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June 2, 2010

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-08-2082

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), the Office of Special Counsel (OSC) is forwarding to you an agency report concerning disclosures received from John Keller, former Aviation Safety Inspector, Department of Transportation (DOT), Federal Aviation Administration (FAA), Grand Rapids District Office (FAA Grand Rapids), Grand Rapids, Michigan. Mr. Keller, who consented to the release of his name, alleged that FAA employees altered investigatory findings subsequent to a fatal helicopter crash that took place on May 16, 2008, in Michigan, in an effort to shield FAA from appearing negligent in its oversight and inspection duties.

On July 10, 2008, pursuant to 5 U.S.C. § 1213(c) and (d), OSC requested the Honorable Mary E. Peters, then-Secretary of Transportation, to conduct an investigation. Then-Secretary Peters delegated authority to the Honorable Calvin L. Scovel, III, DOT Inspector General, to investigate. On March 5, 2010, the Honorable Ray LaHood, Secretary of Transportation, submitted an agency report to OSC. The report noted that OIG's investigation had been stayed pending the outcome of a review of criminal allegations by the United States Attorney's Office (USAO) for the Northern District of Florida.¹ OSC was subsequently advised that criminal prosecution was declined by the USAO.

The agency report did not substantiate Mr. Keller's allegations that the FAA Grand Rapids investigatory findings were altered or that FAA oversight, either in Grand Rapids or in the Southern Region, was lacking. According to the agency report, FAA provided legitimate explanations for actions taken prior to the fatal accident and for the statements and actions of FAA managers in the days following the accident. The agency report stated that Mr. Keller made unfounded inferences that were likely influenced by personal issues, his lack of experience managing a fatal accident investigation, and his lack of familiarity with his role as Investigator-in-Charge in parallel regulatory and criminal proceedings.

¹ The FAA's Southern Region Special Evaluation and Inspection Team was responsible for a prior Suspected Unapproved Parts investigation, which was considered in the accident investigation and referred criminally, but which was determined to be unrelated to the cause of the crash.

The agency report concluded that James Wilkinson, Front Line Manager, deleted information from Mr. Keller's draft report, but explained that the draft report contained too much information, was speculative, and was written in an incorrect format. The report further found that Mr. Keller's conclusions about the causes of the crash were premature.

Specifically, Mr. Wilkinson revised the draft report because it was supposed to be a briefing paper used to inform employees at FAA headquarters and the regional office about basic facts surrounding the helicopter crash investigation. The report reflected that Mr. Keller had drawn conclusions that had not yet been substantiated by the National Transportation Safety Board (NTSB). The report also found that Mr. Keller concluded too early that an unapproved part or a maintenance issue caused the fatal accident. In addition, the agency report stated that on May 9, 2009, NTSB found that the probable cause of the helicopter crash was a lack of fuel.

Mr. Keller declined to comment on the report. OSC has reviewed the original disclosures and the agency report. Based on that review, OSC has determined that the agency report contains all of the information required by statute, and that its findings appear to be reasonable.

As required by 5 U.S.C. § 1213(e)(3), OSC has sent copies of the agency report to the Chairman and Ranking Member of the Senate Committee on Commerce, Science, and Transportation, and the Chairman and the Ranking Member of the House Committee on Transportation and Infrastructure, and closed the matter. A copy of the agency report has been placed in our public file, which is available online at www.osc.gov.

Respectfully,


William E. Reukauf
Associate Special Counsel

Enclosure