



HAINES BOROUGH, ALASKA
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Ms. Jessica Plachta
HC 60 box 2621
Haines, Alaska 99827

Dear Ms. Plachta,

I have reviewed your letter of March 9th in which you allege that on 6 & 7 March 2015 there were violations of The Agreement Regarding Flight Operations and Practices of Commercial Ski Tours (hereafter referred to as "The Agreement") and violations of the Conditional Use Permit (CUP) issued to Big Salmon Ventures (BSV) on 14 March 2014. Specifically, you allege the following violations of the Agreement and of the CUP:

1. Violation of A (1) (b) "The Agreement": Attain as quickly as practical after takeoff and maintain a minimum elevation of 1,500 feet above ground level (AGL) while in flight
2. Violation of A (1) (c) "The Agreement": Maintain a minimum distance of one-half mile from wildlife on public lands while in flight
3. Violation of A (1) (d) "The Agreement": Maintain a minimum distance of one half mile above the valley floors except when shuttling passengers from the bottom to the top of the run and during takeoff and landings.
4. Violation of Point 7 within the CUP: Use a Specific and identified GPS flight path that will create the least amount of noise and impact to nearby residents. Flight paths will not be conducted over any residences and take place over state lands;

In conducting my review I consulted Borough Code, "The Agreement", The "Map", reviewed the Conditional Use Permit of 03-14-2014, reviewed the GPS flights logs for the dates specified, interviewed SEABA Manager Mr. Sundberg, and consulted with the Borough Attorney. I was assisted in my review by the Borough Planning Technician Ms. "Tracy" Cui who processed GPS data using the Borough Geographic Information System (GIS) and produced graphics to support the review. Further, in the conduct of this investigation, the Borough will make a determination whether or not the allegations have merit using the preponderance of the evidence standard as a threshold for burden of proof. Individuals shall be considered innocent unless a "preponderance of the evidence" supports a finding of the misconduct. This "preponderance of the evidence" standard requires that the evidence supporting each finding is more convincing than the evidence offered in opposition to it.

GPS Data Review: The GPS data was received as a cvs. file enabling it to be processed into a graphic for review. This graphic is labeled Graphic 1 in the supplemental information provided with this response. The data also provided information relating to the following fields: aircraft, point number, date time group in universal and local time, latitude, longitude, altitude in Above Sea Level (ASL), speed, and bearing.

For the purposes of this review it was assumed that Air Speed of 0 and a Heading of 0 (0/0) was an indication that the aircraft was on the ground. Additionally, the GPS reports data on time intervals so multiple successive time intervals of 0/0 equated to a sustained period of time on the ground. This was confirmed in conversation with Mr. Sundberg. In general

flights from the CUP Landing Zone (LZ) to drop off locations were 6 minutes while flights from the pick-up locations to the CUP LZ were 2-4 minutes. Elevation gains in each instance were consistent with safe flight.

6 March: On 6 March 2015 the helicopter departed the CUP LZ at 10:55 AM and returned at 1:07 PM. On the initial flight out the aircraft gained more than 2,000 feet in four minutes consistent with safe flight and ultimately gained nearly 5,000 feet of elevation before dropping passengers off at 11:07. The aircraft shut engines and "parked" in the ski area on five occasions before returning to the CUP LZ at 1:07 PM. All end points for a given Flight Track and start points for the next Flight Track give indications of Airspeed and Heading of 0/0 with the exception of Point 10 of Track 83 and Point 1 of Track 84. Point 10 of Track 83 indicates an Airspeed of 69.99943 Knots and a Bearing of 348 degrees. The Airspeed listed is an increase of 52 Knots over the previous reading for Point 9. There then follows a gap in readings of 23 minutes until the GPS readings resume during which the aircraft shifts 5,000 feet based on the Latitude and Longitude readings. This irregularity is depicted on Graphic 4.

7 March: On 7 March the helicopter made multiple trips from the CUP LZ to ski areas between 10:04 AM and 1:24 PM. Review of the flight data reveals that actions were consistent with Code, provisions of the CUP, and provisions of "The Agreement". On 7 March there were a total of 28 Takeoff/Landing occasions all either at CUP LZ or within the boundaries as approved on "The Map". There were a total of 7 Takeoff/Landing occasions at the CUP LZ including the initial takeoff and final landing.

Occurrence	Time	Elevation Gain	Comments
1	10:04-10:10	CUP LZ to 4800 ASL in 6 Minutes	Elevation gain consistent with safe flight
2	10:34-10:42	CUP LZ to 4443 ASL in 6 minutes	Elevation gain consistent with safe flight
3	10:54-10:56	CUP LZ to 4443 ASL in 6 minutes	Elevation gain consistent with safe flight
4	12:00-12:08	CUP LZ to 2884 ASL in 6 minutes	Elevation gain consistent with safe flight
5	12:54-12:56	CUP LZ to 3226 ASL in 18 minutes	Gained 2,600 feet in 4 minutes and then continued to drop-off location
6	1:14-1:16	CUP LZ to 2530 ASL in 4 minutes	Elevation gain consistent with safe flight
7	1:24	End of flying	

An element of the complaint alleges that there were violations of the provision to remain 1500 AGL. Graphics 2 & 3 display imagery of a takeoff and a landing at the CUP LZ on 7 March 2015. The graphics denote location and elevation in ASL and also depict a 100 foot contour interval. The table below converts the information on the graphic to estimated AGL:

Graphic 2: CUP LZ to Ski Area (appx. 8.25 mi)			
Point	ASL	Contour	Estimated AGL
3	237	100	0
4	539	150	389
5	2456	750	1706
6	4800	1400	3400
7	4768	1400	0
Graphic 3: Ski Area to CUP LZ (appx. 8 mi.)			
23	4443	1300	0
24	1897	400	1497
25	450	150	300
26	286	100	0

Given the data available it was only possible to approximate the AGL by subtracting the estimated contour data from the ASL from the GPS. As reading from the GPS are in 2 minute intervals only the data for those points in time are available.

An additional note on AGL requirements is in order. The CUP LZ is closer to the ski areas than the other approved take-off and landing sites and this is made clear when reviewing the short flights to and from the LZ and ski areas. Given the requirements for safe take off and landing profiles on either end of the trip and the requirement to gain elevation to get to the ski areas it is likely not possible to gain and maintain an AGL of 1500 feet at all points of the flight as most of the trip involves take off and landing approaches falling within the exception noted in item 3 listed above. The 6 minute flight from the CUP LZ to the ski area consists of a minute on either end for take-off and landing and the four minutes in the middle focused on gaining elevation to get to the ski area. The 2-4 minute return from the ski area provides even less opportunity to meet the 1500 foot requirement.

The complaint alleges impact to wildlife and a violation of A (1) (c) of the Agreement. In alleging this violation Ms. Plachta does not provide any corroborating evidence in the form of other witness statements nor did she provide imagery or video to support the allegation. Additionally, there is no evidence to support a clear link between the helicopter operations and the allegation.

Finally, the complaint also alleges Violation of point 7 of the CUP stating that that the aircraft flew over University of Alaska lands which the complaint alleges are private lands. This issue was discussed with the Borough Attorney and the Borough position is that University of Alaska lands are public lands and not private lands. Additionally, a review of the GPS logs reveals flight paths on both 6 and 7 March that are consistent with the requirements of point 7 of the CUP.

Findings: With respect to the violations alleged by the complainant the Borough finds after thorough review of the facts that:

1. Violation of A (1) (b) "The Agreement"- Attain as quickly as practical after takeoff and maintain a minimum elevation of 1,500 feet above ground level (AGL) while in flight: The review of the GPS reveals actions consistent with adherence to the stipulations of the agreement. This allegation is not substantiated.
2. Violation of A (1) (c) "The Agreement"- Maintain a minimum distance of one-half mile from wildlife on public lands while in flight: Ms. Plachta did not provide any corroborating evidence to demonstrate that the aircraft flew within on-half mile of wildlife on public lands while in flight nor did Ms. Plachta provide any evidence (still or video imagery) showing that there was impact to wildlife or that there was a link between the aircraft flight and any perceived disruption to wildlife. This allegation is not substantiated.
3. Violation of A (1) (d) "The Agreement": Maintain a minimum distance of one half mile above the valley floors except when shuttling passengers from the bottom to the top of the run and during takeoff and landings: The review of the GPS reveals actions consistent with adherence to the stipulations of the agreement. This allegation is not substantiated.
4. Violation of Point 7 within the CUP: Use a Specific and identified GPS flight path that will create the least amount of noise and impact to nearby residents. Flight paths will not be conducted over any residences and take place over state lands: The review of the GPS reveals actions consistent with adherence to the stipulations of the agreement. This allegation is not substantiated.

One concern noted from a conversation with Mr. Sundberg relates to the knowledge the aircraft operators have of requirements listed in the Agreement and in the Conditional Use Permit. Mr. Sundberg stated that the pilot was briefed about the flight requirements but not provided with a copy of the Agreement or of the CUP. Providing the pilot with copies of these documents will provide clarity and represent best practice for ensuring that the requirements are adhered to.

Notwithstanding the irregularity noted above, the Borough finds after a full inquiry into the circumstances and facts surrounding this complaint that the flight profiles were consistent with the CUP, The Agreement, and with safe flight and that there was no violation of Borough Code, Policy, or Agreement. Additionally, the Borough maintains the process that granted the CUP was conducted in accordance with Borough Code and that therefore the flight was not unlawful.

In closing this investigation the Borough again makes note of the irregularity noted on 6 March. That still remains unexplained and the Borough will continue to investigate this aspect of the investigation while closing out the investigation of the elements noted above. Should further investigation determine that a violation occurred the Borough reserves the right to impose penalties as appropriate based on code, agreement, and policy. Finally, the Borough recommends that tour operators provide copies of the Agreement and any applicable CUP's to aircraft operators to ensure there is a clear understanding of restrictions and requirements.

Respectfully,

A handwritten signature in black ink, appearing to read 'D. B. Sosa', with a long horizontal flourish extending to the right.

David B. Sosa
Borough Manager
Haines, Alaska

HAINES BOROUGH HELISKIING COMPLAINT FORM

P.O. Box 1209 ♦ 103 Third Avenue S.
Haines, Alaska 99827
Ph: 907-766-2231 ♦ Fax: 907-766-2716
www.hainesborough.us

Today's Date: _____

Your Contact Information		
Name: (first, middle initial, last) Jessica Plachta		
Mailing Address: (address, city, state, zip code) HC 60 box 2621		Physical Address: (address, city, state, zip code)
Home Phone: (include area code) 9077675768	Work Phone: (include area code)	Email: jessica.meadow@gmail.com

Complaint: Please describe the alleged or suspected violation in detail, including who, what, when, where and why. **Helpful details include helicopter color and tail numbers, exact location, number of skiers, date, and time.** (Attach additional pages or use the backside of this form, if necessary.) If you have photos, please email them to info@haines.ak.us or bring them to the Haines Borough Administration Building.

On Friday, March 6th and Saturday, March 7th, I heard the noise from approaching and departing helicopters; sound which seemed to be emanating from the direction of SEABA/BSV's temporary heliport near Chilkat Lake Road. I walked along Chilkat Lake Road, up the available hills, and to the Roffler/Williams property, which neighbors SEABA/BSV's property. At only one point was the helicopter visible. The helicopter was lifting off from the heliport, and was visible through a cleared line in the trees. The helicopter lifted off, and then skimmed the treetops so closely as to be completely invisible from either a distance, or from a near location. I watched for, and listened to, many arrivals and departures over the course of a couple of hours on Saturday, and only on that one occasion was the helicopter visible, and then only at a very low elevation. The rest of the time, the helicopters were so low as to remain invisible--an estimated couple hundred feet above the valley floor.

The Agreement Regarding Flight Operations and Practices of Commercial Ski Tours specifies under the heading "Flight Rules" that the tour helicopter should "b. attain as quickly as practicable after takeoff and maintain a minimum elevation of 1,500 feet above ground level (AGL) while in flight." Also, "c. maintain a distance of one half-mile from wildlife on public lands while in flight. And, "d. maintain a distance of 1/2 mile above the valley floors except when (1) shuttling passengers from the bottom to the top of a run (2) during landing

For Borough Use Only	
Date Received by Borough Manager: <u>9 March 2014</u>	Forwarded for Response or Investigation to: Date:
Copy given to: Date:	
Results of Investigation: _____	

Action Taken	
<p>♦ Complainant Contacted regarding Results of Investigation:</p> <p style="text-align: center;">Contacted by _____ Date _____</p> <p>♦ Action: (attach additional pages, as needed)</p>	<p>Form Received by: _____ Date Stamp: _____</p> <p style="text-align: center; color: blue;">MAR 09 2015 Clerk's Office</p> <p><input type="checkbox"/> Date-stamped copy given to complainant</p>

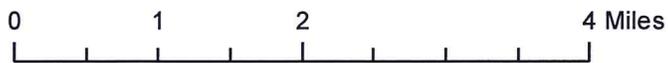
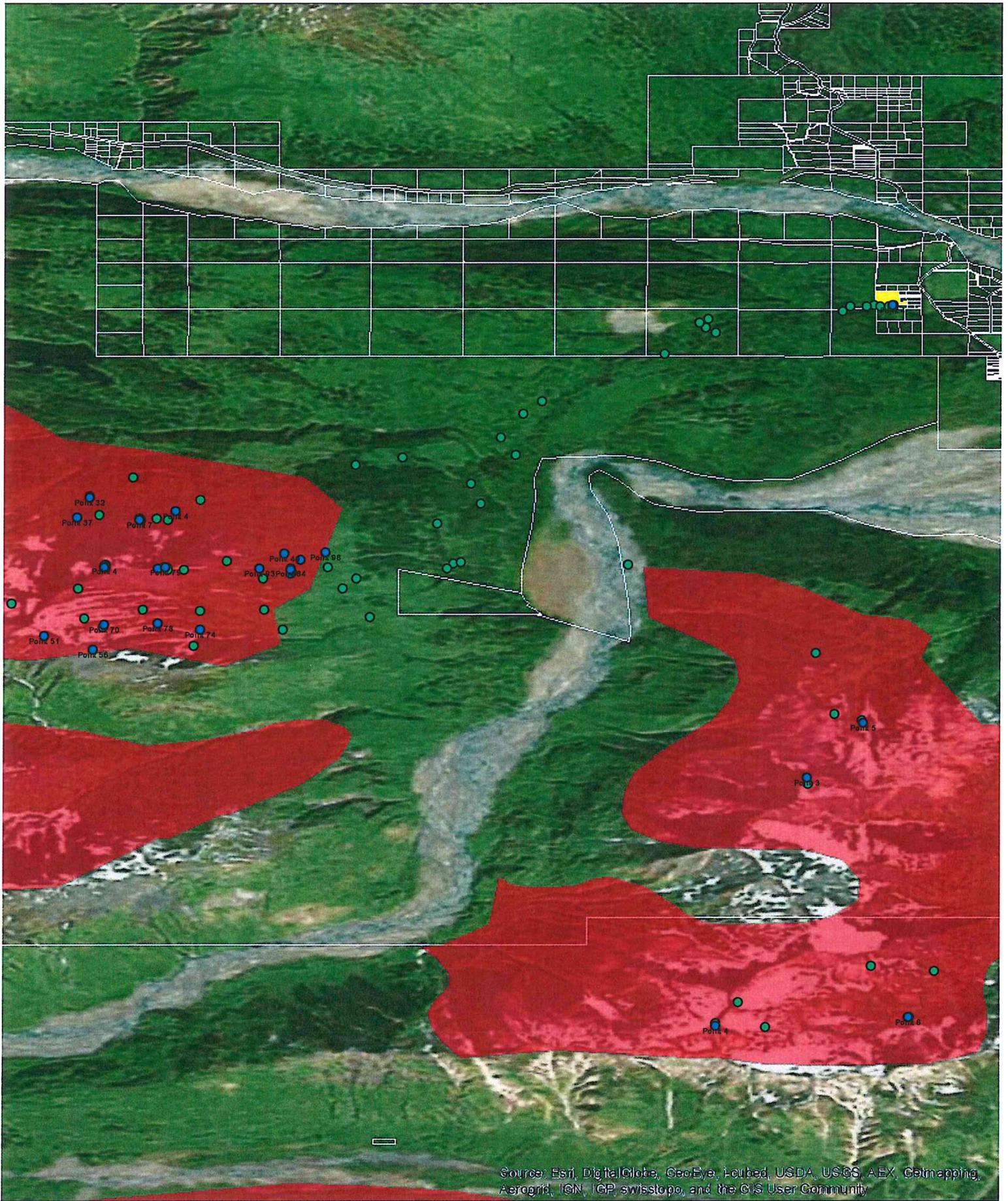
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The effects of this unlawfully low flight elevation are many. One is that the sound signature of the helicopter is localized and amplified for the area immediately below the helicopter, making the noise seem lower for the distal area, while the area directly beneath the "cone of sound" is blasted by extreme noise levels. Indeed, when we left the house to investigate, we noticed an unusual number of eagles circling in the sky, appearing agitated, and - I can only guess - displaced from their usual roosting and/or nesting areas. Winter and spring are critical time periods for many species, including resident eagles, and being forced into unnecessary flights can stress their lean reserves and threaten their survival.

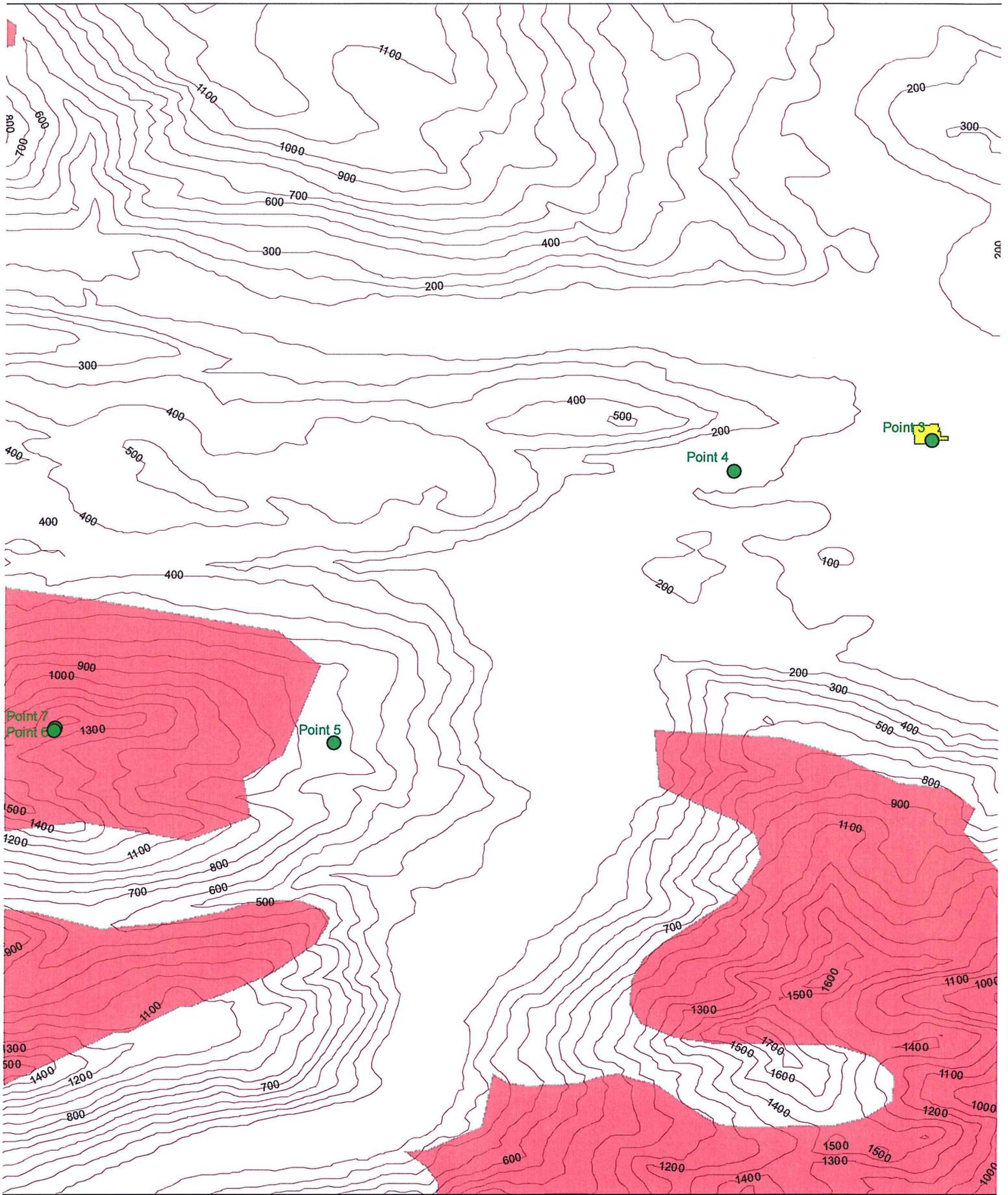
The other very significant effect of this unlawfully low flight elevation is that the noise test currently underway will be acquiring flawed, unusable data. The noise study is a considerable cost to the local taxpayers. Allowing SEABA/BSV to continue to violate the terms of their Commercial Tour Permit will invalidate the data collected during the noise study. Additionally, the actual noise impacts of helicopter

operations at the heliport site in question won't be accurately reflected in this noise "study" if SEABA's operations during the testing period aren't consistent with required operational guidelines that would presumably



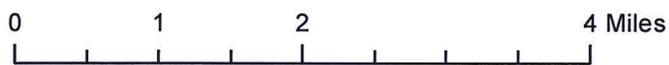
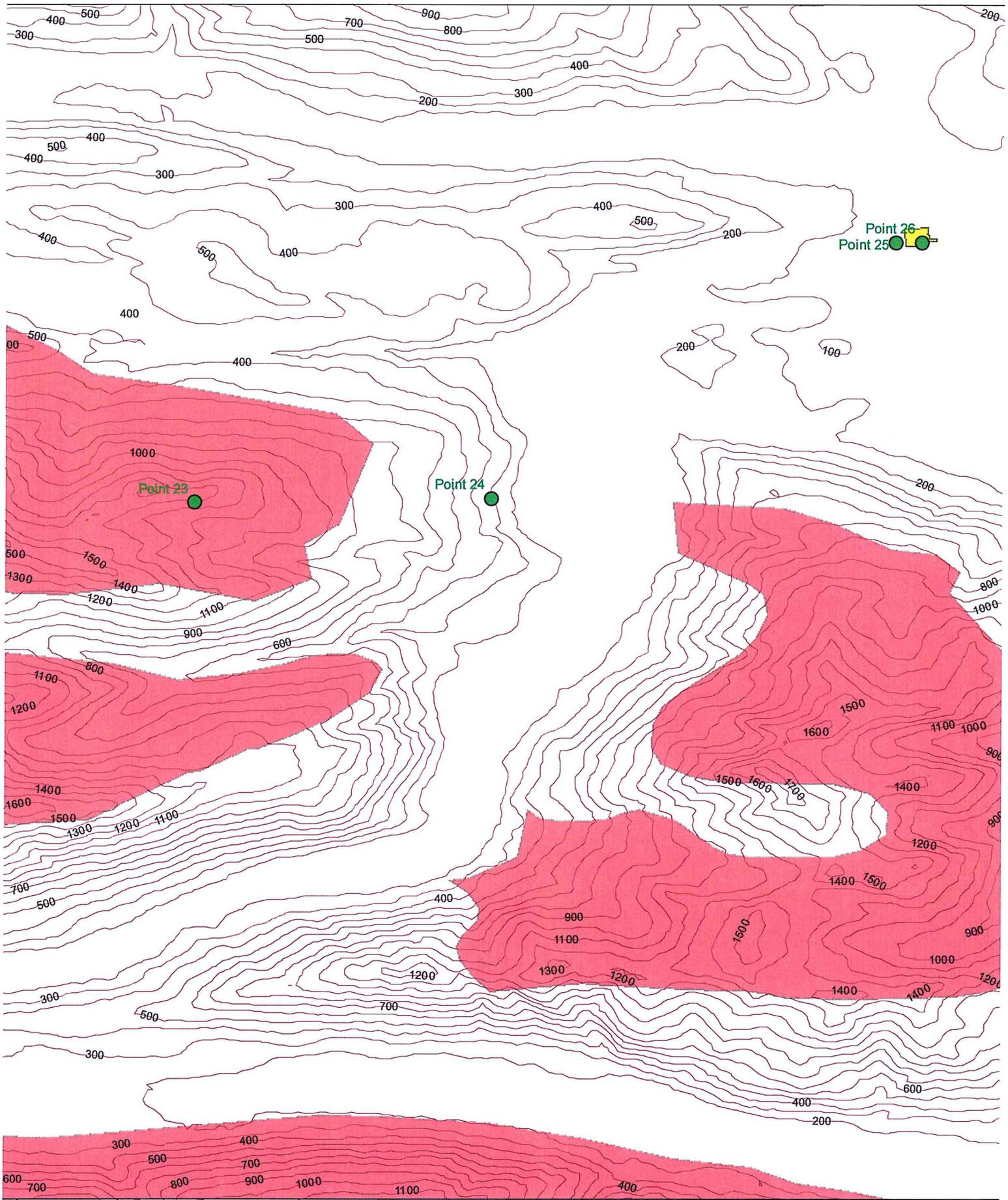
Graphic 1

- HeliskiApprovedArea_2014
- Helipad
- CSV
- Speed = 0



Graphic 2

- Point 3-7
- HeliskiApprovedArea_2014
- Helipad
- Contours_100



Graphic 3

- Point 23-26
- HeliskiApprovedArea_2014
- Helipad
- Contours_100



Graphic 4

-  HeliskiApprovedArea_2014
-  Helipad