



National Trust *for*
Historic Preservation®

September 16, 2026

Tammy Stidham
Associate Regional Director – Lands & Planning
National Park Service
1100 Ohio Drive SW
Washington, DC 20242

via email: tammy_stidham@nps.gov

Re: Proposed Triumphal Arch at Memorial Circle, Washington, DC

Dear Ms. Stidham,

The National Trust for Historic Preservation (“National Trust”) thanks the National Park Service (“NPS”) for the opportunity to comment on the revised Assessment of Effects Report for the proposed Triumphal Arch at Memorial Circle. The National Trust also appreciates NPS’s extension of the comment deadline to September 16th. As we have stated in previous letters, the Section 106 consultation for this undertaking is unreasonably rushed, especially given the extraordinary magnitude of the proposed project’s adverse effects, and the unparalleled national significance of the dozens of historic resources that would be adversely affected. The National Trust believes that it is also necessary for NPS to pause this consultation to address multiple critical, unresolved issues of national importance, including significant deficiencies regarding compliance with established statutory and regulatory requirements.

One of these critical issues is that NPS is required by the NHPA and its implementing regulations to seek to avoid and minimize adverse effects, yet it has failed to do so. 54 U.S.C. §§ 306101-02, 306108, 306131; 36 C.F.R. § 800.6(a). The Assessment of Effects further documents NPS’s refusal to consider any changes to the location, height, scale, mass, or design of the proposed Arch. NPS’s refusal to consider such avoidance or minimization measures is a violation of NPS’s legal responsibilities and has rendered this Section 106 consultation virtually meaningless. More recently, the late afternoon release on September 15 of a Memorandum of Agreement that the consulting parties have only 3½ business days to review – without even waiting for comments to be received on the Revised Assessment of Effects – confirms the perception that the NPS is merely going through the motions and has no intention of taking into account the effects of the project or responding to any comments.

Even simple, common sense design changes that would help avoid adverse effects have been barred from consideration. For example, the National Trust is deeply concerned by the proposed Arch’s elevated observation deck. It is extremely disrespectful to construct a platform from which tourists will be able to look down into Arlington National Cemetery

and witness and even photograph the funeral services of our nation's fallen heroes. The Assessment of Effects simply ignores this outrageous adverse effect, even though it could be easily avoided by eliminating the observation deck from the design.

Similarly, the Assessment of Effects fails to reasonably consider many of the disrespectful adverse effects that the rushed construction of the proposed Arch will inflict upon Arlington National Cemetery. The proposed construction timeline is 2-3 years, during which construction will be 7 days a week, 20 hours a day.¹ During that time, there will continue to be as many as 27 funeral services conducted at Arlington National Cemetery per day.² Yet the Assessment of Effects fails to consider specific measures to avoid or minimize the effects of construction on those services, and NPS refuses to explore any avoidance or minimization options that would require significant changes to the proposed Arch's design or construction timeline.

Consider that the rules of Arlington National Cemetery require visitors to "speak quietly" and "respect funeral services" so that "each funeral is executed with the utmost dignity and respect".³ Federal law bans musical instruments, loudspeakers, and audio devices within Arlington National Cemetery. 32 C.F.R. § 553.33(9). NPS is now proposing to subject this sacred space to years of loud, intrusive construction noise and disruption, while placing a massive new structure within its historic viewshed.

NPS's assertion that they will coordinate with Arlington National Cemetery to avoid or minimize construction noise and traffic impacts to funeral services is impossible given the number of funeral services conducted daily and the pace of construction proposed. The construction timeline for the Arch and the scale of its construction due to its massive size is simply incompatible with the number of funeral services conducted daily at Arlington National Cemetery. NPS must further evaluate this undertaking's likely adverse effects related to construction activities and develop specific restrictions that ensure appropriate respect for the funeral services of our nation's heroes.

The National Trust is additionally concerned that multiple other aspects of this consultation are in clear violation of the law. For example, the proposed undertaking is in violation of the Commemorative Works Act, 40 U.S.C. §§ 8901–8910, and the Height of Buildings Act, Pub. L. 61-196, 36 Stat. 452. There is no evidence that Congress has authorized this undertaking as required by the Commemorative Works Act, nor has the Height of Buildings Act been amended to permit the proposed Triumphal Arch to exceed 130 feet (as it was for previous buildings allowed to exceed that limit). NPS cannot advance a Section 106 consultation where the subject undertaking is illegal. The National Trust again urges NPS to pause this consultation to deal with these serious issues.

Any suggestion that this undertaking was somehow authorized by Congress via its adoption

¹ Pg. 11, ¶ 1, Final Assessment of Adverse Effects.

² <https://www.arlingtoncemetery.mil/Funerals/Attending-a-Funeral>.

³ <https://www.arlingtoncemetery.mil/Visit/Visitor-Tips> and <https://www.arlingtoncemetery.mil/Funerals/Attending-a-Funeral>.

of the 1924 Report of the Arlington Memorial Bridge Commission, or that this proposed undertaking is somehow consistent with that report, is ridiculous on its face. The adoption of a report recommending two slender 166-foot columns at Memorial Circle cannot be reasonably construed to authorize the construction of a massive, bulky 250-foot Arch. The difference between the two proposals is dramatic and obvious. The adoption of a report by Congress almost 100 years ago also cannot provide authorization for a newly proposed project. In any event, if this project is supposedly an execution of the 1924 Report, we agree with the DC State Historic Preservation Office that the NPS must at the very least evaluate alternatives that literally incorporate the 1924 McKim Mead & White design, with two narrow columns limited to 166 feet in height and separated by 300 feet.

Before proceeding to the next step of the Section 106 consultation process (which NPS has already improperly invoked), a number of legal deficiencies must be addressed and corrected, in addition to the Commemorative Works Act and the Height of Buildings Act, For example:

- **NPS has failed to identify all historic properties within the Area of Potential Effects.** During the September 9 consultation meeting, Arlington County and the Virginia SHPO both pointed out that the identified historic properties included only properties listed in the National Register of Historic Places, but the NPS failed to include properties *eligible* for the National Register, as required by the Section 106 regulations, 36 C.F.R. § 800.16(*I*). This egregious omission must be corrected before moving on to considering how the adverse effects can be avoided, minimized, and/or mitigated.
- **NPS has failed to resolve disagreements regarding No Adverse Effect determinations.** We appreciate that the NPS is now acknowledging that at least 42 historic properties will be adversely affected, including 6 National Historic Landmarks, 8 historic districts, 8 cultural landscapes, and 20 individually significant historic properties. However, consulting parties have expressed disagreement with some of the NPS's No Adverse Effect determinations, and those disagreements must be resolved before moving on to the next step of the consultation process by referring the disagreement to the Advisory Council on Historic Preservation, as required by 36 C.F.R. § 800.5(c)(2). For example, the DC SHPO has cited a disagreement with the No Adverse Effect determination for Theodore Roosevelt Island, and the National Trust continues to disagree with the NPS assumption that visual impact from the publicly accessible rooftop of a building is inherently not adverse.
- **NPS has failed to comply with Section 110(f) of the National Historic Preservation Act.** For the six adversely affected National Historic Landmarks, the NPS has failed to comply with the requirement to "undertake such planning and actions as may be necessary to minimize harm to the landmark" "to the maximum extent possible." 54 U.S.C. § 306107.
- **NPS has failed to comply with the National Environmental Policy Act (NEPA).** The Finding of No Significant Impact (FONSI) was issued on June 18, 2026

(just three days after the first Section 106 consultation meeting), and was completely unsubstantiated. It also provides additional evidence that NPS is merely going through the motions of a review, and has already made its decision. At the September 9 meeting, NPS stated its intention to conduct an updated NEPA review, but that it would not allow any public comment! In light of the acknowledged adverse effects on 42 historic properties, and the receipt of more than 100,000 public comments in opposition to the project, the failure to prepare an Environmental Impact Statement and the failure to allow public comment during the NEPA review is indefensible.

- **NPS has failed to ensure compliance with Section 4(f) of the Department of Transportation Act.** As we have previously pointed out, the Federal Aviation Administration and Federal Highway Administration have review and approval roles for this project that require compliance with Section 4(f), which prohibits the "use" of historic sites and parks unless there is no feasible and prudent alternative, and the project includes "all possible planning to minimize harm." 49 U.S.C. § 303(c); 23 C.F.R. Part 774. Not only would the proposed Arch be built directly on federal historic park land, thus resulting in a "use," but the Arch would also result in a "constructive use" of Arlington National Cemetery, because "the project's proximity impacts [would be] so severe that the protected activities, features, or attributes that qualify the property for protection [would be] substantially impaired." 23 C.F.R. § 774.15(a).

Overall, the National Trust remains deeply concerned that NPS's approach to this undertaking is both legally inadequate and fundamentally disrespectful to Arlington National Cemetery and the dozens of other historic resources that would be adversely affected. There are numerous critical issues that have not been adequately addressed during this consultation, and the subject undertaking is blatantly illegal. The National Trust urges NPS to slow down the unreasonably accelerated pace of this Section 106 consultation to consider these critical issues and to allow for a more reasonable evaluation of the proposed undertaking's adverse effects.

Sincerely,



Elizabeth S. Merritt
Deputy General Counsel



Chris Cody
Senior Associate General Counsel