

March 21, 2005

Contact # 05-0238

Investigator Scott Harding
Department of Transportation
Office of the Inspector General
P.O. Box 23178
Washington, DC 20026

Dear Investigator Harding,

I submit this complaint against

- Christopher Poreda, Regional Counsel for the FAA New England Region;
- Amy L. Corbett, FAA New England Regional Administrator;
- Janet Malouin, Manager of the Bedford/Lexington, MA FSDO;
- Sharon Felton, Principal Operations Inspector at the Lexington, MA FSDO;
- William Wicks, a Principal Operations Inspector at the Lexington, MA FSDO;
- the New England Region of the FAA,
- and the Lexington, MA FSDO (NE01)

for their systematic efforts to deflect citizens complaints concerning violations of the Federal Aviation Regulations, and to protect their pilot friends from prosecution by failing to conduct proper investigations, by ignoring evidence presented to them, and by refusing to prosecute simply because Mr. Poreda has chosen to abuse the power of his office to shield the pilots from prosecution.

I live at 3 Saunders Rd in West Townsend, MA. In 2000 citizens this area formed an organization called STOP the NOISE to deal with the nuisance and abuses of recreational aircraft operating over our lands. This group incorporated as a non-profit corporation in Massachusetts in 2001 as STOP the NOISE, Inc. I was elected its first president and continue to serve in that position.

Citizens in the Western Middlesex and Northern Worcester counties of Massachusetts had been submitting complaints to FAA about the noise from general aviation aircraft for some time prior to 2001. The area of between I-495, US Route 2, US Route 3 and the New Hampshire border had become one giant playground for the local aerobatic pilots and the numerous flight schools operating primarily out of Hanscom Field in Bedford, MA and Nashua Airport in Nashua, NH. The local FSDO in Bedford (now Lexington), MA kept telling citizens there was nothing the FAA could do, that the pilots were really very good pilots and therefore the citizens had nothing to worry about, that airplanes made noise and the citizens just had to deal with it. It turned out that while the FAA personnel were being truthful about their lack of authority to regulate and direct the pilots because of the noise and nuisance that the pilots were generating, the FSDO personnel did not volunteer the fact that much of the aerobatic activity being reported was in violation of FAR 91.303.

The closure of Moore Army Airfield at the old Fort Devens in 1995 removed the Military Operating Area (MOA) restrictions from the airspace over Shirley, Ayer and Groton. In response to this the recreational pilots flooded in creating a hellish situation for the citizens there. Many citizens turned initially to the FAA for help in remedying this problem, naively believing that FAA would regulate in the public interest. It quickly became clear that the FAA would not help us reduce the noise. FAA claimed they have no authority to tell the aerobatic pilots to leave. The airspace over our homes is "free" airspace for aerobatics. This meant that individual pilots and flight schools, not FAA or the affected property owners would decide what would take place over our homes. We hired a former FAA Inspector as a consultant in 2001. He told us what the local inspectors would not; that some of the aerobatic activity was illegal.

Some activity was illegal due to the presence of congested areas below. This activity was in violation of FAR 91.303(a) Aerobatic flight over any congested area of a city, town, or settlement.

Some activity was illegal due to proximity to federal airways V431 and V106. This activity was in violation of FAR 91.303(c) - Aerobatic flight within a federal airway.

Some activity was illegal due to its low altitude. This activity was in violation of FAR 91.303(e) Aerobatic flight below an altitude of 1,500 feet above the surface.

Armed with this new knowledge, we realized we could drive some of these nuisance aerobatic pilots out of at least some our skies simply by having FAA do its job by enforcing FAR 91.303. According to FAR 91.303 the aerobatics over our communities was presumed unsafe and therefore prohibited.

It was then that the real problem became apparent. At least at the FSDO level, the FAA is composed of inspectors and managers who are compromised by being General Aviation pilots themselves. They see themselves as members of an endangered fraternity whose members must band together to protect their flying privileges. Privileges which some mistakenly see as their 'right to fly'. They see the American People as the enemy, the 'non-flying public' as they like to call us. Our attempts to use the existing safety regulations to achieve quiet skies was viewed by the FAA personnel as an impure motive. Because we wanted the noise to stop and did not claim that we were in fear for our lives, they would not enforce the FAR. In fact FAA personnel have gone so far out of their way to avoid performing their duties that it is blatantly obvious. This is the major reason why corrective and disciplinary action is needed.

We have submitted many complaints to FAA for aircraft flying in violation of the FAR. I do not personally know of all the complaints. I do know that the ones I have submitted were all valid and most should have led FAA to identify the aircraft and probably the pilot. Indeed, in at least one case I identified the aircraft and likely pilot for FAA.

I also know that some complaints filed by other citizens in the early days were poorly prepared, specifically in the quality of the video-based evidence provided with their complaints. My organization, STOP the NOISE, Inc., has worked with these citizens to educate them on photographic technique, but we can not make them buy new equipment. FAA will always get some good evidence and some poor evidence.

Part of the problem is that FAA is not proactive in seeking to identify and prosecute these rogue pilots. They rely on citizens to collect evidence and require us to read a 3 inch tall registration number on moving target 200 to 2000 feet away traveling at over 100 miles per hour. Given the volume of complaints alone, FAA should have expended whatever resources were necessary to identify pilots, take certificate actions, and to remedy the problem of aerobatics in prohibited airspace.

To compound the problem, FAA, through its public relations officer, Jim Peters, in New York, has repeatedly told the

pilots and the press that they investigated all complaints and found no evidence of violations. This is patently false. While several complaints were poorly prepared as I have said, many were very well prepared and backed up by research to give the FAA inspectors a head start in their investigations. What really happened was that, in those cases, the FAA determined that because the reporting citizen had not captured the N-Number of the aircraft, that FAA was off the hook. With no N-Number, FAA ended the investigations prematurely without doing any real detective work. These were complaints against local aerobatic pilots who are few in number and have very distinctive aircraft. FAA refused to use its subpoena power to narrow the already short list of suspects.

FAA's very public display of its unwillingness to enforce the law only tended to encourage many pilots to not only continue their illegal activities, but to intentionally target the homes of those who had complained. The latter manifested itself as short one or two hammerheads stunts directly over a residence to several very low (below 500 ft) orbits around homes. The entry and exit to these maneuvers left no doubt as to their intent and nature.

I provide in this letter the details of my complaints filed with the Bedford FSDO. I will discuss the others in the context of the volume of complaints which should have prompted FAA to conduct an investigation into the general problem simply based on the principal of "where there is much smoke, there is fire."

The Bedford FSDO repeatedly dismissed my complaints. The usual excuse was that there was not enough evidence. Specifically they regularly cited the fact that no N-Number was visible in my images. For my complaints, what occurred and where it occurred were never challenged. The problem was that FAA refused to conduct an aggressive investigation and refused to use its subpoena power to identify the specific aircraft and pilot. I can show that the images I provided plus other evidence readily available to the FSDO inspectors was sufficient to make an identification if only the inspector was motivated to do so. I have had the Bedford FSDO Operations Supervisor, Nancy Risso, agree that there was reasonable evidence on some complaints, yet the inspector, Sharon Felton, would regularly say she was too busy to deal with my complaint. When motivated by her supervisors to conduct an investigation, she would say that the regional counsel, Chris Poreda, and she had decided that there was not enough evidence., specifically no N-Number.

Chris Poreda has emerged as the common thread tying together the abuses of process seen at the Bedford FSDO. Chris Poreda has stated that he will not prosecute unless he is 100% certain he will win. In the legal system, one is never 100% certain about the outcome. Such a legal system would not be consistent with our Constitutional safeguards. In addition, the standard to which Mr. Poreda must prove his case is not the 'reasonable doubt' standard of criminal cases. Mr. Poreda must only prove his case by a preponderance of the evidence, the 51% standard. I have provided him with such evidence on more than one occasion. Mr. Poreda refuses to use his subpoena power to identify pilots. When I narrow down the field for him, he refuses to make an employer tell him who was at the controls. He has no identification, so he claims he has no case. Chris Poreda appears to be the one individual responsible for making the decisions not to prosecute any of the violators presented to him. He and he alone makes these decisions. He seems quite please with this power.

On 07 October 2004, I attended an FAA Safety Seminar entitled "*Traps for the Unwary Pilot: Legal Tips for Safer Flying*", sponsored by the Worcester Area Pilots Association and presented by Chris Poreda. Mr. Poreda was asked a question about the sporting event TRFs that are now common as part of the war footing the United States has adopted. Mr. Poreda replied to the questioner **"I'm gonna let you on a secret. Since I'm the regional counsel for the New England Region, and don't ????? any favors. If you ever say that I said this I'll ?????. But nobody in this region is going to get violated for a sporting event TFR. OK? Be aware that nobody is going to get violated on it. But respect it. Do what you do to respect it. But be aware that nobody is going to get violated on it. 'Nuff said?"** I believe that Mr. Poreda is playing fast and loose with FAR 91.303 just as he is with the Sporting Event TFR regulations.

Mr. Poreda's mission and duty to the public is to enforce these regulations, not to pick and choose among them so as to accommodate his pilot friends. At the same meeting, on 07-Oct-2004 Poreda stated that he used to fly in F-4s in an attempt to reinforce camaraderie with the pilots. This is part of FAA's fundamental flaw when it comes to enforcement. They are pilots attempting to regulate themselves.

STOP the NOISE has executed several FOIA requests in order to assess the quality of FAA's investigative efforts. The evidence clearly shows that FAA, at least at the Bedford FSDO level is either totally incompetent or thoroughly corrupt. At first we gave them the benefit of the doubt and

assumed the former. We attempted to work with FAA to show them how to conduct an investigation and how to interpret evidence. We developed photographic techniques for establishing the location of an aircraft in space. We obtained FAA 'RAPTOR' radar data to verify our findings. On one occasion the inspector did not even try to disguise his malfeasance. On the bottom of the complaint form he simply wrote "**This is just about noise**" and closed the complaint. Yes, we are motivated by the noise, but the report of a safety violation was real. It is not for FAA front line people to question our motives; only to enforce the regulations.

It seems that violations of FAR 91.303 are tolerated if the complaints come only from the lowly "non-flying public" as FAA likes to call us or if those complaints are motivated by our desire to make the noisy little airplanes go away. The FAA, which claims safety as its highest priority, still has safety violations of FAR 91.303 in progress on a regular basis. Yet as Inspector William Wicks has said "Don't worry. They're really very good pilots." Do very good pilots get to flaunt the law. Is there a special endorsement on their certificate that says 'Very Good Pilot'?

This situation was best summed up by Inspector William Wicks of the Bedford FSDO in 2001. Inspector Wicks also lives in Townsend, MA, as do I, and therefore had aerobatics over his home also. Our town lies within four nautical miles of airway V106. I asked Inspector Wicks why he was not enforcing FAR 91.303(c). Inspector Wicks' response was quite illuminating. Inspector Wicks said "**Be reasonable, Bill. Where would they fly?**". FAA's presumption is that these recreational flyers must be provided a place to play, and that the public must provide them with one no matter what the cost to the property owners and people below, even at the expense of safety which FAA claims to be its top priority. Our members have heard this same sentiment from other inspectors at other FSDOs around the country.

When I became aware of the aerobatic practice box waiver process as described in the Aviation Safety Inspector's Handbook, Chapter 48, I asked Inspector Wicks why he did not require the pilots to apply for a waiver so that the underlying public could have input into the waiver's conditions. Inspector Wicks replied that the environmental review process required by Chapter 48 was so onerous that in his opinion, no waived box would likely be established in our area in his lifetime. So FAR91.303(c) says no aerobatics within 4NM of an airway. The FAR allows for a waiver to FAR91.303 using the process in Chapter 48. Chapter 48

requires an environmental assessment prior to issuing a waiver. The local inspector believes that no waiver application could ever survive an environmental assessment in our region. So the logical solution is to ignore FAR91.303 even in the presence of public outcry. After all the outcry is only from the non-flying public.

Because reading an N-Number from most of these planes is almost impossible without stabilized optics, we went after the most flamboyant pilots, those whose paint schemes on their expensive and therefore rare aircraft made them identifiable without an N-Number. We continued to file complaints based on FAR91.303(c), aerobatic flight within a federal airway, and on FAR91.303(a), congested area.

It was important to us to get a prosecution on FAR91.303(a) because FAA refuses to define the term 'congested area'. More on that later. We got at least one pilot, Sheldon Apsell of Newton, MA, to admit to being where we said he was, doing what we said he did, when we said he did it. It appeared we would get FAA to prosecute and thereby force a determination as to whether the Ayer, MA residences were in a congested area. FAA at the FSDO level told us they were ready to move against this pilot. Our attorney, Robert F. Casey, received a phone call from Nancy Risso, Operations Supervisor of the Bedford FSDO. She said that FAA personnel had negotiated with Mr. Apsell. Mr. Apsell had agreed to not fly aerobatics in the Ayer, MA area anymore if we, the complainants, agreed to allow FAA to not prosecute him. I don't even believe this kind of arrangement is legal since this was not a noise complaint but a report of violation of the safety regulations embodied in FAR 91.303. While I personally was against the proposal as it allowed FAA to once again slip off the hook, my membership in the area very much wanted to get this pilot out of the area. I, as one of the three witnesses and complainants to the event, agreed to the proposal for the short-term good of the community. The pilot did leave the area. He did return six months later.

I believe that FAA has been identifying and communicating with many of the pilots we have reported to them. This belief is based on the fact that in most cases the offending aircraft ceased flying over the area entirely or moved to another location so as to be harder to photograph. In any event, pilot behavior changes as a result of most complaints. This indicates that FAA is protecting the pilots instead of prosecuting them and being less than honest to the reporting public about their ability to identify the pilots.

In one case, on 21 May 2002, a well-known and former champion aerobatic pilot, Michael Goulian, was performing low-level aerobatics within 4NM of airway V431 over the abandoned Moore Army Airfield in Ayer. He was observed independently by me and one other individual, Robert F. Casey, on the opposite side of the airfield. We each independently reported this to FAA. As a result of these complaints, Mr. Goulian's attorney, Gary Arber, sent a letter to NACO, the National Aeronautical Charting Office, on 12 July 2002 suggesting that Moore AAF was incorrectly located on the Boston Terminal Area Chart. NACO redrew the charts of the area moving Moore AAF to the Northeast across route 2A in order to place it outside the 4NM buffer. In a letter from NACO to Attorney Arber, NACO stated that the newly drawn chart would now enable pilots to perform aerobatics in the area. It is not NACO's function to accommodate recreational pilots. It is NACO's function to prepare accurate charts to serve both navigational and regulatory users.

This highly creative solution to the Moore AAF problem, in my opinion, originated in the New England Regional Headquarters and the Bedford FSDO. Given what we know of Mr. Poreda's reluctance to prosecute his aerobatic pilot friends and heroes, and given his history of finding reasons not to prosecute, I suspect the plot originated in his office. This type of collusion is typical of what has been encountered. As a result, navigation charts have been knowingly falsified in order to make Moore AAF a 'legal' aerobatics area and to help the offending pilot avoid prosecution. So much for safety as FAA's highest priority. While some of Moore AAF is outside the 4 NM buffer around V431, much is not. In fact the 4NM limit is at the crossing of the two runways. This is easily demonstrated transferring the airway from the aeronautical chart to a USGS topographical map which is much more detailed. I demonstrated this to Nancy Risso and others at the FSDO. Yet nothing was done to correct the chart.

Another variation on the pilot response to our complaints to FAA has been the hit-and-run attack or the fly-by-buzzing. Our organization has been active in the regulatory area with DOT and FAA in trying to fix some of the regulations that enable FAA to neglect its duty. Specifically we filed a rulemaking petition with FAA on 10 February 2004 to eliminate the 3 inch tall N-Numbers and to require large N-Numbers under the wing of all aircraft. In addition, some of our members, independently have filed a civil suit against some arrogant pilots who refused to leave their area after being politely asked to do so. In response to both of these activities in addition to our normal pressure on FAA, members, including myself, have been subjected to obviously

intentional low altitude buzzings of our homes. Aircraft zip in to perform one or two aerobatic maneuvers and return to their base course and depart. We have received threatening email from pilots most of whom identify themselves, threatening to harass us with their airplanes. Some threaten physical violence. Neither FAA nor the FBI has responded in any way these threats. FAA has not investigated the harassing attacks. Their position is that each of these events stands on its own and that, in the aggregate, do not constitute on pattern of activity that warrants their attention. The FBI has responded similarly. It should be noted that the name of the FBI agent we were sent to was given to us by the FAA. The FBI agent we dealt with was John Van Kleef.

It is my opinion that all roads lead back to the Regional Counsel, Christopher Poreda. It is he who decides what gets prosecuted. It is he who causes Inspectors to resent working on our complaints because they know he will never prosecute. It is he who gets to define 'congested area' on a 'case by case basis'. It is he, who refuses to use his subpoena power to verify facts presented to his office by me as the result of my own expensive investigations. During a telephone conversation in I believe September of 2004, when I asked Chris Poreda what I should do to resolve the problem since he was unwilling to perform his duties, he replied to the effect 'Why don't you just sue them[the pilots] too?'. When I reminded him that neither I nor STOP the NOISE was suing anyone his response was "Well, your friends are."

Christopher Poreda has betrayed the FAA, the DOT and the American people. As a minimum he must be removed from his position of responsibility and authority in a loud and public fashion so as to send a clear message to other corrupt officials at FAA that this type of abuse of office shall not be tolerated, and to the American people that our government bureaucracies can police themselves. If he can be criminally prosecuted for his actions or failure to act, then all the better.

It is important to note that in the four years since STOP the NOISE came together in late 2000, we have become a national organization with members in 13 states all with similar stories of dealing with shady characters at the local FSDO trying to protect recreational pilots operating outside the regulations. There has been some improvement for those suffering from pilots operating in waived (to FAR 91.303) practice areas due to successful actions by members in Wisconsin last year, but for those subjected to pilots not being required to seek a waived box, it is business as

usual. Many of our members, both local and national, are willing to testify on request. The larger national problem must also be addressed, but Mr. Poreda must be dealt with alone for here in New England we have been able to put a face on the problem.

It is clear that something is not right at the Bedford FSDO and in the Office of the New England Regional Counsel. Based on reports from associates around the country, I believe that the same problems exist in all regions and in all FSDOs. Stated simply, the FAA is institutionally corrupt. It is so populated with General Aviation pilots that, as an organization and as individuals they have come to believe that their job is to promote aviation and to 'keep them flying'. Because the American people have come to realize over the past fifty years that aviation is an environmental disaster and have called for more regulation and reduction in air traffic, the people at FAA have come to see the public as the enemy. Individually and as a bureaucracy they circumvent their own regulations and seek to force their will upon the people they are sworn to serve.

At the Experimental Aircraft Association's Airventure 2004 in July/August of 2004, FAA Administrator Marion Blakey met with one of the aerobatic pilots from the New England area who is being sued for nuisance by property owners in Ayer, MA. According to the pilot, Steve Pennypacker, he was told by Blakey and her aides that General Aviation is not a priority for FAA and that he could expect little help from FAA. It is appropriate that FAA not get involved in state civil litigation. However, the sentiment that FAA holds General Aviation at a low priority cuts both ways. FAA gives GA pilots a very long leash as long as they do not interfere with the big airplanes. What GA does to the 'non-flying public' is of little concern. FAA is not willing to expend the regulatory effort required to control these nuisance craft as to do so effectively would consume a great deal of resources. So the cost and burden is borne by those below.

I believe that inspector Sharon Felton and others at the Bedford, FSDO have conspired with pilots and with regional counsel Chris Poreda to prevent enforcement of FAR 91.303 when used by citizens to remove aerobatic aircraft from over their homes.

I believe Chris Poreda has exceeded his authority, abused the power of his office, and betrayed the trust of the American People through acts of misfeasance, malfeasance, dereliction of duty and by demonstrating a high degree of contempt for the non-flying public.

If Poreda is not the responsible individual, then the responsible individual still must be found. Something is very wrong at the Bedford FSDO and the New England region.

FSDO manager Janet Malouin is aware of the problem and therefore complicit.

New England Regional Administrator Amy L. Corbett is aware of the problem and therefore complicit. Prior to Ms. Corbett's promotion to Regional Administrator she was the New England Regional Counsel and Chris Poreda's immediate supervisor.

There is much more to this story. My efforts to make it complete keep delaying it's mailing. I must trust that you, unlike FAA, will actually perform an investigation, interview witnesses, collect data from FAA, ask hard questions and respect the Constitution.

Please be aware that there are additional details and additional witnesses. I would expect a thorough investigation of the situations described.

Attached is a chronology of events. Where I have copies of evidence in my possession, I have attached copies. Where I know such evidence exist elsewhere, I have so noted.

Sincerely,

William C. Burgoyne

Attachments:

1. Chronology of events
2. Chris Poreda on Sporting Event TFR's, 7 Oct 2004
3. 20000711 Arber to NACO
4. 20010117 Wicks to Christman
5. 20010731 Wicks to WCB No Box in Lifetime
6. 20020307 Ballough to Feingold - Mineral Point
7. 20020516 Wicks to WCB - Take No Action on Hall Complaint of 20011223
8. 20020524 Ken Goodsell to WCB Requests Mtg
9. 20021003 Wicks to Goulian - Find no Violation over Moore
10. 20021016 Poreda_to_WCB
11. 20021022 Mtg-Malouin
12. 20021022 Poreda to WCB No Prosecute Goulian Over Moore
13. 20021211 Malouin to WCB
14. 20030611 Cook to WCB No N-Number for 20030323
15. 20030611 Ken_Cook_to_WCB
16. 20030722 Ken Goodsell to WCB I Speak for ANE
17. 20031002 Nancy_Risso_to_WCB
18. 20031006 Risso to WCB - Minutes 20030320 & 20030730
19. 20040420 ARM-200 to WCB Rejects N-Number Proposal
20. 20040707 -Tintera to WCB - No FOIA on NJ Boxes
21. 20041001 Sharon_Felton_to_WCB

Chronology of Events

1995: Moore Army Airfield closes. Airspace restrictions imposed by the overlying Military Operating Area are lifted. Flight Schools and Aerobatic pilots start moving into the area. The situation becomes worse. Individuals try to get a solution but are stonewalled by FAA.

Summer 2000: Several residents of Ayer, MA come together and decide they need to get organized.

December 2000: Over 200 concerned citizens from a dozen communities meet at Ayer, MA town hall to discuss the aerobatics problem. STOP the NOISE is formed. Aerobatics is a major problem in Townsend, Ayer, Groton, Harvard, Shirley, Pepperell, Westford and Chelmsford, MA and parts of Southern NH.

17 Jan 2001: Inspector Bill Wicks of the Bedford FSDO sends letter to Kent Christman, president of IAC Chapter 35, warning him of irate citizens that want to know pilots' identities.

June 2001: STOP the NOISE, Inc. incorporates in MA as a non-profit corporation.

July 2001: Burgoyne/Wicks email exchange. Wicks states 'no waived aerobatics box in his lifetime'.

March 2002: John Ballough, Dir of Flight Standards to Sen. Russ Feingold. No waiver at Mineral Point, WI without an environmental impact assessment.

16 May 20: Wicks to Burgoyne. Wicks states that imagery on video tape is not usable as evidence. Burgoyne agrees. This leads to the development of techniques to enable mathematically provable claims on photographic evidence.

24 May 2002: Ken Goodsell, New England Regional Director of Flight Standards, offers to meet with Burgoyne to discuss problem. Burgoyne and Casey later meet with Goodsell and others at FAA.

21 May 2002: Burgoyne and Casey independently observe Goulian performing aerobatics in V431 over Moore AAF. Goulian also buzzes Burgoyne on north side of rte 2A in Ayer. Burgoyne and Casey both file reports with FAA.

- 11 July 2002: Goulian's attorney, Gary Arber, writes to NACO requesting that the error on the New York Sectional Chart be propagated onto the Boston Terminal Area Chart so as to move Moore AAF to the north out of V431.
- 12 August 2002: NACO to Arber. We have moved Moore AAF an exaggerated amount to the north so as to 'bring the chart in compliance with FAR 91.303' and so that the pilot may once again feel comfortable performing aerobatics in the area. Charts don't comply with FAR 91.303. The duty of a chart, or more correctly of the cartographer, is to be accurate.
- 03 October 2002: Wicks to Goulian. FAA finds no violation by Goulian over Moore AAF
- 16 October 2004: Poreda to Burgoyne. Poreda explains why he let Goulian go. His facts are incorrect. For example He uses my report that at one point Goulian buzzed my position north of the airfield as a statement that all activity was north of the airfield. In fact my report states quite different facts. Poreda acts more as the defense attorney than as an aggressive prosecutor..
- 22 October 2002: Meeting of Bill Burgoyne with Janet Malouin, Ed Reinecker and Chris Poreda of the FAA at the Bedford FSDO. This is my first meeting with Poreda. Poreda states that he will not prosecute without a 100% percent assurance that he will win.
- 24 October 2002: Burgoyne to Malouin. Burgoyne sends summary of 22 Oct 2004 meeting plus additional questions to Malouin for concurrence and clarification.
- 23 Mar 2003: Bill Burgoyne, Bob Casey and David McCoy are at Casey's home in Ayer when Sheldon Apsell flies in to perform aerobatics over Moore AAF, downtown Ayer, and Casey's residential neighborhood. By this time we customarily carry our camera gear with us at all times. Casey and McCoy both had video cameras. Burgoyne had a still camera with a fixed focal length telephoto lens. Used in combination these are powerful tools. The video cameras capture activity time and location while the still camera captures details of the aircraft

and its attitude. The fixed magnification of the still camera allows computation of slant range to the target. Are imagery clearly showed Apsell's rare aircraft and paint scheme flying inverted over Ayer.

11 June 2003: Ken Cook to Burgoyne. Cook claims no evidence of violation of FAR 91.303 by Apsell on 23 Mar 2003. Cook also cites lack of N-Number as preventing positive identification.

22 July 2003: Ken Goodsell to Burgoyne. Mr. Goodsell offers to set up meeting Burgoyne had requested with Regional Administrator Paula Lewis. I realized after the meeting that Paula Lewis was the acting Regional Administrator only for the time it took to sign off on the Logan Airport Runway Extension. Whoever did this would become damaged goods. She departed the position almost immediately after signing the extension documents. So she sat at the meeting, away from the table, and kept quiet. It was clearly Ken Goodsell's meeting.

02 October 2003: Risso to Burgoyne. Nancy Risso tries to explain why Chris Poreda will not pursue a proper investigation into illegal aerobatics less than one half mile from my home. FAA does not deny that a violation occurred, but will not attempt to identify violator. I had done most of their work by searching for aircraft of this type in local area and provided the FSDO with the list. All they had to do was interview pilots and flight, fuel and service records to identify the plane and pilot. I even told them which one it most likely was, Bill Matukaitus, a local aerobatic flyer with an identical plane. Chris Poreda is unwilling to use his police powers to identify and prosecute these flyers. I believe that if you investigate you will find that FAA did indeed identify Matukaitus, did contact him, and had some back-room counseling which resulted in his not returning to my area. This is not what is needed. Until and unless FAA prosecutes some of these guys, there is no message to airmen and FAA has no credibility.

06 October 2003: Nancy Risso, Operations Supervisor at the Bedford FSDO responds to questions arising from our 30 July 2003 meeting. Telephone conversations with Ms. Risso between March and

October indicated that the delay in answering the questions was due to the legal department taking a long time to approve the language of the letter.

The minutes as recorded by an FAA student intern contain many errors. Those are not noted here.

20 April 2004: FAA rulemaking office rejects STOP the NOISE rulemaking petition on orders from AOPA. This is done without getting to a formal public comment period. The public never gets a chance to weigh in.

Initial contact with the rulemaking office indicated that the petition was 'of interest' to people at FAA. The sudden and premature denial occurred within 24 hours of posting a comment from AOPA in opposition.

While this action is independent of the Bedford FSDO it is exemplary of FAA contempt for those outside the aviation industry.

07 July 2004: Strange letter from Joseph Tintera of FAA in Oklahoma City. This letter concerns a FOIA request about activities in the Eastern Region. It is part of another story about a different FAA region. It does however illustrate that the FOIA system can be and is abused. It's not clear why my request for information in the Eastern Region was directed to OKC. What is clear is that when Mr. Tintera determined it should not have come to him, he dead-ended the request instead of sending it back to the Eastern Region FOIA office.

This FOIA request was looking for information to support claims made by Eastern Regional Administrator Arlene Feldman to NJ State Senator Leonard Lance. What I did eventually get from the FOIA office failed to support her claims.

07 July 2004: My residence was attacked by an WW2 vintage SNJ aircraft. After it passed by the house at low altitude heading North I made sure my camera gear was at the ready. Later that day the aircraft returned. When it got to my house it went vertical and performed three hammerhead-type maneuvers. The pilot then resumed his base course and departed to the Southwest. This action was consistent with the threats communicated to me via email from many

pilots.

Radar data available on the internet, and certainly available to FAA, showed the aircraft headed towards Gardner airport.

I took several photographs. I reported the incident to FAA. I followed up with a formal complaint including photographs and analysis.

My analysis included finding every registered aircraft of that type (including variants), looking at pictures of these trophy aircraft on the internet. Finding an outfit from NC that was barnstorming in the area at that time, and eliminating local planes and identifying the perpetrator by unique aircraft paint details. This is work that FAA should have done but that I knew it would never do on its own.

In addition the same outfit, North American Top Gun, had a second plane in the area that had been buzzing a neighboring community. I made that connection when I found my plane and the other both on the NATG website

A local newspaper covered the warbirds presence at the Fitchburg, MA airport. This included photos of the aircraft and the pilot. I sent all of this to FAA. They found ways to not use it.

I submitted a FOIA request later and found no evidence that any of the information I provided was used or that FAA ever spoke to anyone at NATG.

According to Sharon Felton, Chris Poreda refused to use his subpoena power to identify the pilot by getting records from NATG, even though the aircraft identification was strong.

?? September 2004: Four phone calls.

I called Nancy Risso to get status on the 10 July 2004 investigation. Risso stated that Sharon Felton had been assigned to this case and transferred me to Felton.

Felton started whining and complaining about how overworked she was and how the complaints I and others were submitting were not important and were

a waste of her time. This went on for some time.

I called Risso again and told her I wanted Felton off the case as she could clearly not conduct an objective investigation. This never happened.

I spoke to Felton again a day or two later. She was calmer. She said she did not think there was enough evidence because even if they identified the plane they could not put a pilot in it. I told her I knew that the FSDO had subpoena powers in such investigations and that I expected FAA to use it. This had, after all, been a willful assault on my home.

She mentioned that there were about 350 SNJ/AT-6 aircraft registered. I told her I knew this and had researched them all. I told her she should focus on those that had an identical paint scheme, were known to be in the area, and were known to be in the air that day. I told her I had winnowed the list to one aircraft. I told her that examination of radar data, fuel and tiedown receipts, and NATG personnel, flight and maintenance records should verify what was obvious from the weight of circumstantial evidence. I also reminded her she only had to prove her case by a preponderance of the evidence, the 51% standard. She then told me that she had shown evidence to Chris Poreda who did not think it was enough. Yet she had just told me she had done none of the investigative steps I had outlined.

I tried to reach Poreda over the next few days. When I finally was able to speak with him his attitude was hostile and cocky. He reminded me that he and he alone decided who would be prosecuted and for what. He said that he chose not to exercise his subpoena power. He would not harass pilots because of complaints from people concerned about noise. When I asked him what then my recourse was if he and FAA would not enforce the FAR, he snidely replied "Why don't you just sue them [the pilots]?" When I reminded Poreda that neither I nor STOP the NOISE was suing anyone he replied "Well your friends are."

01 October 2004: Sharon Felton had been assigned to investigate the 10 July 2004 attack at my

residence. Sharon Felton has a history with our group. She is hostile and unwilling to investigate these complaints. After she and I spoke on the phone in mid-September and she indicated she did not think this case was worth investigating, I asked Nancy Risso that she be removed. This was not done but she did get back to work on the case. What that means is not clear.

She finally closed the investigation saying that FAA could not be sure of the aircraft identification nor that of the pilot. She made reference to other SNJ aircraft with similar paint schemes in at Hanscom Field. I was aware of these aircraft and know that their paint jobs are similar but not identical to the violating aircraft in ways demonstrable in the photographs.

The letter states that FAA spoke to NATG. It also states that NATG is a high-profile business. It is clear to me based on the sum total of experiences with Felton, Poreda and the Bedford FSDO that what really happened was Poreda and company chose to deal with this quietly. After all I probably deserved it.

07 October 2004: I attended an FAA Safety Seminar at the Worcester, MA airport. The presentation was given by Chris Poreda and was entitled "TRAPS FOR THE UNWARY PILOT : Legal tips for safer flying". At this presentation Mr. Poreda was asked about sporting event Temporary Flight Restrictions. Mr. Poreda answered that because he was the FAA Regional Counsel, no one would be prosecuted for violating a sporting event TFR. This confirmed that Mr. Poreda is out of control and is practicing his own form of frontier justice in the region. He does not enforce the law; he makes the law. He does not operate in the public interest; he operates in the pilots' interest. He holds the Transportation Security Administration in contempt and the pilots easy access to our airspace above all. I contend that the same attitude that causes Mr. Poreda to rewrite the rules regarding TFRs is at work in his approach to responding to citizens complaints about recreational and stunt pilots. He is resisting doing his duty in order to cause the citizens to give up and go away.