

Richard Zerkel
President
Lynden Air Cargo, LLC

**Testimony before the U.S. Senate Committee on Energy and Natural Resources
Hearing to Review Past Wildfire Seasons to Inform and Improve Future Federal
Wildland Fire Management Strategies
November 17, 2015**

Madam Chairman, members of the committee. Thank you for this opportunity to discuss Aerial firefighting policy with you today.

My name is Rick Zerkel. I am the president of Lynden Air Cargo, an all-cargo operator of L 382G Hercules aircraft, based in Anchorage, Alaska.

Lynden's seven aircraft are the civilian version of the Lockheed C-130 and are operated under Federal Aviation Administration Part 121 Air Carrier regulations, the same requirements followed by all major US airlines; including Delta, American and United. This is the highest safety standard under FAA regulations.

The USFS is currently operating one C-130H under Public Aircraft rules and plans to add more. This is in direct conflict with the findings of the 2002 Blue Ribbon Panel Report to the USFS titled **Federal Aerial Firefighting: Assessing Safety and Effectiveness -**

FINDING 3–AIRCRAFT

Under the current system of aircraft certification, contracting, and operation, key elements of the aerial wildland firefighting fleet are unsustainable.

- FAA has essentially said, "It's a public-use aircraft. You're on your own."

FINDING 6–CERTIFICATION

The Federal Aviation Administration (FAA) has abrogated any responsibility to ensure the continued airworthiness of "public-use" aircraft, including ex-military aircraft converted to firefighting air tankers. Although these aircraft are awarded FAA type certificates, the associated certification processes do not require testing and inspection to ensure that the aircraft are airworthy to perform their intended missions.

- The panel found that Forest Service and BLM leaders do not have a good understanding of the FAA's certification and oversight role regarding public-use aircraft.

Just like the Blue Ribbon Panel, we are opposed to the USFS operating a Government owned airline, under the Public Aircraft format, for the purpose of fighting wild fires when qualified civilian aircraft are available.

Lynden spent substantial capital and one year complying with the regulatory, technical and the physical conversion of one of our Hercules in order to lease to a qualified operator under the Next Generation 2.0 solicitation. A very tight timetable and rigid requirements resulted in our aircraft being rejected while the USFS operated the first of seven C-130H aircraft, equipped with the obsolete MAFFS II dispersant system and operated without appropriate FAA oversight. By necessity, the Lynden aircraft was deployed to Australia where it is in service to the National Aerial Firefighting Centre (NAFC).

Our message this morning can be summarized in three main points:

- First, the commercial aerial firefighting industry is entirely capable of providing all of the Forest Service's Large Air Tanker requirements at considerably less expense than the current planned use of C-130H aircraft.
- The acquisition and use of the C-130H aircraft may be in conflict with the Federal Acquisition Regulations and the Economy Act.
- And most importantly, the non-regulated, public aircraft format, proposed for the government owned large air tanker fleet is inherently less safe than the rigorous standards the commercial fleet must adhere to and has set an unfair double standard. This double standard resulted in the most capable and safest firefighting aircraft in the world being deployed elsewhere, while an unregulated, unqualified and expensive Government aircraft fought fires in our country.

More importantly, we believe the regulatory, certification and safety standards mandated by the FAA have been established for a sound reason; to mitigate the possibility of loss of life and property. These standards should be applied to all aircraft operating in the harsh environment of aerial firefighting without exception. As we speak, it appears the Forest Service intends to operate the C-130H's under the public aircraft category, accepting responsibility for their continuing airworthiness and for certifying the design safety of the retardant tank installation. If the Coast Guard is retained as the engineering authority the expertise of the FAA is completely removed from the process.

The USFS has been very specific that all commercial Large Air Tankers be modified in accordance with the very demanding and time consuming FAA certification process. The industry accepts these parameters and the time and expense involved, but we strongly disagree that the Forest Service should waive this requirement for itself and opt for the less stringent public aircraft option. There should be one standard for all aircraft

involved in aerial firefighting and it should be the robust safety standards contained in FAA regulations.

We also contend that private enterprise is more experienced and efficient at meeting the demanding requirements including certification and operation of Large Air tanker aircraft. By default, this enables them to be more cost effective than Government managed operations. Congress realized this long ago and codified the idea that government should not compete with industry not only as a matter of policy but equally important, as a matter of efficiency.

Lynden Air Cargo provides the following recommendations:

1. Commercial aircraft operators, including Lynden and others, are available and ready to meet the aerial firefighting requirements of the USFS. We urge that this committee provide direction to the USFS to utilize available and qualified aircraft prior to employing any Government owned aircraft.
2. The USFS should be required to certify and maintain the aircraft and dispersant systems to the same rigorous standards as industry.
3. No funds should be authorized or appropriated for the Forest Service to acquire or upgrade additional aircraft until private industry has had an opportunity to respond to a final round of the Next Generation solicitation. As long as commercial operators can meet the Forest Service's requirements, the USFS should refrain from competing.

Madame Chairman and members of the Committee I would welcome your questions.