

Final EA – Additional Appendix Materials

Appendix G – Cultural Resources Consultation and Summary

Concurrence from South Dakota State Historic Preservation Office

Concurrence from Lower Brule Sioux Tribe

Concurrence from Three Affiliated Tribes (Mandan, Hidatsa and Arikara Nation)

Concurrence from Eagle Aviation Inc.

Comment from Winnebago Tribe



April 13, 2023

Judith Walker
Federal Preservation Officer
Environmental Policy Division (AEE-400)

Federal Aviation Administration

SECTION 106 PROJECT CONSULTATION

Project: 221028007F – Air Tour Management Plan for Badlands National Park

Location: Jackson

FAA - Federal Aviation Administration

Dear Judith,

Thank you for the opportunity to comment on the above referenced project pursuant to 54 U.S.C. 306108, also known as Section 106 of the National Historic Preservation Act of 1966 (as amended). The South Dakota Office of the State Historic Preservation Officer (SHPO) concurs with your determination regarding the effect of the proposed undertaking on the non-renewable cultural resources of South Dakota.

On October 28, 2022, the South Dakota Office of the State Historic Preservation Officer (SHPO) received your submission and information titled, *Continuing Consultation under Section 106 of the National Historic Preservation Act for the development of an Air Tour Management Plan for Badlands National Park*. Your correspondence indicates that the Federal Aviation Administration (FAA) is the lead agency in coordination with the National Park Service (NPS).

At that time, SHPO gave comments which expressed no concerns with the APE (Area of Potential Effect), provided National Register of Historic Places listed Prairie Homestead (SHPO ID JK00000001) and related structures were considered for potential audio and visual effects due to close proximity to a helipad. SHPO also recommended that the FAA continue to engage in meaningful consultation with Indian Tribes.

On March 20, 2023, additional information was received which included your letter, a list of Consulting Parties, a map of the Area of Potential Effects (APE), a List of Historic Properties in the APE including Historic Characteristics, and a Summary of Noise Technical Analysis from NEPA review.

Based upon the information provided, the proposed undertaking is for the development of an Air Tour Management Plan (ATMP). This ATMP applies to all commercial air tours over the Park and within one-half mile of its boundary, during which the aircraft flies below 5,000 feet above ground level (except solely for the purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the FAA requiring the pilot - in - command to take action to ensure the safe operation of the aircraft) or less than one mile laterally from any geographic feature within the Park (unless more than ½ mile outside the Park boundary).

During consultation, many tribal representatives expressed concern about how the air tours would impact wildlife, plants, and the soundscapes. Therefore, the preferred alternative (Alternative 2: No air tours in the planning area) was chosen under the National Environmental Policy Act (NEPA). After reviewing the



newly-submitted information against our records, the identified Historic Properties within the proposed APE will not be adversely affected by the proposed ATMP (No flights in the planning area). Therefore, SHPO concurs with your determination of "No Adverse Effect" for the proposed undertaking.

Changes in the location and/or nature of activities from those identified in your request will require the submission of additional documentation pertaining to the identification of historic properties, as described in 36 C.F.R. § 800.4, and/or the undertaking's effects on historic properties, as described in 36 C.F.R. § 800.11.

Concurrence of the SHPO does not relieve the federal agency official from consulting with other appropriate parties, as described in 36 C.F.R. § 800.2(c). The submitted information indicates that FAA has engaged in meaningful consultation with Indian Tribes, and that the concerns that were expressed over the proposed ATMP influenced Alternative 2 being selected as the preferred alternative. Consultation is an ongoing process, and we anticipate that FAA will continue to engage in meaningful and good-faith consultation with all relevant parties; including Indian Tribes.

If historic properties are discovered or unanticipated effects on historic properties are found after the agency official has completed the Section 106 process, the agency official shall avoid, minimize or mitigate the adverse effects to such properties and notify the SHPO and Indian tribes that might attach religious and cultural significance to the affected property within 48 hours of the discovery, pursuant to 36 C.F.R. § 800.13.

Should you require any additional information, please contact Jozef Lamfers at Jozef.Lamfers@state.sd.us or at 605-773-6004. Your concern for the non-renewable cultural heritage of our state is appreciated.

Sincerely,
Ted M. Spencer
State Historic Preservation Officer

A handwritten signature in black ink that reads "Jozef Lamfers".

Jozef Lamfers
Review & Compliance Archaeologist

C.C.: Shauna Haas - Department of Transportation

From: [Molyneaux, Brian](#)
To: [ATMPTeam](#)
Cc: [Clyde Estes](#); BoydGourneau@lowerbrule.net; chris.skunk@lowerbrule.net
Subject: RE: Section 106 Continuing Consultation – Air Tours at Badlands National Park - Lower Brule Sioux Tribe
Date: Sunday, April 9, 2023 5:33:45 PM
Attachments: [image001.png](#)

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Ms. Walker and ATMP team, thank you for providing the information on this proposed undertaking. The Lower Brule Sioux Tribe regards the whole of the badlands as a unified traditional territory, with an ambience that integrates land and sky, and believes strongly that recreational flying, which in fact disturbs viewshed and ambience, has no place there. However, given that no air tours will be allowed below 5000 feet or within one half mile of the boundary of the Badlands National Park, and that to challenge even this limit, the process requires the unlikely demonstration of significant effects on historic properties (small terrestrial sites with local ambience), which is virtually impossible when the disturbance is almost a mile away, the Lower Brule Sioux Tribe concurs with the finding of no adverse effect with respect to the listed historic or potentially historic properties under consideration.

Sincerely,

Brian L. Molyneaux, PhD
Cultural Resources Office
Lower Brule Sioux Tribe
187 Oyate Circle
Lower Brule, SD 57548

605-730-2392

From: Chris Skunk [Chris.Skunk@lowerbrule.net]
Sent: Sunday, April 9, 2023 12:11 PM
To: boydgourneau@yahoo.com; Molyneaux, Brian
Cc: Clyde Estes
Subject: FW: Section 106 Continuing Consultation – Air Tours at Badlands National Park - Lower Brule Sioux Tribe

Christian V. Skunk, MPA
Council Member
[[cid:image001.png@01D96ADC.65CA81E0](#)]
Lower Brule Sioux Tribe
Office (605-473-8025)
Cell (605-208-0781)
chrisskunk@lowerbrule.net<<mailto:chrisskunk@lowerbrule.net>>

From: ATMPTeam <ATMPTeam@dot.gov>
Sent: Friday, April 7, 2023 7:40 AM
To: Clyde Estes <clydeestes@lowerbrule.net>; Chairman@lbst.org
Cc: Chris Skunk <Chris.Skunk@lowerbrule.net>; Walker, Judith <FAA> <judith.walker@faa.gov>; Lares, Sheri <FAA> <sheri.lares@faa.gov>; LeBeau, Albert <Albert_LeBeau@nps.gov>
Subject: FW: Section 106 Continuing Consultation – Air Tours at Badlands National Park - Lower Brule Sioux Tribe

Hello,

This is a friendly reminder that the FAA sent your office a Section 106 consultation letter for the development of an Air Tour Management Plan (ATMP) for Badlands National Park. On March 14, 2023, the FAA requested your review of the attached letter within 30 days. The 30-day comment period ends on April 14, 2023.

The attached letter describes the undertaking (Alternative 2 – No Air Tours in the Planning Area under the National Environmental Policy Act for the ATMP); the Area of Potential Effects (APE); a description of steps taken to identify historic properties and the characteristics that qualify them for listing in the National Register of Historic Places; and proposes a finding of no adverse effects to historic properties in accordance with 36 CFR 800.5(c). The FAA respectfully requests your concurrence with the proposed finding by April 14, 2023.

Should you seek additional information, please contact me at (202) 267-4185 or Judith.Walker@faa.gov<<mailto:Judith.Walker@faa.gov>>, copying ATMPTeam@dot.gov<<mailto:ATMPTeam@dot.gov>>.

Respectfully,

Judith Walker

From: ATMPTeam <ATMPTeam@dot.gov<<mailto:ATMPTeam@dot.gov>>>
Sent: Tuesday, March 14, 2023 1:38 PM
To: ClydeEstes@lowerbrule.net<<mailto:ClydeEstes@lowerbrule.net>>;
Chairman@lbst.org<<mailto:Chairman@lbst.org>>
Cc: chris.skunk@lowerbrule.net<<mailto:chris.skunk@lowerbrule.net>>; Walker, Judith <FAA>
<judith.walker@faa.gov<<mailto:judith.walker@faa.gov>>>; adam_beeco@nps.gov<mailto:adam_beeco@nps.gov>;
Papazian, Jennifer (Volpe) <Jennifer.Papazian@dot.gov<<mailto:Jennifer.Papazian@dot.gov>>>;
Milton_Haar@nps.gov<mailto:Milton_Haar@nps.gov>; Haas, Shauna (Volpe)
<shauna.haas@dot.gov<<mailto:shauna.haas@dot.gov>>>; Hanchera, Shelby (Volpe)
<Shelby.Hanchera@dot.gov<<mailto:Shelby.Hanchera@dot.gov>>>;
kathy_boden@nps.gov<mailto:kathy_boden@nps.gov>; rene_ohms@nps.gov<mailto:rene_ohms@nps.gov>;
Dorothy_FireCloud@nps.gov<mailto:Dorothy_FireCloud@nps.gov>;
Albert_LeBeau@nps.gov<mailto:Albert_LeBeau@nps.gov>; Lares, Sheri <FAA>
<sheri.lares@faa.gov<<mailto:sheri.lares@faa.gov>>>
Subject: Section 106 Continuing Consultation – Air Tours at Badlands National Park - Lower Brule Sioux Tribe

Dear Chairman Estes:

The Federal Aviation Administration (FAA) and the National Park Service (NPS) are continuing Section 106 consultation with your office for the development of an Air Tour Management Plan (ATMP) for Badlands National Park. FAA is the lead federal agency for compliance with the Section 106 consultation for this undertaking.

The attached letter describes the preferred alternative under the National Environmental Policy Act for the ATMP, which is the proposed undertaking; the Area of Potential Effects (APE); a description of steps taken to identify historic properties and the characteristics that qualify them for listing in the National Register of Historic Places; and proposes a finding of no adverse effects to historic properties in accordance with 36 CFR 800.5(c). The FAA and NPS respectfully request your concurrence with the proposed finding within thirty days.

Should you seek additional information about any of the above, please contact me at (202) 267-4185 or Judith.Walker@faa.gov<<mailto:Judith.Walker@faa.gov>>, copying ATMPTeam@dot.gov<<mailto:ATMPTeam@dot.gov>>.

Thank you for your time and consideration.

Best Regards,
Judith Walker



MANDAN, HIDATSA & ARIKARA NATION

Three Affiliated Tribes * Fort Berthold Indian Reservation
404 Frontage Road New Town, ND 58763
Tribal Business Council

Office of the Chairman
Mark N. Fox

March 30, 2023

Judith Walker
Federal Preservation Officer
Senior Environmental Policy Analyst
Environmental Policy Division
Federal Aviation Administration

Dear Ms. Walker:

Thank you for your letter of March 14, 2023, in which you request our concurrence on the proposed Finding of No Adverse Effect for the development of an Air Tour Management Plan for Badlands National Park.

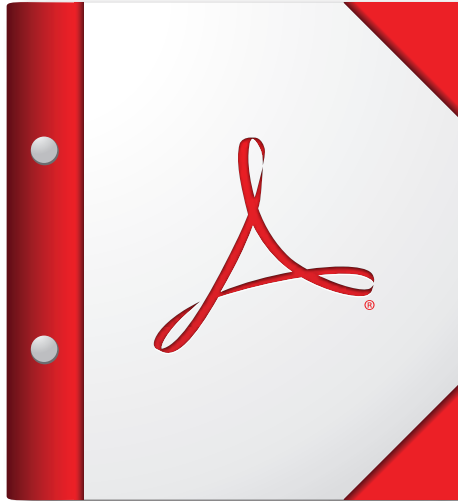
As you are aware, all of the Badlands are considered a sacred landscape by many Indigenous Nations, including the Mandan, Hidatsa and Arikara Nation. Our ties with the entire landscape go back many thousands of years, and we join the other Tribes in concerns expressed about how the ATMP could affect our ancient, earth-based worship practices that have continued since time immemorial.

We have reviewed the map of the APE included with your letter, as well as the list of historic properties within the APE and the summary of the Noise Technical Analysis which resulted from the NEPA review.

Since the Air Tour Management Plan would not allow tour flights to occur over the Badlands National Park or within one-half mile of its boundaries, we concur with the proposed Finding of No Adverse Effect in the development of the Air Tour Management Plan for the Park.

Sincerely,

Mark N. Fox, Chairman
Tribal Business Council



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From: [Ray A Jilek](#)
To: [ATMPTeam](#)
Subject: RE: Section 106 Continuing Consultation - Air Tours at Mount Rushmore National Memorial - Eagle Aviation, Inc.
Date: Friday, April 7, 2023 2:42:07 PM

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Ms. Walker:

Eagle Aviation, Inc. concurs with the agencies finding of no significant impact for both Mount Rushmore National Monument and Badlands National Park. Should there be any questions, I can be reached at 605-642-4112. Thanks.

*Ray A. Jilek, President
Eagle Aviation, Inc.
605-642-4112*

From: ATMPTeam [mailto:ATMPTeam@dot.gov]
Sent: Friday, April 07, 2023 6:42 AM
To: rayj@eagleaviationinc.com
Cc: Walker, Judith <FAA> <judith.walker@faa.gov>; Lares, Sheri <FAA> <sheri.lares@faa.gov>
Subject: FW: Section 106 Continuing Consultation – Air Tours at Mount Rushmore National Memorial - Eagle Aviation, Inc.

Hello,

This is a friendly reminder that the FAA sent your office a Section 106 consultation letter for the development of an Air Tour Management Plan (ATMP) for Mount Rushmore National Memorial. On March 14, 2023, the FAA requested your review of the attached letter within 30 days. The 30-day comment period ends on April 14, 2023.

The attached letter describes the undertaking (Alternative 2 – No Air Tours in the Planning Area under the National Environmental Policy Act for the ATMP); the Area of Potential Effects (APE); a description of steps taken to identify historic properties and the characteristics that qualify them for listing in the National Register of Historic Places; and proposes a finding of no adverse effects to historic properties in accordance with 36 CFR 800.5(c). The FAA respectfully requests your concurrence with the proposed finding by April 14, 2023.

Should you seek additional information, please contact me at (202) 267-4185 or Judith.Walker@faa.gov, copying ATMPTeam@dot.gov.

Respectfully,

Judith Walker

From: ATMPTeam <ATMPTeam@dot.gov>

Sent: Tuesday, March 14, 2023 1:31 PM

To: rayj@eagleaviationinc.com

Cc: Ohms, Rene E <rene_ohms@nps.gov>; Beeco, Adam A <adam_beeco@nps.gov>; Lares, Sheri <FAA> <sheri.lares@faa.gov>; Walker, Judith <FAA> <judith.walker@faa.gov>; Papazian, Jennifer (Volpe) <Jennifer.Papazian@dot.gov>; Hanchera, Shelby (Volpe) <Shelby.Hanchera@dot.gov>; Haas, Shauna (Volpe) <shauna.haas@dot.gov>; Kathy_Boden@nps.gov

Subject: Section 106 Continuing Consultation – Air Tours at Mount Rushmore National Memorial - Eagle Aviation, Inc.

Dear Eagle Aviation:

The Federal Aviation Administration (FAA) and the National Park Service (NPS) are continuing Section 106 consultation with your office for the development of an Air Tour Management Plan (ATMP) for Mount Rushmore National Memorial. FAA is the lead federal agency for compliance with the Section 106 consultation for this undertaking.

The attached letter describes the preferred alternative under the National Environmental Policy Act for the ATMP, which is the proposed undertaking; the Area of Potential Effects (APE); a description of steps taken to identify historic properties and the characteristics that qualify them for listing in the National Register of Historic Places; and proposes a finding of no adverse effects to historic properties in accordance with 36 CFR 800.5(c). The FAA and NPS respectfully request your concurrence with the proposed finding within thirty days.

Should you seek additional information about any of the above, please contact me at (202) 267–4185 or Judith.Walker@faa.gov, copying ATMPTeam@dot.gov.

Thank you for your time and consideration.

Best Regards,
Judith Walker

Final EA – Additional Appendix Materials

Appendix I – Section 4(f) Analysis

Official with Jurisdiction Letter to U.S. Forest Service



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

United States Department of Transportation
FEDERAL AVIATION ADMINISTRATION
Office of Policy, International Affairs & Environment
Office of Environment and Energy

NATIONAL PARKS AIR TOUR MANAGEMENT PROGRAM

April 24, 2023

Re: Consultation under Section 4(f) of the U.S. Department of Transportation Act (49 U.S.C. § 303) for the development of an Air Tour Management Plan for Badlands National Park

Julie Wheeler
1801 Hwy. #18 Truck Bypass
Hot Springs, SD 57747

Dear Julie Wheeler:

The Federal Aviation Administration (FAA), in cooperation with the National Park Service (NPS) (collectively, the agencies), are developing an Air Tour Management Plan (ATMP) for the Badlands National Park (Park). The FAA is preparing documentation for the ATMP in accordance with the National Parks Air Tour Management Act of 2000 (the Act) and other applicable laws, including Section 4(f) of the U.S. Department of Transportation (DOT) Act (Section 4(f)). The purpose of this letter is to coordinate with you on FAA's preliminary findings related to the ATMP's potential impacts to the Buffalo Gap National Grassland, which is a protected property under Section 4(f).

Project Background and Purpose of the Action

The Act (Public Law 106-181, codified at 49 U.S.C. § 40128), directs the agencies to develop ATMPs for commercial air tour operations over units of the National Park System. A commercial air tour operation is defined as "a flight conducted for compensation or hire in a powered aircraft where the purpose of the flight is sightseeing over a National Park, within ½ mile outside the boundary of a National Park or over tribal lands, during which the aircraft flies below an altitude of 5,000 feet (ft.) above ground level (AGL) or less than 1 mile laterally from any geographic feature within the Park (unless more than ½ mile outside the boundary)." When the Act was passed in 2000, existing air tour operators were permitted to continue air tour operations in parks until an ATMP was completed. To facilitate this continued use, FAA issued Interim Operating Authority (IOA) to existing air tour operators. IOA set an annual limit of the number of flights per operator for each park. In 2012, the Act was amended by Congress to, among other things, require operators to report the number of flights conducted on a quarterly interval each year. On February 14, 2019, Public Employees for Environmental Responsibility and the Hawai'i Coalition Malama Pono filed a petition in the United States Court of Appeals for the District of Columbia Circuit Court for the agencies to complete ATMPs or voluntary agreements at seven specified Parks. In re Public Employees for Environmental Responsibility, et al., Case No. 19-1044 (D.C. Cir.). On May 1, 2020, the Court granted the petition and ordered the agencies to submit a schedule to bring 23 eligible parks, including Badlands National Park, into compliance with the Act within two years or to show specific, concrete reasons why doing so will take longer. Consistent with the Court's order, agencies submitted a

proposed plan and schedule (Compliance Plan) on August 31, 2020. On June 21, 2022, the Court ordered the agencies to file a joint supplemental report and propose firm deadlines for bringing each of the parks included in the Compliance Plan into compliance with the Act. On July 21, 2022, the agencies filed their report and provided a deadline of December 31, 2023, to complete the ATMP for the Park.

Section 4(f) is applicable to historic sites and publicly owned parks, recreation areas, and wildlife and waterfowl refuges of national, State, or local significance that may be impacted by transportation programs or projects carried out by the U.S. Department of Transportation (USDOT) and its operating administrations, including the FAA. Section 4(f) of the Department of Transportation Act (codified at 49 U.S.C. § 303(c)), states that, subject to exceptions for *de minimis* impacts:

“... the Secretary may approve a transportation program or project...requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if –

1. There is no prudent and feasible alternative to using that land; and
2. The program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.”

The term “use” refers to both physical and constructive impacts to Section 4(f) resources. A physical use involves the physical occupation or alteration of a Section 4(f) resource, while constructive use occurs when a proposed action results in substantial impairment of a resource to the degree that the activities, features, or attributes of the resource that contribute to its significance or enjoyment are substantially diminished. Under the ATMP, potential impacts to Section 4(f) resources from commercial air tours may include noise from aircraft within the acoustic environment, as well as visual impacts.

Description of the Proposed Action

In accordance with the Act, the agencies are developing an ATMP at the Park. Commercial air tours have been operating intermittently over the Park for over 20 years. Since 2005, these air tours have been conducted pursuant to IOA issued by FAA in accordance with the Act. IOA does not provide any operating conditions (e.g., routes, altitudes, time of day, etc.) for air tours other than a limit of 4,117 air tours per year. The ATMP will replace IOA.

The agencies have documented the existing conditions for commercial air tour operations at the Park. The FAA and the NPS consider the existing operations for commercial air tours to be an average of 2017-2019 annual air tours flown, which is 1,425 flights. The agencies decided to use a three-year average because it reflects the most accurate and reliable air tour conditions based on available operator reporting, and accounts for variations across multiple years, excluding more recent years affected by the COVID-19 pandemic.

The proposed action is implementing the ATMP at the Park. The ATMP will prescribe operating parameters to mitigate impacts from commercial air tours on Park resources. The agencies considered four alternatives for the Park’s ATMP. The alternatives considered include: Alternative 1 which serves as the No Action; Alternative 2, which is identified as the Preferred Alternative and would prohibit air tours

within the ATMP planning area;¹ Alternative 3 which would permit 1,425 air tours per year (consistent with the three-year average) with additional operational modifications in the ATMP planning area; and Alternative 4 which would permit an approximate 55% reduction of air tours compared to existing conditions with additional operational modifications within the ATMP planning area. In accordance with FAA Order 1050.1F, the FAA determined through an initial assessment if the proposed action and alternatives would result in use of any of the properties to which Section 4(f) applies. The No Action Alternative provides a basis for comparison but is not considered a selectable alternative because it does not meet the purpose and need for the ATMP. Furthermore, the FAA consulted with the NPS on the potential for substantial impairment to Section 4(f) resources that would occur under the No Action Alternative, and the NPS determined that the No Action Alternative cannot be mitigated to avoid or prevent unacceptable impacts to the Park's natural and cultural resources and visitor experience. The FAA did not advance the No Action Alternative for detailed Section 4(f) analysis as the NPS does not consider it a selectable alternative. Detailed analysis of Section 4(f) resources is provided below for the Preferred Alternative. Detailed analysis of Section 4(f) resources under Alternatives 3 and 4 is included in **Attachments B and C**.

The following elements of the ATMP are included for the Park under the Preferred Alternative:

- Prohibits air tours within the ATMP planning area to maximize Park resource protection. Air tours could continue to fly outside the ATMP planning area (i.e., at or above 5,000 ft. AGL or more than ½-mile outside of the Park's boundary), see **Attachment A**;
- There are no designated routes or altitudes prescribed in **Attachment A**, however, operators may continue to fly to points of interest in the area outside of the ATMP planning area where they already fly, fly around the ATMP planning area similar to existing flights, or above the ATMP planning area (at or above 5,000 ft. AGL); and
- The establishment of the ATMP would result in the termination of IOA for the operators.

The agencies are both responsible for monitoring and oversight of the ATMP.

Section 4(f)

The study area for considering Section 4(f) resources for the ATMP consists of the Park and ½-mile outside the boundary of the Park (ATMP planning area) plus a one-mile buffer around this area. Additionally, the Section 4(f) study area corresponds with the Area of Potential Effects (APE) used for compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966 (Section 106) for the Park. See **Attachment A** for a depiction of the Section 4(f) study area. Historic properties were identified as part of the Section 106 consultation process. Parks, recreational areas, and wildlife and waterfowl refuges were identified using public datasets from federal, state, and local sources. Each resource that intersected the Section 4(f) study area (i.e., some portion of the property fell within the one and ½ mile buffer around the Park) was included in the Section 4(f) analysis.

Potential Use of Section 4(f) Resources

Evaluating potential impacts to Section 4(f) resources focuses on changes in aircraft noise exposure and visual effects resulting from implementing the ATMP. A constructive use of a Section 4(f) resource

¹ An ATMP regulates commercial air tours over a national park or within ½-mile outside the park's boundary during which the aircraft flies below 5,000 ft. AGL. This is referred to as the ATMP planning area.

would occur if there was a substantial impairment of the resource to the degree that the activities, features, or attributes of the site that contribute to its significance or enjoyment are substantially diminished. This could occur as a result of both visual and noise impacts. The FAA evaluated the Section 4(f) resources for potential noise (including vibration) and visual impacts to determine if there was substantial impairment to Section 4(f) resources due to the ATMP that might result in a constructive use.

Noise Impacts Analysis

The FAA's noise evaluation is based on Day Night Average Sound Level Average Annual Day (Ldn or DNL), the cumulative noise energy exposure from aircraft. As part of the ATMP noise analysis, the NPS provided supplemental metrics to assess the impact of commercial air tours on visitor experience in quiet settings, including noise sensitive areas of Section 4(f) resources. The metrics and acoustical terminology considered for the Section 4(f) noise analysis are shown in the table below.

Metric	Relevance and citation
Equivalent sound level, $L_{Aeq, 12\text{ hr}}$	The logarithmic average of commercial air tour sound levels, in dBA ² , over a 12-hour day. The selected 12-hour period is 7 AM to 7 PM to represent typical daytime commercial air tour operating hours.
Day-night average sound level, L_{dn} (or DNL)	<p>The logarithmic average of sound levels, in dBA, over a 24-hour day, DNL takes into account the increased sensitivity to noise at night by including a 10 dB penalty on noise events occurring between 10 PM and 7 AM local time.</p> <p>Note: Both $L_{Aeq, 12\text{ hr}}$ and DNL characterize:</p> <ul style="list-style-type: none"> Increases in both the loudness and duration of noise events The number of noise events during specific time period (12 hours for $L_{Aeq, 12\text{ hr}}$ and 24-hours for DNL) <p>If there are no nighttime events, then $L_{Aeq, 12\text{ hr}}$ is arithmetically three dBA higher than DNL as the events are averaged over 24 hours instead of 12 hours.</p> <p>The FAA's (2015, Exhibit 4-1) indicators of significant impacts are for an action that would increase noise by DNL 1.5 dB or more for a noise sensitive area that is exposed to noise at or above the DNL 65 dB noise exposure level, or that will be exposed at or above the DNL 65 dB level due to a DNL 1.5 dB or greater increase, when compared to the No Action Alternative (existing conditions) for the same timeframe.</p>

² dBA (A-weighted decibels): Sound is measured on a logarithmic scale relative to the reference sound pressure for atmospheric sources, 20 μPa . The logarithmic scale is a useful way to express the wide range of sound pressures perceived by the human ear. Sound levels are reported in units of decibels (dB) (ANSI S1.1-1994, American National Standard Acoustical Terminology). A-weighting is applied to sound levels in order to account for the sensitivity of the human ear (ANSI S1.42-2001, Design Response of Weighting Networks for Acoustical Measurements). To approximate human hearing sensitivity, A-weighting discounts sounds below 1 kHz and above 6 kHz.

Time Audible Natural Ambient	<p>The total time (minutes) that aircraft noise levels are audible to an attentive listener with normal hearing under natural ambient conditions.</p> <p>The natural ambient is the sound level exceeded 50 percent of the time L_{50}, determined from the natural sound conditions found in a ATMP planning area, including all sounds of nature (i.e., wind, streams, wildlife, etc.), and excluding all human and mechanical sounds. Time audible does not indicate how loud the event is, only if it might be heard.</p>
Time Above 35 dBA	<p>The amount of time (in minutes) that aircraft sound levels are above a given threshold (i.e., 35 dBA).</p> <p>In quiet settings, outdoor sound levels exceeding this level degrade experience in outdoor performance venues (American National Standards Institute (ANSI), 2007)³; blood pressure increases in sleeping humans (Haralabidis et al., 2008)⁴; maximum background noise level inside classrooms (ANSI/Acoustical Society of America S12.60/Part 1-2010).⁵</p>
Time Above 52 dBA	<p>The amount of time (in minutes) that aircraft sound levels are above a given threshold (i.e., 52 dBA).</p> <p>At this background sound level, normal voice communication at five meters (two people five meters apart), or a raised voice to an audience at ten meters would result in 95% sentence intelligibility (United States Environmental Protection Agency, Office of Noise Abatement and Control, 1974)⁶. This metric represents the level at which one may reasonably expect interference with Park interpretive programs, activities that require communication from a distance and other general visitor communication.</p>
Maximum sound level, L_{max}	<p>The loudest sound level, in dBA, generated by the loudest event; it is event-based and is independent of the number of operations. L_{max} does not provide any context of frequency, duration, or timing of exposure.</p>

³ American National Standards Institute, Inc. (2007). Quantities and procedures for description and measurement of environmental sound — Part 5: Sound level descriptors for determination of compatible land use. ANSI/ASA S12.9-2007/PART 5 (R2020), 1-20. <https://webstore.ansi.org/Standards/ASA/ANSIASAS122007PartR2020>.

⁴ Haralabidis A.S., Dimakopoulou, K., Vigna-Taglianti, F., Giampaolo, M., Borgini, A., Dudley, M., & Jarup, L. (2008). Acute effects of night-time noise exposure on blood pressure in populations living near airports. European Heart Journal Advance Access. <https://academic.oup.com/eurheartj/article/29/5/658/440015>.

⁵ American National Standards Institute, Inc. (2002). Acoustical performance criteria, design requirements, and guidelines for schools, Part 1: Permanent schools. Acoustical Society of America, ANSI/ASA S12.60-2002/Part 1. <https://webstore.ansi.org/Standards/ASA/ANSIASAS1260Part2010R2020>.

⁶ United States Environmental Protection Agency, Office of Noise Abatement and Control. (1974). Information on levels of environmental noise requisite to protect public health and welfare with an adequate margin of safety. NPC Online Library, 550/9-74-004, 1-78. <https://www.nrc.gov/docs/ML1224/ML12241A393.pdf>.

Under the Preferred Alternative, commercial air tours would not be conducted within the ATMP planning area which would reduce this source of noise originating from within the Section 4(f) study area. The acoustic impacts of Preferred Alternative cannot be modeled because, although some speculation about air tour routes can be made, it is unknown where air tours would fly when outside the ATMP planning area, so data on the resultant DNL for this alternative is not available. The Preferred Alternative would provide 365 days per year without air tours within the ATMP planning area and would reduce noise at Section 4(f) resources.

Since commercial air tour operations would be limited or prohibited within the ATMP planning area under Alternatives 2, 3, and 4, these alternatives could result in the displacement of tours outside of this area.

The indirect effects analysis conducted for the EA indicates that it is highly unlikely that the air tours that are displaced to outside the ATMP planning area under Alternatives 2, 3, and 4 would generate a noise exposure level at or above DNL 65 dB in a single location in accordance with FAA Order 1050.1F, including those that overlap with Section 4(f) properties.

The FAA also considered the potential for vibrational effects on Section 4(f) resources under the Preferred Alternative. However, since the Preferred Alternative would not authorize commercial air tours to be conducted within the ATMP planning area, vibrational effects would not occur and there would be no constructive use from vibrational effects of Section 4(f) resources.

As a result, FAA concludes there would be no substantial impairment of Section 4(f) resources in the Section 4(f) study area from noise-related or vibrational effects caused by the implementation of the Preferred Alternative, which does not allow air tours in the ATMP planning area.

Visual Impacts Analysis

Recognizing that some types of Section 4(f) resources may be affected by visual effects of commercial air tours, the FAA and NPS considered the potential for the introduction of visual elements that could substantially diminish the significance or enjoyment of Section 4(f) resources in the study area. Since the Preferred Alternative would not authorize air tours within the ATMP planning area, visual effects would not occur and there would be no constructive use of Section 4(f) resources due to visual effects.

The indirect effects analysis for visual effects identifies that some indirect visual impacts could occur if flights were displaced to outside the ATMP planning area. Air tour operators could continue to utilize the privately owned and operated heliport within the ATMP planning area to conduct tours over other areas that are outside the ATMP planning area. If air tour displacement occurred, the number of tours offered from this heliport could increase if operators chose to offer more tours over other regional points of interest. Section 4(f) resources are present in these areas and could experience visual effects if air tours were visible from those resources. However, the FAA and the NPS are unable to predict with specificity if, where, and to what extent any displaced air tours would result in visual impacts in different and/or new areas, including Section 4(f) resources.

Preliminary Finding

The FAA has preliminarily determined the Preferred Alternative would not substantially diminish the protected activities, features, or attributes of the Section 4(f) resources in the Section 4(f) study area.

The Preferred Alternative would not result in substantial impairment of Section 4(f) resources; therefore, based on the analysis above, FAA intends to make a determination of no constructive use of the Buffalo Gap National Grassland. We request that you review this information and respond with any concerns or need for further consultation on the FAA's preliminary proposed no substantial impairment finding within fourteen days of receiving this letter.

Should you have any questions regarding any of the above, please contact Eric Elmore at 202-267-8335 or eric.elmore@faa.gov and copy the ATMP team at ATMPTeam@dot.gov.

Sincerely,

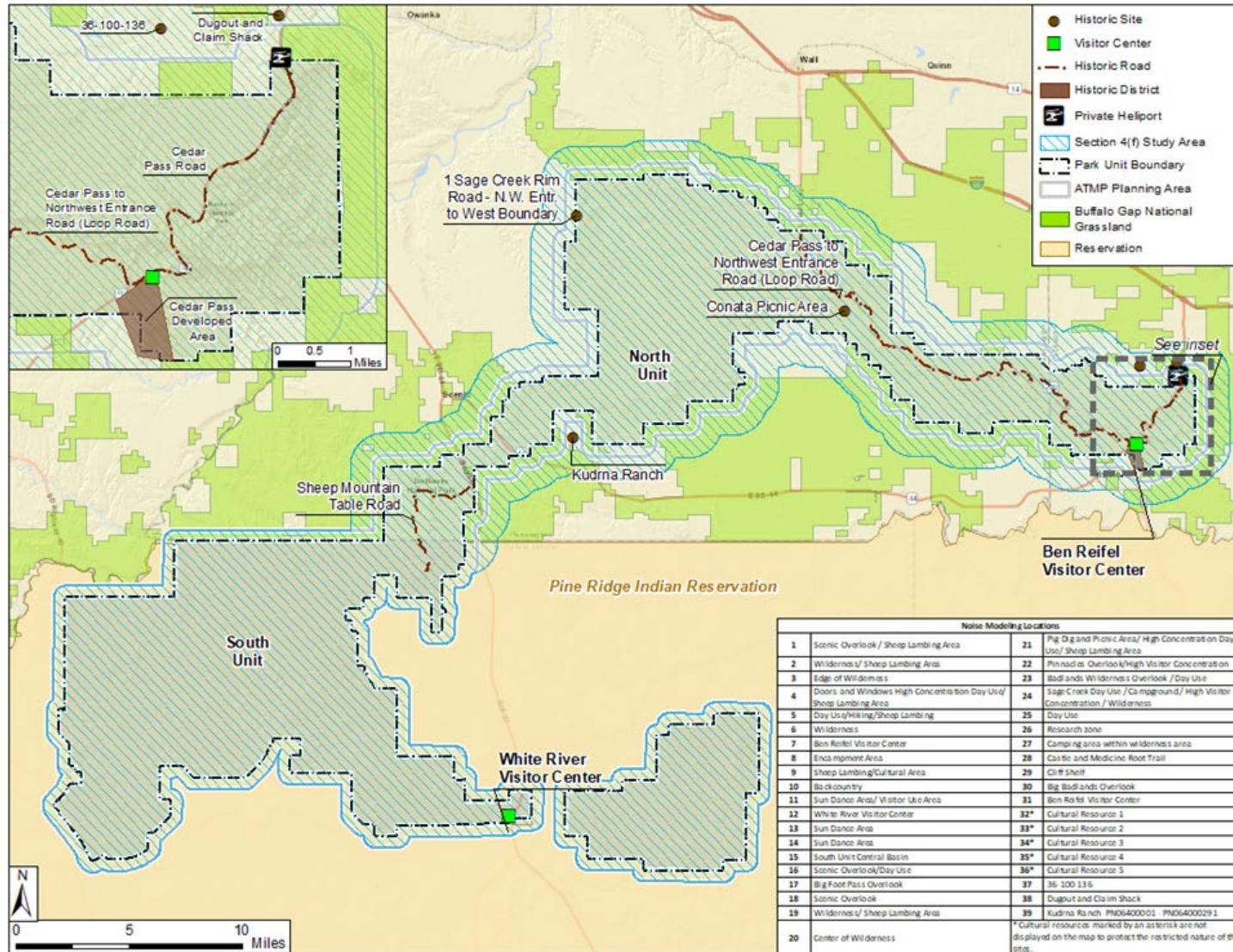
Eric Elmore
Senior Policy Advisor
Office of Environment and Energy
Federal Aviation Administration

Attachments

- A. Map including proposed Commercial Air Tour Routes, Section 4(f) Section 4(f) study area, and Section 4(f) Resources
- B. Detailed Section 4(f) analysis for Alternatives 3 and 4
- C. Section 4(f) location point analysis for Alternatives 3 and 4

ATTACHMENT A

Map of Section 4(f) Section 4(f) study area and Section 4(f) Resources



ATTACHMENT B

Detailed Section 4(f) Analysis for Alternatives 3 and 4

Noise Impacts Analysis

The FAA developed a detailed Section 4(f) analysis for Alternatives 3 and 4 to understand the potential impact to Section 4(f) resources under these alternatives. For aviation noise analyses under the National Environmental Policy Act (NEPA), the FAA determines the cumulative noise energy exposure of individuals resulting from aviation activities in terms of the Average Annual Day (AAD). However, because Alternative 3 and 4 operations over the Park would occur at low annual operational levels and would be highly seasonal in nature, the FAA based the noise analysis on the number of aircraft operations for each aircraft and route proposed under these alternatives. This approach provides a conservative evaluation of potential noise impacts to Park resources, as well as Section 4(f) resources, under Alternatives 3 and 4.

The noise was modeled for the acoustic indicators in the table and aircraft operations above using the FAA's Aviation Environmental Design Tool (AEDT) version 3e. Two types of analyses were performed using FAA's AEDT, Version 3e: 1) contour analysis and 2) representative location point analysis. A noise contour presents a graphical illustration or "footprint" of the area potentially affected by the noise. Location point results present the metric results at specific points of interest. The NPS provided a list of 39 location points, geographically located across the entire Park, where noise levels were to be evaluated. Contours were developed for the following metrics: 12-hour equivalent sound level, time audible for natural ambient, and time above 35 dBA. Location point analysis was conducted for the same set of metrics, as well as time above 52 dBA and the maximum sound level. See **Attachment C** for details of the location point analysis.

The noise analysis indicates that Alternatives 3 and 4 would not result in any noise impacts that would be reportable under FAA's policy for the NEPA. The resultant DNL due to Alternatives 3 and 4 is expected to be less than 60 dB and there would be a reduction in overall noise footprint under either of these alternatives.

Alternative 3

Under Alternative 3, 1,425 air tours, consistent with existing conditions based on the three-year average of reporting data from 2017-2019, would be authorized in the ATMP planning area. Alternative 3 would not authorize air tours on the Expedition Route that is utilized under existing conditions. Because Alternative 3 would utilize fewer, designated routes within the ATMP planning area, evaluation of NPS supplemental metrics⁷ show that impacts to Section 4(f) resources would be less than impacts currently occurring within the ATMP planning area:

- On days when commercial air tours would occur, noise levels above 35 dBA (an indicator used by the NPS to assess the potential for degradation of the natural sound environment) would occur for less than 15 minutes in 36% of the ATMP planning area, between 15 and 75 minutes in

⁷ Noise contours were produced for the time above 35 dBA metric, but not the time above 52 dBA metric. For time above 52 dBA, location points across the Section 4(f) study area were used to assess impacts on Section 4(f) resources.

13% of the ATMP planning area, and up to 90 minutes in a small region (less than 1%) in the far east portion of the ATMP planning area.

- On days when commercial air tours would occur, noise levels above 52 dBA (which is associated with speech interference) are not anticipated to exceed 21.2 minutes in the ATMP planning area. Location points (provided by the NPS) are specific points of interest geographically located across the entire Park where noise levels were evaluated.

In addition, Alternative 3 would limit the operation of commercial air tours to one hour after sunrise until one hour before sunset or beginning at sunrise and ending at sunset for operators that have converted to quiet technology aircraft. These time restrictions provide times when visitors seeking solitude may experience the Section 4(f) resources without disruptions from commercial air tours. The altitudes required by Alternative 3, which would limit minimum altitudes to 800-1,500 ft. AGL for helicopters (depending on the route) and 2,600 ft. AGL for fixed-wing aircraft, would reduce the maximum noise levels at sites directly below the air tour routes. In addition, Alternative 3 would limit the number of commercial air tours within the ATMP planning area to no more than 16 tours per day across all operators and limit the number of tours each operator could conduct on the days where air tours are permitted. Alternative 3 also prohibits hovering and circling by air tours.

Alternative 4

Under Alternative 4 639 air tours, or 45% of the existing number of flights based on the three-year average of reporting data from 2017-2019, would be authorized to fly within the ATMP planning area. Alternative 4 would not authorize air tours on the Expedition Route that is utilized under existing conditions. Because the number of authorized flights under Alternative 4 would be substantially less than existing conditions, evaluation of NPS supplemental metrics⁸ show that impacts to Section 4(f) resources would be less than impacts currently occurring:

- On days when commercial air tours would occur, noise levels above 35 dBA (an indicator used by the NPS to assess the potential for degradation of the natural sound environment) would occur for less than 15 minutes in 36% of the ATMP planning area, between 15 and 30 minutes in 3% of the ATMP planning area, and up to 45 minutes in a small region (less than 1%) in the far east portion of the ATMP planning area.
- On days when commercial air tours would occur, noise levels above 52 dBA (which is associated with speech interference) are not anticipated to exceed 8.6 minutes in the ATMP planning area. Location points (provided by the NPS) are specific points of interest geographically located across the entire Park where noise levels were evaluated.

In addition, Alternative 4 would limit the operation of commercial air tours to three hours after sunrise until three hours before sunset, or beginning at sunrise and ending at sunset for operators that have converted to quiet technology aircraft. These time restrictions provide times when visitors seeking solitude may experience the Section 4(f) resources without disruptions from commercial air tours. Alternative 4 would limit minimum altitudes to 800-1,500 ft. AGL for helicopters (depending on the route) and 2,600 ft. AGL for fixed-wing aircraft. The altitude restrictions would reduce the maximum noise levels at sites directly below the air tour routes. Alternative 4 would also limit the number of

⁸ Noise contours were produced for the time above 35 dBA metric, but not the time above 52 dBA metric. For time above 52 dBA, location points across the Section 4(f) study area were used to assess impacts on Section 4(f) resources.

commercial air tours within the ATMP planning area to no more than eight tours per day across all operators and limit the number of tours each operator could conduct on the days where air tours are permitted. In addition, Alternative 4 would prohibit hovering and circling by air tours.

As a result of the analysis presented above, FAA concludes there would be no substantial impairment to Section 4(f) resources in the Section 4(f) study area from noise-related effects under Alternatives 3 and 4. This conclusion supports the FAA's determination that Alternatives 3 and 4 would not constitute constructive use of Section 4(f) resources in the Section 4(f) study area.

The FAA also considered the potential for vibrational impacts on Section 4(f) resources under Alternatives 3 and 4. A review of vibrational impacts on sensitive structures such as geological resources, historic buildings, parklands, and forests suggests that the potential for damage resulting from helicopter overflights is minimal, if any, as the fundamental blade passage frequency is well above the natural frequency of these structures. Additionally, the vibration amplitude of these overflights at the altitudes prescribed in Alternatives 3 and 4 would be well below recommended limits.^{9, 10} Vibrational impacts are not anticipated to affect surrounding parkland and state forest areas given that aircraft overflights do not contain vibrational energy at levels which would affect outdoor areas or natural features and there is no substantial change from existing conditions.

Visual Impacts Analysis

Recognizing that some types of Section 4(f) resources may be affected by visual effects of commercial air tours, the FAA and the NPS considered the potential for the introduction of visual elements that could substantially diminish the significance or enjoyment of Section 4(f) resources in the Section 4(f) study area.

Alternatives 3 and 4 would limit the number of commercial air tours per year to 1,425 flights and 639 flights, respectively, and would limit those routes to five designated flight paths over the ATMP planning area. These restrictions would result in fewer areas of the ATMP planning area, and therefore, fewer Section 4(f) properties, from which a commercial air tour could be visible. Alternatives 3 and 4 would not introduce visual elements or result in visual impacts that would substantially diminish the activities, features or attributes of a Section 4(f) resource. Therefore, there would be no constructive use from visual impacts to Section 4(f) resources under Alternatives 3 and 4.

⁹ Hanson, C.E., King, K.W., et al..(1991). "Aircraft Noise Effects on Cultural Resources: Review of Technical Literature," NPOA Report No. 91-3 (HMMH Report No.290940.04-1), September 1991.

¹⁰ Volpe National Transportation Systems Center, Department of Transportation. (2014). Literature Review: Vibration of Natural Structures and Ancient/Historical Dwellings, Internal Report for National Park Service, Natural Sounds and Night Skies Division, August 21, 2014.

ATTACHMENT C

Section 4(f) Location Point Analysis

To assess time above 52 dBA at Section 4(f) resources under Alternatives 3 and 4, location points within 1.5 miles of each Section 4(f) resource were identified (Figure 1). The time above 52 dBA at location points and the range of time above 52 dBA at Section 4(f) resources based on nearby location points were then calculated and reported as high and low values. Table 1 shows the low and high modelled time above 52 dBA values under Alternative 3 and Alternative 4 at each Section 4(f) resource. Table 2 shows the distance between each Section 4(f) resource and nearby location point and the time above 52 dBA at the corresponding location point. A distance of 0.00 miles indicates that the location point falls within the Section 4(f) property. The longest time above 52 dBA in the Section 4(f) study area on days when air tours occur is 21.2 minutes under Alternative 3 and 8.6 minutes under Alternative 4.

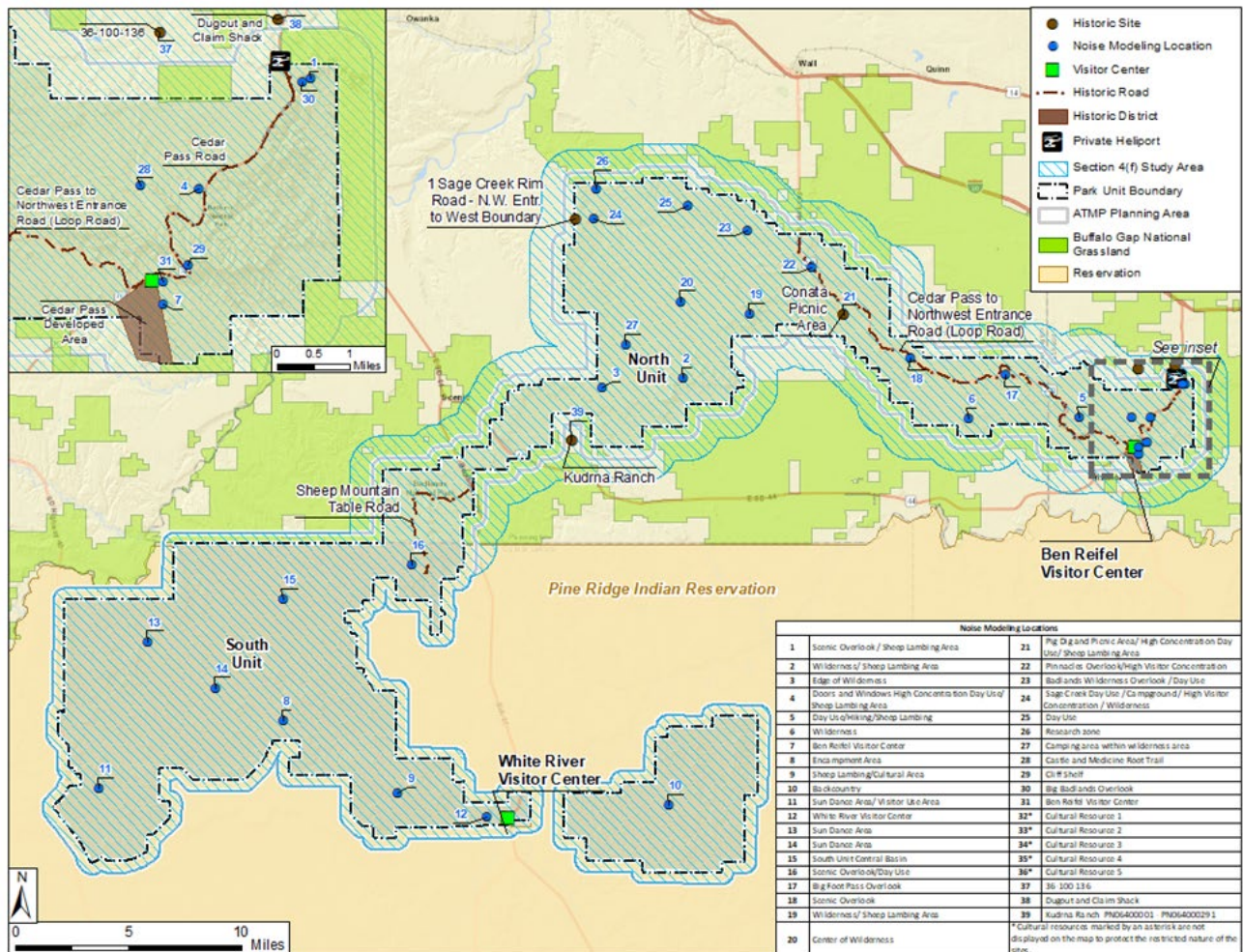


Figure 1. Section 4(f) resources and location points in the Section 4(f) study area.

Table 1. Low and high modelled values for time above 52 dB under Alternatives 3 and 4 for Section 4(f) resources

Section 4(f) Resource	Time Above 52 dBA – Low (minutes) under Alternative 3	Time Above 52 dBA – High (minutes) under Alternative 3	Time Above 52 dBA – Low (minutes) under Alternative 4	Time Above 52 dBA – High (minutes) under Alternative 4
1 Sage Creek Rim Road - Northwest Entrance to West Boundary	0.8	0.8	0.9	0.9
36-100-136	0.1	0.1	0	0
Buffalo Gap National Grassland	0	21.2	0	8.6
Cedar Pass Developed Area	5.4	16.7	2.7	5
Cedar Pass Road	5.4	21.2	2.6	8.6
Cedar Pass to Northwest Entrance Road (Loop Road)	0	16.7	0	5
Conata Picnic Area	0.7	0.7	1.1	1.1
Dugout and Claim Shack	6.6	21.2	2.6	8.6
Kudrna Ranch	0	0	0	0
Sheep Mountain Table Road	0	0	0	0

Table 2. Section 4(f) resources and corresponding location point data for air tours under Alternatives 3 and 4

Section 4(f) Resource	Location Point ID	Location Point Name	Distance to Location Point (Miles)	Time Above 52 dBA under Alternative 3 (Minutes)	Time Above 52 dBA under Alternative 4 (Minutes)
1 Sage Creek Rim Road - Northwest Entrance to West Boundary	24	24. Sage Creek Day Use / Campground / High Visitor Concentration / Wilderness	0.87	0.8	0.9
36-100-136	37	37. Cultural Resource 6**	<1.5 mi	0.1	0
Buffalo Gap National Grassland	1	1. Scenic Overlook / Sheep Lambing Area	0.19	21.2	8.6
Buffalo Gap National Grassland	2	2. Wilderness/ Sheep Lambing Area	1.14	0	0
Buffalo Gap National Grassland	3	3. Edge of Wilderness	1.22	0	0
Buffalo Gap National Grassland	4	4. Doors and Windows High Concentration Day Use/ Sheep Lambing Area	1.21	11.6	3.3
Buffalo Gap National Grassland	5	5. Day Use/Hiking/Sheep Lambing	1.39	10.3	3.8
Buffalo Gap National Grassland	6	6. Wilderness	0.54	0.7	0.7
Buffalo Gap National Grassland	7	7. Ben Reifel Visitor Center	0.81	5.4	2.9
Buffalo Gap National Grassland	17	17. Big Foot Pass Overlook	0.78	0	0
Buffalo Gap National Grassland	18	18. Scenic Overlook	1.31	1	1
Buffalo Gap National Grassland	21	21. Pig Dig and Picnic Area/ High Concentration Day Use/ Sheep Lambing Area	1.38	0.7	1.1
Buffalo Gap National Grassland	22	22. Pinnacles Overlook/High Visitor Concentration	1.06	0.5	0.3

Section 4(f) Resource	Location Point ID	Location Point Name	Distance to Location Point (Miles)	Time Above 52 dBA under Alternative 3 (Minutes)	Time Above 52 dBA under Alternative 4 (Minutes)
Buffalo Gap National Grassland	23	23. Badlands Wilderness Overlook / Day Use	0.9	0	0.6
Buffalo Gap National Grassland	25	25. Day Use	1.09	0.6	0.6
Buffalo Gap National Grassland	26	26. Research zone	0.26	1.1	1.1
Buffalo Gap National Grassland	28	28. Castle and Medicine Root Trail	1.19	16.7	5
Buffalo Gap National Grassland	29	29. Cliff Shelf	1.24	11.6	4.3
Buffalo Gap National Grassland	30	30. Big Badlands Overlook	0.24	15.8	6.5
Buffalo Gap National Grassland	31	31. Ben Reifel Visitor Center	1.11	7.1	2.7
Buffalo Gap National Grassland	32	32. Cultural Resource 1**	<1.5 mi	0	0
Buffalo Gap National Grassland	33	33. Cultural Resource 2**	<1.5 mi	0	0
Buffalo Gap National Grassland	34	34. Cultural Resource 3**	<1.5 mi	0	0
Buffalo Gap National Grassland	35	35. Cultural Resource 4**	<1.5 mi	0	0
Buffalo Gap National Grassland	36	36. Cultural Resource 5**	<1.5 mi	0	0
Buffalo Gap National Grassland	37	37. Cultural Resource 6**	<1.5 mi	0.1	0
Buffalo Gap National Grassland	38	38. Dugout and Claim Shack**	0.15	6.6	2.6
Buffalo Gap National Grassland	39	39. Kudrna Ranch PN06400001 - PN064000291**	0.37	0	0
Cedar Pass Developed Area	4	4. Doors and Windows High Concentration Day Use/ Sheep Lambing Area	1.34	11.6	3.3
Cedar Pass Developed Area	7	7. Ben Reifel Visitor Center	0.03	5.4	2.9

Section 4(f) Resource	Location Point ID	Location Point Name	Distance to Location Point (Miles)	Time Above 52 dBA under Alternative 3 (Minutes)	Time Above 52 dBA under Alternative 4 (Minutes)
Cedar Pass Developed Area	28	28. Castle and Medicine Root Trail	1.25	16.7	5
Cedar Pass Developed Area	29	29. Cliff Shelf	0.48	11.6	4.3
Cedar Pass Developed Area	31	31. Ben Reifel Visitor Center	0.09	7.1	2.7
Cedar Pass Road	1	1. Scenic Overlook / Sheep Lambing Area	0.28	21.2	8.6
Cedar Pass Road	4	4. Doors and Windows High Concentration Day Use/ Sheep Lambing Area	0.09	11.6	3.3
Cedar Pass Road	7	7. Ben Reifel Visitor Center	0.72	5.4	2.9
Cedar Pass Road	28	28. Castle and Medicine Root Trail	0.57	16.7	5
Cedar Pass Road	29	29. Cliff Shelf	0.22	11.6	4.3
Cedar Pass Road	30	30. Big Badlands Overlook	0.16	15.8	6.5
Cedar Pass Road	31	31. Ben Reifel Visitor Center	0.41	7.1	2.7
Cedar Pass Road	38	38. Dugout and Claim Shack**	0.72	6.6	2.6
Cedar Pass to Northwest Entrance Road (Loop Road)	4	4. Doors and Windows High Concentration Day Use/ Sheep Lambing Area	0.97	11.6	3.3
Cedar Pass to Northwest Entrance Road (Loop Road)	5	5. Day Use/Hiking/Sheep Lambing	0.59	10.3	3.8
Cedar Pass to Northwest Entrance Road (Loop Road)	7	7. Ben Reifel Visitor Center	0.42	5.4	2.9
Cedar Pass to Northwest	17	17. Big Foot Pass Overlook	0.21	0	0

Section 4(f) Resource	Location Point ID	Location Point Name	Distance to Location Point (Miles)	Time Above 52 dBA under Alternative 3 (Minutes)	Time Above 52 dBA under Alternative 4 (Minutes)
Entrance Road (Loop Road)					
Cedar Pass to Northwest Entrance Road (Loop Road)	18	18. Scenic Overlook	0.08	1	1
Cedar Pass to Northwest Entrance Road (Loop Road)	21	21. Pig Dig and Picnic Area/ High Concentration Day Use/ Sheep Lambing Area	0.7	0.7	1.1
Cedar Pass to Northwest Entrance Road (Loop Road)	22	22. Pinnacles Overlook/High Visitor Concentration	0.07	0.5	0.3
Cedar Pass to Northwest Entrance Road (Loop Road)	28	28. Castle and Medicine Root Trail	1.08	16.7	5
Cedar Pass to Northwest Entrance Road (Loop Road)	29	29. Cliff Shelf	0.05	11.6	4.3
Cedar Pass to Northwest Entrance Road (Loop Road)	31	31. Ben Reifel Visitor Center	0.11	7.1	2.7
Conata Picnic Area	21	21. Pig Dig and Picnic Area/ High Concentration Day Use/ Sheep Lambing Area	0.1	0.7	1.1
Dugout and Claim Shack	1	1. Scenic Overlook / Sheep Lambing Area	0.94	21.2	8.6
Dugout and Claim Shack	30	30. Big Badlands Overlook	0.93	15.8	6.5
Dugout and Claim Shack	38	38. Dugout and Claim Shack**	0.0	6.6	2.6
Kudrna Ranch	39	39. Kudrna Ranch PN06400001 - PN064000291**	0.0	0	0

Section 4(f) Resource	Location Point ID	Location Point Name	Distance to Location Point (Miles)	Time Above 52 dBA under Alternative 3 (Minutes)	Time Above 52 dBA under Alternative 4 (Minutes)
Sheep Mountain Table Road	16	16. Scenic Overlook/Day Use	0.42	0	0

**Location point is outside the ATMP planning area.

Final EA – Additional Appendix Materials

Appendix J – Public Scoping Materials

Copies of all public comments received during public scoping

Correspondence ID: 1Project:102957Document:123301
Name: Camarillo, James M
Received: Sep,06 2022 13:18:39
Correspondence Type: Web Form
Correspondence: I do not want air tours in Badlands National Park, as they become noisy and disturb the peace and quiet. Air tours would also negate the feeling of solitude in the immense expanses of the badlands. I like to feel as if I've entered a far off wilderness when I'm in the park, and the noise of helicopters and airplanes break that illusion. This is one of the problems that the Grand Canyon has.

Correspondence ID: 2Project:102957Document:123301
Name: Swenson, Greg
Received: Sep,06 2022 22:00:26
Correspondence Type: Web Form
Correspondence: I find helicopter flights near Badlands National Park, or in any national park, to be a significant distraction. They produce visual, noise, and air pollution. They detract from the experience of visiting places that are notable for their natural beauty. I would prefer that such flights not be allowed at low altitudes, or at distances where the aircraft can be heard.

Correspondence ID: 3Project:102957Document:123301
Name: ,
Received: Sep,07 2022 19:37:50
Correspondence Type: Web Form
Correspondence: Our national parks are some of the only preserved places left. People come for the beauty, solitude, and nature. NOT for a bunch of sight seeing planes flying overhead. Please reconsider and don't do this. Leave our parks alone.

Correspondence ID: 4Project:102957Document:123301
Name: ,
Received: Sep,08 2022 03:10:02
Correspondence Type: Web Form
Correspondence: We recently returned from a month long Alaska trip. We took 4 different sightseeing flights while we were there. We also took a helicopter tour slightly east of Grand Canyon in2010. All of these experiences were less than satisfactory.
Part of visiting a park is sharing the experience with family and friends. In a small aircraft there is too much noise to chat. Also, typically the aircraft are small so each passenger gets their own seat, each seat has one window. That results in each passenger getting a completely different view.
Another part is seeing scenery. Clouds, smoke, hazed windows, sun angle, and reflection on the windows impacts what you see.
Some vendors provide an intercom and headset to allow conversation, but it necessarily includes all passengers. Everything said is heard by all passengers and the pulot. So are coughs, sneezes, etc.
National Psrks are supposed to make their assets available to all. The reality of doing business today forces the cost to participate to be out of reach for most park visitors.
I would suggest the park service decline or significantly limit overflights.
Instead better publicize driving routes other than the 240 loop.
Also, consider Jeep tours limited to existing dirt & paved roads that are run by Native American owned vendors and incorporate some cultural education.

Correspondence ID: 5Project:102957Document:123301
Name: Steger, Emma
Received: Sep,08 2022 03:48:59
Correspondence Type: Web Form

Correspondence: Reserving the land of our National Parks for wilderness and quiet is of the utmost importance especially as species, wild places, and place not impacted by human activity are getting rarer and rarer.

I believe air flights would add noise, human impact, and would affect the nature in a way we cannot take back. Nature includes the sky and the silence and the open space and flights over the badlands would negatively impact all of that.

Correspondence ID: 6Project:102957Document:123301
Name: K, Keith
Received: Sep,08 2022 04:48:33
Correspondence Type: Web Form
Correspondence: Ban all tours. Helicopters only place in protected wilderness should law enforcement and search and rescue.

Correspondence ID: 7Project:102957Document:123301
Name: Gramer, Jane I
Received: Sep,08 2022 05:39:57
Correspondence Type: Web Form
Correspondence: Our national parks are a place of solitude and wonder. A place to get away from noise. Please don't spoil that by allowing more pleasure flights. We must keep them peaceful forever. I love our national parks and have spent 20+ years camping in them from coast to coast. Thank you.

Correspondence ID: 8Project:102957Document:123301
Name: Cox, Lynn E
Received: Sep,08 2022 07:00:32
Correspondence Type: Web Form
Correspondence: Bad idea. This is about private business making a profit, pure and simple. Make an iMax film for the clowns who don't want to be on the dirt walking though it (or for those unable to access due to disabilities). National parks are meant to preserve the sublime of nature. Canyonlands NP is a perfect example of how the intrusive noise of overflights degrades the experience of being in the wild and enjoying nature.
Thank you for listening.

Correspondence ID: 9Project:102957Document:123301
Name: Civillico, John
Received: Sep,08 2022 08:18:52
Correspondence Type: Web Form
Correspondence: The sense of peacefulness and silence found in our national parks is one of the things that I treasure the most about them. I would hate to hear the drone of helicopters disrupting the Badlands and all the other parks in this country. I would recommend no helicopter tours- there are other ways to see the beauty of our parks.

Thanks for all you do to preserve the most special places in our nation!

Correspondence ID: 10Project:102957Document:123301
Name: Aviles, Carlos
Received: Sep,08 2022 08:41:02
Correspondence Type: Web Form
Correspondence: Thinking that a major concern is noise pollution has the option of flights using electric propulsion airplanes, dirigibles or balloons being considered. They may not be an option today but technology is moving fast and any new rule should allow to that possibility in the near future. What good is "saving" the parks if very few get to experience them? I know it open a can of worms but just trying to highlight the fact that there can be other options.

Correspondence ID: 11Project:102957Document:123301

Name: ,
Received: Sep,08 2022 09:08:24
Correspondence Type: Web Form

Correspondence: During our visit last year, we were mesmerized by the peace and solitude we experienced. We are losing so much of it anymore. Please don't change a thing! We need, but more importantly, our children and our children's children need this.

Correspondence ID: 12Project:102957Document:123301

Name: ,
Received: Sep,08 2022 09:18:51
Correspondence Type: Web Form

Correspondence: No, absolutely not. The whole point of national parks and the whole NPS is for people to get away from society, not to see elements of invasive society and hear helicopter noise and noise pollution while trying to seek solace and privacy in nature. I want to hear the wind in the trees and the birds in the air and if lucky enough hear or see an animal on my bucket list. Not to see and hear helicopters that only rich people can afford. Then have to put up with noises I hear on a day to day basis in civilization. No air tours or anything of the like. If you want to see the badlands then get out of your seat and go see them in person.

Correspondence ID: 13Project:102957Document:123301

Name: Watrol, David P
Received: Sep,08 2022 11:18:18
Correspondence Type: Web Form

Correspondence: My wife and I have visited Badlands National Park. We have marveled at the vastness of it and the peace and quiet of the majority of the park. Traveling off the main route through the park was awesome. So what I am saying is that there should be no flights allowed just for the sake of being a money grab! The peace and quiet afforded by OUR national parks, without being overly commercialized, is a valuable commodity in this day and age. Without a loud aircraft or helicopter flying over a vista as your trying to enjoy it!

Correspondence ID: 14Project:102957Document:123301

Name: , Vince
Received: Sep,08 2022 11:33:16
Correspondence Type: Web Form

Correspondence: Thank you for providing the opportunity to comment on this matter. I am strongly opposed to having commercial helicopter or fixed wing flights for sightseeing over ANY national parks. I visit several national parks a year, including Badlands a year ago. I seek tranquility and wish to enjoy the natural environment in as pristine a setting as possible. Helicopters are loud and completely spoil the experience for those of us on the ground. In addition, wildlife is undoubtedly affected by these noisy invasions of the skies.

This is not how the national parks were intended to be enjoyed. If this is the kind of experience someone is seeking, then they can stay in their living rooms and don a virtual reality headset. Please, no!

Regards,

Vince

Correspondence ID: 15Project:102957Document:123301

Name: Dugan, Linda M
Received: Sep,08 2022 11:59:54
Correspondence Type: Web Form

Correspondence: In opposition of any man made flight operations over the Badlands area. This is a knife in the back of indigenous people who claim spiritual beliefs within the park. Say no to this---a BAD idea for any type of flight ware into the Badlands.

Correspondence ID: 16Project:102957Document:123301

Name: Fletch, Shan

Received: Sep,08 2022 13:48:25

Correspondence Type: Web Form

Correspondence: Oh god please no small planes here! Sea planes and their atrocious noise pollution have degraded our small, picturesque area. It's a horrible freaking sound--All day long during the most pleasant season. Until small planes go electric/silent, plane tourism is a bad idea

Correspondence ID: 17Project:102957Document:123301

Name: Fisher, Regan

Received: Sep,08 2022 17:34:48

Correspondence Type: Web Form

Correspondence: I am writing to express my support for Alterative 2 - No Air Tours in the Planning Area. As the Air Tour Management Plan clearly states, air tours directly conflict with the park's stated purposes: preserving and interpreting the history, culture, and heritage of the Native American tribes within the region; preserving sacred sites within the park; preserving the peace and quiet of the site so visitors can enjoy the wilderness in solitude; and protecting natural resources. There is no reason the park needs to allow air tours to visitors. Visitors can experience the park from the ground, which would allow the park to meet its objectives as listed above. If an activity so very clearly contradicts the park's entire ethos and mission, it should be discontinued immediately.

Correspondence ID: 18Project:102957Document:123301

Name: Fisher, Martin

Received: Sep,08 2022 17:36:03

Correspondence Type: Web Form

Correspondence: I am writing to express my support for Alterative 2 - No Air Tours in the Planning Area. As the Air Tour Management Plan clearly states, air tours directly conflict with the park's stated purposes: preserving and interpreting the history, culture, and heritage of the Native American tribes within the region; preserving sacred sites within the park; preserving the peace and quiet of the site so visitors can enjoy the wilderness in solitude; and protecting natural resources. There is no reason the park needs to allow air tours to visitors. Visitors can experience the park from the ground, which would allow the park to meet its objectives as listed above. If an activity so very clearly contradicts the park's entire ethos and mission, it should be discontinued immediately.

Correspondence ID: 19Project:102957Document:123301

Name: Hansen, Christine

Received: Sep,08 2022 19:12:57

Correspondence Type: Web Form

Correspondence: Please do not allow any kind of aircraft to disturb the peace of the Badlands. The Badlands is such a unique magical placefor all to enjoy.

It's inequitable to to allow those who can afford an air tour ruin the experience of those hiking the grounds. If you want more Americans to visit the National Parks, keep them open and clear of air tours.

Correspondence ID: 20Project:102957Document:123301

Name: Hansen, Christine

Received: Sep,08 2022 19:12:59

Correspondence Type: Web Form

Correspondence: Please do not allow any kind of aircraft to disturb the peace of the Badlands. The Badlands is such a unique magical place for all to enjoy.

It's inequitable to allow those who can afford an air tour ruin the experience of those hiking the grounds. If you want more Americans to visit the National Parks, keep them open and clear of air tours.

Correspondence ID: 21Project:102957Document:123301
Name: Stiles, Tim
Received: Sep,09 2022 09:45:53
Correspondence Type: Web Form
Correspondence: Until flight is silent, any air tour is an intrusion on other visitors, and should not be allowed. Most drones and motorized transport should also be restricted, based upon the noise pollution they generate.

Correspondence ID: 22Project:102957Document:123301
Name: ,
Received: Sep,09 2022 11:14:19
Correspondence Type: Web Form
Correspondence: Please don't do this. It will spoil the beautiful scenery for hikers and others.

Correspondence ID: 23Project:102957Document:123301
Name: Glass, Jeffrey M
Received: Sep,09 2022 15:04:48
Correspondence Type: Web Form
Correspondence: I support reducing air tours anywhere near the park and prohibiting air tours over or within a half-mile of the park. It's a nuisance that distracts from the beauty of the park.

Correspondence ID: 24Project:102957Document:123301
Name: van der Zel, Aleid
Received: Sep,10 2022 10:00:16
Correspondence Type: Web Form
Correspondence: I was at badlands this past summer in July and was disappointed when the helicopters came over on my hike. First I thought maybe it was an emergency flight but when it happened 3 more times on my 3 hour hike, I realized they were commercial flights. The Badlands are very accessible and beautiful to drive through and hike. It is expansive and has beautiful and accessible vistas. This National Park is a go to for me and I think this last visit was my fifth. I will be back! Please do NOT allow helicopters. Thank you for considering this opinion. Aleid van der Zel

Correspondence ID: 25Project:102957Document:123301
Name: Farley, Bill W
Received: Sep,10 2022 11:01:10
Correspondence Type: Web Form
Correspondence: DO NOT authorize more air tours. Please stop current air tours in Badlands National Park. Air tours damage the serenity of the park and the experience for the visitor This is also sacred land. Please respect this sacred and of the native Americans.

Correspondence ID: 26Project:102957Document:123301
Name: Worley, Caleb W
Received: Sep,10 2022 14:15:02
Correspondence Type: Web Form
Correspondence: I just returned home today after visiting Badlands National Park. This was my second visit to the park. I have to say my first visit was much better. I love to visit national parks for the wilderness experience, the wildlife, and the quiet hikes through nature. The experience of this second trip was diminished due to the constant noise of a helicopter or

airplane flying over the park. The airplane definitely seemed to be flying at a lower altitude than the helicopters. Within the park itself there are plenty of opportunities to take in all the wonder the natural features provide by driving the park roads, walking the established boardwalks, and hiking through the backcountry.

That being said, my preference is that the NPS and FAA adopt Alternative No. 2 - no air tours within the park's planning area. Thank for your time and consideration of this comment. We

Correspondence ID: 27Project:102957Document:123301
Name: Carter, Carol
Received: Sep,10 2022 16:34:51
Correspondence Type: Web Form
Correspondence: Please, please, please no noisy aircraft in our parks. I go there for quiet, the beauty and sounds of nature. Helicopters and planes are too noisy and may possibly scare the wildlife. It's their house we are only visitors and we shouldn't be doing anything to disturb them.

Correspondence ID: 28Project:102957Document:123301
Name: Watson, Cinda L
Received: Sep,11 2022 08:11:55
Correspondence Type: Web Form
Correspondence: Please do not allow air tours. Too much noise.

Correspondence ID: 29Project:102957Document:123301
Name: Stocksdale, Jim E
Received: Sep,11 2022 21:03:06
Correspondence Type: Web Form
Correspondence: Quite often while hiking you come upon a serene scene holding wildlife and plant life that soothes the soul until a helicopter or small plane comes over the rise and drones out the quiet solitude that you have spent days hiking to enjoy. I believe everyone should be able to enjoy nature but how should they be regulated for commercial aircraft over vast swaths of our national parks and BLM lands. Their mere appearance destroys the solitude and grandeur of nature. There are rafting companies that are relegated to the main rivers and it would seem that these aircraft should be kept in the same areas so as to not interfere with the natural wildlife. Aircraft are not natural to these areas but a hiking person is a natural part of nature. Keep our parks free from these machines. If they are kept to only areas that have been commercialized by rafting and swimming or boating it allows the backcountry to remain more natural.

Correspondence ID: 30Project:102957Document:123301
Name: Kingston, Simon
Received: Sep,13 2022 08:38:02
Correspondence Type: Web Form
Correspondence: Test comments. Please ignore.

Correspondence ID: 31Project:102957Document:123301
Name: Tester, John
Received: Sep,15 2022 06:58:23
Correspondence Type: Web Form
Correspondence: Test message body

Correspondence ID: 32Project:102957Document:123301
Name: Schlueter, Austyn M
Received: Sep,15 2022 08:43:29
Correspondence Type: Web Form

Correspondence: Flights over the badlands Should not be limited at all. It provides a fun and safe way for people to enjoy the views of the park and helps with handicap people see areas they could not hike to. It also is relatively quiet compared to loud motorists. And leaves no liter or disruption to the grounds.

Correspondence ID: 33Project:102957Document:123301

Name:

Received: Sep,16 2022 20:48:55

Correspondence Type: Web Form

Correspondence: Commercial helicopter tours over Badlands National Park detracts and distracts visitors to the park taking in the beauty of nature. They should not be allowed to operate as much as they do.

Correspondence ID: 34Project:102957Document:123301

Name: Myers, Tim

Received: Sep,19 2022 04:53:22

Correspondence Type: Web Form

Correspondence: Please, Just limit the amount of time and number of over-flights. thank you

Correspondence ID: 35Project:102957Document:123301

Name: dearborn, daniel c

Received: Sep,24 2022 15:54:40

Correspondence Type: Web Form

Correspondence: Thank you for the opportunity to comment. I am strongly in favor of Alternative 2 No Air Tours in Badlands NP. Our nation's National Parks are drowning in overuse. Many of the parks are becoming more like Disney theme parks than national parks. Please don't let the privileged few who can afford to fly, ruin the park experience for the less fortunate visitors and wildlife on the ground.

I am very familiar with Badlands NP. I have been hiking and horseback riding the Park since 1983. I have been in the Badlands backcountry hundreds of times. I've been in the maze below Doors and Windows, hiked all the trails, hiked or ridden around the Castle to Burns Basin Hamms Draw, Deer Haven, been to the top of Hay Butte over a dozen times, Tyree Basin, the 3 forks of Sage Creek, McGinty Pass, the Tyree Basin, ect ect. I know this Park! And I'm concerned for its future. I don't live in South Dakota any more but I still visit the Park every year.

Page 7 Alternatives Considered and Dismissed: several paragraphs describe the unacceptable adverse impacts of air tours(visual effects, wilderness character, soundscape, acoustic environment). These same unacceptable adverse impacts should be stated in all the Alternatives. The Plan should explain at what point does air tour activity go from "acceptable" impact to unacceptable impact.

The plan should explain why drones are not allowed but highly visible, noisier helicopters will be allowed.

Page 11 describes the Park Management Objectives. it seems obvious to me that air tours will negatively impact all of the Park Management Objectives stated on page 11. The plan should attempt to explain why air tours support Park Management Objectives. For example, how can seeing and hearing helicopters be compatible with "solitude and wilderness values"?

From the east entrance to the Quinn Table Road the Park is very narrow. Helicopters will be seen and heard by visitors on the ground from almost everywhere in this long, thin area. The Park is relatively flat and open thus air tours will be seen and heard by most visitors and wildlife on the ground.

Visitors stopping at Big Badlands overlook for their first taste of the Badlands are/will be subject to seeing and hearing helicopters landing, taking off and flying overhead. This is not the type of first impression visitors should experience.

The Park invites visitors to experience the sight and sound of grasslands at Prairie Winds Overlook. This experience is ruined by helicopters flying around. Again a failure to achieve Park Management Objectives.

Monitoring Park Management Objectives stated on Page 11: valid objectives are ones that can be measured. The Plan should explain how Park Management Objectives are monitored in order to know if Objectives are being met. The Monitoring sections of the Plan are weak. If not already in place, monitoring should be established to determine if Park Management Objectives are being met. Monitoring should also consider the cumulative impacts of not just air tours but of all the sources of impact. Such as visitor vehicles (including the blitz of Sturgis Rally motorcycle traffic in July and August, Park administrative use, traffic noise from the interstate, ect. Cumulative impacts affect the ability to achieve Park Management Objectives.

The Plan doesn't say much about impacts to wildlife. Will wildlife be disturbed by air tours? For example Bighorn sheep lambing. Will air tours disturb raptors? I once saw a mountain lion in the Park. Will air tours ruin my chance to see one again?

In my opinion the Plan does not adequately address the visual impact of air tours.

Tribal Consultation: The Plan should specifically address Tribal concerns. Too often Tribal consultation is little more than sending a copy of the plan and checking the "yes" box for consultation.

Quiet Technology Incentives are described in some of the Alternatives. Incentives stated would allow air tours to fly at sunrise and sunset. This is a bad incentive and is very impactful on the visitor experience. Sunrise and sunset is a magical time to experience the Badlands. Helicopters flying around will ruin the experience for visitors on the ground. The wealthy few in the air will ruin the experience of the less fortunate visitors on the ground. A quiet helicopter is still visible and thus has a negative impact to Park Management Objectives. Not to mention the elevated safety concerns of flying in low light conditions

Thank you for allowing me to comment. I support Alternative 2. Air tours negatively impact the Park and have no place in this awesome Park.

Correspondence ID:	36Project:102957Document:123301
Name:	Huling, Murray
Received:	Sep,27 2022 13:51:39
Correspondence Type:	Web Form
Correspondence:	Please find comments from the Aircraft Owners and Pilots Association (AOPA) regarding the U.S. National Park Service (NPS) and Federal Aviation Administration (FAA) proposed Air Tour Management Plan for Badlands National Park.

The Aircraft Owners and Pilots Association (AOPA) is the world's largest aviation membership association representing pilots, aircraft owners, and aviation enthusiasts. AOPA serves its membership through advocacy, promoting safety, fun, and maintaining the right to fly. AOPA respectfully submits this comment on behalf of its more than 300,000 members in response to the proposed Air Tour Management Plan (ATMP) for Badlands National Park.

We have serious concerns with the proposal and the ATMP development process of the Air Tour Management Plan for Badlands National Park. Both NPS and the FAA have ignored stakeholders, operators, and the National Parks Overflight Advisory Group (NPOAG), a rulemaking committee put in place by congress to provide advice, information, and recommendations to the agencies in the implementation of the National Parks Air Tour Management Act of 2000. With an AOPA member on the NPOAG, we have witnessed firsthand the lack of NPOAG involvement and are very disappointed with NPS and FAA for the lack of commitment to adhere to the original congressional intent of the NPOAG when established. The elimination of NPOAG's involvement in developing proposed ATMPs is also a safety concern due to the proposals being produced without NPOAG industry expert involvement. Please note that an NPS and FAA briefing provided to the NPOAG after the fact of what NPS/FAA has developed in a government silo does not meet the congressional intent of NPOAG involvement.

NPOAG's involvement and recommendations are critical to the safety and economic stability of the air tour industry while

balancing the needs of the environment, tribal interests, the NPS, and the FAA. Excluding NPOAG in the ATMP process is negligent, violates congressional intent, and above all else, increases risks to life and property due to the lack of safety consideration in those ATMPs developed without industry safety expertise of the NPOAG during development.

The Public Scoping Documents serve to pre-shape public comment and opinion by offering options with no justification or support data to substantiate those options. Moving forward without critical NPOAG input to produce the agency's desired outcome is not sustainable. AOPA calls for the NPS and FAA to immediately change course and return to a model of NPOAG involvement in developing all proposals as originally intended by congress. All ATMPs developed without NPOAG involvement in their development should be reopened for NPOAG industry expertise involvement in the pursuit of an amenable resolution.

Without the expertise and safety input from stakeholders, operators, and the NPOAG, serious safety concerns will arise as the NPS, with limited to no expertise, moves, compresses, combines, and shifts flight routes and altitudes that have been in place for years. The very routes in question were designed jointly between operators and the local Park Unit stakeholders.

The economic impact these plans will have on the existing air tour companies threatens to shut down businesses that have been operating safely and responsibly for the past 30 years. This impact has reverberating consequences for the local and state economy, both of which are required elements of consideration and have been ignored.

Air tours are a vital option for many visitors providing a once-in-a-lifetime opportunity to experience natural and man-made landmarks. Visitors choosing aerial tourism represent the lowest impact on any park, recreation area, or memorial. Aerial tourism reduces impacts on parks, recreation areas, and memorials. Aerial tourism leaves no trace while reducing congestion and demand on park surface infrastructure. For the NPS to ignore this fact is disingenuous at best.

For individuals and groups with disabilities, aerial tourism provides the access promised in the mission of the NPS. The Memorial should be available for all visitors to enjoy. Limiting flights within the memorial boundary discriminates against the elderly, very young, handicapped, and others who wish to experience the memorial. Limiting flights over the Memorial restricts access for those who might not have the time, resources, or physical ability to see the memorial any other way.

The NPS and FAA cannot continue to force the ATMP process behind closed doors. AOPA urges the government to utilize the NPOAG as originally intended by congress to ensure public safety and access to our national parks without discrimination. Reducing and eliminating opportunities for many who must fly to enjoy Badlands National Park and all other national parks is discriminatory. In addition, with NPS publicly stating their goal is to stop all tour overflights eventually, they are not considering or caring about the severe economic impact on the tour companies, their employees, and the local communities.

AOPA requests that NPS and FAA hold off on finalizing the current Badlands National Park ATMP until the NPOAG is allowed to complete its congressionally directed role. The current direction NPS and FAA is taking with ATMPs is government overreach and must be corrected. As the West Virginia v. EPA case demonstrates, bypassing what is a congressional responsibility, the congressional mandate for including the NPOAG in ATMP development, any other option than following congressional decisions is not acceptable.

Correspondence ID:

37Project:102957Document:123301

Name:

Murray, Michael

Received:

Oct,03 2022 13:34:03

Correspondence Type:

Web Form

Correspondence: October 3, 2022

Mr. Eric Veach, Superintendent
Badlands National Park
25216 Ben Reifel Road
Interior, SD 57750

Subject: Badlands National Park Air Tour Management Plan Potential Alternatives Newsletter

Dear Superintendent Veach:

First, welcome to the National Park Service as the new superintendent of Badlands National Park! We hope you will find working within the many of our members found it to be.

I am writing on behalf of over 2,200 members of the Coalition to Protect America's National Parks (Coalition), all of whom have worked on and who collectively represent more than 45,000 years of national park management experience. The Coalition studies, educates, speaks, and advocates for the National Park System. Among our members are former NPS directors, regional directors, superintendents, resource specialists, rangers, maintenance workers, former employees, volunteers, and supporters.

We offer the following comments for your consideration regarding Potential Alternatives for the Air Tour Management Plan (ATMP) for Badlands National Park Newsletter at:

<https://parkplanning.nps.gov/document.cfm?parkID=117&projectID=102957&documentID=123301>

GENERAL COMMENTS

1. First, we appreciate that BADL will prepare an environmental assessment (EA) for its Air Tour Management Plan (ATMP) in accordance with the NPS NEPA Handbook 2015 - In general, when considering a proposed agency action, such as a new ATMP, NPS must comply with the National Environmental Policy Act (NEPA) implementing regulations found at 40 CFR Parts 1500-1508 and with the agency's own NEPA guidance. We have been deeply concerned that NPS has failed to comply with applicable NEPA guidance by issuing numerous previous "proposed ATMP alternatives and without preparing any sort of NEPA compliance for public review. We applaud you and the planning team for following the BADL proposal deserves.

However, the fact that you are preparing an EA, while most parks have not, begs the question - why did NPS not prepare an EA for many of the "proposed ATMPs"? As a practical matter, all 24 proposed ATMPs are being prepared under the same court order; but NPS is preparing EAs for some cases. We therefore ask NPS to explain in the EA its basis for deciding to prepare an EA for BADL while not doing so for many other parks that are to prepare ATMPs.

2. The planning newsletter makes no mention of the NPS Organic Act (54 USC Â§100101) or the park's enabling legislation (16 USC Â§431). Neither Act's relevance to the proposed action - While the National Parks Air Tour Management Act of 2000 requires the FAA and NPS to prohibit commercial air tours have occurred, the NPS Organic Act requires the NPS to protect park resources and values, which is, or at least should be, the basis for management plans, the NPS "conservation mandate" should drive the ATMP planning process and serve as the basis for evaluating "Attributes" (as they are referred to in the newsletter) that are presumably intended to minimize adverse impacts of air tours over the park.

Regarding the Organic Act, NPS Management Policies 2006 Section 1.4.1 states: "The most important statutory directive for the National Park Service is the provisions of the NPS Organic Act of 1916 and the NPS General Authorities Act of 1970, including amendments to the latter law enacted in 1996." Policies Section 1.4.3:

The fundamental purpose of the national park system, established by the Organic Act and reaffirmed by the General Authorities Act, as amended, is to protect resources and values. This mandate is independent of the separate prohibition on impairment and applies all the time with respect to all park resources and values that any park resources or values may be impaired... Congress, recognizing that the enjoyment by future generations of the national parks can only be achieved if resources and values is left unimpaired, has provided that when there is a conflict between conserving resources and values and providing for public use, conserving resources and values is predominant. This is how courts have consistently interpreted the Organic Act. (Emphasis added)

The park's enabling legislation provides that "[t]he administration, protection, and promotion of said Badlands National Park shall be the responsibility of the Secretary of the Interior by the National Park Service, subject to the provisions of the Act of August 25, 1916" (which is the NPS Organic Act). See 16 USC Â§431. The park is managed in accordance with the NPS conservation mandate and "when there is a conflict between conserving resources and values and providing for public use, conserving resources and values is to be predominant."

Given that this EA is or should be focused on evaluating potential impacts of commercial air tours on natural and cultural resources and values of the National Park System, we would expect the NPS conservation mandate to serve as a key basis for evaluating impacts to national park resources and values at the level of air tours. To address this concern, we recommend that Chapter 1 of the EA include a section summarizing applicable laws relevant to the park.

Act and the Badlands National Park enabling legislation, as amended.

3. The 2017 Foundation Document for Badlands National Park provides important context for this planning process regarding the park's significance. The park is adversely affected if commercial air tours are not properly managed - See Foundation Document at: <http://nps.history.com/publications/foundation-document>.

Relevant sections of the Foundation Document include the following:

(p. 5) Park Significance: "The park contains spectacular scenery, predominantly highly eroded landforms that comprise a concentrated series of pinnacles, and precipitous gulches... The park protects places of spiritual and historical significance to the Lakota people... The North Unit of the park provides unparalleled opportunities to observe ... native animals in their natural habitat."

(pp. 6-7) Fundamental Resources and Values: "Fundamental resources and values help focus planning and management efforts on what are the most important responsibilities of NPS managers is to ensure the conservation and public enjoyment of those qualities that are essential (fundamental) to maintaining its significance. (Emphasis added) If fundamental resources and values are allowed to deteriorate, the park purpose and/or significance is lost. Resources and values have been identified as "fundamental" for Badlands National Park:

Archeological and Ethnographic Resources - The White River Badlands are a place of spiritual and historical significance for many Native Americans.

Scenic Views - The erosion of sediments provides an array of dramatically changing vistas. The spectacular shapes and colors of the landscape and spires.

Native Wildlife - Badlands National Park supports range for wildlife native to the mixed-grass prairie of the northern Great Plains. Visitors can observe a variety of native wildlife.

Wilderness Experience/Values - The expanse of the remote and wild landscape within the Sage Creek Wilderness area provides the opportunity for a wilderness experience. Noise pollution allows visitors to experience the natural soundscape of the prairie.

While the Foundation Document does not say so specifically, protecting Places of Spiritual Significance for Native American Groups, Scenic Views, and Wilderness Experience/Values are all closely related to and dependent upon preserving the "natural setting" of the park. Protecting the "natural setting" from intrusions of low-flying air tours, especially the many helicopter tours proposed at BADL, is fundamental to conserving the Resources and Values.

4. The number of park visitors potentially impacted by air tours should also be considered in the EA - ALL of the proposed helicopter tours at BADL, would be concentrated over the Cedar Pass Area, which is the most heavily visited portion of the park. Per NPS data, BADL typically receives a recent high of 1,224,226 visits in 2021. See:

[https://irma.nps.gov/STATS/SSRSReports/Park Specific Reports/Annual Park Recreation Visitation \(1904 - Last Calendar Year\)?Park=BADL](https://irma.nps.gov/STATS/SSRSReports/Park%20Specific%20Reports/Annual%20Park%20Recreation%20Visitation%20(1904%20-%20Last%20Calendar%20Year)?Park=BADL)
The Northeast Entrance is by far the busiest entrance station in the park; and the Ben Reifel Visitor Center is the busiest visitor contact station. See <https://irma.nps.gov/STATS/Reports/Park/BADL>.

5. Consistent with NPS Management Policies Section 1.5, the EA should include an "appropriate use analysis" for the proposed action. The Act of 2000 (49 USC 40128) established procedural requirements for allowing air tours over parks; however, the Act does NOT mandate that air tours be allowed. In fact, section (b)(3)(A) of the Act provides that the agencies "may prohibit commercial air tour operations over a national park." Air tours are essentially a discretionary activity subject to agency approval. To our knowledge, NPS has never formally considered or determined the use of (or over) BADL. We strongly recommend that the EA include an appropriate use analysis as described in Management Policies Section 1.4.7.1.

6. The EA should include an "impairment determination" for the proposed action, as described in NPS Management Policies Section 1.4.7.1. In approving a proposed action that could lead to an impairment of park resources and values, an NPS decision-maker must consider the impact of the activity and determine that the activity will not lead to an impairment of park resources and values. If there would be an impairment, the action must not be approved.

Furthermore, "[t]he impact threshold at which impairment occurs is not always readily apparent. Therefore, the Service will apply a standard that will not occur. The Service will do this by avoiding impacts that it determines to be unacceptable. These are impacts that fall short of impairing the park's environment." See Management Policies 1.4.7.1. (Emphasis added)

We strongly recommend that the EA include an impairment determination as described in Management Policies Section 1.4.7.

7. The EA should identify its preparers as well as the respective roles of the NPS and the FAA/USDOT in the NEPA process - The newsletter

either electronically to the NPS via the park's PEPC website; or in writing (i.e., hard copy) to the U.S. Department of Transportation (USDOT) which agency is actually coordinating preparation of the EA and serves as the "lead agency" as described in 40 CFR Â§1501.7; or if both agencies are somehow serving as the "co-leads" in this process. The EA.

The lack of clarity about "who is in charge" of the process is a concern primarily if NPS plays a passive "reviewer only" role in the preparation of the pending EA, as NPS often does when it functions as a cooperating agency. In contrast, the CEQ NEPA implementing regulations require a much more active role in the planning process and we strongly encourage NPS to do so in this case. For example, 40 CFR 1501.8(b)(3) provides that "[i]n request of the lead agency, assume responsibility for developing information and preparing environmental analyses, including portions of the environmental assessment concerning which the cooperating agency has special expertise." (Emphasis added)

The NPS Natural Sounds Program clearly has special expertise with regard to measuring and assessing the impacts of air tour noise on park resources, wilderness, and visitor experience. As a result, we would expect the NPS, not the FAA or the Volpe Center, to prepare the analyses of such impacts. To assess potential impacts of air tours on park resources and values at BADL, it is imperative that experienced NPS subject matter experts and other potential resource impacts through the lens of the NPS conservation mandate, are active participants in preparing the various impact analyses.

SECTION-BY-SECTION COMMENTS ABOUT THE NEWSLETTER

1. Resources for Consideration in the EA (p. 4) - The proposed list of impact topics appears to be complete as written. We appreciate that NPS intends to analyze impacts to: Noise and compatible land use (acoustic environment and Park soundscape); Visitor experience; Visual effects (visual resources); and Cultural-Historic Resources. Each impact analysis for each topic should include a discussion of available data, such as previous sound surveys, as well as a review of relevant literature on noise on specific resources.

2. Thus far, no NPS-proposed ATMP has identified any relevant reference materials or data that were considered by NPS during the preparation of the ATMP. To actively consider the following information, as well as other references identified in other sections of our comments, during the preparation of the ATMP:

- Effects of Aircraft Overflights on the National Park System. Report to Congress 1995: <https://www.nonoise.org/library/npreport/intro.htm>
- An assessment of noise audibility and sound levels in U.S. National Parks: <https://sites.warnercnr.colostate.edu/soundandlightecologyteam/content/uploads/sites/146/2020/11/landscapeecology2011b.pdf>
- Protecting National Park Soundscapes: National Academy of Engineering 2013: <https://www.nap.edu/catalog/18336/protecting-national-park-soundscapes>
- Effects of Noise on Wildlife: https://www.nps.gov/subjects/sound/effects_wildlife.htm
- A Synthesis of Two Decades of Research on the Effects of Noise on Wildlife: <https://sites.warnercnr.colostate.edu/soundandlightecologyteam/content/uploads/sites/146/2020/11/biologicalreviews2015.pdf>
- Conserving the wild life there in - protecting park fauna from anthropogenic noise: <https://sites.warnercnr.colostate.edu/soundandlightecologyteam/content/uploads/sites/146/2020/11/parkscience2009.pdf>
- A review of the effects of aircraft noise on wildlife and humans 2003: https://www.researchgate.net/publication/8683287_A_Review_of_the_Effects_of_Aircraft_Noise_on_Wildlife_and_Humans_Current_Concerns
- Effects of Noise on Wilderness: https://www.nps.gov/subjects/sound/effects_wilderness.htm
- Noise pollution is pervasive in U.S. protected areas: <https://www.science.org/doi/10.1126/science.aah4783>
- Effects of Noise on Visitors: https://www.nps.gov/subjects/sound/effects_visitors.htm
- Effects of Noise on Cultural-Historic Resources: https://www.nps.gov/subjects/sound/effects_cultural.htm
- BADL Baseline Ambient Sound Levels 2003: <https://irma.nps.gov/DataStore/DownloadFile/554855>

In general, the reference materials listed above are available via links found on the NPS Natural Sounds Program website at: <https://www.nps.gov/natural-sounds>. If NPS has NOT referred to any of this information in ANY of the previous proposed ATMPs issued to date, we ask NPS to include it now in the ATMP.

In addition, the 2003 Baseline Ambient Sound Levels report cited above is obviously quite dated. NPS should consider doing a new survey of Ambient Sound Levels and to provide a comparison with the 2003 survey. For example, how have the ambient sound levels changed in the past 20 years? What changes have occurred? Ideally, NPS will prepare an ATMP that effectively reduces air tour noise impacts at BADL. However, if NPS does not do so, then measuring the sound reduction effectiveness of the plan will not be possible.

4. Alternatives Considered but Dismissed (p. 7) - This section indicates that "[t]he agencies considered but dismissed alternatives that would result in unacceptable impacts to the Park's natural and cultural resources, wilderness, and visitor experience." The report lists several alternatives and provides reported numbers as well as current operating parameters at existing numbers. Existing air tour reporting figures are displayed in Table 1. The alternatives were dismissed for consideration because the NPS determined they would result in unacceptable impacts to the Park's natural and cultural resources, wilderness, and visitor experience.

2006 Management Policies 1.4.7.1, and do not meet the purpose and need for the plan." (Emphasis added) Table 1 (p. 9) reports the "the existing number of air tours with current operating parameters" based on the three year average from 2017-2019. We agree with the NPS determination that "the existing number of air tours with current operating parameters" are unacceptable impacts. We will refer to this information in our comments about Alternatives 1 and 3 below.

5. Alternative 1 - No Action/No ATMP (pp. 8-10) - As described in the "Objective" section for this alternative," [t]he no action alternative is not a selectable alternative because it does not meet the purpose and need for the ATMP and is not in compliance with the Act." (Emphasis added) It is not selectable for the reasons stated.

As described, Alternative 1 would allow operators to fly up to a total of 4,117 air tours per year under their Interim Operating Authorities (IOAs). The ATMP is intended to describe the No Action Alternative as the maximum theoretical number of air tour flights allowable under the IOAs, rather than the much higher number of 1,425 with current operating parameters" (which the agencies also considered but dismissed). See Comment # 4 above.

First, we question whether the maximum theoretical number of flights (4,117) could serve as a valid "basis for comparison" with the current operating parameters. The NPS NEPA Handbook 2015, pp. 55-56:

It is important to accurately define the no-action alternative. One reason is so that you can accurately describe the environmental impacts of the action alternatives. It is important because the no-action alternative provides a benchmark for a decision maker to compare what would happen to the environment if one of the action alternatives were selected for implementation... The current state of the resources affected by the proposed action (the baseline, as described in the environment section of a NEPA document) serves as the baseline for predicting changes to the human environment that could occur if any of the action alternatives, are implemented. (Emphasis added)

Second, NPS likely has useful information and data regarding actual impacts of the existing number of flights (1,425) that would allow for a more meaningful analysis of the impacts to the respective action alternatives. In contrast, there is likely no such information on hand to document the potential impacts of a much higher number of flights that would theoretically occur under the IOAs, but has not. Using non-existent information as the baseline for comparison obviously makes meaningful analysis impossible. Lastly, we believe such a comparison (to a much higher theoretical number) would only serve to make Alternative 3, which would cause the least impacts, appear more acceptable than it really is in terms of the relative severity of its impacts.

Therefore, we recommend that NPS consider "existing number of flights with current operating parameters" as the No Action Alternative. This would provide an accurate description of what has been happening and would continue to happen under a "No ATMP" scenario; and thus allow for a more meaningful comparison between the No Action and the Action Alternatives.

5. Action Alternatives 2-4 (pp. 11-22): General Comment - In general, alternatives 2-4 provide a range of alternatives as required by NEPA. Alternative 2 would undoubtedly cause the least amount of impacts; and Alternative 3 (Operational Modifications to Existing Air Tours) would cause the most significant impacts. In contrast to Alternatives 2 and 3, Alternative 4 (Reduction in Air Tours) would cause a moderate level of impacts.

A concern is that the differentiation between action alternatives 3 and 4 is not as great as it could be, or perhaps should be. Providing some differentiation between these two alternatives would allow for more meaningful analysis of the respective Attributes and their associated impacts and benefits. Other than the difference in the number of flights allowed, Alternatives 3 and 4 are essentially the same on all other Attributes, including: Routes; Seasonal Restrictions; Quiet Technology (QT) Incentives; Restrictions for Particular Events; Adaptive Management; Operator Training and Certification; Initial Allocation of Air Tours, Aircraft Types, and Interim Operating Authority; New Entrant; Monitoring and Enforcement; and

We have specific concerns about some of the Attributes described for Alternatives 3 and 4. To provide a more meaningful analysis and comparison of the two alternatives, in part, as a result of their Attributes, we recommend that NPS consider varying (between Alternatives 3 and 4) Attributes that would cause significant impacts. We will recommend modification of some of suggestions the Attributes in our comments about Alternative 4 below.

6. Alternative 2: No Air Tours in the Planning Area (pp. 11-13) - We strongly endorse Alternative 2, as proposed, because it "would protect the resources, and values of the Park." According to the newsletter, protected resources include "sites of spiritual and cultural significance; threatened and endangered species and other wildlife sensitive to noise; Congressionally designated wilderness and visitor opportunities; scenic qualities, and natural sounds."

As protective as Alternative 2 would be, our primary concern with it is the boilerplate language used in the "Amendment" section. The language states that the ATMP "may be amended at any time" if either NPS or the FAA notifies the other agency. This seems to unnecessarily leave the door open for future amendments, even if in the final ATMP the agencies were to select Alternative 2 and "eliminate" all air tours.

Our experience has been that many NPS decisions to curtail or eliminate controversial recreational and commercial activities in parks, such as air tours, are subject to industry lobbying and political reversal, especially if/when there is a change in administration. The Amendment provision in Alternative 3, in fact, remain eliminated at BADL if this alternative were selected, raising doubts about the validity of "No Air Tours in the Planning Area." We therefore ask NPS to eliminate the "Amendment" provision in this alternative, so that a decision to eliminate air tours at BADL would not require, without the agencies re-initiating and completing an entirely new planning process.

7. Alternative 3: Operational Modifications to Existing Air Tours (pp. 14-19) - Under Alternative 3, the annual number of flights would be reduced to 1,425 flights per year, consistent with the reported average of air tours for 2017, 2018, and 2019. The daily number of flights may not exceed 16 tours per day. We support Alternative 3 as it would cause the most extensive adverse impacts of any of the action alternatives.

Our foremost concern about Alternative 3 is that it would provide no meaningful reduction in the existing number of air tours (1,425 flights per year) and "unacceptable impacts" when combined with "existing operating parameters." See Comment # 4 above. Instead, this alternative would maintain "existing operating parameters" (or proposed "Alternative Attributes" as referred to in Table 6) to somehow reduce the impacts of 1,425 flights to "acceptable."

Based on the limited information provided in the newsletter, it is unclear to us how and how much the proposed operating parameters (or proposed Attributes) for Alternative 3 could sufficiently reduce air tour noise to change the impact level from "unacceptable" to "acceptable." We therefore ask NPS to explain in the EA how the proposed Attributes would cause "unacceptable impacts" under "current operating parameters." We would, in fact, reduce impacts compared to the current situation. This should include whatever information and evidence NPS has to support the claim that impacts would occur if the proposed Attributes were implemented at BADL.

We also have concerns about some of the specific Attributes described for Alternative 3, which we believe would not be sufficiently protective. In the interest of encouraging NPS to analyze a broader range of alternatives and Attributes, we will describe these concerns below in our comments.

8. Alternative 4: Reduction of Air Tours (pp. 20-22) - We strongly support the proposed reductions in the annual and daily caps on the number of flights. This alternative, which would be 1,055 total flights per year, a 26% reduction from existing annual air tours. The daily number of flights may not exceed 16 flights per day. A direct and effective way to reduce cumulative air tour impacts is to reduce the total number of flights allowed; and Alternative 4 would clearly achieve this.

Our primary concern with Alternative 4 is that, except for the numbers of flights allowed, it is essentially the same as Alternative 3 with regard to the Attributes. Common Attributes shared by Alternatives 3 and 4 include: Routes and Altitudes; Time of Day, Day of Week, and Seasonal Restrictions for Particular Events; Adaptive Management; Operator Training and Education; Annual Meeting; Competitive Bidding; Operator Selection and Interim Operating Authority; New Entrant; Monitoring and Enforcement; and Amendment.

Applying all the same Attributes to both alternatives unnecessarily limits the range of protective measures being considered and to be analyzed. Since common Attributes are "spot on" as proposed, we recommend that NPS consider different levels of intensity for at least some of the Attributes being considered in the EA and allow for a more meaningful analysis of impacts/benefits associated with the respective Attributes. We therefore request that NPS consider and considered under Alternative 4:

a. Flight Routes - The Eagle Aviation fixed wing route, flying at least 2,600 feet AGL for up to two flights per year, seems appropriate and consistent with Federal Aviation Administration Circular AC No: 91-36D guidance that pilots operating noise producing aircraft (fixed-wing, rotary-wing and hot air balloons) over noise sensitive areas, wildlife refuges, and designated wilderness areas, fly not less than 2,000 feet above ground level (AGL), weather permitting. (Emphasis added.) ([https://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/list/AC 91-36D/\\$FILE/AC91-36d.pdf](https://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/list/AC%2091-36D/$FILE/AC91-36d.pdf)). It also conforms with NPS policy that aircraft are requested to maintain a minimum altitude of 2,000 feet above the surface of lands and waters administered by the NPS, USFWS, or USFS Wilderness areas. (<https://www.nps.gov/articles/mitigating-the-impacts-of-aviation.htm#:~:text=All aircraft are requested to,USFWS, or USFS Wilderness areas>).

We are primarily concerned that ALL four of the proposed helicopter routes to be used by up to 1,423 helicopter flights annually, would be concentrated at the eastern end of the North Unit, which is one of the most heavily visited portions of BADL and contains a number of popular hiking trails. Access to the park is by far the busiest entrance station in the park; and the Ben Reifel Visitor Center is the busiest visitor contact station. See various comments. (<https://irma.nps.gov/STATS/Reports/Park/BADL>).

Please explain in the EA why so many park visitors on the ground would need to be impacted by helicopter noise in order to accommodate the recommendation of "not less than 2,000 feet AGL" over national parks. Conversely, if NPS believes that the heavy concentration of flights is appropriate, then we ask NPS to provide modeling and/or air contour map analysis to support such a finding. See: https://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_409.pdf and https://www.faa.gov/regulations_policies/policy_guidance/noise/basics).

b. Minimum Altitudes - As stated previously, the proposed 2,600 feet AGL minimum altitude for Eagle Aviation airplanes is appropriate and consistent with FAA Advisory Circular AC No: 91-36D and NPS recommendations that "all aircraft maintain a minimum altitude of 2,000 feet above the surface of the land." We are, however, very concerned with Alternative 4's proposed minimum altitudes for helicopters, which range from 800-1500 feet AGL. This is below the FAA Advisory Circular AC No: 91-36D or NPS guidance.

Many of our members experienced working in and around helicopters during the course of their NPS careers (e.g., for wildland firefighting). Helicopters typically fly lower and slower and are generally perceived as being much louder and more annoying to people on the ground than fixed-wing aircraft flying faster overhead. This observation is borne out by multiple references that document that helicopters noise is widely perceived as being loud. For example, see: <https://executiveflyers.com/why-are-helicopters-so-loud/>; <https://www.noisequest.psu.edu/sourcesofnoise-helicopternoise.htm>; <https://vtol.org/files/dmfile/12HelicopterNoiseLeverton2.pdf>. According to the Helicopter Association International (HAI), the sound of a helicopter at 1,000 feet, the sound drops to 78 decibels, which is still louder than a vacuum cleaner and nearly as loud as a hair dryer (see: <https://aerocor.com>).

We could continue identifying references about the how loud and annoying people perceive low flying helicopters to be. However, our point is that the proposed 1500 feet for helicopter tours over the popular Cedar Pass Area of BADL is clearly insufficient to minimize nuisance noise intrusions and protect the park's quiet where the helicopter tours would be concentrated.

The NPS and the FAA have presented no information or justification for proposing to deviate so significantly from their respective longstanding minimum altitudes over national parks and wilderness areas. To address these concerns and provide a wider range of Attributes for analysis, we recommend that the NPS establish minimum altitudes for each of the four helicopter routes, as follows: no less than 1,500 feet AGL for the Discovery Tour; 1,800 feet AGL for the Grand and Adventure Tours. These altitudes would be clearly more protective (i.e., more effective at reducing the adverse impacts of helicopter noise) than those proposed in Alternative 3. In addition, having a more diverse range of altitudes to consider in the EA would provide for a more meaningful comparison of Alternatives 3 and 4.

c. Time of Day - For this Attribute our concerns are focused again primarily on helicopter tours, which, as proposed, would be heavily concentrated in the eastern end of the Northern Unit of BADL. Alternative 4 would allow helicopter air tours to fly from one hour after sunrise until one hour before sunset for QT flights, the same as Alternative 3. In essence, the proposed schedule will make it extremely difficult for people visiting the Cedar Pass Area at times of day when noisy helicopter tours are not occurring.

We believe that park visitors traveling to southwestern South Dakota to visit to Badlands National Park should have a reasonable opportunity to experience the park's quiet hours every day without intrusive helicopter tour noise. For this reason and to provide a broader range of Attributes and related impacts to analyze, we recommend that the 4 NPS consider time of day restrictions that would only allow air tours to fly from three hours after sunrise until three hours before sunset. This would provide a tour noise-free quiet time in the morning and the afternoon and provide a greater range of Attributes to evaluate and compare in the EA. This restriction should not take priority over the experiences of park visitors on the ground!

While we have read what the newsletter says about Quiet Technology Incentives (QTI), NPS has provided no description or data regarding what QTI would provide, especially with regards to the helicopters that would account for 99.9% (1,423 out of 1,425) of air tours at BADL. For example, how much noise reduction needs to be incorporated into a particular model of helicopter in order for it to be considered "QT"? How much would QT helicopters reduce noise in dBa, or more compared to non-QT helicopters? And is it reasonable to think that a local air tour company in southwestern South Dakota would use technologically advanced but expensive QT helicopters? (*See: https://www.icao.int/environmental-protection/Documents/Helicopter_Noise_Reduction_Technology_Status_Report_April_2015.pdf).

As a result, we cannot offer an informed comment about what time of day restrictions would be appropriate for QT aircraft; and we do not know if the operator(s) to implement in this case. However, since NPS does propose a Quiet Technology Incentive in the newsletter, we ask NPS to provide information that the public could expect in terms of the measurable sound reduction if/when QT helicopters are used. If the noise reduction is substantial, then we recommend that the aircraft to fly from one hour after sunrise until one hour before sunset not. If the noise reduction is not substantial, then we recommend that the NPS impose the same restrictions as other aircraft. Our intent in making these recommendations is to eliminate visible and audible helicopter intrusions in the vicinity of the Cedar Pass Area in the afternoon. Park visitors should have at least a small opportunity each morning and afternoon to experience the park in its natural condition. If it is not feasible to implement under the specific circumstances at BADL, it should be dropped from the proposal.

d. Operator Training and Education - As described in Table 6, operator training and education is "mandatory if requested and/or made a condition of the permit." This is confusing and makes it sound like training is not really mandatory unless NPS decides that it is, presumably at the park level. We understand that this language has been previously used in other ATMP newsletters. However, since this newsletter applies specifically to BADL, shouldn't the NPS just state that and then present that as the proposed Attribute for this alternative?

Having dealt with a variety of other commercially guided tours in parks, we would highly recommend that under Alternative 4 NPS require BADL that should include the operator(s) and all pilots who might be involved in flying air tours over the park for those operators. Such transparency regarding operator/pilot compliance with the ATMP requirements, it would also provide an opportunity for NPS to share accurate information with other interpretive themes - all information the operator and pilots could and should share with its customers to provide a more informative experience above."

e. Amendments - As described in Table 6, the ATMP may be amended at any time upon notification of either agency to the other. Similar to Attribute is written creates tremendous uncertainty about the longevity of whatever ATMP the agencies decide upon this time. It opens the door to pressure to expand the numbers of flights allowed or to "relax" (i.e., weaken) measures intended to minimize the adverse impacts.

Since it has taken NPS and the FAA over 20 years (since the passage of the Act) to begin preparation of the park's first ATMP, we would highly value guidance for the management of air tours at BADL. However, something that can be "amended at any time" is neither stable nor reliable. We hope that NPS revise the wording of this Attribute for Alternative 4 to convey the notion that "the ATMP is intended to provide long-term management. However, future minor adjustments may be made in the ATMP upon the request of either agency to address concerns that arise after its implementation.

9. The EA should identify the NPS "preferred alternative" as well as the "environmentally preferable alternative" as required by Section 4.3 - See NPS NEPA Handbook at: https://www.nps.gov/subjects/nepa/upload/NPS_NEPAHandbook_Final_508.pdf.

As described in handbook section 4.3(C), "A preferred alternative is the alternative that 'would best accomplish the purpose and need of the agency's statutory mission and responsibilities, giving consideration to economic, environmental, technical, and other factors' (46.420(d)). It is standard practice to identify preferred alternatives in EAs[.]"

As described in handbook section 4.3(D), "The environmentally preferable alternative is the alternative developed and analyzed during the planning process that 'best protects, preserves, and enhances historical, cultural, and natural resources' (46.30). An environmentally preferable alternative may be identified in a ROD and may be identified in EAs, FONISs, and draft and final EISs (1505.2(b); 46.450)." (Emphasis added)

The value of NPS identifying both the preferred alternative and the environmentally preferable alternative in this EA is that it would add much-needed transparency to a murky and not always public process for the past 20 years. While we appreciate that the agencies are now finally moving forward with the implementation of the mandate that stakeholders had to file litigation in order to force NPS and the FAA to comply with the provisions of the National Parks Air Tour Management Act, progress by the agencies. Improving transparency in the planning process now would be a helpful step toward restoring public confidence in the mandate such that "when there is a conflict between conserving resources and values and providing for enjoyment of them, conservation values shall prevail.

In closing, we appreciate the opportunity to comment on this important issue.

Sincerely,
Michael B. Murray
Chair

cc: Bert Frost, Director of Regions 3, 4, and 5, National Park Service
Karen Trevino, Chief, Natural Sounds and Night Skies Division, National Park Service
Ray Sauvajot, Associate Director for Natural Resource Stewardship and Science, NPS

Correspondence ID:	38Project:102957Document:123301
Name:	Knudtson, Bruce
Received:	Oct,03 2022 14:04:23
Correspondence Type:	Web Form
Correspondence:	Do not eliminate air tours over our national parks, it is the only way I could get my aging parents and experience of seeing the parks.

Correspondence ID:	39Project:102957Document:123301
Name:	,
Received:	Oct,04 2022 19:27:00

Correspondence Type: Web Form

Correspondence: I recommend the Service start to work, lobby toward removing overflights from the National Parks. Get congress to change the law. If you lay out, look at the sky and listen it wont be long until any silence is broken by aircraft. There is no place except maybe the poles where you cannot get natural sounds.

The parks need to start pushing to rid the air of over flights, scenics and all the other commercial activity that dirsupts a natural soundscape

Correspondence ID: 40Project:102957Document:123301

Name: Crew, Patricia

Received: Oct,05 2022 20:38:49

Correspondence Type: Web Form

Correspondence: Thank you for giving people an opportunity to comment on your analysis and study of air traffic over the Park. The National Park System is a valuable resource in the United States.

Factors to consider in your analysis:

1) use recent data 2020 &2021, 2) Drive in, hiking and air traffic all produce environmental impacts. If air traffic is limited, other forms of visitation should be limited, 3)Viewing by air may be the only option for people with disabilities to enjoy the vastness, beauty, and wildlife in the park. People with disabilities should not be excluded from enjoying the full experience of the park, 4) air traffic operators provide employment in the area. Loss or reduction of these opportunities will have a negative impact on employment and businesses in the area, 5) Noise from a helicopter overhead is not any more distracting than the noise from a group of loud people on a trail with you, 6) The National Renewable Energy Laboratory (NREL) and probably others are developing green aviation fuel which should reduce the carbon footprint of air traffic in the future.

Please allow at least a moderate increase to air traffic over the Park to provide for the growth of visitors to the area.

Correspondence ID: 41Project:102957Document:123301

Name: ,

Received: Oct,06 2022 09:28:43

Correspondence Type: Web Form

Correspondence: Helicopter tours allow diverse and equitable opportunities for people of all backgrounds and lifestyles to experience the many benefits that the Parks provide. Without airborne tours via helicopter, those who are unable to hike, walk or otherwise mobilize to the parks cannot experience them. Flying allows the layman to see the world in perspective, as opposed to the tyranny of the ground. As for noise, Sturgis Week in South Dakota is the far more imperative threat to hearing and nature. Loud motorcycles disrupt the immersion of nature and the beauty of the environment to a point that helicopters can in no way meet. Lastly, the business and other influence that helicopter tours and their pilots provide is something that would negatively impact the local community in a significant way, especially with small towns such as Keystone and Interior. Having talked to the local townspeople of the latter town, I know that they, though an especially small community, have no issues with helicopters operating in the area. In fact, the only time many residents have been in an aircraft was on a tour of their local area, the Badlands, from the air. Furthermore, preventing tours here would be a disruption of a tradition of safe tours in the Badlands since the 1960s.

Correspondence ID: 42Project:102957Document:123301

Name: McClure, Lynn

Received: Oct,06 2022 15:31:06

Correspondence Type: Web Form

Correspondence: To: National Park Service and Federal Aviation Administration

Re: Scoping comments for the Badlands National Park air tour management plan

Please find comments from the National Parks Conservation Association (NPCA) on the alternatives presented in the Badlands National Park air tour management plan. Since 1919, NPCA has been the leading voice of the American people in protecting and enhancing our National Park System. On behalf of our nearly 1.6 million members and supporters, we ask you to consider our views. We have included comments on Alternatives 2 and 4, with strong support

for adopting Alternative 2 as the preferred alternative in the final air tour management plan.

Badlands National Park is one where most visitors experience only a fraction of its beauty and are exposed to a small portion of the great stories it was established to tell, so NPCA understand why a visitor might want to see more of the park by air. But to date, the park has had no air tour management plan in place for its current air tour providers. The National Parks Air Tour Management Act of 2000 (NPATMA) clearly provides direction for the National Park Service (NPS) and Federal Aviation Administration (FAA) when developing a plan:

"The objective of any air tour management plan shall be 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."

In the section "alternatives considered and dismissed" NPS acknowledges, "Noise from additional or current levels of air tours inhibits the NPS's ability to meet [the Park's legislated] purposes." The Park's purposes include preserving and interpreting the history, culture, and heritage of the Sioux Nation and Lakota people; wilderness character and values; unique landforms, scenery, and natural resources (see the Park's Foundation Document). In the Scoping Document, NPS states that "Noise from air tours negatively impacts existing sacred sites within the Park that are associated with Tribal Nations, as well as the visitor experience and interpretation of the cultural and natural resources of the Park." And the Scoping Document also states that "Noise from air tours over the Badlands Wilderness interferes with the opportunity for solitude and detracts from the natural quality of wilderness."

The NPS is required to avoid impacts to sacred sites to the extent possible (NPS Management Policies 2006 5.3.5.3.2). We believe NPS has the authority and duty under NPATMA to decide when air tours are adversely impacting natural and cultural resources, visitor experience, and tribal lands and to take action to remedy those impacts. Based on statements in the Scoping Document, NPCA supports NPS in a decision to discontinue all air tours in and within the ½ mile buffer zone of the Park (Alternative 2).

We appreciate the work that NPS has done in this scoping, especially in Alternative 4, to identify how it could accommodate air tours over the Park and minimize the impact to park resources, visitor experience, and the traditional homelands of the Oglala Lakota people. In this Alternative, NPS proposes to "restrict and reduce air tour operations within the ATMP planning area. Primarily, the conditions in this alternative include annual and daily caps, designated routes, and required minimal altitudes."

NPCA appreciates the reduction in number of tours, the newly designated routes, the incentives for quiet technology, and especially the required minimal altitudes for air tours. However, NPCA also recognizes that consistently monitoring and enforcing to ensure that commercial air tour operators are complying with the terms and conditions of the ATMP will be difficult and inconsistent at best and result in impacts to Tribal lands and people, wildlife and wilderness, and visitor experience. In addition, the Scoping Document clearly indicates that if NPS adaptive management cannot minimize impacts resulting from air tours over the Park, that an amendment to the agreement would take place that would address those impacts. But, the path to identifying and rectifying any non-compliance on the part of air tour operators illustrates how difficult enforcement and recourse may be for NPS and the Scoping Document is unclear on specific action that would occur in cases of non-compliance:

"If the NPS identifies instances of non-compliance, the NPS will report such findings to the FAA's local FSDO. The FSDO will investigate all substantiated reports of noncompliance. The public may also report allegations of non-compliance with the ATMP to the FSDO, which may result in an FAA investigation." (emphasis added)

In closing, this ATMP purpose is "to comply with the National Parks Air Tour Management Act of 2000 (the Act) and other applicable laws, consistent with the Plan and Schedule for Completion of Air Tour Management Plans at Twenty-Three Parks." But the laws and policies governing National Park Service mission and duties are grounded in the Organic Act of 1916 to conserve park resources and provide for their use and enjoyment "in such a manner and by such means as will leave them unimpaired" for future generations (16 U.S.C. Section 1).

NPCA believes that to fulfill their mission and duty under the Organic Act and other laws and policies as noted in these

comments, NPS must identify Alternative 2 as the preferred and prohibit air tours within Badlands National Park.

Sincerely,
Lynn McClure
Senior Director, Midwest
312-343-7216
lmccclure@npca.org

Correspondence ID: 43Project:102957Document:123301

Name: Tippey, David K

Received: Oct,06 2022 16:50:24

Correspondence Type: Web Form

Correspondence: Tour operators have safely operated in this airspace for decades. It is a cardinal doctrine of the national park system that these spaces are to be shared among all Americans. For this reason, I oppose any further restrictions on flight operations in these areas. The aircraft in question are seen and heard for a very small percentage of the time and are no more distracting than cars or trucks on the adjacent highways. Further restrictions will limit the ability of many people to see the full extent of the parklands with no significant improvement to the experience of others. Taken to the logical conclusion, such limitations will continue to be enacted until a perfectly pristine park system cannot be enjoyed by anyone since any human presence will be deemed illegal.

Correspondence ID: 44Project:102957Document:123301

Name: ,

Received: Oct,06 2022 17:48:36

Correspondence Type: Web Form

Correspondence: 1. The objective of this project is stated in "Project Introduction" on page 2. "The objective of this ATMP, under the Act, is to develop acceptable and effective measures to mitigate or prevent the SIGNIFICANT adverse impacts of commercial air tour operation on the Park's natural and cultural resources, Native Hawaiian sacred sites and ceremonial areas, wilderness character, and visitor experience." [Emphasis added to the word "significant" which is clearly the requirement of the Act.]

The project "Need" states, "The Act requires that the FAA and the NPS develop acceptable and effective measures to mitigate or prevent SIGNIFICANT adverse impacts, if any, of commercial air tour operations on natural and cultural resources, wilderness character, visitor experience, and Native Hawaiian Traditional Cultural Properties including Native Hawaiian sacred sites and ceremonial areas." [Emphasis again on mitigating or preventing "significant" adverse impacts, if any.]

The Air Tour Act [49 USC 4012] states, "An air tour management plan for a national park - shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E) and include such justifications in the record of decision."

Based on the stated objective, need, and justification required for measures taken, levels of significance must be established and fully explained for this project in the proposed EA to establish compliance.

2. The scoping document proposes several "Alternatives Considered and Dismissed" prematurely and inappropriately.

The Newsletter states that "These alternatives were dismissed from further consideration because the NPS determined they would result in UNACCEPTABLE impacts... under the NPS Management Policies 2006 1.4.7.1." [Emphasis added to the term 'unacceptable';.]

NPS Management Policies 2006 1.4.7 states, "In making a determination of whether there would be an impairment, an NPS decision-maker must use his or her professional judgment. This means that the decision-maker must consider any

environmental assessments or environmental impact statements required by the National Environmental Policy Act of 1969 (NEPA); consultations required under section 106 of the National Historic Preservation Act (NHPA), relevant scientific and scholarly studies; advice or insights offered by subject matter experts and others who have relevant knowledge or experience; and the results of civic engagement and public involvement activities relating to the decision. The same application of professional judgment applies when reaching conclusions about "unacceptable impacts."

Therefore, the dismissal of alternative(s) is premature.

3. The scoping document states, "Additionally, current air tours over the Park impede the NPS's ability to fully meet the Park's purposes of protecting wilderness character and values, natural resource protection (including the acoustic environment), interpreting the natural and cultural resources of the Park." How was this determined prior to analyzing impacts in the EA? Again a premature determination.

4. The "Monitoring and Enforcement" section describes air tour operators requirement to report operations on a semi-annual basis.

5. The "Quiet Technology Incentives" section states, "Operators that have converted to quiet technology aircraft may request to be allowed to conduct air tours beginning at sunrise or ending at sunset on all days that flights are authorized." Quiet technology helicopters require millions of dollars of investment. Adding one hour of available flight time after sunrise and one hour before sunset for a maximum of 16 flights per day, and no flights from October 1 through April 30, seems like the proposed "incentive" is laughably inadequate, and not in compliance with the Act.

The purpose of "incentives" is to encourage air tour operators to invest in very expensive aircraft. The EA must therefore include an analysis of the economics to determine if the incentives are realistic and meaningful.

Correspondence ID:	45Project:102957Document:123301
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1. The objective of this project is stated in "Project Introduction" on page 2. "The objective of this ATMP, under the Act, is to develop acceptable and effective measures to mitigate or prevent the SIGNIFICANT adverse impacts of commercial air tour operation on the Park's natural and cultural resources, tribal sacred sites and ceremonial areas, wilderness character, and visitor experience." [Emphasis added to the word "significant" which is clearly the requirement of the Act.]

The project "Need" states, "The Act requires that the FAA and the NPS develop acceptable and effective measures to mitigate or prevent SIGNIFICANT adverse impacts, if any, of commercial air tour operations on natural and cultural resources, wilderness character, visitor experience, and tribal lands." [Emphasis again on mitigating or preventing "significant" adverse impacts, if any.]

The Air Tour Act [49 USC 4012] states, "An air tour management plan for a national park - shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E) and include such justifications in the record of decision."

Based on the stated objective, need, and justification required for measures taken, levels of significance must be established and fully explained for this project in the proposed EA to establish compliance.

2. The scoping document proposes several "Alternatives Considered and Dismissed" prematurely and inappropriately.

The Newsletter states that "These alternatives were dismissed from further consideration because the NPS determined they would result in UNACCEPTABLE impacts... under the NPS Management Policies 2006 1.4.7.1." [Emphasis added to the term 'unacceptable';]

NPS Management Policies 2006 1.4.7 states, "In making a determination of whether there would be an impairment, an NPS decision-maker must use his or her professional judgment. This means that the decision-maker must consider any environmental assessments or environmental impact statements required by the National Environmental Policy Act of 1969 (NEPA); consultations required under section 106 of the National Historic Preservation Act (NHPA), relevant scientific and scholarly studies; advice or insights offered by subject matter experts and others who have relevant knowledge or experience; and the results of civic engagement and public involvement activities relating to the decision. The same application of professional judgment applies when reaching conclusions about "unacceptable impacts."

Therefore, the dismissal of alternative(s) is premature.

3. The scoping document states, "Additionally, current air tours over the Park impede the NPS's ability to fully meet the Park's purposes of protecting wilderness character and values, natural resource protection (including the acoustic environment), interpreting the natural and cultural resources of the Park." How was this determined prior to analyzing impacts in the EA? Again a premature determination.

4. The "Quiet Technology Incentives" section states, "Operators that have converted to quiet technology aircraft may request to be allowed to conduct air tours beginning at sunrise or ending at sunset on all days that flights are authorized." Quiet technology helicopters require millions of dollars of investment. Adding one hour of available flight time after sunrise and one hour before sunset for a maximum of 16 flights per day, and no flights from October 1 through April 30, seems like the proposed "incentive" is laughably inadequate, and not in compliance with the Act.

The purpose of "incentives" is to encourage air tour operators to invest in very expensive aircraft. The EA must therefore include an analysis of the economics to determine if the incentives are realistic and meaningful.
