

No. 19-1044

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

IN RE PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY
and HAWAII COALITION MALAMA PONO,
Petitioners.

On Petition for Writ of Mandamus

**PROGRESSS UPDATE OF THE
FEDERAL AVIATION ADMINISTRATION AND
THE NATIONAL PARK SERVICE**

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**PROGRESS UPDATE OF THE FEDERAL AVIATION
ADMINISTRATION AND THE NATIONAL PARK SERVICE**

The Court's order of November 20, 2020 approved a plan (Compliance Plan) submitted by the Federal Aviation Administration (FAA) and National Park Service (collectively the agencies) for bringing twenty-three specific parks into compliance with the National Parks Air Tour Management Act of 2000 (Act). The order further directed the agencies to file a progress update on November 30, 2020 and to file subsequent updates at 90-day intervals thereafter.¹ The Court modified its November 20, 2020 order in a March 8, 2021 clarification order and a February 10, 2022 order.

On June 21, 2022, the Court issued an order directing the agencies to submit a joint supplemental report with proposed firm dates for bringing each park into compliance. On July 21, 2022, the agencies complied with that order by filing the Joint Supplemental Report signed by the Acting Administrator of the FAA and the Director of the Park Service. In the Joint Supplemental Report, the agencies proposed firm dates for bringing each park into compliance with the Act.

Consistent with the Court's orders, the agencies submit the following chart showing the agencies' progress, as of November 30, 2023, towards completing air

¹ On February 20, 2022, the Court granted the agencies' unopposed motion to adjust the progress reporting schedule and authorized filing on fixed dates of February 28, May 31, August 31, and November 30, rather than at 90-day intervals.

tour management plans or voluntary agreements for all parks included in the Compliance Plan. Consistent with the July 21, 2022 Joint Supplemental Report, this chart lists the parks in descending chronological order according to the date on which plans or agreements were completed and the anticipated date by which the agencies will be able to complete a plan or agreement for the park. Where multiple parks have been included in a single plan or agreement, those parks are grouped together.

Due to the wildfire disaster on Maui in August 2023, the agencies filed an unopposed motion requesting the Court grant a 30-day extension of the firm date for completing the air tour management plan for Haleakala National Park to accommodate parties in Hawaii that requested more time for consultation under the National Historic Preservation Act. *See* Unopposed Motion by Respondents to Extend Time, Doc. # 2014760 (Aug. 30, 2023). On August 31, 2023, the Court granted that relief and directed that the air tour management plan for Haleakala National Park is now due January 30, 2024. Order, Doc. # 2014939 (Aug. 31, 2023).

PROGRESS UPDATE AS OF NOVEMBER 30, 2023

	Park	Proposed Completion Date	Status
1.	Everglades National Park	Not applicable	The agencies terminated the planning process for this park because the Act no longer required a plan or agreement. 87 Fed. Reg. 43,595 (July 21, 2022).
2.	Olympic National Park	Not applicable	Plan completed on July 20, 2022
3.	Mount Rainier National Park	Not applicable	Plan completed on July 20, 2022
4.	Death Valley National Park	Jan. 31, 2023	Plan completed on August 17, 2022
5.	Glacier National Park	Jan. 31, 2023	Plan completed on September 19, 2022
6.	Bryce Canyon National Park	Jan. 31, 2023	Plan completed on October 12, 2022
7.	Arches National Park	Jan. 31, 2023	Plan completed on October 18, 2022
8.	Canyonlands National Park	Jan. 31, 2023	Plan completed on October 18, 2022
9.	Natural Bridges National Monument	Jan. 31, 2023	Plan completed on October 18, 2022
10.	Great Smoky Mountains National Park	Jan. 31, 2023	Plan completed December 2, 2022

	Park	Proposed Completion Date	Status
11.- 13.	Golden Gate National Recreation Area/Point Reyes National Seashore/San Francisco Maritime National Historical Park²	Jan. 31, 2023	Plan completed January 10, 2023
14.	National Parks of the New York Harbor	Aug. 31, 2023	Voluntary agreements signed between the agencies and all operators on January 25, 2023.
15- 16.	Glen Canyon National Recreation Area/Rainbow Bridge National Monument	Aug. 31, 2024	On August 2, 2023, the agencies signed a voluntary agreement with the remaining operator that had not previously signed an agreement. As of August 2, 2023, the agencies have signed voluntary agreements with all operators for these parks.
17.	Badlands National Park	Dec. 31, 2023	Plan completed November 15, 2023.
18.	Mount Rushmore National Memorial	Dec. 31, 2023	Plan completed November 15, 2023.
19.	Hawaii Volcanoes National Park	Dec. 31, 2023	The agencies are drafting a final environmental assessment and final ATMP.

² The Park Service withdrew the exemption applicable to Muir Woods National Monument, and the agencies have included Muir Woods National Monument in the air tour management plan prepared for the Golden Gate National Recreation Area, San Francisco National Historical Park, and Point Reyes National Seashore.

	Park	Proposed Completion Date	Status
20.	Haleakala National Park	Jan. 30, 2024	The agencies are drafting a final environmental assessment and final ATMP, pending completion of consultation under Section 106 of the National Historic Preservation Act.
21.	Bandelier National Monument	March 31, 2024	The agencies considered comments on the draft ATMP and environmental assessment received during the public comment period. The agencies are drafting a final environmental assessment and final ATMP, pending completion of consultation under Section 106 of the National Historic Preservation Act.
22.	Lake Mead National Recreation Area	Aug. 31, 2024	The agencies held in person meetings with operators on September 28-29, 2023. Virtual follow-up meetings with operators were held on November 15, 2023. The agencies drafted a voluntary agreement and shared it with operators for their review. Tribal consultation meetings are being scheduled.

	Park	Proposed Completion Date	Status
23.	Canyon de Chelly National Monument	Dec. 31, 2024	On November 2, 2023, the FAA published a Federal Register Notice seeking public comment on the FAA's efforts to comply with Section 106 of the National Historic Preservation Act. The public comment period ends on December 4, 2023. The agencies also conducted outreach to the Navajo Nation and tribal members in or near the park.

Respectfully submitted,

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November 30, 2023

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CERTIFICATE OF COMPLIANCE

1. This document is not a brief or motion and therefore is not subject to the type-volume limits of Federal Rules of Appellate Procedure 27(d)(1)(E)(2) and 32(a)(7)(B). Excluding the cover, signature block, and certificate this document contains 967 words.

2. This document complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point Times New Roman font.

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