

No. 19-1044

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UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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

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On Petition for Writ of Mandamus

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**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).<sup>1</sup> 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.<sup>2</sup> 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

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<sup>1</sup> 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).

<sup>2</sup> 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 November 30, 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 NOVEMBER 30, 2022**

	<b>Park</b>	<b>Proposed Completion Date</b>	<b>Status</b>
1.	<b>Everglades National Park</b>	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.	<b>Olympic National Park</b>	Not applicable	Plan completed on July 20, 2022
3.	<b>Mount Rainier National Park</b>	Not applicable	Plan completed on July 20, 2022
4.	<b>Death Valley National Park</b>	Jan. 31, 2023	Plan completed on August 17, 2022
5.	<b>Glacier National Park</b>	Jan. 31, 2023	Plan completed on September 19, 2022

	<b>Park</b>	<b>Proposed Completion Date</b>	<b>Status</b>
6.	<b>Bryce Canyon National Park</b>	Jan. 31, 2023	Plan completed on October 12, 2022
7.	<b>Arches National Park</b>	Jan. 31, 2023	Plan completed on October 18, 2022
8.	<b>Canyonlands National Park</b>	Jan. 31, 2023	Plan completed on October 18, 2022
9.	<b>Natural Bridges National Monument</b>	Jan. 31, 2023	Plan completed on October 18, 2022
10.	<b>Great Smoky Mountains National Park</b>	Jan. 31, 2023	The FAA sent a letter to the Advisory Council on Historic Preservation (Council) requesting review of its no adverse effect determination on September 6, 2022. The Council responded on October 6, 2022. The agencies responded to the Council and are finalizing documents for signature.
11.- 13.	<b>Golden Gate National Recreation Area/Point Reyes National Seashore/San Francisco Maritime National Historical Park</b>	Jan. 31, 2023	Section 106 consultation is complete. The agencies submitted consistency determinations regarding the ATMP to the California Coastal Commission and the San Francisco Bay Conservation and Development Commission pursuant to the Coastal Zone Management Act.
14.	<b>National Parks of the New York Harbor</b>	Aug. 31, 2023	The agencies released a draft voluntary agreement for public comment on October 21, 2022. The comment period closed on November 21, 2022, but is being reopened by the agencies for additional public comment.

	<b>Park</b>	<b>Proposed Completion Date</b>	<b>Status</b>
15.	<b>Badlands National Park</b>	Dec 31, 2023	The agencies conducted public scoping. The comment period ended on October 6, 2022. The agencies are refining alternatives in response to comments received during public scoping and have begun drafting an environmental assessment.
16.	<b>Mount Rushmore National Memorial</b>	Dec 31, 2023	The agencies conducted public scoping. The comment period ended on October 6, 2022. The agencies are refining alternatives in response to comments received during public scoping and have begun drafting an environmental assessment.
17.	<b>Hawaii Volcanoes National Park</b>	Dec. 31, 2023	The agencies are drafting an environmental assessment.
18.	<b>Haleakala National Park</b>	Dec. 31, 2023	The agencies are drafting an environmental assessment.
19.	<b>Bandelier National Monument</b>	March 31, 2024	The agencies have identified alternatives to be considered in a draft environmental assessment.
20.	<b>Lake Mead National Recreation Area</b>	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.

	<b>Park</b>	<b>Proposed Completion Date</b>	<b>Status</b>
21.- 22.	<b>Glen Canyon National Recreation Area/Rainbow Bridge National Monument</b>	Aug. 31, 2024	The agencies are identifying a proposed action and/or alternatives and are preparing to initiate tribal consultation.
23.	<b>Canyon de Chelly National Monument</b>	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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November 30, 2022  
DJ 90-13-1-15766

/s/ Justin D. Heminger

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Environment and Natural Resources Division  
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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 893 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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