



June 16, 2022

Finding of No Significant Impact

Loop Road at Cedar Pass Emergency Repair Environmental Assessment

Badlands National Park

Background

The National Park Service (NPS) has completed a comprehensive planning effort in preparation of an emergency repair of a section of Loop Road at Cedar Pass at Badlands National Park (Park) and has prepared an environmental assessment (EA) to analyze potential impacts. Loop Road at Cedar Pass Emergency Road Repair EA is in compliance with the National Environmental Policy Act (NEPA) of 1969, as amended.

This EA and its associated Finding of No Significant Impact Statement (FONSI) constitutes the record of the environmental impact analysis and the decision-making process. The NPS will implement Alternative B: Repair and Stabilize Loop Road at Cedar Pass. The proposed action was selected after careful analysis of potential impacts to resources and to the visitor experience, and in consultation with associated tribes, the U.S. Fish and Wildlife Service (USFWS), the South Dakota State Historic Preservation Office (SHPO), and review and consideration of public comments.

This document records (1) a finding of no significant impact as required by the National Environmental Policy Act of 1969; (2) a finding of no effect to federally listed species or their habitats as required by the Endangered Species Act, Section 7; and (3) a finding of no adverse effect as required by the National Historic Preservation Act, Section 106, as it relates to the development of this EA. This finding of no significant impact is available on the NPS Planning, Environmental and Public Comment (PEPC) website at: <https://parkplanning.nps.gov/BADLLoopRdRepairEAPublicCom>

Selected Alternative

The EA analyzed two alternatives: Alternative A- no action and Alternative B - Repair and Stabilize Loop Road at Cedar Pass, and the associated impacts on the environment. Based on the analysis, the NPS has selected Alternative B for implementation, see Chapter 2 of the EA for a complete detailed description of the selected Alternative. Alternative B will stabilize the embankment, improve drainage, and repave the road surface.

Rationale for the Decision

Alternative B meets the purpose and need of the project, which is to stabilize the embankment that is failing and causing unsafe conditions on the road, and to repair the roadbed.

Mitigation Measures

The NPS places a strong emphasis on avoiding, minimizing, and mitigating potentially adverse impacts to affected resources, whether under the jurisdiction of the NPS or as a result of an NPS decision. To help ensure the protection of cultural and natural resources and the quality of the visitor experience, the NPS will implement mitigation measures to avoid and/or minimize impacts.

The selected alternative incorporates the mitigation measures listed in Chapter 4 of the EA. The authority for mitigation for this project come from the following laws and policies.

- NPS Organic Act, 1916 (54 U.S.C.)
- The National Historic Preservation Act, 1966 (54 U.S.C.)
- NPS Management Policies (NPS 2006)

SIGNIFICANCE CRITERIA REVIEW

Potentially Affected Environment

The project area is located approximately 4.5 miles southwest of the Northeast Entrance Station, just west of the Cliff Shelf Trail Parking Lot. The project area can be broken into two sections: (1) area of failure, (2) area of potential disturbance. The area of failure is approximately 15,167 sq-ft, which includes the west slope and road surface. The potential area of disturbance, also called the limit of disturbance (LOD), is approximately 71,458 sq-ft, encompassing both the east and west slopes of Loop Road as well as the road surface. The LOD is the area where active construction would take place with potential for staging. The project plan also intends to maintain one lane for vehicle access in this area if the slope and road conditions remain safe.

Some impacts of the proposed action will only be present during the construction period of the project. Such impacts include noise from equipment and operations at the potential staging area, and temporary lane closures and delays on Loop Road for safety.

The selected alternative has the potential to impact several resources, which were retained for further analysis and discussed in detail in Chapter 3 of the EA. The following resource topics were retained for analysis: cultural resources, geologic and soil resources, Indian sacred sites, paleontological resources, and visitor use, experience, and safety.

DEGREE OF EFFECTS OF THE ACTION

The NPS considered the following actual or potential project effects in evaluating the degree of the effects (40 CFR 1501.3(b)(2)) for this proposed action:

a. Beneficial and adverse, short-term, and long-term effects of the proposed action

No significant impacts to resources were identified that would require analysis in an environmental impact statement. Whether taken individually or as a whole, the impacts of the selected alternative do not reach the level of a significant effect because most adverse impacts associated with implementation would be minimal and temporary, lasting only as long as management actions are being executed. The overall beneficial impact to visitor health and safety, and resource protection would be long-term. Best management practices identified in Chapter 2 of the EA would further minimize any potential adverse impacts.

Impacts associated with the action include the short-term impact due to lane closure during the construction phase of the repair for safety and traffic control during construction as well as a safety precaution due to the lack of stability of the roadway. A long-term beneficial impact by providing stable and safe vehicle passage on Loop Road through Cedar Pass is also associated with the action.

b. Degree to which the proposed action effects public health and safety

Currently the road presents a safety risk to visitors, park staff, and anyone else utilizing that part of Loop Road. As time goes on the road is at greater risk of catastrophic failure, which could lead to full closure of the pass, injury, or death.

c. Effects to Federal, State, Tribal or Local Environmental Protection Laws

The selected alternative does not threaten or violate applicable Federal, State, Tribal or Local environmental laws or requirements imposed for the protection of the environment.

The NPS coordinated with the US Fish and Wildlife Service South Dakota Field Office to ensure compliance with section 7 of the Endangered Species Act. Natural Resource specialists at Badlands National Park made a determination of No Effect for the Preferred Alternative for four federally listed species in Jackson County SD and sent this determination to the US Fish and Wildlife Service South Dakota Field Office for review on April 22, 2022, who responded in a letter dated April 28, 2022 that, “a federal agency is not required to consult with the Service if it determines an action will have no effect on listed species or critical habitat. Therefore, concurrence is not required or provided by our office.”

The NPS initiated Section 106 consultation with the South Dakota State Historic Preservation Office on April 26, 2022. On May 16, 2022, SHPO notified the Park of their determination that no historic properties would be affected by the proposed action provided that all imported materials are from existing sources. These mitigations are listed in Chapter 4 of the EA. The Park would monitor all activities and if previously unknown archeological resources are discovered during the implementation of the proposed action, all work in the immediate vicinity of the discovery shall be halted until the resources are identified and documented.

The NPS initiated early Section 106 consultation with all associated Native American Tribes on April 14, 2022, describing the condition of the road and informing them that an EA was being prepared. Copies of a draft EA were sent on April 27, 2022, to ascertain tribal interests or concerns in the undertaking, and extend the opportunity to monitor during construction. No comments were received from tribes.

On May 16, 2022, the Park issued a press release requesting public input on the EA and provided a link to the document through the NPS Planning, Environment, and Public Comment (PEPC) site, and also provided the Park’s address for post-marked mail. The EA was available for comment from May 31 to June 14, 2022. No correspondence was received through PEPC or by mail.

FINDING OF NO SIGNIFICANT IMPACT

Based on the information provided in the EA, the proposed action does not constitute a major federal action having a significant effect on the human environment. Therefore, an environmental impact statement (EIS) will not be required.

This finding is based on consideration of the Council on Environmental Quality criteria for significance (40 Code of Federal Regulations [CFR] 1501.3 [b] [2020]), regarding the potentially affected environment and degrees of effects of the impacts described in the EA (which is hereby incorporated by reference).

Recommended: _____

Brenda K. Todd, Ph.D., Acting Superintendent
Badlands National Park

Approved: _____

Herbert C. Frost, Ph.D., Regional Director
National Park Service, DOI Regions 3, 4, and 5



June 16, 2022

Determination of Non-Impairment

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The National Park Service's *Management Policies 2006* require a written analysis of potential effects to determine whether actions would impair park resources. The fundamental purpose of the national park system, established by the Organic Act and reaffirmed by the General Authorities Act, as amended, begins with a mandate to conserve park resources and values. National Park Service (NPS) managers must always seek ways to avoid, or to minimize to the greatest degree practicable, adversely impacting park resources and values.

Although Congress has given the NPS the management discretion to allow certain impacts within parks, that discretion is limited by the statutory requirement that the NPS must leave park resources and values unimpaired, unless a particular law directly and specially provides otherwise. The prohibited impairment is an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources and values. To determine impairment, the NPS must evaluate "the particular resources and values that will be affected; the severity, duration, and timing of the impact; the direct and indirect effects of the impact; and the cumulative effects of the impact in question and other impacts" (NPS 2006).

This determination of impairment has been prepared for the Preferred Alternative (Alternative B) as described in the Badlands National Park (Park) Loop Road at Cedar Pass Emergency Road Repair Environmental Assessment (EA) and Finding of No Significant Impact (FONSI). An impairment determination is made below for all resource impact topics analyzed for the Selected Alternative. An impairment determination is not made for visitor use and experience because impairment findings relate back to park resources and values, and this impact topic is not generally considered to be a park resource or value according to the Organic Act and cannot be impaired in the same way that an action can impair park resources and values.

Cultural Resources

Under Alternative B, the construction activities associated with the road repair would disturb the ground surface and subsurface. Alternative B has the potential to adversely impact unknown archeological sites and artifacts in the area of potential effect. Adverse impacts could be permanent if damage ensues. The impacts from the repair, combined with the mitigation measures, best management practices described in the EA and Finding of No Significant Impact (FONSI), and through continued consultation with local Tribes and the SHPO would result in few measurable impacts as a result of the preferred alternative. Therefore, the Preferred Alternative will not constitute an impairment to the Park's cultural resources.

Geologic and Soil Resources

Alternative B would have an adverse and permanent impact to geologic features and soils, however, in the context of the vastness of the Park, the overall impact would be less than negligible given the small area of disturbance and proximity to the buttress installed in 2002. The impacts from the repair, combined with the mitigation measures, best management practices as described in the EA and FONSI, would result in few measurable impacts as a result of the preferred alternative. Therefore, the Preferred Alternative would not constitute an impairment to the Park's geologic and soil resources.

Indian Sacred Sites

Alternative B could have both short- and long-term adverse impacts to potential sacred site(s) during construction, as a result of dust and noise, and permanent alterations to the slope. No known sacred sites have been identified during consultation and coordination. The mitigation measures and best management practices described in the EA, and FONSI, and the commitment to continued consultation with local Tribes and the SHPO would result in few measurable impacts as a result of the preferred alternative. Therefore, the preferred alternative would not constitute an impairment to the Park's Indian sacred sites.

Paleontological Resources

Under Alternative B, paleontological resources exposed at the surface and subsurface may experience severe damage from construction equipment, as vehicle or foot traffic can potentially crush delicate fossil remains, resulting in permanent adverse impacts. The impacts from the repair, combined with the mitigation measures, best management practices described in the EA and FONSI, would result in few measurable impacts as a result of the preferred alternative. Therefore, the preferred alternative would not constitute an impairment to the park's paleontological resources.

Conclusion

As guided by the expected outcomes noted above, implementing the preferred alternative does not constitute impairment of any resource or park value whose conservation is: (1) necessary to fulfill specific purposes identified in establishing legislation or proclamation of the park; (2) key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or (3) identified as a goal in the park's general management plan or other relevant NPS planning documents as being of significance. This conclusion is based in the consideration of the purpose and significance of the Park, a thorough analysis of the environmental impacts described in the management plan and environmental assessment, relevant scientific studies, the comments provided by the public and others, and the professional judgment of the decision-maker guided by the direction of NPS