

**STATEMENT OF STEPHEN E. WHITESELL, REGIONAL DIRECTOR, NATIONAL CAPITAL REGION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS OF THE HOUSE COMMITTEE ON NATURAL RESOURCES, CONCERNING THE FUTURE OF THE NATIONAL MALL**

**June 1, 2012**

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Mr. Chairman and members of the subcommittee, it is my pleasure to appear before you today to discuss the future of the National Mall.

The National Mall is a preeminent designed historic landscape that extends from the grounds of the United States Capitol west to the Potomac River, and from the Jefferson Memorial north to Constitution Avenue. It is home to some of the greatest symbols of our country: the Washington Monument, the Lincoln Memorial, the Jefferson Memorial, the Vietnam Veterans Memorial, the Martin Luther King, Jr. Memorial, the Korean War Veterans Memorial, and the World War II Memorial.

**Authorizing a Memorial under the Commemorative Works Act**

The Congress provided specific requirements for establishing memorials on federal lands in the District of Columbia administered by the National Park Service (NPS) and the General Services Administration (GSA) through the Commemorative Works Act (CWA), which was initially passed in 1986, and subsequently amended, most recently in 2003. Typically, a group seeking to commemorate an individual, group, or event, works with a member of Congress to pass legislation that authorizes the memorial and designates a memorial sponsor, which would be responsible for planning, fundraising, design, and construction of the memorial. The CWA grants 7 years for the memorial sponsor to gain all necessary approvals, raise full funding including an amount for future catastrophic maintenance, and obtain a construction permit from the NPS. This authority may be extended for three years by the NPS if all design approvals have been granted and 75% of the necessary funding has been raised, or by Congress enacting a law extending the authority for a period set in that law.

Since the advent of the CWA, over 100 bills have been introduced for memorials and 27 of those have been enacted. Of the 27 memorials, 17 have been completed, 5 are currently in progress, and 5 were not established before their authorization lapsed.

The CWA has proven to be an effective means of evaluating memorial proposals and directing the development of those memorials that are authorized. The procedures and guidelines set forth in the CWA are built on four basic tenets:

- The CWA delegated decision-making of the siting and design of memorials to those agencies already legislatively charged with planning and urban design review authority – the Secretary of the Interior (Secretary) or the GSA Administrator (Administrator), the National Capital Planning Commission (NCPC), and the Commission of Fine Arts (CFA). The CWA also established the National Capital Memorial Advisory Commission (NCMAC), which includes representatives of the NPS, the CFA, the NCPC, the Mayor of

the District of Columbia, GSA, the American Battle Monuments Commission (ABMC), the Architect of the Capitol (AOC), and the Department of Defense (DOD). The NCMAC comments to the authorizing committees of Congress regarding proposed memorials and legislation pertaining to memorials, such as bills to extend a memorial's authorization, and reviews site and design proposals for authorized memorials.

- To maintain the appropriate perspective on the historic importance of the subject of a memorial, the CWA precludes commemorations prior to 25 years from the date of the death of an individual, or the death of the last surviving member of a group, or the occurrence of an historic event.
- The CWA outlines the eligible subject areas for these memorials to be sited on the lands covered by the CWA and limits commemoration of military subjects to major conflicts or branches of service with the intention that most future military memorials would be placed on military lands. When reviewing proposals for military memorials, the NCMAC advises sponsors of the option to locate the memorial on lands under the jurisdiction of the DOD. As a result, such memorials as the National Memorial to Military Working Dogs and the Memorial to Military Spouses have been directed to military properties.
- The CWA addresses where memorials can be built. Although it is called the Commemorative Works Act, Congress provided that its purposes included the protection of the historic L'Enfant and McMillan plans, ensuring continued public use and enjoyment of open space and preserving, protecting and maintaining this limited open space. In 2003, Congress determined that the Mall is a "completed work of civic art" and established an area known as "the Reserve," in which no new memorials would be placed in addition to those already authorized for this location. The Reserve is the core of the great cross-axis of the National Mall.

### **Siting Memorials in the Reserve, Area I and Area II**

Legislation to authorize a memorial grants authority to a named sponsor to seek sites within Area II, which is the area of Washington, DC and its Environs (which includes part of Virginia), outside of Area I and the Reserve. The memorial sponsor may submit a request to the Secretary or the Administrator, as appropriate, to be authorized to consider sites in Area I. Area I, as defined by the CWA, is primarily the portion of the District of Columbia in the immediate vicinity of the National Mall. Its boundaries extend from the grounds of the United States Capitol west across the Potomac River into Virginia and from the Jefferson Memorial north to Lafayette Park. It is an area of deep symbolic significance to the nation. The NCMAC will convene to evaluate the request in a public forum. After discussion and testimony from the public, memorial sponsors, professional witnesses and subject matter experts, if the NCMAC concludes that the subject is of "preeminent and lasting historical significance to the history of the United States," the NCMAC will recommend that the Secretary seek legislation from Congress to allow the memorial to be located within Area I. If the Secretary concurs, the Secretary will notify Congress of this recommendation for Area I placement.

If Congress acts on that request within 150 days and grants that legislative authority, a site can be designated in either Area I or Area II, following the CWA site approval process. Since 1986, of the 27 existing or planned memorials that have been authorized, only 7 have been granted Area I placement.

When Congress established “the Reserve” in 2003, there were 31 memorials already in place or approved for siting on the Mall, including the two memorials not yet built: the World War II Memorial and the Martin Luther King, Jr. Memorial. Congress exercised its legislative prerogative to make exceptions to the prohibition on new memorials, museums, or visitor centers in the Reserve for them, as well as in 2003 for the National Museum of African American History and Culture and in 2009 for a plaque honoring Senator Robert Dole at the World War II Memorial. In the same law that established the Reserve, Congress authorized the placement of the Vietnam Veterans Memorial visitor center in the Reserve.

### **Locating and Designing Memorials under the Commemorative Works Act**

The direction provided by Congress in the CWA has been highly beneficial in guiding decision-making in determining both the location and design of memorials. The process is rigorous and sometimes lengthy, requiring multiple consultations and approvals on the site selection and the design, as well as extensive environmental and historic preservation compliance. It requires the active involvement of multiple agencies and organizations. Under the CWA, design approval begins only after site selection is completed. Construction can only occur after that memorial’s sponsor has satisfied the requirements of the CWA, up to and including providing funds for future catastrophic maintenance and obtaining the construction permit issued by the NPS.

When memorial legislation becomes law, the NPS works with the memorial sponsor to investigate sites on lands eligible for placement of new memorials. The NPS is involved because all the memorials that have been established under the CWA to date were to be sited on parkland or on lands that would be transferred to the NPS. The NPS works closely with memorial sponsors to navigate a complicated series of studies, reviews, design challenges, agency approvals, and environmental compliance.

The search for the site starts with consideration of the memorial’s subject and whether there are locations relevant to it. Sponsors consult with NPS and review the 2001 *Memorials and Museums Master Plan*, a comprehensive study of potential sites produced by the NCPC, the CFA, the NCMAC and the NPS. Investigation typically involves the study of those sites with the most potential for that memorial, consultation with other agencies, the start of the environmental compliance process, and consultation with the D.C. State Historic Preservation Office (DCSHPO) and others. The site selection process concludes after NCMAC has been consulted on potential sites and the CFA and the NCPC have approved the preferred site.

In addition to commenting to Congress on proposed memorials and legislation, the NCMAC is a consulting body to the memorial sponsors regarding a memorial’s location and design. This consultation takes place in meetings that are open to the public following public notice. Differing from the approval roles the CWA assigns to the Secretary, the CFA and the NCPC, the role of NCMAC is advisory.

The CFA and the NCPC typically undertake the site selection and design review process in parallel. The CFA reviews site selection and design for each memorial and must approve both in order for the NPS to issue a permit for construction. The site selection process can take several reviews before a site is approved, and the CFA may apply design guidelines developed with the NCPC. After a site is approved by the CFA, the NCPC, and the Secretary, the CFA will review the design for approval at two stages—concept and final. The CFA site and design reviews takes place in public meetings.

The NCPC must also approve the memorial site and design. The NCPC may apply joint guidelines developed with CFA or develop independent, mitigation-related guidelines as part of the National Historic Preservation Act (NHPA) Section 106 process, or the National Environmental Policy Act (NEPA) process. After approval of the site by CFA, NCPC, and the Secretary, the NCPC will review the design for approval at two stages— preliminary and final. The NCPC requires completion of the NPS’s environmental and historic preservation compliance prior to design approvals being granted. The NCPC site and design reviews takes place in public meetings.

The DCSHPO is consulted during both the site selection and design phases to determine whether the establishment of a memorial could have an effect on historic properties and vistas. Should there be potential for an adverse effect, then, pursuant to NHPA Section 106, the NPS notifies the public and consults with interested parties, who may include members of the public. This may result in a Memorandum of Agreement between the NPS, the DCSHPO, the memorial sponsor, and the Advisory Council on Historic Preservation and others, to mitigate adverse effects.

### **The Effect of the Commemorative Works Act on Future Memorial Proposals**

There are 12 bills currently before Congress to establish 8 new commemorative works. The NCMAC studied these bills and over 70 other memorial bills since 1986 and made recommendations to the committees of Congress designated in the CWA. The NCMAC has recommended amendments, and at times that proposed commemorations would be more appropriately located on lands other than those covered by the CWA, or more appropriately commemorated in a manner other than a traditional memorial. The NCMAC also provides a forum in which memorial sponsors and members of Congress can confer with experts from the NPS, CFA, NCPC, AOC, the ABMC, the DOD, the GSA and District of Columbia government. The NCMAC’s discussions are informed by members of the public, educational institutions, civic organizations, veterans groups, foreign nations and subject matter experts advocating for or against memorial proposals.

The NPS is honored to play a role in the establishment of commemorative works in our nation’s capital and we take very seriously our role and duties in the process. The process for establishing memorials in Washington, as directed by the Congress, has worked very well to ensure that new memorials are thoughtfully considered, appropriately located, and beautifully designed. We expect that all memorials, by virtue of the public process by which they are being established, will have all of these important characteristics and will be a source of pride for our entire nation.

### **Present and Future Uses of the Mall**

The demands on the National Mall are constant and wide-ranging. Each year there are over 3,000 applications for public gatherings, resulting in more than 14,000 event-days of use. The resulting wear and tear damages trees and turf, creating a less-than-desirable appearance of the historic landscape and providing continual maintenance challenges.

It is the NPS's responsibility to manage the National Mall in a way that responds to the ever-increasing visitation with a more sustainable and healthier landscape and improved facilities to accommodate the needs of our visitors. Toward this end, the NPS developed the National Mall Plan (Plan), which was approved by the Secretary on November 9, 2010. The Plan is a blueprint to rehabilitate the National Mall, accommodate high levels of diverse use, protect the historic symbolic landscape, improve energy efficiency and park operations, and better meet the needs of millions of visitors.

Implementing the Plan will require a significant reinvestment estimated at \$600-\$650 million including deferred maintenance. We expect to make this investment through a combination of donated funds, goods, services and public funding. A major fundraising campaign is being undertaken by the nonprofit partner, the Trust for the National Mall (Trust). To date the Trust has raised funds for the new wayfinding system, a mobile phone app, earthquake repairs to the Washington Monument, recycling containers, maintenance equipment, LED lighting, and educational programming.

Several other projects have been or will be completed using American Recovery and Reinvestment Act (ARRA) funds. These include the DC War Memorial (\$4 million), the Lincoln Memorial Reflecting Pool (\$40 million), the Thomas Jefferson Memorial Seawall Rehabilitation (\$14 million), and Phase I of the Potomac Park Levee, an Army Corps of Engineers flood control project to protect the downtown area of the District of Columbia. Ongoing projects include Phase I of the Mall Turf reconstruction project, establishing drainage systems, water collection cisterns, irrigation, and replacing the turf with high-tech sod and compaction-resistant soils with granite curbs. Phase I is expected to be completed in December 2012 at the cost of \$14 million. Additionally, the Constitution Avenue Reconstruction project, from 15<sup>th</sup> Street to 23<sup>rd</sup> Streets, NW, is nearing completion at the cost of \$10 million. Projects under design include further phases of the Mall Turf reconstruction project, the Mall Walkway Study for the sidewalks along the National Mall, the earthquake repairs to the Washington Monument, the World War II Memorial Slurry Wall Rehabilitation to address leaks and prevent damage to the memorial, the Washington Monument Screening Facility and the Thomas Jefferson Memorial Perimeter Security.

Most recently, the Trust sponsored a National Mall Design Competition for three sites out for special treatment in the Plan—the Sylvan Theatre, Constitution Gardens, and Union Square. The NPS will use ideas generated in the competition to create plans to redevelop the Sylvan Theatre and Constitution Gardens, with the Trust initiating a major fundraising campaign chaired by former First Lady Laura Bush, to execute them. The information and ideas for Union Square will be given to the Architect of the Capitol, who now manages the site.

### **Transportation Issues on the National Mall**

The NPS has recently improved the transportation for visitors around the National Mall as it is not possible to provide parking for all its visitors. In February 2012, the NPS contracted with ANC Tours by Martz Gray Line for service in Arlington National Cemetery and for a non-interpretive bus from Union Station to the Cemetery, with stops along the National Mall. On April 5, 2012, the NPS signed a short-term contract with Open Top Sightseeing for interpretive bus tours of National Mall sites and to provide transfer points to its citywide tours. In addition, the NPS is working with Capital Bikeshare and the District of Columbia Department of Transportation to increase access to rental bicycles on or near the National Mall, and 5 stations have recently been added. The NPS is currently revising its regulations for pedicabs to manage this mode of transportation.

Mr. Chairman, this concludes my statement. I would be pleased to respond to any questions you or the other members of the subcommittee may have.