

**FINDING OF NO SIGNIFICANT IMPACT (FONSI)
YELLOWSTONE JUSTICE CENTER
ENVIRONMENTAL ASSESSMENT**

Yellowstone National Park
Idaho/Montana/Wyoming

The National Park Service (NPS), in cooperation with the U.S. Courts and U.S. Marshals Service, is proposing to build a Justice Center in the Mammoth Hot Springs area of Yellowstone National Park. The building will be located at the northeastern corner of the development along the Esplanade. Three unique but interrelated functions will be housed in the Justice Center: a U.S. District Court, law enforcement activities for the U.S. Marshals Service and NPS, and detention facilities.

The building will be two stories high with a partial basement and attic for a total of approximately 17,000 square feet. The proposed building footprint will be approximately 5,700 square feet. Existing parking along the Esplanade will be utilized for public use.

The building will be designed in conjunction with the requirements of the U.S. Courts and U.S. Marshals Service. The new building will consolidate functions that are currently housed in historic buildings in Mammoth that no longer meet space, safety, security, and building code requirements.

Currently, the "Pagoda" houses the U.S. Magistrate's and clerk's offices, courtroom, North District ranger operations (11 permanent rangers, 3 permanent visitor use assistants, and 6 seasonal visitor use assistants), and Mammoth Subdistrict ranger operations (district ranger, plus a district clerk). During peak volume, there can be in excess of 30 people working and/or attending court in the Pagoda. The building is approximately 4,000 square feet in size; however, only 262 square feet are available for the actual courtroom, and there are no rooms for witnesses or family members or friends of the defendant. The building is grossly inadequate in terms of space and security for the facility, judge, defendant, and all involved in courtroom proceedings. (The U.S. Court for the 10th Judicial District recommends 800-1,400 square feet as a minimum area requirement.)

There is no room in the building for attorneys to conduct interviews or trial strategy sessions with clients. In some situations, meetings have taken place on the front steps of the building or in a vehicle. Visitor center staff have mentioned that accused individuals sometimes come to the visitor center, which is across the street, to await court appearances.

There are no prisoner holding facilities within the Pagoda to safely bring prisoners into the building or courtroom. Ground-level access presents security issues with the location of the courtroom and judge's chambers on the first floor. The NPS and U.S. Courts believe the building is no longer suitable for use as a courtroom, but the building will continue to be used for offices by the North District and Mammoth Subdistrict ranger operations.

The existing holding facility (the 1911 guardhouse) is in poor condition on the interior; fair condition on the exterior; and does not meet safety, security, or building codes, including seismic codes, codes for unreinforced masonry buildings, as well as the Americans with Disabilities Act (ADA) and Uniform Federal Accessibility Standards (UFAS). There are only two original steel holding cells. By law, juveniles must be housed separately from adults, and men and women must also be separately housed. The current facility does not have any separation; thus, prisoners requiring separate housing must be transported to other facilities.

Criminal activity has increased significantly in Yellowstone during the last 20 years. The U.S. Magistrate in Yellowstone National Park had the highest volume of cases in the District of Wyoming, with 375 docketed court cases in 2002 (210 persons appeared in court) and approximately 600 docketed court cases in 2003. Yellowstone law enforcement rangers and special agents issued more than 5,000 citations and made more than 250 physical arrests in 2003.

The NPS cannot fully carry out the duties mandated by Congress without appropriate facilities that allow the continued enforcement of state and federal laws. These laws help ensure the protection of Yellowstone National Park resources and its visitors.

PREFERRED ALTERNATIVE

In the preferred alternative, a Justice Center will be constructed along the "Esplanade" on the main access leading into Mammoth Hot Springs from the North Entrance Road. Similar to a small-town courthouse located on "Main Street," the Justice Center will be located within the core of the community, across the street from the Yellowstone National Park Post Office and Mammoth Clinic.

The preferred alternative is the environmentally preferred alternative because the preferred alternative provides preservation and protection of the park's important historic, cultural, and natural resources; improves and makes safer the work environment for park staff; provides better visitor services without degradation of the environment or risk of health or safety; and, through the use of sustainable design, enhances the quality of renewable resources.

ALTERNATIVES CONSIDERED

The alternatives considered included the no-action alternative and the preferred alternative. Other alternatives were considered but dismissed as explained in the EA. Under the no-action alternative, the courtroom in the Pagoda would continue to be utilized. The U.S. Magistrate would not be provided with a safe or secure courtroom. Attorneys and clients would continue to meet on the front steps of the Pagoda or in vehicles. The U.S. Marshals would most likely close the existing temporary holding facility due to its inadequacies. National Park Service law enforcement rangers and special investigators would continue to drive long distances to transport prisoners to suitable detention facilities.

WHY THE PREFERRED ALTERNATIVE WILL NOT HAVE A SIGNIFICANT EFFECT ON THE HUMAN ENVIRONMENT

As defined in 40 CFR Section 1508.27, significance is determined by examining the following criteria:

Minor adverse impacts of the preferred alternative include temporary (limited to the duration of construction) increases in dispersed dust and mobile exhaust emissions caused by truck traffic and equipment activity. Although some soils and exotic vegetation (bluegrass lawn) will be affected, adhering to proper construction techniques and precautions will mitigate the possible spread of noxious weeds during construction. Some minor, localized, and short-term displacement of wildlife could occur during construction activities, but animals will be expected to return to the general area. Elk are habituated to the bluegrass lawns in Mammoth, but, because elk are adaptable, it is expected they will continue to use the general area following construction. Some visual effects on historic resources will result from implementation of the preferred alternative, but will be mitigated by using building and landscape designs that are compatible with the Fort Yellowstone National Historic Landmark District and the Mammoth Hot Springs Historic District.

Beneficial impacts of the project include adequate space and security for judge, defendants, and all involved in courtroom proceedings; a safer working environment for employees; adequate office space for U.S. Courts and U.S. Marshals Service employees; and consolidation of functions into one building that meets safety, security, and building codes.

Public health and safety are protected and improved by implementation of the preferred alternative. No highly uncertain or unique or unknown risks will occur through implementation of the preferred alternative.

There are no prime or unique farmlands within or surrounding Yellowstone National Park that will be affected by this project. There are no wetlands, wild and scenic rivers, or ecologically critical areas that will be affected by this project.

As described in the environmental assessment (EA), the action is not related to other actions with individually insignificant but cumulatively significant impacts. Implementation of the preferred alternative will not establish a precedent for future actions with significant effects nor does it represent a decision in principle about a future consideration.

Construction of the new Justice Center will conform with the requirements of the Secretary of the Interior's Standards for the Treatment of Historic Properties. The building will be constructed in a manner that is sensitive to and compatible with the historic and architectural values of the Fort Yellowstone National Historic Landmark District and the Mammoth Hot Springs Historic District. In a letter dated April 27, 2004, the Wyoming State Historic Preservation Office (SHPO) concurred with the NPS that archeological site 48YE1494 was not eligible to the National Register of Historic Places and is a non-contributing element of the Mammoth Hot Springs Historic District. The Wyoming SHPO has not provided any comments disagreeing with the proposed action.

On November 19, 2004, the U.S. Fish and Wildlife Service concurred with the park's determination that it is unlikely the project will adversely affect any threatened or endangered species or result in the take of migratory birds.

The implementation of the preferred alternative violates no federal, state, or local environmental protection laws. In addition to reviewing the list of significance criteria, Yellowstone National Park has determined that implementation of the proposal will not constitute an impairment of the park's resources and values. This conclusion is based on a thorough analysis of the environmental impacts described in the Yellowstone Justice Center EA, the public comments received, relevant scientific studies, and the professional judgement of the decision maker guided by the direction in NPS Management Policies (December 27, 2000). Although the project has some minor negative impacts, in all cases these impacts are the result of actions taken to preserve and restore other park resources and values. Overall, the plan results in benefits to park resources and values, and opportunities for their enjoyment, and it does not result in their impairment.

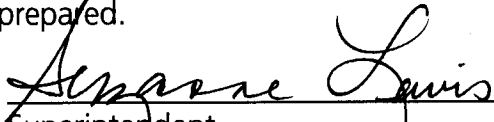
PUBLIC INVOLVEMENT

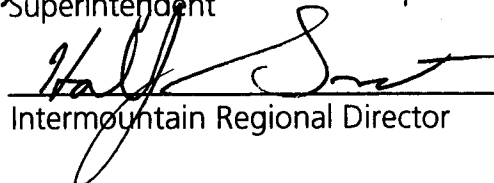
The *Yellowstone Justice Center EA* was made available for public review and comment during a 30-day period ending on November 24, 2004. A total of 10 responses were received. This total includes three letters from agencies (Park County Wyoming Board of Commissioners, U.S. Fish and Wildlife Service, Wyoming State Geological Survey), one letter from a park concessioner (Xanterra Parks and Resorts), and six letters from individuals. These comments resulted in no changes to the text of the EA but are addressed in an attachment to this FONSI. The FONSI and summary of substantive comments will be sent to all those who commented.

CONCLUSION

The preferred alternative does not constitute an action that normally requires preparation of an environmental impact statement (EIS). The preferred alternative will not have a significant effect on the human environment. Negative environmental impacts that could occur are minor and temporary in effect. There are no significant impacts on public health, public safety, threatened or endangered species, sites or districts listed in or eligible for listing in the National Register of Historic Places, or other unique characteristics of the region. No highly uncertain or controversial impacts, unique or unknown risks, significant cumulative effects, or elements of precedence were identified. Implementation of the action will not violate any federal, state, or local environmental protection law.

Based on the foregoing, it has been determined that an EIS is not required for this project and thus will not be prepared.

Recommended:  March 18, 2005
Superintendent Date

Approved:  4/15/05
fw Intermountain Regional Director Date

SUMMARY OF SUBSTANTIVE COMMENTS
YELLOWSTONE JUSTICE CENTER ENVIRONMENTAL ASSESSMENT

A total of 10 comment letters were received: three from agencies (Park County, Wyoming, Board of County Commissioners, U.S. Fish and Wildlife Service, Wyoming State Geological Survey); one from a park concessioner (Xanterra Parks and Resorts), and six from individuals. In summary, two commentors stated that they understood the need for the project, but disagreed with the proposed building site. Two commentors were concerned that the first thing visitors would see would be a "jail." Two commentors opposed the building project or any additional development. Three commentors stated that they supported the project. Comments and questions are summarized below.

Public Access/Use

Comment: Explain why the Justice Center needs to be in a public area.

Response: All public facilities in Mammoth are within a public-use area. Typically, in NPS areas and in communities, all justice center functions, including the holding facility, NPS law enforcement and criminal investigation offices, and U.S. Magistrate court and offices, are placed in a public-use area, in order to be readily located and accessed by the public. The current courthouse has been located in a prominent public location for many years.

Site Design, including Parking

Comment: Explain the definition of a blast zone.

Response: A "blast zone" is an area of separation from the roadway and means that vehicles must be parked a certain distance away from critical public buildings. It does not mean that there is not public access to these areas. The project will not encroach on the Xanterra Engineering Office, and parking will still be allowed behind the Engineering Office. Existing uses, such as picnicking and other recreational use of the lawn area will be allowed to continue.

Comment: The document does not adequately address the vehicle parking requirements for the Justice Center.

Response: Currently, next to the Pagoda, there is one parking space reserved for the U.S. Magistrate and two parking spaces reserved for government employees. On the Esplanade, there is one parking space reserved for a court employee and one parking space reserved for a government employee. Under this proposed action the two court-reserved parking spaces will be relocated to the opposite end of the Esplanade in closer proximity to the Justice Center. Additional parking for Justice Center employees will be adjacent to the historic cavalry stable (Building 38), where resource management and visitor protection offices are located. Persons attending court will continue to park along either side of the Esplanade.

Comment: Will accessible (ADA) parking be available?

Response: One accessible parking space is required for every ten spaces. At least one accessible parking space will be delineated for the Justice Center building.

Comment: Will the road to the sallyport be redesigned to accommodate two-way traffic?

Response: The road will remain one-way.

Comment: Explain how the geotechnical conditions differ between sites B and C.

Response: Subsurface geological conditions vary widely in the Mammoth area. A 1998 study indicated that there were concerns with soil stability at Site C. Investigations recommended this area be avoided due to "highly expansive fat clay." The high plasticity of fat clay can undergo significant volume changes with changes in moisture that can cause foundations and floors to heave excessively.

Comment: How will construction noise and noise from outdoor equipment associated with the building be dealt with?

Response: Contract specifications for the project will be written to limit noise-producing activities during certain time periods. Requirements will be discussed with the park concessioner. The generator and cooling unit on the south side of the building will not produce a significant amount of noise.

Comment: Explain how the security needs for the Justice Center integrate with nearby concessioner facilities.

Response: Building security is an issue, but not such an overriding one that surrounding uses need to be changed or removed.

Comment: Will the icehouse remain where it is presently located?

Response: Yes, the ice house will remain at its present location for the foreseeable future.

Lighting

Comment: How will the Justice Center and adjacent sally port be lighted at night?

Response: Low-level nighttime illumination will be utilized and will provide enough light to illuminate immediate areas for safety and security purposes. All lighting will conform to *Yellowstone Lighting Guidelines* (2005).

Wildlife

Comment: How will construction of the Justice Center affect the elk that gather at that location during the summer and fall?

Response: Some minor, localized, and short-term displacement of wildlife could occur during construction activities, but animals would be expected to return to the general area. Elk are habituated to bluegrass lawns and are somewhat adapted to the presence of visitors. Because elk are adaptable, it is expected they will continue to use the general area following construction.

Comment: Wolves have been observed in the Mammoth area. Please explain the "may affect, but is unlikely to adversely affect" determination that was made in the EA.

Response: Gray wolves' use of habitat in the Mammoth Hot Springs area is infrequent and limited to the winter months. Park biologists stated that there are no wolf homesites nearby and that construction activity or a permanent structure would not affect wolves. The U.S. Fish and Wildlife concurred with this determination of effect.

Historic Buildings/District

Comment: Explain how this plan fits in with the park's commitment to adaptively use historic buildings and how the park will mitigate the impacts of new building construction on the Fort Yellowstone National Historic Landmark District?

Response: All of the buildings in Fort Yellowstone have been adaptively used for administrative, maintenance, or residential purposes. Page 28 of the EA describes several historic buildings and locations that were considered for the Justice Center, but after an analysis of natural and cultural resources and visitor use and experience, the preferred alternative was selected.

Comment: The EA states that there are direct, moderate, local and long-term impacts on the park's historic resources, particularly the Mammoth Hot Springs Historic District. How can a "no impairment of the park's resources or values" determination be made?

Response: The addition of a building to the site will have an impact on the visual quality of the Fort Yellowstone National Historic Landmark District and the Mammoth Hot Springs Historic District, but would be mitigated by using building and landscape designs that are compatible with the historic district. Because there would be no adverse impacts to a resource or value whose conservation is (1) necessary to fulfill specific purposes identified in the establishing legislation or proclamation of Yellowstone National Park; (2) key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or (3) identified as a goal in the park's general management plan or other relevant NPS planning documents, there would be no impairment of the park's resources or values.

Other comments

Comment: Because the park was established before the surrounding states, the park has primary jurisdiction; consequently, why can't the Justice Center be placed anywhere within the park's boundaries, for examples park land in Gardiner?

Response: The Justice Center must be sited in a location that is consistent with case law, federal statutes, and the U.S. Constitution. The federal law that placed the Montana and Idaho portions of Yellowstone inside the District of Wyoming has been challenged and is currently under legal review. It would not be prudent to place the Wyoming Judicial District courthouse outside the state of Wyoming, only to have that practice invalidated in court later. It is possible that the law that placed all of Yellowstone in one judicial district will be invalidated and Yellowstone will instead be in three judicial districts. Because the majority of Yellowstone cases originate in Wyoming, it is most prudent to place the court in Wyoming and then later seek a legal remedy should the park's judicial districts be split up. It is an established rule of law and practice that U.S. Magistrate judges and their courtrooms are placed inside the judicial district they are operating within and inside the state that contains the judicial district (in this case, Wyoming). There are examples of multi-state/multi-judicial district U.S. Magistrates in the United States, but the judges and courts are located in the judicial district and state where the predominant number of cases occur. As stated earlier, the predominant number of Yellowstone court cases are generated inside Wyoming.

Comment: Explain why it is permissible for prisoners to be temporarily held in West Yellowstone or Billings.

Response: Prisoners may be held in Montana facilities before pre-trial sentencing. The West Yellowstone Police Department jail is sometimes used because of the limitations of the Mammoth jail. The West Yellowstone jail is a small jail that can only temporarily house federal prisoners. NPS use of the West Yellowstone jail puts a strain on the resources that were designed to support the community of West Yellowstone. West Yellowstone federal prisoners that do not post a bond for release or are ordered by the judge held pending court appearance, are subsequently transported to Mammoth and re-housed in Mammoth prior to court. By current policy, the U.S. Marshals Service in the Montana District will not allow any defendants sentenced in Wyoming to serve time in any Montana jail, consequently the federal jail in Billings, Montana, cannot be used after sentencing. Nearby facilities are also unavailable to the NPS or the U.S. Marshals Service to house federal prisoners due to overcrowding.

Comment: Naming the first structure that a visitor sees as they enter the Esplanade the "Justice Center" is inappropriate and detrimental to what the mission of the National Park Service is supposed to be portraying.

Response: The mission of the National Park Service is the protection of Yellowstone. Since the days of the U.S. Cavalry presence in Yellowstone, one of the primary tools used to protect the park has been the enforcement of laws and administration of justice. This building's name and its presence is wholly consistent with and a vital part of the NPS mission and its history. The building was originally named the Mammoth Courthouse, but because of technicalities associated with funding from the U.S. Courts, the building was renamed the "Yellowstone Justice Center."