

**Statement of Jake Tomlin
President
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US House Committee on Natural Resources Subcommittee on Oversight and Investigations

“Limiting Access and Damaging Gateway Economics: Examining the National Parks Air Tour Management Program”

December 5, 2023

Thank you for the opportunity to provide testimony on these Air Tour Management Plans (ATMP).

I am the President of Papillon Grand Canyon Helicopters and Grand Canyon Scenic Airlines (GCSA). Additionally, I have flown tours and charters in the National Parks as a captain in the DHC-6 300 Twin Otter. I have over 20 years of experience in professional aviation for both the Department of Defense and commercial air tour industry. Prior to joining our family of companies, I served 11 years as an F/A-18 pilot and officer in the United States Marine Corps after becoming a 3rd generation graduate from the United States Naval Academy.

It is important to know our company’s history to understand our commitment and passion for bringing the natural wonders and beauty of the land we live into the public through air tours. I am a proud employee of Papillon, a company my wife’s grandfather started back in 1965. I am also an employee of Grand Canyon Scenic Airlines founded in 1927, together, the brands are the longest-running family owned and operated aviation tour companies in the world. These tourism companies served over 600,000 passengers annually prior to the COVID-19 shutdown of our industry. Our family and our companies have been considered pioneers in both starting aviation tourism in 1927 and founding helicopter air tours in 1965.

The story of Papillon Grand Canyon Helicopters began in 1965, thanks to the vision of my wife’s grandfather, Elling Halvorson. At that time, Elling owned a construction company specializing in remote areas, high risk projects with challenging logistics. Elling took pride in mitigating risks through creativity and innovation. He was in the midst of a project to construct a microwave tower for AT&T atop the 9,400-foot Echo Summit in the Sierra Nevada Mountains when Elling purchased his first helicopter, a Bell 47-G3B1. This helicopter was used to carry workers and light construction materials more efficiently through the treacherous mountain terrain than the 1.5-mile tramway he had previously built.

The project that changed the course of Elling’s career involved constructing a 13.5-mile-long water pipeline from the North Rim to the South Rim of the rugged Grand Canyon. At that time, it was the largest contract the National Park Service had ever awarded. Today, this project remains the largest helicopter-supported construction project ever completed in the United

States with more than 25,000 flight hours. As Elling and his team flew colleagues and clients to work sites within the canyon, the majestic scenery was so captivating that workers began requesting chartered helicopter flights during off hours. Elling recognized the golden opportunity that lay in front of him, and the company was born that would make history by becoming one of the first helicopter aerial sightseeing companies in the world and the first to fly the Grand Canyon.

Shortly after forming the company in 1965, Elling acquired a fixed-wing company, Grand Canyon Airlines, which would later become Grand Canyon Scenic Airlines. Elling was also a pioneer in developing quiet technology for the helicopter industry. He built the S55QT helicopter, the first Quiet Technology helicopter in operation. His innovation challenged the leading helicopter manufacturers to address the need for quiet aircraft. It was his vision that led to the building of the company's renowned state-of-the-art helicopter terminals and facilities located at Grand Canyon National Park Airport and later at the Las Vegas/Boulder City Municipal Airport.

Our company has a fleet of 64 helicopters and fixed wing aircraft. We currently employ over 400 employees. As we continue our recovery from the COVID impact we will fly an estimated 300,000 passengers this year on daily tours to such places as Hoover Dam, Lake Mead, Monument Valley, Lake Powell, and of course unforgettable views of the Grand Canyon's multiple rims.

We have passenger terminals in Las Vegas, Boulder City, Grand Canyon National Park, Grand Canyon West, and Page.

Our company is proud of the beautiful environments in which we live and is blessed with the opportunity to share this beauty with our visitors from around the world. However, this ability to share the beauty of the national parks with others is under serious threat due to ATMPs. We are strongly opposed to the damaging impacts of the ATMPs, which damages extend beyond our company, but to our local communities and the public wishing to visit the national parks.

ATMP Background

Congress passed the National Parks Air Tour Management Act of 2000 (NPATMA) to regulate commercial air tour operations over the National Park System. The Act required the Federal Aviation Administration (FAA) and the National Park Service (NPS) to develop ATMPs for the national parks. As part of the Act, Congress created the National Parks Overflight Advisory Group (NPOAG) to provide expert advice and recommendations to the agencies in the implementation of the NPATMA with respect to commercial air tour operations over and near national parks. The NPOAG is comprised of ten members from diverse backgrounds, including representatives of general aviation, commercial air tour operators, environmental concerns, and Native tribes.

However, 20 years later after no plans were developed, on May 1, 2020, the US Court of Appeals for the D.C. Circuit ordered the FAA and the NPS to file a proposed plan within 120 days for bringing all twenty-three eligible parks into compliance with NPATMA within two years and submit quarterly updates on the agencies' progress.

On August 31, 2020, the FAA and the NPS submitted the proposed plans to the Court. The plan outlines the approach and steps the agencies will take to meet the Court order and comply with the NPATMA. Throughout the plan, the actions reflect coordination of government-to-governmental Tribal consultation and other interagency coordination but excludes NPOAG.

Process Concerns

The agencies' plan to meet the Court order makes no mention of the NPOAG role. NPOAG was established in NPATMA to provide advice and counsel with respect to commercial air tour operations over and near national parks. The FAA's proposed schedule to accomplish the plan, with its heavy focus on interagency coordination while omitting the inclusion of NPOAG, creates a concern regarding transparency for the overall process.

While it is the Court that imposed the arbitrary two-year deadline on the FAA, the agency cannot sacrifice its first priority of maintaining safety in the National Airspace (NAS). Rushing to complete the project, without input on safety considerations from NPOAG, has already produced shortcomings that will have a negative impact on the NAS. While the proposed plan allows for notice and comment, not using the NPOAG to help develop the best framework possible for the plan is extraordinarily problematic.

The NPS has also chosen to exclude important input and involvement from commercial air tour operators who will be directly affected by any newly enforced Air Tour Management Plan. Local operators understand the economics and safety of their operations better than anyone. They are truly the experts in the field. The decision to exclude them from the ATMP process clearly will put the general public and their businesses at risk.

Congress set its vision and intent for air tours over the nation's park by enacting NPATMA. This legislation was a product of the consensus work and recommendations made by the National Parks Overflights Working Group. Congress and stakeholders, working together, created the roadmap for the development of ATMPs, which is now being ignored in the rush to complete all the plans within two years.

In developing the ATMPs the agencies should look at all aviation noise, not just air tour noise when determining the impact on the park or recreation area. To date no noise studies have been completed on any of the parks under consideration for an ATMP. The agencies should not be singling out air tours but should look to the precedent set in Grand Canyon to consider all aviation noise. Noise precedent was set regarding over flights of National Parks when working through the Grand Canyon National Park over flights issue, *United States Air Tour Association v.*

FAA, 298 F. 3d997(D.C.Cir.2002). The results of this litigation required the NPS and FAA to consider all aviation noise in that process.

To provide a specific example on one ATMP and the impacts on the industry, IOA was cut by 96% reducing flights from 54 to 2 annually in Death Valley National Park. Yet there are three Military Operations Areas (MOA) that overlie the Park. Military aircraft can operate at 200 feet Above Ground Level (AGL) from 6:00 am until 10:00 pm Monday through Friday. There are also several low-level military training routes inside the park as well as two other airports. Papillon is left wondering what adverse conditions the agencies determined and documented that lead them to believe 54 annual air tour flights at Death Valley adversely affected the park, but 2 flights annually were acceptable. Additionally, Bryce Canyon flights were reduced by 82%. Grand Canyon Scenic Airlines alone lost 98% of our IOA reduced from 1305 to just 38 IOA Annually.

Economic Consideration

Given the economic impact on commercial air tour operators, neither the NPS nor FAA has sufficiently established the economic loss to commercial air tour operators and the communities in which they operate. The National Park Service has also failed to reach out to the operators to enquire what economic impacts might arise implementing a management plan that restricts overflights. Operators are just now recovering from the economic devastation of COVID-19, losing over 80% of their business due to the shutdown of international travel. Further restrictions will cripple an already fragile industry trying to rebuild.

The FAA and the NPS have produced ATMPs that reduce or in some parks completely eliminate interim operating authority (IOA). The IOA is a flight cap that the operator can fly in a year and does not specify the routes or operating conditions. When the flights are completely eliminated the air tour operator is obviously forced out of business and the public is deprived of the ability to see the park from the air.

When IOA is reduced, both the air tour operators and the public are negatively affected. With the reduction in the number of air tours that can be flown, due to simple supply and demand, consumer prices will rise significantly. The average visitor may no longer be able to afford the price of a flight. Additionally, the ATMPs in some cases reduce the IOA to such a degree that it does not allow for a profitable business nor provide for the realistic prospect of becoming profitable if demand for air tours increases.

The ATMPs also increase the cost of doing business. The ATMP requires air tour operators to install expensive satellite tracking devices and then pay for expensive plans that report every 15 seconds. Our company does track our aircraft but with our equipment we do not have the ability to produce the reports required. Identifying and creating an accurate report would require someone to manually review and tag each flight. Considering the number of daily flights over each park that Papillon and GCSA operate would be a substantial time commitment. Upgrading the tracking equipment is a very expensive project and we feel does not meet any

cost benefit analysis. The ATMPs fail to take advantage of technology that would reduce costs. Automatic Dependent Surveillance–Broadcast (ADS–B) is an advanced surveillance technology that combines an aircraft’s positioning source, aircraft avionics, and a ground infrastructure to create an accurate surveillance interface between aircraft and Air Traffic Control (ATC). ADS-B is becoming standard equipment in all aircraft and utilizing this technology accomplishes the same goal as satellite type tracking systems without the high cost. Where there are gaps in ADS-B coverage, the agencies can expedite installation of ADS-B transceivers. Doing so would enhance safety of flight for all aircraft, not just air tours. While this was a recommendation by the NPOAG, the agencies have instead opted for a more expensive tracking system.

The ATMP requires operators to submit detailed satellite tracking data to the agencies. This is a remarkably burdensome and costly requirement on a per flight basis considering the limited number of allocations permitted. If the agencies instead required newer technology ADS-B as a tracking requirement, they could view all air tour aircraft flight live or recorded. The agencies would not need to wait as much as seven months before seeing detailed routes of all aircraft overflights.

In creating the ATMPs, the agencies modeled air tour flight data from 2017 through 2019 to establish the new IOA amounts. The original IOA issued was based on the number of flights flown when NPATMA was established. By looking only at flights from 2017 to 2019, the agencies are not taking into consideration market trends. Our company offers flights to many different destinations. The popularity of those destinations shifts over the years due to trends and other consumer demands. By placing an artificial cap over an arbitrary timeframe, the agencies only measured what was popular during that time period. This shortsighted approach does not allow businesses the ability to shift their services to meet changing consumer needs and interests.

The NPS is rushing through this process due to an unrealistic timeline placed on them by the court. Without current modeling to see how the resource is truly impacted we do not know if further restrictions are needed. The NPS is overreaching and in doing so will cripple the air tour industry and compromise air safety.

It is clear from the plans already introduced that the overall strategy is to cut back flights to such a degree that it is no longer economically feasible for air tour companies to stay in business.

Public Service Work

As noted in the history of our companies, we started as a utility company building public service infrastructure. Those roots remain to this day as we conduct various utility missions to include National Park search and rescue at Grand Canyon and Sequoia Kings National Parks, UPS air cargo, USFS and DOI firefighting nationwide, powerline patrol, Department of Defense, Arizona and New Mexico Game & Fish and many other operations. These types of missions serving the public good are important to highlight. Our ability to meet these service needs in our country

would not be possible if it weren't for a strong air tourism backbone in our businesses. Aviation can be a financially difficult industry and having multiple revenue streams provides important insurance for business continuity.

ATMPs do not only impact air tours, but they also impact the entire line of our business. Removing or eliminating IOA for air tours reduces or completely removes the presence of our industry in a community. This in turn reduces the ability of our industry to provide public service missions and other critical services.

Safety Considerations

The agencies have produced ATMPs with many safety of flight concerns. Excluding critical stakeholders like the NPOAG in this process resulted in plans for the initial parks that contain clear safety concerns. Some examples of these safety concerns are:

- Flight altitudes on tour routes that conflict with arriving and departing aircraft from nearby airports.
- Specific routes with no flexibility for deviation in case of weather.
- Communication requirements on a frequency that is the same as some nearby airports causing congestion.
- Required reporting phraseology not meaningful to the majority of aircraft in the area.
- The required communication frequency not approved by the FCC for this purpose.
- Arches National Park - despite being less than 2 miles away from the Canyonlands Regional Airport, the plan requires the use of a different frequency than the common traffic advisory frequency.
- Bryce Canyon National Park - the plan calls out specific routes, altitudes and time of day that pose hazards to helicopter operators. This includes stacking fixed wing and rotary wing at the same elevation in almost identical routes at high density altitudes. This causes a tremendous safety concern as fixed wing and rotor wing climb and descend through each other's path.

The initial draft ATMPs demonstrated a lack of consideration for very basic aeronautical safety factors.

Environmental Considerations

I do not believe the agencies have given adequate consideration to the environmental benefits of air tours. By reducing or eliminating air tours the agencies have short sightedly ignored and blocked the opportunities that exciting new technologies, promising quieter flights, such as electrical aircraft, can deliver. By removing airspace access for today's aircraft, the FAA and NPS are removing airspace access for future generations using quieter technologies.

In the ATMPs the NPS and FAA focused on air tours, while ignoring general vehicle traffic and the other environmental impacts from ground visitors. In many of our national parks, nearly

every viewpoint in the park is within a short walking distance of fully developed parking lots full of trucks, motorcycles, motorhomes, tour busses, and shuttle busses. The decision to limit or eliminate air tours while allowing a steady stream of loud vehicles to drive the length of the park, seems arbitrary.

Air tours require no ground-based infrastructure at the park, which allows visitors accessibility without the need for roads, trails, signs, bathrooms, garbage cans, or other services.

By further restricting an already limited number of allowable air tours, we are reducing opportunities to access our parks in a way that leaves no environmental footprint with little to no disturbance. Through carbon-offset efforts and strict altitude requirements to control noise – just to name a few efforts – air tour operators are working to ensure they are responsible stewards of the nation’s parks. There are currently no restrictions or mitigation efforts for loud vehicles operating in the park, some of which make more noise than a passing helicopter.

Access Concerns

While the ATMPs do real economic harm to the operators, it is discriminatory against visitors who choose to experience the National Parks by aerial sightseeing.

Air tours are an important option for many visitors conducting a once-in-a-lifetime trip to see famous natural landmarks. Visitors taking advantage of air tours benefit by avoiding traffic, wait times, and walking trails that are inaccessible for people with disabilities or elderly, while reducing congestion and demand on park infrastructure.

The National Parks should be available for all visitors to see. Limiting flights over the park unfairly limits the elderly, very young, handicapped, and others to experience the park. Limiting flights over the Parks is discriminating to those who might not have the time, resources, or physical ability to see the park any other way.

Like ground-based tours, air tours are a valid part of our visitor experience, providing a unique window from which we can share our cultural, historical and environmental sites with the world. Air tours require no ground-based infrastructure at the park, which allows visitors accessibility without the need for roads, trails, signs, bathrooms, garbage cans, or other services.

Papillon and GCSA has had a proud history of serving physically disabled passengers. This included flying two of our own family members who had to battle with Duchenne Muscular Dystrophy their entire lives. Without the ability to fly them over the parks they would not have been able to experience it the way any of us could here today.

Conclusion

Undoubtedly it is essential to preserve the National Parks, yet still enable visitations for all to enjoy. While I oppose the draft and issued ATMPs, commercial air tour operators would welcome a collaborative engagement with the FAA, NPS, and all interested parties to benefit these parks and the visitors.