

Senate Committee on Energy and Natural Resources

Subcommittee on National Parks

Testimony for Senate Hearing on S. 2419 and H.R. 4882 as amended

Patricia Gallagher, Executive Director

National Capital Planning Commission

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Thank you for the opportunity to provide testimony on S. 2419 and H.R. 4882 related to the Vietnam Veterans Memorial Visitor Center (“Visitor Center”). The National Capital Planning Commission and the Administration actively support a Visitor Center to inform and educate the public about the Vietnam Veterans Memorial and the Vietnam War. We also support a sound process for site selection that includes development and evaluation of environmental and historical information and an opportunity for public input as provided under the Commemorative Works Act process. It is important to note that the National Park Service has nearly completed an Environmental Assessment, and will solicit public comment by the end of May, such that a site selection decision can move forward at NCPC’s August 3, 2006 meeting.

The Bills.

The Commemorative Works Act process provides an important opportunity for the public to review the site for a commemorative work like this Center on the National Mall—one of the nation’s most important public spaces; and provides for gathering and evaluating important environmental and historic preservation data in order to permit informed decisions about siting and design. The Commemorative Works Act process takes into account possible impacts, facilitates the development of design parameters and mitigation for the effects of the siting decision, and assures the best siting and design for a Visitors Center and a National Mall that is worthy of our honored veterans and the American public. While the text of S. 2419 is not clear,

it appears to preempt meaningful evaluation, public input, and review at the site selection phase, and the concept, preliminary, and final design approval stages as well.

The House bill, H.R. 4882 provides that the site of the Visitor Center will be at an area specified in that bill (“the Bacon Drive site”). It does not override the Commemorative Works Act process for the design phases of the project, including its implementation with NEPA and the National Historic Preservation Act. While H.R. 4882 as amended permits evaluation and public involvement in these design stages, it still precludes evaluation and public involvement at the critical basic stage of site selection.

The Mall is a Special Place That We Have a Special Duty to Protect.

As trustees of our nation’s heritage, all of us—including federal agencies and Congress-- have an important responsibility to site, design, and build commemorative works like the Visitor Center, and to preserve and protect some of the country’s most important buildings and public spaces that grace the nation’s capital. The National Mall is of particular importance as a ceremonial and cultural symbol of America’s rich history. The review and approval procedures embodied in our nation’s laws ensure the provision of important information and provide a means to take into account a full range of important values, including protection of existing monuments, memorials, and open spaces, as well as the development of new commemorative works in ways that enhance our treasured places, our history, and our culture.

The Commemorative Works Act process assures this important outcome. For example, site selection for the Visitor Center may affect historic trees and spaces, views to and from the Lincoln Memorial and the Vietnam Veterans Memorial, traffic at a major gateway to our

nation's capital, and the visitor experience to the Mall. The Public Law that authorized the Visitor Center provides for application of site and design criteria under the Commemorative Works Act and requires that the size of the Visitor Center be limited to "prevent interference or encroachment on the Vietnam Veterans Memorial and to protect open space and visual sightlines on the Mall." The Commemorative Works Act process ensures that the public has an important role and can give views and comment on alternatives for meeting these standards.

Summary of the Review Process to Date.

The impetus for the proposed legislation appears to be a concern that the review process for site selection for the Visitor Center has been slow. A look at the process to date shows that it has moved along appropriately.

Our nation has commemorated Vietnam Veterans with three memorial components on the National Mall. These are: the Vietnam Veterans Memorial Wall and the three service men statue; the women in service to the Vietnam War statue; and the Vietnam Veterans Memorial Plaque. In November 2003, Congress passed Public Law 108-126, authorizing the Vietnam Veterans Memorial Fund (the "Fund") "to construct a Visitor Center at or near the Vietnam Veterans Memorial on Federal land in the District of Columbia, or its environs...." The Act further reinforces that the Commemorative Works Act process, including approval by the National Capital Planning Commission and the Commission of Fine Arts, applies. The second title of the legislation establishes a Reserve on the Mall and underscores that siting of new commemorative works other than the Visitor Center is prohibited in the Reserve.

Congress has made clear that the Visitor Center is to be sited and designed through the thoughtful and public process specified in the Commemorative Works Act as amended in P.L.

108-126. That process provides for site selection that is reviewed by the National Capital Memorial Advisory Commission (the “NCMAC”), and subsequently approved by the Commission of Fine Arts (“CFA”) and the National Capital Planning Commission (“NCPC”). The Public Law specifies certain design requirements, such as that the Visitor Center be underground; it also provides for effective development, review and approval of the design of the Visitor Center. In April of 2004, after several years of work with CEQ, NCPC updated its environmental review procedures with specific provisions for site and design decisions under the Commemorative Works Act to ensure that compliance with the National Historic Preservation Act and the National Environmental Policy Act provides important information to the decision-makers and a key role for the public. This approach assures that there is full and effective vetting and weighing of impacts and values—particularly in such greatly significant places as the National Mall.

After the authorizing legislation was enacted, the Fund worked with the National Park Service to develop and evaluate a number of alternative sites for the Center. In January 2005, the National Park Service and the Fund made available to the public their site selection study, which identified seven alternative sites on or near the National Mall. NPS and the Fund then submitted the study to the National Capital Memorial Advisory Commission (“NCMAC”), and in May 2005, the NCMAC recommended advancing two sites, Site A and Site E—the Department of the Interior South Building—for further study by the National Park Service. (A map with sites indicated is attached). In September 2005, the National Park Service submitted a request for approval of its preferred Site A to the Commission of Fine Arts and the National Capital Planning Commission. That same month, CFA gave conditional approval for Site A,

raising many concerns about the sensitive nature of that site and advising NPS that CFA approval could be given only with the applicant's assurances that the project design would be developed to alleviate CFA's concerns that the Center not detract from the setting of the Lincoln Memorial and the experience of the Vietnam Veterans Memorial.

The National Capital Planning Commission considered the application for site approval at its meeting of October 6, 2005. By a tie vote, the Commission did not approve or disapprove Site A. Rather, it voted unanimously to: "Request that the National Park Service submit a study of the Interior South Building front yard, Site G, and any other sites, to determine if they are feasible for the Vietnam Veterans Memorial Center, using the same level of analysis previously undertaken for Site A; and that (b) The applicant [NPS] will also provide sufficient information on the Center's proposed building program to enable the Commission to better understand the impacts that the Center might have above ground on any site."

NPS conducted a site analysis of Site G. With regard to the Interior South Building front yard, the Department analyzed this option and determined that any change would have a negative impact on the operation of the offices currently located there and the ability of the Department to meet its mission. The Department explained these issues in a letter to NCPC dated October 27, 2005 citing operational, security, public access and design concerns.

On October 28, 2005, NPS resubmitted the preferred site, Site A, for approval along with the additional analysis on Site G for consideration at the December 1, 2005 meeting of the National Capital Planning Commission. The NCPC subsequently removed the project from December meeting agenda, citing the lack of the required Environmental Assessment.

The National Capital Planning Commission developed the updated Policies and Procedures in close consultation with the Council on Environmental Quality—the agency charged with oversight of NEPA—through work that commenced in the year 1999. These updated policies were unanimously adopted by the Commission on April 1, 2004 after approval by the Council on Environmental Quality (“CEQ”). The Visitor Center is only the second Commemorative Work to be reviewed under the new Policies and Procedures, with the first—the Victims of Communism Memorial—being non-controversial and meeting criteria in NCPC’s Policies and Procedures for a categorical exclusion from NEPA. The Council on Environmental Quality (“CEQ”), by letter of December 1, 2005, confirmed that an Environmental Assessment or Environmental Impact Statement is required by NCPC procedures at the site selection stage under the Commemorative Works Act in order to properly inform the Commission and involve the public in the review of the Center. (CEQ’s Letter of December 1, 2005 is attached).

Since that time, NCPC and the National Park Service, with assistance from CEQ, have worked to develop a cooperative and joint approach to an Environmental Assessment. A letter of agreement dated February 15, 2006 and signed by NCPC and NPS, sets forth the substance and process for the EA, and a useful EA is nearing completion. As of May 10, 2006, a revised working draft Environmental Assessment has been circulated for review by the National Park Service and NCPC staff. We expect the NPS will circulate an EA for public comment by the end of May and will, as the sponsoring agency, resubmit a request for site approval. NCPC will expeditiously review the application. Both the National Park Service and NCPC fully expect that this submission will be considered at NCPC’s August 3, 2006 meeting.

Review and Evaluation of Site Selection and Design for this Memorial Protects the Mall.

While the materials that the National Park Service developed in 2005 for site selection for the Visitor Center looked at the effect of the environment on the proposed Visitor Center, there continues to be a need for important information about the effect of the Center on the environment and historic resources of the proposed site, the National Mall, and existing Memorials. The required environmental assessment, the opportunity for the public to engage in the process, and federal review of this project, will result in a Center that the nation's veterans and all Americans can be proud of. This commendable and important project deserves no less. Because of the special importance of the National Mall, and the particular concern of Congress in the Commemorative Works Act that agencies protect other Memorials on the National Mall, this information is crucial.

The site selection process as specified in the Commemorative Works Act should move forward on a course that will ensure the kind of professional evaluation that Congress has recognized as important and useful. Most importantly, this process brings about a much better outcome by taking into account possible impacts, permitting mitigation, and assuring the best siting and design of a Visitor Center on the National Mall that is worthy of the nation's honored veterans and the American public. In summary, the process for review of site selection for the Visitor Center is moving forward quickly without further legislation.

Attachments

