

EAST HAMPTON
AIRPORT

**GENERIC ENVIRONMENTAL
IMPACT STATEMENT
RESPONSE TO COMMENTS
APPENDIX I**

Prepared for the
Town of East Hampton



Submitted by

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EAST HAMPTON AIRPORT FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT

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Response to Oral Comments

Public Hearing of September 17, 2009

1.0 INTRODUCTION

The discussion provided below provides background and general responses to oral comments offered at the Public Hearing for the East Hampton Airport draft Generic Environmental Impact Statement. The proceedings of the Public Hearing commenced on September 17, 2009 at 7:30pm at the Springs Firehouse.

2.0 BACKGROUND

2.1 The Role of Town Government in Airport Management

There are several governmental entities that control airport activity. The division of authority limits the prerogatives of town government, especially with regard to noise control.

The government consists of federal, state and local authorities including counties, towns and villages as well as various special purpose administrative districts. Various powers are distributed among these divisions. In some cases Town powers outweigh other units of government. In other cases Town powers are sharply limited or even nonexistent.

Towns, such as East Hampton, generally govern land and activities within their borders through such means as local laws and ordinances. Local powers, often called police powers, govern citizen and land owner activity such as through planning and zoning including restrictions on the use of property and the locations of permitted activity. The Town also governs through providing services including public works and maintenance, collecting local taxes and otherwise structuring local affairs. The Town may also act in the role of proprietor of certain facilities including, in this case, the local airport which is wholly owned by the Town of East Hampton. The Town owns the airport tract outright; there was no federal contribution to acquisition costs. Construction of the original facilities was a Work Projects Administration (WPA) project, but this did not result in a continuing federal claim. Should there have been federal participation in land acquisition; the resulting federal interest could not be extinguished.

As proprietor, the Town is charged with maintaining the facility in accordance with federal standards and supervising airport affairs in the public interest for the benefit of the people of East Hampton and adjacent municipalities, airport users, business interests and travelers. While the Town has this authority, it does not include regulating aircraft while in the air. Those powers are reserved by the federal government through the Federal Aviation Administration (FAA), which, over time, has virtually dominated the field of aviation regulation, including the use of airspace above the Town.

In particular, conflicts between airport neighbors, airport management, airport proprietary powers and the powers of the federal government may occur in the sense that local proprietors do not have the power to regulate aircraft in flight including aircraft generated noise. Aircraft noise emission levels are regulated through Federal Aviation Regulations Part 36, land use

compatibility through application of a voluntary program codified under FAR Part 150 established under the Airport Noise and Safety Act, and access restrictions through FAR Part 161, established under the Airport Noise and Capacity Act of 1990. Other than through compliance with these federal administrative laws, the airport proprietor has strictly limited regulatory authority over such key questions as airport access, hours of operation and allowable noise levels. This contrasts sharply with the Town's enforcement powers under its own regulations. Occasionally, such as in this case, the Town, acting as the airport proprietor, assumes the role of a developer of a public facility and influences airport affairs through choices concerning what developments and services will be provided. Elected officials often must reconcile conflicts in such circumstances because of these differing responsibilities.

2.2 The Town Noise Ordinance

The Town's police powers, including the local noise ordinance, do not override federal regulatory authority or proscribed environmental standards or analysis techniques. For example, despite its perceived inadequacies, the Day Night Average Sound Level (DNL) was specified as the national single system for describing aircraft noise in the early 1980's. Local ordinances are therefore inapplicable except through the application of the "proprietor's exception." The proprietor's exception refers to the Town's authority to set certain local standards such as for environmental quality.

A similar exception to the Town's authority exists with the state government that regulates noise emissions from motor vehicles. The Town Code 185-4 specifically lists noise limits applied to emissions from homes and businesses, but specifically exempts "all noise coming from the normal operations of properly equipped aircraft" as well as motor vehicle noise, agricultural equipment noise, construction noise as well as intermittent or occasional noise from light residential outdoor equipment. The Town ordinance also prohibits aviation activity other than at the two airports. Therefore, the underlying contention offered in testimony that the Town has regulatory authority over aircraft noise either based on single events levels or cumulative levels of noise cannot be sustained.

Noise is a valid societal concern especially in areas that are generally quiet such as occurs in the Town of East Hampton. Further, noise is an increasing concern generally as the number, frequency and intensity of events multiply. However, alternative regulatory approaches mentioned in the hearing typically involve various prohibitions which, if enacted, would exceed the regulatory authority of the Town. The Town's powers other than through application of FAA sanctioned measures are nil. Several commentators in the Public Hearing inferred that the Town has regulatory powers over aircraft noise emissions. However, except through complying with federal procedures, these are preempted under current federal legislation. The Town's abilities to limit aircraft noise are restricted by the Town's inability, under current federal regulations, to interfere with the operations of aircraft which are in compliance with FAA regulations. The Town has utilized voluntary noise abatement procedures, including minimum altitudes and suggested arrival and departure routes intended to reduce noise and its impacts. The Town will continue the promulgation of further voluntary noise abatement procedures, as well as continue with efforts to obtain local control over helicopter operations at the East Hampton Town Airport, by way of special exception or by pursuing changes in federal regulations to provide for greater local control. Installation of a seasonal control tower is anticipated to provide at least some

degree of limited control over aircraft operations of all types, thus possibly providing some degree of relief from noise as well. The Town remains committed to addressing noise concerns at the Town Airport, and recognizes that the current FAA regulatory framework does not provide an adequate framework at the present time for effective control of noise.

2.3 Environmental Assessments and Environmental Impacts Statements

The Draft Generic Environmental Impact Statement for East Hampton Airport complies with the National Environmental Policy Act (NEPA) and the State Environmental Quality Review Act (SEQRA) and local Town law under SEQRA. These laws have been implemented by the various agencies including the FAA, the New York State Department of Environmental Conservation (NYSDEC) and the New York State Department of Transportation (NYSDOT). Each agency has adopted its own specific regulations which establish standards of significance and procedural rules.

It is understood that all human activities have discernable environmental impacts both positive and negative. An EIS is not a catalog of all environmental impacts, but focuses on those potentially significant large adverse environmental impacts which could result from the implementation of those projects under consideration in the document.

In the case of airports, the objective of environmental investigations is the determination and quantification of those possible impacts which may result from proposals for facility development. These investigations are aimed at assessing alternatives, including the “no build alternative”, insuring that regulatory thresholds (standards) are not exceeded, that all relevant concerns resulting from the proposals are reviewed and that mitigating measures are developed, where possible, to offset environmental deterioration. EIS’s serve as guides to decision making, incorporate relevant information from prior studies and reveal, to the extent feasible, future foreseeable circumstances.

Generally, environmental impact studies are part of a process. The process typically begins with a plan; in this case, the Master Plan Report which was published in 2007 and is incorporated by reference. The EIS process begins with a draft that is publicly distributed followed by a Public Hearing and an opportunity to file written comments. Responses to those comments and modifications to the draft then become a final published EIS. Environmental review does not end with the publication of a final EIS. Actual facility designs will emerge from the plans reviewed in the EIS. These designs must comply with other Town ordinances such as for ground water protection and site plan review procedures. An EIS may also contain recommendations for further study.

In the case of aircraft noise assessment, an EIS does not serve as a substitute for a noise abatement planning study such as is conducted under FAR Part 150 is the appropriate vehicle. A federally sponsored Part 150 study is probably not advisable, feasible or fundable under current circumstances because current FAA guidelines suggest that, in contrast to testimony offered at the Public Hearing, no noise "problem" actually exists at the East Hampton Airport as it is defined in Part 150, i.e., an annual DNL 65 contour enclosing a residence. The reason for this is that current federal policy is based on the concept that unless such an actual legal liability exists, then all airport adjacent lands are considered compatible. Residents, by contrast, as well as local

municipalities, researchers, and authorities as venerable as the World Health Organization recognize the onset of adverse human reactions at substantially lower exposure levels. The FAA applies a standard sufficient to protect public health, but generally does not address the more widespread concern, noise related annoyance. The lower standards used by other authorities constitutes what would be considered a secondary standard. So far no secondary standard addressing the adverse noise impact at lower thresholds has been promulgated by federal authorities. The draft GEIS noise impact maps show cumulative noise levels down to DNL 50. This is responsive to the long term local concerns with the issue of aircraft noise under FAA standards. It also points to the fact that even in consideration of federal guidelines, the Town through appropriate decision making in compliance with federal procedures retains the ability to set more restrictive standards that are "reasonable, nonarbitrary and nondiscriminatory." Few communities have done so but, as a practical matter, many airports and industry practitioners informally recognize the adverse effects that occur at lower thresholds of exposure.

A noise abatement planning study is not an airport access study such as are conducted, infrequently, under FAR Part 161. A FAR Part 161 study is essentially a cost benefit analysis. Part 161 has not proven to be a useful approach to curtailing aircraft access under current FAA guidelines. The FAA has taken the position in reviewing a recent Part 161 application from Burbank, California that curtailing noise impact below the federal land use compatibility guidelines as currently codified creates no benefit to local residents. Thus, the primary local benefit sought, relief from noise exposure, would not be achievable in the current regulatory environment.

Considerable adverse reaction will probably continue to occur because of objections to the FAA noise analysis and study procedures since they are insensitive to ambient noise levels in communities, such as East Hampton, which are low (as low as 40 dB) resulting in aircraft noise having a much greater effect than in urban areas that have much higher ambient levels. Federal standards and procedures are relatively insensitive to circumstances that exist in East Hampton. This is an expected consequence of a regulatory regime that must accommodate the environmental impacts of large air carrier airports such as JFK and LaGuardia.

3.0 SUBSTANTIVE ISSUES

In the draft GEIS for East Hampton Airport, a total of 14 projects were reviewed. Most of these proposals did not provoke comment. Of the 31 speakers at the hearing (see Attachment A-1 for a complete list of speakers), 15 supported the development proposals as well as the airport generally. Four additional speakers had comments that were mixed, for example supporting the reopening of Runway 4/22, but adverse to helicopter noise. The remainder were generally opposed to one or more proposals, particularly reopening Runway 4/22. Additionally, several issues that were unrelated to specific proposals emerged both in oral testimony and written submissions. However, in the main, three aspects of the current situation garnered the most frequent adverse commentary: noise particularly helicopter noise, the reactivation of Runway 4/22 and the acceptance of federal funding for airport development.

Public Comments and Responses

3.1 Noise

Comments and Response

A total of 12 individuals spoke on aircraft noise including representatives of two adjacent Townships. Helicopter noise and alternative routes were the predominant topic despite the fact there are no proposals in the Airport Master Plan that relate to helicopter operations. The only proposal even potentially related is a seasonal control tower that may provide the basis for limited authority to proscribe routes or noise abatement procedures. East Hampton Airport currently has no authority to control any air traffic. This authority is the sole jurisdiction of the FAA. However, recent proposals by the FAA, Senator Schumer, Congressman Bishop and the East Hampton Town Board have engaged the issue of helicopter noise abatement directly. (Please see Town's responses to FAA in the Appendix J.) A seasonal control tower may have the potential to change the status quo, irrespective of FAA initiatives and that change may be an improvement. Significantly, a seasonal control tower was well supported by several individuals and none voiced opposition.

Authoritative comments were received from the Noise Abatement Advisory Committee (ANAAC). Issues raised include underestimation of the projected growth in helicopter traffic in the Airport Master Plan, a lack of specific noise abatement goals, a request for a systematic review to reduce helicopter and fixed wing aircraft traffic, the inclusion of a Part 161 study and additional local and/or federal legislation. As already stated, the Town supports many such initiatives including an amendment to the FAA Reauthorization Bill in Congress that mandates a study of helicopter noise issues.

An elected representative from Southampton supported the Noise Abatement Advisory Committee statement. A representative from the Southampton Planning Department also testified to the need to use local proprietary powers. Extensive commentary was offered via a presentation from the Noise Pollution Clearing House. A written statement was offered.

There were several comments on helicopter routes and altitudes. The most frequent recommendation was greater utilization of the Georgica Pond Route due to the adverse impacts of the Jessup's Neck Route and particularly the Northwest Creek Route. Other oral comments objected to the Day Night Average Sound Level methodology (DNL; reference Appendix C) for noise measurement preferring instead the use of single event measures, single event violations of the Town Noise Code, concerns about federal funding (which precludes noise based performance standards), the absence of noise monitoring data and vibrations caused by low altitude helicopters.

There are no proposals related to helicopter noise in the Airport Master Plan or GEIS. The EIS is an analysis of the potentially significant adverse environmental impacts from the projects contained within the Airport Master Plan. Helicopter noise was not featured in the GEIS because there were no proposals linked to helicopter activity or facilities. Conduct of a future noise abatement planning study is suggested, but many of the expected recommendations cannot be

enforced without a control tower. Access restrictions including a curfew are customarily addressed through a Part 161 study.

Single event noise levels for helicopters as well as a comparison of noise impacts among the differing arrival routes will be included in the Final GEIS to reflect the perceived unique nature of local concerns. Noise analysis methods employed including the use of the FAA's Integrated Noise Model (INM) and the DNL methodology are required under federal law. The Town is limited by Federal law with respect to noise issues. Nevertheless, single event noise impact plots for all fixed wing aircraft were included in the Master Plan Report.

There are now two arrival routes for helicopters, the Northwest Creek route and the Georgica Pond route. The Northwest Creek route is used exclusively for arrivals. Jessup's Neck and the Georgica Pond route are used for departures, though this may change as the Town's ongoing noise abatement procedures are developed. The GEIS noted that based on noise monitoring studies, East Hampton and the surrounding communities are exceptionally quiet, dramatizing noise events by making their audible period much longer and providing a greater contrast with low background noise levels.

3.2 Runway Selection

Comments

Currently, Runway 16/34 is active and Runway 4/22 is closed. Research accomplished in the Master Plan Report indicates that only one cross wind runway is needed to satisfy FAA wind coverage criteria. Several comments supported keeping Runway 16/34 open due to lower cost and housing patterns surrounding the airport. Other speakers supported Runway 4/22 because of safety; i.e. prevailing winds and consistency with other Long Island airport designs.

Response

Runway 16/34 has more compatible land use to the southeast due to a large currently unutilized tract of land adjacent to the Airport. However, the Town's Comprehensive Plan clearly earmarks this land for development. By contrast, the extended centerline of Runway 4/22 overlies a low density residential area. While Runway 16/34 offers land use advantages, overall consideration of future development makes this current advantage unsustainable.

The existing Terminal Area is close to Runway 16/34. A detailed design reconfiguration was disclosed at the Public Hearing (see item t in written comments section). While retaining Runway 16/34 appears feasible, there are major design disadvantages for the safe movement of aircraft: the large number of aircraft during peak summer activity periods, constraints on the expansion of ramp space and aircraft maneuvering difficulties. This design, although feasible, leads to operational inefficiencies since it exacerbates the fundamental problem: the relatively small space between the Terminal Building and Runway 16/34. This design would also require the relocation of buildings in the Terminal Area, repaving of Runway 16/34 and the repaving of the ramp area.

Runway 4/22, if reactivated, makes existing airport land available for hangars, ramps, or parking area construction. Reactivating Runway 4/22 would allow the existing Terminal Area to remain intact since Runway 16/34 would be converted to a taxiway. This design solution reduces the potential for operational congestion, enhances safety, limits future capital and operational costs and avoids disruption of the Terminal Area during construction.

Airport user testimony favors the reactivation of Runway 4/22. While Runway 16/34 has satisfactory wind coverage during the winter months, Runway 4/22 is better oriented to the prevailing winds during the summer when peak use occurs. In particular, landings from the southwest to the northeast on Runway 4 are needed during periods of low pressure frontal passage when winds are strong out of the northeast.

From a long term airport planning perspective, Runway 4/22 is clearly preferred in comparison to Runway 16/34. With the addition of a seasonal control tower, takeoffs on Runway 22 could be directed to make an early turnout, reducing overflights of the existing residential area. Aircraft incapable of such a low altitude turn could be directed to Runway 10/28. The draft GEIS also investigated a potential mitigating measure, extending Runway 4/22 to the northeast moving the start of takeoff roll farther from existing residential areas. This analysis determined the noise reduction benefits to be so small as to recommend against this mitigating measure in favor of operational controls.

3.3 Federal Funding

Comment Overview

An airport, to be truly useful, has to be a part of a system. In the United States, that system is operated by the FAA and there is no way to absolutely disengage from the operating agency. Still, there is a continuing question about accepting FAA grants-in-aid for airport development projects since these are accompanied by assurances from the proprietor about adhering to the conditions expressed therein. These assurances generally last 20 years. In East Hampton, the last federal grant was for ramp repaving in 2001 leading to a 2021 expiration. As a consequence of past litigation, two provisions expire in 2014. One relates to the discrimination provision and one to Airport Layout Plan (ALP) filing. The key historical concern has been discrimination provisions which could potentially screen out offensive aircraft noise. The principle reason stated for challenging the acceptance of federal funding is the desire to acquire total local control over airport operations.

Response

Local control of airport affairs was especially meaningful in the 1990s when comparatively loud Stage 2 fixed wing jet aircraft remained a significant part of the private jet fleet and FAA assurances prevented discriminating against their use. Stage 2 aircraft have been nearly totally replaced by substantially quieter Stage 3 aircraft. By contrast, all helicopters currently in use at East Hampton Airport are Stage 2. There are no Stage 3 helicopters in production.

The majority of noise complaints emanating from the East Hampton Airport are directed at seasonally active helicopter operations. Efforts continue to be made on the part of the FAA,

Congressional Representatives and the Town of East Hampton to abate the noise related to airborne helicopters. Despite any constraints encountered, the Town remains committed to an aggressive noise mitigation program. (See Town of East Hampton Comments to Proposed FAA Helicopter Route, Appendix J.)

Grant assurances are intended to ensure the safe, non-discriminatory operation of air traffic and do not preclude the airport sponsor from initiating responsible noise abatement guidelines. Attempting to operate an airport devoid of FAA oversight and guidance is not only impossible, given the dominant role of the FAA in air operations; it is impractical by placing a large burden of responsibility and liability on the Town.

3.4 Other Issues Raised

A variety of issues were raised including vibrations from helicopters, perceived unsafe practices, diversion of traffic to other airports, odors, concerns about adverse impacts on Northwest Woods and Northwest Creek including adverse impacts on wildlife, use of the airport for sports facilities, aggressive use of the proprietor's exception to restrict traffic, concerns about the adequacy of the alternatives analysis and a more sophisticated noise analysis.

Response

These concerns are addressed in the GEIS and are in the responses to written comments.

ATTACHMENT A-1

East Hampton Airport Draft Generic Environmental Impact Statement Public Hearing Summary, September 17, 2009

List of Speakers

1. Kathy Cunningham, Chairperson, Airport Noise Abatement Advisory Committee
2. Charles Erin, Vice Chair, Airport Noise Abatement Advisory Committee
3. Peter Wadsworth, Airport Noise Abatement Advisory Committee
4. Les Blomberg, Executive Director, Noise Pollution Clearing House
5. Nancy Graboski, Town of Southampton
6. Jefferson Murphree, Planning and Development Administrator, Town of Southampton
7. Bill Reilly, Resident, East Hampton (Sag Harbor)
8. Cheryl Gold, Resident, East Hampton
9. Frank Dalene, Resident/Pilot, East Hampton
10. David Gruber, Resident, East Hampton
11. Paul McDonnell, Airport Planner, CHA, Inc.
12. Tom Gibbons, Greenman and Peterson (VP, East Hampton Aviators Association)
13. Pat Hope, Resident, East Hampton
14. Harold Levy, Resident/Pilot, East Hampton
15. Paul Scherer, Resident/Pilot, East Hampton
16. Gerard Boleis, Resident/Pilot, East Hampton
17. Sandy Ferguson, Resident, Bridgehampton (Friends of the Long Pond Greenbelt)
18. Gene Hallarton, Resident/Pilot
19. Tom Lavinio, Resident/Pilot
20. Margie Solomon, Resident/Pilot
21. Tom Twomey, Resident/Pilot
22. Eddie Seraman, Pilot
23. Bruno Shrek, Resident/Pilot, East Hampton
24. Margaret Turner, East Hampton Business Alliance
25. Hal Wiseman, Pilot
26. Peter Van Scoyoc, East Hampton Town Planning Board
27. Michael Margolis, Resident/Pilot, Amagansett
28. John Shea
29. Eric Handerman, Pilot
30. Martin Drew, Long Island Sports Committee
31. Irving Taylor, Resident/Pilot, Wainscott

Introduction to Written Comment Responses

Each of the written comments received concerning the East Hampton Airport draft GEIS is presented in this appendix, followed immediately by a specific response. In addition, in reviewing the letters and responses concerning the draft GEIS, several clarifications are helpful in understanding concerns shared among several respondents.

An Environmental Impact Statement is a review of development proposals set forth by the Lead Agency, in this case, by the Town of East Hampton acting in the role of airport proprietor. The document discusses 14 proposals in detail, analyzes alternatives, shows before and after conditions in terms of a number of differing categories of environmental impact and specifies mitigating measures. Some of these are irrelevant to East Hampton, but are required by regulations adopted by the FAA under the National Environmental Policy Act (NEPA) and to a lesser extent those of New York State adopted in response to the State Environmental Quality Review Act (SEQRA). The GEIS is responsive to both sets of criteria as well as to local environmental regulations.

The primary concern to many respondents is aircraft related noise, especially helicopters. The abatement of aircraft related noise has been a continuing objective of the Town since at least 2003. It is almost certain to be a concern continuing well into the future. Noise is a topic in the GEIS, but the GEIS is not a noise abatement planning study, i.e., it is not a systematic review of the various options, strategies and policies that might be helpful reducing noise impact or limiting its growth. The subject of noise abatement will continue. Numerous suggestions were offered in the correspondence received. The goal in noise abatement planning is to obtain the greatest transportation benefits to airport users and the traveling public while minimizing noise impacts not only in East Hampton, but in all surrounding communities.

The first formal noise-related study was conducted in 2003. This exercise monitored noise levels in a variety of locations, and in response to growing volumes of helicopter traffic defined the arrival route, which at that time was called the Powerline Route and was modified to become the Jessups Neck Route. It also recommended acquisition of the AirScene aircraft tracking system which was put into service in 2006. This system has the capability to integrate noise monitoring data to correlate aircraft movement with on-the-ground readings as well as to enable identification of those aircraft causing complaints.

The designated helicopter arrival route was found to have inadequate margins of safety and triggered adverse responses among many local residents especially in Southampton. A second route was created to accommodate arrivals, leaving the Jessup's Neck route as a departure corridor, thereby cutting its use in half. This route, known as the Northwest Creek route, was created to serve as the arrival path. It was intended to keep helicopters over water for most of its length. This led to increasing adverse reactions from communities to the north, especially Shelter Island. In both cases, as a result of these adverse reactions, recommended overflight altitudes have increased progressively to 2,500 feet above terrain. Adherence to these recommendations and other voluntary measures has been good.

Other strategies and adjustments are undoubtedly and earnestly desired by local residents as evidenced by the correspondence. However, the draft GEIS contains no proposals directly related to noise abatement nor any related to helicopter transport, but through facility improvements such as the establishment of a seasonal control tower lays the ground work for an expanded noise abatement program. Hence the draft GEIS is related to the continuing effort toward noise abatement, but does not satisfy the desire, shared among many, for noise relief. Noise abatement is a continuing effort. The GEIS is a part of that effort, but is not intended as a substitute for comprehensive further investigations of the most fruitful ways to reduce noise impact, which the Town will continue to pursue.

Most central to facilitating noise abatement is establishing control over aircraft using the facility. This is the purpose of the seasonal control tower. The draft preferred alternative as shown in the GEIS then becomes the basis for an Airport Layout Plan. Absent completion of the GEIS, the Airport Layout Plan cannot be lawfully submitted to the FAA reestablishing East Hampton Airport as part of the national system of airports. Without this reestablishment of official status, the FAA cannot authorize the changes in airspace designation around East Hampton to empower local air traffic control. The GEIS is not a noise abatement planning exercise, but yet its completion is essential to structure the use of the airspace above East Hampton and surrounding communities. This will permit the further abatement of aircraft related noise impact during the busy summer season.

Noise

TOWN OF EAST HAMPTON
AIRPORT NOISE ABATEMENT ADVISORY COMMITTEE
200 DANIELS HOLE ROAD, WAINSCOTT, NY 11975

Friday, September 25, 2009

William McGintee, Supervisor
Town of East Hampton
159 Pantigo Rd., East Hampton, NY 11937

Dear Supervisor McGintee:

The September 17, 2009 public hearing helped crystallize our concerns about the July 2009 Draft Generic Environmental Impact Statement (DGEIS) as it relates to airport noise and the airport master plan update. In our view, the DGEIS fails in at least six ways to address the environmental needs of the community as required by the New York State Environmental Quality Review Act.

1. Fails to acknowledge despite overwhelming evidence, that airport noise, especially from helicopter traffic, is the major concern to thousands of residents.

Overwhelming evidence of the importance of noise to the community includes the following information obtained from the DGEIS and this committee's Five Year Report:

- 20 of 29 speakers and 41 of 49 written comments in connection with the public hearing on the DRAFT Airport Master Plan Report (DAMPR) "strongly objected to the noise specifically from helicopters."¹ (Appendix A of the DGEIS)
- The airport received over 12,000 complaints about helicopter noise in 2007 and 2008, 80% of which were about helicopters. (p. 29 of DGEIS). Helicopter complaints averaged approximately fifteen times the rate for fixed wing aircraft
- A rudimentary computer model prepared by the Airport Noise Abatement Committee indicates that helicopters represent at least 60% of all aircraft residential noise events in excess of 65 dB. (from Five Year Report of ANAAC - Sept. 11, 2009)

If nothing else, the DGEIS's failure to acknowledge the existing noise problem violates the regulation requiring that "all draft EISs must include the no action alternative" (NYCRR, sec. 617.9 (5) (v)).

2. Fails to measure the extent of airport noise beyond the airport boundaries, especially during the summer months, despite available methodologies to do so.

Despite the Town Board's awareness of the differences between the FAA noise averaging methodology and single event noise measurement and that the Town noise code is based on single event noise not averages, the DGEIS is based on the former. The DAMPR makes a compelling case for single event noise measurement:

"The single most effective means to curtail airport noise impact is by instituting single event noise levels, usually measured at the approach and departure measurement points specified in Federal Aviation Regulations Part 36. ...Single event noise level limits, especially when these can be enforced through noise monitoring are the fairest and most reliable way to impose limitations on cumulative aircraft noise impact."²

The very fact that the FAA methodology does not reveal the cause of the majority of noise complaints (see above) indicates that it is inadequate to measure the problem and potential solutions thereto. Testimony at the DGEIS hearing from members of this committee made it clear how insensitive the FAA noise averaging methodology is to helicopters and other seasonal noise.

¹ DGEIS: Appendix A: Summary of Public Hearing Comments (July 2007)

² p. IV-227 DRAFT Airport Master Plan Report (Savik & Murray, LLP et. al. April 24, 2007)

EAST HAMPTON AIRPORT NOISE ABATEMENT ADVISORY COMMITTEE

William McGintee, Supervisor
Friday, September 25, 2009

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3. Fails to include a credible forecast of helicopter traffic, which would almost certainly demonstrate a significant adverse environmental impact absent effective mitigation.

The DGEIS provides only a five year forecast (ending in 2013) of airport operations during a period despite the fact that the 2007 Draft Airport Master Plan Report (DAMPR) has at least a 20 year horizon and attempts to forecast airport operations through the year 2025. Chapter III of this committee's five year report (dated Sept. 11, 2009 and submitted as part of the public record on the DGEIS) explains in detail why the DGEIS and DAMPR forecasts are inadequate and offers four scenarios as alternatives.

FORECAST	Forecast				Extended to 2029	
	Flight Ops.	% of 2007 Fl. Ops.	Ending Date	APR	Flight Ops.	% of 2007 Fl. Ops.
2007 DAMPR	7,512	111%	2025	1.4%	7,942	117%
July, 2009 DGEIS	7,065	104%	2013	3.1%	10,507	155%
Scenario 1	15,888	234%	2029	5.9%	15,888	234%
Scenario 2	25,584	377%	2029	7.9%	25,584	377%
Scenario 3	50,342	742%	2029	11.8%	50,342	742%
Scenario 4	69,169	1019%	2029	13.8%	69,169	1019%

4. Failed to measure the environmental impact on noise of the proposed noise mitigation measures, i.e. re-routing, a seasonal control tower and an AWOS.

SEQR regulations state that "An EIS must ... analyze the significant adverse impacts and evaluate all reasonable alternatives." (NYCRR, Sec 617.9) Yet the EIS does not even analyze the environmental impact of the proposed noise mitigation measures (re-routing, a seasonal control tower and an AWOS) cited as projects in the DGEIS (p. v of the Executive Summary and elsewhere).

5. Failed to consider a number of additional noise mitigation measures that may be available whether or not grant assurances are allowed expire in 2014

As stated above SEQR regulations state that "An EIS must ... analyze ... and evaluate all reasonable alternatives." (NYCRR, Sec 617.9) SEQR regulations define "actions" as including: "(2) agency planning and policy making activities that may affect the environment ...; (3) adoption of agency rules, regulations, and procedures, including local laws, codes, ordinances, executive orders and resolutions that may effect the environment;..."³ In addition, the regs state: "Environmental means the physical conditions ... affected by a proposed action, including ... noise ... and existing community or neighborhood character."⁴

Accordingly, with reference to the clearly recognized issue of airport noise (see Item #1 above), the DGEIS must consider all "rules, regulations, and procedures, including local laws, codes, ordinances, executive orders and resolutions that may" address the adverse impact of airport noise now and for the entire planning period in question, i.e. 20 years. Furthermore, it cannot just list the possible actions, as in Chapter IV of the DAMPR. "An EIS must ... must analyze the significant adverse impacts and evaluate all reasonable alternatives"⁵

"All reasonable noise abatement alternatives, would include, but not be limited to, night-time curfews, differential landing fees, and limiting the number of helicopter flights as per *National Helicopter Corp. v. City of New York*, 137 F. 3d 81, 88 (2d Cir.1998) whether recommended by this committee, by Kaplan Kirsch & Rockwell or catalogued in Chapter IV of the DAMPR.

³ NY State SEQR Regulations (Sec 617.2)

⁴ Ibid. Sec 617.2 (l)

⁵ NY State SEQR Regulations (Sec 617.9), emphasis added.

EAST HAMPTON AIRPORT NOISE ABATEMENT ADVISORY COMMITTEE

William McGintee, Supervisor
Friday, September 25, 2009

Page 3

6. Failed to measure the environmental benefits of a Part 161 Study.

A Part 161 Study or equivalent could enable the Town to enact certain limitations on air traffic, which have been recommended for study by this Committee, (~~see below~~), might or might not require the Town to forfeit future FAA funding. It could give the Town the power to ban, whether exercised or not, Stage 2 helicopters. It has been strongly and repeatedly recommended in writing by this Committee, discussed but not analyzed in the DAMPR and recommended for consideration by outside counsel (Kaplan Kirsch & Rockwell, LLP).

If the Town takes the position that ANCA does not apply to helicopters, a formal Part 161 study would not be required for that purpose but much of the same substantive data would need to be collected and reported. A Part 161 Noise Study may also be required (as recommended in ANAAC Progress Report, April, 2006) for:

- Landing Fees Related to Noise Emissions and Time of Day
- Mandatory Night-time Curfew
- A Ban on Touch & Goes on Summer Weekends.

While it is recognized that the Town is concerned about the potential cost of litigation, there has been no analysis of the potential environmental benefits of a Part 161 study nor of ways to minimize or avoid litigation.

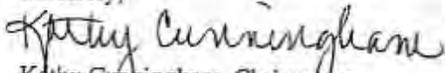
RECOMMENDATIONS

Accordingly, the July 2009 DGEIS is inadequate in at least six different respects detailed above. To remedy these inadequacies, we recommend the following:

1. Analyze all reasonable alternatives using single event noise measurement and the Town Code's thresholds for noise violations, i.e. 65 db from 7 AM to 7PM and 50 dB from 7 PM to 7 AM.
2. Provide a 20 year forecast of helicopter flight operations using growth assumptions more closely aligned with local experience rather than national averages and use the forecast as a basis for evaluating alternatives.
3. Analyze the environmental impact of all noise mitigation alternatives mentioned encyclopedically in Chapter IV of the DAMPR; those recommended for consideration by this committee in our Five Year Report or by Kaplan Kirsch & Rockwell, LLP; the seasonal control tower; helicopter re-routing and the AWOS to determine which ones might benefit the community by significantly reducing single event noise.
4. Perform a cost benefit analysis of the above noise mitigation alternatives that promise results.
5. Analyze the legal and regulatory compatibility of each promising noise abatement alternative with FAA funding and the grant assurances that come with them.
6. Perform a cost benefit analysis of a Part 161 study under the following scenarios:
 - a. The grant assurances expire in 2014.
 - b. The grant assurances do not expire in 2014.
 - c. Legislative relief is obtained and grant assurances expire in 2014.
 - d. Legislative relief is not obtained and grant assurances do not expire in 2014.
7. Establish noise abatement objectives and costs as recommended by this committee and by Kaplan Kirsch & Rockwell, LLP.

If acted upon, these recommendations should substantially cure the failure of the current DGEIS to address widespread community concerns about airport noise.

Sincerely,


Kathy Cunningham, Chairperson

a. Letter from Kathy Cunningham, Chairperson of East Hampton Airport Noise Abatement Advisory Committee (September 25, 2009)

Response to Item 1: The draft GEIS contains limited information on helicopter noise impacts because there are no proposals that relate to helicopters, helicopter facilities or procedures. The correspondence specifically mentions the "no action alternative" as a basis for including a more thorough analysis. This misconstrues the meaning of this traditional requirement. Since there are no proposals in the draft GEIS that relate to helicopters, it is implicit that "no action" is the anticipated circumstance. The proposal for a seasonal control tower is a limited exception since the controllers will have some authority to direct traffic, including helicopters.

Response to Item 2: Single event noise contours for all fixed wing general aviation aircraft in the Integrated Noise Model were included in the Master Plan Report. Similar displays of single event helicopter noise impact are included in the Final GEIS.

Response to Item 3: Five year projections are typical of environmental investigations since an EIS reports on the impact resulting from the construction of various facilities which occurs in the near term. Long term projections are typically included in longer term planning studies. All of the proposals reviewed in the draft GEIS are expected to be promptly completed. The Final GEIS includes single events for all civil helicopters in the INM that are potential users of the airport. The forecast period for the Final GEIS is extended to a full twenty year projection based on the most recent FAA Activity Forecasts.

Sample projections of helicopter activity levels offered appear excessive in relation to past data and real world dynamics, i.e., demand limitations, capacity limitations, and the substitution of larger aircraft when high demand exists. The projections are unsupported by econometric analysis, market analysis, travel surveys or forecasts of transient accommodation construction. The greatest of the sample projections would require, among other unlikely possibilities, the production or accumulation of substantially larger volumes of helicopters than currently are available in the local fleet, a vast expansion in the number of upscale discretionary passengers willing to frequently pay very high transportation costs, and likely a relatively significant increase in visitor accommodations on the South Fork of Long Island. For example, the production of general aviation aircraft peaked in the early 1980's sank during the recession of 1982 and has so far not fully recovered. The analysis therefore appears speculative and unrelated to underlying market factors.

Response to Item 4: Measures such as routing, seasonal control tower and AWOS are all part of an on-going noise mitigation program separate and apart from the proposed improvements reviewed in the EIS. The effects of the seasonal control tower are not expected to reduce or increase traffic volumes, but will yield improvement in safety margins. While there may be changes to cumulative impacts due to operational choices, these have yet to be determined.

Response to Recommendations: The recommendations offered may prove to be a workable frame work for a noise abatement planning study, but are inappropriate inclusions in a procedural GEIS.

Noise



NORTHWEST ALLIANCE

September 23, 2009

William McGintee, Town Supervisor
Peter Hammerle, Town Board Member
Julia Prince, Town Board Member
Brad Loewen, Town Board Member
Pat Mancir, Town Board Member
Town of East Hampton
159 Pantigo Road
East Hampton, NY 11937

Dear Supervisor McGintee and Town Board members,

For almost thirty years, the Northwest Alliance has worked to protect the **natural environment in the western part of Northwest Woods**. We have seen investments in the millions of dollars by the Town, County, and State in the protection of this area from pollution of various sorts. Despite this, in the last two years, the area and its wildlife have been subjected to deliberate **noise pollution from helicopters that may be having very damaging effects**. In particular, we write now in response to the Environmental Impact Statement developed for the Airport Master Plan and its failure to address the control of helicopter noise. At the September 17 hearing, our views on this matter were expressed ably by our member Patricia Hope and we are in strong sympathy with the views expressed by Peter Van Scoyoc. To summarize, our position on this issue is as follows:

1. **Helicopters should not be allowed to fly over East Hampton Airspace**. The evidence indicating the harmful effects of airport noise on wildlife present in the area is unequivocal and non-emergency helicopters, with their current level of noise production, should not be allowed.

2. If the town cannot ban non-emergency helicopters from Town airspace, then a **seasonal control tower** should be installed and its authority used to require and enforce flight patterns that do not encroach destructively on nature preserves.
3. If a control tower is installed, we encourage the use of the **shortest overland route** to and from the airport, which is **over Georgica Pond.**

We appreciate the many conflicting interests with regard to the use of helicopters but it is our strong feeling that this form of transportation has not achieved a level of technical maturity that will allow it to be used in a manner that is respectful of the people and wildlife below.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. James Matthews', with a long horizontal line extending to the right.

T. James Matthews, Chair
4-74 48th Ave, 39B
Long Island City, NY 11109
347 730 6319
Jim.matthews@nyu.edu

b. Letter from T. James Matthews, Northwest Alliance (September 23, 2009)

Helicopters are certificated, including noise levels, by the FAA. Under federal regulations, there is no minimum altitude for helicopter overflights. Until cumulative annual average helicopter noise exceeds the DNL 65 level and a taking of property rights is determined, there are no specific overflight protections for wildlife areas under federal or state regulations.

Birds and other wildlife can be compatible with high levels of aircraft noise. Examples include wildlife sanctuaries such as the Jamaica Bay National Wildlife Refuge south of JFK Airport. Military facilities, despite hosting noisy turbine powered aircraft, tend to have abundant wildlife populations because they are largely protected from human intrusion.

Certain species of historical concern in East Hampton are known to use the Northwest Creek shoreline and beach areas, specifically the New York State endangered least terns, *Sterna antillarum*, and the New York State threatened piping plover, *Charadrius melodus*. Avian species that use beach nesting sites are exposed both to interference and predation and thus would be expected to be especially alert for auditory and visual stimuli. Therefore, they may have greater sensitivity to intrusive noise in comparison to other wildlife species. The literature does not indicate that helicopters are of special concern in comparison to surface traffic. Mitigation during the nesting season may be helpful if research, local studies, or direct observation confirms these concerns. However, all approach and departure routes to East Hampton Airport whether by helicopters or fixed wing aircraft will, at some point in the flight path, overfly beach areas that contain nesting terns or plovers in either East Hampton or Southampton, limiting potential mitigation options.

There are no proposals in the dGEIS that relate to neither helicopter operations nor will any existing habitat critical to terns or plovers be altered on or around the Airport. A seasonal control tower which is a proposal in the draft GEIS may eventually allow for better structuring of aircraft operations in the airport vicinity.

The Final GEIS includes noise monitoring data from Barcelona's Neck which reveals on-the-ground noise levels and identifies typical thresholds of concern. A discussion of concerns regarding impact to shore birds is also included as is data and nesting and breeding success rates.

8 Oak Drive North
Sag Harbor, NY 11963
September 17, 2009

Noise

The East Hampton Town iBoard is to be congratulated for establishing a number of initiatives that have reduced the noise generated by helicopters at HTO. The creation of the Noise Abatement Committee whose members represent both East Hampton and Southampton is one accomplishment. The town also hired a skilled airport management team who established additional routes and higher altitudes for helicopters. These measures have helped moderate to some degree the helicopter noise on the East End .

The seasonal control tower is another good proposal. Unfortunately, the tower alone will not be the answer that the draft EIS claims it will be. To effectively reduce the noise pollution residents are continuously subjected to, the helicopter traffic needs to be directly routed to the water.

The airport manager's monthly reports have clearly indicated that the overwhelming number of noise complaints come from Southampton Town residents because the helicopters are flying over a seven mile stretch of land before reaching Jessups Neck/Peconic Bay.

This has created an unreasonable burden on the people living to the Northwest of the airport when a more direct route to the water is available, but scarcely used by the pilots. This route has far less noise impact on far fewer people over a much shorter distance. That route is directly from the airport to the ocean.

Another issue that needs to be addressed and is not addressed in the EIS is the method of identifying and recording the noise generated by helicopters. The FAA noise monitoring standard permits 12 hours of 65 decibels of noise per day in any one location. This is outrageous. F

For the EIS to be taken seriously it must include a serious analysis of the impact noise has on our community. The Residential Noise Events proposal included in the Noise Abatement Committee's Report is one way to analyze this impact.

Having the seasonal control tower route helicopter traffic directly to the ocean and controlling minimum altitudes for all helicopters would have an immediate and direct impact on the noise we are presently subjected to.

The Town needs to include the recommendations of the Noise Abatement Committee before adopting an final EIS and Master Plan for the airport.

Bill Reilly

Member of the Noise Abatement Committee

c. Letter from Bill Reilly, Member of the Noise Abatement Advisory Committee (September 17, 2009)

The respondent disagrees with the federal noise analysis methodology, supports the proposed seasonal control tower and makes recommendations concerning helicopter noise and alternative routes.

The dGEIS does not include any proposals that relate to accommodating helicopter traffic. The Final GEIS includes single event noise plots for relevant civil helicopters, a comparative analysis of alternative helicopter routes and noise monitoring data from the respondent's location.



Noise
Tower no

OFFICE OF THE SUPERVISOR

Town Hall
P.O. Box 970
38 North Ferry Road
Shelter Island, NY 11964-0970

James Dougherty
Supervisor

Phone (631) 749-0015
Fax (631) 749-0728
jdougherty@shelterislandtown.us

September 24, 2009

East Hampton Town Board
159 Pantigo Road
East Hampton, NY 11937

Supervisor William McGintee,

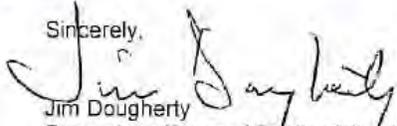
Reference: East Hampton Airport Draft Generic Environmental Impact Statement (DGEIS) Public Hearing on 9/17/09.

The Town of Shelter Island, known for its quiet, noncommercial, natural environment, without even one traffic light, would like the record of the referenced public hearing to include our deep concerns about the helicopter noise and its negative impact on the quality of life and well-being of our residents. The most affected and vocal in opposition to the continued use of the Jessup Neck air route to the East Hampton Airport are those living along our southwestern shore communities of Silver Beach, Shorewood, Montclair Colony, Wades Beach and South Ferry Hills.

Helicopter traffic using this newly created Jessup Neck air route into the East Hampton airport creates noise levels that are very disruptive both in volume and frequency. Many flights go directly over Shelter Island and even those that are at the appropriate altitude of 2500 feet and over Jessup's Neck, still create disruptively loud levels of noise over what was an area void of aircraft noise.

We advocate the elimination of the Jessup's Neck route and the routing of all helicopter flights to their original flight paths over the Atlantic into East Hampton airport. It is our understanding that use of the Atlantic route does not affect the safety of the flight while adding only a few minutes of air time while providing a route to East Hampton airport over less populated areas.

The proposed addition of a control tower and its ability to then distribute helicopter flights and their associated noise over a wider area of the East End is also unacceptable because the projected increases in helicopter traffic would more than offset these short-term benefits.

Sincerely,

Jim Dougherty
Supervisor, Town of Shelter Island

**d. Letter from Jim Dougherty, Supervisor, Town of Shelter Island
(September 24, 2009)**

The letter explains the adverse effects of helicopter noise in Shelter Island and requests relocation of the closest route to Shelter Island. It contains no reference to the draft GEIS.

Response: The Final GEIS includes relevant noise monitoring data for helicopters from two additional sites, single event noise levels for all relevant civil helicopters, and a comparative analysis of population impacts resulting from two differing helicopters on the three differing designated routes. This reveals the extent of exposure to Shelter Island.

Village of North Haven

335 FERRY ROAD
SAG HARBOR, NEW YORK 11963

PHONE: 631-725-1378

FAX: 631-725-1120

Noise

September 28, 2009

William McGintee, Supervisor &
East Hampton Town Council
Town of East Hampton
159 Pantigo Road
East Hampton, New York 11937

Dear Supervisor McGintee and Town Council Members:

As Mayor of the Village of North Haven, I am taking this opportunity to write to you and the Town Board, in response to the Draft Generic Environmental Impact Statement Public Hearing held on September 17, 2009.

The Village of North Haven is a quiet purely residential Village. My constituents live here based on the peaceful and bucolic beauty of that tranquility. The last five years of **helicopter traffic** and the associated **noise** has had an extremely negative impact on our quality of life. The helicopter noise on the **ingress route through the Ferry Channel**, even when the pilots are voluntarily complying with the 2500 foot elevation, is intolerable and disruptive and truly invasive.

The proposed improvements outlined in the DGEIS, provide zero benefit to the Village of North Haven. These improvements send the message "increased traffic and larger aircraft." The current flight path impacts tens of thousands of people on the east end and benefits so few. The flight paths should be diverted over the Atlantic Ocean and Long Island Sound and only the quietest aircraft be encouraged to land.

Aircraft noise is the largest environmental impact. The **DGEIS** talks in depth about noise and decibel levels, however, there are **no noise abatement goals or programs proposed**, reflecting the failure of the Airport Master Plan.



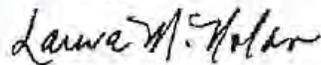
SETTLED OUT EAST ON LONG ISLAND IN 1665 AND INCORPORATED IN 1932

Improvements for the increased safety of those in the air and on the ground, are ones we can all support. However, if the residents of East Hampton, had to withstand a constant succession of aircraft noise season after season, your constituents would be up in arms.

East Hampton owns the airport. You have control to make the proper decisions to benefit your constituents and not adversely impact those of your neighboring towns and villages. Presently, it seems that no amount of phone calls or complaints have made a difference. Be a good neighbor, listen to what people are saying.

Lastly, with government's consciousness of environmental trends, it would be **contrary** for the Town of East Hampton **to support further noise, air and ground pollution in our east end community, with the expansion of this airport.**

Sincerely,



Laura M. Nolan, Mayor
Village of North Haven



Village of North Haven
335 Ferry Road
Sag Harbor, New York 11963

www.northhavenny.us
631-725-1378(phone)
631-725-1120 (fax)



FAX TRANSMITTAL



DATE: September 30, 2009

TIME: _____

TO: Fred Overton, Clerk

From: Laura Nolan, Mayor

MESSAGE

Dear Fred,
Please include this letter for
the public comment on the DEIS.

Sincerely,
Laura Nolan, Mayor

Number of sheets including cover page _____

e. Letter from Laura M. Nolan, Mayor, Village of North Haven (September 28, 2009)

The respondent objects to helicopter noise in a quiet residential area and recommends rerouting helicopter traffic, calls for noise standards, opposes expansion, requests the establishment of noise abatement goals and asserts that through ownership, the Town of East Hampton controls the situation.

Response: Aircraft in flight are regulated by the FAA. The draft GEIS is not a substitute for a noise abatement planning study such as is proscribed under FAR Part 150. There are no proposals that constitute an expansion of the Airport in the draft GEIS.

Helicopter noise is in the process of being addressed by elected officials, the Eastern Regional Helicopter Council, airport management, the FAA and elected officials.

The Final GEIS includes single event noise plots for all relevant civil helicopters, a comparative analysis of population impacts on the three differing routes for two representative helicopter types and noise monitoring data for two additional sites including specifications of background noise levels.

Lynn Ryan

Noise

From: Kate Epstein [katepoferl@gmail.com]
Sent: Thursday, September 17, 2009 11:18 AM
To: bloewen@town.east-hampton.ny.us
Cc: wmcgintee@town.east-hampton.ny.us; pmansir@town.east-hampton.ny.us; phammerle@town.east-hampton.ny.us; lryan@town.east-hampton.ny.us
Subject: air traffic noise

As a town resident of 29 years, I have noticed a considerable increase in noise levels. It is now actually quieter on my sister-in-law's street in Manhattan, if you can believe it.

Air traffic is part of the increased noise level which detracts from the peaceful enjoyment of one's home and garden.

Some suggestions:

- 1) Close the airport at dark, except for dire emergencies.
- 2) Ban helicopter traffic except for medical emergencies.
- 3) Tax mightily jet take offs and landings.

Thank you for your attention.

Kate Epstein, 12 Dunemere Lane, 324-6058

f. Emailed Letter from Kate Epstein (September 17, 2009)

The respondent suggests closing the airport at sunset, banning helicopters and increasing landing fees for jet powered aircraft.

Response: None of these proposals were evaluated in the draft GEIS. These steps would require abrogating federal agreements, curtailing transportation services to other Town residents and visitors, reducing revenues and increasing costs. Consideration of these and other management strategies aimed at reducing noise impact on local residents may be formally undertaken in a noise abatement planning study. A discussion of potential noise abatement measures is included in the Final GEIS

Carole Brennan

From: Lynn Ryan [lryan@town.east-hampton.ny.us]
Sent: Friday, September 18, 2009 8:47 AM
To: foverton@town.east-hampton.ny.us; cbrennan@town.east-hampton.ny.us
Subject: FW: Comment for Tonight's Airport DEIS Hearing

For the public record.

From: Rachael Faraone [mailto:rachaelfaraone@yahoo.com]
Sent: Thursday, September 17, 2009 5:42 PM
To: bloewen@town.east-hampton.ny.us; wmcgintee@town.east-hampton.ny.us; pmansir@town.east-hampton.ny.us; phammerle@town.east-hampton.ny.us; lryan@town.east-hampton.ny.us; jprince@town.east-hampton.ny.us
Subject: Comment for Tonight's Airport DEIS Hearing

To the Members of the East Hampton Town Board,

I am writing to express my concern about airport noise and the failure of the DEIS to seriously address this issue. Airport noise is a pervasive, daily disruption in my life and the lives of many East Hampton town residents, and the DEIS's failure to acknowledge this is egregious.

East Hampton can and must establish a meaningful and enforceable noise abatement framework that will respect pilots' legitimate desires to fly their jets and helicopters to the East Hampton airport, as well as the reasonable (and currently undervalued) expectations of this small community that we be able to live (and sleep) in peace and quiet. These goals are not mutually exclusive, and will be best met if East Hampton regains local control over this issue.

Going forward, it is essential that the Town commit to creating an airport plan that serves the needs of all of its constituencies, including your many community residents to whom airport noise mitigation is a serious and palpable concern.

Thank you,

Rachael Faraone

g. Emailed Letter from Rachael Faraone (September 17, 2009)

The respondent requests further effort on noise abatement.

Response: The draft GEIS contains no proposals that directly encourage additional air traffic and no proposals that relate to helicopter accommodations. Noise abatement planning is an ongoing activity. A discussion of noise abatement options is included in the Final GEIS. The draft GEIS contains a proposal for a seasonal control tower which is the logical first step in structuring and distributing air traffic, increasing safety margins and enforcing potential future noise regulations.

The Final GEIS contains a discussion of noise abatement measures already instituted and potential measures for future improvement.

layout

Charles A. Ehren, Jr.
16 High Point Road
East Hampton, NY 11937

24 September 2009

Hon. William McGintee, Supervisor
Town of East Hampton
Town Hall

Re: E.H. Airport, Draft DGEIS, July 2009

Dear Bill:

I submit this letter for inclusion in the record of the 17 September hearing in the above matter.

As a citizen who has followed airport matters for many years, I was much impressed by the alternative layout plan submitted to you at the hearing by the airport engineers at the QED and CHA companies. That plan appears to provide a sound and, in many ways, advantageous method for abandonment of runway A-22 and continuing the use of runway 16-34 while still complying with the FAA safety requirements for the side-distance of runways from other facilities.

It is not my intention to list all of the advantages of the QED-CHA alternative over the alternative favored by the DGEIS. Rather, I wish to point out for the record that the QED-CHA alternative provides an exemplary plan for carrying out the runway choice that you and your colleagues originally made.

I remember that at the 5 August 2008 Town Board meeting, you led a most impressive presentation. You demonstrated, I thought conclusively, that both safety and noise considerations dictated that runway 16-34 should be designated as the permanent light plane runway in the new Master Plan and the new ALP.

At that 5 August 2008 meeting, you and the other Board members carefully determined, based on expert consultants' advice, that light-aircraft risks from crosswinds are worse for runway 4-22 in the winter months and worse for 16-34 in the summer months. Moreover, the Board concluded also that the winter risks of crosswinds at runway 4-22 are more severe than the summer crosswinds risk at 16-34.

Having looked at aircraft safety, the Board then examined the residential patterns at each end of each runway and determined, again with expert advice, and also with large aerial photographs, that the safety risks to the residential community from an aborted landing or take off are substantially greater at 4-22 than at 16-34.

Obviously, the ground safety risks and the ground noise impacts run parallel to each other. Therefore, the adoption of the 16-34 alternative would mitigate the substantial local noise impact that a 4-22 choice otherwise would produce.

It was only later, when the FAA safety requirements for side-distance space were called to everyone's attention, that there appeared any need to retreat from the 5 August 2008 decision. But, now, the QED-CHA alternative layout plan will allow you to return to your preferred decision and still satisfy the FAA side-distance regulations.

The broad public interests in air and ground safety and noise mitigation will be served handsomely if your Board requires the DGEIS to be revised so as to carefully consider the QED-CHA plan. Adoption of that alternative would, of course, take advantage also of the several other respects in which it is superior to the DGEIS alternative, benefits that others have outlined in detail.

Sincerely,



cc: Town Board Members
Town Clerk ✓

BY HAND

h. Letter from Charles A. Ehren, Jr. (September 24, 2009)

The respondent supports the continuation of Runway 16/34 as the cross wind runway.

Response: Runway 16/34 has advantages in terms of wind coverage during the winter months. This period has the least traffic flow. For example, the month of February typically shows traffic levels equal to one week during the busy summer period. Runway 16/34 has better off airport land use compatibility at the present time but current zoning allows for additional development in the former sand pit lying to the south of runway 16/34. This will reduce the existing compatibility advantage. Retaining runway 16/34 severely restricts aircraft movement because of FAA safety setbacks from any taxiway

Airport user testimony favors the reactivation of Runway 4/22. While Runway 16/34 has satisfactory wind coverage during the winter months, Runway 4/22 is better oriented to the prevailing winds during the summer when peak use occurs. In particular, landings from the southwest to the northeast on Runway 4 are needed during periods of low pressure frontal passage when winds are strong out of the northeast.

The Final GEIS contains an expanded discussion of retaining Runway 16/34 including diagrams and information presented in the Public Hearing.

noise
FAA\$

Charles A. Ehren, Jr.
16 High Point Road
East Hampton, NY 11937

24 September 2009

Hon. William McGintee, Supervisor
Town of East Hampton
Town Hall

Re: E.H. Airport, Draft DGEIS, July 2009

Dear Bill:

I submit this letter for inclusion in the record in the above matter, as a supplement to my statement at the 17 September hearing as Vice-Chairman of your Board's Airport Noise Abatement Advisory Committee.

During the hearing, Councilman Hammerle observed that different people say different things about the effects of the potential expiration in 2014 of the Town's present grant assurances. He commented also that the FAA evades providing clear guidance on the matter.

First of all, when it comes to the Town's proprietary authority to impose reasonable and nondiscriminatory noise related restrictions on aircraft for the protection of the local population, no honest lawyer can deny:

- (1) The holding in National Helicopter v. City of New York 137 Fed 3d 81 (1998); and
- (2) The likelihood that your existing grant assurances would be construed by the FAA as vitiating the Town's National Helicopter-based proprietary authority.

Moreover, it is my present understanding that the Town's special legal counsel for aviation law has confirmed those propositions.

Accordingly, it is still the case that the DGEIS's failure to provide a record of sound and adequate noise impact analysis, as was provided in National Helicopter, can compromise the Town's

ability to adopt and enforce curfews (as was allowed in that case) after the 2014 expiration of grant assurances. And that fact underscores the importance of the Town employing all the construction, financial, and legal planning necessary to try to avoid seeking further FAA money which would waive the 2014 expirations.

Second, and finally, regarding the FAA failure to clarify these issues, it should hardly be necessary to point out that the FAA is the last source that one should go to for reliable advice about potential limitations on the power of that aggressive regulatory agency.

Sincerely,



cc: Town Board Members
Town Clerk ✓

BY HAND

i. Letter from Charles A. Ehren, Jr., Vice-Chairman of Airport Noise Abatement Advisory Committee (September 24, 2009)

The respondent discusses using proprietary powers to establish time of day restrictions especially after expiration of key grant assurances in 2014.

Response: There are no proposals evaluated in the draft GEIS that relate to this matter.

These concerns can be addressed through a formal noise abatement planning study. Several of the suggestions offered would reduce noise and its impact on local residents, but conflict with federal grant assurances. Typically, this results in discontinuance of grant eligibility.

Operating rules including informal potential restrictions can also be established by voluntary measures or agreement among the airport users without violating FAA assurances.

A discussion of potential noise abatement measures is included in the Final GEIS.

STATEMENT
of
CHARLES A. EHREN, Jr.
before
THE EAST HAMPTON TOWN BOARD

17 September 2009

I appear here as Vice-Chairman of your East Hampton Town Board's Airport Noise Abatement Advisory Committee.

You have heard that the Committee's fundamental point this evening is that the draft Environmental Impact Statement fails to provide any significant analysis of the aircraft noise that is the airport's main environmental impact. That failure has obvious policy-making implications for you. But I wish to call your attention to a major legal implication that can hobble East Hampton's chances of exercising any effective local control over airport noise.

} noise

In addition, I shall emphasize a related point that the Committee raises now in connection with the draft EIS and has repeatedly raised in the last five years: that your Board's planning should carefully evaluate the losses as well as the gains that may result from taking further FAA grant money for airport development. That evaluation, in turn, requires the extensive consideration of potential legal and financial strategies.

Turning first to the failure of the EIS to present the airport noise impact problem: We all know that the Town of East Hampton, as an arm of the State exercising what the courts call "police power" is pre-empted by Federal law from controlling many if not most aspects of aircraft operations at the airport. And, more significantly, Congress in 1990 adopted the Airport Noise and Capacity Act expressly limiting local government's powers to deal with aircraft noise and establishing the FAA Part 161 jurisdiction.

A very important exception to that noise control preemption, however, is open to the Town of East Hampton if you are willing to seize the opportunity. As municipal owner of the East Hampton Airport, the Town can have the legal authority to impose reasonable nonarbitrary and nondiscriminatory regulation of aircraft noise for the protection of the local population, despite the 1990 Act and Part 161.

Let me repeat that: as municipal owner or "proprietor" of the airport, you can impose reasonable, nonarbitrary, and nondiscriminatory aircraft noise regulation for the protection of the local population without an elaborate and lengthy FAA-required Part 161 process.

That rule was made clear in 1998 by United States Court of Appeals for the Second Circuit in the case of National Helicopter Corp. v. City of New York, 137 F3d 81 (1998). The Second Circuit jurisdiction covers several states including New York, and so the proprietary noise regulation rule is controlling law for the East Hampton Airport.

This brings us back to your failed draft Environmental Impact Statement. What is reasonable, nonarbitrary, and nondiscriminatory? The court found New York City's weekday and weekend curfews and even the elimination of all weekend operations enforceable. Those restrictions were found reasonable and nondiscriminatory because they were part of a City determination that the facility in question "was a source of excessive noise", 137 F3d ___, a determination confirmed by the final Environmental Impact Statement. Adequate noise impact analysis is precisely what your EIS fails to provide.

I note in passing that the final EIS in the National Helicopter case had been prepared by a firm named "Young Environmental Services".

If your Board does not require the proper environmental impact study as our committee is urging in this instance, you may be missing a rare opportunity to assure for the Town a modicum of long-term local aircraft noise control.

If you pass up that opportunity, what will be lost? In the National Helicopter case, New York City was allowed to impose curfews banning landings between 8:00 PM and 8:00 AM on weekdays and for 24 hours a day on weekends. Surely curfews are a tool that East Hampton as proprietor should want to have available. And perhaps an adequate environmental impact study would provide the basis for other reasonable tools.

How can your Board determine what the courts would deem reasonable and nondiscriminatory? Obviously you need a sound EIS. But you also need the careful guidance of aviation law expertise. Another of our Committee's urgent recommendations is that you

include your already-retained special legal counsel, the Kaplan Kirsch law firm, in the planning process, which it appears you have not done significantly here.

Before closing, I must refer to another repeated Committee recommendation. That is that your Board require the airport operation to be financially self sufficient. How does that bear on tonight's discussion?

The connection comes from the fact that National Helicopter did not have to address grant assurances. And the FAA would argue that grant assurances are separable from the proprietary exception. It appears that the City had not accepted FAA subsidies for the facilities in question. East Hampton presently is burdened by such contractual obligations for a few more years. The Committee has recommended that East Hampton seek federal legislation to advance the expiration date of those grant assurances.

In any event, the master plan process should carefully examine the airport's development and financing with a view toward evaluating the long-term possibility and wisdom of avoiding further FAA subsidies and grant assurances. Airport financial self-sufficiency, including for its capital projects, turns out to impact the Town's proprietary noise control authority in a make-or-break way for the long term future. Therefore financial planning and legal planning to measure, on balance, the need for further FAA money thus should be a high priority for your Board.

The bottom line is that a failed Environmental Impact Statement will cut off any near term or long term opportunity for the Town to impose reasonable aircraft noise regulation. It is urgent that you return the draft EIS for the major revisions our Committee is recommending.

j. Statement of Charles A. Ehren, Jr., Vice-Chairman of Airport Noise Abatement Advisory Committee (September 17, 2009)

The respondent provided a written copy of his oral testimony at the Public Hearing. This statement discussed the formation of long term Town policy.

Response: The draft GEIS provides noise contour diagrams for the existing and future five year conditions in accordance with federal and state requirements and plotted to a level 15 decibels below the current level at which land use compatibility is assumed to occur under federal guidelines.

The "proprietor's exception" as identified conflicts with federal grant assurances requiring the airport to be open on a fair and equal basis for all types, kinds and classes of aircraft. Violation of the FAA interpretation of this requirement results in a suspension of FAA grant funding. However, voluntary measures or agreements among the airport user community may avoid such conflicts, but such measures may not achieve such absolute prohibitions as are espoused by the respondent.

The East 34th Street Heliport decision regarding the exercise of proprietor powers was distinguished by the fact that the facility was not encumbered by FAA grant assurances, created impacts much more extensive than currently exist in East Hampton and involved the curtailment of tourist flights as opposed to the actual restriction of interstate transportation services.

A discussion of noise abatement options is included in the Final GEIS.

~~September 7, 2007~~ *SEPT. 17, 2009*

To The Editor ~~EHF RECORD~~

Neire

The Draft Master Plan for the East Hampton Airport commissioned by East Hampton Town is a long, carefully researched document which presents a thorough observation of our entire airport story. The Master Plan identifies three helicopter approaches to the airport: one from the west, over Southampton and Noyac; a second from the north, over the Northwest Creek nature preserve; and a third, described in the Master Plan, Chapter 4, p. IV-230 as "substantially better than the existing routes."

I quote: "One approach and departure corridor was found to be substantially better than the existing routes. This approach/departure path would branch off from the offshore helicopter route. On approach, helicopters would over-fly Georgia Pond and thence over the currently undeveloped land adjacent to the Runway 34 threshold and then land in the terminal area. This is the minimum sound track, avoids overflight of areas in Southampton, and adds little if any flying distance and flight time. It would, however, expose residents in this area of high value real-estate to much greater noise levels than currently exist."

A few points: first, during ~~this~~ ^{the} summer ~~of~~ ^{of} hundreds of flyover events occurred at Northwest Creek, where the real estate values are REALLY high - to wit, the millions and millions of taxpayer dollars that East Hampton Town spent to create hundreds of acres of nature preserves along the Creek. Second, a poll of passengers might show that it's the residents and guests under that "substantially better" route who use the vast majority of helicopters to and from the airport. Third, the Master Plan goes on to say that "Generally, annoyance levels from aircraft diminish when there is a shared realization that all reasonable means to reduce noise impact have been adopted. The perception of accountability is the essential step." (IV-232)

My perception of accountability will be greatly improved when the East Hampton Town Board adopts the approach/departure corridor which its own paid experts describe as "substantially better than the others."

Sincerely,

Patricia Hope
74 Swamp Road
East Hampton, NY 11937
631-725-5030

*P.S. a) Helicopters have called for many neg'd, but then on other
b) was North Creek airport?
c) I represent Northtown Alliance Committee*

k. Letter from Patricia Hope (September 17, 2009)

Response:

The Final GEIS contains a comparative analysis of the areas and population exposed to helicopter noise on the three alternative routes.

PETER A. WADSWORTH

Sunday, September 27, 2009

William McGintee, Supervisor
Town of East Hampton
159 Pantigo Rd., East Hampton, NY 11937

Noise

Dear Bill:

At the public hearing on the airport DGEIS, you predicated a question to me with "What if the FAA won't let us measure single event noise?" or words to that effect. That is a false premise.

The FAA may require the Town to do certain things as part of an FAA submission, e.g. an airport layout plan (ALP), but the FAA by no means dictates how the Town can and should measure noise for the purposes of an environmental impact statement or for the sake of its residents. The EIS is governed by the New York State Environmental Quality Review Act (SEQRA) and SEQR regulations.

There seems to be some confusion between: (a) what the FAA considers to be a master plan, i.e. a document that supports an ALP by focusing primarily, if not exclusively, on the physical facility; and (b) a master plan that meets the needs of the community. Aviation professionals will reference the FAA definition of a master plan because that's their professional orientation.

However, the Town Board's responsibility is, first and foremost, to the community that it was elected to serve. The broad, non-economic needs of the residential community must be balanced against the much more concrete (and narrow) needs of the much smaller aviation community.

SEQRA was enacted precisely to balance those needs. However, the current Draft Generic Environmental Impact Statement (DGEIS) and the Draft Airport Master Plan Report (DAMPR) are so one-sidedly FAA oriented that they fail miserably to do so. The Town's noise abatement advisory committee and other voices in the community have repeatedly requested that the DAMPR and the DGEIS address noise by evaluating a number of noise abatement initiatives that have been employed elsewhere in the country. But the Town Board's consultants have failed to do more than mention those initiatives in passing. You have retained one of the most qualified aviation attorneys and one of the most qualified environmental consultants in the country to provide guidance in this regard but have not taken advantage of these resources.

At another point during the public hearing the East Hampton Press reported that you said: "We are handcuffed. These are rules the FAA makes," [in reference to] the town's inability to restrict traffic coming into the airport because of rules imposed by the Federal Aviation Administration." This is also untrue.

The FAA makes it difficult but not impossible to limit air traffic using East Hampton Airport. The National Helicopter case, the ban on stage 2 jets at Naples Municipal Airport and your own special counsel on aviation matters, Kaplan Kirsch & Rockwell, all inform you that there are ways to limit air traffic notwithstanding the FAA's predisposition to the contrary.

So I respectfully request that you stop playing the FAA card in response to requests to take action to limit the environmental damage that airport traffic, especially helicopters, are inflicting on this community and redirect your airport consultants to address the residential community's concerns about noise and safety as part of the DGEIS and the airport master plan.

Sincerely,



Peter A. Wadsworth

¹ "East Hampton hears an earful on airport" East Hampton Press - 9/22/09

PO Box 68, Wainscott, NY 11975

I. Letter from Peter A. Wadsworth (September 27, 2009)

Response to Paragraph 1: Measurement of aircraft noise is governed by provisions of the Aviation Safety and Noise Abatement Act of 1979 which decreed that a single system be used for describing aircraft noise impact around airports. This was later specified as the Day Night Average Sound Level (DNL or Ldn) methodology in Federal Aviation Regulations Part 150. This analysis technique was originally developed by the EPA. Single event noise impact evaluations are permissible (single event measurements are the root of the averaging procedure) as a supplement to DNL, but not as a replacement. Further, no official single event exposure guidelines are currently enforced. However, the customary guideline which has been recognized by professional acousticians for many years is a threshold of 85 decibels.

A comparative analysis of the areas and estimated population exposed to the various levels of helicopter noise is included in the Final GEIS.

Response to Paragraph 2: Part of the objective of the draft GEIS is environmental approval under NEPA. The document is responsive to that as well as to SEQRA. Generally, the two sets of criteria are sufficiently similar that they largely overlap. Certain issues such as the increased generation of ground traffic are required under SEQRA, but not under NEPA.

Response to Paragraph 3: An Airport Master Plan or master plan contains only one significant depiction, the Airport Layout Plan or ALP. The ALP is a quasilegal document that must be on file with the FAA in order for the subject airport to be included in the national airport system. It also entitles, but does not require, the subject airport to apply for grants in aid for development of public facilities such as are described on the ALP. Funding for these grants is primarily generated by taxes on various aviation transactions such as the purchase of an airline ticket. Typically a portion of the total project cost, usually two and one half percent, is borne by the airport itself and these funds are normally derived from airport generated revenue.

There is no federal or state requirement that any specific facilities or specific role for the airport is defined. That is strictly a local decision of the airport proprietor. There are certain design requirements and planning standards that must be met and certain analysis procedures tend to lead to greater capabilities through time. However, the proprietor is not obligated to expand the facility to a degree that it is unsupported by local preference. Thus, the distinction being brought forth is properly viewed as semantic rather than substantive.

Response to Paragraph 4: The respondent asserts that primary responsibility of the proprietor's decision making is to the residential community which is adjudged as larger than the aviation community. This is one of several perspectives which must be weighed by the proprietor. Commercial interests, the public interest, legal obligations such as to tenants, the supremacy of federal and state authority, the needs of the traveling public and of revenue generation are all considerations. All have a bearing on decision making since no single community is entire of itself, but is linked to other communities and society at large. For a community situated on an island and further on a 23 mile long peninsula, provisions for adequate transportation services including air transportation would appear to be a reasonable concern.

Response to Paragraph 5: Composition of an Environmental Impact Statement responsive to federal, state and local criteria is not the same as a noise abatement planning study. Noise abatement planning has been on-going since 2003 and is expected to continue. It is an ancillary, but not primary goal, of all planning studies. For example, the research that suggested the Georgica Pond Route for helicopter access first appeared in the Master Plan Report published in 2007. The draft GEIS includes a proposal for a seasonal control tower which is essential to the enforcement of many noise abatement regulations as well as insuring the highest safety levels. Thus, noise abatement planning is a continuing activity. A broad discussion of noise abatement options is included in the Final GEIS.

Responses to Paragraphs 6, 7 and 8: The federal government through the Federal Aviation Administration has sufficient authority throughout all phases of aviation that it is difficult to ignore, deflect or circumvent the requirements that the administering agency imposes. While the Part 161 case cited does confirm the local authority with respect to restricting Stage 2 jet aircraft, the process took many years at considerable cost. Stage 2 aircraft are no longer a critical concern at East Hampton; as such aircraft have largely been replaced by larger Stage 3 aircraft. A more recent case that included some similar suggestions as have been made concerning East Hampton Airport, the Burbank, California Part 161 application, was rejected by the FAA and indicates that such efforts with regard to the East Hampton Airport, under current FAA guidelines, would have little chance of success.

BURT & DEBORAH COHEN

11 Morris Cove Lane • Sag Harbor NY 11963 • (631) 725-1599

September 16, 2009

East Hampton Town Board
159 Pantigo Road
East Hampton, NY 11937

Noise
RECEIVED
EAST HAMPTON
TOWN CLERK

Dear Board Members:

As 30 year residents of the East End we have been dismayed in recent years to experience the erosion of the very qualities that brought us here, the things we most love about living on the South Fork. Top among these invaluable qualities is the peaceful enjoyment of our home, and the opportunity to experience the natural beauty and tranquility of our region's treasured woods, wetlands, beaches and fields. Unfortunately, one of the most profound threats to the enjoyment of our home and community has been the escalation of noise from airplanes and helicopters serviced by East Hampton Airport.

We currently reside in Sag Harbor. Friday and Sunday evenings at home are punctuated by the rumble of low-flying aircraft; we often lose count. Occasionally we call the Airport Noise Complaint line, especially if the vibration is enough to rattle the dishes. Sometimes one of us forgets, and upon hearing a sudden roar, rushes outside fearing a disaster, only to realize it's just another low-flying private jet. We frequently hike around Long Pond Greenbelt where the silence of the trail is regularly shattered by the buzz and drone of helicopters. Sunset at the beach and it's: "What's that noise? Oh, of course it's the weekend; it's the planes boss, the planes."

Like most year-round residents of the East End, we are not now, nor have we ever been in a position to utilize the services of the airport. But we are constantly reminded of its presence.

We urge the East Hampton Town Board, out of respect for the commons and the community we share, and out of love for the qualities we treasure about our region, to rigorously address these issues, retain local control over the airport which so deeply affects daily life in our towns and villages, and make noise mitigation a number one priority in planning for the future of East Hampton Airport.

Sincerely,



Deborah and Burt Cohen

Lynn Ryan

From: Burt Cohen [burtco@venturedigital.com]
Sent: Wednesday, September 16, 2009 5:49 PM
To: bloewen@town.east-hampton.ny.us; wmcgintee@town.east-hampton.ny.us; pmansir@town.east-hampton.ny.us; phammerle@town.east-hampton.ny.us; lryan@town.east-hampton.ny.us; jprince@town.east-hampton.ny.us
Subject: Airport Noise/DEIS hearing tomorrow night
September 16, 2009

East Hampton Town Board
159 Pantigo Road
East Hampton, NY 11937

Dear Board Members:

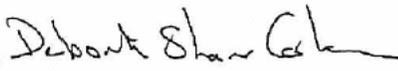
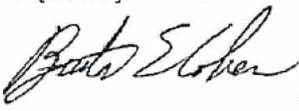
As 30 year residents of the East End we have been dismayed in recent years to experience the erosion of the very qualities that brought us here, the things we most love about living on the South Fork. Top among these invaluable qualities is the peaceful enjoyment of our home, and the opportunity to experience the natural beauty and tranquility of our region's treasured woods, wetlands, beaches and fields. Unfortunately, one of the most profound threats to the enjoyment of our home and community has been the escalation of noise from airplanes and helicopters serviced by East Hampton Airport.

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Sincerely,

<!--[if !vml]-->  <!--[endif]--> <!--[if !vml]-->
 <!--[endif]-->

Deborah and Burt Cohen
11 Morris Cove Lane
Sag Harbor, NY 11963
531-725-1599

(hard copy sent via snail mail)

9/17/2009

m. Letter from Deborah and Burt Cohen (September 16, 2009)

The respondents' concerns generally relate to degradation of the quality of life as that has occurred over the last 30 years in their area. The comments specifically relate to audible helicopter noise in natural areas as well as occasional jet noise.

Response: Helicopter noise is recognized as intrusive due its distinctive pulsation. In this case the noise appears related to the Northwest Creek arrival route. Although the presence of aircraft noise is normally unwanted, especially in rural communities, the level of impact is within federal and state guidelines, i.e., is considered insignificant. A variety of authorities suggest that there are meaningful consequences to such transportation noise even at low amplitudes. However, the tradeoff in this case is the combined advantages of helicopter transport. This includes speed, convenience, and security for passengers who are bound for East Hampton and economic benefit to the service providers. The Northwest Creek route was designed to stay over water to minimize overflight of residences, but in so doing does not eliminate audible events such as are described.

Fixed wing aircraft noise has declined in recent years as is documented in the draft GEIS, but occasional objectionable audible events may occur in the case of approaches for landing where the aircraft is descending to runway altitude or in the case of takeoffs that use thrust management procedures. Thrust management uses relatively lower power settings for takeoff to (typically) 1,500 feet when the engines power up to normal climb power. Noise at the power up point may occasionally generate unexpected noise events relatively far from the airport.

Air transportation in a like manner to all motorized transport unavoidably creates noise which is the tradeoff for advantages conferred. Existing standards reduce this to the greatest practical extent and the draft GEIS shows that relevant state and federal standards are being met. To some this is insufficiently protective.

The Final GEIS includes single event noise exposure contours for the several helicopter routes. It also includes noise monitoring information from Barcelona's Neck showing peak overflight noise levels.

Noise

Bill

9/24/09



BOB CASPER REAL ESTATE, INC.

Sept 23, 2009

30 RACE LANE, EAST HAMPTON, NEW YORK 1

To: E. H. Town Board

Re: DEEIS - public hearing.

Dear E. H. T. Board,

We live at Northwest Creek in East Hampton.

I bring to your attention the following observations

There were no Horseshoe Crabs at the harbor this

year. There were no Piping Plover birds this year

There were one whippoorwill (usually there are dozen

this year. There were no Osprey babies this year

My home vibrates when the helicopters fly on it!

I've spoken to Gary Penny about my observation

He is very concerned that there may be a

connection here between the helicopter noise and

these occurrences.

I do not understand how so few people are

allowed to impact so many people. Not to



BOB CASPER REAL ESTATE, INC.

Sept 23, 2009

30 RACE LANE, EAST HAMPTON, NEW YORK 11937

431
248-324-8700

②

mention the impact on our environment.
Please do your duty. Put an end to the
noise pollution caused by the helicopters.

Sincerely,

Bob Casper

n. Letter from Bob Casper (September 23, 2009)

The respondent expresses concerns about wildlife in the Northwest Creek area due to helicopter noise.

Response: Noise can adversely affect wildlife and cause behavioral changes, according to FAA's published information. Most common is flushing in birds. Usually, these effects are temporary in the sense that birds and mammals adjust to the presence of noise in the realization that aircraft are not a direct threat.

In the development of the Northwest Creek Route, the minimum altitude was initially set at 2,000 feet consistent with specifications in Advisory Circular 91-36C. This publication specifically addresses noise and overflight of national Wildlife Refuges. Even when these recommendations are observed, wildlife may shift to alternative habitat when available.

However, there are no approaches to East Hampton Airport that do not involve overflying beaches at some point.

There are no proposals in the draft GEIS that relate to accommodations for helicopters. Better management of flight distribution may be possible with the addition of the seasonal control tower and further noise abatement planning efforts.

The Final GEIS contains peak noise level exposure contours on the Northwest Creek as well as the two other helicopter routes. It also contains noise monitoring data from Barcelona's Neck which is underneath the Northwest Creek arrival route. The Final GEIS contains a discussion of the expected effects of helicopter noise on the Piping Plover and the Least Tern.

Sept 25 2009

East Hampton Town Board
159 Pantigo Rd.
East Hampton ; NY 11937



RE: Airport Hearing on Draft Generic Environmental Impact Statement

Written Comments submission by: Long Island Sports Committee

Mr. Supervisor & Town members; consultants et al;

Our attached petitioners have interest in the 600 acre Airport property for the following reasons:

What is the future use of the 100 acres currently occupied by the Maidstone Gun Club; after Nov. 2102 when the original lease expires and requires it to be leased again at fair market value ; will town recapture control or intend to lease it again at the fair market value of the moment or keep for a municipal purpose.

Also RE: plan to remove; SUBDIVIDE a large tract of land out of the Airport plan ; when there are dwindling resources needed by locals such as this ; we ask why ?

The DGEIS is defective in its content as it does not describe impact of noise created by motorcycles or O.H.V. machines ; as this site has been recommended by Lisa Liquori for many years as a EH Town planner while the comprehensive planning process allowed; Long Island Sports Committee to participate and discover suitable sites ; this being her ONLY suitable recreation site as told to us on many occasion

Currently the East Hampton Town Board has given permission to our user group to conduct a noise evaluation at the Airport property with the assistance of our local police dept. using in house noise evaluation equipment ; However ,

We have NOT to date completed such an event . We need qualified individuals who are part and parcel of the Master plan process ; and who have been paid large sums of tax payer monies to assist in this demonstration . We have requested inclusion on many occasions and have been discriminated against in our effort to be accepted as a future potential user group at the Airport facility comprised of 600 acres.

Lisa Liquori ; now of Fine Arts and Sciences has always stated you bring a noise related project to where noise is already being generated ; as head EH town planner. Now in her capacity as outside lead planner ; that seems to have been politically altered into non - inclusion in the Master plan of recent .

ISC requires 10 acres of land to use for the purpose of a dedicated area to use for 3MX (Bicycle Moto - Cross) & O.H.V. (Off highway vehicles) .

The Airport property has suitable land for this use . It has been told on many occasion that the FAA controls the airport property ; however at the hearing Supervisor McGintee stated ; EH TOWN controls what happens on the ground and FAA controls what happens in the air . So who is in control to make a decision on when and where to place our desired project for recreational purpose intended?

PG 1 of 4

Our 250 mile trails system has been monopolized by a group known as The East Hampton Trails Preservation Society as allowed and promoted by the board of The Town of East Hampton for many years.

We ask where is our user group to go if we are outlawed from our local heritage of trail riding in this system.

The EHTPS a group of 700 individuals; continues to complain of a conflict of use in the trails by O.H.V users that continue to utilize the trails system for their enjoyment and recreational use as we have for many recent decades of memory.

Our town children and adults alike are made outlaws by these continued and discriminating decisions to ignore with a blind eye and a deaf ear; the desires and need for our user group to be assimilated into the comprehensive planning process.

A planning group ; Horne Rose ; recognized our user group ; brought our desires to the town board and subsequently was eliminated from the planning process by failure of the town board to recognize our user group and the purpose of recreation for the locals who have used trails as the venue by which to enjoy their chosen form of recreation since I was a young child myself.

The continued discrimination is unacceptable; disturbing and in its concept; against the grain of community and the group hug; to find a solution.

We want to put on record our intent to sue the town over this issue & each individual responsible for the continued discrimination tactics used in many levels of the planning process from the planning firms to the entire town board.

It has come to be a moral fight for LISC; our rights of inclusion must prevail as citizens who deserve our slice of our town resources . We will no longer go ignored.

It is sad to witness the reach of corruption and unwillingness to recognize our locals who desire to live life by the choices they make to enjoy themselves in Our town.

It was said at the hearing by the town crier Hugh King; about our past and future ; The children of the past who are attached here in petition form; are now having children of their own . They represent the past and now their children represent the future.

Also worth noting is the fact that all the news agencies too are in denial that we exist and participated at the hearing of Sept 17 2009. ; the discrimination is real.

It is sad to know that a user group of over 400 + people can go completely unrecognized in a formal hearing when the Chairman of the LISC waits 5 hours to speak to this topic.

We intend to continue in our efforts to be recognized and assimilated into the fabric that makes up this diverse community.

The situation will get worse in the meanwhile as Police arrest children for their desire to recreate; trail users taking vigilante justice on the user group ; and a multi-million dollar lawsuit on the horizon when tragedy occurs and some one is hurt or killed .

PG 2 of 4

We demand inclusion into the Master Plan at the Airport site by Fine Arts and Sciences ; C/O Lisa Liquori . She has been instrumental in the continued discrimination of our user group and the members of the group known as; Long Island Sports Committee.

We demand Pete Hammerle; Airport liaison and recreational liaison ; open a dialogue with the FAA to discuss our needs.

We demand that Tim Bishop ; our congressman ; seek FAA approval for this project on airport property ; and recognize our locals who continue to be put aside as undeserving and second class ; in such a progressive community.

We demand inclusion into the fabric of this community; without delay.

We demand the EH Town board members recognize our local user group.

We demand that the Young Environmental Services and Harris Miller Miller Hanson; participate and assist in a noise demonstration of our intended use at the site.

We hope for support from the Gun club members;
We hope for support by the pilots association;
We hope for support by the community at large;

We continue to work with Julia Prince; as directed by the town board ; although she does not have these issues under her liaison responsibilities . Go figure; Politics!

For the record My name is Martin Drew; Chairman; Long Island sports Committee.

I have participated in all aspects of the ongoing Comprehensive plan process.

I have been active since 17 years of age in this topic; I am now 43.

I have been through 6 administrations of discrimination; it ends now.

A Lawsuit is being formulated on the basis of discrimination.

Also the sentiment of use at the site is; Pilots and Gun Club members support our right to make some noise;
Or LISC supports to close the facility; no use for us ; no use for them ; fair is fair.
If noise issues dominate the political races; we demand to be included in discussions.

It is time to eliminate politicians who see fit to discriminate;
It is time for inclusion in a town that preaches the group hug.
It is time for the community to recognize local culture.
It is time to stand up and shout;

We are sick and tired and we are not going to be discriminated against here forward.
Wake up East Hampton; we live here too and demand assimilation into our town.

The network of conspiracy is to end here. The idea we will go away ends here.
The notion of "they are only kids" they don't matter; ends here.

The kids of the past are now voting constituents; respect the power of the people to organize when the rights of the future generations continue to trampled upon by those elected to protect the rights of us all.

We have made ourselves known to all participants in the process; except we never get to far into the realization of being assimilated into this community.

The us against them attitude must end; a solution is before us all at the Airport.

We all have the need to live a little; it comes down to acceptance; recognition; assimilation and the political will to do something about it.

Elitist agenda does not rule my life or the lives of my friends & neighbors.

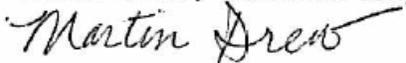
As locals we enjoy the outdoors too.

Before hiking and biking became the new black; we were here first.

Now we are to be pushed aside as second class citizens ...

Not on my watch ...

Respectfully Submitted;
Martin Drew / Chairman Long Island Sports Committee



My Contact info is as follows:

Martin Drew / Chairman

Long Island Sports Committee
20 Richardson Avenue
East Hampton; NY 11937

631-324-9725 Office
787-365-9495 Cell

MartinDrewShow@aol.com

LONG ISLAND SPORTS COMMITTEE
20 RICHARDSON AVENUE
P.O. BOX 3001
EAST HAMPTON , NEW YORK 11937-0395

NOTICE: EH TOWN BOARD

We , the undersigned , would like to see the creation of a "MULTI-USE PARK" ; focused on Off - Highway Vehicles , BMX-freestyles areas , Skate freestyle areas , and other open spaces. As locals we need alternative open areas to use & keep a legitimacy to our sports and have areas to legally enjoy .WE urge the TOWN BOARD OF EAST HAMPTON : create a facility that has community ; social and recreation as the main focus . The time for change is now ." WE need to live a little"

Please consider our opinions while writing the next comprehensive plan for(RECREATION)

Name	Address	Age	Phone#
John Qu	36 Flagg Hole Rd.	15	6971738

LONG ISLAND SPORTS COMMITTEE
 20 RICHARDSON AVENUE
 P.O. BOX 3001
 EAST HAMPTON, NEW YORK 11937-0395

NOTICE: EH TOWN BOARD

SPRING/02

the undersigned, would like to see the creation of a "Active Recreation Park"; focused on O.H.V. (Off-Highway Vehicles) & ATV's in our towns open spaces around the TOWN AIRPORT. As locals we need a long overdue alternative recreation area, to use & keep the legitimacy to our sport and have an area to legally enjoy. WE urge the TOWN BOARD OF EAST HAMPTON: create a facility @ the Airport that has "Active recreation" as the main focus. The time for change is now.

"WE need to live a little"

Please consider our use needs while writing the final comprehensive plan draft for (RECREATION).

Name	Address	Age	Phone#
Martin Drew	20 Richardson Ave. E.H.N.Y.	36	324-9725
Jeffery [Signature]	P.O. Box 3009 E.H. N.Y.	36	725-7535
Robert [Signature]	3 Front St. East Hampton NY	30	729-02

LONG ISLAND SPORTS COMMITTEE
 20 RICHARDSON AVENUE
 P.O. BOX 3001
 EAST HAMPTON , NEW YORK 11937-0395

NOTICE: EH TOWN BOARD

SPRING/02

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" WE need to live a little"

Please consider our use needs while writing the final comprehensive plan draft for(RECREATION).

Name	Address	Age	Phone#
Stephanie Oddo	1104 Springs Fireplace Rd Est.	30	321-4486
Racer L. Oddo	"	2	Same as above
Lee J Oddo	"	32	"

LONG ISLAND SPORTS COMMITTEE
 20 RICHARDSON AVENUE
 P.O. BOX 3001
 EAST HAMPTON, NEW YORK 11937-0395

NOTICE: EH TOWN BOARD
 SPRING/02

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215.81

" WE need to live a little"

Please consider our use needs while writing the final comprehensive plan draft for(RECREATION).

Name	Address	Age	Phone#
<i>Danny Mator</i>		36	215.81
<i>George Mator</i>		30+	267
<i>Wick Mator</i>		11	72996

LONG ISLAND SPORTS COMMITTEE
 20 RICHARDSON AVENUE
 P.O. BOX 3001
 EAST HAMPTON, NEW YORK 11937-0395

NOTICE: EH TOWN BOARD

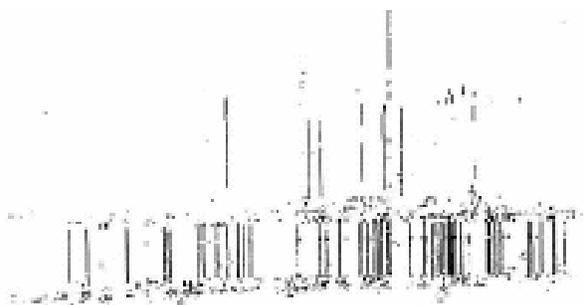
SPRING/02

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"WE need to live a little"

Please consider our use needs while writing the final comprehensive plan draft for(RECREATION).

Name	Address	Age	Phone#
Steve Braucott	14-SCARLE ST.	50	
Tim Tylan	EH	41	329 0956
Joe Cornell	Spring	43	576 313 9238



LONG ISLAND SPORTS COMMITTEE
20 RICHARDSON AVENUE
P.O. BOX 3001
EAST HAMPTON , NEW YORK 11937-0395

NOTICE: EH TOWN BOARD SPRING/02

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" WE need to live a little"

Please consider our use needs while writing the final comprehensive plan draft for(RECREATION).

	Name	Address	Age	Phone#
1	Paul Mott	Box 1764 E. Hampton	44	329-6252
2	Paul Mott	P.O. Box 2026 AMAL	37	329-3762
3	David Thomas	30 eastgate rd		537-6441
4	Miles Martin	Swapping Hollow Rd	39	324-4115
5	Brenden Mott	Box 1764	10	
6	Kevin Mott	Box 1764 EH	8	329-6250
7	Cathy Thomas	P.O. Box 1466 30 eastgate road	30	537-6441
8	Andrew Harden	55 Oak wood Hwy	12	324-0862
9	Kevin Harden	55 Oak wood Hwy	10	324-0862
10	5371 Rock	P.O. Box 2026 AMAL	10	329-3762
11	Kathy Egan	Box 482 Warriscott	38	537-9357
12	Jan Sweeny	14 Grand St E. HAMPTON 11937		
13	Kerim Miller	P.O. Box 2124 E Hampton	21	329-4090
14	Therese Miller	4 BELGRAVE E Hampton	16	329-4096
15	Jan Trinca	4 BELGRAVE E Hampton	20	329-4096
16	Duan Parent	43 Whopping Hollow Rd	18	324-9691
17	John Robertson	4 Island Rd		324-9260
18	Vale Brewer	23 blue Jay Way		324-8416
19	COREY GREENBAUM	7 Midstone Lane Eff		324-0398
20	Rossy Wood	208 Fresh Pond Rd	19	262-6477
21	Steven Nissler	160 Three Mile Harbor	15	324-0605
22	Dare Samet	22 Whopping Hollow	15	324-8910
23	Nick Samet	27 Montauk blv.	15	324-6431

LONG ISLAND SPORTS COMMITTEE / NOTICE EH TOWN BOARD CONTINUED / SPRING 02

	Name	Address	Age	Phone#
✓ 24	Ed Persico	141 Mt Ford Ave	14	329-5580
✓ 25	Danny Walker	86 middle Hwy	15	329-3068
✓ 26	Brett Bennett	35 John Edwards Ct	14	329-2337
27	Matt Reule	15 ridge rd.	15	537-2471
28	Thomas Bos	#45 Spruce Street	14	329-2129
29	Blake Wilford	47 Sagg Rd	18	
30	Peterson Durst	23 Sander Rd		
31	Garrett Maygood	7 Highway	15	329-3781
32	Scott Bennett	88 Springfieldplace Rd	18	324-9569
✓ 33	Aster Fehll	Queens lane	18	324-9407
✓ 34	Amanda Bora	10 Eau Claire St	15	329-4248
35	Kyle Martin	19 Hedges Lane	15	537-9857
36	Carl Gattlin	45 Harbor View Ave	17	324-2512
✓ 37	Jan Megginson	145 Harrison Ave	18	324-6770
38	Felipe Lizama	Queens lane	17	324-9496
✓ 39	Jeff Grefer	44 Greenleaf lane	14	535-0153
✓ 40	Bryce Callan	26 Montauk Highway	15	537-6696
41	Amanda Peere	7 tub Oarman	14	329-8722
42	NOTE: Photo S Aspinwall Ct.		15	324-2025
43	Chris Haagen	3 Woodcrest dr		324-4077
44	Mittin Field	27 Shipyard lane		324-8325
-45	Zach Persico	141 Mt Ford Ave		329-5580
-46	Destin Webb	104 Barnes Wicker Road		267-5670

LONG ISLAND SPORTS COMMITTEE / NOTICE EH TOWN BOARD CONTINUED / SPRING 02

	Name	Address	Age	Phone#
-47	Kristina England	53 Red Hill Road	14	267-0075
48	Brenton McFarlane	35 Church Lane Springs	15	324-6052
-49	Tyler Field	24 Bow Oakesmans Rd	15	324-7167
-50	Trevor Field	24 Bow Oakesmans Rd	13	324-7167
51	NATHAN MUND	1 Kew Street	15	324-3283
-52	Jan Padden	42 FOXROAD MTK	14	668-3084
-53	Cassie Sperber	41 Driftwood Ln.	16	329-2517
54	Mikhi Morales	97 Gardiners Lane	15	324-5058
+55	Mark Lopez	459 Route 114	18	324-9373
+56	Leland Waslow	124 Lodge Circle	16	267-6865
57	Amoy melvin		16	324-5777
+58	Orend Stewart		16	907-0607
59	Chris Abal	208 Fresh pond Rd	15	267-6497
+60	Nick Wornwell	108 Woodbine mine	15	329-7637
+61	Shawna Miller	24 Miller terr.	15	329-4269
+62	Matthew Neerhouse	384 Main Street	16	207-2622
63	Skyler Gardell	28 Sidel Rd	15	668-2321
+64	Shawn Jones	32 South delref Rd	16	668-2228
-65	Kelly Kampf	8 post st.	17	324-5805
66	Kirsten Bradley	37 Broadheads Ln	15	329-1532
67	Carla Mays			324-5805
68	Nicola P. Dan			668-9476
69	Shaunla Denton	502 Old Stone Hill	16	267-6427

LONG ISLAND SPORTS COMMITTEE / NOTICE EH TOWN BOARD CONTINUED / SPRING 02

Name	Address	Age	Phone#
✓ Denise Schrien	70 Gardiner Ave EH		329-6670
✓ James Griffiths	70 Gardiner Ave EH		329-6670
✓ Michael E. Kelly	16th St	PH 10	324-5052
Drew Griffiths	16th St	PH 8	324-5052
Chris Matos	3 Joshua Edwards	11	329-0039
✓ Bonnie Thorsen	30 wooded oak Ln.		329-6614
✓ Charles Niggles	Club Nyles		324-0605
✓ Tommy Parente	10 Bell Lane Ext		324-7679
✓ Stephen Martin	19 Hedges Lane		537-9357
✓ Lindsay Forde	76 Bow Carriers rd	19	324-8924
✓ Jon Hopkins	76 Bow Carriers rd	20	324-8924
✓ SARA S MARTINEZ	P.O. Box 2619/20		329-0544
✓ William Cancel	Bernard 70 Gardiner Ave	18	329-3312
✓ Kyle Martin	Bernard ^{POB 192} 70 Gardiner Ave	18	329-3312
Kyle Martin	19 Hedges Lane		537-9357
Noemi Sanchez	42 Harbor Blvd		329-0344
Dina Bates	11 Kings Court		329-3076
Narad Weyfacke	39 Clinton St EH		329-1149
✓ Glynis Walker	159 Gardiner Ave Easthampton		907-8063
✓ Gladys Rodriguez	316 Accabonac Rd. Apt 30450		329-30450
✓ Ana Marie Britragu	316 Accabonac		
✓ JOHN GRIFFITHS	15 LOTS AVE EH N.Y.		324-0806
✓ Matthew Bucci	327 Winnsatt Manor Rd		329-0874

329-4740

LONG ISLAND SPORTS COMMITTEE / NOTICE EH TOWN BOARD CONTINUED / SPRING 02

Name	Address	Age	Phone#
✓ Danielle Harris	35 Hicketh Pl		324-3500 (w)
✓ Anthony McGuire	694 Am Fireplace Rd		329-4951
Valerie G. Baten	300 Washington Ave.		324-4841
Vincent Stephens	784 Spring Rd		329-6097
✓ Donald Stuber	31 Westford		763-3338
✓ JEFFREY R Ritt	16 Breeze Hill Rd	49	324-4080
✓ CHRISTOPHER R Card	107 Fort Pond Blvd		329-5112
✓ Heidi CARD	Same		Same
✓ VICTORIA CARD	Same		Same
Bundle bug Douglas Reichart	182 Fort Pond Blvd		
Jayann Banker	"		
Blenn Banker	"		
Heather Barker	"		
Ein Card	Clay Pit Rd Sag Harbor		
Mark Hallock	E.H.		
✓ Richard FERRARA	33 Seabright Ave.	6/3/49	324-2727
✓ M. Meahan	12 Deep Six	4/22/02	324-4555
✓ FRANK LIBERT	8 Gladie Rd.		324-3811
✓ Tim Pyras			329. 1376
Bethanne Mendez	3 Fleming St E.H.		907-0138
✓ Jason Reed	P.O. Box 3144		324-0412
James Rivera	105-92 Oakview		324-0068
Kathleen Shmarykowsky	"		324-0068

LONG ISLAND SPORTS COMMITTEE / NOTICE EH TOWN BOARD CONTINUED / SPRING 02

Name	Address	Age	Phone#
✓ Rob Anderson	108 Hard Creek Rd	34	329-2276
Emily Greenwood	35 Whopping Hollow St		324-3095
✓ Bob Martin	299 Main St	45	267-6318
✓ W. M. M.	21724 Anacostia	50	267-8579
✓ P. K. K.	324 THREE RIVER RD	58	324-8686
- Ray Simak	19 Downer Pl. SAG HARBOR		725-5134
✓ Joe Cucci	39 Highwood EH	40	267-8005
✓ Dylan Cucci	39 Highwood EH	9	267-8005
✓ Dana Cucci	39 Highwood EH	7	267-8005
✓ Amy Cucci	39 Highwood EH		267-8005
✓ Barry Tom	85 Sycamore Dr EH		921-9748
Kathy Brant	148 Gardner Ave	64	329-0830
MARK DANIELS	395 Spring St	EH	907-9505
✓ Mrs. Schellinger	105-174A CARVIEW Hwy E.H.		329-6767
MARVIN GOLDMAN	53 TALMAGE FALLS LANE		329-7044
✓ Sam Dargenberg	13 Cambridge EH	11	329-3664
✓ Linda Jansonne	85 Sycamore Drive E.H.		907-0278
✓ Jeffrey R. Platt	16 Breeze Hill E.H.		324-4080
✓ Susan Lucas	155 Norfolk DR EH		329-2857
Ben Bahi			
Nabil Bahi	PO BOX		
Monica Bahi	3253	EH.	329-1800
Max Bahi			

LONG ISLAND SPORTS COMMITTEE / NOTICE EH TOWN BOARD CONTINUED / SPRING 02

Name	Address	Age	Phone
✓ Robert Gonzalez	299-3111	12	907-9788
✓ Bruno Gomez		24	907-9788
Adrian Lawrence	11 Boatheaders	12	324-3761
Rachael Mott		11	329-6250
Cathy Thomas	30 East Gate	13	537-6441
Theo Marinescu	96 Blue Jay Way		324-9152
Jo Raetzger	8 East Hampton Drive West		329-2353
Blake Parker	132 Pagan Queens Lane		324-9727 329-4832
Lisa ✓ Felix Camp	Dylan boat headers	24	329-0001
Wayne George	105 boatheaders Ln		329-2683
Sally Sidoti	105 boatheaders Ln		329-2683
Katu Martin	14 Queens Lane	11	329-9899
✓ Sean Mott	20 Ocean Blvd		329-7793
✓ Joshua Kennedy	P.O. Box 512 Hainscott	12	329-6766
Taylor Terando	P.O. Box 151 Sag Main St		537-0968
Ketsia Merchant	35 Springereplace Rd		329-9272
Elayna Martin	14 Queens Lane	15	329-9899
Samantha LaFountain	20 Bow Carsman		329-0853
✓ Carmie Hernandez	69 Manor Lane S.		329-4744
Amy L. Rivera	(32) 66th Street. EH NY		11937
Amanda Rivera	(11) 66th Street EH NY		11937
Eileen Hackebill	151 North Fork D East Hampton		
Tim Egan	9 Waterhole East Hampton		
✓ Jared Crozier			329 5687
Zach Becker			324 6147
Luke Sweetman			267 3561

Name	Address	Age	Phone#
ISRAEL HERNANDEZ			(516) 202 9798
ROGER LO. POTA			267 3845
Sergio Gutierrez			
Rob. Gutierrez		324	7582
Guillermo Gutierrez		329	1486
Alfredo Negrete			702-2888
Manuel Pubs		324	7334
JOSE MARQUES			283 1377
Alfonso Servin		921	8569 (31)
Juan A. Chavez		329	0344 (32)
Alfonso Gutierrez		(516)	848-3404 (38)
Francisco Javier Gutierrez		(516)	325-0075 (29)
Antonio Ramirez		324	0691
Cecilia Ramirez		323	3962
Andrea Diaz		286	3202

LONG ISLAND SPORTS COMMITTEE / NOTICE EH TOWN BOARD CONTINUED / SPRING 02

Name	Address	Age	Phone#
✓ Maudie McEly	76 Three Mile H. Road E.H.		324-7209
✓ Christian Krambach	36 Bria Court A		324-2456
	Kathy Aldrich Bowdoinman RD		329-1356
	Alison Jones POB 9	Fitt.	
	Grenda Lopez + ? Third St. E.H.		324-5687
	Renae Lee Stone 271 Acchamway Rd		329 1317
	Karen Kraver Hartley Blvd.		
✓ Brian McGintee	53 Sardinia Rd.		324-7074
	Danny Francis Ramirez 45 Gardeners Ln		324-6000
✓ Lucas Plitt	16 Breeze Hill road, E.H.		324-7008
✓ Will Plitt	Same as above		
✓ Jeff Plitt	Same as above		
✓ Melissa McRay	76 Three Mile Harbor Hll Rd.		324-7209
✓ Ellie Thompson	70 W. Chatham Ln, Long Harbor		
✓ Blanche Greene	44 Simonsville Avenue, Bridgehampton		
✓ Ralph Crowley	357-25 Three Mile Harbor E.H.		
	Herrin & Hammer Hewitt Blvd Center 21		631-878-0789
	BOBBY SAID, SUFFOLK STREET - SAG HARBE		
	Judy Armitage 58 Mann Lane E.H.		324-6084
	MITCHELL McKee POBox 741, E.H.		324-0228
✓ Eileen M Zito	PO Box 1343 BH NY 11932		537-6115
✓ Jack J. Zito	PO Box 1343 BH NY 11932		
✓ Don Muz	PO Box 150 Bridgehampton 11719		324-71932

LONG ISLAND SPORTS COMMITTEE / NOTICE EH TOWN BOARD CONTINUED / SPRING 02

Name	Address	Age	Phone#
Michael	Box 1648, Amag	7	267-2996
Claster	Box 1648 Amag	5	267-2996
✓ Tony Egue	41 Cedar St	20	(718) 885-1256
JOHN Ferrara	P.O. Box 1913 Amag		267-7845
✓ Jeff Fields	P.O. Box 795 Amag		267-6219
✓ Tereza Rickars	P.O. Box 556 Amag		267-8909
MARK MEYER	P.O. Box 431 E.H.		
EGOR	P.O. Box 2036 MTR		668-5499
_____	_____	_____	_____
Harold Kays	64 G2004		907 8767
John Wilson			267-3560
Carol Cox	PO BOX 1926 Amag		267-31678
_____	PO Box 1714 Amag		267-3560
✓ Glenn Barker	182 Fort Pond Blvd	43	329-5162
✓ Joyce Barker	182 Fort Pond Blvd	43	329-5162
MARCUS COSTA	91 Whapping Hollow Rd		967-1044
✓ Doug Richards	182 Fort Pond Blvd		329-5162
✓ Elin Card	182 Fort Pond Blvd		329-5162
✓ John Hayes Jr.	22 Bruce Ln.		907-0960
✓ April Chipka	22 Bruce Ln.		907-0960
Philene	16 ABRAMAS LANE		267-3560
_____	_____		267-6570

LONG ISLAND SPORTS COMMITTEE / NOTICE EH TOWN BOARD CONTINUED / SPRING 02

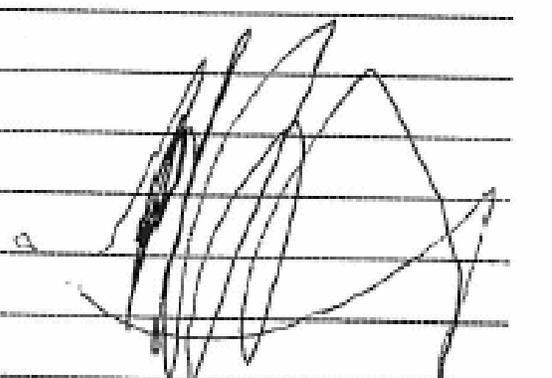
Name	Address	Age	Phone#
✓ Heidi Herr	124 Fort Pond Blvd	38	631-324-2043
✓ Bettina Mly	3 Fleming St E.H.	36	329-3883
✓ Tony Sussardi	14 Fort Pond Blvd	42	324-5838
✓ Mindy Sussardi	33 Colbin Ave E.H.		324-5583
Brendan McInay	76 three mile harbor bog creek rd.	13	324-7209-
Arthur J. Jagan	50 Seabright Ave, EH		329-2038
Karen Mary (Caveman)	147 Woodbine Dr		
John Steele	105-85 OAKview lky E.H.		
✓ David Kord	21 148 OCCB OAC HWY	21	
✓ Bill Kord	76 three mile harbor rd E.H.		329-0822
✓ David Carl	47 Acubonac Rd	30	324-0131
✓ Marybeth	30 Church Ln	67	
✓ Mark Hallock	E 14	29	
✓ Devon Mansir	Hog Creek Rd E.H.	29	
✓ Raymond Stewart	Cedar Ridge Dr E.H.	605	
✓ Scott King	P.O. Box 3111 E.H. NY		329-9978
✓ JEFFREY PLITT	16 Breeze Hill Road E.H.		324-4080
✓ Will Plitt	16 Breeze Hill Road E.H.		324-4080
✓ Chris Carr	107 Fort Pond Blvd	24	329-5112
✓ Heidi Carr	Same		
✓ Victoria Carr	Same		
✓ Eric Rubin	P.O. Box 1037 Arroyansett E.H.		
✓ Joan Reed	P.O. Box 3144 E.H.		

LONG ISLAND SPORTS COMMITTEE / NOTICE EH TOWN BOARD CONTINUED / SPRING 02

Name	Address	Age	Phone#
✓ Jason L. ...	39 Clinton St E.H.	NY 11917	23 '835-7491
✓ Josh Kinnerton	11E Three Mile Harb.	NY 11937	28 835-8257
✓ Mary Tylc	5 Olive St E.H.		329-0256
✓ Deborah Arnone	26 Malmo St. E.H.		324-0656
✓ Arida Schellinger	Fort Pond E.H.		324-7876
✓ Jay Goncalves	Fort Pond Blvd.		907-0930
✓ A. CARSA	152 Ferdinand Av.		907-9084
✓ Christina Chinchilla	40 Roosevelt Ave.		329-5626
✓ Joe Chinchilla	40 Roosevelt Ave.		329-5626
✓ Bianca Chinchilla	40 Roosevelt Ave.		329-5626
✓ Marcio Chinchilla	40 Roosevelt Ave.		329-5626
✓ Charles E Gillin Jr	30 McElnea St.		329-3742
✓ Robin D Gillin	30 McElnea St.		329-3742
✓ Donald Fragleton	11 Fanning Ave		329 7331
✓ G. PASTACA	225 N. Fork Dr.		
✓ MATT MEYER	43 Sandra RD		324-2691
✓ Matthew R Myers	PO Box 1266	Wainscott NY 11975	725-7069
✓ Daniel Anlander	745 Springs Fireplace		324-4469
✓ Kathleen Bruma	Camp Rd E.H.		11937
✓ Vicky Verdy	253 Springs Fireplace Rd.		
✓ Oscar 33.	26 Hillcrest Plc.		
✓ Brian Brito	5, 27 Holly Oak Ave		
✓ Dawn Ann Miller	211 90th Ave		RD E.H.

LONG ISLAND SPORTS COMMITTEE / NOTICE EH TOWN BOARD CONTINUED / SPRING 02

Name	Address	Age	Phone#
DAVE KYLE	45 Harbor View Ave	44	484-6277
Edward M. Clesky	581 Springs Fireplace Rd	(631) 329-3131	
JAMES PEICE	68 CRYSTAL DR	29	471-3297454
Darren McGough	PO. Box 1446 Montauk	1954	516-381-8365
Jason Lallanda	439 Clinton St	324-1343	324-1343
Christian Greene	39 Manor Lane East Hampton NY		329-9693
JENNIFER DUNN	29 THANET WAY E. Hampton		771-2259
Eileen Trojanowski	141 Mulford Ave EH		524-5580
Keft Jay	45 Harbor view Ave	38	484-6277



x Racer Oddo age 2

From: Marguerite Wolffsohn [Mwolffsohn@town.east-hampton.ny.us]
Sent: Thursday, December 03, 2009 11:55 AM
To: 'JoAnne Pahwul'; 'Kathy Radziewicz'
Subject: FW: Airport DEIS defects and new agenda / LISC

FYI

From: Martin Drew [mailto:martindrewshow@aol.com]
Sent: Thursday, December 03, 2009 9:35 AM
To: mwolffsohn@town.east-hampton.ny.us
Subject: Fwd: Airport DEIS defects and new agenda / LISC

Dear Ms Wolffsohn;

FYI

Thnx

Martin Drew

LISC

Begin forwarded message:

From: martindrewshow@aol.com
Date: November 30, 2009 9:16:58 PM EST
To: phammerle@town.east-hampton.ny.us, julia4eh@gmail.com, jjilnicki@town.east-hampton.ny.us, editor@easthamptonstar.com, news@indyeastend.com, pmansir@town.east-hampton.y.us, bloewen@town.east-hampton.ny.us, swilson@town.east-hampton.ny.us, MARTINDREWSHOW@aol.com
Subject: Airport DEIS defects and new agenda / LISC

Dear Deputy Supervisor Hammerle;

As you know I am chairman of the long Island Sports Committee; we have been promoting recreation projects here in East Hampton Town; Going on 25+ as citizen and +/- 10 yrs as the projects are the following:

A BMX track for bicycles &

A dedicated riding area for off highway vehicles such as ATVS and Motorcycles. (MOTORIZED)

I was asked to inquire with your office to establish the following:

It has been announced that Lisa Liquori has retired her services as lead planning consultant as it would relate to:

Airport Master Plan & Draft Environmental Impact Statement as of this past week.

The task of oversight has been given to Ms. Wolfson of the planning dept. for Town of East Hampton.

I wanted to bring to your attention the \$1500.00 allotted to the consultant for reviewing concerns voiced by the public.

Is our concern of a "noise test" needing to occur to evaluate noise from motorcycles and ATV users who have identified for years the Airport as a potential future recreational site?

We have had two pending tests scheduled in several years; none have occurred to date.

Our organization has been given permission in the recent year by the current town board to commence such a demonstration with the assistance of the local Police dept. / Chief Sarris is still willing to help with his officers and police noise meters.

However ; I feel it prudent of the consultant who was paid hundreds of thousands of taxpayer dollars to evaluate noise at the local airport facility ; and to host and conduct such a demonstration ; as due diligence.

It appears that Ms Wolfson intends to address some "oversights" in the DEIS report as new lead agency; this is our concern for the record.

How can this test occur with the consultant of record?

Do you feel it prudent?

I have 20 volunteer local children and adults who would like to be able to participate in such a democratic process as our town comprehensive plan has become.

The Airport has been identified as a potential possible sit for all phases in Lisa Liquoris tenure as planning director for the town and as lead outside consultant under her business name of: Fine Arts and Sciences.

In the Schneiderman administration we lobbied for inclusion when tests were being performed by paid consultant and were told "this is only about planes and helicopters" we respectfully disagreed with the sentiment ; were subsequently denied as a potential user group ; ie the first act of discrimination when your own consultant recommended the airport as the site where noise already existed as an accepted use ; this was established in Lisa Liquoris days as planning director many times by myself when I posed the logic of the topic and asked her professional training in the principles of municiple planning.

Therefore we respectfully request that the Town of East Hampton without delay contact and contract the appropriate consultant;

Young Enviromental Services to monitor and document the efforts of a "noise demonstration" in an effort to assimilate the local culture of riding off highway MOTORIZED vehicles of two and four wheels alike; at a dedicated riding area identified in the comprehensive planning process by your now retired consultant; as for seeing it to the end for Ms. Liquori; it is now a defective DEIS document as duly noted in my many appearences in front of thge entire town board for years now.

Ms Wolfson is handed the task of accepting or discriminating our user group request as stated herein.

Please support the local community who for decades has been discriminated against.

Now is the time to end the pattern and practice of blind eye; deaf ear politics.

We exist and are not a fabricated user group; please know that.

As liasion for AIRPORT & RECREATION it falls to you to assist in this local community request of acknowledgement and inclusion in this diverse town we all call home.

Please respond without delay as "time is of the essence"; before the cold weather prohibits again this effort.

Thank you; respectfully submitted by

Martin Drew

Chairman

Long Island Sports Committee

324-9725

o. Letter and Petition from Martin Drew, Long Island Sports Committee (September 25, 2009); Email from Martin Drew (November 30, 2009)

The subject of this correspondence is the inclusion of noise from motorcycles and off road vehicles in the draft GEIS.

Response: The draft GEIS contains no proposals that relate to establishment of a track for such vehicles at the East Hampton Airport nor does it contemplate any prohibitions on such uses. Use of airport land for such purposes, presuming that it does not interfere with airport operations, derogate safety or security, or create conflicts with existing neighbors, users or leasers is discretionary to the Town. Use of airport property for non-aviation purposes would require leases at fair market value and no proposal is currently pending and environmental review would be required.

East Hampton Town Board:

September 23, 2009

William McGintee, Supervisor

Peter Hamerle, Councilman

Pat Mansir, Council person

Brad Lowen, Councilman

Julia Prince, council person

From: Arthur J. French

P.O.Box 806 Wainscott, N.Y. 11975

Airport :

Dear Board Members:

As you well know, I have been a member of various noise abatement committees, since the Lester Administration.

I am appalled, at the mere thought, that you will choose to place residents of the town and neighboring communities, in harm's way and at peril, from low flying planes that now take off over a sand pit that endangers almost no one, to be re-routed over a completely populated area, encompassing two towns.

Need I remind you, that the 1989 Master Plan, advised that 4/22 be abandoned and those recommendations, concurred with the F.A.A, That it should be abandoned and 16/34 was the better of the two secondary runway's.

Of course, for obvious reasons ,special interest groups, with town government turning a blind eye continued to take off, land and practice touch and go's at extremely low altitudes, sometimes as low as 50 feet over homes.

My own personal observation was to witness the wheels of a plane that turned early, hit the branches of a large tree in my yard. Protestations to the then airport manager, at that time, went nowhere.

This is not a noise problem as is often stated, it is strictly a safety issue.

Please explain what changed from the 1989 Master Plan, regarding the abandonment? Please explain, how the town board now considers the safety of residents , becomes secondary to special interests.

You took a bold step a few years ago in closing 4/22, but it was not for the safety of the residents.

A personal friend that lived on Debra's way, lasted one year and moved because of the danger of the low flying planes. While I was visiting, I often saw landing approaches, over the last house on the north side of the street, and the planes was approximately 25 feet over the house. the "What do you expect when you live near an airport" doesn't hold water". Things change and a priority of the town board, is to guarantee safety to the residents by not exposing them to a dangerous activity. taking off and landing are the most dangerous.

The Montauk Airport has experienced two incidents in the past six months. One plane, was destroyed when it burst into flames. The was a takeoff and landing training maneuver. The other crashed into a fence.

Had this occurred using 4/22 both would have crashed into an occupied home, with tragic results . How you could ignore this possibility? This is unconscionable and unacceptable.

There is a constant daily occurrence of low flying aircraft at altitudes often as low as 200 hundred. Just yesterday Sept.22,2009 ,at 12:22 P.M, a single engine plane,headed eastward was so low, that it didn't register on the airport equipment(as per Monica). One minute later, the plane was headed west. It was no more than fifty feet above the tree tops.

Re-alignment, of Daniels Hole Rd. to lengthen the threshold, during the Lester Administration, was met with a negative reaction from the town residents. It is obvious who this will benefit.

Campaign promises, to get out from F.A.A. grant assurances, so the town could take control of the airport now seem to be unimportant. The current financial crisis, of the town, cannot support any of this monstrous expenditure. Another 20 years of F.A.A control is unacceptable, considering the constant negative effect on the citizens of this town, that results in the thousands of complaints.

Please explain the sudden change, that F.A.A money is now acceptable?

The safety of the residents who will be affected, is the critical priority, not the small special interest group, that creates the issues. It will be unconscionable to proceed with these two issues.

I will personally make sure, that every resident of Wainscott, will be made aware of this "tacit approval" by the board and no political party

that doesn't have our safety at the forefront, will get one vote from this community.

Yours Truly,

A handwritten signature in black ink, appearing to read "Arthur J. French". The signature is fluid and cursive, with a long horizontal stroke at the end.

Arthur J. French

P.O. Box 806

Wainscott, N.Y. 11975

631 537 2815

p. Letter from Arthur French (September 23, 2009)

Response: Similar clearances between homes and flight tracks exist at other general aviation airports including certain facilities on Long Island.

Safety concerns are primarily satisfied by Runway Protection Zones which are required by the FAA. One proposal in the draft GEIS calls for fully controlling all land in the RPZs. This involves the acquisition of 0.71 acres in four locations. This satisfies the relevant FAA safety requirement.

A comparative analysis of aircraft altitudes for all runways will be included in the Final GEIS and available mitigating measures including land use actions will be reviewed. Historically, there have been relatively few accidents involving off airport areas such as are foreseen by the respondent primarily because pilots, even in emergencies, see and avoid such eventualities to a great extent

The Final GEIS contains a quantification of potential accident risk.

Stephen Levine

210 Narrow Lane East
P O Box 245
Sagaponack, NY 11962

Tel 631
537-0180

Town Board
Town of East Hampton
159 Pantigo Road
East Hampton, NY 11937



September 23, 2009

I would like the following to be entered into the record concerning the DGEIS report for the East Hampton Airport. I was only able to stay a short while at the public hearing. I did not have the opportunity to plan ahead since I only learned of the hearing late. I pay fairly good attention to the press concerning the airport. I was surprised that I had but one day notice that the public hearing was going to be held. Furthermore, the meeting was held in the Springs - very distant from the epicenter of noise. Not very convenient to Southampton residents who bear a disproportionate noise burden and who are historically relatively disenfranchised from the political decisions about the airport.

I take exception to the importance that was given to jets and helicopters. **All aircraft** are noisy. The impact of the noise is dependent on the precise location of the ears being assaulted.

Prevailing winds are west to east. Take-offs are into the wind, east to west. Greatest noise occurs on take-off when engines are running at near full power. East Hampton airport situated on west edge of town. Therefore Southampton suffers greater airport noise pollution than East Hampton.

I live in that part of Sagaponack where most planes veer to the south after take-off. This path takes the plane directly over my and my neighbors houses at low altitudes. This is especially annoying with flight-training touch-and-go exercises which means that low flying planes circle over head without interruption for 40-50 minutes. The cruel irony: here come more, future pilots.

On August 1, 2009 I kept a log of most of the aircraft movements that intruded on my space. The list is partial and I stopped in the afternoon. The flights continued even into the evening and night. This list represents typical daily aircraft activity.

7:10AM, 7:17, 7:39, 8:05, 8:09, 8:12, 8:19, 8:24, 8:25, 8:26, 8:30, 8:37, 8:43,
8:43, 8:54, 8:55, 9:11, 9:24, 9:28, 9:44, 10:07, 11:45, 11:49, 11:53, 11:59,
12:01PM, 12:05, 12:06, 12:08, 12:17, 12:18, 12:26, 12:29, 12:32, 12:45, 12:48,
12:52, 1:21, 1:45, 1:49, 1:50, 1:50, 1:51, 1:56, 2:00, 2:21, 3:17, 3:24, 3:26,

AIRPORT -wpd

3:29, 3:55, 4:04, 4:06, 4:12, 4:33.

Previous airport improvement plans were planned, reviewed, approved and done without serious consultation or consent of Southampton Town or the impacted residents. In retrospect, it is fairly certain that the airport would not have achieved its present size had there been informed consent. East Hampton residents would also have had more serious reservations had they realized the negative impact the "improved" airport would encourage.

In no particular order of importance I offer the following comments germane to aircraft noise:

1. The FAA system of averaging noise is a pathetic exercise in pandering to aviation interests leaving the larger population of residents powerless to lodge reasonable complaint.
2. The aircraft noise is a tax levied on inhabitants without societal benefit or constructive application for those who pay. It is imposed, by and large, by privileged few, a large part of whom are not residents of East Hampton or Southampton. Commercial (some, non-local) aircraft activities are making profits without paying all the real costs incurred.
3. The GEIS and all the noise abatement efforts do not address an underlying issue: any airport or equipment improvements (argued for increased local control or pilot safety) will increase potential capacity of the airport. So, any successful noise abatement program has the seeds of its own failure and continued complaints from an unsatisfied public.

My fervent wish is that the airport be closed. I do not think I will (or anyone, for that matter) live long enough for this to occur. Short of that, it is imperative that local control be established - no more federal money. Any expenses incurred by the airport should be paid for by the users, not the citizens of East Hampton or the United States (via tax revenues). If the activities of the airport cannot be supported by those who enjoy its existence, close it down. There is no reason citizens should have to subsidize their own torture. Airport use fees should be established based on loudness of aircraft. Landing fees should be high enough to discourage use. Touch-and-go procedures should be prohibited. Helicopters should be prohibited except for the rare medical emergencies.

Control of activities at the airport should be in the hands of the inhabitants (more populous) who have to endure its adverse impact than to pilots, passengers or purveyors of airport activities. Why should those who profit from flying and the use of the airport establish rules over those who suffer the consequences of their activities?

Noise & Legality

Kathy McCormick

From: Stephen [sl@210nle.com]
Sent: Wednesday, September 23, 2009 5:17 PM
To: kmccormick@town.east-hampton.ny.us
Subject: Letter to East Hampton Board: re Airport dGEIS
Attachments: dGEIS airport letter.pdf

I request this letter be added to the record as part of the public comments concerning the GEIS for the Airport. I am also enclosing a pdf file with the letter on my letterhead. I do not know if this is an acceptable form for submission.

Would you please be so kind as to acknowledge receipt of this email?

Thank you for your attention.

Stephen Levine

Town Board
Town of East Hampton
159 Pantigo Road
East Hampton, NY 11937

September 23, 2009

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Notice
Local

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9/24/2009

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Stephen Levine
210 Narrow Lane East
Sagaponack, NY 11962

9/24/2009

q. Letter from Stephen Levine (September 23, 2009)

The respondent questions the emphasis on jet powered aircraft and helicopters versus all aircraft.

Response: The emphasis is in response to the volume of complaints and the expressed concerns of the residents. All aircraft are included in the annual average determinations for existing and future conditions. Overall, about 80 percent of the cumulative noise burden affects East Hampton, the remainder affects Southampton.

The respondent suggests that the Airport has grown. Although traffic, especially during the summer is intense, the overall volume of aircraft traffic has remained relatively stable in recent years although the distribution of traffic between various types, kinds and classes has changed. The airport has not physically expanded nor will the proposals contained in the draft GEIS cause expansion. It is true that many business jet aircraft are larger now than was the case in previous years. However, noise emission levels have been reduced due to improved engine technology.

The planning effort since 2004 has specifically taken Southampton into account.

The analysis technique used for noise, DNL, is federally mandated and supplemented by other measures. Noise complaints are logged and published. However, federal law governs the source emission levels of all aircraft and, thus, there is no violation of state or federal law involved and local law is inapplicable. Thus, there is little opportunity to curtail aircraft activity as a result, even when complaints are lodged.

Aircraft noise like other mechanical noise adversely affects residents in quiet areas and is therefore burdensome. It is the nature of federal and state transportation regulation that it allows the freedom to use local roadways and airspace just as local residents from East Hampton may freely use areas where they are not residents. This reciprocity is essential to both intrastate and interstate commerce.

Airport capacity has not expanded significantly in recent years, but remained essentially the same. Traffic has remained relatively stable in terms of total volume although the distribution of the aircraft mix has changed.

Air transportation provides a variety of benefits to communities throughout the state and the nation as a whole. Its primary adverse consequences are distributed disproportionately on those who reside nearby airports. The respondent's preferences appear to be understandable in light of those realities and similar to the opinions of many other airport vicinity residents in other communities. Generally, airports are expected to be self sufficient and not financed out of local revenues. Provisions of current national law, the Airport Noise and Capacity Act, prevent airport operators from imposing access restrictions except through compliance with Federal Aviation Regulations Part 161. There are important exceptions such as limitations on aircraft weight due to pavement load bearing strength, the assertion of proprietary power or transitory reasons such as maintenance closures. These exceptions generally stem from operational or economic necessities and not from elective or discretionary objectives of the airport proprietor in response to citizen concerns, i.e., when potential restrictions are opposed by the administering agency in compliance with existing law.

East Hampton Helicopter Traffic Report

Anarchy in the Skies: Out-Of-Control Airport

The following report is a result of twenty five years of observations and thirteen months of data called in and reported on the East Hampton Airport Noise Complaint Hotline, (631-537-LOUD). Provided that the manager at the East Hampton Airport is properly logging and archiving information received on the Noise Complaint Hotline, the data herein can be verified from the airport logs. I confirmed with airport personnel that the complaints received on the noise complaint hotline were being logged and archived. How that is being done, how it is being reported and to whom is unknown.

Introduction:

In reference to observations and conclusions I make regarding sound, sound levels or frequencies of sound I am familiar with the physics of sound waves, recording and measurements of sound. I have been a sound engineer from sound reinforcement in public venues to operations of sound equipment for rock bands. I owned and operated my own recording studio and performed duties as a recording engineer and producer both in analogue and digital recording environments. I am an audiophile.

In reference to observations and conclusions I make regarding flight regulations and the safe operation of aircraft, I am a pilot of single engine airplanes. I owned and operated my own airplane, a Piper Warrior, at East Hampton Airport for ten years.

I live 1.3 miles north of the East Hampton Airport along Daniel's Hole Road or Wainscott Northwest Road. My property sits on the moraine at an elevation of 110 feet above mean sea level (MSL). This is important to note since the airport manager reported in a newspaper article that helicopters were recorded flying at 200 and 300 feet according to airport equipment which should be measuring altitude at Mean Sea Level, (MSL). The actual distance the helicopter is above the ground, Above Ground Level (AGL), at my house would be 100 to 200 feet AGL. Taking into account that the trees are about 50 – 60 feet high, the helicopters are flying 50 feet above the trees which I consider "tree top level". Based on my experience as a pilot considering towers, power lines and other obstructions surrounding the airport, that flight level is unsafe. I don't believe there is an experienced aviator that will disagree that flight levels at tree-top-level are unsafe since it is said, "Altitude is a pilot's best friend". This report is not only about noise of helicopters it is also about safety of people in the helicopters and safety of people on the ground. I reported to the airport manager numerous safety issues regarding helicopters taking off at the airport when the airport was completely covered in fog, helicopters on converging paths, helicopters and airplanes on converging paths and helicopters flying tree top level sneaking in under a low cloud level or just flying tree top level for no reason except a total disregard for their safety and the safety of people on the ground. I believe it is not a matter "if" an accident will occur it is a matter "when" it will occur. There are helicopter pilots flying into East Hampton Airport that are "cowboys". I don't use the word lightly; it is a derogatory word describing pilots that are taking unnecessary risks that possibly could endanger life and property. These conclusions are based on my observations and my experience as a pilot.

On the Friday before Memorial Day of 2008 I was coming home from work down Industrial Road. When I came upon the airport, I noticed it was fogged in to the extent I could not see the end of the runway. I ducked as a helicopter took off and flew fifty feet above my vehicle. I remember thinking this pilot was a total nut flying in these conditions. I continued to see him fly south at tree-top-level until he was swallowed up in fog. I turned left on Daniel's Hole Road heading north at the airport entrance, I saw another helicopter taking off and shook my head. I drove up my driveway and parked. As I got out of my vehicle I heard a deafening sound, looked up and saw only the belly of a helicopter. My immediate thought was the helicopter was coming down so I jumped and literally hit the ground. From that moment on I understood that one day a tragic accident was inevitable and I was not going to stand by and do nothing. No activity should be allowed that causes such a frightening response to citizens in the Town of East Hampton. I am not easily frightened by any stretch of the imagination; I can only imagine the response by those who are.

Anarchy?

As a pilot I am familiar with Federal Aviation Regulations (FAR) regarding fixed wing aircraft. Certain minimum altitudes are required, separation from clouds under visual flight regulations, requirements on minimums during instrument flight regulations and a host of detailed rules that are designed to create safety in the air and some sort of order and discipline in and around airports. According to the East Hampton Airport manager there are no regulations or rules of this kind regarding helicopters and even if there were he would be powerless to enforce any rules whatsoever. If that is true, it is utterly crazy and creates a state of anarchy in the skies surrounding the airport. It is absolutely unacceptable.

Imagine our roads and highways not subject to speed restrictions, traffic laws and the police not being able to enforce those laws? That would be utter chaos and anarchy on our streets and highways. For that reason alone the airport should be closed down immediately until some form of order is restored to the skies above East Hampton. This is a matter of public safety. Your inaction on this one issue alone may be construed as reckless endangerment to the public. For over a year I have phoned in my observations on safety issues onto the hotline thirty four times. You will not be able to state that you did not know. This is clearly logged on the East Hampton Town Airport noise complaint hotline. There are also complaints I called in on fixed wing aircraft buzzing tree tops clearly outside of the airport pattern and in violation of FAR. What has been done to address this madness.

Out-Of-Control Airport

East Hampton Airport is an unregulated, unmanned, uncontrolled airport according to its designation as Class E airspace. To maintain safety and order in and around the airport fixed wing pilots are required to self announce their intentions and fly airport patterns and altitudes. Airport flight patterns are entered on the upwind or downwind legs on a forty five degree angle. The pattern altitude is 1,000 Feet MSL. A transponder is not required. Based on my observations, helicopters fly directly into the airport at every conceivable direction and angle and at every conceivable altitude. There is no order or safety procedures required to be followed by helicopter pilots flying into the airport as required by fixed wing aircraft. There exists a hazardous and deadly concoction of orderly fixed wing aircraft with predictable patterns and chaotic arbitrary helicopter traffic

that converges onto one spot, the airport. With the huge increase in helicopter traffic and fixed wing aircraft the combination of uncontrolled fixed wing aircraft and haphazard helicopter traffic creates an airport that is out-of-control and an accident waiting to happen. To any observer at the airport during the busy times the safety issues are clearly obvious and it is unreasonable and reckless that they be allowed to continue. It amazes me that there is management at the airport that sits there, watches what goes on, hears the complaints from citizens around the airport and does not act in a responsible manner. The airport manager explained to me that he cannot do anything to control the helicopter traffic. I beg to disagree with the airport manager because he has the authority to close the airport for safety reasons, yet he does nothing. The Town Board has the authority to close the airport, yet they do nothing. To do nothing is reckless and irresponsible.

An issue of Homeland Security

On June 15, 2009 at 10:53am an inbound helicopter flew into the airport from the north at tree top level registering 85dB on the noise level meter. I went down to the airport to get the "N" number of the helicopter since I wanted to file a complaint with the FAA for safety reasons just to get it on the record. The airport manager's office was locked and no one was minding the store. The assistant airport manager was checking in a fuel delivery, I found her, gave her my card and requested to be called with the "N" number of the helicopter that flew over my house. The following day the airport manager called me and stated that there was no information on the airport system that identified a helicopter coming in or landing at the airport at that time. He explained that if the helicopter transponder was turned off it would not be detected. I was shocked and explained to him that at this time of year the Hamptons has the highest concentration of wealth in the world. I asked if a helicopter can take off from a boat or anywhere for that matter, be piloted by a terrorist with a dirty bomb and fly under radar undetected to East Hampton Airport. He answered that it was possible if the transponder was turned off. Nobody anticipated terrorists piloting commercial aircraft and flying them into buildings in NYC. I am wondering if the airport manager now armed with this thought of a possible terrorist scenario alerted Homeland Security of the possibility of a security problem at the airport and surrounding Hamptons area. The thought of a helicopter pilot purposely turning off the transponder in his helicopter concerns me. When a pilot flies from New York City he is in Class B airspace which requires a transponder with altitude encoding be turned on. That means the pilot purposely turns off the transponder after he flies out of Class B airspace and before he gets to East Hampton Class E airspace. Why does he do that? Why does he not want to be detected or tracked? Why are these helicopter pilots permitted to carry passengers? It should be cause for alarm.

Why is helicopter noise so offensive?

Unlike airplanes and jets the noise emitted from helicopters draws the most complaints regardless of flight level. The reason is the rotors of the helicopter produces a low frequency, percussive sound that is heard from a long distance, as it comes closer and louder the low frequencies shake the house, rattle windows and interrupts any conversations or other listening activities. It is the same reason people complain about the noise of amplified music played at clubs, parties and at concerts. It is the percussive sound of the kick drum and the low frequencies of the bass that travels long distances and has an annoying affect on some people especially when they are trying to go to sleep. I do not consider music to be noise; rather it is soothing to me and has a relaxing

affect. Helicopter noise on the other hand is extremely annoying to everyone. I have not found a person who is not annoyed by helicopter noise; it is a universal complaint. The Town of East Hampton implemented a noise ordinance to address complaints related to music but it has done nothing to address helicopter noise, more on that later.

Another reason helicopter noise irritates people is that it is heard from a long distance over a long period of time, increasing in volume over time thus causing an anticipation of the windows rattling and conversations or TV not being heard. The higher frequencies of airplane and jet noise have less impact on distance, time and level of noise. Helicopter noise is simply much louder at the same flight level or distance than airplane or jet noise.

The airport was there before you bought your land.

Yes, and I bought the land where I built my house purposely because I promised myself that one day I would fly and I wanted to be close to the airport. In fact I hope one day to live at an airpark with my house along the runway and my garage as a hanger for my plane. I can sit on the porch and watch airplanes take off and land. I have no problem with East Hampton Airport as it existed when I bought my property, a private airport used by private owners of airplanes. I don't want the airport to shut down and I never complained about noise at the airport until just recently due to the constant abusive noise of helicopters and sea planes ferrying passengers to and from East Hampton.

When I bought my land the airport was a small private airport servicing local airplane owners and visitors who wanted to visit for a day or two. There was no commercial operations per-se. The activities at the airport have increased at a tremendous rate over the past five to ten years. Commercial activities have been added at an alarming rate. The ferrying of passengers by jets, sea planes and helicopters are increasing the impact of aircraft from the sky on the residential owners without due process, public hearings or any type of zoning or planning approvals required by other businesses or citizens living in the Town of East Hampton. This is only as a result of the Town being the owner and operator of the airport thus creating laws that excludes its own operations from various zoning and code requirements. This is blatantly unfair. The town should be required to follow the same review and approval process as any other commercial use including full SEQRA review, environmental impact statements, planning, zoning review and public hearing review of current activities and any new activities the Town plans to operate or any future intensification of use. Commercial operators of helicopters, sea planes and jets are being permitted to operate in the Town of East Hampton without review and approvals that a simple retail store or restaurant must undergo to operate in this Town. That is blatantly unfair especially due to the huge impact these operations have on the residential community who only seek to live in peace and enjoyment of their property. Any commercial operation in The Town of East Hampton is keenly aware of the scrutiny the Town and the influence the public has on certain operations that impact residences in the vicinity of those operations. The Town has an obligation to subject its own commercial operations at the airport to the same scrutiny.

It is painfully known by many owners of commercial property and business operations that an increase of activity not approved, anticipated or an increase of impact results in a review of that property or operation. The time is well overdue for the Town to subject its use of the East Hampton Airport for public scrutiny and review without creating laws that excludes itself from the same requirements it imposes on its citizens. The laws that

were created such as the noise law should require the Town to abide by the same requirements and the exclusion of aircraft from that ordinance should be removed. The noise ordinance prohibits noise in excess of 65 decibels at the property line but the Town by its own activities and commercial operations allows helicopters to operate regularly causing noise levels exceeding 80 – 90 decibels. That is abusive and absurd.

Vertical Zoning

East Hampton Town zoning laws only take into consideration horizontal zoning in the separation of different uses. The zoning laws separate commercial and industrial properties from residential properties due to the impacts of commercial and industrial use; one of those impacts is noise. Commercial and industrial operations must undergo a vigorous approval process that sometimes takes years and sometimes hundreds of thousands of dollars to complete. A case in point is an architect's office on North Main, East Hampton taking years to get approvals, the scrutiny is mind-boggling. **The Town Zoning laws do not take into consideration vertical zoning and it must.** In the airspace above the Town of East Hampton commercial operations of aircraft are allowed to impact residential neighborhoods with persistent percussive noise at sound levels of 75-90dB that far exceeds what is allowable according to the noise law during all hours of the night and early morning. The commercial operations of ferrying people to and from East Hampton have not received any level of approvals or scrutiny. What is worse the Town of East Hampton is allowing them to operate on their own property. Without a question that is blatant discriminatory zoning practices by East Hampton Town. Every business operator in the Town of East Hampton should be up in arms and fit to be tied. It is shameful.

East Hampton Noise Law

To add insult to injury, in the recently adopted noise ordinance, the Town of East Hampton excluded aircraft from the noise law that preempts the Town from enforcing any noise requirements on aircraft. It also preempts ordinary citizens from prosecuting claims against operators of aircraft that violate the East Hampton Town Noise Law. **The Town of East Hampton must remove the aircraft exclusion from the law** since it is self serving, a conflict of interest and discriminatory to allow business operations that ferry passengers to generate noise in excess of 65dB and not allow bars or restaurants that only play music. In my opinion music is not noise however it is indisputable that helicopters generate horrible noise.

The noise law only permits 65dB of noise in residential district from 7am – 7pm and 50dB from 7pm – 7am the next day. Attached as "Exhibit A" to this report you will find almost 400 entries of noise recorded from helicopters measuring from 75dB – 90dB regardless of the time of day or night. This is clearly an outrage and it is inhumane to subject residential property owners to the deafening bombardment of noise from above, the continuous and persistent harassment caused by helicopter traffic. Any reasonable person must conclude that this insanity must stop.

The Noise Law defines noise pollution as "Cause a nuisance", "Interfere with the comfortable enjoyment of life and property" and "Excessive or unreasonable noise". Attached as "Exhibit A" to this report is noise data that was collected over a thirteen month period of time and each time reported on the Noise Complaint Hot-Line. The data is evidence of persistent excessive and unreasonable noise that is clearly causing a nuisance and prohibits the comfortable enjoyment of life and property. This must stop.

The Town must remove the exclusion of aircraft from the noise law since East Hampton Town operates the airport as its own business enterprise and it is a clear conflict of interest to exclude a cause of noise pollution that enables the Town to create an advantage to operate its own business. This is wrong and it must be corrected.

Impact on Environment

Where are the environmentalists on this issue? With the huge expansion of use and the huge increase in noise pollution it is hard to believe that there is no impact on the environment. One just has to drive the airport road on Friday afternoon, Sunday afternoon or Monday morning. The stench of spent jet fuel is nauseating. Where do the vapors of spent jet fuel go? Does it condense on the foliage or on the ground and eventually enter the water table. The East Hampton Airport is situated in water recharge area. Are you willing to bet your life that it is not; you are betting my life it is not. We do know the operations of helicopters ferrying people to and from East Hampton has a huge carbon footprint. Take into consideration the few people helicopters carry and the impact per person on greenhouse gas emissions is astronomical. East Hampton used to be an environmentally conscious community; so why isn't anyone screaming about the environmental impact of this expansion?

Are the Blue Bird boxes around the airport fields still being occupied? I have six bird feeders at my house and I see the birds fly away startled when helicopters approach. Are the helicopters also harassing the wildlife around the airport as well as the residential citizens at 80dB-90dB?

What impact does the expansion of use at the airport have on the rare species of moths we have in Wainscott? I have incredible macro photos of these moths. I notice the populations of these moths are dwindling. For many years I have not seen the giant silkworm moths such as the Luna moth and the Polyphemous moth.

I have macro photos of protected fauna such as the Pink Lady's Slippers in the woods around East Hampton Airport. I have not seen a Lady's Slipper for many years.

The noise pollution of helicopter rotors is a low frequency percussive sound. We know that sound shakes and rattles the house and items in the house. It is sound pressure volume. What impacts do large amounts of sound pressure volume have on our environment? The data of the volume is recorded herein as Exhibit A.

Safety

I am a contractor. If I am aware of an unsafe condition on the jobsite, do nothing to correct the unsafe condition and someone injures themselves as a result of that unsafe condition I may be found guilty of gross negligence. I called in observations of unsafe operations of helicopters since May, 2008. Unfortunately I misplaced or lost my copy of the data for June and July of 2008 however the logs for the noise hotline contain the data from my calls. I will present this report that contains thirteen months of data to the Town Board at the public hearing for the airport GEIS Thursday night. This report given to the Town of East Hampton and the accompanying data can be found on the following website: www.ehhelicopternoise.com. The data shows that I made thirty four (34) calls regarding unsafe operations of helicopters flying at tree-top-level. It is indisputable that flying tree-top-level is unsafe yet the Town of East Hampton, FAA and airport manager

have failed to correct the unsafe condition. The Town Board has the power to shut down the airport due to unsafe conditions. Safety of aircraft and airspace is in the jurisdiction of the FAA. The airport should be closed immediately until the FAA takes the responsibility to keep the airspace above East Hampton Town safe.

Video of helicopters flying tree-top-level

HD video of helicopter flying tree-top-level will be able to be viewed on:

www.ehhelicopternoise.com

Draft GEIS

The draft GEIS does not represent the reality of real life experiences of the residents in East Hampton or the rest of Long Island. East Hampton has become a nuisance and a bad neighbor to all the residents of Long Island as a result of the helicopter traffic and noise. Complaints occur all over Long Island. The insanity must stop. Over time it will only intensify and become more of a problem. End it now.

Solutions

East Hampton Airport is located directly in the middle of the south fork. It is impossible to bring helicopters into the airport without impacting residential properties. There is a solution: Route all helicopters, seaplanes and commercial aircraft 1-2 miles offshore and then into Montauk airport. The helicopters will not fly over residential properties to land in East Hampton Town and a twenty minute car ride for the passengers should not be too much to ask and it is better than no helicopters at all. East Hampton Airport will then return to its original state as a private airport for private aircraft owners. The Town can save its money by not expanding airport operations and the GEIS will be valid and can get approved.

Cost/Benefit Analysis

When making a decision sometimes it is helpful to study and weigh a cost/benefit analysis especially when the decision is not a simple yes or no. Helicopters for the most part carry two to four people at a time. As the helicopter travels from New York City the percussive noise from its rotors impact thousands and maybe hundreds of thousands of people's lives along its route to and from East Hampton. Two months ago I attended a wedding at a vineyard on the North Fork. The bride's mother was in her final days of fighting breast cancer for eight years. Two years before she saw her son get married and she told us she prayed that she could live to see her daughter get married and she did. A month ago she died. The wedding was outdoors and the weather was perfect as the bride and groom exchanged their vows under a gazebo with the vineyard in the background. It was a perfect sight. Then I heard a helicopter approach and saw it coming from East Hampton. I recognized this helicopter. It is exceptionally loud like a race car running open headers. Even though he was flying what looked like 2,500-3,000 feet high, as he came closer we could no longer hear the exchange of vows and I saw everyone in the audience look up at the helicopter in disgust. I whispered under my breath, "You bastard." East Hampton has become a bad neighbor and a nuisance to the rest of Long Island. Complaints about helicopter noise from helicopters going to and from East Hampton are being made the entire length of Long Island. That is a huge cost

and it far outweighs the tiny benefit of using helicopters to ferry a few people to and from East Hampton. Therefore it must stop.

Conclusion

Once the Town Board receives this report and the accompanying data that is based on observations of one of the Town's citizens it cannot ignore the facts. To do so would be gross negligence at the most blatant level. The Town Board would be reckless if it ignores this data and hopes an accident does not occur. That will be foolish. If an accident does occur, and I pray that it does not, every trial lawyer will be seeking my testimony and I will give it.

The Town Board needs to put the data I collected into perspective. I have recorded an incredible amount of data but I was away on major high helicopter traffic holidays and I am usually not home on Friday afternoon or evening which is a high helicopter traffic day. I will venture to guess the helicopter traffic is more like 30%-40% more at my location. I am only one location that helicopters fly over in the town of East Hampton. Helicopters come and go from the south and from the west. Helicopters usually depart heading west down the power lines, not over my house. The helicopter noise at the sound levels I recorded impacts hundreds and possibly thousands more residential properties surrounding the airport, including Southampton. It is abusive for the Town Board to allow this condition to continue. There is no reasonable justification for the Town Board to allow helicopters to continue an operation of ferrying passengers to and from East Hampton. If the Town Board cannot stop the helicopter operations then it has no other option but to close the airport. For safety reasons alone it must do so.

Respectfully Submitted,

Frank Dalene

Copies of this report can be downloaded on: www.ehhelicopternoise.com
Copies of this report will be sent to all appropriate elected officials

EXHIBIT A

HELICOPTER TRAFFIC: PEAK SOUND LEVELS

Reported to Noise Hotline: 631-537-LOUD

Location: Ridge Road, Wainscott, NY
(1.3 Miles North of EH Airport)

www.ehhelicopternoise.com

DATE	TIME	DECIBELS	COMMENTS
8/2/2008	9:24am	77	Inbound
8/2/2008	9:58am	82	Inbound, very low
8/2/2008	9:24am	78	Inbound
8/3/2008	12:22pm	78	Inbound
8/3/2008	4:33pm	82	Inbound
8/3/2008	4:44pm	75	Inbound
8/3/2008	6:21pm	80	Inbound
8/3/2008	6:53pm	81	Inbound
8/3/2008	7:34pm	78	Inbound
8/3/2008	7:56pm	80	Inbound
8/3/2008	7:59pm	79	Inbound
8/3/2008	8:09pm	86	Inbound
8/3/2008	8:23pm	78	Inbound
8/4/2008	6:02am	n/a	woke from sleep, did not call in
8/4/2008	6:32am	n/a	woke from sleep, did not call in
8/4/2008	6:53am	79	Inbound
8/4/2008	7:13am	79	Inbound
8/4/2008	7:21am	79	Inbound, one directly behind the other
8/4/2008	7:21am	82	Inbound
8/4/2008	7:58am	75	Inbound
8/8/2008	5:41pm	79	Inbound
8/8/2008	5:54pm	79	Inbound
8/9/2008	10:11am	82	Inbound, very low
8/9/2008	10:21am	81	Inbound
8/10/2008	6:40am	n/a	Inbound, woke from sleep, did not call in
8/10/2008	6:47am	n/a	Outbound, woke from sleep, did not call in
8/10/2008	9:25am		Inbound
8/10/2008	9:34am		Inbound
8/10/2008	10:52am		Inbound
8/10/2008	10:56am		Inbound
8/11/2008	5:53am	78	Inbound
8/11/2008	7:13am	85	Inbound, unsafe operation, dangerously low, tree-top-level
8/11/2008	7:15am	76	Inbound
8/11/2008	7:24am	75	Inbound
8/11/2008	7:25am	77	Inbound
8/11/2008	7:41am	75	Inbound
8/11/2008	7:55am	77	Inbound, converging paths, dangerously close to each other
8/11/2008	7:55am	84	Inbound
8/11/2008	8:02am	75	Inbound
8/11/2008	8:13am	77	Inbound
8/11/2008	9:54am	86	Inbound

DATE	TIME	DECIBELS	COMMENTS
8/11/2008	10:01am	84	Inbound
8/12/2008	7:12am	84	Inbound
8/13/2008	7:48am	78	Inbound
8/13/2008	8:06am	82	Inbound
8/13/2008	8:12am	76	Inbound
8/13/2008	10:36am	81	Inbound
8/14/2008	8:47am	80	Inbound
8/14/2008	10:45pm	85	Inbound, unsafe operation, dangerously low, tree-top-level
8/15/2008	8:09am	79	Inbound
8/15/2008	8:19am	77	Inbound
8/15/2008	8:28am	86	Inbound, Extremely Low
8/15/2008	9:10pm	80	Inbound
8/16/2008	8:52am	83	Inbound, Extremely Low
8/16/2008	9:38am	76	Inbound, Hotline busy; call requires 10 attempts
8/16/2008	9:42am	81	Inbound
8/16/2008	10:09am	78	Inbound, Extremely Low
8/16/2008	12:01pm	79	Inbound
8/16/2008	5:05pm	77	Inbound
8/17/2008	10:30am	82	Inbound, unsafe operation, dangerously low, tree-top-level
8/17/2008	10:37am	78	Inbound
8/17/2008	11:43am	82	Inbound
8/17/2008	1:22pm	78	Inbound
8/17/2008	1:46pm	89	Inbound, Extremely Low
8/17/2008	5:24pm	85	Inbound, unsafe operation, dangerously low, tree-top-level
8/17/2008	5:55pm	80	Inbound
8/17/2008	6:43pm	77	Inbound
8/17/2008	6:54pm	84	Inbound
8/17/2008	7:57pm	78	Inbound
8/17/2008	9:12pm	75	Inbound
8/18/2008	5:23am		Inbound
8/18/2008	7:14am		Inbound
8/18/2008	8:10am		Inbound, unsafe operation, dangerously low, tree-top-level
8/18/2008	8:17am		Inbound
8/18/2008	8:24am		Inbound
8/18/2008	9:34am		Inbound
8/24/2008	10:14am	82	Inbound
8/24/2008	10:15am	80	Inbound, Extremely Low
8/24/2008	10:31am	76	Inbound
8/24/2008	10:38am	82	Inbound
8/24/2008	11:12am	81	Inbound
8/24/2008	12:14pm	84	Inbound
8/24/2008	12:35pm	75	Inbound
8/24/2008	1:06pm	76	Inbound
8/24/2008	2:23pm	78	Inbound
8/24/2008	4:53pm	81	Inbound
8/24/2008	5:00pm	76	Inbound
8/24/2008	5:01pm	78	Inbound
8/24/2008	5:03pm	77	Inbound

DATE	TIME	DECIBELS	COMMENTS
8/24/2008	5:32pm	84	Inbound
8/24/2008	5:55pm	82	Inbound
8/24/2008	6:38pm	77	Inbound
8/24/2008	7:41pm	77	Inbound
8/24/2008	8:20pm	76	Inbound
8/24/2008	8:42pm	80	Inbound
8/24/2008	9:34pm	88	Inbound, unsafe operation, dangerously low, tree-top-level
8/27/2008	6:04am	75	Inbound
8/27/2008	7:02am	81	Inbound, Extremely Low
8/27/2008	8:16am	75	Inbound
9/3/2008	9:12am	86	Inbound, very low
9/4/2008	8:20pm	79	Inbound
9/7/2008	4:00pm	81	Inbound
9/7/2008	4:56pm	80	Inbound
9/8/2008	7:28am	79	Inbound
9/8/2008	7:34am	79	Inbound
9/12/2008	7:54am	78	Inbound
9/14/2008	5:13pm	80	Inbound, Extremely Low
9/14/2008	5:36pm	86	Inbound, unsafe operation, dangerously low, tree-top-level
9/17/2008	8:36am	80	Inbound
9/20/2008	11:14am	78	Inbound
9/20/2008	4:21pm	78	Inbound
9/21/2008	2:32pm	75	Inbound
9/21/2008	3:35pm	75	Inbound
9/21/2008	3:35pm	78	Inbound
9/21/2008	4:13pm	76	Inbound
9/30/2008	9:00am	83	Inbound, Extremely Low
10/5/2008	4:00pm	78	Inbound, Extremely Low
10/5/2008	4:03pm	80	Inbound, Extremely Low
11/2/2008	3:54pm	83	Inbound, very low
11/2/2008	4:21pm	82	Inbound, very low
11/2/2008	4:51pm	80	Inbound, Extremely Low
11/2/2008	5:15pm	86	Inbound, unsafe operation, dangerously low, tree-top-level
2/15/2009	4:47pm	90	Inbound, Extremely Low
2/21/2009	4:03pm	82	Inbound, very low
3/6/2009	7:35am	78	Inbound
4/10/2009	8:57am	79	Inbound
4/10/2009	12:48pm	79	Inbound, very low
4/10/2009	2:31pm	87	Inbound, Extremely Low

DATE	TIME	DECIBELS	COMMENTS
4/10/2009	5:39pm	86	Inbound, Extremely Low
4/19/2009	10:28am	77	Inbound, very low
4/19/2009	1:55pm	76	Inbound, very low
4/19/2009	4:30pm	76	Inbound, very low
4/26/2009	8:44am	82	Inbound, Extremely Low
5/3/2009	10:58am	84	Inbound, Extremely Low
5/30/2009	9:08am	79	Inbound
5/30/2009	9:21am	77	Inbound
5/30/2009	4:48am	84	Inbound
5/31/2009	3:41pm	75	Inbound
5/31/2009	3:45pm	80	Outbound
5/31/2009	3:49pm	80	Inbound
5/31/2009	5:05pm	84	Inbound, very low
5/31/2009	5:16pm	81	Inbound, very low
5/31/2009	5:20pm	75	Inbound
5/31/2009	6:34pm	73	Inbound
6/1/2009	8:01am	75	Inbound
6/7/2009	5:57pm	77	Inbound
6/8/2009	7:59am	80	Inbound
6/8/2009	8:29am	87	Inbound
6/13/2009	8:29am	78	Inbound
6/13/2009	1:44pm	88	Inbound, very low
6/14/2009	5:08pm	77	Inbound
6/14/2009	5:30pm	84	Inbound
6/14/2009	8:01pm	85	Inbound
6/14/2009	8:22pm	77	Inbound
6/14/2009	8:55pm	82	Inbound
6/15/2009	10:53am	85	Inbound, unsafe operation, dangerously low, tree-top-level
6/17/2009	7:52am	76	Inbound
6/19/2009	6:44pm	90	Inbound
6/20/2009	9:38am	85	Inbound, unsafe operation, dangerously low, tree-top-level
6/20/2009	9:45am	85	Inbound, unsafe operation, dangerously low, tree-top-level
6/21/2009	3:37pm	82	Inbound, unsafe operation, dangerously low, tree-top-level
6/21/2009	3:40pm	72	Inbound
6/21/2009	4:07pm	74	Inbound
6/21/2009	4:47pm	83	Inbound, very low
6/21/2009	4:49pm	77	Inbound
6/21/2009	5:15pm	75	Inbound
6/22/2009	7:45pm	77	Inbound, very low

DATE	TIME	DECIBELS	COMMENTS
6/24/2009	9:23am	86	Inbound, unsafe operation, dangerously low, tree-top-level
6/25/2009	9:00am	83	Inbound, very low
6/27/2009	2:08pm	86	Inbound, unsafe operation, dangerously low, tree-top-level
6/27/2009	2:41pm	77	Inbound
6/27/2009	3:25pm	80	Inbound
6/28/2009	12:46pm	82	Inbound, very low
6/28/2009	2:05pm	79	Inbound, very low
6/28/2009	2:50pm	85	Inbound
6/28/2009	4:12pm	85	Inbound, unsafe operation, dangerously low, tree-top-level
6/28/2009	5:05pm	75	Inbound
6/28/2009	5:08pm	76	Inbound, very low
6/28/2009	7:30pm	84	Inbound
6/28/2009	8:34pm	76	Outbound
6/29/2009	6:28AM	70	Inbound
6/29/2009	8:20AM	75	Inbound
6/29/2009	8:22AM	85	Inbound
6/29/2009	8:29AM	80	Inbound, unsafe operation, dangerously low, tree-top-level
7/2/2009	12:22AM	n/a	woke up, helicopter sat at airport with engine revving for 15 mins.
7/2/2009	7:01pm	75	Outbound
7/3/2009	6:39am	80	Inbound
7/3/2009	10:43am	79	Inbound
7/3/2009	11:57am	79	Inbound
7/3/2009	1:52pm	85	Inbound, Extremely Low
7/3/2009	5:24pm	90	Inbound, unsafe operation, dangerously low, tree-top-level
7/4/2009	8:48am	78	Inbound
7/4/2009	9:01am	75	Outbound
7/4/2009	6:55pm	75	Inbound, two helicopters, one immediately behind the other
7/4/2009	6:55pm	72	Inbound
7/5/2009	1:18am	75	Inbound
7/5/2009	4:02pm	78	Inbound, Extremely Low
7/5/2009	4:44pm	75	Inbound
7/5/2009	4:56pm	77	Inbound, very low
7/5/2009	5:09pm	72	Inbound
7/5/2009	6:27pm	76	Inbound
7/5/2009	7:27pm	73	Inbound
7/5/2009	7:55pm	77	Inbound
7/6/2009	7:09am	78	Inbound
7/6/2009	7:15am	80	Inbound
7/6/2009	7:37am	79	Inbound
7/6/2009	7:39am	72	Inbound
7/6/2009	7:40am	84	Inbound, unsafe operation, dangerously low, tree-top-level
7/6/2009	7:40am	80	Inbound
7/6/2009	8:15am	82	Inbound, very low
7/6/2009	8:18am	76	Inbound
7/6/2009	8:24am	77	Inbound
7/6/2009	8:24am	76	Inbound
7/6/2009	8:41am	77	Inbound

DATE	TIME	DECIBELS	COMMENTS
7/6/2009	8:45am	73	Inbound
7/6/2009	9:14am	84	Inbound
7/6/2009	9:23am	74	Outbound
7/6/2009	10:00am	71	Inbound
7/6/2009	10:06am	75	Outbound
7/6/2009	8:10pm	77	Inbound, very low
7/7/2009	8:31am	80	Inbound
7/8/2009	7:52pm	76	Inbound
7/8/2009	8:03pm	73	Outbound
7/9/2009	8:56am	80	Inbound
7/9/2009	7:23pm	87	Inbound, Extremely Low
7/9/2009	7:31pm	86	Inbound, Extremely Low
7/9/2009	7:31pm	85	Inbound, Extremely Low
7/9/2009	7:33pm	75	Outbound
7/9/2009	7:43pm	75	Inbound
7/11/2009	9:55am	77	Inbound
7/11/2009	12:07pm	81	Inbound
7/11/2009	12:51pm	76	Inbound
7/11/2009	2:20pm	80	Inbound, very low
7/12/2009	8:26am	78	Inbound, Extremely Low
7/12/2009	12:27pm	78	Inbound, Extremely Low
7/13/2009	8:21am	75	Inbound
7/13/2009	10:19am	80	Inbound, Extremely Low
7/13/2009	10:54am	79	Inbound, Extremely Low
7/17/2009	8:48am	74	Inbound
7/17/2009	9:39am	79	Inbound
7/17/2009	6:54pm	79	Inbound, unsafe operation, dangerously low, tree-top-level
7/18/2009	12:56pm	73	Inbound
7/19/2009	2:33pm	80	Inbound, very low
7/19/2009	2:49pm	79	Inbound
7/19/2009	2:51pm	87	Inbound, very low
7/19/2009	3:20pm	83	Inbound, very low
7/19/2009	3:41pm	84	Inbound, unsafe operation, dangerously low, tree-top-level
7/19/2009	3:44pm	74	Inbound
7/19/2009	4:05pm	90	Inbound, unsafe operation, dangerously low, tree-top-level
7/19/2009	4:11pm	75	Inbound
7/19/2009	4:50pm	86	Inbound
7/19/2009	4:51pm	80	Inbound, very low
7/19/2009	5:02pm	76	Inbound
7/20/2009	4:50am	n/a	Inbound, woke from sleep, did not call in
7/20/2009	6:40am	87	Inbound, very low
7/20/2009	6:57am	78	Inbound, very low
7/20/2009	7:10am	77	Inbound
7/25/2009	10:58am	80	Inbound, unsafe operation, dangerously low, tree-top-level

DATE	TIME	DECIBELS	COMMENTS
7/27/2009	8:25am	80	Inbound
7/27/2009	8:51am	77	Inbound
7/27/2009	8:56am	76	Inbound, very low
7/27/2009	9:26am	79	Inbound
7/30/2009	11:22pm	78	Inbound
8/1/2009	7:08am	78	Inbound
8/1/2009	10:54am	76	Inbound
8/1/2009	11:19am	79	Inbound, very low
8/1/2009	3:03pm	77	Inbound, very low
8/2/2009	1:49pm	87	Inbound, unsafe operation, dangerously low, tree-top-level, T-Storms
8/2/2009	2:12pm	90	Inbound, unsafe operation, dangerously low, tree-top-level, T-Storms
8/2/2009	5:05pm	76	Inbound, very low
8/3/2009	7:12am	83	Inbound, very low
8/3/2009	7:21am	78	Inbound
8/3/2009	7:26am	77	Inbound
8/3/2009	7:48am	77	Inbound
8/3/2009	7:55am	71	Inbound
8/3/2009	8:15am	73	Inbound
8/3/2009	8:21am	73	Inbound
8/3/2009	8:38am	78	Inbound
8/3/2009	8:39am	85	Inbound, Extremely Low
8/3/2009	8:40am	78	Inbound
8/3/2009	9:03am	79	Inbound
8/3/2009	9:23am	79	Inbound, very low
8/3/2009	9:41am	75	Inbound
8/3/2009	9:42am	76	Inbound
8/3/2009	9:51am	75	Inbound
8/3/2009	5:29pm	76	Inbound
8/3/2009	5:32pm	80	Inbound
8/3/2009	5:35pm	75	Outbound
8/3/2009	7:15pm	74	Inbound
8/4/2009	9:00am	78	Inbound, very low
8/4/2009	9:00am	77	Inbound, very low
8/6/2009	8:39am	80	Inbound, very low
8/8/2009	10:12am	82	Inbound, very low
8/8/2009	10:47am	78	Inbound, very low
8/9/2009	8:02am	74	Inbound, very low
8/9/2009	12:30pm	77	Inbound
8/9/2009	2:06pm	89	Inbound, unsafe operation, dangerously low, tree-top-level
8/9/2009	2:25pm	79	Inbound
8/9/2009	2:32pm	85	Inbound
8/9/2009	4:14pm	78	Inbound
8/9/2009	4:41pm	78	Inbound
8/9/2009	4:44pm	78	Outbound
8/10/2009	7:12am	74	Outbound
8/10/2009	7:20am	78	Inbound
8/10/2009	7:33am	76	Outbound

DATE	TIME	DECIBELS	COMMENTS
8/10/2009	7:40am	74	Outbound
8/10/2009	8:18am	78	Inbound
8/10/2009	8:34am	77	Inbound
8/10/2009	9:04am	75	Inbound
8/10/2009	9:15am	75	Outbound
8/11/2009	6:46pm	82	Inbound, very low
8/11/2009	6:52pm	75	Outbound
8/12/2009	9:28am	80	Inbound, Extremely Low
8/14/2009	8:53am	78	Outbound
8/14/2009	9:07am	79	Inbound, very low
8/14/2009	9:46am	82	Inbound, Extremely Low
8/14/2009	7:04pm	79	Inbound, very low
8/14/2009	7:10pm	82	Inbound, very low
8/14/2009	7:18pm	78	Outbound
8/15/2009	9:04am	79	Inbound, very low
8/15/2009	9:31am	89	Inbound, unsafe operation, dangerously low, tree-top-level
8/15/2009	12:59pm	80	Inbound, very low
8/16/2009	12:25pm	76	Inbound
8/16/2009	7:42pm	77	Inbound
8/16/2009	7:48pm	76	Inbound
8/16/2009	8:03pm	77	Inbound
8/16/2009	8:07pm	76	Outbound
8/16/2009	8:08pm	76	Outbound
8/17/2009	9:24am	83	Inbound, Extremely Low
8/17/2009	7:03pm	75	Inbound
8/17/2009	7:38pm	78	Inbound
8/17/2009	7:43pm	84	Inbound, unsafe operation, dangerously low, tree-top-level
8/17/2009	7:54pm	75	Outbound
8/17/2009	10:55pm	78	Inbound
8/19/2009	6:10pm	80	Inbound
8/21/2009	9:44am	90	Inbound, unsafe operation, dangerously low, tree-top-level
8/22/2009	12:54pm	82	Inbound, very low
8/22/2009	12:57pm	79	Inbound, very low
8/22/2009	4:39pm	78	Inbound, very low
8/24/2009	7:44am	76	Inbound
8/24/2009	8:15am	77	Inbound
8/24/2009	8:17am	78	Inbound, very low
8/24/2009	8:49am	80	Inbound, very low
8/24/2009	10:28am	77	Inbound
8/25/2009	8:25pm	84	Inbound, Extremely Low
8/25/2009	10:35pm	78	Outbound
8/26/2009	8:19am	79	Inbound
8/26/2009	8:45am	75	Inbound
8/26/2009	9:06am	75	Inbound

DATE	TIME	DECIBELS	COMMENTS
8/26/2009	7:56pm	85	Inbound, unsafe operation, dangerously low, tree-top-level at night
8/27/2009	9:00am	85	Inbound, unsafe operation, dangerously low, tree-top-level
8/28/2009	9:17am	86	Inbound, very low
8/28/2009	9:28am	88	Inbound, unsafe operation, dangerously low, tree-top-level
8/30/2009	11:30am	85	Inbound, unsafe operation, dangerously low, tree-top-level
8/30/2009	11:43am	75	Outbound
8/30/2009	2:00pm	83	Inbound, Extremely Low
8/30/2009	2:08pm	79	Outbound
8/30/2009	2:43pm	76	Inbound, very low
8/30/2009	3:25pm	78	Inbound, very low
8/30/2009	3:59pm	83	Inbound, very low
8/30/2009	4:03pm	88	Inbound, unsafe operation, dangerously low, tree-top-level
8/31/2009	6:44am	78	Inbound
8/31/2009	7:47am	79	Inbound, Extremely Low
8/31/2009	7:57am	80	Inbound, Extremely Low
8/31/2009	7:59am	71	Outbound
8/31/2009	8:11am	74	Outbound
8/31/2009	8:16am	83	Inbound, very low
9/1/2009	7:29am	78	Inbound
9/1/2009	9:43am	80	Inbound
9/1/2009	10:27am	72	Inbound
9/2/2009	9:18pm	90	Inbound, Extremely Low
9/3/2009	6:51am	78	Inbound, very low
9/3/2009	7:48am	75	Outbound

Notes:

1. Peak sound levels were recorded on the deck in the back of the house.
2. Peak sound levels were measured by a hand held digital sound level meter.
3. Recorded times were taken from cell phone clock.
4. The data contained herein was recorded when at home and each entry was reported on the noise hotline including "Comments".
5. No overall noise pattern can be deducted from this data since data was only recorded when at home. Data from major holiday weekends such as Memorial Day and Labor Day are missing since I was not at home. A busy helicopter traffic time period is Friday afternoon and evening. Most Fridays I was not at home for the most part.
6. A pattern can be deducted of continuous and persistent helicopter traffic one after the other at extremely loud decibel levels between 75-90dB on certain days. East Hampton Town does not permit sound levels in excess of 65dB at the property line therefore sound levels of 75-90dB recorded at the center of the property absolutely cannot be acceptable, tolerated or allowed in residential areas within the Town of East Hampton.
7. Special note should be taken of helicopter traffic before 7am, late at night and in the middle of the night. No other activity that generates noise is permitted during those hours in the Town of East Hampton.
8. It is indisputable that the operation of aircraft at tree-top-level is unsafe. 34 reports of unsafe operation of helicopters were called in on the East Hampton Airport Noise Hotline by one person who is a licensed pilot and who understands the safe operation of aircraft. The Town of East Hampton and the FAA failed to address safety concerns in the airspace above the Town of East Hampton. Did the airport manager follow up with the proper authorities regarding reports of safety concerns called in on the noise hotline?

r. East Hampton Helicopter Traffic Report submitted by Frank Dalene

The respondent is located directly under the Northwest Creek arrival route. The site is therefore overflown frequently at relatively low altitudes due to proximity to the Airport.

Response: Helicopters, under federal regulations, do not have minimum altitudes above terrain that must be respected as do fixed wing aircraft since they can fly slowly when necessary to avoid obstructions. Fixed wing aircraft, except on approach and departure from the runways, are prohibited from low overflights of surrounding terrain. The airport itself as well as local civilian authorities does not have regulatory powers over aircraft in flight. Concerns regarding safety appear speculative, relate to proximity, i.e., too close for comfort, and the degree of expressed alarm is unsupported by local accident history. As a generalization, aircraft operations, including helicopters, have a good safety record in comparison to other transportation alternatives.

Noise impacts such as are documented appear consistent with expectations given the location, approximately 0.9 miles from the Airport. Sleep interference events, speech interference events and interference with electronic communications commonly occur at these sound levels. Federal guidelines for compatibility are based on avoiding hearing damage and do not prevent such adverse effects or annoyance. The location is subject to an annual exposure of 50 to 55 DNL for 2008 and the same is projected for 2013.

The respondent presents a partial log of helicopter noise events that occurred at his location over a one year period from August of 2008 to September of 2009. Most of the events were accompanied by a noise level measurement. A total of 373 events were included. Of these, 46 events registered 85 dB or greater representing 12 percent of the total. Six events were recorded at 90 dB or 1.6 percent of the total. The highest level sample was 90 dB. The remaining events were in the 72 to 84 dB range, about 88 percent. While these events are objectionable, disturbing, sudden, intrusive and have a large low frequency component, comparable noise levels are produced by common shop equipment, construction equipment and especially gasoline powered yard equipment. OSHA guidelines for maximum noise exposure in the work place environment are 90 dB or above sustained for an 8 hour day.

The recommended solution, elimination of the Airport in order to protect public health and safety, does not appear justified based on accident history or statistical risk in comparison to accident rates for motor vehicle operation. In terms of tourist and visitor access, ground transportation provides a ready alternative. However, for long distance domestic travel, international travel or emergency access, there is no alternative to air transportation. Hence the Airport is an irreplaceable public asset.

Helicopters using East Hampton Airport in charter service vary substantially by weight and passenger capacity, typically ranging from two to four to as many as ten passengers and from 4,000 to 12,500 pounds. Helicopter transport is preferred for reasons of comfort, speed and convenience as well as for privacy and personal security.

Helicopters have not been used in any previous domestic terrorist attacks.

Commercial operations have been accommodated at the East Hampton Airport in prior decades. The Airport has been a public facility since its origins. Airports are tightly regulated and inspected under FAA auspices as are the aircraft themselves and all licensed pilots. Similarly, noise emission levels are federally regulated and, therefore, neither subject to local law nor does the Town have the authority to override those FAA regulations.

The Final GEIS highlights the respondent's location and a map showing areas higher than runway elevation is included.

SAVE EAST HAMPTON AIRPORT, INC.
P.O. Box 804
Wainscott, New York 11975

September 24, 2009

William McGintee, Town Supervisor
Pat Mansir, Councilwoman
Brad Loewen, Councilman
Peter Hammerle, Councilman
Julia Prince, Councilwoman
Town of East Hampton
Town Hall
159 Pantigo Road
East Hampton, NY 11937

By Federal Express

Re: Comments on the Draft Generic Environmental Impact Statement on the Proposed East Hampton Town Airport Master Plan

Dear Mr. Supervisor and Members of the Town Board:

I am writing to submit further comments on the Draft Generic Environmental Impact Statement ("DGEIS") and to respond to some of the issues raised in the comments by others on the DGEIS.

I. Airport Noise

As the Board knows, and as is stated in the DGEIS, airport noise has been studied extensively, at the cost of hundreds of thousands of dollars to the Town, in 2000, 2002, 2004, and 2007 and now in the DGEIS. The approach and take-off corridors for Runway 4-22 have been the subject of Town noise monitoring and data was accumulated, for example, between August 21 and September 2, 2003 -- some of the busiest weeks of the year -- by the firm of Harris, Miller, Miller & Hanson, Inc. A copy of their report to the Town Noise Study Advisory

A.D. 2nd 483, 492, 465 N.Y.S.2d 483, affirmed 60 NY 2nd 805, 469, N.Y.S.2d 689, 457 NE 2nd 795; Residents For A More Beautiful Port Washington, Inc. v. Town of North Hempstead, 155 A.D. 2nd 521, 545 N.Y.S.2d 397 (1989).

Some of the speakers at the public hearing on the DGEIS stated that the range of alternatives in the Draft GEIS is insufficient. Specifically, some individuals have proposed that the Board consider an "alternative" which entails having the current Town Board and future Town Boards refuse FAA funding for the airport so as to allow the Town Boards to "ban helicopters", "ban commercial operations", and "close down the airport on weekends", – essentially shutting down virtually all, or at least the majority, of airport operations. In order to accomplish these stated objectives, David Gruber urges the Board to include as an "alternative" in the EIS the **rejection of FAA funding** for airport maintenance, improvement, etc., now and in the future, so that the Town is free to dismantle the airport, in whole or in part.

Save the Airport respectfully submits that this is not a "reasonable alternative" that must be included in the GEIS on the Airport Master Plan for two reasons.

1) First, it asks this Town Board to speculate as to what other Town Boards will want or need to do in the future, based on considerations that may arise 5, 10, 15 years or more from now.

It also asks that this Board consider an "alternative", which, if implemented, has this Town Board attempt to bias future Town Boards to an ongoing rejection of FAA funds forevermore. This is entirely inappropriate. Accordingly, refusing FAA funding is not a reasonable "alternative" for inclusion in the GEIS on the Airport Master Plan.

2) Second, the Town "action" the Board is considering in this SEQRA review is the adoption of a new Airport Master Plan. As stated in the FAA's Advisory Circular on the preparation of Airport Master Plans in Section 104, "Function of Master Plan Studies",

"a. Airport Master Plans are prepared to support the modernization or expansion of existing airports or the creation of a new airport. The Master Plan is the sponsor's strategy for the development of the airport."

The radical alternative being proposed for inclusion in the DGEIS by David Gruber and a handful of others is that the Board commit itself and future Town Boards to rejecting FAA funding for years to come for the purpose of dismantling all, or major portions of, airport operations and/or airport facilities.

That "objective" is exactly the opposite of the objective of the proposed action, i.e., the adoption of an Airport Master Plan, and, hence, is not an appropriate alternative under SEQRA.

September 24, 2009

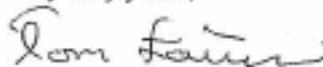
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If, at some point in the future, the Town were to determine that it wished to close all or major portions of airport operations and/or facilities, that would constitute a totally new "proposed action" with a distinctly different "objective" under SEQRA from the "objective" of the Airport Master Plan that is now before the Board.

Ten or twenty years from now, a future Town Board may, for reasons that may exist at that point in time, decide that it wishes to pursue a new objective and course of action entailing a dismantling of the airport. If a future Town Board decides that the airport, as operated and maintained pursuant to the Master Plan, is no longer desirable, it could undertake a review of a new "proposed action" under SEQRA involving a closure of all or part of the airport operations and facilities. But, that is not the proposed action that is before the Town Board at this time.

Again, I want to thank the Town Board for the time and expense it has put into this effort on the Master Plan and the DGEIS. We appreciate your consideration of our comments.

Very truly yours,



Tom Lavinio
President
Save East Hampton Airport, Inc.

cc: L. Liquori
H. Young
J. Jilnicki
F. Overton

September 23, 2009

Town Board
Town of East Hampton
Town Hall
159 Pantigo Road
East Hampton, NY 11937

RE: East Hampton Airport Master Plan
Draft Generic Environmental Impact Statement

Dear Members of the Town Board:

I have reviewed some of the public comments made at your September 17, 2009 public hearing regarding noise impacts at the East Hampton Airport and offer the following analysis:

By way of background, I have been involved in the analysis of community noise and transportation noise since the late 1970's, when I developed a computer program for the prediction of highway traffic noise. Since that time, I have conducted dozens of noise analyses, written several community noise ordinances and trained local code enforcement personnel in noise measurement techniques. In addition, I have served on various occasions as an expert witness for the New York State Attorney General in the area of community and transportation noise.

In general terms, the noise analysis industry has, over the past 35-plus years, developed highly standardized methodologies and descriptors for environmental noise. This has been necessary due to the highly time-varying nature of environmental noise, which makes it necessary to integrate noise energy into an accepted descriptor. In the case of community and highway noise, the two industry-accepted noise descriptors are L10 and Leq. L10 describes the noise level which is exceeded 10 percent of the time, while Leq computes all of the noise energy over a set period, usually one hour, and averages it.

In the case of airport noise, the nationally accepted noise standard is the LDN, which integrates noise over time to arrive at a single number which can be used for comparative purposes. These integrated noise descriptors have been proven to be effective, when compared to established standards, in protecting the health and well-being of humans.

325 West Main Street, Babylon, NY 11702 Tel: (631) 567-5060 Fax: (631) 422-3479
www.gpinet.com

Conversely, the use of single event noise levels, or peak noise levels, as proposed by Les Blomberg and some others at the public hearing to estimate impacts, amounts to "cherry-picking" of selected data points, and is not an accepted practice in the industry.

Looking specifically at the East Hampton Town Code, certain parts of the Town's noise ordinance appear to be very old, and date back to a time prior to the development of the accepted noise descriptors discussed above. Several other Long Island municipalities have similar antiquated noise ordinances, and they have been found by the courts to be "unenforceable".

However, it is important to note that the Town ordinance does include exceptions to the numerical peak standards. Without such exceptions, almost each and every person in the Town would be guilty of noise violations on a daily basis. Applying the logic of Blomberg, et al, Town standards would be, frequently, exceeded. For example, by car doors closing, horns honking, construction activities, landscaping and lawn maintenance equipment, trucks, motorcycles, and athletic events. Townwide, the numbers of exposures to such "violations" would far exceed the exposures from aircraft operations at the East Hampton Airport.

Accordingly, consistent with the time tested nationwide approach to airport noise, the East Hampton Town Code appropriately includes the following exception to the single event provisions of the code at section 185-4L:

"All noises coming from the normal operations of properly equipped aircraft..."

In summary, the only proper standard to apply to airport noise is the nationally accepted LDN. Aircraft operations are appropriately excepted from the Town's noise ordinance, as they should be.

Sincerely,
GPI/Greeman-Pedersen, Inc.



Robert Grover
Director of Environmental Sciences

RG/rp

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HARRIS MILLER MILLER & HANSON INC.

15 New England Executive Park
Burlington, MA 01803
Tel. (781) 229-0707
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TECHNICAL MEMORANDUM

To: Ms. Diana Weir, Town of East Hampton, and the
East Hampton Airport Noise Study Advisory Group

From: Robert Miller, Chris Bajdek

Date: October 28, 2003

Subject: East Hampton Airport Noise Mitigation Program
Preliminary Results of the Noise Measurement Program;
Phase II – August 21st to September 2nd 2003

Reference: HMMH Jen No. 299500

The East Hampton Airport Noise Study Advisory Group (NSAG) is comprised of the following individuals, listed alphabetically by last name:

- Rob Coe, East Hampton/South Hampton CAC
- Kyle Collins, Director, Southampton Town Planning Department
- Arthur French
- Cindy Herbst, Sound Aircraft Services
- Samuel Kramer
- Thomas Lavinio, East Hampton Aviation Association
- Robert Miller, HMMH
- Michael Myers, Myers Aviation
- Joan Osborne, East Hampton Village Preservation Society
- Gene Oshrin, East Hampton Aviation Association
- Pat Ryan, East Hampton Airport
- Jean Sinenberg
- William Tillotson, Chairperson, Sagaponack CAC
- Robert Wood, Citizens for Quieter Airport
- Matthew Zuccaro, Eastern Region Helicopter Council

This memorandum is being distributed to NSAG members at the next NSAG meeting on 29 October at 2:00 p.m. in the East Hampton Airport Terminal Building. It summarizes the second phase of a major measurement program designed to identify various characteristics of the noise caused by aircraft and helicopter operations at East Hampton Airport, and it will supplement the material to be discussed at the meeting.

HARRIS MILLER MILLER & HANSON INC.

Preliminary Results of the Noise Measurement Program: Phase II
October 28, 2003

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HARRIS MILLER MILLER & HANSON INC.

Preliminary Results of the Noise Measurement Program: Phase II
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Page 1

1. INTRODUCTION

Harris Miller Miller & Hanson Inc. (HMMH) was retained by the Town of East Hampton to conduct a study to address noise issues at East Hampton Airport (EHA). The overall objectives of the study are to define the current noise issues at EHA and to assess potential noise abatement measures that are both feasible and practical. The first part of the study began with field data collection process, which was split into two phases. The first phase of the measurement program began on 25 June 2003 and extended over two weekends, including the July 4th holiday. The results of the first phase were presented to members of the NSAG on 9 September 2003.

During this first phase of monitoring, several committee members who had offered their homes as candidate sites for measurement, expressed concern that aircraft and helicopter traffic was not operating as it normally did; that because the measurements had been discussed at the meeting, pilots were avoiding the airport, flying higher than normal, or not flying where they normally would.

To address this concern, the second phase of monitoring was planned and carried out without prior announcement to anyone other than the homeowners where the instrumentation was to be located. The second phase was initiated on August 21st and concluded on September 2nd, extending over two additional weekends and the Labor Day holiday.

This memorandum summarizes the results of our Phase II noise measurement program, with specific attention paid to whether there are any identifiable differences between the two periods. The following sections provide an overview of the measurement program, site-by-site discussions of the field data obtained at each site, a brief discussion of how this information will be used in our analysis, and an overview of the next steps in the study. The appendices provide graphs and tables of measured noise level data obtained at each of the sites.

2. OVERVIEW OF NOISE MEASUREMENT PROGRAM: PHASE II

The second phase of the field data collection process had the following objectives:

- To collect Day-Night Sound Level (DNL) data at several representative community locations, for use in comparison to modeled noise contour levels;
- To collect representative single-event noise data for various aircraft types of concern;
- To observe aircraft flight paths in person, to improve the quality of our modeling assumptions; and
- To review available airport operating records.

Noise measurements were conducted at a total of ten sites in the area surrounding the airport—seven of these sites duplicated the measurement sites from the first phase. Table 1 documents the location of each site and the overall monitoring periods for Phase II. Figure 1 shows the locations of the noise monitoring sites in relation to the airport—with the three new sites indicated with a different color-code.

HARRIS MILLER MILLER & HANSON INC.

Preliminary Results of the Noise Measurement Program: Phase II
 October 28, 2003
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Site	Address	Start	End
		Date / Time	Date / Time
1	11 Highview Drive, Wainscott	21-August / 14:23	28-August / 10:37
2a	93 Merchants Path, Bridgehampton	21-August / 15:25	27-August / 17:24
3	244 Widow Gravitts, Bridgehampton	21-August / 17:09	2-September / 13:14
4	75 West Gate, Wainscott	21-August / 14:58	27-August / 13:36
5	Georgica Estates Tennis Courts, East Hampton	21-August / 13:43	2-September / 11:08
6	Ross School Athletic Fields, Wainscott	25-August / 10:12	27-August / 10:32
7	136 Main Street, East Hampton Village	27-August / 15:14	2-September / 13:39
8	Town Line Road, west end of Runway 10/28	27-August / 12:50	2-September / 19:47
9	76 Greenleaf Lane, Wainscott	27-August / 18:48	2-September / 12:53
10	44 Woodruff Lane, Bridgehampton	28-August / 12:12	2-September / 13:05

Observations and preliminary results of the measurements at each site are discussed individually by location. The appendices that follow include detailed measurement data from each site, presenting information such as background noise levels and maximum sound levels hour by hour throughout the entire measurement period, daily noise exposure levels, and single-event noise levels caused by individual aircraft and non-aircraft noise sources.



HARRIS MILLER MILLER & HANSON INC.

Preliminary Results of the Noise Measurement Program: Phase II
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2.1 Site 1: 11 Highview Drive, Wainscott

Site 1 was located in the backyard of a single-family home located at 11 Highview Drive in Wainscott. This site was north of the airport, approximately 3200 feet from the end of Runway 16/34 and 1000 feet west of the extended runway centerline. Figure 1 shows the location of the microphone in the backyard of this residence.

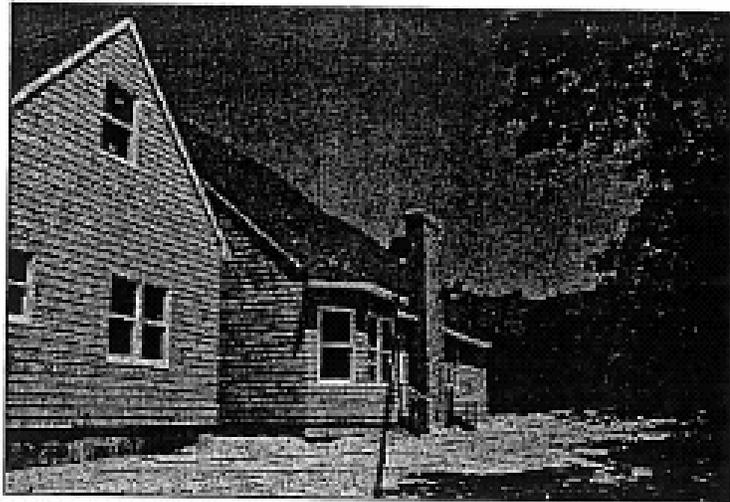


Figure 1. Microphone Location for Site 1

Site 1 was selected to document helicopter traffic patterns and operations. The site is located roughly 500 feet north of a power line that is used as a reference for helicopter pilots on approach to Runway 16.

Attended noise measurements were conducted on August 22nd from 15:30 to 16:21, on August 25th from 09:17 to 12:36, and on August 26th from 13:56 to 16:54. Appendix A provides graphs of the hourly noise levels for all sites, including the following noise metrics: L_{max} , L_{eq} , L_1 , L_{16} , L_{50} , and L_{90} .

The measured Total DNL ranged from 55 to 58 dBA over an 8-day period. The DNL due to measured noise events (both aircraft and non-aircraft) ranged from 50 to 57 dBA. The tables in Appendix B provide summaries of the measured DNL for all of the sites.

HARRIS MILLER MILLER & HANSON INC.

Preliminary Results of the Noise Measurement Program: Phase II

October 28, 2003

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2.2 Sites 2A: 93 Merchants Path, Bridgehampton

Site 2A was located in the yard of a single-family home located at 93 Merchants Path. This site was situated west of the airport, approximately 5200 feet from the end of Runway 10/28 and 1700 feet south of the extended runway centerline. Figure 2 shows the location of the microphone in the front yard of the residence at 93 Merchants Path.

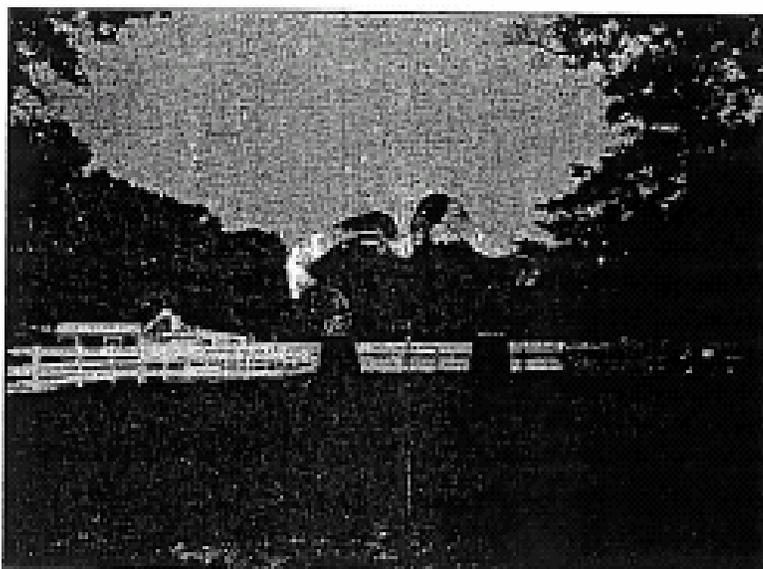


Figure 2. Microphone Location for Site 2A

Site 2A was selected to obtain noise levels and document aircraft operations from Runway 10/28. Attended noise measurements were conducted on August 22nd from 11:40 to 14:00, and on August 25th from 14:47 to 17:31. Appendix A provides graphs of the hourly noise levels for all sites, including the following noise metrics: L_{max} , L_{eq} , L_1 , L_{10} , L_{50} , and L_{90} .

The measured Total DNL ranged from 59 to 66 dBA over a 7-day period. The DNL due to measured noise events (both aircraft and non-aircraft) ranged from 53 to 62 dBA. The tables in Appendix B provide summaries of the measured DNL for all of the sites.

HARRIS MILLER MILLER & HANSON INC.

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2.3 Site 3: 244 Widow Gravitts, Bridgehampton

Site 3 was located in the backyard of a single-family home located at 244 Widow Gravitts in Bridgehampton. This site was northwest of the airport, approximately 7700 feet from the end of Runway 10/28 and 3200 feet north of the extended runway centerline. Figure 3 shows the location of the microphone in the backyard of this residence.

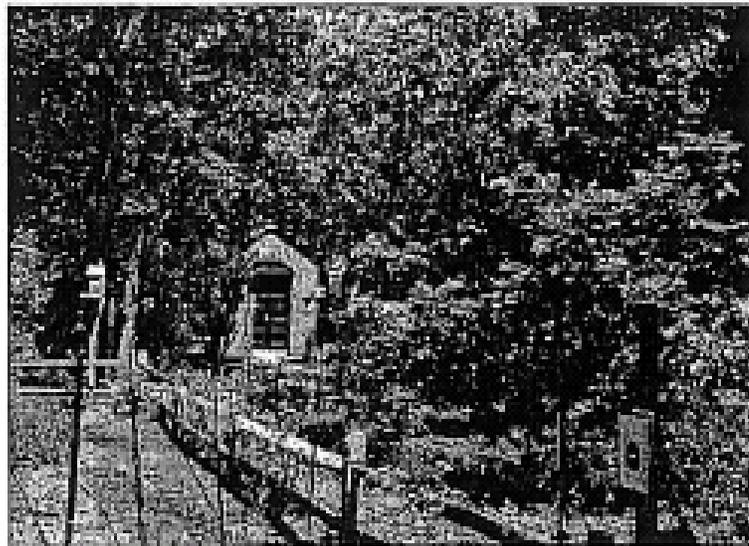


Figure 3. Microphone Location for Site 3

Site 3 also was selected to document helicopter traffic patterns and operations. The site is located roughly 500 feet south of a power line that is used as a reference for helicopter pilots on approach to Runway 16.

Attended noise measurements were conducted on August 22nd from 16:41 to 18:44, on August 25th from 14:39 to 17:32, on August 27th from 16:00 to 18:41, on August 28th from 10:35 to 13:20, on August 29th from 11:22 to 14:01, on August 30th from 08:55 to 11:48, on August 31st from 10:14 to 12:09, and on September 1st from 11:42 to 13:58. Appendix A provides graphs of the hourly noise levels for all sites, including the following noise metrics: L_{max} , L_{eq} , L_1 , L_{10} , L_{50} , and L_{90} .

The measured Total DNL ranged from 56 to 62 dBA over the 13-day period. The DNL due to measured noise events (both aircraft and non-aircraft) ranged from 49 to 60 dBA. The tables in Appendix B provide summaries of the measured DNL for all of the sites.

HARRIS MILLER MILLER & HANSON INC.

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2.4 Site 4: 75 West Gate, Wainscott

Site 4 was located in the backyard of a single-family home located at 75 West Gate in Wainscott. This site was south of the airport, approximately 1500 feet from the end of Runway 04/22 and 700 feet east of the extended runway centerline. Figure 4 shows the location of the microphone in the backyard of this residence.

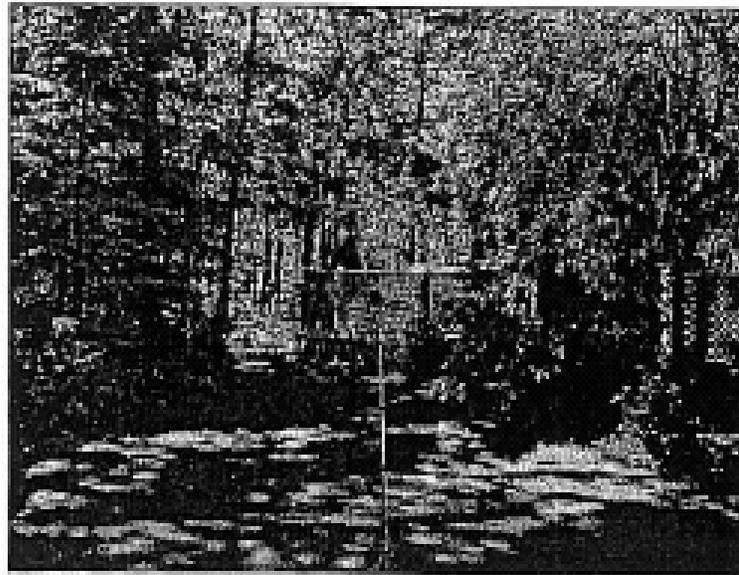


Figure 4. Microphone Location for Site 4

Site 4 was selected to obtain noise levels and document aircraft operations to and from Runways 04/22 and 10/28. Attended noise measurements were conducted on August 22nd from 11:55 to 14:05, on August 26th from 09:40 to 12:40, and on August 27th from 09:53 to 13:23. Appendix A provides graphs of the hourly noise levels for all sites, including the following noise metrics: L_{max} , L_{eq} , L_1 , L_{15} , L_{50} , and L_{90} .

The measured Total DNL ranged from 58 to 66 dBA over the 7-day period. The DNL due to measured noise events (both aircraft and non-aircraft) ranged from 47 to 61 dBA. The tables in Appendix B provide summaries of the measured DNL for all of the sites.

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2.5 Site 5: Georgica Estates Tennis Courts, East Hampton

Site 5 was located near the tennis courts at Georgica Estates in East Hampton. This site was east of the airport, approximately 4700 feet from the end of Runway 10/28 and 500 feet south of the extended runway centerline. Figure 5 shows the location of the microphone in relation to the tennis courts.

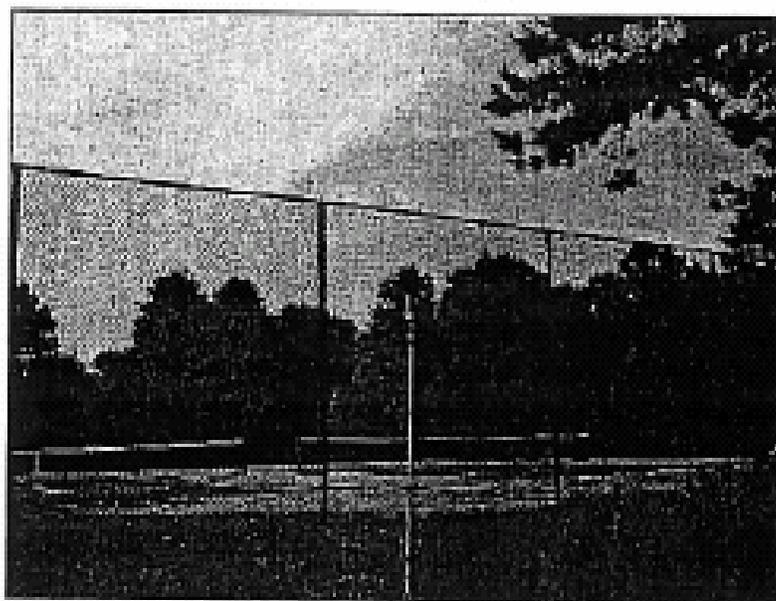


Figure 5. Microphone Location for Site 5

Site 5 was selected to obtain noise levels and document aircraft operations to and from Runway 10/28. Attended noise measurements were conducted on August 22nd from 15:24 to 18:33, on August 26th from 15:43 to 17:01, on August 28th from 10:15 to 13:24, on August 30th from 09:47 to 11:54, on August 31st from 10:48 to 11:02, on September 1st from 11:15 to 14:05, and on September 2nd from 08:45 to 11:15. Appendix A provides graphs of the hourly noise levels for all sites, including the following noise metrics: L_{max} , L_{50} , L_1 , L_{90} , L_{50} , and L_{95} .

The measured Total DNL ranged from 59 to 64 dBA over the 12-day period. The DNL due to measured noise events (both aircraft and non-aircraft) ranged from 52 to 58 dBA. The tables in Appendix B provide summaries of the measured DNL for all of the sites.

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2.6 Site 6: Ross School Athletic Fields, Wainscott

Site 6 was located near the athletic fields at the Ross School in Wainscott. This site was north of the airport, approximately 2000 feet from the end of Runway 04/22 and 600 feet east of the extended runway centerline. Figure 6 shows the location of the microphone in relation to the athletic fields for the Phase I measurements.

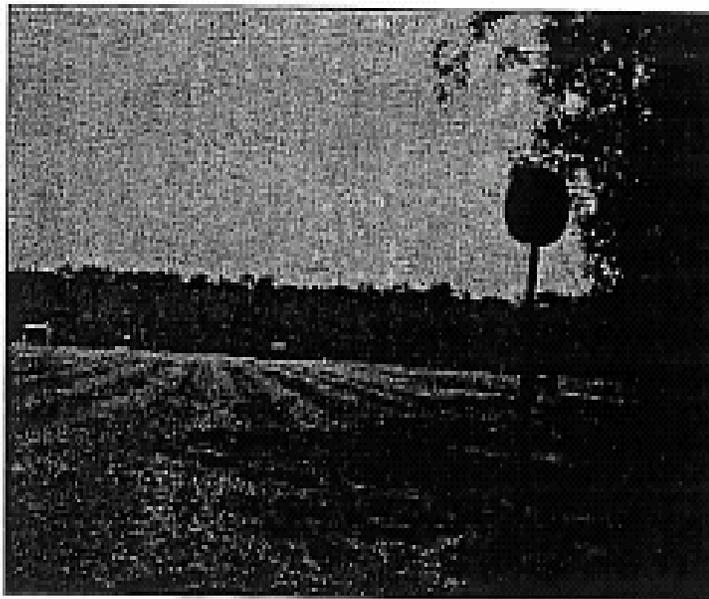


Figure 6. Microphone Location for Site 6

Site 6 was selected to obtain noise levels and document aircraft operations to and from Runways 04/22 and 16/34. Attended noise measurements were conducted on August 25th from 10:12 to 11:31, on August 26th from 09:24 to 12:27, and on August 27th from 10:13 to 11:37. Appendix A provides graphs of the hourly noise levels for all sites, including the following noise metrics: L_{max} , L_{eq} , L_1 , L_{10} , L_{50} , and L_{90} .

The measured Total DNL ranged from 56 to 59 dBA over the 3-day period. The DNL due to measured noise events (both aircraft and non-aircraft) ranged from 48 to 52 dBA. The tables in Appendix B provide summaries of the measured DNL for all of the sites.

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2.7 Site 7: 136 Main Street, East Hampton Village

Site 7 was located in the backyard of a single-family home at 136 Main Street in East Hampton Village. This site was east of the airport, approximately 15000 feet from the end of Runway 10/28 and 500 feet south of the extended runway centerline. Figure 7 shows the location of the microphone in relation to the house.

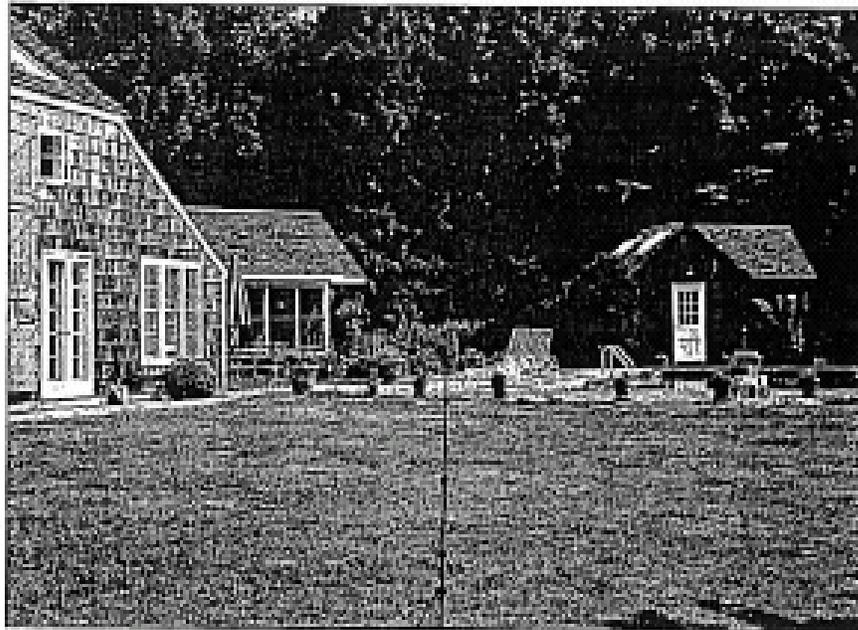


Figure 7. Microphone Location for Site 7

Site 7 was selected to obtain noise levels and document aircraft operations for Runway 10/28. Attended noise measurements were conducted on August 27th from 16:22 to 18:53, on August 28th from 15:30 to 19:09, on August 29th from 16:15 to 18:12, on August 30th from 14:30 to 16:13, on August 31st from 16:30 to 17:55, and on September 1st from 17:40 to 19:00. Appendix A provides graphs of the hourly noise levels for all sites, including the following noise metrics: L_{max} , L_{eq} , L_1 , L_{10} , L_{50} , and L_{90} .

The measured Total DNL ranged from 53 to 58 dBA over the 7-day period. The DNL due to measured noise events (both aircraft and non-aircraft) ranged from 40 to 51 dBA. The tables in Appendix B provide summaries of the measured DNL for all of the sites.

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2.8 Site 8: Town Line Road, West End of Runway 10/28

Site 8 was located along Town Line Road at the west end of Runway 10/28, approximately 1400 feet from the end of Runway 10/28 along the extended runway centerline.

The primary purpose of Site 7 was to document total aircraft operations at the airport, as it was possible to view operations for each of the runways from this vantage point.

Noise level data obtained from this site were used to develop daily operations numbers. Specifically, noise level data were used to estimate operations that occurred during periods that were not covered by either HMMH personnel or the Airport Manager's Log.

Attended noise measurements were conducted on August 27th from 12:57 to 13:23, on August 28th from 16:06 to 19:26, on August 29th from 11:08 to 14:39, and then later from 15:52 to 19:42, on August 30th from 08:30 to 12:20, and then later from 13:17 to 15:35, on August 31st from 09:45 to 12:40, and then later from 14:12 to 17:39, on September 1st from 11:25 to 14:31, and then later from 15:30 to 19:30, and finally on September 2nd from 8:44 to 11:47. Appendix A provides graphs of the hourly noise levels for all sites, including the following noise metrics: L_{max} , L_{eq} , L_1 , L_{10} , L_{50} , and L_{90} .

The measured Total DNL ranged from 61 to 67 dBA over the 6-day period. The DNL due to measured noise events (both aircraft and non-aircraft) ranged from 57 to 67 dBA. The tables in Appendix B provide summaries of the measured DNL for all of the sites.

2.9 Site 9: 76 Greenleaf Lane, Wainscott

Site 9 was located at a single-family residence at 76 Greenleaf Lane in Wainscott. This site was west of the airport, approximately 2450 feet from the end of Runway 10/28 and 2800 feet south of the extended runway centerline.

Attended noise measurements were conducted on August 28th from 15:26 to 19:24, on August 29th from 15:57 to 18:46, on August 30th from 13:30 to 14:44, on August 31st from 14:21 to 17:03, and on September 1st from 15:42 to 17:27. Appendix A provides graphs of the hourly noise levels for all sites, including the following noise metrics: L_{max} , L_{eq} , L_1 , L_{10} , L_{50} , and L_{90} .

The measured Total DNL ranged from 61 to 67 dBA over the 6-day period. The DNL due to measured noise events (both aircraft and non-aircraft) ranged from 57 to 67 dBA. The tables in Appendix B provide summaries of the measured DNL for all of the sites.

2.10 Site 10: 44 Woodruff Lane, Bridgehampton

Site 10 was located at a single-family residence at 44 Woodruff Lane in Bridgehampton. This site was west of the airport, approximately 10,000 feet from the end of Runway 10/28 and slightly north of the extended runway centerline.

Attended noise measurements were conducted on August 28th from 12:06 to 13:23, on August 29th from 11:15 to 13:58, on August 31st from 14:15 to 16:10, and on September 1st from 14:58 to 17:05. Appendix A provides graphs of the hourly noise levels for all sites, including the following noise metrics: L_{max} , L_{eq} , L_1 , L_{10} , L_{50} , and L_{90} .

The measured Total DNL ranged from 54 to 61 dBA over the 6-day period. The DNL due to measured noise events (both aircraft and non-aircraft) ranged from 48 to 53 dBA. The tables in Appendix B provide summaries of the measured DNL for all of the sites.

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3. THE NEXT STEPS IN THE STUDY

Following the October 29th meeting of the NSAG, HMMH will review the committee's comments and proceed to finalize our analysis and prepare a preliminary list of potential mitigation measures for the NSAG's consideration.

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APPENDIX A. GRAPHS OF HOURLY NOISE LEVELS

The following descriptions pertain to the noise metrics that appear in the graphs in Appendix A.

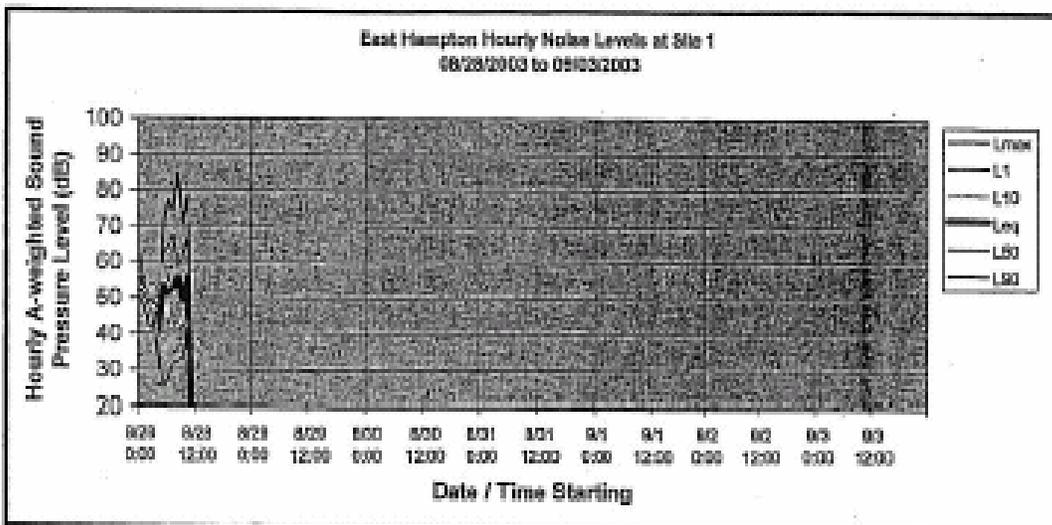
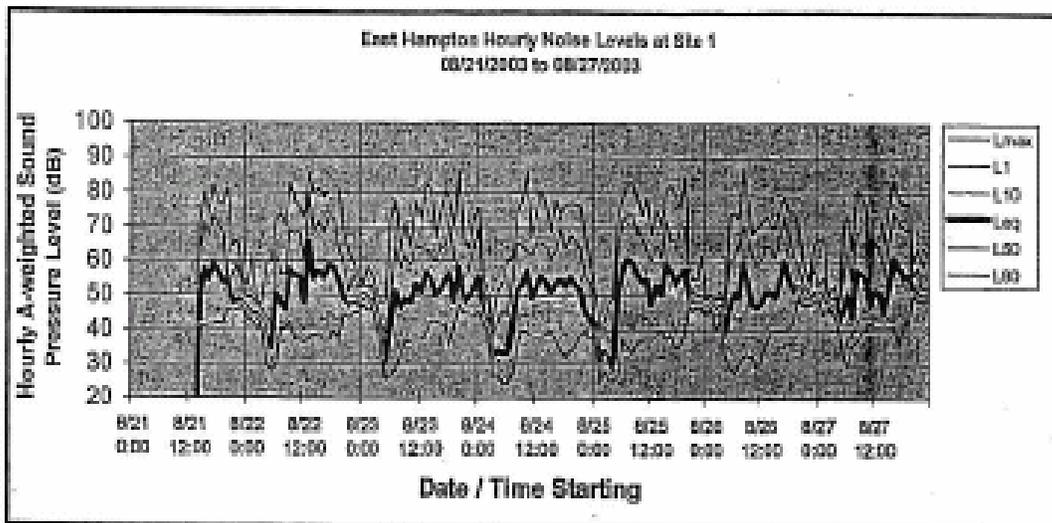
- L_{max} : Maximum one-second noise level during a one-hour time interval.
- L_1 : Statistical noise metric representing the sound level that is exceeded 1 percent of the time. For a one-hour time interval, measured sound levels would be louder than the L_1 for only 36 seconds out of the hour. Therefore, the L_1 represents among the highest sound levels that occurred during the hour.
- L_{10} : Statistical noise metric representing the sound level that is exceeded 10 percent of the time. For a one-hour time interval, measured sound levels would be louder than the L_{10} for only 360 seconds (6 minutes) out of the hour.
- L_{50} : Statistical noise metric representing the sound level that is exceeded 50 percent of the time. For a one-hour time interval, measured sound levels would be louder than the L_{50} for only 30 minutes out of the hour.
- L_{90} : Statistical noise metric representing the sound level that is exceeded 90 percent of the time, such that the sound level is lower than the L_{90} for only 6 minutes out of an hour. The L_{90} is often thought of as representing the "background" sound level.
- L_{eq} : The value or level of a steady, non fluctuating sound that represents the same sound energy as the actual time varying sound evaluated over the same time period. For these measurements, the L_{eq} was typically evaluated over a one-hour period.

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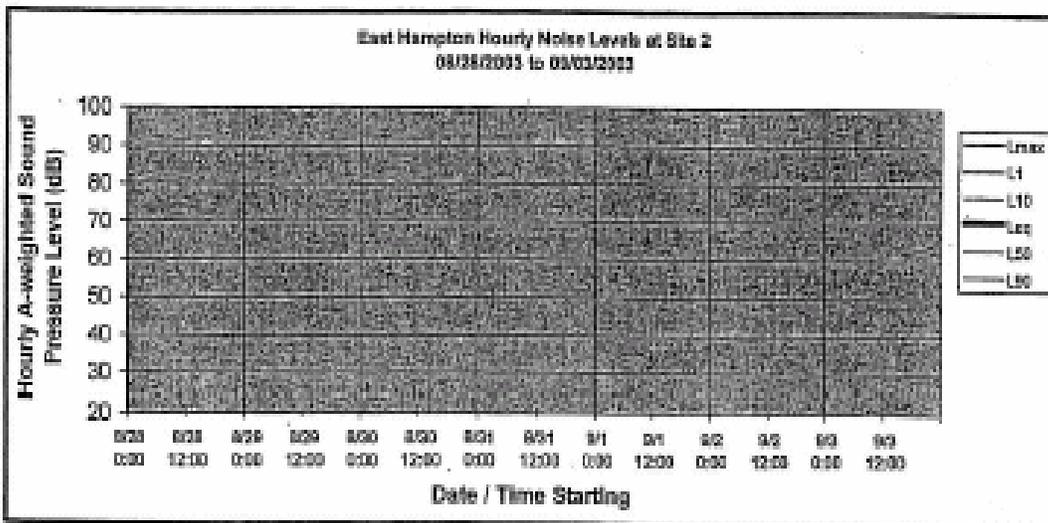
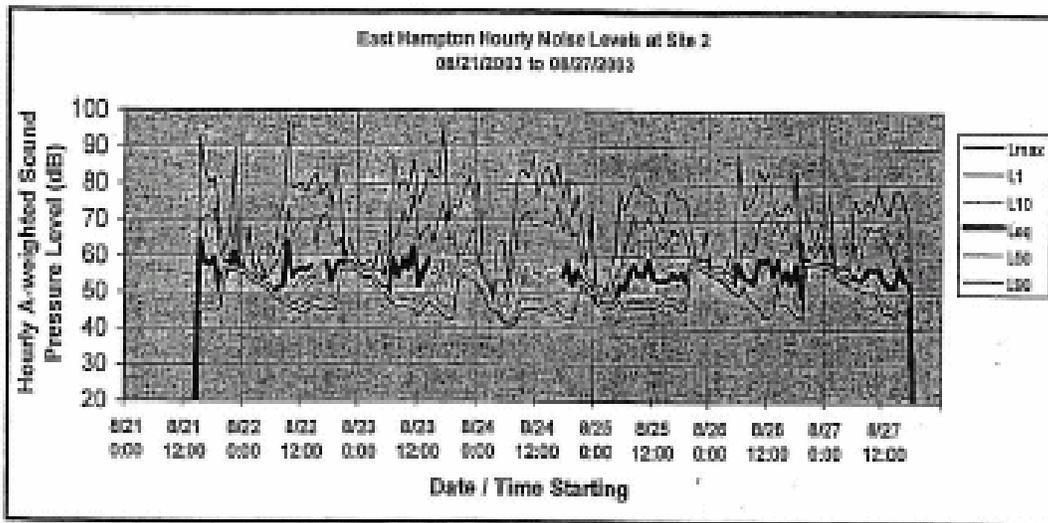
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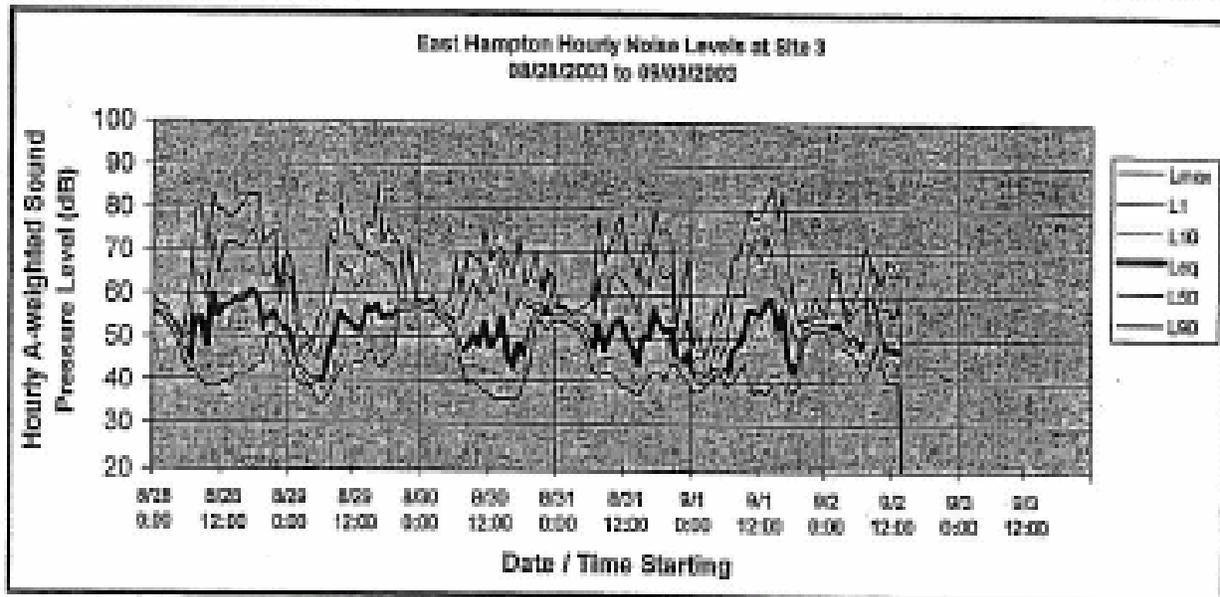
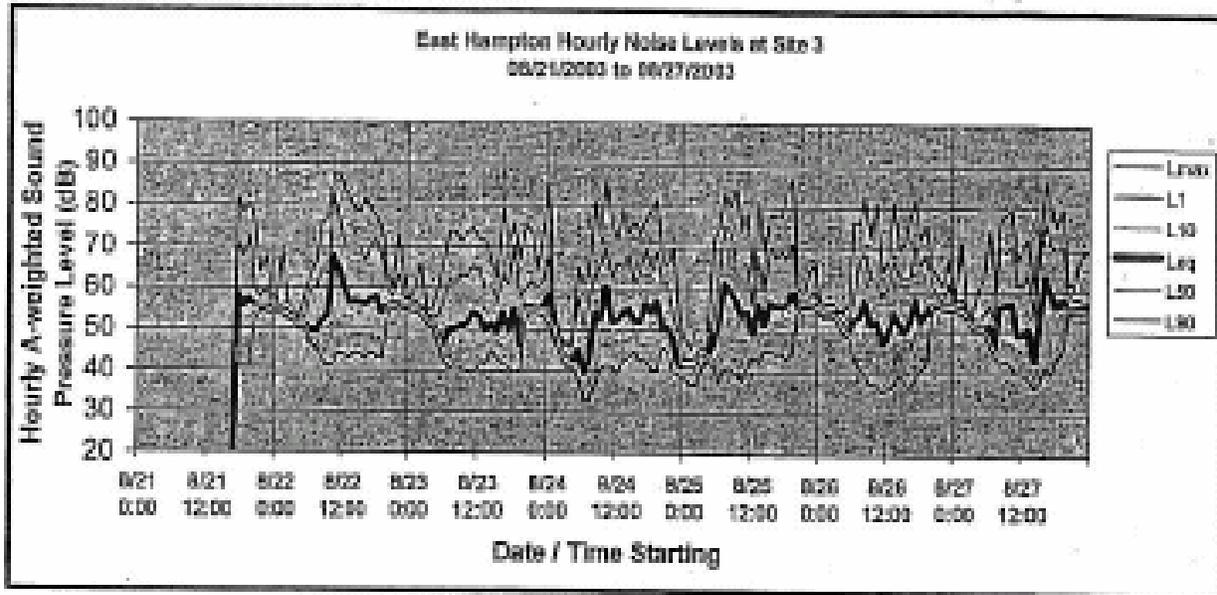


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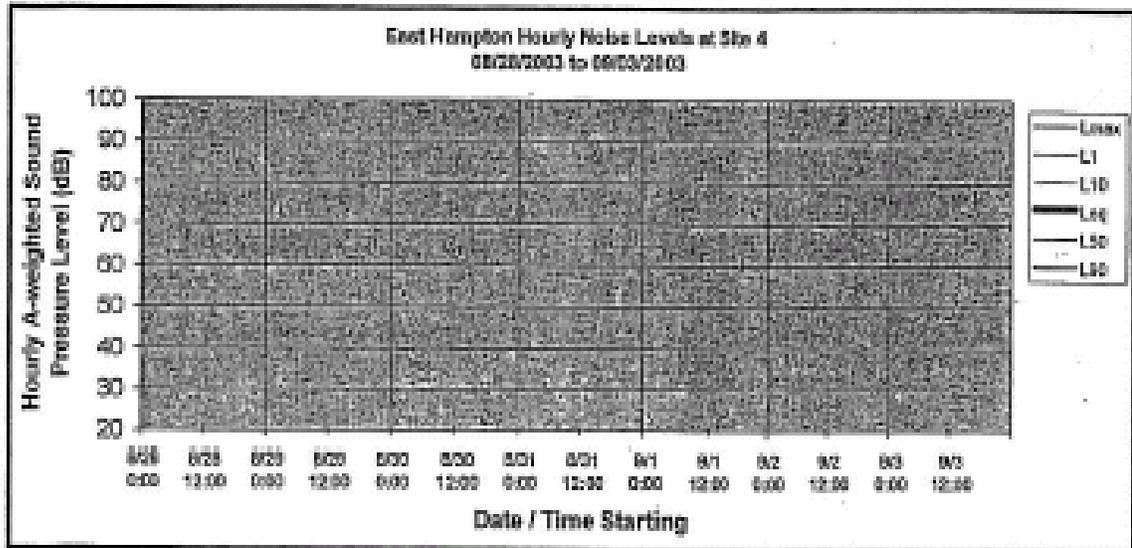
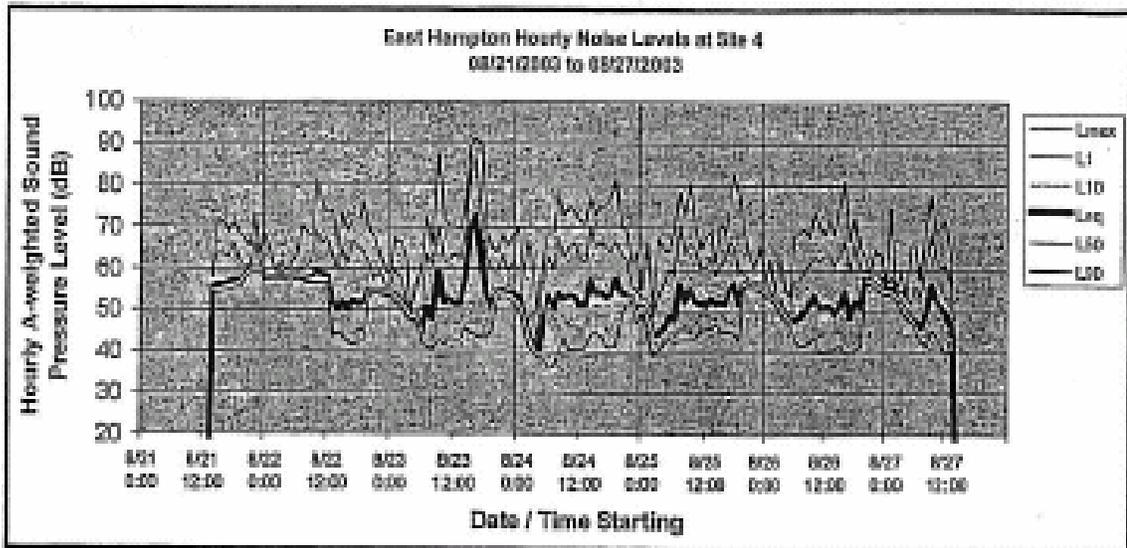
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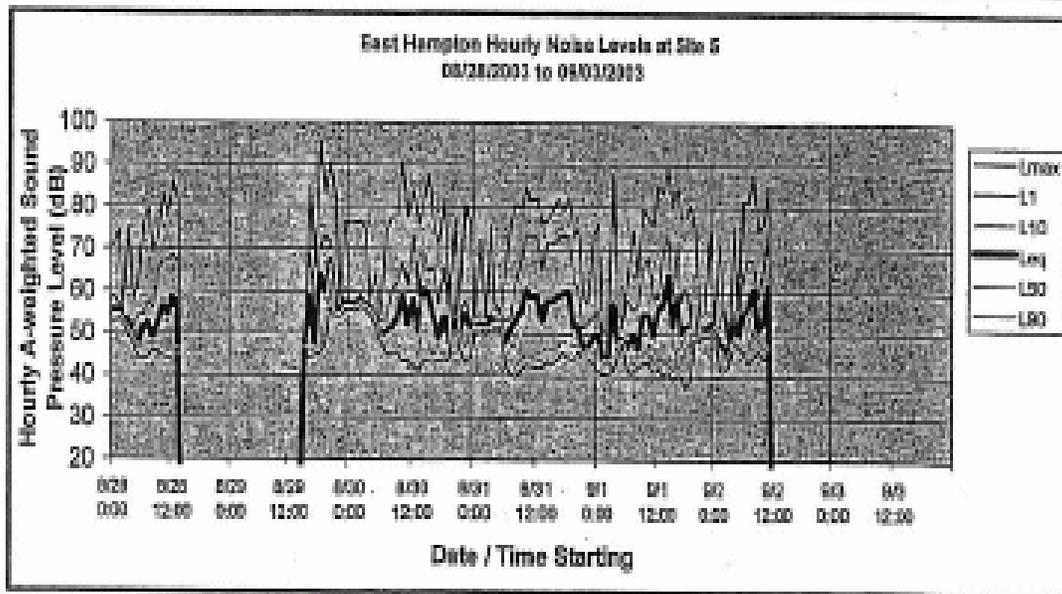
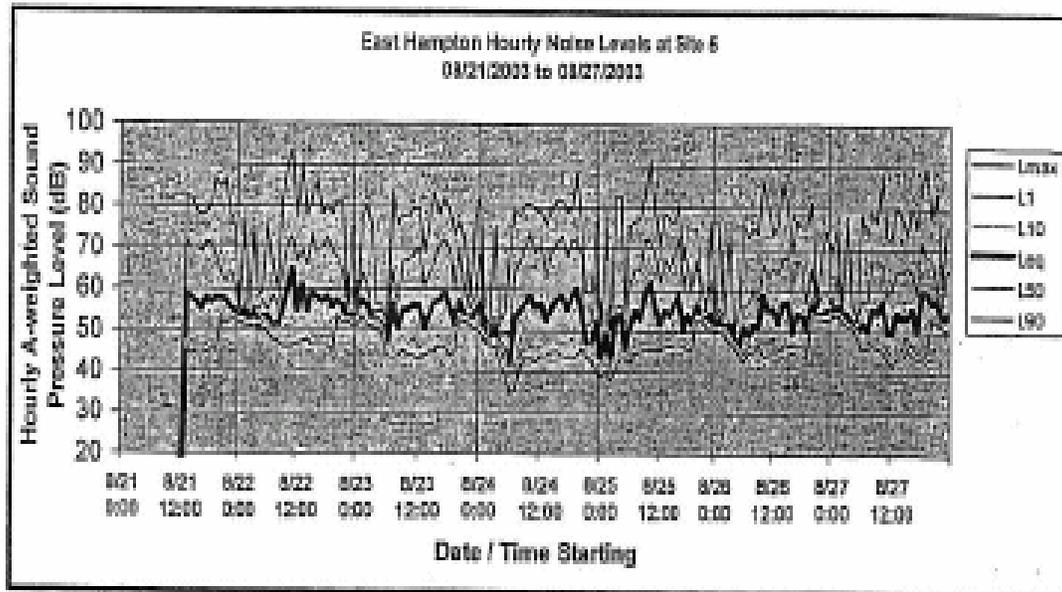
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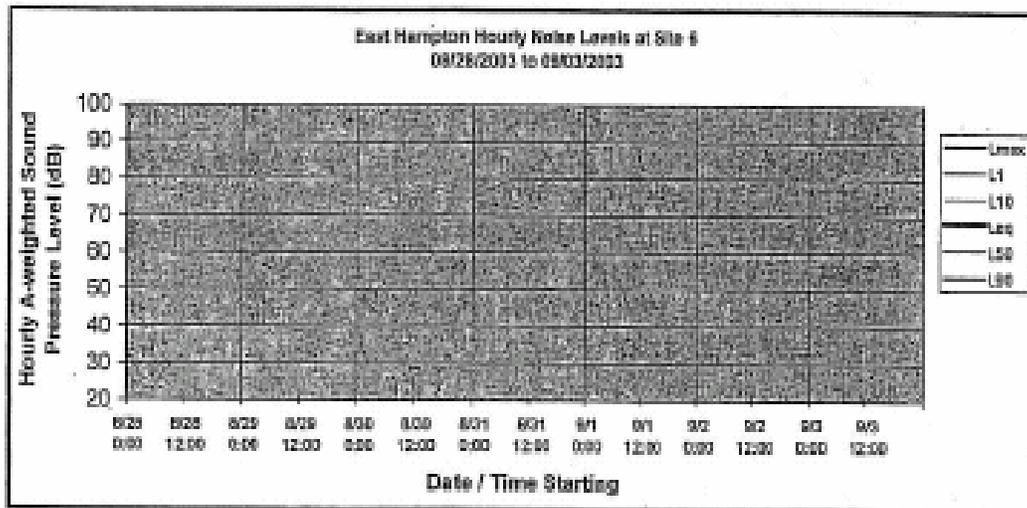
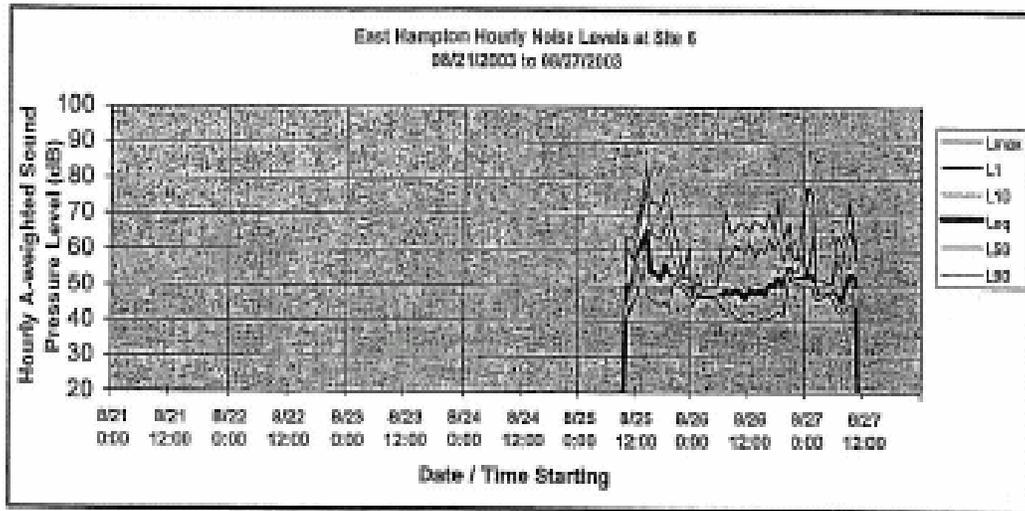
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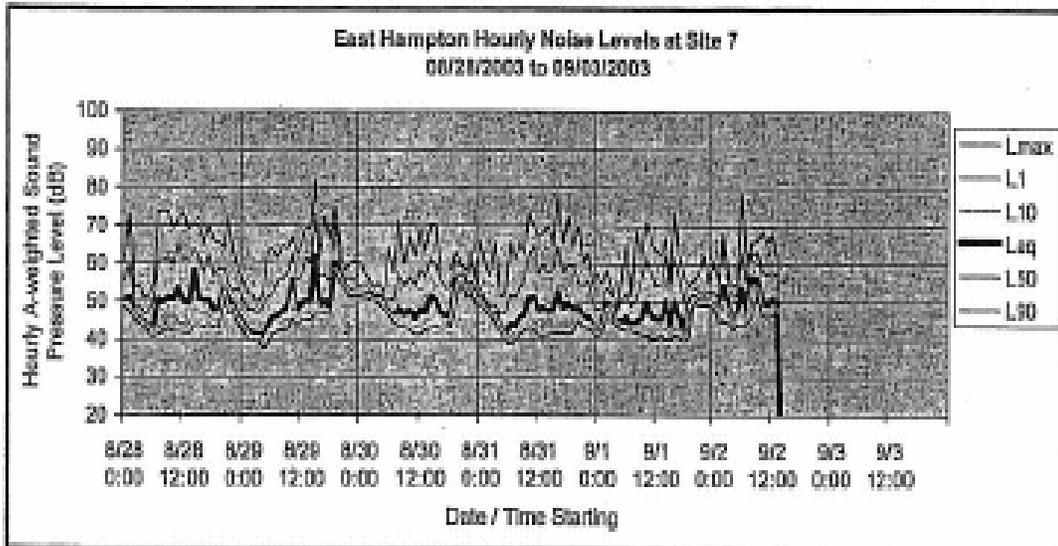
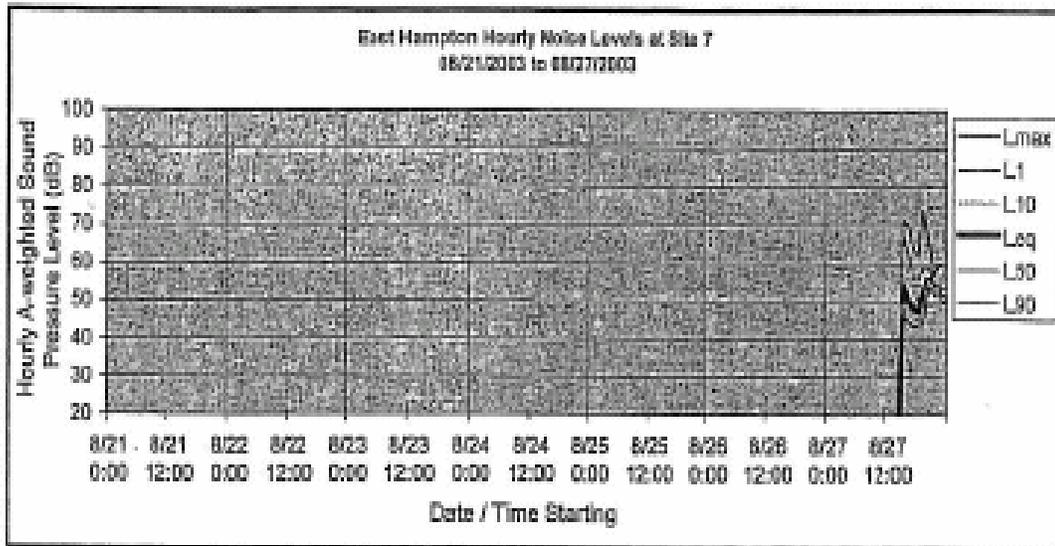
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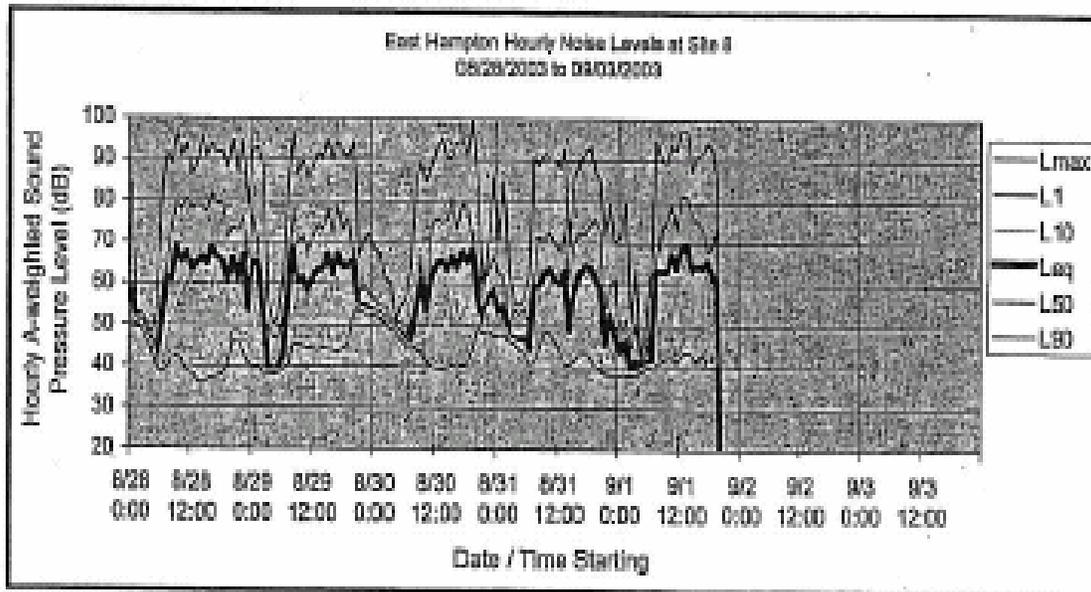
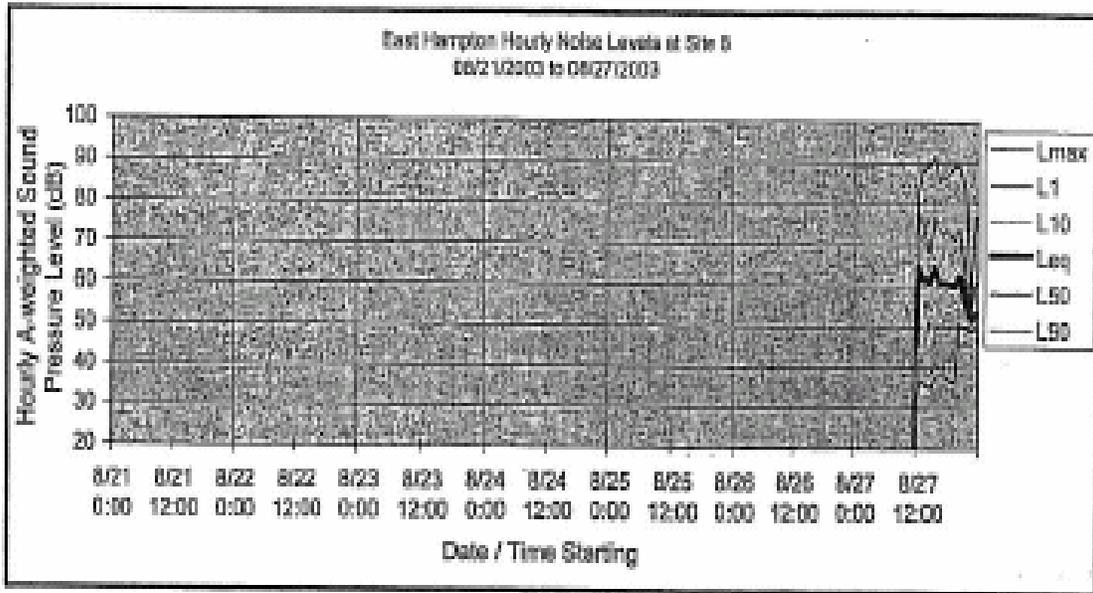


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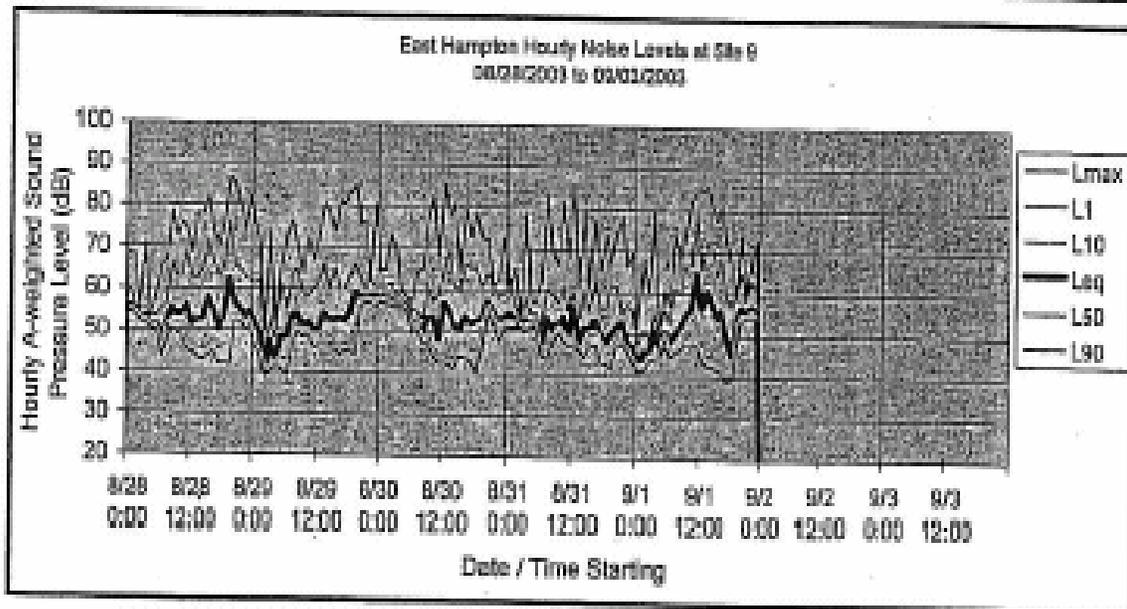
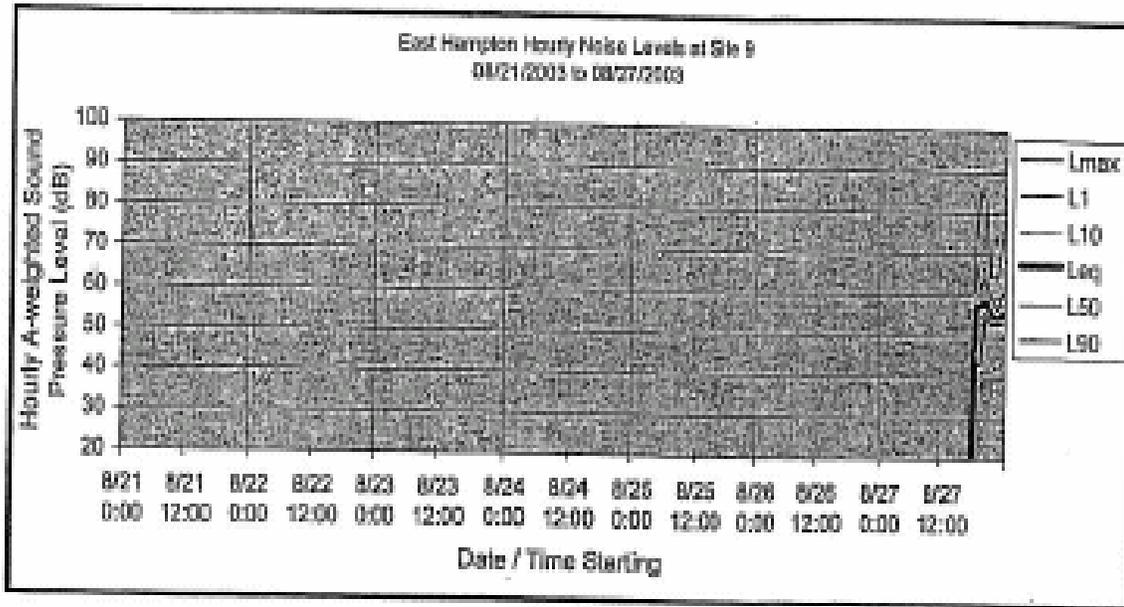
October 28, 2003

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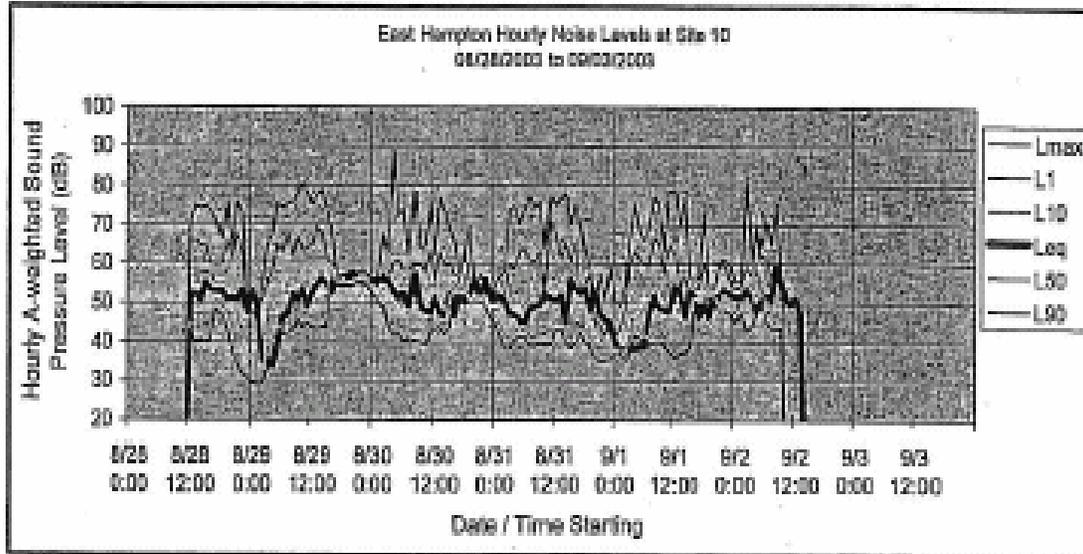
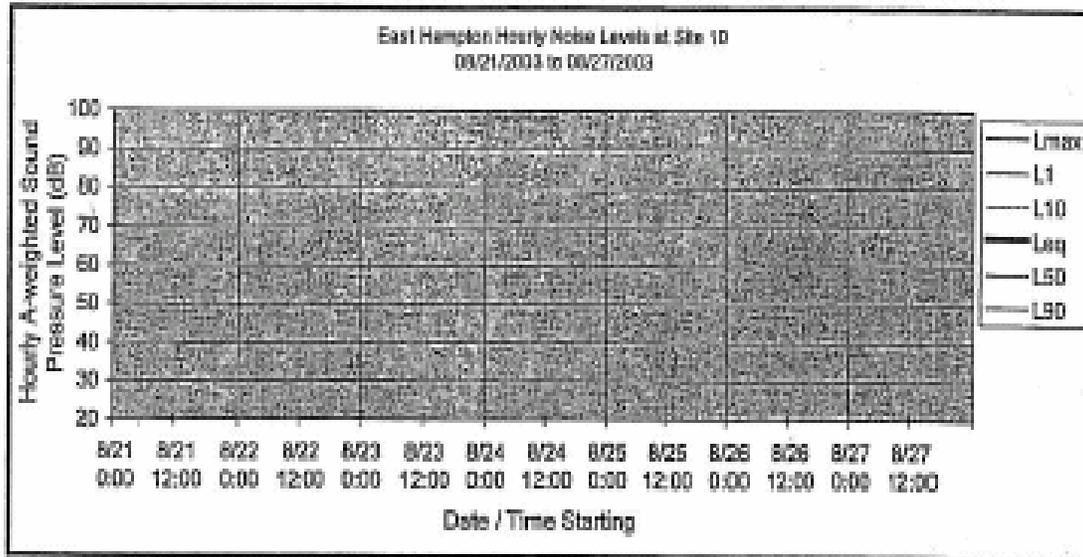
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APPENDIX B. TABLES OF MEASURED DNL

SITE #	Avg. TOTAL DNL (dBA)		Change in Avg. TOTAL DNL from Jun/Jul to Aug/Sep (dB)
	Jun/Jul	Aug/Sep	
1	53	57	4
2	58	62	4
3	53	60	7
4	53	61	8
5	58	60	2
6	53	57	4
7	57	56	-1

SITE #	Avg. EVENT DNL (dBA)		Change in Avg. EVENT DNL from Jun/Jul to Aug/Sep (dB)
	Jun/Jul	Aug/Sep	
1	52	54	2
2	55	59	4
3	51	56	5
4	51	57	5
5	57	57	0
6	50	50	0
7	55	47	-7

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Summary of Day-Night Average Sound Level, DNL Measurements															
Source: HMMH, July 2003															
SITE #	TOTAL Daily DNL (dBA)														Avg. DNL (dBA)
	Wed. 6/25	Thu. 6/26	Fri. 6/27	Sat. 6/28	Sun. 6/29	Mon. 6/30	Tue. 7/1	Wed. 7/2	Thu. 7/3	Fri. 7/4	Sat. 7/5	Sun. 7/6	Mon. 7/7	Tue. 7/8	
1	48	52	54	51	55	55	52	53	52	50	48	53	55	55	53
2	53	58	55	51	55	57	56	57	57	59	59	61	58	57	58
3	51	53	51	52	53	56	52	54	53	51	49	56	54	51	53
4	50	50	51	50	49	51	59	53	53	51	50	52	50	58	53
5	-	60	58	57	57	57	60	57	61	59	57	60	55	56	58
6	-	53	52	54	52	56	60	49	-	-	-	-	-	-	53
7	-	-	-	-	-	-	-	53	55	58	60	55	58	63	57

ALL MEASURED NOISE EVENTS Daily DNL (dBA)															
SITE #	Wed. 6/25	Thu. 6/26	Fri. 6/27	Sat. 6/28	Sun. 6/29	Mon. 6/30	Tue. 7/1	Wed. 7/2	Thu. 7/3	Fri. 7/4	Sat. 7/5	Sun. 7/6	Mon. 7/7	Tue. 7/8	Avg. DNL (dBA)
	1	44	51	54	50	55	54	51	52	51	49	45	52	54	
2	48	58	55	56	53	53	53	55	62	57	58	58	56	51	55
3	44	52	50	48	51	55	50	52	52	49	43	55	53	47	51
4	42	45	47	47	46	49	59	50	52	48	45	50	46	55	51
5	-	54	56	56	57	56	60	56	60	57	55	59	51	53	57
6	-	48	49	51	49	55	47	38	-	-	-	-	-	-	50
7	-	-	-	-	-	-	-	47	52	57	59	51	56	41	55

Summary of Day-Night Average Sound Level, DNL Measurements															
Source: HMMH, September 2003															
SITE #	TOTAL Daily DNL (dBA)														Avg. DNL (dBA)
	Thu. 8/21	Fri. 8/22	Sat. 8/23	Sun. 8/24	Mon. 8/25	Tue. 8/26	Wed. 8/27	Thu. 8/28	Fri. 8/29	Sat. 8/30	Sun. 8/31	Mon. 9/1	Tue. 9/2		
1	57	57	56	55	58	56	57	57	-	-	-	-	-	57	
2	58	61	62	59	60	63	62	-	-	-	-	-	-	62	
3	62	62	60	58	59	61	61	60	58	62	58	56	59	60	
4	66	64	63	58	58	59	59	-	-	-	-	-	-	61	
5	-	61	61	59	59	59	61	60	64	63	59	59	59	60	
6	-	-	-	-	59	56	57	-	-	-	-	-	-	57	
7	-	-	-	-	-	-	58	55	55	58	53	54	57	58	
8	-	-	-	-	-	-	62	67	67	64	61	64	-	65	
9	-	-	-	-	-	-	62	60	60	62	58	60	-	60	
10	-	-	-	-	-	-	-	58	58	61	55	54	58	58	

ALL MEASURED NOISE EVENTS Daily DNL (dBA)															
SITE #	Thu. 8/21	Fri. 8/22	Sat. 8/23	Sun. 8/24	Mon. 8/25	Tue. 8/26	Wed. 8/27	Thu. 8/28	Fri. 8/29	Sat. 8/30	Sun. 8/31	Mon. 9/1	Tue. 9/2	Avg. DNL (dBA)	
	1	50	55	52	54	57	53	54	52	-	-	-	-		-
2	60	60	62	56	59	60	53	-	-	-	-	-	-	59	
3	55	60	59	56	59	58	56	55	51	52	49	51	50	56	
4	59	59	61	51	50	48	47	-	-	-	-	-	-	57	
5	56	58	58	57	57	55	56	52	57	58	56	57	56	57	
6	-	-	-	-	52	48	49	-	-	-	-	-	-	50	
7	-	-	-	-	-	-	40	43	50	45	45	40	51	47	
8	-	-	-	-	-	-	57	67	66	63	60	63	-	64	
9	-	-	-	-	-	-	49	64	66	55	50	56	-	54	
10	-	-	-	-	-	-	-	51	53	53	48	49	51	51	

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APPENDIX C. GRAPHS OF MEASURED SEL FOR OBSERVED NOISE EVENTS

In the following graphs, the following nomenclature is used to describe observed types of noise events:

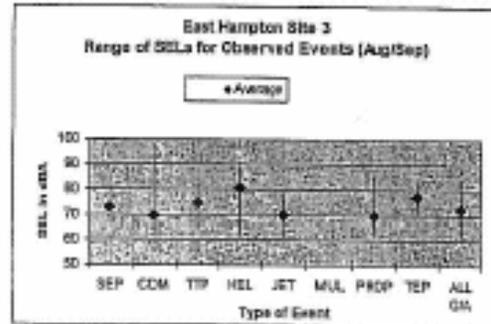
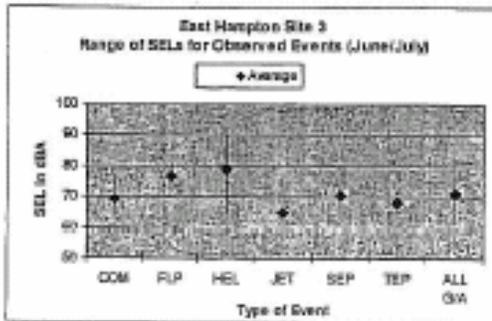
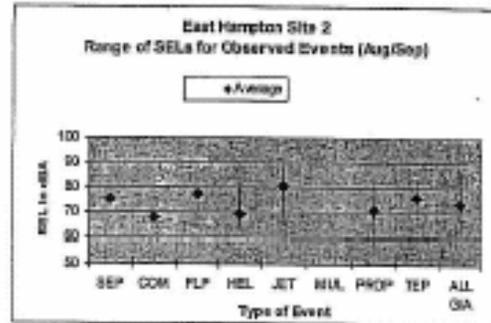
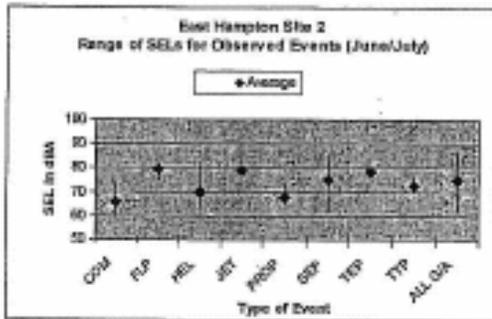
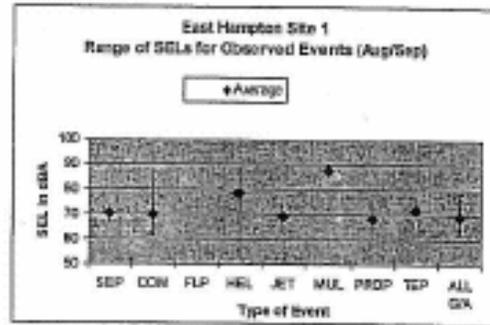
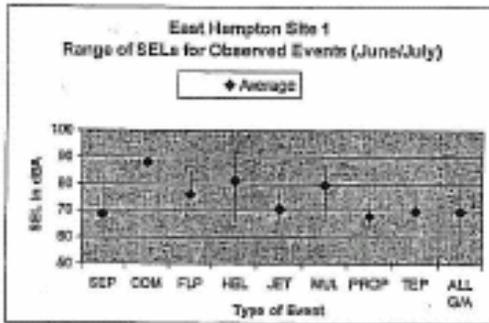
- COM = Community related (non-aircraft)
- HEL = Helicopter
- FLP = Float plane
- JET = Jet engine aircraft
- SEP = Single-engine piston aircraft
- TEP = Twin-engine piston aircraft
- STP = Single-engine turbo prop aircraft
- TTP = Twin-engine turbo prop aircraft
- PROP = Unidentified propeller aircraft
- ALL G/A = Grouping of SEP, TEP, STP, TTP, and PROP

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Phase 1: June/July 2003

Phase 2: August/September 2003

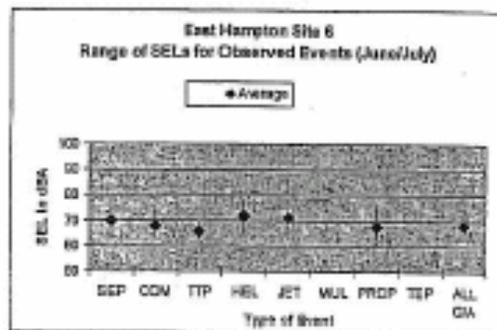
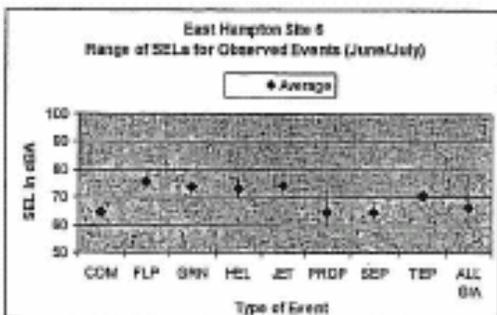
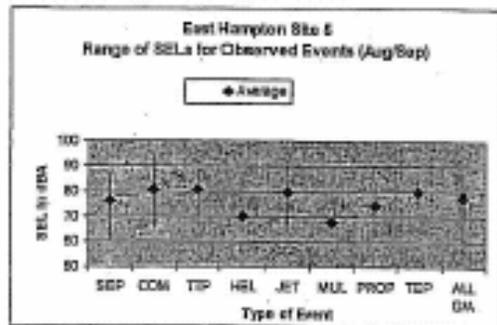
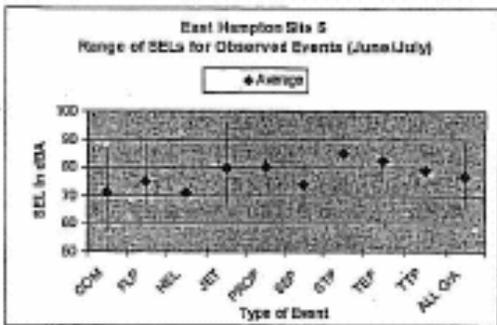
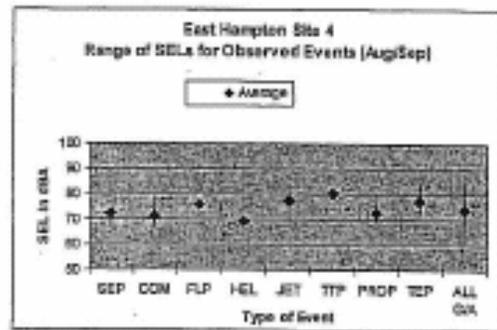
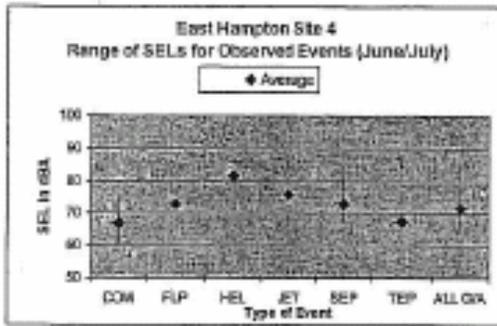


HARRIS MILLER MILLER & HANSON INC.

Results of the Noise Measurement Program: Phase II
 October 28, 2003
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Phase 1: June/July 2003

Phase 2: August/September 2003



HARRIS MILLER MILLER & HANSON INC.

Results of the Noise Measurement Program: Phase II

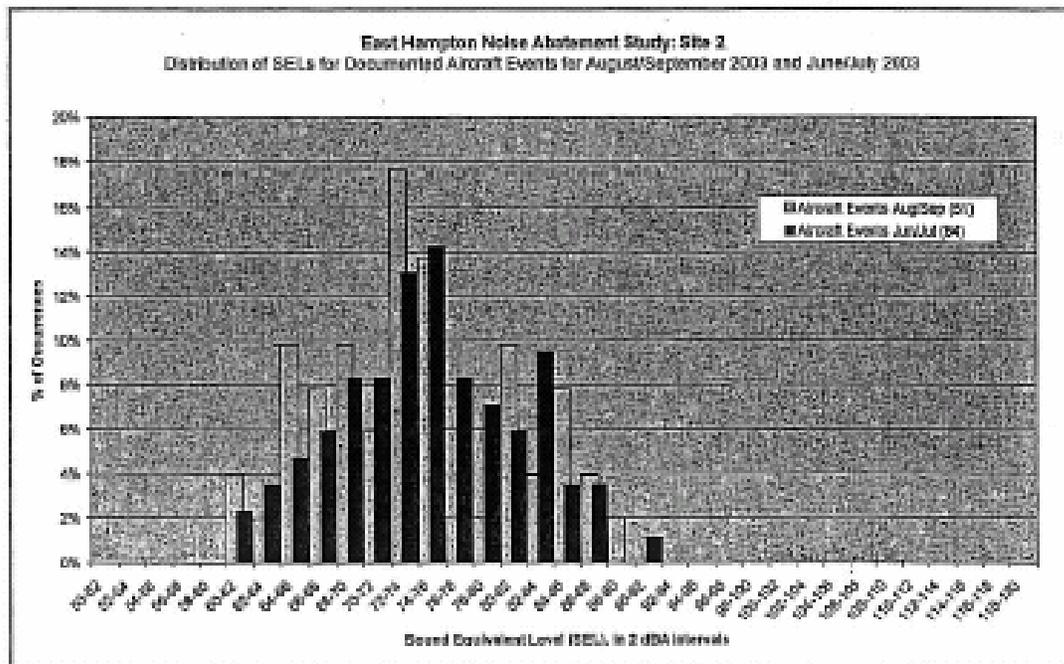
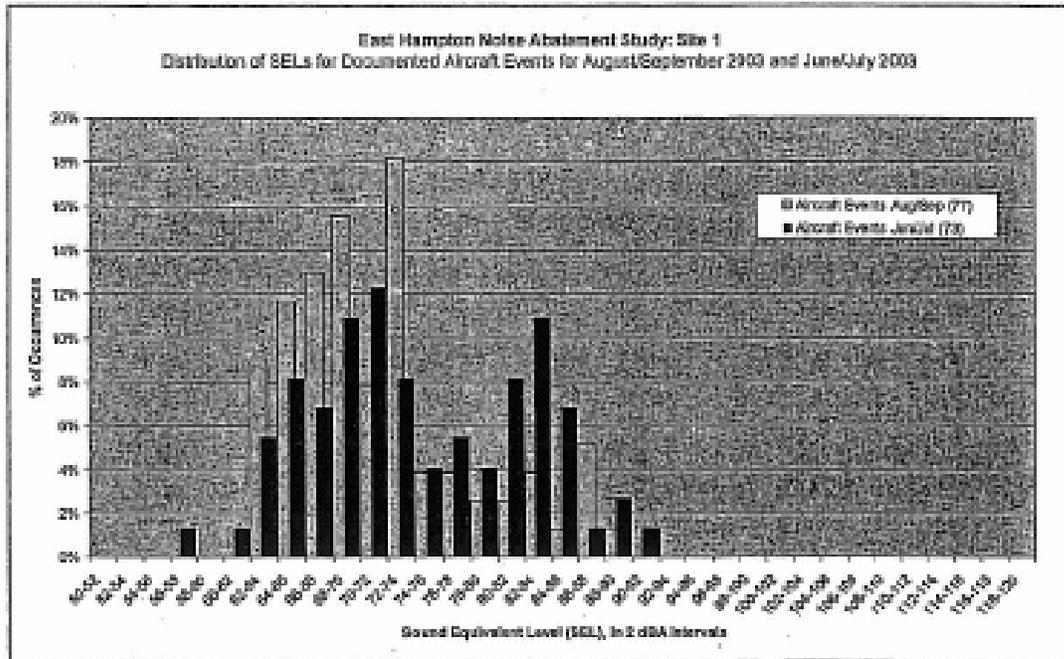
October 28, 2003

Page D-1

APPENDIX D. GRAPHS OF SEL DISTRIBUTIONS MEASURED NOISE EVENTS

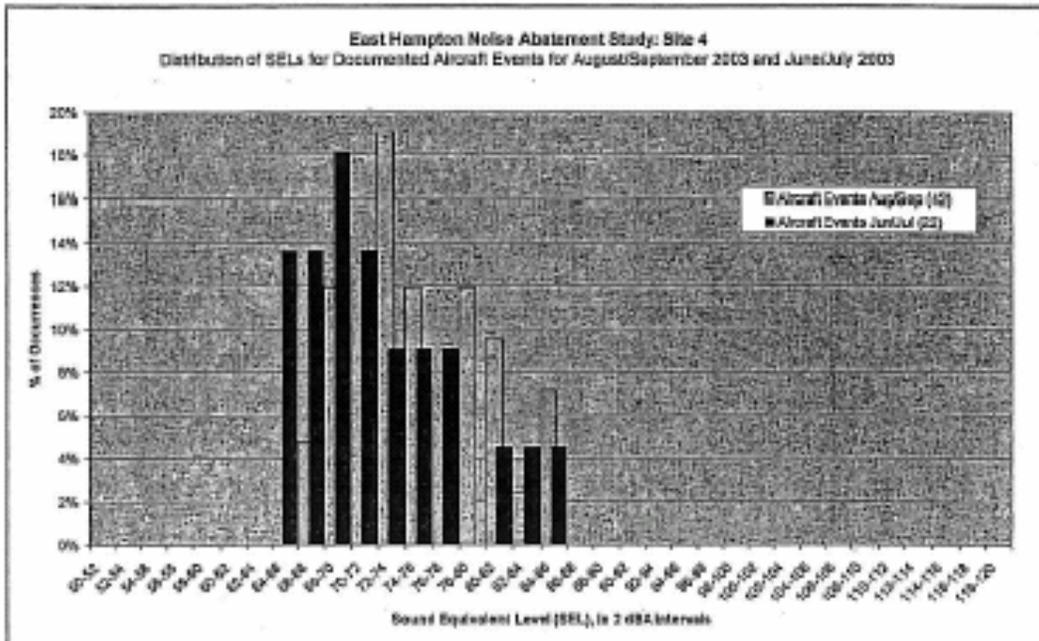
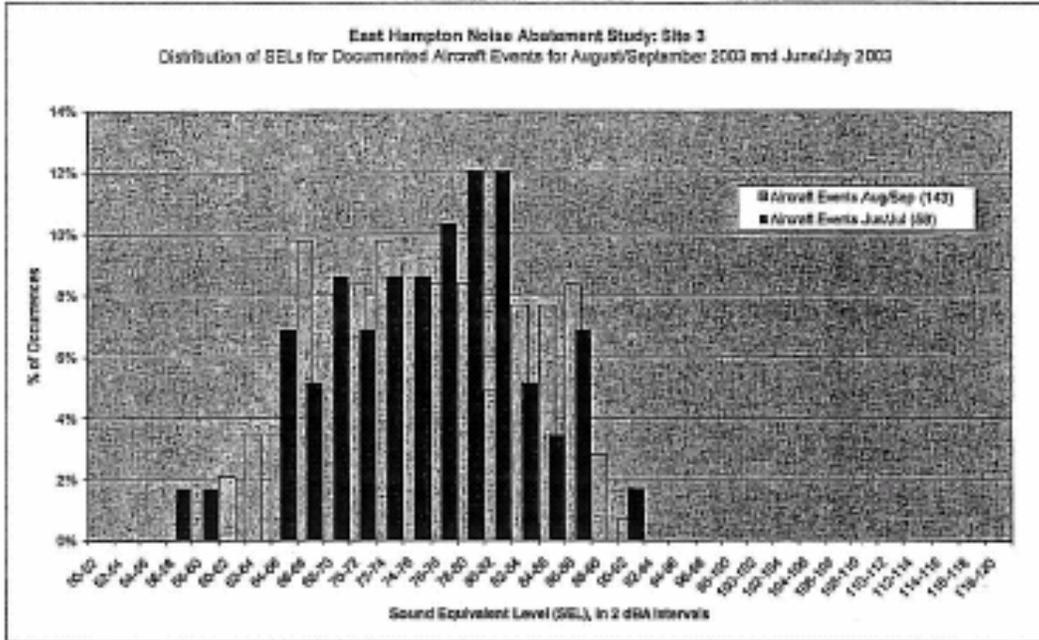
HARRIS MILLER MILLER & HANSON INC.

Results of the Noise Measurement Program: Phase II
 October 28, 2003
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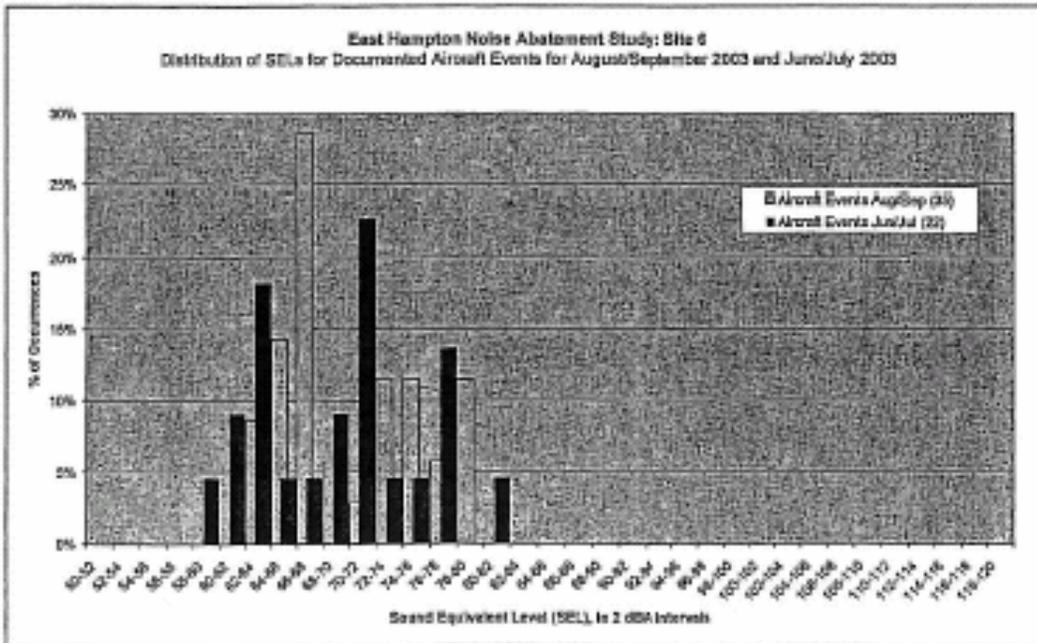
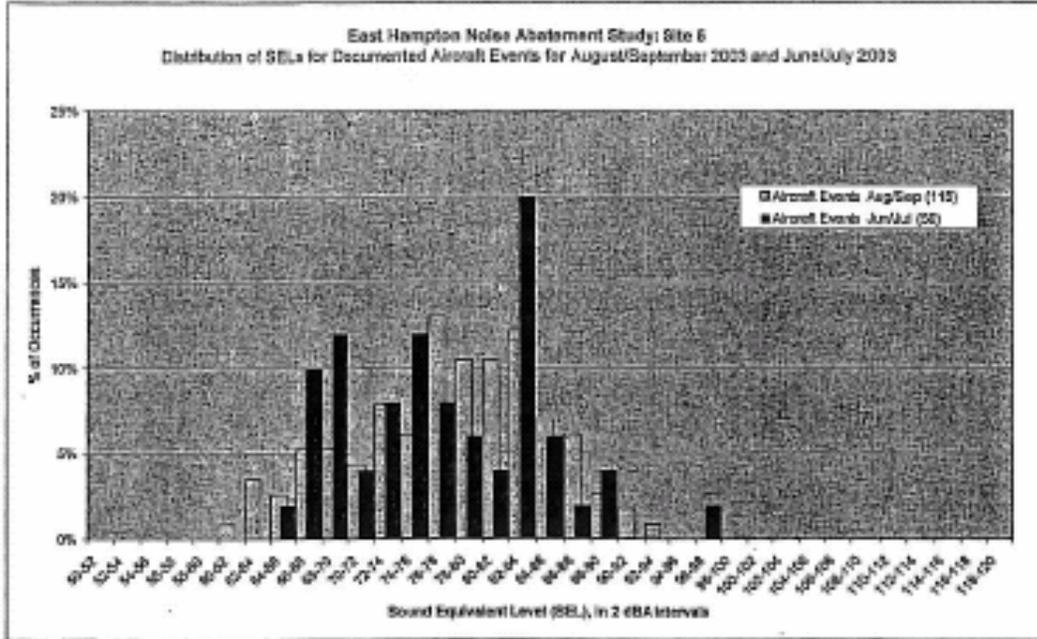
HARRIS MILLER MILLER & HANSON INC.

Results of the Noise Measurement Program: Phase II
 October 28, 2003
 Page D-3



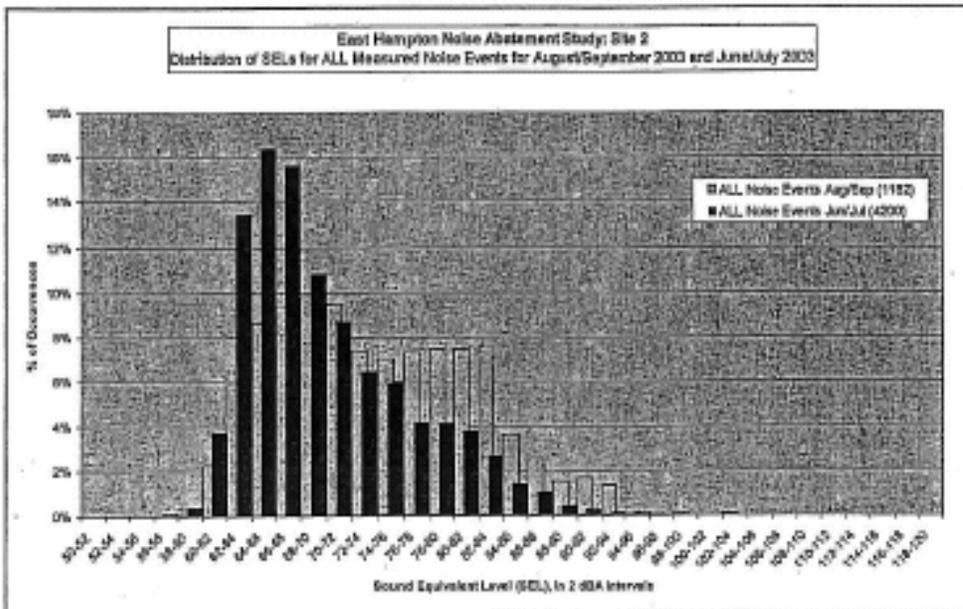
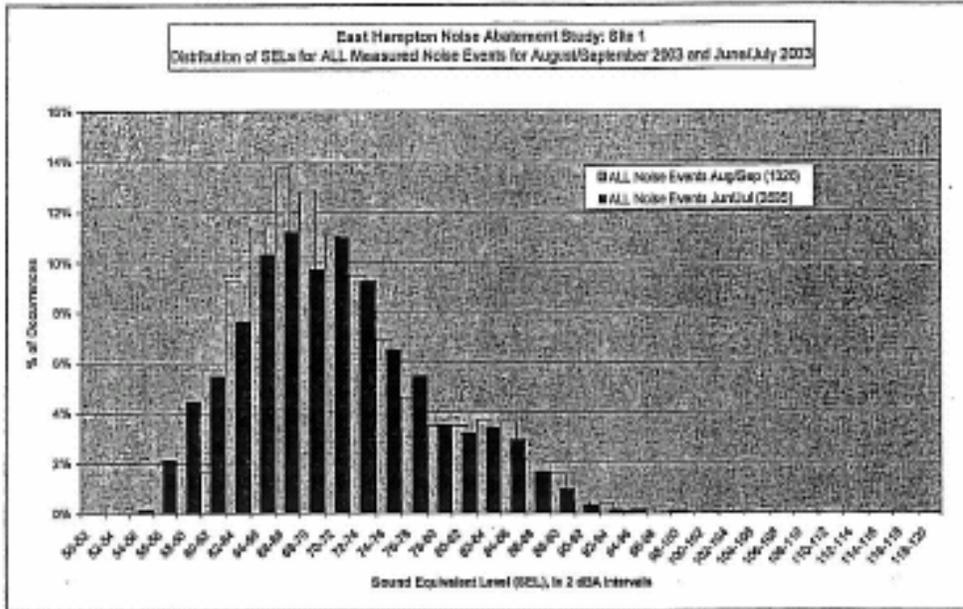
HARRIS MILLER MILLER & HANSON INC.

Results of the Noise Measurement Program: Phase II
 October 28, 2003
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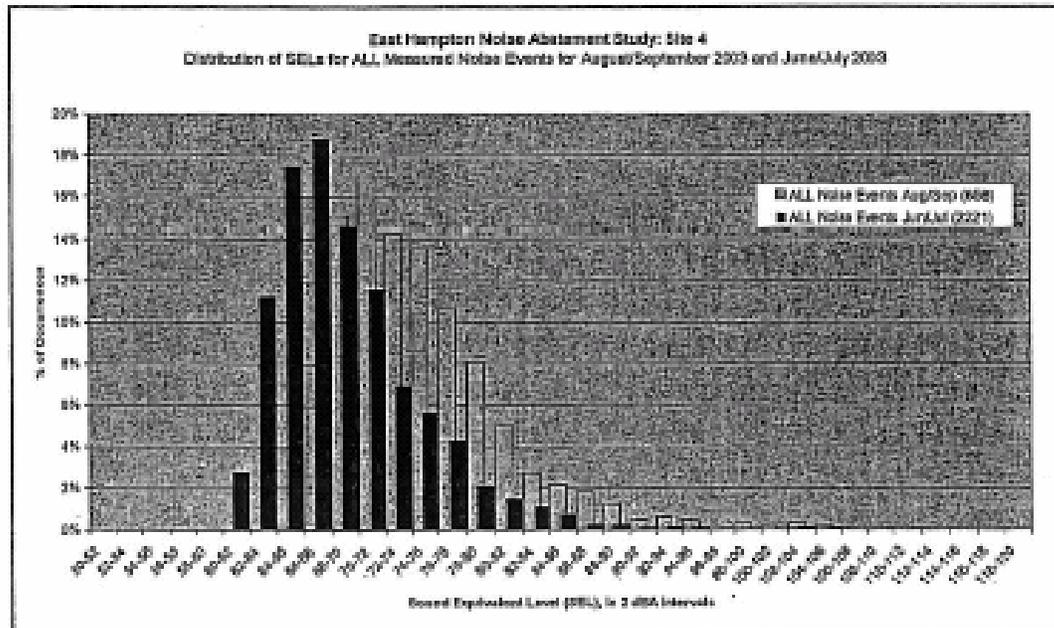
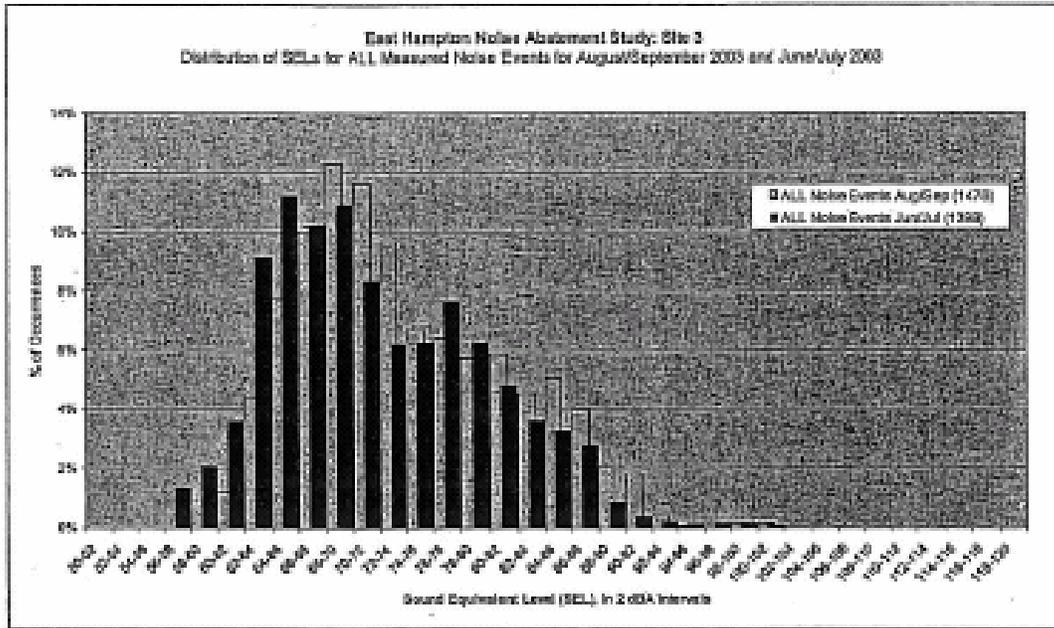
HARRIS MILLER MILLER & HANSON INC.

Results of the Noise Measurement Program: Phase II
 October 28, 2003
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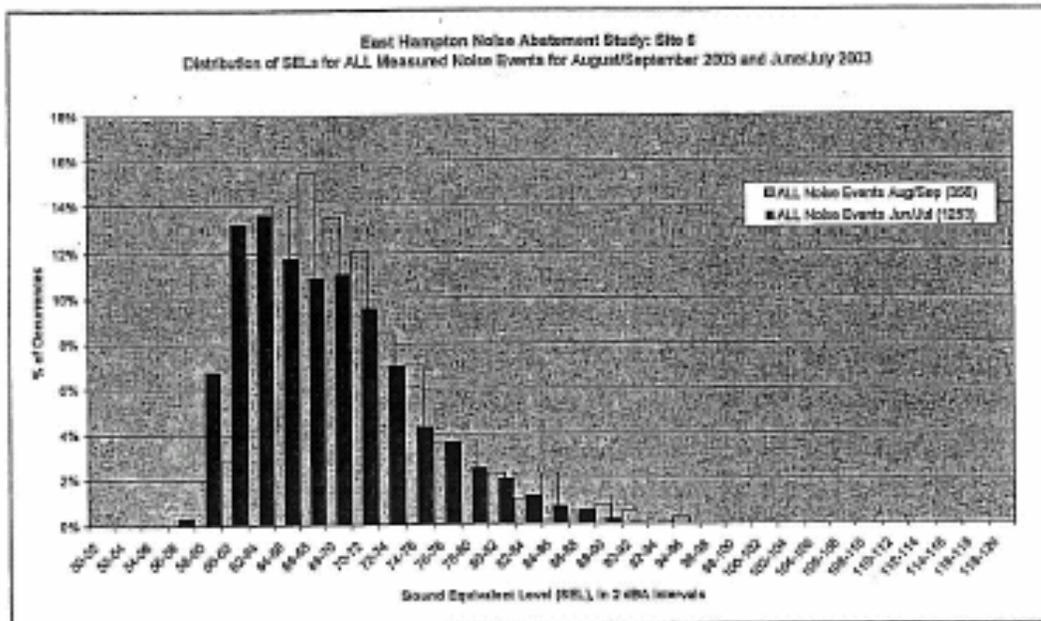
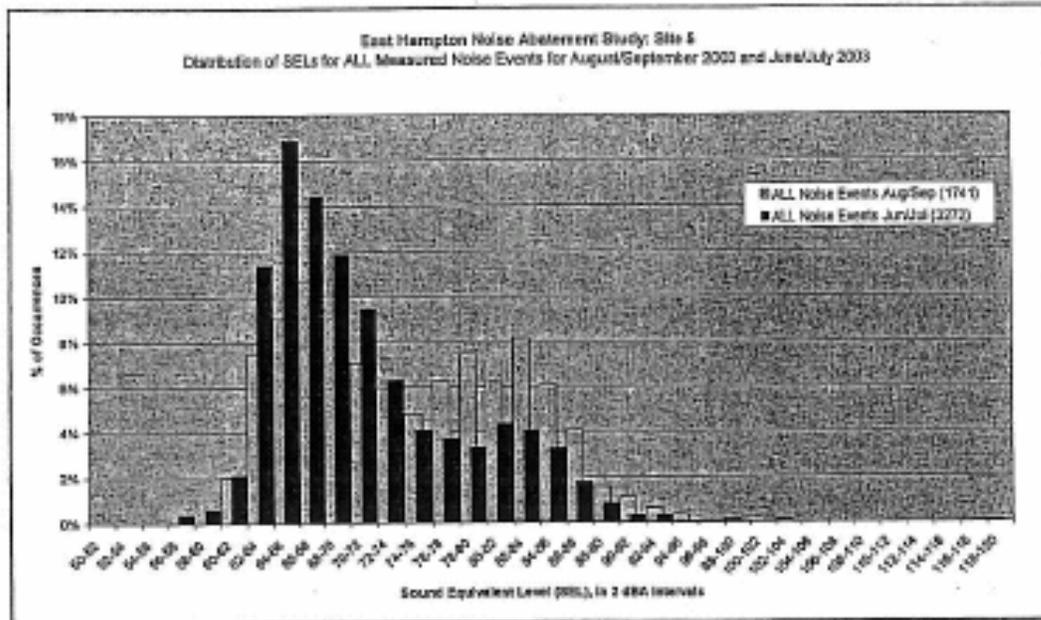
HARRIS MILLER MILLER & HANSON INC.

Results of the Noise Measurement Program; Phase II
 October 28, 2003
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HARRIS MILLER MILLER & HANSON INC.

Results of the Noise Measurement Program: Phase II
 October 28, 2003
 Page D-7



PAVEMENT CONDITION SURVEY

RUNWAY 4-22

EAST HAMPTON AIRPORT
EAST HAMPTON, NEW YORK



JULY 30, 2003

PAVEMENT CONDITION SURVEY

RUNWAY 4-22

**EAST HAMPTON AIRPORT
EAST HAMPTON, NEW YORK**

JULY 30, 2003

**C&S ENGINEERS, INC.
499 Col. Eileen Collins Blvd.
Syracuse, New York 13212**

360.013

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SECTION 1 – INTRODUCTION

On June 27, 2003, C&S Engineers, Inc. conducted a site visit and performed a pavement condition survey of Runway 4-22 at East Hampton Airport.

The existing runway is 100 feet wide by 2,501 feet long and accommodates Design Group I, Approach Category A&B Aircraft. According to FAA Runway Design Standards the runway width required for this type of aircraft (for runways with not lower than ¾-statute mile approach visibility minimums) is 60 feet. Pavement rehabilitation measures should be considered on the center 60-foot width of runway. The pavement beyond this width could either be removed or sealed.

From a subsurface investigation performed in July 1997 it was determined that the existing pavement thickness for runway 4-22 is approximately 3 inches.

✓ During our site visit, we quickly identified that the asphalt pavement on Runway 4-22 has severely deteriorated, and is in need of repair (refer to the site visit photos in appendix A). ✓
The runway contains alligator and block cracking (approx. 30% of the total area) and longitudinal and transverse cracks are also evident throughout the length of the runway. The alligator cracking indicates fatigue failure of the pavement structure (asphalt surface and base) under repeated traffic loading. The block cracking and the longitudinal and transverse cracks have occurred from temperature fluctuation and shrinkage (not load related). The pavement has become oxidized and brittle with age and is unable to resist the stresses from shrinkage and temperature fluctuation. These types of flexible pavement distresses, which are evident throughout the runway, are discussed in section 2.

In addition, it was determined that the pavement at the intersection of Runway 4-22 with Runway 16-34 is poorly graded, has bumps and should be re-graded in conjunction with this Runway 4-22 rehabilitation project. It should also be noted that a 600 foot section of pavement at the intersection of Runways 4-22 and 10-28 is in excellent condition as a result of the recent Runway 10-28 construction project.

SECTION 2 - DESCRIPTIONS OF FLEXIBLE PAVEMENT DISTRESS

2.1 - ALLIGATOR OR FATIGUE CRACKING

Alligator or fatigue cracking is a series of interconnecting cracks caused by fatigue failure of the asphaltic concrete (AC) surface under repeated traffic loading. The cracking initiates at the bottom of the AC surface (or stabilized base) where tensile stress and strain are highest under a wheel load. The cracks propagate to the surface, initially as a series of parallel cracks. After repeated traffic loading, the cracks connect, forming many-sided, sharp-angled pieces that develop a pattern resembling chicken wire or the skin of an alligator. Alligator cracking is considered a major structural distress and when asphalt chunks break loose they have the potential to damage aircraft.

2.2 - BLOCK CRACKING

Block cracks are interconnected cracks that divide the pavement into approximately rectangular pieces. The blocks may range in size from approximately 1 ft. by 1 ft. to 10 ft. by 10 ft. Block cracking is caused mainly by shrinkage of the asphalt concrete and daily temperature cycling. It is not load-associated. Block cracking normally occurs over a large portion of pavement area, but sometimes will occur only in nontraffic areas.

2.3 - LONGITUDINAL AND TRANSVERSE CRACKING

Longitudinal cracks are typically parallel to the pavement's center line or laydown direction. Transverse cracks typically extend across the pavement at approximately right angles to the pavement's centerline or direction of laydown. They may be caused by a poorly constructed paving lane joint, shrinkage of the AC surface due to temperature changes, hardening of the asphalt; or a reflective crack caused by cracks beneath the surface course.

SECTION 3 – REHABILITATION ALTERNATIVES & RECOMMENDATION

A summary of estimated construction costs and pavement life for the following rehabilitation alternatives are located in Section 4 of this report.

Alternative No. 1:

The “do-nothing” alternative is always an option, but not considered feasible due to the poor runway condition.

Alternative No. 2:

This alternative would generally include repairing and sealing existing cracks that are not related to base failure (i.e. longitudinal and transverse cracks) and reconstruction of all sections of alligator/block cracking, and then overlaying the runway. In general, asphalt cracks will be sealed, and severe cracks will be milled full depth and filled with new bituminous pavement. Several areas of more extensive pavement damage (alligator and block cracking) will receive full-depth reconstruction prior to being overlaid. A 2-inch asphalt maintenance overlay could then be applied to the existing runway surface. Due to the extensive amount of distress, it is very likely that cracks would propagate through the new pavement in a relatively short period of time.

Alternative No. 3:

This alternative would generally include sealing existing cracks and then provide a 2-inch asphalt overlay on the runway. Due to the extensive amount of distressed pavement, it is very likely that cracks would propagate through the new pavement in a short period of time.

Alternative No. 4:

This alternative would generally include complete reconstruction, which would consist of excavating the existing pavement section, the placement of a crushed stone subbase layer, and placement of consecutive layers of asphalt. This alternative should yield a 20 year life cycle.

Alternative No. 5:

This alternative would generally include a full-depth recycling process, which consists of pulverization, stabilization, regrading, compaction and a 3-inch asphalt overlay. In the pulverization stage, a specialized road reclaimer will pulverize the asphalt and mix a portion of the underlying materials to a depth of approximately 6 inches. This stage will eliminate many deep pavement cracks thereby greatly reducing the potential for future reflective cracking. Next, stabilizing additives may be added to the new base to enhance the characteristics of the recycled material. The new base will then be graded and compacted. The final step is to place a new 3-inch asphalt surface course on the improved base.

EAST HAMPTON AIRPORT
PAVEMENT CONDITION SURVEY- RUNWAY 4-22

RECOMMENDATION

After review of the alternative costs and associated pavement life cycle estimates; C&S Engineers, Inc. recommends Alternative No. 5. It should be noted that a section of the Town Hall parking lot was recently rehabilitated using this method and according to the Town Highway Superintendent, it was a successful project.

SECTION 4 – PROBABLE CONSTRUCTION COSTS

Cost estimate summaries for construction of the proposed alternatives are presented below and detailed estimates are shown on the following pages. The quantities used to calculate project costs are preliminary estimates. Unit costs were developed by C&S Engineers, Inc. based on past bid experiences at East Hampton Airport and similar New York airports. All costs provided are Engineer's opinion of construction costs and based upon expected construction in 2004.

	Rehabilitation Alternative	Construction Cost Estimate (\$)	Resulting Pavement Life (Years)
1	"Do- Nothing"	\$0	No Change
2	Pavement Repairs & Overlay	\$ 753,000	Unpredictable, Est. 2-5
3	Sealing and Overlay	\$ 532,000	Unpredictable, Est. 2+/-
4	Complete Reconstruction	\$ 1,171,000	20+/-
5	Full-Depth Recycling & Overlay	\$ 562,000	10+/-



ENGINEERS
DESIGN-BUILD
TECHNICAL SERVICES
OPERATIONS

PROBABLE PROJECT COST

EAST HAMPTON AIRPORT
TOWN OF EAST HAMPTON, NEW YORK
RUNWAY 4-22 REHABILITATION
ALTERNATIVE 1, PAVEMENT REPAIRS & OVERLAY

360.013

07/30/03

ITEM NO	FAA SPEC	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL
1	P-152	UNCLASSIFIED EXCAVATION	2500	CY	\$16.00	\$40,000.00
2	P-153	COLD MILLING EXISTING PAVEMENT	8000	SY	\$9.00	\$72,000.00
3	P-156	SILT FENCE	2000	LF	\$5.00	\$10,000.00
4	P-156	MISC. SOIL EROSION AND SEDIMENT CONTROL	1	LS	\$5,000.00	\$5,000.00
5	P-214	CRUSHED STONE BASE COURSE, NYSDOT	1500	CY	\$35.00	\$52,500.00
6	P-400	PREPARATION OF EXISTING PAVEMENT	3000	SY	\$5.00	\$15,000.00
7	P-400	CRACK SEALING	1	LS	\$20,000.00	\$20,000.00
8	P-409	BITUMINOUS SURFACE COURSE, NYSDOT	4000	TON	\$85.00	\$340,000.00
9	P-409	BITUMINOUS TRUE AND LEVEL COURSE, NYSDOT	1200	TON	\$65.00	\$78,000.00
10	P-603	BITUMINOUS TACK COAT	2000	GAL	\$4.00	\$8,000.00
11	P-612	FIELD OFFICE	1	LS	\$10,000.00	\$10,000.00
12	P-620	RUNWAY & TAXIWAY PAINTING	30000	SF	\$2.00	\$60,000.00
13	P-625	COAL TAR BITCH EMULSION SEALCOAT	10000	SY	\$1.50	\$15,000.00
14	D-710	STABILIZATION FABRIC	55000	SF	\$0.30	\$16,500.00
15	T-902	TOPSOIL, SEED AND MULCH	4500	SY	\$5.00	\$22,500.00
16	M-100	MAINTENANCE AND PROTECTION OF TRAFFIC	1	LS	\$25,000.00	\$25,000.00
17	M-150	PROJECT SURVEY & STAKEOUT	1	LS	\$15,000.00	\$15,000.00
18	M-200	MOBILIZATION (4% MAXIMUM)	1	LS	\$28,500.00	\$28,500.00
TOTAL CONSTRUCTION COST						\$753,000.00
ENGINEERING & ADMINISTRATION(20%+/-)						\$150,600.00
TOTAL PROJECT COST						\$904,000.00



INCORPORATED
 ENGINEERING
 TECHNICAL RESOURCES
 OPERATIONS

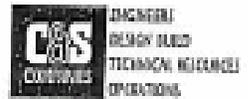
PROBABLE PROJECT COST

EAST HAMPTON AIRPORT
 TOWN OF EAST HAMPTON, NEW YORK
 RUNWAY 4-22 REHABILITATION
 ALTERNATIVE 3, SEAL CRACKS & OVERLAY

360.013

07/30/03

ITEM NO	FAA SPEC	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL
1	P-153	COLD MILLING EXISTING PAVEMENT	8000	SY	\$9.00	\$72,000.00
2	P-156	MISC. SOIL EROSION AND SEDIMENT CONTROL	1	LS	\$2,500.00	\$2,500.00
3	P-400	PREPARATION OF EXISTING PAVEMENT	3000	SY	\$5.00	\$15,000.00
4	P-400	CRACK SEALING	1	LS	\$20,000.00	\$20,000.00
5	P-409	BITUMINOUS SURFACE COURSE, NYSDOT	2600	TON	\$65.00	\$169,000.00
6	P-409	BITUMINOUS TRUE AND LEVEL COURSE, NYSDOT	1200	TON	\$65.00	\$78,000.00
7	P-603	BITUMINOUS TACK COAT	2000	GAL	\$4.00	\$8,000.00
8	P-612	FIELD OFFICE	1	LS	\$10,000.00	\$10,000.00
9	P-620	RUNWAY & TAXIWAY PAINTING	30000	SP	\$2.00	\$60,000.00
10	P-625	COAL TAR PATCH EMULSION SEALCOAT	10000	SY	\$1.50	\$15,000.00
11	T-502	TOPSOIL, SEED AND MULCH	4500	SY	\$5.00	\$22,500.00
12	M-100	MAINTENANCE AND PROTECTION OF TRAFFIC	1	LS	\$25,000.00	\$25,000.00
13	M-150	PROJECT SURVEY & STAKEOUT	1	LS	\$15,000.00	\$15,000.00
14	M-200	MOBILIZATION (4% MAXIMUM)	1	LS	\$20,000.00	\$20,000.00
TOTAL CONSTRUCTION COST						\$532,000.00
ENGINEERING & ADMINISTRATION(20%+/-)						\$106,400.00
TOTAL PROJECT COST						\$638,000.00



PROBABLE PROJECT COST

EAST HAMPTON AIRPORT
 TOWN OF EAST HAMPTON, NEW YORK
 RUNWAY 4-22 REHABILITATION
 ALTERNATIVE 4, TOTAL RECONSTRUCTION

360.013

07/30/03

ITEM NO.	FAA SPEC	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL
1	P-152	UNCLASSIFIED EXCAVATION	10000	CY	\$16.00	\$160,000.00
2	P-156	SILT FENCE	4000	LF	\$6.00	\$24,000.00
3	P-156	MISC. SOIL EROSION AND SEDIMENT CONTROL	1	LS	\$10,000.00	\$10,000.00
4	P-214	CRUSHED STONE BASE COURSE, NYS DOT	7000	CY	\$35.00	\$245,000.00
5	P-409	BITUMINOUS SURFACE COURSE, NYS DOT	5000	TON	\$65.00	\$325,000.00
6	P-603	BITUMINOUS TACK COAT	1000	GAL	\$4.00	\$4,000.00
7	P-612	FIELD OFFICE	1	LS	\$15,000.00	\$15,000.00
8	P-620	RUNWAY & TAXIWAY PAINTING WITH GLASS BEADS	20000	SP	\$2.00	\$40,000.00
9	D-710	STABILIZATION FABRIC	175000	SP	\$0.30	\$52,500.00
10	T-902	TOPSOIL, SEED AND MULCH	25000	SY	\$5.00	\$125,000.00
11	L-110	2-WAY DUCT BANK, TYPE I	500	LF	\$150.00	\$75,000.00
12	M-100	MAINTENANCE AND PROTECTION OF TRAFFIC	1	LS	\$30,000.00	\$30,000.00
13	M-150	PROJECT SURVEY & STAKEOUT	1	LS	\$20,000.00	\$20,000.00
14	M-200	MOBILIZATION (4% MAXIMUM)	1	LS	\$45,500.00	\$45,500.00
TOTAL CONSTRUCTION COST						\$1,171,000.00
ENGINEERING & ADMINISTRATION(20%+/-)						\$234,200.00
TOTAL PROJECT COST						\$1,405,000.00



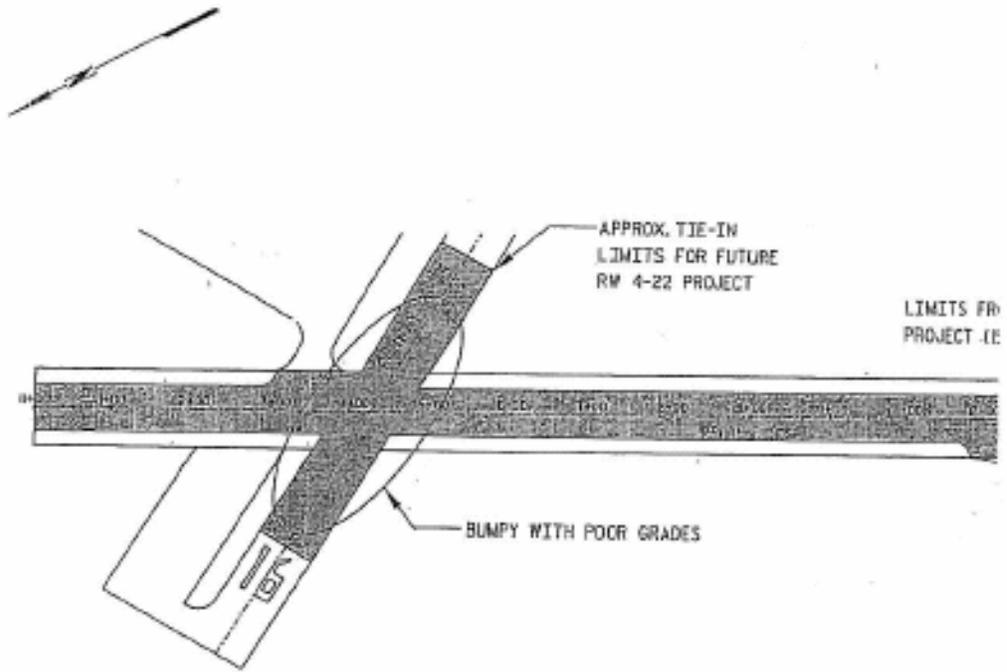
PROBABLE PROJECT COST

EAST HAMPTON AIRPORT
 TOWN OF EAST HAMPTON, NEW YORK
 RUNWAY 4-22 REHABILITATION
 ALTERNATIVE 5, FULL-DEPTH RECYCLING & OVERLAY

360,013
 07/30/03

ITEM NO	FAA SPEC	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL
1	P-156	MISC. SOIL EROSION AND SEDIMENT CONTROL	1	LS	\$2,500.00	\$2,500.00
2	P-409 *	BITUMINOUS SURFACE COURSE, NYSDOT	3900	TON	\$67.00	\$261,300.00
3	P-603	BITUMINOUS TACK COAT	1000	GAL	\$4.00	\$4,000.00
4	P-612	FIELD OFFICE	1	LS	\$10,000.00	\$10,000.00
5	P-620	RUNWAY & TAXIWAY PAINTING	30000	SF	\$2.00	\$60,000.00
6	P-625	COAL TAR PITCH EMULSION SEALCOAT	10000	SY	\$1.50	\$15,000.00
7	T-902	TOPSOIL, SEED AND MULCH	4500	SY	\$5.00	\$22,500.00
8	4CMPS *	FULL-DEPTH RECYCLING	20000	SY	\$4.15	\$83,000.00
9	70MS *	ASPHALT EMULSION ADDITIVE	45000	GAL	\$0.93	\$41,850.00
10	M-100	MAINTENANCE AND PROTECTION OF TRAFFIC	1	LS	\$25,000.00	\$25,000.00
11	M-150	PROJECT SURVEY & STAKEOUT	1	LS	\$15,000.00	\$15,000.00
12	M-200	MOBILIZATION (4% MAXIMUM)	1	LS	\$21,850.00	\$21,850.00
TOTAL CONSTRUCTION COST						\$562,000.00
ENGINEERING & ADMINISTRATION(20%+)						\$112,400.00
TOTAL PROJECT COST						\$674,000.00

* ITEM COSTS FROM BIMASCO, INC. BASED UPON CURRENT PRICES AS LISTED ON THE SUFFOLK COUNTY CONTRACT, LETTING 9-03.A.17.

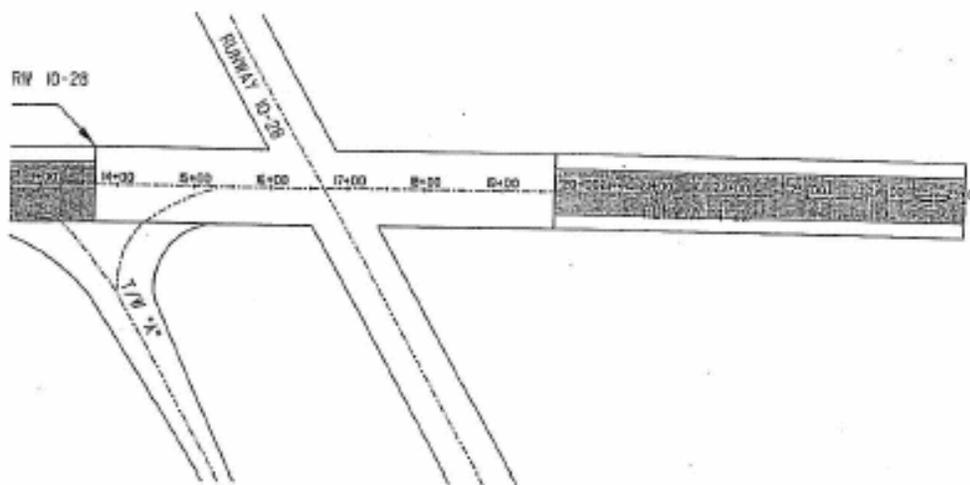


RUNWAY 4-22
SCALE: 1"=200'

NOTES

1. TOTAL AREA TO BE REHABILITATED APPROX. 160,000 SF.
2. PROPOSED PAVEMENT SECTION: 4" ASPHALT & 8" STONE.
3. RUNWAY WIDTH TO BE REHABILITATED IS 60 FEET.

DATE: 08/12/10 BY: JST/ML
PROJECT: SCHEM OF EAST HAMPTON AIRPORT 4-22 RUNWAY

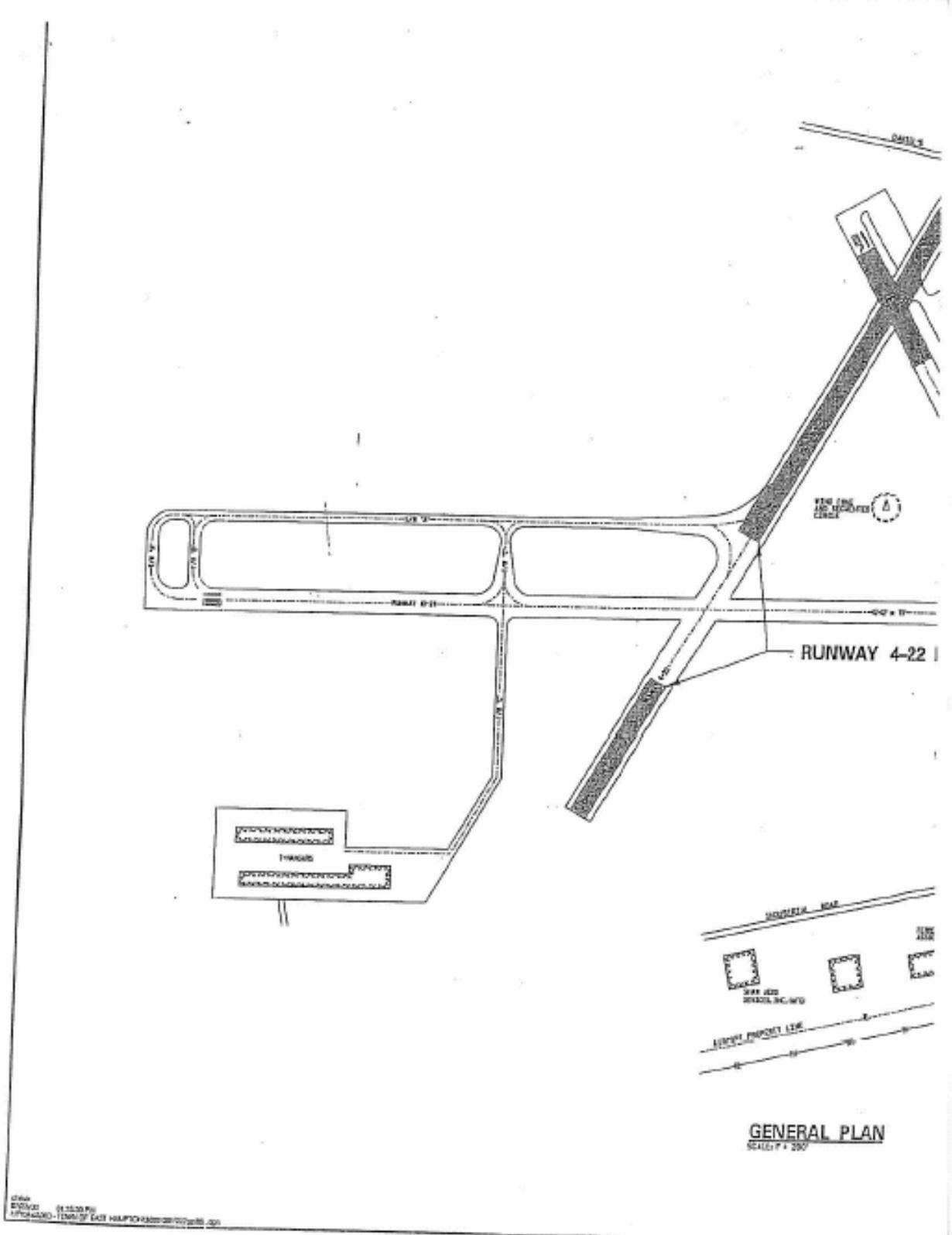


LAN

LEGEND

 PAVEMENT TO BE REHABILITATED

			ENGINEERS, INC. 499 Old Ferry Colling Blvd. Syosset, New York 11791 Phone 212-455-8333 Fax 212-455-8987 www.cgsny.com	TOWN OF EAST HAMPTON SURVEY CO., NEW YORK																							
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FILE NO.	95863.001																										
CAD FILE NO.	300303																										



s. Letter from Tom Lavinio of Save East Hampton Airport, Inc. (September 24, 2009)

The correspondence includes a written statement and appends a statement from Robert Grover of Greenman-Pedersen, Inc., a copy of field monitoring studies accomplished by HMMH in 2003 and a copy of Pavement Condition Survey, East Hampton Airport by Calcerinos and Spina, July 2003.

Response: The correspondence refers to the prior HMMH noise studies as supportive of the conclusions and recommendations offered in the dGEIS. These 2003 studies mark the onset point of formal noise abatement planning at East Hampton Airport which has continued in the years since.

The respondent identifies Runway 4/22 as exclusively suitable for light propeller driven aircraft.

Response: There are certain very light jet powered aircraft that are capable of operating from a short runway such as Runway 4/22, but these are relatively few in number and have noise emissions comparable to or lower than light propeller driven aircraft. As a practical operating matter Runway 4/22 is recommended for use by aircraft able to turn westbound before crossing the property line. Runway 10/28 is better suited to the current turbine powered airplanes and heavier propeller driven airplanes that use East Hampton Airport. Due to the lessened wind sensitivity of larger, faster and more powerful aircraft, use of Runway 10/28 would be naturally preferred to Runway 4/22 which is roughly one half as long.

The respondent refers to the attached letter from Robert Grover. In this correspondence, the use of DNL as the noise descriptor of choice for aircraft noise measurements is endorsed. The use of a single event noise level at the 65 dB is discouraged since many common household, transportation and community activities exceed this level. The respondent notes that the existing Town ordinance contains exceptions for aircraft among other activities. **Response:** This position is generally consistent with accepted industry practices, FAA guidelines as expressed in FAR Part 150 and in the Aviation Safety and Noise Abatement Act of 1979.

The respondent refers to cost estimates offered in the attached report by Calcerinos and Spina.

Response: Consistent with most environmental determinations, the dGEIS is silent on the matter of costs.

The respondent supports the alternatives analysis as contained in the dGEIS and opposes the "alternative" of rejecting future FAA funding so as to enable the Town to restrict aircraft traffic by type of aircraft, i.e., helicopters, by class of activity, i.e., commercial operations, or by time of day as in closure on weekends.

Response: Generally, the alternatives analysis in physical planning refers to differing strategies for accomplishing the proposed physical improvements and the impact each such alternative will have on the environment when implemented. Traffic restrictions such as are described are instead policy measures with the intended purpose of reducing or eliminating environmental impacts, primarily noise, but are not related, directly or indirectly, to improvement contemplated in the Master Plan Report and reviewed in the dGEIS. In fact, even the No Action Alternative will not serve to further the proposed goals of noise reduction. The dGEIS is not intended as a

policy review or noise abatement planning exercise, but does show that current levels of noise impact when compared to federal and state guidelines do not support the appropriateness of such measures now or in the immediate future. Thus, the omission of consideration of such measures as foregoing future federal funding in the dGEIS is beyond the customary scope of an EIS and should properly be reviewed, should the Town elect to do so, as part of the establishment of noise policy pursuant to a noise abatement planning study. Thus, arguments either in favor or opposed to receipt of future grants in aid from the FAA are irrelevant to comparisons of differing environmental impact related to design alternatives such as are contained in the Master Plan Report or the draft GEIS.

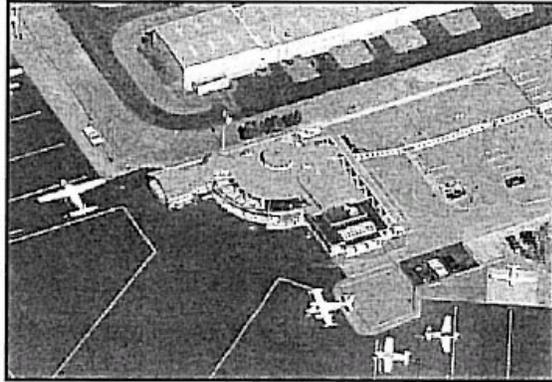
East Hampton Airport

Comments on the GEIS

Suggested Alternative Concept

Submitted on: September 17, 2009

Submitted by: Committee to Stop Airport
Expansion



The GEIS considers four alternatives including 1) no action, 2) modest plan, 3) reduction in capability and, 4) expansion. First and foremost, the Town and their consultants should be commended for selecting Alternative 2 – the modest plan with the overall philosophy of improving safety (meets FAA design standards) and efficiency.

This recommendation or Proposed Action has many benefits and a goal to maintain the existing capability of the Airport, while making only modest improvements. A review of the GEIS clearly indicates that detailed evaluations were involved in the recommendations. In fact, the detailed information in the GEIS fostered the development of the following alternative concept. It is hoped that the suggestions here are viewed as constructive input, with the goal of improving upon the current recommendations for the Airport, but with the same philosophy – enhancing safety and efficiency while minimizing both financial cost and impact on the community.

The attached suggested alternative concept (the Concept) is intended go a full step further by minimizing the level of development and significantly reducing construction, maintenance, and operating costs. It is contended here that the Concept provides all of the benefits of the Proposed Action, with reduced construction and on-going maintenance costs, less intrusive aircraft noise impacts, and enhanced efficiency and safety benefits.

Concept Description: For the runways, keep Runway 4-22 permanently closed. The cost to completely reconstruct and re-open this facility as a runway or taxiway is high and, according to the Airport Master Plan Report, the runway's alignment is not favorable with the residential area to the south. The master plan identifies that well over 200 households would be affected by aircraft noise during Runway 4-22 operation. By contrast, Runway 16-34 impacts less environmentally-sensitive land, and the associated noise disturbance is a maximum of 43 households (Airport Master Plan, Figure III-31).

The Concept retains the two active runways (Runway 10-28 and Runway 16-34) without expansion. These two runways afford the highest crosswind coverage (both overall and VFR). Although, summer winds slightly favor Runway 4-22, these winds average less than 10 knots, and the combination of Runways 10-28 and 16-34 exceed the FAA's recommended wind coverage for even the smallest aircraft. As Runway 16-34 is favored in the cooler months when winds are higher, there is some safety benefit to maintaining Runway 16-34 rather than Runway 4-22 as the secondary runway.

The GEIS identifies that vehicles on Daniel's Hole Road penetrate the Runway 28 approach surface, and therefore a road relocation of nearly 2,000 feet in length is included in the GEIS. In lieu of the road relocation, this Concept incorporates a 150-foot displacement to the Runway 28 threshold to meet FAA threshold siting standards. A review of the landing performance of the Critical Design Aircraft (i.e., Cessna Citation 560/Encore) indicates that this small displacement will not impact landings by the design aircraft, or similar models. The full runway length would remain available for takeoff. Overall, the Concept would save significant costs by eliminating the need to reconstruct Runway 4-22 and relocate Daniel's Hole Road.

For the *taxiways*: the Concept supports the completion of the parallel taxiway for Runway 10-28. The Concept also recommends a full parallel taxiway/taxilane for Runway 16-34, which will significantly improve safety and operational efficiency. In contrast, the GEIS does not contemplate a full parallel taxiway for Runway 4-22. The GEIS identifies that a Runway 16-34 parallel taxiway would eliminate most of the small aircraft tie-downs on the north ramp. The Concept avoids this by designing the parallel taxiway/taxilane lateral separation from Runway 16-34 for small aircraft exclusively (i.e., Airport Reference Code B-I, SAE) to its northern connection to Runway 16. The Concept provides for B-I design standards associated with the taxiway object free area width. This provides all the safety benefits while only eliminating six tie-downs. Runway 16-34 is only used by small aircraft, thus an FAA standard B-I taxiway is appropriate.

On the south end of the runway, there is adequate space for a wider B-II parallel taxiway to the Runway 34 end. This portion of the taxiway will also provide access to the hangar facilities in that location, which are used by both large and small aircraft. As an additional benefit, this taxiway (an extension of Taxiway H) also eliminates the need to extend Taxiway G to Runway 28. The end result of the Concept is slightly less total taxiway pavement, but more importantly, full parallel taxiways connecting to both ends of both runways.

For the *terminal area*, the Concept provides operational and safety improvements with no increase or decrease in aircraft storage capacity. The Concept has a significant advantage of concentrating the larger (jet) and transient aircraft on the southern and central portions of the existing apron, convenient to the terminal building and Runway 10-28. The concept also relocates all small aircraft tie-downs on the north ramp, convenient to Runway 16-34. This affords significant separation between large and small aircraft and enhances the safety of aircraft ground maneuvers. Additionally, the segregation of aircraft types contributes to more effective and efficient ramp management for aircraft service providers. It minimizes the need to transition large aircraft once they are positioned on the ramp to other locations on the Airport. This reduces the liability associated with ground operations and costs to aircraft operators.

As proposed by Sound Aircraft Services, their northernmost existing hangar would be eliminated and replaced with a new hangar convenient to the south ramp in order to accommodate an equal amount of storage for based jets (currently in tie-down positions) and the large piston or turboprop aircraft currently stored in the hangar. The new facility would provide the security and operational benefits of a new modern hangar with office space and other services. The Concept integrates the new hangar with the large aircraft parking and in proximity to Runway 10-28. This new hangar and parking for visiting jet and large piston and turboprop aircraft can be accommodated without expansion of the south ramp.

Segregating large and small aircraft and eliminating the tie-downs that would be located within the taxilane object free area associated with Runway 16-34 (a non-standard condition), has the effect of removing 32 existing tie-downs. All of these tie-downs are therefore replaced on the north ramp. By using the area of the hangar to be removed and expanding the apron to the north, the existing tie-down capacity for small aircraft is maintained with only a modest need for new pavement. Taking into account the apron eliminated in order to provide the standard runway/taxiway separation to Runway 16-34, the net increase in pavement is well under an acre (approximately 28,000 square feet), much less than the approximately 140,000 square feet of additional pavement proposed for Runway 4-22.

Finally, it is noted that existing and forecast activity levels do not justify an FAA control tower. As such, a control tower at the Airport would have to be entirely constructed, equipped, staffed, and maintained with Town resources. It is estimated that takeoffs and landing would have to nearly triple before an FAA-operated or funded control tower would be feasible. As such, the tower is not included in the concept. Note that of the 5,000 public airports in the US, only 400 have control towers. The Town may wish to consider regulatory solutions for encouraging voluntary compliance with preferred routes and altitudes.

Summary: The table below highlights the differences in the amount of new or reconstructed airfield pavement recommended in the GEIS and the Concept. The GEIS includes nearly twice the new or reconstructed airfield pavement area as the Concept. Nevertheless, the Concept provides greater improvements to safety and efficiency.

Table 1: Airfield Pavement Construction		
New and Reconstructed Pavement (in Square Feet)		
Type	GEIS	Concept
Runway (Rwy 4-22 reconstruction)	140,000	0
Taxiways	82,000	80,000
Small Aircraft Apron	0	66,000
Control Tower Access	48,000	0
Total	270,000 SF	146,000 SF
Difference (Concept - GEIS)	-124,000 SF	

The pavement listed in Table 1 does not include public road or auto parking. Note that the GEIS also includes the relocation of Daniel's Hole Road, with an additional acre of pavement construction (approximately 44,000 SF). Both options incorporate the additional airport auto parking.

The Concept also enables permanent decommissioning of portions of the existing airfield pavement, in particular Runway 4-22, so that there is less overall pavement on the Airport to maintain. Table 2 lists the difference in the area of pavement to be decommissioned.

nicole weymouth

From: McDonnell, Paul [PMcDonnell@chacompanies.com]
Sent: Wednesday, September 16, 2009 4:29 PM
To: lryan@town.east-hampton.ny.us; jbrundige@town.east-hampton.ny.us; jjilnicki@town.east-hampton.ny.us
Cc: dgruber@grubergray.com; qedron@aol.com; dyap; EBrown@ackermanpartners.com; YESCIENCE@aol.com; nicole weymouth
Subject: East Hampton Airport - Comments on GEIS

To: Town of East Hampton:

Attached to this email are comments regarding the Airport GEIS on the behalf of Mr. David Gruber and the *Committee to Stop Airport Expansion*. These comments will be formally submitted at the Public Hearing on September 17, 2009. This email serves to provide an electronic copy for your convenience.

CHA, Inc., working with QED Airport & Aviation Consultants, has assisted Mr. Gruber in preparing comments on the recommendations included in the GEIS. Please note that these comments concur with the Town's overall goal of improving the Airport, while retaining it's current size and capability.

However, based on a detailed review of the Airport Master Plan, GEIS, and associated recommendations, we have developed an alternative "Concept" that is intended to satisfy all the airport development recommendations, but does so with enhanced safety and efficiency, and also with less overall development and cost. We hope that you find these comments constructive and beneficial to the overall purpose of airport improvement.

Thank you
Paul McDonnell

CC: David Gruber, QED, DY-Consultants, Young Environmental Sciences, Ackerman Partners for Sound Aircraft Services

Paul McDonnell, AICP
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Please note that my email address has changed. Please update your contact lists accordingly.

4/28/2010

t. Comment Letter from the Committee to Stop Airport Expansion submitted at the Public Hearing on September 17, 2009

The extensive comments provided support retaining Runway 16/34 in favor of reopening Runway 4/22.

Response: Results of noise modeling population counts reported in the draft GEIS show that the reopening of Runway 4/22 will result in virtually the same level of cumulative noise exposure based on the annual average contours for 2008 and 2013. The busy day contour comparison indicates that the exposure will be the same during the summer period down to DNL 55. There is expected to be an increase of 20 percent or 163 additional persons exposed at the DNL 50 to 55 level as a consequence of a slight expansion of the overall noise footprint and the change in exposure resulting from reopening Runway 4/22. The total number of individuals exposed at the 50 to 55 level changes from 798 to 961, an increase of 163 persons. This is a relatively small change at the lowest level that was plotted. It is considered insignificant from a regulatory perspective that essentially considers all areas outside of the annual average DNL 65 as compatible. DNL 65 remains entirely on the airport on an annual average basis during both the 2008 and 2013 contours.

Relocation of Daniel's Hole Road was recommended in the draft GEIS. There are three alternative to compliance with clearance requirements associated with the approach surfaces over Daniel's Hole Road. The threshold of Runway 28 can be displaced by 150 feet. Daniel's Hole Road can be relocated 150 feet further east. A non standard procedure using signage can be used if the previous two alternatives are not feasible. The draft GEIS recommended the relocation of Daniel's Hole Road. Preliminary data indicated that this may have lower total costs in comparison to displacing the runway threshold. Displacing the runway threshold necessitates moving the runway end indicator lights, the visual approach slope guidance system and potentially the runway edge lighting system for the entire length of the runway in order to achieve required space of the edge lights.

Since this is a federal safety related requirement, detailed design and cost specifications will be made prior to moving forward with actual construction to confirm the most cost effective solution. This investigation as well as construction costs would ultimately be funded through a federal grant and therefore differential costs to the Town are small. Since it is a compliance related issue, the preferences of the administering agency are expected to carry great weight. Should federal authorities conclude that neither alternative is feasible, the administering agency retains the option of using signs to alert approach aircraft. However, this technique is rarely employed and is usually confined to cases where it is physically impossible to achieve compliance through actually maintaining the needed clearances.

The cost projections are also affected by options for FAA funding. Should the Town finance this and other improvements with federal funds, cost differences to local government are offset by the typical 97.5 percent federal and state combined grant funding, greatly reducing the significance of comparative costs to the Town. Timing and choice are also affected by the availability of federal funds. Federal expenditures are based on regional FAA priorities and thus the project as a whole may await its turn for funding. During the pendency period, no expenditure would occur nor is there any penalty to the Town.

A full parallel taxiway for Runway 4/22 is not proposed during the five year future covered by the draft GEIS. However, at such time as development occurred to the west of Runway 4/22, a full parallel taxiway would be required as was shown in one alternative studied in the Master Plan Report. Providing a full length parallel taxiway for Runway 16/34 would require a variety of adjustments in the Terminal Area depending on the runway/taxiway separation distance. While this is feasible, it further constricts ramp space in front of the existing hangers and the terminal building which may create operational difficulties during peak flow conditions. The plan submitted by the respondent plan requires the relocation of several hangars and the removal of one.

Sequencing the proposed terminal area plan as depicted introduces a variety of temporal issues. Ideally, the terminal area would be reconfigured through a series of projects prior to repaving Runway 16/34 and installing the parallel taxiway. This matter is neither simple nor straightforward since, as is the case of all transportation facilities, the Airport must continue to function during the construction period. No such complications are expected in the case of reactivating Runway 4/22.

The analysis suggests that retaining Runway 16/34 eliminates the need for Runway 4/22 and assumes that the pavement would vanish, meaning a reduction in net pavement. Runway 4/22 would need to be repaved as a taxiway in order to facilitate aircraft access to areas on the north and south side of the airport even if Runway 16/34 was retained as the primary crosswind runway.

The terminal area design is included in the Final GEIS with a discussion of its implications.

Committee to Stop Airport Expansion
POB 1180
East Hampton, New York, 11937



September 28, 2009

East Hampton Town Board
150 Pantigo Road
East Hampton, New York 11937

The following are the comments of the Committee to Stop Airport Expansion on the East Hampton Airport Draft Environmental Impact Statement, dated July 2009 (the DEIS”), to be made part of the record of the public hearing held on September 17, 2009. Unless otherwise specified, the DEIS is taken as incorporating by reference the Draft East Hampton Airport Master Plan Report, dated April 24, 2007 (the “DAMPR”). At the hearing and in its notice of hearing, the Town Board provided 10 days for additional comment. As the tenth day falls on a Sunday, state statute (GCL § 25-a) automatically extends the time for filing to the next business day, September 28, 2009.

Attached as Appendix 1 are excerpts from SEQRA and the regulations thereunder, 6 NYCRR Part 617. The excerpts themselves read as a virtual list of the various ways in which the DEIS fails to comply with the requirements of SEQRA.

The most prominent failures are:

1. The failure to provide meaningful information on noise impact based on any of the relevant criteria specified by SEQRA: setting, probability, duration, irreversibility, geographic scope, magnitude, and number of people affected;
2. The arbitrary and capricious exclusion, upon stated grounds that are both clearly false and self-contradictory, of the alternative of maintaining Runway 16-34 as the secondary runway, the very alternative that the DEIS itself describes, at page 52, as the one with “more compatible land use;”
3. The failure to consider at any point in the process the alternative of continuing in effect and fully implementing the extant, never-amended 1989 Airport Master Plan;
4. The choice, admitted in the DEIS, of the “preferred alternative”

prior to the preparation of the DEIS and therefore without the required environmental analysis of alternatives, evading the requirement to take a “hard look” and weigh competing social, economic and environmental factors as the basis for decision; by the standards of SEQRA there was indeed “no look” at all as environmental analysis had not even been started when the decision was made and all but one alternative, the preferred alternative, excluded from further consideration;

5. The complete failure, admitted in the DEIS, to consider in the environmental analysis of the DEIS not just a “range of reasonable alternatives,” as required by SEQRA, but *any* alternative whatsoever other than the already “preferred alternative” and to analyze the relative environmental impacts of a range of reasonable alternatives;

6. The admitted failure to consider at any point in the process any alternatives other than physical construction to satisfy aviation demand, excluding from consideration any and all alternatives that include exercise of the Town’s powers as airport proprietor to control airport access so as to match airport usage to both airport infrastructure and the stated “mission” of the airport;

7. Additional technical failures including an inappropriately short planning horizon, growth assumptions that bear no relationship to East Hampton, and the failure to assess the impact of changing the Critical Design Aircraft to a heavier and more demanding type;

8. Segmentation of the analysis by excluding the impact of FAA financing and the Grant Assurances that imposes on the environment even though such financing is explicitly contemplated and rhetorically invoked (although not actually analyzed) for its economic benefit;

9. The failure to consider or analyze available, practicable mitigation measures, particularly any mitigation available by exercise of the Town’s powers as airport proprietor;

10. The failure to provide the information that would permit the required findings that weigh economic, social, and environmental factors in choosing the preferred alternative, as there is no environmental analysis of any but the one alternative, no economic or financial analysis of any alternative (other than a partial list of capital costs of the preferred alternative), and no consideration of either social benefit or harm; and

11. The failure to provide the information that either permits or demonstrates the avoidance or minimization of adverse environmental impacts to the maximum extent practicable or the mitigation if the alternative chosen is not the least environmentally harmful.

1. The DEIS fails to provide meaningful information on noise impact based on any of the relevant criteria specified by SEQRA: setting, probability, duration, irreversibility, geographic scope, magnitude, and number of people affected;

The unambiguous and stated purpose of SEQRA is to require an agency to disclose and consider, prior to making a policy decision that affects the environment, relevant environmental considerations together with social, economic and “other essential considerations.” The object of the disclosure is expressed in the legislative finding of Sec. 8-0103.

The legislature finds and declares that:

1. The maintenance of a quality environment for the people of this state that at all times is healthful and pleasing to the senses and intellect of man now and in the future is a matter of statewide concern.

. . .

7. It is the intent of the legislature that the protection and enhancement of the environment, human and community resources shall be given appropriate weight with social and economic consideration in public policy. Social, economic, and environmental factors shall be considered together in reaching decisions on proposed actions.

The actions that must be preceded by environmental analysis and the obligatory weighing of competing interests are not merely physical construction, but “agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions” or any combination of physical actions, legal actions, and planning or policymaking. 6 NYCRR Sec 617.2.

To achieve the legislature’s purpose, the agency must, prior to acting, prepare an environmental impact statement that discloses publicly the factors that the agency must weigh. Under 6 NYCRR Sec 617.9, the statement is required to include the critical information:

(b) Environmental impact statement content.

(1) An EIS must assemble relevant and material facts upon which an agency's decision is to be made. It must analyze the significant adverse impacts and evaluate all reasonable alternatives. EISs must be analytical and not encyclopedic. . . .

(5) The format of the draft EIS may be flexible; however, all draft EISs must include the following elements:

(i) a concise description of the proposed action, its purpose, public need and benefits, including social and economic considerations; . . .

(iv) a description of the mitigation measures;

(v) a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objective and capabilities of the project sponsor. The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed.

Before making its decision, the agency must, under 6 NYCRR Sec 617.11, make specific findings to demonstrate its SEQRA compliance:

(d) Findings must:

(1) consider the relevant environmental impacts, facts and conclusions disclosed in the EIS;

(2) weigh and balance relevant environmental impacts with social, economic and other considerations;

(3) provide a rationale for the agency's decision;

(4) certify that the requirements of this Part have been met;

(5) certify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

The protection that SEQRA extends to the environment is not limited to threats to the health of human, animal, and plant life. SEQRA's declaration of purpose, Sec. 8-0103, explicitly states that the goal is an environment "that at all times is healthful and pleasing to the senses and intellect of man now and in the future." As defined in Sec. 8-0105, "'Environmental' means the physical conditions which will be affected by a proposed action, *including . . . noise, . . . and existing community or neighborhood character.* [Emphasis added.]" "Community and neighborhood character" is an intellectual, social, and aesthetic matter. It is not a question of biological health.

Similarly, under the SEQRA regulations, Sec. 617.2, "'Environment' means the physical conditions that will be affected by a proposed action, including . . . noise, resources of . . . aesthetic significance, . . . existing community or neighborhood character, and human health." "Noise" is singled out as a threat to the environment and "resources of aesthetic significance" and "community or neighborhood character" are to be protected. These are explicitly distinguished from "human health," certainly also to be protected but a distinct value.

Difficulty arises in addressing noise because noise is inherently and by definition subjective, at least short of volumes that begin to damage hearing or cause physical pain. The Oxford English dictionary defines noise as, "1 a sound, especially one that is loud, unpleasant, or disturbing. 2 continuous or repeated loud, confused sounds. . . ." Merriam-Webster's definition includes, "any sound that is undesired or interferes with one's hearing of something."

Wikipedia discusses the term "Noise pollution (or environmental noise)," stating that it "is displeasing human-, animal- or machine-created sound that disrupts the activity or balance of human or animal life. A common form of noise pollution is from transportation, principally motor vehicles. The word noise comes from the Latin word *nausea* meaning seasickness. The source of most noise worldwide is transportation systems, motor vehicle noise, but also including aircraft noise and rail noise."

It is inescapable that noise is fundamentally a matter of human pleasure and discomfort and of sound that human beings subjectively regard as unpleasant. But that does not place noise outside of SEQRA analysis. The New York legislature has placed it at the core. There can be little doubt that the sound of aircraft overhead, intruding upon

one's home or garden is regarded by an overwhelming majority of people as noise. Hence, it is noise.

For purposes of SEQRA, the question is, when does noise become noise pollution, that is, noise that exceeds an acceptable threshold? As noise is inherently subjective, the question might be debated endlessly, but there is no need to do so. In its Town Code, Chapter 185, the Town of East Hampton defines and regulates noise.

"Noise Pollution" is defined, by the Town of East Hampton, as:

"The presence of an amount of acoustic energy for that amount of time necessary to:

- (1) Cause temporary or permanent hearing loss in persons exposed;
- (2) Be injurious, or tend to be, on the basis of current information, injurious to the public health or welfare;
- (3) Cause a nuisance;
- (4) Exceed standards or restrictions established in § 185-3; or
- (5) Interfere with the comfortable enjoyment of life and property or the conduct of business."

The standards of "nuisance" and interference "with the comfortable enjoyment of life and property or the conduct of business" are surely the essence of the noise problem, but these too are subjective standards. They could be rendered objective by surveying affected areas to determine how many people regard aircraft noise as a nuisance or as an interference with quiet enjoyment, but the Town has failed to do so. Some indication is given by that fact that 20 of 29 speakers at the public hearing on the DAMPR and 41 of 49 written comments in connection with that public hearing "strongly objected to the noise specifically from helicopters." (Appendix A of the DGEIS).

Even though the Town has done nothing to assess impact rather than incidence, the standard set by Town Code §185-3, the fourth definition of "noise pollution" above (all of the definitions being stated in the alternative), is not at all subjective. It is clear, certain, and completely objective:

“No person shall create or cause to be emitted any noise which, when measured at any real property line in a residential district, exceeds the following standards:

(1) From 7:00 a.m. to 7:00 p.m.

(a) Airborne sound which has a sound level in excess of 65 dBA; . . .

(2) From 7:00 p.m. to 7:00 a.m.

(a) Airborne sound which has a sound level in excess of 50 dBA; . . .”

In East Hampton, noise pollution unambiguously includes airborne sound that crosses a property line in a residential district at a level in excess of 65 dBA from 7:00 a.m. to 7:00 p.m. or in excess of 50 dBA from 7:00 p.m. to 7:00 a.m. The standard is set in recognition of the reality that the unique character of East Hampton, the very reason that it attracts thousands of people seeking respite and relaxation, is the aesthetic environment, its physical beauty, historic character, its calm and quiet. We have a perfectly clear community standard for noise pollution that applies generally. Persons who violate the standard are subject to fine. There is no need to debate.

All aircraft operations at East Hampton Airport produce noise pollution as defined by East Hampton. There is no aircraft operation there that does not produce airborne sound exceeding the community standard. For that very reason, aircraft are and must be exempted from compliance with the noise standard. Otherwise there could be no aircraft operations and the Town would likely run afoul of Federal preemption of regulation of aircraft in the air. As a result of Federal preemption, the Town cannot apply its noise standard directly to airborne aircraft. However, in its capacity as airport proprietor, it unquestionably has power to regulate access to its own airport based on noise. The Second Circuit Court of Appeals, the Federal appellate court whose word is controlling law in East Hampton unless and until overruled by the U.S. Supreme Court, has said so.

The fact that aircraft are not regulated by the Town’s noise ordinance does not mean that the noise they produce is not in fact noise. It means only that the general noise ordinance is not a practicable means by which aircraft noise can effectively and legally be managed. That very fact that aircraft noise cannot be managed, as most other noise is, by outright prohibition increases the urgency of the Town employing its authority as the

owner and operator of East Hampton Airport to manage noise effectively. The necessary predicate to effective management is candid acknowledgement of the existence of noise pollution, as our community defines it, and of its extent and frequency. The DEIS fails to do so.

The study of aircraft noise that accompanies these comments (Appendices 2 and 3), commissioned by the Committee to Stop Airport Expansion and prepared by the Noise Pollution Clearing House, was generated using the FAA's own computer model for aircraft noise, its "integrated noise model," or "INM." The model allows the computer to simulate noise on the ground based on the sound generated by actual aircraft types and assumptions or data about aircraft flight routes and altitudes. The study by the Noise Pollution Clearing House employed exactly the same flight track data about aircraft types, times of operation, routes and altitudes as was employed by the Town in preparation of the DEIS. The data were in fact obtained directly from the author of the DEIS, Young Environmental Sciences, Inc. Thus, there can be no argument by the Town that the Noise Pollution Clearing House, in reaching its conclusions, has used bad data or made improper assumptions; it has used the Town's data and assumptions. The study can easily be replicated by the Town if it chooses to do so. The Committee will happily return the courtesy extended by the Town by providing directly to Young Environmental Sciences, Inc. the output and any other raw data of the Committee's study.

The study shows that aircraft operating out of East Hampton Airport generate approximately 10,000,000 incidents per year, more than 5 million during the daytime and nearly another 5 million at night, that constitute "noise pollution," as defined by the Town of East Hampton itself – airborne sound in excess of 65 dBA during the day or 50 dBA at night crossing a residential boundary. (With few exceptions, all residences in both East Hampton and Southampton are located in "residential districts" because zoning laws, in effect for 50 years, so require.) The first map in the study, Appendix 3, shows the geographic extent of the noise pollution, and the different levels of incidence to which homes both close to and distant from the airport are subject. If the 10,000,000 annual incidents are broken down according to the gradients on the map, the number of annual airport noise pollution incidents for a given home, the distribution is as follows:

< 500	10%
500-1,000	15%
1,000-3,000	16%
3,000-6,000	19%
6,000+	39%

Even if all but the most severely affected homes are excluded, the number of incidents is still in the million. Even if daytime-only events are considered, the number of incidents is still in the millions.

It seems pointless to claim that these events are not in fact noise pollution or are not in fact the necessary subject of any environmental impact statement for an airport master plan that complies with SEQRA. Regrettably, the Town's DEIS does exactly this by employing a grossly inappropriate device for the measurement of noise and of its significance. Under the standard employed by the Town in the preparation of the DEIS, none, not a single one, of the 10,000,000 annual violations of the community's noise standard exists. They are all, singly and collectively, defined to be "insignificant" and, through mathematical manipulation, redefined so that they purportedly exist only at the airport itself, within a mathematical contrivance, an average, called the "65 Dnl contour," rather than in all the places where the noise pollution actually occurs. (DEIS, at Exec. Summ. Page viii, "All areas at the average Dnl 65 level and above are entirely on airport.").

At page 21, the DEIS states blandly that residential use is considered "compatible" up to 65 Dnl but notes that,

"At general aviation airports particularly in quiet non urban areas, adverse effects such as annoyance may occur to at least the 55 Dnl level and below. The cause of this is typically a quiet environment found in rural areas and the prominence of the aircraft noise events themselves and not the cumulative burden. Even at low cumulative levels of aircraft sound, the aircraft noise component may be greater than all sources combined."

On its face, this appears to be an argument for taking into account the rural character and quiet environment of East Hampton by applying a standard more appropriate for this locality. And, on page 22, the DEIS states that, because of the low level of background

noise, in East Hampton the 50 Dnl level represents a “reasonable boundary for estimating adverse reactions from local residents during the summer months when considerable time may be spent outdoors.” But this is mere sleight of hand. On page 66, the DEIS indicates that only 91 people, or approximately 22 homes based on the INM’s standard of 4.2 people per household, live within the 50 Dnl contour.

Thus, according to the Town, none of the more than 8,000 annual airport noise complaints, documented on page 32 of the DEIS, from beyond the immediate area of the airport reflects anything significant. Those people only think they are annoyed or subjected to offensive noise. Indeed, according to the Town and its definition of significance, only 80 of the 10,000 homes that lie within the airport’s noise footprint (defined as more than 500 violations per years of the Town’s noise pollution standard) are significantly affected.

By the definition employed by the Town in its DEIS, even if the noise pollution incidents were to double, it would still be “insignificant.” Indeed, by the Town’s definition, only if the number of noise pollution incidents were to increase by a factor of 100, to a billion a year (which would make the East Hampton Airport more than three times busier than the busiest airport in the world, Hartsfield-Jackson in Atlanta) would the affected area, as measured by the Town, begin to approximate the airport’s actual 45 square mile noise footprint (*see*, Appendices 2 and 3, Map 6, Base Case 2008 Map with Dnl overlay).

The first map in Appendix 3, numbered Map 7, shows the geography and count of noise pollution incidents. Then there are three maps that show progressively the “65 Dnl contour” and contours that represent 10 times as many aircraft operations noise pollution incidents and 100 times as many. The three Dnl contours are combined in Map 4. Maps 5 and 6 show the full geographic extent of airport noise pollution, in contrast to the contours, but without any sorting of the incidents. In the final Map 8, the three Dnl contours are overlaid on the map of noise pollution incidents. It can be readily seen that even the contour that assumes a 100-fold increase in aircraft operations (representing more than three times the annual operations of Hartsfield-Jackson in Atlanta, the world’s busiest airport) does not cover the area currently subjected to airport noise pollution as defined by the Town. The standard the Town uses to assess airport noise for purposes of

the DEIS is akin to measuring one's daily weight gain by getting on a scale designed to measure the gross weight of tractor-trailers.

The Town achieves this result by applying the FAA's standard of measurement of aircraft noise. This standard exists for one purpose. By Federal regulation, the FAA has adopted the level of 65 Dnl as its standard of significance for purposes of its own compliance with the National Environmental Policy Act ("NEPA"). The FAA applies this same standard whether it is dealing with a small, rural airport located in an environmentally sensitive place such as East Hampton or with Kennedy Airport. Whether or not the standard makes any scientific sense, applied in some contexts or any contexts, by regulation this standard is the level of significance for NEPA.

The FAA's standard is in no sense "mandatory" for a local airport except with respect to the FAA itself and its own compliance with NEPA. The Town of East Hampton is not bound by NEPA or obliged to respond to NEPA, except to this limited extent: If the Town of East Hampton requests that the FAA take some action, such as approving a Town "airport layout plan" as a basis for future FAA funding or actually issuing an FAA airport improvement grant, the FAA requires the Town to measure aircraft noise using the FAA's model and standard of significance *so that the FAA can demonstrate its own compliance with NEPA*. This is no different than the Town requiring a private project sponsor requesting a Town approval to furnish the information, in the manner the Town requires, for the Town to demonstrate its own compliance with SEQRA. But make no mistake, the Town is bound to comply with SEQRA, not NEPA, and there is no SEQRA regulation that permits the Town to apply an arbitrary standard that, by Federal regulation, applies to FAA compliance with NEPA.

SEQRA compliance is rooted in reality and insists upon the presentation of "relevant and material facts upon which an agency's decision is to be made."

"The purpose of an environmental impact statement is to provide detailed information about the effect which a proposed action is likely to have on the environment, to list ways in which any adverse effects of such an action might be minimized, and to suggest alternatives to such an action so as to form the basis for a decision whether or not to undertake or approve such action." SEQRA, Sec. 8-0109(2).

To understand how grossly inappropriate the FAA standard of significance is when applied to East Hampton and East Hampton Airport, it is necessary to consider some technical facts. As explained by the DEIS in its Appendix B, a sound level of 65 Dnl represents an average noise level of 65 dBA (the Town's standard for daytime noise pollution) *for a full 24 hours a day, 365 days a year*. This literally means that a noise source could project sound across a residential boundary at a level just above 65 dBA (and just below 55 dBA at night), thereby exceeding the Town's standard for noise pollution, 23.5 hours a day, 365 days a year without exceeding the FAA's standard for significant noise.

Why is the 65 Dnl standard so insensitive? Because it averages noise with periods of quiet. This is explained more fully in the memorandum of the Noise Pollution Clearing House (Appendix 2). Perversely, while the DEIS rhetorically acknowledges that it is the extremely quiet background level of noise in East Hampton that makes aircraft noise so obtrusive, the averaging of this quiet with the noise only serves to lower the noise as measured by the FAA's standard. One can only imagine what would occur if someone arrested for a gross violation of speed limits were to come before a judge and plead that he had been stuck in traffic for most of his trip so that his "average speed" was well below the limit.

By its own standard of significance, the FAA deems an area subjected to noise in excess of 65 Dnl to be "incompatible" with residential use. Thus, according to the FAA, and the Town of East Hampton by its abandonment of its own standard and embrace of the FAA standard, significant aircraft noise only exists in an area rendered uninhabitable by noise, or, at best, an area in the immediate area of the airport containing 80 homes. Thus, the Town of East Hampton, for purposes of this DEIS only, now considers noise pollution to occur not in any residential area where it actually occurs, but exclusively in the small area rendered uninhabitable by noise, the airport itself, and its immediate surroundings.

In the real world, thousands of homes are affected by what the Town of East Hampton defines as noise pollution due to aircraft operations at East Hampton Airport. The first map, numbered Map 7, contained in the Noise Pollution Clearinghouse study shows the true geographic extent of the aircraft noise pollution. The area subjected to

aircraft noise pollution more than 500 times per year comprises 45 square miles and with an estimated population of 12,600 that implies 3,000 homes based on the INM's standard of 4.2 people per household.

In East Hampton, these household and population estimates represent a significant undercount because the INM is based on census data, and the year-round population that would be included in the census on the East End is approximately 30% or less of the summer population. As the number of homes affected is inferred from the INM using its assumption of 4.2 persons per household, to the extent that the census population understates the summer population, the count of homes is likewise understated. If the census population in the affected area is 12,600 (more than 50% of the year-round population of East Hampton although many of those counted are in Southampton), that actually implies, not 3,000 homes affected, but approximately 10,000 homes affected and a summer population of 44,000 in the adversely affected area. Bearing in mind that the area of East Hampton is 70 square miles and that adjacent areas of Southampton are comparably dense, 45 square miles equates to 64% of the area of East Hampton. Sixty-four percent of a summer population of 70,000 would be almost exactly 44,000. Likewise, 64% of East Hampton's approximately 17,000 homes would be just under 11,000. By all measures, the estimate of 10,000 homes subjected to airport noise pollution is reliable.

Accordingly, any proper environmental study must also take note and adjust for the fact that during the summer months, when aircraft operations are at their peak, local population is also at a peak, as much as four times the resident population during the winter. Many more homes are actually occupied. The months of July and August represent 21% of annual aircraft operations; they produce 58% of annual noise complaints. This is a ratio of 2.8:1, comparable to the increase in population. A summer rent can be 80% of annual rent, also reflecting the unique character of East Hampton as a summer retreat.

In contrast to the affected population, the airport serves 100 based aircraft of which at least half belong to people who reside in other towns. Ignoring residency, the 100 based aircraft represent 6/10 of 1% of East Hampton households. The approximately 5,000 annual airport arrivals bearing passengers equates to 15,000 to 20,000 persons

arriving each year by air, although many no doubt go from the airport to Southampton. This is approximately ½ of 1% to 1% of East Hampton’s total annual arrivals. Thus, the airport serves at best 1½ % of the East Hampton population. Adversely affected homeowners therefore outnumber airport users by a factor of 30 or 40 to one. The Town Board will have to put its thumb on the scale rather heavily to conclude that the social and economic benefits of airport traffic outweigh the environmental, social, and economic costs. That is all the more reason that the Town Board must fully disclose and publicly consider all practicable mitigative measures, including those that require exercise of its authority as airport proprietor.

The Town cannot meet its SEQRA obligations by simply declaring that noise pollution does not exist and refusing to measure it by the Town’s own community standard. Under Sec. 617.7 of the SEQRA regulations,

“(3) The significance of a likely consequence (i.e., whether it is material, substantial, large or important) should be assessed in connection with:

- (i) its setting (e.g., urban or rural);
- (ii) its probability of occurrence;
- (iii) its duration;
- (iv) its irreversibility;
- (v) its geographic scope;
- (vi) its magnitude; and
- (vii) the number of people affected.”

By inappropriately applying to itself the Federal regulation that applies to the FAA, the Town addresses exactly none of the required factors.

The Noise Pollution Clearing House study also segregates noise pollution events according to whether they are generated by helicopters, jets, other aircraft or at night. Approximately half of the noise pollution is produced at night. This makes clear that the single biggest gain in noise mitigation would come from enforcing the 1989 Airport Master Plan nighttime curfew on jets and similarly noisy aircraft. The numbers also give

a sense of the magnitude of noise mitigation that could be achieved by managing helicopter traffic.

Daytime noise pollution incidence breaks down as follows, compared with the percentage of 2008 operations and complaints. Errors are due to missing data or rounding.

	Operations	Violations	Complaints
Stage 2 Jet		1%	
Stage 3 Jet	11%	12%	7.4%
Turbo		5%	
Twin	10%	10%	
Single	56%	29%	7.6%
Heli	<u>22%</u>	<u>44%</u>	<u>85.1%</u>
Total	99%	101%	100.1%

Helicopters generate violations at twice the average rate and nearly four times the rate of single-engine operations. Jets generate violations at twice the rate of single-engine operations. Helicopters generate complaints at an even higher rate than they do violations. The ratio of helicopter complaints to helicopter operations is 28 times the ratio of single-engine complaints to single-engine operations, representing four times as many violations and seven times as many complaints per violation. The ratio of jet complaints to operations is five times that for single-engine airplanes, two times as many violations per operation and more than two times as many complaints per violation.

These differences very likely reflect the effects that simple counting of violations does not capture, the environmental impact of duration, volume about the noise pollution threshold, and the mix of audio frequency components of the noise that the Town noise pollution ordinance addresses with sub-limits. Jets and helicopters can be much louder than single-engine airplanes, the noise contains more high frequencies for jets and more very low frequencies for helicopters, and helicopter noise can be sustained. The DEIS notes all of these aspects of annoyance, but then ignores its own note, making no effort to assess the environmental impact of these differences. Overall, night and helicopter operations together account for approximately 70% of noise pollution incidence. Thus, these are the noise sources that mitigation can address with the least effect on air traffic.

Using its own measure of noise pollution and applying that standard to the “range of reasonable alternatives,” the Town could inform itself and the public of what, for example, the choice of Alternative 1 would mean for the reduction in aircraft noise pollution, or what imposition of the standards and limits applied in the City of New York (a much less noise-sensitive environment than East Hampton) would mean for the reduction in aircraft noise pollution, or what the full exercise of the Town’s authority as airport proprietor could achieve, and at what cost in reduction in aircraft traffic and any social or economic benefits that can be shown to flow from aircraft traffic.

The Town is affirmatively obliged by SEQRA regulation Sec. 617.11 to certify that:

“consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.”

The Town renders its own good faith compliance with this obligation impossible by applying a noise standard that declares virtually all noise pollution as defined in its own local ordinance not to exist and by ignoring all of the particulars of noise, volume, duration, audio frequency, repetition, that bear on how offensive it is.

The case of *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners*, 111 Cal.Rptr.2d 598, 2001, in the California Court of Appeals, is instructive. In that case, an environmental impact statement applying to an airport improvement project applied a test (CNEL) that is nearly identical to the Dnl test, with the same level, 65 CNEL, of “significance.” The court found that the EIR (their nomenclature for an EIS) under the California Environmental Quality Act was deficient and set it aside because it failed to provide, in addition to a CNEL analysis, the most fundamental information about the project’s noise impacts, specifically including the number of additional nighttime flights that would occur under the project, the frequency of those flights, the number of people affected, and the effect on their sleep.

The California statute is very similar to SEQRA. As described by the court:

"In addition to "provid[ing] public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment" (§ 21061), the EIR must "describe feasible measures which could minimize significant adverse impacts" and "describe a range of reasonable alternatives to the project." (Guidelines, §§ 15126.4, subd. (a)(1), 15126.6, subd. (a).) Among the alternatives, the report must evaluate "[t]he specific alternative of 'no project[.]'" (Guidelines, § 15126, subd. (e)(1).) These sections reflect the legislative policy "that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects" (§ 21002.)" . . .

It is worth quoting at some length what the California Court of Appeals said in throwing out the EIR, as so much of the language could be applied directly to East Hampton and its DEIS under SEQRA:

"A prejudicial abuse of discretion occurs " if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process." . . .

"In sum, the determination of EIR adequacy is essentially pragmatic. Whether an EIR will be found in compliance with CEQA involves an evaluation of whether the discussion of environmental impacts reasonably sets forth sufficient information to foster informed public participation and to enable the decision makers to consider the environmental factors necessary to make a reasoned decision. Preparing an EIR requires the exercise of judgment, and the court in its review may not substitute its judgment, but instead is limited to ensuring that the decision makers have considered the environmental consequences of their action." . . .

"The EIR concluded that noise impacts would only be significant if, over a 24-hour period, the average noise levels either 1) increased by more than 1.5 CNEL in those areas already experiencing noise levels greater than 65 CNEL, or 2) caused the noise levels in an area to exceed 66.5 CNEL [virtually the same standard of significance applied by the Town of East Hampton in its DEIS]." . . .

"The EIR concluded that the noise levels would decrease, despite the substantial increase in flights, because jet aircraft are becoming quieter, and federal law requires air carriers to convert their noisier "Stage 2" jet engines to quieter "Stage 3" engines by 2000. As a result, in 2000 even with the ADP, there would be no aircraft noise impacts that qualified as significant [the same conclusion reached by the Town in its DEIS for the same reason]." . . .

"The Legislature has declared in CEQA that "it is the policy of the state" to "[t]ake all action necessary to provide the people of this state with ... freedom from excessive noise." (§ 21001, subd. (b).) The Legislature has further declared that it is the state's policy to "[r]equire governmental agencies at all levels to consider qualitative factors as well as economic and technical factors" (§ 21001, subd. (g), italics added.) Thus, through CEQA, the public has a statutorily protected interest in quieter noise environments [as is the case under SEQRA]." . . .

"By contrast, in implementing NEPA, the FAA has developed specific quantitative significance criteria for measuring aviation noise. (See generally 40 C.F.R. § 1501.3(a) (2001).) The FAA has determined that a significant noise impact would occur if a noise analysis indicates "the proposed action results in an increase within the DNL 65 db contour of DNL 1.5 dB or greater on any noise sensitive area." (U.S. Dept. of Transportation Federal Aviation Admin., Policies and Procedures for Considering Environmental Impacts (June 14, 1999), p. 45.)" . . .

"[I]mplementation of the ADP could increase a community's nighttime noise level to 64.9 CNEL, and under the sole criterion of the CNEL metric, this increase would not create a significant impact for purposes of CEQA. *This conclusion is derived without any meaningful analysis of existing ambient noise levels, the number of additional nighttime flights that will occur under the ADP, the frequency of those flights, to what degree single overflights will create noise levels over and above the existing ambient noise level at a given location, and the community reaction to aircraft noise, including sleep disturbance.*" [Italics added.] . . .

"The probability of being repeatedly awakened by multiple single-event sounds can be calculated, given sufficient data. The appendix to the EIR included a technical treatise entitled, "Description of Noise and its Effects on People." This document describes a supplementary single-event noise analysis used for predicting what percentage of the population is expected to be awakened by an aircraft overflight. The treatise explains, "*[T]he sound exposure level [SEL] has been found to be the most appropriate and useful descriptor for most types of single event sounds including aircraft fly-bys.*" [Italics added.] . . .

At page IV-227, the DAMPR says this:

"The single most effective means to curtail airport noise impact is by instituting single event noise levels, usually measured at the approach and departure measurement points specified in Federal Aviation Regulations Part 36. . . . Single event noise level limits, especially when these can be enforced through noise monitoring, are the fairest and most reliable way to impose limitations on cumulative noise impact.

Obviously, the Town already knows what the California Court of Appeals knows, that the SEL measure of noise is the “most appropriate and useful” and that managing noise on this basis is the “fairest and most reliable.” The Second Circuit Court of Appeals said essentially the same thing in *National Helicopter* when it threw out noise management based on aircraft weight and invited the City of New York instead to manage noise directly based on the SEL produced by a given aircraft operation.

There is no justification for the Town of East Hampton failing to apply the same standard, the very standard contained in its own noise ordinance and recognized by the Second Circuit Court of Appeals, in measuring noise impacts and the relative environmental costs and benefits of the range of reasonable alternatives to its preferred alternative.

2. The DEIS, based on the DAMPR, and the Town arbitrarily and capriciously exclude from consideration, upon stated grounds that are both clearly incorrect and self-contradictory, the alternative of maintaining Runway 16-34 as the secondary runway.

At page 52, the DEIS notes that the existing Runway 16-34 directly impacts only undeveloped land and disturbed land used in the past for industrial mining. By contrast, the abandoned Runway 4-22, that the Town now proposes to reconstruct and reopen while discontinuing use of Runway 16-34 as a runway, adversely impacts commercial, industrial and residential uses.

Figure III-31, on page III-115 of the DAMPR, discloses that Runway 16 exposes 43 homes to noises in excess of 65 dBA (the standard set in the Town’s own noise ordinance) and Runway 34, the opposite direction, imposes such noise on no homes at all. In contrast, Runway 4 imposes such noise on at least 73 homes and Runway 22 on at least 253 homes. From the standpoint of noise, Runway 16-34 is clearly preferable. What factors weigh in the other direction?

All airport planning documents going back to 1980 disclose that the crosswind coverage of Runway 16-34 combined with the main runway, Runway 10-28, is superior

to the crosswind coverage provided by Runway 4-22 combined with the main runway. This is confirmed again by the wind rose analysis at pages I-54 to I-59 of the DAMPR. There is a qualitative statement on page 52 of the DEIS that Runway 16-34 is better aligned with the winter winds and Runway 4-22 better aligned with spring, summer and fall winds. However, there is no data to support the claim, particularly no wind speed data that would speak to the issue of whether the crosswind components are better addressed by one runway or the other. The winds are lighter in the warmer months. Thus, Runway 4-22 may be better aligned in the warm months, but if the winds are light, there may not be enough of a crosswind component to make a difference.

The relevant difference is, by FAA standards, a crosswind that exceeds 10.5 knots for light aircraft. Higher crosswind limits apply to larger aircraft. During the warmer months and when the airport is more active, the mix of aircraft operating at an airport is the most diverse. The preferred runway for use by this aircraft mix is governed by the length of the runway required by the most demanding aircraft. Therefore, Runway 10-28 is designated as the active runway and all aircraft are to position themselves in the airport traffic pattern to use that runway. Runway 10-28 provides 92.85 percent wind coverage for the critical design aircraft operating at the airport and 86.69 percent for light aircraft. Only when the crosswind component is so severe that the light aircraft cannot safely utilize that runway should the pilot of that aircraft opt to use another runway more aligned with those wind conditions.

Of the two secondary runways, Runway 16-34 offers better wind coverage than Runway 4-22 when combined with Runway 10-28. That is, when there is an excess crosswind component on Runway 10-28, Runway 16-34 is more likely than Runway 4-22 to be aligned so as to reduce the crosswind component to an acceptable level. In the case of aircraft operating on two different runways, all pilots must be ever vigilant with respect to radio communications and visual observations to ensure their separation from other aircraft, some of which and all the large aircraft will continue to use Runway 10-28. This introduces an additional element of flight safety risk and safety on the ground below and underscores why aircraft utilize the active runway whenever possible, even accepting higher than normal crosswind conditions. This is discussed at some length in the memorandum of Ron Price, airport engineer and consultant (Appendix 6).

At the September 17, 2009 hearing, there was much praise from local pilots for the Town Board's preferred alternative of re-opening of Runway 4-22. They submitted to the Board a report by the engineering firm of Greenman-Pedersen purporting to show the wind coverage superiority of Runway 4-22 in the summer when airport usage is higher. However, the Greenman-Pedersen report relied only on data for wind direction, making a *pro forma* assumption of wind speed at 25 knots. There was no actual data about wind velocity, that is, both direction and speed. As described in the attached memorandum (Appendix 6), analysis of crosswind coverage must be based on wind velocity, not wind direction alone. Hence, the Greenman-Pedersen report cannot support its conclusion in a professional, aviation industry acceptable manner. As stated above, all reports computed in the technically correct manner show the crosswind coverage of Runway 16-34 to be superior to that of Runway 4-22.

The DEIS goes on to explain that the alternative of maintaining Runway 16-34 as the secondary runway was preliminarily favored, precisely on account of its "more compatible land use." At a Town Board meeting held on August 5, 2008 (described by Charles Ehren in his letter, Appendix 8), the airport manager made a presentation, accompanied by maps and photos, to the effect that Runway 16-34 was superior to Runway 4-22 both from the standpoint of both crosswind coverage and land use compatibility as well as risk to homes from aborted landings. Thus, the Town is already informed by its own professionals that Runway 16-34 is superior from both an environmental and safety point of view. On that basis, the sense of the Board on August 5, 2008 was that Runway 4-22 should be permanently abandoned.

In December 2009, however, this decision was reversed because, as recounted in the DEIS, Runway 16-34 "was examined in detail to determine its adequacy to current FAA design standards. Providing a parallel taxiway to Runway 16-34, a design necessity now lacking, was found to have a series of key disadvantages." Accordingly, the decision to close Runway 16-34, convert it into a taxiway, and reconstruct and reopen Runway 4-22, despite its inferiority from the standpoint of both crosswind coverage and neighborhood impact, has purportedly been driven by the "design necessity" of a parallel taxiway for the secondary runway.

To that end, the DEIS recites that consideration was given to constructing a full

parallel taxiway to the west of Runway 16-34, relocating Runway 16-34, and even relocating the entire terminal building and terminal area, all of which were excluded as impracticable. Consideration was also given to locating a taxiway to the east of Runway 16-34, but dismissed because there would be a loss of aircraft parking space that purportedly could not be replaced. DEIS at pages 54-55.

“Alternate layouts to the existing ramp, or supplementing the current paved area by paving additional space would not yield sufficient space to offset the loss that would occur by adding the parallel taxiway. Further, although the existing design aircraft is a small business jet, the Airport frequently [not very frequently] accommodates much larger business jet aircraft which, if two were parked in front of the existing terminal, would block the proposed taxiway.” DEIS, page 55.

The preceding statement is flatly incorrect. As a result of the misapprehension of the Town’s airport planners, or their indifference to community disturbance, or other matters not disclosed in the DAMPR or the DEIS, the Town prematurely and improperly discarded at least two alternatives to its preferred alternative each of which satisfies all of the objectives of the preferred alternative with less environmental impact, at a lower financial cost, and with increased safety and efficiency for airport operations.

One would have thought that with all of the consideration of the “design necessity” of a parallel taxiway for the secondary runway, the “preferred alternative” would at least provide for such. It does not. It provides no taxiway at all for Runway 4-22. Hence, we are to understand that compliance with FAA design standards requires a full parallel taxiway for Runway 16-34 and no taxiway at all for Runway 4-22. There is no such rule or standard. The Town has simply failed to notice or note that its own preferred alternative completely fails to give effect to the design and safety consideration that is purportedly its entire basis – the “design necessity” for a full parallel taxiway for the secondary runway.

To make sense out of what appears on its face to be comically inept, it is necessary to state the considerations that the Town fails to disclose: The purpose of closing Runway 16-34 and converting it to a taxiway is obviously not to provide a taxiway for the reopened Runway 4-22, which it clearly fails to do. Rather, the purpose is to transition large aircraft, Gulfstreams and the Dassault Falcon, to the north end of the apron where they can be serviced by Sound Aircraft, the FBO there. One can only

speculate as to why the Town does not disclose that it is re-designing key elements of the airfield to accommodate much larger aircraft than those the airport is ostensibly designed for, the Cessna Citation V (an ARC B-II aircraft). This does not preclude larger, more demanding aircraft from utilizing the airport, but that does not imply that the facilities are to be provided to accommodate the occasional use by such aircraft. They are expected to fit into the airport as best possible without jeopardizing its use by the aircraft that the airport is intended to serve.*

To understand that this is indeed the case, it is necessary to explain various aspects of airport design in accordance with FAA standards, FAA Airport Design Manual, Advisory Circular 150/5300-13. Although the DEIS states that Runway 16-34 is lacking the “design necessity” of a full parallel taxiway, this statement is at best misleading. Runway 16-34 has a partial parallel taxilane running along the west edge of the apron. The difference between a taxilane and a taxiway is that a taxilane is integrated with an apron whereas a taxiway stands alone. Either a taxiway or a taxilane can be designed in accordance with FAA standards. If the Town’s purpose were in truth to achieve a full parallel taxiway for the secondary runway, the easiest means of doing so would be to extend Taxiway E, as shown on Fig. 1-1 of the DEIS, a short distance southeast to the end of Runway 16-34 and to build a short taxiway from the north end of the apron to the north end Runway 16-34. But this would only make sense if Runway 16-34 were to remain as the secondary runway. A full taxiway for Runway 4-22 would be a vastly more expensive proposition and the Town’s alternative does not provide for one.

However, according to FAA design standards, the centerline of the existing taxilane is in fact too close to the centerline of Runway 16-34. If the runway were being designed exclusively for small B-I aircraft, the design category that the Town applies to the secondary runway, then the separation between the runway and the taxilane must be 150 feet. At present, it is only 105 feet.

The centerline of the taxilane could be moved east by 45 feet just by re-painting it. This would, however, result in the loss of eight aircraft tiedowns when the separation

* It seems likely that the fact that the Sound Aircraft jet apron was built by the Town in 2001 to settle a lawsuit by Sound Aircraft alleging the fraudulent granting of a hangar lease by the Town may have factored into the Town Board’s thinking. This matter is discussed within at page 29.

of the taxilane from the runway is combined with the required separation of aircraft parking from the taxilane (39.5 feet). The eight tiedowns could be replaced with 26,000 square feet of new pavement at the north end of the apron for which, contrary to the statement in the DEIS, there is ample room assuming only that Runway 4-22 remains closed and Runway 16-34 remains open (*See*, physical layout, Appendix 2).

As stated, the required separation between a taxilane centerline and aircraft parking is 39.5 feet, if the taxilane is designed for group I aircraft. A taxiway requires 44.5 feet of separation. This too could be accommodated with the loss of only the same eight aircraft tiedowns to be replaced with new pavement at the north end of the apron. Thus, when the DEIS says that there is not room on the apron for a full parallel taxiway for Runway 16-34, that is incorrect, because Runway 16-34 is not intended for use by B-II and larger aircraft. Rather, what there is not room for on the apron is a taxilane to the Sound Aircraft parking apron that meets the much larger FAA standards for separation from parked aircraft, and from Runway 16-34, required for large aircraft. Thus, the reason that a complying taxilane/taxiway cannot be created on the apron has nothing to do with Runway 16-34, as the Town claims in the DEIS, and everything to do with the movement of large aircraft.

Even given the Town's apparent but unstated intention to build a taxiway that has nothing at all to do with the secondary runway but is in fact for the purpose of transitioning large aircraft, the Town has chosen to restrict itself to the worst of the available alternatives, not only from the standpoint of cost and the environmental impact (or "land-use compatibility" as the Town prefers now to frame it), but also from the standpoint of airport safety and efficiency.

As noted, the Town claims that its preferred alternative is driven by the "design necessity" of a full parallel taxiway for the secondary runway. Yet, the Town's alternative does not provide one. That is rather odd. The simplest way to achieve this for the secondary runway would be to move the taxilane 45 feet to the east, build new tiedowns for eight aircraft, then extend the taxiway to both ends of Runway 16-34. This, however, would not provide a means to transition large aircraft to the Sound Apron.

The simplest way to accomplish that would in turn be to convert to a taxiway the section of old runway 4-22 that lies between Taxiway A, the existing partial parallel

taxiway for the main Runway 10-28, and the north end of the apron where Sound Aircraft is located. This section of old 4-22 is in fact currently in use as a taxiway for large aircraft to reposition to Sound Aircraft, but it is in poor condition and, due to the gap in the main parallel taxiway, is not accessible from the terminal area without taxiing on the main runway. Use of a runway as a taxiway is undesirable for safety and is the reason why parallel taxiways are recommended for all runways (*see*, memorandum of Ron Price, Appendix 6).

With the completion of the full parallel taxiway for the main runway, a proposed project to which no one objects and that appears to have no environmental consequence other than to enhance safety, old 4-22 would be accessible from the terminal area by taxiway alone, without any need to taxi on the main runway. Paving 4-22 as a taxiway for large aircraft would entail an area 1,000 feet by 35 feet at a cost of \$800,000 to \$900,000, still far less than the \$3 million cost of reconstructing runway 4-22. To serve as a taxiway for large aircraft, a similar length and width of 16-34 would have to be paved and strengthened and a cost of approximately \$300,000. The marginal cost is therefore only \$600,000, much less than the cost of a new runway.

In a very odd turn, the Town's preferred alternative also requires a lot more pavement than necessary to achieve even its stated purposes. If Runway 16-34 were going to be turned into a taxiway, there is no need for it to exist at all south of Taxiway D given the Town's stated intention to build an extension to Taxiway G in order to transition large aircraft from the FBO on the south side of the field to the terminal area or the main runway. To make matters worse, the Town appears to have omitted the extension of Taxiway G from its list of capital costs on page III-201. This facility would be approximately 38,000 square feet at a cost of approximately \$760,000. The Town has also omitted from its list the cost of moving Daniels Hole Road, 44,000 square feet of paving, at a cost of \$500,000 to \$800,000 depending on the grading and drainage needed. The cost of displacing the threshold of Runway 28 is, by comparison, approximately \$150,000. The DEIS states that no aircraft currently using the field would be excluded as

a result of the displacement. Hence, there is no reason to move the road.*

Equally strange, while sufficiently concerned about aircraft from the FBO south of the field having to taxi across the main runway that it is willing to spend \$760,000 to address this condition, the Town's plan leaves the same condition unaddressed at the north end of the proposed 16-34 taxiway where, under the Town's preferred alternative, aircraft must actually taxi onto the active runway in order to reach the north end of the apron. While it is plainly undesirable for aircraft transitioning from the FBO south of the main runway to taxi on Runway 16-34, this condition would be relieved by completing the full parallel taxiway to the end of Runway 34. While such aircraft would still have to taxi across the main runway, this is not uncommon in general and is presently the case at Taxiway C, with no proposal for amelioration. Likewise, the parallel taxiway for the main runway will also cross either Runway 4-22 or Runway 16-34. Plainly, eliminating such crossings is not a consistent priority.

The Town also proposes to build a taxiway bypass at the end of Runway 28 so that aircraft need not wait for each other. There is no explanation of how often this condition actually occurs or why it is worth spending \$300,000 to avoid these occasions.

In the end it is almost impossible to make sense of the Town's conflicting agenda of requiring a full parallel taxiway as the basis for re-opening Runway 4-22 but then not providing one. If the full parallel taxiway is not indeed important (meaning that eliminating taxing on runways is not considered compelling), the alternative of paving abandoned 4-22, shifting the taxilane east by 45 feet, and replacing eight lost parking tiedowns, is by far the cheapest alternative, while safer and more environmentally friendly than the Town's preferred alternative. The addition of an extension to Taxiway E, at a cost of approximately \$480,000 for 24,000 square feet, would eliminate the need to extend Taxiway G.

Thus, the "Simple alternative" would be to continuing to use old 4-22 as a taxiway for large aircraft while completing the full parallel taxiway for the main Runway 10-28 and the southern end of the parallel taxiway for Runway 16-34. Presented as

* The pilots' association submitted to the Town a study purporting to show that it is unnecessary either to move the road or the runway threshold. This study, along with the pilots' association wind analysis, is discussed in Appendix 6. In neither case are the conclusions of the study technically supported or supportable.

marginal costs and pavements, the Simple alternative and the Town's preferred alternative compare thusly:

	Pavement (sq ft)	Cost
Town's Preferred Alternative		
Complete Taxiway A	32,000	\$800,000
Runway 4-22	142,000	3,000,000
Taxiway 16-34	36,000	300,000
Taxiway G	38,000	760,000
Taxiway D-1	11,000	220,000
Move Daniels Hole Road	<u>44,000</u>	<u>650,000</u>
Total	<u>303,000</u>	<u>\$5,730,000</u>

	Pavement (sq ft)	Cost
Simple Alternative		
Taxilane restriping	-0-	\$30,000
8 new tiedowns	26,000	520,000
Complete Taxiway A	32,000	800,000
Taxiway 4-22	35,000	900,000
Complete Taxiway E	24,000	480,000
Threshold displacement	<u>-0-</u>	<u>150,000</u>
Total	<u>117,000</u>	<u>\$2,880,000</u>

The difference in cost is nearly \$3 million in favor of the Simple alternative. The difference in pavement is 186,000 square feet, approximately 4.6 acres. Under the Simple alternative, there is nearly a full parallel taxiway for the secondary runway whereas there is none under the Town's preferred alternative. The Simple alternative provides for the movement of large aircraft to the northern end of the apron while preserving the more compatible land use and crosswind coverage afforded by Runway 16-34. On financial, safety, and environmental grounds it is superior and must be considered. Instead it was abandoned before the DEIS was begun.

The Committee has also provided to the Town an outline for a conceptually more

nanced approach that has the added benefit of separating large aircraft from small aircraft on the apron, eliminating the need to transition large aircraft to the north end of the apron, and reducing the need to reposition large aircraft. All of these aspects enhance safety. The location of the large aircraft on the southern end of the apron in turn eliminates the need to repave either old 4-22 or Runway 16-34 as a taxiway, as small aircraft can be accommodated on the 16-34 taxilane/taxiway. The “Committee alternative” takes advantage of the fact that Sound Aircraft has before the Town a proposal to build a new, 20,000 square foot jet hangar. As this is neither built nor approved, its prospective location can be changed to the southern end of the parking apron to make the operation of the parking apron safer, more efficient and more favorable to Sound Aircraft. This is explained in detail in Appendix 5.

As a result, the Committee alternative is actually less expensive than the Simple alternative:

	Pavement (sq ft)	Cost
Committee Alternative		
Taxilane restriping	-0-	\$50,000
32 new tiedowns	66,000	1,320,000
Complete Taxiway A	32,000	800,000
Complete Taxiway E	24,000	480,000
Threshold displacement	<u>-0-</u>	<u>150,000</u>
Total	<u>122,000</u>	<u>\$2,800,000</u>

Under the Committee alternative, the additional apron at the north end of the current apron incorporates the parallel taxiway at that end of Runway 16-34. Thus, the Committee alternative, at the least total cost, achieves a full parallel taxiway for the secondary runway, separates large and small aircraft on the ground, and maintains Runway 16-34 in operation with its more favorable characteristics for both crosswinds and land use compatibility. There is considerably less pavement to maintain. From a safety, financial, environmental, and operational perspective, the Committee alternative is strictly better. This is all more fully described in Appendices 4 and 5.

Under SEQRA, the Town must consider “human health.” As both the Simple

alternative and the Committee alternative provide better taxiway access to the secondary runway (a full parallel taxiway in the case of the Committee alternative), better crosswind coverage, better safety for homes on the ground, and, in the Committee's alternative case, far better separation of large and small aircraft, they are safer than the Town's Preferred alternative with no loss of air traffic. The safety importance of a full parallel taxiway is explained in the memorandum of Ron Price (Appendix 6).

As such, excluding either, let alone both, of these alternatives from consideration under the SEQRA obligation to consider the "range of reasonable alternatives" is arbitrary and capricious.

3. The Town fails to consider at any point in the process the alternative of continuing in effect and, by exercising its authority as airport proprietor, fully implementing the extant, never-amended 1989 Airport Master Plan.

Any planning for the airport cannot fail to take note of the fact that the current *status quo* at the airport is the result of an extended pattern of chicanery on the part of successive Town Boards.

In the early 1980s, the Town proposed to rebuild the airport for business jet without any SEQRA analysis. Citizens sued and the Town lost. In response, it began in 1985 to write an Airport Master Plan on the basis of a full environmental impact statement.

In 1989, the Town adopted, on the basis of a full Final Environmental Impact Statement, an Airport Master Plan. That plan found that jet noise and weekend touch and gos were already a significant detriment to the environment and determined that the airport should not be designed for business jets but for "small aircraft" with a gross takeoff weight of not more than 12,500 pounds. To that end, the plan specifically prohibited widening the main runway, then 75 feet, or moving Daniels Hole Road, so that the airport would not meet the design standards for larger aircraft. The plan also found that noise mitigation was required. In addition to suggested, voluntary maneuvers for aircraft taking off and landing, the plan called for a nighttime curfew on jet operations and a prohibition of touch and gos on summer weekends, between noon Friday and noon

Monday.

The noise mitigation called for in the 1989 Airport Master Plan was never put into effect. The Town has repeatedly claimed that it cannot do so because of the supervision of FAA Grant Assurances. Yet, but for the successive acceptance of FAA grants subsequent to the adoption of the 1989 plan, the Assurances would have expired in 2003.

In 1996, the then supervisor submitted to the FAA an Airport Layout Plan Report that called for the airport to be developed for C and D Category aircraft, in direct contravention of the specific prohibitions contained in the Airport Master Plan. The FAA was led to believe that the study was the airport layout plan although the study had never been submitted to any public scrutiny, had never been the subject of any environmental analysis in accordance with SEQRA, and had never been submitted for adoption by the Town Board. The FAA relied on this study as the *bona fide* ALP of the Town until it was successfully challenged by the Committee to Stop Airport Expansion, resulting in the 2005 settlement agreement shortening the duration of FAA Grant Assurances.

In 1998, the then Town Board, relying on the never-adopted 1996 ALP Report in order to obtain grant money from the FAA while at the same time denying that it was implementing the 1996 ALP Report or violating the 1989 Airport Master Plan, obtained FAA funding and widened the main runway to 100 feet. The NY State Supreme Court specifically found that the plan to widen the main runway violated the master plan although declined on procedural grounds to restrain the project. There followed a significant increase in jet traffic, particularly larger jet traffic, although the Town had vigorously denied in its legal papers that any such thing would occur.

In 2001, the Town wanted again to obtain FAA money in order to improve the parking apron by Sound Aircraft. This was in order to settle a lawsuit brought by Sound Aircraft when the Town Board passed over the higher bid by Sound for an empty aircraft hangar. The Committee to Stop Airport Expansion protested to the FAA that the only adopted ALP, dating to 1990, did not support the project. The Town then claimed that it could not find the original 1990 ALP and would therefore sign a "copy." However, the copy was not the same as the adopted ALP in that it provided for pavements at a higher load-bearing strength, as the FAA required as a basis for funding.

The author and signatory of the 1990 ALP as Deputy Supervisor when the ALP

was submitted, Pat Trunzo, a founder of the Committee, advised the Town that, of his certain knowledge, the Town was submitting a document that was not the same as the 1990 ALP. Indeed, it could not possibly have been because the FAA commented on the 1990 ALP complaining that the pavement strengths called for were not of the very level in the "re-signed" ALP. Had the re-signed ALP been as the 2001 Town Board claimed, the FAA would never have made those comments.

Despite this, the Town Board, after publicly calling Mr. Trunzo a liar, went ahead and obtained FAA money on the false document. This led to a Federal grand jury investigation. Upon being subpoenaed by the grand jury, the airport manager discovered in his files the original signed ALP. In searching for the original ALP, the Town Board had apparently failed to look in the airport's files. The original, bearing the signature of Pat Trunzo, stated exactly the terms that Mr. Trunzo had said it would and did not support the strengthening of the parking apron undertaken by the Town. This resulted directly in the settlement by the FAA of the Committee's action, a copy of which settlement is appended to the DAMPR.

Thus, the present airport and its present traffic and operations mix do not represent the outcome of the Town's duly adopted plan but something else, achieved only by ignoring that plan without ever publicly adopting another one. It is inappropriate therefore for the current Town Board not to consider as the "no action" alternative maintaining in effect and implementing the extant 1989 Airport Master Plan. The DAMPR tacitly acknowledges this when it states, on page V-263, that under the no action alternative the critical design aircraft for the airport would remain the Twin Otter, the category A-II aircraft designated in the 1989 Airport Master Plan.

For the Town to implement the 1989 Airport Master Plan and the mitigation it calls for, the key FAA Grant Assurances must be permitted to expire in 2014. The Town needs explicitly to consider this alternative in its DEIS -- the exercise of its authority as airport proprietor as contemplated by the duly adopted 1989 Airport Master Plan -- as this more fairly represents the *status quo* than the alternative of doing nothing and effectively abandoning the adopted plan.

Since the adoption of the 1989 Airport Master Plan, helicopter noise, which was not even worthy of mention in 1989, has become a serious problem. Today, it accounts

for half the total noise and 85% of noise complaints, which means that airport noise that was regarded as a problem in 1989 has more than doubled; the helicopter noise is in addition to the noise generated by fixed-wing aircraft.

This illustrates the pernicious affect of the Town taking FAA subsidies and tying its own hands in the regulation of the airport without first considering long-term environmental impacts as required by SEQRA. Had the Town not been subject to FAA Grant Assurances over the past decade when helicopter noise grew to become a serious problem, it could have adopted, by the exercise of its authority as airport proprietor, measures to protect the public from noise like those adopted by the City of New York and upheld by the Second Circuit Court of Appeals in *National Helicopter* -- exclusion during nights and weekends, a limit on the noise permitted by any single helicopter, and even the target of reducing noise by "47%." The alternative of exercising the Town's authority as airport proprietor must include the authority recognized by the Second Circuit. A base case scenario for this alternative would most sensibly include both the mitigation contemplated by the 1989 Airport Master Plan and the mitigation upheld by the Second Circuit.

Even in advance of the expiration of the relevant FAA Grant Assurances, there exist means to manage helicopter noise. The DEIS and DAMPR correctly state that all existing helicopters using East Hampton Airport are classified as Stage 2 aircraft for purposes of the Federal Airport Noise and Capacity Act ("ANCA"). Under ANCA, a municipal proprietor is in effect permitted to exercise its proprietary authority to manage noise produced by such aircraft, even by restricting their airport access. In order to exercise this authority, the proprietor must first prepare a Part 161 study that is essentially just the same sort of cost/benefit analysis, involving social, economic, and environmental factors, that the Town Board should be doing under SEQRA, but meeting particular formal requirements. Once the formal requirements are met, however, the FAA cannot interfere with the implementation of the proprietor's policy on substantive grounds. The FAA is limited in the case of Stage 2 aircraft to ensuring procedural compliance, that is, full disclosure of the relevant facts. (This is not the case with respect to quieter Stage 3 aircraft as to which the FAA can also make a supervening policy decision.)

The memorandum from the Town's aviation counsel, Peter Hirsch, attached as

Appendix 7, outlines a very conservative program for assuming and exercising the Town's authority over helicopter access to East Hampton Airport. The Town must consider the alternative of doing so either in conjunction with its various physical construction plans, as an alternative on its own, or as available and practicable mitigation.

4. The DEIS and the Town fail to take a "hard look," or indeed any look within the meaning of SEQRA, before choosing only a single alternative for further consideration.

The process followed by the Town stands SEQRA on its head. The Town candidly discloses in the DEIS itself, at pages v and vii of the Executive Summary, that it considered in the DAMPR "four broadly differing alternative future concepts" (although not an adequate range as will be discussed below). But then, prior even to commencing preparation of the EIS, the Town chose one alternative, alternative 2. "The East Hampton Master Plan Report considered four broadly differing alternative future concepts. . . . The Town considered all these alternatives and selected, after soliciting public comments, alternative 2 which was then subject to further refinement . . ."

As a result, alternative 2, the preferred alternative, is the only alternative analyzed in the DEIS for its environmental impacts. This fails under SEQRA for at least two reasons: First, the decision was effectively and explicitly made before the required information was either assembled or on the public record. Second, in making the choice amongst the alternatives described in the DAMPR, the Town cannot have considered, *and still is unable to consider*, the relative environmental impacts of a reasonable range of alternatives because only one alternative, the already chosen preferred alternative, has been evaluated for its environmental impacts. Page v of the Executive Summary states, correctly, the list of "proposed projects" analyzed in the DEIS. They consist entirely of the projects that comprise the preferred alternative. A thorough reading of the DEIS makes clear that no other alternative projects or alternatives that consider management as well as physical construction were analyzed.

The decision process employed by the Town therefore evades the requirement to take a "hard look" and weigh competing social, economic and environmental factors as

the basis for decision; by the standards of SEQRA there was indeed “no look” at all as environmental analysis had not even been started when the decision was made and all but one alternative, the preferred alternative, excluded from further consideration.

5. As it considered only one alternative, the Preferred alternative 2, the DEIS and the Town failed to consider in its environmental analysis a “range of reasonable alternatives,” specifically excluding from its environmental analysis the very alternatives considered in the DAMPR.

SEQRA wisely applies the most basic rule of analysis for any decision, no matter how big or small: What is the alternative? Any choice that fails to consider the relative costs and benefits of practicable alternatives fails the most fundamental test of rationality. For that reason, SEQRA requires not only that the environmental impacts of a given proposal be made explicit, but that the environmental impacts of a “range of reasonable alternatives” be made explicit and that the relative environmental costs and benefits be weighed against the relative social and economic costs and benefits of the alternatives. As a baseline, SEQRA explicitly requires that the “no action” alternative be considered so that, at the very least, the decision weighs the relative costs and benefits of taking or not taking the proposed action.

Obviously, it would be impossible, indeed absurd, to require consideration of every conceivable alternative and every variation on a theme. The permutations of even the projects listed as those for the preferred alternative would number in the hundreds. SEQRA imposes only the sensible requirement for consideration of a “range of reasonable alternatives.”

The DAMPR takes the Goldilocks approach, the mandatory do nothing, and a small, medium, and large alternative. To no surprise, the medium alternative is then chosen as the “preferred alternative.” It is “just right.” However, once the medium alternative is chosen, neither the small nor large alternative is subjected to any environmental analysis. The DAMPR makes a cursory stab at “alternatives analysis” comprising ten pages, V-257 to V-268, of its 400 pages of text and exhibits. Reading them shows that they are merely a statement of unsupported conclusions or

rationalizations unconnected to any data or analysis.

As an example, at page V-263, the DAMPR states that, "If the runways were reduced significantly, as suggested in this alternative, it could be expected that a considerable portion of the existing traffic would choose to not use East Hampton Airport. The traffic at the airport would be reduced to small single and twin engine aircraft." But, lest this be correctly understood as a benefit to the surrounding community and a means of reducing intrusive noise, the DAMPR immediately follows with the statement that, "It can be anticipated that a drastic increase in helicopter traffic would occur, should runways be shortened. Traffic patterns would be affected and may create an impact upon the surrounding community."

Other than these conclusory statements, the DAMPR makes no effort at any point to determine what air traffic would likely be excluded if Alternative 1 were chosen. Nor does it provide any support at any point in its voluminous 400 plus pages for the claim that helicopter traffic would "drastically increase" if alternative 1 were chosen. Common sense suggests that this is not at all the case. It assumes, without saying so, that passengers currently arriving by jet would arrive by helicopter. The only means for this to occur would be for jets to land at Gabreski Airport and transfer to helicopters rather than proceeding by car. Admittedly, the users of jets are typically wealthy, but, realistically, how many would charter helicopters to travel the 22 miles from Gabreski to East Hampton Airport, then to get into a car in any case for the balance of the trip? How many times is it worth changing vehicles when the distance to be covered is only 22 miles? What is the net time savings considering the necessary transfers as compared to proceeding by car? 30 minutes? 20 minutes? What does such a charter cost? Are there helicopters at Gabreski to charter for such purpose? Would they have to stage from some other airport thereby increasing the cost? Is it not as or more likely that those who can afford to arrive by jet and helicopter, and the charter services serving them, would simply shift to the use of "very light jets" whose operating characteristics both permit them to use a small airfield and render them even less obtrusive than many propeller-driven aircraft? Would this not in fact be the best possible outcome for East Hampton?

If the claim of increased helicopter traffic under alternative 1, offsetting the state reductions in other noisy traffic, were to be taken seriously, we might have expected the

DEIS to make some analysis of the likely traffic change in both directions and of the noise impacts, positive and negative, of those traffic changes. But the DEIS makes no analysis whatsoever of alternative 1, or alternative 3, or, for the most part of the no-action alternative.

Bearing in mind that all of the statements in the DAMPR "alternatives analysis" lack any factual support in the document (other than perhaps some of those that relate to the safety and efficiency of airport operations which is virtually the sole focus of the DAMPR), on page V-267, under the heading Potential for Community Related Impacts, the DAMPR states that, under the no-action alternative, "Community concerns regarding safety and noise impacts would remain unanswered." Under alternative 2, the "medium" alternative, it states, "Noise levels are below acceptable levels for the land uses that surround the airport." Under alternative 3, the "big" alternative, it says the alternative "would result in a significant increase in noise levels." Regarding noise levels under alternative 1, the DAMPR says . . . nothing. It does not dare to state the obvious which is that, of the alternatives considered, only alternative 1 has the potential to reduce the noise already suffered by the community. Having determined that it will do nothing to mitigate noise, as required by SEQRA, the Town Board prefers not to call the public's attention to the fact that noise mitigation is possible.

After their brief lives for the purpose of giving credibility to the "just right" alternative in the middle, the other alternatives disappear completely. Thus, we never get to find out, all things considered, what the relative traffic and noise impact of alternative 1 versus alternative 2 would be. While the DAMPR criticizes the no-action alternative for failing to address community concerns regarding noise, the fact is that the preferred alternative also does nothing to address community concerns regarding noise. Its sole and stated purpose, as set forth on page v of the Executive Summary of the DEIS, "is to improve the safety, efficiency, and economic viability of the East Hampton Airport."

Is a DEIS that complies with SEQRA permitted to omit completely from consideration any alternatives that address the 30-year history of community concern regarding noise originating from the airport while confining itself exclusively to consideration of alternatives that, "accommodate all existing traffic in a safe environment?" The answer is plainly, no.

There is no point in being coy about the real trade-off at issue with the airport. On the one hand, there is air traffic, helicopter, jet, and propeller-driven fixed-wing, and whatever social and economic costs and benefits can be claimed to flow from them if the DEIS or the DAMPR had bothered to document any of the social and economic costs and benefits which they do not. There is reported to exist a financial model for the airport created by the Town. Neither the structure and assumptions of the model nor any of its output have been publicly disclosed.

On the other hand, there is the noise generated by the air traffic, its impact on residents and their peaceful enjoyment of their own homes, and the social, economic, and environmental costs of that noise. Despite reams of paper, those are not documented anywhere in the DEIS or the DAMPR either, as discussed in detail above.

The fundamental balance to be struck is not at all about the particular airport infrastructure. It is clear that, apart from traffic and noise impacts, there is no material difference between one runway or taxiway configuration and another. The runway and taxiway configurations are not by themselves the core issue. They are a purely technical response to the fundamental decision as to what air traffic to serve, both in type and quantity. The only rational way in compliance with SEQRA to make the decision about the traffic to be served is to consider the relative social, economic, and environmental (chiefly noise) costs and benefits of a range of reasonable alternatives *OF AIR TRAFFIC*. The DAMPR starts down this road with its three Goldilocks alternatives, but then the Town abruptly and prematurely turns off that path, selecting the “medium” alternative as “just right” prior to preparation of the DEIS and thus without ever providing any information, other than very summary conclusions, on the social and economic costs and benefits of any of the three alternatives and without environmental analysis of any but the preferred alternative. That does not come close to meeting the demands of SEQRA.

For example, what are the capital costs of the three alternatives? We don't know. What possibilities are there to reduce or mitigate those costs? We don't know. What are the operating budgets associated with the three alternatives? We don't know. What changes in both revenue and operating cost of the airport are entailed by the three

alternatives? We don't know. How much revenue might be raised by charging passenger facility fees for those who actually use the facilities that East Hampton provides? We don't know. Who are the airport users? We don't know. Are they people who live or work in East Hampton or elsewhere? We don't know. How many of the people arriving at the airport, which lies on the boundary with Southampton, are headed for East Hampton and how many are using East Hampton's airport just to get to Southampton? We don't know. How many of the 100 based aircraft are owned by East Hampton residents? We don't know. How many are used with any frequency? We don't know. What does that imply about the actual number of people served by the airport? We don't know. How many households account for the passenger arrivals at the airport and what percentage of the East Hampton population is thereby served by the airport? We don't know. How many East Hampton residents are employed by the airport and its FBOs? We don't know. What is the net income of East Hampton residents derived from the airport after paying costs (such as for fuel) to factors located or residing outside East Hampton? We don't know.

On the other hand, how many people are adversely affected by noise from the airport, by its helicopters, jets, night operations, touch and gos? We don't know. What is the geographic scope of the area adversely affected? We don't know. What would be the difference in noise impacts upon residents if one or the other segment of the traffic, helicopters, jets, night operations, touch and gos, were eliminated or reduced? We don't know.^{*} Specifically, what would be the reduction in noise to the community -- the number of people favorably affected, the noise to which they would no longer be subject -- if alternative 1, or some variant of it, were selected? We don't know. We don't know any of these things and nothing in the DAMPR or the DEIS tells us.

There is a lot of information in those two documents. What is entirely missing is information about relative social, economic, and environmental costs and benefits of the air traffic implied by the reasonable range of alternatives that SEQRA says must be

^{*} Actually, now we do know to a reasonable approximation because the Committee to Stop Airport Expansion has done the work, attached as Appendices 2 and 3. But this analysis must be refined to reflect the alternatives to be considered in the DEIS and then included in the DEIS as the disclosure by the Town to the public. The Committee's work cannot by itself satisfy the Board's SEQRA obligations.

weighed by the agency to make a decision. Contrary to the explicit instruction contained in SEQRA Regulation 617.9, the DAMPR and DGEIS are "encyclopedic" rather than "analytical." The optimality of serving exactly the present air traffic level and mix is assumed without any examination.

6. The DEIS and the Town admittedly fail to consider at any point in the process any alternatives other than physical construction to satisfy aviation demand, excluding from their consideration any and all alternatives that include exercise of the Town's powers as airport proprietor.

On page 5 of Appendix A to the DEIS, the Summary of Public Hearing Comments (July 2007) reports this comment:

"One comment supported continued professional and financial support from the FAA; most speakers and letters urged the Town to assert as much local control as possible over the airport, many comments reflected the understanding that maximum control would only be possible if no more FAA money were accepted. Some comments also reflected an understanding that due to the settlement between the FAA and the Committee to Stop Airport Expansion, many grant assurances with the FAA will expire in 2014 and all will expire in 2021 provided the Town accepts no more FAA money."

In response, the DEIS notes:

"4/23/07 Draft East Hampton Airport Master Plan report is primarily a physical facilities plan intended to help the Town Board decide the physical layout and composition of the airport appropriate to meet the needs of the community. It has always been intended to couple this document with a financial plan to help the board evaluate funding options for the improvements, maintenance and personnel necessary to meet the highest standards of safety and efficiency for the desired "type of airport."

The DEIS is plainly conscious of the fact that the core decision is the decision as to the "type of airport," not the particular physical facilities required in order to be a safe airport of that type. As well, the DEIS is plainly conscious of the fact that the only matters considered in the DAMPR and examined in the DEIS are "physical facilities." Does SEQRA permit the agency to limit its consideration of alternative actions

exclusively to various physical facilities? It does not.

SEQRA applies to all agency action, whether a physical project or policy or lawmaking. The key question under SEQRA is not what type of action is it, but what environmental consequences flow from the action relative to alternatives? Is there any basis under SEQRA for restricting either the action to be evaluated or the reasonable alternatives exclusively to physical construction? There is none. To the contrary, it is indeed well known to all of the participants on both sides of the 30 year argument in East Hampton over the future of the airport that, because aviation is heavily and in some cases exclusively regulated by the Federal government, it is functionally impossible to evaluate any action regarding an airport without explicit consideration of the impact of the regulatory environment and the authority of the municipality. For example, under Federal law, no locality may directly or indirectly regulate or control the operation of any aircraft while it is airborne. Thus, any physical facility constructed at an airport, and any invitation to aircraft thereby extended to use the facility, must take account of the fact that the locality will have no legal authority to control the route or altitude of any air traffic.

Contrariwise, a municipal airport does have the authority, under the so-called proprietor's exception, to control access to its airports within certain limits. One of the limitations is the supervening authority of "FAA Grant Assurances" that take effect when the municipality accepts FAA subsidies and then run for a term of 20 years. As interpreted by the FAA, these Grant Assurances require the subsidized airport to accept all air traffic that seeks to use the airport, of whatever type, 24 hours a day, 365 days a year. It is in the sole discretion of the pilot whether it is safe to do so. Due to the judicial settlement referred to above, the relevant Grant Assurance is due to expire in 2014. Thus, at that time, unless it accepts more money from the FAA, the Town will have the broadest discretion to control access to its airport and determine just which traffic is to be served.

For an airport that is not subject to FAA Grant Assurances, the Second Circuit Court of Appeals, in *National Helicopter v the City of New York*, 137 F3d 81 (1998) has held that a municipal airport proprietor can prevent use by aircraft it deems too noisy on nights and week-ends, can exclude aircraft explicitly based on how noisy they are, and

can “arbitrarily” determine that a percentage decrease in noise, 47% in that case, would serve the public interest. The only thing the court said the City could not do in its capacity as the airport proprietor was directly regulate air routes and altitudes, as that is Federally preempted, or over- or under- regulate by excluding some aircraft that were noisy without excluding other comparably noisy aircraft.

Thus, when the DAMPR declares (without actual factual support) that reconstructing the airport facilities in a manner that would disincline large aircraft would stimulate demand for even noisier helicopter usage, it takes no account of the ability of the Town to prevent that very outcome by exercising its powers as municipal proprietor. By excluding from its consideration available alternatives of a policy nature or a combined policy, planning, and physical nature, the DEIS and the DAMPR it incorporates fail to consider the *bona fide* practicable range of reasonable alternatives addressed to the core planning issue, What air traffic, that is, what “type of airport” as the DEIS itself puts it, and at what social, economic, and environmental cost to the larger community?

The “role statement” for the airport, as excerpted on page 6 of Exhibit E of the DEIS, states this:

“Control of noise and adverse environmental impacts at the airport is consistent with current Town goals for improved quality of life and land and water conservation. These goals recognize that protecting the environment is essential for improving the Town’s seasonal and year round economy. These controls are achieved through reasonable, non-arbitrary and non-discriminatory management practices. These may limit the hours of operation, the maximum size or noise footprint of aircraft to be accommodated, regulate excessive peak demand during the summer season and otherwise adjust patterns to minimize community disturbance.”

All very lovely, except that the DAMPR and DEIS do not consider the means and alternatives to implement such limitations on aircraft and the noise they produce. *The Town implicitly acknowledges the authority it has as airport proprietor, but then completely fails to consider how that power may be used, in conjunction with particular physical airport facilities, to achieve the outcome it purportedly seeks.*

The Town is not obliged by SEQRA to choose a particular alternative or

to implement the role statement it has written for the airport. It is obliged fully to disclose the relative costs and benefits of the practicable alternatives and publicly to weigh the social, economic and environmental considerations of choosing one alternative over the other. The Town has not done this and cannot yet do it because (1) the alternatives considered are too narrowly defined so as to include only physical components, (2) even as to the physical alternatives it considered initially, the environmental disclosure is limited to only the preferred alternative, and (3) as to none of the alternatives has the Town disclosed the relevant social, economic and other considerations to be weighed against the environment.

7. The DEIS fails for technical reasons to make the required disclosure, including an inappropriately short planning horizon, growth assumptions that bear no relationship to East Hampton, and the failure to assess the impact of changing the Critical Design Aircraft to a heavier and more demanding type.

The growth of the helicopter noise problem clearly illustrates the danger of an analysis that fails to consider long-term impacts and growth. The normal planning horizon for airports is 20 years. The FAA Grant Assurances to which the Town would be bound if it accepts more FAA money have a duration of 20 years. Hence, for the next 20 years the Town may severely limited its ability to exercise its proprietary authority so as to protect the public from noise. The DEIS acknowledges this explicitly. However, inexplicably, the DEIS then adopts a five-year planning horizon a year of which has already elapsed. No reason or justification is given. The DEIS states, at page 8, "Typically, a 20-year planning scenario is used to justify future aviation demand; however, for the purpose of the GEIS a short term (2009-2013) forecast is presented in this section.

Not only is this short-term planning horizon inconsistent with both normal practice and with the fact that the Town may become bound under FAA Grant Assurances for a period of 20 years to accommodate whatever traffic arrives, this flies in the face of the statute. In section 8-0109, on the required contents of the environmental impact statement, SEQRA states that the statement shall "include a detailed statement setting forth the following:

- (b) the environmental impact of the proposed action including short-term and long term effects;”

On what basis, therefore, does the DEIS choose to adopt the atypical planning horizon of five years? None is given. Perversely, the short-term horizon ends prior even to the expiration of key FAA Grant Assurances in 2014. Thus, the DEIS avoids confronting the question of the noise and air traffic environment the Town will face at the earliest time that it can reassume its full authority as airport proprietor.

Further to aggravate the problem, the DEIS adopts *pro forma* assumptions about traffic growth that historically have no relationship to what occurs in East Hampton. With regard to air traffic, including helicopters, the DEIS simply adopts the standard average growth rate for air traffic posited by the FAA. Yet, especially with regard to helicopters, history has shown that the rate of growth in East Hampton is vastly in excess of the standard FAA figure for the whole country.

East Hampton is a unique market. It is not an isolated small town. It is proximate to New York City, the world financial capital, and is the resort destination for many well-heeled New Yorkers. Indeed, Sagaponack, which is the Southampton village that abuts the airport on the Southampton side, is rated as having the most expensive residential real estate in the entire United States. Given those demographics, it is nonsense to consider air traffic demand in East Hampton to be merely a corner of the continental market. East Hampton is in one of the most unusual places on the continent with air traffic demand driven by unique economic, demographic, and geographic factors. This is the source of the helicopter demand in East Hampton. It bears little relationship to what is happening in the general economy. The failure to consider the normal 20-year planning horizon together with the failure to make realistic assumptions about air traffic growth in *East Hampton* effectively abdicate the Town Board’s responsibility under SEQRA to consider long-term affects.

The DEIS also completely fails to address the environmental implications of the decision to upgrade the Critical Design Aircraft from a Twin Otter, a piston-driven propeller craft defined as a “light aircraft” because it has a maximum gross weight under 12,500 pounds (Airport Reference Code or ARC of A-II), to a Cessna Citation V, a

business jet classified as a heavy aircraft with a B-II airport reference code. The choice of the design aircraft dictates the safety and design standards to which the entire airport will be built and engages, yet again, the “ratchet effect” of allowing airport design to be governed solely by aviation demand.

The FAA sets 500 operations per year (one landing and one take-off per business day) by aircraft of a given ARC as the point at which the airport should be upgraded to accommodate such aircraft. But the FAA’s design standard is not, however, mandatory. It is an FAA internal guideline for the issuance of FAA airport improvement grants. Thus, once an airport’s traffic exceeds the 500 per year level for a given ARC, the FAA, as a matter of its own practice, will generally not provide subsidies for projects to be built below that standard. There is no requirement of Federal law or regulation that an airport build to service any particular level or type of traffic, even traffic that already exists there. The decision about the capabilities of the airport is entirely a local decision, a decision that is being made in this DEIS without any examination at all.

The FAA’s standard for its own funding raises a question: How did aircraft whose demands exceed those for which the airport was designed get there in the first place? The answer is that the FAA does nothing to limit aircraft to those airports designed to be “safe” for their operations by the FAA’s own design standards. Rather, the FAA leaves use of each airport to the discretion of the pilot, permitting operations that are arguably unsafe by the FAA’s own standards. For example, a Gulfstream V fully-loaded with full and passengers could not use East Hampton Airport; its main runway is too short. However, by coming in “light” the Gulfstream V can get in and out of East Hampton.

Whenever an airport upgrades its design standards to those for a more demanding class of aircraft, it also extends the universe and number of still higher aircraft types that are then willing to use the airport. Growth may follow in more demanding air traffic that in turn generates pressure for further upgrades of design standards. Even if the FAA is not requiring upgrades in design, as it has no authority under law to do so other than by giving or withholding its own money, the pressure is there on the community to ensure that the airport is “safe” for the aircraft using it because the FAA will not permit their exclusion so long as FAA Grant Assurances remain in effect. (See, discussion of FAA

Grant Assurances and the Town's proprietary authority below under heading 8.) It is a remarkable irony that the FAA, charged with regulating air safety, allows such operations but that airport operators then feel obliged to build to suit.

This "ratchet effect" has actually occurred at East Hampton. The DEIS is replete with references to the design requirements needed for "safe" operations of B-II aircraft, with no discussion of how we got here or where this leads. When the 1989 Airport Master Plan was adopted, there were not enough business jet operations to exceed even the FAA's aviation demand standard. In 1998, the Town rebuilt the main runway to the standards of Category C and D jet aircraft, widening it to its present 100 feet, while claiming that it was doing nothing of the kind. Now there are 750 annual operations by Cessna Citations and the Town proposes to upgrade the design standards of the airport.

Today there are approximately 370 annual operations by even more demanding Gulfstreams and Falcons. One can anticipate that five years from now the community will be faced with the demand to upgrade the airport for them. SEQRA requires the Town to analyze long-term and growth inducing effects. The impact of successive upgrades to design standards is completely ignored, buried in banal statistics about national aviation growth rates that bear no relation to the historical pattern of growth in, or the unique demands faced by, East Hampton. There is no particular reason for Gulfstream Vs to want to land in a cornfield in Iowa no matter how capable the airport there. There is plenty of reason for them to want to do so at an airport that is literally surrounded by the most expensive residential real estate in the country. They may not come if you build it in Iowa, but they certainly will if you build it in East Hampton.

One cannot but fail to notice the absurd dichotomy of the Town and the FAA's treatment of noise and aircraft operations. They count aircraft operations; they average aircraft noise produced by those operations with periods of quiet. Applying the same standard to takeoffs and landings at the airport, which last only a few seconds, one might say that the 750 annual operations of Cessna Citations only consume about 12.5 hours per year (allowing a minute a piece). Averaged over all of the hours of the year, the Cessnas are only operating at the airport less than 2 one thousandths of the time, an imperceptible fraction. By this standard, they are not here at all and there is no reason to build anything

to accommodate them. But, of course, aircraft don't come and go at average time, they operate in real time. Noise too occurs in real time, not as an average over time.

8. The Town has improperly segmented the analysis by excluding the impact of FAA financing on the environment even though such financing is explicitly contemplated and rhetorically invoked (although not actually analyzed) for its economic benefit.

It is not generally the case that the method by which a project is financed is of any environmental consequence. However, SEQRA is pragmatic. It applies to any action of the agency that does in fact have an environmental consequence. The standard is based on the effect.

Clearly, if the Town were to adopt a policy that required the airport to allow access to all aircraft, of all types, sizes, and noise output, 24 hours a day, 365 days a year, subject only to the judgment of the pilot, not the Town, that it is safe to land and takeoff, that would be an action requiring SEQRA analysis. And if the Town were somehow able to bind itself to such a policy for a period of 20 years, with no available means to change the policy short of the enactment of a Federal statute relieving it, the Town would have to consider the long-term implications.

This is, however, precisely what the Town does when it accepts FAA subsidies. By binding itself under the FAA Grant Assurances for a period of 20 years, the Town effectively adopts the FAA's interpretation of unlimited access at all hours of the day and night, every day of the year.

Under SEQRA Regulations Sec. 617.2, "segmentation" is defined as:

"the division of the environmental review of an action such that various activities or stages are addressed under the Part as though they were independent, unrelated activities, needing individual determinations of significance."

Segmentation is generally prohibited, with a limited exception. SEQRA Regulations, Sec 617.3 states that:

(g) Actions commonly consist of a set of activities or steps. The entire set of activities or steps must be considered the action, whether the agency decision-making relates to the action as a whole or to only a part of it.

- (1) Considering only a part or segment of an action is contrary to the intent of SEQRA. If a lead agency believes that circumstances warrant a segmented review, it must clearly state in its determination of significance, and any subsequent EIS, the supporting reasons and must demonstrate that such review is clearly no less protective of the environment. Related actions should be identified and discussed to the greatest extent possible. . . .

Under the standards for determining environmental significance under SEQRA Regulations, Sec. 617.7

(x) the creation of a material demand for other actions that would result in one of the above [environmental] consequences;

(xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.

There can be no serious question about the relationship of FAA financing to the Town's proposals or that the Town's proposals create material demand for more FAA subsidies. At the informational meeting in August 2009, at which the DEIS was presented publicly, both of the Town's consultants, Lisa Liquori, former Planning Director, and Henry Young, author of the DEIS, stated that the FAA financing and FAA Grant Assurances that go with it bear directly on the actions that Town can take to mitigate noise. You can go to the videotape.

The DAMPR states repeatedly that FAA financing is contemplated and that it would be difficult to finance the Town's preferred alternative without it. Indeed, the aggregate cost of the projects the Town proposes under this alternative is more than \$11 million. The pressure to accept FAA financing for that magnitude of projects to serve a tiny fraction, reasonably estimated at 1%, of the Town population will be enormous.

The larger the price tag, the greater the pressure again to accept FAA subsidies. Hence, the financial cost of various alternatives has a direct bearing on whether FAA subsidies will be sought or whether the revenue-generating capacity of the airport, including the imposition of passenger facility fees, can cover all or most of the cost of amortizing the capital expenditures. If not, then the Town must consider explicitly, weighing social, economic, and environmental considerations, whether extending the

duration of the key FAA Grant Assurances beyond their current 2014 expiry is worth the particular social or economic benefit to be achieved.

What is that benefit? Is it worth the burden of FAA control? What amenities can the airport users be asked to forego in order to avoid the burden of FAA control? Is a \$300,000 taxiway, merely to avoid occasions when aircraft must wait for one another, worth it? How often do such events even occur? Is it necessary to pave to accommodate the weight of a Gulfstream V, a type much more demanding than either the Twin Otter, the current design aircraft, or the proposed Cessna Citation V? How often is it relevant? Is it necessary to spend perhaps an extra \$600,000 to move Daniels Hole Road when no aircraft would be excluded by displacing the Runway 28 threshold by 150 feet, the alternative mentioned but not evaluated in the DGEIS? Is a difference in crosswind coverage of less than 1% worth \$3 million? How many aircraft operations would be affected one way or the other? Should the airport be "built-down" so that its capabilities no longer exceed those of the Cessna Citation V for which the Board proposes to build it, thereby no longer inviting large, heavier aircraft? Should it even be built down to the standards of the Twin Otter (more or less the Alternative 1 that the Town Board prematurely excluded from further consideration)? Should the Town, by taking FAA money and the compulsion to admit larger, heavier aircraft, effectively abandon the goal of an airport that is intended to serve "light aircraft traffic," as the current mission statement and the 1989 Airport Master Plan provide?

An airport that actually effectuates the still stated policy of serving light aircraft is not financially impossible. Such airports exist all over the country, many of them privately owned. There is one such in Montauk. Yet, the DAMPR summarily dismisses Alternative 1 as fiscally impossible.

These are the questions that the Town Board cannot avoid, blandly asserting that it will do the financial analysis later. In this case, financial considerations are not merely a factor to be weighed against environmental costs, they bear directly on the environmental outcome. The related parts must be considered together, "whether the agency decision-making relates to the action as a whole or to only a part of it." To fail to consider the airport in its entirety, taking into account its physical structure, its financial structure, and the regulation to which it is subject and can be subject if the Town

exercises its proprietary authority is improperly to segment the analysis. Indeed, a “Master Plan” that fails to consider the entirety and the mutual dependencies can hardly be called a master plan.

9. The DEIS fails to consider or analyze available, practicable mitigation measures, particularly any mitigation available by exercise of the Town’s powers as airport proprietor as recognized by the Second Circuit Court of Appeals.

The 1989 Airport Master Plan recognized an obvious reality: Airport infrastructure has only a gross impact on airport traffic, and airport traffic drawn to the airport – not the airport itself -- the source of the noise. It is not the runways or the taxiways or the terminal that produce noise pollution, as the Town itself defines it. It is the aircraft operating there.

For that reason, the still-current 1989 Airport Master Plan addressed the infrastructure but then sensibly adopted mitigation of a regulatory nature. Granted, until the end of 2014, the Town will still be burdened by FAA Grant Assurances unless we can obtain Congressional relief (as has been done elsewhere). But the date at which the Town can resume the full exercise of its proprietary authority is much closer than it was in 1989. The public comments at the hearing on the DAMPR, documented in the DEIS, confirm the public awareness of this fact and the demand that the Town act so as to maximize local control.

Oddly, the DEIS completely fails to consider any form of mitigation other than voluntary mitigation by pilots at the request of the Town and, at page 77 *et seq.*, the possibility of departure control that it ultimately concludes “provides insufficient noise reduction to merit inclusion in the plan.” There is no consideration given to what could be achieved by exercise of the Town’s proprietary authority in accordance with the guidelines provided by the Second Circuit Court of Appeals. This is an unacceptable omission.

Under SEQRA Regulations, Sec 617.11, the Town is obliged to certify that

“consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or

minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.”

Of course, we do not know, for example, whether Alternative 1 from the DAMPR would minimize environmental impacts, because the Town failed to do any environmental analysis with respect to this alternative or indeed any alternative other than its preferred alternative. It is reasonable to suppose, however, that the consequence of Alternative 1, as identified by the DAMPR, of limiting airport use to light aircraft would be the most environmentally favorable. The Town is not obliged by SEQRA to select the most environmentally favorable alternative, only to disclose it and to weigh and make affirmative findings about the relative costs and benefits. It is certainly possible that even after a *bona fide* alternatives analysis the Town would still choose the alternative that serves all existing traffic (although one would hope that it would be one of the two alternatives to Alternative 2 both of which are superior financially, environmentally, operationally and for safety). However, if the Town is not going to choose the most environmentally favorable alternative, it must incorporate “mitigative measures” to the maximum extent practicable.

It is not possible to fulfill this requirement until the Town identifies the available mitigation and in some reasonable way determines the benefits available. This must include exercise of proprietary authority. Even with respect to a measure that the Town identifies – provision of a seasonal control tower, for example – no effort has been made to quantify the mitigative effect. It is assumed that the control over routes and altitudes would have a material consequence, but this may not be the case. The public is simply told in a conclusory manner that this will be better. It is well within the capability of the INM, by computing noise impacts both with and without the assumptions about routes and altitudes, to ascertain with a reasonable degree of precision the mitigative effect of this control. This has not been done.

Similarly, the DEIS discusses such measures as voluntary curfew, boasts that noise complaints regarding jets have declined as a result (although overall noise complaints increased from 2007 to 2008) without disclosing how much more might be gained were compliance compulsory. The Town’s data about air traffic, when converted

to instances of noise pollution as defined by the Town, still result in nearly 5,000,000 incidents per year of noise exceeding the Town's nighttime noise standard (see, Appendix 2). This is hardly trivial.

10. The DEIS fails to provide the information that would permit the required findings that weigh economic, social, and environmental factors in choosing the preferred alternative, as there is no environmental analysis of any but the one alternative, no economic or financial analysis of any alternative (other than a partial list of capital costs of the preferred alternative), and no consideration of either social benefit or harm; and

11. The DEIS fails to provide the information that either permits or demonstrates the avoidance or minimization of adverse environmental impacts to the maximum extent practicable or the mitigation if the alternative chosen is not the least environmentally harmful.

The purpose of SEQRA is to protect the environment. Given the extraordinary range and number of government actions, it would be impossible for any "environmental agency" to regulate them. Hence, SEQRA has adopted as its method of regulation an ordered process of decision-making. This process requires the creation of a defined record of decision that must reflect relevant information about the environmental consequences of government actions when compared to a "range of reasonable alternatives," specifically including the alternative of doing nothing. Only by comparing the relative environmental outcomes of different alternatives and weighing them against the costs and benefits of social and economic factors can a decision be made that takes proper account of the environmental opportunity cost.

A key part of the scheme of SEQRA is that the record for action is clearly defined. Decisions cannot be taken until the EIS is deemed complete, and then the agency must make findings of fact that confirm its SEQRA compliance. Under SEQRA Regulation 617.11, the findings must explicitly:

(1) consider the relevant environmental impacts, facts and conclusions disclosed in the EIS;

(2) weigh and balance relevant environmental impacts with social, economic and other considerations;

(3) provide a rationale for the agency's decision;

(4) certify that the requirements of this Part have been met;

(5) certify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

The decision, or action, cannot be taken piecemeal. It must await the final EIS and be made upon that record, together with any incorporated documents. It follows that the record of the EIS must be such as will permit the required findings. The "reasonable alternatives available" must be there and must have been analyzed. Unless the agency is going to select the most environmentally favorable amongst the alternatives (which may be ambiguous), then the social and economic factors that it weighs must be part of the public record. If the agency is not choosing the most environmentally favorable alternative, then the mitigation opportunities must be disclosed and adopted to the maximum extent practicable.

The Town has not disclosed the information about the relative noise impacts of alternatives in a manner that permits the real harm from noise to be balanced against social and economic factors. Nor has it disclosed much if anything about the social and economic costs and benefits to be weighted against environmental factors, not for its preferred alternative and not for any other alternative. Accordingly, the Town cannot in good faith make the required findings on the present record.

Although a principal purpose of the ordered process of decision-making is to provide a framework that forces each agency to obtain the necessary information and do the job of weighing and balancing, an explicit secondary purpose is that the public be informed. As there is no supervising agency, the eyes and ears of the public provide essential critical feedback that ensures the process is actually being carried out. Equally important, the agency must, in its decision-making, take account of the views of an *informed* public opinion, because SEQRA requires that the public be informed and then

have the opportunity to express its views. This ensures a measure of political accountability. Nothing is supposed to occur under the table or out of public notice because the record for decision is required to be explicit and unambiguous. This purpose also cannot be served until the Town has made the necessary disclosure.

There are no alternatives presented, some have been arbitrarily and capriciously excluded or abandoned prematurely, various practicable possibilities for mitigation have not been discussed at all. The DEIS cannot be deemed complete until these deficiencies are corrected.

Conclusion.

Based solely on the DAMPR, the Town made the decision in favor of Alternative 2, and to exclude further consideration of all other alternatives, prior to commencement of the environmental review. The alternatives analysis is not optional under SEQRA. This alone is a fatal flaw in the Town's DEIS. It cannot withstand judicial review.

The mandatory alternatives analysis does not assume that the "range of reasonable alternatives" are all equally responsive to the Town's policy goals. That would be an impossible standard, a fluke of infinitesimally small probability. Rather, the purpose of the alternatives analysis is to identify the relative costs and benefits of different approaches so that the agency and public may assess, and the agency can demonstrate that it has weighed, the relative social, economic, and environmental costs and benefits of different approaches. Will different alternatives have varying social, economic, and environmental benefits? Of course. Will they similarly have varying social, economic, and environmental costs? Certainly they will. The entire point is to make manifest the trade-offs, how much social and/or economic benefit can be gained at what environmental cost, and vice versa, for the agency to make explicit how much environmental benefit it most forego to achieve particular policy goals. At the same time, the analysis is meant to reveal the opportunities for mitigative measures to yield environmental gains at an acceptable social and economic cost.

A thorough reading of the DAMPR makes clear that the Town's premature decision in favor of Alternative 2 reflects solely the Town's choice of what it believed to

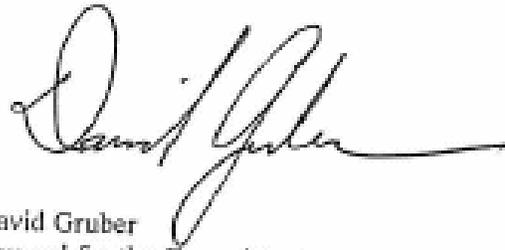
be the best technical solution to the policy decision to serve all existing airport traffic. This submission and the accompanying submission by the airport engineers of QED and CHA Companies (Appendices 4 and 5) make clear that the Town has not even achieved that goal. There are two solutions to maintaining Runway 16-34 in operation as the secondary runway, one considered and very prematurely abandoned by the Town – paving old 4-22 as a taxiway together with the completion of a full parallel taxiway for Runway 1-28. The other, the relocation of large aircraft to the southern end of the apron, was apparently never considered by the Town because of its premature determination to abandon Runway 16-34. Both of these solutions are less costly in dollars, environmentally superior, as well as superior in aircraft and ground safety and operational efficiency of the airport. The solution proposed by the Committee, to relocate large aircraft to the southern end of the apron, is strictly equal or superior to the other two technical solutions on financial, environmental, safety, and operational grounds. Hence, it is strictly better, involving no unfavorable trade-offs.

It is legitimate for the Town, after concluding a proper SEQRA analysis and demonstrating that it has weighed the competing considerations of social, economic, and environmental cost and benefit, to decide to serve all current airport traffic and any growth in traffic that may ensue from that policy choice. The Town may not, however, arbitrarily refuse to consider the relative costs and benefits of any other alternative that serves less or more than exactly the existing traffic. This is what SEQRA requires.

While there are clear deficiencies in the DEIS, and as yet also in the balance of the public record regarding the social and economic costs and benefits that SEQRA requires the Town to weigh against the environment, a great deal of work has been done. The Committee will gladly make available to the Town, at no cost, all of the work product of the Committee's engineers and noise expert to facilitate the completion of the DEIS. There are no great technical obstacles to completing a full and proper DEIS that effectuates the policy of SEQRA. What is necessary is only the political determination of the Town Board that it will not seek to evade or to be parsimonious and cut corners in its

SEQRA compliance. A decision that may well affect the character of the community for 20 years deserves no less.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David Gruber", with a long horizontal flourish extending to the right.

David Gruber
Counsel for the Committee to
Stop Airport Expansion

Appendices:

1. Excerpts from SEQRA
2. Noise analysis by the Noise Pollution Clearing House
3. Maps/charts accompanying Noise Pollution Clearing House analysis
4. Alternate airport layout prepared by QED and CHA
5. Memorandum of Paul McDonnell explaining alternate airport layout
6. Memorandum of Ron Price on certain technical issues
7. Memorandum of Peter Kirsch on managing helicopter noise
8. Letter of Charles Ehren re Town Board meeting of August 5, 2008

Excerpts from SEQRA:

Sec. 8-0103. Legislative findings and declaration.

The legislature finds and declares that:

1. The maintenance of a quality environment for the people of this state that at all times is healthful and pleasing to the senses and intellect of man now and in the future is a matter of statewide concern.
.
.
.
7. It is the intent of the legislature that the protection and enhancement of the environment, human and community resources shall be given appropriate weight with social and economic consideration in public policy. Social, economic, and environmental factors shall be considered together in reaching decisions on proposed actions.

Sec. 8-0105. Definitions.

4. "Actions" include:
 - (i) projects or activities directly undertaken by any agency; or projects or activities supported in part through contracts, grants, subsidies, loans, or other forms of funding assistance from one or more agencies; . . .
 - (ii) policy, regulations, and procedure-making.
5. "Environmental" means the physical conditions which will be affected by a proposed action, including . . . noise, . . . and existing community or neighborhood character.

Sec. 8-0109. Preparation of environmental impact statement.

1. Agencies shall use all practicable means to realize the policies and goals set forth in this article, and shall act and choose alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable, minimize or avoid adverse environmental effects, including effects revealed in the environmental impact statement process.
2. . . . Such a statement shall include a detailed statement setting forth the following:

- (b) the environmental impact of the proposed action including short-term and long term effects;
- (c) alternatives to the proposed action;
- (d) any irreversible and irretrievable commitments of resources which would be involved in the proposed action;
- (e) mitigation measures proposed to minimize the environmental impact;
- (f) the growth-inducing aspects of the proposed action, where applicable and significant

The purpose of an environmental impact statement is to provide detailed information about the effect which a proposed action is likely to have on the environment, to list ways in which any adverse effects of such an action might be minimized, and to suggest alternatives to such an action so as to form the basis for a decision whether or not to undertake or approve such action.

- 8. When an agency decides to carry out or approve an action which has been the subject of an environmental impact statement, it shall make an explicit finding that the requirements of the section have been met and that consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided.

Excerpts from the SEQRA Regulations. 6 NYCRR Part 617.

See 617.2 Definitions.

(b) "Actions" include:

- (1) projects or physical activities,
- (2) agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
- (3) adoption of agency rules, regulations, and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and

(4) any combination of the above.

- (k) . . . “Direct actions” include but are not limited to capital projects, promulgation of agency rules, regulations, laws, codes, ordinances or executive orders and policy making that commit an agency to a course of action that may affect the environment.
- (l) “Environment” means the physical conditions that will be affected by a proposed action, including . . . noise, resources of . . . aesthetic significance, . . . existing community or neighborhood character, and human health.
- (q) “Funding” means any financial support given by an agency, including contracts, grants, subsidies, loans or other forms of direct or indirect financial assistance, in connection with a proposed action.
- (af) “Scoping” means the process by which the lead agency identifies the potentially adverse impacts related to the proposed action that are to be addressed in the draft EIS including the content and level of detail of the analysis, the range of alternatives, the mitigation measures needed . . .
- (ag) “Segmentation” means the division of the environmental review of an action such that various activities or stages are addressed under the Part as though they were independent, unrelated activities, needing individual determinations of significance.

Sec 617.3 General Rules.

- (g) Actions commonly consist of a set of activities or steps. The entire set of activities or steps must be considered the action, whether the agency decision-making relates to the action as a whole or to only a part of it.
 - (1) Considering only a part or segment of an action is contrary to the intent of SEQR. If a lead agency believes that circumstances warrant a segmented review, it must clearly state in its determination of significance, and any subsequent EIS, the supporting reasons and must demonstrate that such review is clearly no less protective of the environment. Related actions should be identified and discussed to the greatest extent possible. . . .

Sec 617.7 Determining Significance.

- (c) Criteria for determining significance.
 - (1) . . . These criteria are considered indicators of significant adverse impacts on the environment:

- (i) a substantial adverse change in existing . . . noise levels;
 - (vii) the creation of a hazard to human health; . . .
 - (x) the creation of a material demand for other actions that would result in one of the above consequences;
 - (xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.
- (2) For purposes of determining whether an action may cause one of the consequences listed in paragraph (1) of this subdivision, the lead agency must consider reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions which are:
- (i) included in any long-range plan of which the action under consideration is a part;
 - (ii) likely to be undertaken as a result thereof; or
 - (iii) dependent thereon.
- (3) The significance of a likely consequence (i.e., whether it is material, substantial, large or important) should be assessed in connection with:
- (i) its setting (e.g., urban or rural);
 - (ii) its probability of occurrence;
 - (iii) its duration;
 - (iv) its irreversibility;
 - (v) its geographic scope;
 - (vi) its magnitude; and
 - (vii) the number of people affected.

Sec 617.9 Preparation and Content of Environmental Impact Statements.

(b) Environmental impact statement content.

(1) An EIS must assemble relevant and material facts upon which an agency's decision is to be made. It must analyze the significant adverse impacts and evaluate all reasonable alternatives. EISs must be analytical and not encyclopedic. . . .

(5) The format of the draft EIS may be flexible; however, all draft EISs must include the following elements:

(i) a concise description of the proposed action, its purpose, public need and benefits, including social and economic considerations;

. . . .

(iv) a description of the mitigation measures;

(v) a description and evaluation of the range of reasonable alternatives to the action that are feasible, considering the objective and capabilities of the project sponsor. The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed.

Sec 617.10 Generic Environmental Impact Statements.

(c) Generic EISs and their findings should set forth specific conditions or criteria under which future actions will be undertaken or approved including requirements for any subsequent SEQR compliance. This may include thresholds and criteria for supplemental EISs to reflect specific significant impacts, such as site specific impacts, that were not adequately addressed or analyzed in the generic EIS.

Sec 617.11 Decision-making and Findings Requirements.

(d) Findings must:

(1) consider the relevant environmental impacts, facts and conclusions disclosed in the EIS;

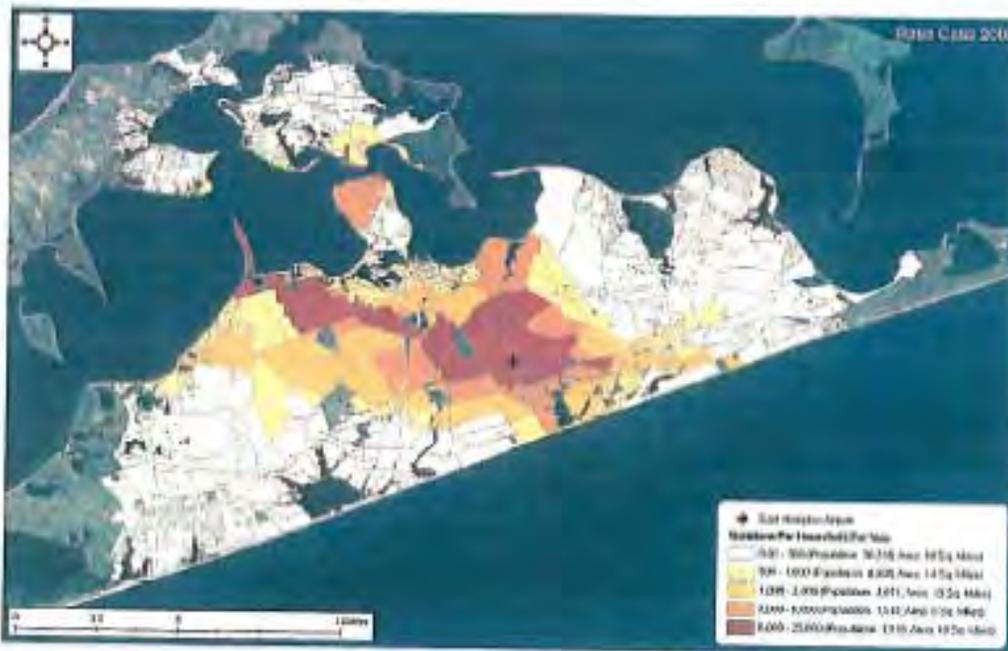
(2) weigh and balance relevant environmental impacts with social, economic and other considerations;

(3) provide a rationale for the agency's decision;

(4) certify that the requirements of this Part have been met;

(5) certify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

East Hampton Airport Noise



Prepared for the
Committee to Stop Airport Expansion

By the
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Introduction

This study of East Hampton Airport's noise impact on the community draws its data almost exclusively from the Integrated Noise Model (INM) used by the town of East Hampton to assess noise impacts in the DGEIS published in July, 2009.¹ No changes were made to input data used by the Town of East Hampton. The following report merely analyzes output data from the East Hampton Airport's own noise study. To the extent that East Hampton Airport's input data is accurate, this report is accurate. To the extent that the inputs are inaccurate, this report is inaccurate.

Noise Impacts

Noise is a concern around airports, not because it exceeds a given Day-Night Level or a particular standard, but because it degrades people's health and quality of life, as well as the value of their property. Any standard must reflect the actual harm and discomfort that people experience as a result of noise. Otherwise, the standard is meaningless for purposes of environmental analysis.

Noise negatively affects human health and well-being. Problems related to noise include hearing loss, stress, high blood pressure, sleep loss, distraction and lost productivity, and a general reduction in the quality of life and opportunities for tranquility. Drug companies, psychologists, and military planners use noise to test stress-relieving drugs and induce stress in subjects or enemies. Not surprisingly, the word "noise" is probably derived from the Latin word "nausea," meaning seasickness.

Noise is also a major factor in where people choose to live and the value of their property. Advertisements for a "nice house in a noisy neighborhood" do not sell homes. People in rural areas such as East Hampton expect quiet. Freedom from urban noise and traffic is a large part of the reason that people choose to live in such areas as East Hampton.

The noise of the airport has changed significantly during the lifetimes of many of the residents of East Hampton, negatively affecting the character of the area. Single-engine small planes were the acoustically dominant plane for much of the history of the airport. Their impact has been far eclipsed by more recent jet and helicopter traffic. This report focuses principally on the impact of helicopters and jets to the soundscape. It is not the case that the thousands of adversely affected homes were all built or purchased after the noise arrived. The arrival of significant numbers of jets and especially helicopters is recent, particularly when compared with the more than 350-year history of East Hampton Village.

Aviation noise is a pollutant. Like most other pollutants, it is a waste product. In the case of East Hampton Airport, it falls primarily on neighbors and residents of East Hampton and South Hampton. For the citizens of these communities, noise is much like second-hand smoke. Second-hand noise is troubling because it has negative impacts on the environment and citizens, without their consent.

¹ Supplemental US Census data for the areas around the airport was also used, as was a rough estimate made by East Hampton Airport Manager Jim Brundige of the proportion of flights occurring in the evening and nighttime. Finally a satellite image of Suffolk County was also used.

Aviation Noise Metrics and Criteria

Metrics

Noise is measured to gauge the impact it will have on a community or individual. It is easier and cheaper to measure noise levels than the effects of noise, such as sleep loss, for example. But it is imperative that if communities measure noise levels instead of measuring noise impacts directly, that they choose metrics that contain information relevant to impacts and that they choose criteria that are a reasonable surrogate for impacts. The literal requirement of SEQRA is to assess impacts, not metrics. Thus, any metric employed must be appropriate to the task.

There are a number of metrics used to assess noise. Each has varying degrees of usefulness and appropriateness. Metrics that are essentially average noise levels such as Leq and Ldn (Ldn is a Leq with a 10 dBA nighttime penalty) are useful in determining average noise levels, but provide almost no information concerning the impact of specific noise events. They are best suited for constant noise levels. This is the case in part because of an objective defect in the very methodology of time-averaging sound.

Sound is measured logarithmically. Bels are a logarithmic scale. A Bel is a ten-fold increase in sound energy, but is perceived by the human ear as a doubling of loudness. As the DGEIS describes, the human ear has difficulty discerning differences in noise levels of less than 3 decibels, which is a doubling of sound energy. A 2.8 decibel increase in the level of sound, almost double, might not be perceived. Duration and frequencies of events are not perceived logarithmically but linearly. That is, a ten-fold increase in time is not perceived as a doubling but as a ten-fold increase. Nor does an increase in duration or frequency of incidence have to be double before it is perceived. However, the method of time-averaging treats linear effects, such as an increase in duration or frequency of incidence, in the same manner as an increase in level. Thus, a 2.8 decibel increase in the sound level of each aircraft noise event might be imperceptible. But a near doubling of the frequency of events would be easily perceived and be regarded as catastrophic. The averaging methodology measures these two changes as being identical.

Therefore, with respect to aviation noise, the DNL metric provides some utility in measuring noise, but it is not well suited for showing noise impacts from intermittent noise events. DNL is particularly inappropriate for assessing the impacts of sleep interference, communicating interference, and activity interference. The noise of an alarm clock that rang a few seconds every 15 minutes, waking everyone in a bedroom and making sleep impossible, if averaged over the entire night, would yield a trivial average sound level and give the impression everyone should have had a restful night.

Single event metrics such as Lmax (the maximum noise level during an event) and SEL (Single Event Level—the noise of an event compressed into one second, so it is easier to compare events) provide a good measure of the impact of individual events, but alone do not address the frequency of events. Single event metrics are much more appropriate for assessing intermittent noise impacts, especially if the metric can be combined with a count of the number of times a criterion level was exceeded. Even in this case, however, they lack a measure of duration.

Criteria

People often confuse the roles of metrics and criteria. One can think of the metric as a unit of measure (inches, feet, yards, miles, gallons, degrees Fahrenheit, etc.). The criterion is the level considered significant. Not only do we need to choose a metric that can measure noise and its impacts on people, we need to choose a criterion that is appropriate.

The metric used in the DGEIS was the Day-Night Level; the criterion was 65 dBA. The town of East Hampton's noise ordinance uses a Lmax metric and a criterion of 65 dBA during the day and 50 dBA in the evening and at night. While the criteria appear similar (65 dBA), the metrics are very different. One is a 365 day average. The other is an instantaneous level.

It is the consensus of noise experts outside the FAA and aviation industry that the 65 dBA criterion using a DNL metric is inappropriate as a threshold for noise impacts.

East Hampton's Noise Metric and Criteria

The town of East Hampton uses the Lmax metric and two criteria:

65 dBA from 7 AM to 7 PM

50 dBA 7 PM to 7 AM

Town Code, Chapter 185-3

The metric and criteria are pretty standard for residential communities. East Hampton's standard, for example, is similar to that in the entire state of New Jersey (N.J.A.C. 7:29). The 65 dBA level is arguably high (the level, for example, in Denver is 55 dBA; Denver Municipal Code, Chapter 36), and the 50 dBA nighttime standard is pretty common.

Typically, the rationale for a 50 dBA level goes like this. Sleep interference becomes an increasingly important issue with noises above 35 decibels, particularly noise spikes above this level. Homes generally attenuate outside noise by 15 decibels when windows are open (US EPA, Protective Noise Levels, 11). Therefore, to avoid noise spikes above 35 dBA in bedrooms, exterior noises should be kept to less than 50 dBA. The standard is based on a noise impact to people, sleep interference.

The typical rationale for the 65 dBA criteria is usually based on outdoor activity and communication interference. Above 65 dBA, people conversing one meter apart will have difficulties hearing each other. Above 55 dBA, the distance is 3 meters (US EPA, Protective Noise Levels, 18). The 55 dBA standard protects more common outdoor activities, since its 3 meter distance is more representative of typical outdoor activities.

Findings

The 65 dBA DNL Metric and Criterion Is Insensitive to East Hampton Noise Impacts

As already stated, the 65 DNL contour is not a good indicator of aviation noise impacts. In order to test whether the 65 dBA DNL metric and criterion are helpful in assessing noise at East Hampton Airport, we conducted the following experiment.

We used the East Hampton's INM model 2008 Basecase to plot the 65 DNL contour line (Map 1). As the DGEIS states, the 65 DNL contour is entirely on airport property. Next we assumed that we could magically multiply the East Hampton Airport take-offs and landings by 10. This would make the hypothetical East Hampton Airport just shy of Van Nuys for the busiest General Aviation airport in the country (Airports Council International, Annual Traffic Data). A 10 fold increase in traffic and the accompanying noise would no doubt cause severe degradation of quality of life and an extremely vigorous community reaction. Yet, by the 65 DNL criterion, only a few homes west of the airport would be added to the impacted area (Map 2). Finally we constructed the 100 fold increase 65 DNL contour (Map 3). In this case, the airport's measured noise impacts did extend significantly beyond the

airport boundaries, but are still much smaller in area than the actual area affected. And it is important to understand the impossibility of this scenario ever occurring.

The 100 times increase in flights would make East Hampton busier than the three busiest US airports combined. In order for the 65 DNL criterion to impact a significant area around the East Hampton Airport, the airport would have to be busier than Hartsfield-Jackson Atlanta International Airport in Atlanta, Georgia; O'Hare International Airport in Chicago, Illinois; and Dallas Fort Worth International Airport in Dallas/Fort Worth, Texas, combined. Needless to say, East Hampton Airport could not support approximately 3,000,000 operations a year, or an average of six every minute, 24 hours a day, 365 days a year. No airport can.

Map 4 shows the three previous maps combined. Clearly, only the 100 times scenario indicates any significant impact using the 65 DNL metric and criteria. There are two possible conclusions that can be drawn from this experiment. Either there is absolutely no noise impact at East Hampton Airport (and even a 10-fold increase would have minimal impact) or the 65 DNL metric and criterion is so insensitive that it is unable to measure noise impacts except in the most extreme and impossible conditions (the 100-fold increase). Clearly, airport noise is a problem, as evidenced by the extensive testimony, public debate, and controversy. Only the second conclusion is plausible. The DGEIS has used a ruler that is insensitive to noise impacts.

East Hampton Airport Exceeds East Hampton Noise Criteria 10 Million Times Per Year in 2013

The advantage of using the East Hampton noise criteria as embodied in the Town Code, besides it being a locally accepted community standard, is that it actually relates to noise impacts. This is exactly what one would expect for a criterion that is not merely one of measurement but is actually the standard for a violation of law, subject to fine. Evening and nighttime operations that exceed the East Hampton criterion have a chance of causing awakenings and sleep interference, and will interfere with concentration and disrupt the tranquility of the environment. Events that exceed the daytime criterion will interrupt conversations and interfere with activities. They degrade the quality of life. What is needed to improve the metric is to count the events that occur. In the case of the DGEIS's 2013 Forecast, the number of times that aircraft noise exceeds the standard set by the Town's own noise ordinance by projecting excess sound across a residential boundary is 9.8 million events per year in East Hampton and surrounding communities.

Even this understates the adverse impact. Louder events, such as those that accompany jet operations, cause more disturbance and distress; longer events, such as those that accompany helicopter and touch and go operations, cause more disturbance and distress; repetitive events, such as those at peak operating times or as caused by touch and go operations, cause more disturbance and distress. A raw count of events exceeding the noise limit does not capture any of this additional adverse impact.

Also, the East Hampton noise ordinance is quite sophisticated and incorporates sub-limits based on the audio frequency of the noise, divided into "octave-bands." By intention, some events that would not exceed the permitted level of total noise would exceed the sub-limits and hence cause a violation. Such events have not been counted although, with some additional effort, they could be based on the acoustic signature of particular aircraft to the extent available.

Evening and Nighttime Operations Are Responsible for Nearly Half the Noise Problem

Using the 2013 data, daytime incidences in excess (“exceedances”) of the East Hampton noise criteria numbered 5.2 million; evening and nighttime flights, which accounted for only 10% of the take-offs and landings contributed another 4.6 million. Limitations after 7 PM and nighttime curfews would significantly reduce noise problems.

Area Impacted by Aviation Noise is Extensive

The area of land where the East Hampton noise criteria is exceeded is extensive (Map 5—Daytime and Map 6—Evening and Nighttime). The 65 DNL contour is shown on both maps for perspective. The difference is striking. The East Hampton Criteria show a vastly greater area of impact.

Some Areas Are Disproportionately Impacted

While many areas have relatively few instances of exceedances, some areas are heavily impacted (Map 7). Map 7 shows the density of exceedances. These areas are not always immediately adjacent to the airport. Some areas are miles from the airport. The yellow shading on the map, with less than 500 exceedances per year, accounts for only 10% of the total exceedances of the East Hampton criteria. The majority of the impact is in the more darkly shaded regions. The percentage of total exceedances shown in Map 7 by region are as follows:

Exceedances per Year	Percent of Total Exceedances
< 500	10%
500-1000	15%
1000-3000	16%
3000-6000	19%
6000 +	39%

No Area of East Hampton Is Protected Against Future Impacts Due to Changes in Flight Paths

One conclusion that can be drawn from Map 7 is that no area of East Hampton is safe from potential changes in flight paths, runway usage or alignment, or aircraft types. The greatest density of exceedances is often miles from the airport and caused by aircraft that rarely used the facility at the time of the last Master Plan (helicopters). There is no way people miles from the airport could have anticipated these problems. In the future, changes, either at the airport or to flight paths, could impact new areas of East Hampton and surrounding communities, just as helicopters have impacted people far from the airport.

The Majority of Noise Problems Results from Aircraft the Airport Was Not Designed For

Twin engine aircraft are responsible for only 11% of the current daytime noise exceedances. 61% of the current noise exceedances are due to aircraft other than single and twin-engine propeller-driven aircraft. Growing noise problems around smaller airports generally result from creep over time in the design aircraft of the airport. Each time a runway is lengthened or strengthened, noisier and more demanding aircraft are able to use the facility. At the time of the 1989 Master Plan, runway strengths were not sufficient for jet aircraft. Most noise problems can be attributed to the increased capacity of the runways and to aircraft not intended in the last Master Plan.

Requiring Helicopters to Fly at 2,500 Feet Meaningfully, But Not Sufficiently, Reduces Exceedances

The INM modeling shows that requiring helicopters to fly at 2,500 feet meaningfully improves their noise impact on the community. In spite of the higher altitude, however, there are still millions of exceedances due to helicopters in the 2013 Forecast. Moreover, there is no means in the DGEIS other than voluntary compliance to capture this improvement. With between 59% and 75% compliance with voluntary altitude requests (DGEIS, 34), the level of improvement in the Forecast Case is not justified. Similarly, a seasonal control tower doesn't guarantee improvement, particularly since noise abatement is not an explicitly permitted purpose of air traffic control. The EIS and Master Plan must mandate the policy of helicopters maintaining 2,500 feet if the Forecast Case is to be accepted as accurate. Otherwise the Forecast Case modeling is inappropriate. Finally, given the testimony of residents concerning low flying helicopter traffic, it is almost certain that the INM model understates helicopter exceedances in the Basecase also.

A Census Block Analysis of Exceedances Best Shows the Extent of Noise Problems Caused by the Airport

As already mentioned, Map 7 shows noise exceedances per household, broken down by census blocks. Both the population and area experiencing various yearly exceedances are shown in the key. The map shows yearly exceedances, but it is important to remember that most of those occur in the summer and on weekends, and particularly on summer week-ends when the East Hampton population is at its peak. Thus, the rate of exceedances experienced by the population during the most important days of the year in East Hampton is much higher than the average rate. Map 8 compares Map 7 with the 65 DNL contour.

Methodology

INM Model

This study of East Hampton Airport's noise impact on the community draws its data from the Integrated Noise Model (INM) used by the town of East Hampton to assess noise impacts in the DGEIS, published in July, 2009. For this report, Version 7.0a of the INM model was used.

The only additional data used in this report include supplemental US Census data for the areas around the airport as well as a rough estimate made by the East Hampton Airport Manager Jim Brundige of the proportion of flights occurring in the evening and nighttime. A satellite image of the Suffolk County area was also used.

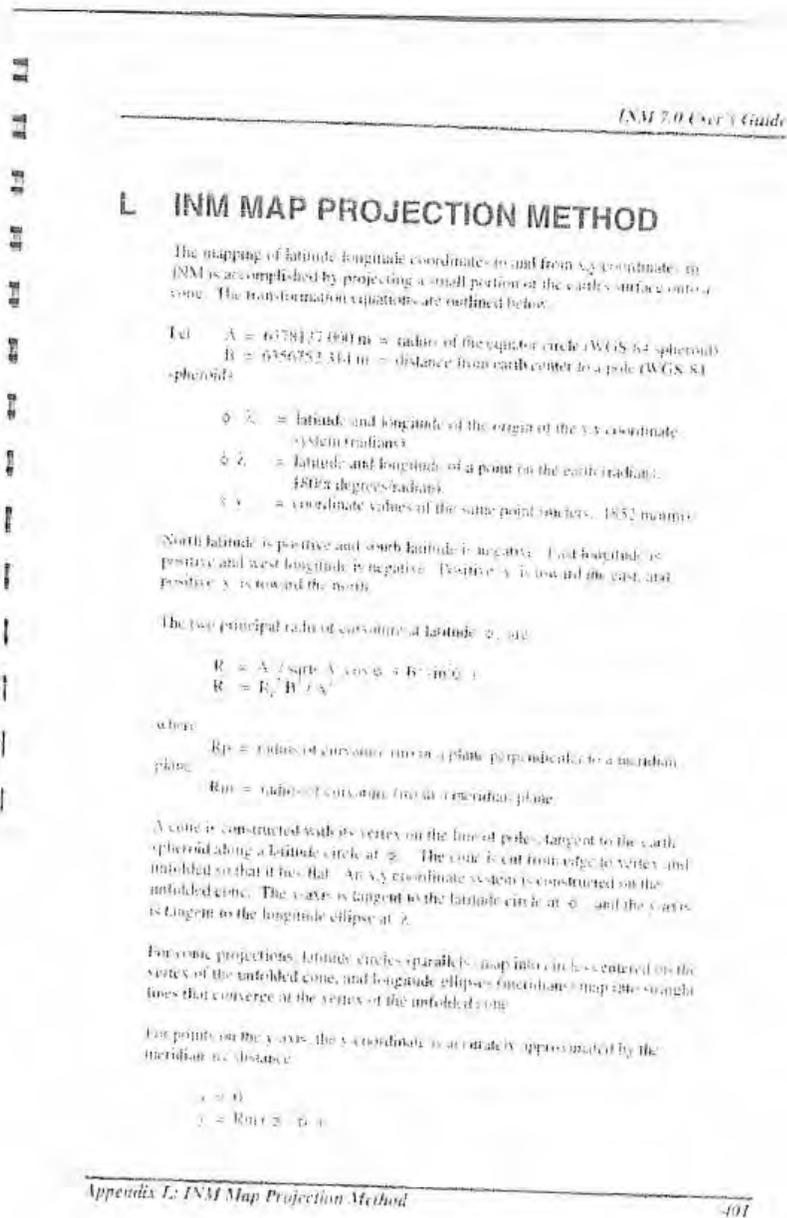
No changes were made to input data used by the Town of East Hampton. This report merely analyzes output data from the INM model. To the extent that the East Hampton's input data is accurate, this report is accurate. To the extent that the inputs are inaccurate, this report is inaccurate.

The INM modeling inputs were obtained from Young Environmental Sciences (YES) with the consent of the Town of East Hampton. The 2008 Basecase and 2013 Forecast Case created by YES were used.

The Methodology section of the report is intended for people with some familiarity with the INM model, so that they may more easily replicate the data contained in this report. The INM model is too complicated to explain here (the INM Users Guide, which is exceptionally difficult to understand, is over 400 pages long). Therefore, the Methodology section assumes the reader has a working understanding of the INM model.

Modifications to INM Output Formats

In order to examine the INM output by US Census Blocks,² and in order to calculate the number of exceedances of the East Hampton noise criteria, the Detailed Grid function of the INM model was used. A detailed grid location was created for each US Census Block around the airport. Each Census Block represents many homes. As the Census Block location is given in Latitude and Longitude, and since the INM model uses an X-Y coordinate system, a conic projection was used to transform the coordinates. The following formula, found in Appendix L of the INM User's Guide was used to perform the transformation.



² Year 2000 Census data was used.

An initial attempt to manipulate this data in Excel Spreadsheets was very time-consuming because Excel cannot hold more than 64,000+ lines in one worksheet. Not only was the process of separating the data into files of less than 60,000 lines time-consuming, but having dozens of Excel worksheets significantly increased the risk of an error. One such error did occur as we reported 5.4 instead of 5.2 million daytime exceedances at the East Hampton DGEIS public hearing. So, instead of using Excel, the DbaseIV output file was imported into an Access database. This Access database was the source of all tables and maps generated by the INM output. This simplified the analysis greatly as US Census population data could then be imported to make the presentation of the output easier.

The exceedances of the East Hampton criteria are defined as instances where the INM Lmax equaled or exceeded either 65 dBA (daytime) or 50 dBA (evening or nighttime) at a residential property. The number of residential properties per Census Block was estimated by dividing the Census Block population by 2.42, the average number of people per residence in East Hampton according to the Census. The number of exceedances per year is the summation over all 500,000 lines of data of the instances the criteria level was exceeded, which was calculated by multiplying the number of residential properties in that census block, times the number of operations per day of that particular aircraft and flight path, times 365 days per year.³

The major weakness in the reporting is the assignment of flights to either daytime, evening, or nighttime. The East Hampton criteria specifies a 7 AM to 7 PM timeframe for daytime events, and 7 PM to 7 AM timeframe for evening and nighttime events. The INM input data did not specify evening flights, however. The INM model uses a 7 AM to 10 PM timeframe. So, in order to determine the number of flights occurring after 7 PM, we asked Jim Brundige, the East Hampton Airport Manager, to estimate the percentage of flights occurring between 7 PM and 7 AM. He estimated 10% of the flights occurred in the evening and night. He also strongly qualified his estimate, and noted that he didn't have any data to support it. It seemed about right to him.⁴

The 10% evening and nighttime value was used. The total number of exceedances of 50 dBA was multiplied by 0.1, and the total number of 65 dBA exceedances was multiplied by 0.9. Then the two values were summed. Because the nighttime noise criterion is lower, the estimated number of exceedances is much greater. Therefore, the number of nighttime exceedances fluctuates much more strongly depending on the actual number of evening and nighttime flights. Therefore, in this report we tend to use the daytime values because they are more robust.

In order to create the maps contained within this report, the INM output graphics were exported as Shape files, and then imported into a GIS program. The 10 times, and 100 times maps were not created by modeling 10 and 100 times the number of flights, but by using the 55 and 45 DNL contours respectively.

³ One note for INM users more familiar with the DNL metric, the OPS_EQUIV field is equal to the number of operations on that particular track in the modeling for metrics such as SEL and LMAX. For time-weighted metrics such as DNL, the OPS_EQUIV field is equal to $\text{DayTimeOps} + 10 * \text{NightTimeOps}$.

⁴ Personal conversation with Mr. Brundige on September 15, 2009.

INM 2.0 User's Guide

Coordinates of the point, the y -coordinate, coordinate, are coordinates calculated in the course of the individual case. For this case, the x -coordinate is approximated by the arc distance along a circle, and the y -coordinate is approximated by the value at zero plus a possible correction.

$$\begin{aligned} \text{Case 1: } R_1 \cos(\theta) &= (x - x_0) + R_0 \cos(\theta) \\ y &= y_0 + R_0 \sin(\theta) \end{aligned}$$

More:

$$\begin{aligned} R_0 &= R_1 \sin(\theta) / \Delta \\ \Delta &= 1 - \cos(\theta) \end{aligned}$$

At this point, the x -coordinate is provided by the following equations:

$$\begin{aligned} x &= x_0 + R_0 \cos(\theta) \\ y &= y_0 + R_0 \sin(\theta) \end{aligned}$$

When:

$$x = x_0 + R_0 \cos(\theta)$$

The above simple projection method provides a simple and very quick transformation between Eureka longitude and XY coordinates. The values of distance R_0 , R_1 , the sine and cosine terms, $\cos(\theta)$, $\sin(\theta)$, and the offset correction coefficient Δ , are constants that are calculated only once. A computationally quick transformation is required because latitude values are calculated and displayed for every element of the massive number of terrain feature grids in an INM graphics display.

The INM cone projection method is defined by conformal map projection which does not exactly map onto the same angles in the x - y coordinate system. However, the method is very accurate within an area of approximately one square mile around the system of coordinates.

For example, if the origin is at 55° 54' N, 156° 14' W, a 1 km square on the earth's surface would be 790.1 m long from the origin when mapped into INM x - y coordinates. It is 23 m longer in the east-west direction and 2.5 m shorter in the north-south direction. By comparison, the same 1 km square mapped by the standard Mercator projection would be 1.756 m longer in both directions.

The above formula was used to convert 1,373 Census Block points into the XY coordinates used by the model. Instead of using the INM GUI to enter the nearly 1,400 points, the data was entered directly into the grid.dbf Dbase IV file.

When the INM model was run, "Do Detailed Grids" was selected in "Run Options," and so was the feature that saves 100% of flights. The output data file (grid_dtl.dbf) contained approximately 500,000 lines of data. Each line included the aircraft type, type of operation, the number of similar operations per day, the Lmax value, a Census Block impacted, and other less relevant data. For each type of aircraft and each flight path, a number of lines of data were created, one for each Census Block impacted.



MAP 2



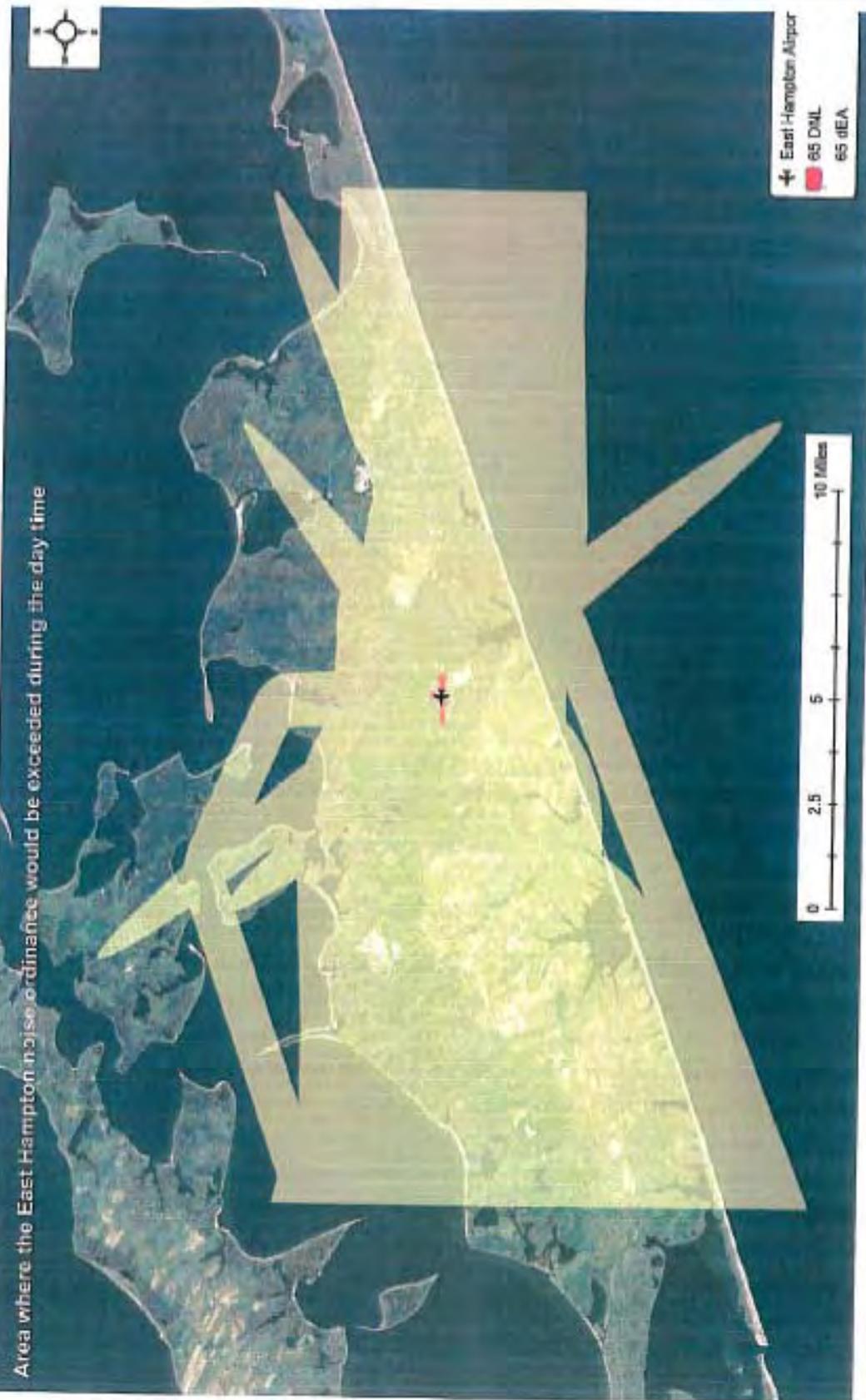


MAP 4



MAP 5

Area where the East Hampton noise ordinance would be exceeded during the day time

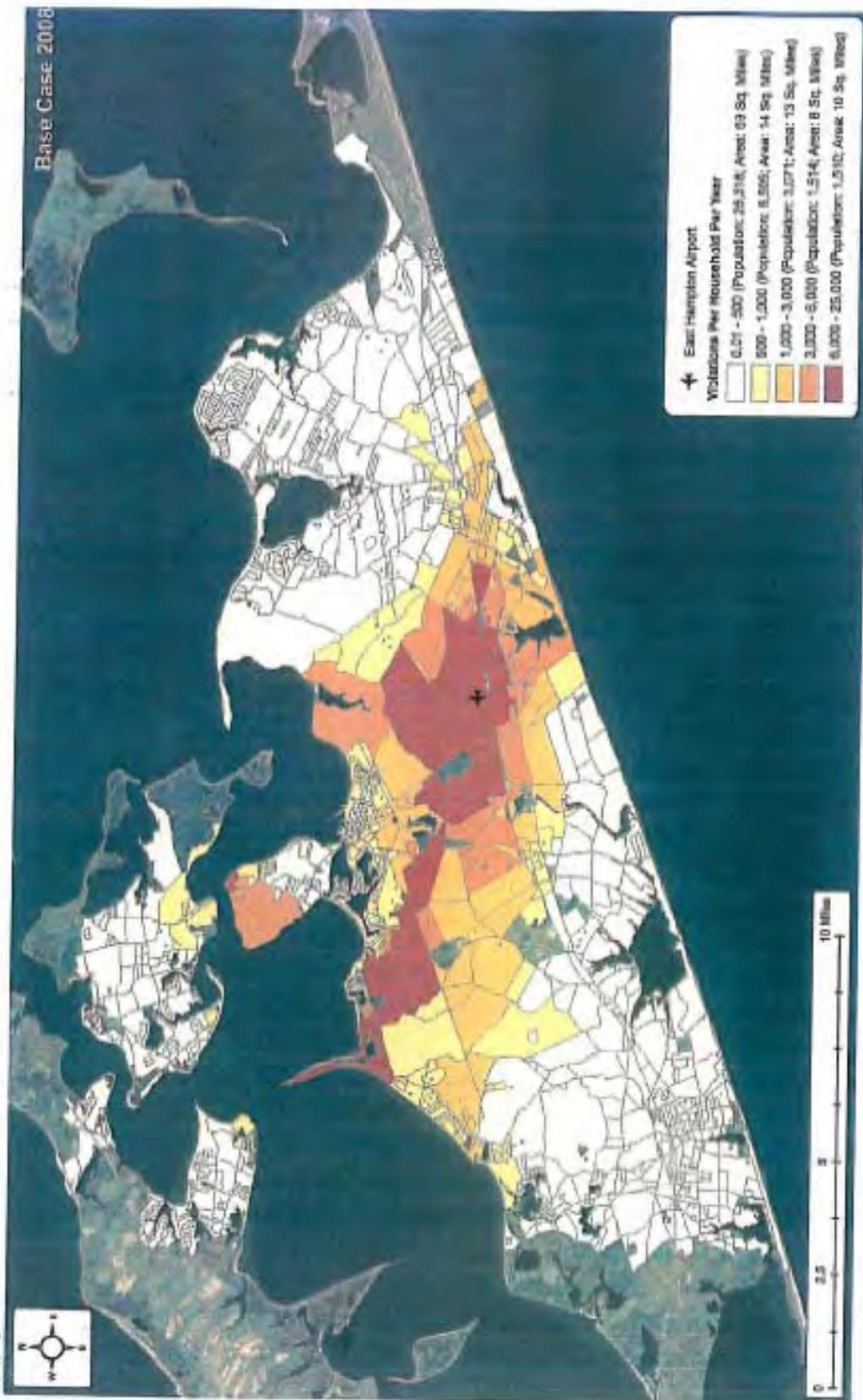


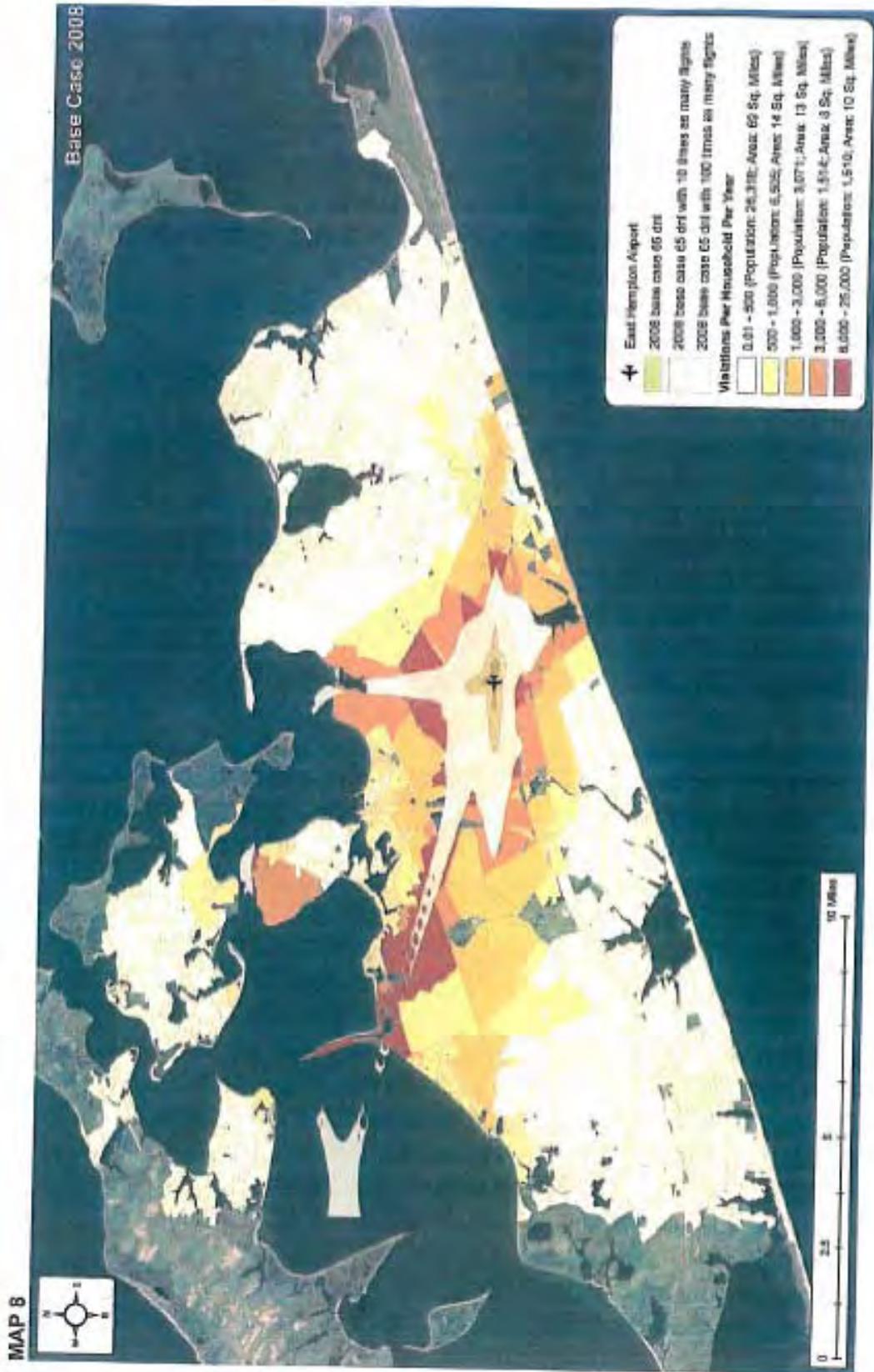
MAP 6

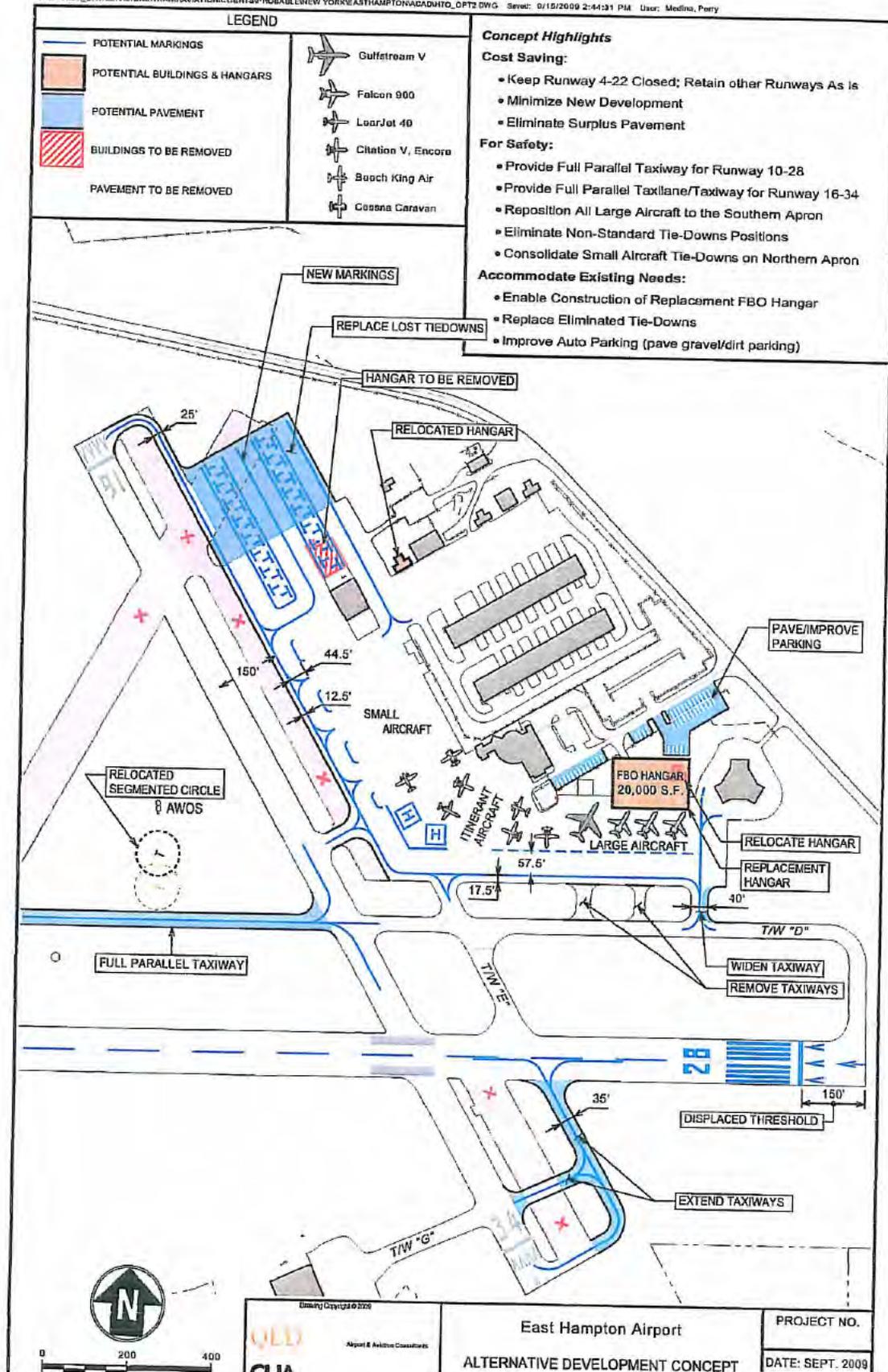
Area where the East Hampton noise ordinance would be exceeded during the evening and night time



MAP 7







East Hampton Airport Comments on the GEIS Suggested Alternative Concept

Submitted on: September 17, 2009

Submitted by: Committee to Stop Airport
Expansion

The GEIS considers four alternatives including 1) no action, 2) modest plan, 3) reduction in capability and, 4) expansion. First and foremost, the Town and their consultants should be commended for selecting Alternative 2 – the modest plan with the overall philosophy of improving safety (meets FAA design standards) and efficiency.



This recommendation or Proposed Action has many benefits and a goal to maintain the existing capability of the Airport, while making only modest improvements. A review of the GEIS clearly indicates that detailed evaluations were involved in the recommendations. In fact, the detailed information in the GEIS fostered the development of the following alternative concept. It is hoped that the suggestions here are viewed as constructive input, with the goal of improving upon the current recommendations for the Airport, but with the same philosophy – enhancing safety and efficiency while minimizing both financial cost and impact on the community.

The attached suggested alternative concept (the Concept) is intended go a full step further by minimizing the level of development and significantly reducing construction, maintenance, and operating costs. It is contended here that the Concept provides all of the benefits of the Proposed Action, with reduced construction and on-going maintenance costs, less intrusive aircraft noise impacts, and enhanced efficiency and safety benefits.

Concept Description: For the runways, keep Runway 4-22 permanently closed. The cost to completely reconstruct and re-open this facility as a runway or taxiway is high and, according to the Airport Master Plan Report, the runway's alignment is not favorable with the residential area to the south. The master plan identifies that well over 200 households would be affected by aircraft noise during Runway 4-22 operation. By contrast, Runway 16-34 impacts less environmentally-sensitive land, and the associated noise disturbance is a maximum of 43 households (Airport Master Plan, Figure III-31).

The Concept retains the two active runways (Runway 10-28 and Runway 16-34) without expansion. These two runways afford the highest crosswind coverage (both overall and VFR). Although, summer winds slightly favor Runway 4-22, these winds average less than 10 knots, and the combination of Runways 10-28 and 16-34 exceed the FAA's recommended wind coverage for even the smallest aircraft. As Runway 16-34 is favored in the cooler months when winds are higher, there is some safety benefit to maintaining Runway 16-34 rather than Runway 4-22 as the secondary runway.

The GEIS identifies that vehicles on Daniel's Hole Road penetrate the Runway 28 approach surface, and therefore a road relocation of nearly 2,000 feet in length is included in the GEIS. In lieu of the road relocation, this Concept incorporates a 150-foot displacement to the Runway 28 threshold to meet FAA threshold siting standards. A review of the landing performance of the Critical Design Aircraft (i.e., Cessna Citation 560/Encore) indicates that this small displacement will not impact landings by the design aircraft, or similar models. The full runway length would remain available for takeoff. Overall, the Concept would save significant costs by eliminating the need to reconstruct Runway 4-22 and relocate Daniel's Hole Road.

For the taxiways: the Concept supports the completion of the parallel taxiway for Runway 10-28. The Concept also recommends a full parallel taxiway/taxilane for Runway 16-34, which will significantly improve safety and operational efficiency. In contrast, the GEIS does not contemplate a full parallel taxiway for Runway 4-22. The GEIS identifies that a Runway 16-34 parallel taxiway would eliminate most of the small aircraft tie-downs on the north ramp. The Concept avoids this by designing the parallel taxiway/taxilane lateral separation from Runway 16-34 for small aircraft exclusively (i.e., Airport Reference Code B-I, SAE) to its northern connection to Runway 16. The Concept provides for B-I design standards associated with the taxiway object free area width. This provides all the safety benefits while only eliminating six tie-downs. Runway 16-34 is only used by small aircraft, thus an FAA standard B-I taxiway is appropriate.

On the south end of the runway, there is adequate space for a wider B-II parallel taxiway to the Runway 34 end. This portion of the taxiway will also provide access to the hangar facilities in that location, which are used by both large and small aircraft. As an additional benefit, this taxiway (an extension of Taxiway H) also eliminates the need to extend Taxiway G to Runway 28. The end result of the Concept is slightly less total taxiway pavement, but more importantly, full parallel taxiways connecting to both ends of both runways.

For the terminal area, the Concept provides operational and safety improvements with no increase or decrease in aircraft storage capacity. The Concept has a significant advantage of concentrating the larger (jet) and transient aircraft on the southern and central portions of the existing apron, convenient to the terminal building and Runway 10-28. The concept also relocates all small aircraft tie-downs on the north ramp, convenient to Runway 16-34. This affords significant separation between large and small aircraft and enhances the safety of aircraft ground maneuvers. Additionally, the segregation of aircraft types contributes to more effective and efficient ramp management for aircraft service providers. It minimizes the need to transition large aircraft once they are positioned on the ramp to other locations on the Airport. This reduces the liability associated with ground operations and costs to aircraft operators.

As proposed by Sound Aircraft Services, their northernmost existing hangar would be eliminated and replaced with a new hangar convenient to the south ramp in order to accommodate an equal amount of storage for based jets (currently in tie-down positions) and the large piston or turboprop aircraft currently stored in the hangar. The new facility would provide the security and operational benefits of a new modern hangar with office space and other services. The Concept integrates the new hangar with the large aircraft parking and in proximity to Runway 10-28. This new hangar and parking for visiting jet and large piston and turboprop aircraft can be accommodated without expansion of the south ramp.

Segregating large and small aircraft and eliminating the tie-downs that would be located within the taxilane object free area associated with Runway 16-34 (a non-standard condition), has the effect of removing 32 existing tie-downs. All of these tie-downs are therefore replaced on the north ramp. By using the area of the hangar to be removed and expanding the apron to the north, the existing tie-down capacity for small aircraft is maintained with only a modest need for new pavement. Taking into account the apron eliminated in order to provide the standard runway/taxiway separation to Runway 16-34, the net increase in pavement is well under an acre (approximately 28,000 square feet), much less than the approximately 140,000 square feet of additional pavement proposed for Runway 4-22.

Finally, it is noted that existing and forecast activity levels do not justify an FAA control tower. As such, a control tower at the Airport would have to be entirely constructed, equipped, staffed, and maintained with Town resources. It is estimated that takeoffs and landing would have to nearly triple before an FAA-operated or funded control tower would be feasible. As such, the tower is not included in the concept. Note that of the 5,000 public airports in the US, only 400 have control towers. The Town may wish to consider regulatory solutions for encouraging voluntary compliance with preferred routes and altitudes.

Summary: The table below highlights the differences in the amount of new or reconstructed airfield pavement recommended in the GEIS and the Concept. The GEIS includes nearly twice the new or reconstructed airfield pavement area as the Concept. Nevertheless, the Concept provides greater improvements to safety and efficiency.

Table 1: Airfield Pavement Construction		
New and Reconstructed Pavement (in Square Feet)		
Type	GEIS	Concept
Runway (Rwy 4-22 reconstruction)	140,000	0
Taxiways	82,000	80,000
Small Aircraft Apron	0	66,000
Control Tower Access	48,000	0
Total	270,000 SF	146,000 SF
Difference (Concept - GEIS)	-124,000 SF	

The pavement listed in Table 1 does not include public road or auto parking. Note that the GEIS also includes the relocation of Daniel's Hole Road, with an additional acre of pavement construction (approximately 44,000 SF). Both options incorporate the additional airport auto parking.

The Concept also enables permanent decommissioning of portions of the existing airfield pavement, in particular Runway 4-22, so that there is less overall pavement on the Airport to maintain. Table 2 lists the difference in the area of pavement to be decommissioned.

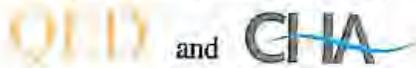
Table 2: Airfield Pavement Area to be Decommissioned	
GEIS	-240,000 SF
Alternative Concept	-310,000 SF
Difference (Concept - GEIS)	-70,000 SF

Table 3 highlights the resulting overall operational pavement area. As compared to the GEIS, the Concept provides for nearly an 11% reduction in the total airfield pavement, or 194,000 square feet (nearly 5 acres), with a safer and more efficient layout. This reduction serves to lower future capital costs and annual maintenance costs, thus contributing positively to the Airport's financial bottom line.

Table 3: Total Airfield Pavement to Maintain	
GEIS	42.3 Acres
Alternative Concept	37.8 Acres
Difference (Concept - GEIS)	-4.5 Acres

It is hoped that the Town and Airport users view this Concept as constructive, building on the advantages of the proposed action, and using the detailed documentation in the airport studies to refine the recommended plan to the benefit of all.

Support for development of this Concept was provided by:



6

EAST HAMPTON AIRPORT PLAN COMMENTARY
September 25, 2009

This report presents the findings made by QED and CHA with respect to certain issues related to the future plans for the East Hampton Airport. In particular, we have evaluated the claims made by others with respect to runway wind coverage, and have provided further information on the topics of the threshold siting for Runway 28, taxiways to enhance aircraft ground operations and pavement investment requirements. These are presented in the sections that follow.

Analysis of Runway Wind Coverage

Wind data used in the Airport Master Plan was derived from observations taken at the Francis S. Gabreski Airport located in Westhampton Beach, some 19 nautical miles west-southwest of the East Hampton Airport. This is the nearest weather reporting station to the East Hampton Airport that provides wind velocity (speed and direction) data for use in determining runway wind coverage in accordance with Federal Aviation Administration (FAA) guidelines.

Anecdotal input from pilots operating light aircraft and using East Hampton Airport indicates that prevailing winds are from the northeast and southwest, and to support that contention, Save East Hampton Airport, Inc. funded a study of wind data. The study was prepared by Greenman-Pedersen, Inc. and is dated December 21, 2006. The study concludes that the "prime wind-direction runway at East Hampton Airport (HTO) is Runway 4-22, based on historical, local wind data." The data utilized to support this determination are the official monthly records at the Bridgehampton Weather Station. This station was manned by a National Weather Service climatologist who recorded average daily rainfall, timing of the precipitation, general description of the weather, a.m. and p.m. wind direction, and gusts over 30-35 mph. These observations were made for the years 1998 through 2005.

The location of the Bridgehampton Weather Station is not reported; however, it is recognized that the center of Bridgehampton is about three nautical miles southwest of the East Hampton Airport. If the climatologist recorded the weather data twice each day in each year, there would be a total of 5,840 observations. The Federal Aviation Administration (FAA) generally requires a minimum of 10 consecutive years of hourly weather data when determining wind-weather conditions at an airport, or 87,600 observations. It is not known if the wind direction and speed devices were installed, calibrated or otherwise met the required standards or positioned at the required 30' sensor height.

Even assuming, however, that the limited weather data available from the Bridgehampton Weather Station are accurate, the analysis presented in the Greenman-Pedersen report draws erroneous conclusions for the following reasons:

1. The wind data presented is an average of only two readings each day.
2. The data on wind direction is acceptable as recorded; however, there is no information that identifies the speed of the wind from any specific direction.
3. Runway wind coverage is based on acceptable levels of the crosswind component and, therefore, wind velocity (direction and speed) is an essential data element. The crosswind is defined as that wind velocity component that is 90° to the true runway heading. Wind data is recorded in true headings for compatibility in conducting evaluations. It is mathematically not possible to determine the crosswind component in the absence of wind speed data.

The FAA has established the maximum allowable crosswind limit of 10.5 knots for light aircraft for the purposes of calculating runway wind coverage. This entails a vector analysis that considers the heading of the runway, the direction of the wind and its speed. The analysis lends itself to a graphical solution that utilizes a wind rose, which presents the frequency of occurrence of wind speed from different directions. Consequently, high wind speeds can still yield a crosswind component within the allowable limit depending on its angle relative to the runway heading. Conversely, wind with a high crosswind component can still be within the allowable limit if the wind speed is low. Thus, only data on wind velocity, the combination of speed and direction, makes it possible to determine whether a crosswind component is within the allowable limit. Wind roses can be prepared for different weather conditions depending on the details recorded at the time of the observations.

4. Although the limited Bridgehampton Weather Station data indicates that Runway 4-22 is best aligned with prevailing winds in comparison with the other runways, it cannot be concluded from the data presented that it offers the highest wind coverage within the 10.5-knot crosswind limit for light aircraft, or for that matter that other runways offer higher or lower crosswind coverage. The data cannot support any conclusion about crosswind coverage.

In conclusion, the Bridgehampton Weather Station data does not permit an analysis of runway crosswind coverage, which is the critical element in determining the acceptability of a runway alignment to serve aircraft operations.

Use of the wind data observed at the Francis S. Grabeski Airport offers an indication of conditions that can be expected at East Hampton Airport. Further, this data is the only bona fide source that can be used to determine runway wind coverage in accordance with FAA criteria. The wind roses developed for the Grabeski Airport were acceptable to the FAA as part of the airport master planning process at East Hampton. Wind roses were prepared for visual and instrument flight rule weather conditions and then combined to yield an all-weather wind rose.

Because only Runway 10-28 may be used during instrument flight rule weather conditions, it is appropriate to consider the visual flight rule wind rose when analyzing the wind coverage for the other existing runway ends. The wind data presented in the airport master plan covers a 10-year period, 24 hourly observations each day between the years 1996 and 2005. Key findings from this data source are highlighted in Table 1 and below.

Table 1 RUNWAY WIND COVERAGE VISUAL FLIGHT RULE	
Runway and Combinations	Wind Coverage (%) 10.5-knot Crosswind
4-22	86.09
10-28	86.69
16-34	88.24
4-22 and 10-28	93.97
16-34 and 10-28	96.58
4-22 and 16-34	96.83
Source: Airport Master Plan Report, 2007	

1. Runway 16-34 provides the highest crosswind coverage during VFR conditions, followed by Runway 10-28 and Runway 4-22.
2. None of the individual runways provide the required/desired 95 percent crosswind coverage as established by the FAA. Therefore, a crosswind runway for light aircraft is desirable and funding for its maintenance is justified.
3. Runway 10-28 is considered the primary runway due to its length, particularly in the relatively high activity months when the East Hampton Airport is accommodating a range of aircraft types. Runway 10-28 combined with Runway 16-34 offers the highest two-runway system wind coverage (96.58 percent.) Therefore, the incremental benefit provided by Runway 16-34 is 9.89 percent ($96.58 - 86.69 = 9.89$.) Alternatively, a Runway 10-28 and Runway 4-22 combination indicates that Runway 4-22 provides an incremental benefit of 7.28 percent ($93.97 - 86.69 = 7.28$.) It is noted that the percentage of time that winds are below 10.5 knots from any direction is included in the determination of runway wind coverage and therefore applies to all runway alignments.
4. The Runway 10-28 and Runway 16-34 combination provides more than 95 percent wind coverage. Therefore, a third runway is not required nor justified in accordance with FAA criteria. A Runway 10-28 and Runway 4-22 combination yields 93.97 percent

wind coverage, which might suggest that Runway 16-34 would be eligible for construction under FAA guidelines. However, FAA will not financially support a three-runway system at a general aviation airport, especially one with the relatively low levels of annual aircraft activity experienced at East Hampton. Because Runways 10-28 and 16-34 provide 96.58 percent wind coverage, FAA will not support a third runway (Runway 4-22) at the East Hampton Airport. This confirms the two-runway system of Runway 10-28 and Runway 16-34 as the appropriate choice from a wind coverage perspective for light aircraft.

Review of Runway 28 Threshold Report

This section provides a review of the analysis and findings of the report entitled, East Hampton Airport, Threshold Report, Runway 28 & Runway 22 (March 1, 2007) by the firm of Greenman-Pedersen, Inc. The report identifies that vehicles traveling on Daniels Hole Road are airspace obstructions as they penetrate the Federal Aviation Regulations (FAR) Part 77 Approach Surface, as well as the FAA Threshold Siting Surface (TSS), specified in FAA Advisory Circular 150/5300-13, Airport Design. Nevertheless, the report then concludes that a displaced threshold is not required under FAA rules and that Daniels Hole Road does not need to be relocated. These conclusions are incorrect and based on misinterpretations of FAR Part 77 and an erroneous application of FAA design standards. The technical errors of the report are summarized below.

1. Exceptions to FAR Part 77 Imaginary Surfaces Requirements

The report states that FAR Part 77.15 (14 CFR 77.15) provides an exception to the prohibition against penetrations to both the Approach Surface and TSS (page 2). This conclusion is fundamentally incorrect.

First, the "exception" is to the requirement for formal FAA notification of proposed construction on or near a public airport. Part 77.15 has no bearing on the need to address existing approach surface penetrations.

Second, the "exception" is only applicable to objects or structures that would be shielded by other existing structures of a permanent character or by topographic features of equal or greater height. The report wrongly concludes that the existing trees on the north side of the approach surface provide a shielding that triggers this exception. Under Part 77.15, trees cannot provide the "shielding" as FAA does not consider them structures of a permanent character or a topographic feature.

Third, the vehicles on Daniels Hole Road are not shielded by the trees, even if they were considered to be topographic features. When an aircraft is on final approach to land on Runway 28 flying over Daniels Hole Road, a vehicle on the road penetrates the 34:1 approach surface to the immediate north of the aircraft (right side). The trees in question are located further north

beyond the limits of approach surface – providing no shielding for the vehicles. Stated another way, an approaching aircraft could strike a vehicle on the road without striking any trees. Under FAR Part 77.15 for the exception to be applicable it must be "evident beyond all reasonable doubt that the object (i.e., vehicles on the road in this case) so shielded will not adversely affect safety". The report provides no information to support this stated requirement.

Finally, it is also important to note that FAR Part 77 does not apply to the TSS. The TSS is an FAA design standard, not a Part 77 imaginary surface, which is an element of a federal regulation. Notwithstanding the regulations (or exceptions) under FAR Part 77, the FAA requirement for a TSS to be free of penetrations remains in effect at all public airports. The 2007 Threshold Report states that the Part 77.15 "exception" applies to the TSS; it does not.

2. Slope of the Approach Surface

The Report indicates that the slope of both the approach surface and the TSS for Runway 28 is 20:1. It claims that because Runway 28 has a non-precision instrument (NPI) approach with a visibility minimum of ≥ 1 mile, the slope is 20:1. This determination would only be correct if the design aircraft was a small aircraft (i.e., under 12,500 lbs. maximum takeoff weight).

However, as the critical design aircraft for Runway 28 at East Hampton is a Citation 560, a large aircraft (i.e., 16,800 lbs.), the slope of the FAR Part 77 approach surface is actually 34:1. Part 77 terms runways that accommodate large turbine powered aircraft as "greater than utility" runways. When a runway provides a NPI approach with a ≥ 1 mile visibility minimum, but is intended to accommodate greater than utility aircraft, the approach surface slope is 34:1 (see Part 77.23).

The Report correctly determines the TSS slope to be 20:1, per FAA Advisory Circular 150/5300-13, Appendix 2, as the runway supports straight-in NPI operations (day or night), serving approach category A and B aircraft. The TSS is nearly always 20:1 at general aviation airports, except for runways that provide positive vertical guidance (such as with an electronic glide slope or ILS).

For runway obstruction evaluations, the Part 77 approach surface is used to determine if an object is an obstruction, i.e., if it penetrates any of the FAR Part 77 surfaces. When obstructions are present, then the TSS is used to locate (or displace) the runway threshold to address any obstructions that cannot be lowered in elevation or removed due to physical, environmental or cost factors (such as Daniel Hole Road).

The Report's discussion and illustrations of the approach surface are incorrect.

3. Claim of Inconsequential Penetrations

The Report provides calculations regarding the amount of penetration to both the FAR Part 77 approach surface and TSS. The calculations show the penetration is a maximum of 15 feet into

the approach surface and 12 feet into the TSS. The study also documents that these penetrations extend for a length of up to 300 feet, and the greatest penetration is near the northerly edge of the surfaces (page 4). The Report then concludes that the penetrations are inconsequential, presumably because of their limited extent, although the Report does not specially identify the justification for its conclusion on this issue.

As such, it must again be emphasized that the Report's conclusion is inaccurate. The determination whether a penetration is significant or not is complex. It may involve issues associated with design standards, flight standards, airspace, instrument procedures, and other considerations. For this reason, FAR Part 77 classifies all penetrations to an airport's imaginary surfaces to be an aeronautical "hazard", unless an FAA aeronautical study is completed and determines otherwise. Such studies involve multiple lines of business with the FAA, each of which has responsibility over certain aspects of flight safety. Coordination of all aeronautical studies is now a centralized function by the FAA Obstruction Evaluation / Airport Airspace Analysis (OE/AAA) office, which follows specific procedures to make timely determinations on airspace obstructions.

In conclusion, FAA regulation prevents airport sponsors, airport management, and consultants from making determinations of the significance regarding surface penetrations. The 2007 Report does not reference an aeronautical study (current or past) that addresses the penetrations created by vehicles on the Daniels Hole Road. As such, vehicles on the road must still be considered a hazard until FAA determines otherwise. The penetrations cannot be considered inconsequential at this time.

4. Financial Cost of a Threshold Displacement

Section 4a of the Report states that a displaced threshold will require relocation or replacement of all runway lights, wiring, electrical equipment, as well as the airport signage. It concludes that the cost and difficulty of this replacement is an over-riding reason not to move the threshold.

First, it is noted that cost or difficulty is not a valid reason to avoid addressing FAA standards (i.e., a displaced threshold).

Second, the report incorrectly concludes that all the runway lighting and signage would have to be relocated to meet FAA requirements, and this would probably result in the need to replace the lights, wiring, and the regulator. The displaced threshold would not affect the location of any taxiways, and therefore no signage would need to be relocated (note that the runway is not equipped with distance remaining signs). The displaced threshold would require adding a set of threshold lights, relocating two REIL lights, changing the color of some of the edge light globes, and remarking a portion of the runway. The estimated construction cost for this project is approximately \$150,000.

It is likely that the runway edge lights would not need to be relocated. In most cases, a displaced threshold is integrated into the existing runway lighting system without relocation of light fixtures. Furthermore, if relocation was preferred, there would still be no direct need to replace the lighting fixtures or other electrical equipment due to the displacement itself. If the lighting is in need of replacement that would not be an issue associated the runway threshold displacement.

The displacement of the Runway 28 landing threshold by 240' in order to address the 12' penetration of the TSS as determined in the Report may trigger the need to adjust the glide path angle provided by the PAPI-2 system on Runway 28. The current glide path angle is 3.00° and the threshold crossing height is 53.6' at the runway end. The cause for the 53.6' threshold crossing height is not known. However, maintaining the present PAPI-2 location and settings, yields a threshold crossing height of 41.0', which is within the allowable range for the types of aircraft anticipated to use Runway 28. Therefore, there is no need to relocate the PAPI-2 on Runway 28.

Finally, the Report states that the lighting relocation would trigger the need for an Environmental Assessment. Under the National Environmental Policy Act (NEPA), lighting replacement is classified as a Categorical Exclusion, and a Type 2 Action under SEQRA.

For informational purposes, the complete replacement of the runway edge lighting for a 4,255' runway, with a new Medium Intensity Runway Lighting (MIRL) system, cabling and regulator is estimated to be \$300,000. Typically, runway lighting is replaced on a 20-30 year basis. As an alternative to a displaced threshold on the Runway 28 end, the Airport Master Plan and GEIS recommend the relocation of Daniels Hole Road. Approximately 2,000 feet of road relocation is depicted on the recommended development plan. For comparison, this road relocation would cost upward of \$600,000 to \$800,000. The pavement cost alone commonly runs \$200 per linear foot of roadway (2-lane, 30 foot wide pavement section), or about \$400,000. Additional costs include grading, embankment, drainage facilities, utilities, demolition of the existing road, permitting, and design and inspection. These other cost can be substantial based on local conditions.

Summary

The Report's findings are incorrect. The Town is required per Federal Aviation Regulations to address the penetrations created by vehicles on the Daniels Hole Road. Vehicles on the road are not shielded by nearby trees, and only the FAA can determine if the penetrations are or are not significant.

Despite the non-standard condition, the Report is correct in stating that the FAA will not force an airport sponsor to implement a remedy to the current condition (i.e., a displaced threshold or road relocation) until a runway rehabilitation project is undertaken on that runway with FAA funding. Furthermore, it may be possible that FAA would enable the use of obstruction marking/lighting, along with the existing PAPI, to prevent both the road relocation and displaced threshold in this specific case. However, only FAA can make this determination. Thus,

addressing these potential solutions should be pursued with the FAA. The most costly alternative to address the penetrations would be the relocation of Daniels Hole Road.

Safety Importance of a Full Parallel Taxiway

A full parallel taxiway enables aircraft access to and from a runway without the need to occupy the runway. In the past, taxiways were viewed primarily for capacity purposes, as they enable aircraft to clear the runway quickly and thereby support additional takeoffs and landings. Airport planning guidelines previously included a certain number of aircraft operations on the runway before a parallel taxiway was justified. However, FAA studies on the safety benefits of parallel taxiways (i.e., preventing the risks and hazards associated with runway crossings and back-taxiing) have eliminated the need for capacity-based justification analyses since 1989. A full parallel taxiway is considered an inherent safety component of the airfield and should be provided on all runways where feasible.

The Master Plan and GEIS include reconstructing and opening Runway 4-22, but without a full or partial parallel taxiway. This configuration will require aircraft to back-taxi on the runway for every takeoff on Runway 4 and all landings on Runway 22 when the landing roll extends beyond the intersection of Runway 10-28. This situation is inherently less safe as it requires greater communications and diligence on the part of all Airport users (include aircraft that only use Runway 10-28). Back-taxiing results in greater runway occupancy times and aircraft holdings on the runway, particularly for Runway 4 end, which lacks even an access taxiway. Landings on either end of Runway 4-22 may result in aircraft exiting onto Runway 10-28, which then occupies that runway and introduces additional risks and potentials for conflict with aircraft intending to use that runway. Although such an operating configuration can be managed, the risk for human error due to poor communication or situational awareness is much higher than for runways served by a parallel taxiway (such as Runways 16-34 and 10-28 in the alternative Concept)

In conclusion, reopening Runway 4-22 without a parallel taxiway reduces the safety of the Airport's operations as compared to the current configuration and of that proposed in the alternative Concept.

Importance of Separating Large and Small aircraft

Airport terminal area configurations that separate aircraft by category have advantage in efficiency, safety, and convenience. At the East Hampton Airport, the main parking apron accommodates light aircraft on the south ramp, itinerant aircraft in the center ramp that may extend onto the south ramp during busy periods, light aircraft on the north ramp, and finally corporate aircraft and hangars at the very northern end of the apron or north ramp.

Disadvantages of the current apron layout include:

- All apron taxilanes must be sized for large aircraft
- Reduced efficiency of aircraft parking/tie-down layouts
- Additional ground handling and aircraft towing is needed
- Student pilots are operating among jet aircraft
- Light aircraft are subject to jet blast of taxiing jet aircraft
- Jet aircraft are parked near the Runway end 16 (a runway they cannot utilize)

Separating large and small aircraft has several benefits, including:

- Efficient and concentrated tie-down layouts are possible with aircraft positioned closest to the runways that they utilize. Large aircraft are conveniently near the taxiways serving Runway 10-28 and small aircraft can easily ground maneuver to gain access to Runway 16-34. These large and small aircraft can then taxi to the runways that best serve their operational needs with minimal interaction
- Minimizing the need to transition aircraft to other areas on the apron once initially parked after arriving
- Improved aircraft servicing and reduced operating costs to fixed base operators
- Greater passenger and pilot convenience with improved proximity to services and facilities
- Improved safety of jet and large aircraft segregation from light aircraft
- Reduced liability associated with aircraft ground handling operations
- Reduced movement of vehicles and people on the ramp to service parked aircraft and passengers

The current apron layout has evolved over time through land leases and with the arrival of airport tenants. If the existing apron layout was reconfigured as presented in the alternative Concept, complete separation of large and small aircraft could be accomplished and achieve the safety and operational benefits above.



MEMORANDUM

PRIVILEGED AND CONFIDENTIAL
ATTORNEY – CLIENT COMMUNICATION

TO: Laura Molinari, Esq., Town Attorney
TOWN OF EAST HAMPTON

FROM: KAPLAN KIRSCH & ROCKWELL

DATE: January 8, 2008

SUBJECT: Strategy for Addressing Impacts of Helicopter Operations at East Hampton Airport

I. Introduction

The Town of East Hampton (the “Town”) owns and operates the East Hampton Airport (HTO). In recent years, there has been a marked increase in helicopter operations at HTO, many of which are private or charter operations for weekend visitors and homeowners traveling from New York City.

The Town has asked us to assist in developing a strategy for minimizing the adverse impact from helicopter operations at HTO. In order to effectively craft a strategy for the Town Board’s consideration, it is important to understand the Town’s legal authority to regulate helicopter operations and the range of options that reasonably could be considered. This memorandum provides background on the Town’s legal authority and proposes the design of a strategy that addresses impacts of helicopters incrementally, i.e., imposes increasingly greater restrictions on helicopter in which each successive step is implemented only if the prior step was not successful in achieving the Town’s objectives.

II. Legal Background

As a threshold matter, it is useful to review the difference between regulation of helicopter operations at HTO and the regulation of helicopter flight tracks. While both are important to the Town, its authority is entirely different in the regulation of these two components of helicopter impacts.

The law on Town regulation of helicopter routes is simple. *The federal government has entirely preempted the Town’s authority to regulate any helicopter flight tracks directly or indirectly.* The Town’s authority is limited to informal or political efforts in cooperation with the Federal Aviation Administration (and potentially in cooperation with users).

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The law is fundamentally different when it comes to regulation of the use of Airport by helicopters. While the law in this area is complex, the Town does have authority to regulate use of HTO by helicopters but *the Town's authority is extremely limited* and is subject to considerable federal regulatory supervision. If the Town were to attempt directly to impose restrictions on the use of HTO by limiting access to the Airport by helicopters, any such action would be subject to review by the Federal Aviation Administration (FAA), and, might (in certain limited circumstances) also be subject to FAA approval under the Airport Noise and Capacity Act (ANCA). *The Town has limited authority to impose restrictions on whether, helicopters can use HTO.* The Town has greater – but still not unlimited – authority to regulate *how and where* helicopters may have access to the Airport.

The path to a lawful regulation of helicopter operations is neither simple nor legally clear. Nevertheless, as the following discussion will demonstrate, there are actions that the Town lawfully can take that could have a significant effect on helicopter operations and could substantially reduce adverse impacts from helicopter operations.

A. Overview of Applicable Law

In order to understand the limits of the Town's authority, it is important to review the general legal structure for regulation of flight of aircraft – which includes the flight of helicopters. The federal government “regulates aircraft and airspace pervasively” thereby preempting¹ regulation of these areas by state and local governments.² For example, the Airline Deregulation Act expressly prohibits states (and thereby municipalities) from enacting or enforcing a law or regulation “related to a price, route, or service of an air carrier.”³ In addition, the Federal Aviation Act expressly states: “The United States has exclusive sovereignty of airspace of the United States.”⁴ Congress, however, reserved to states and local governments the authority to carry out their “proprietary powers and rights.”⁵ A proprietor's⁶ role in regulation however is “extremely limited” and only extends to rules that are “reasonable, non-arbitrary and not unjustly discriminatory” and that “advance the local interest.”⁷ This standard has been subject to considerable judicial and regulatory interpretation but, in summary, state and local airport proprietors are not preempted by federal law from adopting rational regulations that address local concerns such as noise and environmental impacts.⁸

¹ Under the constitutional doctrine of preemption, states and localities are prohibited from enforcing laws and regulations that “interfere with or are contrary to, the laws of congress.” Nat'l Helicopter Corp. of Am. v. City of New York, 137 F.3d 81, 88 (2d Cir. 1998).

² City and County of San Francisco v. FAA, 942 F.2d 1391, 1394 (9th Cir. 1991).

³ 49 U.S.C. § 41713(b)(1) (2000).

⁴ 49 U.S.C. § 40103(a)(1) (2000).

⁵ 49 U.S.C. § 41713(b)(3) (2000).

⁶ The owner or operator of an airport is often interchangeably called an airport proprietor or an airport operator. For the purpose of this memorandum, the Town is the proprietor or operator of HTO.

⁷ American Airlines, Inc. v. DOT, 202 F.3d 788, 806 (5th Cir. 2000).

⁸ Nat'l Helicopter, 137 F.3d at 88.

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Even though federal law legally allows an airport proprietor like the Town to restrict access to its airport facilities, states and local governments have no authority “to assign or restrict routes” for aircraft.⁹ The law makes this clear distinction because such regulation would have the effect of controlling flight paths through navigable airspace and the FAA has completely preempted all regulation of airspace.¹⁰

Overlaying these general constitutional principles, Congress enacted the Airport Noise and Capacity Act (ANCA) in 1990 which further limits airport proprietors even in the exercise of their proprietary powers. Since the enactment of ANCA, airport proprietors are prohibited from exercising their proprietary authority to regulate access to their facilities without first preparing a study on the effects of a proposed restriction. ANCA imposes a series of procedural hurdles for any local noise or access restriction that affects Stage 2 aircraft. If a proposed local restriction would affect Stage 3 aircraft, the proprietor must also obtain approval from the FAA.¹¹ Such approval is only authorized if the FAA affirmatively finds that the proposed restriction (1) is reasonable, nonarbitrary and nondiscriminatory; (2) does not create an unreasonable burden on interstate or foreign commerce; (3) is not inconsistent with maintaining safe and efficient use of the navigable airspace; (4) does not conflict with any other federal law or regulation; (5) is made available to the public for adequate comment; and (6) does not create an unreasonable burden on the national aviation system.¹² As a result of ANCA, even though proprietors are not preempted from implementing rational regulations under their proprietary power, the attempt to impose such restrictions can trigger significant procedural and substantive hurdles. In the 18 years since the enactment of ANCA, only one airport has successfully implemented a restriction using the ANCA procedures. A few more airports are in the process of complying with ANCA (and the FAA regulations implementing that statute).

B. Regulation of Helicopters Specifically

While these general principles apply to any restrictions on aircraft, the federal courts have also addressed the degree to which state and local governments can regulate helicopter use in particular. At the outset, it is clear that, just as they are preempted from regulating other aircraft routes, state and local governments are preempted from enforcing rules that “assign or restrict” helicopter routes.¹³ The law is similar in other respects to that governing fixed-wing aircraft: while states and municipalities are not constitutionally prohibited from regulating helicopters for

⁹ Nat'l Helicopter, 137 F.3d at 92.

¹⁰ Id. (enjoining, on preemption grounds, a municipal ordinance restricting certain helicopter sightseeing routes). See also City of Burbank v. Lockheed Air Terminal, Inc., 411 U.S. 624, 626-7 (1973) (recognizing the federal government’s possession of exclusive national sovereignty in U.S. airspace); British Airways Bd. v. Port Auth. of N.Y., 558 F.2d 75, 83 (2d Cir. 1977) (“legitimate concern for safe and efficient air transportation requires that exclusive control of airspace management be concentrated at the national level”).

¹¹ 49 U.S.C. § 47524 (2000); 14 C.F.R. pt. 161(C)-(D) (2007).

¹² 49 U.S.C. § 47524(e)(2) (2000); 14 C.F.R. § 161.305 (2007).

¹³ Nat'l Helicopter, 137 F.3d at 92.

the purposes of advancing a legitimate local interest,¹⁴ regulations imposed after 1990 could be subject to ANCA.¹⁵

The U.S. Court of Appeals for the Second Circuit has held explicitly that a local government can limit helicopter traffic in order to address local noise or environmental concerns. In National Helicopter, the court upheld New York City ordinances that: (1) limited helicopter traffic to certain times during the day or the week;¹⁶ (2) limited overall levels of helicopter traffic;¹⁷ and (3) regulated helicopter noise levels directly.¹⁸

While the National Helicopter case is important, it has often been misread and misinterpreted to provide greater authority for regulation of helicopters than for regulation of other aircraft. This misinterpretation is the result of certain factual peculiarities of the case which limit its applicability to the Town. First, neither the heliport at issue nor even the proprietor (New York City) was subject to federal grant assurance obligations. As a result, there was no need for the court to address questions of compliance with grant assurances. Pursuant to those grants, an airport operator like the Town commits to making its airport facilities available to the public on a nondiscriminatory basis.¹⁹ The grant assurances allow the FAA to make the determination in the first instance of whether a particular use restriction is nondiscriminatory and otherwise complies with a proprietor's grant assurances.²⁰ Since the proprietor in National Helicopter was not subject to grant assurances, the court did not need to address the considerable case law and FAA legal opinions which severely limit the ability of an owner of a federally-assisted airport to impose use restrictions. The Town is subject to grant assurances.²¹

Secondly, the court never addressed the issue of ANCA compliance.²² The FAA has taken the position that helicopters are subject to ANCA just as are fixed-wing aircraft;²³ the legal bases for the FAA's view on the applicability of ANCA is discussed in the next section.

¹⁴ American Airlines, Inc., 202 F.3d at 806.

¹⁵ 49 U.S.C. § 47524.

¹⁶ Nat'l Helicopter, 137 F.3d at 89 (upholding a nighttime curfew for helicopters as a reasonable means of alleviating undesirable noise); *id.* at 90 (upholding the phase out of weekend helicopter operations as a reasonable means of protecting residents from noise intrusion during times when they are at home).

¹⁷ *Id.* at 90-1 (upholding a regulation reducing helicopter operations by 47% as a reasonable means of eliminating excessive noise).

¹⁸ *Id.* at 88 (Congress specifically delegated to state and local proprietors the authority to adopt rational regulations with respect to the permissible level of aircraft noise in order to protect local populations).

¹⁹ 49 U.S.C. § 47107(a)(1) (2000).

²⁰ See 14 C.F.R. pt. 16 (2007) (procedures for investigation of potential violations of grant assurances).

²¹ The applicability of certain grant assurances is a complex issue because of the settlement involving litigation over the Town's obligations to the federal government. Committee to Stop Airport Expansion v. Dep't of Transp. (E.D. N.Y. Civ. Action CV-03-2634) (Settlement Agreement, Apr. 29, 2005). For the purposes of this memorandum, however, the provisions of the settlement agreement are not relevant because, at least through 2014, the Town is subject to the FAA grant assurances and this memorandum assumes that the Town is interested in seeking relief from helicopter impacts before 2014. See also, East Hampton Airport Prop. Owners Ass'n v. Town Bd. Of East Hampton, 72 F. Supp.2d 139 (E.D.N.Y. 1999) (concerning applicability of grant assurances).

²² It is unclear whether the absence of ANCA analysis in Nat'l Helicopter is a mere oversight by the court or whether the issue was simply not briefed. While the court did not so state, it is also arguable that the case stands for the proposition that ANCA is not applicable to airports that are not federally-assisted, a proposition that is consistent

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Despite these limitations, National Helicopter does stand for the proposition that the legality of a local restriction on helicopter use will be analyzed using the same legal standards as those generally applicable to fixed-wing aircraft.

C. Applicability of ANCA to Helicopters

The applicability of ANCA to helicopters is a complex and unresolved legal issue. Because any strategy to control helicopter operations at HTO will be fundamentally affected by whether ANCA applies to such efforts, we provide a detailed explanation of the legal landscape.

ANCA and the FAA's implementing regulations at 14 CFR Part 161 (also known as Federal Aviation Regulation or FAR Part 161) make a distinction between use restrictions that only affect Stage 2 aircraft and those that also affect newer Stage 3 aircraft. Fixed wing aircraft are classified by federal regulation as Stage 1, 2, 3 or 4. All new fixed-wing aircraft being manufactured today are Stage 4. In essence, the higher the Stage of a fixed-wing aircraft, the newer and quieter the aircraft.

Simply stated, airport use restrictions that affect only Stage 2 (or even older) aircraft do not require FAA approval before implementation while use restrictions that affect Stage 3 (and newer) aircraft do require such approval. There are no Stage 3 or Stage 4 helicopters. Therefore, if ANCA applies to restrictions on helicopters, only the less-onerous statutory requirements applicable to Stage 2 restrictions would apply.

Neither ANCA nor the Part 161 regulations, however, define Stage 2 and Stage 3 aircraft independently but instead define the terms with reference to FAR Part 36. For example, although the statute does not provide any definition of Stage 2 aircraft, ANCA defines "stage 3 noise levels" to mean "the stage 3 noise levels in part 36 of title 14, Code of Federal Regulations, in effect on November 5, 1990."²⁴ Part 161 defines "Stage 2 aircraft" to mean "an aircraft that has been shown to comply with the Stage 2 requirements under 14 CFR part 36."²⁵

Part 36 does not use the phrase "Stage 2 aircraft" but instead uses two separate terms: "stage 2 airplane" and "stage 2 helicopter." "Stage 2 airplane" is defined to mean "an airplane that has been shown under this part to comply with stage 2 noise levels prescribed in section C36.5 of appendix C of this part (including use of the applicable tradeoff provisions) and that does not comply with the requirements for a Stage 3 airplane."²⁶ "Stage 2 helicopter" is defined as "a helicopter that has been shown under this part to comply with Stage 2 noise limits (including applicable tradeoffs) prescribed in section H36.305 of appendix H of this part, or a helicopter

with the approach taken in Tutor v. City of Hailey. Again, since HTO is a federally-assisted airport, this issue has no applicability here. Tutor, No. CIV-02-475-S-BLW (D. Idaho, Jan. 20, 2004).

²³ It is clearly FAA's policy that helicopters are subject to ANCA. Letter from James Erickson, FAA Director of Environment and Energy to Glenn Rizner, Helicopter Association International Vice President 1 (July 7, 1997).

²⁴ 49 U.S.C. § 47522 (2000).

²⁵ 14 C.F.R. § 161.5 (2007).

²⁶ 14 C.F.R. § 36.1(f)(4) (2007).

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that has been shown under this part to comply with the Stage 2 noise limit prescribed in section J36.305 of appendix J of this part.”²⁷

The question, therefore, is whether “Stage 2 aircraft” in ANCA and Part 161 should be interpreted synonymously with “Stage 2 airplane” under Part 36 or should be interpreted to capture *both* Stage 2 airplanes and Stage 2 helicopters.

Several factors suggest that the latter interpretation would be proper. First, although neither ANCA nor Part 161 define “aircraft,” the term is defined in the Federal Aviation Act of 1958 as “any contrivance invented, used, or designed to navigate, or fly in, the air.”²⁸ The term similarly is defined by regulation as “a device that is used or intended to be used for flight in the air.”²⁹ In contrast, an “airplane” is defined by regulation to mean “an engine-driven fixed-wing aircraft heavier than air, that is supported in flight by the dynamic reaction of the air against its wings.”³⁰ These definitions indicate that aircraft is a more inclusive term than airplane and includes both airplanes and helicopters.

The FAA’s actions concerning Part 36 suggest that the agency is aware of the distinctions among these terms and uses the terms deliberately. Part 36 was promulgated in November 1969 pursuant to an amendment of the Federal Aviation Act of 1958. The relevant provision of the statute provides:

In order to afford present and future relief and protection to the public from unnecessary *aircraft* noise and sonic boom, the Administrator of the Federal Aviation Administration, after consultation with the Secretary of Transportation, shall prescribe and amend standards for the measurement of *aircraft* noise and sonic boom and shall prescribe and amend such rules and regulations as he may find necessary to provide for the control and abatement of aircraft noise and sonic boom, including the application of such standards, rules, and regulations in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by this title.³¹

Part 36, as promulgated in 1969, applied to “subsonic transport category airplanes” and “subsonic turbojet powered airplanes.”³² In 1988, the FAA amended Part 36 to include noise limits and testing methods for civil helicopters.³³ The FAA cited as authority for this rule the 1968 amendment to the Federal Aviation Act, indicating that the FAA recognized that the term

²⁷ *Id.* § 36.1(g)(4).

²⁸ 49 U.S.C. § 40102(a)(6) (2000).

²⁹ 14 C.F.R. § 1.1 (2007).

³⁰ *Id.*

³¹ Pub. L. No. 90-411 § 611(a), 82 Stat. 395, 395 (1968) (emphasis added).

³² 34 Fed. Reg. 18,355, 18,364 (Nov. 18, 1969).

³³ *See* 53 Fed. Reg. 3,534 (Feb. 5, 1988).

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aircraft under the Act included helicopters. More significantly, the FAA deliberately amended references in Part 36 from “airplane” to “aircraft” to cover both airplanes and helicopters.³⁴

Further, the definition of Stage 2 aircraft in Part 161 refers to the Stage 2 noise standards contained in Part 36 without any more specific reference, such as to the noise standards contained in Appendix C (for Stage 2 airplanes). Therefore, the applicable Stage 2 noise standards could be those identified in Appendix C, Appendix H or Appendix J, and thus the subject aircraft could include airplanes or helicopters.

The FAA has opined that ANCA and Part 161 apply to helicopters. In a July 1997 letter to the Helicopter Association International, the FAA stated, “The plain statutory language of ANCA, Part 161, and other relevant data support applicability of ANCA and part 161 to helicopters.”³⁵ The FAA presented several arguments in support of this conclusion. The first argument was that the definition of “airport” under Part 161 includes heliports.³⁶ The FAA’s second argument referred to the fact that Part 36 includes helicopters, as discussed above. The third argument was that “aviation user class” under Part 161 is defined to include air carriers operating under FAR parts 127 and 135, which include helicopter operators.

Under Chevron v. Natural Resources Defense Council,³⁷ courts must conduct a two-step analysis to determine whether to defer to an agency’s interpretation of a statute. First, the court must determine whether the law reflects the unambiguously expressed intent of Congress.³⁸ If so, both the court and the agency must abide by the plain language. However, if the statute is silent or ambiguous on the specific question at issue, then the court will defer to the interpretation of the agency entrusted to administer the statute if permissible and reasonable.³⁹

Here, a reviewing court might conclude either that use of the term “aircraft” in ANCA and Part 161 unambiguously covers both airplanes and helicopters or that, although ambiguous, the FAA’s interpretation should be accorded deference because the agency has been entrusted to implement the national noise policy reflected in ANCA and the agency’s interpretation is reasonable.

Notwithstanding normal judicial deference to FAA interpretation of its regulations, a compelling argument could be presented that the FAA’s interpretation is unreasonable. First, the plain language of the statute and regulations do not appear to answer the question definitively. Neither ANCA nor Part 161 contain an independent definition of “Stage 2 aircraft” and the term does not comport with the phrases used in Part 36: “Stage 2 airplane” and “Stage 2 helicopter.” Moreover, the reference to heliports in the definition of “airports” and the inclusion of certain

³⁴ Id.

³⁵ Letter from James Erickson, FAA Director of Environment and Energy, to Glenn Rizner, Helicopter Association International Vice President 1 (July 7, 1997).

³⁶ See 14 C.F.R. § 161.5.

³⁷ 467 U.S. 837 (1984).

³⁸ Chevron, 467 U.S. at 843.

³⁹ Id. at 844.

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helicopter operators in the definition of “aviation user class” do not speak directly to the question.

Further, there is no indication from the legislative history that either Congress or the FAA initially intended to subject helicopters to ANCA and Part 161. A review of the legislative history of ANCA reveals no reference to helicopters in relevant bills, congressional floor debates, or committee hearings. Indeed, of the several dozen speakers during the four-day hearing of the House Aviation Subcommittee in September and October 1990, none appeared to represent a helicopter industry group or heliport operator. Similarly, the regulatory preamble to Part 161 contains no reference to helicopters and, again, helicopter industry groups and heliport operators were not among the commenters. Although helicopters are mentioned in the study prepared by the FAA to consider the applicable standards for restricting Stage 2 aircraft weighing less than 75,000 pounds, the study does not indicate that the FAA intended to include helicopters in the recommendation that the same requirements should apply for restricting Stage 2 aircraft above and below 75,000 pounds.

It also may be significant that the provisions of ANCA and its implementing regulations requiring the phase-out of Stage 2 aircraft weighing more than 75,000 pounds refer specifically to airplanes. 49 U.S.C. Section 47528 refers to “civil subsonic turbojets.” The implementing regulations, at 14 C.F.R. part 91, refer to “Stage 2 airplanes”, which are defined to mean “a civil subsonic turbojet airplane with a maximum certificated weight of 75,000 pounds or more that complies with Stage 2 noise levels as defined in part 36 of this chapter.”⁴⁰ Although these references to airplanes may reflect the fact that there were no civil helicopters weighing 75,000 pounds or more at the time ANCA was enacted, and therefore no reason to subject them to this part of the statute, it nevertheless seems clear that Congress’ and FAA’s attention clearly was focused on fixed-wing airplanes and not helicopters.

The structure and content of Part 36 also suggests that Stage 2 aircraft under ANCA should be interpreted synonymously with Stage 2 airplanes. Although a detailed history of Part 36 is beyond the scope of this memorandum, the division of airplanes into stages 1, 2 and 3 was initiated in March 1977 with the introduction of stricter noise standards for new airplane designs (i.e., Stage 3 noise levels). Prior to that time, airplanes were divided between those airplanes subject to the Part 36 noise standards adopted in November 1969 and those that were not.

Noise certification standards for helicopters were not promulgated until February 1988. At that time, helicopters also were divided between those subject to the new standards (Stage 2 helicopters) and those that were not (Stage 1 helicopters). A new section on helicopters, Appendix H, was added to identify specific noise limits and testing methods for helicopters, and a second set of noise limits and testing methods, for light helicopters, was added in 1992.⁴¹ No further noise limits for helicopters have been proposed or adopted. As a result, *there are no helicopters that are classified as Stage 3 or 4.*

⁴⁰ 14 C.F.R. § 91.851 (2007).

⁴¹ See 53 Fed. Reg. at 3,534; 57 Fed. Reg. 42,846 (Sept. 16, 1992).

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Although a technical comparison of the noise characteristics of Stage 2 airplanes and Stage 2 helicopters also is beyond the scope of this memorandum, it is important to recognize that the noise limits and testing methods under Appendix C (applicable to Stage 2 airplanes) are different than the limits and methods under Appendices H and J (applicable to Stage 2 helicopters). In adopting the noise standards and testing methods for helicopters, the FAA recognized, but downplayed, these differences.⁴²

It accordingly can be argued that “Stage 2” is an unfortunate and inapt adjective to describe airplanes and helicopters since the two types of aircraft have little in common. Indeed, the FAA likely could have avoided labeling helicopters by stage level altogether and simply distinguished between those helicopters that were subject to the noise standards and those that were not (as the FAA did with airplanes prior to the promulgation of Stage 3 noise levels in 1977). In light of these material differences and in the absence of any direct evidence that Congress intended to subject helicopters to ANCA, it would not be reasonable to assume that Congress intended to combine Stage 2 airplanes and Stage 2 helicopters for purposes of regulation under ANCA.

This discussion should demonstrate that there is no legal certainty that ANCA applies to helicopters but, should the Town wish to pursue a cautious course, it should assume that ANCA does apply. As explained elsewhere in this memorandum, moreover, the constitutional standards for permissible local regulation of operations at a public-use airport are remarkably similar to the ANCA standards. Therefore, the Town would in any event need to satisfy those constitutional standards even if it did not have to comply with the procedural requirements of ANCA and FAA’s Part 161 regulations.

D. Scope of Town’s Authority

With the preceding legal background in mind, it is useful to examine the scope of the Town’s authority in two principal arenas – the authority to *influence* helicopter flight tracks and the authority to *regulate* the use of the Airport.

1. Authority to Regulate Helicopter Routes

As the prior discussion illustrates, it is clear that the Town has no authority to regulate directly the routes that helicopters would use to arrive at or depart from HTO.⁴³ The Town’s actions, therefore, are limited to those which have no binding legal authority on helicopter operators, the FAA or any other potentially affected party.

2. Appropriate Role in Defining Helicopter Routes

Although the Town is preempted from direct regulation of its preferred helicopter routes, the Town has several options by which to exert influence over the selection and enforcement of helicopter routes.

(A) Informal Agreement With FAA

⁴² See 53 Fed. Reg. at 3,535 (“With exceptions necessary to account for the unique operating characteristics of helicopters, the rule applies the specifications currently applicable to tests of transport category large airplanes and turbojet-powered airplanes under Appendices A and B of Part 36.”).

⁴³ See Nat’l Helicopter, 137 F.3d at 92; 49 U.S.C. § 41713(b)(1), (b)(3).

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As recent experience demonstrates, the FAA must, and will, at least consider the Town's concerns when setting helicopter routes in the vicinity of HTO and eastern Long Island. As a general principle, the Secretary of Transportation is expressly required to "consult and cooperate with State and local governments . . . and other interested persons."⁴⁴ Internal FAA practice adheres to this principle, though the degree to which the agency considers input from local governments varies considerably. Although FAA is not statutorily obligated to accept any recommended helicopter routes offered by the Town, the Town could seek to secure an informal agreement from the FAA to implement the Town's desired helicopter tracks.

As a matter of policy and law, the FAA will not enter into an agreement that would have the effect of binding the agency to use particular helicopter routes because the federal government will not bargain away its sovereign powers.⁴⁵ As a policy matter, moreover, the FAA has long taken the position that the control of navigable airspace is a matter entirely governed by its air traffic control function. The FAA's position is that air traffic and safety concerns are the only legitimate bases for regulating routes and procedures and that the agency will not, therefore, constrain its flexibility by agreeing to adhere to particular procedures or routes, even if it believes that such routes are safe and otherwise meet the criteria for acceptable air traffic procedures.

Despite that apparently bright-line position, the FAA in recent years has been amenable to working closely with airport proprietors to accommodate local concerns in the design of air traffic procedures and routes. The FAA's willingness to consider local input is directly tied to the ability of the airport proprietor to demonstrate that a proposed procedure is technically feasible, does not increase air traffic controller workload, would not generate new local controversy and would improve air traffic efficiency. For that reason, airport proprietors have been most successful when the basis for a proposal is technical rather than political. For example, the agency will be more amendable to a proposed helicopter route that improves air traffic efficiency, reduces controller workload, or enhances safety than a proposal that is designed only to address local noise concerns. Therefore, if the Town can demonstrate that certain helicopter routes not only have beneficial effects on overflight of residential areas but also are more efficient or safe, it is more likely to be able successfully to convince the FAA to direct pilots to adhere to such tracks.

(B) Part 150 Program

The Town could also promote its objectives by including appropriate recommendations in a Part 150⁴⁶ airport noise compatibility program. The Part 150 noise compatibility program could identify preferred helicopter flight tracks as a measure designed to reduce land use incompatibility in the vicinity of the Airport. While proposal of a measure in a Part 150 program does not guarantee FAA approval and while the FAA is not required to implement flight track

⁴⁴ 49 U.S.C. § 301(8) (2000).

⁴⁵ U.S. Trust Co. of N.Y. v. New Jersey, 431 U.S. 1, 21 & 45 (1977) (Brennan, J., dissenting) ("nothing would so jeopardize the legitimacy of a system of government that relies upon the ebbs and flows of politics to 'clean out the rascals' than the possibility that those same rascals might perpetuate their policies simply by locking them into binding contracts").

⁴⁶ 14 C.F.R. Pt. 150 (2007).

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measures even if it approves the Part 150 Program,⁴⁷ the FAA has shown greater willingness to consider the noise impacts (and benefits) of particular local flight tracks when those routes are examined as part of a Part 150 noise compatibility program. As a matter of policy, the FAA will generally not even consider the adoption of flight tracks designed for noise control unless such a proposal is included as a component of a Part 150 program. Even in that instance, the FAA will not approve the flight tracks unless the Part 150 program demonstrates that the proposed flight tracks will not (1) reduce the level of aviation safety provided; (2) reduce the requisite level of protection for aircraft, their occupants and persons and property on the ground; (3) adversely affect the efficient use and management of the Navigable Airspace and Air Traffic Control Systems; or (4) adversely affect any other FAA powers and responsibilities.⁴⁸

(C) Local Regulation

While its proprietary power is very limited and does not extend to control of helicopter routes or flight tracks, the Town can regulate helicopter traffic for the purpose of addressing legitimate local concerns. The U.S. Court of Appeals for the Ninth Circuit has held that Congress did not entirely preempt “any state regulation purporting to reach into the navigable airspace” and has left open the possibility for state and local governments to regulate in tangential areas – for example, a prohibition of aerial advertising or provisions prohibiting discrimination when providing employee travel benefits and discounts.⁴⁹ The key inquiry is whether a local ordinance “actually reach[es] into the forbidden, exclusively federal areas, such as flight paths, hours or altitudes.”⁵⁰ A local law is prohibited if it binds a carrier to a particular price, route, or service, but will be upheld if its effect on navigable airspace is “tenuous, remote or peripheral.”⁵¹

Accordingly, the Town could issue regulations/ordinances that would limit helicopter traffic to certain times during the day (e.g., through a curfew) or the week;⁵² limit certain levels of helicopter traffic;⁵³ prohibit certain types of helicopter use altogether, based on noise and safety concerns.⁵⁴ While the Town could not adopt regulations that would directly or indirectly affect the *flight tracks* for helicopters using the Airport, the Town could use its limited authority to control the impacts from operations at the Airport. Regrettably, the line between permissible regulation of local impacts and impermissible regulation of flight tracks is not clearly defined and, as demonstrated by the National Helicopter case, the validity of such regulation will be highly fact-specific.

⁴⁷ 14 C.F.R. § 150.5 (approval of a noise compatibility program is not a commitment by FAA to implement the proposed measures which can come only after appropriate environmental review.)

⁴⁸ 14 C.F.R. § 150.35(b)(3)

⁴⁹ Skysign Int'l Inc. v. City and County of Honolulu, 276 F.3d 1109, 1116 (9th Cir. 2002) (emphasis added) (state regulation of aerial advertising is not federally preempted); see also Air Transport Assn. of America v. City and County of San Francisco, 266 F.3d 1064, 1071 (9th Cir. 2001) (ordinance requiring that city contractors not discriminate when providing employee travel benefits and discounts was not preempted by Airline Deregulation Act because it did not bind carriers to particular prices, routes or services).

⁵⁰ Air Transport Assn., 266 F.3d at 1117.

⁵¹ Id. at 1071-2.

⁵² Nat'l Helicopter, 137 F.3d at 89-90.

⁵³ Id. at 90-1.

⁵⁴ Santa Monica Airport Ass'n v. City of Santa Monica, 481 F. Supp 927, 940 (C.D. Cal 1979).

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Were the Town to attempt to exercise the type of limited authority to regulate helicopter traffic that the court found permissible in National Helicopter, it would have to do so with great caution. The law in this realm is complex and a detailed analysis of the permissible bases for proprietor-imposed restrictions is beyond the scope of this memorandum. Any restrictions would have to meet a reasonableness and non-discrimination standard and be based upon data supporting the need for the restriction. More importantly in the context of operations at HTO, the Town would increase the risk that such regulations would be held invalid if the regulations were effectively tied to the use of the Airport (e.g., if regulations only affected operations to and from the Airport and not operations that merely overfly the Town), because in that instance a court could easily find that the regulation was effectively an impermissible restriction of navigable airspace.

In addition to the constitutional and statutory limitations on the ability of an airport proprietor to restrict helicopter operations, the proprietor of a federally-assisted airport (like HTO) also would need to consider FAA policy restrictions promulgated to implement the FAA's Airport Improvement Program.⁵⁵ The agency has historically been aggressive in its opposition to use restrictions at existing facilities and has challenged such restrictions through both administrative and judicial actions.

(D) Regulating Through Fee Structure

One manner in which some airport proprietors have attempted indirectly to regulate flight operations is through the imposition of differential fees. The Town has authority to set fees – so long as they are reasonable – for use of the Airport. The Town would need to exercise great caution, however in using fees as a vehicle for controlling access to the Airport. For example, while the Town could impose certain departure fees during high-traffic periods for the express purpose of managing congestion,⁵⁶ it does not have the authority to impose a fee structure created specifically to benefit helicopters following its preferred routes or to impose a landing fee structure that has the effect of invading federal control of navigable airspace.⁵⁷

Because the Town cannot directly or indirectly regulate helicopter flight routes, the Town could not use preferential lease terms as a vehicle for forcing compliance with desired flight tracks. The principles underlying this prohibition are simple: airports must be available to the public without unjust discrimination⁵⁸ and accordingly any local regulation must be rationally related to a legitimate governmental interest.⁵⁹ While the imposition of disparate lease rates would not be

⁵⁵ See FAA Order 5190.6A, "Airports Compliance Handbook" (1989).

⁵⁶ Aircraft Owners & Pilots Ass'n v. Port Auth. of N.Y., 305 F. Supp. 93 (E.D.N.Y. 1969) (upholding a takeoff fee that was imposed for the purposes of diverting air traffic during the busiest periods of the day as a legitimate basis for regulation).

⁵⁷ New England Legal Found. v. Mass. Port Auth., 883 F.2d 157, 175 (1st Cir. 1989) (striking a landing fee structure that preferred certain "essential air service hub operations").

⁵⁸ 49 U.S.C. § 47107(a)(1). The requirement that an airport be made available without unjust discrimination applies only to federally assisted airports – airports that have received federal grant funding under the Airport Improvement Program. The Town has received federal grants for the Airport.

⁵⁹ Mass. Port Auth., 883 F.2d at 162; W. Air Lines Inc. v. Port Auth. of N.Y. & N.J., 658 F. Supp 952, 959 (S.D.N.Y. 1986) (the critical inquiry is whether the discrimination is reasonable in light of the legitimate objectives sought to be achieved).

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a per se violation,⁶⁰ a rate structure designed to favor operators who used certain preferred flight tracks is likely to be found to constitute “unjust discrimination” because it would constitute an impermissible regulation of navigable airspace.⁶¹

(E) Regulating Through Management of Airport Facilities

There are opportunities for indirect regulation of routes and helicopter operations through imposition of restrictions on use of the Airport. Restrictions that have the effect of foreclosing access to the Airport would be subject to the applicable ANCA and the constitutional requirements on access restrictions. But there are other restrictions that could have beneficial value to the Town without completely prohibiting access to HTO by helicopters. For example, the Town could designate certain areas of the Airport for helicopter operations and prohibit landings or takeoffs at other areas. The Town could also impose overflight restrictions on helicopters over Airport property designed to ensure safety of runway operations (and, not incidentally, with the effect of making certain arrival and departure routes more practical).

3. Authority to Monitor Routes

While there is no mechanism under which the Town can enforce certain helicopter routes, federal law would not prevent the Town from monitoring helicopter routes. Such information gathering can be useful for public information and to pressure the agency to comply with certain routes if they are officially designated by the FAA.

4. Authority to Regulate Airport Operations

As the initial discussion about the legal principles governing airport operations makes clear, it is important to distinguish between the absence of authority for the Town to regulate routes and the Town’s authority to regulate use of its Airport.

The Town retains authority to regulate use of the Airport, subject to applicable constitutional and ANCA requirements. Regardless of whether ANCA would apply to restrictions on helicopters, the Town could regulate the use of the Airport by helicopters only if it could demonstrate that its rules are “reasonable, non-arbitrary and not unjustly discriminatory” and “advance the local interest.”⁶² Meeting this constitutionally-based requirement would require that the Town (a) conduct a technically defensible study that defines the problem that the regulation is designed to solve; (b) demonstrate that the regulation addresses the problem and (c) implement a regulation in a manner that is not more restrictive than necessary to address the problem. If ANCA were to apply (or if the Town decided voluntarily to comply with its requirements), the Town would also need to adhere to strict procedural requirements for notice and opportunity for comment before implementing the restriction.

One of the challenges in developing a precisely tailored local regulation is ensuring that the regulation does not inadvertently over- or under-regulate. For example, if the Town were to define the problem as excessive noise levels, it may be challenging to impose a regulation on helicopters that does not also encompass fixed wing aircraft with similar noise levels. The

⁶⁰ Penobscot Air Servs. Ltd. v. FAA, 164 F.3d 713, 726 (1st Cir. 1999).

⁶¹ New England Legal Found., 883 F.2d at 175

⁶² American Airlines, Inc., 202 F.3d at 806.

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Town's noise consultant would be able to help define the problem (and the regulatory solution) in an appropriately precise manner.

III. Current Efforts

A. Master Plan Report

The Town has engaged in numerous efforts to address the impacts of helicopters on the Town's residents. The Master Plan Report, which was prepared in 2007 but has not yet been approved by the Town Board, describes existing helicopter flight patterns and procedures and sets forth several proposed options for new preferred helicopter routes. Most importantly, the Master Plan Report emphasizes that all helicopter routes are "advisory in nature" and "can only be recommended not enforced."⁶³

The Master Plan Report outlines several different approach and departure paths, but with only one exception, "none were found to have significantly lower population exposure."⁶⁴ That Report describes the one path that would reduce noise exposure as follows:

This approach/departure path would branch off from the offshore helicopter route. On approach, helicopters would over-fly Georgica Pond and thence over the currently undeveloped land adjacent to the Runway 34 threshold and then land in the terminal area.⁶⁵

The Report also observes that one strategy for addressing helicopter noise would be the establishment of a new heliport facility closer to the shore. The Report does not study this option in detail beyond noting that a new facility is likely to be opposed by nearby shoreline communities.⁶⁶

B. Agreement with Helicopter Operators

Most recently, the Airport Manager signed an agreement with the Eastern Regional Helicopter Council to increase the effectiveness of voluntary measures to reduce the impact of overflights on nearby residents. The December 17, 2007 agreement asserts that the Town and the Helicopter Council have convinced the FAA to "establish a new, recommended helicopter route" that will "divert a portion of pre-existing North Shore traffic over the Long Island Sound rather than over land."⁶⁷ The letter agreement states that the FAA has committed to this new route and will

⁶³ East Hampton Airport Master Plan Report (Draft April 24, 2007) at III-116.

⁶⁴ *Id.* at IV-230.

⁶⁵ *Id.*

⁶⁶ *Id.* at IV-230-231.

⁶⁷ Letter to Senator Charles Schumer from D. Nuss (Eastern Regional Helicopter Council, Inc.), J Brundige (East Hampton Airport Manager) and A. Ceglie (Gabreski Airport Manager) (Dec. 17, 2007), available at: http://www.erhc.org/Portals/6/Notams/Schumer%20Letter_FINAL.pdf

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publish it in a revised helicopter route chart in spring of 2008.⁶⁸ We have not been able independently to confirm the FAA's plans to publish the route and have not seen any analysis of the noise benefits to the Town of the planned new route.

The "Continued Cooperation and Compliance Agreement" with the Helicopter Council contains a number of additional provisions that generally all relate to commitments to monitor and regularly report helicopter operations, educate helicopter operators and enhance the ability to report complaints about helicopter noise. As far as we can determine, the FAA has not formally signed the agreement.

C. Congressional Efforts

Both Senator Charles Schumer and Congressman Bishop have been active recently in efforts to find a legislative solution to the problems of helicopter noise in the Town. Schumer was instrumental in securing the Helicopter Council agreement on voluntary flight patterns. In addition, Schumer has been working with Bishop to insert language into the pending FAA Reauthorization Act to direct the FAA to study helicopter flights over Long Island. The provision requires the FAA to issue a report within 6 months of passage of the Reauthorization Act on issues concerning the effect of helicopter operations on residential areas, the feasibility of diverting helicopters from residential areas, and the feasibility of establishing specific flight patterns for helicopters.

The Bishop proposal was included in the version of the bill that passed the House; Senate action is pending and not expected until Congress reconvenes after the holidays.

IV. Strategic Options

Based on the previous discussion of the Town's legal authority, it should be clear that the Town's unilateral ability to regulate when, how and where helicopters use HTO is limited. Notwithstanding the legal constraints, however, the Town can take actions that could be highly effective in controlling helicopter impacts.

We believe that the Town would be best served by taking steps with regard to helicopter operations based on a comprehensive but incremental strategy. We recommend this approach for the following reasons.

- A comprehensive strategy is necessary to ensure the careful creation of a coherent public record. Such a record will be needed to minimize litigation risks in the event that the Town decides to implement a mandatory restriction on helicopters. In this realm of the law, the Town's intent and will as the practical effect of its actions are both legally critical.

⁶⁸ Id.

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- Presenting actions as part of an overall plan would demonstrate to both helicopter operators and Town residents that individual steps taken by the Town are part of a thoughtful and incremental effort to address (and resolve) helicopter concerns. Outlining a comprehensive plan would give users an incentive to participate in voluntary efforts if they understood that participation could forestall the need for regulatory or mandatory restrictions at a later date.
- Only an overall strategy can balance some of the potential tensions that any actions may have in terms of promoting or deterring cooperation from FAA and helicopter operators.
- A comprehensive strategy will enable the Town Supervisor and the Town Board to assess the success of incremental efforts before embarking upon a complex, costly regulatory strategy of formally restricting helicopter operations. The law requires that the Town regulate only to the extent necessary to address the problem and if the Town has already tried less-restrictive measures, its legal position will be considerably stronger.
- Litigation is possible (some might assert that it is certain) in the event that the Town imposes a mandatory restriction on operations. Both the likelihood of litigation and the likelihood of success would be affected if the Town has established that mandatory restrictions are being imposed only after less restrictive measures have unsuccessfully been attempted.
- A public announcement of a comprehensive strategy will send an important signal to all interested parties (e.g., Town residents, helicopter operators, industry trade groups and the FAA) that the Town is serious in its commitment to address the adverse impacts of helicopter operations but that it does not intend to act rashly or irresponsibly. Knowing that there is a coherent strategy for addressing helicopter impacts should also blunt any criticism of the Town Board if its initial steps are not perceived to be sufficiently aggressive or regulatory.

Throughout this process, the Town should continually assess the effectiveness of its program. The assessment will serve two functions. First, it will reassure the community that the implementation of the successive stages of the program will be based upon data and not politics. Second, it will provide the legal foundation for a decision to impose a mandatory restriction because the Town will be able to demonstrate that less restrictive measures have been ineffective at achieving the Town's objectives.

For the strategy to be effective, the Town will need to establish clear and practical objectives for the program. These objectives will be the benchmark against which success of each step in the strategy is assessed. They will also provide the legal basis for a Town Board decision to implement each successively more restrictive measure.

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This memorandum does *not* intend to propose the specific steps or provide the outline for each individual regulation. Instead, we outline here the architecture or structure for a stair-step approach; the details of each step, the specific regulatory consequences for non-compliance, and the technical justification for each regulation will need to be developed with the assistance of the Town's technical economic and noise experts. We have worked with both SH&E (Peter Stumpp) and HMMH (Ted Baldwin) on precisely such a stair-step approach at other airports with considerable success.

The following stair-step approach illustrates how this strategy could be implemented. The Town should establish a timeline for each step of the program to provide certainty to the public and to the operators that the Town is serious about assessing each step before proceeding to the next step. The overall architecture for the recommended approach is illustrated in the chart attached to this memorandum. (We do not purport to advise on the substantive elements of each step – that will be the responsibility of your economics and noise consultants.)

1. ***Announce Program.*** The Town should announce the initiation of the helicopter mitigation program through resolution or similar legislative enactment by the Town Board. The announcement should stress the significance of the problem to the Town, the Town Supervisor and Town Board's commitment to resolving the problem and the steps that the Town will implement to address the problem. The announcement should emphasize that voluntary, cooperative action by helicopter operators will be essential to avoid implementation of mandatory regulatory restrictions on helicopter operations. The announcement should build upon the December 17 letter agreement and indicate that the program is intended to help ensure the success of the voluntary program. It is important that the announcement indicate the Town Board's willingness to implement mandatory restrictions in the event that voluntary measures are not successful. The announcement should also include a preliminary definition of the problem (see step #3, below) but indicate that it intends to collect data to refine the definition.
2. ***Data Collection.*** Using existing on-call expertise or by retaining appropriate consultants, the Town should assemble data that characterizes the nature and magnitude of the *existing* helicopter problem. (The data in the Master Plan Report is an excellent beginning but it is not sufficiently precise to present the problem of helicopter noise with the precision necessary to justify implementation of specific measures. The data in the Report, however, provides valuable baseline data which, when used in combination with data available from AirScene will be useful in assessing current conditions.) It is critical that this effort be designed to produce reliable, defensible (legally and politically) data on the number of helicopter operations, helicopter flight patterns, the time-of-day and frequency of operations and the noise impacts from these operations. While this data need not be assembled in strict compliance with the FAA's preferred methodologies, it is important to recognize that the principal reason for assembling data is to provide the necessary factual predicate for regulatory action. The Town should prudently assume that the reliability and credibility of the data will be challenged so the accuracy of the data will be important.

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3. ***Problem Definition.*** Upon completion of the data collection phase, the Town Board should adopt a resolution (or similar legislative vehicle) defining with specificity and precision the problem that the Town will be seeking to solve. This phase is important because of the legal requirement that any regulatory measure be carefully tailored to the problem. This will be the Town's first opportunity to identify for itself what objectives it hopes to accomplish with the program. The resolution should set forth the problem that the Town is seeking to solve and the measures that it is willing to consider. Because of the legal deference that is accorded to legislative actions and findings, this statement of the Town's objectives will set the basis for any subsequent decision that a particular action does, or does not, solve the problem.
4. ***Seek Legislative Relief.*** This phase of the program is not strictly sequential in that a legislative strategy should be an on-going component of the program. The Bishop-Schumer legislation requiring an FAA study of helicopter routes is a useful starting point but it is limited in what it can achieve. If past experience is any lesson here, the FAA study will show that voluntary measures are highly effective, that it is important for operators and air traffic personnel to have flexibility, that operators are always willing to adapt flight procedures to meet community needs, and that any mandatory restrictions are inadvisable. (That is the approach that FAA generally takes to similar issues.) The legislative approach recommended by the Noise Abatement Advisory Committee (i.e., that Congress dictate that the Town can restrict helicopter operations at HTO without the need to comply with other federal laws such as ANCA) is unlikely to be successful but the uncertainty of the federal legislative process makes the attempt worthwhile. We can work with you and the Congressional offices to develop a proposal that has a greater likelihood of passage.

The Town should continue to seek *substantive* legislative relief through the New York delegation. While the likelihood of success is slim, it will be useful for the later phases of this program to demonstrate that the Town has sought Congressional assistance. And, of course, should this avenue be successful, it could foreclose the need for any further regulatory measures by the Town.

One important point on timing for legislative relief: the most opportune times to seek legislative relief are (a) when Congress is considering the triennial reauthorization legislation; (b) when a new FAA Administrator is under consideration for confirmation by the Senate, and (c) during the annual appropriations process. Two of the three of those Congressional actions are pending right now. *The best time to seek legislative relief may be in the next few months.*

5. ***Publish Preferred Helicopter Routes.*** The recently-announced agreement with the Eastern Regional Helicopter Council establishes recommended preferred flight routes for helicopters using both HTO and Gabreski. It is critical to note, however, that these are

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voluntary measures and, as the Master Plan Report observes, voluntary measures are more likely to be successful for based operators than for itinerant or transient operators.⁶⁹

This step should include an aggressive publicity program. The Town should publish and distribute widely the recommended helicopter routes and should actively encourage compliance. The program should include affirmative steps that the Town will take to report and publish compliance (and non compliance). Symbolic incentives (or non-punitive recognition of non-compliance) should be included.

6. ***Implement Voluntary Curfew.*** The Town should next implement a voluntary curfew program designed to limit (if not halt) certain nighttime activity. The curfew program need not be designed to stop all nighttime activity but could be tailored to the results of the prior step. For example, helicopter operators could be asked not to land at night unless they follow specified procedures and flight patterns.

Like the prior step, this phase of the program should include an aggressive publicity program.

7. ***Adopt Differential Fees.*** The Draft Master Plan Report notes that the Town has some regulatory authority to set landing fees at HTO so long as those fees are not punitively high. The Report also observes that higher landings during the nighttime hours or landing fees based upon noise levels are options for the Town to consider.⁷⁰ While it would be impermissible (without compliance with ANCA) for the Town to impose differential fees for the purpose of restricting access to HTO at certain times of day, the Town may determine that it is more expensive to operate the Airport at nighttime (i.e. to provide staffing and security) and that nighttime costs should properly be borne by nighttime operators.

A thorough explanation of the legal impediments and risks associated with a differential fees program is beyond the scope of this memorandum. It will be important for the Town to adopt a reasonable fee structure and one that can be justified independently of any effect it might have on nighttime operations. We can discuss with the Town Board in closed session the various legal risks and opportunities that a differential fees program would present.

8. ***Adopt Facility Use Restrictions.*** The data collected from earlier phases of this program will help the Town determine whether restrictions on how the Airport is used could be effective at achieving the Town's objectives. These restrictions would not be *use* or *access* restrictions but would be limitations on where helicopters can land, how they can traverse the airfield and how they operate on the airfield (i.e., whether they are allowed to rotate their propellers while passengers are present, etc.). The Town would need to prepare a report explaining the official bases for any restrictions (e.g., safety, efficiency,

⁶⁹ Master Plan Report at IV-231-232.

⁷⁰ Master Plan Report at IV-229.

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operational convenience) to avoid any charge that the restrictions are effectively disguised access restrictions.

9. ***Initiate Part 161 Study to Restrict Helicopter Operations.*** The final step in this multi-phase program would be to begin the formal Part 161 process. (If the Town takes the position that ANCA does not apply to helicopters, a formal Part 161 study would not be required but much of the same substantive data would need to be collected and reported. This step applies regardless of whether the Town follows the formal part 161 process.) A detailed description of the Part 161 process and the steps that the Town must take to implement a mandatory restriction on operations is beyond the scope of this memorandum. It is important to recognize, however, that this is a lengthy and legally complex process that is also wrought with uncertainty because of the dearth of successful precedents. We can discuss with the Town Board the more delicate litigation and legal strategic considerations inherent in this approach.

The initial stages of the Part 161 process can – and perhaps should – be started simultaneously with some of the earlier phases of this program. The issuance of an RFP, selection a competent consultant team (of which there are only a small handful in the nation) and definition of the scope of work for a Part 161 study could all be initiated earlier in this program even if the formal, public initiation of the process is not announced until or unless the voluntary measures prove unsuccessful.

V. CONCLUSIONS

The law on the authority of the Town to limit access to the Airport by helicopters is complex and wrought with legal uncertainty. While the Town has virtually no authority to dictate the flight patterns for helicopters that overfly the Town, it does have authority to implement a program that can effectively limit adverse impacts by helicopters that use the Airport. Eventually, it may prove necessary for the Town to adopt a formal access restriction to minimize the adverse impacts from helicopters on the Town's residents. But, in order to make such a restriction as legally bullet-proof as possible, the Town should implement a stair-step program of progressively more restrictive (and more formally regulatory) measures to address the impacts of helicopters. In many communities, this type of approach has proved successful without the need to pursue the federal process for implementation of a formal access restriction. If that does not prove true here, the progressive approach will help ensure that the Town has a record to withstand litigation challenge.

The precise steps in the progressive approach need to be developed in coordination with the Town's noise and economics consultants. This memorandum (and the accompanying chart) illustrate t possible approach and illustrates how the recommended approach would work in practice.

Much of the law in this area depends upon both the effect and the intent of the Town's approach. It is important, therefore, to maintain strict confidentiality of the strategy. This is particularly important because the publicly stated purpose of various steps in this program may not be

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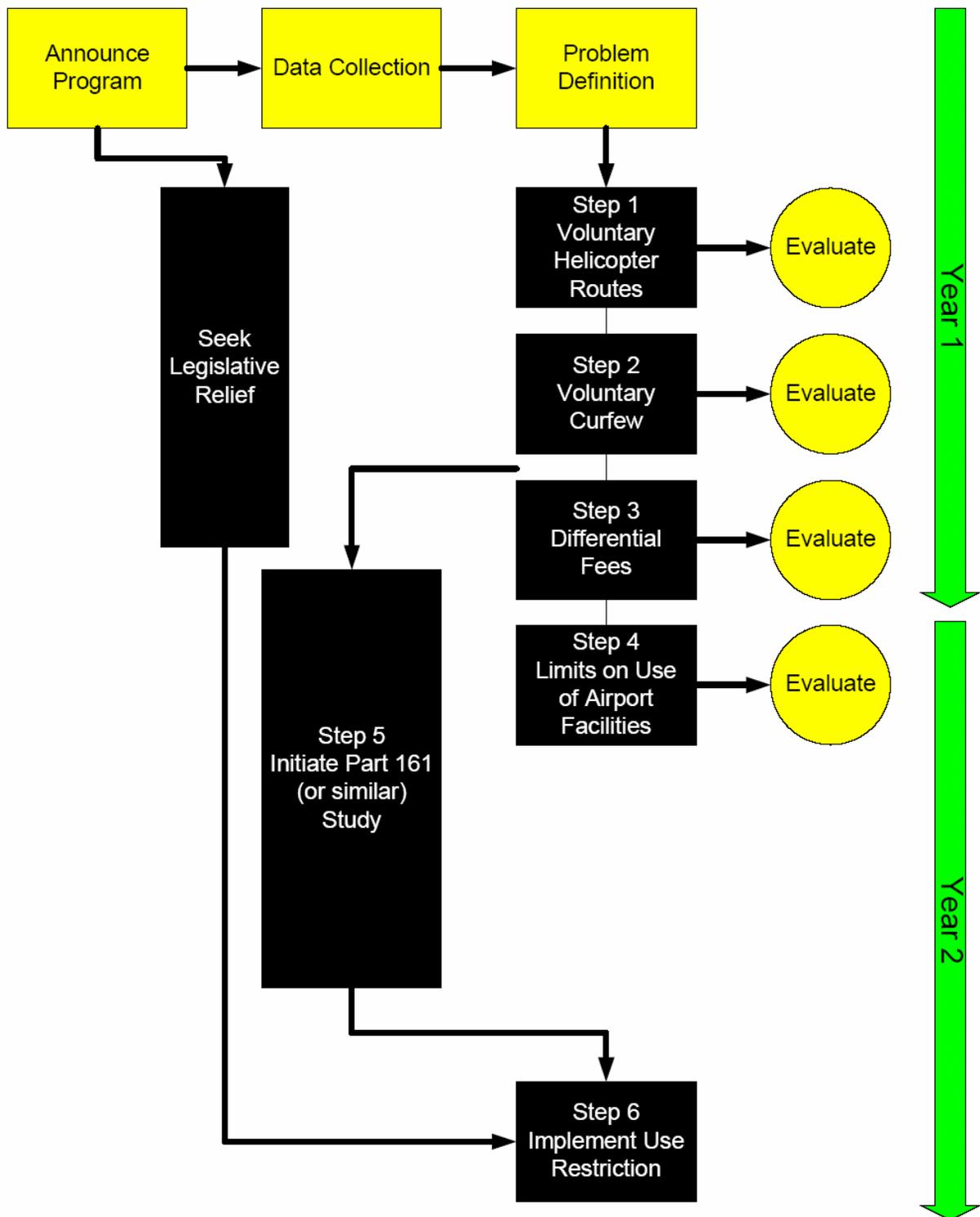
January 14, 2008

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consistent with the confidential or strategic objective. We would be pleased to brief the Town Board or your office on how best to announce publicly a program without compromising confidentiality.

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u. Letter from David Gruber, Committee to Stop Airport Expansion (September 28, 2009), including Appendices: East Hampton Airport Noise by the Noise Pollution Clearing House; Suggested Alternative Concept; East Hampton Airport Plan Commentary by OED and CHA; Memo to the Town of East Hampton, Kaplan Kirsch Rockwell, January 14, 2008

The respondent sets forth 11 specific concerns which are deemed deficiencies in the draft GEIS.

Response to Item 1: Noise impact determinations in the draft GEIS, consistent with SEQRA and FAA guidelines, provides information on "setting" through definition of the background noise environment; on "probability" based on relevant traffic level information by aircraft type and time of day on an annual basis and on a specific busy day in 2008 and projected to 2013; on "duration" by providing in the relevant descriptors of single event noise levels as published in the Master Plan Report, and by monitoring data; on "irreversibility" via the definition of noise as an atmospheric vibration that dissipates, i.e., is not irreversible; on "geographic scope" by the inclusion of noise contour diagrams for existing and expected future conditions; on "magnitude" via single event noise contours; and by number of people affected via population counts as tallied by the Integrated Noise Model.

Response to Item 2: The respondent contends that the alternative to maintaining Runway 16/34 was arbitrarily dismissed. The "no build" alternative was included in the Master Plan Report. The Airport as it exists today is largely a reflection of the 1989 plan which has been in effect for 20 years. Thus, this "alternative" exists on the ground as well being contemplated in the parent planning study. The selection of runway, since either Runway 16/34 or 4/22 would provide adequate service to aircraft considering prevailing winds. It is within the scope of the proprietor to determine which runway maximizes the social, economic and other essential benefits to the Town while minimizing or eliminating adverse environmental impacts to the fullest extent possible. Thus, a balancing of social, economic and other factors with environmental impacts must be made. An Environmental Impact Statement does not force the selection of the runway which, in the opinion of the respondent, has the lowest net off airport environmental impact.

Response to Item 3: The respondent contends that the process did not include consideration of continuing the 1989 Master Plan. First, plans are made at a given time with an expected lifetime or applicability period. Typically, that duration in the case of airports is 20 years. Thus, consideration of a new Master Plan is timely. The 2007 Master Plan Report included the no build alternative which essentially considers the continuation of the status quo, suggesting that the existing plan could remain in place. The respondent suggests that additional alternatives be considered, but does not specify them.

Response to Item 4: The selection of a preferred alternative does not preclude other alternatives. The key question is the selection of crosswind runway. In accordance with federal and state environmental standards, the differences are insignificant in terms of noise exposure. The preferred alternative addresses an essential matter, provisions for long term development. There is insufficient area between Runway 16/34, its required taxiway and the Terminal Building to accommodate many small or a few larger aircraft during peak demand conditions, i.e., the

critical matter exists today even without the necessary parallel taxiway emplaced. With the addition of the parallel taxiway, not only are transient parking spaces limited, but circulation and maneuvering aircraft becomes more difficult. Thus, from a long term perspective, preserving Runway 16/34 is unresponsive to existing operational realities. The design presented later in the document preserves the existing conditions, but does not address peak period deficiencies.

Response to Item 5: The alternatives considered in the Master Plan Report ranges from downsizing to a major expansion. The respondent avers that this is insufficient for compliance, but does not specify what additional alternatives either major or minor are required for compliance.

Response to Item 6: The respondent sets forth the concept that controlling infrastructure and using proprietary powers to control access is essential without specification of what those measures might be. This prevents a determination of the merits of those prospective measures. In fact, the limitations of infrastructure and the use of proprietary powers already provide some constraint. Runway length and other critical capacity measures are not increased under the proposals contained in the draft GEIS continuing the current circumstances. The Town has increased landing fees in recent years which has the potential to reduce traffic. The underlying question is the extent to which infrastructure limitations and the use of proprietary powers are employed to reduce traffic levels. The respondent implies the Town should adopt more restrictive policies. Current levels of environmental impact with the exception of helicopter traffic do not suggest that impacts are excessive in comparison to recognized federal and state guidelines for compatibility.

Response to Item 7: The design aircraft selected is the Cessna Citation. This aircraft type constitutes a large fraction of existing fixed wing aircraft fleet using the Airport. This does not preclude usage by larger aircraft some of which are already based at the Airport and owned by Town residents. Usage of larger aircraft was included in the noise studies shown in the draft GEIS. Thus, no omission exists in terms of the analyses offered.

Response to Item 8: The putative implications of accepting FAA funding were, in the past, significant, but with the decline in the use of Stage 2 jet aircraft are no longer deterministic of noise impact. Specifically, since the noisiest aircraft in the civil business jet fleet are now essentially retired, the ability to screen out the noisiest aircraft through restrictions based on stage class is no longer helpful. The noise reduction benefits that might have been achieved in the past have been achieved through a differing mechanism, i.e., technological and economic obsolescence.

Response to Item 9: The draft GEIS is not a noise abatement planning study. The draft GEIS reviews the impact of a series of proposals for airport improvements. Consideration of Town policy in terms of exercising proprietary powers is not included in any of the proposals reviewed.

Response to Item 10: There is one proposal reviewed in the draft GEIS that merits such detailed review as is being sought, the selection of the crosswind runway. The environmental impact of this proposal is thoroughly revealed in the draft GEIS. This alternative was selected based on technical merit and relief of operational deficiencies during peak flow conditions. The comment does not contain any specific criteria that would contradict the findings presented.

Response to Item 11: The draft GEIS contains two proposals that have potential off airport effects, the reactivation of Runway 4/22 and the activation of a seasonal control tower. The environmental impact of the runway proposal is thoroughly set forth. The benefits of a seasonal control tower cannot be determined in the absence of an operating plan which has yet to be defined. The comment reflects an underlying assumption that the Town, operating in the role of airport proprietor, is obligated to select a given alternative that is demonstrably least in terms of environmental impact. The draft GEIS does not show significant environmental impacts resulting from any of the proposals under consideration. In selecting an alternative, the proprietor is required to act and choose an alternative which, consistent with social, economic and other essential considerations, to the maximum extent practicable, minimize or avoid significant environmental effects. Thus, a balancing of such factors is mandated under SEQRA.

Following the series of explicit points on pages 3 through 6 are recitations concerning SEQRA and the language of the original legislation. These passages are the basis of implementing regulations adopted by the responsible state agencies to which the draft GEIS complies. The respondent asserts that the draft GEIS is inadequate in light of the concerns expressed in the founding legislation whereas, in fact, the draft GEIS complies with the specific requirements of the administering agencies both federal and state.

Response: On pages 6 through 12, the respondent discusses noise issues. There are no proposals in the draft GEIS that relate to noise with the exception of the selection of the cross wind runway which changes the location of part of the noise contour area. The seasonal control tower proposal by conferring the ability to direct traffic may also have an impact on the distribution of noise impact. Neither of these proposals is expected to change the level of traffic, the composition of aircraft traffic or the capabilities of the facility. The respondent advances the concept of the Town noise ordinance and its specified noise levels as the alternative evaluation criterion to the federal mandated system, the Day Night Average Sound Level. The Town's noise ordinance specifically exempts all noises coming from normal operations of properly equipped aircraft from application of the Town noise standards and is therefore wholly inapplicable. The respondent further challenges the use of the federal noise analysis tool, the Integrated Noise Model. These concerns relate, in essence, to the definition of "significant". The crux of the concerns expressed are that the federal and state standards in this case are responsive to the protection of hearing, but are unresponsive to general community annoyance. This is the result of mechanization both in the air and on the ground which, in most of its manifestations, creates sufficient noise to create widespread annoyance. There is, at this time, no fully effective solution to this circumstance except ceasing operation of this equipment which is, on balance, infeasible since it would prevent most forms of mechanized transportation on which our society and economy depends. Such tradeoffs lie at the center of environmental improvement concerns, a subject which transcends a procedural GEIS. The concerns expressed are real, but irrelevant to the proposals reviewed in the GEIS.

Two issues that bear comment are raised on pages 13 and 14. The respondent equates the volume of individuals using the Airport with the number of residents estimated to be annoyed. This appears on its face to be an inappropriate comparison. Applying such analysis would essentially substitute a nuisance standard in place of the clearly established standards required for analysis of airport improvement impacts. Airport users although few in number, receive

substantial transportation benefit procured at substantial cost. Residents, by contrast, suffer from annoyance, but are not necessarily harmed although the noise events are clearly unwanted. This numerical equation does not appear reasonable in that it presumes that all residents have similar sensitivity and conviction. Further, the respondent advocates ceasing all night period activity, i.e., a curfew. Other than through voluntary procedures or near unanimous agreement among airport users such a goal is probably impractical under current law. The 1989 Master Plan and Airport Layout Plan do not contain such a proposal although it was discussed in the 1989 environmental assessment. There has been no effort on the part of the Town to implement such a proposal in the 20 elapsed years. No airport in New York State has a formal enforced curfew and the several attempts to impose such limitations have not succeeded. Similarly, road, highway and rail transportation all operate throughout the night period.

On pages 17 through 19, the respondent provides details on a prior case litigated in California. This case discusses the adequacy of an environmental document related to a proposed change in flight track placement at an air carrier airport. While relevant to noise abatement planning, there is no proposal in the draft GEIS similar to the one litigated in this case.

Similarly, on page 18, the respondent cites language from the Master Plan Report that supports the effectiveness of a single event noise standard. This is an effective noise abatement strategy and might be an appropriate inclusion in a noise abatement planning study. The draft GEIS is not a noise abatement planning study and there are no noise control proposals reviewed within it.

On pages 19 through 29, the respondent discusses the advantages and disadvantages Runway 16/34 versus Runway 4/22. The design selection rests on the key advantage of Runway 4/22, the available areas to the west of the runway for long term development of aviation related uses and avoidance of complicated modifications to the existing terminal area. Runway 16/34 has a variety of lesser advantages. The layout proposal submitted by the respondent is well prepared, and could be made to function acceptably in accordance with the design submitted. However, the proximity of Runway 16/34 to the hangars, terminal area, and Daniel's Hole Road limits the potential of the airport in the sense of the evolution of overall design, and the required parallel taxiway on the east exacerbates this circumstance. Preserving Runway 16/34 will require a rearrangement of the terminal area which reactivating Runway 4/22 avoids. It is this fundamental matter of layout that drives the recommendation for reactivating Runway 4/22. While feasible, the design alternative submitted requires removal of existing hangars, reconstruction of equivalent hangar space, segregation of aircraft, small versus large, and reconfiguration of the existing FBO leasehold. Differences in wind coverage, in off airport land use compatibility, in operational and capital costs are small in comparison to this central design consideration. Thus, the recommendation from the design team supported the reactivation of Runway 4/22. As a practical matter, the preferred alternative does not necessarily extinguish the Runway 16/34 alternative since other factors may yet influence the final decision. It is not runway selection, but the requirement for a parallel taxiway to Runway 16/34 that is the most critical factor. However, the preferred alternative is expected to emerge as the more practical alternative in the final analysis since it is supported by the user community and appears most prudent in the long term evolution of the Airport and least disruptive to current operations.

On pages 29 through 33, the respondent submits that the Town has not implemented noise abatement recommendations embodied in the 1989 Master Plan and environmental

documentation including weight limits, ignoring the stated objective of narrowing the main runway, restricting Stage 2 aircraft including helicopters and instituting a curfew. These issues are related to noise abatement planning which is not addressed in the draft GEIS because there are no proposals reviewed that relate to such steps. The draft GEIS is a procedural document that reviews 14 separate proposals. One proposal, the establishment of a seasonal control tower, relates to noise abatement indirectly. Without direct control of aircraft using the Airport, rules and regulations including those related to noise control cannot be effectively enforced. Without the filing of an Airport Layout Plan, the FAA cannot reclassify the local airspace to accommodate the seasonal control tower. Without the publication of a Final GEIS, the ALP cannot be signed and submitted. Therefore, moving forward to the Final GEIS is the appropriate way to facilitate greater control of aircraft traffic and resultant noise impact.

In section 4, page 33, the respondent suggests that the full range of alternatives were not considered. An agency's substantive obligations under SEQRA must be viewed in light of a rule of reason. Not every conceivable alternative must be identified and addressed. This rests on the assumption that certain alternatives were not fully analyzed and that the sole means of evaluation is through SEQRA. In fact, the Town acting in the role of Lead Agency and airport proprietor is reflecting a policy that balances limited growth with appropriate facility maintenance. SEQRA does not require analysis of alternatives which are not supported by previous decision making. Thus, an expansion oriented approach such as was depicted as Alternative 3 in the Master Plan Report was not brought forth into the environmental review. Similarly, Alternative 1 which depicted a downsized facility was not considered responsive to the needs of public user community. Decision making is informed by detailed environmental analysis, but it remains one of a number of concerns. Some of these ancillary concerns may override environmental impact differences. Decision making is not always dependent on environmental impact differences nor are decision makers unaware of environmental concerns in the absence of a formal study. The respondent does not offer any other alternatives for consideration except the retention of Runway 16/34 as opposed to Runway 4/22. Inclusion of this alternative in the Final EIS satisfies these concerns.

In section 5, the respondent again suggests that there is a requirement to study a "range of reasonable alternatives". The word "reasonable" suggests that the Town, acting as Lead Agency, has the discretion to screen out those measures that are not considered reasonable, i.e., deemed not in the public interest at this time. The preferred alternative does not preclude future actions that may increase airport capability or reduce it. The central design proposal is "reactivation" of Runway 4/22, i.e., rehabilitation of an existing but disused runway that has been in existence since the Airport was constructed 70 years ago. The alternative to this action is the preservation of Runway 16/34. There is no other alternative except constructing an entirely new runway which was ruled out due to cost and other factors. The respondent elsewhere in the documentation reviews a variety of planning studies conducted after the 1989 Master Plan. In none of these studies is there a suggestion to construct a new runway in a differing location or the definition of differing alternative layout concepts. Therefore, there do not appear to be a range of available layout alternatives requiring study. The remaining text discusses a variety of eventualities resulting from changes in air traffic. These are properly considered in a noise abatement planning study. This is not the purpose or focus of the draft GEIS. Similarly, a draft GEIS is not a cost/benefit analysis nor, generally speaking, are comparative costs a major component of an EIS. The EIS is intended to clearly depict environmental considerations to

insure that these are part of the overall decision making process. The respondent infers that the GEIS is the umbrella document which supports decision making as opposed to contributing to decision making.

In section 6, the respondent suggests that the draft GEIS is the appropriate vehicle for considering the inclusion of the Town's power as airport proprietor and their alternative prerogatives in addressing environmental issues generally including regulation of aircraft traffic and access. The draft GEIS focuses primarily on construction proposals which are its stated purpose. The Town has elected to focus closely on these urgent matters and specifically omit, at this time, the larger and more complex regulatory issues. To do otherwise would greatly extend the decision making period. The Town is thus properly discharging their responsibilities as airport proprietor to insure safe, efficient, and adequate properly maintained airport facilities. SEQRA applies to a variety of actions including policy making, but the draft GEIS contains no such policy proposals.

In section 7, the respondent suggests that the five year forecast is insufficient, the growth factors used irrelevant to East Hampton and objects to the Design Aircraft selected. The proposals reviewed in the draft GEIS are all short term actions and are reversible. The expected impacts from the implementation of these proposals will materialize within five years. Long term projections such as are used in master planning are appropriate for such exercises and their environmental documentation since there may be projects that are developed in phases over that long term period. There are no such long term development proposals included in the draft GEIS. Projects that are a single prompt and inclusive action, such as constructing a building, are often assessed based on a five year projection. There is no departure from custom. The growth assumptions used are derived from FAA industry forecasts which, as might be the case with any other projection, have a varying level of expected accuracy. However, past traffic history, i.e., the last five years, suggests that these factors are reasonable especially in light the current adverse financial climate. The epicenter for the current recession lies in the financial markets in New York City suggesting that market contractions will be felt most promptly and most completely at that location. Although East Hampton is a desirable summer destination, the New York/East Hampton travel market clientele would presumably be among the most seriously affected suggesting an unstable or declining market for high cost transportation services. Alternative less costly transportation modes are available to access East Hampton. Thus, the projections offered appear reasonable as well as authoritative.

The selection of the critical design aircraft is an airport planning consideration that did not originate in the draft GEIS. The prior design aircraft, the Twin Otter, is no longer in service at East Hampton and is no longer in production. The design aircraft used is representative of the largest fraction of current turbine engined fleet using the Airport, among the most popular types in comparison to similar product offerings and is produced by the world's largest manufacturer of business jet aircraft. It is therefore appropriate. The respondent does not nominate a specific alternative design aircraft.

Section 8, the respondent alleges segmentation because the draft GEIS does not analyze the long term effects of accepting FAA grants in aid.

Response: Segmentation is usually defined as the deliberate segregation of a single action into several parts so as to avoid analysis of the single unified action which could have a larger impact than each portion taken separately. Acceptance of grants in aid has no environmental impact; rather the impact is what results from the construction of specific projects regardless of the origin of the resources used. Federal grants are contingent on a local contribution which can be influenced by local citizens. Neither is it appropriate to contend that all FAA funded projects result in negative environmental effects. FAA grants have been used to protect residents, to sound proof schools, to fund noise monitoring systems, to conduct noise mitigation studies and to mitigate the effects of certain developments. The FAA is bound by NEPA and the implication of these allegations is a violation of federal as well as state statutes. Since every airport in the State except East Hampton accepts federal funding, the implication is that each and every one is in violation of SEQRA. This is clearly not the case.

The respondent appears to object not to grants in aid themselves, but to the sponsors assurances which are typically required. The Town is not obliged to accept federal funds or to apply exclusively for grants that could have adverse environmental effects. Each proposal reviewed in the draft GEIS is a standalone action most of which are urgent and address existing deficiencies. The objective of the process is the filing of an Airport Layout Plan reflecting the projects reviewed in the draft GEIS. The filing of the ALP is necessary in order for the East Hampton Airport to reestablish its inclusion in the national system of airports. It is currently out of status. Only by filing the ALP can the Airport obtain from the FAA the airspace changes that must occur before the installation of the seasonal control tower. Establishment of the seasonal control tower is the prerequisite to improved noise abatement measures. The goals of the Town and of the respondent appear reasonably congruent, both support progress toward improved performance and reduced noise impact. The difference is the means by which this can be achieved.

In section 9 the respondent continues the discussion of FAA grants in aid and their accompanying sponsor's grant assurances. **Response:** The penalty resulting from a departure of the accepted FAA interpretation of the grant assurance that requires that the Airport accommodate all types, kinds and classes of aircraft on a fair and equal basis is withdrawal of federal funding. Thus, the Town can opt out of the federal grant program at any time. The proprietor's exception as spelled out in the relevant decision concerning the East 34th Street Heliport offers protections from litigation advanced by others, but must still be "reasonable, non arbitrary and non discriminatory". These distinctions were critical during the 1990's when there were still numerous Stage 2, i.e., disproportionately noisy, fixed wing turbine powered aircraft in the mix using the Airport. Barring access to those aircraft would have, at that time, lead to substantial reductions in overall noise exposure. However, virtually all these aircraft, with the exception of helicopters, are now gone due to age, excessive fuel consumption or have been converted to Stage 3 compliance. Review of the single event noise contours provided in the Master Plan Report reveals the degree of change. Summer helicopter traffic is now the primary source of complaint. Since helicopters do not require supporting infrastructure, these aircraft are unaffected by the availability of grant funds. Since there are no current Stage 3 helicopters, distinction by Stage class is not an option. The Town retains a variety of options to address helicopter noise and the seasonal control tower, a key proposal reviewed in the draft GEIS, will serve to enforce those policies. Although there are differences in noise emissions from helicopters based on differing size and weight, helicopters are not substantially noisier than

comparable fixed wing aircraft. They are objectionable because they operate at lower enroute altitudes exposing large areas to overflight noise, have a distinctive pulsating noise signature which is easily recognized even when compared to similar amplitude sounds, and are a potent source of low frequency noise and vibrations. They are therefore a more difficult regulatory target and not necessarily amenable to noise abatement strategies used for fixed wing aircraft. In sum, the consequences of accepting federal funding and the resulting grant assurances are much different now than in past times. Likewise, other federal procedures such as Part 161 and Part 150 as well as design standards and regulatory objectives differ from the circumstances that are addressed in the comment.

In sections 10 and 11, the respondent asserts that the combined inadequacies in the draft GEIS do not permit an informed decision.

Response: The draft GEIS adequately supports the decision making required understanding the environmental ramifications of the projects considered. The projects all conform to relevant state and federal standards customarily used for evaluation. While this may not be fully responsive to the goals and objectives of all local residents, this is not a defect in terms of SEQRA compliance. Much of the language used in this correspondence appears to overstate the actual harm that occurs. In these and other comments there is an implied debate between what is considered insignificant under the guidelines typically applied by the administering agencies and what is considered significant by those who must actually experience these realities. There is merit in considering both perspectives, but SEQRA compliance, the issue at hand in the draft GEIS, adheres to broad standards arrived at through many years of actual experience and application. While perhaps not fully satisfactory to all, these criteria are powerful and pragmatic in light of the various tradeoffs that occur. There remains substantial room for improvement above and beyond the satisfaction of nominal compliance.