

DEPARTMENT OF TRANSPORTATION**Office of the Secretary**

[Docket OST-1998-4538; Order 99-1-13]

Application of National Airlines, Inc. for Certificate Authority**AGENCY:** Department of Transportation.**ACTION:** Notice of Order to Show Cause (Order 99-1-13) Docket OST-1998-4538.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding National Airlines, Inc., fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than February 10, 1999.

ADDRESSES: Objections and answers to objections should be filed in Docket OST-1998-4538 and addressed to Department of Transportation Dockets, U.S. Department of Transportation, 400 Seventh Street, SW., Rm. PL-401, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol Woods, Air Carrier Fitness Division (X-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (202) 366-2340.

Dated: January 26, 1999.

Patrick V. Murphy,*Deputy Assistant Secretary for Aviation and International Affairs.*

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DEPARTMENT OF TRANSPORTATION**Surface Transportation Board**

[STB Docket No. MC-F-20941]

Groendyke Transport, Inc., Manfredi Motor Transit Co., Miller Transporters, Inc., Superior Carriers, Incorporated, and Trimac Transportation, Inc.— Pooling Agreement**AGENCY:** Surface Transportation Board.**ACTION:** Request for comments from interested parties and order of suspension.

SUMMARY: Pursuant to 49 U.S.C. 14302(c)(3), we are (1) requesting public comments on an application filed by nine motor carriers of bulk commodities

to pool some of their services, traffic, and revenues and (2) suspending operation of the pooling agreement pending a final decision on the application.

DATES: Comments must be filed by March 1, 1999. Applicant's reply to the comments is due by March 22, 1999.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC-F-20941 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, send one copy of comments to applicants' representative: James A. Calderwood, Zuckert, Scoutt & Rasenberger, 888 17th Street, N.W., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565-1609. [TDD for the hearing impaired: (202) 565-1695.]

SUPPLEMENTARY INFORMATION: By application filed on November 20, 1998, nine motor carriers¹ seek authority to pool some of their services, traffic, and revenues pursuant to 49 U.S.C. 14302 and our regulations to implement this provision at 49 CFR 1184. The carriers are all licensed by the United States Department of Transportation (DOT) to carry bulk commodities that are often classified as "hazardous materials" by DOT. In general, the bulk commodities transported by applicants are chemical products that cannot be mixed with other cargo in the same load and require specialized equipment and handling procedures. The equipment must usually be cleaned after each delivery.

By their pooling agreement, applicants plan to establish a "joint venture corporation" (JVC) that will (1) coordinate their operations so as to avoid traffic imbalances and empty mileage and (2) share and coordinate their acquisition, use, and cleaning of the specialized cleaning equipment required for their operations. The pooling agreement has no expiration date. Each of the five owners of the JVC will have a 20% equity interest in it, and representation on the JVC's Board of Directors will be equal among the five owners.² Each of the five owners will

¹ The nine motor carriers are: Groendyke Transport, Inc.; Manfredi Motor Transit Co.; Miller Transporters, Inc.; Superior Carriers, Inc., and Central Transport, Inc., both wholly owned subsidiaries of Superior Carriers, Incorporated, a noncarrier; and Liquid Transporters, Inc., Quality Services Tanklines, Inc., Trimac Transportation Services (Western), Inc., and Universal Transport, Inc., all four of which are wholly owned subsidiaries of Trimac Transportation, Inc., a noncarrier.

² The parent owners will act on behalf of their subsidiary regulated carriers: see n.1 herein.

make an initial contribution to the JVC to cover expenses associated with its formation and initial operations. The JVC's board will hire its own staff.

The operations of the JVC can be summarized in their essential aspects as follows:

1. *Load Balancing.* Each carrier will regularly notify the JVC about the points where it will have empty equipment or need loads and the points where it cannot handle the loads offered to it. The JVC will endeavor to reconcile available equipment with needs "in a fair and equitable manner." Not less than monthly, the JVC will report to its carrier members as to "the number of loads transported under the joint venture corporation arrangement along with the volumes and points served."

2. *Cleaning equipment.* The carrier members will assist each other in the provision of cleaning equipment, make cleaning facilities available on an equal basis, establish procedures for the use and cleaning of such equipment, and share information and compile records concerning such use. In addition, "[m]ember carriers owning or controlling particular cleaning facilities will be responsible for the safe and efficient operation of such facilities * * *"

3. *Funding.* The JVC may establish charges to its member carriers to fund its operations.

4. *Participation.* A carrier member may terminate its participation by giving 30 days notice, subject to fulfillment of its prior obligations, and, if its permit is revoked by DOT, its operational participation will be automatically suspended.

5. *Shippers.* The carriers certify that the rates set under the agreement do not contravene the restrictions on collective ratemaking in 49 U.S.C. Subtitle IV and our regulations.³ Each carrier member will deal separately with shippers as to rates, contracts, and service. Rates will not be set by the JVC or its staff and will not be subject to discussion or agreements between JVC members.

Under the pooling agreement, carriers will sometimes have to collect charges from their customers for services that will actually be performed by other carriers. The particular carrier member responsible for contractual

³ The last sentence of numbered paragraph 7 of the pooling agreement provides: "The joint venture corporation will establish a uniform rate structure applicable to transportation services rendered through the joint venture corporation." We presume that this provision concerns payment for services that the carriers will render to each other and would not allow the JVC to provide regulated transportation services to be billed to shippers. Applicants should notify us if we are incorrect in this presumption.