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July 30, 2011

FEDEX OVERNIGHT

Office of the Chief Counsel
FAA Part 16 Airport Proceedings Docket
AGC-610
Federal Aviation Administration
800 Independence Avenue, SW
Washington, D.C. 20591

Re: *Jeff Bodin and Garlic City Skydiving v. The County of Santa Clara, California*
Docket No. FAA-2011-0699

Dear Sir or Madam:

Enclosed for filing please find an original and three copies of the Complainant's Consolidated Reply to respondent's Answer (To Complaint) and Answer in Opposition to Respondent's Motion to Dismiss in the captioned matter. One copy is unbound, as requested by the FAA.

Very truly yours,

Richard J. Durden

enc.

cc: Miguel Marquez
Elizabeth G. Pianca
Jeff Bodin

BEFORE THE
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.

JEFF BODIN and GARLIC CITY SKYDIVING Complainant, vs. THE COUNTY OF SANTA CLARA, CALIFORNIA Respondent	Docket No. FAA-2011-0699

COMPLAINANT'S CONSOLIDATED REPLY TO RESPONDENT'S ANSWER (TO COMPLAINT) AND ANSWER IN OPPOSITION TO RESPONDENT'S MOTION TO DISMISS

Please serve:

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Counsel for Respondent

For the sake of efficiency and brevity, Complainant herein combines his Reply to Respondent's Answer (for which Respondent is allowed a rebuttal per 14 CFR §16.23(e)) and his Answer in Opposition to Respondent's Motion to Dismiss (for which no further pleading is permitted per 14 CFR §16.19(c)).

Respondent's Certificate of Service for its Answer and Motion is dated July 20, 2011. Counsel for Complainant was served via personal delivery (overnight Federal Express) on July 21, 2011. Pursuant to 14 CFR §§16.23(e) and 16.19(c) (Reply to Answer to Complaint and Answer to Motion), Complainant's pleading is due to be filed on or before July 31, 2011. Because July 31 is a Sunday, pursuant to 14 CFR §16.17(b), the pleading is due to be filed on August 1, 2011.

Introduction

Respondent's pleadings are initially predicated on completely ignoring that the FAA has already found Respondent to be in violation of its Grant Assurances (Complaint Exhibit 11), has twice found that skydiving may be safely conducted onto a drop zone/landing area/landing zone (the terms are synonymous – County's writings and pleadings sometimes use the terms synonymously and sometimes express surprise that a landing area or zone on an airport is a drop zone) on the Airport, and that County's ban is not reasonable (Complaint Exhibits 6 and 14); not recognizing that the FAA has told Respondent on five separate occasions that it must provide access for a drop zone/landing area/drop zone on the Airport (Complaint Exhibits 4, 6, 8, 11 and 14).

Respondent then bases its arguments on its own rewrite of the terms of Grant Assurance 22 that would require the FAA demonstrate to Respondent/County that a potential aeronautical use is safe instead of the plain language which places the burden of showing that banning an

aeronautical activity from an airport on the basis of safety is on the airport sponsor with the FAA as the ultimate arbiter.

Despite already being found in violation of its Grant Assurances and having been twice told by the FAA that skydiving may be conducted safely onto the Airport and that Respondent must grant access to Complainant, Respondent attempts to justify its defiance of the FAA's directives and findings through its own combination of a tortuous interpretation of a single, grammatically incorrect, sentence plucked from the second FAA Safety Study (while completely disregarding the full Study and the associated FAA directive to allow Airport access) with a unilateral rewrite the language of the law on airport access.

The unilateral revision of the law and flagrant disregard of FAA safety findings and directives throughout Respondent's pleadings are consistent with the County's practice of continual delay as a tactic to deny Airport access to Complainant; as pointed out by the FAA in Complaint Exhibit 8.

As an integral part of its position disdaining FAA findings of violation of Grant Assurances, directives to allow Airport access and FAA Safety Studies through a pious, Mom-and-apple-pie, concern for safety, Respondent claimed knowledge of skydiving and ability (greater than that of the FAA) to engage "in a robust, thoughtful, and comprehensive analysis of how skydiving with an LZ at E16 will impact safe operations of the airport" (Complaint Exhibit 13), yet in other documents and pleadings, County makes it clear that it has "no professional expertise to review training and safety practices for skydiving" (County's Answer, p. 26).

County's "comprehensive analysis" of skydiving safety did not include input from those most affected, the airport users. The users later told County they supported skydiving at the

Airport and it could be conducted safely (Complaint Exhibit 9). County has yet to incorporate the user's opinions in its approach to this matter.

While the FAA was given County's opinions regarding safety of a skydiving landing area on the Airport some two years ago, considered them at length, rejected them and made its ruling, County continues to repeat them as if never reviewed or rejected. County does this even though the FAA told County that

> "...it appears the County used inappropriate evidence to make it appear that skydiving should not take place at E16. Strangely, the same reasons the County used to deny skydiving could be used purport that other aeronautical activities are unsafe at E16" (Complaint Exhibit 11).

Put more simply, the County's stated opinions regarding safety are bogus and have been recognized as such by the FAA. For it to repeat them here, especially after its own users, with more knowledge than it has, have disagreed, is disingenuous at best. To believe County's opinions one must believe that skydivers are not only second-class aeronautical citizens that have access to airspace only after all other aeronautical users have left the area, which is not the law, and that a skydiver under canopy (flying the parachute) is akin to some sort of aerodynamic thistledown whose direction cannot be controlled and travels at the caprice of the wind. Such is simply not the case, as the FAA well knows and has understood for decades in performing Safety Studies. All users of the airspace above Airport must comply with the same Federal Aviation Regulations for operation in the air space, 14 CFR Part 91. To assert or even imply that skydivers cannot while all others can is without veracity. As the FAA stated unequivocally in Complaint Exhibit 11 quoted above, "Strangely, the same reasons the County used to deny skydiving could be used *purport* that other aeronautical activities are unsafe at E16" (emphasis

added). Using Respondent's reasoning on safety, if skydiving cannot be conducted safely at the Airport, other aeronautical activities cannot.

The County asserts that because Airport is so close to a major highway, landing skydivers would not be safe. The landing area is farther from the highway than the runway. There is a greater risk that users of the runway could face a control issue and land on the highway or hit power lines than would skydivers.

County implies that somehow the airspace above Airport is unique in the country in its congestion and thus skydivers should not land at Airport. County did not provide any comparisons with other drop zones in the country because it is undoubtedly aware that there are airport drop zones under even busier airspace than above E16. The FAA is fully aware of this situation.

I. Complaint's Reply to Respondent's Answer to Complaint

A. In keeping with its hubristic approach to the FAA and Complainant, Respondent is critical even of the format of the Complaint. It apparently did not meet some unpublished standard of Respondent. Complainant has been trying to find a way into the citadel County has erected around its Airport. County has imperiously raised the drawbridge and is now chastising a supplicant for ringing the doorbell in the wrong manner.

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B. Summary of the Issues

Respondent's summary is generally accurate as far as it goes. However, it stops short of identifying the specific issue: that under the Grant Assurances, notably 5, 22 and 23, banning an aeronautical user from using an airport may only be justified is the action is necessary for the safe operation of the airport. The burden for showing the ban is reasonable lies with the airport sponsor and the FAA makes the ultimate decision.

Despite Respondent's assertions, at no place in the Grant Assurances, Statutes, Federal Aviation Regulations or FAA Orders applicable to airport grants, is it written that an aeronautical user may only be allowed on an airport if the aeronautical activity can be performed in the "safest" manner.

The ultimate arbiter as to whether a ban is necessary for the safe operation of an airport is the FAA. [Florida Aerial Advertising v. St. Petersburg-Clearwater international Airport, FAA Docket no. 16-03-01, Director's Determination (December 18, 2003)] Respondent has provided no citation to the contrary.

Because the FAA has twice ruled that a ban of skydiving on the Airport is not necessary for the safe operation of the Airport, there is no issue outstanding and Complainant is entitled to relief.

C. Respondent's paragraph 4.

Respondent misstates facts. At no time did the FAA find that skydiving could not be performed safely at Airport. Respondent provides no written report to that effect from any office of the FAA. It relies, conveniently, on a claim by one of its employees that he spoke to someone (name not supplied) at a FSDO (which does not have authority over airspace) who told him

skydiving was unacceptable because of air traffic (Respondent's Exhibit 15). Even if the hearsay is true, it is irrelevant given the subsequent two Safety Studies and five directives from the FAA to Respondent stating that skydiving could be performed safely at Airport, the Respondent's ban was unreasonable and directing Respondent to give Complainant skydiving access.

In transmitting the results of the first Safety Study to Respondent (Complaint Exhibit 6) the FAA stated,

> "The determination by Flight Standards concluded that skydiving can be safely accommodated by adhering to a series of conditions contained in the Flight Standards determination.
>
> In view of the determination, a prohibition of skydiving would not be a reasonable condition and would unjustly discriminate against an aeronautical activity."

County goes on to selectively pull and quote just one sentence from the results of the second FAA Safety Study (Respondent's Exhibit 26) in which the FAA said that "... skydiving would be operated in the safest manner if relocated to an area several miles away..." The author made a basic grammatical error in comparing two locations; one can only be "safer" than a second. It requires a comparison of three or more to use the word "safest".

No matter whether the grammatical error is basic or advanced, the sentence is irrelevant and Respondent's reliance upon it is misplaced. Respondent, in a failure of its ethical obligation to report all facts, including those contrary to its desired position, neglected to quote the relevant sections of that document in which the FAA stated:

> "FAA has determined that Garlic City Skydiving can operate safely within Class E Airspace provided the conditions stated in this letter are met. Furthermore, the FAA does not agree with the County's decision to deny Garlic City from operating at E16 on the basis that a skydiver could miss the proposed landing zone (LZ)."

Not only did the FAA make it clear that it was safe for skydiving to operate in the airspace above Airport, it was safe to land on the Airport. While the language was polite, the

FAA's disagreement with the County's position was final. [See Florida Aerial Advertising previously cited.]

Respondent's assertion that the FAA never specifically opined on the safety of a landing zone at the Airport close to a highway and the local community is nothing short of incredible given the language of the two Safety Studies, the five FAA airport access directives and the fact, admitted by County, that the FAA inspectors came to the Airport and saw the landing area. There is no evidence that during the visit the County stopped the traffic on the highway and somehow covered up the houses and buildings of the community. Respondent's assertion is also irrelevant because it was not up to the FAA to prove the operation could be conducted safely, it was up to the County to prove skydiving could not be performed safely.

In this paragraph County seems to assert there is some difference between drop zone and landing zone or area and that somehow it didn't understand that Complainant wanted to actually land on the Airport. While this "sudden surprise" argument was made by Respondent in its letter to the FAA after the second Safety Study and fifth FAA directive to allow Bodin Airport access, Respondent's own letters show that it used the terms interchangeably, see Complaint Exhibits 9 and 10 and paragraph 41 of Respondent's Answer to the Complaint.

Respondent implies that the conditions for operation of the landing area on the Airport were in some way out of the ordinary and so difficult that compliance would be impossible. For reference, they are nearly identical to those under which another drop zone under busy airspace, near Sacramento, California, operates. (Exhibit 34, attached)

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D. Respondent's Paragraph 26

Complainant acknowledges and appreciates Respondent's correction regarding the number of airports owned and operated by Respondent. Complainant is therefore amending his Relief Desired to apply to the two airports owned and operated by Respondent.

E. Respondent's Paragraph 47

In a footnote to Respondent's paragraph 47 Answer to the Complaint, Respondent states that it did not approve the sublease of office space from a third party undertaken by Complainant after Complainant had been denied the lease of any space owned by Respondent on the Airport. Given Respondent's behavior to date, and that Complainant had no idea his sublease had to be approved by Respondent, this is a not so veiled threat that Respondent will refuse to allow Bodin to obtain office space on the Airport from which to run his business. Complainant is hereby amending his Relief Desired to include an Order requiring Respondent to provide or otherwise approve the rental of space on the Airport to Bodin, from which to run his business, at the going rental rate for office and/or hangar space.

F. Respondent's Statement of Facts

Bodin notes that Respondent's Statement of Facts is consistent with Respondent's disregard of documents showing that the FAA has ruled on the issue of safety for skydiving at the Airport and finds it interesting that in paragraph 2 Respondent considers Bodin's attempts to have the County comply with the law and its agreements to accept money for the Airport, supported by the FAA directives and Safety studies, as "relentless demands". One wonders what should be used to describe the County's continuous refusal to comply with the FAA directives?

II. Complainant's Answer in Opposition to Respondent's Motion to Dismiss

A. Introduction

County's Motion reiterates its previously-examined-and-rejected-by-the-FAA safety opinions and again references a grammatically incorrect and irrelevant sentence in the FAA's second Safety Study. The details of the errors in County's statements regarding its opinion on safety, the FAA's rulings on them and the standard for banning an aeronautical operation on an airport were set out above in Complainant's brief and are hereby incorporated in this paragraph, without repetition, to save space.

B. Burden of Proof

In its Memorandum in Support of Respondent's Motion to Dismiss, Respondent spends some time reiterating the law on burden of proof in a Part 16 action. Neither party disagrees that the Complainant has the initial burden of proof in this matter, with one notable exception, omitted by Respondent. The cases point out that once Complainant has met its initial burden of proof, the burden shifts to Respondent.

However, Respondent again conveniently did not mention something significant that was contrary to its case: under Grant Assurance 22, the burden of proof for denying access to an aeronautical activity is on the airport sponsor. Therefore, Respondent has the burden of proof.

As referenced in the cases cited, the standard for meeting the burden of proof is preponderance of the evidence. There is no "beyond a reasonable doubt" standard as in a criminal action; there is no super or elevated burden of proof.

For the reasons set out in the Complaint, five FAA directives to County to allow Complainant Airport access, the finding by the FAA that Respondent is in violation of its Grant Assurances (which Respondent has still not addressed and never did contest) and Respondent's failure to meet its burden of proof in banning an aeronautical activity as will be seen below, Complainant has met its burden of proof on its claims.

C. Unjust Discrimination

Respondent's section on unjust discrimination misstates the relevant law and asserts that Bodin cannot be a victim of unjust discrimination unless the County has given more favorable treatment to other similarly situated airport users and there are no other similarly situated users on the airport. While County's argument that "you can't get on to the airport until there is another similar user on the airport" is amusingly circular, it's completely irrelevant to question of unjust discrimination when an aeronautical user seeking access to an airport is denied on the basis of a safety claim.

The Penobscott case on which Respondent County relies has nothing to do with denial of airport access; it involves a disagreement over the rental rate charged one Fixed Base Operator on an airport versus another.

Respondent takes some time, although with interesting errors, to describe the differences between hot air balloons and skydiving to justify treating skydiving and ballooning differently. The only point regarding ballooning Bodin raised in his Complaint was that the County has the same rules for approval of ballooning and skydiving operations on the Airport, yet did not apply them in the same fashion.[1] This refusal by the Respondent to follow its own rules and erection

[1] Respondent is in error when it asserts balloonists and skydivers operate under different Federal Aviation Regulations. Both skydivers and balloonists, as well as all aircraft, operate under and must comply with 14 CFR

of a bureaucratic maze for approval of a particular type of aeronautical use, skydiving, is further evidence it simply does not want skydiving on the Airport and therefore Respondent's safety arguments are without merit.

Respondent is in violation of Grant Assurance 22 for unjust discrimination because it has banned a particular aeronautical activity from the Airport when, as the FAA has repeatedly found, it is not necessary for the safe operation of the airport (paragraphs a. and i. of Grant Assurance 22), not because Complainant has been charged a lease rate that is different from other commercial users of the Airport.

Given County's threat regarding not approving office space on the Airport (Respondent's Paragraph 47) and that County devoted an entire section of its brief to lease prices Complainant is concerned that County will attempt to deny it office and hangar space on the Airport or will refuse to provide it at the going rate or refuse to approve any sublease Complainant enters into with a third party.

On page 6 of its Motion, Respondent does quote paragraph i. of Grant Assurance 22. It accurately reflects that the standard for denial of access of an aeronautical user is that the denial is necessary for the *safe* operation of the airport, not *safest* (emphasis added).

Respondent, in addition to attempting to leverage a denial using "safest" (or more accurately "safer"), tries to make another unilateral change to the law. County would have one believe that a potential aeronautical user cannot be allowed onto the Airport unless the FAA specifically says that the use will be safe. It's a creative attempt to change the burden of proof under Grant Assurance 22.

Part 91 when in the airspace above and around the Airport. Respondent also claims, without support, that balloons only take off from airports, not land on them. That is incorrect. In fact, Complainant's counsel has personally landed a hot air balloon he previously owned on airports on three separate occasions. There is no prohibition in the CFRs or the County Airport Rules against landing a balloon on an airport.

County has decided that the law reads that in order for a mere mortal aeronautical user to obtain access to the Airport citadel, that the FAA must find that the use (and each and every one of the subsets of the use that the County may dream up) may be performed safely (and prove it to the County's satisfaction). That is precisely backwards from the wording of the Assurance, the regulations and the Orders interpreting and giving guidance.

The actual wording of the Assurance requires that the County show to the FAA's satisfaction that banning an aeronautical use from the Airport is necessary for safe operation of the Airport.

The burden of proof is on the County. The County has never met it, and cannot.

The FAA has twice done Safety Studies and found that skydiving can be safely accommodated on the Airport, and found that banning skydiving from the Airport was not a reasonable condition and would unjustly discriminate against an aeronautical activity (Complaint Exhibit 6).

County is critical of the size of the landing area. At fourteen acres it is far larger than the largest recommended by the United States Parachute Association for the most novice of student skydivers. For a brief time, as Mr. Bodin was trying to get Airport access, there was talk of using only three acres of the fourteen acre site, although the discussion never progressed to any point where it was decided whether the entire fourteen acres would be used or some subpart. The County has not opined that fourteen acres is too small. It has never given a minimum size it prefers for a landing area, although it is critical of three acres. This is the sort of thing that could have easily been resolved in discussions between the parties, especially using United States Parachute Association guidelines.

Respondent references the traffic on a nearby highway and the community population density. It asserts that a miscalculation (Motion page 6) by a skydiver could cause him or her to land on the highway or power lines or in a residential area. That is true of any aeronautical activity. That is why there is training and FAA regulation of such activity. It's why it is acceptable for aeronautical users of the Airport to safely land on the runway which is three times closer to the highway than the parachute landing area.

Respondent notes that balloons routinely fly at about 200 feet in the area (Motion page 5).[2] Respondent has noted no disapproval of flight at such altitude. It is a safe altitude. If the area were an area of high population density, known by the FAA phrase "congested area", the balloonists would be required to fly at least 1000 feet above the highest obstruction (14 CFR §91.119(b)). By County's own admission, the area around the Airport is not of such a high population density as to support its safety argument. This is consistent with the results of the two FAA Safety Studies and the examination of the area by the FAA personnel.

Exhibit 35 (attached), a photo taken by Mr. Bodin from the US 101/Church Street overpass, south of the Airport, looking north, shows a balloon directly over the highway referenced as a concern by the County. It is a safe operation, although the balloon has less directional control than a skydiver under canopy. To assert that this highway is somehow a special hazard to only skydiving as an aeronautical activity is without foundation.

County's opinions concerning safety for landing on the Airport and operating in the airspace above it were considered twice by the FAA and rejected as sufficient to ban skydiving from the Airport as necessary for its safe operation. The County failed to meet its burden of prove for establishing a ban as shown by five directives from the FAA to cease denying access to

[2] Respondent says balloons fly at about 200 feet MSL. It is assumed that is a typo and should read "AGL", Above Ground Level, rather than above Mean Sea Level.

Complainant. County's safety opinions here are nothing new, and, as the FAA pointed out in Complaint Exhibit 11, are inappropriate. If they were actually accurate and supported, would be reason to also ban other aeronautical activities from the Airport.

D. Liability Exposure

As an airport operator, County faces potential liability if there is an accident in connection with its operation of the Airport. While the risk is minimal (County did not cite cases in which an airport sponsor has been held liable for an accident involving an aeronautical activity in connection with the airport), Respondent is the first to agree the risk exists. The risk exists whether the injured person was in the aircraft involved or was a third-party injured on the ground. That is true no matter what sort of aeronautical activity was involved.

As aeronautical activity on an airport increases, the level of risk faced by the airport sponsor increases. Airport sponsors have dealt with this, and their obligations to monitor activity on their airports to assure it was in conformance with rules and conditions, for years as activity levels have fluctuated and types of users changed. There are no cases that could be located by this party that indicated this somehow imposed on the "minimal burden" demand on the general revenues of the sponsor under the national airport system. Indeed, sponsors, such as Respondent, have been happy to accept federal money for their airports, with the risks, for years. However, in doing so, they have obligations that come with that money. County cannot be heard to complain that the risk of liability it faces in complying with allowing all aeronautical users puts some sort of excessive burden on it.

And, Respondent, because it is in California, gets a liability exposure break that appears to be unique to that State. Unlike any other State Complainant has found, California has a statute that specifically exempts airport sponsors for liability for a skydiving accident.

Instead of being grateful, Respondent goes into a tortuous, critique of what the law *may* do and concludes, ironically, that it is only protected from liability from an accident involving a skydiver is if the skydiver was using the Airport without permission.

Even assuming that the California statute does not mean what it says on its face and Respondent is still at risk, it is now facing the same risk as all of the other sponsors of airports on which skydivers land in this country.

Respondent did not cite any language of any Grant Assurance that gives it the right to ban an aeronautical activity from an airport because of a fear of liability.

It should not be heard to complain that it should be able to take money for an airport and then deny access to that airport because there might be an accident if it is used for aeronautical activity.

E. Exclusive Rights Claim

The FAA has already found Respondent in violation of granting unlawful exclusive rights in its failure to comply with its Grant Assurances. For that to be changed would require that the Administrator find that Respondent's ban of skydiving at the Airport was reasonable.

III. Conclusion

For the reasons stated above, Complainant respectfully requests that Respondent's Motion to Dismiss be denied and an Order entered requiring:

That Santa Clara County, California, issue all necessary permits under reasonable terms to allow Complainant to begin operation of his commercial skydiving business, identifying and allowing use of a landing area on South County Airport within thirty days, including requiring Santa Clara County, California to provide or otherwise approve the rental of space on the Airport to Bodin, from which to run his business, at the going rental rate for office and/or hangar space;

That Santa Clara County, California take no action to prevent Complaint from beginning operation of his commercial skydiving business onto a landing area on South County Airport within thirty days; and

That Santa Clara County, California take no retaliatory action against Complainant for filing this Complaint;

That Santa Clara County be immediately deemed ineligible to receive any federal Grants for any of its two airports because, at the time this Complaint was made, it had been found to be in violation of its Grant Assurances, the violation is continuing and has not been corrected by the County (the request for Relief Desired includes denying the request for $400,000 for the Airport the County is about to submit to the FAA (Complaint Exhibit 33));

And, if Santa Clara County, California has not complied fully with the above within thirty days that, Santa Clara County, California repay all Federal grant money it has received for all of its County airports.

Dated: July 30, 2011

Respectfully submitted,

Richard J. Durden
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Attorney for Complainant

U.S. Department
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**Federal Aviation
Administration**

Sacramento Flight Standards District Office
6650 Belleau Wood Lane
Sacramento, California 95822
Phone (916) 422-0272

11/21/2008

Dave Daly
Lincoln Regional Airport
1480 Flightline Drive
Lincoln, CA 96748

Dear Mr. Daly:

This letter is in response to your letter dated November 20, 2008.

A safety review of the proposed parachute drop zone at Lincoln Regional Airport has been in the process for a number of months based upon previous correspondence and telecoms between your office and Mr. Pat Garcia. During this safety review numerous individuals have been involved to include Inspector Jim Hinson and Rick Stockton from the Sacramento FSDO, Racior Cavole from the FAA Airports Division and various personnel from Northern California TRACON.

Based upon the results of the safety review it has been determined that the proposed drop zone on the Lincoln Regional Airport could be supported from a safety standpoint if the following conditions were agreed to by Mr. Garcia and airport management. The specified conditions do not limit the use of the drop zone based upon the runway in use at the time of the parachute operations.

The required conditions are:

a. Weather conditions must be VFR and present no hazard for the jumpers or present visibility conditions which would preclude pilots from maintaining visual contact with jump participants.
b. A NOTAM must be established to advise all users of the Lincoln Regional Airport of the parachute jump activities.
c. Radio contact between the jump aircraft and NORCAL must be established and maintained throughout the jump activity.
d. The jump aircraft pilot will communicate with NORCAL and visually scan the area to ensure aircraft are not entering or maneuvering within the traffic pattern prior to authorizing jumpers to depart the aircraft.
e. Radio transmissions will be conducted by the jump aircraft on the Lincoln advisory frequency to alert anyone in the area that jump activities are in progress.
f. Jumpers will be briefed to maintain directional control at all times and remain clear of the runway and stay within the designated drop zone area.
g. Airport management will ensure the Airport Facility Directory and San Francisco Sectional are updated to reflect a designated Parachute Drop Zone has been established at the Lincoln Regional Airport.

EXHIBIT
34

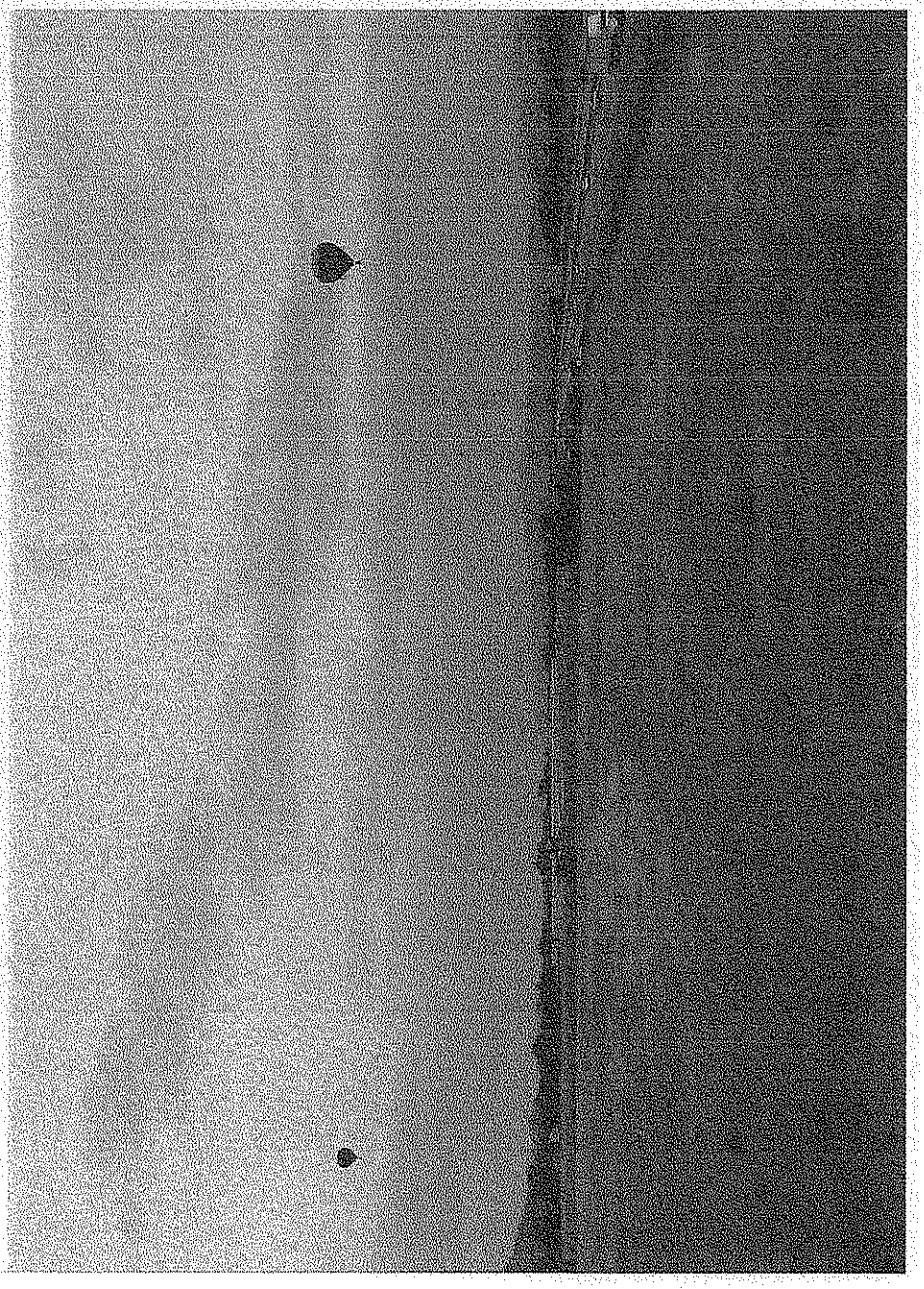
h. Airport management will ensure the advisory information is updated to advise all who utilize Lincoln Regional Airport that a Parachute Drop Zone has been established and its location on the airport.
i. Airport management will advise all aircraft operators based at Lincoln Regional Airport of the establishment and location of a Parachute Drop Zone at the airport.

If you have any questions or would like to discuss this issue at further length please contact Mr. Jim Hinson, Frontline Manager.

Sincerely,

Gregory L. Michael
Manager, Sacramento FSDO

EXHIBIT
35



CERTIFICATE OF SERVICE

I hereby certify in accordance with 14 CFR Part 16.15(a) that today I served the foregoing Complainant's Consolidated Reply to Respondent's Answer (To Complaint) and Answer in Opposition to Respondent's Motion to Dismiss on the following persons at the following addresses by Federal Express Service:

Miguel Marquez
Elizabeth G. Pianca
OFFICE OF THE COUNTY COUNSEL
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East Wing, 9th Floor
San Jose, CA 95110

Office of the Chief Counsel
FAA Part 16 Airport Proceedings Docket
AGC-610
Federal Aviation Administration
800 Independence Avenue, SW
Washington, D.C. 20591

Dated this 30 day of July, 2011

Richard J. Durden
For Complainant