



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

October 3, 2024

Re: Response to the Advisory Council on Historic Preservation's Opinion Pursuant to 36 CFR 800.5(c)(3)(ii)(B) on the Federal Aviation Administration's Proposed Finding of No Adverse Effect on Historic Properties from the Implementation of an Air Tour Management Plan (ATMP) for Canyon de Chelly National Monument (ACHP Project Number: 021045)

Ms. Jaime Loichinger
Director
Office of Federal Agency Programs
Advisory Council on Historic Preservation
401 F Street, Ste. 308
Washington, DC 20001

Dear Ms. Loichinger:

Thank you for your advisory opinion dated June 30, 2024, in response to the Federal Aviation Administration's (FAA) request for the Advisory Council on Historic Preservation's (ACHP) review of the proposed finding of no adverse effect for the undertaking (ATMP) for Canyon de Chelly National Monument (the Park). In accordance with 36 CFR 800.5(c)(3)(ii), the FAA, in coordination with the National Park Service (NPS), considered the ACHP's opinion in affirming the finding of no adverse effect for the undertaking.

The ACHP concurred with the agency's finding of no adverse effect for the undertaking and found that the proposed finding was supported by the Section 106 review and the record of consultation. It also expressed concern that the agency should have undergone the consultation process described in Section 304 of the NHPA and 36 CFR § 800.11(c) before withholding information regarding historic properties due to confidentiality concerns.

On August 5, 2024, the FAA conducted consultation with the Keeper of the National Register of Historic Places (Keeper) in accordance with 36 CFR § 800.11(c). On September 4, 2024, the Keeper responded agreeing that withholding this information from consulting parties falls under the authority of Section 304 of the NHPA and recommended that the document be withheld in its entirety to ensure that the FAA and the NPS meet their responsibilities under Section 304, the Archaeological Resources Protection Act, 16 U.S.C. § 470hh(a), and their trust obligation to Tribal Nations.

The FAA affirms its finding that the ATMP for Canyon de Chelly National Monument will result in no adverse effects to historic properties within the APE and notes ACHP's agreement that the finding is supported by the Section 106 review and record of consultation.

Should you have any questions regarding any of the above, please contact me at 202-267-4185 or Judith.Walker@faa.gov and copy the ATMP team at ATMPTeam@dot.gov.

Sincerely,

The official version of this document was signed by Julie Marks on October 3, 2024.

Julie Marks

Executive Director, AEE-1

FAA Office of Environment and Energy

CCs: Rachael Mangum, Advisory Council on Historic Preservation

Bruce Adams, Southwest Safaris

Enclosure

Exhibit 1 – Letter Initiating ACHP Review, dated November 21, 2023, and Response