U.S. Department
of Transportation
Federal Aviation Administration

Office of the Chief Counsel

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

NOV 20 2018

James Richards
Dynamic Aviation – Helicopters
Chief Pilot and Director of Operations
P.O. Box 1385
Vernal, UT 20591

Dear Mr. Richards:

This letter is in response to your July 10, 2018, request for legal interpretation of 14 C.F.R. § 119.1(e)(4) regarding aerial work operations, and, in particular, whether wild cow and wild horse chasing are aerial work operations as intended by the regulation.

In your letter, you describe an operation wherein you, a certificated commercial helicopter pilot, would operate a helicopter to assist an Indian Tribe to "chase" wild cows and wild horses out of canyons and off mountains towards holding corrals at which point cowboys on horseback would then finish running the livestock into the corrals. An Indian Tribe inspector would accompany you in the helicopter and provide direction with respect to the "chasing" of the livestock.

Generally, each person operating or intending to operate a civil aircraft as an air carrier or commercial operator in air commerce must hold a part 119 air carrier certificate or commercial operator certificate and operate under part 121 or 135 rules. However, certain operations, including aerial work operations, are excluded from the certification requirements of part 119 (*See* § 119.1(e)(4)). As a result, aerial work operations may be conducted under the less stringent operating rules of part 91.

The FAA has consistently interpreted the term "aerial work" to mean work done from the air with the same departure and destination points, while no property of another is carried on the aircraft, and only persons essential to the operation are carried onboard the aircraft.[1] In the Shamborska Legal Interpretation (February 5, 2010), the FAA interprets § 119.1(e)(4) as

[1] See, for example, Legal Interpretation to Angelina Shamborska (February 5, 2010), Legal Interpretation to Jeffrey Hill (March 10, 2011), Legal Interpretation to Ray Bonilla, Esq. (September 7, 2011), and Legal Interpretation to Gregory S. Winton (February 14, 2013).

containing only a partial list of examples of the exceptions meeting the definition of aerial work operations[2].

Chasing livestock, as described in your letter, is closely relatable to "bird chasing" as it appears in § 119.1(e)(4)(i). As such, if your operation meets the other criteria for aerial work (as discussed earlier), those operations could be excluded from the certification requirements of part 119 and thus be conducted under part 91. However, based upon the description of your operation as set forth in your letter, we do not have sufficient information to determine whether those other criteria are satisfied.

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

Sincerely,

Lorelei D. Peter
Assistant Chief Counsel for Regulations, AGC-200

[2] In a Legal Interpretation to Joe M. Sapp (May 17, 2007), reference is made to a June 26, 1989 FAA Legal Interpretation (Butler, Hickey & Long), which further affirms the examples of aerial work operations cited in the regulation are not exclusive and other aerial work operations not listed may be included in the provision.

DYNAMIC AVIATION - HELICOPTERS

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DATE: 10 July 2018

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800 Independence Avenue
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Phone Number: 202.267.3073

RE: Legal Interpretation Request

Gentlemen,

My Local FISDO and I have an Interpretation Request regarding "Aerial work Operations" as described in 14 CFR 119.1 (e)(4)(i) & (iii).

I am an FAA Certified Commercial Helicopter Pilot, with over 15,000 Hours Helicopter flying experience. Certificate Number 3179350. Also, I am an FAA Certified Mechanic, A&P 3179350 IA.

The Ute Indian Tribe has requested that I use my Helicopter to "chase" some of their Wild Cows and Wild Horses out of the Canyons and off the Mountains and "chase" them toward the Holding Corrals, where their Cowboys on horseback will finish running them into the Corrals. One of their Brand Inspectors will fly with me to directing the "chasing" operation.

I will have my One Million Dollar "Aircraft Liability Flight Coverage Insurance" active and will mail in the DOT FAA OST Form 4507 after my Insurance Company has issued the OST Form 6410.

Among other allowed Aerial Work Operations, 14 CFR 119.1 (e)(4)(l) allows "bird chasing."

In a FAA Legal Interpretation issued by your office on February 5, 2010, signed by **Rebecca B. MacPherson,** Assistant Chief Counsel Regulations Division , AGC-200, the following line appears in the third paragraph: **"While the regulation cites certain examples of aerial work operations, those examples are not all-inclusive."** Underline Added.

So, our Question for the FAA Office of Chief Counsel is: **Is Wild Cow and Wild Horse "chasing" a legal "aerial work operation" as per 14 CFR 119.1?**

A prompt answer would be appreciated.

With the drought conditions our area is now suffering, the Grass Feed on the Range for Wildlife and Livestock on the Tribal Lands is nearly gone. If these unwanted animals can be removed from the Range soon, the remaining Wildlife and Live Stock should have enough feed to survive until the rains come and the grass grows.

Thank You,

James Richards.

James Richards. email: james.richards500@gmail.com