

No. 19-1044

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UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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IN RE PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY  
and HAWAII COALITION MALAMA PONO,  
*Petitioners.*

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On Petition for Writ of Mandamus

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**PROGRESSS UPDATE OF THE  
FEDERAL AVIATION ADMINISTRATION AND  
THE NATIONAL PARK SERVICE**

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**PROGRESS UPDATE OF THE FEDERAL AVIATION  
ADMINISTRATION AND THE NATIONAL PARK SERVICE**

The Court's order of November 20, 2020 approved a plan (Compliance Plan) submitted by the Federal Aviation Administration (FAA) and National Park Service (collectively the agencies) for bringing twenty-three specific parks into compliance with the National Parks Air Tour Management Act of 2000 (Act).<sup>1</sup> The order further directed the agencies to file a progress update on November 30, 2020 and to file subsequent updates at 90-day intervals thereafter.<sup>2</sup> The Court modified its November 20, 2020 order in a March 8, 2021 clarification order and a February 10, 2022 order.

On June 21, 2022, the Court issued an order directing the agencies to submit a joint supplemental report with proposed firm dates for bringing each park into compliance. On July 21, 2022, the agencies complied with that order by filing the Joint Supplemental Report signed by the Acting Administrator of the FAA and the

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<sup>1</sup> As explained in previous progress updates, the Park Service withdrew the exemption applicable to Muir Woods National Monument, and the agencies have included Muir Woods National Monument in the air tour management plan prepared for the Northern California Parks (Golden Gate National Recreation Area, San Francisco National Historical Park, and Point Reyes National Seashore).

<sup>2</sup> On February 20, 2022, the Court granted the agencies' unopposed motion to adjust the progress reporting schedule and authorized filing on fixed dates of February 28, May 31, August 31, and November 30, rather than at 90-day intervals.

Director of the Park Service. In the Joint Supplemental Report, the agencies proposed firm dates for bringing each park into compliance with the Act.

Consistent with the Court's orders, the agencies submit the following chart showing the agencies' progress, as of February 28, 2023, towards completing air tour management plans or voluntary agreements for all parks included in the Compliance Plan. Consistent with the July 21, 2022 Joint Supplemental Report, this chart lists the parks in descending chronological order according to (1) the date on which plans or agreements were completed, or (2) the anticipated date by which the agencies will be able to complete a plan or agreement for the park. Where multiple parks are anticipated to be included in a single plan, those parks are grouped together.

### **PROGRESS UPDATE AS OF FEBRUARY 28, 2023**

|    | <b>Park</b>                        | <b>Proposed Completion Date</b> | <b>Status</b>   |
|----|------------------------------------|---------------------------------|---|
| 1. | <b>Everglades National Park</b>    | Not applicable                  | The agencies terminated the planning process for this park because the Act no longer required a plan or agreement. 87 Fed. Reg. 43,595 (July 21, 2022). |
| 2. | <b>Olympic National Park</b>       | Not applicable                  | Plan completed on July 20, 2022   |
| 3. | <b>Mount Rainier National Park</b> | Not applicable                  | Plan completed on July 20, 2022   |
| 4. | <b>Death Valley National Park</b>  | Jan. 31, 2023                   | Plan completed on August 17, 2022   |

|             | <b>Park</b>   | <b>Proposed Completion Date</b> | <b>Status</b>   |
|-------------|---|---------------------------------|---|
| 5.          | <b>Glacier National Park</b>  | Jan. 31, 2023                   | Plan completed on September 19, 2022  |
| 6.          | <b>Bryce Canyon National Park</b>   | Jan. 31, 2023                   | Plan completed on October 12, 2022  |
| 7.          | <b>Arches National Park</b>   | Jan. 31, 2023                   | Plan completed on October 18, 2022  |
| 8.          | <b>Canyonlands National Park</b>  | Jan. 31, 2023                   | Plan completed on October 18, 2022  |
| 9.          | <b>Natural Bridges National Monument</b>  | Jan. 31, 2023                   | Plan completed on October 18, 2022  |
| 10.         | <b>Great Smoky Mountains National Park</b>  | Jan. 31, 2023                   | Plan completed December 2, 2022   |
| 11.-<br>13. | <b>Golden Gate National Recreation Area/Point Reyes National Seashore/San Francisco Maritime National Historical Park</b> | Jan. 31, 2023                   | Plan completed January 10, 2023   |
| 14.         | <b>National Parks of the New York Harbor</b>  | Aug. 31, 2023                   | Voluntary agreements signed between the agencies and all operators on January 25, 2023. |
| 15.         | <b>Badlands National Park</b>   | Dec 31, 2023                    | The agencies are preparing an environmental assessment and draft ATMP.                  |
| 16.         | <b>Mount Rushmore National Memorial</b>   | Dec 31, 2023                    | The agencies are preparing an environmental assessment and draft ATMP.                  |

|             | <b>Park</b>  | <b>Proposed Completion Date</b> | <b>Status</b>  |
|-------------|--|---------------------------------|--|
| 17.         | <b>Hawaii Volcanoes National Park</b>  | Dec. 31, 2023                   | The agencies are reviewing a draft environmental assessment and ATMP.  |
| 18.         | <b>Haleakala National Park</b>   | Dec. 31, 2023                   | The agencies are reviewing a draft environmental assessment and ATMP.  |
| 19.         | <b>Bandelier National Monument</b>   | March 31, 2024                  | The agencies are preparing an environmental assessment and draft ATMP.   |
| 20.         | <b>Lake Mead National Recreation Area</b>                                    | Aug. 31, 2024                   | To develop alternatives, the agencies are working with operators to assess which flights may be considered transportation flights that are exempt from regulation under NPATMA, as opposed to commercial air tours over the Park that are subject to NPATMA. |
| 21.-<br>22. | <b>Glen Canyon National Recreation Area/Rainbow Bridge National Monument</b> | Aug. 31, 2024                   | The agencies are identifying a proposed action and/or alternatives and are preparing to initiate tribal consultation.  |
| 23.         | <b>Canyon de Chelly National Monument</b>                                    | Dec. 31, 2024                   | Based on tribal feedback, the agencies have developed alternatives to be considered in an environmental assessment.  |

Respectfully submitted,

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February 28, 2023  
DJ 90-13-1-15766

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Environment and Natural Resources Division  
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## CERTIFICATE OF COMPLIANCE

1. This document is not a brief or motion and therefore is not subject to the type-volume limits of Federal Rules of Appellate Procedure 27(d)(1)(E)(2) and 32(a)(7)(B). Excluding the cover, signature block, and certificate this document contains 774 words.

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