

STATEMENT OF RAYMOND M. SAUVAJOT, ASSOCIATE DIRECTOR, NATURAL RESOURCE STEWARDSHIP AND SCIENCE, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, REGARDING THE NATIONAL PARKS AIR TOUR MANAGEMENT PROGRAM.

December 5, 2023

Chairman Gosar, Ranking Member Stansbury, and members of the Subcommittee, thank you for the opportunity to present the Department of the Interior's views on air tour management over national parks.

Commercial air tours have been occurring over national parks for decades. This activity and its potential impacts to national park resources and visitor experience were recognized by Congress in 1987 when the National Parks Overflights Act was enacted. This law required the National Park Service (NPS) to conduct a study to determine a minimum altitude for air tours over all National Park System units, and to identify any problems associated with overflight by aircraft of units of the National Park System. In compliance with this requirement, the NPS prepared a report entitled *Report on the Effects of Aircraft Overflights on the National Park System*, which was submitted to Congress in 1994. In 1997, the Federal Aviation Administration (FAA) and the NPS established a National Parks Overflights Working group, with members from the air tour industry, environmental groups, and Tribes, that was charged with developing a plan for instituting flight restrictions over National Parks.

Following more than a decade of studies, working groups, and administrative planning and regulatory efforts, Congress enacted the National Parks Air Tour Management Act of 2000 (NPATMA), which reflected the recommendations and consensus work product of the National Parks Overflights Working Group. NPATMA required the NPS and the FAA to complete Air Tour Management Plans (ATMP) and issue a joint record of decision, after which time air tours of parks not in compliance with an ATMP would be prohibited. In the interim, while ATMPs were being developed, NPATMA required FAA to issue interim operating authority to existing tour operators based on then-current, actual use by the operators. The objective of the ATMPs, as defined in NPATMA, is to “develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.”

The mission of the NPS is to conserve and provide for the enjoyment of scenery, natural and historic objects, and wildlife in parks and to leave them unimpaired for the enjoyment of future generations. The mission of the FAA is to provide the safest, most efficient aerospace system in the world. Given the distinct and different missions of the two agencies and their differing policies regarding environmental analyses, satisfying NPATMA's requirement that environmental decision documents for ATMPs be approved by both agencies proved challenging.

In recognition of these challenges, Congress amended NPATMA in 2012. The amendments authorized FAA and NPS to jointly enter into voluntary agreements with air tour operators in lieu of developing ATMPs. Voluntary agreements are contracts intended to “address the management issues necessary to protect the resources of such park and visitor use of such park without compromising aviation safety or the air traffic control system.” In contrast to the ATMPs, voluntary agreements are not subject to analysis under the National Environmental Policy Act (NEPA).

The 2012 amendments exempted national parks with 50 or fewer tours annually from the provisions of NPATMA requiring ATMPs or voluntary agreements, provided that the NPS may withdraw an exemption if it determines that an ATMP or a voluntary agreement is necessary to protect park resources or visitor use and enjoyment. The amendments also added reporting requirements for operators conducting commercial air tour operations over national parks.

No ATMPs were completed in the first 19 years after the enactment of NPATMA because the FAA and the NPS were unable to reach resolution on challenges that precluded the completion of ATMPs. Ultimately, the FAA and the NPS shifted their focus from preparing ATMPs to completing voluntary agreements. In the seven years after NPATMA was amended to allow for voluntary agreements, voluntary agreements were completed for four National Park System units.

On February 14, 2019, Public Employees for Environmental Responsibility and Hawaii Coalition Malama Pono filed a mandamus suit in the US. Court of Appeals for the D.C. Circuit seeking an order compelling the NPS and the FAA to prepare ATMPs or voluntary agreements for seven parks. Finding that the agencies had a statutory duty under NPATMA to complete ATMPs or voluntary agreements for 23 parks, in May 2020, the court granted the mandamus petition and ordered the FAA and the NPS to develop and implement a plan for completing ATMPs or voluntary agreements for 23 parks as required by NPATMA. Per the court order, the agencies were to complete all ATMPs within two years or provide specific concrete reasons why it would take longer. The court retained jurisdiction over the case to approve the agencies’ plan and monitor the agencies’ progress. In response to multiple motions to enforce the court’s order filed by petitioners, on June 21, 2022, the court issued an order directing the agencies to submit a joint supplemental report, signed by the heads of both agencies, with proposed firm dates for bringing each park into compliance with NPATMA. On July 21, 2022, the agencies complied with that order by filing a Joint Supplemental Report. Under that report, all required ATMPs or voluntary agreements will be completed by December 31, 2024.

Since May 2020, the NPS and the FAA have devoted substantial efforts to preparing ATMPs or voluntary agreements as required by NPATMA. Issues with respect to NEPA and interim operating authority that precluded the completion of ATMPs previously have been resolved by the two agencies. ATMPs or voluntary agreements for 18 parks have been completed to date, and the agencies are on track to complete the remaining ATMPs or voluntary agreements by the court approved deadlines. The interagency team has worked extensively with the individual National Park System units to understand the potential effects of current air tour operations on park resources and visitor experience and to consult with Tribes, air tour operators, and

stakeholders. This work has also included establishing ambient baseline acoustic conditions and modeling existing air tour conditions based on operator reports.

The FAA and NPS initiated planning processes for all covered parks simultaneously and consolidated public announcements and other administrative procedures to improve efficiency. The agencies agreed to use current conditions indicated by actual flight data reported by the operators as the baseline for planning and analysis. Each park advanced its ATMP work from this baseline, and considered potential impacts of the air tours to park resources and visitor experience compared to the current condition, and evaluated alternatives, as necessary or appropriate under NPATMA and NEPA. All ATMPs or voluntary agreements completed to date have incorporated measures necessary to comply with NPATMA based on the work with each park unit and consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service under Section 7 of the Endangered Species Act, and consultation with Tribes and other consulting parties under Section 106 of the National Historic Preservation Act. In addition, all ATMPs have included adaptive management measures that are tied to air tour impacts and park conditions to ensure the continued effectiveness of each ATMP based on relevant and appropriate new information.

Setting specific routes and minimum altitudes for flights, installing and using flight monitoring equipment to enable the agencies to monitor and ensure compliance with ATMPs, setting time of day parameters and daily flight numbers, and setting temporary no fly periods are some examples of protective measures that could potentially be included in the ATMPs or voluntary agreements to mitigate or avoid impacts to park resources and visitor experience. Incorporating these measures into the ATMPs or voluntary agreements allows the agencies to address impacts to park resource and visitor experience concerns and respond to Tribal interests, while continuing to allow air tours over National Park System units where appropriate.

Under NPATMA, prior to completing an ATMP, the agencies are required to hold at least one public meeting and to make the draft ATMP available to the public through publication in the Federal Register. The NPS and the FAA have held a public meeting and announced a 30-day public comment period for each draft ATMP thus far. They invited participation of consulting parties, which included Tribes and air tour operators, in the Section 106 process. The agencies also met multiple times with the National Parks Overflights Advisory Group to discuss the process by which the ATMPs are being developed. Gateway communities had the opportunity to participate in public meetings and in the public comment process for the ATMPs.

The NPS and the FAA carefully considered all comments received during the public comment period and the Section 106 process for all completed ATMPs and are continuing to do so for the ATMPs and voluntary agreements that have not yet been completed. Responses to comments are included as part of the documentation for all ATMPs.

The NPS and the FAA have completed ATMPs or voluntary agreements for 18 parks since 2020. In 15 of those parks, the number of air tours has not changed from current levels. In two parks, air tours have been eliminated in direct response to concerns raised by Tribes. The NPS and the FAA are proposing reductions in the number of air tours at an additional four parks, whose ATMPs are still being developed. These proposed changes would enhance protection for the

parks' natural and cultural landscapes and resources, respect Tribal and Native Hawaiian sacred sites and ceremonial areas, while providing a high-quality visitor experience.

In over 70% of parks for which ATMPs and voluntary agreements are being or have been developed, the number of air tours was not reduced from the current levels as reported by the operators. For parks where the number of operations is not changing, the FAA and the NPS do not anticipate effects to the gateway communities. Where an ATMP limits the opportunities for air tour operators and ancillary businesses to generate revenue from tours conducted over the park, operators are not precluded from using their aircraft for other business ventures or conducting air tours elsewhere within the region. While there may be effects to individual operators in cases where air tours have been reduced or eliminated, any economic impact to the gateway community is expected to be minor. Based on NPS visitor spending effects analyses, park visitation results in substantial economic benefits to the local economy and supports local jobs. Air tour operations, where they occur, represent one relatively small component of the overall economic value the park contributes to the economies of gateway communities.

The NPS and FAA continue working closely together and are confident that they will meet the court-imposed deadlines to complete all required ATMPs or voluntary agreements. This interagency effort reflects close collaboration by both agencies and has led to unprecedented progress toward resolving the complex and challenging issue of air tour management at national parks. The agencies are confident that these efforts will allow them to meet their statutory obligations under NPATMA and other relevant laws by permitting commercial air tours over national parks when and where appropriate, and in ways that protect park natural and cultural resources, visitor experiences, and the interests and perspectives of Tribes and Native Hawaiian Organizations.

Chairman Gosar, Ranking Member Stansbury, thank you again for the opportunity to appear before you today. I would be happy to answer any questions that you may have.