

**NOMINATIONS TO THE FEDERAL AVIATION
MANAGEMENT ADVISORY COUNCIL**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

MAY 4, 2000

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

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NOMINATIONS TO THE FEDERAL AVIATION MANAGEMENT ADVISORY COUNCIL

THURSDAY, MAY 4, 2000

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m. in room SR-253, Russell Senate Office Building, Hon. John McCain, Chairman of the Committee, presiding.

Staff members assigned to this hearing: Virginia Pounds, Republican Professional Staff; and Jonathan Oakman, Democratic Staff Assistant.

OPENING STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM ARIZONA

The CHAIRMAN. Today's hearing is on eight of the President's nominations to the Federal Aviation Management Advisory Council. The candidates before the Committee are intended to represent a broad cross-section of the aviation industry. If confirmed by the Senate, they will constitute an advisory board for the FAA Administrator.

I want to thank our witnesses for their time today. The Federal Aviation Management Advisory Council was authorized by Congress in the 1996 FAA reauthorization bill. The legislation required the President to appoint 11 aviation experts to the Management Advisory Council to serve alongside a Department of Transportation official and a Department of Defense official.

The recently enacted Aviation Investment and Reform Act for the 21st Century added five additional members to the Council, who will focus exclusively on the FAA's management and modernization of the air traffic control system. The Subcommittee members will have no ties to any particular segment of the aviation industry. The main purpose of the Management Advisory Council is to formulate and to support and oversee the FAA's goals and strategies.

Like a corporate board of directors, the Council is expected to hold the FAA Administrator accountable for meeting goals on time and living within budgetary guidelines. Using their collective management expertise the members of the Management Advisory Council can and should help the Administrator respond to repeated calls to operate the FAA more like a service business.

I should underscore the fact that the FAA Administrator retains the final authority on all matters within the FAA's jurisdiction, since aviation safety has been and must be the paramount mission of this agency. As such, the direct powers of the Management Advi-

sory Council are intentionally limited. The substantive issues the nominees face are challenging. The FAA needs to do a better job of managing labor and air traffic control modernization costs during a time of enormous growth in aviation.

The Congress has provided the FAA with a nearly unprecedented boost in funding to provide the infrastructure necessary to accommodate increased air traffic, yet even today nonsafety-related delays severely hamper an already overburdened system. The FAA must take the lead in returning air travel to a predictable and convenient mode of transportation that our economy has come to depend on.

The Committee recognizes that the task at hand is daunting. Even so, the members of the Council should not underestimate the power of the bully pulpit. The Administrator is required by law to justify publicly, in writing, his or her decisions that break from the recommendations of the Management Advisory Council. I am convinced that bright sunlight is one of the strongest motivators of sound public policy.

In closing, I sincerely hope that the Administration's delay in sending up your nominations does not reflect on how well it will receive the scrutiny of the Management Advisory Council. It took more than 3 years for even the first nominations to come to the Committee. I hope and expect this timing issue is water under the bridge.

I want the nominees to know that the Management Advisory Council has my full support in its endeavors. For your work to make a contribution will require an enormous amount of your time and patience. I thank you wholeheartedly for your willingness to serve. Please feel free to introduce any family members here before you give your remarks, but first I would like to turn to Senator Hollings for any remarks he may want to make.

[The prepared statement of Senator McCain follows:]

PREPARED STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

Today's hearing is on eight of the President's nominations to the Federal Aviation Management Advisory Council. The candidates before the Committee are intended to represent a broad cross-section of the aviation industry. If confirmed by the Senate, they will constitute an Advisory Board for the FAA Administrator. I want to thank our witnesses for their time today.

The Federal Aviation Management Advisory Council was authorized by Congress in the 1996 FAA reauthorization bill. The legislation required the President to appoint 11 aviation experts to the Management Advisory Council, to serve alongside a Department of Transportation official and a Department of Defense official. The recently-enacted Wendell H. Ford Aviation Investment and Reform Act for the 21st Century added five additional members to the Council, who will focus exclusively on the FAA's management and modernization of the air traffic control system. The Subcommittee members will have no ties to any particular segment of the aviation industry.

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The substantive issues the nominees' will face are challenging. The FAA needs to do a better job of managing labor and air traffic control modernization costs during a time of enormous growth in aviation. Congress has provided the FAA with a nearly unprecedented boost in funding to provide the infrastructure necessary to accommodate increased air traffic. Yet even today, non safety-related delays severely hamper an already overburdened system. The FAA must take the lead in returning air travel to a predictable and convenient mode of transportation that our economy has come to depend on.

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**STATEMENT OF HON. ERNEST F. HOLLINGS,
U.S. SENATOR FROM SOUTH CAROLINA**

Senator HOLLINGS. Thank you, Mr. Chairman. I am just fine.
[The prepared statement of Senator Hollings follows:]

PREPARED STATEMENT OF HON. ERNEST F. HOLLINGS,
U.S. SENATOR FROM SOUTH CAROLINA

There is an old song, that has a line in it—"it's been a long time coming." We have been waiting for each of you for about 3 years. Far too long for you, and far too long for us to wait. However, we are glad you are here, and wish you well.

In 1996, this Committee negotiated with the Administration on a set of reforms for the FAA. Months of talks went on, and in the end, it was agreed, by everyone in the room, including staff from the White House, Department of Transportation, Federal Aviation Administration, General Accounting Office, and staff from this Committee, that the FAA would have a Management Advisory Council, or MAC. The members were to be appointed within 3 months of enactment of the 1996 bill.

The negotiations followed a period in the Senate where we had engaged in a fairly contentious battle, not within the Committee, but with the Administration, over what to do with the FAA. The Administration had proposed to "corporatize" or privatize the FAA. Many Members, and various parts of the industry, vehemently disagreed with that proposal. Instead, following a hearing in August 1995, an agreement was reached to put aside the Administration's proposal and come up with a set of workable reforms. Out of that negotiation came unprecedented authority for the FAA to develop its own personnel and procurement systems. The precise language that was crafted ultimately became part of the FY 1996 Transportation Appropriations legislation.

We also set up the Management Advisory Council as part of the deal. What is interesting is that the Administration, having failed to appoint any members to the MAC for years, claimed just last year, and even this year, that the FAA had to be reformed. Yet, until this point, they had not carried through on their end of the deal. When we exercise our Congressional oversight role, and when we reach an agreement with all of the affected parties, that deal should be carried out. This is not a reflection on the nominees today, but they should understand the circumstances that have brought them to this point.

With no nominees forthcoming for several years, we changed the makeup of the MAC as part of the Wendell Ford Aviation Investment and Reform Act for the 21st Century (FAIR 21), eliminating two of the Senate confirmed positions, and creating a separate, 5 member subcommittee to focus on air traffic control. The 8 of you today are here to represent aviation interests, and looking at your resumes, you come from diverse backgrounds.

The FAA is a unique world. It has an enormous responsibility, is constantly criticized, and has had a difficult time modernizing the air traffic control system. FAIR 21 should provide the necessary resources for new equipment and more airport infrastructure—we know that all of the monies in the Airport and Airways Trust Fund will be spent on aviation. We will need more than that to run the agency, but your job will be to help guide the decision making process on how best to allocate those resources. Look at the certification process, look at security, look at capacity, and always focus on safety.

I anticipate that you will be in constant contact with the Committee as you see issues and problems that need our attention. I look forward to your testimony.

The CHAIRMAN. Senator Rockefeller, do you have any opening comments?

**STATEMENT OF HON. JOHN D. ROCKEFELLER IV,
U.S. SENATOR FROM WEST VIRGINIA**

Senator ROCKEFELLER. I will submit my statement.
[The prepared statement of Senator Rockefeller follows:]

PREPARED STATEMENT OF HON. JOHN D. ROCKEFELLER IV,
U.S. SENATOR FROM WEST VIRGINIA

Mr. Chairman, I appreciate your willingness to hold this hearing for us to consider the nominations of these 8 individuals so quickly, particularly given how long it has taken for the Administration to submit these names.

I know that we share a desire to ensure that the FAA continues to provide the safest air traffic control system possible. We will debate over the coming years, what the structure of the agency should be, and how to make improvements in the delivery of services. Today, before us are 8 individuals willing to help the FAA, Congress and the public, in ensuring that we do have the best system possible. These 8 come from diverse backgrounds, some of whom are well known to this Committee and aviation, and others who will give us an “uncluttered” view of the FAA. On a personal note, I have had an opportunity to work directly with Ed Bolen and Bob Baker, and met a number of times with Phil Boyer. Each of them has helped me over the last year and a half in formulating aviation policy, and I know that they will bring their knowledge and expertise to these new positions.

I also want to add that the 8 nominees today should be followed by 3 additional nominees to the MAC. The Administration then must name 5 individuals to a separate subcommittee to oversee the air traffic control functions of the FAA, as required by the recently enacted FAA bill. I hope the Administration will not wait for more than 2 years, like they have done for the 8 people before us today, to name the other nominees. Congress has set a course, and we have worked with the Administration, to provide outside oversight of the FAA. The Administration should not delay nominating folks to these critical positions—there is too much at stake. It would be a disservice to the traveling public and to the legislative process.

Each of you has a difficult job ahead of you. All of us know of challenges facing the FAA—from safety to efficiency. You will have an opportunity to see how the agency functions, see the challenges of budgeting and decision making, and view internal processes. You should question what you are told—if the FAA says it will take 3 years to develop and install new systems, ask why. Demand to know is there a better way. In the end, you will have the ability to push the agency to make real changes, and have the knowledge to guide us on where further changes may be needed to the charter of the FAA.

The Administrator, Jane Garvey, has now been at the FAA for about 2 and a half years. We have seen many changes, but perhaps most fundamental is a communication change. Things that seem deceptively simple, like agreeing on how to handle bad weather, have been worked out by the Administrator. I am certain that much more needs to be done and you will be in a position to foster new ways of communicating.

The MAC has a special responsibility that was mandated as part of the 1996 FAA Reauthorization Act. You were specifically given the responsibility of providing your comments, recommendations and dissenting views to the Administrator on the management, spending, funding and regulatory matters. The Administrator will then have to react to those views, and make them known to the public and to Congress. Effectively, we have opened up the books of the FAA to you so that you can be our eyes and ears.

You will also be asked for your input on the needs of the FAA, particularly the personnel side. As part of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (FAIR 21), Congress effectively makes sure that the capital needs of the FAA will be met. Congress left open the question of how much is needed for operations, and that is something that we all, including all of you, must work together on—first to be able to justify the need, and then to make sure that we work with the Appropriations Committee, and many Members of this Committee also serve as Appropriators, to get the money.

You are expected to bring additional credibility to the debate, with candor and vigor. If you see problems, let Jane know and let us know. I look forward to working with all of you.

The CHAIRMAN. Then we would proceed with the opening. Captain Babbitt, we will start with you.

**STATEMENT OF CAPT. J. RANDOLPH BABBITT, PRINCIPAL,
BABBITT AND ASSOCIATES, OAKTON, VA**

Captain Babbitt: Thank you, Mr. Chairman. Good morning to all of the panel this morning. I would like to thank you for providing us a little bit of time to introduce ourselves for consideration for our confirmation. I am Randolph Babbitt. I recently retired as president of the Airline Pilots Association International. That was a position I held for 8 years.

I was ALPA's chief executive and administrative officer, and ALPA, of course, is the largest labor union and professional organization of airline pilots in the world. I would proudly note here that the Association is also widely recognized as one of this industry's leading air safety advocates.

While president, I put forth a strategy to address the impact of globalization within the airline industry specifically on the pilot work force, and that program was ALPA's Global Pilot Strategy which I introduced to ALPA's board back in 1994. Also during my tenure I championed an internal initiative internal to ALPA, which was known to us as "One Level Of Safety," whose goal was to bring the safety standards of all carriers, specifically 135 carriers, up to the standards of 121. That program came to fruition in 1995, when then-Secretary of Transportation Pena announced that "One Level Of Safety" was going to be a national mandate.

Additionally, while I was president of ALPA, if I can flip a sheet here, I also served as vice president of the AFL-CIO and was a member of their Executive Council. I was also a vice president on the Transportation Trades Committee as well as Chairman of the Railway Labor Act Committee. President Clinton appointed me in 1993 to the National Commission to Ensure a Strong Competitive Airline Industry, where I was a voting member. That committee put forth a number of recommendations. It was chaired, I think you will recall, by then Governor Baliles, and a number of those items that we put forth have since been adopted, I think to further the cause of keeping our industry strong.

My personal background also includes being an active airline pilot for Eastern Airlines for almost 25 years. I retired there as a DC 9 captain. I was also ALPA's executive administrator for 6 years prior to being elected as president, and I provided direct liaison between the president and working pilot groups.

I am honored to have been nominated for this commission by the President, and also to appear before this Committee for your consideration. I certainly hope that you will find my credentials and background suitable for this advisory council, and I would be happy to answer any questions that you, Mr. Chairman, or the other members might have.

Thank you.

[The prepared statement and biographical information of Captain Babbitt follow:]

PREPARED STATEMENT OF CAPT. J. RANDOLPH BABBITT, PRINCIPAL,
BABBITT AND ASSOCIATES, OAKTON, VA

Good morning Mr. Chairman, and members of the Committee. Thank you for providing a little time for us to introduce ourselves for consideration of our confirmation.

I am Randolph Babbitt, and I recently retired as President of the Air Line Pilots Association, International, a position I held for eight years. I was the Chief Executive and Administrative Officer for ALPA, the largest labor union and professional organization of airline pilots in the world. I would proudly note that the Association is also widely recognized as one of the industry's leading air safety advocates. While president, I put forth a strategy to address the impact of globalization within the airline industry on the pilot workforce. That program is ALPA's Global Pilot Strategy, which I introduced to ALPA's Board of Directors in 1994. Also, during my tenure, I championed our internal initiative known as "One Level of Safety," whose goal was to bring safety standards for Part 135 air carriers up to those of Part 121. That program came to fruition in December of 1995 when Transportation Secretary Peña announced "One Level of Safety" as a national mandate. Additionally, while President of ALPA, I served as a Vice President of the AFL-CIO and was a member of their Executive Council. I was also a Vice President on the Transportation Trades Committee as well as Chairman of the Railway Labor Act Committee.

President Clinton appointed me in 1993 to the National Commission to Ensure a Strong Competitive Airline Industry, where I was a voting member. That commission put forth a number of recommendations, the majority of which have been adopted by the appropriate agencies.

My background also includes being an active line pilot for Eastern Air Lines for almost 25 years before retiring as a DC-9 captain. I was also the Executive Administrator for the Air Line Pilots Association for six years providing direct assistance to the Association president and the liaison between the national office and pilot representatives and committees.

I am honored to have been nominated by the President and to appear before this Committee for consideration. I certainly hope you find my background and credentials suitable for membership on the Management Advisory Council for the Federal Aviation Administration. I would be happy to answer any questions that the Chair or any members may wish to ask.

Thank you.

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names or nick names used.) Jerome Randolph Babbitt.
2. Position to which nominated: Member—FAA MAC.
3. Date of nomination: March 30, 2000.
4. Address: (List current place of residence and office addresses.) 2600 Geneva Hill CT, Oakton, VA 22124-1534.
5. Date and place of birth: June 9, 1946, in Miami Beach, FL.
6. Marital status: (Include maiden name of wife or husband's name.) Married, Katherine Hepfner Babbitt.
7. Names and ages of children: (Include stepchildren and children from previous marriages.) Daughter, Tiffany Babbitt Shuster, age 30 (08/26/68); Daughter, Heather Babbitt Warstler, age 27 (04/30/71).
8. Education: (List secondary and higher education institutions, dates attended, degree received and date degree granted.) Coral Gables High School (1961-1964); University of Georgia (1964-1965); University of Miami (1965-1967).

9. Employment record: (List *all* jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.) See Resume Attachment #1.

Attachment #1

1965–1966	Flight Instructor, Burnside-Ott
1966–1991	Pilot, Eastern Airlines
1985–1990	Executive Administrator, Air Line Pilot Association
1991–1998	President, Air Line Pilot Association
1999–Present	Principal, Babbitt & Associates

10. Government experience: (List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.) Presidential appointment, National Commission to Ensure a Strong Competitive Airline Industry (voting member).

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.)

- Director, Access National Bank, Chantilly, VA
 - Board Member, Boy Scouts of America, National Capitol Area Council
 - Partner, Edge City LLC, McLean, Virginia
 - Principal, Babbitt & Associates, Consulting Firm, Washington, DC
- Current clients:
- Airbus Industries, North America—Labor & Aviation issues
 - GKMG—ESOP & Labor issues
 - Asociación Argentina de Aeronavegantes, a labor union in Argentina representing the Flight attendants—ESOP & Labor issues

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.)

- President Emeritus & member of the Air Line Pilots Association
- AFL–CIO, Executive Vice president emeritus
- Member of the Executive Board of the Boy Scouts of America, National Capital Area Council
- Alumni member Kappa Sigma fraternity
- Member St. Mark’s Church in Oakton
- Member of the Lake Anna Civic Association

13. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate. None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years. None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. None.

14. Honors and awards: (List *all* scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.) Aviation Week & Space Technology recipient of the 1998 Laurels Award for outstanding achievement in the field of Commercial Air Transport; President Emeritus of the Air Line Pilots Association; AFL–CIO, Executive Vice president emeritus.

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.) Monthly editorials for eight (8) years in the Air Line Pilot magazine while President of the Air Line Pilots Association; Periodic articles in the Air Line Pilot magazine over last 20 years (See Attachment #2).*

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated. List of requested speeches (See Attachment #3)* Speech—Taking off for the 21st Century given at the FAA Aviation Forecast Conference in March of 1995 (See Attachment #4).*

17. Selection:

(a) Do you know why you were chosen for this nomination by the President? My working knowledge of the “user side” of the FAA. My 35 plus years in aviation as

*The information referred to has been retained in the Committee files.

a pilot and my 15 years as a safety advocate for the majority of airline pilots in the U.S. My Global aviation and safety experience gained over the years through being ALPA's chief delegate for and representing the majority of the members of the International Federation of Air Line Pilot Associations (IFALPA).

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment? Over twenty years experience as a line pilot for a major U.S. Airline and almost forty years of experience as pilot, remaining current to date. Fifteen years representing ALPA and it's member's interests regarding aviation safety before the FAA and the U.S. congress.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate? No.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. Only to the extent of my consulting business, which is primarily focused on labor relations issues.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? My full term.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers. Consulting business (Babbitt & Associates); I provide consulting services to Airbus Industries, North America.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. None.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated? None.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. I represented ALPA and its member's interests regarding aviation safety before the FAA and the U.S. congress. I was the Chairman of the ALPA PAC for the years 1991 through 1998.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.) Please refer to the Deputy General Counsel's opinion letter.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details. No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? If so, provide details? As President of ALPA, various lawsuits are summarized in the attachment titled "Legal" and noted as Attachment #5, primarily dealing with

member fairness of representation issues. No other litigation on a personal or business basis.

Attachment #5

List of Lawsuits in which J. Randolph Babbitt is/was a named defendant:

Dunn, et al. v. ALPA, et al., No. 91-2679-CIV-DAVIS (M.D. Fla.)

Suit by former Eastern pilots alleging defamation and breach of the duty of fair representation in connection with the publication and distribution of a blacklist designating plaintiffs as scabs.

On July 28, 1997, the district court granted summary judgment in favor of all defendants. An appeal is currently pending in the 11th Circuit.

Orzech, et at. v. Babbitt, et al. No. 95-1736-CIV-T-24C (M.D. Fla.)

Suit alleging defendants violated their fiduciary obligations to ALPA under § 501 of the Landrum Griffin Act in connection with the Goldstein ESOP fee and a Letter of Agreement relating to seniority rights.

On May 6, 1996, Babbitt, Hall and Goldstein were dismissed for lack of personal jurisdiction.

Dubinsky & Hall v. United Airlines MEC, et al., No. 95112013 (Cir. Ct., Cook Cty., IL)

Suit alleging that the defendants made and/or republished libelous and slanderous remarks against the plaintiffs and further asserts false-light invasion-of-privacy claims based on these alleged remarks and republication. The suit does not allege that Captain Babbitt made any specific defamatory remarks; rather, it alleges that he wrongly caused the republication of such remarks.

On July 19, 1996, the trial court dismissed all counts against Capt. Babbitt; that ruling, and others, currently are on appeal (Nos. 96-3215, 96-3813 (Ill. App. Ct.)).

Nellis, et at. v. ALPA, et al., No. 92-771 (E.D. Va.)

Suit by former Eastern pilots alleging breach of the duty of fair representation for failure to properly implement ALPA's fragmentation policy.

On March 3, 1992, ALPA's summary judgment motion was granted. The 4th Circuit (No. 93-1310) affirmed the district court's decision on January 24, 1994 and the plaintiffs' petition for *certiorari* to the Supreme Court was denied.

Spellacy, et al. v. ALPA, et al., No. CV 93-0853 (E.D.N.Y.)

Suit alleging breach of the duty of fair representation in connection with the transfer of Pan Am pilots to Delta as a result of Delta's purchase of Pan Am's assets and routes. Defendants' motion for judgment as a matter of law granted on April 21, 1997; dismissal affirmed by the Second Circuit (No. 97-7666) in August 1998.

Petition for *certiorari* before the United States Supreme Court (No. 98-1113) was denied on March 22, 1999.

Duke, et at. v. ALPA, et al., No. CV 93-0853 (E.D.N.Y.)

Suit alleging breach of the duty of fair representation in connection with the transfer of Pan Am pilots to Delta employment as a result of Delta's purchase of Pan Am's assets and routes.

After jury trial the parties reached a settlement agreement.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. I believe I have provided all information, both favorable and unfavorable, to the best of my knowledge and ability.

E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines set by Congressional Committees for information? Yes.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, to include technical experts and career employees with firsthand knowledge of matters of interest to the committee? Yes.

4. Are you willing to appear and testify before any duly constituted Committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

F. GENERAL QUALIFICATIONS AND VIEWS

1. Please describe how your previous professional experience and education qualifies you for the position for which you have been nominated. My personal background as President of ALPA for eight years kept me in the mainstream of air safety advocacy as well as monitoring the modernization FAA's Air Traffic Control System. As both a former airline pilot and current general aviation pilot I have or do maintain direct contact with many facets of the nation's air transportation system. As ALPA's CEO, I was responsible for an annual budget of more than \$80 million dollars. I take the fiscal responsibility most seriously and ALPA reduced dues 22% during my tenure and operated in the black under all of my budgets.

2. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills? Using the definition of a skill as a "developed proficiency; trade or craft" I believe my tenure in the industry has pretty well developed my necessary skill for the MAC. However, our nation's transportation system is an enormously complex environment, which will require the ongoing assimilation of data to stay up to date. I plan to utilize as many sources as possible to stay abreast of the ongoing issues.

3. Why do you wish to serve in the position for which you have been nominated? I believe and strongly supported the idea that the FAA should have both the support and oversight that any well-run U.S. corporation has, in the form of a "Board of Directors". In my view, the MAC will provide depth to the FAA's development of goals and strategies as well as overall accountability. A good management uses its board, with outside directors, to test its ideas, structural changes as well as the corporate mission statement. Being such an advocate of the idea, I would like an opportunity to insure the MAC gets off to a good start.

4. What goals have you established for your first two years in this position, if confirmed? To be a constructive member of the MAC. To learn more in the areas of ATC modernizations than I know today. To have the MAC and its relationship with the FAA be the model for other areas of our and other governments to follow in the future. To help insure that the FAA maximizes efficiency with their funds so that every dollar is effectively utilized.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when should society's problems be left to the private sector, and what standards should be used to determine when a government program is no longer necessary. My belief is that our federal government, in exercising its political authority, should be fairly limited. Any influence of the private sector should be limited to protecting the rights of those being governed. With a fairness doctrine in mind, things like preventing economic abuses such as monopolies in the marketplace and protecting individual rights clearly fall under the jurisdiction of our government. To decide what "society's problems" are, is both arbitrary and judgmental, neither being areas I would want to see undertaken by our government. I would consider myself a fiscal conservative. So, with regard to "when a government program is no longer necessary", I believe that every program or project should have a goal and a timeframe. Using the analogy of me taking a taxi ride, I always ask the driver before we get underway; "How long with this take and how much will it cost?" I believe government programs should operate under the same premise.

6. *In your own words*, please describe the agency's current missions, major programs, and major operational objectives.

- Current missions:
 - Safety is the cornerstone of the FAA. Insuring that all aspects of our nations transportation system operate safely, efficiently and provide the most modern infrastructure available.
 - Maintain quality employee relations
 - Continue to reduce aircraft accidents and incidents.
 - Insure global harmonization of regulatory requirements to the highest safety levels.
- Major programs:
 - Modernization of the Air Traffic Control System.
 - Quality assurance of maintenance and flight operations
 - Provide one level of safety nationwide
- Major operational objectives
 - Achieve goals at or under budget
 - Achieve goals and programs on or ahead of schedule

7. In reference to question number six, what forces are likely to result in changes to the mission of this agency over the coming five years. Advancements in technology will continue and that always brings influence to an ongoing project with the concern of modifying existing parameters and goals. You must weigh the advantage of the new technological capability against the disadvantage of delay while the project is redesigned.

8. In further reference to question number six, what are the likely outside forces which may prevent the agency from accomplishing its mission? What do you believe to be the top three challenges facing the board/commission and why?

- The parochial interests of influential parties have the possibility of modifying the mission.
- The major challenges would be:
 - To maintain credibility, key to having input and ideas as well a constructive criticism accepted
 - To stay abreast of the technology being utilized, with the speed of newly developing technology and computing power, this becomes a daunting task in this day and age.
 - To find consensus within the MAC will be key to its effectiveness. Failing to do so will badly weaken the MAC and any synergy with the FAA will be lost.

9. In further reference to question number six, what factors in your opinion have kept the board/commission from achieving its missions over the past several years? Not applicable.

10. Who are the stakeholders in the work of this agency? The traveling public, the airport operators, the airlines, the pilots, the manufacturers, the employees of the FAA, U.S. business in general, the Postal service, the cargo operators and the tourism industry.

11. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question number ten. A fiduciary of the stakeholders, with both fiscal and safety obligations.

12. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you? In my fourteen years at ALPA, we had excellent employee relations and no complaint was ever brought against me personally or the organization. I believe in empowering employees to the maximum extent possible. Supervisors are the link between the management's goals and the achievement, production and output of those goals.

13. Describe your working relationship, if any, with the Congress. Does your professional experience include working with Committees of Congress? If yes, please describe. As President of ALPA, I spent fourteen years representing ALPA and its member's interests regarding aviation safety before the FAA and the U.S. congress. I was a voting member National Commission to Ensure a Strong Competitive Airline Industry, established by congress in 1992.

14. Please explain how you will work with this Committee and other stakeholders to ensure that regulations issued by your board/commission comply with the spirit of the laws passed by Congress. I plan to accept input for consideration from all sources for evaluation. With a constructive attitude, I believe we can help insure that the FAA maximizes operation and regulatory efficiency.

15. In the areas under the board/commission jurisdiction, what legislative action(s) should Congress consider as priorities? Please state your personal views. Safety is the top priority. Seeing that the desired level of safety is achieved with the minimum of cost and regulatory restraint would be my top priority.

16. Please discuss your views on the appropriate relationship between a voting member of an independent board or commission and the wishes of a particular president. Any board member should always exercise their free will and good judgment. Safety should never become a political issue. The word "independent" should be accepted with its full meaning.

The CHAIRMAN. Thank you very much, Captain Babbitt. You and I have worked on a variety of issues, not always in agreement, for a long period of time and I have always respected very much the outstanding work that you did in representing the airline pilots of America. Thank you.

Captain Babbitt: Thank you, sir.

The CHAIRMAN. Mr. Baker, welcome, and I think Senator Hutchison would like to make a comment about Mr. Baker before we hear from him. Is that right, Kay?

**STATEMENT OF HON. KAY BAILEY HUTCHISON,
U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. Mr. Chairman, I am very pleased to be able to introduce two Texans for these important posts. This is a Council that I hope will provide a wide range of input and technical expertise to the FAA. That is why it was formed, and we have two members from Texas who I think can contribute, and I wanted to say I appreciate very much you, the Chairman and the Ranking Member, Senator Hollings' commitment to aviation safety and the integrity of the FAA in making sure that the flying public has the highest level of safety that can be attained.

I would like to introduce first Robert Baker, who is known to many because of his long service at American Airlines. Earlier this year he was named Vice Chairman of American Airlines. He has expertise in virtually all aspects of the airline business, currently representing American externally on technical, and operational issues before the FAA. Before this year, Mr. Baker served American as Executive Vice President for Operations, and he has also been the go-to person on issues of maintenance, engineering flight operations, corporate security, corporate real estate, cargo, and safety. He is recognized as an industry leader in many technical fields and has been at American Airlines as a vice president for more than 20 years. I think he will add much technical expertise that will be very valuable on this Council.

The other Texan is Debbie Branson. Ms. Branson has been nominated for this position. She is originally a native of Arkansas, practicing law in 1980 at the offices of Arnold, Lavender, Rochelle, Barnette, & Franks. Currently she is a trial attorney at the offices of Frank Branson in Dallas, Texas, where she has practiced since 1983. She currently serves as President of the Texas Trial Lawyers Association, and is Vice Chair of the Board of Trustees for the Securities Investor Protection Corporation.

In 1994, she chaired the Select Committee on Rate and Policy Forum Regulation, and in 1992 was appointed to the Texas Judicial Council, where she served until 1997.

She received her undergraduate degree from Arkansas State University, her J.D. from the University of Arkansas, and a master of science from the University of Texas at Dallas.

I am very pleased to recommend the two Texans, and I think they will add a great deal of expertise on this important Committee, and as a member of the Aviation Committee myself and a former vice chairman of the National Transportation Safety Board, this is an area in which I have a great interest, and I hope you will give the advice to the FAA that will improve an already good record in aviation safety and also airport security, where the Chairman and I have been very active in trying to beef up the safety precautions that would be taken at our Nation's airports.

I think we are making some great strides in airport security as well as aviation security, so thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Baker and I have also had the pleasure of knowing each other. It is good to have you back before the Committee.

**STATEMENT OF ROBERT W. BAKER, VICE CHAIRMAN,
AMERICAN AIRLINES, INC., FORT WORTH, TX**

Mr. BAKER. Thank you very much, Senator. Good morning, Senator Hutchison. Thank you very much for your gracious introduction. Chairman McCain, Senator Hollings, Senator Rockefeller, and other members of the Committee, it is, indeed, an honor for me to come before you today as a nominee to the Federal Aviation Administration Management Advisory Council, or as it has come to be known, the MAC. I appreciate the years of effort that this Committee has devoted to bringing a more sensible business-like approach to running the FAA. The creation of the MAC will go a long way toward this goal, and I am privileged to be considered to be a part of it.

As you know, since the airlines were deregulated in November 1978, passenger demand for air transport has grown at an average annual rate of 4 percent from about 275 million passengers in 1978, to over 600 million today, and according to the FAA in the next 8 years an additional 2,500 aircraft will be needed to transport an estimated 42 percent increase in the number of passengers.

While I am delighted that this impressive number reflects the public's confidence in the safest, most efficient, and cost-effective mode of transportation, it is also to me a warning sign that our system must be able to handle the demands of this increase. As an industry, we have a responsibility not only to meet the call for service but also to assure as much economic discipline as possible.

Mr. Chairman, today's FAA does an excellent job of working with the industry to give Americans the safest system in the world, but we cannot remain comfortable for long, maintaining the same perspective on a 20-year-old organization.

The advisory role of the MAC is an excellent way for us to begin looking a little bit differently at the day-to-day operations of the FAA and, if confirmed, I certainly look forward to working with my colleagues on this Committee to address a variety of factors that have challenged the FAA over the past several years, and which may continue to represent major challenges to the agency as we move forward.

With your confidence, I will serve with other members of the MAC in an advisory role rather than a line authority regarding the FAA activities. As a member of the MAC, I believe that together we can provide an effective sounding board for the FAA as they address many of the aforementioned concerns.

Thank you again, Mr. Chairman, for the opportunity to come before you today, and I would be happy to address any of your questions.

[The prepared statement and biographical information of Mr. Baker follow:]

PREPARED STATEMENT OF ROBERT W. BAKER, VICE CHAIRMAN,
AMERICAN AIRLINES, INC., FORT WORTH, TX

Chairman McCain, Senator Hollings, and members of the Committee, it is an honor for me to come before you today as a nominee to the Federal Aviation Admin-

istration Management Advisory Council (MAC). I appreciate the years of effort this Committee has devoted to bringing a more sensible, business-like approach to running the FAA. The creation of the MAC will go a long way towards this goal, and I am privileged to be considered to be a part of it.

As you know, since the airlines were deregulated in 1978, passenger demand for air transport has grown at an average annual rate of 4 percent, from about 275 million passengers in 1978, to over 600 million today. According to the FAA, in the next eight years an additional 2,500 aircraft will be needed to transport an estimated 42 percent increase in the number of passengers. While I am delighted that this impressive number reflects the public's confidence in the safest, most efficient and cost effective mode of transportation, it is also a warning sign that our system must be able to handle the demands of this increase. As an industry, we have a responsibility not only to meet the call for service, but also to assure as much economic discipline as possible.

Mr. Chairman, today's FAA does an excellent job of working with the industry to give Americans the safest system in the world. But we can't remain comfortable for long maintaining the same perspective on a 20-year-old organization. The advisory role of the MAC is an excellent way for us to begin looking a little differently at the day to day operations of the FAA. If confirmed, I look forward to working with my colleagues on the Commission to address a variety of factors that have challenged the FAA over the past several years and which may continue to represent major challenges to the agency as it moves forward.

Specifically, the FAA has experienced difficulties with a number of its major modernization programs, particularly where there have been significant software challenges and human factors issues involved. One of the factors that has sometimes constrained the agency's ability to move forward with air traffic modernization in a steady fashion has been the absence of stable, predictable funding for capital programs. The Congress, in the recently enacted FAA reauthorization, has now addressed that problem. The tremendous growth in air traffic, which is projected to continue, has also posed difficulties for the agency in accommodating that air traffic without corresponding delays. While progress has been made on a number of fronts in air traffic modernization, significant concerns remain about the overall modernization program. Timely air traffic modernization and completion of corresponding airport improvements are critical if we are to achieve the necessary capacity improvements that are desperately needed to avoid gridlock in our air transportation system. There is also cause for concern about the FAA's ability (and that of government institutions generally) to keep up with and adjust to the rapid changes in technology that we see in virtually all facets of our society. For example, recruiting, training, and retaining personnel with up-to-date technological skills and knowledge is critical to such an effort, as is the development of an improved means of implementing well conceived and timely regulations and certification procedures that enable the early introduction of new technology offering advances in safety and system efficiency.

With your confidence, I will serve with other members of the MAC in an advisory role rather than line authority regarding FAA activities. As a member of the MAC, I believe that together we can provide an effective sounding board for the FAA as they address many of the aforementioned concerns.

Thank you again, Mr. Chairman for the opportunity to come before you today, and I would be happy to address any of your questions.

A. BIOGRAPHICAL INFORMATION

1. Name: Robert Woodward Baker.
2. Position to which nominated: Member—FAA Management Advisory Council.
3. Date of nomination: Unknown.
4. Address: (List current place of residence and office addresses.) Residence: 17 Ashton Court, Dallas, TX 75203. Office: 4333 Amon Carter Boulevard, Fort Worth, TX 76155.
5. Date and place of birth: September 3, 1944, Bronxville, NY.
6. Marital status: (Include maiden name of wife or husband's name.) Married, Martha Jane Hauschild.
7. Names and ages of children: (Include stepchildren and children from previous marriages.) Richard W. Baker II, Age 32; Robert W. Baker Jr., Age 30; William G. Baker, Age 28; Suzanne Baker Yager, Age 25.
8. Education: (List secondary and higher education institutions, dates attended, degree received and date degree granted.) Trinity College, Hartford CT 1962–66, BA Economics, June, 1966; Wharton School, University of Pennsylvania 1966–68, MBA, May, 1968.

9. Employment record: (List *all* jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.) All employment with American Airlines, see attached A-9.

Attachment A-9

Robert W. Baker

Vice Chairman—Office of Chairman
American Airlines, Inc.

Robert W. Baker was named Vice Chairman of American Airlines in January 2000. Baker is involved in all aspects of the airline business and represents American externally on technical and operational issues before the FAA, the NTSB and other governmental agencies and industry groups.

Previously Baker had served as executive vice president, and before that, senior vice president, for operations. Since 1985 he was the senior executive responsible for maintenance and engineering, flight, operations planning and performance, corporate security, corporate real estate, cargo and safety. He is recognized as one of the airline industry's leaders in many of the technical aspects of the business.

Baker has served in a variety of senior positions at American, including senior vice president-information systems and as a vice president in various areas over a period of more than 20 years.

Baker joined American Airlines in 1968 as a marketing management associate in New York. Subsequently, he held passenger and freight management positions in New York, Cleveland and Chicago.

He was elected vice president in charge of American's southern division in October 1977. He then was appointed vice president-freight marketing in 1979, was named vice president-passenger sales and advertising in 1980 and became vice president-marketing automation systems in 1982.

A native of Bronxville, N.Y., Baker earned a degree in economics at Trinity College, Hartford, Conn., and a master's degree in business at the Wharton School of the University of Pennsylvania.

He and his wife, Martha, live in Dallas. They have four children.

10. Government experience: (List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.) Co-Chair, Free Flight Implementation Committee; FAA Research and Development Committee.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.) Trustee, Embry-Riddle Aeronautical University; Board Member, Zale Lipshy Hospital; Board Member, American Lung Association of Texas.

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.) Member, Civil Reserve Airlift Fleet Committee; Member, Conquistadores del Cielo; Member, Wings Club of New York.

13. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate. None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years. None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Bush Exploratory Committee, \$500, 3/31/99; Lipinski for Congress, \$1,000, 11/20/97; McCain for Senate, \$1,000, 5/19/97; Friends of Bob Graham, \$1,000, 6/10/97; Friends of Larry Pressler, \$500, 6/13/95; Lipinski for Congress, \$1,000, 2/27/92; See attached (A-13c)* of contributions to the American Airlines Political Action Committee.

14. Honors and awards: (List *all* scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.) None.

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.) None.

*The information referred to has been retained in the Committee files.

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated. See attached A-16.*

17. Selection:

- (a) Do you know why you were chosen for this nomination by the President? No.
 (b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment? In-depth aviation experience.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate? No.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. I plan to continue working in my current capacity with AMR.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? I plan to continue working in my current capacity with AMR.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? I plan to continue working in my current capacity with AMR.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers. American Airlines deferred income to be paid past retirement from American Airlines. The funds are invested in various publicly available financial vehicles. Value of the deferred income account as of 12/31/99: \$476,140.06.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. None.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated? None.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. None.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.) Not Applicable.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details. No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? If so, provide details? No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None.

E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines set by Congressional Committees for information? Not applicable.
2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Not applicable.
3. Will you cooperate in providing the Committee with requested witnesses, to include technical experts and career employees with firsthand knowledge of matters of interest to the Committee? Not applicable.
4. Are you willing to appear and testify before any duly constituted Committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

F. GENERAL QUALIFICATIONS AND VIEWS

1. Please describe how your previous professional experience and education qualifies you for the position for which you have been nominated. Virtually my entire professional career has been involved with aviation. Working with aviation safety and operational issues has given me significant exposure to the types of critical work performed by the FAA. In addition to the technical knowledge I have obtained in aviation, I will also bring to the MAC both a business background and detailed knowledge of the airline industry, which I believe will contribute positively to the performance of the MACs work.

2. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills? I believe I have the necessary skills, if confirmed, to successfully carry out my responsibilities on the MAC. I recognize, though, that it will be necessary to develop a more detailed knowledge of the internal processes of the FAA and some of the intricacies of the Federal budgeting process. Actual service on the MAC will provide the necessary exposure to develop this additional knowledge.

3. Why do you wish to serve in the position for which you have been nominated? Our nations air transportation system is an essential ingredient of the economic fabric of our society. It is critical that commerce and people continue to move safely and efficiently by air. The FAA plays an important role in seeing that this is accomplished. With my experience in aviation, I believe I can help the FAA perform this vital work even more effectively and efficiently.

4. What goals have you established for your first two years in this position, if confirmed? I anticipate that much of the work undertaken by the MAC will be developed through consensus among the MAC members or at the request of the FAA Administrator. Although any safety work undertaken by the MAC must receive the highest priority, I believe a high priority should also be placed on assisting the FAA in performing its functions in a business-like manner (e.g., through the completion and implementation of a cost accounting system). Resources will always be finite, and, to the extent that the MAC can help the agency perform its work in a more business-like and efficient manner, greater benefits for the traveling public can be achieved for the same investment.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when should society's problems be left to the private sector, and what standards should be used to determine when a government program is no longer necessary. My philosophical views of the role of government are principally related to my experience in the aviation arena. Areas such as safety regulation and certification are clearly government functions. Purely business-like production of services and products are best left to the private sector. It is the gray area in between, such as the operation of air traffic control, which raise important questions for both Congress and industry to resolve. At minimum, the government should administer its service functions in the most efficient and businesslike way, consistent with safety. It is time to reconsider whether the air traffic control functions of the FAA should be operated by a different entity or in a different way.

6. *In your own words*, please describe the agency's current missions, major programs, and major operational objectives. In simplest terms, the FAA is responsible (in partnership with the aviation industry) for the safe and efficient movement of people and goods by air. To accomplish this work, the FAA is engaged in a full gamut of regulatory, oversight, and operational activities, such as civil aviation security, aircraft and airman certification, airline operational rules, air traffic regulations, operation and modernization of the air traffic control system, airport grants, and aircraft-related environmental issues. The FAA has also assumed responsibility in recent times for the promotion and licensing of commercial space activities.

7. In reference to question number six, what forces are likely to result in changes to the mission of this agency over the coming five years. In light of the inherently governmental nature of the FAA's safety responsibilities, my sense is that the aspect of FAA's current mission most likely to experience significant change would be in operating the air traffic control system. Increased air traffic delays, capacity concerns, and difficulties that have been experienced in system modernization are forces that could contribute to further air traffic control reform.

8. In further reference to question number six, what are the likely outside forces which may prevent the agency from accomplishing its mission? What do you believe to be the top three challenges facing the board/commission and why? The principal force to prevent change is inertia. The complexity of the agency and the issues with which it deals makes the task formidable. I believe that the top challenges to the Council are to help the agency cope with its short-term problems of running the system while at the same time trying to find and build census for longer-term solutions.

9. In further reference to question number six, what factors in your opinion have kept the board/commission from achieving its missions over the past several years? Overall, I think the FAA has done and continues to do a good job in most aspects of its mission. There are a variety of factors, though, that have challenged the FAA over the past several years, which may continue to represent major challenges to the agency as it moves forward. Specifically, the FAA has experienced difficulties with a number of its major modernization programs, particularly where there have been major software challenges and human factors issues involved. One of the factors that has sometimes constrained the agency's ability to move forward with air traffic modernization in a steady fashion has been the absence of steady, predictable funding for capital programs. That has now been addressed by the Congress in the recently-enacted FAA reauthorization. The tremendous growth in air traffic, which is projected to continue, has also posed difficulties for the agency in accommodating that air traffic without corresponding delays. While progress has been made on a number of fronts in air traffic modernization, significant concerns remain about the overall modernization program. Timely air traffic modernization and completion of corresponding airport improvements are critical if we are to achieve the necessary capacity improvements that are desperately needed to avoid gridlock in our air transportation system. There is also cause for concern about the FAA's ability (and that of government institutions generally) to keep up with and adjust to the rapid changes in technology that we see in virtually all facets of our society. For example, recruiting, training, and retaining personnel with up-to-date technological skills and knowledge is critical to such an effort, as is the development of an improved means of implementing well conceived and timely regulations and certification procedures that enable the early introduction of new technology that offers advances in safety and system efficiency.

10. Who are the stakeholders in the work of this agency? The FAA's primary stakeholder is the American traveling public. Other stakeholders include the many segments of the aviation community that rely upon the FAA's services or are subject to its regulatory authority, including such diverse groups as pilots, mechanics, flight attendants, air carriers, and aircraft and engine manufacturers. I also view the Congress as an important stakeholder, given the importance of aviation to the American people.

11. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question number ten. If confirmed, I will serve as one of a number of members of the MAC, with an advisory role rather than line authority regarding FAA activities. As a member of the MAC, I believe that a proper relationship with agency stakeholders would be to serve as a sounding board for concerns or information they may wish to share with the MAC.

12. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you? Not applicable.

13. Describe your working relationship, if any, with the Congress. Does your professional experience include working with Committees of Congress? If yes, please describe. As a senior official with a major domestic airline, I have been called upon on a number of occasions to testify before Congressional Committees on various aviation matters. I have been pleased to have the opportunity to do so as a means of helping to shape the future of our nation's air transportation system.

14. Please explain how you will work with this Committee and other stakeholders to ensure that regulations issued by your board/commission comply with the spirit of the laws passed by Congress. Not applicable.

15. In the areas under the board/commission jurisdiction, what legislative action(s) should Congress consider as priorities? Please state your personal views. I

believe that it would be appropriate for Congress to weigh whether additional air traffic control legislative reforms are warranted.

16. Please discuss your views on the appropriate relationship between a voting member of an independent board or commission and the wishes of a particular president. Not applicable.

The CHAIRMAN. Thank you very much, Mr. Baker. I want to thank Senator Hutchison for taking time from her busy schedule to introduce both you and Ms. Branson.

Mr. Bolen.

STATEMENT OF EDWARD M. BOLEN, PRESIDENT, GENERAL AVIATION MANUFACTURERS ASSOCIATION, WASHINGTON, DC

Mr. BOLEN. Thank you, Mr. Chairman. Thank you for having me here today. I have some prepared remarks but before I launch into those, if you do not mind I would like to take just a moment to introduce both my wife, Beth, and my mother-in-law, Mary Hantzees, who are with me today. I am very proud to have them here.

The CHAIRMAN. Welcome, and we are glad you could join us on this day. Thank you for being here.

Mr. BOLEN. Mr. Chairman, aviation is the key transportation technology of the 21st Century and, as Bob Baker just indicated, today we are seeing more people than ever utilizing aviation, both general aviation and commercial aviation to get to more places than ever before. People are also expecting more goods and services to be delivered to them than at any point in the Nation's history.

And as Bob Baker said, the projections are this growth trend is only going to accelerate in the years ahead. Because of this growth, the Federal Aviation Administration faces an awesome challenge in continuing to meet the public's demand for safe, secure, and efficient air transportation system.

Since its inception in 1958, the FAA has widely and, I believe, accurately been recognized as the world's leading civil aviation authority. However, the FAA is not perfect, and there is a general consensus that the agency must change the way it operates if it is to remain the premier aviation authority in the world.

In 1996, Congress passed legislation creating the Management Advisory Council to provide management expertise to the FAA as the agency attempts to modernize the air transportation system for the 21st Century. If confirmed, I hope to bring to the MAC the management experience that I have gained in nearly 5 years as the president and CEO of a leading aviation trade association. I also hope to bring with me the lessons I have learned from working on a daily basis with the CEOs of our Nation's leading general aviation companies.

As members of this Committee know, the United States is a world leader in all aspects of general aviation, but nowhere is that leadership more profound than in the area of manufacturing. Last year, approximately 85 percent of the general aviation aircraft sold throughout the world were produced in the United States. I believe we are a segment of the industry that has a great deal to contribute.

Mr. Chairman, as I said at the beginning of my remarks, it is a real honor to be here today and, if confirmed, I hope to do all I can to make our Nation's air transportation system as safe and secure and as efficient as possible.

Thank you.
 [The prepared statement and biographical information of Mr. Bolen follow:]

PREPARED STATEMENT OF EDWARD M. BOLEN, PRESIDENT, GENERAL AVIATION
 MANUFACTURERS ASSOCIATION, WASHINGTON, DC

Mr. Chairman, Senator Hollings, and members of the Committee, my name is Edward M. Bolen and I am the President and CEO of the General Aviation Manufacturers Association (GAMA). GAMA represents approximately 50 manufacturers of general aviation aircraft, engines, avionics and components parts located throughout the United States.

I would like to thank you for scheduling this confirmation hearing today. It is truly an honor to appear before the Committee.

Mr. Chairman, aviation is the key transportation technology of the 21st Century. Today, we are seeing more people utilizing aviation, both commercial and general aviation, to get to more places than ever before. Citizens are also relying on aviation to bring them a wider variety of goods and services than at any point in history.

Projections show that the current growth trend in aviation will only accelerate in the years and decades ahead.

Because of that growth, the Federal Aviation Administration (FAA) faces an awesome challenge in continuing to meet the public's demand for a safe, secure and efficient air transportation system.

Since its inception in 1958, the FAA has widely, and I believe accurately, been considered the finest civil aviation authority in the world. However, the agency is not perfect, and there is a general consensus that the agency must change the way it operates if it is to remain the premier aviation authority in the world.

In 1996, Congress passed legislation creating the Management Advisory Council (MAC) to provide management expertise to the FAA as the agency attempts to modernize the nation's air transportation system and improve safety and efficiency.

If confirmed, I hope to bring to the MAC the management skills that I have learned as President and CEO of a significant trade association. I also hope to bring with me the lessons I have learned from working on a daily basis with the CEOs of our nation's leading general aviation companies.

As the members of this Committee know, the United States is the world leader in all aspects of general aviation. No where is that world leadership more profound than in the area of general aviation manufacturing. Last year, approximately 85 percent of all of the new general aviation aircraft sold throughout the world were produced in the United States. I believe this is a segment of the industry that has a great deal to contribute to the MAC.

Mr. Chairman, as I said at the beginning of my remarks, it is an honor to be nominated for this important position, and I hope to be given the opportunity to serve. I look forward to answering any questions that you or other members of the Committee may have.

Thank you.

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names or nick names used.) Edward Michael Bolen.
2. Position to which nominated: FAA Management Advisory Council.
3. Date of nomination: March 30, 2000.
4. Addresses: (List current place of residence and office addresses.) Home: 5208 Portsmouth Road, Bethesda, Maryland 20816. Office: 1400 K Street, NW, Suite 801 Washington, DC 20005.
5. Date and place of birth: February 11, 1960, Salina, Kansas.
6. Marital status: (Include maiden name of wife or husband's name.) Married to Elizabeth Hantzes Bolen (formerly Elizabeth Hantzes Averett).
7. Names and ages of children: John Patrick Bolen, Age 4, Date of Birth 3/15/96; Robert Edward Bolen, Age 2, Date of Birth 8/24/97.
8. Education: (List secondary and higher education institutions, dates attended, degree received and date degree granted.)

Salina High School Central	1973 to 1978	H.S. Diploma
University of Kansas	1978 to 1983	B.A. (Economics)
University of Mississippi School of Law	1983 to 1984	attended
Tulane University School of Law	1984 to 1986	J.D.
Georgetown University Law Center	1986 to 1987	LL.M. (Taxation)

Harvard University (Kennedy School of Government, Program for Senior Managers in Government) 1994 Certificate

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Job: Tennis instructor
Employer: Carriage Club
City: Kansas City, Missouri
Dates of Employment: Summer 1983 and part of summer of 1984

Job: Law Clerk
Employer: Gordon, Arata, McCollam & Duplantis
City: New Orleans, Louisiana
Dates of Employment: January to April 1986

Job: Marketing Principal/Attorney
Employer: Trammell Crow Company
City: Washington, DC and Columbia, Maryland
Dates of Employment: 1987 to 1990

Job: Legislative Assistant and Legislative Director
Employer: U.S. Senator Nancy Landon Kassebaum
City: Washington, DC
Dates of Employment: 1990 to 1994

Job: Majority General Counsel
Employer: Senate Committee on Labor & Human Resources
City: Washington, DC
Dates of Employment: 1994 to 1995

Job: Senior Vice President and General Counsel
Employer: General Aviation Manufacturers Association
City: Washington, DC
Dates of Employment: 1995 to 1996

Job: President and CEO
Employer: General Aviation Manufacturers Association
City: Washington, DC
Dates of Employment: 1996 to Present

10. Government experience: (List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.) None.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.) President and CEO, General Aviation Manufacturers Assn.; Member of Policy Board, RTCA, Inc. (A Non-Profit Org.); Member of Board of Directors, National Aeronautic Association; Member of Aviation Advisory Board, Mitre/CAASD (A Non-Profit Org.).

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.) Kansas Bar Association, District of Columbia Bar Association, Sovereign Military Order of Malta, Aero Club of Washington, DC, American Bar Association, Kansas State Society of Washington, DC, National Aeronautics Association, National Society of the Sons of the American Revolution, Kansas University Alumni Association, Kansas University K-Club, Metropolitan Club of Washington, DC, Edgemoor Club.

13. Political affiliations and activities:

(a) List all offices with a political party, which you have held, or any public office for which you have been a candidate. None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years. None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Friends of Byron Dorgan, \$500, 3/17/97.

14. Honors and awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognition for outstanding service or achievements.) Eastman Kodak Scholarship to Harvard University, Kennedy School of Government, Senior Managers in Government Program (1994).

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials, which you have written.) See Attachment A*—Annual Industry Review & Outlook Briefings published by the General Aviation Manufacturers Association.

16. Speeches: (Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated.) See Attachment B.*

17. Selection:

(a) Do you know why you were chosen for this nomination by the President? I am not certain. However, several members of Congress from both parties wrote letters to the President asking that I be considered for nomination. In addition, I have had the opportunity to work with Secretary Slater and Administrator Garvey to provide insights into two important elements of the aviation industry: general aviation and manufacturing. I believe the Administration wanted a knowledgeable source on these two elements on the MAC.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment? I have significant management experience, legal experience and political experience—all of which I believe will help me make a positive contribution to the MAC.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate? No. The MAC is an unpaid position. As a result, I understand that resignation of my current job is unnecessary.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. I will continue in my current capacity as President and CEO of the General Aviation Manufacturers Association.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? I plan to continue in my current capacity as President and CEO of the General Aviation Manufacturers Association both during and after my government service.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next presidential election, whichever is applicable? Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealing with business associated, clients or customers. The General Aviation Manufacturers Association provides me a salary and benefits including a defined benefits pension plan and a 401(k).

2. Indicate any investments, obligations, liabilities, or other relationships, which could involve potential conflicts of interest in the position to which you have been nominated. I am not aware of any.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated? I am not aware of any.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. During my employment at the General Aviation Manufacturers Association, I have been a registered lobbyist. In that capacity I have worked on virtually every House and Senate bill related to aviation. My work includes testifying before Congressional Committees, meeting personally with members of Congress and facili-

*The information referred to has been retained in the Committee files.

tating meetings or correspondence between members of the General Aviation Manufacturers Association and their elected representatives.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.) I will seek guidance from the designated agency ethics officer and the Office of Government Ethics and follow whatever recommendations they may have.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details. No.

3. Have you or any businesses of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? If so, provide details. No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None.

E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines set by Congressional Committees for information? Yes, to the fullest extent of my authority.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes, to the fullest extent of my authority.

3. Will you cooperate in providing the Committee with requested witnesses, to include technical experts and career employees with firsthand knowledge of matters of interest to the Committee? Yes, to the fullest extent of my authority.

4. Are you willing to appear and testify before any duly constituted Committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

F. GENERAL QUALIFICATIONS AND VIEWS

1. Please describe how your previous professional experience and education qualifies you for the position for which you have been nominated. A significant portion of my educational experience is related to the fields of business, economics and law—all areas that I believe will be relevant to my position on the MAC. My professional experience includes coalition building and public advocacy which I believe will be important skills as this diverse council seeks to work together to improve the management of the FAA.

2. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills? At this point, I am unaware of any skills that I may be lacking. However, if I find I am deficient in some area I will seek to build that skill in the most reasonable and practical manner possible.

3. Why do you wish to serve in the position for which you have been nominated? I have a deep belief in voluntary public service. I also recognize the importance of strong and efficient FAA to our nation and its economy. I believe this is an opportunity for me to contribute positively to the public good.

4. What goals have you established for your first two years in this position, if confirmed? My goal is to do all I can to help keep the FAA the best civil aviation authority in the world.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when should society's problems be left to the private sector, and what standards should be used to determine when a government program is no longer nec-

essary. In general, I believe government works best when it is closest to the people. As a result, I believe in a rather limited role for the federal government. However, there are a number of areas in which the federal government should be involved. The military is one such area. Transportation is another.

Because transportation is intrinsically interstate in nature and has a tremendous impact on our national economy, I believe the federal government has an important role to play in facilitating safe and efficient transportation.

With regard to the private sector, I believe government should generally tread lightly. However, the government does have a role to play among other things, protecting public health and safety, insuring confidence in the integrity of our markets, and preventing individual rights from being trampled.

6. In your own words, please describe the agency's current missions, major programs, and major operational objectives. I believe the agency's mission is to improve the safety, security and efficiency of aviation and commercial space transportation.

Its major programs include air traffic management, regulation and certification, civil aviation security, airports, acquisition and aviation research.

In addition to safety, security and efficiency, its major operational objectives should include being responsive to the dynamic nature of the country's transportation needs.

7. In reference to question number six, what forces are likely to result in changes to the mission of this agency over the coming five years. I do not believe the FAA's mission should change. However, there are a number of factors that may change the way the Agency operates. For example, the aviation industry is in the process of transitioning from ground based navigation to satellite navigation. This could have a profound impact on future air traffic management.

8. In further reference to questions six, what are the likely outside forces, which may prevent the agency from accomplishing its mission? What do you believe to be the top three challenges facing the board/commission and why? I am concerned about the erosion of the FAA's authority over all aspects of aviation. I am also concerned about international aviation regulations developed by countries or regions that view the United States as a competitor.

I believe the top challenges facing the MAC include, facilitating the modernization of the Air Traffic Control system, helping the FAA find ways to attract and retain qualified personnel, and overseeing the reorganization of FAA operations to promote safety and efficiency.

9. In further reference to question number six, what factors in your opinion have kept the board/commission from achieving its missions over the past several years? Because the MAC has yet to begin its work, I do not believe this question is applicable.

10. Who are the stakeholders in the work of this agency? All citizens of the United States have a significant interest in a strong national air transportation system. As a result, all citizens are stakeholders. Among those stakeholders most directly impacted by the services of the FAA are the traveling public, the military, shippers, pilots, aircraft owners, airlines, airports, manufacturers, fixed base operators, companies that utilize general aviation to meet their transportation needs, and businesses that service the aviation industry.

11. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question number ten? If confirmed, I believe it will be my responsibility to represent to the best of my ability the best interests of all of the stakeholders.

12. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you? I believe good communication between supervisors and employees is critical element in a positive working relationship. At the General Aviation Manufacturers Association we have weekly staff meetings, quarterly performance reviews, and an "open door" policy to facilitate communication within the trade association.

To date, no employee complaint has ever been brought against me.

13. Describe your working relationship, if any, with the Congress. Does your professional experience include working with Committees of Congress? If yes, please describe. As an employee of the General Aviation Manufacturers Association I have lobbied Congress on a wide variety of aviation matters. My lobbying efforts have included testifying before the relevant committees of jurisdiction, personal meetings with Senators and Representatives and their staffs, and facilitating communication between the members of the association and their elected representatives.

14. Please explain how you will work with this Committee and other stakeholders to ensure that regulations issued by your board/commission comply with the spirit of the laws passed by Congress. It is my understanding the MAC will not have the

authority to promulgate regulations. However, I would hope to work with Members of Congress and their staffs to make sure MAC recommendations are consistent with the spirit of the laws passed by Congress.

15. In the areas under the board/commission jurisdiction, what legislative action(s) should Congress consider as priorities? Please state your personal views. I would hope Congress would consider any legislation necessary to implement recommendations that the MAC endorses to improve safety and/or efficiency.

16. Please discuss your views on the appropriate relationship between a voting member of an independent board or commission and the wishes of a particular president. I believe an independent board member should strive to act in the best interest of the stakeholders. At times the board member may agree with a policy position of a particular president, at times he or she might not.

The CHAIRMAN. Thank you, Mr. Bolen.
Mr. Boyer.

STATEMENT OF PHILIP B. BOYER, PRESIDENT, AIRCRAFT OWNERS AND PILOTS ASSOCIATION, FREDERICK, MD

Mr. BOYER. Thank you, Mr. Chairman, I am very honored to be here regarding my nomination to MAC. I think most of you, Mr. Chairman, Senator Hollings, Senator Rockefeller, know me as the representative of the people who buy and fly the planes that Mr. Bolen was talking about manufacturing. In my written statement I outlined some of the challenges I think that are ahead for the FAA, and the ones that you outlined who have an efficient and business-like organization are very important.

Perhaps I had a midlife crisis 10 years ago, but I have not always been in this aviation career business. My background really is 32 years in another industry that this Committee oversees, and that is the broadcasting industry. Most of my life I was a businessman with the American Broadcasting Company, rising to the rank of senior vice president, and managing some of its large organizations. I think that background is important as we look to not micro-manage through this council to help guide and oversee some of the innovate things that need to be done within the agency in a more rapid pace, and the implementation of this council itself is a good example.

At ABC I was in charge of lots of people and negotiated union contracts, and one of the things I am most proud of was the implementation of technology, which I think is one of the challenges facing the FAA today. Also, my last few years at ABC I was very involved in the international activities of the company, and that is important as we look at the globalization of aviation and the many harmonization of rules we have to do.

Those of you on the Committee know that the last 10 years I have represented the owners and operators of general aviation aircraft, myself having been one all through my 32-year broadcasting career, but mostly as a recreational pilot, and now the last 10 years having spent about 4,000 hours in the sky doing business flying. It is certainly a big honor, and I feel probably there is no greater honor for somebody in the private sector, whether in aviation or in business, to be able to serve the Government in this position, and I look forward to your consideration of my nomination.

Thank you.

[The prepared statement and biographical information of Mr. Boyer follow:]

PREPARED STATEMENT OF PHILIP B. BOYER, PRESIDENT, AIRCRAFT OWNERS AND
PILOTS ASSOCIATION, FREDERICK, MD

Mr. Chairman and members of the Committee:

I am Phil Boyer, and am profoundly honored to appear here today regarding my nomination for the FAA Management Advisory Council.

I do not have a lengthy statement, but in the interest of indicating how much I welcome the opportunity to serve on this Council I do want to highlight a few areas of my background and of course answer your questions.

I am a 6,000-hour pilot and have flown extensively throughout the United States and other parts of the world. What makes my experience somewhat unique is that I am not a paid-professional pilot, but represent the majority of this nation's pilots who fly for business and pleasure. More than a third of my hours were gained in flying general aviation aircraft for recreation, and the remainder in executing the duties associated with my decade long position as president of the Aircraft Owners and Pilots Association. With over 360,000 member/pilots, I aggressively travel to communicate and visit as many of our members as possible across the nation, and often internationally, in order to learn and act on their concerns.

I also am President of the AOPA Air Safety Foundation (ASF), serving not just AOPA members, but all pilots. The Foundation is an effective partner with the FAA for improved general aviation safety, education and training. More than 200 free safety seminars are held annually in conjunction with the Agency's Safety Program Office. In addition, I also have the honor of leading the 52 nations comprising the International Council of Aircraft Owners and Pilots Associations, (IAOPA).

There are two important reasons why I wish to serve the American public on this prestigious Council:

First, I will represent the views of the general aviation community to an advisory council where airlines, military aviation, airports, manufacturers, unions and many other stakeholders will express their concerns over FAA performance and productivity. After all, general aviation comprises 75% of all U.S. pilots, 59% of annual flight hours, and 96% of U.S. civilian aircraft.

Secondly, I submit the issues at hand are issues of FAA management, planning, budgeting, cost-effectiveness and employee productivity. Many who rise to leading positions in Washington, DC are from backgrounds in politics or public administration. However, my background is in business, specifically management, planning, budgeting, employee motivation and the adaptation of new technology solutions.

Let me offer my view on the FAA's challenges. Many critics today are concerned the FAA may fall from being one of America's most admired federal agencies. Since its formation in 1958 the aviation world has looked at the FAA for leadership in the field of certification, air traffic efficiency, airports, and safety.

But the root problem today, as for many organizations, is the FAA's inability to manage change and meet challenge through a confident, organization-wide culture of leadership and control, solid planning, energizing and directing employees, and motivating and managing for results.

Today I come before you as the head of a worldwide group of aviation associations. But, what I also offer the MAC is my prior experience. For over 32 years I was in the broadcasting industry with 27 years of executive management, a majority with the American Broadcasting Company. These included positions as vice-president and general manager of ABC's two largest owned-and-operated television broadcasting operations (Chicago and New York), plus more recent years as senior vice-president for development at the ABC/Capital Cities corporate parent in New York City.

In that latter capacity, I headed ABC's investigation and application of new, untried and emerging technologies in electronic communications and information distribution, including international satellite operations. I also handled ABC's international business opportunities, launching new businesses in Europe and Asia while developing novel new information products for the domestic market.

Looking back over my 10-year tenure with AOPA, I offer documented success in building the organization to becoming ranked among America's 100 largest membership organizations, in large part due to such technological and management modernization.

One of FAA's many challenges is the inability to rapidly adopt and deploy the same such new technology and methods that have faced those of us in business. Now, 21st Century computerization, space-based navigation flexibility, distributed air traffic control solutions, unique airport design, and other methods are essential for us to be able to face the growing American appetite for transportation by air.

The FAA's performance in technology solutions since 1980 is not one dotted with huge successes. Clearly, this proud agency can use the advice and counsel of some of us who have succeeded in the technological and managerial revolution.

My philosophy is one of empowerment—strong management and oversight, surely, but the development and directing of people through coaching, monitoring, goal setting, guiding of tactics, and achieving of plans. The FAA workforce is heavily unionized, and now a growing professional corps is unionizing unit by unit. My past experience in the heavily unionized environment of broadcasting, with its technology based work rules, will be extremely helpful.

Congressional action in 1996 gave the FAA the personnel and acquisition reforms to assist in change. We must continue to grasp this opportunity, and the opportunities and resources granted under recent funding legislation. Beyond the FAA's ample new resources, we must now help it find the tools and methods to convert potential into results—results you and the American people demand.

I am not blind to the massive task at hand. I do not think the Management Advisory Council will solve all FAA problems. I only know this is an unprecedented opportunity: For the first time, methods and, strategies successful in service- and technology-oriented enterprises can officially find an ear at this critical federal agency.

These advisors with me here today have valuable insights to help FAA more confidently adopt new approaches and untried solutions. The Council's potential is great, simply because its mandate is for fresh input to an agency that must now step out aggressively to meet the demands of the future with, at least, the methods of today.

Despite my experience in business and management, I come to you without commercial interest, representing only the valid interests of Americans who are pilots and aircraft owners, a constituency that needs and supports a better-functioning FAA. Moreover, my attention to safety issues is paramount, and not only because AOPA is the only membership organization under consideration that has its own separate foundation—the AOPA Air Safety Foundation—devoted solely to improving aviation safety. The Foundation has worked in partnership with the FAA for years in this cause, and celebrates many successes in supporting FAA programs while knowing the agencies limitations as well.

I personally feel there can be no higher privilege for an individual from the private business and aviation sectors than to assist the Federal Aviation Administration in an advisory capacity. Thank you for the consideration of my nomination, and it would be my pleasure to answer any questions you might have.

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names or nick names used.) Philip Boyajian Boyer.
2. Position to which nominated: FAA Management Advisory Committee.
3. Date of nomination: April 14, 2000.
4. Address: (List current place of residence and office addresses.) Residence: 9000 Mountainberry Court, Frederick, MD 21702. Office: 421 Aviation Way, Frederick, MD 21701.
5. Date and place of birth: Portland, OR, December 13, 1940.
6. Marital status: (Include maiden name of wife or husband's name.) Married—Lois Henderson Boyer.
7. Names and ages of children: (Include stepchildren and children from previous marriages.) Tammy Lynn Chambers, 36 years; Terri Lynn Bohman, 33 years; Thomas Boyajian Boyer, 29 years.
8. Education: (List secondary and higher education institutions, dates attended, degree received and date degree granted.)
 1954–1958—Grant High School, Portland, OR—attended all four years at this HS, and graduated in the Spring of 1958.
 1958–1960 (Fall Semester)—Lewis & Clark College, Portland, OR. Completed first two years of bachelor degree, then left during Fall semester for a job opportunity in Eugene, OR.
 1961–1965—University of Oregon, Eugene, OR. Completed the equivalent of Junior year of work towards bachelor degree, while working full time.
 1966–1967—California State University, Sacramento, CA. Finished all undergraduate work and graduated in 1967.
9. Employment record: (List *all* jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)
 1957–58—Radio Station KPDQ, Portland, OR—Part time announcer.
 1958–60—KPTV, Portland, OR—Part time announcer/various.
 1960–65—KEZI-TV, Eugene, OR—Announcer/director—Production Mgr.

1965–72—KCRA-TV, Sacramento, CA—Announcer/director—Program Dir.
 1972–74—KNBC-TV, Burbank, CA—Program Director.
 1974–77—ABC-TV, New York, VP Programming, Owned TV Stations.
 1977–79—WLS-TV, Chicago, IL—VP-General Manager.
 1979–81—WABC-TV, New York—VP-General Manager.
 1981–85—ABC-TV, New York—VP-General Manager, Owned TV Stations.
 1985–90—ABC Video Enterprises, NY—Sr. VP-Product Development.
 1990–Present—Aircraft Owners & Pilots Association—President.
 Radio Station KERG, Eugene, OR—Part-time work, 1962–1965; Part-time associate professor, California State University-Sacramento 1967–1971.

10. Government experience: (List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.) None.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.) Boyer Air, Inc., President of Sub S corporation owning single aircraft for leasing—100% ownership, 1982–1986; AOPA President and Board member—No ownership position, but influence over decisions; Chairman of AOPA Insurance Agency, 1997–Present—No ownership position, but influence over decisions; Aircraft Owners & Pilots Association (AOPA)—President and member of Board 10/90–Present; AOPA Air Safety Foundation—President and member of Board 6/91 to present; RTCA Policy Board—Member—1998 to present.

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.) Member, Frederick County “Advance Team” (promotion of economic development for area) 1994–present; Member, Board of Trustees, Daniel Webster College, Nashua, NH—1996 to present; Member, Board of Directors, Aviation Explorer Scouts, 1994 to present; President, Be-A-Pilot (industry organization to promote learning to fly, 1996 to present; Member, President’s Council, Embry Riddle Aeronautical University, 1997 to present; Board of Directors and Member, Seaplane Pilots Association.

13. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate. None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years. Member, Republican Party.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. None.

14. Honors and awards: (List *all* scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.) None.

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.) See Attachment A.*

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated. See Attachment B.*

17. Selection:

(a) Do you know why you were chosen for this nomination by the President?

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

My belief is I was chosen to serve due to my position as the head of the largest and most influential civil aviation organization in the world. As president of the Aircraft Owners and Pilots Association, I represent over 350,000 pilots in the United States and over 400,000 worldwide. I am a 5,500-hour pilot with instrument and multiengine rating who has been flying all types of general aviation aircraft, from single engine to jets. For over 32 years, I have operated a variety of aircraft in all phases of the air traffic control system for both business and pleasure. My past flying experience has included much of North America and familiarity with Europe and other countries having personally operated aircraft in those areas. I spend much of my time travelling across the country representing general aviation pilots and meeting with our members. This continues to give me, personally, and the association direct feedback from the general aviation users of the FAA services. General aviation pilots make up 59% of all hours flown by pilots in the United States. In addition, over the past ten years I have routinely worked with the FAA Adminis-

*The information referred to has been retained in the Committee files.

trator and members of Congress on various regulatory and legislative issues. Prior to this position, I was in senior management positions with one of the nation's largest communications corporations: American Broadcasting Companies. In addition to management duties in large ventures, I was deployed to work in both the international arena and with new technologies, impacting the base business. Management skills built over the years include research, communications, profit and loss responsibility, starting new, untried ventures, and management of people.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate? No.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. Only continuing in my current position as AOPA President and AOPA's affiliated organizations.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? See #2.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election whichever is applicable? Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers. None.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. None.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated? None.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. See Attachment B.*

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.) Non-applicable.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details. No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? If so, provide details? 1981—Lawsuit in New York City—WABC-TV, where the company I ran was involved in a talent contract dispute. I was NOT named as a defendant, but as manager of the TV station was deposed and worked to achieve an out of court settlement. 1987—Divorce in the State of Illinois.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? No.

*The information referred to was not available.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None.

E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines set by Congressional Committees for information? Yes.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, to include technical experts and career employees with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted Committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

F. GENERAL QUALIFICATIONS AND VIEWS

1. Please describe how your previous professional experience and education qualifies you for the position for which you have been nominated. See A 17.

2. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills? I do not have direct experience with airline operations, from an air carrier industry perspective. Since I have not been employed in that industry, I must rely on my interface with those in that business. Service on numerous committees and broad aviation coalitions continues to provide me insights into this aspect of the air transportation environment.

3. Why do you wish to serve in the position for which you have been nominated? The council needs a representative for those who operate light aircraft. While it is appropriate for a representative of the airline pilots to be appointed to the council, it is also very important to have someone who speaks for general aviation pilots and owners. The National Civil Aviation Review Commission is widely viewed as a failure due to a lack of general aviation pilot representation. 75% of those operating over 96% of the aircraft in the air traffic control system are general aviation pilots. It is important that these people have a voice on the council. In addition, the costs associated with general aviation operations are directly borne by the individual owner or operator; unlike the air carrier industry where the passenger bears the greatest degree of expense.

4. What goals have you established for your first two years in this position, if confirmed? The first step must be to see that the provisions of AIR-21 are implemented. The Administration must fully utilize the personnel and procurement reform power given to it by the Congress in 1996. The council should monitor the progress of the Cost Accounting System so all users of the aviation system have a clear idea of what their money is being spent on. The FAA consistently talks about operating in a businesslike fashion. My background in both the communications and aviation industries has given me outstanding perspectives on unions, budgeting, and timeliness of projects, etc. The cost of flying is important to general aviation pilots. Aviation is unique in that it is the only industry in which the customer is forced to pay the cost of manufacturing flaws. The Administration must take a hard look at this segment of the aviation community to determine how all processes affect their safe operations.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when should society's problems be left to the private sector, and what standards should be used to determine when a government program is no longer necessary. Aviation is unique within the government, as there are no corresponding entities at the state or local level. In addition almost all aviation services are, by their nature, a monopoly not subject to the natural efficiencies of market forces. Whether an individual uses the aviation system directly or not, the entire nation benefits from our safe and efficient national airspace system.

The United States government has a unique mission with aviation. 50% of all the traffic in the world takes place in these 50 states, in any given hour. The country operates under this huge demand with one of the safest and most efficient systems of anyplace in the world.

Some nations have chosen, to varying degrees, to commercialize air traffic control services. However the overwhelming reason for that decision has been access to capital markets, not a primary issue in this country. While it is important to look at all forms of operations around the world, one should be very wary of creating situa-

tions where safety and public confidence can be compromised by attempts to commercialize what will always be a monopoly service. In the United Kingdom, for example, we are already beginning to see a backlash debate about privatization in another mode of transportation—railroads. That having been said, there are elements within the FAA mission that could be handled by the private sector more efficiently without compromising safety. One of the goals of the Commission should be to identify those areas and encourage the Administrator to implement our recommendations.

6. *In your own words*, please describe the agency's current missions, major programs, and major operational objectives. The FAA's mission includes providing a safe, efficient and secure air traffic control system. In addition, the agency is the sole regulatory body for aviation in areas as diverse as aircraft construction and maintenance to the training standards and certification of pilots and mechanics—including their physical and mental well being.

Toward those ends the agency is in a constant state of evolution. It is constantly modernizing its air traffic control system, establishing and revising safety standards for aircraft and pilots and researching cutting edge technologies to improve aviation safety.

7. In reference to question number six, what forces are likely to result in changes to the mission of this agency over the coming five years. It is unlikely the overarching safety mission of the agency will change. Rapidly changing technology should dramatically change the agency's method and cost of operations in the air traffic arena in the coming years. As rapidly as the personal computer has entered the work and home marketplaces in the last decade, the challenge of implementing micro-processor and satellite technology can have a major impact on efficiency of air carrier and general aviation traffic services.

8. In further reference to question number six, what are the likely outside forces which may prevent the agency from accomplishing its mission? What do you believe to be the top three challenges facing the board/commission and why? The agency may be its own worst enemy. Can it manage and implement the technological growth necessary in the coming years? The track record has not been outstanding in this area. Huge challenges lie ahead in designing and carrying out major programs. The projected growth in commercial air traffic could compromise efficient running of the nation's air traffic control system. Three other challenges face the commission is modernizing the air traffic control system to handle the projected increase in commercial traffic including a sufficient number of runways. A related issue has to be controlling operational costs. Operational costs of the system continue to outstrip the systems annual growth. At some point the general taxpayer will become weary of paying these uncontrolled costs despite the inherent public benefit the air traffic control system brings all citizens. Finally, inherent in all these issues is the debate on the structure of the air traffic control system.

9. In further reference to question number six, what factors in your opinion have kept the board/commission from achieving its missions over the past several years? The board/commission has not yet been formed; therefore this is the greatest factor to its being able to achieve its missions over the past several years. Congress set the legislation in place for this Commission in 1996.

10. Who are the stakeholders in the work of this agency? The American public as a whole is the largest stakeholder in the work of the Federal Aviation Administration. Whether one actually flies on the airlines, or in general aviation, a vital air transportation system benefits everyone, from deliveries of products and services by air to vital defense purposes. The next most often cited stakeholders would be those who travel on any form of air transportation. They expect the government to maintain and oversee an efficient and safe system.

Directly influenced by the agency, and therefore stakeholders who are most often affected by its authority are the companies, government agencies and individuals who do business or operate under FAA jurisdiction. The most common are the Dept. of Defense, airline industry, cargo carriers, aircraft and avionics manufacturers, charter companies, corporate aviation, individual owners, flight schools, all pilots, mechanics, and educational institutions. The stakeholders cover a broad spectrum, and point to the nature of the FAA being a "classic" government agency.

11. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question number ten. While in my position as head of the Aircraft Owners and Pilots Association, I primarily represent those who operate general aviation airplanes; it is necessary that I maintain a focus on the entire scope of the Agency, and its stakeholders. To that end my personal decision-making keeps in mind the broad mission and service of the FAA, not merely the narrow, albeit important one I represent. Experience has shown that when one takes into

consideration the overall picture, and the needs of all users, ultimately the correct decisions will be found for individual constituencies.

12. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you? Empowerment is the best way to describe my personal philosophy for supervisor/employee relationships, and this is the supervisory model I follow. Giving employees the incentive to think and work creative ideas, unhampered by the "politics" of the workplace most often produces the best result for both the employee and the company/agency/etc. Not all employees can perform by purely being "empowered"—therefore, I find it the role of the supervisor to provide the necessary coaching, assistance with tactics, goal setting and personal review often necessary. The degree of this assistance depends on the skill level and initiative of the employee. From my standpoint in observing the last decade, too few people have this philosophy. To increase productivity, change the "culture," and more rapidly implement new technology, this has to change.

No, I have not had any formal employee complaints brought against me.

13. Describe your working relationship, if any, with the Congress. Does your professional experience include working with Committees of Congress? If yes, please describe. My organization, AOPA has an excellent working relationship with Congress. Because of our technical background and participation in working groups, we are always pleased to provide a pilot's perspective on general aviation issues. We are often the first group Congress calls upon when a crisis has developed or in the aftermath of an accident.

I have been president of AOPA since 1991, and during that time I have met personally with dozens of Senators and Congressmen, many of whom were Committee and Subcommittee Chairmen and ranking members. I have also testified numerous times before the House Transportation & Infrastructure Committee and the Senate Commerce, Science and Transportation Committee on issues such as FAA reform, budget and authorization requests, personnel and procurement reform, navigational equipment needs, airspace modernization, and aviation safety.

14. Please explain how you will work with this Committee and other stakeholders to ensure that regulations issued by your board/commission comply with the spirit of the laws passed by Congress. The Council was an innovation developed by Congress in order to make the FAA a more effective agency. In 1996 AOPA supported the creation of the Council because of my confidence the Council would improve the FAA by giving the agency access to the management expertise of its customers in the aviation community. I take very seriously the responsibilities Congress set forth in creating the Council, and will honor congressional intent to the best of my abilities. I work closely with other organizations in the aviation community through many venues, and will continue to do so as part of my responsibility as a Council member to ensure that our recommendations comply with law. I also look forward to continuing to work closely with this Committee to make sure the advice provided by the Council agrees with the letter and the spirit of the laws established by Congress.

15. In the areas under the board/commission jurisdiction, what legislative action(s) should Congress consider as priorities? Please state your personal views. Just weeks ago, the President signed into law comprehensive legislation, developed by this Committee, addressing many problems and issues at the FAA. I commend the Committee for this tremendous accomplishment. By giving highest priority to modernization and airport infrastructure, the legislation restores the true purpose of the Airport and Airways Trust Fund. It also addresses many additional policy issues of great importance to the aviation community. Before further legislative action is taken, I believe Congress should use its oversight authority to ensure the FAA fully implements all of the policy initiatives included in this important legislation. Congress can also help by beginning a thorough review of the rising operations costs at the FAA, which are certain to be a focal point of future policy initiatives.

16. Please discuss your views on the appropriate relationship between a voting member of an independent board or commission and the wishes of a particular president. I believe it is important that voting members of an independent board or council act in the best interests of those they represent. I will carefully consider all wishes of a particular president, but in the end I must act in the best interests of general aviation.

The CHAIRMAN. Thank you, Mr. Boyer. Before we turn to Ms. Branson, I believe Senator Hollings would like to say a word.

Senator HOLLINGS. Well, I just wanted to join in the comments of our colleague from Texas, Senator Hutchison.

Mr. Chairman, I like trial lawyers. They work for a living. In fact, they do not get paid until they win, rather than that other crowd that sits and watches the clock. Otherwise, Ms. Branson is not only the head of the trial lawyers there in Texas but she is an outstanding civic worker. She presently serves as president of the Dallas Women's Foundation. She has been on the National Committee for the Prevention of Child Abuse, the Texas Judicial Council, she was Chair of the Select Committee on Rate and Policy Reform Legislation for insurance in the State of Texas, and presently she serves on the Securities Investor Protection Corporation.

I think it is noteworthy that she and perhaps, I could be mistaken, Kendall Wilson, are the only two passengers. The rest of these folks are up in the cockpit, and I think in all respects Mr. Baker, the tremendous surge of passengers is not due to service, it is due to the economy, because I have been flying since 1978 and even before, and that is why we got this particular management council, to tell you the truth, because the greatest issue of complaint, other than education, to us here in the national Congress has been the diminution of aircraft service, and I hope you folks will be looking at that.

But I want to welcome my friend Ms. Branson, and we would be delighted to hear from her.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Rockefeller.

Senator ROCKEFELLER. Ditto.

[Laughter.]

The CHAIRMAN. Ms. Branson, welcome.

**STATEMENT OF DEBORAH DUDLEY BRANSON, ATTORNEY,
LAW OFFICES OF FRANK L. BRANSON, P.C., DALLAS, TX**

Ms. BRANSON. Thank you very much, Mr. Chairman.

Thank you, Senator Hollings, Senator Rockefeller, and Senator Hutchison. I appreciate your remarks very much.

Mr. Chairman, my name is Debbie Dudley Branson, and I am delighted to be here today. I am honored by this nomination to the MAC. By way of personal introduction I am a lawyer and practice in Dallas with my husband, Frank Branson, who is here.

The CHAIRMAN. Welcome, Mr. Branson.

Ms. BRANSON. There are 10 lawyers in our firm, and we represent catastrophically injured individuals and their families. I grew up in Arkansas and am of the fourth continuous generation of lawyers in my family. I am proud to say that my children are the fifth.

I am very pleased to have your consideration for one of the MAC positions. Part of the statutory mandate governing the work of the MAC is to ensure the protection of the public interest. I believe that diverse perspectives are necessary when attempting to balance the interests of the public and the businesses who are the providers of services, but I firmly believe that public safety must be the paramount concern.

As a lawyer with a firm which has handled several aircraft litigation cases, I have seen the devastation which can result when air transportation goes awry. With your consent, I will have the oppor-

tunity and the responsibility to speak out and express concerns of air traveling Americans in this regard.

After 20 years of law practice and travels to many corners of the world, I appreciate more and more the fact that Americans are truly good people who deserve the best and safest system of air travel we can provide.

The statute which created the MAC includes specific congressional mandates which are to be accomplished at the outset of our formation. A basic understanding of the issues will be required, as well as the ability to listen to and sort out all affected parties' concerns, the need to balance competing interests, the capacity to formulate an independent position, and the dedication to work toward sensible solutions.

I believe all of these skills are important components in the overall goal of making our air transportation safer and more efficient. I pledge that I will bring my training, my history of meeting or exceeding organizational goals, and my intense desire for improvement of the FAA to bear as I work with other MAC members to do the job Congress has set out for us to do.

Thank you, sir, and I would be delighted to answer any other questions.

[The prepared statement and biographical information of Ms. Branson follow:]

PREPARED STATEMENT OF DEBORAH DUDLEY BRANSON, ATTORNEY,
LAW OFFICES OF FRANK L. BRANSON, P.C., DALLAS, TX

My name is Debbie Dudley Branson and I am delighted to be here today. I am honored by the President's nomination to the Federal Aviation Advisory Council.

By way of personal introduction, I am a lawyer and practice in Dallas with my husband. There are 10 lawyers in our firm and we represent catastrophically injured individuals and their families. I grew up in Arkansas and am of the fourth continuous generation of lawyers in my family. I am proud to say that my two children are the fifth.

I am very pleased to have your consideration for one of the MAC positions. Part of the statutory mandate governing the work of the MAC is to insure the protection of the public interest. Diverse perspectives are truly necessary when attempting to balance the interests of the public and the businesses who are the providers of services, but I firmly believe that public safety must be the paramount concern.

As a lawyer with a firm which has handled several aircraft litigation cases, I have seen the devastation which can result when air transportation goes awry. With your consent, I will have the opportunity and the responsibility to speak up and express the concerns of air traveling Americans in this regard. After 20 years of law practice and travels to many corners of the world, I appreciate more and more the fact that Americans are truly good people who deserve the best and safest system of air travel we can provide.

The statute which created the MAC includes specific Congressional mandates which are to be accomplished at the outset of our formation. A basic understanding of the issues will be required, as well as the ability to listen to and sort out all affected parties' concerns, the need to balance competing interests, the capacity to formulate an independent position, and the dedication to work toward sensible solutions. I believe all of these skills are important components in the overall goal of making our air transportation safer and more efficient. I pledge that I will bring my training, my history of meeting or exceeding goals, and my intense desire for improvement of the FAA to bear as I work with other MAC members to do the job Congress has set out for us to do.

A. BIOGRAPHICAL INFORMATION

1. Name: Deborah Dudley Branson; Former names: Deborah D. Dust, Deborah D. McGowan; Nickname: Debbie.
2. Position to which nominated: Federal Aviation Management Advisory Council.

3. Date of nomination: March 31, 2000.
 4. Address: (List current place of residence and office addresses.) Home address: 6920 Turtle Creek Boulevard, Dallas, TX 75205; Office address: Highland Park Place, 4514 Cole Avenue, Suite 1800, Dallas, TX 75205.

5. Date and place of birth: January 17, 1955, Jonesboro, Arkansas.
 6. Marital status: (Include maiden name of wife or husband's name) Married, Frank L. Branson, III.

7. Names and ages of children: (Include stepchildren and children from previous marriages) Jennifer Ann Branson—27; Frank L. Branson, IV—25.

8. Education: (List secondary and higher education institutions, dates attended, degree received and date degree granted) Pocahontas High School; Arkansas State University, BSE, 1977; University of Arkansas, JD, 1980; University of Texas at Dallas, M.S., 1993.

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment)

Law Offices of Frank L. Branson, P.C., Attorney, Dallas, TX, 1983–present
 Arnold, Lavender, Rochelle, Barnette & Franks, Texarkana, TX, 1980–1983
 Jones and Segers, Law Clerk, Fayetteville, AR, 1979–1980
 University of Arkansas, Legal Methods Instructor, Teaching Assistant, Fayetteville, AR, 1979–80
 University of Arkansas, Law Library, Fayetteville, AR, 1978–1979
 City of Fayetteville, Municipal Swimming Pool, 1973–1979
 Citizens Bank of Jonesboro, Central Communications, 1977

10. Government experience: (List any advisory, consultative, honorary or other part-time service or position with Federal, State, or local governments, other than those listed above.) Securities Inventory Protection Corporation-Vice-chair, 1995–present; Select Committee on Rate and Policy Form Regulation, Chair, 1994; Texas Judicial Council, 1992–1997.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.)

Law Offices of Frank L. Branson, P.C.—Attorney—1983–present
 Texas Trial Lawyers Association—President, 2000
 Treasurer, Executive Committee, 1996–98
 Board of Directors, 1994–present
 Securities Investor Protection Corporation, Vice-Chair, Board of Trustees, 1995–present
 Dallas Women's Foundation, President, 1999, Board of Directors, 1994–present
 Planned Parenthood, Secretary, 1998–99, Board of Directors, 1995–present
 National Committee for the Prevention of Child Abuse, Board of Directors, 1993–96
 Democratic National Committee, Managing Trustee, 1992–93; 1996–97

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.) Dallas Women's Foundation, Daughters of American Revolution, Dallas Symphony Orchestra League, Dallas Museum of Art, P.E.O., Contact 214, Aids Interfaith Network, National Committee to Prevent Child Abuse, Artreach Auxiliary, Junior League of Dallas, Highland Park Presbyterian Church, Leadership America, Leadership Dallas, Planned Parenthood, Texas Trial Lawyers Association, Arkansas Trial Lawyers Association, Association of Trial Lawyers of America, American Bar Association, Dallas Bar Association, Dallas Women Lawyers Association, 112th American Inn of Court, College of the State Bar of Texas, American Society of Writers on Legal Subjects, Emily's List, Democratic National Committee, Democratic Senatorial Campaign Committee, Democratic Congressional Campaign Committee, League of Women Voters, Dallas Democratic Forum, Dallas County Democratic Party.

13. Political affiliations and activities:
 (a) List all offices with a political party which you have held or any public office for which you have been a candidate. None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years. No offices held. Have raised money for many Democratic candidates and causes.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past

10 years. Extensive contributions to Democratic candidates and organizations. Please see attached list.*

14. Honors and awards: (List *all* scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.) Leadership America—1997; Leadership Dallas—1994; 1996 Women in Leadership Conference, Honorary Chair; Who's Who Among Rising Young Americans; Who's Who Among Notable American Women; Nominee for Laurel Award.

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.) Co-author of "Documenting the Demand," *Litigation*, Vol. 14, No. 2 (1988); "Innovative Techniques for Trial," *TRIAL Magazine*, February, 1988; Review of, *Products Liability* by M. Stuart Madden for *TRIAL Magazine*, March, 1989; Commentary for *Visual Evidence*, August, 1990; "Successful Voir Dire," *TRIAL Magazine*, February, 1992; "Generating the Best From Your Expert Witness," *Trial Practice Manual*, Spring, 1992; "Voir Dire Examination," 4 *Products Liability Law Journal* 109 (Feb. 1993); "Volunteer Liability," Vol. 68, No. 1 *DallaCite* (1993); "Demonstrative Evidence," *TRIAL Magazine*, August, 1995. Editor of the Texas Trial Lawyers Association Forum from 1991–1994.

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated. None.

17. Selection:

(a) Do you know why you were chosen for this nomination by the President? No.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment? Legal training, aircraft litigation and leadership skills.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business association or business organizations if you are confirmed by the Senate? No, not required.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. Will continue to practice law.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? Will continue to practice law.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers. Paid salary by law firm.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. None of which I am aware.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated? None of which I am aware.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. Have participated in ATLA's Women's Lobby Days on various issues involving women and consumer protection laws.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.) Depends on specific situations perceived to be a conflict.

*The information referred to was not available.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. Complaint dismissed. See attached Background Application for State of Texas and correspondence.*

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details. No, was interviewed by FBI in 1997. General subject matter was fundraising calls from White House. My recollection includes questions and answers regarding:

- whether I had received any fundraising calls from White House and I have not.
- whether I have had principals in home for fundraisers and I have.
- whether I have ever talked with principals by telephone and I have. Have known Clintons for long time. Grew up in Arkansas.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? if so, provide details? Not to my knowledge.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines set by Congressional Committees for information? Yes, to the best of my ability.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes, to the best of my ability.

3. Will you cooperate in providing the Committee with requested witnesses, to include technical experts and career employees with firsthand knowledge of matters of interest to the Committee? Yes, to the best of my ability.

4. Please explain how you will review regulations issued by your department/agency, and work closely with Congress, to ensure that such regulations comply with the spirit of the laws passed by Congress. Purpose of Federal Aviation Management Advisory Council is to function as oversight resource rather than as regulatory agency. Council may submit comments, recommended modifications and dissenting views to Administration regarding regulatory matters—would anticipate doing so when appropriate.

5. Describe your department/agency's current mission, major programs, and major operational objectives. Agency has not been operational to date. Purpose defined by statute.

6. Are you willing to appear and testify before any duly constituted Committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

F. GENERAL QUALIFICATIONS AND VIEWS

1. How have your previous professional experience and education qualified you for the position for which you have been nominated. Trained to ask questions, advocate positions and find resolutions to problems. Understand the value of diverse perspectives when balancing interests of consumers and businesses.

2. Why do you wish to serve in the position for which you have been nominated? Primarily to voice consumer positions with regard to airline safety. General public should be among those represented with aviation interests.

3. What goals have you established for your first two years in this position, if confirmed? To meet statutory mandates:

- 1) review rulemaking cost-benefit analysis process; develop recommendations to improve analysis; and ensure protection of public interest.

*The information referred to was not available.

2) review process regarding advisory circulars and service bulletins.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out *this* position? What steps can be taken to obtain those skills? None other than acquiring substantive information regarding industry.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when should society's problems be left to the private sector, and what standards should be used to determine when a government program is no longer necessary. Believe that government has duty to be involved in issues of public safety.

6. *In your own words*, please describe the agency's current missions, major programs, and major operational objectives. Agency created to provide oversight of Federal Aviation Administration.

7. In reference to question number six, what forces are likely to result in changes to the mission of this agency over the coming five years. Unable to determine at this point based on information available.

8. In further reference to question number six, what are the likely outside forces which may prevent the agency from accomplishing its mission? What do you believe to be the top three challenges facing the department/agency and why? Unable to determine at this point based on information available.

9. In further reference to question number six, what factors in your opinion have kept the department/agency from achieving its missions over the past several years? Council is newly created—not applicable.

10. Who are the stakeholders in the work of this agency? Airline industry and general public.

11. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question number ten. To balance interests of both with regard to oversight of FAA positions.

12. The Chief Financial Officers Act requires all government departments and agencies to develop sound financial management practices similar to those practiced in the private sector.

a) What do you believe are your responsibilities, if confirmed, to ensure that your agency has proper management and accounting controls? Advice and counsel.

b) What experience do you have in managing a large organization? Not relevant to this position necessarily, but have served in leadership capacity in law firm and other organizations—all involving oversight, at minimum, of administrative functions.

13. The Government Performance and Results Act requires all government departments and agencies to identify measurable performance goals and to report to Congress on their success in achieving these goals.

a) Please discuss what you believe to be the benefits of identifying performance goals and reporting on your progress in achieving those goals. Accountability.

b) What steps should Congress consider taking when an agency fails to achieve its performance goals? Should these steps include the elimination, privatization, downsizing or consolidation of departments and/or programs? Depends on agency and particular goals.

c) What performance goals do you believe should be applicable to your personal performance, if confirmed? Compliance with statutory mandates.

14. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you? Philosophy is very simple: Respect employees and recognize value of work. Have never had any difficulties with an employee.

15. Describe your working relationship, if any, with the Congress. Does your professional experience include working with Committees of Congress? If yes, please describe. No working relationship to date.

16. Please explain what you believe to be the proper relationship between yourself, if confirmed, and the inspector General of your department/agency. Unknown—not familiar with structure of Agency.

17. Please explain how you will work with this Committee and other stakeholders to ensure that regulations issued by your department/agency comply with the spirit of the laws passed by Congress. With oversight capacity conferred by statute.

18. In the areas under the department/agency's jurisdiction, what legislative action(s) should Congress consider as priorities? Please state your personal views. Has been specifically stated by statute.

19. Within your area of control, will you pledge to develop and implement a system that allocates discretionary spending based on national priorities determined in an open fashion on a set of established criteria? if not, please state why. If yes,

please state what steps you intend to take and a time frame for their implementation. No direct control of developing and implementing such a system.

The CHAIRMAN. Thank you very much.
Mr. Crowley.

STATEMENT OF GEOFFREY T. CROWLEY, CHAIRMAN, PRESIDENT AND CEO, AIR WISCONSIN AIRLINES, APPLETON, WI

Mr. CROWLEY. Thank you, Mr. Chairman. I am recovering from a cold, but hopefully you can understand me well. I appreciate the opportunity to be here, and your consideration of my nomination to the MAC. My name is Geoffrey Crowley. I am President and Chairman and CEO of Air Wisconsin Airlines Corporation.

Air Wisconsin is a large independent regional airline that operates as United Express. We operate 23 regional jets and 21 modern high speed turboprop aircraft to 42 cities in 21 States. We are the primary feeder of customers to United Airlines' two largest hubs in Chicago and Denver.

Air Wisconsin is one of over 95 regional airlines that operate almost 2,200 aircraft and provide service to over 735 airports throughout North America. Sixty-nine percent of these airports depend exclusively on regional airlines for their access to the national transportation system. One out of every eight domestic passengers fly on regional aircraft. We are an integral part of the air transportation network, with service to almost three times the number of airports that the major carriers serve.

We are similar to the major carriers in many ways, as we both operate under the same Federal aviation regulations. However, our needs are often quite different than our major counterparts. I am pleased to have been recommended to the President to represent the regional sector of our industry.

I have been in the aviation industry my entire life. After beginning as a consultant to airports and States for airport work, I have worked for six airlines. I have worked for almost every kind of airline, including two start-ups, a regional, a national, a major, and a niche carrier.

I have had positions in finance operation, marketing, sales, and customer service that have helped prepare me for my current CEO position. I am a former chairman of the Regional Airline Association.

The growth of our industry has been impressive over the past 20 years. Even more impressive is that while we have grown at such a rapid rate, we still have been able to improve upon our outstanding record of safe operations. Unfortunately, the growth of the infrastructure to handle this additional traffic has not kept up with the industry. We are facing severe restraints in our ability to meet the demands of the traveling public. We are in desperate need of new runways, terminal facilities, and more air traffic handling capability.

This Committee is to be commended to have the foresight to bring together a group of people such as are before you today to assist the Administrator by providing feedback to the agency with respect to the challenges facing the FAA today. We are all stakeholders in the FAA as it affects every aspect of our lives. I hope that we as a council can bring new insight to the Administrator,

and assist the agency in tackling the difficult challenges that face us in the future.

I thank you again for the opportunity to be here today, and will take any questions.

[The prepared statement and biographical information of Mr. Crowley follow:]

PREPARED STATEMENT OF GEOFFREY T. CROWLEY, CHAIRMAN, PRESIDENT AND CEO,
AIR WISCONSIN AIRLINES, APPLETON, WI

Good morning Mr. Chairman, my name is Geoffrey Crowley and I am President and CEO of Air Wisconsin Airlines Corporation. Air Wisconsin is a large independent regional airline that does business as United Express. We operate 23 regional jets and 21 modern high-speed turboprop aircraft to 42 cities in 21 states. We are the primary feeder of customers to United Airlines' two largest hubs of Chicago and Denver.

Air Wisconsin is one of over 95 regional airlines that operate almost 2200 aircraft and provide service to over 735 airports throughout North America. Sixty-nine percent of these airports depend exclusively on regional airlines for their access to the national transportation system. One out of every eight domestic passengers fly on regional aircraft. We are an integral part of the air transportation network with service to almost three times the number of airports that the major carriers serve. We are similar to the major carriers in many ways as we both operate under the same Federal Aviation Regulations; however, our needs are often quite different than our major counterparts. I am pleased to have been recommended to the President to represent the regional sector of our industry.

I have been in the aviation industry since beginning my college education at Purdue in 1970. I worked at NASA's Langley Research Center after my freshman year and have been around airports or airplanes ever since. I have been a consultant to airports, regional airport boards and States developing Master Plans and Aviation System Plans. I have worked for six airlines since leaving the consulting industry. I have worked for almost every kind of airline, including two start-ups, a regional, a national, a major and a niche carrier. I have had positions in finance, operations, marketing, sales and customer service that have helped prepare me for my current CEO position. I believe I will bring to the Council a broad background and real-life insight into the challenges faced by the many different kinds of airlines that operate within our national network today.

The growth of our industry has been impressive over the past 20 years. Even more impressive is that while we have grown at such a rapid rate, we have still been able to improve upon our outstanding record of safe operations. Unfortunately, the growth of the infrastructure to handle this additional traffic has not kept up with the industry. We are facing severe restraints in our ability to meet the demands of the traveling public. We are in desperate need of new runways, new terminal facilities and more air traffic handling capability.

Congress is to be commended to have the foresight to bring together a group of people such as are before you today to assist the Administrator by providing feedback to the Agency with respect to the challenges facing the FAA today. We are all stakeholders in the FAA as it affects every aspect of our lives. I hope that we as a Council can bring new insight to the Administrator and assist the agency in tackling the difficult challenges it faces in the future.

I thank you for the opportunity to be here today.

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names or nick names used.) Geoffrey T. Crowley.
2. Position to which nominated: Federal Aviation Administration Management Advisory Council.
3. Date of nomination: March 30, 2000.
4. Address: (List current place of residence and office addresses.) Home: 7 Bracken Court, Appleton, Wisconsin 54911; Office: Air Wisconsin Airlines Corporation, W6390 Challenger Drive #203, Appleton, Wisconsin 54914.
5. Date and place of birth: October 8, 1952, St. Catherines, Ontario, Canada.
6. Marital status: (Include maiden name of wife or husband's name.) Married, Linda Anne (Buckelew) Crowley.
7. Names and ages of children: (Include stepchildren and children from previous marriages.) All Crowley; Elizabeth Victoria, 22; Sarah Catherine, 20; Amanda Christine, 13; Samantha Lynn, 10.

8. Education: (List secondary and higher education institutions, dates attended, degree received and date degree granted.) Bennett High School, Buffalo, New York, (9/66–9/70); Purdue University, West Lafayette, Indiana, B. S. Engineering (Transportation), (9/70–5/74); Xavier University (Ohio), M. B. A. (1/75–8/77).

9. Employment record: (List *all* jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Landrum & Brown, Transportation Consulting Division of Booz, Allen & Hamilton, Cincinnati, Ohio; 5/74–8/77, Aviation Consultant

Texas International Airlines, Houston, Texas; 8/77–11/80, Financial Analyst, Manager of Budgets, Manager of Customer Service Quality Assurance, Shift Manager Operations, Director Customer Service Quality Assurance.

People Express Airlines, Newark, New Jersey; 11/80–1/85, General Manager.

Presidential Airways, Washington, D.C.; 1/85–1/89, Senior Vice President Marketing and Planning.

The Trump Shuttle, New York, New York; 1/89–8/91, Vice President, Marketing, Sales & Service.

Northwest Airlines, St. Paul, Minnesota; 8/91–1/93, Vice President Marketing Alliances.

CJT, Inc., Burnsville, Minnesota; 1/93–12/93, Chairman, President & CEO.

Air Wisconsin Airlines Corporation, Appleton, Wisconsin; 12/93–present, Chairman, President & CEO

10. Government experience: (List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.) Engineering co-op student at NASA, Langley Research Center, Hampton, Virginia (Summer, 1971).

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.) In addition to officer positions listed in #9; Board member of Presidential Airways (1985–9), Hawaiian Airlines (1992), CJT, Inc (1993), and Air Wisconsin Airlines Corporation (1993–present).

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.) Wings Club (Governor 1994–7), Regional Airline Association (Board Member 1994–7, Chairman 1996–7), Fox Valley Chamber of Commerce and Industry (Board Member 1997–present), Purdue Alumni Association, John Purdue Club.

13. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate. None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years. None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. U.S. Representative Jay Johnson (8/98: \$500.00), WI State Senator Clausing (1/00: \$1000), WI State Senator Drzewiecki (1/00: \$1000).

14. Honors and awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.) None.

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.) None.

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated. Attached testimony before the Senate Finance Committee, February 4, 1997.*

17. Selection:

(a) Do you know why you were chosen for this nomination by the President? Recommended by the Regional Airline Association.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment? I have been in the aviation industry for my entire career. I began working with airports and governmental agencies in the preparation of Airport Master Plans, Aviation System Plans and Environmental Impact Assessment Reports. I have worked in many different areas within the airline management structure for different airlines with different roles in the national aviation system; a major airline (Northwest), a regional feeder (Air Wis-

*The information referred to has been retained in the Committee files.

consin), a regional independent (Presidential) and a niche airline (Trump Shuttle). I have participated in two pure startup airlines (People Express, Presidential) and two new certifications of airlines that were in operation under a different operating certificate (Trump Shuttle and Air Wisconsin) as well as having worked for mature airlines (Texas International and Northwest). I led the team that developed the first significant international airline marketing alliance (Northwest-KLM) and have had a major impact on the evolution of the relationship between the major carriers and their independent regional feeders. In summary, I believe I understand the industry, the interrelationship among the regulatory agencies, the airlines and the airports and can bring "real-world" perspective to the Management Advisory Council.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate? Not applicable.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. Not applicable.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? Not applicable.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? Not Applicable

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers. Not applicable.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. Not applicable.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated? None that I can recall.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. I have met with Federal and State legislators and/or their staffs on several occasions to discuss various issues that may affect the aviation industry or Air Wisconsin and to share with them either my, or the Regional Airline Association's views on those issues.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.) I will seek guidance from the designated agency ethics officer and the Office of Government Ethics and follow whatever recommendations they may have.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details. No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? If so, provide details? Not personally, however, companies where I have been

an officer have been involved in normal commercial litigation and administrative proceedings, most of which I would not be aware.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. No further information.

E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines set by Congressional Committees for information? To the best of the Council's ability.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? To the best of the Council's ability.

3. Will you cooperate in providing the Committee with requested witnesses, to include technical experts and career employees with firsthand knowledge of matters of interest to the Committee? To the best of the Council's ability.

4. Are you willing to appear and testify before any duly constituted Committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

F. GENERAL QUALIFICATIONS AND VIEWS

1. Please describe how your previous professional experience and education qualifies you for the position for which you have been nominated. I have over 26 years in the aviation industry, over 22 years with airlines with different missions and of different sizes. I am currently CEO of a major regional carrier that interfaces with the FAA every day from a regulatory viewpoint as well as in day-to-day operations. I believe I understand the role of the FAA in our industry, ensuring the safety of the national airspace network, through the economic and efficient processing of aircraft through the airspace, the monitoring of the participants in the aviation industry to ensure their compliance with the regulations as written and developed by the FAA and conducting research and development to continually improve the efficiency of the national aviation system. I intend to bring to the council the perspective of one of the "users" of the system.

2. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills? Not applicable.

3. Why do you wish to serve in the position for which you have been nominated? To help what I believe already is the safest aviation network in the world prepare itself for the expected growth in the future.

4. What goals have you established for your first two years in this position, if confirmed? First, to understand the challenges faced by the FAA, offer the airline industry's perception of those challenges and advise the Administrator on which projects we believe will reap the most significant benefits in the shortest time period. Second, use the Council as a means to discuss with other Council members and the Administrator some of the challenges facing regional airlines today. As part of the discussion, examine how the interface with the FAA occurs on an ongoing basis and share thoughts and ideas on how the FAA could function differently (if necessary) to meet its goals in a more economic and efficient manner.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when should society's problems be left to the private sector, and what standards should be used to determine when a government program is no longer necessary. I believe the role of government is to ensure that the entire country functions in a manner conducive to promote freedom, safety and opportunity for its citizens. To that end, government should become involved in an entity when the actions of that entity would result in an infringement of the rights of other individuals or entities. The involvement initially should be the enforcement of existing laws or regulations and only extend to a monitoring or regulatory role if a consistent infringement of rights continues. In addition, there are basic needs desired by citizens that cross political boundaries or require nationwide coordination that is best handled by a government or quasi-government organization. The obvious example of a basic need is transportation, which incorporates issues of defense as well as the needs of its citizens. The capital necessary for the undertaking of a national program such as a transportation system (e.g. the interstate highways or air traffic control system) may also require the Federal government to participate in the funding. This may be necessary as the users alone cannot afford to fund on a usage basis and the systems themselves may have national value that is more important than just day-to-

day activity (e.g. defense). The management of such a major system or function can be operated by the government or contracted out if the function can be performed more economically and more efficiently and protection from disruption can be assured. I believe that society's challenges need to be identified by the population, which is best accomplished through the government/political process. The ultimate and ongoing resolution of these challenges should be done in the most economic and efficient manner, be it through a public or private organization. I believe that basic needs of the population such as education and defense are likely to always be government sponsored to ensure availability to all. A government program would no longer be necessary if the objectives of the program are being met through natural economic forces or is being accomplished by a local public or private organization that is closer to the end user of the program. If a program instituted by the government matures to the point that its goals can be met through a private effort that would be more efficient and economic and those impacted by the program receive equal or better results, then the government should consider contracting out or eliminating the program.

6. *In your own words*, please describe the agency's current missions, major programs, and major operational objectives. The FAA's mission is to develop, maintain and continually improve the air transportation network in a safe, efficient, economic and environmentally sound manner. In this role, the FAA must have sufficient resources to manage the day to day movement of aircraft throughout the national air traffic control system. It must be able to certificate and monitor the participants in the system, such as airlines, manufacturers, airports, contract maintenance providers etc. Additionally, it should lead or manage research to improve the infrastructure and strive to make the system safer, more efficient and economic.

7. In reference to question number six, what forces are likely to result in changes to the mission of this agency over the coming five years. The mission is not likely to change, but I believe meeting the mission will become increasingly more challenging with the growth of the industry and the changes in technology.

8. In further reference to question number six, what are the likely outside forces which may prevent the agency from accomplishing its mission? What do you believe to be the top three challenges facing the board/commission and why? The tremendous growth in air transportation has stressed the system to the point that it is the limiting factor to continued growth. The need to fix the current system while still continuing to operate at peak capacity is a significant challenge. The improvements in technology that are evident throughout our society need to be embraced in the aviation infrastructure as it has been in the private sector of the industry. Finally, the labor force needed to manage the network needs to be working in a positive environment that allows each individual to realize their maximum potential. Therefore the emphasis needs to be on upgrading the technology with which we move aircraft throughout the network, taking advantage of technology that is currently being developed in the industry and on modern aircraft, and improving the environment for the labor force.

9. In further reference to question number six, what factors in your opinion have kept the board/commission from achieving its missions over the past several years? I have no specific knowledge as to why the system has not been developing as fast as it should. It appears that we are not spending the money available to the agency to fund improvements in the system and the acquisition of new technology has not met expectations in performance, timing or cost which would imply a deficiency in the procurement process. All of the above has created stress on the people who we are dependent upon to make the system work.

10. Who are the stakeholders in the work of this agency? Includes but is not limited to the traveling customers, airlines, general aviation, military, air cargo, aircraft manufacturers, aircraft suppliers, aircraft overhaul companies, pilots, mechanics and other employees of all of the above. In addition, the Federal government who is responsible for the funding of the agency.

11. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question number ten. I anticipate that I will be representing the interests of several of these stakeholders including airlines, traveling customers, employees, manufacturers and suppliers.

12. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you? I believe the supervisor is responsible for creating an environment that allows an employee to reach his/her maximum potential. To do this, a supervisor has to provide proper training, sufficient resources and supportive guidance in order for the employee to successfully function independently. No.

13. Describe your working relationship, if any, with the Congress. Does your professional experience include working with Committees of Congress? If yes, please

describe. Have no relationship except having testified in front of the Senate Finance Committee in 1997.

14. Please explain how you will work with this Committee and other stakeholders to ensure that regulations issued by your board/commission comply with the spirit of the laws passed by Congress. Not applicable as I believe our mandate is limited to advisory only.

15. In the areas under the board/commission jurisdiction, what legislative action(s) should Congress consider as priorities? Please state your personal views. Not applicable

16. Please discuss your views on the appropriate relationship between a voting member of an independent board or commission and the wishes of a particular president. The Council members have been selected based upon their experience in some aspect of the industry for which the FAA has responsibility. Their influence should be limited to those areas in which they have experience and not reflect the influence of outside agencies.

The CHAIRMAN. Thank you, Mr. Crowley.
Mr. Davis, welcome.

STATEMENT OF ROBERT A. DAVIS, RETIRED CORPORATE VICE PRESIDENT OF ENGINEERING, THE BOEING COMPANY, SEATTLE, WA

Mr. DAVIS. Thank you, Mr. Chairman.

My name is Bob Davis, and I am an engineer by both formal training and experience. After I graduated from university I joined the structure staff of the Boeing Transport Division in 1958, and I worked on initially the 707 and KC 135 jet transports.

I have participated in all the original Boeing commercial jet airplane programs, and this has included new design technology, FAA and foreign certification, continued airworthiness, and accident investigation. I became Vice President of Engineering for the Commercial Airplane Group in 1991, and Corporate Vice President of Engineering in 1994. I retired last year, February 1, after 41 years of service.

I am presently the President of the International Federation of Airworthiness, which is headquartered in the U.K. I am also on the NASA Advisory Committee, the National Research Council Aerospace Science and Engineering Board, and I am also a member of the General Motors Science Advisory Committee.

If I am confirmed, I believe that my background and experience would be an asset for advice and counsel to the FAA Administrator, and I appreciate the opportunity to be here today.

Thank you.

[The prepared statement and biographical information of Mr. Davis follow:]

PREPARED STATEMENT OF ROBERT A. DAVIS, RETIRED CORPORATE VICE PRESIDENT OF ENGINEERING, THE BOEING COMPANY, SEATTLE, WA

My name is Bob Davis and I am an engineer by both formal education and experience. After graduation, I joined the Structures Staff of the Boeing Transport division in 1958, and initially worked on the 707 and KC-135 jet transports. I have participated in all of the original Boeing commercial jet airplane programs. This has included new design; technology; FAA and foreign certification; continued airworthiness; and accident investigation. I became Vice President of Engineering for the Commercial Airplane Group in 1991 and Corporate Vice President of Engineering in 1994. I retired February 1, 1999 after 41 years of Boeing service.

I am presently President of the International Federation of Airworthiness headquartered in the UK. I am also on the NASA Advisory Committee and the National Research Council Aerospace Science and Engineering Board. I am a member of the General Motors Science Advisory Committee.

I believe my background and experience would be an asset for advice and counsel to the FAA.

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names or nick names used.) Robert Archer Davis—"Bob Davis."

2. Position to which nominated: FAA Management Advisory Committee.

3. Date of nomination: March 30, 2000.

4. Address: (List current place of residence and office addresses.) 9131 Great Blue Heron Lane, Blaine, WA 98230; The Boeing Company, P.O. Box 3707—M/C 10-24, Seattle, WA 98124-2207. Fed Ex Address: The Boeing Company, 7755 East Marginal Way S., Seattle, WA 98108.

5. Date and place of birth: November 27, 1933. Nelson, British Columbia, Canada—(Naturalized Citizenship: 11/19/62).

6. Marital status: (Include maiden name of wife or husband's name.) Wife: Claribel NMN White Davis.

7. Names and ages of children: (Include stepchildren and children from previous marriages.) Robert Archer Davis Jr.—Age 39, Julie Ann Miller—Age 37.

8. Education: (List secondary and higher education institutions, dates attended, degree received and date degree granted.) May 1952—May 1957—University of British Columbia—BASc—Degree Received: June 1957; January 1959—June 1964—University of Washington—MS—Degree Received: June 1964.

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

May 1957—March 1958—Kaiser Aluminum, Tacoma, WA

March 1958—February 1999—The Boeing Company

1957–1960, Research and Development Engineer

1960–1964, Lead Engineer

1964–1971, Manager—Structures/Materials

1971–1974, Assistant Chief Engineer, Structures

1974–1979, Chief Engineer—Structures

1979–1984, Chief Engineer—Technology—757

1984–1989, Chief Project Engineer, 747

1989–1991, Director of Engineering, 747/767

1991–1994, Vice President, Commercial Airplane Engineering

1994–1999, Corporate Vice President of Engineering

10. Government experience: (List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.) NASA Advisory Committee; National Civil Aviation Review Commission tasked by U.S. Congress to recommend safety and finance process improvements for FAA operation.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.) None.

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.)

Member, NASA Advisory Committee

Member, General Motors Science Advisory Committee

Member, National Research Council Aerospace Science and Engineering Board

Fellow, Royal Aeronautical Society

Fellow, American Institute of Aeronautics and Astronautics

Member, Society of Automotive Engineers (SAE)

Member, National Aeronautics Association (NAE)

1998, Board Member, Francois-Xavier Bagnoud Prize Board

1997–1998, Member, National Research Council Board on Manufacturing and Engineering Design

1996, Chairman, World Aviation Congress

1995–1998, Boeing Governing Board Member for the Leaders for Manufacturing Programs at MIT

1995, Member of the Board of Visitors of the College of Engineering, University of California, Davis

1995, Board Member, Aerospace Industry Manufacturing Seminar (AIMS)

1994–1995, Executive Committee Member, Aerospace Industries Association Civil Aviation Council; Chairman of the Civil Aviation Council

1994–1995, Member, Advisory Committee on “Reinventing R&D,” Council on Competitiveness
 1994–1997, Member, Stanford University, School of Engineering, Advisory Council
 1993, Member of Department of Materials Science and Engineering Advisory Board, Carnegie Mellon University
 1992, Member, NASA Aeronautics Advisory Board
 1992, Member, Advisory Panel, Aviation R&D Advisory Panel, Science, Education and Transportation Program, Office of Technology Assessment

13. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate. None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years. None.

Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. None.

14. Honors and awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.)

Royal Aeronautical Society, Society Gold Medal 1997
 Francois-Xavier Bagnoud Aerospace Prize
 American Institute of Aeronautics and Astronautics/Society of Automotive Engineers, William Littlewood Memorial Lecture
 National Aeronautics Association, Aviation Industry Leadership Award for his visionary leadership as the reinventor of the Boeing 747–400
 Institution of Engineers, Australia. L. P. Coombes Lecture
 American Welding Society, Dr. Rene Wassermann Award for development of aluminum brazed titanium honeycomb structures for supersonic transport application

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.)

“Stress-Corrosion Cracking Investigation of Two Low Alloy, High Strength Steels,” CORROSION, Vol. 19, No. 2, February, 1963.
 “Measuring Stress in Steel Parts by X-Ray Diffraction,” METAL PROGRESS, Vol. 84, No. 1, July, 1963.
 “Stress Corrosion Cracking Study of Several High Strength Steels,” CORROSION, Vol. 20, No. 3, March, 1964.
 “Designing for Fracture Toughness,” MATERIALS IN DESIGN ENGINEERING, Vol. 62, No. 5, p. 91, November 1965.
 “High Efficiency Materials,” SPACE/AERONAUTICS, Vol. 48, No. 2, p. 64, July 1967.
 “Aluminum Brazed Titanium Structure—A New System,” THE WELDING JOURNAL, October 1973.
 “Airplane Noise Attenuation,” ENVIRONMENTAL CHALLENGES AND SOLUTIONS, Seattle Northwest Metals and Minerals Conference, April 1974.
 “A View of Boeing-Lehigh Activities and Some Consequences,” LINEAR FRACTURE MECHANICS, p. 41, Sil, Sei, and Erdogan, 1975.
 “Fuel Conservation Now,” FLIGHT SAFETY FOUNDATION, 33rd International Air Safety Seminar, Christchurch, New Zealand, September 1980.
 “Development & Certification of the Boeing 757,” CANADIAN AERONAUTICS AND SPACE INSTITUTE, April 1984, Cold Lake, Alberta, Canada.
 “747 Modernization,” INTERNATIONAL CONGRESS OF THE AERONAUTICAL SCIENCES, September 1986, London, England.
 “Boeing Airplane Development—Past, Present and Future,” L. P. COOMBES LECTURE, Conference on Aircraft Damage Assessment and Repair, Melbourne, Australia, August 26, 1991
 “High Speed Civil Transport,” SAE Aerospace Technology Panel Address, Long Beach, California, September 24, 1991.
 “Accident Data: The Boeing Perspective,” and “The Data Speaks,” INTERNATIONAL FEDERATION OF AIRWORTHINESS, 21st Annual General Meeting and Conference. Auckland, New Zealand, October 20–23, 1991.
 “Challenges and Changes of Commercial Programs in the Aerospace Industry,” SAE Aerospace Technology Panel Address, Anaheim, California, October 6, 1992.
 “The Supersonic Challenge,” INTERNATIONAL SYMPOSIUM ON JAPAN’S NATIONAL PROJECT FOR A SUPER/HYPER-SONIC TRANSPORT PROPULSION SYSTEM, Tokyo, Japan, October 28, 1992.

- “Executive Perspectives on Change” RTCA—AIRPLANES, AIRPORTS AND PROCEDURES—CHANGING THE WAY WE DO BUSINESS, Phoenix, Arizona, November 16–18, 1992.
- “Air Transport for the 21st Century” AIAA—PUGET SOUND ENGINEERING COUNCIL, ENGINEERS WEEK, Seattle, Washington, February 20, 1993.
- “Preparing for the 21st Century,” GUEST EDITORIAL—SAE AEROSPACE ENGINEERING MAGAZINE, January 1993 Issue.
- “From Physics to Customers: The Jet Age Phase II,” THE ROYAL SOCIETY/THE ROYAL ACADEMY OF ENGINEERING, London, England, June 24, 1993.
- Address to GLOBAL NAVCOM ’93, Seattle, Washington, June 29, 1993.
- “Human Factors in the Global Marketplace,” HUMAN FACTORS AND ERGONOMICS SOCIETY ANNUAL MEETING, Seattle, Washington, October 12, 1993.
- Address to AEROSPACE INDUSTRY MANUFACTURING SEMINAR, Seattle, Washington, October 27, 1993.
- “The Commercial Airplane Marketplace and Aeronautical Research and Technology,” to NASA/APEC Roundtable, Seattle, Washington, November 17, 1993.
- “The More Things Change . . .” to INFLIGHT FOOD SERVICES ASSOCIATION, San Diego, California. April 25, 1994.
- “Manufacturers Respond to the Airlines,” AIAA/AIA GLOBAL AIR AND SPACE, 1994 CONFERENCE, as a Panel Member, Washington D.C., May 5, 1994.
- “Engineering Education Needs,” AMERICAN SOCIETY FOR ENGINEERING EDUCATION—1995 ENGINEERING DEANS’ INSTITUTE, Tucson, Arizona, April 9–12, 1995.
- “Technology in Commercial Airplane Design”—William Littlewood Lecture, 1995 AMERICAN INSTITUTE OF AERONAUTICS AND ASTRONAUTICS GLOBAL AIR & SPACE CONFERENCE, Arlington, Virginia, May 3, 1995.
- “Jet Transport Design Progress— 1954 to the Future,” INTERNATIONAL AEROSPACE CONGRESS, Sydney, Australia, February 25, 1997.

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated. Included.*

17. Selection:

- (a) Do you know why you were chosen for this nomination by the President? Background experience and reputation.
- (b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment? My experience in working on aircraft design and technology; working with airlines and airports, and working with FAA and foreign certification agencies.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate? I have retired from Boeing, but still maintain professional contact and will continue with NASA, National Research Council, General Motors and International Federation of Airworthiness.
2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. See 1, above.
3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? See 1 above.
4. Has anybody made a commitment to employ your services in any capacity after you leave government service? See 1 above.
5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers. I have retired from Boeing and I will continue to receive my pension and deferred compensation as described in section G. I also have a \$1 per year contract that allows me to use Boeing travel services for my pro bono activities.

*The information referred to was not available.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. The MAC position will draw on my experience at Boeing to reflect that experience and background in advising the FAA Administrator. I see no conflict of interest in that role.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated? None.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. None.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.) Please see General Counsel's opinion letter.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details. No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? If so, provide details? No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None.

E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines set by Congressional Committees for information? Not applicable.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Not Applicable.

3. Will you cooperate in providing the Committee with requested witnesses, to include technical experts and career employees with firsthand knowledge of matters of interest to the Committee? Not applicable in view of the advisory role of the position.

4. Are you willing to appear and testify before any duly constituted Committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

F. GENERAL QUALIFICATIONS AND VIEWS

1. Please describe how your previous professional experience and education qualifies you for the position for which you have been nominated. I believe my professional background in the commercial aircraft manufacturing arena will be a helpful complement to the backgrounds of other members of the MAC from the air carrier, pilot, and general aviation communities. FAA plays a major role in the regulation and certification of aircraft and their components, and the expertise I have gained in this field should assist me in offering constructive advice to the agency in this critical area of its work.

2. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills? In general, I believe I possess the types of skills needed to perform as a member of the MAC. If confirmed, though, it will be useful to increase my knowledge of some of the internal processes/requirements associated with the executive branch, in general, and with the FAA.

3. Why do you wish to serve in the position for which you have been nominated? With my years of experience in aviation, I believe I can make a meaningful contribution to the FAA's efforts to continue to improve the safety of our air transportation system. Several years ago, Boeing undertook a study which strongly showed the need for additional improvements in the aircraft accident rate given the tremendous increases in air traffic we will see in the United States and internationally in the coming years. I would like to be a part of that ongoing effort. I also want to see the FAA maintain its international leadership role.

4. What goals have you established for your first two years in this position, if confirmed? My goals are relatively simple for the early years of the MAC. First, I would like to see that our early work establish the priority we place on aviation safety. Second, I believe it is also important that the MAC, while remaining an independent source of advice to the FAA Administrator, be viewed within the FAA as a constructive ally in the search for improvements and change. I feel strongly that more can be accomplished in partnership than through an adversarial relationship.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when should society's problems be left to the private sector, and what standards should be used to determine when a government program is no longer necessary. With respect to our air transportation system, I believe it is appropriate for the Federal Government to establish and enforce safety and air traffic regulatory standards. Not only does this preempt the need for state regulation in these areas, which could significantly hinder innovations in aviation, but it provides for the protection of the American traveling public. Although the framework of FAA's aviation safety regulations is generally comprehensive, there are times nevertheless when it is appropriate for the Federal Government to facilitate but not regulate change. This has occurred in recent years through an enhanced partnership of industry with the FAA in which efforts have been undertaken to define priorities for addressing safety issues as well as the means for doing so. Through working in a cooperative way to respond to safety matters, it can be possible to achieve voluntary improvements in air safety faster than what might be the case if it were necessary to resort to the regulatory process. Even in these cases, though, if the pace of voluntary compliance is not sufficiently quick or broadly-enough based throughout industry, there may be a need for the FAA to initiate a regulatory solution. Insofar as the standards to be used to determine when a government program is no longer necessary, I would use a straightforward, commonsense approach by asking, first, if there is a continuing public interest need for Federal involvement in this area, and, second, whether this particular program has been demonstrated to be an effective means of responding to that identified need.

6. In your own words, please describe the agency's current missions, major programs, and major operational objectives. The FAA's overall mission is to provide for the safety of our air transportation system. To accomplish that objective, the FAA exercises regulatory authority over virtually all aspects of that system—the people who maintain or fly the aircraft, the safety and security of the aircraft and the airlines that fly them, and the safety and efficiency of the air routes flown by civil and military users. The FAA also has responsibility for operating the air traffic control system and for installing, maintaining, and modernizing the equipment that the air traffic control system relies upon. In addition, the FAA is now responsible for commercial space transportation. FAA programs associated with these activities are largely broken down into lines of business within the agency that correspond to these major functions: regulation and certification; commercial space transportation; civil aviation security; and air traffic services.

Additionally, the FAA needs to lead the continuing evolution of a global ATC system.

7. In reference to question number six, what forces are likely to result in changes to the mission of this agency over the coming five years. The mission will remain the same, but technology, cost pressure, traffic growth and global interactions will cause changes in methods of management and operation.

8. In further reference to question number six, what are the likely outside forces which may prevent the agency from accomplishing its mission? What do you believe to be the top three challenges facing the board/commission and why? Public perception on safety in the forces of Washington D.C.

9. In further reference to question number six, what factors in your opinion have kept the board/commission from achieving its missions over the past several years? I believe three of the top challenges facing the FAA (and the aviation industry) in the coming years are (1) continuing to reduce an already low aircraft accident rate; (2) meeting the challenges of dramatic increases in aircraft operations; and (3) maintaining the international preeminence of the FAA and the U.S. aerospace in-

dustry. All of these challenges are difficult, but achievable with the dedication of enough talent, resources, and commitment to meet them. What poses great difficulty in continuing to lower today's accident rate is that virtually all of the easy, "big bang for the bucks" steps that we know about have already been taken. Accidents today are so random and comprise such few instances that safety improvements which can be made are typically of a nature that may achieve only small, incremental changes, and, even then, at sometimes great cost. Yet there is a need for FAA and industry to work collectively to continue to drive down the accident rate, since all evidence points to significant growth in air traffic into the foreseeable future. With today's accident rate, that significantly greater traffic will result in unacceptably greater numbers of accidents in the U.S. and worldwide. The increased amounts of traffic that we will see (and are already experiencing) place a great demand on our nation's air traffic control system, which is aging and already straining under today's level of traffic. There must remain a strong focus on, and commitment to, timely modernization of that system if we are to avoid the gridlock foreseen by the National Civil Aviation Review Commission. With regard to FAA/U.S. pre-eminence in aviation, we have seen strong inroads made by other countries—particularly the Europeans—to assume the role of world leaders in this vital segment of the economy. U.S. aerospace has long been the jewel in the crown of our export market, and efforts to topple the U.S. dominance in aviation potentially threaten the vitality of our economy. The FAA must continue to be provided with the tools and resources necessary for it to assert world leadership in aviation. I am hopeful that recent changes in budgeting for the FAA will help generate the resources the agency needs to do so.

10. Who are the stakeholders in the work of this agency? In light of the breadth of the FAA's work, there are many stakeholders in the agency's work, foremost among them the American traveling public. Other stakeholders include parties such as the Congress, FAA employees, airlines, private and commercial pilots, flight attendants, mechanics, aircraft and aircraft component manufacturers, and air traffic control suppliers/manufacturers.

11. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question number ten. I believe that, as a member of the MAC if I am confirmed, I should serve in an objective capacity listening to, and fairly balancing the interests of, all stakeholders of the FAA.

12. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you? Not applicable.

13. Describe your working relationship, if any, with the Congress. Does your professional experience include working with Committees of Congress? If yes, please describe. I have had limited experience working with the Congress. I have occasionally been called upon to brief committee staff on Boeing-related issues.

14. Please explain how you will work with this Committee and other stakeholders to ensure that regulations issued by your board/commission comply with the spirit of the laws passed by Congress. Not applicable.

15. In the areas under the board/commission jurisdiction, what legislative action(s) should Congress consider as priorities? Please state your personal views. I believe it is important that Congress continue to ensure that adequate resources are made available to the FAA in its Operations budget. This is a crucial aspect of the FAA's ability to fulfill its vital safety functions. I would also encourage the Congress to continue looking at the issue of air traffic control reform.

16. Please discuss your views on the appropriate relationship between a voting member of an independent board or commission and the wishes of a particular president. Not applicable.

The CHAIRMAN. Thank you.
Mr. Wilson.

**STATEMENT OF KENDALL W. WILSON, PRESIDENT, FIRST
FINANCIAL MANAGEMENT SERVICES, WASHINGTON, DC**

Mr. WILSON. Good morning. Thank you. I am accompanied this morning by my wife, Vickie, a psychiatric social worker, who keeps me in line.

The CHAIRMAN. Welcome.

Mr. WILSON. Senator Hollings, if I may add, before my remarks, that you are quite right, I do spend more time as a passenger, but

years ago I did spend several hundred hours in the front seat of an airplane, so I have a little bit of deep experience, deep in my past, that is, in being in the front seat.

Thank you, Mr. Chairman and members of the Committee, for the opportunity to address you today on the subject of the FAA Management Advisory Council, or MAC. I am pleased to be considered by this Committee for confirmation as a member of the MAC, and I believe that I bring an important set of experiences and skills to this body.

There is, as you know, a plethora of growing pains in aviation today. Much of this, fortunately, is due to our robust economy and the large role that aviation plays in it. How the Federal Government conducts its affairs as an integral operating piece of the aviation system will have a major impact on whether aviation assists in the growth of the economy, as it has in the past, or whether it begins to act as a drag and limits the ability of the economy and the Nation to expand.

Many of the key resources in aviation are becoming critically scarce, and many systems and subsystems are at or beyond their design capacity. Interestingly, political, environmental, financing and managerial problems as often or more often stand in the way of system improvement than does the fundamental ability of aviation to pay for the improvements needed. I believe the MAC will have an important role in working through the highest levels of issues impeding progress in aviation with the industry and with the FAA Administrator.

I am optimistic that the very backgrounds of fellow nominees will enable the MAC to sort through these issues, and that the MAC will be successful not just because its members' experience spans a broad part of aviation commerce, but because there is some broad consensus and much goodwill among them. I look forward to working with this talented group of people.

Thank you.

[The prepared statement and biographical information of Mr. Wilson follow:]

PREPARED STATEMENT OF KENDALL W. WILSON, PRESIDENT, FIRST FINANCIAL
MANAGEMENT SERVICES, WASHINGTON, DC

Thank you, Mr. Chairman, for the opportunity to address you and the Committee today on the subject of the Federal Aviation Administration, Management Advisory Council, or "MAC." I am pleased to be considered by this Committee for confirmation as a member of the MAC, and I believe that I bring an important set of experiences and skills to this body.

There is, as you know, a plethora of growing pains in aviation today. Much of this (fortunately) is due to our robust economy and the large role that aviation plays in it. How the Federal government conducts its affairs as an integral, operating piece of the aviation system will have a major impact on whether aviation assists in the growth of the economy (as it has in the past), or whether it begins to act as a drag, and limits the ability of the economy and the Nation to expand.

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I believe the MAC will have an important role in working through the highest levels of issues impeding progress in aviation with the industry and with the FAA Administrator. I am optimistic that the varied backgrounds of fellow nominees will enable the MAC to sort through these issues, and that the MAC will be successful

not just because its members' experiences span a very broad part of aviation commerce, but because there is some broad consensus and much good will among them. I look forward to working with this talented group of people.

A. BIOGRAPHICAL INFORMATION

1. Name: Kendall Wyman Wilson—"Ken."
2. Position to which nominated: Federal Aviation Administration, Management Advisory Council.
3. Date of Nomination: March 30, 2000.
4. Address: Residence: 5040 Millwood Lane, Washington, DC 20016; Office: Suite 300, 5301 Wisconsin Ave., NW, Washington, DC 20015.
5. Date and place of birth: May 20, 1945, Chicago, IL
6. Marital Status: Married McCuaig.
7. Names and ages of children: Hugh K. Wilson—30; Thomas W. Wilson—25; Alexandra C. Wilson—23.
8. Education: High School: St. Albans School 1959–1963; College: Princeton University 1963–1967 Bachelor of Science in Engineering; Graduate: Massachusetts Institute of Technology 1968–1971, Master of Science, Transportation Systems; Master of Science, Management.
9. Employment record:
 - Pratt & Whitney Aircraft, Analytical Engineer, 1967–68, E. Hartford, CT
 - U.S. Navy, Engineering Duty Officer, 1971–74, Carderock, MD
 - U.S. Dept. of Transportation, Program Coordinator, 1974–77, Washington, DC
 - U.S. Dept. of Energy (U.S. ERDA), Asst. to Director, Ofc. of Transp. Pgms. 1977–79
 - U.S. Dept. of Energy, Resource Manager, Commercialization, Electric Vehicles, 1979–81
 - 1st Financial Management Services, Inc. (Venture Technology, Inc.), President, 1981–99
10. Government experience: None other than in "9" above.
11. Business relationships: As in "9" above plus: Trustee, Wendt Center for Loss and Healing; Trustee, Free the Children Trust.
12. Memberships: As in "11" above plus: Society of Automotive Engineers, Metropolitan Club of Washington, Chevy Chase Club Newcomen Society in North America (historical), Princeton Clubs of New York and Washington.
13. Political affiliations and activities:
 - (a) List all offices with a political party which you have held or any public office for which you have been a candidate. D.C. Republican Committee.
 - (b) List all memberships and offices held in and services rendered to all political parties or election committees during the past 10 years. D.C. Republican Committee, Dole for President.
 - (c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years

Citizens for Norton	\$500
Schwartz for Mayor	500
Grainger for Congress	500
Friends of Conrad Burns	500
Rick Hill for Congress	500
Elizabeth Dole for President	1000
George W. Bush for President	1000
The WISH List (PAC)	1000
Friends of Dylan Glenn	500
Tom Campbell for Senate	1000
DC Republican Committee	550

The above list is complete for mid-1998 through 4/11/2000. I do not have detailed records prior to the start of that period; however, I do recall making gifts of \$500 or more to the following: George W. Bush for Governor, Bob Dole for President, Campaign America, Tom Campbell for Congress, The WISH List, Snowe for Senate, Warner for Senate, Republican National Committee.

14. Honors and awards: None.
15. Published writings: Co-author, "Transportation and the Urban Environment," U.S. DOT, 1978.
16. Speeches: None.

17. Selection:

- (a) Do you know why you were chosen for this nomination by the President?
 (b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I believe that the combination of governmental and private sector business experience, together with my educational background, give me an unusual set of tools to bring to the FAA Management Advisory Council. The areas of relevancy include: corporate and non-profit board experience, capital formation, fiscal management, engineering, and policy development.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or Business organizations if you are confirmed by the Senate? Not applicable.
2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. Not applicable.
3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with you previous employer, business firm, association or organization? Not applicable.
4. Has anybody made a commitment to employ your services in any capacity after you leave government Service? No.
5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes, although as of this writing, I have not been informed of my term.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensations agreements, and other continuing dealings with business associates, clients or customers. None other than investments.
2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. None.
3. Describe any business relationship dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated? None.
4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. None.
5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. Please refer to Deputy General Counsel's opinion letter.
6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? No.
2. Have you ever been investigated, arrested, charged or held by any Federal, State, or law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? No.
3. Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? Yes. In the mid-1980's I was an officer of a small business that, as plaintiff, successfully sued for contract damages in Federal court in Chicago.
4. Have you ever been convicted (including any pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? No.
5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None.

E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines set by Congressional Committees for information? Yes.
2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures. Yes.
3. Will you cooperate in providing the Committee with the requested witnesses, to include technical experts and career employees with firsthand knowledge of matters of interest to the Committee? Yes.
4. Are you willing to appear and testify before any duly constituted Committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

F. GENERAL QUALIFICATIONS AND VIEWS

1. Please describe how your previous professional experience and education qualifies you for the position for which you have been nominated. As a former federal government engineer, manager and policy analyst, I believe I have the experience to grasp and deal with the FAA's major management issues. In addition to that governmental experience, I have had private sector management, financial, and governance (board) experience that I believe is critical to achieving a successful evolution of the FAA to a "more business-like" organization.

2. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills? I do not necessarily believe that I am missing skills that are required for the overall demands of the position; however, I certainly need to learn more about the details of FAA management, financing and programs, which can be achieved by FAA staff briefings and assistance.

3. Why do you wish to serve in the position for which you have been nominated? I have always had an interest in government policy and management as intellectual subjects. In addition, and perhaps more importantly, I have a strong belief in the importance of public service. Such service has been part of my past and that of my father and grandfather.

4. What goals have you established for your first two years in this position? The overall goal of the FAA MAC is certainly to assist the agency in evolving into a more fiscally and managerially sound organization, perhaps described as a "more business-like" enterprise. One objective would certainly be to improve the stakeholders' perceptions of the agency as a service organization.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when should society's problems be left to the private sector, and what standards should be used to determine when a government program is no longer necessary. As a broad, general matter, I believe that government should allow the private sector to operate to serve the public and private needs of the citizens, and it should become involved only when there is a compelling need. Such need may be regulatory (e.g. setting standards for flight operations) and to support a common interest (e.g. defense, police, fire protection). The private sector is clearly better in determining resource allocation matters, such as who buys/sells what, where it is bought/sold, and how much is bought/sold. As for standards for eliminating government programs: I believe that programs must meet the tests that were met at the time of their establishment and periodic review of all programs is appropriate to weed out activities that are existing on "momentum" only.

6. *In your own words*, please describe the agency's current missions, major programs, and major operational objectives. While the FAA MAC has not previously existed, the FAA's mission is focused upon safety, air traffic control, aviation commerce and national defense.

7. In reference to question number six, what forces are likely to result in changes to the mission of this agency over the coming five years? Again, while the FAA MAC has not previously existed, the FAA itself is faced with issues most of which relate to the growth in air commerce over the next five years. It is not clear that the FAA's mission itself may be or need to be changed, but rather the manner and methods by which the FAA meets the challenges related to this growth. Please see the answer to question #9 below for further discussion of the areas that present challenge to the FAA in coping with the forces of growth.

8. In further reference to question number six, what are the likely outside forces which may prevent the agency from accomplishing its mission? What do you believe to be the top three challenges facing the board/commission and why? Focusing particularly on the forces and challenges that the FAA MAC will face, I believe that many of them are internal. For example, can the MAC successfully determine and

recommend improvements given the largely “representative” nature of its composition? Some challenges are likely to be external. For example, can the FAA MAC, without strong powers, be persuasive enough to move governmental and private sector organizations to make change? Or, on a specific plane, can the MAC identify and catalyze changes in capital formation that may be not only large, but also critical for successful long-term delivery of FAA services?

9. In further reference to question number six, what factors in your opinion have kept the board/commission from achieving its missions over the past several years? While the FAA MAC has not yet been formed, the FAA itself has been challenged by the explosive growth in air commerce. Modernization of equipment, staffing, capitalization, and management practices all present large challenges to the FAA. I believe that the MAC can be a helpful adjunct in meeting the demands that these hurdles present.

10. What are the stakeholders in the work of this agency? Federal, state and local governments and their operating affiliates; Aviation industry: all types of aircraft operators and manufacturers; Manufacturers and technology development entities of all air and land based elements; Employees and employee organizations; International and multinational organizations; System users: military, general aviation, passengers, and shippers.

11. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question number ten? I would like the relationship to be cordial, but independent.

12. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you? First two parts: Not applicable. I do not anticipate that as a MAC member I will have any supervisory responsibility. Third part: No.

13. Describe your working relationship, if any, with the Congress. Does your professional experience include working with Committees of Congress? First part: None. Second part: No.

14. Please explain how you will work with this Committee and other stakeholders to ensure that regulations issued by your board/commission comply with the spirit of the laws passed by Congress. While the FAA MAC does not have regulatory authority, it does have the responsibility to review the rulemaking cost benefit analysis process and make recommendations to improve that analysis. I foresee the MAC members being available for informal contact with the Committee and its staff, as well as the formal reporting established in the enabling legislation. Also, the MAC is comprised of a diverse set of aviation interests that will provide ready flow of ideas and information from outside stakeholders.

15. In the areas under the board/commission jurisdiction, what legislative action(s) should Congress consider as priorities? Please state your personal views. Emphasizing my personal views: I believe that there are two areas of potential need for legislative remedy:

(a) Internally to the MAC: While I hope that the MAC will operate effectively, as amended by the 2000 reauthorization, I am unclear on how the Air Traffic Service Subcommittee will relate to the MAC itself.

(b) External to the MAC: See the response to Question 8 above. How effective will the MAC be with only the statutory powers of comment, recommendation and dissent?

16. Please discuss your views on the appropriate relationship between a voting member of an independent board or commission and the wishes of a particular president. In the question, I assume the word “president” refers to the President of the United States and not simply the head of the board/commission. If so, the appropriate relationship, particularly for a term appointee, is to listen to and to evaluate carefully the President’s views, but to vote based upon what he/she feels is correct.

The CHAIRMAN. Thank you very much, Mr. Wilson.

Mr. Boyer, you may have noted that in the last FAA reauthorization we just increased the passenger facility charges again, and now corporate aircraft still continue to fly around, use the air traffic control system, and pay nothing. Do you think that is a good thing to happen, Mr. Boyer?

Mr. BOYER. It is something that I think we will be debating over the coming period of time that you and I have talked about in the past, and that certainly comes up each and every year the administration—

The CHAIRMAN. Mr. Boyer, I am asking for your view on whether there should be any fees imposed on corporate aircraft—I am talking about corporate aircraft—for use of the air traffic control system. I am not asking whether we are going to debate it or not. I want to know your opinion.

Mr. BOYER. I believe that at the present time paying through the fuel tax is the best method for paying for access for general aviation aircraft.

The CHAIRMAN. So corporate aircraft in America who are using more and more of the air traffic control system, which contributes significantly to the overburdening of the air traffic control system, should pay no additional fees, with the exception of a fuel tax which basically everybody pays?

Mr. BOYER. That is correct. The airlines do not pay the fuel tax.

The CHAIRMAN. If you believe that, Mr. Boyer, I strongly question your qualifications to serve on this Committee.

Mr. Babbitt, do you have any view on that?

Captain Babbitt: Yes, sir, Mr. Chairman. I have advocated in the past that we find a balanced way. The system supports a great deal of traffic everywhere, and I do recognize that in a 747 400 passengers versus a Cessna Citation, for example, somewhere we ought to be able to balance the user fee to have the appropriate paying.

I am not certain if the PFCs, which if I understand it correctly, and there may have been modifications made in the last revision, are supposed to be directed more to the actual terminal facilities as opposed to the airways and traffic system, but I think that there should be a way, perhaps beyond that, to balance some of the fees so that everyone pays a fair share.

The CHAIRMAN. In other words, Captain Babbitt, we have a situation now where lower and middle income Americans, who are generally the people who fly, every time they take off, every time they land, they pay an additional fee every time that plane takes off and lands. A corporate jet, according to Mr. Boyer, who by the way are the wealthiest people in America, obviously the wealthiest 1/2-percent, should pay nothing, but the average citizen who is on an airliner pays, and we have just increased it again.

Mr. Baker, do you have a view on that?

Mr. BAKER. Mr. Chairman, we are quite sensitive to all of the fees that our customers ultimately pay, whether they be ticket taxes or PFC's. I believe that anyone who consumes a resource such as air traffic control ought to pay their fair share. The big debate is how do you decide what that fair share is for each of the aviation users.

The CHAIRMAN. Would one of the ways to do that be based on their use of the air traffic control system? As Captain Babbitt just pointed out, you have got a 747 with 400 passengers. Each of those people are paying a tax every time that plane takes off and lands, and yet the corporate jet is using the same air space, the same time of the controller, and basically is paying nothing. Do you think that maybe a good formula for that would be based on how much use of the air traffic control system that corporate jet makes?

Mr. BAKER. I believe ultimately that ought to be the standard.

The CHAIRMAN. So Mr. Boyer, when I advocated such a payment of that by corporate jets, your organization immediately alerted every aircraft owner in America alleging that I was going to levy some tax on them. It was unfair, it was inaccurate, and it is sort of the classic example of the way lobbyists in this town will distort their position and frighten their members, because that was clearly not what I wanted to do.

I wanted to get at, which we should get at, the wealthiest people in America who are flying corporate jets around this country and not paying an extra penny for doing so, while average citizens, average middle income, lower income American citizens are paying, again, an increase in their cost of air tickets, while your fat cat friends pay nothing. That is a disgrace, and I would be glad to hear a response from you.

Mr. BOYER. Well, Mr. Chairman, I think we should characterize general aviation as more than just the fat cats with corporate jets.

The CHAIRMAN. What you opposed, Mr. Boyer, was my proposal to have corporate jets pay user fees.

Mr. BOYER. I was concerned about the constituency I represented, which was basically single-engine and twin-engine light general aviation airplanes and, as I recall—as you said, you had a healthy debate with several people here. As I recall, later in that year we did carve out what you termed in your legislation sport aviation, which we termed that kind of—you exempted those groups of people, and at that time we came to agreement on that.

The CHAIRMAN. I do not think so, according to your statement. Mr. Boyer noted the Senator may intend to exempt all general aviation and believe such an exemption is included in his proposal. “I gather it is for this reason you believe we were lying about your position on user fees. If so, you are mistaken. General aviation would be subject to substantial new user fees under this proposal,” Mr. Boyer said—a total distortion of my position.

Ms. BRANSON, what is your aviation experience?

Ms. BRANSON. Senator, my aviation experience is obviously different from the other members who are sitting, or the other prospective members who sit here. My experience has been in representing the victims of airline crash cases.

The CHAIRMAN. When did you do that?

Ms. BRANSON. Over the course of probably the last—I am guessing, about 10 years.

The CHAIRMAN. Over the last 10 years?

Ms. BRANSON. Maybe it is 13 or 14 years. Probably the last 10 years.

The CHAIRMAN. And you were directly involved in these cases?

Ms. BRANSON. I was.

The CHAIRMAN. What did you do in these cases?

Ms. BRANSON. My practice is a little different. Again, I do a lot of strategic work on cases, I do a lot of witness preparation, I do a lot of jury work, so it depends on the stage of the case where I am involved in these particular cases. I know I worked a lot with witnesses, took statements. We did settlement brochures and preparations and helped involve the witnesses in getting ready for those experiences.

The CHAIRMAN. Which case?

Ms. BRANSON. The Delta crash case, for instance.

The CHAIRMAN. Which Delta crash?

Ms. BRANSON. I believe the number was 1140. It was the Delta crash case in Dallas. We had several clients from that crash.

The CHAIRMAN. When was that?

Ms. BRANSON. Mr. Chairman, I believe that was the late eighties, but I am telling you that from memory.

The CHAIRMAN. Maybe for the record you could submit your involvement in these aviation cases. Were you ever at trial with them?

Ms. BRANSON. None of those cases went to trial.

The CHAIRMAN. Perhaps you could submit for the record your involvement in those cases, Ms. Branson.

Ms. BRANSON. I would be delighted to.

The CHAIRMAN. Senator Hollings.

Senator HOLLINGS. Well, right to the point, Mr. Chairman. I feel that I am more than qualified to serve on this Management Advisory Council, and I have never sued an airline or ever flown a plane. I think that the major concerns that we had were the matter of service, and the matter of cost. I would agree with the distinguished chairman relative to the corporate jet being charged a fee, but I did not mind that fee going up from \$3 to \$4.50.

The extra dollar and a half was nothing compared to paying \$700 for a round trip from Washington to Charleston, South Carolina and back. I watched this develop, and we were told at the time of the hearings, "Don't worry, don't worry, we are going to take care of the small and medium-sized towns of America," and that is exactly what they did not do.

In essence, what has taken over, the long hauls are the most economical, and so you find 85 percent of America subsidizing the other 15 percent flying from Washington to Las Vegas and Los Angeles, and the long hauls, and just a ticket up to Charlotte, North Carolina to make a connection to come to Charleston is over \$300 to \$400. It is a matter of my USAir has got about 80 percent control. We have got these hub monopolies. It is not the passenger facilities charge, it is the monopolistic control of these hubs, and they can put it to you, and that is all you can do.

You can fly from Charleston to Miami through Atlanta. It is the same way with Delta, and people take a car from Greenville and Columbia and drive all the way to Charlotte, rather than try to pay for that small connection, so you folks on the Management Advisory should look at that, because if we ever get the opportunity, that is what came out in this 2-year gymnastics that we had to try to get this bill and specifically get your Management Advisory Council instituted.

I agree with the closing comment of Mr. Wilson that you have a talented group here, and I have for the record. I was trying to do a little homework, Ms. Branson, but you represented Delta Airlines in the 1985 crash, Egypt Airlines in 1999, and American Airlines in the 1999 crash in Little Rock. You represented Southwest Airlines in recent litigation over Love Field in Dallas, and you are about to disqualify in my mind, because you are leaving from the passenger, and there is going to be total airline, aircraft, air manu-

facture and everything else but a passenger. We got down to one passenger, and you.

I hope all of you will be looking at it from the standpoint of the hub monopolistic control on the one hand, safety first before even that, but otherwise, what ultimately is the cost? I have a ticket right now, \$279 to Frankfurt, Germany and back. If I go coach class with my wife, I get a Government rate, but my wife pays \$700 and lots of times more, and you can get out there and the plane can be canceled if they do not have it filled up or otherwise. I do not know how they work.

I am not just critical of USAir. It happens with all of the airlines. But in any event, I do think we do have an outstanding group here, and I am ready to vote for their confirmation.

The CHAIRMAN. Thank you. Senator Hollings, my point is that we have just asked average citizens to pay an additional dollar and a half per ticket every time a plane takes off and lands. Meanwhile, on the same runway, takes off a corporate jet, some of the wealthiest people in America, who pay nothing.

I do not argue with Senator Hollings' statement that—and I think it is correct about the high cost of airline tickets, but for us to ask average citizens to bear the cost—and those who are very wealthy in America that have corporate jets is a classic example of what the problems of this town are—because they have the clout and the average citizens do not, it is a classic example of the need for campaign finance reform.

Senator HOLLINGS. I vote aye on that.

The CHAIRMAN. I thank the witnesses. I thank you for your willingness to serve. Ms. Branson, I would like to have for the record—I was glad that Senator Hollings would brief us on your experience, and would appreciate that to be submitted to the Committee.

[The information referred to follows:]

DEBBIE DUDLEY BRANSON'S RESPONSE TO SUPPLEMENTAL QUESTION POSED BY
HON. JOHN MCCAIN

Pursuant to Chairman McCain's request, what follows is a listing of the litigation involving air travel in which our firm has been involved:

Pending Cases

Nancy Chu v. American Airlines, Inc. (AAA 1420)
Filed July 13, 1999 in Little Rock Arkansas, Eastern District/Western Division
Cause #LR-C-99-495
Petition signed by Debbie D. Branson

I have had many contacts with the client, with various witnesses and have been involved in the preparation for the court-ordered settlement conference. The settlement conference is scheduled for May 23 in Little Rock and I will participate directly.

The joint discovery regarding liability is being managed by Lead Counsel for the Plaintiff's Steering Committee as is typical in multi-district litigation.

Resolved cases:

Doris Nix v. Delta, Inc. (Delta 1141)
Filed September 25, 1989 in 74th Judicial District Court, McLennan County, Texas
Cause #89-3147-3
Settlement: 4/90 in the amount of \$1,800,000

Edmon Fadal, Jr. v. Delta Airlines (Delta 1141)
Filed April 11, 1990 in 74th Judicial District Court, McLennan County, Texas
Cause #89-2027-3
Settlement: 5/90 in the amount of \$6,000,000

Helen Bare v. Delta Airlines (Delta 1141)
 Filed July 24, 1990 in 95th Judicial District Court, Dallas County, Texas
 Cause #88-15161-D
 Settlement: 8/90 in the amount of \$2,600,000

Alicia Hayes v. Delta Airlines (Delta 1141)
 Filed September 9, 1988 in 298th Judicial District Court, Dallas County, Texas
 Cause #88-11664
 Settlement: \$275,000

Pendleton Waugh v. Delta Airlines (Delta 1141)
 Filed September 20, 1988 in 95th Judicial District Court, Dallas County, Texas
 Cause #88-12108
 Settlement: \$250,000

Cockpit resource mismanagement was the basis of liability in the Delta cases. Case preparation involved a basic understanding of the following areas relating to the aviation industry:

- Steps involved in take-off, their practical functions and what happened when proper procedures were not followed.
 - Command authority.
 - Sterile cockpit policy.
 - Use of checklists.
 - Failure to set aircraft flaps and slats in proper take-off configuration.
 - Warning devices.
 - Cockpit voice recorders.
 - Lack of aileron control.
 - Use of full power upon activation of stick shaker.
 - Handling a compressor stall.
- FAA and Delta Safety Rules
 - Monthly flight standards line check reports.
 - Delta training program.
 - Delta maintenance program.
 - FAA safety audits.

With regard to the cases against Delta Airlines, I participated in the work leading up to the settlement conferences as I indicated in my testimony before the Committee. Each of the cases was settled without trial. Had the cases been tried, I would have been directly responsible for portions of the trial work involved. Without retrieving the closed files and in relying on memory, my work included:

- 1) Preparing witnesses for video testimony;
- 2) Conducting several video interviews;
- 3) May have directed community attitudinal survey regarding range of damages;
- 4) Preparing for depositions;
- 5) Participating in strategy for settlement meetings;
- 6) Participating in settlement conferences.

Myrna Golman v. Continental Airlines (CE 2574)
 Filed October 11, 1991 in Judicial District Court, Harris County, Texas
 Cause #9152669
 Settlement: 4/92 in the amount of \$3,000,000

Improper maintenance/inspection procedures was the basis of liability in the Continental flight. Case preparation involved a basic understanding of the following areas relating to the aviation industry:

- Horizontal stabilizer's leading edge.
- Cockpit voice recorder.
- Flight data recorder.
- Flutter and structural integrity.
- Aerodynamic loads.
- FAA rules and regulations regarding inspections.

My participation in the Continental case would have been very similar.

Keven Ferren v. The Cessna Aircraft Co.
 Filed October 22, 1993 in 348th Judicial District Court, Tarrant County, Texas
 Cause #348-150843-93
 Settlement: 4/94 in the amount of \$500,000

I don't believe I had any involvement in the Ferren case.

To properly put this litigation and my involvement in perspective, it should be understood that our firm uses a *trial team* approach. Several people are involved in the preparation and trial of a lawsuit—with each supplying particular expertise and/or experience. As noted on my CV, I focus on litigation strategy including the use of focus groups, attitudinal surveys, voir dire, witness preparation, argument and jury debriefing. We believe this approach increases the value of our representation to the clients we serve.

In addition, I feel it is important to note that litigation is certainly one of the ways available to mandate increased safety. Further, I, as a lawyer involved in this litigation, offer a unique perspective, on a very real and human level, as to why increased safety is so important. It seems to me to be a common sense conclusion that it would be preferable to analyze changes to effect safety *before* devastation occurs, rather than *after*.

Lawsuits to be filed:

Karla Koen v. American Airlines, Inc. (AA 1420)

Samia Abdalla v. Egypt Air #990

The CHAIRMAN. I thank you. This hearing is adjourned.
[Whereupon, at 10:15 a.m., the Committee adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN TO PHIL BOYER

Question. In your press release following the confirmation hearing for the Management Advisory Council nominations, you again misrepresented my position. Not once did you mention that my proposal is to impose user fees merely on corporate aircraft use of the air traffic control system, not its use by the entire general aviation population. Isn't it unfair and misleading at best to characterize the proposal as "General Aviation user fees?" What will you do to correct this misrepresentation in your contacts with AOPA members?

Answer. I regret the Chairman feels as though I have misrepresented his position. Our press release simply and briefly reiterated my position regarding user fees. The Chairman is well aware that AOPA primarily represents piston powered, propeller-driven aircraft and 25 percent of the piston powered fleet, comprising almost 54,000 aircraft, are classified by the official FAA registry as corporate aircraft. As I attempted to explain at the Hearing those who own corporate jets are only a small-subset of the AOPA membership and this group of companies, flight departments and manufacturers are the core of completely different associations in Washington, D.C. However, corporate aviation is part of the general aviation community and I will never play a part in any strategy designed to "divide and conquer" our community. AOPA opposes all aviation user fees including general aviation user fees.

Question. In your remarks at the nomination hearing, you stated that ". . . at the present time paying through the fuel tax is the best method for paying for access for general aviation aircraft." Given that fees for other sectors of aviation have gone up recently—including those charged the traveling public, which will pay for a hike in the passenger facility charge—do you believe that fuel taxes should be increased for corporate aircraft to reflect more accurately the corporate jets' use of the air traffic control system?

Answer. Congress, under heavy protest from the air transport industry, chose to increase airline taxes in 1997 despite warnings that such an increase, coupled with increased passenger demand, would once again trigger unspent balances in the Aviation Trust Fund. To suggest other segments of aviation should therefore also pay more is proving "two wrongs make a right."

Even with passage of AIR-21 there is still over a \$9.4 billion balance in the aviation trust fund. Those taxes were collected to run and improve the nation's air transportation system and until they are spent I do not feel there is any justification for increasing any excise taxes, including those paid by segments of general aviation. As you know, the Passenger Facility Charge (PFC) allows airports with commercial traffic to raise funds for targeted improvements. PFC revenues are not deposited into the trust fund and the airports taking advantage of those fees and the associated projects rarely, if ever, benefit general aviation. Similar to the tax increase of 1997, I do not think an increase in PFC's should be linked with the general aviation tax burden. In this regard AOPA, under my leadership, never felt PFC's were our issue. Therefore, we have never supported, commented on, been against legislation relative to their establishment, or increases.

Question. In your remarks at the nomination hearing, you stated that we came to agreement when an FAA reform bill approved by the Commerce Committee several years ago exempted recreational aviation (in contrast to corporate aviation) from the payment of proposed air traffic control user fees. If that is the case, I would appreciate your restating this position for the record, specifically your support for legislation exempting recreational aircraft from such user fees.

Answer. AOPA never came to agreement with the authors of S.1239 on the subject of user fees. Although I expressed my concerns to the Committee about the user fee approach throughout the legislative process, on November 8, 1995, in a letter to Commerce Committee Chairman Larry Pressler I stated:

“As the Senate Commerce Committee prepares to mark up legislation to reform the Federal Aviation Administration we want to re-emphasize our opposition to the substantial new user fees which would be imposed on the aviation industry under the reform legislation by Senators McCain, Ford and Hollings. . . . No segment of the aviation industry is exempt from the new training, licensing and regulatory fees imposed under the bill and this is the area which will have the greatest impact on our members . . . In fairness to the sponsors of the bill, the latest version of S.1239 offers an exemption from ATC user fees for “sport and recreation aircraft.” But since 60 percent or more of our members use general aviation aircraft for business purposes some or all of the time, this exemption apparently would not apply to them.”

There is no official FAA or DOT designation for “sport and recreation aircraft,” and the fear has been without using legal and technical designators, the legislation could be deemed to apply to the majority of general aviation operations. I learned through experience the importance of terminology and definitions in legislation. Just a few years ago, AOPA was assured the “foreign overflight fee” would not be levied on general aviation. However, when the FAA began to implement the fee they found they were unable to exempt general aviation because of the way the provision was drafted.

Question. How will you hold the FAA Administrator accountable for setting goals, and for meeting these goals?

Answer. The MAC’s responsibility is to provide advice and counsel to the Administrator on issues affecting management, policy, funding, and regulatory matters. I would recommend the Council:

1. Establish a strong communications network with the Administrator;
2. Review management plans when presented; monitor on a quarterly basis;
3. Review goals when presented; monitor on a quarterly basis;
4. Provide constructive feedback on plans, goals and objectives on an ongoing basis;
5. Revise plans and goals, if needed, annually.

Question. As you know, the law enables the Management Advisory Council to oversee FAA spending matters. The recently enacted FAA reauthorization bill significantly boosted FAA spending on airport grants. As a member of the Management Advisory Council, do you believe that it is important that the FAA establish and follow criteria for allocating discretionary grants according to safety and efficiency priorities?

Answer. I am both appreciative and grateful Congress has seen the need for significant increases in FAA’s airport funding programs. However, the issue is often as much about getting the maximum return on the federal investment as it is the amount of money or formulas. The FAA already works from a priority system when issuing grants under the discretionary part of the Airport Improvement Program (AIP), albeit somewhat complex in nature. The existing system applies the national priority system developed by FAA and folds in a local or regional priority system as developed by state aviation organizations and local airports. The primary focus is on airport safety, security, and preserving/increasing airport capacity.

While there have been boosted levels of funding in the AIP program, certain changes in formulas such as the doubling of airport entitlements and increases in state apportionment, will cause the discretionary funding level to increase at a much reduced rate.

Additionally, when the FAA does apply the priority system—which may need to be reviewed to ensure the focus is appropriate—they also need to ensure the protection of the federal investment through enhanced and improved compliance oversight activities.

Question. Knowing what you do about the FAA today, what change would have to take place in the coming year for you to claim success as a member of the Management Advisory Council?

Answer. I believe FAA needs a clearer strategic path to solving present and anticipated airline and air traffic delays that are so important to the American traveling public. To accomplish this, FAA must use available technology in the safest and most cost effective way, devote targeted human resources towards the solutions to these problems, and articulate the Agency’s progress to the MAC, Congress and the air transportation industry and passengers on a regular basis.

Question. The legislation that established the Management Advisory Council addressed certain duties specifically, such as reviewing the FAA rulemaking cost-benefit analysis and reviewing the agency’s process for issuing Advisory Circulars. How

do you expect the Council will decide what other issues to comment on, among the issues that fall within the category of management policy, spending, funding and regulatory matters before the Administrator?

Answer. Administrator Garvey has achieved a great deal of success at FAA through her use of consensus building with the aviation users. I have spent significant time at meetings such as the RTCA, internal FAA meetings, and industry coalitions, working through a variety of options and specific needs with a membership similar to the MAC to reach meaningful compromise on critical issues. I am confident Administrator Garvey will employ a similar consensus building process that should serve the MAC well.

Question. There have been many calls for privatizing FAA's air traffic control services and other countries, including NAVCANADA, have privatized. Such steps are controversial and should not be taken without considerable debate. However, given FAA's rising operations costs, what are your views on contracting out some FAA operations such as control towers, Oceanic services, or maintenance activities?

Answer. I think it is important to keep an open mind in hearing about the operational and safety benefits of different organizational structures. But, in my opinion, any air traffic control operations considered for contracting out would probably be limited to functions not directly tied into the huge and interlocking national air traffic control system. Certainly taxpayers deserve to have governmental costs minimized where possible. For example, the organization I head was supportive of contracting out level one towers. We have monitored the implementation of this program and found it is cost effective and safety has not been compromised. In general aviation there is no reason why certain services, for example developing instrument approaches, could not be handled more quickly and cheaply through contracts with the private sector.

To date, history has shown there are many countries that have chosen to commercialize aspects of air traffic control. However, only one nation, Canada, has actually privatized its system. Even in that instance, critics say such a not-for-profit organization is not truly privatized. However, DOT Inspector General Ken Mead recently told the Senate Budget Committee, "The experiences of NAV CANADA and other countries are instructive, but it is difficult to use their experiences as a conclusive point of reference because our air traffic control system is so much larger, diverse and complex."

Question. I recognize that each of you was nominated to serve on the Management Advisory Council in part to share your unique perspective as the result of your employment in or around a certain sector of the aviation industry. Nevertheless, do you anticipate any circumstances in which you would have to recuse yourself from commenting on a particular FAA action because of a potential conflict? If so, please give me an example.

Answer. The size and diversity of the MAC membership provides for a wide range of backgrounds and opinions. At the present time I see no reason why my affiliations with AOPA or general aviation would cause me to recuse myself. I am sure the group itself is astute enough to demand such action, internally, should such a need arise.

Question. Can we expect you to take an active role in oversight of the FAA's management of and modernization of the air traffic control system, at least until the members of the Air Traffic Services Subcommittee are appointed?

Answer. Yes, if the MAC is granted that responsibility. Both AOPA and I, personally, have taken an active role over the past decade in assisting the FAA in all facets of air traffic control management and modernization. I have personally served on the MITRE Aviation Committee and as a member of the Administrator's internal management group on runway incursions. I would be pleased to extend my ongoing work in these areas to my service on the MAC.

Question. GAO and others have identified major shortcomings in several areas, including financial management, air traffic control modernization, safety oversight, and security of computers and facilities. How would you prioritize the issues on which the Council should focus its attention?

Answer. The safety and efficiency priorities should come before these, and many of the modernization and certification reform initiatives go hand in hand with safety and efficiency. Security seems to be a black hole in that there is never enough security to guarantee safety. Therefore, expenditure in this area must be carefully evaluated for real-world effectiveness and strike an appropriate balance with efficiency.

In the area of financial management, there seems to be several key problems I experience in my work: 1) the program office people don't always get clear guidance from FAA upper management; 2) program office people do a poor job justifying their funding needs and identifying the true repercussions of partial funding; 3) many government policies and procedures prevent FAA from being more efficient and, therefore, need reform; and 4) FAA upper management doesn't always do the best job in communicating their needs to Congress.

Question. FAA's culture has been found to be a contributor to the problems with acquiring modernization systems on time, within budget, and that meet performance parameters. What ideas would you offer to create incentives to change FAA's culture?

Answer. FAA must operate with a business-like approach, with rewards for performance and accountability. That is possible within the government pay system. Two FAA programs that have adopted such a new approach successfully are the Y2K initiative and Free Flight Phase One. In both instances, one "owner" was named and made totally responsible for the program. Y2K has already proven to be a success, and Free Flight Phase One is on track and will provide tangible benefits to the travelling public in the near future.

Question. FAA and many users have long called for allowing the agency greater flexibility in managing its operations and the National Airspace System. Acquisition and Personnel reforms were initial attempts at giving FAA this flexibility. How well do you feel the agency has done thus far in managing its reform efforts? What additional actions should be taken?

Answer. In February 1994, AOPA identified personnel and acquisition reforms as top priorities for successfully reforming the FAA. I was among the strongest supporters of the legislative provision that made it possible. However, I have been sorely disappointed by the FAA's slow and timid implementation of these powerful tools. While some progress has been made, the FAA is still a long way from realizing the kind of change that we had hoped for. In addition, there continues to be a lack of accountability that undermines the agency's effectiveness.

Question. What is your understanding as to the time commitment that will be required of members of the MAC? Do you have a sense as to how often the MAC will meet?

Answer. According to the FAA Reauthorization Act of 1996 (PL104-264), the MAC will meet on a regular and periodic basis, or at the call of the chairman or the Administrator. It is my sense that the MAC will meet on a quarterly basis, and perhaps more frequently if a situation arises that warrants extra meetings.

Question. Many observers agree that labor is the biggest cost driver at the FAA. Negotiations are underway with the FAA and a few of its employees' unions. Given your professional experience, how would you advise the Administrator to take a hard line, financially speaking, in these negotiations?

Answer. Many businesses, including aviation, are faced with union contract negotiations on an ongoing basis. There are companies and organizations which track and benchmark proper salary levels for specific skill sets. There is no reason why FAA management should not take advantage of this research in its negotiations. I would advise the Administrator to make use of these benchmark studies and other data in comparable fields. We are at a stage where technological change within aviation, just as it was when I worked in the TV industry, will require new "work rules" to increase productivity. In addition to changes in compensation, changing duties and work rules must be reflected and built into the contracts.

Question. Experienced observers have commented consistently on the negative consequences of the increasing number of non weather-related delays in the system. What recommendations for short-term improvements will you advance as a member of the Management Advisory Council?

Answer. Access to information is the key to access to the system. In other words, the FAA needs a central system database that is easily accessible by controllers, Flight Service Stations (FSS), and users. This system should be Internet based and should contain notices to airmen (NOTAM) information, Special Use Airspace (SUA) status information, sector demand/congestion information, etc. The current airspace structure is inefficient in part because users and service providers are not always able to take advantage of available airspace. Under utilization of airspace is a huge impediment to efficiency.

I would recommend the accelerated implementation of more low altitude Area Navigation (RNAV) procedures to improve access. It would only require minor procedural changes and ATC software enhancements to make this kind of routing more common.

I would also recommend the development of "routes" through existing SUA. For example, the Air Force and the FAA have just signed a Memorandum of Understanding that establishes a schedule for use of the Buckeye Military Operations Area (MOA) near Cincinnati Ohio. There will be two new Departure Procedures that cut through the MOA that will increase Air Traffic Control's ability to provide more efficient service to airports in the Cincinnati area. More cooperative efforts like this are needed.

There also needs to be more user collaboration in the design of terminal airspace. Terminal airspace design by the user group process can expedite the design process and lead to improved airspace design which will lead to better access and efficiency.

Question. Modernizing the National Airspace System has not kept pace with the demand for air travel and FAA has a poor track record of managing the acquisition of major systems. Most believed that major problems were behind us and FAA talks of embracing a "build a little, test a little" philosophy. But now, two key systems, STARS and WAAS, are experiencing problems. What can the FAA do differently to speed up the modernization effort?

Answer. First, I would argue that neither STARS or WAAS are using the "build a little, test a little" approach. Unfortunately, they are both being developed under the "big bang" approach in which they are trying to make the system operate perfectly before it is deployed. The FAA must involve system users in decisions early in the process. They need to insist on spiral development (build a little, test a little) with incremental milestones and specific pass/fail criteria at each milestone, and to establish realistic performance requirements based on experience. For example, 99.9999999% integrity is impractical if not impossible to achieve or at least prove and probably doesn't exist in any system design we are using today. Additionally, the FAA should focus implementation of proven systems to speed up modernization. For example, the Operational and Supportability Implementation System (OASIS) is a system to modernize flight service stations that has essentially been "approved" by the users and the flight service specialists, but for many valid and invalid reasons the FAA has been slow in deployment.

Question. Many believe that a root cause of FAA's problems in modernizing the National Airspace System is a lack of technical expertise. It is also believed that a small cadre of people with expertise could have a major impact. What is your view? How can the FAA enhance its overall expertise level?

Answer. The FAA has lost a lot of expertise to private industry due in part to pay scale, but mostly due to frustration with government process and bureaucracy. FAA has expertise in certain areas, but still does not fully understand airline or general aviation needs. FAA should do more to take full advantage of personnel reforms granted by Congress.

The National Civil Aviation Review Commission and others have projected that there will be gridlock in the skies within the next few years if dramatic steps are not taken to improve the air traffic control system. Do you agree with this assessment? Please elaborate.

As you may recall, the NCARC report included a graph which demonstrated that, given no changes to the air traffic control system, a rapid increase in airline delays will occur. The trend is startling when displayed alone, and it is the NCARC's principal reason for recommending radical, expensive changes. Unfortunately, this graph does not tell the whole story. The MITRE Corporation has identified ways in which currently available technology can dramatically reduce delays at relatively little cost and with little development or implementation time. The airlines acknowledge the utility of these programs for reducing projected delays—a fact the NCARC left out of its report. If the NCARC had seriously considered these alternatives, which are already beginning to be implemented, it might have come to a very different conclusion.

Question. Members of the Council represent disparate views. Recognizing this, how will members achieve consensus so that the advice given to the Administrator is in the best interest of aviation?

Answer. This question mirrors the question, and therefore my answer to Question 3.

Administrator Garvey has achieved a great deal of success at FAA through her use of consensus building with the aviation users. I have spent significant time at

meetings such as the RTCA, internal FAA meetings, and industry coalitions, working through a variety of options and specific needs with a membership similar to the MAC to reach meaningful compromise on critical issues. I am confident Administrator Garvey will employ a similar consensus building process that should serve the MAC well.

Question. FAA's operations costs have risen from \$3.8 Billion in 1990 to nearly \$6 billion in FY 2000 and these figures continue to rise. By FY 2003, FAA projects its operations account will grow to over \$7 billion. These costs are made up primarily of salaries which are expected to increase further as FAA continues to negotiate new pay agreements with its various workforces. What should be done to control these costs?

Answer. We now have a very labor-intensive system, and so it is true those operations costs are rising steadily and are expected to increase further. This is due in large part to the increased use of air transport, which is also growing steadily. But by no means is the growth in air traffic proportionate to the growth in operations costs. These costs can and must be controlled in the future. Already, there are a substantial number of technological improvements that have been tested and can now be funded through AIR-21 that, if implemented, would reduce controller workload and thus increase productivity. My experience in the television business, which experienced a similar modernization with a labor-intensive workforce, suggests operations costs can be controlled and productivity increased while still enhancing safety.

Question. Currently, airlines pay for air traffic control services through the ticket and fuel taxes. Many other countries have transitioned to user fees. What are your views on user fees? How quickly can the U.S. move toward user fees for domestic air traffic control services? How should general aviation and smaller airlines be handled in such a regime?

Answer. The MAC and the Air Traffic Control Subcommittee will debate this issue, so all members must keep an open mind. However, for years, the organization I lead has opposed user fees as a primary revenue source for the FAA, even if general aviation were completely exempt from the fees. Under a user fee system, the revenues collected would go directly to the FAA, diminishing the participation of Congress in oversight of the FAA's budget. I feel that congressional oversight is vital in the successful operation of the FAA, and should be maximized not reduced through user fees. Also, user fee collection itself would add a huge new cost burden to the FAA because setting up a system of tracking and collecting fees for each service provided by FAA would be enormously expensive. At our request, the House Treasury Appropriations Subcommittee requested detailed information from the Internal Revenue Service (IRS) as to the exact costs of administering the current aviation excise tax system. I think the information provided by IRS is significant and cautionary in terms of establishing a fee based collection system. As you may know, Internal Revenue Code sections 4261 and 4271 impose the taxes on air transportation. In FY96, less than 24 full time equivalents (employees), costing the Internal Revenue Service approximately \$1.7 million, certified collections of aviation transportation taxes. That's over \$5.5 billion raised with \$1.7 million!

I think any new funding system that replaces the excise taxes should not exceed this \$1.7 million collection cost. However, I can say with confidence that user fees wouldn't come close. In fact, when the FAA first tried to implement the \$75 million in user fees on foreign aircraft that fly over U.S.-controlled territory, the agency said it would require \$1 million a year alone to collect. Imagine translating that \$75 million to \$8 billion or more—the amount needed for a 100% user fee-funded system, and you get \$160 million in collection costs, which is 100 times the cost of collecting the excise taxes. In Europe, simple user fees based on weight and mileage are charged on en route traffic. Yet even these relatively easy-to-calculate fees can cause six-month delays in billing.

Additionally, the General Accounting Office reviewed the entire user fee issue several years ago (GAO/AIMD-98-11) and concluded: "Increased reliance on fee collections as an agency's primary source of funding has implications for federal budgeting and management that may call for a reexamination of the basic principles as well as the actual practices underlying the treatment of fees. Offsetting can inhibit congressional tradeoffs based on the relative merits of programs and can obscure the amount of spending for fee reliant agencies."

Question. The recently enacted FAA reauthorization bill established a pilot program that would allow the industry to cost-share with the FAA on discrete air traffic mod-

ernization projects. Do you think this program will help bring good technologies on-line more quickly?

Answer. Yes. Furthermore, it may provide the basis for technological innovation on both a national and worldwide basis. However, a balance must be struck to ensure modernization occurs in all communities, not just the communities with the resources to take advantage of this program.

Question. The U.S. air transportation system has an excellent safety record but more needs to be done. The key to improving safety while accommodating increased demand is being proactive. FAA must be proactive. How can FAA be more proactive in identifying safety concerns before they result in accidents?

Answer. The FAA is being very proactive in the General Aviation (GA) arena. Just recently, the FAA announced a supplement guide to the FAA Airworthiness Directives (AD) Policy Handbook, which was developed with the considerable input from AOPA. This supplement allows the various aircraft and pilot organizations/clubs (who represent the real users) the opportunity to provide the FAA with meaningful engineering and risk assessment data on airworthiness concerns not available under the current FAA policy of AD issuance. This "AD Coordination Process," as allowed by this supplement guide, will provide the FAA with a significantly higher degree of airworthiness data and technical expertise currently unavailable within the FAA. The current excellent level of safety of the GA fleet is expected to be maintained and improved even further as the average age of the GA fleet slowly increases over the next few years through this new User-FAA collaboration.

One of the biggest safety issues to receive much attention is runway incursions. The Air Safety Foundation has advocated for changes to procedures that could reduce runway incursions for the last 5 years with little change in FAA policy. In fact, there have been 4 or 5 runway incursion managers within the last 3 years! Each time a new one comes in, they start to create an "action plan." Obviously, FAA should take industry consensus recommendations and move forward with them rather than spending years developing an "action plan."

As mentioned above, use comparative risk analysis instead of holistic safety analysis.

Stop with the 99.999999%-type certification requirements for avionics/ground system certification when pilot and aircraft performance is less than 99.9%. Then, quit worrying about protecting negligent pilots from themselves.

Approve the use (or at least not prohibit the use) of new uncertified technology for use in aircraft. Examples: withhold information from pilots using uncertified equipment for fear they will intentionally misuse it, e.g. approach procedures in Global Positioning System/moving maps (GPS) for situational awareness restrict non-precision approaches for VFR GPSs and precision approaches (localizer-type) for IFR GPSs, the provision of high resolution weather graphics to cockpit for hazardous weather avoidance, the uplink of ATC radar-derived traffic information to aircraft for enhanced see and avoid (known as Traffic Information Services-Broadcast), etc.

Question. If confirmed, is there a particular FAA function or activity that you will focus your attention on?

Answer. While there are a myriad of issues to be addressed by the MAC—the one overriding issue no one can lose focus on is SAFETY.

RESPONSE TO WRITTEN FOLLOW-UP QUESTIONS SUBMITTED BY HON. JOHN MCCAIN
TO PHILIP BOYER

Question. In your response to my post-hearing question regarding my position on user fees, you imply that you did not misrepresent my position on user fees. But the AOPA press release is misleading on its face. It says, "McCain pushed the user fees proposal." Nowhere does it clarify that I was *not* referring to the vast majority of AOPA members, who do not own corporate jets. This is obviously critical to our exchange at the hearing and left many of your members with the clear impression that I want to impose air traffic control (ATC) user fees on piston-powered, propeller-driven general aviation (GA) aircraft, which has never been the case.

The AOPA press release also said that I questioned your qualifications for the MAC because of AOPA's continued opposition to user fees. This is another misrepresentation. As the record indicates, I questioned your qualifications because you believe that corporate jets should not pay any additional fees for using more and more of the ATC system. That fact that soon after the hearing I began receiving letters from AOPA members decrying my attempt to impose ATC fees on the average GA

aircraft is ample evidence that you have kept them in the dark as to key aspects of my views.

These are just two examples of how you continue to misrepresent my position on these matters. Others in the aviation community, including many who don't support user fees, agree that my position has been distorted.

So I ask once again what will you do to correct the misrepresentations of my positions in your contacts with AOPA members?

Answer. Again, I do take very seriously your concern that my press statement after the MAC confirmation hearing was somehow misleading. After once again carefully reviewing the transcript of our discussion, provided by your staff, I still do not believe any such misrepresentation took place. You first specifically asked me if "corporate aircraft" should pay user fees. As I explained in my previous set of answers, the corporate fleet contains at least 25 percent (54,000) propeller driven, piston powered aircraft. Those are my members and I do not believe they should pay user fees. Later in our discussion you asked if "corporate jets" should pay user fees. Again, as I mentioned in my previous set of answers, those who own corporate jets are only a small-subset of the AOPA membership and this group of companies, flight departments and manufacturers are the core of completely different associations in Washington, D.C. However, corporate aviation is part of the general aviation community and I will never play a part in any strategy designed to "divide and conquer" our community.

No pilot has contacted me personally subsequent to receiving a response from your staff indicating I somehow misled them with my press statement. Perhaps this May 8th exchange between the editor of *Avweb* and a reader illuminates the general aviation community's feelings on this matter:

"I called Sen McCain's office to ask about the user-fee thing that AVweb reported about this week. You might want to call his office directly and clarify his stand because what I got from your report was different from what I got when I called his office . . . although maybe Boyer and McCain did have the energetic exchange in that meeting :-).

Scott (from McCain's office) said that the Senator has always been against user fees for GA. What they were trying to do was to capture the CEO's flying in Lear jets so that they'd pay the same kind of user fees that normal transport passengers already pay in the form of 'facility fees.' The charter jets evidently don't pay those fees now.

I agreed with his goal, but pointed out the difficulty of designing a net to capture these guys but not capture GA pilots. It sounds a lot like the dolphin-safe tuna nets that the fishermen are supposed to use now.

AVweb responds . . .

Paul, there's no clash here. Almost everyone who supports fees-for-service claims that they're opposed to charging those fees to low-end GA aircraft . . . but they do want to sock it to the fat-cat corporate operators. The problem is: Where do you draw the line, and how can you be sure that the line won't be moved? Am I and my Cessna T310R considered to be an exempt flib or a sock-it-to-'em business aircraft? Is a CitationJet to be charged but a King Air F90 exempt? This is why opponents of fees-for-service (like AOPA's Boyer) are dead set against allowing this concept to get any foot-in-the-door whatsoever.

I use the term "fees-for-service" rather than "user fees" because the current fuel taxes are certainly user fees, but unlike fees-for-service, they do not threaten safety by providing operators an incentive to pass up needed services (e.g., weather briefings from FSS or IFR services from ATC).

Those of Sen. McCain's persuasion argue (with good logic) what while an Aeronca pilot might pass up a needed weather briefing if a fee was involved, a Gulfstream V pilot clearly would not. The problem, once again, is where do you draw the line, and how do you make sure that the line doesn't move?"

Question. In response to a post-hearing question regarding our coming to an agreement that recreational aircraft should be exempted from ATC user fees, you state that AOPA never came to an agreement with the authors of S. 1239 on the subject of user fees. At the hearing you explicitly said that "we came to an agreement" on carving out sport and recreational aviation from the imposition of ATC user fees. How does that comport with your answer to the post-hearing question? Is this a mistruth or did you misstate yourself before the Committee?

Answer. I apologize if my answer was unclear. I was simply trying to note that in my letters to the Commerce Committee of November 8, 1995 and August 2, 1996, AOPA acknowledged the Committee's eventual attempt to exempt some elements of general aviation from paying ATC user fees. As you see in the next question, clearly

I disagreed with the Committee's proposed language and indeed the underlying philosophy surrounding the need for user fees at all.

Question. In further response to the same question, you state that neither the FAA nor DOT have a designation for "sports and recreation aircraft," and you feared that the legislation could be deemed to apply to the majority of general aviation operations. You also state that 60 percent of AOPA members use GA aircraft for business purposes at one time or another, so the exemption from ATC fees for recreational aircraft might not apply to them. But S.1239, as approved by the Commerce Committee, explicitly exempts "reciprocating piston engine aircraft not used to provide air carrier service." Unless you are telling the Committee that the majority of GA aircraft operators are part time "air carriers," which is defined by the FAA and DOT, your analysis appears to be off base. If you honestly believed that the language was imprecise, but understood the clear intent of the supporters of the legislation, why didn't you try to work with the authors to craft language that would meet the mutual goal of exempting the vast majority of GA operators? Is it really your position that precise and accurate language cannot be drafted under any circumstance?

Answer. Senator, I think we need to look at this issue in both general and specific terms. Generally, throughout 1995 and 1996 AOPA advocated a number of legislative changes to improve FAA efficiency—including creation of an advisory group which I am pleased to say became the FAA Management Advisory Council. However, we never supported the concept of user fees. Our correspondence with the Senate Commerce Committee through the summer and fall of 1995 disputed the need for user fees not only on general aviation in particular but the need for them at all. Other issues aside, with billions of dollars unspent in the Aviation Trust Fund and the Congress contemplating broad tax cut legislation we simply did not believe increasing aviation taxes passed what we liked to call the "town meeting test." That's why AOPA supported the alternative approach developed by Senator Stevens.

Specifically, I do not believe it is fair to categorize our opposition to S.1239 as a misunderstanding of the clear intent of the supporters of the legislation. We understood its purpose quite well. In a November 8, 1995 letter to the Senate Commerce Committee we stated: "*No segment of the aviation industry is exempt from the new training, licensing and regulatory fees imposed under the bill and this is the area which will have the greatest impact on our members.*" These are services for which our members already pay substantial sums to designated individuals to whom FAA has delegated authority to perform services on its behalf. The fees under S.1239 are in addition to the amounts our members are already required to pay and they represent a tax increase pure and simple."

But whether or not the definition of "sport and recreation aircraft" could have been further refined to definitively protect the 60 percent of pilots who fly occasionally on business—it wasn't—and misses our primary point. S.1239 was never modified to address our main concern, the user fee regime and its specific new training, licensing and regulatory tax increases on all pilots.

Question. In responding to my post-hearing question regarding what it would take for you to claim a successful year as a member of the MAC, you said that the FAA needs a clearer strategic path to solving ATC delays. Would you please provide details on what you believe this path should entail?

Answer. I believe the best course of action would entail initially segmenting and prioritizing each type of delay. As a next step we should pick off the "low hanging fruit" of delay categories that can be quickly addressed. In the long term we should then build into technology (both new and ongoing) solutions to address the more difficult categories on the list. Throughout the process it would be my hope we could continue in the industry consensus manner that Administrator Garvey has made a mainstay of her management.

Question. One of my post-hearing questions to you concerned the issue of contracting out some FAA operations, such as control towers, oceanic services or maintenance activities.

Please comment specifically on the proposals to contract out oceanic services or maintenance activities.

Answer. Although we understood the rationale, general aviation was vitally concerned when level one towers were made contract facilities. We watched the process, monitored our membership's feedback and I am pleased to say we saw no significant changes at these facilities. However, extension of this program to other types of facilities such as approach and departure control or centers does pose concerns to us and others in the aviation community.

As our membership rarely uses oceanic services or interfaces with FAA on maintenance issues, I would need to undertake some further research in order to comment. However, the balance of aviation viewpoints provided by President Clinton's MAC nominees would serve us well in this regard. For example, Bob Baker of American Airlines may have little personal knowledge concerning the contracting out of level one towers, but his expertise on contracting out oceanic services would be invaluable.

Question. You responded that there is no reason why certain services for GA (such as instrument approaches) could not be handled more quickly and cheaply through contracts with the private sector. What have you or AOPA done to advance this idea?

Answer. We have strongly advocated contracting out development of instrument approaches, particularly GPS approaches, to both FAA and the House/Senate Appropriations Committees.

Question. I was not entirely clear on the part of your response that said that ATC operations for contracting out would probably be limited to functions not directly tied to the huge and interlocking national ATC system. Please clarify and elaborate.

Answer. Air traffic control is a national system with no competition. Although there are economies of scale in shared services like communications, in my opinion these do not lend themselves to outside contractors handling only a portion of the task. On the other hand, my earlier comments about opportunities were in full consideration of the non-interlocking elements of FAA operations that could be candidates for contracting out.

Question. Another one of my post-hearing questions concerned major shortcomings of the FAA and how you would prioritize the issues on which the MAC should focus. You responded by identifying several key problems from your point of view. Given the problems you've identified, please comment specifically on how you would advise the FAA to fix them.

Answer. The position on the Management Advisory Council is advisory in nature, acting collectively as a broad based board of directors. We were not nominated to manage the agency on a day to day basis offering direction on a one-on-one basis to FAA management. This is a more appropriate question were I to be nominated as FAA Administrator.

Question. In response to one post-hearing question, you stated that the FAA must operate with a business-like approach, then you identified a couple of examples where this has happened within the agency. Please identify other areas within the FAA where this approach could be applied. Other than rewards for performances and accountability, what specific aspects of private sector enterprises can be applied to the FAA? Can the FAA's culture be changed for the better in other ways?

Answer. Although the private sector operates in a variety of manners, all successful management structures have a certain common framework. At AOPA performance and accountability operate under the S.M.A.C.T.O. guidelines: Specific, Measurable, Achievable, Compatible (with the mission and responsibility of the manager), Timebound and making a specific individual the Owner.

Question. In response to one of my post-hearing questions, you indicated that you have been disappointed by the FAA's slow and timid implementation of personnel and procurement reform. What must the FAA do with these "powerful tools" in order to realize the kind of change that had been hoped for? Also, what must the FAA do to take more full advantage of personnel reform in order to enhance the agency's level of technical expertise?

Answer. The House Aviation Subcommittee held a hearing recently on Wide Area Augmentation (WAAS) delays and cost overruns. At that time, GAO testified that "software development—the most critical key of FAA modernization programs—has been the Achilles' heel of FAA's efforts to deliver programs on time and within budget." GAO further noted that, with respect to WAAS goals, FAA has a lack of in-house technical experts, as well as team attention to other important issues such as system design.

I agree with GAO's assessment. I believe that had FAA implemented the personnel and procurement reform granted them by Congress, WAAS would be delivered on time and without the extraordinary contract burn rate (estimated to be about \$4 million a month) we are facing now. FAA should have hired a team of in-house software developers, and procured the tools needed for system design, development, and monitoring.

Question. One of my post-hearing questions asked you whether you agree with the assessment that there will be gridlock in the skies within the next few years if dramatic steps are not taken to improve the ATC system. Your response proceeded to criticize the NCARC, but did not really address the underlying question. Although MITRE and others have concluded that technologies exist that may help in the short run, I am not aware of anyone who seriously believes that these technologies will solve the problem of how to handle fully the increased ATC load projected by every reasonable forecast. Do you, or do you not, believe that gridlock will occur without dramatic steps? If not, please explain in detail how the technologies to which you refer negate the gridlock assessment.

Answer. Yes, I did criticize the National Civil Aviation Review Commission's report; they left out critical assessments made by the MITRE Corporation, and supported by the airlines, detailing ways in which currently available technology can dramatically reduce delays without costing billions or incurring cost overruns. In direct response to your question though, I do not believe that the gridlock will occur in the skies—the FAA will continue to separate and move aircraft—rather, the “choke point” will be the airports. Currently, approximately 75 percent of commercial flights operate out of just 30 airports. While the amount of available airspace surrounding these airports is great and capable of supporting more traffic, it is unlikely a runway will ever be used by more than one aircraft at any given time. We must see a continued dedication to building new runways and gates and other infrastructure—FAIR 21 is a move in the right direction.

Question. With respect to the FAA's increasing operating costs, you responded to a post-hearing question by stating that these costs can and must be controlled in the future. You cite your experience in the television business and conclude that operations costs can be controlled and productivity increased while still enhancing safety. Please provide the Committee with specifics in this regard.

Answer. Obviously, as with the most recent controller contract, changing work rules to take advantage of technology without compromising safety will be vital. For example, 25–35 percent of a controller's time is devoted to directing frequency changes. Therefore, the CPDLC automating this process frees up controllers for other duties. If the aircraft does not change frequencies it will be evident on the controller's monitor and can be corrected through follow-up voice communication. Hence, safety is maintained while productivity is increased.

Question. What will the MAC do (i.e., how will it advise the Administrator) if it can not reach consensus on an important issue?

Answer. Just as you do, I would recommend submitting majority and minority views to give the Administrator the benefit of all views on the matter.

RESPONSE TO SECOND WRITTEN FOLLOW-UP QUESTIONS SUBMITTED BY
HON. JOHN MCCAIN TO PHILIP BOYER

Question 1. In your response to two sets of post-hearing questions, you essentially deny that you misrepresent my views to your members. Unfortunately, my previous examples of your misrepresentations did not seem to get my point across. Therefore, I will provide a few more illustrations. With respect to the continuing misrepresentations of my views on ATC user fees, I will quote the AOPA website to demonstrate my point: After the MAC nomination hearing on May 5, the AOPA website stated:

In a terse exchange, McCain pushed the user fee proposal. Boyer answered that the Aviation trust fund should be funded by the taxes that pilots and aircraft owners pay when they purchase aviation fuel.

McCain then asked MAC nominees representing the airlines and pilot unions if they were for user fees. Both supported a “performance based” system that would charge a user fee every time an aircraft used ATC services.

Because of AOPA's continued opposition to user fees, McCain then told Boyer, “I seriously question your qualifications for this council.”

I am not asking that you or your members agree with me on the issue of user fees. My reasonable expectation is that you properly characterize my position on important issues like ATC user fees. As I've stated before, nowhere does this new release clarify that I was referring only to corporate jets. Furthermore, by mentioning a system that charges a user fee every time an aircraft uses ATC services, the statement wrongly implies that I support user fees on all GA aircraft. In the context of my views and the discussion at the hearing, your failure to clarify that I do not support ATC user fees for all GA aircraft is a critical omission in an important public policy debate. I also must clarify, as you should with your members, that I ques-

tioned your qualifications because you believe that corporate jets should not pay an additional fees for use of the ATC system when airline passengers have recently had additional fees imposed on them, not because of your opposition to ATC user fees for all GA aircraft, as implied by the news release.

Ironically, your response to an initial follow-up question proves my point that your members are misled by the type of statements that you make. It appears that the AVweb report the reader was referring to was based almost entirely upon the AOPA news release quoted above. That reader correctly realized that the report needed clarifying after he took the time to inquire about my actual position on user fees. The reaction of that person is unfortunately typical of far too many in the GA community. Since the hearing, I have received many phone calls, letters, and e-mails asking me why I want to impose user fees on GA aircraft. Most everyone is amazed to learn that I have only been concerned with corporate jets.

I think that it is the responsibility of the head of an organization such as AOPA to fully inform its members when it comes to an important aviation policy matter. To be a productive participant on the MAC, a person must be able to consider even unpopular issues in an honest and fair fashion.

In closing, there is an additional example of your misrepresentation that should be noted. As of September 15, the following statement appeared on the AOPA website:

“Boyer asked [McCain] for a “timely disposition” of his nomination. Sen. McCain never responded.” This statement is false on its face as well as misleading. In the letter being referred to you stated, “A timely disposition by the Committee on my status will serve to end the press speculation, misinformation, and unsolicited AOPA member reaction to this situation.” This is a statement of your opinion. Nowhere in your letter is a question or request specifically posed to me. Regrettably, this is typical of the way you and AOPA portray my actions and positions.

For the third time, what will you do to correct the misrepresentations of my positions in your contacts with members of AOPA?

Answer. Mr. Chairman, I regret that you feel that I have misrepresented your beliefs on user fees regarding general aviation. I have acknowledged publicly and in print that our difference in opinion on user fees turns on the understanding of corporate aircraft. It is also my understanding that you feel that some segments of general aviation, specifically jets registered under corporate papers, do not pay “their fair share.” You used the term corporate aircraft interchangeably with the term corporate jet in the nominations hearing, which is why AOPA’s news release did not state that you support user fees only for corporate jets, rather than for all corporate aircraft.

It is my understanding that you are advocating user fees primarily for corporate entities because you believe that there is a disparity between the services received and the taxes paid by these aircraft, especially in comparison to commercial airliners. I disagree with you on the matter of user fees for any part of the general aviation community. General aviation, defined as non-commercial and non-military aviation, is comprised of aircraft ranging from one-seat single engine piston aircraft to long-range jets. The gamut of general aviation pays taxes into the Aviation Trust Fund via a fuel tax of 17.5 cents per gallon versus commercial aviation which pay taxes into the Trust Fund via a fuel tax of 4.5 cents per gallon and through the collection of an 8% ticket tax and a segment tax from passengers.

Neither AOPA nor I misrepresented your statements in the press. Corporate aircraft is a broad category. Many members of the Aircraft Owners and Pilots Association who fly small piston-engine aircraft for personal and business reasons have registered their aircraft under a corporate name. In fact, some 25% of U.S. propeller-driven, piston-powered aircraft (approximately 54,000 small General Aviation aircraft) are registered as corporate aircraft. The fact of the matter is that general aviation is a varied body politic and I believe that its interests are collectively at odds with user fees. So although you may believe that one segment of the general aviation community should be subject to user fees, as a leader in the general aviation community, I respectfully disagree with you.

In terms of correcting what you regard as a misrepresentation of your stance on user fees for general aviation, I feel that I have been both specific and fair in representing our individual philosophies. I regret that you are unsatisfied with “the misrepresentations of [your] positions in [my] contacts with members of AOPA,” and remain unsure on how to resolve our differences. Perhaps you have some suggestions on how we may breach our current impasse. I welcome your suggestions.

As you noted in the most recent set of questions which I aspire to answer definitively, it is my opinion that a timely disposition by the Committee on my status will serve to end the press speculation, misinformation, and unsolicited pilot reaction to

this situation. If you do not intend to allow my nomination to move out of the Committee as you were recently quoted as saying in Aviation Daily, please do the members of AOPA and myself the courtesy of saying so in an official response.

Question 2. One of my follow-up post-hearing questions asked how you would advise the FAA to fix major shortcomings of the agency that you had identified in your answer to one of my original post-hearing questions. You stated that the MAC nominees “were not nominated to manage the agency on a day to day basis offering direction on a one-on-one basis to FAA management.” My question, however, focused on what *advice* you would give to the FAA to fix problems that you identified specifically. That is precisely the type of activity Congress expects the members of the MAC to engage in. As stated in the enabling legislation, “With respect to Administration management, policy, spending, funding, and regulatory matters effecting the aviation industry, the Council may submit comments, *recommended modifications*, and dissenting views” 49 U.S.C. 106(p) (1) (Emphasis added). Therefore, I ask you again, please comment specifically on how you would advise the FAA to fix the key problems you identified in a response to an initial post-hearing question.

Answer. I appreciate the opportunity to share my advice on how the FAA should address its shortcomings. Like the Department of Transportation Inspector General Ken Mead, I believe that further modernization and subsequent strengthening of the aviation system are dependent upon the FAA “controll[ing] its operating costs, do[ing] a better job of negotiating contracts for large software intensive efforts that include appropriate measures to withhold payments if progress is not satisfactory, and implement a sound accounting system.” I also believe that the FAA should continue to move towards full implementation of the management reforms that have been granted by Congress. My recommendation for the FAA is to continue to work towards implementation of these principles. I believe that the Management Advisory Committee will be very helpful to the FAA in developing strategies to meet these goals, especially those members with corporate experience.

Question 3. In response to a follow-up post-hearing question, you stated you believe that gridlock will not occur in the skies—rather, the “choke points” will be the airports. I agree that airport infrastructure is a part of the congestion and delay problems. However, building runways and airports takes significant amounts of time, and space for such development is limited or nonexistent in many areas. As the DOT Inspector General recently testified, there are 15 new runways either proposed or under construction at the 29 largest airports, most of which will not be opened for another three to seven years. Furthermore, local communities are primarily responsible for the construction of new airports and runways, and they must confront “not in my backyard” attitudes and environmental restrictions.

- Do you still maintain that more airport infrastructure and currently available technology will fully address the problems associated with congested airways in the future? If not, what changes to you advocate?

Answer. I appreciate the opportunity to address this issue. While more airport infrastructure and employment of currently available technology are critical to addressing the congested airways, if there are no airspace and procedural changes, current and future technologies will not be fully utilized. The FAA needs to take a more systematic approach to airspace and air traffic management. While the system is made up of interdependent elements it often operates as if these elements are independent of one another and the result is unforeseen congestion and delay. Fundamentally, the National Air Space must be more flexible in order to leverage new technologies and improve efficiency.

Increased flexibility will require a combination of procedural solutions and automated capabilities. As new technologies provide controllers and pilots with enhanced information and capabilities, current system restrictions should be eliminated. A redesign of the airspace should be completed with emphasis on preparing the airspace for the full implementation of Free Flight and advanced navigational systems. One of the limiting factors in the NAS today is ground-based navigational system (Victor-jet routes and their associated infrastructure) which cause constraints to users. More direct routes are possible using present-day FMS or GPS systems combined with RNAV procedures.

The following principles should be applied to the NAS airspace redesign to support free flight:

- airspace design should be flexible and dynamic as it is accommodating dynamic, rather than static, situations. A more flexible system should have greater capability for handling “unusual situations.”

- the goal of the airspace redesign should be to separate aircraft from aircraft rather than separating aircraft from airspace.

Regarding the Terminal airspace environment: the following procedural and airspace changes would leverage new technology to improve capacity:

- improved precision instrument approach capability. RNAV vertical guidance capability should be utilized as much as possible for qualifying airports. Additional precision approaches at satellite airports in major metropolitan areas would make them more accessible during low instrument weather conditions.
- IFR and VFR transition routes in terminal areas. Controller workload often limits access to terminal airspace, especially terminal with Class B airspace. Defined transition routes that are clear of major arrival and departure traffic flows could improve access for transiting flights by reducing controller workload. Transition routes for VFR flights have been implemented successfully in several Class B terminal areas. This technique should be implemented at other locations.
- increased use of VFR flyways. VFR flyways and corridors allow non-controlled flights to traverse large, complex terminal areas without having to make lengthy deviations around the Class B airspace. Use of flyways should be expanded to more Class B locations.
- increased access to unused terminal airspace as traffic allows: At certain locations large portions of the Class B and C airspace are unused by ATC depending on the runways in use and the direction of the major arrival and departure flows. These locations should be evaluated for procedures that would allow use of this airspace by uncontrolled traffic.
- redesign Class B and C airspace to be aligned with arrival/departure flows. The current circular-based design of Class B and C airspace is inefficient and portions are underutilized. The airspace should be redesigned based on the major traffic flow patterns, which would provide more efficient utilization and greater access for general aviation.
- continue to implement RNAV approaches at general aviation airports and non-hub airports. Additional access to general aviation airports during instrument meteorological conditions provides greater return on investment in aircraft and equipment. Lack of precision and non-precision instrument approach capability hinders access to many general aviation airports and RNAV approaches can expense this access without the expense of installing an ILS.
- implement dynamic Class B airspace. “Flexible” terminal airspace boundaries would enhance capacity. Dynamic, rather than permanent boundaries could serve the flying community more efficiently. For example, the current DFW Class B airspace configuration which is based upon operations using both a South and North flow. With winds generally from the South and only occasionally (15% of the time) from the North, this results in the unnecessary blocking of airspace. If the boundaries were flexible, more equitable use of the airspace could be realized.
- reevaluation of procedures and flows prior to redesign of airspace. Reevaluation of the efficiency of current procedures and their accommodation of current and future traffic could occur.

In the Enroute Airspace Environment, the following procedural and airspace changes would leverage new technology to improve capacity:

- development of routes and procedures that support IFR and VFR operations through the NAS. This would include an RNAV waypoint structure to enhance IFR point-to-point navigational capability as traffic conditions allow.
- Redesign airspace so all flights are at their optimal altitudes. Through the use of advanced navigational capabilities it will be possible to fly conflict-free optimized routes. Additionally, the implementation of advanced navigational capabilities and new surveillance technologies will facilitate the establishment of a Required Navigational Performance (RNP) air traffic environment and the creation of procedures allowing simultaneous operations (approaches and departures) in constrained environments, such as closely-spaced runways or airports. Traffic flows should be analyzed to how well they will provide benefits and efficiencies to the user as well as reduce controller workload. Procedures should be established for entering and leaving the enroute domain that permit optimized climb and descent trajectories.

- reexamine center concept. We could improve efficiency by reducing the number of Air Route Traffic Control Centers. Doing so would improve efficiency by reducing coordination across sector boundaries and it would also reduce the amount of facility “parochialism” that exists in today’s air traffic system. Many users advocated a reduction in the number of ARTCCs. It should have the secondary effect of reducing the need for static restrictions to manage the coordination.
- reexamine sector concept. In addition to reducing the number of centers, a reduction of the number of sectors at upper altitudes is also advised. Sectors might not be needed in their current form as technology changes the way air traffic control is provided. There should be some consideration of flexible sector definitions or flexible ATC parameters. Sectors could be combined or separated and realigned as demand dictates.
- What constitutes a “dramatic” reduction in delays to you?

Answer. There are always going to be “system” delays, and with more dramatic weather phenomena patterns evolving there will never be a time when delays are non-existent. I’d say that the dramatic reduction would depend largely on creative strategies of the airlines and their choices about the airports and runways they will use along with the technologies they support and equip with. Investing in both will probably bring delays to a tolerable level, but there are too many factors that can create delays to dramatically reduce delays, except an economic downturn.

A dramatic reduction in delays would begin with a halt in the increase of delays despite any additional stresses to the system, including weather phenomena. Once growth is halted, any measurable erosion of delays would be significant. From a passenger perspective, I would say that a dramatic reduction of delays would occur when one can depart and arrive via air travel on a timely basis for significant stretch of time. In sum, there is both the academic version of delay reduction and the personal perception of what constitutes a reduction in delays.

- When you say that “currently available technology can dramatically reduce delays,” what technology are you talking about; where is it deployed; where should it be deployed to dramatically reduce delays; and under the current FAA structure and given past FAA practices, how long will that take?

Answer. There isn’t one specific fix that will fully address the congestion problems of the future. It has to be a combination of technology enhancements, airspace management and airport pavement. As for technology, there are technologies available today that will enable pilots and air traffic controllers to utilize available airspace more efficiently. The end-state will be a free-flight environment where aircraft fly direct routing at any altitude they desire.

In regard to the ATC technologies currently in development: For controllers, the core group of capabilities are currently being implemented at key air traffic control facilities in the nation’s airspace system include the capabilities identified in Free Flight Phase One. The tools give controllers better access to information about conflict resolution, final approach spacing and balanced runway assignments for maximum use of available asphalt and concrete. The FAA should continue to field these tools along with next generation upgrades that will prepare the ATC infrastructure for increased traffic volumes.

In regard to the technologies for aircraft currently in development: Communications: The aviation industry is moving forward with avionics that provide more frequencies and will enable air-ground communications via text messaging for routine air traffic control clearances. These increased communications capabilities will support forecast spectrum and communications performance needs established by air traffic control. Navigation: The aviation industry continues to transition to an Area Navigation (RNAV) environment. AOPA’s continued advocacy for the development of the Wide Area Augmentation System supports this transition for general aviation and commuter airlines. Surveillance: Just this month, the FAA certified a very exciting tool for large aircraft: ADS-B. In addition to being a low-cost surveillance system in the future, ADS-B enables controllers and pilots to see the same tactical traffic picture and work together to efficiently manage flow.

Two of these three enhancements (Navigation and Surveillance) will be publicly demonstrated later this month when the Safe Flight 21 Operational Evaluation (SF21 OpEval) is conducted in Louisville. These technologies are available and the FAA needs to respond by demonstrating a willingness to move forward quickly. The FAA should also established aggressive schedules for the Free Flight Phase one programs. Although these technologies are not the complete solution to reducing airborne congestion, they offer certifiable, near-term improvements.

Length of time to implementation will be determined by cooperation between the FAA and users of the system. Consensus is the key. The FAA needs to identify pathways where all aviation users benefit. When there is consensus from the major user interests the FAA will find that programs can move the fastest and with the least difficulty. System design and implementation of the future requires that all users work together to keep the FAA moving in the right direction.

- What specific suggestions do you have to facilitate the building of runways?

Answer. Building runways and airports take significant amounts of times. There are a number of steps Congress and the FAA might undertake to facilitate increases to available airport capacity and reduction in associated delays. The Military Airport Program (MAP) authorized by Congress and implemented by the FAA allows federal investments in "surplus" military facilities that have been converted to civil use airports. However, a number of airports that could be open for civil use and enhanced capacity in delay prone areas of the U.S. have not been opened for civilian use but rather will be converted and sold for other uses. These included South Weymouth, Massachusetts, Alameda, California, Moffett Field, in San Jose, California, and El Toro in Orange County, California. These multi-billion dollar federally funded facilities are not yet surrounded by residential development and would be less likely to create noise impacts on local communities.

The environmental process should be streamlined. Airport projects identified as high priority should be eligible for an expedited review and implementation of any mitigation measures.

Airport sponsors should have additional flexibility in acquiring property surrounding the airport for the purpose of creating buffer zones.

A national policy on the use of land planning surrounding airports should be developed with the intent of preserving existing open space and permitting future growth of the airport when necessary. Again, this comes back to the point that impacts on airport capacity and delay have a direct impact on the national system of transportation as well as the economic health of the nation.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN MCCAIN
TO DEBORAH BRANSON

Question 1. How will you hold the FAA Administrator accountable for setting goals, and for meeting these goals?

Answer. The MAC will serve much like a corporate board of directors. Although the direct powers of the MAC are limited, its members can help focus the Administrator's attention on appropriate goals and their execution. The Administrator, for instance, is attempting to create an organization with performance goals. The MAC might offer input as to the goals and a system for follow-up at predetermined intervals, in which a comparison is made between the actual performance and the goals.

Question 2. As you know, the law enables the Management Advisory Council to oversee FAA spending matters. The recently-enacted FAA reauthorization bill significantly boosted FAA spending on airport grants. As a member of the Management Advisory Council, do you believe it is important that the FAA establish and follow criteria for allocating discretionary grants according to safety and efficiency priorities?

Answer. Yes, I cannot imagine a circumstance in which safety and efficiency should not be priorities. The FAA, under the Ford AIR-21 Bill, will have \$3.2 billion dollars to spend on airport projects, not including funds generated from the increase from \$3.00 to \$4.50 for passenger facilities charges. With the increase in demand for air travel expected to top one billion passengers by 2009, and knowing that a corresponding increase in operations will also occur, the MAC must make certain that these grants are directed to their highest and best use.

If we do not expand capacity at our nation's airports, we will face substantial increases in delays and run the risk of impairing safety. It is a risk we cannot afford to take. The MAC must oversee the implementation of criteria for airport funding or we will fail in our mission to make the FAA more accountable and to make our air transportation system ready to meet the impending challenges safely and efficiently.

Question 3. Knowing what you do about the FAA today, what change would have to take place in the coming year for you to claim success as a member of the Management Advisory Council?

Answer. Success within one year of confirmation as a member of the MAC would include evidence that the overall capacity of the national airport and airway system is being enhanced while maintaining the absolute highest standard of safety.

Question 4. The legislation that established the Management Advisory Council addressed certain duties specifically, such as reviewing the FAA rulemaking cost-benefit analysis and reviewing the agency's process for issuing Advisory Circulars. How do you expect the Council will decide what other issues to comment on, among the issues that fall within the category of management, policy, spending, funding and regulatory matters before the Administrator?

Answer. It is difficult to know how these decisions will be made. As a general rule, however, boards sort out the most pressing issues to deal with first. The statute enumerates specific areas to be addressed and those should be among the first group. In addition, the new statutorily-mandated COO should work with the MAC to establish priorities.

After that, choices will be dependent on a number of factors which may include individual concerns and expertise of the MAC members, who is elected Chair, particular circumstances which may arise in the field of aviation, specific requests for comment by the Administrator, etc. Diligent oversight with regard to each of the categories is called for.

Question 5. There have been many calls for privatizing FAA's air traffic control services and other countries, including NAVCANADA, have privatized. Such steps are controversial and should not be taken without considerable debate. However, given FAA's rising operations costs, what are your views on contracting out some FAA operations such as additional control towers, oceanic services, or maintenance activities?

Answer. I stand by my initial response noting that any decision regarding privatization should not be taken without considerable research, analysis and debate involving all parties. I, again, want to emphasize that safety should be accorded the highest priority when evaluating this issue.

Having said that, further research on this topic has made it clear that there have been increased discussions, and some activity, regarding the privatization of certain parts of air traffic control services. For instance, the operation of all Level One towers are now contracted to private companies. They are operated under FAA's guidelines—at approximately 50% of the previous cost and with comparable safety and efficiency. Although I understand it would be very controversial, expansion of this program might be considered.

Privatization of oceanic services may make sense, too. It involves a discrete segment of FAA services (easy to separate from others), so there is a potential increase in services and savings in cost to be found in an outside contract.

There are ongoing negotiations between the FAA and PASS, the union of maintenance workers, in which contracts for maintenance is an issue. Many purchases and/or new equipment leases are being made with attendant maintenance agreements—as is typical of the private business world. The same sorts of considerations are applicable whether the business making the decision is the FAA or a law office. They include cost of the agreement versus cost of an employee, whether repairs will be guaranteed on a timely basis, the availability of emergency service, the cost of continued training, access to parts, etc.

Question 6. I recognize that each of you was nominated to serve on the Management Advisory Council in part to share your unique perspective as the result of your employment in or around a certain sector of the aviation industry. Nevertheless, do you anticipate any circumstances in which you would have to recuse yourself from comments on a particular FAA action because of a potential conflict? If so, please give me an example.

Answer. I do not anticipate any circumstances in which I would have to recuse myself from commenting on a particular action because of a potential conflict. In the event any conflict, real, apparent, or perceived arises, it will be my duty to disclose such and my comments as a member of the MAC can be considered within that context. Further, to date, there has been no situation involving our firm's aircraft litigation in which I would have had a conflict with the FAA, nor am I aware of any potential conflict at this time which would mandate recusal.

Question 7. Can we expect you to take an active role in oversight of the FAA's management of and modernization of the air traffic control system, at least until the members of the Air Traffic services subcommittee are appointed?

Answer. I would expect to take an active role in the oversight of the FAA's management of the modernization of the air traffic control system.

Question 8. GAO and others have identified major shortcomings in several areas, including financial management, air traffic control modernization, safety oversight, and security of computers and facilities. How would you prioritize the issues on which the Council should focus its attention?

Answer. Generally, I would give first priority to safety issues, but each of the issues is important. With regard to each of the areas named, it seems to me that the first question should be, "Will it make the system safer?" and the second one should be, "Is it a wise investment from both cost and efficiency standpoints?"

Question 9. FAA's culture has been found to be a contributor to the problems with acquiring modernization system on time, within budget, and that meet performance parameters. What ideas would you offer to create incentives to change FAA's culture?

Answer. Oversight and accountability with regard to specific tasks and overall management should motivate cultural change. There is evidence that this is beginning to be the case at the FAA with the institution of performance agreements.

The agency is currently operating pursuant to the terms of a strategic plan. There are 32 strategic projects to support the plan, defined by the general categories of safety, efficiency and security. Each project is regularly assessed and reviewed by the management board.

Two good examples of the success of this strategy are Y2K and the Free Flight Program. Each has involved continued attention and direction from high-level management, buy-in from the aviation industry and adequate funding. Metrics have been created to systematically measure performance and there is frequent review.

I think these are very positive steps toward cultural change at the FAA. In addition, procurement and personnel reforms should help. This is an incremental process, but it is my belief that the MAC will provide additional impetus and oversight to cultural change.

Question 10. FAA and many users have long called for allowing the agency greater flexibility in managing its operations and the National Airspace System. Acquisition and Personnel reforms were initial attempts at giving FAA this flexibility. How well do you feel the agency has done thus far in managing its reform efforts? What additional actions should be taken?

Answer. Exemption of the FAA from the general procurement rules of the U.S. government appears to have been a good decision. Bid time, for instance, has been cut in half. The process for procurement has changed, too, resulting in a system which continues to improve.

The FAA's personnel system was also exempted from the Civil Service system rules. Employees have recently moved to a core compensation plan or pay for performance. Regular salary increases are no longer an entitlement and certain positions have been defined by specific skills, rather than employees automatically moving to administrative or managerial positions through seniority. These sorts of changes should help control costs and preserve or add efficiencies as their full effects come to be realized.

The exception to the core compensation plan is with regard to the union bargaining units—although they, too, are being moved in that direction.

Both the procurement and personnel changes are an evolving process. Although more time is needed to adequately measure the changes, it appears that those made, to date, are positive. Continued shifts toward a more business-oriented environment, ongoing management of the process and more complete cost accounting data are still needed.

Question 11. What is your understanding as to the time commitment that will be required of members of the MAC? Do you have a sense as to how often the MAC will meet?

Answer. I believe the time required to serve on the MAC will be considerable and I am prepared to meet that commitment. Pursuant to statute, the Council shall meet on a regular and periodic basis or at the call of the Chairman or of the Administrator. There is no way, at this point, to anticipate the schedule of the Council other than to note there is a good deal of work to be accomplished. *I will devote the necessary time, energy, and resources required to be a productive member of the MAC.*

Question 12. Many observers agree that labor is the biggest cost driver at the FAA. Negotiations are underway with the FAA and a few of its employees' unions. Given your professional experience, how would you advise the Administrator to take a hard line, financially speaking, in these negotiations?

Answer. A hard line *should* be taken in the negotiations. When increased wages are warranted, higher productivity should be expected. Because of the specialized nature of their work, controllers are the personnel population with the most leverage in the negotiating process. Other contracts call for a firm management position.

Question 13. Experienced observers have commented consistently on the negative consequences of the increasing number of non weather-related delays in the system. What recommendations for short-term improvements will you advance as a member of the Management Advisory Council?

Answer. As a frequent air traveler, I, too, am interested in resolving the problems associated with non weather related delays. It is my understanding that the FAA and the airlines have increased communication and collaboration on a more regular basis. That should be one step in the right direction. In addition, the DOT Inspector General is looking at how to better define delays, so that a more systematic approach can be taken when addressing the problems. I believe that further evaluation by the MAC is warranted.

Question 14. Modernizing the National Airspace System has not kept pace with the demand for air travel and FAA has a poor track record of managing the acquisition of major systems. Most believed that major problems were behind us and FAA talks of embracing a "build a little, test a little" philosophy. But now, two key systems, STARS and WAAS, are experiencing problems. What can the FAA do differently to speed up the modernization effort?

Answer. With regard to both the STARS and WAAS programs, it appears that mistakes were made in terms of not making the controllers and the industry part of the decision-making process when designing the programs. Buy-in from stakeholders will surely speed up future modernization efforts.

Question 15. Many believe that a root cause of FAA's problems in modernizing the National Airspace System is a lack of technical expertise. It is also believed that a small cadre of people with expertise could have a major impact. What is your view? How can FAA enhance its overall expertise level?

Answer. If technical expertise is lacking at the FAA, common sense dictates that must be changed immediately. Obviously, this requires appropriate recruitment and the ability to pay for the expertise, but I would find it very difficult to justify not having the appropriate expertise for matters involving safety and efficiency. The FAA *needs* to reach out to the private sector for advice and talent in the area of emerging technologies and their applications.

Question 16. The National Civil Aviation Review Commission and others have projected that there will be gridlock in the skies within the next few years if dramatic steps are not taken to improve the air traffic control system. Do you agree with this assessment? Please elaborate.

Answer. Again, common sense would lead one to the conclusion that this is true. Traffic data and trends reinforce that conclusion. Improvement is obviously required—sooner rather than later.

Question 17. Members of the Council represent disparate views. Recognizing this, how will members achieve consensus so that the advice given to the Administrator is in the best interest of aviation?

Answer. Consensus is most often achieved, in my experience, through a process of careful analysis of the facts and competent articulation of the arguments for and against any particular action or recommendation. Disparate views can be a tremendous asset when offered by intelligent and capable professionals. Through advocacy of our respective points of view and thoughtful discussion, I would expect that a consensus will emerge which will best serve the public interest.

Question 18. FAA's operations costs have risen from \$3.8 billion in 1990 to nearly \$6 billion in FY 2000 and these figures continue to rise. By FY 2003, FAA projects its operations account will grow to over \$7 billion. These costs are made up primarily of salaries which are expected to increase further as FAA continues to negotiate new pay agreements with its various workforces. What should be done to control these costs?

Answer. The cost of doing business has risen in many companies with the low unemployment rates and the corresponding need to raise salaries and/or increase benefits. While operational costs must stay abreast of growth, negotiations should focus on productivity through technology and cost avoidance.

Question 19. Currently airlines pay for air traffic services through the ticket and fuel taxes. Many other countries have transitioned to user fees. What are your views on user fees? How quickly can the U.S. move toward user fees for domestic air traffic control services? How should general aviation and smaller airlines be handled in such a regime?

Answer. I believe that there is an argument to be made for making user fees the funding source for air traffic services. Before any change is made in that regard, however, a more complete cost accounting system should be in place. Confidence and credibility in that data will need to be established in order to have the necessary buy-in from the various groups of users to effectuate any proposed change from a political perspective. Users will need to be assured that the fees are based on the true costs of services provided, rather than a generally controversial rate process.

In addition, there are many details regarding a formula for the imposition of user fees to be considered in order to fairly apply such a system. It is my understanding that, very simply stated, the European version of user fees is based on miles traveled and aircraft size. Some method of capturing the actual services various users enjoy should also be factored in. A sensitive balance of the need for an equitable funding system, the positions of various segments of the industry and the traveling public will be required for there to be a move toward user fees. Further, their implementation and/or collection may pose challenges.

Question 20. The recently-enacted FAA reauthorization bill established a pilot program that would allow the industry to cost-share with the FAA on discrete air traffic modernization projects. Do you think this program will help bring good technologies on-line more quickly?

Answer. I do believe that a partnership of the FAA and industry to cost share on discrete air traffic modernization projects will result in more expeditious technological improvements.

Question 21. The U.S. air transportation system has an excellent safety record but more needs to be done. The key to improving safety while accommodating increased demand is being proactive. FAA must be proactive. How can FAA be more proactive in identifying safety concerns before they result in accidents?

Answer. Priority should be placed on the air traveler, not the profit concerns of the industry. The FAA does, in fact, need to be more proactive regarding safety. That was the crux of the National Civil Aviation Review Commissions' report on safety in 1997. The public rightfully expects a significant reduction in the rate of accidents. It is my understanding that the FAA, together with the industry, has developed a strategy to reduce the accident rate.

I also understand that the FAA and the airline industry are working with data collected from recorders on routine flights to identify and repair potential problems *before* they result in an accident. This is a good example of a safety risk management strategy that should be continued. More performance-based measures should be created in order to build accountability into the safety systems.

Question 22. If confirmed, is there a particular FAA function or activity that you will focus your attention on?

Answer. While I do not want to preclude active participation in any matter coming before the MAC, I can say with assurance that safety will be my primary focus.

In addition, pursuant to your fax of June 14, 2000, with additional post-hearing questions, I submit my answers as follows:

(1) I would like to follow up on a previous question with regard to how members of the MAC will achieve consensus to provide advice to the Administrator. You responded that consensus is most often achieved in your experience through "careful analysis of the facts and competent articulation for and against any particular action or recommendation." How will the MAC advise the Administrator if it cannot achieve consensus on an important issue?

Answer. Section 230(p)(1) of 49 U.S.C. 106(p) specifically states that "the Council may submit comments, recommended modifications, and dissenting views to the Administrator." A majority report, concurrences and any dissents are the typical ways in which a committee, unable to reach unanimity, would report.

Having said that, I believe that consensus is achievable. It requires work, desire and patience—at a minimum. From there, consensus building occurs—and that is a characteristic which has been attributed to my work on a number of occasions. Certainly, all the members of the MAC will start from the perspective that a more efficient air traffic control system and a more effective FAA are desirable. Differences can be narrowed and areas of agreement established.

(2) In response to several of my post-hearing questions, you state that you do not have enough information, or that additional research and analysis is required, for you to be able to respond. Given the complexity of the FAA and its operations, as well as that of the entire aviation community, what experience or knowledge do you have that will allow you to contribute immediately to an advisory committee composed of individuals with substantial backgrounds in relevant facets of aviation? Will you be able to devote the necessary time, energy, and resources that will be required for you to have an adequate level of understanding on the many different aviation-related details you would face as a member of the MAC? Please explain how you will balance the demands of your current work load with the demands of being on the MAC.

Answer. First, I want to be very clear that *I will devote the necessary time, energy, and resources required to be a productive member of the MAC*. The balance of various commitments is something I am accustomed to achieving.

With regard to my ability to contribute to the MAC:

- I am trained to ask questions, e.g., questions others might not ask because of entrenched positions or loyalties, questions that a typical air traveling passenger might ask if given the opportunity, questions a taxpayer might ask, or questions that one of our aircraft crash clients might have asked. I believe that not knowing all the technical details allows the freedom to ask common-sense questions which, as a general rule, provides valuable insight. I firmly believe that my perspective and training will be an asset to the MAC.
- I am also trained to become knowledgeable on focused, technical areas in which I am not an expert. Trial work requires exactly that sort of preparation. As I said previously, I am prepared to invest the time and energy required to become knowledgeable on these issues.
- The National Civil Aviation Review Commission, established by Congress to report on the financing of the nation's aviation program and on aviation safety matters, was comprised of persons from all areas of aviation, *as well as individuals from related disciplines*. I believe the make-up of that committee was of benefit in its work and that the MAC, too, will benefit from having one or more members who represent passenger interests, in addition to industry interests.
- I am willing to listen to and learn from all who have knowledge applicable to the work of the MAC.

(3) With regard to the negotiations between the FAA and its employees' unions, you state that the U.S. taxpayer interests should be considered, but that the bottom line is to achieve a fair contract for the FAA and the employees covered by contract.

—Shouldn't the taxpayer be the primary "client" of the FAA negotiators? If not, who should the FAA be looking out for?

Answer. The taxpayer is, of course, the primary "client" in negotiations between the FAA and employees' unions. Fairness in contract provisions for both parties in negotiations will, inevitably, inure to the benefit of taxpayers, including the traveling public, and should help achieve greater effectiveness and efficiency in government operations.

—I assume that, as an experienced lawyer, you have had some familiarity with the strategies and tactics of negotiation. Is there anything else at all that comes to mind as to how the FAA may do a better job of holding the line financially when it comes to labor negotiations that may have a dramatic impact on the agency's operating costs?

Answer. I do have experience with the strategies and tactics of negotiation. In fact, the vast majority of litigation is resolved through exactly that process, rather than trial. In terms of specific labor negotiations, however, I would not want to be placed in the position of second-guessing those to whom this job has been entrusted without the benefit of their knowledge and the history of the labor relationship.

I believe that the collective private sector experience of MAC members will provide innovative ideas. Non-economic incentives can often play an important role in dealing with employees and their job satisfaction.

(4) In response to any questions about a pilot program that would allow the industry to cost-share with the FAA on air traffic modernization projects, you answered, "Without knowing specifically what the modernization projects include, it is difficult to project success." In responding to other questions, you also said that you would need to do more research and analysis. Please take the opportunity to review the criteria for the pilot program from the recently enacted FAA reauthorization act (Section 304 of P.L. 106-181) and provide me with your thoughts as to whether you believe it may bring good technologies on-line more quickly.

Answer. The pilot program certainly has the *potential* to bring new systems on-line more quickly. Common sense dictates that where participating airports and air carriers agree to invest funds in a qualifying project with the FAA, there is an opportunity to produce technological successes more expeditiously. The pilot program will provide good information regarding the accuracy of this premise.

Mr. Chairman, I would like to emphasize that I have not approached this nomination lightly. I consider it to offer a substantial responsibility and have honestly approached your inquiries with that in mind. My intent has been to avoid drawing conclusions prematurely, not to avoid indicating my positions on legitimate issues.

I have a willingness and desire to offer my time, energy, intellect and experience to this unpaid position of public service in an attempt to help make air travel a safer, more efficient mode of travel and the FAA a better organization. I suggest to you that my service on the MAC would provide a fresh perspective not bound by established opinions or judgments of those more steeped in aviation matters. I hope that I have answered your questions adequately and that you will allow me the opportunity to work on these important, substantive issues.

