

SERVED: July 9, 1998

NTSB Order No. EA-4682

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 30th day of June, 1998

Petition of)
)
ELMER ALLEN PROPST)
)
for review of the denial by) Docket SM-4244
the Administrator of the)
Federal Aviation Administration)
of the issuance of an airman)
medical certificate.)
)

ORDER DISMISSING PETITION

On March 16, 1998, we ordered the Administrator to show cause as to why we should not construe the Federal Air Surgeon's failure to act on petitioner's August 21, 1996 application for an airman medical certificate as a final denial. NTSB Order No. EA-4642. On April 7, 1998, the Administrator advised the Board that the Federal Air Surgeon had issued a final denial of that application on December 2, 1997, and that petitioner's petition for review of that denial had been separately docketed in the NTSB Office of Administrative Law Judges as SM-4284.¹

Petitioner has filed a reply, urging the Board to not dismiss this petition. He asserts that substantive issues concerning his medical qualifications and the legal issue of *res judicata* still remain. We believe those issues are more properly left for resolution in the challenge to the Federal Air Surgeon's final denial that has been docketed as SM-4284.

¹This information should have been immediately submitted for inclusion in this docket.

ACCORDINGLY, IT IS ORDERED THAT:

The instant petition is dismissed as moot.

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above order.