



REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Mount Rushmore National Memorial
Building 31, Suite 1
13000 Highway 244
Keystone, South Dakota 57751

March 14, 2022

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 15, 2022, through July 10, 2022. We received your application on September 29, 2021. The Memorial acknowledged receipt of your application by email on October 5, 2021. 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 15-July 10, 2022, 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. Additional information and requests will be forthcoming once the fireworks vendor is chosen, and the program details are finalized.”

The application requests permission to use “[a]ny land and location within the boundaries of Mount Rushmore National Memorial and common associated properties,” for “[a]ll day on the preferred dates.” 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 the NPS lands. The NPS will only issue such a permit if it will not “unreasonably interfere with interpretive, visitor service, or other program activities, or with the administrative activities of the NPS.” The NPS has also evaluated whether your proposed event would be consistent with other policies that govern the management of the Memorial, including Secretary’s Order 3403, the NPS Management Policies 2006, and Director’s Order 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. Based on the information provided in the application, we have determined that multiple such criteria are present for the requested event, each of which would be independently sufficient to deny the request for a permit.

Fireworks are viewed by multiple Tribes as an adverse effect to 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 and letters. The Memorial is committed to furthering the Nation-to-Nation relationships with Tribal governments, and we are directed to work cooperatively with Tribes to steward the land under Secretary’s Order 3403, including to ensure 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.” A Tribal Cultural Sites survey, which was conducted in May 2021, after the 2020 environmental assessment (EA) and the 2020 event, has now documented many cultural sites within the boundary of the Memorial, underscoring the importance of active Tribal connections to the landscape that warrant protection. There was ample documented opposition from the Tribes to the 2020 event, and we understand from ongoing meetings with Tribes that these concerns have not diminished.

The following bullet points discuss the 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.** A fireworks event poses threats to the environment and Memorial resources. The Memorial continues to monitor both levels of environmental contaminants at the Memorial and the potential for wildfire. Perchlorate was first identified by hydrologists from United States Geological Survey 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 after the 2020 fireworks event showed an increase in perchlorate in some monitoring sites, including the Memorial’s drinking water.

As for wildfire, on March 29, 2021, the Memorial experienced the largest recorded wildfire in its history, which resulted in a three-day closure. Current drought conditions and the 2022 wildfire outlook indicate that fireworks would cause a high likelihood of a wildfire ignition. While a short-term wet weather event occurring on or near the day of the fireworks is possible, it is unlikely this would lower the impact from a potential fire. The event would likely require the presence of a wildland fire crew on standby, making them unavailable for other needs in the National Park System or across the country.

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, not to analyze or apply the applicable regulatory criteria, and in any event, 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 different conclusions this year as to the application of the regulatory criteria, for the reasons described in this letter.

- **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 a patriotic Independence Day celebration (9:00 AM – 10:00 PM), which lasts most of the day on 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. The Memorial hosted these popular events from 2010 to 2018, and then again in 2021 (in 2019 they were canceled due to a construction project and in 2020 they were prevented by the fireworks event).

These NPS events do not require closing the park to other visitors. Daily visitation for these Independence Day events ranged from 22,721 to 39,039 during the Memorial’s regular 18-hour day of operation. During the 2020 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, and your application requests a maximum of 10,000 visitors. The 2020 event affected tens of thousands who were not able to visit the Memorial or had their visit cut short, and the NPS seeks to serve as many visitors as feasible over the holiday. Additionally, the NPS has programs scheduled each year during the Independence Day period, and began booking presidential reenactors, bands, and speakers for the 2022 event in July 2021. 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)(5), Present a clear and present danger to the public health and safety.** As discussed above, a fireworks show currently appears to present a substantial wildfire risk. Additionally, a fireworks event would likely require dedicated transportation for the visitors, as occurred in 2020. In the event of an emergency, evacuation would be hampered and pose a safety risk to attendees. While current trends indicate COVID is not a factor in denying the permit, it remains a source of uncertainty.

- **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 2022; 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.

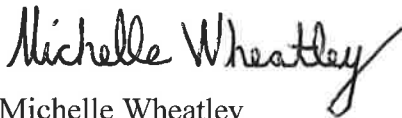
The NPS 2006 Management Policies and Policy Memorandum 16-02 also require a full analysis of requests to close the Memorial to normal public use. Your request will impact visitors over a 26-day period. While the NPS understands that your request will not require a full closure for 26 days, this request has the potential to negatively affect the visitor experience by limiting visitor access to important park resources for an unreasonable period of time, without allowing access to comparable park resources. A closure of this magnitude will require a great deal of the 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 this national icon. 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.

Sincerely,



Michelle Wheatley
Superintendent
Mount Rushmore National Memorial