

MINUTES

Monday, September 20, 2010
12:00 Noon

Manistee County Blacker Airport
Conference Room

Members Present: Ervin Kowalski, Chairperson; Paul Schulert, Vice-Chairperson; Ed Haik; Glenn Lottie; Ross Spencer; and Bob Wilson

Members Absent: Dale Picardat

Others Present: Barry Lind, Airport Manager; George Saylor, Airport Legal Counsel; Ken Grabowski, Manistee News Advocate; and Jeri Lyn Prielipp, County Financial Assistant

Ervin Kowalski, Chairperson, called the meeting to order at 12:00 P.M. Roll was taken by Ms. Prielipp.

The Chairman confirmed that each member had received a copy and had an opportunity to review the minutes from the regular meeting of the Airport Authority held on Monday, August 9, 2010.

There was a motion by Mr. Haik, supported by Mr. Wilson to approve the Airport Authority regular meeting minutes of Monday, August 9, 2010, as presented. Motion carried by unanimous vote.

The Authority next reviewed the August 2010 Accounts Payable Report (APPENDIX A). It was noted that the Riverside Integrated Services payment is for a circuit board for the fire alarm system and the insurance company will reimburse the airport for this expense.

There was a motion by Mr. Lottie, supported by Mr. Schulert to approve the August 2010 Accounts Payable Report and authorize payment of the outstanding invoices totaling \$25,160.65.

A roll call vote was taken:

Yeas: 6 (Kowalski; Schulert; Haik; Lottie; Spencer; Wilson)

Nays: 0

Absent: 1 (Picardat)

Motion carried.

The Authority next reviewed the August 2010 Financial Statement (APPENDIX B) which includes a Balance Sheet, a Statement of Revenue and Expenses, and a running account of the Public Improvement Fund. Mr. Lind explained that the "Notes Payable" underneath expenses is repayment of the \$120,000 loan that was received from Manistee County for new fuel tanks ten years ago. In August, 2010, the County Ways & Means Committee agreed to let the Airport Authority pay off the remainder of the loan. The loan was being repaid by revenue from the fuel tax, which will now be profit for the airport.

There was a motion by Mr. Lottie, supported by Mr. Spencer to approve the August 2010 Financial Statement. Motion carried by unanimous vote.

Mr. Lind reported that the energy audit that the airport is receiving through a grant was completed in August. The results should be received soon. Mr. Lind added that he has applied for a Local Revenue Sharing Board Grant for \$8,000 to help cover the costs of the annual firefighter training. Verbal

presentations for the grant will be heard on October 11, 2010, and grants will be awarded on December 13, 2010. The taxiway lighting project is mostly completed. The updated Airport Emergency Plan, which was previously discussed, is due at the beginning of October, however, it is expected that the due date will be extended. The Great Lakes contract has been updated as discussed at last month's meeting, and will be effective with the October billing cycle to correspond with the fiscal year.

Mr. Lind reminded the Authority that Peckham Engineering has been handling the Passenger Facility Charges (PFC) for the airport. Dennis Jouppe, the gentleman who has been doing the work, is in Peckham's office in the U.P., however, Peckham has decided to close the U.P. office. Mr. Jouppe is still willing to manage the PFC program, but it would be through his company, Primary Airport Services, LLC, rather than Peckham Engineering. Everything in the new contract would be the same as it has been.

There was a motion by Mr. Kowalski, supported by Mr. Wilson to enter into an Airport Services Agreement with Primary Airport Services, LLC to administer the passenger facility charge, subject to final approval/review by Airport Legal Counsel.

A roll call vote was taken:

Yeas: 6 (Kowalski; Schulert; Haik; Lottie; Spencer; Wilson)

Nays: 0

Absent: 1 (Picardat)

Motion carried.

Mr. Lind noted that he had been under the impression that PFC funds were restricted, however, he recently found out that the funds can be used however the Airport Authority chooses. The funds have been accumulating for two years (\$19,692.56), and have only been used for matching funds for federal grants. A motion is required when PFC funds are used.

There was a motion by Mr. Kowalski, supported by Mr. Schulert to approve the use of PFC funds as grant matches for three previously approved projects - the pavement marking project; the engineering phase of the taxiway light project; and the construction phase of the taxiway lighting project.

A roll call vote was taken:

Yeas: 6 (Kowalski; Schulert; Haik; Lottie; Spencer; Wilson)

Nays: 0

Absent: 1 (Picardat)

Motion carried.

Mr. Lind noted that he is doing a presentation at the Regional Summit, to be held on September 23, 2010.

The recent brown-out caused issues, resulting in three bills: Galaxy Electric to fix the fuel pump (\$100); Confessco to inspect the fire safety system; and Riverside to fix the main circuit board in the fire safety system (\$1,600). Mr. Spencer suggested that Consumers be contacted regarding reimbursement for these issues.

Mr. Lind requested that Orchard Beach Aviation be allowed to hang a 3 x 8' banner on the fence during October to advertise sightseeing/color tour flights. Manistee Township has already approved the banner. The Airport Authority had no objection to the banner.

Mr. Lind attended the Michigan Association of Airport Executives (MAAE) conference on September 13-16, 2010. The future of the firefighter training aircraft unit is uncertain as it is wearing out, however, it is hoped that it can be used for 3-5 more years. New units cost \$1.8 - 2.2 million, and the current one was purchased with a federal grant. An alternative would be sending people to major airports, where they have onsite firefighter training centers, however, this would mean losing the opportunity to provide training to other local firefighters. There was also discussion regarding the future of 100LL (low lead) gasoline. The EPA is considering banning this aviation fuel, and finding a suitable replacement fuel has been challenging. Many comparable airports to Manistee are starting to get pressure from the State to shorten runways as a cost-savings measure. Mr. Lind found this interesting since the 10-year plan for Manistee includes lengthening the runway. The DNRE is looking at regulating airports more, and this is

already happening at the larger airports in the State. One issue is the runoff of deicing fluids. Mr. Lind sent one employee to Airport 101 training, which was held the last day of the conference. During the conference, the revised 10-year plan was reviewed with the State, resulting in further revisions (APPENDIX C).

Mr. Lind provided an update on the Essential Air Service (EAS). A decision from the June 2010 bids is still pending and Charter Air Transport is actively arguing their case (APPENDIX D). Senator Levin's staff met with the DOT on September 14, 2010 regarding air service at Manistee and Ironwood. The key players in the decision are the FAA, the Fitness Division of DOT, the EAS Division, and the law firm that advises the DOT. Service is going to stay the same, but with so much uncertainty it's difficult for travelers who want to book a flight to/from Manistee in the future.

There was no report from the Promotion Committee.

Sheets were handed out showing airplane passenger numbers for 2010 as well as the previous five years (APPENDIX E), and the Orchard Beach Aviation rent information (APPENDIX F). There were no Airport incidents to report.

With there being no further business to come before the Authority, the meeting was adjourned at approximately 1:10 P.M.

Respectfully submitted,

Rachel Nelson, Airport Authority Secretary

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(under Board of Commissioners); Airport Authority Minutes, link to Manistee Airport website,
etc.

[r:n h:\reports\airport authority 092010]

MANISTEE COUNTY BLACKER AIRPORT

AUGUST 2010 ACCOUNTS PAYABLE

CHECK #	VENDOR NAME	AMOUNT
	BARRY LIND	\$ 3,000.00
	CONSUMERS ENERGY	\$ 871.45
	A T & T	\$ 16.84
	MICHCON (DTE ENERGY)	\$ 51.58
	GOCKERMAN, WILSON, SAYLOR	\$ 264.50
	MANISTEE TIRE SERVICE	\$ 21.00
	WEATHER SERVICES INTERNATIONAL	\$ -
	NAPA AUTO PARTS	\$ -
	ACE HARDWARE	\$ 13.99
	FASTENAL	\$ 91.77
	DIRECT TV	\$ -
	WAHR HARDWARE	\$ -
	COFESCO FIRE PROTECTION	\$ 425.00
	PECKHAM ENGINEERING	\$ 252.44
	BLARNEY CASTLE	\$ 977.24
	RIVERSIDE INTERGRATED SERVICES	\$ 1,620.20
	NATIONWIDE CONSTRUCTION GROUP	\$ -
	MANISTEE COUNTY	\$ -
	TOTAL	\$ 7,606.01
	ADVERTISING INVOICES	
	MS CREATIVE SERVICES	\$ -
	TOTAL	\$ -
	ORCHARD BEACH AVIATION	\$ 17,554.64
	REGULAR HOURS 372 @ 15.00	5,580.00
	MAINTENANCE HOURS 90.5 @ 15.00	1,357.50
	PART 139 LABOR	10,467.14
	INTERNET	150.00
	GRAND TOTAL	\$ 25,160.65
	PUBLIC IMPROVEMENT FUND	
	TOTAL PUBLIC IMPROVEMENT FUNDS	\$ -

MANISTEE COUNTY BLACKER AIRPORT

	AUGUST 2010 REVENUE & EXPENSES		BUDGET REMAINING		8%
	CURRENT MONTH	YEAR-TO DATE	ANNUAL BUDGET	BALANCE \$	%
INCOME:					
HANGER RENTAL	\$ 1,375.00	\$ 17,229.80	\$ 17,940.00	\$ 710.20	4%
LANDING FEES - GREAT LAKES	\$ 13,290.24	\$ 146,192.84	\$ 184,320.00	\$ 38,127.16	21%
LANDING FEES - GENERAL AVIATION	\$ 135.00	\$ 1,062.00	\$ 1,500.00	\$ 438.00	29%
AUTO RENTAL SPACE	\$ -	\$ 2,071.32	\$ 4,600.00	\$ 2,528.68	55%
OFFICE RENT	\$ 955.00	\$ 10,505.00	\$ 11,700.00	\$ 1,195.00	10%
COUNTY OF MANISTEE	\$ 9,625.00	\$ 105,875.00	\$ 115,500.00	\$ 9,625.00	8%
FUEL SALES	\$ 1,296.68	\$ 5,444.99	\$ 6,500.00	\$ 1,055.01	16%
SIGN LEASE	\$ -	\$ 3,400.00	\$ 3,400.00	\$ -	0%
MISCELLANEOUS	\$ -	\$ 5,283.63	\$ 1,000.00	\$ (4,283.63)	-428%
TOTAL INCOME	\$ 26,676.92	\$ 297,064.58	\$ 346,460.00	\$ 49,395.42	14%
EXPENSES:					
PERSONNEL - MANAGEMENT	\$ 3,000.00	\$ 33,000.00	\$ 36,720.00	\$ 3,720.00	10%
PERSONNEL - OPERATIONS & MAINTENANCE	\$ 17,404.64	\$ 183,730.54	\$ 203,440.00	\$ 19,709.46	10%
DUES & MEETINGS	\$ -	\$ 795.00	\$ 500.00	\$ (295.00)	-59%
SUPPLIES	\$ 105.76	\$ 1,169.62	\$ 1,500.00	\$ 330.38	22%
UTILITIES	\$ 1,073.03	\$ 27,575.21	\$ 35,000.00	\$ 7,424.79	21%
FUEL	\$ 977.24	\$ 5,568.54	\$ 5,000.00	\$ (568.54)	-11%
REPAIRS & MAINTENANCE	\$ 2,066.20	\$ 13,032.75	\$ 9,500.00	\$ (3,532.75)	-37%
TERMINAL IMPROVEMENTS	\$ -	\$ -	\$ -	\$ -	0%
CONTRACTED SERVICES	\$ -	\$ 1,428.00	\$ 2,000.00	\$ 572.00	29%
LEGAL	\$ 264.50	\$ 2,777.25	\$ 5,000.00	\$ 2,222.75	44%
AUDIT	\$ -	\$ 1,500.00	\$ 1,500.00	\$ -	0%
ADVERTISING	\$ -	\$ -	\$ -	\$ -	0%
TELEPHONE	\$ 16.84	\$ 256.22	\$ 300.00	\$ 43.78	15%
INSURANCE	\$ -	\$ 19,234.86	\$ 26,000.00	\$ 6,765.14	26%
TRAINING (FIRE FIGHTER)	\$ -	\$ -	\$ 8,500.00	\$ 8,500.00	0%
EQUIPMENT	\$ -	\$ -	\$ -	\$ -	0%
BOOKKEEPING	\$ -	\$ -	\$ 3,000.00	\$ 3,000.00	100%
NOTES PAYABLE	\$ -	\$ 3,348.87	\$ 6,500.00	\$ 3,151.13	48%
TRANSFER OUT/FUND BALANCE	\$ -	\$ -	\$ -	\$ -	100%
MISCELLANEOUS	\$ 252.44	\$ 6,790.92	\$ 2,000.00	\$ (4,790.92)	-240%
	\$ 25,160.65	\$ 300,207.78	\$ 346,460.00	\$ 46,252.22	13%
EXCESS REVENUE OVER/(UNDER) EXPENDITURES	\$ 1,516.27	\$ (3,143.20)			
BALANCE ON HAND - AIRPORT FUND					
BEGINNING BALANCE 08/01/10	\$ 29,820.18				
AUGUST RECEIPTS	\$ 26,350.68				
JULY DISBURSEMENTS	\$ (24,135.06)				
	\$ 32,035.80				

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MANISTEE COUNTY BLACKER AIRPORT

AUGUST 2010 BALANCE SHEET

ASSETS	8/31/2010	7/31/2010
CASH	\$ 32,035.80	\$ 29,820.18
ACCOUNTS RECEIVABLE		
GREAT LAKES AIRLINES	\$ 13,290.24	\$ 13,290.24
STATE OF AUTO RENTAL	\$ -	\$ -
MISC.	\$ 1,931.68	\$ 1,605.44
TOTAL ASSETS	\$ 47,257.72	\$ 44,715.86
LIABILITIES	8/31/2010	7/31/2010
ACCOUNTS PAYABLE - TRADE	\$ 25,160.65	\$ 24,135.06
ACCOUNTS PAYABLE - COUNTY	\$ -	\$ -
PREPAID HANGER RENT	\$ -	\$ -
TOTAL LIABILITIES	\$ 25,160.65	\$ 24,135.06
FUND BALANCE	\$ 22,097.07	\$ 20,580.80
TOTAL LIABILITIES AND FUND BALANCE	\$ 47,257.72	\$ 44,715.86

PASSENGER FACILITY CHARGES COLLECTED THROUGH 08/31/2010	\$ 27,467.56
STATE OF MICHIGAN - TAXIWAY LIGHTING PROJECT	\$ (475.00)
STATE OF MICHIGAN - PAVEMENT MARKING PROJECT	\$ (1,400.00)
STATE OF MICHIGAN - TAXIWAY LIGHTING PROJECT	\$ (5,900.00)

PFC FUNDS AVAILABLE **\$ 19,692.56**

BALANCE DUE TO MANISTEE COUNTY ON THE FUEL FARM AS OF:

9/30/2009	\$ 19,577.36
8/31/2010	\$ -

Airport Managers Report 9/20/10

- 10 Year Plan - MAP Meeting 9/15
 - 2011 Projects (\$343,000 estimated cost)
 - Pavement Crack Repairs
 - 4 New T Hangers
 - New Beacon
 - Hanger Area Repaving / Parking Lot
 - 2012 Projects (\$551,000 estimated cost)
 - SRE Building
 - Sand Storage Building
 - Loader for Sand (also as tractor for mower)

Airport Managers Report 9/20/10

- 2013 Projects (\$212,800 estimated cost)
 - Rehabilitate existing T Hangers
 - Airport Layout Plan Update
 - Additional GA Tie Down Area
- 2014 Projects (\$403,750 estimated cost)
 - SRE Sweeper
 - Airfield Remarking
- 2015 Projects (\$627,000 estimated cost)
 - Rehabilitate Taxiway A
 - Rehabilitate Terminal Apron

Airport Managers Report 9/20/10

- 2016–2019 Projects (\$3,625,200 est. cost)
 - Extend Runway 9/27
- 2020 Projects (\$190,000 estimated cost)
 - SRE Plow Truck

DOT SHOULD DETERMINE THAT THE SERVICE PROPOSED BY CHARTER AIR TRANSPORT INC. AND PUBLIC CHARTERS INC. IS ELIGIBLE FOR SUBSIDY UNDER THE ESSENTIAL AIR SERVICE PROGRAM

RECAP OF LEGAL POSITION: "Scheduled service" eligible for EAS subsidy is defined by the specific provisions of 49 U.S.C. §41732. There is no express statutory requirement that an eligible applicant have specific kind of DOT or FAA certificate. Eligibility is based solely on meeting defined statutory criteria relating to frequency, aircraft type, and the service offering.

The specific proposal that DOT is being asked to consider is a ***joint venture entity*** that will operate under public charter rules. The joint venture is an eligible EAS applicant because only DOT economic regulatory definitions should be applied when DOT is determining whether to grant EAS subsidy. When it comes to statutory interpretation, DOT has a great deal of latitude and courts will overrule an agency's interpretation only if it is contrary to law or unreasonable.

The only pending question is whether "scheduled service" as defined in 49 U.S.C §41732 should be interpreted to require flight operations to be performed under FAA Part 121 operating rules—a reading of the statute that is not legally compelled and is in fact contrary to public policy.

The public charter flights being proposed are in all respects **SUPERIOR** EAS offerings and are therefore supported by the communities. A service proposal that can be "safely" operated on a non-subsidized basis under FAA operating rules does not become "unsafe" if subsidy is provided. The proposed flight operations in many respects exceed FAA requirements that apply to operators now receiving EAS subsidy.

To the extent FAA safety regulations are relevant in the context of DOT economic regulatory decision making, safety considerations provide a strong public interest justification for subsidizing FAA Part 135 public charter operations using FAA Part 25 certificated large aircraft.

LEGAL RULES OF STATUTORY CONSTRUCTION SUPPORT AN INTERPRETATION THAT A PROGRAM OF REGULARLY SCHEDULED PUBLIC CHARTERS ARE ELIGIBLE FOR EAS SUBSIDY

For purposes of determining eligibility under the EAS statutory definition of "scheduled service," an applicant does not need to operate

under flight rules applicable to FAA Part 121 certificated "scheduled operations"

- ◆ While "scheduled service" is fully defined by the unambiguous wording of 49 U.S.C. §41732, legal rules for statutory construction dictate that DOT construe the meaning of the terminology used for the EAS program with reference to usage of the same term in DOT economic regulations.
- ◆ DOT has interpreted its economic regulations to require that a direct air carriers performing public charters be found fit to provide "scheduled service" as defined in Part 298 of DOT's economic regulations if they operate 5 or more flights in a city-pair market.
- ◆ FAA has already determined that Part 135 contains the appropriate - and therefore safe-- operating rules for public charter flight operations using 30 seat aircraft regardless of the frequency of flights operated in a city-pair market.
- ◆ A carrier that operates 5 or more flights in a city-pair market as public charters under Part 135 operating rules as authorized by FAA is a providing "scheduled services" as that term is used in DOT economic regulations (parts 204, 298, and 398)
- ◆ It is immaterial for purposes of FAA safety regulations whether DOT provides a government subsidy payment for the flights to supplement the passengers' payments. A FAA approved flight operation does not become "unsafe" depending on the source of funding.
- ◆ "Scheduled operations" as defined by FAA is not the same or even equivalent terminology as "scheduled service." In its rulemaking proceeding, FAA explicitly recognized that DOT economic regulations and FAA regulations for flight operations differed, and applied only to each agency's respective regulatory regimes. See ?? Fed Reg ???? (excerpts attached).
- ◆ In construing Congressional intent with respect to administering 49 U.S.C. §41732, it would be arbitrary, capricious, and contrary to law for DOT to ignore the definitions and interpretations contained in its economic regulations and instead impose EAS eligibility restrictions taken from FAA regulations that FAA itself has not chosen to impose on the proposed flight operations.

DOT LEGAL PRECEDENT ALREADY ESTABLISHES THAT SERVICES PROVIDED UNDER FAA PART 135 OPERATING RULES ARE ELIGIBLE FOR EAS SUBSIDIES

- ◆ Based on most recent data, EAS subsidies have been awarded to four Part 135 operators in the lower 48 states, accounting for approximately one fifth of the total EAS routes (see attached charts). Eligibility for EAS subsidy is determined **solely** with respect to DOT economic regulations: Part 204 and 298, and not FAR Part 121
- ◆ DOT has long advocated elimination of the 15+ seat legislative preference that would result in far greater use of 9 seat small aircraft operated under Part 135 for EAS – a position that must necessarily reflect the judgment that Part 135 provides an acceptable level of safety for EAS subsidized flights

**THE “SAFETY CONCERN” IS PREDICATED ON A FALSE PREMISE THAT EAS
MARKETS CAN SUPPORT PART 121 OPERATIONS**

In the real world, the policy choice going forward is whether Part 135 operations using FAA certificated large aircraft are preferable from both a safety and economic regulatory perspective than the demonstrably “less safe” alternatives of either Part 135/9 seat small aircraft operations or use of car. *See generally, Government Accountability Office (GAO), National Transportation System: Options and Analytical Tools to Strengthen DOT's Approach to Supporting Communities' Access to the System (July 2009)*

- ◆ an “unintended consequence of the FAA’s commuter Safety and Part 119 rulemaking proceedings has been to eliminate aircraft types/operators that are needed to serve EAS markets. 19 seat turboprops are relatively costly to operate, no longer in production, in limited supply, costly to acquire and refurbish to current FAA aircraft standards (page 15-16)
- ◆ The pool, of potential EAS providers (including Part 135 operators of 9 seat aircraft) have shrunk from 34 in 1987 to 10 in 2009 (page 14)
- ◆ When EAS carriers exits a market by going out of business, the community may lose all air service, forcing them to use cars (page ??), which FAA has determined are far less safe alternative than air transportation (cite child seat rulemaking).
- ◆ As legacy carriers exit markets, the number of EAS markets grows, increasing from 87 in 2003 to 102 in 2008 (page 9-10)

- ◆ Average EAS subsidies have risen 35% from ??? in 2003 to \$1.371 billion in 2008 (page ??0 but some communities still get no service at any cost because there is inadequate capacity available from carriers willing to operate in EAS markets
- ◆ DOT is under a legislative mandate to divert funds from other programs to support EAS (pages), with unknowable but potentially adverse safety implications in other areas

BASED ON READILY UNDERSTOOD OBJECTIVE CRITERIA, EAS SUBSIDIZED SERVICES NOW PROVIDED BY PART 135 OPERATORS WITH SMALL AIRCRAFT ARE LESS "SAFE" THAN PUBLIC CHARTERS PROVIDED WITH LARGE AIRCRAFT

◆ EAS subsidies now support operations with commuter aircraft certificated under FAR Part 23, e.g., single engine and associated operational rules that relate to the size of the aircraft, e.g., no flight attendants

◆ CAT Embraer aircraft certificated under Part 25 already met the aircraft safety standards mandated by FAA's 1996 rulemaking proceedings

◆ The 1996 rules mandated certain safety upgrades for 9 and 19 seat aircraft now used in EAS but did not impose all requirements applicable to 30 seat aircraft, which permits the conclusion that any 30 seat EAS aircraft is "more safe" than the predominant aircraft types used for EAS under either the Part 121 or Part 135 operating rules. See chart from Part 119 rulemaking

◆ There are a number of operating rules for Part 121 and Part 135 flight operations that offer an equivalent level of safety (see chart). To the extent there are some differences in training, dispatch, and flight duty time, FAA determined that the Part 135 operating rules for aircraft of 30 or less seats were appropriate for public charters regardless of the number of flights scheduled to operate in any given city-pair market.

THE PROPOSED PART 135 PUBLIC CHARTER OPERATIONS WITH 30 SEAT AIRCRAFT CAN PROVIDE A LEVEL OF SAFETY EQUIVALENT TO PART 121 OPERATIONS WITH OLDER 19 SEAT TURBOPROP AIRCRAFT

Part 135 sets forth the minimal qualifications for operations; CAT in fact exceeds these requirements in many respects –

- ◊ Training and manuals comply more closely with Part 121 standards
- ◊ CAT does not perform VFR operations (which are permissible with 9 seat EAS subsidized operators). Although CAT does not employ certified dispatchers, all pre-flight performance functions that are required under Part 121 are performed (weight and balance calculations, fuel calculations, use of third party software that generates runway analyses, flight planning and release)
- ◊ Part 135 flight duty times are currently being revised in ways that will likely eliminate disparities between Parts 121 and 135. In the interim there is no basis to conclude that the more rigid Part 135 rules with longer mandated rest periods (10) hours) that cannot be reduced and are less safe than Part 121 rules of 8 hours?
- ◊ CAT has adopted a de-icing program details?
- ◊ While EAS operators have been fined by FAA for violations of safety regulations, CAT has no history of safety violations

**“FAIRNESS” TO OTHER EAS RECIPIENTS THAT PURSUED
FAA PART 121 CERTIFICATION IS A BOGUS ISSUE**

- The fact that there are only a few carriers that now provide EAS services is a contributing factor to many of the problems identified by GAO. *See, e.g,* pages
- Innovation and competition are “disruptive” forces that unsettle incumbents, but the public policy directives adopted with the Airline Deregulation Act require that DOT promote innovation and competition as the best means of assuring air transportation services that best meet market demands, including services that meet the needs of small and rural communities. 49 U.S. C.
- There is a difference between air carrier EAS recipients that market services in their own name and thereby **choose** to operate under Part 121 rules as a consequence of this decision and the proposal to operate a regularly scheduled program of public charter flights under Part 380 with the concomitant use of Part 135 operating rules – as authorized by FAA rules.
- The incumbent Part 121 EAS providers were “grandfathered” and therefore took advantage of transition rules after adoption of Part 119—in essence the EAS subsidies they received paid for the certification process

- If Part 121 certification were an easy, economically feasible option for potential EAS providers, then DOT would not be facing the projected shortage of EAS providers, but the process has instead become a veritably insurmountable regulatory barrier to new entry

DOT enjoys considerable discretion to interpret EAS statute and regulations to promote the objectives established by Congress. There is a clear legislative intent to use larger aircraft 15+ seat aircraft that offer superior safety designs than the small aircraft. There is a very large gulf between large 30 seat aircraft and the small aircraft (9 seats and under) used by Part 135 operators, but that has not deterred DOT from subsidizing these services, and even advocating the expansion of these “less safe” operations to more EAS markets.

The substantive differences in the Part 121 and the Part 135 plus operating rules under which CAT would perform the flights are not significant. When viewed in the context of the EAS services that are already being subsidized, there is no rational basis for excluding regularly scheduled public charter flights from the EAS program based on “safety considerations.”

The pending application¹ with the proposal to fund scheduled services offered as public charter flights with 30 seat aircraft is a smarter, safer, and more cost effective way to deliver services to EAS communities. A legal interpretation that facilitated use of public charter flights as a mechanism to deliver service to small communities is supported by the GAO report (see page 46-47)), which was in turn the product of work by an esteemed panel of experts. (page) A restrictive legal interpretation perversely denies EAS communities the quality and superior aircraft safety standards that Congress intended they receive.

¹ The applicants recognize that there may be a need to amend or supplement the EAS application with EAS fitness data and supporting information if the legal issue is satisfactorily resolved.

Manistee County Blacker Airport

Enplaned/Deplaned

	2005		2006		2007		2008		2009		2010	
	Out/In	Total	Out/In	Total								
Jan	MW 141/118	259	MW 150/101	251	MW 210/164	374	MW 234/169	403	GL 138/106	244	GL 212/145	357
Feb	183/147	330	137/133	270	198/184	382	215/200	413	112/93	205	196/150	346
Mar	168/199	367	197/203	400	224/229	453	213/200	413	149/139	288	216/231	447
Apr	132/152	284	191/218	409	183/239	422	18/38	56	119/140	259	272/255	527
May	162/152	314	200/217	417	238/251	489	0/0	0	184/180	364	263/302	565
Jun	147/169	316	233/283	516	252/309	561	GL 94/113	207	166/213	379	311/366	677
Jul	232/208	440	318/332	650	340/348	688	278/301	579	388/439	827	521/551	1072
Aug	223/228	451	349/358	707	348/305	653	300/293	593	429/359	788	482/395	877
Sep	171/158	329	268/267	535	278/217	495	219/190	409	285/293	578		
Oct	131/135	266	263/221	484	276/248	524	173/174	347	282/275	557		
Nov	159/148	307	210/205	415	275/280	555	168/166	334	257/269	526		
Dec	142/146	288	224/242	466	203/205	408	159/122	281	228/279	507		
Total		3951		5520		6004		4035		5522		4868

On-time Performance

	2005		2006		2007		2008		2009		2010	
	Cancel/Delay	On-time										
Jan									13%/25%	62%	23%/22%	55%
Feb									18%/16%	66%	13%/32%	55%
Mar									8%/11%	79%	11%/19%	70%
Apr									10%/16%	74%	13%/17%	70%
May									2%/10%	88%	12%/10%	78%
Jun									7%/18%	75%	6%/26%	68%
Jul									4%/16%	80%	5%/19%	76%
Aug									2%/12%	86%	4%/5%	91%
Sep									0%/9%	91%		
Oct							11%/31%	57%	10%/8%	81%		
Nov							13%/32%	55%	3%/10%	87%		
Dec							36%/44%	20%	25%/39%	36%		

ORCHARD BEACH AVIATION

August 2010

RENT

OFFICE	\$325.00	
HANGER	\$175.00	
FUEL	\$1296.68	
LANDING FEES		
TWIN	\$9.00	(1 @ \$9)
JET	\$126.00	(7 @ \$18)
TOTAL	\$1931.68	
100	2450.0 Gal	
JET	6194.5 Gal	
TOTAL	8644.5 Gal	