

September 28, 2011

Keith Lusk
P.O. Box 92007
Los Angeles, California 90009



RE: Scoping – Environmental Assessment of Air Tour Management Plans for Golden Gate National Recreation Area and Pt. Reyes National Seashore

Dear Mr. Lusk,

Marin Conservation League (MCL) appreciates the opportunity to submit comments on the Air Tour Management Plans (ATMPs) being developed by the Federal Aviation Administration (FAA) as lead agency, in cooperation with National Park Service (NPS). The Management Plans will cover Golden Gate National Recreation Area (GGNRA) and Point Reyes National Seashore (Seashore). For planning purposes, GGNRA includes Muir Woods National Monument, Fort Point National Historic Site, and the San Francisco Maritime National Historical Park, an independently managed national park unit adjacent to GGNRA.

The objective of the ATMPs is to develop acceptable and effective measures to mitigate or prevent significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences and tribal lands within or abutting GGNRA and the Seashore. An essential step in the planning process is an Environmental Assessment under the National Environmental Policy Act (NEPA), and to that end, the FAA and NPS has invited the public, agencies, tribes and other interested parties to provide comments, suggestions and input regarding the plans. *That is the purpose of this letter.*

Purpose and Need for the ATMP

It is MCL's understanding that the ATMP is being developed pursuant *The National Parks Air Tour Management Act of 2000* (NPATMA), which was enacted more than 10 years ago when Congress grew concerned that growing air tour operations needed to be made safer, and that noise from unmanaged air tours was diminishing the outdoor experience of park visitors. Two federal agencies were charged with implementing the Act: FAA, which has sole authority to control airspace and ensure air safety over the United States, and the NPS, which has the sole responsibility for conserving the scenery and natural resources in National Parks for future generations and determining what makes an optimal national park experience.

Despite 10 years of effort and money spent by the FAA and the NPS in attempts to draft ATMPs for parks where low-flying, sightseeing air tours take place, none has been com-

PHONE: 415.485.6257
FAX: 415.485.6259

EMAIL: mcl@marinconservationleague.org
URL: www.marinconservationleague.org

ADDRESS: 1623-A Fifth Avenue
San Rafael, CA 94901



pleted to date. As a consequence, neither the safety of air tour operations, nor the opportunity for park visitors to experience the unimpaired sounds of nature, has improved.

Current Air Tours Over GGNRA and the Seashore

Two operators – San Francisco Helicopter Tours and San Francisco Seaplane Tours – currently provide commercial air tours over GGNRA. A “commercial air tour operation” is defined as any flight for hire carried out for sightseeing purposes over the area encompassed by a national park unit below 5,000 feet above ground level and extending to a half-mile buffer zone surrounding the park’s boundary. In the absence of management plans, the tours have been managed under “interim operating authority” (IOA), which sets flight limits for each national park based on flight information the FAA received from existing operators after the law was enacted. Since no air tour plans are in place, aircraft do not follow specific flight patterns that the FAA has determined to be safe and that NPS has determined to be appropriate.

Under the IOA, the two tour operators in the Bay Area National Parks are allowed to fly a maximum of 2,190 Seaplane Tours and 2,900 Helicopter Tours per year by the FAA. They have the authority to conduct the same number of air tours per year over and within a half-mile of the Point Reyes National Seashore, although they are currently not flying there. This number of flights is derived from unverified records submitted to FAA, estimating the tour companies’ flights during the 12 months preceding enactment of the NPATMA in 2000, or the average number of flights per year over the 36 months preceding the Act, whichever is greater. The ATMPs, when they are approved, will apply to all commercial air tour operations in the air space as defined, including the Seashore.

The sensitivity of natural resources of the parks themselves, as well as the conditions under which the air tours currently operate – and could operate in the future – raise numerous environmental issues that must be addressed in the environmental analysis. MCL is aware that one of the most critical aspects of the EA will be noise analysis – a very specialized field we do not have the expertise to critique. Therefore our comments on noise are general in nature. That said, MCL is particularly concerned that, unless contested, the FAA would establish currently permitted levels of over flight as the legitimate baseline for establishing ongoing operations under the ATMPs.

Resources of Concern in the Parks

GGNRA contains a wide variety of habitats along a relatively undeveloped corridor of marine, estuarine, and terrestrial ecosystems. The park is home to one of the largest concentrations of rare, threatened and endangered species in the national park system. GGNRA, along with the Seashore, is part of the United Nations-designated Golden Gate International Biosphere Reserve. Offshore, the Gulf of the Farallones National Marine Sanctuary supports abundant marine life including gray whales, elephant seals, harbor

seals, and others. The Marin Headlands offers an expanse of open coastal scrub that provides habitat for many species of wildlife, including fox, coyote, bobcat, brush rabbit, other small mammals, and hawks, kestrels, and many song birds.

At the same time, some areas of the Park south of the Golden Gate Bridge and along the San Francisco waterfront are adjacent to urban development and, as a consequence, are heavily visited and less susceptible to disturbance.

The EA should describe in detail which areas within the Park and the ½ mile buffer contain habitats and wildlife whose life cycle requirements could be disrupted by intrusive, low-flying aircraft and therefore should be off-limits to any air tour over flights. MCL is especially concerned that the open coastal scrub habitats of the Headlands might be misconstrued as insensitive to low-flying aircraft. Flights over urban, less sensitive areas of GGNRA might be managed by adjusting flight path, number of flights per year, time of day restrictions, or day of week (See Alternatives, below).

Muir Woods is well known as the home of the ancient Redwood Forest, including many trees over 600 years old. The specialized forest environment provides habitat for a range of animals adapted to the low light and moist conditions. Some, like spotted owls, bats, and raccoons, emerge mostly at night. Others like deer are most active at dawn and dusk. Some birds—warblers, kinglets, and thrushes—migrate through Muir Woods, but some live there year-round. Redwood Creek is habitat for the endangered coho salmon.

The EA should identify and describe in detail those species that either breed in the forest or carry out life cycle activities that would be disrupted by intrusive and erratic noise from low-flying aircraft. For a variety of reasons, Muir Woods should not be included as a destination for commercial air tours (see also Visitor Experience, below)

Pt. Reyes National Seashore is not currently subject to air tour over flights. The ATMP briefing packet already acknowledges that the Seashore is home to over 65 species of mammals, 85 species of fish, 29 species of reptiles and amphibians, and breeding habitat for 130 species of birds. Over 480 species of birds, nearly half the bird species of North America, have been spotted in the Seashore. Elephant seals breed on land at the Seashore and many other species of marine mammals feed and migrate in the waters just offshore that are within the Seashore.

Even the minimum description of wildlife resources in the project Briefing Packet is sufficient to dictate that the EA should provide a thorough description of the diverse wildlife habitats in the Seashore, and the wildlife species whose activities would be disrupted by the erratic noise of low-flying aircraft, especially helicopters. In MCL's view it would be unacceptable to initiate air tour flight tracks over any parts of the Seashore.

Visitor experience on the ground

The ability to perceive natural sounds within the parks is integral to the visitor experience. Muir Woods offers particular value for visitors on the ground as a quiet and primeval sanctuary that is easily accessed from the urban Bay Area. We have not seen the results of ambient noise studies conducted in Muir Woods, but are aware that noise management is central to overall management and is critical to ensuring the Muir Woods visitor experience.

The EA should present the results of the noise studies, describe the ambient noise environment, and contrast the potential noise effects from low-flying helicopters. With up to 5,000 visitors per day, Muir Woods already has difficulty controlling noise emanating from visitors, the boardwalks, and related sources that are beyond its control, and therefore Muir Woods should not even be considered as a destination for air tours.

Natural sounds at the Seashore include ocean waves, bird and other animal calls, flowing water, and wind, as well as human caused noise from rural activities – such as farm equipment and domestic animals. Human-caused noises are generally confined to developed areas of the Seashore. However, the wide distribution of trails throughout the park allows visitors to escape from human activities into wilderness; this is a treasured opportunity enjoyed by the millions of visitors who come from distant places to visit this national park.

As it does with the other parklands covered by the ATMPs, the EA should describe the many diverse locations where humans can experience the natural world within the Seashore. In virtually all cases, the noise of low-flying aircraft would be disruptive to that experience and should not be permitted.

Residential neighborhoods adjoining the Parks

An existing flight track of commercial air tours currently goes over residential neighborhoods in Tamalpais Valley and nearby neighborhoods in Southern Marin. Residents must endure erratic and disruptive noise of helicopters en route to various parts of GGNRA.

The EA must analyze the existing and projected flight tracks of air tours that occur over residential neighborhoods that may lie within the ½ mile buffer of the Park, or under an access track. Disruption of residential neighborhoods by low flying helicopters or other aircraft is unacceptable. This proximity also poses an issue of safety.

Special Events

On frequent occasions, foot or bicycle races or “runs” for charity or other purposes are special targets for aerial news coverage. News coverage is beyond the control of

the ATMPs, but nonetheless adds to the general activity at lower air altitudes. Upcoming events such as the America's Cup 34 races that will take place over two extended summer seasons in 2012 and 2013 will be an invitation for viewing from the air.

The EA should include in its analysis the possibility that air tour companies will increase their operations during special events, especially in the vicinity of GGNRA. This eventuality should be considered and mitigated, perhaps by setting daily as well as annual limits on operations.

Alternatives

The FAA and NPS have identified general reasonableness criteria that each ATMP alternative should: (1) be safe, (2) satisfy the Purpose and Need, including minimize or prevent significant impacts to park resources and values (3) be technically and economically feasible, and (4) avoid repetition of similar alternatives.

As required by NEPA, the "No Action Alternative" for purposes of developing an ATMP is defined as "no change" from current management direction or level of management intensity. The No Action Alternative for GGNRA and SF Maritime NHP would be an ATMP that codifies current flight track conditions at the IOA level of annual operations, and similarly for the Seashore. Commercial air tour operations over both GGNRA, including the S F Maritime NHP, and the Seashore would be required to comply only with existing applicable FAA Regulations.

This interpretation of "No Action" presents a major problem for the EA. Since the air tour companies have been permitted a total of 5,190 flights per year but are not currently operating at this level, or operating at all over the Seashore, the IOA appears to be an "entitlement" based on ten-year-old unverified data that could dictate operation levels and flight tracks for years to come. Furthermore, the IOA was developed in the absence of any environmental analysis and therefore could present an exaggerated baseline in spite of significant impacts. MCL believes that the "No Action" should begin with actual records, flight tracks should be reexamined for their potential impacts, and findings of significance in the EA should override both operation levels and flight tracks currently permitted by the IOA.

MCL agrees that the other alternatives examined in the EA should include (1) prohibiting commercial air tour operations over and within ½-mile outside the boundary of a national park; and/or (2) establishing conditions for the conduct of commercial air tour operations, such as limiting specific destinations and routes, maximum number of flights per unit of time, maximum and minimum altitudes, time of day restrictions, restrictions for particular events, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts.

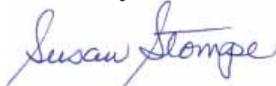
CFR Part 136 also states that the ATMP for a national park shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations at a park.

MCL believes that quieter aircraft technology might provide some relief from noise intrusion, but it would not mitigate the visual intrusion of aircraft in a park, where both biological resources and the visitor experience could be compromised. If the EA considers this as a viable "alternative" it should also acknowledge the visual impact that is not mitigated by such technology.

In conclusion

MCL agrees with the National Parks Conservation Association that "the opportunity to listen to unobstructed natural sounds is an increasingly rare experience in America. We must ensure our national parks provide the special experience they were intended to provide, which is why the implementation of the National Parks Air Tour Management Act is so important."

Sincerely,



Susan Stompe
President