

What the NPS Learned

One EIS may not be enough. Highly general documents may require more specific and detailed environmental analysis.

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Cumulative effects arising from multiple planning projects need to be addressed in a comprehensive fashion. Usually in a site specific Environmental Impact Statement.

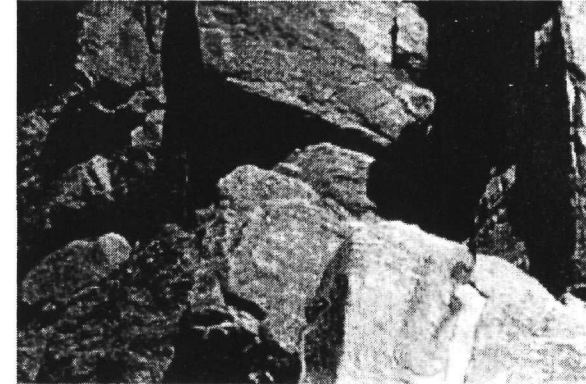
Changed conditions may require a fresh look at alternatives and NPS proposals. While a decision may have been made in the past, the dynamics of the environment may have changed, rendering new alternatives or actions feasible. These need to be considered in fresh environmental evaluations.

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SIERRA CLUB VS
BABBITT, STANTON,
REYNOLDS AND
ALBRIGHT.

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*Lessons Learned:
General Descriptions,
Cumulative Impacts and
Changed Conditions*

FACTS OF THE CASE The Sierra Club sought a preliminary injunction in Federal Court to stop the NPS from constructing new lodging in Yosemite Valley. The decision to build the lodge was based on an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI)

THE SETTING The Yosemite Lodge is north of the Merced River in Yosemite Valley. Most of the cabins or buildings are within the 100 year floodplain of the river, many of which were damaged by flooding in January 1997. The NPS sought to remove damaged lodging from the floodplain and construct new facilities—284 motel rooms, 96 cottage rooms, and 60 cabins outside of the floodplain and move a road and parking lots closer to the Merced River.

A series of plans had been produced for Yosemite. In 1980 a General Management Plan (GMP) and Environmental Impact Statement (EIS) was adopted. In 1992 a Concession Services Plan (CSP)/EIS was prepared. Both documents set out goals in very broad terms relating to park use and development. One of the elements of the GMP was to remove lodging facilities from the Merced River floodplain. In 1996 the NPS initiated the Valley Implementation Plan (VIP)/EIS to implement the broad directives of the GMP and CSP by detailing the development projects. Actions in the Yosemite Lodge area were originally included in the VIP.

After the 1997 flooding the NPS sought to expedite the construction process to

accommodate visitor needs. It separated the lodge area from the VIP process. In April 1997, less than four months after the flood, NPS released an EA containing two alternatives. One alternative called for rebuilding the facilities in the same location. The other alternative proposed construction of facilities away from the river. The EA dismissed the possibility that lodging could be relocated outside the park area, because it would not conform to park-wide planning documents that had already been adopted. In July 1997, the NPS issued a FONSI stating that an Environmental Impact Statement was not required and that no significant impact to the environment would result.

KEY ISSUES: The Sierra Club's NEPA challenges were that the NPS : signed a FONSI when an EIS was needed because of the cumulative impacts of the plan; made no connection with similar plans being developed throughout the park; failed to consider reasonable alternatives that might have a lesser impact on the environment.

The Court cited other Federal Court decisions that established "Where there are large scale plans for regional development, NEPA requires both a programmatic and site-specific EIS." The court noted that the NPS position was that it did not need to prepare an EIS because the relevant impacts, both site-specific and cumulative, were considered in prior park-wide planning documents. This argument was unsuccessful. The previous EISs did not "relieve the NPS of its obligation to conduct an EIS in the present

case, because the cumulative environmental concerns raised by the lodge plan have not been previously addressed. ... prior documents addressed parkwide development and operations in such general terms that they could not possibly have considered the cumulative environmental impacts attendant with the implementation of site-specific development proposals throughout the park....The GMP and the CSP layout the goals of the Park Service with respect to the park in very broad terms...(and do not)nearly reach the level of specificity required to obviate the need to consider the cumulative impacts of specific development proposals flowing from the general guidelines (of the GMP and CSP)." The court noted that "by separating the lodge development plan from the larger development process, NPS has failed to formally consider the cumulative impact of its proposal."

The court also agreed with the Sierra Club that "What the Park Service failed to acknowledge is that the damage caused by the 1997 flood gave rise to new circumstances not contemplated by the prior planning documents. In light of this change in circumstances, it would have been reasonable to consider alternatives that do not comply with the precise letter of the GMP."