

SERVED : July 20, 1992

NTSB Order No. EA-3623

**UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.**

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 7th day of July , 1992

BARRY LAMBERT HARRIS,
Acting Administrator,
Federal Aviation Administration,

Complainant,

v.

Dockets SE-9398, 9402,
and 9403

THOMAS KIRK, MICHELE MAYKOWSKI,
and WILLIAM MILLER,

Respondents.

ORDER DENYING RECONSIDERATION

Respondents Michele Maykowski and William Miller petition for reargument and reconsideration of Board Order EA-3389 (served September 12, 1991), which determined that the Administrator established a prima facie case and remanded the case to the law judge for further proceedings. The Administrator has filed a reply in opposition. We have concluded that the petition does not present any valid basis for reargument or reconsideration of the Board's determination.¹

¹Contrary to footnote 4 of the Order, respondents did not contend that the FAA principal operations inspector condoned the use of co-pilots who had not met all of the requirements for a Part 135 flight. Respondents maintained that they did not serve as pilots but instead were non-required flight crewmembers who were being utilized as observers. The key issue of fact on remand remains whether respondents served as pilots.

ACCORDINGLY, IT IS ORDERED THAT:

Respondents' petition for reconsideration is denied.

COUGHLIN, Acting Chairman, LAUBER, KOLSTAD, HART, and
HAMMERSCHMIDT , Members of the Board, concurred in the
above order.