

Stein Stephen

From: Rodriguez James
Sent: Wednesday, August 05, 2015 6:12 AM
To: Justine A. Harrison
Cc: Stein Stephen
Subject: RE: N6152M (NTSB Investigation No. WPR15LA223)

Ms. Harrison,

Thank you for your cooperation to date and the information below. I am not sure we would agree with all of your statements, so let me point out an area where our views may differ and address a couple of questions.

We disagree with your statement that the damage sustained did not rise to the level of substantial damage. FAA inspectors at the airport observed the aircraft and determined there was substantial damage. Per 49 C.F.R. § 830.2, with some exceptions, “[s]ubstantial damage means damage or failure which adversely affects the structural strength, performance, or flight characteristics of the aircraft and which would normally require major repair or replacement of the affected component.” By reference to the photo below of the aircraft as it came to rest, there is damage to the aircraft tail and rudder that goes beyond mere dented skin. The damage will likely require replacement of at least portions of the corrugated tail and rudder surfaces. This damage would be expected to impact the tail surface effectiveness, strength, or rudder authority and the flight characteristics of the aircraft.

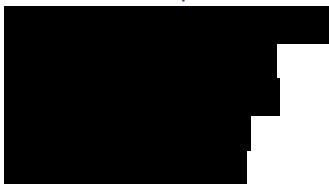
You indicated “the aircraft was rolled out of the Lone Mountain hangar by hand and released with paperwork signed by Kenneth Scherado stating that the aircraft was “inspected in accordance with current regulations of the Federal Aviation Administration and is approved for return to service.” **Please provide us a copy of this paperwork by Friday, August 7, 2015, or advise if you are unable to do so and explain why.**

Regarding NTSB fulfilling a “promise,” I am not sure of the promise to which you are referring. We acknowledged the NTSB’s statutory obligation to preserve evidence to the “maximum extent feasible ... consistent with the needs of the investigation,” in a discussion of the agency’s broad discretion to determine the type, manner, and participants in necessary testing. See 49 U.S.C. § 1134 (c)-(d). The agency will follow its statutory mandates. I also indicated in my July 29 email, that if Mr. Belinski returned all the wreckage, we would be inclined to drop our civil and criminal enforcement efforts. We have suspended our discussions with the AUSA and FBI at this time, though could reengage them if we found evidence of obstruction. If you had something else in mind as a promise by the NTSB, please let us know.

Sincerely,

Jim

James F. Rodriguez
Ass’t General Counsel
National Transportation Safety Board





From: Justine A. Harrison [REDACTED]
Sent: Saturday, August 01, 2015 11:54 PM
To: Rodriguez James
Cc: Stein Stephen
Subject: N6152M

Dear Mr. Rodriguez,

Per your email dated July 29, 2015, and in full cooperation with the NTSB's request, on July 29 my client returned the entire aircraft ("all the wreckage, to include the aircraft and everything in or on the aircraft at the time") to a secure hangar as approved by your colleague Stephen Stein. We look forward to you fulfilling your promise stated in the email. You also requested additional information about the handling of the aircraft from the time of the mishap to its return to a secure hangar. Based on the facts below, I do not believe an NTSB investigation is required in this instance. Given that the NTSB's investigations have no adverse parties, my client has chosen to fully cooperate with the NTSB as discussed in greater detail below.

Description of Handling of Aircraft

On Saturday, July 25, the aircraft came to rest upside down after an emergency landing executed by Mr. Belinski, after the tower cleared him to "do what you gotta do." The damage sustained during the landing did not rise to the level of "substantial damage" as defined in 49 CFR 830.2. An airport staff member told Mr. Belinski that the aircraft could not remain where it was, and nobody informed Mr. Belinski that recovery assistance was available at the airport. A Lone Mountain Aircraft representative arrived onsite, did not tell Mr. Belinski that there was recovery assistance available and, even when asked, offered no assistance. As a result, Mr. Belinski, owner of a construction company, used his forklift to right the aircraft onto its landing gear. During this process (1) the forklift damaged the left side of the elevator and horizontal stabilizer and bent the fuselage, (2) the forklift tire collided with the top of the leading edge of the left wing, and (3) as the aircraft was again rotated over its nose onto its landing gear, a popping noise was heard, and (4) during the hoisting process the fuselage became slightly bent.

Once the aircraft was righted, Matt, the Lone Mountain employee, then offered to help tow the aircraft to the Lone Mountain hangar for temporary storage. Nobody at Lone Mountain said the aircraft had substantial damage or was now under the control of the NTSB. The towing was done by Tracy Dederer from Cross Construction and Matt. Matt informed Mr. Belinski that Lone Mountain would likely cut off the wings, had done so to another aircraft, and that the aircraft would not be returned to Mr. Belinski. Given that the aircraft had not suffered "substantial damage" from the landing and the NTSB had not notified Mr. Belinski that the aircraft was now under NTSB control, Mr. Belinski was extremely concerned about preservation of the aircraft. His fears about aircraft confiscation and destruction by Lone Mountain were further heightened by a North Las Vegas Airport staff member, who confirmed that another aircraft in possession of Lone Mountain had had its wings sawed off and been destroyed. Mr. Belinski was asked by another person at the airport whether the aircraft could be stored in an empty hangar, but Mr. Belinski wasn't aware of any immediately available hangars.

Due to Mr. Belinski's concerns about confiscation and destruction of his aircraft, he removed it from Lone Mountain on Monday morning. The aircraft was rolled out of the Lone Mountain hangar by hand and released with paperwork signed by Kenneth Scherado stating that the

aircraft was "inspected in accordance with current regulations of the Federal Aviation Administration and is approved for return to service." The wings were unbolted, and the aircraft was loaded onto a large flatbed trailer and secured for transport and storage. Three individuals, all employees of his construction company, assisted Mr. Belinski with this process:

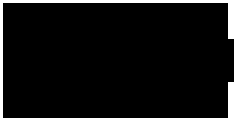
1. Jeff Smitherman, Cross Construction, [REDACTED]
2. Brad Resnik, Cross Construction, [REDACTED]
3. Tracy Dederer, Cross Construction, [REDACTED]

The trailer was transported to and securely stored at 104 Laurel Ave in Las Vegas, a fenced and gated property owned by Mr. Belinski, where the aircraft remained on the trailer undisturbed. Upon receiving communication from the NTSB the morning of July 28 and in full cooperation with the NTSB's request to return the aircraft to the airport and upon the assurances that the aircraft would be under the NTSB's exclusive control, that Lone Mountain could not do anything to the aircraft without the NTSB's direction, that the aircraft would be returned to him at the end of any investigation, and that no additional costs were required to be incurred, Mr. Belinski returned it to the North Las Vegas Airport on July 29 by returning the trailer with the undisturbed aircraft.

Pat from Lone Mountain Aircraft met Mr. Belinski at the side access gate, photographed the aircraft on the trailer, and followed it to a Bravo hangar owned by a third party. Stephen Stein of the NTSB approved storage of the aircraft in the third party owned hangar. Pat from Lone Mountain observed the transfer and storage of the aircraft and took photos during the process. The fuselage was removed from the trailer and placed on the ground using Cross Construction's forklift and pushed back into the hangar by hand. The wings were removed from the trailer by hand and placed on the hangar floor adjacent to the fuselage. The hangar was then locked via padlock and, per Mr. Stein's direction, the key was given to Justine Harrison Esq. for safekeeping pending further direction from the NTSB. The key was sent to Stephen Stein, at his request, on July 31, 2015, via Federal Express overnight envelope # 7741 8787 8391.

Best regards,

Justine A. Harrison, Esq.
JUSTINE A. HARRISON, CHTD.



Las Vegas, Nevada

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