

NATIONAL COALITION TO SAVE OUR MALL

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COMMENTS ON THE NATIONAL PARK SERVICE'S ENVIRONMENTAL ASSESSMENT FOR THE LINCOLN MEMORIAL SECURITY IMPROVEMENT PROJECT December 4, 2002

The National Coalition to Save Our Mall, a nonprofit citizens organization dedicated to the preservation of the National Mall, understands the need for increased security for the Mall's monuments and visitors. We believe it is possible to design security measures that would not damage the monuments' and memorials' symbolism and historical and cultural integrity, as the NCPC demonstrated in its Urban Design and Security Plan (2002). However, in our view, the National Park Service's approach as proposed in the EA is not adequate to deal with security at the Lincoln Memorial.

The EA for the Lincoln Memorial Project has similar inadequacies to the EA for the Jefferson Memorial Security Improvement Project on which we have submitted comments as well. It would almost appear that they were written simultaneously by the same person.

The NPS's Preferred Alternative for walls and bollards at the Lincoln would have "major, long-term, and adverse" impacts on the historic resource and the cultural landscape. That is why other reasonable alternatives should be considered, as required by the National Environmental Policy Act of 1969 and the National Park Service's Director's Order #12 (Conservation Planning, Environmental Impact Analysis, and Decision-making). That is also why this EA is inadequate and incomplete and, in our view, needs to be fully redone and its conclusions revised.

We comment here only briefly on a few of the many questions and concerns we have about the NPS's Preferred Alternative. In addition, we have included in section B below a more detailed description of the significant inadequacies shared by the EAs for both the Lincoln and the Jefferson Memorials. These include that it fails to consider reasonable alternatives to the NPS's Preferred Plan, fully identify the historic resources affected by the Project, or provide adequate data to support its conclusions.

A. QUESTIONS AND CONCERNS ABOUT THE NPS'S PREFERRED ALTERNATIVE

We would appreciate written answers to the following questions:

- Why does the EA not follow the guidelines set out by the NCPC's Urban Design and Security Plan, which was developed by security and planning professionals for the purpose of securing the nation's capital?
- What is the full extent of the threat? How were judgments made about guarding against a truck bomb but not against, for instance, a backpack bomber? Who made those judgments?
- What are the two "New Visitor Centers" indicated on the Lincoln Memorial plan (EA, p. 3, 16, 19)? Where is the visual material showing what they look like?
- The size of the footprint of these visitor centers is gigantic. What is their purpose?
- Part of the design is a plinth wall, in keeping with Henry Bacon design for the Memorial. Continuing the plinth wall around the entire Memorial would be better, in our view, than bollards along the east front. What is the reason that NPS cannot utilize the NCPC guideline of such walls?
- What other alternatives did the NPS consider before choosing to place bollards facing the Mall? The row of bollards facing the Reflecting Pool, Washington Monument, and Capitol Hill - or at least damage -- the symbolism of an open society.
- Why do discussions of cumulative effects throughout the document fail to mention and assess the effects of the World War II Memorial at the east end of the Lincoln's Reflecting Pool? The EA mentions the Jefferson Memorial and Washington Monument but inexplicably and incorrectly omits the single most significant cumulative effect: the 7.4 acre enclosed plaza, vertical pylons, and road and traffic that will drastically alter the Mall's historic, cultural, aesthetic, and visitor experience aspects.
- The Section 106 Summary states that the Preferred Alternative "may have an adverse effect" (p. 44) but then states that the NPS would reduce the impacts "so that the proposed action would have no adverse effect on historic properties." What does this mean? Is NPS attempting to circumvent or invalidate the public consultation process required by Section 106 by negating or refusing to seriously consider any negative findings that might arise out of that process?
- The EA (p.44) states that "with appropriate mitigation" the adverse effects would be lessened to "moderate". But what are those mitigation measures? There is no data to support that conclusion.
- Further, the EA (p. 45) then builds on that insupportable conclusion and states that since "there would be no major, adverse impacts", "there would be no impairment of the park's resources or values." But there is no data to support either claim. Is this conclusion an attempt to avoid or ignore laws that apply when there IS "impairment of the park's resources or values?"
- The EA states that effects "would be mitigated through compatible new design and materials" but provides no data or visual information to support that conclusion. What is the basis for this conclusion?

The following section concerns more detailed comment on both the Jefferson and Lincoln EAs and has been submitted with our comments on both.

B. FAILURE TO COMPLY WITH NEPA AND DIRECTOR'S ORDER #12

These questions are, in our view, the result of an EA that is grossly inadequate to the task of assessing historic and environmental effects. The EA states that the NPS staff prepared it in accordance with the National Environmental Policy Act of 1969 (NEPA), regulations of the Council on Environmental Quality, and the National Park Service's Director's Order #12 (Conservation Planning, Environmental Impact Analysis, and Decision-making). However, it fails to meet the standards set out in those regulations and laws and does not utilize the guidance given by the NPS's own Director's Order. In our view, the EA should be revised, expanded, and its conclusions reconsidered.

The remainder of our comments will focus on the EA with special reference to the National Park Service's Director's Order #12. They apply equally to the EAs for the Jefferson Memorial and the Lincoln Memorial Security Improvements, both of which were released in early November 2002.

The Director's Order #12, dated January 8, 2001, states that its purpose is to lay the groundwork for **"a necessary evolution in the way we approach environmental analysis, public involvement, and making resource-based decisions."** This is needed because

"Recent court challenges have stopped or redirected some of the Service's actions and decisions....The courts have cited a lack of, or failure to incorporate, critical information in decisions. In some cases, there has been a basic disregard of laws, regulations, and policies designed to foster resource preservation and conservation." (NPS Memorandum, Jan.8, 2001, p.1)

We see no improvement, however, in the EAs recently released for the Jefferson Memorial and Lincoln Memorial security proposals. Instead, the impression the Coalition gets from both EAs is that the NPS is once again going through a routine to justify judgments made in advance--a conclusion in support of the NPS's Preferred Alternative. This is evident in the inadequacy of the data and documentation, alternatives considered, and evaluation of impacts, as described below. (A pattern is evident in other recent EAs - EAs for the Washington Monument Security Improvements [2002] and the World War II Memorial [1998] both did not consider or assess reasonable alternatives to the NPS's preferred alternative.)

The Director's caution against disregarding laws, regulations, and policies also appears to have been ignored by NPS staff when on November 22, NPS sought - unsuccessfully -- design approval for the Jefferson Memorial Project from the Commission of Fine Arts (CFA). As DO-12 states (p. 9):

“No action that is the subject of an ongoing NEPA analysis or that would limit the choice of alternatives undergoing NEPA scrutiny should be taken until the NEPA process is complete (1506.1).”

The public comment period on the EA ends only on December 4, after which the NPS must respond to all public concerns and questions. NPS has not yet involved the public in Section 106 consultation. Similarly, for the recently released EA for the Lincoln Memorial, NPS will seek approval of that plan on December 19, although it has not yet had the opportunity to review and respond to public comments.

Instead of moving forward, we would urge the NPS to heed the Director’s order that

“All of the steps necessary to complete the NEPA process are to be finished in time to be part of any recommendation or report on the proposal.” (DO-12, p. 9)

Any attempt to seek preliminary or final design approval for the Lincoln and Jefferson schemes should be postponed until after the public has been meaningfully involved in the process and a revised EA, or an EIS, has been prepared.

In the following comments, we will focus on three of the objectives which DO-12 states will ensure future NPS proposed actions:

- **Meaningful participation by the public and other stakeholders;**
- **Development and critical evaluation of alternative courses of action;**
- **Rigorous application of scientific and technical information in the planning, evaluation and decision-making processes (NPS Memorandum, Jan. 8, 2001, 4.3)**

1. THE NPS HAS FAILED TO INVOLVE THE INTERESTED AND AFFECTED PUBLIC IN PREPARING THE EA

In the section on “Consultation and Coordination” (Jefferson EA, p. 58), the EA states that “Scoping is the effort to involve agencies and the general public in determining the scope of issues to be addressed in the environmental document.” The DO-12 (Background p. 3) states that **“NEPA requires all federal agencies to....3. diligently attempt to involve the interested and affected public before any decision affecting the environment is made.”** However, the public was not invited by the NPS to be involved before the EA was prepared. Instead, the public is given the opportunity to comment only now that the EA is completed, and then is presented with no reasonable alternatives to the NPS’s Preferred Alternative.

Moreover, although the EA is not in itself a decision, the NPS is treating it as such. On November 22, NPS sought -unsuccessfully -- design approval for the Jefferson

Memorial Project from the Commission of Fine Arts (CFA), even before the public comment period on the EA was ended on December 4. Similarly for the Lincoln Memorial Security Improvement Project, NPS will seek approval of that plan on December 19, although it has not yet had the opportunity to review and respond to public comments which are due by December 4 as well.

We do not understand the meaning of the EA's statement that if major adverse impacts are determined for the cultural landscape, "For purposes of Section 106, the determination of effect would be *no adverse effect*." (p.47) If a major" (the most severe) impact on the cultural landscape does not qualify as an "adverse effect" for purposes of Section 106, then what does (p. 47)? What are the standards? Are there any? Or is this an attempt to invalidate or ignore any adverse findings that may arise during the Section 106 public consultation process? If so, it must be rejected.

The EA states that that NPS "has also invited ...the Advisory Council on Historic Preservation to enter into consultation." This is not exactly correct, as the Advisory Council only first entered into consultation on November 22. Significantly, the ACHP's involvement came only after the NPS went before the Commission of Fine Arts seeking preliminary (and final?) approval of its Preferred Alternative.

2. THE EA FAILS TO CONSIDER REASONABLE ALTERNATIVES

The EA for the Jefferson Memorial fails to include, as required by NEPA and the NPS's DO-12 Handbook, "**a range of reasonable alternatives that meet objectives as laid out in the purpose section.**" (DO-12, 5.4D) On the contrary, as stated on p. 19, neither Alternative A "no action" nor Alternative B meets the Project Objective of adequate security. They are not reasonable alternatives at all. Only the NPS's Preferred Alternative, according to the EA, meets security needs.

The same applies for the Lincoln Memorial EA. Neither Alternative A nor Alternative C meet the project objectives (Lincoln EA, p.22). Only the NPS's Preferred Alternative does.

The DO-12 Handbook is clear, however, that,
"Alternatives that ...do not resolve the need for action and fulfill the stated purpose in taking action to a large degree, should be eliminated as unreasonable before impact analysis begins." (DO-12, 2.7)

That means that the EA lacks any reasonable alternatives as required.

The EA also appears to conflict with NEPA in the choice of Preferred Alternative. DO-12 explains how the environmentally preferred alternative to the NPS's Preferred Alternative must be identified:

“Simply put, ‘this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources’ (Q6a)”
(DO-12, p.23)

The NPS’s Preferred Alternative will, the EA states, “have major, long-term adverse impacts.” However, no other reasonable alternatives are proposed or evaluated.

It would appear that the NPS, having established its Preferred Alternative, simply went through the motions of considering alternatives in order to attempt to satisfy NEPA.

The DO-12, however, expressly cautions against such actions:

“Agencies often mistake this winnowing process as one that allows them to choose only their favorite alternatives for analysis without having first completed NEPA. Rather, it is a procedure for eliminating infeasible or duplicative alternatives while still leaving a ‘full spectrum of reasonable choices’ ready to undergo the objective environmental analysis that NEPA dictates.”

The EA fails to consider a full spectrum of reasonable choices, as directed by DO-12.

We are surprised to see that the NCPC-Olin design guidelines for the Jefferson and Lincoln memorials are not considered as Reasonable Alternatives. The NCPC Urban Design and Security Plan was developed by federal agencies in conjunction with security specialists and should be the basis of whatever alternatives the NPS considers. In our view, the NCPC guidelines are clearly more historically and environmentally sensitive to the historic properties than the NPS’s Preferred Alternative.

In addition to alternatives originating with NPS and NCPC staff, the public would also like the opportunity to propose and meaningfully discuss with NPS additional reasonable alternatives. That opportunity has not yet arisen.

3. THE NPS FAILS TO BASE CONCLUSIONS ON ADEQUATE DATA

The Jefferson Memorial EA evaluates several “Impact Topics” which, however, do not provide sufficient data to support the EA’s conclusions. For example, the section on “Visitor Use and Experience” does not provide data to support the EA’s conclusion that closing the parking lot at the Jefferson Memorial would bring “moderate, long-term, and beneficial impacts to visitor use and experience.” (p. 55) On the contrary, the EA notes several negative impacts from relocating existing parking directly in front of the Memorial, especially for handicapped visitors:

“impacts from the relocation of handicap accessible parking would create moderate, long-term, adverse impacts to visitor

use and experience because visitors with disabilities would have to cross East Basin Drive, which is a heavily traveled road."

The EA does not explain how such impacts are in fact "beneficial". Not mentioned is the fact that visitors who do not wish to take Tourmobile or who arrive by tour bus – a majority of local residents, many of whom visit the Memorial at night – would have to walk considerable distances from available parking. There is no data on how long it would take a pedestrian to reach the Memorial, moving at 2 m.p.h.

Under "Aesthetics and Visual Resources", the Jefferson EA concludes that the Preferred Alternative would result in "minor, long-term, adverse impacts." However, there is inadequate visual information on the walls, bollards, and their relationship to the historic resource to come to this conclusion. Where are the elevations, sections, photographs that would show the placement, size, and materials of the security elements? How can the NPS and the public know if the effects are minor or major without such necessary documentation? The EA states that mitigation measures will be taken. How do we know they will work? What will they look like?

The Jefferson Memorial lies in the 100 year floodplain and so the NPS has prepared the required Statement of Findings (SOF). The EA concludes that the Preferred Alternative would have "moderate, long-term, adverse impacts" to the floodplain. But then the SOF concludes that the proposed action at the Jefferson Memorial "would have no significant effect on natural or beneficial floodplain functions." (Conclusion, SOF) Which is it? What is the basis of the SOF conclusion that appears to dismiss the earlier conclusion? The EA provides no data to validate the conclusion.

Moreover, in considering Cumulative Effects to the floodplain, the EA states that "no future projects have been identified that would impact the floodplain," and then concludes that "cumulative effects are anticipated to be negligible." (p. 36) What about the World War II Memorial, whose subterranean plaza is being constructed in the 30-year flood plain at 17th Street and the Mall? Why is there no mention of the FDR Memorial or the future Martin Luther King Memorial, both also in the flood plain of the Tidal Basin area? The EA is woefully inadequate in identifying and assessing the broader effects on the floodplain.

Finally, we do not understand how the NPS comes to any conclusions regarding the impacts to the Jefferson's National Register qualities when the Environmental Screening Form, signed by Interdisciplinary Team Leader Stephen Lorenzetti, indicates that data is still needed to determine if the proposal would have such adverse effects. (Appendix B) If the Team Leader still needs additional data, then surely the EA is premature in drawing conclusion. The Lincoln Memorial EA contains the same determination of "Data Needed to Determine" in its Environmental Screening Form. (Appendix B)

4. CUMULATIVE EFFECTS ARE NOT ADEQUATELY IDENTIFIED OR EVALUATED

Finally, there is the question of “cumulative effects” and the EA’s inadequate assessment of this project in the broader context of the Mall’s memorials, monuments, and open public spaces. The Jefferson Memorial is an integral part of the Mall’s great cross-axis, which is a preeminent cultural resource and symbol of the nation’s founding principles and open society. The EA mentions, without evaluating, cumulative effects with regard to security improvements at the Washington Monument. It barely mentions, though, how the proposed security changes at the Jefferson would impact on the Mall’s historic character.

In the view of the National Coalition to Save Our Mall, this is a major failing of the EA. By ignoring or diminishing the Jefferson’s association with the rest of the Mall, and by essentially treating this security plan as separate from other security projects now being considered for the Mall (the Washington Monument and Lincoln Memorial), it fails to understand and conform to the purposes of CEQ regulations that warn against piecemeal project development. As the DO-12 states:

“Although its is clear that CEQ does not want agencies to segment their proposals into pieces that have less potential for significant impact alone than when viewed together, the requirement to analyze cumulative impacts goes much farther than this. A complete picture of forces already acting upon a particular environmental resource is essential in making reasonable decision about the management of that resource. In sources of impact exist, whether they are on private or public land, or whether they were taken in the past, are ongoing now, or have a reasonable chance of occurring in the afuture when the pacts of the proposal are also ongoing, their combined impacts give decision-makers and the public a clear idea of the “absolute” impact the resource is experiencing.” (DO-12 p. 25)

The EA’s conclusion that the Preferred Alternative would result in “major, long-term, and adverse” impacts on the historic resources and cultural landscapes **applies not only to the Jefferson Memorial but to the character of the whole Mall.** The EA, however, does not acknowledge that fact or take the necessary steps to evaluate the project in terms of its much larger historic and environmental effects.

A full consideration of the cumulative effects of this and the Lincoln Memorial project should consider a number of past, ongoing, and future projects. The effects on the L’Enfant and McMillan concepts of the Mall must be evaluated. The security improvements need to be seen in association with the NCPC’s design for future security

plinth walls lining Independence and Constitution Avenues. And the plans for bollards and walls at the Jefferson – and the adverse impact the EA identifies – must be understood within the context of future security measures that will no doubt be proposed for the other monuments on the Mall: the Vietnam and Korean Veterans Memorials, the World War II Memorial at 17th Street, and the proposed Martin Luther King Jr. Memorial at the northwest corner of the Tidal Basin.

The EA is inadequate to assess the historic and environmental impacts of the proposed security improvements at the Jefferson Memorial. The Coalition urges the NPS to start again and follow the spirit and letter of NEPA and DO-12.

The Lincoln Memorial EA has the same inadequacies and also should be begun again, following the laws and regulations set out by NEPA and the National Park Service regulations and policies.

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