

Question: What is the lawsuit about?

Answer: On February 14, 2019, Public Employees for Environmental Responsibility and Hawai'i Coalition Malama Pono filed a petition for writ of mandamus in the U.S. Court of Appeals for the District of Columbia Circuit alleging diminished enjoyment of seven specific parks (Hawai'i Volcanoes National Park, Haleakalā National Park, Lake Mead National Recreation Area, Muir Woods National Monument, Glacier National Park, Great Smoky Mountains National Park, and Bryce Canyon National Park). The petition requested that the Court direct the agencies to complete Air Tour Management Plans (ATMPs) for these seven parks. On May 1, 2020, the Court granted the petition. The Court ordered the Federal Aviation Administration (FAA) and the National Park Service (NPS) to submit within 120 days a schedule for bringing, not just the seven parks identified in the complaint, but, all 23 eligible parks (based on reported air tour data from 2018) into compliance with the National Parks Air Tour Management Act (NPATMA) within two years or to show specific, concrete reasons why doing so will take longer.

Question: Did the FAA and NPS respond to the court's order by August 31?

Answer: Yes. The FAA and NPS submitted a schedule to the court on August 31, 2020, to complete air tour management plans at the 23 parks referenced in the court's order within two years.

Question: What did the court say to the proposed plan for air tour management plans?

Answer: The court has not yet responded to the proposed plan.

Question: What does the National Parks Air Tour Management Act (NPATMA) require?

Answer: The Act, which Congress passed in 2000, governs commercial air tours in national parks. It requires the FAA, in cooperation with NPS, to develop an Air Tour Management Plan (ATMP) or Voluntary Agreement (VA) for each park or tribal land where air tour operations occur or are proposed. The 2012 FAA Modernization and Reform Act exempted parks with 50 or fewer annual tours from this requirement. The act is codified at 49 USC §40128.

Question: What is an air tour management plan (ATMP), and what does it do?

Answer: The National Parks Air Tour Management Plan Act defines an ATMP as a plan used to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.

Question: How many air tours are there over national parks?

Answer: The National Parks Air Tour Management Act requires air tour operators to report overflight numbers to the FAA and NPS. The number of air tours conducted over parks varies from year to year (typically around 48,000 per year). The NPS publishes an annual report with this data: <https://www.nps.gov/subjects/sound/airtours.htm>

Question: How will the FAA and NPS get 23 air tour management plans done in two years?

Answer: The FAA and NPS are coordinating to implement an ambitious schedule that consolidates administrative processes wherever possible to complete the air tour management plans within two years.

Question: What happens if the FAA and NPS can't complete the air tour management plans (ATMPs) within two years?

Answer: At this time, the agencies are unaware of any specific, concrete circumstances that will prevent the agencies from completing ATMPs for all twenty-three parks. However, if it appears that there may be a delay in completing any of the ATMPs, the FAA and NPS will identify the specific and concrete reasons for the delay and report to the court at the earliest possible time. The agencies will work to ensure that a delay at one park will not impact the schedule for other parks. If an unexpected delay does occur that affects the timeline for completing the ATMP for one or more parks, the agencies will take appropriate actions to minimize impacts to the schedule.

Question: What kind of circumstances could delay completion of the air tour management plans within two years?

Answer: Potential delays include consultation requirements with Tribes, as well as those under the National Environmental Policy Act (NEPA), Section 7 of the Endangered Species Act (ESA), and Section 106 of the National Historic Preservation Act (NHPA). More attention to certain components of the plan may be necessary after the public, stakeholders, and Tribes have had the opportunity to provide input.

Question: Why are some parks with air tours not required to have air tour management plans or voluntary agreements?

Answer: Based on reported air tour data from 2018, 54 national parks are exempt from the requirement to develop air tour management plans or voluntary agreements because they have 50 or fewer annual air tours. The number of exempt parks may change from year to year based on data reported by air tour operators.

Question: Will the public have a chance to comment on the proposed air tour management plan (ATMP) schedule and/or the individual ATMPs that the FAA & NPS create for each park?

Answer: Yes. NPATMA requires the agencies to publish the proposed ATMP in the Federal Register for notice and comment and make copies of the proposed plan available to the public.

Question: The court order mentions 23 parks. Which parks are on the list?

Answer: The twenty-three National Park System units referenced by the court order are:

1. Arches National Park, Utah
2. Badlands National Park, South Dakota
3. Bandelier National Monument, New Mexico
4. Bryce Canyon National Park, Utah
5. Canyon de Chelly National Monument, Arizona
6. Canyonlands National Park, Utah
7. Death Valley National Park, California
8. Everglades National Park, Florida
9. Glacier National Park, Montana
10. Glen Canyon National Recreation Area; Arizona, Utah
11. Golden Gate National Recreation Area, California
12. Great Smoky Mountains National Park; Tennessee, North Carolina
13. Haleakalā National Park, Hawaii
14. Hawai'i Volcanoes National Park, Hawaii
15. Lake Mead National Recreation Area; Arizona, Nevada
16. Mount Rainier National Park, Washington
17. Mount Rushmore National Memorial, South Dakota
18. Natural Bridges National Monument, Utah
19. National Parks of New York Harbor Management Unit; New York, New Jersey
20. Olympic National Park, Washington
21. Point Reyes National Seashore, California
22. Rainbow Bridge National Monument, Utah
23. San Francisco Maritime National Historical Park, California