Commenter CP1: Don Ackerman	
From: Donald L. Ackerman Sr. [redacted] **Sent:** Thursday, January 7, 2016 8:14 PM **To:** [redacted] **Cc:** Chris Modovsky; 'Kelly Wittie' **Subject:** RE: VA Black Hills Historic Properties Consultation Ms Coyle, How can we discuss yet another alternative when we have yet to even discuss the Draft proposal and The VA chosen alternative. Are the facts within the Draft EIS so bad that you suddenly now want to add yet another miss direction in a already terribly flawed document. What new surprises does the VA have for us to consider? Does anyone but us actually understand what is supposed to be happening here? I assume you actually know who the consulting parties are. Don The Veteran	CP1-1 This transmission related to the historic properties consultation meeting held January 21, 2016. The transcript of this meeting is available in Appendix C.

Commenter CP2: National Trust for Historic Preservation

From: Amy Cole [redacted]
Sent: Tuesday, January 12, 2016 11:41 AM
To: [redacted]
Cc: Chris Modovsky; Kelly Wittie
Subject: RE: VA Black Hills Historic Properties Consultation

Dear Katie:

Here is the VA's proposed agenda for next week's meeting with the National Trust's suggested agenda edits/additions and questions to be answered in red:

General questions/requests:

- When will materials from prior meetings be provided, such as PowerPoints, charts, lists of issues "parked" for future resolution, etc. that were shown at previous meetings but not ever distributed?
- How and when will the VA respond to the numerous questions and concerns raised in letters and during prior consultation meetings? These must be addressed before the Section 106 consultation is concluded.
- Please provide an overview of the VA's interpretation of the language in the FY 2015 Omnibus Appropriations Bill and its implications for the VA's compliance with NEPA and Section 106 with regard to Hot Springs.
- Please be prepared to talk in detail about the backup documentation for the DEIS' conclusions that rehabilitation and continued use are too expensive.
- Please be prepared to talk in detail about the backup documentation for the DEIS' conclusions that ADA/ABA compliance cannot be satisfactorily achieved. We believe the VA's guidance document (the 2011 "Barrier Free Design Guide") is inappropriately restrictive, and fails to address the flexibility for historic buildings that is permitted under the ADA/ABA statutes and regulations.

Agenda

1. Introductions

- Who is the "responsible agency official" per 36 C.F.R. § 800.2(a) that will be attending this meeting? We think the meeting will be much more productive if a person with decision-making authority over this project attends and participates.

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CP2-1 This transmission related to the historic properties consultation meeting held January 21, 2016. The transcript of this meeting is available in Appendix C.

Commenter CP2: National Trust for Historic Preservation

- There are 10 named VA staff listed as attending. What will be their respective roles in carrying out the consultation?
- The National Trust will be represented in person by Amy Cole and Jenny Buddenborg.
- Please provide a mechanism for us to call into the meeting by telephone as well, so that our Deputy General Counsel, Elizabeth Merritt, can participate by phone.

2. Clarifications in the Ground Rules

- We are very concerned that prior practice has been to manage these meetings in a way that completely precludes any actual consultation from occurring. Please confirm that the principal ground rule will be to enable participants to undertake meaningful consultation as defined in the Section 106 regulations -- "the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them . . . ." 36 C.F.R. § 800.16(f).
- Prior practice also foreclosed the opportunity for parties to discuss alternatives or modifications to the proposed undertaking that would avoid, minimize or mitigate adverse effects, because the facilitator would not allow discussion about anything that she believed was not "required." Please confirm this practice will not continue.
- We have also repeatedly raised objections to the practice of placing numerous issues in a "parking lot," never to be revisited in the consultation process.
- Since the VA apparently insists on pursuing substitution of NEPA for Section 106 under 36 C.F.R. § 800.8, we must be able to discuss both NEPA and NHPA-related matters at the consultation meeting. If there has been any further clarification about exactly how NEPA-Section 106 substitution will be implemented, we would appreciate hearing more.

3. Where we are in the consultation?

a. Definition of the Undertaking

- The VA's assertion that the undertaking is the "Proposed Reconfiguration of Health Care Services within BHHCS" is inconsistent with the VA's exclusion of the Fort Meade Campus (one half of BHHCS) from the APE and from consultation discussions. Either the description of the undertaking is incorrect, or else Ft. Meade should be included. Please address.
- We continue to believe that the VA is improperly and unlawfully commencing the implementation of its undertaking, without completing the Section 106 review "prior to" making its decision, as mandated by the law. This has the effect of foreclosing the opportunity of the ACHP and other consulting parties to engage in meaningful consultation under Section 106.

b. Area of Potential Effect

The VA provided an updated map of the APE at the April 2015 consultation meeting, but we never learned whether the VA had consulted with SHPO (as the regulations require) in developing its slightly expanded APE, or why Ft. Meade continues to be excluded from the APE. Please address.

c. Identification of Historic Properties

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Commenter CP2: National Trust for Historic Preservation

4. New alternative to be considered and analyzed

   - Utilizing Building 12 as potential location for Hot Springs CBOC

   We would be happy to talk about this idea, but more broadly this item should include ways in which the VA will "develop and evaluate *alternatives* or *modifications* to the undertaking that could avoid, minimize or mitigate adverse effects on historic properties." 36 C.F.R. § 800.6(a). This should not be limited to using Building 12.

5. Discussion of Adverse Effects

   - We strongly disagree with the VA's position that all adverse effects should be considered equal.
   - We have had no consultation about cumulative or indirect effects, and in the last attempted conversation about this, the facilitator said that only "connected" actions could be considered as the basis for adverse cumulative effects. We, and the Section 106 regulations, do not agree. Please provide assurances that indirect and cumulative effects will be addressed, as mandated by the Section 106 regulations, 36 C.F.R. § 800.5(a)(1).
   - We have had no consultation about how the VA will meet the requirements of Section 110(f) of the NHPA, which requires minimizing harm to the "maximum extent possible" for the protection of National Historic Landmarks. 54 U.S.C. § 306107. Please address.

6. Introduction of Mitigation Measures

   - In light of the nature of this consultation, we do not believe we are far enough along in the process to begin this discussion on January 21st. Significant issues regarding the Area of Potential Effects, and less harmful alternatives and modifications, remain unresolved.
   - Mitigation is only one point of discussion and is in fact the last in the list of actions to be taken to resolve adverse effects, after avoidance and minimization. Please change this topic to "Resolution of Adverse Effects." Begin discussion with avoidance options.
   - We are very concerned about the "mothballing" proposal. More information is required.

7. Next Steps

   - We continue to promote the idea (as we first did in 2012) that an agreement document should be developed and included in the ROD.
   - We will mostly likely be requesting an extension of the NEPA comment period until more progress can be made with the Section 106 consultation.

Sincerely,

Amy Cole

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Commenter CP3: Save the VA

From: Nelson Bob Sr [redacted]
Sent: Thursday, January 14, 2016 5:23 PM
To: Katy Coyle
Cc: [redacted]
Subject: Re: VA Black Hills Historic Properties Consultation
Attachments: 21 Jan agenda_Draft for Comments stva.pdf; att21285.htm

Save the VA agenda items are attached.

VA BHHCS NEPA Historic Properties Consultation
VA Hot Springs Campus, Auditorium, Building 11
January 21, 2016 (9 a.m. to noon, 1:30 p.m. to 4:30 p.m.)

Invited Participants

a. VA Officials
- To be Determined - <title> - VHA
- Sandra Horsman – Director - VA BHHCS
- Jason Petti – Deputy Network Director – VISN 23
- Chris Stomberg – Chief Financial Officer – VISN 23
- Doug Pulak – Deputy Historic Preservation Officer – VA Central Office
- Cynthia Doolittle – Acting Capital Asset Manager – VISN 23

Support staff:
- Billie Jo Beal, Staff Assistant to Director - VA BHHCS
- Teresa Forbes, Public Affairs Officer - VA BHHCS
- John Henderson, Chief of Facilities Management – VA BHHCS
- Luke Epperson, Staff Assistant, VA BHHCS
- Glenn Wittman, VA Office of Construction and Facilities Management

b. Consultants
- Labat Environmental, Inc. – Christine Modovsky, Project Manager
- R. Christopher Goodwin & Assoc., Inc, (replacing SWCA) – Katy Coyle, 106 Consultation Lead; Kelly S. Wittie, Historic Preservation Specialist

c. Consulting Parties
- Advisory Council on Historic Preservation:
  - Chris Daniel, VA Liaison
  - TBD, Office of Federal Agency Programs
  - State Historic Preservation Office
  - Indian Tribes
  - Government Representatives
  - Consulting Parties
  - Save the VA
    - Amanda Campbell
    - Bob Nelson

CP3-1

This transmission related to the historic properties consultation meeting held January 21, 2016. The transcript of this meeting is available in Appendix C.

Commenter CP3: Save the VA

Agenda

1. Introductions

2. Clarifications in the Ground Rules
   - Prior consultation meetings had the feeling of conducting the meetings with the intent of "checking a box" on behalf of the VA. The VA needs to restore trust with the consulting parties that this is a collaborative process, no decision has been made and the consulting parties' concerns are truly considered and addressed.

3. Where we are in the consultation
   - We still disagree with the APE as defined by the VA. Consulting parties have repeatedly stated they believe the Ft. Meade property should be included in the APE. Will the APE be discussed?
   - In an email to consulting parties dated October 28, 2015 from then subcontractor SWCA, "the workshop agenda will focus on the resolution of potential adverse effects resulting from the Preferred Alternative." Is that the purpose of this meeting or will other alternatives be discussed during this meeting?
   - Many items from previous consulting party meetings were placed in the "parking lot." When will these items be discussed?

4. New alternative to be considered and analyzed
   Utilizing Building 12 as potential location for Hot Springs CBOC
   - Because the VA is proposing a new alternative, does this mean additional alternatives can be submitted and considered? An alternative submitted by Pat Lyke in 2012 to Steve Distatio and Jan Murphy has still not been considered as an alternative and included in the Draft EIS.

5. Discussion of Adverse Effects
   - Please be prepared to discuss physical and financial aspects of mothballing the Hot Springs facility as an adverse effect.
   - Please be prepared to continue the discussion of the loss of the Hot Springs facility as a recognized traditional cultural property and the potential adverse effect.
   - The Draft EIS does not focus on ways to avoid or minimize adverse effects to the Hot Springs facility. Why is the focus of the Draft EIS on vacating the property?

6. Introduction of Mitigation Measures

7. Next Steps
   - Extend the public comment period by a minimum of two months to allow the VA, consulting parties and the public to consider new information generated from these meetings as part of the comment process. The VA wants a new alternative to be considered and analyzed which also supports an extension to the comment period.

Commenter CP4: American Federation of Government Employees		
From: Russell, Patrick M. [redacted] **Sent:** Friday, January 15, 2016 5:48 PM **To:** [redacted] **Cc:** Chris Modovsky; Kelly Wittie **Subject:** RE: [EXTERNAL] VA Black Hills Historic Properties Consultation Ms. Coyle, As a Consulting Party representing the employees at the Hot Springs VA Medical Center I wish to tender a request for the agency to please elaborate on the following. **2.3.5.2 Employment** **VA would employ an adequate number of qualified professional, specialty, and support staff to provide the medical and treatment services in the Save the VA proposal, as well as serve as liaison to the Veterans Industries project. Positions would be established as full-time permanent staff. Save the VA stated that VA would activate policies to encourage and enhance staff retention. Appendix D to the Save the VA proposal identified the following approaches, all of which are currently utilized by VA BHHCS: nationwide advertisement, offers of permanent employment, and enhancing attraction of positions by providing information about education debt-reduction programs and benefits. Competencies could be developed and maintained through rotation to another facility for updates/training, virtual training, and simulation training.** **In Hot Springs, approximately 633 FTEEs employees would be needed to staff the VAMC, RRTP, and other services; this would be an increase of 276 FTEEs. VA BHHCS would continue to staff the Rapid City CBOC at a similar level as currently (approximately 30 FTEEs).** The agency has not explained how they arrived at this number. At our peak usage there were close to 500 domiciliary patients and 265 inpatient medical patients with a total of 475 FTEE. *Patrick Russell, President* *VA Council 259 8th District* *AFGE Local 1539* [redacted]	CP4-1	CP4-1: See response in Table E-2 relating to costing assumptions for STVA proposal (Alternative E).

Commenter CP5: American Federation of Government Employees	
From: Russell, Patrick M. [redacted] **Sent:** Friday, January 15, 2016 5:51 PM **To:** [redacted] **Cc:** Chris Modovsky; Kelly Wittie **Subject:** RE: [EXTERNAL] VA Black Hills Historic Properties Consultation Ms. Coyle, Would you be able to obtain all of the "PARKING LOT" issues that Ms. Peters had pushed aside in our previous meetings? She should have them listed on the flip charts she created during the discussions. The Consulting Parties had relevant questions that should be addressed before we move onto new territory. Thank you for your assistance. *Patrick Russell, President* *VA Council 259 8th District* *AFGE Local 1539* [redacted]	CP5-1 This transmission related to the historic properties consultation meeting held January 21, 2016. The transcript of this meeting is available in Appendix C. Copies of past "parking lots" were discussed at both the January and February 2016 meetings, and are available in the meeting summaries included in Appendix C.

Commenter CP6: Don Ackerman

From: "Donald L. Ackerman Sr." [redacted]
Date: January 24, 2016 at 10:26:58 AM CST
To: "Katy Coyle" [redacted]
Subject: RE: [EXTERNAL] VA Black Hills Historic Properties Consultation

Katy

I for one, feel once again lied to by LABAT, and now you.

I was lead to believe that your group, was actually looking for the right and correct answer. Now it appears that the issue is, to give the VA the answer they wish to pursue. What a shame and waste of good money. When it was stated that WE was the VA and you working in unison and you were nothing more than a temporally hired employee, I could have screamed. I suppose no one considers how much waste has gone into this process. How many Veterans could have been helped by the $800,000.00 plus wasted on this so far.

Had we veterans realized that this independent review was actually nothing more than the VA checking blocks and hiring experts in manipulation of facts I am sure we would have went another direction in our battle.

We are now hopefully that finally we have reached someone in the VA that just might be interested in what is the right direction, taking care of Veterans and giving them what they want and need so desperately.

I will see this part to its and end while preparing for the next battle to do the right and proper thing.

Don The Veteran

1

CP6-1	VA has noted this comment.

Commenter CP7: Don Ackerman		
From: Donald L. Ackerman Sr. [redacted] **Sent:** Friday, March 25, 2016 4:02 PM **To:** [redacted] **Cc:** **Subject:** RE: [EXTERNAL] FW: Ongoing consultation Miss Cole Interesting? This included the TDY for the two or three senior people present from outside the Vision. Or was this just a oversite? Don the Veteran	CP7-1	VA has noted this comment.

Commenter CP8: National Trust for Historic Preservation

From: Amy Cole [redacted]
Sent: Thursday, April 28, 2016 6:33 PM
To: [redacted]
Cc:
Subject: NTHP comments on draft measures to avoid, minimize or mitigate adverse effects at BMS
Attachments: NTHP final comments regarding Measures to Resolve Adverse Effects to Historic Properties Apr 28 2016.pdf; NTHP final comments regarding Measures to Resolve Adverse Effects to Historic Properties Apr 28 2016.docx

Dear Kelly:

Attached is a redline document and corresponding PDF with the National Trust's comments on the proposed measures to avoid, minimize and mitigate adverse effects to the Battle Mountain Sanitarium.

In addition, we offer the following general comments:

1. A number of mitigation measures that have been proposed or supported by consulting parties have been omitted from this document, without explanation. At the same time, many of the proposed mitigation measures that *are* included have never been discussed during the consultation meetings. The first time that we see these proposed mitigation measures should not be in this document. All of them merit additional consultation regarding whether the ideas are even needed, whether the groups named are interested in playing a role, and whether the right partner groups are included.
2. Because of the nature and magnitude of the controversy here, we believe roles for all consulting parties, besides just SHPO and NPS, should be added throughout the document, including in the review of documents, dispute resolution, consultation regarding amendment, etc.
3. Since the document repeats numerous concepts, a comment offered regarding one subject should be applied to the same subject matter every time it appears throughout.

Sincerely,
Amy Cole

National Trust for Historic Preservation

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CP8-1

VA developed a series of draft measures to resolve potential adverse effects to historic properties in consultation with the historic properties consulting parties. On April 13, 2016, VA circulated these measures for consulting party comment. These comments were taken into account when revising the draft measures. The draft and revised measures, and all consulting party comments on the measures, are included in Appendix C.

Commenter CP8: National Trust for Historic Preservation

Assume this is just part of the ROD that will ultimately be signed but does this document include all historic preservation-related commitments that we will see in the ROD?

Do not agree [that VA has satisfied responsibilities under Section 106]. Furthermore, this document does not contain any reference to the fact the property that is subject to the undertaking is a National Historic Landmark. There is no evidence offered that VA has met the special requirements under Section 110(f) of the NHPA for protecting National Historic Landmarks. This "requires that the agency official, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to any [NHL] that may be directly and adversely affected by an undertaking." 54 U.S.C. § 306107; 36 C.F.R. § 800.10(a).

This term ["Properties"] is contradicted in the measures for Alternative E and F.

This web-link [to SOI professional qualification standards] is not functional. For NHLs, we routinely recommend that federal agencies use the more up to date professional qualification standards proposed by the NPS in 1997, published at 62 Fed. Reg. 33,707 (June 20, 1997).

[VA project manager] Should meet SOI standards, as well. Who will this person report to? What is the meaning of "appropriate level" BHHCS, VISN?

Synch language [on later discoveries] with preceding section. [edits offered]

Awkward wording [edits offered]. Actually VA should be maintaining all historic buildings.

Why only those two entities? [SHPO and NPS for ongoing consultation related to mothballing]

Seems like it is late in the process to document this – these experiences [of other agencies with preserving unoccupied federal buildings] should inform whether Alternative G is viable to begin with.

The [mothballing] plan alone is not enough. Affirmative implementation needs to be stated.

Commenter CP8: National Trust for Historic Preservation

This time period [for minimum duration of maintaining campus according to mothballing plan] is out of step with VA's approach at other sites, where buildings have gone unused for 6 times longer and fallen into disrepair.

Why is there not consideration of other measures discussed previously during consultation that would support economic vibrancy in Hot Springs such as to establish a fund for small business creation, to establish a revolving loan fund for façade restoration of downtown buildings, to develop a comprehensive economic development plan for the city, or to develop a heritage tourism plan for the area? Other measures could include campus design guidelines, historic structure assessments or rehab plans for the buildings, etc. These suggestions can apply to all of the alternatives that include abandonment of the campus in whole or part.

This entire section [Measures to Mitigate Adverse Effects] needs (1) timeframes (now, not 30 days after the ROD), (2) express commitment of funding and (3) more specificity. If it is not possible to determine this now, another option for this section would be to form a mitigation committee to work all of this out in more detail, though it can be a challenge to continue to convene and execute over time. More specific comments follow.

Can't this measure [making greenhouse available] still be implemented if the campus is mothballed?

If there is a community desire for this designation [Preserve America], we would not oppose it but because the program hasn't been funded in six years, this seems like an insignificant measure.

Does that ["host" in reference to annual reunion] mean fund in its entirety?

Clarify whether all roles assigned to the Preservation Commission are appropriate for that entity, and if not, find appropriate partners (for example, the Pioneer Museum).

Who will write this book? Will VA hire an author? What if others have feedback on the selection of the author, or on the editorial side? Where will it be distributed? Will it be available for sale?

Commenter CP8: National Trust for Historic Preservation

Does this mean fund [the photographic display] in its entirety? What kind of display? Permanent or temporary? Who will prepare the materials? Seems like a contractor would be used.

What if other consulting parties have suggestions [for the photographic display]? Who will draft the work and who will review it?

The app needs to have a purpose beyond just memorialization. We cited the Milwaukee Soldier's Home app as a good one and its purpose is conveying this history of the campus via a walking tour: http://www.savethesoldiershome.com/#!tour/nqlbh

More specifics about funding as is laid out here [specific amount] would be helpful throughout this section.

We don't understand this term [amended National Register nomination]. Why is the VA only willing to include four photos? Additionally, we seek clarification on the re-survey. While the District was designated in 1973, we understand there was a re-survey in the mid-2000s and the NHL nomination of the campus is just 5 years old, so resurvey seems to be unneeded and not a meaningful measure.

Does VA understand what it will take to re-establish this [Main Street] program at the state level? It's an interesting thought, but $50K/year won't go far enough to accomplish what is proposed. More funding will be needed plus other program support. Another consideration would be to create a specific Main Street Program in Hot Springs as opposed to an entire state program.

There is no reason not to take this [developing milestones] on now, rather than waiting 30 days after the ROD.

As we have repeatedly pointed out, any marketing strategy should first be informed by a real estate market demand analysis. This is the appropriate way to arrive at the decision to market the buildings for re-use in the first place. VA indicated it would do a market study but that is not mentioned here. Will the market demand analysis be completed as part of the NEPA process?

Commenter CP8: National Trust for Historic Preservation

Other consulting parties have an interest in this [redevelopment process] and can provide useful input. Don't exclude CP input.

This [VA integrated project team evaluating redevelopment] should be undertaken as part of the analysis of alternatives and completed before a ROD is signed.

There are many steps in the disposal process, so either list them all, or don't list any. [In reference to statement about satisfying requirements under the McKinney Vento Act related to homeless housing.

Will the VA excess the campus to GSA if they fail to find new users for all of the abandoned buildings? Or only in the event that new users are identified and the VA does not want to act as landlord?

The word "mimic" has implications of mocking or ridicule [edit offered].

What will happen if, at the end of this process, there is no re-use partner identified? That has been a consistent concern, and would result in the greatest adverse effect, yet these measures fail to address it.

This section [Alternative A with CBOC in Building 12] does not appear to address ways to avoid, minimize or mitigate effects on Building 12. Is the idea that the "All Alternatives" section on page 2, which says that all work carried out shall meet the Secretary's Standards, is meant to apply here without any additional terms related to Building 12?

Please clarify why the measures for some Alternatives include this section on archaeology and others don't. In this case, there is no new construction planned, except within existing buildings, so when would this apply?

This alternative [C] includes the re-use of at least two existing historic buildings, yet that is not referenced below at all. Is the default the application of the Secretary's Standards as described on page 2?

Commenter CP8: National Trust for Historic Preservation

Should not this language [following SOI standards for building exteriors and Grand Staircase] and that which follows be included in Alt. A with CBOC in Building 12 and Alt. C as well, since both would require the renovation of historic buildings (Building 12 and/or the Domiciliary)?

Why are all changes not subject to the Secretary's Standards, as described at the beginning of the document? See page 2, bullet 5.

Membership is only one aspect of a design review committee. This needs more specificity. Will design guidelines be produced? How will decisions be made?

This statement should apply to all of the other alternatives. Move to "All Alternatives" section at page 2. [VA will proceed in accordance with all federal laws and internal guidance if any need for demolition is identified.]

This statement [related to building numbers] should apply to all of the other alternatives and be moved to "All Alternatives" section at page 2.

Commenter CP9: Save the VA	
From: Nelson Bob Sr [redacted] **Sent:** Thursday, April 28, 2016 5:53 PM **To:** Kelly Wittie **Cc:** [redacted] **Subject:** Re: Draft mitigation measures **Attachments:** 2016 04 28 STVA Measures to Resolve Adverse Effects.docx; ATT00001.txt Hello Kelly Attached is the Save the VA response to the Measures to Resolve Adverse Effects Thanks.	CP9-1 VA developed a series of draft measures to resolve potential adverse effects to historic properties in consultation with the historic properties consulting parties. On April 13, 2016, VA circulated these measures for consulting party comment. These comments were taken into account when revising the draft measures. The draft and revised measures, and all consulting party comments on the measures, are included in Appendix C.

Commenter CP9: Save the VA	
The amount of time given for consulting parties to respond to this document [draft mitigation measures] was inadequate for a thorough review. Will this document [mitigation measures] become part of the EIS when it is complete? Does it apply to all alternatives or just the Preferred Alternative? Will this document [reports to consulting parties on implementation of measures] become part of the EIS when it is complete? Does it apply to all alternatives or just the Preferred Alternative? We recommend the Project Manager be someone versed in NEPA and/or meet the SOI standards. We recommend this individual meet the SOI's Professional Qualifications Standards. Does this [those who may request an amendment to the final measures] include any other consulting parties (Save the VA, National Trust, or any individuals associated with the Hot Springs site as a TCP? Please clarify the difference between ongoing or annual [consultation]. Ongoing suggests this is a conversation that is had multiple times during a year. Annual suggests once a year. Which is it? We recommend quarterly (once every three months), at a minimum, if not "ongoing". And other consulting parties? Why is the NPS and SHPO the only consulting parties in any of this? Where is the good faith effort on the part of the department? [To whom will VA provide a draft mothballing plan for review?] What about [maintaining the campus according to the mothballing plan] after 5 years? This is a National Historic Landmark. As administrators of the NHL program, we recommend the NPS be involved in this process [to develop a statewide programmatic agreement].	

Commenter CP9: Save the VA

Continuing medical services in the current location for individuals and families that want their care in that location seems more economical, effective, and meeting the mission of the department more so than hosting an annual reunion.

What is the VA's Role in this [archive the digital oral histories and transcripts in a publicly accessible archive]? Four years ago, Jan Murphy suggested it was up to the town to handle the structure and repurpose it. The concept of partnership is admirable and the VA needs to follow thru with it, but adjust the language so it is clear that the VA is playing a proactive role in this and not just "pawning its duties off" to the community.

Comment: Please realize that in general, while this [publishing a book about the historical significance of the Battle Mountain Sanitarium/VA Hot Springs campus, the Hot Springs Historic District, and the spirit of service to country in the Hot Springs area] sounds like a great idea and we'd love to see it happen should this alternative be chosen, this is an insult. The VA is attempting to reduce the healing, the service, the dedication, the foundation of a community and cornerstone of a federal department to an annual hot dog roast, a book, and a display. It is not enough. To "Mitigate" the loss of a sense of place, the loss of a sense of origin, the loss of a sense of community…it can't be done easily.

Just the Park Service [will have an opportunity to comment on the book outline]? What about other consulting parties? Is this just the Park Service's history?

Is this book for sale? If so, where do the profits go?

This is pleasant. [In reference to "VA shall develop a mobile application ("app") to memorialize the Battle Mountain Sanitarium."

Why [will no updates to the app be planned once it is completed]? What about adding all the information from the "Annual events" held by the VA?

Commenter CP9: Save the VA	
Has the VA communicated this to the HSPC? Has a conversation occurred about the HSPC's capacity to do this? [In reference to VA supporting the Hot Springs Historic Preservation Commission in an effort to complete a re-survey of the Hot Springs Historic District and submit an amendment to the National Register of Historic Places nomination to the South Dakota SHPO for consideration.] The BMS does not cease to be a NHL in 3 months, 5 years, 7 years, or any other timeframe after it is vacated. Why would the VA stop supporting the preservation, conservation, and actions of history there? Recommend this [developing a timeline for implementing measures] being conducted prior or at the same time as the ROD being issued. And other consulting parties? [In reference to reviewing and commenting on a draft mothballing plan, who can participate in inspections, and providing input on redevelopment partners.] Will the consulting parties be invited to be part of this "project team"? [In reference to an internal VA project team to evaluate potential re-uses.] Can an outline of GSA's "Disposal" process be provided here? A better definition of "disposal preservation conditions" is necessary. Can you please provide more detail [related to measures addressing effects under Alternative A2]? This section is vague regarding actual implementable mitigation measures. Please see all the comments above as they relate to this section too. Members of TCP communities? [In reference to "VA shall notify/invite to consult the South Dakota SHPO, the NPS, and all Native American tribes that have potential traditional, historic, or current ties to the VA BHHCS service area…"]	

Commenter CP9: Save the VA	
What about other states whose veterans are impacted by the closure of this facility? WY? NEB? [In reference to developing a statewide programmatic agreement in South Dakota.] The VA should follow the tenets of the NHPA and implementing 36CFR 800 for **any** site contained IN or OUTSIDE of the Hot Springs campus boundaries. [In reference to "VA shall follow the tenets of the NHPA and its implementing regulations at 36 CFR Part 800 to select a site and prepare that site for any construction not contained within the boundaries of the Hot Spring campus."] What exactly is VA "enterprise"? Tribes? Members of TCP communities? [regarding the list of members of the Design Review Committee for non-recurring maintenance projects, including infrastructure improvements, renovations, and new construction associated with this undertaking.]	

Commenter CP10: Save the VA	
# STVA Draft EIS Response Save the VA Committee Response to the Draft EIS Proposing the Reconfiguration of the Black Hills Health Care System **May 4, 2016** Save the VA Committee Po Box 851 Hot Springs, SD 57747 Text in this document that is in *italic* font are statements made by the Save the VA Committee	[STVA Comments are in italics. Other text is pulled directly from the Draft EIS relevant to the comment being made.]

Commenter CP10: Save the VA

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EXECUTIVE SUMMARY FROM DRAFT EIS

As required by the *National Environmental Policy Act* (NEPA), the U.S. Department of Veterans Affairs (VA) identifies, analyzes, and documents the potential physical, environmental, cultural, and socioeconomic impacts associated with the proposed reconfiguration of health care services within the Black Hills Health Care System (BHHCS) in this environmental impact statement (EIS). VA BHHCS provides health care to approximately 19,000 Veterans over 100,000 square miles in western South Dakota, northwestern Nebraska, and eastern Wyoming.

This EIS integrates NEPA review of the proposal with requirements for consultation on effects to historic properties under Section 106 of the *National Historic Preservation Act*. This integrated process complies with the Advisory Council on Historic Preservation's "Procedures for the Protection of Historic Properties" as well as published federal guidance for substituting the NEPA process for Section 106 review.

The ***purpose*** of VA's proposal to reconfigure health care services in the BHHCS is to provide high-quality, safe, and accessible health care for Veterans well into the twenty-first century by:

- Providing locations and facilities that support VA's efforts to enhance and maintain quality and safety of care in the 100,000-square-mile catchment area
- Ensuring facilities for Veterans receiving any services comply with accessibility requirements for handicapped individuals, support current standards of care, and can be well-maintained within available budgets and resources
- Increasing access to care closer to where Veterans reside
- Reducing out-of-pocket expenses for Veterans' travel

VA has identified a ***need*** to reconfigure health care services in the BHHCS catchment area because:

- VA has difficulty maintaining high-quality, safe, and accessible care at the Hot Springs campus.
- Existing locations and facilities constrain the quality of care, range of services, and access to care that VA offers to Veterans in the catchment area.

Decisions regarding appropriate physical buildings and infrastructure required to provide the proposed reconfiguration of services are the focus of this EIS and the NEPA process. **It is not within the scope of this EIS to determine the specific health care services that VA offers to Veterans at any location.** These are decisions made by the Veterans Health Administration's leaders, planners, and health care practitioners to further the mission to "Honor America's Veterans by providing exceptional health care that improves their health and well-being." **This EIS analyzes impacts from the alternatives for the physical facilities from which health care services are offered within the VA BHHCS catchment area.**

Six alternatives are considered in detail in this EIS, as well as a supplement to four of the alternatives. The alternatives propose different locations and combinations of facilities serving as a community-based outpatient clinic (CBOC), a multi-specialty outpatient clinic (MSOC), and a residential rehabilitation treatment program (RRTP) facility; expanding, renovating, or vacating existing facilities; and taking no action:

A. Hot Springs: new CBOC, cease services at existing VA campus
   Rapid City: new MSOC (replacing leased CBOC) and 100-bed RRTP
B. Hot Springs: new CBOC and 100-bed RRTP, cease services at existing VA campus
   Rapid City: new MSOC (replacing leased CBOC)
C. Hot Springs: renovations for new CBOC in Building 12 and 100-bed RRTP in domiciliary at existing VA campus
   Rapid City: new MSOC (replacing leased CBOC)
D. Hot Springs: new CBOC and 24-bed RRTP, cease services at existing VA campus

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Rapid City: new MSOC (replacing leased CBOC) and 76-bed RRTP

E. Save the VA Proposal
Hot Springs: renovations and construction to continue and expand inpatient and outpatient services at existing VA campus, including 200-bed RRTP
Rapid City: services from existing leased CBOC

F. No Action

G. G. Supplemental alternative to A, B, C, or D for re-use of part or all of existing Hot Springs campus

Alternative A is VA's preferred alternative.

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SAVE THE VA COMMITTEE SUMMARY

Save the VA's (STVA) intent throughout the past 4+ years has been to arrive at the most effective and efficient services for veterans. During the original stake holder meetings in the summer of 2012, the expectations of the STVA was that information would be shared and revisions made to the STVA proposal, the VA proposal and other alternatives. Through the course of those meetings it became apparent the VA never intended to seriously consider any option other than their own. The STVA proposal is intended to be flexible, but there has never an opportunity throughout the Combined Section 106/NEPA process for meaningful discussions about any alternative that would continue medical services in the existing landmark buildings at the Battle Mountain site.

- *Ms. Stella Fiotes: Executive Director, Office of Construction and Facilities Management, Department of Veterans Affairs told the consulting parties at a January 21, 2016, consulting parties meeting, the VA's proposal isn't about money, the Secretary's decision will be based on what is best for veterans and what veterans want.*
- *Sandra Horsman: Director, Black Hills Health Care System told the consulting parties at the same January 21, 2016, meeting, the landmark buildings at the Hot Springs Campus can be renovated to be compliant with ADA Standards.* CP10-1
- *It's important to understand exactly what services are included in Alternative F. STVA agrees with South Dakota Senator Thune, when he said to then VA Secretary Shinseki, "Services at Hot Springs have been systematically dismantled".* CP10-2

  STVA believes the "No Action" staffing level should be reflective of the staff level at Hot Springs prior to the merger of the Hot Springs and Ft. Meade VA's. CP10-3

  How does the VA define Alternative F, "No Action?"
- *The STVA alternative intentionally never addressed the Rapid City MSOC component of the VA's proposed reconfiguration. We have stated publicly, since the VA's first announcement of their proposed reconfiguration, the Rapid City CBOC should be enlarged.*

  Retaining the Hot Springs domiciliary and hospital in Hot Springs and an expanded Rapid City CBOC should be separate conversations with each option standing on its own merit.
- *The proposed reconfiguration of the Black Hills Health Care System will not reduce the miles traveled by veterans that have traditionally used the Hot Springs VA for their medical care. Rather, miles traveled will increase as these veterans find that rural private healthcare providers may be unable to meet their unique needs for medical care.* CP10-4
- *The VA has consistently inferred that many of the veterans served by the Hot Springs VA are from the Rapid City area. In fact, most veterans served at Hot Springs come from the southern catchment area, some from as far away as 180 miles one way. Veterans that have received treatment in the Hot Springs domiciliary have come from all 50 states.* CP10-5
- *Costs for the relocation of services to Rapid City and the renovation of the existing Hot Springs landmark buildings is still in dispute.*
- *The landmark buildings on the Hot Springs campus can be renovated. Support for renovation of these buildings can be found in the DOD/VA Study on Pre-World War II Masonry buildings and the Treanor Report.* CP10-6
- *The intent of the NHPA compliance and NEPA process has never been taken seriously by the VA. Many of the concerns from consulting parties regarding the VA's proposal might have already been resolved if the VA had acted in good faith prior to the announcement of their proposed reconfiguration.* CP10-7
- *The VA entered into a costly study, taking a total of 7 years from 2004 to 2011, to determine which of the VA's 2,200+ buildings are the most historically important to veterans healthcare and where the VA should concentrate its Historic Preservation efforts. As a result of that study, in the spring of 2011 the Battle Mountain Sanitarium became a National Landmark.* CP10-8

  In December of 2011, the VA announced the proposed reconfiguration of the Black Hills Health Care System. CP10-9

CP10-10

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CP10-1: The Secretary will make an informed decision based on multiple factors to help determine what is best for Veterans. The decision will not be based solely on cost but on a host of factors VA deems important to ensuring the delivery of quality health care services to Veterans within the BHHCS service area.
Regarding the quote from Ms. Fiotes, as seen on page 243 of the January 2016 meeting transcript (Appendix C), Ms. Fiotes's statement was, "What's good for the Veteran, what's good for the taxpayer."
CP10-2: The VA has determined that the landmark buildings can be renovated to be compliant with ADA standards and this has been clarified in Chapter 2 of the Final EIS.
CP10-3: The scope of the No Action Alternative F has not changed. It includes current management levels, consistent with CEQ guidance; this is clarified in Section 2.3.6.1 of the Final EIS.
CP10-4: STVA's support for the MSOC in Rapid City has been incorporated into the Final EIS, in the Description of Alternative E (Section 2.3.5). VA's proposal for changes in health care services in Hot Springs and Rapid City are directly connected and need to be addressed in the NEPA document.
CP10-5: VA disagrees and believes that the expanded options by non-VA providers (Care in the Community) can be successful in treating Veterans and thus help reduce travel distance, time and costs. See additional discussion on this topic in following page and in Sections E.3.1 and E.3.3 of Appendix E; and in revised Section 2.2 of the Final EIS.
CP10-6: One of the points VA has been trying to make is that the largest Veteran population in the service area is found in Pennington County and the current configuration does not adequately serve them; this is one of the drivers to expand the existing CBOC to an MSOC and make Rapid City Regional Hospital as another (non-VA provider) care option available to area

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Why did the VA conduct this multi-year study and then recommend terminating health care at this National Landmark?

- *The DEIS fails to address Traditional Cultural Properties (TCP), specifically the Hot Springs campus as a TCP to/for veterans, holding meaning and location in the same space for over 100 years. In very early consulting parties meetings LABAT'S original subcontractor, SWCA acknowledged the TCP element.*

Why is the Traditional Cultural Properties element void from the DEIS?

- *"NEPA and NHPA require Federal officials to; stop, look and listen before making decisions that impact historic properties and the human environment."*[1] CP10-11
- *The handbook also states, "The ultimate goal for both NEPA environmental reviews and Section 106 is to ensure the Federal Government considers the effects of its actions upon the environment, acts in the public interest, works efficiently and makes decisions in an open, efficient and transparent manner."*
- *The Hot Springs VA has a proud 109-year history of serving veterans from all of America's conflicts beginning with the Civil War.* CP10-12
- *It appears that the VA made a decision to close the Hot Springs Campus without performing a proper analysis to determine the problems and possible solutions to overcome those problems. Over the last 4+ years the VA has found itself trying to defend publicly, a position it never expected it would have to defend; the proposed reconfiguration of the Black Hills Health Care System. A cost benefit analysis of their proposal was not performed until after the public announcement. The VA thought it would simply move forward with their decision and expected little public opposition. After their intentions became public, the VA has tried unsuccessfully, to use "smoke and mirrors" to support that decision. The VA has consistently maintained their position despite the facts, until overwhelming conflicting data has been presented.* CP10-13

The VA has made it clear they want out of the landmark buildings on the Hot Springs Campus, but have never said what the true reason behind their decision is. The VA now has an opportunity to truly embrace the historic importance, both past and present, to veterans of the Battle Mountain Sanitarium and reverse their decision about the proposed reconfiguration of the Black Hills Health Care System.

[1] NEPA and NHPA Handbook for Integrating NEPA and Section 106

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CP10-6 response cont'd

Veterans. VA is in agreement Veterans treated at Hot Springs VAMC mostly come from Fall River County and counties to the east and south and that the Dom patients come from all 50 states. Exhibit 1 in Chapter 1 of the Final EIS has been expanded to further illustrate this.

CP10-7: See Group Response in Table E-2 (Category Alternatives, Costs of alternatives) in Section E.3 of Appendix E. Additional cost breakout details have also been provided in each of the Alternative descriptions in Chapter 2 of the Final EIS.

CP10-8: VA agrees that landmark buildings on campus can be renovated and has revised Section 2.3 to reflect the agency's ability to renovate the buildings to modern codes. See also response to CP10-2.

CP10-9: VA disagrees with this statement and believes it has taken its NEPA/NHPA obligations seriously. See group response to NEPA compliance efforts in Section E.3.4 of Appendix E; see group response in Table E-2 (Category - Integration of NHPA Section 106 Process) in Section E.3 of Appendix E.

CP10-10: In 2004, VA entered into an agreement with the National Park Service to evaluate the National Homes for Disabled Volunteer Soldiers (NHDVS or the First Generation). This study identified four National Historic Landmark campuses nationwide, including the Battle Mountain Sanitarium.

VA is constantly updating its practices in accordance with its mission. While historic preservation is important to VA as a steward of historic properties and because it is federal law, the mission of VA is to provide high-quality healthcare to Veterans. VA also notes that it has changed its preferred alternative in the Final EIS to A-2, which includes renovation of existing Building 12 on the Hot Springs campus. Also, a proposed new VA national call center would utilize existing Buildings 3 and 4, if implemented. Both of these have been addressed in the Final EIS.

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SAVE THE VA OBJECTIONS TO THE DRAFT EIS

Listed below are the sections of the Draft EIS regarding the proposed reconfiguration of the Black Hills Health Care System STVA disagrees with. STVA supports Alternative E and believes the Environmental Impact Statement process is flawed as it relates to this particular proposed reconfiguration.

Our opinion is best summarized by a quote from a STVA Committee Consulting Party representative. "However, most of the precedence set out there is from land management agencies and not human management agencies with a presence in a community for over 100 years."

The VA has chosen Alternative A as their preferred alternative. STVA believes if the Veterans Administration moves forward with their proposal, there will be immediate and very real negative medical consequences to veterans receiving their health care within the Black Hills Health Care System.

1.0 INTRODUCTION, INCLUDING PURPOSE AND NEED

The United States (U.S.) Department of Veterans Affairs Black Hills Health Care System (VA BHHCS) announced in December 2011 their determination of a need to reconfigure VA BHHCS to enhance and maintain the quality and safety of care for Veterans in the 100,000-square mile service area, referred to as the "catchment area." In this environmental impact statement (EIS), VA identifies, analyzes, and documents the potential physical, environmental, cultural, and socioeconomic impacts associated with the proposed reconfiguration of VA BHHCS.

Save the VA Response

Since the VA's initial public announcement of their proposed reconfiguration of the Black Hills Health Care System in December of 2011, STVA has stated publicly, the VA has at the least, been in violation of the "spirit" of the National Environmental Policy Act of 1969, if not in actual legal violation of the law. The intent of the law is to involve the public as early as possible in any significant proposed changes in a federal agency's actions that would/could have any negative impact on historic properties.

CP10-14

Black Hills Health Care System Management was made aware on numerous occasions, as early as the spring of 2010, of their responsibilities under NEPA/106 law by the Historic Preservation Officer for the Black Hills Health Care System. Hard copies of the VA's responsibilities under NEPA/106 law were provided to the Chief of Facilities Management and the Facility Site Manager.

In legal terms "ignorance of the law is no excuse" but the VA did in fact know better. The VA's Office of Construction and Facilities Management prepared a draft document in September of 2010 to assist the VA through the NEPA/106 process[2]. Below are portions of that document that demonstrates the VA understands their role under NEPA/106 law.

[2] NEPA Interim Guidance for Projects, September 2010, http://www.cfm.va.gov/til/etc/NEPAGuidance.pdf

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CP10-11: VA has revised its statements about the suitability of the VA Hot Springs campus as a TCP. See Section 3.3.5.1.2.

CP10-12: VA has made significant effort to comply with both NEPA and NHPA. See response to CP10-9.

CP10-13: VA believes it has conducted a proper analysis consistent with the spirit of NEPA and changed its preferred alternative to Alternative A-2 that will allow VA to maintain a continued presence on campus. See Response to CP10-10.

CP10-14: Earlier statements about closing the facility without the benefit of a full NEPA/NHPA analysis were made with good intentions. These statements, however, have not informed the VA decision-making process since the integrated NEPA/NHPA process began in 2014. This process "started over" all compliance and decision-making initiatives. Early planning discussions are not subject to NEPA and necessary to fully develop proposals so that they can be evaluated in a NEPA document.

VA is in full compliance with NEPA. The ROD will reflect the analysis found in the final EIS. See group response in Section E.3.4 of Appendix E relating to timing of the NEPA review.

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What is the purpose of NEPA for VA projects?

The purpose of the NEPA process is to identify any potentially significant impacts on the environment as a result of proposed VA actions, and integrate consideration of those environmental impacts along with economic, technical and other considerations into VA decision-making. The environment, as defined by NEPA, includes natural resources as well as impacts on socio-economic, historic or cultural resources, and low- income or minority populations.

1. **Deciding When to Begin the NEPA Process**

   NEPA requires that you begin early in the process of any planning activity. Early planning includes activities such as initiation of a feasibility study, development of master plans, and development of project budgets or funding requests. An early start will give you the widest range of options and minimize delays.

   Rule of Thumb: Initiate NEPA review when you have a general idea about what needs to be done, but when you still have plenty of time to consider alternative ways of doing it.

   Remember: No demolition, construction or earthmoving can begin (which clearly demonstrate a final decision regarding an action) before NEPA analysis and decisions are completed. Other example project related prohibitions prior to completion of the NEPA analysis include purchasing property or awarding of construction contracts.

2. **Who at VA is responsible for NEPA?**

   Every VA employee and contractor engaged in project planning and implementation (e.g., Project Manager, Capital Asset Manager, Facility Engineer) is responsible for making sure that actions they plan or propose are reviewed for their impacts on the environment. Not just NEPA, but over a dozen federal laws and executive orders, and many more regulations, are directly relevant to managing impacts on various kinds of natural resources.

Black Hills Health Care System had been advised by their own Historic Preservation Officer about their responsibility to conduct NEPA review. During the December 2011 public announcement of the proposed reconfiguration the VA already had detailed plans about the reconfiguration of the Black Hills Health Care System and yet, the VA didn't announce they were entering into an Environmental Impact Statement until May 2014, four years after the VA knew what actions they wanted to implement.

This lack of interest in developing a true conversation for consideration of potential impacts and alternatives to meet the health care needs of veterans in Southern South Dakota, Northern Western Nebraska and Eastern Wyoming has continued since the 2011 announcement that the Hot Springs National Landmark would be abandoned. There has never been a serious conversation about the purpose and need for this reconfiguration nor has there been a serious conversation about the alternatives proposed. This includes stakeholder meetings held in Rapid City in the summer of 2012 and Consulting Party meetings as part of NEPA/106. The initial Consulting Party meetings were so one sided that the VA was forced to change the contractors "facilitating" these meetings. CP10-14

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1.1.1 Services and Partnerships

Save the VA Response

The Draft EIS states:

In addition, VA BHHCS has service agreements with other federal, state, and private entities:

- **Reimburses IHS for authorized care received by Native American Veterans at IHS facilities.**

Chairman Dorgan stated:

a. IN CRITICAL CONDITION: THE URGENT NEED TO REFORM THE INDIAN HEALTH SERVICE'S ABERDEEN AREA[3]

a) Nine IHS-run service units and facilities were investigated in the Aberdeen area. Three of those sites, within the Black Hills Health Care System catchment area have the potential for treating Native American veterans. Those three service units are;

1. Pine Ridge Service Unit of South Dakota (Oglala Sioux Tribe);
2. Rapid City Service Unit of South Dakota (urban Indian health facility);
3. Rosebud Service Unit of South Dakota (Rosebud Sioux Tribe);

b) On June 23, 2010, Chairman Byron Dorgan initiated a formal investigation of the Indian Health Service's (IHS) Aberdeen Area (hereafter "the Area") in response to years of hearing from individual American Indians/Alaska Natives, Indian tribes and IHS employees about substandard health care services and mismanagement. Chairman Dorgan received complaints about Aberdeen Area IHS-run facilities plagued by frequent reduced or diverted services, mismanagement, poor performing employees, lack of employee accountability, and malfeasance. These conditions negatively impact the care provided to individuals and produce a work environment riddled with waste, fraud and abuse.

c) The investigation identified mismanagement, lack of employee accountability and financial integrity, as well as insufficient oversight of IHS' Aberdeen Area facilities. These issues impact overall access and quality of health care services provided to Native American patients in the Aberdeen Area. Many of these issues may stem from a greater lack of oversight by the Area office and IHS headquarters fostering an environment where employees and management are not held accountable for poor performance.

b. Video presentation by former Oglala Sioux Tribe President Brian Brewer to then Secretary Shinseki[4]

"I'm here to speak for the Lakota Warriors. There's 4,000 of us on the Pine Ridge Reservation. A lot of them are hurt; a lot of them are still not receiving the services. We need help for them. With the closing of Hot Springs, it's really going to hurt us. Its close. We get there. We don't have enough transportation to get to Hot Springs, but we get there. One of these problems if this should be moved to Rapid City or Sturgis, it's really gonna be difficult for our people to

[3] REPORT OF CHAIRMAN BYRON L. DORGAN TO THE COMMITTEE ON INDIAN AFFAIRS DECEMBER 28, 2010

[4] January 23, 2013 Save the VA Meeting with Secretary Shinseki

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CP10-15

CP10-15: VA notes this comment relating to the quality of care provided through Indian Health Services. However, it is not within the limited scope of this EIS to address. VA notes that Native Americans would have the choice, under all the alternatives, to use either a VA or IHS system for their care as a result of a national Memorandum of Understanding that has been established between VA and Indian Health Service. They would also still be able to receive primary care through the new CBOC in Hot Springs (now in renovated Building 12 on the existing campus under the preferred alternative). This has been explained in Section 2.2 of the Final EIS.

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get up there, transportation-wise. For me myself, because I'm a disabled veteran combat veteran, I will get mileage to go, but there are many of our veterans who will have to go on their own. It's very difficult to go to Rapid City. One of the things about Hot Springs is that it's unbelievable the way we are treated there. They treat us good. They treat us good at all of the VA centers. But Hot Springs, we feel special there. We feel welcome when we go there. But if we are forced to use Indian Health Service it's really gonna hurt us. IHS has such a big problem trying to serve us, their own people. Some of us go up there and we try to use their facilities. They don't have the doctors, they don't have the services. I can go up there. If I make an appointment, I'm going to sit up there five or six hours waiting, hoping I can see someone, a provider. Right now there are no providers up there. Maybe it was a good intention, where the veterans can use it but we can use that facility anyway, because we are Indian. But we choose not to use it because their services are so bad. And that's why we choose to go to the VA. So we're really hoping you'll take this into consideration of closing Hot Springs. We really need it open. We need that support.

c. Representative Noem: Patients endangered at IHS hospital on Rosebud[5]

A South Dakota congresswoman said Friday that she wants answers about serious problems at Indian Health Services hospitals in the state, citing incidents on the Rosebud Indian Reservation. Despite the claims by U.S. Rep. Kristi Noem, R-S.D., of flagrant violations of health standards that put patients "in serious danger" at the IHS hospital on the Rosebud Indian Reservation, the federal agency that administers Medicaid and Medicare tentatively has determined that the hospital is clearing up its most serious problems. "Sadly," Noem wrote to McSwain, "the experiences of my constituents in South Dakota indicate that IHS Great Plains Area facilities are failing to provide quality care, and Tribal members are paying the price."

d. Reservation hospital to lose Medicare, Medicaid Money. "The Centers for Medicare and Medicaid Services notified the administration of the 35 bed hospital on the Rosebud Indian Reservation on Tuesday that the funding cutoff will take effect March 16."

This quote is from an associated press article that appeared in the Rapid City Journal in March 2016. As can be seen from the history above, the quality of care has not improved since June of 2010. This is over 6 years ago, so the likelihood of improvement in the foreseeable future is not good. This is not a place that should be considered for alternative care for our veterans currently receiving services from the Hot Springs veterans' facility.

"CMS is only telling them what we already told them for years," said O.J. Semans, a member of the Rosebud Sioux Tribe Health Board. "The service that we are being provided is heartbreaking. It is an atrocity that hasn't happened anywhere in the United States, except for Indian Country."

e. GAO: Health care access a hard thing to measure for Native Americans[6]

Sen. John Barrasso of Wyoming, chairman of the Senate Committee on Indian Affairs, said the lack of oversight at the health facilities is not surprising but tribal members deserve better. "IHS continually fails to put the needs of patients first, and the findings in this report are just another example of that," he said in a statement Thursday.

[5] Rapid City Journal Article December 19, 2015

[6] Associated Press, Rapid City Journal Article, April 29, 2016

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- **Provide onsite social work, nutrition, and behavioral health care to eligible Veterans residing in the Michael J. Fitzmaurice State Veterans Home in Hot Springs.** CP10-16
  a. *In the spring of 2015 the VA notified the State Veterans Home they would no longer be able to provide primary care services to the veterans residing at the State Veterans Home after October 1, 2015. The elimination of primary care services previously provided by the VA, required the State of South Dakota to enter into a contract for primary care services with Fall River Hospital.*
  b. *The VA **does not** provide onsite social work, and nutrition health care to eligible Veterans residing in the Michael J. Fitzmaurice State Veterans Home in Hot Springs.*
- **Coordinate care of Veterans by a non-VA provider, which is called purchased care, non-VA care, or fee care. VA provides a referral, schedules an appointment in coordination with the Veteran, pays the fee, and manages the patient as needed based on outcome. Patients can often manage themselves for multiple purchased care appointments for services such as physical therapy.**
  a. *The STVA Committee believes this statement is possibly the most damaging aspect of the VA's proposed reconfiguration of the Black Hills Health Care System. The phrase of the day used to describe* "Coordinate care of Veterans by a non-VA provider" *is Veterans Choice. Veterans within the Black Hills Health Care System catchment area are routinely contacting their Congressional Representatives and telling them, Veterans Choice isn't working!* CP10-17
  b. *The assertion* "Patients can often manage themselves for multiple purchased care appointments for services such as physical therapy" *is directly attributable to the reduced services available at the Hot Springs Campus. Historically a full range of medical services were available at the Hot Springs Campus which eliminated the need for rural veterans to,* "...manage themselves for multiple purchased care appointments." *The veteran would typically require only a single visit to be treated for multiple appointments. Under the current system, veterans are required to make additional trips to separate providers over several weeks or even months to receive their care. If the veteran doesn't qualify for travel reimbursement these additional trips place a larger financial burden on the veteran. These trips also place a hardship on the veteran's spouse, who is often the person chauffeuring the veteran to their appointments. The hardship on Native American veterans traveling from the reservations is even more difficult. For them, it isn't just the miles. People do not need a vehicle license to drive on the reservation. They do need one to travel outside the reservation. Many people on the reservation do not even have a car or at least one that can be depended on to travel a long distance. There is no public transportation. There is a VA van that transports veterans from Pine Ridge to Hot Springs and a shuttle that then takes the veteran to Ft. Meade.* CP10-18

One component of the VA's Priority #1 presented to the public at the December 2011 town hall meeting is to:

> "Shift inpatient demand to a more robust care environment: purchase care at Fall River Hospital in Hot Springs and other local hospitals in South Dakota and Nebraska"

At the time of this town hall meeting, when then Director Steve Distasio said the VA would purchase care from private hospitals, it became apparent Director Distasio had never had any formal discussions with the Fall River Hospital about their ability to treat veterans referred by the VA. As the VA presented their proposal for reconfiguration to the other communities that would be affected by the proposed reconfiguration, Director Distasio repeated the same statement about purchasing care at private hospitals, once again without ever having any formal conversations regarding the ability of those hospitals to provide care to veterans. To our knowledge no further discussions have occurred between the VA and private hospitals to determine their ability to care for veterans referred to them by the VA.

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CP10-16: The statement in the EIS is correct and has not been changed. VA does provide these services to eligible Veterans at the State Veterans Home in Hot Springs.

CP10-17: The discussion of purchased care from non-VA providers (now referred to as Care in the Community, or CITC) has been expanded in Chapter 2 of the Final EIS. See also group response relating to purchased care and quality of purchased care in Section E.3.3 of Appendix E.

It is Outside the military health system, no other organization's mission charges them with translating an understanding of the consequences of military exposures on the health of Veterans into state-of-the-art care that helps Veterans not only manage illness, but also achieve their highest level of health and well being. A mandate of this sort cannot begin and end at the doors of a hospital or clinic. The concept requires continuity of service and integration with other organizations (especially Veteran Service Organizations), Federal, state and community-based partners. While a dedicated system of health and social services for Veterans remains the core means for meeting Veterans care needs, the Veterans Access, Choice and Accountability Act of 2014 has introduced new possibilities for serving Veterans. Today, the VA is committed to a model of service that operates around the Veteran's needs, not VHAs, and to transforming VHA health services from being provider-centric to being Veteran-centric. VA believes an important element to this transformation is fostering new relationships with non-VA care and service providers and other national, state and local organizations whose services can benefit Veterans. It introduces new opportunities to provide care beyond the physical limits of VHA facilities, to allow Veterans safe, timely, efficient and coordinated services outside of VA.

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Potential problems exist, not only for veterans receiving their care in private hospitals but for the very hospitals themselves. Below is a post that was on the VA's national website in December 2010. The VA announced they would begin using "Medicare's standard payment rates for certain medical procedures performed by non-VA providers on Feb. 16, 2011.

CP10-19

VA Announces Use of Standard Payment Rates for Some Non-VA Care[7]

December 16, 2010, 08:00:00 AM

WASHINGTON - The Department of Veterans Affairs (VA) announced today it will begin using Medicare's standard payment rates for certain medical procedures performed by non-VA providers on Feb. 16, 2011.

38 CFR 17.56 - VA payment for inpatient and outpatient health care professional services at non-departmental facilities and other medical charges associated with non-VA outpatient care.[8]

§17.56 VA payment for inpatient and outpatient health care professional services at non-departmental facilities and other medical charges associated with non-VA outpatient care.

(a) Except for health care professional services provided in the state of Alaska (see paragraph (b) of this section), VA will determine the amounts paid under §17.52 or §17.120 for health care professional services, and all other medical services associated with non-VA outpatient care, using the applicable method in this section:

(1) If a specific amount has been negotiated with a specific provider, VA will pay that amount.

(2) If an amount has not been negotiated under paragraph (a)(1) of this section, VA will pay the lowest of the following amounts:

(i) The applicable Medicare fee schedule or prospective payment system amount ("Medicare rate") for the period in which the service was provided (without any changes based on the subsequent development of information under Medicare authorities), subject to the following:

(A) In the event of a Medicare waiver, the payment amount will be calculated in accordance with such waiver.

(B) In the absence of a Medicare rate or Medicare waiver, payment will be the VA Fee Schedule amount for the period in which the service was provided. The VA Fee Schedule amount is determined by the authorizing VA medical facility, which ranks all billings (if the facility has had at least eight billings) from non-VA facilities under the corresponding procedure code during the previous fiscal year, with billings ranked from the highest to the lowest. The VA Fee Schedule amount is the charge falling at the 75th percentile. If the authorizing facility has not had at least eight such billings, then this paragraph does not apply.

(ii) The amount negotiated by a repricing agent if the provider is participating within the repricing agent's network and VA has a contract with that repricing agent. For the purposes of this section, *repricing agent* means a contractor that seeks to connect VA with discounted rates from non-VA providers as a result of existing contracts that the non-VA provider may have within the commercial health care industry.

[7] https://www.dav.org/learn-more/news/2010/va-announces-use-of-standard-payment-rates-for-some-non-va-care/

[8] http://www.ecfr.gov/cgi-bin/text-idx?SID=fb669294d014153b543b8e6d71352647&mc=true&node=se38.1.17_156&rgn=div8

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CP10-18: See group response in Section E.3.1 of Appendix E relating to concerns over distance travelled and geographic access.

CP10-19: The specific payment plan arrangements / reimbursement rates between VA and a non-VA provider are not within the limited scope of this EIS. VA has or will establish viable contracts with each community provider to ensure the success of the care in the community program element of the proposed reconfiguration. See also group response relating to purchased care in Section E.3.3 of Appendix E.

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(iii) The amount that the provider bills the general public for the same service.

(b) For physician and non-physician professional services rendered in Alaska, VA will pay for services in accordance with a fee schedule that uses the Health Insurance Portability and Accountability Act mandated national standard coding sets. VA will pay a specific amount for each service for which there is a corresponding code. Under the VA Alaska Fee Schedule, the amount paid in Alaska for each code will be 90 percent of the average amount VA actually paid in Alaska for the same services in Fiscal Year (FY) 2003. For services that VA provided less than eight times in Alaska in FY 2003, for services represented by codes established after FY 2003, and for unit-based codes prior to FY 2004, VA will take the Centers for Medicare and Medicaid Services' rate for each code and multiply it times the average percentage paid by VA in Alaska for Centers for Medicare and Medicaid Services-like codes. VA will increase the amounts on the VA Alaska Fee Schedule annually in accordance with the published national Medicare Economic Index (MEI). For those years where the annual average is a negative percentage, the fee schedule will remain the same as the previous year. Payment for non-VA health care professional services in Alaska shall be the lesser of the amount billed or the amount calculated under this subpart.

(c) Payments made by VA to a non-VA facility or provider under this section shall be considered payment in full. Accordingly, the facility or provider or agent for the facility or provider may not impose any additional charge for any services for which payment is made by VA.

(d) In a case where a veteran has paid for emergency treatment for which VA may reimburse the veteran under §17.120, VA will reimburse the amount that the veteran actually paid. Any amounts due to the provider but unpaid by the veteran will be reimbursed to the provider under paragraphs (a) and (b) of this section.

(Authority: 38 U.S.C. 1703, 1728)

[75 FR 78915, Dec. 17, 2010, as amended at 78 FR 26251, May 6, 2013; 78 FR 68364, Nov. 14, 2013; 79 FR 16200, Mar. 25, 2014]

*The specific sections of **38 CFR 17.56** STVA believes are the pitfalls for the veteran or private healthcare providers are below:*

(1) If a specific amount has been negotiated with a specific provider, VA will pay that amount.

This section allows and/or encourages the VA to seek a "negotiated" price for services from the provider.

(B) In the absence of a Medicare rate or Medicare waiver, payment will be the VA Fee Schedule amount for the period in which the service was provided. The VA Fee Schedule amount is determined by the authorizing VA medical facility, which ranks all billings (if the facility has had at least eight billings) from non-VA facilities under the corresponding procedure code during the previous fiscal year, with billings ranked from the highest to the lowest. The VA Fee Schedule amount is the charge falling at the 75th percentile. If the authorizing facility has not had at least eight such billings, then this paragraph does not apply.

Medicare rates are intended to reduce charges for a given medical procedure and are generally a negotiated rate below the normal costs charged by a medical provider. This is one of the driving factors behind a medical provider's reluctance to accept Medicare rates. The Federal Government also has a poor history of paying its bills on time. Both of theses are especially important for Critical Access Hospitals.

(ii) The amount negotiated by a repricing agent if the provider is participating within the repricing agent's network and VA has a contract with that repricing agent. For the purposes of this section, *repricing agent* means a contractor that seeks to connect VA with discounted rates

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from non-VA providers as a result of existing contracts that the non-VA provider may have within the commercial health care industry.

Again a means for the VA to "seeks to connect VA with discounted rates from non-VA providers as a result of existing contracts that the non-VA provider may have within the commercial health care industry." *This would mean reduced rates for those medical services provided by private healthcare providers and Critical Access Hospitals.*

What are critical access hospitals (CAH)[9]

A Critical Access Hospital (CAH) is a hospital certified under a set of Medicare Conditions of Participation (CoP), which are structured differently than the acute care hospital CoP. Some of the requirements for CAH certification include having no more than 25 inpatient beds; maintaining an annual average length of stay of no more than 96 hours for acute inpatient care; offering 24-hour, 7-day-a-week emergency care; and being located in a rural area, at least 35 miles drive away from any other hospital or CAH (fewer in some circumstances). The limited size and short stay length allowed to CAHs encourage a focus on providing care for common conditions and outpatient care, while referring other conditions to larger hospitals. Certification allows CAHs to receive cost-based reimbursement from Medicare, instead of standard fixed reimbursement rates. This reimbursement has been shown to enhance the financial performance of small rural hospitals that were losing money prior to CAH conversion and thus reduce hospital closures. CAH status is not ideal for every hospital and each hospital should review its own financial situation, the population it serves, and the care it provides to determine if certification would be advantageous.

Critical Access Hospitals exists because the Federal Government recognizes the struggles of rural hospitals to stay financially solvent. "Certification allows CAHs to receive cost-based reimbursement from Medicare, instead of standard fixed reimbursement rates." *This means Critical Access Hospitals are reimbursed at 101% of their actual costs. If the VA were to reimburse private hospitals at the Medicare rate, typically 75 percent, those hospitals would potentially loose 26% of their actual costs for every veteran referred to them by the VA.*

Because of the geographic areas served by the Hot Springs VA, Critical Access Hospitals are the very hospitals veterans would be referred to for their care.

Below is an exchange between Dr. Julius and Nebraska Representative Adrian Smith.[10]

Mr. Smith. Thank you. Let us discuss reimbursement levels if indeed it would come to the point where other entities outside the VA would be reimbursed for the care of veterans. Has that reimbursement schedule been established?
Dr. Julius. On the new veterans' access act you mean?
Mr. Smith. Well, on the premise that there would be veterans cared for outside the VA system, has reimbursement level plan been established?
Dr. Julius. I am obviously not an expert in the intricacies of the new law that was passed. It was my understanding that the reimbursement rate would be at Medicare rates, but if needed, higher rates could be negotiated locally if that were necessary to obtain care.
Mr. Smith. Because we have veterans who would come from Scottsbluff, for example. We have veterans who would come from Gordon, who would come from Chadron, who would come from Alliance, among other places. So we have got critical access hospitals in some of these communities, not all of the, but critical access hospitals that have a level of reimbursement. Would that level of reimbursement be similar? Would it be the same? Could you guarantee that? Has there been any groundwork done to establish those reimbursement levels?
Dr. Julius. To that specific question, I guess I cannot answer that. Steve, do you have any additional information?

[9] http://www.hrsa.gov/healthit/toolbox/RuralHealthITtoolbox/Introduction/critical.html

[10] CHALLENGES IN RURAL AMERICA: INFRASTRUCTURE NEEDS AND ACCESS TO CARE, AUGUST 14, 2014

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Mr. Distasio. Thank you, Congressman Smith. We have had some preliminary discussions with them about their approachability about taking care of veterans. We are well aware of the reimbursement rates for critical access hospitals. But to this point in the process, it is really premature for us to enter into any contracts, but at the point that would be done, I think that conversation is possible, what will be the rate for what services that are provided.

The concern about the Critical Access reimbursement rate Representative Smith is asking about is the same concern STVA has had since the VA first proposed their reconfiguration. Mr. Distasio admits his discussions with private care hospitals were only a "preliminary discussion." If the VA expected to use private hospitals to care for veterans, they should have had formal discussions with those hospitals prior to the Combined Section 106/NEPA process. Those discussions would have determined if private hospitals have the resources to care for veterans and if that care would be financially feasible.

In Section 1.2.2.1 Factors Contributing to VA's Difficulty Maintaining High-Quality, Safe, and Accessible Care at the Hot Springs VAMC, STVA would like to address the "Safe" component of that section as it relates to "Partnerships" with private hospitals.

The VA requires their own medical facilities to receive an ongoing accreditation from the Joint Commission on Accreditation of Hospitals. This assures the same quality of care at every VA hospital throughout the country. Private hospitals are not required to be JCAH accredited. This could potentially result in a lesser standard of care being provided to veterans seen in private hospitals, yet this is exactly what the VA is proposing by referring veterans to hospitals outside of the VA system.

The willingness of the VA to look the other way, as it relates to the accreditation of the medical services provided by other than VA hospitals, is in stark contrast to the VA's insistence to adhere to 100% of their "Barrier Free Design Guide" (VA 2011). Additionally, as we analyze this document, we will see that veterans will have to travel further for care if the Hot Springs Historical Landmark VAMC is closed. Travel of from 120 to 180 additional miles for care in often inclement weather will certainly increase the risk to the health of these veterans due to traffic accidents. The roads in the northern hills typically experience more road closures and dangerous conditions than do the roads in the southern catchment area.

List of Designated Primary Medical, Mental Health, and Dental Health Professional Shortage Areas[11]

This notice advises the public of the published lists of all geographic areas, population groups, and facilities designated as primary medical care, mental health, and dental health professional shortage areas (HPSAs) as of May 29, 2015, available on the Health Resources and Services Administration (HRSA) Web site at *http://www.hrsa.gov/shortage/*. HPSAs are designated or withdrawn by the Secretary of Health and Human Services (HHS) under the authority of section 332 of the Public Health Service (PHS) Act and 42 CFR part 5.

1.1.2.1 Fort Meade VA Medical Center

The Fort Meade VA Medical Center (VAMC) is located at 113 Comanche Road in Fort Meade, SD. The VAMC offers primary care, emergency medical care, pharmacy services, inpatient (18 medical/surgical and 10 mental health staffed beds) and outpatient specialty and surgical care, intensive care unit (4 staffed beds), operating room, laboratory services, x-ray and mobile imaging, physical therapy, and mental health services. Fort Meade VAMC also has 57 staffed beds for long-term care in a Community Living Center (nursing home).

[11] https://www.federalregister.gov/articles/2015/07/01/2015-16168/lists-of-designated-primary-medical-care-mental-health-and-dental-health-professional-shortage-areas

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The VA BHHCS reconfiguration proposal does not include any changes to the facilities at the Fort Meade VAMC; thus, it is not described or evaluated further in this EIS.

Save the VA Response

The STVA Committee along with other consulting parties disagreed with the VA's initial determination that the facilities at the Fort Meade VAMC should not be included in the proposed reconfiguration of the VA BHHCS.

CP10-20

At the February 17, 2016, consulting parties meeting, the VA finally agreed to include the Fort Meade VAMC in the Area of Potential Effect for their proposed reconfiguration of the Black Hills Health Care System. Even with the VA agreeing to the expanded APE they still refused to acknowledge that any of the ongoing construction or renovation at the Ft. Meade campus will adversely affect services offered at the Hot Springs campus. On December 12, 2011, during the VA's first public announcement of their proposed reconfiguration the VA listed the following two priorities.

VA Priority #1 - Assure Veterans Day-to-Day Access to High Quality and Safe Health Care Close to Home

Proposed Actions:

- Shift inpatient demand to a more robust care environment: purchase care at Fall River Hospital in Hot Springs and other local hospitals in South Dakota and Nebraska
- Replace the Domiciliary and enhance its services: build state of the art facility in an environment that optimizes treatment and opportunity
  - More services for homeless & women Veterans
  - More post-treatment job opportunities & access to social services

VA Priority #2 - Provide Access to Best Available Health Care

Proposed Actions:

- Move Domiciliary from Hot Springs to Rapid City: maximizes opportunity for Veterans and their families to recover independence and health
- Upgrade VA facilities where largest concentration of Veterans obtain services: ensure long-term sustainability of VA facilities
  - Rapid City: new Multi-Specialty Outpatient Clinic
  - Fort Meade: New Operating Rooms and Sterile Supplies Unit; remodeled Acute Medicine/ Surgery Inpatient Unit
- Build/lease VA-staffed CBOC in Hot Springs and explore repurposing Hot Springs Campus: modern CBOC to provide outpatient care
- Partner to provide more access to care closer to home: use local hospitals/providers; purchase more care
  - Increase access for Veterans in Pierre, Rapid City, and Scottsbluff, NE
  - Deploy VA nurse case managers to coordinate health care
- Grow existing partnerships: target DOD and Indian Health Service for expansion of shared services throughout VA Black Hills service area
  - Expand care for Native American Veterans (IHS sites: Pine Ridge, Rosebud, Eagle Butte, and Fort Yates)

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CP10-20: VA understands the commenters confusion regarding the scope of the proposed reconfiguration with respect to Fort Meade, given the fact that: (1) it was identified as being within scope in the earlier VA BHHCS reconfiguration proposals from several years ago, (2) renovation funding for the surgical tower, now complete, was included in ACIP 2013 funding; and (3) some Veteran patients have been transferred from Hot Springs to Fort Meade for care in recent years.

However, additional changes have occurred within the VA BHHCS health care between 2012 and 2015 when the Draft EIS was published such that, based on current conditions, the work at Fort Meade is no longer considered to be within scope of the proposed reconfiguration. This is explained more fully in the Group Response in Table E-2 of Appendix E (Category: Scope of EIS, Inclusion of Fort Meade). Section 1.1.2.1 of the Final EIS has also been revised to clarify the scope of the EIS with respect to Fort Meade.

With respect to historic properties, VA revised the Area of Potential Effect at the January 2016 historic property consultation meeting to include the VA Fort Meade campus as part of the VA BHHCS and a site of identified historic resources. At this time, the physical plant of the VA Fort Meade campus is sufficient to meet the needs of the VA BHHCS regardless of the alternative implemented following issuance of the ROD, however, the Fort Meade VAMC is an active medical center and may need to update its facilities in accordance with changing medical practices. These alterations will be subject to NHPA review

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We believe these proposed actions demonstrate pre-decisional actions by the VA under NEPA. We believe any action taken at the Fort Meade VAMC that would allow services traditionally performed at the Hot Springs VA to be eliminated or relocated to the Fort Meade VAMC is in violation of NEPA.

During the VA's December 12, 2011, presentation, in addition to these two priorities, the VA told the public the "Approval of new Domiciliary Build" was "pending." Because no actions should have been taken prior to a NEPA review of the proposed reconfiguration, why was the VA awaiting a decision on the "Approval of new Domiciliary Build?"[12]

Construction of the proposed new operating rooms at the Fort Meade VAMC is currently underway with an estimated cost of $9,266 million dollars[13]*. Construction began in mid-September and the target completion is the spring of 2016, before the EIS process is complete and the Secretary of the VA has made his final decision about the EIS.*[14] *Fort Meade is a historical site and NEPA/106 should have been followed for any proposed construction per the VA's own guidelines, NEPA/106 Interim Guidance for Projects, September 2010.*

The following line items are taken from the VA's 2016 Strategic Capital Investment Plan Submission to Congress

Project	Total Estimated Cost ($000)
Replace Building 145 HVAC	$9,900
Relocate Sterile Processing Service and Endoscopy	$5,256
Upgrade Electrical Distribution System Buildings 148	$1,000
Renovate and Consolidate In-Patient Functions Bldg. 113	$7,250
Expand and Upgrade Community Living Center	$9,950
Renovate Community Living Center for Culture of Chance	$9,400
Install New Building Management System	$1,232
Install Wind Turbine Generator	$2,000
Install Biomass Boiler	$8,736
Remodel Front Entrances and Patient Services to Enhance Patient-centered Care	$2,420
Upgrade Electrical Systems, Hospital Complex	$1,000
Hospital HVAC Improvements	$1,000
Total	**$59,144**

The above actions if approved and implemented would constitute changes to the facilities at the Fort Meade VAMC and should be included as part of the proposed reconfiguration under Section 106 and the combined Section 106/NEPA process. These changes would enhance the ability of the Fort Meade VAMC facility to care for veterans in the Black Hills Health Care System catchment area and result in a

[12] December 2011 VA Public Town Hall Presentation

[13] 2015 VA SCIP Submission to Congress

[14] VSO/Congressional Forum November 13, 2015

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reduced need for services at the Hot Springs VA resulting in the need for rural veterans to travel further for their medical care.

1.1.2.2 Hot Springs VA Medical Center

The Hot Springs VAMC campus occupies 71.7 acres at 500 North 5th Street in Hot Springs, SD. It opened its doors in 1907 as the Battle Mountain Sanitarium National Home for Disabled Volunteer Soldiers, and was listed as a National Historic Landmark in 2011. Section 3.3 of this EIS provides a detailed description of the historic significance of the Hot Springs campus.

The VAMC provides primary care, urgent care, pharmacy services, outpatient procedures, inpatient medical care (10 beds), dialysis, x-ray and mobile imaging, specialty care, laboratory services, mental health services, and a call center. The medical center also includes 7 beds (co-located with the 10-bed medical unit) for long-term care in a Community Living Center (nursing home) and 100 RRTP beds. The RRTP serves homeless Veterans and provides mental health services for post-traumatic stress disorder, substance abuse, alcohol abuse, and other conditions.

Save the VA Response

The paragraph above appears to indicate that there are a significant number of homeless veterans receiving services at the Hot Springs RRTP. In fact, most homeless veterans are referred to the Cornerstone Mission in Rapid City despite the fact that there is space available in the Hot Springs RRTP.

CP10-21

One component of Alternative E is to maximize the use of the existing Hot Springs Campus and staff to provide services to the increasing national population of veterans requiring treatment for PTSD, substance abuse and services to assist homeless veterans to make sustainable positive life changes.

To obtain sustainable life changes it's important to provide services that identify the obstacles that must be overcome to succeed. This can be accomplished through education, training and ongoing support services. The RRTP is already setup to provide the type of services needed by homeless veterans. Homelessness is not a diagnosis; it is a symptom of other problems that need to be treated. Homeless veterans are currently housed at the Cornerstone Mission in Rapid City. Simply providing temporary housing without support services does not end the homeless cycle.

Alternative E provides the opportunity for assessment and treatment in the RRTP, with work training via CWT and transition to independent living through the same steps as a veteran receiving substance abuse treatment. Additionally Alternative E adds accommodations for single parent and female veterans and their families.

Alternative E also addresses the following VA goals;

- *Reduction of PTSD wait time*
- *Reduction of substance abuse wait time*
- *Reduction of homeless veterans*
- *Makes use of the historic landmark buildings with minimal renovation. The costs for these renovations are based on the 2010 planned project to renovate building 4 to provide private, semi-private and ABA accessible rooms*
- *Adds accommodations for single parent and female veterans and their families.*
- *Use of sustainable facilities to minimize environmental impact*
- *Avoids the adverse effects of the change of use of a historic landmark facility per NEPA/106 Guidelines*
- *Continues access to multiple Native American sacred sites*
- *Contributes to meeting VA's historic preservation goals per Directive 7545 and VA Cultural Resource Management Checklist in support of Section 106*

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CP10-21: Homeless veterans are also served at the RRTP in Hot Springs. No change made to this statement in the Final EIS.

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- *The proposed historic preservation training program as referenced in section 1.1.2.4, would provide veterans with a marketable skill and the VA with a potentially skilled employee pool, meeting Directive 7545 that all maintenance staff have historic preservation knowledge and skills.*

Another goal of Alternative E is to maximize the use of the existing landmark buildings to provide care to veterans currently waiting for services. It was never the intent of STVA to propose a large increase in the footprint of the current facility. As the result of a lack of discussion about our alternative or in an effort to maximize the cost of Alternative E, the VA determined that it would require an additional building to accommodate the 200 bed facility proposed in Alternative E. Two hundred beds were proposed based on the VA's Design Guide at the time the proposal was developed. Therefore, for initial treatment, both private and semiprivate rooms with restroom facilities were proposed. The Design Guide changed after the proposal was developed so that all rooms had to be private. It is important to note that the square footage used by the VA per veteran in treatment was 1,025 in Hot Springs but was only 786 for the RRTP proposed in Rapid City. It is difficult to understand why almost 30% additional square footage per veteran would be necessary in Hot Springs, unless the goal were to increase the costs. It is also interesting to note that the solution chosen by the VA when they determined that more space would be needed was to estimate the cost of a new building rather than to consider a reduction in the number of veterans in the program.

Why is the VA proposing 30% more square footage per veteran necessary in Hot Springs, unless the goal is to increase the overall cost of the STVA proposal? CP10-22

1.1.2.4 Compensated Work Therapy

CWT is a VA vocational rehabilitation program that matches and supports work-ready Veterans in competitive jobs in consultation with business and industry regarding their specific employment needs. VA BHHCS staff provides CWT services at leased facilities in Eagle Butte and McLaughlin, SD, and a VA-owned facility in Pine Ridge, SD. The health care system also has four CWT transitional residence care units, in Hot Springs, Pine Ridge, Rapid City, and Sturgis, SD.

Save the VA Response

CWT and vocational rehabilitation programs are a vital component in the overall treatment of veterans suffering from service connected disabilities. Recognizing this, staff at the Hot Springs VA in the spring of 2012 submitted for approval, a program under the 2012 VHA Employee Innovation Competition. This program was titled CWT: Building Restoration.[15] CP10-23

Provide quality restoration and updating of historic and older VA facilities while providing housing and training for Veterans in a wide variety of construction, business, and other job skills.

Description of Idea

- ***Training projects and opportunities would include:***

  - ✓ Basic maintenance skills (simple plumbing, painting, etc…)
  - ✓ How to properly replace flooring
  - ✓ How to restore vintage woodwork
  - ✓ Creating and maintaining historically accurate landscaping
  - ✓ Computer-Aided Drafting
  - ✓ Apprenticeship type training in various areas of construction
  - ✓ Office/computer skills to support a restoration project
  - ✓ How to do architectural research and restoration design

[15] Betsy Savage Innovation Project 2012

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CP10-22- VA recognizes that Alternative E proposes maximum use of the existing Hot Springs campus and addresses many VA goals. It is analyzed in detail in the EIS. Costing for Alternative E has been revised in the Final EIS (see group response in Table E-2 of Appendix E relating to Cost updates for Alternative E), consistent with later comments made by STVA in this comment letter [see Comments on Chapter 2 Alternative E] VA also has revised the measures to resolve adverse effects (see Section 5.2) to reflect the updated information about Alternative E.

CP10-23: VA agrees that the CWT and vocational rehabilitation programs are a vital component in overall treatment of veterans suffering from service connected disabilities, and it will remain a vital component under the proposed reconfiguration. The outcome of the CWT Building Restoration Program had no relationship to the proposed reconfiguration. The decision was based on other factors not relevant to the scope of this EIS.

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- ✓ And many other possibilities besides food service and housekeeping

Strategic Goals

Strategic goals this idea will help to achieve:

- ✓ Housing for Homeless Veterans
- ✓ Training and education for Homeless Veterans, and other Veterans enrolled for treatment with addictions, PTSD, etc...
- ✓ Help improve employability of the Veteran population.
- ✓ Support green initiatives by improving facilities.
- ✓ Preserving VA history, yet keeping the facilities viable for treatment of Veterans by bringing them up to date and in-line with VA goals
- ✓ Creating a facility that is state of the art and yet true to its original architecture and historic value

- ➢ It is more than giving a man a fish. It is teaching him how to fish.
- ➢ It could help lower the cost of restoration and/or construction projects. Compensated Work Therapy (CWT) participants can be paid federal minimum wage as opposed to full union scale during their "apprenticeship" time in the program.
- ➢ The training received here would transfer anywhere.
- ➢ Success will be met if quality restoration work occurs and Veterans learn both life and marketable skills that help them break the cycle of homelessness and addictions.
- ➢ Ultimate success? When all VA facilities reflect the same level of physical excellence, regardless of age and the term "Homeless Veteran" is no longer needed in the VA vocabulary.
- ➢ Lack of success? There are those who will be unable to graduate. The restored faculties don't need to be relegated as a museum piece. They can continue to serve those in need as long term residences

The email chain below shows the progress of this program, from being well received within the Black Hills Health Care System to the final decision by the Office of Facilities and Construction Management not to proceed with the program:

----- Original Message -----
From: Dodson, Debra C
Sent: Wednesday, March 06, 2013 07:09 AM
To: Savage, Elizabeth
Cc: Epperson, Luke; Kitzmiller, Prudence Y.
Subject: Innovation Project

Betsy,

At Executive Leadership Board last week they were pleased to provide executive level endorsement of the proposed Innovation Project as presented to Clinical Executive Council and Administrative Executive Council.

Congratulations and Best Wishes as the proposal continues to work it's way thru the process!

Deb

Debra Dodson
Executive Assistant to the Director
VA Black Hills
Debra

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From: Sussman, Nancy Zivitz (CFM)
Sent: Friday, April 12, 2013 10:20 AM
To: Savage, Elizabeth
Cc: Eney, Mark (CFM); Schamel, Kathleen (CFM); Pulak, Douglas D. (CFM)

Subject: CWT: Bldg Restoration -- funding

Hello Betsy,

I'm unsure of your vacation dates, but wanted to check and see if you were able to assemble a 'team' to help move this project forward.

There were a couple of suggestions for requesting funding. One was to work with the facility's engineering group on a submission for SCIP funding -- and/or meet, along with the Associate Director, the VISN CAM to investigate funding from the VISN. I'm still waiting to hear back from the Innovation Program folks on what assistance they might be able to provide. I'll let you know as soon as I hear from them.

Thanks, Nancy

Nancy Zivitz Sussman
Department of Veterans Affairs
Office of Construction & Facilities Management
Facilities Planning & Development Service (003C2A)
425 I Street, NW, Washington, DC 20001 (6W505D)
Office 202.632.5608
Cell 301.461.1647
nancy.sussman@va.gov

After countless hours of work towards an innovative project, the project came to an abrupt halt with the following email.

From: Sussman, Nancy Zivitz (CFM)
Sent: Wednesday, July 24, 2013 11:20 AM
To: Lyke, Patrick D; **Cc**: Milsten, Dennis (SES); Siegel, Lloyd H. (SES) CFM; Webb, Fred (CFM); Harrison, Devin; Schamel, Kathleen (CFM)

Subject: CWT: Building Restoration Innovation at Hot Springs

Dear Pat,

I'm writing to let you know that CFM has been reevaluating the wisdom of moving ahead, for now, with this innovation project.

We're all aware of the numerous complexities involved with development of this idea that spans across VA Administrations, involving a number of programs. While this is what was originally so intriguing about the idea, it also presents many challenges - generally, it is beyond the scope of CFM's purview. Nevertheless, CFM was interested in supporting this idea because it reflects the intent of VAFM to improve life cycle facilities management and work in an enterprise fashion across Administrations.

> *In the opinion of the STVA Committee the only challenge posed by this project was the location. The location was then and is currently embroiled in a heated debate about the wisdom of the VA's current proposed reconfiguration. The buildings, because of their architectural design provide a perfect opportunity to train veterans in the maintenance and*

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restoration of sandstone buildings. The site would also be able to provide housing for those veterans while they were learning a new trade.

We believe that the success of this project requires a true enterprise effort. However, the challenges of piloting this idea at Hot Springs have led us to believe that the complexities of the project, together with current political realities, should result in a reconsideration of developing this idea.

The timing of this email is concerning. The original discussions for this project began in the spring of 2012. At that time the first public announcement of the proposed reconfiguration of the Black Hills Health Care System was only several months old.

Because of veteran and public outrage regarding the proposed reconfiguration of the Black Hills Health Care System, then VA Secretary Shinseki, mandated a series of meetings between the VA, Veterans Service Officers, Congressional Staff and STVA, to see if some common ground could be reached by the VA and concerned parties that disagreed with the VA's proposed reconfiguration. Those meetings began in late spring or early summer of 2012. A total of four meetings were held through the summer of 2012. At the final 2012 meeting the VA announced there would be no further meetings and the VA would recommend to the Secretary of the VA to move forward with their original proposal. The VA would also provide "insights" of the STVA proposal to Secretary Shinseki.

After the breakdown of these meetings, pressure from South Dakota's Congressional Representatives persuaded Secretary Shinseki to meet with the STVA Committee in Washington in January of 2013. The purpose of the meeting was to provide STVA an opportunity to present our objections to the proposed reconfiguration. At the conclusion of a 90-minute meeting with the Secretary, Secretary Shinseki approved another meeting, this time between the VA's Office of Construction and Facility Management and the STVA Committee. The purpose of the meeting was to try and resolve the still disputed data used to support the reconfiguration. This second meeting took place once again in Washington in May of 2013. No agreement about the accuracy of the data the VA was using was reached.

Now in July 2013 the Office of Construction and Facility Management, the same office STVA met with in May 2013, notifies the parties proposing this program that the VA will not be moving forward with the project. A project that until this point in time had received favorable support at local and VA Central Office levels

One suggestion that we briefly discussed with Betsy, who was a model force to lead the innovation, was to consider piloting the idea at a different location. There are VAMCs with similar historic resources that have considered training Veterans in preservation/conservation job skills through a CWT program. The CFM Preservation Officer, Kathleen Schamel, will consider discussing this idea with staff at Walla Walla, WA to gauge their interest. You may recall, that it is the historic preservation piece that falls within CFM responsibilities.

The VA wasn't suggesting the project had no merit but the exact opposite "was to consider piloting the idea at a different location." *They even had a location in mind* "will consider discussing this idea with staff at Walla Walla, WA to gauge their interest."

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Knowing this may be a disappointment to the many people at Hot Springs interested in this project, I cannot be encouraging about its potential for development at this point. We so appreciate the enthusiasm that many of you brought to this effort. We hope the idea may eventually take root elsewhere, since we do believe it could prove to be a model for a new program to aid Veterans.

> *This is another example of the agency being "pre-decisional" regarding the NEPA process, and how this contributed to the dismantling or general decline and unseized opportunities at Hot Springs.*
>
> *Alternative E as proposed can meet the "purpose and need" and* "could prove to be a model for a new program to aid Veterans."

With regards, Nancy

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1.1.3 Veteran Population in BHHCS Catchment Area

The 34 counties in the VA BHHCS catchment area were home to over 35,000 Veterans in fiscal year (FY) 2014. Approximately 60 percent of these Veterans were both eligible for and had enrolled to receive care at a VA facility. Eligibility for VA health care is determined by type of service in military, condition of separation from service, and length of duty. Once enrolled, a Veteran is assigned to one of eight priority groups. Availability of the congressionally allocated funds for Veterans health benefits is prioritized among these groups, considering factors such as service-connected disabilities, former prisoners of war, Purple Heart or Medal of Honor recipients, other aid received from VA, income, VA pension recipients, Medicaid eligibility, and certain specific service assignments, exposures, or conflicts (VA 2015a).

Numbers of Veterans residing in the catchment area, enrolled in VA health care, and receiving health care services provided by VA BHHCS vary with the time period covered if they are actual counts, or with the model and its baseline if they are projections. The sources and data for current and projected Veteran population and health care enrollees and service recipients are described in Section 1.2.2.2.

Save the VA Response

The table below shows statistics for the newly formed Black Hills Health Care System that were provided to the Rapid City Journal by then Director, Peter Henry. [16]

CP10-24

	Budget	Outpatient Visits	Admissions
Fort Meade	$36.5 million	66,000	1,661
Hot Springs	$31 million	67,463	1,903

At the time of the merger of the Ft. Meade and Hot Springs hospitals, the two sites were very similar, with a lower cost of operation at the Hot Springs campus. At the same time the Hot Springs campus saw slightly larger numbers of outpatient visits and admissions.

Since the merger of the Ft. Meade and Hot Springs VA's in 1995, the following services at the Hot Springs VA have been eliminated. These services are in chronological order:[17]

1. *Laundry services*
2. *Pathology (lost the only pathologist)*
3. *Podiatry (lost second Podiatrist and resident program)*
4. *Colonoscopy*
5. *Emergency room became Urgent Care with diversion of ambulance conveyance of veterans to other hospitals and began using mid-level providers instead of physicians in this area*
6. *Intensive Care Unit*
7. *Routine Ultrasound (when Hot Springs ultrasound tech retired and was not replaced)*
8. *Fluoroscopy and other vital on-site radiologist-guided examinations/supervision/consultations*
9. *Routine Nuclear Medicine (discontinued after the two nuclear medicine techs retired and were not replaced)*
10. *Pulmonary rehabilitation*
11. *Surgery*
12. *Cardiac stress testing*
13. *Pacemaker clinic*

[16] VA Medical Centers May Face Cuts, 1995 Rapid City Journal Article

[17] Retired Hot Springs VA employees and current employees

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CP10-24: VA acknowledges there has been a change in services at the Hot Springs facility since the merger with Fort Meade, and that the STVA proposal (Alternative E) would restore services and eliminate the adverse effects on staffing levels. However, as explained in Section 2.3.5 of the Final EIS, Alternative E does not fully meet purpose and need.

VA notes that it is within VA's discretion to increase or decrease the level of services offered at a given facility, as needed, to meet the directives of its mission and continue to provide quality care to Veterans throughout the catchment area. Such decisions are not subject to NEPA review.

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14. *Cardiac rehabilitation*
15. *Cataract surgery (contract wasn't renewed)*
16. *Kinesiology services (following retirement of kinesiologist)*

The loss of these services has resulted in idleness of expensive equipment, extra non-reimbursed patient travel and inconvenience, outsourcing of many studies, increased patient wait times for appointments, delays in diagnosis and/or the need for less-preferred alternative exams.

Additionally, prior to the merger, the long term nursing home ward was eliminated at Hot Springs and moved to Ft. Meade. This move caused friends and relatives of nursing home residents a longer commute.

Alternative E would eliminate these adverse effects by restoring lost services to the Hot Springs VA.

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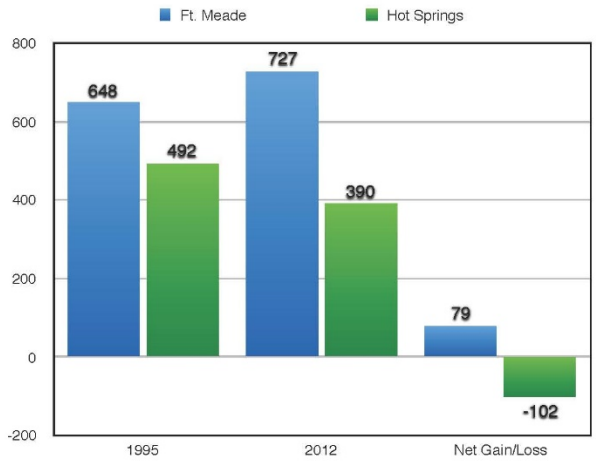
1.1.4 Employees

At the end of FY 2014, VA BHHCS employed 1,103 individuals, with 1,021 full-time and 82 part-time. The workforce represented a total of 1,069 full-time equivalent employees. The staff included 42 physicians, 271 nurses, and 29 physician assistants and nurse practitioners. Other employees included ancillary medical, housekeeping, administrative, and facilities management staff. There were also 301 volunteers that provided transportation; served in the Honor Guard; visited patients; and provided information desk, clerical, and other services.

Save the VA Response

The data below shows the contrast in number of employees within Black Hills Care System from 1995 through 2012.[18]



Review of the data shows the total number of employees for Hot Springs has drop by an additional 17 employees from 390 in 2012, to 373 in 2015. The current number of 373 employees for Hot Springs represents 34% of the total employees within the Black Hills Health Care System. That leaves a total count of 730 employees working at locations other than the Hot Springs site.

In December of 2015 a FOIA request was submitted by STVA requesting information about employee positions within Black Hills. The question asked under this FOIA request was, Black Hills Health Care

[18] 2012 email from then VA Director Steve Distasio to then Hot Springs Mayor Don Devries

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CP10-24

CP10-24: VA acknowledges there has been a decline in employment resulting from changes in health care services in Hot Springs since 1995. VA notes that it is within VA's discretion to redirect staffing resources and increase or decrease the level of services offered at a given facility, as needed, to meet the directives of its mission and continue to provide quality care to Veterans throughout the catchment area. Such decisions are not subject to NEPA review.

Chapter 1 of the Final EIS has been reorganized to better clarify the changes that have occurred since 2010 (see new Section 1.1.5) and Chapter 4 (Section 4.16) of the Final EIS addresses the change in employment since 2000 as part of the revised cumulative impact analysis. See related group response in Table E-2 relating to the Decline in Services.

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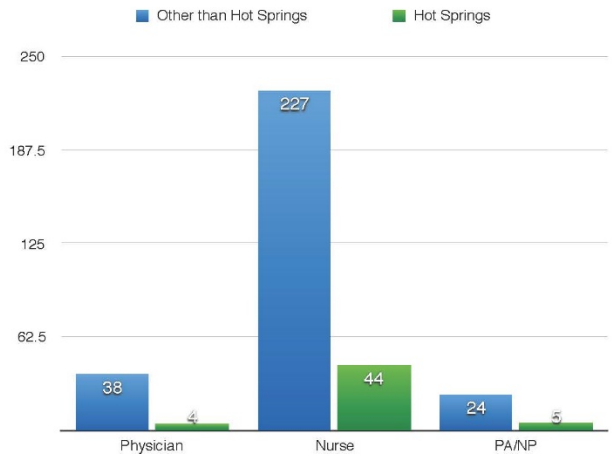
System employees, grouped by profession, that list Hot Springs as their primary work site. This list would include all part time, full time and term positions[19].

The chart below compares the data from FOIA 2016-0006 and shows the number of physicians, nurses, physician assistants and nurse practitioners employed within the Black Hills Health Care System that are providing direct patient care, comparing those positions at Hot Springs versus other sites within Black Hills.



For any organization to fulfill its mission, it must have a full compliment of dedicated employees who believe in the organizations mission. The employees of the Hot Springs VA are dedicated employees who have always understood the mission is serving America's veterans. The employees of the Hot Springs VA have been serving those veterans for the past 109 years.

The VA has created an almost insurmountable situation for the Hot Springs employees to provide medical care, by staffing the Hot Springs VA with only 10% of the total physicians, 16% of the total nurses and 17% of the total PA/NP positions within the Black Hills Health Care System.

[19] FOIA Request 2016-0006

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1.2 Purpose of and Need for Reconfiguration of the BHHCS

The "purpose and need" element of an EIS explains why the action being proposed is needed, and serves as the basis for developing a reasonable range of alternatives. The purpose consists of the objectives of the proposed action that address an underlying condition or correct a problem. The need is the underlying condition or problem that leads the agency to propose the action.

1.2.1 Statement of Purpose and Need

The purpose of VA's proposal to reconfigure health care services in the BHHCS is to provide high-quality, safe, and accessible health care for Veterans well into the twenty-first century by:

- Providing locations and facilities that support VISN 23's efforts to enhance and maintain quality and safety of care in the 100,000-square-mile catchment area
- Ensuring facilities for Veterans receiving any services comply with accessibility requirements for handicapped individuals, support current standards of care, and can be well-maintained within available budgets and resources
- Increasing access to care closer to where Veterans reside
- Reducing out-of-pocket expenses for Veterans' travel

VA has identified a need to reconfigure health care services in the BHHCS catchment area because:

- VA has difficulty maintaining high-quality, safe, and accessible care at the Hot Springs campus.
- Existing locations and facilities constrain the quality of care, range of services, and access to care that VA offers to Veterans in the catchment area.

The factors that contribute to this determination of need are described in Section 1.2.2.

Save the VA Response

The last three of the four stated purpose items above are not met by the VA's preferred Alternative A. VA's solution for care closer to the veterans' home is to refer them to IHS and private care. The IHS facility that would provide that care is so substandard that it is currently threatened with removal from payment for Medicare and Medicaid.[20] Private hospitals are not always a viable resource due to a number of factors. Veterans are already traveling more miles to receive care as the VA has removed services from the Hot Springs campus. Simply saying that the proposed reconfiguration will provide safer care closer to veterans and reduce their travel costs does not make it so. See Sections under 1.2.2 for a detailed discussion of the factors contributing to a lower standard of care, further travel distances for veterans and increased travel expense.

1.2.2 Factors Resulting in Need for Reconfiguration of BHHCS

The factors listed below, described more fully in the subsections that follow, contributed to the determination of need:

- The quality of care offered at the Hot Springs facility is constrained because VA has difficulties recruiting and retaining qualified staff to work at that location, and maintaining clinical competency of Hot Springs staff due to low patient volume.

  This recruiting problem is not specific to Hot Springs and is a relatively recent problem at Hot Springs. The clinical competency problem would be resolved if the VA corrected its management practices and invested in improving services at Hot Springs.

[20] Rapid City Journal Article, March 2016

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CP10-25

CP10-25: Each Alternative descriptions in Chapter 2 (Section 2.3) explain how the alternative does (or does not) meet purpose and need as described in Section 1.2, including Alternative A (preferred alternative in the Draft EIS) and Alternative A-2 (preferred alternative in the Final EIS). See also group responses E.3.1 and E.3.3 in Appendix E (and response to CP10-17 [?] relating to the reliance on Care in the Community and how it helps reduce travel.

Comments made in Section 1.2.1 summarize more detailed comments made in subsequent sections as follows:

Section 1.2.2.1.1 relating to recruitment.
Section 1.2.2.1.2 relating to accessibility
Section 1.2.2.1.3 relating to limited care for single parent Veterans and recovery model of care
Section 1.2.2.1.4 relating to impact of facility costs on stewardship of funds
Section 1.2.2.2.1 relating to VA population centers.

VA responses provided in these subsequent sections.

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The VA also has robust national as well as local simulation training programs that can be used to maintain clinical competencies.

- The Hot Springs VAMC campus needs significant renovation to maintain clinical standards and for continued facility sustainment. It does not comply with the Architectural Barriers Act and with VA accessibility requirements.

  The renovations needed are certainly less expensive than building new, including those renovations needed to maintain compliance with ABA. The Treanor Report stated that the Landmark Buildings are in good condition.

- The existing RRTP at Hot Springs limits care available to single parent Veterans or Veterans with families.

  While this statement is true, it is because management has decided not to provide such a program. There are existing staff residences that could have and could be used for such a program with little expense.

- The existing RRTP at Hot Springs does not meet the facility requirements for the VA's recovery model of care and has limited potential for enhancement to meet the requirements.

  This statement is also disingenuous. The RRTP buildings are empty rectangles inside that lend themselves to easy modification to meet these requirements. A transitional house is currently in use on campus. Additional housing could be built, if existing staff housing does not meet the need, at a much lower cost than building an entirely new facility.

- Facility costs at the Hot Springs campus negatively affect VA's stewardship of funds appropriated for Veterans health care.

  This statement is made without any supporting facts. The maintenance funds for the Hot Springs Campus have consistently been less than the maintenance costs at the Ft. Meade Campus. The percentage of each sites maintenance budget was determined by the VA based on erroneous square footage calculations for each site. Since 1995, 60% of the maintenance budget has gone to Fort Meade and 40% of the maintenance budget has gone to Hot Springs, and yet the older Hot Springs buildings continue to be in good condition. These two campuses have very close to the same square footage dedicated to direct patient care.

- Current and projected future Veteran population centers in the BHHCS catchment area are not in the same locations as existing VA facilities.

  This is at the heart of the STVA concerns about this proposed reconfiguration. The data provided by the VA is inconsistent and highly questionable.

- Veterans currently face long distances, extended travel times, and travel costs to access primary and secondary care.

  This is a true statement because the VA has removed the majority of the secondary care previously offered at Hot Springs creating the "long distances, extended travel times, and travel costs to access primary and secondary care."

1.2.2.1 Factors Contributing to VA's Difficulty Maintaining High-Quality, Safe, and Accessible Care at the Hot Springs VAMC

Save the VA Response

Maintaining High Quality Care

The VA says they are concerned with providing "high quality care" *in the current landmark buildings in spite of never failing any of the many oversight inspections they are subject to. Examples of these oversight inspections are JCAH, CARF, CAP and IG. Quality care has been provided in the very buildings the VA says would be difficult to renovate to provide "state of the art" medical care.*

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CP10-26

CP10-26: Chapter 1 has been revised and restructured slightly to further clarify purpose and need with respect to the VA's concerns with maintaining quality care in the current configuration.

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Does the VA require private health care providers to adhere to the same level of compliance with the above organizations?

Maintaining Safe Care

The VA has repeatedly stated they are concerned about providing "safe" care at the Hot Springs campus. STVA agrees but believes safe isn't only important on the Hot Springs campus. We believe safe extends to any environment the veteran encounters while receiving their individual medical care. Rapid City is the VA's preferred location for the domiciliary. Recent data from the FBI demonstrates that of the two locations, Hot Springs and Rapid City, Rapid City poses a greater safety risk for veterans receiving care.

2014 FBI Crime Data[21]
South Dakota
Offenses Known to Law Enforcement
By City, 2014

	Hot Springs	Rapid City
Population	3,478	71,481
Violent Crime	3	426
Murder and nonneglient manslaughter	0	4
Rape (revised definition)[1]	0	59
Rape (legacy definition)[2]		
Robbery	0	53
Aggravated assault	3	310
Property crime	24	2,704
Burglary	8	426
Larceny-theft	14	2,076
Motor vehicle theft	2	202
Arson	0	3

[1] The figures shown in this column for the offense of rape were reported using the revised Uniform Crime Reporting (UCR) definition of rape. See Data Declaration for further explanation.
[2] The figures shown in this column for the offense of rape were reported using the legacy UCR

[21] https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/resource-pages/downloads

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CP10-27

CP10-27: A site has not been selected for the Domiciliary in Rapid City but the facility itself would be designed to include inherent safety protection features (e.g., secure access, locked doors, 24-hour supervision); and would have direct access to police protection / assistance as needed. While the incidences of crime may be greater in Rapid City than Hot Springs, Rapid City is still considered a safe environment for a city of its size, and VA believes the advantages it offers for residential treatment far outweighs the difference in crime rate

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Hot Springs was also recently declared the 3rd safest city in South Dakota by an April 4, 2016, SafeWise Report.[22] This is an increase of six spots from 9th in the 2015 SafeWise Report. Rapid City, the location the VA wants to relocate the domiciliary to in their proposal, ranks as the 28th safest city in South Dakota in the 2016 SafeWise Report.

This data is consistent with comments from veterans who have been or are being treated at the Hot Springs VA. These veterans consistently tell the VA it is exactly the rural settings, like that of the Hot Springs VA, that has significantly contributed to their successful treatment. The following excerpt is a recent example of these success stories.

"Dan Benter is 55, and he shows the physical toll of a hard life. His four years in the U.S. Army ended in 1982, but not his troubles. Traveling by bus with a group of 20 from the Veterans Affairs Hospital in Hot Springs, he came to Rapid City seeking a pair boots. He is in treatment for alcohol addiction and post-traumatic stress disorder. He has been sober for 3 months and credits the program with getting his life back on track."[23]

The above story is another example of the reduced services offered at the Hot Springs VA. The VA failed Mr. Benter, requiring him to travel 120 miles' round trip for a pair of boots. This is only one example of the additional miles traveled by veterans the VA say it wants to eliminate.

For 109 years Hot Springs, "The Veterans Town" has valued our veterans. We have always recognized this minority segment of the population has hidden as well as outward problems. When interacting with veterans in difficult situations, Hot Springs law enforcement traditionally transports the veteran directly to the VA for their care.

Maintaining Accessible Care

At the heart of the VA's proposed reconfiguration is "maintaining accessible care" for veterans served by the Black Hills Health Care System. The data doesn't support the statement.

The VA believes the majority of veterans seeking substance abuse and PTSD treatment in Hot Springs come from the Rapid City area.

- *In FY 2010 91% of the domiciliary patients, representing 34 different states, came from locations other than the Rapid City area.[24]*
- *In FY 2011 92% of the domiciliary patients, representing 26 different states, came from locations other than the Rapid City area.[25]*

VA's from across the country as well as fellow veterans refer veterans who are seeking substance abuse and PTSD treatment to Hot Springs because of its' national reputation of care.

Maintaining Accessible Care is about more than the veterans from the Rapid City area. The chart on page 54, Corrected Patient Count, shows the number of patients currently using the Hot Springs hospital, combined with the number of traditional Hot Springs patients that are now receiving care at Ft. Meade or the Rapid City CBOC, would actually make up the largest group of veterans within the Black Hills Health Care System.

"The building also contains the mission shelter, which has 58 beds in the men's dorm and 42 in the veterans' wing. But lately, it has been getting about 140 men, women and children each night, some of

[22] www.safewise.com

[23] Rapid City Journal Article, January 15, 2016

[24] FOIA 2012-0022

[25] FOIA 2012-0022

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CP10-28

CP10-28: VA has never claimed that the majority of RRTP patients come from Hot Springs and Rapid City. A new table has been included in Exhibit 1 in Chapter 1 of the Final EIS that provides a more detailed breakout of the place of residence for RRTP patients. It clearly shows that domiciliary patients come from all over the U.S., as STVA indicates. This would appear to equally support its proposed move to Rapid City which offers significantly more advantages to help ensure successful integration than Hot Springs. See revised discussion in Section 1.2.2.3 of the Final EIS.

Regarding the driving concerns, VA believes that through the new CBOC in Hot Springs, the new MSOC in Rapid City, and the expanded care in the community program, Veterans can receive the care they require closer to their homes thereby reducing the distance and time they have to travel. Those coming to the RRTP from south of Hot Springs would have to travel farther if the facility is moved to Rapid City, but because it is a residential facility where treatment can extend for 30-90 days or longer, there would no daily commute which would put patients at greater risk of getting into an accident. See also related group response E.3.1 of Appendix E relating to distance travelled (including to Rapid City for RRTP patients).

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whom sleep on floor mats rather than be out in the cold, says Mission Associate Director Josh Bond. Veterans usually stay for half a year, while the others are around for 30 to 180 days."[26]

It's also important to mention that driving is one of the riskiest activities in daily life. Because the majority of secondary care has been moved from Hot Springs, veterans must now travel much further to receive this care as the chart on page 54, Corrected Patient Count, clearly indicates.

1.2.2.1.1 Difficulty Recruiting and Retaining Qualified Staff, and Maintaining Clinical Competencies

VA BHHCS has difficulty recruiting and retaining qualified staff at the Hot Springs VAMC. This difficulty has been encountered for physicians, nurses, and some ancillary medical positions. The issues that contribute to this factor include:

- Low patient volume detracts from a licensed professional staff member's ability to attain and retain core competencies. In patient care, a reduced volume of procedures and decreasing familiarity with medications and treatment modalities increases the risk of error. In the Joint Commission's advice to the public Helping You Choose: Quality Hospital Care, the first question of 25 that are recommended is "Ask about the operation or treatment that you need. How often is it performed?" (Joint Commission 2013.) Medical professionals may be expected to factor procedure volume into their decisions about where to practice, and providers will likewise consider this when evaluating what medical services to offer from a particular facility (see Section 1.2.2.2.1 discussion of "Critical Mass of Patients to Support a Service or Specialty").
- The federal government has difficulty in matching private sector salaries in addition to competing with a nationwide shortage of professional medical staff (see, for example, HRSA 2013). Some specialties are difficult to recruit in Hot Springs (orthopedics, laboratory technologists, sleep laboratory technicians, internal medicine, psychiatry, respiratory therapists, mental health professionals), even given the availability of the Education Debt Reduction Program, recruitment incentives, and enhanced salary rates.
- The rural location limits the appeal of relocating to Hot Springs. The U.S. Department of Labor's Bureau of Labor Statistics stated that "Job prospects should be good for physicians who are willing to practice in rural and low-income areas, because these areas tend to have difficulty attracting physicians" (BLS 2015). VA offers recruitment/relocation incentives of up to 25 percent of basic pay, but recruitment for this location remains a challenge.
- Overall, affecting both public and private sector health care providers, Fall River County, SD, is designated as a "health professional shortage area" for all three categories reviewed: primary care, dental care, and mental health care (HHS 2015).

These recruiting and retention difficulties have resulted in high staff turnover, prolonged position vacancies, and more dependence on physicians who specifically seek positions for only a short period, usually a few weeks to a few months (referred to as "locum tenens" physicians).

The positions in and of themselves are not unattractive. The only part-time medical positions in Hot Springs for which VA BHHCS has tried to recruit are a surgeon and a certified registered nurse anesthetist, in both cases because full-time positions could not be supported by the workload.

The recruiting difficulties also affect and are affected by the limits on the designated level of medical services that VA can provide at the Hot Springs VAMC (basic-level ambulatory; see Section 1.2.2.2.1 discussion of "Critical Mass of Patients to Support a Service or Specialty").

[26] Rapid City Journal Article, December 16, 2015

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Save the VA Response

Prior to 1996 when the Black Hills Health Care System was created, there were no significant staffing issues at the Hot Springs Campus. Since the merger there has been a continual reduction in overall staff, with an emphasis on medical positions. Once this process started it became self-perpetuating. Rumors circulated regarding further reductions and even closure. As Black Hills Health Care Management positions were consolidated between both sites, those managers began spending less time away from their home site in support of their remote staff and the services delivered.

In the EIS, the VA mentions four major factors contributing to the difficulty in recruiting and retaining qualified medical staff. They omitted two of the most important factors;

1. *The pre-decisional announcement in December of 2011 that the Hot Springs campus would be closing.*
2. *The VA has systematically been eliminating programs and services which creates problems with maintaining competencies for professional staff.*

As long as the VA continues on this course, it will be difficult to recruit and retain medical staff. At the same time that the VA has been downsizing, Fall River Health, the local community hospital, has been established and is increasing its staff, to meet the needs of the community and provide medical care close to home for local residents. Apparently they have been able to sell the attractiveness of working in a rural, underserved area.

The recruiting and retention problems could have been avoided had the needed robust services that were offered at the Hot Springs campus been continued. This along with management support and proper staffing of support positions would have gone a long way to avoid the present problems. These problems could be addressed if the management goals were to address them as opposed to close the facility.

Of the four challenges mentioned above, three of them are problems related to the VA nationally and to rural areas. Since rural areas provide a higher percentage of military recruits and therefore veterans, it would seem that it is incumbent upon the VA to overcome the challenges of providing medical care to veterans in rural areas, including those in southwestern SD including Native American Reservations, eastern WY and northern NE.

The VA states that salaries aren't competitive. Non-competitive salaries aren't unique to the Black Hills Health Care System catchment area. Competitive salaries are a national problem for the VA and rural health care facilities. Given this, the VA needs to develop more innovative ways to solve this problem. Some analysis needs to be done to determine why the hundreds of employees who continue to work in rural VA facilities do so. What is the reason that they stay when they could earn more money in the private sector? Rural areas need to be sold. This can be done by appealing to people interested in the outdoors, hunting, hiking, boating, good safe schools, low crime rate and an inclusive community. Partnerships between the VA and the community can be developed to assist in recruiting and welcoming staff and their families. Since many staff retiring from the Hot Springs campus continue to live in the area, they must have found something attractive about it to keep them here.

The VA acknowledges that Fall River County is a rural health care shortage area. This is true of the entire Black Hills catchment area. Elimination of the VA hospital will only exacerbate this problem. Veterans will be forced to compete with civilians for their health care. Therefore, it's incumbent upon the VA to be more creative in selling rural health as a long term career choice.

The first of the four challenges listed above is the only one that appears to be specific to the Hot Springs Campus. It is our belief, supported by the data, that the VA has systematically reduced the outpatient and inpatient population treated at the Hot Springs campus in order to create low patient populations so that this argument can be made. It is interesting that the VA's solution to this problem is to have the veteran patient population cared for locally by medical providers that are already

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CP10-29

CP10-29: VA agrees that some aspects of the recruiting problem are not specific to Hot Springs. For example, VA has a difficult time competing with the higher salaries offered to medical professionals in the private sector. However, there are other factors at play that a simple correction in management practices cannot fix. Declining patient volumes at the Hot Springs campus are one of the primary drivers for change, as described in Section 1.1.5 of the Final EIS.

Resource allocation must follow Veteran's need for maximum utility. Modeling need must balance both number of Veterans in a geographic area with mechanisms to assure care is the best possible. It is difficult to maintain centers of excellence without critical volume.

As indicated in earlier responses to STVA comments, VA believes that can improve quality, efficiency and flexibility of care delivery in BHHCS's rural setting as an integrated health services network by encompassing an increasing array of approaches (partnerships with community providers, virtual are, other non-capital and capital solutions).

No changes have been made to the discussion of this element of purpose and need in the Final EIS. However, See also group response relating to purchased care and quality of purchased care in Section E.3.3 of Appendix E.

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stretched due to serving a medically underserved rural area. While citing the importance of a high volume of procedures and other services to improve the likelihood of quality care, the VA appears unconcerned about Native American Veterans receiving their care at an IHS facility that has such a poor record providing medical services that the Federal government is threatening to withhold Medicare and Medicaid payments due to the poor quality of care.[27] Non-Native American Veterans will be expected to receive care from medical providers serving in a medically underserved rural area. Studies have shown both wait times and quality of care to be better in VA facilities than it is in private health care. We do not see the logic in the proposed solution to this problem.

It should be noted that the doctors performing procedures at the Hot Springs campus are performing the same procedures at other VA facilities. Therefore, low volumes are not an issue for them. If the concern is the support staff assisting in these procedures, then the VA should be using their own simulation training per their own Memorandum of Understanding.[28] Again it should also be noted that despite the years long degradation of services at the Hot Springs campus, this facility has never failed a safety/quality of care audit/inspection. The Joint Commission examinations have always been passed with flying colors which cannot be claimed for the facilities that the VA is stating that veterans should turn to for care when the Hot Springs Campus is closed.

The problem of low patient volume could be corrected if needed services were restored and patients were not forced to drive past the Hot Springs Campus to receive their care.

The following is an exchange between Dr. Julius and Nebraska Representative Adrian Smith.[29]

> **Mr. Smith.** Lack of commitment to the facility by the VA in general. I mean, there is a list here of discontinued clinical services beginning in 1996. Now, was that ever taken into account in terms of - I do not want to get ahead of myself here. But I would think if there were a decision made by the VA that would outline the commitment that the VA would make to this facility, if that were definitively announced, would in not lead to perhaps a better position to recruiting professionals?
> **Dr. Julius.** Oh, I think absolutely.
> **Dr. Julius.** I would comment yes. I think absolutely. I think the uncertainty and the lengthy uncertainty of the process that has gone on now for this many years without a decision has definitely adversely affected our ability to recruit to Hot Springs. If you are a young professional and realize that the situation that you are coming to might change in the future, you are going to be more reluctant. So I would agree.

HOT SPRINGS – Dr. Brian Wilson is the Fall River Health Services' (FRHS) newest doctor. He will begin his practice at the facility on Oct. 1.[30]

However, Wilson's forte isn't internal organs or feet or ears, noses and throats. It's the human brain, the mind.

Wilson is a highly-degreed psychiatrist, with bachelor's degrees in both Psychology and Bio-medicine, a master's degree in Behavioral Medicine, a full-fledged medical doctor, with experience across eastern South Dakota.

"Back when I was in medical school at St. Cloud University, in St. Cloud, Minn. I wanted to get involved in rural medicine and family practice," Wilson said. "But with my background in psychology and neural biology, psychiatry seemed like a natural."

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[27] Rapid City Journal Article, March 2016

[28] Memorandum of Understanding Between VHA Employee Education System (SimLEARN) And VHA Veterans Integrated Service Networks (VISNs), May 14, 2012

[29] CHALLENGES IN RURAL AMERICA: INFRASTRUCTURE NEEDS AND ACCESS TO CARE AUGUST 14, 2014

[30] Hot Springs Star September 22, 2015

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According to FRHS Marketing Director Tiffani Robertson, some of the things Wilson will be treating include depression, anxiety, PTSD, Autism, ADHD, dementia, anger and more.

FRHS says Wilson will be working to help patients and their families understand and recognize the role of medical, biological and neuroscience issues in mental health by offering "supportive and confidential psychiatric diagnosis and treatment in the comfort and convenience of a medical clinic setting."

Beginning in December 2011 with the VA's first public announcement of their proposed reconfiguration the VA has continually said one of their main reasons for the reconfiguration is the difficulty in finding medical professionals that want to work and live in Hot Springs. STVA believes the article above demonstrates if the VA wants to staff the Hot Springs hospital, there are highly qualified doctors looking for positions. Dr. Wilson would be a perfect fit for the programs in the domiciliary.

Numerous former Hot Springs VA employees are now employed by Fall River Health. These former employees are nurses, pharmacists and nurse practitioners to name a few. These individuals left their employment with the VA to work for Fall River Health because of the uncertainty of their future career with the VA. They have made their homes in Hot Springs and don't want to relocate if the proposed reconfiguration is to move forward.

We contend that BHHCS administration has created a situation both through orders such as the limitation of the number of beds that can be filled[31] and referring outpatients to other facilities even when veterans request services at the Hot Springs campus, in order to create the current low patient numbers in both inpatient and outpatient services.

Some *veterans using specialty clinics and pre-operative appointments are reporting they were not scheduled in Hot Springs requiring an additional 180-mile roundtrip by the veteran. This despite the presence of qualified staff to conduct pre-operative interviews at Hot Springs. Specialty clinics were discontinued or reduced despite the veterans' reports that these clinics were consistently full in Hot Springs.*

Once again in the first bullet citing low patient volume, the VA makes a statement that infers lack of quality by citing a general Joint Commission Statement while ignoring the specific statements from the Joint Commission as a result of detailed evaluations of the quality at Hot Springs. We believe this is a deliberate attempt to infer problems that do not exist and if the actual data specific to Hot Springs were presented, it would not support the VA's contention. Therefore, it was omitted. In addition, as mentioned before, patient volumes have been reduced by referring veterans to facilities that require them to drive by the Hot Springs Campus, reducing staff so that appointments cannot be made at the Hot Springs facility, lack of support and/or overwork of existing staff so that they leave. We believe these conditions are under the control of the management. If sufficient effort were directed towards correcting policies that contribute to poor retention and correction of ineffective management practices that lead to the same results, these problems could be turned around.

For outpatient care, if the argument is that it's not possible to recruit health care providers so we should abandon doing so, and refer these patients to the private sector, how is the private sector going to be able to recruit more providers to provide care to veterans that the VA has abandoned? The current offices and urgent care are not less state of the art than those of the private care providers in the area.

How is the VA planning to recruit and retain staff for the proposed CBOC?

For inpatient care, if the VA plans to contract with local hospitals, we have several examples of what happens when the VA partners with private hospitals. In Grand Island, Nebraska, the inpatient care and ICU were contracted to the St. Francis Medical Center. The VA cancelled the contract with St. Francis Medical Center in August 2007 due to costs. Veterans now travel to Omaha 150 miles away. In Williston,

[31] BHHCS Memorandum July 28, 2014, 1E Strategic Staffing Plan

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Given the number of non-VA providers now available to Veterans in the BHHCS, VA does not expect that any single facility would have to take on so many new patients that current capacity and staffing levels would be compromised.

VA anticipates that staff currently employed at the Hot Springs VAMC would be tapped to staff the new CBOC.

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ND, the VA also unilaterally cancelled the contract with the local hospital. Veterans must now travel to Fargo, 6 hours away. *Fall River Health has already publicly stated that they do not have the resources to provide this care.*

IHS is not an option in this area. The quality of care is so substandard that Veterans refuse to use it. The Federal government has threatened to discontinue Medicare and Medicaid payments due to the poor quality of care.[32]

Perhaps the culture needs to change in VA administration. Hot Springs has been rural for a very long time and recruiting and retention is a recent problem at the Hot Springs VA. What has changed in these two areas? While job postings may not be part time, they are often time limited. A number of positions have been posted that are not permanent. We would contend that telling health care providers that the job they are considering may move or go away in the next couple of years is not likely to encourage them to apply. Once hired, making their work life difficult through intimidation and lack of support, from management and insufficient support staff, does not help with retention. Health care providers at almost all levels have options as we have a shortage nationwide. They know that they can find positions where the necessary support staff is provided and the administration is supportive of their work. Staff in their prime often have children and are not excited about moving them to a new area and school, so they want to take a position that they can count on for a number of years.

Retention involves a number of factors. Once hired, staff workload needs to be reasonable. If medical staff, doctors and PAs, are given double patient panels, it is not reasonable. A shortage of doctors and other primary caregivers needs to be addressed in a way that does not cause current employees to quit. Additionally, when current employees apply and are selected for a different position within VA, they have been forced to continue in their current position until a replacement is hired and is in place. In several instances this has extended in excess of three months.

Very few people want to stay with an organization that continues to be under threat of closure. It is very difficult to develop and/or maintain a patient focused culture when everyone is spending their emotional energy wondering when a decision will be made to close their place of work. What's the point of putting in the effort to develop teams and improve service delivery? It is amazing that despite this multi-year state of instability and increasingly rapid turnover of staff, the culture at the Hot Springs facility is still focused on providing excellent patient services. The culture used to be even more awesome.

1.2.2.1.2 Accessibility and Needed Renovations

Federal agencies must comply with the Architectural Barriers Act (42 U.S.C. 4151 et seq.) to ensure accessibility for handicapped individuals. (The Americans with Disabilities Act later extended similar protections to facilities of state and local governments and the private sector.) Specifically, federal agencies follow the regulations published as "Architectural Barriers Act Accessibility Guidelines" (36 CFR 1191 App. C). In addition, VA requires that its health care facilities follow the supplemental and more stringent "Barrier Free Design Guide" (VA 2011), which specifies greater accessibility related to the following:

- Ramp slope, length, clear width, and size of level landings where doors swing into landing.
- Handrail height.
- Elevator door width, car size. Double handrails required.
- Maximum window sill height in patient rooms.
- Minimum patient bedroom and toilet room entrance door width.
- Grab bar configurations in water closets and shower stalls.
- Minimum size for accessible and wheelchair front-transfer toilet stalls, and shower stalls.
- Grab bars required in all (not just accessible) toilet stalls.

[32] Rapid City Journal Article, March 2016

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CP10-29 cont'd

VA's arrangements with non-VA providers has changed (and improved) greatly in recent years. The list of non-VHA providers is constantly being updated and expanded as VA and VHA must assess whether competency can be developed internally or whether it is better to outsource. Criteria for decision-making may include: overall cost of operations, capacity to engage non-VHA providers in all necessary geographic locations, and capacity to ensure timely completion for both clinical and administrative functions. See also group response in Section E.3.3 of Appendix E relating to the quality of purchased care.

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- Higher knee clearance for a percent of cafeteria tables.
- Lower cutlery and supply height in cafeterias.
- 100 percent of patient bedrooms and toilet rooms are accessible (compared to 10 percent).

The facilities at Hot Springs were constructed as early as 1907. The 2015 Facility Condition Assessment of the Hot Springs VAMC (VA 2015b) identified 15 conditions specifically related to accessibility, as listed in Table 1-3. The estimated total repair cost for only those conditions identified as accessibility deficiencies was estimated at $15,218,115. The assessment also listed many more repair and maintenance requirements at substantial additional costs to correct (see Chapter 2 for detailed information on estimated costs by alternative).

The 2015 Facility Condition Assessment for Hot Springs identified an additional $33,972,546 required to correct deficiencies in the architectural, electrical, mechanical, plumbing, steam generation/ distribution, structural, transport, information technology, and hazardous materials (asbestos) systems of the campus buildings; and site work relating to parking lots, roads, and other items. The total cost to address all facility condition deficiencies was estimated to be $49,190,661 (VA 2015b).

Save the VA Response

From December 12, 2011, the VA's original announcement of their proposed reconfiguration of the Black Hills Health Care System, the VA has maintained a contributing factor in their decision to reconfigure the Black Hills Health Care was ADA compliance of the Hot Springs landmark buildings.

> "Due to its age, condition and configuration, the extensive renovations required for the facility to meet today's program requirements would be cost-prohibitive. In addition, certain building modifications and renovations required to properly configure the existing space to meet VA health care facility standards may be prohibited or restricted as the main RRTP building is located in the Hot Springs, South Dakota Historic District and listed on the National Register of Historic Places. The facility as a whole, which includes Buildings 1 through 11, has also been designated a National Historic Landmark which results in additional renovation constraints."[33]

On February 17, 2016, during a consulting parties meeting, Sandra Horsman, Black Hills Health Care System Director, finally acknowledged the Hot Springs landmark buildings can be made ADA compliant.

Support for the VA's new position on the renovation possibilities of the landmark buildings could previously be found in the August 2012 report completed by Vance Kelly with Treanor Architects. This report was requested by South Dakota's Congressional Representatives. The purpose of the request was to have an architect with historic preservation expertise, independently assess the sustainability and ADA compliance possibilities of the buildings. The following statement is from that report.

"It should be noted that Buildings No. 1 through No. 12 are constructed of high-quality and durable materials. The exterior sandstone, clay tile, and heavy timber construction are all in good condition and should require little work at this time. The building interiors are typically high quality, but not highly finished or detailed. Therefore, they are typical materials with which experienced contractors are well versed, and no historic preservation premium should be anticipated."[34]

Buildings No. 1 through No. 12 comprise all the buildings where veterans are medically treated during their visits to Hot Springs. The above statement, in the opinion of the STVA, disproves the VA's assertion it would be difficult to provide modern quality medical care in these buildings.

[33] FOIA 2012-0023

[34] Renovation Impact Review, August 22, 2012 Jones Lang LaSalle, Treanor Architects

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CP10-30: Accessibility and Need Renovations -

Response: VA agrees that the buildings that comprise the area where veterans are medically treated on the Hot Springs campus can be renovated to meet ADA/ABA standards and provide modern quality medical care. See group response in Table E-2 in Appendix E (Category Purpose and Need, Accessibility and Needed Renovations). VA also revised its statements on the suitability of the buildings of the VA Hot Springs campus to meet the provisions of the ABA and VA's "Barrier-Free Design." See Section 2.3.

Regarding the statement referenced by Ms. Horsman, please see page 245 of the January 2016 historic properties consultation meeting transcript (included in Appendix C of the Final EIS).

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The VA uses the FCA (Facility Condition Assessment) to determine how to address the future of buildings and entire facilities. The SCIP (Strategic Capital Investment Plan) is put together with the assistance of outside contractors with little historic building preservation experience. In order to properly assess these historic buildings the VA needs to hire contractors that have historic preservation knowledge and experience. The VA stated above that:

> "Due to its age, condition and configuration, the extensive renovations required for the facility to meet today's program requirements would be cost-prohibitive. The facility as a whole, which includes Buildings 1 through 11, has also been designated a National Historic Landmark which results in additional renovation constraints."[35]

This statement represents assumptions that are not true. The Treanor report referenced above stated that, "no historic preservation premium should be anticipated.

Unfortunately, the STVA group has found statements such as these made by the VA as facts, to be assumptions that are proven wrong when investigated.

Since 1903, when construction started on the Battle Mountain complex, there has been only very minor construction, or renovations to the original buildings. STVA believes that if the VA were to review all its properties, that the domiciliary complex at Battle Mountain has cost the Department of Veterans Affairs less to renovate and maintain for the past 108 years than any other property the VA operates.

The VA states that it can no longer afford to maintain, or afford the renovation costs to upgrade these buildings. We believe that with the renovations the STVA is proposing, that the VA and Federal Taxpayers will be far ahead funding wise over the next 100 years by simply renovating the landmark buildings to meet the VA's new guidelines for patients and single parent female patients. These buildings have been a "Taxpayer Bargain" and will continue to be very cost affective to maintain.

For example, the far newer buildings at the Ft. Meade campus used for veterans, have a far higher per square foot cost to renovate and maintain based on 440,000 square foot per campus. On average, the budget for maintaining the Ft. Meade buildings from 1996 to 2015 has been 2 million dollars per year higher to maintain and renovate than the same amount of square footage of space used for veterans at the Battle Mountain location. Since the merger in 1996, the cost to maintain the Hot Springs campus has been $38 million dollars less than the far newer buildings at Ft. Meade. This demonstrates how cost effective the buildings at Battle Mountain have been and will continue to be.

What documents or data is the VA using to support their statements that, "Due to its age, condition and configuration, the extensive renovations required for the facility to meet today's program requirements would be cost-prohibitive?"

In 2012 the VA BHHCS, and private contractors used the FCA report stating that the VA buildings at Hot Springs would require 49 million dollars to be upgraded to meet new VA requirements, that included the VA's Mental Health and ADA requirements. That same year, VA BHHCS FCA report showed that 26 million dollars was required to upgrade the far newer Ft. Meade buildings to meet the new VA requirements. This FCA report is part of the basis for vacating the Hot Springs Campus because of required funding needed to upgrade.

When the 26 million dollars reported on the 2012 FCA is compared to what the VA BHHCS has requested for the Ft. Meade campus to meet the new VA requirements, one finds that 83.8 million dollars is now required to meet the new VA requirements at the Ft. Meade campus. In the 2012 estimates used to compare the costs to upgrade the Hot Springs Campus to the costs to upgrade the Fort Meade campus, to meet the same new VA requirement, VA BHHCS neglected to include the funding required to upgrade the following buildings: all of the Community Living Center now estimated at 20 to 29 million dollars, 9.8 million dollars to upgrade and construct the new surgery

[35] FOIA 2012-0023

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CP10-30 cont'd

Additional cost breakout information has been provided in Chapter 2 of the Final EIS with respect to the calculation of cost for each of the alternatives to meet new VA requirements. See also group response in Table E-2 in Appendix E relating to costs of alternative. VA will also make the supporting Jones, Lang, LaSalle 2012 report available on its website.

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tower, 2.0 million dollars to upgrade the front entrance, 7.2 million dollars to relocate SPD, 5.8 million dollars to relocate dietetics and 3.8 million dollars to upgrade the mental health building. These projects were not listed on the FCA report, meaning that the FCA report of 2011/2012 should have shown a total of over 83.8 million dollars to upgrade the far newer buildings at the Ft. Meade campus, not the 26 million dollars reported. So now the comparison is 49 million dollars to upgrade the Hot Springs campus versus over 80 million dollars to upgrade the Fort Meade Campus. It would appear that the upgrades for the Hot Springs campus are more cost effective than the VA has led tax payers, veterans, patients, staff, and the public to believe. The omission of many upgrades from the Fort Meade estimates leads one to wonder how the 49 million dollars to upgrade the Hot Springs campus was calculated. Are there costs that were included that should not have been? No supporting information was provided so this cannot be proven.

How were the costs to upgrade the Hot Springs campus to meet new VA requirements calculated?

The above information demonstrates exactly why the VA and VACO needs to start over and contract with an organization that has proven expertise in accurately estimating the cost to upgrade and maintain historical facilities with historic preservation in mind.

1.2.2.1.3 Limited Ability to Meet Current VA Standards for Residential Treatment

The facility requirements outlined in the VA Design Guide PG-18-12, Mental Health, are based upon the VA Office of Mental Health Services operating principles. These principles emphasize residential rather than institutional-like settings and include the ability to accept single Veterans with children. The residential setting should help Veterans improve their life skills and be complemented by access to jobs, long-term housing, education, and social services agencies.

Save the VA Response

The STVA completely agrees with the VA's statement above. The STVA Proposal, Alternative E, was developed with these principles in mind. It meets all the concerns cited in this section of the Draft EIS. See page 26 of the RRTP White paper where a detailed description of how a continuum of care would be provided for in current facilities modified to provide privacy, access to medical facilities and educational opportunities.

We find the statements about the inability to successfully apply the VA's Design Guide for facility Design to the Battle Mountain facilities to be amazingly disingenuous. This is a Historic Landmark with all the benefits of such a facility. It is the first of its kind in the entire VA system. It has provided a healing environment to our nation's veterans for over 109 years. The physical facility is in good condition per the Treanor report.[36] *The feelings and emotions evoked by this place cannot be replicated in any other facility, especially a new facility built in an urban area with no history.*

CP10-31

The statement that, "The current Hot Springs VAMC domiciliary layout, including open-bay sleeping and communal bathrooms, does not meet current VA standards for delivery of health care for RRTP." *is like stating that an open field in Rapid City does not meet these needs. There is no existing facility in the Black Hills Health Care System that currently meets these standards. As shown by the Treanor report, the openness of the buildings/wings provides a blank slate for any design that is desired. Walls do not have to be torn down to create the desired vision. In addition, the facility is ideally suited for the continuum of care required for mental health treatment of veterans and their families. The existing domiciliary buildings can be easily and fiscally responsibly remodeled to meet the guideline for treatment and education. The existing residential housing can be renovated and used for single parents and families. If the VA insists that their design guide is followed additional townhouse type buildings can be constructed on the existing campus to be used as transitional housing. Also, it is not necessary to provide all steps in the continuum of care in one setting. Since most veterans return to their home area, some transitional housing should be available at other VA facilities for those veterans who are in supported jobs in other areas.*

[36] Renovation Impact Review, August 22, 2012 Jones Lang LaSalle, Treanor Architects

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CP10-31: VA recognizes that the existing domiciliary can be renovated to meet many elements of its current standards for residential treatment. However, VA also maintains its position that more resources spent on more contemporary models allow maximum utility. The primary driver for the proposed RRTP relocation to Rapid City is because of the advantages its more urban city offers over Hot Springs in terms of increasing likelihood of successful community integration. Revised Section 1.2.2.3 in the Final EIS has been significantly revised to include additional research findings and explanation regarding the advantages of urban over rural settings for residential treatment.

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One of the concerns stated is the need for a variety of CWT type jobs. The new Veterans State Home is a source for job placement and training as is the new local nursing home and hospital. Veterans graduating from the substance abuse/PTSD treatment programs and using CWT usually return to their homes after treatment. That is where assistance is needed to ensure that they obtain and retain appropriate jobs. At one point there were 50 veterans receiving CWT services supported by the Hot Springs Campus. With the new State Veterans Home, Seven Sisters Nursing Home and Fall River Health (local hospital) additional positions could be supported. These are in addition to the CWT programs cited in the STVA Proposal "Building an Integrated Veterans Support Community" on page 513 of the DEIS in Appendix B, STVA Proposal.

"In our findings, we discovered that one out of three veterans enrolled in VA live in rural and highly rural areas. Of the 3.4 million rural veterans enrolled in VA, 2.2 million were treated in 2010. The number of rural and highly rural veterans is expected to increase. Additionally, veterans living in rural areas face many challenges, including the lack of primary/specialty treatment available, difficulty recruiting and retaining VA health-care providers in rural and highly rural areas, and the increased time and distance veterans experience in traveling to VA health-care."[37]

Single Parent Veterans

Eleven percent of women service members are single parents, compared with four percent of men (DAV 2014). The American Legion (n.d.) has published statistics identifying this emerging issue:

Women who are separating from service are 3.6 times more likely to become homeless than their non-military counterparts. A very disturbing fallout from the war is that, according to the National Coalition for Homeless Veterans, 9 percent of the homeless veterans of the War on Terror are women. There is also an increase in the number of homeless women veterans who have children.

Disabled American Veterans published an in-depth analysis (DAV 2014) of challenges faced by female veterans; key statements include the following:

- Key Recommendation 5: VA should establish child care services as a permanent program to support health care, vocational rehabilitation, education and supported employment services.
- VA's efforts to eliminate veterans' homelessness have been impressive and are showing measurable success. However, women veterans still have higher rates of homelessness than their non-veteran counterparts and housing support needs to be enhanced, particularly for women with dependent children.
- Key Recommendation 25: VA and [the Department of Housing and Urban Development] should invest in additional safe transitional and supportive beds designated for women veterans.
- Key Recommendation 26: VA should work with community partners to provide housing programs to accommodate women veterans with families.
- On average, women are younger than men who use the VA health care system and many new veterans are of childbearing age. This changing demographic has also meant that there has been increasing demand for on-site drop-in child care for veteran parents using VA medical and social support services.
- Finding: VA's efforts to eliminate veterans' homelessness have been impressive and are showing measurable success. Women veterans still have higher rates of homelessness than their non-veteran counterparts and housing support needs to be enhanced particularly for women with dependent children.
- Recommendation: VA and [the Department of Housing and Urban Development] should invest in additional safe transitional and supportive beds designated for homeless women veterans, especially those with children.

The need for VA to ensure that new or renovated health care and residential facilities can accommodate single-parent Veterans has been recognized by VA BHHCS, although VA does not currently

[37] The American Legion 2012 System Worth Saving Report on Rural Healthcare

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have a formal policy or statement identifying this as an agency goal or priority. VA BHHCS intends to improve support for single parent Veterans, particularly for the residential services available.

Save the VA Response

A number of items identified in the DEIS above, will need to be addressed regardless of where the domiciliary is. An example is child care. Either the VA needs to provide it on site or they need to contract for it within the community. This is not site dependent. It should be noted that a Child Care Center was operated for several years using one of the residential buildings on the Hot Springs Campus for that purpose. Playground equipment was set up on the grassy area in the small park like area in front of the houses. The Hot Springs VA currently has several houses with kitchens on site that could be used for families or single parents. This has simply not been done but could easily be accomplished. The STVA proposal presented several options to address the need for better housing and services for women and single parent families with children:

a. Women Veterans - The needs of women veterans are met with the services of the programs listed above. Currently, a separate ward is used for female veterans. Additional services from the Women's Veterans Coordinator and the OIF/OEF staff would be available to meet the needs of women veterans. An increase in the number of female veterans needs to be matched with an increase in women's health care services.

b. Family Therapy - This program would be revitalized with an emphasis on family centered care. Temporary residences for families who wish to participate in family therapy would be established in the renovated medical residences. Family therapy is crucial to ensure successful reintegration of veterans with families. "(Page 464 of the DEIS, Appendix B)

Finally, the VA campus has space for additional buildings. Women veterans already have their own newly remodeled ward in the RRTP. However, if the VA Administration insists that women should be housed separately, a new cottage-style structure that blends in with the historical design of the current buildings could be constructed. A similar structure for single veterans with children or veterans with families could also be constructed on campus for this purpose." From DEIS pg. 493, Appendix B, page 11 of the RRTP Physical Plant White Paper.

Estimates to provide these services for women and families were also included:

From the Table on pages 478 and 479 of the RRTP Physical Plant White Paper we see 2 entries related to these services.

"Separate family, singles with children, and/or female housing all with handicap access

$50,000 per bed x 40 $2,000,000.00" (DEIS pg. 478)

"Renovation of four current medical residences into apartments to house additional domiciliary families

$250,000 per building x 4 $1,000,000.00" (DEIS pg. 479)

Recovery Model of Care

The domiciliary's location in Hot Springs is not consistent with the "recovery" model of care. The setting of an RRTP should help Veterans improve their life skills and be complemented by access to jobs, public transportation, long-term housing, education, acceptable activities/diversion, and other social services agencies. A larger city would offer a greater depth of community services, more housing

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choices and capacity, a wider range of employment and educational opportunities, and a more robust clinically skilled labor force to support recovery.

Layout of Hot Springs Domiciliary

The current Hot Springs VAMC domiciliary layout, including open-bay sleeping and communal bathrooms, does not meet current VA standards for delivery of health care for RRTP.

VHA Handbook 1162.02, "Mental Health Residential Rehabilitation Treatment Program (MH RRTP)," establishes the procedures for VA's RRTP level of care. The existing domiciliary layout is not consistent with one item within this standard, which, states that the Facility Director must, among other requirements, "ensure the environment is designed to promote an individual sense of well-being, optimism, and integration with the surrounding community (as opposed to a hospital or dormitory-like dwelling)."

The VA "Mental Health Facilities Design Guide" (VA 2010b) provides further technical, architectural, and engineering specifications; and "emphasizes principles, and strategies for building state-of-the-art, recovery-oriented environments" for VA mental health settings. The existing configuration of the residential facilities at the Hot Springs VAMC does not fully meet that guidance for the issues listed in Table 1-5.

Save the VA Response

Once again, this is an amazing statement from an organization that says its decisions are based on data and proven results. The PTSD and substance abuse programs at the Hot Springs Campus have results that are among the best in the nation. While touting the benefits of an urban setting for treatment, they ignore the additional activities and diversions offered by a larger city that include anonymity, more crime and more liquor and drugs per capita which are more easily accessed. The benefits cited by the VA are mostly those needed after treatment. Initial treatment includes a period of time with more intensive support which is better provided in a rural environment. Safety is often the overriding concern of veterans seeking treatment. They avoid environments with too many people and too much stimulation.

One of the important findings the VA cites in this section regarding rural veterans is that,

"...2.2 million were treated in 2010." (by the VA) "The number of rural and highly rural veterans is expected to increase. Additionally, veterans living in rural areas face many challenges, including the lack of primary/specialty treatment available..."

The proposed reconfiguration ignores these facts as well as the fact that in FY 2010 only 9% of veterans seeking residential treatment come from the Rapid City area. In FY 2011 only 8% of veterans seeking residential treatment come from the Rapid City area. The remaining 91% and 92% respectively, of veterans seeking Residential Treatment come from all over the country. Most of the veterans receiving treatment in the Hot Sprigs RRTP will return to their homes in rural areas not unlike Hot Springs.

Once again the STVA proposal addresses these treatment concerns by reestablishing robust treatment programs for PTSD, Substance Abuse, Aftercare, Compensated Work Therapy (CWT), Women, Family Therapy, Care Management, and Legal and Benefits Counseling. (DEIS page 463)

During their initial treatment, veterans need closer supervision and care in a safe setting conducive to recovery. As veterans progress through treatment stages, they become more independent in their living arrangements. The STVA Proposal provides private and/or semi private rooms for initial treatment with more independent living arrangements as the veteran progresses through their treatment. This includes small groups living together in apartment settings and transitional housing.

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VA recognizes that RRTP patients come from all over the United States. VA proposes to move the RRTP to Rapid City because of the significant advantages offered by an urban setting, and not because more Veterans live in Rapid City. VA also notes that RRTP patients would also have access to the new MSOC and Rapid City Regional Hospital in Rapid City if additional medical attention is warranted.

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Renovations and physical plant requirements to meet the needs of the entire Recovery Model can be found beginning on page 468 of the DEIS in Appendix B, STVA Proposal.

Each building/wing of the current Hot Springs domiciliary is basically a large rectangular space that can be divided to suit the need. It could remain as an open area but it could also have floor to ceiling walls and plumbing installed to create apartment like dwellings that meet all the current standards for delivery of health care for RRTP. This could be done in conjunction with building additional townhouse type housing on the current VA campus and using existing houses that have been used for staff housing in the past.

In this day of more internet accessible education, it is much less important to live in a larger population area. The STVA Proposal provides a model that could be replicated throughout rural areas that addresses education, skill training and employment. The STVA proposal forms partnerships with a variety of educational institutions to make educational opportunities readily available. (DEIS pg. 451 and 471 through 473)

The availability of a clinically skilled labor force is within the control of the VA, not the size of the city where the RRTP is located. A robust campaign to recruit professional staff needs to be supported. This should include nation-wide advertisement, offers of permanent employment, and enhancing attraction of positions by providing information about education debt-reduction programs and benefits. The argument that professional employees do not want to live in a small town is unsubstantiated, especially when looking at recruitment success in other rural areas of the country. A partnership with the community should be developed to assist prospective employees in becoming familiar with the many positive aspects of living in the Hot Springs/Fall River community.

Table 1-5. Hot Springs VAMC Deficiencies - Design of Mental Health Facilities.

All items in this table could be satisfied by remodeling the buildings in the domiciliary with floor to ceiling walls to make individual apartments for up to 4 individuals or a family. This includes the item in Principle 2, "Visual and physical access to nature to promote healing," which is not addressed by Alternative A, requiring a move to a larger city. This is addressed in detail on pages 492-499 of the STVA proposal.

It should be noted that while the STVA Proposal includes up to 200 RRTP beds, this number was based on the VA Design Guide at the time the Proposal was written. At that time semi-private and private rooms were designated for treatment, with apartment like housing for later steps in the continuum of care. The goal was to maximize the space available at the HS Campus, given the long wait times within the VA for these time critical treatment services. The proposal is flexible with the goal continuing to be maximization of space while meeting the current Design Guide. It is the STVA estimation that the HS Campus could provide 160 RRTP beds with a combination of private and semi-privates rooms with bathrooms using buildings 3-8 plus, the call center and business offices could be moved to a historic building/s in downtown Hot Springs if the space is needed for patient care.

1.2.2.1.4 Facility Costs Negatively Affect VA's Stewardship of Funds Appropriated for Veterans Health Care

VISN 23 (Midwest Health Care Network) includes the following health care systems: Fargo, Iowa City, Minneapolis, Nebraska Western Iowa, Sioux Falls, St. Cloud, Black Hills, and Central Iowa. VISN 23's responsible stewardship of appropriated funds is impacted by VA BHHCS's high operating costs: the VA BHHCS cost per unique patient is the highest among VISN 23 health care systems, many of which have facilities that offer more costly and more highly complex medical services compared to those available in a VA BHHCS. Based on FY 2014 data, VA BHHCS's cost per unique patient (see text box) was approximately $9,404 and was $8,960 and $8,958 in FY 2013 and FY 2012, respectively (2015c). The FY 2014 cost was approximately 22 percent higher than the next highest cost (VA Minneapolis Health Care System at $7,713) and 23 to 65 percent higher than the other health care systems VISN-wide (whose costs per unique veteran ranged from $5,690 to $7,670 in FY 2014 (VA 2015c). At the Hot Springs VAMC specifically, the FY 2013 per-patient cost was $9,099, compared to $7,605 at Fort Meade VAMC (FY 2014

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VA agrees that the Dom can be renovated to accommodate the number of beds called for in the STVA proposal. Up to 160 beds can be figured in private and semi-private patient rooms in Buildings 4-8. An additional 40 beds could potentially be configured in other buildings on campus such as the quarters buildings. The scope of Alternative E in the final EIS (Section 2.3.5) has been revised to reflect this change and no new construction is now required (i.e., to accommodate an additional 82 beds) under Alternative E.

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data not available) (Email message from DeAnne Pavel, VISN 23, to James Stewart et al., August 25, 2014).

Save the VA Response

In a January 28, 2013, online forum of the Rapid City Journal, then Director Peter Henry wrote an article expressing his opinion about the controversy surrounding the proposed reconfiguration of the Black Hills Health Care System. There were five online comments in opposition to his article. The response below is one portion of Pete Henry's reply to those comments.

phenry - January 28, 2013 1:09 pm

"When we merged the two facilities in 1996, BOTH were among the most cost-efficient facilities in the entire VA."

The Director of the newly formed Black Hills Health Care System in 1995, is publicly acknowledging in 2013 what was commonly known about the Hot Springs VA. Not only had the Hot Springs VA been providing quality health care for the past 106 years it was "among the most cost-efficient facilities in the entire VA".

Additional support for the efficiency of the Hot Springs VA can be found in the following documents.

1. **Operating Expense Analysis of the Save the VA Proposal for Hot Springs VAMC, SD. September 10, 2012**

   Page 7 of the above document is titled, ***VA Black Hills Health Care System Annual Operating Expenses ($000)****. This page shows the annual operating costs for Fiscal Year 2011. The total operating cost for VA Black Hills is $171,857,000 million dollars and the operating cost for Hot Springs is $41,421,000 dollars. The operating budget for the Hot Springs VA in 2012 was only 24% of the total operating costs for the Black Hills Health Care System.*

   The inference of the Draft EIS is that the Hot Springs facility is the predominant reason the Black Hills Health Care System faces "Facility Costs Negatively Affect VA's Stewardship of Funds Appropriated for Veterans Health Care." *The costs above show 76% of the total budget for the Black Hills Health Care System are incurred from facilities other than Hot Springs.*

   Why is the VA so focused on the facility that contributes to only 24% of their total budget?

   What has the Black Hills Health Care System done to reduce costs at these other locations that would result in continuing to be able to provide full medical services at Hot Springs?

   What actions could be taken at the Hot Springs campus to continues care and reduce per patient cost?

   The VA says that regardless of the percent of the BHHCS operating cost, the Hot Springs cost per patient is too high. This cost has been manipulated by management through drastically reducing the services offered at the Hot Springs campus and artificially reducing the number of patients receiving care at that facility. See the discussion on page 24 of this document listing services discontinued at Hot Springs since 2012 and the discussion on page 52 in section 1.2.2.2.2 Distances Veterans Must Travel regarding where veterans live versus where they received services in FY 2014.

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CP10-32: Section 1.2.2 4 of the Final EIS has been revised to focus on the high costs associated with operating both Fort Meade and Hot Springs campuses following their merger in 1996, with some examples provided. VA is unable to update the cost data provided in the EIS due to current appropriation restrictions (see also group response in Table E-2 of Appendix E relating to cost of alternatives).

Requests for much of the information in this expanded comment (e.g., how VA determines individual patient costs, reimbursement on past Fort Meade projects, oversight of leased properties, increase in ambulance trips, etc.) is not relevant to the actions being analyzed in this EIS. VA has also made it clear that the final decision regarding the proposed reconfiguration is not based solely on cost. Therefore, this issue is not addressed further.

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2. **Freedom Of Information Request**[38]

   6. Copies of documents used to determine the overall funding for maintenance, equipment, and NRM projects at Ft. Meade and Hot Springs since 1996.

      RESPONSE: As a starting point, maintenance and Non-Recurring Maintenance (NRM) funding for Hot Springs and Ft. Meade is addressed by applying a 40/60 rule of thumb based on approximate square footage of each site, then adjusted by need and priority. Equipment purchases are based upon need and priority with significant amounts of equipment duplicated at both Hot Springs and Ft. Meade.

3. **2010 VABHHCS Annual Report**[39]

   The response to this FOIA request shows the total for Equipment, Non-recurring Maintenance at $9,664,576 million dollars. These are the dollars obligated to maintain the buildings and equipment in support of direct patient care. Using the "40/60 rule of thumb based on approximate square footage of each site" *the older buildings at the Hot Springs campus required $1,932,924 dollars less annually to maintain than the far newer buildings at the Ft. Meade campus.*

Section 1.2.2.1.4 of the Draft EIS states; "Both of these campuses must maintain a full suite of site services, fire department, security, laboratory, nutrition and food, radiology, and others serving a total of more than 1.2 million square feet of space. Maintaining this costly infrastructure diverts financial resources from direct patient care."

[38] FOIA Request 2012-0033

[39] FOIA Request 2012-0032 Item #5

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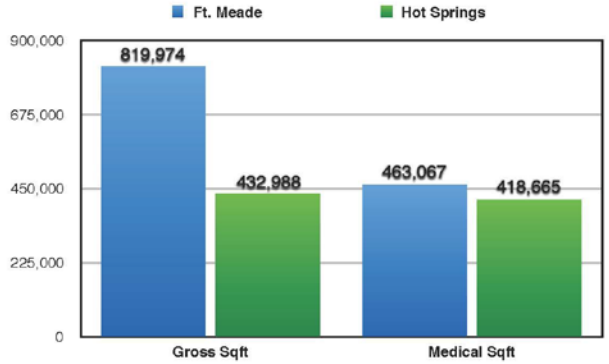
Beginning with the VA's first public announcement of the proposed reconfiguration of the Black Hills Health Care System in December 2011 the VA has used the "1.2 million square feet of space" as a significant factor in support of the reconfiguration. Further study of the square footage cited is needed to truly understand the number. The specific number of square footage that each site, Ft. Meade and Hot Springs, contribute to the total is represented in the chart below.



The two bars at each site represent the total square footage at each site versus the square footage used for direct patient care. After adjusting the square footage for each site to show actual space used for direct patient care, the adjusted number of total square footage is 881,732 not the 1.2 million the VA cites.

The total square footage used for direct patient care at the Ft. Meade campus is 53% versus 90% of the total square footage used for direct patient care at the Hot Springs campus.

The following statement from section 1.2.2.1.4 is in contrast to a direct answer by Dr. Julius, Chief Medical Center and Acting Director, VISN 23, to South Dakota Representative Noem.[40]

> At the Hot Springs VAMC specifically, the FY 2013 per-patient cost was $9,099, compared to $7,605 at Fort Meade VAMC (FY 2014 data not available) (Email message from DeAnne Pavel, VISN 23, to James Stewart et al., August 25, 2014).

The text of that conversation is below.

> **Ms. Noem.** You spoke specifically just now about the Hot Springs facility being the highest cost operating facility with VISN 23. Is that correct?
> **Dr. Julius.** That is correct.
> **Ms. Noem.** Can you tell me how you evaluated that cost?
> **Dr. Julius.** Well, it has to do with the total cost per unique patient.
> **Ms. Noem.** Per patient. Okay. Just hold on 1 second. So when you remove services, do you remove the ability to service patients? If you are offering less services at a facility, these patients then have to go to other facilities to get treatment if they needed service. Is that correct?
> **Dr. Julius.** That is correct.

[40] CHALLENGES IN RURAL AMERICA: INFRASTRUCTURE NEEDS AND ACCESS TO CARE AUGUST 14, 2014

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Ms. Noem. So after you have removed services the past several years, when did you evaluate the cost of running the facility and the number of patients that are served? What date did you run the cost of that?
Dr. Julius. The high cost per patient for VA Black Hills as an entire system -
Ms. Noem. Well, I am concerned specifically about how you evaluated that the Hot Springs facility was the highest cost operating facility within VISN 23.
Dr. Julius. If I said that, that was incorrect. The VA Black Hills Health Care System -
Ms. Noem. As a whole is the highest cost.
Dr. Julius. As a whole.
Ms. Noem. So you are not laying the blame on the Hot Springs facility, that this facility for some reason is the anchor that is dragging down the rest of the system?
Dr. Julius. No. There are challenges in a highly rural environment for all VA health care. So Fort Meade shares some of that as well.

This section of the Draft EIS addresses the cost per patient within the Black Hills Health Care System. The Draft EIS shows the costs for Hot Springs patients as more expensive compared to Ft. Meade. To further understand this statement, STVA submitted a FOIA request asking for the following information, "What factors are used to determine the cost per unique patient served within the Black Hills Health Care System and how is that cost calculated?"[41] *The response the Black Hills Health Care System the VA to that FOIA request was,* "After conducting a reasonable search, we have concluded that the VA Black Hills HCS does not have records responsive to the question that you asked in your request."

We acknowledge FOIA law requires an agency to only produce existing records. However, STVA believes this response from the VA is misleading and is an attempt to avoid showing exactly how per patient costs are calculated within the Black Hills Health Care System.

The VA, for many years, has transitioned from "paper records" to electronic patient records as well as electronic records across all their services. For the VA to be able to state the patient costs for Ft. Meade and Hot Springs in the Draft EIS, they must have queried their electronic records to determine those costs.

How does the VA determine individual patient costs?

The chart below is repeated from page 24 and raises the question of what has happened to patient costs at each respective site since 1995. The total counts for patient visits and admissions were greater for each group at Hot Springs. Both of those groups of veterans were seen at the Hot Springs site at a cost of $5.5 million dollars less than the Ft. Meade site.

	Budget	Outpatient Visits	Admissions
Fort Meade	$36.5 million	66,000	1,661
Hot Springs	$31 million	67,463	1,903

A contributing factor to the relatively high costs within VA BHHCS is the increasing age and cost of operating, maintaining, and improving buildings that range from 40 to over 100 years old.

This statement ignores the facts. The Hot Springs campus has continually operated and maintained the landmark aging buildings at a significantly lower cost than the cost of maintaining the newer buildings at Fort Meade. The VA cost estimates for upgrading these old buildings to meet VA current requirements is a little over half the cost to bring the newer Fort Meade campus into compliance with the VA current requirements per the 2012 SCIP request.

[41] FOIA 2016-0009

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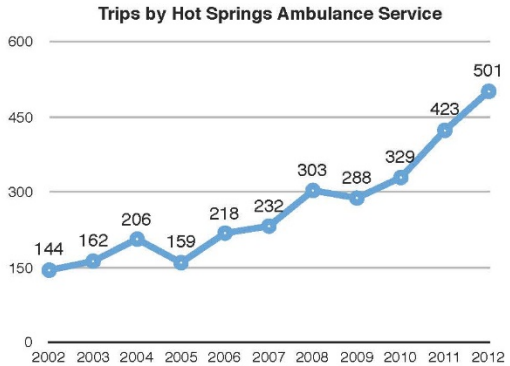
Ambulance numbers[42]

The chart below shows an overall yearly increase of ambulance transfers by the Hot Springs ambulance service as a result of the reduction in services at the Hot Springs VA. This year-by-year increase of ambulance trips is a direct result of the reduced services at the Hot Springs VA.



As important to the cost associated with this increase in ambulance trips is the potential risk to patients that are now being transported by ambulance from Hot Springs to another medical care provider. The VA speaks to providing safer care closer to home for veterans and yet the reduced services at Hot Springs have created the need for these ambulance trips. STVA believes a hospital room previously available at the Hot Springs VA and closer to the veterans home is a safer environment for the veteran than a long distance ambulance trip.

[42] FOIA 2014-0007

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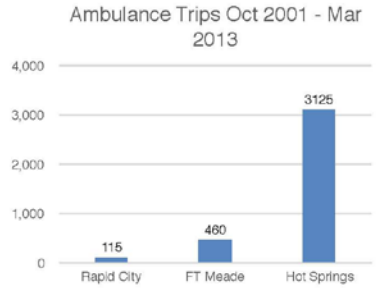
The chart below shows the total number of ambulance trips for the Rapid City, Ft. Meade and Hot Springs ambulance services necessary to transport veterans to Rapid City, Ft Meade or Hot Springs for medical care. The departure locations for each respective ambulance service is listed below the chart. The cost for these 3,700 ambulance trips is $3,542,267.33.



***Rapid City**: Alliance, Bridgeport, Chadron, Custer, Edgemont, Gering, Gordon, Hill City, Hot Springs, Kimball, Kyle, Lingle, Martin, Norris, Oelrichs, Pine Ridge, Pringle, Rosebud, Rushville, Scottsbluff, Sparks, Upton, Valentine, Wanblee, White River, Whitney, Winner.*

***Fort Meade**: Ainsworth, Allen, Alliance, Aurora, Batesland, Bayard, Bison, Buffalo Gap, Chadron, Crawford, Creighton, Custer, Edgemont, Gering, Gordon, Guernsey, Hay Springs, Hemingford, Hill City, Hot Springs, Hyannis, Keystone, Kyle, Lake Andes, Long Valley, Lusk, Manderson, Martin, Minatare, Mission, Newcastle, Norris, Oelrichs, Oglala, Oral, Osage, Parker, Pine Ridge, Porcupine, Rosebud, Rushville, Scottsbluff, St. Francis, Tuthill, Upton, Valentine, Wanblee, White River, Winner, Wounded Knee.*

***Hot Springs**: Abilene, Ainsworth, Alliance, Ashby, Aurora, Bailey, Batesland, Bayard, Box Elder, Bridgeport, Buffalo Gap, Casper, Chadron, Chappell, Cheyenne, Colorado Springs, Crawford, Custer, Deadwood, Denver, Douglas, Dupree, Edgemont, Ellsworth, Fairburn, Fall River County, Faulkton, Fort Laramie, Fort Meade, Gering, Gordon, Grand Island, Hay Springs, Hemingford, Hermosa, Hill City, Hot Springs, Huron, Hyannis, Isabel, Jackson, Jopra, Kansas City, Keystone, Kilgore, Kyle, Lantry, Lewellen, Lincoln, Long Beach, Longmont, Lusk, Manderson, Mankato, Martin, Mc Laughlin, Mesa, Mina, Minatare, Mission, Mitchell, Moline, Moorcroft, Morrill, Newcastle, Oelrichs, Oglala, Omaha, Oral, Parmalee, Phillip, Pine Ridge, Platte, Porcupine, Pr Du Chien, Pringle, Provo, Pueblo, Rapid City, Richmond, Ridgeview, Rochester, Rose Bud, Rushville, Scenic, Scottsbluff, Sheridan, Sioux Falls, Smithwick, Spearfish, Sturgis, Sundance, Terrel, Tioga, Torrington, Tuthill, Upton, Vale, Valentine, Vicksburg, Wall, Wanblee, White River, Whiteclay, Winner, Woonsocket, Wounded Knee.*

Another factor that, "Negatively Affects VA's Stewardship of Funds Appropriated for Veterans Health Care" *is that the employee count has always been higher at the Ft. Meade campus, mainly due to the way the site has been managed, and its huge size. The number of facility management employees required to maintain the Ft. Meade campus is 83 compared to the 50 employees required to maintain the Hot Springs campus.*[43] *This in spite of the fact that when the square feet of space at each site is adjusted to reflect the actual square footage utilized for direct patient care and needed support, space is virtually identical, 432,988 for Ft. Meade and 418,665 for Hot Springs as referenced on page 46.*

[43] FOIA Request 2012-0033

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Of the 200+ acres of roads and utilities that make up the Ft. Meade campus only about 40 to 50 acres are required to deliver Veterans Healthcare. The remaining acreage contains infrastructure, roads, grounds, historic residential buildings, historic horse barns, a historic museum and other historic support buildings.

These buildings provide no direct patient care support on the Ft. Meade campus. One building in particular, the Ft. Meade Calvary Museum, building 55, has been maintained to a high degree using dollars that were intended for direct patient care.[44] Two projects and their costs that demonstrate this conflict and are in the FOIA request are:

- *568-09-117 $200,000.00*
- *568-11-123 $155,000.00*

Page 1, paragraph 3 of this same FOIA addresses the responsibility of the lessee.

> 3. That the lessee shall maintain, restore and protect the leased premises in lieu of monetary consideration, as provided by section 8122, title 38, United Sates Code, and the lessee shall pay to the Government on demand any sum which may have to be expended after the expiration or termination of this lease to restore the premises to the condition required by Clause No. 20. hereof Any monetary compensation shall be made payable to the Treasurer of the United States and forwarded by the lessee directly to the Agent Cashier, FORT MEADE, SD 57741.

The VA needs to closely monitor how they manage their oversight of leased properties to ensure appropriated funds intended for direct patient care are not mismanaged.

Was the Ft. Meade VA reimbursed the $350,000.00 dollars they spent on the two projects specific to the Ft. Meade Calvary Museum?

If the VA has not been reimbursed, why?

1.2.2.2.1 Locations of Veteran Population Compared to VA Medical Facilities

Current and Projected Veteran Population Locations

The existing VA BHHCS facilities are not in the same locations as Veteran population centers. Pennington County, SD, had the highest population of Veterans in FY 2014 at 12,433; approximately 60 percent were enrolled to receive VA health care services.

Proximity to an individual's primary care provider, in particular, is important. In FY 2014, 16,876 Veterans were receiving primary care through the VA BHHCS, with the majority going to Fort Meade, followed by Rapid City, Hot Springs, Pierre, and other sites. Figure 1-2 illustrates the proportion of patients receiving primary care from each source (Email message from L. Epperson, VA BHHCS, to C. Modovsky, October 29, 2014).

[44] FOIA Request 2012-0030

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The paragraph above contains the following statement:

> "In FY 2014, 16,876 Veterans were receiving primary care through the VA BHHCS, with the majority going to Fort Meade, followed by Rapid City, Hot Springs, Pierre, and other sites. Figure 1-2 illustrates the proportion of patients receiving primary care from each source"

This paragraph infers that, in fact, all these veterans are receiving their care near their home.

Figure 1-2 shows where patients are receiving their primary care. It does not state where they live or how far they must travel to receive that care.

In the paragraph following Figure 1-2, it states that:

> "Population data show that, for FY 2012 through FY 2013, VA BHHCS health care facilities served 983 unique patients residing in Fall River County (where the Hot Springs VAMC is located), compared to 5,928 unique patients from Pennington County (where the Rapid City CBOC is located). These data indicate that Rapid City would be a more central location for providing medical services to Veterans compared to Hot Springs. "

> *Once again, the VA is cherry picking data. The majority of the veterans receiving care at Hot Springs reside in the areas East, West and South of Fall River County. These veterans do not have other options for services. When we look at the second page of Exhibit 1, we find that actual FY 2014 PCE and unique by facility data shows that Hot Springs had 123,668 PCEs vs. 33,914 in Rapid City for 6,898 vs 6,462 unique veterans despite the number of services that have been discontinued in Hot Springs, significantly reducing the services and number of veterans receiving those services at that facility. When we look at this data, it is hard to say that,*"Rapid City would be a more central location for providing medical services to Veterans compared to Hot Springs."

> *Another contradiction to the above statement by the VA is found when looking at the data provided by the VA in FOIA 2015-0004. This FOIA documents the unique veterans seen between 1/1/13 and 4/26/15 at Fort Meade, Rapid City and Hot Springs showing the zip code of their residence. In looking at this data, we find that Rapid City saw 9,034, Hot Springs 16,654 and Fort Meade 20,536 unique veterans. Hot Springs saw over 84% more veterans during this time period than Rapid City. In looking at this data in more detail we find that over 5,588 veterans traveled past Hot Springs to receive services at Rapid City and/or Fort Meade.*

> "Exhibit 1 on the following pages provides additional detailed discussion of Veterans' locations compared to services received."

> *With the exception of page 4 of Exhibit 1, there is no indication of the veterans location compared to where the services were received. On the fourth page of this exhibit, the services provided by the Hot Springs facility are broken out by the county/state where the veteran resides. Because the data for other SD counties is not broken out by county, it is difficult to tell where that 28.2% of Patient Care Encounters (PCEs) within the BHHCS service area that occurred at the Hot Springs VA are actually from. It is interesting to note that 86.5 percent of the PCEs from the BHHCS service area were from areas closer to Hot Springs than Fort Meade. It is also important to note that this data is not separated by Residential Treatment, inpatient and outpatient care. It is likely that most of the 9.7 percent of the PCEs from Pennington County and many of the PCEs from outside the service area were related to Residential Treatment. Veterans come from all over the country to receive these highly regarded services. For the information in this section to help in understanding the location of veterans residence versus where services are received, it is important to have this data for Fort Meade, Rapid City and Hot Springs. It is also important to break the type of PCE out by Residential Care,*

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CP10-33: Figure 1-2 shows where veterans within the BHHCS service area receive their primary care; neither the figure nor discussion in 1.2.2.5 of the Final EIS (previously numbered 1.2.2.2.1) is meant to infer veterans receive care near their home. Information in the following paragraph, related to the number of unique patients living in Fall River County and Pennington County - in comparison to where they receive primary care (shown in Figure 1-2), help make the point that the veteran population does not all live where the VA medical facilities are located.

STVA is very critical of the data provided in Exhibit 1 of the Draft EIS. VA notes that these data were initially included because it had been compiled as part of EIS development, was readily available, and VA thought it might be of interest to the reader. It was never intended to present a comprehensive picture of Veteran distribution (residence and service location) within the catchment area and be used for detailed analysis. That said, the Veteran population data provided in Exhibit 1 in the Final EIS (Section 1.2.2.5) has been restructured, updated and, in some cases, expanded to show a more accurate picture of Veteran population in the BHHCS service area with respect to residence and where serviced. In some cases, previous comparisons of patient data (between Rapid City and Hot Springs) has been eliminated in the Final because they did not represent unique patients and therefore did not represent an accurate comparison.

The Final EIS also includes new RRTP patient data have also been included. The majority of patient encounters at Hot Springs are tied to the multiple patient encounters (per day, over extended duration, for individual and group) required in residential treatment. As noted previously, and shown in Exhibit 1, the majority of RRTP patients come from outside of Fall River and Pennington Counties.

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level of inpatient/surgery and type of specialty care. It is also important to specify all BHHCS area PCEs and veterans by county at a minimum and possibly zip code.

It is important to note that it is very difficult to analyze the "data" in this section as the numbers refer to different populations without providing analysis to show relationships. For example, Figure 1-2 shows where the 16,876 unique veterans receiving primary care in the BHHCS receive their primary care. Four Exhibit 1 tables appear on pages 18 through 21. Exhibit 1 on page 19 shows where veterans receiving services, including primary care, reside. This exhibit shows 22,334 veterans receiving services from the BHHCS. There is no information offered to understand how the information on this table relates to the VA proposal to reconfigure the services offered by the BHHCS. The table does indicate that there are 16,470 veterans within the BHHCS service area receiving services with another 5,864 form outside the BHHCS service area receiving services. Exhibit 1 on page 19 shows Patient Care Encounters (PCEs) by facility within BHHCS. Despite the fact that this section deals with location of the Veteran Population compared to VA Medical Facilities, nowhere in this 4-page table is there a comparison of veterans receiving services from a facility versus where they live. In addition all this data is from FY 2014, after many services previously offered at Hot Springs had been discontinued and veterans were forced to go to Fort Meade, Rapid City CBOC or Rapid City Regional to obtain these services.

1.2.2.2.2 Distance Veterans Must Travel for Care

Maintaining multiple VA providers of advanced care and specialty services in a highly rural (seven or fewer Veterans per square mile) health care system like VA BHHCS can be inconsistent with ensuring that Veterans have reasonable distances to travel to receive care. This is because VA would not be able to both support the costs of maintaining a specialty in-house and pay outside providers for the same specialty services. Table 1-6 lists VA guidelines for driving time.

Save the VA Response

The VA's stated goal is to provide health care closer to the Veteran's home. This goal is predicated on the assumption that there is quality health care available closer to their home.

The VA has a national Memorandum of Agreement or Understanding in place with IHS. Care from IHS is not a viable solution for South Dakota veterans. The IHS region that serves the area east of the Hot Springs Campus has a terrible record of providing service. They were threatened in March of 2016 with cancelation of Medicare/Medicaid payment for services due to serious deficiencies leading to substandard care.[45] This is a long standing problem at the IHS facilities in the Aberdeen Region. Forcing Native American veterans to obtain their health care from a substandard provider would not comply with Executive Order 12898 Environmental Justice.

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In addition, all areas served by the Hot Springs Campus are rural and highly rural. Therefore, there are not enough health care providers to serve the existing civilian population.

In addition, the Hot Springs community hospital, Fall River Health, is reimbursed at higher rates than Medicare due to their status as a rural access hospital. It is doubtful that the VA would contract with Fall River Health and other community hospitals at the rural access rates.

Listed below are examples, all in VISN 23 where local services are no longer available.

1. *Dickenson, ND the outpatient clinic closed in April 2007. Travel time to Fargo ND is 6 hours.*
2. *Grand Island, Nebraska - the inpatient care and ICU were contracted to the St. Francis Medical Center. The VA cancelled the contract with St. Francis Medical Center in August 2007. Veterans now travel to Omaha; 150 miles away.*

[45] Rapid City Journal Article, March 2016

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CP10-34: See group response in Sections E.3.1 relating to Distance travelled and geographic access concerns, and E.3.3 relating to the purchased care (care in the community) option and quality of non-VA provider care. VA expects local providers to be able to handle the additional capacity given the number and wide distribution of providers potentially available and the small number of new Veteran patients expected at a given hospital or provider.

Additional comments relating to quality of service provided by IHS and reimbursement rates for Fall River Hospital are not relevant to this EIS or the actions being analyzed therein.

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3. *Williston, ND - the VA unilaterally cancelled the contract with the local hospital. Veterans must now travel to Fargo, 6 hours away.*

Fall River Health has stated publicly that they do not have the capacity to care for the additional patients served by the VA.[46]

Since IHS is not an option and current civilian/private health care providers may not have sufficient resources to serve the VA population, veterans will be required to travel to VA facilities at Fort Meade, Rapid City and possibly Rapid City Regional Hospital or private specialists in Rapid City to receive their care. In many cases, for a large number of veterans this will be 120 to 180 additional miles' round trip, beyond Hot Springs after an already long trip.

On April 20, 2015, a Freedom of Information Act request for information was submitted to the Black Hills Health Care System. The information requested was for a count of unique patients seen by the patients' state of residence (grouped on zip code). This information was requested for Ft. Meade, Rapid City CBOC and Hot Springs.[47]

Under 1.2.2.2.2 the VA's stated objective is to reduce the distance traveled by rural veterans. The data obtained under this FOIA request demonstrates the distances traveled would not decrease but rather increase by an additional 988,260 miles for veterans that have traditionally used Hot Springs for their medical care. Under the proposed reconfiguration veterans who need more than an outpatient clinic would be required to bypass Hot Springs and receive their care in Ft. Meade or at the Rapid City MSOC.

Under Alternative E these veterans would not have to travel these additional miles to receive their medical care. It's important to note that a veteran with less than a 30% service connected disability doesn't qualify for travel reimbursement under VA guidelines. Because these veterans don't receive travel reimbursement, their out-of-pocket expense for their health care will increase if Alternative A-D or G is selected.

The VA continues to tell veterans their access to care won't be reduced under Alternative A. Alternative A will reduce access to care for the veterans that have traditionally received their medical care at the Hot Springs VA. These veterans live in rural and highly rural and medically underserved areas. The VA is correct in stating specialty services are limited in these geographic areas. This won't change under Alternative A. With the elimination of a full service hospital in Hot Springs it will simply move the access point for specialty care sixty to ninety miles further away from these affected veterans.

This problem will only grow as rural veterans currently serving their country return home at the conclusion of their military service.

The VA has emphasized the potential reduction in patient travel miles that would be achieved under their proposed reconfiguration. They repeatedly speak to Rapid City being closer to the majority of veterans served by the Black Hills Health Care System and the "decrease in overall Veteran users of the System."[48]

The National American Legion 2012 System Worth Saving Report disagrees; "In our findings, we discovered that one out of three veterans enrolled in VA live in rural and highly rural areas. Of the 3.4 million rural veterans enrolled in VA, 2.2 million were treated in 2010. The number of rural and highly rural veterans is expected to increase. Additionally, veterans living in rural areas face many challenges, including the lack of primary/specialty treatment available, difficulty recruiting and retaining VA health-care providers in rural and highly rural areas, and the increased time and distance veterans

[46] Draft EIS, Appendix A: Fall River Hospital Committee White Paper, page B-51

[47] FOIA 2015-0004

[48] Financial Analysis, Proposed Reconfiguration of VA Black Hills Care System, March 20, 2012

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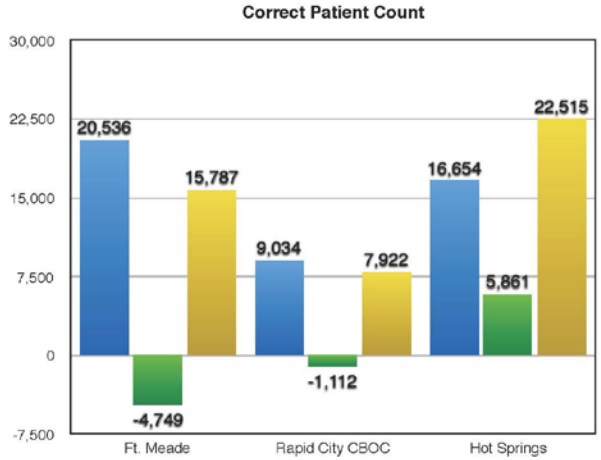
experience in traveling to VA health-care facilities."[49] *For the VA to state these veterans will be able to receive their care at home is misleading and not supported by the data.*

Throughout the Draft EIS there are references to the majority of veterans served by the Black Hills Health Care System are from the Rapid City area. The chart below shows the veteran numbers from FOIA request 2015-0004.



- *The first set of bars represents the raw patient count for each site of care:*
- *The second set of bars represents the number of veterans that traveled past Hot Springs and received their care at Ft. Meade or the Rapid City CBOC:*
- *The third set of bars is an adjusted total and shows what STVA believes the actual numbers for each location would have been if veterans had been able to receive their traditional care at the Hot Springs VA:*

These numbers are in stark contrast to the VA's assertion that under Alternative A, care would be provided closer to home. Under Alternative E, 5,861 veterans would be able to receive their care closer to home in addition to the 16,654 veterans currently receiving their care at the Hot Springs VA.

The same FOIA request, 2015-0004, was also used to calculate the distances traveled by veterans that traditionally received their care at the Hot Springs Campus and instead traveled to the Ft. Meade Medical Center or the Rapid City CBOC to receive that care.

1. *2,696 Nebraska veterans traveled 485,280 miles to receive their care at the Ft. Meade Medical Center. The mileage was calculated by using an additional round trip of 180 miles from Hot Springs to Ft. Meade.*

[49] The American Legion 2012 System Worth Saving Report on Rural Healthcare

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Patient data included in this chart are also deceiving. Given the high numbers the data likely relate to patient encounters (so can have more than 1 encounter per patient) and do not correspond to individual patients/Veterans. Second, past redirecting of patients from Hot Springs to Rapid City or Fort Meade, as represented by the negative numbers (totaling 5,861) were a result of short-term assignments to accommodate temporary staffing issues occurring at both Hot Springs and Fort Meade and original service locations were restored once staffing issues were resolved. As such, these have no bearing on the proposed reconfiguration or whether Alternative A would provide care closer to home or how far Veterans travel under the current configuration. That said, VA agrees that Veterans have to travel too far now to receive health care, and that distance travelled would be reduced due to the expanded care in the community option available under all of the alternatives. See group response in Section E.3.1 of Appendix E relating to distance travelled.

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2. *467 Nebraska veterans traveled 56,040 miles to receive their care at the Rapid City CBOC. The mileage was calculated by using an additional round trip of 120 miles from Hot Springs to Rapid City.*
3. *2,053 Hot Springs veterans traveled 369,540 miles to receive their care at the Ft. Meade Medical Center. The mileage was calculated by using an additional round trip of 180 miles from Hot Springs to Ft. Meade.*
4. *645 Hot Springs veterans traveled 77,400 miles to receive their care at the Rapid City CBOC. The mileage was calculated by using an additional round trip of 120 miles from Hot Springs to Rapid City.*

As the above data illustrates, 5,861 veterans traveled an additional 988,260 miles to receive care at the Ft. Meade Medical Center or the Rapid City CBOC. Alternative E would significantly reduce these additional miles by restoring the services to the Hot Springs VA that have been systematically reduced.

The VA has achieved the exact opposite of their stated goal to provide health care to veterans closer to their homes. Because Indian Health Services and rural private hospitals were not be viable options for veterans care, the reduction in services at Hot Springs has resulted in veterans traveling 988,260 additional miles.

To ensure medical care is in fact available closer to the veterans' home the VA should have had discussions with the private health care hospitals they would depend on to provide those services. Those private health care providers have said and the VA agrees, those conversations have not happened to date. The reason given by the VA is it that unless their proposal is approved, there wouldn't be a need to have discussions with private health care providers to take care of veterans in non-VA facilities. If the VA truly has the best interest of the veteran in mind those conversations should have already taken place. If private health care providers in the rural areas of the Black Hills Health Care System catchment area don't have the extra capacity to accept veterans as patients, then the VA's proposed reconfiguration fails.

In the same report referenced above, Proposed Reconfiguration of VA Black Hills Health Care System, beneficiary travel costs for FY '11 *were $3,310,261.00. This report projects a savings in travel costs of $833,155.00 post implementation. This savings in travel costs is based on the veteran receiving their care closer to home.*

Given the lack of local resources from which to receive specialty care, how does the VA plan to accomplish these savings?

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VA has contracts in place with hundreds of non-VA providers within the BHHCS service area. See group response E.3.3 in Appendix E relating to purchased care options. Section 2.2 of the Final EIS has also been revised to update status with respect to how Care in the Community Program works within the BHHCS service area.

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2.3 Description of Alternatives

2.3.1.3 Estimated Cost

The estimated costs for Alternative A are summarized in Table 2-3. These costs were estimated by Jones Lang LaSalle (2012a) and included real property and operational costs, using the methodology described as follows:

a. Isolate the cost components for each alternative (based on facility needs and acquisition method).

b. Estimate 30-year life cycle costs of non-recurring (that is, capital investment) and facility recurring costs (that is, lease payments and operating costs). The 30-year life cycle cost represents the present value of recurring and non-recurring cash flows between 2013 and 2043. Data sources included:
   i. VA resources such as CFM's Facility Condition Assessment and Capital Resource Survey
   ii. Adjusted CFM renovation cost estimates based on recommendations from a historic architect (Treanor 2012).
   iii. Private sector resources such as Building Owners and Managers Association, Co-Star Realty Information, Inc., and RS Means (construction cost data supplier).

c. Aggregate 30-year life cycle costs of the cost components within each alternative.

Save the VA Response

Are mothball costs for the Hot Springs VA included in the costs referenced in table 2-3 and if so what cost per square foot were used to determine the cost to mothball the entire Hot Springs Campus?

7. Question: Given the recent designation of the current domiciliary building as a National Historic Landmark, what is the projected annual cost to the VA for maintaining the buildings that are proposed to be unused? [50]

Response: VA is obligated to maintain any unused building regardless of historic landmark status. VA's assigned cost to maintain an unused building is an estimated $5.33 per square foot per year, according to the VA Central Office Cost Guide. If, for instance, all of the 450,000 square feet of building space was vacated on the Hot Springs campus the annual maintenance cost would be approximately $2.4 million. Once BHHCS develops a plan and identifies the total amount of unoccupied space, a more accurate estimate can be provided. For national historic buildings, VA adheres to the following policy: See the National Park Service Preservation Brief 31, Mothballing Historic Buildings (http://www.nps.gov/hpsitpsibriefsibrief31.htm)

A 30-year life cycle cost for mothballing 450,00 square feet would be $72 million dollars as stated above. After review of mothball costs provided by the Black Hills Health Care System in May 2012, page 15, states the 30-year life cycle costs for the Hot Springs Campus are $22,392,147[51]. This calculates to a cost of $1.65 per square foot per year. A difference of $3.68 per square foot below the cost provided by the Secretary of the VA.

[50] Response to Questions from South Dakota Delegation, Proposed Realignment of the Black Hills Health Care System (BHHCS), March 2012

[51] Final Draft Analysis of VA Cost Options for VA Facilities, May 22, 2012

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CP10-35: See group response in Table E-2 of Appendix E relating to Cost of Alternatives. Section 2.3 of the Final EIS has also been revised to include a more detailed breakout of costs (including mothballing costs) for each alternative.

VA notes that the cost of mothballing is difficult to estimate due to factors such as the age of buildings, the configuration of the campus (if a campus design), building condition(s), and the local climate, among others. It is important to note that the long-term preservation plan developed in consultation with historic property consulting parties goes beyond the guidance of National Register Preservation Brief 31. The costs of this program will not be known until and unless implemented. The costs provided in the final EIS are estimates.

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How was the mothball cost calculated?

Referencing page 643 of the Draft EIS, Mothballing Historic Buildings, a project team usually consisting of an architect, historian and preservation specialist are used to determine the necessary steps to mothball a building.

Were these type of professionals used to help determine the mothball costs?

Given the importance of historic property mothball cost may be higher than $5.33.

The EIS calculates costs for each alternative under several scenarios that include the options to build and/or lease new facilities. Total costs for each alternative are generally presented using an analysis in which all new facilities are leased, all new facilities are constructed, or a mixture of lease and new construction. The framework of these analyses present several problems that are discussed in detail below.

***Lease**: One way to avoid the potential cost overruns associated with new construction that have plagued previous VA construction projects is to lease the new facilities proposed by the VA in Alternative A. As part of Alternative A, the* "VA would construct or lease a building in the Rapid City area, at a single location, to serve as an MSOC and RRTP. The co-located Rapid City MSOC and RRTP would require an estimated 132,942-to 144,956-square-foot facility with 620 parking spaces on approximately 14 to 17 acres."

Given the size of Rapid City, its commercial real estate market, and the square footage requirements of this project, it may not be possible to meet all of the project's needs in a rental facility. This may necessitate new construction in Rapid City, with its potential cost overruns.

If the VA is unwilling to build and unable to locate a single location available for lease with more than 130,000 square feet, the VA may be forced to lease several separate facilities. This will likely increase costs as well as make it more difficult for veterans to receive appropriate care.

Has the VA to identified potential locations in Rapid City that contain more than 130,000 square feet in a single location?

***Cost overruns**. In May 2013, the United States Government Accountability Office issued a report titled "VA Construction - Additional Actions Needed to Decrease Delays and Lower Costs of Major Medical-Facility Projects".[52] The report analyzed a variety of VA construction projects and their associated cost overruns and delays in schedule.*

On some of the VA's largest medical-center construction projects, cost increases ranged from 59 to 144 percent with delays ranging from 14 to 74 months. The GAO report also looked at 26 major medical-facility projects that were under construction or recently completed during the time of the report. That analysis found that half of those projects experienced a cost increase, with more than 1 in 3 projects experiencing an increase of 31 percent or more.

The VA has a poor history of completing new construction projects on-time and on-budget. An analysis of the VA's four largest medical facility new construction projects found that, on average, these projects experienced cost overruns of nearly 100 percent of original cost estimates. A similar analysis of twenty-six VA major medical-facility projects that were under construction or recently completed during the time of the report found that, on average, major medical-facility projects experienced cost overruns of approximately 11 percent.

It is impossible to forecast whether cost overruns would occur on new construction related to the Hot Springs VA, or the magnitude of those overruns. However, given the VA's record on new construction projects it may be safe to assume that some cost increases and project delays may occur if the VA

[52] http://www.gao.gov/products/GAO-13-302

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Cost estimates for the lease option have been developed as a lease to build option (new build but land owned by entity/developer other than VA].

VA's history of cost overruns on past construction projects is not within the scope of the EIS to address. Overruns can result from a number of unexpected factors and cost issues associated with one project do not affect VA's ability to effectively estimate and execute other construction projects within budget.

With respect to the current estimates for the proposed reconfiguration, VA has re-visited and re-verified the assumptions, design criteria, and resulting cost estimates for the alternatives and believes them to be accurate based on the information available at the time they were developed. As noted previously, VA is unable to update any of the cost data due to current appropriation restrictions. Finally, VA note that the Secretary's decision regarding the proposed reconfiguration is not based solely on cost.

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chooses to construct new buildings rather than leasing. These additional costs further lessen the difference between Alternatives A and E.

Given larger cost overruns, it is possible that the VA's preferred alternative may end up being more expensive over a 30 year time horizon than the Save the VA proposal.

2.3.3.1.1 Renovated and New Facilities

Hot Springs RRTP

The existing space in the patient wards can accommodate 110 beds while adhering closely to the desired recovery model of care. The patient care unit would be single and double rooms of 8 to 16 beds with shared bathroom space. Accessibility standards could be met by modifications, which would require a significant amount of evaluation and study to ensure major character-defining features of the historical property are not destroyed in the process.

2.3.5 Alternative E - Save the VA Proposal

Save the VA proposed that an educational facility would be created with sufficient classroom space to accommodate at least four simultaneous classes for patient treatment and orientation, as well as education and college-level classes. These classrooms would each be about 600 square feet and outfitted with tables, chairs, Smart Board, projection system, computer, screen, and a high definition monitor. The educational facility would also incorporate video conferencing, audio conferencing, and online capabilities. The nonprofit Hot Springs Community Partnership Corporation would enter into agreements with educational providers to establish outreach programs at the Hot Springs VAMC. These programs and classrooms would be available for RRTP residents, VA staff, Veterans in the catchment area, Veterans Industries employees, and community members. Although the Save the VA proposal stated that existing buildings or rooms would be modified to accommodate these educational opportunities, VA did not identify an available existing location on campus that could be modified to create these classrooms. Therefore, the cost estimate includes these classrooms in a new facility that would be constructed to also provide space for other support functions listed in the proposal, as well as 82 RRTP beds (as described in next section).

Save the VA Response

When the original STVA proposal was presented to the VA as an alternative to their reconfiguration of the Black Hill Health Care System, the proposal was intentionally robust in its implementation. We viewed this as an opportunity to present a plan that would enhance existing services provided at the Hot Springs VA. Our proposal was never intended to be an "all or nothing" proposal. We fully expected our proposal would be debated with interested parties to determine the appropriate number of domiciliary beds and other services that would meet current guidelines to serve veterans receiving care for PTSD and substance abuse.

The STVA proposal was drafted as a flexible plan that would accommodate a domiciliary patient capacity of up to 200 beds. The flexible part of the plan was the ability to adjust the number of total domiciliary beds to fit VA guidelines in place at the time of the proposal submission. Our proposal envisioned up to 160 patients in the existing domiciliary buildings with the remaining 40 patients in existing onsite renovated residential buildings. New construction in our proposal was only envisioned if the VA insisted on 100% ADA compliance with their new VA RRTP guidelines.

If required there are several locations on site where the new cottage domiciliary style buildings can be constructed to meet the VA's new RRTP guidelines. The draft EIS states "VA did not identify an available existing location on campus that could be modified to create these classrooms." STVA believes building 43, the old laundry, is one of several buildings that could be utilized for these classrooms. Currently this building is being used for support services, unrelated to direct patient care, that can be located elsewhere. This proposed new building has been previously discussed and planned

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CP10-36

CP10-36: VA has revised the cost estimates for Alternative E per STVA comments. See group response in Table E-2 in Appendix E relating to Cost of Alternative E. This includes elimination of the new structure to house an additional 82 beds for the RRTP; and a reduction in the number of employees required to implement Alternative E. Section 2.3.5 of the Final EIS has been revised accordingly.

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by Facility Management to consolidate support service and storage functions. The building would be located adjacent to the existing boiler plant.

This issue is one example of what should happen during the combined section 106/NEPA process and should still be considered before the ROD is completed.

2.3.5.1 Facilities

Hot Springs RRTP

The Save the VA proposal specified that the existing domiciliary would be renovated to accommodate 200 residents. However, VA's analysis (Jones Lang LaSalle 2012b) concluded that an additional RRTP facility would also need to be constructed onsite to accommodate the additional beds and services included in the proposal that cannot fit in the existing facility. Based on VA Space Planning Criteria, the existing space in the patient wards can accommodate 110 beds while adhering closely to the desired recovery model of care, as described for Alternative C. The patient care unit would be single and double rooms of 8 to 16 beds with shared bathroom space. A new facility must be constructed to house the additional beds, classrooms, support functions, and all other RRTP services included in the proposal.

> *The estimates included in the STVA's original proposal were based on the VA's Mental Health Design Guidelines and the square footage in the domiciliary.*
>
> *The figures below are taken from a set of architectural blueprints dated August 31, 2010, prepared by Wolfgram and Knutson that are at the 100% review stage. These are the same blueprints Black Hills used to begin renovating Building 4.*
>
> *In the architectural and engineering firm design for building 4, there are single and double occupancy rooms with private bathrooms, housing 17 patients on 4-A (top floor), 17 patients on 4-B second floor, and offices, meeting rooms, and 7 patient's rooms on the basement level totaling 41 patients per VA design.*
>
> *Total patients: 161 patients in single and double rooms*
>
> *We also figured 40 patients and/or beds for families to be housed separately from the domiciliary in new construction or renovation of existing residence buildings.*
>
> *In the new revised estimate that the VA and Jones Lang Laselle prepared as part of the Draft EIS it appears that the VA Mental Health Design Guidelines have changed and the domiciliary square footage will now only accommodate 110 patients. Per the Draft EIS section 2.3.5.1 Facilities,* "The existing space in the patient wards can accommodate 110 beds while adhering closely to the desired recovery model of care. The patient care unit would be single and double rooms of 8 to 16 beds with shared bathroom space. Accessibility standards could be met by modifications, which would require a significant amount of evaluation and study to ensure major character-defining features of the historical property are not destroyed in the process."
>
> *The intent in developing the STVA proposal was to make the most efficient and effective use of the square footage in the domiciliary within the VA's guidelines. Based on VA guidelines in effect at the time of our proposal, the need for construction of an additional 84,110 square foot building that would house 82 patients was not envisioned. The size of this building cited by the VA, calculates to 1,025 square feet per patient. Under Alternative A, the size of the proposed domiciliary in Rapid City is 78,675 square feet that would house 100 patients. This calculates to 786 square feet per patient.*

Although the Save the VA proposal stated that existing buildings or rooms would be modified to accommodate these educational opportunities, VA did not identify an available existing location on campus that could be modified to create these classrooms.

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STVA anticipated using building 11, the area currently being used by the call center and/or building 43 to accommodate these educational opportunities. If building 43 is used for educational opportunities a new storage building would need to be built in the area of the boiler plant. STVA included this cost in our original proposal.

If the current call center is used for educational opportunities additional space would need to be leased. Possible locations would include property in the Hot Springs Historic District. This is supported by Executive Order 13287, Preserve America and Executive Order 13514 Instructions for Implementing Sustainable Locations for Federal Facilities.

2.3.5.2 Employment

VA would employ an adequate number of qualified professional, specialty, and support staff to provide the medical and treatment services in the Save the VA proposal, as well as serve as liaison to the Veterans Industries project. Positions would be established as full-time permanent staff. Save the VA stated that VA would activate policies to encourage and enhance staff retention. Appendix D to the Save the VA proposal identified the following approaches, all of which are currently utilized by VA BHHCS: nationwide advertisement, offers of permanent employment, and enhancing attraction of positions by providing information about education debt-reduction programs and benefits. Competencies could be developed and maintained through rotation to another facility for updates/ training, virtual training, and simulation training. In Hot Springs, approximately 633 FTEEs employees would be needed to staff the VAMC, RRTP, and other services; this would be an increase of 276 FTEEs. VA BHHCS would continue to staff the Rapid City CBOC at a similar level as currently (approximately 30 FTEEs).

Save the VA Response

The VA says to implement Alternative E "approximately 633 FTEEs employees would be needed to staff the VAMC, RRTP, and other services."

The first mention of the 633 FTEE employees by the VA was during a September 10, 2012, meeting at the direction of then Secretary Shinseki with VA Staff, Veterans Service Officers, Congressional Representatives and STVA members. The purpose of the meeting was to try and have parties concerned over the proposed reconfiguration of the Black Hills Health Care System reach some type of agreement about a way forward. At that meeting STVA challenged the VA about the 633 employees needed for our proposal. The VA never cited the specific data source supporting the need for 633 employees but simply stated, "to meet current guidelines for care, 633 employees would be required." *For over 109 years the Hot Springs hospital has never had 633 employees and yet provided care for as many as 400+ veterans in the domiciliary and 200+ inpatients thru the mid 1990s. The count for Hot Springs in 1995 was 492 employees and is close to the number of employees the STVA Proposal is projected to need.*

2.3.5.3 Estimated Cost

The estimated costs for Alternative E are summarized in Table 2-13. These costs were estimated using the same methodology and data sources described in Section 2.3.1.3. Tables 2-11 and 2-12 include notes on assumptions VA made regarding the details of construction, renovation, and space planning in order to estimate the cost of each item included in the proposal. Renovations and construction at the Hot Springs campus, continued lease of Rapid City CBOC, Estimated 30-Year Life Cycle Cost $247,036,697.

Save The VA Response

The STVA proposal was drafted to address services offered at the Hot Springs VA only. We have publicly stated from the VA's first announcement of their proposed reconfiguration, the Hot Springs VA and the Rapid City CBOC are separate issues. We fully support the expansion of the Rapid City CBOC to an

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MSOC, therefore we believe the 30-year life cycle cost of $247,036,697 for Alternative E should be reduced by the continued lease of the Rapid City CBOC. This would leave an adjusted cost of $235,935,597.

If Alternative E is amended to a lower number of beds the 30-year life cycle cost could be further reduced by $24,391,900. This saving is derived from the elimination of the 84,110 square foot additional building.

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2.7 Environmentally Preferable Alternative

Based on the potential environmental impacts identified in Chapter 4 and the available mitigation identified in Chapter 5, the environmentally preferable alternative is Alternative F, No Action. This conclusion is based on the following determinations:

- Potential impacts from Alternatives A through E, with mitigation measures applied, would be negligible to minor to aesthetics, noise, land use, floodplains and wetlands, solid waste and hazardous materials, community services, transportation and traffic, utilities, and environmental justice. Alternative F would have no impacts to these resources, with the exception of negligible impacts from ongoing generation of solid waste and hazardous materials, short-term noise during renovations, and continued use of utilities.
- Potential construction-related impacts to air quality, geology and soils, hydrology and water, and wildlife and habitat are generally proportional to the ground surface area disturbed. Alternatives A through E would disturb from 2 to 25 acres. Alternative F would not disturb any ground surface.
- Alternative E has the greatest potential for impacts to the Battle Mountain Sanitarium National Historic Landmark, as a result of proposed expanded operations, renovations, and construction on the VA Hot Springs campus. Alternative D has the most potential for affecting as-yet unidentified cultural resources from off-campus construction, depending on the locations selected for new facilities. Alternative F would have no off-campus effects and the least amount of on-campus construction or renovations.

Alternative F does not meet the purpose of and need for action.

Save the VA Response

The STVA Committee disagrees with the characterization that Alternative E would have "the greatest potential for impacts to the Battle Mountain Sanitarium National Historic Landmark, as a result of proposed expanded operations, renovations, and construction on the VA Hot Springs campus."

While it's true that alterations would occur to the historic buildings at the Hot Springs campus, the renovations proposed under Alternative E focus those renovations to the interior of the buildings. Alternative E also proposes the least additional potential construction of all the alternatives. Although Alternative E will have an impact, the impact will be positive overall. Alternative E is the only alternative that will meet the VA's purpose and need, yet avoids a negative impact to the landmark property. All other alternatives will have a negative impact to the historic landmark property.

STVA maintains that Alternative E is the only alternative that is compliant with all of the following executive orders and government studies.

1. *Executive Order 11593 Protection and Enhancement of the Cultural Environment*
2. *Executive Order 12898 Environmental Justice*
3. *Executive Order 13006 Locating Federal Facilities on Historic Properties in Our Nation's Central Cities*
4. *Executive Order 13007 Indian Sacred Sites*
5. *Executive Order 13287 Preserve America*
6. *Recommendations on Sustainable Siting for Federal Facilities, April 5, 2010*
7. *DOD/VA Study on Pre-World War II Masonry buildings*[53]

[53] Department of Defense Cultural Resource Program, January/February 2013 Edition

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CP10-37

CP10-37: VA has revised these statements in the final EIS. Many of the potential effects of Alternative E can be avoided or minimized through the commitments to measures to resolve adverse effects (see Section 5.2).

Section 2.7 has been revised to re-characterize impacts such that Alternative E is no longer described as having the greatest potential for impacts to the Battle Mountain Sanitarium.

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8. *2010 Indian Health Service Report*[54]
9. *VA Directive 7545 Historic Preservation Guidelines*
10. *VA Goal to Reduce Greenhouse Gases*

Restoring services under Alternative E would potentially reduce veteran patient miles traveled by more than 934,098 miles per year as referenced on page 54. Alternative E also reduces energy use by converting from fuel oil to liquid natural gas to fuel the station boiler plant, greatly reducing greenhouse emissions. Alternative E also greatly reduces energy usage by insulating the interior envelops of the existing landmark buildings.

The Draft EIS acknowledges, "Alternatives A through D incorporate varying combinations of new construction or leases, and use of existing facilities." *This new construction or leasing will have a greater potential environmental impact than Alternative E. Alternative E is the only alternative that is the closest to Alternative F: No Action and can be accomplished with minimal cost and negative impacts to both the environment and landmark campus.*

Alternatives E and F are also the only alternatives that do not require a change of use.

Recommendations on Sustainable Siting for Federal Facilities, April 5, 2010

Prepared by:
U.S. Department of Transportation
U.S. General Services Administration
U.S. Environmental Protection Agency
U.S. Department of Housing and Urban Development U.S. Department of Defense
U.S. Department of Homeland Security

The United States Departments of Transportation, and Housing and Urban Development, the Environmental Protection Agency and the General Services Administration, in coordination with the Departments of Homeland Security, and Defense, have developed the following recommendations addressing sustainable location strategies for siting Federal facilities. This fulfills the direction of Section 10 in Executive Order 13514 to provide the Council on Environmental Quality Chair with recommendations regarding sustainable location strategies for consideration in agency Sustainability Plans.

An agency should first explore ways to meet new workplace needs within their existing facilities, before they begin to consider new locations.

- **Locate in existing central business districts and rural town centers.** Co-location of Federal facilities with commercial businesses can have mutual benefits. Prioritizing existing central business districts and rural town centers when selecting sites for Federal facilities can strengthen the local economy and integrate the Federal presence into a community. Research shows that locating within previously developed, mixed use areas can reduce vehicle miles traveled.

  The downtown Hot Springs central business district was listed on the National Register of Historic Places in 1974 and meets this recommendation.

[54] REPORT OF CHAIRMAN BYRON L. DORGAN TO THE COMMITTEE ON INDIAN AFFAIRS DECEMBER 28, 2010

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- **Locate near or be accessible to affordable housing.** Assure that the site has proximity to a sufficient amount of housing affordable to the employees of the proposed facility and/or proximity to transit that serves areas with housing affordable to the employees of the facility. Agencies are encouraged to locate facilities in areas where current and potential employees can easily reach the workplace from affordable housing and can minimize or eliminate the need to drive to work. Agencies should consider not only the location of the facility as it relates to existing employees but also its accessibility to other labor pools within the region.

  Affordable housing is available in the Hot Springs area. Local contractors are ready to build housing to meet potential demand contingent on the outcome of this Draft EIS.

- **Promote Walkability and Bikability**. The location should be served by safe and convenient pedestrian and bicycle access between goods and services and housing. Locating in areas that are well served by pedestrian and bicycle friendly networks that connect to existing transportation infrastructure and everyday destinations such as restaurants, cleaners, health care, shopping, etc. will enable employees to accomplish routine tasks near their place of employment and reduce their need to drive to such destinations.

  Because of the size of Hot Springs, walkability and bikability are not an issue in contrast to the size of Rapid City. All business areas are within walking distance of the VA. The Freedom Trail, a paved walking/biking path along the river from one end of town to the other, provides both biking and walking separate from motorized traffic. It is easily used to access everyday destinations.

- **Use Existing Resources**. Siting decisions should maximize the use of existing resources wherever possible by locating in areas that are well-served by water, sewer and other relevant public infrastructure, in existing buildings, and in historic buildings and districts. While facility siting may require upgrading of water or sewer connections, it is important that Federal facilities not force the extension of such infrastructure into previously undeveloped areas solely to meet the Federal need.

  Alternative E continues to use all of the services currently in place, while all of the other alternatives except Alternative F do not. The current Battle Mountain site is a Historic Landmark located in the Historic District of Hot Springs.

- **Encourage adaptive reuse of Historic buildings and districts**. Using existing historic buildings can have a revitalizing effect on the local economy while preserving green space, maximizing efficient use of already constructed buildings, and supporting preservation of historically significant structures. Older buildings that no longer serve their original purpose provide Federal agencies a unique opportunity to locate in existing commercial districts that have local significance and can effectively integrate the federal presence into existing commercial areas.

  Alternative E meets this recommendation through minor renovation of the existing landmark properties to meet adaptive reuse of historic buildings for continued veterans' health care. Additionally, if further office space is needed, leasing of existing buildings in the Historic District of downtown Hot Springs is possible.

- **Achieve Agency Scope 3 Emission Reduction Goals**. When considering siting alternatives, agencies should consider the Scope 3 emission reduction goals identified in their Sustainable Strategic Performance Plans, required by EO 13514. **Agencies should consider the impact of both worker and visitor commutes to the potential sites on achieving agency Scope 3 reduction goals.**

  Alternative E meets this goal in several ways. Alternative E specifies liquid natural gas for operation of steam production. Alternative E also specifies installation of an interior insulated envelope for the entire campus. The "visitor" in this goal is the veteran. As identified on page 54, currently veterans are traveling an additional 988,260 miles for their care. Alternative E is the only proposal that would restore services in Hot Springs which would significantly reduce these additional miles.

Commenter CP10: Save the VA

STVA is aware that EO 13514 has been revoked but we believe the recommendations set out in, Recommendations on Sustainable Siting for Federal Facilities, should continue to provide guidance to Federal Agencies to meet their Sustainability Plan goals.

Commenter CP10: Save the VA

STVA Draft EIS Response | 2016

3.8 Land Use

3.8.1.1.2 VA Mental Health Facilities Design Guide

The VA Mental Health Facilities Design Guide (VA 2014b) makes specific reference to local zoning: "Unlike many general aspects of site design such as roadways and parking aisles, zoning is site specific. Preliminary plans should not advance without performing a zoning analysis. In the case of government-owned property, it is important to consider the zoning and adjacencies for compatibility with neighboring buildings." The design guide factors for zoning include:

- Height
- Lot occupancy
- Number of stories
- Parking
- Green space
- Historic district
- Floor area ratio (ratio of the total area of all floors of a building to the area of the parcel)
- Setbacks
- Use groups

According to VA, an RRTP should be developed as part of a larger campus with compatible uses or adjacent to such uses, so that efficiencies and operations are enhanced. Landscaping is also emphasized in VA's design guides.

Save the VA Response

This section of the Draft EIS addresses the VA's stated goal to meet their design guide for construction of any new RRTP facilities. STVA believes it's important to point out this is only a guide, not National Building Code.

The existing property occupied by the landmark buildings meets the above design guide for land use and meets the Federal guidelines for "Sustainable Building Site Location."

Alternatives E and F would meet the above land use criteria.

3.10 Socioeconomics

Socioeconomics are described using demographic and employment measures, as these measures influence the local economy and housing demand.

3.10.2.4 Income

Median household income from the 2010 census is used as a benchmark to evaluate income levels in the VA BHHCS service area. Census data is readily available and is generally a more reliable source, particularly for small counties like the ones that are in the service area. While more current data is available from the U.S. Bureau of Economic Analysis, personal income data from this source is not considered to be as reliable because income levels of groups atypical of the resident population may cause a longer term high or low per capita personal income that is not indicative of the economic well-being of the area (BEA 2014). For example, a major construction project could substantially raise the per capita personal income of an area for several years because it attracts highly paid workers whose incomes are measured at the construction site instead of their county of residence.

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CP10-38

CP10-38: Section 3.8.1.1.2 makes reference to the fact that the VHA Mental Health Facilities Design Guide is a design guide. No additional change has been made.

Commenter CP10: Save the VA

STVA Draft EIS Response | 2016

Save the VA Response

Many of the jobs lost will likely be in the "healthcare practitioner and technical occupations" fields, which have a significantly higher than average salary when compared to the rest of Hot Springs ($42,000 and $31,000, respectively). Additionally, these jobs are primary-level jobs – they generate additional spending and need for services within the economy. A loss of 290 FTEEs in health care sectors will likely result in the loss of additional economic activity.

Per the Bureau of Labor Statistics, the total number of employees in Fall River County in the second quarter of 2014 was 2,587. The majority of these wages would affect the City of Hot Springs instead of the county, so the effect of reduced wages for Hot Springs could easily be 30% or more, since 50% of the population of Fall River is in the City of Hot Springs. It is absolutely absurd to report that the reduction in wages would be moderate and minor by including retirement eligible FTEEs. Retirement eligible FTEEs who actually retire are still wages lost, so these wages must be considered. This does not account for the unknown other non VA jobs that would be lost if the VA employment is drastically reduced.

CP10-39

3.10.2.6 VA BHHCS Employment

VA BHHCS employed 1,103 people (1,021 full-time and 82 part-time) in FY 2014 (VA 2015b). This equates to 1,069 full-time equivalent employees (FTEEs) assigned to the VA facilities in Hot Springs (357 FTEEs), Rapid City (30 FTEEs), and Fort Meade (682 FTEEs). One FTEE represents either one full-time employee working 40 hours per week, or two or more part-time employees whose combined working hours total to 40 hours per week. Table 3.10-8 shows the location assignment of the FTEEs for FY 2014 by the county of residence of the employees associated with those FTEEs. Fall River County and Pennington County are listed separately because they are the counties where the proposed reconfiguration would occur. The "Other" counties include the remaining counties within the VA BHHCS service area and others outside the service area.

Save the VA Response

The EIS states that this service realignment will result in a decrease of 290 full-time equivalent employees (FTEEs) in Hot Springs, and an increase of 98 FTEEs in Rapid City. According to the 2010-2014 American Community Survey, there are 1,608 residents of the City of Hot Springs in the civilian workforce 16 years or older.[55] Although there is no readily accepted conversion between FTEEs and number of residents in the workforce, it is likely that a loss of 290 FTEEs will affect more than 290 employees because some employees work part-time.

A community that only has approximately 1,600 workers will not be able to easily absorb a loss of 290 FTEEs.

The VA claims that, "Hot Springs FTEEs not transitioned to Rapid City would decrease through eligible retirements, early retirements, buy-outs, and voluntary separations. No VA employees would lose VA employment, although they may need to fill a different job, with retraining as needed."

[55] 2010-2014 American Community Survey 5-Year Estimates

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CP10-39: VA agrees that impacts to the local community can be greater than for a county or region. Population data for the City of Hot Springs has been added to Section 3.10 in support of a revised analysis included in Section 4.10 of the Final EIS.

Commenter CP10: Save the VA

STVA Draft EIS Response | 2016

4.10 Socioeconomics

Save the VA Response

STVA Committee wants to restate, our alternative never envisioned increasing the number of employees for the Hot Springs VA from current levels to a total of 633 employees. Further, we don't believe the VA would allow an increase of employees to happen under our proposal. Their intent is to reduce employees not increase employees.

CP10-40

A recent impact analysis of the VA's proposed reconfiguration, going from approximately 388 employees at Hot Springs, to a post implementation number of approximately 70 employees, demonstrates the economic impact the VA's proposal would have on western South Dakota.[56]

CP10-41

The study area of this impact analysis includes a multiple county region in South Dakota, including the counties of Bennett, Butte, Corson, Custer, Dewey, Fall River, Haakon, Harding, Jackson, Jones, Lawrence, Mellette, Oglala Lakota (formerly Shannon), Perkins, Stanley, Todd and Ziebach. All the counties are within South Dakota.

	2020			
Impact Type	Direct Effect	Indirect	Induced	Total Effect
Employment	-318	-66	-84	-468
Labor Income	($22,109,268)	($1,732,988)	($2,331,324)	($26,173,580)
Output	($38,572,481)	($6,848,951)	($9,885,077)	($55,306,509)

The estimated impact of the Veterans Affairs (VA) Hospital can be identified by the type of economic activity incurred in the region:

- Direct effects include the value of production, employment and payroll from the operations of the VA Hospital.
- Indirect effects include the value of production, employment and payroll at all local business in the region that supply goods and services purchased by the VA Hospital to support its operations.
- Induced effects include the value of production, employment and payroll resulting from local employee spending of earnings paid by the VA Hospital and all local businesses that support the company's operations.

Although the study includes counties in western South Dakota excluding Meade and Pennington counties, STVA believes the greatest economic impact will be on the South western counties in South Dakota. These are the counties that have the largest number of veterans that utilize the Hot Springs VA for their medical care.

This study reflects the loss of 318 employees by the year 2020. This four-year time frame and number of employees is consistent with the VA's original implementation plan announced in December of 2011. A loss of $55,306,509 is a significant socioeconomic impact and may never be recovered from in this rural part of South Dakota.

[56] Economic Impact Analysis Veterans Affairs Black Hills Healthcare System, Hot Springs Campus Multiple County Region in South Dakota, December 11, 2015

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CP10-40: Section 4.10 of the Final EIS has been revised to correct the employee count for Alternative E - reducing it from 633 to 492 employees. .

CP10-41: Section 4.10 of the Final EIS has been revised to include an analysis of economic impacts from the proposed reconfiguration on the local community of Hot Springs, with respect to income and employment. VA notes that the impacts under Alternatives B, C and D would not be as great because they include additional employees associated with the RRTP in Hot Springs (100 beds in B and C; 24 beds in D).

Commenter CP10: Save the VA

STVA Draft EIS Response | 2016

The following sections would have the direct negative economic impacts described in the Economic Impact Analysis completed by the State of South Dakota.

- 4.10.2 Alternative A
- 4.10.3 Alternative B
- 4.10.4 Alternative C
- 4.10.5 Alternative D

4.10.6 Alternative E

4.10.6.2.1 Hot Springs

An expanded campus in Hot Springs would be staffed with 633 FTEEs, which would result in an additional 276 FTEEs from the FY 2014 total of 357 FTEEs. As shown in Table 4.10-12, there would be an increase of 206 FTEEs residing in Fall River County over the five-year implementation time period. This would represent an increase of 7.1 percent in employment in Fall River County (see Table 3.10-5), which would be a major impact. There would be a similar decrease in the unemployment rate (see Table 3.10-6) by 6.8 percentage points from 4.6 to -2.2 percent if all new employees were already Fall River County residents. A negative unemployment rate means there are not enough employable persons available to fill jobs. An increase in employment and a decreased unemployment rate would be beneficial to a point, but then could become an adverse impact.

As shown in Table 3.10-6, there were 140 unemployed persons in Fall River County in 2014. In the unlikely scenario those 140 persons could fill the 206 FTEEs needed to implement Alternative E, another 66 employable persons (206 minus 140) would have to either relocate to Fall River County or change jobs in the county. Assuming the same distribution of FTEEs by county of residence, 116 of the 168 retirement-eligible FTEEs could reside in Fall River County. Thus, an additional (replacement) 116 FTEEs from Fall River County could be needed to implement Alternative E. These 322 FTEEs (206 plus 116) would represent an increase of 11.2 percent in county employment with a similar decrease in the unemployment rate of 10.6 percentage points from 4.6 to -6.0 percent, which would be a major impact. Generally, an increase in employment and a decrease in the unemployment rate are viewed as beneficial. However, the impact would be potentially adverse to the City of Hot Springs if it lacks sufficient supporting infrastructure (particularly housing, but also schools and other community services) to absorb the increase, and to the city and VA BHHCS if the local labor force does not offer enough capacity in the employment sectors assumed to be needed to implement Alternative E. Insufficient labor capacity could result in competition with other Hot Springs employers for candidates, as well as provide a challenge for VA in staffing positions without relocating people to the area.

The increase in FTEEs could have an effect on available housing and occupancy. The increase of 206 FTEEs in Fall River County would increase the occupancy rate by 4.9 percentage points from 78.1 percent (see Table 3.10-3) to 83.0 percent, which would be a major impact. The increase could be greater at 7.7 percentage points (85.8 percent occupancy) if those FTEEs eligible for retirement remained in Fall River County, or the additional (replacement) 116 FTEEs preferred or needed to relocate to Hot Springs based on their current location of residence. A major increase in housing occupancy would generally be considered beneficial based on the assumption that available housing units would be suitable and accommodate occupiers' preferences.

As shown in Table 4.10-13, wages of FTEEs residing in Fall River County would increase by 80.8 percent over the five-year implementation time period. As a percent of the total wages of $76.7 million for Fall River County (see Table 3.10-7), an increase of $13.56 million in VA wages would amount to a 17.7 percent increase in the total county wages. The increase in wages would be considered major and beneficial.

Save the VA Response

Alternative E and F are the only alternatives that don't have this negative economic impact as addressed in our response to 3.10.2.6 VA BHHCS Employment.

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CP10-42

CP10-42: VA agrees that Alternatives E and F are the only ones that do not have an adverse economic impact on the local community.

Commenter CP10: Save the VA	
STVA Draft EIS Response | 2016 **4.10.7 Alternative F** *Save the VA Response* *"How does the VA define Alternative F? Save the VA has asked this question multiple times with little to no response or further explanation from the VA. The DEIS does not adequately define or answer this question either.* *Does "No Action" imply that the VA will stop diverting patients and services from Hot Springs and restore or continue to provide services?* *OR* *Does "No Action" imply that the VA will continue reducing services and diverting patients as it was prior to the initiation of the NEPA process?* *While both options could be considered "No Action", they are two vastly different actions with varied outcomes and effects. The ability for the public to comment on this alternative is diminished by the lack of response and clarity on the part of the VA.* *Continuing the "business as usual" approach by the VA would guarantee that the VA manages the Hot Springs campus into a situation where closure is inevitable. In this instance, Alternative F would be a severe Adverse Effect, not meeting anything outlined in the purpose and need, and causing an outcome of "adverse effect by neglect" on the historic landmark."* 70 | Page CP10-43	CP10-43: Alternative F includes the same services as offered currently, with gradual upgrades as required in the FCA over time, as budget allows, rather than all at once as in Alternative E. Assumption of current levels of operation is consistent with CEQ guidance for the no action alternative, as clarified in revised Section 2.3.6 in the Final EIS.

Commenter CP10: Save the VA	
STVA Draft EIS Response | 2016 **4.10.8 Supplemental Alternative G** *Save the VA Response* *Repurpose of the current Hot Springs campus.* *As part of Alternative G, which can be implemented in conjunction with one of the Alternatives A through D, the current Hot Springs campus could be repurposed for use by other federal agencies or private businesses in the Hot Springs community. The purpose of this Alternative G, to be used in conjunction with one of the Alternatives A through D, appears to be an attempt to minimize job loss in Hot Springs.* *On July 1, 2015, the VA published Solicitation VA10115N0183 seeking expressions of interest for the development of the existing Hot Springs campus. As of December 30, 2015, five vendors were included on the Interested Vendors List on the Federal Business Opportunities website.* *During the February 17, 2016 consulting parties meeting the VA acknowledged there were no parties interested in repurposing the Hot Springs Campus.* 71 | Page CP10-44	CP10-44: No parties responded to the expression of interest; this does not mean that redevelopment of the campus will fail to interest groups in the future. See Section 5.2 for information about the marketing strategy for redevelopment. VHA also recently proposed to open a national pharmacy call center in Buildings 3 and 4 of the Hot Springs campus that would include 120 new staff. This has been described in the Final EIS in Chapter 1 and analyzed as part of the cumulative impact analysis in Sections 3.16 and 4.16.

Commenter CP10: Save the VA

STVA Draft EIS Response | 2016

4.18 Unavoidable Adverse Impacts

Cultural Resources and Historic Properties: A change in the character of use that contributes to the historic significance of the Battle Mountain Sanitarium NHL would be an unavoidable adverse impact under Alternatives A, B, and D; and Supplemental Alternative G. Introducing visual or audible elements to the historic setting of the Battle Mountain Sanitarium NHL during construction would be a temporary unavoidable adverse impact under Alternatives C, E, and F; and Supplemental Alternative G. Introducing new development within the Battle Mountain Sanitarium NHL could diminish the integrity of historic features such as setting or design, which would be an unavoidable adverse impact under Alternative E. Mitigation for these impacts will be identified with consulting party input; see Chapter 5, Mitigation, Monitoring, Minimization, and Best Practices.

Save the VA Response

Alternatives E and F could have minimal short term environmental impacts. If done correctly following specified EPA and Department of Interior Standards for Historical Preservation, by definition they will not have any adverse impacts.

As defined in NEPA/106 law, a change of use would be an absolute adverse impact to the National Landmark property.

Therefore, alternatives A through D and G have the most unavoidable adverse impacts.

CP10-45

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CP10-45: VA has revised statements about the potential adverse effects of Alternatives E and F in the final EIS. Section 4.18 of the Final EIS has been revised to clarify that mitigation measures now called out in Chapter 5 are designed to avoid or minimize adverse effects from Alternative E on Battle Mountain Sanitarium.

Change of use of the Battle Mountain Sanitarium is an adverse effect to the NHL. Alternatives A1, B, and D, without Supplemental Alternative G, have the potential to adversely affect the Battle Mountain NHL through change of use.

Commenter CP11: National Trust for Historic Preservation

National Trust *for* Historic Preservation
Save the past. Enrich the future.

May 5, 2016

Ms. Sandra Horsman, Director
Black Hills Health Care System
Department of Veterans Affairs
113 Comanche Road
Fort Meade, SD 57741

Re: Comments on the Draft Environmental Impact Statement (DEIS) and National Historic Preservation Act Section 106 Consultation: Reconfiguration of the VA Black Hills Health Care System

Dear Ms. Horsman:

The National Trust for Historic Preservation offers the following comments in response to the *Draft Environmental Impact Statement (DEIS) and National Historic Preservation Act Section 106 Consultation: Reconfiguration of the VA Black Hills Health Care System (BHHCS).*

The National Trust has a long-standing interest in the preservation of our nation's irreplaceable historic resources. In 1949, Congress chartered the National Trust as a private charitable, educational and nonprofit organization to "facilitate public participation" in historic preservation, and to further the purposes of federal historic preservation laws. 54 U.S.C. §§ 312102(a), 320101. Congress intended that the National Trust "mobilize and coordinate public interest and participation in the preservation and interpretation of sites and buildings from voluntary resources." S. Rep. No. 1110, 81st Cong., 1st Sess. 4 (1949), reprinted in 1949 U.S. Code Cong. & Ad. News 2285, 2288. With more than 800,000 members and supporters nationwide, the National Trust has been involved in helping federal, state and local agencies effectively address and resolve issues affecting historic resources for nearly 70 years.

In 2013, the National Trust undertook a comprehensive study of the cultural resource management practices of the Department of Veterans Affairs (VA) and published the report *Honoring Our Nation's Veterans: Saving Their Places of Health Care and Healing*, which included a range of recommendations to improve how the VA manages its more than 2,000 historic buildings, including those of the Battle Mountain Sanitarium (BMS).

In addition to the extensive comments we are providing about this DEIS and the future of BMS specifically, we want to draw the VA's attention to the fact that we believe the agency's plans to close BMS are symptomatic of a larger, national policy that has been extensively discussed by the Commission on Care, which is the agency's desire to close "numerous VA healthcare facilities, with funding following the patients to community providers." Commission on Care, *Proposed Strawman Assessment and Recommendations* 3 (2016), CP 11-1

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CP11-1. It is VA's position that arrangement of services is not subject to NHPA (or NEPA) review unless the changes have the potential to affect the physical plant of the facility and/or the cultural heritage of the community. VA will continue to meet its obligations under NHPA and NEPA if or when the agency determines it is in the best interest of Veterans and Veterans' health care to close, consolidate, or otherwise alter facilities. VA thanks the NTHP for its continued advocacy on behalf of our nation's historic properties and looks forward to working with NTHP staff to best preserve historic resources.

Commenter CP11: National Trust for Historic Preservation

https://commissiononcare.sites.usa.gov/files/2016/03/2016.3.18-Proposed-Strawman-Assessment-and-Recommendations.pdf (last visited April 8, 2016) (hereinafter cited as "*Assessment*"). The *Assessment* goes on to describe that "the Office of the Secretary has identified numerous buildings/facilities that should be closed in the short term. Movement on these facilities should begin immediately." *Id.* at 16. Furthermore, "VA facilities that are under-utilized will be dispensed with. No new facility construction or major renovations will occur. A BRAC-like process will begin to close the other facilities." *Id.* at 20. Appendix E of the *Assessment* puts forth more ideas about how this "comprehensive transition plan" would work, and says that "[a] decision process to formally decide to close a facility will have to be developed." *Id.* at 33.

Since we know that there are more than 2,000 historic properties in the VA inventory, we are understandably concerned with this proposed plan and how it will impact those properties, especially since immediate, short-term closure plans have already been identified by the agency. We hope to remain closely engaged in this issue on a nationwide basis and encourage the VA to proceed thoughtfully, and in compliance with federal law, including the National Historic Preservation Act. In the case of BMS, we do not support the VA's approach to the closure decision. This should definitely not be used as model for developing the "comprehensive transition plan." One option could be for the VA to halt its efforts to close BMS until this nationwide plan is developed so that the facility's future would not be considered in a vacuum. Furthermore, the *Assessment* indicates that the agency will be moving away from new facilities of any type, including the Community-Based Outpatient Clinic (CBOC) and Multi-Specialty Outpatient Clinic (MSOC) that the VA puts forth in its preferred alternative—yet another reason to not proceed with the DEIS at this time.

The National Trust has been involved in the consultation about the future of the BMS since 2011 when the VA first announced its plans to close the facility, without doing any required compliance with the National Environmental Policy Act (NEPA) or Section 106 of the National Historic Preservation Act (NHPA). Because of concerns about the future of this National Historic Landmark property, the Battle Mountain Sanitarium was named as a National Treasure in 2012 and included on our 2014 list of America's 11 Most Endangered Historic Places.

Since that time, we have participated in every Section 106 meeting and attended nearly every NEPA public meeting, repeatedly and consistently voicing our opposition to the various approaches that the VA has used to purportedly comply with Section 106, and the failure to seriously consider any alternative that would continue to use existing historic resources in Hot Springs to serve veterans. We note that the VA's preferred alternative to close BMS has garnered **virtually zero support** from any group - not from veterans, not from local residents, not from any other federal, state or local agencies, not from the historic preservation community, and not from a single member of the congressional delegation. CP 11-2

Subsequent to the issuance of the Draft EIS in October 2015, additional Section 106 consultation meetings have been held, resulting in the VA verbally agreeing to modify some

2

CP11-2. Comments about the draft EIS and the alternatives, those for and against, are tallied and included in Table E-1 of Appendix E.

Commenter CP11: National Trust for Historic Preservation

of the language in the DEIS. However, it is unclear whether these changes will result in the VA issuing a supplement to the DEIS that will reflect and confirm this new information. We strongly recommend that approach. Throughout our comments, we have attempted to identify differences between the DEIS language and the verbal commitments that were recently made, but have focused mainly on the contents of the written document.

We offer the following comments on the DEIS.

CP 11-3

I. The VA has manipulated the environmental review process to select a preferred alternative that it had already publicly announced in 2011, prior to undertaking any compliance activities as required by federal law.

CP 11-4

In December 2011, the VA held seven public forums announcing its plans to shutter the 1907 BMS facility. DEIS at 29. The DEIS acknowledges that, six months prior to making this public announcement, VA staff had presented the VA Secretary with a "preliminary option" for the future of BHHCS that included removing all VA uses from BMS. Apparently, no other options were considered. *Id.* The VA also notified veterans of the proposed closure of the BMS facility via letter dated February 6, 2012, which stated, "[a] phased plan would be implemented to close the VA Hot Springs inpatient and nursing home units, operating rooms, and urgent care facilities." This letter went on to outline changes to services and facilities at Rapid City and Ft. Meade necessary to carry out this reconfiguration.

Despite this premature announcement, NEPA and Section 106 of the NHPA both require the VA to begin compliance at the earliest stages of project planning, prior to selecting a project alternative. 40 C.F.R § 1501.2; 36 C.F.R. § 800.1(a). The earliest stages of project planning passed long ago and well *after* the VA made its preferred alternative known to the public - to close Battle Mountain Sanitarium and relocate services to Rapid City - without commencing any required compliance whatsoever. This failure, and the apparent attempt to select an alternative, and then return years later and initiate the compliance process for a decision already made, is inconsistent with the legal requirements of both NEPA and the NHPA. The fact that the VA has now identified its preferred alternative as the same one it took to the public in 2011 should come as no surprise. Clearly, in contravention of the requirements of NEPA and NHPA, the VA already made its decision, and then returned to "check the boxes" with no intention of giving meaningful consideration to alternatives of any kind. *Id.*

CP 11-5

II. The scope of the DEIS' analysis should include the entire Black Hills Health Care System.

Although the DEIS is purportedly analyzing the reconfiguration of the Black Hills Health Care System (a system that includes Hot Springs and Ft. Meade as its principal components), the document says "[t]he VA BHHCS reconfiguration proposal does not include any changes to the facilities at the Fort Meade VAMC; thus, it is not described or evaluated further in this EIS." DEIS at 4. In our view, the DEIS unlawfully excludes

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CP11-3. VA does not believe that the revisions to the draft EIS warrant issuance of a supplemental EIS prior to releasing the final EIS. The Final EIS has incorporated and analyzed a new alternative proposed by historic property consulting parties during review of the Draft EIS, however, it is a hybrid of two alternatives evaluated in the Draft EIS and the environmental impacts are no greater than those previously analyzed. Other major changes made in the Final EIS in response to comments made by historic property consulting parties have been identified and made available for review by these parties prior to the end of the public comment period on the Draft EIS on June 20, 2016. Changes made between the Draft and Final EIS are consistent with CEQ NEPA guidelines and a Supplement to the EIS is not necessary.

CP11-4. Previous announcements were done with good intentions, namely to notify employees of the VAMC and community residents of possible changes. VA halted these efforts in order to complete a more thorough review of alternatives under NEPA and NHPA. VA has spent approximately two years studying alternatives. The preferred alternative has changed to a new Alternative A-2 identified during the public comment period on the Draft EIS, which would indicate VA has given meaningful consideration to alternatives. Timing of the NEPA review is also addressed in a group response in Section E.3.4 of Appendix E.

Commenter CP11: National Trust for Historic Preservation

consideration of physical changes ongoing at Ft. Meade that are being undertaken to accommodate service changes in the system. Also, the rest of the DEIS *does* consider the whole system, including issues like numbers of employees, veterans using the system, etc., but refuses to acknowledge system-wide changes in service that we know have been planned and implemented for at least the past five years.

In addition, the Section 106 Area of Potential Effects (APE) has not been described in the document as including Ft. Meade, though the VA verbally agreed to include that during the January 21, 2016 consulting parties meeting.

Although the VA says it has not made changes to facilities at Ft. Meade because of this reconfiguration plan, or implemented any parts of the reconfiguration proposal prior to the preparation of this DEIS, we do not agree. In its FY13 Strategic Capital Investment Plan (SCIP), the VA made a funding request for changes at Building 113 at Ft. Meade to complete, among other physical alterations, changes to "in-patient acute medicine and acute surgery, BDOC for *transer (sic) of those services from the Hot Springs campus to the Fort Meade campus* (emphasis added)." FY13 SCIP number VHA23-568-2013-11933 "Renovate Bldg. 113 in-patient Ward." The VA now says it did not receive the funding as requested at that time and later modified its request and is no longer seeking funds to make this change. However, the fact that it made the request at all, and prior to completion of this DEIS, demonstrates its recognition of the connection between services and facilities changes at both campuses and the intent to carry out the reconfiguration without completing NEPA or NHPA compliance first.

III. The Purpose and Need articulated in the DEIS is improper and unlawful.

We appreciate that the VA has revised its scoping purpose and need statement and is now employing one that is no longer blatantly biased against existing historic buildings but we continue to assert that the current purpose and need *can* be met by the continued use of the BMS facility. The purpose and need is described by the VA as follows:

The present **purpose** is "to reconfigure health care services in the BHHCS to provide high-quality, safe, and accessible health care well into the twenty-first century by:

- Providing locations and facilities that support VISN 23's efforts to enhance and maintain quality and safety of care in the 100,000-square-mile catchment area
- Ensuring facilities for Veterans receiving any services comply with accessibility requirements for handicapped individuals, support current standards of care, and can be well-maintained within available budgets and resources
- Increasing access to care closer to where Veterans reside
- Reducing out-of-pocket expenses for Veterans' travel"

The present **need** is "to reconfigure health care services in the BHHCS catchment area because:

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CP 11-6

CP11-5. VA understands commenters confusion regarding the scope of the proposed reconfiguration with respect to Fort Meade given that it was identified as being within scope in the earlier VA BHHCS reconfiguration proposals from several years ago and the renovation for the surgical tower was included in SCIP 2013 funding. However, additional changes have occurred within the VA BHHCS since 2012 such that, based on conditions at the time the Draft EIS was published, the work at Fort Meade is no longer considered to be within scope of the proposed reconfiguration. Reasons are outlined in detailed group response relating to the inclusion of Fort Meade in Table E-2 of Appendix E (Scope of EIS - Fort Meade). Section 1.1.2.1 of the Final EIS has also been revised to further clarify the scope of Fort Meade and the extent to which it is considered in the Final EIS. VA still maintains that the renovations at Fort Meade are not part of the proposed reconfiguration, but has expanded the Area of Potential Effect for cultural resources to include Fort Meade and considers the actions at Fort Meade in the cumulative impact analysis (Section 4.16) of the Final EIS.

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• The VA has difficulty maintaining high-quality, safe, and accessible care at the Hot Springs campus. • Existing locations and facilities constrain the quality of care, range of services, and access to care the VA offers to Veterans in the catchment area." DEIS at 7. Despite the improvements over the scoping purpose and need, we continue to object to several elements. The first bullet of the need statement has not been borne out by any research. On the contrary, all evidence points to the fact the VA has always provided "high-quality, safe, and accessible care at the Hot Springs campus," and continues to do so today. The only "difficulties" that the VA cites are that it allegedly has challenges recruiting workers – though there is no evidence that this supposed, undocumented "difficulty" has affected quality or safety of care, or that it is related to the Hot Springs location. In fact, the Commission on Care *Assessment* states that nationwide, "[p]ositions at all levels are difficult to fill. A few of the many reasons include potential stigma in working in 'today's VA', bureaucratic hiring practices, poor morale, a 'culture of fear,' and non-competitive financial compensation in some job categories and geographic areas, etc." *Assessment* at 6. This finding by the Commission on Care leads us to conclude that the hiring problem is not at all related to the Hot Springs location, but plagues the VA everywhere, and would presumably exist even if most operations were relocated to Rapid City. Furthermore, the VA has demonstrated that, even though the campus is already accessible today, it is capable of enhancing accessibility, but has chosen not to do so to date. DEIS at Table 1-3. There is no evidence offered that the quality of care, range of services, or access to care are suffering in the present configuration or that this is actually a legitimate "need." In fact, it is completely unclear that a reconfiguration would increase access and reduce travel costs, as the purpose proposes. **IV. The DEIS does not include a "reasonable range of alternatives," since all of the alternatives include the abandonment of the entire BMS campus and exclude the reuse of any facilities there for VA use.** The National Trust and other parties have repeatedly proposed that the VA analyze an additional alternative that would at least keep some VA uses in the historic buildings on the campus, but ideally, would continue to use the campus in its entirety. While scoping left open the possibility of other alternatives beyond what the VA had already identified, no new or modified alternatives were carried forward. This is despite the repeated offering of Mr. Pat Lyke, the long-time Historic Preservation Officer at BMS, who presented a specific, carefully crafted alternative numerous times for consideration. Ultimately, the VA took the position that this submission was not timely, even though it had been presented in a public forum three times since 2012 and discussed on five different occasions at consultation meetings and in meetings with BHHCS staff. The VA's refusal to consider and analyze any alternative that includes meaningful continued VA use at BMS indicates that the VA has not complied with the NEPA requirement to "rigorously explore and objectively evaluate all reasonable alternatives." 40 C.F.R. § 1502.14(a). 5	P11-6. See detailed response relating to alternatives ability to meet purpose and need in Section E.3.2 of Appendix E. In addition, each alternative description in Chapter 2 of the Final EIS has been revised to clearly explain how the alternative meets (or does not meet) various elements of purpose and need. VA agrees that the recruiting problems are experienced by the VA nationwide; however, the Hot Springs campus has unique recruitment issues that are ongoing. The proposed reconfiguration's inclusion of the care in the community program would bring care closer to where Veterans live thereby addressing the geographic access problem. See also group responses in E.3.1 and E.3.3 relating to distance traveled and purchased care option.
CP 11-7	CP11-7. In total, the Final EIS describes, analyzes, and considers 12 possible courses of action: six alternatives, one that includes two variations, plus a supplemental alternative that can be implemented alongside four of the alternatives, including both variations of the Alternative A. Both Alternative A2, the preferred alternative, and Alternative E, the Save the VA proposal, were developed by historic property consulting parties.

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Rather than conduct this rigorous exploration, the VA has curiously carried forward several alternatives – C, E and F - in the DEIS that do *not* meet the stated purpose and need. But the analysis is lacking as to why some alternatives meet the stated purpose and need and others supposedly do not. For example, if the location/recovery model of care is a major problem, the DEIS sheds no light on why Alternative B meets the purpose and need and Alternative C does not. These two alternatives include the same uses in the same geographic locations. The only difference is that Alternative C includes continuing to use historic Building 12 as a CBOC (essentially a doctor's office), rather than building a new CBOC elsewhere in Hot Springs, and includes the reuse of other campus buildings for the Residential Rehabilitation Treatment Program (RRTP).

CP 11-8

Through the review process, the VA has consistently refused to explore reasonable ways to continue to use the campus for VA use. The public and the consulting parties have been offered a moving target of justifications for the agency's refusal to do so—including cost, accessibility, and the recovery model of care, which includes the geographic location of Hot Springs and the physical layout of the existing campus. Each time that we provide a counter argument to one of these assertions, the VA simply moves on to another rationale that it claims is the underlying, unassailable reason why the campus cannot be reused. This further supports the public perception that the VA is biased in favor of its 2011 plan, and that the VA is simply unwilling to give any meaningful consideration to a reasonable range of alternatives.

The VA claims at page 8 in the DEIS that the reasons for the reconfiguration include the need for renovation, non-compliance with the Architectural Barriers Act (ABA), and non-compliance with the recovery model of care. But the VA fails to analyze how these issues could be successfully addressed in ways other than closing BMS. We provide more specific comments on these issues below.

V. Comments Common to All Alternatives

a. The VA's recovery model of care standards can be satisfied via continued use of existing facilities.

CP 11-9

VA staff members have verbally stated that the inability to satisfy recovery model of care standards is the primary problem with continuing use of facilities at BMS, and that this problem simply cannot be solved in the existing buildings. We disagree. (Previously, the VA claimed that the primary problem was rehabilitation cost, and then claimed that the primary problem was compliance with ABA and the Americans with Disabilities Act (ADA). More recently, however, the VA has verbally disavowed these rationales, and the agency admits that these issues *can* be satisfactorily resolved.)

The DEIS claims that the domiciliary layout is not consistent with a standard in VHA Handbook 1162.02 ("Mental Health Residential Rehabilitation Treatment Program"), which is "to ensure that the environment is designed to promote an individual sense of well-being, optimism, and integration with the surrounding community (as opposed to a hospital or dormitory-like dwellings)." DEIS at 13.

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CP11-7 cont'd:

A full description of the alternatives is located in Chapter 2. Additional detail relating to the range of alternatives is also provided in Section E.3.2 of Appendix E.

CP11-8. See detailed response relating to alternatives ability to meet purpose and need in Section E.3.2 of Appendix E. In addition, each alternative description in Chapter 2 of the Final EIS has been revised to clearly explain how the alternative meets (or does not meet) various elements of the purpose and need. VA notes that it has selected the new hybrid Alternative A-2 as its preferred alternative which will allow VA to maintain a continued presence on campus.

CP11-9. VA's position regarding its proposal to build a new RRTP in Rapid City has not changed and VA has included additional explanation in Section 1.2.2.3 of the Final EIS, which includes a summary of the latest research comparing the advantages of an urban setting over a rural setting with respect to successful community integration. See also group

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		CP11-9 response cont'd response in Section E.3.2 of Appendix E relating to purpose and need and the RRTP.
First, the VA has provided no evidence (other than conclusory assertions) that the current facility does not meet this goal, or that the layout has compromised veterans' well-being, optimism or integration. (We note, for example, the complete lack of veteran support for the VA's preferred alternative, and the broad integration of veterans in the Hot Springs community). Second, the VA's claim—that this *one item* in the 60+ page standards is not currently met—cannot possibly justify closing an entire 464,000-square-foot facility that has been in operation for more than a century. Third, if the VA truly believes that the layout at BMS does not comply with this one criterion in the Handbook, the VA should, instead of abandoning the BMS facility, pursue alterations to the current layout that would satisfy this standard. The DEIS claims that the current layout "does not fully meet" (and therefore, by implication, does partially meet) its internal 2010 *Mental Health Facilities Design Guide*. This concern seems to focus on patient privacy, the institutional nature of the patient care areas, and the assumption that shared facilities are not suitable for single-parent veterans. DEIS at 14. However, there is no evidence that the VA has made even a modicum of effort to investigate alternative ways in which these guidelines could be met through modifying the layout of the existing buildings. Instead, the VA has insisted that total abandonment of the facility and construction of new facilities elsewhere is the only way this guideline could be met. We strongly disagree. The predominant part of the BMS facility is made up of a series of six large rectangles surrounding a central hub. These are easily adaptable spaces, and VA staff has only to look to its EUL-leased facility in Leavenworth, Kansas for examples of how rectangular domiciliaries with previously open floor plans have been adapted into apartments and made ADA-accessible.	CP 11-10	CP11-10. See response to CP11-9.
The VA also claims that more "integration opportunities" for veterans are available in Rapid City than in Hot Springs, and offers that as a reason to close BMS. The VA asserts that RRTPs should be located in a place where "[v]eterans improve their life skills and [should] be complemented by access to jobs, public transportation, long-term housing, education, acceptable activities/diversion, and other social services agencies. A larger city would offer a greater depth of community services, more housing choices and capacity, a wider range of employment and educational opportunities, and a more robust clinically skilled labor force to support recovery." DEIS at 13. Yet the DEIS offers no empirical supporting data for the state of the problem including answering questions like: What are the specific opportunities missing in Hot Springs? Why can't the specific needed opportunities in Hot Springs be met? Has there been an attempt to see if the "problem" can be sufficiently addressed in Hot Springs? What are the exact criteria and measurements used to ensure that "veterans improve their life skills..."? Nor has evidence been offered in support of VA's proposed resolution to the "problem" by answering questions such as: How would those opportunities be solved in Rapid City? Are there actually proportionally more housing, transportation, acceptable activities or social service choices in one place than the other? In the absence of any data or specifics to back up these claims that Rapid City is superior to Hot Springs, this assertion lacks credibility and should not be considered a reasonable basis for closing BMS. 7		

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b. The DEIS fails to provide adequate data about the relative costs of alternatives. CP 11-11

The VA asserts that "[a] contributing factor to the relatively high costs within the VA BHHCS is the increasing age and cost of operating, maintaining, and improving buildings that range from 40 to over 100 years old." DEIS at 15. However, it appears instead that the large majority of costs are associated with personnel operations, as the VA has earlier stated that "[a]pproximately eighty percent ($20.5) of the cost avoidance is attributable to a reduction in personnel services expenses associated with a projected decline of 264 FTE." VA BHHCS, Financial Analysis: Proposed Reconfiguration of VA Black Hills Health Care System 1 (2012).

If the VA continues to claim that it is too expensive to rehabilitate and maintain operations at BMS (a claim the agency began to disavow at the January 21st, 2016 consulting parties meeting), further detail must be disclosed about the components of the lump sum cost figures presented in the DEIS for each alternative. Through work conducted by Treanor Architects in response to the 2012 Jones Lang LaSalle (JLL) report(s), we have already shown during the scoping phase that the VA's projected costs for rehabilitation had been inflated by up to 40%. DEIS at 40.

We see the references to the 2012 JLL report(s), but they are not included as an attachment to the DEIS and were not available on the BHHCS website, leaving the public in the dark about issues such as what costs are included in the 30-year life cycle costs. (For example, does this include costs such as land acquisition, landfill fees, the cost of making every single space ABA/ADA accessible, and the cost of developing infrastructure?) A cost breakdown that includes categories of comparable information for each alternative should also be included in the DEIS. What costs are attributable to the rehabilitation of certain facilities, and to the proposed new construction in Hot Springs, etc.? Once these numbers are disclosed, it would be useful to commission an independent third-party review so the public can be confident that the estimates reflect realistic rehabilitation costs. We also understand that Alternative E in the DEIS was not as submitted by Save the VA, and therefore includes costs for the new construction of an 82-bed RRTP on the BMS campus. There has been no clarification from the VA regarding the methodology used to decide to include this addition, to calculate the costs of the new facility, and to determine the financial implications of staffing increases necessary under VA-modified Alternative E. It is unclear what impact these modifications have on the total costs associated with Alternative E.

The cost of leasing facilities is also more expensive for all of the alternatives. Since there is no documentation offered demonstrating that there are existing suitable facilities on the market (132,942-144,956 square feet on 14-17 acres) for the VA to lease in Rapid City, and capital construction is now disfavored by Congress and within the VA itself, it seems likely that that the VA will enter an agreement with a developer who would "build to suit," and then lease back to the agency, leading the VA to pick the most costly option for each alternative.

In light of the ongoing national scandals involving the gross misuse of the VA's capital

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CP11-11. See Group Response in Table E-2 (Category Alternatives, Costs of alternatives) in Section E.3 of Appendix E. Additional cost breakout details have also been provided in each of the Alternative descriptions in Chapter 2 of the Final EIS. However, VA is unable to update the cost data provided in the EIS due to current appropriation restrictions.

Cost estimates for the lease option have been developed as a lease to build option (new build but land owned by entity/developer other than VA].

VA's history of cost overruns on past construction projects is not within the scope of the EIS to address. Overruns can result from a number of unexpected factors and cost issues associated with one project but do not affect VA's ability to effectively estimate and execute other construction projects within budget.

With respect to the current estimates for the proposed reconfiguration, VA has re-visited and re-verified the assumptions, design criteria, and resulting cost estimates for the alternatives and believes them to be accurate based on the information available at the time they were developed. As noted previously, VA is unable to update any of the cost data due to current appropriation restrictions.

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construction funds, and budgets for new construction projects that have swelled to 60% and more over budget (in Denver, New Orleans, Louisville, Las Vegas, Orlando, etc.), the VA is hardly in a position to claim that its "responsible stewardship of appropriated funds is impacted by VA BHHC's high operating cost." DEIS at 15. In April 2013, the United States Government Accountability Office (GAO) issued a report titled *VA Construction - Additional Actions Needed to Decrease Delays and Lower Costs of Major Medical-Facility Projects*. The report analyzed a variety of VA construction projects and their associated cost overruns and delays in schedule. On some of the VA's largest medical-center construction projects, cost overruns ranged from 59 to 144 percent, with delays ranging from 14 to 74 months. The GAO report also looked at 26 major medical-facility projects that were under construction or recently completed, and found that half of those projects were over budget, with more than a third of the projects experiencing a cost overrun of at least 31 percent. In light of the GAO's findings, cost estimates for new construction within the DEIS must be assumed to have been underestimated, and in fact should take into account the kind of budget inflation cited in the GAO report. Given the agency's propensity towards large cost overruns, it is possible that the VA's preferred alternative may end up being more expensive over a 30-year time horizon than any other alternative, including Alternative E. **c. ADA/ABA compliance can be achieved at the BMS campus.** At the National Trust's expense, we have hired experts to refute the VA's persistent claim that ABA/ADA compliance cannot be achieved at BMS. We were pleasantly surprised to hear the VA verbally acknowledge at the January 21st, 2016 consultation meeting that in fact ABA/ADA compliance *can* be successfully achieved. Notwithstanding the VA's recent change of position on this issue, the DEIS itself misrepresents the ability of existing historic buildings to meet legal requirements for accessibility. Former BHHCS Director DiStasio verbally stated that the only remedy for ADA compliance issues such as those outlined in DEIS Table 1-3 was to build a new facility. In fact, Table 1-3 proposes both solutions and associated costs for resolving all issues. DEIS at 11. We are further concerned that the DEIS suggests that the VA must do more than comply with the ADA and ABA, and in addition must comply with internal "guidelines" that are not legally binding federal statutes or regulations, such as the VA's 2011 internal *Barrier Free Design Guide*. If the VA claims it *must* comply with these particular internal guidelines above and beyond any existing legal requirements, then why isn't the VA also complying with a similarly situated directive ordering the agency to "promote the preservation of historic resources and other existing buildings and . . . [p]lace emphasis on examining the reuse potential of historic buildings" because "[t]his reuse makes the most efficient use of already constructed buildings, supports preservation of historically significant structures, and promotes local economic development." VA Directive 0066 at 2.d(3)(c) (2012). Our ABA/ADA consultants have prepared a report that offers several specific architectural solutions to accessibility concerns raised by the VA. That report is attached to these comments. (*See* Attachment 1.) In addition, the report explains how each solution meets 9	CP11-11 cont'd VA also notes that the Secretary's decision regarding the proposed reconfiguration is not based solely on cost. Finally, VA has made the supporting Jones, Lang, LaSalle 2012 report available on its website at http://www.blackhills.va.gov/VABlackHillsFuture/BHHCSFuture_Archives.asp CP 11-12 CP11-12. VA agrees that the buildings that comprise the area where Veterans are medically treated on the Hot Springs campus can be renovated to meet ADA/ABA standards and provide modern quality medical care. See additional response in Table E-2 of Appendix E (Category Purpose and Need, Accessibility and Needed Renovations)

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legal requirements for accessibility.

d. **Historic buildings can satisfy the VA's requirements for health care service delivery and environmental sustainability.**

The VA cites several rationales from its 2009 document *Innovative 21st Century Building Environments for VA Health Care Delivery* explaining why the agency favors building "modern new facilities compared to continued use of older, existing facilities." DEIS at 15-16. All of these rationales lack merit, are not relevant to the case at hand, or are vulnerable to other data findings.

First, they claim that "older facilities are recognized as vulnerable to disasters and inaccessible to patient care givers and other users," and furthermore, that "increasing operating costs in both new and existing buildings lead to deferred maintenance . . . ." DEIS at 15. We are unaware of any authority for the first claim and the VA offers none. The National Trust's nearly 70 years of experience as an owner and operator of historic properties has shown us that in many cases historic buildings built of expensive, sturdy, and no-longer-available materials - such as old growth heavy timber framing and monumental sandstone masonry found at BMS - fare better than newer, cheaper and less durable construction. Additionally, the fact that new and existing buildings can have increasing operating costs (as could any building) does not support the preference for new over old, but supports the need to contain operating costs at *any* facility.

In this section the agency also contends that "VA's buildings have been and are being produced under conditions that are insufficient to support future care delivery and technology developments, and, in fact, can often constrain their implementation." DEIS at 16. It is not completely clear what this sentence means, but perhaps the implication is that the VA's new buildings have not been designed with enough flexibility to accommodate change. We reiterate the BMS facility is made up of a series of six large rectangles surrounding a central hub, a design that was flexible in 1907, and still is, more than 100 years later.

Finally, the VA contends that a facility "will constrain care if it cannot be changed to accommodate newer methods of care delivery" and that "future healthcare facilities should be designed with flexibility . . . ." *Id.* We reiterate again that there is no reason that the existing buildings could not be modified to flexibly meet "newer methods of care delivery." These examples illustrate the VA's continued approach of constructing road blocks instead of seeking solutions.

While the VA relies on *Innovative 21st Century Building Environments for VA Health Care Delivery* (2009) to support abandonment, the agency ignores a large set of statutory and regulatory mandates that provide a countervailing view in favor of retaining and continuing to use historic properties.

Section 110(a) of the NHPA requires an agency preference for use of historic properties and mandates that, "[p]rior to acquiring, constructing, or leasing a building for purposes of

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CP 11-13

CP11-13: In accordance with federal law and its own internal directives, VA makes every effort to use and adaptively reuse existing historic buildings to further the agency mission of providing quality health care to Veterans. There are times when a historic building is not suitable to meeting VA's mission due to space, location, money, and/or other various other factors. Resource allocation must follow maximum utility. Modeling need must balance both number of Veterans in geographic area with mechanisms to assure care is best possible.

VA has revised its statements in the Draft EIS regarding the suitability of the historic buildings of the Hot Springs VA campus/Battle Mountain Sanitarium National Historic Landmark in the final EIS. The buildings can be renovated to meet modern healthcare needs, however, reuse of all campus buildings does not best meet the stated Purpose and Need. VA has selected Alternative A-2 as the preferred alternative in part because this alternative minimizes some adverse effects by retaining a VA medical presence on campus.

VA takes seriously its commitment to stewardship of historic properties and especially National Historic Landmarks. As part of the nationwide effort to productively use vacant or underutilized space. VA has proposed the Hot Springs

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carrying out agency responsibilities, a Federal agency shall use, to the maximum extent feasible, historic property available to the agency, in accordance with Executive Order No. 13006." 54 U.S.C. § 306101(a)(2). Additionally, it requires that "historic property under the jurisdiction or control of the agency is managed and maintained in a way that considers the preservation of their historic, archeological, architectural, and cultural values in compliance with section [106] and gives special consideration to the preservation of those values in the case of property designated as having national significance." *Id.* § 306102(b)(2).

But federal mandates exist even beyond the legal requirements of the NHPA. In fact, the VA's own directive instructs staff to "promote the preservation of historic resources and other existing buildings and . . . [p]lace emphasis on examining the reuse potential of historic buildings" because "[t]his reuse makes the most efficient use of already constructed buildings, supports preservation of historically significant structures, and promotes local economic development." VA Directive 0066 at 2.d(3)(c) (2012).

This VA directive also instructs the agency to "maximize use of existing resources" by prioritizing 1) areas that are currently well-served by water, sewer, and other relevant public infrastructure and 2) brownfield/grayfield and infill development, including historic districts." *Id.* It further tells the agency to give priority to locations in "rural town centers to strengthen the vitality or livability of the communities in which federal facilities are located." *Id.* It is unclear how the VA will meet these mandates by proposing new construction (owned or leased) in locations unlikely to meet these geographic tests, which to date have included suggestions like building on the outskirts of Rapid City near the Regional Hospital in an area of sprawl several miles from downtown. However, by continuing to use the BMS facility, the VA would certainly meet these requirements by taking advantage of the existing infrastructure of Hot Springs, and making use of facilities in a rural historic district.

The VA also cites the need to comply with Executive Order 13693 – Planning for Federal Sustainability in the Next Decade (2015), and the fact that the VA's 2015 draft plan for compliance with this Order was in review when the DEIS was published. DEIS at 185. Though it is not possible to comment on the VA's plan, since it was not available, we note that retention and continued use of historic buildings at BMS can help to meet the intent of this Executive Order, which directs agencies to reduce greenhouse gas emissions and improve building energy conservation and efficiency. As noted architect and sustainability expert Carl Elephante has said, "The greenest building is the one that is already built." The following two references provide examples of how this statement has been proven in practice and can be applied to continued use of the historic buildings at BMS, while supporting compliance with Executive Order 13693.

As explained in the National Trust' report *Honoring Our Nation's Veterans,* a recent report by the Department of Defense established a quantitative methodology for incorporating emissions of carbon dioxide into life cycle cost analysis for capital projects. The study demonstrates that the reuse and modernization of historic, defense-related buildings built before World War II is consistently less expensive, per square foot, than new construction, and that the DOD's carbon footprint is reduced by the reuse and renovation of these

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CP11-13 response cont'd

VA campus as a site for a new nationwide call center. The center will occupy Buildings 3 and 4, buildings currently vacant and/or underutilized. The project has been designed to have no adverse effects on historic properties. Though this call center is not related to the proposed reconfiguration of healthcare services, it is an example of the types of adaptive reuses available for the Hot Springs campus in the event VA chooses to vacate all or a portion of the Hot Springs VA campus.

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existing buildings. According to the report, two factors result in at least a 15% savings in greenhouse gas emissions for the reuse and modernization alternative: (1) the "original design intelligence" of historic buildings that promote energy conservation (e.g., the siting, design and materials of construction); and (2) the carbon dioxide emissions associated with entirely new construction. *See* Department of Defense, Environmental Security Technology Certification Program, *Demonstrating the Environmental and Economic Cost-Benefits of Reusing DOD's Pre-World War II Buildings* (2013). Furthermore, The National Trust's Green Lab publication, *The Greenest Building: Quantifying the Environmental Value of Building Reuse* (2011), contributes additional scholarship to this issue, which the VA should apply to its analysis of the BMS site. For example, "building reuse almost always yields fewer environmental impacts than new construction when comparing buildings of similar size and functionality," and environmental "savings from reuse are between 4 and 46 percent over new construction when comparing buildings with the same energy performance level." National Trust for Historic Preservation Green Lab, *The Greenest Building: Quantifying the Environmental Value of Building Reuse* iv (2011). **e. The environmental justice discussion erroneously states that there will not be disproportionate effects on minority or low income populations, if the preferred alternative is implemented.** Council on Environmental Quality (CEQ) guidance on Executive Order 12898, as well as the accompanying *Memorandum of Understanding on Environmental Justice and Executive Order 12898*, explains that "[a]gencies should consider the composition of the affected area, to determine whether minority populations, low-income populations, or Indian tribes are present in the area affected by the proposed action, and if so whether there may be disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, or Indian tribes." This approach looks at actual effects, not on whether the action is *intentionally* targeting these populations to their detriment. Council on Environmental Quality, *ENVIRONMENTAL JUSTICE: Guidance Under the National Environmental Policy Act* 9 (1997). It appears that the VA agrees that there is both a disproportionately large number of minority and low-income veterans in the BHHCS service area, compared to the state as a whole. This data includes the fact that 23.9% of the population in the service area is below the poverty level, as compared to 14.1% of the state's population as a whole, and that the service area's minority population is 27.9%, as compared to 17.6% statewide. DEIS at 194-195. Furthermore, specific counties in the service area, particularly within tribal reservations, suffer from extreme poverty, ranging from 33.3% to 53.2%. *Id.* Therefore, any changes in the BHHCS system will disproportionately impact this population. It is also important to recognize that this population should be of particular concern to the VA because, "according to the VA Office of Tribal Government Relations, Americans and Alaska Native Americans have one of the highest representations in the armed forces when compared to other groups." The American Legion, *A System Worth Saving Report on Rural Healthcare* 75 (2012). 12	CP 11-14	CP11-14. This EIS analyzes impacts from the alternatives for the physical facilities from which health care services are offered, not impacts from changes in the health care services although VA understands it is difficult to separate the two. Impacts from construction and direct impacts from operation of the proposed physical facilities are not expected to disproportionately affect minority and low income populations because neither county where construction and operation would occur has a disproportionate share of these populations. The environmental justice concerns referred to in the comment are more tied to the change in health care services being proposed which are not subject to NEPA review and analysis in this EIS. Nonetheless, VA notes that outpatient services continue to be provided in Hot Springs (on the existing campus under Preferred Alternative A-2). Veterans' inpatient, long-term care, surgical and urgent care services previously provided in Hot Springs would be discontinued and Veterans would have more options available to purchase care (at VA expense) from non-VA health care providers which, in most cases, would provide care closer to Veterans' residences. Relocation of the RRTP to Rapid City could result in more travel for those Veterans who live in the Hot Springs area (and points east and south), including Native American Veterans. However, VA

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We do not understand how these demographics were taken into account when the VA reached its conclusions that first, "operational impacts of the reconfiguration would occur predominantly in the areas of Hot Springs (Fall River County) and Rapid City (Pennington County). Neither of these counties was defined as having a minority or low-income populations; thus, environmental or health impacts would not be disproportionately borne by any environmental justice community." DEIS at 333. Second, the DEIS then states that, "for Veterans who are closer to Hot Springs than Rapid City, the change in location of the VA's RRTP services from Hot Springs to Rapid City under Alternative A is the only service for which the distance would increase" but does not actually analyze the demographics of the affected population. Is this population - "veterans who are closer to Hot Springs than Rapid City" - made up of minority or low-income veterans who would therefore be disproportionately affected? The framing of this argument is flawed, e.g.: "we will impact everyone in the same way, but we don't know what populations live closer to Hot Springs than Rapid City and use RRTP, so it must not be an environmental justice population."

We encourage the VA to reconsider its approach to this section of the DEIS. Instead of the current flawed analysis, the VA should consider the actual population within the service area that its proposed action will affect – substantially minority and low-income people, in contrast to the state population as a whole - and should respond accordingly.

Another aspect of environmental justice that has not been addressed in the DEIS is the CEQ guidance principle that "[a]gencies should recognize the interrelated cultural, social, occupational, historical, or economic factors that may amplify the natural and physical environmental effects of the proposed agency action. These factors should include the physical sensitivity of the community or population to particular impacts; the effect of any disruption on the community structure associated with the proposed action; and the nature and degree of impact on the physical and social structure of the community." Council on Environmental Quality, *ENVIRONMENTAL JUSTICE: Guidance Under the National Environmental Policy Act* 9 (1997).

Long before the VA came to Hot Springs at the turn of the 20th century, Native Americans gathered at the area's healing waters. This area was, and still is, of significance to tribal people, as evidenced by the large number of tribal veterans that are treated at BMS and important features like the sweat lodge that are part of the site designed to accommodate traditional native practices. At the public meetings on the DEIS, we heard tribal members (particularly from the Oglala Sioux) express strong opposition to the VA's preferred alternative, and grave concerns about the impacts they will suffer due to the closure of BMS, including the loss of association with a location long related to tribal use, and increased travel distances to Rapid City as compared to Hot Springs, therefore incurring greater out-of-pocket travel costs and financial hardship. While this impact would vary based on the location of specific veterans' residences, tribal residents of Pine Ridge, SD now travel 64 miles to Hot Springs, and their trip would increase to over 90 miles if they must go to all the way to Rapid City. The speakers concerned with this issue did not agree with the VA's assertion that "improved geographic access to health care . . . would be available throughout the catchment area . . . ." DEIS at 332.

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CP11-14 response cont'd:

data show that Veterans who receive treatment at the RRTP come from all over the country, with only 40 percent living in the BHHCS service area and approximately 25 percent of the total equally split and residing in Fall River and Pennington Counties, South Dakota. While the race and income levels have not been analyzed, the wide distribution of RRTP Veterans would indicate there are no environmental justice issues relating to the proposed relocation of the RRTP to Rapid City. See additional RRTP data added to Exhibit 1 of Section 1.2.2.5 of the Final EIS.

With respect to concerns expressed for the care received by Native Americans, these are also beyond the scope of this EIS to address. However, Native American Veterans would have the choice, under all the alternatives, to use either a VA or IHS system for their care as a result of a national Memorandum of Understanding that has been established between VA and Indian Health Service. They would also still be able to receive primary care through the new CBOC in Hot Springs. Some level of travel assistance would continue under all the alternatives. This has been noted in the Final EIS (Section 2.1).

Finally, see related response provided in Section E.3.1 of Appendix E, relating to geographic access and distance travelled concerns.

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Furthermore, the Standing Rock Sioux, Rosebud Sioux, Oglala Sioux, and Cheyenne River Sioux Tribes, as well as the National American Indian Veterans, Inc., have all adopted formal resolutions in opposition to the proposed closure. In their resolution, the Oglala said, "Oglala Sioux Veterans living on the Pine Ridge Indian Reservation will have to go much farther to obtain certain services from the Veterans' Administration if those services are not available at Hot Springs, and this will cause undue and unwarranted and increased mental, physical, and financial hardship among those Veterans and their family members." Standing Rock's resolution observed that "[c]losure of the Hot Springs VAMC will bring hardship and a barrier to health care for our Native American Veterans. Veterans are on a limited income and travel is an issue." How are these serious tribal concerns, including changes to traditional practices, and financial impacts, being addressed under the principles cited immediately above? **f. The VA has failed to adequately analyze cumulative and indirect effects.** The analysis of cumulative and indirect effects (discussed in the DEIS at Sections 3.16 and 4.16) is inadequate, because the VA does not consider the full scope of possible types of cumulative and indirect effects that this project could cause. This approach is contrary to the definitions of cumulative effects in both NEPA and Section 106. At 40 C. F.R. § 1508.7, the NEPA regulations state that a "cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions *regardless of what agency (Federal or non-Federal) or person undertakes such other actions* (emphasis added.) Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." NEPA "effects" include both (a) Direct effects, which are caused by the action and occur at the same time and place, and (b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems. 40 C. F.R. § 1508.8. Meanwhile, the Section 106 regulations define adverse effects as "reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative." 36 C.F.R. § 800.5 (a)(1). Based on these legal standards, the list of past, present and reasonably foreseeable projects that could cause cumulative impacts is inadequate. DEIS at 199. With minor exceptions, the sources of information are limited to federal or state governmental actions. Why does that list only include governmental data sources and in-person observations? DEIS at 199-201. This list does not meet the NEPA or NHPA definition of cumulative effects cited above. In addition to our concerns about the inadequate list of projects that could contribute to cumulative impacts, we also believe that the DEIS considers an improperly narrow range of 14	CP 11-15	CP11-15. The cumulative impact analysis has been expanded in the Final EIS (Section 4.16) to address the past economic decline in the region as past actions/trends that can affect the local and county/regional economy in combination with the proposed reconfiguration. The updated analysis also includes an evaluation of potential impacts from a newly proposed national call center which would be located in Buildings 3 and 4 of the existing Hot Springs campus. See related response in Table E-2 in Appendix E (Category Impacts, Cumulative Impacts), and revised Sections 3.16 and 4.16 in the Final EIS. The cumulative impacts analysis also has been expanded to include the recent renovations at Fort Meade, even though they are not part of the proposed reconfiguration. See related response in Table E-2 (Scope, Inclusion of Fort Meade; and Impacts, cumulative impact analysis). The surgical tower's recent construction was in response to updated VA Best Practices. At present, VA does not anticipate any changes to the physical

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specific cumulative impacts and their environmental consequences in Section 4.16. It appears that the information cited in this section is not in synch with other information in the document, and we disagree with the narrow analysis presented here.

First, the VA excludes any changes at Ft. Meade from the cumulative effects analysis because the agency continues to assert that changes at Ft. Meade "related only to the offering of specific health care services from various locations." DEIS at 335. This statement simply ignores the fact that a new surgical tower is presently under construction and is the physical evidence of the VA's system-wide changes. The approval and construction of the tower is clearly a past action that has occurred within the service area, yet it is improperly omitted from the cumulative impact analysis. Furthermore, there is no discussion about the future of Ft. Meade and the possibility of reasonably foreseeable additional changes beyond what is already under construction.

While the VA BHHCS was a source of data about potential projects that could contribute to cumulative effects, no VA project is actually cited as doing so. We became aware through the public comment process that the VA has continued to reduce services at BMS while planning for (if not executing) projects at Ft. Meade to accommodate "transer (sic) of services from Hot Springs to Ft. Meade." FY13 SCIP submission number VHA23-568-2013-11933. Why have changes at Ft. Meade, and other ongoing changes in the system, not been included in the cumulative effects analysis? Those actions, along with the preferred alternative, meet the cumulative effects definition of "incremental impact of the action when added to other past, present, and reasonably foreseeable future actions." In addition to the new Ft. Meade surgical tower, we have personally observed that the VA has made facility-related changes to implement its service changes such as vacating portions of the Hot Springs hospital building because services were moved to Ft. Meade. The VA's failure to include these actions in the cumulative impact analysis is improper.

Next, it is stated that cumulative effects from changes to community services or environmental justice will be "absent, negligible or minor." *Id.* We strongly disagree. The likely local economic decline caused by the loss of jobs, and related implications discussed above, is ignored in this section, as is the matter of environmental justice, which the VA seems to believe does not exist at all.

The DEIS states that there could be a cumulative indirect effect on the Hot Springs Historic District caused by changes to the BMS campus, such as renovations, new construction or aesthetic changes, because of the creation of "substantial contrasts." We agree. But the DEIS ignores the fact that changes to the BMS campus via the implementation of the preferred alternative would cause a cumulative effect through the reduction of community economic activity, resulting in neglect and deterioration of the same historic district. The DEIS states that there would be "no impacts to the economies of Hot Springs or Rapid City from changes in employment under any reconfiguration alternative that, together with changes to employment associated with other development projects, could result in significant cumulative indirect effects to historic properties." DEIS at 335. This ignores the "major" impacts from the loss of employment and wages cited. DEIS at 277. We do not understand how employment loss caused by implementation of the preferred alternative

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CP11-15 response cont'd

plant of the VA Fort Meade campus as a result of any of the proposed alternatives. This has been explained in Section 1.1.2.1 of the Final EIS. VA routinely shifts, expands, and contracts services in response to patient loads and staffing. These changes are not in response to the proposed reconfiguration, but symptomatic of the purpose and need of the proposed action.

The buildings and structures of the Fort Meade VAMC are sufficient to handle any changes to the patient loads as a result of the proposed reconfiguration.

The socioeconomic impact analysis has also been revised in the Final EIS (Section 4.10) to address local impacts on the Hot Springs community and recognizes the potential for significant impacts.

VA is aware of the importance of VAMC jobs to the local Hot Springs economy and the potential impact of economic difficulties on the downtown commercial buildings. Under the preferred alternative, VA is seeking to avoid these impacts through implementation of Supplemental Alternative G. Reuse of the campus has the potential to avoid and/or minimize economic difficulties and therefore long-term impacts to the buildings of the historic district. The preferred alternative

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will be offset by employment gain associated with other development projects. This is not borne out in the statistics cited in the document about likely employment, wage and population loss. Where is that employment gain coming from? What are these "ongoing and planned construction projects"? DEIS at 335. The DEIS provides no substantiation for these conclusory assumptions.

Section 4.16 also summarily discusses the cumulative effects of land use in one short paragraph, but fails to address issues like creation of and contribution to sprawl development, or consumption of open space, or induced growth, as directed by the NEPA regulations. 40 C.F.R. § 1508.8. DEIS at 336. For example, if Alternative A were implemented in a sprawling area of Rapid City, as planned, all of these cumulative impacts come into play.

Furthermore, all socioeconomic conditions described suggest growth that *could* result from the project, but overlook that the planned project is cumulatively contributing to increased unemployment, population decrease, business loss, and increased building vacancy. An inconsistency exists between this analysis and that of Section 4.18, which says that socioeconomic impacts, including the loss of Full Time Equivalent Employees (FTEEs) and wages, are unavoidable adverse impacts. By contrast, the cumulative impacts section concludes that there will be *no* cumulative or indirect impacts from reductions in employment and local wages. DEIS at 338.

In sum, the DEIS under-analyzes the effects it does include, and there are cumulative effects that have not been identified at all, including additional impacts to the downtown historic district, loss of businesses leading to the neglect of buildings, changes to Ft. Meade, changes to the provision of services because of the use of third-party providers, and other private actions such as changes to the Fall River Hospital. The VA must revise its analysis of cumulative effects in order to comply with NEPA and Section 106 requirements.

g. The DEIS understates the economic impact that the closure of BMS will have on the local economy.

Throughout the DEIS, the VA has understated or failed to identify all reasonably foreseeable impacts on local employment, wage and local tax generation, sales taxes, etc. In fact, the implementation of the preferred alternative would be devastating to the Hot Springs and Fall River County economies. There were many concerns raised during the scoping period regarding socioeconomic effects, and those have not been adequately responded to or addressed in this section. *See* DEIS Appendix D-16 for a list of these concerns.

CP 11-16

1. Overall Economic Impact

The overall benefits of Alternative A to the much larger Pennington County economy would merely result in negligible increases in employment and wages. DEIS at 277. In contravention of various policies, including *VA Directive 0066*, which tells the agency to give priority to locations in "rural town centers to strengthen the vitality or livability of the

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CP11-15 response cont'd:

also has the potential to minimize the economic impacts by retaining some VA healthcare services on campus. VA further mitigated effects to the Hot Springs Historic District in the Measures to Adverse Effects described in Section 5.2.

CP11-16: As indicated in CP11-15 response above, the socioeconomic and cumulative impact analyses in the Final EIS (Sections 4.10 and 4.16) have been significantly revised to address potential economic impacts from the proposed reconfiguration on the local and regional community and economy; and the addition of a proposed new national VA pharmacy call center in Hot Springs would bring in 120 new jobs to help offset some of the potential economic losses resulting from the proposed reconfiguration.

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communities in which federal facilities are located," the preferred alternative has the potential to devastate a small, rural economy in exchange for providing only a very minor benefit to a larger economy. VA Directive 0066 at 2.d(3)(c) (2012).

2. Employment

The VA is the principal employer in Hot Springs, with 357 FTEEs. Of these, 266 are Fall River County residents working at BMS and six more work at Ft. Meade. DEIS at 155. The implementation of the preferred alternative could lead to a 7.5% reduction in the employment rate and increase in unemployment by 7.2%. DEIS at 276. The VA says this could be minor to moderate, depending on whether the people who lose their jobs re-enter the workforce or retire. We believe this dramatically understates the local economic impact.

It is likely that the loss of 290 FTEEs in Hot Springs, which has 1,608 residents in the civilian workforce 16 years or older, will affect more than 290 individuals because some employees included in the FTEE count work part time. *See:* American Community Survey 2010-2015 5-Year Estimates. This loss of 290 FTEEs, of which 266 are residents of Fall River County, results in a 17% loss of employment in the local workforce. A community of 1,608 workers will not easily be able to absorb this substantial loss.

Many of the jobs lost will likely be in the "healthcare practitioner and technical occupations" fields, which have a significantly higher than average salary when compared to the rest of Hot Springs ($42,000 and $31,000, respectively). Additionally, these jobs are primary-level jobs – they generate additional spending and need for services within the economy. A loss of 290 FTEEs in healthcare sectors will likely result in the loss of additional economic activity. Communities that have lost substantial portions of their workforce have dealt with issues of home foreclosures and local government budget shortfalls, which are reasonably foreseeable consequences of such a dramatic reduction in jobs. *See:* www.businessinsider.com/r-sewage-flow-becomes-willistons-oil-bust-indicator-2015-8.

In addition, data in the DEIS at page 277 says Alternative A would lead to $76.7 million in lost wages for Fall River County, a major impact, but that could purportedly be reduced through retirements, buy-outs, and voluntary separations, which would then result instead in a supposedly moderate impact compared to the criteria on page 271. We do not see how reliance on possible retirements can be used to reduce the impact from major to moderate, especially when the VA offers no data to support the contention that there will be retirements or other separations sufficient to reduce this impact. What plan does the VA offer to ensure that these major impacts can be moderated?

We note that the preferred alternative is the most harmful to local employment, and the only alternative positively impacting this issue is Alternative E, which, in addition to reusing historic buildings, also has major positive impacts for the Hot Springs economy in both wages and employment.

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3. Community Service and Tax Impacts Here again, Alternative A has negative sales tax impacts to Fall River County, while offering only negligible benefits to Pennington. DEIS at 295. The DEIS also contends that there will no change in property taxes collected because it is assumed that, regardless of occupancy, the taxes would be paid. DEIS at 293. No data is offered about current housing vacancy rates in Fall River County or Hot Springs. We find it hard to believe that the loss of 290 employees would not result in any change in property ownership, and that potential loss in property values from the closure of BMS and the related loss of employment would not then translate to potential loss of property tax revenue, which in turn could impact the vitality and availability of various services. DEIS at 293. Rather than contributing to the vitality of rural communities, Alternative A would instead contribute to a continuing decline in population of up to 2.9%, further expediting a negative trend. This overall loss of population, and of resident and non-resident employees (who do things like buy gas and lunch in Hot Springs), would result in what the VA describes as a negligible decrease in sales tax revenue. However, that supposedly negligible decrease is not actually quantified in the document. DEIS at 294-95. Furthermore, while possible reduction in school age student populations would be relatively small, the action the VA proposes would exacerbate impacts to local schools, whose population has already been in decline for the past five years, arguably as a result of the reduction of services and staff at BMS. DEIS at 162. We are also concerned that a new facility in Rapid City built pursuant to Alternative A would add 2,958 daily vehicle trips to area roadways, contributing to sprawl and exacerbating traffic congestion, which the document acknowledges to be an adverse effect. Contrary to *VA Directive 0066*, contributing to sprawl and traffic congestion via the construction of new buildings outside of downtowns does not "maximize use of existing resources" by prioritizing (1) areas that are currently well-served by water, sewer, and other relevant public infrastructure, and (2) brownfield/grayfield and infill development, including historic districts. VA Directive 0066 at 2.d(3)(a-b) (2012). Additionally, at public meetings held on the DEIS, Hot Springs Mayor Cindy Donnell raised concerns about the VA's analysis of the use of the City's wastewater treatment plant and the impact that abandonment of the BMS campus could have on the viability of this facility. Mayor Donnell stated that the VA had not properly analyzed this issue, and we encourage the VA to work with the City to better understand and describe the impacts this could have. DEIS at 187.	CP 11-16 CP11-16 cont'd: Regarding concerns over impacts on the wastewater plant, VA's selection of A-2 as the new preferred alternative will give VA a continued presence on the campus which would allow greater flow to continue from the campus; see updated analysis in Section 4.14 (Utilities) of the Final EIS. Also, the proposed new national call center would bring an additional 120 employees onto the campus to lessen the impacts on flow and help further reduce potential adverse effects on the wastewater treatment plant.
h. The project has generated and will continue to generate substantial controversy. The DEIS substantially understates the controversy surrounding this project. A more objective disclosure of the facts would have acknowledged the nearly universal opposition to the VA's preferred alternative, as borne out in testimony at well-attended public meetings, written comments, resolutions from groups such as the tribes, The American Legion, 18	CP 11-17 CP11-17 (5h): VA agrees that this project has garnered substantial attention from stakeholders but opposition to the project has not been universal. Comments from members of the public are included in Appendix E.

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congressional correspondence and media coverage. Rather than recognizing this, the document asserts that opposition was based on a misconception about whether or not the VA would discontinue all services in Hot Springs. This is not the root of the public opposition. DEIS at 337.

i. A transparent, durable and meaningful mitigation package should have been developed and included in the DEIS.

CP 11-18

In our view, the statement on page 343—which says "mitigation also includes resolution of adverse effects identified through the integrated National Historic Preservation Act (NHPA) Section 106 consultation process"—should be reworded to better synch with the definition in the Section 106 regulations for resolution of adverse effects. The regulations require the agency to "develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize or mitigate adverse effects on historic properties." 36 § C.F.R. 800.6(a). We restate our request that the VA document the outcome of the Section 106 process in a binding programmatic agreement, rather than pursuing its current plan to just include mitigation measures in the Record of Decision.

We believe a community benefit agreement that includes mitigation measures to address the "unavoidable adverse impacts to some local economies of the VA BHHCS service area" should be developed. DEIS at 338. The DEIS at 347 says these impacts *could* be minimized by retirements, buys-outs, retraining, etc. but there is no proactive commitment offered by the VA as to how the agency would ensure that these impacts *are actually* minimized. Will the VA be providing retraining for community members? The VA should look to DOD community BRAC agreements or to other Section 106 agreement documents for models. Issues to be covered could include community preservation funding, economic development and heritage tourism support, job training, offering local governments a role in the possible reuse of the BMS campus, etc.

The City of Hot Springs, Fall River County, and Tribal governments should all be contacted directly for their feedback on these issues.

j. The DEIS does not demonstrate compliance with local land use plans.

CP 11-19

The DEIS correctly states that the preferred alternative is not in compliance with the Hot Springs Comprehensive Plan, which says that BMS "should continue to play a major role in the economic vitality of Hot Springs [and] will continue to grow in size and importance." DEIS at 138. While it is appropriate to recognize the dissonance between the VA's preferred alternative and the land use plan, it is disappointing that the VA cannot seek an alternative the supports the city's plan, rather than completely undercutting it.

k. The data in the DEIS about patient volume, services, and travel distance are suspect.

CP 11-20

The VA's fundamental premise for the proposed reconfiguration is based on a desire to move away from a rural location in favor of a relatively more urban one, which is the

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CP11-18: See Group Response in Table E-2 of Appendix E relating to Cultural Resources and Historic Properties and Mitigation. Information regarding all mitigation measures is available in Chapter 5 of the Final EIS. VA will codify its mitigation commitments, including measures to resolve adverse effects to historic properties, in the ROD rather than a programmatic agreement.

CP11-19: VA notes that with its selection of A-2 as the preferred alternative and the new VHA national pharmacy call center now proposed for Buildings 3 and 4 on the existing campus, VA will continue to have a continued presence on the campus and will work hard to identify other uses for the campus, consistent with the local land use plan.

CP11-20: VA used the most up-to-date information available. The agency is responsible for Veterans health care nationwide and continually compiles data from all facilities about volumes and services, including travel.

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region's most populous market with 70,000 residents. However, 41% of the veterans enrolled in the VA live in rural and highly rural areas, and this number is expected to increase. These veterans make use of the VA's services. Of the 3.4 million rural veterans enrolled in the VA, 2.2 million were treated in 2010. The American Legion, *A System Worth Saving; Report on Rural Healthcare* 4 (2012).

It is difficult to determine how various projected population trends will impact the VA's patient volumes and service demands, and whether these predictions will come to pass. For example, the DEIS says that in all counties in the service area except for those in Nebraska, population is expected to increase. DEIS at 149. However, while the veteran population is predicted to decrease, the percentage of those needing healthcare will increase. *Id.* at 150. Can these assertions be relied upon, and do they support the need to close BMS? We think not. In early VA analysis of the reconfiguration, the VA stated that, "[t]he Veteran population in the market was 30,305 in 2010 and is projected to decline to 28,236 by 2015." VA BHHCS, Financial Analysis: Proposed Reconfiguration of VA Black Hills Health Care System 3 (2012). By the time the DEIS was published, that information was no longer accurate, and in fact, by October 2015, "[t]he Veteran population projection in the VA BHHCS service area for the fiscal year ending September 30, 2014 (FY 2014) was 35,007 Veterans. DEIS at 192. Another instance of the VA's projections proving to be unreliable can be seen in the number of Veterans projected to use the system. In 2012, the VA estimated in its *Financial Analysis* that this number would decline to 16,492 by 2015. However, the DEIS at page 192 says this number is presently at 19,000. *Financial Analysis* at 3. This represents a substantial error.

The VA likes to claim that services, and therefore facilities, are underutilized at BMS, and particularly favors the statistic that "[t]he Hot Springs VAMC has a low inpatient census, averaging 5 patients in the 10 available beds." DEIS at 22. This and similar data offered about underutilization presents the classic chicken and egg dilemma. Are there fewer patients because there are fewer services offered? Did the VA's systematic effort to reduce services over the past 20 years make it impossible to serve larger numbers of patients than are being served today?

While the VA says that it wishes to decrease patient travel times as part of its purpose and need statement, other evidence, such as the tribal resolutions, indicate that the closure of BMS will lead to *longer* travel times, especially for Native American veterans and those travelling from the south and east who will have to travel through Hot Springs en route to Rapid City.

VI. Comments on Specific Alternatives

a. Alternative A/Preferred Alternative

We oppose this alternative because it would close BMS, build a new CBOC in Hot Springs, and build a new MSOC and RRTP in Rapid City, discontinuing all VA use of the campus. We do not understand why continued use of existing buildings for the CBOC could not be a part of this alternative. If the proposed new CBOC could be "constructed under contract to

CP 11-21

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CP11-21. VA notified historic properties consulting parties of the addition of A2 at the January 2016 consultation meeting. It was offered by the historic property consulting properties, was analyzed in the Final EIS and VA has been selected as its new preferred alternative.

VA has noted your comment regarding Alternative A.

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VA on land purchased by VA, or an existing building modified or new building constructed . . . by a developer who would enter into a long-term lease with VA," DEIS at 37, why could that not be done at the existing BMS campus in an existing building? Verbally, at the Section 106 consultation meeting on February 17, 2016, the VA stated that it would add an alternative (named A1 or similar) to consider the CBOC in existing Building 12. While we appreciate that minor concession, this alternative remains completely objectionable.	CP 11-22	CP11-22. VA has noted your comment regarding Alternative B. The statement that Alternative B met purpose and need in the Draft EIS was actually in error. It was found not to meet purpose and need primarily because of the RRTP's location in Hot Springs. This has been clarified in the Final EIS (Section 2.3.2).
b. Alternative B We also oppose Alternative Bfor the same reasons as Alternative A. Again, we object to the fact that BMS would be abandoned, when we believe it to be feasible from a technical and financial standpoint to accommodate a CBOC and RRTP in existing buildings on the BMS campus. We also reiterate that this alternative meets the purpose and need and keeps two uses in Hot Springs (albeit in new buildings), while building a new MSOC in Rapid City. If geography is a key barrier to meeting the purpose and need (as discussed above), then why does this alternative meet it and the next one does not?	CP 11-23	CP11-23. VA utilized some analysis of Alternatives A1 and C in considering the details of Alternative A2 following its suggestion by consulting parties. VA has revised the descriptions of alternatives to clearly indicate why they do (or do not) meet purpose and need. See revised Section 2.3.3 in the Final EIS for Alternative C.
c. Alternative C While the VA does not believe this alternative meets the purpose and need, we disagree. In our view, this alternative should be carried forward because it would keep a CBOC at BMS in Building 12, would use various existing buildings for the RRTP at BMS, and would build a new MSOC in Rapid City. While the VA says it does not meet the purpose and need, the DEIS says "the existing space in the patient ward can accommodate 110 beds while adhering closely to the desired recovery model of care," and that "accessibility standards could be met by modifications," which would require evaluation and study to be sure that historic features are not destroyed. DEIS at 45. This sounds to us like the purpose and need can be met. In our view, making the necessary accessibility accommodations is far preferable to closing the entire BMS facility, even if it could result in an adverse effect. We read nothing in Section 2.3.3 that leads us to believe this alternative cannot meet the VA's goals and the goals of the historic preservation community. Accordingly, we support this alternative.	CP 11-24	CP11-24. VA has revised the descriptions of alternatives to clearly indicate why they do (or do not) meet purpose and need. See revised Section 2.3.4 in the Final EIS for Alternative D), which also addresses the split in RRTP beds between Rapid City and Hot Springs.
d. Alternative D For the same reasons stated above regarding Alternative A and B, we do not support this alternative. Again, we contend that the new construction CBOC and RRTP proposed for Hot Springs could be accomplished in existing BMS buildings rather than building new. If geography is a key barrier to meeting the purpose and need (as discussed previously in this letter), then why does this alternative – which would keep a CBOC and RRTP in Hot Springs - meet it while Alternative C does not? If this alternative were modified to include the reuse of historic buildings, then we would support it.		
e. Alternative E We very much respect the effort that Save the VA expended to prepare this alternative for consideration and we are supportive of this alternative. However, we are concerned that the 21	CP 11-25	CP11-25. VA has revised the scope of Alternative E (and subsequent analysis) in the Final EIS in response to comments (and input) provided by Save the VA. VA still maintains that Alternative E does not fully meet purpose and need, as explained in Section 2.3.5 of the Final EIS.

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DEIS' analysis diverges from material contained in Save the VA's submission and we seek clarification about why the VA elected to modify it in the DEIS.	CP 11-26 CP11-26. VA has noted your support of Alternative F following issuance of the Draft EIS.
We were disappointed to see that the VA says that failure to meet the recovery model of care is the main reason why the purpose and need cannot be met. However, other language in the document contradicts that assertion, for example, the statement in analysis of Alternative E: "VA has determined that Building 3 through 8 can be renovated to accommodate a total of 110 patients and still *maintain the recovery model of care*." DEIS at 54 (emphasis added). This suggests that the recovery model of care has already been attained, so why does the VA say this doesn't meet the purpose and need and that the recovery model of care cannot be satisfied when it already is?	CP 11-27 CP11-27. See group response in Table E-2 of Appendix E (Category Alternatives, Alternative G). VA also notes that a new VHA national pharmacy call center has been proposed for the Buildings 3 and 4 on the existing campus. This would seem to provide a good start, and evidence of VA's commitment, to finding additional uses of the campus.
f. Alternative F	
We agree that this is the environmentally preferred alternative, and we would support the VA proceeding with this alternative. The analysis included here reinforces points we believe to be true, including that the VA now maintains appropriate clinical standards at BMS and can continue to do so, that maintenance and use of historic buildings would continue, and that employment would be maintained a similar levels. All of these would be positive outcomes for the VA, the veterans, and the Hot Springs community.	
g. Supplemental Alternative G	
We are highly skeptical that this alternative could possibly unfold in the way that it is described in the DEIS. We base this conclusion on the VA's track record at numerous campuses around the country, where dismal outcomes have adversely affected historic properties over the last 30 years. We have no confidence that the VA will ensure that the campus is not left to deteriorate without a new use, as has happened at other VA sites, including the Milwaukee Soldier's Home NHL, the Leavenworth NHL, and Fort Howard.	
Assuming, for the sake of argument, that Alternative G is feasible, the DEIS lacks information about how Alternative G would be accomplished. While there are authorities for building reuse, the VA is very weak in its implementation of those authorities, and we know of no successful reuse plans beyond the Eisenhower Leavenworth VA Campus. DEIS at 58.	
The VA says it will mothball the facility. This section needs much more detail. DEIS at 350-351. We favor mothballing as an interim solution only. How much funding is the VA willing to commit to mothballing, and for how long? The NPS suggests that there is not an appropriate blanket assumption regarding the cost per square foot for mothballing, because of the unique nature of individual buildings and geography. When will the VA prepare actual mothballing cost estimates and a plan? Please clarify the cost assumptions for mothballing, which have ranged from $1.62/sq. ft. and $5.33/sq. ft. Will there be a caretaker or a continued onsite VA presence during the mothball period?	
The DEIS states that, "if developers are sought," the VA would have goals for the development. DEIS at 58. A number of questions arise in response to this statement,	
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including: Is it possible that the VA will not seek developers? Then what? If it does proceed towards redevelopment, who is responsible for seeking the developers? Who will manage and pay for the real estate effort? What will happen if no developer is found? What will happen if the entity(s) that is found is slow-moving or drops out? What can be done to prepare the facility for reuse? All of these are questions that should be answered before the VA decides to select this option.

We believe that the likelihood of finding a single "savior" for the property is very remote. We investigated the results of the solicitation of interest described in the DEIS on page 60 and determined that the only respondents were several national firms who probably reply to every solicitation of this type and none expressed specific interest in this campus. The VA also talks about the Medical Miracle submission it received as a possible reuse. Has the VA investigated the Medical Miracle idea beyond the submission that is described in the DEIS?

VA staff have suggested that there may be other prospective local, state or federal government users of the campus, including other VA uses beyond the VHA. We know this has happened at other campuses such as Leavenworth, where a major EUL tenant ended up being the VA consolidated patient accounts processing center, even though the VA claimed it had no use for the buildings. It turns out they did. What are other possible VA uses at Battle Mountain and what is the process for considering whether those would be appropriate here?

Other specific operational matters that have arisen at other campuses, like how would the VA water right licenses potentially impact reuse, and how would the connected heating supply affect reuse, also need further investigation, as well as identifying other potential barriers to reuse and solutions to resolve those. DEIS at 186.

In summary, we are unwilling to rely on speculation about such an important matter as the possible abandonment of the BMS campus and whether it may be feasible to find an entity or entities to reuse it. To us Alternative A with supplemental Alternative G is the worst possible option because it not only abandons the campus, but it leaves the National Historic Landmark buildings completely at risk and their future subject to the remote possibility that someone will come along to save the day and ensure their future. We are dubious that a reuse can be found, and certainly not in the short term. Therefore, the property will likely remain vacant and deteriorated as has repeatedly occurred at other historic VA campuses.

Before continuing with Alternative G, data must be gathered to help understand the nature of the market for reuse and the actual viability of the VA's alternative, as well as a realistic and implementable plan to address this issue. We have asked the VA to proceed with this study on two occasions. Once, the agency said it would be considered, and the second time, the agency said it would be premature to address it now. We disagree. Without this information, the VA is unable to evaluate the feasibility of this alternative. While this information was not included in the DEIS, the VA is obligated to seek this information and include it in a supplemental EIS, because it "is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant." *See* 40 C.F.R. § 1502.22(a).

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CP 11-28 **VII. The Section 106/NEPA substitution process was flawed, and resulted in inadequate and incomplete consultation.** From the beginning of this consultation, all parties, including the ACHP, SHPO, the National Trust, and other consulting parties, all disagreed with the VA's plan to pursue "NEPA Substitution" under 36 C.F.R. § 800.8(c), and believed it to be ill advised. As we said in a 2011 email, "this approach should be reserved for an agency with a track record in successful compliance with both Section 106 and NEPA. The VA does not fit that bill." As anticipated, the VA has confirmed its lack of experience in this arena and carried out a process fraught with miscues, short on information and utterly lacking in meaningful consultation. **a. The DEIS mischaracterizes the current status of the Section 106 process.** We disagree that the VA has proceeded far enough with Section 106 consultation to support the statement that, "Consultation and identification and resolution of adverse effects to historic properties are documented throughout this EIS." DEIS at iii. Prior to the release of the DEIS, the VA held three consulting parties meetings. These "consultations" were laden with mismanagement including non-functional conference calls, inconvenient meeting scheduling, and facilitators who prevented consulting parties from discussing concerns about even the most preliminary matters, such as the definition of the Area of Potential Effects. At no time during this period were any conclusions reached about the "resolution of effects to historic properties," as stated above. *Id.* Furthermore, it is a stretch to consider the meetings "consultation," as defined in the Section 106 regulations, and we do not agree that all four steps of Section 106 have been satisfied as portrayed in the DEIS at 361. The summary chart of effects to cultural resources and historic properties does not consider effects within the overall APE, even as drawn narrowly by the VA prior to the consultation meeting of January 21, 2016. For example, there is no discussion about effects on the downtown historic district or on the possible TCP. The DEIS also fails to explain the meaning of "Off Campus Effects," which are broadly characterized as "ground disturbance" or "construction." DEIS at xxix. Since we have been told that no new locations for construction have been identified, how can it be known that "sites will be compatible with and not substantially conflict with current or planned future land use, etc.?" DEIS at xxxiv. We disagree with the description in the DEIS regarding where we are in the process of Section 106 review process. For example, we dispute that, "[i]n consultation with SHPO, ACHP, NPS and other consulting parties, the VA developed mitigation measures to resolve adverse effects to historic properties." DEIS at 25. As of the publication of the DEIS, we had not even come to an agreement about the definition of the Area of Potential Effects, let alone reaching the final step of Section 106 compliance by resolving adverse effects. Moreover, we certainly did not reach agreement that mitigation measures were to be adopted to resolve adverse effects, when we had not even agreed upon what those adverse 24	CP11-28. See group response in Table E-2 of Appendix E (Category Integration of NHPA Section 106 Process, NEPA/NHPA process) relating to comments about a flawed and ineffective process.

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effects would be prior to the issuance of the DEIS. More specific comments regarding the four steps of the Section 106 review process follow:

i. Initiate the Process

The DEIS does not adequately describe the undertaking at issue here. We ask the VA to revise this, consistent with our discussion at the consultation meeting on January 21, 2016. We discussed at that meeting that there was a "mismatch" between the project definition (reconfiguration of the BHHCS) and the APE (excluding Fort Meade), which should also be remedied in the Final EIS.

The VA says that it arrived at an APE and decided that "no connected actions have been identified at other locations within the service area where effects from the proposed reconfiguration would extend . . . thus . . . no expansion is made to the APEs . . . to include the Fort Meade Campus." DEIS at 80.

We point out that there is nothing about "connected" actions in the APE definition. Rather an APE is, "the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties . . . ." 36 C.F.R. § 800.16(d).

If the undertaking is defined as reconfiguration of the BHHCS and the dictionary definition of a system is "a set of connected things or parts forming a complex whole" then why is Fort Meade excluded from the APE and the DEIS? We note that, at the January 21, 2016 consultation meeting, the VA verbally agreed to change the APE, and we ask that it be corrected in the Final EIS.

Although the VA will not acknowledge it, we understand that changes are already being implemented by the VA at Fort Meade - services are being increased, necessitating the new surgery tower, etc., and other changes were planned such as the renovation of Building 113. The VA stated in prior year SCIP submissions that these changes are needed in part to "also provide for in-patient acute medicine and acute surgery B(ed) D(days) O(f) C(are) for transer (sic) of those services from the Hot Springs campus to the Fort Meade campus." 2013 SCIP submission number VHA23-568-2013-11933. The VA now says it did not receive the funding as requested at that time, and later modified its request and is no longer seeking funds to make this change. We believe the VA's plans to make alterations to services and facilities at Fort Meade to accommodate the transfer of services from Hot Springs, even if not actually executed, further supports our contention that the VA has already begun implementation of its preferred alternative before it has been approved.

The VA is required to consult with the SHPO on the APE (*see* 36 C.F.R. § 800.4(a)(1)). While the SHPO raised numerous questions about the APE, and a revised version was sent to the consulting parties in a packet of information for the ill-fated conference call of April 27th, 2015, it is not clear if the SHPO was consulted as required prior to the publication of the DEIS.

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ii. Identify Historic Properties

The DEIS lacks information about the identification of historic properties. DEIS at 84. We do not believe there has been consultation about how the VA is assessing the eligibility of additional properties in the APE that may not have already been listed or determined eligible for the National Register.

For example, the Michael J. Fitzmaurice State Veterans Home is in the APE but apparently only one building has been evaluated and determined eligible. DEIS at 84. We know that there are other properties more than 50 years old on that campus. What is the VA's plan to identify other historic properties in the APE?

Similar clarification is needed about the potential eligibility of the Battle Mountain Land Form, which was discussed during consultation, but we do not believe its eligibility has been resolved. DEIS at 94. How has the VA Office of Tribal Governmental Relations been communicating with tribes during the consultation, especially related to the need to identify potentially eligible sites that might not yet have been identified as significant?

We also know that the SHPO raised other questions about data related to historic property identification and possible data gaps between what was presented in the DEIS and what may be available in the SHPO database. Please remedy this discrepancy, and present accurate and corrected information about the presence of historic properties in the revised APE as part of the Final EIS.

iii. Assess Adverse Effects

In general we agree with the types of effects listed, but we do not feel the list includes *all* potential effects. For example, a list cites that physical modifications could cause adverse effects, but the closure of the campus itself (which will invariably lead to neglect causing deterioration) is not included on the list on page 222. This point is further highlighted on page 224 when the VA again declines to talk about adverse effects of campus closure, claiming "VA BHHCS would continue to maintain the campus pending transition to a new use." DEIS at 224. We know of no example where this has happened successfully, and in fact, the VA has numerous examples to the contrary. It also assumes a reuse will be forthcoming. At Leavenworth, reuse did not begin until 10 years after the buildings had been abandoned. At the Milwaukee VA, Old Main has been closed since 1988 and the VA is only now beginning its search for a party that will lease and reuse the building, 28 years after it was closed. And the VA has most certainly not maintained these historic campuses, as it promises to do here. Why should we take the VA at its word, when there is no evidence that supports their ability to do this?

iv. Resolve Adverse Effects

We disagree with the statement that the VA had an "assessment methodology [that] also provided a basic approach to determining measures to resolve those adverse effects that are common across alternatives." DEIS at 220. During the three consulting parties meetings

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held prior to the release of the DEIS, we never reached this step of the process during our consultation. We certainly never reached any such agreement, as the DEIS suggests, and while the VA unilaterally produced language to describe this step, it was not the result of consultation, as required by the regulations, which mandate that agencies "shall involve the consulting parties . . . in findings and determinations made during the Section 106 process." 36 C.F.R. § 800.2(a)(4). DEIS at 353.

While bearing in mind that no consultation on this issue took place, the list of mechanisms that the VA includes in its self-generated table is not sufficient to resolve adverse effects. This list is basically the same list for all alternatives, though we know that those effects could be different for different alternatives. The proposed list in essence restates obligations that the VA already has, and does not reach the issue of ways to avoid, minimize, or mitigate effects. Merely following existing policies like the Secretary's Standards and VA directives, conducting required surveys, following NPS recommendations, monitoring and being sure that there is a required future consultation process, are not suitable mechanisms for resolving adverse effects. Some mitigation ideas in the table that are more meritorious, but lack creativity or specific application/implementation include: develop a historic preservation plan, provide historic preservation training to and/or employ facilities staff/manager with historic preservation qualifications, and use of easements.

If we had been asked to consult on this subject we would have included ideas such as:

1. Ways in which the undertaking could be modified to avoid or minimize effects, as required by 36 C.F.R § 800.6(a);
2. Adoption of a supplemental alternative that would keep BMS predominantly open with VA uses;
3. Modification to any of the alternatives to continue VA use in multiple BMS buildings;
4. Adoption of Alternative C;
5. Commitment to protect other historic VA or area sites;
6. Commitment by the VA to study the nature and feasibility of Alterative G - using real estate expertise - *prior to* selecting this alternative;
7. Commitment by the VA to further study and implement Alternative G and, if it is not successful, to consider another solution that preserves the BMS historic properties;
8. Establishment of a Preservation Fund for Hot Springs; and
9. Support for Hot Springs heritage tourism-related businesses and business development in the historic district.

The nature of the resolution of adverse effects list included in the DEIS suggests that the VA completely misunderstands this step, as alluded to during the April 27, 2015 consultation meeting, when the facilitator said the VA is only willing to do things that are "required." Here the VA stated in the "notes" from the April 27, 2015 teleconference that adverse effects would "be avoided, minimized, and mitigated by the VA following existing federal

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regulations, directives, policies, standards or guidelines." DEIS at C-87. There would be no point in consultation if all that needed to be done was what was already "required." Furthermore, the VA has not explained how it will comply with the higher standards of NHPA Section 110(f) for National Historic Landmarks. While this standard is identified several times in the DEIS, the document does not explain how specifically "the agency official, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to any National Historic Landmark that may be directly and adversely affected by an undertaking." 36 C.F.R. § 800.10. **VIII. Conclusion** Prior to the publication of a final document, we believe that the VA is obligated to prepare a supplement to the DEIS, to reflect the changes proposed during the continuing Section 106 consultation that has occurred since the publication of the draft, including consideration and analysis of additional alternatives that would continue the VA's use of the historic buildings of BMS. Additionally, more information about a number of issues cited above – such as the need to include in the document (not in an unattached report) specific costs associated with all alternatives, and data analyzing the feasibility of Alternative G – should be addressed in a supplement to the DEIS. We restate our request that the VA document the outcome of the Section 106 process in a binding programmatic agreement, rather than pursuing its current plan to just include mitigation measures in the Record of Decision. We also encourage the VA to take comments on the Final EIS, as permitted by 40 C.F.R. § 1503.1(b). Contemporaneously with the submission of our comment letter, we have filed an objection to the VA's application of the NEPA substitution process pursuant to 36 C.F.R. § 800.8(c)(2)(ii.). We are very disappointed, but frankly not surprised, that the DEIS is deficient in so many ways, that it reiterates the decision to close BMS made in 2011 prior to environmental compliance, and does not seriously consider the continued use of a nationally significant historic campus in the service of veterans, as demanded by the veterans themselves, the local community, the national veterans' service organizations, the consulting parties, and the congressional delegation of every state in the service area. We believe there are always multiple solutions to a "problem," so it is incredibly unfortunate that the VA sees only one solution here – the closure and abandonment of a National Historic Landmark campus with a 100-year history of service to veterans. We expect the VA to respond to our numerous comments and questions in the Final EIS. Should you have any questions, please do not hesitate to contact us. Thank you for your consideration. 28	CP 11-29	CP11-29. VA does not believe the revisions to the draft EIS warrant a supplemental draft prior to issuance of the final EIS. See related response to Comment CP11-3. VA has chosen not to accept comments on the final EIS.

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Sincerely,

Amy Cole
Senior Field Officer and Attorney

Elizabeth S. Merritt
Deputy General Counsel

Attachment 1 – Accessibility Report

cc: Dena Sanford, Midwest Regional Office, National Park Service
Chris Daniel, Tom McCulloch and Reid Nelson,
Advisory Council on Historic Preservation
Stella Fiotes, Executive Director, Office of Construction and Facilities
Management, Department of Veterans Affairs
Kathleen Schamel, Federal Preservation Officer,
Department of Veterans Affairs
Doug Pulak, Deputy Federal Preservation Officer,
Department of Veterans Affairs
Ted Boling, Council on Environmental Quality
Jay Vogt, Ted Spencer and Paige Olson,
South Dakota State Historic Preservation Office
Pat Russell and Bob Nelson, Save the VA Committee

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National Trust For Historic Preservation BMS Comment Letter Attachment 1	

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STRENGTH THROUGH EXPERTISE

TREANOR ARCHITECTS

May 1, 2016

Barbara Pahl
Senior Vice President, Field Services
National Trust for Historic Preservation
Denver Field Office
1420 Ogden Street, Suite 203
Denver, Colorado 80218

RE: BMS Facility, VA Black Hills Health Care System, Hot Springs, SD

Dear Ms. Pahl,

It has been stated by some within the Department of Veterans Affairs system that the Hot Springs VAMC facility cannot be made "accessible". The National Trust for Historic Preservation ("NTHP") has elected to seek expert advice to determine whether this statement is true and requested a third-party independent review of this assertion.

Treanor Architects ("Treanor") was asked to undertake this review due to our past experience and understanding of the facility. In 2012 Treanor was contracted by Jones Lang LaSalle to complete a *Renovation Impact Review* for the Hot Springs VAMC facility for the VA Black Hills Health Care System. The review assessed the facility's physical condition and the previously prepared cost estimates for bringing the facility up to current VA standards, including accessibility requirements. Additionally, Treanor was selected to undertake this evaluation because we have considerable experience evaluating, rehabilitating and upgrading older and historic facilities to meet today's requirements and regulations, as well as to comply with the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties. Furthermore, we are the architect of record for the rehabilitation of historic VA properties at the Dwight D. Eisenhower VA Medical Center in Leavenworth, KS, which are being adaptively reused pursuant to an enhanced use lease between VA and The Pioneer Group.

This evaluation focused on the challenging aspect of improving accessibility for the Hot Springs VAMC facility. In particular, we assessed the accessible routes from the two levels of the central arcade to the three levels of the domiciliary quarters for Buildings 3, 4, 5, 6, 7 and 8.

Multiple options were quickly generated for evaluation purposes. As with any project involving accessibility codes and standards for historic facilities, incremental rather than wholesale renovation solutions often provide the answer.

Of the options generated, this summary highlights two (Option1 and Option 2), which represent the spectrum of impacts to historic materials, cost and accessibility standards. The intent of Option 1 is to provide a cost-effective solution for providing an accessible route compliant with the Architectural Barriers Act ("ABA") that would affect the least amount of historic material or character defining features. The intent of Option 2 is to provide a solution that would be compliant not only with ABA, but also with the VA's more stringent "Barrier Free Design Guide" (VA 2011). This solution, however, would obviously affect more historic material and character defining features within the facility and be more costly.

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In order to confirm whether the concepts proposed by Treanor comply with the appropriate accessibility standards and guidelines, Atelier Design Associates, an accessibility expert, was engaged to review the design options. Their analysis is attached hereto.

Option 1: Accessible route from the Arcade to Domiciliary Buildings 3-8

Proposed Solution:

This option requires the reconstruction of the existing non-compliant ramp from the lower arcade to the 1st floor of Buildings 3-8 so they are fully compliant with the *Architectural Barriers Act* (42 U.S.C. 4151 et seq.). This includes replacing the non-compliant doors at the arcade, providing an appropriate landing at the new arcade doors and providing a landing at the mid-point of the ramp. Appropriate handrails, floor materials, etc., would be constructed.

From the first floor of Buildings 3-8, patrons and staff utilize either the existing elevator or a new elevator (where no elevators currently exist), installed as part of this option, in order to access the basement and second floors of each building. From the lower arcade, patrons and staff utilize the existing elevators located in either Building 1 or Building 2 in order to access the upper arcade level.

Compliance with the Secretary of the Interior's Standards:

This option retains a significant amount of historic character defining features and requires minimal modification of historic materials. The modifications are limited to the single ramp connecting the lower arcade to the first floor level of each building.

Costs Implications:

This option provides a cost effective solution to meeting the accessibility challenges within the historic building.

Option 2: Redesign Access from Arcade to Domiciliary Buildings 3-8

Proposed Solution:

This option complies with both ABA and the VA's "Barrier Free Design Guide." It requires the removal of the existing ramps connecting both levels of the arcade to Buildings 3 -8 and construction of new floors from the arcade over to and into each domiciliary building. A new elevator, with front/rear doors, would provide access from the upper and lower arcade levels to the basement, first floor and second floor levels. A new stair tower would be installed to provide access to and egress from all five levels (upper arcade, lower arcade, basement, first floor and second floor). This stair could also be designed to allow exiting directly to the exterior, as suggested by code, in lieu of requiring exiting through the arcade levels as currently exists.

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Compliance with the Secretary of the Interior's Standards:

This option removes the historic ramps connecting the arcade to the domiciliary building at all levels. It also requires the removal of interior features and finishes on each floor. It requires the removal of a portion of the existing structural floor systems in order to construct new elevator shafts, stair towers and the connection to the upper and lower arcade levels.

Many of these areas have been compromised in the past by previous remodeling efforts. Because of this, the proposed work should comply with the Secretary of the Interior's Standards and Guidelines. However, because historic materials and character-defining features are affected, compliance with Section 106 of the National Historic Preservation Act will be necessary.

Costs Implications:

This option provides a higher cost solution to meeting the accessibility challenges within the historic building. However, the intent of this option was to enhance the ease and usability of the facility for veterans with the most severe disabilities.

In summary, Treanor generated numerous design solutions for compliance with not only the Architectural Barriers Act but with the more stringent internal "Barrier Free Design Guide" developed by the VA. Two options, each offering a spectrum of impacts on historic character defining features, were chosen to be reviewed for compliance by an accessibility expert. Both solutions confirm that there are numerous design solutions, each providing incremental improvements, available to the VA Black Hills Health Care System in order to make the Hot Springs VAMC facility fully compliant with all accessibility requirements. Drawings illustrating these two options are attached to this letter.

Sincerely,

K. Vance Kelley

K. Vance Kelley, AIA
Principal – Treanor Architects, PA.
Licensed Architect: Kansas, Missouri, Nebraska, Oklahoma, Texas

Enclosures: Atelier Design Associates Accessibility Review
Treanor BMS Proposed Accessibility Designs – Option 1 and Option 2

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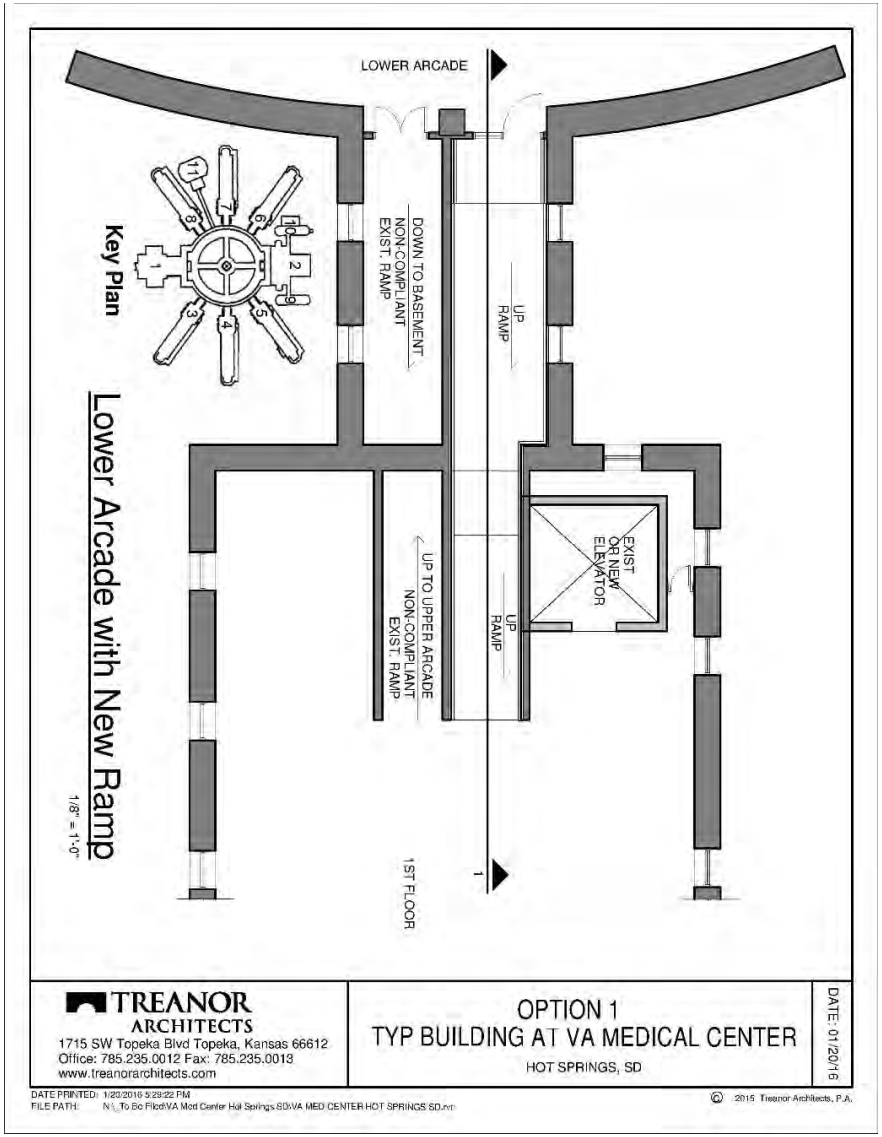

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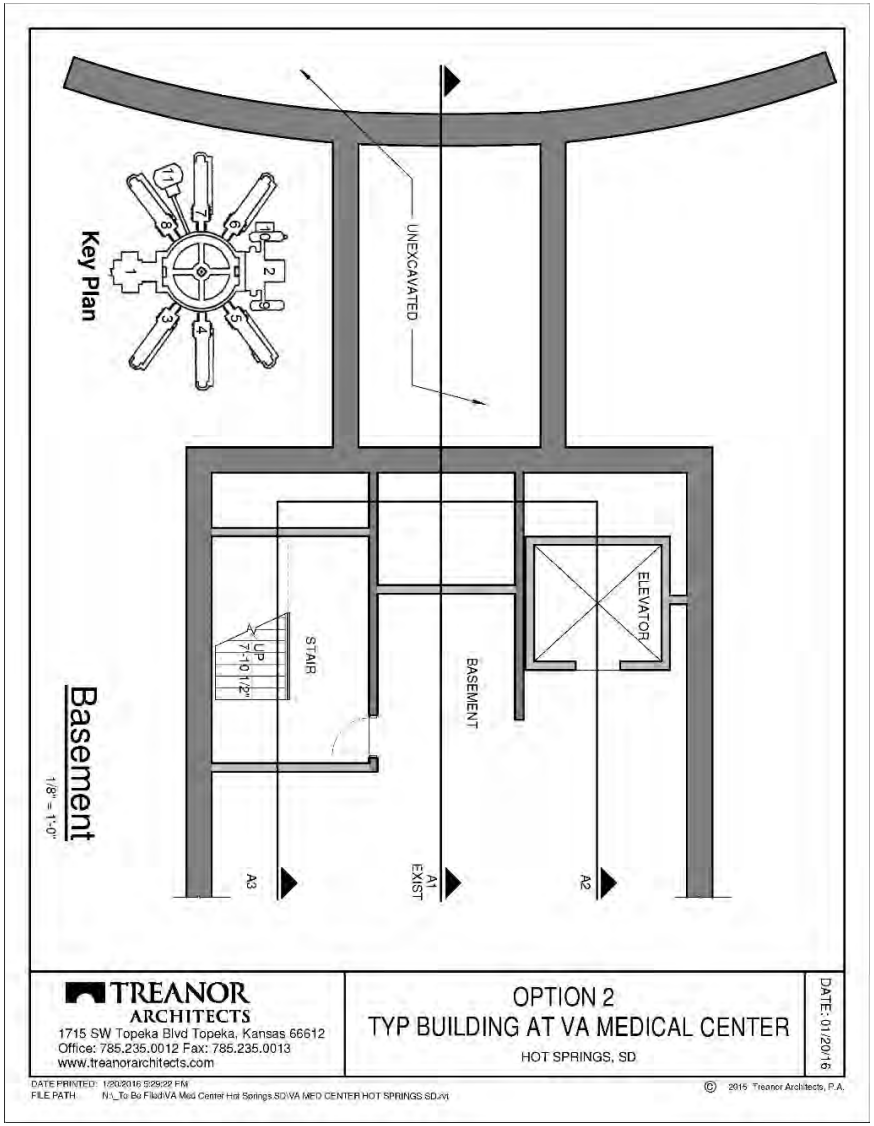

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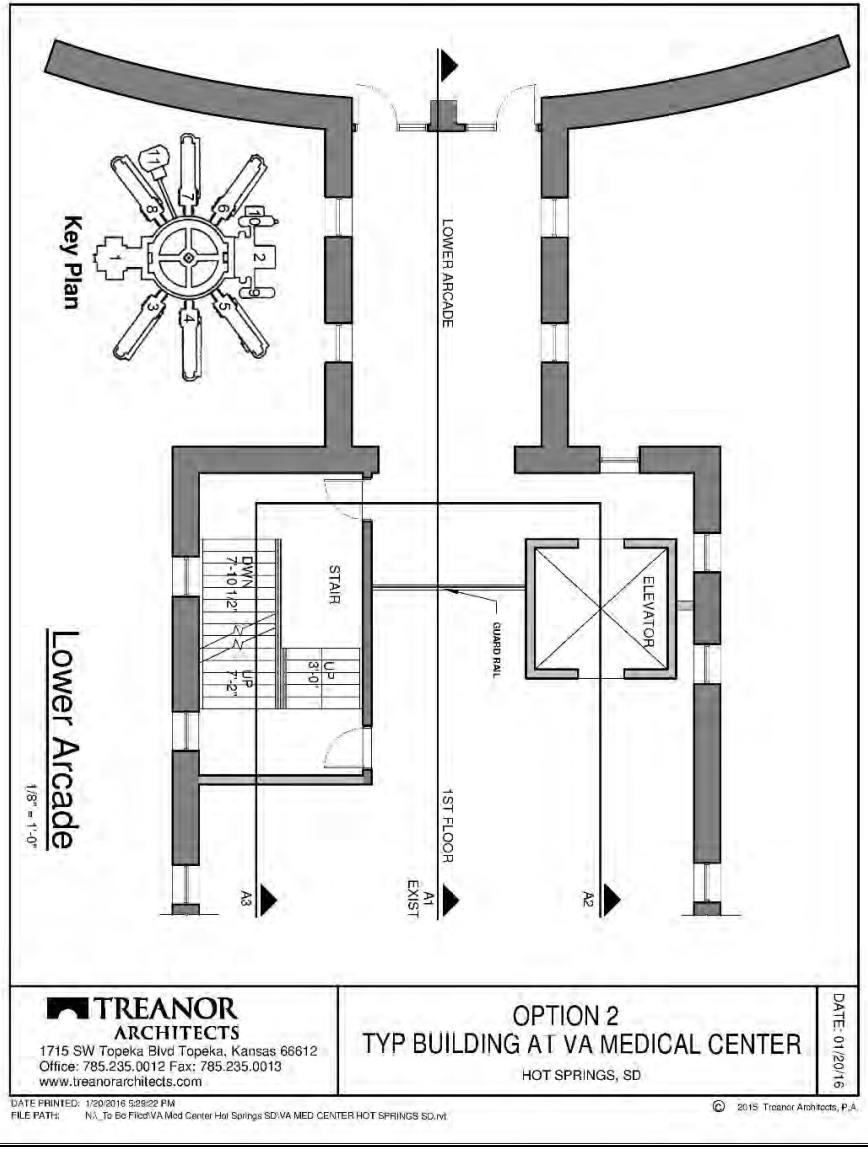

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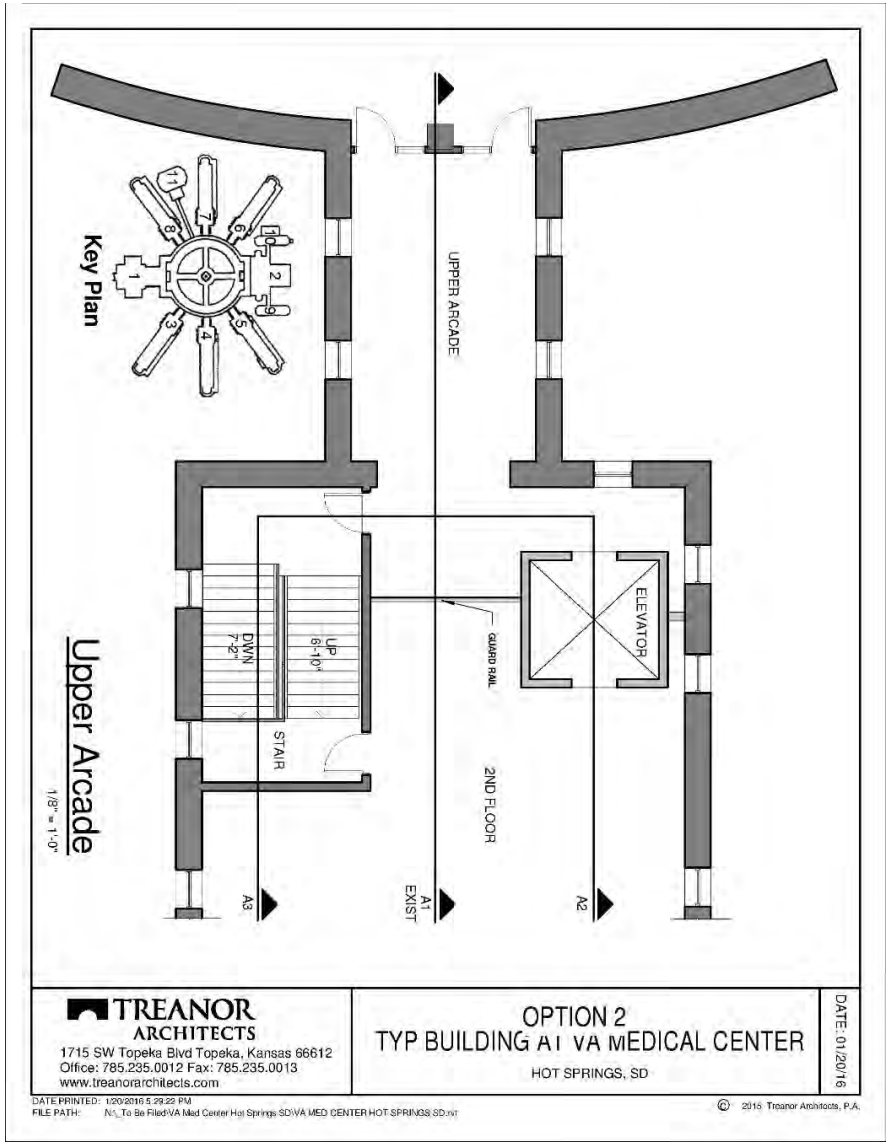

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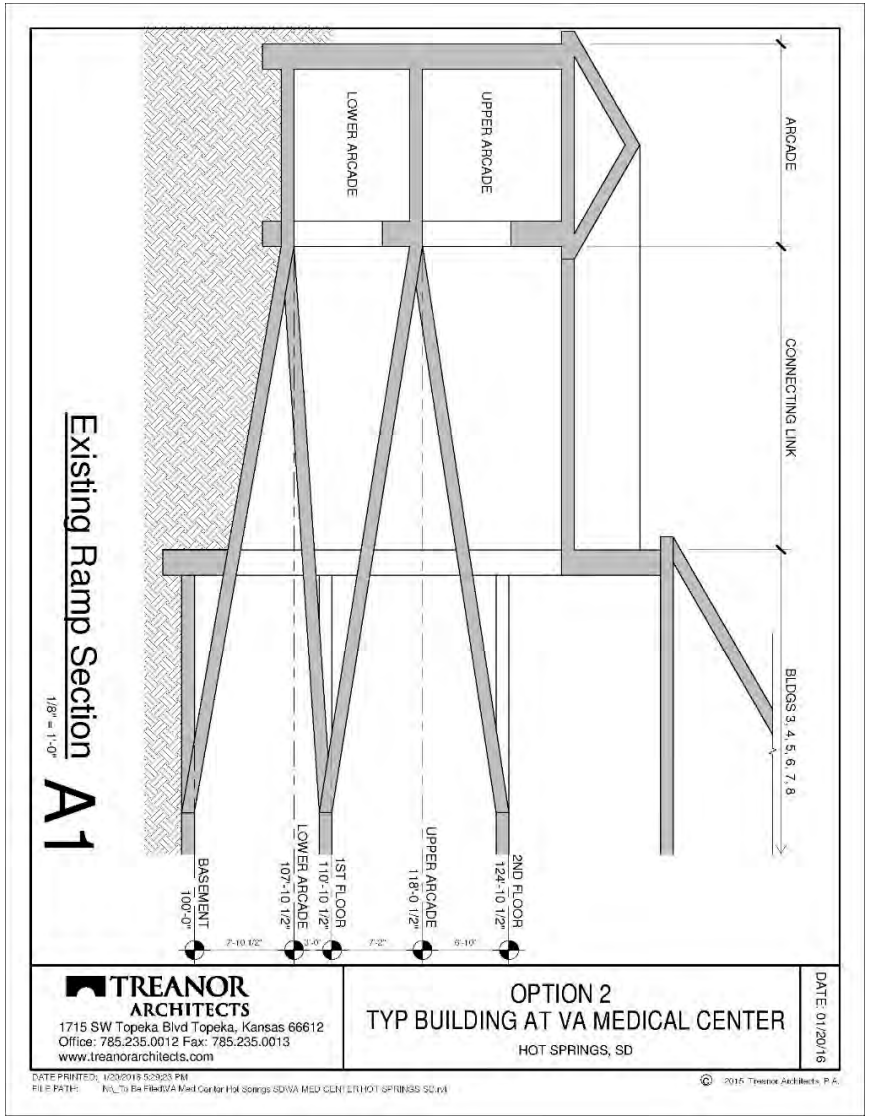

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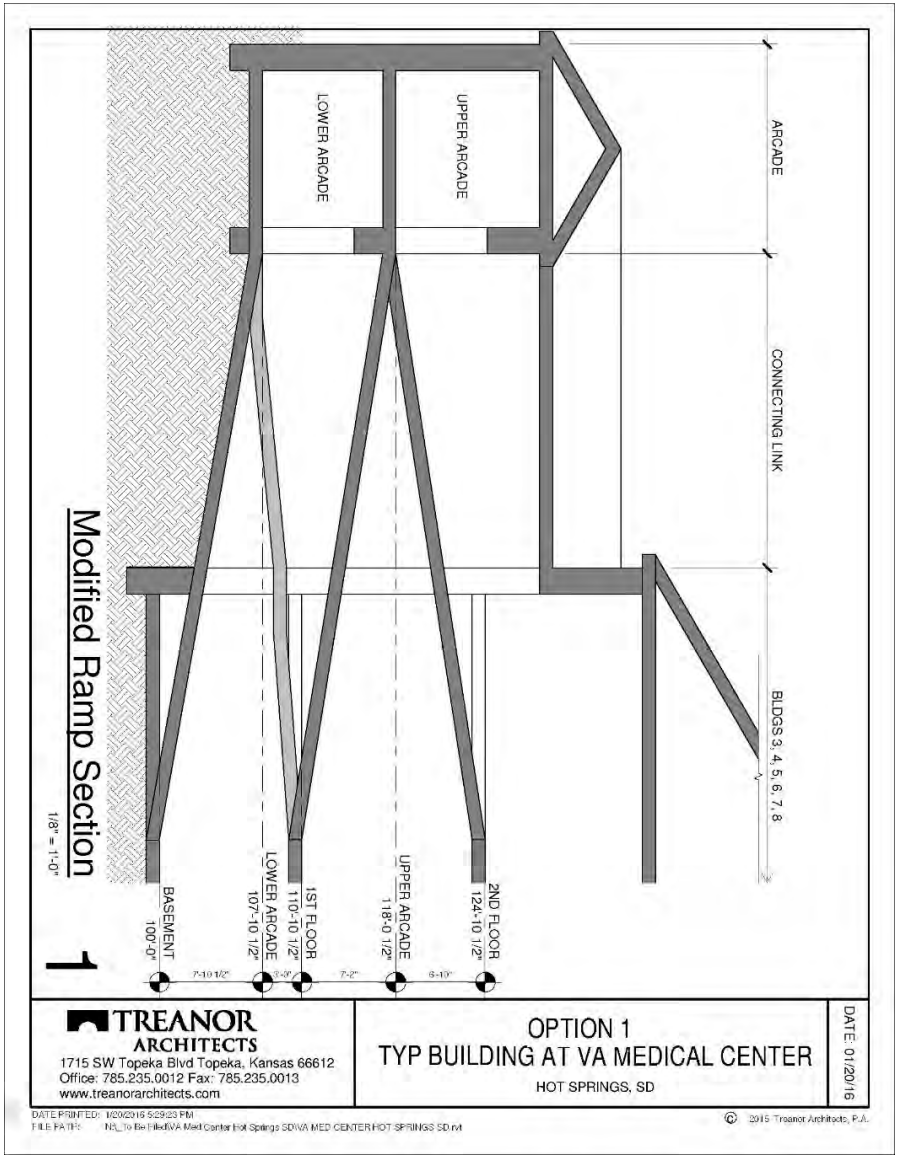

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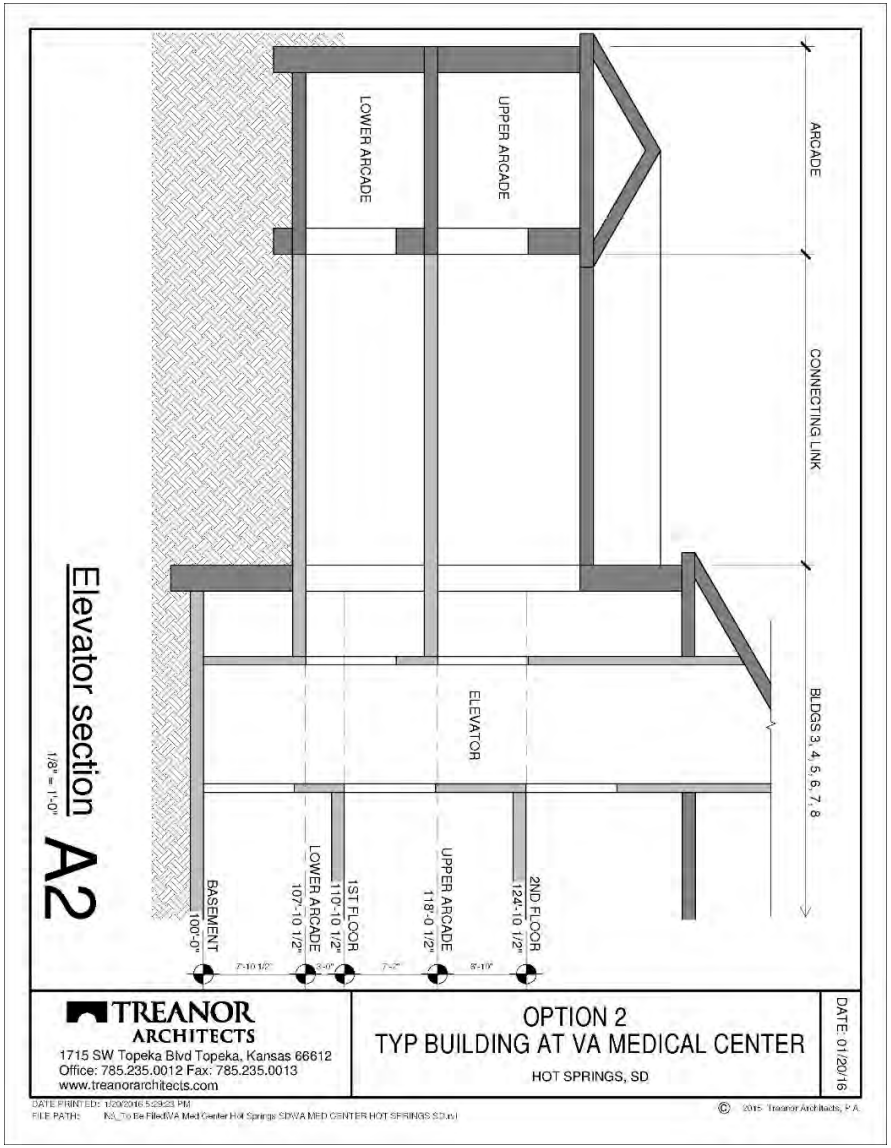

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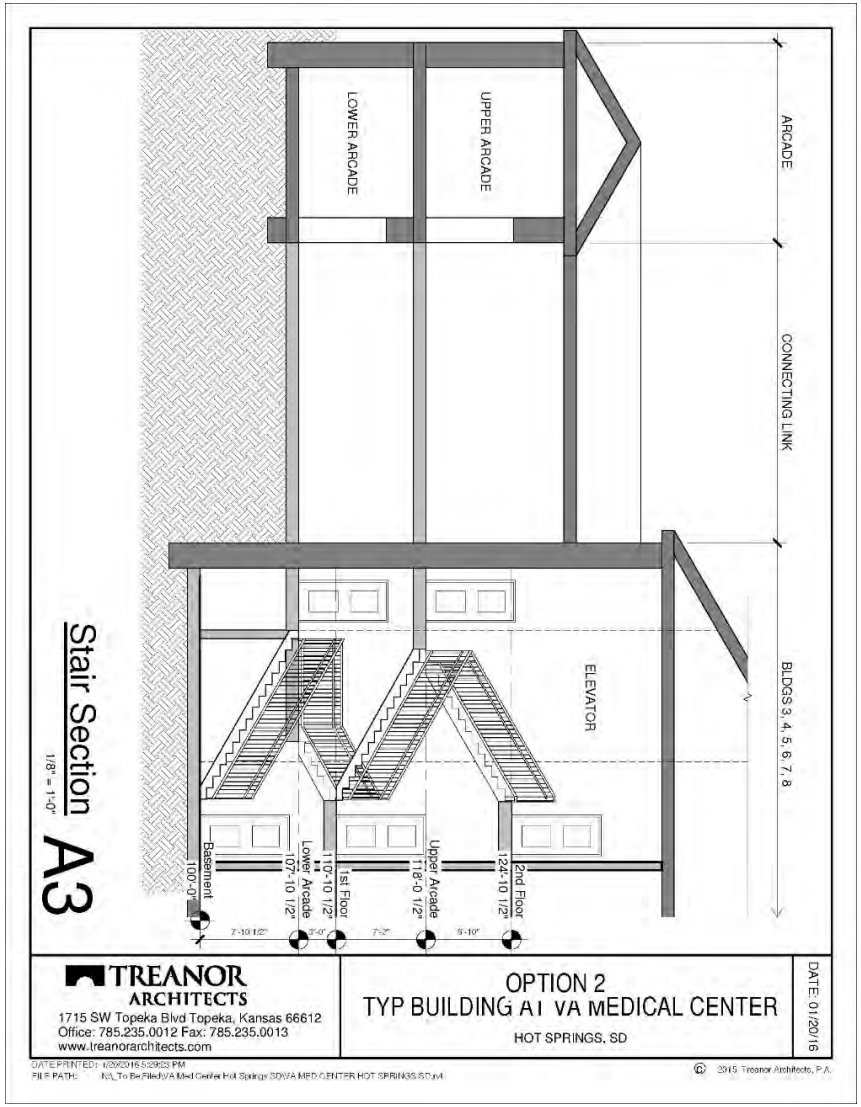

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Atelier

VA Medical Center
Hot Springs, SD
Accessibility Requirements

INTRODUCTION:

Atelier was asked to provide an overview of accessibility standards that apply to the Department of Veterans Affairs (VA) and conduct an assessment of two design options developed by Treanor Architects to address accessibility at the Department of Veterans Affairs historic Battle Mountain Sanitarium campus in Hot Springs, South Dakota.

LAWS AND OTHER AUTHORITIES DEALING WITH ACCESSIBILITY:

There are numerous laws and standards that can affect the alteration of a building or facility. For this summary the focus is limited to accessibility in the built environment for a historic federal facility. Some of the requirements addressed are:

- The Rehabilitation Act of 1973
- The Architectural Barriers Act
- Uniform Federal Accessibility Standards
- Americans with Disabilities Act
- The VA's Barrier Free Design Guide

THE REHABILITATION ACT OF 1973:

The Rehabilitation Act of 1973 is a civil rights law and under Section 504 requires that programs and services of the Federal government (later extended to State and local governments) in various instances be accessible to persons with disabilities. For compliance with 504 the programs and services of the government must be made accessible. If the facility itself is not accessible there are any number of means to provide program access. The facility may be altered; the program may be provided in a different manner or may be moved. This does not require that everything be made accessible, but the program or service must be provided in an accessible manner.

ARCHITECTURAL BARRIERS ACT:

The Rehabilitation Act of 1973 established the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) to develop and enforce accessibility guidelines. The Architectural Barriers Act (ABA) was originally enacted in 1968 and required accessibility for "facilities that are designed, built or altered by or on behalf of the United States of America." This also includes leased property and property supported by federal funding.[1] In June of 2004 the Access Board published the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines. The differences

[1] General Services Administration National Accessibility Program, Standards, Policies and Procedures Ed 14.1.

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between the ADA and the ABA are found in Chapters 1 and 2, including general provisions, definition and scoping. The ADA and ABA share the same technical requirements in Chapters 3 - 10. The General Services Administration (GSA), the standard-setting agency that ensures the facilities under their authority are accessible, adopted the new standards in May2006.

The ABA is a construction law and does not require that facilities be constructed or altered, only that if new construction or an alteration occurs, or is leased by a federal agency, it must comply with the Standards. If the local building code has a stricter accessibility standard than that of the ABA, then the stricter standard must be followed.[1] An alteration by definition is "a change to a building or facility that affects or could affect the usability of the building or facility or portion thereof."[2] Alterations which affect an "Area of Primary Function" trigger additional accessibility requirements. An "Area of Primary Function" is the area where the major activities of the building take place. Under the ABA this also includes requirements for employee work areas. When a primary function area is altered, the path of travel elements which are the accessible route from the site arrival points to the altered area, the toilet rooms and drinking fountains serving the altered area, and public telephones, where provided, must also be brought into compliance.[3] Entrances and corridors are not primary function areas and thereby do not trigger any additional work requirements.[4]

If in order to provide accessible ramps, where areas of primary function are affected, then the path of travel requirements would apply. In that event, where the cost to bring the additional items triggered by the primary function exceed 20% of the construction cost[5], then accessibility is provided to the maximum extent feasible, beginning with an accessible route[6], an accessible entrance and at least one toilet room for each sex (or one unisex toilet room), telephone, drinking fountains and parking.

UNIFORM FEDERAL ACCESSIBILITY STANDARDS:
The Uniform Federal Accessibility Standards (UFAS) were the standards used by federal agencies prior to the adoption of the ABA Guidelines in 2006. Facilities constructed or altered prior to May of 2006 should comply with UFAS[7].

HISTORIC FACILITIES STANDARDS:
Alterations to qualified historic facilities must also comply with the UFAS Standards. There is an exception for accessible routes, entrances and toilet facilities if the Advisory Council on Historic Preservation determines alterations might threaten or destroy the historic nature of the facility.[8] Additionally, under the ABA, modifications and waivers may be granted by the Administrator of the General Services Administration on a case by case basis.[9] Application is made by the head of the

[2] Architectural Barriers Act, F201.1.
[3] Architectural Barriers Act, F202.4.
[4] Accessibility Online; Application of the ADA & ABA Standards; May 7, 2015 at slide 57.
[5] GSA Federal Management Regulation, Subchapter C, Subpart C - Architectural Barriers Act, 102-76.70
[6] Architectural Barriers Act, F202.4.
[7] GSA Federal Management Regulation, Subchapter C, Subpart C - Architectural Barriers Act, 102-76.65.
[8] Architectural Barriers Act, F202.5.
[9] Architectural Barriers Act, F103.

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Agency requesting the waiver. A determination must be made that the modification or waiver is clearly necessary.

DEPARTMENT OF VETERANS AFFAIRS GUIDANCE:

VA has additional requirements through their 2011 "Barrier Free Design Guide" for alterations of VA facilities. Requirements include enlarged elevator cabs and ramps limited to 1:20 slope. It should be noted that the ramp requirement does not align with ADA/ABA in that a sloping surface less than 1:20 is not considered a ramp. In visiting with Mr. Zolton Nagy, Architect/Design and Technical Standards with the Veterans Administration, he referenced compliance with the VA obligations of the "Barrier Free Design Guide" well exceed those of the ABA. He noted the VA is "not the civilian world" and the standards dovetail with Health and Human Services and Department of Defense requirements. He stated the goal of the enhanced standards is to foster independence of the user.

ASSESSMENT:

Treanor Architects has reviewed the VA facility at the Battle Mountain Sanitarium facility in Hot Springs, South Dakota. As part of their review they proposed two concepts for altering the path of travel within the facility to comply with accessibility standards. In **Option 1** a ramp (slope greater than 1:20 and less than 1:12) is proposed to connect the lower arcade to the 1st floor levels at buildings 3, 4, 5, 6, 7 and 8. As noted earlier, entrances and corridors are not primary function areas and thereby do not trigger any additional work requirements. This design solution complies with ADA/ABA.

The concept for altering the path of travel in **Option 2**, includes providing vertical access by means of an elevator which would comply with ADA/ABA and also satisfies the more stringent requirements in the VA's "Barrier Free Design Guide." As noted by the architects, this solution removes more historic material, which could cause an adverse effect to the historic property, and because the VA is also required to comply with Section 106 of the National Historic Preservation Act, this option will require consultation with the State Historic Preservation Office.

Therefore, based on the review of the regulations and the options presented by Treanor Architects, the path of travel from the lower arcade and the first floor may be modified to comply with the accessibility requirements.

Respectfully submitted,

Michael Love APA IDC IISA
Registered Accessibility Specialist

Attachments:
a. VA Barrier Free Design Guide
b. VA Contacts 003C2B

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Commenter CP12: National Trust for Historic Preservation

National Trust *for* Historic Preservation
Save the past. Enrich the future.

May 5, 2016

Ms. Sandra Horsman, Director
Black Hills Health Care System
Department of Veterans Affairs
113 Comanche Road
Fort Meade, SD 57741

Re: **Formal Objection to Department of Veterans Affairs Inadequate Compliance with Section 106 of the National Historic Preservation Act Pursuant to 36 C.F.R. § 800.8(c)(2)(ii).**

Dear Ms. Horsman:

The National Trust for Historic Preservation (National Trust) files the following objection to the Section 106 consultation for the Battle Mountain Sanitarium National Historic Landmark (BMS) in Hot Springs, SD, which has been carried out by the Department of Veterans Affairs (VA) pursuant to the "NEPA Substitution" procedures under 36 C.F.R. § 800.8(c).

The National Trust has a long-standing interest in the preservation of our nation's irreplaceable historic resources. In 1949, Congress chartered the National Trust as a private charitable, educational and nonprofit organization to "facilitate public participation" in historic preservation, and to further the purposes of federal historic preservation laws. 54 U.S.C. §§ 312102(a), 320101. Congress intended that the National Trust "mobilize and coordinate public interest and participation in the preservation and interpretation of sites and buildings from voluntary resources." S. Rep. No. 1110, 81st Cong., 1st Sess. 4 (1949), reprinted in 1949 U.S. Code Cong. & Ad. News 2285, 2288. With more than 800,000 members and supporters nationwide, the National Trust has been involved in helping federal, state and local agencies effectively address and resolve issues affecting historic resources for nearly 70 years. We are also a statutory member of the Advisory Council on Historic Preservation. 54 U.S.C. § 304101(a)(8).

The National Trust has been involved in advocacy to protect BMS since 2011 when the VA first announced plans to close the facility without any compliance with the requirements of the National Environmental Policy Act (NEPA) or the National Historic Preservation Act (NHPA). Because of widespread concerns about the future of this National Historic Landmark (NHL) property, BMS was named as a National Treasure in 2012 and included on our 2014 list of America's 11 Most Endangered Historic Places.

Since that time, we have participated in every NHPA Section 106 meeting and attended nearly every NEPA public meeting, repeatedly and consistently voicing our opposition to the various approaches that the VA has used to purportedly comply with the NHPA, and the failure to seriously consider any alternative that would continue to use existing historic resources in Hot Springs to serve veterans.

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From the beginning of this consultation, all parties, including the Advisory Council on Historic Preservation (ACHP), the State Historic Preservation Officer (SHPO), the National Trust, and other consulting parties, disagreed with the VA's plan to pursue "NEPA Substitution" under 36 C.F.R. § 800.8(c). We believed that "substitution" was ill-advised because, as we said in a 2011 email, "this approach should be reserved for an agency with a track record in successful compliance with both Section 106 and NEPA. The VA does not fit that bill." As anticipated, the VA has confirmed its lack of experience in this arena and carried out a process fraught with miscues, short on information, and utterly lacking in meaningful consultation.

We also point out that attempting to employ the substitution process has resulted in major timing problems causing the NEPA and NHPA processes to be completely out of synch, a problem exacerbated by long delays between consultation meetings, and the VA's failure to communicate key information in a timely manner. Since the October 2015 issuance of the Draft Environmental Impact Statement (DEIS), on which the VA relies as evidence for how it has completed its consultation, additional Section 106 consultation meetings have been held, resulting in the VA verbally agreeing to modify some language in the DEIS. Beyond these verbal statements, however, and in the absence of any Section 106 agreement document, it is unclear whether these changes will result in the VA issuing a Supplemental Draft EIS that will reflect new information, or how else the VA plans to document what has occurred during the consultation that happened after the issuance of the DEIS more than seven months ago.

Due to our ongoing, unresolved concerns with this process, we file this objection.

I. The Objection Process

a. The Section 106 regulations provide that "NEPA substitution" is allowed if the agency official notifies the SHPO/THPO and Council that it intends to do so and the following five standards are met during the preparation of the EA or Draft EIS:

   i. "Identify consulting parties either pursuant to § 800.3(f) or through the NEPA scoping process with results consistent with § 800.3(f);

   ii. Identify historic properties and assess the effects of the undertaking on such properties in a manner consistent with the standards and criteria of § 800.4 through § 800.5, provided that the scope and timing of these steps may be phased to reflect the agency official's consideration of project alternatives in the NEPA process and the effort is commensurate with the assessment of other environmental factors;

   iii. Consult regarding the effects of the undertaking on historic properties with the SHPO/THPO, Indian tribes . . . that might attach religious and cultural significance to affected historic properties, other consulting parties, and the Council, where appropriate, during NEPA scoping, environmental analysis, and the preparation of NEPA documents;

   iv. Involve the public in accordance with the agency's published NEPA procedures; and

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v. Develop in consultation with identified consulting parties alternatives and proposed measures that might avoid, minimize or mitigate any adverse effects of the undertaking on historic properties and describe them in the EA or EIS." 36 C.F.R. § 800.8(c)(1).

b. The regulations further provide that, "[p]rior to or within the time allowed for public comment on the document, a SHPO/THPO, an Indian tribe . . . , another consulting party or the Council may object to the agency official that preparation of the EA, DEIS or EIS has not met the standards set forth in paragraph (c)(1) . . . or that the substantive resolution of the effects on historic properties proposed in an EA, DEIS or EIS is inadequate." 36 C.F.R. § 800.8(c)(2)(ii).

II. Through its use of "NEPA" substitution, the VA failed to satisfy the requirements set forth in 36 C.F.R. § 800.8(c)(1)-(2).

a. **The VA did not satisfactorily "[i]dentify historic properties and assess the effects of the undertaking on such properties in a manner consistent with the standards and criteria of § 800.4 through § 800.5." 36 C.F.R. § 800.8(c)(1)(ii).**

Information contained in the DEIS about the identification of historic properties is lacking. We do not believe there has been adequate consultation about how the VA is assessing the eligibility of additional historic properties within the Area of Potential Effects (APE) (as originally proposed or later verbally revised) that are not already listed or determined eligible for the National Register of Historic Places

For example, the Michael J. Fitzmaurice State Veterans Home is within the APE but apparently only one building has been evaluated and determined eligible. (DEIS at 84.) We know there are other properties more than 50 years old on that campus. What is the VA's plan to identify other historic properties within the APE?

Similar clarification is needed about the potential eligibility of the Battle Mountain Land Form, which was discussed during consultation, but we do not believe its eligibility has been resolved. (DEIS at 94.) How has the VA Office of Tribal Government Relations been communicating with tribes during the consultation, especially regarding the need to identify potentially eligible sites that might not yet have been identified as significant?

We also know that the SHPO has raised other questions about data related to historic property identification and possible data gaps between what was presented in the DEIS and what may be available in the SHPO database. This matter apparently remains unresolved, and demonstrates another gap in identification efforts.

In general we agree with the types of effects listed in the DEIS, but we do not feel the list includes *all* potential effects. For example, the DEIS states that physical modifications could cause adverse effects, but the closure of the campus itself (which will invariably lead to neglect causing deterioration, as described in 36 C.F.R. §

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800.5(a)(2)(vi)) is not included on that list. (DEIS at 222.) This point is further highlighted on page 224 when the VA again declines to address the adverse effects of campus closure, claiming "VA BHHCS would continue to maintain the campus pending transition to a new use." (DEIS at 224.) We know of no example where this has happened successfully, and in fact there are numerous examples to the contrary. This statement also assumes that a "new use" will be forthcoming. At the Leavenworth VA campus (also an NHL), reuse did not begin until 10 years after the buildings had been abandoned. At the Milwaukee Soldiers' Home (also an NHL), Old Main has been closed since 1988 and the VA is only now beginning its search for a party to lease and reuse the building, 28 years after it was closed. The VA most certainly has *not* maintained those campuses, which undermines the credibility of its promises to do so here. We do not take the VA at its word that its management of a vacant campus will have no adverse effect on the historic properties within the campus.

Furthermore, the summary chart of effects on cultural resources and historic properties does not consider effects within the overall APE, even as drawn narrowly by the VA prior to the consultation meeting of January 21, 2016. For example, there is no discussion about effects on the downtown historic district or on the possible TCP. The VA also fails to disclose or clarify the meaning of "Off Campus Effects," which are broadly characterized as "ground disturbance" or "construction," without any further explanation. (DEIS at xxix.)

In sum, many issues related to the identification of historic properties and the assessment of effects are plainly unresolved in the DEIS, contrary to the mandate in the Section 106 regulations.

b. **The VA did not "[c]onsult regarding the effects of the undertaking on historic properties with the SHPO/THPO, Indian tribes . . . that might attach religious and cultural significance to affected historic properties, other consulting parties, and the Council, where appropriate, during NEPA scoping, environmental analysis, and the preparation of NEPA documents." 36 C.F.R. § 800.8(c)(1)(iii).**

We disagree with the description in the DEIS regarding the status of Section 106 consultation. Specifically, we disagree that the VA proceeded far enough with Section 106 consultation to describe in the DEIS that "[c]onsultation and identification and resolution of adverse effects to historic properties are documented throughout this EIS." (DEIS at iii.) Prior to the release of the DEIS, the VA held three consultation meetings (October 18-19, 2014, February 20, 2015, and April 27, 2015) after the agency had elected to pursue NEPA substitution and published the Notice of Intent to initiate the reconfiguration proposal. The timeframe and/or manner of these meetings were not useful in informing "scoping, environmental analysis and the preparation of NEPA documents," as required by the Section 106 regulations, 36 C.F.R. § 800.8(c)(1)(iii). For example, scoping could not have been informed by consultation because no consultation meetings were held during the scoping period of May 16-August 16, 2014. The "consultations" that occurred later were laden with

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mismanagement, including non-functional conference calls, inconvenient meeting schedules, and facilitators who prevented consulting parties from discussing concerns about even the most preliminary matters, such as the definition of the APE. Since no real discussion or consultation occurred during the three meetings cited above, we cannot see how any "outcomes" of consultation could have made it into the environmental analysis or the DEIS. Other than identifying consulting parties, we did not reach any outcomes during those three meetings that resulted in the completion of *any* of the four steps in the Section 106 consultation process.

Furthermore, it would be a stretch even to characterize the initial meetings as "consultation," as described in the regulations and referenced above. It bears repeating that the regulations define consultation as "the process of seeking, discussing, and considering the views of other participants, and, where feasible seeking agreement with them regarding matters arising in the section 106 process." 36 C.F.R. § 800.16(f).

c. **The VA did not "[d]evelop in consultation with identified consulting parties alternatives and proposed measures that might avoid, minimize or mitigate any adverse effects of the undertaking on historic properties and describe them in the EA or DEIS." 36 C.F.R. § 800.8(c)(1)(v).**

We dispute the VA's claim that, "[i]n consultation with SHPO, ACHP, NPS and other consulting parties, the VA developed mitigation measures to resolve adverse effects to historic properties." (DEIS at 25.) As of the date when the DEIS was released, we had not even come to an agreement about the definition of the APE, let alone reaching the final step of Section 106 compliance by resolving adverse effects. Moreover, we certainly did not reach agreement that mitigation measures were to be adopted to resolve adverse effects when we had not even agreed upon what those adverse effects would be prior to the issuance of the DEIS.

We also disagree with statement that the VA had an "assessment methodology [that] also provided a basic approach to determining measures to resolve those adverse effects that are common across alternatives." (DEIS at 220.) During the three consultation meetings held after scoping but prior to the release of the DEIS, we never even reached this step of the Section 106 process. Therefore, it was not possible for the DEIS to include alternatives and proposed measures to avoid, minimize or mitigate effects developed via consultation—and in fact it does not include that information—in contravention of the regulation cited above. We certainly never reached any such agreement as the DEIS suggests, and while the VA unilaterally produced preliminary language to talk about this step (DEIS at 353, Table 5-1), that does not mean it was the result of consultation, as required by the regulations, which instruct that agencies "shall involve the consulting parties . . . in findings and determinations made during the Section 106 process." 36 C.F.R. § 800.2(a)(4).

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d. **Finally, "the substantive resolution of the effects on historic properties proposed in [the DEIS] is inadequate." 36 C.F.R. § 800.8(c)(2)(ii).**

While bearing in mind that no consultation on resolution of adverse effects took place prior to the publication of the DEIS, the list of mechanisms that VA includes in its self-generated table (DEIS at 353-356, Table 5-1) is not sufficient to resolve adverse effects. This list is basically the same list for all alternatives, though we know that those effects could be different for each alternative. The proposed list in essence restates obligations that the VA already has, and does not reach the issue of ways to avoid, minimize or mitigate effects. Merely following existing policies like the Secretary's Standards and VA directives, conducting required surveys, following NPS recommendations, monitoring and being sure that there is a required future consultation process, are not suitable mechanisms for resolving adverse effects. Some mitigation ideas in the table that are more meritorious, but lack creativity or specific application/implementation are: develop a historic preservation plan, provide historic preservation training to and/or employ facilities staff/manager with historic preservation qualifications, and use of easements.

The resolution of adverse effects list included in the DEIS suggests that the VA completely misunderstands this step, as alluded to during the April 27, 2015 teleconference, when the facilitator said the VA is only willing to do things that are "required."[1] There would be no point in consultation if all that needed to be done was what was already "required."

Furthermore, the consultation that took place *after* the publication of the DEIS did not result in the VA substantively addressing numerous comments and concerns from all consulting parties—including the Council, the SHPO, the National Park Service and the National Trust—that the VA failed to meaningfully "develop and evaluate ***alternatives or modifications*** to the undertaking," as required in § 800.6(a). The VA's sole verbal offer to consider the reuse of one historic building on the campus is inadequate, in light of the gravity and magnitude of the potential adverse effects, and the DEIS contains no other proposals for the resolution of those adverse effects that we believe have any substantive merit.

III. Conclusion

We contend that the VA's use of "NEPA Substitution" in this case is a model for how this process should *not* work, and highlights the challenges facing an agency unskilled in NEPA and NHPA compliance. We do not see what the VA has gained by attempting to use the substitution process, but we certainly see what consulting parties have lost – efficiency, transparency, meaningful consultation and the ability to use Section 106 review to resolve

[1] The VA stated in the "notes" from April 27, 2015 that adverse effects would "be avoided, minimized, and mitigated by the VA following existing federal regulations, directives, policies, standards or guidelines." (DEIS at C-87.)

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adverse effects and incorporate agency commitments into a binding agreement that would help to preserve this National Historic Landmark campus.

In order to resolve the National Trust's objections, the VA is required to "refer the matter to the Council" for its review and opinion. We appreciate the opportunity to participate as the process of this referral moves forward, pursuant to 36 C.F.R. § 800.8(c)(2)-(3).

Thank you for your consideration.

Sincerely,

Amy Cole

Amy Cole
Senior Field Officer and Attorney

Elizabeth Merritt

Elizabeth S. Merritt
Deputy General Counsel

cc: Dena Sanford, Midwest Regional Office, National Park Service
Chris Daniel, Tom McCulloch and Reid Nelson,
Advisory Council on Historic Preservation
Stella Fiotes, Executive Director, Office of Construction and Facilities
Management, Department of Veterans Affairs
Kathleen Schamel, Federal Preservation Officer,
Department of Veterans Affairs
Doug Pulak, Deputy Federal Preservation Officer,
Department of Veterans Affairs
Jay Vogt, Ted Spencer and Paige Olson,
South Dakota State Historic Preservation Office
Pat Russell and Bob Nelson, Save the VA Committee

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Commenter CP13: American Federation of Government Employees

Black Hills EIS Public Comment

#63 COMPLETE

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PAGE 1: Public Comment on the Draft EIS for Reconfiguration of the VA Black Hills Health Care System

Q1: Please enter your name and contact information:

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Q2: My mailing list and contact preference is:	Please contact me via email at the email address I entered above.

PAGE 2

Q3: Please enter your comments here--reference relevant pages/sections in the Draft EIS where appropriate, and be as specific as possible. (This field will expand as you type to accommodate your comments):

Public Comment of Patrick Russell,
Army veteran, Co-Chair of the Save the VA Committee, VA Employee, President of the American Federation of Government Employees Local 1539 and Consulting Party representing the employees of the Hot Springs VA Medical Center.

It is my opinion that the draft environmental impact statement (EIS) released by the Department of Veterans Affairs related to the future of the Hot Springs VA Medical Center is incomplete and fails to adequately address the negative impact on thousands of veterans in the southern catchment area of the Black Hills Health Care System. The stated purpose and need espoused in the EIS fails to consider the loss of patient centric care that we veterans currently experience in VA facilities and minimizes the time, travel and expense that I and my fellow veterans will be forced to absorb as a result of the loss of services in Hot Springs. The processes presented in the EIS for us to receive care in non-VA care settings will negatively impact the quality of care the we currently receive at the Hot Springs VA. Many of the arguments to retain current services in Hot Springs are elucidated in the article authored by the Under Secretary of Health, Dr. David Shulkin in the May 2016 issue of the Federal Practitioner.

I would ask that the Veterans Administration address the issues raised in Dr. Shulkin's article and compare them to the proposed preferred alternative posed by the VA.

Why VA Health Care Is Different
Fed Pract. 2016 May;33(5):9-11.
David J. Shulkin, MD
Dr. Shulkin is under secretary for health at the U.S. Department of Veterans Affairs in Washington, DC.
http://www.fedprac.com/home/article/why-va-health-care-is-different/c8da5ba1261bdbe726bddcbceea81f27.html

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Black Hills EIS Public Comment

Is VA health care really "all that different" from what veterans would find in the private sector?
As someone who spent more than 25 years managing private sector health care organizations and recently joined VA as its under secretary for health, I've had the unique opportunity to compare the health care systems. Over the past several months, I've met with veterans and their families, veterans service organizations, VA clinicians, facility staff, and veteran employees at all levels. Through these meetings and travel to dozens of facilities, I've come to realize that many of the essential services provided by the VA cannot be found in or even replicated in the private sector.
Over time and in partnership with successive generations of veterans, the VA has evolved into an interconnected, institutionalized system of care and services. And while many of these services aren't unique to the VA, ours is the only health care organization that combines these services "under one roof" and integrates them in a way that is veteran-centric.
Further, as our country continues to struggle with improving health outcomes and unsustainable increases in health care costs, the VA can play a crucial role. As a long-standing, highly integrated, and patient-focused provider of care, the VA can lead the way in advancing the nation's health care. This is the appropriate role for government. Do what the private sector cannot or will not do, given the nature of its enterprise.
The VA has 3 core strengths that distinguish its services from those of the private sector in caring for veterans: (1) systemwide clinical expertise regarding service-connected conditions and disorders; (2) a team approach to primary care that is veteran-centric; and (3) a holistic view of the veteran that includes physical, psychosocial, and economic determinants of health, as well as critical support services for family members and caregivers.
First, the VA brings together comprehensive expertise on service-connected health issues in a single health care system. Our clinicians are trained to identify, assess, and treat a wide spectrum of health issues, such as spinal cord injury and limb loss, conditions arising from environmental exposures, and traumatic brain injury. Additionally, VA specialists have expertise in the treatment of mental health issues, substance abuse, suicide prevention, and posttraumatic stress disorder (PTSD). Further, the VA has a long track record that includes national programs in audiology and speech pathology, blind rehabilitation, chiropractic care, physical medicine and rehabilitation, prosthetic and sensory aids services, recreation therapy, and polytrauma care.
In contrast, knowledge of and expertise in these crucially important health care issues are not nearly as widespread in the private sector. For example, less than 50% of private practice primary care providers (PCPs) regularly perform screening tests for PTSD and depression.1 In addition, only 15% of community-based mental health providers are proficient in treating military and deployment-related issues such as PTSD, and less than 20% of PCPs have sufficient military culture competence to take a veteran's military history.1
The VA's second core strength is its team-based, veteran-centric model of primary care that focuses on patient-driven, proactive, and personalized care. This patient aligned care team (PACT) addresses not only disease management, but also disease prevention, wellness, and health promotion. The PACT model often includes PCPs, nurse care managers, social workers, pharmacists, nutritionists, behavioral health professionals, administrative clerks, as well as the veteran, family members, and caregivers. Through PACT, veterans can attend group clinics and educational seminars, access web-based information via a personalized patient portal, and directly communicate with their care team by phone, secure messaging, or telehealth. The PACT approach has proven effective. Several studies examined its impact on reducing avoidable hospitalizations, emergency department visits, and behavioral health issues and on improving communication among health care professionals.2-4
The VA's third core strength—a holistic approach to patient care— also is not uniformly seen in the private sector. All too often the private sector health care system addresses only the patient's chief complaint, focusing on the physical manifestation of an illness or the patient's psychological condition. Ensuring a patient's well-being requires the integration of the physical, psychological, social, and economic aspects of health and a thorough understanding of how these factors impact treatment compliance. As any health care professional knows, even the best treatment plan cannot succeed without patient compliance. In this regard, the ability to address nonmedical issues is as important as the treatment plan.
By taking a holistic view of health and inviting veterans to do the same, the VA addresses these and other compliance issues head-on. The VA is positioned to provide help, as appropriate, with transportation; caregiver support; homelessness; pharmaceutical benefits; clothing allowances; counseling in readjustment centers; and a full range of physical, psychological, dental, and social services.
As someone who has spent considerable time in the private sector, I can report that delivery of such services is the exception, not the rule, especially given the current system of health care reimbursement. The benefit of a holistic view is underscored by numerous outcome studies showing that the VA performs as well as, if not better than, the private sector. For example, screening and prevention outcomes at the VA have been consistently better than those at community care sites.5
Studies also suggest that standard care measures, such as control of blood pressure and hemoglobin A1c levels, are often better in VA patients compared with non-VA patients. Studies of risk-adjusted mortality rates generally found improved outcomes for VA care or little difference between VA and non-VA care.6-9 Moreover, a recent independent assessment of the VA reported that the VA performed as well as, and in some cases better than, the private sector on a number of key indicators.10
In my first year as the VA under secretary for health, I have come to appreciate these strengths even more and to

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sharpen my understanding of what makes VA care different from private sector care. Five distinctions are clear:

1. Veteran Patients Are Inherently Different

The VA manages a patient mix that is distinct from what civilian community providers typically treat. The majority of veterans who utilize VA health care are collectively sicker and poorer and have fewer support services than age-matched non-veteran patients.10,11 When compared with the general population, veterans are more likely to have as many as 3 additional comorbid physical conditions as well as a possible mental health diagnosis.

Similarly, the VA also cares for a higher percentage of minorities who, as a group, too often encounter barriers to care in community settings. Given these disproportionately higher numbers of patients facing access issues, the VA has done better than the private sector in reducing barriers to care for many health measures.12 For many veterans, the VA has become a lifeline of health care support and service.

2. Reimbursement and Incentives

The veteran patient population typically requires more time during a typical doctor visit than private sector physicians generally can provide. Ever-changing reimbursement schedules have forced many private sector PCPs to shorten patient visits in order to survive economically. Because VA physicians are salaried, they don't face the same constraints on time spent with patients. Further, there is less of a mismatch between financial performance and clinical performance and, therefore, less likelihood of inappropriate tests and services.

3. VA Employees' Sense of Mission

Almost 95% of VA staff believe the work they do is important.13 In annual employee surveys, the VA sees a high commitment to service from its employees. Additionally, 40% of VA staff are veterans, who can relate to veteran patients in ways nonveterans cannot. As under-secretary for health, it has been a remarkable experience seeing this sense of mission translated into everyday care and observing the very personal connection between VA employees and patients.

This sense of mission, embedded throughout the organization, has a far-reaching impact that includes the relationships formed with veterans. In stark contrast to the private sector, where patients may receive care from multiple sources and switch providers and insurance companies with increasing frequency, veterans tend to forge lifelong relationships with the VA. In turn, this stable and consistent relationship strengthens doctor-patient communications and provides a solid foundation for shared decision making. These long-term relationships also may improve the continuity of care and the ability to track long-term outcomes.

4. VA's Unique Integration of Clinical Practice With Education & Research

As someone whose residency included training at VA, I've long appreciated the VA's ability to advance health care, incorporate new learning, and promote best practices. These capabilities are fortified by its 70-year partnership with academic affiliates. Through academic partnerships, the VA trains tens of thousands of health care professionals yearly and conducts cutting-edge research on all the service-connected issues described above, as well as chronic illness, disparities in care, and emerging areas such as personalized medicine.

The VA Research and Development Program is the nation's only intramural research program entirely dedicated to the health of veterans. Further, more than 60% of VA researchers are clinicians, which means their studies are framed by daily interaction with patients, and their study findings are put into practice more quickly.

5. VA Investment in Large-Scale Capabilities

As the largest integrated health care system in the U.S., the VA can invest in capabilities that are difficult for smaller systems to undertake. For example, the VA electronic medical record platform has enabled the organization to capture veteran health data system wide for more than 2 decades, longer than almost any other health care enterprise in the country. Additionally, the ability of the VA to house and analyze "big data" is more advanced than that of most other health care systems, in part because of its considerably larger scale. This capability supports the holistic approach to care noted above and makes it possible to consider the numerous social and economic determinants of health and to track outcomes over time. This capability also supports the VA Million Veteran Program (MVP), a research effort that is building a genomic database of 1 million users of VA health care. Through the MVP, researchers will be able to use genomic and clinical data to develop personalized therapies for veterans and address some of America's most significant research questions.14

As we continue to transform the VA and improve veterans' health care, it is essential to understand that VA care is different from private sector care. It also is essential to understand—particularly given an environment of intense public scrutiny—that this fundamental distinction is embedded in the VA mission "to care for those who have borne the battle for their country."

At the same time, it also is crucial to recognize that, although VA care is distinctly different from private sector care, our ongoing transformation means closer collaboration with the private sector—that is, for veterans seeking care from community providers. In this regard, we are working to achieve a tighter integration of the care offered to veterans in both sectors by working to develop a high-performance network that includes care from both VA and the private sector.15

Finally, in the midst of such a transformation, it is imperative to underscore that one factor will remain the same: our long-standing and unwavering commitment to provide patient-centric care and value to every veteran. As the under secretary for health, it is my great privilege to see this commitment daily and to better position the VA to serve our veterans and the nation.

Commenter CP13: American Federation of Government Employees

Author disclosures
The author reports no actual or potential conflicts of interest with regard to this article.
Disclaimer
The opinions expressed herein are those of the author and do not necessarily reflect those of Federal Practitioner, Frontline Medical Communications Inc., the U.S. Government, or any of its agencies.
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Commenter CP14: National Trust for Historic Preservation

National Trust *for* Historic Preservation
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June 16, 2016

Ms. Sandra Horsman, Director
Black Hills Health Care System
Department of Veterans Affairs
113 Comanche Road
Fort Meade, SD 57741

Re: **National Trust Supplemental Objection Letter and Comments on Revised Mitigation Measures for Battle Mountain Sanitarium ROD**

Dear Ms. Horsman:

CP14-1 Attached please find two documents: 1) a letter that supplements our *Formal Objection to Department of Veterans Affairs Inadequate Compliance with Section 106 of the National Historic Preservation Act Pursuant to 36 C.F.R. § 800.8(c)(2)(ii)*, which we submitted to the VA on May 5, 2016 and 2) redline comments on the Revised Mitigation Measures for the Battle Mountain Sanitarium Record of Decision, which were provided to consulting parties on May 18, 2016.

CP14-2 VA's cover letter that accompanied the Mitigation Measures document describes the Measures as "final measures" that VA has "decided upon," and states that "VA has elected not to implement some suggestions made by the consulting parties." However, the accompanying email offered that "[t]he revised measures are open to Consulting Party comment and suggestion as part of the public comment period." As a result, we are taking the opportunity to provide additional comments. As with our previous comments, since the document repeats numerous concepts, a comment offered regarding one subject should be applied to the same subject matter every time it appears throughout.

We appreciate that the VA responded to comments provided by the National Trust and others on the Draft Mitigation Measures. In particular, we were pleased to see that additional specificity was provided for some individual measures, as well as the fact that the document now more clearly identifies responsibilities for carrying out those measures.

CP14-3 However, we were disappointed that a number of our comments either received no acknowledgement or response or were rejected outright. For example, the document only addresses mitigation, ignoring *avoidance* and *minimization* of adverse effects, which should be prioritized above mitigation, particularly for a National Historic Landmark (NHL) such as Battle Mountain Sanitarium. In fact, the document contains no reference whatsoever to the fact that the property subject to the undertaking is a National Historic Landmark. There is no evidence offered that the VA has met the special requirements for NHLs under Section 110(f) of the NHPA. This "requires that the agency official, to the *maximum extent possible*, undertake such planning and actions as may be necessary to *minimize harm* to any [NHL]

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CP14-1. See Table E.-2

CP14-2. VA revised the draft measures to resolve adverse effects following receipt of comments from consulting parties and released revised measures on May 17, 2016. The revised measures and VA's cover letter responding to consulting party comment is included in Appendix C.

CP14-3. VA recognizes the vital, higher standard Congress provided in Section 110(f) of the NHPA (54 U.S.C. 306107). This procedural standard requires that VA "shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm" to a National Historic Landmark (NHL), like the Battle Mountain Sanitarium. It does not impose a substantive requirement that a federal agency minimize harm to the NHL to the maximum extent possible. VA's measures to resolve adverse effects, including measures to avoid or minimize potential effects of each alternative, is included in Section 5.2.

Commenter CP14: National Trust for Historic Preservation

that may be directly and adversely affected by an undertaking." 54 U.S.C. § 306107; 36 C.F.R. § 800.10(a) (emphasis added).

CP14-4

In addition, when the draft measures were presented, we were very surprised to see ideas in the document that had never been discussed between the VA and consulting parties. We certainly agree that some of those ideas have merit and could be potentially meaningful in mitigating adverse effects, but since they were never even discussed, it is yet another example of the VA's failure to engage in meaningful consultation on this matter. We have not been able to seek, discuss, and consider the views of the other participants, and, where feasible, seek agreement with them regarding these measures, as the regulations require. 36 C.F.R. §§ 800.8(c)(1)(v), 800.16(f). For example, it is our understanding that the Hot Springs Historic District has been recently resurveyed, per conversations with several other consulting parties. The VA indicates that is not the case. In addition, the VA offers that assistance with a Preserve America application would be a meaningful mitigation measure. We respectfully disagree. In our view, other mitigation ideas would be much more effective and meritorious, since any potential financial benefits of that program are now defunct.[1] We should discuss these matters as a group of consulting parties, determine whether a re-survey or Preserve America community designation is actually needed, and if so, whether those actions would represent a good uses of funds and would adequately address adverse effects.

CP14-5

Because of these concerns, we urge the VA to conduct at least one additional consultation meeting - which could be held in person or via webinar (assuming the technology is functional and all consulting parties are able to participate) – to engage in consultation about the proposed mitigation measures before they are finalized and included in the ROD.

Thank you for considering our comments.

Sincerely,

Amy Cole

Amy Cole
Senior Field Officer and Attorney

Elizabeth Merritt

Elizabeth S. Merritt
Deputy General Counsel

[1] Other mitigation ideas include establishing a fund for small business creation, establishing a revolving loan fund for façade restoration of downtown Hot Springs buildings, developing a comprehensive economic development plan for the city, developing a heritage tourism plan for the area, developing campus design guidelines, conducting historic structures assessments and preparing rehabilitation plans for the BMS buildings.

2

CP14-4. Preliminary ideas of ways to resolve adverse effects were presented to all Consulting Parties prior to the February 2016 historic properties consultation meeting. These preliminary ideas were discussed at the February 2016 meeting. Consulting Parties provided valuable ideas and feedback during this meeting. A copy of the transcript is included in Appendix C. VA revised the draft measures to resolve adverse effects following receipt of comments from consulting parties and released revised measures on May 17, 2016. The revised measures and VA's cover letter responding to consulting party comment is included in Appendix C.

CP14-5. A resurvey of the Hot Springs Historic District is not complete and an amendment has not been sent to the SD SHPO for review. VA has noted your comment on the Preserve America measure.

Commenter CP14: National Trust for Historic Preservation	
Attachments: • Attachment 1 - Supplemental Objection Letter • Attachment 2 - Redline of proposed Mitigation Measures cc: Dena Sanford, Midwest Regional Office, National Park Service Chris Daniel, Tom McCulloch and Reid Nelson, Advisory Council on Historic Preservation Stella Fiotes, Executive Director, Office of Construction and Facilities Management, Department of Veterans Affairs Kathleen Schamel, Federal Preservation Officer, Department of Veterans Affairs Doug Pulak, Deputy Federal Preservation Officer, Department of Veterans Affairs Jay Vogt, Ted Spencer and Paige Olson, South Dakota State Historic Preservation Office Pat Russell and Bob Nelson, Save the VA Committee 3	CP14-6
CP14-6	CP14-6. VA revised the draft measures to resolve adverse effects following receipt of comments from consulting parties and released revised measures on May 17, 2016. The revised measures and VA's cover letter responding to consulting party comment is included in Appendix C.

Commenter CP14: National Trust for Historic Preservation

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Attachment 1

June 16, 2016

Ms. Sandra Horsman, Director
Black Hills Health Care System
Department of Veterans Affairs
113 Comanche Road
Fort Meade, SD 57741

Re: **Supplement to the Formal Objection to Department of Veterans Affairs Inadequate Compliance with Section 106 of the National Historic Preservation Act Pursuant to 36 C.F.R. § 800.8(c)(2)(ii).**

Dear Ms. Horsman:

On May 5, 2016, the National Trust for Historic Preservation (National Trust) filed a formal objection to the Section 106 consultation for the Battle Mountain Sanitarium National Historic Landmark (BMS) in Hot Springs, SD, which has been carried out by the Department of Veterans Affairs (VA) pursuant to the "NEPA Substitution" procedures under 36 C.F.R. § 800.8(c).

Since filing our objection, additional documents have been provided to the consulting parties—the final *Measures to Resolve Adverse Effects to Historic Properties Related to Alternatives for the Proposed Reconfiguration of the VA Black Hills Health Care System Administration* ("Mitigation Measures"), which are slated for inclusion in the Record of Decision, and electronic access to the draft of Appendix C to the DEIS.

In our previous objection correspondence, we outlined the process described in 36 C.F.R. § 800.8(c), so we will not restate that here; rather, we will explain how the additional documents relate to issues raised in our earlier objection.

We appreciate that in Appendix C the VA has collected a large volume of materials documenting the administrative record of the consultation, and in this updated Appendix has now included materials that cover what has happened since the publication of the DEIS in October 2015.

On April 28, 2016, we submitted extensive comments on the 41-page draft of the Mitigation Measures. We have received the VA's response to those comments, but we continue to believe that the measures fall short of the NEPA substitution requirements, both procedurally and substantively. The VA did not "[d]evelop *in consultation* with identified consulting parties alternatives and proposed measures that might *avoid, minimize* or mitigate any adverse effects of the undertaking on historic properties and describe them in the . . . DEIS." 36

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CP14-7	CP14-7. See Table E-2?

Commenter CP14: National Trust for Historic Preservation

C.F.R. § 800.8(c)(1)(v) (emphasis added). Furthermore, "[t]he substantive resolution of the effects on historic properties proposed in [the DEIS] is inadequate." *Id.* § 800.8(c)(2)(ii).

When the draft Mitigation Measures were presented, six months after the publication of the DEIS, we were very surprised to see ideas in the document that had never been discussed between the VA and the consulting parties, but were presented unilaterally by the VA, in violation of the consultation requirement in § 800.8(c)(1)(v). Furthermore, these Mitigation Measures only take into account possible *mitigation*, not how adverse effects may be *avoided or minimized*, as is required under the regulations. Because no consultation has taken place about the Mitigation Measures document, we have not been able to seek, discuss, and consider the views of the other participants, and, where feasible, seek agreement with them, as the regulations require. *Id.* § 800.16(f).

In response to the comments we submitted on the Mitigation Measures, the VA provided some affirmative responses, some negative responses, and in some cases, no response at all. What was absent in this process was any *consultation* about these ideas. As a result, we do not believe the proposed Mitigation Measures will be sufficient to mitigate the adverse effects. In many cases, the consulting parties presented mitigation ideas that would be much more effective than the ideas offered unilaterally by the VA, but these ideas were dismissed by the VA without explanation.[1] Moreover, the future of the campus remains in question and the direst possible adverse effect on this National Historic Landmark – the abandonment and deterioration of the campus in the event that another user cannot be found – remains unresolved. In order to address these regulatory requirements, we should discuss these matters *in consultation*, and attempt to substantively resolve all possible adverse effects, not just through mitigation, but also avoidance and minimization of harm.

We believe that a supplemental DEIS is needed, which would include a revised Appendix C, and changes to the DEIS narrative to address new information that has become available since it was published, including analysis of the addition of Alternative A with the CBOC in Building 12, accounts of consultation that has taken place in the last six months, and the proposed Mitigation Measures, modified to reflect the outcome of what we hope will be forthcoming consultation on that document.

In order to resolve the National Trust's objections, the VA is required to "refer the matter to the Council" for its review and opinion, § 800.8(c)(2)(ii), and we request that the VA forward this supplemental objection to the Council as well. We appreciate the opportunity to participate as the process of this objection and referral moves forward, pursuant to 36 C.F.R. § 800.8(c)(2)-(3).

Thank you for your consideration.

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[1] Other mitigation ideas include establishing a fund for small business creation, establishing a revolving loan fund for façade restoration of downtown Hot Springs buildings, developing a comprehensive economic development plan for the city, developing a heritage tourism plan for the area, developing campus design guidelines, conducting historic structures assessments and preparing rehabilitation plans for the BMS buildings.

2

Commenter CP14: National Trust for Historic Preservation

Sincerely,

Amy Cole
Senior Field Officer and Attorney

Elizabeth S. Merritt
Deputy General Counsel

cc: Dena Sanford, Midwest Regional Office, National Park Service
Chris Daniel, Tom McCulloch and Reid Nelson,
Advisory Council on Historic Preservation
Stella Fiotes, Executive Director, Office of Construction and Facilities
Management, Department of Veterans Affairs
Kathleen Schamel, Federal Preservation Officer,
Department of Veterans Affairs
Doug Pulak, Deputy Federal Preservation Officer,
Department of Veterans Affairs
Jay Vogt, Ted Spencer and Paige Olson,
South Dakota State Historic Preservation Office
Pat Russell and Bob Nelson, Save the VA Committee

3

Commenter CP14: National Trust for Historic Preservation

For Inclusion in the Final EIS
05/17/2016

Black Hills Health Care System
Measures to Resolve Adverse Effects

June 16, 2016

Attachment 2

National Trust Comments on:

Measures to Resolve Adverse Effects to Historic Properties Related to Alternatives for the Proposed Reconfiguration of the VA Black Hills Health Care System Administration

- VA shall send and accept receipt of official notices, comments, requests for further information and documentation, and other communications as required by this Record of Decision (ROD) by email.
- Time designations shall be in calendar days. VA may proceed with its schedule if comments are not received within the specified timeframes.
- VA shall provide written reports via email to all consulting parties about the implementation of measures to resolve adverse effects to historic properties every six months from the date of execution of this ROD until all measures have been enacted.
- Within 120 days of issuing the ROD, VA shall develop a timeline of major milestones with deadlines for implementing each measure. VA shall email the final timeline to all consulting parties.
- This ROD is subject to the *Anti-Deficiency Act* (31 U.S.C. Section 1341). VA's responsibilities to implement these measures are contingent upon the availability of appropriated funds from which payment, if any, can be made. Should funds not be available to allow VA to meet its responsibilities, VA shall resume consultation to resolve unfunded measures pursuant to 36 CFR §800.4 through §800.7, as applicable.

Dispute Resolution

- Should any consulting party to this process or member of the public object to the implementation of the mitigation measures for impacts to historic properties to which VA has committed in this ROD, the consulting party or member of the public will notify in writing the VA dedicated project manager who will seek to resolve such objection through consultation with the objector and, as appropriate, the South Dakota State Historic Preservation Office (SHPO), and the National Park Service (NPS).
- If the dispute cannot be resolved through consultation within 60 days, VA will forward all documentation relevant to the dispute to the ACHP, including any proposed resolution identified during consultation. Within 30 days after receipt of all pertinent documentation, the ACHP may:
  - Provide VA with recommendations to consider in reaching a final decision regarding the dispute; or
  - Notify VA that it will comment on the subject of the dispute pursuant to 36 CFR §800.7(c).
- If the ACHP does not provide VA with recommendations within 30 days, VA may assume that the ACHP does not object to its recommended approach and will proceed accordingly.

1

Commented [A1]: Thank you for agreeing to provide written reports.

Commented [A2]: We believe that developing a time line now, rather than months after the ROD is signed, would be a better practice.

Commented [A3]: Should this refer to 800.8(c)(3) instead?

CP14-8

CP14-8. VA revised the draft measures to resolve adverse effects following receipt of comments from consulting parties and released revised measures on May 17, 2016. The revised measures and VA's cover letter responding to consulting party comment is included in Appendix C.

Commenter CP14: National Trust for Historic Preservation

- Any recommendation provided by ACHP will pertain only to the subject of the dispute. The responsibilities of VA to implement all mitigation measures that are not the subject of the dispute will remain unchanged.
- Any dispute regarding National Register of Historic Places eligibility that is not resolved pursuant to this stipulation will be resolved in accordance with 36 CFR §800.4(c)(2).

Modification of Measures to Resolve Adverse Effects

- VA, ACHP, South Dakota SHPO, NPS, and any Native American tribes that have potential traditional, historic or current ties to the affected resource may request modification to the historic property impact mitigation measures. The party seeking modification must formally notify ~~the other consulting~~ parties ~~listed here. Then Consultation regarding the proposed modification period~~ may ~~take place, if needed~~ in person or via written communications. The historic property mitigation measures in the ROD may be modified when such an amendment is agreed to in writing by the ACHP and the Secretary of Veterans Affairs (SECVA). ~~Following consultation~~. The modification shall become effective immediately upon signature by the SECVA. A copy of the modified ROD will be provided to all consulting parties. VA will review any modification to determine the need for additional NHPA analysis, and conduct such analysis as required.

General Stipulations

- Publication of this ROD and implementation of the mitigation included in this ROD evidences that VA has afforded the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on the undertaking and its effects on historic properties, that VA has taken into account the effects of the undertaking on historic properties, and, therefore, that VA has satisfied its responsibilities under Section 106 of the *National Historic Preservation Act* (NHPA) and applicable implementing regulations.

All Alternatives

- Historic preservation measures, including architectural design, carried out pursuant to this undertaking shall meet the Secretary of the Interior's (SOI's) Standards for Archaeology and Historic Preservation (www.nps.gov/history/local-law/arch_stnds_9.htm), taking into account the suggested approaches to exterior rehabilitation and new construction in the SOI's Standards for the Treatment of Historic Properties. For all new construction, both on and off the VA Hot Springs campus, specific projects may trigger additional consultation pursuant to 36 CFR §800 if the Design Review Committee clause included in this ROD does not apply.
- VA shall ensure that all mitigation measures carried out pursuant to this Undertaking shall be done by or under the direct supervision of historic preservation professionals who meet the SOI's ~~Compared Historic Preservation on~~ Professional Qualifications Standards, ~~published in 48 Fed. Reg. 44716, (Sept. 24, 1983). www.nps.gov/history/local-law/arch_stnds_9.htm~~. VA shall ensure that consultants retained for services pursuant to the ROD meet these standards.
- VA shall not re-number or otherwise change the existing campus building numbers. New construction shall not copy any extant or past building numbers.
- VA shall assign a dedicated project manager at the Network level or higher within the VA to coordinate, monitor, and report on progress implementing the historic preservation mitigation measures outlined in this ROD. This individual will have at least three years of project management experience and be experienced in the treatment of historic buildings or districts. This

Commented [A4]: We want to repeat our comment that this document does not even contain any reference to the fact that the property harmed by the undertaking is a National Historic Landmark. There is no evidence offered that VA has met the special requirements under Section 110(f) of the NHPA for protecting National Historic Landmarks. This "requires that the agency official, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to any [NHL] that may be directly and adversely affected by an undertaking." 54 U.S.C. § 306107; 36 C.F.R. § 800.10(a).Please provide language addressing this requirement and how VA is meeting it.

Commented [A5]: Does the addition of this paragraph address the previous contradiction between this section and measures proposed for Alt. E and F?

Commented [A6]: While VA's commentary says NPS favors the older version of the standards, we do not understand that to be the case. Please clarify, as we routinely recommend that federal agencies use the more up to date professional qualification standards cited here, especially for undertakings involving NHLs, and these are frequently used in practice by incorporation into Section 106 agreements.

Commenter CP14: National Trust for Historic Preservation

individual will serve as the direct point of contact with consulting parties and the public for matters related to preservation, including implementation of the commitments in this document.

- VA shall give preference to persons who meet or exceed the SOI's 2007 Professional Qualification Standards for Historic Architects; have experience with the SOI Treatment Standards; and, have experience with the National Environmental Policy Act and National Historic Preservation Act.
- VA will advertise for this position within one months of issuing the ROD.
- This position will continue until all ROD measures have been completed.
- VA will inform the consulting parties of the appointment or replacement of this individual within 30 days of selection or replacement.

Unexpected Discoveries

- VA shall follow these procedures in the case of discovering human remains at any location under any alternative.
  - If human remains are uncovered in the course of construction, landscaping, maintenance, or other activities, and the property remains under the authority of VA, VA will stop work immediately within 100 feet of the discovery in all directions.
    - If human remains are uncovered and are determined to be non-Native American, VA shall treat the remains in a manner that is consistent with South Dakota Codified Law (SDCL) 34-27-25, SDCL 34-27-28, SDCL 34-27-31.
    - If the uncovered human remains are determined to be Native American, VA will require consideration of the ACHP's 2007 "Policy Statement Regarding Burial Sites, Human Remains, and Funerary Objects" or any subsequent policy statements that are issued after the execution of this ROD, and will comply with relevant requirements of the *Native American Graves Protection and Repatriation Act* (NAGPRA) and its implementing regulations (43 CFR §10.4).
  - If human remains are uncovered in the course of construction, landscaping, maintenance or other activities, and the property is under the authority of another federal agency, that agency will stop work immediately within 100 feet of the discovery and implement its own policies and procedures, including those for complying with NAGPRA.
  - If human remains are uncovered in the course of construction, landscaping, maintenance or other activities, and the property is under the authority of a state agency or private entity, that agency will stop work immediately within 100 feet of the discovery and treat the remains in a manner that is consistent with SDCL 34-27-25, SDCL 34-27-28, SDCL 34-27-31.
- VA shall follow these procedures in the case of discovering historic properties or unanticipated effects to previously identified historic properties under any alternative.
  - If historic properties are discovered or unanticipated effects on historic properties are found during construction, maintenance, landscaping, or other activities, and the property is still under VA authority, VA will follow the requirements of 36 CFR §800.13 and, as applicable, NAGPRA and its implementing regulations.
  - If historic properties are discovered or unanticipated effects on historic properties are found during construction, maintenance, landscaping, or other activities, and the property is not under the authority of another federal agency, that agency shall be responsible for

Commented [A7]: While we would prefer that it be a requirement, thank you for adding preference for qualified staff.

Commented [A8]: While we would prefer that it be a requirement, thank you for adding preference for qualified staff.

Commented [A9]: Synch language with preceding section.

Commenter CP14: National Trust for Historic Preservation

following the 36 CFR §800.13 requirements and, as applicable, NAGPRA and its implementing regulations.

- If historic properties are discovered or unanticipated effects on historic properties are found during construction, maintenance, landscaping, or other activities, and the property ~~is owned by~~ ~~under the authority of~~ ~~a~~ a state agency or private entity, it shall be the responsibility of that ~~agency, entity~~ to follow the requirements of SDCL 1-19A-11.1.

Alternative A (CBOC offsite)

Measures to Avoid or Minimize Adverse Effects, including Potential Future Effects

- VA shall follow the tenets of the NHPA and its implementing regulations at 36 CFR Part ~~s~~800 to select a site and prepare that site for any construction not contained within the boundaries of the Hot Springs campus.
- If any historic building~~s~~ on the Hot Springs campus shall be unoccupied for a period of at least three months, VA shall develop a comprehensive plan for the long-term preservation of such building~~s~~.
  - VA shall hire an SOI-qualified ~~h~~historic ~~a~~architect with experience in mothballing plans to design and oversee this comprehensive plan. This plan will be in keeping with the standards outlined in NPS Preservation Brief 31, Mothballing Historic Buildings.
    - Preference will be given to an individual or team that has experience developing plans for the preservation of multiple unoccupied historic buildings.
  - This plan will address any stabilization issues and include a schedule of preservation and inspection, fall system monitors, onsite security, emergency repairs such as for damage from a fire or roof collapse, a preservation plan for building interiors, a plan to preserve the campus landscape, and ongoing (annual) consultation with the South Dakota SHPO and the NPS.
  - VA shall provide a draft of the plan to the consulting parties for a 30-day review and comment period, highlighting any deviations from the recommendations in Preservation Brief 31.
    - VA shall take into account the comments from the South Dakota SHPO and NPS when finalizing the plan.
    - VA shall forward a copy of the final plan to the South Dakota SHPO and NPS and implement the plan.
  - This plan will make explicit reference to other federal agency experiences with preserving historic buildings in an unoccupied state, as well as specific experiences with maintaining historic buildings in South Dakota and similar climates.
  - This plan will include annual inspections, which will be open to the South Dakota SHPO and the NPS and recorded in reports to the consulting parties.
  - VA recognizes the importance of fully funding a comprehensive program for the maintenance of historic buildings in an unoccupied state. VA also recognizes the extraordinary cost of mothballing a campus of this size and acknowledges that such cost is not easily absorbed in an annual maintenance budget. VA will include costs for non-recurring maintenance and repair of the buildings while in an unoccupied state, in VA's annual Strategic Capital

Commented [A10]: Why only those two entities?

Commented [A11]: Seems like it is late in the process to document this – these experiences should inform whether alternatives are viable to begin with.

Commenter CP14: National Trust for Historic Preservation

For Inclusion in the Final EIS
05/17/2016

Black Hills Health Care System
Measures to Resolve Adverse Effects

Investment Plan (SCIP) ten year planning process, with emphasis on the priority of such non-recurring maintenance and repair given by BHHCS and VISN 23. If VA must leave all or part of the historic buildings of the Hot Springs campus unoccupied, and upon issuance of the ROD, VA shall seek funding at least annually for recurring maintenance and repair of the buildings while in an unoccupied state. VA shall include in its required six month written reports to all consulting parties, the results of any and all of VA's efforts to seek such funding.

- Once Buildings 1-12 of the campus have closed, preservation of the campus according to the tenets of the comprehensive plan will continue for a minimum of five years.
  - After these five years, VA, in consultation with ACHP, NPS, SHPO, and the Town of Hot Springs, may elect to renew the comprehensive plan for the preservation of historic buildings for a period not to exceed five additional years. If VA elects to renew the comprehensive plan, this plan must be updated by an SOI-qualified Historic Architect, to account for extant conditions.
  - If, after either five years (if VA does not renew the comprehensive plan) or ten years (if VA renews the comprehensive plan) years, VA elects not to renew the comprehensive plan for the preservation of historic buildings, VA shall re-engage in consultation with respect to the VA Hot Springs campus and shall follow the tenets of the NHPA and its implementing regulations at 36 CFR Part 800. This process must be initiated prior to the end of the comprehensive preservation plan.
- The Dedicated Project Manager shall work with the VHA Historian and the Hot Springs Historic Preservation Commission to find a suitable display location for VA-owned materials currently in the Battle Mountain Sanitarium Museum.
  - VA may loan commemorative materials in accordance with federal law and VA protocols.
  - VA is not obligated to care for materials owned by other agencies or private citizens currently on display in the Battle Mountain Sanitarium Museum.
  - Neither VA nor the Hot Springs Preservation Commission will be monetarily obligated to fund a new display.
  - If an appropriate site cannot be found within the Town of Hot Springs, VA may look at other VA sites or pursue an agreement with the South Dakota State Museum or State Archives.

Measures to Mitigate Adverse Effects

- Following publication of the ROD and until the property is transferred to another entity or the campus is mothballed, VA shall make the greenhouse available to a local group or organization so that group may determine if it is feasible to reactivate, operate, and maintain it, and to use it to grow vegetation for the campus or town landscape.
- VA shall seek to develop a statewide programmatic agreement (PA) for routine maintenance of the historic VA facilities owned or operated in the state of South Dakota by the VA Black Hills Health Care System and the Sioux Falls VA Health Care System in consultation with the South Dakota SHPO and the ACHP.
- VA shall support the Hot Springs Historic Preservation Commission in completing an application for the Preserve America program for the town of Hot Springs.

5

Commented [A12]: We understand that the VA may be reconsidering the use of the SCIP planning process in the future. If this occurs, the Mitigation Measures will need to be revised.

Commented [A13]: We appreciate the addition of an opportunity to renew the plan, and potentially double its implementation term, but in all likelihood 10 years is not enough time. As we have raised before, at other VA sites, like Milwaukee, buildings have been empty for nearly 30 years. We suggest extending "renewal" for additional 5 year increments, as needed.

Commented [A14]: We previously asked why there is not consideration of other measures discussed previously during consultation that would support economic vibrancy in Hot Springs, such as establishing a fund for small business creation, establishing a revolving loan fund for facade restoration of downtown buildings, developing a comprehensive economic development plan for the city, or developing a heritage tourism plan for the area. Other measures could include campus design guidelines, historic structure assessments or rehab plans for the buildings, etc. These suggestions can apply to all of the alternatives that include abandonment of the campus in whole or part.

We appreciated that in VA's response to comments, the agency acknowledged that these ideas were good ones, but there has been no discussion among consulting parties about these ideas and their merit, and the VA has declined to include them as mitigation measures. VA says in its response to comment table that it will be doing other things instead, including helping with a Preserve America community designation, but before unilaterally deciding this is a good choice, we should consult about it.

Commented [A15]: We do not believe this to be a significant mitigation measure because the program has not been funded in years, and mere designation and the installation of signage does little to further heritage tourism.

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- This support may include, but is not limited to, technical assistance, staff support, shipping fees, copy fees, and photography.
- VA shall host an annual reunion for patients, staff, and other community residents to commemorate the history of the Battle Mountain Sanitarium and celebrate the service of the residents of Hot Springs to our nation and our nation's Veterans.
  - VA shall establish an oral history booth/tent so participants may record oral histories.
    - VA shall utilize a qualified historian to oversee development of the oral history program.
      - VA, in coordination with the Hot Springs Preservation Commission and other interested consulting parties, shall develop a plan to annually record oral histories of patients, Veterans, staff members, and community residents related to the history of the Battle Mountain Sanitarium and the spirit of service in the Hot Springs area.
      - VA shall solicit assistance from the local schools to develop questions and transcribe all recorded histories.
      - VA shall archive at least one copy of the digital oral histories and the transcripts at the South Dakota State Archives and one copy with a publically accessible archive in Hot Springs.
  - VA shall host this annual event for at least five years following publication of the ROD. If VA has left the campus, VA may host the annual event at another site within the boundaries of Hot Springs.
- Within applicable laws and regulations, VA shall produce, or contract for the production of, a book about the historical significance of the Battle Mountain Sanitarium/VA Hot Springs campus, the Hot Springs Historic District, and the spirit of service to country in Hot Springs.
  - This book shall be authored by a professional writer with experience writing commemorative history books; it shall not exceed 300 pages. This book shall contain photos of the Battle Mountain Sanitarium prior to implementing any mothballing plan. At least one chapter of the book will be devoted to the National Homes for Disabled Volunteer Soldiers. This book shall include information gathered from the oral history project established at the annual Battle Mountain Sanitarium/VA Hot Springs reunions.
  - VA shall provide the consulting parties an opportunity to review and comment on the book outline and text. The consulting parties may provide documentation of the Battle Mountain Sanitarium at their discretion to support VA in development of the book.
  - VA shall develop an e-reader version of the book, and make it available commercially
  - VA shall produce or contract for the production of not less than 250 copies and not more than 2,500 copies of the book. Any profits realized by the sale of this book will be managed in accordance with applicable laws and regulations.
- VA shall create a photographic display related to the history of the Battle Mountain Sanitarium and the importance of the mineral springs in Hot Springs in a public area of any new construction associated with this alternative.
  - This photographic display is intended to be a documentation of Battle Mountain Sanitarium through the years, and shall include at least three photographs of the Battle Mountain

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Sanitarium prior to executing this ROD. There is no limit on the number of historical photos that may be included in this display.

- VA shall accept photograph recommendations from the South Dakota SHPO and the NPS, as well as other consulting parties.
- All photographs submitted shall be fully labeled, cited, dated, and archivally stable to allow for VA scanning.

- VA shall develop a mobile application ("app") to memorialize the Battle Mountain Sanitarium.
  - This app will include historic photos of the campus, oral histories, and historic context related to the Battle Mountain Sanitarium. VA shall reference the design and purpose of the app designed for the Clement J. Zablocki Veterans Affairs Medical Center (Milwaukee VAMC)/Northwestern Branch of the National Home for Disabled Volunteer Soldiers.
  - VA will begin development of the app after the second reunion in order to incorporate relevant pieces of oral histories into the app.
  - This app will be made available to the public, free of charge (excluding personal user fees as charged by the user's service provider), prior to VA vacating the Battle Mountain Sanitarium campus and remain available for a period not less than three years.
  - The app platform compatibility will be determined at the time of development based on current industry standards.
  - Once completed, no updates to the app will be planned.
- VA shall support the Hot Springs Historic Preservation Commission's efforts to complete a re-survey of the Hot Springs Historic District and submit an amendment to the National Register of Historic Places nomination to the South Dakota SHPO for consideration.
  - This support may include, but is not limited to, hiring an SOI-qualified historic preservation consultant, advertising for volunteer photographers, and printing/shipping costs. VA shall not provide more than $10,000 in monetary or in-kind support.
  - VA shall allow the Hot Springs Historic Preservation Commission to submit photographs of the VA BHHCS Hot Springs Campus for inclusion in the amended National Register nomination. The Hot Springs Historic Preservation Commission shall request access not less than 14 days prior to the intended survey. VA BHHCS staff will accompany the photographer to ensure all patient privacy requirements are met.
- VA shall support the South Dakota SHPO by reimbursing the cost of one staff position to recreate the South Dakota Main Street Program.
  - VA and the South Dakota SHPO shall collaborate to select a qualified candidate for the position.
  - VA shall provide funding not to exceed $300,000 in a lump sum to fund staffing and implementation following publication of the ROD.
  - This person shall actively pursue a Main Street designation for Hot Springs if requested by the Town of Hot Springs.
  - VA shall conduct a survey that uses the protocols of a Level I Historic American Buildings (HABS) Survey of all buildings in the Battle Mountain National Historic Landmark District.

Commented [A16]: Per CP comments regarding the use of "work for hire," consider making the app available to another entity after VA's involvement ends.

Commented [A17]: We reiterate the need for clarification on the re-survey. While the District was **designated in 1973, we understand from other consulting** parties that there was a re-survey in the mid-2000s, and the NHL nomination of the campus is just 5 years old. In the absence of other information to the contrary, resurvey seems to be unneeded and not a meaningful mitigation measure.

Commented [A18]: These terms are better than those suggested in the first draft. However, our preference would be to create a specific Main Street Program in Hot Springs.

Commented [A19]: Thanks for making these HABS/HALS additions.

Commenter CP14: National Trust for Historic Preservation

There were no comments on pages 8-9 of the original document.

For Inclusion in the Final EIS
05/17/2016

Black Hills Health Care System
Measures to Resolve Adverse Effects

- Once Buildings 1-12 of the campus have closed, preservation of the campus according to the tenets of the comprehensive plan will continue for a minimum of five years.
  - If, after these five years, no feasible reuse for the campus has been reached, identified and implemented, VA, in consultation with ACHP, NPS, SHPO, and the Town of Hot Springs, may elect to renew the comprehensive plan for the preservation of historic buildings for a period not to exceed five additional years. If VA elects to renew the comprehensive plan, this plan must be updated by an SOI-qualified historic architect, to account for extant conditions.
  - If, after either five (if VA does not renew the comprehensive plan) or ten (if VA renews the comprehensive plan) years, VA elects not to renew the comprehensive plan for the preservation of historic buildings, VA shall re-engage in consultation with respect to the VA Hot Springs campus and shall follow the tenets of the NHPA and its implementing regulations at 36 CFR §800. This process must be initiated prior to the end of the comprehensive preservation plan.
- VA shall develop and implement a marketing strategy to identify redevelopment partners.
  - VA shall develop a rigorous process to identify possible redevelopment partners for the Battle Mountain Sanitarium campus. This process will include alternative VA uses, other federal agency uses, state or local government uses, Native American uses, and private developer projects, as well as mixed use or multiuser coalitions. VA shall seek input from the South Dakota SHPO and NPS in developing this redevelopment process and will examine available public-private partnership authorities such as an enhanced-use lease and NHPA Section 111 leasing. This process will be distributed to consulting parties via email within 120 days of issuance of the ROD.
  - VA shall establish an integrated project team at appropriate levels across the VA enterprise to evaluate possible alternative VA uses of the Battle Mountain Sanitarium campus that are not related to the delivery of Veteran health care services. The dedicated project manager will serve on the integrated project team. This process will include outreach to Veterans Health Administration programs that deliver administrative support services, Veterans Benefit Administration programs, National Cemetery Administration program needs, and VA staff office needs. This process will be documented, continue through the period of transition for the campus, and be reported in, at minimum, reports to the consulting parties on a semi-annual basis. Additionally, VA will accept comments and suggestions on the marketing plan within 30 days of reporting. As necessary, the team will present decision points to SECVA or his/her designee.
    - The IPT will be composed of VA employees from several departments within VA including, but not limited to, Real Property Service, the Office of Asset Enterprise Management, the Office of Construction and Facilities Management, the Federal Preservation Office, VISN 23, and the Dedicated Project Manager. Members will be selected for their experience and areas of expertise.
  - To the extent SECVA determines to seek an external user for all or a portion of the campus, VA shall either seek a federal agency partner who can take over the property, or engage the General Services Administration (GSA) in the property excessing process. [redacted]

Commented [A20]: As we have repeatedly pointed out, any marketing strategy should first be informed by a real estate market demand analysis. This is the appropriate way to arrive at the decision to market the buildings for re-use in the first place. VA indicated it would do a market study but that is not mentioned here. We do not agree that a market analysis cannot be done until after a decision is reached. Other than saying it can't be done, VA does not offer a reason why. The VA is obligated to seek this data because it "is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant." See 40 C.F.R. § 1502.22(a

Commented [A21]: Other consulting parties have an interest in this and can provide useful input. We encourage you to include input from all consulting parties throughout the document.

Commented [A22]: This should be undertaken as part of the analysis of alternatives before a ROD is signed.

Commented [A23]: There are many steps in the disposal process – please list them all, including an eternal link to the process such as: http://www.gsa.gov/portal/content/101694, or don't list any.

10

Commenter CP14: National Trust for Historic Preservation

There were no comments on page 11-14 of the original document.

Alternative A (CBOC in Building 12)

Commented [A24]: This section does not appear to address ways to avoid, minimize or mitigate effects on Building 12. Is the "All Alternatives" section on page 2, which says that all work carried out shall meet the Secretary's Standards, meant to apply here without any additional terms related to Building 12?

Measures to Avoid or Minimize Adverse Effects, including Potential Future Effects

- VA shall follow the tenets of the NHPA and its implementing regulations at 36 CFR §800 to select a site and prepare that site for any construction not contained within the boundaries of the Hot Springs campus.
- When off-site renovation or new construction will trigger additional consultation under 36 CFR §800, VA and its development partners shall work with a Design Review Committee regarding non-recurring maintenance projects, including infrastructure improvements, renovations, and new construction on the Hot Springs campus associated with this alternative.
  - The Design Review Committee will consist of the SD SHPO, the NPS, and the Hot Springs Historic Preservation Commission.
  - VA and its partners will notify the Design Review Committee of plans for new construction prior to initiating design development documents.
    - VA will include the intended scope of work in the notification.
    - VA and its partners will take into account comments from the Design Review Committee in finalizing the scope of work and schematic designs.
  - VA and its partners will submit draft schematic designs to the Design Review Committee for review and comment. All parties to the Design Review Committee shall have 21 days to review the draft schematic designs and provide comments on ways to improve the design to best minimize effects to contributing elements to the Battle Mountain Sanitarium.
    - VA shall respond to Design Review Committee comments in writing, by conference call, or in person. The terms of response shall be the purview of VA BHHCS.
  - Following response to comments, VA and its partners may proceed with design and begin construction so long as all requirements of this ROD governing the protection of archaeological properties have been met.
- VA shall conduct an archaeological survey to detect archaeological properties and to determine the eligibility of any discovered archaeological sites for listing in the National Register of Historic Places in areas planned for ground disturbance related to new construction on campus.
  - VA shall notify the South Dakota SHPO, the NPS, and all Native American tribes that have potential traditional, historic, or current ties to the VA BHHCS service area of the survey at least seven days prior to initiating it.
  - VA shall invite the South Dakota SHPO and the NPS to consult on determinations of eligibility for all identified archaeological loci not related to Native American lifeways and cultural practices. VA shall invite the South Dakota SHPO, the NPS, and all Native American tribes that have potential traditional, historic, or current ties to the VA BHHCS service area to consult on determinations of eligibility for all identified archaeological loci related to Native American lifeways and cultural practices.

Commented [A25]: Please clarify why the measures for some Alternatives include this section on archaeology and others don't. In this case, there is no new construction planned on the campus, except within existing buildings, so when would this apply?

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- If archaeological properties are located and determined to be eligible for listing in the National Register of Historic Places, VA shall follow the tenets of the NHPA and its implementing regulations at 36 CFR §800 to resolve adverse effects.

- If any historic building on the Hot Springs campus shall be unoccupied for a period of at least three months, VA shall develop a comprehensive plan for the long-term preservation of such buildings.
  - VA shall hire an SOI-qualified historic architect with experience in mothballing plans to design and oversee this comprehensive plan. This plan will be in keeping with the standards outlined in NPS Preservation Brief 31, Mothballing Historic Buildings.
    - Preference will be given to an individual or team that has experience developing plans for the preservation of multiple unoccupied historic buildings.
  - This plan will address any stabilization issues and include a schedule of preservation and inspection, fall system monitors, onsite security, emergency repairs such as for damage from a fire or roof collapse, a preservation plan for building interiors, a plan to preserve the campus landscape, and annual consultation with the South Dakota SHPO and the NPS.
  - VA shall provide a draft of the plan to the consulting parties for a 30-day review and comment period, highlighting any deviations from the recommendations in Preservation Brief 31.
    - VA shall take into account the comments from the South Dakota SHPO and NPS when finalizing the plan.
    - VA shall forward a copy of the final plan to the South Dakota SHPO and NPS.
  - This plan will make explicit reference to other federal agency experiences with preserving historic buildings in an unoccupied state, as well as specific experiences with maintaining historic buildings in South Dakota and similar climates.
  - VA recognizes the importance of fully funding a comprehensive program for the maintenance of historic buildings in an unoccupied state. VA also recognizes the extraordinary cost of mothballing a campus of this size and acknowledges that such cost is not easily absorbed in an annual maintenance budget. VA will include costs for non-recurring maintenance and repair of the buildings while in an unoccupied state, in VA's annual Strategic Capital Investment Plan (SCIP) ten year planning process, with emphasis on the priority of such non-recurring maintenance and repair given by BHHCS and VISN 23. If VA must leave all or part of the historic buildings of the Hot Springs campus unoccupied, and upon issuance of the ROD, VA shall seek funding at least annually for recurring maintenance and repair of the buildings while in an unoccupied state. VA shall include in its required six month written reports to all consulting parties, the results of any and all of VA's efforts to seek such funding.
  - The plan will include annual inspections, which will be open to the South Dakota SHPO and the NPS and recorded in reports to the consulting parties.
    - Once Buildings 1-11 of the campus have closed, preservation of the campus according to the tenets of the comprehensive plan will continue for a minimum of five years.
    - After these five years, VA, in consultation with ACHP, NPS, SHPO, and the Town of Hot Springs, may elect to renew the comprehensive plan for the preservation of historic buildings for a period not to exceed five additional years. If VA elects to renew the

Commented [A26]: This seems to be incorrect because Alternative C includes a CBOC in Building 12, and RRTP uses in Buildings 1-8 and 11, plus a number of other uses in additional buildings described in the DEIS at page 45. Under what circumstances would Buildings 1-11 close in this alternative?

Commenter CP14: National Trust for Historic Preservation

There were no comments on pages 17-20 of the original document.

- If archaeological properties are located and determined to be eligible for listing in the National Register of Historic Places, VA shall follow the tenets of the NHPA and its implementing regulations at 36 CFR §800 to resolve adverse effects.
- If any historic building on the Hot Springs campus shall be unoccupied for a period of at least three months, VA shall develop a comprehensive plan for the long-term preservation of such buildings.
  - VA shall hire an SOI-qualified historic architect with experience in mothballing plans to design and oversee this comprehensive plan. This plan will be in keeping with the standards outlined in NPS Preservation Brief 31, Mothballing Historic Buildings.
    - Preference will be given to an individual or team that has experience developing plans for the preservation of multiple unoccupied historic buildings.
  - This plan will address any stabilization issues and include a schedule of preservation and inspection, fire system monitors, onsite security, emergency repairs such as for damage from a fire or roof collapse, a preservation plan for building interiors, a plan to preserve the campus landscape, and ongoing (annual) consultation with the South Dakota SHPO and the NPS.
  - VA shall provide a draft of the plan to the consulting parties for a 30-day review and comment period, highlighting any deviations from the recommendations in Preservation Brief 31.
    - VA shall take into account the comments from the South Dakota SHPO and NPS when finalizing the plan.
    - VA shall forward a copy of the final plan to the South Dakota SHPO and NPS and implement the plan.
  - This plan will make explicit reference to other federal agency experiences with preserving historic buildings in an unoccupied state, as well as specific experiences with maintaining historic buildings in South Dakota and similar climates.
  - The plan will include annual inspections, which will be open to the South Dakota SHPO and the NPS and recorded in reports to the consulting parties.
  - VA recognizes the importance of fully funding a comprehensive program for the maintenance of historic buildings in an unoccupied state. VA also recognizes the extraordinary cost of mothballing a campus of this size and acknowledges that such cost is not easily absorbed in an annual maintenance budget. VA will include costs for non-recurring maintenance and repair of the buildings while in an unoccupied state, in VA's annual Strategic Capital Investment Plan (SCIP) ten year planning process, with emphasis on the priority of such non-recurring maintenance and repair given by BHHCS and VISN 23. If VA must leave all or part of the historic buildings of the Hot Springs campus unoccupied, and upon issuance of the ROD, VA shall seek funding at least annually for recurring maintenance and repair of the buildings while in an unoccupied state. VA shall include in its required six month written reports to all consulting parties, the results of any and all of VA's efforts to seek such funding.
  - Once Buildings 1-11of the campus have closed, preservation of the campus according to the tenets of the comprehensive plan will continue for a minimum of five years.
    - If, after these five years, no feasible reuse for the campus has been reached, identified and implemented, VA, in consultation with ACHP, NPS, SHPO, and the Town of Hot Springs, may elect to renew the comprehensive plan for the preservation of historic

Commented [A27]: See comment immediately preceding about what buildings are to be used vs. closed under Alternative C.

Commenter CP14: National Trust for Historic Preservation

There were no comments on page 22 of the original document.

through the period of transition for the campus, and be reported in, at minimum, reports to the consulting parties.

- If VA determines that it will excess the campus through GSA, GSA will follow its own disposal process, subject to the requirements of the NHPA.
- If VA chooses to excess or dispose of the campus, VA will require preservation conditions be attached to the property.
  - Disposal preservation conditions will include, at minimum, required consultation with local tribal representatives and other appropriate consulting parties, required SOI-qualified personnel to plan and oversee any construction projects, archaeological studies overseen by SOI-qualified personnel where any ground disturbance will take place, adherence to the SOI Standards for the Treatment of Historic Properties, a process to account for unexpected discoveries that is consistent with 36 CFR §800.13, and a process of annual reporting and consultation with the South Dakota SHPO and the NPS for a period of at least five years from the date of transfer.

- The Dedicated Project Manager shall work with the VHA Historian and the Hot Springs Historic Preservation Commission to find a suitable display location for VA-owned materials currently in the Battle Mountain Sanitarium Museum.
  - VA may loan commemorative materials in accordance with federal law and VA protocols.
  - VA is not obligated to care for materials owned by other agencies or private citizens currently on display in the Battle Mountain Sanitarium Museum.
  - Neither VA nor the Hot Springs Preservation Commission will be monetarily obligated to find a new display.
  - If an appropriate site cannot be found within the Town of Hot Springs, VA may look at other VA sites or pursue an agreement with the South Dakota State Museum or State Archives.

Measures to Mitigate Adverse Effects

- Following publication of the ROD and until the buildings not being used are transferred to another entity or the campus is mothballed, VA shall make available to a local group or organization the greenhouse, so that group may determine if it is feasible to reactivate, operate and maintain it, and to use it to grow vegetation for the campus or town landscape.
- VA shall seek to develop a statewide PA for routine maintenance of the historic VA facilities owned or operated in the state of South Dakota by the VA Black Hills Health Care System and the Sioux Falls VA Health Care System in consultation with the South Dakota SHPO, the NPS, and the ACHP.
- VA shall support the Hot Springs Historic Preservation Commission in completing an application for the Preserve America program for the town of Hot Springs.
  - This support may include, but is not limited to, technical assistance, staff support, shipping fees, copy fees, and photography.
- VA shall host an annual reunion for patients, staff, and other community residents to commemorate the history of the Battle Mountain Sanitarium and celebrate the service of the residents of Hot Springs to our nation and our nation's Veterans.

Commenter CP14: National Trust for Historic Preservation

There were no comments on pages 24-27 of the original document.

- VA shall establish an oral history booth/tent so participants may record oral histories.
  - VA shall utilize a qualified historian to oversee development of the oral history program.
  - VA, in coordination with the Hot Springs Preservation Commission and other interested consulting parties, shall develop a plan to annually record oral histories of patients, Veterans, staff members, and community residents related to the history of the Battle Mountain Sanitarium and the spirit of service in the Hot Springs area.
  - VA shall solicit assistance from the local schools to develop questions and transcribe all recorded histories.
  - VA shall archive at least one copy of the digital oral histories and the transcripts at the South Dakota State Archives and one copy with a publically accessible archive in Hot Springs.
- VA shall host this annual event for at least five years following publication of the ROD. If VA has left the campus, VA may host the annual event at another site within the boundaries of Hot Springs.

- Within applicable laws and regulations, VA shall produce or contract for the production of, a book about the historical significance of the Battle Mountain Sanitarium/VA Hot Springs campus, the Hot Springs Historic District, and the spirit of service to country in Hot Springs.
  - This book shall be authored by a professional writer with experience writing commemorative history books; it shall not exceed 300 pages. This book shall contain photos of the Battle Mountain Sanitarium prior to implementing any mothballing plan. At least one chapter of the book will be devoted to the National Homes for Disabled Volunteer Soldiers. This book shall include information gathered from the oral history project established at the annual Battle Mountain Sanitarium/VA Hot Springs reunions.
  - VA shall provide the consulting parties an opportunity to review and comment on the book outline and text. The consulting parties may provide documentation of the Battle Mountain Sanitarium at their discretion to support VA in development of the book.
  - VA shall develop an e-reader version of the book, and make it available commercially.
  - VA shall produce or contract for the production of not less than 250 copies and not more than 2,500 copies of the book. Any profits realized by the sale of this book will be managed in accordance with applicable laws and regulations.

- VA shall create a photographic display related to the history of the Battle Mountain Sanitarium and the importance of the mineral springs in Hot Springs in a public area of any new construction associated with this alternative.
  - This photographic display is intended to be a documentation of Battle Mountain Sanitarium through the years, and shall include at least three photographs of the Battle Mountain Sanitarium prior to executing this ROD. There is no limit on the number of historical photos that may be included in this display.
    - VA shall accept photograph recommendations from the South Dakota SHPO and the NPS, as well as other consulting parties.

Commenter CP14: National Trust for Historic Preservation

There were no comments on pages 29-31 of the original document.

- The plan will include annual inspections, which will be open to the South Dakota SHPO and the NPS, and recorded in reports to the consulting parties.
- Once Buildings 1-12 of the campus have closed, preservation of the campus according to the tenets of the comprehensive plan will continue for a minimum of five years.
  - If, after these five years, no feasible reuse for the campus has been reached, identified and implemented, VA, in consultation with ACHP, NPS, SHPO, and the Town of Hot Springs, may elect to renew the comprehensive plan for the preservation of historic buildings for a period not to exceed five additional years. If VA elects to renew the comprehensive plan, this plan must be updated by an SOI-qualified historic architect, to account for extant conditions.
  - If, after either five (if VA does not renew the comprehensive plan) or ten (if VA renews the comprehensive plan) years, VA elects not to renew the comprehensive plan for the preservation of historic buildings, VA shall re-engage in consultation with respect to the VA Hot Springs campus and shall follow the tenets of the NHPA and its implementing regulations at 36 CFR §800. This process must be initiated prior to the end of the comprehensive preservation plan. VA shall develop and implement a marketing strategy to identify redevelopment partners.

- VA shall develop a rigorous process to identify possible redevelopment partners for the Battle Mountain Sanitarium campus. This process will include alternative VA uses, other federal agency uses, state or local government uses, Native American uses, and private developer projects, as well as mixed use or multiuser coalitions. VA shall seek input from the South Dakota SHPO and NPS in developing this redevelopment process and will examine available public private partnership authorities such as enhanced use lease and NHPA Section 111 leasing. This process will be distributed to consulting parties via email within 120 days of issuance of the ROD.
  - VA shall establish an integrated project team at appropriate levels across the VA enterprise to evaluate possible alternative VA uses of the Battle Mountain Sanitarium campus that are not related to the delivery of Veteran health care services. The dedicated project manager will serve on the integrated project team. This process will include outreach to Veterans Health Administration programs that deliver administrative support services, Veterans Benefit Administration programs, National Cemetery Administration program needs, and VA staff office needs. This process will be documented, continue through the period of transition for the campus, and be reported in, at minimum, reports to the consulting parties on a semi-annual basis. Additionally, VA will accept comments and suggestions on the marketing plan within 30 days of reporting. As necessary, the team will present decision points to the SECVA or his/her designee.
    - The IPT will be composed of VA employees from several departments within VA including, but not limited to, Real Property Service, the Office of Asset Enterprise Management, the Office of Construction and Facilities Management, the Federal Preservation Office, VISN 23, and the Dedicated Project Manager. Members will be selected for their experience and areas of expertise.
  - To the extent SECVA determines to seek an external user for all or a portion of the campus, VA shall either seek a federal agency partner who can take over the property, or engage GSA in the property excessing process. The first step in either process is to satisfy requirements under the *McKinney Vento Act* as to offering the campus for homeless housing.

Commenter CP14: National Trust for Historic Preservation

There were no comments on pages 33-36 of the original document.

Alternative C

Measures to Avoid or Minimize Adverse Effects, including Potential Future Effects

Commented [A28]: This alternative includes the re-use of at least two existing historic buildings, yet that is not referenced below at all. Is the default the application of the Secretary's Standards as described earlier in the document?

- VA shall follow the tenets of the NHPA and its implementing regulations at 36 CFR §800 to select a site and prepare that site for any construction not contained within the boundaries of the Hot Springs campus.
- When off-site renovation or new construction will trigger additional consultation under 36 CFR §800, VA and its development partners shall work with a Design Review Committee regarding non-recurring maintenance projects, including infrastructure improvements, renovations, and new construction on the Hot Springs campus associated with this alternative.
  - The Design Review Committee will consist of the SD SHPO, the NPS, and the Hot Springs Historic Preservation Commission.
  - VA and its partners will notify the Design Review Committee of plans for new construction prior to initiating design development documents.
    - VA will include the intended scope of work in the notification.
    - VA and its partners will take into account comments from the Design Review Committee in finalizing the scope of work and schematic designs.
  - VA and its partners will submit draft schematic designs to the Design Review Committee for review and comment. All parties to the Design Review Committee shall have 21 days to review the draft schematic designs and provide comments on ways to improve the design to best minimize effects to contributing elements to the Battle Mountain Sanitarium.
    - VA shall respond to Design Review Committee comments in writing, by conference call, or in person. The terms of response shall be the purview of VA BHHCS.
  - Following response to comments, VA and its partners may proceed with design and begin construction so long as all requirements of this ROD governing the protection of archaeological properties have been met.
- VA shall conduct an archaeological survey to detect archaeological properties and to determine the eligibility of any discovered archaeological sites for listing in the National Register of Historic Places in areas planned for ground disturbance related to new construction on campus.
  - VA shall notify the South Dakota SHPO, the NPS, and all Native American tribes that have potential traditional, historic, or current ties to the VA BHHCS service area of the survey at least seven days prior to initiating it.
  - VA shall invite the South Dakota SHPO and the NPS to consult on determinations of eligibility for all identified archaeological loci not related to Native American lifeways and cultural practices. VA shall invite the South Dakota SHPO, the NPS, and all Native American tribes that have potential traditional, historic, or current ties to the VA BHHCS service area to consult on determinations of eligibility for all identified archaeological loci related to Native American lifeways and cultural practices.

Commenter CP14: National Trust for Historic Preservation

There were no comments on pages 38-39 of the original document.

- VA shall solicit assistance from the local schools to develop questions and transcribe all recorded histories.
- VA shall archive at least one copy of the digital oral histories and the transcripts at the South Dakota State Archives and one copy with a publically accessible archive in Hot Springs.

- VA shall host this annual event for at least five years following publication of the ROD. #VA will host the annual event within the boundaries of Hot Springs.

- Within applicable laws and regulations, VA shall produce or contract for the production of, a book about the historical significance of the Battle Mountain Sanitarium/VA Hot Springs campus, the Hot Springs Historic District, and the spirit of service to country in Hot Springs.
  - This book shall be authored by a professional writer with experience writing commemorative history books; it shall not exceed 300 pages. This book shall contain photos of the Battle Mountain Sanitarium prior to implementing any mothballing plan. At least one chapter of the book will be devoted to the National Homes for Disabled Volunteer Soldiers. This book shall include information gathered from the oral history project established at the annual Battle Mountain Sanitarium/VA Hot Springs reunions.
  - VA shall provide the consulting parties an opportunity to review and comment on the book outline and text. The consulting parties may provide documentation of the Battle Mountain Sanitarium at their discretion to support VA in development of the book.
  - VA shall develop an e-reader version of the book, and make it available commercially.
  - VA shall produce or contract for the production of not less than 250 copies and not more than 2,500 copies of the book. Any profits realized by the sale of this book will be managed in accordance with applicable laws and regulations.
- VA shall create a photographic display related to the history of the Battle Mountain Sanitarium and the importance of the mineral springs in Hot Springs in a public area of any new construction associated with this alternative.
  - This photographic display is intended to be a documentation of Battle Mountain Sanitarium through the years, and shall include at least three photographs of the Battle Mountain Sanitarium prior to executing this ROD. There is no limit on the number of historical photos that may be included in this display.
    - VA shall accept photograph recommendations from the South Dakota SHPO and the NPS, as well as other consulting parties.
    - All photographs shall be fully labeled, cited, dated, and archivally stable to allow for VA scanning.
- VA shall develop a mobile application ("app") to memorialize the Battle Mountain Sanitarium.
  - This app will include historic photos of the campus, oral histories, and historic context related to the Battle Mountain Sanitarium. VA shall reference the design and purpose of the app designed for the Clement J. Zablocki Veterans Affairs Medical Center (Milwaukee VAMC)/Northwestern Branch of the National Homes for Disabled Volunteer Soldiers.
  - VA will begin development of the app after the second reunion in order to incorporate relevant pieces of oral histories into the app.

Commenter CP14: National Trust for Historic Preservation

There were no comments on pages 41-43 of the original document.

buildings for a period not to exceed five additional years. If VA elects to renew the comprehensive plan, this plan must be updated by an SOI-qualified historic architect, to account for extant conditions.

- If, after either five (if VA does not renew the comprehensive plan) or ten (if VA renews the comprehensive plan) years, VA elects not to renew the comprehensive plan for the preservation of historic buildings, VA shall re engage in consultation with respect to the VA Hot Springs campus and shall follow the terms of the NHPA and its implementing regulations at 36 CFR §800. This process must be initiated prior to the end of the comprehensive preservation plan.
- VA shall develop and implement a marketing strategy to identify redevelopment partners.
  - VA shall develop a rigorous process to identify possible redevelopment partners for the Battle Mountain Sanitarium campus. This process will include alternative VA uses, other federal agency uses, state or local government uses, Native American uses, and private developer projects, as well as mixed use or multiuser coalitions. VA shall seek input from the South Dakota SHPO and NPS in developing the redevelopment process and will examine available public-private partnership authorities such as enhanced-use lease and NHPA Section 111 leasing. This process will be distributed to consulting parties via email within 120 days of issuance of the ROD.
  - VA shall establish an integrated project team at appropriate levels across the VA enterprise to evaluate possible alternative VA uses of the Battle Mountain Sanitarium campus that are not related to the delivery of Veteran health care services. The dedicated project manager will serve on the integrated project team. This process will include outreach to Veterans Health Administration programs that deliver administrative support services, Veterans Benefit Administration programs, National Cemetery Administration program needs, and VA staff office needs. This process will be documented, continue through the period of transition for the campus, and be reported in, at minimum, reports to the consulting parties on a semi-annual basis. Additionally, VA will accept comments and suggestions on the marketing plan within 30 days of reporting. As necessary, the team will present decision points to the SECVA or his/her designee.
    - The IPT will be composed of VA employees from several departments within VA including, but not limited to, Real Property Service, the Office of Asset Enterprise Management, the Office of Construction and Facilities Management, the Federal Preservation Office, VISN 23, and the Dedicated Project Manager. Members will be selected for their experience and areas of expertise.
  - To the extent SECVA determines to seek an external user for all or a portion of the campus, VA shall either seek a federal agency partner who can take over the property or engage GSA in the property excessing process. The first step in either process is to satisfy requirements under the *McKinney-Vento Act* as to offering the campus for homeless housing.
  - Steps taken to identify federal partners shall include correspondence from SECVA to federal agency officials, consultation and outreach to federal preservation officers throughout the federal family, and consultation and outreach to real property acquisition personnel throughout the federal family. While this outreach work may be facilitated by a contractor, the process will remain the responsibility of VA. This process will be documented, continue through the period of transition for the campus, and be reported in, at minimum, reports to the consulting parties.

Commenter CP14: National Trust for Historic Preservation

There were no comments on pages 45-53 of the original document.

buildings while in an unoccupied state. VA shall include in its required six month written reports to all consulting parties, the results of any and all of VA's efforts to seek such funding.

- Once Buildings 1-12 of the campus have closed, preservation of the campus according to the tenets of the comprehensive plan will continue for a minimum of five years.
  - If, after these five years, no feasible reuse for the campus has been reached, identified and implemented, VA, in consultation with ACHP, NPS, SHPO, and the Town of Hot Springs, may elect to renew the comprehensive plan for the preservation of historic buildings for a period not to exceed five additional years. If VA elects to renew the comprehensive plan, this plan must be updated by an SOI qualified historic architect, to account for extant conditions.
  - If, after either five (if VA does not renew the comprehensive plan) or ten (if VA renews the comprehensive plan) years, VA elects not to renew the comprehensive plan for the preservation of historic buildings, VA shall re-engage in consultation with respect to the VA Hot Springs campus and shall follow the tenets of the NHPA and its implementing regulations at 36 CFR §800. This process must be initiated prior to the end of the comprehensive preservation plan. VA shall develop and implement a marketing strategy to identify redevelopment partners.

- VA shall develop a vigorous process to identify possible redevelopment partners for the Battle Mountain Sanitarium campus. This process will include alternative VA uses, other federal agency uses, state or local government uses, Native American uses, and private developer projects, as well as mixed use or multiuser coalitions. VA shall seek input from the South Dakota SHPO and NPS in developing this redevelopment process and will examine available public-private partnership authorities such as enhanced-use lease and NHPA Section 111 leasing. This process will be distributed to consulting parties via email within 120 days of issuance of the ROD.
  - VA shall establish an integrated project team at appropriate levels across the VA enterprise to evaluate possible alternative VA uses of the Battle Mountain Sanitarium campus that are not related to the delivery of Veteran health care services. The dedicated project manager will serve on the integrated project team. This process will include outreach to Veterans Health Administration programs that deliver administrative support services, Veterans Benefit Administration programs, National Cemetery Administration program needs, and VA staff office needs. This process will be documented, continue through the period of transition for the campus, and be reported in, at minimum, reports to the consulting parties on a semi-annual basis. Additionally, VA will accept comments and suggestions on the marketing plan within 30 days of reporting. As necessary, the team will present decision points to the SECVA or his/her designee.
    - The IPT will be composed of VA employees from several departments within VA including, but not limited to, Real Property Service, the Office of Asset Enterprise Management, the Office of Construction and Facilities Management, the Federal Preservation Office, VISN 23, and the Dedicated Project Manager. Members will be selected for their experience and areas of expertise.
  - To the extent SECVA determines to seek an external user for all or a portion of the campus, VA shall either seek a federal agency partner who can take over the property, or engage GSA in the property excessing process. The first step in either process is to satisfy requirements under the *McKinney-Vento Act* as to offering the campus for homeless housing.

Commenter CP14: National Trust for Historic Preservation

There were no comments on pages 55-58 of the original document.

For Inclusion in the Final EIS
05/17/2016

Black Hills Health Care System
Measures to Resolve Adverse Effects

Alternative E

Measures to Avoid or Minimize Adverse Effects, including Potential Future Effects

- VA shall follow the tenets of the NHPA and its implementing regulations at 36 CFR §800 to select a site and prepare that site for any construction not contained within the boundaries of the Hot Springs campus.
- VA shall conduct an archaeological survey to detect archaeological properties and to determine the eligibility of any discovered archaeological sites for listing in the National Register of Historic Places in areas planned for ground disturbance related to new construction on campus.
  - VA shall notify the South Dakota SHPO, the NPS, and all Native American tribes that have potential traditional, historic, or current ties to the VA BHHCS service area of the survey at least seven days prior to initiating it.
  - VA shall invite the South Dakota SHPO and the NPS to consult on determinations of eligibility for all identified archaeological loci not related to Native American lifeways and cultural practices. VA shall invite the South Dakota SHPO, the NPS, and all Native American tribes that have potential traditional, historic, or current ties to the VA BHHCS service area to consult on determinations of eligibility for all identified archaeological loci related to Native American lifeways and cultural practices.
  - If archaeological properties are located and determined to be eligible for listing in the National Register of Historic Places, VA shall follow the tenets of the NHPA and its implementing regulations at 36 CFR §800 to resolve adverse effects.
- VA and its partners shall follow the SOI's Standards for Treatment of Historic Properties in all changes to the interior spaces of the Battle Mountain Sanitarium listed below.
  - Building 1- Entry (stairs, round room open to dome)
  - Building 1-Director's Office (Rooms 100B, 107B)
- When new construction will trigger additional consultation under 36 CFR §800, VA and its development partners shall work with a Design Review Committee regarding non-recurring maintenance projects, including infrastructure improvements, renovations, and new construction on the Hot Springs campus associated with this alternative.
  - The Design Review Committee will consist of the SD SHPO, the NPS, and the Hot Springs Historic Preservation Commission.
  - VA and its partners will notify the Design Review Committee of plans for new construction prior to initiating design development documents.
    - VA will include the intended scope of work in the notification.
    - VA and its partners will take into account comments from the Design Review Committee in finalizing the scope of work and schematic designs.
  - VA and its partners will submit draft schematic designs to the Design Review Committee for review and comment. All parties to the Design Review Committee shall have 21 days to review

Commented [A29]: All changes should be subject to the Secretary Standards as described at the beginning of the document. See bullet 1 on page 2 "All Alternatives."

Commented [A30]: Membership is only one aspect of a design review committee. This section needs more specificity. Will design guidelines be developed? What standards will the committee use? How will the committee make decisions?

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Commenter CP14: National Trust for Historic Preservation

After this page, there were no comments on pages 61-62 of the original document.

the draft schematic designs and provide comments on ways to improve the design to best minimize effects to contributing elements to the Battle Mountain Sanitarium.

- VA shall respond to Design Review Committee comments in writing, by conference call, or in person. The terms of response shall be the purview of VA BHHCS.

- Following responses to comments, VA and its partners may proceed with design and begin construction so long as all requirements of this ROD governing the protection of archaeological properties have been met.

- No demolition of historic building(s) is planned or anticipated at this time. If VA determines such an undertaking is necessary in fulfillment of its mission, VA will proceed in accordance with federal laws and internal guidance, including but not limited to, NHPA and NEPA.
- The Dedicated Project Manager shall be responsible for ensuring preservation of the VA owned materials on display in the Battle Mountain Sanitarium Museum during renovation or rehabilitation. The Dedicated Project Manager shall work with VA BHHCS leadership to find a suitable location on the VA Hot Springs campus for display after construction is complete.

Commented [A31]: This statement should apply to all of the alternatives but appears only here and in Alt. F. Please move to the "All Alternatives" section at the front of the document.

Commented [A32]: This statement should apply to all of the alternatives but appears only here and in Alt. F. Please move to "All Alternatives" section at the front of the document.

Measures to Mitigate Adverse Effects

- VA shall seek to develop a statewide PA for routine maintenance of the historic VA facilities owned or operated in the state of South Dakota by the VA Black Hills Health Care System and the Sioux Falls VA Health Care System in consultation with the South Dakota SHPO, the NPS, and the ACHP.
- VA shall create in a publicly accessible area, prior to commencing any new construction on the Hot Springs VA medical center campus, a photographic display related to the history of the Battle Mountain Sanitarium and the importance of the mineral springs in Hot Springs. This photographic display is intended to be a documentation of Battle Mountain Sanitarium through the years, and shall include at least three photographs of the Battle Mountain Sanitarium prior to executing this ROD. There is no limit on the number of historical photos that may be included in this display.
  - VA shall accept photograph recommendations from the South Dakota SHPO and the NPS, as well as other consulting parties.
  - All photographs shall be fully labeled, cited, dated, and archivally stable to allow for VA scanning.

Commenter CP15: Save the VA		
WHAT OUR VETERANS EARNED We deliver. ★★★★★ GROW THE HOT SPRINGS VA FOR THE VETERANS WE SERVE KEEP AMERICA'S PROMISE. TODAY. TOMORROW. FOREVER. Ms. Sandra Horsman, Director Black Hills Health Care System Department of Veterans Affairs 113 Comanache Road Fort Meade, SD 57741 **Save The VA Campaign** PO Box 851 Hot Springs, SD 57747 June 20, 2016 Re: **Formal Objection to Department of Veterans Affairs Inadequate Compliance with Section 106 of the National Historic Preservation Act Pursuant to 36 C.F.R. § 800.8(c)(2)(ii).** Dear Ms. Horsman: The Save the VA Committee (STVA) files the following objection to the Section 106 consultation for the Battle Mountain Sanitarium National Historic Landmark (BMS) in Hot Springs, SD, which has been carried out by the Department of Veterans Affairs (VA) pursuant to the "NEPA Substitution" procedures under 36 C.F.R. § 800.8(c). STVA has been involved in efforts to protect BMS since December of 2011 when the VA first announced plans to close the facility without any consideration to veterans, employees, the community, and without compliance with the requirements of the National Environmental Policy Act (NEPA) or the National Historic Preservation Act (NHPA). In April 2012, STVA called attention to then Secretary, Mr. Eric Shinseki that the VA had yet to initiate the NEPA process. Since the process was initiated in 2014, STVA has been a recognized consulting part for the NEPA and NHPA process implemented regarding the announced closure of the BMS campus in Hot Springs. For the last 4 ½ years, STVA has participated in every NHPA Section 106 meeting and attended nearly every NEPA public meeting, repeatedly and consistently voicing our opposition to the various approaches that the VA has used to purportedly comply with the NHPA, and the failure to seriously consider any alternative that would continue to use existing historic resources in Hot Springs to medically serve veterans. Since the VA announced their plans to use "NEPA Substitution" under 36 C.F.R. § 800.8(c), all consulting partings, including STVA, have dissented and disagreed with this combination/substitution process, stating that it appeared the VA would be neglectful in their due diligence in fulfilling legal requirements. This methodology implied the VA was just "checking the boxes" while pushing the process through as quickly as possible. The VA's lack of experience conducting NEPA, the lack of knowledge regarding the substitution process, as well as poor timing in combining the NEPA and NHPA has resulted in confusion, miscommunication, a paucity of data and information, and a general disregard for discussion brought forth by consulting parties. **Save The VA Campaign** - To learn how you can help: www.TheVeteransTown.com Contact us via TheVeteransTown.com: click Contact Us Form - email directly: info@theveteranstown.com	CP15-1	CP15-1. See Table E-2?

Commenter CP15: Save the VA

Due to our ongoing, unresolved concerns with this process, STVA is filing this objection.

I. **The Objection Process**

a. The Section 106 regulations provide that "NEPA substitution" is allowed if the agency official notifies the SHPO/THPO and Council that it intends to do so and the following five standards are met during the preparation of the EA or Draft EIS:

i. "Identify consulting parties either pursuant to § 800.3(f) or through the NEPA scoping process with results consistent with § 800.3(f);

ii. Identify historic properties and assess the effects of the undertaking on such properties in a manner consistent with the standards and criteria of § 800.4 through § 800.5, provided that the scope and timing of these steps may be phased to reflect the agency official's consideration of project alternatives in the NEPA process and the effort is commensurate with the assessment of other environmental factors;

iii. Consult regarding the effects of the undertaking on historic properties with the SHPO/THPO, Indian tribes . . . that might attach religious and cultural significance to affected historic properties, other consulting parties, and the Council, where appropriate, during NEPA scoping, environmental analysis, and the preparation of NEPA documents;

iv. Involve the public in accordance with the agency's published NEPA procedures; and

v. Develop in consultation with identified consulting parties' alternatives and proposed measures that might avoid, minimize or mitigate any adverse effects of the undertaking on historic properties and describe them in the EA or EIS." 36 C.F.R. § 800.8(c)(1).

b. The regulations further provide that, "[p]rior to or within the time allowed for public comment on the document, a SHPO/THPO, an Indian tribe . . . , another consulting party or the Council may object to the agency official that preparation of the EA, DEIS or EIS has not met the standards set forth in paragraph (c)(1) . . . or that the substantive resolution of the effects on historic properties proposed in an EA, DEIS or EIS is inadequate." 36 C.F.R. § 800.8(c)(2)(ii).

II.

a. Through its use of "NEPA" substitution, the VA failed to satisfy the requirements set forth in 36 C.F.R. § 800.8(c)(1)-(2).
b. The VA did not satisfactorily "[i]dentify historic properties and assess the effects of the undertaking on such properties in a manner consistent with the standards and criteria of § 800.4 through § 800.5." 36 C.F.R. § 800.8(c)(1)(ii).

The VA has been negligent in identifying additional historic properties within the Area of Potential Effect (APE). This includes the Battle Mountain Landform, potential archaeological sites, and historic sites such as structures associated with the historic Michael J Fitzmaurice State Veterans Home, and the historic Hot Springs district, of which BMS is the cornerstone. The communication and consultation from the VA regarding these potential properties has been insufficient. The communication has been neither clear nor proactive regarding the identification of potentially eligible or significant sites with the tribes. Despite discussion at 106 meetings and recognition by the VA's former sub-contractor (SWCA) of BMS as a Traditional Cultural Property (TCP), to veterans, the TCP status has not been further investigated or discussed. When will the VA conduct adequate assessment to identify other significant historic properties within the APE that will be impacted by the

Commenter CP15: Save the VA

outlined actions? How has the VA sought out information from the tribes or cultural groups or documented that information?

STVA does not feel the list of effects in the DEIS includes all potential effects, and it displays a lack of initiative, follow through and comprehensiveness on the part of the VA. As clearly stated by the National Trust for Historic Preservation in their Objection letter:

> *For example, the DEIS states that physical modifications could cause adverse effects, but the closure of the campus itself (which will invariably lead to the neglect causing deterioration as described in 36 C.F.R 800.5 (a)(2)(vi) is not included on that list. (DEIS at 222). This point is further highlighted on page 224 when the VA again declines to address the adverse effects of campus closure, claiming "VA BHHCS would continue to maintain the campus pending transition to a new use." (DEIS at 224.) We know of no example where this has happened successfully, and in fact there are numerous examples to the contrary. This statement also assumes that a "new use" will be forthcoming. At the Leavenworth VA campus (also an NHL), reuse did not begin until 10 years after the buildings had been abandoned. At the Milwaukee Soldiers' Home (also an NHL), Old Main has been closed since 1988 and the VA is only now beginning its search for a party to lease and reuse the building, 28 years after it was closed. The VA most certainly has not maintained those campuses, which undermines the credibility of its promises to do so here. We do not take the VA at its word that its management of a vacant campus will have no adverse effect on the historic properties within the campus.*

b. The VA did not "[c]onsult regarding the effects of the undertaking on historic properties with the SHPO/THPO, Indian tribes . . . that might attach religious and cultural significance to affected historic properties, other consulting parties, and the Council, where appropriate, during NEPA scoping, environmental analysis, and the preparation of NEPA documents." 36 C.F.R. § 800.8(c)(1)(iii).

STVA disagrees with the description in the DEIS regarding the status of Section 106 consultation. Specifically, we feel the VA did not proceed far enough with Section 106 consultation to describe in the DEIS that the consultation, identification, and resolution of adverse effects were documented. The three consultation meetings held and the timeline in which they were held in were not successful in informing "scoping, environmental analysis and the preparation of NEPA documents," As previously stated by the National Trust for Historic Preservation, scoping could not have been informed by consultation because no consultation meetings were held during the scoping period of May 16 - August 16, 2014. The "consultations" that occurred later were laden with mismanagement, including non-functional conference calls, inconvenient meeting schedules, and facilitators who prevented consulting parties from discussing concerns about even the most preliminary matters, such as the definition of the APE. Issues were brought up by consulting parties and quickly put in the "Parking Lot" never to be revisited again. Discourse did not occur, rather lectures from the contractor. Since no real discussion or consultation occurred during the three meetings cited above, it is not possible to have genuine consultation, or to have it reflected in the DEIS.

c. The VA did not "[d]evelop in consultation with identified consulting parties' alternatives and proposed measures that might avoid, minimize or mitigate any adverse effects of the undertaking on historic properties and describe them in the EA or DEIS." 36 C.F.R. § 800.8(c)(1)(v).

We dispute the VA's claim that, "[i]n consultation with SHPO, ACHP, NPS and other consulting parties, the VA developed mitigation measures to resolve adverse effects to historic properties." (DEIS at 25.) As of the date when the DEIS was released several meaningful milestones of associated with the Section 106 process were not met, including definition of the APE, resolution of adverse effects, or even communication regarding mitigation measures. Furthermore, the discourse

Commenter CP15: Save the VA

for the last two meetings focused on mitigation measures associated with effects for the preferred alternative. Discussion of any other alternative at length was void.

d. Finally, "the substantive resolution of the effects on historic properties proposed in [the DEIS] is inadequate." 36 C.F.R. § 800.8(c)(2)(ii).

STVA finds the VA's attempt to minimize or mitigate adverse effects insufficient. It is a huge concern of the STVA that the VA does not recognize any alternatives or mitigation that include rehabilitation or continued use of the current facility as a medical care institution. Furthermore, an assessment of the cost effectiveness of rehabilitation still has not been conducted, yet the VA continues to assert that rehabilitation would be cost prohibitive. In a consultation meeting on January 21, 2016, BHHCS Director Sandra Horsman did admit that the facility could be rehabilitated, yet no further discussion was considered. How does the VA know that such rehabilitation would be cost prohibitive, or cost more than other alternatives without conducting a viable assessment? While STVA appreciates the discussion toward mitigation measures, we believe these measures are severely insufficient to meet the degree of adverse effect. A picture book and annual reunion for aging and ailing patients and employees does not embody or reflect the legacy of care, history of healing, or power of that legacy that the facility continues to build and output as it actively heals patients to this day. That legacy, while intangible, is an intertwined and mammoth element of the identity of BMS. That legacy, reputation for stellar care, importance placed on the facility by veterans, and "sense of place" that the buildings possess have not been matched in the mitigation measures. Rather, the VA has suggested that a book, a memorial, and gathering are better solutions than continuing care to a population of national heroes, which consistently demonstrate a need for and request the facility.

III. Conclusion

STVA considers the VA's use of "NEPA Substitution" as legally prohibitive, cost prohibitive, socially isolating, and ineffective in actually substituting any legal process. By implementing this process, NHPA and NEPA has been done a disservice, as have thousands of veterans, employees, communities, the VA, and future veterans to come. Meaningful discourse, the spirit of consultation, and the history that built the VA over the last 107 years has been disregarded by tactics of bullying, lack of experience, and uninformed decisions.

In order to resolve the Save the VA Committee's objections, the VA is required to "refer the matter to the Council" for its review and opinion. We appreciate the opportunity to participate as the process of this referral moves forward, pursuant to 36 C.F.R. § 800.8(c)(2)-(3).

Thank you for your consideration.

Sincerely,

Robert Nelson
Co-Chair Save the VA Committee

Commenter CP16: National Trust for Historic Preservation

From: Betsy Merritt [redacted]
Sent: Monday, June 20, 2016 5:15 PM
To: [redacted]

Subject: National Trust Second Supplemental Comments on Revised Draft Mitigation Measures for Battle Mountain Sanitarium

Dear Ms. Horsman,

Last week, I attended a Section 106 consultation meeting with the Department of Veterans Affairs regarding the Milwaukee Soldiers' Home. During that meeting, VA staff informed us that the criteria for the Strategic Capital Investment Plan (SCIP) program have recently undergone a dramatic change. Apparently, under the new VHA Guidance on SCIP, issued June 3, 2016, only five spending categories will be allowed: safety projects; sites where the number of patients at primary care facilities are growing by at least 20% annually; repairing usable and needed space where the infrastructure has a rating of D or F; converting semi-private patient spaces to private rooms; and enhancing or providing appropriate women's health space. The VA representatives also advised us that "non-recurring maintenance" projects will no longer be funded.

In the Revised Mitigation Measures for the Battle Mountain Sanitarium, the SCIP and non-recurring maintenance funding are a crucial source of funds for mothballing at BMS. For example, page 4 includes the following statement:

> "VA recognizes the importance of fully funding a comprehensive program for the maintenance of historic buildings in an unoccupied state. VA also recognizes the extraordinary cost of mothballing a campus of this size and acknowledges that such cost is not easily absorbed in an annual maintenance budget. VA will include costs for non-recurring maintenance and repair of the buildings while in an unoccupied state, in VA's annual Strategic Capital Investment Plan (SCIP) ten year planning process, with emphasis on the priority of such non-recurring maintenance and repair given by BHHCS and VISN 23. If VA must leave all or part of the historic buildings of the Hot Springs campus unoccupied, and upon issuance of the ROD, VA shall seek funding at least annually for recurring maintenance and repair of the buildings while in an unoccupied state. VA shall include in its required six month written reports to all consulting parties, the results of any and all of VA's efforts to seek such funding."

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CP16-1

CP16-1. The changes to the SCIP process may affect actions unrelated to the proposed reconfiguration of services in the VA BHHCS, however, it is not anticipated that any changes will affect the ability of the VA BHHCS or VISN 23 to implement measures committed to in the ROD. Any funding shortfalls will be met with funds directly from VISN 23. For more information, see the response to the NTHP dated [July 28, 2016? Please verify] in Appendix C.

Commenter CP16: National Trust for Historic Preservation

After what was presented in Milwaukee, we are concerned that the non-recurring maintenance funding that the VA plans to rely on will no longer be available, and that the new SCIP criteria will also prohibit the allocation of funding for the mothballing or maintenance of BMS.

We would appreciate if you would clarify these new changes to the SCIP program and the non-recurring maintenance program, and provide additional information regarding other sources of funding that the VA can seek to fund the mothballing and maintenance, a very complicated yet critical part of VA's proposal for the BMS campus.

Until such time as reliable funding sources are identified, we must object to this language in the proposed Mitigation Measures as inadequate.

Sincerely,

Elizabeth Merritt

Elizabeth S. Merritt, Deputy General Counsel

National Trust for Historic Preservation

2

Commenter CP17: Save the VA

From: Robert Nelson [redacted]
Sent: Monday, November 2, 2015 10:41 AM
To: VA Black Hills Future
Cc: Russell Pat; Buddenborg Jennifer; Campbell Amanda; Lyke Pat; Ackerman Don; Betsy Merritt; Olson Paige; Sanford Dena; Daniel Chris; Cole Amy; Orrock Kenneth E.; Donnell Cindy; Al Haj Qusi; Otten Brad; Marlette Sandy; Marlette Jeff
Subject: [EXTERNAL] Draft EIS Public Comment Period Extension

On behalf of the Save the VA committee we are officially requesting a 90 day comment period on the Draft EIS for the Reconfiguration of the Black Hills Health Care System. November and December are a very busy time of the year with the Thanksgiving and Christmas Holidays. We believe an additional 30 days to provide public comments is appropriate under these circumstances. CP17-1

I'm including the other consulting party contacts for their comments.

Thank you.

Bob Nelson
Co-chair
Save the VA Committee

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CP17-1. VA extended the comment period three separate times, in part to consulting party requests. The final deadline to comment on the draft EIS was June 20, 2016.

Commenter CP18: Save the VA		
From: Robert Nelson <[redacted] **Date:** November 9, 2015 at 4:13:48 PM MST **To:** Sanford Dena [redacted] **Cc:** [redacted] **Subject: Re: VA BHHCS Section 106 Consultation Workshop** Save the VA agrees with the request to extend the public comment period until February 5th for the reasons stated by Dena. Because the last public meeting regarding the Draft EIS isn't until December 3rd a more appropriate comment period would be December 4th through February 5th. Thanks. Bob Nelson	CP18-1	CP18-1. VA extended the comment period three separate times, in part to consulting party requests. The final deadline to comment on the draft EIS was June 20, 2016.

Commenter CP19: National Trust for Historic Preservation

From: VA Black Hills Future <vablackhillsfuture@va.gov>
Sent: Monday, November 16, 2015 11:28 AM

Subject: FW: [EXTERNAL] Request for Extension of Comment Period

From: Jennifer Buddenborg [redacted]
Sent: Tuesday, November 10, 2015 5:23 PM
To: VA Black Hills Future
Cc: Amy Cole; Betsy Merritt
Subject: [EXTERNAL] Request for Extension of Comment Period

Dear Staff Assistant to Director,

The National Trust for Historic Preservation requests a 30-day extension to the review period of the Draft EIS for the reconfiguration of the VA BHHCS. This would effectively extend the comment deadline to February 4, 2016. We ask for this given the complexity of and broad public interest in the proposal, as well as the upcoming major federal holidays. Such extensions have been given by other federal agencies for similarly complex projects, including the Surface Transportation Board's 150-day comment period for the Tongue River Railroad project in Montana. CP19-1

Thank you for considering our request. We look forward to hearing from you on whether or not it will be granted.

Sincerely,
Jennifer Buddenborg

Jennifer L. Buddenborg | SENIOR FIELD OFFICER
[redacted]
NATIONAL TRUST FOR HISTORIC PRESERVATION
Denver Field Office
1420 Ogden Street, Suite 203 Denver, CO 80218
SavingPlaces.org

National Trust for Historic Preservation

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CP19-1. VA extended the comment period three separate times, in part to consulting party requests. The final deadline to comment on the draft EIS was June 20, 2016.

Commenter CP20: National Trust for Historic Preservation

National Trust *for* Historic Preservation
Save the past. Enrich the future.

December 4, 2015

Mr. Reid Nelson, Director
Office of Federal Agency Programs
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001-2637

Dear Reid:

The National Trust has been very involved in the Section 106 consultation for the reconfiguration of the Black Hills Health Care System in South Dakota which will have adverse effects on the Battle Mountain Sanitarium National Historic Landmark in Hot Springs. Because of our concerns about those effects, we are writing to ask that the Council "request a report from the Secretary under Section 213 of the act to assist in the consultation" as provided in §36 CFR 800.10(c). CP20-1

We have seen Section 213 reports used as an effective tool to further explore and assess effects on National Historic Landmarks, such as at the Great Falls Portage NHL in Montana, where we believe the findings of that report helped to forestall a project that would have caused a direct adverse effect to a nationally important site associated with Lewis and Clark.

At Battle Mountain, we believe a 213 report could help to contribute to the consultation by investigating issues such as:

- How, if Alternative A is selected, the VA will ensure that the campus is not left to deteriorate without a new use, as happened at other VA sites including the Milwaukee Soldier's Home NHL, the Leavenworth NHL, and Ft. Howard.
- How VA's concerns with accessibility and adaptive use at the existing Hot Springs campus may be successfully addressed using national models and guidance.
- How additional alternatives or modifications to the alternatives presented in the Draft Environmental Impact Statement could meet the VA needs while avoiding or minimizing adverse effects to the NHL.

Thank you for your consideration in making this request. We appreciate the Council's participation in this consultation.

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CP20-1. The ACHP declined to request a Section 213 report. A letter detailing the agency's reasons dated December 21, 2015, is included in Appendix C.

Commenter CP20: National Trust for Historic Preservation

Sincerely,

Amy Cole

Amy Cole
Sr. Field Officer & Attorney

cc: Chris Daniel, ACHP
Paige Olson, SD SHPO
Dena Sanford, NPS
Kathleen Schamel, VA FPO

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