

**LIMITING ACCESS AND DAMAGING
GATEWAY ECONOMIES: EXAMINING
THE NATIONAL PARKS AIR TOUR
MANAGEMENT PROGRAM**

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS

OF THE

COMMITTEE ON NATURAL RESOURCES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

Tuesday, December 5, 2023

Serial No. 118-83

Printed for the use of the Committee on Natural Resources



Available via the World Wide Web: <http://www.govinfo.gov>

or

Committee address: <http://naturalresources.house.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

54-286 PDF

WASHINGTON : 2024

COMMITTEE ON NATURAL RESOURCES

BRUCE WESTERMAN, AR, *Chairman*
DOUG LAMBORN, CO, *Vice Chairman*
RAÚL M. GRIJALVA, AZ, *Ranking Member*

Doug Lamborn, CO	Grace F. Napolitano, CA
Robert J. Wittman, VA	Gregorio Kilili Camacho Sablan, CNMI
Tom McClintock, CA	Jared Huffman, CA
Paul Gosar, AZ	Ruben Gallego, AZ
Garret Graves, LA	Joe Neguse, CO
Aumua Amata C. Radewagen, AS	Mike Levin, CA
Doug LaMalfa, CA	Katie Porter, CA
Daniel Webster, FL	Teresa Leger Fernández, NM
Jennifer González-Colón, PR	Melanie A. Stansbury, NM
Russ Fulcher, ID	Mary Sattler Peltola, AK
Pete Stauber, MN	Alexandria Ocasio-Cortez, NY
John R. Curtis, UT	Kevin Mullin, CA
Tom Tiffany, WI	Val T. Hoyle, OR
Jerry Carl, AL	Sydney Kamlager-Dove, CA
Matt Rosendale, MT	Seth Magaziner, RI
Lauren Boebert, CO	Nydia M. Velázquez, NY
Cliff Bentz, OR	Ed Case, HI
Jen Kiggans, VA	Debbie Dingell, MI
Jim Moylan, GU	Susie Lee, NV
Wesley P. Hunt, TX	
Mike Collins, GA	
Anna Paulina Luna, FL	
John Duarte, CA	
Harriet M. Hageman, WY	

Vivian Moeglein, *Staff Director*
Tom Connally, *Chief Counsel*
Lora Snyder, *Democratic Staff Director*
<http://naturalresources.house.gov>

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

PAUL GOSAR, AZ, *Chairman*
MIKE COLLINS, GA, *Vice Chair*
MELANIE A. STANSBURY, NM, *Ranking Member*

Matt Rosendale, MT	Ed Case, HI
Wesley P. Hunt, TX	Ruben Gallego, AZ
Mike Collins, GA	Susie Lee, NV
Anna Paulina Luna, FL	Raúl M. Grijalva, AZ, <i>ex officio</i>
Bruce Westerman, AR, <i>ex officio</i>	

CONTENTS

	Page
Hearing held on Tuesday, December 5, 2023	1
Statement of Members:	
Gosar, Hon. Paul, a Representative in Congress from the State of Arizona	1
Stansbury, Hon. Melanie A., a Representative in Congress from the State of New Mexico	10
Statement of Witnesses:	
Panel I:	
Sauvajot, Ray, Associate Director, Natural Resource Stewardship and Science, National Park Service, U.S. Department of the Interior, Washington, DC	3
Prepared statement of	5
Questions submitted for the record	7
Panel II:	
Wells, John, Chairman of the Board, Military-Veterans Advocacy, Slidell, Louisiana	21
Prepared statement of	25
Tomlin, Jake, President, Grand Canyon Scenic Airlines, Boulder City, Nevada	27
Prepared statement of	29
Questions submitted for the record	33
Slater, Carl, Delegate, Navajo Nation Council, Window Rock, Arizona	36
Prepared statement of	38
Schlaefli, Mark A., President, Rushmore Helicopters, Custer, South Dakota	43
Prepared statement of	45
Questions submitted for the record	50
Additional Materials Submitted for the Record:	
Submissions for the Record by Representative Gosar	
Southwest Safaris, Letter dated July 13, 2023	72

**OVERSIGHT HEARING ON LIMITING ACCESS
AND DAMAGING GATEWAY ECONOMIES:
EXAMINING THE NATIONAL PARKS AIR TOUR
MANAGEMENT PROGRAM**

**Tuesday, December 5, 2023
U.S. House of Representatives
Subcommittee on Oversight and Investigations
Committee on Natural Resources
Washington, DC**

The Subcommittee met, pursuant to notice, at 10:32 a.m. in Room 1324, Longworth House Office Building, Hon. Paul Gosar [Chairman of the Subcommittee] presiding.

Present: Representatives Gosar, Rosendale, Collins; Stansbury, and Case.

Also present: Representatives Johnson of SD and Nehls.

Dr. GOSAR. The Subcommittee on Oversight and Investigations will come to order.

Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time.

The Subcommittee meeting today is to hear testimony on limiting access and damaging gateway economies, examining the National Parks Air Tour Management Program.

I ask unanimous consent that all Members testifying today be allowed to sit with the Subcommittee, give their testimony, and participate in the hearing from the dais: the gentleman from Texas, Mr. Troy Nehls; the gentleman from South Dakota, Mr. Dusty Johnson.

Any additional Members?

Without objection, so ordered.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member. I therefore ask unanimous consent that all other Members' statements be made part of the hearing record if they are submitted in accordance with Committee Rule 3.

Without objection, so ordered.

I now recognize myself for an opening statement.

**STATEMENT OF THE HON. PAUL GOSAR, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF ARIZONA**

Dr. GOSAR. Good morning, everyone, and thank you to our witnesses for joining us today to examine the National Park Air Tour Management Program, and how it can limit access to the National Park System for millions of Americans and damage the economies of gateway communities.

Unfortunately, the National Park Service has abused the National Parks Air Tour Management Program over the years to eliminate air tour flights over certain national park units,

including some of the most popular destinations accessed across the nation without consulting stakeholders, including local communities, operators, and national park overflight advisory groups.

Just this month, the National Park Service published an Air Tour Management Plan that essentially prohibits air tours from both the Badlands National Park and Mount Rushmore National Memorial. Currently, an average of 1,425 air tours are conducted over the Badlands National Park every year, and 3,914 over Mount Rushmore National Memorial. These ATMPs will undoubtedly put air tour operators in these regions out of business.

My state of Arizona has 22 national park units, with an average of over 10 million visitors per year coming to experience our beauty and partake in the recreational activities. The economic impact is over \$1.8 billion per year. The economies of the gateway communities that support our national parks benefit from the air tour industry, which provides valuable experiences for visitors and critical services to that community. Air tour operators in Arizona have already been hit hard by ATMPs. I am concerned that upcoming plans will harm the economy of my state by eliminating air tours and, consequently, destroy the industry in affected regions.

The National Park Service is currently developing the ATMPs for the Canyon de Chelly National Monument in Arizona. I find it very troubling that, like other recent ATMPs, the National Park Service is failing to consult with the National Parks Overflights Advisory Group, which leads to terrible economic consequences for gateway communities, serious safety concerns, and limited access to the National Park Service.

While the National Park Service decided to consult with these tribes for this ATMP, they have not, to my knowledge, reached out to those who represent those who would be most impacted, such as groups representing veterans, seniors, persons living with disabilities, local gateway communities, and local elected officials, as well as local tour operators.

Back in July, Deputy Director Reynolds came before this Committee and committed to consulting with the National Parks Overflights Advisory Group for forthcoming ATMPs. I hope to get an update on this from the National Park Service today, because what I am hearing from the members of the National Parks Overflight Advisory Group is not consistent with the commitment made to this Committee.

Ensuring that Americans have access to our nation's most iconic landscapes and natural wonders is a priority for this Committee. ATMPs that prohibit or restrict air tours greatly limit access to the National Park System for millions of Americans with physical limitations, including veterans and others with disabilities or chronic pain, older people, young children, and more. This is unfortunate, because experiencing nature can be therapeutic and healing for many, particularly for our nation's veterans who struggle with severe mental and physical health issues. Our veterans deserve better. Congress and the Administration should strive to improve access in any way possible.

ATMPs also limit access for those with limited time and resources to travel. Many of the most sought-after destinations in the National Park Service System are difficult to get to, and many

visitors simply do not have the time to, for example, spend a week hiking in and out of a national park, and others cannot afford the high cost of an extended stay. Air tours can provide a more convenient option to experience our nation's natural wonders.

Poorly designed ATMPs also affect emergency services that air tour operators provide for surrounding communities. As a recent example, after the devastating Maui fires this last summer air tour operators sprang into action and rapidly delivered approximately 70,000 pounds of critical supplies to Lahaina and Maui, including food, medical supplies, generators, water, gasoline, and more.

Additionally, air tour operators employ pilots across the nation who are increasingly in demand in fields such as emergency services, law enforcement, firefighting, and national defense. The air tour industry provides an irreplaceable workforce pipeline for these fields.

Air tours are critical for ensuring access for millions of Americans, and at the same time support gateway economies and emergency services. I encourage the National Park Service to work with the Committee and the National Parks Overflights Advisory Group to eliminate barriers to access the National Park System and address overly restrictive, uninformed ATMPs.

With that, I now will move to our witness, Mr. Ray Sauvajot, the Associate Director of the National Resources Stewardship and Science for the National Park Service.

Let me remind the witness that under Committee Rules, he must limit his oral statements to 5 minutes, but his entire statement will appear in the hearing record.

To begin your testimony, please press the "on" button on the microphone.

We will be using timing lights. When you begin, the light will turn green. When you start seeing yellow, wrap it up, and when you see it red, please complete your statement.

The Chairman now recognizes Associate Director Sauvajot for 5 minutes.

Did I say that right?

OK, thank you very much. You are recognized, sir.

**STATEMENT OF RAY SAUVAJOT, ASSOCIATE DIRECTOR,
NATURAL RESOURCE STEWARDSHIP AND SCIENCE,
NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE
INTERIOR, WASHINGTON, DC**

Mr. SAUVAJOT. 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. I would like to summarize my statement and submit my full written statement in the record.

Commercial air tours have been occurring over national parks for decades. The potential impact of air tours to national park resources and visitor experiences were recognized by Congress in 1987, when the National Parks Overflights Act was enacted. The law required the National Park Service to conduct a study to determine the minimum altitude for air tours over all national park units, and to identify any problems associated with overflight by aircraft.

The NPS submitted its report to Congress in 1994. In 1997, the FAA, Federal Aviation Administration, and the National Park Service 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.

In the year 2000, Congress enacted the National Parks Air Tour Management Act, which reflected the recommendations of the National Parks Overflights Working Group. This Act required the NPS and the FAA to complete Air Tour Management Plans, or ATMPs. The objective of ATMPs is to develop acceptable and effective measures to mitigate or prevent the significant impacts, if any, of commercial air tour operations on natural and cultural resources, visitor experiences, and tribal lands.

Given the distinct missions of the NPS and the FAA and their differing policies regarding environmental analyses, satisfying the law's requirement that environmental decision documents for ATMPs be approved by both agencies proved challenging. No ATMPs were completed for many years.

In 2019, a mandamus suit was filed seeking to compel the NPS and the FAA to prepare ATMPs or voluntary agreements. In May 2020, the court granted the petition and ordered the agencies to develop and implement a plan for completing ATMPs or voluntary agreements for 23 parks, as required by law.

Since May 2020, the NPS and the FAA have devoted substantial effort to resolving issues in preparing ATMPs and voluntary agreements. Eighteen parks have been completed to date, and agencies are on track to complete the remaining ATMPs or voluntary agreements by the court-approved deadlines.

The team has worked extensively with the individual national park units to understand the potential effects of current air tour operations on park resources and visitor experience, and to consult with tribes and other stakeholders. The NPS and the FAA have held a public meeting and a 30-day public comment period for each draft ATMP. Tribes and air tour operators were invited to consult in the section 106 process. The agencies also met multiple times with the National Park's Overflights Advisory Group to discuss the ATMP development process. Gateway communities had the opportunity to participate in public meetings and in the public comment process.

In 15 of the 18 parks where the NPS and the FAA have completed ATMPs or volunteer agreements since 2020, the number of air tours has not changed from current levels. Where an ATMP does limit air tour operations over a park, operators are not precluded from using their aircraft for other business ventures or conducting air tours elsewhere in 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. Air tour operations, where they occur, represent one relatively small component of the overall economic value the park contributes to gateway economies and surrounding communities.

The NPS and the FAA continue working closely together. 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 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, and I would be happy to answer any questions that you may have.

[The prepared statement of Mr. Sauvajot follows:]

PREPARED STATEMENT OF RAYMOND M. SAUVAJOT, ASSOCIATE DIRECTOR, NATURAL RESOURCE STEWARDSHIP AND SCIENCE, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

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 U.S. 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.

QUESTIONS SUBMITTED FOR THE RECORD TO ASSOCIATE DIRECTOR SAUVAJOT,
NATURAL RESOURCE STEWARDSHIP AND SCIENCE, NATIONAL PARK SERVICE, U.S.
DEPARTMENT OF THE INTERIOR

Mr. Sauvajot did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Questions Submitted by Representative Gosar

Question 1. How would National Parks Service (NPS) describe the role that the National Parks Overflights Advisory Group (NPOAG) has played in the Air Tour Management Plan (ATMP) process?

1a) What specific input from commercial air tour operators and general aviation representatives on the NPOAG had been incorporated in the ATMP process?

1b) What specific contemporary input from Rushmore Helicopters, Black Hills Aerial Adventures and Badger Helicopters had been incorporated in the ATMP process?

Question 2. What shortcomings exist with the noise and operational data used by NPS to develop the ATMPs?

2a) Are noise models and data developed in 2003, 2007 and 2012 considered to be high quality scientific data as required by NPS 4.1.1?

Question 3. How were the seasonality aspects of the commercial air tour industry considered in the ATMPs?

Question 4. How does NPS justify completely eliminating overflights in some ATMPs?

4a) How does NPS envision the restrictions included in its ATMPs will affect the economic viability of commercial air tour operators and related businesses in local communities, specifically in park units facing 100% elimination?

4b) Why were the economic impacts to operators and local communities and businesses not evaluated as a part of the ATMP process?

Question 5. Why are the ATMP's for Badlands and Mount Rushmore nearly identical, when the parks could not be more different?

Question 6. In effort to meet the Court-imposed deadline for developing and implementing ATMPs, what processes has NPS expedited?

6a) If NPS was afforded additional time to develop and implement ATMPs, could the ATMPs be improved?

Question 7. Are any NPS employees members of, or offer material support to Public Employees for Environmental Responsibility?

Question 8. How is safety of the national airspace system (NAS) prioritized in the development of ATMPs?

8a) Can you explain how safety risk assessments were accomplished with the Federal Aviation Administration (FAA) for ATMP?

8b) Are you aware of risks to air commerce and the need for risk assessment?

Question 9. Why were there significant differences in the roles of local FAA Flight Standards District Offices (FSDO) between different ATMPs?

9a) What were the roles of each FAA office that has been involved in the ATMP process?

9b) What role have regional FAA FSDOs had in the ATMP process?

9c) What risk assessments were conducted and considered for non-tour operations that are not restricted inside of the park boundary such as photography flights or passenger transport flights?

9d) Why did NPS dismiss or ignore the recommendations provided by the Rapid City FSDO?

9e) Why was the helicopter specialist and principal operations inspector in the Rapid City FSDO removed from any involvement with the ATMP?

Question 10. How does the National Parks Service (NPS) envision the restrictions included in its Air Tour Management Plans will affect access for certain populations including, veterans, elderly, and people with mobility challenges?

10a) How can you assure the flying public that the removal of aerial tours at Mt Rushmore and the Badlands will not discriminate against travelers with mobility challenges?

10b) Was the ADA consulted or reviewed in the preparation of the ATMP?

Question 11. How does NPS envision the restrictions included in its ATMPs will affect essential services like search and rescue and firefighting?

11a) How does NPS envision the restrictions included in its ATMPs will affect the helicopter pilot shortage?

Question 12. With advanced air mobility (AAM) or electric vertical takeoff and landing (eVTOL) aircraft expected to commence commercial operations in 2024, how are the environmental benefits of these aircraft incorporated in ATMPs?

Questions Submitted by Representative Case

Question 1. How many public comments were received during the comment periods for each Air Tour Management Plan (ATMP) to date?

Question 2. Do the agencies plan to release a summary of the comments received for each ATMP?

Question 3. Do the ATMPs as currently drafted help meet the overall noise and air quality goals of the individual parks?

Question 4. Does the National Park Service (NPS) have regulations for air and noise pollution from on-the-ground sources like recreational vehicles? How were those regulations developed?

Question 5. You stated in our hearing that the NPS implements a number of strategies and policies to increase access for veterans, the elderly and individuals with disabilities. Can the NPS provide a summary of those efforts for each park subject to ATMPs?

Question 6. Does the NPS collect data on how many individuals take air tours and also visit the same park on the ground? Does the NPS believe that eliminating air tours over national park units with ATMPs that propose their elimination will significantly increase the number of visitors on the ground?

Question 7. Which national park units have revenue sharing agreements with air tour operators? How much revenue was collected for the NPS through these agreements in each of the past 10 fiscal years?

Question 8. Which national park units had efforts to develop voluntary agreements with tour operators? For those units which attempted to develop a voluntary agreement but were unable to do so, please describe the conflicts which required an ATMP to be developed.

Question 9. The Environmental Assessments for both Hawai'i Volcanoes and Haleakalā state, "Native Hawaiians have consistently noted that the persistent air tours over the Park unreasonably interfere with the silence needed to perform ceremonies conducted by Native Hawaiian practitioners at these sacred sites, some of which rely on hearing natural sounds" (page 92 and 80 respectively). Recently, I wrote to the Federal Aviation Administration (FAA) about its Section 106 consultation process, and its finding of No Adverse Effect from the Hawaii Volcanoes Air Tour Plan. However the Hawai'i State Historic Preservation Division disagrees, writing to FAA stating the proposed plan will "result in an adverse effect to TCPs [Traditional Cultural Properties] and traditional cultural practices." The Hawai'i State Historic Preservation Division also wrote, "Despite holding numerous consultation meetings, FAA has not made a good faith effort to consult, rather they have only moved through the motions to comply with the four-step process and 36 CFR § 800. The FAA has not taken into consideration how the air tour management plan could be amended to avoid, minimize, or mitigate effects to historic properties, nor have they amended their determination of effect to consider these effects, which have been raised by the SHPO and consulting parties throughout the consultation meetings including those held recently." This view was echoed by the Federal Advisory Council on Historic Preservation. How does the NPS justify moving forward with these ATMPs over the concerns of the State Historic Preservation Office and Advisory Council on Historic Preservation? How do the agencies propose to address the significant impacts on Native Hawaiian cultural practitioners and historic properties?

Question 10. The forest birds in Haleakalā require proactive protection to ensure their survival. The plan states that "at least two federally endangered forest bird species within the Park, the kiwīkiu and 'akohekohe, are at imminent risk of extinction, with fewer than 200 and 1800 individuals, respectively, left in the wild. In addition to impacts to the birds themselves, aircraft noise adversely impacts the NPS's ability to monitor federally protected Hawaiian forest birds, which is done primarily by acoustic-based surveys to detect birdsongs" (page 13). If the NPS cannot conduct the studies, the agency could be violating several laws from those governing the NPS to the Endangered Species Act. Why isn't the federal government using the precautionary principle? Why would you put the forest birds at risk in order to allow commercial air tours? Do you agree that allowing air tours is discretionary and ensuring the survival of the birds is required under law?

Question 11. The agencies have stated in the draft Haleakalā plan that natural and cultural resources, visitor experiences and Native Hawaiian cultural sites and interactions will be negatively impacted by commercial air tours. The current noisy

conditions in the park are violating laws and policies, slight management changes will not protect the park. The plan seeks to minimize flights to one path, but this likely to be difficult to strictly enforce. Does this comply with Park Service policies to protect natural sounds? Why did the agencies not select the most protective alternative as the agency's laws require?

Question 12. Why did NPS/FAA recommend air tours over Bryce Canyon without a helicopter vibrational impact study? Shouldn't the National Park Service use the precautionary principle to avoid any damage to the very resource that inspired the protection of this park?

Questions Submitted by Representative Troy E. Nehls

Question 1. Was the Americans with Disabilities Act consulted or reviewed in the preparation of ATMPs? If so, please elaborate.

Question 2. How can NPS assure the flying public that the removal of aerial tours at Mt. Rushmore and the Badlands will not discriminate against travelers with mobility challenges?

Question 3. If ATMPs recommend eliminating, phasing out, or significantly reducing air tours, how will NPS ensure that those who are physically immobile will be able to access the National Park System? Specifically, with traversing NPS landscapes that are inaccessible by wheelchairs, power scooters, or other types of mobility assistance vehicles.

Question 4. Please explain the involvement and input from stakeholders in the National Parks Overflights Advisory Group, specifically pertaining to commercial air tour operators and industry representatives. How was their input integrated into the development of ATMPs?

Dr. GOSAR. Thank you very much, Mr. Sauvajot, I appreciate it. I am now going to recognize the Ranking Member, Ms. Stansbury, for her opening remarks.

STATEMENT OF THE HON. MELANIE A. STANSBURY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW MEXICO

Ms. STANSBURY. Thank you, Mr. Chairman, and good morning to everyone. Thank you, Director, for being here this morning.

As we all know, our national parks play an essential role in preserving our most treasured landscapes, our cultural landscapes, our historic, natural, and cultural resources. Our parks are our refuges for more than 300 million people from all over the world who visit them for recreation, to enjoy the outdoors, and for cultural purposes, as our communities do. Our veterans use them as a place for respite. Many species, including those who are endangered, use them for survival and vital ecosystems. Our families connect with the natural world through them. They host weddings, remembrances, and all manner of life-changing experiences. They are a treasured place for solitude and peacefulness.

And, of course, our national parks exist on Indigenous lands. They carry thousands of years of history of our tribal and pueblo communities, and our tribal communities continue to practice and use these landscapes for cultural needs. They also sustain these lands as original stewards.

Private flyover tours are a special view of our parks. And, of course, it is a wonderful opportunity in many of these treasured landscapes for our visitors who are not otherwise able to see them from the ground or to experience them in other ways. But they can

also ruin the experience of visitors, and they can disturb tribal sacred ceremonies and practices and other community activities. For far too long these tours were allowed to happen without standards in place to protect our resources and those communities.

Despite Congress passing a law in 2000 requiring regulation of air tours over our parks, agency disagreements held up progress for nearly two decades. It took a lawsuit in 2020 to finally spark action.

And, finally, as we have heard this morning, National Parks and the Federal Aviation Authority are now in the process of developing and implementing air tour management plans specific to each park. These plans set in place rules for when, where, and how these flights can take place, and include rules about the types of aircraft that can be used for that.

Communities in and around our parks, especially our tribal communities, must have a seat at the table in developing these individual management plans.

I recognize that air tour operators provide a vital service that many seek out as a part of their experience of our parks. However, we can't just put economic opportunity and benefit of this industry across the enjoyment of millions of users and, of course, the cultural and natural uses of these public spaces. We do need reasonable limitations, where appropriate, to ensure that these resources are protected, and that everybody can enjoy our parks, and that our cultural resources can be protected in the process.

And, in particular, we know that many of our Hawaiian communities are both impacted by and take advantage of these opportunities. And I would like, Mr. Chairman, to yield the remainder of my time to Mr. Case.

Mr. CASE. Thank you, Ranking Member and Mr. Chair. And I say with respect to the Chair and to my Majority colleagues who will be asking questions at this hearing, but this hearing is nothing more or less than a part of a concerted effort to disrupt, to upset, to halt a decades-old, inclusive process that was intended and is ordered by the courts to implement a decades old law that was responsive to an even further-into-the-past decades-old problem, which continues to this day. And that problem is the attempted extraction of profit from our national parks at the expense of all who so much enjoy our national parks.

The bottom line here is that our Americans across the country unanimously support preserving our treasured national parks. In fact, we had 312 visitations to our parks in 2022. And although this hearing clearly aims to show that managing air tours above our parks is unfairly harming an industry, what is really happening is an attempt to put the economic benefit of a tiny minority consisting of tour helicopter manufacturers and operators in a priority position over the long-term preservation and enjoyment of our parks by the vast majority.

The Air Tour Management Plan of 2020 was a good, solid plan. It should have been implemented years ago. It is now being implemented on a completely inclusive process in which people have the opportunity to participate, and we should allow this implementation to continue.

The questions will get into some of these details, but let's remember the context of what is really going on here today.

Thank you, Madam Ranking Member.

Dr. GOSAR. Thank you very much. I now recognize the gentleman from Georgia for his 5 minutes.

Mr. COLLINS. Thank you, Mr. Chairman.

Mr. Sauvajot, thank you for being here, as well. And I would like to start out by asking you about your current role as the Associate Director of Natural Resource Stewardship and Science for the National Park Service. So, you have been in this role since 2014, is that correct, nearly a decade?

Mr. SAUVAJOT. That sounds correct, yes.

Mr. COLLINS. In this role, and this is just another simple yes-or-no question, you have on at least one occasion served as a liaison between the National Park Service and the Council on Environmental Quality, correct, when it comes to matters pertaining to the Service?

Mr. SAUVAJOT. As a liaison with the Council on Environmental Quality?

Mr. COLLINS. Right.

Mr. SAUVAJOT. I am not sure if I would characterize it as a liaison, but I do have responsibility over environmental programs in the National Park Service, and we follow the policies and guidelines that are produced by the Council of Environmental Quality.

Mr. COLLINS. So, you have worked with the Council on Environmental Quality when it comes to matters between the National Park Service and—

Mr. SAUVAJOT. We do consult with them if we have questions, and like I said, they provide us policy that we use to implement NEPA, for example.

Mr. COLLINS. I am going to take that as a yes. I would say that is a yes, correct?

Mr. SAUVAJOT. Yes.

Mr. COLLINS. OK. Over the last year at any time, did you work with any staff at CEQ on matters pertaining to a lease between the Floyd Bennett Field portion of the Gateway National Recreation Area and the city of New York? That is a yes or no.

Mr. SAUVAJOT. No. Personally, not with any individuals at CEQ.

Mr. COLLINS. Not personally, but on behalf of the Park Service.

Mr. SAUVAJOT. Well, I understand that the Department is working with staff from this Committee on questions and issues related to this, so I would defer to the Department on that question in terms of the specific interactions and how that process has been—

Mr. COLLINS. Well, I hope you understand that this Committee does have primary jurisdiction over the National Park Service, Department of the Interior, and CEQ. So, I would think that is very much a question that we should be asking and you could be answering.

Mr. SAUVAJOT. Yes, I absolutely agree. I understand there is interest on this Committee on this topic, and I would be happy to take that question back.

Mr. COLLINS. But over the last year, did you work with any staff at CEQ on these matters?

Mr. SAUVAJOT. I did not work with staff on this matter personally.

Mr. COLLINS. With the staff at CEQ?

Mr. SAUVAJOT. CEQ is among the many people that have been involved in the issue of understanding appropriate—

Mr. COLLINS. So, did you work with CEQ on matters of the Floyd Bennett project there?

Mr. SAUVAJOT. CEQ was consulted.

Mr. COLLINS. So, that is a yes, as well, correct?

Mr. SAUVAJOT. Yes, they were consulted through our Department.

Mr. COLLINS. Well, who at CEQ was your primary contact?

Mr. SAUVAJOT. I do not know, because I did not have a contact with them.

Mr. COLLINS. You consulted with them, but you didn't have a primary contact?

Mr. SAUVAJOT. I was not personally involved in that consultation, so I do not know the name of a contact.

I do know that this is an issue that staff from this Committee is working on with the Department of the Interior. And again, I would defer to the Department's efforts—

Mr. COLLINS. Well, who at the National Park Service or the Department of the Interior directed you to meet with CEQ regarding the lease or potential lease, including the use of alternative arrangements for this?

Mr. SAUVAJOT. This was not an issue where there was a direction to develop that—

Mr. COLLINS. No one at the Department of the Interior or National Parks instructed you, even though you were meeting and consulting? I am having a hard time—

Mr. SAUVAJOT. It is common in environmental documents to ensure that we are meeting the requirements and the policy stipulations of the Council on Environmental Quality, and that is something that is not required or—

Mr. COLLINS. It may not be required, but you did. You did meet. So, under whose direction at either National Parks or the Department of the Interior directed you—

Mr. SAUVAJOT. I guess I am confused, because it wasn't really direction, it was just part of the process that we typically go through on topics like that.

Mr. COLLINS. So, who is in charge of the National Park Service or the Department of the Interior on this whole project that was directly over you?

Mr. SAUVAJOT. I work for a Deputy Director who then works for the Director of the National Park Service.

And if there are questions specifically about the Department's role, I understand, again, that this Committee is working with the Department, and I would defer those questions to the Department.

Mr. COLLINS. Did you have the opportunity to discuss this lease or potential lease with anyone at the city of New York?

Mr. SAUVAJOT. I did not, no.

Mr. COLLINS. Did you discuss this lease or potential lease with anyone with the state of New York?

Mr. SAUVAJOT. I personally have not had those conversations.

Mr. COLLINS. What about the Governor's office?

Mr. SAUVAJOT. Same.

Mr. COLLINS. OK, Mr. Chairman, that is all I have. I yield back.

Dr. GOSAR. I thank the gentleman. The Ranking Member is now recognized for 5 minutes.

Ms. STANSBURY. All right. Thank you, Mr. Chairman.

Obviously, I think the line of questioning has deviated pretty significantly from the purpose of this hearing, which is to talk about flyovers and national parks. And we have already had multiple hearings and also multiple votes in this Committee and a Floor vote on the issue that was just discussed. So, I think it would be appropriate for the Majority to take their inquiries outside of this hearing on that topic.

Mr. Director, let's get back to the topic at hand. For us in New Mexico, our public lands are Indigenous lands. They are the historic lands of our communities. And it is very important for us that our communities have a seat at the table in any kind of consultation regarding our national parks or any lands that fall under Federal jurisdiction.

In your testimony this morning, you talked a little bit about the process by which you are developing these flyover plans. In New Mexico, we don't have a lot of flyover parks, but I think it is of interest to our communities, as well as many traditional communities that use these parks, to really understand what does your tribal consultation process look like for these individual plans, and what does that community engagement and stakeholder engagement process look like.

Mr. SAUVAJOT. OK, I am happy to answer that question. Thank you very much for that question.

Involvement by American Indian tribes and Native Hawaiian groups is an important part of the air tour management planning process. The agencies have consulted with tribes that either have tribal lands adjacent to national parks with air tours, or attach historic and cultural significance to resources within national parks. So, it is part of the process.

That process occurs through the formal process that involves the section 106 process, but also through Nation-to-Nation consultation with Indian tribes, as well. It has been a key part of the process.

Ms. STANSBURY. Excellent. And Mr. Chairman, I would like to yield the remainder of my time to Mr. Case.

Mr. CASE. Thank you, Ranking Member.

Mr. Sauvajot, first of all, we have over 20 national parks under the ATMP process right now. Is that right?

Mr. SAUVAJOT. Yes. The court identified 23 parks, and some of these parks are kind of connected. So, depending on how you count, it is 23,24.

Mr. CASE. OK. And you have concluded some of those ATMPs through a process that has been approved by the court. For others you have actually entered into voluntary agreements with the air tour operators under which they are allowed to continue operations in certain circumstances. And then, for a smaller minority of those parks, you are actually in an active process of working through the concerns. Is that correct?

Mr. SAUVAJOT. Yes, that is correct. The law provides two avenues for developing these plans. One is the Air Tour Management Plan, or ATMP. The other is voluntary agreement. And we are using both of those tools to help meet the statutory requirements, to identify when and where air tours may occur over national parks in ways that protect natural and cultural resources, visitor experiences, and the concerns of tribal communities.

Mr. CASE. And that is in the law itself, right, that we are implementing.

Mr. SAUVAJOT. Yes.

Mr. CASE. Those are the goals of this law, to protect the natural and cultural resources, to accommodate and protect the rights of our tribal and Native Hawaiian organizations and visitor experience.

Mr. SAUVAJOT. Yes, that is correct.

Mr. CASE. OK. And in those ATMPs that have been approved, or the voluntary agreements, or your draft ATMPs, most of them, not all, but most of them do allow for continued operation of air tours over our parks, right?

Mr. SAUVAJOT. Yes, that is correct. For most of the air tour management plans that have been advanced to date and approved, they continue to allow the current number of air tours that have been operating in those parks.

In other instances, where we are continuing to do our work, there are efforts underway now to evaluate if, and where, and how those flights can continue to occur, what sorts of mitigations are appropriate to address those natural and cultural resources, visitor experiences, and tribal concerns.

Mr. CASE. And in a small number the draft ATMPs have in fact recommended no air tour operations, correct?

Mr. SAUVAJOT. Yes, it is a small minority, but there are instances where that has occurred, yes.

Mr. CASE. OK. And, obviously, those reasons are spelled out in those draft ATMPs and still open to public comment.

Mr. SAUVAJOT. Yes.

Mr. CASE. OK, thank you.

I reserve the rest of my questions for my time.

Dr. GOSAR. I thank the gentleman. The gentleman from South Dakota, Mr. Johnson, is recognized for his 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman. I have no questions for this panel, but thank you.

Dr. GOSAR. I will go down to Mr. Nehls.

Mr. NEHLS. Thank you, Mr. Chairman.

I find it somewhat interesting. You talk about these ATMPs, you mentioned some going back to 1997. We go into the year 2000. For 20 years nothing was done because, I think you said, the National Park Service, they couldn't agree on anything. The FAA, the National Park Service, there was a lot of conflict. Is that why nothing was done?

Mr. SAUVAJOT. I guess I would characterize it as a lot of work was done, but the challenge was to actually get plans across the finish line, to complete the plans.

Mr. NEHLS. But 20 years, I tell you, you are in the middle of the swamp. Not a whole hell of a lot gets done up here, either. And

when we do make decisions up here, it seems to have a negative impact on the American people that we serve. I find that interesting.

So, tell me about this lawsuit here. It took a court of appeals up in the DC swamp, the District of Columbia, to actually start saying we need to enforce these things. I mean, it has been 20 years. Nobody has done anything. It seems like the FAA and the National Park Service came, and a court up in DC is going to start saying you better start doing something about these ATMPs.

Mr. SAUVAJOT. The court indicated that we needed to get ATMPs completed where the law said that within a timeline—

Mr. NEHLS. Right. In the District of Columbia, that affects New Mexico? Hell, they have probably never even been to the park. You are talking a few thousand miles away in this court up here.

Who filed the lawsuit to actually get them to do something?

Mr. SAUVAJOT. There were two organizations that filed that lawsuit.

Mr. NEHLS. Who were they, do you know?

Mr. SAUVAJOT. Public Employees for Environmental Responsibility—

Mr. NEHLS. Environmental responsibility. What is the other one?

Mr. SAUVAJOT. The other is a Hawaiian organization.

Mr. NEHLS. And what do they have to deal with? What are they all about?

Mr. SAUVAJOT. There are concerns about overflights impacting the significance of the areas.

Mr. NEHLS. Yes, woodpeckers, bald eagles, the rat, maybe even?

Mr. SAUVAJOT. I think largely cultural issues.

Mr. NEHLS. Animals getting affected by this from all sorts of places. I find it interesting.

In the statement from the Minority, Ms. Stansbury talked about the economic impact. The economic impact shouldn't really be involved here, this is more important, we can't talk about the economic impact, and it shouldn't necessarily maybe influence the implementation of these ATMPs. I am paraphrasing here.

But how do you feel about the casinos? Could anybody tell me, do we agree with casinos being placed in the Navajo Nation? Does anybody talk about that economic impact? Nobody cares. Nobody cares about putting a casino in Navajo Nation, do they? They have four of them. How do you feel about that?

Mr. SAUVAJOT. I am actually not prepared to answer questions on that.

Mr. NEHLS. I bet you if somebody went up to you and said, hey, should we put casinos in the Navajo Nation, and you said, no, I don't think so because there is an economic impact, the bright lights could affect the woodpecker at night time or something like that, guess what is going to happen? The Navajo Nation is going to say, please don't say that because we need it.

This is about money. This is about the bottom line.

And when I get after this second panel with the Navajo Nation, I am going to talk to him because in some of his statements he said, well, I think we could kind of work this out a little bit if you involve the Navajo Nation more economically, and I think what they are trying to say is we want a piece of the pie. Everybody

should get a piece of the pie so everybody gets a little sliver. Maybe it is because they are not really getting a sliver of that pie. And if we gave them some, maybe all this environmental stuff really won't matter anymore. What do you think?

Mr. SAUVAJOT. I am focused on, and the National Park Service, with the FAA are focused on where we can allow overflights to occur in national parks in ways that ensure protection of the natural and cultural resources, the visitor experiences, and the concerns expressed by tribes about the importance of those areas.

Mr. NEHLS. We passed legislation. The House unanimously passed my amendment on November 3, H.R. 4821, the Department of the Interior, Environment, and Related Agencies Appropriations Act, to prohibit funds made available to the National Park Service to place any limitation on the number of air tours at national parks. It is my hope that the Senate will do the same.

I think this is horrible, because I don't know how you are going to move the veteran around. I only have 30 seconds left here, so I don't know how you are going to move the disabled veteran, and this and that. But this is disgusting, quite honestly, that our veterans, and I wonder how the people with disabilities are going to move around. How are you going to get over the Grand Canyon and other places? I think it is shameful.

What about putting America first? The environmental whack jobs have totally destroyed this country, and they don't have to have an argument here. This is ridiculous.

Mr. Chairman, I yield back.

Dr. GOSAR. I thank the gentleman. The gentleman from Hawaii, Mr. Case, is recognized for 5 minutes.

Mr. CASE. Thank you, Mr. Chair. To my colleague just now, a couple of quick points.

First of all, the lawsuit that was filed was filed in part by a Hawaiian organization that was concerned about the destruction of two of our national parks very heavily visited, very heavily overflighted at all hours under all conditions by tour helicopter operators that had no concern whatsoever for preserving the visitor experience. And they brought a very simple lawsuit, which they are entitled to do, which is to compel the enactment of a law that was intended 20 years ago and is still intended to balance competing interests in a way that will be fair and will be consistent with the organizing principles of the national parks. So, that is No. 1.

No. 2, as to the amendment you just mentioned, I think it is erroneous to characterize it as unanimously passing the House of Representatives. What actually happened was it passed on a voice vote over the negative recommendation of both the Majority and Minority Members' Chairs of the relevant subcommittee. And I think the only reason that it did get included was because a roll call vote was not called. But that is just my interpretation.

So, back to the hearing, to Mr. Sauvajot, a couple of questions. First of all, when you look at the organic purposes of our National Park Service, where does profit extraction rank in the organic purposes? Is that something that we are supposed to be doing as a primary purpose of our national parks?

Mr. SAUVAJOT. It is not included in our Organic Act. Our Organic Act is very specific to the values for which the parks were created,

and ensuring that those values are perpetuated for visitor enjoyment in perpetuity, ideally.

Mr. CASE. OK. And, of course, this process that we are going through is a process under which the National Park Service has to work with the Federal Aviation Administration. They are your co-partners, right?

Mr. SAUVAJOT. That is correct. The air tour management planning process is statutorily required to involve both agencies, the FAA and the NPS, in the development of Air Tour Management Plans or voluntary agreements specifically for evaluating if and where flights may occur over national parks in order to ensure that natural and cultural resources are protected, that visitor experiences are maintained, and that the interests of tribes and their concerns, including Native Hawaiian organizations, are part of that.

Mr. CASE. OK, and I am going to just editorialize, so this is a rhetorical question. But in general, I believe the National Park Service has been focused on the protection of the organic purposes in this process, and the FAA has been a little bit more focused on maintaining the use of the national airspace. So, you have had a negotiation of sorts with the FAA throughout your process that has fully included the interests of the tour operators. But I am not expecting you to answer that.

There have been a couple of arguments cited already by my Chair and otherwise implied in the testimony, and one of them goes like this: We have to have tour operators to provide both elderly and disabled folks enjoyment of our national parks. Do you actually try to accommodate the interests of our elderly and disabled folks in the administration of the national parks?

Mr. SAUVAJOT. Yes. The National Park Service is very committed to ensuring full accessibility to programs, to resources, to destinations in national parks. We spend a lot of time and effort on providing accessibility. Air tours certainly provide one way that people with disabilities or elderly people can access parks, but there are many other ways that people can enjoy resources in parks and—

Mr. CASE. OK. And then another concern or another observation is that, basically, noise and ground disruption from air tour operations is no big deal to park visitors. Is that reflected in your surveys of actual visitors to our national parks? Is noise a concern? Is community disruption a concern? Is the impact on the ambiance of and pristine nature of our national parks of concern to visitors?

Mr. SAUVAJOT. It has been expressed as a concern by visitors. And, certainly, across national parks the challenge of how you visit parks and what you experience when you come to parks can be affected by noise and those kinds of disruptions. Those are exactly the kinds of things, though, that we try to analyze in our efforts to, again, identify where and how air tours may be appropriate.

But yes, we do, and have received concerns expressed. And those concerns have also been expressed in the public comments through the air tour planning process.

Mr. CASE. OK, my time is up. Thank you very much.

Dr. GOSAR. I thank the gentleman. I will recognize myself for my 5 minutes.

Currently, those tour operators pay about half of their fees to the National Park Service, do they not?

Mr. SAUVAJOT. Fees, there are only three parks currently where fees come to the National Park Service for air tours, and there is a legislative stipulation about how those fees are collected. But most parks, there are no fees.

Dr. GOSAR. Well, you get to my point. What is the current backlog of the deferred maintenance on the National Park Service?

Mr. SAUVAJOT. That is a very good question. I do not have that number here with me now. I could get that number for you.

Dr. GOSAR. I am just going to go down this rabbit hole. Tell me how that resource of the national parks is desecrated.

I am the guy who actually wrote that law, got that law written in 2012 in regards to the noise abatement in the Grand Canyon National Park. So, tell me about the quiet technology. Does it not work?

Mr. SAUVAJOT. The air tour management planning process and the plans themselves actually have stipulations that will allow greater time periods for flights to occur with the use of quiet technology. So, we recognize that quiet technology can be a helpful and appropriate way to reduce impacts, and we have included that in the planning for Air Tour Management Plans.

Dr. GOSAR. One more question. I hear the restraint in my colleague from Hawaii's voice. Isn't Hawaii a little bit different than the other ones, the rest of the national parks?

Mr. SAUVAJOT. Actually, I would suggest that all the parks have unique concerns, issues, and resources. There are a wide variety of different kinds of national parks, which is why in our—

Dr. GOSAR. Well, I understand that. I understand the uniqueness. But I mean, really, it is out there in the middle of the ocean. It is very small islands, in comparison. So, I mean it is kind of a little different. Maybe it could be very similar to what we are looking at where we are seeing the monuments in South Dakota and in the northern United States being hit hard, would it not?

Mr. SAUVAJOT. Each of the plans reflects the concerns and characteristics of the individual park units, the resource values, the effects on those resource values, and the perspectives that Native Hawaiian organizations or tribal entities provide. And those are unique across each of the park units.

Dr. GOSAR. Got you. Let's go back. Has the National Park Service established consistent outreach and consultation to the National Parks Overflight Advisory Group regarding the development of ATMPs since that last hearing?

Mr. SAUVAJOT. We have consulted with the National Park's Overflights and Advisory Group on multiple times. We have been working through them and with them through virtual meetings and there have been two face-to-face meetings over the last couple of years.

Dr. GOSAR. And how well was that attended? And what kind of notice did you give them?

Mr. SAUVAJOT. I believe those are attended by the full membership of the National Parks Overflights Advisory Group.

Dr. GOSAR. How much weight is given to Native Americans in regards to that overflight passage?

Mr. SAUVAJOT. I guess I would not necessarily characterize it as weight, as understanding the effects and the concerns that are stipulated or expressed by Native organizations and individuals about the significance and sacred qualities of different areas, and how overflights may affect those.

Dr. GOSAR. Yes. How much have states given perspective in that?

I mean, Arizona has these 23 different national parks or entities. How are states given that access?

Mr. SAUVAJOT. For all the ATMPs, public meetings, as well as comment periods, conversations, and meetings have occurred across and with stakeholders for every single one of the ATMPs, which would include states, it would include other stakeholder organizations as part of the process. And all of that input is included in the decision process and the evaluations.

Dr. GOSAR. So, when you look at these possible reductions, how are they going to influence these gateway communities?

I mean, when somebody gets hurt down there, it is these people that usually go in to get them. How does that affect these gateway communities?

Mr. SAUVAJOT. The national parks, as you indicated, are very important for local economies. And the air tour industry is one component of that. There is certainly the potential for effects on individual operators for some of the changes that may occur in some of the plans.

However, the uses that aircraft still can maintain are not precluded by an ATMP. So, things like emergency response, search and rescue, things like that, resource inventories are all uses that are certainly not precluded by an Air Tour Management Plan.

Dr. GOSAR. Last question. How does noise rank in your 1-to-10 scale?

Mr. SAUVAJOT. Thank you for that question. That is a really interesting question.

It really depends on the resource. Some things are much more sensitive to noise. Other things are much less sensitive to noise. So, I would say that, depending on the resource and the place, it may be a very great concern because certain species may be very sensitive to noise, certain places may be very sensitive to noise. So, I would say that in some places it is going to be a fairly high number, in other places it is going to be a fairly low number. And the Air Tour Management Plans reflect exactly that variation, because each park has a unique plan and a unique set of stipulations about how they can fly.

Dr. GOSAR. I thank you very much for your indulgence with the questions.

Seeing no more, we will dismiss you and get our second panel started. Thank you.

Mr. SAUVAJOT. Thank you very much.

[Pause.]

Dr. GOSAR. Welcome back, everybody. I will now introduce the witnesses for our second panel.

First, we have Mr. John Wells, Chairman of the Military-Veterans Advocacy Group. Good seeing you again.

Mr. Jake Tomlin, President of the Grand Canyon Scenic Airlines. Good seeing you, Jake.

Mr. Carl Slater, a delegate for the Navajo Nation from the Council. Good seeing you, Carl.

And Representative Johnson would like to take a chance to introduce our next and final witness, Mr. Mark Schlaefli.

Mr. JOHNSON. Thanks for your indulgence, Mr. Chairman.

When people think of South Dakota, they often think of the Federal lands like Mount Rushmore and Badlands, just really incredible places. Every year millions of people spend billions of dollars in South Dakota because of those Federal lands. And, of course, they also make memories that last a lifetime.

And we have a great American success story in Mr. Schlaefli, in that he has helped people make some of those memories, 30 years of experience flying over the area. He moved himself up from a line pilot, to a training coordinator, to chief pilot, to director of operations, and he is now the President of Rushmore Helicopters, Black Hills Aerial Adventures, and Badger Helicopters.

And we are honored, South Dakota is honored to be able to have him share his insight with us.

And thank you for the opportunity, sir.

Dr. GOSAR. Thank you, Mr. Johnson.

I now recognize Mr. John Wells for your 5 minutes. Thanks, John.

**STATEMENT OF JOHN WELLS, CHAIRMAN OF THE BOARD,
MILITARY-VETERANS ADVOCACY, SLIDELL, LOUISIANA**

Mr. WELLS. Chairman Paul Gosar, Ranking Member Melanie Stansbury, and other members of the Committee, thank you for the opportunity to present Military-Veterans Advocacy's views on the Air Tour Management System. I am accompanied by the MVA Vice Chair, Sergeant Major Jim Kuiken USMC (retired). Sergeant Major Kuiken is a combat Marine who proudly wears the purple heart and who has fought for this nation in seven wars or conflicts. He is totally and permanently disabled.

I wish Congressman Hunt was here so I could wish him a Go Navy, Beat Army, but Mr. Chairman, please provide that message to him, if you would.

We are here mostly to talk about disabled veterans. Military-Veterans Advocacy, Inc., MVA, is a tax-exempt IRC 501(c)(3) organization based in Slidell, Louisiana that works for the benefit of the armed forces and military veterans. Through litigation, legislation, and education, MVA seeks to obtain benefits for those who are serving or have served in the military.

In support of this goal, MVA provides support for various legislation on the state and Federal levels, as well as engaging in targeted litigation to assist those who have served. We currently have over 1,500 proud members, and our volunteer board of directors litigates, legislates, and educates in support of veterans. MVA analyzes and supports/opposes legislation, assists congressional staffs with the drafting of legislation, and initiates rulemaking requests to the Department of Veterans Affairs.

MVA also files suits under the Administrative Procedures Act to obtain judicial review of veterans' legislation and regulations as well as *amicus curiae* briefs in the courts of appeal and the Supreme Court of the United States. MVA is also certified as a

continuing legal education provider by the state of Louisiana to train attorneys in veterans' law.

MVA is composed of six sections: Blue Water Navy, Agent Orange Survivors of Guam, Veterans of Southeast Asia, Veterans of the Panama Canal Zone, Veterans of Okinawa, and At-Risk Veterans. We are a member of the TEAMS Coalition, the Foundation Veteran Outreach Program, and the National Military Veterans Alliance. MVA works closely with veterans service organizations including the United States Submarine Veterans, Inc., the National Association of Atomic Veterans, the Association of the United States Navy, Veterans Warriors, and other groups working to secure benefits for veterans.

MVA has not received any Federal grants or contracts, or contracts, grants, or payments originating with a foreign government during the past 36 months by the witness or by an entity represented by the witness and related to the subject matter of the hearing, and a disclosure of whether the witness is a fiduciary (including, but not limited to, a director or officer).

Military-Veterans Advocacy's Chairman, Commander John B. Wells, USN (retired). MVA's chairman, Commander John B. Wells, USN (retired) has long been viewed as a technical expert on herbicide exposure. A 22-year veteran of the Navy, Commander Wells served as a Surface Warfare Officer on six different ships, with over 10 years at sea. He possessed a mechanical engineering subspecialty, was qualified as a navigator for command at sea, and served as the chief engineer on several Navy ships.

Since retirement, Commander Wells has become a practicing attorney with an emphasis on military and veterans law. He is counsel on several pending cases concerning herbicide and other toxic exposures. Commander

Wells was the attorney on the *Procopio v. Wilkie* case that extended the presumption of herbicide exposure to the territorial sea of the Republic of Vietnam, which laid the groundwork for the Blue Water Navy Vietnam Veterans Act. He has initiated lawsuits on behalf of MVA to further extend the presumption of exposure and authored or co-authored several provisions of the PACT Act. He also initiated judicial review of several provisions of the Appeals Modernization Act which was decided favorably by the Court of Appeals for the Federal Circuit.

Since 2010, he has visited virtually every Congressional and Senatorial office to discuss the importance of enacting veterans' benefits legislation. With the onset of COVID, Commander Wells has conducted virtual briefings for new Members of Congress and their staffs.

The tragic epidemic of veteran suicide continues to grow. Based on the latest study, almost 6,400 veterans per year die by their own hand. This represents an increase of 114 over the previous year. Congress has appropriated and the VA has spent billions of dollars in an unsuccessful attempt to reverse this horrific trend. MVA has introduced a program of nature therapy to help arrest this heart-breaking trend.

Many of those veterans suffer from the terrible twin scourges of post-traumatic stress and traumatic brain injury. Often these veterans have also incurred physical disabilities. Post-Traumatic

stress and traumatic brain injury often act to discourage veterans from overcoming their physical infirmities and causing them to sink into the depths of despair. All too often this hopelessness results in the veteran committing suicide.

Studies have shown that nature has a calming effect on those who suffer from this despondency. Enjoying the beauties of nature, through our national parks provides the impetus to enjoy life and continue to strive to overcome physical and mental disabilities. The natural beauty of our Federal lands helps to counteract the anguish and gloom while stimulating the happiness that humans get from natural beauty. Studies also show that people who are happy and enjoy the pleasures of life do not kill themselves.

Military-Veterans Advocacy has joined with the Benjamin Ware Legacy Fund, a Canadian charity promoting nature therapy for mental health. Rather than providing specific therapy, the program promotes a Get Outside Day to encourage participation in outdoor activities. Scheduled for the second weekend in June, the event embraces nature therapy through sponsorship of the Get Outside Day to get people worldwide outside and enjoying the natural benefits of Mother Nature.

Here in the United States, the concept of Veterans Get Outside Day is to get folks, especially those suffering from depression, anxiety, TBI, or PTS to walk, run, hike, bike, ride, or simply to sit in a chair and soak in the sun. The goal of the program is to encourage follow-on therapy available through various non-profits who specialize in various therapies, and we will make links available to different outside activities. MVA and the o2 Project jointly sponsor the 10-a-Day Program to encourage veterans and others to spend 10 minutes a day with their favorite non-alcoholic beverage to commune with nature.

The inaugural Veterans Get Outside Day was held in Baton Rouge, Louisiana. The U.S. Senate recognized the benefits of this day by unanimously adopting S. Res. 206, and requested the Secretary of Veterans Affairs to join with the Secretary of the Interior and the Forest Service to jointly promote these events. Unfortunately, a companion House Resolution, H. Res. 387, died in Committee. As a result, the VA refused to participate. Still, hundreds of veterans and their families participated in the event throughout the nation. A larger event is planned for June 9, 2024 in Newport, Rhode Island.

The national parks represent an important part of nature therapy for our veterans and other citizens. Veterans Get Outside Day coincides with the National Park Service's Get Outdoors Month of June 2024. Additionally, the Forest Service sponsors the National Get Outdoors Day on the second Saturday in June.

MVA supports the Forest Service and the Park Service initiatives, and will promote them along with our own event. But nature therapy cannot be limited to 1 day or 1 month. It must be a year-around effort. While some efforts have been made to improve access to national parks, it is still hard for a disabled veteran to navigate many of the trails. Even those in an electric scooter or chair find it difficult on many of the trails. It is impossible for those with a manual wheelchair or who suffer from lung issues due to burn pits and other toxic exposure.

While many veterans are capable of enjoying the national parks on foot, by bicycle, or even in a motor vehicle, physical limitations make it impossible for those who are wheel-chair bound, amputees, or those with vertigo and balance problems. The obvious answer for those veterans is an air tour by helicopter or fixed-wing aircraft. We do not feel that this is the best approach, but currently it is the only one.

We urge the Subcommittee to consider other ground options such as a tram for some of the areas that are difficult to reach any other way. MVA believes that the national parks must be an integral part of the nature therapy initiative.

A review of the 2020 annual Air Tour Report showed no provision for disabled persons or disabled veterans, nor is there any reporting provision for these groups. The ATMPs for the Badlands, Great Smoky Mountains, Glacier, Mount Rushmore, and many other parks do not address the needs of disabled veterans. Provisions must be made for disabled veterans who are wheel-chair bound. The tours must also make provisions for service dogs. ATMPs must address these challenges.

MVA is concerned that any limitations on air access to the national parks, including the exclusion of commercial air tour companies, will negatively affect our nature therapy program. It is our position that Congress should require all ATMPs to address requirements to ensure air access by those persons with physical and mental disabilities.

We further believe that the VA should be included in the process of revising and formulating ATMPs and maintain membership on the National Parks Overflight Advisory Group.

Veterans with post-traumatic stress and traumatic brain injury are casualties of war. They may or may not qualify for the Purple Heart, but they are still casualties and we should treat them as such.

While safety concerns are paramount, and preservation of natural sounds are important, Congress should move to expand rather than limit airborne access to the national parks, especially for our disabled veterans. Commercial air tours who can provide for disabled veteran access must not be excluded.

MVA thanks the Committee for its interest in veterans and MVA's nature therapy program. We hope that you will work with us to further expand this program.

[Audio malfunction.]

Mr. WELLS. I guess he says I am not talking loud enough.

How do we get a wheelchair on a helicopter? Can we do that? Sure we can, but it has to be addressed. Our brothers at the Paralyzed Veterans of America have come up with something called Just Plane Wrong, plane spelled p-l-a-n-e. We need to make these air transport management plans conducive to allowing disabled veterans.

Service dogs. You have a 91 or 92 pound service dog. Do you make any kind of accommodations for that? That 91, 92 pounds has an effect on small planes. But in the Air Traffic Management Plans they don't tell them we need to do that, but we do.

Folks, 6,400 veterans killed themselves in the last known report. That is 114 more than the previous year. The trajectory is wrong.

You all have spent billions of dollars trying to address veteran suicide. Yet, right in front of us is a low-cost, high-impact use by using the national parks. We asked and submitted to the House a resolution to ask the Park Service, the Forest Service, and the VA to work together to promote the use of the national parks and other natural resources, state parks, heck, go out, take a walk, ride a bike, do whatever you want to do, and make yourself available of the healing effects of nature. These Air Tour Management Plans do not address them.

Yes. Do we need a plan? Sure. But it should be something that would solve the problem. No offense, folks, but sometimes Congress isn't good at really solving the problem. So, let's try to take a look at that, if we would.

Thank you, Mr. Chairman and Ranking Member Stansbury.

Mr. Case, I hope I didn't insult you. I really would like to sit down and talk with you.

[The prepared statement of Mr. Wells follows:]

PREPARED STATEMENT OF COMMANDER JOHN B. WELLS, USN (RET), CHAIRMAN,
MILITARY-VETERANS ADVOCACY

Introduction

Chairman Paul Gosar, Ranking Member Melanie Stansbury and other members of the Committee, thank you for the opportunity to present Military-Veterans Advocacy's views on the Air Tour Management System. I am accompanied by the MVA Vice-Chair, Sgt. Major Jim Kuiken USMC (ret). Sgt. Major Kuiken is a combat Marine who proudly wears the purple heart and who has fought for this nation in seven wars or conflicts. He is totally and permanently disabled.

About Military-Veterans Advocacy

Military-Veterans Advocacy Inc. (MVA) is a tax-exempt IRC 501(c)(3) organization based in Slidell, Louisiana that works for the benefit of the armed forces and military veterans. Through litigation, legislation, and education, MVA seeks to obtain benefits for those who are serving or have served in the military. In support of this goal, MVA provides support for various legislation on the State and Federal levels as well as engaging in targeted litigation to assist those who have served. We currently have over 1500 proud members and our volunteer board of directors litigates, legislates, and educates in support of veterans. MVA analyzes and supports/opposes legislation, assists Congressional staffs with the drafting of legislation and initiates rulemaking requests to the Department of Veterans Affairs. MVA also files suits under the Administrative Procedures Act to obtain judicial review of veterans' legislation and regulations as well as *amicus curiae* briefs in the Courts of Appeal and the Supreme Court of the United States. MVA is also certified as a Continuing Legal Education provider by the State of Louisiana to train attorneys in veterans' law.

MVA is composed of six sections: Blue Water Navy, Agent Orange Survivors of Guam, Veterans of Southeast Asia, Veterans of the Panama Canal Zone and Veterans of Okinawa and At-Risk Veterans. We are a member of the TEAMS Coalition, the Foundation Veteran Outreach Program, and the National Military Veterans Alliance. MVA works closely with Veterans Service Organizations including the United States Submarine Veterans, Inc., the National Association of Atomic Veterans, the Association of the United States Navy, Veterans Warriors, and other groups working to secure benefits for veterans.

MVA has not received any Federal grants or contracts, or contracts, grants, or payments originating with a foreign government during the past 36 months by the witness or by an entity represented by the witness and related to the subject matter of the hearing, and a disclosure of whether the witnesses is a 4 fiduciary (including, but not limited to, a director or officer).

Military-Veterans Advocacy's Chairman, Commander John B. Wells USN (Ret.)

MVA's Chairman, Commander John B. Wells, USN (Retired) has long been viewed as a technical expert on herbicide exposure. A 22-year veteran of the Navy, Commander Wells served as a Surface Warfare Officer on six different ships, with over ten years at sea. He possessed a mechanical engineering subspecialty, was qualified as a Navigator and for command at sea and served as the Chief Engineer on several Navy ships.

Since retirement, Commander Wells has become a practicing attorney with an emphasis on military and veteran's law. He is counsel on several pending cases concerning herbicide and other toxic exposures. Commander Wells was the attorney on the *Procopio v. Wilkie* case that extended the presumption of herbicide exposure to the territorial sea of the Republic of Vietnam, which laid the groundwork for the Blue Water Navy Vietnam Veterans Act. He has initiated lawsuits on behalf of MVA to further extend the presumption of exposure and authored or co-authored several provisions of the PACT Act. He also initiated judicial review of several provisions of the Appeals Modernization Act which was decided favorably by the Court of Appeals for the Federal Circuit. Since 2010 he has visited virtually every Congressional and Senatorial office to discuss the importance of enacting veterans' benefits legislation. With the onset of Covid, Commander Wells has conducted virtual briefings for new Members of Congress and their staffs.

Nature Therapy and At-Risk Veterans

The tragic epidemic of Veteran Suicide continues to grow. Based on the latest study, almost 6400 veterans per year die by their own hand. This represents an increase of 114 over the previous year. Congress has appropriated, and the VA has spent, billions of dollars in an unsuccessful attempt to reverse this horrific trend. MVA has introduced a program of nature therapy to help arrest this heart-breaking trend.

Many of those veterans suffer from the terrible twin scourges of post-traumatic stress and traumatic brain injury. Often these veterans also have incurred physical disabilities. Post-Traumatic stress and traumatic brain injury often act to discourage veterans from overcoming their physical infirmities and causing them to sink into the depths of despair. All too often this hopelessness results in the veteran committing suicide.

Studies have shown that nature has a calming effect on those who suffer from this despondency. Enjoying the beauties of nature, through our National Parks, provides the impetus to enjoy life and continue to strive to overcome physical and mental disabilities. The natural beauty of our federal lands helps to counteract the anguish and gloom while stimulating the happiness that humans get from natural beauty. Studies also show that people who are happy and enjoy the pleasures of life do not kill themselves.

Military-Veterans Advocacy® has joined with the Benjamin Ware Legacy Fund, a Canadian charity promoting nature therapy for mental health. Rather than providing specific therapy, the program promotes a "Get Outside Day" to encourage participation in outdoor activities. Scheduled for the second weekend in June, the event embraces "nature therapy" through sponsorship of the "The o2 Project—Get Outside Day" to get people, worldwide, outside and enjoying the natural benefits of Mother Nature. Here in the United States, the concept of "Veterans Get Outside Day" is to get folks especially those suffering from depression, anxiety, TBI or PTS to walk, run, hike, bike ride, or simply to sit in a chair and soak in the sun. The goal of the program is to encourage follow-on therapy available through various non-profits who specialize in various therapies and we will make links available to different outside activities. MVA and the o2 Project jointly sponsor the "10-A-Day" program to encourage veterans and others to spend 10-minutes a day with their favorite non-alcoholic beverage to commune with nature.

The inaugural Veterans Get Outside Day was held in Baton Rouge Louisiana. The U.S. Senate recognized the benefits of this day by unanimously adopting S. Res 206 and requested the Secretary of Veterans Affairs to join with the Secretary of the Interior and the Forest Service to jointly promote these events. Unfortunately, a companion House Resolution, H. Res. 387, died in Committee. As a result, the VA refused to participate. Still hundreds of veterans and their families participated in the event throughout the nation. A larger event is planned for June 9, 2024 in Newport, Rhode Island.

The National Parks represent an important part of nature therapy for our veterans and other citizens. Veterans Get Outside Day coincides with the National Park Service's "Get Outdoors Month," of June 2024. Additionally, the Forest Service

sponsors the “National Get Outdoors Day” on the second Saturday in June. MVA supports the Forest Service and the Park Service initiatives and will promote them along with our own event. But nature therapy cannot be limited to one day or one month. It must be a year-around effort.

While some efforts have been made to improve access to national parks, it is still hard for a disabled veteran to navigate many of the trails. Even those in an electric scooter or chair find it difficult on many of the trails. It is impossible for those with a manual wheelchair or who suffer from lung issues due to burn pits and other toxic exposure. While many veterans are capable of enjoying the National Parks on foot, by bicycle, or even in a motor vehicle, physical limitations make it impossible for those who are wheel-chair bound, amputees or those with vertigo and balance problems. The obvious answer for those veterans is an air tour by helicopter or fixed-wing aircraft. We do not feel that this is the best approach, but currently it is the only one. We urge the Subcommittee to consider other ground options such as a tram for some of the areas that are difficult to reach any other way. MVA believes that the National Parks must be an integral part of the nature therapy initiative.

A review of the 2020 annual Air Tour report showed no provision for disabled persons or disabled veterans. Nor is there any reporting provision for these groups. The ATMPs for the Badlands, Great Smoky Mountains, Glacier, Mount Rushmore and many other parks do not address the needs of disabled veterans. Provisions must be made for disabled veterans who are wheel-chair bound. The tours must also make provisions for service dogs. ATMPs must address these challenges.

MVA is concerned that any limitations on air access to the National Parks, including the exclusion of commercial air tour companies will negatively affect our nature therapy program. It is our position that Congress should require all ATMPs to address requirements to ensure air access by those persons with physical and mental disabilities. We further believe that the VA should be included in the process of revising and formulating ATMPs and maintain membership on the National Parks Overflight Advisory Group.

Veterans with post-traumatic stress and traumatic brain injury are casualties of war. They may or may not qualify for the Purple Heart but they are still casualties and we should treat them as such. While safety concerns are paramount, and preservation of natural sounds are important, Congress should move to expand rather than limit airborne access to the National Parks—especially for our disabled veterans. Commercial air tours who can provide for disabled veteran access must not be excluded.

MVA thanks the Committee for its interest in veterans and MVA’s nature therapy program. We hope that you will work with us to further expand this program/

Dr. GOSAR. Thank you, Mr. Wells, and now I recognize Mr. Tomlin for his 5 minutes.

**STATEMENT OF JAKE TOMLIN, PRESIDENT, GRAND CANYON
SCENIC AIRLINES, BOULDER CITY, NEVADA**

Mr. TOMLIN. Chairman Gosar, Ranking Member Stansbury, and members of the Subcommittee, thank you for your leadership and for holding this hearing today. I appreciate the opportunity to provide this testimony.

I am the President of Papillon Helicopters and Grand Canyon Scenic Airlines. I fly tours and charters, and have served 11 years as an F-18 pilot and officer in the United States Marine Corps. And I am a third-generation graduate of the United States Naval Academy. So, Go Navy, Beat Army.

Our company’s history is the reason for our commitment and passion for air tours. Considered the founder of helicopter air tours, my wife’s grandfather, Elling Halvorson, started Papillon in 1965. We are the longest-running family owned and operated combined aviation tour companies in the world, and we served over 600,000 passengers annually prior to the pandemic. Our company has a fleet of 64 helicopters and fixed wing aircraft. We employ over 400 employees. This year we will fly an estimated just over 300,000

passengers to such places as Hoover Dam, Lake Mead, Monument Valley, Lake Powell, and, of course, the unforgettable views of Grand Canyon's multiple rims.

Our ability to share the beauty of the parks is under serious threat due to the ATMP processes that have been forced on us. We are strongly opposed to these damaging impacts of these ATMPs.

Process concerns. Congress created the National Park Overflight Advisory Group (NPOAG) to provide expert advice to the FAA and National Park Service to develop ATMPs. However, agencies excluded NPOAG, creating serious safety shortcomings and concerns for transparency. In developing the ATMPs, the agencies should consider all aviation noise in the process.

For instance, the Death Valley National Park ATMP cuts flights to two annual flights. That is a 96 percent reduction. Yet, there are two airports, three military operating areas in the park where the aircraft operate at 200 feet AGL from 6 a.m. to 10 p.m. Monday through Friday. With all this activity, it is unclear why the agencies decided only two air tour flights were an acceptable amount.

Economic considerations. The agencies used data from 2017 through 2019 to establish new Interim Operating Authority, IOA, but did not take into consideration shifting market trends. By placing an artificial cap over an arbitrary time frame, the agencies only measured what was popular during that time. It is clear from the ATMPs 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 like mine to stay in business around those parks.

Public service work. Our company started as a utility company serving the public, and those roots remain as we conduct missions from search and rescue, air cargo, and firefighting. Removing or eliminating IOA reduces or completely removes the presence of our industry in a community, reducing our ability to provide those critical public services.

Safety consideration. These ATMPs contain many safety concerns such as specific routes with no flexibility for deviation in case of adverse weather; requiring the use of different frequencies, rather than using airport common traffic frequencies within 2 miles of the park; stacking fixed wing and rotary wing at the same elevation and almost identical routes and altitudes at high-density altitudes. This is a tremendous safety concern, as aircraft climb and descend through each other's path. The initial draft ATMPs demonstrated a lack of consideration for very basic aviation safety factors.

Environmental considerations. I do not believe the agencies have given adequate consideration to the environmental benefits of air tours. In many of our parks, nearly every viewpoint is within a short walking distance of fully developed parking lots full of trucks, motorcycles, motor homes, and tour buses. The decision to limit or eliminate air tours while allowing a steady stream of loud vehicles to drive through the length of the park seems pretty arbitrary. Through efforts such as carbon offsets and strict altitude requirements, operators ensure they are responsible stewards of the resource. There are currently no restrictions or mitigation efforts for loud vehicles operating in the park.

Access concerns. The national parks should be available for all visitors to see. Limiting flights is discriminating to the elderly, very young, handicapped, and others who might not have the time, resources, or physical ability to see the park in any other way. Papillon and GCSA has a proud history of serving physically disabled passengers from our inception. This includes flying two of our own family members who battled Duchenne Muscular Dystrophy their entire lives. Without the ability to fly them over the parks, they would not have experienced it in the way that we can offer. In conclusion, it is essential to preserve the national parks, yet still enable visitations for all to enjoy. While I oppose the ATMP processes that have been dealt on us, commercial air tour operators welcome a truly collaborative engagement with the FAA, NPS, and all interested parties to benefit these parks and visitors. Thank you.

[The prepared statement of Mr. Tomlin follows:]

PREPARED STATEMENT OF JAKE TOMLIN, PRESIDENT, PAPILLON GRAND CANYON HELICOPTERS & GRAND CANYON SCENIC AIRLINES

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' 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 inter-agency 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 over-reaching 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.

QUESTIONS SUBMITTED FOR THE RECORD TO MR. TOMLIN, PRESIDENT, GRAND
CANYON SCENIC AIRLINES

Questions Submitted by Representative Case

Question 1. Please provide specific 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 5 years.

Answer.

Age 65+ By Year

2023: 9,330
 2022: 9,135
 2021: 1,447
 2020: 1,876
 2019: 19,767

2023: Passengers With Limited Mobility

- Children: 16,566
 - Lap Children: 273
- Disability Noted: 262
- Requires Cane/Stool: 121
- Likely BMI greater than 40: 1,345

2022: Passengers With Limited Mobility

- Children: 19,027
 - Lap Children: 275
- Disability Noted: 270
- Requires Cane/Stool: 99
- Likely BMI greater than 40: 1,569

2021: Passengers With Limited Mobility

- Children: 15,038
 - Lap Children: 388
- Disability Noted: 171
- Requires Cane/Stool: 127
- Likely BMI greater than 40: 1,523

2020: Passengers With Limited Mobility

- Children: 6,500
 - Lap Children: 179
- Disability Noted: 100
- Requires Cane/Stool: 44
- Likely BMI greater than 40: 699

2019: Passengers With Limited Mobility

- Children: 25,691
 - Lap Children: 328
- Disability Noted: 379
- Requires Cane/Stool: 68
- Likely BMI greater than 40: 1,092

Question 2. What are your company's formal policies and procedures to provide reasonable accommodations to individuals with disabilities seeking air tours? Has your company ever been unable to provide accommodations to allow an individual with a disability to fly with your business?

Answer. Our company's formal policies are approved by the FAA and implemented in our certificates general operations manual (GOM). I have included Grand Canyon Scenic Airlines' procedures from our manual to provide an example.

Both of our companies (Papillon and GCSA) have never denied boarding to anyone who has met the FAA requirements to travel by commercial air.

Question 3. Are there uniform standards across the air tour industry to provide accessibility or are decisions left to individual operators?

Answer. All operators must work with their local Flight Standards District Office for their type of equipment and operating environments to ensure safe boarding, transport and unloading of all passengers. These will vary from company to company based on these variances.

Question 4. Please provide specific number of flights your business has conducted over each individual national park unit, including whether those flights are subject to the Grand Canyon ATMP Process, 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.

Answer. All flights are reported to the FAA that occur over the National Parks we fly in. Below is a table of the parks our companies have flown in over the past 5 years that are subject to these new ATMP processes. These reports are from 2017–2019. Any other National Park flights occurred over the Grand Canyon National Park which is subject to the preexisting GCNP ATMP.

Flights	GLCA	RABR	LAKE	BRCA	CANY	CARE	ZION
2017	2,700	701	8,474	45	2	1	0
2018	3,009	780	7,119	9	4	4	1
2019	3,787	537	5,150	94	0	0	7

- GLCA – Glen Canyon National Recreation Area
- RABR – Rainbow Bridge National Monument
- LAKE – Lake Mead National Recreation Area
- BRCA – Bryce Canyon National Park
- CANY – Canyonlands National Park
- CARE – Capital Reef National Park
- ZION – Zion National Park

Question 5. What is the average cost for an individual air tour over a national park unit at your business?

Answer. We have products that range from \$100–\$600+. Rates change daily and by season. For the most up to date pricing please go to: papillon.com and scenic.com
 Rates include fees to tribal partners such as the Hualapai and Navajo who receive flat rates for tours or a percentage of ticket sales or both. These fees may also include overflight payments to National Parks which require an overflight fee.

Question 6. Who manufactured each of the helicopters in your fleet? Do any of your helicopters currently utilize quiet technologies?

Answer. Airbus, Bell and MD helicopters are our helicopter manufacturers. We have 28 x EC-130 helicopters that all meet Quiet Technology Standards as well as 1 x MD-900 helicopter we use for NPS search and rescue missions.

Question 7. Did your company provide comments to any ATMPs during their public comment period? Did your 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.

Answer. Both of our companies have had representation on NPOAG. However, the NPOAG was not involved in helping craft the ATMPs. The NPOAG was only briefed on the plans at the same time the information went to the public at large. The information we could have provided in the drafting process to avoid creating these safety hazards the agencies created, was never provided. We did provide comments through the public comment period in the Federal Register.

Question 8. Do you or any individuals from your company participate in the National Park Overflights Advisory Group?

Answer. Since the inception of NPOAG we have always had a sitting board member representing our companies. Prior members of this group have included our founder Elling Halvorson and former president of the Regional Airline Association and VP at Papillon, Alan Stephen. Currently Papillon’s COO, John Becker is our sitting member and I am his alternate.

Question 9. 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?

Answer. The National Park Service has excluded both NPOAG, The Operators and the Local Flight Standards District Office on all completed ATMP's. For example, in the Case of Bryce Canyon the draft ATMP had operators flying at altitudes that would require pilots to be on oxygen to fly the tour routes, additionally the NPS had the operators on a different frequency than general aviation transitioning through the area and entering the traffic pattern for the Bryce Canyon Airport.

The Final ATMP still has safety issues with the route structure for tours in Bryce Canyon. Tour helicopters and airplanes are in conflicting traffic on the route, Helicopters and Fixed wing tour aircraft must climb and descend through each other's traffic. Additionally tour aircraft will also have to climb and descend through general aviation traffic flying at lower altitudes.

Climb performance differs between aircraft types (Helicopters, Turbine Fixed Wing Aircraft and Reciprocating Fixed wing Aircraft) creating a safety of flight and these further impacts safety because visibility between high wing and low wing airplanes as well as helicopters is limited.

ATMPs only impact commercial air tour operators. The ATMPs do not deal with potentially other low altitude aircraft that are not commercial air tour operators. On any given day there are 10-20 private aircraft that leave Bryce Canyon Airport and fly over the Amphitheatre and do a scenic flight over the park.

Our airport is a high-density altitude airport, which means that an aircraft's performance is impacted by the altitude. Air density is determined by pressure, temperature, and humidity. To provide better performance for our aircraft, commercial flights are operated in the morning, when conditions provide greater performance capabilities. The ATMP sets a starting time that begins after our commercial flights are usually concluded.

Question 10. What are the environmental benefits of air tours? Have these benefits been validated by peer-reviewed scientific study?

Answer. Air tours provide no physical impact on the National Parks or their resources. They leave no garbage or footsteps behind. There is no congestion on the roads that access the parks nor inside the park boundaries. Air tours create a temporary noise signature that completely restores the park back to its original state of natural quiet once they are completed. Tours that utilize quiet technology (QT) meet an even quieter threshold and leave a smaller temporary sound impact. These tours utilizing QT have been evaluated by the Volpe Institute.

Dr. GOSAR. Thank you, Mr. Tomlin. I now recognize Mr. Slater for his 5 minutes.

STATEMENT OF CARL SLATER, DELEGATE, NAVAJO NATION COUNCIL, WINDOW ROCK, ARIZONA

Mr. SLATER. [Speaking Native language.] Chairman Gosar, Ranking Member Stansbury, and members of the Subcommittee, I come before you today as an elected member of the 25th Navajo Nation Council, representing the communities of Tsaile/Wheatfields, Black Rock, Lukachukai, Round Rock, Tsech'izhi, and Rock Point. I previously served as the Navajo Nation's airports manager, and I currently represent Native American interests on the National Parks Overflights Advisory Group.

I thank you for this opportunity to address the impact of the National Parks Air Tour Management Program on the Navajo Nation.

I would like to begin my testimony by outlining some of the risks air tours pose to the Navajo people. One of our primary concerns is the potential invasion of privacy from air tours, especially for families living near tour sites that are located inside of national

parks. No one likes to think that they are being watched by voyeurs in the sky, but that has frequently been our experience. Less than a decade ago, a helicopter tour in Canyon de Chelly spotted an ongoing ceremony and hovered overhead, desecrating the sacred ceremonial space.

Though rotary wing air overflights are infrequent, there have been dozens of reported low flying, fixed wing aircraft over the last few years that have frightened and scattered our flocks and herds and interrupted our people in some of their most private and sacred moments.

In addition to privacy concerns, our people are also worried about potential damage to cultural sites. In 1966, a military flight emitted a sonic boom over Canyon del Muerto, which is inside Canyon de Chelly National Monument. That caused a large portion of overhanging cliff to fall, damaging a cliff dwelling below. Though not as intense as some of the military flights, air tours have the potential to cause similar damage because of how low and close to the sites they fly.

Like all lands in this country, national parks are Native lands, and full of sacred sites like White House Ruins, Spider Rock, and Canyon de Chelly. These sites are our relatives, and as important to us as any church, synagogue, or temple to the outside world. They are irreplaceable, and any damage done would be devastating.

Finally, air tours also pose a potential environmental risk. Commercial air tours generate a significant amount of emissions, not only contributing to climate change but also affecting local air quality. Noise from low-flying aircraft, especially at certain times of the year, can also disrupt wildlife, and has been shown to interfere with the successful nesting of young raptors, especially golden eagles, as well as large game animals such as bighorn sheep on Navajo. Just like our livestock, these animals sustain us both physically and spiritually, and the successful perpetuation of their populations is critical for the continued well-being of our people.

Despite the risks associated with air tourism, it can be done in a safe and responsible manner. But this requires tribal consultation. Local tribal citizens are best equipped to know the risks associated with air tours, and the Federal Government has an obligation to ensure tribes are consulted at every level of tribal government to ensure their perspectives and concerns are incorporated into those plans.

But for consultation to be meaningful, the Federal Government needs to meet tribes at their level of capacity and engagement, ensuring that tribes have adequate scientific and technical resources. Let tribes set the pace of the consultation process. Do not rush things to accommodate the preferred pace of environmental groups or industry.

Additionally, if you want to win over tribal support for air tours in and around tribal lands, ensure tribes participate in the economic benefits. Currently, there is almost no economic benefit to the Navajo people from air tourism, despite the hundreds of millions of dollars generated by this industry adjacent to the Navajo Nation. When tourists visit the Navajo Nation on the ground, they spend money at the local businesses purchasing

jewelry or food from food stands. But air tours typically launch out of Las Vegas or Flagstaff, which is where all the employment and tax revenues accrue.

To help tribes realize some of the benefits of air tours, I have a few suggestions: existing tour companies should be required to hire local Native guides; Air Tour Management Plans should include incentives for existing tour operators to mentor Native entrepreneurs; a certain percentage of available flights should be reserved for Native-owned businesses; tour companies operating in tribal airspace and tribal land should be required to pay tribal taxes; and finally, tour companies need to coordinate their services with on-the-ground operators so visitors know how they may obtain culturally appropriate information.

In summary, while air tours provide visitors with an exciting opportunity to see our national parks and monuments from a new perspective, these opportunities are not without risks, and those risks fall disproportionately on Native peoples. The only just way to proceed is to ensure tribes help shape the Air Tour Management Plans and reap an economic return from these tours.

I would like to once again extend my gratitude to this Subcommittee for the opportunity to testify.

[Speaking Native language.]

[The prepared statement of Mr. Slater follows:]

PREPARED STATEMENT OF CARL SLATER, DELEGATE TO THE 25TH NAVAJO
NATION COUNCIL

Yá'át'ééh Chairman Gosar, Ranking Member Stansbury, and Members of the Subcommittee:

My name is Carl Slater. I am a member of the 25th Navajo Nation Council, representing the communities of Tsaile/Wheatfields, Lukachukai, Round Rock, Tsé'ch'izhí, and Rock Point. I am also the Vice Chair of the Budget and Finance Committee.

The Navajo Nation ("Nation") is one of the largest Native American Tribes in the country with a population of over 400,000 members, half of whom reside on the Navajo reservation encompassing over 27,000 square miles and spanning over 11 counties in three states—Arizona, New Mexico, and Utah.

As an elected leader of the Navajo people, I am honored to testify before this subcommittee on the National Parks Air Tour Management Program.

Background

The Navajo Nation is surrounded by several National Parks and National Monuments of unparalleled beauty and historic and cultural significance. Among them are Canyon de Chelley (parts of which are included within the boundaries of the chapter communities I represent in the Navajo Council), the Grand Canyon, Glen Canyon, Bears Ears, and Chaco Canyon. It is no surprise that outsiders want to visit these lands. These places have inspired our people for generations, providing a place of refuge in times of danger, and sources of strength in times of need.

In general, we welcome others to come and experience these special places, but we also insist that visitors treat them with respect. Our people have lived in these lands since time immemorial and the land is filled with sacred sites where we go to connect with our past and remember who we are as a people. Many of us continue to pray to the Holy People who have watched over us since the time of our emergence into this world. These sites are as important to us as churches, temples, and synagogues are to the true believers of other faiths.

It is because of this deep connection to the land that it is important for us to be involved in any plans to open these lands to the wider public, including mere observations from the sky. It has long been the position of the Navajo people that we own our land from that which is below the ground to the top of the sky. Though we might phrase its origins differently, we have long held to common law doctrine

of *ad coelum*.¹ We did not give up the rights to the sky when we signed the Treaty of 1868. We recognize the need for the federal government to regulate the sky in order to ensure air traffic is orderly and safe, but the Navajo Nation needs to be included in the regulation of Navajo air space, especially of lower flying aircraft that can impact the daily lives of the Navajo people.

It is with this background in mind that I would like to begin my testimony on the National Parks Air Tour Management Program.

Risks of Air Tours

I would like to begin by laying out some of the risks to having air tours over our land. There are three primary areas of concern that any air travel plan (not just air tours) should take into consideration: Impacts on the Community, Impacts on Cultural Sites, and Impacts on the Environment.

Community Impacts

In the many consultations we have had to discuss air tours over Canyon de Chelly, privacy is one of the most common concerns brought up by community members. The vast majority of air tour operators fly out of Las Vegas or Flagstaff. Unlike most commercial flights, these operators tend to fly lower to the ground, meaning it may be possible for passengers to see what Navajo residents are doing in the privacy of their own backyards. Whether it is butchering a sheep, planting a garden, or relaxing during a family gathering, no one likes to think that voyeuristic travelers in the sky may be watching them like they are primitive savages that need to be observed. A flight from Flagstaff or Las Vegas to Canyon de Chelly would fly over thousands of Navajo homes in dozens of communities. The concern is more pronounced for families living near the tour sites. Navajo families continue to live and work on the rim of the Grand Canyon, and many Navajo still descend into the canyon using the traditional trails. Canyon de Chelly poses an even more significant concern for privacy as it is even more heavily populated, with Navajo families living along the rim and on the canyon floor.

The privacy concerns also extend beyond the homes of those living close to the tour sites. Many Navajo enter sites like Rainbow Bridge, the Grand Canyon, and Canyon de Chelly to participate in ceremonies. Less as decade ago, there was an incident that scandalized the Navajo people, when a helicopter tour in Canyon de Chelly spotted an ongoing ceremony and flew in for a closer look, ruining the experience for all involved. This is not a unique experience. There have been dozens of low flying aircraft, many of which we have been able to identify as air tours interrupting our people in some of their most sacred moments. There is a significant concern that if the number of air tours increases, it could interrupt ceremonies or expose something that is meant to be sacred and private to the public eye.

In addition to potential privacy concerns, depending on the frequency of air tours, the noise pollution could also have detrimental impacts on livelihood and health. Navajo ranchers are all too familiar with the regular military flights over northern Arizona. The noise from these aircraft regularly scares livestock and increases the stress of those on the ground. Earlier this year, a huge military aircraft flew over our visitor center in Monument Valley disturbing residents and visitors alike. This particular aircraft was notable for flying at an altitude that appeared to be dangerously low to those on the ground, but the fact is, these occurrences are not rare. Military aircraft fly over Navajo land in the Four Corners and Monument Valley areas several times a month, disturbing residents and scarring livestock.

A significant increase in the number of low-flying aircraft associated with air tours could dramatically increase noise pollution for communities closest to the tour sites. Without knowing how often flights would be scheduled, it is impossible to know the full potential health impacts, but many studies have shown exposure to regular noise pollution from aircraft can lead to increased stress, cognitive impairment, and cardiovascular disease, among other problems.² Fixed wing planes are better though still problematic, but helicopter tours in particular could significantly impact Navajo families living in the immediate adjacent areas of the tours.

Cultural Impacts

One of the biggest concerns for the Navajo Nation is damage or loss to sacred and culturally significant sites.

¹ From the Roman maxim: *Cuius est solum, eius est usque ad coelum et ad inferos* ("He who owns the land, to him belongs everything up to heaven, and everything down to hell").

² Benz, S., Kuhlmann, J., Jeram, S., et al. (2022). Impact of Aircraft Noise on Health. In: Leylekian, L., Covrig, A., Maximova, A. (eds) Aviation Noise Impact Management. Springer, Cham. https://doi.org/10.1007/978-3-030-91194-2_7

Our people maintain a cultural connection with the landscape. In addition to the historical significance of ancient sites, there is also active cultural and spiritual significance. For example, White House Ruins in Canyon de Chelly (*Kini'na'igai*) has an associated ceremonial history, and some Navajo people still visit it as part of their ceremonial practices. Specific places and natural features (e.g., Spider Rock and Fortress Rock) are physical expressions of the defining stories and events in the history of the Navajo people and retain profound spiritual and sacred significance. Spider Rock, a tall spire in Canyon de Chelly, is considered the home of Spider Woman, a benevolent figure who is recognized in many traditional Native American oral stories as a guide, protector, healer, teacher, disciplinarian, adviser and spiritual leader. The natural setting, surroundings, and views of Spider Rock are vitally important in conveying respect for Spider Woman and her home, in sharing lessons taught by Spider Woman regarding weaving, and in establishing a geographical context for oral histories, as well as healing ceremonies.

Throughout the late 1960s and early 1970s, military flights over the Navajo Nation were particularly problematic due to the regular emissions of sonic booms. From August 11, 1966, to October 6, 1966, there were 26 recorded sonic booms over Canyon de Chelly, including "a shock in Canyon del Muerto [that] caused a large portion of overhanging cliff to fall, which damaged a cliff dwelling below."³ Despite the damage, military flights continued, and concerns over the impacts of sonic booms lasted about a decade, with National Park Service, Bureau of Land Management, and Navajo officials regularly monitoring ancient and more modern structures (like the Hubbell Trading Post) for damage. These sites are irreplaceable, and the damage done during this time cannot be undone.

Though the risk posed by air tours may be less than that of active military traffic, the risk is still real. The close physical presence of even small aircraft poses a risk to the preservation of historic, cultural, and sacred sites as it can kick up dust and generate noise vibrations in the area, potentially leading to erosion or other forms of disruption and damage. But the larger concern consistently raised by local Navajo residents during consultations on air tours in Canyon de Chelly relates to plans for dealing with the worst-case scenario.

No one expects a plane crash when they go on tours, but accidents do happen, and they are more likely to occur when aircraft fly low and close to cliffs to allow their passengers to get a good view of a site. If a plane or helicopter were to crash, it could cause significant damage to archeological sites, and defile the sacred sites. The more important a site, the more likely air tours will want to visit, increasing the risk. Given the historical impact of military overflights, there is a heightened sensitivity among community members to any activities involving aircraft. Addressing these risks requires a careful and inclusive approach to air tour management, incorporating the perspectives and concerns of the Navajo people to ensure sustainable and respectful practices in our territories.

Environmental Impacts

In addition to the impacts on Navajo citizens and the potential risks to cultural sites, there is also a potential environmental impact. Aircraft emissions and noise can contribute to pollution, affecting air and water quality, disrupting the natural soundscape, and potentially impacting the region's delicate ecological balance. Commercial aviation accounts for a significant portion of greenhouse gas emissions contributing to climate change, but even the non-CO₂ combustion emissions can impact the climate, and they are known to have a significant impact on local air quality.⁴ We have also already seen significant effects on local wildlife in the area due to noise pollution, including impacts on animals of great significance to the Navajo people.

To begin, there is significant concern for nesting raptors. We have specifically observed impacts on our golden eagles, but the risk pertains to the larger group of birds in the category (i.e., hawks, eagles, falcons, owls). During the spring nesting season, which for golden eagles runs roughly from February to June, the Navajo Nation Department of Fish and Wildlife has documented failed nests due to disruption from aircraft. The concern is low flying aircraft, in particular helicopters, flushing nesting birds from their nests during the egg incubation period of the nesting season. Golden eagles are some of our earliest nesting raptors with some pairs laying eggs in early February. By the end of the month nearly 95% of the

³Brugge, D., Wilson, R. (1976). Administrative History: Canyon de Chelly National Monument/Arizona. Chapter 10. United States Department of the Interior: National Park Service. https://www.nps.gov/parkhistory/online_books/cach/adhi.htm

⁴Federal Aviation Administration (2021). United States: 2021 Aviation Climate Action Plan. https://www.faa.gov/sites/faa.gov/files/2021-11/Aviation_Climate_Action_Plan.pdf

population has laid eggs if they are going to nest that year. When a bird is flushed from the nest in late winter or early spring, the eggs become cold quickly and if they are not kept warm, the eggs will die. Depending on air temperatures and other weather factors this can occur in as little as 15 mins. Once flushed most eagles take their time returning to the nest as they tend to soar high above and watch for danger before returning. For some pairs this might be 45 mins to an hour. Our Fish and Wildlife team is careful to minimize flying during our annual eagle nesting surveys until late March or early April, to ensure most eggs have hatched and the weather is warmer. Even then there is a concern that downy chicks will catch a chill if they are left for too long without a parent to shelter them from the elements, but at least chicks can withstand longer time periods exposed to the elements than eggs can.

Another example is low-flying aircraft disrupting wintering big-game animals (mule deer and elk) while on winter range. Our team often sees this around Canyon de Chelly. The mesa tops around the canyon are some of the Navajo's most extensive big-game wintering grounds. Low-flying aircraft force these animals to flush and run, which burns many calories at a time of year when animals survive on stored body fat and face difficulties finding high-quality forage. Movement can also be restricted during snowfall events, with deep snow making it hard for animals to move. When flushed and pushed by low-flying aircraft, these animals are forced out of preferred wintering areas into more marginal habitats and burn more stored energy to "escape" the aircraft. All of which results in an increased risk of predation, injury, and lower physical fitness to withstand the winter season. In extreme cases, the adverse effects may manifest as reduced reproduction in the following year. A doe or cow in poor physical shape will not ovulate during that successive season if they do not have the stored energy to carry a fawn or calf to term.

A final example of impacts on wildlife is that of the big-horned sheep on Navajo. During the spring lambing season, aircraft flushing and pushing animals around puts big-horn sheep mothers at risk of birthing complications that result in neonate mortality or low survival due to lamb abandonment. There are times when utility companies using aircraft to check lines or do maintenance work are requested to not fly during the lambing season to avoid negative impacts on lambing for big-horn sheep. This is particularly critical right now as some of our sheep populations have had no successful reproduction in recent years due to the impacts of a pneumonia-like disease, *mycoplasma ovipneumoniae* (Movi), in the herd. Which makes it all the more important to protect any lambs that are born.

Management Plan with Tribal Consent

Despite all of the risks associated with expanding air tourism in and around the Navajo Nation, I want to be clear that we do not oppose air tourism across the board. This is why tribal consultation is so important. The Navajo Nation would happily endorse additional air tours in the surrounding national parks under the condition that a comprehensive management plan is developed in collaboration and with the consent of the affected tribal communities, ensuring that their perspectives, concerns, and cultural considerations are incorporated into those plans.

I am happy to report that National Park Service ("NPS") has engaged in extensive consultation regarding air tours in Canyon de Chelly. The local NPS office reached out to Navajo leadership in Window Rock, the Navajo Nation Heritage and Historic Preservation Department, the Navajo Nation Department of Fish and Wildlife, and local chapter officials for communities located near the canyon. In general, these consultations have been respectful and inclusive, allowing the voices of the participants to be heard. They listened to our concerns for wildlife and those of the local residents in the canyon and proposed a preferred alternative that more or less aligns with the majority of the concerns raised. While opinions varied on how air tours should be regulated and other substantive matters, for the most part participants were pleased with the conduct of those leading the meetings.

Of course, that does not mean the process cannot be improved. Some participants complained that the process was not very transparent or straightforward. They only found out about consultation sessions after it was too late for meaningful preparation to research the issues. And it was not always clear to participants how comments from the local community were being incorporated into the final policy. And while consultation on Canyon de Chelly was well run, despite there being room for improvement, there appears to have been less engagement in planning for Rainbow Bridge and the Grand Canyon. We expect that in the future the need for consultation on air tourism may also arise for Glen Canyon, Bears Ears, Grand Staircase-Escalante, and even Chaco Canyon.

To improve the process, it is essential that local communities are involved. Despite the best efforts of the Navajo Nation government to identify significant

sites, only the local community is going to know certain sacred spots such as the resting place of *jish*⁵ or the gathering places and timing for local ceremonies that should be avoided during an air tour. But local Navajo officials often find it difficult to participate in consultation, whether it is from a lack of sufficient notice or a lack of technical capabilities. Many local chapter officials do not have regular access to broadband internet, making video calls difficult. Even regular postal services are often sporadic due to the lack of local addressing on the Nation and a reliance on P.O. boxes. Federal agencies need to engage tribal communities in consultation at every level of tribal government.

These concerns apply equally to other tribes, especially smaller tribes without the resources of the Navajo Nation. The Federal Aviation Administration (“FAA”) and NPS have an obligation to meet tribes at their level of capacity and engagement. The pace of the consultation process needs to be set by the tribes themselves, and not be rushed to accommodate the preferred pace of environmental groups or industry. Effective consultation requires federal agencies to engage with tribes on their level, and not assume that local leaders have the resources to engage agencies on a national level or even online.

Federal agencies also need to cast a wide net. While local communities are indispensable to meaningful consultation, all interested communities need to be involved, as some tribal members travel great distances to participate in ceremonies, especially in places like the Grand Canyon, Bears Ears, and Rainbow Bridge. We understand that this may slow the process down, but it is better to have a thorough and honest consultation process than to have a fast one. Tribes should not be rushed just because some federal officials want to push a particular agenda. Failure to work with tribes on their level and at their pace will only lead to misunderstandings, discontent, and opposition to future projects for lack of a good process.

Economic Opportunities for Tribal Members

Even assuming consultation is adequate, an essential aspect of securing the Navajo Nation’s support for air tours is the firm belief that tribal members should have the opportunity to benefit economically from such activities. As it currently stands there is almost no economic benefit to the Navajo people from air tourism, despite our bearing the bulk of the costs from the negative externalities and risks described above. When tourists visit the Navajo Nation on the ground, at least there is an opportunity for them to spend money on local accommodations and at other local businesses such as jewelry and food stands. But air tours typically launch out of Las Vegas or Flagstaff, which is where all of the economic benefits accrue.

Engaging local Navajo residents in the economic aspects of air tours could also remedy some of the potential risks of air tours as well as enhance the experience for the tourists. Members of the local community will know better than tour companies operating out of more distant cities when it would be inappropriate to schedule tours or what places a tour should avoid altogether. Our people possess an intimate understanding and connection to the cultural significance of these sites and will ensure their tours are managed with the utmost care and respect for the special cultural and historical heritage of these areas.

Tourists would also benefit from the traditional knowledge of Native tour guides. Air tours are a natural platform for storytelling and the sharing of cultural insights that would enrich the visitor experience with authentic local perspectives. By using local guides, tour companies could ensure this cultural enhancement occurs in a way that enhances rather than exploits tribal cultures, allowing Indigenous knowledge to be shared in natural way, and not be reduced just to that of another tourist attraction. This would be more likely to occur if tribes were more heavily involved in the planning, execution, and management of air tours, creating avenues for employment, entrepreneurship, and economic growth within the tribal community.

Existing tour companies should be required to hire local guides to gain these advantages. But to enjoy the greatest economic benefit, it would be ideal if more tour companies were established on the Navajo Nation and owned by local Navajo entrepreneurs. For this reason, air tour management plans should include incentives for existing tour operators to mentor Navajo entrepreneurs, and a certain percentage of available flights should be reserved for Navajo-owned businesses to ensure local residents benefit from the existence of tours. These plans should also include a requirement that tour companies operating in Navajo air space pay Navajo taxes for the privilege. Tour companies also need to coordinate their services

⁵*Jish* are sacred implements used in various ceremonies and are considered to be living sources of power. When *jish* are no longer used, their final resting place is sacred and should not be disturbed.

with on the ground operators, so visitors know where they can get more information about the sites they visit, as these really should be experienced in person.

If done right, the air tourism industry has the potential to spur economic development across the Navajo Nation. Economic opportunities generated by air tours can act as catalysts for community development within the Navajo Nation by improving our airports and related infrastructure. This will not only support the tours directly, but increase transportation options for all tribal members, making it easier for tribal members to access essential services and connect with other communities. These transportation hubs would also naturally lead to the creation of more jobs and a strong support economy for incoming tourism. Several potential hubs already exist, such as Tuba City, Chinle, or Window Rock. They just need the right investment.

Admittedly, tribal governments would need to draft their own aviation tourism plans to take full advantage of the potential opportunities of increased air tours in our lands and surrounding National Parks and Monuments, but tribes cannot do this alone. Existing companies already have control over the market and the government connections both in Congress and the Administration to get the necessary permits to operate in this field. As opportunities arise, tribes will need support from the FAA and NPS to help our communities compete in this industry on an equal footing.

However, recognizing and prioritizing the inclusion of Navajo citizens in the economic opportunities arising from air tours in our traditional homelands, including in the surrounding National Parks and Monuments, is not only a matter of economic fairness but also a strategic approach that aligns with cultural preservation, community development, and sustainable tourism practices. I urge the federal government in general and this Subcommittee specifically to consider and actively support initiatives that ensure the direct and meaningful involvement of Navajo citizens in this endeavor.

Conclusion

As addressed above, the Navajo people have expressed significant concerns with expanding air tours in National Parks in and near our traditional homelands. To address these concerns, it is crucial for tribal nations, government agencies, and tourism stakeholders to engage in collaborative and culturally sensitive planning. This includes ensuring that the benefits of air tourism are equitably shared with tribal communities and that the negative impacts are mitigated as much as possible. It also involves respecting tribal sovereignty and the rights of Indigenous peoples over their ancestral lands and cultures, even if this means air tours will be limited or completely banned in some areas.

The Navajo Nation looks forward to continuing engagement in collaborative discussions and partnerships with relevant stakeholders, including federal agencies, to ensure that the implementation of air tours aligns with the principles outlined above. By adhering to these guidelines, we believe that air tours can be a positive force for economic development while respecting and preserving the cultural and environmental richness of the tribal lands.

Ah'ehéé' and thank you.

Dr. GOSAR. Thank you very much, Mr. Slater. I now recognize Mr. Schlaefli for his 5 minutes.

STATEMENT OF MARK A. SCHLAEFLI, PRESIDENT, RUSHMORE HELICOPTERS, CUSTER, SOUTH DAKOTA

Mr. SCHLAEFLI. Chairman Gosar, Ranking Member Stansbury, members of the Committee, thank you for the leadership in holding this hearing. I appreciate the opportunity to provide this testimony today.

I am the President, Owner of Rushmore Helicopters, Black Hills Aerial Adventures, Badlands Helicopters. Along with a business partner, I own and operate four additional helicopter operations primarily in South Dakota, but we also operate in Wyoming and Montana, as well. My companies provide a full spectrum of helicopter services, but our primary focus has been on tourism.

I started flying in 2007 as a second career. In 2021, I made the jump and fulfilled a long-time dream of owning my own companies with the purchase of four companies operating in the Black Hills of South Dakota. We have since added two operations, and currently operate nine aircraft and employ 30 amazing individuals. We are a local, small business. We take great pride in the community we live and operate in. We address community concerns, and constantly seek ways to raise the bar on safety and community compatibility.

Aerial tours represent the single lowest-impact form of visitation for our man-made and natural wonders, providing a unique window from which we share vibrant culture and historical landscapes with the world.

We support the concept of the ATMP, all right? However, I strenuously oppose the process by which the ATMPs are being developed. I think responsible operators everywhere have a responsibility to collaborate with all of the stakeholders involved and arrive at an operational method that serves all of those interests. However, I can't get behind and support the process by which these ATMPs have been developed. We believe the National Park Service and the FAA did not perform the required due diligence to determine the true impacts to operators, the public, and the park unit's resources.

As the Committee is aware, Congress passed the National Parks Air Tour Management Act of 2000 to regulate commercial air tour operations over the parks. It requires the FAA and the NPS to develop these ATMPs. The ATMP for Mount Rushmore National Memorial and Badlands National Park eliminates all air tour flights in Mount Rushmore or the Badlands. This represents over 9,000 flights that will be eliminated with the stroke of a pen, and likely end my companies.

Air Tour Management Plans were never intended to be air tour elimination plans. The removal of my companies represents \$55 million in the local economy over 10 years, and threatens to destroy local institutions that have been in operation since the 1960s.

Air tours represent the lowest impact form of visitation. Air tours require no ground-based infrastructure at the park, no need for roads, trails, signs, bathrooms, garbage cans, or other services and the maintenance of those services. We leave nothing behind, take only memories. We represent an incredible and understated benefit to the environment.

The ATMPs also close the door on future technology. New emerging technology in the form of electric aircraft have the potential to be quiet and sustainable, providing environmental and economic benefits. ATMPs in my case closed the door to those vehicles that are right on the edge of introduction. In 2024, they will start flying in other countries.

Air tours are a vital option for many visitors, providing once-in-a-lifetime memories. The national parks should be available for all visitors to see. Eliminating flights unfairly limits the elderly, very young, disabled, and others. Limiting flights is discriminating to those who might not have the time, the resources, or physical ability to see the park any other way. Freedom to access the parks by all means should be preserved. Every day, my companies provide

opportunities for the aforementioned to enjoy our parks. I know from personal experience these flights are life-changing. I have personally flown many guests with disabilities, to include the legally blind and quadriplegic veterans. The service we provide matters.

In conclusion, as outdoorsmen and conservation-minded owners, we believe it is essential to preserve our parks yet ensure all can visit. I strenuously oppose these ATMPs, but would wholeheartedly welcome collaborative engagement with the FAA, the National Park Service, and all interested parties to engineer solutions to benefit the park and the public. The elimination of my business without recourse should not be allowed to happen.

Thank you again for the opportunity to testify.

[The prepared statement of Mr. Schlaefli follows:]

PREPARED STATEMENT OF MARK A. SCHLAEFLI, PRESIDENT, RUSHMORE HELICOPTERS, BLACK HILLS AERIAL ADVENTURES, AND BADLANDS HELICOPTERS

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

I am the President and Owner of Rushmore Helicopters, Black Hills Aerial Adventures and Badlands Helicopters. Along with a business partner, I also own and operate four additional helicopter operations that primarily operate in South Dakota, Wyoming and Montana. My companies provide a full spectrum of helicopter aviation services, with a primary focus on aerial tourism.

Aviation was a second career for me, and I started flying in 2007. I sought opportunity and was given a wide spectrum of experience working for tour and utility operators. I worked my way up as a line pilot, training director, chief pilot and director of operations. In 2021 I fulfilled a long-time dream of owning and operating my own companies with the purchase of four interconnected operations along with a partner. We have added two operations since 2021, and currently operate a fleet of 9 aircraft and employ 30 amazing individuals.

Aerial tours represent the single lowest impact form of visitation for our man made and natural wonders, providing a unique window from which we share vibrant cultural and historical landscapes with the world. Like ground-based tours, air tours are a vital part of the visitor experience to our parks, ensuring the lands set aside for all can be accessed by all.

We are local. We are a small business, and we take great pride in the community that we live and operate in. We work closely with the communities in which we operate and seek out ways to be better neighbors. We routinely work with communities and stakeholders to protect the areas in which we live. We are responsive, often changing operations in order to address community concerns. We constantly seek ways to raise the bar on safety and community compatibility.

Background on Air Tour Regulation

As the committee is aware, Congress passed the National Parks Air Tour Management Act of 2000 (NPATMA) to regulate commercial air tour operations over the National Park System and to guide the Federal Aviation Administration (FAA) and the National Park Service (NPS) on the agencies roles with air tours over the national parks. The Act did not alter the FAA's sole authority over and control of the National Airspace System (NAS). The NPS is to work closely with the FAA to help protect the natural and cultural resources of the national parks. NPATMA requires the FAA and the NPS to develop ATMPs for the national parks.

NPATMA granted existing air tour operators interim operating authority (IOA) by the FAA to conduct air tours until an ATMP could be developed. IOA represents a cap on the number of overflights allowed to that operator in a year and does not specify the routes or operating conditions. While it does not specify routes and altitudes, operators have worked closely with individual park units to craft sustainable parameters which have resulted in the routes and altitudes flown today.

Section 40128(a) prohibits overflights of National Parks, unless there is an agreement in place with FAA, an ATMP, or a voluntary agreement. The original statute required ATMPs for any national park or tribal land for which an ATMP is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park. The original statute did not give the FAA or the NPS flexibility

regarding voluntary agreements and it did not include a 50-flight exemption. In 2012, as part of FAA Reauthorization, Congress, recognizing that the FAA and the NPS were having procedural difficulties with issuing ATMPs in a timely manner, added the flexibility of establishing voluntary agreements with air tour operators as an alternative to an ATMP and exempted National Parks with 50 or fewer overflights per year. This amendment was meant to assist the FAA and the NPS in streamlining the ATMP process.

The Mt. Rushmore National Memorial, while not a “National Park” is included as the definition of “National Park” because the statute is broad enough to include “any unit of the National Park System.” (49 U.S.C. 40128(g)(5)).

In 2019 a coalition of Hawaii residents and the group Public Employees for Environmental Responsibility, representing current and former public employees, sued the FAA and NPS for failure to complete the ATMP process. On May 1, 2020, the US Court of Appeals for the District of Columbia ordered the FAA and NPS to adopt ATMPs or voluntary agreements for 23 named NPS areas. It gave the agencies 24 months to comply.

When faced with the prospect of a court order compelling the ATMPs at some parks, the FAA and NPS have taken action in a rushed manner that did not provide the opportunity for contemporary data to be evaluated or for direct involvement by critical stakeholders. The issue for me, as an operator, is that I received no notice that the FAA and NPS were going to try to speed through the 23 parks and include Mount Rushmore, a memorial, as part of this lawsuit.

Economic Consideration

When I took ownership of my companies, the previous owners’ Interim Operating Authority (IOA) transferred over to me in the purchase. This IOA was issued to my companies based on the volume of tours that were being conducted and to allow for growth. The IOA allows me to take visitors inside the boundaries of Mount Rushmore National Memorial and Badlands National Park. Our routes are very specific, and we avoid overflight of sensitive areas at altitudes that minimize impacts.

According to the NPS documents, on average, from 2017–2019, 3,914 commercial air tours occurred in Mount Rushmore National Memorial every year and 1,425 commercial air tours occurred in Badlands National Park every year. My company represents over 99% of those flights. In 2020, 2021 and 2022, those numbers were significantly higher. Contemporary data was available for analysis, and the agencies selected older data favorable to their desired outcome.

In ATMP’s, 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 have been required before making a decision 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 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 is not reflective of the required “high quality scientific” requirement. Given the lack of high-quality, scientifically acceptable information, data, and impact assessment, reliance on these policies is misplaced and highly prejudicial. It is our assertion that the process is significantly flawed and discriminates against my companies and the flying public.

We as a company support the concept of an ATMP. Safe, responsible operators should be directly involved with stakeholders to operate in ways that benefit the public, the park units and keep operators accountable. There is a responsible manner in which air tour companies can conduct business and work hand in hand with the park units to achieve a beneficial relationship.

The ATMP for Mount Rushmore National Memorial and Badlands National Park **eliminates** all IOA and eliminates any aerial tour flights within the boundaries of Mount Rushmore or the Badlands. This represents over 9,000 flights that were issued to me and authorized by the FAA. This IOA is how the companies were built and eliminating it with the stroke of a pen will likely end my companies which have

over 30 years of experience operating air tours in the ATMP areas. The loss of IOA and associated flights represents a 5.4-million-dollar reduction of revenue to our companies, effectively ending our ability to operate. Air Tour Management Plans were never intended to be Air Tour Elimination Plans.

I strenuously oppose these ATMPs and believe that the NPS and the FAA did not in good faith perform the required due diligence to determine the true impacts to operators, the public, and the park units resources. Engagement with stakeholders could have resulted in a Voluntary Agreement that protects resources while supporting air commerce.

The NPS failed to reach out to the operators to determine the economic impacts from implementing a management plan that completely eliminates overflights. The removal of my companies represents a \$55 million part of the local economy over ten years and threatens to destroy local institutions that have been in operation since the 1960s.

In addition to the overall impact to my companies and my employees, local economies and suppliers are also affected in a significant way. The town of Keystone, South Dakota sits at the bottom of the hill on the way to Mt. Rushmore. My helicopter operations are immediately adjacent to downtown Keystone, and many travel to Keystone for the purpose of utilizing our service. Those travelers tend to stay in Keystone and spend money supporting the local economy. Therefore, Rushmore Helicopters helps to generate revenue for other companies, which would be affected in a significant way.

Environmental/Safety Considerations

Beyond economic considerations, I believe the agencies did not account for the true environmental impact that elimination of overflights would cause. Eliminating air tour overflights does nothing to address other non-tour aviation activity which have no restrictions within park boundaries. These other activities represent continued requirement for infrastructure and support, where air tours remove those impacts.

It is important to note that air tour operations are very conscientious of sensitive areas and have adjusted over the years to try and reduce impacts. Up until the announcement of the ATMP, my companies hosted NPS staff for an annual educational seminar for our staff, explaining the importance of the memorial, and a brief history. We also used this time to discuss issues and check in on how we are performing. We were directly told annually that everything was working well, and NPS appreciated our efforts to minimize impacts.

We have on more than one occasion provided air support free of charge for Badlands, whether it be a search for hikers or a lost pet. For Mt. Rushmore and the surrounding wilderness, we are often the first set of eyes on fires that start in the forest. We have not received a single complaint from either Mt. Rushmore or Badlands in the time that we have owned the companies and have a solid track record with addressing concerns. We have changed entire offerings based on community input as a part of our dedication to compatibility.

It is our assertion that safety has been fully ignored by the FAA in this process. In all of the documentation that was crafted to justify the ATMP, safety was not mentioned. During the one public meeting that took place over zoom, questions directed at the FAA and NPS regarding risk assessments and safety were not adequately answered. We believe this is a monumental failure on the part of the FAA and ignores their stated mission, vision and values.

Air tours are ultra-low impact and 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. We leave nothing behind and take only memories. Often maligned under the guise of "noise", air tours represent an incredible and understated benefit to the environment.

With the elimination of overflights, we are reducing opportunities to access our parks in a way that leaves little to no environmental footprint or disturbance. Natural sound is a renewable resource. Through route adjustments and altitude restrictions, sound is minimal. Air tour operators, through stewardship and thoughtful practices work to help preserve our nations parks. This access restriction is prejudicial and discriminatory.

There are currently no restrictions or mitigation efforts for loud vehicles operating in the park, some of which make significantly more noise than a passing helicopter. The Town of Keystone conducted a study on this very issue a few years ago, and not surprisingly the results showed that helicopters were not the leading cause of sound.

Looking to the near future, the vertical aviation industry is moving forward with the exciting new technologies of advanced air mobility (AAM). The vehicles typically

associated with AAM include electric vertical takeoff and landing (eVTOL), electric short takeoff and landing (eSTOL), and hybrid-electric aircraft. These aircraft have the potential to be quiet, safe, sustainable and more affordable as the industry scales, providing societal, environmental, and economic benefits to our communities.

AAM operations are poised to begin as soon as 2024, with new aircraft achieving certification under conventional pathways, being piloted traditionally, and operating within established air traffic management rules.

The elimination of air tours to the aircraft of today closes the door to these vehicles that are on the cusp of introduction. Through the ATMPs the agencies are turning away from opportunities, progress and technologies that will benefit the parks.

The aviation workforce is experiencing significant shortages, and they are only projected to continue. The FAA puts a significant amount of effort into workforce development and clearly recognizes the need for a healthy system to create the aviators of tomorrow. Our companies are directly involved in this process, by providing opportunities for pilots to gain experience. Our staff is taught the safety protocols and decision making required to be a successful aviator. As ATMPs shutter my companies and other air tour companies, it has a significant negative impact on the rest of the aviation sector. Air tour companies are an important source of workforce opportunities that once reduced or removed, presents challenges to the aviation industry, already hurting for pilots and mechanics.

Access Concerns

As we move past the pandemic years, many National Parks saw their resources strained by the large number of visitors as the public began to travel again. Air tours are a vital option for many visitors, providing once-in-a-lifetime memories. Visitors taking advantage of air tours benefit in tangible ways, that benefit both visitors and parks. Air tours provide access to all while reducing infrastructure and impacts to parks.

As the NPS and the FAA have released the ATMPs it is very clear that the agencies have an agenda to eliminate the air tour industry. While this may sound like a dramatic statement, in the case of my companies this exactly what is happening. My IOA was chosen for elimination, not reduction. Many of the early ATMP's proposed reductions based on 2017–2019 numbers. Mine are eliminated. Elimination harms **all** of the stakeholders. The ATMP is discriminatory against visitors who choose to experience the national parks from the air.

The national parks should be available for all visitors to see. Eliminating flights over the park unfairly limits the elderly, very young, disabled, 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. Freedom to choose a visitation method should be preserved.

Every day we fly, my companies provide opportunities for the aforementioned to enjoy our parks. I can tell you from personal experience, it is life changing for those people. I have personally flown many guests with disabilities to include the legally blind to quadriplegic veterans. For many this is a bucket list item and their only opportunity for an equal visitation experience. This service matters.

Process Concerns

The draft ATMP for Mt Rushmore National Memorial and for Badlands National Park was developed and proposed without proper involvement of key stakeholders as required by NPATMA. The FAA and NPS have repeatedly made public statements to indicate that stakeholder involvement was conducted, and coordination occurred with the local operators. I would know if there had been coordination with the local operators because I am the local operator. There was none. The level of misinformation and deflection of the questions was eye opening.

Safety has been ignored in the development of these ATMPs. There was outreach to the local Flight Standards District Offices (FSDO) but input from the FSDO was directly ignored and not considered. The helicopter expert in the FSDO was barred from participating in the conversations. Why would you not involve the one person in the office with the expertise to provide sound input and recommendations? I believe this is just a small example of the “check the box” attitude the NPS is using to force these plans into place. I believe this has also manifest itself in the manner in which the NPS has conducted environmental analysis. The analysis was all prepared in house without objective evaluation.

I believe the sound models used to develop the ATMPs are inaccurate. For example, the routes and altitudes used in the Environmental Assessment (EA) do not reflect what has been happening at Mt. Rushmore for the past three years since I have taken ownership. The town of Keystone conducted a third-party noise study

to determine helicopter impact and found that motorcycles were the chief producer of noise. The analysis conducted in the EA inadequately evaluates sound from outside sources whether they be aviation or non-aviation.

To be more specific on what I believe was a rush to develop the ATMP without first updating data, I'd like to focus on a few examples from the Mount Rushmore ATMP. The EA uses operational data from 2017–2019 because of “continued abnormalities associated with the COVID-19 pandemic and the unavailability of reporting data for 2021 or 2022 during most of the planning effort.” It also uses noise data collected in 2003, 2007 and 2012, all more than ten years ago. However, the NPS does have data on the number of national memorial visitors in 2020 (2,074,986), 2021 (2,525,868), and 2022 (2,440,449). It is now 2023, and current data would be more relevant to the current operations and noise impacts since about 300,000–400,000 more people are visiting Mount Rushmore per year than in 2012. Despite this, the NPS moved forward with developing the ATMP instead of updating the data which it relied upon.

In section 2.2.1 of the EA, it states that one of the reasons why the draft ATMP restricts air tour operations in Mount Rushmore is that: “The interdisciplinary team also concluded that the existing levels of air tours diminishes Wilderness character due to its effects on natural soundscapes in adjacent Wilderness managed by the USFS.” The agency never made clear if it consulted with the United States Forest Service, and if so, they have not shared the comments received.

However, a larger problem exists. The ATMP is specifically looking at the Mount Rushmore Memorial. It is unclear what statutory or regulatory basis the agency used for incorporating areas outside Mount Rushmore in its analysis. To complicate matters, the elimination of park overflights could potentially result in a significant increase of overflights of the wilderness they are claiming to be concerned about. I have to remind myself that Mt. Rushmore was made by the destruction of natural resources. If the NPS was concerned about wilderness character they would do well to stop lighting the memorial and conducting other activities that are completely unnatural such as the fireworks displays.

In developing the alternatives for the draft ATMP for Mount Rushmore, an agency team considered “the noise impacts of existing routes and operations, the Memorial’s cultural and natural resources, the Memorial’s existing and natural acoustic environment, visitor experience, visual resources, and the Wilderness character of the adjacent Black Elk Wilderness, as well as potential protective measures that could be included in an ATMP.” The National Memorial’s existing and natural acoustic environment also includes a tremendous amount of vehicle traffic. The parking garage is the centerpiece of park infrastructure.

Section 3.1.2 of the Draft Environmental Assessment states that “the acoustic impacts of Alternative 2 cannot be modeled because, although some speculation about air tour routes can be made, it is unknown where air tours would fly when outside the ATMP planning area or over the ATMP planning area at or above 5,000 ft. AGL”. The EA also states that Alternatives 3 and 4 provide beneficial effects. It is left to wonder why the agency would propose such a draconian approach of eliminating all air tours when other alternatives provide beneficial effects and the deleterious effects of Alternative 2 cannot actually be modeled.

In section 3.6.2 of the Mount Rushmore EA, it notes indirect and cumulative effects. The EA comments on noise from aircraft used for wildlife monitoring, fire-fighting, etc. as well as “other noise from building maintenance and construction activities occasionally disrupts visitors, but these activities are temporary and short-term in nature”. Air tours are temporary and short term in nature.

The agencies chose a path with the ATMP to eliminate air tours in Mount Rushmore and Badlands. In the same document outlining the elimination of my business, the agencies note that other aircraft noise, maintenance and construction noise disrupts visitors.

Visitors to the National Memorial are temporary and short-term in nature. Sound from air tour flights is also short-term and temporary. Why have noise from building maintenance and construction activities, which could be at a higher level than an air tour, be deemed permissible, even if it is short term, when it will be disruptive to the visitor that day? The majority of visitors to Badlands National Park are also short term, with many choosing to drive through and stop at a few viewpoints before exiting.

Conclusion

As outdoorsmen and conservation minded owners we believe it is essential to preserve our National Parks yet enable visitation opportunities for all to enjoy. All units of the national park system are not equal. Glacier National Park is not the same as Cabrillo National Monument. Yellowstone National Park is not the same

as Mount Rushmore National Memorial. A one size fits all solution driven by ideology is not how we should be deciding how the public may choose to visit.

While I strenuously oppose the manner in which these ATMPs have been developed, commercial air tour operators would wholeheartedly welcome collaborative engagement with the FAA, NPS, and all interested parties to engineer solutions to benefit the park and the public. The FAA and the NPS through this action have increased risks, discriminated against multiple classes of visitors and increased impacts to the surrounding wilderness. We are faced with the elimination of my business and life savings as a result of the ATMP. This should not be allowed to happen.

QUESTIONS SUBMITTED FOR THE RECORD TO MR. SCHLAEFLI, PRESIDENT, RUSHMORE HELICOPTERS

Questions Submitted by Representative Case

Question 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.

Answer. 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
29,398	1,590	11,090	54,949	97,027
2023 Season				
Elderly (65+)	Disabilities	Youth	Other	Total
3,913	312	2,857	5,411	12,493
2022 Season				
Elderly (65+)	Disabilities	Youth	Other	Total
4,751	212	3,619	7,254	15,836
2021 Season				
Elderly (65+)	Disabilities	Youth	Other	Total
8,606	423	6,459	12,766	28,264
2020 Season				
Elderly (65+)	Disabilities	Youth	Other	Total
7,422	386	5,822	11,115	24,745
2019 Season				
Elderly (65+)	Disabilities	Youth	Other	Total
4,706	257	3,585	7,141	15,689

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

Answer. 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.

Question 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?

Answer. 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.

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

Answer. 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.

Question 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.

Answer. The only parks we operate in are subject to already developed ATMP's. Flights over the park units represent about 80% of our 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

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

Answer. 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.

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

Answer. 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 3 db, 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.

Question 8. Did your company provide comments to any ATMPs during their public comment period? Did your 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.

Answer. 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 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 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.

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

Answer. 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.

Question 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?

Answer. 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 workforce development to prepare tomorrow's 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 fire-fighting 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?

Dr. GOSAR. Thank you very much, Mr. Schlaefli. Now I am going to recognize Members for 5 minutes for their questions. I go first to Mr. Troy Nehls from Texas.

Mr. NEHLS. Thank you, Mr. Chairman.

Mr. Wells, thank you for being here. And all the veterans in the room, I appreciate you. I don't know if these ATMPs, if they thought about talking to the DAV or Americans with Disabilities.

The gentlemen, Mr. Schlaefli and then Mr. Tomlin, thank you for providing the American people and anyone else visiting this great country an opportunity to see our nation's monuments.

And flying over the Grand Canyon, I have been to Las Vegas before, I have been sitting out there at the pool, at the ARIA, and I see the helicopters flying around there. You can't even hear the damn thing unless you are looking up and you can see it. You can't hear it, and they are flying around. So, I really have problems with what our government, and it is Congress and it is this Administration, what they are doing in the name of either social justice or environmental justice. I think it is very, very disturbing.

Mr. Slater, does the Navajo Nation receive any monies from these air tour operators, any money?

Mr. SLATER. No, sir.

Mr. NEHLS. OK, so they don't receive any money. I think that is really what this comes down to. I am looking in your written testimony, and you mentioned it speaking just a few minutes ago about economic opportunities for tribal members. And it is written here: "Even assuming consultation is adequate, an essential aspect of securing the Navajo Nation's support for air tours is the firm belief that tribal members should have the opportunity to benefit economically from such activities." You were talking about we don't get any money, we don't get this, we don't get that.

It continues to say, “Engaging local Navajo residents in the economic aspects of air tours could also remedy some of the potential risks of air tours, as well as enhance the experience for the tours.” So, what did you really mean by that?

Mr. SLATER. An example would be, sir, that there might be an area where, if you fly too close, say to a cliff dwelling, that it could reverberate and impact the dwelling. It would fall apart. It would desecrate something that is very sacred to us. But if an air tour operator coordinated with an on-the-ground tour operator, they could visit it on the ground without disturbing it.

Mr. NEHLS. You don’t think these air tour operators understand that? You don’t think they do risk assessments every time they get up into an aircraft and make sure that they provide that visitor a safe experience, a quality experience? I don’t think they are out there to say, hey, we are going to try to damage something today, or place anybody at risk.

Mr. SLATER. I think it is intent versus impact. You are always assessing the safety of the aircraft and the experience, and not necessarily the ground impacts.

Mr. NEHLS. I can see you are a little bit frustrated with the military, with sonic booms and affecting all these types of different wildlife, all that other stuff. But then I kind of look, and this is on your website, “Casino, a center point of community.” I kind of go look at this. There are four casinos in the Navajo Nation, started building them in 2008.

And in here it says the Fire Rock Casino was the first of the four casinos built in 2008. “Surrounded by the beautiful Red Rock State Park on historic Route 66, Fire Rock Casino provides a picturesque view that is a must see for tourists and locals alike. Stunning art and architecture combined to both symbolize and showcase the rich history of the Navajo people, while providing a gaming experience unlike anywhere else.”

So, it appears to me that when you build these beautiful casinos, and they are on acres, and there is oil in asphalt, and there is noise in casinos, ding, ding, ding, hitting the grand prize, big, big lights outside because you have to attract people from everywhere. Was the environment really considered when you built the casinos and that beautiful view from the Red Rock State Park? What do you think about that?

Ms. STANSBURY. Mr. Chairman——

Mr. NEHLS. This is my time. I have 45 seconds left.

Please answer that.

Mr. SLATER. Thank you, Mr. Nehls.

Ms. STANSBURY. This is very——

Mr. SLATER. The land is Federal land that that is located on.

Dr. GOSAR. Can you hold for a second?

Mr. SLATER. Oh, I am sorry, Mr. Gosar.

Dr. GOSAR. A parliamentary——

Ms. STANSBURY. I would like to know what this has to do with this——

Mr. NEHLS. This is my 30 seconds. You can talk about anything else. I am——

Ms. STANSBURY. Excuse me, Mr. Chair.

Mr. NEHLS. I ask to get my 30 seconds back.

Dr. GOSAR. Hold on.

Ms. STANSBURY. I would ask that our fellow Congressman show appropriate decorum to an elected tribal official who has, at his own expense, come to testify before Congress to share his perspective. Thank you.

Dr. GOSAR. I acknowledge that. I think the inquiry is still going fine. I think Mr. Slater can hold his own. Thank you.

Mr. SLATER. Thank you very much, Ranking—

Mr. NEHLS. Mr. Slater, though, you could see my concern. I am thinking to myself we build casinos that take acres of land, and you talk on the website, talking about the beautiful views. So, now I am impacted.

You want to say these guys flying at a couple of hundred feet above there are impacting all of this. Was any consideration taken to the casinos? They weren't because they generate revenue, lots of it. So, we will forget about the environmental impact.

But you are a little upset—

Mr. SLATER. But there was an environmental—

Mr. NEHLS [continuing]. Because the air tours, you are not profiting from it. Maybe the air tour guys, if you give them a little piece of the pie, the environment won't matter anymore.

Ms. STANSBURY. Mr. Chairman, I would like—

Mr. NEHLS. With that, I yield back. I have to go to another hearing.

Dr. GOSAR. Thank you. The gentleman from Hawaii is recognized for 5 minutes.

Mr. CASE. Mr. Slater, do you want to respond for 30 seconds to that?

Mr. SLATER. If you would allow me to, yes, thank you.

Mr. CASE. Yes, please.

Mr. SLATER. I very much appreciate the Federal Government giving us our land back, but it is Federal land, an environmental impact statement, I think environmental assessment, was conducted for the construction of the Fire Rock Casino. And I would like to thank Mr. Nehls for advertising it. It is a fantastic property in New Mexico, right along I-40.

[Laughter.]

Mr. SLATER. But it is right next to land that was taken from us to construct the Santa Fe Railroad right there. So, there are a tremendous amount of adverse impacts to our communities right along there, and that is a different type of adverse impact from a taking by the Federal Government of Native lands. And it is very similar to this.

Mr. CASE. OK, I am going to reclaim my time, because I want to get back to the subject of the hearing.

Mr. SLATER. Thank you, Mr. Case.

Mr. CASE. Mr. Tomlin, you operate primarily in the Grand Canyon, Lake Mead area, is that right?

Mr. TOMLIN. Yes, sir.

Mr. CASE. OK. That is not the subject of this process, is it? You have your own separate law that governs air tour management in the Grand Canyon.

Mr. TOMLIN. Grand Canyon has an existing ATMP.

Mr. CASE. Right, but it is a separate law. We are not talking about the current process. You are not impacted at all by the process that is the subject of this hearing, correct?

Mr. TOMLIN. No, I disagree. We have overflight IOA at least half a dozen parks, all surrounding the Southwest.

Mr. CASE. OK, that is what I am trying to get at, but your primary focus, your primary business interest is the Grand Canyon, right?

Mr. TOMLIN. I am concerned about every park we overfly in.

Mr. CASE. I am just asking you for a priority. You are primarily involved in the Grand Canyon, right?

Mr. TOMLIN. We do most of the volume of our business in the Grand Canyon.

Mr. CASE. OK, correct. And you have been operating under an Air Tour Management Plan there for a long time.

Mr. TOMLIN. Yes.

Mr. CASE. And there are stresses and strains in that relationship, right? But it is operating. The ATMP for the Grand Canyon is operating. It is accommodating interests, it is providing for a balancing of those interests. Is that correct?

Mr. TOMLIN. Yes, the process for the Grand Canyon involved multiple stakeholders. A perfect example of one of the surrounding parks is the voluntary agreement we have in place in Glen Canyon. That is where we had Navajo interests, that is where we had operators like ourselves. That is where we had all ground-based interests, environmental interests show up at that, and we were able to 100 percent sign a document for a voluntary agreement.

Mr. CASE. And reclaiming my time, the voluntary agreement is an option, right?

Mr. TOMLIN. Yes.

Mr. CASE. Which has been realized in some of these ATMP situations. Correct?

OK, are you subject to the Americans for Disabilities Act?

Mr. TOMLIN. I am not familiar with the laws associated with that right now.

Mr. CASE. This is a basic, fundamental law that requires businesses offering public accommodations to provide reasonable accommodations.

Mr. TOMLIN. Yes, we do.

Mr. CASE. So, you are subject to the ADA. What reasonable accommodations have you provided for disabled people to fly on your helicopters? Because I am pretty familiar with the helicopter industry in Hawaii at this point. They make fundamentally no reasonable accommodation. One could argue that they are actually in violation of the law. Yet, you are saying that you are open for business. Are you open for business? If I go on your advertising, does it say, "This is how we are going to take care of people with disabilities?"

Mr. TOMLIN. Everybody with disabilities is case by case.

Mr. CASE. How do they get on your helicopters? Let's say I show up at your shop in a wheelchair. How do I get on your helicopter?

Mr. TOMLIN. Yes. One of the most extreme cases——

Mr. CASE. Do you have something there, a lift to get them up there?

Mr. TOMLIN. Our two uncles with Duchenne Muscular Dystrophy couldn't move any part of their body, and we had the means to put them in our helicopters, fly them safely, and our airplanes, and take them on tours of the Grand Canyon.

Mr. CASE. That was with prior announcement, right? I mean, you knew they were coming. But what if somebody just shows up and says, "I would like to take a ride?"

Mr. TOMLIN. Oh, we have wheelchairs, we have ramp access, we have ramps that actually lift and position them to the exact boarding areas where they are seated. We have specific seats picked out on aircraft for Americans with disabilities.

Mr. CASE. I appreciate that, by the way. That is the right answer.

Do you have any figures on exactly what percentage actually do take advantage of your reasonable accommodations?

Mr. TOMLIN. I don't have exact figures, but—

Mr. CASE. Would it be 5 percent, 10 percent, 1 percent? What is it? It is not the majority, is it?

Mr. TOMLIN. It is not the majority, no, but it is important to meet their needs.

Mr. CASE. OK, and do you have a figure on how many people that are "elderly" or young are on your helicopters every year, or veterans, for that matter?

Mr. TOMLIN. A lot of people with disabilities don't even declare their disability until they show up. And we have to make accommodations to make sure their boarding process and tour goes smoothly, yes.

Mr. CASE. OK. And then, Mr. Schlaefli, just to be clear, you are not prohibited from flying outside of the Air Tour Management Plan area, right? You can fly around Mount Rushmore if you want. Probably get pretty good visibility. Is that right?

Mr. SCHLAEFLI. We are not prohibited from flying outside of the half mile.

Mr. CASE. OK, thank you.

Dr. GOSAR. I thank the gentleman and I recognize the gentleman from Montana.

Mr. ROSENDALE. Thank you very much, Mr. Chair. I appreciate you holding this very important hearing today.

The impact of President Biden's recent decision to effectively eliminate air tours over our national parks has significant implications for Montana. Montana's vast national parks attract millions of visitors seeking to experience the breathtaking scenery, and air tours are crucial alternatives for those unable to partake in extensive hikes or looking to escape the growing crowds, and provide it with little or no impact on the park.

In 2022 alone, Montana national parks witnessed a massive visitor surge contributing to the 15 million increase in recreation visits nationwide compared to 2021. The overcrowding concerns are real, as has been thoroughly discussed by this Committee. Air tours can serve as a practical solution, allowing individuals, including the elderly and those with physical limitations, to connect with parks in ways otherwise unattainable.

The recent rush by the FAA and the NPS to implement Air Tour Management Plans after the 2020 decision by the U.S. Court of

Appeals for D.C. has raised concerns specific to Montana and its national parks. The state's air tour operators, who have been excluded from the ATMP development process, face economic challenges as these plans either eliminate or drastically limit tours over national parks. This jeopardizes local small businesses, and has had a ripple effect on emergency services that air tour operators traditionally provide, as we saw during the Maui fires. As Montana and other states across the West grapple with these challenges, we must take swift action to address the flaws in the ATMP process and consider the unique economic and accessibility aspects specific to our states.

I applaud Congressman Gosar and the Transportation Committee for including a requirement for FAA and NPS to consult with NPOAG on ATMPs in the recent FAA reauthorization. It is a significant first step to remedying this pending issue.

Mr. Schlaefli, I would like to start with you. You mentioned a projected \$5.4 million reduction in revenue for your companies due to this ruling. Can you elaborate on the potential job losses that might result in this significant drop in revenue?

Mr. SCHLAEFLI. Thank you, Congressman, for the question. I can.

It is not simply just the revenue loss. It would be the loss of our 30 employees. But more importantly, air tours provide a vital piece of the pipeline for pilot development and the creation of pilots and mechanics for other sectors of the industry. And this is one of the biggest impacts that has been overlooked and not discussed in any of these plans, and that ends up being 10 to 15 pilots per year that would be removed from this opportunity to move forward in their careers.

Mr. ROSENDALE. So, I am guessing that a lot of these tours are conducted seasonally. You have peaks and valleys in your traffic that comes through. So, what would these pilots be doing otherwise, if they are not seasonally working with you?

Mr. SCHLAEFLI. Yes, our pilots do a variety of things. We actually employ several year-round, and have multiple pilots that return to us every year, and they do a variety of things in their off season.

Mr. ROSENDALE. But I would imagine, as I was making reference to, they are helping medical facilities and doing life flights, and things like that.

Mr. SCHLAEFLI. Some of my pilots do those things, some take on other jobs. There are a variety of things to kind of bridge the gap between when we are busy and when we are not.

Mr. ROSENDALE. Very good. In your testimony you highlight the absence of safety considerations in the documentation justifying the Air Tour Management Plan. Why do you believe the FAA overlooked this crucial factor?

And what implications does this have for the safety of air tour operations over national parks?

Mr. SCHLAEFLI. Thank you, Congressman, for the question. Safety was not to be found in any of the documentation that was produced by the National Park Service. The FAA has completely ignored safety as a factor in the development, and particularly my ATMPs.

Congressman Case, you asked the question about outside the half-mile boundary, and we could fly outside the half-mile

boundary. My competition, the other operator in the area, flies out there. We are now taking air traffic and, by necessity, compressing it into a smaller area, elevating the risks to the public and to the park system.

Mr. ROSENDALE. Very good, and I have enough time for just one more question.

Mr. Tomlin, I would like to go to you. Your testimony highlights your company's extensive public service work. Approximately how many of your flights each year are dedicated to providing these crucial public services?

And can you share some of the examples of the impact your services have had on the communities that you serve?

Mr. TOMLIN. Thank you for the question, Representative.

Having the backbone of aviation tourism allows us, as Mr. Schlaefli was saying, to train, equip, and send a high-caliber talent on some of these missions. In some of the ones what we do is national park search and rescue. We operate in Grand Canyon, Sequoia Kings National Park. So, if you break your leg down there, it is our helicopter coming to pick you up, as well as Forest Service firefighting, we have been all over many states this year fighting fires.

We got into aviation cargo, as well, during the vaccine dissemination of 2020. They needed extra support, and we were flying vaccines all over the Midwest. And we did this off of air tour pilots that we were able to continue to train and offer more career enhancements to provide some of these public services. And a lot of that public service work isn't year-round.

Mr. ROSENDALE. Thank you so much.

And Mr. Chair, I would yield back.

Dr. GOSAR. I thank the gentleman. The gentlewoman from New Mexico, Ms. Stansbury, is recognized for five.

Ms. STANSBURY. Thank you, Mr. Chairman.

Councilman Slater, welcome to Washington, DC. We are grateful that you were able to travel here.

And Commander Wells and the proud Marines sitting behind you, and all of the veterans who are listening in, thank you for your service, and thank you for bringing veterans' issues to the table today.

Just 2 weeks ago, we had a hearing on a bipartisan veterans bill that myself and Representative Ciscomani have introduced to actually increase access for our veterans and disabled individuals in our community to our national parks. So, this is a very pertinent issue, and I really appreciate the perspective that you brought.

And Mr. Tomlin and Mr. Schlaefli, I grew up in small businesses, so I understand that when the government does things that impact our businesses it can have devastating impacts, especially for our small and local businesses. So, I am very sensitive to that, and I do appreciate some of the solutions and feedback that you brought here today.

To me, listening to this conversation, it feels like a lot of the critique has been about the process by which the Federal Government, and specifically the National Park Service, engaged with communities of interest, whether it is tribal communities and the way in which they have done consultation, whether it is with

different stakeholder groups like veterans, or whether it is the actual operators themselves, the way in which those management plans have been socialized with the community, the concerns have been listened to, and I get it. The Federal Government is a beast. And sometimes the process by which our agencies do things don't make a lot of sense to folks on the ground.

And I think one of the things that is important to bring into this hearing is we heard this morning from the Director, who testified that a number of these management plans are still in the process of being developed. So, there is still an active comment period. So, the information that you are bringing here today, we are fortunate we are in the people's house, so you guys are providing your public comment here, but I really encourage everyone to also submit public comment into the official record to the National Park Service because, as they develop those management plans, that feedback that you provide through the formal comment process ultimately can be adopted into those plans. It is an onerous process, I know, for individual tribes to engage in, and operators, but I think it is important.

But I do want to take a moment to go back to the conversation that was had about the impacts in our communities. And Councilman Slater, I am really glad that you are here, and I really appreciated the stories that you shared from the communities that you represent on the ground. I think you are uniquely positioned because you are an elected tribal official, you are from the communities, and you are also in the aviation business.

And I actually was born and grew up partly in San Juan County, in Navajo country. And I think for folks that are not familiar with some of these communities when you talk about the impacts to individuals living out near these huge, open spaces, these are ancestral lands, these are people's family lands. They have their livestock there and their ceremonies being conducted, religious ceremonies. So, this isn't about sitting in the ARIA in Las Vegas and not being bothered by a helicopter flying over while you are drinking a cocktail. This is about Indigenous people who have lived on these lands for thousands of years who suddenly have air traffic in their backyard while they are conducting religious ceremonies. It is about respect. It is about listening. It is about consultation.

I understand that this change in operation will have impacts to operators, but these are public lands. These are Indigenous lands, and we do have to listen to our communities because it is not just about tourism and whatever you want to do on somebody else's lands or over their sacred sites. This is about, as Americans, having respect for each other. So, I think it is really important that you have brought those stories to this space, and I really honor those stories, and I appreciate that the National Park Service is undertaking that.

For those of us who have been fortunate enough in our lives to do a flyover, the only one I have ever done I went to Denali National Park many years ago and had the opportunity. Man, those planes fly in and out of Talkeetna all day long, and I can see how they would have massive impacts on communities. But they are an economic engine within those communities.

But Mr. Chairman, I wonder if we could just take a moment, since this is the opportunity for our folks to publicly, the three areas that we heard from this morning, I wonder if you could each just very quickly go down the line and say, "What do you think the National Park Service needs to hear from today's hearing as they are developing these management plans?" Are you OK with that?

Dr. GOSAR. Go ahead.

Ms. STANSBURY. Commander Wells, would you please share.

Mr. WELLS. Sure. You need to talk to us. They need to talk to the operators, they need to talk to the tribes, they need to talk to the veterans. You need to get the VA on your Committee, OK? Or not your Committee, but the advisory group. You need to think big picture, and all the people who are going to be affected, including the veterans.

The problem is we write plans, and so many of them have been adopted, and they usually go on a shelf somewhere and gather dust until somebody says, oh, there was a violation, I don't like them, we can do this. These plans need to be vibrant. They need to be continuously reviewed, continuously updated, and get the input of everybody at this table and other groups besides.

Ms. STANSBURY. Mr. Tomlin?

Mr. TOMLIN. Thank you, Ranking Member. Those are great questions, and that would be the goal of all of us today.

No. 1, I would say include NPOAG. Let's not redo what has already been out there that has multiple stakeholders there to be an advisory for each one of those parks.

No. 2, every park should describe the targets it is trying to hit. If we are trying to mitigate environmental impact to animals, or visitor experience, or what is that like, we are really good at working with those concerns or creating curfews—like we do with Navajo Nation, we don't fly on certain spiritual days. And we do also give a portion of the ticket sales and revenue to the Navajo Tribe, as well, for our landings that we do out there and the tours we bring to Antelope Canyon.

And then No. 3 is just bringing all the stakeholders together. There are so many interests that are different in every single park. That process needs to happen. It has been one way the whole time. Thank you.

Mr. SLATER. Thank you very much. I would say engage and respect tribes because no one else is going to look out for us unless we assert ourselves. And I just think about all the smaller tribes out there who don't have the resources of the Navajo Nation. When I talk about scientific and technical resources, FAA and the National Park Service need to assist tribes in understanding that in a level that their people will understand and our people will understand on Navajo.

And I agree with quite a good deal with what Mr. Tomlin said in engaging NPOAG. We have not had full representation for Native American interests on NPOAG, and FAA and NPS need to look at why we are not getting those two seats filled. It has been me and then my predecessor, Mr. Martin Begaye. It is a bigger conversation, but if you only have one guy representing all tribes, you are not going to have that same meaningful consultation or advisement. Thank you.

Mr. SCHLAEFLI. And thank you, Ranking Member, for that question. I am going to echo some of the things that have already been said. But for me, personally, engagement is important, and I will give you a couple of examples.

We, as an operator, are very responsive to our community, very responsive. We have been very responsive to our individual park units. In fact, we have the Park Superintendent and/or the Chief Ranger out every year to speak to our pilots about the importance of these parks. And during that time, we also use it to go back and forth on what is important and things of that nature. And I have zero complaints from them ever.

And there is no collaboration. It is all being done from a distance in kind of a one-step process. Everything is being applied the same. Glacier National Park is not the same as Mount Rushmore. Mount Rushmore has a parking garage as its central piece of its infrastructure, and they should be treated different.

So, collaboration, open conversation between all the agencies. We are really, really good at coming up with creative solutions to minimize impacts.

Ms. STANSBURY. Thank you so much, Mr. Chairman.

Dr. GOSAR. Good questions.

The gentleman from South Dakota, Mr. Dusty Johnson, is recognized.

Mr. JOHNSON. Thank you, Mr. Chairman, Madam Ranking Member.

Mr. Schlaefli, let's just pick right up where you left off with concerns about the one-touch consultation process. I mean, if you and I were going to design a better process of engagement, what would that look like?

Mr. SCHLAEFLI. That would be bringing all of the stakeholders together in the development of the plans. And that is actually required by NPATMA, the word "development" is emphasized, and that did not occur.

I think everybody having input so that their concerns and impacts can be evaluated, and we can react to those, and create a system where everybody gets what they need.

Mr. JOHNSON. So, when you talked about every year having somebody from the parks come talk to your pilots, who has generally come out?

Mr. SCHLAEFLI. Generally, the Chief Ranger of Mount Rushmore would come out and do this for us every year.

Mr. JOHNSON. See, to me, that is remarkable. It sounds like exactly the kind of thing we would want to have happen, people with boots on the ground, an executive, a chief ranger obviously knows what they are talking about, coming to talk to your folks just kind of neighbor to neighbor, you guys could figure out the right way to operate.

Tell me a little bit more about what that would look like. A Chief Ranger would come out, your pilots would be gathered together. What would the Chief Ranger share?

Mr. SCHLAEFLI. Yes, we usually have to provide food to make sure everybody showed up.

[Laughter.]

Mr. SCHLAEFLI. But other than that, the Chief Ranger would come out, they would give a brief presentation on history, which is important. We like our people giving accurate information to the public when they are flying. And then they would go through and talk about points in the park, things to avoid, and we would talk operationally about the things we were doing and if there was anything that needed to be adjusted.

Mr. JOHNSON. I think you made some allusion to the fact that, gosh, it is not like the Chief Ranger shows up and has this huge list of complaints about how we are degrading the experience for other visitors. And did I hear that right?

Mr. SCHLAEFLI. That is correct. In fact, I actually made a call on several occasions over to the park when the initial scoping letter came out in September 2022. There were comments in there about disruption of interpretive activities, among other things. And I immediately made the phone call. I am, like, "What are we disturbing, so that I can make that change?" Of course, I didn't get any information. I don't think there was any to give. But we have yet to have a single complaint from Mount Rushmore since we took over operations.

Mr. JOHNSON. Is the experience with the Badlands National Park a lot different?

Mr. SCHLAEFLI. I would say it is not different. In fact, we have had a really good working relationship with the folks on the ground. In fact, Badlands staff often comes over to the heliport and says, "Hey, we are missing a dog, we are missing a hiker, can you go look for them?" And we always do that, free of charge.

Mr. JOHNSON. And I am not aware of the exact management agreement in place today, but I know at different times the south unit has been managed by some Native American leadership. Do you take flights over the south unit at all?

Mr. SCHLAEFLI. We do not. We are just on that northern unit, and a very, very small part of that northern unit.

Mr. JOHNSON. OK. So, we have talked a lot about both the economics and sort of the lost memories. I will admit to feeling a little foolish that I never thought about the pilot and maintainer pipeline until you brought it up.

Do you have actual examples of someone who would have started and honed their craft with you, and then went on to do other things?

Mr. SCHLAEFLI. Yes, absolutely. We had a long-time pilot by the name of Chris Darling, who worked for us for about 6 years, a retired Air Force Colonel. The helicopters were a second career for him. He worked for us for about 6 years, honed his skill, and now he flies for Black Hills Life Flight for emergency medical services.

And I could probably produce a list of 100 pilots that have moved on into emergency medical, search and rescue, law enforcement, and other professions, as well.

Mr. JOHNSON. Well, sir, I want to thank you and the other panelists for putting some additional context. Obviously this is a balancing act. I mean, clearly, we want to make sure that we are not degrading the experience for other visitors in any of our incredible Federal lands. So, thanks for helping us understand how we can better communicate, engage, and balance these interests.

With that, I would yield back.

Dr. GOSAR. I thank the gentleman. I will recognize myself for my next 5 minutes.

Mr. Schlaefli and Mr. Tomlin, NPOAG, how many times do they meet a year?

Mr. TOMLIN. I don't have the exact meetings, but once a year there is a formal meeting, and I know they have multiple meetings—

Dr. GOSAR. Whoa, whoa, whoa. Once a year? Once a year.

Mr. TOMLIN. Yes. Is it two?

Dr. GOSAR. Even two times a year. And the reason I bring that up is that both Mr. Schlaefli and yourself have brought up this condensed version in regards to the FAA. And once a year or even twice a year talking with the FAA doesn't meet it with me. That is a liability trap for you.

So, if you could look into your magical ball, how many times do you think they should meet?

Mr. TOMLIN. Well, I think, and thank you, Chairman, for the question, I think what would be most beneficial for NPOAG is to assign a subgroup out of NPOAG, because NPOAG encompasses all of them. And where I have seen NPOAG be very effective is when they assign kind of like a task force out of that group that can meet more frequently. And I have seen them actually make some progress addressing a specific park's concerns or some language that they want to get in there for manuals and that kind of thing.

So, I would recommend assigning a task force, per the park that is under review, and then having that task force meet frequently via electronic means or in person with the stakeholders of that park.

Dr. GOSAR. So, also being very particular about that group, making it more state-based or location-based, right?

Mr. TOMLIN. Absolutely. Park-based would be best.

Dr. GOSAR. Mr. Schlaefli, do you have anything to comment?

Mr. SCHLAEFELI. Yes, I think something important to add there is that NPOAG provides expertise around the table that the National Park Service does not possess. And I think that is a very important part of the equation when it comes to discussing the value of NPOAG. You have all of the affected parties sitting at the table with the expertise to work out the issues, and I think that is one of the more important pieces of it.

Dr. GOSAR. So, both Mr. Slater and yourself brought up this process of consultation. Mr. Slater made a comment, and he said he wants to slow it down. Would you think that that would be the same thing, slowing this process down, or actually even breaking it up into different parts?

Mr. SCHLAEFELI. Thank you, Chairman, for the question. Slowing it down would be great for me right now, because I am facing the complete loss of my ability to operate.

I think it needs to be thoughtful. It needs to be based on quality data, as directed by the National Park Service 4.1.1. It has to be high-quality, scientific data that these decisions are based on. And I don't necessarily know that speed plays into this.

For example, I could execute a voluntary agreement tomorrow and we could have avoided this entire process. And that was never

presented to us as an option. And repeated requests for that conversation were completely ignored.

Dr. GOSAR. Mr. Slater, you are a Councilman, so you know some of these ideas. What would we be your ideas?

Mr. SLATER. In terms of slowing it down, Mr. Gosar?

Dr. GOSAR. Yes.

Mr. SLATER. I agree with that. And I would say because each tribe is unique and each park is the ancestral homes of different tribes, there needs to be an appropriate amount of time to meet with each of them.

That said, I only receive a limited amount of information as a member of NPOAG about the status of the consultation specifically with the tribes. They do give us updates on what is taking place across the board. But, it is a lot for one person to have, and I don't get invited into those consultations, despite offering to make myself available to advise on them.

So, I would like to see it slow down just so that there can be a reflection on what has worked and what has not worked thus far, and I want to make sure that tribes are meaningfully being consulted.

Dr. GOSAR. Well, and that would facilitate if you had any incursion on one of your sacred sites. It would be easy if you met more frequently, slower, and more authority given to that process, you could say, "Listen, wait a minute, we had this flight that went over here, can we address that?" It seems to me like you would have more impact on that process.

Mr. SLATER. Yes, I have to say it is totally dependent on each park and situation. Some can move forward in a good manner. Canyon de Chelly is currently up for draft comment right now.

The preferred alternative is no flights, and that is out of respect to the local communities. My chapters have passed resolutions opposing overflights. There are only a few that happen each year. It is not going to be a tremendous loss. None of them are located on Navajo. We are not getting revenue from it or any benefit to our people. So, it totally depends on the park.

Dr. GOSAR. Well, I have to tell you I am very concerned in regards to the FAA's involvement. It seems it should be non-stop because you are incurring the ramifications should anything bad happen. And if they are not dictating that process, or they are not being overseen by it, we have a problem. Mayday, mayday.

So, I am going to ask the last question, and each one of you can respond. What was the question you wanted to hear, but didn't hear, and what is its answer?

Mr. Wells, I will start with you.

Mr. WELLS. Thanks, sir. A question that I wanted to hear and that I didn't hear is what can we do to make the National Park System, be it ground or air, more amenable to disabled veterans. And I mentioned ground, although that is not part of this hearing, because we are forced to take to the air because we don't have the ability to view the national parks and their beauty on the ground, or at least too many of us don't.

Dr. GOSAR. Mr. Tomlin?

Mr. TOMLIN. Thank you for the question. The question I most wanted to hear was the use-or-lose nature of reducing the IOA.

Why do we need IOA? Why do I need overflight allocations if I didn't use them for the years that were evaluated between 2017 and 2019?

And a perfectly good scenario is the Glen Canyon National Park. Glen Canyon was a much quieter park over 10 years ago. And then, it seems like a photo on Instagram went up about Antelope Canyon and Horseshoe Bend, and then, bam, the market shifted and the public demanded to see those parks at a high degree. So, you have seen a lot of infrastructure poured up there. And we had a high demand for air tourism.

We used to fly those air tours 20, 30 years ago, but weren't currently utilizing them 10 years ago. Thank goodness we had that IOA, we can meet that demand. And we saw those air tours where we might have seen them in Grand Canyon shift to Glen Canyon. And, for instance, in this process we had 1,300 Bryce Canyon IOA. There was a time we used every single one of those IOA. We got reduced to 38. And right now, as we are trying to recover from COVID, we have to really consolidate and focus on which parks we are growing. But I can't grow in Bryce Canyon past 38.

So, those market shifts, those trends shifts, the public shifts, and we would like to be able to offer those products to those customers who want it. Thank you.

Dr. GOSAR. Mr. Slater?

Mr. SLATER. The Kardashian effect, right? Post about Antelope Canyon. Thank you very much, Chairman Gosar.

I would like to refer back to the comments that I made to Ranking Member Stansbury about reflecting both FAA and the National Park Service, and why they have only been able to have one member participate in NPOAG representing Native American interests, and that is my ask, and I hope that Congress can support that.

But secondarily, I just want to close and say that we have this concept on Navajo called hozho. That is balance, harmony, and beauty. And while it may appear that we are all in an adversarial relationship here, I think we are all engaged in trying to appreciate the natural world, our Mother Earth. And there is a way that we can all give a little to ensure that future generations can appreciate it in a really meaningful way.

So, thank you for this opportunity.

Mr. SCHLAEFLI. Thank you, Chairman, for that question. I am going to keep mine really simple, "Where is the FAA today?" That would be the question that I would have liked to have been asked.

The FAA is charged with being the lead agency in this. And at almost every single hearing, and all the documents that come out, they all come straight from the National Park Service. That is the question I would have liked answered today is where is the FAA in this process. Significant safety issues exist, and they have to be addressed.

Dr. GOSAR. Well, I just have to tell you, I feel the same way. I don't think this board should meet anything less than every quarter. That is just me. And there should be action items and time variables placed in it, whether it be veterans, whether it be the FAA in regards to the consolidation of the corridors, to

consultation, to looking at the business aspect. Because we are far past that, this road, and we have to have that done.

So, my suggestion is slow this process down and do it right. A good process builds good policy, which builds good politics. And it is not being done here.

With that, I want to thank every Member for your conversation with us. And I want to thank you for your valuable testimony. We will take it back with us.

And we thank the Members for their questions. Members of the Committee may have some additional questions for the witnesses, and we will ask you to respond to these in writing. Under Committee Rule 3, members of the Committee will submit questions to the Subcommittee Clerk by 5 p.m. on December 8. The hearing record will be held open for 10 business days for these responses.

If there is no further business, without objection, the Subcommittee stands adjourned.

[Whereupon, at 12:22 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submission for the Record by Rep. Gosar**SOUTHWEST SAFARIS
Santa Fe, New Mexico**

July 13, 2023

Hon. Sam Graves, Chairman
 Hon. Rick Larsen, Ranking Member
 House Transportation & Infrastructure Committee

Hon. Garret Graves, Chairman
 Hon. Steve Cohen, Ranking Member
 Aviation Subcommittee
 2165 Rayburn House Office Building
 Washington, DC 20515

Dear Congressmen Graves, Larsen, Graves, and Cohen:

I am writing to alert the House Transportation & Infrastructure Committee and its Aviation Subcommittee to a serious problem involving the way the FAA is implementing what is known as Air Tour Management Plans (ATMPs). These plans are required by Congress and determine the manner in which air tour operators (ATOs) conduct scenic flights over NPS units. Scenic flights constitute significant commercial operations.

I allege that the FAA has knowingly and deliberately ignored a mandate by Congress that the agency conduct pertinent (defined to mean “current, comprehensive, relevant, accurate, and science-based”) sound studies at National Parks and Monuments before implementing ATMPs. By so doing, the agency has ignored an Act of Congress, disregarded the primacy of Congressional laws over agency regulations, failed to perform due diligence, abused its powers of agency discretion, and deprived air tour operators of due process/civil rights. The problem involves virtually every State and is growing rapidly. Small aviation businesses are being destroyed in record numbers. Yet the FAA persists, arguing that executive force of agency trumps legislative reason of law. I ask that Congress intervene to prevent further abuse.

Air Tour Management Plans are mandated by the National Parks Air Tour Management Act of 2000, otherwise known as NPATMA (or, “the Act”). The Act spells out who qualifies as an ATO, how they are to apply for authority to fly over National Parks and Monuments, the content and nature of ATMPs, and other administrative details.

ATOs generally support the Act because, in addition to regulating the day-to-day conduct of air tours over units of the National Park Service, the Act also acknowledges and protects ATOs right to fly over said Parks. ATOs strenuously object, however, to the FAA’s abuse of the statute to arbitrarily and capriciously deconstruct the air tour industry despite the stated Will of Congress to the contrary. Please see the attached letter of July 3, 2023, page 9, addressed to the FAA’s Environmental Division, in which I quote the Honorable John J. Duncan, Chairman of the House Aviation Subcommittee at the time that NPATMA was drafted.

NPATMA begins by stating the purpose of the Act. Section 40128(b)(1)(B) says:

The objective of any air tour management plan shall be 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. [Emphasis added.]

One of the main goals of Congress was to control the amount of noise commercial aircraft were creating over Parks and Monuments. At the time that the Act was enacted, Congress thought, and presumably still does, that noise had the potential to create the greatest adverse effect on natural and cultural resources, visitor experiences, and tribal lands.

However, Congress was not convinced that environmental interests were telling the truth about noise. “Potential” noise is not the same as actual. Congress was skeptical that environmental groups were exaggerating their claims about aircraft

noise and/or skewing their testimonies as to the time, place, and magnitude of “the problem.” That is why Congress inserted the “if any” phrase quoted above. The phrase carries enormous significance, requiring that all data/evidence, assumptions, and conclusions be *tested and verified* as being current, comprehensive, relevant, accurate, and science-based (i.e., pertinent) in order to determine veracity. The phrase is, in effect, a “prove it” clause, and the clause is an order. The “if any” phrase imposes a mandate to positively determine the scope and degree of “significant adverse impacts” as they currently exist. Untested testimony, allegation, conjecture, supposition, hearsay, innuendo, opinion, speculation, and feelings of abuse allowed under Section 106 of the National Historic Preservation Act (NHPA) would not, by themselves, suffice to confirm existence of “adverse effect” under NPATMA. Nor would old and outdated studies be considered to be relevant and reasonable scientific evidence in a working environment that is constantly changing.

To ensure objective environmental analysis, Congress added specific language to the Act, known as Section 808, that spells out the manner in which determinations of aircraft sound levels must be made and evaluated. It reads:

Any methodology adopted by a Federal agency to assess air tour noise in any unit of the national park system (including the Grand Canyon and Alaska) shall be based on reasonable scientific methods. [Emphasis added.]

Thus, putting the two mandates together, the Act requires both substantiation of actual (not theoretical) adverse effects and application of “reasonable scientific methods” (not deductive speculation) . . . including the acquisition of current evidence/data (versus historical records that cannot be verified or challenged) . . . where any analysis of sound impact is at issue.

Under the Act, there must be a specific order of investigation and implementation of corrective measures, if in fact any corrections might even be necessary. First, current aircraft sound levels must be empirically recorded and mathematically measured. Then, second, the FAA was instructed to adopt methodology to analyze the data based on “reasonable scientific methods.” Third, after proving (testing and verifying) that excessive noise exists over any particular unit of the National Park Service, based only on real measurements, an ATMP could be created, *if necessary*, to correct the situation. The basis of my complaint to the House Aviation Subcommittee is that the FAA has completely disregarded the order of the Act, picking which Congressional laws and agency regulations the agency will comply with and ignoring the rest. For the six Parks cited, there was no scientific methodology used to arrive at the FAA’s assessments and final determinations. The FAA’s “evidence” is primarily based on accusations.

The “shall” mandate of Section 808 declares that objective scientific methodology was to prevail and NPATMA was to be the controlling legal authority, not NHPA. The reason is very clear: under NHPA, there is no requirement to gather objective data; mere accusations alone constitute convicting evidence of “adverse impact.”

Nor would NEPA regulations be able to take command away from NPATMA law. No contrived regulations under NEPA . . . drafted by the ever-creative Council on Environmental Quality, having concocted exemptions based on “categorical park exclusions” (CATEX) and “theory of no adverse effects” . . . would be allowed to get around the imposition of pertinent sound studies.

NPATMA 40128(b)(4)(C) says:

Procedure—In establishing an air tour management plan for a national park or tribal lands, the Administrator and the Director shall . . . comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations [if they are consistent with other Acts].

The FAA relies on these regulations in support of its theories of CATEX and “no adverse effects.” The problem is, in the present instance, none of these regulations are applicable.

NEPA Section 1500.3(a) controls all NEPA regulations which follow that paragraph. It specifies which NEPA regulations apply under any given situation. Section 1500.3(a) says:

Mandate. This subchapter is applicable to and binding on all Federal agencies for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321 *et seq.*) (NEPA or the Act), *except where compliance would be inconsistent with other statutory requirements.* [Emphasis added.]

The “shall” mandate of NPATMA 808 makes regulatory compliance with CEQ regulations statutorily “inconsistent” with NPATMA. The Act dictates that pertinent sound studies shall be performed under all conditions; NEPA does not require them under most conditions. Second, the Act strongly indicates that the sound studies should be performed *before* ATMPs may be implemented; proof of need for remedy must *precede* corrective action. The concept of timely sound studies is largely irrelevant under NEPA. Third, under NPATMA, no exemptions, exclusions, or legal fantasies that might be employed by the FAA under NEPA are to be considered. Congressional law overrides allowance of special-interest/purpose regulations. Fourth, NPATMA makes no mention of NHPA and makes no concessions to it, and the only reference to NEPA is conditional. There is an implied “if” imbedded in the “shall” command rendered in NPATMA 40128(b)(4)(C), according to NEPA Section 1500.3(a). Congress compels the FAA to comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations if, *and only if*, said instructions are consistent with other Acts. They are not, as shown above. Therefore, NPATMA remains the controlling legal authority. The Will of Congress for current, objective, and relevant (pertinent) sound studies must prevail for the Act to hold together.

I contend, agreeing with Congress, that it is not possible to “develop acceptable and effective measures to mitigate or prevent the “significant adverse impacts” of air tour overflights without first assessing aircraft noise. Furthermore, no reasonable assessment of “adverse impact” of any kind can be done without including current pertinent noise studies under today’s conditions. Studies conducted 16–23 years ago must be considered irrelevant to current conditions. Historic studies may be interesting for comparative purposes, but they are not pertinent for decision-making purposes. Over time, the number, routes, and altitudes of air tours have changed. Likewise, over time, aircraft technology has changed, including the types of aircraft, engines, and propellers used. One cannot assume that air tour operations are consistent or stable over a 25-year period given the rate of change in today’s society. Congress did its best to recognize this fact in Section 808, endeavoring to compel the FAA and NPS to use “reasonable scientific methods” to determine sound presence and impact.

I point out that the FAA has knowingly sidestepped the agency’s obligation to meaningfully, effectively, and statutorily comply with Section 808 (having only cited historic sound studies, but not employing analysis of current data) for the sake of “administrative expediency.” On May 1, 2020, the U.S. Court of Appeals for the District of Columbia Circuit on May 1, 2020, directed the FAA and NPS to submit a plan by August 31, 2020, to develop ATMPs or voluntary agreements to bring 23 Parks into compliance with the Act within 2 years, or offer concrete reasons why it would take longer than 2 years to comply. The FAA knew at the time, but failed to inform the Court, of the FAA’s obligation to comply with Section 808, and therefore committed fraud on the Court, knowing that it would be impossible to comply with the Order without depriving ATOs of due process. The absence of current sound studies would make it impossible for ATOs to mount a defense against the FAA’s determinations, which imposed the worst possible air tour restrictions. I allege that the FAA used the Court to force the FAA to do what that agency could not have accomplished on its own, forcing the agency to ignore Section 808 (because the Court allowed no time to comply) and compelling the FAA to disrespect the Will of Congress (by dismantling the air tour industry without first performing pertinent noise tests), which the FAA could not otherwise justify. I allege that this “rogue intent of agency” still exists at the very top levels of the FAA, today.

I will give six examples of typical Parks that represent failure of ATMP process across the Nation. The FAA recently enacted four ATMPs for the State of Utah: Arches, Bryce, Canyonlands, and Natural Bridges. Another was completed for Death Valley in California and Nevada, and then another for Badlands, South Dakota. The FAA conducted sound studies in these parks in roughly the same decade of time, early 2000s.

The studies are all of historic value, not current. The noise studies for Arches were only intermittently conducted between 2000 and 2007. In Bryce, the noise studies were conducted in the years 2009 and 2010. In the case of Canyonlands, the noise studies were conducted in 2006 and 2007. For Natural Bridges, the sound scoping was conducted in 2006 and 2007. In Death Valley, 2008. For Badlands, 2003.

These studies are as much as 23 years old. In the intervening years, not only has aircraft technology become significantly quieter, but the ambient noise level in parks has become measurably louder, because of record park visitation. I argue that the noise studies the FAA is relying on are out of date and inapplicable to today’s reality. Furthermore, the FAA has given no specific, case by case, information to the

public as to how these noise studies were conducted, so there is no way to know or challenge the studies' scope, relevance, or "reasonable scientific methodology." Only vague references are made to modeling methods. Under Appendix F of the Badlands Environmental Assessment, the FAA includes a catalogue of "Literature Cited" in support of its noise modeling methods, but most of the references are as outdated as the original sound study itself, many going back to 2003.

Methods and techniques of noise modeling have changed over the years. Many old methods are no longer acceptable. I observe that many basic modeling techniques and assumptions have been discredited over the same 23-year time period since the earliest study mentioned above, causing an uproar of dissent in the environmental community (re. global warming). I note also that noise models were highly contentious and successfully contested when the FAA drew up the Grand Canyon special flight rules. Noise models are inherently fraught with errors precisely because they do not incorporate strict scientific methods. The output frequently defiles the input.

In any case, the FAA asserts that there has been "no significant change" in park conditions and scenic overflight operations in 23 years. I argue that this is simply not the case. The FAA's data is out-of-date and skewed. The FAA's data tends to minimize natural sounds and maximize aircraft noise, to the detriment of ATOs. Therefore, the FAA's data is not pertinent (current, comprehensive, relevant, accurate, and science-based). The FAA's outdated data does not allow the agency to meet, let alone overcome, the "if any" challenge of Congress.

I argue, precisely because of the "stale-dated" and generally-unscientific data that the FAA is relying on, the Agency has not proven, using pertinent data, that there is convincing need for aircraft noise control. In interest of brevity, I will cite two examples, beginning with Arches National Park.

Quoting from the Record of Decision, Air Tour Management Plan for Arches National Park, Appendix B, Environmental Screening Form, Evaluation of the ATMP, Table 1, Soundscapes (Acoustic Environment), Page 8:

Baseline acoustic conditions in the Park were measured in 2000 and continued intermittently through 2007 (Ambrose and Florian, 2008). Long term monitoring was conducted at [only] two sites, the existing ambient sound level was reported to be 19–24 decibels, while the natural ambient sound level was reported to be 18–24 decibels. Short-term monitoring was conducted at eight other sites. The existing ambient sound level at the short-term sites was 19–42 decibels. Natural ambient sound levels were not modeled for the short-term sites. [Editorial comments added.]

With respect to long-term monitoring, the existing ambient sound levels are almost exactly the same as the natural ambient sound levels. With respect to short-term monitoring conducted at eight other sites, existing ambient sound levels were acknowledged to be high considering all forms of aircraft noise (general aviation, airline, military, and air tour). But the figures are meaningless. The FAA does not say how often the noise levels reach 42 decibels, nor for how long, nor does the FAA allocate any specific measurement of noise to air tour aircraft. So, what is the specific problem with air tour noise? The FAA never addresses the question, conveniently letting it drop. Nor does the FAA state why Natural ambient sound levels were not modeled for the short-term sites; there is no basis or opportunity for comparison by ATOs. The FAA does not seem to care that its data does not support the agency's findings. I could have just as easily quoted from the RODs for Badlands, Bryce, Canyonlands, Death Valley, or Natural Bridges National Parks/Monuments. The "researched" data the FAA presents for those parks reads almost the same. The FAA has not demonstrated "cause for correction," only a persistent desire for determination of adverse effect.

For each of the six Parks referenced above, not just Arches, the FAA carefully presented a ROD in an Appendix to the respective Environmental Screening Form (ESF). Each ESF has an extensive reference section with supporting studies and documentation on noise. The problem is, all of these supporting studies and documents were produced at the same time and are equally out of date. Of even greater import, however, is the FAA's false reliance on its noise models to serve as the baseline to determine existing conditions of noise conditions within the respective ATMP planning areas.

For all of the six Parks, the FAA relies on noise modeling to make its calculations of "adverse impact." This is allowable under NEPA. Paragraph 1502.23 of NEPA says, "Agencies are not required to undertake new scientific and technical research to inform their analyses." However, this statement is directly contrary to NPAATMA, the controlling legal authority in the present instance. Paragraph 1502.23 does not

apply to NPATMA, and Congress does not refer to that paragraph in NPATMA 40128(b)(4)(C) in order to grant special exception.

The Act (NPATMA) says (as quoted above) that “*any methodology*” used by the FAA to assess air tour noise shall be based on “reasonable scientific methods.” Noise models do not constitute scientific methodology, even with incorporation of timely, accurate, thorough, and objective data obtained from vigorous field research. A noise model is just another term for an “Aviation Environmental Design Tool” (AEDT), to use an FAA term. The output from an AEDT is totally dependent on whatever numbers (including formulas) are input. The input data the FAA is using is too old, too few, too isolated, and too infrequently gathered, representing unreliable assumptions of present conditions, this on top of biased formulas. ATOs claim that the FAA is controlling the input so as to get a predetermined output that is contrary to the interests of ATOs.

My second example has to do with Badlands National Park. Here, the FAA all but admits that its noise data for the Park is “stale-dated,” incomplete, and biased. The FAA’s data is both old and lacking in coverage to the point that extensive noise modeling had to be incorrectly employed to make up (“correct”) the difference. I quote from the Badlands ATMP Environmental Assessment, Section 3.1.1, Affected Environment:

To characterize the natural and existing ambient (both with and without air tours), detailed sound level measurements were conducted at [only] three locations across the Park in 2003 (Lee et al., 2016). These acoustic sampling locations were chosen to be representative of the natural ecological zones or broad ecosystems of the Park and ATMP planning area. [Incredibly,] these locations were not chosen to specifically measure the amount of air tour noise. From the detailed [?] data collected in 2003 [based on only three sites], an ambient “map” of the natural soundscape of the ATMP planning area was developed to be used in computer modeling (Figure 5) [which, under NPATMA, does not involve “reasonable scientific methods”]. For more explanation for how sound is described, see the *Noise Technical Analysis*, (Appendix F, Table 1.

[The FAA goes on to say:] The contribution of aircraft noise during sound level measurements only provides a snapshot in time at a particular location and *is not necessarily a representative characterization of current conditions*. Current conditions were [artificially and deductively] determined by adding the noise exposure due to air tours, (LAeq, 12h), based on a peak month [why not average month], average day and modeled using the FAA AEDT Version 3e, to the Existing Ambient without Air Tours (L50)11 (see Appendix F, *Noise Technical Analysis*). The result of this process is the [purely hypothetical] Cumulative Existing Ambient (Figure 6). [Comments, underline, and emphasis added.]

In other words, the FAA’s AEDT borders on pure fiction, biased first in one direction and then magnanimously in another.

An AEDT is just a fancy name for a spreadsheet. Spreadsheets can be easily manipulated to produce whatever output one wants, as in the example just quoted where the FAA contrives to create artificial “current conditions.” In the present situation, as is the case for the other five Parks, the FAA’s “manufactured” current conditions are never tested in the field for present-day accuracy. This fact alone establishes that the FAA did not use “reasonable scientific methods” to get, analyze, or verify the truthfulness of the agency’s referenced sound studies for Badlands, or any of the other five Parks.

Spreadsheets, themselves, are not science. Science is based on acquiring original data by observation in the field. Noise models, in contrast, are based on deductive armchair reasoning. Therefore, I argue, primary reliance on AEDT technology is not allowable under NPATMA as a conclusive means of determining “adverse impact.” This is one of the reasons I have argued above that NPATMA is the controlling legal authority for ATMPs, not NEPA. Under NPATMA, the 1502.23 possible allowance for using AEDT technology does not apply. But even if it did, the FAA would still be required to use scientific methodology to control the input with current, comprehensive, relevant, accurate, and science-based (i.e., pertinent) data. I argue that the FAA’s data, even if one allows use of AEDT noise modeling, fails all five tests. For multiple reasons, then, the FAA’s decision that each of the six Parks’ ATMP conditions were correctly determined to meet the Act’s defined objective (“to mitigate or prevent adverse impact, *if any*, of commercial air tours on natural and cultural resources, visitor experiences, and tribal lands”) must be rejected at this time. I argue that the “if any” test for excessive aircraft noise has not been satisfied in any

of the Parks that I have cited. Ignoring Congress, the FAA has jumped straight to the “cure” for a disease the agency has never properly diagnosed.

In short, I allege that, for the Parks where the FAA said they did consider sound studies, their “studies” are entirely inadequate and inapplicable to today’s reality. In the cases of the Parks where the FAA might not yet have conducted sound studies, the FAA’s findings would have no legal authority to be implemented. The point is, either by referring to old sound studies or incorporating nonscientific noise models, the FAA has abused the Act by not conducting noise studies that are current, comprehensive, relevant, accurate, and science-based (i.e., pertinent) before drafting ATMPs. Because of the “if any” challenge and the “shall” mandate, current noise studies were to become the standard of fair decision and the prime investigatory directive of the Act. Again and again, I allege, from every point of view, the FAA appears to have knowingly ignored both the Act and the Will of Congress. This constitutes blatant abuse of process.

Moreover, the burden to conduct pertinent sound studies was placed by Congress on the US Government, not ATOs, so that the data would be acceptable to all parties involved in the decision-making and contesting process. The results of the studies could then be entered into evidence. Of no less importance, pertinent sound studies were required by the Act to ensure due process for air tour operators. With timely, accurate, and objective sound data in hand, ATOs could reasonably debate the proposed actions or inactions of the FAA and, if necessary, submit differences of opinion to the courts for judicial review. Congress recognized that said sound studies were necessary to protect the judicial and civil rights of ATOs. Adequate sound studies were thus assumed by Congress to be part of the fabric of the Act. Failure to perform pertinent sound studies before implementing ATMPs robs ATOs of due process and civil rights.

I contend that the FAA has failed to perform required due diligence by not conducting current sound studies based on timely research in the field at Arches, Badlands, Bryce, Canyonlands, Death Valley, and Natural Bridges units of the NPS before implementing Air Tour Management Plans. Additionally, I allege that the agency has incorrectly resorted to reconstruction of law by using NHPA and NEPA to override the intent of NPATMA in order to escape the administrative burden of conducting sound studies. I further argue that the FAA has deliberately engaged in unlawful acts by conspiring with the NPS to strip ATOs of their Constitutional rights (i.e., due process and civil liberties, referring to ATOs inability to defend their interests in court for lack of access to evidence that was knowingly withheld, namely pertinent sound studies).

In brief, then, here is my petition to the House Aviation Subcommittee. Because of the FAA’s failing to perform current, comprehensive, relevant, accurate, and science-based sound studies at these six representative units of the NPS, chosen at random, a group that might someday be expanded to include all units of the NPS, I argue, the process of creating ATMPs has not been completed according to Act. Therefore, I ask Congress to recognize and instruct the FAA that it is premature to require modification of the Operations Specifications of air tour operators, by mandating that their commercial operations comply with ATMPs, until pertinent sound studies are completed for all Parks over which ATOs fly. The FAA will not come to this conclusion on its own.

I have loudly and persistently petitioned the FAA to recognize both the logic and the law of my request. The agency has stubbornly resisted all appeals, for reasons that are self-serving, detrimental to air commerce, and contrary to public interest. The FAA has connived to strip ATOs of due process, operational rights, and constitutional guarantees because of operational mandates “coming down from above” (political directives) and imperatives from below (re. the District of Columbia Circuit Court’s May 1, 2020, mandamus order). The FAA appears to be adopting the philosophy that need for administrative expedience justifies abuse of law and fair process. I ask your oversight office, then, to consider the necessity for intervention in the appeals process currently being launched by ATOs across the Nation to ensure that both the Act and the Will of Congress is respected.

Thank you so much for your kind consideration.

Sincerely yours,
Bruce Adams