



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the **14th day of May, 2004**

Essential Air Service at

HEALY LAKE, ALASKA

under 49 U.S.C. 41731, *et seq.*

Served: May 19, 2004

DOCKET OST-1998-3546

**ORDER TENTATIVELY RESELECTING CARRIER
AND SETTING SUBSIDY RATE**

Summary

By this order, the Department is tentatively reselecting 40-Mile Air, Ltd., to provide essential air service at Healy Lake, Alaska, for a two-year period from June 1, 2004 through May 31, 2006, at an annual subsidy of \$51,781.

Background

By Order 2002-8-18 the Department selected 40-Mile Air to provide essential air service at Healy Lake, Alaska. 40-Mile Air was selected to provide service to Fairbanks consisting of two nonstop round trips per week with 5-seat Cessna 206 or 207 aircraft, at an annual subsidy rate of \$51,442. The carrier's contract expires May 31, 2004.



As we have done previously, when nearing the end of a carrier's contract, we contact the carrier to determine whether it is interested in continuing service at the community and whether it will continue to require subsidy. If the carrier wishes to continue service with subsidy, we usually negotiate a new subsidy rate with the carrier, issue an order tentatively reselecting the carrier for a new two-year rate term at the agreed rate, and direct other parties to show cause why we should not finalize our tentative decision. Other carriers wishing to submit competing proposals are invited to do so in response to the show-cause order. If any such proposals are filed, we process them as a competitive case. Consistent with this practice, we invited 40-Mile Air to submit a proposal for continuation of essential air service at Healy Lake.

Carrier Proposal

40-Mile submitted a proposal to provide essential air service at Healy Lake for a new two-year rate term. The carrier proposes to continue to provide the community with its historical service of two nonstop round trips to Fairbanks each week with 5-seat Cessna 206 or 207 aircraft. 40-Mile Air and the staff have agreed to an annual subsidy of \$51,781 for this service.

Tentative Reselection

40-Mile Air continues to provide Healy Lake with reliable essential air service and we find that both the service and subsidy levels are reasonable. Therefore, we will tentatively reselect 40-Mile Air to provide two round trips to Fairbanks each week, for an additional two-year period, through May 31, 2006. As set forth in Appendix B, service is to be provided with 5-seat Cessna 206 or 207 aircraft at an annual subsidy of \$51,781.

Responses to Tentative Decision

We will give interested persons 30 days from the date of service of this order to show cause why we should not make final our tentative decision to reselect 40-Mile Air to provide essential air service at Healy Lake at the service and subsidy levels discussed above. We expect persons objecting to our tentative decision to support their objections with relevant and material facts. We will not entertain general, vague or unsupported objections.

Request for Proposals

In the event any carrier other than the incumbent is interested in filing proposals, with or without subsidy requests, it should file them within 30 days of the date of service of this order. At the end of that period, our staff will notify the incumbent if a competing proposal has been filed, while keeping any such competing proposal confidential, and provide it 15 days to modify its proposal, if it so chooses. At the end of those 15 days, we will docket all proposals, thereby making them public for the first time, and direct each carrier, including the incumbent, to serve a copy of its proposal on the civic parties and other applicants. Shortly afterwards, we would provide a summary of the proposals to the community officials and ask them to submit their final comments, including ranking their preferences for the various options, while giving full consideration to all proposals that are timely filed.¹

New Procedures

The preceding paragraph reflects streamlined carrier-selection procedures that we have introduced for the essential air service program generally. In the past, we have accepted initial carrier proposals, reviewed them, and then negotiated final proposals with each applicant before formally presenting the proposals to the community and asking for their final comments. We had found that a negotiation process was generally necessary because, in most cases, the incumbent carrier was the only one interested. In this case, if another carrier wishes to submit a proposal, we will use the new procedures.

¹ In cases where a carrier proposes to provide essential air service without subsidy and we determine that service can be reliably provided without such compensation, we do not proceed with the carrier-selection case. Instead, we simply rely on that carrier's subsidy-free service as proposed.

Consequently, interested carriers should prepare their proposals with every expectation that their initial proposals will also be their final and only proposals.² We retain the discretion to negotiate proposals with carriers when we deem it desirable; in such cases, of course, we would give all applicants the same opportunity. We also retain the discretion to reject outright all unreasonable or unrealistic proposals and resolicit a new round of proposals.

We are hereby providing interested carriers with some basic information to serve as guidance when they prepare their proposals, but we will not prescribe a precise format for their proposals. We expect proposals to adequately describe the service being proposed and the annual amount of subsidy being requested. The applicants can make their own judgments as to the level of detail they wish to present; however, they might want to include proposed schedules as well as supporting data for their subsidy requests, such as aircraft type, flight frequencies, projected block hours, passengers, revenues and expenses, completion factor, intermediate stops (if any), and whether or not upline service is contemplated. We strongly encourage clear, well-documented proposals that will facilitate their evaluation by the affected community and the Department. We do not anticipate any change in our selection criteria, or in the general provisions governing subsidy payments for essential air service.³

We encourage proposals that meet the needs of the community in an efficient manner. Carriers are also welcome to propose more than one service option, if they choose, and they need not limit themselves in any way if they envision other, potentially more attractive service possibilities -- different hubs or aircraft, for example -- with subsidy requirements that remain competitive.

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.⁴ Consequently, all carriers receiving Federal subsidy to support essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those carriers whose subsidies exceed \$100,000 over the life of the rate term must also certify that they are in compliance with the regulations

² For this reason, we will allow carriers 30 days to submit their proposals, rather than just 20 as in the past. Also, it is incumbent on each carrier to discuss with the communities their preferences before it submits its proposals.

³ In selecting a carrier to provide subsidized essential air service, 49 U.S.C. 41733(c)(1) directs us to consider four factors: (1) service reliability; (2) contractual and marketing arrangements with a larger carrier at the hub; (3) interline arrangements with a larger carrier at the hub; and (4) community views. In addition, we have always given weight to the applicants' relative subsidy requirements. Appendix C contains the general provisions governing essential air service; as in the past, these provisions will be included in the selection order as part of the Department's authorization of subsidy for the selected service.

⁴ The regulations applicable to these areas are: (1) 49 CFR Part 20 – New restrictions on lobbying; (2) 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation – Effectuation of title VI of the Civil Rights Act of 1964; 49 CFR Part 27 – Nondiscrimination on the basis of disability in programs and activities receiving or benefiting from Federal financial assistance; and 14 CFR Part 382 - Nondiscrimination on the basis of disability in air travel; and (3) 49 CFR Part 29 – Government-wide debarment and suspension (non-procurement) and government-wide requirements for drug-free workplace (grants).

governing lobbying activities. All carriers that plan to submit proposals involving subsidy should submit the required certifications along with their proposals. Interested carriers requiring more detailed information regarding these requirements as well as copies of the certifications should contact the Office of Aviation Analysis at (202) 366-1053. The Department is prohibited from paying subsidy to carriers that do not submit these documents.

Community and State Comments

The community and State are welcome to submit comments at any time.⁵ In any event, if proposals are filed, we will provide a summary of them to the civic parties and ask them to file their final comments.⁶

Carrier Fitness

49 U.S.C. 41737(b) and 41738 require that we find an air carrier fit, willing and able to provide reliable service before we may compensate it for essential air service. 40-Mile Air is a certificated air carrier and has operated successfully for a number of years. We last reviewed the fitness of 40-Mile Air when we selected it to provide essential air service at Healy Lake in Order 2002-8-18. 40-Mile Air remains subject to the Department's continuing fitness monitoring. No information has come to our attention that would lead us to conclude that 40-Mile Air does not continue to be fit. The Federal Aviation Administration states that it knows of no reason to question 40-Mile Air's fitness. We therefore conclude that the carrier remains fit to conduct the operations proposed here.

This order is issued under authority delegated in 49 CFR 1.56a(f).

ACCORDINGLY,

1. We tentatively reselect 40-Mile Air, Ltd., to provide essential air service at Healy Lake, Alaska, as described in Appendix B, for the period from June 1, 2004, through May 31, 2006;
2. We tentatively set the final rate of compensation for 40-Mile Air, Ltd., for the provision of essential air service at Healy Lake, Alaska, as described in Appendix B, for the period from June 1, 2004, through May 31, 2006, payable as follows: for each month during which essential air service is provided, the amount of compensation shall be subject to the weekly ceiling set forth in Appendix B, and shall be determined by

⁵ Civic parties should file an original and five copies of their comments in Docket OST-98-4899 (43145). Comments should be addressed to: Documentary Services Division, Docket Section, SVC 124.1, Office of the Secretary, U.S. Department of Transportation, Room PL 401, 400 Seventh Street, S.W., Washington D.C. 20590.

⁶ In cases where a carrier proposes to provide full essential air service without subsidy and we determine that service can be reliably provided without such compensation, we do not normally hold rate conferences. Instead, we rely on the carrier's subsidy-free service.

multiplying the subsidy-eligible arrivals and departures completed during the month by \$248.94;⁷

3. We direct 40-Mile Air, Ltd., to retain all books, records, and other source and summary documentation to support claims for payment, and to preserve and maintain such documentation in a manner that readily permits its audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department indicates that the records may be destroyed, whichever comes first. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order;

4. We find that 40-Mile Air, Ltd., continues to be fit, willing and able to operate as a certificated air carrier and capable of providing reliable essential air service at Healy Lake, Alaska;

5. We direct interested parties having objections to the selection of 40-Mile Air, Ltd., to provide essential air service as described in ordering paragraph 1 above, at the rate set forth in ordering paragraph 2 above, to file such objections or competing service proposals no later than 30 days from the date of service of this order;⁸

6. If we receive objections or competing proposals within the 30-day period, 40-Mile Air, Ltd., will be compensated at the subsidy rate set forth in ordering paragraph 2 above as a final rate, effective June 1, 2004, until all objections are resolved;

7. We will afford full consideration to the matters and issues raised in any timely and properly filed objections and service proposals before we take further action.⁹ If no objections or competing service proposals are filed, all further procedural steps will be deemed waived and this order shall become effective on the thirty-first day after its service date;

⁷ See Appendix C for the calculation of 40-Mile Air's subsidy rate, which assumes the use of the aircraft designated. If the carrier reports a significant number of aircraft substitutions, revision of this rate may be required.

⁸ Objections should be filed with the Dockets Operations and Media Management, M-30, Room PL-401, Department of Transportation, 400 7th Street, S.W., Washington, DC 20590. Proposals to provide essential air service should be filed with the Chief, EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7th Street, S.W. Washington, DC 20590. Questions regarding filings in response to this order may be directed to John McCamant at (202) 366-1060.

⁹ Since we are providing for the filing of objections to this order, we will not entertain petitions for reconsideration.

8. Docket OST 1998-3546 shall remain open until further order of the Department;
and

9. We will serve copies of this order on the Healy Lake Village Council, the Alaska State Department of Transportation and Public Facilities, the Governor of Alaska, 40-Mile Air, and the parties listed in Appendix D.

By:

KARAN K. BHATIA
Assistant Secretary for Aviation
and International Affairs

(SEAL)

An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov>

**40-MILE AIR, LTD.
ESSENTIAL AIR SERVICE TO BE PROVIDED AT
HEALY LAKE, ALASKA**

Effective Period: June 1, 2004, through May 31, 2006

Service: Two nonstop round trips each week to Fairbanks ¹

Aircraft: Cessna 206 or 207 (5 passenger seats)

Subsidy Rate: Per year - \$51,781
Per arrival from or departure to Fairbanks - \$248.94 ²

Weekly
Compensation Ceiling \$995.76 ³

¹ Up to two intermediate stops permitted.

² Annual compensation of \$51,781, divided by the number of arrivals and departures estimated to be performed annually (208).

³ The subsidy rate for each arrival/departure (\$248.94) multiplied by the number of scheduled subsidy-eligible flights per week (4).

Note: The carrier understands that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of the rate order, including the service plan outlined in the order and any other significant elements of the required service, without prior approval. The carrier understands that an aircraft take-off and landing at its scheduled destination constitutes a completed flight; absent an explanation supporting subsidy eligibility for a flight that has not been completed, such as certain weather cancellations, only completed flights are considered eligible for subsidy. In addition, if the carrier does not schedule or operate its flights in full conformance with this order for a significant period, it may jeopardize its entire subsidy claim for the period in question. If the carrier contemplates any such changes beyond the scope of the order during the applicable period of these rates, it must first notify the Office of Aviation Analysis in writing and receive written approval from the Department to be assured of full compensation. Should circumstances warrant, the Department may locate and select a replacement carrier to provide service on these routes. The carrier must complete all flights that can be safely operated; flights that overfly points for lack of traffic will not be compensated. In determining whether subsidy payment for a deviating flight should be adjusted or disallowed, the Department will consider the extent to which the goals of the program are met and the extent of access to the national air transportation system provided to the community.

If the Department unilaterally, either partially or completely, terminates or reduces payments for service or changes service requirements at a specific location provided for under this order, then, at the end of the period for which the Department does make payments in the agreed amounts or at the agreed service levels, the carrier may cease to provide service to that specific location without regard to any requirement for notice of such cessation. Those adjustments in the levels of subsidy and/or service that are mutually agreed to in writing by the parties to the agreement do not constitute a total or partial reduction or cessation of payment.

Subsidy contracts are subject to, and incorporate by reference, relevant statutes and Department regulations, as they may be amended from time to time. However, any such statutes, regulations, or amendments thereto shall not operate to controvert the foregoing paragraph.

Appendix C

**40-Mile Air, Ltd.
Calculation of Subsidy Requirement
At Healy Lake, Alaska**

Route: FAI-HKB-FAI
 Total block hours: 208 1/
 Frequency: 2 round trips per week
 Aircraft Type: Cessna 206/207 (5-seats)

<u>Revenue</u>	Distance	Rate	Amt./lbs.	Revenue
Passenger	110	\$60.00	110	\$6,600
Cargo		0.3	12,000	\$3,600
Mail		0.7688	3,390	\$2,606
Total operating revenue				<u>\$12,806</u>
 <u>Direct operating expense</u>		Unit cost		Expense
Pilot & Copilot		\$48.17 per BH		\$10,019
Fuel & Oil		\$45.00 per BH		\$9,360
Maintenance		\$56.00 per BH		\$11,648
Depreciation		\$27.14 per BH		\$5,645
Insurance		\$55.70 per BH		\$11,586
Agent Fee at Healy Lake		\$20.00 per HKB departure		\$2,080
Total Direct Operating Expenses				<u>\$50,338</u>
 <u>Indirect Operating Expenses</u>				
@ 25% of Direct Operating Expenses net Depreciation				\$11,173
 Total Operating Expenses				 \$61,511
 Operating loss				 \$48,705
 Profit element @ 5 percent of Total Operating Expense				 \$3,076
 Compensation requirement				 \$51,781

1/ Block hours = (FAI-HBK, 1 hr.) x 4 flights a week x 52 = 208 hours.

State of Alaska Service List

Aaron Air	Gulf Air Taxi, Inc.	Ray Atkins Registered Guide
Aero Tech Flight Service, Inc.	Gulf Aviation, Inc.	Rediske Air, Inc.
Air Excursions	Gulkana Air Service, Inc.	Reeve Aleutian Airways, Inc.
Air Lift Alaska	Hageland Aviation Services, Inc.	Regal Air
Air Madura	Haines Airways, Inc.	Reid Air
Alaska Airlines, Inc.	Heli-Lift, Inc.	Rust's Flying Service, Inc.
Alaska Bush Carrier, Inc.	Homer Air	Ryan Air Service, Inc.
Alaska Central Express, Inc.	Hudson Air Service, Inc.	Scenic Mountain Air, Inc.
Alaska Coastal Airlines, Inc.	Iliamna Air Taxi, Inc.	Seaside Air Service
Alaska Fly'N Fish Charters	Island Air Service	Security Aviation, Inc.
Alaska Flyers	Island Wings Air Service	Seward Flying Service, Inc.
Alaska Helicopters, Inc.	Jim Air, Inc.	Silver Bay Logging, Inc.
Alaska Island Air, Inc.	K2 Aviation	Skagway Air Service, Inc.
Alaska Seair Adventures	Kachemak Air Service, Inc.	Soloy Helicopters, Inc.
Alaska West Air, Inc.	Kachemak Bay Flying Service, Inc.	Southcentral Air, Inc.
Aleutian Air, Ltd.	Katmai Air	Specialized Air Service
Aleutian Specialty Aviation	Kenai Air Alaska, Inc.	Spemak Airways
Allegheny Commuter airlines, Inc.	Kenai Fjords Outfitters, Inc.	Sunrise Aviation, Inc.
Amerijet International, Inc.	Kenair	Tamarack Air, Ltd.
Arctic Air Alaska, Inc.	Ketchikan Air Service, Inc.	Tanana Air Service
Arctic Circle Air Service, Inc.	Ketchum Air Service, Inc.	Taquan Air Service, Inc.
Baker Aviation, Inc.	Kodiak Air Service	Tatonduk Outfitters, Inc.
Bellair, inc.	Koyukon Air, Inc.	Temsco Helicopters, Inc.
Beluga Lake Float Plane Service	Kupreanof Flying Service	Totem Air
Bering Air, Inc.	Kusko Aviation, Inc.	Trans-Alaska Helicopters, Inc.
Bran-Air & Branham Adventures	L.A.B. Flying Service, Inc.	Trans-Porter Alaska, Inc.
Camai Air	Larry's Flying Service, Inc.	Tundra Copters, Inc.
Canning Air Service	Loken Aviation, Inc.	Umiat Enterprises, Inc.
Cape Smythe Air Service, Inc.	Lone Star Airlines, Inc.	Uyak Air Service
Cassaron Turbo Helicopters	Lone Wolf Aero Services, Inc.	Vemair
Chugiak Aviation	Maritime Helicopters, Inc.	Warbelow's Air Ventures, Inc.
Clearwater Air, Inc.	MarkAir, Inc.	Ward Air
Coastal Helicopters, Inc.	Metroflight, Inc.	Wings of Alaska
Cordova Air Service, Inc.	Midway Airlines, Inc.	Woods Air Service, Inc.
CPA Air Service	Midwest Express Airlines, Inc.	Wrangell Mountain Air, Inc.
Customized Alaskan Adventures	Misty Fjords Air & Outfitting	Wright Air Service, Inc.
Delta Connection	Mountain Aviation	Yukon Helicopters
Denali air	Mountain Helicopters	Yutana Airlines, Inc.
Egli Air Haul, Inc.	Nash West Aviation, Ltd.	Yute Air Alaska, Inc.
Ellis Air Taxi, Inc.	Natron Air	
Ellison Air, Inc.	Nordic Air	
ERA Aviation, Inc.	North Star Air Cargo, Inc.	Alaska Juneau Aeronautics, Inc.
F.S. Air Service, Inc.	Northern Air Cargo, Inc.	Ken Bannon
Fishing and Flying	Northwest Airlink	E. B. Freeman
Fiskehauk Aero Service	Olson Air Service, Inc.	A. Edward Jenner
Forty (40)-Mile Air, Ltd.	Pacific Wing, Inc.	John McFarlane
Frontier Flying Service, Inc.	Peninsula Airways, Inc.	Kevin Thomas
Golden Plover Air	Precision Valley Aviation, Inc.	Pat Dempsey
Grant Aviation, Inc.	Promech, Inc.	P. Richard Steinman III
Great Northern Air Guides	Ram Air, Inc.	

Appendix A

Healy Lake O&D Traffic

Passengers	<u>1stQ 01</u>	<u>2ndQ 01</u>	<u>3rdQ 01</u>	<u>4thQ 01</u>	<u>Total</u>
Healy Lake-Fairbanks	6	10	4	3	23
Fairbanks-Healy Lake	<u>8</u>	<u>30</u>	<u>8</u>	<u>8</u>	<u>54</u>
Total	14	40	12	11	77

Cargo (lbs.)	<u>1stQ 01</u>	<u>2ndQ 01</u>	<u>3rdQ 01</u>	<u>4thQ 01</u>	<u>Total</u>
Healy Lake-Fairbanks	71	76	50	201	398
Fairbanks-Healy Lake	<u>767</u>	<u>3,644</u>	<u>1,979</u>	<u>2,058</u>	<u>8,448</u>
Total	838	3,720	2,029	2,259	8,846

Mail (lbs.)	<u>1stQ 01</u>	<u>2ndQ 01</u>	<u>3rdQ 01</u>	<u>4thQ 01</u>	<u>Total</u>
Healy Lake-Fairbanks	55	79	78	14	226
Fairbanks-Healy Lake	<u>1,015</u>	<u>821</u>	<u>958</u>	<u>1,219</u>	<u>4,013</u>
Total	1,070	900	1,036	1,233	4,239

Passengers	<u>1stQ 02</u>	<u>2ndQ 02</u>	<u>3rdQ 02</u>	<u>4thQ 02</u>	<u>Total</u>
Healy Lake-Fairbanks	3	15	5	36	59
Fairbanks-Healy Lake	<u>4</u>	<u>16</u>	<u>2</u>	<u>48</u>	<u>70</u>
Total	7	31	7	84	129

Cargo (lbs.)	<u>1stQ 02</u>	<u>2ndQ 02</u>	<u>3rdQ 02</u>	<u>4thQ 02</u>	<u>Total</u>
Healy Lake-Fairbanks	2	218	65	110	395
Fairbanks-Healy Lake	<u>1,147</u>	<u>4,234</u>	<u>1,141</u>	<u>7,532</u>	<u>14,054</u>
Total	1,149	4,452	1,206	7,642	14,449

Mail (lbs.)	<u>1stQ 02</u>	<u>2ndQ 02</u>	<u>3rdQ 02</u>	<u>4thQ 02</u>	<u>Total</u>
Healy Lake-Fairbanks	36	48	33	29	146
Fairbanks-Healy Lake	<u>1,170</u>	<u>782</u>	<u>283</u>	<u>1,109</u>	<u>3,344</u>
Total	1,206	830	316	1,138	3,490

Passengers	<u>1stQ 03</u>	<u>2ndQ 03</u>	<u>3rdQ 03</u>	<u>4thQ 03</u>	<u>Total</u>
Healy Lake-Fairbanks	8	18	7	14	47
Fairbanks-Healy Lake	<u>5</u>	<u>14</u>	<u>13</u>	<u>12</u>	<u>44</u>
Total	13	32	20	26	91

Cargo (lbs.)	<u>1stQ 03</u>	<u>2ndQ 03</u>	<u>3rdQ 03</u>	<u>4thQ 03</u>	<u>Total</u>
Healy Lake-Fairbanks	147	83	72	129	431
Fairbanks-Healy Lake	<u>1,897</u>	<u>2,865</u>	<u>2,008</u>	<u>3,129</u>	<u>9,899</u>
Total	2,044	2,948	2,080	3,258	10,330

Mail (lbs.)	<u>1stQ 03</u>	<u>2ndQ 03</u>	<u>3rdQ 03</u>	<u>4thQ 03</u>	<u>Total</u>
Healy Lake-Fairbanks	28	16	44	27	115
Fairbanks-Healy Lake	<u>899</u>	<u>858</u>	<u>748</u>	<u>682</u>	<u>3,187</u>
Total	927	874	792	709	3,302

Source: 40-Mile Air Form 298-C, Schedule T-1