

April 17, 2008

Honorable Jim Oberstar  
2365 Rayburn HOB  
Washington, D.C. 20515

**SUBJECT: Testimony of Mary Rose Diefenderfer, FAA Whistleblower (Alaska Airlines)**

Dear Honorable Oberstar:

My testimony herein is in reference to the April 3, 2008 FAA whistleblower testimony before United States Transportation and Infrastructure Committee, headed by yourself and Representative DeFazio, and how that testimony directly relates to the FAA lack of oversight of Alaska Airlines and the *Alaska Airlines 261 crash* in January 2000.

I believe it is necessary to bring this matter to your attention because the circumstances are similar, but as a FAA whistleblower, I lost my career. However, the high ranking FAA management personnel are still in positions of authority over Alaska Airlines, which I believe is a great detriment to public safety to this day. I respectfully request your assistance in investigating this matter, including the illegal activities of FAA management, and bringing this matter to a conclusion with my career reinstatement.

I will draw a comparison between the inspector testimony during the April 3, 2008 hearings, where inspectors described the actions of Southwest Airlines and FAA Southwest Region management, with the actions of Alaska Airlines and FAA Northwest Mountain Region management (headed by Mr. Bradley Pearson) between 1991 and 2003. The story is much the same. However, people died in the case of Alaska Airlines.

My comparison will show that Alaska Airlines' lack of regulatory compliance and negative safety culture was brought to the attention of FAA management in Seattle, and was not only ignored, but a systematic campaign of retaliation was initiated against those inspectors, including me, who spoke up for the flying public. I believe that if our warnings had been heeded by FAA management, 88 people might not have died on that Alaska Airlines flight in 2000. The real tragedy is that Mr. Pearson and other FAA managers were never held accountable for their retaliatory actions against inspectors prior to the accident, and for their misleading statements about the whistleblowers and the Alaska Airlines culture during the NTSB testimony.

I served as FAA Principal Operations Inspector (POI) in Seattle overseeing Alaska Airlines from 1993 through 1997 (Northwest Mountain Region, Seattle Flight Standards District Office). My duties were as primary Flight Operations Inspector with direct responsibility for Alaska Airlines legal approvals and operations surveillance program. I also had oversight responsibility for three other inspectors, who reported their findings to me for action. Subsequently, from the end of 1997 until the end of 1999, I worked for the FAA in another office after being suddenly reassigned for whistleblowing. I was forced out of the FAA two months before the crash.

As POI, I found a highly dangerous safety culture within Alaska Airlines. It was one of defiance of regulatory authority, especially the FAA, and a culture that appeared to lack any consideration for safety. The culture seemed to be one of "get the job done no matter how illegally you have to do it". There was also a strong culture among mid-level and senior Alaska Airlines management that false complaints against FAA inspectors would keep the FAA from finding deficiencies because inspectors would be reassigned, or at least restricted.

I reported my Alaska Airlines safety findings, as well as the findings of the three inspectors who reported to me, through the FAA chain of command, but our warnings were not heeded. In fact, FAA management began to ostracize me, hindered me from making future reports and correcting problems, sent me to “reprogramming” sessions disguised as a customer service initiative, reassigned me, escalated the retaliation, and ultimately forced me out of the agency through bogus disciplinary actions at the end of 1999. My career was virtually ended for trying to protect the flying public. The three other inspectors experienced similar treatment and two were reassigned from their positions- just like the inspector group overseeing Southwest Airlines.

Ultimately, in May 1997, three Alaska Airlines inspectors and I made a whistleblower report to the DOT Office of Inspector General in Seattle, which focused on FAA management hindered us from performing our jobs and pandered to Alaska Airlines. We expressed our concerns that Alaska Airlines was headed towards a major disaster, and that FAA management’s actions were going to be a contributing factor. I also made reports to FAA Security, the FBI, and the NTSB (following the accident). The various parties were warned of an impending disaster if conditions didn’t change.

Two months after I was forced out of the FAA, Alaska Airlines 261 crashed off the coast of California killing 88 people. The NTSB ultimately found that the FAA Seattle Office contributed to the crash by its lack of oversight (the report is online at the NTSB website). I believe that if the FAA would have listened to the Alaska Airlines inspector team, those 88 people would still be alive.

During the Transportation and Infrastructure hearing, the *FAA inspectors overseeing Southwest Airlines* testified to the following conditions great detail:

1. Regulatory and safety deficiencies at Southwest Airlines
2. Attempts to correct the deficiencies were thwarted by FAA management
3. A culture in the FAA office overseeing Southwest Airlines of “No see, no tell”
4. FAA management held “customer relations” above safety and regulatory considerations, even forcing inspectors into Customer Service Initiative (CSI) meetings
5. Southwest Airlines used this CSI process to complain about inspectors who found violations and have them reassigned
6. The inspectors who found problems had their careers threatened, faced disciplinary action, were harassed, and were reassigned to other jobs

Please take a moment to review and compare the almost identical treatment in chronological order of *FAA inspectors who oversaw Alaska Airlines* from 1991-2000, keeping in mind that the current Division Manager, Brad Pearson, was in charge throughout those years. The text is FAA/airline action that is similar to what inspectors reported in the hearing:

1. 1991/1992- Robert Lloyd is Principal Operations Inspector. He finds Alaska Airlines falsifying pilot training records for required simulator windshear training. He initiates an enforcement investigation on the case. He is harassed by FAA management for his findings and ultimately is told to drop the case after his investigative evidence package disappears from his desk while meeting with the Division Manager, a meeting which the Division Manager called regarding the falsification case.
2. 1993- I (Mary Rose Diefenderfer) am Principal Operations Inspector. I find falsification of pilot training records and make a report to both FAA Security (due to the criminal nature of the case) and FAA Flight Standards management. I am harassed, have my FAA

- required medical certificate threatened, have my career threatened, and I'm ultimately reassigned to another office. I file an EEOC case and I'm returned to the POI position. (Falsification was proven and action taken)
3. 1994-1997- I, as well as other inspectors who work for me, warn FAA management that the safety and regulatory compliance culture at Alaska Airlines is degrading and could result in an accident. We are ignored, and enforcement paperwork is "lost" at the management level.
  4. 1995- Alaska Airlines management is forcing pilots to make dangerous and illegal instrument approaches to airports in the State of Alaska. I fly to Dutch Harbor to investigate and find basis for an enforcement case. FAA management restricts me from investigating and traveling to Dutch Harbor in the future.
  5. 1996- Alaska Airlines threatened inspectors with their jobs if they don't back off of enforcement actions.
  6. Alaska Airlines attempts to have inspectors removed numerous times between 1994-1996 through various types of complaints.
  7. 1997- Inspectors are finding more violations at Alaska Airlines, so the airline escalates complaints about inspectors. Two violations appear to be falsification of records, a criminal offense. Inspectors investigate and find cause to pursue legal action.
  8. Alaska Airlines Chief Pilot admits to making false entries in the pilot training records. He is removed from his job. The FAA supervisor, Phil Hoy, begins a campaign against the inspectors to intimidate them into ignoring the violation.
  9. I attempt to change Alaska Airlines record keeping requirements so it's easier to spot falsification of records but I'm not permitted to do so after complaints by Alaska Airlines VP of Flight Operations.
  10. The supervisor, Phil Hoy, restricts the inspectors from gather evidence, including restricting the inspectors from doing unannounced spot checks.
  11. FAA Supervisor, Phil Hoy, informs the Alaska Airlines VP of Flight Operations of the details and status of the inspector's investigations during the investigations.
  12. Alaska Airlines refuses to provide information to the inspectors during investigations. Phil Hoy does not support the inspectors.
  13. After inspectors find violations, Phil Hoy tells the airline to investigate their own violations and determine if, in fact, a violation occurred. This is contrary to FAA regulations and the Voluntary Disclosure Program.
  14. Alaska Airlines VP of Flight Operations informs the FAA Supervisor, Phil Hoy that he is going to do everything in his power to get rid of inspectors who have regulatory violation findings. He follows up with false accusations, which the inspectors must defend.
  15. Phil Hoy, the supervisor, informs inspectors that he believes what the Alaska Airlines VP tells him, and not what the inspectors report.
  16. Phil Hoy informs inspectors that the inspectors are too hard on the airline and he feels compelled to stop them. Career threats are implied.
  17. Phil Hoy does not allow inspectors to send Alaska Airlines letters of investigation. This means that inspectors are not allowed to open case files on violations they discover.
  18. Alaska Airlines CEO, John Kelly, informs FAA supervisor, Phil Hoy, that if FAA violation penalties were over \$50,000 he would sue the FAA (penalties over \$50,000 are posted on the FAA's website). All future sanctions were below \$50,000.
  19. Two pending maintenance violations/sanctions for the airline knowingly flying with leaking fuel tanks and cracked landing gear are dropped below \$50,000. Inspectors originally recommended sanctions of over \$1 million dollars because the airline knew of the problems, but flew the aircraft anyway.
  20. The supervisor, Phil Hoy, and Seattle Flight Standards District Office Manager, Marlene Livack, place inspectors in "facilitated meetings" to make inspectors understand

- customer service (at Alaska Airlines request to apparently force the inspectors to pander to the airline. This is similar to the FAA and Southwest Region's Customer Service Initiative)
21. Alaska Airlines VP of Flight Operations tries to pressure FAA management into shortcutting required program approval processes by making complaints that inspectors are holding up approvals. The supervisor and office manager imply threats against the inspectors, and badger inspectors in required "facilitated" meetings.
  22. Other Alaska Airlines inspectors and I report Alaska Airlines safety/regulatory deficiencies, and FAA management interference to the Division Manager (Brad Pearson) but he does nothing to address the illegal activity. Rather, he supports the airline and the District Office management by his threats that "something in the relationship (inspectors and Alaska Airlines) had to change, or else." "Or else" was a threat that Pearson fulfilled by supporting the harassment and removal of inspectors.
  23. May 1997- Four Alaska Airlines inspectors, including me, make an official whistleblower complaint to the Office of Inspector General in Seattle, citing management harassment and interference of FAA inspectors in making safety findings and pursuing violations.
  24. Alaska Airlines is making illegal instrument approaches into the Reno Airport, but my attempts to stop them are thwarted by my supervisor, Phil Hoy, and office manager, Marlene Livack.
  25. After writing numerous letters to Alaska Airlines management officials in 1997 citing safety and cultural problems, I am reassigned with no notice to another office.
  26. Several inspectors who worked for me and who found safety violations are told by the supervisor that "their careers would be better served in another section". They are transferred from Alaska Airlines oversight.
  27. The one of the two potential falsifications of records violations is closed with no action and the other simply disappears from the FAA database.
  28. June 1997- Alaska Airlines mechanic, John Gustafson, writes a letter to the Seattle FAA office citing numerous specific instances of Alaska Airline management making false entries in aircraft maintenance logbooks. The FAA does nothing.
  29. 1997/1998- My husband's supervisor, Tom Anderson, threatens my husband with loss of his career if he "didn't get his wife under control".
  30. Supervisor Phil Hoy threatens inspector, Les Martin, with career loss if he didn't request a transfer out of the Alaska Airlines section.
  31. 1998- John Liotine, an Alaska Airlines mechanic, makes a disclosure of falsification of records by his supervisor to the FAA. FAA officials didn't believe him then worked with Alaska Airlines to fire this employee and allegedly cover up the violations. ***The record that was falsified by the supervisor was John Liotine's order to change the jackscrew on the same aircraft that crashed in January 2000 due to the jackscrew failure. If the FAA had believed the inspectors and John Liotine, 88 people would be alive today.***
  32. 1998- The FBI begins a criminal inquiry into falsification of maintenance records by Alaska Airlines. Finally certificate action is taken against certain Alaska Airlines management officials in the maintenance department and a small fine is levied against the airline (under \$50,000).
  33. 1999- I submit a safety report and recommendation about Alaska Airlines continuing to make illegal approaches to the Reno airport. My attorney also makes a press report about lack of whistleblower protections for FAA employees under the FAA Excepted rules. The FAA escalates their harassment of me.
  34. I am assigned to a supervisor, Mike Kelly, who has a criminal arrest record of abuse of females. FAA Division Manager, Brad Pearson and other managers supported this supervisor to the extent that FAA officials paid his bail and pleaded on his behalf to the

- court. His charges were then dropped from a felony to a misdemeanor, and because of the FAA's testimony on his behalf, he served jail time at night and worked at the FAA during the day.
35. I'm disciplined by Mike Kelly for my attorney's contacts with the press regarding whistleblower protections
  36. FAA officials lie in sworn statements to the US Attorney about me.
  37. I am forced out on Leave Without Pay (LWOP) to try to preserve my career and remove myself from Mike Kelly's abuse. I'm on LWOP from April 1999 until December 1999.
  38. I'm harassed at home on LWOP by Mike Kelly, and eventually ordered back to work for him after continuing my whistleblower reports about the safety of Alaska Airlines and Mike Kelly's abusive behavior.
  39. Although I'm on approved LWOP, I'm placed on AWOL by the FAA after making a complaint about Mike Kelly's abusive and retaliatory behavior towards me. I'm given a 14 day suspension notice.
  40. I'm turned down for transfers to safer offices and regions.
  41. I'm sent for psychological evaluation.
  42. I take constructive discharge in late November 1999.
  43. Mike Kelly gets a promotion.
  44. Meanwhile, the remaining operations inspectors overseeing Alaska Airlines are afraid to find violations, presumably because they also fear retaliation. The inspector mantra now seems to be, "No see, no hear" airline deficiencies. Very few violations are found.
  45. January 2000, Alaska Airlines flight 261 crashes, the FAA is found negligent through lack of proper oversight. There were no repercussions for FAA management.
  46. After the accident, FAA Headquarters inspectors spend months trying to bring Alaska Airlines up to standards. However, Alaska Airlines continues its resistant attitude against the FAA and Federal Regulations.
  47. The new Principal Maintenance Inspector, Bill Whitaker, is removed from his position after he attempts to make positive safety changes within Alaska Airlines after the crash of flight 261.
  48. In the late 1990s and prior to the Alaska Airlines crash, Tom Stuckey (The same Tom Stuckey from the April 3, 2008 hearings) was in a position of leadership at FAA Headquarters. He was instrumental in the retaliation against inspectors who had oversight of Alaska Airlines during the late 1990s.
  49. In 2003 the FBI again opens a fraud investigation against Alaska Airlines.

Although these bullet points are abbreviated and not all inclusive, they demonstrate an egregious, concerted, and ongoing effort on the part of FAA Flight Standards Northwest Mountain Region management to protect Alaska Airlines and destroy inspectors doing their jobs.

Between 1991 and 2000, three Principal Inspectors (Bob Lloyd, Bill Whitaker, and me) reported safety deficiencies and were harassed and/or reassigned. In 1997, three of the four inspectors who made a safety report to the DOT OIG were reassigned (Jewett Gibson, Lester Martin, me). The fourth inspector (Steve Franklin) was all but silenced through disciplinary actions.

All the indicators described in the Inspector Handbook (Order 8400.10) were present between 1991 and 2000, and pointed to a future major accident, but FAA management did nothing except restrict, harass and remove the reporting inspectors and retaliate against me to my breaking point. What kind of message does this send to a regulated airline and to the inspectors who are supposed to be the regulators?

All these events are documented and have been brought to light by the Seattle PI, Seattle Times, USA Today, Newsweek and other publications at one time or another, yet FAA Headquarters and the FAA Administrator did nothing except support Brad Pearson's actions.

The illegal activities of Seattle FAA management are similar to the illegal activities of Dallas FAA management. They are also similar to the retaliation that Mark Lund (FAA inspector assigned to Northwest Airlines) recently faced for whistleblowing. He reported it to his Congressional representative and was protected.

These illegal activities appear to be a typical pattern in the FAA, but in the case of Alaska Airlines, the guilty FAA officials were never held accountable for the accident and deaths. Although Brad Pearson misled the NTSB during the accident inquest, he still leads the Northwest Mountain Region in Seattle, which means he still oversees Alaska Airlines. When the cause of the disease is still in place, how can safety changes ever be accomplished? Furthermore, what is occurring today behind the scenes at Alaska Airlines that the public needs to fear? Who is looking into the Seattle FAA culture and who is protecting the flying public? Certainly by their track record, Brad Pearson and his management team can't be counted on to do the job.

In January 2000, the flying public paid a high price for the Seattle FAA's lack of oversight, and I've paid dearly for blowing the whistle on the malfeasance of Northwest Mountain Region officials who threatened and hindered inspectors for their findings. I've lost my career, my retirement, my health insurance, and I've spent the last 10 years in the legal system trying to gain my career back while Brad Pearson and his management team continue to be paid high salaries, and continue to mislead the public, the courts, the NTSB, and Congress.

FAA management calls whistleblowers like me "problem employees" and disgruntled employees". We are neither; we are worried, conscientious employees who love our jobs and feel a calling to protect the public. In my case, as Principal Operations Inspector responsible for signing the Airline's legal operating documents, I risked potential legal action if I was derelict in my duties to the flying public. I was between the proverbial rock and a hard spot, which subjected me to being lied about and set up for disciplinary action by FAA management for doing my job. And it never stops. The FAA management is still making a concerted effort to discredit my diligent work through their untrue testimony in recent hearings.

My attempts to gain my career back have been an exercise in frustration. Due to the changes in the 1996 FAA Reauthorization Act, the FAA was removed from Title 5 and became an Excepted organization, meaning they could create their own personnel rules. One of the inadvertent errors of this change was that FAA employees were no longer covered by the Whistleblower Protection Act. For this reason, whistleblowers (like me) between 1996 and 2000 fell through the cracks and lost their careers because there were no protections or remedies available to them. Making a safety and regulatory organization like the FAA an Excepted organization was a huge failure and setback for public safety. The Alaska Airlines crash has clearly demonstrated that failure.

Sometime around 2000, Congress reinstated whistleblower protections, which allowed me to restart my legal proceedings. In 2006 and 2007, I had a Merit Protection Board Hearing and an EEOC hearing, both administrative hearings. Unfortunately, during the hearings the FAA was successful in severely limiting the scope of our testimony (timeframes and witnesses) to benefit their case and limit my ability to demonstrate a pattern of illegal activity that caused the accident. We've not had a fair hearing to date because we've been restricted from fully telling our story- the TRUTH.

However, the facts remain. I blew the whistle between 1993 and 1999 and I lost my career, but 88 innocent passengers and crew died anyway on Alaska flight 261.

***That testimony I set forth above is true and can be substantiated through documents and witnesses.***

Therefore, keeping the Southwest Airlines inspector testimony in mind, and my testimony herein, I respectfully request your assistance in two areas:

1. I would like my career reinstated with the FAA, just as those Southwest Airlines and Northwest Airlines inspectors were protected and able to return to work after an identical situation. Along with that, I would like the FAA to make me whole for the past years that I suffered away from my career. I have not been able to secure employment in my field and I can only guess that the FAA has seen that I do not.
2. Brad Pearson must be held accountable for his malfeasance and the deaths of 88 people in the crash of Alaska Airlines flight 261.

I recognize that this is a very big request, but I have suffered mentally, physically, and financially for years because I fulfilled my duties to the public as a FAA inspector under the law, while unscrupulous FAA management in Seattle allowed the degradation of safety and the crash of Alaska Airlines flight 261 to occur. It is time this situation is corrected and the real culprits are held accountable for their egregious and illegal activities.

I can be contacted at 206-244-6099 for more information or for personal testimony. I appreciate your time and attention in this matter and I look forward to hearing from you.

Sincerely,

Mary Rose Diefenderfer  
Ex-FAA POI, Alaska Airlines Section

Attachments:

2001 Letter to President Bush  
2003 Letter to President Bush