



February 24, 2006

Margareta Morera  
Port Authority of New York and New Jersey  
225 Park Avenue South, 14<sup>th</sup> Floor  
New York, NY 10003

Re: Comments on Preliminary Cumulative Effects Analysis (Feb. 3, 2006 Posting)  
Tower Perimeter Column Remnants and Tower Footprint Areas

Dear Ms. Morera:

Thank you for the opportunity to comment formally on the Preliminary Analysis of Potential Cumulative Effects on the Tower Perimeter Column Remnants and Tower Footprint Areas within the World Trade Center Site, posted on February 3, 2006. We also appreciated the opportunity to meet with the Port Authority to discuss the issue of cumulative effects on January 26, 2006, pursuant to Stipulation I.G.3. of the MOA for the WTC Transportation Hub.

The National Trust has consistently respected and admired the Port Authority's responsiveness to comments from consulting parties throughout the planning process for redevelopment at the WTC site. However, the draft cumulative effects analysis represents a major departure from the spirit with which the Port Authority has approached the consultation process to date.

This analysis of cumulative effects is disingenuous, misleading, and fundamentally inadequate, especially with respect to the Tower Footprint Areas. For example, the preliminary analysis states that the cumulative effects "could result" in 92 percent of the North Tower Footprint and 47 percent of the South Tower Footprint "remaining physically accessible." At our meeting on January 26, it became clear that the actual likelihood of retaining physical access to these portions of the footprints is utterly negligible. Instead, the footings and foundations package will in fact foreclose the opportunity to retain physical access to the vast majority of the Tower Footprints. The proposal calls for leaving only a small portion of the existing slab within the North Tower Footprint, installing drainage infrastructure throughout the Footprints, and imposing a column grid throughout the Tower Footprint area that will predetermine the location of shear walls and partitions within the Footprints. The Port Authority has failed to take into account these reasonably foreseeable cumulative effects.

Where the cumulative effects analysis does acknowledge adverse effects, they are treated as inevitable, a conclusion that the consulting parties should have had an opportunity to examine and discuss during the consultation process. Because the consulting parties' questions and

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concerns about the footings and foundations package never resulted in the open consideration of alternatives, we have no confidence that such adverse effects are unavoidable. If these effects *are* truly unavoidable at this point, it would only be because the LMDC and the Port Authority have unlawfully foreclosed a meaningful opportunity to comment on those effects.

In addition to our objections regarding the scope and conclusions of the preliminary cumulative effects analysis, we are also concerned that the consultation process has been thwarted by the belated timing and inadequacy of the materials made available (or not) to the consulting parties. For example, only one slide was shown at the January 11, 2006 consultation meeting (but not distributed to the parties), to illustrate the effect of the footing and foundation work on the tower footprints. LMDC and the Port Authority effectively stonewalled the consulting parties in response to our efforts to understand the extent of the adverse and cumulative effects. Aside from that peek at one slide on January 11, not a single graphic image was made available to the consulting parties until the plans for the footings and foundation work were posted for bidders. The consulting parties were left to fend for themselves in finding and reviewing a massive package of highly technical plans and drawings in an effort to decipher the cumulative effect implications of the plans. It was especially frustrating to sit through the January 26 meeting while staff and consultants from the Port Authority and LMDC who were sitting around the table appeared to be hiding useful visuals and graphics that were folded up and stuffed underneath their other papers. In this regard, we believe the Port Authority has violated Stipulation I.G.5. of the MOA for the WTC Transportation Hub, because the Port Authority apparently has not made available to the consulting parties “all appropriate PANYNJ-generated and prepared documentation . . . utilized in consideration of cumulative adverse effects . . . .”

Meanwhile, as we prepare our comments on the cumulative effects analysis, the deadline for submitting construction bids on the advance footing and foundation package closes one day *before* our comments are due, and 11 days before the deadline for the SHPO, ACHP, and other agencies to comment on the preliminary cumulative effects analysis. As a result, this entire comment process is a meaningless, academic exercise, because the opportunity to consider alternatives or modifications to the plans that could minimize the adverse effects will have been foreclosed. This is also inconsistent with Stipulation I.G.2., which calls for the Port Authority to review and consider “preliminary” and “pre-final” designs from the LMDC and other agencies, in order to take into account cumulative effects. Since the date of the bid package was January 9, 2006, the subsequent consultation meetings certainly did not involve consideration of “preliminary” or “pre-final” plans.

The National Trust supports the comments of the Historic Districts Council, which identify specific ways to modify the plans (both the plans of the LMDC and the plans for the PATH station) in order to reduce their adverse effects on the tower footprints. We agree with the HDC that these adverse effects can readily be minimized. The only thing lacking is the willingness to consider doing so.

In sum, the cumulative effects analysis fails to address major, reasonably foreseeable adverse effects on the Tower Footprints, and mischaracterizes the effects that it does acknowledge as minimal and unavoidable. The critical concerns raised throughout the Section 106 consultation process about the impact of the planned footings and foundations work have been consistently ignored, and vital information has been withheld from the consulting parties. With construction on this package set to begin next month, the National Trust is deeply concerned about the inadequacy of the cumulative effects analysis and the recent direction of the Section 106 consultation process for the WTC site.

It is imperative that the Port Authority not allow this work to go forward until these serious violations of the Section 106 process are corrected. Retaining public visibility and/or access to the physical remains of the Tower Footprints is an absolutely fundamental historic preservation issue. Just like the strafing marks in the concrete that still remain at Pearl Harbor, these tangible physical remains of the Twin Towers are a direct, irreplaceable, and authentic link to the historic events of September 11, 2001. The substantial destruction of this crucial element of the World Trade Center Site should not be sealed through a manipulation of the Section 106 review process. We urge you to withhold approval for this work until a meaningful, good faith assessment of cumulative effects has been prepared and reviewed by the parties.

Sincerely,



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Deputy General Counsel



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Margareta Morera  
Port Authority of New York & New Jersey  
February 24, 2006  
Page 4

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