U.S. Department
of Transportation
**Federal Aviation
Administration**

DEC 11 2006

Gary S. Wilson, General Manager
SEI Industries Ltd.
7400 Wilson Ave.
Delta, B.C.
Canada V4G 1E5

RE: Rotorcraft External-Load Operations - Meaning of "congested areas"

Dear Mr. Wilson:

This responds to your December 5, 2005 letter requesting a definition of the term "congested areas" as referred to in 14 CFR § 133.33(d). Your letter cites a previous FAA interpretation (Federal Aviation Decisions Interpretation 1979-57) to conclude: "This would indicate that flying over an interstate highway, or an interface area where homes are sparsely spaced would not be considered a "congested area." Would you concur with this understanding?"

The FAA **does not** concur. The meaning of "congested areas" is determined on a case-by-case basis depending upon the evidence presented. Several cases of the National Transportation Safety Board addressed the "congested area" phrase and provide instances where "congested areas" could include flying over an interstate highway or where homes are sparsely spaced.

The most recent case, Administrator v. Charles H. Henderson (NTSB Order No. EA-3335, 1991 WL 320154 (N.T.S.B.)), involved a helicopter covering a train derailment incident and determined that flying over a street intersection was a "congested area."

A second incident is Adminstrator v. John Wagner (NTSB Order No. EA-3047, 1989 WL 267714 (N.T.S.B.) concluded "I must also find on the testimony of the Administrator's witnesses who were occupants of the helicopter that the respondent was flying over the very congested area of I-35 and 63rd Street at between 500 and 600 feet above ground level, when he should have been no lower than 1,000 feet over that congested area."

A third incident is the oral initial decision and order in Great Lakes Region for the FAA v. Jeffrey A. Jobe, and Jobe Ski Corporation (1989 WL 267510 (N.T.S.B.)) declared the helicopter flight "... was a hazardous operations. This was a heavily congested area, in Tippecanoe Lake and the James Lake area. There were many persons, many boats. There were swimmers all in the area where this helicopter pulling a skier persisted."

Lastly, in Administrator v. Ronald Lofranco (NTSB Order No. EA-2748, 1988 WL 250361 (N.T.S.B.)), a helicopter flight was inspecting electric utility lines at low altitude to detect any broken insulators and damaged poles. Although not specifically ruling on whether the

area was congested or not, the helicopter's low altitude "constituted a hazard to the people that were using the highway, and to their property, namely their vehicles."

These examples are part of the current guidance the FAA uses in determining whether a certain helicopter flight operation is considered over a "congested area."

This response was prepared by Bruce Glendening, Attorney in the Regulations Division of the Office of the Chief Counsel and has been coordinated with the Air Transportation Division of Flight Standards Service. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel
for Regulations Division, AGC-200