



**U.S. Department  
of Transportation**

Office of the Secretary  
of Transportation

**GENERAL COUNSEL**

1200 New Jersey Avenue, SE  
Washington, DC 20590

Catherine A. McMullen, Esq.  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, NW, Suite 300  
Washington, DC 20036-4505

March 26, 2012

*Re: Seeley Supplemental Report (DI-11-1353)*

Dear Ms. McMullen:

This is in response to emails of February 23, 2012, and March 22, 2012, from Karen Gorman concerning the second supplemental report, dated February 17, 2012, that the U.S. Department of Transportation (DOT) provided to the Office of Special Counsel (OSC) in response to OSC's request for updated information on corrective actions in the Seeley referral (DI-11-1353). In her email, Ms. Gorman expressed concern that the information in the supplemental report regarding disciplinary actions does not contain names or titles of the individuals and that DOT did not provide OSC two versions of the report: one with names and titles for OSC's official use and a redacted version for posting on OSC's public file.

Accordingly, I have enclosed a new second supplemental report dated March 22, 2012, and ask that you replace the February 17 report with this report. I have enclosed two versions of this report: one version, for OSC's official use, is unredacted and includes names and titles of the managers under consideration for disciplinary action and the second version is redacted for posting on OSC's public file. We request that OSC treat this information with sensitivity as it implicates individual privacy interests. In addition to the inclusion of names and titles, the section on disciplinary actions also contains updated information on the status of disciplinary actions for three of the managers.

I have also enclosed a new CD containing the redacted set of attachments for the original ROI for posting on OSC's public file. This is to replace the original CD we provided with the ROI, which mistakenly contained an unredacted list of witness names. We appreciate you bringing this error to our attention.

Please do not hesitate to contact Debra Rosen or me if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Judith S. Kaleta".

Judith S. Kaleta  
Assistant General Counsel  
for General Law

Enclosures



# Federal Aviation Administration

---

---

## Memorandum

Date: MAR 22 2012

To: Judith S. Kaleta, Assistant General Counsel for General Law (C-10)

From: H. Clayton Foushee, Director, Office of Audit and Evaluation (AAE-1)

Subject: OSC File No. DI-11-1353 Supplemental Report

---

---

This is in response to a February 2, 2012 e-mail from Karen Gorman at the Office of Special Counsel (OSC) requesting, "*information concerning the status of this supplemental investigation and any disciplinary action taken or proposed, including the names of the involved subjects.*" In addition, Ms. Gorman requested "*updated information on the corrective actions implemented thus far by the interim management team.*" The following is an update on actions taken at the New York Air Route Traffic Control Center (ZNY) since the FAA's report of investigation was sent by the Secretary of Transportation to the Special Counsel on September 6, 2011.

### I. Disciplinary Actions:

In the FAA's November 4, 2011 ZNY update, I informed you that 5 former managers were being investigated in more detail with regard to proposed disciplinary actions. This investigation was conducted under the auspices of the FAA Chief Counsel and the Associate Administrator for Human Resources to ensure that there was sufficient evidence to sustain the proposed disciplinary actions. The current status of these actions is summarized below:

██████████, **ZNY Air Traffic Manager:** There was substantial evidence and testimony provided during the course of the supplemental investigation to substantiate that the overall facility manager did not adequately manage the facility and failed to initiate appropriate corrective actions, despite his awareness of non-compliance and other performance problems at ZNY. This individual accepted a voluntary demotion, and on March 19, 2012, he received a formal letter of proposed dismissal from the Federal service.

██████████, **ZNY Staff Manager:** The supplemental investigation substantiated that this manager failed to initiate appropriate actions to correct policy non-compliance when such matters were brought to her attention. On March 19, 2012, she received a letter of proposed demotion and permanent removal from the management ranks.

██████████, **Support Manager for Quality Assurance:** There was no evidence or testimony provided during the course of the supplemental investigation to substantiate that this manager engaged in any inappropriate actions. In fact, the supplemental investigation showed that he did

attempt to inform his superiors that performance deficiencies were occurring, but his actions went largely unheeded. Thus, this manager was returned to his previous duties, and no disciplinary action will be taken.

**██████████, Area D Operations Manager:** In the initial investigation, there were witnesses that suggested that this manager was subverting attempts to issue letters of correction to controllers found to be non-compliant with air traffic procedures. However, the supplemental investigation found that the previous witness testimony was based upon hearsay and was in error. There was no evidence found in the supplemental investigation to substantiate that this manager engaged in any inappropriate activity or attempted to cover up his actions, and the supplemental investigation cleared him of any wrong-doing. Thus, he is to be returned to his previous duties, and no disciplinary action will be taken.

**██████████, Area B Operations Manager:** There was evidence collected during the course of the supplemental investigation to substantiate that she did engage in inappropriate actions during her management tenure at ZNY. On March 19, 2012, she received a formal letter of proposed demotion and permanent removal from the management ranks.

## II. Facility Corrective Actions:

The following is a synopsis of the assessments and actions taken since September 2011 at ZNY. An Interim Leadership Team (ILT) was established and embedded at ZNY. These individuals were placed into the facility serving in a variety of capacities including the Air Traffic Manager, Staff Manager, Operations Manager(s), Quality Control and Training Department positions.

The ILT identified the necessary personnel and organizational changes with the goal of operating a compliant and model ATC facility at ZNY. The following actions are complete:

- Established and filled the Executive Officer position through reassignment of the Quality Control Support Manager.
- Two Operations Managers were reassigned to Support Manager positions.
- One Support Manager was reassigned to an Operations Manager position.
- Three Front Line Managers (FLM) were temporarily promoted to serve as Operations Managers.
- One Traffic Management Supervisor was assigned as acting Traffic Management Officer.
- Established and filled an Office Manager position through the temporary promotion of an H-band employee.
- Established and filled an Oceanic Support Manager position and reassigned a Support Specialist to support this office.

- Temporarily reassigned four highly-effective FLMs from other facilities to ZNY, and they are serving as mentors for ZNY “legacy” FLMs.

The ILT developed a strategy to address the issues identified from the OSC investigation and it identified several new issues. These actions include:

#### Rebuilding the Controller Training Program

- Workgroups were established to re-write the facility local Training Order. All FLMs and training instructors received training on the new Order, and all developmental controllers are being trained on the newly established requirements. Once briefings on the new Training Order are complete, full implementation is planned by March 2012.
- A significant facility-wide problem was identified because developmental controllers were not receiving consistent daily training. Record reviews indicate that 90-minute daily training sessions were prevalent at ZNY. We are now observing more multi-hour training sessions but will require continuous management attention.

#### Provide Organizational Development Training for Management Team

- The ILT implemented a workforce training strategy incorporating the “best practices” from other facilities for first and second-level managers and staff. Management also administered on-the-job training (OJTI) classes using “best-of-the-best” instructors to teach the course.
- ATO management is committed to a long-term plan focused on organizational development for the facility to heal and demonstrate reliable compliance and organizational efficiency.

#### Establish a Performance Management Program

- Performance management was not consistently addressed or documented by the previous ZNY management team. The ILT has put together a customized training program to address ZNY's specific performance documentation needs, and the first round of completed training included Operations and Front Line Managers. The Comprehensive Electronic Data Analysis and Reporting (CEDAR) platform was introduced as a performance management tool along with its capabilities. This training effort was designed to be an incremental effort lasting over a number of months in order to ensure a solid foundation and understanding by all employees.
- Prior to the implementation of the new ATO Safety Orders and MOUs, a deficiency was identified where Quality Assurance Reviews (QAR) were not legitimately reviewed and closed. A QAR tracking program using CEDAR has been implemented, and those QARs where performance issues are identified are sent to the responsible FLM of the employee to conduct a performance coaching session and skill enhancement training when performance issues are identified.
- The QC Manager conducted performance management training for all Area FLMs including the importance of documenting performance discussions and following up with specific

performance management activities that ensure the identified performance issue has been corrected.

### Establish Resource Management Practices and Procedures

- Flaws in compliance with FAA time and attendance policies were identified and corrective measures are underway to address anomalies when transferring data into official time and attendance records.
- A process to track the recording of hardships, Employee Requested Reassignments (ERR) and Age 56 Waiver requests was lacking. Corrective actions are now on-going to track and report these data.
- Inefficient FLM scheduling practices were identified resulting in unnecessary overtime expenditures. The expectation that overtime would be approved to cover FLM spot-leave requests has been corrected in a Policy Bulletin addressing this issue. FLM leave bidding procedures have been established to prevent FLM shortages requiring overtime.
- The ILT instituted a selection panel process for Traffic Management Coordinators and FLMs, which includes a formal interview process and selection tracking.
- A formal process has been developed to report and track hostile work environment reports and FAA Accountability Board issues affecting ZNY employees.
- Executive Summary meetings are held weekly, focusing on a wide range of items such as pending discipline, requested waivers, suspension of training, bids, promotions, Accountability Board issues, and grievances. Meeting proceedings are documented and retained.
- Regular audits of travel vouchers are now conducted and the workforce is being educated on a case-by-case basis on acceptable practices and procedures. The widespread use of personal credit cards for official government business has been eliminated.
- Prior ZNY management allowed Operations Manager scheduling, which resulted in one week off per month for each manager. Among other things, this led to a situation where there were too few OM/FLM meetings, and to build a stronger management team, we terminated this scheduling practice.
- A review of controller currency records identified some of the workforce was not meeting the 16-hour currency requirement on a regular basis. Members of the NATCA Executive Board and others were allegedly granted authority to meet currency requirements by accumulating only 8-hours of currency. This practice has been terminated and affected personnel were notified.
- A system of regular posting of policy bulletins was implemented to bring consistent information sources available for basic practices such as FLM annual leave bidding. Each bulletin is vetted through the Operations Managers, the ATO management policy committee, and NATCA if appropriate. The bulletins serve to train new managers on the application of facility

policies and to refresh other managers on practices they may not regularly perform. The bulletins also serve as a reference to hold the management team accountable and to reduce facility “drift” from standard policies and procedures.

- The ILT has established regular meetings for staff and operational leadership, where notes are taken and forwarded to participants. Agendas, minutes and action items are formally documented. This practice will allow both employees and outside auditors to view actions taken across the board with greater transparency.
- Initial discussions have taken place with the Union to implement WEB Scheduler for daily use and to implement CEDAR on the control room floor.
- The purchase card approval process has been refined, and a formal sick leave review process is currently being developed.

Establish rapport with the workforce through engagement:

- The ZNY ILT established regularly scheduled “Town Hall,” Front Line Manager, Operations Manager, Support Manager and Staff meetings as well as “plug-in time” and visibility on the operations floor. The ILT established an open-door policy, which is used on a regular basis by both bargaining and non-bargaining unit employees.
- The ILT observed that the non-union administrative staff was underappreciated and did not have the respect of other employees. The ILT has worked closely with this unit and intends to physically move this group into a central location more conducive to their integration into the entire facility team.

Establish a collaborative working relationship with NATCA

- The ILT established recurring local Executive Board meetings and almost daily discussions with our local NATCA representatives.
- NATCA was involved and actively engaged in the rewriting of the ZNY Training Order. We have not seen any instances of refusals to provide OJT as previously experienced, and the new policy permitted the formation of a training team to redesign the ZNY training program.

Begin the culture change of empowering the workforce

- Decision-making in the past was normally limited to Operations Managers. The ILT is in the process of placing decisions back at the appropriate level according to a defined process of prioritization.

Build a foundation for the establishment of a safety culture

- The facility has completed collaborative discussions with the NATCA and is preparing a Notice creating the first ZNY Safety Committee. The committee is comprised of three managers

and three bargaining unit employees who solicit risk identification reports within the facility, which has the potential to improve safety at the facility by identifying risk areas before they evolve into safety problems.

- The ILT is establishing Article 48 Area workgroups to provide for future pre-decisional perspectives on technical, procedural and airspace changes.

#### Increase ZNY's influence in the international arena

- The ILT has established an Oceanic Airspace and Procedures Office to establish consistency in international coordination.

#### **III. Plans for Permanent Leadership Team:**

The new ATM's selection will be announced shortly, and his/her scheduled arrival is April 1, 2012. The final list of candidates has been identified, but the final selection has not been made.

The remainder of the ILT will remain in place for varying lengths of time to ease the transition to the new ATM. Some of the previous ZNY management team were found to be effective leaders and enthusiastically embraced the new training and procedures initiatives, and they will take on permanent management roles. The new ATM will be given the latitude to make additional management selections as he/she deems necessary.