this act provided a three-year period to complete the study, two-year review period. It hasn't been finished, right?

Mr. REYNOLDS. Correct.

Mr. ABERCROMBIE. So from 1984, until now, essentially 10 years, the Park Service has had to rely upon the good will of the FAA and the overflight people, the helicopters and planes, et cetera, to work with you. Isn't that, in effect, true?

Mr. REYNOLDS. To a large degree, yes.

Mr. ABERCROMBIE. Okay. Now, in my background material I have this; I want to know whether you agree with it.

Under the interagency agreement, the FAA has agreed to assist the Interior agencies—of which yours is one—in combating problems associated with low-flying aircraft by participating in appropriate meetings at field and regional levels and by creating a communications network to inform pilots of the hazard of low-flying aircraft.

Do you think that is true? Is that a fact?

Mr. REYNOLDS. Whether they have done that or not?

Mr. ABERCROMBIE. That is what they say the agreement is. Is that what the agreement is supposed to do?

Well, I don't fly an airplane, but I have an idea that even I could tell them that there is a hazard if you fly too low and that—having said that to them, that should be it.

What does it take to tell people it is a hazard if you fly too low? What kind of communications network do you have to set up? I don't understand that.

And finally they go over—in addition, the FAA has agreed to investigate and report pilot deviations from the altitude administered by the Interior Department. Have they agreed to report instances where pilots have flown too low or deviated from agreed-upon standards?

You can answer directly, Mr. Henry.

Mr. REYNOLDS. Yes, yes.

Mr. ABERCROMBIE. Okay. How many times has that happened since 1984?

Mr. HENRY. We would have to find that. Quite a few I would suspect, in Grand Canyon National Park. I am not sure of an exact number.

Mr. ABERCROMBIE. Can you give me an educated guess in how many instances it has happened?

Mr. HENRY. No, I cannot.

Mr. ABERCROMBIE. Will that be part of your report next week? Will that be part of your report or reports? I think you said "reports" in the plural would be ready next week?

Mr. REYNOLDS. No, I don't believe that is part of the reports, but we could find that information for you.

[The information follows:]

#### REPORTS FROM PARK SUPERINTENDENTS

Park superintendents at Grand Canyon, Yosemite, and Haleakala National Parks report that compliance with the altitude and/or flight restrictions over those parks has been extremely high. For example, in the Grand Canyon last year, park monitoring suggested that compliance was on the order of 98 percent. Compliance levels appear to be similar for Haleakala and Yosemite National Parks.

The Grand Canyon National Park has reported a dozen or fewer serious violations of the Special Federal Aviation Regulations (SFAR) to the FAA since it was put into place; Haleakala National Park has reported 3-4 incidents; and Yosemite National Park has reported none. Until recently, the parks never got feedback from the FAA on these complaints.

The NPS has no knowledge of what FAA surveillance and monitoring efforts might indicate about compliance with the altitude restrictions.

Mr. ABERCROMBIE. That is important to have. What are the consequences in terms of the informal agreement that you now have? What consequences take place if the FAA has not only investigated, but reported on instances of pilot deviations from the FAA-requested minimums? What are the intentions?

Mr. REYNOLDS. To a pilot?

Mr. ABERCROMBIE. Yes.

Mr. REYNOLDS. I might have to ask somebody from FAA.

Mr. ABERCROMBIE. So that hasn't been communicated to you?

Mr. REYNOLDS. I do know that if regulations are broken, that the FAA does have the authority to take somebody's license.

Mr. ABERCROMBIE. I understand all of that and I will get to the FAA next. I want to know whether you know what the consequences have been. Presumably you have an agreement, even if it is informal and it says that they are going to report on these instances to you. Have they reported the consequences to you?

Mr. REYNOLDS. I don't know the answer to that.

Mr. ABERCROMBIE. So you don't know what action has been taken?

Mr. REYNOLDS. No, I do not, sir.

Mr. ABERCROMBIE. All right.

In your testimony—Mr. Chairman, I am building a case here—in your testimony on page 3 you say this is not to say we aren't making progress on resolving issues. You then go on to say that the Hawaii Helicopter Operators Association, the Federal Aviation Administration and Hawaii Volcanoes National Park have been negotiating to develop a voluntary agreement to mitigate problems caused by local flying aircraft.

How many meetings have you had? When did they start? When did they start?

Mr. HENRY. The latest effort is Hawaii is within the last year.

Mr. ABERCROMBIE. I didn't say within the last year. I said, when did the meetings start and how many meetings have you had?

Mr. REYNOLDS. We would have to provide you with that information. We don't have it today.

[The information follows:]

## MEETINGS HELD

After a November, 1992 meeting between the NPS and air tour operators in the Grand Canyon, discussions between the NPS and air tour operators in Hawaii were initiated. At least six meetings have been held in that time period.

Mr. ABERCROMBIE. Why don't you have it today? You said here that you have been negotiating.

Mr. HENRY. It has only been in the last year.

Mr. ABERCROMBIE. In the last year, how many meetings have you had?

Mr. REYNOLDS. I don't know the answer to that. I will have to provide it to you.

Mr. ABERCROMBIE. All right. What is the status of the negotiations? Have you had a meeting? Have you had a meeting in the last year?

Mr. REYNOLDS. The negotiations that I referred to are twofold. Number one, they are the ones that are taking place in Hawaii Volcanoes, and my understanding is—and I will check this for you—that, yes, in fact, we have met in the last year. I might be wrong.

Mr. ABERCROMBIE. A meeting?

Mr. REYNOLDS. I don't know the answer to how many meetings.

Mr. ABERCROMBIE. A meeting?

Mr. REYNOLDS. Multiple meetings.

Mr. ABERCROMBIE. What was discussed at the multiple meetings?

Mr. REYNOLDS. I can only assume that what was discussed was creating a situation where the visitor—the safety of visitors and the safety of resources and the experience of visitors would be improved over what exists today.

Mr. ABERCROMBIE. All right. Are being negotiated?

Mr. REYNOLDS. Yes, sir.

Mr. ABERCROMBIE. But you don't know how many meetings you have had?

Mr. REYNOLDS. No, I don't, sir.

Mr. ABERCROMBIE. This bill has been in existence—and this goes back to your comment that this legislation is premature. This bill has been in existence for six months. Have you had a meeting in the last six months?

Mr. REYNOLDS. Yes.

Mr. ABERCROMBIE. Knowing this bill exists, what has been the result of those negotiations?

Mr. REYNOLDS. I don't know the specific answer to that.

Mr. ABERCROMBIE. Then how can you say that the legislation is premature?

Mr. REYNOLDS. As I used the word "premature——"

Mr. ABERCROMBIE. I know you are thinking real hard about why you used the word "premature."

Mr. REYNOLDS. I am thinking real hard about how to express this clearly so that there will not be any doubt about what I mean.

I used the word "premature" only in the sense that I would like to have any bill that is passed by the Congress, if possible, to address the issue on a nationwide basis, not just in Hawaii.

Mr. ABERCROMBIE. Okay. It is not going to hurt my feelings. I am perfectly willing to amend this bill. I don't know whether it can be amended on the title.

Mr. REYNOLDS. And that the bill be based on the best science possible, which—we believe the best science that exists in the United States or anywhere else in the world is these studies. That is my only definition.

Mr. ABERCROMBIE. I don't think this bill can be amended. The title would prevent that.

But that gets me to where I am going, Mr. Chairman, if you will indulge me a minute or two more.

The reason I ask these questions—and I do think I have gotten the answer, I built a foundation for the questions I am going to ask you right now.

You have said that really your cooperation from the FAA has taken place only within the last month; you repeated that more than once.

Mr. REYNOLDS. I was referring in that instance to cooperation at the Washington level, at a policy level between the FAA and the National Park Service.

Mr. ABERCROMBIE. The reason I ask this question is, I have been "effusive," I think is a fair word, in my praise of the National Park Service in the past on this committee. I think the Chair would agree that I have been.

Mr. VENTO. The Chair agrees.

Mr. ABERCROMBIE. Most particularly with how the National Park Service has conducted itself and its operations in Hawaii. I think it is a model for Park Service operations throughout the Nation.

What bothers me here is that you are not in charge of the parks when it comes to these airplanes or this aircraft. And it seems to me you should be.

The question I have for you is this—I want to remind you that I asked whether you can speak for the Department of the Interior—why shouldn't you be in charge of what happens in and around and about the parks, as opposed to the FAA? What the hell does the FAA have to say about the quality of visitor activity in a national park? Why shouldn't the National Park Service be in charge of what can happen in and around and about the national parks rather than the FAA? What does the FAA have to do with it?

Mr. REYNOLDS. The National Park System should be in charge of that.

Mr. ABERCROMBIE. Shouldn't you be able to tell pilots or truck drivers or anybody what the boundaries are going to be with respect to the utilization of the park in and around and about the park?

Mr. REYNOLDS. Yes, and I would like the FAA to work with us to use their regulatory powers to assist us in achieving what needs to be done.

Mr. ABERCROMBIE. Shouldn't you be the lead agency and the FAA will have to subordinate their decisions to your decisions as to what is appropriate for the park?

Mr. REYNOLDS. Yes, sir.

Mr. ABERCROMBIE. I want you to repeat that.

Mr. REYNOLDS. Yes, sir.

Mr. ABERCROMBIE. And if I ask Secretary Babbitt to do so and tell Secretary Pena that the FAA should be subordinate to the Na-

tional Park Service when it comes to the management of this national resource, that would be your recommendation to the Secretary; is that correct?

Mr. REYNOLDS. Most strongly, sir.

Mr. ABERCROMBIE. Thank you very much. I think this is where the key to all of this is.

Thank you, Mr. Chairman.

Mr. VENTO. I appreciate it. And I think that at least you ought to be involved with the FAA. This bill, incidentally, is referred to our colleague's committee, Jim Oberstar, Public Works Committee, so we do have this joint referral.

The issues that I would put at point in terms of my deep concerns today are related to the transboundary issues and engaging the Park Service more forcefully. I think that Mr. Reynolds and Mr. Kennedy and Bruce Babbitt have sent a letter on this. I think we are on the track. It is a matter of getting it into the agenda.

Mr. ABERCROMBIE. I want to conclude, Mr. Chairman, by saying that I think the FAA will jerk the Park Service around for the next 10 years into—well, certainly into the next century, because that will be in the next 10 years.

I don't think you have a prayer of being able to deal with this issue, because the fundamental question is being asked all wrong. The premise is all wrong. You are at the other end of the string. You should be pulling the string, not being yanked by it, and you are not going to get any cooperation because the assumption is that, somehow, there is some right for these planes to be overflying parks in the first place.

And I think that a decision that you have to make—and in the absence of being able to make it another interagency conflict, I believe that the Congress has to set a policy on this.

Mr. VENTO. I would certainly like to be involved in providing the type of continuity in terms of policy I think is necessary here. But there is an area where there has been no action.

Congresswoman Shepherd has been patiently waiting.

Ms. SHEPHERD. Thank you. Welcome. I am glad to have an opportunity to address this. As you know, in Utah we don't have the really well-matured problem that they have in Hawaii. But we are beginning to really feel the effects of overflights over Canyonlands and Zion and now Moab, and it is a very difficult thing for our Park Service directors.

I have talked to them about it, and they get caught squarely in the middle between the desire for preservation and the desire to bring tourism in, which is seen as a way to make preservation possible, but then the increase in tourism often goes so far as to spoil the very thing you are attempting to preserve.

So, I recognize that it is a difficult issue, and I think it is probably fair to say, would you agree, that you need help to have more authority to do this?

Mr. REYNOLDS. Yes.

Ms. SHEPHERD. That is part of what I think I am hearing.

I want to follow up on something you said to Congresswoman English. There is a national parks overflight plan for—an aircraft management plan for Grand Canyon. You said that that was inadequate. Could you please elaborate on that?

Mr. REYNOLDS. I am going to ask Mr. Henry if that is all right.  
Ms. SHEPHERD. Okay.

Mr. HENRY. We presented quite a bit of this information to what is called the SFAR Oversight Group, which is a meeting of Park Service, FAA officials, air tour operators and conservation groups. This was in September.

The conclusion of the superintendent at that meeting, what he told the group was, we feel we have not substantially restored natural quiet to the Grand Canyon. What I wanted to communicate earlier was that we are going to hold a workshop to address the issues that are arising out of that conclusion—three in particular are important. One is, can we do any better than the SFAR that currently exists?

Ms. SHEPHERD. With what?

Mr. HENRY. The existing Special Federal Aviation Regulations. Can we improve the management—the aviation management plan that we have in place? How far can we fine-tune this thing? Because as you tweak it one place, you are going to effect it in some other place.

So the park has gone through the effort of carefully redefining its objectives. I think they still have to do some prioritization of how they are going to give and take on these objectives. And we are going to be meeting in March, which is another part of the drag on the timing, to discuss that issue to start with; and to address the key second issue, which is also relevant to Haleakala, which is the increasing numbers of flights, the capacity issue; and a third issue, which is of interest to the FAA and Senator McCain, which is the use of quiet aircraft technology—which we think holds some promise of helping this situation.

He wants to look at the incentives for introducing quiet aircraft technology into that situation. That is very important in the long-term.

So those are the three sets of questions. We are going to get input from all the user groups to include in the report to Congress.

Ms. SHEPHERD. My concern is the length of time that it is taking to do—to get the science together and make the overall policy which, I absolutely agree with Congressman Abercrombie, needs to be in place. I am afraid that we will get so far down the pike in Utah before that policy is in place that we will be in a position of having to take things away, which I have learned from bitter and hard experience is a very difficult thing to do.

So what if we were to develop for our parks a special plan as they did in Canyonlands? Could you support that and would the FAA be required to support that? How does it work now?

Mr. REYNOLDS. I think at the present time the FAA would not be required to support it. In Grand Canyon, if I am correct, there was legislation that required us to do that. That does not exist for the Utah parks.

Ms. SHEPHERD. So that was special legislation from this committee, was it?

Mr. HENRY. P.L. 100-91.

Ms. SHEPHERD. So if I wanted to do that, I have to sponsor legislation?

Mr. REYNOLDS. You would be in the same position that Mrs. Mink is in.

Mr. VENTO. We could amend the title of this bill.

Ms. SHEPHERD. That answers my question. Thank you very much.

Mr. VENTO. I don't want to prolong this, but it is a whole issue. I was talking to our staff person, Mr. Hodapp, about the nature of gaining control of this tourist issue, in terms of concession. One of the actions we took this year was to implement the commercial tour user fee included in the August 5th measure that was enacted into law. It was supposed to take effect October 1st.

Have you taken any steps to put in place the commercial tour user fee requirements of that law?

Mr. HENRY. There has been an NPS group working on that particular issue and we are in the process of preparing a letter to the FAA asking their assistance, because—

Mr. VENTO. Well, we will ask them today. Have they responded yet.

Mr. HENRY. We haven't given them the letter yet.

Mr. VENTO. Well, they can't respond until you give it to them. I am concerned. I think these are the types of tools that you have and the mandates from Congress. Again, you are all coming up here and picking up the pieces for what somebody else didn't do.

Mr. Henry, I was thinking about research, and I was reading a piece out of "The Environment of Hawaii." They were talking about endangered forest birds. It seems to me, Mr. Reynolds, the way to work on this is to get the cooperative research from the universities and others. I can think of a number of topics for new dissertations—quickly, and even aircraft that don't make noise can be a problem because of what their presence is, and some of these sensitive species that you stressed.

I don't know what you have to find when you have various species that have a profound effect on the rain forest environment or other areas. I would think it was obvious that this is difficult. This cooperative research effort would be a good way to go in terms of trying to get more definitive information, rather than having to always look to personnel in the Park Service.

Congresswoman Mink, did you have any other questions?

We have a list of questions.

Mr. VENTO. Mr. Reynolds, Congressman Hansen is going to submit some written questions; and I am sure they will be appropriate. We look forward to your responses.

We may submit some additional questions ourselves and probably augment some of the answers to the Members today. We intend to focus on this issue.

[The material was not available at time of printing.]

Mr. ABERCROMBIE. I would request that my questions about the number of meetings, when they were held, be put into that.

Mr. VENTO. That is exactly what I was thinking, that he would probably want to be more definitive about the responses.

We appreciate that you can't come prepared to answer all of these at this time, but we think timely answers to such questions as were raised and not answered today should be forthcoming.

Thank you, Mr. Reynolds and Mr. Henry.

Mr. REYNOLDS. I would like to thank you and the Members of the committee for the kind of searching questioning. We appreciate that, seriously.

Mr. VENTO. Or next witness is Mr. David R. Harrington, the Acting Deputy Associate Administrator for Regulation and Certification at the Federal Aviation Administration, accompanied by Hal Becker, the Manager of Airspace Rules and Aeronautical Information Division.

I had a chance, Mr. Harrington, to review your statement last night. I appreciate its being early. It is a thoughtful and long statement. It is a complex topic. We would wish it were not, but in any case, we appreciate your definitive response to a very important issue that affects the parks and public lands.

Mr. Harrington, your statement is made a part of the record.

**STATEMENT OF DAVID R. HARRINGTON, ACTING DEPUTY ASSOCIATE ADMINISTRATOR FOR REGULATION AND CERTIFICATION, FEDERAL AVIATION ADMINISTRATION, ACCOMPANIED BY HAL BECKER, MANAGER OF AIRSPACE RULES AND AERONAUTICAL INFORMATION DIVISION**

Mr. HARRINGTON. I will make a brief summary in the interest of time. Thank you for inviting Mr. Becker and me.

I would like to emphasize a couple of points. First, environmental protection is certainly one of the major goals of Secretary Peña and the Department of Transportation, and is considered in the FAA to be a very important part of our mission.

We did comment in our statement about some tough technical difficulties with the legislation. We would be happy to go into that at any level of detail you wish. It has to do with some of the complexities of airspace and airspace management, and I did want to say further that the legislation that deals with bringing tour operators under the requirements of Part 135 is an area where FAA has draft regulations designed to do just that, and we intend to move those regulations through the system.

So with that, sir, I will stop and open myself to your questions.

[The statement of Mr. Harrington may be found at end of hearing.]

Mr. VENTO. I noticed in your statement that you referred to the 2,000-foot ceiling at Haleakala and the other historic sites here, which haven't been mentioned too much today. We mentioned the Hawaii Volcanoes and Haleakala, but your statement also talked about a 10,000-foot standoff distance. Can you explain to me what the impact of that would be?

Mr. HARRINGTON. One of the difficulties we had with the legislation was that given normal aircraft operations under visual flight conditions, there could be a circumstance where the two-mile standoff distance over certain airspace could limit the maneuvering or flexibility required to safely pilot the aircraft.

Mr. VENTO. I know it takes away flexibility, but I understand you are not unique here, Mr. Harrington, nobody wants legislation to take away an agency's flexibility. We happen to come from a different point of view being legislators. I understand that. That goes without saying. But I am concerned, and I was wondering what it means.

I notice one of the other things in your statement, as I read it, you talk about the fact that the 2,000-foot ceiling limit would mean that sometimes individuals would be flying in the clouds, that they wouldn't have visual contact with the ground. Can you think of another solution if you can't maintain the 2,000-foot limitation?

Mr. HARRINGTON. Most certainly, you could avoid that portion of the airspace.

Mr. VENTO. That is right. To avoid that during those particular times. Of course, this is not unique to the FAA. It is a common phenomenon when you have certain limitations in terms of flights and so forth, to in fact avoid such airspace.

Mr. HARRINGTON. Yes, sir, I don't think there is a major problem with the 2,000-foot restriction. I think if you were to prohibit operations up to infinity over a portion of parkland, that might have an effect on operations.

Mr. VENTO. The problem with Haleakala is the tremendous height. And even though these islands do not have the sort of graphic impression of the Rockies or the Cascades, the height is rather amazing, the volcanic nature. So they really make some serious problems in terms of this.

Now, under the normal course of actions and prior to the enactment of the 1987 act and so forth, do have you any type of restrictions over tour operations, specifically, over some of the national parks or other areas like this? Do you actually put any limitations on them with regards to the on-the-ground impact of these particular activities?

Mr. HARRINGTON. The only impacts are the impacts that are in the regulations already.

Mr. VENTO. Looking at safety, health and clearance time of aircraft in terms of separation and so forth; is that correct? In other words, you are not really looking at the national park resources being anything different than any other type of topography that it would be flying over?

Mr. HARRINGTON. With the exception of the special Federal aviation regulations that apply to the Grand Canyon.

Mr. VENTO. I understand that. We wrote that. But I am talking about public land features where you have tourist activities going on. It is not your responsibility to review that; is that correct?

Mr. HARRINGTON. I believe it is our responsibility, and I think we are willing to take on that responsibility to look at the environmental impacts of that.

Mr. VENTO. I would like to make it your responsibility. I don't think we want the Park Service, from my standpoint, taking over the job of the FAA. I don't think we can. But I do think that they have to have a close working relationship in terms of discussing what the impact of this particular authorization is.

As an example, there has been an expansion of the airport at the Grand Canyon in recent years. Are you familiar with the details of the public hearings and so forth on that, Mr. Harrington, or is your associate, who is accompanying you today, Mr. Becker, aware of that?

The public activity, are you prepared to answer any questions on it?

Mr. BECKER. Not in detail, Mr. Chairman. I think we are aware of the new helipads and the moving of the helicopter operations from Tusayan Village to the airport. But the overall plan for expansion, we are not—

Mr. VENTO. We have built an exception in the Grand Canyon legislation for the Native Americans who were picking up canoes or something, so I know about that exception for the Havasupai, but there has been a tremendous increase in terms of the aircraft.

Has the Park Service or the Department of the Interior been consulted with regards to what the impact would be in terms of increasing the frequency of flights and in terms of visitation there by helicopters and other fixed wing aircraft? Do you know, Mr. Becker or Mr. Harrington?

Mr. HARRINGTON. I don't know, sir. I have seen no information.

Mr. VENTO. From my comments with the Park Service, we have these issues where the interfaces are called transboundary issues, and this gets to the heart. The reason that these tour operations, helicopters and fixed wing operations, are there is because it is a park. Because of its features, Congress, way back when, in 1916 I guess, with regards to the Grand Canyon, decided to set it aside. Some of these parks or reservations have been set aside for over 100 years.

Mr. HARRINGTON. We do have a special unit at our local office in the Grand Canyon that works closely with the Park Service. I am sure that they—

Mr. VENTO. Wouldn't you look for consideration from the Park Service who has the ground impact on the effect on the resources and on the visitor experience as to the licensure or authorization of expanding? Don't you look to them for expanding facilities that you are going to be authorizing in terms of these flights? Or don't you have any legal basis to stop that?

Mr. HARRINGTON. We are very interested in anything that the Park Service would have to say in regard to the park areas.

The last question, you may have to repeat it.

Mr. VENTO. Are you under any legal mandate as far as the facilities that are built in terms of licensure or in terms of certification, to just go ahead irrespective of what the impact is? Can you qualify or limit the construction or incidence of the number and quantity of flights by virtue of any action? It is like A, B, C, you fulfill one requirement and then you go on to another and you have no ability to limit those flights other than for safety and other reasons? Do you have any ability to take in the qualitative effect of these flights?

Mr. HARRINGTON. Not that I know of. The limitations we have would be in regard to routing and altitudes and those quantitative sorts of factors.

Mr. VENTO. Safety and health become paramount. Nobody wants anything done. We put in the language, and I am certain Congresswoman Mink would accept safety and life qualifications in their language.

Are there any violations of flights over certain areas of Haleakala National Park?

Mr. HARRINGTON. Yes. In Hawaiian airspace, I am aware of pilot license revocations and suspensions, and several civil penalties.

Mr. VENTO. Violations have been made for these that have improperly conducted themselves in terms of airspace and safety?

Mr. HARRINGTON. That is correct.

Mr. VENTO. Are there any obstacles to enforcing such restrictions?

Mr. HARRINGTON. There are no obstacles to it. We now have inspectors dedicated to the Park Service and to the tour operators. As I say, the process is in place. It is well defined and we are able to take those actions.

Mr. VENTO. What is the nature of the regulatory responsibility dealing with aircraft noise, especially with regards to these scenic flights?

Mr. HARRINGTON. Well, what comes to mind is that we do environmental assessments having to do with airport operations, but we have not, beyond working toward cooperative agreements and signed agreements with the Departments of the Interior, Park Service, operators, and local jurisdictions, taken any actions that I know of strictly related to the environmental effects & aircraft noise over parklands.

Mr. VENTO. Congressman Abercrombie referred to an FAA advisory circular which recommends avoidance of noise-sensitive area is a voluntary minimum altitude of 2,000 feet over noise-sensitive areas for fixed wing and rotary aircraft. What information does the FAA have documenting the extent of compliance with these voluntary recommendations? I assume that noise-sensitive areas would be a site like Haleakala. The Grand Canyon would go beyond that. But other parks would be noise-sensitive areas.

Mr. HARRINGTON. Of course, the advisory circular is only advisory in nature. We have used that as a model as we have tried to reach agreements at the parks. And I think that is where we are headed.

Mr. VENTO. How many agreements do you have?

Mr. HARRINGTON. There is the agreement that was mentioned earlier up at Glacier, which I thought was signed, but I am not sure after today's testimony.

Mr. VENTO. I think you are going to have to answer questions about that.

Mr. HARRINGTON. We have a memorandum of understanding that is close to signature having to do with Hawaii Volcanoes National Park.

Mr. VENTO. Mr. Becker.

Mr. BECKER. There is the agreement that Mr. Abercrombie brought up. The first one was 1984; it was renewed last January.

Mr. VENTO. What site was that?

Mr. BECKER. That agreement is national in scope, and between the Department of the Interior, Fish and Wildlife Service, the Park Service, and FAA.

Mr. VENTO. I combined a couple of questions, but what was the documentation as to the extent of compliance and the intent of problems.

Mr. HARRINGTON. Non-compliance with the 2,000-foot criteria recommended in the Advisory Circular is not a violation, so we wouldn't have that documentation.

Mr. VENTO. I didn't say it was a violation, but I just talked about compliance with it and of the voluntary recommendations. Do you keep any reports? Maybe you don't keep such reports.

Mr. HARRINGTON. Other than the noise complaints, I don't think we do.

Mr. VENTO. How difficult would it be if we asked you to do that? As we work on specifics, is it possible that you could keep records on such information as you receive it, or documentation?

Mr. HARRINGTON. It might be very difficult to do, because other than specific noise complaints or a report from the Park Service, I am not sure that we would be able to collect that information.

Mr. VENTO. I am informed that the FAA recently gave a grant to the State of Alaska for airport planning at Kantishna which is inside Denali National Park. You gave a grant to Kantishna which is inside Denali National Park; that is where Mount McKinley is located. Did you consult at all with the National Park Service before issuing that grant?

Mr. HARRINGTON. I am sorry, I am not familiar with that.

Mr. VENTO. Mr. Becker.

Mr. BECKER. I am not familiar with that.

Mr. VENTO. Would you answer that in a written response?

[The response follows:]

#### MASTER PLAN GRANT

Prior to offering the master plan grant on September 27, 1993, the FAA consulted with NPS on the grant on several occasions, and as early as July of 1992. FAA and NPS representatives continued to meet in 1993. As a result of those meetings, special conditions in the grant agreement require the State of Alaska to coordinate the scope of work to be performed with NPS and receive FAA approval before initiating the study.

Mr. VENTO. Mr. Williams, did you want to continue?

Mr. WILLIAMS. Yes, thank you, Mr. Chairman.

The matter of the agreement in Glacier, some people described the agreement as a good-faith attempt of people to come to the table together. And other people say that there is a written thing that nobody has signed yet. There is a lot of disagreement among Park Service officials with it. And that is the crux of the problem here.

The Park Service has no authority over any of this. They have to agree with whatever you let them do. And you know, it is a legitimate problem. We have a major national, unsolved problem here. And it seems to many of us that the FAA is not the proper agency to have ultimate authority over it.

Give us a nutshell of what the genuine difficulties for the flying public would be, including perhaps safety, if the Park Service, in fact, had authority to regulate its own airspace.

Mr. HARRINGTON. I think it would make for a very difficult situation. FAA has always managed and had the statutory responsibility for airspace, including airspace for military and other operations. Based on the experience we have and all the technical considerations that have to do with departures and approaches, obstacle clearance, low- and high-altitude routing that has been flight inspected, and the many, many things that go into the obstacle clearance analysis, we generally are best able to determine and provide the restrictions that are required in the airspace.

I would much prefer that we continue to work with the Park Service, as we are doing pretty closely now; and if we can't achieve the kind of results that we need to achieve on the environmental side at our National parks or wilderness areas, then let the FAA take the regulatory responsibility for putting the proper controls on the airspace.

Mr. WILLIAMS. What is the FAA's enforcement authority? If you get a complaint about a violation, either of an agreement about airspace over a park or some other kind of a violation—let me give you one example: a helicopter in Montana flying through flocks of American bald eagles, reported to the FAA; zip, zero, nada done about it.

What is your enforcement authority and how do you carry it out? And give us some examples of fines that you have levied against people with regard to the use of their aircraft in a national park.

Mr. HARRINGTON. The authority, first of all, to take certificate revocation, suspension action, or civil penalty action against an airman or an operator comes from our regulations. The regulation most often cited in violations associated with the National parks would be a violation that has to do with careless and reckless operation. So you would have a situation where an airman operated an airplane or a rotorcraft close to property, buildings or in a manner that we determine to be reckless.

That would start the process. We would take violation action and that would normally lead to a sanction.

Mr. WILLIAMS. Would it be against your regulations for helicopters to chase grizzly bears at tree level outside of a national park?

Mr. HARRINGTON. I would guess that that would certainly be something that we would look into and investigate and make a determination as to whether a violation took place. It is hard to work with a hypothetical situation. You said tree level; if you were at ground level in a rotorcraft, and anywhere near a populated area, then yes, it would definitely be a violation of a regulation.

Mr. WILLIAMS. You see, your regulations that go to the unsafe treatment don't get at the problem. You understand that we have this problem in the national parks; you have it yourself. You are out hiking with your family in a national park and all the sudden a helicopter buzzes overhead and disturbs the tranquility that you were seeking. It wasn't unsafe and probably doesn't violate any regulation.

We have to get at that and you have to cooperate more with the National Park Service and relinquish some authority to them.

Mr. VENTO. Would the gentleman yield? I am informed that there is no minimum altitude for helicopters, unless there is some recognition of the continuity. The fact is that if you have a herd of mule deer or elk on the ground and somebody wants to get down and take a close look they can, because that is their right—you have got a major problem here. There is just no minimum altitude for a helicopter.

Mr. HARRINGTON. Again, it goes back to the specific circumstance, Mr. Chairman, but we have used the careless and reckless regulation as a means of enforcement for operations of airplanes and rotorcraft.

Mr. VENTO. It is tough, because if you were in residential and other populated areas, it is a different matter; but if you are over water or some place that it is not, they are major attractions. No one is going to come down and look at my gray asphalt roof in Minnesota.

Mr. WILLIAMS. It is probably neither careless nor reckless to be hovering over the heads of backpackers in a national park, but it is wrong. It ought to be against a regulation somewhere.

And finally, it seems to me that it makes it good sense for the Park Service to be a major player in determining what characteristics of the individual parks are violated by certain aircraft uses, outside of careless and reckless.

Mr. HARRINGTON. I agree with you, Mr. Williams. I think that is what we were after with the agreements that we were headed toward at Glacier. Input from the Park Service made some areas inaccessible—that is, not to be flown over—as well as determining some routes and minimum altitudes. It was my understanding that some agreements had been reached on those sorts of issues.

Mr. WILLIAMS. Frankly, let me tell you—and we are kind of—this hearing is sort of being conducted with the bark on. It is a tough hearing. It is the frustration of the Members with both the Park Service and the FAA that you are experiencing here.

The Park Service people, who you know wouldn't want to be named for obvious reasons, tell me that—Park Service officials who either work in Glacier or work with the folks, their colleagues in Glacier, tell me that they have really found what they believe to be a long disinterest in the FAA to work with them and a jurisdictional walling-off of the FAA saying, look, these are our responsibilities, and we simply are unwilling to share those.

And many Park Service officials believe that your agency hangs on to those jurisdictions in an inappropriate manner that doesn't allow them to come to the table and try to forge real agreements about how things should be handled in the Park Service.

The Park Service people that testified just prior to you were very careful, I thought, and appropriate in trying to say that they were working with you and you had begun to work with them as best as possible; but there was no question, it seemed to me, that there was an attitude of frustration in both of their voices with regard to past inability to sit down and work it out with the FAA.

We understand that perfectly around here. We have the same problem with regard to turf battles and jurisdictional disputes between committees.

We have all got to get beyond that, and we particularly have to get beyond it with regard to these priceless national resources called national parks. So, you know, let's all try to double-time it and see if we can work on it. It is not working very well.

Mr. VENTO. Congresswoman Mink.

Mrs. MINK. Thank you, Mr. Chairman. I want to share my own personal frustration in this whole area. And it is not without a great deal of effort in trying to work with the FAA, understanding your interest in being the cardinal agency that regulates airspace and being intent upon protecting your jurisdictional authority over this.

But I don't understand, frankly, where we have a unique institution like a national park, where the Congress and the government have given specific mission and authority to another agency to guard over it, why it is not in the best interest of everybody for the FAA to make a policy statement, clear out, that with respect to national parks, that you will defer to the National Park Service in its responsibilities to safeguard and preserve and conserve these unique areas of our country; and that your role would be as a counselor, to try to come up with the most appropriate kinds of restrictions—those that don't endanger life, that make appropriate exclusions of areas where you think that the FAA has particular, unique authority, and change the whole *modus operandi*—instead of being the primary agency that makes these determinations, to be the follower.

And I think that has to come from the very top of your agency. And I just want to try to penetrate what I have discovered to be sort of a closed environment. They tolerate my nuisance—me as a nuisance and they come to see me and they attend the hearings and they are very anxious to talk, but beyond that, we don't see very much.

And so I wanted to ask you today, particularly at this hearing, to try to understand what it is that is this overpowering impediment and reluctance. Is it statutory? Because initially, when I started on this, I got letters from the FAA saying that we have no authority over noise, period. Gradually we have been able to overcome that and now there is concern over noise and concern over the environment.

Having come that far, does it take legislation to correct the problem of what I have just suggested? And that is to take a step backward and say with respect to national parks and wilderness areas, we are going to defer to the Park Service that has been given statutory authority to protect these areas, these unique areas of our country, and save; and except those things that are truly aviation procedures, then we are going to cooperate. Is that too much to ask of the FAA?

Mr. HARRINGTON. Well, it a very difficult question for me to answer. I am concerned that you feel the way you do about our reaction to the problem in Hawaii. I know that we have put a lot of time and effort into trying to reach some agreements there that would take us to operations that are satisfactory for all. That may not be possible.

If it is not possible, I think what we would like to do is take information from the Park Service that is specific to a particular parkland and take the appropriate regulatory action. And I think that takes us to the ending we all want.

We share the concern for the environment. We are more than willing to work with the Congress, the National Park Service, and with Interior at whatever level is necessary to get after what is obviously a very important problem.

Mrs. MINK. What is wrong with legislation or some policy statement which would say that the Park Service decides where an area has some particular problems and sets down the guidelines for how tour craft can fly over, or when they did do it, at what levels and so forth; and simply turn to the FAA and say, help us to enforce

this? You have control over these operators. You issue the licenses. You can pull them. You can enforce them.

What is wrong with saying to the FAA, be a cooperative agency and help the Park Service protect these values? Is there anything wrong with that kind of an approach?

Mr. HARRINGTON. I believe we are a cooperative agency, and I think we have the tools to help the Park Service do what they need to do to protect these areas.

Mrs. MINK. In order to promote that, then—since you say that you have no objection, in order to promote that and to try to achieve that, do I take it that you would not oppose it if we wrote that into law that this must happen this way? What would be wrong with taking that step to make sure that in the generations to come, this would be the modus of operations between your two agencies?

Mr. HARRINGTON. Well, I would ask that you give us the opportunity to show you that we can work with the Park Service and use the tools that we already have available to do precisely—

Mrs. MINK. I will give you one example of the degree of my frustration, even having talked with the FAA on numerous occasions and getting all the assurances of cooperation, when people call to complain and they complain to your agency, the response that one of your workers gave to a complainer in my district was, I can't do anything about it, madam, call your congresswoman.

Mr. HARRINGTON. I am aware of that specific complaint. I did not have a name that I could trace to the folks in the FAA that do that kind of inspection, evaluation, and follow-up.

Mrs. MINK. And then also to be told that nobody keeps a record of the calls or complaints in your agency. So you get to a point where you are thinking that maybe they don't really want to get into this; it is something that they tolerate because we keep calling.

And so I come down very hard on the notion that it really has to be the Park Service. They do keep records. They know exactly when they called, who called, what the complaints were all about, and I have obtained those records for my parks. But trying to get a handle from the FAA has been very difficult.

And so I would urge that you take my thoughts back to the administrator of FAA and obtain his comments.

Thank you.

Mr. VENTO. Mr. Abercrombie.

Mr. ABERCROMBIE. You heard my questions for Mr. Reynolds. Are you speaking for the Secretary of Transportation today?

Mr. HARRINGTON. Yes.

Mr. ABERCROMBIE. On the first page of your testimony you say that with respect to solutions on the aviation-related issue in Hawaii, best addressed through regulatory action by the FAA, not by the Park Service?

Mr. HARRINGTON. I think that there is regulatory action to take. I think that the message is that we would like to work with the Park Service, and if regulatory action is necessary, that the FAA is prepared to do that and do it in line with the normal evaluations we make when it comes to airspace restrictions on special-use airspace.

Mr. ABERCROMBIE. That is a different question. I am asking underlying policy. If it was the underlying policy that the Park Service was in charge of the parks in and about and around—and I am including underground, for example, when I say “in,” “about,” and “around”; you have questions about thermal drilling, you have geothermal drilling, the questions of caves and whether they are going to be used correctly and so on.

So, I am—believe me, I am not being facetious when I say that the Park Service has unique and particular responsibilities associated with each and every park. Can you find unique circumstances?

The point is that it has been the policy of the United States, as embodied in national legislation, to establish these parks. And there were circumstances that caused legislators before us, and presumably after us, to determine that a national park was warranted, “national” meaning exactly what it says, that there is an interest beyond the parochial, beyond the immediate area and that the Park Service has responsibility for carrying out policy on behalf of all of the people of the United States in it.

Therefore, if the Park Service had responsibility and told you what it wanted to do with respect to air flights, then you could put in appropriate regulations. Would that be a fair extrapolation of your testimony? If you accept my premise, for conversation's sake, that the Park Service was in charge and they told you what they wanted the policy to be, would it be fair then to say that you could then put in the appropriate regulatory and rulemaking function, given the policy that had been enunciated to you?

Mr. HARRINGTON. I would hope there is a dialogue associated with that, based on input from the Park Service related to a specific parkland.

I think there needs to be a discussion with the FAA in terms of what the Park Service's needs are. I think we are willing to take action based on those needs. There may be considerations from the FAA side of which the Park Service may not be aware.

Mr. ABERCROMBIE. Fair enough. So that if you determined that you could not, within the boundaries of your best judgment, meet those standards or meet what was requested by the Park Service, the Park Service could decide that there wouldn't be any overflights of any kind because they weren't able to work it out and they could make that decision and you could abide by that and then you wouldn't have that difficulty.

Mr. HARRINGTON. I believe that we are capable of working it out with the Park Service.

Mr. ABERCROMBIE. The Park Service could suggest something to you and then you would come back ask say, okay, we can do this, this, and this, but we can't do that, and not—and fulfill our obligations and rules and regulations and what we consider to be, in our professional judgment, necessary.

And the Park Service might decide, well, if you can't do that, we defer to your judgment on that; and what we have decided to do then is not have anything. In other words, they wouldn't be obligated. This is what I am driving at.

What bothers me is that there seems to be some kind of informal understanding or—“informal” isn't quite the word, but an assump-

tion that there have to be overflights of some kind. There don't have to be overflights any more than there have to be jet skis in the ocean.

I don't know why there is an assumption. The reason I am using that is that I have gone through that myself, where I couldn't understand why it was assumed that there had to be some kind of regulation, when you could have as your overriding principle that you were not going to allow the activity in the first place.

So with respect to this, then, inasmuch as this doesn't exist right now and you have the obligation to go, you say that you are pressing on; and then you say on page 2 that, towards that end, you have tried to establish closer contacts with the EPA and the Department of the Interior and that you are working toward what is called an appropriate balance with respect to the noise-sensitive character of many of Hawaii's scenic areas.

Can you tell me what you mean by "appropriate balance"? What does "balance" mean and why should there be a balance?

Mr. HARRINGTON. Well, I think that balance is what we have been trying to achieve with some of the agreements that we have worked toward to this point. If there is the opportunity to have balance and have access of both kinds to a wilderness or a parkland, we can work via agreements with Park Service and the aviation community to strike that balance.

Mr. ABERCROMBIE. Okay.

Mr. HARRINGTON. It may come to pass that that is impossible, and if we can't reach that balance, then where you took it previously may be where it has to go.

Mr. ABERCROMBIE. Further on in your testimony, you said that last January you at least accelerated this process of pressing on. It is now eleven-and-a-half months—let's say it took place in the middle of January; and on page 3 you say that you have been working to draft an action plan. Why in 11 months of pressing and discussing and negotiating and trying to find appropriate balancing and challenging the situation—these are all extrapolated quotes, I am not trying to throw you a curve by saying them; I think they mean what they say, and I am using them in an appropriate context—why isn't—what is the status of that action plan and why hasn't it been finished?

Mr. HARRINGTON. The action plan is finished. It has not been signed yet. And it is a pretty extensive plan. It is the FAA's commitment to work on the environmental issues associated with parklands. It is another document, but in that document there are actions that I think focus appropriate attention on the issue at hand.

Mr. ABERCROMBIE. When you say "managing the affairs of airspace," that includes a lot of things, everything from overflying Diamond Head to overflying Oahu to small planes to all of this? Do you propose to have a separate document? It is not clear from this testimony whether there will be a separate document on park overflights or whether that is part of the action plan.

Mr. HARRINGTON. The action plan is on park overflights. It has to do with that issue.

Mr. ABERCROMBIE. But did I misunderstand your testimony? I thought that the testimony says that there is to be an action plan respecting airspace management in Hawaii in general.

Mr. HARRINGTON. It is connected to parklands. It is connected to the issue that we have been discussing with Mrs. Mink over a period of months.

Mr. ABERCROMBIE. So it is not a general—

Mr. HARRINGTON. No, sir.

Mr. ABERCROMBIE. Okay. Then I misunderstood the testimony. Are you absolutely sure? Let me read your testimony to you:

"FAA has also been working to draft an action plan to assist us in managing the airspace in Hawaii. That plan is currently in final coordination. In addition, informal, high-level discussions are under way between our Departments to further advance cooperation on a wide range of issues including park overflights."

I took "in addition" to mean that there was an airspace plan and a park overflight plan.

Mr. HARRINGTON. Well, I think—

Mr. ABERCROMBIE. I don't believe that—I think it is probably a good idea.

Mr. HARRINGTON. I have read the action plan, and the action plan that I am talking about in this statement is an action plan that is specific to parklands and the work that we are doing there.

Mr. ABERCROMBIE. Okay. Let me state to you for the record—because we haven't discussed this previously, you and I—that I have also gone through personally, as a legislator in Hawaii, both as a member of the city council and a member of the State senate, very frustrating contacts with the FAA. If I sounded somewhat sarcastic about the FAA, I don't mean to be; I meant to be condemnatory rather than sarcastic. And the reason for it has to do, for example, with small plane overflights over Oahu and previous contact with helicopters.

I will never, ever forget—you are not specifically responsible—but I will never, ever forget a helicopter pilot telling me at a meeting at Waikiki Elementary School, there wasn't a damn thing I could do about helicopters because the FAA controlled it and there are no rules with helicopters and if he wanted to sit outside the Ilikai Hotel and hover there all afternoon until his fuel ran out, that was what he was going to do, and I could go to hell.

That might have satisfied his macho quotient for the day, but I can tell you it burned into my consciousness a sense that I would inquire about this and make it a part of my legislative repertoire for time immemorial with respect to what I could do or not do.

And I, at that time, then tried for reasons of safety to get a helicopter pad moved from the grounds adjacent to the Hilton Hawaiian Village Hotel and other areas, and could not get anything from the FAA because I said I was afraid somebody would be killed one day; and I was there the day the helicopter took off, had an accident, and the pilot died. I was there when it happened.

It is a terrible thing. I—I felt, and I still feel—I am emotional about it now. There is only one thing worse in politics than being wrong, and that is being right, particularly when it results in somebody's death.

The reason I bring a little bit of passion is not simply because somebody insulted me once—by the way, it wasn't somebody from the FAA that told me that. It was a pilot, depending on the FAA in that regard. But also because I literally witnessed somebody

dying as a result of what I considered to be an unsafe practice, and it turned out that I was right.

So my desire to get this concluded is that in the absence of definitive action in this regard in a time-certain—that is the last part I wanted to ask, Mr. Chairman—in your testimony, you stated that in September of 1993 you finally got something from the pilots who say they now understood the communities' concerns and they were eager to help. Why it took to September of 1993 for that to take place is beyond me. But it says here that—on page 8, although progress has been made, much work remains to be done.

That seems to conflict with your—contradict your testimony that I just read to you about the plan, at least I was under the impression—what page was I on?

On page 3, I was under the impression this plan is virtually finished. So, if much work needs to be done, we don't have a time-certain. Can you give us a time-certain? In the absence of that, it seems to me that this legislation is going to move rather quickly.

Mr. HARRINGTON. I think what we meant in terms of the statement is that, yes, we have an action plan, the action plan is meant to come from the highest policy level of the FAA, that these are some of the actions that we intend to take in the situation in Hawaii.

We have talked with Hawaii Volcanoes National Park, where we do have some agreements we have met on. We are trying to work those agreements out with the Park Service and the Hawaiian Helicopters Association. That kind of model may take us to satisfactory operations over the parklands possibly would be something that we would like to apply elsewhere. So there is a lot of work to do.

Mr. ABERCROMBIE. Okay. That is a separate question.

Let me ask a—so it is going to be finished in a time-certain? Have you set a date? Have you set a time? Have you told your people in Hawaii, I want to have on my desk this action plan by such and such a date?

Mr. HARRINGTON. The action plan is here in Washington.

Mr. ABERCROMBIE. Is Secretary Pena aware that you have it?

Mr. HARRINGTON. I believe he is. I will ensure that he is.

Mr. ABERCROMBIE. Okay. I think you heard the Chairman say that he hopes—not hopes, I think he stated without—I don't think I am stating for him something that I misunderstood, that he would like to see this at the top of your legislative agenda in January; and, further, the whole issue of national park usage, of which overflights is one of the principal questions, at the top of the legislative agenda to be addressed.

I don't think I am misstating you, Mr. Chairman.

One last point then. You state on page 6 that—we actually do read this testimony, you know—on page 6 in the "Fly Neighborly" program, which I am aware of, "that the program provides for association-imposed penalties for violations of the HHOA standards, to include suspension of employee and company fine after a violation."

Have any penalties been imposed? I believe the answer was yes in previous testimony, but it wasn't elaborated on.

Mr. HARRINGTON. The penalty imposed I spoke of was for violations of the regulations. The "Fly Neighborly" program is a different way of taking action that is done within that organization.

Mr. ABERCROMBIE. I understand. I am asking you whether you are aware of any.

Mr. HARRINGTON. I should be, but I am not.

Mr. ABERCROMBIE. We can ask that later.

Finally—let me impose upon you, Mr. Chairman, just for 30 seconds—I would like to take advantage—15 seconds—take advantage of your appearance here today and making acquaintance today, you and Mr. Becker and myself, to ask you about these low-level flights of fixed wing small planes over Oahu.

I have been told by the FAA that they are not supposed to do it. They do it every day. They fly over the Manoa Valley and over Oahu, and sooner or later they are going to crash, just like the helicopter down at the Hilton Hawaiian Village. Sooner or later there is going to be a difficulty.

They are not supposed to do it. They fly and wake people up. They do it in the mornings in particular. I wish you would look into it. I can't believe that they are not seen and that they are not known. They know that it is going on, and they are getting away with it. And it undermines, Mr. Harrington, your authority and confidence in the FAA when that takes place.

Thank you, Mr. Chairman.

Mr. HARRINGTON. I will look into that and get back to you.

[The following was submitted:]

#### AIRCRAFT OPERATIONS PLANS FOR ISLANDS

The mountainous terrain of Oahu combined with the location of Honolulu International Airport creates a congestion problem for the airport. As a result, special departure and arrival routes were developed for general aviation aircraft, in order to separate single-engine from heavy turbojet traffic over or south of the southern shoreline of the Island. These special routes pushed the general aircraft back toward the mountains and into the areas described by Congressman Abercrombie. Although these operations sometimes have the appearance of low-level flights, most are being conducted according to the Federal Aviation Regulations (FAR). While the Flight Standards District Office (FSDO) has investigated many noise and low-flying aircraft complaints, most were not found to be violations of the FARs.

The Honolulu FSDO is actively involved in Hawaii noise issues. Working with the Hawaii State Airports Division, FAA has helped to establish community working groups in each county of the Hawaiian Islands. The mission of these working groups is to develop an Aircraft Operations Plan for each island that will be acceptable to all Island citizens. Local FAA personnel will participate as working members of each community group.

Mr. VENTO. Congresswoman Mink.

Mrs. MINK. Just one final question with respect to this agreement that you are trying to work out with the Park Service with reference to the Hawaii Volcanoes; and that is at some level here in Washington, assuming that is signed off and everybody agrees to it, how do you enforce it?

Mr. HARRINGTON. I think that takes us right back to the relationship with the Park Service and, I think, what we have talked a little bit about today. I think we would need to reach agreement with the helicopter operators, the Park Service and the FAA on a set of standards.

Mrs. MINK. I know that, but how would you enforce it when there are violations?

Mr. HARRINGTON. A piece of enforcement is subtle, I think, in that the opportunity to sanction exists. If an agreement is reached and it is satisfactory to everybody to operate in that manner, I

think the stick is that if that agreement is not followed, then we would have to look at regulatory airspace restrictions.

Mrs. MINK. Isn't the answer to my question that there really is no enforcement, that it is a voluntary agreement, we hope that the helicopter people will adhere to it in order to at least try to provide some sort of response to community anxiety? Isn't that really the situation, we are going to have a voluntary plan and wait and see whether it works? Because there are no teeth in it in terms of enforcement, in addition to which have you nobody on the Big Island to enforce it anyway.

Mr. HARRINGTON. I would hope, though, that by reaching that sort of an agreement, that there would have to be give-and-take amongst the parties that were headed towards that agreement.

The Park Service certainly has a very loud voice in what the requirements would be. The FAA can also have its input. It is then in the helicopter operators' best interest to follow whatever limitations are agreed to. And, of course, the ultimate ending could be that you wind up with either hard legislation or—

Mrs. MINK. Are you functioning in this as the lead agency?

Mr. HARRINGTON. In terms of—

Mrs. MINK. This voluntary agreement?

Mr. HARRINGTON. I don't know as there is a lead agency. I think it has been cooperative to the point—I mean, I don't know.

Mr. BECKER. We, in the context of the agreements, we have assumed some initiative as far as trying to bring the parties together, such as the operators; and sit down, as we have done in Hawaii and at Glacier and other places, to be the catalyst to bring everybody together and try to hammer out an agreement.

Mrs. MINK. Thank you.

Mr. VENTO. Thanks. Just a question or two.

Secretary Babbitt wrote to Secretary Peña concerning the FAA's funding for a new helicopter facility at Grand Canyon and asked that the project not proceed until completion of the noise studies now under way. Has there been a response to that?

Mr. HARRINGTON. I don't know, sir, but I would be happy to follow up.

[The following was submitted:]

#### GRAND CANYON OVERFLIGHTS

Secretary Babbitt has been informed that the Federal funding for site preparation for the helicopter facility at Grand Canyon National Park Airport was provided a year ago. The Federal Aviation Administration (FAA) is not providing further funding for the project, and the State of Arizona, which operates the airport, needs no further action or approval by the FAA to proceed with the project. It should also be noted that Secretary Babbitt and DOT Secretary Peña issued a joint press release on December 22, 1993, announcing an interagency working group to address overflights issues at Grand Canyon and other National parks.

Mr. VENTO. The other point is I agree with the gentlewoman from Hawaii about the full-time equivalent in terms of presence and personnel to make a commitment to find out what is going on in Maui or on the Big Island of Hawaii.

You get a lot of problems in Hawaii; I understand that. But there would be no problem with a licensure process by the Park Service of tour type of aircraft. I mean, you could continue your role and

they could perform that function in terms of licensure or a concession-type of function.

Today, they don't have that sort of relationship.

Mr. HARRINGTON. I am not sure I am prepared to answer that.

Mr. VENTO. Licensure for the activity over the airspace—licensure of the activity, the tourism activity, the sightseeing activity—over these areas.

Mr. HARRINGTON. Unless that conflicted with some of our regulatory functions, I don't think we would have a problem.

Mr. VENTO. No, you have to do your role. What do you mean by a Part 135 certificate? I know you gave numbers. I know you mentioned a Part 91 certificate; that is a combination helicopter-fixed wing aircraft, the 91.

Mr. HARRINGTON. Part 135 is a regulation for aircraft with 30 seats or less, which means the smaller commuters and on-demand air taxis. There is a proviso that speaks to sightseeing operations within a 25-mile radius, which pretty much excepts those operators from the requirements of the rule if they stay within that geographic area.

The rule was written a long time ago. I don't think it really was written with tour operations as we know them today in mind. That is why we have taken action to amend the rule.

Mr. VENTO. Could you share with the committee a summary of what your recommendations are? How long will it be before that is finalized?

Mr. HARRINGTON. It is in draft form and goes through a regulatory process that takes some time. It depends on the priority that the agency gives it. We do consider it an important rule, and I believe it is on the priority list.

Mr. VENTO. The Part 91 certificate is different?

Mr. HARRINGTON. Part 91 is a section of the rules that generally applies to all aircraft. It is, in most cases, not as stringent as the Part 135 requirements.

Mr. VENTO. I had a letter from the National Parks and Conservation Association which relates to the issuance of two grants in Alaska; what is more is that these grants are on park land. I don't know if you are familiar with all the details, but it is apparent to me that the FAA, through the grant process, has leaned over backwards to make these grants in spite of the fact that they are an invitation to a myriad of problems in Alaska with regards to questions with the Park Service.

What this highlights to me is the lack of Federal consistency in terms of one agency working with another agency in terms of problems.

It goes without saying that in Alaska air transportation is many times the only alternative. In this case the FAA ignored the concerns of the Regional Alaska Director of the National Park Service who wrote to the FAA and three days later the FAA dismissed these concerns and went ahead and made the grants. It is basically on lands that are Park Service land.

In Kantishna, it might be on the basis of patented mining claims in the Park Service which—we are trying to buy them back and eliminate some of the problems. It has been an ongoing problem for

some time. But the last thing we need to do is begin putting air-strips inside the boundaries of a National Park unit.

And the other deals with Wrangell-St. Elias. I am going to submit this letter and questions to you, and I must tell you that I think it speaks volumes about the lack of Federal consistency with regards to what is happening here.

[The letter may be found at end of hearing.]

Mr. VENTO. I think that the hearing has provided some important insights. I hope that they will have an impact on the 135. It seems that we want you to do the job, but it seems that things are falling between the cracks between the Park Service and the FAA.

I know that the Park Service lead person for the study is still here, and we look forward to putting this on a better path in terms of resolving it.

Mr. Harrington, Mr. Becker, thank you.

We will stand in recess while we vote.

[Recess.]

Mr. VENTO. Let's see if we can resume our sitting.

Mr. Harrington and Mr. Becker, we sort of concluded with your testimony. Obviously, you are going to get some questions, but we want to call Mr. Barry Stokes, the President of Citizens Against Noise from Hawaii; and David Leese, the Vice President of Citizens Against Noise; and finally Kathy Moser from the Sierra Club, the Maui Chapter of the Sierra Club.

I don't know if we have to get them back from the hall, but we appreciate your patience. We have nobody to blame but ourselves; those of us up here, asking all the questions. Your statements have been made a part of the record. Feel free to summarize.

**STATEMENTS OF BARRY STOKES, PRESIDENT, CITIZENS AGAINST NOISE, HAWAII; DAVID LEESE, CITIZENS AGAINST NOISE, MAUI CHAPTER; AND KATHY MOSER, SIERRA CLUB, MAUI CHAPTER**

Mr. VENTO. Mr. Stokes, are you ready to present your statement?

**STATEMENT OF BARRY STOKES**

Mr. STOKES. Thank you, Mr. Chairman. I certainly appreciate this opportunity to speak. I do have prepared, written testimony, and I appreciate your also mentioning Environment Hawaii during your testimony. This is the single most important piece of written, published information on the problem in Hawaii.

And also thanks, of course, to Mrs. Mink for introducing this extremely important bill.

My name is Barry Stokes and I am President of Citizens Against Noise. We are a grassroots organization within the State of Hawaii. Citizens Against Noise is a founding member of the Tour Aircraft Control Coalition. The Coalition represents a union of community groups, environmental organizations, and individuals concerned about the uncontrolled growth of the tour helicopter industry in Hawaii.

I am honored to have the opportunity to come 5,000 miles to ask for your support of Representative Mink's vitally important legislation, H.R. 1696.

I have been studying the problem for just about 10 years. I have been a member of the State Helicopter and Tour Aircraft Advisory Council since 1986. I have been a Technical Advisory Committee member for the Hawaii State Helicopter System Plan since 1988. I was Helicopter Safety Coordinator for the U.S. Geological Survey's Hawaiian Volcano Observatory, where I was employed for 12 years as a geochemical technician. In that capacity, I flew over 110 hours in rotary-wing aircraft and participated in over 15 hours of safety seminars on the use of helicopters in the volcanologic research. I am a member of the Sierra Club, the Conservation Council for Hawaii, and the Hawaii Coalition of Conservation Voters.

I own a small business. This leads me to be particularly concerned over the rapid growth of the tour aviation industry in Hawaii's national parks; and we have Mrs. Mink to thank for introducing this legislation.

Issues of increasing concern in Hawaii are, one, the noise intrusions on residential communities bordering the national parks; two, the negative impacts on hikers and native animal species in wilderness areas; three, the disruptive effects on visitors who seek to experience Hawaii in its state of natural quiet; and four and finally, the State and community governments' frustration over both the noise impacts and the rising accident rate of tour aircraft.

Very little discussion has been made about the accident problem, but I would like to quote a few statistics. 1980 to 1988 there have been a total of 44 helicopter accidents in Hawaii, 19 of which occurred on air tour or air taxi flights alone, what this particular bill addresses. Just in the past two years, 20 deaths have occurred, four by drowning, just in January of 1993 in sightseeing operations both on the Big Island and Maui.

H.R. 1696 is the only piece of Federal legislation presently available that controls this type of aviation activity over the national parks. The resolution limits low-altitude operations over Hawaii so as to protect the sonic serenity of these areas. It is important for the committee, if you would please, to recognize that this resolution does not affect industrial, emergency, police, military or Park Service operations of these aircraft. We believe these are appropriate use of that type of aircraft and support it.

Tour helicopters have shattered Hawaii's most precious resource its calm and quiet beauty. As visitors to the national parks, our rights to privacy and quiet are currently revokable at any moment, dawn to dusk. It is no longer possible to visit any portion of our State's National Park System without being assaulted by the sound of helicopters which the industry itself has admitted is both noisy and constitutes a public nuisance.

Our national parks are "natural museums," established and maintained for the public's education, retreat and repose. In the words of Henry David Thoreau, "In wildness is the preservation of the world," end quote.

Helicopters are ruining that wildness, and for that we all suffer, resident and visitor alike. We are turning away the visitors that come to our State, that give us our main source of income. In addition, tour helicopter activity distracts park personnel, annoys and endangers campers and hikers, and disrupts the nesting, feeding,

and breeding habits of Hawaii's native birds, which are in serious decline.

The regulations proposed in H.R. 1696 are clearly necessary and, we believe, quite reasonable. They have been, in fact, drafted with the help of the National Park Service. I hope this subcommittee will kindly recognize that this legislation will restore peace and tranquility to the national parks in Hawaii. We also recognize the law of the land. It is time we seriously consider the law of the sky.

I sincerely thank all Members of this committee for this unique opportunity to testify. And if given time allowed, I have made some comments related to the earlier testimony, but I will defer to your—

[The attachment to Mr. Stokes statement may be found at end of hearing.]

Mr. VENTO. I think probably we will get back and ask you a question or two and maybe you can comment.

Next we want to hear from David Leese.

#### STATEMENT OF DAVID LEESE

Mr. LEESE. Leese, that is correct. Good afternoon.

I reside in Hawaii on the island of Maui. I am here to express my concerns as a private citizen and as Vice President of the organization, Citizens Against Noise.

In 1969, I chose Maui as my home because of its tranquility and because of the nearby location of Haleakala National Park.

Mr. LEESE. A wilderness internationally recognized as one of the quietest places on Earth, a place of ethereal absolute silence.

However, in the past 10 years, the very small island of Maui has become saturated with aviation noise over nearly every square inch of its 728 square miles.

There is virtually no place for residents or tourists to find auditory peace, except for that space set aside as wilderness in the volcanic crater of Haleakala National Park. Humans require the silence of wilderness as retreats from the pressure, noise, and the pollution of our society.

For 23 years I have found that retreat in Haleakala. But recently, as a consequence of an invasion by a plague of flying chain saws, Haleakala has been despoiled. Their incessant racket is as much an insult and desecration as a boom box would be inside a Cathedral.

In 1978 Congress mandated that aviation over Haleakala Crater be limited to 9,500 feet AGL minimum ceiling, a regulation that no longer is effective because of the sheer number of overflights that has exploded beyond any reasonable proportion. Ten tour helicopter companies operate over 30 machines on a continuous daily basis, all year-round. This activity is predicted to double within 10 years.

The impact of overflights is compounded by the size of the park, one of the smallest in the Nation and by the crater's amphitheater configuration, which produces acoustical amplification of any sound above or near it. Three or four helicopters are often overhead at once. This activity goes on all day, all year-round.

Many people come to the park for solitude, and they are disappointed if they don't find it. To fulfill the desire of three or four people in a helicopter at the expense of scores on the ground is not

just. The claim which the helicopter operators make about leaving only a temporary sound footprint is not accurate. There are often lengthy stretches of time, upwards of an hour, when there is nothing audible inside Haleakala Crater except for the drone and blade slap of tour helicopters. A once silent wilderness has become a war zone.

The legislation under review, while incomplete, addresses this problem. I have several things to say in its defense and several recommendations for its improvement.

Wilderness National Parks are recognized for their intangible qualities, such as natural quiet, solitude, scenery, sounds of nature, et cetera.

Regarding actions which compromise these intangible qualities, the National Park Service's Management Policies Guidelines of 1988 state the following with regard to noise, quote:

Activities causing excessive or unnecessary, unnatural sounds in and adjacent to parks, including low-level aircraft overflight, will be monitored and action taken to prevent or minimize unnatural sounds that adversely affect park resources or visitors' enjoyment of them.

H.R. 1696 offers an excellent opportunity to act on this guideline.

My hope is that the subcommittee Members will recognize the necessity of this legislation and the legitimacy of its attempt to restore ecological quality, peace, and wildness to National Park lands in Hawaii.

Rewording of the legislation will be necessary to reflect the reality that the FAA, in conjunction with EPA, is currently empowered by Title 49 of the U.S. Code, Section 1431, attached to my testimony, to engage in, quote, control and abatement of aircraft noise, end quote.

H.R. 1696 ought to unambiguously require the FAA and the EPA to engage in this process in a meaningful way. Also, H.R. 1696 ought to require the FAA to carry out the environmental impact studies called for in the Department of Transportation document 1051.1D, chapter 3, paragraph 37(b), and appendix 3, paragraph 3(a), where flight paths below 3,000 feet require an environmental impact statement. Both these references are attached.

I also request that the committee put teeth into the act through a clear articulation of penalties and violations of the act.

I leave you with the words of the late novelist Wallace Stegner, Sierra Club leader and advocate of wilderness preservation. He stated, quote: "Something will have gone out of us as a people if we ever let the remaining wilderness be destroyed. The wilderness can be a means of reassuring ourselves of our sanity as creatures," end quote.

Based on what I have heard in this room so far today, I am convinced that sanity will prevail.

Thank you deeply for this opportunity to testify in person.

Mr. VENTO. Thank you, Mr. Leese.

[The statement of Mr. Leese may be found at end of hearing.]

Mr. VENTO. We will ask now Kathy Moser from the Sierra Club to make her presentation.

Welcome. Please proceed.

### STATEMENT OF KATHY MOSER

Ms. MOSER. Thank you.

Mr. Chairman, thank you for this opportunity to comment on H.R. 1696. My name is Kathleen Moser, and I live on the island of Maui, Hawaii. I have been invited to speak as a representative of the Sierra Club and other concerned citizens of Maui. Donations were collected for my airfare, and my time is voluntary. I am speaking in support of this bill and how it pertains to Haleakala National Park on Maui.

The Hawaiian Islands are some 2,500 miles from the nearest continent, making them the most isolated islands in the world. Great numbers of plants, animals, and insects have evolved there because of this isolation.

Today, unfortunately, Hawaii has the dubious distinction of being called the endangered species capital of the world. At one time, there were at least 140 species of native birds in Hawaii. Seventy percent of those are now extinct. Of the remaining native birds, 30 are endangered and 12 of those close to extinction and perhaps beyond recovery. The remaining fragile native plant and animal life of these islands is in grave danger and needs protection if it is to survive.

Haleakala mountain rises from sea level to 10,023 feet in height. The crater of this dormant volcano extends seven and a half miles in length and two and a half miles in width. Haleakala National Park encompasses the entire crater district and adjacent rain forests.

In 1980, the United Nations Education Scientific and Cultural Organization, UNESCO, designated Haleakala National Park as an International Biosphere Reserve. This was determined on the basis of its extraordinary biological significance in the conservation of biodiversity worldwide. Rare and endangered plants, birds, and insects found nowhere else in the world reside in the diverse ecosystems of Haleakala National Park.

There are five native birds in the park that are listed by the United States Fish and Wildlife Service as endangered. The sole remaining habitat for these birds is the rain forests of windward Haleakala above the 4,000 foot elevation. These birds would not survive below 4,000 feet because of avian malaria, which is carried by the mosquitoes. The bird habitat has been slowly diminishing, compromising their ability to exist as a healthy, flourishing species.

Because no formal studies have been completed, there is no hard scientific data, but it is the consensus of the experts that helicopter overflights greatly disturb native forest birds. The observations of biologists—the observations the biologists have made while in the forest make it clear that the birds are suffering at the hands of these aircraft.

The birds are especially vulnerable to disturbance from helicopters during critical pair-bonding, breeding, young-rearing and nest building. The noise startles them. They often abandon their nests, leaving their eggs and young chicks. They become disoriented and are more likely to be killed or injured while dislocated. The bird fertility rates are likely to become diminished, and their delicate and complex signaling methods with other birds are rendered useless. One biologist whom I interviewed said that

even conducting bird surveys was made difficult by the helicopter overflights. The birds would scatter at the intrusion of aircraft noise, and the counts, which are for eight-minute intervals, would have to be delayed or terminated because of the repeated helicopter overflights.

The natural state of the forest approaches absolute silence. It is this realm of silence in which these birds have developed their way of life and have lived for thousands of years. If we are to protect these forest birds from extinction, we must eliminate the sources of stress on their lives. Banning aircraft from these areas is not too much to ask to protect what has been acknowledged globally as an ecosystem of extraordinary biological significance.

Another major impact these aircraft have is upon the people who come to places like Haleakala seeking the very solitude and tranquility that has been taken away. Some find inspiration and strength to deal with the problems of our times by entering the sanctuary of the natural world. If we cannot find a place to experience serenity, peacefulness and tranquility, how can we know it, teach it and live it?

The immediate problem today is not only the low altitude at which the aircraft fly and the loud noise that they generate but also the dramatic increase in the numbers that are operating.

On a recent Sierra Club hike into what a few years ago was a quiet, tranquil area, 30 helicopters passed over in a period of four hours. Helicopter passes were almost continual on another Sierra Club hike just a few weeks ago. Can you imagine what it would be like if that many helicopters flew over this building and you had no roof? At the very least, it would be stressful.

The State motto of Hawaii, "Ua mau ke ea o ka aina i ka pono" means "The life of the land is perpetuated in righteousness." The life of our land is its birds, animals, plants, and insects. If we are to allow the perpetuation of these rare treasures, we must live up to the task we have set for ourselves.

We, the Members of the Sierra Club and concerned citizens of Maui, wish to thank Mrs. Mink for introducing this bill and urge the Members of the subcommittee to vote favorably for its passage.

Thank you for your time and aloha.

Mr. VENTO. Thank you very much, all, for your testimony and your patience. I know it is frustrating when Members are here and they are going through and hearing these many problems over and over again.

Considering Mr. Stokes, Ms. Moser, and Mr. Leese, the comments from the FAA, from the Parks Service concerning the memorandum of understanding, are you familiar with the details of it, or at least the outlines of it?

Mr. Stokes.

Mr. STOKES. We did get a first draft of that memorandum of agreement through the National Parks. Actually it was made available to the member of the media that wrote the article on environment Hawaii.

Mr. VENTO. I didn't read all of that. But I did look at the part after I had asked my questions about the avian impacts.

Are they on the right path?

Mr. STOKES. We encourage it. And, absolutely, we are grateful to FAA, Brian Caldine in particular, with Flight Standards. He is going to be holding hearings in January 1994 on the way aviation activities continue in the State, not just in the National Parks, is our understanding.

In fact, tonight, on the big island, there will be a four-hour meeting from 3 to 7 p.m. dealing with this issue on big island airspace. Members of our coalition will be in attendance.

The important point is the draft memorandum of agreement is still a draft; and while they are responding, there is no change in aircraft activity over the National Park at this moment.

Mr. VENTO. Is it your view—and others may want to comment about this—that this particular document, I think Congresswoman Mink and others talked about, and some of you talked about, has any teeth in it?

Mr. STOKES. That is a serious concern. We believe National Parks should simply be flight-free zones. And this bill does allow for various height limitations of aircraft.

And, again, I would like to make a point on that enforcement. To our knowledge, the HHOA has not imposed any fine against any particular operator or any pilot. And in fact, the head of the association told us the reason why they don't do that is that they are afraid of keeping their membership within the organization, because if they impose too many rules, they will lose their contact between HHOA and the industry. So we have a real problem.

Mr. VENTO. Who told you that? The FAA?

Mr. STOKES. No. Bob DeCamp, who is head of the Hawaiian Helicopters Association.

Mr. VENTO. They obviously have put restrictions on suspending licenses.

Mr. STOKES. My understanding is HHOA cannot do any of that. It is all up to the Federal Aviation Administration.

Mr. VENTO. That is what I meant. I am sorry. That they had, in fact, taken such action.

Mr. STOKES. I know of two instances that have occurred, one in which a pilot who killed four people off Kalaupapa; he was in violation of two regulations. He was 25 miles from the point of take off and landing.

The second violation, he was—his engine aircraft failed; he simply went into the water and drowned four Taiwanese visitors to the State.

Mr. VENTO. Mr. Leese, you have put forth a suggestion, that the FAA has under law, certain requirements right now that you suggest that they are not in compliance with. It says "activities."

You go through it on page 5. And I appreciate incidentally you summarizing your testimony. I did look it over. And then I have the attachments.

Do you want to just elaborate a little bit on that for me? I know you were trying to condense things here.

Mr. LEESE. The reason I mentioned that is that often when one has conversations with representatives of the FAA, the empowerment is sidestepped; and the FAA will tell you that their primary concern is safety, and that we don't really have anything

to do with noise, which is why I cited the Federal Code, because the FAA is empowered, if it so chooses, to control aircraft noise.

Mr. VENTO. I suppose we could just reference this in terms of parks as an example and say parks are considered noise-sensitive areas; and, therefore, you have to comply with the rigorous provisions of this in such a way as to evaluate that completely.

It would be one way to get things on the road. I think that you can tell from the comments, that this is beyond just Hawaii. Although I know it is a special problem, it sort of is not untypical I think of some—well, I suppose it is atypical really in terms of the heights and some of the other—the small size.

I think there is always a lot more difficulty with Hawaii where you have so much commuter and air transportation even between the islands. So I think in that sense, it is far different.

But there are similar types of challenges in other areas, although geography and the incidence may not be as frequent just yet. But there are certainly unique characteristics in places like the Grand Canyon.

So we are trying to look at a way, I think, at basis of this—I am, at least. I know if we can't do that. We can just deal with Hawaii, I guess, on a single-basis bill. But I would hope that we could do more in terms of this particular matter.

Congresswoman Mink.

Mrs. MINK. Yes. I would like to—since I had to leave at the moment the panel was coming forward—express my own personal appreciation to all three of you for the time and the effort that you have devoted to this issue.

Long before there was a bill, H.R. 1696, all of you were very much concerned about this issue, wrote about it, attended numerous meetings, I am sure, in your local communities. So I appreciate your support of the legislation, your assistance in bringing it to the attention of your organizations and your communities, and in particular, the personal sacrifice that all three of you have made in a financial way and otherwise in coming here and responding to the subcommittee and providing us this invaluable testimony. The three of you are representative of thousands of other people who, if they could, would have flown here and been personal testimonies to this issue.

In your respective capacities, I know that it is not only the National Park that concerns you but the whole environment that is shattered when these aircrafts fly and invade upon your privacy and the privacy of others. But today in this hearing we are dealing with the precise issue of the National Park, and in particular, the two of primary concern, Haleakala and the Volcanoes.

The subcommittee clearly has designs upon my bill to extend it to other areas and perhaps to recraft it so that it can have some national implications. If we go that route, the three of you and all the people you represent deserve a great deal of commendation for your tenacity, because you have helped us to evolve beyond the immediate of our two parts into something that can help to develop nationwide policy for all parks. And to that extent, I am sure all areas will be tremendously indebted to you.

One of the things that I would like to ask the three of you, if you care to respond, is the nature of the regulatory presence currently. Is there any?

We keep hearing about voluntary agreements, tentative agreements, interim agreements, understandings, collaborations, co-operation, voluntary and so forth.

Are you aware of any regulatory, voluntary efforts being made by anyone in this area of protecting the National Parks and safeguarding its environs from the noise of aircraft?

Mr. STOKES. Thank you very much for the question. And also thank you for the praise, Mrs. Mink. We all appreciate that.

We are unaware of any FAA presence on the big island that has taken regulatory action against these operators. Maybe one analogy that might help would be if you are speeding on a highway and a policeman sees you; he will pull you over and stop you because you are in violation of the law. When these aircraft fly outside their flight safety envelope, as they do every hour of every day, the only ones they are watching are other tour helicopter operator pilots; and they don't talk; they don't rat on one another. It is a close community. So they know what is going on, but they are not telling the FAA about it. We know what is going on, and we tell the FAA about it. And they are not responding. So that is the problem.

If I could make one more point about funding. The National Parks complained that they couldn't do an adequate noise study because there wasn't funding available to them. Yet the FAA granted the Hawaii Helicopters Association a \$127,000 grant to propose their Noise Abatement Performance Evaluation System, or NAPES for short.

Now, the problem with this is that the control of this program remains within the industry. And, in fact, Mr. DeCamp was before our county council just last month telling them that, because the FAA is only giving partial funding to this program, the public only gets partial access to the data.

So this is our problem. All of it is in-house. And we are trying to get some public control over this industry which causes a nuisance.

Thank you.

Mrs. MINK. Anyone else care to comment?

The question I was trying to get at was touched on tangentially in your reply in terms of no one being present and no one doing anything.

My question is: Aren't there in place, to your knowledge, any agreements, voluntary or otherwise, any standards that have been promulgated by anybody that anybody has to adhere to which could formulate the basis of a serious complaint that could be acted upon by a citizen?

Mr. LEESE. This is with regard to the National Parks?

Mrs. MINK. Just the National Parks, right.

Mr. LEESE. Only the regulation from the 1987 legislation which mandates 9,500 feet, which is frequently violated. I can personally testify to that. I have seen it myself.

Mrs. MINK. But with respect to the general admonition with respect to low flights, with respect to noise and invasion of the park environs, are there any existing regulations that any of us inter-

ested in this area could pinpoint and say, well, here it is, and this is a violation?

Or are we in a situation where there is a total vacuum, a lot of talk and lip service, and a total crippling of the ability of citizens in the community to put their fingers on precisely what ought to be done, because there is nothing there to put your finger on?

Mr. LEESE. With regards to the park, that would be true.

Mrs. MINK. To the park, yes.

Do you concur with that, Mr. Stokes?

Mr. STOKES. I do.

As I understand it, however, there are ways that FAA can take action on existing rules and regulations.

Mrs. MINK. My point was: Is there anything now that either you or I or any other constituent, barring the enactment of this legislation, can relate to in terms of reporting nonconformance to a voluntary agreement?

Mr. STOKES. None that I am aware of.

Mrs. MINK. Thank you, Mr. Chairman.

Mr. VENTO. Thanks. I appreciate, too, your patience and your traveling to share with us your views and the work that you are doing on this. We hope we can put it to good use.

Thank you very much, Mr. Leese, Ms. Moser.

Mrs. MINK. Mr. Chairman, I don't know whether in my absence you permitted them to have their entire testimony put into the record.

Mr. VENTO. Yes. We saw to that request early for everyone.

The record will stay open for others that have testimony for a 10-day period. Well, it would be easier to be 10 legislative days, but I guess we hope we don't have 10 more legislative days this year. So we hope they will come in a reasonable length of time.

Finally, the last panel is Mr. Bob DeCamp, Executive Director, Hawaii Helicopter Operators Association; David Chevalier, President of Blue Hawaiian helicopters, Inc; and Mr. Elling Halvorson, President of Papillion Airways, Inc.

We have testimony from Mr. DeCamp, and others don't. So let me call on him first and just suggest to the others, that if they don't have—I haven't received written testimony—that you try to stay within a five-minute period to summarize your views, and then we will get back and ask you a few questions.

Mr. DeCamp, we do have your testimony as part of the record. Please proceed.

**STATEMENTS OF BOB DeCAMP, EXECUTIVE DIRECTOR, HAWAII HELICOPTER OPERATORS ASSOCIATION; DAVID CHEVALIER, PRESIDENT, BLUE HAWAIIAN HELICOPTERS, INC; AND ELLING HALVORSON, PRESIDENT, PAPILLION AIRWAYS, INC.**

Mr. DeCAMP. I would like if I could, with your permission, to enter my testimony as it is—

Mr. VENTO. It has already been entered into the record.

Mr. DeCAMP. I would like to then take some time to discuss other points.

Mr. VENTO. About five minutes.

Mr. DeCAMP. Great. Thank you.

I am Bob DeCamp. I am President of the Hawaii Helicopters Operators Association. We do have 87 percent of the helicopter tour companies within our membership. They own or operate 93 percent of the tour helicopters Statewide. The membership has grown since its inception in 1987. And that is because the helicopter operators understand the value and cooperative effort. And our main topic of concern right now is noise abatement.

A couple of things I would like to comment on that came up today earlier. One is regarding, I think, what is important to the panel and that is the agreement that is being put together right now with the Hawaii Volcanoes National Park.

That agreement has been approved by our association and by the FAA. And we are just waiting for the Park Service's final review. So I believe it was a month and a half ago it was submitted to them as a draft, as a final draft from FAA and our association.

It will specifically outline the techniques for flying within the Hawaii Volcanoes National Park, a method worked out with this negotiation process, with the Park Service, and the FAA. There have been four full meetings with the Park Service and the FAA to develop this, as well as over a dozen partial meetings, both in person and over the phone to develop it. It is in its 7th form, 7th draft form. So there has been quite a bit of work done. And it is a procedure that we found very interesting and beneficial. And we think that the program will work very well.

As far as monitoring the program and the teeth in the program, we will use the same approach that we have used in our Mandatory Fly Neighborly Program to date. We have a Mandatory Fly Neighborly Program which is the first of its kind in the Nation, and it requires a contractual agreement between our association and the members as well as a contractual agreement between the members and their pilots that they will follow the guidelines of the program.

When a violation is verified, there are three levels of penalty. The first level is a warning. We give a pilot, in a one-year period, one warning. The second level is a \$100 monetary fine to him and also the company. And the third level is \$250 monetary penalty to the company and a 30-day suspension without pay to the pilot.

What we have found—that was the original formula that was devised by a task force that came up with this mandatory program. The task force, as I mentioned in my testimony, was one which was sponsored by the industry. But not—it was not an industry-dictated situation. We participated in the process to come to this mandatory program, and out of that program came these penalties.

What we have found since that time is that it rarely gets to the point of having to have a monetary penalty. In fact, I am not sure we have even had one monetary penalty. Because if the operators find that the pilot is not going to cooperate with the agreement, they just fire them. We have had five or six firings due to this. The operators are very serious about the program, and it has been highly successful.

You will see attached to my testimony a letter from the mayor of Maui who would probably be the most well-versed mayor in the State on this issue, and she very highly commends the program. It

is very successful, contrary to the comments by a very small group of well-organized individuals.

I should also point out that we do not hesitate to pressure the pilots in any way we can through this pilot system. I am not sure what Mr. Stokes was talking about with regard to not wanting to penalize them. We want to penalize them, if need be. There is no hesitation whatsoever to do that. That is why pilots have been fired before they even have gotten to the suspension stage.

There is just so many things that have come up today that I think it probably would be better served if we speak with the individual Members of the panel some time on an individual basis and go over some of these things.

But a couple of things that came to my mind as things were being said here is there is frustration because there doesn't appear to be a system to deal with this problem, and we agree completely. That was the reason for our mandatory program. We feel there needs to be a yardstick that we are measured against. Otherwise each complainant's complaint is its own yardstick, and that is a difficult thing to deal with.

In fact, what we would recommend—and I will go back to my association and recommend this, and I believe they will adopt this idea—we would like to work with someone on the House side. We are currently contributing on the Senate side to legislation. We would like to work with a representative on the House side to develop a reasonable—a fair, and intelligent legislation that would create a means to develop a yardstick within individual parks that have problems. And we have lots of suggestions on that if you are interested.

The current legislation that is being proposed, we agree with the National Park Service that it is premature. It is also—it doesn't really deal with the problem as well as it could. It is somewhat like what happened in Haleakala. At Haleakala they enforced—implemented a restriction there which actually has increased the amount of intrusion by helicopters, because they have raised the altitude helicopters and the sound cone. The sound generated from a helicopter is cone-shaped. So the higher you get a helicopter, the more area it is impacting on.

I am not saying there wasn't a need for something over Haleakala. But I think if all the parties had come together in a proper form and worked this out on an individual basis, it would have been handled differently and would have been much better than the situation is right now. That is the concept that we would recommend, a legislation that causes a mechanism, let's say, that the parties get together to address the issues and resolve them on a park-by-park basis.

I would point out that the grant that Mr. Stokes talks about really demonstrates the proactiveness of the industry and the FAA. We did ask the State to go in with us as well on the funding, and they were unable to because of resource problems.

But the research and development division of the FAA had some funds, and it was a very wise idea, I think, on their part to contribute to that, because that is a tool that can measure the effectiveness of any program, whatever the program is. If you can't measure it, you can't manage it. And this tool, which we actually began our

effort on a couple of years ago—which Representative Mink, by the way, endorsed the concept and commended us for it—is a tool that industry can use to demonstrate that it is doing its job.

We often get mixed up with other types of flights. In my testimony, I mentioned the enormous amount of DEA flights that are happening right in the exact same district that has the highest complaint ratio right now in the State. And this tool will help us differentiate our flights from the DEA flights which do hover low, hang around for quite a while, do different things than tourists that are on a very tight time schedule.

We have not heard from the Citizens Against Noise, except for one complaint that we are aware of at the helicopter help line. And Mr. Stokes called the help line. So he mentioned that he is not aware of certain things. I think part of that is because he hasn't really come forward with any communication with us.

There have been problems in the past dealing with him, but I think we could have an open discussion at this point to help educate him on some things.

The one thing he did call about I thought was kind of amusing, because he was screaming over the phone about a helicopter that was flying over the park, and it turned out to be a helicopter hired by the Park Service.

So this is why we need a yardstick and a means to measure and differentiate our flights from other flights so that we are not being thrown into a group unfairly. I think—despite the fact that I have many more things I would like to mention, I think I will just pass the baton on.

[The statement of Mr. DeCamp may be found at end of hearing.]

Mr. VENTO. Mr. David Chevalier, President of Blue Hawaiian Helicopters.

Mr. Chevalier.

#### STATEMENT OF DAVID CHEVALIER

Mr. CHEVALIER. Thank you. As an FFA representative from Maui, I am one of the founding members. We founded the Noise Abatement Program back in 1986.

I am a Vietnam veteran helicopter pilot. I own Blue Hawaiian, along with my wife, Patty, her brother David Griffin, and a native Hawaiian woman named Yaket Poua is our office manager. We are a small owner-operated, as well as most of the companies in Hawaii are.

Over the years, we have worked hard to achieve the goal of harmony between the helicopter tour business and Maui's communities.

Since 1986, we sponsored a helicopter noise complaint called the Helicopter Environmental Liaison Office. Steny Sokagroua now is our paid representative for the last three years. We advertise our complaint line weekly in the local newspaper. We want to hear from people if there is a problem.

All the helicopter tour companies meet the second Tuesday of each month. We discuss each noise complaint. We try to eliminate any negative impacts that we cause. Community members have always been able to attend these meetings.

The first year of our program we had over 450 complaint calls. To date, this year we have received less than 50. We have learned that, although, we can satisfy 98 percent of the people, there are those that we will never satisfy as long as we operate.

We are not perfect, but we do do our utmost to find a solution to every problem. We are completely sincere in our commitment to fly neighborly. It is hurtful and misleading for some anti-tourism, anti-helicopter people to portray us as uncaring and unresponsive to community concerns.

Although our organization and efforts are well-known, problems with overflights in the National Parks really hasn't been an issue, wasn't an issue at our organization until Mrs. Mink's bill came out.

I know that before our organization was formed, back in 1985, this truly was a huge issue, over flights of the parks. We, with our Noise Abatement Program, limited our overflight altitude to 8,500 feet and avoided flying near the visitors' center.

Public Law 100-91 nevertheless was already in the works and mandated 9,500 feet over the crater. Well, since then we have heard very little about problems with park overflights, again, until Patsy's bill came out.

I do believe that this legislation arose out of a response to certain very vocal citizens, some of whom you just heard from, concerns over residential on overflights.

They seem to believe that if we can no longer overfly the place that tourists want to see the most, we won't be in the air to overfly their house either.

In fact, in a noise meeting that I attended six months ago, this strategy was specifically discussed. I believe it is incorrect that this would increase the helicopter flight over residential areas and over wilderness areas, concentrating more in others.

But you know I have heard people here talking about low-flying aircraft. We don't have low-flying aircraft. We are talking about Haleakala, 9,500 feet over the park. When you realize that the floor of the park is 6,500 feet, we are generally 3,000 feet above the crater floor.

Now, the visitors' center sits up at the summit at 10,000 feet. It has a steep trail called Sliding Sands that leads down to the crater floor. The air at 10,000 feet is thin. Only those people of robust health are able to hike into it. We do avoid flying near Sliding Sands Trail.

In fact, most of our operations range from the center of the crater, which Kathy had mentioned measures 21 miles in circumference, the center of the crater, to the far end opposite that of the visitors' center.

Last year we flew over 173,000 people over Haleakala National Park. This number is exponentially higher than those that hike those far trails. While we deeply sympathize with those who want total quiet and do our best to alleviate our impacts, there must be some concession made by the few for the benefit of the many; and that is the way I truly do see it. You have heard different, but this is the fact. And a lot of things have been said here today that are not based on facts. I truly wish we would get the facts straight.

From a preservation of natural resources point of view; you know, consider a couple of things that haven't been brought out.

Foot traffic through Haleakala: The trails right now do show serious erosion. Native vegetation is trampled by foot. Trash is often left behind by the hikers. The National Park is under intense pressure right now to erect yet another structure to the crater rim to accommodate the toilet requirements of the visitors.

You stop the helicopters from over flowing the park, maybe add 170,000 people driving to the rim, then again, many of the rental car companies don't allow visitors to drive out there because of the wear on the brakes coming back down.

The legislation here, H.R. 1696, is opposed by virtually the entire Hawaii visitor industry, the Maui Chamber of Commerce, and the mayor of Maui County.

You know, looking at it on the basis of equal access questions alone, I can't see where you could legally deny people who couldn't physically see it otherwise from the ability to experience their National Park. In fact, why deny any one their freedom of choice. Rather, work with us to reach a compromise, a win-win situation for everyone. Let's try to work it out together. Give us half the park and the hikers take the other half. I think we can find a solution if we work together.

My point is really, nobody has come and really tried to work anything out with us. We are so open. I mean this is our livelihood. We will bend over backwards to make it work. And this idea that we are hard to work with or that we are uncooperative is totally not true.

If I could just read something, for instance, from a citizen's perspective here. I have a lot of things I could read to you, but just this one. This is from Dr. Thomas Thornton, M.D., from Allen, Texas:

I have just returned from a three-week vacation in Hawaii. It was my first time to return in almost 20 years, having lived on the Island of Maui in the late 1970s while teaching at the community college there and working for the State of Hawaii's Health Department as the Chief of Child and Adolescence Psychology.

During my recent vacation, I had the most exhilarating and awe-inspiring experiences of my life in being able to take the Blue Hawaiian Helicopter excursion over the Island of Maui and on the Volcano Crater of Hawaii. I was able to see firsthand things I would never have been able to experience.

I consider myself an active environmentalist and truly believe this ride has broadened my horizons. President Theodore Roosevelt was, indeed, a man of great vision and wisdom when we enacted the law establishing our National Park Service to preserve the great beauty of this Nation for all generations to come.

Thank goodness he had the foresight to define the fraction of land in America's National Parks as public property with a view to its preservation and the development of the purpose of recreation and culture.

I was greatly saddened to learn that—this is a letter to Representative Mink—that you are sponsoring a bill to end all helicopter flights over our National Parks. I sincerely hope you will reconsider, because an end to such flights will end a glorious heritage for so many Americans. Not only are there portions of our parks that are entirely inaccessible other than by helicopter, but there are many medically handicapped or restricted or too young of an age to travel to the inaccessible areas of the park on foot.

Certain areas such as Haleakala Crater on Maui are already being further isolated by rental car companies, already said that—that forbid their rental people from traveling the road to the crater in their automobile.

He has been—he says:

I have been advised by my physician—he has had a right hip replacement, and he is not supposed to take long hikes of any type.

Restricting helicopter flights over our National Parks would prevent my being able to experience the grandeur. I hope to move back to Hawaii some day in the

near future and would be greatly saddened if I could not take my children and grandchildren on helicopter flights over the highland's treasure so that they too could experience the heritage that are preserved in all of our National Parks as President Roosevelt intended.

There is so much of our Nation's physical beauty that can never be fully appreciated until viewed from its totality from above in helicopter flights. If we hope our children and their children to value our land and view it with reference—

Mr. VENTO. Let's put the letter in the record, since you are reading it; and we can make a copy.

Thank you for your statement.

[The statement of Mr. Chevalier with attachments may be found at end of hearing.]

Mr. VENTO. Mr. Elling Halvorson.

#### STATEMENT OF ELLING HALVORSON

Mr. HALVORSON. Yes. Mr. Chevalier is too modest to say that his name really is Mr. Chevalier. And I can't spell it.

I apologize for not having a written statement. But when I found out that I was going to speak, I was on the road and didn't have an opportunity to complete a written statement. I will get it into the record immediately following this meeting.

I am the President of Papillion Helicopter Airways, which operates at the Grand Canyon and on all of the islands in Hawaii, the largest helicopter operator in those areas.

I would like to—and I can answer questions, as we go on, about both areas. I would like to make just a few comments about Grand Canyon. Although that was not the intent of this—the mission of this hearing, it became rather involved in the discussion.

I have—we have been flying at the Grand Canyon for 30 years. Contrary to anything that the National Parks Service says or anyone who has an opinion as to whether there has been substantial restoration of quiet at the Grand Canyon National Park, I can assure you that in 1984, 1985 there was severe degradation of the quietness in the park; and we were part of the problem.

And we had a cavalier attitude toward that, just as the FAA had, and many others. And we were part of that problem. It took us a while to come around to recognize that we had to live together with the other people, the other users of the park.

I think that same thing does happen a lot when a pilot straps on a helicopter and he gets in his own environment and thinks he isn't impacting anyone. And that is something that we as an industry have been working hard to try and overcome, because we have an industry here that is really concerned and wants to be neighborly.

Enough about the Canyon. But I would be glad to answer any questions you might have.

I would like to change the nature of my approach to this a little bit, and I would like to address first of all, why people take a helicopter or an airplane flight, more specifically a helicopter flight.

They do it for the same reason that a person goes to the National Park to enjoy the National Park in other ways. They go to see the splendor of the area, the beauty, and have an experience, the experience is different. Not everyone's experience is the same. So this is a different user group of people. But it definitely is a user group of the National Park.

For the first time, many people are beginning to recognize that the aircraft is an eco-sensitive way to see the park. I have a letter here that I would like to read only two paragraphs from. It is from a man in New York, unsolicited, I have never met or talked to this person.

I will put it into the record:

I was particularly impressed by the ability of the tour to access remote and beautiful places in the interior mountains and secluded coastlines we passed by.

Many of the places we saw could not have otherwise been seen. Having just participated in a conference in Honolulu which dealt with nationally important environmental issues, including the emerging concept of eco-tourism, I realized that a Papillion sight-seeing tour fits perfectly into the eco-tourism model. It provides public access to a valuable resource without compromising the ecological integrity of the resource. A Papillion tour provides a visually and physically exciting experience without the direct physical impact on the resource that attracts visitors in the first place. This protects the integrity of the ecosystems visited and ensures the resource can be enjoyed by future generations of visitors. While eco-tourism is a relatively new concept, it appears Papillion has been promoting environmentally sensitive tourism all along.

Now, in reading that, I acknowledge the fact that there is a noise problem. There is no question about it. It is a problem we have to deal with. If you sort out all of the issues, that is the only problem. Possibly a visual problem. But you can have that with seeing another person in the park too or seeing an automobile. We deal with that all the time.

The real problem is the noise problem. Outside of the noise problem, the helicopter does not cause any erosion on trails or climb up any side hills; it doesn't trample the vegetation; it doesn't leave any human waste; it doesn't leave refuse or foreign seeds or any of these situations.

In fact, as far as the animals are concerned and the impact on animals, in the U.S. Forest Service study on the impacts of overflights, Item No. 4, on a study that they spent a million dollars developing says that: "The study led to the conclusion that overflights generally pose negligible risks of consequential biological effects on wildlife." So the statements in that regard are really unfounded, because there has been a lot of research attempted to be done that has been refuted.

Who takes the flights? In many cases people think it is the very wealthy Americans. That is not the case. And it is not the foreign visitor. I represent the largest company. Eight percent of our people that we fly are westbound, or from the Pacific Rim, on the Eastern Pacific Rim. And 92 percent of the people we fly are middle America folks. They are the active, the inactive, the able, the lame, the young, and the elderly.

The association, what has the industry done? The industry has done a lot. It has initiated many of the meetings that have taken place. It has adopted Mandatory Fly Neighborly Program for HHOA members. It has established hot lines. It has established a calibrated camera program for violations. It has had meetings with FAA, National Park Service. Drafted agreements. It has established strict routes and altitudes that are changed as the environment below them changes.

The NAPES program which identifies the location every few seconds of every aircraft that is so equipped and identifies the location

on a map and the altitude is just going into service. It is installed, I believe, in five or six aircraft now and is in its test program.

I guess the last important thing is that we don't want to throw the baby out with the bath water here, because we are coming to a point in time where there are going to be quiet aircraft. And this is in the process of happening right now.

NASA announced this past week that they have developed a carbon fiber rotor blade that actually absorbs sound. The manufacturers have taken a positive attitude toward this. There is now sound attenuating frequencies that we use in head sets for passengers in the aircraft. They have now developed that for the entire interior of the aircraft. And it is not beyond reason to believe that in the future, and not too distant, I believe, there will be sound attenuating frequencies that will be able to be emitted from an aircraft to counteract the frequencies of the rotor system.

Mr. HALVORSON. Quiet aircraft are on the come. And I firmly believe myself, because of the diameter of the rotor systems that we deal with, that they can be more quiet than a conventional propeller-driven aircraft.

I would recommend that this—at the least, that this bill be tabled because I do not think it is good for Hawaii, for the people, for the economy of Hawaii. There was a statement that people are not coming to Hawaii because of helicopter noise. I would challenge that statement, because I don't believe there is anyone who does object, not come to Hawaii because of helicopter noise. And contrary to that, there are thousands of people who look forward to a helicopter flight in Hawaii. And it is one of the inducements to going there.

Nine out of ten persons who step off the ground in the State of Hawaii spends that amount of money for a helicopter flight. And it is that important because, where their minds are, their pocket-books follow.

Thank you for this opportunity.

[The statement of Mr. Halvorson with attachment may be found at end of hearing.]

Mr. VENTO. Thank you for all of your testimony. I think it indicates, sort of, the dilemma. Obviously the question arises as to these areas.

When you talk about someone with a disability or the amount of time they would have or what the experience would be, many of these areas that they classify as wilderness did not anticipate the utilization of this type of scenic activity.

Although, admittedly it has been going on for some time, 30 years in the Grand Canyon, perhaps more. And some more recently, I guess by virtue of some of the testimony we have heard today. And some of it has accelerated.

Are there limits or some way to deal with it in terms of providing the proper format?

You talk about a couple of hundred thousand people going to Haleakala in terms of the helicopter scenic tour, but there are literally hundreds of thousands that are literally driving up to the top. They may not be hiking. There may be a smaller number that hike out into the crater which you have indicated is sort of a strenuous type of activity.

But nevertheless we have to sort this through and see how it all fits together and determine what the impacts are. So even in this book that you referred to, the Forest Service has indicated that in these remote wilderness sites there is 30, 40 percent annoyance on behalf of visitors.

We don't permit motor boats or motor vehicles in this 27-year-old wilderness system. Some of the areas in the Park Service and Haleakala are wilderness. That is another frame of reference. It is not just a park designation. It is a wilderness designation on top of it, and the question, as you point out, may be one of noise, it may be presence, it may be that there are some biological impacts in terms of just the shadow of a helicopter or aircraft in that vicinity.

And there is the question of licensure and whether or not the FAA and the Park Service are talking to one another, that is perhaps not your problem, or perhaps it is your problem, because if they are not, that may indicate the fact that there is not the type of policy that gives you, then, the type of direction that you need. Then it is a question of getting them to work together. I think there are some unique topographic features in Hawaii, and obviously a lot more intensity of use in many cases.

You mentioned, Mr. DeCamp, that you had received a grant from the FAA to devise the type of plan that you have. There is some suggestion that you take in and monitor what is going on.

Is that data readily available to the FAA? Is it available to others that are interested in determining what the impact is or the incidence of imposition of flights and the number of complaints and so forth and so on?

Mr. DECAMP. Yes. This is a brand-new technology and system. But the proposal is to carry forward some of our older schemes which is putting together a monthly report of the complaints; and if there is a complaint, register that the NAPES system has information on, that information is stored. We don't store wholesale information that are not violations; but when a specific violation occurs or even a complaint, that violation can be stored for future reference.

And we did not receive, actually, the grant directly nor all of the funds that were mentioned. We received a subcontract of the grant to perform our portion of the study. We funded 50/50 with the FAA. The portion of the subcontract that we received was matched equally by industry.

Mr. VENTO. So this was a quarter of a million dollar study. Is that right?

Mr. DECAMP. I believe the total was \$120,000.

Mr. VENTO. So you matched half of that?

Mr. DECAMP. Actually the \$120,000 was the total grant. We received about half of that. And we matched half of that. So we matched \$60,000 in rough terms.

Mr. VENTO. So the remainder was expended by the FAA?

Mr. DECAMP. I think by the grantee. They are monitoring what we are doing and reporting back to the FAA.

Mr. VENTO. You have a common monitor in terms of ground station type of activities? Is that the point? This whole new system

that is being put in, where are those monitors located? Is it in Park Service areas?

Mr. DECAMP. In the test we have a base station at the airport at Hilo and what is called a digitmeter out in the southeast corner of the island. And the proposed plan is that digitmeter will cover the Volcanoes National Park. That is part of the test to determine where we need to place digitmeters to maintain the parks.

Mr. VENTO. At this time the parks do not require any licensure in regards to your present surrounding or over the park. Is that correct?

Mr. DECAMP. That is correct.

And if I could add one thing. In Hawaii we have beaches that are swimmer's beaches and beaches that are surfer's beaches. The swimmers can go into the surfer's beaches but the surfers can't go into the swimmer's beaches for obvious reasons.

And that is a very simple formula, and we think that same type of formula could be used and is being used for helicopters. You can set a certain portion of the park aside where helicopters would normally not go and a hiker going in that area would not expect to see helicopters or hear them.

There could be another section of the park where they would know in advance that there are helicopters using that portion of the park.

Mr. VENTO. So you don't have that type of—

Mr. DECAMP. We do right now.

Mr. VENTO. You have an agreement of that sort with the Park Service?

Mr. DECAMP. We have allocated certain parts of all the parks in the State that are used in our mandatory program in that fashion. But they are not as elaborate as the agreement that we have worked out with the parks right now.

Mr. VENTO. I suppose in a sense you have to file flight plans and do a variety of things like that in terms of what the scenic tour would be; but it would seem to me that in terms of dividing up the park in this particular manner in terms of what the air space is that some discussion or concurrence on the part of the Park Service would be necessary.

Mr. DECAMP. That is what we did. The agreement that we have is one done in much detail. We sat down with the resource manager who was the chief negotiator in a series of meetings between the four formal meetings.

Mr. VENTO. Mr. Chevalier, do you recognize any type of limitations in terms of carrying capacity regarding the type of business that you have?

I mean, is there some limit—other than the fact that you can just keep putting helicopters in the area and providing the air and safety is all right? Do you recognize any other types of limits? Do you think there are any?

You are delivering a couple of hundred thousand people there now. In a couple of years it is going to be 300,000.

Mr. CHEVALIER. Right now it really is market driven, and that is it. There are times when all the seats are taken on helicopters. People want to go, and there are no seats available.

And then, yes, there is room for more. That opens up the door for more business to come in.

Mr. VENTO. But do you understand what I am asking? Mr. Halvorson might want to respond. Do you see any type of carrying capacity or any limit whereas you would continue in this particular type of pattern; but as long as safety and health are not at risk, you can just continue to increase the number of helicopter flights that are market driven?

Mr. CHEVALIER. If I could say, Mr. Leese has commented before there were 10 helicopter tour companies and 30 aircraft. In actuality there are seven and 18 to 19 tour helicopters on Maui. Just to set the record straight on that.

But right now we have a built in—on Maui, anyway, kind of a built in check on things with only a certain number of lease lots available to the operators.

And you are not going to expand the airport anymore.

Mr. VENTO. You would have to have a certain amount of air space, and you are not going to expand the airport. I don't know that I should make that presumption.

At Grand Canyon, clearly that has been an issue with the helipad controversy or contentious issue that I raised.

Mr. DECAMP. Mr. Chairman, if there were a sensible, fair legislation which the industry, the FAA, and the National Park Service, for example, would come together and work on that very question, have we reached a limit? Or if we do it this way, is it possible we can add more flights, whatever, if they were available, and Patsy Mink's legislation doesn't make that available. But if it were available, the industry could live about that.

We want to do certain things a certain way to survive as a business. The FAA needs to do certain things for safety. The Park Service needs to do certain things. We need a forum, a sanctioned forum which is the place to go to sit down and sort this out.

And if that group can't do it, we would like to see a secondary arbitration factor, not putting one of the entities in charge of the final decision so that everyone knows that they go in there on equal terms: the users, the park, the FAA, and the National Park Service. We could work with that situation.

Mr. VENTO. Thank you, Mr. DeCamp.

Mr. Halvorson, do you want to try and respond to my question?

Mr. HALVORSON. I can try is all. That is a difficult question because, on one hand, you have the entrepreneurial incentive to grow; and, on the other hand, you recognize that this is a sensitive area.

And this is a place where I think, in the future, if there were a quiet aircraft incentive and even a very quiet aircraft, and then a transition period to get there, that that is one way that we may be able to accommodate both sides of it.

And I agree with Bob, that if there were some equitable way of controlling this—and we would like to be party in discussing this—I haven't found the operators to be adverse to some sort of limitation or—

Mr. VENTO. It raises all kinds of questions. I am wondering if there is any limit in terms of carrying capacity, which is tough. But the other thing is what do you do? Do you license, franchise, only,

Mr. Chevalier and Mr. Halvorson and Mr. DeCamp, that you get one-third of the market and you get 25 percent and somebody else gets 50 percent? I guess that adds up more than 100 percent.

Those are all bound with your saying that if there is no limit, then there is no problem, then all you have to do is have the capital and the wherewithal to get a spot at the airport to get a helipad to take off, and you start your marketing program and you are off to the races.

Maybe that is the way it should be.

Mr. HALVORSON. Right now the market is limiting itself. The growth is not there as we have seen in the past. So to say in 10 years we will see double the aircraft—

Mr. VENTO. But we can't assume that. We are trying to push the FAA and the Park Service. We have been waiting a while. It took the Forest Service five years to do their study. It is a tough question, I guess.

But we think it ought to be a priority issue rather than leave it to unwind without any type of direction in terms of what is happening because I think you deserve some answers. You may not like the answers that we craft. That is fine. But, you know my job in life is not to please everyone.

Mr. DECAMP. Your question is the type of question that could be easily answered if there were a forum at a particular park, let's say, Haleakala if there were a forum of the DOD, the NPS, the users of the park, and it was a forum that everyone recognized as the body you go to to get this ironed out, that question, ecological questions, impact questions, all of those questions would be asked. And then the group would come up with the answer, and it needs to be designed for each park, because the Statue of Liberty has different types of needs than Hawaii Volcanoes National Park.

Mr. VENTO. There is a real acceleration to do this quick in a helicopter. There are some areas that can be uniquely viewed that way. I don't know if that is the case with the Statue of Liberty.

Mr. DECAMP. They love that tour.

Mr. VENTO. Well, let me yield to my colleagues who are vitally interested in your testimony, I am certain.

Congresswoman Mink.

Mrs. MINK. Thank you, Mr. Chairman.

I would like to direct some questions to Mr. Halvorson, since you have had experience at the Grand Canyon National Park and the imposition of standards and restrictions in areas that have been banned from all tours all together, and the reluctance of the industry to accept those restrictions initially and eventually working them out and now living with it.

And some people say substantial achievements have been made; others say not quite enough, but at least it paved the way for the industry to work together with the national parks.

Is that an accurate characterization of what occurred with respect to Grand Canyon?

Mr. HALVORSON. Yes. Actually the issue at the Grand Canyon got pretty hot about 1985 after a mid-air collision between an airplane and a helicopter.

And one of the primary reasons for that collision was the fact that it was becoming a very sensitive issue and the air tour opera-

tors at that time were beginning to recognize that we need to change our act.

And so we rescheduled the flight routes to begin avoiding some of the sensitive areas. That was in a very early part. And when the legislation came along in 1987, we had already changed probably 80 percent of the infractions that were caused prior to that time; 1984, and 1985.

And as I said before, we were part of the problem. You know, we had flights going out every 15 minutes right over the Brite-Angle Trail and down the center of the canyon and back. That was our hot special.

But in about 1984—about 1985, we recognized that, you know, this isn't good for anyone. And we have all lived within those regulations at the Canyon. We actually are flying in a two-mile wide corridor which is probably where 80 percent of all flights occur by helicopter. And there has been virtually 100 percent—what is the word I am looking for—compliance. Virtually 100 percent compliance from the helicopter operators.

I am told that there is about a 3 percent—97 percent compliance overall. And that is when a transient airplane comes through or a military airplane takes a deviation and comes into the Canyon.

But there have been very few infractions from the tour operators. And I can assure you that if something like this is worked out in Hawaii, that I will be one person dedicated—and so will these gentlemen—to seeing that those rules are carried out to the extent of terminating violators. We don't want to be violators. We want to work out something and then live by it and try and be good neighbors.

Mrs. MINK. Trying to understand your testimony, then, and your response to my question with reference to Haleakala in particular, and the Volcanoes National Park, do you, as the owner and operator of a major helicopter tour company, recognize that there is a similar—not as large, but a similar problem with respect to tour operations going on right now at Haleakala and at the Hawaii Volcanoes?

Mr. HALVORSON. Yes, I definitely do. In fact, I chair the tour operators committee of the Helicopter Association International. And I prompted and went to Hawaii to initiate that first meeting with the Park Service because I have gone through all of these things. I have seen how it works and what happens.

And I believe, as do most people, and probably yourself, that the very best thing is if you can work things out together without setting laws and rules on top of laws and then having the cost of administering and all of those things.

So I do see a similar problem, not as large; but it needs to be dealt with.

Mrs. MINK. I was impressed with your earlier comment when you say that when the industry in which you participated and were part of the problem, realized that there was something grossly wrong with what was happening at Grand Canyon, you took steps within the industry even before the Congress acted to try to ameliorate the problem.

My question is now: What is being done in Hawaii to help ameliorate the problem with respect to the tours themselves, not the

negotiations, not the conversation. Not the discussions, but with reference to what the tour operators, and yourself included, are doing to change your tours in the conduct of your flights?

Mr. HALVORSON. Well, others maybe can speak to this better than I can. But at Haleakala, the flights are avoiding the visitor center, tourist center area.

Mrs. MINK. Was that required by statute?

Mr. HALVORSON. I don't believe so.

Mrs. MINK. I thought that was one of the specific items.

Mr. HALVORSON. The altitude was a specific item, but this was a voluntary thing. And as far as Volcanoes Park is concerned, personally, I was at only the first meeting; and these gentlemen have carried on with many meetings since.

But what we did is we sat down at the table with the park superintendent and with his assistant and laid the map out on the park and asked them, first of all, you tell us which are the sensitive areas; where do you feel we shouldn't go; and where do you feel it is not sensitive?

And they showed us on the map, and there was nothing that we couldn't live with.

Mrs. MINK. So is it in practice? Are those areas that have been pointed out by the Park Service as sensitive areas, where there should not be overflights, are those areas being now, in fact, avoided by the tour companies?

Mr. DECAMP. No, not on a wholesale basis. There are some operators that recognize they might as well get in the habit of doing it. But because the agreement itself has changed seven different times, we felt it better not to fully implement it until it was completed.

Mrs. MINK. The agreement has changed because you have revisited the recommendations of the Park Service or they have changed what they consider to be sensitive?

Mr. DECAMP. Both.

Mrs. MINK. Though common areas as to where there is agreement as to sensitivity, have the tour companies altered their routes so as to avoid them?

Mr. DECAMP. Under the agreement, yes. It actually addresses both the areas—

Mrs. MINK. Are they now, in fact, doing this?

Mr. DECAMP. Some are doing it.

Mrs. MINK. I am following the line of argument that Mr. Halvorson expressed with reference to what happened at the Grand Canyon trying to determine if similar things are happening prior to the legislation passing in the Congress.

Mr. DECAMP. Yes, very much not so. In the Grand Canyon, not all operators were as wise as Mr. Halvorson.

Mrs. MINK. What areas are not being overflown as a result of discussions with the Park Service?

Mr. DECAMP. Kilauea Crater, the East Rift area, part of the Keaau desert. I don't recall the name of this area up here at the right. And Mauna Loa. Those are areas that some of the operators have been wise enough to recognize.

And also the agreement has solidified well enough that some operators have chosen to go ahead and begin following the concept. But not all have. And that is part of what our program does.

Mrs. MINK. What percentage do you say?

Mr. DECAMP. Probably—this is a ballpark figure—about 50 percent or more?

Mr. HALVORSON. I couldn't say. I can only speak for our company because I don't deal with it on a day-to-day basis. But we—I have instructed our company to follow those.

Mr. DECAMP. At least half? Maybe more?

Mrs. MINK. With respect to those areas that you have mentioned, are they any different than those areas that I specify in my bill, H.R. 1696?

Mr. DECAMP. Yes.

Mrs. MINK. Which ones are left out that are in my bill and not in the pending interim agreement?

Mr. DECAMP. In Hawaii Volcanoes specifically?

Mrs. MINK. Yes. The ones where you mentioned the areas.

Mr. DECAMP. I don't think any of them are left out. But they have been changed. And the Park Service and the FAA and the industry worked out what was best for the three parties.

Mrs. MINK. So with reference to the areas that I designated as particularly noise sensitive areas, there really is no major objection to those being listed as areas that should be avoided in terms of overflights?

Mr. DECAMP. Actually, the way the agreement is written they are called restricted areas.

Mrs. MINK. That is exactly what is said in this bill also. The name of the bill is "Restricted Areas."

Mr. DECAMP. But as I understand your bill—and correct me if I am wrong—your definition of "restricted area" is different than our definition.

Mrs. MINK. I have not seen the purported document that has been talked about all day. You have been a party to it. I have not. The subcommittee has not. Most of the concerned citizens have not been sitting in these meetings. We are total strangers to it; and, therefore, I can only try to import what you have said and relate it to my legislation.

And it seems to me that we are really not very far apart, if I understand your testimony today. You recognize the importance of locating the sensitive areas and avoiding them. You recognize the role of the National Park Service, particularly Mr. Halvorson, in your testimony and your willingness to let them describe what the adverse impacts are.

All my legislation does is to give the National Park Service responsibility for identifying these areas. As I observe, what has been going on over the years, is it is who is in charge. And the Park Service has systematically deferred to the Federal Aviation Administration. And as a consequence, it sort of remained at a deadlock.

The primary purpose of my legislation is to remove that deadlock and gridlock or whatever and to finally put the National Park Service in a position of primary authority.

So if we are not in disagreement, that the Park Service should have a role, Mr. Halvorson, and we are not in major disagreement

as to where the noise sensitive areas are concerned, I see no reason for not moving ahead with this legislation and getting rid of this jurisdictional dispute that has really made it very difficult for the community to see that anything is really being done.

With that, Mr. Chairman, I have no further questions.

Mr. ABERCROMBIE [presiding]. I want to thank everyone who has participated in the panels. I can assure you that the legislation will be looked at and probably more importantly at this particular moment.

If those questions which have been asked and answers promised, in the sense of being forthcoming—if they would come to the committee, we would be very grateful and the various reports that are referred to, going back to the Park Service and the FAA, and they could be brought up-to-date, I think we would be in order. I only have one or two more points.

Mr. DeCamp or Mr. Halvorson, you may have answered this earlier and I apologize. I had to be elsewhere and you have seen how we get yanked from one place to another.

Do you have the same understanding as I think I now have with respect to the timetable—or likely timetable for the submission of various and sundry reports by the FAA and the Park Service?

Mr. DECAMP. I think you were out of the room when we mentioned that we have submitted our accepted draft, and the FAA concurs with that draft. And so we were just waiting for the National Park Service. If they will hand us back the agreement, we are ready to sign.

Mr. ABERCROMBIE. Then maybe you heard me ask before. Would it be out of line for Representative Mink, myself, and Mr. Vento to expect that this could be done by the end of year?

Mr. DECAMP. If it is up to us, it will be done tomorrow.

Mr. ABERCROMBIE. Anything else?

With that, I know it has been a long day, and I appreciate—believe me—and Mr. Vento appreciates your patience with respect to the multiple activities that we have to try to give attention to. And as a result, we have to leave periodically. But I assure you all of this—ask anything else—by the way, I presume Mr. Vento said at the beginning, if there is anything else you would like to submit for the record in 10 days, if there is anything else that comes to mind as a result of the conversation that have you heard today that you know would be useful in our deliberations, by all means submit it; and it not only will be part of the record, but it will be part of the deliberative process.

With that I bid you aloha and thank you for making this long haul up here. I assure you the time was well spent.

[Whereupon, at 2:41 p.m., the subcommittee was adjourned; and the following was submitted for the record:]

103D CONGRESS  
1ST SESSION

# H. R. 1696

To provide for the regulation of the airspace over National Park System lands in the State of Hawaii by the Federal Aviation Administration and the National Park Service, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 1993

Mrs. MINK introduced the following bill; which was referred jointly to the Committees on Natural Resources and Public Works and Transportation

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## A BILL

To provide for the regulation of the airspace over National Park System lands in the State of Hawaii by the Federal Aviation Administration and the National Park Service, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 The Congress finds the following:

5 (1) The National Park Service administers Fed-  
6 eral parks, monuments, and reservations, to conserve  
7 the scenery, the natural and historic objects, and  
8 wildlife therein, and provides for the enjoyment of

1 the same in such manner and by such means as will  
2 leave them unimpaired for the enjoyment of future  
3 generations.

4 (2) It is the function of the Federal Aviation  
5 Administration to manage the safe and efficient use  
6 of the navigable airspace of the United States, as  
7 provided for in the Federal Aviation Act of 1958 (49  
8 U.S.C. App. 1301 et seq.).

9 (3) The National Park Service lands in the  
10 State of Hawaii, consisting of Kaloko-Honokohau  
11 National Historical Park, Kalaupapa National His-  
12 torical Park, Pu'u honua o Honaunau National His-  
13 torical Park, Pu'u Kohola Heiau National Historic  
14 Site, Haleakala National Park, and Hawaii Volca-  
15 noes National Park, are managed for the purposes  
16 of wilderness preservation, protecting natural, cul-  
17 tural, historical, and wildlife resources, and for pro-  
18 motion of the public enjoyment and use of these re-  
19 sources.

20 (4) Haleakala and Hawaii Volcanoes National  
21 Parks are designated by the United Nations as  
22 International Biosphere Reserves because of their  
23 internationally significant scenery and plant and ani-  
24 mal communities, and furthermore that Hawaii Vol-  
25 canoes National Park is designated by the United

1 Nations as a World Heritage Site because of the sig-  
2 nificance of Mauna Loa and Kilauea Volcanoes.

3 (5) In recognition of the values for which Na-  
4 tional Park Service lands are managed, an above  
5 ground level (AGL) minimum altitude of 2,000 feet  
6 shall be established for aircraft flying in airspace  
7 over certain lands administered by the National  
8 Park Service.

9 (6) The auditory and visual intrusion of aircraft  
10 flying at low altitudes is the source of public com-  
11 plaint in certain areas administered by the National  
12 Park Service.

13 (7) Aircraft flying at low altitudes may pose a  
14 potential hazard to wildlife in certain areas adminis-  
15 tered by the National Park Service.

16 (8) Aircraft flying at low altitudes over large  
17 concentrations of migratory birds may pose a poten-  
18 tial safety hazard to pilots and passengers in certain  
19 areas administered by the National Park Service.

20 (9) The Federal Aviation Administration and  
21 National Park Service shall act in cooperation to re-  
22 duce the incidence of low-flying aircraft, including  
23 fixed-wing aircraft, helicopters, ultralight vehicles,  
24 balloons, and gliders over National Park Service ad-  
25 ministered land by complying with the 2,000 feet

1       AGL minimum altitude requirement, and to avoid  
2       flying over areas which the National Park Service  
3       designates as noise-sensitive, and to respect standoff  
4       distances away from areas which the National Park  
5       Service designates as primary visitor use areas.

6   **SEC. 2. NATIONAL PARK SERVICE RESPONSIBILITIES.**

7       The Director of the National Park Service shall be  
8       responsible for the following:

9           (1) IDENTIFICATION OF SPECIFIC AREAS.—

10       Identifying specific areas where low-flying aircraft  
11       may constitute an adverse impact on resources and  
12       conveying specific information, including annotated  
13       maps, which indicate designated flight-free areas  
14       and primary visitor use areas, to the Federal Avia-  
15       tion Administration for appropriate action as de-  
16       scribed in section 3.

17           (2) LOW-FLYING REPORTING SYSTEM.—Devel-  
18       oping and implementing a standardized reporting  
19       system acceptable to the Federal Aviation Adminis-  
20       tration to document instances of low-flying aircraft  
21       over National Park Service administered lands. This  
22       reporting system shall provide for transmittal of  
23       such documentation in a timely manner to the Hon-  
24       olulu Federal Aviation Administration Flight Stand-  
25       ards district office.

1           (3) TRAINING.—Developing training programs  
2     and instructional materials for National Park Serv-  
3     ice personnel to enable them to recognize and report  
4     instances of low-flying aircraft in a competent and  
5     professional manner. The appropriate training pro-  
6     grams of the National Park Service shall expand to  
7     incorporate the subject matter into in-service train-  
8     ing requirements. The Director of the National Park  
9     Service shall seek the assistance of the Federal Avia-  
10    tion Administration to help develop training cur-  
11    ricula.

12          (4) QUARTERLY MEETING.—Making personnel  
13    available from the National Park Service to meet  
14    quarterly with the Federal Aviation Administration  
15    and affected pilots to discuss resources management  
16    objectives and issues associated with low-flying air-  
17    craft.

18   **SEC. 3. FEDERAL AVIATION RESPONSIBILITIES.**

19       The Administrator of the Federal Aviation Adminis-  
20    tration shall be responsible for the following:

21          (1) COMMUNICATION WITH PILOTS.—Communi-  
22    cating to pilots the concerns and objectives of the  
23    National Park Service about low-flying aircraft in  
24    specified areas, using advisories, bulletins, the Fed-  
25    eral Aviation Administration publication The Fed-

1       eral Aviation News, the ongoing "Accident Preven-  
2       tion Program" for routine pilots' contact, and other  
3       means of communications with pilots, and to impress  
4       upon pilots that pilot participation is strongly en-  
5       couraged to ensure protection of resources and the  
6       enjoyment of natural areas by the public.

7       (2) INVESTIGATIONS.—Investigating instances  
8       of pilot deviations from the Federal Aviation Admin-  
9       istration requested minimum altitude over areas,  
10      and National Park Service-designated flight-free and  
11      primary visitor use areas in lands administered by  
12      the National Park Service, and taking action to dis-  
13      courage deviations with the objectives of reducing or  
14      eliminating such incidents in these areas.

15      (3) MILITARY AIRCRAFT.—Assisting the Na-  
16      tional Park Service in communicating with the var-  
17      ious agencies of the Department of Defense with re-  
18      gard to military aircraft operations over National  
19      Park Service administered areas.

20      (4) AVAILABILITY OF STATUS AND RESULTS OF  
21      INVESTIGATIONS.—Making available to the National  
22      Park Service, at the Federal Aviation Administra-  
23      tion Flight Standards district office, the status and  
24      results of the Federal Aviation Administration's in-

1       vestigation of instances reported by the National  
2       Park Service.

3               (5) SUPPORT OF AVIATION GROUPS.—Enlisting  
4       the support of all aviation groups and organizations  
5       by requesting they disseminate information about  
6       problems associated with aircraft operating at low  
7       altitudes over areas administered by the National  
8       Park Service.

9               (6) MEETINGS WITH NATIONAL PARK SERV-  
10       ICE.—Assisting the National Park Service in com-  
11       bating problems associated with low-flying aircraft  
12       by participating in appropriate meetings at field and  
13       regional levels.

14   **SEC. 4. FLIGHT RESTRICTION DESIGNATIONS.**

15       (a) KALOKO HONOKOHAU, PU'U HONUA O  
16       HONAUNAU, PU'U KOHOLA HEIAU, AND KALAUPAPA NA-  
17       TIONAL HISTORICAL PARKS.—Inasmuch as Kaloko  
18       Honokohau, Pu'u honua o Honaunau, Pu'u kohola Heiau,  
19       and Kalaupapa National Historical Parks are mandated  
20       to protect historical, cultural, and religious values, and  
21       other resources considered sacred to Hawaiian people, all,  
22       in their entirety are considered noise-sensitive and shall  
23       not be overflown by commercial tour aircraft. Commercial  
24       fixed-wing aircraft which are not on scenic tours may  
25       overfly Kaloko Honokohau when it is unsafe to use

1 alternative approaches to Keahole Airport. Furthermore,  
2 inasmuch as those areas are small and are entirely pri-  
3 mary visitor use areas, scenic tour aircraft shall maintain  
4 a 2-mile standoff distance.

5 (b) HALEAKALA NATIONAL PARK.—Inasmuch as  
6 Haleakala National Park is mandated to protect natural  
7 and cultural resources, and especially rare and endangered  
8 plant and animal species, magnificent scenery, and tran-  
9 quil and unique wilderness, the Crater District and  
10 Kipahulu Valley, including adjacent rain forest areas with-  
11 in the Park, in their entirety, are considered noise-sen-  
12 sitive and shall not be overflowed. Furthermore, inasmuch  
13 as the overlook near the Sliding Sands trailhead is a pri-  
14 mary visitor use area where people often are assembled  
15 on the ground, a two-mile stand-off distance shall be main-  
16 tained.

17 (c) HAWAII VOLCANOES NATIONAL PARK.—Inas-  
18 much as Hawaii Volcanoes National Park is mandated to  
19 protect natural and cultural resources, and especially rare  
20 and endangered plant and animal species, magnificent sce-  
21 nery, and tranquil and unique wilderness, the designated  
22 wilderness areas, in their entirety, consisting of Mauna  
23 Loa, Ola's Forest, East Rift, and Kau Desert, and the  
24 summit of Kilauea, and the coastal area between Ka'aha  
25 and Kamoamoa are considered noise-sensitive and shall

1 not be overflown. Furthermore, inasmuch as the Kilauea  
2 summit, the Chain of Craters corridor, and the Kamoamoa  
3 village sites are primary visitor use areas where people  
4 often are assembled on the ground, a 2-mile standoff dis-  
5 tance shall be maintained.

6 (d) MINIMUM ALTITUDE RESTRICTION.—It shall be  
7 unlawful for any fixed wing aircraft or helicopter flying  
8 under visual flight rules to fly at an altitude of less than  
9 2,000 feet over the surface of any National Park System  
10 lands in the State of Hawaii not subject to subsections  
11 (a) through (c) of this section. For purposes of this para-  
12 graph, the term "surface" refers to the highest terrain  
13 within such lands which is within 2,000 feet laterally of  
14 the route of flight. For purposes of enforcement, the pro-  
15 hibition pursuant to this subsection shall be treated as a  
16 requirement established pursuant to section 307 of the  
17 Federal Aviation Act of 1958. To provide information to  
18 pilots regarding the restrictions established under this  
19 subsection, the Administrator of the Federal Aviation Ad-  
20 ministration shall provide public notice of such restrictions  
21 in appropriate Federal Aviation Administration publica-  
22 tions as soon as practicable after the enactment of this  
23 Act.

1 **SEC. 5. FEDERAL AVIATION ADMINISTRATION AND NA-**  
2 **TIONAL PARK SERVICE JOINT RESPONSIBIL-**  
3 **ITY.**

4 The Administrator of the Federal Aviation Adminis-  
5 tration and the Director of the National Park Service shall  
6 jointly be responsible for the following:

7 (1) **ADDITIONAL ASSESSMENTS.**—Assess situa-  
8 tions in addition to those specified in section 4  
9 where impacts of aircraft operations upon human,  
10 cultural, or natural resources are sufficiently serious  
11 to warrant consideration of site-specific action by  
12 the Federal Aviation Administration to minimize or  
13 eliminate the causes of such problems.

14 (2) **INFORMATIONAL MATERIALS AND SCI-**  
15 **ENTIFIC STUDIES.**—Prepare public informational  
16 materials, including printed matter and audio-visual  
17 programs, for communication to pilots using existing  
18 Federal Aviation Administration pilot-contact meet-  
19 ings and programs, aviation periodicals, and other  
20 means of generating pilot understanding of National  
21 Park Service resources management objectives.  
22 Where appropriate, the Federal Aviation Adminis-  
23 tration and the National Park Service will share in-  
24 formation on techniques of conducting scientific  
25 studies and data collection to facilitate understand-

1 ing of the impact of aircraft operations on affected  
2 resources.

3 (3) PROCEDURES.—Work together to define  
4 procedures for use at national headquarters and  
5 field office levels to address overflight issues over  
6 public land areas.

7 **SEC. 8. APPLICABILITY OF CERTAIN REGULATIONS TO CER-**  
8 **TAIN SIGHTSEEING FLIGHTS.**

9 Parts 91 and 135 of title 14 of the Code of Federal  
10 Regulations, relating to general operating and flight rules  
11 and to air taxi operators and commercial operators, re-  
12 spectively, shall apply to nonstop sightseeing flights that  
13 begin and end at the same airport and are conducted with-  
14 in a 25 statute mile radius of the airport.

○

Background on H.R. 1696  
Hawaii Overflights

Controversy over low altitude aircraft flights above certain units of the National Park System has existed for several years. In 1984, the Federal Aviation Administration (FAA) issued Advisory Circular No. 91-36C, which recommended a minimum flight altitude level of 2,000 feet over noise sensitive areas including national parks. The National Park Service entered into a Memorandum of Agreement with the FAA in 1984 to help to achieve compliance with these voluntary recommendations.

Although these efforts were reported to have had a positive effect at some units, park users at many other units continued to complain about the noise intrusion of aircraft and express concern about their safety. At that time, there had been no systematic study of the National Park System to determine how widespread or how severe the problem was. Nor had there been any systematic study of the noise levels of different types of aircraft flying at different elevations.

In 1987, Congress passed legislation (P.L.100-91) that required the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over National Park System units. The purpose of the study was to identify problems associated with aircraft overflights and provide information regarding the types of overflights which may have an adverse impact on park unit resources. The study directed research at several specific National Park System units including Hawaii Volcanoes National Park on the Big Island of Hawaii and Haleakala National Park on Maui.

The study was to focus and evaluate four specific points:

- (1) the impact of aircraft noise on the safety of the park system users;
- (2) the impairment of visitor enjoyment associated with flights over units of the National Park System;
- (3) other injurious effects of overflights on the natural, historical, and cultural resources for which such units were established; and
- (4) the values associated with aircraft flights over such units of the National Park System in terms of visitor enjoyment, the protection of persons or property, search and rescue operations and firefighting.

The Act provided for a three year period in which to complete the study, followed by a two year review period. During the study and review period, the Act restricted all fixed wing aircraft or helicopters from flying at altitudes below 9,500 feet above mean sea level over the surface of certain areas at Haleakala National Park including Haleakala Crater, Crater Cabins, the Scientific Research Reserve, Halemau Trail, Kaupo Gap Trail, and any other designated tourist viewpoint. This restriction was suspended in cases of emergency situations, search and rescue operations, firefighting purposes, or compliance with air traffic controller instructions.

The study required of the Secretary of the Interior by the Act has not been completed yet but most of the data has been collected. The Act also required the submission of a report concerning the Boundary Waters Canoe Area Wilderness and an assessment of National Forest System wilderness overflights. That report and assessment has been completed and the results transmitted to Congress.

In 1992, an Interagency Agreement was signed between the National Park Service (NPS), the Fish and Wildlife Service (FWS), the Bureau of Land Management (BLM), and the Federal Aviation Administration (FAA). Under this agreement, it is the responsibility of the NPS, FWS, and BLM to identify specific field units where low-flying aircraft may have adverse effects on the surrounding resources and, by developing a standardized system, to document these instances and report them to the FAA. The agencies have also agreed to make personnel available to meet with the FAA and affected pilots to discuss resource management objectives and issues associated with low-flying aircraft.

Under the Interagency Agreement, the FAA has agreed to assist the Interior agencies in combating problems associated with low-flying aircraft by participating in appropriate meetings at field and regional levels and by creating a communications network to inform pilots of the hazards of low-flying aircraft while impressing upon them the importance of their participation in ensuring resource protection. In this effort, the FAA has pledged to enlist the support of aviation groups by requesting that these organizations relate information about problems associated with low altitude aircraft to their members. In addition, the FAA has agreed to investigate and report on instances of pilot deviations from the FAA-requested minimum altitude over areas administered by the Interior Department.

The agreement also provides that the FAA, NPS, FWS and BLM would assess severe situations where impacts of aircraft operations upon human, cultural, or natural resources are sufficiently serious to warrant consideration of site-specific action by the FAA to minimize or eliminate the causes of these problems.

#### H.R. 1696

In April, 1993, Congresswoman Patsy Mink introduced legislation which would focus specifically on the effects of low-flying aircraft over National Park Service land in the State of Hawaii. The bill, H.R. 1696, would provide for the regulation of airspace over National Park System lands in the State of Hawaii by the Federal Aviation Administration and the National Park Service.

The proposed legislation directs the FAA to cooperate with the National Park Service to institute a mandatory 2,000-foot AGL (above ground level) minimum altitude, and to prohibit flights over areas designated as "noise-sensitive" by the National Park Service in order to protect the historical, cultural, wildlife and scenic values of the area.

## Push afoot to shush air-tour park noise

By Linda Kanamine  
USA TODAY

National park visitors are grumbling about obtrusive noise from air tours.

Six years after Congress passed a law to turn down the volume from tour planes and helicopters over Arizona's Grand Canyon, activists there say Cape Solitude has no solitude. Point Sublime isn't.

Similar complaints created such cacophony at Hawaii's craters, pools and volcanoes that Congress began hearings today on legislation to curb flight effects over national parks there.

"It sounds like you're in downtown traffic," says Honolulu's Nelson Ho, about hiking the giant crater at Haleakala National Park.

"In the 1970s, the only sound there was the wind, the crunching of lava cinder beneath my boots, and the sound of blood rushing through my eardrums."

Hawaii and Grand Canyon are a leading wave in the soaring, \$180 million-a-year air tour business.

As the nation's most treasured real estate draws ever-growing crowds — 250 million a year — air tour operators aren't far behind.

Air operators call this legislation, and a pending Park Service report on systemwide problems, an attack.

"The park service says we have not restored the natural quiet to the Grand Canyon, as the law requires," says Miles Becker of Papillon Grand Canyon Helicopters. "But we must figure out some type of solution."

Meanwhile, the popularity of air tours is spreading.

► Helicopter flights began this summer over Arches and Canyonlands national parks in Utah. Moab, Utah, is debat-

ing a ban of the helicopter landing pad there.

► A helicopter operator tried to locate a helipad outside Utah's Zion National Park. Adjacent towns rejected it, saying Zion Canyon is a natural echo chamber.

► Tennessee, home to the Great Smoky Mountains National Park, passed a law prohibiting helipads within 9 miles of the park border. Businesses are challenging it.

Superintendents have no real authority to limit, control or charge fliers because air traffic is regulated by the Federal Aviation Administration. "That's why there's frustration," says the Park Service's Wesley Henry.

He is compiling a report that shows visitors continue to be unhappy about noise.

Recommendations to Congress may range from limiting numbers, times and areas of overflights, giving operators incentive to use new, quiet technology, and charging fliers park fees.

For Roger Clark of the watchdog group Grand Canyon Trust there's little doubt change is needed: "If you're seeking solitude, it's a place hard to get to."

But the key rests in large part with the FAA, concerned primarily with safety.

"The agency recognizes that protecting the environment is also part of our mission. We intend to cooperate fully with the Park Service," says the FAA's Pat Caruso.

Without action soon, many parks will face the same pressures as the Grand Canyon, says Terri Martin of National Parks and Conservation Association. "National parks are just 1.5% of the land base in the lower 48 states, and you still can't escape the sound of machinery?" she says.

"That's a travesty."



### Noise in national parks

The National Park Service studied aircraft noise at 39 of its 357 sites in the USA. Those sites found to have noise that could be considered annoying:

**ARIZ.:** Glen Canyon National Recreation Area, Grand Canyon National Park, Saguaro National Monument

**ARK.:** Buffalo National River, Hot Springs National Park

**CALIF.:** Sequoia and Kings Canyon national parks, Yosemite National Park

**FLA.:** Everglades National Park, Gulf Islands National Seashore (also in Mississippi)

**GA.:** Cumberland Island National Seashore

**HAWAII.:** Hawaii Volcanoes National Park, Haleakala National Park

**MD.:** Assateague Island National Seashore

**MASS.:** Cape Cod National Seashore

**MO.:** Wilson's Creek National Battlefield

**MONT.:** Glacier National Park

**NEV.:** Lake Mead National Recreation Area

**N.M.:** Bandelier National Monument

**OHIO.:** Perry's Victory, International Peace Memorial

**PA.:** Gettysburg National Military Park

**S.D.:** Mount Rushmore National Monument

**TENN.:** Great Smoky Mountains National Park

**VA.:** Shenandoah National Park

**WASH.:** Mount Rainier National Park, North Cascades National Park, Olympic National Park

Source: National Park Service

# The New York Times

THE NEW YORK TIMES EDITORIALS/LETTERS WEDNESDAY, NOVEMBER 17, 1993

## Parks Are for People, Not Planes

You and your kids have just hiked or driven to Desert View, a vantage point at the eastern end of the Grand Canyon. To the north and west lies the Colorado River; to the east, the Painted Desert. And right above you, not quite close enough to touch but certainly close enough to ruin the moment, hovers a sightseeing helicopter.

The Grand Canyon has become a battleground for the human senses, and the airplanes are winning. At peak season, anyone standing at Desert View might experience only a few minutes of tranquility between flights.

This is not what Congress had in mind when it passed the National Parks Overflights Act in 1987 to restore "the natural quiet and experience of the park." Subsequent regulations banned flights below the canyon's rim but did nothing to prevent flights from doubling in the next six years. Nearly 800,000

visitors buzzed the canyon in 1992; one outfit alone conducts 100 flights a day during the summer.

The villains are not so much the tour operators as the Department of Transportation and the Federal Aviation Administration. In 1988 the F.A.A. gave Arizona \$1 million to expand helicopter facilities at Grand Canyon National Park Airport, which could lead to still more flights.

Bruce Babbitt, the Secretary of the Interior, has urged the Secretary of Transportation, Federico Peña, to delay the expansion pending the completion of a National Park Service study on noise levels. Mr. Babbitt clearly foresees a day when there will be fewer flights, not more; so far, Mr. Peña has been silent on the matter.

It's difficult to find any national park where only the silence of nature is heard. Parks are for people. But not for 200 or 300 planes a day.

Tour Aircraft Control Coalition  
P. O. Box 1060  
Mountain View, Hawaii 96771  
November 8, 1993

The Honorable Bruce Vento, Chair  
Subcommittee on National Parks, Forests, and Public Lands  
U. S. House of Representatives  
Washington, D. C. 25015

Dear Representative Vento:

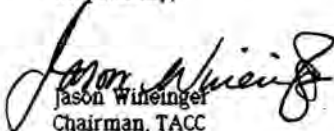
As spokesman for the Tour Aircraft Control Coalition, I write to express our organization's support of HR 1696 which is before your Subcommittee.

We come to you to ask that, by supporting HR 1696, you will restore unto us what was once a true "wilderness experience," but what has now become something much less than that. That is to say that one might expect to experience nature and its relative quietude, rather than to be exposed to the relentless noise of tour aircraft - helicopters in particular - when visiting a National Park. Although automobiles are allowed inside the Parks, they are required to remain on the designated roadways; the intrusion of aircraft is analogous, if not more egregious, than if automobiles were to be allowed OFF the roadways and with no rules to follow. It seems that a few "Rules of the Road" would be past-due in the case of tour aircraft.

We have heard the tour aircraft industry speak out on the issue of "eco-tourism" and how, since they leave no trash, footprints etc., they must be the ultimate example thereof. Please don't let yourselves be beguiled by such irresponsible and disingenuous statements.

Nor should the safety factor to be left unaddressed: In addition to several "forced landings" within and without of the Parks, we have experienced at least two crashes in which deaths have occurred, one at Haleakala (7 perished) and one on the Kamoamoa coast at Volcanoes (4 perished). In neither of these instances were persons other than the occupants of the helicopters injured or killed, but the gruesome potential is there. Please note also that the president of the Hawaii Helicopter Operators Association (HHOA) stated publicly that it is often safer to be twenty feet above a skylight than higher (not an exact quote, but the substance is there). Had this been the case in October of 1992, when a Kainoa Aviation helicopter crashed at Pu'u O'O, on the Big Island, the passengers and crew would have certainly been incinerated along with the aircraft; fortunately all survived by a narrow margin.

Respectfully,

  
Jason Wineinger  
Chairman, TACC

Enclosures

# CITIZENS AGAINST NOISE

**OAHU: P.O. Box 27705 Honolulu, Hawaii 96827**

**BIG ISLE: P.O. Box 364 Volcano, Hawaii 96785**

**Phone: (808) 985-8861**

**FAX: (808) 985-8893**

**Honorable Bruce Vento  
Subcommittee on National Parks, Forests, and Public Lands  
U.S. House of Representatives  
Washington, D.C. 20515**

**November 8, 1993**

Dear Representative Vento:

My name is Barry Stokes, and I am President of Citizens Against Noise. Citizens Against Noise is a founding member of the Tour Aircraft Control Coalition, which represents a union of community groups, environmental organizations, and individuals concerned about the uncontrolled growth of the tour helicopter industry in Hawaii. We are asking for your support of Representative Patsy T. Mink's vitally important legislation, H.R. 1696 (Aviation Controls over Hawaii's National Parks).

Tour helicopters have turned Hawaii's most precious resource, its natural beauty, into helicopter hell. It is no longer possible to visit any portion of our States' National Park System and not be out of sight or sound of these flying and hovering airborne machines. We have tried in vain for the past ten years to stem the tide of increasing aircraft and flights. Nothing has worked. Our final effort has been to come before this distinguished body, the United States Congress, for relief.

Our National Parks are "natural museums", established and maintained for the public's education, retreat, and repose. In the words of Henry David Thoreau, "In wildness is the preservation of the world". Helicopters are ruining that wildness, and for that we all suffer, resident and visitor alike. Tour helicopter activity distracts Park Service personnel, annoys and endangers campers and hikers, and, most importantly, disrupts the nesting, feeding, and breeding habitats of those rare emissaries of our past, Hawaii's native birds.

The regulations proposed in H.R. 1696 are clearly necessary and reasonable. We hope you will recognize the necessity of this legislation, and the legitimacy of its attempt to restore peace and ecological tranquility to the National Parks in Hawaii.

Sincerely,



**J.B. Stokes, President  
Citizens Against Noise**

Citizens Against Noise  
 Maui Chapter  
 2695 Lio Place  
 Haiku, Hawaii 96708  
 November 8, 1993

The Honorable Bruce Vento, Chair  
 Subcommittee on National Parks, Forests, and Public Lands  
 U. S. House of Representatives  
 Washington, D. C. 25015

Dear Representative Vento:

As the Maui Chapter's spokesperson for the statewide, grass-roots organization Citizens Against Noise, I write on behalf of the chapter to express support of H. R. 1696 for which Subcommittee hearings are scheduled on November 18. I request your support, and ask that you consider the following.

As a frequent user of Hawaii's National Parks, I attest to the fact that tour flights over the Parks (promoted as "eco-tourism") are the furthest thing imaginable from "ecological." Helicopters consume inordinately large amounts of valuable non-renewable resources per person served. (Busses and cars are far more fuel efficient.) Helicopter presence over Park land pollutes the air. It upsets the breeding, nesting, and feeding habits of endangered species of birds. It interferes with the activity of Park personnel. And, it utterly destroys the experience of Park users on the ground by shattering the tranquility which they make great effort to seek out. Haleakala National Park on Maui is particularly hard hit, for its normally eerily silent crater acts like a giant amphitheater. Three or four helicopters are often overhead at once. To those on the ground - the vast majority of Park users - the sound is deafening. This activity goes on all day, all year long. Recent testimonials in the local press speak to this problem. (A selection is enclosed.) These machines are obnoxious thrill craft which create nothing but mayhem in our Parks. The nonsense about helicopters being "educational devices" which leave only "temporary sound footprints" is disinformation of the highest order. Much as was done in Grand Canyon and Niagara Falls, tour helicopter operations must be strictly limited within the National Parks in Hawaii, places which are, by definition, pristine wilderness preserves.

If you read the proposed legislation carefully you will note that it does not "prohibit" tour flights within Park boundaries, and thus will not prevent those few tourists who choose to ride helicopters from getting aerial views of Park lands. The helicopter operators claim that 1696 will hurt their business by prohibiting park overflights. The legislation does not do this. The restrictions simply require the tour operators to be more ecologically sensitive, and to obey laws as to where they can and cannot go, just as those of us on the ground are bound by Park regulations as to where we can and cannot go (see attached).

Please support H. R. 1696. Its passage will validate the Park Service's mandate to preserve and protect our Nation's parks, and will restore Hawaii's National Parks to their former renown as wilderness retreats for those seeking refuge from the buzzing and sawing of the machine age. Passage of 1696 will do much to protect Haleakala National Park, a location that the Park Service describes as somewhere a person can go to "enjoy the silence and peace of one of Earth's special places."

Respectfully,

A handwritten signature in dark ink, appearing to read "David J. Leese", written in a cursive style.

David J. Leese

cc The Honorable Patsy T. Mink

enclosures(2)

STATEMENT OF JOHN J. REYNOLDS, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS, HOUSE COMMITTEE ON NATURAL RESOURCES, ON H.R. 1696, A BILL TO PROVIDE FOR THE REGULATION OF THE AIRSPACE OVER NATIONAL PARK SYSTEM LANDS IN THE STATE OF HAWAII BY THE FEDERAL AVIATION ADMINISTRATION AND THE NATIONAL PARK SERVICE, AND FOR OTHER PURPOSES.

November 18, 1993

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Mr. Chairman, thank you for the opportunity to appear before the Committee today to present testimony on H.R. 1696, a bill to provide for the regulation of the airspace over National Park System lands in the State of Hawaii by the Federal Aviation Administration and the National Park Service.

We support the intent and appreciate the concern underlying H.R. 1696, but believe that legislative action is premature. Instead we believe it is preferable to wait until the spring when a draft of our Report to Congress on our overflight study will be available and we have had time to get a detailed response from the Federal Aviation Administration on how it will assist the Park Service with problems associated with overflights throughout the national park system. We view your interest as an added means of strengthening the working relationship between the Park Service and the Federal Aviation Administration that has been developing, especially within the last year under this Administration. We do, however, wish to take this opportunity to communicate the great concern among many of our superintendents and staffs who are concerned about overflight issues. They support, especially, the need for a strengthened working relationship between the Federal

Aviation Administration and the Park Service to address Park Service issues.

The auditory and visual intrusion of aircraft overflying national parks in Hawaii generates more public complaints than any other issue in those parks. On a clear day over Haleakala, for example, rotor noise is nearly constant. Our research suggests that when aircraft are audible for such a high percentage of the time, a significant proportion of the visitor population will be annoyed and will have their opportunities to experience natural quiet interfered with.

Parks such as Hawaii Volcanoes and Haleakala are incredibly quiet places in their natural condition. Such quiet allows aircraft to be easily detected by visitors and to be noticeable for relatively long time periods. At Haleakala, for example, we measured background sound levels as low as 8 decibels (most people can't hear below 20 decibels). Aircraft sounds ranged from the threshold of hearing to over 90 decibels when a helicopter hovered less than 100-200 feet above the microphone. Acoustically, this is a startling range of difference and helps to explain why park staff and visitors want this issue to be addressed.

Public Law 100-91, the National Parks Overflights Act, recognized that the magic of Haleakala was being eroded by the drone of tour helicopters and set an altitude ceiling over the park

(9,500 feet above mean sea level) to see if that would mitigate the adverse effects. The Superintendent reported to us, initially, that the ceiling reduced noise levels over the crater floor, but the increase in overflights since then has negated these improvements.

We also have several safety concerns, which the FAA is addressing. Helicopters are flying too low over active lava flows, over the ocean near the lava flows, and through related volcanic fumes. This not only endangers the air tour pilots and passengers, but also the park rangers who must conduct rescues in the event there is a crash. Low flying helicopters can also be dangerous to people on the ground as hovering can subject them to a shower of volcanic glass, debris, and toxic fumes.

This is not to say that we are not making progress on resolving issues. The Hawaii Helicopter Operators Association (HHOA), the Federal Aviation Administration, and Hawaii Volcanoes National Park have been negotiating to develop a voluntary agreement to mitigate problems caused by low flying aircraft over the park. The agreement identifies restricted areas and minimum standoff distances for the helicopter operators overflying Hawaii Volcanoes National Park. It is a useful start but its effectiveness is yet to be tested and it does not deal with parks other than Hawaii Volcanos.

In conclusion, I would like to reiterate that the Park Service supports the intent and appreciates the concerns underlying H.R. 1696, but believe we should provide an opportunity for current Park Service-FAA initiatives and strengthening relationships to prove themselves before considering the appropriateness of a legislative response. In light of the developing relationship between the National Park Service and the Federal Aviation Administration and the need for the two agencies to enter into high level discussions to address a range of issues affecting parks, legislation is premature and current efforts at issue resolution between the two agencies should be afforded an opportunity to develop and be fully evaluated.

This concludes my prepared remarks, Mr. Chairman. I would be pleased to respond to questions at this time.

STATEMENT OF DAVID R. HARRINGTON, ACTING DEPUTY ASSOCIATE ADMINISTRATOR FOR REGULATION AND CERTIFICATION, FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE COMMITTEE ON NATURAL RESOURCES, SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS, CONCERNING H.R. 1696 PROVIDING FOR THE REGULATION OF CERTAIN AIRSPACE OVER HAWAII. NOVEMBER 18, 1993.

Mr. Chairman and Members of the Subcommittee:

I welcome the opportunity to appear before the Subcommittee today to provide the views of the Federal Aviation Administration concerning H.R. 1696. Accompanying me today is Mr. Harold W. Becker, Manager of FAA's Airspace Rules and Aeronautical Information Division.

At the outset, let me make clear that the FAA understands and appreciates the nature of the concerns that have led to the introduction of H.R. 1696, which, in brief, would establish statutory airspace restrictions over certain parklands in Hawaii and would require that Part 91 air tour operators throughout the United States be certificated under Part 135 of the Federal Aviation Regulations. We believe, however, that solutions to the underlying aviation-related issues in Hawaii are best addressed through regulatory action by the FAA and by pressing on with the kinds of efforts we have underway in conjunction with the National Park Service, Hawaiian air tour operators, and local communities, rather than by legislation.

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As the Subcommittee is aware, the FAA's primary mission is to promote the safety of our air transportation system. We also are charged with the safe and efficient movement of air traffic within that system, but we recognize that environmental protection is also an essential part of our mission. Secretary Peña has made it clear that environmental protection must be one of the major goals of the Department and the Nation's transportation policy. Toward that end, he has worked to establish closer contacts with EPA and the Department of Interior.

Establishing policies and operational procedures that strike an appropriate balance among these goals presents a particularly challenging situation for the agency because of the noise sensitive character of many of Hawaii's scenic areas, the concentration of air tour operators, and the sudden weather changes that are experienced in the Islands. However, through a cooperative approach with Interior, we are committed to attaining results that are sensitive to both the environment and aviation requirements.

Last January, we, the National Park Service, the Fish and Wildlife Service, and the Bureau of Land Management entered into an Interagency Memorandum of Agreement. This agreement establishes a process for the identification of situations where impacts of aircraft operations on human, cultural, or national resources warrant site-specific action by the FAA to minimize or eliminate

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the causes of such problems. We are optimistic that this Agreement will provide a solid foundation for us to work cooperatively to address the types of concerns that we see in Hawaii. FAA has also been working to draft an action plan to assist us in managing the airspace in Hawaii. That plan is currently in final coordination. In addition, informal, high-level discussions are underway between our Departments to further advance cooperation on a wide range of issues, including park overflights.

There are approximately 26 Part 135 operators with roughly 83 helicopters dedicated to air tour sightseeing in Hawaii. There are also 7 Part 135 operators conducting mostly fixed-wing aircraft sightseeing operations. Approximately 15 Part 91 operators using either helicopters, airplanes, or both conduct sightseeing activities over Hawaii. In addition, there are commercial airlines, military, law enforcement and agricultural aircraft, along with flight training organizations, helicopter lift companies, and a host of private aircraft operators who use the airspace over and around Hawaii. All of these activities make for a diverse and complex airspace system in itself, even before taking into account the environmental and noise-related concerns associated with Hawaii's beautiful parklands and cultural resources.

We recognize that H.R. 1696 is an attempt to balance concerns for aircraft safety, airspace use, and environmental sensitivity. In

the past two years, we have begun a variety of efforts intended to reconcile these sometimes conflicting activities, and I believe the record shows that, while much work remains, we are making progress.

In dealing with the variety of complex and dynamic technical, safety, and environmental issues that must be addressed on a continuing basis, regulations and other approaches are often preferable to legislation. They can be amended more readily to handle new developments or problems, and adjusted to take appropriate account of new policy concerns. Such alternatives must, of course, be pursued in conjunction with other interested agencies--notably the Park Service in this instance. We also have a number of specific concerns with respect to this proposed legislation. For example, provisions in H.R. 1696 prohibit the use of airspace by any aircraft over certain parklands. Since these provisions prescribe no altitude above which overflights would be permitted, commercial airliners that may operate over those areas at high altitudes would, in theory, have to be rerouted, creating potential conflicts in airspace management along with potential environmental costs associated with extra fuel usage.

Another provision in the bill would permit certain commercial aircraft operations into Keahole Airport, but only if weather conditions otherwise would create a hazardous situation. This

provision, however, would not provide for air tour operators to use such approaches, even though the safety of their passengers would apparently be jeopardized by failing to do so. There are also no provisions in the legislation to provide for operations into proscribed areas for emergency purposes such as medical evacuations of injured park visitors, search and rescue missions, or firefighting operations.

Provisions of the bill would also require operators to maintain altitudes in designated areas of at least 2000 feet above the highest surface within a lateral distance of 2000 feet of the aircraft. Air tours are conducted under visual flight rules (VFR). Those rules require that pilots keep a certain distance from the clouds for safety reasons. Hawaii can be subject to sudden changes in weather. By prohibiting the use of certain airspace and restricting the permitted use of other airspace, pilots may find themselves in dangerous weather situations with legal restrictions on their ability to seek safety.

These examples are cited only to suggest that the inflexibility of legislation is not well suited to addressing the full range of aviation safety, technical, and environmental concerns in question with respect to Hawaii.

We believe the best means of addressing these difficult issues is for the FAA, industry, the communities, and National and State Park Service personnel to work cooperatively, as we have begun to

do. By bringing the interested parties together and understanding each other's concerns, we can create a framework that considers and addresses everyone's needs. We have had initial success with this method at the Glacier National Park in Montana, where the FAA, NPS, and state and community representatives together developed a plan for the use of the airspace over the park that addressed the environmental issues without jeopardizing the safety of aircraft operations.

Likewise, in Hawaii, we are working to develop a program that includes all interested parties. The goals are to assure a safe operating environment and procedures for air tour operators; protect wildlife and the natural habitat that supports it; and reduce the noise experienced by the community. For almost two years, the FAA, the Hawaiian Helicopter Operators Association (HHOA), the National Park Service (NPS), and others have been working toward this goal with positive results.

The FAA has taken several steps to address the challenges faced in Hawaii. The Honolulu Flight Standards District Office has dedicated staff resources specifically for the oversight of the air tour industry. Numerous meetings have been held with NPS personnel, industry, and the community. The "Fly Neighborly" program, initiated by the HHOA in conjunction with FAA, has defined noise-sensitive areas, minimum standoff distances, maximum noise levels, and disaster and natural phenomenon areas to avoid. This program provides for association-imposed penalties for

violations of the HHOA standards, to include suspension of an employee and company fine after a third violation.

The results of these activities have been positive. We have increased the safety of air tour operations by increasing surveillance, documenting unsafe practices, and identifying operators conducting unsafe practices. We have also conducted safety seminars addressing these issues for the industry.

To help reduce the impact of noise on local communities, the FAA and community representatives requested that tour operators change certain routes. In addition to route changes, the FAA's Rotorcraft Certification Office has held educational forums where correct flying practices were discussed. The FAA received a letter from the Tour Aircraft Control Coalition this September stating that once pilots understood the communities' concerns they were eager to help. We intend to continue to educate air tour operators regarding community concerns.

We are also involved in research and development to improve the accuracy of reporting procedures for flights. Automated electronic flight-following, or the Noise Nuisance Abatement Performance System, is being tested and developed to track tour operations and record their flight patterns. Ultimately, information from that system will be recorded for each air tour flight, enabling records to be checked following noise complaints to determine if operators were flying in violation of "Fly

Neighorly" standards. Implementation of the Global Positioning Satellite System will allow this monitoring and recordkeeping system to operate Statewide.

We are also considering the issuance of a rulemaking proposal that would require certain Part 91 air tour operators, based on passenger enplanements, to adhere to the requirements of Part 135 of our regulations. A regulatory process permits a full public airing of benefits and costs associated with a particular proposal, and also permits future adjustments as circumstances dictate.

In brief, we are working to aggressively address the kinds of concerns covered by H.R. 1696, and assure environmentally acceptable outcomes. Although progress has been made, much work remains to be done. We would ask that the Committee not proceed with legislation in this area at this time, and afford us the opportunity to continue the work we have underway to address the issues we see in Hawaii. We would be pleased to keep you apprised of our efforts to do so.

That completes my prepared statement Mr. Chairman. I would be pleased to answer any questions you may have at this time.



## National Parks and Conservation Association



October 15, 1993

Federal Aviation Administration  
Alaska Region  
701 C Street, Box 14  
Anchorage, Alaska 99513

Att. Russell S. Hathaway  
Manager, Airports Division

**Subject:** State of Alaska application for airport planning funds  
Chisana and Kantishna

Dear Mr. Hathaway:

On September 15, I wrote you regarding the application by the state of Alaska for federal funds for the purpose of airport master planning at Chisana within Wrangell-St. Elias National Park and Preserve (WRST) and at Kantishna within Denali National Park and Preserve (Denali). I advised the Federal Aviation Administration (FAA) that a decision to grant funds for such purposes would be inappropriate as a matter of public policy and law. (I pointed out that the state does not own a land interest in the Chisana airstrip or the Kantishna airstrip.)

On September 20, John M. Morehead, National Park Service Alaska Regional Director, wrote FAA Alaska Regional Administrator Jacqueline L. Smith opposing the grants and providing further factual information as to why issuance of the grants as proposed would be contrary to current regulation. Moreover, Mr. Morehead pointed out that the FAA database regarding land ownership at Kantishna and Chisana was incorrect, and not in conformance with federal law or records.

On September 23, you wrote Mr. Morehead, advising him of the FAA's intent to proceed with the grants. You further stated your decision was based on "consultation" with FAA regional counsel. I find both the timing and content of your letter remarkable.

First, your letter reads, in part:

Historically, the FAA has supported (through grant in aid funds), planning efforts where land acquisition

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Russell Hathaway  
October 15, 1993

issues are resolved as part of the scope of the planning effort. [Emphasis added]

It is difficult to conceive how such a statement supports your decision to issue the grants, or, in fact, how the proposed planning effort could possibly resolve land acquisition issues. The airstrips are national park lands designated by Congress. At Chisana, surrounding lands are also national park lands. At Kantishna, the only non park lands are mining claims, the purchase of which (for addition to the park) has been authorized and funded by Congress. The National Park Service has no authority to sell, lease or transfer park lands for airport purposes, and has further informed you of the agency's opposition to the grants as proposed. Despite these facts, your letter clearly indicates a prejudice toward acquisition of park lands and the intent to resolve, through an administrative planning process, land issues which are the sole purview of Congress. I find it hard to believe that FAA "historically" conducts business in this manner.

Second, your letter reads, in part:

"We recognize the National Parks Service position regarding the ownership of the specific airstrips in question. Similarly, we recognize that there are many facets to land ownership and that other positions have been expressed." [Emphasis added]

The National Park Service "position" regarding land ownership reflects the law and is verified by the Bureau of Land Management Master Title Plats. Your letter clearly indicates your office made an administrative decision to give equal weight to "other positions" regarding land status as expressed by entities other than the legal land manager designated by Congress. Moreover, such a decision was made at a time when the FAA database was not in conformance with federal land records.

Third, your letter reads, in part:

"The fact that a responsible public agency does not yet have title to a specific tract of property is, thus, not a valid reason for denying a planning grant application." [Emphasis added]

Given the land status at Kantishna and Chisana, the *specific tracts* can only mean the airstrips themselves, surrounding public lands, or (in the case of Kantishna) mining claims currently being acquired for park purposes. The language of your letter is clear on its face that your office made an administrative determination that the state of Alaska *will* receive title to national park lands. That is a decision reserved by law to the U.S. Congress.

There is no debate that there exist legitimate transportation issues within national park system units in Alaska. By working together we could, no doubt, fashion an

Russell Hathaway  
October 15, 1993

approach which recognizes the National Park Service's lead management responsibility and cooperatively utilizes the funding and expertise of FAA and the state. However, the grants as proposed do not reflect such a process. Moreover, the FAA's justification for issuance, as expressed in your September 23 letter is seriously flawed. I am disappointed in the lack of response to my letter of September 15, and I find it difficult to believe that the substantive policy and legal issues raised by Mr. Morehead in his September 20 letter could have received full attention and review by the time you issued your September 23 decision and reply. Indeed, the letters nearly crossed in the mail.

Please forward to my office, the application by the state of Alaska for airport planning grants for Kantishna and Chisana, together with all pertinent correspondence. I also request copies of legal memoranda from FAA Assistant Chief Solicitor on which you based the statements in support of the grant contained in your letter of September 23 to Mr. John Morehead. Lastly, I request copies of other FAA grants made in cases where the airport sponsor could not demonstrate clear title to specific properties subject to the proposed plan and/or where title could only be acquired through other than administrative action on the part of the sponsor or FAA. For your records, you may consider this request is made pursuant to the laws of the United States and the state of Alaska regarding freedom of information. Once more, I look forward to your reply.

Sincerely,



Chip Degnerlehn  
Alaska Regional Director

cc Jack Morehead, Alaska Regional Director, NPS  
Karen Wade, Superintendent, WRST  
Russ Berry, Superintendent, Denali  
Robert Baum, Associate Solicitor, Conservation and Wildlife, USDI  
Chris Bachman, Office of the Solicitor, Alaska Region, USDI  
Paul C. Pritchard, President, NPCA  
Elizabeth Fayad, Counsel, NPCA  
Ann Rothe, Executive Director, Trustees for Alaska

# Environment



# Hawai'i

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## Hawai'i's Endangered Forest Birds Face Further Harm from Helicopters

Amid the furor and controversies generated by the recent marked increase in tour helicopter traffic on the Big Island, Harry Kim, the agency's Civil Defense administrator, voiced his usual good sense and fresh perspective:

"We need someone to speak for the birds."

Kim's observation was made at an at-times rancorous meeting March 1, 1991, of members of the public with representatives of the Federal Aviation Administration, the agency that claims complete, unbreachable jurisdiction over every cubic inch of navigable airspace in the United States. Delegates of community organizations in the heavily impacted Puna and Kāu districts of the island told the FAA representatives their concerns about the unbearable levels of noise generated by the tour helicopters. It was left largely to Harry Kim and Dan Taylor, chief of resource management at Hawai'i Volcanoes National Park, to raise the point that the helicopters' noisy presence is more than a nuisance to humans; for Hawai'i's surviving native forest birds, many species of which already are perilously close to extinction, the helicopters may present stresses sufficient to cause further population declines.

### *Spread Out*

As with many other threats to natural resources, tour helicopter traffic in the state has been allowed to develop without regulation to the point that, today, it has reached a size and scope that defies belated attempts at control. Because of this lack of regulation, the studies that might indicate the ways in which this industry harms Hawai'i's

environment—natural and social—have not been done. No environmental impact statement has been prepared; no mitigating measures have been identified. Perhaps understandably, federal regulators have taken their mandate to supervise industry safety to refer only to the health and welfare of humans.

In any event, for whatever reason, there are no studies of the impact of helicopter traffic on Hawai'i's forest birds.

To say that, however, is not to say that there is no impact on the state's birds. Far from it. In one of the earliest known incidents, a golden eagle living in Kaua'i's Waimea Canyon was "turned into mincemeat through a fatal encounter with a chopper," as the late noted biologist Wayne Gagne put it in a letter to the *Honolulu Advertiser* in August 1987. (Just how the golden eagle came to reside in Waimea Canyon in the first place remains a mystery.)

Such encounters may be rare. But other types of disturbance, short of direct hits, can be just as serious and life-threatening.

Taylor, the resources chief at Volcanoes National Park, cites that although hard data may be lacking, enough evidence is at hand already to support restrictions on helicopter overflights of areas inhabited by native birds.

"Birds have a very tight energy budget," he said in a recent interview.

In this budget, there's no room for extraneous activity, according to Taylor: "If something alarms them or causes them to depart from their routine, the birds have to rely on their energy buffer—if they have one."

Helicopters can and do disturb the birds'

See "Birds," page 8



### *Frequent Flyers Get the Bird*

As the flight-seeing industry grows, so, too, grow the complaints about low-flying aircraft. Helicopter operators say they're doing all they can be reasonably expected to do to abate what is at most a nuisance. To do more, they claim, would infringe on their rights to earn money and on what they say are the rights of tourists to see Hawai'i's scenery by air.

People living along the helicopter routes have another story. The flights are far more than a nuisance. They cause health problems, loss of income, and loss of privacy.

Those placed at greatest risk by the helicopters' ubiquity may be least able to voice their concern: Hawai'i's already endangered birds.

The helicopter operators have said their business is ecotourism at its best: passengers "leave nothing and take away only memories and photos," one operator has said. As the contrary testimony of the people on the ground shows, it's not that simple.

And no one has yet heard from the birds.

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## EDITORIAL

*Beyond Noise: Helicopters Threaten Health, Welfare, and Wildlife*

Hardly anyone would deny that helicopter tours have become a nuisance on the Big Island and on Maui. They used to be a bother on Kauai, too, but Hurricane Iniki largely put an end to that. (Kauai's loss was the Big Island's gain, with many of Kauai's helicopter operators relocating to Hawaii.)

Just how many helicopters ply the skies is not known precisely. In 1989, the state estimated that about 40 helicopter companies, together owning some 90 helicopters, were operating in the state. The Hawaii Helicopter Operators Association reported a year later that there were 30 tour helicopter operators statewide, flying 80 aircraft. The Federal Aviation Administration estimates that today, on the Big Island alone, there are about 13 operators, flying between 15 and 20 aircraft. State records indicate that 30 or more tour helicopters may be based on the Big Island.

Whatever the total, for the people living under the regular flight routes, there are too many helicopters, flying at altitudes that brush the tree tops, rattle the dishes, scare the stock, invade privacy, and shatter to smithereens the peace and quiet that residents had expected to find by living in some of the state's remotest quarters.

The problem long ago surpassed the level of a nuisance. Today it represents a health threat to some people; to others, an invasion of their

rights to privacy; for still more, tangible material losses. Beyond that, helicopter flights over wilderness areas may well pose a risk to many species of endangered Hawaiian forest birds.

*Fraternal Association of Aviators*

The Federal Aviation Association has been nothing if not zealous in its pursuit of its mandate to "promote" the aviation industry. Helicopter operators, especially, go with the FAA's blessing anywhere their aircraft can take them, so long as minimal safety regulations and conditions of their certificates are observed. Regulations to control noise extend no further than 4,000 feet from the boundaries of public airports. Beyond that, noise is not their concern. FAA officials say, and safety considerations are the sole justification for agency intervention.

And, they add, if they don't intervene, no one else can, either. However serious problems associated with helicopter operations become, however much local and state officials might want to see things change, the FAA claims that it alone has authority to take measures that might restrict the rights of aviators.

Time's up. If it takes an act of Congress to get the FAA to be more sensitive to the rights of citizens other than aviators, so be it. The chumminess of the FAA fraternity has gone on long enough. The FAA has created a regulatory system that makes enforcement all but impossible. The identification numbers that people have to report to the agency as a first step in enforcement actions need be no higher than three inches—not feet, but inches! Even when the numbers can be spotted, allegations of wrong-doing must involve a safety infraction. With the FAA setting no minimum altitudes for helicopter flights, providing evidence of safety infractions is difficult at best.

The FAA, at Patsy Mink's prodding, has set up—in Honolulu—an Air Tour Surveillance Team, whose purpose is to monitor helicopter traffic mainly on the Big Island. It boasts that recently it has launched up to six inquiries into possible infractions by helicopter operators of safety rules. But the investigations will take time, and it may be months before enforcement actions are begun. Until they are concluded, and all appeals are exhausted, the FAA will not release the names of the operators under investigation, citing concerns for their privacy.

The legislation introduced by Patsy Mink may, if enacted, be a step in the right direction. However, it does not go far enough. What is required is nothing less than a revision of the FAA's very charter. Safety is not the only matter to be considered when people take to the air. Noise, privacy, and impact on the environment (including endangered species and preservation of wilderness qualities) deserve equal billing. The hour is at hand to turn the FAA around, to move it from the role of cheerleader into a new role as guardian of the public's interest in the regulation of air traffic of all kinds.

*Safety First?*

Even absent a change in federal legislation, it's still a fair question to ask why the FAA has done so little to enhance the safety of the tour helicopter industry in Hawaii. Given that many of the flights on the Big Island and Maui go over water, it would only make sense to equip aircraft with personal flotation devices, if not pontoons.

The FAA might also consider adopting regulations that would make identification of helicopters easier. The Hawaii State Helicopter System Plan acknowledged the difficulty the public had in identifying low-flying aircraft. It recommended that the state Department of Transportation adopt its own identifying system, which, it stated, "is not expressly prohibited by federal regulations and has been implemented in other states." The new markings would be painted on the aircraft's underside and in letters and numerals at least two feet high. The idea has been revived by members of the public lately. Some residents have suggested assigning each helicopter operator a three-letter designation, which would become a prefix for the identifying number assigned to each aircraft owned by that operator.

One thing is clear (even if the numbers are not): Until it becomes easier for aircraft to be identified by members of the public, the public will have every right to believe that the FAA has no interest in tracking down helicopters that may be flying in violation of FAA rules.

Perceptions that the FAA is less than vigorous in its pursuit of violations are not without consequence. Among helicopter operators, such perceptions foster the kind of cowboy behavior that leads to loss of property and even life.

See "Editorial," page 3

Environment  Hawaii

733 Bishop Street, Suite 170-51  
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Volume 3, Number 11 May 1993

Patricia Tummons, Editor

*Environment Hawaii* is published monthly by Environment Hawaii, Inc., a 501(c)(3) non-profit corporation. Subscriptions are \$31 individual, \$65 supporting, \$65 corporate and institutional. Send subscription inquiries, address changes, and all other correspondence to *Environment Hawaii*, 733 Bishop Street, Suite 170-51, Honolulu, Hawaii 96813.

Articles appearing in this journal are indexed in the Environmental Periodicals Bibliography. *Environment Hawaii* is available in microform through University Microfilms Alternative Press collection (300 North Zeeb Road, Ann Arbor, Michigan 48106-1548).

Typesetting and production by Fox Color Publishing, Inc. Printing by PTP of Kauai.

Illustration of Pule by H. Douglas Pratt

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ISSN 1050-3285

## Over Industry Objections, County Urges Restraints on Helicopters

The Hawai'i County Council adopted, on March 24, 1993, a resolution supporting an agreement between the Federal Aviation Administration and the National Park Service to set standards for helicopter flights over Hawai'i Volcanoes National Park.

Adoption of the resolution was more difficult than the 7-0 council vote might suggest. At earlier hearings of the resolution, testimony from residents had been countered by helicopter operators, particularly Scott Shupe. Shupe, who is a principal of Mauna Kea Helicopters, based in Kamehameha, also is the Big Island director of the Hawai'i Helicopter Operators Association.

The resolution has no force of law. Still, Shupe was adamant in his opposition to the measure — although at times members of the council seemed to think his remarks at the February 24, 1993 council meeting worked in support of the resolution.

According to Shupe, flights around the volcano, "if done properly, they are not dangerous." But, he added, "I do think there are some inherent problems with individuals fly-

ing around the volcano." Shupe went on to discuss the crash of the Paramount Pictures crew into Pu'u O'o vent last fall. A Big Island pilot was asked to fly through the smoke, Shupe said. The pilot was aware that the smoke was highly corrosive and contains low levels of oxygen. When the local pilot wouldn't do what Paramount wanted, the film company brought in its own pilot and hired a helicopter from the island. "The rest," Shupe said, "is history."

*"I'm not much of a whistleblower. I just want to see the industry change."*

It was unfair to hold the whole industry responsible for that incident, he said.

The crash into the ocean of the Kainoa Avian helicopter — in which four tourists lost their lives — also should not be held against the industry, Shupe claimed. The people at Kainoa "were completely out of the legal realm in which they were to fly on that day.... They had no right to be there, they weren't supposed

to be there, they were breaking the law."

Again, Shupe said, "it's hard to hold accountable the entire industry." Almost all the operators generating the complaints by the public and park personnel "are Part 91 companies," he told the council. Shupe has himself "complained to the FAA that this is not right," he said.

But Shupe's complaints stop short of mentioning individual operators. Shupe told the council he wanted to see FAA regulations enforced — "I see them violated every day," he said. Councilman Jim Rath pointed out that all Shupe had to do was "pick up the radio and turn the dial.... I mean, you can literally pick up your radio and call right there on the spot and report any violations."

"Well," Shupe responded, "I'm not much of a whistleblower. I just want to see the industry change, clean up their act."

Shupe's testimony left Councilwoman Helene Hale, a sponsor of the resolution, wondering why, if Shupe himself wanted to root out the bad apples, he should object to the resolution, which, in any case, merely supported the Park Service in an action it was already undertaking.

"Well, I just see the pattern or the handwriting on the wall that it's one more rule, and it's one more rule. Pretty soon, we can't go anywhere," Shupe responded.

### Editorial from page 2

After a fatal crash of an airplane on Maui last year, the National Transportation Safety Board weighed in with a report recommending that the FAA adopt special flight rules for Hawai'i precisely because in many of the state's airspaces held unusual dangers. "The safety board believes that the FAA should identify airspace that is subject to commercial air activity and that may require special air traffic procedures for environmental protection or to reduce the potential for midair collision," its report on the Maui accident said.

While we would add a proviso concerning the hazards of flight through volcanic fumes, the NTSB recommendations are on the money. Will the FAA adopt them?

#### Environmental Impacts

Low-flying helicopters have an impact on wildlife. Just how great that impact is, no one knows.

#### Will we ever find out?

One way to know the impact is to wait until nature shows us. There's a drawback to this approach. By the time the problem is recog-

nized, the time has long passed for action to head it off.

Another way, one enshrined in state and federal law, is for those who are causing the impact to prepare an environmental impact statement, fully disclosing any and all possible effects that their behavior may have on the environment.

The state requires preparation of either an environmental assessment or an environmental impact statement whenever helicopter facilities are proposed. To date, however, the environmental assessments done for these projects have dealt with only that environment that lies in the immediate vicinity of the heliport or helipad. Before any more helicopter facilities are permitted, the environmental assessments or EISs for them should be required to address the total impacts, including those on endangered birds, on federally protected wilderness areas, on state wild lands, and on residential neighborhoods.

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#### A Slip-up In Quality Control

It has been brought to our attention that some copies of the April edition of *Environment*

*Hawaii* were mis-printed and do not contain pages 5 through 8. If you received one of these, please let us know and we'll be happy to send a replacement copy, free of charge. (Let us know quickly; our supply of replacements is limited, and if it runs out, a photocopy of the missing pages will be the best we can provide.)

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Et Cetera

*Environment Hawaii* has relocated to Hilo, Hawai'i. Until we have a permanent address for mail, please continue to send all mail to our Bishop Street address.

Should you wish to reach us by telephone, our number in Hilo is (area code 808) 934-0115. We have no facsimile machine yet, but hope to have one soon.

As a 501(c)(3) corporation, *Environment Hawaii* is required to complete Form 990 for the Internal Revenue Service. We also are required to make this available to interested members of the public. This form summarizes income and expenditures for the previous year. If anyone would like to see a copy, please send us your request along with a stamped, self-addressed envelope.

## Hearing on Helicopters Draws Volley of Complaints from Public

Mike Wheat lives in Hawaiian Paradise Park, a rural subdivision south of Hilo. On days when helicopter traffic is especially heavy, he says flights over his house can be as frequent as every five minutes. The pilots often fly at tree-top level, giving their passengers a view of the signs Wheat has placed in his yard, imploring them to go away. Far from the signs achieving their intended effect, Wheat says, they have made his yard a "must" on helicopter tours.

For Wheat, who suffers from a terminal illness, the noise of the frequent, low overflights is more than a nuisance. He says it often causes him nightmarish headaches. "I'm angry from years of flights over my house," he told U.S. Representative Patsy Mink at a meeting she called in Hilo to address the problem last month. "I'm disgusted. I'm asking for your help."

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For Rene Siracusa, the noisy helicopters flying over her Pahaia house are more than a bother; they have caused her material loss. Siracusa told Mink that she had lost income and livestock as a result of stampeding brought on by the helicopter traffic. "I have been unable to receive compensation for these because of the legal obstacles to aircraft identification," she said.

Siracusa also accused the operation of voyeurism. Until she had indoor plumbing installed, Siracusa took her daily bath outdoors in mid-afternoon (giving the water time to heat). The "nude lady in the tub" became a big operator draw, she reported earlier at a March 1, 1991, meeting of community members with FAA officials. Because she could never read the numbers on the offending helicopters' undersides, no enforcement actions were ever taken to penalize the guilty operators.

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The helicopter operators' invasion of privacy was an issue that came up repeatedly. A woman told the panel that her house in Pu'uono, not on the way to any particular scenic spot, had apparently become a destination in its own right for some tour operators. Family gatherings were disrupted as well as private moments with her husband. On one occasion, she said, helicopters "hovered for as long as it took us to put on our clothes."

David Sheehan of Laupahoehoe noted that

there are "more restrictions on boom boxes than on helicopters. Our rights, a privacy and quiet are revocable at any moment."

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The complaining public had no lockdown on the high ground of "rights." In what might be regarded as an awesome broadening of the grammar of constitutionally protected behavior, helicopter operators testifying before Mink championed the rights of their clients to travel anywhere their helicopters could fly.

Dave Chevalier of Blue Hawaiian Helicopters stated that 90 percent of the flights on Maui carry visitors to Haleakala. "I don't want to deny visitors their right to see Haleakala," he said.

An employee of Blue Hawaiian — Jim Spiri — told Mink, "You are messing with my rights if you interfere with the right to see my park. And you're messing with all the tourists' rights also, since Hawai'i Volcanoes National Park is a world heritage park — you're messing with the world's right if you restrict flights over the park."

Jim Hennessey, who flies with Papillon Helicopters, defended the notion of "equal access" to national parks in Hawai'i. "The old, the ill, the handicapped and those short of time will be discriminated against" if Mink's legislation, H.R. 1696, is passed, he warned.

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David Leese lives in the Hāku area of Maui. The problem there, he told Mink, is just as bad. Between 20 and 40 helicopters a day pass over his house on Maui's north shore. The flight-seeing industry's growth has been unregulated, he told Mink, with no attention paid to its impact on people or birds. It was time, he said, for the Federal Aviation Administration to turn from the promotion of the industry to its regulation.

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Just how much the FAA can regulate to control noise is a matter of some dispute. FAA spokesmen have stated that their mandate goes only as far as safety issues are concerned; noise generated by operators who are in compliance with all safety regulations is beyond their regulatory authority, they say.

To hear the testimony of people living in

the helicopters' paths, however, the helicopter pilots who are the source of the greatest annoyance are often seen to be in obvious violation of FAA flight rules. They may be scudding along at tree-top level, hovering over flows of red-hot lava, or flying over open ocean too far out to allow them to land safely in the event of mechanical failure. In those cases, the pilot would be violating FAA rules by flying outside what is called the helicopter's flight envelope — the space required to allow a helicopter to land safely, given its speed and altitude.

In fact, once a helicopter leaves the controlled airspace of a public airport, about the only FAA regulation that applies to the pilot's activities in flight is the one concerning the flight envelope. The minimum altitudes that fixed-wing aircraft must observe do not apply to helicopter operators. Jim Kane, a resident of Waipio Valley, reported to Mink that when he complained to a helicopter operator about the noise flights were generating — because of Waipio's amphibious shape, sounds reverberate — the operator stated that "he could fly anywhere he wanted — he could fly two feet above the ground all the way to the back of Waipio Valley," he wanted. "Given the present FAA regulations, the operator is correct."

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If a helicopter is observed in violation of safe operating regulations, the FAA says, it wants to hear about it. According to Steve Badger, an FAA employee who heads up a new Air Tour Surveillance Team established for Hawai'i, the FAA can and will enforce. David Gilliam, the manager for flight standards of the FAA's Western Region, expressed the same sentiment even more vehemently at Mink's meeting: "Where we find non-compliance we'll aggressively follow up on that."

All that they do to do this is for the complaining members of the public to provide them with the date, time and place of violation — and the helicopter's identification number.

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For years, the public has been providing date, time and place to the FAA and to a hotline set up by the Hawai'i Helicopter Operators Association, which has promised to try to get its members to abide by a "fly neighborly" program. But providing the identification number is trickier. All the numbers begin with "N" (for number). Thereafter is a long sequence of numerals all but impossible to read as the helicopter whizzes by. Reading the identification is made even more difficult by the fact that usually the helicopter is silhouetted against a bright sky.

See "Complaints," page 5

## Operators Admit Shortcomings In 'Fly Neighborly' Program

The Hawai'i Helicopter Operators Association was created in 1984, because, it has said, "the industry realized that it needed to improve its flying procedures in order to become more compatible with both the permanent and transient (tourist) communities." Membership in the association is voluntary. Bob DeCamp, HHOA's executive director, said recently that about 86 percent of the state's tour helicopter operators belong to his group.

In 1989, HHOA established what it describes as the Fly Neighborly Program. Operators participating in the program, which HHOA describes as mandatory, are supposed to observe certain stand-off distances and minimum altitudes in areas designated as noise-sensitive. When operators are found to have violated the program by the HHOA's Fly Neighborly Commission Branch, they are subject to fines. For the first violation, the fine is a warning to the pilot and the company. The second violation by the same pilot results in fines of \$100 imposed on both pilot and company. Additional violations result in suspension of the pilot for 30 days and a \$250 fine payable by the company. To date, HHOA has not reported a single violation.

On Maui, HHOA says the program has been a success, resulting in drastically reduced numbers of complaints. (Some people living on Maui report that they complain less now because complaining to HHOA's hotline was a

waste of time.)

On the Big Island, though, even DeCamp admits that the program has its flaws. In March, he publicly apologized for what he described as "deficiencies" in the Fly Neighborly program. Promising to do better this year, he said that the program's "hotline" would be staffed. In another departure from past practice, DeCamp said that HHOA would begin monitoring its members' flights to see whether they were indeed flying neighborly.

The monitoring is to be done by computer. Under a \$70,000 grant from the Federal Aviation Administration, HHOA is to set up a system of tracking helicopters that uses transponders to send Global Positioning System data—latitude, longitude, and altitude—to a land-based receiving station. There, the position of any helicopter equipped with a transponder can be tracked as the helicopter is in flight. Data on helicopter flights is kept in the computer for up to three days before being destroyed or transferred to a permanent record.

The so-called Nuisance Abatement Performance Evaluation System provides just the sort of data that the FAA needs to enforce its own regulations. However, the FAA has indicated that it will not be using NAPES-generated data for enforcement. Monitoring will be done solely by HHOA, or its invited guests.

Finally, just five of the 10 or more tour helicopters on the Big Island will be equipped

with the transponders. If the monitoring program is successful, an FAA spokesman said, additional helicopters may be equipped with them.

## Lawsuits Filed In 2 Recent Crashes

The crashes of helicopters in November 1992 and January 1993 have, predictably, resulted in the filing of lawsuits.

The parents of Chang Lung Shieh, a Taiwanese tourist who presumably lost his life in the accident last January 25, have filed a wrongful death action against Kaimosi Aviation, Inc., the helicopter operator, and various corporations involved in the manufacture of the EH-1190 helicopter that went down in the water off Kaimosi. No dollar amount for damages was mentioned in the suit, filed February 24, 1993, in the Third Circuit Court of Hawaii.

The second lawsuit, filed April 2, was brought by the insurer of Hilo Bay Air, Inc., the helicopter operator. Named as defendants are Hilo Bay, Paramount Pictures, Inc., and the three people aboard the aircraft, all of whom were hired by Paramount.

The suit was brought in federal court. According to the complaint, the insurer, National Union Fire Insurance Company of Pittsburgh, Pennsylvania, paid \$165,950.61 in March to the helicopter operator, which held a lien on the Bell 206 helicopter damaged when it fell to the floor of Pu'u O'o vent. But on learning the particular circumstances of the accident, the insurance company determined that when the helicopter went down, it was not being used in a manner authorized by the insurance policy.

The complaint notes that the insurance policy excludes use of the helicopter for purposes of "instruction of or rental to others." Because Hilo Bay Air had a rental agreement allowing Paramount use of the helicopter, the insurance company argues, it therefore has no obligation to pay.

With the insurance company now refusing to pay damages, the possibility arises that Hilo Bay Air will claim the aircraft was damaged by Paramount's crew and will sue Paramount. Paramount, in turn, might well allege that the helicopter crashed because of Hilo Bay Air's failure to maintain the aircraft properly.

The helicopter took seconds to fall to the floor of Pu'u O'o. Getting the last crew member out took days. Before the dust settles from the legal battles, however, years may pass.

## Complaints from page 4

At the April 2 meeting called by Mink, many of those testifying complained about the difficulty they had reading the identification numbers and asked the FAA to require larger letters and numbers as well as a simpler identification system—perhaps starting with a three-letter abbreviation for each helicopter operator. Mink asked FAA officials to explain the present rules on helicopter identification. George Harvey, special assistant to the regional administrator of the FAA's Western Region, took on the task.

The FAA originally required identifying letters and numerals to be 12 inches high. Harvey said, but then the FAA's rule changed so that the identifying marks needed to be no higher than three inches. "Now the FAA requires 12-inch-high letters and numbers,"

Harvey said, but added that the requirement goes into effect only when operators repaint their helicopters. Harvey's explanation drew a chorus of hoos from the audience.

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Mink was told repeatedly of the economic benefit tour helicopters bring. Dave Chevalier of Blue Hawaiian Helicopters said that on Maui, 200 people are employed in the helicopter tour business, which he said added \$18 million to the state's economy last year. On the Big Island, 150 people were reported to be employed by the tour helicopter industry.

To many of those who must put up with the noise, the operators' profits have come at their expense. Cocco Pierson may have expressed the thought most succinctly. He told Mink: "My tranquillity was stolen, and somehow it reappeared as money in the pocket of the tour operators."

## Restricting Helicopter Flights May Take an Act of Congress

Attempts to ban helicopter traffic are nothing new. To date, however, none have failed.

At the federal level, Congress has given the Federal Aviation Administration responsibility for making sure that aircraft operators fly safely. The FAA has tended to be rather jealous of this authority. Whenever any state or local government has considered adopting rules that might be more stringent than the FAA's almost non-existing flight rules for helicopters, the FAA has asserted the pre-emptive authority of federal regulations and, what's more, has threatened to cut off federal funds to states where any rules are adopted that might usurp FAA authority. Hawaii has seen this first-hand.

### A Grounded Helicopter Plan

Act 39 of the 1988 state Legislature called for the Department of Transportation to prepare a statewide helicopter master plan. Earlier, the DOT had asked the state Attorney General for a ruling on the limits of state authority with respect to federal regulations. That ruling, issued January 7, 1986, stated, according to the DOT, "that courts have repeatedly ruled that the areas of aircraft noise abatement and minimum flight levels have been pre-empted such that any state regulation affecting these areas was unconstitutional."

The Attorney General concluded, "It is our opinion that the state may not enact any legislation that has the effect of restricting helicopter flight altitudes or routes." The only exception to this, the ruling said, was the designation by the state of airport approach-and-departure routes and airport noise-abatement programs.

The Legislature took note of this in the drafting of Act 197. The act instructed the DOT to prepare helicopter master plans for each state airport, which would be used to guide future development of helicopter facilities. The act required the DOT to develop a permitting system for helicopters and other tour aircraft using airports under state control. It did not authorize the DOT to develop routes or set minimum altitudes. Additionally, it recognized federal authority by providing that "no rules, orders, or standards prescribed by the director [of transportation] shall be inconsistent with or contrary to any act of the Congress of the United States or any regulation promulgated or standard established pursuant thereto."

The DOT final helicopter system plan

emerged in April 1989. It included draft rules for helicopter operations out of state airports. Helicopters operating out of private heliports or heliports were exempt.

The document also included master plans for helicopter traffic at all state airports. Maps and narrative discussions in the report showed noise-sensitive areas (wilderness tracts, residential neighborhoods and the like) and suggested helicopters fly routes to avoid these areas. No prohibition on aircraft flights was included.

*Mink would require minimum 2,000 feet altitudes above all park areas where flights are allowed.*

Nonetheless, Airports Director Owen Miyamoto has said that the FAA threatened to withhold federal airport funds for the state if the DOT implemented the plan. In addition, in 1990, the private Hawai'i Helicopter Operators Association sued the state in federal court to keep the state from carrying out the plan and enforcing the administrative rules that had been adopted in October 1989. Rather than battle it out in court, the state DOT, on advice of the Attorney General, abandoned the plan. (As a footnote, the HHOA sought \$20,000 from the state, which it says is the cost it incurred in mounting the legal challenge to the plan. The 1993 Legislature approved payment.)

### Reluctance to Regulate

One of the recommendations in the Hawai'i State Helicopter System Plan was that the governor petition the FAA to adopt a Special Federal Aviation Regulation — SFAR — for the state. "Provisions could include flight-free areas on each island, imposition of minimum altitudes, and establishment of traffic patterns, routes and altitudes in specific areas," the plan stated. It continued:

"State and federal agencies will need to designate specific areas to be included in the SFAR: Federal wilderness areas, national parks, sites on the national historic register, state-identified wildland areas, and noise sensitive areas such as wildlife and bird nesting habitats."

To date, the FAA has received no petition for an SFAR from the governor or any other

state agency in Hawai'i.

The FAA has adopted SFARs elsewhere — the Grand Canyon and, more recently, Niagara Falls. In the case of the former, Congress instructed the FAA to adopt an SFAR after a spate of accidents that killed more than 80 people between 1980 and 1987 and in light of "noise associated with aircraft overflights ... causing a significant adverse effect on the natural quiet and experience of the park." The SFAR for Niagara Falls was not undertaken pursuant to an act of Congress, but was done for purposes of ensuring safety.

In Hawai'i, the FAA has perceived complaints over helicopter operations as having to do mainly with noise, as opposed to safety. FAA representatives have repeatedly stated that until safety is an issue, they are prohibited from acting under terms of their federal mandate. But in the wake of a number of helicopter accidents in the state — including one in January that took the lives of four Taiwanese tourists — the FAA is being pressed by members of the public to regard regulation of helicopter traffic here as necessary precisely to ensure safety.

### Federal Action

When Congress, in 1987, instructed the FAA to adopt special flight rules for the Grand Canyon, it also required helicopters flying over Haleakala crater and certain other parts of Haleskaka National Park to maintain an altitude of at least 9,500 feet above mean sea level. In addition, it required the secretary of the Interior to conduct a study to "identify any problems associated with overflight by aircraft" of Haleskaka and Hawai'i Volcanoes National Park, among other units of the National Park system.

The study has been delayed by more than three years, but is now expected to be out in the fall of 1993.

U.S. Representative Patsy Mink is not waiting for that. On April 5, she introduced legislation intended to reduce tour aircraft traffic over Haleskaka and Hawai'i Volcanoes national parks. According to a news release issued by her office, Mink "developed the legislation in response to numerous complaints from Hawai'i residents, particularly on the Big Island, about increased helicopter activity which has caused noise and safety problems in and around Hawai'i Volcanoes National Park. Also, several recent high-profile helicopter accidents have caused increased interest in tightening Federal Aviation Administration regulations governing tour helicopters and small planes."

Mink's legislation — H.R. 1696 — would require the National Park Service to provide

See "Regulations", page 9

## Regulations from page 6

the FAA with a map identifying noise-sensitive areas and to designate flight-free areas in parks. The FAA would then notify aircraft operators in its bulletins and other publications. Minimum altitudes of 5,000 feet above ground level would have to be observed by pilots flying over any national park area in Hawaii where such flights are allowed.

Mink's bill would ban all four flights over the National Park units at Pu'u honua o Honoanua, Kaloko Honokohau, Pu'u Kohola heiau, and Kalaupapa national historic parks; over the crater and Kipahulu Valley in Haleakala National Park; and over the designated wilderness areas of Hawaii's Volcanoes National Park, as well as the summit of Kilauaea and the coastal area between Ka'aha and Kamoamoa.

*To date, the FAA has received no petition for an SFAR from the governor or any other state agency in Hawaii.*

Finally, H.R. 1696 attempts to address safety concerns by requiring sightseeing flights that begin and end at the same airport to adhere to stricter FAA flight standards. Under current FAA rules, some of those flights are exempt from regulations concerning flight operation, aircraft and equipment, crew qualifications, and weather conditions that apply to most other commercial aircraft operations.

### A Draft Agreement

In the meantime, the FAA and the National Park Service have been trying to work out a memorandum of understanding concerning tour helicopter overflights of National Park units on the islands of Hawaii, Maui, and Molokai. A draft of the agreement, dated March 16, 1993, was made available to *Environment Hawaii*.

The draft appears to have been written by the National Park Service. In many parts, the language is identical to that contained in Part 91 Mink's legislation. It calls for bans on flights over Pu'u honua o Honoanua, Kaloko-Honokohau, Pu'u Kohola, and Kalaupapa. The draft departs from the legislation by noting that these are "resources considered sacred to Hawaiian people." For this reason, all these sites "shall not be overflown by commercial tour aircraft.... Furthermore, inasmuch as these areas are small and are entirely

primary visitor use areas, scenic tour aircraft shall maintain a two-mile stand-off distance."

Haleakala National Park, the draft says, "is mandated to protect natural and cultural resources, and especially rare and endangered plant and animal species, magnificent scenery, and tranquil and unique wilderness." For this reason, the draft states, all overflights of the Crater district and Kipahulu Valley are banned. Aircraft are to keep a two-mile stand-off distance from the overlook near the Sliding Sands trailhead.

### Briefed-Up Ban

At Hawaii's Volcanoes National Park, the March 13 draft provided for a ban of flights over the designated wilderness areas of the park — which includes Mauna Loa, Ola's Forest, the East Rift, and Ka'u Desert. In addition, there are to be no flights over the summit of Kilauaea and the coastal area between Ka'aha and Kamoamoa. A two-mile stand-off distance is to be observed by aircraft for the Kilauaea summit, the Chain of Craters corridor, and the Kamoamoa village.

In mid-April, the draft was made even more restrictive by the National Park Service, in light of concerns raised at the April 10, 1993, meeting called by Mink to hear concerns over helicopter traffic. The more recent draft language calls for a complete ban on flights over all of the park except for two areas. One is a 1.4-mile-wide corridor across an isthmus of the park connecting the Mauna Loa district to the area around the Kilauaea caldera. The second is a narrow, half-mile-wide strip along the park's easternmost boundary, extending from the vicinity of Pu'u O'o to the coast.

As Dan Taylor, natural resources chief for the Hawaii's Volcanoes National Park, explained, the helicopter routes that would be allowed under the tighter restrictions still provide tour aircraft a chance to see Pu'u O'o. The corridor along the eastern edge of the park meshes nicely with helicopter routes proposed by residents living to the east of the park boundary, Taylor said.

The FAA will probably object to several of the provisions in the agreement. In any event, it is not certain that the agreement, whatever language it contains, will bring about significant reductions in helicopter traffic or noise. As the draft acknowledges, the agreement seeks to promote "voluntary cooperation" with the restrictions proposed by the park service.

### Promises, Promises

As things stand now, helicopter operators are required to obtain certificates from the FAA under Part 135 of FAA regulations or the more

relaxed Part 91 regulations. After that, if they want to operate out of state airports in Hawaii, they must obtain a permit from the state Department of Transportation.

Just what is required to obtain a permit is unclear. DOT rules (Title 19, Subtitle 2, Chapter 34 of Hawaii's Administrative Rules) reflect the language in Act 397 (which amended Chapter 261-12 of Hawaii's Revised Statutes). Actual permit applications, however, do not contain all the conditions set forth in Chapter 261-12 or the administrative rules.

Some of the missing conditions were among those objected to by the Hawaii's Helicopter Operators Association in their lawsuit. (For example, the statute requires that the applicant be "in compliance with all state statutes." No similar requirement appears in the permit application.)

*Recent draft language calls for a complete ban on flights over almost all of the park.*

But not all of the language found to be objectionable by the HHOA in the administrative rules has been deleted from permit requirements. For example, the state continues to require a certificate of general liability insurance coverage of at least \$5 million.

### Helicopter Regulations

Another opportunity for regulation of helicopter traffic arises when operators seek to establish private heliports or helipads. On the island of Hawaii alone, seven heliports for tour operations have received permits from the county Planning Commission since 1983, when the first one was approved at Waikoloa. Five of them are in active use.

In the last six months, the county Planning Department has received applications for two more private heliports — one, proposed by Kenai Helicopters near the Hapuna golf course at Ouli, South Kohala; the other, proposed by Kalapana Helicopters (formerly Kainoa) to be built at Kaimu (Kalapana).

Both applications have been met by substantial community opposition. The environmental assessment for the Kenai heliport has been rewritten and is awaiting county acceptance. Processing of the Kalapana application seems to be on indefinite hold.

Since the fatal downing of a Kainoa helicopter in January, Kalapana's principal, Francis Akana, has not followed through on the work needed to carry the application forward.

## Flying in Volcanic Fumes Brings Extra Safety Concerns

The safety of helicopter operations in Hawaii has come under increasing scrutiny recently, largely in the wake of two serious accidents. Last November, a helicopter carrying a Paramount Pictures film crew fell to the floor of Pu'u O'o vent. All aboard survived, but rescue efforts were difficult and dangerous. Then, in January, a tour helicopter dropped into the ocean off Kamaoia, where lava flows into the sea. The pilot was rescued; four Taiwanese passengers drowned.

The causes of the accidents are under investigation. But possible contributing factors have been the subject of some speculation.

*"The acidity of laze is approximately three to four times that of concentrated lemon juice."*

In the case of the Paramount Pictures crash, attention has focused on the corrosive effects of certain gases in the fumes emitted by the volcano. The same fumes may have contributed to the failure of the helicopter at Kamaoia as well. In that case, the Federal Aviation Administration has already determined that the helicopter operator, Kaimoa Aviation, was in violation of FAA rules. The operator had what is known as a Part 91 certificate, which restricts flights to within 25 miles of their point of origin. When the helicopter went down, it was more than 25 miles from Hilo Airport, where the flight

originated. According to the FAA, it has issued an emergency six-month revocation of the license of the pilot, Robert Ervin. The Paramount pilot has been similarly disciplined.

### *Laze and Lemon Juice*

Flying in and around an active volcano does pose safety problems that helicopter operators elsewhere may not face. These were described to the FAA by Thomas L. Wright, then scientist in charge of the U.S. Geological Service's Hawaiian Volcano Observatory.

In a letter dated January 2, 1991, Wright noted that "volcanic gases are continuously released from three sources at Kilauea"—all of them popular helicopter destinations: the summit caldera (Halema'uma'u), Pu'u O'o, and the Kupaiianaha lava pond. The Kilauea fumes contain sulfuric acid at concentrations as high as 35 parts per million up to several hundred meters from the erupting vents, Wright said. For this reason, "Kilauea fume may be of concern to helicopter pilots who fly at or below 2,000 feet above ground level... Sulfuric acid droplets in the fume could potentially result in turbine wheel embrittlement, caused by frequent and prolonged exposure of metals and machine alloys to high levels of acidic gases. A turbine engine failure of a Hughes 500 helicopter... at the Kilauea Military Camp in 1985 may have been caused by such exposure to volcanic gases."

Wright went on to describe "laze"—short for lava haze. Laze is the plume that results, he said, "when lava flows into the ocean and

vaporizes seawater." He continued:

"On some occasions, the laze particles in plume clouds generated by vaporizing seawater reach a large enough size to actually 'rain' from the cloud. Analyses of rain from such clouds show that the droplets are seawater brines concentrated by a factor of 2 to 2.5 times due to boiling...."

"The striking feature of laze is its exceedingly acidic character, despite an overall composition relatively similar to that of seawater. Measurements of the pH of rain droplets and of condensate from the plume cloud in the vicinity of where lava flow into the sea gives values in the range of 1.5 to 2.0. These pH values indicate that the acidity of laze is approximately three to four times that of concentrated lemon juice."

### *Hazards on the Ground*

Wright's letter is surely one of the most comprehensive compilations to date of the dangers of flying in volcanic areas. He goes on to describe further hazards:

"Measurements of plume cloud gases in the same vicinity have identified hydrogen chloride gas at concentrations up to 10 parts per million. The permissible OSHA exposure limit for HCl is a ceiling of 5 parts per million parts of air.... Within a closed helicopter, there is likely to be little effect on passengers or pilot unless the pilot hovers for several minutes directly downwind of the plume. However, HCl is a highly reactive gas, and contact with most metals corrodes them severely and forms flammable hydrogen gas.... Therefore, as with the vent fume described earlier, there is a definite danger to the aircraft from repeated exposure to the acid plume...."

"Tour helicopters commonly hover directly over the active lava field at altitudes that would present a hazard to pilot, passengers, and helicopter if the pilot should lose control of the aircraft due to engine failure or loss of anti-torque (tail rotor) control, and was unable to maintain altitude."

USGS staff are put at risk by low-flying helicopters, Wright noted. In an earlier memo, dated October 29, 1987, Wright pointed out that helicopters can drown out the noise of lava moving or rocks cracking — vital warning signs for geologists working on the ground. The helicopters can blow fumes toward the geologists, causing breathing difficulties and temporary blindness. They can make it impossible for the geologists to converse or to hear diagnostic instruments. The geologists can themselves become attractions to helicopter pilots. The helicopters can cause glass fragments and fine strands of "Pele's hair" to come loose and to lodge in the eyes of people on the ground, "resulting in temporary blindness."

### *Birds from page 1*

behavior, Taylor says. "The overhead noise is especially disruptive. It is something that is totally new; the birds have not evolved with it. It causes them to lose contact with other birds. It disrupts their sense of territoriality since they cannot hear other birds calling. It interrupts courtship and mating activities, and nest-building."

"The birds' search for food is disturbed, since they cannot hear other birds signalling to them. When low-flying helicopters cause them to abandon their nests, their young can be left vulnerable to predators or starvation."

And should they survive all that, Taylor says, the very stress of dealing with the helicop-

ter noise can leave birds more susceptible to avian pox and avian malaria — scourges that already have decimated Hawaii's forest bird populations. "Birds aren't all that different from humans in their reaction to stress," Taylor says. "Their immune systems can be weakened by stress, just like ours."

### *Observed Behavior*

To observe the effects of helicopters on birds, Taylor has had to do no more than look out the window of his office in the park. "I had been watching an apapane build its nest," he says. "It would perch on a branch of that young koa tree, then drop to the ground, have a look around, pick up a straw, hop about with it a few seconds, then return with it to the branch where it was building its nest."

See "Think", page 9

## Birds from page 8

Taylor says he watched the bird, and its growing nest, for several days. Although his office is not in an area of the park that is regularly overflown by helicopters, one day a low-flying helicopter passed overhead. The apapane took flight immediately and never returned to complete its nest.

Hawai'i state bird is the nene, an endangered species of goose that, if it were allowed to continue uninterrupted on its evolutionary course, would probably be flightless in a few millennia. The nene today is a heavy bird and reluctant enough to take to the air that many people consider it incapable of flight.

The slowness of the nene to resort to flight may have led some to think that these birds are more tolerant of helicopters. Testimony to this effect was given, for example, when Hawai'i County was considering allowing a helipad near a golf course in Volcano known to be frequented by nene. (Installation of the helipad was approved, by the way.)

## "Parents will be driven from their nests and leave their young exposed to predators."

Taylor, however, reports that park staff have seen even nene take flight. "A flock of them were subjected to three quick overflights in a row," he says. "After the first one, they did nothing. After the second one, they scattered. After the third one, they flew out of the area." Taylor says that park staff reported that the nene never did return to that site.

### 'Common Sense'

Richard Wess, manager of the U.S. Fish and Wildlife Service's Hakalau Forest National Wildlife Refuge, acknowledges that there have been no rigorous scientific studies of the impact of helicopter traffic on birds. Still, he says, it's just "common sense" to think that the helicopters have a detrimental effect.

"We know birds react to loud noises and stimuli that are startling," he said in a recent telephone interview. "We're concerned about helicopter traffic for that reason, particularly during nesting season, when birds are on their nests, either incubating eggs or protecting or feeding their young. When startled, they can jump up quickly, causing eggs or young to fall out of the nest and to break or be lost."

"Also, the loud noise can be a stress and can affect their normal behavior. I don't want to be anthropomorphic, but what you can call the

birds' maternal instincts can get disrupted by stress. They forget to feed their young, to come back to nest. Some of this is speculation, of course. It's difficult to prove."

Helicopter flights over the Hakalau refuge do not occur as frequently as they do over areas in the national park, Wess noted. The refuge is frequently clouded in. "There are no spectacular waterfalls or other scenery—just acres and acres of green forest," he said. Even so, Wess believes that the helicopters are disturbing to the endangered birds of the refuge.

"There's a couple of things about helicopters. First, there's the noise. The *wop-wop-wop-wop* is unnatural and alarming."

Second, Wess said, the fact of any object flying over the birds brings on what he described as the "predator stimulus."

"Hawaiian forest birds have been preyed on in the past by hawks and owls," Wess said. "As the predators fly over, they create a shadow. This, too, is disruptive to the forest birds."

For these reasons, Wess said, he is "leaning towards asking for helicopter overflights to be excluded from the refuge or limited to flying at least 2,000 or more feet above the refuge."

### Studies Elsewhere

Assessments of the impact of aircraft noise on wildlife anywhere are relatively uncommon. One of the consultants who has done them on the mainland is Douglas Gladwin, whose firm, *Sterna fuscata*, is based in Colorado.

In a recent telephone interview, Gladwin said studies had found three basic types of impacts on birds: physiological, behavioral, and reproductive, with all of them somewhat related.

Noise from overflights can trigger such physiological changes as quickened respiratory and heart rates, changes in body chemistry, and damage to hearing. The hearing damage—changes in the threshold levels at which birds can detect noise—may be temporary, but so long as it lasts, can have severe impacts on the affected animal. Mating behavior can be changed, as well as predator-prey relationships.

In the area of behavioral changes, noises have been known to drive birds from their habitat, Gladwin said. "If overflights are frequent enough, they could preclude the birds' use of prime habitat." Birds driven from their habitats are also more likely to be killed or injured while dislocated, he said.

Finally, the impacts of noise on breeding can lead to diminished fertility rates and eventual declines in population, Gladwin said. While there is not a lot of evidence that noise itself kills, "there is evidence that on being disturbed, parents will be driven from their nests and leave their young exposed to

predators," he added.

### The Hir Liss

On the Big Island and on Maui, helicopters regularly carry tourists at virtually tree-top level over areas that are home to rare and endangered birds. Wilderness areas in two national parks—Hawai'i Volcanoes, on the Big Island, and Haleakala, on Maui—are not the only affected areas. Other sensitive areas on the Big Island include the 15,000-acre Hakalau Refuge, the Waipaho Valley National Estuarine Research Reserve, the state's Natural Area Reserves at Pu'u Maka'ala (12,000 acres) adjoining Volcanoes National Park and Pu'u o Unui (10,100 acres), and the new Pu'u Wa'awa's wildlife sanctuary, where the state hopes eventually to be able to reintroduce to the wild captive-raised endangered birds.

On Maui, besides Haleakala National Park, there are the Nature Conservancy's Waikonaui Preserve, adjoining the park, and the lands on West Maui, at Pu'u Kukui, that the Conservancy manages under the state's Natural Area Partnership program for Maui Land and Pineapple Company. The state's 7,900-acre Hanalei Natural Area Reserve is in East Maui, also abutting the national park. The state's West Maui Natural Area Reserve consists of four parcels totaling 6,700 acres.

## "There's speculation that the decline of birds is one of the reasons for the decline of plants."

Among the endangered species of birds found in these areas are the 'akapea, the 'akiapola'au, the Hawai'i creeper, the Maui creeper, the 'io (Hawaiian hawk), the 'o'u, the nene, and the palila (depicted on page 1). On the Big Island, some of the same areas are inhabited by the endangered Hawaiian hoary bat, the state's only native land mammal.

All of these areas also contain native plants, including many that are federally listed as endangered or threatened. Plants cannot, of course, respond to noise in the same fashion as animals, but they nonetheless can be affected. If native birds disappear, the plants can lose their natural pollinators—and thus their ability to reproduce.

According to Wess, manager of the Hakalau Forest National Wildlife Refuge, "It's quite likely that there's a relation between forest birds and endangered plants. In many cases, birds are their normal pollinators. Birds also spread seeds in their droppings."

"There's speculation that the decline of birds is one of the reasons for the decline of plants," Wess added.

**TESTIMONY**  
submitted to

**THE SUBCOMMITTEE ON NATIONAL PARKS,  
FORESTS, AND PUBLIC LANDS**

by

**David J. Leese, Ph.D., Vice President  
Citizens Against Noise**

**November 18, 1993**

Good morning. My name is David Leese. I reside in Hawaii on the island of Maui (2695 Lia Place Haiku, HI 96708) directly beneath an illegal, high-density helicopter flight corridor where upwards of 50 daily low-altitude overflights occur on a route between Haleakala National Park and the Maui Airport. I am here to express my concerns as a private citizen. I am not a paid lobbyist. Travel to Washington has been financed by myself, as well as by the donations of private citizens.

Long ago I chose Maui as my home because of its tranquility, and because of the nearby location of Haleakala National Park, internationally regarded as one of the quietest places on Earth. Since then, the small island of Maui has become saturated with aviation noise, particularly from tour helicopters, over nearly ever square inch of its 728 square miles. There is virtually no place for residents, or tourists, to find auditory

peace except for that space set aside as wilderness in the volcanic crater of Haleakala National Park. Haleakala has traditionally been a place of peace and tranquility, a wild place where one's spirit can be enlarged through the experience of ethereal, absolute silence. Human beings require wildernesses as retreats from the pressure, noise, and pollution of our society. For 23 years I have found that retreat in Haleakala. But recently, as the consequence of an invasion by a plague of flying chain saws, Haleakala has been despoiled, taken from all the people who love it, by noise-polluting profit seekers who have scant concern for the impact of their actions on anything but their bottom line. Haleakala has been befouled by clattering machines, the incessant racket of which is as much an insult and desecration as a boom box would be inside a cathedral.

In 1987 Congress mandated that aviation traffic over Haleakala be limited to a 9,500' AGL minimum ceiling. This regulation is no longer effective because, since 1987, the sheer number of tour overflights of Haleakala has exploded beyond any reasonable proportion. Ten tour helicopter companies, with a fleet of over 30 machines, currently conduct continuous daily operations seven days a week, all year round. This activity is expected to

DOUBLE within ten years. The impact of overflights of the Park is compounded by the size of the Park, one of the smallest in the nation, and by the crater's amphitheater configuration which produces acoustical amplification of any sound above or near it. Three or four helicopters are often overhead at once. To those on the ground - the vast majority of Park users - the sound is deafening. This activity goes on all day, all year round. Many people come to the Park for solitude. They are disappointed if they don't get it. To fulfill the desire of three or four people in a helicopter at the expense of scores on the ground is not fair. The claim which the helicopter operators make about leaving only a "temporary sound footprint" is not accurate. There are often lengthy stretches of time, upwards of an hour, when there is nothing audible inside Haleakala crater except the drone and blade slap of tour helicopters. Current aviation activity has turned a once silent wilderness into something resembling a war zone. The Park Service strictly regulates the nature of use of activities on the ground. Hikers are required to remain on marked trails. Bicycles are prohibited inside Haleakala Crater. Automobiles and buses do not have random access to the Parks. The time has come for the regulation of airborne use. Those who choose to experience the Parks from the air should not be exempt

from the similar restrictions and prohibitions imposed on those who choose the more direct and up-close experience of the Parks on the ground. The legislation currently under review, while incomplete, addresses this problem. I have several things to say in its defense, and some recommendations for its improvement.

The 1916 National Park Service Organic Act and the 1964 Wilderness Act define wilderness as an area "which is protected and managed so as to preserve its natural conditions," and "which has outstanding opportunities for solitude or a primitive and unconfined type of recreation." The 1978 Redwood Amendments to the Organic Act include the following statement pertaining to activities in the Parks: "The authorization of activities shall be construed . . . in the light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established . . . ." Many National Parks are recognized for tangible, historical, and cultural features, others for intangible qualities such as natural quiet, solitude, scenery, sounds of nature, and clear night skies. Regarding actions which compromise these intangible qualities (especially in wilderness areas), the National Park Service's Management Policies

guidelines of 1988 state the following with regard to noise: "Activities causing excessive or unnecessary unnatural sounds in and adjacent to parks, including low-elevation aircraft overflight, will be monitored, and action taken to prevent or minimize unnatural sounds that adversely affect park resources or values or visitors' enjoyment of them. In accordance with 36 Code of Federal Regulations 2.12 the operation of motorized equipment or sound devices that create unreasonable audio disturbance will be prohibited." (Ch 4:18)

H. R. 1696 offers an excellent opportunity to act on the above quoted guideline, and bring control over the operations of tour aviation in Hawaii's National Parks. Contrary to industry protestation, this can be done without adverse economic impact. The modest restrictions which 1696 impose DO NOT ban aviation from Park Lands. With 1696 in effect tourists will continue to enjoy marvelous views of select areas of Park Lands, but tour operators will be required to adopt more sensitive modes of operation.

Finally, I wish to point out that for the handicapped helicopters are not the sole, or even the best, providers of "equal access" to the Parks. For the physically impaired, as well as everyone else, access is

available by bus and by car. Only one car rental company on Maui restricts its cars from being driven to the summit of Haleakala. Hawaii Volcanos National Park is readily accessible by automobile.

It is my hope that the Subcommittee members will recognize the necessity of this legislation and the legitimacy of its attempt to restore ecological quality, peace, and wildness to the National Park lands in the State of Hawaii. It is time to put behind us the recent trend in deregulatory drift, especially regarding the aviation industry. The movement toward lightening the regulatory burden on air carriers has contributed to the serious degradation of the quality of our National Parks. For this legislation to be successful, rewording of it will be necessary 1) to clarify the Hawaii-specific nature of the act, and 2) to put teeth into the enforcement procedures of section 3 and 5 of the act. I recommend the inclusion of language which would empower and require the FAA (or - preferably - the National Park Service) to levy fines on tour operators of \$5,000 and 1 year pilot license suspension for first violations of the provisions of the act, and to levy \$25,000 operator fines for second violations, as well as mandatory and permanent pilot license revocation. This would give the legislation the punch it currently lacks. The FAA, in

conjunction with the EPA, is currently empowered by Title 49 of U. S. Code Section 1431 (attached) to engage in "control and abatement of aircraft noise." H. R. 1696 ought to unambiguously require the FAA and the EPA to engage in this process in a meaningful way. Also, H. R. 1696 ought to require the FAA to carry out the environmental impact studies called for in Department of Transportation document 1051.1D, Chapter 3 (paragraph 37, b), and Appendix 3 (paragraph 3, a). Both these references are attached.

I leave you with the words of the late novelist Wallace Stegner, Sierra Club leader and advocate of wilderness preservation. He stated, some 33 years ago, "I want to speak for the wilderness idea as something that has helped form our character and that has certainly shaped our history as a people. Something will have gone out of us as a people if we ever let the remaining wilderness be destroyed. [The wilderness] can be a means of reassuring ourselves of our sanity as creatures." It is my hope that sanity will prevail here today. Thank you for this chance to testify.

## § 1431. Control and abatement of aircraft noise and sonic boom

### Definitions

(a) For purposes of this section:

(1) The term "FAA" means Administrator of the Federal Aviation Administration.

(2) The term "EPA" means the Administrator of the Environmental Protection Agency.

### Consultations; standards; rules and regulations; aircraft certificates

(b)(1) In order to afford present and future relief and protection to the public health and welfare from aircraft noise and sonic boom, the FAA, after consultation with the Secretary of Transportation and with EPA, shall prescribe and amend standards for the measurement of aircraft noise and sonic boom and shall prescribe and amend such regulations as the FAA may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards and regulations in the issuance, amendment,

modification, suspension, or revocation of any certificate authorized by this subchapter. No exemption with respect to any standard or regulation under this section may be granted under any provision of this chapter unless the FAA shall have consulted with EPA before such exemption is granted, except that if the FAA determines that safety in air commerce or air transportation requires that such an exemption be granted before EPA can be consulted, the FAA shall consult with EPA as soon as practicable after the exemption is granted.

(2) The FAA shall not issue an original type certificate under section 1423(a) of this title for any aircraft for which substantial noise abatement can be achieved by prescribing standards and regulations in accordance with this section, unless he shall have prescribed standards and regulations in accordance with this section which apply to such aircraft and which protect the public from aircraft noise and sonic boom, consistent with the considerations listed in subsection (d) of this section.

Submission of proposed regulations to FAA by EPA; publication; hearing;  
review of prescribed regulations; report and supplemental report

(c)(1) Not earlier than the date of submission of the report required by section 4906 of Title 42, EPA shall submit to the FAA proposed regulations to provide such control and abatement of aircraft noise and sonic boom (including control and abatement through the exercise of any of the FAA's regulatory authority over air commerce or transportation or over aircraft or airport operations) as EPA determines is necessary to protect the public health and welfare. The FAA shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of the date of its submission to the FAA, publish the proposed regulations in a notice of proposed rulemaking. Within sixty days after such publication, the FAA shall commence a hearing at which interested persons shall be afforded an opportunity for oral (as well as written) presentations of data, views, and arguments. Within a reasonable time after the conclusion of such hearing and after consultation with EPA, the FAA shall—

(A) in accordance with subsection (b) of this section, prescribe regulations (i) substantially as they were submitted by EPA, or (ii) which are a modification of the proposed regulations submitted by EPA, or

(B) publish in the Federal Register a notice that it is not prescribing any regulation in response to EPA's submission of proposed regulations, together with a detailed explanation providing reasons for the decision not to prescribe such regulations.

(2) If EPA has reason to believe that the FAA's action with respect to a regulation proposed by EPA under paragraph (1)(A)(ii) or (1)(B) of this subsection does not protect the public health and welfare from aircraft noise or sonic boom, consistent with the considera-

tions listed in subsection (d) of this section, EPA shall consult with the FAA and may request the FAA to review, and report to EPA on, the advisability of prescribing the regulation originally proposed by EPA. Any such request shall be published in the Federal Register and shall include a detailed statement of the information on which it is based. The FAA shall complete the review requested and shall report to EPA within such time as EPA specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The FAA's report shall be accompanied by a detailed statement of the FAA's findings and the reasons for the FAA's conclusions; shall identify any statement filed pursuant to section 4332(2)(C) of Title 42 with respect to such action of the FAA under paragraph (1) of this subsection; and shall specify whether (and where) such statements are available for public inspection. The FAA's report shall be published in the Federal Register, except in a case in which EPA's request proposed specific action to be taken by the FAA, and the FAA's report indicates such action will be taken.

(3) If, in the case of a matter described in paragraph (2) of this subsection with respect to which no statement is required to be filed under such section 4332(2)(C) of Title 42, the report of the FAA indicates that the proposed regulation originally submitted by EPA should not be made, then EPA may request the FAA to file a supplemental report, which shall be published in the Federal Register within such a period as EPA may specify (but such time specified shall not be less than ninety days from the date the request was made), and which shall contain a comparison of (A) the environmental effects (including those which cannot be avoided) of the action actually taken by the FAA in response to EPA's proposed regulations, and (B) EPA's proposed regulations.

**Considerations determinative of standards, rules, and regulations**

(d) In prescribing and amending standards and regulations under this section, the FAA shall—

(1) consider relevant available data relating to aircraft noise and sonic boom, including the results of research, development, testing, and evaluation activities conducted pursuant to this chapter and chapter 23 of this title;

(2) consult with such Federal, State, and interstate agencies as he deems appropriate;

(3) consider whether any proposed standard or regulation is consistent with the highest degree of safety in air commerce or air transportation in the public interest;

(4) consider whether any proposed standard or regulation is economically reasonable, technologically practicable, and appropriate for the particular type of aircraft, aircraft engine, appliance, or certificate to which it will apply; and

(5) consider the extent to which such standard or regulation will contribute to carrying out the purposes of this section.

**Amendment, modification, suspension, or revocation of  
certificate; notice and appeal rights**

(e) In any action to amend, modify, suspend, or revoke a certificate in which violation of aircraft noise or sonic boom standards or regulations is at issue, the certificate holder shall have the same notice and appeal rights as are contained in section 1429 of this title, and in any appeal to the National Transportation Safety Board, the Board may amend, modify, or reverse the order of the FAA if it finds that control or abatement of aircraft noise or sonic boom and the public health and welfare do not require the affirmation of such order, or that such order is not consistent with safety in air commerce or air transportation.

Pub.L. 85-726, Title VI, § 611, as added Pub.L. 90-411, § 1, July 21, 1968, 82 Stat. 395, and amended Pub.L. 92-574, § 7(b), Oct. 27, 1972, 86 Stat. 1239.

**Historical Note**

1972 Amendment. Subsec. (a). Pub.L. 92-574 added subsec. (a). Former subsec. (a) redesignated (b)(1).

Subsec. (b)(1). Pub.L. 92-574 redesignated former subsec. (a) as subsec. (b)(1) and in subsec. (b)(1) as so redesignated added requirement that the Administrator of the Federal Aviation Administration consult with the Administrator of the Environmental Protection Agency before prescribing and amending standards and added provisions for consultation in connection with the grant of exemptions with respect to standards and regulations under this section. Former subsec. (b) redesignated (d).

Subsec. (b)(2). Pub.L. 92-574 added subsec. (b)(2). Former subsec. (b) redesignated (d).

Subsec. (c). Pub.L. 92-574 added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub.L. 92-574 redesignated former subsec. (b) as (d).

Subsec. (e). Pub.L. 92-574 redesignated former subsec. (c) as (e).

Savings Provision. Section 7(c) of Pub.L. 92-574 provided that:

"All—

"(1) standards, rules, and regulations prescribed under section 611 of the Federal Aviation Act of 1958 (this section), and

"(2) exemptions, granted under any provision of the Federal Aviation Act of 1958 [this chapter], with respect to such standards, rules, and regulations, which are in effect on the date of the enactment of this Act [Oct. 27, 1972], shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrator of the Federal Aviation Administration in the exercise of any authority vested in him, by a court of competent jurisdiction, or by operation of law."

**Legislative History.** For legislative history and purpose of Pub.L. 90-411, see 1968 U.S. Code Cong. and Adm. News, p. 2682. See, also, Pub.L. 92-574, 1972 U.S. Code Cong. and Adm. News, p. 4635.

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49 U.S.C. Section 1431

§ 1431. Control and abatement of aircraft noise and sonic boom

[See main volume for text of (a) and (b)]

(c) Submission of proposed regulations to FAA by EPA; publication; hearing; review of prescribed regulations; report and supplemental report

(1) Not earlier than the date of submission of the report required by section 4906 of Title 42, EPA shall submit to the FAA proposed regulations to provide such control and abatement of aircraft noise and sonic boom (including control and abatement through the exercise of any of the FAA's regulatory authority over air commerce or transportation or over aircraft or airport operations) as EPA determines is necessary to protect the public health and welfare. The FAA shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of the date of its submission to the FAA, publish the proposed regulations in a notice of proposed rulemaking. Within sixty days after such publication, the FAA shall commence a hearing at which interested persons shall be afforded an opportunity for oral (as well as written) presentations of data, views, and arguments. Within ninety days after the conclusion of such hearing and after consultation with EPA, the FAA shall—

(A) in accordance with subsection (b) of this section, prescribe regulations (i) substantially as they were submitted by EPA, or (ii) which are a modification of the proposed regulations submitted by EPA, or

(B) publish in the Federal Register a notice that it is not prescribing any regulation in response to EPA's submission of proposed regulations, together with a detailed explanation providing reasons for the decision not to prescribe such regulations and a detailed analysis of and response to all documentation or other information submitted by the Environmental Protection Agency with such proposed regulations.

[See main volume for text of (2) and (3); (d) and (e)]

(As amended Pub.L. 95-609, § 2, Nov. 8, 1978, 92 Stat. 3080.)

HISTORICAL AND STATUTORY NOTES

1978 Amendment

Subsec. (c)(1). Pub.L. 95-609 substituted "ninety days" for "a reasonable time" in text preceding subpar. (A) and in subpar. (B) added a provision relating to the publication of a detailed analysis of information submitted.

Transfer of Functions

Duties and powers of the Secretary related to aviation safety, except those related to transportation, packaging, marking, or description of hazardous materials, vested in the Secretary by this subchapter to be carried out by the Administrator of the Federal Aviation Administration, see section 106(a)(1) of this title.

For transfer of certain enforcement functions of the Secretary or other official of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office

of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

Joint Study of Aircraft Noise Effects

Section 2 of Pub.L. 95-609 provided for a joint study by the Secretary of Transportation and Administrator of the Environmental Protection Agency of aircraft noise effects from an airport on communities located in a State other than the State in which the airport is located, set forth criteria and consultative requirements, and required the study to be submitted to Congress within nine months of conclusion, but no later than 24 months after Nov. 8, 1978.

Legislative History

For legislative history and purpose of Pub.L. 95-609, see 1978 U.S. Code Cong. and Adm. News, p. 7569.

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(7) Has a significant impact on air quality or violates the standards for air quality of the Environmental Protection Agency or an affected locality or State.

(8) Has a significant impact on water quality or may contaminate a public water supply system.

(9) Is inconsistent with an Federal, State, or local law or determination relating to the environment.

(10) Directly or indirectly affects human beings by creating a significant impact on the environment.

(11) Has a significant impact on prime or unique farmlands or farmlands of state or local importance.

b. An EIS is required not only when the impact of the proposed project itself is significant, but also when the cumulative impact of the proposed project and other past, present and reasonably foreseeable future actions is significant. A series of actions considered on an individual bases may have a limited environmental impact, yet, when considered together, may have a significant, cumulative impact.

(1) If approval of the proposed action would permit further contemplated actions, the impacts of those contemplated actions and the proposed action must both be considered in determining whether to prepare an EIS.

(2) The actions which are related to the proposed action may be undertaken by any Federal or non-Federal agency or person.

(3) If an EIS is required because of the cumulative impact of the proposed action and future, related actions, no commitment may be made with respect to the future actions prior to the processing of the EIS if such commitment would foreclose or limit the choice of alternatives or mitigating measures which may be taken. (See CEQ sec. 1506.1).

c. In case of doubt as to whether an EIS is necessary for a particular action, the responsible official or program officer should consult with AEE-1 and AGC-1. Regional Airport Divisions consultation under Order 5050.4 should be with APP-600.

### 38. OVERVIEW OF ENVIRONMENTAL ACTIONS.

a. The process for consideration of the environmental effects of a proposed action involves a number of steps, beginning with assessment by the FAA or applicant of actions not categorically excluded. The relative responsibilities of the FAA are summarized in the following paragraphs.

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Appendix 3APPENDIX 3. AIR TRAFFIC1. ENVIRONMENTAL RESPONSIBILITIES.

a. Regional Offices. Responsibility for environmental assessment and preparation of EIS's and FONSI's may be delegated to field facilities or retained within the regional office, with assistance from the field facilities. Regional offices and field facilities shall provide input to an environmental assessment when requested by Air Traffic (AAT), Air Traffic Operations Service (ATO), Air Traffic Plans and Requirements Service (ATR) or other services.

b. Headquarters. The office originating the proposed systemwide action is responsible for making environmental assessments and preparing the FONSI's and EIS's. Input may be requested from regional offices and field facilities for an action originating within headquarters.

2. ENVIRONMENTAL IMPACT STATEMENT OR FINDINGS OF NO SIGNIFICANT IMPACT. After completion of the environmental assessment (including noise analyses), the responsible official will determine whether the proposed procedure will require an EIS or FONSI or is categorically excluded.

3. ACTIONS SUBJECT TO ENVIRONMENTAL ASSESSMENTS AND PROCEDURES. The following actions are subject to environmental assessment and preparation of an EIS or FONSI.

a. New or revised air traffic control procedures which routinely route air traffic over noise sensitive areas at less than 3,000 feet ABOVE GROUND LEVEL. X

b. Special use airspace if the floor of the proposed area is below 3,000 feet ABOVE GROUND LEVEL or if supersonic flight is anticipated at any altitude. This airspace shall not be designated, established, or modified until:

(1) The notice (NPRM or non-rule circular) contains a statement supplied by the requesting or using agency that they will serve as lead agency for purposes of compliance with NEPA; (e.g., restricted airspace for military use);

(2) The notice contains the name and address, supplied by the requesting or using agency, of the office representing the agency to which comments on the environmental aspects can be addressed (applicable only if an EIS is to be filed by the requesting agency);

(3) The notice contains the name and address, supplied by the requesting or using agency, of the office representing the agency to which comments on any land use problems can be addressed (applicable only if special use airspace extends to the surface); and

November 18, 1993

Subcommittee on National Parks, Forests and Public Lands, House  
Committee on Natural Resources

TESTIMONY ON H.R. 1696, A BILL TO PROVIDE FOR THE REGULATION OF  
AIRSPACE OVER NATIONAL PARK SYSTEM LANDS IN THE STATE OF HAWAII  
BY THE FEDERAL AVIATION ADMINISTRATION AND THE NATIONAL PARK  
SERVICE, AND FOR OTHER PURPOSES.

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Mr. Chairman and Subcommittee Members;

I am Bob DeCamp, President of the HAWAII HELICOPTER OPERATORS ASSOCIATION (H.H.O.A.). On behalf of our members, I want to thank you for the opportunity to speak to the Committee regarding H.R. 1696.

H.H.O.A. represents 87% of the helicopter tour companies which operate 93% of the tour helicopters statewide. Membership has grown steadily since H.H.O.A.'s inception in 1987. We now include 100% of the companies on the islands of Maui and Hawaii, which H.R. 1696 would effect. Prior to Hurricane Iniki last year, the helicopter tour industry in Hawaii employed about 1000 people directly and carried about 500,000 passengers annually.

Over the years, the effects of overflights have been of concern to the community. In response, the industry implemented voluntary "Fly Neighborly" programs starting as early as 1985. The programs were based upon the original "Fly Neighborly" concept developed by the HELICOPTER ASSOCIATION INTERNATIONAL (HAI). H.H.O.A.'s Mandatory Fly Neighborly Program is the first of its kind in the country, with legally binding contractual agreements between the association and its members, along with similar agreements between members and their pilots. It was developed in 1990 by a consensus building process which included representatives of industry, FAA, State DOT, HAI, AOPA, federal, state, and county elected officials, citizen representatives from each island, the Sierra Club, and others.

After much deliberation, taking such factors into account as the sound duration, the sound level, visual impact, prominent weather conditions, terrain, etc., a formula for the Mandatory Program was agreed upon. It's important to note that this was not an industry formulated plan, but one which the industry participated in developing and ultimately agreed to.

It is a revolutionary concept, and though there is always room to improve, the program is highly regarded by local and national officials (see attached letter from Maui Mayor Linda Crockett

Lingle). Many residents have complimented its achievements. The voluntary and mandatory programs have twice won the HAI Community Service Award. I mention all of this to illustrate that the industry has been taking a proactive approach for many years, and we intend to continue doing so. No program will satisfy everyone, but the Mandatory Fly Neighborly Program is designed to minimize the effects of tour overflights to a reasonable degree.

I turn now to describe the circumstances which prompted the legislation we are discussing today. The chief cause stems from difficulties experienced on the "Big Island" of Hawaii since last year. It was perceived by some that helicopter tours were "thoughtless", that they were "invading people's privacy" and "violating their rights". What caused this perception?

There were two key reasons. First, our program on the Big Island was not living up to what we or the community desired. Second, people have not been adequately distinguishing between tour flights and those of DEA, police, NPS, private and others.

Before I describe what caused our program on the Big Island to struggle and what we've done about it, I'd like to comment on the tremendous amount of non-tour flights, with which we are often unfairly grouped. There are a variety of other helicopters operating on the Island of Hawaii, including military, DEA, National Guard, state Department of Land Natural Resources (DLNR), county, and private aircraft. Some of the tour operators also fly non-tour activities, such as line checks for utilities, search and rescue missions, and professional photography flights.

A recent survey conducted by the FAA showed some astonishing numbers of DEA and other non-tour flights. Their figures show that the Drug Interdiction program on the Big Island (using helicopters from DEA, Army, National Guard, and tour operators as civilian contractors) consists of about 506 flight hours per month during about 218 flights. When the various other missions are added (police vice, state DLNR, USGS survey teams, and National Park Service), the total is approximately 639 hours and 284 flights, most of which are "rural and remote areas where marijuana is grown centered in the Puna District". That averages about 10 flights and more than 20 flight hours per day! And that doesn't even include the military helicopters on directed missions or training flights. I've provided a sampling of news articles relating to the marijuana topic.

With so many DEA flights, it's no wonder citizens are tired of helicopter overflights in that area, but it's not fair to attribute the problem to tour helicopters. DEA flights are by their nature very intrusive. For obvious reasons, pilots hover around, "up close and personal", for long periods of time, searching and eradicating. On the other hand, tour flights are on a strict schedule and have no time or desire to hover around

residential areas. They want to get to the remote scenic areas to maximize the passengers' enjoyment. I mention this because an important facet of Representative Mink's purpose for this legislation is to keep Hawaii "free from the noise and invasion of privacy of tour helicopters" that "residents beneath the flight paths" experience. Unfortunately, H.R. 1696 would not accomplish this goal, as it does not address community overflights by tour, DEA, military, or other non-tour aircraft.

Now, what caused our program on the Big Island to stumble? An unfortunate series of events contributed to the program's woes.

1. In August, '92, our Helpline Representative for the Big Island, who was very experienced and was doing a good job of investigating and resolving problems, moved from Hawaii. Her replacement was hampered by being less experienced and by the effects of some of the following items.
2. In September, '92, Hurricane Iniki closed down Kauai, causing many visitors to move their trips to other islands. This caused an increase in the number of helicopter tours on the Big Island. Additionally, Kauai companies moved their operations there in order to survive.
3. Since the second half of '92, five additional companies started up on the Big Island, a doubling of the industry which multiplied the number of tour flights. A good portion of the tours originate in Hilo and proceed to the Puu Oo Vent, causing overflights of residences in the Puna District.
4. Hurricane Iniki wiped out more than a third of H.H.O.A.'s operating revenues, as every member on Kauai was (temporarily) out of business due to damage and/or lack of visitors. We did not bill them for a full year, and now it is so only partially. This sudden decrease in funds placed a strain on all H.H.O.A. programs, including the Big Island Helpline. Unfortunately, this was at the precise time when business increased on the Big Island.
5. The industry experienced an abnormal number of accidents on the Big Island in late '92, early '93. Accidents always heighten community awareness, which in turn increases annoyance levels (or decreases acceptance levels). I should mention that despite the aberration on the Big Island in '92, our statewide safety record was still better than the helicopter industry as a whole.

The accident anomaly combined with increased traffic and decreased resources intensified unresolved problems on the Big Island. Our original '92 plan was unable to cope with the unusual circumstances. In fairness to the operators and pilots,

we know that many of them did a fine job of following the program, despite our inability to monitor it as well as we would have liked. On the other hand, we know that there were infractions that we could not substantiate, and the ability to measure compliance is a key ingredient in the success of our program.

Other problems with our program and their respective solutions are as follows:

**Problem:** Insufficient regular communication between operators and pilots themselves and between operators, pilots and the public.

**Solution:** Unlike Kauai, Maui, and Oahu where operators are all located on one airport or are reasonably close, it is difficult to get all Big Island operators/pilots to meetings when they are held on either side of the island. To correct this, H.H.O.A. has elected co-directors for the Big Island, instead of the usual single director. The co-directors, one for east-side and one for west-side operators, coordinate issues and then conduct separate meetings on their side of the island. Members of the public are invited to convey their concerns at these meetings.

**Problem:** No Helpline representative located on the Big Island.

**Solution:** A Helpline representative is now located on the Big Island. The representative monitors overflights and communicates with operators/pilots and the public to resolve complaints.

**Problem:** Insufficient direct monitoring of flights.

**Solution:** In addition to the Big Island Helpline representative who will spend a great deal of time monitoring flights, H.H.O.A. is testing an innovative new technology known as a Nuisance Abatement Performance Evaluation System (NAPES). Over two years ago, the industry initiated the process of finding, designing, and funding the testing and use of this system, which will vastly improve our ability to monitor the Fly Neighborly Program. Utilizing the national satellite Global Positioning System (GPS), NAPES electronically indicates the latitude, longitude, and altitude of aircraft providing a tremendous tool for managing our program. The test began this month.

**Problem:** Because of recent accidents and other factors, many members of the community are under the misimpression

that helicopter flights are unsafe.

Solution: H.H.O.A. is taking measures to inform the public of the safety statistics of helicopter touring in Hawaii. For example, the preliminary figures for accident rates in the year 1992 show that the tour helicopter industry in Hawaii has again done better than the helicopter industry nationwide and general aviation.

1992 ACCIDENT RATE PER 100,000 FLIGHT HOURS (PRELIMINARY)

GENERAL AVIATION - 7.15

HELICOPTERS, NATIONALLY - 6.9

TOUR HELICOPTERS, HAWAII - 4.2

Problem: Some residents have difficulty identifying which company they wish to lodge a complaint against.

Solution: Operators on the Big Island are now displaying large, two foot numbers, letters, or symbols on the underside of their aircraft to enhance identification. See attached photo.

Problem: Hawaii Volcanos National Park had deep concerns about helicopter tour overflight safety and nuisance issues.

Solution: We are awaiting final review by NPS on an agreement which addresses the NPS's concerns with specificity, rather than the broad brush approach within H.R. 1696.

We ask that this Committee not support H.R. 1696, for the following reasons:

1. The Bill does not address the concerns of the community regarding overflights of residences. It will, without question, increase overflights of populated areas by surviving companies.
2. The Bill circumvents Federal Law 100-91, which is already in place and which is addressing the issues relating to Volcanoes National Park and Haleakala. Its findings will be out early next year.
3. H.H.O.A., the NPS and the FAA are currently in final negotiations of an agreement which addresses the concerns of the parties. It is expected to be finalized by the end of this year.
4. Many people are unable to view the parks in any other way, due to physical disabilities and inabilities, and

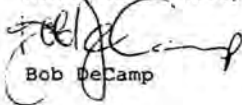
often time constraints. Helicopters help the parks provide equal access, as businesses are required to do under the Americans with Disabilities Act of 1990.

5. Only about 2000 people per year go "backwoods hiking" into the remote areas of Volcanos National Park. Over 85,000 saw it by helicopter in 1992. To severely reduce or eliminate their ability to do so, as would be the case with H.R. 1696, would be a gross injustice.
6. H.H.O.A. is taking steps to resolve issues of concern to the Big Island community, as it has done successfully on other islands, and which H.R. 1696 does not address.
7. If H.R. 1696 becomes law, it will diminish tour quality and reduce competitiveness with other industries and therefore demand. This could have a devastating effect on some tour companies, forcing some out of business, meaning a loss of many jobs and tax revenues.
8. The Hawaii County Council voted against support of H.R. 1696 because, among other reasons, "some of the regulations are too extreme". We concur.

In closing, I would like to point out that all of the steps H.H.O.A. members have taken over the years to mitigate nuisance problems relating to helicopter tour overflights have been taken by the industry without FAA regulation or legislation. Contrary to what a small, vocal, organized group would have you believe, our programs are quite effective. They don't satisfy all the people all the time, but they are the product of a cooperative effort between interested parties. When fully functional, they resolve the vast majority of nuisance concerns of the entire population. Now, with our improving relationship with the NPS, we will be applying the same principles to parks and wilderness areas. H.R. 1696 is premature if at all necessary.

Thank you for this opportunity to address this committee. I will be happy to answer any questions you may have.

Aloha and Mahalo,



Bob DeCamp

HH1696.1

LINDA CROCKETT LINGLE  
Mayor  
TELEPHONE 243-7655



OFFICE OF THE MAYOR  
COUNTY OF MAUI  
WAILUKU, MAUI, HAWAII 96793

April 16, 1993

Mr. Bob DeCamp, President  
Hawaii Helicopter Operators Association  
120 Kapauiui Place, Suite 214  
Honolulu, Hawaii 96819

Dear Mr. DeCamp:

I would like to commend your Association's efforts on Maui. Over the years, helicopter operators have made a concerted and well-rounded effort to become better members of the Maui community. There is no doubt that the HHOA Mandatory Fly Neighborly Program has assisted them greatly in this endeavor. Prior to the program's implementation, it was difficult to monitor pilots' progress toward flying in a neighborly manner. Now, with the program's specific guidelines and telephone helpline for complaints, there is a more accurate means of gauging pilot compliance.

Helicopter tours are known to be enjoyed by many tourists in Hawaii each year. At the same time, our residents have expressed concern about noise from overflights. The HHOA Mandatory Fly Neighborly Program developed a means to channel complaints to those responsible and to restrict flight patterns in sensitive areas. It is a fine example of industry working directly with community.

I encourage you to continue this program and to continue your dialogue with the community regarding your program and their concerns.

Sincerely,

  
LINDA CROCKETT LINGLE  
Mayor, County of Maui

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**TOUR AIRCRAFT WITH VOLUNTARY TWO FOOT NUMBER ON  
UNDERSIDE, FOR IMPROVED IDENTIFICATION**

## Big Isle pot-raid debate continues

HILO, Hawaii — Backers and foes of helicopter-borne marijuana raids Tuesday continued their debate before the Hawaii County Council's Finance Committee.

A dozen policemen, representing all four counties, testified in favor of the raids by the federal, state and county governments.

Hawaii County Assistant Po-

lice Chief Glenn Todd said if the suppression effort is lessened, marijuana growers and shippers "will come back" to their higher production levels.

But a pro-marijuana group threatening to seek the impeachment of five Council members who support the raids said the raids have been a failure.

Group spokesman Dwight

Kondo added his contention that a successful eradication effort would only steer people to more dangerous drugs.

No action was taken Tuesday as the Finance Committee received but took no action on a copy of police policies and rules for helicopter operations provided by Chief Victor Viera at Councilman Keola Childs' request.

### Puna pot plants zapped

HILO, Hawaii — State enforcement officers destroyed 9,976 marijuana plants in the Puna district Monday and yesterday.

Lenny Terlep, Hawaii District chief of the division of Conservation and Resources Enforcement, said the plants were from seedlings to eight feet and sprayed with a biodegradable herbicide.

Terlep said Big Island and Honolulu police, the National Park Service, the Drug Enforcement Administration and Army were working together on the sweep, which is expected to "continue for several more days."

Terlep said the state operation makes "every effort to avoid flying over any homes."

He said the noise inconvenience "is only temporary until such time as marijuana is no longer grown on state lands."

### 9,976 plants eradicated

Law enforcement officers eradicated nearly 10,000 marijuana plants from state lands in Puna during the first two days of Operation Wipeout 24.

Lenny Terlep, Department of Land and Natural Resources district chief of Division of Conservation and Resources Enforcement (DOCARE), said the 9,976 plants ranged from seedlings to eight feet tall.

The operation uses a helicopter fitted with a spraying device that applies a biodegradable herbicide, glyphosate, directly to targeted marijuana plants.

DLNR and the Police Department have received noise complaints from area residents and are trying to avoid flying over homes, Terlep said.

"Sometimes we have to fly over residences while traveling from one area to another and we fly above 500 feet," he said. "The inconvenience is only temporary until such time as marijuana is no longer grown on state lands."

In addition to DOCARE, officers from several agencies are participating in the operation, including Hawaii County Police Department, Honolulu Police Department, National Park Service, U.S. Army and Drug Enforcement Administration.

Operation Wipeout 24 is scheduled to continue for several more days.

### Police recover 3,441 pot plants

Police seized 3,441 marijuana plants during eradication efforts yesterday in the districts of Hilo and Puna.

The operations were centered in Kaumana and Volcano and in the Orchidland, Hawaiian Acres and Eden Roc subdivisions.

Assisting police were enforcement officers from the state Department of Land and Natural Resources.

In a related matter, Vice Lt. Charles Chai said three complaints of excessive helicopter noise were received during yesterday's operation. Chai said helicopters creating "unnecessary disturbances" may be reported to him at 961-2253.

### More pot raids reported

HILO, Hawaii — Big Island police yesterday ended two days of helicopter marijuana raids in Hilo and Puna, destroying 4,427 plants.

The raids produced no arrests, weapons or booty traps.

Police Lt. Charles Chai said several Puna subdivisions plus the Kaumana, Panaewa, Pihonua and Keaukaha neighborhoods of Hilo were searched for marijuana plants.

Plants seized ranged from seedlings to six feet tall.

Big Island police were assisted by state Department of Land and Natural Resources enforcement officers.

## POLICE BEAT

JUL 1 1993

Big Isle pot sweep  
nets 36,060 plants

HILO, Hawaii — In the third day of their ongoing "marijuana maintenance mission," Big Island police destroyed 8,310 marijuana plants and arrested three people in Volcano Friday afternoon.

The raids that began Wednesday have now resulted in pulling up or poisoning of 36,060 plants from Puna to Hamakua, police said. Plants ranged from seedlings to 9 feet.

In Volcano, they arrested, but did not charge, a man and a woman, each 36, when police found 72 marijuana plants on their property and later seized

11.8 grams of cocaine, two firearms and drug paraphernalia.

A 14-year-old girl also was arrested but not charged.

The raids were supported by Honolulu Police Department and U.S. Army units on Friday. Federal Drug Enforcement Administration agents were involved the first two days.

## Big Isle police arrest 3 on pot charges

HILO — Police arrested two adults and a teenager during the third day of a marijuana-eradication mission yesterday, they said. They also destroyed 8,310 plants in the Puna, Hilo, and Hamakua areas.

Police arrested a 36-year-old man, a 36-year-old woman, and a 14-year-old girl in Volcano after 72 plants were found growing on their property.

Police also found about 12 grams of cocaine, drug paraphernalia, and two firearms in the house. The suspects were released pending grand jury action.

Police arrested two men in Kalapana and Hawaiian Acres on Wednesday and recovered a 12-gauge shotgun.

The three-day total for the eradication was 36,060 plants, some of which were seized and others poisoned in the field.

Big Island police were assisted by Honolulu police and the U.S. Army.

## Big Isle marijuana raids

HILO, Hawaii — State-led marijuana raiders claimed 162,161 plants during "Operation Wipeout 21" that ended yesterday in Kona.

Lenny Terlep, Hawaii District chief of the state Department of Land and Natural Resources' Conservation and Resources Enforcement Division, said the raids seized plants in five districts — North Kona, South Kona, Hamakua, North Kohala and North Hilo.

The plants were yanked out by hand or killed by aerial herbicide spraying.

JUL 2 4 1993

A8 Friday, July 16, 1993 The Honolulu Advertiser

Big Isle marijuana  
raids net two arrests

HILO, Hawaii — Big Island police conducting marijuana raids in three districts Tuesday arrested two Puna men, destroyed 14,515 plants and discovered marijuana growing in Hamakua Sugar Co. fields in Honokaa.

Police hit six Puna subdivisions, including Royal Gardens, Honokaa and Panaewa outside of Hilo.

They said the plants ranged from seedlings to eight feet.

Lt. Charles Chal, describing the operation as a "maintenance mission," said a 37-year-old man was arrested at Kalapana Black Sand subdivision for drug and firearm violations.

Thirty-five plants and a 12-gauge shotgun were seized as well as dried marijuana and drug paraphernalia.

A 38-year-old Hawaii Acres subdivision man was arrested for allegedly possessing 135 plants, dried marijuana and drug paraphernalia.

Both were released pending formal charges by the prosecutor.

Three search warrants were served but no one was home at a Hawaiian Paradise Park home where 25 plants from 1 to 4 feet were seized.

The police were joined by Honolulu police, the U.S. Army and federal Drug Enforcement Administration.

## More marijuana plants seized

Police seized 5,125 marijuana plants yesterday, bringing the total number of illicit plants destroyed to 9,597 over two consecutive days of eradication efforts.

AUG X 4 1993

Police said the plants seized in the areas of Pepeckeo, Puao, Honoumuli and Hakalau ranged from one to 10 feet in height. Assisting Big Island police in the effort were the Honolulu Police Department, U.S. Drug Enforcement Administration and the Hawaii Army National Guard.

## Police seize 4,472 pot plants

A marijuana eradication effort yesterday resulted in the destruction or seizure of 4,472 marijuana plants in the districts of Puao, Hilo and Hamakua.

AUG X 5 1993

Police said the mission focused on the areas of Keau, Hawaiian Paradise Park, Alinaloa, Hawaiian Acres, Wainaku, Pepeckeo, Hakalau, Honoumuli, Kukuhaele, Pauilo and Ookaia. Participants included the Big Island and Honolulu police departments, the Drug Enforcement Administration and the Hawaii Army National Guard.

AUG X 6 1993

## POLICE BEAT

### Second raid bags 62,629 pot plants

HILO, Hawaii — A second, previously unpublicized drive against marijuana farmers on the Big Island netted 62,629 plants by state Land Department officials during four days of raids.

Officials said that from Monday through yesterday his state officers with help from the National Guard, Drug Enforcement Agency and Big Island and Honolulu police destroyed the plants in several districts, including Puao and North and South Hilo.

The plants ranged from seedlings to 12 feet and most were destroyed by biodegradable herbicide.

## Pot raids nab 14,064 plants

AUG X 5 1993

HILO, Hawaii — Big Island police, backed by federal and Honolulu authorities, ended three days of marijuana raids by destroying another 14,067 pot plants yesterday.

The "maintenance mission" focused on areas north of Hilo — Paukaa, Pepeckeo, Honoumuli, Hakalau, Waipunalai and Kukuhaele.

Police said they seized plants ranging from seedlings to those 15 feet tall.

There were no arrests and no seizures of weapons.

The enforcement program was aimed at seizing plants before they are harvested. Big Island police were aided by military and federal Drug Enforcement Administration agents.

Over three days, 14,064 plants were cut, yanked out or sprayed with herbicide.

## Police destroy marijuana

Police reported Wednesday that on the last day of a three-day marijuana eradication effort, 4,467 marijuana plants were destroyed.

The plants ranged in height from seedlings to 15 feet tall and herbicide spray was used on plants not uprooted.

Wednesday's operation focused on the Paukaa, Pepeckeo, Honoumuli, Hakalau, Waipunalai and Kukuhaele areas.

Honolulu Police Department, Drug Enforcement Administration and Hawaii National Guard personnel assisted Big Island police in the effort that netted 14,064 plants over three days.

AUG X 5 1993

# Council OKs pot eradication funds

Opponents say they'll petition to impeach supporters



By Gordon Y.K. Pang, Sept. 3, 1993  
Herald-Examiner

A \$22,500 state appropriation to fight the marijuana drug war was given final approval by the County Council yesterday.

But those opposed to the government effort issued a stern warning that they would begin impeachment proceedings against the seven Council members voting for the support money.

About 70 people, many of them advocating the legalization of marijuana, watched the morning proceedings. Testimony against accepting the funds came from 38 people. One person spoke in favor of eradication.

Accepting federal and state money to help Green Harvest and other drug-destroying operations is not new. In fact, the latest entitlement is only an addition to more than \$200,000 the county is already getting during the current fiscal year.

But rarely, at least in recent years, had there been as big a display of opposition as during the past few months, yesterday

**AARON ANDERSON**  
... opposed to pot eradication in particular.

Aaron Anderson, a former Libertarian candidate for mayor, said the drug war has been taking place "at enormous cost" with little to show for it. He demanded that the Council review the drug eradication program since the County Charter states that all programs must be reviewed every four years.

"I have the right to partake of the spiritual herb marijuana, through our inalienable rights of

See COUNCIL, Page 8

## More than 2,000 plants seized

More than 2,000 marijuana plants were seized by police yesterday in Puna.

The eradication mission was focused in Fern Acres, Volcano and Royal Hawaiian Estates.

A total of 2,803 plants up to 10 feet during the effort. Police received a complaint of helicopter.

Police Lt. Charles Chai said the public should call him at 961-2253 if helicopters make unnecessary noise.

Members of the U.S. Army assisted county police in the mission.

## Police seize 4,425 pot plants

Police carrying out marijuana eradication efforts in East Hawaii the past two days seized or destroyed 4,425 illicit plants.

The plants, which ranged in height from seedlings to 12 feet tall, were found in the districts of Kā'u, Puna, Hilo and North Hilo. The "marijuana maintenance mission" focused on the areas of Naalehu, Pahala, Hawaiian Acres, Fern Acres, Waialea Housechots, Pihoonua, Papaikou, Pepeekeo, Hakalau and Ninole.

Police also used warrants to search two homes in Hawaiian Acres. At one home they arrested a 49-year-old man and seized 17 marijuana plants up to 6 feet tall. At the other house 52 marijuana plants up to 3½ feet tall were recovered.

Assisting police were the Honolulu Police Department, Hawaii Army National Guard, U.S. Marshall's Office and the Drug Enforcement Administration.

## Big Island Briefs

AUG 20 1993

### Police pull up pakalolo

Nearly 10,000 marijuana plants, ranging in size from seedlings to 10 feet tall, were seized during police raids in Puna, South Hilo and North Hilo subdivisions on Wednesday.

Police destroyed 9,282 plants in the Fern Acres, Mountain View, Pihoonua, Paukaa, Papaikou, Waipunaiei, Ookala and Ninole areas, according to reports.

Herbicide was applied to many of the plants.

Personnel from the Hawaii County Police Department, Honolulu Police Department, the Drug Enforcement Administration, the U.S. Army and the Hawaii Army National Guard participated in the ongoing eradication efforts.

The Honolulu Advertiser Friday, August 20, 1993 A7

### 16,000 plants destroyed in Hilo, Puna marijuana raids

HILO, Hawaii — Big Island police vice squad raiders said they destroyed another 6,500 or more marijuana plants in Hilo and Puna yesterday.

That brought the two-day haul in the ongoing "marijuana maintenance operation" to nearly 16,000 plants — ranging from seedlings to 10 feet.

The areas covered included Puna subdivisions on the south to both active and

"rubbish cane" fields on the north. Most of the plants were sprayed with a herbicide, eliminating the need to airlift the stalks and burn or bury the plants.

Seven areas were attacked during the two-day, federally funded operation.

Honolulu police, federal Drug Enforcement Administration agents, the Army and Hawaii National Guard supported Big Island police.

### Marijuana raid nets 9,282 plants

Big Island police led a "marijuana maintenance operation" in the districts of Puna, South Hilo and North Hilo yesterday. The operation concentrated on Fern Acres, Mountain View, Pihoonua, Paukaa, Papaikou, Waipunaiei, Ookala and Ninole.

Plants found in canefields along the Hilo and Hamakua coasts were destroyed by herbicide, according to Vice Lt. Charles Chai.

Joining police in the operation were officials from the Honolulu Police Department, the federal Drug Enforcement Administration, the U.S. Army and the Hawaii Army National Guard.

# Operation Wipeout hits Puna marijuana

By Hugh Clark

Advertiser Big Island Bureau

HILLO, Hawaii — State officials yesterday said they destroyed an estimated \$62.5 million in marijuana plants that were seized yesterday in the first day of Operation Wipeout 19 in Puna.

Lenny Terlep, chief of the Department of Land and Natural Resources' Division of Conservation and Resources Enforcement, said 12,500 plants, estimated to have a street value of \$5,000 per plant, were destroyed.

Among the seizures were a greenhouse and several seed boxes in the Puna Forest Reserve. Both manual methods and biodegradable herbicide were used to destroy the

plants. Terlep said he was surprised by the amount of plants that were planted in previously cultivated areas as well as newly cleared patches.

He called the growers "persistent. When they clear patches to cultivate marijuana, they harm the environment because alien species move in and destroy our native plants and animals."

The state was assisted in the



APR 6 1993

POLICE  
BEAT

operation by the Federal Drug Enforcement Administration, U.S. Marshall's Office, Big Island police, National Park Service and National Guard.

## Police uproot more pakalolo

State conservation officers have destroyed 17,500 marijuana plants in the Big Island's Puna Forest Reserve.

Lenny Terlep, Big Island chief of the state Division of Conservation and Resources Management, said the plants were destroyed Monday and Tuesday during the first two days of Operation Wipeout 19.

The plants ranged from seedlings to six-feet, he said.

Officers also destroyed two greenhouses and several seed boxes, he said.

Based on a conservative estimate, the plants potentially were worth \$87.5 million, Terlep said.

Marijuana cultivation harms the environment because alien species move in and destroy native plants and animals, he said.

Operation Wipeout is a cooperative effort of federal, state and county officials.

## 31,410 plants destroyed by DLNR

Big Island enforcement officers last week destroyed 31,410 marijuana plants during Operation Wipeout 13 last week, according to district chief Lenny Terlep.

DOCARE worked with the federal Drug Enforcement Administration, the U.S. Marshall's Office, the National Park Service, the National Guard and county police on the operation which centered in Puna and Ks'u.

Manual and aerial eradication tactics were employed, Terlep said.

November 18, 1993

**Subcommittee on National Parks, Forests and Public Lands, House  
Committee on Natural Resources**

**TESTIMONY ON H.R. 1696, A BILL TO PROVIDE FOR THE REGULATION  
OF AIRSPACE OVER NATIONAL PARK SYSTEMS LANDS ON THE STATE  
OF HAWAII BY THE FEDERAL AVIATION ADMINISTRATION AND THE  
NATIONAL PARK SERVICE, AND FOR OTHER PURPOSES.**

My name is David Chevalier. I am the HHOA representative for Maui and am one of the founding members. I am also a Vietnam veteran helicopter pilot and part owner of Blue Hawaiian Helicopters along with my wife, Patti, her brother David Griffin and a native Hawaiian, Yvette Kahaulopua, who is also our office manager. We are a small owner-operator as are most of the companies in Hawaii.

Over the years we have worked hard to achieve the goal of harmony between the helicopter tour business and Maui communities. Since 1986 we have sponsored a helicopter noise complaint line called the Helicopter Environmental Liaison Office. A local woman, Stephanie Sakagawa has been our paid representative for the past three years. We advertise our complaint line in the Maui News each week. We want to hear from people if there is a problem. All the helicopter tour companies meet the second Tuesday of each month and we discuss each noise complaint and try to eliminate, or at least alleviate, any negative impacts that we may cause. Community members have always been able to attend these meetings.

The first year of our program we had over 450 complaint calls. To date, this year, we have received less than 50. We have learned that although we can satisfy 98% of the people, there are those who we will never satisfy as long as we operate. We are not perfect but do our utmost to find a solution to every problem. We are completely sincere in our commitment to fly neighborly. It is hurtful and misleading for some of the anti-tourism, anti-helicopter people to portray us as uncaring and unresponsive to community concerns.

Although our organization and efforts are well known, problems with overflights of these national parks has not been brought to us as a serious issue over these past five years until we were blind-sided by HR1696. The National Park Service came to us only once to discuss problems. Ron Nagata, the Air Operations Officer for Haleakala came to one of our meetings about four years ago and asked us to fly further away from the visitor center and avoid direct overflights of the three visitor cabins within Haleakala. We did so.

November 18, 1993

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Subcommittee on National Parks, Forests and Public Lands,  
House Committee on Natural Resources

Before our organization was formed this was a huge issue that we finally addressed with our noise abatement program in 1985. We voluntarily limited our overflight altitude of Haleakala to 8500' and avoided flying near the visitor centers. Public law 100-91 was never-the-less already in the works and soon mandated an altitude of 9500' over the crater! Until the introduction of HR1696 we had heard very little about complaints with park overflights. I believe that this legislation arose out of response to certain, very vocal citizens, concerned about residential overflights. They seem to believe that if we can no longer overfly the place that the tourists want most to see, that we won't be in the air to overfly their house either. In a Citizens Against Noise meeting that I attended six months ago this strategy was specifically discussed. I believe that this is incorrect, and that this legislation would actually increase the concentration of helicopters over residential areas as we are denied access to certain wilderness areas.

You speak of low flying aircraft. We don't have low flying aircraft over Haleakala. The crater floor averages about 6500' elevation which puts our helicopters 3000 feet above possible hikers given the 9500 foot altitude that we are required to maintain. The visitor center sits at the summit at 10,000 feet with a steep trail called sliding sands, leading down to the crater floor. The air at 10,000 is very thin and only those people of robust health are able to hike into it. We avoid flying near sliding sands trail. Most of our operations range from about the center of the crater (which measures 21 miles in circumference) to the far end, opposite that of the visitor centers. Last year over 173,000 people chose to view the crater from a helicopter.

This number is exponentially higher than those that hiked the far-end trails. While we deeply sympathize with those who want total quiet and do our best to alleviate our impacts, there must be some concession made by the few for the benefit of the many.

From a preservation of natural resources point of view consider the impacts from foot traffic throughout Haleakala. The trails show serious erosion. Native vegetation is trampled by foot and trash is often left behind. The national park is under intense pressure to erect yet another structure on the crater rim to accommodate the toilet requirements of the visitors. Stopping helicopters from overflying the park could add another 170,000 more people driving to the rim.

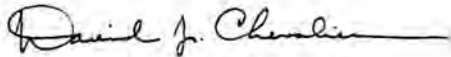
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Subcommittee on National Parks, Forests and Public Lands  
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This legislation is opposed by virtually the entire Hawaii visitor industry, the Maui Chamber of Commerce and the mayor of Maui county. On the basis of equal access precedents alone, how can you legally deny people, who could not physically see it otherwise, from the ability to experience their national park. Why deny anyone the freedom of choice? Rather, work with us to try and develop a solution that would be a win-win for everyone. How could you possibly say that such a solution could not be found when virtually no effort has been made to even try at the local level.

In the past we have asked the National Park Service to advise us of any complaints. If there have been many complaints then they have not informed us of them. Please encourage the National Park Service to work with us, experiment with alternate routes and altitudes, and see if we can reach an accommodation before this heavy handed legislation is imposed.



David Chevalier  
President  
Blue Hawaiian Helicopters



GAC

The Honorable Patsy T. Mink  
Congress of the United States  
House of Representatives  
2135 Rayburn House Office Building  
Washington, D.C. 20515-1102

Subject: H.R. 1696 & H.R.536

Thank you for your letter of July 2nd on this subject.

The Maui Chamber of Commerce is an organization composed of over 1200 businesses on Maui. Contrary to your letter, by vote of our Environmental Affairs Committee, Government Affairs Committee and Board of Directors, the Maui Chamber of Commerce has taken a position in opposition to passage of H.R. 1696. We feel that it threatens the welfare of a \$20,000,000 industry on Maui, employing over 450 residents without sound scientific knowledge of environmental concerns it attempts to address.

The Maui Chamber of Commerce was never ~~consulted~~ by the Maui County Council or Community Associations relative to ~~our~~ views on the above subject and feel that the their apparent communication ~~to you~~ misrepresents our Chamber's position.

The helicopter industry on Maui has made an exemplary effort at voluntary noise mitigation through its fly neighborly campaign over the last several years. This has resulted in the reduction of complaints from over 450 per year to less than 30 to date in 1993. Many of the 30 complaints were from the same individuals who demand absolute quiet as opposed to compromise. We feel that if a similar campaign was conducted on the Big Island, a similar reduction in noise complaints would occur without costly and unnecessary federal regulation. Some complaints relating to Drug Enforcement Agency Flights would however probably occur by necessity and we would encourage the DEA to continue to do so. Pot growers hate helicopters.

Haleakala National Park is enjoyed each year by hundreds of thousands of visitors who tour it by helicopter, including the elderly and disabled who would otherwise not be able to enjoy its beauty. A fraction of this number hike the crater on foot. I personally have done it over 10 times and can attest to its difficulty for even the most physically fit. Hikers can and do transmit into the crater seeds of introduced species which can endanger the native ecosystem. While I can hear the helicopters while hiking, I know and understand that I too impose perhaps a greater impact on the crater as I hike.

Page Two

The industry has ~~self~~<sup>not</sup> imposed a 9500 foot flight level over the crater. The crater floor is at the 6000 to 7500 foot level. Therefore they maintain an elevation of 2000 to 3500 feet over the impacted areas. This is not "thoughtless behavior" as described in your letter.

Personally I do not believe that helicopters are contributing to extinction of native bird life. As you may know the destruction of habitat, invasion by avian diseases borne by mosquitoes, and introduced predators, including humans, contributed to the majority of extinctions in native birds during Hawaii's history hundreds of years ago in most cases. Contrary to conventional hysteria, we are discovering some species thought extinct at the turn of this century, now nesting at Haleakala. While Hawaii is always cited in extinctions statistics, many neglect to identify when, how and by whom those extinctions took place. It began with the first human contact with our islands. A situation which we cannot reverse.

If the intent of the legislation is to reduce noise complaints, I believe it may achieve the opposite result. Redirecting flights by mandate away from the natural wilderness areas would tend to cause flights to be compressed into more populated areas away from the national parks wilderness areas. We would see a rise in complaints from the residential areas of the West Maui Mountains and the slopes of Haleakala outside of the park boundaries which are more populated as the industry tries to comply with the proposed mandates by flying to other areas.

During a time when bankruptcies are at a historic high and many on our island are struggling to maintain their businesses and preserve what viable jobs remain, this legislation appears callous, burdensome, expensive to enforce and out of balance with the difficult realities of our times.

There is also newer technology in the industry being tested in Hawaii today which may prove to be much quieter and resolve many of the complaints cited. It would be a shame to destroy a whole industry based on the complaints of a few. Please reconsider your support of this measure in the interest of preserving jobs and our struggling economy.

Sincerely,

Wayne N. Hedani  
President  
Maui Chamber of Commerce

cc Board of Directors, Maui Chamber of Commerce  
Board of Directors, Maui County Council of Community Associations  
Hawaii Congressional Delegation



## HAWAII VISITORS BUREAU

April 20, 1993

Senator Daniel K. Inouye  
722 Hart Senate Office Bldg.  
Washington, D.C. 20510-1102

Dear Senator,

I wish you to be aware of how concerned I am about proposed legislation which would restrict helicopter flights over Haleakala Crater (HR 1696). I grant that there may be problems which need to be addressed in Volcanoes National Park on the Big Island, but surely the kind of solutions which have so well served Maui vis-a-vis helicopter flyovers of Haleakala could be implemented to good effect on the Big Island. The proposed broad brush Federal legislation is truly the wrong solution at the wrong time.

Maui's helicopter tours represent a critical, and eminently responsible, facet of our struggling visitor industry, and in addition our helicopter operators are valued members of our community who always rise to the occasion whenever there is an emergency. Given the overwhelming importance of the Haleakala flyover to their business, the proposed legislation has the potential to totally destroy \$18 million in Maui flightseeing revenue (\$36 million with multiplier, to say nothing of tax receipts), wither 250 jobs, and as a result erase the volunteer resources which enable Maui's much-praised DMAT (Disaster Medical Assistance Team) to function.

I urge you to seek a local solution to the Big Island's problems and keep the airspace over Hawaii's magnificent national parks free for viewing.

Sincerely,

Roger Dubin  
Executive Director

Thomas L. Thornton, M.D.  
 P.O. Box 745  
 Allen, Texas 75002  
 (214) 727-6494

April 27, 1993

The Honorable Patsy T. Mink  
 United States House of Representatives  
 Second District, Hawaii  
 2135 Rayburn House Office Building  
 Washington, D.C. 20515-1102

Dear Congresswoman Mink:

I have just returned from a three week vacation to Hawaii. It was my first time to return in almost twenty years, having lived on the island of Maui in the late 1970's while teaching at the Community College there and working for the State of Hawaii's Health Department as the Chief of Child and Adolescence Psychiatry at Children's Place, a branch of the Maui Mental Health Department. During my recent vacation, I had the most exhilarating and awe-inspiring experiences of my life in being able to take the Blue Hawaiian Helicopter excursions around the entire island of Maui and over the volcano craters on Hawaii.

I was able to see first-hand portions of the islands I otherwise would never have been able to see and appreciate. I consider myself an active environmentalist and truly believe these helicopter flights have broadened my understanding and appreciation of the fragile splendor and timeless beauty of our nation preserved for all of us in our State and National Parks. President Theodore Roosevelt was indeed a man of great vision and wisdom when he enacted the law establishing our National Park Service to preserve the great beauty of this nation for all generations to come. Thank goodness he had the foresight to define the tracts of land in America's National Parks as public property with a view to its preservation and development for the purpose of recreation and culture.

I was greatly saddened to learn that you are sponsoring a bill to end all helicopter flights over our national parks. I sincerely hope you will reconsider, because an end to such flights will in no way protect the parks, but in fact will isolate them and their glorious heritage from so many Americans. Not only are there portions of our Parks that are entirely inaccessible other than by helicopter, but there are many American citizens and visitors who are disabled, elderly, medically handicapped or restricted, or of too young an age to travel into the accessible areas of the parks on foot. Certain areas, such as the Haleakala Crater on Maui, are already being further isolated by rental car companies that forbid in their rental agreements traveling the road to the crater in their automobiles because of the wear on the brakes. I have had a total front end suspension and brake replacement and have been advised by my physician

not to take long hikes of any type. Restricting helicopter flights over our national parks would prevent my being able to experience their grandeur.

I hope to move back to Hawaii some day in the near future and would be greatly saddened if I could not take my children and grandchildren on helicopter flights over the islands' treasures so they too could experience their heritage that is preserved in all our national parks as President Roosevelt intended. There is so much of our magnificent nation's physical beauty that can never be fully appreciated until viewed in its totality from above - in helicopter flights. If we hope for our children and their children to value our land and view it with reverence and do all in their power to continue to preserve it, we must allow them, all of them, regardless of age or infirmity, the opportunity to experience our national parks for themselves, by every safe means possible.

During my three and a half years of military service in the United States Air Force, I served as a flight surgeon for the 20TH Tactical Fighter Command as a part of our NATO forces in England. As part of my flying requirements, I was expected to fly a minimum of four hours each month in all types of aircraft stationed on my base. This, of course, included flying in the base helicopters which were so vital to all rescue missions. As part of their daily training, the helicopters flew over all parts of the English countryside without a single complaint or suggestion they caused any type of harm or noise that was bothersome to wildlife, people, or farm animals. As a flight surgeon, I was also responsible for monitoring all noise levels, as well as anything else that might prove to be an environmental hazard, and I can assure you from a professional vantage point that the noise from a helicopter represents absolutely no danger to either the flora or fauna in our national parks. This fact is one that can be readily verified by the School of Aerospace Medicine at Brooks Air Force Base in San Antonio, Texas, the American Medical Association, or the Environmental Protection Agency.

I beg you to reconsider your position on helicopter flights over our national parks and to withdraw your bill limiting those flights as well as the restriction on distances helicopters can fly off American shorelines.

If I can be of any further assistance in this matter or in any matter concerning the preservation of our sacred National parks, or Hawaii in particular, please feel free to contact me. I love this country and will participate in any way to preserve its natural beauty and resources for my generation and all generations that follow.

Sincerely,



Thomas L. Thornton, M.D.

cc: President Bill Clinton  
 Vice President Al Gore  
 Speaker of the House of Representatives  
 Secretary of the Interior, Mr. Bruce Babbitt  
 Chairman, Natural Resources Committee, Mr. George Miller  
 Mr. James Ridenour, Director, National Parks and Wildlife  
 Services  
 Senator Lloyd Rentzen  
 Senator Bob Krcuger  
 Senator Phil Gramm  
 Representative Sam Johnson  
 Representative Dick Armey  
 Representative Joe Barton  
 Representative John Bryant  
 Governor Anne Richards, State of Texas  
 Governor John Waihee, State of Hawaii  
 Linda Crockett Lingle, Mayor, County of Maui  
 Mr. Stanley Hong, President, Hawaii Visitors Bureau  
 Mr. Roger Dubin, Executive Director, Maui Visitors Bureau  
 Mr. Ken Johnston, Executive Director, Hawaii Visitors Bureau  
 Tom Kiely, Executive Director Waikiki/Oahu Visitor Assoc.  
 Joan Cutlip, National Director Of Meetings & Conventions  
 Maile Semitekoi, Executive Director, Kauai Visitors Bureau  
 National Headquarters, American Association of Retired  
 Persons  
 Editor, MAUI, This Week Magazine  
 Editor, "Lahaina News"  
 Cheryl Choe Tsutsumi, Editor/Associate Publisher  
The Islands of Aloha  
 Editor, Aloha, The Magazine of Hawaii and the Pacific  
 Peter Dease, Chicago Regional Director, HVB  
 Gene Wilhelm, Los Angeles Regional Director, HVB  
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 Anne Molt, San Francisco Regional Director, HVB  
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 Helena Lee, Hong Kong Regional Director, HVB  
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 Jonathan Sissons, New Zealand Regional Director, HVB  
 Alvina Ang, Singapore Regional Director, HVB  
 Melinda Chiang, Taiwan Regional Director, HVB

JAMES M. RATH  
*Counselor*



COUNTY COUNCIL

County of Hawaii  
 Hawaii County Building  
 25 Aupuni Street  
 Hilo, Hawaii 96720

April 22, 1991

The Honorable Patsy Mink  
 U.S. House of Representatives  
 2135 Rayburn House Office Bldg.  
 Washington, D.C. 20515

Dear Representative Mink:

I want to thank you for your efforts that helped to destroy a 70+ million dollar industry in Hawaii, helicopter and air tours.

On behalf, of over 200 people that will lose their jobs on my Island, I would also like to thank you. They will now, as the Sugar Workers, no longer have to get up and go to work everyday. They can sit in the comfort of their Section 8 Housing, watch daytime TV, and wait for the Welfare Caseworker to stop by.

Your farsightedness in stopping Part 91 operators from being in the Air Tour business has fully eliminated the chance for any local people from starting a small business and growing.

As our historic industries of sugar, cattle, macadamia nut, coffee, fruits and flowers have taken a nose dive, it is nice to know that we are now really working hard on the destruction of tourism.

I can not stress how important it is that the tourist not see the beauty of our Island. We do not want them returning to their homes and causing other people to come. In no way, should they be allowed to see an active volcano from the comfort and safety of a tour helicopter or airplane. This may result in them having "the experience of a lifetime"... and you know how people are...they will tell all their friends, and then we will have to put up with more happy tourists.

The Honorable Patsy Mink  
 April 22, 1993  
 Page Two (2)

In addition, the helicopter tours are causing a great deal of stress for our pot growers. They are living under the constant worry that any helicopter or plane, no matter how far overhead, could be "Operation Greensweep". I am glad you have the vision to realize that this is our number one industry, and that tourism should, rightfully, take a back seat to the pot growing industry.

I am overjoyed that we are restricting airspace. It is critical that we eliminate all freedoms that Americans enjoy. Airspace, as you know, should be totally restricted for birds. Just imagine how great it would be if we could eliminate all aircraft. That most assuredly would put a halt to this bothersome tourism business.

I gleefully await the day when we are all either government workers or supported by the government. All this business is really bothersome and unhealthy.

I applaud you in ignoring the statistics for Tour Helicopter safety. Please, Patsy, don't ever let it come out that this is one of the safest things you can do on vacation.

Viva the Revolution!

With best regards,

  
 Sam Rath  
 COUNCILMAN

P.S. Hope you don't mind a bit of humor!!!

# Plan to restrict copters on Big Isle rejected

By Hugh Clark

Advertiser Big Island Bureau

HILO, Hawaii — The Hawaii County Council yesterday killed a resolution backing a federal bill proposed by U.S. Rep. Patsy Mink to restrict helicopter flights over Hawaii Volcanoes National Park.

The resolution, introduced by Councilwomen Keiko Bonk-Abramson and Helene Hale, was rejected on a 7-2 vote after heated debate with their sometime allies, Kona Republicans Jim Rath and Keola Childs.

Rath, a pilot who was accused by Bonk-Abramson of a conflict of interest, said the Mink bill represented "crazy

over-regulation." He said what is needed to curb abuses by tour pilots is better Federal Aviation Administration regulation.

Childs called the Mink bill a "sledgehammer" approach. He said lack of FAA presence on the Big Island is the problem.

Voting for the resolution were Bonk-Abramson and Hale, and voting against were Rath, Childs, Brian De Lima, Kalani Schutte, James Arakaki, Tadashi Domingo, and Bob Rosehill.

Hale said she was embarrassed that her five Democratic male colleagues were abandoning Mink. De Lima shot back that he was not a knee-jerk partisan and was voting his

conscience.

Supporters of the resolution were dismayed by the vote, saying that informal agreements between helicopter companies and the national park to restrict flights over the park have been unenforceable.

De Lima said the Council is interested in passenger safety, but believes an earlier resolution urging the industry to work out a compromise with the national park is sufficient to deal with the problem.

But Dan Taylor, acting park superintendent of Hawaii Volcanoes National Park, said most of the national park's complaints to helicopter companies have been deflected or ignored.

Before the vote, the Council also heard from Barry Stokes, statewide leader of Citizens Against Noise.

Stokes said federal legislation is needed to control the "unregulated air tour industry" and stem tourist deaths. He said 31 tourists have died in 22 air tour accidents in less than four years statewide.

Mink's bill calls for no-fly zones or require aircraft to fly at least 2,000 feet above certain park areas to deal with complaints about noise and safety.

It would also add safety requirements for tour flights less than 25 miles from an airport similar to existing requirements for longer flights.

8-12-93

## SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS

## HOUSE COMMITTEE ON NATURAL RESOURCES

## TESTIMONY ON HR 1696

Given by ELLING HALVORSON

NOVEMBER 18, 1993

My name is Elling Halvorson. I am the President of Papillon Airways, Inc. which comprises Papillon Hawaiian Helicopters and Papillon Grand Canyon Helicopters. I also represent the Helicopter Association International as Chairman of the Helicopter Tour Operators Committee.

Papillon Helicopters operates in Hawaii and Grand Canyon; therefore, I will be able to answer some questions regarding the Grand Canyon, if you so desire.

I have been close to this issue for a long time and although I recognize that this hearing was established to discuss Mink Bill HR 1696 there has been much discussion today regarding the Grand Canyon and whether or not the regulations established at the Grand Canyon have worked and whether or not there has been compliance by the operators with regard to the Grand Canyon regulations.

Inasmuch as questions were asked to others who did not have the answer on these issues, I would like to preface my remarks on the Mink Bill with a few comments regarding the Grand Canyon overflight issue.

We have been flying helicopters in the Grand Canyon for well over thirty (30) years. Airplanes have been flying the Grand Canyon for nearly seventy (70) years, approximately the same length of time the National Park has been established. There was a time when the aviators flying the Grand Canyon were insensitive to the rights and desires of others who wanted to use the Canyon in a different way. I believe our company, and even myself, have been guilty of this. In approximately 1985 we operators at the Grand Canyon, became more sensitive to the overflight issues of sound in the Grand Canyon. In an effort to mitigate the impact on the Canyon, our company and all of the operators at the Grand Canyon who operated out of the Grand Canyon National Park Airport, attempted to satisfy the interests of the environmental community and the National Park Service, by re-routing all flights and eliminating flights over the

Bright Angel corridor, the Grand Canyon Village, and many other areas that the National Park Service indicated were sensitive.

Legislation was passed in 1987 in the form of Public Law 100-91 directing the National Park Service to substantially restore natural quiet to the Grand Canyon. **I testify to you today, in unequivocal terms, that there has been substantial restoration of natural quiet to the Grand Canyon National Park since the time that legislation was prompted to be passed for this issue.** I recognize that most everyone involved in this issue at the present time was not involved at the Grand Canyon National Park when there was tour aircraft sound virtually everywhere. It is possible now, however, to go to the rim of the Grand Canyon, traverse the entire length of roads and outlooks without hearing aircraft noise. Only at the extreme ends will you find any impact of discernible aircraft noise from tour aircraft.

In response to the question asked with reference to compliance, I am pleased to advise that on an overall basis there is better than ninety-seven percent (97%) compliance and that the violations of airspace are primarily by transient aircraft not familiar with the regulations. Compliance from the tour operators who regularly fly into the Grand Canyon is virtually one hundred percent (100%). It is rare that there is any violation, and when it has occurred, it has been unintentional or weather related. The industry is sensitive for the need to comply and has demonstrated willingness over and over again.

Now I would like to speak to the Mink Bill by taking a little different approach than other speakers have taken.

**1. Why do people come to the Grand Canyon and take an aircraft flight?**

They do so, interestingly enough, for the same reasons people hike the Canyon or camp in the Canyon - and that is, to get a closer and more comprehensive meeting with nature. This is best expressed by the unsolicited comments in the guest register at each heliport or airplane operation. These comments range all the way from "spiritual" to "awesome" or "super natural". The advent of the aircraft has given man the opportunity of a new perspective to behold the Canyon in an encompassing way.

**2. Eco-Tourism**

Only recently have people started to recognize that flying the Grand Canyon is, truly, the eco-sensitive way of viewing the Canyon. In this regard, I have received an unsolicited letter from a gentleman who is obviously employed in the environmental community. I thought this letter was significant because it expresses in an extremely cognizant manner how an aircraft tour fits into the

eco-tourism concept of preserving environmentally sensitive areas. I will read into the record two (2) paragraphs of that letter, but will attach the entire letter to my written statement:

*"I was particularly impressed by the ability of the tour to access remote and beautiful places in the interior mountains and secluded coastlines we passed over. Many of the places we saw could not have been otherwise seen. Having just participated (sic "in") a conference in Honolulu which dealt with nationally important environmental issues, including the emerging concept of eco-tourism, I realized that a Papillon sightseeing tour fits perfectly into the eco-tourism model; it provides public access to a valuable resource without compromising the ecological integrity of the resource.*

*A Papillon tour provides a visually and physically exciting experience, without the direct physical impact on the resource that attracts visitors in the first place. This protects the integrity of the ecosystems visited, and ensures the resource can be enjoyed by future generations of visitors. While eco-tourism is a relatively new concept, it appears Papillon has been promoting environmentally sensitive tourism all along."*

Often times we have to remind ourselves of the obvious, that aircraft do not create any trails; cause any resultant erosion, (which is a significant problem in certain of our national parks); there are no side trails or people wandering off trails to trample vegetation, leaving human waste behind, dropping refuse such as plastic, paper and metal; no people leaving foreign seeds, human scents, voices calling, echoes, etc. In a pure environmental approach to the subject there is even some question as to the advisability of having trails in certain sensitive areas.

We heard one lady from the Sierra Club speak today who indicated numerous conclusions regarding the impact of aircraft on animals. I wish to respond that these are unfounded statements and that there has been no conclusive evidence that there is any biological effect on wildlife from aircraft noise. In fact, the U. S. Forest Service in the study they completed in 1992, concluded that overflights impose only negligible risks of consequential biological effects on wildlife. The Forest Service spent over a million dollars on this study and came to the same conclusion that has been established time and again in the past. I am enclosing, for the record, three (3) pages entitled "Rebuttal to Issue of Environmental Impacts of Overflights". This rebuttal is from the National Forest Service study.

### **3. Who flies in Hawaii?**

There is a lot of speculation that the Pacific Rim visitors to Hawaii comprise the bulk of people flying. Actually, that is not true. Eastbound traffic

to Hawaii provides approximately eight percent (8%) of the volume of people who take scenic helicopter tours in Hawaii. Ninety-two percent (92%) of all people who fly in Hawaii are citizens representing middle America people. They are the active, the inactive, the able, the lame, the young, and the elderly. They are a general cross section of all people in the United States. The cost of a helicopter flight in Hawaii is approximately the same as a round of golf, so anyone who can afford a round of golf can afford a helicopter flight in Hawaii.

#### 4. The economic impact.

While Hawaii is experiencing a downturn in visitation and is desperately in need of more tourists, the discussion today centers around a bill that, if enacted, would severely damage the largest single elective activity that tourists select. Approximately nine dollars (\$9.00) from every person who steps off an airplane in Hawaii goes toward a helicopter flight. It is extremely important for the hotels in Hawaii and the tourism industry of Hawaii to have high-quality activities of interest to the tourists. Contrary to what we heard this morning, I am sure there has never been a tourist who has refused to go to Hawaii because there are helicopter flights in Hawaii. To the contrary, there are virtually thousands of people who are excited about going to Hawaii because they can take a helicopter flight, they have done it before, or have been told by their peers what a wonderful and beautiful experience it is. More often than not it is the highlight of their Hawaiian vacation. This is a fact.

#### 5. What has the industry done?

Has it responded to the complaints of noise? Yes. The complaints have come primarily from residential communities near or on the route to the scenic areas shown by helicopter. In these areas the helicopter operators have established a fly neighborly program that has mandatory penalties, specific altitudes and stand-off distances around sensitive areas. This has worked very well in most locations. On the Big Island of Hawaii, however, I am advised that roughly one-third of the flight hours flown over the Big Island are flown by the public use sector, which is not tour operators. This includes the flights that are made continuously every day for drug interdiction, police work, military, rescue, etc. All of these flights are made at very low altitude and are oftentimes interpreted to be scenic tours. We have had a number of complaints regarding scenic tour operations when there have been no aircraft in the area.

HHOA has established *telephone hot lines for complaints*. They have established a *calibrated camera program* whereby anyone who has repeated complaints is provided a camera calibrated to establish altitudes and stand-off distances. There have been numerous *meetings with the F.A.A. and the National Park Service* in an effort to formulate an agreement regarding the sensitive areas of the National Park. The Hawaii Flight Operators Association *has*

*established strict routes of departure, approach, and altitudes* which are subject to change from time to time as problem areas may be redefined.

Most recently the Hawaii Flight Operators Association has been *installing the NAPES (Noise/Nuisance Abatement Performance Evaluation System)*. This system provides continuous monitoring every few seconds of every aircraft that is so equipped. It reports the location and altitude within the very close tolerance of a few feet, which is superimposed on a map of the area flown. This system, when finally installed and operable, will be utilized on all tour aircraft to control location and altitude of each aircraft. It will be easy to establish any violations. HHOA has *significant mandatory penalties* for any violators. The penalties have been utilized in the past. HHOA also has *advertised, monthly meetings* at which time any people with complaints may feel free to meet with the operators and express their concerns or problems. The operators then, in good faith, respond.

Finally, I would like to respond to the HB 1696 itself. The Bill, I believe, in its present form is ill-founded and should not be passed for the following reasons.

- A. It is redundant and counteractive at this point in time to Public Law 100-91 which provides that the National Park Service will submit a study and a plan to the Congress of the United States for action to substantially reduce aircraft noise at National Parks throughout the United States. This includes the state of Hawaii.

It is not appropriate to present new legislation until that study is complete.

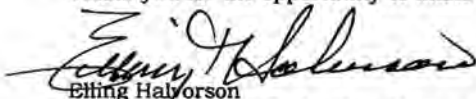
- B. The legislation as it presently exists has associated costs to administer and monitor. With the present attitude of conservative spending by the American citizens, it is not advisable for money to be allocated on this issue. It would increase the number of government employees needed for monitoring purposes. There is no benefit that could not be achieved by other cooperative means.
- C. Legislation always promotes conflict in the interpretation of the legislation and requires regulations on top of regulations.
- D. There is no provision of incentive for quiet aircraft. Quiet aircraft are coming. NASA last week announced a new design of rotor blades constructed from carbon fiber. They have a much lower sound threshold and have some absorptive qualities. The helicopter manufacturers are presently working on ways to reduce sound and are developing sound cancelling frequency

systems to cancel the noise created by turning rotors and propellers. This technology is expanding very fast at the present time and we should not "throw out the baby with the bath water", so to speak, because **quiet aircraft are coming**. At such point in time there can be absolutely no more environmentally kind way to show Hawaiian visitors the beautiful sights, many of which are totally inaccessible by means other than aircraft.

In closing, this legislation is not supported by the visitor industry of Hawaii. It is not supported by many of the people in Hawaii, including the 1,000 directly employed in the business. It is not supported by the mayor of Maui or the mayor of the Big Island. It is not supported by the Maui Chamber of Commerce or the Big Island Chamber of Commerce. It is not supported by the County Council of the Big Island. It is not supported by the Maui County Council.

This legislation is not good for Hawaii. It is premature and does not have foresight for the future.

Thank you for the opportunity to make these comments.



Elling Halvorsen  
President and C.E.O. Papillon Airways, Inc.  
Chairman, H.A.I. Helicopter Tour Operators Committee

EH/jdc

Enc/as stated

Trent R. Schneider  
11 Sixth Street  
Wading River, NY 11792

August 11, 1993

Mr. Elling Halvorson  
Papillion Airways, Inc.  
12515 Willows Rd. N.E.  
Suite 200  
Kirkland, WA 98034

Dear Mr. Halvorson;

I wanted to share with you my impressions of the sightseeing tour my wife and I took on a Papillion helicopter while visiting the Hawaiian islands recently. First, I must say the tour was one of the highlights of the trip! Your ground and flight staff were courteous and professional, and made us feel welcome and secure throughout the experience. The helicopter was comfortable and smooth in flight, and the sound track and pilot narration added greatly to our enjoyment of the flight.

I was particularly impressed by the ability of the tour to access remote and beautiful places in the interior mountains and secluded coastlines we passed over. Many of the places we saw could not have been otherwise seen. Having just participated a conference in Honolulu which dealt with nationally important environmental issues, including the emerging concept of eco-tourism, I realized that a Papillion sightseeing tour fits perfectly into the eco-tourism model; it provides public access to a valuable resource without compromising the ecological integrity of the resource.

The case study used at the conference was Manauma Bay, a popular diving spot on Oahu; while they are beginning to make progress in protecting the resource there, a quick visit shows the ecosystem is already degraded. By limiting the number of people they allow into the park, the state is attempting to re-establish the reef and fish populations, but the very fact that people still swim and dive there ensures that the system will never fully recover.

A Papillion tour provides a visually and physically exciting experience, without the direct physical impact on the resource that attracts visitors in the first place. This protects the integrity of the ecosystems visited, and ensures the resource can be enjoyed by future generations of visitors. While eco-tourism is a relatively new concept, it appears Papillion has been promoting environmentally sensitive tourism all along.

Thank you for the opportunity to see part of Hawaii we would otherwise have missed!

Sincerely,



Trent R. Schneider

## REBUTTAL TO ISSUE OF ENVIRONMENTAL IMPACTS OF OVERFLIGHTS

Mr. Chairman, in July 1992, the Forest Service submitted to Congress the most comprehensive study of overflights of wilderness areas which has ever been undertaken. I would like to quote some of the findings from that report.

1. "Aircraft noise intrusions did not appreciably impair surveyed wilderness users overall enjoyment of their visits to wilderness nor reduce their reported likelihood of repeat visits."
2. "Overflights were only rarely cited as the least-liked feature of visits to wilderness."

3. "between 1979 and 1989, [only] three incidents were reported in which aircraft were reported to have caused accidents to people on the ground...."
4. "the study led to the conclusion that overflights generally pose negligible risks of consequential biological effects on wildlife."
5. "Many Americans, who cannot travel on foot or horseback, value and wish to see the beauties of wilderness. For such persons, scenic overflights may be the only experience available to them."

These studies, completed over a several year period at a cost of over a million dollars, provide ample evidence that statements about negative impacts of overflights are unfounded.

## G R A N D C A N Y O N T R U S T

1400 16th Street, N.W., Suite 500  
Washington, D.C. 20036  
1-202-797-5429

December 7, 1993

The Honorable Bruce F. Vento  
U. S. House of Representatives  
2304 Rayburn Office Building  
Washington, DC 20515

Dear Congressman Vento:

I was pleased to attend the hearing of the subcommittee on national parks, forests and public lands on November 18, 1993 regarding HR 1696, proposed legislation to protect units of the national park system in Hawaii from the adverse effects of noise from overflying aircraft. The Grand Canyon Trust attended the hearing because of our longstanding interest and experience in the issue of overflights of national park lands on the Colorado Plateau, in particular increasing overflights at Grand Canyon National Park and the proposed expansion of helicopter facilities at Grand Canyon National Park Airport.

As you are aware, the FAA has granted nearly one million dollars to the Arizona Department of Transportation (ADOT) to expand helicopter facilities at the airport immediately south of Grand Canyon National Park, the primary purpose of which will be to accommodate increasing demand for air tours over the Grand Canyon. The Grand Canyon Trust believes that the proposed expansion violates the National Park Overflights Act and that the FAA's grant was in violation of the National Environmental Policy Act, Section 4(f) of the Transportation Act, and FAA's own environmental guidelines. We believe it would be imprudent for the expansion to proceed until the National Park Service (NPS)'s studies of aircraft noise over the Grand Canyon are completed, probably in the next two or three months.

The record of the subcommittee hearing on November 18, 1993 may not accurately reflect the extent of the NPS's and Department of the Interior's efforts to work with the FAA to protect the natural quiet and solitude of the Grand Canyon, as mandated by the National Parks Overflights Act. NPS representatives have been diligent and unwavering in their efforts to prevent expansion of the helicopter tour operations until the NPS's noise studies are complete. As early as 1988, the NPS opposed the FAA grant to ADOT. In recent months, Department of the Interior representatives have written to and met with various members of the


The Honorable Bruce F. Vento  
 December 7, 1993  
 Page 2

Department of Transportation and the FAA. At this time, there have been no formal responses at either the Department or agency level. In particular, on August 2, 1993, Secretary of the Interior Bruce Babbitt wrote to Secretary of Transportation Federico Pena, requesting Secretary Pena to ensure that no expansion of helicopter operations occur until completion of the NPS studies. On July 30, 1993, National Park Service Director Roger Kennedy wrote to Acting FAA Administrator Joseph Del Balzo asking the FAA to cooperate with the NPS in an agreement to allow helicopter operations to relocate to the airport without expansion. Most recently, on October 25, 1993, Assistant Secretary of the Interior for Fish and Wildlife and Parks George Frampton wrote to FAA Administrator David Hinson asking for cooperation between the FAA and NPS as well. Copies of this correspondence are enclosed.

Under existing law, the FAA clearly has the authority to regulate airspace to protect the environment, as well as to promote air traffic safety and commerce. With flights burgeoning over many units of the National Park System besides Grand Canyon, the FAA must recognize that these national treasures deserve protection from aircraft noise pollution and take appropriate action now. The FAA's failure to act to protect the Grand Canyon raises serious jurisdictional questions concerning the administration of airspace over units of the National Park System.

The Grand Canyon Trust respectfully requests that the record of the November 18, 1993 subcommittee hearing be amended to reflect the strong efforts of both the National Park Service and Department of the Interior to elicit cooperation from the FAA and Department of Transportation in protecting the natural quiet of the Grand Canyon. Thank you.

Sincerely,

  
 Julie Galton Gale  
 Director of Government Affairs

Enclosures

cc: Sandy Scott ✓  
 Barbara West  
 Destry Jarvis  
 Wes Henry

## A G R E E M E N T

between  
the HAWAII HELICOPTER OPERATORS ASSOCIATION,  
HAWAII VOLCANOES NATIONAL PARK,  
and the FEDERAL AVIATION ADMINISTRATION

This agreement is among and between the HAWAII HELICOPTER OPERATORS ASSOCIATION and its members, hereinafter referred to as "H.H.O.A.", the HAWAII VOLCANOES NATIONAL PARK, hereinafter referred to as "HVNP", and the FEDERAL AVIATION ADMINISTRATION, hereinafter referred to as "FAA".

WHEREAS, it is the purpose of H.H.O.A. to promote sound abatement and air safety within the helicopter industry in HAWAII and to work with individuals, communities, private and public associations and agencies, and others, to resolve issues of concern relating to the helicopter industry in HAWAII, and

WHEREAS, it is the purpose of the HVNP to promote the public use of and to administer Hawaii Volcanoes National Park, hereinafter referred to as "PARK", to conserve the scenery, the natural and historic objects, and the wildlife therein and to provide for the enjoyment of same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations as provided for in the Act of August 25, 1916 (U.S.C. Section 1 et seq.), and

WHEREAS, HVNP manages within its boundaries 123,000 acres of land designated for protection under the National Wilderness Preservation System, "where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain." further, wilderness is, "an area of undeveloped Federal land retaining its primeval character and influence...affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable...[and providing] outstanding opportunities for solitude or a primitive and unconfined type of recreation," as provided for in the Act of Congress, September 4, 1964 (PL 88-577), and

WHEREAS, it is the function of the FAA to provide for the regulation and promotion of civil aviation in such manner as to best foster its development and safety, and to provide for the safe and efficient use of the airspace within the United States, as provided for in the Federal Aviation Act of 1958, and

WHEREAS, the H.H.O.A., HVNP, and FAA recognize that helicopter tours provide an alternative means for visitors to enjoy certain areas of the PARK and a means to comply with Federal laws for providing equal access to the PARK by the disabled, elderly, etc., and

WHEREAS, tour helicopters flying at low altitudes may disrupt some visitors' enjoyment of the PARK, and may adversely affect native wildlife, and

WHEREAS, the H.H.O.A., HVNP, and FAA, while recognizing the public freedom of transit of the navigable airspace, desire to act in cooperation to reduce potential problems relating to overflights of helicopter tours in the PARK.

NOW THEREFORE,

I. The H.H.O.A. agrees as follows:

- A. To conduct flights in accordance with the H.H.O.A., HVNP, FAA Helicopter Tour Management Plan, hereinafter referred to as the "PLAN", as revised.
- B. To incorporate the PLAN into the H.H.O.A. Mandatory Fly Neighborly Program.
- C. To instruct its pilots about this agreement in accordance with the H.H.O.A. Mandatory Fly Neighborly Program.
- D. To take action in the event of suspected and/or substantiated infractions of this agreement in accordance with the H.H.O.A. Mandatory Fly Neighborly Program.

II. HVNP agrees as follows:

- A. To notify H.H.O.A. through its contact or the Helicopter Helpline of suspected infractions of this agreement.
- B. To notify the other parties if problems are found with this agreement or its effects.

III. The FAA agrees as follows:

- A. To evaluate the effects of this agreement and to make recommendations, if necessary, relating to safety and air space management issues.
- B. To assist H.H.O.A. and HVNP in notifying other commercial, military, governmental, and private users of the airspace covered by this agreement of its provisions.
- C. Confirmation of and penalties for violations of the PLAN shall be handled by H.H.O.A., in accordance with the H.H.O.A. Mandatory Fly Neighborly Program. FAA

will provide information to H.H.O.A. and work with H.H.O.A. to gather information which can be used in this endeavor.

- IV. The H.H.O.A., HVNP, and FAA jointly agree as follows:
- A. To meet as a group with the other parties annually, or more often if necessary, to review and/or revise this agreement.
  - B. To designate one authorized representative each, who will prepare, review, and, when necessary, revise the PLAN on behalf of the parties.
  - C. To abide by the conditions set forth in the PLAN. The definitions contained within this agreement also apply to the PLAN.
  - D. Maintain ongoing communication with the other parties as it relates to this agreement and the PLAN.
- V. If any of the parties feels it is necessary to modify this agreement, they shall notify the other parties in writing of the specific change(s) desired, with proposed language and the reason(s) therefore. If the proposed change(s) require new flight corridors or patterns, the parties will negotiate them in a timely manner. The proposed change(s) shall become effective upon agreement of all the parties.
- VI. This agreement shall become effective on the latest signature date below and shall remain in effect indefinitely, unless one or more of the parties terminates involvement as outlined below.
- VII. Any party to this agreement may terminate involvement in it by providing thirty (30) days written notice to the other parties. In such case, this agreement will also terminate.
- VIII. For the purpose of facilitating communications in implementing this agreement, each party has identified the following key contact official:

H.H.O.A.

HVNP

FAA

## HAWAII HELICOPTER OPERATORS ASSOCIATION

By: \_\_\_\_\_  
Its: \_\_\_\_\_\_\_\_\_\_  
Date

## HAWAII VOLCANOES NATIONAL PARK

By: \_\_\_\_\_  
Its: \_\_\_\_\_\_\_\_\_\_  
Date

## FEDERAL AVIATION ADMINISTRATION

By: \_\_\_\_\_  
Its: \_\_\_\_\_\_\_\_\_\_  
Date

HHHVNP.C1 3931-01

HAWAII HELICOPTER OPERATORS ASSOCIATION, HAWAII VOLCANOES  
NATIONAL PARK, and FEDERAL AVIATION ADMINISTRATION  
TOUR HELICOPTER MANAGEMENT PLAN

This Tour Helicopter Management Plan ("PLAN") was prepared by the authorized representatives of H.H.O.A., HVNP, and FAA, as prescribed in Section IV. B. of the Agreement ("AGREEMENT") between them.

1. SUPERSEURE AND EXEMPTIONS: No pilot will jeopardize the safety of his/her passengers or the general public to stay within the parameters outlined in this PLAN. The PLAN's procedures will be superseded when conditions of safety so dictate. No provision of this PLAN shall be interpreted or applied in any way contrary to the FARs.
2. RESTRICTED AREAS AND MINIMUM STANDOFF DISTANCES: Restricted areas are defined in the H.H.O.A. Mandatory Fly Neighborly Program and are not the same as defined in the FARs. For the purpose of this agreement, a "Restricted Area" is one which contains air space identified by an area on the surface of the earth within which the flight of aircraft, while not wholly prohibited, is subject to restrictions. The action normally taken in Restricted Areas will be as follows: All helicopter tours will remain at a minimum standoff distance when flying in or around Restricted Areas. For further clarification, a tour must be flown at the minimum altitude above ground ("AGL") if the pilot must fly directly over a Restricted Area. If a pilot is in the vicinity of, but does not intend to enter a Restricted Area, he/she needs to remain the same minimum standoff distance away from the Restricted Area, regardless of flight altitude.

There are two types of Restricted Areas applicable to this agreement and denoted on Exhibit A:

R-1, Yellow; Minimum standoff distance of 1500 feet

R-2, Pink; Minimum standoff distance of 3000 feet

HVNP considers the Restricted Areas denoted on Exhibit A as sensitive to sight and sound of aircraft. Pilots are strongly advised not to enter Restricted Areas or the air space above them except under conditions described in Item 1, above.

3. PRIMARY, SECONDARY, AND TERTIARY CORRIDORS: Lines for primary (green), secondary (orange), and tertiary (blue) corridors do not depict exact routes, but rather the general passageway in which tour helicopters operate. Depending on

specific locale, these corridors may be as narrow as one mile or as wide as five or more miles. Primary corridors are the first choice and are to be used the vast majority of the time. Secondary corridors are used as alternatives in the event weather conditions preclude the use of primary corridors. Tertiary corridors are used as alternatives in the event weather conditions preclude the use of primary or secondary corridors. By their nature, secondary and tertiary corridors will, on an annualized basis, be used far less times than primary ones.

A. The primary corridors within the PARK and denoted on Exhibit A are further described as follows:

- 1) A corridor running north and south from the area of the Puu Oo vent to the area of Kamoamoa.
- 2) For Volcano Heli-Tours only; A corridor from the Volcano Heli-Tour heliport, conforming to the provisions of the heliport permit as required by the County of Hawaii Planning Commission within one mile of the heliport, across the Ka'u Desert no nearer than 2000 feet to the Kilauea Crater and above the 2400 foot elevation contour south of the East Rift Restricted Area and north of the prominent cliff formation complex known as Hilina Pali and Holei Pali.

B. The secondary corridors within the PARK and denoted on Exhibit A are further described as follows:

- 1) For Volcano Heli-Tours only; A corridor west of the East Rift Zone, but no nearer than 2000 feet to the east of the Kilauea Crater.

C. The tertiary corridors within the PARK and denoted on Exhibit A are further described as follows:

- 1) A corridor immediately southeast (makai) of the power transmission lines at the 4900-4600 foot elevation, where the PARK boundary is prominently delineated by fencelines.
- 2) A corridor across the Ka'u Desert no nearer than 2000 feet to the Kilauea Crater and above the 2400 foot elevation contour south of the East Rift Restricted Area and north of the prominent cliff formation complex known as Hilina Pali and Holei Pali.
- 3) A corridor west of the East Rift Zone, but no nearer than 2000 feet to the east of the Kilauea

## Crater.

- D. All PARK entry/exit points, which are marked with a red diamond on Exhibit A, shall be points for radio reports on a common-use air-to-air frequency established by the FAA. Pilots will report their position on said frequency when approaching these points, either when entering or exiting the PARK. In addition, radio reports will be made as appropriate at other commonly known identification points such as pali, riffs, etc.

## 4. SPECIFIC INSTRUCTIONS AND VARIATIONS:

- A. Flights within areas of Hawaii Volcanoes National Park which are not designated in this PLAN as Restricted Areas shall conform to the following manner;
  - 1) All pilots shall comply with the FARs.
  - 2) Operation of the helicopter within the limitations and performance capabilities presented in the Rotorcraft Flight Manual is mandatory. The established hover ceiling shall not be exceeded and (except for approach to and transition from a hover) operation within the "avoid" area of the height-velocity diagram is prohibited.
  - 3) Operations shall not be conducted beyond engine out gliding distance of land.
  - 4) H.H.O.A. and FAA shall jointly develop a mutually acceptable "Brief Sheet" to demonstrate that necessary planning was accomplished prior to flights. Such form shall be utilized by each H.H.O.A. member, once before morning flights and once before afternoon flights.
- B. Wahaia Heiau; Helicopter tours will maintain a standoff distance of 1500 feet (R-1) when people are in the vicinity of or at the Heiau. Pilots are to notify each other by radio immediately upon observing people at the Heiau. The R-1 status is to remain in effect until such time as all persons have left the Heiau. The parties to this agreement understand that it is possible a pilot may not be aware that people are at the Heiau until the pilot is within the 1500 feet (particularly if it is the first flight after people have arrived at the Heiau). The parties agree that, if necessary, they will work together to improve the systems of notification of pilots regarding the presence of people at the Heiau.

- C. Kamoamoa Lava Flow Area; Helicopter tours will maintain a standoff distance of one mile from the closure point of the Chain of Craters Road, as established by HVNP, or 1500 feet from the authorized viewing point east of said closure point, whichever is further east. Initially and whenever it changes, the viewing point will be communicated to H.H.O.A. or its designee for announcement to members.
  - D. Helicopter tours may not visit areas within the Restricted Areas of this agreement where volcanic activity may develop after this agreement is consummated, until H.H.O.A., HVNP, and the FAA have negotiated mutually agreeable flight procedures. Negotiations for such procedures will be conducted by the parties in a timely manner.
  - E. Flights over the PARK which are chartered by professional photographers, news videographers, etc., must be flown according to the provisions of this agreement, unless prior notification of such flights is given to HHOA and HVNP. At a minimum, the details will include the approximate location(s) of the job, its estimated start and finish times, the anticipated aircraft and pilot, and the number of people expected to be on board the aircraft. Should weather or other conditions dictate the need to delay or reschedule the job, the operator will notify the HVNP as soon as possible.
  - F. Flights conducted for administrative, emergency, government, or other non-commercial purposes are not included under this PLAN.
5. This PLAN may be amended or revised from time to time as conditions so require. Such changes will be reviewed, prepared, and incorporated into the PLAN on behalf of the parties to the AGREEMENT by their authorized representatives, upon said representatives' mutual agreement.

E N D

HHHVNP.C1A 3931-01

Interagency Agreement  
between  
National Park Service,  
Fish and Wildlife Service,  
Bureau of Land Management,  
and Federal Aviation Administration

This interagency agreement is among and between the National Park Service of the Department of the Interior (NPS), the Fish and Wildlife Service of the Department of the Interior (FWS), the Bureau of Land Management of the Department of the Interior (BLM), and the Federal Aviation Administration of the Department of Transportation (FAA).

WHEREAS, it is the purpose of the NPS to administer Federal parks, monuments, and reservations, to conserve the scenery, the natural and historic objects, and the wildlife therein, and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations as provided for in the Act of August 25, 1916 (16 U.S.C. Section 1 et seq.)

WHEREAS, it is the purpose of the FWS to operate and maintain certain Federal lands for the betterment of fish and wildlife resources, and for fish and wildlife research and fish culture, as provided for in the National Wildlife Refuge System Administration Act (16 U.S.C. Section 661 et seq.), and the Fish and Wildlife Act of 1956 (16 U.S.C. Section 742a et seq.).

WHEREAS, it is the purpose of the BLM to administer designated wilderness areas for the permanent good of the whole people, and for other purposes, as part of the National Wilderness Preservation System, as provided for in the Wilderness Act of September 3, 1964 (16 U.S.C. Section 1121, 1131-1136), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. Section 1701).

WHEREAS, it is the function of the FAA to manage the safe and efficient use of the navigable airspace of the United States, as provided for in the Federal Aviation Act of 1958 (49 U.S.C. app. Section 1301 et seq.)

WHEREAS, the NPS, FWS, and BLM manage lands for the purposes of wilderness preservation, protecting natural, cultural, and wildlife resources, and for promotion of the public enjoyment and use of these resources.

WHEREAS, the FAA, recognizing the values for which NPS, FWS and BLM lands are managed, has established 2,000 feet above ground level (AGL) as the requested minimum altitude for aircraft flying in airspace over lands administered by the NPS, FWS and BLM.

WHEREAS, the auditory and visual intrusion of aircraft flying at low altitudes is the source of public complaint in certain areas administered by the NPS, FWS, and BLM.

WHEREAS, aircraft flying at low altitudes may pose a potential hazard to wildlife in certain areas administered by the NPS, FWS, and BLM.

WHEREAS, aircraft flying at low altitudes over large concentrations of migratory birds may pose a potential safety hazard to pilots and passengers in certain areas administered by the NPS, FWS, and BLM.

WHEREAS, the FAA, NPS, FWS, AND BLM, while recognizing the public freedom of transit of the navigable airspace, desire to act in cooperation to reduce the incidence of low-flying aircraft, including fixed-wing aircraft, helicopters, ultralight vehicles, balloons, and gliders over NPS, FWS, and BLM administered land by seeking voluntary cooperation with the 2,000 feet AGL minimum altitude advisory.

NOW THEREFORE:

I. The NPS, FWS, and BLM agree:

- A. To identify specific field units where low-flying aircraft may constitute an adverse impact on resources and to convey specific information to the FAA for appropriate action as described in this agreement.
- B. To develop and implement a standardized reporting system acceptable to the FAA to document instances of low-flying aircraft over NPS, FWS, or BLM administered lands. This reporting system will provide for transmittal of such documentation in a timely manner to the appropriate FAA Flight Standards District Office.
- C. To develop training programs and instructional materials for NPS, FWS, and BLM field personnel to enable them to recognize and report instances of low-flying aircraft in a competent and professional manner. The appropriate training programs of the NPS, FWS, and BLM will expand to incorporate this subject matter into in-service training requirements. All agencies will seek the assistance of FAA to help develop training curriculums.

- D. To make personnel available from the respective agencies to meet with the FAA and affected pilots to discuss resources management objectives and issues associated with low-flying aircraft quarterly.

## II. The FAA agrees:

- A. To communicate to pilots the concerns and objectives of the NPS, FWS, and BLM about low-flying aircraft in specified areas, using advisories, bulletins, the FAA publication FAA Aviation News, the ongoing "Accident Prevention Program" for routine pilots contact, and other means of communication with pilots. To impress upon pilots that pilot participation is strongly encouraged to ensure protection of resources and the enjoyment of natural areas by the public.
- B. To investigate instances of pilot deviations from the FAA-requested minimum altitude over areas administered by the NPS, FWS, and BLM and take action to discourage deviations with the objective of reducing or eliminating such incidents in these areas.
- C. To assist the NPS, FWS, and BLM in communicating with the various agencies of the Department of Defense with regard to military aircraft operations over NPS, FWS, and BLM administered areas.
- D. To make available to the NPS, FWS, and BLM, at the FAA Flight Standard District Offices, the status and results of the FAA's investigation of instances reported by the NPS, FWS, and BLM.
- E. To enlist the support of all aviation groups and organizations by requesting they disseminate information about problems associated with aircraft operating at low altitudes over areas administered by the NPS, FWS, and BLM.
- F. To assist NPS, FWS, and BLM personnel in combating problems associated with low-flying aircraft by participating in appropriate meetings at field and regional levels.

## III. The FAA, NPS, FWS, and BLM agree jointly:

- A. To assess severe situations where impacts of aircraft operations upon human, cultural, or natural resources are sufficiently serious to

warrant consideration of site-specific action by the FAA to minimize or eliminate the causes of such problems.

- B. To prepare public informational materials, including printed matter and audio visual programs, for communication to pilots using existing FAA pilot-contact meetings and programs, aviation periodicals, and other means of generating pilot understanding of NPS, FWS, and BLM resource management objectives. Where appropriate, the FAA, NPS, FWS, and BLM will share information on techniques of conducting scientific studies and data collection to facilitate understanding of the impact of aircraft operations on affected resources.
  - C. All the parties will work to define procedures for use at National Headquarters and field office levels to address overflight issues over public lands area.
- IV. For the purposes of facilitating communications in implementing this agreement, each party has identified the following key contact officials:

FAA

Harold W. Becker  
Manager, Airspace-Rules and  
Aeronautical Information Division, ATP-200  
(202) 267-3731

NPS

Wesley Henry  
Visitor Services Division  
Branch of Ranger Activities  
(202) 208-4874


FWS

David L. Olsen  
Assistant Director  
Refuges and Wildlife  
(202) 208-5333

BLM

Keith Corrigan  
Wilderness Branch  
(202) 208-6064

- V. If any of the parties determines that it is necessary to modify this MOU, the other parties shall be notified in writing of the specific change(s) desired, with proposed language and the reason(s) therefore. The proposed changes shall become effective upon agreement of all parties.
- VI. This MOU shall become effective on the last signature date below and shall remain in effect until December 31, 1999, or unless otherwise rescinded by all signatory parties.
- VII. Any party to this agreement may terminate involvement in the agreement by providing 60 days written notice to the other parties.

  
Director, National Park Service

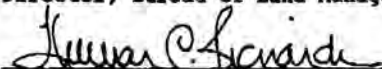
12/21/92  
 Date

  
Director, Fish and Wildlife Service

NOV 18 1992  
 Date

  
Director, Bureau of Land Management

12/10/92  
 Date

  
Administrator, Federal Aviation Administration

1/15/93  
 Date



U.S. Department  
of Transportation  
Federal Aviation  
Administration

# Advisory Circular

Subject:

VISUAL FLIGHT RULES (VFR) FLIGHT  
NEAR NOISE-SENSITIVE AREAS

Date: 10/19/84

Initiated by: ATO-230

AC No: 91-36C

Change:

1. PURPOSE. This advisory circular encourages pilots making VFR flights near noise-sensitive areas to fly at altitudes higher than the minimum permitted by regulation and on flight paths which will reduce aircraft noise in such areas.

2. CANCELLATION. Advisory Circular 91-36B, VFR Flight Near Noise-Sensitive Areas, dated March 19, 1982, is cancelled.

### 3. BACKGROUND.

a. The Federal Aviation Administration continually receives complaints concerning low flying aircraft over noise-sensitive areas. These complaints have prompted requests for regulatory action prohibiting low altitude flight over identified noise-sensitive locations. We believe that a satisfactory solution can be realized by means of a pilot/industry cooperative endeavor rather than through the regulatory process.

b. Increased emphasis on improving the quality of the environment requires continued effort to provide relief and protection from aircraft noise.

c. Excessive aircraft noise can result in discomfort, inconvenience, or interference with the use and enjoyment of property, and can adversely affect wildlife. It is particularly undesirable near outdoor assemblies of persons, churches, hospitals, schools, nursing homes, noise-sensitive residential areas, and National Park Areas which should be preserved as important historic, cultural, and natural aspects of our national heritage.

d. Adherence to the practices described below would be a practical indication of pilot concern for environmental improvement, would build support for aviation, and forestall possible regulatory action.

### 4. VOLUNTARY PRACTICES.

a. Avoidance of noise-sensitive areas, if practical, is preferable to overflight at relatively low altitudes.

b. Pilots operating fixed- and rotary-wing aircraft under VFR over noise-sensitive areas should make every effort to fly not less than 2,000 feet above the surface, weather permitting, even though flight at a lower level may be consistent with the provisions of Federal Aviation Regulations 91.79, Minimum Safe Altitudes.

Typical of noise-sensitive areas are: outdoor assemblies of persons, churches, hospitals, schools, nursing homes, residential areas designated as noise sensitive by airports or by an airport noise compatibility plan or program, and National Park Areas (including Parks, Forest, Primitive Areas, Wilderness Areas, Recreational Areas, National Seashores, National Monuments, National Lakeshores, and National Wildlife Refuge and Range Areas).

\* For the purpose of this Advisory Circular, the surface of a National Park Area is defined as: the highest terrain within 2,000 feet laterally of the route of flight, or the upper-most rim of a canyon or valley.\*

NOTE: The intent of the 2,000 feet recommendation is to reduce potential interference with wildlife, and complaints of noise disturbances from low-flying aircraft in canyons and valleys.

c. During departure or arrival from/to an airport, climb after takeoff and descent for landing should be made so as to avoid prolonged flight at low altitudes near noise-sensitive areas.

d. This procedure does not apply where it would conflict with air traffic control clearances or instructions or where an altitude of less than 2,000 feet is considered necessary by a pilot in order to adequately exercise his or her primary responsibility for safe flight.

5. COOPERATIVE ACTIONS. Aircraft operators, aviation associations, airport managers, and others are asked to assist in implementing the procedures contained herein by publicizing them and distributing information regarding known noise-sensitive areas.

*R. J. Van Vuren*

R. J. Van Vuren  
Associate Administrator for Air Traffic, AAT-1



THE SECRETARY OF THE INTERIOR

WASHINGTON

AUG 2 1993

Honorable Federico Pena  
Secretary of Transportation  
Washington, D.C. 20590

Dear Mr. Secretary:

It has recently come to my attention that approximately 25 acres of new helicopter facilities are under development at Grand Canyon National Park Airport in Tusayan, Arizona, in large part with grant funds from the FAA. On September 13, 1988, the FAA issued a grant agreement to Grand Canyon National Park Airport for AIP Project No. 3-04-0019-06, for construction of a new heliport, parking, and apron access road. The grant agreement offered to pay 91.06 percent of the cost of the project, or \$952,180. The primary function of these facilities will be as an operating base for helicopter tours of Grand Canyon National Park.

In the National Parks Overflights Act of 1987 (Public Law 100-91), Congress recognized that "noise associated with aircraft overflights at the Grand Canyon National Park is causing a significant adverse effect on the natural quiet and experience of the park," and directed the Secretary of the Interior to submit to the Administrator of the FAA recommendations to provide for the "substantial restoration" of that natural quiet and experience. These recommendations were contained in the Aircraft Management Plan for Grand Canyon National Park, and were implemented by the FAA as SPAR 50.2. The National Parks Overflights Act directs the National Park Service (NPS) to prepare a report to Congress (expected to be completed by the end of 1993) on the effectiveness of SPAR 50.2 in achieving the statutory goal of the "substantial restoration of the natural quiet and experience of the park."

In July 1992, the Senate Subcommittee on Aviation of the Committee of Commerce, Science and Transportation held oversight hearings, conducted by Senator John McCain, on air tour operations at Grand Canyon. The NPS and other witnesses testified that the statutory goal has not been achieved. Aircraft noise and its impact on the visitor experience are a function of frequency and loudness. Several witnesses testified that air tours should be subject to use limits, as are backcountry hikers, river trips, and every other use of the park, and that aircraft should be required to meet quiet aircraft technology standards. The number of overflights has nearly doubled since the overflight noise problem was recognized by Congress in 1987. The construction of new helicopter facilities has the potential to increase the capacity for overflights and thus will further negate the statutory goal.

Furthermore, in the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 (Public Law 102-581), Congress directed the FAA, in conjunction with the NPS and other agencies, to conduct a study of increased air traffic over the Grand Canyon and to report the results to Congress, including forecasts of increases in air traffic through 2010, estimates of the carrying capacity of the airspace over Grand Canyon National Park and a plan to manage that airspace for aviation safety and to meet the requirements of the National Parks Overflights Act for the "substantial restoration of the natural quiet and experience of the park." This study is currently underway.

In this context, I request that you provide us with assurance that the newly constructed facilities will only cater to existing operations and that no further funds will be provided to the airport for expansion of operations until the following are completed:

1. The NPS Final Report to Congress under the National Parks Overflights Act, particularly the section that will evaluate the effectiveness of SFAR 50.2 in achieving the statutory goal;
2. The FAA's report to Congress (required by Public Law 102-581) on the carrying capacity of airspace over the Grand Canyon, including the plan to manage that airspace for safety and to meet the requirements of Public Law 100-91; and
3. A Part 150 study on the effects of increased operations on the NPS's and FAA's efforts to meet the stated goal of Public Law 100-91 for the "substantial restoration of the natural quiet and experience of the park."

I look forward to your response to this request. If you have any questions, please contact George Frampton at (202) 208-4416. Thank you.

Sincerely,





## CONSERVATION COUNCIL for HAWAII

STATE BOARD AND CHAIR CHAPTER • P.O. BOX 2923 • HONOLULU, HI 96802 • (808) 941-4974

11/15/93

To: Aviation Subcommittee of Natural Resources Comm.

From: Steven Lee Montgomery, Ph.D., Board Member & NWF Rep.

Subject: H R 1696 on Tour Helicopters & Parks

Along with the other 500 members of our Council, I am a regular visitor to the wildlands of Hawaii, especially the National Parks. We give our full support to this bill to reduce the escalating damages to a major Park natural resource: quiet.

The Park Service & State DOT require the aid of the Federal Aviation Administration to protect this resource, but the severity of the tour aircraft problem and the many delays in resolving it convince us that Congress must act.

Congress acted to restore some quiet to the Grand Canyon Nat'l Park, and all terrestrial visitors have benefitted, plus, native wildlife behavior patterns were restored to normal. In Hawaii, the public interest requires a new policy to begin with your favorable action on this bill.

Thank You.

