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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 26th day of October, 2000

Application of

**KITTY HAWK INTERNATIONAL, INC.**  
d/b/a American International Airways  
and  
**KALITTA AIR, L.L.C.**

for transfer of certificate authority under 49 U.S.C. 41105

Served: October 27, 2000

Docket OST-2000-7588 -- | b

**ORDER TO SHOW CAUSE**

Summary

By this order, we tentatively find Kalitta Air, L.L.C., fit, willing, and able to engage in the interstate scheduled air transportation of property and mail and propose to transfer to Kalitta Air the scheduled cargo authority contained in the interstate scheduled passenger and cargo certificate currently held by Kitty Hawk International, Inc. d/b/a American International Airways.

Background

In 1967, Conrad Kalitta established Connie Kalitta Services, Inc. (CKS). CKS received certificates authorizing it to engage in interstate all-cargo air transportation and foreign cargo charter air transportation. CKS later acquired American International Airways, Inc., another certificated air carrier that held a certificate authorizing interstate scheduled air transportation of persons, property, and mail, but had ceased operations following a Chapter 11 filing. By Order 91-2-43, issued February 27, 1991, we authorized American International Airways to resume operations.<sup>1</sup>

In November 1997, Kitty Hawk, Inc. (KHI), the parent company of Kitty Hawk Aircargo, Inc., another certificated air carrier, purchased American International Airways. Subsequently, the carrier's certificates were reissued to reflect a new corporate name, Kitty

<sup>1</sup> Since then, American International Airways was issued authority to engage in foreign air transportation as well (see Orders 99-3-8 and 99-12-7).

Hawk International, Inc. d/b/a American International Airways (Kitty Hawk).<sup>2</sup> The carrier operated under its certificate authority until April 30, 2000, when it ceased all air transportation operations.<sup>3</sup>

In June 2000, KHI's bankruptcy estate agreed to sell Conrad Kalitta certain of Kitty Hawk's assets, including the rights to its interstate scheduled certificate authority. By application filed on June 27, 2000, and as subsequently amended, in Docket OST-2000-7588, Kitty Hawk requested that the Department transfer its interstate scheduled certificate to Kalitta Air, L.L.C.<sup>4</sup> Kalitta Air is a non-operating Michigan limited liability company wholly owned by Conrad Kalitta.<sup>5</sup>

No answers to the application were filed in the docket.<sup>6</sup>

Before transferring a company's certificate authority, the Department must determine that the transfer is in the public interest. The primary decisional criteria for such a finding are whether the entity to which the certificate authority is transferred is a citizen of the United States and whether that entity is fit, willing, and able to hold the transferred authority. Additionally, we must determine whether the transfer would conflict with important international aviation policy objectives, as well as the impact on the viability of the carrier applicants, competition in the domestic airline industry, and the trade position of the United States in the international air transportation market.

We have reviewed the application and other information available to us. As discussed in this order, we tentatively conclude that Kalitta Air is a citizen of the United States and is fit, willing, and able to conduct interstate cargo air transportation operations, subject to conditions, and that it is in the public interest to transfer to Kalitta Air the cargo authority contained in Kitty Hawk's interstate scheduled certificate.<sup>7</sup> However, we will give interested persons an opportunity to show cause why we should not adopt as final these tentative findings and conclusions.

<sup>2</sup> See Order 99-3-8, issued March 10, 1999.

<sup>3</sup> At about the same time, KHI and its subsidiaries, including Kitty Hawk, filed for protection under Chapter 11 of the United States Bankruptcy Code.

<sup>4</sup> The application at issue here does not seek the transfer of any of Kitty Hawk's foreign operating authority.

<sup>5</sup> Mr. Kalitta was Kitty Hawk's sole shareholder until its 1997 sale to KHI. Since then, he has been a shareholder of KHI.

<sup>6</sup> We did, however, receive one letter from a KHI shareholder, Mr. Peter Philips, objecting to the requested transfer. Mr. Philips alleges that Mr. Kalitta and others involved with KHI "lied to and cheated" KHI investors and, thus, Mr. Kalitta should not be allowed to start another airline. A copy of Mr. Philips letter has been placed in the docket.

<sup>7</sup> Since Kalitta Air has not provided sufficient information to demonstrate its fitness to conduct the passenger services authorized by Kitty Hawk's certificate, we cannot find it in the public interest to transfer this authority to Kalitta Air. Instead, we propose to cancel the passenger authority contained in Kitty Hawk's interstate certificate. Should Kalitta Air decide in the future that it wants to provide passenger operations, it may apply for such authority and demonstrate its fitness to do so at that time.

## FITNESS

In making fitness findings, the Department uses a three-part fitness test that reconciles the Airline Deregulation Act's liberal entry policy with Congress' concern for operational safety and consumer protection. The three areas of inquiry that must be addressed in order to determine a company's fitness are whether the applicant (1) will have the managerial skills and technical ability to conduct the proposed operations, (2) will have access to financial resources sufficient to commence operations without posing an undue risk to consumers or their funds, and (3) will comply with the statute and regulations imposed by Federal and State agencies. We must also find that the applicant is a U.S. citizen.

### Managerial Competence

Most of the individuals holding key management positions with Kalitta Air either are or were previously employed in the past by Kitty Hawk, and thus have experience in the type of air carrier services planned by Kalitta Air. Conrad Kalitta is Kalitta Air's owner, Chairman,<sup>9</sup> President and CEO. As previously noted, Mr. Kalitta has a long history of involvement in the aviation industry, including serving as Kitty Hawk's President and CEO for many years prior to its purchase by KHI.<sup>8</sup>

Doyle C. (Pete) Sanderlin is Kalitta Air's General Manager and Director of Operations. He held the same positions at Kitty Hawk from November 1999 until its cessation. He also served as its Director of Operations between 1985 and 1995. Mr. Sanderlin's other aviation experience includes General Manager/Director of Operations for Trans Continental Airlines (1995-1997), and Director of Safety at Custom Air Transport (1998-1999). Mr. Sanderlin holds an FAA Airline Transport Pilot license.

Kalitta Air's Director of Maintenance is Alex Cameron. He began working as a mechanic for Kitty Hawk in 1981, was promoted to Director of Maintenance in 1985 and Executive Director of Maintenance in 1993. He left the carrier in 1996 to take a position at its heavy maintenance facility. Since March 1999, he has served as a heavy maintenance representative for Kitty Hawk and other airlines at various locations. Mr. Cameron holds an FAA Airframe and Powerplant Mechanic certificate.

Mark Guyon joined Kitty Hawk in 1993 and was named Director-Quality Control in January 1998. In the 11 years prior to joining Kitty Hawk, Mr. Guyon worked for Rosenbalm Aviation (Assistant Director of Maintenance and Manager of Maintenance Control), CKS

<sup>8</sup> Mr. Kalitta has established a 3-person Board for Kalitta Air. In addition to himself, Doyle Sanderlin and George Kelsey serve on the Board. Mr. Sanderlin is the company's General Manager/Director of Operations. Mr. Kelsey is an attorney who has a long-standing relationship with Mr. Kalitta, Kitty Hawk and other companies owned by Mr. Kalitta.

<sup>9</sup> Mr. Kalitta resigned his day-to-day management positions with the carrier shortly after it was purchased by KHI although he remained on the carrier's Board of Directors.

(Manager of Maintenance Control), Flagship Express (Director of Maintenance and Assistant Director of Quality Control), and Buffalo Airways (Chief Inspector). He holds an Airframe and Powerplant Mechanic certificate from the FAA.

Donald Joffrion will be Kitty Hawk's Chief Pilot, a position he previously held from January 1995 through September 1999. Before joining Kitty Hawk, he served as a pilot and check airman for Southern Air Transport (1990-1995) and Zantop International Airlines (1972-1989), and Director of Operations for Trans Continental Airlines (1989-1990). He holds an FAA Airline Transport Pilot license and has 20,000 hours of flight time.

Michael Huff has been employed by Kitty Hawk since 1987 and will be Kalitta Air's Director of Safety. Positions he has held at Kitty Hawk include Flight Engineer (1987-1994), Chief Flight Engineer (1994-1998), and Assistant Director of Operations (1998-2000). He holds FAA Flight Engineer and Airframe and Powerplant Mechanic licenses.

All of the individuals noted above are experienced in overseeing all-cargo operations. In addition, the FAA has also reviewed the qualifications of certain of these individuals to determine if they meet the requirements for their positions.<sup>10</sup> Therefore, we tentatively find that Kalitta Air's management team is qualified to manage its proposed cargo operations.

However, as noted in the **Compliance** section below, we are cognizant of the fact that Kitty Hawk in the past has experienced compliance difficulties, particularly with regard to FAA matters, many of which appear to have occurred during periods when the carrier was under the direct control of Mr. Kalitta and was experiencing substantial expansion in its operations. Mr. Kalitta advises that Kalitta Air is aware of Kitty Hawk's past deficiencies and the need to insure that it maintains sufficient management, staffing and systems to handle any future growth in operations. Nevertheless, to assure ourselves that Kalitta Air has adequate management oversight as it expands its operations, we intend to limit (at five aircraft) the number of aircraft it may operate without further Department review.

### **Operating Plan and Financial Position**

Kalitta Air intends to provide cargo services similar to those offered by Kitty Hawk prior to its cessation. Kalitta Air's current plans call for it to commence operations with two B-747's and to add two B-727's and one additional B-747 during its first year of operations.<sup>11</sup> The

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<sup>10</sup> The FAA evaluates the carrier's Directors of Operations, Maintenance and Safety, Chief Pilot and Chief Inspector with respect to the minimum qualifications for those positions as prescribed in the Federal Aviation Regulations (FARs). The FAA's evaluation of these key personnel provides an added practical and in-person test of the skills and technical ability of these individuals. In this case, the FAA has advised us that Messrs. Sanderlin, Cameron, Guyon, Joffrion, and Huff meet the qualifications of the FARs for their respective positions.

<sup>11</sup> Kalitta Air has purchased its initial two B-747's from the Kitty Hawk bankruptcy estate; it anticipates that it will lease a third B-747 and the two B-727's it plans to operate during the first year.

company will primarily offer ACMI (aircraft, crew, maintenance, and insurance) cargo charter flights, with a limited scheduled service added at the end of its first year of operations.<sup>12</sup>

Kalitta Air has provided a forecast of costs it expects to incur prior to commencement of revenue operations as well as a detailed forecast of those expenses expected during its first year of operations. In all, the company expects to incur pre-operating expenses of approximately \$4.4 million,<sup>13</sup> with its first year costs projected to be approximately \$34.3 million. Kalitta Air states that its forecasts are based on management's past experience operating the same type of aircraft, including existing union wage contracts. We have reviewed these forecasts and believe them to be reasonable for the operations proposed. Based on these forecasts, Kalitta Air needs approximately \$12.9 million in funds to meet our financial fitness criteria.<sup>14</sup>

Conrad Kalitta intends to finance Kalitta Air's operations by providing cash and other assets. As of August 18, 2000, he had already provided the company with approximately \$3.4 million in cash<sup>15</sup> and has pledged to provide the company with additional funds as needed. Mr. Kalitta has provided various documentation, including independent third-party verification where practical, demonstrating that he has sufficient assets available with which to honor this commitment.<sup>16</sup>

On the basis of the above, we tentatively conclude that Kalitta Air will have access to sufficient financial resources to commence its proposed air transportation operations without undue risk to consumers or their funds.<sup>17</sup>

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<sup>12</sup> The company forecasts that it will provide a total of 8,981 block hours during its first year of operations. Kalitta Air advises that its initial plans for scheduled service is limited in part because Mr. Kalitta's purchase agreement with Kitty Hawk precludes his company from providing scheduled cargo flights until at least after April 2001.

<sup>13</sup> The company's pre-operating expenses consist of deposits and other costs involved with the purchase of the two B-747's, updating Kitty Hawk's FAA manuals, and hiring and training of personnel. The carrier advises that all expenses incurred to date have been paid except for approximately \$600,000 in remaining pre-operating expenses expected prior to commencing operations.

<sup>14</sup> To meet the Department's financial fitness criteria, an applicant should have access to financial resources sufficient to cover all pre-operating expenses and expenses that are reasonably expected to be incurred during three months of "normal" certificated operations. Projected revenues may not be used to offset any of this amount. Because projected expenses during the first several months of operations frequently do not include all of the costs that will be incurred during a normal period of operations, it is our practice to base our three-month test on one quarter of the first year's operating cost forecast.

<sup>15</sup> The company provided a bank statement verifying such funds on deposit.

<sup>16</sup> In addition, we note that Mr. Kalitta has arranged a \$3.4 million line-of-credit from F.X. Coughlin Co., a freight forwarder and potential customer for Kalitta Air. It has also provided us with a draft of a \$25 million line-of-credit it is currently negotiating with a major financial company.

<sup>17</sup> As is our practice, prior to making any transferred authority effective, we will require Kalitta Air to provide updated information demonstrating that it continues to have available sufficient financial resources.

### Compliance Disposition

Except as discussed here, Kalitta Air states that there are no DOT or FAA investigations, enforcement actions, or formal complaints pending against it, its owner or managers. Nor have there been any charges of unfair or anticompetitive business practices, or of fraud, felony or antitrust violations brought against any of these parties within the past 10 years.

Kalitta Air advises that several lawsuits have been filed in the KHI bankruptcy proceeding in which Mr. Kalitta, KHI, or others are named as defendants. In general, these cases allege that between April 1999 and April 2000, the defendants failed to disclose materially relevant information concerning KHI's financial position, resulting in the company overstating its earnings and financial position to investors in the company. Kalitta Air has stated that Mr. Kalitta denies the allegations contained in these cases and that he intends to vigorously defend himself against the charges contained in them. Moreover, we are advised by Kalitta Air that, to date, the Court has made no findings of guilt with respect to the bankruptcy court actions noted above.<sup>18</sup> Thus, we have no basis at this time to question Mr. Kalitta's compliance posture as a result of them.

The Department has previously noted that Kitty Hawk had a history of FAA safety and compliance deficiencies, but also noted that the carrier had taken steps to correct those problems, and found Kitty Hawk's compliance disposition satisfactory overall (see Order 98-8-16). While there are currently a number of pending FAA actions involving Kitty Hawk for alleged violations of the FARs, the FAA advised us that, since the acquisition of Kitty Hawk by KHI, the company had made overall improvement in its operations.<sup>19</sup> The FAA has also advised us that it has been working with Mr. Kalitta and Kalitta Air towards becoming operational in the near future.

In light of the above, we tentatively conclude that Kalitta Air has a satisfactory compliance disposition to oversee its proposed operations. This tentative finding is based on our expectation that the company will, as promised, take whatever steps are necessary to see that past deficiencies of Kitty Hawk while under Mr. Kalitta's direct control are not repeated with Kalitta Air. In addition to monitoring Kalitta Air's growth through the aircraft limits set out in this order, we intend to monitor Kalitta Air's operations with respect to its compliance with FAA and other rules and regulations. Should information come to our attention that leads us to question Kalitta Air's overall compliance posture,<sup>20</sup> we can take appropriate action at such time.

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<sup>18</sup> According to the applicants, the judge in KHI's bankruptcy case has ordered all of the shareholder cases consolidated into one action.

<sup>19</sup> Most of these cases appear to involve such issues as aircraft maintenance and equipment and handling of hazardous materials.

<sup>20</sup> This would include any adverse findings by the Court on the currently pending shareholder suits noted above.

### CITIZENSHIP

49 U.S.C. 41102 requires that certificates to engage in air transportation be held only by citizens of the United States as defined in 49 U.S.C. 40102(a)(15). That section specifies that the president and two-thirds of the board of directors and other managing officers be U.S. citizens and that at least 75 percent of the outstanding voting stock be owned by U.S. citizens. We have also interpreted the statute to mean that, as a factual matter, the carrier must actually be controlled by U.S. citizens.

Kalitta Air is wholly owned by Conrad Kalitta, a U.S. citizen, and all of its directors and key management and technical personnel are U.S. citizens. We have found nothing in the record that would lead us to conclude that Kalitta Air is not under the control of U.S. citizens.

In view of the foregoing, we tentatively conclude that Kalitta Air is a U.S. citizen and is fit, willing, and able to provide interstate scheduled all-cargo operations.

### REQUEST FOR CONFIDENTIAL TREATMENT

On October 18, Kalitta Air filed a copy of the proposed terms of a \$25 million credit facility between Kalitta Air and a major financial lender. Kalitta Air seeks confidential treatment of this document under section 302.12 of the Department's rules. In support of its request, Kalitta Air states that the information is commercially sensitive and that the Department has granted confidential treatment for similar information in other fitness cases.

Rule 12 instructs us to evaluate requests for confidential treatment in accordance with the standards of disclosure found in the Freedom of Information Act (5 U.S.C. section 552). Information may be withheld from disclosure under 5 U.S.C. section 552(b)(4) if it is (1) commercial or financial, (2) obtained from a person outside of government, and (3) privileged or confidential.<sup>21</sup>

There is no question that the information for which Kalitta Air seeks confidential treatment is financial or commercial in nature and that it was obtained from a person outside the government. The remaining question is whether the information is privileged or confidential—whether "disclosure of the information is likely to have either of the following effects: (1) impair the Government's ability to obtain necessary information; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained."<sup>22</sup> Further, to be privileged or confidential, the information must not be of the type that is usually released to the public.<sup>23</sup>

The loan document for which Kalitta Air seeks confidential treatment is similar to other documentation for which the Department has granted such treatment in the past and we see no

<sup>21</sup> See Gulf and Western Industries, Inc. v. United States, 615 F.2d 527, 529 (D.C. Cir. 1979).

<sup>22</sup> See National Parks and Conservation Association v. Morton, 498 F.2d 765, 770 (D.C. Cir. 1974).

<sup>23</sup> See Gulf and Western Industries, Inc. v. United States, 615 F.2d 527, 530 (D.C. Cir. 1979).

reason not to do so here. Thus, we will grant Kalitta Air's request for confidential treatment of this document.

### PUBLIC INTEREST

Section 41105 of the statute permits the Department to approve a certificate transfer if it finds that the transfer is consistent with the public interest. The primary decisional criteria in determining the public interest are whether the acquiring entity is a U.S. citizen and will be fit to hold the transferred certificate authority and whether the certificate transfer would conflict with important international aviation policy objectives. Further, section 41105(b) requires the Department to analyze the impact of the transaction on the viability of the carrier applicants, competition in the domestic airline industry, and the trade position of the United States in the international air transportation market.

The parties state that approval of the transfer will allow the resumption of services previously offered by Kitty Hawk, thus injecting competition in the air transportation marketplace. They further state that proceeds from the transaction will assist KHI in its bankruptcy reorganization, thus benefiting two other air carriers, Kitty Hawk Charters and Kitty Hawk Aircargo. Finally, the parties believe that, should Kalitta Air decide to provide international services,<sup>24</sup> the transaction will enhance the U.S. trade position in the international air transportation market by providing another carrier in the marketplace.

We tentatively find that the proposed transaction warrants approval under the decisional criteria of section 41105. In this order we have tentatively concluded that Kalitta Air is a U.S. citizen and that it is fit, willing, and able to conduct air transportation under the authority to be transferred. In addition, we tentatively find that the proposed transfer is in the public interest because it will provide for additional cargo air transportation operations. Further, there is no evidence that the proposed transfer will impact negatively on competition in the domestic airline industry, nor weaken the trade position of the United States in the international air transportation market.

In light of the foregoing, we tentatively conclude that it is in the public interest to transfer the interstate scheduled cargo authority currently issued to Kitty Hawk to Kalitta Air.

### OBJECTIONS

We will give interested persons 10 calendar days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; answers to objections will be due within 5 calendar days thereafter. We expect such persons to direct their objections, if any, to the application and points at issue and to support such

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<sup>24</sup> Although the parties have not requested the transfer of Kitty Hawk's foreign certificate authority, transfer of the interstate scheduled certificate at issue here would allow Kalitta Air to engage in worldwide charter operations if it so chose.

objections with detailed economic analyses.<sup>25</sup> We will not entertain general, vague, or unsupported objections. If no substantial objections are filed, we will issue an order that will make final our tentative findings and conclusions with respect to certification and fitness and will issue an order that will make final our tentative findings and conclusions with respect to Kalitta Air's fitness and the transfer of Kitty Hawk's certificate authority to it.

### **EFFECTIVE CERTIFICATE CONDITIONS AND LIMITATIONS**

If Kalitta Air is found fit, the authority being transferred will not become effective until the carrier has fulfilled all of the requirements for effectiveness as set forth in the terms and conditions attached to the certificate. Among other things, this includes our receipt of evidence from the FAA demonstrating that that agency has reissued Kitty Hawk's FAA operating authority to Kalitta Air, that Kalitta Air has obtained liability insurance coverage meeting the requirements of Section 205.5(b) of our rules for all of its aircraft, and a statement demonstrating that Kalitta Air has undergone no changes in its ownership, management, operations, finances, or compliance posture that would alter our finding of fitness for the company.

We also note that our finding of fitness for Kalitta Air is based on the operating plans described in the transfer application. Were Kalitta Air to expand its operations to include additional aircraft beyond the five currently envisioned here, our findings of fitness may no longer apply. Therefore, once the transferred certificate becomes effective, we will require that, should Kalitta Air propose to increase its aircraft fleet beyond five aircraft, it must first provide at least 45-days advance notification to the Department of its intent to do so and demonstrate its fitness to conduct operations with any additional aircraft.<sup>26</sup>

In addition, our tentative findings do not pertain to Kalitta Air's fitness to conduct passenger operations. Therefore, the passenger authority currently contained in Kitty Hawk's interstate certificate will not be transferred to Kalitta Air. Instead, we propose to cancel that authority.

Furthermore, we remind Kalitta Air of the requirements of 49 U.S.C. 41110(e). Specifically, that section requires that, once a company is found fit initially, it must remain fit in order to hold its authority. Thus, should Kalitta Air propose other substantial changes in its ownership, management, or operations, it must first comply with the requirements of section 204.5 of our

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<sup>25</sup> If an oral evidentiary hearing or discovery procedures are requested, the objector should state in detail why such a hearing or discovery is considered necessary, and what material issues of decisional fact the objector would expect to establish through a hearing or discovery that cannot be established in written pleadings. The objector should consider whether discovery procedures alone would be sufficient to resolve material issues of decisional fact. If so, the type of procedure should be specified (*see* Part 302, Rules 19 and 20); if not, the reasons why not should be explained.

<sup>26</sup> In support of any such planned increase in its fleet, Kalitta Air would need to include not only current financial information, but also information describing any changes in its management structure the company has made, or proposes to make, to support the operation of such additional aircraft.

rules.<sup>27</sup> The compliance of the carrier with this requirement is essential if we are to carry out our responsibilities under 49 U.S.C. 41110(e).<sup>28</sup>

Finally, to aid the Department in monitoring the fitness of new carriers, we have adopted a requirement that all certificated air carriers must submit a detailed progress report to the Air Carrier Fitness Division within 45 days following the end of the first year of certificated flight operations.<sup>29</sup> The report should include a description of the carrier's current operations (number and type of aircraft, principal markets served, total number of full-time and part-time employees), a summary of how these operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements,<sup>30</sup> and a listing of current senior management and key technical personnel. The carrier should also be prepared to meet with staff members of the Fitness Division to discuss its current and future operations.

#### **ACCORDINGLY,**

1. We direct all interested persons to show cause why we should not issue an order (1) finding that Kalitta Air, L.L.C., is fit, willing, and able to engage in interstate scheduled air transportation, (2) transferring to Kalitta Air, L.L.C., the interstate scheduled cargo authority currently issued to Kitty Hawk International, Inc. d/b/a American International Airways by Order 99-3-8, and (3) canceling the passenger authority contained in the interstate certificate currently held by Kitty Hawk International Airways, Inc.

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<sup>27</sup> Kalitta Air may contact our Air Carrier Fitness Division to report proposed substantial changes in its operations, ownership, or management, and to determine what additional information, if any, will be required under section 204.5. In addition, by Notice dated July 21, 1998, the Department requested air carriers to provide a 30-day advance notification of any proposed change in ownership, restructuring, or recapitalization. If the carrier fails to file this updated information, or if the information fails to demonstrate that the carrier will continue to be fit upon implementation of the substantial change, the Department may take such action as is appropriate, including enforcement action or steps to modify, suspend, or revoke the carrier's certificate authority.

<sup>28</sup> We also remind Kalitta Air about the requirements of section 204.7 of our rules. This section provides, among other things, that: (1) the certificate authority granted to a company shall be revoked if the company does not commence actual flying operations under that authority within one year of the date of the Department's determination of its fitness; (2) if the company commences the operations for which it was found fit and subsequently ceases such operations, it may not resume certificated operations unless its fitness has been redetermined; and (3) if the company does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

<sup>29</sup> Although this case involves the transfer of existing certificate authority, we consider Kalitta Air to be a new entrant for our purposes here.

<sup>30</sup> These financial statements should include a balance sheet as of the end of the company's first full year of actual flight operations and a 12-month income statement ending that same date.

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or the certificate transfer set forth here<sup>31</sup> to file them with the Department of Transportation Dockets, 400 7<sup>th</sup> Street, S.W., Washington, D.C. 20590, in Docket OST-2000-7588, and serve them upon all persons listed in Attachment A no later than 10 calendar days after the service date of this order; answers to objections shall be filed no later than 5 calendar days thereafter.

3. If no timely and properly supported objections are filed, we will consider all further procedural steps to be waived and will enter an order (1) making final our tentative findings and conclusions, (2) transferring to Kalitta Air, L.L.C., the interstate scheduled cargo authority issued to Kitty Hawk International, Inc. d/b/a American International Airways by Order 99-3-8, and (3) canceling the passenger authority contained in the interstate certificate issued to Kitty Hawk International, Inc. d/b/a American International Airways by Order 99-3-8.<sup>32</sup>

4. We grant the Motion for Confidential Treatment filed October 18, 2000, by Kalitta Air, L.L.C.

5. We will serve a copy of this order on the persons listed in Attachment A.

6. We will publish a summary of this order in the Federal Register.

By:

**FRANCISCO J. SANCHEZ**  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

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[http://dms.dot.gov/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)*

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<sup>31</sup> This includes any objections to the cancellation of the passenger authority presently contained in the certificate being transferred.

<sup>32</sup> Since we have provided for the filing of objections to this order, we will not entertain petitions for reconsideration.

**SERVICE LIST FOR KITTY HAWK INTERNATIONAL, INC.  
d/b/a AMERICAN INTERNATIONAL AIRWAYS  
and  
KALITTA AIR, L.L.C.**

Mr. Mark W. Atwood  
Sher & Blackwell  
1850 M St., N.W.  
Washington, D.C. 20036

Mr. Robert P. Silverberg  
Silverberg, Goldman & Bikoff  
1101- 30<sup>th</sup> St., N.W.  
Washington, D.C. 20007

Mr. Peter Lynch  
Asst. Chief Counsel for  
Enforcement, AGC-300  
Federal Aviation Administration  
800 Independence Ave., S.W.  
Washington, D.C. 20591

Mr. William R. Wilder  
Baptiste & Wilder, P.C.  
1150 Connecticut Ave., N.W.  
Suite 500  
Washington, D.C. 20036

Mr. Don Bright  
Acting Director, Office of Airline  
Information, K-25  
Department of Transportation  
400 7<sup>th</sup> Street S.W.  
Washington, D.C. 20590

Mr. Richard Dutton  
Asst. Manager, CSET  
Federal Aviation Administration  
AFS-900, Suite 203B  
45005 Aviation Drive  
Dulles, Virginia 20166-7537

Manager  
Flight Standard District Office  
Willow Run Airport - East Side  
8800 Beck Road  
Belleville, Illinois 48111

Regional Counsel, AGL-7  
Federal Aviation Administration  
Great Lakes Region Hq.  
O'Hare Office Lake Center  
2300 East Devon Avenue  
Des Plaines, Illinois 60018

Manager  
Flight Standards Division, AGL-200  
Federal Aviation Administration  
Great Lakes Region Hq.  
O'Hare Office Lake Center  
2300 East Devon Avenue  
Des Plaines, Illinois 60018

Mr. J.D. Meador  
Airline Data Coordinator  
Innovata, LLC  
3915 Old Mundy Mill Road  
Oakwood, Georgia 30566-3410

Ms. Joni Mount  
Official Airline Guides  
2000 Clearwater Drive  
Oak Brook, Illinois 60521

Mr. Jim Zammar  
Director of Revenue Accounting  
Air Transport Association  
1301 Pennsylvania Ave.  
Ste. 1100  
Washington, D.C. 20004

American Association of Airport  
Executives  
4224 King Street  
Alexandria, Virginia 22302