



One Hundred Seventeenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

June 29, 2021

The Honorable Troy Miller
Senior Official Performing the Duties of the Commissioner
U.S. Customs and Border Protection
Washington, D.C. 20528

Dear Mr. Miller:

We write with concern regarding an incident in Park Rapids, Minnesota on June 7, 2021, where a U.S. Customs and Border Protection (CBP) helicopter apparently flew dangerously low over nonviolent protestors opposing the Line 3 crude oil pipeline. According to reports, CBP's helicopter flew at an altitude of approximately 20 feet, kicking up dust and debris near demonstrators.¹ Video footage of the incident reveals the physical risk the helicopter and resulting debris posed to the demonstrators who were on the ground and in close proximity to the aircraft.²

While the Federal Aviation Administration allows helicopters to operate below the minimum altitudes set for fixed-wing aircraft, this can only be done "if the operation is conducted without hazard to persons or property on the surface." Furthermore, helicopters must be operated at "an altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface."³

Given the windspeeds generated by a helicopter at such low altitudes, combined with the immediate presence of people in the vicinity – including some protestors who were chained to equipment at a pump station and thus unable to move – CBP should have understood the potential hazards to persons on the ground. The low altitude of the helicopter also prompts concern about whether a safe emergency landing would have been feasible if needed.

The Northern Lights Task Force, which was coordinating local and state law enforcement, stated that the helicopter was being used to tell demonstrators to disperse, and that it left the area after realizing the impact on the demonstrators.⁴ Demonstrators reported that the announcements from

¹Melissa Turtinen, *Border Patrol Helicopter Used Against Line 3 Protesters in Northern Minnesota*, MN NEWS, Jun. 8, 2021, <https://bringmethenews.com/minnesota-news/dhs-helicopter-used-against-line-3-protesters-in-northern-minnesota>.

² Evan Frost (@efroste), Twitter (Jun. 7, 2021, 1:21 PM), <https://twitter.com/efroste/status/1401952522319843329>.

³ FAA Minimum Safe Altitudes Rule, 14 CFR § 91.119 (2010).

⁴ Alleen Brown and Sam Richards, *Low-Flying DHS Helicopter Showers Anti-Pipeline Protests with Debris*, THE INTERCEPT, Jun. 8, 2021, <https://theintercept.com/2021/06/08/line-3-pipeline-helicopter-dhs-protest/>.

the helicopter were inaudible, underscoring that the helicopter was an inappropriate means for communicating with the protesters anyway.⁵

We understand CBP is currently investigating this incident and request a briefing addressing the following questions by July 16, 2021:

1. Who requested CBP's involvement in this incident, what was the request for, and who authorized CBP's participation?
2. What was the purpose of utilizing a CBP helicopter?
3. How many passes over protestors did the helicopter make before leaving the site?
4. Who made the decision to fly the helicopter at such low altitudes near demonstrators? Is this action consistent with CBP protocol for responding to demonstrations?
5. Which public address system was the helicopter equipped with, and what is the recommended altitude range for effective use of this system?
6. Did CBP request information regarding other options available to local law enforcement for communicating with demonstrators? If so, what was CBP's assessment of those options?
7. In response to this incident, what steps is CBP taking to evaluate and update its training, policies, and procedures in coordinating responses to demonstrations with local law enforcement?

Thank you for your attention to this matter.

Sincerely,



Bennie G. Thompson
Chairman



Nanette Diaz Barragán
Chairwoman
Subcommittee on Border Security,
Facilitation, & Operations

⁵ *Id.*