

October 16, 2009

Subject: Proposed Modification of Condor Military Operating Area Airspace

Senator Olympia Snowe

For more than two years people from western Maine have opposed the Massachusetts Air National Guard's proposal to allow low level fighter jet training below what is now the Condor Military Operating Area. During that time the National Guard Bureau has failed to make a factual case to support their proposed action while at the same time making a mockery of the process which is supposed to protect the people of Maine.

Most recently, Lieutenant General Harry Wyatt III, Director of the Air National Guard, sent a dismissive letter to Governor Baldacci when the Governor questioned the manner in which the Environmental Impact Statement (EIS) was being accomplished.¹ Lt Gen Wyatt would have us believe "Condor Airspace Modification means better training, greater safety & less impact to the environment." It is doubtful the facts would support him. It is wrong to assert the proposed action would make the airspace safer. The Aircraft Owners and Pilots Association (AOPA) commented on the negative effect the proposal would have on aircraft safety in the area.² Additionally, at no time were any alternatives fully developed. They were either considered "too expensive" or "not suitable" without any attempt to suggest workable alternatives. However, alternatives do exist. Just last month eight 104th Fighter Wing aircraft and 150 personnel flew to a training range in Nevada.³ There are several such ranges much closer that could be used to get required training. The lack of fully developed options is a failure to meet National Environmental Policy Act (NEPA) guidelines.

The quality of the Environmental Assessment and the draft Environmental Impact Statement is so poor it brings into question if approval of the EIS by the Federal Aviation Administration was expected to be a foregone conclusion. There is reason to believe this possibility should be investigated. On page 1-13 of the draft EIS it states: "Upon completion of the EA in March 2009, the FAA concurred with the EA's findings that the Proposed Action would not have significant environmental impacts." Does this mean the outcome of the process was pre-determined before the EIS was even started? In an attempt to explain the statement, Major Stephen Lippert writes, "At this meeting, the consensus of the members, both FAA and ANG, was that to date no significant impacts had been found under the proposal." Later, in the same email, "This was not, however, a formal decision within the context of NEPA, but a statement that the FAA would in all likelihood approve the document."⁴ The integrity of the entire process was corrupted by a group of individuals who gathered in March 2009 and decided the EIS would just be a formality to appease Maine citizens and elected officials.

This email and the conduct of the EA and EIS processes point to a number of questions about the contractual relationships among the National Guard, the FAA and the Environmental Resources Management company. In particular, the following questions should be answered:

- Who prepared the Statement of Work for this contract
- What contracting officer was assigned to this case
- Who was the contracting officer's technical representative
- Did he/she approve this methodology of producing the EIS
- Did he/she certify that the list of deliverables was satisfied
- When, if ever, has the FAA rejected an EIS submitted by the Air National Guard

Lt Gen Wyatt acknowledges that important economic studies were overlooked in the draft EIS and that they will be considered in the final version. These studies point to the importance of the natural environment to western Maine in terms of economic growth. A fear among some residents is that low level jet flights would have a significant negative impact on local economies that depend on attracting visitors. Lt Col Lloyd Goodrow, says Vermont Air National Guard pilots "would be among those from several military branches who could use the airspace." Already, Navy F18 jets caused calls to a 911 emergency number because of their noise and maneuvers.⁵ The scope of the present EIS has been too limited to adequately judge the risk to the region.

We need your help because decisions being made at the federal level could have permanent negative results for the people of Maine. The National Guard Bureau and the Federal Aviation Administration (FAA) should not be given a free hand in deciding what happens to the airspace above western Maine. It was hoped that the EIS would give an honest assessment of low level jet flights but it has not. The process does not provide protection for the people directly impacted but does condone direct cooperation between the National Guard Bureau and the FAA.

A number of citizens have formed a group called Western Maine Matters and is ready to provide whatever specific information or assistance you may need. A list of local citizen subject matter experts is included with this letter.⁶

What do we want?

Answers to all questions should be supported by official documents obtained under the Freedom of Information Act if necessary.

- A full investigation of how the process failed in this case
- Was the outcome predetermined?

Who from the FAA and the National Guard Bureau was involved in meetings like the March 2009 meeting that determined from the EA that the EIS would “likely be approved?”

State of Maine representation, with intervener status, in evaluating the EIS for accuracy before it goes to the FAA. The absence of serious factual analysis and numerous erroneous conclusions in the EIS mandates a close review by state experts and citizen subject matter experts.

Inclusion of sound data for any jet that might use the airspace. Special attention should be given to the F22 and F35 aircraft that would likely replace the F15 should it have further structural problems and the F18 that already uses the area.

Funding for a state selected independent sound analyst to verify the noise data and modeling procedures.

If misconduct is found in either the contracting or EA/EIS process, we want the proposals contained in the Condor MOA Environmental Impact Statement to be withdrawn by the National Guard Bureau.

I am sending this letter to each member of the Maine congressional delegation in the hope they will come together as they did in requesting an authentic EIS.⁷ In 1992 a similar proposal by the Air National Guard was halted by Gov McKernan.⁸ All the reasons for his decision are more valid today.

Do not hesitate to call if I can be helpful in any way.

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List of attachments

- ¹ Lt Gen Wyatt letter to Gov Baldacci
- ² Aircraft Owners and Pilots Association position on safety
- ³ Boston Herald article on training alternative
- ⁴ Major Lippert email to me
- ⁵ Sun Journal 911 article
- ⁶ List of local citizen subject matter experts
- ⁷ Congressional delegation unanimous request for EIS
- ⁸ Gov McKernan 1992 rejection letter