



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

Issued by the Department of Transportation
on the 28th day of March, 2013

Essential Air Service at

**LEWISTOWN, MONTANA
MILES CITY, MONTANA**

Under 49 U.S.C. 41731 *et seq.*

Docket DOT-OST-1997-2605

**ORDER TO SHOW CAUSE PROPOSING TERMINATION
OF ESSENTIAL AIR SERVICE ELIGIBILITY**

Summary

By this Order, the Department is directing interested persons to show cause as to why the Department should not terminate the eligibility of Lewistown and Miles City, Montana, under the Essential Air Service (“EAS”) program and allow Silver Airways, Inc. (formally Gulfstream International Airlines) (“Silver”), to suspend service at the communities. Objections to the Department’s tentative decisions are due within 20 days of the service date of this Order. An area map is attached as Appendix A.

Background

By Order 2011-1-27, issued on February 3, 2011, we selected Silver to provide subsidized EAS with 19-passenger Beechcraft B-1900D aircraft at the above communities, for the two-year period ending May 31, 2013, at an annual subsidy rate of \$1,325,733 for Lewistown and \$1,621,821 for Miles City.

The complete public file for EAS at each of the communities may be accessed online through the Federal Dockets Management System at: <http://www.regulations.gov> by entering “DOT-OST-1997-2605” in the “SEARCH for: Rules, Comments, Adjudications or Supporting Documents:” field.

Recent Developments

The Federal Aviation Administration (“FAA”) Modernization and Reform Act of 2012 (Public Law 112-95), signed into law on February 14, 2012, amended the definition of “eligible place” for the purpose of receiving EAS.¹ The amendment, among other things, states that to be eligible, a community must have had an average subsidy per passenger of less than \$1,000 during the most recent fiscal year, as determined by the Secretary of Transportation.

¹ See 49 U.S.C. § 41731.

Passenger Traffic and Subsidy History

Silver has operated subsidized service at Lewistown and Miles City since 2011. Based on a review of the Bureau of Transportation Statistics' T-100 Market Data for fiscal year ended September 30, 2012, Lewistown and Miles City generated 660 and 694 total passengers, respectively, resulting in an average per passenger EAS subsidy of \$2,009 for Lewistown and \$2,337 for Miles City.²

Decision

After careful consideration of this matter, the Department has tentatively determined that, pursuant to 49 U.S.C. § 41731(a)(1)(C), it is required to terminate the subsidy eligibility of Lewistown and Miles City under the EAS program and allow Silver to end service at the communities due to the fact that the communities are no longer eligible to receive EAS.

We will give interested persons 20 days after the service date of this Order to submit objections. Objections should be fully documented and contain complete information on the data used by the persons objecting. If we later finalize the tentative findings in a subsequent Order, the Department would make the Order effective 30-45 days thereafter to allow for an orderly shutdown. In that event, if Silver decides to suspend service upon the effective date of that Order, we will expect it to contact all passengers who hold reservations for flights that will be suspended to inform them of the suspension, and assist them in arranging alternative transportation or to provide a refund of the ticket price, without penalty, if requested.

This Order is issued under authority delegated in 49 CFR Part 1.25a(b).

ACCORDINGLY,

1. The Department has tentatively determined that, pursuant to 49 U.S.C. § 41731(a)(1)(C), it is required to terminate the subsidy eligibility of Lewistown and Miles City, Montana;
2. The Department directs all interested persons to show cause within 20 days of the date of service of this Order why we should not make final the tentative findings and conclusions set forth above. Objections should be filed with Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590;³
3. The Department directs Silver Airways, Inc. to retain all books, records, and other source and summary documentation to support claims for payment, and to preserve and maintain such documentation in a manner that readily permits its audit and examination by representatives of the Department. Such documentation shall be retained for seven years from the service date of this Order or until the Department indicates that the records may be destroyed, whichever comes first. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order;

² See Appendix B for historical traffic data.

³ In addition, copies of comments may be e-mailed to dennis.devany@dot.gov, scott.faulk@dot.gov, eas@dot.gov, or faxed to the Chief, EAS & Domestic Analysis Division, at (202) 366-7638. Regardless of whether copies are sent to the EAS & Domestic Analysis Division, all objections should be filed with Docket Operations, M-30, at the above address.

4. We will afford full consideration to the matters and issues raised in any timely and properly filed objections before we take further action;
5. This docket will remain open until further order of the Department; and
6. We will serve copies of this Order on the parties listed in Appendix C.

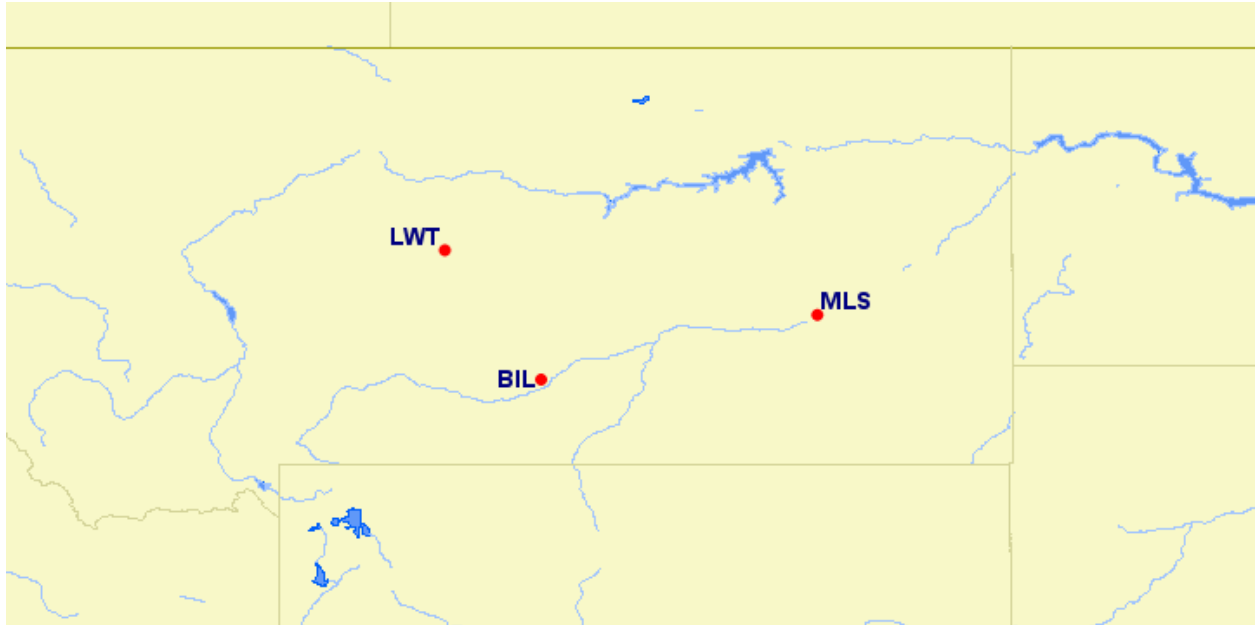
By:

SUSAN L. KURLAND
Assistant Secretary
for Aviation and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://www.regulations.gov>*

AREA MAP



Passenger Traffic and Annual Essential Air Service Subsidy at Montana¹**Lewistown**

12 Months Ended	Total Enplanements	Total Deplanements	Total Traffic	Annual Subsidy at April 1	Subsidy per Pax
Sep. 30, 2012	337	323	660	\$1,325,733	\$2,009

Miles City

Year Ending	Total Enplanements	Total Deplanements	Total Traffic	Annual Subsidy at April 1	Subsidy per Pax
Sep. 30, 2012	350	344	694	\$1,621,821	\$2,337

¹ Source: Bureau of Transportation Statistics: Schedule T-100

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