

SERVED: December 28, 1995

NTSB Order No. EA-4415

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)
on the 28th day of December, 1995

_____)	
DAVID R. HINSON,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-14296
v.)	Docket SE-14301
)	
HELIVEN HELICOPTERS, INC., AND)	
ALBERTO RIVERA,)	
)	
Respondents.)	
)	
_____)	

ORDER DENYING REQUEST FOR EXTENSION OF TIME

Respondents, by counsel, have filed a motion requesting an extension of time to file an appeal brief, because a transcript of the hearing has not yet been provided to the parties in this consolidated emergency proceeding. A timely notice of appeal of the law judge's initial decision, rendered on December 22, 1995, was filed on December 24, 1995. The Administrator has filed a reply to the motion.

Respondents' request for an extension is denied. Subpart I of the Board's Rules of Practice in Air Safety Proceedings, 49 C.F.R. Part 821, as amended, 59 Fed. Reg. 59042 (November 15, 1994) and 95 Fed. Reg. 111252 (May 11, 1995) set forth the rules applicable to emergency proceedings. Rule 821.57(a) specifically provides that "[t]he time limitations for the filing of documents are not extended by the unavailability of the hearing

transcript."¹

Since the notice of appeal was required to be filed on Sunday, December 24, 1995, and the following day was a legal holiday, the notice of appeal need not have been filed until Tuesday, December 26, 1995. See Rules 821.54(c) and 821.10. Accordingly, the appeal would be perfected by the filing of an appeal brief within 5 days of December 26, 1995, which is Sunday, December 31, 1995. Since that due date also falls on a Sunday and is immediately followed by another legal holiday, the appeal brief in this matter must be filed by the close of business on Tuesday, January 2, 1996.²

ACCORDINGLY, IT IS ORDERED THAT:

The motion for an extension of time is denied.

Daniel D. Campbell
General Counsel

¹Respondents also filed a request for reconsideration with the law judge. Since Subpart H of the Board's Rules do not apply to emergency proceedings, Rule 821.47(b) does not provide for a stay of the deadline for perfecting an appeal to the Board in this matter.

²Rule 821.57(b) requires that all briefs in emergency cases shall be served via overnight delivery or facsimile confirmed by first-class mail.