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

Issued by the Department of Transportation
on the 18th day of February, 2000

Application of **KALAUPAPA, HAWAII** Under 49 U.S.C. 41731 *et seq.*	**Docket OST 2000-6773** – 6 **Served: February 24, 2000**

ORDER SELECTING CARRIER AND SETTING FINAL RATE

SUMMARY

This order designates Kalaupapa, Hawaii, as a community eligible to receive subsidized small community air service under 49 U.S.C. 41736(a), and selects Air Nevada, Inc., d/b/a Pacific Wings, to provide subsidized air service at the community for a two-year period.

AIR SERVICE TO NON- ELIGIBLE COMMUNITIES

In accordance with 49 U.S.C. 41736(a), a State or local government may propose to the Department of Transportation that the Department provide compensation to an air carrier to provide air service to a community that is not otherwise eligible for such compensation. The Department shall designate the point as eligible and approve a proposal for compensation if the State or local government, or a person, is willing and able to pay 50 percent of the compensation for providing air service, and if the Secretary of Transportation determines the proposal to be reasonable. If a proposal is determined not to be reasonable, then the Department must notify the State or local government of the disapproval and the reasons for such determination.

In determining whether a proposal is reasonable, the Department must consider, among other things, (1) the traffic-generating potential of the community; (2) the cost to the Federal government of providing the proposed transportation; and (3) the distance from the community to the closest hub airport.

When a carrier is selected to provide air service under this section, the Department does not have the authority to hold in that carrier beyond a 30-day notice period should the carrier later decide to suspend service. Likewise the community may terminate the contract on 30-days' notice as well.

BACKGROUND AT KALAUPAPA

On November 28, 1988, the community of Kalaupapa and the State of Hawaii petitioned the Department to designate Kalaupapa as eligible to receive subsidized air service under the subsidy-sharing provisions delineated in 49 U.S.C 41736(a)--a provision for non-EAS communities. Since Kalaupapa neither received scheduled air service from a certificated carrier on the date of enactment of the Airline Deregulation Act (October 24, 1978), nor was an eligible community under the section 419(b) provisions of the Airline Deregulation Act, [1] the Department had no basis to guarantee air service for the community. We did, however, grant Kalaupapa's request for inclusion under section 41736(a)--air transportation to ineligible places. Aloha Island Air (Island Air) was already providing the air service with no subsidy. We issued Order 91-4-6 which set a service level for Kalaupapa consisting of two round trips a day to either Hoolehua (nonstop) or Honolulu (one-stop) with a total of 28 seats arriving and 28 seats departing each day, and relied on Island Air to provide the service without subsidy. In that same order, we stated that we could not hold Island Air in if it subsequently decided to suspend service, although Island Air would be subject to a 30-day notice obligation before suspending service.

Pacific Wings replaced Island Air, which had provided air service to Kalaupapa for a number of years, on October 1, 1999, and has provided reliable subsidy-free scheduled air service since that time. On January 7, 2000, Pacific Wings filed a 30-day notice to suspend its air service at Kalaupapa. In its notice the carrier stated that it was not economically feasible to continue its service to Kalaupapa because of the inadequate passenger loads it had generated.

On January 28, 2000, the State of Hawaii opposed the termination of Pacific Wings' "excellent and reliable service at Kalaupapa." They state said that Kalaupapa is an extremely isolated community wholly dependent on reliable scheduled air service for its economic survival, and for the health and welfare of its population.

By Order 2000-2-11 the Department permitted Pacific Wings to suspend service on February 6 on the grounds that the Department had no authority to hold in carriers at Kalaupapa beyond a 30-day notice period because Kalaupapa is not an essential air service community, and thus is not guaranteed continuous air service. We noted that the community could submit a proposal for the Department to subsidize a carrier at Kalaupapa on a 50-50% sharing basis with the Department. The community and carrier have now submitted such a proposal.

DECISION

Pacific Wings has proposed to provide two one-stop round trips to Honolulu over Hoolehua, six days per week, with 8-seat Cessna 402 aircraft, for $272,807 annually. The carrier would be permitted but not required to stop at Hoolehua enroute to Honolulu. The service proposed is the same level of service to Kalaupapa as Pacific Wings has provided for the last several months, and the community endorses it. The earlier service pattern for Kalaupapa worked out with the community required either non-stop service to

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[1] P.L. 103-272, July 5, 1994, codified the Federal Aviation Administration within Subtitle VII of Title 49, United States Code (Transportation) 41731-41742. Section 419 has been reclassified as 49 U.S.C 41731-41742.

Hoolehua or one-stop service to Honolulu. We will thus permit service to Hoolehua but not require it.

We have decided to approve the community/state's proposal for subsidized air service for this non-EAS community. We make this decision largely because of the unique nature of Kalaupapa. The community is a former Hansen's disease (leprosy) settlement located on a peninsula on the Island of Molokai. It is a National historical Park, established in 1980, partly to honor the work of Father Damien, who spent 16 years of his life, from 1873 to 1889, administering relief to victims of this disease until he too died from it. The community was selected as a site for Hansen's disease because of its extreme inaccessibility to the rest of the world. It is surrounded on three sides by rough open sea. Access to the rest of the island of Molokai is impeded by a 1,600-foot cliff. There is no alternative scheduled air service to Kalaupapa. Under these circumstances, we believe the community of Kalaupapa is worthy of special consideration for its subsidy-sharing proposal. Moreover, the State of Hawaii has pledged to provide 50 percent of the annual $272,807 funding requirement.

Kalaupapa has demonstrated an adequate potential for generating traffic commensurate with small commuter aircraft operations. In 1998, the most recent year we have available, it generated 7,847 origin and destination passengers.

Carrier Fitness

49 U.S.C. 41738 and 41737(b) require that we find an air carrier fit, willing and able to provide reliable service before we may compensate it for air service. The Department has discussed the fitness of Pacific Wings with the Federal Aviation Administration (FAA) in Honolulu. Based on our review, we find that Pacific Wings has adequate financial and managerial resources to inaugurate reliable service at Kalaupapa, and that it possesses a favorable compliance disposition. The FAA has advised us that the carrier is conducting its operations in accordance with its regulations, and knows of no reason why we should not find that Pacific Wings is fit. Pacific Wings remains subject to the Department's continuing fitness monitoring, and no information has come to our attention that would lead us to question the carrier's fitness. Based on the above, we find that Pacific Wings is fit to provide the air transportation at issue in this case.

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

ACCORDINGLY,

1. The Department designates Kalaupapa, Hawaii, as a point eligible to receive small community air service under 49 U.S.C. 41736(a);

2. The Department selects Air Nevada, Inc., d/b/a/ Pacific Wings, to provide small community air service at Kalaupapa, Hawaii, as described in Appendix C of this order;

3. The Department sets the final rates of compensation for Pacific Wings for the provision of small community air service at Kalaupapa, Hawaii, as described in Appendix C, for the period from February 15, 2000, through February 28, 2002, payable as follows: for each month during which small community air service is provided, the amount of compensation shall be subject to the weekly ceilings set forth in Appendix A, and shall be determined by multiplying the subsidy-eligible flights in each direction completed during the month by $220.72;

4. The State of Hawaii may terminate its agreement to provide its share of the compensation to Pacific Wings by providing at least 30 days' advance written notice to the Department and to the carrier;

5. Pacific Wings may terminate its small community air service at Kalaupapa prior to the end of the two-year period set forth above, only by providing at least 30-days' advance written notice to the Department and to the State of Hawaii;

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

7. We find that Pacific Wings Air is fit, willing and able to operate as a commuter air carrier and capable of providing reliable small community air service at Kalaupapa, Hawaii; and

8. We will serve copies of this order on the Mayor and airport manager of Kalaupapa, the Hawaii Department of Transportation; the Governor of Hawaii; and Pacific Wings.

By:

A. Bradley Mims
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

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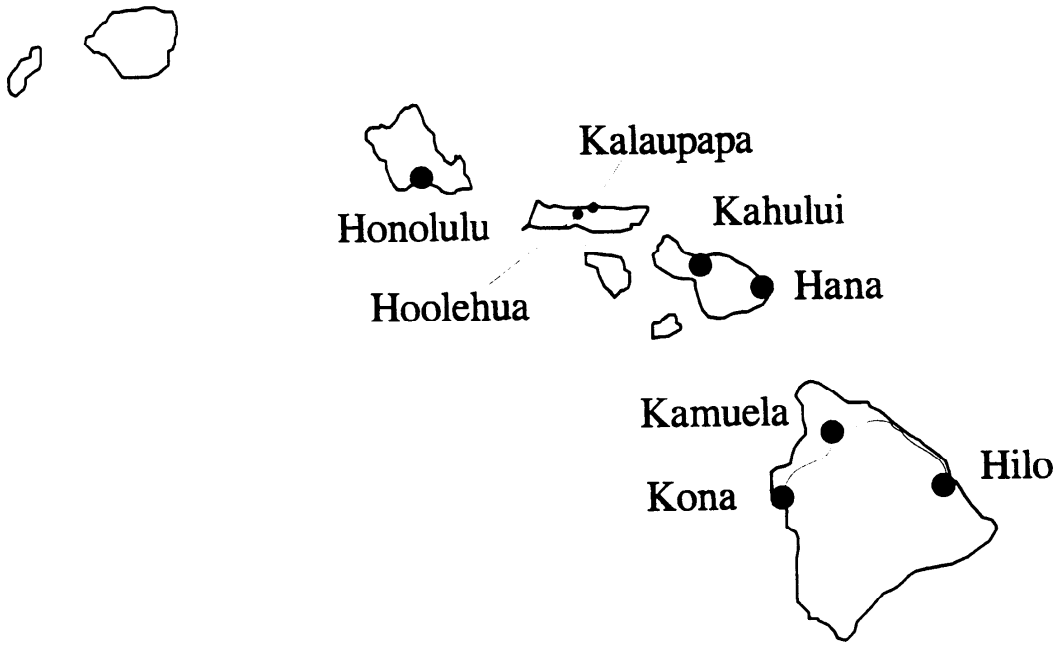
Appendix A

HAWAII



Mileages

Kamuela - Kona	33
Kamuela - Hilo	45
Kamuela - Honolulu	171
Kamuela - Kahului	78
Hana - Kahului	28
Hana - Honolulu	128
Kalaupapa - Hoolehua	9
Kalaupapa - Honolulu	62

Appendix B

Pacific Wings, Annual Subsidy Need at Kalaupapa, Hawaii, Docket OST-00-6773

Aircraft Type	Cessna 402
Block Hours	865 1/
Passengers	$250,018 2/
Mail	$0
Cargo	$0
Total Revenue	$250,018
Crew @ $52.70/hr.	$45,586
Fuel & Oil @ $75.13/hr.	$64,987
Insurance @ $16.10/hr.	$13,927
Maintenance @ $115.89/hr.	$100,245
Lease @ $22.44/hr.	$19,411
Aircraft Positioning from OGG	$46,710
Direct Expense	$290,865
Kalaupapa Station	$16,154
Honolulu Station	$21,726
Molokai Station	$10,785
Landing Fees	$20,208
Admin. & Overhead	$124,808
Indirect Expense	$193,681
Total Operating Expense	$484,546
Return at 5%	$24,227
Interest @ 2.9%	$14,052
Total Economic Cost	$522,825
Annual Subsidy Need at 100% completion	$272,807

1/ HNL-LUP-MKK: 24 flights per week x 42 minutes each way x 52 weeks x .99 completion/60 = 865 hrs.
2/ LUP-HNL: 3,878 x $43 = $166,754
LUP-MKK: 1,184 x $25 = $29,600
HNL-MKK: 1,248 x $43 = $53,664

Appendix C

Pacific Wings Air, Air Service to be Provided to Kalaupapa, Hawaii
Docket OST--00-6773

Effective Period: February 15, 2000, through February 28, 2002.

Scheduled Service: 12 one-stop round trips each week to Honolulu

Aircraft: Cessna 402

Rate per Flight: [1] $220.72

Weekly Ceiling: $5,297.28 [2]

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

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

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

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[1] Annual compensation of $272,807 divided by the estimated annual completed flights. 24 flights each week x 52 weeks x .99 = 1,236 total.

[2] Subsidy rate per flight of $220.72 multiplied by 24 flights each way per week.