

BEFORE THE NATIONAL PARK SERVICE

In re Special Regulations, Areas of the National)	
Park System, National Capital Region, Special)	Regulation Identifier
Events and Demonstrations)	Number
83 Fed. Reg. 40,460)	1024-AE45
(proposed Aug. 15, 2018))	
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AFFIDAVIT OF BRIAN BECKER

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. I, Brian Becker, am over the age of eighteen and competent to testify to the matters set forth herein. I am the national director of the ANSWER Coalition (Act Now to Stop War & End Racism) and was the central organizer of the massive anti-war protests that took place in Washington D.C. month after month in the run-up to the disastrous U.S. invasion of Iraq in 2003.
2. In addition to organizing the large protests and obtaining permits from the National Park Service for those protests against the Iraq War between 2002 and 2003, I was the central organizer for many other protests against the Iraq war between 2003 and 2010. Those demonstrations varied in size from hundreds of thousands to tens of thousands to a few thousand. Some of those actions were called on short notice under emergency circumstances and other actions were called months in advance.
3. As a life-long activist in support of peace and social justice I have been obtaining permits from the National Park Service for the past 36 years for political protests concerning U.S. domestic and foreign policy decisions. As a consequence of applying for scores of permits during these three and a half decades I am very familiar with the permitting process in all of its aspects. Nearly every permit application has included at least one and frequently several sit down meetings with NPS representatives and other law enforcement and governmental agencies' representatives.
4. I was the permit holder for large protests at the second inauguration of Ronald Reagan (January 20, 1985); the first inauguration of George W. Bush (January 20, 2001); I was also the permit holder for a Counter-Inaugural protest at the second inauguration of George W. Bush (January 20, 2005); I was the permit holder for a major rally in Freedom Plaza at the first inauguration of Barack Obama (January 20, 2009) where we won the ability to set up bleachers in nearly half of Freedom Plaza along the Inaugural Parade Route which accommodated the presence of foreclosed families and unemployed people who had lost their jobs due the great recession; I was the permit holder for scores of other political

protests in Washington D.C. between November 27, 1982 (the protest at McPherson Park against the KKK marching in DC) up until 2018.

5. I can cite numerous instances wherein the application of the new proposed permitting regulations would have severely impaired or made impossible the carrying out of the many protests and demonstrations that I have organized or played a central role in organizing during the past decades.
6. I oppose the **Pay to Protest provisions in the new regulations** including fees for permit applications and costs associated with decisions made by NPS or law enforcement agencies to use equipment, fences, staffing, maintenance and other costs that could be passed to protest organizers. Almost every action I have been involved in organizing was grassroots, meaning it began without institutional or corporate backing and thus was organized on a shoe-string budget. It was an organization run by volunteers. Grassroots organizers cannot afford these charges. What will happen, were these law, is that demonstrations would simply be abandoned due to the chilling effect of government charges.
7. I oppose the **Special Event Element** provisions. NPS appears to be expanding its discretion and power over protest permit applications by allowing the NPS to determine if the use of music, dance, exhibits, or spoken word performances recast the event as a “special event” activity. Although the rulemaking is opaque, perhaps this will mean restrictions, fees and charges will be imposed for the presence of “special event elements” within demonstrations. But these elements, music, exhibits, cultural performances are all within demonstrations because they facilitate or advance the demonstration’s messaging or event. They are a part of the event. They are means for expressing views and grievances, political and social expressions, and do not somehow lose that character because they are not strictly spoken word expressions. These new rules will undoubtedly be used to add to costs that are unduly burdensome for grassroots organizations who desire to include a cultural component into their activities. It would also make groups have to think twice about whether to include musicians, for instance, in the program. Pete Seeger sang at some of our events. He had been singing at picket lines and demonstrations for decades for workers’ rights, civil rights and against the Vietnam War. He at other times also performed for a living. Would his presence make this a special event component that would allow the NPS to charge extra fees? It shouldn’t.
8. The **de facto closure of the White House sidewalk to protest**, if it had existed before, would have the effect of erasing some of the most iconic, poignant protests in American History. This would have also affected many of the protests I organized. One from recent years stands out: in early September 2013 the ANSWER Coalition assembled a large demonstration in front of the White House and on the White House sidewalk in opposition to the possibility of a major military attack against Syria. President Obama was inside the White House scheduled to come outside to the Rose Garden to announce to the media

whether he was authorizing military action against Syria. Public opinion was deeply opposed to what seemed like a certain military campaign. President Obama was huddled inside the White House in advance of his scheduled presence at the press conference. Because we were on the White House sidewalk the media live feed was picking up our chant “No War Against Syria.” The media reporters started tweeting that the President was perhaps hesitating, behind schedule in coming out of the White House to announce his plans but all they could hear over and over against through the White House media live feed was the chant “No War Against Syria.” It was a poignant moment, a decisive moment for the president. At issue was whether to initiate another war in the Middle East that could have exploded into a regional conflict with other major players. Should the White House sidewalk be off limits to such dramatic and timely protests in the future? The answer must be an unequivocal no.

9. The **New Hair-Trigger provisions to Shut Down Protests** will allow the police to end a protest for *any* violation of a permit, no matter how inconsequential, by *anyone* (even a counter-protester). This gives law enforcement a pretext to shut down politically disfavored protests. Few people outside of the permit holder who are attending a demonstration ever see the actual permit or have knowledge of its particular terms. Allowing a free speech activity to be extinguished simply for the violation of the terms of a permit is a profound threat to demonstrations.
10. I oppose the provision that **Ends Long Term Vigils and Protest Presences** by setting a maximum period of 30 days, or less in one location. While seeking to eliminate the unique free speech activity of a sustained vigil or presence, the NPS maintains long-term exclusive use of our public spaces for the Presidential Inaugural Committee during which free speech is banned for nearly half a year around every election and inauguration. This extended period for the presence of government favored or government co-sponsored permitted activities is on display during different times for different activities as well.
11. I oppose the proposed regulations **removal of the 24 Hour Deemed Granted Rule** and explain herein by the use of actual historical facts why the removal of the rule will have a devastating impact on the “effective” application of grassroots Free Speech protest as a tactic available to “the public” in its efforts to influence policy makers on issues that are critical to society. In the following paragraphs I will highlight how and why the removal of the 24 Hour Deemed Granted Rule is so damaging to free speech and peaceable assembly.
12. The 24 Hour Deemed Granted Rule was essential to the building of a rapidly expanding antiwar movement before the start of the March 19, 2003 invasion. We did everything in our power through the agency of massive street demonstrations starting in October 2002 through the spring of 2003 to stop a war that was predicated on false information and lies. Until the days before the war began all public opinion polls showed the majority sentiment in the country was with us, not the President who was rushing to start a war that eventually took the lives of hundreds of thousands of people.
13. The 24 Hour Deemed Granted Rule was critically important in 2002/2003

because the intensity and frequency of those historic mass protests was caused by the deep feeling by a wide segment of the population that they needed to stay in the streets. This in turn was due to widespread sense among tens of millions of Americans that we were in a race against time. The stakes were high and a big part of America felt shut out from the White House and ignored by the majority in Congress.

14. Massive street protest in Washington D.C in 2002/2003 inaugurated a massive global Iraq anti-war movement to “stop war before it started” that was so unprecedented in scope, breadth and magnitude that the New York Times characterized the movement as the “world's second superpower.”
15. Again, that movement burst on to the global scene immediately with and after October 26, 2002 when we organized a demonstration of 200,000 people that began at Constitution Gardens adjacent to the Vietnam War Memorial. That permit would likely not have been granted in time in the absence of 24 Hour Deemed Granted Rule.
- 16 The October 26, 2002 National March on Washington D.C. would likely not have been able to take place under the proposed regulations. This is important because the massive turnout on October 26 was the event catalyzing the worldwide movement that spread to every continent with weeks and months.
17. It is important to understand with specificity how the new regulations would have changed this history. Today, just as in 2002, a permit for a protest is deemed granted within 24 hours unless it is denied. The Trump-revised regulations will end this pivotal, foundational provision which the courts earlier recognized as an existential, foundational feature of the permitting system for protests. It proposes to add a new and unreliably provisionally reserved status, in which an application is neither deemed granted nor denied. And the NPS proposes to be subject to no enforceable standards whatsoever to ensure prompt approval.
18. Here is how that would have impacted the formation of the Iraq antiwar movement. The ANSWER Coalition had announced a nationally-coordinated day of **local antiwar actions** on October 26, 2002 at the scene of an earlier demonstration at the end of June 2002.
19. Local anti-war chapters around the country began organizing for October 26 “local” protests in their cities – not a national protest in Washington D.C. The difference is huge. Organizing a local protest is relatively easy from a logistics and mobilization view.
20. Coming to Washington D.C., however, requires local organizers to negotiate with charter bus companies and contract with those companies for a certain number of buses, raising money for down payments on buses which in most instances

means paying half the cost of the bus up front before a single ticket has been sold.

21. In Boston, for instance it cost about \$3,500 to rent a single bus requiring the grassroots antiwar group to put up \$1,750 before a single ticket is sold. If the group decided to rent four buses (seating just 200 people) the cost would be approximately \$14,000 and \$7,500 would have to be put down immediately.
22. Ultimately, the cost of buses is divided among passengers or is paid for through a benefactor's donation, for example, to help bring laborers or youth to an event. But, up front, a local organizer - - often an *ad hoc* association that has no resources or assets - - has to commit a non-refundable down payment (and must raise or borrow the down payment somehow).
23. Unless the event has a deemed granted permit, it is simply too uncertain for such an undertaking. And because the cost for materials in limited supplies (such as bus tickets or charter busses) increases with the passage of time, with delay these resources simply become unavailable or too expensive.
24. A permit application that is not deemed granted is simply not reliable, and organizing will be disrupted or infeasible. The new proposal creates a status, "provisionally reserved," which on its face is unreliable. The use of the term "provisional" means it is unreliable, uncertain, and subject to change in the future.
25. Consider what faces a local organizer: Those are big decisions. Can you fill the bus? Will people pay up front? Can you borrow money initially for the down payment with the promise of repayment once you have sold the tickets? One must put themselves in the shoes of the small, local anti-war coalition organizer to understand the problems and issues.
26. This is context for what actually happened. In mid-September 2002 we in the ANSWER Coalition abruptly changed our thinking and our tactical planning when it became clear that the Bush Administration was actually on a very fast track toward an invasion of Iraq. We didn't know this earlier. We could not have known because the Bush Administration deliberately concealed their plans for the invasion until after Labor Day in 2002: As Andrew Card, Bush's White House Chief of Staff stated about the Administration's plans to convince the public about the need to go to war against Iraq, "From a marketing point of view, you don't introduce new products in August" (New York Times, Sept. 7, 2002).
27. Based on the now public plan to go to war imminently the ANSWER Coalition changed its tactical plans. We decided local actions would not make a big enough impression. Everything was now urgent. There was no mass movement. Summer had just ended.
28. I personally went to meetings on Capitol Hill and it was clear to me that members

of Congress were not going to stop Bush's war plans even though they reported that the calls coming into their office were 300-1 against a new war.

29. The ANSWER Coalition steering committee held an emergency meeting in mid-September and took the decision to call for a nationwide mobilization for a massive antiwar protest in Washington D.C.
30. We applied for a permit with the National Park Service for a large-scale protest at Constitution Gardens and because of the 24 Hour Deemed Granted Rule we were able the next day to put out the call for all local chapters to start preparing for a national march, putting out new literature, contacting bus companies, signing contracts for buses, printing tickets and establishing places where people could buy bus tickets and all the other logistics necessary.
31. We could make this emergency change of plans, dictated by the changed political situation, because we could guarantee that we had a permit. If it wasn't deemed granted, if it was only provisionally granted or held up under any pretext such as some component element of our planned rally – such as Patti Smith's appearance on the stage (she was there on October 26) being determined to be a “special event” rather than a demonstration permit – or if there was any other delay in our ability to publicly proclaim and tell local organizations around the country that we had secured a permit after the initial 24 hours following the application, it would have been virtually impossible to mobilize a grassroots National March on Washington to “Stop the War Before it Starts” on such short notice – between mid-September and October 26th.
32. After the surprisingly large turnout of 200,000 people on October 26, 2002 in Washington D.C. the anti-war movement spread like a prairie fire in cities and towns throughout the United States and in nearly every country in the world. Everything was operating in a rushed, compressed time line.
33. The Bush Administration was racing toward war in Iraq in the early months of 2003 not because Iraq was becoming more threatening but because the global anti-war movement grew with such dynamism that it was radically altering the political calculus in the United States and inside every country that the United States had considered as an ally since World War.
34. Less than three months after the October 26, 2002 the ANSWER Coalition organized another mass protest again on very short notice. On January 18, 2003 a crowd estimated at 500,000 people filled the national mall and marched to the US Navy Yard. On March 15, 2003 more than 100,000 assembled again on the Washington Monument grounds.
35. In each of these instances we were able to act on reliance of our deemed granted permit to mobilize while we also worked out logistical details with the NPS for final set-up.

36. These sequential, close-in time mass, national actions in Washington D.C. that required local anti-war organizations in cities throughout the country to repeatedly rent buses and organize transportation and housing for people travelling from faraway locations, could not have happened if the 24 hour "deemed granted" rule had not existed or had been replaced by a system that allowed the government discretion about if and when a permit was to be granted. Timing regarding the securing of a permit was then and still is "of the essence" for the capacity of grassroots movements to come to Washington D.C. with the intention of being a factor, and perhaps the central factor, in the real-time calculations of political leaders and policy makers who are making consequential decisions -- none bigger than the issue of war and peace.