

**DECLARATION OF RAYMOND M. SAUVAJOT, PH.D. IN SUPPORT OF  
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 have been in this position for five years. Prior to that time, I served as Deputy Associate Director for Natural Resource Stewardship and Science, Natural Resource Program Chief for the NPS Pacific West Region, and Chief of Planning, Science, and Resource Management for Santa Monica Mountains National Recreation Area. All told, I have worked for the NPS for 26 years.
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. As Associate Director, I oversee natural resource management and science programs for the NPS, including national programs in biology, air and water resources, geology, natural sounds and night skies, environmental quality and compliance, ecological inventory and monitoring, climate change response, and science communication. The Natural Sounds and Night Skies Division is a Washington support program within the Natural Resource Stewardship and Science directorate. The NPS National Overflights Program, which has primary responsibility for implementing the National Parks Air Tour Management Act (NPATMA), is within the Natural Sounds and Night Skies Division.
4. The purpose of this declaration is to set forth the content of the recent meetings between the NPS and Federal Aviation Administration (FAA) and to identify the NPS's near term priorities with respect to implementation of NPATMA, in cooperation with the FAA. I

have read, and am familiar with, the Declaration of Karen Trevino, signed June 14, 2019, and, in the interest of brevity, this declaration does not repeat information provided in Ms. Trevino's declaration.

5. On May 15, 2019, I participated in a meeting between the NPS and FAA while attending the annual meeting of the National Parks Overflights Advisory Group in Grand Teton National Park. At the NPS-FAA meeting, our agencies discussed the following issues: overstated and unused interim operating authority (IOA); challenges associated with enforcement of IOA, voluntary agreements, and reporting requirements; the need to include air tour management plans (ATMPs) in addition to voluntary agreements as viable tools for both agencies to implement NPATMA; and, evaluating steps and situations where it will be necessary to move forward with ATMPs.
6. The agencies also affirmed a shared commitment to resolve past differences and focus on key steps needed to implement provisions of NPATMA. This included agreement to identify specific NPS parks for which voluntary agreements and/or ATMPs would be advanced in the near term, and selecting park units based on their potential to serve as models for advancing additional agreements and/or ATMPs over the longer term at remaining applicable parks. The agencies further agreed that their preferred path would continue to be to attempt to complete voluntary agreements at parks where the provisions of NPATMA apply (i.e., non-exempt parks) but that if voluntary agreements were unsuccessful, that ATMPs would be promptly initiated. The NPS and FAA similarly agreed that the commitment to impose ATMPs if voluntary agreements cannot be achieved would be communicated to operators upon initiation of a voluntary agreement processes. Finally, the two agencies together confirmed an important shift in strategy

that focuses on shared intention to pursue voluntary agreements and ATMPs in tandem, and to prioritize resolving past differences so that the agencies have a path forward to successfully complete ATMPs.

7. As a result of this meeting and other discussions, the NPS has identified the following current near term priorities:

a. Voluntary Agreements/Air Tour Management Plans (ATMPs): The NPS will continue to work with the FAA to finalize voluntary agreements currently in process and to begin new voluntary agreement and/or ATMP processes, starting with the parks identified below. Selected parks were identified by the NPS as near term priorities, and agreed to by the FAA, because the particular circumstances of those parks and/or work already done by the agencies, would position the agencies for success by using the lessons learned from these efforts to pursue voluntary agreements and/or ATMPs in the future at other, often more complex, non-exempt parks.

- i. Glen Canyon National Recreation Area/Rainbow Bridge National Monument, AZ/UT – The NPS will work with the FAA to initiate an ATMP process for these parks. Although voluntary agreements have been signed with most operators with IOA, one operator withdrew during the process and another operator never participated. The current operators that have signed the voluntary agreement with the agencies have expressed concerns that non-participating operators can take advantage of this situation, thus pursuing an ATMP at these parks now can help ensure all operators are treated fairly and are required to abide with park protection

measures. The substantial work already undertaken by the NPS and FAA with respect to the voluntary agreements currently in place can be used to inform and expedite the ATMP for these parks.

- ii. Badlands National Park, SD – The NPS will work with the FAA and the fixed wing operator with IOA for the park to complete the voluntary agreement process already underway and begin the public review process. Concurrently, the NPS and FAA will initiate discussions with the helicopter operator with IOA for the park regarding entering into a voluntary agreement. If the helicopter operator is not willing to participate in a voluntary agreement process, or if the voluntary agreement process does not proceed according to the NPS-FAA schedule, the agencies will then initiate an ATMP process for the park.
- iii. Mount Rushmore National Memorial, SD – The NPS will work with the FAA and the fixed wing operator with IOA for the park to complete the voluntary agreement process already underway. Concurrently, the NPS will work with the FAA to initiate discussions with the helicopter operator with IOA for the park regarding entering into a voluntary agreement. Further, the NPS will work with the Volpe Center to complete air tour noise modeling necessary to inform the voluntary agreement by September 1, 2019. If the helicopter operator is not willing to participate in a voluntary agreement process, or if the voluntary agreement process does not proceed according to the NPS-FAA schedule, the agencies will then initiate an ATMP process for the park. The helicopter and fixed wing



operators for Mount Rushmore National Monument are the same as those for Badlands National Park, so these processes would likely proceed in tandem.

- iv. Death Valley National Park, CA – The NPS will work with the FAA to initiate a voluntary agreement process for the park. If all operators with IOA for the park are not willing to participate in the voluntary agreement process, or if the voluntary agreement process does not proceed according to the NPS-FAA schedule, the NPS and FAA will initiate an ATMP process for the park. Because of the low number of annual overflights at Death Valley National Park (less than 50), an ATMP for the park could serve as a model for similar parks with few flights, few operators, and limited anticipated impacts.
- v. Mount Rainier National Park, WA – The NPS will work with the FAA to initiate a voluntary agreement process for the park. If all operators with IOA for the park are not willing to participate in the voluntary agreement process, or if the voluntary agreement process does not proceed according to the NPS-FAA schedule, the NPS and FAA will initiate an ATMP process for the park. Like Death Valley National Park, Mount Rainier National Park currently experiences a low number of overflights. An ATMP for this park could serve as a model for similar parks with few flights, few operators, and limited anticipated impacts.
- vi. Great Smoky Mountains National Park, TN/NC – The NPS will work with the FAA to initiate a voluntary agreement process for the park. If all

operators with IOA for the park are not willing to participate in a voluntary agreement process, or if the voluntary agreement process does not proceed according to the NPS-FAA schedule, the NPS and FAA will initiate an ATMP process for the park.

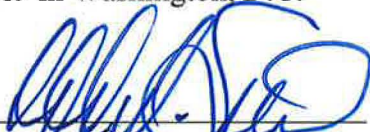
- vii. Public Notification and Schedule – For all park-specific actions identified in sections (i) through (vi) above, the two agencies will notify the public of their intentions to initiate voluntary agreement and/or ATMP processes by posting information to agency websites by August 9, 2019. A schedule for completing these processes, including park-specific timelines with key milestones and decision points, will be confirmed by the agencies no later than September 30, 2019.

- b. Promote Participation in the Voluntary Agreement Process: Operators who do not participate in the voluntary agreement process retain their full IOA without significant limitation to routes, altitudes, time of day, or other flights restrictions, and may, therefore, have a competitive advantage over operators who voluntarily accepted certain restrictions on their activities in order to protect park resources. The NPS will work with the FAA to promote participation in the voluntary agreement process by making it clear to operators that ATMPs will be pursued if voluntary agreements cannot be achieved. In some instances, proceeding directly to an ATMP may be more appropriate, and in such instances the agencies will proceed directly to an ATMP process.

- c. Address Unused and Overstated IOA: The substantial discrepancy between operators' IOA and air tours conducted has hindered both the ATMP and voluntary agreement processes. In order to address this problem:
- i. Concurrent with implementing voluntary agreements and/or ATMPs for appropriate parks, the NPS will prioritize work with the FAA to address unused and overstated IOA through the mechanisms in NPATMA for modification of IOA.
  - ii. With respect to the twenty operators that have not conducted air tours in the past five years but have been unwilling to surrender their unused IOA, an NPS priority is to explore with the FAA whether ATMPs should be initiated for the affected parks, where such ATMPs would fall within the agencies' priorities, or whether the unused IOA can be addressed through the mechanisms in NPATMA for modification of IOA.
- d. Identify and Implement Enforcement Mechanisms: When rules, restrictions, and regulations are not enforced and/or are applied unevenly among operators, it has the unintended effect of rewarding bad actors while punishing the operators abiding by the terms of an agreement voluntarily entered into with the NPS and FAA. Further, it disincentivizes compliance with NPATMA in general. In addition to pursuing voluntary agreements and ATMPs, the NPS will prioritize working with the FAA to improve the enforcement of terms in existing voluntary agreements, IOA limitations, and reporting requirements, including consideration as to whether an NPS permitting mechanism can be used to document and/or respond to violations.

- e. Continuing Coordination and Timing: The NPS recognizes that the priorities identified above will involve a substantial commitment of agency resources. Although it is not feasible for the agencies to proceed towards a voluntary agreement or ATMP at all non-exempt parks at the same time, I believe the priorities and actions identified in this declaration can put both agencies on a successful pathway to achieve the goal of completing voluntary agreements or ATMPs for all parks in which they are required in a realistic time frame. As noted above, the agencies will agree on a comprehensive schedule for implementation of the priorities identified in this declaration. That comprehensive schedule will be submitted to the Court no later than September 30, 2019. The NPS and FAA will meet on a regular basis, as frequently as is necessary to ensure that this deadline is met.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 27, 2019 in Washington, D.C.

  
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Raymond M. Sauvajot, Ph.D.



## **ATTACHMENT 4**

### **DECLARATION OF KEVIN WELSH**

IN THE 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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**DECLARATION OF KEVIN WELSH IN SUPPORT OF  
RESPONSE BY THE FEDERAL AVIATION ADMINISTRATION  
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. I have been with the Office of Environment and Energy for approximately eight years and in my current position for approximately one and a half years. My primary responsibilities with the Office of Environment and Energy are to lead the development of aviation environmental and energy policies, goals, and priorities, and oversees research, engineering and development projects and initiatives for the Federal Aviation Administration, this includes programs and policies related to aircraft noise exposure. The FAA's Office of Environment and

Energy maintains responsibility within FAA for addressing issues associated with the National Parks Air Tour Management Act (NPATMA).

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. On May 15, 2019, I participated in a meeting between the FAA and National Park Service (NPS) at which the agencies affirmed shared commitment to resolve past differences and focus on key steps needed to implement provisions of NPATMA. This included agreement to identify specific national parks for which voluntary agreements and/or ATMPs would be advanced in the near term, and selecting park units based on their potential to serve as models for advancing additional agreements and/or ATMPs over the longer term at remaining applicable parks. The agencies further agreed that their preferred path would continue to be to attempt to complete voluntary agreements at parks where the provisions of NPATMA apply (i.e., non-exempt parks) but that if voluntary agreements were unsuccessful, that ATMPs would be promptly initiated. The FAA and NPS similarly agreed that the commitment to impose ATMPs if voluntary agreements cannot be achieved would be communicated to operators upon initiation of voluntary agreement processes. Finally, the two agencies together confirmed an important shift in strategy that focuses on shared intention to pursue

voluntary agreements and ATMPs in tandem, and to prioritize resolving past differences so that the agencies have a path forward to successfully complete ATMPs.

4. I have read the declaration of Raymond M. Sauvajot, Ph.D, executed on June 27, 2019 and agree that the priorities and commitments described in Mr. Sauvajot's declaration represent those of the FAA and well as of NPS. I concur with the information contained in Mr. Sauvajot's declaration, including his description of park-specific priorities, his commitment to public notification of agency priorities and development of a detailed implementation schedule governing those priorities, promotion of operator participation in voluntary agreement processes, commitment to work to address unused and overstated interim operating authority, and generally with the commitment to identify and implement enforcement mechanisms to help ensure compliance with the Act.
5. The FAA likewise recognizes that these priorities will involve a substantial commitment of agency resources. Although it is not feasible for the agencies to proceed towards a voluntary agreement or ATMP at all non-exempt parks at the same time, I, too, believe the priorities and actions identified in Mr. Sauvajot's declaration can put both agencies on a successful pathway to achieve the goal of completing voluntary agreements



or ATMPs for all parks in which they are required in a realistic time frame.

The FAA will work with NPS to prepare a comprehensive schedule for implementation of the identified priorities by September 30, 2019 and will meet with NPS on a regular basis, as frequently as is necessary to ensure that this deadline is met.

I declare under penalty of perjury that the foregoing is correct. Executed on June 27, 2019 at Washington, DC.



Kevin Welsh

**CERTIFICATE OF SERVICE**

I hereby certify that on July 1, 2019, I electronically filed the foregoing volume of attachments to the Response of the Federal Aviation Administration and the National Park Service in Opposition to Petition with the Clerk of the Court for the United States Court of Appeals for the District of Columbia using the Appellate Electronic Filing system.

The participants in the case are registered CM/EF users and service will be accomplished by the appellate CM/ECF system

/s/ Ellen J. Durkee

ELLEN J. DURKEE

*Counsel for Federal Aviation Administration  
and National Park Service*

Environment and Natural Resources  
Division

U.S. Department of Justice

Post Office Box 7415

Washington D.C. 20044

(202) 514-4426

ellen.durkee@usdoj.gov