



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

Issued by the Department of Transportation  
on the 6<sup>th</sup> day of May, 1999

Served: May 10, 1999

Essential Air Service at

**KAKE, ALASKA**

under 49 U.S.C. 41731, *et seq.*

**Docket OST 1999-5166**

**ORDER PERMITTING TERMINATION  
OF SCHEDULED AIR SERVICE**

**Summary**

By this order we are allowing Haines Airways to terminate its scheduled service at Kake, Alaska, at the end of its 90-day notice period, May 29, 1999, and denying its request to suspend service prior to May 29.

**Background**

On March 1, 1999, Haines Airways, one of two carriers serving the community of Kake, gave notice of its intent to terminate scheduled service at the point. Haines is required to file a 90-day notice under the Department's one-third rule, section 323.3 (a)(5), which requires the filing of a 90-day notice when a carrier's proposed suspension at a community would reduce by 33 percent or more the total available seats of all carriers linking that place to FAA-designated hubs.

Subsequent to filing its notice at Kake, Haines Airways requested relief from the full 90-day notice period citing the economic hardship suffered by the carrier in maintaining service at the community.

At the time Haines Airways filed its suspension notice, it provided two nonstop round trips a day in the Kake-Juneau market with Piper aircraft. Kake is also served by L.A.B. Flying Service, which provides three nonstop round trips to Juneau and two nonstop round trips to Petersburg with Piper equipment.

### **Essential Air Service Determination**

Order 80-1-167, issued January 25, 1980, defines essential air service at Kake as requiring six departures a week during the peak season and three departures a week during the off-peak season. Service is to be provided to either Petersburg or Juneau with a maximum of two intermediate stops.

### **Discussion**

The 90-day notice provision under the one-third rule was put in place to afford communities a reasonable period of time to react to volatile changes in the market, and to ensure smooth carrier transitions. In this case the proposed suspension by Haines Airways will not have a disruptive impact on a significant volume of traffic or leave a significant service void in the market. During the 12 months ended September 1998, Haines reported 780 origin-destination Kake passengers while L.A.B. Flying Service reported 6,957 origin-destination Kake passengers. Further, L.A.B. Flying Service is providing Kake with scheduled service to Petersburg in addition to Juneau.

We have contacted the community regarding their position on the matter and have been informally advised that the community is opposed to the termination of air service by Haines, but we have not received a written reply. Our longstanding program practice has been to grant carriers an exemption to suspend service on less than the full 90-days notice period only with community concurrence, or at the very least in the absence of objection. Thus, based on the community's informal objection, we will not grant the carrier's request to terminate its service before May 29.

### **Decision**

After reviewing this matter, we have decided to allow Haines Airways to terminate service at Kake effective May 29, 1999. We find that the remaining service at Kake after Haines' termination will be sufficient to meet the community's essential air service determination and provide the Kake community with reasonable access to the nation's air transportation system. Specifically, Kake will continue to receive service in both the Juneau and Petersburg markets from L.A.B. Flying Service, which is experienced in operating scheduled air service with small equipment at Alaskan communities. Based on March published schedules L.A.B. Flying Service operates three daily round trips in the Kake-Juneau market and two daily round trips in the Kake-Petersburg market. Based on the remaining service available to Kake traffic we do not find a sufficient basis to prohibit Haines Airways from terminating its air service at the community following its 90-day notice period.

We wish to note that Kake retains its standing under the notice provisions of the remains obligated to submit a 90-day notice of intent to suspend if it wishes to discontinue its scheduled service at

### **Passenger Notification**

As a final matter, before Haines Airways suspends service, we expect it to ensure an orderly transfer of passengers to the remaining carrier by notifying all passengers holding reservations on its flights that the service will be suspended, informing them of the availability of alternative service, and assisting them in securing alternative reservations.

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

### **ACCORDINGLY,**

1. The Department denies the request of Haines Airways to terminate air service at Kake, Alaska on less than 90-days notice;
2. The Department will take no action to prohibit Haines Airways, Inc. from terminating scheduled air service at Kake, Alaska, effective May 29, 1999; and
3. The Department will serve a copy of this order on the Mayor of the City of Kake, the Alaska Department of Transportation and Public Facilities, Haines Airways, and L.A. B. Flying Service.

By:

**A. BRADLEY MIMS**  
Acting Assistant Secretary for Aviation  
And International Affairs

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