

To All Prefects, Directors

Mark Bundick and I have had this statement prepared for nearly 3 weeks now. We did not post it because our attorneys did not fully sign off on it until a day or so ago. I know everyone is anxious to learn something, but we think it wise to follow counsel. You may pass everything below this line along to anyone interested.

B Kelly

Joint Statement on ATF Litigation May 23, 2002

On April 30, 2002, a hearing was held in the Federal District Court for the District of Columbia, Washington DC regarding the NAR and TRA's request for a preliminary injunction against the Bureau of Alcohol, Tobacco, and Firearms (ATF).

A preliminary injunction motion is one of the more difficult motions to win in Federal court. These motions ask a court to stop a government agency, technically empowered by Congress to do a job, to stop doing something because the agency is acting contrary to governing law. Courts are extraordinarily careful to review these motions before granting them. In order to win such relief from the court, the plaintiffs must establish that they face irrefutable actual and immediate harm from an agency's action, that such harm outweighs any harm to the agency if the injunction should issue, that the public interest warrants issuing an injunction, and that the preponderance of evidence is that there is a strong likelihood that the plaintiff will win the pending court case on the merits of that case.

Our counsel made strong pre-hearing arguments on both points in their document filings. In addition, they argued a strong persuasive case in court. In fact, during the court argument counsel brought into the court room actual used rockets and an EZ-Access kit to specifically demonstrate what ATF is trying to regulate. It was clear that Judge Walton better understood our positions and the difficulties being faced by our hobby. He sympathized with our plight, i.e. that is that the hobby is being over-regulated by ATF apparently beyond its statutory authority. However, Judge Walton unfortunately denied our request for an injunction because he did not believe that our harm was sufficiently great especially in the near time frame that this case will be decided on the merits. In essence, the Judge signaled that we appear correct on the law, and that he will rule quickly when our final papers are filed, but for now he did not want to tell ATF that it must stop regulating our hobby.

We believe the next phase in our case will be to receive from Judge Walton a ruling on the ATF's motion to dismiss the lawsuit. We believe that ruling forthcoming in the next 30 to 60 days. The next step beyond that ruling would be a ruling on motions for summary judgement, which are scheduled to be filed by ATF and NAR/TRA over the course of the next 2 months. Assuming

that matters proceed beyond that point, the court would move next to the trial phase if we do not succeed in our summary judgment motion, or if we win on summary judgment then it's up to ATF to comply with the Judge's order or to appeal to a higher court.

Our counsel has done a tremendous job in preparing for and pursuing this case. Our thanks to Joe Egan, John Lawrence and Marty Malsch for their extensive legal preparation and for the hospitality in welcoming us to Washington, DC. And our thanks to Elaine Coppage at Egan and Associates for her work in making our administrative arrangements.

As always, we appreciate the comments, input and support of NAR and TRA members in this fight. If you want to see this effort continue, you can make donations online to the legal fund. Your contributions are absolutely essential for our effort to succeed. We urge you to make a donation to the Legal Defense Fund today, in whatever amount you possibly can contribute. Your support and generosity will be recognized and acknowledged, and you'll be able to say "I supported the fight for an unregulated sport rocket hobby".

As we have further developments, we'll report them here and in our publications, as soon as possible.

Bruce Kelly Mark B. Bundick
TRA President NAR President