

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

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

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PROGRESS UPDATE OF
FEDERAL AVIATION ADMINISTRATION
AND NATIONAL PARK SERVICE

The Court's order of November 20, 2020 approved a plan ("Plan") submitted by the Federal Aviation Administration ("FAA") and National Park Service ("NPS") (collectively "agencies") for bringing twenty-three specific parks into compliance with the National Parks Air Tour Management Act of 2000 ("NPATMA").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. Pursuant to that order, and a March 8, 2021 clarification order, the agencies submit the following:

The Plan details the agencies' intended approach to completing air tour management plans ("ATMPs") for all covered parks within two years, and it describes on a quarterly basis the actions that the agencies anticipate undertaking in furtherance of that approach. The table below identifies the actions included in the Plan for Year 1, Quarter 4 (June 1, 2021 to August 31, 2021) and provides a concise summary of the work activities accomplished during this quarter.

At this time the agencies do not anticipate delays at any individual park.

¹ As explained in a previous progress update, the NPS withdrew the exemption applicable to Muir Woods National Monument and the agencies are now proceeding with air tour management plans for 24 parks.

Actions in Proposed Plan for First Year, Quarter 4	Work Activities Completed in First Year, Quarter 4
<p>Continue drafting ATMP/National Environmental Policy Act (NEPA) documents; review of completed chapters, as appropriate.</p>	<ul style="list-style-type: none"> • The agencies are using the proposed actions that have been developed to draft ATMPs. Thirteen draft ATMPs have been prepared so far. • Four draft ATMPs have been distributed for public review. Public meeting/notice of availability for draft Air Tour Management Plans at Mount Rainier National Park; Death Valley National Park; Everglades National Park; and Olympic National Park, 86 Fed. Reg. 40, 897 (July 29, 2021). • The agencies are internally reviewing the remaining draft ATMPs. • The agencies continued work on the general content of environmental assessments, as appropriate, to ensure both agencies' NEPA requirements are met.
<p>Begin planning for/conduct public meetings.</p>	<ul style="list-style-type: none"> • The agencies developed an internal Public Engagement Plan as a framework for conducting public meetings, public engagement activities, and communications tied to the release of the draft ATMPs. • The July 29, 2021 Federal Register notice announced four public meetings in August. The 30-day public comment period for the four draft ATMPs is from July 29 to August 28, 2021. • The agencies further publicized the four August public meetings with a press release, publications on their social media platforms, and notifications on their websites. • The agencies developed materials for the four August public meetings, including presentations, FAQs, and runs-of-show. • The agencies will have held four public meetings in August for Mount Rainier National Park (August 16, 2021), Death Valley National

	Park (August 17, 2021), Everglades National Park (August 19, 2021), and Olympic National Park (August 25, 2021).
Confirm input and craft any necessary responses to resolve issues that arose from Tribal and other agency consultations.	<ul style="list-style-type: none">• The agencies held park-specific meetings with the staff of 12 parks to discuss consultation under Section 106 of the National Historic Preservation Act.• The agencies sent Section 106 consultation letters to State Historic Preservation Officers/Tribal Historic Preservation Officers, tribes, operators, and other consulting parties regarding the proposed undertaking for Death Valley National Park, Everglades National Park, Mount Rainier National Park, and Olympic National Park.• The agencies held tribal consultation meetings for Badlands National Park, Mount Rushmore National Memorial, and Canyon de Chelly National Monument.• Several tribes have raised concerns relating to air tours, which the agencies are considering through the Section 106 process.• The agencies identified additional consulting parties and initiated Section 106 consultation for 20 of the parks.• The agencies continued coordination and outreach to the U.S. Fish and Wildlife Service (FWS) to discuss Section 7 compliance. The agencies conducted informal meetings with the FWS and park staff to discuss Section 7 considerations for 15 of the parks.• The agencies continued to draft Section 7 documentation for all ATMPs in progress.

Additional work done to facilitate implementation of ATMPs	<ul style="list-style-type: none">• The agencies issued coordinated congressional notifications of various congressional delegations about the release of the four draft ATMPs.• The agencies conducted joint briefings for senior officials of both agencies.• The agencies notified the National Parks Overflights Advisory Group of the availability of the draft ATMPs for public comment.
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Respectfully submitted,

/s/ ELLEN J. DURKEE

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August 26, 2021
90-13-1-15766

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 716 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.

/s/ Ellen J. Durkee

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