UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA ALEXANDRIA DIVISION

COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA,

Plaintiff,

v.

NATIONAL PARK SERVICE,

U.S. DEPARTMENT OF THE INTERIOR,

DOUG BURGUM, in his official capacity as Secretary of the Interior,

and

JESSICA BOWRON, in her official capacity as Comptroller exercising the Delegated Authority of the Director, National Park Service,

Defendants.

Case No. 26-cv-3372 (LMB-WEF)

AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff the County Board of Arlington County, Virginia ("Arlington County" or "the County"), by and through its undersigned counsel, alleges as follows:

INTRODUCTION

1. The Trump-Vance Administration has made it a priority to remake the physical landscape of the Nation's Capital in President Trump's image and based on his whims, destroying treasured public spaces in the process. Among these efforts have been the demolition of the White House's East Wing and flattening of its iconic Rose Garden, the shuttering (and contemplated demolition) of the Kennedy Center, the felling of hundreds of mature, healthy trees in service of transforming East Potomac Park into a championship-style golf course, and the botched renovation of the Lincoln Memorial reflecting pool.

2. This case concerns President Trump's latest vanity project, the construction of a 250-foot "Triumphal Arch and Military Complex" on Memorial Circle at the western end of Arlington Memorial Bridge. As contemplated, the Arch will dwarf Paris's Arc de Triomphe and directly obstruct the line of sight between the Lincoln Memorial and Arlington National Cemetery that was deliberately created to symbolize the nation's post-Civil War reunification. President Trump first unveiled the Administration's plan to construct the Arch in October 2025, hailing it as a monument to the 250th anniversary of American Independence. After the plan faced intense public scrutiny and a legal challenge, the President suddenly announced the Arch would serve as both a public monument and a "top grade Military Complex/Triumphal Arch," which will store large quantities of ammunition and "house, store, and have the rapid ability to use large numbers of drones, plus Snipers."[1]

[1] Donald J. Trump (realDonaldTrump), Truth Social (Sept. 20, 2026, at 07:34 ET), https://perma.cc/7YAR-Q54L.

3. Memorial Circle, where this new tourist destination and military complex is to be located, sits within a busy traffic corridor that each day carries large numbers of commercial, personal, and emergency vehicles, as well as pedestrians and cyclists, within Arlington County, Virginia, and between the County and the District of Columbia. Construction of the Arch on Memorial Circle will accordingly cause significant harm to Arlington County and its residents.

4. Memorial Circle is part of the District of Columbia but is located on the Virginia side of the Potomac River and contiguous to the County itself, directly abutting County land. Construction of the Arch will harm public safety in Arlington by clogging thoroughfares needed for emergency transport services run by the County, including emergency services for Arlington National Cemetery and secondary emergency services for nearby Ronald Reagan Washington National Airport. It will cause substantial traffic backups along roads that feed into the Circle, requiring the County to expend significant resources to mitigate increased traffic. The stationing of drones and military assets at the Arch will prevent, or substantially interfere with, the County's ability to operate its own law-enforcement drone program in the area and thus harm public safety. And the Arch will significantly and detrimentally affect many historic properties in Arlington, including Arlington National Cemetery. Using the Arch to store large stockpiles of ammunition and as a staging point for drones and snipers, so close to commuters and tourists, will dramatically worsen these public-safety harms and the risk of accidents.

5. The National Park Service, the agency responsible for projects on national park land such as Memorial Circle, has spent months purporting to undertake a routine evaluation of whether to authorize construction of the Arch. But its truncated review reveals that NPS's entire process has been nothing more than pretext designed to shore up legal justifications for building the Arch in accordance with President Trump's repeated marching orders. For example, NPS invoked a

facetious congressional authorization to undertake the project; failed entirely to consider the impact that a major military complex intended for drone warfare and snipers would have on the environment, on other historic properties, on Arlington County and its residents, or on visitors to Arlington National Cemetery; failed to complete the environmental review required by the National Environmental Policy Act; and abruptly extinguished the statutorily required historic preservation process without securing a memorandum of understanding with consulting parties. That is because NPS was obviously never going to reach any decision other than to authorize construction in accordance with the President's wishes.

6. Without congressional authorization, building the Arch violates the Commemorative Works Act (CWA), which prohibits construction of memorials within the District of Columbia without congressional authorization. It also violates 40 U.S.C. § 8106, which more broadly prohibits erection of structures within the District on Federal land without express congressional authorization. NPS has not obtained authority from Congress, nor even attempted to do so, relying instead on a long-abandoned plan to build different structures nearby more than a century ago.

7. NPS's approval of the Arch project also violates the NPS Organic Act, which requires that the agency act in a manner that conserves the resources of the national park system. The Arch sits within the George Washington Memorial Parkway unit, which was created by Congress as a park, parkway, and playground system. A "Triumphal Arch and Military Complex" is wholly incongruous with the purposes Congress mandated for the park unit in which the project would sit. The decision is thus contrary to law in violation of the Administrative Procedure Act (APA), *see* 5 U.S.C. § 701 *et seq*.

8. NPS's decision to authorize construction of the Arch is also arbitrary and capricious. NPS failed to consider many important aspects of the issue before it, including the serious safety risks

inherent in the plan; relied on the asserted purpose of commemorating the semiquincentennial without addressing the military rationale the government now proffers; ran counter to the evidence by relying on a faulty finding that the Arch will not hinder air navigation; exceeded the agency's authority by greenlighting a massive project without authorization or funding by Congress; and reached an illogical decision that cannot be ascribed to differences in judgment.

9. Further, as part of the project development process, NPS was required to comply with the National Environmental Policy Act (NEPA) by taking a "hard look" at the environmental impacts of the Arch project. That statutorily mandated process obligated the agency to consider the many ways the project will harm the human environment, including its historic, cultural, and aesthetic impacts, and to evaluate reasonable alternatives and mitigation measures.

10. NPS failed to meet those obligations. Rather than conduct a thorough review, NPS instead completed a cursory and conclusory Environmental Assessment (EA), which it relied on in issuing a Revised Finding of No Significant Impact (FONSI) that concluded it had no obligation to prepare a more detailed Environmental Impact Statement (EIS). In doing so, NPS relied on a statement of purpose and need that sits in fatal tension with the sole alternative assessed by the agency; failed to consider reasonable alternatives that would advance the project's stated purpose and need; improperly dismissed or minimized harms that the agency acknowledged the project will cause; and outright ignored other significant impacts of the project. Indeed, NPS completed a revised EA considering additional traffic impacts even after President Trump's announcement of the decision to "convert" the Arch "into a top grade Military Complex"[2] but still failed to consider or in any way acknowledge the plan to situate snipers, drones, and military assets in a tourist attraction in a high-traffic corridor. NPS thus failed to consider the additional harms accruing from that decision.

[2] *Supra* note 1.

11. Finally, NPS also violated the National Historic Preservation Act (NHPA) by failing to adequately respond to—and indeed largely ignoring—comments on the Arch project from the Advisory Council on Historic Preservation. In so doing, NPS failed to account for the Arch project's impact on historic resources, including those within Arlington County.

12. The County brings this lawsuit to halt the agency's feverish pace to construct a Triumphal Arch and Military Complex in national park land in the Nation's Capital, in blatant violation of numerous acts of Congress.

PARTIES

13. Plaintiff the County Board of Arlington County, Virginia, is the governing body of Arlington County, a political subdivision of the Commonwealth of Virginia. The County owns, maintains, or is responsible for many of the roadways and multimodal facilities that connect Memorial Circle to surrounding roadways and carry vehicular traffic within Arlington and between Arlington and the District of Columbia. The County also has institutional and operational interests in maintaining safe traffic flow, providing timely and efficient emergency and public-safety responses across that transportation network, and protecting identified historic and environmental resources. The County has approximately 245,000 residents, a substantial proportion of whom commute for work or other needs on a daily basis in ways that will be harmed by increased traffic on and near Memorial Circle. Washington Reagan National Airport (DCA) is also located within Arlington County, and increased traffic at the busy and often-crowded airport has become a significant quality-of-life and safety issue for residents. Construction of the Triumphal Arch will very likely necessitate changes to the flight paths of jets arriving or departing from DCA, which is likely to increase noise and pollution over Arlington's main business and residential corridors.

14. Pursuant to Virginia Code §§ 15.2-702 and 15.2-1404, the County may sue "in its own name in relation to all matters connected with its duties."

15. Defendant National Park Service (NPS) is a bureau within the U.S. Department of the Interior. 54 U.S.C. § 100301. NPS is an agency within the meaning of the Administrative Procedure Act (APA), 5 U.S.C. §§ 551(1), 701(b)(1), and is headquartered in Washington, D.C. NPS is the federal agency with primary jurisdiction over the government's planned construction of the Triumphal Arch and issued the Decision Record to approve construction of the Arch, as well as the Revised EA and FONSI, and the response to comments from the Advisory Council on Historic Preservation that are challenged here.

16. Defendant U.S. Department of the Interior is an agency within the meaning of the APA, 5 U.S.C. §§ 551(1), 701(b)(1), and is headquartered in Washington, D.C. NPS's operations are overseen by Interior's Assistant Secretary for Fish and Wildlife and Parks.

17. The office of NPS Director is currently vacant. Defendant Jessica Bowron, the agency Comptroller, assumed the role of Acting Director of the National Park Service on or about January 20, 2025 and more recently has been referred to as the "Comptroller Exercising the Delegated Authority of the NPS Director." She is sued solely in her official capacity. The Director is responsible for "the supervision, management, and control of [National Park] System units." 54 U.S.C. § 100302(a)(3).

18. Doug Burgum is the Secretary of the Interior and is sued solely in his official capacity. As Secretary, Mr. Burgum has oversight over all decisions and actions of the National Park Service and is responsible for ensuring compliance with federal law in all NPS actions related to the Triumphal Arch.

JURISDICTION AND VENUE

19. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under federal law.

20. The Court has authority to enter a declaratory judgment and to provide preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure; the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202; the All Writs Act, 28 U.S.C. § 1651; and the Court's inherent equitable powers. The APA further authorizes the Court to grant temporary and permanent relief from, and to vacate and set aside, agency action. 5 U.S.C. §§ 705-706. These sources of authority allow the Court to issue the relief sought in this action, which does not include money damages.

21. Venue is proper in this district because Plaintiff resides in this district and Defendants are officers, employees, or agencies of the United States. 28 U.S.C. § 1391(e).

LEGAL FRAMEWORK

The Commemorative Works Act and Section 8106

22. Following what some described as "monumental chaos" over the creation of the Vietnam Veterans Memorial, Congress passed and President Reagan signed the Commemorative Works Act of 1986. *See Hearing Concerning H.R. 1693 Before the Subcomm. on Nat'l Parks, Forests & Pub. Lands of the H.R. Comm. on Nat. Res*. (Mar. 6, 2008) (statement of Katherine H. Stevenson, Acting Assistant Dir., Bus. Servs., Nat'l Park Serv.), https://perma.cc/3DYC-RGES. A House report recognized the need for legislation due to "numerous groups" seeking to place additional commemorative works in the District. Straus, Commemorative Works in the District of Columbia, supra, at 7.

23. The CWA established "a statutory process for the creation, design, and construction of commemorative works in the District of Columbia." *Id*. at i. The Act was intended to, among other things, "preserve the integrity of the comprehensive design of the L'Enfant and McMillan plans for the Nation's Capital"; "ensure the continued public use and enjoyment of open space in the District of Columbia and its environs"; "preserve, protect and maintain the limited amount of open space available to residents of, and visitors to, the Nation's Capital"; and "ensure that future commemorative works . . . are appropriately designed, constructed, and located [and] reflect a consensus of the lasting national significance of the subjects involved." 40 U.S.C. § 8901.

24. The CWA defines "commemorative work" as "any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or other significant element of American history." *Id*. § 8902(a)(1); *see also Friends of Iwo Jima v. Nat'l Cap. Planning Comm'n*, 176 F.3d 768, 772 (4th Cir. 1999). It governs commemorative works "in areas administered by the National Park Service and the Administrator of General Services in the District of Columbia and its environs." 40 U.S.C. § 8901(4).

25. When Congress authorizes a commemorative work, it designates a "sponsor" to establish the work. *Id.* § 8902(a)(4). The sponsor must consult with the National Capital Memorial Advisory Commission "regarding the selection of alternative sites and design concepts." *Id*. § 8905(a)(1). After that consultation, the Secretary of the Interior or the Administrator of General Services "must submit, on behalf of the sponsor, site and design proposals to the Commission of Fine Arts and the National Capital Planning Commission for their approval." *Id*. § 8905(a)(2). These actors must ensure that the commemorative work "does not interfere with, or encroach on, an existing commemorative work" and that "to the maximum extent practicable, it protects open space,

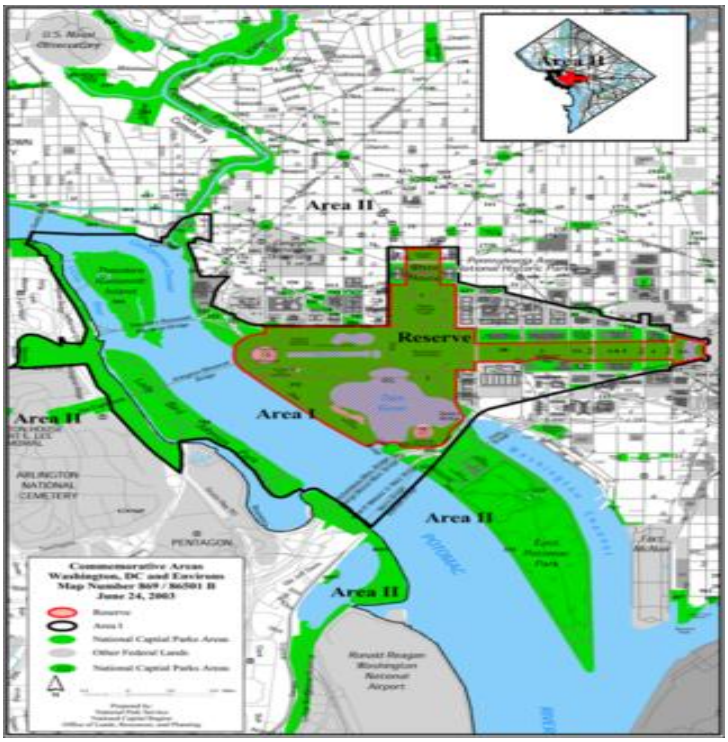
existing public use, and cultural and natural resources." *Id*. § 8905(b)(2)(A)–(B). The Secretary or Administrator may issue a construction permit only if, among other requirements, "knowledgeable individuals qualified in the field of preservation and maintenance have been consulted . . . to ensure that the commemorative work meets high professional standards." *Id*. § 8906(a)(2).

26. A commemorative work for an event, an individual, or a group of individuals generally "may not be authorized until after the 25th anniversary of the event, death of the individual, or death of the last surviving member of the group." *Id*. § 8903(c).

27. The CWA is intended to, among other things, "preserve, protect and maintain the limited amount of open space available to residents of, and visitors to, the Nation's Capital," *id*. § 8901(3); and "to ensure that future commemorative works in areas administered by [NPS] . . . in the District of Columbia and its environs . . . are appropriately designed, constructed, and located; and reflect a consensus of the lasting national significance of the subjects involved." *Id*. § 8901(4).

28. Accordingly, commemorative works "may be established on" the specific federal land set forth in the statute "only as specifically authorized by law." *Id*. § 8903(a)(1).

29. The CWA sets out specific areas (Area I and Area II) in which additional restrictions apply. NPS has published a map delineating the boundary of those areas:



Commemorative Areas Washington, DC and Environs (Map Number 869/86501 B), Nat'l Park Serv. (June 24, 2003), https://perma.cc/NS43-RCZ3.

30. Within Area I (which encompasses Memorial Circle), a commemorative work is "deemed to be authorized only if the recommendation [to construct the work] is approved by law not later than 150 days after" Congress is notified of the recommendation of the Secretary of the Interior. 40 U.S.C. § 8908(b)(1).

31. Further, and generally applicable to the District of Columbia as a whole (and not just commemorative works), under 40 U.S.C. § 8106, "[a] building or structure shall not be erected on any reservation, park, or public grounds of the Federal Government in the District of Columbia without express authority of Congress." "Section 8106 bars construction on parks and other public grounds of the federal government specifically in the District of Columbia, unless Congress provides 'express authority' to do so." *Nat'l Trust for Hist. Pres.*, 185 F.4th at 1221 (emphasis added).

The NPS Organic Act

32. The NPS Organic Act requires the Director of NPS to "promote and regulate the use of the National Park System by means and measures that conform to the fundamental purpose of the System units, which purpose is to conserve the scenery, natural and historic objects, and wild life in the System units and to provide for the enjoyment of the scenery, natural and historic objects, and wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." 54 U.S.C. § 100101(a).

33. Congress went further in what is referred to as the "Redwood Amendment," in which it "reaffirm[ed], declare[d], and direct[ed] that the promotion and regulation of the various System units shall be consistent with and founded in the purpose established by subsection (a), to the common benefit of all the people of the United States." *Id*. § 100101(b)(2). Accordingly, "[t]he authorization of activities shall be construed and the protection, management, and administration of the System units shall be conducted in light of the high public value and integrity of the System and shall not be exercised in derogation of the values and purposes for which the System units have been established, except as directly and specifically provided by Congress." *Id*.; *see also Nat'l Trust for Historic Preservation in the U.S. v. Nat'l Park Serv.*, 185 F.4th 1185, 1200 (D.C. Cir. 2026) (explaining that with the "Redwood Amendment," Congress "doubled down on its requirement" that the national park system be managed with the protection of the system as a first principle) (subsequent history omitted).

34. "Reading those provisions together, Congress has prohibited any action that does not "conserve the scenery . . . and historic objects" in national parks." *Id*. at 1221 (D.C. Cir. 2026); *see also Nat'l Parks Conservation Ass'n v. U.S. Dep't of the Interior*, 837 F. Supp. 3d 169, 181 (D. Mass. 2026).

35. Said differently, the Fourth Circuit has explained that "a fundamental principle that undergirds every aspect of NPS's management of the National Park System" is that the "agency is forbidden from taking any action that is not consistent with its conservation mission unless Congress has 'directly and specifically' authorized the harmful activity." *Sierra Club v. U.S. Dep't of the Interior*, 899 F.3d 260, 290-91 (4th Cir. 2018).

36. Thus, while NPS has the discretion "to balance the 'sometimes conflicting policies of resource conservation and visitor enjoyment in determining what activities should be permitted or prohibited,' *S. Utah Wilderness All. v. Dabney*, 222 F.3d 819, 826 (10th Cir. 2000), "that discretion is bounded by the terms of the Organic Act itself." *Greater Yellowstone Coal. v. Kempthorne*, 577 F. Supp. 2d 183, 193 (D.D.C. 2008).

Creation of the George Washington Memorial Parkway Park Unit

37. Here, the planned Arch sits within the George Washington Memorial Parkway (GW Parkway) park unit, and specifically within Lady Bird Johnson Park. Revised EA at 1-2.

38. The GW Parkway was established by Congress in 1931 through the Capper-Cramton Act, Pub. L. No. 71-284, 46 Stat. 482 (1930). Through that Act, Congress directed the acquisition of land for the development and establishment of a "comprehensive park, parkway, and playground system of the National Capital." *Id*.

39. The Capper-Cramton Act expanded on a 1924 Act "[p]roviding for a comprehensive development of the park and playground system of the National Capital." National Capital Park Commission Act, ch. 270, 43 Stat. 463 (1924). That 1924 Act established the National Capital Park Commission (a predecessor to the current National Capital Planning Commission) to "provide for the comprehensive systematic and continuous development of the park, parkway, and playground system of the National Capital." *Id*.

40. In the Capper-Cramton Act, Congress appropriated funds for, among other things: (a) acquisition of land in Virginia, Maryland, and the District of Columbia, provided the land would be used solely for the development of a "park and parkway system"; and (b) the potential purchase of lands for "playground, recreation center, community center, and similar municipal purposes." 46 Stat. 482, 485.

41. "The Capper-Cramton Act provided for development of the specified route in Virginia and Maryland, calling for the preservation and protection of both natural and historic resources, including the gorge and Great Falls of the Potomac, the old Patowmack Canal, and a part of the Chesapeake and Ohio Canal." [3].

42. As described on the Parkway's application for entry into the National Register of Historic Places, the Parkway "commemorates the first president, preserves the natural setting, and provides a quality entryway for visitors to the nation's capital." *Id.*

43. "One of the reasons George Washington Memorial Parkway is nationally significant is that it is associated with a long and continuous planning effort for the Washington, D.C., region." "The principal landscape architect of [the McMillan Plan of 1902], Frederick Law Olmsted, Jr., pushed for parks that would be intensively used, a democratic approach. He urged connections between parks including a road network that would extend parks to the perimeters of the regional city, in particular to Mount Vernon, and along both sides of the Potomac to Great Falls." *Id*. at § 8.

44. "By its very existence, [the GW Parkway] prevents development along the river corridor, and removes development potentially detrimental to the natural resources." *Id*. at § 8.

[3] Nat'l Park Serv., U.S. Dep't of Interior, *National Register of Historic Places Registration Form: George Washington Memorial Parkway* (1995), at 10, https://perma.cc/4MKB-5XYJ.

45. "Lady Bird Johnson Park is a unit of the George Washington Memorial Parkway. The park is an entire island in the Potomac River, one formerly known as Columbia Island until it was renamed in 1968 to honor Claudia 'Lady Bird' Johnson, the wife of President Lyndon Johnson and a staunch advocate for preserving America's natural beauty."[4]

46. Within the Park is the Lyndon Baines Johnson Memorial Grove, a "memorial in the form of a living grove of trees and related facilities to honor Lyndon Baines Johnson, the thirty-sixth President of the United States." Pub. L. No. 93-211, 87 Stat. 909 (1973).

The National Environmental Policy Act

47. More than 55 years ago, Congress passed NEPA, 42 U.S.C. §§ 4321-4370m-11, with the goal of improving environmental protection by requiring federal agencies to assess the effects of their actions on the human environment. *See* Pub. L. No. 91-190, 83 Stat. 852 (Jan. 1, 1970). NEPA is widely considered the first major environmental law in the United States.

48. Through NEPA, Congress "declare[d] a national policy" of "encourag[ing] productive and enjoyable harmony between man and his environment" and sought "to promote efforts which will prevent or eliminate damage to the environment," "stimulate the health and welfare of man," and "enrich the understanding of the ecological systems and natural resources important to the Nation." 83 Stat. 852 § 2, 42 U.S.C. § 4321; *see also* 42 U.S.C. § 4331(a) ("recognizing [] the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man … .").

49. NEPA places an affirmative "responsibility upon the Federal Government to further specific environmental goals," *Kleppe v. Sierra Club*, 427 U.S. 390, 409 (1976), including the

[4] Nat'l Park Serv., *Lady Bird Johnson Park*, https://perma.cc/TC58-HMSJ (last updated Jan. 5, 2024).

mitigation of air and water pollution, prevention of soil erosion, ecosystem protection, and the avoidance of poorly designed transportation infrastructure and urban and suburban sprawl. *See* National Environmental Policy Act of 1969, S. Rep. No. 91-296, at 4 (July 9, 1969).

50. To satisfy NEPA, federal agencies must assess the reasonably foreseeable environmental effects of proposed major federal actions on the human environment. *See* 42 U.S.C. § 4332(2)(C).

51. Effects on the "human environment" include not only ecological effects such as air pollution and harm to endangered species, but also cultural, aesthetic, and economic effects. In enacting the statute, Congress directed that agencies "use all practicable means" to "preserve important historic, cultural, and natural aspects of our national heritage," "assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings," and "attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences," among other goals. 42 U.S.C. § 4331(b).

52. As the Supreme Court has explained, 42 U.S.C. § 4332(2)(C) "is one of the 'action-forcing' provisions intended as a directive to 'all agencies to assure consideration of the environmental impact of their actions in decisionmaking.'" *Kleppe*, 427 U.S. at 409 & n. 18. It "ensures that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts" and that the information is also available to the broader public. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989). It thus prevents agencies from undertaking significant actions only to discover hidden environmental consequences "after resources have been committed or the die otherwise cast." *Id.*

53. Accordingly, "[u]nder NEPA, an agency must take a 'hard look' at any impact the proposed action may have on 'public health or safety,'" *Indian River Cnty. v. Dep't of Transp.*, 348 F. Supp. 3d 17, 43 (D.D.C. 2018) (citation omitted), as well as whether the project might have

significant historic, aesthetic, or cultural impacts on the human environment. *Nat'l Parks Conservation Ass'n v. Semonite*, 916 F.3d 1075, 1082 (D.C. Cir. 2019). In so doing, the agency should focus on any unmitigated adverse effects of the project. 516 DM 1, U.S. Department of the Interior Handbook of National Environmental Policy Act Implementing Procedures ("NEPA Handbook") § 1.2(b) (Feb. 24, 2026).[5]

54. Further, NEPA requires that agencies "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." 42 U.S.C. § 4332(2)(H).

55. As amended by the 2023 Fiscal Responsibility Act, Pub. L. No. 118-5, 137 Stat. 40 (June 3, 2023), NEPA implements those overarching requirements through three potential tiers of environmental review.

56. For actions not otherwise excluded pursuant to an agency's categorical exclusion, 42 U.S.C. § 4336(a)(2), an agency must prepare either an EA or an EIS. 42 U.S.C. § 4336(b); *see also* NEPA Handbook § 1.2.

57. An agency must issue an EIS where the proposed action "has a reasonably foreseeable significant effect on the quality of the human environment." 42 U.S.C. § 4336(b)(1); *see* NEPA Handbook § 1.2(a)(5)(ii).

58. In an EIS, the agency must assess the environmental impact of the agency's proposed action, including any unavoidable adverse environmental effects should the proposed action be implemented, and consider reasonable alternatives to the proposed action. 42 U.S.C. § 4332(2)(C); NEPA Handbook § 2.3(a).

[5] On February 24, 2026, DOI issued a new set of procedures governing the agency's compliance with NEPA. *See* 91 Fed. Reg. 8,738 (Feb. 24, 2026). Those procedures apply to DOI bureaus such as NPS.

59. The scope of an agency's obligation to evaluate alternatives is defined by the project's purpose and need, which is the agency's statement of the "goals" and objectives of the project. *See City of Carmel-by-the-Sea v. U.S. Dep't of Transp.*, 123 F.3d 1142, 1155 (9th Cir. 1997). Said differently, an agency must consider reasonable alternatives that advance the stated purpose of the project and meet the need for the project as identified by the agency.

60. In addition, when an agency issues a notice of intent to prepare an EIS, it is required to solicit public comment on "alternatives or impacts and on relevant information, studies, or analyses with respect to the proposed agency action." 42 U.S.C. § 4336a(c); NEPA Handbook § 2.1(b).

61. For an action that does not have reasonably foreseeable significant effect, or "if the significance of such effect is unknown," the agency must prepare an EA. 42 U.S.C. § 4336(b)(2). An EA shall "set forth the basis" for the agency's finding either that the proposed action will not have a significant impact or that a significant impact is reasonably foreseeable mandating the preparation of an EIS. *Id*.

62. While an agency's obligation to consider alternatives is lessened when preparing an EA, *see Mt. Lookout-Mt. Nebo Prop. Prot. Ass'n v. FERC*, 143 F.3d 165, 172 (4th Cir. 1998), the "existence of a 'viable but unexamined alternative' renders the environmental review conducted under NEPA inadequate." *Env't Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th 850, 877 (9th Cir. 2022) (citation omitted).

63. If the agency determines in an EA that the proposed action will not have a reasonably foreseeable significant effect on the human environment, it issues a FONSI and need not prepare an EIS. 42 U.S.C. § 4336e(7); NEPA Handbook § 6.1(a).

64. While a major federal action remains pending, agencies have a continuing obligation to evaluate the effects of changes to the project. *See Hughes River Watershed Conservancy v.*

Glickman, 81 F.3d 437, 443 (4th Cir. 1996) ("First, the court must determine whether the agency took a hard look at the proffered new information. Second, if the agency did take a hard look, the court must determine whether the agency's decision not to prepare a supplemental [analysis] was arbitrary or capricious."); *Clinch Coal. v. Damon*, 316 F. Supp. 2d 364, 376 (W.D. Va. 2004) ("A supplemental NEPA document, either an EA or an EIS, is required if new information 'present[s] a seriously different picture of the environmental impact of the proposed project from what was previously envisioned.'" (citation omitted)); NEPA Handbook §§ 3.6, 6.1(j).

The National Historic Preservation Act

65. Like NEPA, the NHPA "is a 'stop, look, and listen' provision" that "requires federal agencies to take into account the effect of their actions" on historic properties, including "structures eligible for inclusion in the National Register of Historic Places." *Ill. Com. Comm'n v. ICC*, 848 F.2d 1246, 1261 (D.C. Cir. 1988). Specifically, "NHPA's Section 106 requires federal agencies to 'take into account the effect of' their 'undertaking[s] on any historic property.'" *United Keetoowah Band of Cherokee Indians v. FCC*, 933 F.3d 728, 733 (D.C. Cir. 2019) (citing 54 U.S.C. § 306108).

66. Under Section 106, "[t]he head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking, prior to approval, of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, shall take into account the effect of the undertaking on any historic property." 54 U.S.C. § 306108.

67. An "undertaking" under Section 106 is any "project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including . . . those carried out with Federal financial assistance; and those requiring a Federal permit, license, or approval." *Id*. § 300320.

68. In fulfilling the Section 106 obligation, agencies must "consult with certain stakeholders in the potentially affected areas." *City of Phoenix v. Huerta*, 869 F.3d 963, 971 (D.C. Cir. 2017). The head of the relevant federal agency must "afford the [Advisory Council on Historic Preservation] a reasonable opportunity to comment with regard to the undertaking." 54 U.S.C. § 306108. The agency also must consult with the public, whose "views . . . are essential to informed Federal decisionmaking in the section 106 process." 36 C.F.R. § 800.2(d)(1). Accordingly, before undertaking a project, an agency must generally "provide the public with information about an undertaking and its effects on historic properties and seek public comment and input." *Id*. § 800.2(d)(2). "If an agency determines that no historic structures will be adversely affected, it still has to 'notify all consulting parties' . . . and give them any relevant documentation." *City of Phoenix*, 869 F.3d at 971 (citing 36 C.F.R. § 800.5(c)).

69. If an agency is unable to reach agreement on a memorandum of agreement governing the agency's compliance with the NHPA, 36 C.F.R. § 800.6(c), the agency or the Advisory Council on Historic Preservation (ACHP) may terminate consultation. 36 C.F.R. § 800.7(a). In the event consultation is terminated, the ACHP shall transmit comments on the proposed undertaking within 45 days of termination. *Id*. § 800.7(c).

70. "The head of the agency shall take into account the [ACHP's] comments in reaching a final decision on the undertaking." *Id.* § 800.7(c)(4). This includes "[p]reparing a summary of the decision that contains the rationale for the decision and evidence of consideration of the Council's comments and providing it to the Council prior to approval of the undertaking." *Id*. § 800.7(c)(4)(i).

FACTUAL ALLEGATIONS

The Arch Project

71. In late 2025, without any pretense of prior authorization or funding from Congress, President Trump announced plans to construct a massive new Arch in or near Washington, D.C., to celebrate the nation's 250th anniversary.[6] The President has continued to insist that the Arch will be constructed to "Celebrat[e] 250 Years of America!"[7]

72. In an April 16, 2026 meeting of the Commission of Fine Arts, and months after the President first announced his plans, Secretary Burgum linked construction of the Arch to a 1924 report by the Memorial Bridge Commission that recommended the construction of two 166-foot-high columns on either side of Memorial Bridge near Memorial Circle.[8]

73. Present plans show the Arch will rise 250 feet—more than twice the height of the Lincoln Memorial, taller than a 20-story commercial building, and tall enough to require the placement of an unusual, natural-gas powered "eternal flame" on top to warn pilots approaching nearby Reagan National Airport. The structure itself will consist of reinforced concrete clad in granite and bejeweled with gold statuary in the form of a massive Lady Liberty. The "Triumphal Arch," as the Executive Branch now refers to the project, will be the largest monumental arch in the world.

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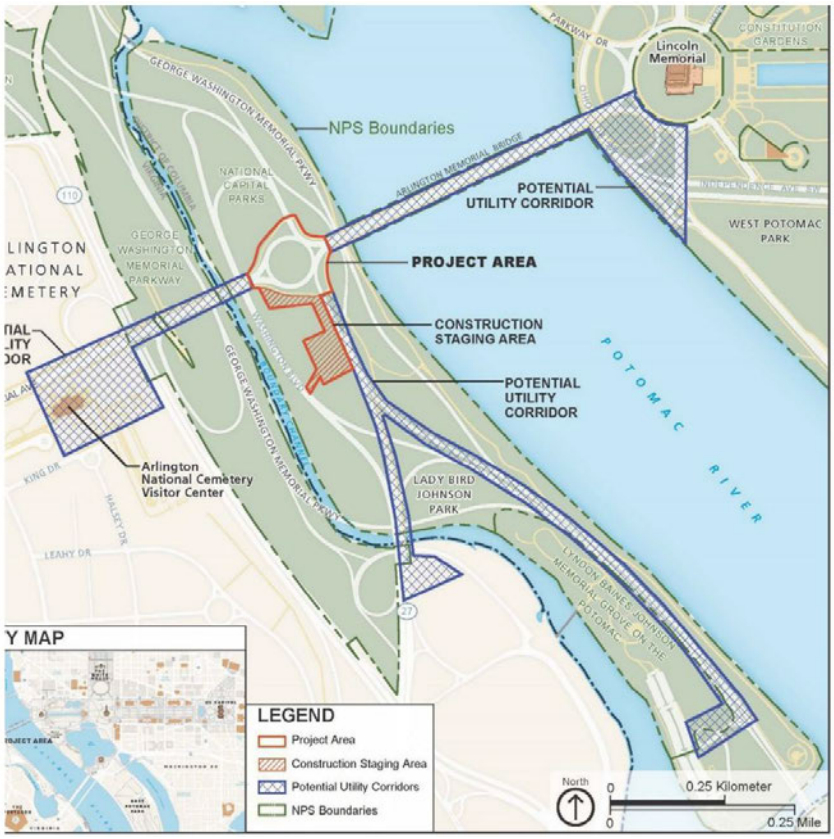
[6] Callum Sutherland, *The 'Arc de Trump': President Shows Off Plans For His Latest Grandiose D.C. Construction Project*, TIME (Oct. 16, 2025), https://perma.cc/KD9S-GSHA.

[7] Donald J. Trump (@realdonaldtrump), Instagram, https://perma.cc/G7X4-EHMW.

[8] U.S. Commission of Fine Arts, Meeting Minutes (April 16, 2026), available at https://perma.cc/C9BA-37E2).



74. The Triumphal Arch will occupy more than 15,000 square feet of ground space in Memorial Circle, a large traffic circle situated between the western end of Arlington Memorial Bridge and Arlington National Cemetery.



75. The Arch will permanently and significantly impair the viewshed of the region that has been cultivated through careful, congressionally authorized planning, including the Potomac River, the area surrounding the Lincoln Memorial, and Arlington National Cemetery. It will directly obstruct the sight line from the Lincoln Memorial to Arlington House, the home of Confederate General Robert E. Lee. For more than a century, that direct sight line has stood as a testament to the reunification of the nation after the Civil War and a point of reflection for visitors to our Nation's Capital and the sacred space of Arlington National Cemetery.

76. On September 20, 2026, following extensive public criticism and litigation brought by Vietnam War veterans seeking to forestall construction, President Trump announced a major expansion to the project's scope:

> At the strong request of the United States Military, and for National Security purposes, I have agreed to convert the magnificent Triumphal Arch, planned since the Civil War Era many years ago, at the Receptive Circle adjoining the Arlington Memorial Bridge, into a top grade Military Complex/Triumphal Arch, to house, store, and have the rapid ability to use large numbers of drones, plus Snipers, on both the roof and plaza areas, and additionally have and hold large quantities of sniper ammunition in storage. There will be no facility like this anywhere in the World. Out of the 59 top cities and Capitals, Washington, D.C., IS THE ONLY ONE IN THE WORLD THAT DOES NOT HAVE A TRIUMPHAL ARCH, but it will now and, by far, the greatest of them all! Thank you for your attention to this matter. President DONALD J. TRUMP.[9]

77. Although the Arch's location in Memorial Circle sits on National Park Service land in the District of Columbia, it is located across the Potomac River from the District proper and is geographically contiguous to Arlington County.

78. The Arch is slated to have five levels of accessible interior space, totaling more than 70,000 gross square feet, including a gallery and an observation deck. Although the Trump administration has recently doubled down on its military plans for the Arch—with Secretary of

[9] *Supra* note 1.

Defense Pete Hegseth attesting in a sworn declaration that the Arch presents "a generational national defense opportunity to mitigate … evolving threats" to the National Capital Region,[10] the government has not revealed where in the structure the snipers and ammunition will be housed relative to tourists and visitors to the observation deck. In addition to the Arch itself, the project will include a public plaza within Memorial Circle, security features, significant exterior lighting, utilities, and permanent traffic modifications.

79. On September 3, 2026, Secretary Burgum announced that "we are preparing to start, over the next two-week period, the excavation work necessary for the Great Triumphal Arch … at Memorial Circle." Sec'y Doug Burgum (@SecretaryBurgum), X (Sept. 3, 2026, 3:01 PM).[11] NPS later asserted, in a declaration filed in separate litigation raising constitutional challenges to the Arch project, that the excavation work was then limited to soil testing. *See Lemmon v. Trump*, No. 1:26-cv-00544, Decl. of Jennifer T. Nersesian, Dkt. No. 57-1 (Sep. 4, 2026).

80. On September 24, 2026, the Advisory Council on Historic Preservation abruptly terminated the Section 106 review process for the Arch without reaching any Memorandum of Understanding with consulting parties.

81. Consistent with its intent to move forward with the project, on October 16, 2026, NPS submitted the Arch for consideration by the National Capital Planning Commission (NCPC) at the Commission's November 5, 2026 meeting.[12] In a filing in the *Lemmon* litigation, NPS gave that court notice that, "[i]n the event the NCPC approves the Proposal at the November 5 meeting and

[10] Decl. of Sec'y Pete Hegseth, *Lemmon*, No. 1:26-cv-00544, Dkt. No. 74-9.

[11] https://perma.cc/YNP3-34UJ.

[12] https://www.ncpc.gov/files/projects/2026/8778_New_Monumental_Arch_Project_Synopsis_Nov2026.pdf.

the Department of Interior thereafter issues a final decision authorizing construction of the Proposal, construction or demolition in preparation for construction of an arch on Memorial Circle could commence immediately upon [NPS] publishing a notice of that authorization on its Planning, Environment and Public Comment website. NPS may publish such notice as early as November 5, 2026, and construction could commence as early as November 5, 2026." *See* Notice, *Lemmon*, No. 1:26-cv-00544, Dkt. No. 63 (Oct. 21, 2026).

82. Final plans submitted to the NCPC "do not include drones, snipers or other features of the 'military complex' that Trump said he would add to the project."[13] The proposal actually considered by the NCPC is thus limited to construction of a monument hosting tourists and other visitors—not a "Triumphal Arch and Military Complex."

83. To that end, "a White House official . . . speaking on the condition of anonymity to discuss an in-progress project, said that the administration did not plan to release any national security-related information about the project at this stage of review." *Id*.

84. NPS's NCPC submissions included final architectural renderings,[14] an analysis of whether the Arch project would violate the Height of Buildings Act,[15] and a project synopsis.[16]

85. Despite NPS's failure to submit any details of the Arch's military purpose to the NCPC, the administration has deployed its national-security rationale strategically to defend against the Veterans' challenge to the Arch in *Lemmon*. One week before the NCPC meeting to consider the

[13] Dan Diamond, *Final plans for Trump's arch appear to abandon his 'military complex' idea*, Wash. Post (Oct. 16, 2026), https://perma.cc/P7B2-KD8M.

[14] Nat'l Cap. Plan. Comm'n, New Monumental Arch: Materials (Nov. 2, 2026), https://perma.cc/L6NL-Y7V8.

[15] Letter from Off. of the Solicitor, U.S. Dep't of the Interior, to Nat'l Cap. Plan. Comm'n (Oct. 2, 2026), https://perma.cc/HE34-JKSE.

[16] Nat'l Cap. Plan. Comm'n, Approval of Final Site and Building Plans (Nov. 5, 2026), https://perma.cc/E4GU-A7F9.

proposal, Homeland Security Secretary Markwayne Mullin attested that the Arch will serve as "a centralized and elevated infrastructure node at a key geographic location" to allow "physical co-location and real-time information sharing" between the five federal agencies that "possess the explicit statutory authority to lawfully conduct" counter-drone activities.[17] Secretary of Defense Pete Hegseth was even more explicit, testifying that the Arch "will be utilized as a dual-purpose structure: a major national monument that also incorporates military utility to support Homeland defense" by "situat[ing] state-of-the-art [counter-drone] defense capacities in the heart of the [national capital region]."[18]

86. The court overseeing that separate litigation ordered the government to provide notice "within thirty minutes of any activity related to or in preparation for the construction of an arch on Memorial Circle." Order, No. 1:26-cv-00544, Dkt. No. 101 (Nov. 4, 2026) (Chutkan, J.).

87. That same day, NPS provided notice that it received an application for a company for "construction mobilization" for the Arch project. Notice, No. 1:26-cv-00544, Dkt. No. 102 (Nov. 4, 2026). The agency explained that it did not intend to approve the application "prior to the National Capital Planning Commission and the Department of the Interior issuing final decisions approving the arch." *Id*. at 2.

88. At its November 5, 2026 meeting, the NCPC received a presentation about the project. The Commission heard several hours of public comment, which was overwhelmingly opposed to the Arch's construction. NCPC approved the project by an 8-4 vote at approximately 10:30 p.m. Although some commissioners requested that the Commission postpone the approval vote to permit time for further consideration—including time to review the final design plans for drone

[17] Decl. of Sec'y Markwayne Mullin ¶¶ 4, 13-14, *Lemmon*, No. 1:26-cv-00544, Dkt. No. 74-8.

[18] Hegseth Decl. ¶ 10, *supra* note 10.

staging, which Defendants had not submitted to the Commission—NCPC pressed forward based on the Department of Interior's assertion that it faced a "time constraint" and required a decision that night. [YouTube]

89. Just twenty minutes after the NCPC vote, Acting Director Bowron issued a decision authorizing construction of the Triumphal Arch. CITE.

90. In its authorization decision, NPS explained that "the purpose of the selected action is to celebrate 250 years of American independence," but that the Arch "is not designed to perpetuate the memory of any individual, group, event or other significant element of American history." Instead, it is "designed to symbolize the profound blessing of living in this great country, America. It symbolizes perseverance, strength, and greatness. It is a monument to the future of America."[19]

91. By way of authority, NPS cites only the 1925 Act and the NPS Organic Act. *Id*. at 10.

92. The agency claimed that the Arch fulfilled the 1925 "original vision of a major feature anchoring [Memorial] Circle." *Id*. at 16.

93. NPS also explained that although the "Secretary of War and the Secretary of Homeland Security have identified national security uses for the Arch, after completion of its construction," "[a]ssessing the Nation's future defense and national security needs is not within the NPS's or the Department of the Interior's regulatory authority." *Id*. at 9.

94. In the Decision Record NPS provided a timeline for construction. The Arch is expected to be completed within 2-3 years. *Id*. at 5. Mobilization work will begin immediately and take 1-5 days; thereafter, excavation work will begin and take 2-3 months. *Id*.

95. On November 5, and immediately after the Decision Record was published by NPS, Judge Chutkan issued a temporary restraining order in *Lemmon*. *See* Order, *Lemmon*, No. 1:26-cv-00544,

[19] Nat'l Park Serv., Decision Record, *Triumphal Arch at Memorial Circle* (Nov. 5, 2026), at 1, https://parkplanning.nps.gov/showFile.cfm?sfid=872006&projectID=136973.

Dkt. No. 110. Therein, the court ordered that "for a period of fourteen (14) days starting from the issuance of this Order, Defendants . . . are enjoined from initiating, making, or otherwise effectuating any construction, excavation, demolition, land-disturbance, utility installation, or roadway-closure activity, or any other construction-related activity at or near Memorial Circle in Washington, D.C., that is for the purpose of constructing an arch at Memorial Circle." *Id*.

NPS's NEPA Review

96. Because the Arch project constitutes a major federal action for purposes of NEPA, NPS was required to conduct an environmental review in accordance with the statute's requirements. 42 U.S.C. § 4336.

97. On June 18, 2026, NPS released an initial EA and FONSI for the Triumphal Arch project. Through this decision, NPS definitively concluded that it has no obligation to prepare an EIS for the project and that it will conduct no further environmental review.

98. In the EA, NPS defined the purpose and need for the project, NEPA Handbook § 1.5(b)(1)(i), as "celebrat[ing] 250 years of American independence by honoring America's founding principles through installation of *a structure* at the intersection of Arlington Memorial Bridge and Memorial Avenue within George Washington Memorial Parkway, in a manner consistent with the avenue's established role as a ceremonial gateway and 'Avenue of Heroes' celebrating valor, sacrifice, and American heritage." EA at 4 (emphasis added).

99. Against that broad purpose and need, NPS assessed only one possibility: construction of the Arch. EA at 6-7. Although NPS has claimed that pillars were originally envisioned for the site decades ago and claimed the original 1925 plan was the rationale for constructing an Arch now, the agency did not consider the alternative of constructing those pillars. Nor did it consider any other alternatives for an arch at Memorial Circle, including a different plaza design or different

traffic modifications. It likewise failed to consider any other alternatives, including honoring America's founding principles through construction of an arch (or any other structure) at a location other than Memorial Circle.

100. In the EA, NPS assessed a variety of impacts of the proposed project, acknowledging that several aspects of the project would cause harm. For example, the agency analyzed existing cultural resources, such as the views between Arlington House and the Lincoln Memorial, and determined the Arch would constitute an "obstruction [that] would" "alter a defining sightline." EA at 20. The agency also assessed the visual impact of the Arch on the surrounding corridor, finding that the "addition of the Arch at Memorial Circle would … introduc[e] a visually dominant vertical element into an area historically defined by open space and low structural forms." EA at 29.

101. As to water resources, the EA found that construction of the Arch would cause "surface water runoff [to] increase substantially because the new impermeable surface would prevent infiltration and evapotranspiration." EA at 35. "This would create long-term increases of runoff volumes, velocities, and peak flows." *Id*. "These conditions increase the risk of flash flooding, erosion at outfalls, roadway ponding, and sediment transport into the Potomac River." *Id.*

102. As to traffic effects, NPS acknowledged that "[r]oadways in Memorial Circle's immediate vicinity experience consistently high traffic demand and serve as a major convergence of regional roadways and travel modes that interact through a complex series of merges, weaves, and intersections." EA at 36. In addition, the area accommodates a significant number of visitors to Arlington National Cemetery, as well as cyclists and pedestrians recreating and commuting. *Id*. at 37.

103. NPS explained that, because of the project, "peak season daily visitation" could increase "40 to 1,500 percent" "over existing conditions," EA at 39; that construction activities "would create broader disruptions" to traffic, "increasing uncertainty and reducing predictability for travelers," *id*. at 41; and that, once the project was completed, conditions at one area of Memorial Circle "could approach the upper limit of roadway capacity, resulting in significant delay, maneuverability, and limited ability to recover from disruptions." *Id*.

104. In a "Pedestrian Circulation Improvements and Signalization Concept Plan" accompanying the EA, NPS evaluated the specific impacts of its plan to adjust pedestrian crossings in Memorial Circle and to add traffic signals to aid pedestrians in accessing the Arch. EA at B-1. As a result of the signalization plan, NPS estimated that some intersections around Memorial Circle would suffer service delays and that the largest impact would occur at the "Washington Boulevard northbound right-turn movement onto the" Arlington Memorial Bridge during the weekday morning peak commuting time. *Id*. at B-14.

105. During construction, NPS estimated that the same part of Memorial Circle would have a "failing" level of service due to delays caused by road closures. *Id*. at B-15.

106. Addressing the signalization plan, NPS also stated a need to obtain additional data to refine the final design. Among the needed data is "[t]raffic volumes within proximity to the proposed [Arch project] site to include weekday and weekend volumes throughout the day," and "[p]rojected [Arch] visitation patterns to better predict the pedestrian calls at the signalized intersection by time of day." *Id*. at B-17. NPS did not, however, obtain or evaluate any such additional data.

107. As to noise, NPS acknowledged the "potential for temporary disturbance at nearby residential and ceremonial areas, providing short-term adverse impacts to the soundscape of the

surrounding areas during construction." EA at 51. So too, "construction noise for two to three years could impact the solemn and ceremonial nature of" Arlington National Cemetery. *Id*.

108. Finally, NPS declined to fully consider the effects of the Arch project on aviation safety. The agency claimed that the Federal Aviation Administration (FAA) had "completed a feasibility study" concluding that the project would not impact "airspace" or "visual or instrument procedures" at DCA. EA at A-2.

109. Despite acknowledging traffic, public-safety, and other impacts and finding that the Arch will substantially and adversely affect numerous historic properties and National Historic Landmarks, NPS determined the Triumphal Arch would have "no significant impact" on the human environment. *See* FONSI at 5-6.

110. For example, the FONSI acknowledged that the Arch would have "adverse effects on the integrity of the corridor's historic viewshed" but found no significant impact because the Arch "does not eliminate historic visual relationships." FONSI at 5; *see also id*. (claiming the Arch is not "wholly incompatible" with the area's historic framework).

111. As to water resources, the FONSI claimed only that "stormwater would continue to be captured and conveyed through existing (and if necessary upgraded) drainage infrastructure … ." FONSI at 7.

112. For traffic impacts, the FONSI concluded only that "long-term traffic delays are not anticipated," because elements of the project would "enhance driver awareness and support safe, orderly movement." FONSI at 8. And for noise, the FONSI admitted that construction could "potentially creat[e] noticeable noise at ceremonies" at Arlington National Cemetery. *Id*. at 9. Finally, the agency concluded, based on FAA's analysis, that the project "would have no significant adverse effect on airspace" at DCA. *Id*. at 10.

113. The day after the County filed this suit, NPS released an amended EA and FONSI. Each makes substantial changes to the agency's prior analysis as described below.

114. First, the Revised EA makes a subtle yet substantial tweak to the project's stated purpose and need. Rather than describe the purpose broadly as construction of "a structure" as was done in the original EA, NPS now refers to the need as simply construction of "an arch." Revised EA at 1. The Revised EA also includes an appendix which offers new post-hoc explanations for why the agency rejected all non-Arch alternatives and all alternatives not located at Memorial Circle. Revised EA at A-1. NPS's statement of purpose and need continues to rest solely on commemoration of America's semiquincentennial and the need to complete the 1925 proposal for developing Memorial Circle—not any military purpose or national-security need to protect the national capital region from penetration by sophisticated drones.

115. In the Revised EA, NPS offered that the agency "dismissed alternative locations outside Memorial Circle because the proposed undertaking is grounded in the historic design intent for the Arlington Memorial Bridge and Memorial Avenue corridor. The location is not being treated as an interchangeable site for a new commemorative feature; rather, it is the specific location identified in the historic planning framework for the bridge, Memorial Avenue, and Columbia Island/Memorial Circle." Revised EA at A-1. Accordingly, the agency stated that, while "[a]lternative locations may reduce or avoid some adverse effects associated with Memorial Circle, [ ] they would also sever the project from the specific historic planning precedent that provides the rationale for the undertaking's placement." *Id*. Unlike the rationale advanced in the *Lemmon* litigation, NPS did not cite any need to construct a structure whose "height and strategic location provide enhanced lines of sight … critical to … security operations."[20]

[20] Hegseth Decl. ¶ 10, *supra* note 10.

116. NPS also rejected construction of a structure other than an arch. The agency admitted that "[d]uring the planning process and the NHPA Section 106 comment period, a wide range of alternative concepts were suggested, including smaller or more discreet commemorations and landscape-based features such as gardens, fountains, walls, benches, reflective areas, or plantings." Revised EA at A-2. Nonetheless, "[t]he purpose and need for action is to celebrate 250 years of American independence by honoring America's founding principles through installation of an Arch in Memorial Circle," *id*., and "[t]he proposed Arch's size, design and statuary are intended to celebrate America's independence through a grand and ornate design. Thus, alternative designs and concepts that did not meet this purpose and need were dismissed." *Id*.

117. Second, the Revised EA describes the new lighting plan for the project as "six approximately 30-foot light poles, each equipped with eight fully shielded, low-spill luminaires. Linear lighting installed along the underside of the Arch's vault would provide illumination of the Arch walls. Sixteen luminaries on the roof deck would light the statues. The winged liberty statue would hold a sculptural torch containing a natural-gas-fueled eternal flame, which would remain continuously lit and serve as the FAA-required obstruction light for aviation safety." Revised EA at 5.

118. NPS noted that "[t]he lighting on the Arch's roof, including the upward-facing lights that illuminate the statuary, would introduce a highly visible, persistent vertical light source, increasing skyglow and adding a prominent illuminated element that diminishes the darkness of the surrounding night-sky environment." Revised EA at 38.

119. Third, the Revised EA contains a new explanation for why the Arch's significant impact on the landscape will not amount to a significant effect. For example, though NPS admits that because the GW Parkway "was carefully engineered to maximize scenic quality, integrating

roadway geometry, river views, reclaimed shoreline, and natural topography, the introduction of a major vertical feature would impact the view of the northern terminus." Revised EA at 21. Against that, NPS claims that the Arch would "enhance the legibility of the northern gateway" and, by virtue of its observation deck, offer "new opportunities for visitors to comprehend long-range spatial relationships along the Potomac River corridor." *Id*. at 21. (Once again, NPS fails to explain how visitors can safely and appropriately be co-located on an observation deck alongside snipers and counter-drone technology.) Similarly, as to effects on the National Mall, NPS explains that, among other things, "construction of the Triumphal Arch would introduce a highly prominent new vertical element into the Monumental Core, resulting in effects to the Washington Monument and Grounds Cultural Landscape. The Arch would alter contributing views and vistas, including long-established axial sightlines and reciprocal views that define the landscape's historic character. Its height, massing, and nighttime illumination would intrude upon the setting and diminish the Washington Monument's traditional visual dominance." Revised EA at 22. NPS also explained that "[a]lthough the Triumphal Arch would introduce adverse effects to this cultural landscape, the views from the observation deck of the Arch would enhance visitor understanding of the monumental core's spatial relationships and commemorative themes." Revised EA at 23. So too, the Arch's "presence would change the landscape's setting and weaken the sense of spatial continuity across the Tidal Basin and West Potomac Park." *Id*. at 23.

120. Finally, the Revised EA includes a new traffic study based on new traffic volume data collected in June 2026. Revised EA at B-1; *id.* at B-3 (data collected "between Wednesday, June 10, and Tuesday, June 17, 2026). The study also appears to offer a new justification for the project, claiming that "[t]he existing pedestrian demand at [Arlington Memorial Cemetery] demonstrates a current need for protected pedestrian crossings, independent of the proposed changes to the site."

Id. Overall, though, the Revised EA maintains NPS's conclusion that "temporary traffic circulation changes" will "maintain access for the most high-volume traffic movements with limited disruption throughout construction." Revised EA at 53.

121. In its revised analysis, NPS claimed "that both existing and future traffic delay are driven by the downstream weave condition south of AMC at the Washington Boulevard/GWMP ramps, not by the proposed traffic signals or pedestrian circulation improvements," and that "the proposed traffic signals are not expected to exacerbate existing traffic congestion, and the congestion that already occurs today will remain localized without affecting the broader transportation network." Revised EA at B-2.

122. NPS also explained that under the "high" traffic scenario, pedestrian and bicycle usage of the Memorial Circle could increase by 1,500%. *Id*. at B-13.

123. The revised analysis shows that during the morning commute time, levels of service at a number of intersections will worsen from current conditions. *Id*. at B-24. Changes are less significant during the afternoon rush hour. *Id*. at B-26. Despite acknowledging that the morning traffic queue length would extend by about 200-300 feet in two locations, the agency claimed this is "not expected to exacerbate existing traffic congestion, and the congestion that already occurs today will remain localized without affecting the broader transportation network." *Id*. at B-30. NPS also admitted, however, that "[u]nder assumptions of maximum pedestrian signal activation, conditions could approach the upper limit of roadway capacity, resulting in significant delay, reduced maneuverability, and limited ability to recover from disruptions." Revised EA at 54.

124. The revised analysis also considered the effects of construction on traffic, though the agency claims any effects are "negligible." *Id*. at B-34. However, NPS provided no direct

comparison between no-action traffic conditions and those expected during construction. *Compare* Revised EA at B-24 *with id.* at B-35.

125. The Revised FONSI similarly reflects several changes from the initial version. For example, with respect to impact on Arlington National Cemetery, NPS claimed that the Arch "does not constitute a significant impact because it does not diminish visitors' ability to perceive or interpret the historic landscape and commemorative views. The Arch appears only as a distant, middle-ground element, and its presence does not alter the Cemetery's defining qualities of solemnity, setting, or use." Revised FONSI at 8.

126. As to noise at the Cemetery, the Revised FONSI explains that "[m]odeling demonstrates that the required noise blanket would reduce peak sound levels, including at sensitive receptor locations within Arlington National Cemetery, keeping nearly all areas, including the Tomb of the Unknown Soldier and primary ceremonial spaces, below 57 dBA." *Id*. at 12.

127. The FONSI also incorporates the results of the FAA's aeronautical study for the Arch.

NPS's NHPA Review

128. NPS initiated consultation under the NHPA on June 5, 2026, and held two consultation meetings (on June 15, 2026 and September 9, 2026) that provided consulting parties an opportunity to provide feedback. The public also provided approximately 107,000 comments, which overwhelmingly opposed construction of the Arch.

129. Arlington County submitted comments to NPS on June 15, 2026 as a Section 106 consulting party.

130. On September 24, 2025, ACHP issued a letter terminating NHPA consultation for the project.

131. By way of explanation, ACHP offered that "[i]t is clear that the proposed undertaking and its potential effects on historic properties have raised significant public interest, and the NPS stated in its September 22, 2026 correspondence that it believes additional consultation on the existing proposal is unlikely to result in agreement on an MOA to resolve adverse effects."

132. Further, ACHP explained that "NPS [has] stated that implementation of alternatives to avoid or minimize the adverse effects would alter the fundamental nature of the proposed undertaking and fail to achieve its goals."

133. As part of its termination of consultation, ACHP requested the views of consulting parties by September 29, 2026. The County submitted its views on that date both via a memorandum and during a virtual meeting with consulting parties.

134. On October 9, 2026, ACHP transmitted final comments to NPS.[21] In those comments, ACHP explained that consulting parties had "raised numerous concerns" about the project to NPS, "including whether the alternatives to meet a similar purpose and need for the undertaking had been considered" "and whether NPS's identification efforts and assessment of effects were sufficient for an undertaking of this scale." ACHP at 2.

135. In response, ACHP summarized that "NPS indicated that since it considered the undertaking to be location dependent, it was unable to employ any of the avoidance alternatives considered such as relocating the undertaking," *id*., and that "potential smaller heights were not considered representative of [250 years of American independence]." *Id*.

136. ACHP provided four overarching recommendations to NPS: (a) that NPS provide "additional information or explanation as to how the [Arch] and its direct adverse effects to historic

[21] Letter from Travis Voyles, Vice Chairman of Adv. Council on Hist. Pres. to the Hon. Doug Burgum, Sec'y of U.S. Dep't of Interior (Oct. 9, 2026), https://perma.cc/NJ9V-XWZ5.

properties remain in the public interest," *id.* at 3; (b) that particularly as to Arlington National Cemetery NPS "detail what steps it intends to take to address the adverse effects of the undertaking that would continue after the undertaking is constructed," *id*.; (c) NPS should provide additional detail as to interpretive mitigation efforts, *id*.; and (d) that NPS "utilize opportunities to further explain how, as an agency with the mission of conserving the scenery and the natural and historic objects within the properties it manages, it is ensuring that its actions with this undertaking are ensuring their protection for the enjoyment of future generations." *Id*. at 4.

137. On November 5, 2026, Secretary Burgum provided a summary of his decision regarding the Arch project to ACHP, thereby concluding the NHPA review process.

138. In that decision, the Secretary explained that although there was a "possibility that adverse effects" to historic landmarks "could be minimized through alternative locations and changes in the scale and design of the Arch," the agency did not consider those alternatives because they "would separate the undertaking from the historic planning basis for its location."

139. Although the Secretary acknowledged the Arch "would be visible from some locations" within Arlington National Cemetery, that change would not alter the Cemetery's longstanding "role as a national memorial landscape."

140. Finally, despite significant opposition, the Secretary claimed the Arch would further the public interest by "creating a new destination for public enjoyment."

HARMS TO ARLINGTON COUNTY

141. Arlington County faces a cascade of concrete harms from construction and operation of the Triumphal Arch, many of which will be permanent and irreparable. These harms fall directly on the County itself: the Arch will burden its fire, emergency medical, and police services; its management of the transportation network it operates; its long-term land-use planning; its historic

preservation program; and the infrastructure on which the County depends. In deciding to construct the Arch, NPS largely ignored or minimized those harms and deprived the County of the information it needs to plan for and, to the extent possible, mitigate them.

Harms to the County's Transportation Network and Operations

142. Arlington County is responsible for operations and safety on the transportation network it manages and maintains, and Memorial Circle connects directly to that network. Memorial Circle, together with the roadways and mixed-use paths that connect directly to it, is a regional convergence point that carries residential and commercial traffic, public buses, emergency vehicles, cyclists, and pedestrians traveling within Arlington County and between the County and the District of Columbia every day. NPS itself acknowledges as much, noting that the roadways around the Circle "serve as a major convergence of regional roadways and travel modes that interact through a complex series of merges, weaves, and intersections." EA at 36.

143. Accordingly, closures and restrictions to the road network connecting the planned construction site to Arlington County will ripple throughout Arlington. Those impacts will be compounded by NPS's bar eastbound traffic on Memorial Avenue from turning north onto Arlington Boulevard; to restrict northbound Washington Boulevard traffic from turning left to Memorial Avenue; to reduce Arlington Memorial Bridge to two westbound lanes; and introduce a new crossing across two opposing lanes of traffic for pedestrians, cyclists, and people riding micromobility devices on the north side of Memorial Circle. Additional closures and detours can be expected during various phases of construction.

144. Delays caused by construction will exacerbate traffic both in the Circle and in abutting areas of Arlington County. As to the Circle itself, increased traffic will likely result in increased

vehicular and pedestrian accidents and other effects that require mitigation and potential deployment of County resources.

145. The limited traffic analysis NPS conducted disregarded the broader impacts the Arch will have on the region. Delays at the Circle will predictably cause drivers to change their routes, and the County must then respond to those changed traffic patterns by modifying infrastructure to mitigate new effects. For example, if traffic volume increases on the approaches to the Key Bridge or Roosevelt Bridge because of delays or closures in the approach to Memorial Bridge, the County would likely need to retime signals, modify traffic infrastructure, or take other active steps to counteract effects on its network. NPS's analysis, however, contains no regional traffic modeling that would allow Arlington County to predict how traffic diversions during and after construction will affect the County. Unlike with similar projects, NPS failed to conduct the type of traffic flow modeling that would allow the County to predict effects and mitigate potential harms.

146. Even after the planned construction has concluded, traffic and associated public-safety harms will continue. The current plans for the Arch show a public plaza inside the traffic circle, protected by a barricade seat wall and retractable bollards, designed to accommodate pedestrian visitors to the Arch. Those visitors will need to cross traffic into the center of a complex, high-volume traffic circle, which the Arch plan accommodates by introducing permanent traffic signalization into what is now a free-flowing traffic Circle. Introducing traffic signals and crosswalks necessary to ensure pedestrian safety will permanently and dramatically hinder vehicle passage through and around the Circle, with significant ripple effects for all the surrounding roadways and alternative routes.

147. NPS failed to account for the regional traffic network at all and confined its analysis to Memorial Circle itself. Even within that narrow study area, NPS's own traffic simulation showed

that congestion would back up past the edges of the modeled network. Failing to account for those consequences outside the artificially narrow bounds of the area of study skews the result and fails to accurately capture the impacts of the Arch. NPS proposed no mitigation for those impacts, which will spill back onto approaches that County roadway users rely on and harm the County and its traffic infrastructure.

148. Traffic effects on State Highway 110 will also cause disruptions to the County bus service that utilizes that highway. Arch-related delays on that corridor will slow bus service, undermine on-time performance, and depress ridership on County routes.

149. Arlington is a Vision Zero community committed to eliminating traffic deaths and serious injuries by 2030. In service of that goal, the County requires any comparable redevelopment within its jurisdiction to perform a robust safety analysis comparing existing and future operations, evaluating crash trends, assessing whether changes will improve or degrade safety, and identifying mitigation for any adverse impacts. NPS did not undertake any such comparable study, and because the Arch is a federal project on federal land, the County cannot require that analysis. But it is predictable that both the delays and diversions that will inevitably occur during construction and the permanent traffic modifications the Arch plan entails will create higher-risk conditions. And placing a major new trip generator in the center of the Circle, with high volumes of pedestrians and cyclists needing to safely cross traffic to reach the Arch, will inevitably decrease safety absent adequate mitigation and undermine the County's Vision Zero program.

150. Further, residents' access to these walking and cycling trails are a key part of the livability and desirability that drive growth and inform County planning in the area. Interrupting access to these spaces will make the County less appealing to current and future residents and disrupt County planning.

151. NPS's failure to analyze these traffic effects will itself impose direct costs on the County. If a private developer were proposing any comparable development, the County would receive a discrete safety analysis and traffic modeling analysis for the project that would allow the County to adjust its planning for safety and infrastructure needs. NPS provided no such analysis, however, leaving the County to navigate a slew of significant "known unknowns." Indeed, NPS failed to even use as a baseline a more-detailed study of Memorial Circle that the agency prepared roughly a decade ago and largely ignored the County's technical comments on its transportation study. As a result, the County will have to devote increased staff and hours to constantly assessing and responding to the effects of each phase of construction and the ultimate permanent configuration of the Arch project, without the data and information needed to accurately plan ahead.

Harms to the County's Emergency and Public-Safety Services

152. The Arlington County Fire Department is the primary 911 fire and emergency medical services provider for Arlington National Cemetery and the surrounding area, including the Arlington Cemetery Metro Station and Memorial Circle. County fire and EMS personnel thus will be required to respond to fires, medical emergencies, and other incidents at the Arch site or in immediately adjacent areas that depend on passage through Memorial Circle, both during construction and after the Arch opens. In calendar year 2025, County units responded to 513 incidents in that area, and in 2026 that number has already reached 978.

153. The County's current emergency response plans are designed around Memorial Circle's current configuration. Fire and EMS units responding from County stations reach these areas via the George Washington Memorial Parkway or by traveling through and around the Cemetery, near the Marine Corps War Memorial. The County also uses the area adjacent to Memorial Circle as a staging ground for incidents at the Cemetery and the Cemetery Metro station and has done so

repeatedly during past incidents. During major incidents, the County also relies on mutual aid services from Alexandria and the District of Columbia, which would reach the area via Arlington Memorial Bridge and the Circle. And the County's evacuation planning for the area depends on multiple routes in and out of the area of Memorial Circle. Construction and operation of the Arch will accordingly harm the County's ability to provide emergency services in the Cemetery and the immediate area of the Circle and will require staff to devote significant time to revising emergency service plans.

154. Beyond those harms in the immediate area, Memorial Circle and the roadways that feed it are also a chokepoint for County emergency responses elsewhere. For example, rescue units from central and north Arlington must travel via Route 110 and the George Washington Parkway, through the area around Memorial Circle, to respond to emergencies at Washington Reagan National Airport. Although the Metropolitan Washington Airports Authority (MWAA) maintains its own fire and EMS units at the airport, its resources are limited, and Arlington routinely serves as a backup emergency service provider. Between October 1, 2025, and October 29, 7 2026, County fire and police units responded to approximately 190 incidents at DCA, including 71 incidents in the last three months of 2025 alone, most of them handled by County fire and EMS units. Arlington County personnel were also among the first responders to the tragic air collision at the Airport in January 2025, with swift-water rescue teams traveling from Station 5 in Crystal City and other units dispatched from the middle and northern parts of the County—all traveling through or near Memorial Circle to reach the scene. The County's ability to provide those services will be significantly hampered by the Arch project. The County also routinely responds to rescue calls on the GW Parkway and the Mount Vernon Trail, including calls for injured cyclists near the Boundary Channel and Columbia Island. County records reflect more than 100 incidents at

Columbia Island between August and October 2026, including two calls to assist unconscious persons at the Columbia Island Marina, and hundreds of incidents at the Boundary Channel Drive interchange. Construction closures, lane reductions, and detours will slow those responses and narrow the County's choice of routes. So will the permanent changes that follow, including the addition of new traffic signals, a pedestrian plaza, and the expected increase in peak-season visitation that NPS itself recognized, *see* EA at 39.

155. In addition, MWAA emergency units also provide service to parts of Arlington County when County units are unavailable. While those calls are typically to areas adjacent to DCA, on a number of occasions MWAA units have needed to traverse the Circle to respond to serious incidents further away, such as on the GW Parkway. Traffic caused by the Arch project will impair the County's ability to receive these backup emergency services as well.

156. These changes will force the County to modify its emergency planning. When significant changes are made to traffic signals, traffic patterns, or major thoroughfares, the County must remodel response drive times using GIS analysis to ensure it can continue to meet response-time standards. It then must reallocate its personnel and equipment as needed. The Arch project will require that the County engage in that remodeling for different phases of construction and again once the permanent structure and modifications are in place. That remodeling will consume significant County staff time and will likely require the provision or reallocation of additional County resources to maintain acceptable emergency response times.

157. The disruptions to emergency services caused by the Arch will be particularly pronounced during major regional events. Arlington Memorial Bridge and Memorial Circle serve as a protected route for Arlington County first responders onto the National Mall during National Special Security Events and other major events, such as presidential inaugurations and the recent

250th anniversary celebrations. The Cemetery also serves as a designated emergency egress point for protected persons during an emergency. The Circle is a particularly vital thoroughfare during recurring events that necessitate local closures, such as the Marine Corps Marathon or the Army Ten-Miler run. County units provide mutual aid during those events, and any evacuation of attendees from the Mall depends on this route being clear and accessible. When the Circle's capacity is reduced because of the Arch, County responders will have to divert to Interstate 66, Interstate 395, or the Key Bridge during such events and revise their emergency planning accordingly.

158. The President's surprise announcement that the Arch will "have and hold large quantities of sniper ammunition in storage" and "house, store, and have the rapid ability to use large numbers of drones" also creates new hazards to which County personnel will need to respond. County firefighters and paramedics will be called to respond to any fire, explosion, or accident involving or caused by those stockpiles or operations. Yet the site lacks basic firefighting infrastructure: The existing hydrant network ends at the Arlington Cemetery Metro Station, and NPS has yet to explain how water supply will be extended to the site. NPS did not analyze any of these risks and has not prepared any supplemental analysis since the President's announcement.

159. The Arch's announced drone operations also threaten the Arlington County Police Department's own unmanned aircraft program, which maintains a fleet of more than 20 drones (including backups) for use during major events and emergencies. Drones give County officers situational awareness they cannot otherwise obtain at both large-crowd events and specific safety incidents. For example, during a recent barricade incident, a County drone allowed officers to see inside the location where an armed suspect was holding a gun.

160. County law enforcement flies drones in Arlington airspace immediately adjacent to the Arch site, including along the Route 110 corridor between Rosslyn and Crystal City, for both planned events and emergency operations. Planned events include the annual Fourth of July celebrations, the Marine Corps Marathon, and the Army Ten-Miler, among others. That airspace lies within the Washington, D.C. Flight Restricted Zone, the most restricted airspace in the country, and along the flight path for Reagan National Airport. The County's operating area is already tightly bounded: It cannot fly in the District, including Memorial Circle, or within Arlington Cemetery or the Pentagon area without special authorization. Even for events the County has supported for years, flying in the same airspace, each operation requires FAA waivers, repeated coordination and deconfliction meetings, and months of planning between multiple agencies. For the recent 250th anniversary celebration, only three drone operators were permitted to fly in the area: the County on the Virginia side, the Pentagon Force Protection Agency (Pentagon Police), and a joint U.S. Secret Service and FBI team at two sites within the District. Support for that single ten-hour operation required months of planning.

161. The addition of military drone operations at the Arch will make all of this monumentally harder. At a minimum, it will require additional coordination, communication, and personnel to deconflict airspace for each County operation and might require the County to co-locate with the agency operating the Arch drones in order to properly coordinate flight paths. Depending on the scale of drone operations at the Arch, the FAA could prioritize those activities and deny the County authorization to fly outright, or it might reduce the height and number of County drones authorized to fly, even for emergency operations. Each of these outcomes adds complexity and requires additional County personnel and time. This risk is not hypothetical; since the January 2025 deadly midair collision between an Army Black Hawk helicopter and a commercial aircraft near DCA,

the FAA has refused to permit District helicopters to cross into Arlington and has heavily restricted access to the airspace even for law-enforcement-focused helicopter missions. Those limits on helicopter support have made the County's drone program all the more important as a substitute for support that would otherwise have been provided by helicopter—meaning that if and when similar restrictions are imposed on the County's drone use as a result of the Arch project, the impacts on the County's ability to maintain safety and emergency services will be all the more severe.

162. The proposed Arch will also undermine the County's provision of emergency services in Arlington National Cemetery. The Cemetery hosts more than 5,000 funerals annually—roughly 24 to 27 each weekday—to honor and remember those who have served their country. Construction of the Triumphal Arch will fundamentally disrupt these funerals. NPS's EA claimed that the government would "avoid disruptive construction activities during funerals" but proffered no explanation for how this could be accomplished, given the number of such observances on an ongoing basis and the agency's plan for near-continuous construction. Aside from the severe impact this will have on servicemembers and their families, it will detrimentally affect Arlington County, too. The County provides emergency services for the Cemetery and the nearby Metro station, and construction of the Arch and the increased traffic post-construction will directly impair the County's ability to reach mourners, visitors, and staff in the event of a medical emergency. It will also likely force the County to change its emergency plans and reroute vehicles serving those areas.

163. This concern is not theoretical. Arlington police, fire, and emergency units have responded to approximately 200 incidents in the area surrounding the Circle, including traffic stops and assisting with unconscious persons within Arlington National Cemetery. The visitors the Arch

is intended to attract will increase demand for those same emergency services when visitors inevitably require medical attention or emergency services.

Harms to Historic Resources and the County's Historic Preservation Program

164. Arlington County maintains a Historic Preservation Program that identifies, documents, and protects historic resources in the County and helps property owners steward those resources. That work includes assisting owners in pursuing listing on the National Register of Historic Places, which can provide property owners with access to financial incentives, including federal rehabilitation tax credits for eligible income-producing properties, potential tax deductions through preservation easements, and eligibility for certain preservation grants and loan programs. National Register listing also ensures that the effects of federally funded, licensed, or assisted projects on the property are considered through the Section 106 historic review process. In addition, designation formally recognizes a property's historic significance, enhancing its prestige, public visibility, and potential long-term market appeal. The County participates as a consulting party in NPS's review of the Arch under Section 106 of the National Historic Preservation Act.

165. Outside the area surrounding Memorial Circle, the Arch's greatest impact will be visual disturbances. Rising 250 feet, the Arch will cause significant adverse visual effects on multiple higher-elevation historic neighborhoods in Arlington, including Rosslyn, Radnor/Fort Myer Heights, Clarendon-Courthouse, Lyon Park, Penrose, Foxcroft Heights, and Arlington View. It will impair the integrity of historic resources in the County, including their feeling, setting, and design. The changed sight lines threaten to decrease property values and the aesthetic appeal of many historic and high-value residential properties in Arlington County, which will, in turn, decrease tax revenue to the County and affect the funds the County has available to spend on core services for its residents.

166. NPS itself concurs that the Arch will have adverse direct and indirect effects on historic resources, but it has failed to identify the full universe of historic properties that the Arch will affect. NPS likewise failed to complete a comprehensive architectural survey of the area for potential effects on properties eligible for, but not yet listed on, the National Register. Those properties include privately owned homes and areas significant to Arlington's local history, such as the neighborhoods of Arlington View, Foxcroft Heights, Arlington Ridge, Pentagon City, and Crystal City, to name a few, which are not yet listed. NPS has also not completed the archaeological investigation that its own Phase IA study indicates is needed.

167. These failures harm the County directly. Harms to historic properties that NPS failed to identify cannot be avoided or mitigated. The County's Historic Preservation Program will lose the ability to advocate for NPS to mitigate for those adverse effects. Impacts to unrecognized historic resources will impair the County's ability to document and protect its local history and help owners steward historic properties in the County. And the County has suffered informational and procedural harms flowing directly from NPS's abrupt termination of the Section 106 process without a good-faith attempt to reach agreement between the consulting parties.

Harms to Infrastructure and Environmental Resources

168. The project will also harm the natural and scenic resources of the George Washington Memorial Parkway and the Potomac River corridor—permanently altering and damaging the parkway's setting and protected viewshed. Although the Parkway is administered by federal authorities, countless County residents travel on it daily, and its natural beauty and historic value contribute to the County's high desirability for current and future residents, including the County's ability to offer recreational areas and opportunities that consistently lead the County to be ranked near the top of cities with healthy residents.

Harms to the County's Land-Use Planning and Airspace Interests

169. The County coordinates with MWAA to align its land-use planning with airspace operations at Reagan National. A central element of that coordination is the One Engine Inoperative (OEI) condition. The FAA requires every airline to have approved procedures identifying departure corridors in the event that an aircraft engine fails during takeoff. Due to the region's constrained airspace, local development patterns, and Arlington's plans for future growth, MWAA worked with airlines to establish a single, consolidated OEI corridor to be protected at specific building heights to ensure a safe path between existing obstacles and protected airspace. Arlington County staff and officials at MWAA regularly engage to ensure development in the County aligns with that corridor.

170. Arlington County understands that the proposed height of the Arch project would encroach on the airspace designated by MWAA to be protected for OEI conditions and thus may affect the flight paths designated by airlines for use in emergency scenarios. The County understands that any structure at the Arch site exceeding approximately 200 feet above mean sea level, or roughly 170 feet above grade, would penetrate MWAA's consolidated OEI surface.

171. At 250 feet above grade, the County understands the Arch would encroach 80 feet into designated OEI space and that this encroachment likely will require modifications to flight plans by MWAA and its partner airlines. That in turn would harm the County by restricting optionality in land-use planning, limiting permissible development, and causing increased noise in residential and business neighborhoods from altered flights paths.

172. Nor has NPS provided any analysis of how the height of the Arch will affect the frequent helicopter flights over the County or whether cranes used during construction—which will likely tower even higher than the Arch's planned 250 feet—will encroach on DCA airspace. Accordingly,

the County is at risk of experiencing increased overflights caused by diversion of air traffic both during and after construction. Given the limited airspace around DCA, any meaningful number of diversions could increase air traffic directly over the County's busiest urban corridors, increasing noise and air pollution and detracting from the livability and desirability of living and working in those areas.

173. Further, because the Arch will constitute "an obstruction to air navigation," *see* 14 C.F.R. § 77.17(a), it will require an FAA-compliant aviation warning. Current plans show an "eternal flame" atop the Arch to warn approaching pilots. The new warning light(s) necessary to alert pilots approaching the area will compound the Arch's adverse nighttime visual effects on surrounding historic resources and area residents.

174. Nor did NPS assess the potential harm to airplanes and Arlington County residents from housing drones in a large facility that lies directly under the flight path of a major airport.

Harms to the County's Participatory and Informational Interests

175. The County repeatedly raised these harms with NPS and the other federal agencies responsible for the Arch, under review timelines that denied it any meaningful opportunity to participate. On June 15, 2026, the County's Historic Preservation Program submitted written comments to NPS as a Section 106 consulting party. It objected that NPS's 10-day review period for the Programmatic Agreement and Assessment of Effects "did not follow the standard process for Section 106," and it asked NPS to share the draft EA. On June 17, 2026, the County's Planning Director submitted written comments to the National Capital Planning Commission identifying the deficiencies in the project's transportation study and the County's concerns regarding emergency response, airspace, water infrastructure, and historic resources, accompanied by 32 detailed technical comments from the County's Division of Transportation. NCPC allowed the County only

seven days to respond, compared with the 60 days it typically provides for projects affecting Arlington. The next day, June 18, NPS released the EA and the FONSI together.

176. By issuing the EA and FONSI without the analysis that NEPA required the agency to undertake, and without giving the County a meaningful opportunity to comment, NPS deprived the County of information it needs to protect the concrete interests described above. Those interests include planning emergency responses, managing its transportation network, protecting its land-use planning, safeguarding infrastructure, and stewarding historic resources. Preparation of an EIS—as NEPA required—would have resulted in NPS fully analyzing these effects (likely including by conducting modeling and other analysis that would assist the County's planning), considering alternatives and mitigation, and responding to the County's comments. A court order setting aside the FONSI and enjoining NPS from proceeding with the Arch project without conducting a full EIS in compliance with NEPA would at least partially redress the County's injuries.

CLAIMS FOR RELIEF

COUNT I
Violation of the Administrative Procedure Act

5 U.S.C. § 706(2)(A)
Agency Action Not in Accordance with Law—Commemorative Works Act

177. Plaintiff restates and realleges all paragraphs above as if fully set forth here.

178. The Administrative Procedure Act authorizes judicial review of final agency action. 5 U.S.C. § 704.

179. Final agency actions are those (1) that "mark the 'consummation' of the agency's decisionmaking process" and (2) "by which rights or obligations have been determined, or from which legal consequences will flow." *Bennett v. Spear*, 520 U.S. 154, 178 (1997) (quotation marks omitted).

180. NPS's November 5, 2026 Decision Record authorizing construction on the Triumphal Arch and Military Complex is final agency action.

181. A reviewing court must "hold unlawful and set aside agency action" that is "not in accordance with law," "in excess of statutory jurisdiction, authority, or limitations," or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A), (C), (D).

182. The CWA applies to commemorative works "in areas administered by the National Park Service and the Administrator of General Services in the District of Columbia and its environs." 40 U.S.C. § 8901(4).

183. The CWA prohibits locating new commemorative works within Area I without express authorization by Congress. *Id*. § 8908(b)(1). Area I encompasses Memorial Circle, which is managed by NPS.

184. The Triumphal Arch is a commemorative work within the meaning of the CWA because, among other reasons, Defendants' stated purpose is to "perpetuate in a permanent manner … [a] significant element of American history," 40 U.S.C. § 8902(a)(1), including America's semiquincentennial.

185. Congress has not authorized construction of the Triumphal Arch in Memorial Circle.

186. Accordingly, Defendants' adoption and implementation of the Arch project is not in accordance with the CWA and exceeds statutory authority.

COUNT II
Violation of the Administrative Procedure Act

5 U.S.C. § 706(2)(A)
Agency Action Not in Accordance with Law—40 U.S.C. § 8106.

187. Plaintiff restates and realleges all paragraphs above as if fully set forth here.

188. A reviewing court must "hold unlawful and set aside agency action" that is "not in accordance with law," "in excess of statutory jurisdiction, authority, or limitations," or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A), (C), (D).

189. Under 40 U.S.C. § 8106, "[a] building or structure shall not be erected on any reservation, park, or public grounds of the Federal Government in the District of Columbia without express authority of Congress."

190. Defendants' Triumphal Arch project is a building or structure within the meaning of § 8106.

191. Congress has not expressly authorized the construction of the Triumphal Arch in Memorial Circle.

192. Accordingly, Defendants' adoption and implementation of the Arch project is not in accordance with 40 U.S.C. § 8106 and exceeds statutory authority.

COUNT III
Violation of the Administrative Procedure Act

5 U.S.C. § 706(2)(A)
Agency Action Not in Accordance with Law—NPS Organic Act

193. Plaintiff restates and realleges all paragraphs above as if fully set forth here.

194. Defendants' implementation of the Arch project impairs the enjoyment of the scenery, natural and historic objects, and wildlife of the George Washington Parkway, and fails to maintain the Parkway unimpaired for the enjoyment of future generations, and is thus contrary to the express obligations imposed on NPS by the Organic Act of 1916, 54 U.S.C. § 100101(a).

195. Defendants' adoption and implementation of the Arch project likewise violates Congress's directive that the George Washington Parkway be established as a "comprehensive park, parkway, and playground system of the National Capital." 46 Stat. at 482.

COUNT IV
Violation of the Administrative Procedure Act

5 U.S.C. § 706(2)(A)
Arbitrary and Capricious Agency Action; Agency Action in Excess of Statutory Authority

196. Plaintiff restates and realleges all paragraphs above as if fully set forth here.

197. Defendants' authorization of the Triumphal Arch is also arbitrary and capricious in numerous respects. NPS's truncated review process—as demonstrated by its abrupt termination of the required Section 106 process, its unreasonable determination that no EIS is required for such a substantial project, its reliance on facetious statutory authority, and its rush to secure approval by the NCPC, which has been stacked with the President's allies—reveals that NPS's consideration and approval is nothing more than a sham process designed to shore up legal justifications to carry out the President's determination, revealed in 2025 and consistently maintained since, to build a massive Arch at Memorial Circle. No matter the outcome of any step in this purported decisional process, NPS was never going to reach any decision other than the one announced by President Trump last year.

198. NPS's claim to be fulfilling the 1925 plan for Memorial Bridge is also pretext. The government only trotted out that rationale many months after the President announced his decision to construct an Arch, after that plan was challenged in litigation. And the total incongruence between the original design and the government's current decision to site a military complex hosting snipers, drones, and large stockpiles of ammunition in a tourist destination belies NPS's claim to be completing the century-old Memorial Bridge Commission plan.

199. NPS's final decision is arbitrary and capricious because it utterly failed to consider a critical aspect of the issue before it: the government's broader plan to convert the Arch into a dual-purpose, advanced military complex. By ignoring those plans (even after they were publicly revealed in other litigation), NPS failed to consider the serious safety risks inherent in a plan to

bring visitors to a military complex full of drones, snipers, and lethal ammunition (without even a fire hydrant nearby); the impact that a major military complex in national parkland intended for drone warfare and snipers would have on the environment, on other historic properties, on Arlington County and its residents, or on visitors and mourners at Arlington Cemetery; or whether the placement of such lethal capabilities is even compatible with the congressional purpose to preserve and maintain scenic natural lands and wildlife in our national parks.

200. NPS also acted arbitrarily and capriciously by issuing a decision that runs counter to the evidence. For example, NPS relied on a faulty traffic study, including in its revised documents, when in reality the potential traffic impacts will extend far beyond the limited area the agency chose to study.

201. NPS's decision document is also so utterly illogical that it cannot be ascribed to differences in reasonable policy judgment. Among other things, the agency based its decision on a wholly different project planned over 100 years ago, ignored the newfound national security rationalizations for the project, and offered no reasonable explanation for why a 250-foot-tall Arch is consonant with protecting the natural resources and scenery of the GW Parkway.

202. No statute gives NPS authority for this undertaking, and certainly not the 1925 Act on which NPS relies. NPS's decision to greenlight construction of a massive project on national park land without express congressional authorization thus exceeded its legal authority.

203. Accordingly, Defendants' adoption and implementation of the Arch project is arbitrary and capricious in violation of the APA and exceeds statutory authority.

COUNT V
Violation of the Administrative Procedure Act

5 U.S.C. § 706(2)(A)
Agency Action Not in Accordance with Law/Arbitrary and Capricious Agency Action—Inadequate NEPA Alternatives Analysis

204. Plaintiff restates and realleges all paragraphs above as if fully set forth here.

205. Issuance of the Revised FONSI marks the consummation of NPS's decisionmaking process with respect to the environmental effects of the Arch project and constitutes a final decision not to prepare an EIS. The Revised FONSI determines rights or obligations, including by authorizing the Arch project to proceed, pretermitting a more detailed analysis of the effects of the project on the human environment, and preventing Plaintiff and other interested parties from participating in an EIS review process. *See, e.g.*, *Sierra Club v. U.S. Army Corps of Engr's*, 446 F.3d 808, 815-16 (8th Cir. 2006).

206. Under NEPA, an agency preparing an EIS is required to conduct an analysis of "a reasonable range of alternatives to the proposed agency action … that are technically and economically feasible, and meet the purpose and need of the proposal." 42 U.S.C. § 4332(2)(C)(iii). That same requirement applies to preparation of EAs. *See Nat'l Audubon Soc'y v. U.S. Dep't of the Navy*, 422 F.3d 174, 206 (4th Cir. 2005).

207. As an initial matter, NPS failed to analyze a reasonable range of alternatives. The EA describes the project's purpose and need as "celebrat[ing] 250 years of American independence by honoring America's founding principles through installation of a structure at the intersection of Arlington Memorial Bridge and Memorial Avenue within George Washington Memorial Parkway, in a manner consistent with the avenue's established role as a ceremonial gateway and 'Avenue of Heroes' celebrating valor, sacrifice, and American heritage." EA at 4.

208. Despite that broad purpose and need, the EA assesses only one choice, the Arch project.

209. In fact, the EA makes clear NPS never assessed any other type of project meeting the purpose and need of the project, aside from briefly considering a shorter arch—most notably including the smaller pillars that NPS itself had previously cited as a basis for selecting the Memorial Circle site.

210. The EA makes no effort to reasonably analyze why only the Arch as proposed meets the self-described purpose and need of the project.

211. While an agency need not "discuss remote or speculative alternatives," *State of North Carolina v. FAA*, 957 F.2d 1125, 1134 (4th Cir. 1992), the EA provides no analysis whatsoever of why alternative projects would be so "remote" or "speculative" as to not even merit consideration.

212. Although "the range of alternatives an agency must consider [in an EA] is smaller than in an [EIS]," *id*., NPS effectively conducted no alternatives analysis at all, let alone a reasonable one.

213. Further, the Revised EA, without further explanation, evades the requirement to consider alternatives by amending the description in the purpose and need statement to require the construction of "an arch." Revised EA at 1.

214. Aside from the arbitrary and pretextual nature of that change, *see Dep't of Commerce v. New York*, 588 U.S. 752, 785 (2019), an agency's stated purpose and need may not be so narrow as to preclude review of reasonable alternatives. *See Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991) ("an agency may not define the objectives of its action in terms so unreasonably narrow that only one alternative from among the environmentally benign ones in the agency's power would accomplish the goals of the agency's action, and the EIS would become a foreordained formality.").

215. Accordingly, the EA and FONSI are contrary to law and arbitrary and capricious and should be set aside pursuant to 5 U.S.C. § 706(2)(A).

COUNT VI
Violation of the Administrative Procedure Act

5 U.S.C. § 706(2)(A)
Agency Action Not in Accordance with Law/Arbitrary and Capricious Agency Action—Failure to Prepare an EIS

216. Plaintiff restates and realleges all paragraphs above as if fully set forth here.

217. "An agency shall issue an [EIS] with respect to a proposed agency action requiring an environmental document that has a reasonably foreseeable significant effect on the quality of the human environment." 42 U.S.C. § 4336(b)(1).

218. That EIS shall include an analysis of "any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented." 42 U.S.C. § 4332(2)(C)(ii).

219. In determining whether adverse effects rise to the level of significance requiring preparation of an EIS, an agency may not disregard or minimize adverse effects by balancing them against positive effects.

220. Here, NPS did exactly that, considering in the Revised FONSI "both beneficial effects and adverse effects" for purposes of determining whether any effects of the Arch project rose to the level of significance meriting preparation of an EIS.

221. For example, despite admitting the Arch would "introduce permanent adverse effects" on the viewshed of the area, the agency claimed those effects did not rise to the level of significance meriting preparation of an EIS simply because the "cultural landscapes would remain discernable" and because the Arch would include a viewing platform. Revised FONSI at 6.

222. In so doing, NPS improperly minimized the adverse effects of the project in violation of NEPA.

223. Accordingly, the FONSI violates NEPA and is arbitrary and capricious, and should be vacated under 5 U.S.C. § 706(2)(A).

COUNT VII
Violation of the Administrative Procedure Act

5 U.S.C. § 706(2)(A)
Agency Action Not in Accordance with Law/Arbitrary and Capricious Agency Action—Inadequate NEPA Review

224. Plaintiff restates and realleges all paragraphs above as if fully set forth here.

225. An EA "shall be a concise public document prepared by a Federal agency to set forth the basis of such agency's finding of no significant impact or determination that an environmental impact statement is necessary." 42 U.S.C. § 4336(b)(2).

226. "NEPA requires federal agencies to take a 'hard look' at the environmental consequences of their actions," *Ohio Valley Env't Coal. v. Aracoma Coal Corp.*, 556 F.3d 177, 194 (4th Cir. 2009), including when preparing an EA. *See Nat'l Audubon Soc'y*, 422 F.3d at 185.

227. In addition, in preparing an EA, an agency "may make use of any reliable data source." 42 U.S.C. § 4336(b)(3)(A).

228. Defendants acted arbitrarily and capriciously and contrary to law in issuing the Revised EA and Revised FONSI by, among other things:

a. Predetermining their NEPA analysis by committing to proceeding with the Arch project, in accordance with the President's wishes, irrespective of the results of the EA and any analysis of alternatives;

b. Failing to take the requisite "hard look" at the environmental effects of the Arch project, including effects on traffic, congestion, noise, water resources, and cultural and historic resources;

c. Failing to assess the potential harms from mishaps or accidents related to housing drones, military snipers, and ammunition within a large facility that lies within a major traffic circle in a busy and populous area;

b. Relying on unreliable or stale data for assessing the impacts of the Arch project on traffic congestion, aircraft noise, and water runoff, among others;

c. Failing to conduct a detailed analysis of impacts on public safety and air quality, among others; and

d. Failing to prepare a supplemental EA or full EIS to account for transformation of the Arch project into a military installation housing drones and ammunition, among other things; and

e. Failing to conclude the Arch project would not cause significant effects requiring preparation of an EIS.

229. NPS also has not contemplated the significant impacts on both public safety and traffic congestion that the addition of a top-grade military complex, complete with large ammunition stores and snipers, will have on the busy corridor.

230. Memorial Circle also sits within a no-fly zone for drones due to the potential for dangerous impacts on flights approaching or leaving Reagan Airport. NPS's Revised FONSI did not consider how the rapid deployment of large numbers of drones—for unspecified "national security" reasons—would impact air traffic at the nearby airport.

231. Accordingly, the EA and FONSI are arbitrary and capricious and contrary to law and should be vacated under 5 U.S.C. § 706(2)(A).

COUNT VIII
Violation of the Administrative Procedure Act

5 U.S.C. § 706(2)(A)
Agency Action Not in Accordance with Law/Arbitrary and Capricious Agency Action—NHPA

232. Plaintiff restates and realleges all paragraphs above as if fully set forth here.

233. Defendants' adoption and implementation of the Triumphal Arch is an undertaking with effects on historic properties within the meaning of the National Historic Preservation Act. 54 U.S.C. § 306108.

234. Prior to that undertaking, Defendants were required to comply with the NHPA by taking those effects into account, consulting with the public, affording the Advisory Council on Historic Preservation a reasonable opportunity to comment, and responding to those comments in making its decision.

235. Here, NPS provided a cursory response to the serious concerns raised by the Advisory Council, and never indicated that it took the concerns seriously beyond offering the same broad and generalized rationalizations that the agency provided throughout the historic preservation review process.

236. Accordingly, NPS's Decision Record is arbitrary and capricious and contrary to law and should be vacated under 5 U.S.C. § 706(2)(A).

PRAYER FOR RELIEF

Plaintiff respectfully requests that this Court:

a. Declare that Defendants' approval of the Triumphal Arch project violates the Commemorative Works Act;

b. Declare that Defendants' approval of the Triumphal Arch project violates 40 U.S.C. § 8106;

c. Declare that Defendants' approval of the Triumphal Arch project violates the agency's authority under the NPS Organic Act and Capper-Cramton Act, and that the agency's approval of the project is arbitrary and capricious and in excess of statutory authority;

d. Declare that Defendants' approval of the Triumphal Arch project is arbitrary and capricious, in violation of the APA;

e. Declare that Defendants' failure to conduct an Environmental Impact Statement for the Triumphal Arch project, as required under NEPA, is arbitrary and capricious and contrary to law under the APA;

f. Declare that Defendants' approval of the project without meaningfully responding to comments from the Advisory Council on Historic Preservation is arbitrary and capricious in violation of the National Historic Preservation Act;

g. Vacate and set aside Defendants' November 5, 2026 Decision Record;

h. Vacate and set aside Defendants' Revised Finding of No Significant Impact and Revised Environmental Assessment as arbitrary and capricious and contrary to law in violation of the APA;

i. Permanently and preliminarily enjoin Defendants from proceeding with any construction or demolition activity in furtherance of the Triumphal Arch project unless and until Defendants obtain the congressional authorization required under the Commemorative Works Act and 40 U.S.C. § 8106;

j. Permanently and preliminarily enjoin Defendants from proceeding with any construction or demolition activity in furtherance of the Triumphal Arch project without conducting an EIS, adequately considering reasonable alternatives, and taking the "hard look" NEPA requires;

k. Permanently and preliminarily enjoin Defendants from proceeding with any construction or demolition activity in furtherance of the Triumphal Arch project until Defendants reasonably respond to comments from the Advisory Council on Historic Preservation;

l. Award Plaintiff its costs, reasonable attorneys fees, and other disbursements deemed appropriate; and

m. Grant such other relief as the Court deems necessary, just, and proper.

November 6, 2026

Respectfully submitted,

/s/ Catherine M.A. Carroll

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