

**STATEMENT OF DANIEL K. ELWELL  
DEPUTY ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION  
BEFORE THE  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
SUBCOMMITTEE ON AVIATION  
UNITED STATES HOUSE OF REPRESENTATIVES  
IMPLEMENTATION OF THE FAA REAUTHORIZATION ACT OF 2018  
SEPTEMBER 26, 2019**

Chairman Larsen, Ranking Member Graves, Members of the Subcommittee:

Thank you for the opportunity to appear before you today to discuss the Federal Aviation Administration's (FAA) ongoing work to implement the provisions of the FAA Reauthorization Act of 2018 (2018 Act or Act). The 2018 Act is a wide-ranging reauthorization measure that provided the FAA with a host of critical new authorities and responsibilities on a broad range of aviation issues including enhancing safety, improving infrastructure, and enabling innovation. Although the 2018 Act reauthorized aviation programs for five years, the vast majority of the specific mandates require FAA action within the first year. The Act's focus on the first year of the reauthorization period, as well as other challenges that the FAA has encountered since enactment, has required the FAA to prioritize its implementation strategy. Despite these challenges, I am pleased to report that the FAA has made substantial progress on fulfilling the congressional mandates in the Act, and I would like to summarize for you some of the FAA's accomplishments.

**Aircraft Certification & Flight Standards**

The regulations and policies that guide the FAA's approach to aircraft certification and flight standards have evolved over time in order to adapt to an ever-changing industry, and to ensure that safety is always our first priority. Continuous improvement is an integral component of the FAA's safety culture and we are committed to learning from our experiences and using what we have learned to improve our process.

- *Safety Oversight and Certification Advisory Committee.* The 2018 Act requires the Secretary of Transportation to establish a Safety Oversight and Certification Advisory Committee (SOCAC) to advise the Secretary on policy-level issues facing the aviation community related to FAA safety oversight and certification programs and activities. The Act further requires the new advisory committee to focus on a number of specific aspects of the FAA’s safety oversight role including, for example, organization designation authorization (ODA).

Secretary Chao this summer announced the appointment of 22 members to the advisory committee.<sup>1</sup> The SOCAC consists of members representing stakeholders from across the aviation sector. Additionally, the Secretary created a Special Committee within the structure of the SOCAC to specifically review FAA procedures for the certification of new aircraft.<sup>2</sup> Through this framework, leading outside experts will help determine if improvements can be made to the FAA’s aircraft certification process. As Secretary Chao emphasized, safety is the number one priority of the Department. The FAA embraces meaningful oversight to make air transportation safer. We welcome the work of the SOCAC and the Special Committee and look forward to reviewing their recommendations.

- *Organization Designation Authorization Office.* The use of delegation, in some form, has been a vital part of our Nation’s aviation safety system since the 1920s. Congress has continually expanded the designee program since creation of the FAA in 1958, and it is critical to the success and effectiveness of the certification process. In March 2019,

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<sup>1</sup> <https://www.transportation.gov/briefing-room/us-secretary-transportation-elaine-l-chao-announces-appointees-safety-oversight-and-0>

<sup>2</sup> <https://www.transportation.gov/briefing-room/dot1619>

consistent with requirements under the 2018 Act, the FAA formally established the Organization Designation Authorization (ODA) Office within the Office of Aviation Safety. This Office will ensure consistency of ODA oversight functions. It will facilitate standardized application of policy, ensure the proficiency of ODA staff in executing oversight processes, monitor risk and performance issues, and facilitate continuous improvement of ODA program performance.

- *Aircraft Certification Performance Objectives and Metrics.* The 2018 Act requires the FAA to establish, in conjunction with the SOCAC, aircraft certification performance metrics and to apply and track the metrics for both the FAA and industry. After a months-long effort to develop the metrics, the FAA, in collaboration with the Safety Oversight and Certification Aviation Rulemaking Committee, established a list of 14 metrics in August 2019. The FAA is prepared to track the metrics after coordinating with the SOCAC at their initial meeting in November 2019. We expect that tracking these metrics will allow the FAA to identify inefficiencies, increase accountability, and improve safety.
- *Flight Standards Performance Objectives and Metrics.* The Act also requires FAA to establish, in conjunction with the SOCAC, flight standards performance metrics. In August 2019, the FAA established the Flight Standards Transparency, Performance, Accountability, and Efficiency Aviation Rulemaking Committee. This rulemaking committee has been tasked to make recommendations concerning the performance metrics for both the FAA and industry.

## Aviation Safety

The 2018 Act is the most comprehensive aviation reauthorization measure enacted in over 30 years. In addition to the 33 separate FAA rulemakings required under the Act, Congress also required the FAA to create new Aviation Rulemaking Committees (ARCs) and to task the existing Aviation Rulemaking Advisory Committee (ARAC) with specific responsibilities concerning various aviation safety objectives. The list below provides a glimpse into some of the important work the FAA has accomplished in this area since enactment.

- *Flight Attendant Duty/Rest Period.* Ensuring that crewmembers are properly rested is a critical component of aviation safety. In April 2019, the FAA initiated a rulemaking in accordance with the 2018 Act, to modify applicable rules to require a minimum rest period of 10 hours for any flight attendant scheduled to a duty period of 14 hours or less.<sup>3</sup> In support of this effort, the FAA drafted an Advanced Notice of Proposed Rulemaking that published earlier this week. We expect the process will provide us with data from aviation stakeholders and the general public to assist us in developing the proposed rule.

Additionally, on June 18, 2019, the FAA published information to advise the industry of the flight attendant fatigue risk management plan requirements contained in the 2018 Act. The FAA is actively receiving and reviewing air carrier flight attendant fatigue risk management plans.<sup>4</sup>

- *Designated Pilot Examiners.* On June 20, 2019, the FAA directed the ARAC to review all regulations and policies related to designated pilot examiners.<sup>5</sup> Through the ARAC, the FAA will gather recommendations on regulatory and policy changes necessary to

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<sup>3</sup> <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201904&RIN=2120-AL41>

<sup>4</sup> [https://www.faa.gov/other\\_visit/aviation\\_industry/airline\\_operators/airline\\_safety/info/all\\_infos/media/2019/InFO19007.pdf](https://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/info/all_infos/media/2019/InFO19007.pdf)

<sup>5</sup> [https://www.faa.gov/regulations\\_policies/rulemaking/committees/documents/index.cfm/document/information/documentID/3944](https://www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information/documentID/3944)

ensure that an adequate number of designated pilot examiners are deployed and available to perform their duties to meet the growing needs of the public.

- *Secondary Cockpit Barriers.* The 2018 Act requires the FAA to issue an order requiring the installation of a secondary cockpit barrier on each new aircraft that is manufactured for delivery to a passenger air carrier in the United States operating under part 121 of title 14, Code of Federal Regulations.<sup>6</sup> The FAA is committed to implementing this requirement. On June 20, 2019, the ARAC accepted an FAA tasking to provide recommendations regarding implementation of this provision. The FAA looks forward to reviewing the ARAC's recommendations and moving forward on this mandate.
- *Pilot Duty/Rest Period.* On May 21, 2019, the FAA established the Part 135 Pilot Rest and Duty Rules Aviation Rulemaking Committee.<sup>7</sup> The 2018 Act requires the FAA to convene the committee to review, and develop findings and recommendations regarding, pilot rest and duty rules under part 135 of title 14, Code of Federal Regulations.
- *Emergency Evacuation Standards.* On April 24, 2019, the FAA established the Emergency Evacuation Standards Aviation Rulemaking Committee. This ARC will provide a forum for affected parties to discuss and provide recommendations to the FAA on certification of emergency evacuation systems, designs, and procedures.<sup>8</sup> The formation of the ARC is a significant step forward in fulfilling the requirements under the 2018 Act to review and report on cabin evacuation procedures.

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<sup>6</sup>[https://www.faa.gov/regulations\\_policies/rulemaking/committees/documents/index.cfm/document/information/documentID/3942](https://www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information/documentID/3942)

<sup>7</sup>[https://www.faa.gov/regulations\\_policies/rulemaking/committees/documents/index.cfm/document/information?documentID=3965](https://www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information?documentID=3965)

<sup>8</sup>[https://www.faa.gov/regulations\\_policies/rulemaking/committees/documents/index.cfm/document/information?documentID=3983](https://www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information?documentID=3983).

- *Safety Critical Staffing.* The 2018 Act requires the FAA to update its safety critical staffing model. The staffing model is an important mechanism to help determine the number of aviation safety inspectors needed to fulfill the FAA’s safety oversight mission. The staffing model has been updated and new staffing forecasts have been developed. The FAA’s Aviation Safety Workforce Plan was delivered to Congress in March 2019.<sup>9</sup>

### **Unmanned Aircraft Systems (UAS)**

The 2018 Act devoted considerable attention to the FAA’s continued work on the integration of UAS into the National Airspace System (NAS). The points below highlight some of the Agency’s important work in this area.

- *Remote ID.* To further the overall objective of integrating UAS into the NAS, Congress recognized the importance of remote identification when it enacted the FAA Extension, Safety, and Security Act of 2016. That Act laid the foundation for the FAA’s work with operators and security partners to realize the importance of remote identification and reach a consensus on how to address it. More recently, the 2018 Act provided the FAA with the authority to continue its work on this important issue. In May 2019, the FAA published a notice implementing the 2018 Act’s legislative exception for limited recreational operations of unmanned aircraft.<sup>10</sup> Additionally, in July 2019, the FAA expanded the Low Altitude Authorization and Notification Capability (LAANC) system to include recreational flyers.<sup>11</sup> This action increased the safety of the NAS and the ability of recreational UAS operators to gain rapid authorization for access to controlled airspace nationwide. Further, the 2018 Act provided clarity on the requirements for

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<sup>9</sup> [https://www.faa.gov/about/plans\\_reports/media/fy19\\_avs\\_wfp.pdf](https://www.faa.gov/about/plans_reports/media/fy19_avs_wfp.pdf)

<sup>10</sup> <https://www.govinfo.gov/content/pkg/FR-2019-05-17/pdf/2019-10169.pdf>

<sup>11</sup> <https://www.faa.gov/news/updates/?newsId=94105>

recreational UAS operations and has allowed the FAA to move ahead with work on UAS registration and remote identification—both of which are critical to the success of commercial UAS operations and UAS integration more broadly.

Remote identification is fundamental to both safety and security of UAS operations. Remote identification will be necessary for routine beyond visual line-of-sight operations, operations over people, package deliveries, operations in congested areas, and the continued safe operation of all aircraft in shared airspace. It will also be foundational for the advancement of automated passenger or cargo-carrying air transportation, which is often referred to as Urban Air Mobility. With remote identification, the FAA and our national security and public safety partners will be better able to identify a UAS and its operator, assess if a UAS is being operated in a clueless, careless, or criminal manner, and take appropriate action if necessary. Remote identification is the FAA's highest priority UAS-related rulemaking effort. A draft Notice of Proposed Rulemaking (NPRM) on this subject is presently in Executive Branch clearance.

- *Carriage of Property by Small Unmanned Aircraft Systems.* Congress also recognized, in the 2018 Act, the growing potential of UAS to deliver cargo. In particular, the Act requires the FAA to update existing regulations to authorize the carriage of property by operators of UAS for compensation or hire in the United States. The FAA has been working closely with the participants in the UAS Integration Pilot Program (IPP) to accelerate safe UAS operations. The IPP has evaluated a host of operational concepts including operations at night, over people, beyond the pilot's line of sight, and package delivery. This work is ongoing, and the FAA is currently meeting the intent of the

mandate through an exemption process. Earlier this year, the FAA granted the first air carrier certification to a commercial UAS operator for package deliveries in rural Blacksburg, Virginia. Although the regulatory framework for broader UAS operations is not complete, the IPP has helped to inform the FAA and UAS operators of the extent to which operations can begin under existing rules.

- *Local Public Safety Engagement on UAS Operations.* The 2018 Act directed the FAA to develop a comprehensive strategy to support and provide guidance for state and local public safety partners to identify and respond to threats posed by UAS as well as opportunities to use UAS to enhance the effectiveness of first responders. The FAA has made a substantial and continuing effort to make the information needed by Federal, state and local entities readily available. The FAA has assembled a great amount of useful and easily accessible information on its web page dedicated to public safety and government UAS issues.<sup>12</sup> Here, government stakeholders can find information on how to operate UAS, how to start a UAS public safety program, and information on waivers and authorizations supporting emergency UAS operations. The website also provides guidance on understanding local authority and the handling of UAS sightings and reports of non-compliant UAS operations. The FAA's informational toolkit consists of videos, guidance, and other resources that can assist local law enforcement agencies in their handling of situations involving UAS, including a public safety engagement plan.<sup>13</sup> Throughout this information, the FAA has sought to emphasize that: (1) flying UAS is a regulated activity and there are Federal rules for flying UAS legally and safely; (2) flying

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<sup>12</sup> [https://www.faa.gov/uas/public\\_safety\\_gov/](https://www.faa.gov/uas/public_safety_gov/)

<sup>13</sup> [https://www.faa.gov/uas/resources/policy\\_library/media/Public\\_Safety\\_Engagement\\_Plan.pdf](https://www.faa.gov/uas/resources/policy_library/media/Public_Safety_Engagement_Plan.pdf)

at night, too close to people, or in restricted or controlled airspace is generally prohibited without FAA authorization; (3) the small UAS rule—part 107 of title 14, Code of Federal Regulations—provides the framework for routine, low-altitude small UAS operations; and (4) FAA’s Law Enforcement Assistance Program (LEAP) can help local public safety partners distinguish between what is and is not allowed under Federal rules.

## **Airports**

In keeping with this Administration’s goal of improving our Nation’s airport infrastructure, the 2018 Act prioritized efforts to improve airport infrastructure planning and development. The FAA is making continuous progress in carrying out the congressional mandates contained in the Act. Some of the more important initiatives that the FAA is working on include the following:

- *Passenger Facility Charge (PFC) Streamlining.* In the 2018 Act, Congress directed the FAA to expand the streamlining concept for PFC applications to all eligible airports (no longer limiting it to just non-hub primary airports). The FAA is making excellent progress in developing a proposed approach to a new pilot program, while also identifying opportunities to improve the existing process in the interim. This potential approach would yield near-term benefits for the Nation’s airports, while also providing the necessary data to support the regulatory changes that are still required under the statute. It will also help the FAA address concerns expressed by the airline community.
- *Airfield Pavement for Non-Primary Airports.* The 2018 Act authorized states to request the use of highway specifications for airfield paving and construction if aircraft serving the airport do not exceed 60,000 pounds and safety would not be affected. The FAA’s draft guidance on this provision is nearing completion and we anticipate that this

authority will create some opportunities for capital cost reductions without eroding safety. Additionally, as required by the Act, the FAA stands ready to provide technical assistance to any state that may want to develop alternative airport pavement standards where local conditions and locally available materials may make this desirable.

- *Contract Towers.* The FAA is making significant progress in implementing the 2018 Act concerning the processing of new applications to the Contract Tower program and benefit-cost analysis of contract towers. In June 2019, the FAA re-opened the applications for new towers to the program. To date, we have received nine applications for entry into the program. In accordance with congressional direction, the FAA has conducted updated benefit-cost analyses for existing cost-share participants and will notify sponsor airports of the results by the end of September.

In addition, the FAA is making significant progress on implementing the 2018 Act's elimination of the \$2 million cumulative Airport Improvement Program (AIP) cap, and authorization for the FAA to use resources from the Small Airport Fund (a key component of the AIP) for eligible contract tower projects. The FAA has moved swiftly to implement these changes with updated guidance, and is working with potential recipients of these funds for high-priority tower projects.

- *Limited Land Use Regulation for Airports.* As part of the 2018 Act, Congress imposed limitations, with certain exceptions, on the FAA's authority to regulate an airport's acquisition, use, lease, encumbrance, transfer, or disposal of land and facilities.

Implementation of this section is a high priority for the FAA. We have already identified more than 25 projects where airports have been able to move forward with minimal FAA

involvement. These early examples have provided valuable information that is helping the FAA to develop guidance to ensure that the provision is consistently implemented.

- *Airport Firefighting.* The 2018 Act enacted limitations on the FAA’s authority to require the use of certain firefighting chemicals. In particular, starting three years after the date of enactment, the FAA is prohibited from requiring the use of fluorinated chemicals to meet performance standards for firefighting agents. The FAA is making great progress in both the development of a facility to conduct live firefighting agent testing and, in its collaboration with other agencies, to advance identification and evaluation of alternative firefighting agents. In the meantime, we have also implemented short-term changes to reduce the release of fluorinated chemicals into the environment by airports, including the approval of three testing systems that do not result in the external discharge of fluorinated chemicals. We also issued guidance to airports alerting them to their ability to use AIP funds to purchase these testing systems.

### **Hazardous Materials in Air Transportation**

Within the Department of Transportation, the Pipeline and Hazardous Materials Safety Administration (PHMSA) has the primary responsibility for establishing multi-modal regulations for the safe transportation of hazardous materials, to include establishing rules for the classification, containment, and communication of the presence of hazardous materials. PHMSA is leading critical lithium battery regulatory initiatives prescribed by the 2018 Act and the FAA is working to ensure compliance with air transport safety regulations as well as conducting a public awareness campaign.

- *Lithium Battery Safety Working Group and Safety Advisory Committee.* PHMSA is establishing a working group to promote and coordinate efforts related to the safe

manufacture, use, and transportation of lithium batteries and cells. PHMSA is also establishing a lithium ion and lithium metal battery air safety advisory committee to facilitate communication between manufacturers, air carriers, and the Federal Government regarding the safe air transportation of lithium ion and lithium metal batteries as well as the effectiveness, economic, and social impacts of the regulation of such transportation.

- *FAA Cooperative Efforts to Ensure Compliance with Safety Regulations.* In support of the broader hazardous materials safety effort, the FAA focuses on conducting oversight of the integration of hazardous materials safety measures into the aviation transportation system. Accordingly, the FAA is leading efforts, consistent with the 2018 Act requirements, to improve interagency and international cooperative efforts to ensure compliance with safety regulations for air transport of lithium batteries.
- *Undeclared Hazardous Materials Public Awareness Campaign.* The FAA launched a new website that provides stakeholders—including shippers, air carriers, and the traveling public—with a one-stop shop they can easily access to find information and answers to their questions.<sup>14</sup> The FAA recently provided Congress with an update of our public awareness campaign to reduce undeclared dangerous goods in air commerce. The FAA is also participating in an industry/government/labor coalition that meets regularly to strategize on improvements to the messaging and other tools that industry uses to educate their customers on the proper procedures for transporting hazardous materials by aircraft. Additionally, the FAA is supporting a PHMSA-led public education campaign

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<sup>14</sup> <https://www.faa.gov/hazmat/>

known as “Check the Box” to increase public awareness of the risks associated with undeclared shipments of hazardous materials.<sup>15</sup>

## **Innovation**

This Administration has made it a priority to engage with new and emerging technologies and enable innovation wherever possible. Innovations in aviation and aerospace have benefitted our economy, transformed the way we travel, helped the environment, and saved lives. In the 2018 Act, Congress recognized the importance of innovation and the FAA is working to foster it while maintaining the safety of the NAS.

- *Supersonics.* In the 2018 Act, Congress supported FAA leadership on the creation of policies, regulations, and standards to enable the safe and efficient operation of civil supersonic aircraft. As part of the FAA’s efforts to implement this authority, the FAA in June 2019 published an NPRM intended to clarify and streamline the procedures for special flight authorizations for supersonic aircraft.<sup>16</sup> The FAA is currently reviewing the comments we received on the NPRM and considers this rulemaking to be one of the FAA’s first actions in a continued and concerted effort to advance the operation of civil supersonic aircraft consistent with our other statutory and international obligations concerning noise and emissions.
- *Noise.* Over the decades, the aviation industry has made significant progress in the development of technology to reduce noise from aircraft. Congress and the FAA have worked closely on this continued effort and the FAA is currently working to complete the noise-related requirements contained in the 2018 Act. One provision directs the FAA to complete a study on the potential health and economic impacts of overflight noise. The

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<sup>15</sup> <https://checkthebox.dot.gov>

<sup>16</sup> <https://www.federalregister.gov/documents/2019/06/28/2019-13079/special-flight-authorizations-for-supersonic-aircraft>

FAA recently awarded a \$1.7 million grant to university members from the FAA's Air Transportation Center of Excellence for Alternative Jet Fuels and the Environment in order to carry out the study. The Act also required the FAA to designate a regional ombudsman for each of the FAA's regions to act as a liaison with the public on issues of noise, pollution, and safety. The FAA elected to designate our community engagement officers as the regional ombudsman. They are in the process of being on-boarded and trained. The FAA will announce the individuals as soon as training is completed, which we anticipate will be in October of this year. The FAA is constantly working to foster better communication between the Agency and affected communities.

- *Commercial Space.* The commercial space transportation industry in the United States is innovative, dynamic, and growing. In Fiscal Year 2018, there were 32 launches and 3 reentries of commercial space vehicles for a total of 35 licensed activities—a record. For Fiscal Year 2019, we had 32 licensed and permitted operations. We are forecasting 35 to 54 licensed or permitted operations in Fiscal Year 2020, and between 33 and 56 licensed or permitted operations in Fiscal Year 2021. In anticipation of this expected growth, the FAA has intensified its efforts to fulfill its commercial space transportation mission, maintaining the highest level of safety without stifling industry expansion and innovation. Congress has recognized the importance of this growing industry and the 2018 Act called for the FAA to stand up an Office of Spaceports within the FAA's Office of Commercial Space Transportation. That Office of Spaceports is up and running and we are actively working with Spaceport licensees and stakeholders. Additionally, although not mandated in the 2018 Act, the FAA is engaged in an important rulemaking to streamline existing launch/reentry regulations to create an environment that promotes

economic growth, minimizes uncertainty, protects safety, fosters security, aligns with foreign policy interests, and encourages American leadership in space commerce.<sup>17</sup> The commercial space transportation market is changing rapidly and our regulatory process needs to keep up in order to protect public safety while enabling U.S. industry to innovate. We are currently analyzing industry comments to determine the best path forward to complete the rule.

- *Cyber Testbed.* Cybersecurity has become a significant component of nearly every modern aviation technological development. The 2018 Act required the FAA to develop a cyber testbed for research, development, evaluation, and validation of air traffic control modernization technologies to ensure that they are compliant with FAA data security regulations before they become operational. The FAA completed this action and the Cybersecurity Test Facility (CyTF) is now operational at the William J. Hughes Technical Center in Atlantic City, New Jersey. The CyTF provides the FAA with an adaptable cybersecurity test environment to evaluate technologies prior to their integration into the National Airspace environment. The facility is also used for the cybersecurity training of the FAA workforce. Also, as part of an additional cybersecurity requirement under the Act, the FAA is updating its overall Strategic Cybersecurity Plan. The Agency's Cybersecurity Steering Committee has completed the yearly update, and we expect to publish the FAA's 2020 - 2025 cybersecurity strategy in the coming weeks.

## **Conclusion**

Chairman Larsen, I want to assure you, and each member of the Subcommittee, that the FAA is fully committed to carrying out the provisions of the 2018 Act as quickly as possible.

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<sup>17</sup> <https://www.federalregister.gov/documents/2019/04/15/2019-05972/streamlined-launch-and-reentry-licensing-requirements>

The FAA takes the congressional direction we receive very seriously and our employees work hard to achieve the mandated goals and directives. We have to ensure, however, that the substance behind each requirement is not sacrificed in a rush to declare completion. We are confident that we are making substantial and meaningful progress and we fully intend to keep Congress apprised of that progress on a regular basis. This concludes my statement and I will be glad to answer your questions.

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