

**ATTACHMENT B**

**National Park Service - Non-Impairment Determination**

## ATTACHMENT B

### NATIONAL PARK SERVICE NON-IMPAIRMENT DETERMINATION FOR MOUNT RUSHMORE NATIONAL MEMORIAL AIR TOUR MANAGEMENT PLAN

#### **Compliance with NPS Management Policies Unacceptable Impact and Non-Impairment Standard**

As described in National Park Service (NPS or Service) 2006 Management Policies, § 1.4.4, the National Park Service Organic Act prohibits the impairment of park resources and values. *Guidance for Non-Impairment Determinations and the NPS NEPA Process* (September 2011) provides guidance for completing non-impairment determinations for NPS actions requiring preparation of an environmental assessment (EA) or environmental impact statement (EIS) pursuant to the National Environmental Policy Act (NEPA). The NPS has completed a non-impairment analysis for the impacts to Mount Rushmore National Memorial (Park) from the Air Tour Management Plan (ATMP) and determined that it will not result in impairment of Park resources, or in unacceptable impacts as described in § 1.4.7.1 of the 2006 NPS Management Policies.

Sections 1.4.5 and 1.4.6 of Management Policies 2006 further explain impairment. Section 1.4.5 defines impairment as an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values. Section 1.4.5 goes on to state:

An impact to any park resource or value may, but does not necessarily, constitute an impairment. An impact would be more likely to constitute impairment to the extent that it affects a resource or value whose conservation is:

- necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park, or
- key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park, or
- identified in the park's general management plan or other relevant NPS planning documents as being of significance.

Section 1.4.6 of Management Policies 2006 identifies the park resources and values that are subject to the no-impairment standard. These include:

- the park's scenery, natural and historic objects, and wildlife, and the processes and conditions that sustain them, including, to the extent present in the park: the ecological, biological, and physical processes that created the park and continue to act upon it; scenic features; natural visibility, both in daytime and at night; natural landscapes;

natural soundscapes and smells; water and air resources; soils; geological resources; paleontological resources; archeological resources; cultural landscapes; ethnographic resources; historic and prehistoric sites, structures, and objects; museum collections; and native plants and animals;

- appropriate opportunities to experience enjoyment of the above resources, to the extent that can be done without impairing them;
- the park's role in contributing to the national dignity, the high public value and integrity, and the superlative environmental quality of the national park system, and the benefit and inspiration provided to the American people by the national park system; and
- any additional attributes encompassed by the specific values and purposes for which the park was established.

NPS non-impairment analysis normally does not include discussion of impacts to visitor experience, socioeconomics, public health and safety, environmental justice, land use, Park operations, wilderness, etc., as these do not constitute impacts to Park resources and values subject to the non impairment standard under the Organic Act. See Management Policies § 1.4.6.

#### **Non-Impairment Determination for the Mount Rushmore National Memorial ATMP**

The purpose of Mount Rushmore National Memorial, along with Park significance statements and a description of the Park's fundamental resources and values, are described in the *Foundation Document Mount Rushmore National Memorial* (Foundation Document), 2015.

The purpose of Mount Rushmore National Memorial is to commemorate the founding, expansion, preservation, and unification of the United States by preserving, protecting, and interpreting the mountain sculpture in its historic, cultural, and natural setting while providing for the education, enjoyment, and inspiration of the public (Foundation Document, page 5).

The Park's significance statements, and fundamental resources and values highlight resources that may be impacted by commercial air tours including the Park's wildlife, cultural and natural landscape features and outstanding views of the sculpture. (See Foundation Document, page 5-7). Commercial air tours do not impact the significant geological and engineering features of the Park, museum collections, sculptor's studio nor the ponderosa pine forest and granite spires which the Park protects.

As a basis for evaluating the potential for impairment or unacceptable impacts on Park resources, the NPS relied on the *Final Environmental Assessment for an Air Tour Management Plan for Mount Rushmore National Memorial* (EA). The EA includes analysis of impacts to the soundscape (noise and noise-compatible land use); air quality and climate change; biological resources including birds, mammals, Federally listed species and other species of concern; cultural resources including ethnographic resources, sacred sites and traditional cultural

properties, archeological resources, cultural landscapes and prehistoric and historic structures; wilderness; visitor use and experience; environmental justice and socioeconomics; and viewsheds (visual effects). The EA evaluated the impacts of three action alternatives including the selected alternative. Consistent with NPS guidance described above, NPS has not included a non-impairment determination here for wilderness, environmental justice and socioeconomics, and visitor experience.

To determine the severity of the effect and potential for impairment, the NPS considered not just the presence of noise and potential for disturbance, but also the duration, frequency, and amplitude of noise. Currently, there are no required air tour noise free days during any part of the year; however, the vast majority of air tours occur between May and September, peaking in July. During the summer months, air tours generally occur every day of the week, leaving limited or no days free from air tour noise. There is no location within the Park that is not disrupted regularly by noticeable, loud air tour noise during the air tour season. More than half of the Park (56%) experiences air tour noise from air tours within the ATMP boundary for more than five hours a day (330 minutes, non-contiguous). The entire Park experiences audible air tour noise between three to eight hours a day (210-480 minutes, non-contiguous) (EA, page 46). The noise is also very intense or loud. The entire Park experiences air tour noise above 35 dBA a minimum of three and half hours a day (210 minutes, non-contiguous) on busy air tour days. Further, numerous key sites within the park experience noise loud enough to disrupt speech for over an hour a day on busy air tour days. The Park's purpose includes interpreting the mountain sculpture in its historic, cultural, and natural setting. Frequent, loud interruptions from air tours currently impair the natural setting, particularly the soundscape, of the Park and unreasonably interfere with interpretive and education programs in the Park. Because interpretation, education, and enjoyment of the natural setting is central to the purpose of the Park, and because there is no place within the Park where this setting can be enjoyed without loud, frequent and intense air tour noise, the Park's purpose is impaired under current conditions. Noise from air tours also currently impairs cultural resources by diminishing the integrity of the cultural connections between existing cultural sites within the Park and associated Native American Tribes. Thus, NPS determined that the current number of air tours unacceptably impact and impair the Park's resources in violation of the Organic Act. See EA, Section 2.2.1, for additional discussion.

The selected alternative, which is reflected in the ATMP, is the most protective alternative evaluated in the EA and the most protective alternative that the NPS has the authority to select. The ATMP will prohibit commercial air tours over the park and within ½-mile outside the Park's boundary during which the aircraft flies below 5,000 ft. AGL (referred to as the ATMP boundary). Air tours outside of the ATMP boundary are not subject to the National Parks Air Tour Management Act of 2000 (NPATMA) and therefore may not be regulated under the ATMP. Because air tours outside of the ATMP boundary are outside the jurisdiction of the ATMP and NPS, this non-impairment determination focuses on the impacts from implementation of the

ATMP on resources inside the park boundary, not the unknown impacts over which NPS does not have jurisdiction.

Under the ATMP, however, these impacts would be greatly reduced since there will be no noise from commercial air tours within the ATMP boundary. The only potential for noise within the Park from air tours would occur from flights flying above 5,000 ft. AGL or just outside the ½ mile ATMP boundary. As noted in the EA, it is reasonably foreseeable that operators would continue to fly outside ATMP boundary to view the sculpture. These flights will result in noise within the Park boundary. However, specific routes, altitudes, and numbers would be necessary to determine the extent of the noise impacts on Park resources from flights outside the ATMP boundary and since NPS does not have authority to regulate those flights, the specific noise impacts cannot be quantitatively disclosed (EA, page 57-58). However, the analysis in Alternative 4, the next most protective alternative evaluated, demonstrates that the time air tours would be audible would be reduced to 45 to 90 minutes a day, resulting in a lower intensity of noise and noise for fewer minutes a day compared to current conditions (EA, page 53). It is expected then, that eliminating air tours entirely within the ATMP boundary would have even greater benefits to the Park's soundscapes than Alternative 4. Because noise from air tours within the ATMP boundary will be entirely eliminated, the natural and cultural soundscapes of the Park will greatly benefit from the selected action leaving those resources unimpaired and without unacceptable impacts under the ATMP. After the implementation of the ATMP, the Park's natural and cultural soundscape will be largely unimpacted by air tours (though air tours may occur outside the ATMP boundary and be audible within the park) and available for the enjoyment by present and future generations with limited interruptions.

The EA evaluated impacts to wildlife and cultural resources since air tour noise can impact these resources. As described in the Foundation Document, wildlife and cultural resources are fundamental resources of the Park. The ATMP fulfills the responsibility to protect and enhance these resources by eliminating commercial air tours within the ATMP boundary. Because the ATMP will eliminate noise from air tours within the ATMP boundary, it is expected there will be limited impacts to wildlife and cultural resources from the ATMP, if any. Any noise impacts from air tours would occur from those flying outside the ATMP boundary over which NPS has no jurisdiction.

The EA also evaluated impacts to viewsheds, specifically those of the sculpture, which are also fundamental resources of the Park. As described above for wildlife and cultural resources, the ATMP fulfills the responsibility to protect and enhance these resources by eliminating air tours within the ATMP boundary. While air tours may still be visible outside the ATMP boundary (aircraft at or above 5,000 ft AGL or outside the ½ mile Park boundary), because the noise associated will be less intense, aircraft are likely to be less noticeable within the Park. This reduces and eliminates in some areas the potential for commercial air tours to disrupt the outstanding views and scenery for which the Park was established, leaving these resources unimpaired for future generations.

The EA also includes an air quality analysis. Because the ATMP eliminates commercial air tours within the ATMP boundary, there are no adverse impacts to air quality over the Park from the ATMP. Thus, there is no potential for impairment of the Park's air quality from the ATMP. Any air quality impacts from commercial air tours would occur from those flying outside the ATMP boundary over which NPS has no jurisdiction.

As demonstrated here and in the analysis referenced above, the impacts to these resources, neither individually nor cumulatively, would not preclude the NPS from achieving the purpose of the Park or desired conditions for resources; and would not unreasonably interfere with Park programs or activities, another appropriate use, the overall atmosphere of peace and tranquility or the natural soundscape, or NPS concessioner or contractor operations or services. As a result, there will not be impairment of or unacceptable impacts to the Park's natural and cultural resources or visitor experience. Impacts to other resources potentially affected were considered so small and insignificant that they did not warrant a written analysis here.



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Date

## References

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