June 8, 2000

Dennis B. Person, President,
Helicopter Lift Services, Inc.
4676 Commercial St. SE, #182
Salem, OR 97302

Dear Mr. Person:

This is in reply to your letter of May 18, 2000, attached to which was a letter and a separate list of questions that you had previously submitted to the FAA Flight Standards District Office in Hillsboro, Oregon. You requested that we answer several questions relating to the business of Helicopter Lift Services, Inc. (hereinafter HLSI). You describe HLSI as a "management company" that specializes in arranging for the accomplishment of helicopter external load operations.

It is our understanding that HLSI does not hold a Rotorcraft External-Load Operator Certificate issued under Part 133 of the Regulations. Rather, HLSI is a company that is paid by customers who require the services of an external load operator. HLSI, in turn, contracts with Part 133 operators to have the work performed by those operators. HLSI oversees the operations. In doing so, it assists the operators in assuring that appropriate permits and ground facilities are available and in determining that the aircraft being used are suitable for the intended operation. You have raised several questions regarding the impact of Part 133 on your operations.

1. You ask whether HLSI needs to hold a Part 133 certificate in order to serve as a management company specializing in helicopter lift operations.

In pertinent part, Section 133.11(a) states "No person subject to this Part may conduct rotorcraft external-load operations within the United States without, or in violation of the terms of, a Rotorcraft External-Load Operator Certificate."

The requirement to hold a Part 133 certificate is placed on the organization that conducts the external-load operation. In that regard, we would consider the organization that exercises operational control over the flights to be the operator of those flights and would require that organization to operate under Part 133. It is our understanding that HLSI does not hold itself out as being the operator of external-load aircraft and, further, that the Part 133 certificate holders used by HLSI understand that they have operational control over the flights. Subject to

these understandings, it would be our opinion that HLSI would not require a Part 133 certificate to conduct its management company business.

2. You ask whether, as a management company, you can submit a Congested Area Plan to the FAA on behalf of the Part 133 operator.

Section 133.33 of the regulations authorizes the holder of a Rotorcraft External-Load Certificate to conduct external-load operations over a congested area if the operator can meet certain conditions. In pertinent part, Section 133.33(d)(1) states: "The operator must develop a plan for each complete operation, coordinate this plan with the FAA Flight Standards District Office having jurisdiction over the area in which the operation will be conducted, and obtain approval from that district office."

In our opinion, it would not be acceptable or appropriate for a management company to submit the plan to the FAA. A primary purpose of the regulation is to assure that the holder of the external-load certificate actually develops and submits the plan. We do not believe that this responsibility can be delegated to a management company.

3. You requested our interpretation of the word "busy" as it is used in Section 133.45(d) of the Regulations.

Section 133.45(d) of the Regulations states: "No person may conduct an external-load operation under this part with a rotorcraft type certificated in the restricted category under §21.25 of this chapter over a densely populated area, in a congested area, or near a busy airport where passenger transport operations are conducted." (Underlining added)

We have been unable to find any regulatory history, written opinions, or case law that defines the term "busy" as it is used in Part 133. We therefore, look to the plain language meaning of the word. In that context, we believe that the term "near a busy airport where passenger transport operations are conducted" must be analyzed on the basis of the facts relating to each particular situation. In our opinion, the regulation would suggest that restricted category external-load operations should probably not be conducted in the vicinity of Portland International Airport during the times that normal air carrier operations are being conducted. Whether such operations could be conducted in the vicinity of other airports would depend on a variety of factors, including the type and frequency of passenger transport operations

at the time of the proposed external-load operation.

In addition to the above questions, you asked several questions relating to sections of FAA Order 8700.1, General Aviation Operations Inspector's Handbook. You should be aware that Order 8700.1 is an internal FAA document, prepared to provide guidance to FAA inspectors on various aspects of their duties. As such, its provisions are not regulatory and are not binding on the aviation community.

With regard to your questions relating to subcontracting work or equipment, we would require additional factual information to render a decision on the merits of a particular operation. As a general rule, however, the operator that is responsible for conducting the operation must have the authority to use the personnel and equipment that will be employed for the particular operation.

We hope that the above information has been responsive to your questions. If you need any additional information, please feel free to contact our office.

Sincerely,

John J. Callahan
Regional Counsel