

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).¹ 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.² 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

¹ As explained in previous progress updates, 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 being prepared for the Northern California Parks (Golden Gate National Recreation Area, San Francisco National Historical Park, and Point Reyes National Seashore).

² 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.

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 August 31, 2022, towards completing air 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 anticipated date by which the agencies will be able to complete a plan or agreement for the park. Where multiple parks are anticipated to be included in a single plan, those parks are grouped together.

PROGRESS UPDATE AS OF AUGUST 31, 2022

	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

	Park	Proposed Completion Date	Status
5.	Glacier National Park	Jan. 31, 2023	The agencies completed consultation under Section 106 of the National Historic Preservation Act (NHPA). The agencies are preparing documents for final review and signature.
6.	Great Smoky Mountains National Park	Jan. 31, 2023	The agencies are working to complete compliance with Section 106 of the NHPA by addressing the Tennessee State Historic Preservation Officer's non-concurrence with the FAA's proposed finding of no adverse effect.
7.	Arches National Park	Jan. 31, 2023	The agencies completed consultation under Section 106 of the NHPA. The agencies are conducting government to government tribal consultation.
8.	Canyonlands National Park	Jan. 31, 2023	The agencies completed consultation under Section 106 of the NHPA. The agencies are conducting government to government tribal consultation.
9.	Natural Bridges National Monument	Jan. 31, 2023	The agencies completed consultation under Section 106 of the NHPA. The agencies are conducting government to government tribal consultation.
10.	Bryce Canyon National Park	Jan. 31, 2023	The agencies are working to complete compliance with Section 106 of the NHPA. On August 5, 2022, the FAA sent a letter to consulting parties proposing a finding of no adverse effect.

	Park	Proposed Completion Date	Status
11.- 13.	Golden Gate National Recreation Area/Point Reyes National Seashore/San Francisco Maritime National Historical Park	Jan. 31, 2023	The agencies are working to complete compliance with Section 106 of the NHPA. On August 30, 2022, the FAA sent a letter to consulting parties proposing a finding of no adverse effect.
14.	National Parks of the New York Harbor	Aug. 31, 2023	The agencies are conducting outreach with operators regarding the proposed content of voluntary agreements to determine whether voluntary agreements can be completed with all appropriate operators.
15.	Badlands National Park	Dec 31, 2023	The agencies are preparing to conduct public scoping.
16.	Mount Rushmore National Memorial	Dec 31, 2023	The agencies are preparing to conduct public scoping.
17.	Hawaii Volcanoes National Park	Dec. 31, 2023	The agencies are refining alternatives in response to comments received during public scoping.
18.	Haleakala National Park	Dec. 31, 2023	The agencies are refining alternatives in response to comments received during public scoping.

	Park	Proposed Completion Date	Status
19.	Bandelier National Monument	March 31, 2024	The agencies are identifying alternative(s) to be considered in a draft environmental assessment.
20.	Lake Mead National Recreation Area	Aug. 31, 2024	To develop alternatives, the agencies are assessing which flights may be considered transportation flights that are exempt from regulation under NPATMA, as opposed to commercial air tours over the Park that are subject to NPATMA.
21.- 22.	Glen Canyon National Recreation Area/Rainbow Bridge National Monument	Aug. 31, 2024	The agencies are identifying a proposed action and/or alternatives and are preparing to initiate tribal consultation.
23.	Canyon de Chelly National Monument	Dec. 31, 2024	The agencies are continuing consultation and coordination efforts with the Navajo Nation to develop a proposed action and/or alternatives.

Respectfully submitted,

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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 916 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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