

**Exhibit 2 – Letter re Proposed Undertaking and APE,
dated August 27, 2021, and Responses**



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

August 27, 2021

Re: Continuing Consultation under Section 106 of the National Historic Preservation Act for the development of an Air Tour Management Plan at Bandelier National Monument

Michelle Ensey
Deputy State Historic Preservation Officer
New Mexico State Historic Preservation Office
407 Galisteo Street, Ste. 236
Santa Fe, NM 87501

Dear Michelle Ensey:

The Federal Aviation Administration (FAA), in coordination with the National Park Service (NPS), seeks to continue consultation with your office under Section 106 of the National Historic Preservation Act (NHPA) for the development of an Air Tour Management Plan (ATMP) at Bandelier National Monument (Park). The FAA initiated consultation with your office in a letter dated March 29, 2021.

This letter presents a description of the proposed undertaking in accordance with 36 CFR 800.3(a) and 800.16(y) and a proposed Area of Potential Effect (APE) pursuant to 36 CFR 800.4(a)(1). The FAA has completed its initial historic property identification effort within the proposed APE in accordance with 36 CFR 800.4. The FAA specifically requests your comments on our proposed APE and initial historic property identification efforts.

Description of the Undertaking

The proposed ATMP would apply to commercial air tours over the Park, within a half-mile outside the boundary of the Park, and over tribal lands within or abutting the Park. The FAA and the NPS have documented the existing conditions for the commercial air tour operations at the Park. The FAA and the NPS consider the existing operations for air tours to be an average of 2017-2019 annual air tours flown, which is 101 air tours. A three-year annual average is used because it reflects the most accurate and reliable air tour conditions, and accounts for variations across multiple years. Commercial air tours over the Park are conducted in a fixed-wing aircraft: CE-182-R. At the park, commercial air tours will fly no lower than 2,600 feet (ft.) above ground level (AGL), depending on the route and location over the park.

The proposed ATMP would authorize commercial air tour operations at the Park in accordance with the following conditions:

- 101 commercial air tours per year;
- Commercial Air tours shall be conducted on the routes shown in **Attachment A**. While over the Park, air tours will fly no lower than 2,600 ft. AGL, referencing the topographic high-point within ½-mile of the flight path;
- The aircraft type authorized to be used for commercial air tours is a CE-182-R fixed wing aircraft. Any new or replacement aircraft must not exceed the noise level produced by the aircraft being replaced;
- Air tours may operate two hours after sunrise until two hours before sunset, as defined by the National Oceanic and Atmospheric Administration (NOAA).¹ Air tours may operate any day of the year, except under circumstances provided in the bullet below;
- If the operator has converted to quiet technology aircraft, the operator will be allowed to conduct tours beginning one hour after sunrise until one hour before sunset on all days that flights are authorized;
- The NPS may establish temporary no-fly periods that apply to commercial air tours for special events or planned Park management. Absent exigent circumstances or emergency operations, the NPS will provide a minimum of 15 days written notice to the operator for any restrictions that temporarily restrict certain areas or certain times of day, or 60 days written notice to the operator for any full-day restrictions in advance of the no-fly period. Events may include tribal ceremonies or rituals as determined by affected tribes;
- Operators would submit semi-annual reports to the FAA and the NPS regarding the number of commercial air tours conducted by the operator over the Park;
- When made available by Park staff, the operator/pilot will take at least one training course per year conducted by NPS staff;
- At the request of either of the agencies, the Park staff, the local FAA Flight Standards District Office (FSDO), and the operator will meet once per year to discuss the implementation of the ATMP and any amendments or other changes to the ATMP;
- For situational awareness when conducting tours of the Park, the operators will utilize frequency 122.9 and report when they enter and depart a route. The pilot should identify their company, aircraft, and route to make any other aircraft in the vicinity aware of their position.

Proposed Areas of Potential Effects

The proposed APE for this undertaking (36 CFR 800.4(a)(1)) as defined at 36 CFR 800.16(d) is the geographic areas within which the undertaking may directly or indirectly cause alterations in the character or use of any historic properties, if any such properties exist. The proposed FAA and NPS approval of the ATMP does not require land acquisition, construction, or ground disturbance, and the FAA anticipates no physical effects to historic properties. The FAA is therefore focusing its assessment on the potential introduction of visual or audible elements that could diminish the integrity of any identified significant historic properties.²

¹ Sunrise and sunset data is available from the National Oceanic & Atmospheric Administration Solar Calculator, <https://www.esrl.noaa.gov/gmd/grad/solcalc/>

² The term historic property is defined in 54 U.S.C. 300308 and 36 CFR 800.16(l)(1).

In establishing the proposed APE, the FAA sought to include areas where any historic property present could be affected by noise from or sight of commercial air tours over the Park or adjacent tribal lands. The FAA will consider the number and altitude of commercial air tours over historic properties in these areas to further assess the potential for visual effects and any incremental change in noise levels that may result in alteration of the characteristics of historic properties qualifying them for the National Register of Historic Places (NRHP).

The FAA proposes an APE comprising the area of the Park and a half-mile outside the boundary of the Park, excluding the Tsankawi Section, as depicted in **Attachment A** below.

Preliminary Historic Property Identification

The FAA, in cooperation with the NPS, has undertaken preliminary efforts to identify historic properties within the APE. In so doing, the FAA has taken into consideration the views of consulting parties, past planning, research and studies, magnitude and nature of the undertaking, the degree of Federal involvement, the nature and extent of potential effects on historic properties and the likely nature of historic properties within the APE in accordance with 36 CFR 800.4(b)(1). As such, the historic property identification effort has focused on properties for which setting and feeling are characteristics contributing to the property's NRHP eligibility. The FAA is also considering whether air tours could affect the use of traditional cultural properties (TCPs) associated with cultural practices, customs or beliefs that continue to be held or practiced today. NPS staff at Bandelier National Monument have informed the FAA that a number of tribes have indicated that they consider the entire park is part of a larger sacred landscape.

The FAA, with assistance from the park, has identified two historic properties within the APE for which feeling and setting are characteristics that make the properties eligible for listing on the NRHP. These historic properties are shown in the proposed APE map provided at **Attachment A** and listed in **Attachment B**.

Review Request

The FAA requests that you provide comments you may have regarding the proposed APE and initial historic property identification of historic properties. The FAA also requests your assistance in identifying any other historic properties that may be located within or near the APE. Should you wish to receive additional information regarding this undertaking, please contact Cathy Nadals at Catherine.L.Nadals@faa.gov and (202) 267-0746 or the ATMP team at ATMPTeam@dot.gov. We will reach out in the next couple of weeks to schedule a follow up via phone or video conference.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cathy Nadals', with a long horizontal flourish extending to the right.

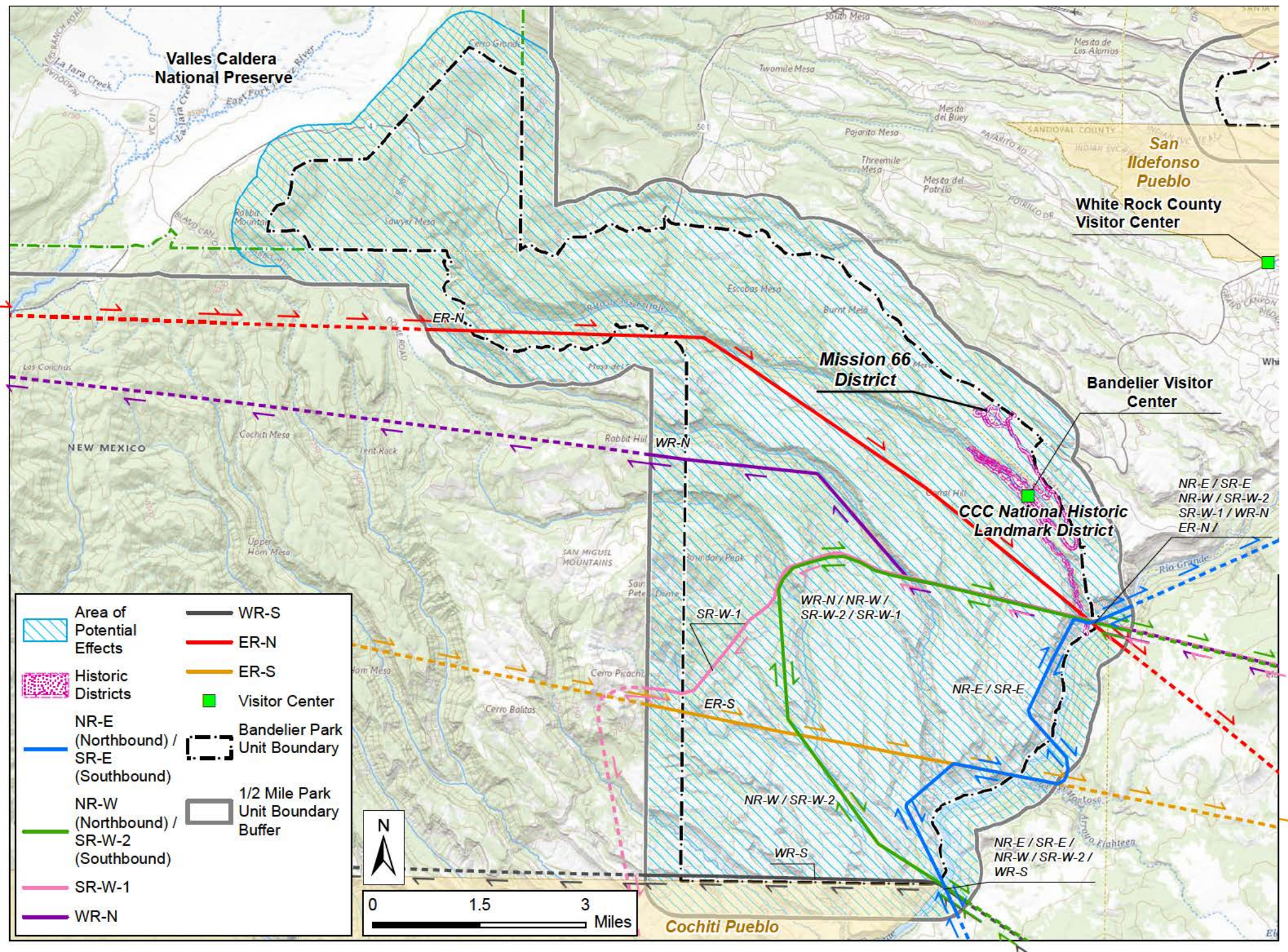
Cathy Nadals
Cultural Resource Specialist
Federal Aviation Administration

Attachments

- A. APE Map including proposed Commercial Air Tour Routes
- B. List of Historic Properties in the APE

**ATTACHMENT A
AREA OF POTENTIAL EFFECT MAP
INCLUDING
COMMERCIAL AIR TOUR ROUTES**

Area of Potential Effects Map for ATMP at Bandelier National Monument



ATTACHMENT B
LIST OF HISTORIC PROPERTIES IN THE APE

ID	Historic Property Name	Historic Status
1	Bandelier CCC National Historic Landmark District	Listed
2	Bandelier National Monument Archeological and Historic District (Mission 66 District)	Listed



Michelle Lujan
Grisham, Governor

STATE OF NEW MEXICO
DEPARTMENT OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION

BATAAN MEMORIAL BUILDING
407 GALISTEO STREET, SUITE 236
SANTA FE, NEW MEXICO 87501
PHONE (505) 827-6320 FAX (505) 827-6338

September 1, 2021

Cathy Nadels
Cultural Resource Specialist
Federal Aviation Administration
Catherine.L.Nadels@faa.gov

Re: Continuing Consultation under Section 106 for the development of an Air Tour
Management Plan at Bandelier National Monument

Dear Ms. Nadels:

Thank you for your letter regarding the proposed Area of Potential Effects (APE) and preliminary identification efforts for the referenced undertaking. The State Historic Preservation Office has no concerns with the proposed APE or the preliminary identification efforts.

Although Bandelier National Monument encompasses many archaeological sites, I agree that the Bandelier CCC National Historic Landmark District and the Mission 66 District are the two properties likely to be affected by air tours. At this time, I am not aware of any other properties within or near the APE that could be considered but tribal consultation may identify traditional cultural properties, including archaeological sites, that have the potential to be affected.

Please do not hesitate to contact me if you have any questions. I can be reached by telephone at (505) 827-4064 (office), [REDACTED] (cell), or by email at michelle.ensey@state.nm.us.

Sincerely,

Michelle M. Ensey
Deputy State Historic Preservation Officer &
State Archaeologist

Log: 115792

From: [Nadals, Catherine L \(FAA\)](#)
To: [Bernstein, Bruce](#); [ATMPTeam](#)
Cc: [REDACTED]; [Manning, Derek \(Volpe\)](#); [Rimol, Kaitlyn \(Volpe\)](#); [Schmidt, Jonathan \(Volpe\)](#); [ctoya@jemezpuablo.org](#); [thpo@sanipueblo.org](#); [jayson.romero@cochiti.org](#); [Ben Chavarria](#); [mamitchell@puebloftesuque.org](#); [Lusk, Keith <FAA>](#); [Elmore, Eric <FAA>](#)
Subject: RE: Section 106 Consultation for Air Tours at Bandelier National Monument_Pueblo of Pojoaque, New Mexico
Date: Wednesday, September 15, 2021 1:52:13 PM
Attachments: [image002.png](#)

Dear Bruce Bernstein.

Thank you for your comments regarding the importance of Bandelier to your tribe. You noted specifically that it is the Pueblo of Pojoaque's perspective that air tours should not be allowed at Bandelier because it violates the sacred landscape of the area and its continuing use by Pueblo communities and people. You noted that, "clearly and indisputably, you have determined that air tours will affect the use of traditional cultural properties (TCPs) and Ancestral sites and shrines located throughout the region."

Please know that the public meeting being held tonight is our process for engaging the public about the Bandelier air tour management plan. However, this meeting does not at all replace our government-to-government responsibilities to consult with federally recognized tribes.

Please feel free to contact me directly and send any additional comments regarding any specific concerns you have about the Bandelier air tour management plan beyond the comments you sent me today.

I think the public meeting tonight will be helpful in better understanding the air tour management planning process including ways air tour management plans can require restrictions and requirements of operators flying over Bandelier.

Feel free to contact me by phone at 240-446-5086 should you have any specific concerns about how we could develop an ATMP that would best address your concerns.

-Cathy

From: Bernstein, Bruce <bbernstein@pojoaque.org>
Sent: Wednesday, September 15, 2021 12:06 PM
To: ATMPTeam <ATMPTeam@dot.gov>; Nadals, Catherine L (FAA) <Catherine.L.Nadals@faa.gov>
Cc: [REDACTED]
[REDACTED]; Manning, Derek (Volpe) <Derek.Manning@dot.gov>; Rimol, Kaitlyn (Volpe) <Kaitlyn.Rimol@dot.gov>; Schmidt, Jonathan (Volpe) <Jonathan.Schmidt@dot.gov>; ctoya@jemezpuablo.org; thpo@sanipueblo.org; jayson.romero@cochiti.org; Ben Chavarria <bchavarria@santaclarapueblo.org>; mamitchell@puebloftesuque.org
Subject: Re: Section 106 Consultation for Air Tours at Bandelier National Monument_Pueblo of

Pojoaque, New Mexico

Dear Ms. Nadals,

Thank you for the opportunity to comment on development of an Air Tour Management Plan at Bandelier National Monument. The Pueblo appreciates your agency's efforts to construct a plan to minimize damage to the cultural and natural landscape of the Monument. Nonetheless, it is the Pueblo of Pojoaque's perspective that air tours should not be allowed at Bandelier because it violates the sacred landscape of the area and its continuing use by Pueblo communities and people. Clearly and indisputably, air tours will affect the use of traditional cultural properties (TCPs) and Ancestral sites and shrines located throughout the region. *"The FAA is also considering whether air tours could affect the use of traditional cultural properties (TCPs) associated with cultural practices, customs or beliefs that continue to be held or practiced today. NPS staff at Bandelier National Monument have informed the FAA that a number of tribes have indicated that they consider the entire park is part of a larger sacred landscape."* The EA must take Tribal viewpoints into serious consideration.

It is positive that mentioned in your letter is that the APE will be areas of historic properties that could be affected by noise and sight of aircraft. Historic properties are a broad and unspecific category in which, certainly, Native built and used space is included. There are 5000 Ancestral sites in the region, over 2000 in the Monument so it is uncertain how any of these properties will be avoided and not affected. *"In establishing the proposed APE, the FAA sought to include areas where any historic property present could be affected by noise from or sight of commercial air tours over the Park or adjacent tribal lands."*

"The proposed APE for this undertaking (36 CFR 800.4(a)(1)) as defined at 36 CFR 800.16(d) is the geographic areas within which the undertaking may directly or indirectly cause alterations in the character or use of any historic properties, if any such properties exist." The Pueblo of Pojoaque appreciates that the APE includes this consideration, however, as stated above with the density of cultural properties and their continuous use the air tours will contribute to their degradation as well as be intrusive to the privacy of continuous use of the area by Pueblo peoples.

Finally, the Pueblo sincerely hopes that FAA and NPS will take into consequential consideration the permanent effects of visible and audible intrusions from aircraft flights. *"The proposed FAA and NPS approval of the ATMP does not require land acquisition, construction, or ground disturbance, and the FAA anticipates no physical effects to historic properties. The FAA is therefore focusing its assessment on the potential introduction of visual or audible elements that could diminish the integrity of any identified significant historic properties."*

While completing this email, an email was received about a public meeting this evening (September 15). While a public

meeting is notably different than a consultation, the Pueblo hopes that the last-minute notification does not presage consultations.

Thank you for your consideration.

Bruce Bernstein, PhD

Tribal Historic Preservation Officer

P'osuwageeh Owingeh - Pueblo of Pojoaque

O: 505-455-5505

C: 505-795-6152



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From: ATMPTeam <ATMPTeam@dot.gov>

Sent: Friday, August 27, 2021 1:50 PM

To: Bernstein, Bruce <bbernstein@pojoaque.org>

Cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Manning, Derek (Volpe)

<Derek.Manning@dot.gov>; Nadals, Catherine L <FAA> <catherine.l.nadals@faa.gov>; Rimol, Kaitlyn (Volpe) <Kaitlyn.Rimol@dot.gov>; Schmidt, Jonathan (Volpe) <Jonathan.Schmidt@dot.gov>

Subject: Section 106 Consultation for Air Tours at Bandelier National Monument_Pueblo of Pojoaque, New Mexico

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Bruce Bernstein:

The Federal Aviation Administration (FAA) and the National Park Service (NPS) are continuing our Section 106 consultations with your office for the development of an Air Tour Management Plan (ATMP) at Bandelier National Monument. The FAA is acting as the lead federal agency for purposes

of complying with Section 106 for this undertaking.

We are writing you now to present a description of the undertaking in accordance with 36 CFR 800.3(a) and 800.16(y) along with our proposed Area of Potential Effect (APE) pursuant to 36 CFR 800.4(a)(1). FAA has also completed its initial historic property identification in accordance with 36 CFR 800.4 and requests your assistance in identifying additional historic properties that may be located within the proposed APE.

Please let us know if you have any comments regarding our proposed APE and initial historic property identification efforts.

Should you would wish additional information about any of the above, please contact me at catherine.l.nadals@faa.gov or (202) 267-0746 and ATMPTeams@dot.gov.

Thank you for your time and consideration.

Best Regards,
Cathy Nadals



Pueblo de San Ildefonso
Office of the Governor

SI-GC21-163

September 23, 2021

Patrick Suddath
Superintendent
Bandelier National Monument
15 Entrance Rd.
Los Alamos, NM 87544

RE: Air Tour Management Plan

Dear Superintendent Suddath:

We are writing in response to the National Park Service's (NPS) and Federal Aviation Administration's (FAA) proposed Air Tour Management Plan (ATMP) for Bandelier National Monument. We have reviewed the draft Air Tour Management Plan the proposal, participated in the public meeting for the Bandelier National Monument Air Tour Management Plan and reviewed documentation associated with the continuing consultation under Section 106 of the National Historic Preservation Act.

We would like to provide context for the Pueblo de San Ildefonso's comments on the ATMP. The Pueblo de San Ildefonso considers Bandelier to lie within the ancestral domain of the pueblo and considers the documented cultural resources within to be the material evidence of the occupation of the monument by our ancestors whose spiritual presence resides within the domain. In addition, there are extensive resources within the monument that are not documented but are associated with traditional and ceremonial practices conducted since time immemorial into the present.

Given the context above, we feel any form of increased air tours within the boundaries of the monument and its surrounding area, has the potential to affect maintenance of traditional and ceremonial practices by the Pueblo de San Ildefonso. We also believe there is a potential for air tours to affect or contaminate the spiritual domain and presence of our pueblo ancestors. For these reasons we are opposed to any action that authorizes increased air tours over Bandelier.

Regardless of height restrictions, we feel there will be an adverse effect to wildlife, birds and other animals within the confines of the monument and adjacent lands managed by a variety of communities and agencies. These wildlife resources are an extension of the ecosystem important to the maintenance of traditional Pueblo lifeways.

Another item that has not been addressed is the potential for the Air Tour Management Plan to affect restricted airspace over Los Alamos National Laboratory (LANL). Although we do not know the details of LANL's air space, we understand that airspace to include portions of lands included within the ancestral domain of the Pueblo.

With regard to potential adverse effects to historic properties as defined under Section 106 of the National Historic Preservation Act, there is further work that needs to be completed. When discussing the Area of Potential Effect (APE), we have some concerns. Your proposed APE allows for the potential of noise from or sight of commercial air tours over the Monument and adjacent tribal lands. This would adversely affect the qualities that make historic properties eligible for the National Register, without accounting for certain kinds of historic properties that might not be captured during archaeological survey. We feel the inventory of historic properties based upon archaeological survey is incomplete and would benefit from additional inventory documenting ethnographic use within the APE. In addition, your APE appears to consider only Monument lands and adjacent tribal lands. There are lands managed by other jurisdictions including private, municipal, state and federal such as Santa Fe and Los Alamos Counties, Forest Service, BLM and DOE lands.

The Pueblo de San Ildefonso considers the lands of the monument as well as surrounding lands on a variety of land jurisdictions within the ancestral domain to be a traditional cultural landscape of which the archaeological resources form only a part. Based on the ethnographic study of the Tsankawi Unit of Bandelier we assert that Bandelier and surrounding lands are part of the San Ildefonso cultural landscape which.....

“...is a living landscape because the spirits of San Ildefonso ancestors continue to reside at ancestral sites and the San Ildefonso people continue to use the land in cultural practices. This cultural landscape, including Tsankawi, is integral to the identity of San Ildefonso people and crucial in the retention and transmission of San Ildefonso cultural and history. (Spears, Hopkins and Ferguson 2019)”

This statement would hold for all lands contained within the immediate ancestral domain of San Ildefonso encompassing the Pajarito Plateau, the Jemez Mountains, the Rio Grande and the canyon of the Caja del Rio. As such we would maintain that the inventory of historic properties is incomplete and does not account for the additional non-archaeological cultural components of the cultural landscape that have the potential for those components or the larger cultural landscape to be eligible as historic properties. Nor does the inventory account for the potential noise and visual effects to those properties that make the cultural landscape and its components eligible for the National Register.

Aside from the process associated with Section 106 and the environmental analysis for the National Environmental Policy Act (NEPA) it is important for the Monument and the FAA to understand that the Pueblo de San Ildefonso does not support authorization of air tours over Bandelier National Monument under any circumstances or mitigating measures. Furthermore, we would encourage any existing air tours be discontinued immediately.

We thank you for providing the Pueblo de San Ildefonso the opportunity to make our position clear with regard to the Air Tour Management Plan for Bandelier National Monument. Please do not hesitate to contact my office to discuss this matter further.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. Moquino', with a long horizontal stroke extending to the right.

Christopher A. Moquino
Governor
Pueblo de San Ildefonso

CC: Catherine Nadals, FAA (Catherine.L.Nadals@faa.gov)
Scott McFarland, NPS
Senator Martin Heinrich
Senator Ben Ray Lujan
Representative Teresa Leger Fernandez
Pueblo de San Ildefonso Tribal Council

P.O. Box 4339
San Felipe Pueblo, NM 87001



Phone: (505) 867-3381/3382
FAX: (505) 867-3383

Office of the Governor

October 4, 2021

Bandelier National Monument
Patrick Suddath, Superintendent
15 Entrance RD
Los Alamos, NM 87544

National Park Service
Natural Sounds and Night Skies Division
BAND ATMP
1201 Oakridge Dr., Suite 100
Fort Collins, CO 80525
Submitted Via Email at: <https://parkplanning.nps.gov/comment>

RE: Bandelier National Monument Air Tour Management Plan

Dear Superintendent Suddath and the NPS Natural Sounds and Night Skies Division,

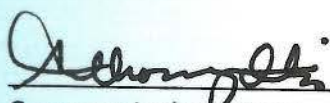
We hope this letter finds you well, and although we have not been introduced, we understand you are newly appointed as the Superintendent for Bandelier National Monument. What is known to you as Bandelier is ancestral tribal land, and a sacred, living and ongoing part of San Felipe's culture, tradition and religious practice. What was left there is for the continuance of our livelihood as Pueblo people, not for recreation, study or tourism. We oppose our cultural sites and resources being objectified, commodified, and damaged. We write to you today regarding the Bandelier National Monument Air Tour Management Plan. We have a number of objections to both the process and the Plan including:

1. We were not consulted with on either the National Parks Air Tour Management Act of 2000 (Act) or the Plan, rather we heard about the recent consultation by "word of mouth".

2. The consultation period is too short. Under normal times 30 days is too short, as you may know we are still mitigating for Covid-19 and require additional time. We learned today the consultation period was extended to October 13th, but this is insufficient due to lack of outreach.
3. We strongly oppose the September 15th tribal consultation, communication or outreach being conducted via YouTube and outside of regular business hours. It was disrespectful the way questions were filtered, and indicates how little the NPS or FAA are invested in hearing from tribal leadership on this matter.
4. We strongly disagree with the determination that this Plan falls under a Categorical Exclusion. We insist the FAA and NPS fulfill proper and comprehensive NEPA and NHPA assessments working with Tribal Historic Preservation Officers and Tribal Leadership.
5. We strongly oppose the Air Tours as they negatively impact the cultural resources and our ability to freely practice our culture and tradition at Bandelier and other locations without interruption or invasion of privacy by tourism and commerce.
6. The FAA should have information about their Tribal program and Tribal Liaison on their website.
7. We ask that proper outreach, communication and consultation commence and include Government to Government consultation with the Pueblo of San Felipe as well as the All Pueblo Council of Governors.

We look forward to Government to Government consultation on this matter so we can discuss the items listed above as well as other concerns around Bandelier National Monument. Please contact Pinu'u Stout, Natural Resources Director to make arrangements for consultation at 505-771-6628 or pstout@sfpueblo.com.

Sincerely,
Pueblo of San Felipe


Governor Anthony Ortiz





P.O. Box 309

Acoma, New Mexico 87034

PUEBLO OF ACOMA
Tribal Historic Preservation Office

TELEPHONE: 505-552-5124

505-552-5127

December 9, 2021

Mr. David C. Suomi
Regional Administrator
Northwest Mountain Region
Federal Aviation Administration
1601 Lind Avenue Southwest
Renton, WA 98057

Dear Mr. Suomi and team,

Thank you for your letter to the Pueblo of Acoma dated March 26, regarding *Initiation of consultation under 36 CFR 800, the National Park Air Tour Management Act, and Invitation for Government-to-Government Tribal consultation pursuant to Executive Order 13175 and FAA Order 1210.20*. The Pueblo of Acoma appreciates the Federal Aviation Administration's (FAA) solicitation of our input and your effort to address our concerns.

The Pueblo of Acoma continues to claim cultural affiliation to many areas in New Mexico, Arizona, Colorado, and Utah including those within the boundaries of Arches National Park, Bandelier National Monument, Canyon de Chelly National Monument, and Canyonlands National Park. Furthermore, the Acoma Tribal Historic Preservation Office (ATHPO), recognizes each of these places contains the cultural and archeological "footprints" of our ancestors, along with cultural landscape, shrines, and gathering places, and because they remain tied to our present-day village of Haak'u, they are also considered Traditional Cultural Properties.

The Pueblo of Acoma has concerns with the proposed Air Tours. Our concerns stem from the direct experience the Pueblo of Acoma has had over the years with both authorized and non-authorized "fly-overs." We have seen the direct effect the flyovers can have on fragile historic structures and sensitive cultural areas in and around the pueblo. Sadly, it has been our experience that although the pueblo has requested "no-fly" periods for tribal ceremonies, non-authorized flights still occur and have lasting consequences on tribal members as they continue mark cultural observances and practice with sensory intrusions from flights.

The average number of tours projected for a three-year period, at Bandelier National Monument, is 101 air tours. The Pueblo of Acoma experiences "fly-overs" on an annual basis, from military aircraft, private aircraft, helicopters, and commercial aircraft, and understands the direct effects on the buildings, sacred

areas, livestock grazing, and wildlife patterns. Although the air tours have operated for over 20 years, the Pueblo remains concerned with the cumulative effects that will occur from direct flyovers, as well as the disruption caused to these sacred places.

The Pueblo of Acoma requests continued consultation on this proposal, as well as feedback from other tribes. Should you have any questions or concerns you can contact me at (505) 552-5124 ext. 5538 or at sconcho@poamail.org.

Respectfully,

A handwritten signature in black ink, appearing to read 'Steven Concho', with a stylized flourish at the end.

Steven Concho
Pueblo of Acoma Tribal Historic Preservation Officer

CC: HPO
Administration
Cathy Nadals
Rob Lowe
Raquel Girvin
Southeast Utah Group, NPS
Bandelier National Monument, NPS
Canyon de Chelly National Monument, NPS

SANTA CLARA

POST OFFICE BOX 580
(505) 753-7330
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INDIAN PUEBLO

ESPANOLA, NEW MEXICO
87532
OFFICE OF GOVERNOR

January 18, 2022

Rob Lowe
Regional Administrator
FAA Southwest Region
Federal Aviation Administration

Patrick Suddath
Superintendent
Bandelier National Monument
National Park Service

Catherine Nadals
Cultural Resources Specialist
Office of Environment and Energy
Federal Aviation Administration

John Wensel
Manager
FAA Flight Standards District Office
Federal Aviation Administration

Re: Santa Clara Pueblo Consultation Comments on the FAA's Draft Air Tour Management Plan for Bandelier National Monument

Dear Mr. Lowe, Mr. Suddath, Ms. Nadals, and Mr. Wensel,

On behalf of Santa Clara Pueblo, we respectfully submit the following comments on the Federal Aviation Administration (FAA) and National Park Service's (NPS) Draft Air Tour Management Plan (ATMP) for Bandelier National Monument in New Mexico. Santa Clara Pueblo is a federally recognized sovereign Tribal Nation with deep ties to Bandelier and its surrounding cultural landscape. It is a part of our ancestral migration history and holds a pivotal role in the expression of our Pueblo identity today. As such, it is vital that the parameters for any air tours of the area be designed and implemented through tribal consultation to ensure that our interests in Bandelier are appropriately protected.

The FAA and NPS are responsible for fulfilling the federal government's trust obligations to Tribal Nations, including our Pueblo, by ensuring that our interests are accounted for in all federal actions, programs, and policies that they undertakes. It is Administrator Dickson, Director Sams, and the staff of both agencies' solemn duty to ensure that this responsibility is upheld. Consultation with Tribal Leaders is key to this work.

We would like to thank the FAA and NPS for holding a one-on-one virtual consultation with our Pueblo prior to the submission of these written comments. Direct engagement between agency leadership and Pueblo leadership on a one-on-one basis is the strongest form of consultation. It honors the political government-to-government relationship that exists between our Pueblo and

the United States. It also enables for meaningful consultation around emergent issues in a way that fosters robust dialogue and mutually agreed upon outcomes. We encourage the FAA and NPS to continue to engage in high level, one-on-one tribal consultations going forward.

In the spirit of this consultation to advance the protection of the culturally important and sacred area of the Bandelier National Monument, I express the following comments and concerns on behalf of Santa Clara Pueblo, with due and utmost respect.

I. Santa Clara Pueblo's Opposition to Air Tours over Bandelier National Monument

Our Pueblo opposes the continuation of air tours over Bandelier National Monument. We request the full termination of such tours to best protect this critical and irreplaceable cultural landscape.

The lands that today comprise Bandelier National Monument are part of Santa Clara Pueblo's ancestral homeland. The lands are directly linked to our oral tradition, culture, and migration history. They also form a living part of the spiritual sanctuary of our people. Our ancestors continue to occupy Bandelier, and our people regularly access these lands for ceremonial purposes. The strong cultural and spiritual connections we hold extend throughout and beyond Bandelier's current boundaries. These ties are also shared by our sister Pueblos and other Tribal Nations.

The designation of Bandelier as a National Monument in 1916 imposed artificial boundaries across this key cultural landscape. There are thousands of documented tribal cultural properties (TCPs) within Bandelier, as well as countless unregistered sacred and culturally significant sites. The Draft ATMP itself recognizes the cultural significance of Bandelier, noting that it includes "one of the largest concentrations of Ancestral Pueblo archeological sites in the American Southwest" to which "[a]ffiliated pueblo Indian groups still have strong traditional associations and ties." See Draft ATMP at Section 2.1.

Our Tribal Historic Preservation Office strives to protect these sites in accordance with applicable law, but our limited available resources, lack of co-management authority, and inconsistencies in tribal consultation make this a steady challenge.

Flyovers from air tours in any quantity or capacity pose an unacceptable risk to Bandelier. While we can understand the draw of experiencing such a beautiful landscape from above, the potential and actual harm that arises in connection with each flight is far too great. An accident or discharge from an aircraft could permanently damage or destroy parts of the National Monument. Further, the noise and visual pollution of the air tours disrupts the conduct of ceremonies, the tranquility of our people accessing the lands for reflection or cultural purposes, and stresses wildlife. Our tribal interests in protecting our cultural heritage and religious expression—which are beyond value must be found to inherently outweigh those of recreational tourism.

Further, terminating the conduct of air tours over Bandelier would be consistent with the no-fly zones currently in place over the adjacent Valles Caldera Park Unit and the Los Alamos National Laboratory. Designating Bandelier as a similar no-fly zone would lead to greater uniformity in the protection of these important cultural and natural landscapes in New Mexico.

II. Comments on the Draft ATMP

Our Pueblo, as stated herein, opposes the operation of air tours over Bandelier National Monument. Should the FAA and NPS continue to authorize this activity it is essential that the preferences of our Pueblo and other Tribal Nations be incorporated into the applicable ATMP to the greatest extent possible. To that end, we offer the following recommendations on the Draft ATMP.

Section 1.0 – Introduction

We recommend that the Introduction be amended to include specific reference to tribal cultural protection and tribal consultation. Congress expressly found in the National Parks Air Tour Management Act of 2000, as amended—which mandates the development and implementation of applicable ATMPs—that "the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes." *See* Pub. L. 106-181 at Sec. 802(4). The Introduction should directly address this Congressionally-established priority.

Further, we recommend that the Introduction include discussion on the federal requirement that Tribal Nations be actively involved in the decision-making process related to the ATMP and any associated voluntary agreement. NPS and FAA are required "to solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in a commercial air tour operation over the park or tribal lands to which the plan applies, as a cooperating agency," 49 U.S.C. § 40128(b)(4)(D), as well as to "consult with any Indian tribe" whose lands are or may be overflown pursuant to a voluntary agreement, 49 U.S.C. § 40128(b)(7)(C). Tribal involvement decisions related to overflight activities is a matter of sovereignty that should be emphasized in the opening section of the ATMP.

It is important to stress that such involvement not be cabined to the development of this ATMP or the initial negotiation and operation of a voluntary agreement. Tribal engagement and active input into the overflight activities are *ongoing* requirements that honor our sovereign, permanent interests in the land being overflown. We must be engaged at all stages of the overflight process to ensure our interests are accounted for, including through periodic reassessment as to whether amendment to or even suspension of the ATMP or a voluntary agreement is appropriate.

Section 2.0 – Applicability

We recommend that the agencies include a new additional management objective under Section 2.1 to "Protect tribal and pueblo natural resources and cultural heritage and the exercise of indigenous religious beliefs and ceremonial practices." The existing management objective to "Protect sensitive cultural and historic sites" is insufficient, in our view, to address tribal concerns. The FAA and NPS have legal, moral, and trust obligations to safeguard tribal interests through the operation of this ATMP. Incorporation of our suggested management objective would be consistent with these obligations by providing greater specificity as to higher interests of Tribal Nations that are at stake in Bandelier that must be protected. It would also better demonstrate the agencies' commitment to honoring our tribal sovereignty.

It is our understanding that the provisions in this section related to the above ground level and lateral location requirements are carried forth from the implementing regulations for the National Parks Air Tour Management Act at 14 C.F.R. § 136.33(d). We suggest that the FAA and NPS consider a regulatory change to raise the above ground level minimum threshold for applicability from "below 5,000 feet" to "below 7,500 feet." A heightened minimum threshold would capture more flights and be consistent with the use of alternate thresholds for certain national parks. *See, e.g., Pub. L. 100-91 at Section 2(b).*

Section 3.0 – Conditions for the Management of Commercial Air Tour Operations at the Park

As previously stated, we strongly prefer that no tours take place at all to best protect our cultural interests, archeological resources, the tranquility of the site for visitors and ceremonial experiences, and the welfare of local wildlife. In the alternative, our Pueblo supports the imposition of tighter restrictions on the operation of commercial air tours at Bandelier. We recommend the following conditions be imposed under the ATMP.

Section 3.1 – Annual Commercial Air Tours Authorized. Authorization of seventy-five (75) annual commercial flights which are strictly limited to air tour operator Mr. Bruce M. Adams of Southwest Safaris. Our proposed annual limit is intended to further limit the potential disturbances caused by commercial air tours, particularly as domestic and international tourism within the National Parks System continues to escalate.

Section 3.2 – Commercial Air Tour Routes and Altitudes. Air tours should not fly below 3,800 feet above ground level (ABL) with reference to the topographic high-point within ½ mile of the applicable flight path. An expansion of the minimum ABL is justifiable as a matter of privacy to better protect those engaged in spiritual practices or ceremony at or near Bandelier, as well as to better insulate the covered area from noise pollution. We also believe that a heightened minimum ABL threshold would better advance the management objective of protecting raptor and migratory bird populations within Bandelier that typically fly at altitudes ranging from 700 feet to 3000 feet. Avoiding collisions with low-flying aircraft would be better achieved with a heightened ABL minimum threshold that is consistent with these avian flight behaviors.

We ask that the SR-E (Southbound) route proposed in the Draft ATMP be eliminated due to concerns over the route's proximity to and direct overlap with known Pueblo traditional cultural properties. This area is highly sensitive to our Pueblo. The overflight of any aircraft, though particularly those at lower altitudes as used in air tours, along route SR-E is disruptive to and disrespectful of this living cultural landscape.

We are concerned about the direct overflight of route SR-W-1 and proximity of route SR-W-2 (Southbound) to Cochiti Pueblo lands. With deference to any recommendations that may be made directly by Cochiti Pueblo, we recommend that these routes be shifted east of the Rio Grande so that they no longer crossover Cochiti Pueblo lands.

Section 3.3 – Aircraft Type. Our Pueblo supports the restriction of aircraft type to the CE-182-R (small four seat fixed engine plane). Larger aircraft and helicopters are highly disruptive

to the experience of being in nature or in a sacred space. The Draft ATMP's proposal to limit the only authorized aircraft type to CE-182-R fixed engine planes would prohibit those nuisances.

Section 3.4 – Day/Time. Authorization of no more than two (2) flights on a daily basis, which may begin only after the sun has been risen for two hours and must conclude at least two hours prior to sunset, as those times are defined by the National Oceanic and Atmospheric Administration. Air tours may operate throughout the year, except for on a day or period of days designated as culturally significant by a Tribal Nation or for other occasions, as provided in the following section.

Section 3.5 – Restrictions for Particular Events. Tribal ceremonies and cultural events due not lend themselves to Western notions of advance planning for the purposes of providing notice to air tour operators within a set period of days. The imposition of such a requirement is culturally insensitive and largely inappropriate. We recommend that the ATMP state that for annual recurring events, which are to be designated by the relevant Tribal Nation. However, our people have the religious right to access Bandelier as they deem necessary for the conduct of personal and community ceremonies. These may be undertaken with minimal notice of as short as twenty-four (24) hours. Honoring this right of our people to their religious exercise must be a part of the final ATMP. Accordingly, we recommend that it state an air tour operator can expect to receive notice of a restricted route or routes within ten (10) days of a recurring annual event and within twenty-four (24) hours of a private or community requested event. Such restrictions may apply only for a portion of the day or as a full-day prohibition on air tours depending on the circumstances.

Section 3.6 – Required Reporting. We recommend that this section be amended to include a statement that the FAA and NPS will share the semi-annual operator reports with local Tribal Nations, subject to any redactions that may be required to protect the personal identification data (such as social security number or home address) and confidential financial information of the air tour operator. Tribal access to these reports is important for understanding how routes are being used and at what frequency. Such information will facilitate informed decision-making by Tribal Nations as to whether to request consultation on or amendment to the ATMP.

3.7 – Additional Requirements. We suggest that the operator/pilot training course set forth under Section 3.7A be amended to include the participation of a tribal representative alongside NPS staff. The tribal representative would further the operator/pilot's understanding of the cultural significance of Bandelier to Tribal Nations, which will in turn "enhance the interpretive narrative" for visitors and, thus, advance the mission and management objectives of the ATMP. The direct participation of a tribal representative, who shall be designated by local Tribal Nations, also demonstrates the NPS and FAA's respect for tribal sovereignty, our mutual interests in Bandelier and other federally protected lands, and the Nation-to-Nation relationship that exists between Tribal Nations and the United States.

We also ask that Section 3.7B be amended to include the participation of a tribal representative or tribal representatives in the annual meeting between the NPS, FAA Flight Standards District Office, and the operator. Tribal Nations, including our Pueblo, have direct interests in effective implementation of the ATMP for Bandelier. We must be given a seat at the table where discussions about its strengths and weaknesses take place. The absence of a tribal representative at the annual

meeting is a glaring omission that must be corrected in the next iteration of this document. Further, we suggest that Section 3.7B be amended so that an annual meeting can also be called at the request of a Tribal Nation.

Section 3.8 – Quiet Technology Incentives. We recommend making the adoption of quiet technology aircraft a requirement for conducting air tours over Bandelier. Facilitating peaceful enjoyment of the area is a key goal that advances the recreational, spiritual, and other uses of Bandelier. It also mitigates the stress to wildlife, particularly protected species, otherwise caused by low-flying aircraft.

Section 3.9 – Violations; Forfeiture of Flights. We strongly recommend the incorporation of a new section providing for the imposition of penalties in the event of violations of the conditions for the management of commercial air tours at Bandelier or of this ATMP generally. Upon the report of an alleged violation of this ATMP, we suggest that the air tour operator be directed to suspend all flights within forty-eight (48) hours of receipt of notice of said violation. The air tour operator should be given at least twenty-one (21) days to cure the said violation, provided that extenuating circumstances may require a longer period of time for compliance (such as for supply chain accommodations). In the event that the violation cannot be cured within the stipulated time, the approval of the air tour operating to conduct flights should be suspended for a reasonable period of time of not less than one (1) month. In the event that an air tour operator engages in an egregious violation of this ATMP—such as conducting a flight during a tribally designated prohibited period or within sight of a ceremonial activity, for example—we request that no period of cure be provided and the air tour operator's approval to conduct flights be immediately suspended for the remainder of the calendar year. Respect for tribal sovereignty and religious practices lies at the heart of this ATMP. Sanctions must be strong enough to incentivize compliance with its provisions, otherwise it is merely guidance and will not adequately protect our interests.

Section 4.0 – Justification for Measures Taken

We have no comment on this section.

Section 5.0 – Compliance

Our Pueblo recommends that Section 5.0 be amended so as to impose a twenty-one (21) day requirement for modifying the existing Interim Operating Agreement's Operations Specifications for compliance with the final ATMP. As written, there is no deadline stipulated for when the existing Operations Specifications would need to be modified to require such compliance which causes concern.

Section 6.0 – New Entrants

We strongly oppose the granting of any "new entrant" operating authority at Bandelier. It is our position that no air tours should take place over this culturally, historically, and spiritually significant landscape. Should any air tours take place, we do not support their extension beyond the current operator, Southwest Safaris, that has been in operation for an established period of time. Expansion of air tour operations to new entrants will only lead to increased noise pollution,

,heightened risks of accidents and damage to cultural properties, disruption of wildlife habitat, and the overall diminishment of visitors' experiences at the National Monument.

In the event that an option for new entrants is maintained, our Pueblo asks that the number of annual flights permitted over Bandelier remain capped at a total of seventy-five (75) flights among all operators servicing the National Monument. Any new entrant should be subject to the same restrictions as currently proposed for Southwest Safaris in terms of permitted aircraft type and operating hours.

Section 7.0 – Competitive Bidding

We ask that additional environmental review—which should include impacts on wildlife and on tribal cultural properties—be held as mandatory in relation to any new entrant application without exception. A Tribal Historic Preservation Officer (THPO) should be directly involved in the review process alongside FAA and NPS officers. Countless tribal cultural properties occupy Bandelier that are both documented and unidentified. As such, it is vitally important that a THPO or THPOs be an active part of the review. Only Pueblo and other Native people with ties to the Bandelier cultural landscape will have the traditional knowledge to identify sites and assess potential impacts on them by air tour related activities. Their knowledge cannot be substituted by federal officials or other third parties.

Section 8.0 – Adaptive Management

We do not consider changes to routes, altitudes, or other operating parameters as "minor" for the purposes of justifying the use of an adaptive management measure that may not require a formal ATMP amendment. As a Pueblo with deep and living ties to Bandelier we view any change to operating activities, routes, and altitudes, among others, as a direct concern. Adaptive management measures should not be used to circumvent the Nation-to-Nation relationship nor as a means of excluding Tribal Nations. We should be informed of all proposed changes via a timely and official communication from the FAA and NPS that is issued before any decisions are made in relation to the changes so that we have an opportunity to comment on them through consultation. We recommend strongly that this section be amended so that adaptive management measures apply only to strictly administrative factors and not to operating activities, and that a requirement for the timely communication of any proposed modifications to the ATMP to Tribal Nations be added.

Section 9.0 – Amendment

Our Pueblo recommends that Section 9.0 be amended to provide that a Tribal Nation with ancestral and/or contemporary ties to Bandelier may notify the FAA and NPS that it has determined the ATMP is not adequately protecting the National Monument's resources, is adversely affecting aviation safety, or new information or changed circumstances have arisen. As currently written, the amendment process may only be initiated by a federal agency. To honor the Nation-to-Nation relationship and the interests of Tribal Nations that the FAA and NPS are duty-bound to protect pursuant to the trust obligation and federal law, it would be appropriate for Tribal Nations to also hold the option of requesting an amendment to the ATMP.

Section 10.0 – Conformance of Operations Specifications

We have no comment on this section.

Section 11.0 – Effective Date

We have no comment on this section.

III. Conclusion

On behalf of Santa Clara Pueblo, thank you for conducting this consultation on the Draft ATMP for Bandelier National Monument. It is critical that the FAA and NPS continue to engage in collaborative discussions with our Pueblo and other Tribal Nations whose ancestral history and contemporary interests are directly impacted by the management of this vital cultural landscape. Such follow-up should include the meaningful incorporation of revisions into the Draft ATMP that are reflective of the comments we raise herein, as well as the opportunity for Tribal Leaders to review and comment on those revisions prior to their internal finalization at the FAA and NPS.

Kunda; Thank you,

A handwritten signature in blue ink, appearing to read "J. Michael Chavarria", is written over a horizontal line.

J. Michael Chavarria, Governor
Santa Clara Pueblo

Phillip Quintana
Governor



David C. Gordon
Lt. Governor

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February 21, 2022

Submitted Via Email

National Park Service
Natural Sounds and Night Skies Division
BAND ATMP
1201 Oakridge Dr., Suite 100
Fort Collins, CO 80525

Re: Pueblo de Cochiti Comments on Bandelier National Monument Draft Air Tour Management Plan

The Pueblo de Cochiti ("Pueblo") submits the following comments as a National Environmental Policy Act ("NEPA") consulting party in response to the Bandelier National Monument Draft Air Tour Management Plan ("ATMP") issued jointly by the Federal Aviation Administration ("FAA") and National Park Service ("NPS") on September 3rd, 2021, and as a consulting Tribe on the associated National Historic Preservation Act ("NHPA") Section 106 Process. The ATMP provides terms and conditions for commercial air tours conducted over Bandelier National Monument (Monument) pursuant to the National Parks Air Tour Management Act with the objective to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts of commercial air tours on natural and cultural resources, visitor experiences, and tribal lands.

As a preliminary matter, the Pueblo is concerned with the inadequate level of consultation the FAA and NPS has provided to our Pueblo as a NEPA and NHPA consulting party leading to the development of the draft ATMP. The two letters issued and providing notice do not constitute meaningful tribal consultation or engagement in development of the draft ATMP, which is severely inadequate in its protections for traditional cultural properties, cultural resources, and sacred sites. Meaningful tribal consultation is a comprehensive, responsive, and ongoing process in which federal agencies and representatives work together to ensure development of a project and subsequent decision-making protects tribal interests with the goal of reaching free, prior, and informed consent. We look forward to continued engagement with the FAA and NPS in development of a ATMP that implements our Pueblo's cultural and technical expertise, guidance, and recommendations to preserve, to the maximum extent possible, cultural resources and sacred sites by prohibiting, in whole, commercial air flights over the Bandelier National Monument, a non-renewable and already heavily-impacted Pueblo cultural landscape. For our

Pueblo, this invaluable cultural landscape is a place of retreat and prayer to ensure the strength of our community and continued way of life, and we will continue to ensure its protection for generations to come, just as we have done since time immemorial.

The Pajarito Plateau, including the Monument's designated areas, is a vast, multi-layered living cultural landscape consisting of separate overlapping cultural landscapes of individual Pueblos and Tribes. This area's cultural and historical resources are the focal point of the Monument, and the primary reason for the Monument's establishment. As noted in the draft ATMP, this region holds one of the largest concentrations of Ancestral Pueblo archaeological sites in the Southwest including over 3,000 sites, and many more that are not documented. Since time immemorial, our Cochiti Pueblo people have occupied and ecologically stewarded extensive areas of this cultural landscape, including areas encompassed by the Monument. The Pueblo maintains a strong cultural affinity in ongoing interactions including through story, song, prayer, ceremony, and pilgrimage with this landscape and the gifts considered by the Pueblo to be both cultural and natural resources—plants, animals, air, soil, and water. The entirety of this area, including individual sites, are central to the maintenance and revitalization of our cultural knowledge, histories, and practices. Protection of the ecological and spiritual relationships between our Pueblo and the resources this landscape holds is central to the longevity of our identity as Cochiti Pueblo people and remains a priority in our legacy preservation efforts.

Cochiti Pueblo continues to be an active steward of the Bandelier cultural landscape and significantly involved in its management through the NPS. Our Pueblo oral histories and traditional ecological knowledges reaffirmed by the richness of cultural resources in this area connect us back to our ancestors' time in Frijoles Canyon, now encompassed by the Monument boundaries. In 2000, a study by the National Park Service identified Cochiti Pueblo as traditionally associated with the Monument designated area and was included in the formation of a Tribal Advisory Committee in 2003, where the Pueblo has since advocated for meaningful management-level tribal decision-making in protection of cultural resources and maintenance of historical and cultural context and setting for ongoing religious cultural use. Unfortunately, the regulatory mechanism for NPS consultation continues to be unsuccessful as consultation is continually devolved into a procedural "checking the box" requirement. As a result, our Pueblo continues to document the myriad of cases in which NPS has up to this point, proven ineffective at safeguarding cultural sites and maintaining historic cultural setting within the Monument. Ongoing, unsustainable tourist visit levels have—and continue to—result in disturbance and removal of sacred Pueblo cultural items, vandalism and destruction of sites, disrespectful and inappropriate use of sites, and disturbance of tribal cultural and religious activities. NPS has not made a concerted effort to inventory and remedy this situation, provide alternatives for cultural resource management and preservation, and advocate for tribal regulatory authority for Pueblos to engage in management-level decision making in protection of cultural resources.

Our Pueblo also continues to advocate for resources not archaeological in nature, including traditional cultural properties, sacred sites, shrines, springs, plant and mineral gathering places, viewsheds, and other important natural features and sites. The Pueblo continues to contribute to

ecological and watershed management and restoration activities of this landscape and is well aware that ecologies of plants and animals of this landscape severely damaged by five historic wildfires are in need of immediate protection and further restoration activities. Vegetation including juniper savannas, piñon-juniper woodlands, canyon-wall shrublands, ponderosa, pine forests, riparian forests, mixed conifer forests, and montane grasslands all provide important cultural resources, medicines, and foods that are of ongoing use to our community. Similarly, populations of wildlife including migratory birds and endangered species like the Mexican spotted owl also have important cultural roles. In addition, the NPS air tour assessments from other Parks have documented some concern that the rotor wash from helicopters approaching too close to cliff dwellings could disturb materials in context (e.g., pollen, soils, etc.). To allow continued commercial air tours would only cause, both directly and indirectly, further vulnerability and damage to the precious and sensitive vegetation and wildlife, especially during important species-specific breeding and rearing seasons not yet studied and incorporated into the Monument's management plan. Vegetation and wildlife in this area are in need of continued public avoidance and joint agency-tribal restoration activities to ensure their longevity and continued health of the region's ecology overall.

Allowing the continuation of commercial air tours will only exacerbate the existing challenges NPS and Tribes continue to experience in protecting cultural resources and tribal religious use by enabling continued viewing access to Monument visitors, noise pollution, and wildlife disruption. Commercial air tour operations also result in noise-induced vibration that can cause significant short-term and long-term adverse effects on the integrity of natural and man-made structures, objects, and sites. Depending on the character of the sound, the effects range from audible rattle, to items "walking" across surfaces, to fatigue cracking, and potentially to direct or indirect structural damage (Hanson et al, 1991).¹ Even though one flight may be insignificant, there have been hundreds of flights conducted over the past, which may have resulted in a serious unmitigated, cumulative, and irreversible impacts to the Monument's cultural resources, structures, objects, and sites. Environmental reviews including noise modeling have been conducted, results reviewed, and incorporated into ATMPs at other National Parks including at Big Cypress National Preserve and Biscayne National Park to ensure management objectives are met. Accordingly, we request that NPS fulfill obligations under Public Law 100-91 requiring the assessment and evaluation of the effects of aircraft overflights on historical and cultural resources within the Bandelier National Monument.

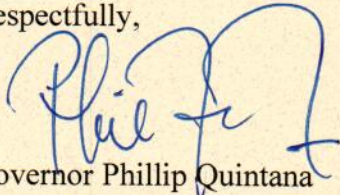
In consideration of our Pueblo's concerns, we request, as part of the NHPA Section 106 process, an assessment be undertaken by NPS to inventory the full extent of existing damages, theft, inappropriate use of sites, intrusion on privacy of tribal religious practices, and other impacts resulting from undermanagement of tourism and visitors to the Monument. This should necessarily include any noise and vibrational impacts to sites, structures, wildlife, and vegetation that may have occurred as a result of unchecked commercial air tours operating before and under interim authority, and an inventory of sites vulnerable and subject to potentially damaging sound

¹Hansen, A.J. Conserving Biodiversity in Managed Forests. 1991. Available at: https://www.researchgate.net/publication/255559506_Conserving_Biodiversity_in_Managed_Forests

exposures. We request this assessment and its findings be reviewed, evaluated, and incorporated into the final ATMP decision to avoid further adverse impacts to the Monument's precious cultural and natural resources. For the reasons discussed above, Cochiti Pueblo fully opposes the continuation of air tours over Bandelier National Monument and urges the NPS and FAA to use the administrative authority granted under the National Parks Air Tour Management Act of 2000 to prohibit, in whole, commercial air tour operations over the Monument. The Pueblo also urges the FAA and NPS to conduct a full environmental impact statement alongside ongoing NHPA Section 106 consultations to ensure the development a robust analysis informing an ATMP that will prevent any significant impacts to cultural resources, traditional cultural properties, and sacred sites in consultation with Pueblos and Tribes.

For years, our Pueblo has urged NPS to carry out the statutory obligation to meaningfully consider and protect Bandelier's cultural resources and its historic qualities for use by Pueblos, Tribes, and all those who come to learn from our past. We look forward to continue working with NPS and FAA to ensure decision-making on the ATMP that is reflective of the critical need to preserve this sacred and irreplaceable cultural landscape for generations to come.

Respectfully,



Governor Phillip Quintana
Cochiti Pueblo