

ENVIRONMENTAL ASSESSMENT OF INTERIM COMPENDIUM

The Presidio Trust
June 1998

I. The Proposal

The Presidio Trust (the "Trust") is considering adopting the compilation of designations, closures, permit requirements, and other restrictions provided herewith (the "Interim Compendium") pursuant to the Trust's rulemaking authority under § 104(j) of the Presidio Trust Act, Title I of P.L. 104-333 (enacted Nov. 12, 1996), and regulations adopted by the Trust at 36 CFR Parts 1001, 1002, 1004, and 1005. Staff of the Presidio Trust have prepared this document for review by the Board of Directors prior to consideration of the Interim Compendium.

II. NEPA Compliance

The Trust is subject to the provisions of the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321 *et seq.* NEPA requires an interdisciplinary study of the impacts associated with certain Federal actions. Under regulations issued by the Council on Environmental Quality, the Trust is required to prepare an environmental assessment ("EA") of any proposal covered by NEPA which is not categorically excluded from preparation of an EA or an environmental impact statement ("EIS") pursuant to procedures adopted by the Trust to implement NEPA. 40 CFR § 1501.4(a) & (b). Agencies are also permitted to prepare an EA in order to assist in agency planning and decisionmaking. 40 CFR § 1501.3(b).

The EA process ensures that environmental information is available to the officials charged with decisionmaking authority before decisions are made. An EA is to be "a concise public document . . . that serves to [b]riefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact." 40 CFR § 1508.9(a).

A. Need for and Environmental Effect of the Proposal

Pursuant to the Presidio Trust Act, the Presidio Trust will obtain administrative jurisdiction over a substantial portion of the Presidio on July 1, 1998. This property, over which the federal government has exclusive jurisdiction, is currently covered by regulations of the National Park Service. These regulations govern conduct in the Presidio, including such issues as resource protection, public use and recreation (36 CFR Part 2); vehicles and traffic safety (36 CFR Part 4); and commercial and private operations (36 CFR Part 5). Under these regulations, the Superintendent of the Golden Gate National Recreation Area has adopted a compilation of designations, closures, permit requirements, and other restrictions (the "GGNRA Superintendent's Compendium"). The NPS regulations and the accompanying GGNRA

Superintendent's Compendium govern conduct and ensure good order and public safety in the Presidio, as well as protection of its natural and cultural resources.

The regulations adopted by the Trust at 36 CFR Parts 1001, 1002, 1004, and 1005 were modeled on and are quite similar to these NPS regulations. They were intended to maintain the physical status quo in the Presidio and not to effect any significant change in the Presidio's human environment or that of the surrounding environs. Similarly, the Interim Compendium drafted for the Board's consideration also closely follows the GGNRA Superintendent's Compendium and is intended to maintain the physical status quo in the Presidio and not to effect any significant change in the Presidio's human environment or that of the surrounding environs. Like the GGNRA Superintendent's Compendium, this Interim Compendium is needed in order to govern conduct and ensure good order and public safety in the Presidio, as well as protection of its natural and cultural resources.

B. Alternatives Considered and Their Environmental Effects

There are limited practical alternatives to the proposed action. If the Trust were to take no action, and adopt no compendium, certain forms of conduct that have been prohibited in the Presidio pursuant to the GGNRA Superintendent's Compendium would no longer be prohibited. The Trust would lack detailed rules concerning issuance of permits, area closures, and other methods of regulating conduct in such a way as to protect the resources of the Presidio. Furthermore, in the absence of this Interim Compendium, public health and safety might be endangered. The environmental effects of the no action alternative are therefore quite significant and detrimental to the values that NEPA seeks to protect. As a result, the Trust has rejected this "no action" alternative.

C. Agencies and Persons Consulted

In drafting this Interim Compendium, staff and attorneys of the Trust reviewed a proposal from the National Park Service and had several discussions with staff and attorneys for the National Park Service and the Department of the Interior. The United States Park Police, which operates under the aegis of the National Park Service, was also consulted concerning law enforcement issues.

III. Endangered Species Act Compliance

Under the Endangered Species Act of 1973, 16 U.S.C. § 1531 *et seq.*, federal agencies are required to consult with the U.S. Fish and Wildlife Service to ensure that certain actions authorized, funded, or carried out by the agency do not jeopardize the continued existence of listed species or critical habitat. The Presidio of San Francisco is home to certain species listed under the Endangered Species Act. Because the proposed action will not change the physical status quo of the Presidio, the Trust has determined that consultation with the U.S. Fish and Wildlife Service is not required.

IV. Section 106 Compliance

Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470 *et seq.*, mandates that federal agencies take into account the effects of their actions on properties listed or eligible for listing on the National Register of Historic Places. Because the Presidio is a National Historic Landmark, undertakings with the potential to affect the historic character of the Presidio require Section 106 compliance review to ensure protection of the Presidio's resources.

The Trust has determined that the adoption of this Interim Compendium is not an action that will, in and of itself, require Section 106 review. As discussed above, this Interim Compendium is intended to maintain the physical status quo in the Presidio. As such, the Trust does not anticipate that its adoption of this Interim Compendium will affect the characteristics and properties contributing to the Presidio's status as a National Historic Landmark.

V. Conclusion and Recommendation

In short, the promulgation of the proposed Interim Compendium will have no significant adverse impacts on the human environment because the Interim Compendium is effecting no significant change in the physical status quo. As such, this Interim Compendium will have no adverse impacts on public health, public safety, threatened or endangered species, sites listed on or eligible for the National Register of Historic Places, or other unique characteristics of the area. Adoption of this Interim Compendium will not violate any federal, state, or local law; in fact, it will fulfill the requirements of the Presidio Trust Act and regulations promulgated by the Trust thereunder.

The Interim Compendium maintains the substantive physical status quo in the Presidio and surrounding environs. Its adoption therefore does not qualify as a "major Federal action significantly affecting the quality of the human environment," 42 U.S.C. § 4332(C), which would require the preparation of an EIS under NEPA and its implementing regulations. As a result of this review, it is therefore recommended that the Presidio Trust Board of Directors approve a Finding of No Significant Impact ("FONSI") with respect to the adoption of this Interim Compendium.