



U.S. Department
of Transportation
**Federal Aviation
Administration**

800 Independence Ave., SW.,
Washington, DC 20591

Office of Accident Investigation & Prevention

June 17, 2016

Mr. Todd Gunther; Investigator-in-charge
National Transportation Safety Board
Office of Aviation Safety - Eastern Regional Office
45065 Riverside Parkway
Ashburn, VA 20147

Re: NTSB Case no. ANC14FA068; Coldfoot, Alaska; August 24, 2014

Mr. Gunther:

As per our meeting last month in your office, I offered to review certain documents deemed as privileged by the Federal Aviation Administration (FAA) and to make inquiries within the FAA in an effort to provide you with additional information regarding the issuance of a commercial air carrier certificate to the referenced accident aircraft operator in August 2012.

As you are aware from documents that were provided to you as part of your request submitted to my office, several FAA employees raised concerns about the approval of the operator's application for an air carrier certificate that was granted two years prior to the referenced accident. My review and inquiries have revealed that FAA personnel debated internally regarding these concerns. Some of the deliberations were mentioned in the draft documents and emails that were provided to you. Those records – which should not be construed as final agency decisions – mostly indicate that FAA inspectors were seeking legal and managerial advice regarding the disposition of the operator's Part 119 application for a Part 135 commercial air carrier certificate.

Aside from the contents of these documents, my review indicates that the majority of the deliberations regarding these concerns occurred verbally – either in person or over the telephone – and I found no additional records that documented these discussions. Also, I found that these deliberations occurred sporadically over an 8-month period – from December 2011 through August 2012 – and involved several FAA inspectors, managers, attorneys and other staff who held positions in the Office of Flight Standards (AFS) and the Office of Chief Counsel (AGC) located at FAA Headquarters in Washington, DC, the Alaska Regional Office in Anchorage, and the Flight Standards District Office (FSDO) in Fairbanks.

Ultimately, in late August 2012, the aircraft operator completed the Part 119 process and was issued a certificate by the Fairbanks FSDO to conduct commercial air transportation pursuant to Part 135. Implicit in the decision to grant this authorization is the Agency's judgment that the operator met the minimum requirements of Part 119.

In the specific case of the referenced aircraft operator, the FAA evaluated the strength and weaknesses of the documented evidence presented by the applicant for the certification, as well as the documented evidence from those AFS individuals that were concerned about the certification. As a result of these evaluations, the Agency determined that an adequate basis to summarily deny the applicant the opportunity to obtain a Part 135 certificate did not exist.

According to staff in FAA's Office of Chief Counsel, applicants for an air carrier certificate are not denied solely on the basis of a single violation or a previous accident. The Agency has a legal obligation to utilize its authority for certification that is based on substantiated facts, not individual inspector opinions and innuendo. The FAA strives to ensure its actions of granting and denying certificates are not arbitrary and capricious.

Should you have any questions or concerns related to this matter, please contact me at [REDACTED]. Thank you for your consideration of this response.

Sincerely,

[REDACTED]

Jeffrey B. Guzzetti
Manager, Accident Investigation Division (AVP-100)