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

SERVEL JUL 2 1999

Issued by the Department of Transportation
on the 2nd day of July, 1999

Application of

KATMAILAND, INC.
d/b/a **KATMAI AIR**

for a disclaimer of jurisdiction under
49 U.S.C. 41105

Docket OST-99-5886-2

**ORDER DISCLAIMING JURISDICTION
AND REISSUING CERTIFICATE**

Summary

By this order, we disclaim jurisdiction over the proposed transfer of the interstate scheduled passenger certificate issued to Katmailand, Inc. d/b/a Katmai Air ("Katmailand") under section 41102 of Title 49 of the United States Code ("the Statute") to Katmai Air, LLC d/b/a Katmai Air ("Katmai Air") and we reissue the certificate in the name of the latter entity.

Background

By Order 94-3-25, dated March 15, 1994,¹ we found Katmailand, of Anchorage, Alaska, to be fit, willing, and able to engage in interstate scheduled air transportation of persons, property, and mail, and issued to it a certificate authorizing such air transportation.²

¹ The carrier's certificate was reissued on July 8, 1998, by Order 98-7-6, to reflect the change in the "Love Field" condition contained therein.

² The certificate authority awarded to Katmailand prohibits the carrier from operating aircraft having more than 30 passenger seats or a 7,500-pound cargo payload capacity, unless it is found fit, and approved by the FAA, to operate larger aircraft.

Request for Disclaimer

On June 24, 1999, Katmailand requested the Department to disclaim jurisdiction under section 41105 of the Statute over the proposed transfer of the carrier's section 41102 certificate to Katmai Air, and to reissue that certificate in Katmai Air's name. The applicant stated that it desired to change its corporate structure from a Subchapter S corporation to a limited liability company in order to obtain certain tax benefits, and requested Department action on its application by July 1.

Katmailand noted that a grant of the requested disclaimer is in accordance with the Department's established precedent in such situations. The carrier stated that it has undergone no substantial changes in ownership, management, or operations since its continuing fitness was established within the past year. Moreover, Katmailand declared that the proposed corporate change will not result in any substantial changes in these areas or in its financial condition or its relationship to any other entity. The applicant asserted that it continues to operate its certificated air service from Anchorage, King Salmon, and Katmai National Park in Alaska, that it is in compliance with all of the Department's regulations, and that it has not been the subject of any FAA enforcement actions. Katmailand filed copies of the Certificate and Articles of Organization for Katmai Air as a limited liability company, as approved by the State of Alaska on May 10, 1999.

Based on our review of the information provided by Katmailand in this proceeding and on the satisfactory results of our continuing fitness review of the carrier in October 1998, we conclude that the proposed change in Katmailand's corporate status will not have an adverse effect on any areas related to its fitness to continue to conduct its certificated air transportation operations. Therefore, we will disclaim jurisdiction over the transfer of Katmailand's certificate to Katmai Air and reissue the certificate in the latter company's name.³ This action is consistent with the Department's decisions in similar cases where such corporate reorganizations were found not to be transfers within the meaning of section 41105 of the Statute.⁴

ACCORDINGLY, acting under authority assigned by the Department in its Regulations, 14 CFR 385.12(d)(2):

1. We disclaim jurisdiction over the transfer of the interstate scheduled certificate issued to Katmailand, Inc. d/b/a Katmai Air to Katmai Air, LLC d/b/a Katmai Air.
2. We reissue the certificate reissued to Katmailand, Inc. d/b/a Katmai Air by Order 98-7-6 in the name Katmai Air, LLC d/b/a Katmai Air, effective July 1, 1999.
3. We will serve a copy of this order on the persons listed in Attachment A to this order.

³ The certificate prohibition against large-aircraft operations by Katmai will continue.

⁴ See, e.g., Orders 88-1-74, 88-12-38, 90-7-24, 92-12-26, and 96-12-24.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.30, may file their petitions within 10 days of the service date of this order.

The action taken in this order is effective immediately and the filing of a petition for review shall not alter its effectiveness.

By:

JOHN V. COLEMAN
Director
Office of Aviation Analysis

(SEAL)

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http://dms.dot.gov/reports/reports_aviation.asp*



**Certificate of Public Convenience and Necessity
for
Interstate Air Transportation**

(as reissued)

This Certifies That

**KATMAI AIR, LLC
d/b/a KATMAI AIR**

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in interstate air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

Issued by Order 99-7-2

On July 2, 1999

Effective on July 1, 1999

John V. Coleman

Director

Office of Aviation Analysis

*As reissued**
Order 99-7-2
Attachment



Terms, Conditions, and Limitations

KATMAI AIR, LLC
d/b/a KATMAI AIR

is authorized to engage in interstate air transportation of persons, property, and mail between any point in any State, territory, or possession of the United States or the District of Columbia, and any other point in any of those entities.

This authority is subject to the following provisions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*
- (2) The holder's authority to operate under this certificate is limited to operations with aircraft having no more than 30 passenger seats or a 7,500-pound payload capacity. The holder may not conduct any operations exceeding these limits until its fitness to conduct such operations has been established by the Department.*
- (3) The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration.*
- (4) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*
- (5) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*

**This certificate is being reissued to reflect a corporate reorganization.*

(6) *The holder may reduce or terminate service at any point or between any two points, subject to compliance with the provisions of 49 U.S.C. 41734 and all orders and regulations issued by the Department of Transportation under that section.*

(7) *The holder may not provide scheduled passenger air transportation to or from Dallas (Love Field), Texas, except within the limits set forth in section 29 of the International Air Transportation Competition Act of 1979.*

(8) *Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.*

(9) *In the event that the holder commences but subsequently ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may not recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.*

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