

Committee on Natural Resources
 Subcommittee on Oversight and Investigations
 Oversight Hearing
 1334 Longworth House Office Building
 December 5, 2023
 10:30 AM

Oversight Hearing titled “Limiting Access and Damaging Gateway Economies: Examining the National Parks Air Tour Management Program”

Questions from Rep. Case for Mr. Schlaefli

1. Please provide specific quantitative data on the number of elderly (age 65+) individuals, individuals with disabilities and youth who have received tours over national park units from your business over the last five years.

Following is a breakdown of passengers flown over the past five years, inside the boundaries of the park units we are authorized to fly in. Please note, the breakdown of the “youth” demographic is inclusive of children that qualify as a “lap child” as defined by FAA regulation.

5 Year Totals				
Elderly (65+)	Disabilities	Youth	Other	Total Passengers
29,398	1,590	11,090	54,949	97,027
2023 Season				
Elderly (65+)	Disabilities	Youth	Other	Total Passengers
3,913	312	2,857	5,411	12,493

2022 Season				
Elderly (65+)	Disabilities	Youth	Other	Total Passengers
4,751	212	3,619	7,254	15,836
2021 Season				
Elderly (65+)	Disabilities	Youth	Other	Total Passengers
8,606	423	6,459	12,766	28,264
2020 Season				
Elderly (65+)	Disabilities	Youth	Other	Total Passengers
7,422	386	5,822	11,115	24,745
2019 Season				
Elderly (65+)	Disabilities	Youth	Other	Total Passengers
4,706	257	3,585	7,141	15,689

2. Are tour participant unable to see Mt. Rushmore from outside the ATMP area? What is the average visibility from outside the ATMP area?

The ATMP area includes the airspace ½ mile from the boundary of Mt. Rushmore National Memorial and Badlands National Park, the two park units that my companies currently have FAA authorization to operate in. Aerial tour participants will have diminished / limited views of the memorial from outside the ATMP area, dependent on weather and atmospheric factors. We do experience quite a few days a year with haze as a result of wildfires elsewhere in the nation among other causes. This diminished detail from the added distance will have an adverse effect on visibility for tours being operated outside of the ATMP area. It is not simply a question of operating outside of the boundary as we must take into consideration what is below us. We may be pushed far

enough outside of the boundaries that the tour represents elevated risks that are unacceptable or fails to provide adequate views.

Franklin Lane, Secretary of the Interior in 1918, interpreted the purpose of the NPS as maintenance of the national parks in an “absolutely unimpaired form for the use of future generations” and at the same time “give the public every opportunity to enjoy the parks in the manner that best satisfied individual taste.”

We believe the public should have the choice to visit the park in the way that they choose, provided it is accomplished in a way that does not adversely impact the park units. In the ATMP’s prepared for both Mt. Rushmore and Badlands, the impacts are not properly evaluated and use outdated and inaccurate information. The language used in both documents was “may” and “could”. We believe the removal of 100% of the IOA is a significant overreach that is not justified based on the material prepared by the NPS.

In the Mt. Rushmore ATMP, it is mentioned how the current air tour operations result in unacceptable impacts to the Park under NPS Management policies 2006 1.4.7.1. However no conclusive support for this was included. Since there is no conclusive documentation for this claim, intensive research should be required under NPS Management policies 2006 4.1.1, which states:

Similarly, planning for park operations, development, and management activities that might affect natural resources will be guided by high-quality, scientifically acceptable information, data, and impact assessment. Where existing information is inadequate, the collection of new information and data may be required before decision-making. Long-term research or monitoring may also be necessary to correctly understand the effects of management actions on natural resources whose function and significance are not clearly understood.

The data used was outdated (2003, 2007, 20212) and does not adhere to the policy above. The ATMP cites the management policies which require “high-quality, scientifically acceptable information, data, and impact assessment” before implementing plans. The ATMP indicates *possible* adverse effects to support the decision and does not document *actual* impacts.

It is our assertion that the process is significantly flawed and discriminates against my companies and the flying public. The destruction of my businesses and the positive contributions it makes to thousands of visitors with the stroke of a pen is unacceptable.

Individual park units are not the same. Mt Rushmore is man-made and was constructed by the destruction of the natural environment. While the artistry is certainly an amazing accomplishment, the treatment of a memorial with a parking garage as the centerpiece of the infrastructure should not be on par with park units with entirely different character and visitor interaction, such as Yellowstone or Glacier.

We do not seek unlimited access to Mt Rushmore or Badlands, but to continue to provide ultra-low impact options in a controlled manner that takes into consideration input from all stakeholders.

Aerial tourism represents the single lowest impact form of visitation to any park unit. When responsibly operated to protect the parks while protecting the economic viability of the operator, the park units benefit. It has been repeated many times before in public comment and during testimony, but the facts are very compelling. Aerial tours do not require roads, trails cut through the wilderness, sanitary facilities, trash removal, park offices or park employee housing and related infrastructure. The list could go on.

As an outdoor enthusiast, I spend a good bit of my free time in our national parks, and I treasure them. I would be the first to stand up to protect our parks. What is occurring with the ATMP is not protection. In my time outdoors I have had a couple of interesting experiences that repeat themselves over and over throughout our park system. One of those is in the Lake Mead National Recreation Area in Nevada and Arizona. I spent a good bit of time on the lake, and around the lake hiking and exploring. Sitting on a beach one day, a helicopter passed over. As many will pass over on their way to the Grand Canyon. The sound is minimal, and quickly dissipates. On that same beach, a powerboat will be transiting the lake, with big block engines, and the noise is both deafening and sustained. Where is the outcry to ban other types of vehicles that produce much greater levels of sound for much greater periods of time?

Just this morning, prior to finishing up my comments I took a bike ride up into Zion Canyon. I used roadways and a paved trail to access the canyon. The trail was cut into the wilderness and is frequently bypassed to access the Virgin River. The side trails created by off trail foot traffic further scars the landscape. Multiple river crossings on the trail have bridges that are far from natural. The PVC planking on the bridge makes a significant amount of noise as bicycles pass over it. Along the trail and along the road, evidence of human interference with nature is everywhere. Bus stops, lodges, infrastructure. All of this is an imprint on the natural environment. If all visitation was by air, none of these impacts would exist.

While the ATMP certainly doesn't deal with anything other than air tours, the examples above highlight the very discrimination that we are faced with. Air Tours are the single lowest impact form of visitation, and that can be proven.

While noise is the most frequent go to with respect to impact claims, the sounds produced by responsibly operated aircraft are minimal in comparison to many other forms of visitation. In both the Badlands and Mt. Rushmore, motorcycle travel is very popular all year, with a peak before and after the Sturgis Rally. In a noise study conducted by the town of Keystone at the foot of Mt. Rushmore, motorcycles took the top spot for noise. Motorcycle traffic increases every year, as more and more enthusiasts take to the open road.

The most important consideration with moving all aerial tours outside of the ATMP area is the compression of air traffic into a very narrow corridor. We are not the only companies operating in the area, and by removing tour routes inside the ATMP area, all air traffic is compressed into a single corridor which is a significant elevation of risk. Safety of air commerce is the mission of the FAA, and safety was not evaluated or assessed during this process in any material way that we can find.

Conversations with the local Flight Standards District Office (FSDO) indicates that they are very concerned about the elevated risks associated with ATMP's. The recommendations from the FSDO were wholly ignored in this process by the NPS and FAA Environmental, in addition to the Principal Operations Inspector (POI) and Helicopter Specialist in the Rapid City FSDO being excluded from all discussions. This is a highly irregular situation, as other POI's have been actively involved in the preparation of ATMP's at other FSDO's. The POI and Helicopter Expert is the only person who possesses the expertise necessary to address concerns from the FAA side. None of the FAA environmental or NPS staff have the expertise to make decisions on airspace use or safety in air commerce.

While the memorial *may* be viewed from other locations, the risks associated with this may rise to unacceptable levels, forcing unsustainable reductions in numbers of tours, or closure of the company entirely as a result.

3. What are your company's formal policies and procedures to provide reasonable accommodations to individuals with disabilities seeking air tours? Has your company ever not been able to provide accommodations to allow an individual with a disability to fly with your business?

All of our companies have a policy and procedure for providing accommodations. Our companies place a priority on providing safe services to those with disabilities, and we are passionate about doing it. We train our staff annually on the carriage of persons with disabilities. All of our decisions are based on safety, and the Pilot In Command (PIC) has the final say. The following is an excerpt from our Operations Manual concerning the carriage of handicapped passengers:

Handicapped persons capable of enplaning and deplaning unassisted will have no restrictions in seating, provided it is quite clear that they are capable of exiting the aircraft expeditiously in the event of an emergency as determined by the PIC.

Handicapped persons incapable of enplaning or deplaning unassisted on company aircraft are required to be accompanied by a responsible person capable of aiding in case of emergency.

If only one handicapped person is to be carried on a full aircraft, he or she should be placed on the inside seat, not next to an exit, when the aircraft configuration allows. Dakota Rotors pilots are authorized and encouraged to assist our guests in any way that the pilot-in-command deems safe and reasonable.

If two handicapped persons are to be carried on a full aircraft, they shall be placed on inside seats, not next to an exit, when the aircraft configuration allows. In this case, it will be necessary to designate the remaining passengers to assist in an emergency.

NOTE: The pilot will be responsible for the evacuation of the handicapped persons in the event of an emergency. However, it is highly unlikely that he could assist more than two handicapped persons expeditiously. Also, it may be that the pilot himself is unable to assist. Except for extreme emergency situations, there will never be more than two handicapped persons carried on a single flight. In addition, there must always be at least one other adult capable of assisting in the event of an emergency.

In the event multiple handicapped persons come to us for this experience, we will make accommodations up to and including extra aircraft to make sure all are able to share the experience.

In the three years we have owned the companies, we have a 100% success rate with carriage. We have not had to turn anyone away who wished to enjoy the experience. In my entire 13 years of operating air tours, I have only had to turn away one couple. This was a mental condition, and the decision to turn them away came after the lady beat me with her cane. The story is pretty funny!

On a more serious note, we routinely carry individuals, mostly children, who are considered to be on the spectrum. This encompasses a wide variety of diagnoses. It has been relayed to us on multiple occasions that aerial visitation is the only option for them due to the nature of the disorders.

We exert every effort to safely transport all passengers who come to us. In my past experience with other air tour operators, this was always the approach. I once loaded an aircraft with a forklift in order to provide our experience. While certainly an extreme example, it does highlight our passion for providing equal access to our experiences.

This issue is a hot button with me personally. Having transported hundreds personally in my flying career, I can tell you the joy and enrichment the experience brings is unmatched. We will always do everything we can to safely provide this experience to all.

4. Are there uniform standards across the air tour industry to provide accessibility? Or are decisions left to individual operators?

For the most part, outside of Federal Regulation that controls the carriage of passengers with disabilities, operators generally form their own approach. However, that approach is often uniform, as tour operators commonly share best practice with each other. This happens through personal contact, the Tour Operators Working Group and through safety associations such as TOPS. My policies for example, are based on concepts learned working for two large operators prior to the purchase of my own companies. Based on the building block approach, best practices from previous operations are incorporated into mine.

5. Please provide specific quantitative data for the number of flights your business has conducted over each individual national park unit, including whether those flights would be subject to an ATMP developed or in development under the National Park Air Tour Management Act or are not subject to any ATMP.

The only parks we operate in are subject to already developed ATMP's. Flights over the park units represent about 80% of tour total flights completed. These are counted when an aircraft completes a flight on a route inside the boundaries of a park unit and is not representative of the number of passengers. Below is the direct data for overflights of the individual parks we are authorized to operate in for 2021, 2022 and 2023:

Year	Park Unit	Total Flights
2021	Badlands	2,252
	Mt. Rushmore	5,275
2022	Badlands	946
	Mt. Rushmore	4006
2023	Badlands	847
	Mt. Rushmore	3765
	GRAND TOTAL	17,061

6. What is the average cost for an individual air tour over a national park unit at your business?

We have multiple choices that we offer to the flying public. We routinely vary pricing with discounts and other promotional programs. Additionally, each park unit we fly in is different. For Mount Rushmore, our tours range from 120.00 to 265.00 with an average price of 170.00. For Badlands National Park, the tours range from 59.00 to 270.00 for an average of 153.00. The mix of tours can vary greatly based on time of year and demographics. While the average cost of the tours is reflected above, the average passenger spend is significantly higher. These average costs do not reflect actual sales or revenue generated. Prices are per person.

7. Who manufactured each of the helicopters in your fleet? Do any of your helicopters currently utilize quiet technologies?

We fly a diverse fleet of aircraft manufactured by Bell and Robinson. These aircraft are not listed or were not tested for inclusion in the list of QT aircraft. While our airframes are not on the list, it is possible that they could qualify if the proper testing had been

accomplished. The difference between aircraft that are not QT and those that are, is roughly an average of 3db, An almost negligible number.

Sound signature is always on our mind. We as a company are always looking for ways to reduce sound whether it be technology, routes or altitudes. We have completely altered or eliminated routes and route segments in order to address community concerns.

We are actively looking into and watching emerging technology for opportunities to pursue newer vehicles that promise significant noise reduction. The availability of these aircraft commercially is still a ways into the future. By eliminating my ability to fly today, the potential for dramatically reduced sound signature vehicles in the future is also eliminated.

If grant money was available for assisting with the acquisition of current QT aircraft, we would absolutely take advantage of that. To date, we know of no programs available that could provide assistance. The cost of those aircraft in the current market ranges from 2-4 million dollars each, which is quite a burden for small operators like us.

8. Did your company provide comments to any ATMPs during their public comment period? Did you company provide any input through a trade organization? Did your company attempt to provide any additional input to the agencies outside the public comment opportunities? If so, please describe that input.

We provided extensive comment during the public comment periods. We also provided comment through Helicopter Association International. We attempted on several occasions to open dialog with the FAA and the NPS on these plans as soon as they were first released to the public in September of 2022. I had a phone call with Mount Rushmore staff regarding some of the claims in the scoping letter that were quite surprising to read. The call resulted in confirming our concerns that the entire ATMP process was being driven on a timeline.

There were two claims in the first document made available to the public. Native American spiritual sites could be impacted, and interpretive activities at the park could be impacted. When we inquired for details so that we could take immediate action to reduce impact, it became clear that there were no actual accounts of disturbance. In fact, I was informed that information regarding Native Spiritual sites was “not public knowledge”, and that Mt Rushmore staff didn’t even know where they were. I was given zero documentation of any complaints. Conversation with the local FSDO was even more

tight lipped. They simply claimed that there had not been any significant interaction. Conversation with now retired Keith Lusk of the FAA was also fruitless in providing answers or opening communications on the issue.

This overinflation of impact is further debunked during our annual get together with senior park staff at our facility. Since we have taken ownership, we have not received a single complaint from either park unit in any way shape or form. The Chief Ranger at Mt. Rushmore has consistently reported that things were going great, and that we were doing a great job adhering to previously agreed routes and altitudes.

Prior to our taking ownership of the companies in 2021, there were reportedly efforts to enter into a Voluntary Agreement for Mt Rushmore. Those efforts were abruptly ended by the NPS in 2019. This is based on information provided to us, but we do not have direct documentation of what the efforts actually were, or what actually killed the agreement. It is our belief that the agreement efforts ended once the lawsuit became a possibility. We also believe that the lawsuit was somewhat of an inside job, with the Public Employees for Environmental Responsibility having members that are persons who worked on the ATMP's. It would explain the abrupt cessation of agreement talks, as the NPS made a determination to follow an alternate course of action. This of course, is their right to do so, but it illustrates the secretive nature of many government functions. The operators were left out of the discussion.

Voluntary Agreements provide the best opportunity to achieve park goals while allowing private enterprise to provide alternative park experiences that are ultra-low impact. In the case of Mt Rushmore, the EA prepared to justify their actions incorrectly cited impacts to wilderness character of surrounding areas. Without justification, they used potential impacts outside of the ATMP area to substantiate impact claims. They neglected to note that by compressing air traffic into the very narrow corridor outside of the boundary, it places all air traffic into the wilderness area. A voluntary agreement would allow for parties to work together to manage those impacts and would have given the USFS a seat at the table as well.

It is important to note that while we vigorously oppose the process and methods by which these ATMPS's were developed, we wholeheartedly support the ATMP as a concept. We support the Voluntary Agreement as well, as it provides the best for both parties. Responsible operators should be actively involved in seeking ways to lessen the sounds produced by aerial tours. We prove this out repeatedly in the communities in which we operate. In the past year we have altered entire product offerings in response to community input.

In fact, We have a great working relationship with Yellowstone National Park and Teton National Park. We do not fly aerial tours inside either park, or would we ever seek to do so. All parks are NOT equal. I have provided both Yellowstone and Teton my satellite tracking information, so they always know where we are. There are flights that we take into the park, such as photo flights and transportation flights. Those types of flights are not affected by the ATMP process. I turn in a flight plan before we go and stick to it as close as possible. This transparency is not required, but we do it as assurance to those park units that we operate responsibly. We are conscientious and responsible operators.

Air tour management plans were never intended to be elimination plans. The removal of 9,000 flights represents significant overreach without justification as required by NPATMA.

9. Do you or any individuals from your company participate in the National Park Overflights Advisory Group?

We attend meetings, but do not currently have anyone with a seat on the advisory group. When the next seat opens up, we plan to try and have a seat at the table. I strongly believe NPOAG should have been involved in the development of the plans. The expertise is at the table, and representatives from stakeholders is well represented. The NPS claims that NPOAG was involved, but that is simply untrue. Development of the plans were carried out behind closed doors, and NPOAG was only briefed – not included in the development of the plans. For the entire process, where NPATMA required that stakeholders be included in the development of the plans, they were not, contrary to what the NPS is representing.

We believe as congress did, that NPOAG was a necessary tool for advising on air tour issues. The group itself is heavily tilted to the environmental side, as the FAA representatives were not FAA aviation or safety people. Regardless, the affected entities are all at the table with NPOAG, and the group could have been instrumental in protecting park resources and responsible development and safety of air commerce. NPOAG should absolutely be a part of the solutions, not simply a group of people gathered to be advised on what has already occurred.

10. Please list any specific safety concerns you or your company have with individual ATMPs. How would you recommend that the agencies address those concerns while maintaining the level of resource protection described in the plan?

We have several safety concerns with respect to the plans themselves and the development of the plans. As required by NPATMA, the FAA is charged with being the lead agency in the development of the ATMP's. We are gravely concerned that the FAA has taken a backseat to the NPS in the development of these plans, leaving key details to those without the technical expertise to provide valuable input to protect the safety of air commerce. This represents a danger to the flying public and the communities in the areas affected by these ATMP's.

Our main safety concern is the compression of air tour traffic into a very small corridor outside the eastern boundary of Mt. Rushmore. As noted in earlier answers to the questions regarding numbers of flights, the numbers are significant. While I do not have the numbers of flight undertaken in this corridor by our competitor, or from other aviation interests, when you add the up to 5300 flights we are authorized to take, the potential for conflict is highly elevated. In 2021 and 2022, we flew to within 100 flights of our total IOA. With the current flight paths inside the ATMP, deconfliction happens automatically. The potential doubling of flights taking place outside the ATMP represents a significant elevation of risk.

When we evaluate this risk as required by our SMS, the levels of risk that are unable to be mitigated could force us into a choice of ending flights or dramatically reduce flights. This represents a highly prejudicial and discriminatory situation. We do not take safety issues lightly and will go out of business before we accept such high-risk levels.

Where is the FAA on this issue? We believe based on conversations with the FSDO after the plan was released, that it was certainly brought up to FAA environmental and NPS. They indicated it was a significant safety issue and agreed with my position. It was deliberately ignored, and this represents a significant dereliction of duty in our opinion. Even though we are small operators, our SMS demands risks be assessed and mitigated to as low a level as possible. Certainly, the FAA would be under a similar process with their SMS process. We can find no evidence this was ever considered or performed. In all of the documents produced for Mt Rushmore and Badlands, safety was completely ignored.

With respect to the level of "resource protection described in the plan", the ATMP actually increases the impact to surrounding wilderness and communities by eliminating viable, low impact route opportunities that could serve to protect everyone. The ATMP incorrectly described the wilderness character of the surrounding area, and yet the plan itself represents increased risk and increased impacts to those areas. The plans should have had high quality scientific data prepared and analyzed to determine real impacts.

Another significant concern we have had during this process is the number of last-minute surprises with respect to how the plans were released to the public. We received no notice, outside of the federal register. This placed us in a position that required a lot of attention during very busy operational times. This was an undue burden placed on us, and in our opinion compromised safety due to the time it took away from operational oversight.

Although not related to safety, but certainly related to risk is the amount of business that was affected as a result of media reporting of the ATMP's. We estimate up to \$500,000 of impact to us directly as a result of the media headlines surrounding the ATMP. We are still fielding calls daily asking if we are still operating. The public is asking if we are still flying because the perception is that we've already been shut down. This is just a window into the economic impact that was not evaluated or considered in these plans.

Workforce development will take a big hit with the removal of our companies from the air tour landscape. We create pilots and mechanics. The pilots that will serve fighting fires and flying air ambulance operations start with us. In our current environment, the industry is experiencing a shortage of qualified, experienced pilots. We take qualified pilots, give them top shelf training and experience, and prepare them for those future positions. The loss of up to 12 pilots per year that we are able to equip will absolutely reverberate across the industry and have a lasting impact as it compounds year after year.

It is vital to maintain aerial tours as a means of work force development to prepare tomorrows aviators. While it is overly dramatic to say that the removal of my companies from the landscape will cost lives and property, there is truth in that statement. Without us, there are less air ambulance pilots and less aerial firefighting pilots. Helicopters are hugely beneficial to society in countless ways, and workforce development pipelines are a major concern and should be a top priority.

The helicopter industry in the past 7 years had also been key to supplying pilots transitioning to Part 121 Air Carriers (Airlines). While this does present challenges to the helicopter industry, it has been a key method by which airlines are able to quickly add crew members. Reducing our ability to provide pilot experience also reduces the capacity for Part 121 carriers to tap into a pool of pilots who could transition and fill those roles.

Lastly, another risk item is the significant economic impact that has gone without analysis in these plans. The real risk of losing everything I have lawfully and diligently worked for is a reality. During the public meetings, it was said by FAA Environmental and NPS staff that companies could simply repurpose their aircraft and perform other

missions. This represents a great example of the lack of expertise at the table in the development of these plans. In order to re-tool, re-train and equip the company to undertake other missions, a significant investment is required. Are there grant programs available for this type of re-tool? What resources are available to companies like mine to remain viable and bridge the gap between mission capability as the government unjustly takes away my ability to operate?