

August 13, 2015

To: Haines Borough Planning Commission

Re: Heliport Conditional Use Proposal – 3-CLR-35-0100, Big Salmon Ventures (SEABA)

The manager recommends postponing this decision until the Noise Measurement Study, June 2015 (Study) is completed. The Draft Study is available and there may be additions or changes in the final draft based on public comments received. However, based on current Haines Borough Code and data in the Draft Study, this application does not meet the criteria to “avoid undue noise and other nuisances and dangers.”

The applicant (SEABA) maintains the FAA threshold of 65 DNL as discussed in the Study justifies locating a heliport on their Chilkat Lake Road property. The Study states that the site DNLs can’t be directly compared to the FAA 65 DNL significance threshold and yet they refer to the 65 DNL threshold throughout the report.

For this Study, the measured DNL from the sites above cannot be directly compared to the 65 DNL significance threshold because the annual average was not modeled using Integrated Noise Model. However, the measured average levels at the three sites during the study period (outside of the helipad itself) are generally below what measurements would be expected at the significant 65 DNL or higher level.

Even if the Study had used the Integrated Noise Model, the FAA threshold of 65 DNL is not intended to substitute for local land use decisions based on “locally determined needs and values.”

http://www.faa.gov/airports/environmental/environmental_desk_ref/media/desk_ref_chap17.pdf

14 CFR Part 150 land use compatibility guidelines. FAA established land use compatibility guidelines relative to certain DNL noise levels in 14 Code of Federal Regulations (CFR) Part 150. Chapter 5, Table 1 of this Desk Reference provides a copy of the Part 150 Land Use Compatibility guidelines.

(1) Different local land use compatibility standards. Although residential land uses are considered compatible with noise exposure levels below DNL 65 dB under 14 CFR Part 150:

“The responsibility for determining the acceptable and permissible land uses ...rests with the local authorities...Part 150 is not intended to substitute federally determined land uses for those determined to be appropriate by local authorities in response to locally determined needs and values in achieving noise compatible land uses. “ -14 CFR Part 150, Table 1.

In addition, the FAA states, “civil helicopter annoyance assessments utilize the same acoustic methodology adopted for airplanes” and “impulsive helicopter noise has not been fully substantiated by a well-correlated metric.”

[“http://www.faa.gov/regulations_policies/policy_guidance/envir_policy/media/04nov-30-rtc.pdf](http://www.faa.gov/regulations_policies/policy_guidance/envir_policy/media/04nov-30-rtc.pdf)

As discussed in “effects on individuals” (Section 3), there are multiple noise metrics utilized to assess noise (EPNL, ASEL, DNL, etc). However, civil helicopter annoyance assessments utilize the same acoustic methodology adopted for airplanes with no distinction for helicopter’s unique noise character. **As a result, the annoyance of unaccustomed, impulsive helicopter noise has not been fully substantiated by a well-correlated metric. The FAA favors the chartering a technical effort to focus on low-frequency noise metric to evaluate helicopter annoyance.** (emphasis added)

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As a result of stakeholder dissatisfaction with the current DNL guideline, the FAA has begun a multi-year study to review their DNL threshold which may result in another methodology for assessing aircraft noise or a lowering of the DNL threshold. Notice in the article below that the FAA currently uses the 65 DNL threshold is used for making environmental review, funding, and mitigation measures, not for making land use decisions.

Use of FAA’s DNL threshold is not appropriate for this CUP decision because the borough is not making environmental reviews, airport funding or noise mitigation decisions. Instead, the borough has the responsibility of making good land use decisions to protect the health, safety, and welfare of the public through the conditional use permit process.

[http://www.kaplankirsch.com/files/Airport\\_Law\\_Alert\\_August\\_2015.pdf](http://www.kaplankirsch.com/files/Airport_Law_Alert_August_2015.pdf)

### **Airport Law Alert - No. 22 August 2015**

#### **FAA to Reevaluate Aircraft Noise Methodology**

On May 7, 2015, the FAA announced that it was beginning work on a multi-year study to update the scientific evidence on the relationship between aircraft noise exposure and its effects on communities. The FAA intends to conduct surveys of residents near 20 airports across the country in order to survey public perception of aircraft noise. The FAA states that this will be the most comprehensive single aircraft noise survey conducted in the United States. The FAA did not identify the communities to be surveyed in order to preserve the scientific integrity of the surveys. The FAA expects the surveys to be completed by the end of 2016. After that, the FAA will analyze the data to assess whether to update the FAA’s guidelines and methodology for determining exposure to aircraft noise.

Since 1981, the FAA has relied on the DNL 65 decibel noise exposure level for its environmental review process and to make funding decisions for most noise projects near airports and for federal approval of noise abatement and mitigation measures pursuant to Part 150 and Part 161. The DNL metric is based on an average of all community noise over a 24-hour period, with nighttime noise weighted by a factor of 10 to account for the disruptive effects of nighttime noise. Use of the DNL 65 decibel guideline has not been without controversy,

however, and a number of communities and stakeholders have urged the use of a methodology other than DNL and/or the use of a lower DNL decibel level.

A change in the current 65 DNL decibel guideline could have significant impacts on airport operators. The use of a different noise metric or DNL threshold could increase or decrease the number of homes eligible for federally funded acoustic treatment, home-buyouts, or other noise mitigation measures; could change mitigation obligations; and could change the scope of environmental reviews. In addition to federal issues, a new federal guideline, and publication of the survey results supporting the new guideline could affect airport operators under state lawsuits for inverse condemnation, trespass, and nuisance.\_\_\_\_

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SEABA's last application for a heliport CUP was denied by the Planning Commission and subsequently overturned by the Assembly. The decibel ratings in the Study for the helicopters SEABA uses for heliskiing support the denial of heliport CUP at the SEABA property. Criteria #1 for a CUP (avoid undue noise and other nuisances and dangers) would not be met and the noise Study bears this out. In the Study, the decibel level for a helicopter at the proposed heliport ranged from 100-110 decibels. According to a decibel soundproofing chart, a dog kennel is rated at 110 decibels.

<http://static1.1.sqspcdn.com/static/f/605239/14918070/1320157349257/dBSoundproofingChart.pdf?token=tQio%2Fkr1VyonOCh%2BT05%2BAv9qi0M%3D>

The Planning Commission recently turned down an application for a conditional use permit for a dog kennel on the basis of undue noise for that neighborhood. This application for a conditional use permit for a heliport on Chilkat Lake Road would likewise create undue noise and thus does not meet Haines Borough Code, 18.50.040 Decision., Criteria #1, for a CUP. A heliport simply does not belong in this very quiet neighborhood.

I urge the Planning Commission to deny a Conditional Use Permit for a heliport at SEABA's 3-CLR-35-0100, Big Salmon Ventures property.

Thank you for considering my comments.

Sincerely,

Carolyn Weishahn