



United States Department of the Interior
NATIONAL PARK SERVICE
Mount Rushmore National Memorial
13000 Highway 244
Building 31, Suite 1
Keystone, SD 57751



February 21, 2024

Ms. Wanda Goodman
South Dakota Department of Tourism
711 E. Well Avenue
Pierre, South Dakota 57501

Dear Ms. Goodman:

Thank you for submitting a Special Use Permit application for a special event at Mount Rushmore National Memorial (Memorial) to occur June 24, 2024, through July 7, 2024. We received your application on July 5, 2023, by email. The Memorial acknowledged receipt of your application by email on July 12, 2023. This letter serves as a follow-up to that email.

Your application states:

“The State of South Dakota requests a special use permit for the dates of June 24-July 7, 2024, to include the setup, event, and take down for an Independence Day Celebration. This event would include a fireworks display as well as potential patriotic entertainment, and would occur in conjunction with the Memorandum of Agreement signed on May 6, 2019, between the Secretary of the U.S. Department of the Interior and the Governor of South Dakota. The State believes this activity to be in accordance with the purpose of the Memorial, as a way to celebrate the independence of the United States. Mount Rushmore has become a symbol of freedom for people of all backgrounds, and this celebration would be done specifically for the Memorial’s visitors, as a way to celebrate that freedom on our Independence Day.”

The application requests permission to use “[a]ny land and location within the boundaries of Mount Rushmore National Memorial and common associated properties,” beginning June 24 at 8:00 am, and running through 5:00 p.m. on July 7. This response is based on the information contained in your application.

The National Park Service (NPS) evaluated your request under the criteria set out in 36 C.F.R. § 1.6, the NPS regulation governing the general issuance of permits, and in 36 C.F.R. § 2.50, the NPS regulation governing the issuance of permits for special events on NPS lands. In compliance with regulations, the NPS will only issue such a permit if it will not “[u]nreasonably interfere with interpretive, visitor service, or other program activities, or with the administrative activities of the [NPS].” 36 C.F.R. § 2.50(a)(3). The NPS has also evaluated whether the proposed event would be consistent with other policies that govern the management of the Memorial, including Secretary’s Order 3403, the 2006 NPS Management Policies, Director’s Orders, and Reference Manual #53: Special Park Uses.

After careful consideration, the NPS has determined that we are unable to grant your request for this permit to hold a special event with fireworks at the Memorial. 36 C.F.R. §§ 1.6(d) and 2.50(a) state that a permit shall be denied if any one of the criteria in 36 C.F.R. §§ 1.6(a) or 2.50(a)(1)-(6) is present. The NPS has determined that multiple such criteria are present for the requested event, each of which would be sufficient to deny the request for a permit based on the information provided in the permit application.

Fireworks continue to be viewed by multiple Tribes as an adverse effect on the traditional cultural landscape. See 36 C.F.R. § 1.6(a) (listing “cultural resources” and “avoidance of conflict among visitor use activities” as relevant factors in determining whether to issue a permit). This view was expressed by consulting Tribes in 2020 and has been reaffirmed by Tribal government representatives in subsequent meetings as recently as November 2023. The Memorial is committed to furthering its Nation-to-Nation relationships with Tribal governments, and we are directed to work cooperatively with Tribes in stewarding the land under Secretary’s Order 3403, ensuring that the NPS’s decisions “relating to Federal stewardship of Federal lands, waters, and wildlife under [its] jurisdiction include consideration of how to safeguard the interests of any Indian Tribes such decisions may affect.” In May 2021, a Traditional Cultural Survey was conducted in the Memorial by representatives from traditionally associated Tribes. The survey was completed after the 2020 environmental assessment (EA) and the 2020 fireworks event. The survey recorded many previously undocumented cultural sites within the boundary of the Memorial. These cultural sites underscore the importance of continuous Tribal connection to the landscape. Prior to the 2021 survey, associated Tribes expressed opposition to fireworks events. In March 2022, Tribal representatives revisited several of the newly identified sites and conveyed the same concerns. The Memorial is currently working on developing appropriate cultural resource protection plans and condition assessments for the newly documented sites. This includes formal Tribal consultation and collaboration with associated Tribes.

The following bullet points discuss the additional criteria from 36 C.F.R. § 2.50 that were used to evaluate your application:

- **36 C.F.R. § 2.50(a)(1), Cause injury or damage to park resources.**

The NPS analyzed the potential impacts of a fireworks event in the 2020 EA and its associated finding of no significant impact (FONSI), based on the then-current conditions of the affected environment. Those documents were prepared to comply with the National Environmental Policy Act for a single event, not to analyze or apply the applicable regulatory criteria, and most importantly, they did not commit the NPS to hold future fireworks events. The FONSI merely noted that “[s]imilar events could be permitted in subsequent years by the Memorial, assuming conditions and impacts remain as described.” Based on current conditions, the NPS has reached the conclusion that different conditions exist, new information is available regarding impacted resources, and different resource impacts could occur in accordance with the regulatory criteria, for the reasons described in this letter.

A fireworks event poses threats to the environment and Memorial resources. The Memorial continues to monitor levels of environmental contaminants and wildfire potential. Perchlorate was first identified by United States Geological Survey hydrologists in surface water, groundwater, and soils in the Memorial in 2011, and the previous fireworks displays were identified as the only potential source of this contamination. Perchlorate levels had generally been trending downward since

monitoring began in 2011 (after fireworks were halted in 2009), but data collected in the months following the 2020 fireworks event showed an increase in perchlorate concentration levels in the treated water supply, including the Memorial's drinking water. In the last two and a half years, the Memorial has observed a gradual decrease in perchlorate concentration levels for the treated water supply.

The variability of wildfire danger remains a continual threat to the Memorial's resources and the local communities. On March 29, 2021, the Memorial experienced the largest recorded wildfire in its history, which resulted in a three-day closure. It is too early to predict the 2024 wildfire outlook. Wildfire potential is highly dependent on both long-term and short-term weather events. The event would require the presence of a wildland fire management team. This group would remain unavailable to support other national fire efforts during this event.

After the 2020 EA was prepared, new additions have been made to the Threatened and Endangered (T&E) species list for the area that includes the Memorial. The US Fish and Wildlife Service (USFWS) has listed a new endangered bat species (the Northern Long-Eared bat) and a new proposed endangered species (Tri-Colored bat), both of which have potential to be present within the boundary of the Memorial. Due to this potential presence of Threatened and Endangered species, the NPS is now required to conduct additional consultation to determine if a permitted activity has potential to impact Threatened and Endangered species before a permit may be issued, and if so, under what conditions. It should also be noted that a state-threatened bird species, Peregrine falcon, has been observed in the Memorial and in 2020, a pair nested near the sculpture and abandoned the nest after the fireworks event.

- **36 C.F.R. § 2.50(a)(3), Unreasonably interfere with interpretive, visitor service, or other program activities, or other activities of the National Park Service.** Each year the NPS hosts an Independence Day celebration between July 3rd and July 4th. This celebration includes presidential reenactors, military bands, flag ceremonies, ranger programs, and cultural demonstrations and performances by local Tribal members. These NPS special programs are scheduled each year during the Independence Day period and require advance planning by the Park. The Memorial hosted these popular events from 2010 to 2018, and then again in 2021, 2022, and 2023 (in 2019 they were canceled due to a construction project and in 2020 they were prevented by the fireworks event). Throughout the years listed above, daily Independence Day event visitation ranged from 22,721 to 39,039 people during the Memorial's regular 18-hour day of operation. These NPS events do not require closing the park to other visitors and are designed to encourage a broad range of visitation throughout the day. During the 2020 fireworks event, the Memorial was closed to the public for the entire day to accommodate the ticketed event, which allowed approximately 7,500 visitors to attend. Due to safety and manageability concerns, your proposed event would presumably require similar park and visitation restrictions. The 2020 event affected tens of thousands who were not able to visit the Memorial or had their visit cut short and impacted NPS special Independence Day programming. The NPS seeks to serve as many visitors as feasible during the holiday events. Your proposed special event would thus unreasonably interfere with these planned interpretive and visitor services and would deny public access to the Memorial.

- **36 C.F.R. § 2.50(a)(4), Substantially impair the operation of public use facilities or services of National Park Service concessioners or contractors.** This criterion concerns the availability of facilities and services for park visitors and was considered in tandem with the previous criterion. An extended closure or severe visitation limits during the Independence Day holiday as part of the requested event would substantially impair the operations of the facilities and services provided by Xanterra Travel Collection (Xanterra), the Memorial's concessioner. Xanterra operates the parking garage and provides the only food service available to the Memorial's visiting public. The Independence Day weekend is also one of the highest visitation periods of the year; closures and restrictions impact these visitors' experience.
- **36 C.F.R § 2.50(a)(6), Result in significant conflict with existing uses.** As discussed above, the NPS plans to host a patriotic Independence Day celebration in 2024; planning is already underway. The requested special event would result in significant conflict with that existing use. Thousands of visitors have planned visits to the Memorial during the period covered by the permit request; the event and resulting closure would result in a conflict with previously established uses and visitor use patterns.

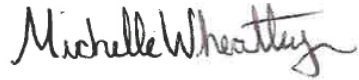
The NPS 2006 Management Policies and Policy Memorandum 16-02 also require a full analysis of requests to close the Memorial to normal public use. Your request will impact visitors over a 15-day period. While this is shorter than the 26 days requested in the past, any extended closure has the potential to negatively affect the visitor experience by limiting visitor access to important park resources for an unreasonable period, without allowing access to comparable park resources. The timeframe of this proposed event still includes the Independence Day holiday, and the preceding weekend, and will interfere with the most popular times of the year for people to visit the Memorial. A closure of this magnitude will require a great deal of NPS staff time dedicated to assisting with planning and managing this event. Pursuant to Policy Memorandum 16-02, the Memorial used the criteria listed below when evaluating the request to have a ticketed (restricted access) activity:

- the magnitude and duration of the interference with, or displacement of, normal public use of an area during the conduct of the special event and its effect on the visitor experience;
- possible safety concerns for visitors, park staff, and park volunteers;
- the inconvenience to members of the public who will not be participating in the event and who may not be interested in observing it; and
- the appearance (and possible criticism) that the permitted event is effectively monopolizing the use of an area within the park.

While we recognize that the 2019 Memorandum of Agreement between the Department of the Interior and the State of South Dakota sought to "work to return fireworks to Mount Rushmore National Memorial in a safe and responsible manner," that agreement did not alter the applicable "authorities under State and Federal law," including the regulatory criteria discussed above. In any event, we do not believe a fireworks event would be "safe and responsible" for those same reasons.

We value our relationship with the South Dakota Department of Tourism and wish to continue to work with you to commemorate our nation's history at Mount Rushmore National Memorial. While we cannot grant a permit for the special event as requested, we hope you will consider being an integral part of planning and supporting the Memorial's official Independence Day celebration in 2024.

Sincerely,

A handwritten signature in dark ink, reading "Michelle Wheatley". The signature is written in a cursive, flowing style.

Michelle Wheatley
Superintendent
Mount Rushmore National Memorial