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REVIEW OF THE U.S. FOREST SERVICE FIREFIGHTING AIRCRAFT PROGRAM

HEARING
BEFORE THE
SUBCOMMITTEE ON SPECIALTY CROPS
AND NATURAL RESOURCES
OF THE
COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

AUGUST 5, 1993

Serial No. 103-40

SUPERINTENDENT OF DOCUMENTS
JUN 24 1994



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REVIEW OF THE U.S. FOREST SERVICE FIREFIGHTING AIRCRAFT PROGRAM

THURSDAY, AUGUST 5, 1993

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SPECIALTY CROPS
AND NATURAL RESOURCES,
COMMITTEE ON AGRICULTURE,
Washington, DC.

The subcommittee met, pursuant to call, at 10:25 a.m., in room 1300, Longworth House Office Building, Hon. Charlie Rose (chairman of the subcommittee) presiding.

Present: Representatives Bishop, Pomeroy, English, Volkmer, Lewis, and Goodlatte.

Staff present: John E. Hogan, minority counsel; Glenda L. Temple, clerk; Keith Pitts, Alex Buell, James A. Davis, and Stacy Steinitz.

OPENING STATEMENT OF HON. CHARLIE ROSE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. ROSE. The Specialty Crops and Natural Resources Subcommittee of the House Agriculture Committee will now come to order.

The purpose of today's hearing is to review the U.S. Forest Service firefighting aircraft program. I want to thank everyone for attending today's meeting.

What the Office of Inspector General told this subcommittee has a great many concerned in this country. It has revealed a horrendously mismanaged Government-sponsored program that operated illegally and in contradiction with the interests of the American people.

We will learn, as best we can today, how an apparently benign and well-intentioned program at the Department of Defense, a historic aircraft exchange program for museums, was illegally manipulated by Government officials, one broker named Roy Reagan, and a handful of handpicked companies to bilk the Federal Government of aircraft worth millions of dollars.

Not only did these companies receive these aircraft free of charge from the Government, but in many instances those companies passed incidental brokerage fees, a charge by Roy Reagan, on to the Federal Government through their lucrative firefighting contracts with the Forest Service. In many instances, acquired aircraft were stripped for parts or sold on the market beyond the scope of firefighting.

As a whole, this situation stinks to high heaven. Once again, the Reagan revolution comes back to haunt the American people.

It is my hope, and my expectation, that today's hearing will result in a firm commitment by the Clinton administration to take measures to correct administrative and leadership problems with involved Federal agencies and to work with the Congress to ensure the air tanker fleet program operates on a fair, efficient, and competitive basis and, ultimately, in the interest of the American people. I believe the program must be completely overhauled with adequate safeguards to ensure that aircraft solely operate for firefighting purposes.

Finally, no guarantee exists now for a competitive program. I strongly believe that these companies that acquire title to Federal Government aircraft through the Forest Service must relinquish title to the Federal Government and also accept the terms and conditions of the reformed air tanker program. If any such contractor cannot abide by these remedial actions, I suggest they be permanently disbarred from future participation in all Federal Government programs.

Our first witness today is Mr. James Ebbitt, the Assistant Inspector General for Audit, U.S. Department of Agriculture, Washington, DC.

Mr. Ebbitt, the floor is yours.

STATEMENT OF JAMES R. EBBITT, ASSISTANT INSPECTOR GENERAL, AUDIT, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY CRAIG L. BEAUCHAMP, ASSISTANT INSPECTOR GENERAL, INVESTIGATIONS

Mr. EBBITT. Thank you, Mr. Chairman. I am pleased to be here this morning. With me this morning is Craig Beauchamp, the Assistant Inspector General for Investigations.

We have prepared a statement, Mr. Chairman, that I would like to submit for the record but will summarize now if that is all right.

Mr. ROSE. Certainly that is all right. Go ahead.

Mr. EBBITT. Thank you.

We are pleased to be here today before the subcommittee to discuss our audit of Forest Service aircraft activities. Based upon our audit work, we also initiated an investigation to determine if there was any criminal wrongdoing involved in this matter. We have furnished a report of the investigation to the Department of Justice for their review. Because the matter is still ongoing, we cannot really get into a lot of specifics on the investigation today. However, we would, of course, like to thoroughly discuss the audit process.

Just for background, Mr. Chairman, the Forest Service owns and operates 45 aircraft and 1 helicopter and contracts for the services of additional aircraft for the purpose of fighting fires. Forest Service-owned aircraft primarily assist the agency's incident commander in the management of a fire, including targeting air tankers to the points where retardant needs to be dropped.

The Forest Service contracts right now with six private firms for the services of 29 air tankers at an estimated cost of about \$16 million a year. The Forest Service also has cooperative agreements with the Department of Interior and several State agencies for the

use of another 40 air tankers and can call on the National Guard if they need to in the event of serious fires.

Just a little background about the exchange program itself. Air tankers were first used in the Forest Service firefighting mission in 1954 under a Government-owned and operated program. Beginning in the early 1960's, the Forest Service contracted out the air tanker operations. The air tanker fleet has historically been made up of mainly post-World War II piston-engined military aircraft like C-119's. The planes were obtained by contractors through exchanges with the Department of Defense or were purchased as surplus.

In October 1987, the Interagency Air Tanker Board suspended the use of the C-119's primarily because of some bad accidents due to structural defects. Two companies, whose fleets were composed primarily of C-119's were most affected by the suspension. An individual with a background in the industry approached the two companies with an offer to arrange for an aircraft exchange with the Department of Defense. DOD was not interested in that exchange program, primarily because of previous misuse of some of its planes.

The individual then approached the Forest Service and requested their assistance. The Forest Service agreed to help, and the Forest Service thought they could use the historic exchange program to facilitate the exchange process.

However, the historic exchange provisions of the Federal property regulations clearly establish the requirements for transferring ownership of Federal property to outside parties. The exchange provisions were designed to facilitate Federal museums' ability to acquire historic items from the public for preservation and display. According to the regulations, both the item received and the item exchanged must be historic.

The Forest Service's justification for the exchange program was that it was needed to avoid the substantial increases in contract costs that would arise if private operators had to purchase commercial aircraft. Under the program, DOD transferred ownership of excess C-130A and P-3A military aircraft to the Forest Service. The Forest Service then transferred the aircraft to contractors in exchange for planes to be placed in Federal museums.

Between 1988 and 1991, the Forest Service received 35 aircraft from the Department of Defense which it then provided to air tanker contractors. Title passed actually on 28 of the aircraft. The Forest Service retains title on the seven other aircraft today.

There were some problems with the exchange concept. In 1989—late 1989—the Department's Office of General Counsel had ruled that the Forest Service did not have authority to exchange the Government-owned aircraft under the exchange program.

GSA and DOD officials informed us that the aircraft were provided with the understanding that the aircraft were to remain Government-owned property and furnished to the contractors for their use. Forest Service officials involved in the process thought that they had received verbal authorization from those agencies for the ownership transfer.

Mr. ROSE. Wait a minute. Verbal authorization for what they did with Federal Government airplanes?

Mr. EBBITT. Yes, sir. Mr. Chairman, we couldn't find any written evidence to document that GSA or Defense had approved the passage of the title. Second, all the officials that we talked to at those agencies told us that it was clearly their understanding that the Forest Service, the Government would retain title.

Mr. ROSE. I have a copy of the exchange agreements covering these aircraft.

It is mutually agreed by and between the USDA Forest Service, hereinafter referred to as the Forest Service, and the Hemet Valley Flying Service, Hemet Valley, California, hereinafter referred to as the Exchanger, as follows: And then there is a contract with Hawkins & Powers Aviation, Greybull, Wyoming. And there is a contract with T.B.M. Incorporated, Tulare, California, hereinafter referred to as the Exchanger. Then I have a contract here between the Forest Service and T&G/Douglas County Aviation, Chandler, Arizona, hereinafter referred to as the Exchanger.

In all of these contracts the second paragraph is the same: "The Forest Service will provide the following aircraft to the Exchanger for use as firefighting air tankers, and they may only be flown in support of forest brush or rangeland protection."

Are you familiar with these agreements?

Mr. EBBITT. Yes, sir.

Mr. ROSE. Is that not what it says?

Mr. EBBITT. Yes, sir; it does.

Mr. ROSE. Now, how does an agency of the Federal Government modify that contract with these people? Is this part of the Government's way to do foreign policy, through the U.S. Department of Agriculture, just like we saw in arming Iraq?

I know you don't know the answer to that, but I am very suspicious. And I would ask you how many of these airplanes—the C-130's mainly—the P03's were basically useful only as firefighting—but the C-130A could be used for many other purposes. I am told that only 3 C-130's out of 22 that were actually sold under these agreements ever got used for firefighting, and that today you can't tell me where the others are.

We know some are in Saudi Arabia. We know some are in France. We know some were stripped for parts. Do you know where the other C-130's are, Mr. Ebbitt?

Mr. EBBITT. Mr. Chairman, we have gone out to the field and actually seen each one of these aircraft. They are here in the United States. They are located with the contractors that are doing business with the Forest Service. I have here in my file the exact status of each of those aircraft and where they are located and what they are being used for.

Mr. ROSE. Didn't you find some of them—do you know that some of them have not been used for support of forest, brush, and rangeland protection?

Mr. EBBITT. Yes, Mr. Chairman.

Mr. ROSE. How many of them were used for forest, brush, and rangeland protection and nothing else?

Mr. EBBITT. There is a total of 11 that are currently being used for firefighting operations.

We are also aware—early in the program we had two of the C-130's that were used overseas in the Persian Gulf operation.

Mr. ROSE. The Persian Gulf operation by whom?

Mr. EBBITT. One of the contractors had them overseas hauling cargo during that operation.

Mr. ROSE. Was that permitted by this contract?

Mr. EBBITT. No, sir; it was not. That is one of the problems that we discovered during the audit process.

Mr. ROSE. All right. Now, I believe that the FAA attempted to modify this contract when it issued a general license for flying these planes, is that correct?

Mr. EBBITT. FAA issues a type certificate for the airplanes to be used. The original type certificate said in effect that the planes could be used for firefighting purposes and also cargo hauling operations.

Mr. ROSE. But that doesn't read like the original contract between the Forest Service and each of these contractors, does it?

Mr. EBBITT. No, sir; it does not. The exchange agreement contract that you are reading from was the instrument that the Forest Service used with each contractor. The Forest Service attempted to use that to tie the operations down to clearly firefighting only. But with the FAA's certificate it didn't prevent, obviously, this one contractor from taking the planes out of the country.

Mr. ROSE. Well, have you made all of that available to the Justice Department?

Mr. EBBITT. All of that information is included either in the audit or the investigation, that is correct, sir.

Mr. ROSE. You haven't highlighted it, I don't guess, have you?

Mr. EBBITT. Oh, I think we have.

Mr. ROSE. All right. Now, can you give us a further summary of your statement?

Mr. EBBITT. Yes, sir.

Now, as far as the planes that we got in exchange under the program, the U.S. Air Force museum personnel told us that contractors' aircraft were not of sufficient historic or monetary value to exchange for the C-130 aircraft. Information from industry sources told us that the commercial value of the C-130A ranged from about \$1.75 million to as much as \$3.5 million. Parts on the C-130 can sell for as much as \$1 million. Therefore, the value ranges from \$28 million to as much as \$67 million for the aircraft that the Government provided.

Now, we have talked a little bit about problems with how the planes were used. Part of that deals with the exchange agreement we have just mentioned.

The Forest Service had not structured that agreement to be sure that aircraft would be used only for the purposes intended. While the exchange agreement signed by the agency and the contractors did require usage of the planes as firefighting air tankers, the agreements did not require the firms convert the planes to air tankers nor did it contain any restrictions to prevent contractors from selling, transferring, or giving away the aircraft or their parts.

Mr. ROSE. Now, who said that?

Mr. EBBITT. The exchange agreement required the planes to be only used for firefighting operations.

Mr. ROSE. Yes.

Mr. EBBITT. One of the flaws in the agreement was that it didn't further limit—

Mr. ROSE. Wait a minute. If it says it is supposed to be only used in support of forest, brush, and rangeland protection, it didn't need to say what else it couldn't be used for. All it said was what it could be used for. So you are saying a flaw in the contract was it didn't go far enough because it didn't spell out what it couldn't be used for? That is not real clever, Mr. Ebbitt.

Mr. EBBITT. I understand what you are saying, Mr. Chairman. I agree that the agreement says use this plane for firefighting purposes.

Mr. ROSE. Exactly.

Mr. EBBITT. That is correct.

Mr. ROSE. And if it is not done that way and if it has been used in any other way, that amounts to criminal fraud against the United States of America in my opinion. And I am going to write the Justice Department this afternoon and tell them that I believe that they should look at that very carefully.

Mr. EBBITT. All of those issues, in fact, Mr. Chairman, are part of what we were looking at in both the audit process and the investigation process.

Mr. ROSE. Have you talked to the representatives from the Lockheed Corporation?

Mr. EBBITT. I don't believe we have talked directly to Lockheed.

Mr. ROSE. Well, Lockheed has sent me information that they have found in an Italian newspaper, an advertisement with an Italian company's phone number, for selling two C-130's and that they have discovered that they are included in these agreements. Are you aware of that, Mr. Ebbitt?

Mr. EBBITT. You are saying that there is an advertisement?

Mr. ROSE. An advertisement in an Italian newspaper, use them for firefighting or cargo.

Mr. EBBITT. Yes, sir. We are aware that one of the contractors has been attempting to sell two of the C-130's.

Mr. ROSE. Does the Justice Department know about that?

Mr. EBBITT. Yes, sir; they do.

Mr. ROSE. Have they taken any legal action to bring those planes back? To get a court order or an injunction against that owner of that plane to stop attempting to sell U.S. Government property in Italy?

Mr. EBBITT. I don't know that the Justice Department has taken any action directly. I do know that no sale has been consummated as far as those two planes are concerned. And, in fact, those planes, as I understand it, have recently been repossessed by a finance company that had an interest in financing those planes.

Mr. ROSE. Go ahead and tell me what else is wrong with the agreement.

Mr. EBBITT. Mr. Chairman, we also have—on those two planes in particular, we do have litigation that the Department's general counsel is working on as far as those two planes are concerned.

We talked about problems with how the planes were used. We have one contractor we have just discussed that did use two planes overseas to carry cargo in the Persian Gulf. We understood that he

received in compensation or was to receive approximately \$925,000 of compensation for that deal.

We have another contractor that used the P-3A to test engines for a private manufacturer, and we know that one other contractor sold over \$1 million in parts from aircraft.

Mr. Chairman, I would like to talk a little bit about the exchange broker that you mentioned earlier. The exchanges between the Forest Service and the air tanker contractors were brokered by a private individual whose contractor clients received 25 of the 28 aircraft eventually transferred. Only 5 of the approximately 15 air tanker contractors in the industry received aircraft.

Four of the five contractors receiving aircraft were clients of this broker. For his services, the broker received four of the C-130A aircraft from the contractors, which he then sold back to them for a little over \$1 million.

Mr. Chairman, as part of the total package there were 35 aircraft we are dealing with. I mentioned 28 they actually transferred title on. The Forest Service had seven other aircraft where title had not transferred, at the time the general counsel issued the opinion in late 1989, that this exchange program was not the way to proceed.

The Forest Service stopped transferring title to these planes at that time. However, the planes had, in fact, been delivered to the contractors, and they are out there either being used for parts or being stored by the contractors at this time.

Mr. ROSE. Let me ask you a question.

Yesterday's Portland Oregonian, which is called The Oregonian, August 4, according to your audit or some copies of your audit that they must have or think they have, the reason was that the Forest Service had been embarrassed in the past by misuse of military aircraft transferred to other parties through museums.

The reference wasn't explained, but Larry Sall, director of the document collection on the CIA's proprietary airlines at the University of Texas at Dallas, said he had heard of museums being used to launder planes for the CIA. When the CIA established Intermountain Aviation near Davis-Monthan boneyard in the 1960's, the Pentagon knowingly sold the planes for \$1 apiece and the Forest Service provided firefighting contracts as commercial cover.

The Forest Service also channeled dozens of its smokejumpers into the CIA, and Forest Service employees became top executives of Intermountain. Under congressional pressure this was changed and so forth. Was that in your audit?

Mr. EBBITT. No, sir, that is not in our audit.

Mr. ROSE. Are you aware of those statements?

Mr. EBBITT. I read the Oregonian this morning. I am familiar with some of the testimony going back to 1976 that talked about that, but that is my only familiarity, from reading those documents.

Mr. ROSE. Well, do you suspect that the Forest Service was being used to funnel aircraft into the CIA's proprietary airline program?

Mr. EBBITT. We have absolutely no evidence of that, Mr. Chairman.

Mr. ROSE. But this certainly talks about it in the Oregonian, does it not?

Mr. EBBITT. Yes, it does.

Mr. ROSE. Have you investigated any of those allegations?

Mr. EBBITT. All throughout the audit process we attempted to determine all the players that were involved, and we had no indications that there was any CIA involvement or connection at all.

Mr. ROSE. Don't you agree that the Forest Service should be concerned about getting as much firefighting power as it can for the lowest possible dollar for the U.S. Forest Service?

Mr. EBBITT. Yes, sir.

Mr. ROSE. Isn't that the main reason we have been dealing with this—these old airplanes—is to get the Government to give us items that can help cut down on taxes that we have to pay for running the Forest Service?

Mr. EBBITT. That is correct, sir. The whole idea of this program was to get these needed C-130's out there and—with the concept being that, since we provided them the airplane—the Government provided the airplane—the contract costs in turn would be reduced.

Mr. ROSE. Is it fair to say that this arrangement stinks the way it has turned out?

Mr. EBBITT. Mr. Chairman, it has clearly been operated against Federal regulations. There is no doubt about that. And it is clear that the Forest Service oversight needed to be much stronger in this area than it was.

Mr. ROSE. Thank you, sir.

[The article follows:]

The Oregonian

Portland, Oregon

Story that appeared on p1, The Oregonian, Wednesday, Aug. 4, 1993

By JAMES LONG
of The Oregonian Staff

A senior member of Congress says he suspects CIA involvement in the U.S. Forest Service's controversial exchange of 28 surplus military airplanes for obsolete firefighting craft owned by five private companies.

"It has all the markings of a covert action in the making," Rep. Charlie Rose, D-N.C., said Tuesday. "This sort of thing was supposed to have stopped in 1976."

Rose has scheduled a hearing Thursday to try to get to the bottom of the story. He is chairman of the House Agriculture Committee's subcommittee on specialty crops and natural resources, which oversees the Forest Service, a branch of the Agriculture Department.

The plane swap was put together in 1988-89 by Roy D. Reagan, now 53, a Medford aircraft consultant.

In October, the Agriculture Department inspector general's office issued an audit report saying the Forest Service had no authority to trade the government planes to private parties. The Forest Service had obtained the mothballed planes — 22 Air Force C-130A cargo planes and six Navy P-3A patrol bombers — from the Defense Department.

The planes were worth about \$56 million, but auditors said the Forest Service swapped them to contractors for outmoded planes that were basically junk.

The Forest Service contended that the swap would save the taxpayers up to \$148 million annually in fire tanker contract billings by making it unnecessary for operators to buy expensive new equipment.

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But when investigators went looking, only 14 of the 28 planes had been converted to airborne tankers. Nine had been cannibalized for parts, four were doing nonair tanker work or were being sold and one had crashed.

Furthermore, only seven of the 14 converted planes were under contract to the Forest Service, the report said. Of these, four P-3As had been substituted for existing DC-4 air tankers at more than double the rate the Forest Service had been paying.

After he arranged the swap, Reagan went to work on another deal to get the Defense Department to transfer two tank-fighting A-10A Warthog fighter-bombers to the Forest Service. Reagan worked for Erickson Air Crane Co. of Central Point, which hoped to get a Forest Service contract for converting the warplanes into experimental air tankers.

Rep. Bob Smith, R-Ore., and then-Rep. Les AuCoin, D-Ore., inserted a line in a defense appropriations bill authorizing the Air Force to release the A-10s to the Forest Service. But as details of the C-130A and P-3A swaps began leaking out, the Defense Department abruptly canceled the transfer.

Rep. Rose said Tuesday that the transactions reminded him of the secret Cold War partnership between the Forest Service and the CIA, in which the forest agency provided cover, recruitment and money for the spy agency's air operations.

"It was a systematic plan worked out with the cooperation of numerous people over a number of years," Rose said.

The inspector general's report did not mention the CIA, but it did lay out the story of how the Forest Service grew to depend on private contractors to help fight fires.

Since the mid-1950s, the military has made surplus aircraft available to the air-tanker companies as a way of providing heavy-lifting capability at low cost.

Accidents draw attention

The swap that drew Rose's attention had its beginnings in a series of accidents during the 1980s involving military-surplus C-119 twin-engine cargo planes.

When Hawkins & Powers Aviation of Greybull, Mont., sent one of its Korean War vintage C-119s to drop retardant on a fire in the Shasta-Trinity National Forest on Sept. 16, 1987, both wings fell off. It crashed, killing the crew.

Use of that model of plane was banned, leaving Hawkins and another major Forest Service contractor, Hemet Valley Flying Service, with a fleet of useless planes.

One man who understood the problem was consultant Reagan, a former Air Force officer who flew everything from air tankers to gliders.

If Hawkins & Powers and Hemet Valley had to replace their dozen C-119s with civilian planes, they would have to negotiate new contracts with the Forest Service at much higher rates.

Reagan went to the Air Force in December 1987 and proposed a deal. He suggested that the Air Force give the contractors C-130A turboprop transports in exchange for the grounded C-119s.

According to the audit, it was a one-sided deal.

It said the contractor's grounded airplanes were worth approximately their weight in scrap aluminum, about \$15,000, while one propeller assembly alone on a C-130A could bring \$100,000.

And each of the C-130A's four engines was worth \$250,000 more than all the old airplanes combined.

There was, of course, a different way of looking at it. The C-130As were doing nothing for the taxpayers but shading rattlesnakes at the Aerospace Maintenance and Regeneration Center, otherwise known as the "bone yard," at Davis-Monthan Air Force Base in Tucson, Ariz.

To balance the books on the trade, Reagan suggested that the Air Force accept the contractors' old airplanes as valuable museum pieces, trading them straight-across for the C-130As.

The Air Force turned Reagan down.

Using museums for laundry?

According to the audit, the reason was that the service had been embarrassed in the past by "misuse" of military aircraft transferred to other parties through museums.

The reference wasn't explained, but Larry Sall, director of the document collection on the CIA's proprietary airlines at the University of Texas at Dallas, said he'd heard of museums being used to launder planes for the agency.

When the CIA established Intermountain Aviation Inc. near the Davis-Monthan bone yard in the 1960s, the Pentagon knowingly sold it planes for a dollar apiece, and the Forest Service provided firefighting contracts as commercial cover. The Forest Service also channeled dozens of its smoke jumpers into the CIA, and Forest Service employees became top executives of Intermountain.

Under congressional pressure, the CIA in the 1970s sold Intermountain's assets to Evergreen International Aviation Inc. of McMinnville and Rosenbalm Aviation Inc. of Medford. George A. Doole, now deceased, the CIA executive who had set up the CIA's world network of proprietary airlines, went on Evergreen's board of directors, and Charles Botsford, an Air Force intelligence colonel from Portland who had shared a civilian office with Doole, became Evergreen's Washington lobbyist.

After the Air Force turned down his pitch for a trade with the contractors, Reagan went to the Forest Service, where he got a friendlier hearing.

The Forest Service had a direct stake in seeing that its contractors got cheap used planes instead of expensive new ones. The Forest Service was spending about \$10 million a year on air tankers for its 191-million-acre national forest system. It didn't want the cost to soar, and it agreed in February 1988 to help get the C-130As.

The Forest Service would use its position as a government agency to draw the 22 surplus cargo planes from the Air Force; then it would turn around and swap them to the contractors for their old airplanes. The "historic aircraft" would then be donated to the national Air Force Museum at Wright-Patterson Air Force Base in Dayton, Ohio.

Or so the plan went.

C-119s not exactly historic

The Air Force Museum, a branch of the Air Force, supervises the display of about 1,350 historic military planes at U.S. and friendly foreign military bases around the world, including 28 bases in the United States. It also lends approximately 325 planes to 103 civilian museums, such as the Smithsonian Institution and the Museum of Flight in Seattle.

The Air Force Museum wasn't enthusiastic about getting a flock of decrepit C-119s.

"The difficulty in finding federal museums to display the aircraft brings into question the value of the acquired aircraft as historic," the audit said.

The audit said only 12 of an eventual 32 exchange planes ended up in federal displays.

Although the "Historic Aircraft Exchange Program" supposedly had less to do with culture than with saving the taxpayers money, auditors said it didn't save any money, either.

Besides not having legal authority to transfer the planes, auditors said, the Forest Service neglected to write the exchange agreements in such a way as to require the contractors to actually use the planes as air tankers or prevent their re-sale or dismemberment for parts.

In fact, the Forest Service didn't write the aircraft exchange agreement at all, according to sources familiar with the case. These sources say Reagan was the author. The Forest Service's aviation office took his draft and turned it into a government document.

Some of the plane registrations didn't restrict the aircraft to firefighting use.

Auditors found that one contractor, Aero Union, used one of its surplus Navy P-3A planes for a \$189,000 contract to test a new engine for a manufacturer and also sold \$252,000 worth of cannibalized parts.

When the auditors went to check one C-130A, they found it so completely gutted that they couldn't even prove it had been a government airplane.

"All identifying markings and identification plates had also been removed or obliterated," the audit said, "to the point that we could not determine if the remains were from the exchanged aircraft."

Word gets out

There had not even been a requirement that the contractors trade planes they already owned.

"One air tanker company purchased an aircraft from the company president to exchange with the Forest Service," the audit said. "The aircraft was purchased for \$85,000 and then refurbished at an additional cost of \$63,000. Consequently, the contractor capitalized the (exchange) P-3A at \$148,000."

Aero Union was the only company that got P-3As.

Dale P. Newton, president of Aero Union, called the audit report "distorted," but said "we are not in a position to talk to any of the media," and declined further comment.

Reagan got his consulting fees mainly through contracts with Hemet Valley, T.B.M. and Hawkins & Powers entitling him to one-third of the airplanes they received from the government. The problem with this arrangement, auditors said, was that Reagan wasn't an air tanker operator.

Reagan ultimately received four C-130As and sold them for \$1.1 million to two air tanker companies.

As word about the aircraft exchange program leaked out, the Forest Service found itself contending with a gold rush of other aviation companies wanting similar deals.

One would prove to be the program's undoing.

William W. "Woody" Grantham, an owner of T&G Aviation of Chandler, Ariz., and one of the old-timers in the air tanker business, heard about the C-130A swap and demanded to get in on it.

The Forest Service refused, and Grantham went to Sen. John McCain, R-Ariz., and raised hell.

The Forest Service traded C-130As to Grantham on Sept. 30, 1989. He bought two others from Reagan.

What blew the Forest Service exchange program out of the water was a commercial cargo job Grantham accepted during the Persian Gulf War in March 1991. He used two planes to fly firefighting equipment to the Persian Gulf and was spotted by a rival.

Litigation eats up profits

Grantham said Southern Air Transport had complained that his planes were supposed to be restricted to firefighting, even though the State Department had asked for the planes and the FAA had approved.

Grantham's company made close to \$1 million on the Gulf job, but it cost him more than that to fight the subsequent investigation.

Until the 1970s, Southern Air Transport had been owned lock, stock and barrel by the CIA, which subsequently sold it to the people who ran it.

Southern was making a fortune flying cargo for the Gulf War. Its workhorse was a fleet of L-100s, a civilian version of the C-130.

Grantham's Forest Service contracts dried up overnight. He couldn't fly the C-130As domestically, and he couldn't sell them overseas because the plane is still on the U.S. munitions list and the government wouldn't grant him an export waiver.

Grantham blames Southern and its CIA and Bush-administration connections.

Pacific Harbor Capital Co., a Portland subsidiary of PacifiCorp, which had financed two of the planes, repossessed them. They are still for sale.

One of Grantham's former lawyers in San Francisco said he thought the real story inside the Forest Service air tanker story did have to do with the CIA, but not in the way most people would think.

"I don't think it's about the CIA trying to build a secret air force," said the lawyer, who asked not to be named. "But it's about the CIA, or people very close to the CIA, using their Washington connections to squash a competitor. That's the story."

Judy Schneeman, corporate communications manager for Southern Air, said that simply wasn't true. She said Southern Air was no longer connected to the CIA and that it had properly expressed concerns about the legality of Grantham's flights and the safety of the C-130As.

"They have no maintenance program," she said. "They are not certificated by the FAA or anyone else to be airworthy."

Reagan, meanwhile, was hard to reach for comment. Messages left with a family member resulted in a returned telephone call that ended up in voice-mail.

"According to my knowledge," Reagan said, "the historic aircraft exchange program, I think it's really a good program. It's the way the air tanker industry has been getting new aircraft for use in the firefighting business for in excess of 20 years."

Mr. EBBITT. If I could conclude, Mr. Chairman, about the recommendation we made in the audit report and where we stand on these issues today.

The Forest Service has taken some strong action in dealing with the issues since we issued our audit report. We recommended that they obtain a legal opinion on whether the aircraft transferred to contractors could be recovered. We recommended that they strengthen the exchange agreements to preclude improper use or disposition. We recommended that they disallow over \$2 million charged by the contractors for the value of the aircraft they traded in and any costs paid to the broker for the four C-130's that he obtained.

The Forest Service has taken action to obtain and tighten the FAA certificate issued for the planes. Specifically, the aircraft use was limited solely to firefighting.

The agency took action to get those two planes back from the Persian Gulf when they became aware of the situation. The Forest Service agreed to develop written procedures and make organizational realignments as far as who was going to handle the contract process for these planes within the organization of the Forest Service. They agreed to disallow costs associated with the broker's payment and the contract costs.

How to deal with the future. The Department established the task force to resolve the ownership issues involving the C-130's and P-3A and what would be the future role of the Forest Service in providing these aircraft to the contractors. We participated with the Forest Service, along with the General Counsel's Office and the Office of Operations, the contracting agency at the Department.

A number of recommendations have been developed by the task force and are under consideration by the Department at this time. We believe that, obviously, you have to have Defense as a partner in this—whatever agreement is reached since they are their aircraft. General Services Administration, the Government property experts, Department of Interior which has firefighting contracts, they all need to be involved in the final decision process.

Our recommendations to the Forest Service for future operations came directly out of the task force options. There were six options developed. Two of them, we felt, were reasonable options. One, of course, is Government-furnished property operated by the contractors. The second was an option whereby a competitive sales process—

Mr. ROSE. Well, thank you for your suggestions, but I think, clearly, more is needed than just policy review. I think this subcommittee needs to consider, in conjunction, hopefully, with the Department of Agriculture, some legislation to spell this out so nobody misunderstands in the future. I think the Justice Department has to conduct a very thorough investigation into possible criminal fraud involved here. I certainly am interested in how the Forest Service was used to carry out foreign policy for our Government, and I think everybody should know that.

And you have given us good testimony, but I would now like to yield to my colleagues who may have some questions.

Mr. EBBITT. Thank you.

[The prepared statement of Mr. Ebbitt appears at the conclusion of the hearing.]

Mr. ROSE. Any questions?

Mr. VOLKMER. Yes, I have questions.

First, I would like to know the name of the broker.

Mr. EBBITT. The name of the broker the chairman mentioned earlier in the discussion—his name is Roy Reagan.

Mr. VOLKMER. That is actually his name?

Mr. EBBITT. Yes, sir.

Mr. VOLKMER. Not a pseudonym?

Mr. EBBITT. Not to my knowledge.

Mr. VOLKMER. OK. You have found that these C-130's—how many of them were actually used for firefighting?

Mr. EBBITT. Mr. Volkmer, I believe the numbers are 11 have actually been used for firefighting. Others are being used for parts to keep those 11 operational.

Mr. VOLKMER. So you have had 11 actually converted?

Mr. EBBITT. Yes, sir.

Mr. VOLKMER. Out of the total.

Mr. ROSE. Would the gentleman from Missouri yield and let me ask him one question?

Mr. VOLKMER. Yes.

Mr. ROSE. You might inquire for both of us what happened to Roy Reagan's financial situation as a result of these arrangements? Is he a poor broken cowboy today or is he very wealthy?

Mr. EBBITT. I don't know the answer to that question. I do know that he received about \$1 million for the brokering of the operation.

Mr. VOLKMER. Well, didn't he get a couple aircraft, too?

Mr. EBBITT. Well, that is correct. He got four airplanes, and he sold them back to the contractors. That combined with another payment that he got from one contractor totals about \$1 million.

Mr. VOLKMER. Do you know who his contacts were within USDA?

Mr. EBBITT. He had primary contact with one of the Forest Service employees that is the subject of the audit and the investigation at the present time.

Mr. VOLKMER. Are you free to divulge that person's name?

Mr. EBBITT. Mr. Volkmer, since the investigation is still being discussed with the Department of Justice and administrative actions are being considered by the Department, I would prefer not to.

Mr. VOLKMER. I will bet you just about everybody else knows his name. How do you do something like this without knowing?

Mr. EBBITT. It is a question, Mr. Volkmer, that perhaps you want to ask the Forest Service when they testify.

Mr. VOLKMER. You had mentioned in here the C-119's value around \$10,000?

Mr. EBBITT. The planes that were being given back to the Government to complete the exchange were roughly valued between \$10,000 and \$15,000. That is correct.

Mr. VOLKMER. Do you know anybody else that wants to exchange stuff like this? I bet you I have a lot of people out here that would like to do this. You don't have to comment on that.

But how many air tankers do you know—does the Forest Service actually—I have no further questions, Mr. Chairman.

Oh, I do, too. Where is Roy Reagan from?

Mr. EBBITT. I believe he is from Oregon.

Mr. VOLKMER. Do you know what part of Oregon?

Mr. EBBITT. I think it is in the Medford-Eugene area.

Mr. VOLKMER. What is his occupation?

Mr. EBBITT. I don't really know the answer to that question. I do know that he has been involved with the air tanker industry for many years in various capacities. At some point, he has worked for some of the contractors. In fact, in the 1990-91 period, he was directly employed by one of the contractors.

Mr. VOLKMER. Do you know what his political affiliation is?

Mr. EBBITT. No, sir; I don't.

Mr. VOLKMER. You ought to check any official FEC reports to see if he has made any contributions to any political parties during this timeframe.

Mr. EBBITT. Not during the audit process we did not.

Mr. VOLKMER. Thank you, Mr. Chairman.

Mr. ROSE. Thank you, sir.

Mr. GOODLATTE. Mr. Chairman.

Mr. ROSE. Go ahead.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Mr. Ebbitt, I noticed in your testimony that you initially indicated that the Department of Defense was not interested in participating in this. What was it about the Forest Service getting involved that caused them to change their mind and participate with the Forest Service?

Mr. EBBITT. Two things, I think. One, everybody recognizes the need for the air tankers. There isn't any doubt that they are needed out there in the firefighting operations.

Two, as it was explained to us by Forest Service management officials, they believed that they had understandings with the Department of Defense and GSA as to how this program would operate and that the exchange program was, in fact, an OK program to use. They had been told this by a mid-level employee of the Forest Service, and they apparently accepted his word on that.

Mr. GOODLATTE. Do we have anywhere in this material a list of the planes that were exchanged for these planes that Federal museums received?

Mr. EBBITT. We have that information. It is in the audit report, and I can provide that to your office if you would like that.

Mr. GOODLATTE. Has an assessment been made of the value of those planes received?

Mr. EBBITT. Yes, sir. The value of those planes—for each plane—is in the area of \$10,000 to \$15,000 on average. The contractors actually had to go out and purchase airplanes to complete the exchange. Many of the planes were planes that the museums didn't want, didn't have a real need for in the first place. Essentially, they agreed that they were not really historic—of historic value.

Mr. GOODLATTE. Did they take them nonetheless or did they protest or what did they do on that?

Mr. EBBITT. In some cases, the Federal air museums have taken some of these planes. I believe there is a private museum in Arizona that has taken some planes. I believe now all of the planes have actually been placed.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Mr. ROSE. Thank you, sir.

Let me ask a couple of questions.

Mr. Ebbitt, I have a letter here from the Air Carrier Association Incorporated—National Air Carrier Association Incorporated—which says we subsequently learned that some of the aircraft made available for firefighting purposes had been transferred in 1991 to the Middle East and were being used by the Bechtel Corporation for transfer of cargo between various points and Kuwait. Is that substantially what you found?

Mr. EBBITT. Yes, sir.

Mr. ROSE. Bechtel was using the T&G Aviation C-130s that it got from Roy Reagan, is that correct?

Mr. EBBITT. One of the aircraft was obtained from Roy Reagan and one was obtained directly from the Forest Service.

Mr. ROSE. Now, how many contractors are you aware of who charged their brokerage fees that Roy Reagan charged them back to the Forest Service by including it in their contracts with the Forest Service?

Mr. EBBITT. Mr. Chairman, all of the contractors that paid a fee of some sort to Roy Reagan, the plan was to charge that back. When we brought that to the attention of the Forest Service, the Forest Service agreed to disallow that cost in the contract process, so I suspect that none of those costs have actually been paid.

Mr. ROSE. All right, but you said the plan was to let them charge it back. That wasn't your plan? You stopped it when you found it, is that correct?

Mr. EBBITT. That is correct, sir.

Mr. ROSE. But you believe that there was a plan at the Forest Service to allow the brokerage fees for the illegal sale of these airplanes to actually wind up in the Forest Service's contract for firefighting?

Mr. EBBITT. I don't think that the Forest Service had made a conscious decision to do that, Mr. Chairman.

Mr. ROSE. Why did you say there was a plan?

Mr. EBBITT. The plan really on the part of the contractors was to submit those costs as part of their overall costs which would eventually end up being paid under the contract.

Mr. ROSE. Don't you think these contractors were rather bold in the way they were working with the Forest Service?

Mr. EBBITT. Yes, sir; I do. And it was clearly, in our minds, not an allowable cost to charge.

Mr. ROSE. Did you ever have any suspicion? Wouldn't this lead reasonable people to assume that these bold contractors doing things like this with the Forest Service might feel that they had some permission from places higher up in the Federal Government such as the CIA, the White House, or the State Department to do something like that? Did that thought ever pass through your mind, Mr. Ebbitt?

Mr. EBBITT. Well, we clearly asked those kinds of questions of the Forest Service, and we didn't have any indication that that was the plan.

Mr. ROSE. I understand. I doubt that anybody would admit to that. But, clearly, the planes were misused from their original legal purpose, is that correct?

Mr. EBBITT. Some of the planes were, that is correct.

Mr. ROSE. How many is some?

Mr. EBBITT. Well, quite a few of the planes were used for parts by the contractors who didn't really have the authorization to do that. We know about the planes in the Persian Gulf. We know about the plane that was used to test engines.

Mr. ROSE. We won't pin you down to numbers, but you say the Justice Department knows all of this?

Mr. EBBITT. That is correct, sir.

Mr. ROSE. Are any additional audits being done right now by you to get more information?

Mr. EBBITT. Yes, sir. In fact, we have been participating with the rest of the IG community in a general audit of aircraft use, inventories and that sort of thing.

One of the things we are looking at right now is—putting aside the C-130 and this exchange program for just a minute—we are looking at the general contract and all the costs being charged by contractors under the program to the Forest Service: Operating costs, flying hours, all that and all the expenses that go into that base for reimbursement. And that audit is underway. We should have it completed within the next several months.

Mr. ROSE. Thank you all very much.

Mr. EBBITT. Thank you, sir.

Mr. ROSE. We will excuse you at this time and call Mr. Gary Eitel, Northwest Express Limited, from Silverdale, Washington, to come forward.

Mr. Eitel, I believe you have—basically, your statement would be the letter that you sent me, is that correct?

Mr. EITEL. Yes, Mr. Chairman.

Mr. ROSE. Why don't you go through that?

I want to thank you very much. You have done a great public service, sir. You have done a great public service by writing this subcommittee and giving us actual copies of these agreements. I really thank you very much. You have done the country a great service. I want to applaud you for being willing to stick your neck out and give that to us.

I would tell the subcommittee that we only got this letter early this morning. And after I saw what was in it, I don't blame you for giving it this morning, you understand. So if you will proceed, we will be glad to hear from you any details we haven't already covered.

STATEMENT OF GARY R. EITEL, PROFESSIONAL PILOT AND AVIATION CONSULTANT, NORTHWEST EXPRESS LTD., SILVERDALE, WA

Mr. EITEL. Mr. Chairman, with your permission, I will read my statement into the record.

You are applauded for your initiative and this hearing to investigate the U.S. Forest Service program pertaining to forestry fire-fighting aircraft, the Lockheed C-130 and A-10 Warthog jet aircraft. The issue of mismanagement or misconduct on the part of

the Forest Service concerning their aviation program is an understatement. At play is unreasonable restraints upon and monopolization of trade and exclusive dealing, all of which are prohibited under the Sherman Antitrust Act and the Clayton Act.

My point of view in this matter was influenced by the statements contained within the final report by Senator Frank Church, chairman of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, and the widely publicized newspaper articles concerning the Central Intelligence Agency, CIA, 1976 to current date.

My aviation background furthered my understanding of the issues. I am a professional pilot and former military aviator. I am a military combat pilot from the Vietnam era. My military service spanned 1960 through 1979. As a professional pilot and aviation consultant, I hold the senior ratings of the profession, to include airline transport with jet aircraft ratings. I have logged just under 11,000 hours pilot flight time.

The U.S. Forest Service is mired in controversy concerning the C-130 and A-10 aircraft program. The conduct of the Forest Service has raised serious questions of CIA involvement. This should not be a surprise or something out of the ordinary. Both agencies have had a longstanding hand-in-glove relationship as admitted in the Church report and extensive news articles, to include that of the Oregonian in 1988 by James Long and Lauren Cowen in a nine-series article.

In 1991, numerous clients of mine became interested in Government contract opportunities. In furtherance of business interests, I began looking at opportunities involving the U.S. Forest Service, the U.S. Postal Service, and the Military Air Logistics Command. It became apparent and clear there were a select few doing business of major importance with these agencies and that these select few had extensive CIA involvement in their background.

Questions began to percolate to the surface concerning the amount of CIA influence in the trade and marketplace. The U.S. Forest Service and the U.S. Postal Service kept a secret agenda concerning these issues. This has been revealed to a certain degree by agency audits, investigations, and Government committee hearings.

Again, in 1991, business interests brought me in contact with the U.S. Forest Service concerning aviation contract opportunities. I had read an August 1991, aviation magazine article concerning a new program just implemented by the Forest Service involving former military C-130 aircraft, that being four-engine turbine powered.

On the surface, using C-130 aircraft as a firefighting water tanker seemed appropriate with the times and available technology. Inquiries to the Forest Service were initially stonewalled, with misinformation or no information at all.

Industry sources revealed two separate programs involving—

Mr. ROSE. Let me stop you there. Inquiries to the Forest Service were initially stonewalled. Did you ever ask the people at the Forest Service about this? And did they tell you the truth or not? In writing or orally?

Mr. EITEL. I did on both.

Mr. ROSE. You did both, write them letters about this program and orally talk to them?

Mr. EITEL. I did.

Mr. ROSE. Did they tell you the truth?

Mr. EITEL. Not in all things.

Mr. ROSE. OK. Go ahead and finish your statement.

Mr. EITEL. Industry sources revealed two separate programs involving C-130 and A-10 fighter aircraft. I was initially told the A-10 program involved a military experiment that would convert A-10 fighter planes to civilian water tankers, an unlikely concept because of the dangers involved using a former military jet that, in addition, could be radioactive because of its munitions, spent uranium ammunition.

In 1991, I was told and believed the C-130 program was being managed by the U.S. Forest Service and the A-10 program was handled by the military under the direction of an aeronautical engineer named Roy Reagan.

Initial contacts with the Forest Service in 1991 amounted to their statements there were only three C-130's involved in the program, and, considering its infancy, that being 1991, the program was closed to anyone other than those already participating with the three aircraft.

For verification of these statements, I contacted—

Mr. ROSE. Wait a minute. Let me stop you there. With these three types of aircraft, don't you mean?

Mr. EITEL. No, three C-130's.

Mr. ROSE. Now, how many A-10's had you ever heard in the program—and we will ask Mr. Robertson that in just a moment—but do you have any idea how many A-10's were ever involved?

Mr. EITEL. At least 2, with 25 to follow.

Mr. ROSE. So you think there might have been as many as 27 A-10's?

Mr. EITEL. There could have been.

Mr. ROSE. And that is a jet fighter aircraft?

Mr. EITEL. Yes. It was the one that was heroically used in the Desert Storm war, I guess of 1990, 1991.

Mr. ROSE. Do you know of an A-10 being used to fight forest fires?

Mr. EITEL. No, sir. It is not practical.

Mr. ROSE. Thank you, sir. Go ahead.

Mr. EITEL. For verification of these statements I contacted the General Services Administration legal counsel and was surprised to learn there were more than 28 four-engine turbine-powered aircraft involved in the program, 22 C-130's and 6 P-3A's.

GSA's legal counsel further explained the program was in trouble because several C-130's had been caught operating in Kuwait, apparently without authority to do so. I was told the Forest Service had requested GSA to issue a position paper exonerating the Forest Service of any wrongdoing in the affair. GSA was reluctant to do so, and this reluctance, among other reasons, had put the C-130 program on temporary hold.

In early 1992, I became incensed with the Forest Service's efforts to circle the wagons. In hopes of clearing up the underlying facts, I began numerous inquiries to the Forest Service under the Free-

dom of Information Act. Their responses were untimely, irregular, and, in certain matters, untrue. I intentionally drew a line in the sand between the Forest Service and myself concerning their misbehavior.

At the same time, I had a business associate in the aviation industry contact me, explaining his extreme concern because he was associated with the C-130's that were caught operating in Kuwait. This associate revealed the framework of a covert military operation involving Southern Air Transport and Evergreen Airlines, both of which have admitted former military and CIA ties. I became personally concerned that I had inadvertently stepped into a covert CIA operation involving C-130 and A-10 fighter aircraft.

In late 1991, I mistakenly believed a C-130 program was merely mismanaged by the Forest Service. It appeared millions of dollars were being unnecessarily wasted—taxpayers money. A potentially feasible C-130 program appeared to have jumped the tracks, and the Forest Service was neither candid nor truthful when asked about the C-130 program.

As a former law enforcement officer, I was concerned there was criminal wrongdoing at play, and I filed a complaint with the Department of Agriculture's Office of Inspector General in Washington, DC.

Later on, in 1992, I learned my initial complaint to the OIG had instigated a full-blown audit of the C-130 program.

When contacted by the OIG's office, I agreed to cooperate in any way possible. The OIG asked questions concerning Roy Reagan and Del Rio Flying Service. I was shocked to learn there were CIA footprints everywhere.

To my surprise, the Government believed Roy Reagan was a key player in the C-130 program and had little or no knowledge of a blossoming military program involving Roy Reagan and A-10 fighter planes to be used by the Forest Service in the same program as the C-130 aircraft were to have been used.

In late 1992, the Office of Inspector General issued audit report No. 08097-2—At pertaining to the Forest Service's mismanagement of the C-130 and P-3A program. I was surprised and at the same time amused at the report's contents. There was no mention whatsoever of Roy Reagan and the A-10 fighter plane program that was also associated in some way with the U.S. Forest Service C-130 program. I quickly realized the OIG's audit was merely the tip of the iceberg of a growing political scandal raising questions of CIA involvement with the U.S. Forest Service programs.

Also in late 1992, the business associate who had spoken with me earlier and explained his part in the C-130's that were caught in Kuwait was suddenly killed. This was a sad note in the whole sordid affair. The individual was truly a fine gentleman and the John Wayne of aviation.

In early 1993, I was put in contact with the criminal division of the Office of Inspector General for the Department of Agriculture. I learned the OIG audit was indeed merely the tip of the iceberg. I cooperated fully with the OIG's criminal division. I, too, have become weary of the corruption in Government and certainly of the CIA's misguided agenda.

The truth concerning the C-130 and A-10 program is far from being told. Hopefully, this honorable subcommittee can get to the bottom of all that is at play. The result could be beneficial for everyone concerned.

There are legitimate needs for both the U.S. Forest Service and the CIA. The question arises whether these needs go hand in hand. I, for one, do not believe so. What I have seen and heard convinces me hundreds of millions of dollars of taxpayers' money has been wasted for programs that were unneeded or misguided. The aviation industry has suffered tremendously because of CIA involvement in the marketplace.

As one who has formerly worked with the CIA in one form or another, I support their existence. I simply question the reasonableness of commingling intelligence affairs with the affairs of the U.S. Forest Service or, for that matter, with the affairs of the U.S. Postal Service or other legitimate Government agencies.

Mr. Chairman, I hope my appearance before this subcommittee has been helpful. There is a lot more work to be done before there can be a turnaround in programs that are surely heading down the path of doom.

[The prepared statement of Mr. Eitel appears at the conclusion of the hearing.]

Mr. ROSE. Mr. Eitel, I thank you again. This is a great public service that you have done for us.

I would like Mr. Ebbitt, if he will come back and sit right beside you at that other microphone.

Mr. Ebbitt, why was there never a report about the A-10 program? Did you know about the A-10 program?

Mr. EBBITT. Yes, Mr. Chairman. We were aware of the A-10 program. We became aware of that as we were working on the C-130, and we had some discussions with the Forest Service.

In fact, I would have to go back and do a record search to fully recall, but the Forest Service had—there had been some discussions about a contract to convert the A-10's to test to find out whether they could operate as air tankers or not.

Mr. ROSE. How many of them were involved?

Mr. EBBITT. I don't know that.

Mr. ROSE. Well, Mr. Eitel says there were maybe as many as, say, 25 or more?

Mr. EBBITT. That is very possible. There was discussion—

Mr. ROSE. You say that is very possible. Why would you say that unless you had some knowledge about the program?

Mr. EBBITT. Well, only because I am very aware that there was discussion to determine if it made sense to use A-10's in firefighting operations. I don't know how many they might have been talking about, but that discussion was on the table.

Mr. ROSE. You heard Mr. Eitel say that he thought, from his experience, that an A-10 was very inappropriate for fighting fires. Have you heard anybody else say that?

Mr. EBBITT. Yes, I have heard people in the Forest Service say that very same thing.

And, in fact, the contract—the proposed contract or if it was consummated—is not being carried out at the present time. It is my understanding that the Forest Service has made the decision that

the A-10 is not feasible to use in firefighting operations and that program is dead. It is not going anywhere.

Mr. ROSE. Right. But it might have gone from 25 to 27 planes before it died. You don't know?

Mr. EBBITT. I don't know that.

Mr. ROSE. Thank you, sir.

Any questions by any other members of the subcommittee?

Thank you all.

Mr. Eitel, is there anything else you want to tell us based on what you have heard here today or any other comments?

Mr. EITEL. Yes, Mr. Chairman.

I have been in aviation all of my adult life. I began as a military pilot, I served in Vietnam in 1968 and 1969, I have worked with the CIA, and I have no problem with the concept of the CIA's mission.

When I saw for the first time the C-130 opportunity in 1991, I had an illusion that the program just started in 1991. I was surprised, to say the least, after the freedom of information responses that I received in 1992 that Mr. Fuchs and Mr. Dale Robertson of the Forest Service had told me untruthful statements.

Mr. ROSE. What did they tell you that you thought were untruthful?

Mr. EITEL. In the latter part of 1991 Mr. Fuchs assured me there was only three C-130's in the air tanker program period.

Mr. ROSE. Who is Mr. Fuchs?

Mr. EITEL. He was a manager in the Forest Service Aviation Division.

When GSA's legal counsel said, no, there are 22 C-130's, I thought maybe GSA counsel was incorrect. I tried to reconfirm that with Mr. Fuchs' office, and it was still three aircraft.

As a courtesy not to falsely accuse Mr. Fuchs, I went after that very same information under the Freedom of Information Act. In January of 1992—January 2, I believe it was—I wanted to know everything there was to know about a C-130 program. Nearly 30 days later, the Forest Service said—

Mr. ROSE. In writing?

Mr. EITEL. In writing in response to that Freedom of Information Act, that the Saline statement—we don't have any control over those aircraft. They belong to somebody else. And I am thinking that can't be so.

My business associate who explained his affairs, that he was in Kuwait, in position, possibly, for CIA work if they needed him, gave me more insight—additional insight to the C-130 overall program. I didn't feel the Forest Service was being truthful in even the freedom of information response.

I then appealed that, and I took it up to the level of Mr. Robertson personally. He referred in December of 1992 back to the very first freedom of information response to me from the Forest Service, eluding and specifically stating in writing that I knew from the enclosures to the first freedom of information response the big picture, the overall story. I went back and read that.

And the big picture in the first freedom of information response, we gave them away and have no control over them, but then their second response in February of 1992, at my persistence, says, we

have specific control. They cannot be used for anything less than air tankers and only in support, not of firefighting per se, but brush, forest, and rangeland protection which even further wired it down.

When that issue was previously talked about with Mr. Fuchs in 1991, he inquired what my agenda was if the program opened up and more than three aircraft were let loose. I said I would go along with whatever restrictions. Now, in 1991 I didn't have the privilege of the exchange agreements, and I didn't know the overall parameters of those agreements.

Mr. ROSE. Can you submit those to us for the record?

Mr. EITEL. I can, sir.

Mr. ROSE. Thank you.

[The hearing continues on page 79; the requested material follows:]

National Air Carrier Association, Inc.

1730 M Street, N.W. Suite 806, Washington, D.C. 20036 4573
(202) 833-8200 FAX (202) 659-9479Edward J. Drisco
President

July 28, 1993

The Hon. Charlie Rose
Chairman
Subcommittee on Specialty Crops and
Natural Resources
Committee on Agriculture
2230 Rayburn House Office Building
Washington, D.C.

Dear Mr. Chairman:

In connection with your Hearings to commence on August 5, 1993 concerning the U.S. Department of Agriculture's Forest Service transfer of C-130 aircraft, we were requested by your Committee Staff to provide an input of our activity in connection with the C-130's.

NACA is a Trade Association representing U.S. airlines, certificated to perform both passenger and cargo service on a scheduled and/or charter basis domestically as well as on a world-wide basis. One of our carriers, Southern Air Transport, operates L-100 aircraft, in addition to others, the commercial version of the C-130. That carrier in addition to providing cargo service on a world-wide basis has, from time-to-time provided support service to the Forest Service. Another member, Evergreen who operates world-wide service, both scheduled and charter for the movement of cargo, has in the past served the Forest Service by providing aircraft and crews for firefighting purposes.

When NACA first learned of the proposed transfer from DOD to the Forest Service of C-130 aircraft, we contacted Mr. Fred Fuchs to learn how they intended to employ the aircraft and by whom. We were advised at that time that they intended to let bids and provide C-130 aircraft as government furnish equipment and would award to the successful bidder a contract to provide fire fighting services utilizing the C-130's. We requested that we be added as an addressee on any request for bids so that we would be cognizant of their requirement and keep our members advised.

We later contacted Mr. Fuchs and arranged an appointment to find out what had happened because we had learned the aircraft had been transferred to specified operators for fire fighting purposes. During that conference we learned that carriers had been selected. However, we were unable to determine the basis of the selection and learned that they had not only made C-130 aircraft available, but
.../.

Members Airborne Express → American Trans Air → Emery Worldwide → Evergreen International Airlines →
Miami Air International → Southern Air Transport → Tower Air → World Airways →

The Hon. Charlie Rose
July 28, 1993
Page 2.

had transferred title to those aircraft to specific operators. We questioned what legal authority was used and were told that transfer was under GSA rules and regulations. We were told that additional aircraft would probably become available at which time they certainly would consider anyone that wanted to be involved. Mr. Chairman, I am attaching hereto a chronology of correspondence we have had between the Department of Agriculture, the Forrest Service and NACA as well as others with regard to these aircraft. I am also appending hereto copies of that correspondence. In that correspondence we questioned the legal authority used for the transfer of these airplanes. We did not receive a response to that letter until March 1990 even though we had made several follow-ups. The Department in its response defended the transfer, claimed that it was legal and that all interested carriers had been afforded an opportunity to participate. We subsequently learned that some of these aircraft made available for firefighting purposes had been transferred in 1991 to the Middle East and were being used by BECHTEL Corporation for transfer of cargo between various points and Kuwait. At that time we queried the Forest Service as to how those airplanes were removed from the United States since an export license was required. The Forest Service stated that it had not been cleared by them, that this was something handled by the State Department. We therefore sent a letter to the Secretary of Agriculture and to the FAA and the Department of State, requesting that these aircraft be returned to the United States. Several months passed and we sent another letter to the Secretary of Agriculture requesting that they reclaim these airplanes and institute action against the operator for utilizing the aircraft for other than fire fighting purposes in violation of the FAR's of the Federal Aviation Administration. At that time T&G was directed to return the aircraft to the United States and they did return the aircraft.

Subsequently, upon the issuance of the Inspector General's Report, we noted that the Inspector General questioned the legal authority used for transfer and made tentative findings that they had been transferred illegally and recommended that action be initiated to recover these airplanes. We therefore, dispatched a letter to the Secretary in November of 1992 requesting the Forest Service to recover the aircraft and any funds gained from the use or sale in view of the fact they were not legally transferred. We made follow-up's and were told that the answer could only be given when a new Secretary of Agriculture was aboard. To date no reply has been received.

I am sure you are aware T&G is presently in bankruptcy and they are contemplating the sale of two of the C-130's to Aeropostal of Mexico.

Mr. Chairman, the C-130's are restricted category aircraft and use for other than restricted category purposes under the FAR's is

The Hon. Charlie Rose
July 28, 1993
Page 3.

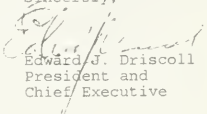
illegal. To transfer the aircraft outside of the United States requires an export license from the Department of State. The Department has on several occasions issued export licenses. The latest of which is for Multitrade Corporation, to export an aircraft that has been in Brazzaville for over three years and they authorized a dry lease of that aircraft to the United Nations.

The C-130 as a non-certificated aircraft and obtained free or for very few dollars from the United States Government poses a real threat when used illegally for commercial operations for compensation or hire to the operators of commercial aircraft who have to pay millions of dollars for civil certificated aircraft only to find that they are competing with a sub-standard aircraft from the military and cannot compete against some of the rates that are being quoted because of little or no capital investment by the operator of the C-130.

If the Inspector General is correct that C-130 aircraft were illegally transferred, these should be recovered as we requested in our letter of November 1992 and if they are to remain available for firefighting purposes than they should be made available on an industry-wide basis with the low bidder receiving the aircraft as government furnished equipment.

We wish you success in your Hearings and trust that these will result in the U.S. Government initiating necessary controls to ensure that non-certificated aircraft are not used for commercial operations for compensation and hire.

Sincerely,



Edward J. Driscoll
President and
Chief Executive

EJD:cs

NATIONAL AIR CARRIER ASSOCIATION (NACA)

Chronology of Correspondence on C-130A

With

Department of Agriculture (DOA)
U.S. Forest Service (FS)

1989

- September 21. NACA sends letter to Secretary of Agriculture (SECAG) asking seven questions about the exchange program and highlighted the fact that industry was not given an opportunity to participate.

- October 20. NACA sends follow-up letter, when no reply received from SECAG

1990

- January. Exchange program halted by DOA/GC
- March 12. SECAG finally responds to NACA letter of Sep 89
 - Emphasizes industry's opportunity to participate
 - Emphasizes limitations of use of aircraft, and indicates FS will use legal action to enforce provisions of the exchange agreement

1991

- February. N130RR, originally transferred by FS to Roy Reagan, is transferred to T & G Aviation and re-registered as N117TG
- February 17. Department of State and Federal Aviation Administration permit N117TG to go to Middle East.
- March 1. FS directs Grantham to return aircraft to U.S.
- March 27. NACA letter to Mr. Fred Fuchs, FS, pointing out that N117TG had left the U.S. and requesting review of utilization agreement.
- March 28. Three C-130s (N116TG, N117TG, and N118TG) are offered for sale by HRH Prince Ala, a mid-East broker.
- April 5. NACA letter to SECAG, with copies to DOT, FAA, DOS, and DOD, requesting investigation into the program.

1991 (Continued)

- May. Bechtol Corp. admits using a C-130 owned by T&G in Dubai. It was contracted through Kuwait Air.
- May 3. NACA letter to FAA requesting certificate action against T & G.
- May 8. NACA letter to SECAG requesting he take action against T & G to preclude commercial service.
- May 9. FS writes FAA requesting review of FAA classification actions on T & G aircraft.
- May 9. FS writes letter to Woody Grantham requesting he return the aircraft to U.S. (second letter)
- May 15. T&G agrees to return the aircraft to U.S.
- June 3. FS gives telephone update to NACA on May letter to SECAG.
- June 10. SECAG sends NACA reply which says it won't happen again.

1992

- October. DOA/IG criticizes FS handling of the C-130s, recommends legal review.
- November 20. NACA letter to SECAG requesting FS recover the aircraft and any funds gained from their use or sale.

1993

- January 11. NACA follow-up to SECAG
- February 2. FS gives interim response that the action must wait for new SECAG
- June 24. T & G bankruptcy proceedings indicate C-130s are again up for sale. This time to Aeropostal de Mexico.
- To date, no response from SECAG on NACA's November 1992 letter.

September 21, 1989

The Hon. Clayton Yeutter
 Secretary of Agriculture
 Administration Building
 12th St. & Jefferson Dr., S.W.
 Washington, D.C. 20250

Dear Mr. Secretary:

We understand that the Department through its Forest Service has a program for the exchange of surplus military aircraft to commercial operators for firefighting purposes. We understand the authority for the exchange of such aircraft, i.e., C-130, C-119, is predicated upon an exchange of "historic items" and that such undertaking is pursuant to GSA regulations, specifically, Subpart 101-46.203.

The National Air Carrier Association represents United States air carriers engaged in charter as well as scheduled service. These carriers operate a variety of aircraft, both large and small, with several having aircraft that can be used for firefighting purposes as well as spraying operations, etc.

The particular program of exchange of aircraft with civil carriers for firefighting purposes is of natural interest to us and we have the following questions which we trust you will have one of your senior officials respond to. These questions are:

1. What is the basic legal authority for engaging in the transfer of aircraft obtained from the Department of Defense by the U.S. Forest Service to a U.S. air carrier in exchange for another aircraft?
2. How is title conveyed under such a transfer and what are the requirements under the transfer for maintenance of the aircraft and/or incorporating improvements therein?

.../.

*Govt License
 FAA -
 C-130 Aircraft*

The Hon. Clayton Yeutter
September 21, 1989
Page 2.

3. Does the Forest Service have the right to reclaim aircraft should the air carrier receiving it attempt to use it for purposes other than as a firefighting air tanker?
4. Have any revisions to the limitations in the Exchange Agreement been granted?
5. How are recipients of such an exchange program selected? Is there a competitive undertaking or is it on a sole source basis? If the latter, what legal authority exists for sole source selection?
6. Is this a continuing program and if so, what plans does the Department have for additional transfers and how will the recipients be selected or identified?
7. What is the rationale for furnishing government aircraft for firefighting purposes rather than utilizing certificated aircraft for this purpose?

As you can see, Mr. Secretary, we are concerned as we had no knowledge that these aircraft (C-130's) were to be transferred to particular air carriers. In fact, when we first learned about the transfer of seven C-130's from the Department of Defense to the Forest Service we were advised, upon inquiry, by the Forest Service that they intended to operate these aircraft by contract with air carriers for the furnishing of crews and support activities. This, however, was never implemented and instead a specific transfer was effected without apparently giving the industry an opportunity to participate in such undertaking. We would hope that any future programs would be undertaken only after the entire industry is made aware of the specific requirements of the Forest Service and given an opportunity to indicate their interest in being considered for the operation of the aircraft or to be considered under an exchange program.

.../.

The Hon. Clayton Yeutter
September 21, 1989
Page 3.

We thank you in advance for your consideration of our request and trust the information requested will be furnished us on an expedited basis.

Sincerely,

Edward J. Driscoll
President and
Chief Executive

EJD:ra

cc: North } FAX
Carson }

October 20, 1989

The Hon. Clayton Yeutter
Secretary of Agriculture
Administration Building
12th St. & Jefferson Dr., S.W.
Washington, D.C. 20250

Dear Mr. Secretary:

Reference is made to my letter of September 21, 1989, concerning the Department's program for the exchange of surplus military aircraft to commercial operators for fire-fighting purposes.

We would appreciate your advising when we can expect to receive a reply to our letter.

Sincerely,

Edward J. Driscoll
President and
Chief Executive

EJD:ra

cc: Eric Korth - FAX 10/26/89 ka



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

March 12 1990

Mr. Edward J. Driscoll
President and Chief Executive
National Air Carrier Association, Inc.
1730 M Street, N.W., Suite 710
Washington, D.C. 20036

Dear Mr. Driscoll:

Thank you for your interest in the Forest Service and its firefighting airtanker program. We will attempt to address your questions as thoroughly as possible.

Section 205 of the Department of Agriculture Organic Act of 1944, as amended (16 USC 579a), is the basic authority by which the Forest Service "by contract or otherwise may provide for procurement and operation of aerial facilities and services for the protection and management of the national forests. . . ." Several subsequent laws have expanded on our commitment to protect public lands from wildfires. Part 101-46 of the Federal Property Management Regulations, 41 CFR, has been used for those exchanges. Many of the World War II B-17's, A-20's, TBM's, F7F's, and PBV's in museums today were once firefighting airtankers. Aircraft not used as airtankers such as B-24's, B-25's, and B-29's were scrapped, cut-up, and disappeared, with few remaining for historical purposes.

The titles are transferred at the completion of the exchange which is explained in detail in the copy of an exchange agreement the Forest Service provided to you in April 1989. The exchange itself does not specify maintenance or modification requirements as those requirements are specified in the contract for airtanker services, which includes FAA certification under 14 CFR 21.25 for the C-130A.

If an operator were to use an aircraft for purposes outside the intent of an exchange, the Forest Service would initiate legal action to enforce the provisions of the exchange agreement. No revisions to the limitations as explained to you on March 29 when you met with the Forest Service and as stated in the sample exchange have been issued. The exchange is for the protection of forest, brush, and rangelands.


Selection of recipients for the exchanges is based on Forest Service needs, individual operator requests, individual operator capabilities, and the availability of military aircraft. When the first C-130A's became available in June 1988, a letter was sent to all contractors that have recently been or are currently providing airtankers under contract. During the last 10 years, 12 companies have bid on Forest Service contracts for 30 airtankers, and 8 of those companies currently hold airtanker contracts with the Forest Service. The airtanker contract is advertised in the Commerce Business Daily so the entire industry is given the opportunity to offer and compete. The competition for airtanker contracts has been strong.

Mr. Edward J. Driscoll


The airtanker program itself, however, is limited; only about 50 large airtankers are contracted for each year by all Federal and State firefighting agencies with a need for 15 aircraft as large as the C-130A.

The rationale for using excess military aircraft is to keep contractor costs down and thus airtanker service affordable. A large number of airtanker aircraft have been obtained through both historic exchange and military surplus sales over the last 35 years. The difference in cost to the Government of upgrading the airtanker fleet with excess as opposed to commercially purchased aircraft--used or new--is rather dramatic. (See enclosure.) The current airtanker contract costs about 4 percent of the Forest Service firefighting budget; an unnecessary increase of 325 percent to 2000 percent would be unacceptable.

Sincerely,


Clayton Yeutter
Secretary

Enclosure

PROFUSE APOLOGIES FOR THE
DELAYED RESPONSE!


RJS/CB

United States Department of State

Washington, D.C. 20520

O
OA
ENV

February 17, 1991

MEMORANDUM

TO: FAA - Mr. Thomas Accardi, Acting Director,
Flight Standards Division

FROM: STATE/OES/OLP - Robert Blumberg *RB*

SUBJECT: Public Service Aircraft Classification

The State Department has received a request from a US firm (Martech), which is working for the Saudi government in providing assistance in cleaning up the Persian Gulf oil spill. Martech has requested the Department's help in obtaining FAA approval to reclassify four aircraft from "private aircraft" under Part 91 of FAA regulations to "public service aircraft," due to the nature of their mission. The aircraft would carry urgently needed cleanup equipment to Saudi Arabia or Bahrain.

The aircraft in question are two C-130s and two DC-7s. They have been chartered from TG Aviation, 22000 S. Prize Rd., Memorial Field, Chandler, AZ. Martech would like to initiate the flights either today or tomorrow.

The State Department endorses this request, especially inasmuch as the Gulf oil slick currently threatens drinking water supplies for the US forces in the Gulf region. The equipment being transported will also facilitate US efforts to assist the Saudis in containing the oil slick, which threatens serious environmental consequences.

drafted: TPKU-1 - *JF* USFord

cleared: NEA - Mr. Mack
EB - Mr. Hecklinger (by phone) *JF*

cc: FAA - Mr. Gary Koch, Manager,
Phoenix-Scottsdale Flight Standards Office

February 17, 1991

FAX MESSAGE TO: T & G Aviation, Chandler

Attention: Jack Chisum

Phone message received 10:30 our time (12:30 EST) from:

Tom McCarty, Acting Director, Flight Standards in Washington, D.
Quote:

We have the public use situation squared away and approved for T&G Aviation to operate under the auspices of the Saudi and U. S. Governments for the operations you requested this morning. There is no problem; but if you need to contact me I will be at home at (703) 931-3676; or you can contact me on beeper through the Communications Center at (202) 863-5100.

Unquote.

Note: This is FAA's approval to operate the C-130 as a public use aircraft in the Persian Gulf.

United States
Department of
Agriculture

Forest
Service

Washington
Office

14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090

Reply To: 5700

Date: March 1, 1991

Mr. Woody Grantham
T&G Aviation, Inc.
22000 South Price Road
Chandler, Arizona 85248

Dear Mr. Grantham:

It has come to our attention that your company has placed a C-130A acquired through an exchange with the Forest Service into service in Kuwait. Although this activity is in support of oil well fires or spills, it is in violation of the exchange agreement you signed. The agreement signed by you September 20, 1989, clearly states "...use as firefighting airtankers, and they may only be flown in support of forest, brush, or rangeland protection."

This violation of the agreement must be corrected by returning the aircraft to its intended use.

Sincerely,

FRED A. FUCHS

L. A. AMICARELLA, Director
Fire and Aviation Management



Embassy of the United States of America

Abu Dhabi, United Arab Emirates
March 19, 1991

Mr. Tom C. Accardi
Acting Director
Flight Standard Service
ADA-30
Federal Aviation Administration
Washington, DC

Ref: Al Awda Project
Lockheed C-130
Aircraft Registration:
N117TG, N118TG, N119TG, N120TG, N3226B

Dear Mr. Accardi:

The U.S. Embassy in Abu Dhabi, United Arab Emirates hereby requests that the following paragraph be added to the authorization of TG Aviation Inc., 22000 South Price Road, Chandler, Arizona 85248 to operate as a public service aircraft for purposes of carrying materials, supplies, construction equipment, etc. for the reconstruction of Kuwait and the extinguishing of oil fires which are threatening the Gulf environment.

Sincerely,

Brian J. Mohler
Deputy Chief of Mission

National Air Carrier Association, Inc.

1730 M Street, N.W. Suite 806
 Washington, D.C. 20036-4573
 (202) 833-8200
 FAX (202) 659-9479
 Office of the President
 Edward J. Driscoll

copy

March 27, 1991

Mr. Fred Fuchs
 National Aviation Officer
 U.S. Forest Service
 Auditors Bldg.
 201 14th & Independence, S.W.
 2nd Floor - SW Wing
 P.O. Box 96090
 Washington, D.C. 20090-6090

Dear Fred:

I thought you would be interested in the Chain of Title Report compiled from FAA records.

Registration Number 117TG is in Abu Dhabi and was the aircraft originally scheduled to go to the Gulf. The second airplane, Registration No. 130RR, is the aircraft located outside of London.

As you will note, both of these airplanes belong to T & G Aviation and both of them came through the Forest Service. While 130RR originally went from the Forest Service to TBM, TBM transferred it to Roy Reagan who in turn transferred it to William Grantham who subsequently transferred it to T & G Aviation on 7 February 1991.

As we understand it, both of these airplanes have been removed from the United States without your permission which would appear to violate the Transfer Agreement between the Department of Agriculture, U.S. Forest Service, and T & G Aviation.

If you determine that T & G Aviation has violated the provisions of the Transfer Agreement, then we assume you will proceed in accordance with the representations contained in the Secretary of Agriculture's letter dated 12 March 1990.

Members Airborne Express → American Trans Air → Emery Worldwide → Evergreen International Airlines → Florida West Airlines → Key Airlines → Southern Air Transport → Sun Country Airlines → Tower Air → World Airways →

Mr. Fred A. Fuchs
March 27, 1991
Page 2.

We would appreciate being advised of your findings and what action you intend taking.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Driscoll', written over a horizontal line.

Edward J. Driscoll
President and
Chief Executive

EJD:ra

Enclosure

AIRCRAFT CHAIN OF TITLE REPORT FROM FAA RECORDS

Lockheed Serial #

3018

FOR

BY Acct. #07482

Southern Air Transport
Box 52-4093
Miami, FL 33152



Insured Aircraft Title Service Inc.

P.O. Box 18527 (405) 881-0863
OKLAHOMA CITY, OKLAHOMA 73144
TOLL FREE PHONE 800-854-4862

Re. N/A

Attn: Mike Oldham

The Federal Aviation Agency Records Chain of Title Search revealed the following information on the aircraft herein described:

Registration N 117TG Lockheed Model C-130A Serial no. 54-1631

Title conveyed by _____ Recorded _____ Dated _____
FAA Doc. No. _____

To: GSA Property Management Division Dept. of the Air Force
Address: Room 703 Crystal Mall No. 4, Crystal City, VA 20406

Title conveyed by Transfer Order-Excess Personal Property Dated 7-26-89
Recorded * FAA Doc. No. *

To: USDA Forest Service
Address: P.O. Box 96090, Washington, DC 20090-6090

Title conveyed by Bill of Sale Recorded 10-13-89 Dated 9-27-89
FAA Doc. No. S85366

To: T & G Aviation, Inc.**
Address: 22000 S. Price Rd., Chandler, Arizona 85245

Title conveyed by _____ Recorded _____ Dated _____
FAA Doc. No. _____

To:
Address:

Title conveyed by _____ Recorded _____ Dated _____
FAA Doc. No. _____

To:
Address:

Title conveyed by _____ Recorded _____ Dated _____
FAA Doc. No. _____

To:
Address:

* Accepted in lieu of recordable documents.

** This is the present record owner as of the date of this report.

Chain of Title \$ 50.00

Rush charge \$

Extra time chg. \$

Phone charge \$

PREPAID \$ ()

TOTAL DUE \$ 50.00

BB/ts

Date 2-20-91

Time 8:00 a.m. CST

INSURED AIRCRAFT TITLE SERVICE, INC.

by B. Butterfield

Title Examiner

AIRCRAFT CHAIN OF TITLE REPORT FROM FAA RECORDS

Lockheed SERIAL #

3145

FOR

BY Acct. #07482

.....
Southern Air Transport
Box 52-4093
Miami, FL 33152



Re N/A

Attn: Mike Oldham

The Federal Aviation Agency Records Chain of Title Search revealed the following information on the aircraft herein described:

Registration N	130RR	Lockheed	Model	C-130A	Serial no.	56-537*	
Title conveyed by	---		Recorded	---	Dated	---	
To:	GSA Property Management Division, Department of the Air Force					FAA Doc. No.	---
Address	Room 703 Crystal Mall No. 4, Crystal City, VA 20406						
Title conveyed by	Transfer Order-Excess Personal Property			Recorded	**	Dated	4-25-89
To:	USDA Forest Service					FAA Doc. No.	**
Address	P.O. Box 96090, Washington, DC 20090-6090						
Title conveyed by	Bill of Sale			Recorded	8-18-89	Dated	4-26-89
To:	T.B.M., Inc.					FAA Doc. No.	X110383
Address	P.O. Box 338, Redmond, OR 97756						
Title conveyed by	Bill of Sale			Recorded	8-18-89	Dated	6-2-89
To:	Roy D. Reagan					FAA Doc. No.	X110384
Address	1400 Yucca Street, Medford, OR 97504						NS37M
Title conveyed by	Bill of Sale			Recorded	12-31-90	Dated	11-12-90
To:	William W. Grantham					FAA Doc. No.	KK13746
Address	2200 South Price Road, Chandler, AZ 85224						
Title conveyed by	Bill of Sale			Recorded	12-31-90	Dated	12-24-90
To:	Pacific Harbor Capital, Inc.					FAA Doc. No.	KK13747
Address	111 S.W. Fifth Ave., Suite #2800, Box 1531, Portland, OR 97207						
	SEE PAGE 2 FOR ADDITIONAL INFORMATION.						
Chain of Title \$	50.00						
Rush charge \$						Date	2-20-91
Extra time chg. \$						Time	8:00 a.m. CST
Phone charge \$							
PREPAID \$ ()							
TOTAL DUE \$	50.00						

BB/ts

INSURED AIRCRAFT TITLE SERVICE, INC.

by S. Butterfield
Title Examiner

Page 2
 Date 2-20-91
 N 130RR Lockheed

Title conveyed by Bill of Sale Recorded 2-7-91 Dated 1-22-91
 FAA Doc. No. U51730

To: T & G Aviation, Inc.***
 Address 22000 South Price Road, Chandler, AZ 95248

Title conveyed by Recorded Dated
 FAA Doc. No.

To:
 Address

Title conveyed by Recorded Dated
 FAA Doc. No.

To:
 Address

Title conveyed by Recorded Dated
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 FAA Doc. No.

To:
 Address

Title conveyed by Recorded Dated
 FAA Doc. No.

To:
 Address

* United States Air Force Serial Number
 ** Accepted in lieu of recordable documents.
 *** This is the present record owner as of the date of this report.

This search is subject to the filings reflected on the index of collateral provided by the FAA and Insured Aircraft Title Service, Inc. assumes no responsibility as to the accuracy of said source, and does not guarantee, insure or warrant that said FAA index is free of error.

POTOMAC INTERNATIONAL, INC.

5901 Mount Eagle Drive, Suite 218,
Alexandria, Virginia 22303,
United States of America.

Telephone (703) 960-9401
Facsimile (703) 960-9427

March 28, 1991

FACSIMILE TRANSMISSION

Total of Nine Pages

To : Southern Air Transport, Inc.
Attn : Mr. William Langton
President
Copy : HEM Prince Ala F. Al-Senusi
From : W. Wayne Beall
Managing Director
Re : Grouping of Three C-130A Aircraft

305-871-6329

RECEIVED

MAR 27 1991

SOUTHERN AIR TRANSPORT, INC.
EXECUTIVE OFFICE

Dear Mr. Langton:

It was my pleasure to meet you via the telephone... Edwin has told me a lot about your operations. There may be several avenues open for possible business development, I look forward to receiving your corporate information package.

As you know, we have been asked by our client to assist in the development of a qualified and interested buyer for these aircraft, we of course would expect that if you have any interest or wish additional data that you would channel your inquiry via this office.

Enclosed is the information on these aircraft which was initially supplied by HEM Prince Ala F. Al-Senusi. It is our understanding the Prince Ala can facilitate requests for further information as well as initial purchase negotiations. I would request that acknowledge receipt of this information as well as your assurances that you will conduct any investigation or purchase activity via our offices.

Thank you for your call and I look forward to working with you in the future.

Best regards,

Wayne
W. Wayne Beall
Managing Director
WVB/gms

cc: E.F. Russo, Esq.

E. F. Russo

Prepared		DATE		Page	4
Checked			VALUE ANALYSIS - 3 AIRCRAFT	Model	
Approved			LOCKHEED C-130A "HERCULES"	Report	9001

SURVEY REPORT

GENERAL INFORMATION

These aircraft are currently certificated in accordance with Special Airworthiness Certificate, Special Flight Permit, in accordance with FAR 91.27, for turbine-powered aircraft of current design.

These aircraft as originally delivered and/or modified, meet the requirements, or are exempt from certain provisions of FAR 21 Certification Procedures - "Type Certificate, Surplus Aircraft of the Armed Forces", 21.27(b)(c)(d) & (f) for large turbine engine powered airplanes accepted for operational use prior to Oct 2, 1959, and meeting the requirements of CAR 0.4(b) as of 1 Oct 1959.

SPECIFICATIONS

Aircraft configuration, specifications, times, equipment, and weights are noted elsewhere in this report individually for each aircraft.

FAA Type Specifications that may be applicable are:

Aircraft	- Lockheed	A150 Rev 11 - 31 Aug 1982
Engines	- Allison	E-282 Rev 25 - 23 Mar 1984
Propellers	- Hamilton Standard	P-904 Rev 7 - 4 Dec 1984
Aircraft	- Hercules	A-15M Rev 3 - 16 May 1988

CERTIFICATION BASIS (Applicability for Standard and/or Restricted Category)

CAR 1 - Amendment 1-1 thru 1-9
 CAR 9a - 9b
 CAR 4b1 thru 11
 CAR 4b.344, .361, and .640

FAR 93
 FAR 21.93(b) & .98 - Change in Type Design
 FAR 36.1(d)(1)

FAR 21 - Certification Procedures
 FAR 21.25 - Restricted Category
 FAR 21.27 - Aircraft of the Armed Forces
 FAR 21.33 - Statements of Conformity

Proposed	None	Nil	This	Page	6
Checked				Model	
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VALUE ANALYSIS - 3 AIRCRAFT
LOCKHEED C-130A "HERCULES"

INSPECTION SUMMARY

ENGINES

The engines utilized on the Lockheed C-130A aircraft are Allison gas-turbines, Model T-56-90, with equivalent-shaft-horsepower (Eshp) of 3,750 (take-off), and 3,368 (max. continuous).

This model engine meets all requirements for turbine disk integrity and rotor blade containment, and does not require external smearing. Life-Limits established for critical components are published in Allison Service Letter CSL-1001, and CEB No. 72-1019.

The Time-Between-Overhauls (TBO) approved by the USAF are:

Compressor	: 8,000 hrs.
Gear Box / Torquemeter	: 6,000 hrs.
Turbine	: 8,000 hrs.

PROPELLERS

The propellers utilized on each of the Allison engines (4) installed on the C-130A are Hamilton Standard, Model 84H60-91. They are four-bladed aluminum alloy, with a steel hub, and are hydraulically controllable, constant-speed, variable-pitch, full-feathering, reversible type, weighing approximately 1,000 lbs. each. Hamilton Standard constant speed pitch controls, and electric de-icing equipment are installed.

The Time-Between-Overhauls (TBO) approved by the FAA for this equipment is: 4,400 hours. (Ref: AC 121-1A Appendix 2 - Part D page 10 of 18 - "Propellers" ATA Chapter 61.)

These propellers are certificated in accordance with Type Certificate P908, issued July 1958, and revised through Revision #7, issued 1984. --

Proposed	W-12	6-12	TITLE VALUE ANALYSIS - 3 AIRCRAFT LOCKHEED C-130A "HERCULES"	Page	7
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INSPECTION SUMMARYENGINE AND PROPELLER SERIAL NUMBERS AND TIMES

	Position			
	#1	#2	#3	#4
<u>Aircraft: N-1187G</u>				
Engine Serial No.	100507	101494	100382	101330
Time to Go (hrs.)	1,988	8,125	1,102	4,966
Propeller Serial No.	235073	238239	218285	235888
Time to Go (hrs.)	1,484	1,168	3,363	2,121

Aircraft: N-1177G

Engine Serial No.	100986	100469	100048	101431
Time to Go (hrs.)	4,341	3,801	1,430	3,568
Propeller Serial No.	221661	221009	223529	221887
Time to Go (hrs.)	2,840	3,388	4,030	4,372

Aircraft: N-1187G

Engine Serial No.	100600	100318	100519	100216
Time to Go (hrs.)	2,890	5,620	8,695	3,890
Propeller Serial No.	223531	233907	221282	235833
Time to Go (hrs.)	4,210	2,990	8,355	1,148

GROUND TURBINE COMPRESSOR SERIAL NUMBERS AND TIMES

	Aircraft		
	N-1187G	N-1177G	N-1187G
Serial Number	Not listed	42P8908	27P2555
Time Since Overhaul (hr.)	148	10	197

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AVIONICS AND ELECTRONICS

The following avionic and electronic equipment is installed in each individual aircraft, thereby making them identically equipped and standardizing the fleet.

VHF Transceiver	1	Collins	51A1
VHF Transceivers	2	Collins	610 80
MF Transceivers	2	Collins	610 T2
VOR/ G.S. Receivers	2	Collins	ARN 1011
M.B. Receiver	1	Collins	ARN 12
Transponder	1	Collins	APX 72
Radar	1	Collins	APQ 122Y6
Flight Director	2	Sperry	4088
A.D.F.	2	Collins	DF-203
G.P.I.	1	Collins	FPC-76
Radio Altimeter	1	Collins	SCR-718
Loran	1	EDO	APH-70
Compass System	2	Sperry	C-12
Auto Pilot	1	Sperry	E-12
Flight Recorder			none installed
Voice Recorder			none installed
VLE Omega (Primary)	1	Collins	203/ARA-19

NOTE: All electronics to be removed, inspected, matched for civil certification, bench-checked/overhauled as required, and re-installed as required.

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Approved			LOCKHEED C-130A "HERCULES"	Report	9001

AIRCRAFT GROUPING

There are three (3) C-130A aircraft in this group. They may be grouped together respecting equipment, electronics, configuration, maintenance and operation procedures and limitations.

They are separated by age, total time in service, time since overhaul, and component time since overhaul.

Reg. No.	Date Mfg.	Total Time	T.S.O.H.
N-116TG	June 1958	14,038 hrs.	1,830 hrs.
N-117TG	June 1957	12,780 hrs.	2,780 hrs.
N-118TG	Mar 1959	13,955 hrs.	1,062 hrs.

Complete operation and maintenance records, kept on a Daily Reporting Form basis for each aircraft, are entered in a Master Record Calendar at Chandler, Arizona, and all directives concerning operations and maintenance are formulated and transmitted from Chandler to aircraft and crews, irrespective of assignment-base away from home-base.

AIRCRAFT WEIGHING

Reg. No.	Date Weighed	Basic Wt.	Operating Weight
N-116TG	Feb 1988	67,173 lbs.	69,957 lbs.
N-117TG	Feb 1988	67,200 lbs.	70,668 lbs.
N-118TG	Mar 1988	64,935 lbs.	68,463 lbs.

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INDEX OF CONDITION

A brief Index of Condition for each aircraft inspected follows.
Numerical coding values assigned are:

- 6 = Superior
- 4 = Above Average
- 3 = Average
- 2 = Below Average
- 1 = Poor

Item Inspected	Aircraft Registration		
	116TG	117G	118G
1. Applicable Specifications	3	3	3
2. External Finish	5	5	3
3. Signs/ Placards/ Plates	4	4	3
4. Weights	4	4	4
5. Control Surfaces	5	5	5
6. Interior Arrangement	4	4	4
7. Maintenance and Repair	5	5	5
8. Inter-changeability	5	5	3
9. Identification/ Marking	4	4	3
10. Extreme Temperature Requirements	5	5	5
11. Standard Parts	4	4	4
12. Equipment Installation	5	5	5
13. Cargo Provisions	5	5	5
14. Air Conditioning/ Heats	4	4	4

Prepared	NAME	DATE	VALU ANALYSIS - 3 AIRCRAFT LOCKHEED C-130A "HERCULES"	Page	13
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INDEX OF CONDITION

Item Inspected	Aircraft Registration		
	1167A	1177G	1167B
16. Pressurization	4	4	4
16. Wing Group	5	5	5
17. Tail Group	5	5	5
18. Fuselage Group	5	5	5
19. Landing Gear Group	5	5	5
20. Surface Control System	5	5	5
21. Engine/ Nacelle Group	5	5	4
22. Auxiliary Power Unit (APU)	4	4	4
23. Instrument Equipment	4	4	4
24. Navigational Equipment	4	4	4
25. Communication Equipment	4	4	4
26. Hydraulic System	5	5	5
27. Pneumatic System	4	4	4
28. Electrical System	4	4	4
29. Flight Deck Info Group	4	4	4
30. Emergency Equipment	5	5	5
31. Anti-Icing Equipment	5	5	5
32. Special Ground Handling Equip't	5	5	5
33. Fire Warning/ Detection	5	5	5

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Approved				Report 9001

INDEX OF CONDITION

Item Inspected	Aircraft Registration		
	1167G	1177B	1187B
34. Fire Prevention	5	5	5
35. Airworthiness Directive	•	•	•
36. Systems Airworthiness	5	5	5
37. Special Cargo Handling Equip't	5	5	5

NOTE: • Airworthiness/ Service Bulletin/ Engineering Orders/ Technical Orders are to be matched/ interfaced and differences corrected.



SOUTHERN AIR TRANSPORT

April 1, 1991

Mr. Edward J. Driscoll
 Chief Executive Officer
 National Air Carrier Association
 Suite 806
 1730 M Street, N.W.
 Washington, DC 20036

VIA FAX: 1-202-659-9479

Re: Illegal Sale of C130 Aircraft

Dear Ed:

Your attention is invited to the following solicitation received from an organization purporting to be able to sell us C130 aircraft.

It appears that these aircraft are currently "N" registered and in the fleet of T & G Aviation.

Although T & G is not explicitly named, by going through the documents it appears the three aircraft being offered are:

<u>U.S. Registration</u>	<u>Lockheed Serial</u>	<u>USAF Serial</u>	<u>Owner</u>
N116TG	3086	56-0478	T & G Aviation
N117TG	3018	54-1631	T & G Aviation
N118TG	3219	57-0512	T & G Aviation

The aircraft are supposedly being sold for \$4.2MM EACH, or a total in excess of \$12MM for the package. Supposedly Middle-Eastern brokers are involved.

Some credence must be placed in the latter statement, because at least one of the aircraft (N117TG) was spotted a short while ago in Abu Dhabi.

**SOUTHERN AIR TRANSPORT**

Of particular concern is that all three of the aircraft were acquired from the U.S. Department of Agriculture, Forest Service, through an exchange agreement. In essence, these were provided to T & G on a gratis basis. It would seem to me that we should bring this to the attention of the Forest Service as perhaps a violation of the exchange agreement may be occurring.

Sincerely,

Charles C. Carson II
Senior Vice President
Sales & Marketing

CCC/bh

cc: W. Langton

April 5, 1991

The Hon. Edward Madigan
Secretary of Agriculture
U.S. Department of Agriculture
Washington, D.C. 20250

Dear Mr. Secretary:

Your attention is invited to the attached documentation which concerns three aircraft, C-120 type, transferred from the Department of Defense to the U.S. Forest Service for use as forest firefighting aircraft.

As you are probably aware, we have had correspondence with your department concerning the limitations on the use of such aircraft. I am attaching hereto a copy of a letter from your predecessor, Clayton Yeutter. As you will note, Secretary Yeutter was very specific that these aircraft could not be used for purposes other than those covered in the Exchange Agreement and that any violation would result in legal action by the Department.

As you will see from the documentation, the T & G aircraft which were received from the U.S. Forest Service are now being offered for sale by a broker in the Middle East at \$4.2 million per aircraft.

I am sure it was never the intention of the U.S. Department of Agriculture to provide aircraft to a commercial concern for use in commercial operations nor to enable an operator to make a fast buck by selling these aircraft to others. As you are no doubt aware, this is a restricted category aircraft as far as the FAA is concerned and is on the munitions list as far as export is concerned because of the military capability inherent in this aircraft.

I am sure you will want to have this matter investigated and take whatever action is appropriate to ensure that the U.S. Forest Service program of making aircraft available for forest firefighting purposes is not undermined by such actions.

The Hon. Edward Madigan
April 5, 1991
Page 2.

For your information we had previously called to Fred Fuchs' attention the fact that one or two of these aircraft had been removed from the U.S. for service in the Gulf area and it is our understanding from Fred that T & G was advised that they could not remove them without prior approval of the Department of Agriculture. It is our understanding that notwithstanding the advice, such aircraft were moved and the aircraft in Abu Dhabi is the result.

In recent testimony before the Aviation Subcommittee of the House Public Works and Transportation Committee we requested the Congress involve itself in the disposition and use of C-130 aircraft. As a result of that, Chairman Oberstar requested Assistant Secretary Shane of the Department of Transportation when he appeared before the Committee to serve as the focal point within the Administration on the C-130 issue. He asked Secretary Shane to bring together representatives of each agency involved with C-130's for a meeting with members of the Subcommittee to review controls or lack of controls governing this aircraft.

As you know, the agencies involved are Department of Defense, Department of State, your department (Agriculture), U.S. Customs Service, DOT/FAA and Department of Commerce. I am sure your office will be hearing from Secretary Shane in this regard.

We know that you will immediately undertake an investigation into this offer of sale of aircraft

The Hon. Edward Madigan
April 5, 1991
Page 3.

obtained through the U.S. Forest Service for forest firefighting purposes. I would hope that you would keep us advised of your progress and results.

Sincerely,

Edward J. Driscoll
President and
Chief Executive

EJD:ra

Attachments

cc: The Hon. James L. Oberstar
The Hon. Jeffrey N. Shane - DOT
The Hon. James B. Busey, IV - FAA
The Hon. Richard A. Clarke - DGE
The Hon. Eugene J. McAllister - DOS
The Hon. Diane Morales - DCD

United States
Department of
Agriculture

Forest
Service

Washington
Office

14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090

ETJ

Reply To: 5700

Date: May 9, 1991

The Honorable James Busey
Administrator
Federal Aviation Administration
Room 1010, 800 Independence Avenue, S.W.
Washington, D.C. 20591

*Ed - This is
responsive.
d*

Dear Admiral Busey:

An urgent situation has arisen concerning the use of Restricted category aircraft in the Persian Gulf area in possible violation of Federal Aviation Regulations. This situation is of great concern to the USDA Forest Service because the aircraft in question was transferred to the private sector by the Forest Service under conditions designed to preclude such use.

I refer you to a letter from Mr. Edward Driscoll, President of the National Air Carrier Association, to Mr. Anthony J. Broderick of your organization (enclosure 1). The aircraft discussed, N13CRR (now registered as N119TG), was transferred under the Historic Aircraft Exchange provisions of the Federal Property Management Regulations (GSA Regulation 101-46.203) to an airtanker operator. It was licensed in the Restricted category for firefighting purposes only and the type certificate retained by the Forest Service. This was done specifically to prevent airtanker operators from using exchanged aircraft for other purposes in competition with private industry.

During the Persian Gulf activities, T&G Aviation was apparently requested to provide aircraft service, including some commercial type cargo operations, by agents of the Department of State (enclosure 2). They provided this service with several aircraft, including at least three that were licensed in the Restricted category, under the Forest Service type certificate. The President of T&G Aviation maintains that the FAA has approved this operation in response to the Department of State request (enclosures 3 and 4).

I would like to know if your agency reclassified these aircraft for public use and, if so, which Government agency is responsible for providing direct operating control. In furnishing these aircraft to industry, it was our intent to have these aircraft operate under the control of land management agencies as firefighting aircraft. Any reclassification must be coordinated with the Forest Service, which was not done in this case.

EO 3

05.13.91 10:40AM - FBI -

The Honorable James Busey

2

It is urgent that we correct the current situation regarding the use of these aircraft. Secondly, I want to work out a legal process by which we can deal with any future situation.

Consequently, I have asked Deputy Chief Allan West to represent the Forest Service on this issue. He will be contacting your office the week of May 13 to arrange for a meeting.

Sincerely,

/s/ F. Dale Robertson

F. DALE ROBERTSON
Chief

Enclosures

POA

05.13.81 10:40AM FIRE - WO

United States
Department of
Agriculture

Forest
Service

Washington
Office

14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090



Reply To: 5700

Date: MAY 9 1991

Woody Grantham, President
T & G Aviation, Inc.
22000 South Price Road
Chandler, Arizona 95248

Dear Mr. Grantham:

It has recently come to my attention that you are operating aircraft number N119TG (formerly N130RR) in Kuwait. It appears that the Department of State and the Federal Aviation Administration (FAA) may have endorsed this use.

This aircraft was obtained from the military by the Forest Service and transferred to the airtanker industry under an agreement that stipulates that the aircraft will be used as "firefighting airtankers, and they may only be flown in support of forest, brush, or rangeland protection." In addition, the Type Certificate Data Sheet specifies that "aircraft approved under this type certificate may only be used as firefighting aircraft."

This violation of the agreement must be corrected immediately by either returning the aircraft to its intended use or obtaining legal approval to operate it for purposes other than wildland fire protection. As the type certificate wording states that the terms of the exchange agreement must remain in effect regardless of who has title to the exchanged aircraft.

In the future, any use of this or other exchanged aircraft which is not strictly in compliance with the type certification and exchange agreement must have prior written approval by the Chief of the Forest Service.


Sincerely,

F. DALE ROBERTSON
Chief



Caring for the Land and Serving People

FS-6200-28b(4-88)



United States
Department of
Agriculture

Forest
Service

Washington
Office

14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090

Reply to: 5700

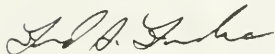
Date: May 15, 1991

Subject: T&G Aviation

To: Director, Fire and Aviation Management

A telephone conversation took place between Woody Grantham (T&G Aviation) and Fred Fuchs Wednesday, May 15, 1991, at 2:10 p.m.

Mr. Grantham stated that in response to the Forest Service May 9 letter the flight crew of the C-130 N119TG had been instructed to return the aircraft to the T&G Aviation facility in Chandler, Arizona. The aircraft was not being flown and had not flown much while in the Persian Gulf. The flight crew is obtaining the necessary permits for over-flying the various countries and will depart when the necessary permits are issued. The aircraft should be in Chandler, Arizona, within 5 or 6 days.



FRED A. FUCHS, Assistant Director
Fire and Aviation Management



NATIONAL AIR CARRIER ASSOCIATION

MEMORANDUM

TO: See below. DATE: June 3, 1991

FROM: E. J. Driscoll

SUBJECT: T&G AVIATION - C-130s

John Eckert, U.S. Forest Service, called to advise me that they are attempting to get a reply to me on my last letter to the Secretary concerning the illegal use by T&G of Forest Service aircraft.

He indicated they were apparently having difficulty satisfying their Secretary as he jokingly said they were on their nineteenth draft. He did, however, provide me the following update:

1. Forest Service joined FAA in an inspection and investigation of T&G at its base in Chandler, Oklahoma.
2. He stated the investigation lasted only one day but apparently FAA picked up enough information to warrant action against T&G.
3. Although he did not want to be quoted, he suggested that he believes it will involve certificate action.

I queried him as to where the Forest Service stood with regard to T&G. He stated that the Assistant Secretary of Agriculture had directed the General Counsel to advise him of what legal action might be taken against T&G in view of the use of Forest Service aircraft furnished for firefighting purposes and used for commercial operations. He thought they should have an answer from the General Counsel shortly and would proceed in accordance with whatever action he felt they could legally sustain.

I am meeting with Doug Leister at noon today to receive his report on discussions with State Department officials.

I will furnish a report to you on this.

EJD:ra

TO: James H. Bastian
William G. Langton
Charles C. Carson, II
William E. Overacker
John Palo



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

DATE 10 1991

Mr. Edward J. Driscoll
President and Chief Executive
National Air Carrier Association, Inc.
1730 M Street, N.W., Suite 806
Washington, D.C. 20036

Dear Mr. Driscoll:

Thank you for your letters of April 5 and May 5, 1991, concerning the misuse of aircraft exchanged through the Forest Service. I apologize for this late reply but the complexity of this matter required additional background research. In the meantime I understand that the Forest Service has kept you up to date on developments.

The Forest Service contacted T&G Aviation in reference to the three C-130's being offered for sale. Mr. Grantham, President of T&G Aviation, wrote to the Forest Service stating that the aircraft are not for sale and the only purpose of these aircraft is government use. In addition, Mr. Grantham wrote to a company named Potomac International, stating that the aircraft are not for sale and have never been for sale. I have enclosed copies of these two letters.

You indicated that one or two of these aircraft had been removed from the United States for services in the Gulf Area. Following verification, demand letters were sent to T&G Aviation, one dated March 1 and the second May 9 (copies enclosed). Both aircraft are now back in the United States. T&G Aviation removed these aircraft without prior approval of the Forest Service and operated them apparently with a clearance from the FAA and without a required export license issued by the Department of State. Investigations by those agencies are currently being undertaken. When the investigations are completed, we will decide what legal action against T&G may be appropriate.

The first aircraft you notified the Forest Service about apparently went to the Persian Gulf at the request of Martech USA, Inc., a private company. The Department of State endorsed Martech's request to use T&G Aviation aircraft and forwarded this request to the Federal Aviation Administration, who approved "Public Use" for the operation in a FAX message to T&G Aviation. The second aircraft you notified the Forest Service about apparently went to the Persian Gulf at the request of the U.S. Embassy in Abu Dhabi, United Arab Emirates. Copies of the above documents are enclosed. The details of these actions for both aircraft will be documented in the course of the current investigations.

I have directed the Forest Service to review its procedures relating to the transfer of excess military aircraft to airtanker operators. I have been advised by the Forest Service that exchanges were halted as of September 27, 1989, while new procedures are being reviewed. In addition, all exchange aircraft recipients have been advised to review the terms of their exchange agreements to insure that the intent, scope, and restrictions are understood and followed.

Mr. Edward J. Driscoll

2

Assistant Secretary for Natural Resources Jim Moseley and the Forest Service have met with the Federal Aviation Administration to improve coordination and prevent future misuse of exchanged aircraft. This will result in some FAA procedural changes.

I fully expect the Forest Service not only to redeem its responsibility for using the excess aircraft in their firefighting program but to exercise the control necessary so that this situation will not happen again.

Sincerely,



Edward Madigan
Secretary

Enclosures

Natural Resources and Environment

Forest Service (FS)

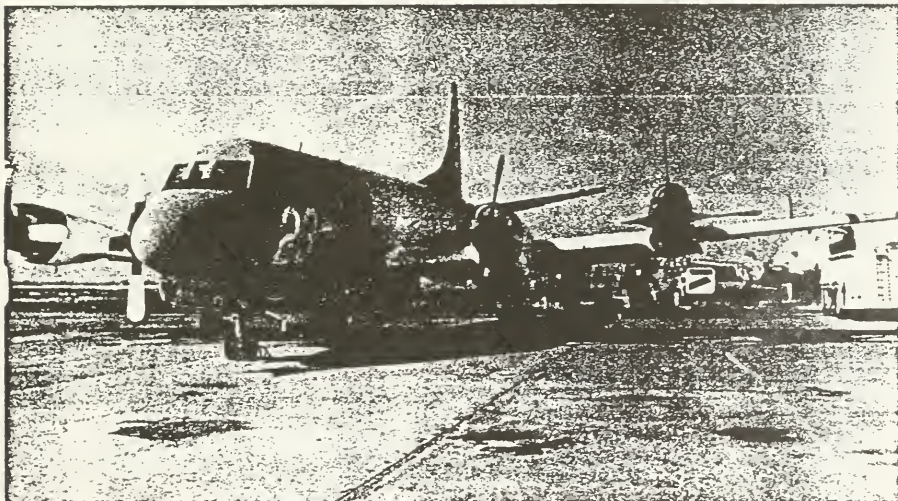
The FS manages natural resources on over 191 million acres of the National Forest System, conducts a State and private forestry program, has assumed a growing role in international forestry, and is responsible for national leadership in forest and range conservation practices. For FY 1992, the FS appropriation was about \$3.3 billion, and timber sales and other receipts were estimated at about \$1.4 billion.

FS Exchanges of Excess Military Aircraft Were Mismanaged

The FS contracts with airtanker operators to help suppress wildfires. In 1987, some contractor operations were impaired due to the grounding of their C-119 piston-engine aircraft for safety reasons. In an attempt to solve this problem, an airtanker industry representative approached the Department of Defense (DOD) with a proposal to exchange the C-119's for excess C-130A and P-3A turbine-powered aircraft. DOD refused the offer because the C-119's had little historic or monetary value to the Air Force. Also, prior abuses by private

firms flying military aircraft had been disclosed. One company and the industry consultant, who had a prearranged agreement with several contractors to receive one-third of all planes obtained from DOD, then approached the FS for support. The FS, working through the General Services Administration, obtained 28 excess aircraft from DOD with a value of at least \$28 million, and subsequently conveyed both the title and the planes to the airtanker contractors. FS officials justified the exchanges on the basis that they would obtain historic aircraft from the contractors, simultaneously reduce airtanker contract costs and improve safety.

We found that the exchanges were not in compliance with Federal property regulations. These regulations permit exchanges of historic aircraft on the records of Federal agencies in a museum property account. The FS had not owned the planes and has no such account. In addition, assets obtained by one Federal agency from another must be for official use and not for the purpose of exchange or sale. Further, the conveyance of title with the aircraft was not in conformity with requirements governing excess Federal property.



P-3A turbine-powered aircraft were among those exchanged by the Forest Service. OIG photo.

We also questioned the method of exchange. FS officials cooperated with the consultant which led contractors to believe they needed to work through the consultant to obtain aircraft. As a result, the consultant's clients were the primary beneficiaries of the exchanges, receiving 25 of the 28 aircraft. In return for his services, the consultant received four C-130A aircraft from the contractors, although he was not an air tanker contractor. The program was halted, following an Office of the General Counsel (OGC) opinion in January 1990. Providing aircraft to only a select number of companies, one with no current FS contract obligations, had the potential effect of excluding some contractors from consideration on future contracts.

Although the exchanges were to be at no cost to the Government, the contractors incurred \$2.2 million in costs by buying back the four C-130A aircraft they had provided to the consultant and by refurbishing the "historic" aircraft they traded in. To recover these costs, the contractors may attempt to charge the Government in the form of higher contract fee rates.

In addition to these problems, we found that initially some contractors registered the aircraft with the Federal Aviation Administration (FAA) under the consultant's type certificate, and some under their own FAA certificates. The "type certificate" describes the purposes for which aircraft can be used. The FS obtained the consultant's type certificate from him and had it amended by FAA to provide for additional restrictions. Most contractors voluntarily registered their C-130A aircraft under the revised type certificate. Our review disclosed that one air tanker contractor attempted to sell the aircraft for nonfirefighting purposes, another sold aircraft parts for profit, and two contractors used the aircraft for purposes unrelated to firefighting. For example, one contractor improperly used aircraft to transport cargo in the Persian Gulf. (The FS, upon being made aware of this activity, successfully took action to have the aircraft returned to this country.) However, one contractor is currently attempting to sell C-130A aircraft to a foreign country for a substantial profit.

The FS also stored seven additional excess military aircraft on contractors' facilities after being notified by the OGC that the exchanges were not legal. Although the FS still owns and has title to the seven aircraft, the contractors have improperly taken parts from four

aircraft to use on their private aircraft and converted one Government-owned P-3A aircraft into an air tanker. The four aircraft have an estimated value of at least \$5 million as parts.

In summary, FS efforts to use excess military aircraft for firefighting resulted in unintended profits for private individuals and the possibility of increased costs on future air tanker contracts. We recommended that the FS seek an OGC opinion to recover the aircraft improperly conveyed to the contractors, implement additional controls over the Government-owned aircraft, and disallow the contractors from charging the questioned \$2.2 million against future air tanker contracts.

The FS generally agreed with our recommendations but disputed the valuation of the aircraft in the audit report. FS officials stated that the C-130A aircraft had no commercial sale-market value and could not be used for domestic commercial purposes because their use is now essentially restricted to conservation (firefighting, agricultural spraying, etc.) missions. They also stated that export of such aircraft requires a special permit from the U.S. Department of State. The FS agreed to consider all costs related to these transactions during current contract negotiations. We are working with the FS to reach management decision.

November 20, 1992

The Honorable Edward R. Madigan
Secretary of Agriculture
U.S. Department of Agriculture
12th Street and Jefferson Drive
Room 200A
Washington, D.C. 20250

Dear Mr. Secretary:

I have had the opportunity to review the Department of Agriculture Inspector General's report on "Forest Service, Historic Aircraft Exchange Program" Audit Report No. 08097-2-At October 1992.

The thoroughness of the Report and its findings are impressive; and the Inspector General is indeed to be congratulated for the in-depth analysis. NACA supports and concurs in the recommendations set forth.

Quite frankly, however, we are extremely disturbed over the findings that the Forest Service acted without requisite legal authority in the transfer of 28 aircraft to selected commercial entities and in some cases after the Forest Service had been advised that it lacked the legal authority to transfer these aircraft.

Since these aircraft were transferred illegally, title did not pass legally and we trust that the Department and the Forest Service will expeditiously recover these aircraft to be used as a pool of government furnished equipment available to all bidders who may wish to perform fire-fighting service.

Inasmuch as some of the aircraft transferred have been sold and some cannibalized, it would appear to us that legally the monies received by certain entities for the sale of the equipment or the parts should be recoverable by the United States Government. We feel confident that the Department of Justice would assist

.../.

The Honorable Edward R. Madigan
November 20, 1992
Page 2.

your department and the Forest Service in this activity. In fact, given the findings by the Inspector General, a copy of his report should be forwarded to the Department of Justice for its review and consideration to determine whether that department wishes to initiate any action.

With regard to future procurements, including the pending procurement for fire-fighting services, our recommendation, since two of our members are vitally interested in this and have previously advised the Forest Service of their interest, is that such procurements should be opened to the entire industry rather than continuing to deal only with the operators who received the aircraft illegally. In other words, those that were selected to receive the aircraft because they used a specific consultant according to the findings, should not continue their favored position in submitting proposals for firefighting service.

I would hope that you could assure me that these aircraft will be recovered and made available as government furnished equipment to any and all prospective bidders for the fire-fighting service.

Sincerely,

Edward J. Driscoll
President and
Chief Executive

EJD:ra

cc: Leon Snead, Inspector General

January 11, 1993

The Honorable Edward R. Madigan
Secretary of Agriculture
U.S. Department of Agriculture
12th Street and Jefferson Drive
Room 200A
Washington, D.C. 20250

Dear Mr. Secretary:

I refer to my letter of November 20, 1992, (copy enclosed for your ready reference) concerning the Agriculture Inspector General's report on "Forest Service, Historic Aircraft Exchange Program" Audit Report No. 08097-2-At October 1992.

Your response with regard to future procurements, as mentioned in my letter, would be greatly appreciated as soon as possible. Two of our members are vitally interested in this matter.

I look forward to hearing from you at your earliest convenience.

Sincerely,

Edward J. Driscoll
President and
Chief Executive

EJD:ra

Enclosure



United States
Department of
Agriculture

Forest
Service

Washington
Office

14th & Independence SW *HW*
P.O. Box 96090
Washington, DC 20090-6090

Reply To: 5700

Date:

*rec'd NACA
2/2/93*

Mr. Edward J. Driscoll
President and Chief Executive
National Air Carrier Association, Inc.
Suite 806
1730 M Street, N.W.
Washington, D.C. 20036-4573

Dear Mr. Driscoll:

Thank you for your January 11 letter to former Secretary Madigan regarding the Forest Service "Historic Aircraft Exchange Program" and for the copy of an earlier letter you sent on this matter. President Clinton has asked that we respond directly to inquiries on subjects such as this during the transition period.

Let me assure you, we will place this issue before Secretary Epsy as soon as possible.

Again, thank you for your letters.

Sincerely,

F. Dale Robertson
f F. Dale Robertson
Chief



Caring for the Land and Serving People

FS-6200-28b(4-88)

LAW OFFICES OF
MICHAEL W. CARMEL, LTD.
 80 EAST COLUMBUS AVENUE
 PHOENIX, ARIZONA 85012
 (602) 264-4965
 Arizona State Bar No. 007368

Attorney for Debtor

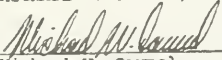
IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF ARIZONA

In re:)	CHAPTER 11 PROCEEDINGS
)	
)	Case No. B-93-6216-PHX-GBN
)	
T & G AVIATION, INC.,)	MOTION TO ASSUME EXECUTORY
an Arizona corporation,)	CONTRACTS AND MOTION TO
)	SHORTEN TIME FOR NOTICE
Debtor.)	TO FIVE DAYS
_____)	

T & G Aviation, Inc. ("T & G"), the debtor and debtor-in-possession herein, respectfully moves this Court for an order authorizing it to assume the agreement with Aero Postal de Mexico S.A. and its agreement with Military Aircraft Restoration Corp., a California corporation ("Marc"), and for an order shortening the time for notice hereof and directing notice hereof to the U.S. Trustee, Marc, Aero Postal de Mexico S.A., Bank One, formerly known as Valley National Bank, La S.A.R.L. Itratech, Orix and those listed on the List of the Twenty Largest Unsecured Creditors.

RESPECTFULLY SUBMITTED this 24th day of June, 1993.

MICHAEL W. CARMEL, LTD.


 Michael W. Carmel
 80 East Columbus Avenue
 Phoenix, Arizona 85012
 Attorney for Debtor

MEMORANDUM OF POINTS AND AUTHORITIES1. Background.

T & G Aviation, Inc. ("T & G") filed its Petition For Relief Under Chapter 11 on June 17, 1993. The filing was necessitated by the fact that Orix, a secured creditor of T & G, had denied T & G access to two of its C-130 Hercules aircraft which were to be in France on June 24 in accordance with the terms of an agreement with Itratech.

Prior to the filing of the Chapter 11 case, T & G had entered into an agreement with Aero Postal for the sale to Aero Postal of two C-130 Hercules aircraft. The purchase by Aero Postal was being financed by Banco BCH, a Mexican bank. Repayment to Banco BCH was in turn to be assured of payment by Export-Import Bank of the United States, an agency of the United States of America. One of the two aircraft to be sold to Aero Postal was acquired by T & G from Valley National Bank of Arizona, now Bank One. Bank One has a perfected security interest in the aircraft securing the balance it is owed and Bank One will be paid on the closing of the sale of the two Hercules aircraft to Aero Postal.

The second C-130 Hercules being sold to Aero Postal is in the process of being acquired by T & G from Marc. The agreement with Aero Postal is substantially evidenced by Exhibit 1 hereto, but there have been subsequent modifications as hereafter explained.

A copy of the agreement with Marc is attached as Exhibit 2.

1 Attached as Exhibit 3 is an April 30, 1993 letter amendment to the
2 agreement.

3 2. Material Terms Of The Two Agreements.

4 Aero Postal originally agreed to purchase three Hercules
5 aircraft from T & G. One was to be a three-bladed Hercules
6 aircraft (the one acquired by T & G from Valley National Bank of
7 Arizona). Two were to be four-bladed Hercules aircraft which had
8 been acquired by T & G from another company. However, those
9 aircraft were returned to the other company and were no longer
10 available and Aero Postal agreed to acquire only two aircraft, each
11 of which could be a three-bladed aircraft. In addition to the
12 Hercules aircraft acquired from Valley National Bank of Arizona,
13 T & G made arrangements to acquire a second three-bladed Hercules
14 aircraft from Marc. The price for each of the two aircraft was to
15 be \$1,850,000, or a total of \$3,700,000. However, the aircraft
16 acquired from Valley National Bank of Arizona required substantial
17 repairs or modifications to bring it up to standards required by
18 the Mexican government issuing the equivalent of the FAA Part 121
19 permit. That has been done, and the purchase price is being
20 reduced by the cost of such repairs.

21 T & G has already received \$534,000 of the purchase price
22 of the two aircraft, leaving a balance owed of \$3,030,696, although
23 some additional amounts will be owed to T & G, perhaps in the
24 neighborhood of \$500,000 to \$600,000, representing additional work
25 on the aircraft acquired from Marc, costs of delivery and certain
26

1 other related expenses. T & G has agreed to defer payment of the
2 \$500,000 to \$600,000 balance, but payment of the \$3,030,696 will
3 be assured as a result of a letter of credit issued by Swiss Bank
4 Corporation. The funds to be delivered from the letter of credit
5 will be used to pay amounts owed Bank One and Marc, with the excess
6 going to T & G. It is estimated that there will be approximately
7 \$600,000 in proceeds available to T & G. Those proceeds are needed
8 to fund the ongoing costs of operations of T & G, and in particular
9 the performance of the contract with Itratech.

10 3. Assumption Of Executory Contracts.

11 The contracts with Aero Postal and Marc are clearly
12 executory contracts within the meaning of 11 U.S.C. Section 365.
13 There is material performance yet to be performed by T & G and Marc
14 under that agreement as well as material performance to be
15 completed by T & G and Aero Postal under the contract for the
16 purchase by Aero Postal of the two Hercules aircraft. Therefore,
17 under 11 U.S.C. Section 365(a), it is necessary to obtain this
18 Court's approval of the assumption, which must be on a shortened
19 notice period.

20 4. Emergency Nature Of Hearing.


21 The transactions involved in the two agreements are complex
22 and are ready to close. Much effort and expense has been incurred
23 in getting to that point. It is essential that the agreements be
24 concluded before something happens that might prevent the
25 consummation of the two transactions. These are important
26

1 transactions to the financial well-being and reorganization of T
2 & G. They will substantially reduce T & G's obligations, and will
3 provide much needed working capital. The working capital is needed
4 at this time and it is essential that authority be obtained and the
5 contracts closed within the next two weeks so that the funds will
6 be available to fund ongoing operations of T & G in Alaska and
7 France. It is therefore essential that this motion be heard and
8 resolved within five days and sooner, if at all possible. To the
9 extent the matter would be heard within five days, it will be
10 necessary to shorten the time of notice prescribed under Bankruptcy
11 Rule 9006(d). Alternatively, the Debtor requests the Court
12 authorize a negative notice period of five (5) days.

13 WHEREFORE, it is respectfully requested that this Court (1)
14 enter an order directing those who are to receive notice of the
15 hearing on the motion for an order authorizing the assumption of
16 the executory contracts with Marc and Aero Postal, shortening the
17 period of notice to the extent it is necessary to do so, and (2)
18 after hearing pursuant to notice directed by the Court, authorize
19 the assumption and performance of the executory contracts involving
20 the two Hercules aircraft.

21 RESPECTFULLY SUBMITTED this 24th day of June, 1993.

22 MICHAEL W. CARMEL, LTD.

23 
24 Michael W. Carmel
25 80 East Columbus Avenue
26 Phoenix, Arizona 85012
Attorney for Debtor

1 COPY of the foregoing
 2 hand-delivered/ this
 3 24th day of June, 1993, to:

4 James J. Sienicki
 5 Cynthia D. Starkey, Esq.
 6 SNELL & WILMER
 7 One Arizona Center
 8 Phoenix, Arizona 85004
 9 Attorneys for Orix Credit
 10 Alliance, Inc.

11 and sent via first-class
 12 mail this 24th day of
 13 June, 1993, to:

14 Orix Credit Alliance, Inc.
 15 300 Lighting Way
 16 Secaucus, NJ 07096
 17 Phone: (201) 601-9000
 18 Fax: (201) 601-9100

19 Aero Postal de Mexico, S.A. DE C.V.
 20 Insurgentes Sur No. 1160 1 PISO
 21 COL. DEL VALLE C.P. 03100

22 Itratech
 23 c/o Mr. Joe Grigel
 24 10355 N. 78th Way
 25 Scottsdale, AZ 85258

26 U.S. Trustee's Office
 27 320 North Central Avenue
 28 Suite 100
 29 Phoenix, Arizona 85004

30 AND TO THE TWENTY LARGEST
 31 UNSECURED CREDITORS

32 Nancy G. Loring
 33
 34
 35
 36

Mr. EITEL. Mr. Fuchs wanted me to understand the economical repercussions of getting into the C-130 program, that those C-130's would have to be parked in the late fall and pickled down in a dry desert and only be used the following firefighting season. If I had the responsibility for paying for aircraft it wouldn't have been feasible to be in a C-130 program because there would be 9 months of downtime, but there would be 12 months of overhead. I could accept their concept under the belief the aircraft were being given free.

Mr. ROSE. Let me ask you a question. Do you know Roy Reagan?

Mr. EITEL. Yes, sir. I know him in the footprints of the paperwork.

Mr. ROSE. You never met him or talked to him?

Mr. EITEL. Not personally.

Mr. ROSE. We need to move on to another witness, so we may call you back in a minute. Can you stay around?

Mr. EITEL. I can, sir.

Mr. ROSE. Our next witness is Mr. Dale Robertson, Chief of the U.S. Forest Service, U.S. Department of Agriculture, Washington, DC.

Mr. Robertson, thank you for being here.

I believe you have a statement for the record, and you have heard a lot of information already. We will make your statement part of the record. Let's go right to questions and then if you want to make a summary for us, you can.

On page 3 of your statement you say, the methods the Forest Service used to acquire aircraft suitable for conversion were wrong. Why was the way they acquired them wrong rather than the way they were used after they were acquired?

Mr. ROBERTSON. Well, the process by which we went through to transfer these planes to our air tanker contractors following GSA regulations were not followed, and so mistakes were made in following those regulations.

Mr. ROSE. So you include in that how they were used as part of acquiring, I guess?

Clearly, management oversight was not sufficient, resulting in decisions which caused us to be in noncompliance with these regulations. I think that is an understatement of some large proportion.

Are you aware of these contracts that Mr. Eitel has put in the record? And we make his testimony and his attachments a part of the record. The Forest Service will provide the following aircraft to the Exchanger for use as firefighting air tankers, and they may only be flown in support of forest, brush, or rangeland protection. Is there any room for misunderstanding there, Mr. Robertson?

Mr. ROBERTSON. No, I think that is very clear.

Mr. ROSE. So what went wrong?

Mr. ROBERTSON. Well, we had—you already talked—one contractor sent two of those planes to Kuwait. We found out about that a few days later. I took very strong action to get those planes home, and I think I can provide those for the record.

[The information follows:]

United States
Department of
Agriculture

Forest
Service

Washington
Office

14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090



Reply To: 5700

Date: MAY 9 1991

Woody Grantham, President
T & G Aviation, Inc.
22000 South Price Road
Chandler, Arizona 95248

Dear Mr. Grantham:

It has recently come to my attention that you are operating aircraft number N119TG (formerly N130RR) in Kuwait. It appears that the Department of State and the Federal Aviation Administration (FAA) may have endorsed this use.

This aircraft was obtained from the military by the Forest Service and transferred to the airtanker industry under an agreement that stipulates that the aircraft will be used as "firefighting airtankers, and they may only be flown in support of forest, brush, or rangeland protection." In addition, the Type Certificate Data Sheet specifies that "aircraft approved under this type certificate may only be used as firefighting aircraft."

This violation of the agreement must be corrected immediately by either returning the aircraft to its intended use or obtaining legal approval to operate it for purposes other than wildland fire protection. As the type certificate wording states that the terms of the exchange agreement must remain in effect regardless of who has title to the exchanged aircraft.

In the future, any use of this or other exchanged aircraft which is not strictly in compliance with the type certification and exchange agreement must have prior written approval by the Chief of the Forest Service.

Sincerely,

F. DALE ROBERTSON
Chief



FOREST SERVICE

②002

United States
Department of
Agriculture

Forest
Service

Washington
Office

14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090

Reply To: 5700

Date: MAY 09 1991

The Honorable James Busey
Administrator
Federal Aviation Administration
Room 1010, 800 Independence Avenue, S.W.
Washington, D.C. 20591

Dear Adairal Busey:

An urgent situation has arisen concerning the use of Restricted category aircraft in the Persian Gulf area in possible violation of Federal Aviation Regulations. This situation is of great concern to the USDA Forest Service because the aircraft in question was transferred to the private sector by the Forest Service under conditions designed to preclude such use.

I refer you to a letter from Mr. Edward Driscoll, President of the National Air Carrier Association, to Mr. Anthony J. Broderick of your organization (enclosure 1). The aircraft discussed, N130RR (now registered as N119TG), was transferred under the Historic Aircraft Exchange provisions of the Federal Property Management Regulations (GSA Regulation 101-46.203) to an airtanker operator. It was licensed in the Restricted category for firefighting purposes only and the type certificate retained by the Forest Service. This was done specifically to prevent airtanker operators from using exchanged aircraft for other purposes in competition with private industry.

During the Persian Gulf activities, T&G Aviation was apparently requested to provide aircraft service, including some commercial type cargo operations, by agents of the Department of State (enclosure 2). They provided this service with several aircraft, including at least three that were licensed in the Restricted category, under the Forest Service type certificate. The President of T&G Aviation maintains that the FAA has approved this operation in response to the Department of State request (enclosures 3 and 4).

I would like to know if your agency reclassified these aircraft for public use and, if so, which Government agency is responsible for providing direct operating control. In furnishing these aircraft to industry, it was our intent to have these aircraft operate under the control of land management agencies as firefighting aircraft. Any reclassification must be coordinated with the Forest Service, which was not done in this case.

FOREST SERVICE

The Honorable James Busey

2

It is urgent that we correct the current situation regarding the use of these aircraft. Secondly, I want to work out a legal process by which we can deal with any future situation.

Consequently, I have asked Deputy Chief Allan West to represent the Forest Service on this issue. He will be contacting your office the week of May 13 to arrange for a meeting.

Sincerely,

1s1 F. Dale Robertson

F. DALE ROBERTSON
Chief

Enclosures

Mr. ROBERTSON. I personally talked to FAA. I sent letters to the contractor and told him that was illegal, wasn't right, and to get those planes home. They came home a few days after that.

Mr. ROSE. What is the status of the two C-130's that have been for sale in Mexico?

Mr. ROBERTSON. I am not sure I know which two those are. I think they are the same two planes or the same contractors, and all of those planes are in this country except for two right now who are fighting fires in France.

Mr. ROSE. Has the United States got some forests over there in France that I didn't know about, maybe called the Louisiana Purchase in reverse or something?

Mr. ROBERTSON. No, sir.

Mr. ROSE. Isn't that an outrageous result for this program, Mr. Robertson?

Mr. ROBERTSON. Well, we are worried about fighting fires around the world, and we frequently help other countries.

Mr. ROSE. Oh, me.

Mr. ROBERTSON. These are two air tankers that were not under contract to us.

Mr. ROSE. Then they are not included in any of these agreements?

Mr. ROBERTSON. Yes, they are included in those agreements.

Mr. ROSE. They are not in the United States.

Mr. ROBERTSON. They are fighting forest fires in France.

Mr. ROSE. Is that under a payment to the Government or is that foreign aid?

Mr. ROBERTSON. No, this is a contract, as far as I know, between the French Government and the contractor.

Mr. ROSE. OK. What do you know about the A-10 program?

Mr. ROBERTSON. Well, it was a year or two ago that there was an interest in experimenting with A-10's as a potential future air tanker, and we worked with a particular contractor to look at the merits of that. But we never did consummate the deal, and there was no A-10's ever transferred or used as an air tanker.

Mr. ROSE. All right. Were there any A-10's in the program?

Mr. ROBERTSON. No, sir. We just had that one discussion with one contractor in the Department of Defense about the potential and the possibility of using an A-10, and nothing ever happened with that.

Mr. ROSE. So you can assure us that you never acquired or did anything with A-10's so that there is no possibility that A-10's went the way of the C-130's?

Mr. ROBERTSON. There are no A-10's being used as air tankers.

Mr. ROSE. That was not my question because you got some C-130's that were never being used to fight fires. So my question is, did you knowingly have anything to do with A-10's coming through the Forest Service and going out to other uses?

Mr. ROBERTSON. No, sir.

Mr. ROSE. Did that ever happen, to your knowledge?

Mr. ROBERTSON. To my knowledge, that never happened.

Mr. ROSE. Do you have any knowledge of Roy Reagan owning the first typed certificate for an A-10?

Mr. ROBERTSON. For an A-10? No, I have no knowledge of that.

Mr. ROSE. It appears to me that as soon as 1989 your Department of General Counsel ruled that the Forest Service exchange program was not in compliance with Federal law. However, between July 1990 and March 1991, the Forest Service initiated action to acquire six additional aircraft. Why did this happen?

Mr. ROBERTSON. Well, our intent was to transfer an additional six until we found out that our general counsel felt that was not according to the law and according to the regulations, and so we stopped it at that point.

Mr. ROSE. Well, my information was you knew that in 1989. In 1989, the Office of General Counsel said the Forest Service exchange program is not in compliance with Federal law, but between July 1990 and March 1991 you went after six more planes.

How long have you been at the Forest Service, Mr. Robertson?

Mr. ROBERTSON. Thirty-three years.

Mr. ROSE. So you have covered a lot of Presidents in that time. And are you telling us now that, when the Department's legal counsel ruled that the exchange program was not in compliance with Federal law, that you then after that never asked for any more aircraft in the Forest Service?

Mr. ROBERTSON. Well, we got six aircraft sometime between July 1990 and 1991, and that was after we got the legal opinion, as I understand it, and we did not go through with those transfers.

Mr. ROSE. How come the Forest Service would ever transfer an airplane to a company that didn't have a contract to fight forest fires when it says in the contract that they will only be used—only be flown—they may only be flown in support of forest, brush, or rangeland protection? Yet you all actually transferred airplanes to contractors that had no contracts to do that. Is that not correct?

Mr. ROBERTSON. Well, maybe right at that particular year. But I believe all of these people have had contracts with us or the Department of Interior or States in fighting forest fires.

Mr. ROSE. Anything you want to say in summarizing your statement, sir?

Mr. ROBERTSON. I think my statement is fairly detailed, Mr. Chairman.

Mr. ROSE. You have some recommendations in here?

Mr. ROBERTSON. Yes.

Mr. ROSE. That is, policy changes within the Department or you think you need new legislation for that?

Mr. ROBERTSON. I think in the end we are going to need some legislation, and we need to work with you, Mr. Chairman, and the subcommittee to work out some kind of a workable legal arrangement with the proper controls on this.

Because the objective is good. We need these air tankers to help us fight forest fires. We just need to figure out how to be able to achieve that objective and do it in the most efficient way, but deal with the control and accountability that you are so concerned about and I am concerned about.

Mr. ROSE. I know you are, and I know you are concerned about American Forest Service's reputation and fighting forest fires. I know how agencies are sometimes told, especially during the last 30 years, to interfere with other agencies' work to get other jobs done, and I am not asking you to comment on that.

But what is the status right now of the title to all of these aircraft? Are we getting the title back in the United States of America or are they going to stay in the title of these companies that they were transferred to and in many cases, obviously, misused? Can you answer that?

Mr. ROBERTSON. The title for the 28 airplanes still remain with the contractors. Now, one of those planes has crashed, so we are dealing with 27 planes, and so we are working now with our general counsel on how to go back and put more teeth into this agreement which you referred to so that we can exercise a greater degree of control over the use of these planes.

Mr. ROSE. But let me ask you that. I think the contract is pretty clear the way it is. Don't you think that there have been fraudulent uses made of U.S. Government property?

Mr. ROBERTSON. Mr. Chairman, those two planes should not have gone to Kuwait. That was in noncompliance with the exchange agreement we had with those contractors.

I don't know about the other situation, but the Inspector General just testified that they know about another plane where some parts were sold off of it. That is not according to our agreement unless those parts were used to make planes flyable for firefighting, and so any of this use of these planes or any use of the parts to do anything other than fight forest fires—

Mr. ROSE. Is a fraudulent use?

Mr. ROBERTSON. Yes, it is. The Forest Service is very concerned about that. We are working to try to get on top of that. We have had lots of discussions with the contractors, and we have already taken action, and we are going to do everything we can to keep the use of these planes within the confines of this exchange agreement that we have worked out and signed with the contractors.

Mr. ROSE. Why wasn't this resolved in 1989 since you knew in 1989 that there were problems with the Federal law here?

Mr. ROBERTSON. Well, we did stop the exchange at that point. The ownership and the title had already passed. The contractors had already invested money into these planes.

These planes don't come ready to fight fires. They have to be rehabilitated, made flyable, and retrofitted with tanks so here—

Mr. ROSE. But that is charged back to the Government, isn't it?

Mr. ROBERTSON. Yes, through the contracts. To our advantage—

Mr. ROSE. That was not much of an excuse for the contractors. They got all that money back through what they charged you at the Forest Service, is that not correct?

Mr. ROBERTSON. Well, over a period of years.

Mr. ROSE. Over a period of years, slow payment. I understand about slow payment. But they got all their money back, didn't they?

Mr. ROBERTSON. Well, they haven't yet, but they will over 5 or 10 years.

Mr. ROSE. All right.

Mr. ROBERTSON. Mr. Chairman, this is—

Mr. ROSE. I know you are concerned about this.

Mr. ROBERTSON. I am very concerned.

Mr. ROSE. But you understand our concern about 30 years of experience with several administrations. And I understand how difficult it is to have many masters over a period of time. I am aware of that. But I think the public needs to know exactly how these things work, and we need a better way to look at how these kinds of policies get into Government.

I doubt that anybody on the Agriculture Committee was ever consulted about a contractor fighting fires in France. Now, I love France. They make—next to California—some pretty good wines. And I just can't understand how, without getting the permission of Congress, you all at the Forest Service would let airplanes fight fires in France.

Now, it might have been for good and valid reasons. Did you approve of that?

Mr. ROBERTSON. I didn't personally approve of it, and I wasn't aware of it until after I found out they were in France. These have to be approved by the State Department. They have to have an export license.

Mr. ROSE. Oh, the State Department gets in on this?

Mr. ROBERTSON. Well, any plane leaving the country has to have approval of the State Department on an export license.

Mr. ROSE. Mr. Baker, former Secretary of State, was very much involved in telling the Department of Agriculture to make more GSM loans to Iraq. Do you have any knowledge that Secretary of State Baker may have had any hand in seeing that these planes were used offshore?

Mr. ROBERTSON. No, I have no knowledge of anything like that.

Mr. ROSE. I am going to close it unless you have something else you want to say. We have your statement for the record, and we have your answers.

Mr. ROBERTSON. I would like to say, Mr. Chairman, I am admitting mistakes were made. This has been poorly managed by the Forest Service.

The objective of trying to fight the fires and save lives is a good objective, and I want to work with you and this subcommittee to figure out how we can meet that objective which everybody agrees with but do it in a good, businesslike way with control and accountability on the planes. You will find me a very cooperative person working with you and the committee to see how we can do that best.

I appreciate your interest and the subcommittee's interest in helping us with this problem.

Mr. ROSE. Thank you, Mr. Robertson, very much.

[The prepared statement of Mr. Robertson appears at the conclusion of the hearing.]

Mr. ROSE. You are all excused. Thank you for being here.

The next witness is the Honorable James Lyons, Assistant Secretary of Agriculture for Environment and Natural Resources.

Mr. Lyons, we know where you were when all this was going on. You were right up here helping the House Agriculture Committee, weren't you?

Mr. LYONS. That is right, Mr. Chairman.

Mr. ROSE. Now what are you going to do about it?

Mr. LYONS. That is why I am here today, to tell you what we are going to do about it.

Mr. ROSE. Your statement is in the record.

Mr. LYONS. I will summarize.

Mr. ROSE. What do you want to do about it?

STATEMENT OF JAMES R. LYONS, ASSISTANT SECRETARY, ENVIRONMENT AND NATURAL RESOURCES, U.S. DEPARTMENT OF AGRICULTURE

Mr. LYONS. Let me, first of all, say that we are very concerned about the OIG's audit and the findings and the clear misuse of existing authority to exchange aircraft. Regardless of the intended purpose, this is something that shouldn't have proceeded.

We recognize the Forest Service—and I think Dale recognizes the Forest Service didn't have the authority to proceed and was not in compliance with Federal property regulations in doing so. The first thing we are going to do, as a result of the OIG investigation is, if there is any evidence of wrongdoing, we are going to be directing the Forest Service to take appropriate administrative action. Also, if it is determined that illegal actions were taken, we are going to encourage the Department of Justice to prosecute to the full extent of the law those who are guilty of wrongdoing.

What we need to do, though, is come up with a policy and a program that allows us to keep air tankers in business to help us with our firefighting mission down the road. I think the first thing we need to do to accomplish that is we need to get the Forest Service out of the business of facilitating the exchange of air tankers. That is clearly not a mission that they should have.

For this reason, Mr. Chairman, the administration is considering seeking legislative authority to facilitate the sale of excess aircraft to bona fide air tanker operators. Simply stated, we want to get out of the business of handling aircraft through exchange. We would much prefer the Department of Defense sell its surplus air tankers on the market so as to facilitate their transfer to private holdings.

This legislation will need to include detailed responsibilities and controls to ensure that the aircraft will be used solely for the purposes of suppressing wildfires and prohibit the transfer unless explicitly approved by the Secretary.

Mr. ROSE. That is fine. You don't need to read about the legislation because I know—but let me just put you on notice about something that concerns me greatly.

I have been involved ever since I found out that the GSM-102 program was being abused to send money and other things of value other than U.S.-grown farm products to Iraq. I have turned all of that over to the Justice Department. I personally met with Ms. Reno, and she invited us to give it all to her and that she would look into it.

I would also add now to my list of things that Ms. Reno looks at, and I am sure her Department will because she is a very good Attorney General, that they now look at whether or not this operation in any way dovetails with the GSM-102, -103 program. And you might just remind everybody that they got my attention now and that I am going to be asking those questions about that as well

as GSM-102, -103 because I think there are some similarities here.

But let's you and I pledge together that we are going to write legislation that the Congress can live with, that the administration can live with, that will solve this problem. You said you would like us to do that.

Mr. LYONS. You have that pledge from me, Mr. Chairman. If we are not able to obtain that legislative authority, the only option that we have in operating an air tanker program is for the Forest Service to obtain planes from the Department of Defense and then offer them to contractors as Government-furnished property. We prefer not to have to do that. We prefer to get out of the business.

Mr. ROSE. I totally agree. You do need aircraft. I want to see you using aircraft.

But I think the Secretary and all the assistant secretaries at USDA need to be on super notice that in the future your Department doesn't get used or abused either for aircraft or stuff going to Iraq to help rearm Iraq and that you basically run just an Agriculture Department because we have enough problems in this Congress with the agricultural programs.

And when the city Congressmen up here understand about things like this, it is tougher for us to get the work of American farmers taken care of by our regular agricultural appropriations. And I am quite sure you agree with that, don't you?

Mr. LYONS. Yes, Mr. Chairman. We ought to focus on what we do best, which is agriculture.

Mr. ROSE. The Defense committees, Mr. Dellums, Mr. Murtha, Mr. Hefner, those committees on appropriations and authorization can work this out and get it off your back. And that I believe is your recommendation also.

Mr. LYONS. We would like to work with them to do so. That is right.

Mr. ROSE. Thank you.

Mr. LYONS. Thank you, Mr. Chairman.

[The prepared statement of Mr. Lyons appears at the conclusion of the hearing.]

Mr. ROSE. Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chairman.

I apologize for my lateness in arriving. I had two other commitments.

I would like to thank Mr. Lyons for his commitment on behalf of USDA. This is, obviously, a very serious problem, and it, obviously, was a problem that seems to have festered under the previous administration. It has been—the lid has been removed from it.

And we are happy that the chairman, along with the Department, will be working together with this subcommittee to have some more serious oversight and to address the problems so that we will not continue to have this type of corruption that really violates the trust that the people want to have in this Government. And I want to thank you for that commitment. Thank you.

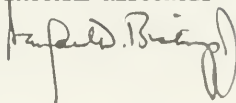
Mr. ROSE. Thank you, Mr. Bishop.

[The prepared statement of Mr. Bishop follows:]

REPRESENTATIVE SANFORD D. BISHOP, JR.

SUBCOMMITTEE ON SPECIALTY CROPS AND NATURAL RESOURCES

AUGUST 5, 1993



Thank you Mr. Chairman, this morning we are going to look into one of the most pressing problems of our nation. Government fraud, abuse, and possible criminal activity by middle management level officials in the Forest Service. I was elected to Congress because people are fed up with the federal government. The people fear that their own government is corrupt and unfortunately, today, we will only reinforce those fears. Furthermore, reports I have been given questioning the involvement of the CIA in this money-making scheme disturb me greatly. We must get to the bottom of this scandal which I believe is much broader than what we will discuss today.

I am disappointed in the Forest Service's oversight of its own program and believe this comes straight from the top. We must determine the scope of this scam between the broker of these airplanes and employees within the Forest Service. If in fact, Forest Service employees have benefitted monetarily from the transfer of these planes through the broker to contractors, I hope the Justice Department clean's house.

It is hard for me to believe that only one individual within the agency had any knowledge of these transfers and I hope the Chief will clarify this today. I also want to know the extent of

the broker's and some of the contractors, ties with the intelligence community to determine what we are dealing with. It seems impossible that this situation is simply a middle-management foul up within the Forest Service. At this point, I believe we have a scandal on our hands which the Forest Service wishes to sweep under the rug and which could possibly involve illegal activity involving individuals with close ties to the CIA.

Mr. ROSE. One last thing, Mr. Lyons.

Just so I think there is no hint of a cover-up here either by any agency of Government that you should encourage Justice to work as hard as they can to get the title to these 28 aircraft back into the property of the United States of America, and we would appreciate it if you would keep us informed of your efforts as that goes along.

Mr. LYONS. I will do so, Mr. Chairman.

Mr. ROSE. Thank you all very much. This subcommittee hearing is adjourned.

[Whereupon, at 11:50 a.m., the subcommittee was adjourned, to reconvene, subject to the call of the Chair.]

[Material submitted for inclusion in the record follows.]

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL

STATEMENT OF JAMES R. EBBITT
ASSISTANT INSPECTOR GENERAL FOR AUDIT
U.S. DEPARTMENT OF AGRICULTURE

BEFORE THE HOUSE SUBCOMMITTEE ON
SPECIALTY CROPS AND NATURAL RESOURCES

ON THE

Forest Service

Historic Aircraft Exchange Program

August 5, 1993



THANK YOU MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE. I AM JAMES R. EBBITT, ASSISTANT INSPECTOR GENERAL FOR AUDIT, AND WITH ME THIS MORNING IS CRAIG L. BEAUCHAMP, ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS.

WE ARE PLEASED TO APPEAR BEFORE YOU TODAY TO DISCUSS OUR AUDIT OF FOREST SERVICE AIRCRAFT ACTIVITIES. BASED UPON OUR AUDIT WORK, WE ALSO INITIATED AN INVESTIGATION TO DETERMINE IF THERE WAS ANY CRIMINAL WRONGDOING INVOLVED IN THIS MATTER. WE HAVE FURNISHED A REPORT OF INVESTIGATION TO THE DEPARTMENT OF JUSTICE FOR THEIR REVIEW. BECAUSE THIS MATTER IS STILL ONGOING, WE CANNOT DISCUSS THE SPECIFICS OF OUR INVESTIGATIVE FINDINGS. FOR BACKGROUND, MR. CHAIRMAN, . . .

THE FOREST SERVICE OWNS AND OPERATES 45 AIRCRAFT AND 1 HELICOPTER, AND CONTRACTS FOR THE SERVICES OF ADDITIONAL AIRCRAFT FOR THE PURPOSE OF FIGHTING FIRES. FOREST SERVICE OWNED AIRCRAFT, WHICH ARE OPERATED AT THE COST OF ABOUT \$3 MILLION ANNUALLY, PRIMARILY ASSIST THE AGENCY'S INCIDENT COMMANDERS IN THE MANAGEMENT OF A FIRE. THIS ROLE INCLUDES TARGETING AIRTANKERS TO THE POINTS WHERE RETARDANT NEEDS TO BE DROPPED. AIRTANKERS ARE USED TO CONDUCT AN INITIAL ATTACK ON SMALL FIRES UNTIL GROUND FORCES CAN CONTROL THEM, REINFORCE THE "FIRE LINE" CREATED BY THE GROUND CREWS, AND PROVIDE PROTECTION OF AND SUPPORT FOR THE GROUND FORCES. IN ADDITION TO THE OWNED AIRCRAFT, THE FOREST SERVICE CONTRACTED WITH 6 PRIVATE FIRMS FOR THE SERVICES OF 29 AIRTANKERS AT AN ESTIMATED COST OF ABOUT \$16 MILLION. IN ADDITION, THE FOREST SERVICE HAS COOPERATIVE AGREEMENTS WITH THE U.S. DEPARTMENT OF THE INTERIOR AND SEVERAL STATE AGENCIES FOR USE OF ANOTHER 40 AIRTANKERS THOSE AGENCIES HAVE UNDER CONTRACT, AND CAN CALL UPON THE NATIONAL GUARD, IF NEEDED.

TODAY I WOULD LIKE TO DISCUSS OUR REVIEW OF THE AGENCY'S USE OF THE AIRTANKERS UNDER FS CONTRACT.

BACKGROUND OF THE EXCHANGE PROGRAM

AIRTANKERS WERE FIRST USED IN THE FS FIREFIGHTING MISSION IN 1954 AND WERE GOVERNMENT OWNED AND OPERATED. AS THE AIRTANKER PROGRAM EXPANDED, AND BEGINNING IN THE EARLY 1960'S, THE FOREST SERVICE CONTRACTED OUT THE AIRTANKER OPERATIONS. THE AIRTANKER FLEET HAS HISTORICALLY BEEN MADE UP OF MAINLY POST-WORLD WAR II PISTON-ENGINED MILITARY AIRCRAFT, LIKE C-119'S, THAT THE CONTRACTORS OBTAINED THROUGH EXCHANGES WITH THE U.S. DEPARTMENT OF DEFENSE OR THAT THEY PURCHASED AS SURPLUS.

IN OCTOBER 1987, THE INTERAGENCY AIRTANKER BOARD SUSPENDED THE USE OF C-119 AIRTANKERS BECAUSE OF FATAL ACCIDENTS CAUSED BY STRUCTURAL DEFECTS. TWO COMPANIES, WHOSE FLEETS WERE COMPOSED PRIMARILY OF C-119'S, WERE MOST AFFECTED BY THE SUSPENSION. AN INDIVIDUAL WITH A BACKGROUND IN THE INDUSTRY APPROACHED THE TWO COMPANIES WITH AN OFFER TO ARRANGE FOR AN AIRCRAFT EXCHANGE WITH THE DEPARTMENT OF DEFENSE. THE ORIGINAL PROPOSED EXCHANGE CONSISTED OF TRADING THE C-119'S FOR THE LARGER, SAFER AND MORE MANEUVERABLE C-130A'S. DOD WAS NOT INTERESTED, HOWEVER, IN MAKING ADDITIONAL EXCESS MILITARY AIRCRAFT AVAILABLE TO THE MUSEUMS BECAUSE OF PRIOR MISUSE OF SOME OF ITS PLANES. DURING THE AUDIT, THE U.S. AIR FORCE MUSEUM PERSONNEL STATED THAT THE AIRCRAFT OFFERED BY THE CONTRACTORS DID NOT WARRANT EXCHANGING WITH THE MORE VALUABLE C-130A'S, AND THE AIR FORCE HAD NO NEED OR INTEREST IN THE TYPES OF PLANES PROPOSED FOR THE SWAP. THE INDIVIDUAL THEN APPROACHED THE FOREST SERVICE AND REQUESTED ASSISTANCE IN OBTAINING PLANES. THE FOREST SERVICE AGREED TO HELP AND THEY

BEGAN WORKING WITH DOD AND THE GENERAL SERVICES ADMINISTRATION. AT THAT TIME, THE FOREST SERVICE HAD NO MECHANISM IN PLACE TO OBTAIN, TRANSFER, AND RECEIVE AIRPLANES BUT THOUGHT THEY COULD USE THE HISTORIC EXCHANGE PROGRAM.

THE HISTORIC EXCHANGE PROVISIONS OF THE FEDERAL PROPERTY REGULATIONS ESTABLISH THE REQUIREMENTS FOR TRANSFERRING OWNERSHIP OF FEDERAL PROPERTY TO OUTSIDE PARTIES. THE EXCHANGE PROVISIONS WERE DESIGNED TO FACILITATE FEDERAL MUSEUMS' ABILITY TO ACQUIRE HISTORIC ITEMS FROM THE PUBLIC FOR PRESERVATION AND DISPLAY. ACCORDING TO THE REGULATIONS, BOTH THE ITEM RECEIVED AND THE ITEM EXCHANGED MUST BE HISTORIC.

THE FOREST SERVICE'S JUSTIFICATION FOR THE EXCHANGE PROGRAM WAS THAT IT WAS NEEDED TO AVOID THE SUBSTANTIAL INCREASES IN CONTRACT COSTS THAT WOULD ARISE IF THE PRIVATE OPERATORS HAD TO PURCHASE COMMERCIAL AIRCRAFT. UNDER THE PROGRAM, DOD TRANSFERRED OWNERSHIP OF EXCESS C-130A AND P-3A MILITARY AIRCRAFT TO THE FOREST SERVICE. THE FOREST SERVICE THEN TRANSFERRED THE AIRCRAFT TO CONTRACTORS IN EXCHANGE FOR PLANES TO BE PLACED IN FEDERAL MUSEUMS. BETWEEN 1988 AND 1991, THE FOREST SERVICE RECEIVED 35 AIRCRAFT FROM DOD WHICH IT THEN PROVIDED TO AIRTANKER CONTRACTORS. TITLE WAS ALSO PASSED FOR 28 OF THE AIRCRAFT TO THE OPERATORS; THE FOREST SERVICE RETAINED OWNERSHIP OF THE REMAINING 7. IN RETURN, THE FOREST SERVICE ACQUIRED 28 AIRCRAFT OF VARIOUS TYPES FROM THE CONTRACTORS. ALSO, OUR SUBSEQUENT INQUIRY DISCLOSED THAT DOD TRANSFERRED SIX ADDITIONAL C-130A'S TO GSA FOR THE FOREST SERVICE. THE FOREST SERVICE HAS NOT, HOWEVER, TAKEN POSSESSION NOR TITLE OF THESE PLANES.

PROBLEMS WITH THE EXCHANGE PROGRAM

IN DECEMBER 1989, IN RESPONSE TO COMPLAINTS ABOUT THE USE OF THE AIRCRAFT FROM THE NATIONAL AIR CARRIER ASSOCIATION, THE DEPARTMENT'S OFFICE OF THE GENERAL COUNSEL HAD RULED THAT THE FOREST SERVICE DID NOT HAVE AUTHORITY TO EXCHANGE GOVERNMENT-OWNED AIRCRAFT. OGC FOUND THAT THE EXCHANGES WERE NOT IN COMPLIANCE WITH THE TERMS OF THE PROPERTY REGULATIONS BECAUSE THE C-130A AND P-3A AIRCRAFT WERE NOT HISTORIC TO THE FOREST SERVICE IN THAT THEY HAD BEEN ACQUIRED FROM DOD FOR THE SPECIFIC PURPOSE OF GIVING THEM TO CONTRACTORS, RATHER THAN FOR PRESERVATION AND DISPLAY.

BOTH GSA AND DOD OFFICIALS INFORMED US THAT THE AIRCRAFT WERE PROVIDED TO THE FOREST SERVICE WITH THE UNDERSTANDING THAT THE AIRCRAFT WERE TO BE OPERATED BY THE FOREST SERVICE OR USED BY AIRTANKER CONTRACTORS AS GOVERNMENT-FURNISHED EQUIPMENT. THE KEY FOREST SERVICE OFFICIAL INVOLVED IN THE PROCESS CONTRADICTED THESE STATEMENTS, HOWEVER, CLAIMING THAT HE HAD RECEIVED VERBAL AUTHORIZATION FOR THE OWNERSHIP TRANSFER. NONE OF THE AFFECTED AGENCIES, USDA, GSA, OR DOD HAD MAINTAINED SUFFICIENT DOCUMENTATION TO ENABLE US TO MORE PRECISELY DETERMINE WHO HAD AGREED TO WHAT.

U.S. AIR FORCE MUSEUM PERSONNEL TOLD US THAT CONTRACTORS' AIRCRAFT WERE NOT OF SUFFICIENT HISTORIC OR MONETARY VALUE TO EXCHANGE FOR THE C-130A AIRCRAFT. WE WERE PROVIDED INFORMATION FROM INDUSTRY SOURCES THAT THE COMMERCIAL VALUE OF AN OPERATIONAL C-130A VARIED FROM \$1.75 MILLION TO \$3.5 MILLION. INDUSTRY SOURCES AND U.S. AIR FORCE OFFICIALS ESTIMATED THE COMMERCIAL VALUE OF A C-130A AIRCRAFT USED FOR PARTS ONLY AT OVER \$1 MILLION. THEREFORE, THE VALUE OF THE C-130A'S AND P-3A'S WAS AT LEAST \$28 MILLION AND AS MUCH AS

\$67 MILLION. AIR FORCE MUSEUM PERSONNEL ESTIMATED THE VALUE OF THE PLANES RECEIVED FROM THE CONTRACTORS TO BE ABOUT \$10,000 EACH.

ANOTHER PROBLEM WE NOTED WAS THAT THE ITEMS OBTAINED IN THE EXCHANGE MUST BE PRESERVED OR DISPLAYED AT FEDERAL MUSEUMS. OF THE 28 AIRCRAFT THAT CONTRACTORS TRANSFERRED TO THE FOREST SERVICE, ONLY 12 ARE DISPLAYED IN FEDERAL MUSEUMS. WHEN THE AUDIT REPORT WAS ISSUED, THE FOREST SERVICE HAD PLACED 12 OTHER AIRCRAFT IN PRIVATE MUSEUMS, AND 4 OF THE AIRCRAFT WERE STILL IN THE CONTRACTORS' POSSESSION. THE FOREST SERVICE ADVISED US THAT ALL OF THE PLANES ARE NOW IN MUSEUMS.

PROBLEMS WITH HOW THE PLANES WERE USED

THE FOREST SERVICE HAD NOT STRUCTURED THE TRANSFER OF THE MILITARY AIRCRAFT IN A WAY THAT WOULD ENSURE THAT THE AIRCRAFT WOULD BE USED ONLY FOR THE PURPOSES INTENDED. WHILE THE EXCHANGE AGREEMENTS SIGNED BY THE AGENCY AND THE CONTRACTORS REQUIRED USEAGE OF THE PLANES AS FIREFIGHTING AIRTANKERS, THE AGREEMENTS DID NOT REQUIRE THAT THE FIRMS CONVERT THE PLANES TO AIRTANKERS NOR DID IT CONTAIN ANY RESTRICTIONS TO PREVENT CONTRACTORS FROM SELLING, TRANSFERRING, OR GIVING AWAY THE AIRCRAFT OR THEIR PARTS. IN ADDITION, THE ORIGINAL CERTIFICATE OBTAINED FROM THE FEDERAL AVIATION ADMINISTRATION, WHICH GOVERNS THE PURPOSES FOR WHICH PLANES CAN BE FLOWN, WAS HELD BY THE PRIVATE INDIVIDUAL INVOLVED WITH THE FOREST SERVICE IN THE EXCHANGE. THIS CERTIFICATE DID NOT LIMIT USE OF THE PLANES TO FIREFIGHTING BUT INCLUDED BROADER PROVISIONS SUCH AS CARRYING CARGO. WITH THIS LEEWAY, CONTRACTORS COULD, AND DID, USE THE AIRCRAFT FOR PURPOSES UNRELATED TO FIREFIGHTING. FOR EXAMPLE:

ONE FIRM RECEIVED 5 C-130A'S, 3 FROM THE FOREST SERVICE AND 2 FROM THE PRIVATE INDIVIDUAL INVOLVED WITH THE FOREST SERVICE IN THE EXCHANGE. AT THE TIME, THIS FIRM DID NOT HAVE A CONTRACT WITH THE FOREST SERVICE, BUT DID HAVE A CONTRACT WITH THE U.S. DEPARTMENT OF THE INTERIOR AND USED TWO OF THE PLANES TO CARRY CARGO IN THE PERSIAN GULF. TWO OF THE PLANES HAVE SINCE BEEN REPOSSESSED BY A LENDER WHO IS TRYING TO SELL THEM TO FOREIGN BUYERS FOR SEVERAL MILLION DOLLARS EACH. THE SALE OF THESE AIRCRAFT IS THE SUBJECT OF LITIGATION BETWEEN THE DEPARTMENT AND THE LENDER. WE HAVE BEEN INFORMED THAT THE FIRM HAS TWO OF THE THREE REMAINING AIRCRAFT UNDER CONTRACT TO THE GOVERNMENT OF FRANCE. THE FIRM STILL HAS THE OTHER PLANE, BUT IT HAS NOT YET BEEN TANKED.

- ANOTHER CONTRACTOR USED A P-3A TO TEST ENGINES FOR A PRIVATE MANUFACTURER.
- ANOTHER CONTRACTOR SOLD OVER \$1 MILLION IN PARTS FROM AIRCRAFT.

EXCHANGE BROKER

THE EXCHANGES BETWEEN THE FOREST SERVICE AND THE AIRTANKER CONTRACTORS WERE "BROKERED" BY A PRIVATE INDIVIDUAL WHOSE CONTRACTOR CLIENTS RECEIVED 25 OF THE 28 AIRCRAFT EVENTUALLY TRANSFERRED. ONLY 5 OF THE APPROXIMATELY 15 AIRTANKER CONTRACTORS IN THE INDUSTRY RECEIVED AIRCRAFT THROUGH THE EXCHANGE PROGRAM. FOUR OF THE FIVE CONTRACTORS RECEIVING AIRCRAFT WERE CLIENTS OF THE BROKER. THE FOREST SERVICE NOTIFIED THE INDUSTRY OF THE POTENTIAL AVAILABILITY OF THE MILITARY AIRCRAFT, ONLY AFTER THE INITIAL ARRANGEMENTS THROUGH THE BROKER HAD

BEEN MADE. THE PROGRAM WAS HALTED BEFORE ALL INTERESTED PARTIES HAD AN OPPORTUNITY TO OBTAIN THE PLANES. FOR HIS SERVICES, THE BROKER RECEIVED 4 OF THE C-130A AIRCRAFT FROM THE CONTRACTORS WHICH HE SOLD BACK TO THEM FOR OVER \$1 MILLION. THIS ARRANGEMENT WAS MADE POSSIBLE BECAUSE THE EXCHANGE AGREEMENT WAS NOT RESTRICTIVE.

WE FOUND THAT THE CONTRACTORS' COSTS FOR PURCHASING THE AIRCRAFT FROM THE BROKER WERE RECORDED IN THEIR BOOKS TO BE CHARGED BACK TO THE FOREST SERVICE. IN ADDITION, THE CONTRACTORS INCURRED ABOUT \$1 MILLION TO REFURBISH THE AIRCRAFT THEY TRADED TO THE FOREST SERVICE. WE ALSO NOTED THAT THESE COSTS WERE TO BE CHARGED BACK TO THE FOREST SERVICE.

SEVEN ADDITIONAL GOVERNMENT-OWNED AIRCRAFT

FOREST SERVICE ALSO PROVIDED SEVEN ADDITIONAL AIRCRAFT VALUED AT ABOUT \$17 MILLION TO THE CONTRACTORS AFTER THE DEPARTMENT'S GENERAL COUNSEL HAD ISSUED AN OPINION THAT THE EXCHANGES WERE NOT AUTHORIZED. THE FOREST SERVICE PURPORTEDLY WAS OF THE OPINION THAT THE OGC DETERMINATION REPRESENTED ONLY A TEMPORARY ROADBLOCK AND THAT THE EXCHANGE PROGRAM WOULD SUBSEQUENTLY RESUME. OWNERSHIP OF THE SEVEN AIRCRAFT WAS NOT TRANSFERRED TO THE CONTRACTORS. THE CONTRACTORS, HOWEVER, CANNIBALIZED FIVE OF THE GOVERNMENT-OWNED AIRCRAFT FOR PARTS TO SUPPORT THEIR OWN FLEETS. CONTRACTORS STATED THAT THEY HAD PERMISSION FROM THE FOREST SERVICE TO USE THE AIRCRAFT FOR PARTS. FOREST SERVICE OFFICIALS SAID THAT ONE OF THEIR EMPLOYEES MAY HAVE AUTHORIZED USE OF THESE PARTS. HOWEVER, FOREST SERVICE DOCUMENTATION THAT WOULD SHED LIGHT ON THIS MATTER IS NEARLY NONEXISTENT. AS I PREVIOUSLY NOTED, ARRANGEMENTS HAD BEEN INITIATED BY THE FOREST SERVICE, BUT NOT FINALIZED, TO OBTAIN

6 ADDITIONAL AIRCRAFT FROM DOD.

RECOMMENDATIONS

WE RECOMMENDED THAT THE FOREST SERVICE:

- OBTAIN A LEGAL OPINION ON WHETHER THE AIRCRAFT TRANSFERRED TO CONTRACTORS COULD BE RECOVERED AND RECOVERING THE AIRCRAFT OR THEIR FAIR MARKET VALUES IF PERMISSIBLE;
- AMEND AND STRENGTHEN THE EXCHANGE AGREEMENTS TO PRECLUDE IMPROPER USE OR DISPOSITION OF THE PLANES OR THEIR PARTS;
- RECOVER THE SEVEN GOVERNMENT-OWNED AIRCRAFT OR THEIR FAIR MARKET VALUES FROM THE CONTRACTORS.
- DISALLOW OVER \$2 MILLION CHARGED BY THE CONTRACTORS FOR THE VALUE OF THE AIRCRAFT THEY TRADED IN AND THE COSTS THEY PAID TO THE BROKER FOR HIS FOUR C-130A'S; AND
- ESTABLISH CONTROLS TO ENSURE PROPERTY TRANSACTIONS IN THE FUTURE ARE LEGAL AND PROPER.

CORRECTIVE ACTIONS

THE FOREST SERVICE TOOK ACTION TO OBTAIN AND TIGHTEN THE FAA CERTIFICATE ISSUED FOR THE PLANES. SPECIFICALLY, THE AIRCRAFT USE WAS LIMITED SOLELY TO FIREFIGHTING. THE CONTRACTORS VOLUNTARILY COMPLIED WITH THIS REQUEST. THE FIRM WITHOUT A CONTRACT THAT PURCHASED TWO C-130A'S FROM THE BROKER DID NOT COMPLY, HOWEVER. ALTHOUGH THESE TWO PLANES ARE CURRENTLY UP FOR SALE, THE

FOREST SERVICE DID NOTIFY ALL INVOLVED PARTIES OF THE OWNERSHIP QUESTION. FURTHER, THE AGENCY ALSO ACTED PROMPTLY TO HAVE THE TWO C-130A'S RETURNED FROM THE PERSIAN GULF WHEN IT BECAME AWARE OF THE SITUATION.

IN RESPONSE TO OUR AUDIT, THE FOREST SERVICE AGREED TO DEVELOP WRITTEN PROCEDURES AND MAKE ORGANIZATIONAL REALIGNMENTS TO PROVIDE ASSURANCE THAT THE PROBLEMS NOTED WILL NOT BE REPEATED. IN ADDITION, THE FOREST SERVICE AGREED TO DISALLOW COSTS ASSOCIATED WITH THE BROKER'S PAYMENT IN THE CONTRACT COSTS AND HAS BEEN WORKING CLOSELY WITH OGC ON THE ENFORCEABILITY OF THE EXCHANGE AGREEMENTS AND OPPORTUNITIES TO MAKE NEEDED REVISIONS. FURTHER, THE DEPARTMENT ESTABLISHED A TASK FORCE TO RESOLVE OWNERSHIP ISSUES INVOLVING THE C-130A AND P-3A AIRCRAFT AND THE FUTURE ROLE OF THE FOREST SERVICE IN PROVIDING AIRCRAFT TO AIRTANKER CONTRACTORS. THE TASK FORCE IS COMPRISED OF REPRESENTATIVES OF THE FOREST SERVICE, OFFICE OF INSPECTOR GENERAL, OFFICE OF THE GENERAL COUNSEL, AND OFFICE OF OPERATIONS. THE PURPOSE OF THE TASK FORCE IS TO DEVELOP ALTERNATIVES FOR CONSIDERATION REGARDING THE FOREST SERVICE'S ROLE IN ACQUIRING PLANES IN THE FUTURE IN SUPPORT OF THE INDUSTRY.

WE BELIEVE THE FIRST STEPS IN EVALUATING FUTURE SUPPORT SHOULD INCLUDE

- REACHING A FORMAL AGREEMENT WITH THE DEPARTMENT OF DEFENSE OFFICIALS TO DETERMINE IF THEY WILL MAKE AIRCRAFT AVAILABLE TO THIS PROGRAM IN THE FUTURE AND, IF SO, UNDER WHAT CONDITIONS; AND
- HOLDING FORMAL DISCUSSIONS WITH GENERAL SERVICES ADMINISTRATION REPRESENTATIVES TO DETERMINE WHAT ALTERNATIVES THEY WILL SUPPORT.

IN ADDITION, THE U.S. DEPARTMENT OF THE INTERIOR IS A MAJOR PLAYER IN PROCURING FIREFIGHTING SERVICES. AGREEMENT NEEDS TO BE OBTAINED FROM DOI TO ENSURE CONSISTENCY IN THE CONTRACTING PROCESS AND THE MANAGEMENT OF THE AIRCRAFT.

BASED UPON THE INFORMATION CURRENTLY AVAILABLE, WE RECOMMENDED THAT FUTURE AIRCRAFT BE PROVIDED AS EITHER GOVERNMENT FURNISHED PROPERTY OR LIMITED SALES DIRECT TO THE CONTRACTORS WITH PROPER CONTROLS AND OVERSIGHT BY THE FOREST SERVICE. ANY ADDITIONAL COSTS INCURRED BY THE FOREST SERVICE UNDER THE GOVERNMENT FURNISHED PROPERTY OPTION WOULD BE OFFSET BY THE STRENGTHENED CONTROL AND ACCOUNTABILITY OVER THE AIRCRAFT THAT WOULD BE GAINED. SIMILAR CONTROLS WILL BE NECESSARY IF PLANES ARE SOLD TO THE CONTRACTORS, BUT THE LIABILITY OF THE FOREST SERVICE IN CASE OF ACCIDENTS IS REDUCED UNDER THIS OPTION.

THIS CONCLUDES MY STATEMENT MR. CHAIRMAN. I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.

Honorable Charlie Rose
U.S. House of Representatives
Committee on Agriculture
Subcommittee on Specialty Crops
and Natural Resources
Room 1301, Longworth House Office Bldg.
Washington, DC 20515

July 3, 1993

Dear Mr. Chairman:

You are applauded for your initiative and this hearing to investigate the U.S. Forestry Service program pertaining to forestry firefighting aircraft-the Lockheed C130 and A10 (Warthog jet aircraft). The issue of mismanagement or misconduct on the part of the Forestry Service concerning their aviation program is an understatement. At play is unreasonable restraints upon and monopolization of trade and exclusive dealing, all of which are prohibited under the Sherman Antitrust Act and the Clayton Act.

My point of view in this matter was influenced by the statements contained within the Final Report by Senator Frank Church, Chairman of the Senate Select Committee to Study Governmental Operations With Respect to Intelligence Activities, and the widely publicized newspaper articles concerning Central Intelligence Agency (CIA) (1976 to current date). My aviation background furthered my understanding of the issues. I am a professional pilot and former military aviator. I am a military combat pilot from the Vietnam Era. My military service spanned 1960 through August 1979. As a professional pilot and aviation consultant I hold the senior ratings of the profession, to include Airline Transport with jet aircraft ratings. I have logged just under 11,000 hours pilot flight time.

The U.S. Forestry Service is mired in controversy concerning the C130 and A10 aircraft program. The conduct of the Forestry Service has raised serious questions of CIA involvement. This should not be a surprise or something out of the ordinary. Both agencies have had a long standing hand-in-glove relationship as admitted in the Church report and extensive news articles, to include that of the Oregonian - 1988 (by James Long and Lauren Cowen - 9 series article).

In 1991 numerous clients of mine became interested in government contract opportunities. In furtherance of business interests, I began looking at opportunities involving the U.S. Forestry Service, the U.S. Postal Service, and the military air logistics command. It became apparent and clear there were a select few doing business of major importance with these agencies and that these select few had extensive CIA involvement in their background. Questions began to percolate to the surface concerning the amount of CIA influence in the trade and marketplace. The U.S. Forestry Service and the U.S. Postal Service kept a secret agenda concerning these issues. This has been revealed to a certain degree by agency audits, investigations and government committee hearings.

Again, in 1991, business interests brought me in contact with the U.S. Forestry Service concerning aviation contract opportunities. I had read an August

1991 aviation magazine article concerning a new program just implemented by the Forestry Service involving former military C130 aircraft (4-engine turbine-powered). On the surface, using C130 aircraft as a firefighting water tanker seemed appropriate with the times and available technology. Inquiries to the Forestry Service were initially stonewalled, with misinformation or no information at all. Industry sources revealed two separate programs involving C130 and A10 fighter aircraft. I was initially told the A10 program involved a military experiment that would convert A10 fighter planes to civilian water tankers. An unlikely concept because of the dangers involved using a former military jet that, in addition, could be radioactive because of its munitions (spent uranium ammunition). In 1991 I was told and believed the C130 program was being managed by the U.S. Forestry Service and the A10 fighter program was handled by the military under the direction of an aeronautical engineer named "Roy Reagan".

Initial contacts with the Forestry Service in 1991 amounted to their statements there were only three C130's involved in the program, and considering its infancy, the program was closed to anyone other than those participating with the three aircraft. For verification of these statements, I contacted the General Services Administration legal counsel and was surprised to learn there were more than 28 four-engine turbine-powered aircraft involved in the program (22 C130's and 6 P3A's). GSA legal further explained the program was in trouble because several C130's had been caught operating in Kuwait, apparently without authority to do so. I was told the Forestry Service had requested GSA to issue a position paper exonerating the Forestry Service of any wrongdoing in the affair. GSA was reluctant to do so, and this reluctance - among other reasons - had put the C130 program on temporary hold.

In early 1992 I became incensed with the Forestry Service's efforts to "circle the wagons". In hopes of clearing up the underlying facts, I began numerous inquiries to the Forestry Service under the Freedom of Information Act. Their responses were untimely, irregular and, in certain matters, untrue. I intentionally drew a line in the sand between the Forestry Service and myself concerning their misbehavior. At the same time, I had a business associate in the aviation industry contact me explaining his extreme concern because he was associated with the C130's that were caught operating in Kuwait. This associate revealed the framework of a covert military operation involving Southern Air Transport and Evergreen Airlines, both of which have admitted former military and CIA ties. I became personally concerned that I had inadvertently stepped into a covert CIA operation involving C130 and A10 fighter aircraft.

In late 1991 I mistakenly believed a C130 program was merely mismanaged by the Forestry Service. It appeared millions of dollars were being unnecessarily wasted of taxpayers money. A potentially feasible C130 program appeared to have jumped the tracks and the Forestry Service was neither candid nor truthful when asked about the C130 program. As a former law enforcement officer, I became concerned there was criminal wrongdoing at play and I filed a complaint with the Department of Agriculture's Office of Inspector General in Washington, DC. Later on in 1992, I learned my initial complaint to the OIG had instigated a full blown audit of the C130 program. When contacted by the OIG's office, I agreed to cooperate in any way possible. The OIG asked questions concerning "Roy Reagan" and "Del Rio Flying Service". I was shocked to learn there were CIA footprints

everywhere. To my surprise, the government believed "Roy Reagan" was a key player in the C130 program and had little or no knowledge of a blossoming military program involving Roy Reagan and A10 fighter planes to be used by the Forestry Service in the same program as the C130 aircraft were to have been used.

In late 1992, the Office of Inspector General issued audit report no. 08097-2-At pertaining to the Forestry Service's mismanagement of the C130 and P3A program. I was surprised - and at the same time amused - at the report's contents. There was no mention whatsoever of Roy Reagan and the A10 fighter plane program that was also associated in some way with the U.S. Forestry Service C130 program. I quickly realized the OIG's audit was merely the tip of the iceberg of a growing political scandal raising questions of a CIA involvement with the U.S. Forestry Service programs.

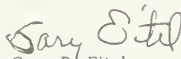
Also in late 1992, the business associate who had spoken with me earlier and explained his part in the C130's that were caught in Kuwait was suddenly killed. This was a sad note in the whole sordid affair. The individual was truly a fine gentleman and the "John Wayne" of aviation.

In early 1993, I was put in contact with the criminal division of the Office of Inspector General for the Department of Agriculture. I learned the OIG audit was indeed merely the tip of the iceberg. I cooperated fully with the OIG's criminal division. I, too, have become weary of the corruption in government and certainly of the CIA's misguided agenda.

The truth concerning the C130 and A10 program is far from being told. Hopefully this Honorable Committee can get to the bottom of all that is at play. The result could be beneficial for everyone concerned. There are legitimate needs for both the U.S. Forestry Service and the CIA. The question arises whether those needs go hand-in-hand. I, for one, do not believe so. What I've seen and heard convinces me hundreds of millions of dollars of taxpayers money has been wasted for programs that were unneeded or misguided. The aviation industry has suffered tremendously because of CIA involvement in the marketplace. As one who has formerly worked with the CIA in one form or another, I support their existence. I simply question the reasonableness of co-mingling Intelligence affairs with the affairs of the U.S. Forestry Service or, for that matter, with the affairs of the U.S. Postal Service or other legitimate government agencies.

Mr. Chairman, I hope my appearance before this Committee has been helpful. There is a lot more work to be done before there can be a turnaround in programs that are surely heading down the pathway of doom.

Sincerely,



Gary R. Eitel

Professional Pilot & Aviation Consultant

(Attachments follow:)

EXCHANGE AGREEMENT



It is mutually agreed by and between the USDA Forest Service, hereinafter referred to as the Forest Service, and **Hemet Valley Flying Service**, Hemet Valley, California, hereinafter referred to as the Exchanger, as follows:

The Forest Service will provide the following aircraft to the Exchanger for use as firefighting airtankers, and they may only be flown in support of forest, brush, or rangeland protection: *787*

C-130A	S/N	56-484	<i>57-520</i>	<i>5/4/87</i>	<i>SF 122</i>
C-130A	S/N	56-530			
C-130A	S/N	56-534			
C-130A	S/N	56-535			
C-130A	S/N	56-538			
C-130A	S/N	56-540			
C-130A	S/N	56-541			

The Exchanger will provide to the Forest Service the following fully restored and flyable aircraft:

C-119	S/N	49-132
C-119	S/N	48-322
C-119	S/N	49-199
C-119	S/N	48-352
C-119	S/N	10-956
C-119	S/N	10-776
C-119	S/N	10-870

This exchange is made under authority of GSA Regulation 101-46.203.

Delivery:

The above seven C-130A's will be delivered to the Exchanger in an "as is, where is" condition at Davis-Monthan AFB, AZ, within 30 days of the completion date of this Exchange Agreement. The Exchanger agrees to remove the seven aircraft within 180 days of receipt of an approved copy of this Exchange Agreement signed by the Director, Fire and Aviation Management, all at no expense to the U.S. Government.

All military markings will be obliterated permanently prior to flight. This includes serial numbers, national insignia, unit markings, or other markings which identify the aircraft as government/military property.

The above C-119 aircraft will be painted by the Exchanger prior to delivery in accordance with color, markings, and insignia specifications to be provided by the Forest Service. All aircraft from the Exchanger will be flight-delivered to destination museums to be designated by the Forest Service at a later date. Title to these aircraft will transfer to the Forest Service at the time of engine-shutdown on the ramps at their designated destinations.

This agreement will be considered consummated upon delivery of all aircraft by both parties.





Release of Liability:

In consideration of the mutual exchange herein, the Exchanger agrees that he will hold the U.S. Government harmless from any and all liability which might arise by reason of this exchange and that the exchange will be at no expense to the Government.

Warranty of Title:

The Exchanger hereby warrants that he has title to the aircraft and that there are no liens or encumbrances whatever against the said articles.





IN WITNESS WHEREOF, the parties have hereunto signed their names on the dates indicated.

L. A. Amicarella
L. A. AMICARELLA, Director
Fire and Aviation Management
6/14/88
Date

Witnessed by:
As to the Forest Service

[Signature]
Name
6-16-88
Date

Name

Date

As to the Exchanger

HEAVY VALLEY Flying SER Inc
134 James H. VERUBHE-SANTAS
Name
[Signature]
6-9-88
Date

[Signature]
Name
9-10-88
Date

[Signature]
Name
June 9, 1988
Date



EXCHANGE AGREEMENT

It is mutually agreed by and between the USDA Forest Service, hereinafter referred to as the Forest Service, and Hawkins & Powers Aviation, Inc., Greybull, Wyoming, hereinafter referred to as the Exchanger, as follows:

The Forest Service will provide six C-130A aircraft to the Exchanger on an as-available basis for use as firefighting airtankers, and they may only be flown in support of forest, brush, or rangeland protection:

C-130A	S/N	56-507	
C-130A	S/N	56-496	
C-130A	S/N	57-482	
C-130A	To be assigned	57-1511	JW
C-130A	To be assigned	57-454	JW
C-130A	To be assigned		

The Exchanger will provide to the Forest Service the following fully restored and flyable aircraft:

C-119	S/N	10-678
C-119	S/N	10-773
C-119	S/N	10-860
C-119	S/N	10-676
C-119	S/N	10-994
C-119	S/N	10-872

This exchange is made under authority of GSA Regulation 101-46.203.

Delivery:

The six C-130A's will be delivered to the Exchanger in an "as-is, where-is, where available" condition as they are officially made available to the Forest Service. The Exchanger agrees to remove the C-130 aircraft within 60 days of notification of their availability by the Director, Fire and Aviation Management, all at no expense to the U.S. Government.

All military markings will be obliterated permanently prior to flight. This includes serial numbers, national insignia, unit markings, or other markings which identify the aircraft as government/military property.

The above C-119 aircraft will be painted by the Exchanger prior to delivery in accordance with color, markings, and insignia specifications to be provided by the Forest Service. All aircraft from the Exchanger will be flight-delivered within 180 days to destination museums to be designated by the Forest Service at a later date. Title to these aircraft will transfer to the Forest Service at the time of engine-shutdown on the ramps at their designated destinations.

This agreement will be considered consummated upon delivery of all aircraft by both parties.

Release of Liability:

In consideration of the mutual exchange herein, the Exchanger agrees that he will hold the U.S. Government harmless from any and all liability which might arise by reason of this exchange and that the exchange will be at no expense to the Government.

Warranty of Title:

The Exchanger hereby warrants that he has title to the aircraft and that there are no liens or encumbrances whatever against the said articles.

IN WITNESS WHEREOF, the parties have hereunto signed their names on the dates indicated.

Witnessed by:
As to the Forest Service

[Signature]
L. A. AMICARELLA, Director
Fire and Aviation Management
3-13-89
Date

[Signature]
Name
4/3/89
Date

Name

Date

Hawkins & Powers Aviation, Inc.
Box 391
NewDun. Wyo. 82426

As to the Exchanger

[Signature]
Name
VICE President
3-16-89
Date

[Signature]
Name
3-16-89
Date

[Signature]
Name
3-16-89
Date

EXCHANGE AGREEMENT

It is mutually agreed by and between the USDA Forest Service, hereinafter referred to as the Forest Service, and T.B.M., Inc., Tulare, California, hereinafter referred to as the Exchanger, as follows:

The Forest Service will provide six C-130A aircraft to the Exchanger on an as-available basis for use as firefighting airtankers, and they may only be flown in support of forest, brush, or rangeland protection:

C-130A	S/N	56-537		
C-130A	S/N	56-473		
C-130A	S/N	57-466		
C-130A	S/N	To Be Assigned	57-0457	FAA
C-130A	S/N	To Be Assigned	56-0531	FAA
C-130A	S/N	To Be Assigned	56-0474	FAA

The Exchanger will provide to the Forest Service the following fully restored and flyable aircraft:

C-123	S/N	54-683		
C-123	S/N	54-610		
C-123	S/N	54-580		
DC-4	S/N	27367	14-27	53-012
DC-6	S/N	40044	11-27	54-536
Stearman	S/N	N5158		

This exchange is made under authority of GSA Regulation 101-46.203.

Delivery:

The above six C-130A's will be delivered to the Exchanger in an "as is, where is" condition at Pinal Air Park, Arizona. The Exchanger agrees to remove the six C-130 aircraft within 60 days of receipt of notification of their availability by the Director, Fire and Aviation Management, all at no expense to the U.S. Government.

All military markings will be obliterated permanently prior to flight. This includes serial numbers, national insignia, unit markings, or other markings which identify the aircraft as government/military property.

The above exchange aircraft will be painted by the Exchanger prior to delivery in accordance with color, markings, and insignia specifications to be provided by the Forest Service. All aircraft from the Exchanger will be flight-delivered within 180 days to destination museums as designated by the Forest Service at a later date. Title to these aircraft will transfer to the Forest Service at the time of engine-shutdown on the ramps at their designated destinations.

This agreement will be considered consummated upon delivery of all aircraft by both parties.

Release of Liability:

In consideration of the mutual exchange herein, the Exchanger agrees that he will hold the U.S. Government harmless from any and all liability which might arise by reason of this exchange and that the exchange will be at no expense to the Government.

Warranty of Title:

The Exchanger hereby warrants that he has title to the aircraft and that there are no liens or encumbrances whatever against the said articles.

IN WITNESS WHEREOF, the parties have hereunto signed their names on the dates indicated.

Witnessed by:
As to the Forest Service

[Signature]
L. A. AMICARELLA, Director
Fire and Aviation Management
4/13/89
Date

[Signature]
Name
4/13/89
Date

Name

Date

As to the Exchanger

Henry C. Moore
Name
Henry C. Moore, V.P.
3/16/89
Date

[Signature]
Name
3/16/89
Date

[Signature]
Name
MARJORIE F. PEVEY
Name
3/16/89
Date

EXCHANGE AGREEMENT

It is mutually agreed by and between the USDA Forest Service, hereinafter referred to as the Forest Service, and T&G/Douglas County Aviation, Chandler, Arizona, hereinafter referred to as the Exchanger, as follows:

The Forest Service will provide three C-130A aircraft to the Exchanger on an as-available basis for use as firefighting airtankers, and they may only be flown in support of forest, brush, or rangeland protection:

C-130A	S/N	56-0478
C-130A	S/N	54-1631
C-130A	S/N	57-0512

The Exchanger will provide to the Forest Service the following fully restored and flyable aircraft:

T-33A	S/N	53-58-50
SNB5	S/N	89-468
UH-19B	S/N	55-3206 55-49-3

This exchange is made under authority of GSA Regulation 101-46.203.

Delivery:

The three C-130A's will be delivered to the Exchanger in an "as-is, where-is, where available" condition as they are officially made available to the Forest Service. The Exchanger agrees to remove the C-130 aircraft within 60 days of notification of their availability by the Director, Fire and Aviation Management, all at no expense to the U.S. Government.

All military markings will be obliterated permanently prior to flight. This includes serial numbers, national insignia, unit markings, or other markings which identify the aircraft as government/military property.

The aircraft provided by the Exchanger will be painted prior to delivery in accordance with color, markings, and insignia specifications to be provided by the Forest Service. All aircraft from the Exchanger will be flight-delivered within 180 days to destination museums to be designated by the Forest Service at a later date. Title to these aircraft will transfer to the Forest Service at the time of engine-shutdown on the ramps at their designated destinations.

This agreement will be considered consummated upon delivery of all aircraft by both parties.

Release of Liability:

In consideration of the mutual exchange herein, the Exchanger agrees that he will hold the U.S. Government harmless from any and all liability which might arise by reason of this exchange and that the exchange will be at no expense to the Government.

Warranty of Title:

The Exchanger hereby warrants that he has title to the aircraft and that there are no liens or encumbrances whatever against the said articles.

STATEMENT OF
F. DALE ROBERTSON
CHIEF, FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Specialty Crops and Natural Resources
Committee on Agriculture
United States House of Representatives

Concerning Airtankers for Wildland Fire Suppression

August 5, 1993

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to participate in your review of the Forest Service Airtanker program. I am accompanied today by Rex Hartgraves, Associate Deputy Chief for Administration. Mr. Hargraves is currently chairing a taskforce to deal with the airtanker issue.

In my testimony today, I will review a brief history of the Forest Service's Airtanker program, status of USDA's Office of Inspector General Audit on the program, and current efforts to strengthen program management. The use of airtankers in firefighting has proven to be an invaluable tool in the protection of lives, property, and resources from rapidly advancing fire, and the Department of Agriculture is committed to maintaining the necessary airtanker capability in the most cost-effective manner.

During the period 1987 through 1992, the Forest Service fought or assisted in the suppression of over 650,000 fires that

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burned almost 14 million acres. During this period, 30 Forest Service contracted airtankers were used which flew almost 27,000 hours, making an estimated 31,000 fire retardant trips. Without the availability of these airtankers to support our fire suppression efforts, the associated resource/property values which would have been lost to wildfire would have been substantially greater. Airtankers are used primarily for initial attack on wildfires in an effort to keep small fires small until ground forces can control them, and supporting firefighters on large fires with fireline construction and protection of structures. Airtankers are also used to protect ground suppression forces and are credited with saving many firefighter lives.

As an example, the Tucannon Fire, near the Oregon/Washington boarder, started August 2, 1992, with temperatures in the 80's, low humidity, and high winds. The fire spread across a valley and burned over 4,000 acres in 4 hours. Values threatened were the Tucannon Game Range Headquarters and Fish Hatchery complex, Camp Wooten Environmental Learning Center, private homes, summer homes, logging operations, and National Forest lands. Losses included 2 barns, several outbuildings and farm equipment, several trailers, vehicles and standing timber. Suppression costs were \$49,321 of which \$22,000 were for aircraft and retardant. Landowners, State Department of Natural Resources and the Forest Service concluded the use of

airtankers and retardant prevented this fire from costing \$1 to \$2 million and saved many homes and high value resources.

The type of aircraft which is suitable for dropping fire retardant requires that the aircraft be capable of flying at relatively slow speeds, close to the ground, and carrying heavy loads. At the same time, the aircraft must be capable of flying at higher cruise speeds to and from the fire to ensure quick turn around times for both initial and subsequent retardant drops. These unique requirements result in limited availability of aircraft suitable for conversion as airtankers. However, the methods the Forest Service used to acquire aircraft suitable for conversion were wrong. Specifically, we did not comply with the requirements of the Federal Property and Administrative Services Act as implemented by 41 CFR 101-46. Clearly, management oversight was not sufficient, resulting in decisions which caused us to be in non-compliance with these regulations.

The corrective measures we have taken to date to correct these problems include:

1. suspension of our aircraft exchange program;
2. reassigning responsibility for the acquisition, inventory control, and oversight for airtankers from our Fire and Aviation Staff to our Property and procurement Staff;

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3. initiated proposed disciplinary action; and
4. assigning a Task Group to develop a long term resolution to meet airtanker needs and identify measures needed to get the current program back on track.

Our intent has always been, and continues to be, to make the most suitable aircraft available to suppress wildland fire in a cost-effective manner. Providing excess aircraft at a reasonable cost to operators saves the Forest Service an estimated \$3 to \$10 million a year in airtanker service contract costs.

Background

In 1954 the Forest Service's successful experimentation using modified aircraft to drop fire retardant mixtures on a fire in Southern California resulted in initiation of the airtanker program. The program began with Government pilots utilizing Government-owned aircraft acquired by the Forest Service from the Navy as surplus property which were modified for air retardant drops. It was at this time that the Forest Service began to encourage the private sector to provide airtanker services in Northern California. The use of Government and private airtankers for fire suppression grew rapidly.

The continued success of utilizing airtankers for fire suppression eventually led to the decision that the private sector could provide better airtanker service if they could

obtain suitable aircraft, and the Forest Service arranged for the sale of surplus aircraft from the Navy to the private sector. As the private airtanker fleet expanded, so did the use of water and retardant drops as a firefighting tool. During the early 1960's, many World War II aircraft were sold as surplus on the open market, many of which were modified and used as airtankers under contract with private operators.

During this time the size of the private airtanker fleet grew to over 100 airtankers and became an established part of the firefighting system. As the aircraft aged, many components wore out, and the scarcity of replacement parts resulted in the aircraft becoming unsafe. As few private aircraft were available which could meet the requirements for use as airtankers, World War II aircraft in the fleet were replaced with newer excess military aircraft. Some were purchased as surplus Government property and some were acquired through exchange with the Air Force Museum.

By 1987, about 60 percent of the active private airtanker fleet had been acquired through museum exchanges, 30 percent from surplus or scrap sales, and 10 percent purchased from commercial airlines as used aircraft. As these second generation airtankers began to age and in-flight structural failures of C-119 aircraft on retardant missions resulted in four crashes involving seven fatalities during a three year period, the C-119 was permanently grounded for airtanker use.

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The shortage of suitable replacement aircraft for the aging airtanker fleet, associated with the fact that modern large military and commercial aircraft do not meet the slow flight performance required for retardant dropping, was causing a critical situation for the airtanker industry. In 1988, the Air Force, the General Services Administration (GSA), and the airtanker industry made an effort to make C-130A and P-3A excess military aircraft available, since it was determined that these aircraft do have acceptable flight performance.

Historic Exchange Program

During this period, an initial request was made by an airtanker operator for assistance from the Forest Service to make 7 excess Air Force C-130's available to the Air Force Museum for exchange, resulted in discussions between the Department of Defense (DoD), the Air Force, and the Forest Service. DoD and Air Force officials expressed reluctance to release more C-130's to the Air Force Museum as a result of a previous Museum exchange which had gone awry. However, DoD and the Air Force expressed support to assist the Forest Service in its firefighting efforts. The suggestion was made that the Forest Service facilitate the acquisition of aircraft, as the Forest Service could better identify bonafide airtanker operators. DoD, the Air Force, and GSA assumed that the Forest Service would retain title to the aircraft.

In June 1988, after review of General Service Administration (GSA) regulations by Forest Service Fire and Aviation Management personnel, we processed these 7 C-130's from the Air Force through GSA to the Forest Service. However, we did not meet the legal requirements of these regulations and would have realized this had we requested a formal review by our Office of General Counsel or GSA. Specifically, we were in non-compliance with the following regulation requirements:

1. Historic items must have added value for display purposes because of their historical significance that is greater than the fair market value of the items for continued use;
2. the exchange or sale of originally acquired excess property must be placed in official use by an acquiring agency for at least one year; and
3. the agency head must document and certify that historic items acquired for exchange be in the best interest of the Government.

Nonetheless, using an exchange agreement similar to previous military exchange agreements, the Forest Service completed the exchange of the 7 C-130's for 7 C-119's with an airtanker operator. In 1989, the military transferred an additional 16 C-130's and 6 P-3's to the Forest Service. The Forest Service subsequently transferred all but one C-130 to airtanker operators.

During December 1989 to January 1990, in response to a complaint by the National Air Carriers Association, USDA's Office of General Counsel (OGC) reviewed the exchange process and ruled that the Forest Service was not in compliance with GSA regulations and recommended the agency request a deviation from the regulations from GSA. At this time the exchange program was suspended.

Between July 1990 and March 1991, the Forest Service received an additional 6 P-3's from the Navy. However, as GSA denied the request for deviation from the regulations, none of these aircraft were transferred to airtanker operators and are still in possession of the Forest Service for parts. Three of these aircraft are being used as Government Furnished Property under existing contracts. Thus, 27 of the 28 aircraft exchanged with the airtanker industry since 1988 still remain in possession of airtanker operators; one of the exchanged aircraft has crashed.

In August 1991, there were 6 excess C-130 aircraft at Davis-Montham Air Force Base scheduled for transfer to the Forest Service. The necessary paperwork was prepared, however, this transfer was not made because the exchange program had been suspended. Ownership of these aircraft has never been transferred to the Forest Service.

Audit Status

In October 1992, USDA's Office of the Inspector General (OIG) issued its Audit Report on the Forest Service Historic Aircraft Exchange Program (HAEP). OIG evaluated the HAEP to determine conformance with Federal property regulations, whether aircraft were used for authorized purposes, and propriety of transactions.

There were seven specific recommendations by the Office of Inspector General as a result of their audit of the Exchange Program. The Forest Service has worked with the OIG, and the Office of General Counsel in an effort to implement the recommendations. Several actions have been completed, and we are prepared to take action on the remaining items pending final decision by the Secretary. Assistant Secretary Lyons is here to address pending Departmental policy actions regarding final resolution on the remaining items. I will briefly summarize the seven recommendations and the status of each:

Recommendation 1: Establish written policy for acquiring aircraft, for airtanker purposes, addressing legal authority and appropriate management controls. **Status:** This policy has been developed and will be addressed by Assistant Secretary Lyons. The OIG concurs with the Forest Service management decision on this recommendation.

Recommendation 2: Establish written policy requiring justification and cost analysis for future aircraft

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acquisition. **Status:** This policy has been developed and will be addressed by Assistant Secretary Lyons. The OIG concurs with Forest Service management decision on this recommendation.

Recommendation 3: Forest Service should not allow the capitalization by the contractors of \$1,181,476 in costs for remuneration received by the consultant for the sale of C-130's to various operators for brokering the exchanges.

Status: Forest Service did not allow capitalization of \$1,083,564. The OIG concurs with this action.

Recommendation 4: Forest Service should not allow the contractors to charge \$1,079,189 against airtanker contracts as the cost associated with the aircraft they traded in.

Status: The Forest Service believes these are legitimate costs and allowed under Generally Accepted Accounting Principles. Seeking resolution with the OIG on this issue.

Recommendation 5a: Forest Service should seek legal opinion on ultimate status of the 28 previously exchanged aircraft.

Status: The Forest Service is in the process of obtaining this opinion from the Office of General Counsel. The Department of Justice is preparing an opinion on a lawsuit involving two of the aircraft.

Recommendation 5b: Forest Service should seek legal opinion on the enforceability of existing exchange agreements and

opportunity to amend the agreements to provide increased accountability. **Status:** The Forest Service will obtain this opinion from the OGC. The OIG concurs with the Forest Service management decision on this recommendation.

Recommendation 6: Of the seven aircraft for which the Forest Service retains title, the Forest Service should recover the operational aircraft and fair market value of aircraft parts. **Status:** Three aircraft used for parts are designated Government Furnished Property (GFP) under the current airtanker services contracts. Parts being used a GFP will be returned at the end of the contract period and reconciliation made. The Forest Service Contracting Officer is currently reconciling the inventory of any parts that have been removed and will bill the contractor for any shortages. The four other aircraft are secured and under the control of the Forest Service.

Recommendation 7: Forest Service should correct accounting entries made to property records concerning the seven Forest Service owned aircraft and the twenty eight museum aircraft. **Status:** Completed. The OIG concurs with the Forest Service management decision on this issue.

Current Efforts to Strengthen Program Management

Since the OIG audit of the program, we have not executed any additional exchanges of aircraft. We have reassigned the primary responsibility for the acquisition, inventory control

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and management, and oversight from the Fire and Aviation Staff to the Procurement and Property Staff. This provides a clear separation of responsibilities between the end user and those responsible for oversight and control.

An Investigation Report compiled by OIG has been forwarded to the Department of Justice to expedite any legal action which may be required resulting from any misconduct on the part of any Forest Service employees or other involved parties. In addition, we have initiated proposed disciplinary action.

Of the seven aircraft still in possession of the Forest Service, three are provided as Government Furnished Property under existing airtanker service contracts with appropriate contractual controls. The remaining four aircraft are secured and under the direct control of the Forest Service. Security checks on these aircraft continue to be performed monthly.

Upon final decision by the Secretary, we will issue written policy implementing the recommendations of the OIG audit.

Summary

The use of airtankers to support our wildland fire-suppression efforts in cooperation with other Federal and State agencies continues to be an invaluable tool. Historically, our airtanker program has allowed us to keep the number of acres

burned annually to a much lower level than might otherwise be expected. We are currently implementing administrative procedures to strengthen the overall management of this important program and look forward to working with the Congress in the development of any necessary legislative remedies to further these goals.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions you or members of the Subcommittee may have.

STATEMENT OF
JAMES LYONS, ASSISTANT SECRETARY
NATURAL RESOURCES AND ENVIRONMENT
UNITED STATES DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Specialty Crops and Natural Resources
Committee on Agriculture
United States House of Representatives

Concerning Airtankers for Wildland Fire Suppression

August 5, 1993

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to participate in your review of the Forest Service Airtanker program. I am accompanied today by Chief Dale Robertson and Associate Deputy Chief Rex Hartgraves.

In my testimony today, I will review the steps Secretary Espy intends to take to correct existing problems with the Forest Service Airtanker program and to improve its management in the future.

As indicated by Chief Robertson the use of airtankers as a part of the overall cooperative interagency mission to combat wildfires on public and private lands is invaluable. There is no argument that without the use of airtanker technology lives, structures, and natural resources would be unduly threatened. However, USDA is very concerned with the findings of the recent

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Office of Inspector General Audit and investigation of the Forest Service Historic Aircraft Exchange Program. This Administration committed to restoring the integrity of the Airtanker Program.

As discussed by Mr. Ebbitt, of the Department's Office of Inspector General, the Forest Service did not have the authority to exchange aircraft with airtanker contractors and was not in compliance with Federal property regulations by doing so. In addition, the Office of Inspector General has completed an investigation of alleged improprieties associated with the aircraft exchange and has forwarded its report to the Forest Service for appropriate Administrative action, and to the Department of Justice to expedite any legal action which may be required.

Although there have been significant problems with the airtanker program, it remains a fact that we will continue to need airtankers to fight forest fires. As a result, we are committed to developing a policy that can correct problems that have been created in the short term and ensure that the mistakes of the past are not repeated in implementing a long term strategy to meet our future needs.

To accomplish this objective, the Forest Service needs to get out of the business of facilitating the exchange of airtankers. As determined by the OIG, these past exchanges

were done through an inappropriate use of existing authorities. Clearly, a new policy is needed.

For this reason, Mr. Chairman, the Administration is considering seeking legislative authority to facilitate the sale of excess aircraft to bonafide airtanker operators. This legislation will need to include detailed responsibilities and controls to ensure that the aircraft will be used solely for the purpose of suppressing wildfires and prohibit the transfer unless explicitly approved by the Secretary. Nevertheless, and most importantly, this approach would attempt to provide for a simple and straightforward way of selling aircraft with minimal Forest Service intervention.

Until the Administration makes a decision on seeking legislative authority, USDA will obtain airtankers directly from the Department of Defense and provide them to airtanker services contractors as "Government Furnished Property". This approach complies with the Federal Property and Administrative Services Act. USDA also intends to exercise a one year option on the current airtanker services contracts.

Upon completion of legal review regarding ownership of the remaining 27 aircraft exchanged under the Historic Aircraft



Exchange Program, we will either recover the aircraft or modify the Exchange Agreements to:

- 1) require that the Government be compensated for any Government owned aircraft or parts released to airtanker operators;
- 2) require written approval by the Secretary for use of aircraft or parts for any purpose other than in the performance of providing airtanker service to the Forest Service and Federal, State, and local agencies that have cooperative agreements with us in fire control;
- 3) prohibit the use of aircraft outside the United States unless dispatched by the National Interagency Fire Center;
- 4) provide for accountability and audit of all aircraft, parts, inventories, and records; and
- 5) prohibit the sale, leasing, trade, barter, cannibalization, or other disposal of the purchased aircraft without prior written approval.

Finally, if the Department of Justice recommends that legal action be taken, in addition to Administrative action we are taking, as a result of any misconduct on the part of any employees, we will respond accordingly.

Summary

In summary Mr. Chairman, the use of airtankers is essential to the protection of lives, property, and public and private forest and rangelands. Our policy will provide for an

airtanker program which is legal, maintains necessary controls, and is cost-effective. We will work closely with the Congress in the development of any necessary legislation in order to implement this policy.

This concludes my statement and Dale Robertson, Rex Hartgraves, and I would be pleased to answer the Subcommittee's questions.



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