

United States Senate  
WASHINGTON, DC 20510

July 26, 2013

The Honorable Charles Hagel  
Secretary  
U.S. Department of Defense  
1300 Defense Pentagon  
Washington, DC 20301-1300

Dear Secretary Hagel:

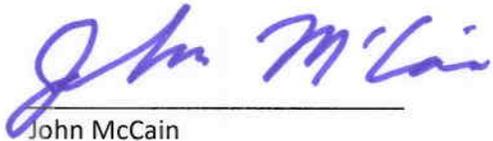
As you near the completion of a divestiture plan for the C-27J Spartan aircraft, we want to draw your attention to Section 1091 of the National Defense Authorization Act for Fiscal Year 2013, P.L. 112-239 (NDAA), which governs the transfer of excess military aircraft deemed useful by the U.S. Forest Service for suppressing wildfires.

We are deeply concerned that the Forest Service's wildfire air tanker fleet is stretched alarmingly thin and urgently needs to be recapitalized. According to press reports, there were about 914 requests to deploy air tankers at various wildfires in 2012 but about half of those requests were denied as "unable to fill" because of fierce competition for a shortage of air assets. To help address this shortfall, the Forest Service has proposed acquiring the C-27J as a 21<sup>st</sup> century platform capable of multiple wildland-fire missions including smokejumper and cargo delivery, fire crew transport, and aerial application of fire retardant.

Section 1091 of the NDAA 2013 clearly gives the Forest Service the first right of refusal on up to seven of the twenty-one C-27J aircraft deemed excess to the needs of the Department of Defense (DoD). We understand that U.S. Special Operations Command (SOCOM), a division of DoD, may request up to 8 of the C-27J aircraft, which is consistent with Section 1091. However, in a memorandum to you from the U.S. Department of Homeland Security (DHS), dated June 10, 2013, Secretary Janet Napolitano expressed an interest in obtaining up to 14 of the C-27J aircraft on behalf of the U.S. Coast Guard (USCG) under a "direct military-to-military transfer." We want to remind you that a transfer of 14 of the C-27J aircraft to USCG (which operates under the service of DHS, not the DoD (14 U.S.C. §3)) is inconsistent with the language of Section 1091. Congress specifically relegated USCG's priority in obtaining excess C-27J second to the Forest Service. This interpretation of Section 1091 is shared by experts at the Congressional Research Service, an objective legal and policy analysis branch of the Library of Congress.

We would appreciate knowing what steps you are taking to prepare the C-27J for transfer and request to be immediately notified when a plan is near implementation. We would also appreciate a reply explaining your interpretation of Section 1091 in light of the request by Secretary Napolitano.

Sincerely,



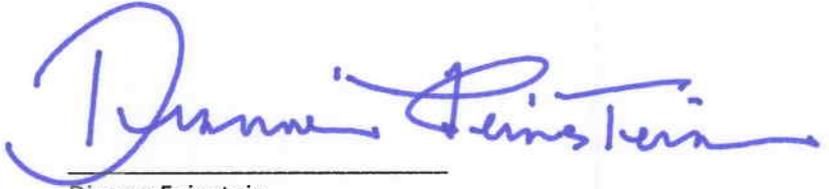
John McCain  
United States Senator



Ron Wyden  
United States Senator



Mike Johanns  
United States Senator



Dianne Feinstein  
United States Senator



Mark Udall  
United States Senator



Bill Nelson  
United States Senator

Cc: Secretary Janet Napolitano, U.S. Dept. of Homeland Security

Cc: Secretary Tom Vilsack, U.S. Dept. of Agriculture