

**ORDER: 85-8-43**  
**ISSUED: AUG 14, 1985**

**(FOREIGN SOURCE OF FUNDS; SEE ALSO  
DOT AVIATION PROCEEDINGS; VOL 3  
JULY-SEP (1985) p. 127-175**

DEPARTMENT OF  
TRANSPORTATION  
  
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Order 85-8-43

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

Issued by the Department of Transportation  
on the 14th day of August 1985

**SERVED AUG 21 1985**

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AIR NIAGARA :  
Continuing Fitness Investigation :  
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Docket 42243

*nick award*

ORDER DECLINING REVIEW

By Order 84-5-99, May 31, 1984, the Civil Aeronautics Board instituted this investigation under section 401(r) of the Federal Aviation Act of 1958, as amended, to determine whether Air Niagara continues to be fit, willing, and able to provide interstate and overseas air transportation under section 401 of the Act, and whether the Board should modify, revoke, or suspend Air Niagara's certificate authority. In an Initial Decision served July 16, 1985, Administrative Law Judge Ronnie A. Yoder found that Air Niagara has failed to demonstrate that it is a U.S. citizen or that it is fit, willing, and able to continue to provide the transportation for which it holds authority. He concluded that Air Niagara's section 401 certificate should be revoked and this proceeding terminated.

No party has petitioned for discretionary review of the Judge's decision. Upon consideration of the record and the factual circumstances presented here, we have decided not to review the Judge's decision, and we will accept his resolution of the issues. The Initial Decision is attached as an appendix.

ACCORDINGLY,

1. We decline review of Administrative Law Judge Ronnie A. Yoder's Initial Decision in Docket 42243, served July 16, 1985;
2. We find that Air Niagara has failed to demonstrate that it is a citizen of the United States, as defined by section 101(16) of the Federal Aviation Act of 1958, as amended;
3. We find that Air Niagara has failed to comply with the requirement that it continues to be fit, willing, and able to perform scheduled interstate and overseas air transportation;
4. We revoke Air Niagara's certificate issued under section 401 of the Act; and

JULY 25 1985 10:15 P.M.

5. We dismiss any pending applications, motions, and requests in Docket 42243.

By:

MATTHEW V. SCOCOZZA  
Assistant Secretary  
for Policy and International Affairs

(SEAL)