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OFFICE OF THE SUPERVISOR
TOWN OF SOUTHOLD

November 15, 2016

VIA MAIL and ELECTRONIC SUBMISSION

U.S. Department of Transportation
Docket Operations
West Building Ground Floor, Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Petition for Rulemaking
Docket No. FAA-2010-0302
Amdt. Nos. 93-99 and 93-101
14 CFR Part 93 and RIN: 2120-AK84
Extension of the Requirement for Helicopters to
Use the New York North Shore Helicopter Route

Dear Sir or Madam:

Pursuant to 14 CFR § 11.17, 5 U.S. Code § 553(e) and all other relevant laws and regulations, the Town of Southold, New York (Southold) submits this petition for rulemaking regarding the FAA's decision and final rule extending the New York North Shore Helicopter Route (NSR) through August 20, 2020 as reported in the Federal Register at 81 Fed. Reg. 48,323 (July 25, 2016) amended by 81 Fed. Reg. 62,811 (September 13, 2016).

For the reasons stated below, supported by substantial evidence, Southold petitions the FAA to reconsider, repeal in part, amend in part, notice and open for public comment the aforementioned final rule because the rule and its adoption:

- a. Deprived Southold and the public of their right to notice and opportunity to be heard before the extension of the NSR as guaranteed by section 553 of the Administrative Procedure Act,
- b. Violated the direction of Presidential Executive Order 13132 which required the FAA to consult with officials of Southold before extending the NSR, and
- c. Is arbitrary and capricious.

Southold believes that a review of these issues by the United States Court of Appeals for the District of Columbia Circuit would produce a favorable outcome for Southold on each issue. Nonetheless, by this petition, Southold offers the FAA something rarely found in life...a second chance. Our Town urges the FAA to reconsider its ill-advised uninformed rule and, this time, do the right and proper thing with all deliberate speed.

The Town of Southold

Southold is a bucolic, rural community located about 94 miles east of Manhattan's East 34th Street heliport. Settled by English colonists in 1640, the Town celebrated its 375th anniversary in 2015. With a residential population of about 20,000, Southold occupies most of Long Island's North Fork and includes ten hamlets (Fishers Island, Orient, East Marion, Greenport West, Southold, Peconic, Cutchogue, New Suffolk, Mattituck and Laurel along with the incorporated Village of Greenport).

Our Town is bounded to the north by the Long Island Sound Estuary and to the south by the Peconic Bay Estuary with approximately 163 linear miles of shoreline. The U.S. Environmental Protection Agency has designated both the Sound and the Bay each as an "Estuary of National Significance."¹ In addition, The Nature Conservancy has recognized the Peconic Bay Estuary as one of the "Last Great Places in the Western Hemisphere,"² whose environmentally sensitive waters support commercial fishing, a family run oyster farm³ and bay scallop cultivation.⁴

The Town possesses a rich heritage of scenic, historic, and natural resources which are vital to Southold's sense of place and community, as well as its economy... unspoiled beaches, 38 sprawling vineyards and wineries, agricultural production on family owned farms, farm stands, historic buildings, museums and unlimited recreational opportunities. In recent years, the North Fork has become home to an award-winning craft brewery, a cider mill and a distillery,⁵ hops farms,⁶ as well as a cattle ranch,⁷ an organic poultry farm⁸ and a dairy farm.⁹ The Town has embarked upon developing Comprehensive Plan Southold 2020, a community-wide effort to plan for the physical growth and development of the Town.

The NSR

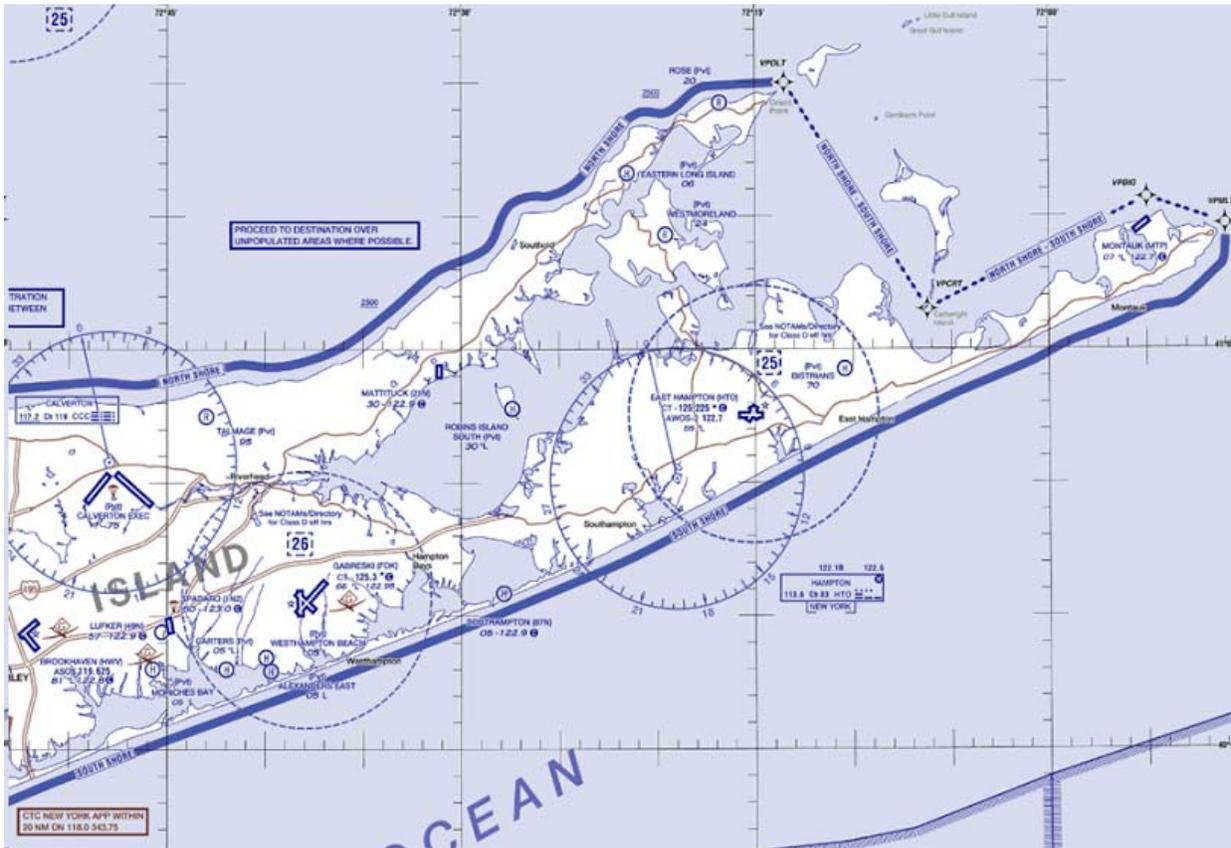
The FAA added both the NSR and the SSR to its New York Helicopter Route Chart effective May 8, 2008¹⁰ as one of handful of special air traffic rules throughout the country.¹¹ The FAA's designation of the NSR was an exercise of its authority to prescribe air traffic regulations:

- a. "for protecting individuals and property on the ground,"¹² and
- b. "to relieve and protect the public health and welfare from aircraft noise."¹³

For example, the FAA has adopted special air traffic rules to protect the historic Oberlin College Conservatory of Music, the George Washington home at Mt. Vernon and Rocky Mountain National Park from aircraft noise.¹⁴

The path of the NSR traces the entire northern shoreline of Southold for approximately 35-40 miles from Laurel to Orient Point. However, potential helicopter take off/landing fields are all located on the South Fork in Westhampton, Southampton, East Hampton and Montauk, each of which is indisputably miles closer to the SSR than to the NSR.

Since 2010, the FAA has required helicopter pilots to use the NSR (but not the SSR) when flying anywhere between Lloyd Harbor (the VPLYD waypoint) and Orient as follows:



Specifically, the mandatory portion of the route begins at a waypoint 20 miles northeast of LaGuardia Airport (LGA) and near Huntington, NY; remains approximately one mile offshore, extends to the eastern end of Long Island; and terminates at Orient Point, near the eastern edge of Long Island. Helicopters operating on this route would have to remain at or above 2,500 feet mean sea level (MSL).¹⁵

* * *

The north shore of Long Island is clearly portrayed on the New York Helicopter Route Chart. The rule applies to those pilots of helicopters whose intended route of flight takes them along the northern shore of

Long Island.¹⁶

* * *

Unless otherwise authorized, each person piloting a helicopter along Long Island, New York's northern shoreline between the VPLYD waypoint and Orient Point, **shall utilize** the North Shore Helicopter route and altitude, as published.¹⁷

The FAA's Four Year Extension of the NSR Deprived Southold of Its Right to Notice and an Opportunity to Be Heard

Section 553 of the Administrative Procedure Act (APA) generally requires a federal agency to provide public notice and an opportunity for comment on any proposed rule.¹⁸ The evolution of the NSR has been characterized by limited opportunity for public input - none at all since 2010.

In 2012 and 2014, the FAA promised the opportunity for public comment, but reneged on that promise. In 2014, the FAA found that public comment was critical to its decision making, yet inexplicably also found that public comment was impracticable and contrary to the public interest. The response of the public to uncontrolled helicopter flight shows otherwise. For example, the town of East Hampton received 43,000 complaints of helicopter noise in 2014-2016.

In July 2016, Southold made a specific request to be heard, but the FAA denied our Town that opportunity. The FAA then extended the NSR for four more years, until 2020, for entirely new, unexpected and insufficient reasons, all without notice and the opportunity for public comment beforehand. This unlawful unilateral action renders invalid the 2016 extension of the NSR.

2010

In 2010, when elected officials and FAA's Flight Standards District Office continued to receive complaints about helicopter noise on Long Island's north shore, the FAA proposed to make mandatory flight rules for the NSR through a Notice of Proposed Rulemaking.¹⁹

2012

Two years later, in 2012, the FAA issued a final rule upon receiving approximately 900 comments — from residents, local government (including the four East End Towns - Southold, Shelter Island, Riverhead and East Hampton), citizen groups, businesses, and various trade associations. The FAA determined that “[s]lightly more than a third of the total number of commenters complained about the levels of helicopter noise that they are exposed to, particularly during the summer months.”²⁰

In promulgating the 2012 Final Rule, the FAA did not change the NSR that had then been in use for about four years, but expressed the hope that “[m]aximizing the utilization of [the NSR]

by making it mandatory will secure and improve upon the decreased levels of noise that have been voluntarily achieved.”²¹

The term “mandatory” is somewhat misleading. The NSR was mandatory only for those pilots who voluntarily chose to fly over Long Island’s north shore anywhere east of the VPLYD waypoint, thus making the use of the NSR voluntary, but its flight rules mandatory. Because “safety is [the FAA’s] highest priority,”²² the 2012 rule made exceptions for helicopters not adequately outfitted to travel the route safely and for pilots who determine route deviation is required because of weather, safety or a need to transition to or from a destination or point of landing.²³

The 2012 rule was provisional for two years, by virtue of a sunset provision causing the rule to expire on August 6, 2014, if the FAA determined that “there is no meaningful improvement in the effects of helicopter noise on quality of life or that the rule is otherwise unjustified.”²⁴ If there was improvement, the FAA stated that it could make the 2012 rule permanent “**after appropriate notice and opportunity for comment.**”²⁵

In 2014, the FAA made no finding either way, despite its pledge to work with affected parties “to ensure that the rule addresses the problem” as follows:

During the time that the rule is in effect, the FAA will continue to review and monitor the implementation of this rule and work with stakeholders to ensure that the rule addresses the problem and is otherwise justified; if not, the FAA will allow the rule to lapse at the end of 2 years. Alternatively, the FAA may amend the rule to implement meaningful changes should they be identified.²⁶

Lastly, the FAA asserted its authority to make “reasonable modifications..to the route...**after notice and comment.**”²⁷

On July 12, 2013, United States Court of Appeals for the District of Columbia Circuit upheld the authority of the FAA to establish the NSR by its 2012 Final Rule. The Court found that protection of Long Island residents’ use and enjoyment of their property provided ample justification for the NSR as follows:

Responding to the noise complaints of Long Island residents, the FAA prescribed new air traffic regulations with the purpose of protecting these residents’ use and enjoyment of their property. Noise, when it reaches certain levels, has long been considered an actionable nuisance because of its impediment to the use and enjoyment of property.²⁸

2014

In 2014, the FAA extended the NSR for two more years, premised on two irreconcilable findings:

- 1) that public comment was “critical” to the FAA’s decision making process, but
- 2) that such comment was “contrary to the public interest.”

In other words, it was against the public interest for the public to comment on the NSR, even though public comment was “critical” to the FAA, and was guaranteed by the First Amendment, federal statute and Presidential executive order.

On June 23, 2014, the FAA extended the rule and the NSR for another two years until August 6, 2016 without notice and public comment. The FAA’s stated reason for the extension was “to preserve the current operating environment in order to determine whether the mandatory use of this route should be made permanent.”²⁹

The FAA found that “[p]ublic input to this consideration is critical.”³⁰ Nonetheless, the FAA extended the NSR until 2016 without the opportunity for public comment because (as the FAA claimed without explanation) any such notice and comment allegedly was “impracticable and contrary to the public interest.”³¹ The truth was quite the opposite. The deluge of comments from residents and their elected representatives on the 2012 Final Rule proves beyond question that public comment was not only practicable and in the public interest, but also important to the FAA.

In 2014, the FAA did commit to future open rulemaking, in place of its closed, secretive process:

The FAA will conduct notice and comment rulemaking... [and] expects to issue a Notice of Proposed Rulemaking on the permanent use of this route in the immediate future.³²

This assuring promise of “notice and comment rulemaking” proved empty.

2016

On Monday, July 25, 2016, the FAA seemingly extended the NSR for four more years until August 6, 2020 without notice and public comment.³³ This action contravened the FAA’s 2012 commitment that any such extension would require input from the public as a condition precedent:

The FAA does note that any decision to extend the rule beyond 2 years or to modify the existing route will be subject to notice and an opportunity to comment.³⁴

Under the caption, *Good Cause for Immediate Adoption Without Prior Notice*, the 2016 Final Rule cited Section 553(d)(3) of the Administrative Procedure Act (“APA”)³⁵ which enables agencies to publish a rule less than 30 days before its effective date “for good cause found and published with the rule.”³⁶ The cited section 553(d)(3) governs only the effective date of a rule. It has no application to the APA’s mandatory publication, notice and comment requirements.

The flimsy excuse for “good cause” for not providing comment-inducing “critical” notice was “[t]o prevent confusion among pilots using the route and avoid disruption of the current operating environment.”³⁷ The “current operating environment” was the problem not a legitimate reason to avoid hearing from the public and their elected representatives. Pilots were not at all confused. Many of them flew where they wanted without regard to the strictures of the NSR as we describe below. And they have done so with impunity.

The only exception to notice by publication in the Federal Register is for “good cause” as required by 5 U.S.C. section 553(b)(3)(B) which provides as follows in part:

[N]otice of proposed rule making shall be published in the Federal Register...[unless] the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

The FAA made no such “good cause” finding in support of adoption of the July 25th Final Rule without notice and the opportunity for public comment, thus invalidating the rule.³⁸ The “good cause” exception “...is confined to emergency actions which are ‘indeed rare’...”³⁹ The impending deadline for expiration of the NSR on August 6th was insufficient to justify proceeding without notice.⁴⁰

The lack of notice to Southold was especially disheartening. Our Town had something to say and the right to say it. On July 12, 2016, Southold counsel informed the FAA that the Southold Board of Supervisors would meet on July 26th to determine what position to take with the FAA regarding the imminent expiration of the NSR. Southold’s intention was confirmed via email the following day.⁴¹ Our Town requested the FAA to consider Southold’s views before making any extension on the NSR as follows:

Any submission to the FAA would be made within days of July 26th, but well before August 6th. We hope that the FAA would take the opportunity to consider Southold's views before making any decision on extension and adopting a final rule.⁴²

The FAA’s precipitous action on July 25th also preempted and denied Southold’s right to be heard in violation of Presidential Executive Order 13132 which required the FAA to consult with officials of the Town of Southold *before* extending the NSR.⁴³

The FAA received no comments regarding the 2016 expiration of the NSR.⁴⁴ That is hardly surprising. None were solicited. Congressman Lee Zeldin who represents the East End was kept in the dark like everyone else, even though the Congressman's opposition to the NSR was well known. Congressman Zeldin found the FAA's heavy-handed-behind-closed-doors process to be undemocratic as follows:

On [Saturday] July 23, after repeated follow up from myself, my office, the House Subcommittee on Aviation, other elected officials, and countless concerned citizens on the East End, the FAA quietly announced a four year extension of the North Shore Route against the will of the people and without a transparent process or public comment period...Calls of the public and their representatives have been flatly ignored. The FAA is treating the American public as if it is the enemy.⁴⁵

Editorial comment in The Suffolk Times (publishing on the North Fork since 1857) was equally unfavorable:

If helicopters fly overhead, does the FAA hear them?

This week's decision by the Federal Aviation Administration to extend its North Shore helicopter route four more years is a prime example of government sticking with the status quo instead of making adjustments to a broken system in response to public input.

In fact, in this particular instance, the government agency never even accepted feedback from the residents affected by the decision it was making.⁴⁶

On September 13, 2016, undeterred by adverse public reaction to its *ultra vires* attempt to extend the NSR, the FAA sought to remedy a defect in the adoption of the final rule. It turns out that the FAA's July 25th Final Rule did not really extend the NSR for another four years effective on August 7, 2016. The FAA explained the problem. The NSR expired because the FAA did not make the extension provisions of the final rule effective. The FAA admitted error in a so-called "technical amendment" to the final rule:

The FAA is correcting an error, whereby the applicability of a regulation was extended instead of its effectivity. Consequently, a section of the pertinent regulation was relocated in Title 14, Code of Federal Regulations and **all remaining provisions of the regulation inadvertently expired.** However, the entire regulation was intended to be extended for four years in the final rule published on July 25, 2016 (Doc. No. 2016-17427, 81 FR 48323), which became effective on August 7, 2016.⁴⁷

Rather than seize this technical amendment as an opportunity to solicit public comment (as if extending the NSR for four years could be considered “technical” in any sense), the FAA left things as they were - a single handed, draconian extension of the NSR without input from the public and their elected representatives.⁴⁸ The final rule remains invalid.⁴⁹

The FAA’s Four Year Extension of the NSR Was Arbitrary and Capricious

Public input would have disclosed the reality on the North Fork, both in the air and on the ground. The FAA’s conscious avoidance of that reality masked the failure of the NSR to accomplish its stated objective. The applicable legal principles are clear.

The FAA's 2016 final rule extending the NSR for four years may be valid only if it was not arbitrary, capricious, contrary to law, and was supported by substantial evidence.⁵⁰ When promulgating regulations, the FAA must "examine the relevant data and articulate a satisfactory explanation for its action."⁵¹

Aviation interests do not trump all others. “[W]hen other interests besides aviation have been established for a long time, aviation may have to accommodate those interests.”⁵² Here, those interests are clear: the protection of "individuals and property on the ground” and "to relieve and protect the public health and welfare from aircraft noise" on the North Fork, a long established agricultural and aquacultural region far from the klaxon sounds of Manhattan.

The balance to be struck here is between the luxury of helicopter flight to save minutes to get to the beach and the right of residents to the “use and enjoyment of their property”⁵³ free from unnecessary aircraft noise. The balance heavily weighs in favor of a quiet North Fork, with helicopters utilizing only the SSR.

Car travel time for the 99 miles from the 34th Street heliport to the East Hampton airport (HTO) is approximately two hours. One way helicopter fares are in the \$500-\$600 range per passenger; flight time about 40 minutes.⁵⁴ That, plus about 20 minutes travel to the heliport plus a 15 minute preflight wait means that North Forkers are needlessly subjected to disruptive aircraft noise to save beachgoers about 45 minutes travel time. The preflight wait is made somewhat tolerable by the complimentary service of “Casa Dragones tequila and Chateau D’Esclans rosé in our signature sippy cups, which you can bring on board during your flight.”⁵⁵

a. Helicopter Noise Continues Unabated

The “no comment” process shielded the FAA from readily available substantive evidence which shows that the four year extension was arbitrary, irrational and contrary to the evidence.

The FAA’s stated purpose of the NSR was to “reduc[e] helicopter overflights and attendant noise disturbance over nearby communities,” including Southold. The FAA made this explicitly clear as follows:

The purpose of this rule is to protect and enhance public welfare by maximizing utilization of the existing route flown by helicopter traffic one mile off the north shore of Long Island and thereby reducing helicopter overflights and attendant noise disturbance over nearby communities.⁵⁶

In 2012, 2014 and 2016, the FAA acknowledged that the NSR rule would no longer have any rational basis and would be arbitrary if there was no improvement in the noise situation along the North Fork as follows:

There is no reason to retain this rule if the FAA determines that it is not actually improving the noise situation along the north shore of Long Island.⁵⁷

The noise situation over and in Southold has gotten worse since the FAA's establishment of the NSR in 2012. The volume of helicopter traffic remains high and is concentrated in the months of July and August on Friday and Sunday evenings and early Monday mornings. East Hampton HTO has access to Vector, an aircraft tracking system. Vector's helicopter tracking graphics for the months of July and August 2016 (annexed as Exhibit C) show what words cannot, the unbearable blanketing of the North Fork by helicopter air traffic.⁵⁸

Helicopters with their distinctive "thumpa-thumpa-thumpa" blade slap noise have darkened the skies over the North Fork overwhelmingly due to 21,330 helicopter takeoffs and landings at the East Hampton airport during 2014, 2015 and 2016 (August - January) which generated 42,677 complaints of helicopter noise made to the Town of East Hampton during that three year period,⁵⁹ 2,336 of those complaints from Southold residents in 2014 alone.⁶⁰

Southold does not record the number of helicopter noise complaints, but we are inundated by such complaints from Town residents, especially from the Mattituck area. We estimate that about 75% of helicopter flights to East Hampton use the NSR. This overflight frequency is corroborated by certain aircraft tracking graphics provided by the FAA at a meeting held on August 22, 2016. As we understand it, these FAA graphics (annexed as Exhibit E) were produced by PDARS, an FAA aircraft tracking system.⁶¹ The graphics covered specific time periods over four days in 2016, i.e., July 15, August 4, 7 and 8. During those periods, 62% of aircraft tracked used the NSR, while 38% used the SSR.⁶²

"Heatmap" and complaint tracking technology also document and display our Town's experience with helicopter noise. These noise complaints (as well as the FAA's tracking graphics) mirror the actual routes and locations of the offending aircraft. Without the overflights, there would be no complaints. For example, East Hampton's own "heatmap" analysis of July - September 2015 and certain dates in July and August 2016 visually display the geographic distribution of the source of helicopter noise complaints, including those from Southold residents.⁶³ Anyone (including the FAA) can log on www.airnoisereport.com, a public interest website, and view current aircraft noise complaints and location.

Noise complaints are reason enough for the FAA to act. The Court of Appeals for the District of Columbia has held that the FAA may properly exercise its noise abatement authority based on complaints from elected officials and Long Island residents.⁶⁴ The reasons asserted by the FAA for the four year extension do not change that, nor should they.

b. The FAA's Stated Justification for the Four Year Extension of the NSR Makes No Sense

As the sole justification for the four year extension of the NSR, the FAA points to three "research initiatives...that could inform the Agency's future actions on this rule." They consist of:

- 1) modeling of helicopter performance and noise,
- 2) modeling of helicopter noise-abatement procedures, and
- 3) review of methodologies to determine community response to helicopter noise.⁶⁵

After eight years of experience with the NSR, the FAA has proposed this research for the first time. This came as a complete surprise to Southold. None of these projects will reduce aircraft noise over the North Fork. Modeling and methodology research are little more than an artful dodge designed to avoid the FAA's obligation "to protect the public health and welfare from aircraft noise." It is plainly arbitrary and capricious for the FAA now to resort to abstract research projects to determine whether the NSR has, or has not, improved the on-the-ground and in-the-air noise situation and quality of life on the North Fork. Substantial evidence establishes that it has not.

Resort to modeling and methodology research ignores empirical evidence. Hypothetical predictive models are not needed to determine the actual impact of the NSR.⁶⁶ The noise problem on the East End of Long Island is well known to the FAA and well documented. Just ask The Suffolk Times which itself asked: *If helicopters fly overhead, does the FAA hear them?* No need to develop a methodology to determine community response to helicopter noise. Over 43,000 noise complaints have done that.

Findings of aviation experts suggest some technical bases for these complaints, among them:

- 1) The loudness of a helicopter's noise signature is an obvious factor. The perceived noise level of the Bell 412HP helicopter at flyover, for example, is equivalent to a Boeing 777-200 at takeoff;⁶⁷ and
- 2) Prevailing ambient noise levels affect perceptions, and a quieter setting will accentuate airborne noise, especially if radiated from above.⁶⁸

In addition, helicopter operators should know how to use noise abatement procedures. Lastly, for the FAA to take an updated look at its approach for measuring noise⁶⁹ does nothing to actually

reduce aircraft noise on the North Fork.

c. The SSR Will Succeed Where the Eight Year Experiment with the NSR Failed

On August 22, 2016, at a meeting held at MacArthur airport, the FAA informed me and those attending that the SSR was “on hold.” This is inexplicable. The issue of the SSR must be moved to the front burner through notice and comment rulemaking.

The SSR is a sure bet to achieve the FAA’s goal of “reducing helicopter overflights and attendant noise disturbance over nearby communities” on both the North Fork and the South Fork. Nothing militates in favor of continuation of the NSR.

The SSR would completely abate helicopter noise on the entire North Fork and towns on the South Fork, like Noyack and Sag Harbor, as well as Shelter Island and Riverhead. The SSR is the shortest and most direct path possible to minimize flight time over land. From the SSR, helicopters would fly over the smallest number of residences possible under any scenario. Part of the transition route to and from East Hampton’s HTO might be over inland water, e.g., Georgica Pond.

The SSR is used regularly by helicopters demonstrating its feasibility, as did the FAA’s own demonstration flights. The FAA’s July 15, August 4, 7 and 8 tracking graphics confirm the regular use of the SSR, as do PDARS tracks from July 1 and July 4, 2016 (annexed as Exhibit F). HTO Vector tracking graphics for July 1 and 4, 2016 (annexed as Exhibit G) also show that helicopters regularly use the SSR.⁷⁰ The 136 helicopter operations tracked for those two days are broken down as follows:

July 1st Total Helicopter operations – 76

July 4th Total Helicopter operations – 60

The FAA has tested the SSR and found that it works. On September 12th and 13th, 2011, the FAA Flight Test Group conducted demonstration helicopter flights of the SSR, as well as Manhattan heliport approaches, cross-island transition routes joining flights from Long Island Sound to the SSR, and other eastern Long Island approaches. At that time, the FAA reported that the SSR would “greatly reduce noise” and would not conflict with JFK flight operations as follows:

The South Shore Helicopter Route channels helicopter traffic over the water along the southern shore of Long Island, thus greatly reducing noise in residential neighborhoods.

* * *

The South Shore Helicopter Route, for example, does not conflict with fixed-wing aircraft coming in and out of JFK International Airport.⁷¹

When it adopted the NSR in 2012, the FAA reported that “many operators prefer to travel along the north shore of Long Island and then travel inland to the desired landing spot.”⁷² According to the FAA, the reason for the preference of some helicopter operators was because the NSR “is a

faster route and because at some locations, most notably the Hamptons, weather delays are common for aircraft approaching from the south.”⁷³

The inexplicable preference of some does not pass the reality test. Nor does it provide any basis for extending the NSR. It would come as news to East Hampton and the pilots who fly the SSR that the town was located in a bad weather pocket. Sunny beaches and good weather are precisely the reasons that people enjoy the Hamptons. Moreover, the FAA found that the NSR actually increased flight time by seven minutes,⁷⁴ thereby increasing fuel costs by as much as \$384 per flight in 2012, and probably somewhat less in 2016.⁷⁵ Adoption of the SSR would eliminate this NSR cost surcharge.

There is every reason for the FAA to terminate the elective use of the NSR and adopt a mandatory SSR. To do otherwise would be arbitrary and without any rational basis.

d. Helicopters Regularly Deviate from the NSR

Our Town understands that deviations from the NSR are permitted only *when necessary* for safety, weather or when transitioning to or from a point of landing. This is as it should be. However such transitions must occur at a point directly abeam of the helicopter’s flight path on the NSR, and should be made by the shortest and most direct path possible to minimize flight time over land.⁷⁶ Nonetheless, the FAA and HTO tracking graphics show regular violations of the NSR flight rules.

The FAA has warned that “a pattern of deviations attributed to weather or safety would indicate that an operator was interested more in cutting short the route rather than any legitimate concerns.”⁷⁷ Pilots are well aware that the NSR flight rules are mandatory. A highlighted note on the published NSR map contains this direction: “Proceed to destination over unpopulated areas where possible.” The FAA has even provided an online training video.⁷⁸

The FAA mandated the NSR route for “pilots of helicopters whose intended route of flight takes them along the northern shore of Long Island.” Yet, deliberate avoidance of the NSR is open and notorious. Helicopters regularly have been observed, and continue to be observed, in flight over Southold and Peconic Bay, not one mile offshore over Long Island Sound at 2500 feet.

On May 16th of this year, the Eastern Region Helicopter Council developed “strongly recommended” so-called helicopter noise abatement procedures at HTO including arrival and departure routes for both the NSR and SSR.⁷⁹ The routes recommended for the NSR not only traverse Southold, but overfly ecologically delicate Peconic Bay, possibly violating the FAA’s direction that NSR pilots must take “the shortest and most direct path possible to minimize flight time over land.”

Whether the foregoing constitutes substantial evidence that a pattern of violations of the NSR has occurred is a matter within the enforcement authority of the FAA to investigate. Southold has no doubt that unauthorized overflights of our Town will continue to occur on a regular basis without the effective intervention of the FAA.⁸⁰

Position of the Town of Southold

Eight years of voluntary and mandated flight rules experience with the NSR is enough. The NSR is a failed experiment which has deprived Southold homeowners of their right to the “full enjoyment” of their property. “There is no reason to retain this rule if the FAA determines that it is not actually improving the noise situation along the north shore of Long Island,” as the FAA has stated repeatedly. We agree.

1. Proposed Actions by the FAA

Southold requests the FAA to make a determination and finding that the noise situation along the North Fork has not improved since adoption of the 2012 rule which established the NSR as a special traffic rule.

As a result, through notice and comment rule making, Southold requests the FAA to take the following actions which are well within its established authority to protect “individuals and property on the ground” and to “relieve and protect the public health and welfare from aircraft noise:”

- a. Issue a notice of proposed rule making, thereby enabling all stakeholders to comment on terminating the elective use of the NSR, and mandating the SSR, for flight operations to or from all South Fork landing or takeoff points;
- b. Terminate, and do not extend, the elective use of the NSR, either in time, distance or location; and
- c. At the same time, effective contemporaneous with the termination of the option to use the NSR:
- d. Adopt and order a special air traffic rule requiring helicopters departing from or landing at any location in New York City, or traversing airspace over New York City, and landing or departing from Gabreski Airport (FOK), East Hampton Airport (HTO), Southampton Heliport (87N), Montauk Airport (MTP) and any other airports located on the South Fork to use a mandated “over water” South Shore Helicopter Route (SSR), and no other route;
- e. Any transition to a landing point must occur at a mandatory exit point directly abeam of a helicopter’s flight path on the SSR. HTO departing helicopter flights must be made on a specified, shortest and most direct path possible to a mandatory entry point on the SSR in order to minimize flight time over land;
- f. Departing and arriving helicopters may transition from a specified route when necessary for safety and weather conditions; and
- g. The intent is to establish a special flight rule that is truly mandatory. Helicopters to

or from New York City, or flying through its airspace, and landing at or departing from HTO, FOK, 87N or MTP must use the SSR and no other route, unless weather or safety dictate otherwise. This proposed rule for an over water route is consistent with the FAA's finding of circumstances "unique to Long Island."⁸¹

2. The FAA Should Support the Town of East Hampton

Southold considers East Hampton to be a good neighbor, though stymied by the FAA from exercising limited local control over its own airport. For example, the FAA requested the United States District Court to enjoin East Hampton from enforcing curfew and access restrictions at the airport.⁸² The Court granted the injunction with the FAA's support,⁸³ even though a 2005 settlement agreement between the Committee to Stop Airport Expansion and the FAA relieved East Hampton of certain limitations on the town's imposition of airport access and noise restrictions.⁸⁴

It is simply not enough for the FAA to remain on the sidelines as helicopter operators litigate issues in their own financial self interest...issues which go right to the heart of the FAA's authority. In its recent decision upholding the injunction, the Second Circuit Court of Appeals noted that the FAA's absence gave it no voice in court proceedings:

We give these [FAA out-of-court] statements no weight because the FAA did not thereafter file any papers with or appear again in the district court, nor has it participated in any way in these cross appeals.⁸⁵

East Hampton is a third party beneficiary to the settlement agreement by its very terms and the FAA's stated intention to that effect.⁸⁶ Instead of hindering East Hampton, the FAA should honor not only its own settlement agreement, but also should support that town's measures which would surely reduce aircraft noise over the entire East End.⁸⁷ Otherwise, the residents of Southold will continue to be collateral damage of the FAA's unjustified tolerance of helicopter noise and obstruction of East Hampton's efforts to do something about it.

3. The FAA Should Act Expeditiously in the Public Interest

Time is of the essence. The FAA, helicopter operators, pilots, local government officials and residents of all East End towns are well familiar with the problems of helicopter noise which "are unbearable and negatively impact their quality of life" as the FAA noted.⁸⁸ Pilots know the SSR because they fly it regularly. Moreover, anyone with a "substantial interest" in the Final Rule may seek review by a United States Court of Appeals.⁸⁹ Nonetheless, Southold believes that the FAA should have the opportunity to reconsider the fatally flawed four year extension of the NSR before any judicial intervention, if possible.⁹⁰ Finally, the quiet skies of the coming months provide an opportunity for reasoned reflection on the proposed substitution of the NSR by a mandatory SSR.

Accordingly, Southold proposes the following schedule for FAA action:

- a. Within 30 days of receiving this petition, issue a notice of proposed rule making with a 60 day comment period; and then
- b. Within 60 days of the end of the comment period, issue a final rule terminating the NSR and mandating the SSR.

Further contact regarding this petition should be made with:

James D. Harmon, Jr.
Special Counsel
Town of Southold
53095 Route 25
P.O. Box 1179
Southold, New York 1197
harmonj@harfirm.com
(917) 680-4401

Southold is pleased to have the opportunity to be heard on this issue which concerns the quality of life of all of our Town's residents. We request to consult with and assist the FAA in any way as mandated by Presidential Executive Order 13132. We also value the FAA's expertise and trust that you are open to ours. Southold requests and awaits your considered response.

Respectfully submitted,



Scott A. Russell
Town Supervisor

cc: VIA EMAIL

Kenneth Ready
Acting Manager, Airspace Policy Group
Department of Transportation
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591
kenneth.ready@faa.gov

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Project Manager, Airspace Policy Group
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800 Independence Ave SW
Washington, DC 20591
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VIA MAIL

Michael Huerta
Administrator
Federal Aviation Administration
Orville Wright Bldg (FOB10A)
FAA National Headquarters
800 Independence Ave SW
Washington, DC 20591

ENDNOTES

1. <https://gispub2.epa.gov/NEPmap/index.html>; <http://www.peconicestuary.org/about.php>.
2. <http://www.nature.org/ourinitiatives/regions/northamerica/unitedstates/newyork/places-preserved/long-island-peconic-estuary.xml>.
3. <http://cornelloysters.net/Home.php>
4. <http://ccesuffolk.org/marine/aquaculture/scallop-program-overview-and-results>.
5. <http://www.liwines.com/>.
6. <http://northforker.com/2014/09/10/north-fork-hops-plants-are-reaching-maturity/>
7. <http://www.mccallwines.com/ranch.php>.
8. <http://browdersbirds.com/>
9. <http://catapanodairyfarm.com/>
10. *Extension of the Requirement for Helicopters to Use the New York North Shore Helicopter Route*, Final Rule, 81 Fed. Reg. 48,323, 48,324 (July 25, 2016); see, Exhibit A for complete NSR/SSR route map.
11. 49 U.S.C. §106(g).
12. 49 U.S.C. § 40103(b)(2)(B).
13. 49 U.S.C §44715(a).
14. *Helicopter Ass’n Int’l, Inc. v. F.A.A.*, 722 F.3d 430 D.C. Cir. 2013).
15. http://www.faa.gov/regulations_policies/rulemaking/media/NYNShoreHelicopterFinalRule.pdf
16. Letter of Rebecca MacPherson, Assistant Chief Counsel for International Law, FAA dated November 30, 2012 to Jeffrey Smith, Chairman, Eastern Regional Helicopter Council, ¶2.
17. 14 CFR Part 93, Part H, 93.103(a).
18. 5 U.S.C. §553.
19. *See, Notice of Proposed Rulemaking*, 75 Fed. Reg. 29,471, 29,472 (May 26, 2010) (“NPRM”).

20. *The New York North Shore Helicopter Route*, 77 Fed. Reg.39,911, 39,913 (July 6, 2012) (“*Final Rule*”).
21. *Final Rule*, 77 Fed. Reg. at 39,914.
22. *Id.*
23. *Id.* at 39,914–15.
24. *Id.* at 39,918.
25. *Id.* (Emphasis added).
26. *Id.* at 39,912.
27. *Id.* (Emphasis added).
28. Helicopter Ass’n Int’l, Inc. v. F.A.A., 722 F.3d at 433.
29. *The Extension of the Expiration Date of the New York North Shore Helicopter Route*, 79 Fed. Reg.35,488 (June 23, 2014) (“*Final Rule*”). This rule was later amended because "the Code of Federal Regulations was not amended correctly." 80 Fed. Reg. 8,242 (February 17, 2015).
30. *Id.* at 35,489.
31. *Id.* Although the FAA made a “good cause” finding under 5 U.S.C. §553(b) that notice and public comment were “impracticable and contrary to the public interest,” no statement of reasons for this finding were stated as section 553(b) required. There was nothing impracticable or contrary to the public interest in giving the public notice and an opportunity to be heard..
32. *Id.* at 35,488-89.
33. *Extension of the Requirement for Helicopters to Use the New York North Shore Helicopter Route*, Final Rule, 81 Fed. Reg. 48,323, 48,324 (July 25, 2016).
34. 77 Fed. Reg. at 39,919.
35. 81 Fed. Reg. at 48,324.
36. 5 U.S. C. § 553(e).
37. 81 Fed. Reg. at 48,324.
38. Union of Concerned Scientists v. Nuclear Regulatory Commission, 711 F.2d 370, 382-384 (D.C. Cir. 1983).

39. *Id.* at 382 (citation omitted). An emergency is “an unforeseen combination of circumstances or the resulting state that calls for immediate action.” Brown v. City of Oneonta, N.Y. Police Dep’t, 106 F.3d 1125, 1131 (2d Cir. 1997) quoting “Webster’s Third New International Dictionary of the English Language at 741 (unabridged ed. 1981)”; Int’l Bhd. of Teamsters v. Local Union Number 810, 19 F.3d 786, 793 (2d Cir. 1994) (stating that to constitute an emergency, a situation must develop “suddenly and unexpectedly or through an unforeseen combination of circumstances”).
40. *Id.*
41. Email from James D. Harmon, Jr. To Kenneth Ready dated July 13, 2016 annexed as Exhibit B.
42. *Id.*
43. Executive Order 13132 of August 4, 1999, §§ 3(b), d(4), 64 Fed. Reg. 43,255-43,259 (August 10, 1999).
44. <https://www.regulations.gov/document?D=FAA-2010-0302-1078>.
45. <http://riverheadlocal.com/2016/08/22/meeting-faa-zeldin-local-officials-blame-schumer-lack-progress-helicopter-noise/> (Although the FAA kept Congressman Zeldin out of its decision making loop, Senator Charles Schumer apparently was very much inside of it); <https://zeldin.house.gov/media-center/press-releases/rep-zeldin-briefs-public-meeting-faa-discuss-aircraft-noise-issue-and>
46. Editorial, The Suffolk Times (July 29, 2016) viewed at <http://suffolktimes.timesreview.com/2016/07/69536/editorial-if-helicopters-fly-overhead-does-the-faa-hear-them/>
47. 81 Fed. Reg. 62,811 (September 13, 2016).
48. Union of Concerned Scientists v. Nuclear Regulatory Commission, 711 F.2d 370, 382-384 (D.C. Cir. 1983). The FAA did reword the July 25th notice section with the following: *Good Cause for Immediate Adoption Without Prior Notice*, citing Section 553(b)(3)(B) of the APA, deleting reference to Section 553(d)(3), and finding “good cause” that public comment was on the so-called technical amendment was “impracticable, unnecessary, or contrary to the public interest,” even though the technical amendment extended the NSR for four years. No reasons were to stated to justify the “good cause” finding. This did nothing to remedy the absence of “good cause.”
49. “[T]he right of the people...to petition the Government for a redress of grievances,” guaranteed by the First Amendment to the United States Constitution, is “an attribute of national citizenship,” United States v. Cruikshank, 92 U.S. 542, 552 (1876). At this time, we do not address whether the FAA’s action extending the NSR transgressed the constitutional right to

petition the government.

50. See, City of Santa Monica v. FAA, 631 F.3d 550, 554 (D.C. Cir. 2011); 5 U.S.C. 706(2)(A); 49 U.S.C. 46110(c).

51. Motor Vehicle Mfrs. Ass'n of United States, Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983).

52. *Final Brief of the F.A.A* dated January 2013, p. 27, Helicopter Ass'n Int'l, Inc. v. F.A.A., docket no. 12-1335 (D.C. Cir. 2013).

53. Helicopter Ass'n Int'l, Inc. v. F.A.A., 722 F.3d at 433 ("...the FAA prescribed new air traffic regulations with the purpose of protecting these residents' use and enjoyment of their property.")

54. <http://www.businessinsider.com/the-best-way-to-get-to-the-hamptons-from-nyc-2013-7>.

55. <https://www.flyblade.com/lounges/east-34th-st/>.

56. *The New York North Shore Helicopter Route*, 77 Fed. Reg.39,911 (July 6, 2012).

57. 77 Fed. Reg. at 39,918; 79 Fed. Reg. at- 35,488; 81 Fed. Reg. at 48,324.

58. http://www.vector-us.com/automated_aircraft_tracking.html.

59. Town of East Hampton, *Interim Report on Operations and Complaints at East Hampton Airport Through August 31, 2016 -- REVISED* (October 5, 2016), Table 8.

60. Analysis of 2014 YTD Noise Complaints for East Hampton Airport, slide no. 7, *Complaints by Town* (October 30, 2014) viewed at <http://ehamptonny.gov/DocumentCenter/View/1621> annexed as Exhibit D.

61. The Performance Data Analysis and Reporting System known as PDARS produced the graphics dated July 15, August 4, 7 and 8, 2016. PDARS is used by FAA personnel to monitor, measure, analyze, and manage operations on a day-to-day basis. https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/perf_analysis/perf_tools/. Though Southold is at odds with the FAA's extension of the NSR, we do appreciate being given limited access to PDARS information.

62. *Id.*

63. Presentation to the Town Board 2016, *Update: Progress Toward Town Board's Goals for the East Hampton Airport*, Heat Map no. 61(March 18, 2016) annexed as Exhibit H; Noise Abatement Compliance Report: Complaint Maps (July and August 2016) annexed as Exhibit I.

64. Helicopter Ass'n Int'l, Inc. v. F.A.A., 722 F.3d 430 (D.C. Cir. 2013).

65. 81 Fed. Reg. at 48,324.

66. For example, one research project will produce “an overview of research conducted to identify improvements to the most common methods for predictingnoise from rotary-wing aircraft.” *Recommended Community Noise Model Enhancements to Improve Prediction of Helicopter Activity Impacts*, p. 1 (January 2016) viewed at <https://www.nap.edu/read/22079/chapter/1>.

67. Patrick R Veillette, Aviation Week, *Managing Helicopter Noise* (March 1, 2015) viewed at <http://aviationweek.com/bca/managing-helicopter-noise>.

68. Keith Hayward, Head of Research, Royal Aeronautical Society, *Helicopter Noise in London*, – Written Evidence Ref. No. HN/020 viewed at https://www.london.gov.uk/sites/default/files/gla_migrate_files_destination/archives/assembly-reports-environment-helicopter_noise_evidence.pdf.

69. “The FAA is taking an updated look at its approach for measuring noise....[and] on the relationship between aircraft noise exposure and its effects on communities around airports.” https://www.faa.gov/news/press_releases/news_story.cfm?newsId=18774.

70. The HTO tracking graphics represent the entire 24 hours of flights and flight paths on the two days charted. The red and green tracks are flights that are registered with the tracking system as helicopters that have arrived and departed accordingly. The yellow tracks represent helicopters and overhead flight traffic that have not necessarily registered as arrivals or departures with the system. See East Hampton HTO Helicopter Tracking Graphics Annexed as Exhibit G.

71. 41 SatNavNews (Fall 2011) viewed at https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/techops/navservice/gnss/library/satnav/media/SatNavNews_Fall2011_final_web.pdf

72. 77 Fed. Reg. at 39,912.

73. *Id.*

74. *Id.* at 39,918.

75. *AirNav Fuel Price Report* (October 13, 2016) (\$5.09- AvGas; \$4.54 - Jet A) viewed at <https://www.airnav.com/fuel/report.html>.

76. Letter of Rebecca MacPherson, Assistant Chief Counsel for International Law, FAA dated November 30, 2012 to Jeffrey Smith, Chairman, Eastern Regional Helicopter Council, ¶¶4-5. (“As a general guide, transitions between the route and a point of takeoff or landing should be made by the shortest and most direct path possible to minimize flight time over land. In your example, instead of transitioning ¼ mile east of VPLYD for a landing at Southampton heliport (87N), the pilot should transition at a point where the heliport is directly abeam of the

helicopter's flight path on the mandatory route.”)

77. *Id.* at ¶15.

78. <https://www.youtube.com/watch?v=efQAMwgF7kM>

79. East Hampton Airport (KHTO) Noise Abatement Plan 2016 *viewed at* <http://www.erhc.org/forms/SWN85DC5.pdf>; *see*, Exhibit J.

80. Any such unauthorized flights over our Town in contravention of the FAA’s mandated NSR may constitute aerial trespassing, thus implicating the Constitutional and other rights of individual property owners. Seventy years ago, the Supreme Court held that “if the landowner is to have full enjoyment of the land, he must have exclusive control of the immediate reaches of the enveloping atmosphere,” free from aircraft noise constituting “a direct and immediate interference with the enjoyment and use of the land.” United States v. Causby, 328 U.S. 256 (1946); *see also*, Souders v. Wash. Metro. Area Transit Auth., 48 F.3d 546, 551 (D.C. Cir. 1995) *construing* the FAA’s authority to reduce noise through altering flight routes in order to prevent “interference with the interest in the private use and enjoyment of the land.”

81. 77 Fed. Reg. at 39, 912.

82. Letter of Kelly T. Currie, Acting United States Attorney (E.D.N.Y.) to Honorable Sandra J. Feuerstein dated May 4, 2015 in Friends of the East Hampton Airport, Inc., et al. v. Town of East Hampton, 15-CV-0441(JS)(ARL) (EDNY).

83. Memorandum and Order dated June 26, 2015, Friends of the East Hampton Airport, Inc., et al. v. Town of East Hampton, 15-CV-0441(JS)(ARL) (EDNY).

84. *Id.*

85. Friends of the East Hampton Airport, Inc. et al. v. Town of East Hampton et al., slip op., p. 20, n. 8.

86. Settlement Agreement dated January 27, 2005, Committee to Stop Airport Expansion v. Department of Transportation et al., § 7 (No. CV 03-2634, EDNY); Friends of the East Hampton Airport, Inc. et al. v. Town of East Hampton et al., Nos. 15-2334-cv(L), 15-2465-cv(XAP), slip op., p. 15 (2d Cir. November 4, 2016); *see, e.g.*, Bayerische Landesbank v. Aladdin Capital Mgmt. LLC, 692 F.3d 42, 51 (2d Cir. 2012).

87. *See*, Memorandum and Order dated February 29, 2016, Friends of the East Hampton Airport, Inc. et al. v. the Federal Aviation Administration et al., 15-CV-0441 (EDNY)(Seybert, J.).

88. The FAA found that

[T]he residents along the north shore of Long Island emphatically agreed that

helicopter overflights during the summer months are unbearable and negatively impact their quality of life. They opposed any route over communities, even sparsely settled areas, and suggested the route go over the ocean. One commenter noted he had counted over 25 helicopter operations in a 2-hour period. He also said the flights started early in the morning and continued to early evening. Other commenters noted that the helicopter noise interferes with sleep, conversation, and outdoor activities. Still others complained that the helicopters fly so low that their walls vibrated.

77 Fed. Reg. at 39,913.

89. 49 U.S.C. § 46110(a) (“The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.”)

90. The D.C. Circuit court has reasoned that “[i]f a party determines to seek reconsideration of an agency ruling, it is a pointless waste of judicial energy for the court to process any petition for review before the agency has acted on the request for reconsideration.” TeleSTAR, Inc. v. FCC, 888 F.2d 132, 134 (D.C. Cir. 1989) (per curiam).

LIST OF EXHIBITS

- A - North Shore and South Shore Routes
(p. 2; Endnote 10)

- B - Email from James D. Harmon, Jr. to Kenneth Ready dated July 13, 2016
(p. 7; Endnote 41)

- C - East Hampton Vector Helicopter Tracks Covering July and August 2016
(p. 10)

- D - Complaints by Town (October 30, 2014)
(p. 10; Endnote 60)

- E - FAA PDARS graphics dated July 15, August 4, 7 and 8, 2016
(p. 10; Endnote 61)

- F - PDARS tracks from July 1 and July 4, 2016
(p. 12)

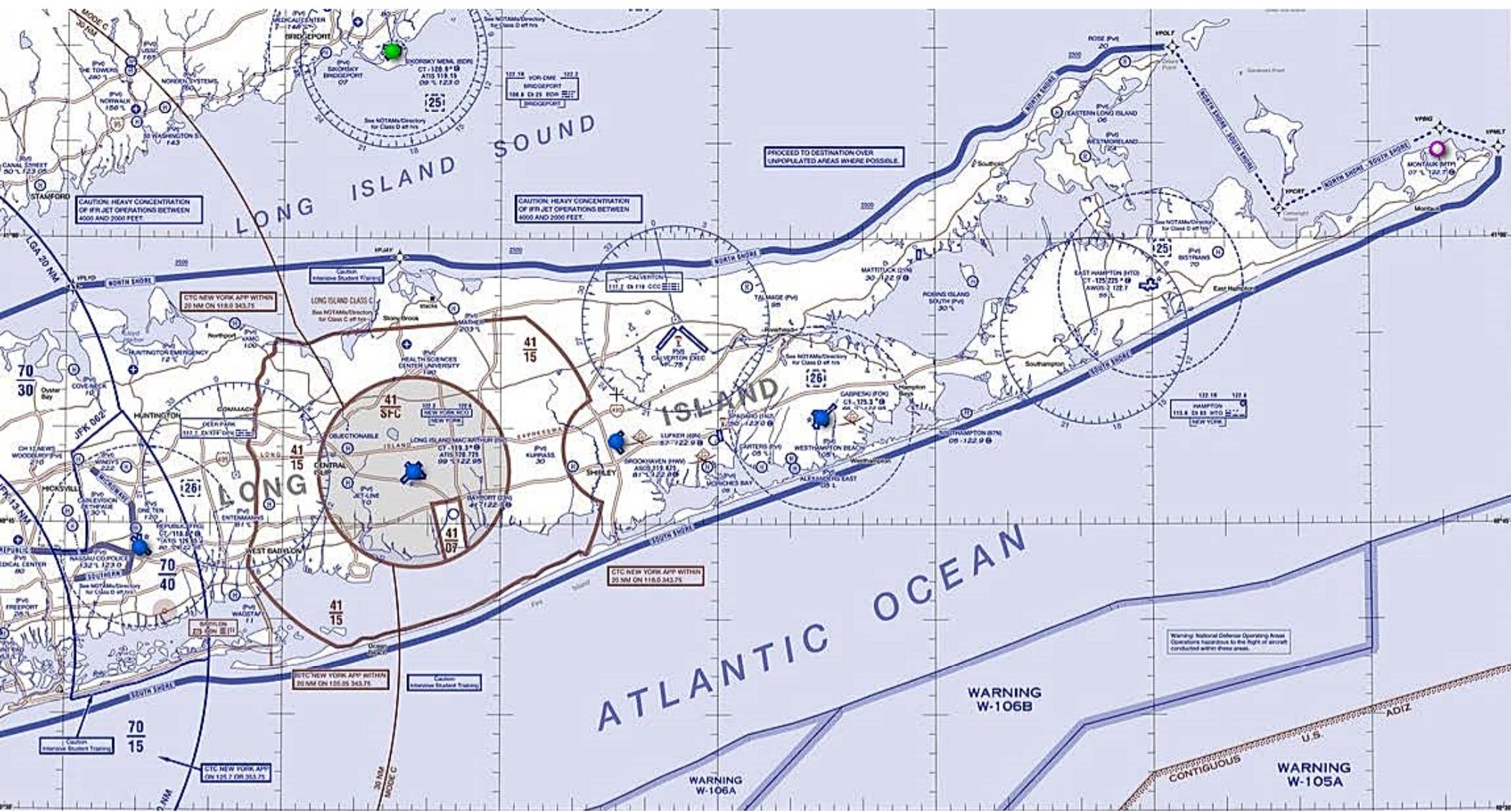
- G - East Hampton HTO Vector Helicopter Tracking Graphics dated July 1 and 4, 2016
(p. 12; Endnote 70)

- H - East Hampton HTO Helicopter Complaint “Heat Map” (March 18, 2016)
(p. 10; Endnote 63)

- I - Noise Abatement Compliance Report, Complaint Maps (July and August 2016)
(p. 10; Endnote 63)

- J - ERHC, East Hampton Airport Noise Abatement Plan, 2016 Routes, p. 4 (2016)
(p. 13; Endnote 79)

EXHIBIT A



CAUTION: HEAVY CONCENTRATION OF IFR JET OPERATIONS BETWEEN 4000 AND 2000 FEET.

CAUTION: HEAVY CONCENTRATION OF IFR JET OPERATIONS BETWEEN 4000 AND 2000 FEET.

PROCEED TO DESTINATION OVER UNPOPULATED AREAS WHERE POSSIBLE.

CTC NEW YORK APP WITHIN 20 NM ON 118.0 343.75

CTC NEW YORK APP WITHIN 20 NM ON 118.0 343.75

CTC NEW YORK APP WITHIN 20 NM ON 118.0 343.75

CTC NEW YORK APP ON 126.7 690.363.75

WARNING W-106A

WARNING W-106B

Warning: National Defense Operating Areas Operations hazardous to the right of aircraft conducted within these areas.

CONTIGUOUS

U.S. WARNING W-105A

ADIZ

EXHIBIT B

Long Island North Shore Helicopter Route

1 message

Jim Harmon <harmonj@harfirm.com>
To: Ken Ready <kenneth.ready@faa.gov>
Bcc: Bob Ghosio <bob.ghosio@town.southold.ny.us>

Wed, Jul 13, 2016 at 9:45 AM

Ken - It was good speaking with you today.

As I mentioned, the Town of Southold's Board of Supervisors will meet on July 26th to decide whether to take a formal position with the FAA on the extension of the mandated North Shore Route (NSR) for helicopters and, if so, what position. This is this is the NSR as we understand it:



Any submission to the FAA would be made within days of July 26th, but well before August 6th. We hope that the FAA would take the opportunity to consider Southold's views before making any decision on extension and adopting a final rule.

On July 26th, I will inform you of the Town of Southold's decision.

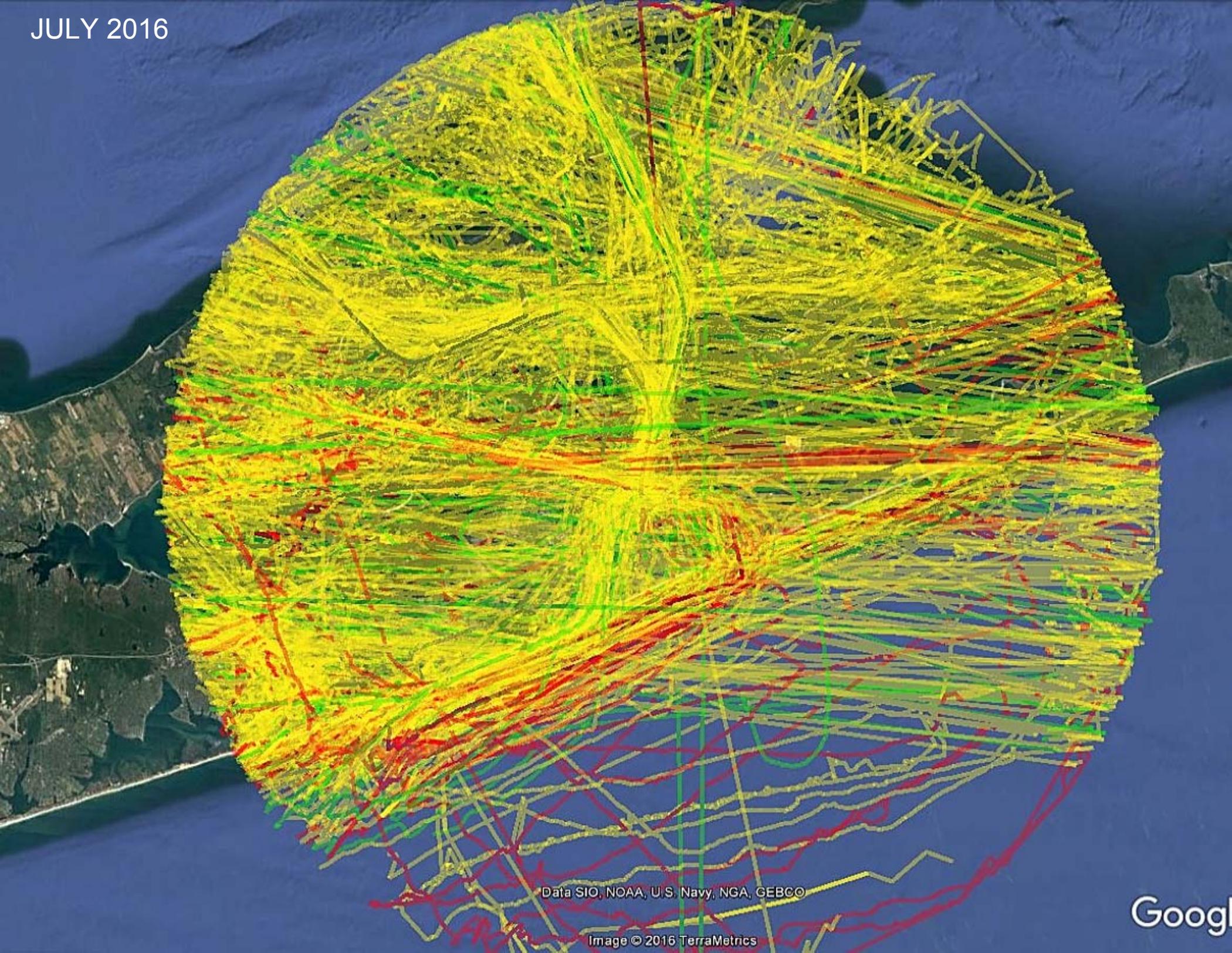
It may be useful for the FAA to know that Southold, established in 1640, occupies most of Long Island's North Fork and includes 10 hamlets (Fishers Island, Orient, East Marion, Greenport West, Southold, Peconic, Cutchogue, New Suffolk, Mattituck, and Laurel along with the incorporated Village of Greenport).

You might be also interested in the attached article in Newsday.

Jim Harmon
Counsel to Southold's Helicopter Noise Steering Committee
917-680-4401

EXHIBIT C

JULY 2016



Data SIO, NOAA, U.S. Navy, NGA, GEBCO

Image © 2016 TerraMetrics

Google

AUGUST 2016

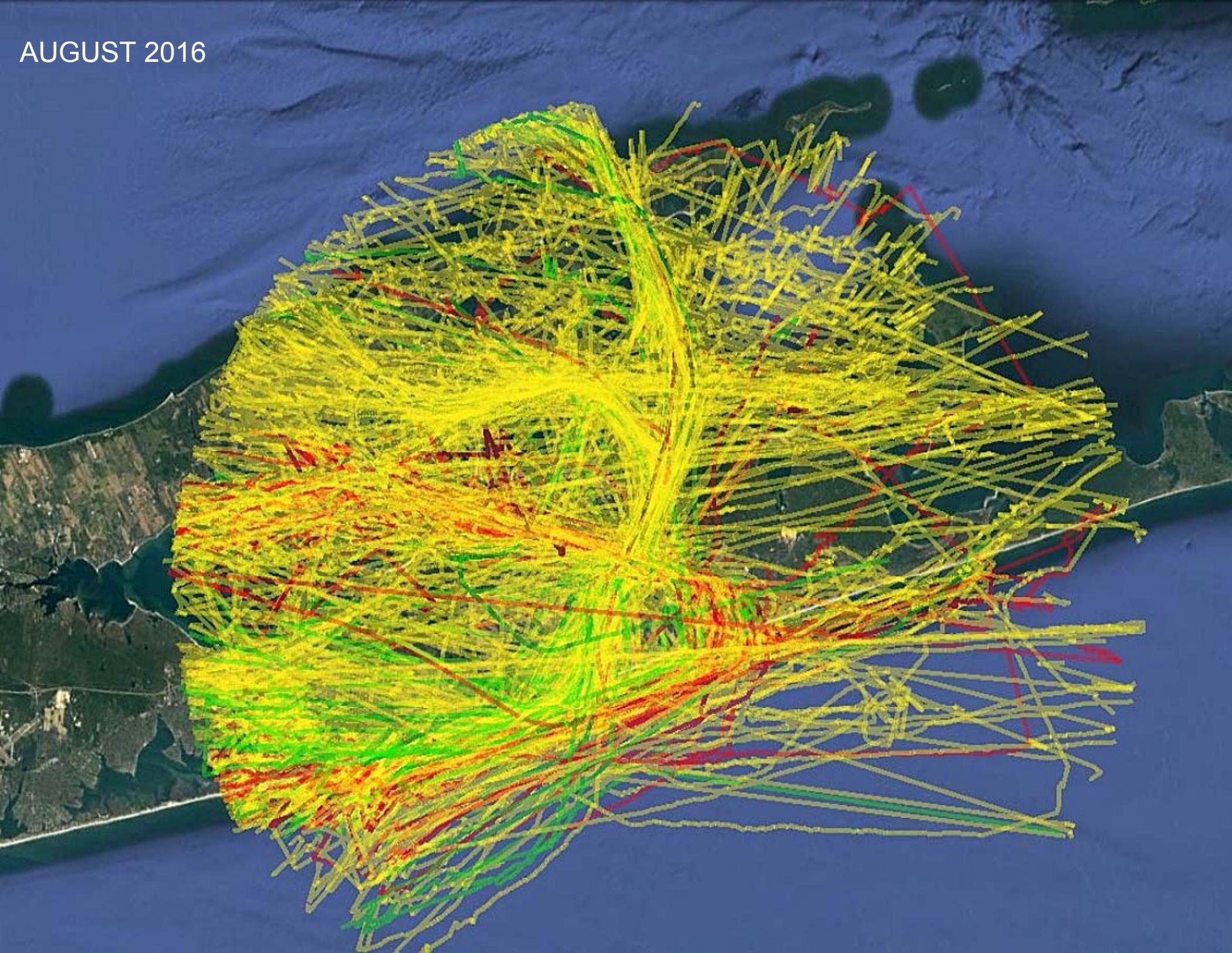
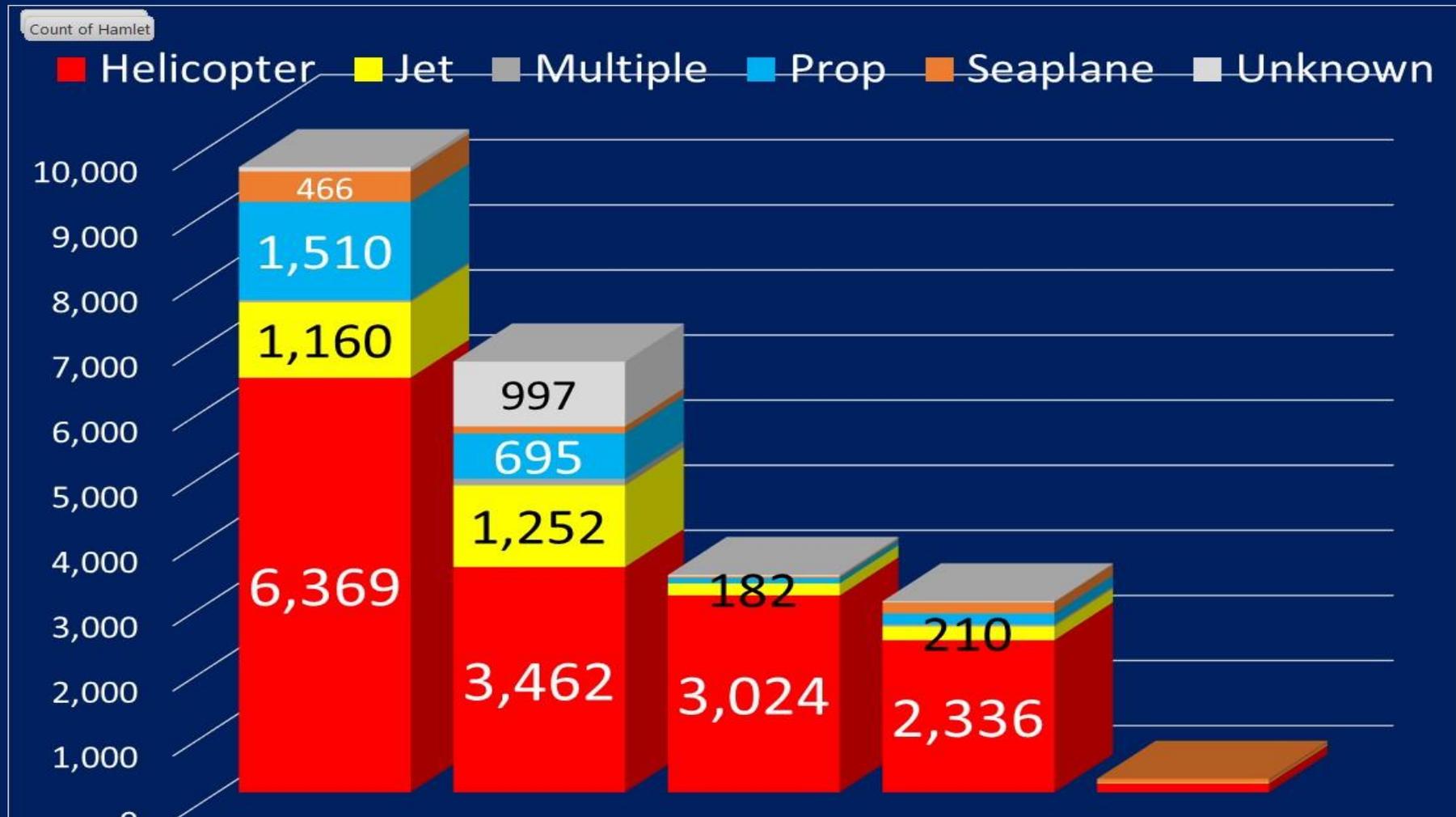


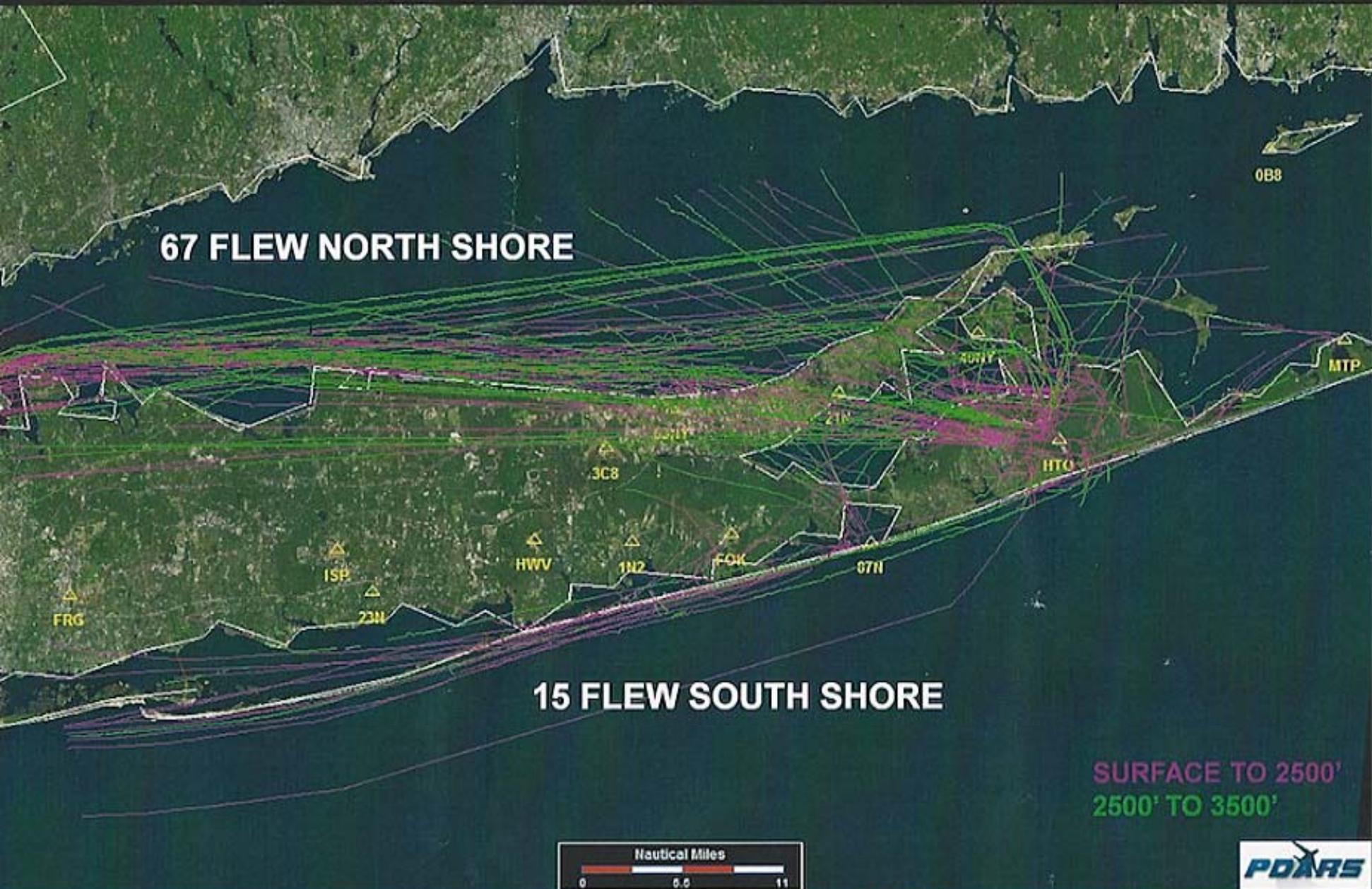
EXHIBIT D

COMPLAINTS BY TOWN



Southampton	East Hampton	Shelter Island	Southold	Riverhead
9,603	6,617	3,339	2,934	207
42.3%	29.1%	14.7%	12.9%	0.9%

EXHIBIT E



67 FLEW NORTH SHORE

15 FLEW SOUTH SHORE

SURFACE TO 2500'
2500' TO 3500'



Federal Aviation Administration

46 FLEW NORTH SHORE

44 FLEW SOUTH SHORE

SURFACE TO 2500'
2500' TO 3500'



111 FLEW NORTH SHORE

73 FLEW SOUTH SHORE

SURFACE TO 2500'
2500' TO 3500'



Federal Aviation
Administration

1cen ready - FAA Wash.

THURSDAY AUGUST 4, 2016 3:00 PM – 11:00 PM LOCAL

27 FLEW NORTH SHORE

24 FLEW SOUTH SHORE

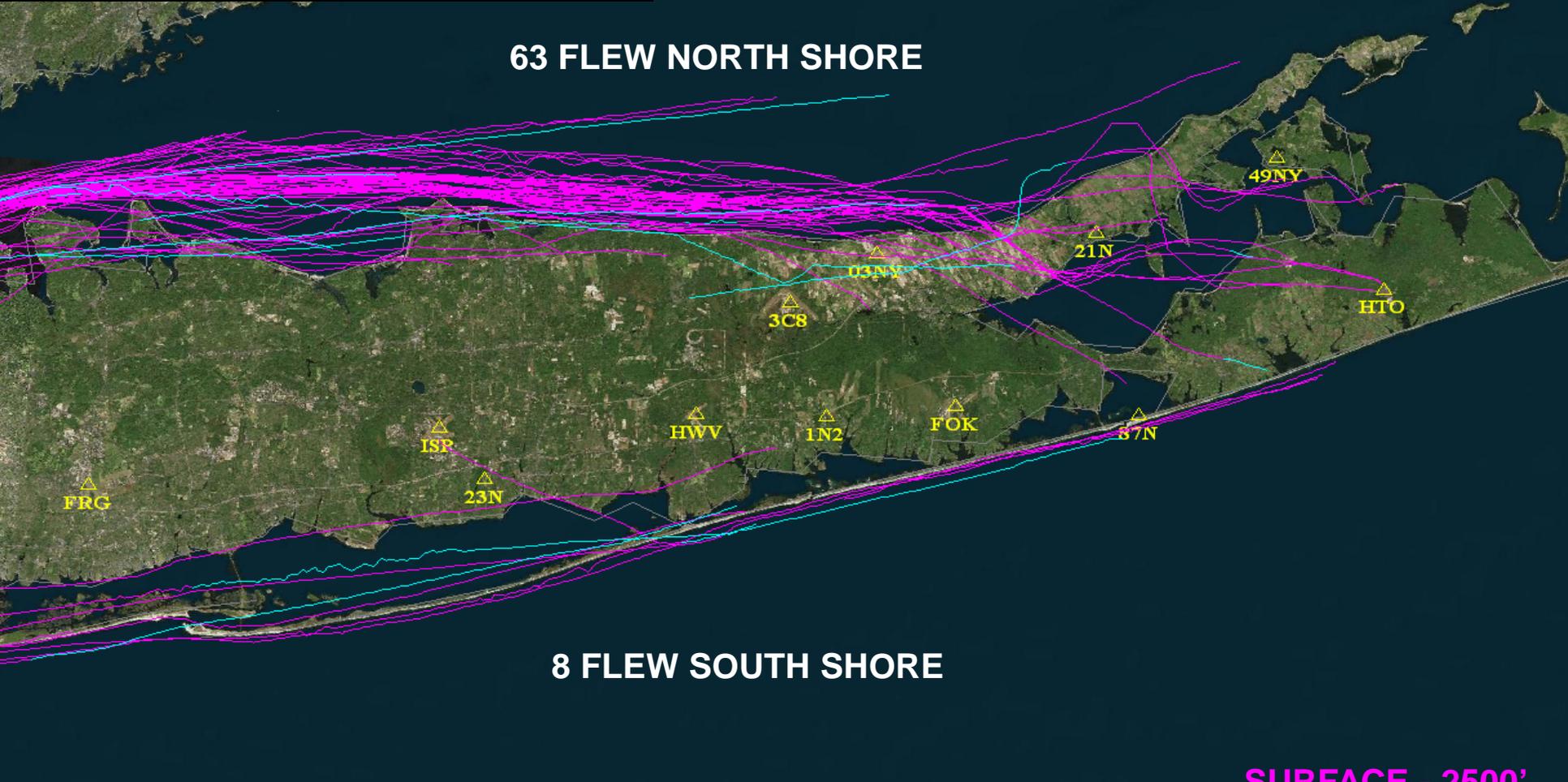
SURFACE TO 2500'
2500' TO 3500'



**Federal Aviation
Administration**

EXHIBIT F

7-1-2016 ALL DAY KNOWN HELICOPTER TRAFFIC



63 FLEW NORTH SHORE

8 FLEW SOUTH SHORE

*AIRCRAFT NOT ASSIGNED A BEACON CODE WERE NOT INCLUDED IN DATA SET
*SOME FLIGHT TRACKS TERMINATE PRIOR TO LANDING AT AIRPORT DUE TO LIMITED RADAR COVERAGE

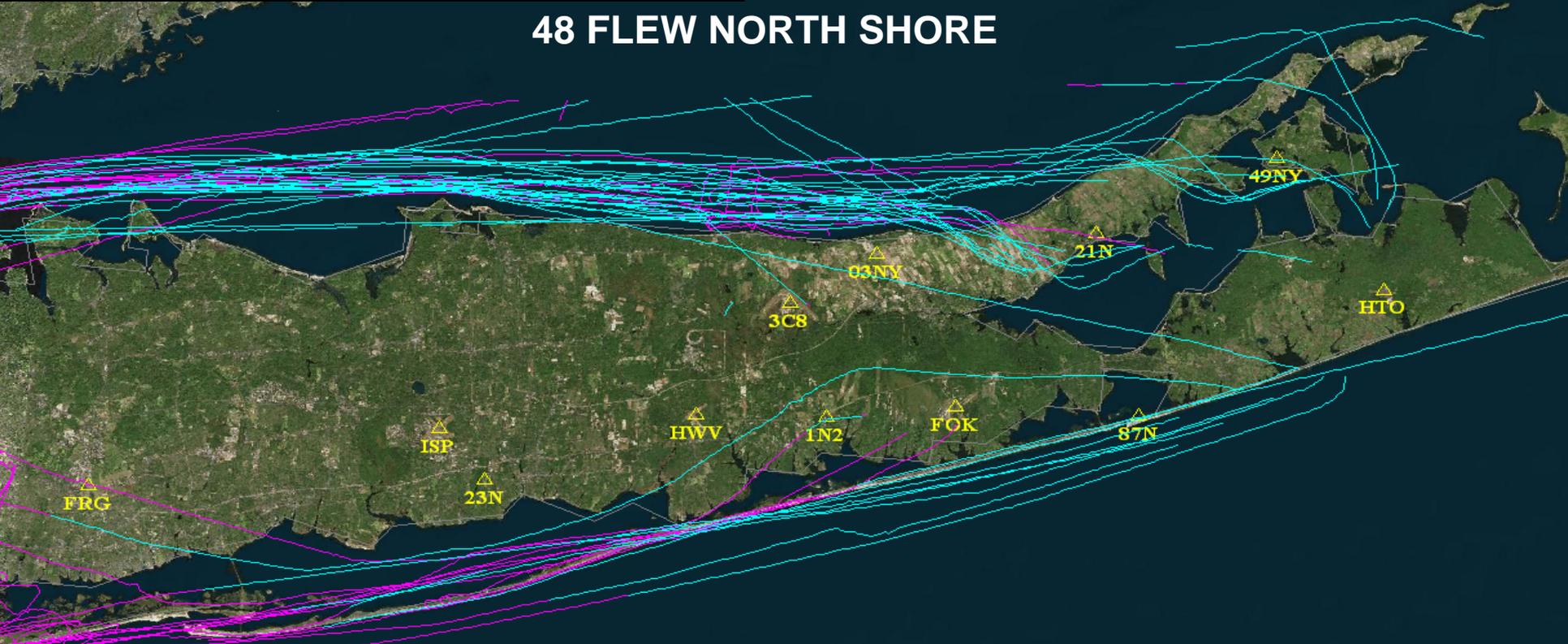
SURFACE - 2500'
2500' - 3500'



Federal Aviation
Administration

7-4-2016 ALL DAY KNOWN HELICOPTER TRAFFIC

48 FLEW NORTH SHORE



15 FLEW SOUTH SHORE

*AIRCRAFT NOT ASSIGNED A BEACON CODE WERE NOT INCLUDED IN DATA SET
*SOME FLIGHT TRACKS TERMINATE PRIOR TO LANDING AT AIRPORT DUE TO LIMITED RADAR COVERAGE

SURFACE - 2500'
2500' - 3500'



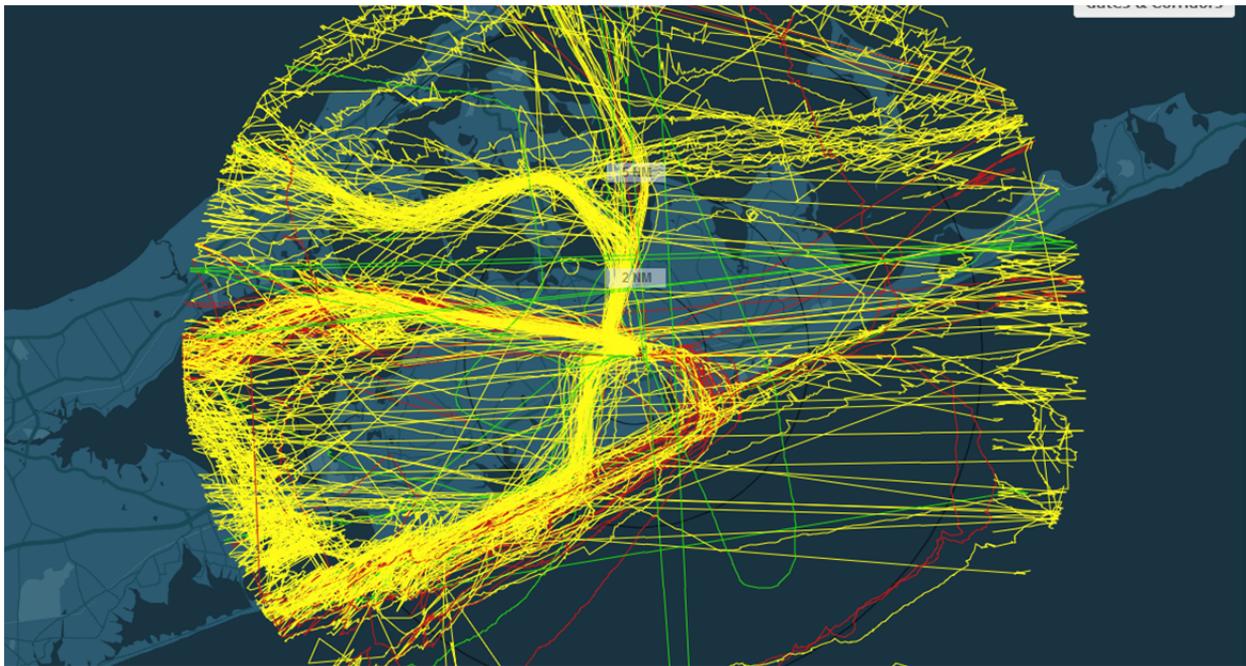
Federal Aviation
Administration

EXHIBIT G

Noise Abatement Compliance Report: July 1st – 5th 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

Major Route/Altitude Deviations

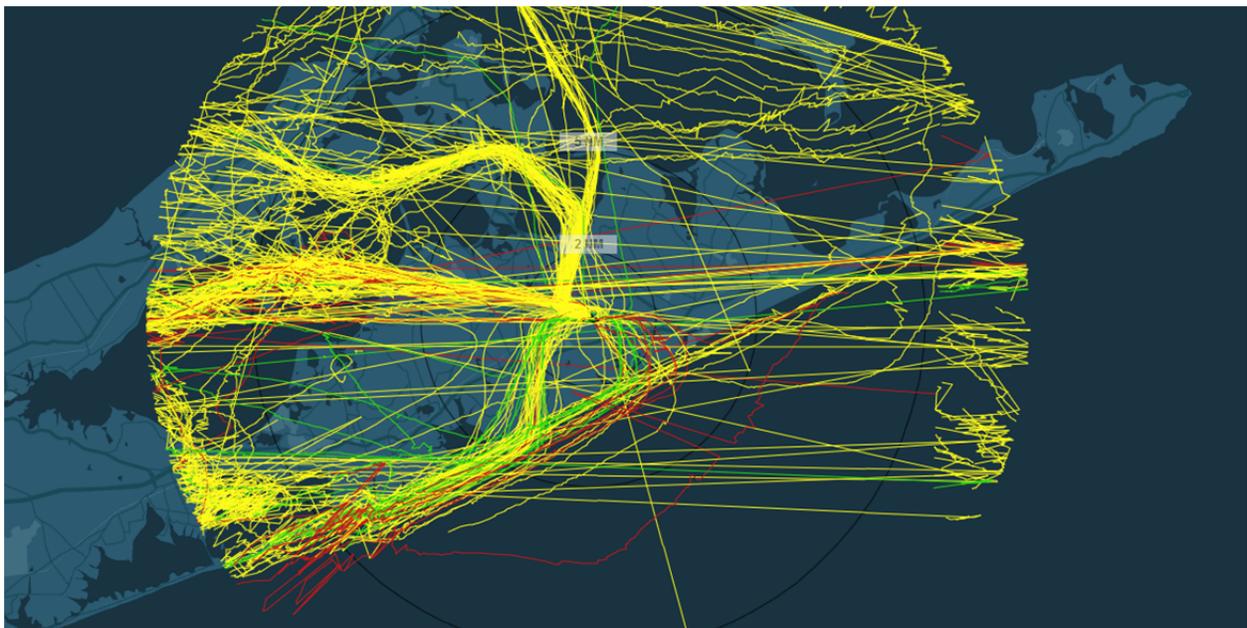


Total: 11

Noise Abatement Compliance Report: July 8th – 11th 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

Major Route/Altitude Deviations

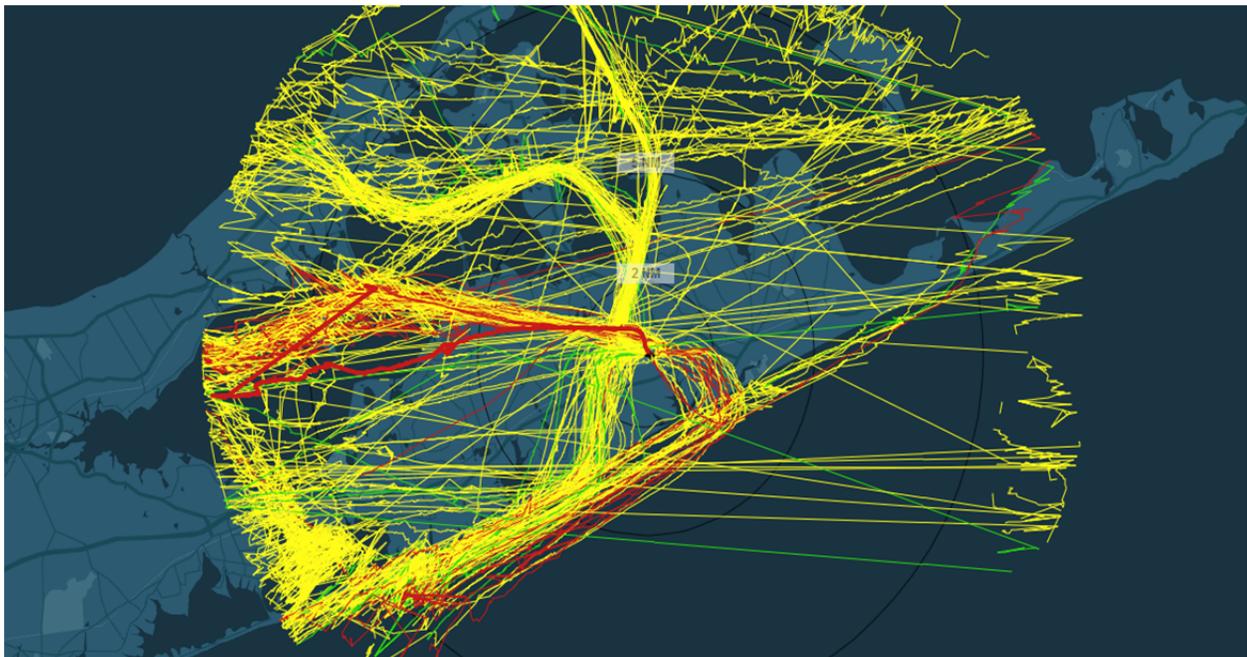


Total: 8

Noise Abatement Compliance Report: July 15th – 18th 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

Major Route/Altitude Deviations



Total: 8

Noise Abatement Compliance Report: July 22nd – 25th 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

Major Route/Altitude Deviations



Total: 6

Noise Abatement Compliance Report: July 29th – August 1st 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT



Major Route/Altitude Deviations

Total: 8

Noise Abatement Compliance Report: August 5th – August 8th 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

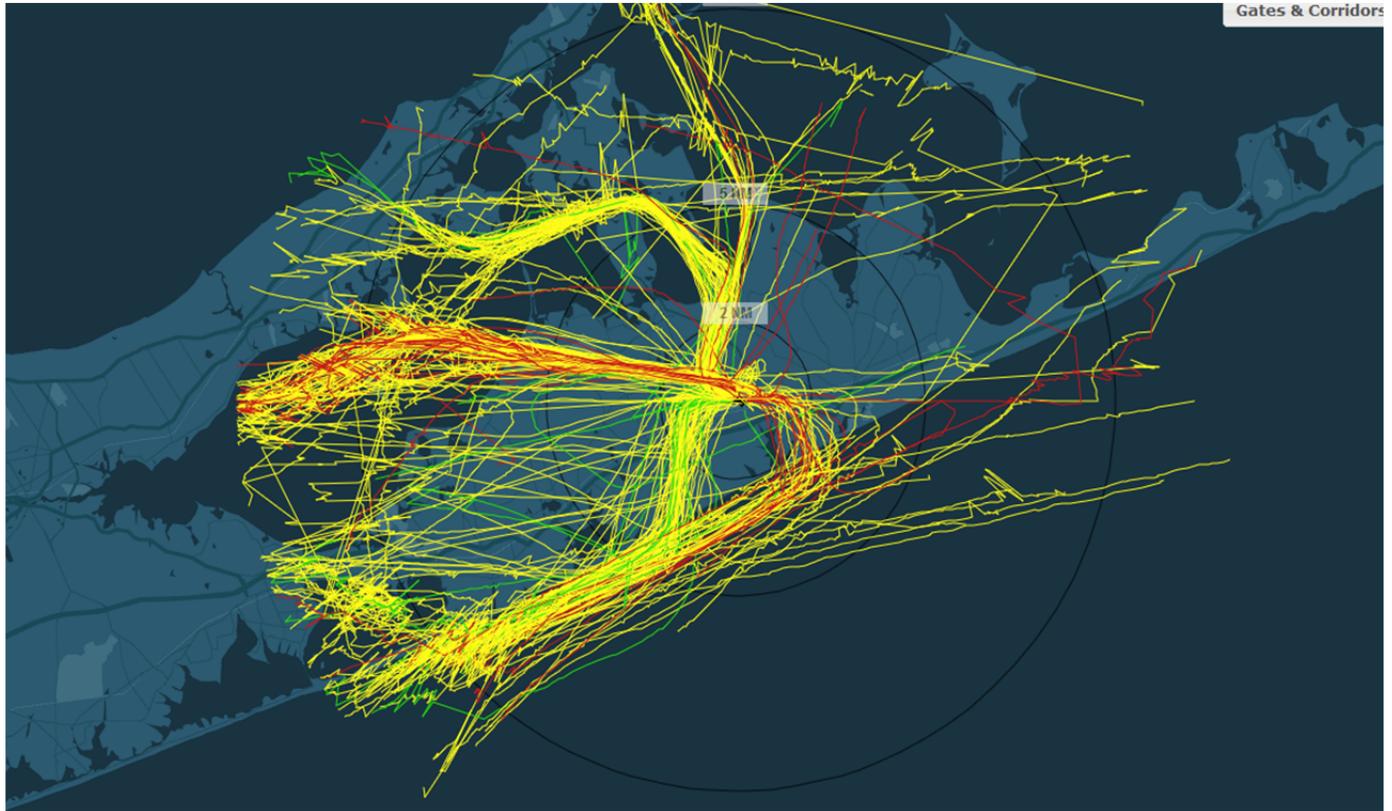


Major Route/Altitude Deviations

Total: 5

Noise Abatement Compliance Report: August 12th – August 15th 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

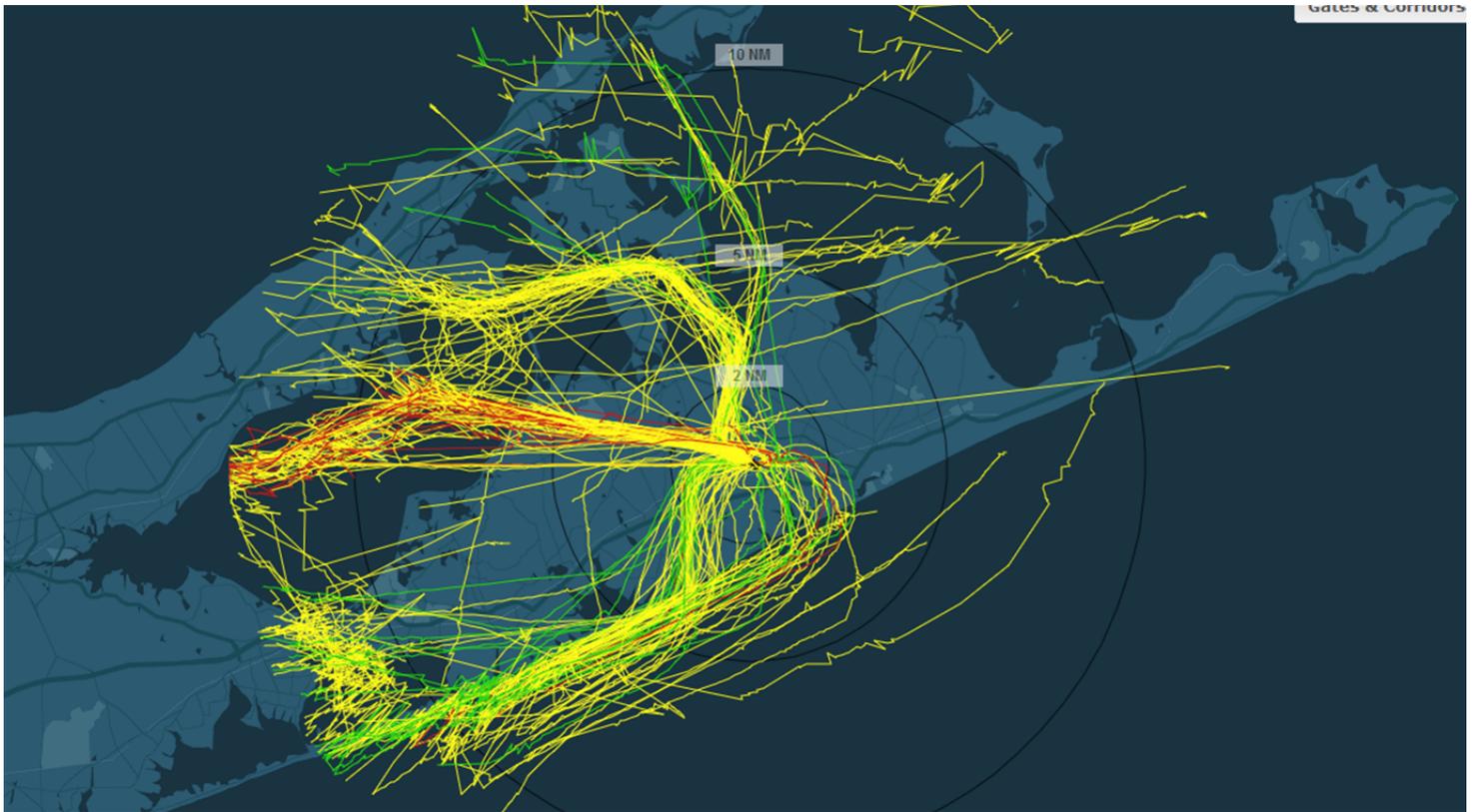


Major Route/Altitude Deviations

Total: 10

Noise Abatement Compliance Report: August 19th – August 22nd 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

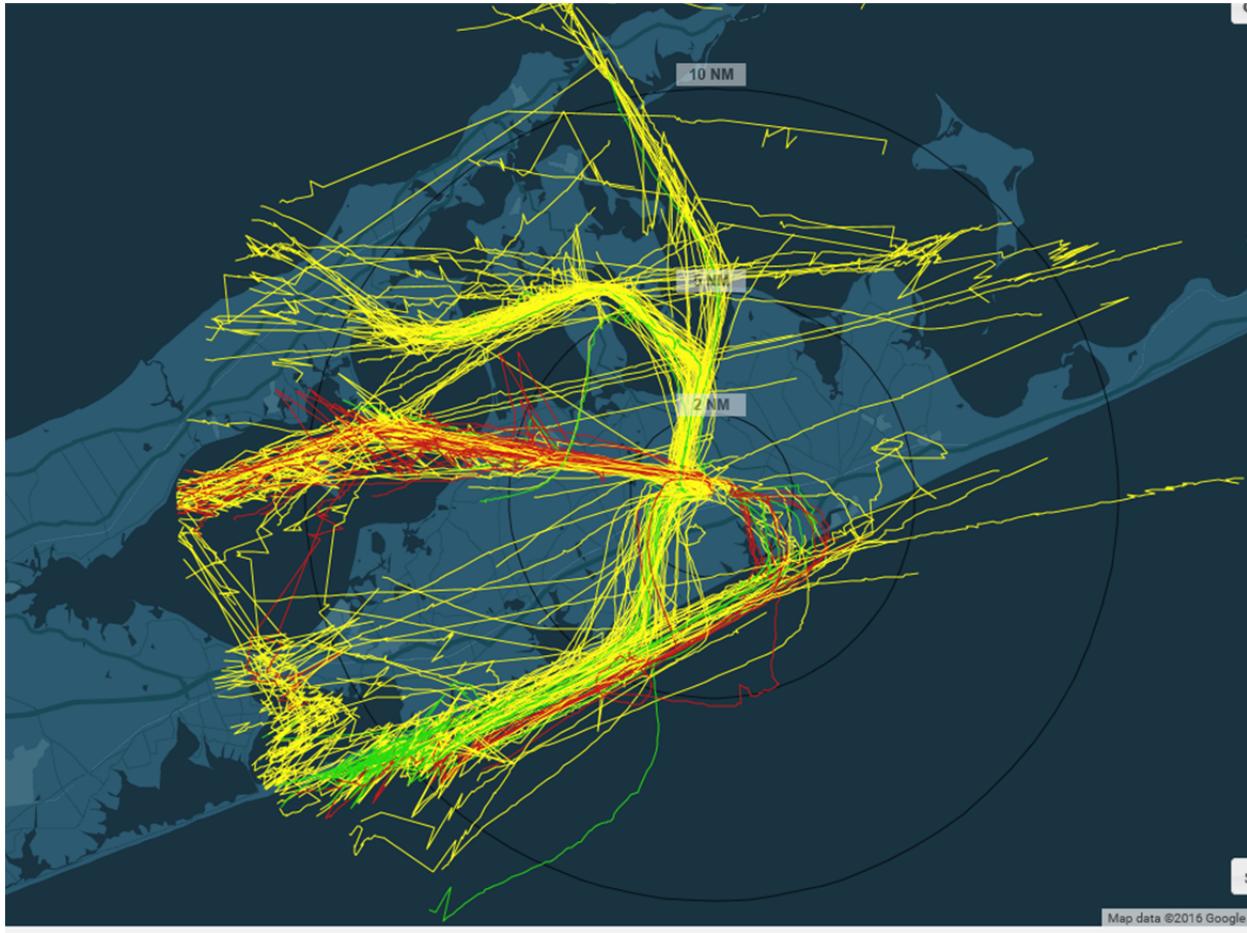


Major Route/Altitude Deviations

Total: 3

Noise Abatement Compliance Report: August 26th – August 29nd 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT



Major Route/Altitude Deviations

Total: 15

EXHIBIT H

Helicopter Complaint Density

(Based on complainant identification of aircraft type)

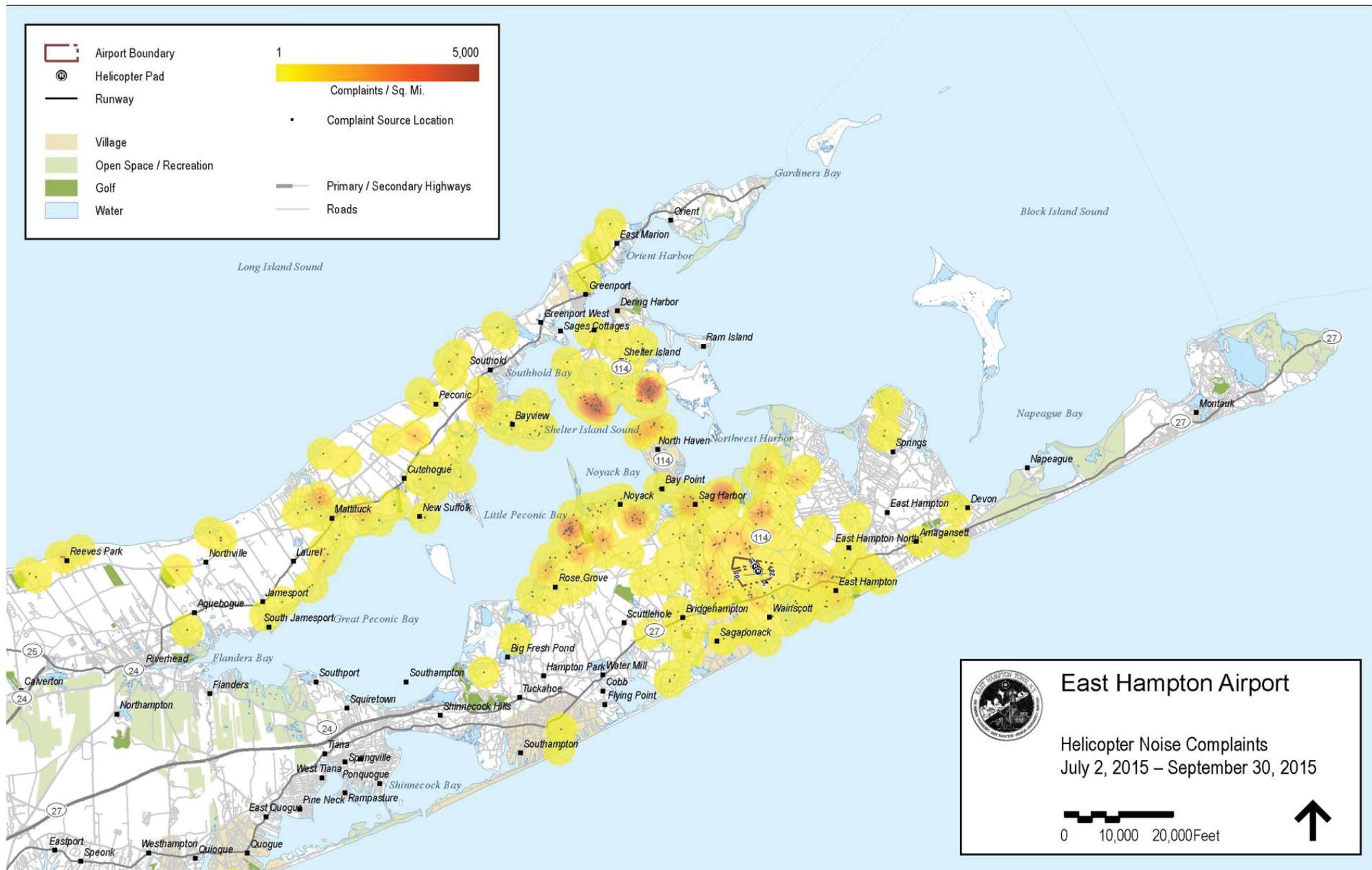
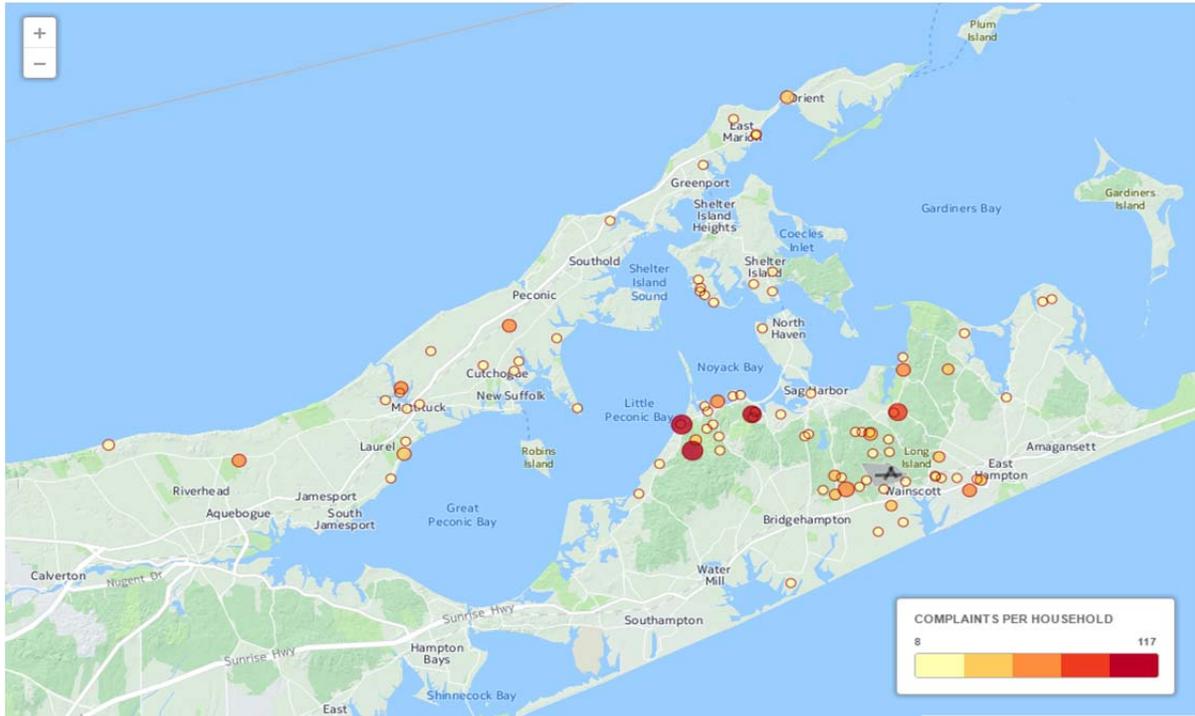


EXHIBIT I

Noise Abatement Compliance Report: July 1st – 5th 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

Complaint Map



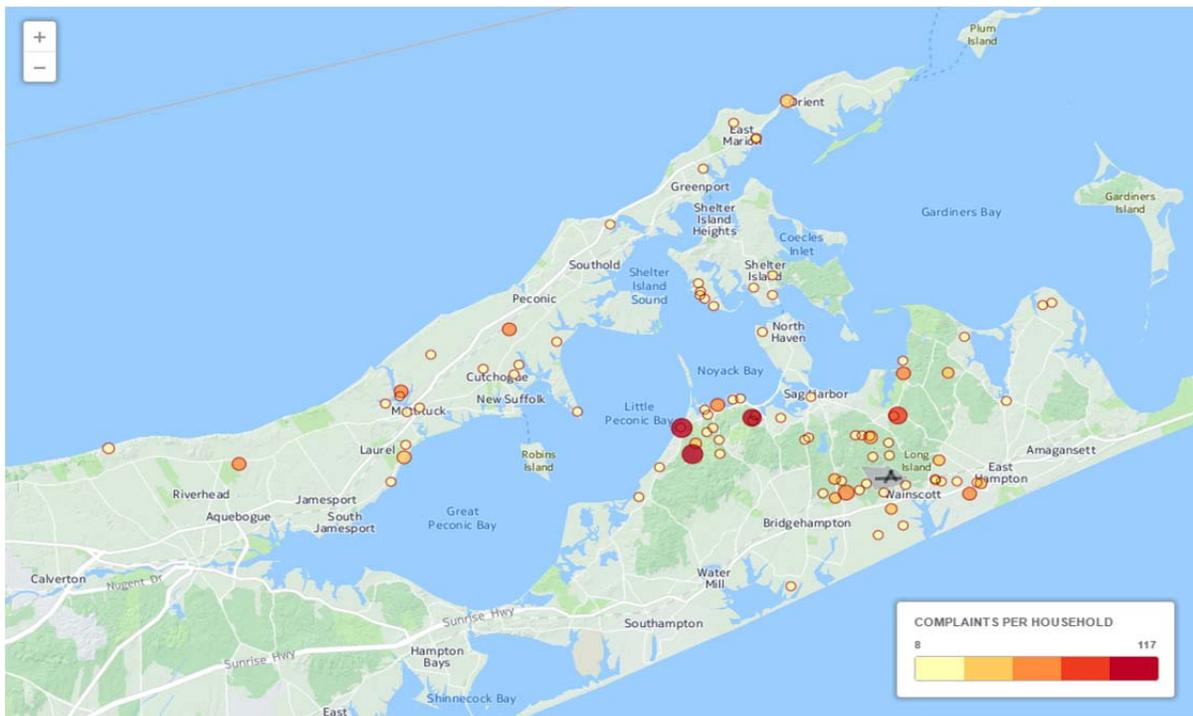
Noise Abatement Compliance Report: July 8th – 11th 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

Curfew Violations

Total: 4

Complaint Map



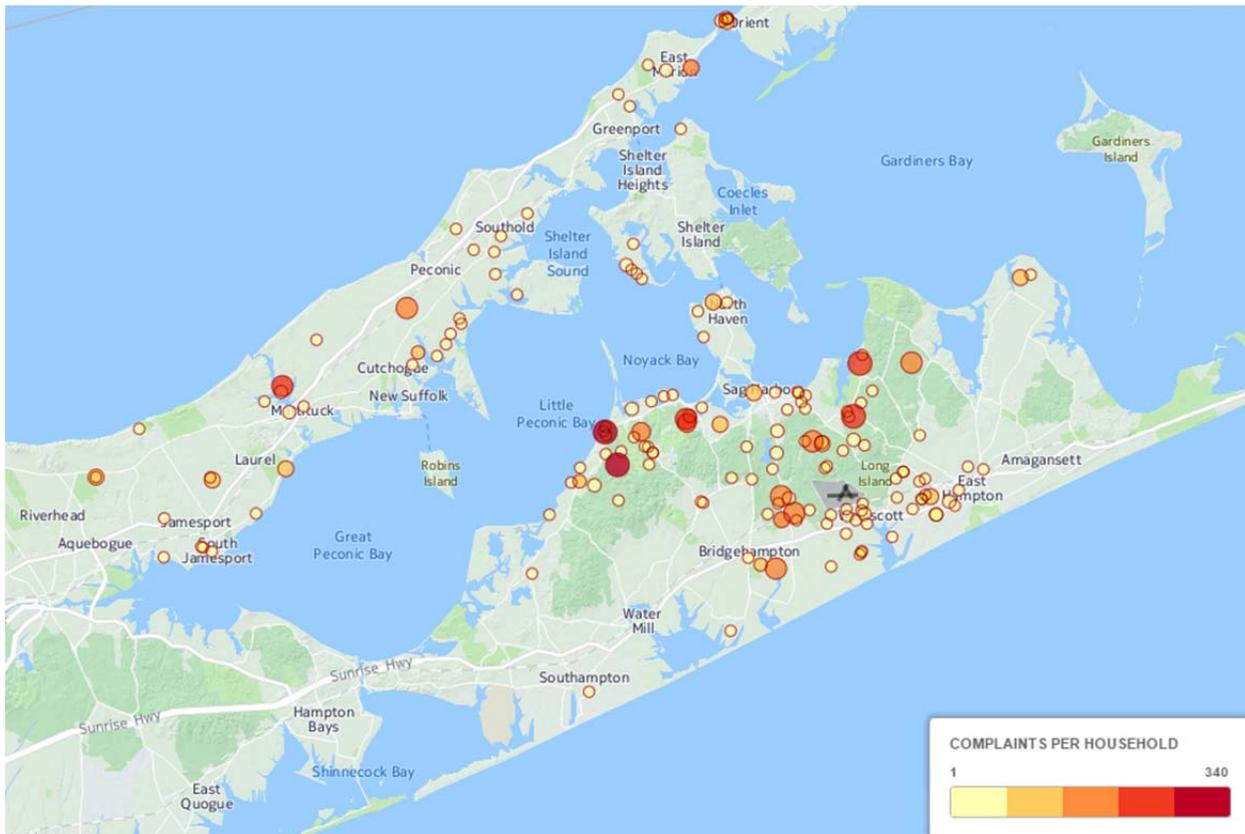
Noise Abatement Compliance Report: July 15th – 18th 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

Curfew Violations

Total: 4

Complaint Map



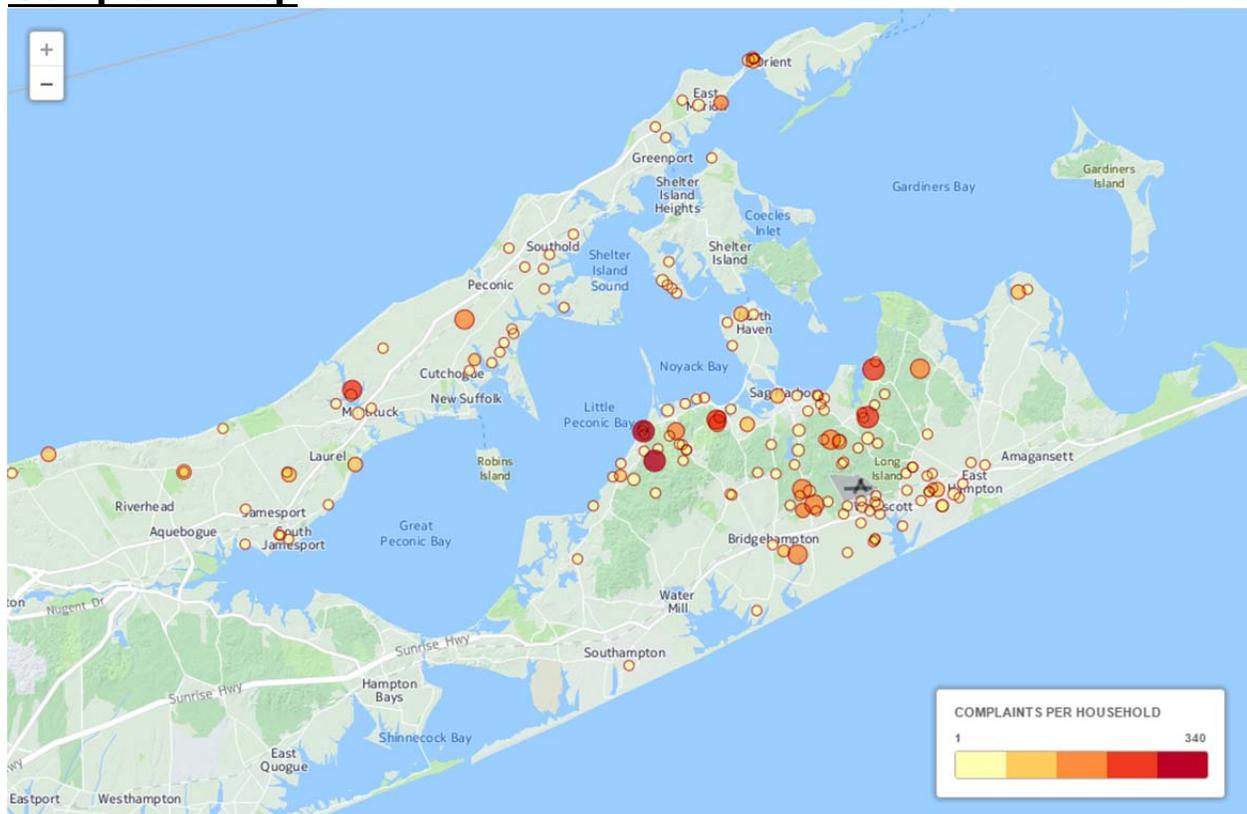
Noise Abatement Compliance Report: July 22nd – 25th 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

Curfew Violations

Total: 4

Complaint Map



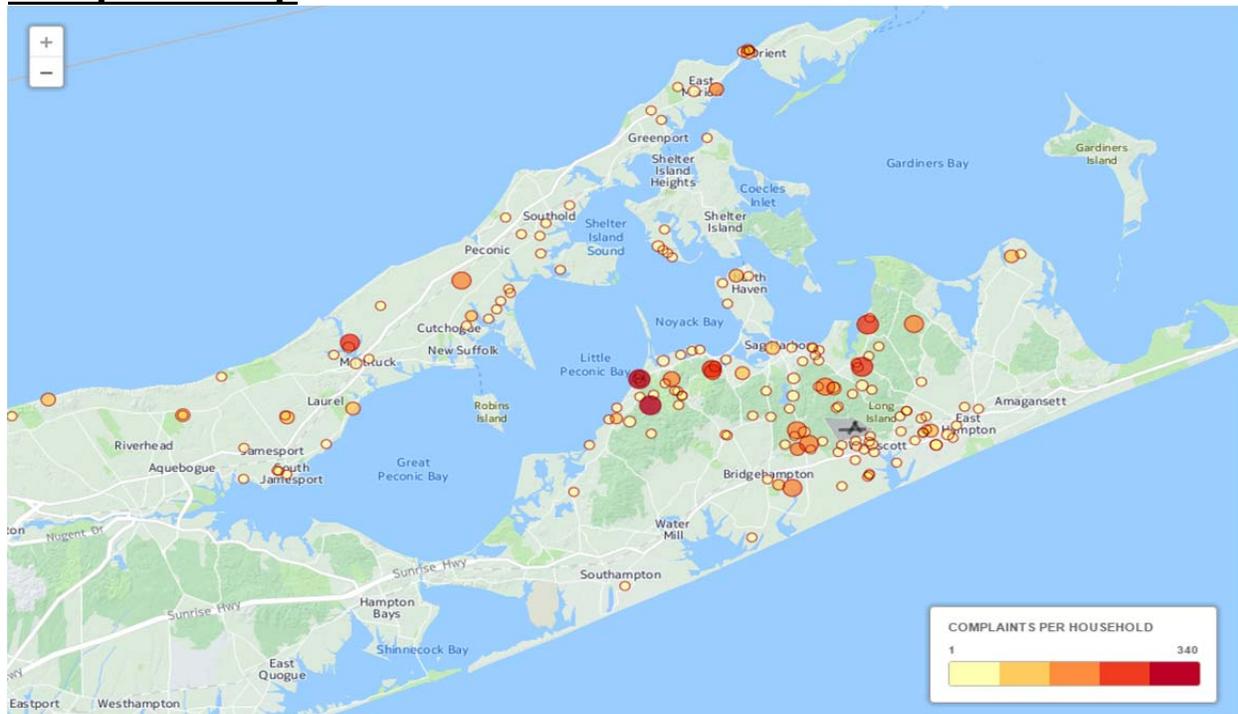
Noise Abatement Compliance Report: July 29th – August 1st 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

Curfew Violations

Total: 1

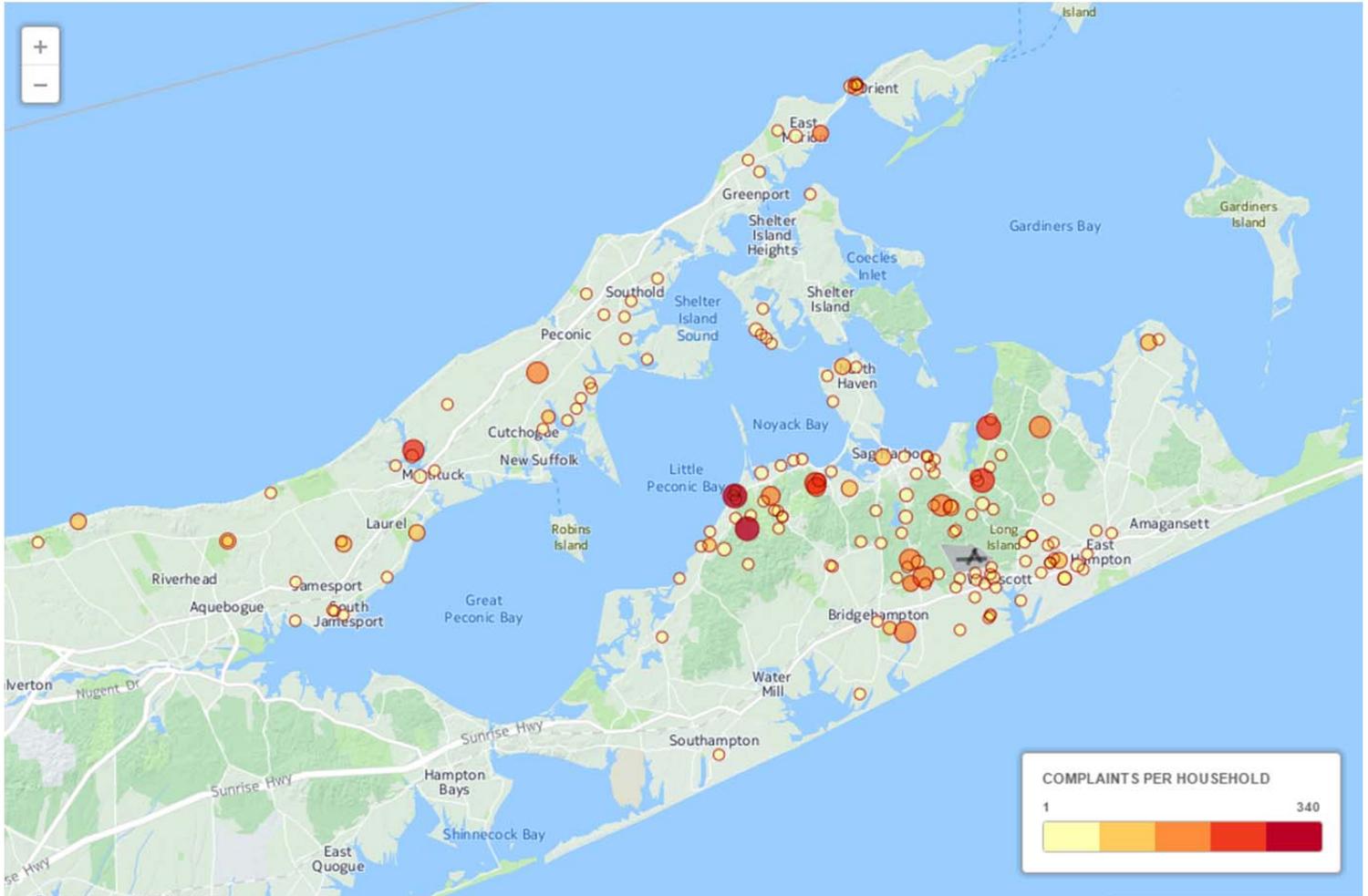
Complaint Map



Noise Abatement Compliance Report: August 5th – August 8th 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

Complaint Map



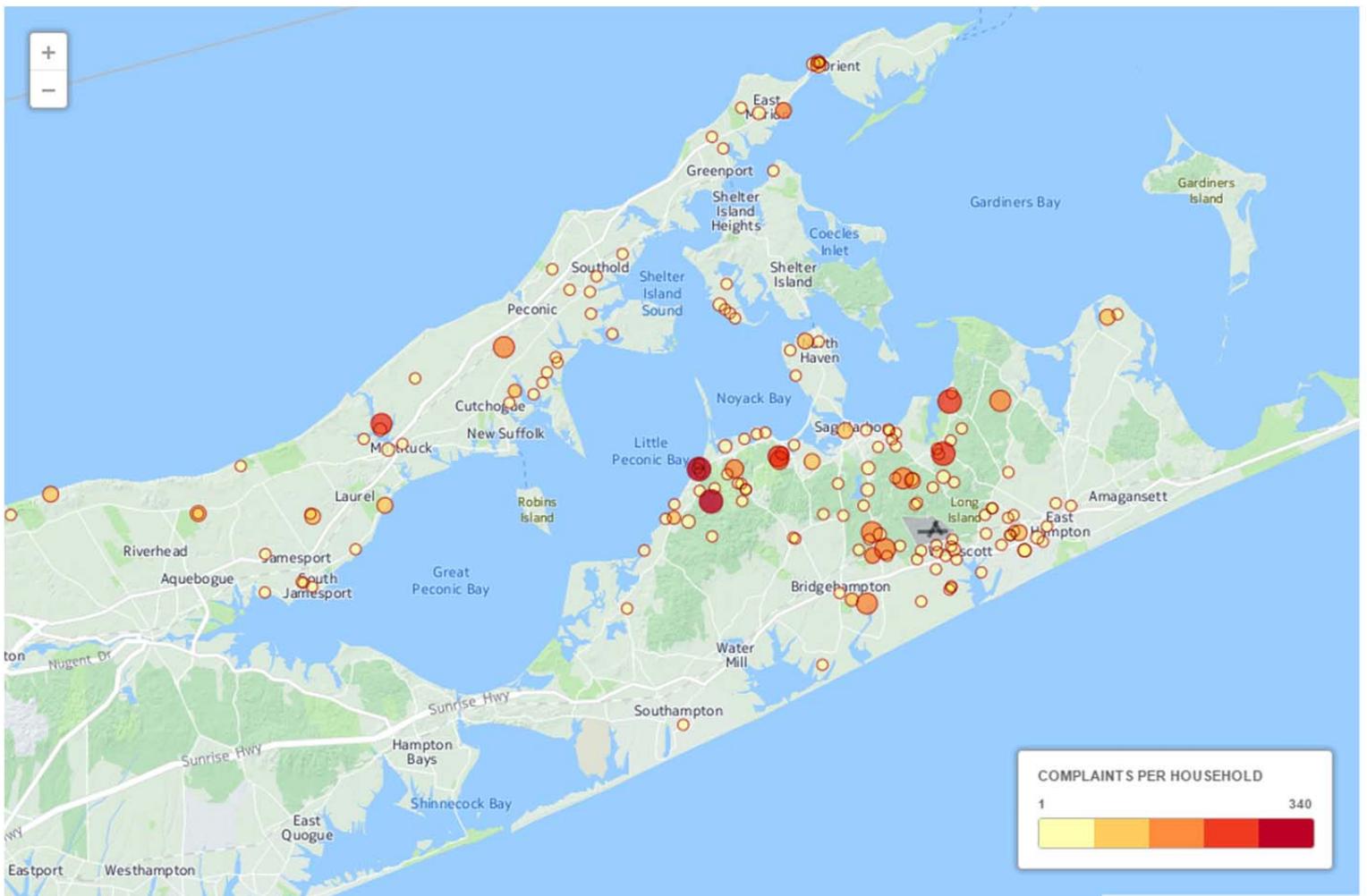
Noise Abatement Compliance Report: August 12th – August 15th 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

Curfew Violations

Total: 0

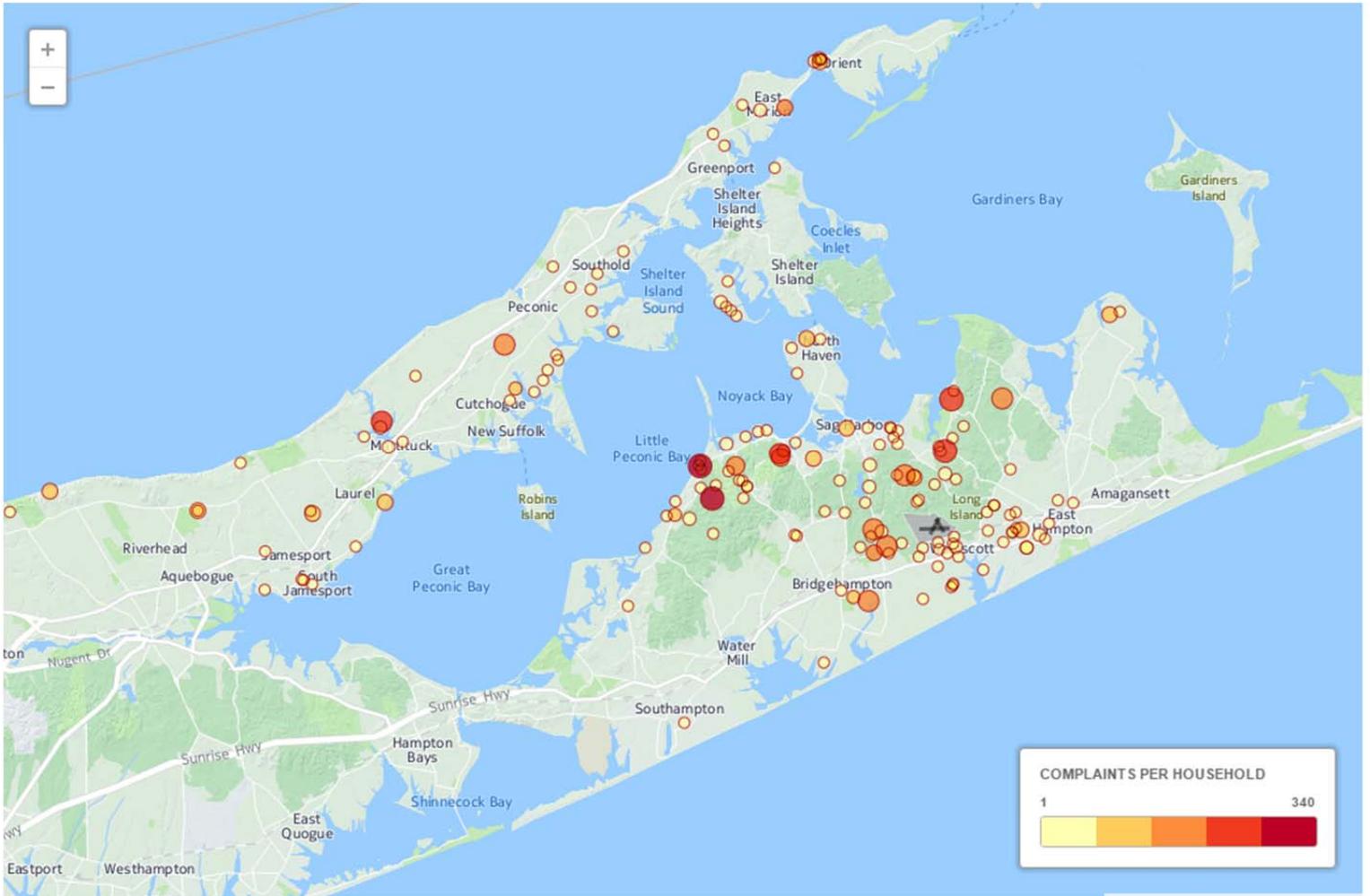
Complaint Map



Noise Abatement Compliance Report: August 19th – August 22nd 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

Complaint Map



Noise Abatement Compliance Report: August 26th – August 29nd 2016

Prepared for weekly meeting with EHRC, Sound Aircraft Services, and ATCT

Curfew Violations

Total: 3

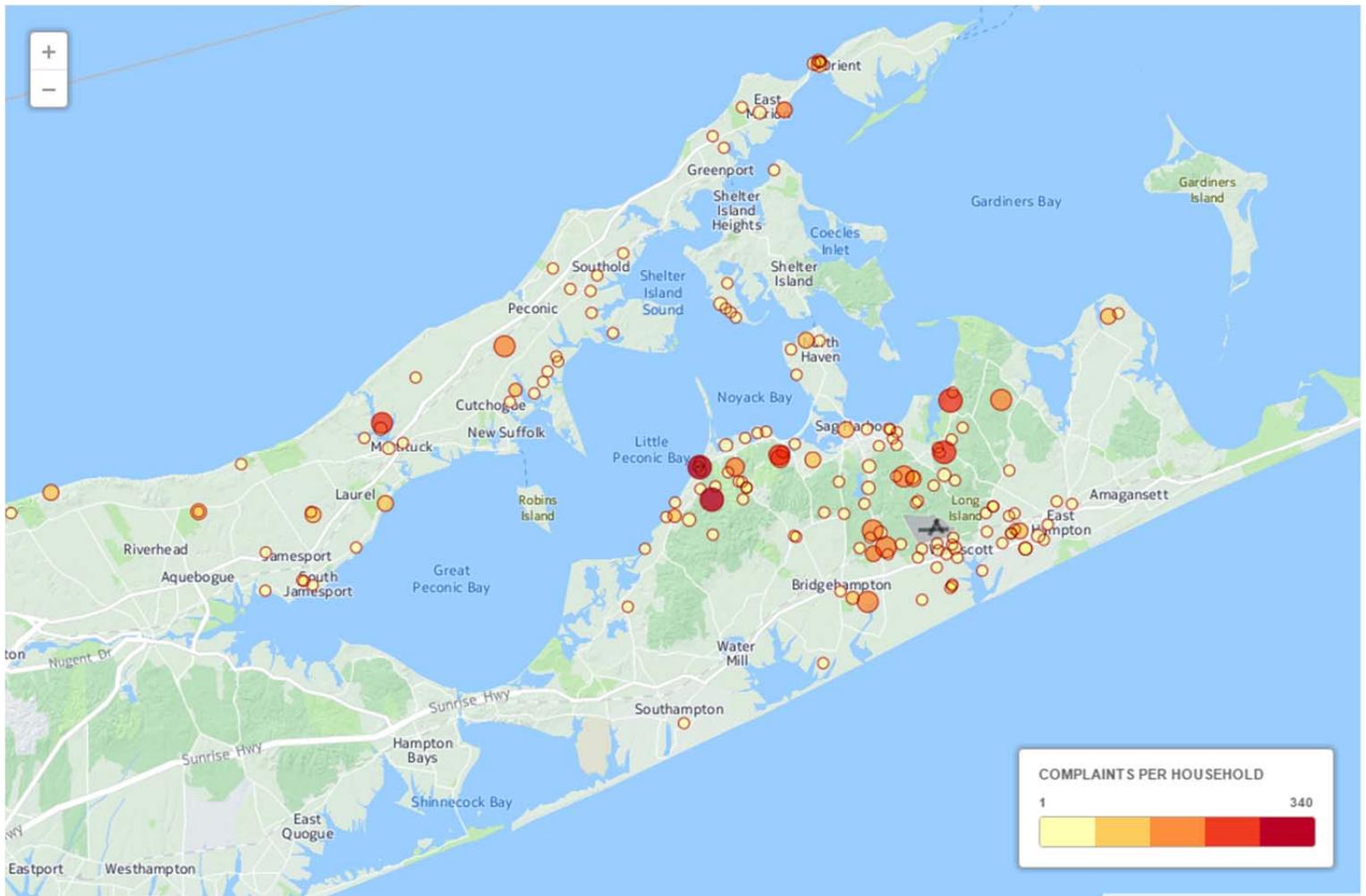


EXHIBIT J

2016 Routes

