

**SUPPLEMENTAL DECLARATION OF RAYMOND M. SAUVAJOT, PH.D.
IN SUPPORT OF
THE RESPONSE BY THE NATIONAL PARK SERVICE AND THE FEDERAL
AVIATION ADMINISTRATION IN OPPOSITION TO THE PETITION**

I, Raymond M. Sauvajot, Ph.D., declare as follows:

1. I am the Associate Director for National Resource Stewardship and Science for the National Park Service (NPS). I am submitting this declaration to supplement my previously submitted declaration dated June 27, 2019 and in order to provide the comprehensive schedule referenced in that declaration regarding the NPS and the Federal Aviation Administration (FAA) actions under the National Parks Air Tour Management Act (NPATMA) to complete voluntary agreements or air tour management plans (ATMPs) in seven National Park System units.
2. This supplemental declaration also supplies explanation as to how the National Park System units identified in the schedule were selected, how additional parks will be prioritized going forward, and how the NPS and FAA will determine whether to pursue a voluntary agreement or an ATMP at a particular park.
3. I have personal knowledge of all facts stated in this supplemental declaration, and if called to testify, I could and would testify competently thereto.

Actions taken since July 1, 2019

4. As specified in my June 27, 2019 declaration, on August 9, 2019 the NPS published a notice that the FAA and NPS will pursue voluntary agreements or

ATMPs for seven National Park System units in the near term. The notice is available at: <https://www.nps.gov/subjects/sound/airtours.htm>.

5. Personnel within NPS's Natural Sounds and Night Skies Division met telephonically or in person with their counterparts at the FAA on a weekly basis during the summer of 2019 in furtherance of the near-term priorities identified in my June 27, 2019 declaration, and in order to complete the comprehensive schedule for completing voluntary agreements or ATMPs at the parks identified in my previous declaration. I participated in several of those meetings both telephonically and in person over the course of the summer.
6. The schedule agreed to by the agencies is included in the document titled Establishing Voluntary Agreements and Air Tour Management Plans Under the National Parks Air Tour Management Act Implementation Plan & Schedule September 30, 2019, a true copy of which is attached as Exhibit A. The NPS plans to post this document on the Natural Sounds and Night Skies Division's website on September 30, 2019.
7. As a first step, the NPS and FAA discussed and agreed on the general process and pathway for completing voluntary agreements and ATMPs considering funding, agency guidance and policy, NPATMA requirements, program experience and other relevant conditions. Exhibit A includes a flowchart attachment that summarizes these processes. It also identifies the process for transitioning from an agreement process to an ATMP process pursuant to the

approach agreed to by FAA and NPS and discussed in my June 27, 2019 declaration.

8. The NPS and FAA then considered the specific circumstances of the individual parks selected for near term action, including the work already completed, work needed, park staff capacity, increased park visitation, and the agencies' available resources, and identified an aggressive, but achievable, schedule for completing voluntary agreements or ATMPs for the seven selected parks.
9. The FAA and NPS have discussed and agreed that they prefer to work collaboratively with all stakeholders through the voluntary agreement process and view voluntary agreements with high compliance as the preferred means of implementing NPATMA. Voluntary agreements can take into account the impacts of air tours on parks, while also taking into account opportunities for small businesses, visitor experience, and public demand. Agreements also provide the agencies with more flexibility and are often more expedient than ATMPs.
10. The agreed-to schedule discussed below reflects the agencies' agreement to pursue voluntary agreements first, where feasible. However, if the agencies initiate work on an agreement, but are unable to reach an agreement with operators within 18 months of formal initiation of an agreement process, the agencies have agreed that they will transition to an ATMP process and complete an ATMP instead, absent extraordinary circumstances. In addition,

the agencies are identifying additional factors to be considered in determining whether to transition from a voluntary agreement process to an ATMP process prior to the expiration of 18 months after formal initiation. In situations where an agreement process has transitioned to an ATMP process, much of the work completed for a voluntary agreement can be incorporated directly into an ATMP or used to inform various sections of the ATMP, thus allowing the agencies to complete an ATMP on a somewhat expedited time frame. This process is depicted in the flowchart attached to Exhibit A.

Explanation of time frames in the agreed-to schedule

11. In selecting the seven parks for near term action, the agencies considered a variety of factors including: the level of air tour activity at the parks; ongoing efforts and activity of the agencies; the capacity and capabilities of the parks to undertake the NPATMA process given other on-going issues at those parks; and, the likely overall complexity of the voluntary agreement or ATMP. In addition, the selected parks are representative of the various issues and factors the agencies must address at other park units subject to NPATMA.
12. The diverse mix of parks included in the agreed-to schedule will require different techniques, which will help the agencies develop a viable range of approaches in completing voluntary agreements and ATMPs. Further explanation regarding the factors considered in selecting the parks included in the schedule below is included in my June 27, 2019 declaration and in Exhibit A.

13. In designing the agreed-to schedule the NPS and FAA built on the experience from the Glen Canyon/Rainbow Bridge voluntary agreements as well as the voluntary agreements completed at Big Cypress National Preserve and Biscayne National Park to establish an ambitious timeline for completing agreements or ATMPs at the seven identified parks. This stepped up effort will require additional resources and commitment by the agencies and stakeholders, and will serve to create a record of accomplishment and establish practices and procedures to enable system-wide implementation.
14. The schedule also factors in the time needed to develop draft documents in coordination with air tour operator(s), and the time needed to complete the agencies' internal reviews of draft documents by staff at each of the individual parks, NPS regional and Washington level staff, appropriate personnel at the FAA, and both agencies' legal counsel. Draft documents may require revisions to address comments from internal reviews and any comments received from the public or other stakeholders during the public review period.
15. **Badlands National Park (fixed wing operator agreement):** Paragraph 52 of the June 20, 2019 declaration by Keith Lusk (Lusk Declaration) accurately describes the development of voluntary agreements with both the fixed wing and helicopter air tour operators with interim operating authority (IOA) for the park through June 2019. Since June 2019, the NPS and FAA have conducted internal reviews of the draft fixed wing operator agreement. The NPS expects

to publish the draft agreement on the NPS Planning, Environment and Public Comment (PEPC) website by October 31, 2019, and expects that the FAA will also post the draft agreement on its website. The draft agreement will be available for public review for 30 days. The NPS expects that any public comments received can be addressed and that all parties will sign a final agreement by January 31, 2020. The signed final fixed wing operator agreement will be posted to the Natural Sounds and Night Skies Division's website and will also be posted to the FAA's website.

16. **Badlands National Park (helicopter operator agreement):** The NPS and FAA are currently preparing a draft voluntary agreement with the helicopter operator with IOA for the park. The draft, and necessary internal reviews, are expected to be completed in time for the draft to be made available for public review and comment on the agencies' websites by February 1, 2020. After the required 30-day comment period is completed, the NPS expects that the comments received can be addressed and necessary internal reviews can be completed in time for the final agreement to be signed by all parties by April 30, 2020.
17. **Mount Rushmore National Memorial (fixed wing operator):** Paragraph 52 of the Lusk Declaration accurately describes the process for the agencies' development of a voluntary agreement with the fixed wing operator with IOA for the park through June 2019. Since June 2019, the agencies have conducted internal reviews of the draft fixed wing operator agreement. The agencies

expect to complete their internal reviews and publish draft agreement on the agencies' websites by October 31, 2019. The draft agreement will be available for public review for 30 days. The NPS expects the comments received can be addressed and necessary internal reviews can be completed in time for the final agreement to be signed by all parties by January 31, 2020. The final signed agreement will be posted to the agencies' websites.

18. **Mount Rushmore National Memorial (helicopter operator agreement):**

The NPS and FAA are currently conducting preparatory work prior to formally initiating the development of a voluntary agreement with the helicopter operator with IOA for the park. Preparatory work completed to date includes gathering current information about air tour routes, altitude, speed, and type of helicopter. The Volpe Center within the Department of Transportation has completed initial air tour noise modeling. Other preparatory work currently underway includes gathering information about existing conditions at the park, identifying park natural and cultural resource issues and visitor use, and reviewing the results of the air tour noise modeling. The agencies anticipate formally initiating a voluntary agreement process with the helicopter operator by December 1, 2019. During the period between December 1, 2019 and April 1, 2020, the agencies anticipate, issuing formal notification to the operator(s) regarding the agreement process, identifying the project team, identifying resource needs, identifying potential tribal issues, and holding a kick off meeting. This park has somewhat unique issues due to

its relatively small size (1,278 acres), high visitation (over 2 million visitors per year), security concerns due to the memorial's designation as a National Icon by the Department of Homeland Security, and high levels of helicopter tour activity. The peak visitor and air tour operating season for the park is from May to September. Reviews of draft documents by NPS and the operators typically take longer during the peak visitor and air tour operating season, because the operators and the necessary park staff are much busier during that time, therefore the agreed-to schedule reflects that public notice of a draft helicopter agreement is expected to be published on the agencies' websites by September 1, 2020. The agencies would then address comments received and complete final reviews of the draft agreement. Pursuant to the agreed-to schedule, the agreement would be finalized and signed by November 30, 2020.

19. **Death Valley National Park:** Paragraph 37 of the Lusk Declaration accurately describes the development of an ATMP process for the park and explains why the FAA and NPS put this process on hold in 2012. As explained in Paragraph 39 of the June 14, 2019 declaration of Karen Trevino (Trevino Declaration), the NPS withdrew the park's exemption in 2015. FAA and NPS will initiate preparatory work for an ATMP process by March 1, 2020. This date was selected because by this time the majority of the work on the Badlands and Mount Rushmore agreements will have been completed, freeing up agency personnel to work on this ATMP. Previous preparatory

work was done several years ago and visitation patterns have changed (visitation has increased 57% since 2013) since that time. The necessary preparatory work that needs to be conducted includes evaluating legacy data from acoustic inventories and air tour noise modeling, conducting literature reviews, identifying relevant park planning documents, and identifying any potential issues. The agreed-to schedule anticipates that preparatory work will be completed in time for an ATMP process to be formally initiated by May 1, 2020. During the time from May 1, 2020 to December 1, 2020, the agencies' process will include identifying the project team, formally notifying operators, and identifying potential tribal issues, among other things. Since this is the first ATMP process to be re-initiated since 2012, the schedule contemplates that the agencies will need additional time to identify any remaining areas of disagreement and resolve them prior to publishing a notice of intent to prepare an ATMP by December 1, 2020. The schedule contemplates that it will take until June 1, 2021 to prepare a draft ATMP, complete all necessary agency reviews, and publish the draft ATMP on the agencies' websites for public comment. After a 30-day comment period, the NPS and FAA will incorporate and respond to comments, and the final ATMP is expected to be published on the agencies' websites by December 31, 2021.

20. **Great Smoky Mountains National Park:** Paragraph 53.m. of the Trevino declaration accurately describes the preparatory work completed with respect to a potential voluntary agreement. The NPS and FAA have already done

some preparatory work necessary to moving forward with a voluntary agreement at the park, including gathering current information about air tour routes, altitude, speed, and type of helicopter from the active air tour operator with IOA for the park. The Volpe Center has completed initial air tour noise modeling. However, substantial additional preparatory work is necessary. The next phase of the agencies' preparatory work will include evaluating the reliability of previous information collected, gathering information about existing conditions at the park, identifying park natural and cultural resource issues and visitor use issues, and reviewing the results of the air tour noise modeling. This preparatory work is expected to be completed, and the agencies plan to begin formally initiating a voluntary agreement process by December 1, 2020. The schedule for completing a voluntary agreement with the air tour operators with IOA for the park is based on the availability of FAA and NPS staff to manage the agreement process, the availability of park staff to participate in the process, and the need to start a process during the fall and winter when there is little to no air tour activity and the park's peak visitor season is over. Work on the draft agreement would occur concurrently with the Death Valley ATMP by much of the same FAA and NPS staff. The agreed-to schedule factors in additional time for completion of the draft because it is not expected to be completed prior to the peak visitor and air tour operating season, and thus reviews of the draft will take longer because both park staff and operators are busier during that time of year. Accordingly, the

FAA and NPS expect to publish a draft agreement on their websites by January 1, 2022. After a 30-day public review period, the agencies will address comments, obtain necessary reviews, and anticipate that the final agreement will be signed by March 31, 2022.

21. **Mount Rainier National Park:** Paragraph 38 of the Lusk Declaration accurately describes the ATMP process for the park which was put on hold by the agencies in 2012. Paragraph 39 of the Trevino Declaration describes the NPS's withdrawal of the park's exemption from the requirement to prepare a voluntary agreement or ATMP for the park. The agreed-to schedule provides that the FAA and NPS will initiate preparatory work for an agreement process by November 1, 2020 after the majority of the work on the Badlands and Mount Rushmore agreements have been completed and most of the preparatory work for Death Valley ATMP process is done. Previously completed preparatory work for the park is approximately 10 years old and needs to be updated, especially as visitor use has increased substantially (68% increase since 2012) since the previous work was completed. The additional preparatory work that needs to be completed includes evaluating legacy data from acoustic inventories and air tour noise modeling, conducting literature reviews, identifying relevant park planning documents, and identifying potential issues, including issues important to Native American tribes. Pursuant to the schedule, the agencies plan to formally initiate a voluntary agreement process for the park by January 1, 2021. During the period from

January 1, 2021 to February 28, 2021, the agencies will undertake initiation activities including identifying the project team, formally notifying operators, and identifying potential tribal issues. Then, from March 1, 2021 through October 31, 2021, the agencies expect to draft an agreement and obtain necessary operator and internal reviews of the draft. Publication of the draft agreement on the agencies' websites for public comment is expected by November 1, 2021. Under the agreed-to schedule, the agencies would address public comments, obtain any necessary reviews, and finalize the agreement by January 31, 2022.

22. **Glen Canyon National Recreation Area and Rainbow Bridge National Monument:** Paragraph 55 of the Lusk Declaration accurately describes the development and completion of voluntary agreements with seven of the nine air tour operators with IOA at these parks. Although all operators did not sign the voluntary agreements for these parks, work already completed by the NPS and FAA with respect to the voluntary agreements can be used in developing the contents of an ATMP. However, additional preparatory work is needed to transition to an ATMP process, including initiating formal government to government consultation with up to seven Indian tribes and requesting the participation of one of the tribes as a cooperating agency in the National Environmental Policy Act (NEPA) process. In part due to the difficulty in predicting how long consultation will take, and in part due to resource constraints due to agreement and ATMP-related activities at other parks,

formal initiation of an ATMP process for these parks is scheduled for January 1, 2021. In addition, the agencies and operators that have signed an agreement are currently working on amendments to the agreements. If finalized, these amendments would be addressed in the ATMP. The agreed-to schedule identifies May 1, 2021 as the target date for publishing a notice of intent to prepare an ATMP. The agencies would then prepare a draft ATMP and all necessary reviews by October 1, 2021, when a draft ATMP would be made available for public comment. Pursuant to the agreed-to schedule, public comments would be addressed, and all necessary reviews would be completed in time for a final plan to be issued by May 31, 2022.

23. The NPS believes that the agreed-to schedule is achievable. While implementing the provisions of NPATMA has proven challenging, the NPS will work closely with the FAA and dedicate the necessary NPS resources to meet the target dates in the schedule and further to ensure that agreements or ATMPs are completed for all National Park System units for which an Agreement or ATMP is required under NPATMA.
24. The NPS will work with the FAA to complete voluntary agreements or ATMPs at the selected parks pursuant to the agreed-to schedule as expeditiously as possible. The agencies will also begin preparatory work in additional parks on a rolling basis as work is completed and resources are available. While the agencies are not yet in a position to specify with certainty the next group of parks to be prioritized for voluntary agreements or ATMPs,

the agencies have agreed to apply lessons learned in the completion of voluntary agreements or ATMPs at the selected parks to inform the identification of parks at which voluntary agreements or ATMPs are pursued next.

25. As the voluntary agreement or ATMP processes progress at seven selected parks, the agreed-to schedule will be supplemented by more detailed, park-specific implementation plans. The agencies have agreed to review and update the agreed-to schedule, as appropriate, with a goal of identifying opportunities to accelerate the completion and finalization of voluntary agreements or ATMPs.
26. Additionally, the NPS will continue to work with the FAA to address the other near term priorities for NPATMA implementation identified in my June 27, 2019 declaration.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 30, 2019 in Washington, D.C.



Raymond M. Sauvajot, Ph.D.

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

IN RE: PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY
AND HAWAII COALITION MALAMA PONO,

Petitioners

ON PETITION FOR WRIT OF MANDAMUS

**SUPPLEMENTAL DECLARATION OF KEVIN WELSH
IN SUPPORT OF THE RESPONSE OF THE FEDERAL AVIATION
ADMINISTRATION AND THE NATIONAL PARK SERVICE IN
OPPOSITION TO THE PETITION**

I, Kevin Welsh declare as follows:

1. I am the Executive Director of the Federal Aviation Administration's (FAA) Office of Environment and Energy. The FAA's Office of Environment and Energy maintains responsibility within FAA for addressing issues associated with the National Parks Air Tour Management Act. I am submitting this declaration to supplement my previously submitted declaration dated June 27, 2019 and in order to provide the comprehensive schedule referenced in that declaration regarding the FAA and National Park Service (NPS) actions under the National Parks Air Tour Management Act to complete voluntary

agreements or air tour management plans (ATMPs) at seven National Park System units.

2. I have personal knowledge of all facts stated in this declaration, and if called to testify, I could and would testify competently thereto.
3. FAA staff met telephonically or in person with NPS on a weekly basis during the summer of 2019 in furtherance of the near-term priorities identified in my June 27, 2019 declaration, and in order to complete the comprehensive schedule for completing voluntary agreements or air tour management plans at the previously identified parks. I participated in several of those meetings both telephonically and in person over the course of the summer.
4. I have read the supplemental declaration of Raymond M. Sauvajot, Ph.D, executed on September 30, 2019, including Exhibit A, and agree that the schedule described in that declaration and the information contained in Exhibit A to Mr. Sauvajot's declaration accurately reflect the communications between FAA and NPS and the commitments made by the FAA on the subject matter addressed in the declaration.
5. The FAA will publish the document at Exhibit A to Mr. Sauvajot's declaration, entitled Establishing Voluntary Agreements and Air Tour Management Plans under the National Parks Air Tour Management Act

Implementation Plan & Schedule September 30, 2019, on its website by Friday, October 4, 2019.

6. The FAA likewise believes that the agreed-to schedule is achievable, and will dedicate the necessary resources to meet the target dates in the schedule and further to ensure that agreements or air tour management plans are completed for all required National Park System units as expeditiously as possible. The agencies have agreed to review and update the schedule, as appropriate, with a goal of identifying opportunities to accelerate the completion and finalization of voluntary agreements or ATMPs.

I declare under penalty of perjury that the foregoing is correct. Executed on September 30, 2019 at Montreal, QC.



Kevin Welsh