

SERVED: November 2, 1992

NTSB Order No. EA-3712

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

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 26th day of October, 1992

_____)	
THOMAS C. RICHARDS,)	
Acting Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-10064
v.)	SE-10182
)	
ARNOLD A. GAUB,)	
)	
Respondent.)	
)	
_____)	

ORDER DENYING RECONSIDERATION

Respondent has filed a petition under section 821.50 of the Board's Rules of Practice (49 C.F.R. Part 821) seeking reconsideration of our decision in NTSB Order No. EA-3614 (1992), wherein we upheld the revocation of his airman certificate for alleged violations of the Federal Aviation Regulations arising from two incidents of unauthorized entry into controlled airspace, and the 6-month suspension of his certificate for failing to remit his airman certificate to the FAA after the Board ordered a 60-day suspension as a penalty for a previous violation. Upon consideration of respondent's petition, which for the most part raises matters previously considered and rejected, as well as the Administrator's response in opposition, we have determined that the petition does not establish error in or otherwise set forth any valid basis for altering in any way

our original decision.¹

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's petition is denied.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above order.

¹Respondent previously claimed that he could not prepare an adequate defense before the hearing because the transcripts of air traffic control communications involving the alleged incidents were not made available to him in a timely manner. The law judge ruled that respondent was not prejudiced and, in our decision, we agreed. In his petition, respondent alleges, for the first time and without substantiation of any kind, that the attorney for the Administrator was not truthful when asked by the law judge about the timing of the Administrator's responses to certain discovery requests. The Administrator asserts that these claims are without foundation and has explained, to our satisfaction, why respondent's accusations are without merit and have no impact on the decision affirmed by the Board.