Hearing on legislation and regulations affecting scenic overflights above national parks

HEARING ON LEGISLATION AND REGULATIONS AFFECTING
SCENIC OVERFLIGHTS ABOVE NATIONAL PARKS
HOUSE SUBCOMMITTEE ON AVIATION
STATEMENT BY SENATOR DANIEL K. AKAKA
JULY 27, 1994

Thank you, Mr. Chairman. I appreciate this opportunity to testify before the Committee on the subject of scenic overflights of national parks.

Before I begin my statement, I would like to join the rest of my colleagues in recognizing the presence here today of Senator Goldwater, one of the most distinguished members the Senate has ever produced.

I would also like to say aloha and mahalo to the special witnesses from Hawaii: Denise Antolini, Bob DeCamp, Dan Taylor, Barry Stokes, Charles Maxwell, and Ed Clark. Elling Halvorson, though not a resident of Hawaii, is a familiar figure in the islands, so I wish to acknowledge his presence as well. Each of them has been very helpful to me in forming my own views on this issue, and I appreciate their travelling such a long way to share their thoughts with Congress on this subject.

Mr. Chairman, aircraft activity over noise-sensitive areas such as national parks has increased in scope and intensity in the last few years, sparking debate about the safety and environmental impacts of overflights.

In my own state of Hawaii, recent news reports indicate that the commercial air tour industry, which is centered around tours of Haleakala and Volcanoes National Parks, is projecting record numbers of customers and revenues this year -- a staggering 700,000 passengers and $100 million, respectively. Clearly, air tourism is a major economic factor in Hawaii, and, if the numbers are accurate, the Aloha State may well have the highest level of commercial air tour activity in the nation, exceeding even that at Grand Canyon National Park.

Unfortunately, complaints concerning safety and noise have risen along with the growth of the air tour industry. Numerous hearings have been held by FAA, Park Service, the State, and community groups on the overflights issue, all of which have been characterized by sharp differences of opinion between air tour supporters and anti-noise proponents.

The safety issue has taken center stage in the Aloha State recently, with two tour helicopter having crashed on the same day, July 14th. Tragically, the crash off the island of Kauai claimed three lives, including the pilot and two passengers. According to an article in the Honolulu Star Bulletin, these three deaths raise the fatality count from tour aircraft crashes in Hawaii to 23 since 1992. The FAA itself has documented eleven

accidents in Hawaii in the past six months which have resulted in serious injuries or fatalities.

Alarmed by these statistics, the FAA advised my office late last week of its intention to: initiate a comprehensive review of operations and maintenance practices of the Hawaiian air tour industry; issue an emergency rulemaking to require that all air tour operators conduct operations under FAR Part 135; and, establish minimum altitude, weather, and site "stand off" distances to address safety and noise considerations of the community.

Given the number of accidents in the last several years and, particularly, the number of fatalities, I welcome the FAA's action plan. Any mode of transportation has inherent risks, but we need to be absolutely certain that commercial air tour operations in Hawaii are as safe as they can possibly be.

Aside from safety, it is also time to act on the noise issue. A number of colleagues, including Congresswoman Patsy Mink, Congressman Pat Williams, and Senator John McCain, have authored legislation that addresses different aspects of the park overflights problem: Congresswoman Mink proposes to regulate airspace over national parks in Hawaii; Congressman Williams wishes to establish air tourism as a park concession; and, Senator McCain encourages the development of quiet noise technology. Their leadership on this issue is a major reason why the current Administration, in sharp contrast to previous administrations, has made a good faith effort to address the noise and environmental impacts of commercial air tour overflights through existing regulatory authorities and mechanisms. The interagency working group formed last December by Secretary Babbit and Secretary Pena has demonstrated that some measure of cooperation between the FAA and Park Service can be achieved in addressing this issue.

Nevertheless, while I appreciate the Administration's sincere efforts to confront the overflights issue on its own, I believe that only legislation can produce lasting, effective policy on this matter. The simple truth is, the FAA and the Park Service, the two agencies with the greatest responsibility in this area, are governed by vastly different statutory mandates, and thus are inherently incapable of working together on a permanent basis to mitigate the noise and environmental impacts of park overflights. On the one hand, the FAA is responsible for the safety and efficiency of air commerce; on the other, the Park Service is charged with protecting and preserving park resources; at some point -- in this case the regulation of airspace over noise sensitive areas -- their interests are mutually incompatible.

Mr. Chairman, incompatibility between the FAA and Park Service missions is the single most important reason why an effective, long-term park overflights policy cannot be developed

by the Administration absent statutory guidance from Congress. It also explains why there is such a sharp division on this issue in the community as well, since both proponents and opponents of overflights can call upon their agency of choice to support their positions.

For this reason, next week, I intend to introduce legislation that would establish a new statutory framework designating the respective responsibilities of the FAA and Park Service in mitigating the environmental and safety impacts of air tour activity on national parks. Specifically, my bill requires cooperation between the Park Service and the FAA, providing for joint administration in some areas, while clearly delineating the Park Service's lead role in defining the resources to be protected and the FAA's primacy on matters related to safety and air efficiency.

My bill is designed to ensure that commercial air tour overflights are conducted in a manner which is consistent with the need to protect park values and resources, including "natural quiet." It provides for mechanisms for public involvement and for promoting dialogue among the many interested parties, and affords the regulatory agencies the flexibility necessary to deal with local circumstances and inherent differences between park units. Finally, my legislation requires the development of individual Park Aircraft Management Plans in park areas affected by commercial air tour activities, and, once the plans have been approved, calls for good faith negotiations between commercial air tour operators and the Park Service to reach agreement on park overflight operations. The bill also establishes a three-tiered compliance mechanism in the event that agreement cannot be reached or the impacts of agreed upon overflights are greater than anticipated.

Thank you, Mr. Chairman. I hope that my proposed legislation, as well as the measures offered by Congresswoman Mink, Congressman Williams, Senator McCain, and others, will receive serious consideration in both Houses of Congress.

In concluding, Mr. Chairman, let me commend you for holding this timely hearing. I hope the opinions offered today will spark a constructive discussion of the issues surrounding park overflights, and lead to the development of an effective national parks overflights policy. I believe there is plenty of room to accommodate the needs of all park users, including air tour operators, at our national parks. However, in the last analysis, we must be assured that there are at least a few places in this great land of ours where we are able to renew our spirits and take refuge from the machinery of civilization.

Thank you, Mr. Chairman.

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