

June 20, 2011

Superintendent David Uberuaga  
Attn: Office of Planning and Compliance  
Grand Canyon National Park  
PO Box 129  
Grand Canyon, AZ 86023

*RE: Draft Environmental Impact Statement, Special Flight Rules Area in the Vicinity of Grand Canyon National Park, Actions to Substantially Restore Natural Quiet, Draft Environmental Impact Statement, DES 10-60*

Dear Superintendent Uberuaga:

Grand Canyon Trust (GCT), National Parks Conservation Association (NPCA), and The Wilderness Society (TWS) respectfully submit the following comments to the Draft Environmental Impact Statement (DEIS) for Grand Canyon's Special Flight Rules Area. For more than two decades, our organizations have been advocating for the restoration of natural quiet to Grand Canyon National Park (GCNP) and engaged in agency decisions to achieve that congressionally established mandate.

Grand Canyon Trust is a nonprofit corporation headquartered in Flagstaff, Arizona with over 3,500 members. The mission of the Grand Canyon Trust is to protect and restore the Colorado Plateau – its spectacular landscapes, flowing rivers, clean air, diversity of plants and animals, and areas of beauty and solitude.

National Parks Conservation Association was founded in 1919. It represents more than 600,000 members and supporters through its headquarters in Washington, DC and 23 regional and field offices, all working to "protect and enhance America's National Park System for present and future generations."

Since its founding in 1935, The Wilderness Society has led the effort to permanently protect as designated Wilderness nearly 110 million acres in 44 states. Today, with more than 500,000 active members and supporters, TWS continues its vital mission to protect wilderness and inspire Americans to care for our wild places.

## **INTRODUCTION**

When Congress passed the 1987 National Parks Overflights Act, it challenged the National Park Service (NPS) to “substantially restore natural quiet” to Grand Canyon National Park. Twenty-four years after it was enacted, barely 50 percent of the park is free from aircraft noise 75 percent of the time.

Despite more than 50,000 air tours that fly over the park each year, it is still possible to find places to experience the sound of silence. Writer Ian Frazier, for example, read his impressions

from a recent visit to Grand Canyon on the June 4, 2011 radio broadcast of *A Prairie Home Companion*:

*As I stood there, I was overcome by the quiet...the immensity of the quiet in the Canyon...[It] was like the quiet in an empty concert hall, a waiting quiet, a pregnant quiet, a quiet that seemed full of suggestion. But unlike in a concert hall, the suggestion here was both unimaginable and without limit. Arizona, with its immense and empty desert spaces has this to give the rest of the country: immense and profound quiet and darkness at night, darkness and quiet and the inaudible hum of time.*

Grand Canyon engages our senses instantly. Its immense vistas and precipitous depths inspire wonder and fear. Its symphonies of sound and silence resonate, as spectra of color and light illuminate. It enriches our experience with sun, air, rock, and water. It inspires emotions that are at once aesthetic and primordial. It is a vestigial repository of elemental relationships that our nation began to protect, more than a century ago, because of its rare and enduring values.

One of those increasingly endangered values is natural quiet. A single broadcast of *A Prairie Home Companion* has a listening audience of nearly four million, about as many people that visit the Grand Canyon in a whole year. And yet those listeners who heard Ian Frazier's description of its "immense and profound quiet" might be disappointed if their visit to the Grand Canyon includes a walk beneath the "Dragon Corridor" where barely a moment passes on an average air tour day when the thumping of helicopter blades cannot be heard.

Nearly half of the park's silence, one of the qualities that distinguish Grand Canyon from ordinary places, has been sacrificed to air tour noise. That is why Congress enacted restrictions to dial down the noise in 1987 and why in Section 4.9 of NPS Management Policies, the agency said that it "...will restore to the natural condition wherever possible those park soundscapes that have become degraded by unnatural sounds (noise), and will protect natural soundscapes from unacceptable impacts."

Despite these commitments, noise from air tours continues to impair a substantial area of Grand Canyon National Park. Current noise levels are unacceptable because they fail to meet sensible standards established by policy and law. Our comments are thus intended to suggest ways to make significant progress toward restoring Grand Canyon's "immense and profound quiet."

## **DEIS COMMENTS**

### **Drop Conflicting Objectives**

The National Park Service identifies nine objectives in the DEIS (Chapter 1, page 3). Three of them are inconsistent with the NPS mission and its policies. They also conflict with other objectives for the proposed action, "to substantially restore natural quiet and experience to Grand Canyon National Park." The three conflicting objectives should be removed from the Final EIS.

Section 3(b) of the 1987 Overflights Act mandates the Secretary of the Interior submit to the Federal Aviation Administration (FAA) Administrator recommendations "regarding actions

necessary for the protection of resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The recommendations shall provide for substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight.”

The Overflights Act specifies two objectives: (1) to protect resources in the Grand Canyon (by substantially restoring natural quiet); and (2) to protect public health and safety. However, the Draft Environmental Impact Statement expands these objectives to include those that would require NPS to permit air tours and to protect the air tour industry’s economic viability within the Grand Canyon. These additions conflict with section 1 of the agency’s 1916 Organic Act, which states that NPS “. . . shall promote and regulate the use of . . . national parks . . . by such means and measures as conform to the fundamental purpose of the said parks . . . which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”

Therefore, the Final EIS should eliminate objectives that ensure opportunities to “experience Grand Canyon by air tour” (objective #2) and that promote a “quality aerial viewing experience” (objective #8) because they could obligate NPS to allow activities that degrade the values for which the park was established. Air tour noise impairs visitors’ use and enjoyment of the park, and including these objectives conflicts with the NPS Organic Act. They also conflict with the first objective identified in the DEIS: “to improve and maintain Substantial Restoration of Natural Quiet and enhance GCNP visitor experience.” In addition, the notion of a “quality” aerial viewing experience begs for a definition of what constitutes such an experience. Does paragliding, base jumping, or viewing the Grand Canyon from an ultra-light aircraft constitute higher quality aerial viewing experiences than a scenic air tour in a biplane?

To maintain “an economically viable and safe air tour industry” (objective #9) is the third conflicting objective introduced by the DEIS. One of the 1987 Overflights Act purposes is to reduce noise from air tours; however, protecting an economically viable industry could undermine that objective by allowing too many air tours and associated noise. Moreover, national parks were not established to create economic activities or to maintain any particular industry. To do so would constitute an unacceptable departure from the mission of the National Park Service. While ensuring safety is an appropriate role for the FAA, NPS should not be required to adopt objectives that are intended to maintain the economic viability of any industry such as logging, bowling, mining, or miniature golfing.

In addition, NPS included in its DEIS an objective to protect “wilderness character in Wilderness in the Special Flight Rules Area” (objective #4). Since 1976, NPS has been managing approximately 91 percent of the park as “Wilderness” because these areas offer “outstanding opportunities for solitude” and other characteristics as defined by the 1964 Wilderness Act. The promotion of air tours (objectives # 2, 8, and 9) increases noise and decreases opportunities to experience solitude and the wilderness character of Grand Canyon’s undeveloped landscapes.

Although the DEIS deems commercial air tours an “appropriate use” under Section 1.5 of 1996 NPS Management Policies, NPS does not allow any other commercial use to intrude upon and harm nearly half of Grand Canyon National Park. NPS effectively manages mule rides, motorized rafting, and other commercial activities to impact a relatively miniscule area within

the park. We urge NPS managers to apply appropriate “professional judgment” in protecting park resources as prescribed in established policies and as required by the 1916 Organic Act.

Air tours continue to cause adverse effects across hundreds of square miles (nearly 50 percent of the park), which is an extraordinarily large area when compared to the impact of any other commercial activity. In Section 3(a) of the 1987 Overflights Act, Congress found that “[n]oise associated with aircraft overflights at the Grand Canyon National Park is causing a significant adverse effect on the natural quiet and experience of the park . . . .” Twenty-four years after this finding, the fact that air tour noise is adversely affecting almost half of the park confirms that current regulations fail to meet the mandate of “substantial restoration of the natural quiet and experience of the park.” To prevent any further delay in achieving this mandate, the DEIS should not insert objectives that conflict with the Overflights Act or with meeting those set forth in the NPS Organic Act.

### **Modify Preferred Alternative**

With modification, the Preferred Alternative represents a reasonable set of management actions designed to substantially restore natural quiet to Grand Canyon National Park. NPCA, GCT, and TWS appreciate the dedicated and determined National Park Service professionals who have helped to develop the current DEIS, and we honor those who have lent a hand along the way. When Wes Henry proposed the 1994 “Finding the Balance” workshop, we applauded him and NPS for accepting the challenge presented by the 1987 Overflights Act. We continue to support the National Park Service’s unambiguous authority to regulate commercial air tours for the purpose of restoring Grand Canyon’s natural quiet. Nonetheless, the Preferred Alternative will require at least the following changes before Grand Canyon Trust, National Parks Conservation Association, and The Wilderness Society can endorse it.

**Reduce annual air tour allocation limit.** National Park Service and FAA analysts estimate that the number of air tours have increased from 40,000 flights in 1987 to approximately 55,000 in 2005. The Preferred Alternative proposes to limit the number of air tours to 65,000 per year, which is an increase of 8,000 above current levels and 25,000 more than in 1987. Because Congress concluded in that year that air tour noise was causing “a significant adverse effect on natural quiet and experience in the park”, the annual allocation limit should be reduced from the 1987 level and only allowed to increase if it can be demonstrated that increasing the limit does not result in increases in noise.

**Reduce maximum daily air tour cap.** The Preferred Alternative allows for a daily maximum of 364 flights. This limit would allow a significant increase in the current “peak day” average of 320 for the last five years and is not justified in the DEIS. Recommending an arbitrary increase in the daily limit on air tours will most certainly increase the amount of noise over the Grand Canyon. A more reasonable approach would be to establish daily noise standards that are below current levels on a peak day and then to restrict the number of tours accordingly. Such an approach might also be used as another incentive to promote the use of less noisy aircraft.

**Adjust seasonal route closing dates.** The Preferred Alternative proposes a seasonal reduction in air tour noise in the two most popular flight corridors. While this is a step in the right direction, it does not close either route to allow visitors an opportunity to experience unimpaired natural quiet under these flight corridors for at least some part of the year. The Preferred Alternative also

allows the maximum amount of noise to occur in the Zuni Corridor during the winter when the backcountry area beneath that route is more accessible and when other areas are less accessible due to snow and ice. The seasonal closures should be adjusted to provide alternating periods of noise free access to backcountry beneath the Zuni and Dragon Corridors and to synchronize those noise free periods to correspond with seasonal accessibility.

**Expand curfews.** The Preferred Alternative proposes 60-minute flight curfews after sunrise and before sunset. We recommend that 90-minute noise free curfews be established in recognition that these crepuscular transition periods are extremely important to wildlife as well as for humans to experience values for which Grand Canyon National Park was established.

**Close Marble Canyon during “no motor” season on the river.** The Preferred Alternative should be amended to remove air tour noise in Marble Canyon between September 16 and March 31, when motorized rafts are prohibited on the Colorado River. This adjustment would restore natural quiet within Marble Canyon during several months and allow river and backcountry visitors the opportunity to experience a truly noise-free period within a significant portion of the park.

**Link “quiet technology” to absolute noise limits per aircraft.** The current definition of quiet aircraft technology is based on noise per passenger. This standard might appropriately promote an increased use of certain types of fixed-winged aircraft because they have larger seating capacities and produce less noise than even the least noisy helicopters with smaller seating capacities. However, the definition of quiet aircraft technology should also include absolute limits on individual aircraft to prevent the possibility of allowing larger-capacity aircraft, which make more noise than existing aircraft, to fly because their amount of noise per passenger might meet an established ratio as the standard. This is especially a concern in light of the National Parks Air Tour Management Act of 2000, which repeatedly emphasizes the importance of achieving substantial restoration of natural quiet, and even conditions many proposed quiet technology incentives on whether or not they increase overall noise in the park. The current definition of quiet aircraft technology must, therefore, be modified in order to comply with the law.

**Monitor cumulative noise from high flying aircraft.** The contribution of noise from commercial jet traffic to the erosion of natural quiet at the Grand Canyon is readily apparent to the casual observer, and it was clearly represented as a significant source of noise during the Grand Canyon Overflights Working Group deliberations. While this DEIS is not specifically focused on commercial jet noise generated from aircraft that are flying over 18,000 feet, we believe the Final EIS should represent that this is a contributing source of noise. During the Working Group deliberations, the FAA presented that it would be impractical, expensive, and potentially unsafe to shift commercial jet flight paths to support quiet canyon objectives because of the capability of current guidance systems in use. It was also represented that new GIS technologies, likely to be implemented in the near future, could allow modest route shifts to increase natural quiet in the Grand Canyon. We recommend that the Final EIS acknowledge the cumulative effects of these multiple sources of noise. The Secretary of the Interior and the Administrator of the Federal Aviation Administration should periodically review the practicability of reducing the cumulative impacts of commercial jet noise over the Grand Canyon due to improved technology and guidance systems.

**Consequences of excluding high-flying aircraft.** In 2008, the NPS “clarified” the definition of “substantial restoration of natural quiet” as required by the Overflights Act (at least 50% of the park with no aircraft noise, for at least 75% of the day) to exclude noise made from aircraft flying above 17,999 ft. While we do not request the regulation of such high-flying aircraft in this comment, we remain concerned that the complete exclusion of the noise created by these aircraft could lead to the new regulations falling short of the standards required by law. While such aircraft need not necessarily be regulated, the D.C. Circuit made clear in the 2002 case *United States Air Tour Association v. FAA* that the noise from such aircraft must be considered, and failing to do so risks non-compliance not only with that decision, but also with the Overflights Act, the Organic Act, and even the NPS’s own definitions of “natural quiet” in other policies and documents, including the DEIS itself. Given that the 2008 clarification of “substantial restoration of natural quiet” excluding high-flying aircraft may therefore lead to the underestimation of the level of quiet required by law, it is all the more important that the suggestions provided above be implemented in order to assure that the statutorily and legally required level of natural quiet be achieved.

## CONCLUSION

Commercial air tours have been operating over Grand Canyon National Park for more than four decades. While existing regulations have improved the safety record, they have not substantially restored natural quiet to the park. The air tour industry has prospered while selling an exceptional privilege at the expense of destroying natural quiet within hundreds of square miles of Grand Canyon National Park. At the same time, untold millions of park visitors have been denied the opportunity to experience the Grand Canyon’s “immense and profound quiet.”

In summary, the Draft Environmental Impact Statement proposes problematic objectives that decrease the possibility of reducing noise from air tours and violate policies and laws that guide NPS management decisions. Furthermore, the Preferred Alternative should be modified to reduce air tour noise and to eliminate increases in the number of air tours and associated noise that have occurred since passage of the 1987 Overflights Act.

The National Park Service and Department of the Interior have the authority and obligation to establish a reasonable balance between use and enjoyment of the park and protecting unique values that compelled its designation as a national park. Our organizations firmly support asserting these authorities and enforcing legal commitments to restore conditions that are being degraded by noise from air tours.

Thank you for considering our comments.

Sincerely,

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