October 27, 2017

Congresswoman Pramila Jayapal
319 Cannon House Office Building
Washington, DC 20515

Re: HR 2997 – FAA Reauthorization Section 156

Dear Congresswoman Jayapal:

We write to you as the Burien area Quiet Skies Coalition (QSC) and the City of Burien. The QSC is a citizen group formed in 2016 to challenge the flight patterns for certain aircraft departing SeaTac Airport causing significant new noise issues over our neighborhoods. We know that your office has been very attentive and helpful to Burien as Burien has worked with QSC during the past year. Thank you for your support, and your active involvement and amendments to the FAA Reauthorization bill’s sections on aircraft noise and airport infrastructure. We write to you with concerns regarding Section 156.

In particular, we are concerned with how Section 156 (if enacted with its current form) would interact with other existing provisions of law that curtail the FAA’s ability to change flight routes or increase noise without complying with NEPA (and NEPA related FAA Orders 1050.1 and Order JO 7210.3). This concern is based on our view that Section 156 in its current form might plausibly be interpreted as an expansion of the FAA’s authority to change routes and increase noise compared to current law.

By way of context, the City of Burien is involved in a current dispute against the FAA arising from the FAA’s adoption of a new route directly over our community with low elevation turbo prop jets operated by Horizon Air (Alaska Airlines). As a result of the FAA’s new route, on February 14, 2017 the City of Burien filed a petition in the Ninth Circuit Court of Appeals challenging the new route’s validity because the FAA implemented the route without conducting any review under NEPA. On April 10, 2017, the FAA withdrew the automatic heading for turboprops pending further environmental review. While we have met with the FAA on several occasions to discuss a long-term solution that would accommodate the interests of all parties, as of this writing the agency has not yet provided a substantive response to our proposal.
Given this context -- our 9th Circuit petition is still pending and because we have not received any concrete assurances from the FAA about a long term solution -- we find ourselves in a period of uncertainty. Specifically, we are concerned about the following language within Section 156:

"would not significantly increase noise over noise sensitive areas as determined by the Administrator" and further if the request for the revised heading would not, "in the judgment of the Administrator, conflict with the safe and efficient operation of the national airspace system . . ." [Emphasis added].

One plausible way to read that language is that the FAA would have broader discretion to accept or reject the request for the route that address community noise concerns – separate and apart from existing NEPA rules; Section 156 does not appear to include such references/requirements to existing NEPA regulations. If the language is read to provide broader discretion to the Administrator, then insertion of the following language is desirable in order to clarify that the proposed language does not eliminate the requirement for NEPA review:

"Nothing in this section shall be construed to affect or limit the application of, or any obligation to comply with, any environmental law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)"

Alternatively, we recognize the possibility that Section 156 might have a more benign intent—i.e., perhaps its sponsor considers Section 156 to impose a new obligation on the FAA. If this is the case, the clarifying language quoted above should be considered to make sure that the beneficial intent of Section 156 is more specifically expressed so that existing NEPA rules and regulations or orders (i.e., FAA Orders 1050.1 and 7210.3) aren’t pushed aside.

We appreciate your continued support of the City of Burien and the impacts to the community of aircraft noise and airport infrastructure. Thank you for your consideration of the foregoing, and let us know if we can answer any questions,

Thank you,

[Signature]

Brian J. Wilson
City Manager

Cc: Matt Adams, Dentons Law Firm
    John Parnass, Quiet Skies Coalition
    Lisa Marshall, Burien City Attorney