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

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

JUN 17 2011

Ms. Jamie Tanabe, President
Tanabe Flying Services, Inc.
1093 E. Avocado Crest Rd.
LaHabra Heights, CA 90631

Dear Ms. Tanabe:

This letter is in response to your February 21, 2011 letter seeking clarification of a legal interpretation to you dated May 21, 2010. The matter on which you seek clarification appears to be regarding what persons can be carried on board the aircraft during aerial work operations.

As stated in our May 21, 2010 interpretation, and reiterated in your letter, when conducting aerial work operations, each person on board the aircraft must be necessary to perform the operation. You are correct that there is not a limit on the number of people necessary to conduct an operation; however, whether an individual is necessary for the operation would be assessed on a case-by-case basis. We will now review the examples of people you might carry as described in your letter.

First, you state that individuals other than the pilot may be necessary to perform the operation because many of your operations take place in congested airspace. The FAA agrees that other people may be carried on board the aircraft provided they are necessary for the flight. If your company prefers to have a person, other than the pilot, conduct the scattering so that the pilot can focus on operating the aircraft, then that person would be considered necessary for the operation.

We note that the person assigned to operate the scattering device need not be a member of your company, but could be a client. That person would be able to scatter the remains while the pilot operates the aircraft. We caution you, however, that the FAA would look at what is required to perform the task of operating the scattering device when determining the number of people that would be necessary to perform the operation.

Second, you state that some park services or tribal organizations require a representative to be on board the aircraft to verify the scattering is done over the exact location where you have permission to scatter ashes. The FAA would consider such a representative to be necessary for the operation because they are required to be on board to conduct the operation as planned. You would be prohibited from conducting the operation at that location without the representative on board.

Third, you state that for religious or personal reasons, a family may require that there be a clergy member on board to bless the cremated remains or to say ceremonial words of remembrance. Unlike the person assigned to operate the scattering device, or the representative required to verify the location of the scattering, it does not appear that the blessing or words of remembrance must be performed while the aircraft is in flight. Accordingly, based on your letter, the FAA would not consider such individuals to be necessary for the operation, unless they are on board the flight to operate the scattering device.

This response was prepared by Dean E. Griffith, Attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the Air Transportation Division and General Aviation and Commercial Division of Flight Standards Service. Please contact us at (202) 267-3073 if we can be of additional assistance.

Sincerely,

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