



National Park Service
U.S. Department of the Interior

Everglades National Park
Florida

FINDING OF NO NEW SIGNIFICANT IMPACT
OLD TAMiami TRAIL MODIFICATIONS
ENVIRONMENTAL ASSESSMENT

Recommended:

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3/8/18
Date

Approved:

Stan Austin
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3/20/2018
Date

INTRODUCTION

In compliance with the National Environmental Policy Act (NEPA), the National Park Service (NPS), in cooperation with the Jacksonville District of the US Army Corps of Engineers (USACE), prepared the Old Tamiami Trail Modifications Environmental Assessment (EA) that evaluated proposed modifications to an original 5.7-mile segment of Old Tamiami Trail located along the northern boundary of Everglades National Park (the park).

The EA tiers off and incorporates by reference, the Central Everglades Planning Project (CEPP) Final Environmental Impact Statement (FEIS). The CEPP FEIS selected alternative includes the removal of up to 5.7 miles of the Old Tamiami Trail. NPS participated in the development of the CEPP FEIS and determined that the environmental conditions and impacts described in the document are still valid.

The CEPP FEIS generally analyzed the impacts associated with removing up to 5.7 miles of the Old Tamiami Trail in the park to improve hydrologic sheetflow. The CEPP FEIS, which proposed complete removal of the Old Tamiami Trail segment to increase sheetflow, did not include site-specific information needed to analyze a full range of alternative modifications.

The EA analyzed site-specific impacts on hydrologic sheetflow, the Old Tamiami Trail, and other resources from a range of alternatives that would remove different amounts of roadway.

The statements and conclusions reached in this finding of no new significant impact (FONNSI) are based on documentation and analysis provided in the EA and associated decision file. To the extent necessary, relevant sections of the EA are incorporated by reference below.

Purpose and Need for Action

The purpose of the Old Tamiami Trail Modifications Project is to enhance sheetflow from Water Conservation Area (WCA) 3A into the Shark River Slough via the S-12C and S-12D water-control structures, as envisioned in the CEPP. The purpose is also to enhance the natural resources of the park and WCA 3A by improving marsh connectivity and wetland functioning.

Action is needed because the CEPP FEIS, which proposed complete removal of the Old Tamiami Trail segment to increase sheetflow, did not include site-specific information needed to analyze a full range of alternative modifications. The needs for this project also include the following:

- Facilitate improved deliveries of water from WCA 3A into the Shark River Slough.
- Reduce the ecological effects of point-source water discharges into the Shark River Slough.
- Remove artificial fill from a natural wetland area.

SELECTED ALTERNATIVE AND RATIONALE FOR THE DECISION

Based on the analysis presented in the EA, NPS selected “Alternative 2—Remove 5.45 Miles of the Roadbed” for implementation. The selected alternative was identified in the EA as the NPS preferred alternative and is described below and on pages 24-26 of the EA.

Under alternative 2, nearly the entire length of the Old Tamiami Trail roadbed in the project area will be removed. In the CEPP FEIS, full removal of the roadbed was proposed. To minimize impacts on cultural resources, provide maximum hydrologic connectivity, and create opportunities for visitors to engage with cultural and natural resources, alternative 2 was slightly

revised from the CEPP to retain a quarter of a mile of the Old Tamiami Trail adjacent to the Shark Valley Entrance Road.

Roadbed Removal

The 5.45 miles of roadbed that will be removed will be excavated down to the weathered, native limestone bedrock, on the north side of the roadway, which averages between 3 to 4 feet below the current surface of the road. On the southern side, the roadbed, embankment, and fill slope (collectively discussed as the road levee) will be removed to the marsh level, approximately 2 to 3 feet below the current surface of the road. There will be approximately a 1-foot incline downward from north to south where the berm is removed. Approximately 125,100 cubic yards of fill is anticipated from the removal of 5.45 miles of the road. Removal activity is expected to occur over approximately one year. Construction equipment may include excavators, dump trucks, tractor-trailers (for bringing in equipment), and chain saws for any hand removal of vegetation. More construction equipment may potentially be used to meet the project schedule.

During road removal, construction staging areas will be located in up to three locations in the project area: at the Shark Valley Entrance Road, at the top of the L-67 extension levee, and on a small pull-off area located on the south side of the modern Tamiami Trail between the S-12 water control structures. Only disturbed upland locations in these staging areas will be used. Any fill beyond what is needed to plug the Shark Valley Entrance Road Canal (described below) can be stockpiled in the staging locations, but it can also be placed on South Florida Water Management District (SFWMD)-owned lands, such as S-333, or can be used as beneficial fill for other CERP or tribal projects. Fill can also be used for non-CERP projects. Additional NEPA analysis will be completed, as needed. Gravel fill will be placed across the canal to provide temporary access for construction equipment and will be located at the far east and west ends of the canal where equipment may not readily access the section of the road that will be removed. Design and location of the temporary gravel access roads will occur during the engineering phase of this project. The Shark Valley Entrance Road will remain open during the construction period.

Visitor Use Improvements

Vegetation will be cleared from the remaining portion of the Old Tamiami Trail roadbed with mechanical equipment. Vegetation will also be removed from the canal and the fill slope of the removed roadbed. The remaining road surface will be maintained as gravel or asphalt and will be adapted for visitor use, including walking, jogging, wildlife observation, fishing, and photography. The road could potentially include interpretive opportunities, with interpretive displays and ranger-led tours to enhance visitor understanding and appreciation of the history of the trail. Canoe and kayak access will be provided at the west and east ends of the canal.

Shark Valley Entrance Road Canal Plug

In addition to removing 5.45 miles of the Old Tamiami Trail, a portion of the Shark Valley Entrance Road Canal will be plugged starting at the Shark Valley Entrance Road and extending south for a third of a mile. The canal is located directly adjacent to the west side of the Shark Valley Entrance Road. The canal will be plugged using fill from the removed roadbed, and muck will be removed from the canal prior to plugging. This will provide an additional access lane for emergency vehicles during peak visitation periods to Shark Valley.

Rationale for the Decision

NPS selected alternative 2 (removal of all but 0.25 mile of the Old Tamiami Trail roadbed) for implementation because it best meets the purpose and need for the project, which is to enhance sheetflow, marsh connectivity, and wetland functioning and to reduce the ecological effects of

point-source water discharges into the Shark River Slough and remove artificial fill from a natural wetland area. The old roadway has long contributed to the degradation of the marsh, and near complete removal will begin to reverse that trend, leading to long-term marsh sustainability.

Because the Old Tamiami Trail acts as a barrier to water flows from the upstream marsh (i.e., WCA 3A) into the Western Shark River Slough in the park, the implementation of alternative 2 will allow for the necessary flow distribution and large flow volume increases, significantly enhancing marsh flows overall. In addition, by eliminating artificial barriers and removing unnatural fill, alternative 2 will provide substantial ecological benefits to the park.

Alternative 2 also allows NPS to enhance visitor experiences through interpretation and education, and increase visitor understanding and appreciation of the significance of the Old Tamiami Trail's place in south Florida's history.

MITIGATION MEASURES

NPS places strong emphasis on avoiding, minimizing, and mitigating potentially adverse environmental impacts. The selected alternative incorporates the following mitigation measures.

Hydrology and Water Quality

- Implement pre- and post-construction erosion control best management practices to prevent sediments from entering the water column. These practices include installing and inspecting silt fences, straw bale barriers, sediment traps, vehicle tracking pads, turbidity booms, or other equivalent measures, and revegetating the area (where feasible) to control erosion, preserve water quality, protect wildlife and habitat, and prevent soil contamination.
- Inspect and maintain erosion and sediment control best management practices on a regular basis and after each measurable rainfall to ensure they are functioning properly.
- Implement spill prevention, control, and countermeasure procedures and stormwater pollution prevention measures to protect water quality/soils from erosion and contamination. Limit areas used for refueling to areas where these activities currently occur. Regularly inspect equipment that contains fuels for leaks.
- Implement a water quality monitoring plan to ensure compliance with state permitting requirements. Comply with federal and state water quality standards, per the CEPP FEIS (appendix C, page C.4-26).
- Test and clean fill from the removed roadbed in compliance with Florida Department of Environmental Protection permit requirements before using to plug the Shark Valley Entrance Road Canal. Based on the results of soil testing, other disposal options may be pursued for clean dredged or excavated material for other CEPP projects (CEPP FEIS, appendix C, page C.4-21). Test soil prior to construction of each CEPP component, including any removal of the Old Tamiami Trail, in accordance with the CEPP FEIS mitigation measures.

Vegetation and Wetlands

- Per the CEPP FEIS (annex G, page G-27), conduct surveys of the Old Tamiami Trail prior to construction to identify priority exotic or invasive plant species that may be spread by construction activities and treat such species prior to the beginning of construction. Survey remaining spoil, roadway remnants, and degraded areas during

construction and treat and/or remove priority species. Conduct monitoring for invasive species of apple snail and implement control measures if effective control measures are identified.

- Prior to filling any portion of the Shark Valley Entrance Road Canal, the park botanist will conduct surveys for water horn ferns. If plants are detected, document the occurrence and determine if some or all of the plants in the area to be filled should be relocated to a point farther south in the canal.

Cultural Resources

- Develop an archeological monitoring and preservation plan in consultation with the state historic preservation office (SHPO) and other consulting parties.
- Clear vegetation and maintain 0.25 mile of the Old Tamiami Trail for visitor use and interpretation of Old Tamiami Trail's role in South Florida's transportation history.
- Complete Historic American Buildings Survey/Historic American Engineering Record/Historic American Landscapes Survey (HABS/HAER/HALS) documentation of the Old Tamiami Trail and Canal for submittal to the Library of Congress.

Special Status Species

- Brief all construction crews on the Everglades mink (*Neovison vison evergladensis*), including providing a description of the Everglades mink, its habitat, and protection under state law; photographs of the species; instructions on how to avoid injuring, harming, harassing, or killing this species; notification directions; and contact information for pertinent agencies to be contacted if a dead Everglade mink is encountered.

Visitor Use and Experience

- Avoid or limit construction during peak visitor-use periods to the extent possible.
- Place closure signage and construction fencing at the Shark Valley Entrance Road and around the construction area to discourage visitors from entering an active construction site.

PUBLIC INVOLVEMENT/AGENCY CONSULTATION

Public Involvement

In December 2016, the park announced its intent to adopt the CEPP FEIS and prepare an EA to evaluate options for modifying Old Tamiami Trail via a *Federal Register* notice; email; letters sent to federal, state, local and tribal governments; and a notice posted on the Planning, Environment and Public Comment (PEPC) website. Correspondences in support of the adoption were received from the US Environmental Protection Agency, Florida Department of Transportation, and USACE during the 30-day recirculation period. USACE also requested to be a cooperating agency for this EA.

The EA was made available for public review during a 30-day comment period ending January 13, 2018. The EA was posted on the PEPC website for review and comment, and NPS notified individuals; organizations; businesses; state, county and local governments; federal agencies; elected officials; and American Indian Tribes via email and conventional mail that the EA was available. A news release was distributed to media outlets and posted on the park's website. During the public comment period, six correspondence were received. Four commenters expressed their support for alternative 2, the selected alternative, and one commenter recommended alternative 1. One commenter provided general support for the proposed action

and recommended future monitoring and consultation with local tribes to ensure no impacts on tribal resources. The commenter also asked about the fill material that was used when the road was constructed.

Agency Consultation

In consultation with the US Fish and Wildlife Service (USFWS) under section 7 of the Endangered Species Act, NPS submitted a letter that determined the selected alternative may affect, but is not likely to adversely affect, the Everglade snail kite or its critical habitat, Cape Sable seaside sparrow, wood stork, Florida bonneted bat, Florida Panther, West Indian manatee, or Eastern indigo snake. USFWS concurred with the park's determination on January 12, 2018. NPS also determined that there will be no effect on any other state-listed, threatened, or endangered species or critical habitat. The Florida Fish and Wildlife Conservation Commission concurred with this determination on January 5, 2018.

In consultation with Florida SHPO under Section 106 of the National Historic Preservation Act, NPS submitted a cultural resources assessment on November 21, 2017. NPS requested concurrence on the finding of adverse effect to historic properties, including the Old Tamiami Trail and the Old Tamiami Trail Canal and indicating the need for continued consultation regarding appropriate mitigation measures and development of a Memorandum of Agreement (MOA) to resolve the adverse effect. The Florida SHPO sent a letter of concurrence on January 23, 2018. NPS subsequently submitted these findings to the Advisory Council on Historic Preservation inviting consultation and participation in the draft MOA process on January 25, 2018. The park and SHPO completed a MOA on February 27, 2018, to resolve the adverse effects of removing Old Tamiami Trail. The MOA is included in this document as Attachment B.

In consultation with the Florida State Clearinghouse and associated agencies, the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, and the Florida Department of Transportation conducted a review of the proposed action and provided the following recommendations:

- Complete a Uniform Wetland Assessment Method survey in the process of obtaining a Comprehensive Everglades Restoration Project Permit from the Florida Department of Environmental Protection.
- Provide an Everglades mink briefing to all construction crews in advance of work.
- Coordinate all project operations including potential permit needs through Mr. Ali Al-Said, P.E., District Permits Engineer, at the Florida Department of Transportation.

Concurrence with the project and the preferred alternative was provided by the Florida State Clearinghouse on January 24, 2018.

Tribal Consultation

Consultation with tribes affiliated with the park has been ongoing throughout the course of the project. The Miccosukee Tribe of Florida and the Seminole Tribe of Florida stated they have no objections to the removal of Old Tamiami Trail.

FINDING OF NO NEW SIGNIFICANT IMPACT

As described in the EA, the selected alternative has the potential for impacts on hydrology and water quality, vegetation and wetlands, cultural resources, and special-status species. No potential for significant adverse impacts was identified. As defined by 40 Code of Federal Regulations 1508.27, significance, as used in NEPA, requires consideration of context and

intensity. Three of the Council on Environmental Quality's factors for significance are relevant to the selected action:

- Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas
- The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources
- The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973

While no new significant impacts were identified, the EA analysis confirms the removal of 5.45 miles of the Old Tamiami Trail will result in significant impacts on cultural resources. The CEPP Record of Decision identified the potential for significant adverse impacts on cultural resources and was confirmed by site-specific analysis in the EA. The removal of the 5.45 miles of the Old Tamiami Trail will result in the loss of integrity of setting and feeling of the road, resulting in the loss of eligibility for listing in the National Register of Historic Places. NPS has consulted with the Florida SHPO and completed compliance with section 106 of the National Historic Preservation Act. The CEPP EIS and Record of Decision have already identified these significant impacts and selected the action that removed the roadway. No new significant impacts on cultural resources were identified in this EA.

During construction, impacts on hydrology, water quality, vegetation, and wetlands will be adverse, mostly from the noise and water disturbance created from the use of construction equipment during roadway removal. These impacts will be temporary and last only during the construction period. Because of the short-term nature of the impacts and the small acreage of disturbance compared with the overall acreage of the park, impacts will not be significant.

Several special-status species have the potential to be affected during the construction period, including the Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*), Everglades snail kite (*Rostrhamus sociabilis plumbeus*), wood stork (*Mycteria americana*), Florida panther (*Puma (=felis) concolor coryi*), West Indian manatee (*Trichechus manatus*) and eastern indigo snake (*Drymarchon corais couperi*). The selected alternative may affect, but is not likely to adversely affect these species. Species will not experience population-level impacts, and impacts will be limited to individuals and will not be significant. Because habitat will improve as a result of the restored sheetflow, long-term impacts on most species will be beneficial.

Once the roadway is removed, hydrologic connectivity will be increased, sheetflow will be improved, and flow capacity at both the S-12C and S-12D control structures will be increased. Additionally, 31 acres will be restored from upland back to wetlands. There will be no significant impacts on public health, public safety, or unique characteristics of the region. No highly uncertain or controversial impacts, unique or unknown risks, significant cumulative effects, or elements of precedence were identified. Implementation of the NPS selected alternative will not violate any federal, state, or local environmental protection law.

CONCLUSION

As described above, the selected alternative does not constitute an action meeting the criteria that normally requires preparation of an EIS. The selected alternative will not have a new significant effect on the human environment in accordance with Section 102(2)(c) of NEPA.

Based on the foregoing, it has been determined that an EIS is not required for this project and, thus, will not be prepared.

Attachment A—Non-impairment Determination

Attachment B—Memorandum of Agreement (MOA)

ATTACHMENT A: NON-IMPAIRMENT DETERMINATION

INTRODUCTION

This non-impairment determination has been prepared for the selected alternative, as described in the Finding of No New Significant Impact for the Old Tamiami Trail Modifications Environmental Assessment (EA).

By enacting the National Park Service (NPS) Organic Act of 1916 (Organic Act), Congress directed the US Department of the Interior and the NPS to manage units "to conserve the scenery, natural and historic objects, and wild life in the System units and to provide for the enjoyment of the scenery, natural and historic objects, and wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations" (54 United States Code 100101).

NPS *Management Policies 2006*, section 1.4.4, explains the prohibition on impairment of park resources and values:

While Congress has given the Service the management discretion to allow impacts within parks, that discretion is limited by the statutory requirement (generally enforceable by the federal courts) that the Park Service must leave park resources and values unimpaired unless a particular law directly and specifically provides otherwise. This, the cornerstone of the Organic Act, establishes the primary responsibility of the National Park Service. It ensures that park resources and values will continue to exist in a condition that will allow the American people to have present and future opportunities for enjoyment of them.

An action constitutes impairment when its impacts "harm the integrity of park resources or values, including the opportunities that otherwise will be present for the enjoyment of those resources or values" (NPS *Management Policies 2006*, section 1.4.5). To determine impairment, 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 *Management Policies 2006*, section 1.4.5).

National park system units vary based on their enabling legislation, natural and cultural resources present, and mission. Likewise, the activities appropriate for each unit and for areas in each unit also vary. For example, an action appropriate in one unit could impair resources in another unit.

As stated in the NPS *Management Policies 2006* (section 1.4.5), an impact on any park resource or value may constitute an impairment, but an impact would be more likely to constitute an impairment to the extent that it affects a resource or value whose conservation is

- necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park; or
- key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or
- identified in the park's general management plan or other relevant NPS planning documents as being of significance.

The significance and importance of each resource, based on the park's enabling legislation, is discussed under the analyzed resource sections below.

The resource impact topics carried forward and analyzed for the NPS selected alternative in the EA and for which an impairment determination is contained in this attachment are hydrology and water quality, vegetation and wetlands, special-status species, and cultural resources. An impairment determination is not made for visitor experience because this impact topic is not generally considered a park resource or value according to the Organic Act, and cannot be impaired the same way that an action can impair park resources and values. Each resource or value for which impairment is assessed and the reasons why impairment will not occur is described below.

Water Quality and Hydrology

The park was created to preserve remnants of the Everglades, a nationally significant hydrologic resource. This hydrologic resource sustains south Florida's human population and serves as a global experiment in ecosystem restoration. In addition, the park serves as the hydrologic connection between central Florida's freshwater ecosystem and the marine systems of Florida Bay and the Gulf of Mexico.

The analysis in the EA indicates that adverse impacts on hydrology and water quality are anticipated during roadway removal activities. The application of appropriate management practices approved or required by the Florida Department of Environmental Protection in the permitting process will minimize and mitigate impacts on these resources. Additionally, increased phosphorous loading is anticipated, which may affect water quality in areas where phosphorus is currently less pronounced.

However, one of the main objectives of the project is to restore and promote improved hydrology on a regional scale through improved quantity and distribution of water flow to the park and improved water quality through a more even distribution of phosphorous. Overall, the actions under the selected alternative will improve and increase hydrologic connectivity, improve sheetflow into the park, increase the capacity for water deliveries to be made to the park, and allow for wider distribution of phosphorous loading, all of which would be beneficial to hydrology and water quality in the park. Because these project improvements will result in overall beneficial impacts from partially restoring pre-drainage hydrologic conditions in the park, thereby enhancing the integrity of this resource, the selected alternative will not impair wetlands.

Vegetation and Wetlands

The park is also significant for its preservation of biological resources as a unique subtropical wetland that serves as the hydrologic connection between central Florida's freshwater ecosystem and the marine systems of Florida Bay and the Gulf of Mexico. The park is the only place in the United States jointly designated as an International Biosphere Reserve, a World Heritage Site, a Wetland of International Importance, and a Specially Protected Area under the Cartagena Convention.

Following roadway removal, up to 31 acres of upland will be converted to wetlands. While a similar smaller area of upland vegetation will be removed during roadway removal, and adverse impacts on vegetation and wetlands near staging areas are anticipated, the area of impacts on wetlands under the selected alternative is small relative to the overall acreage of wetlands in the park. The selected alternative will ultimately enhance the biological resource values of the park by expanding existing wetlands, which will improve hydrologic connectivity and wetland functioning. Under the selected alternative, retaining a portion of the roadway will also allow NPS to provide new recreational and interpretative opportunities so visitors can experience the biological resource values present at the park, including wetlands.

Overall, the wetlands that are affected by implementation of the selected alternative comprise only a small portion of the wetlands in the park, no wetland acreage will be lost, and the project will result in a net gain of wetland areas. Because project actions will enhance existing biological conditions by improving the wetlands in the project area and the overall wetland health and functioning in the park, implementing the selected alternative will not impair wetlands. Current and future generations will have the opportunity to experience these resources.

Special-Status Species

The park is significant for the preservation of a diverse variety of ecosystems and unique flora and fauna. In addition to protecting more than 20 federally listed and 70 state-listed, threatened, and endangered species and numerous species of special concern, the park also provides important foraging and breeding habitat for more than 400 species of birds and functions as a primary corridor and refuge for migratory and wintering bird populations.

Roadway removal and short-term construction activities associated with the selected alternative could slightly alter the hydrology of habitat used by federally and state-listed species and special-status species. The loss of upland habitat from conversion to wetland will have adverse impacts on preferred foraging habitat for the southeastern American kestrel, although this species is not anticipated to be present in the project area with regular frequency and is not likely to be adversely affected.

Impacts on all species from all actions under the selected alternative will be well within natural fluctuations to population, habitat, and natural processes sustaining them. Impacts on species are not anticipated to be detectable and will not be outside the natural range of variability. Occasional responses to disturbance are expected but will not result in changes to local population numbers, population structure, and other demographic factors. Sufficient habitat in the park will remain functional to maintain a sustainable population. No critical habitat will be lost.

While the selected alternative will potentially expose special-status species to increased disturbance from construction and alterations in hydrology, overall, the selected alternative will not result in impairment because it will not inhibit the park's ability to protect federally and state-listed species. Additionally, the increase in wetland acreage and changes in hydrology will result in improved foraging conditions and prey abundance for some species.

Current and future generations will have new opportunities to appreciate and experience listed species in the park through enhanced visitor use.

Cultural Resources

The park is significant for its preservation of natural and cultural resources associated with the homeland of American Indian Tribes of Florida and the remnants of a nationally significant hydrologic resource that sustain south Florida's human population and serve as a global experiment in ecosystem restoration.

The selected alternative will result in adverse impacts on historic properties from the removal of the roadway and modifications to the canal and will result in the loss of the Old Tamiami Trail's eligibility for listing in the National Register of Historic Places. However, Everglades National Park was established in 1947 to preserve the ecological functions of a representative portion of the original Everglades watershed, and the ecological integrity of its flora and fauna, and was it the first national park in the United States set aside primarily for its biological resources. More than 60 years after the park was established, protection of natural resources and the ecosystem remains a primary focus of park management.

Removing the roadway will enhance hydraulic connections and wetlands and partially restore pre-drainage hydrologic conditions in the park, which ultimately aligns with the purpose and significance of the park. Under the selected alternative, retaining a portion of the road will allow NPS to provide new interpretive and recreational opportunities for visitors to experience the historical cultural resource values of the Old Tamiami Trail, thereby enhancing the cultural resource opportunities in Shark Valley. As a result, the selected alternative will not impair cultural resources.

SUMMARY

NPS has determined that implementation of the selected alternative will not constitute an impairment of the resources or values of the park. As described above, adverse impacts anticipated as a result of implementing the selected alternative on a resource or value whose conservation is necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park, key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park, or identified as significant by NPS staff or relevant NPS planning documents, will not constitute impairment. This conclusion is based on consideration of the park's purpose and significance, a thorough analysis of the environmental impacts described in the EA, comments provided by the public and others, and the professional judgment of the decision maker guided by the direction of the NPS *Management Policies 2006*.

ATTACHMENT B: MEMORANDUM OF AGREEMENT

**MEMORANDUM OF AGREEMENT
AMONG
THE NATIONAL PARK SERVICE
AND
THE FLORIDA STATE HISTORIC PRESERVATION OFFICER
REGARDING
MODIFICATION OF A SEGMENT OF THE OLD TAMiami TRAIL**

WHEREAS, Everglades National Park (hereinafter Park) was established by Congress in 1947 to protect the unique ecosystem of the Florida Everglades; and

WHEREAS, water flow through the Everglades has been altered to such an extent by the construction of canals, roads, and other infrastructure that human intervention is required to mitigate those hydrologic changes and fulfill the Park's mission of protecting the Everglades ecosystem; and

WHEREAS, Federal and State agencies, including the US Army Corps of Engineers (USACE), the US Fish and Wildlife Service, the National Park Service (NPS), and the South Florida Water Management District, have developed multiple plans to help achieve that mitigation, including the Everglades Restoration Transition Plan (ERTP) and the Central Everglades Planning Project (CEPP); and

WHEREAS, the NPS proposes to modify an original 5.7-mile segment of Old Tamiami Trail located along the northern boundary of the Park, removing a substantial portion of that roadway in accordance with the measures outlined in the CEPP;

WHEREAS, the NPS is charged in its administration of the units of the National Park System to meet the directives of other laws, regulations, and policies including the NPS Organic Act as codified in Title 54 United States Code (USC) 100101(a) to "conserve the scenery, natural and historic objects, and wild life in the System units and to provide for the enjoyment of the scenery, natural and historic objects, and wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations"; and

WHEREAS, the Park in consultation with the Florida State Historic Preservation Officer (SHPO) has determined that the Undertaking will have adverse effects on the Old Tamiami Trail and Canal (Florida Master Site File Numbers 8DA6510 and 8DA6453), two significant historic properties determined eligible for listing in the National Register of Historic Places (NRHP); and

WHEREAS, the NPS is preparing an Environmental Assessment (EA) for this project which describes the modification of the Old Tamiami Trail and Canal and will be soliciting public comment on the EA; and

WHEREAS, the NPS has consulted with the Florida SHPO regarding development of this Memorandum of Agreement (MOA) pursuant to 36 CFR Part 800; and

WHEREAS, the NPS has notified the Advisory Council on Historic Preservation (ACHP) of the intention to develop a project specific memorandum of agreement, pursuant to 36 CFR Part 800.14(b)(1)(ii) and has invited the ACHP to participate in consultation and the ACHP has declined to participate; and

WHEREAS, the NPS in accordance with 36 CFR 800.2(a)(4), has invited individuals, tribes and organizations with a demonstrated interest in the Project to participate as Consulting Parties in the Section 106 process,

NOW, THEREFORE, the NPS, and SHPO agree that the MOA shall be implemented in accordance with the following stipulations and processes in order to take into account the effects of the Park's undertakings on historic properties.

I. STIPULATIONS

The NPS shall ensure that the following measures are carried out.

1. Visitor Use Improvements

The NPS will remove vegetation from the remaining roadbed of the Old Tamiami Trail. This segment will be used for walking, jogging, wildlife observation, fishing and photography. The trail will be kept sufficiently clear of vegetation to preserve this area for visitor use.

Interpretive media (2 to 4 panels/signs) will be installed along the roadbed, telling the story of how the Old Tamiami Trail was constructed and how the roadway was an important connection across southern Florida.

The NPS will provide SHPO with draft text and interpretive media design for review and comment. SHPO will provide comment within 30 days of receipt of draft material. The NPS will incorporate SHPO comments into final version. The NPS will notify SHPO once interpretive media is made available to the public.

2. HABS/HAER/HALS Documentation

The NPS will provide recordation of the 5.7 mile segment of the Old Tamiami Trail and Canal in accordance with Historic American Building Survey/Historic American Engineering Record/Historic American Landscapes Survey (HABS/HAER/HALS) Level III documentation standards.

II. ADMINISTRATIVE REQUIREMENTS

The NPS will ensure that any documentation, including drawings, photographs, reports, and historical narratives, concerning historic properties that is generated during the course of this Undertaking is provided to the SHPO in a form acceptable to the SHPO for inclusion in SHPO's files, Florida Master Site File, and archives.

NPS will ensure that all documentation of historic properties carried out pursuant to this MOA is conducted by or under the direct supervision of a person or persons meeting the Secretary of the Interior's Professional Qualifications Standards for Archaeology and Historic Preservation (36CFR Part 61).

1. Duration

This MOA will be null and void if its terms are not carried out within five (5) years from the date of its execution.

2. Post-Review Discoveries

This stipulation covers all archeological resources, including human burials, to meet the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001 et seq., its implementing regulations as set forth in 43 CFR Part 10 (specifically §10.5[e]), and the Archeological Resources Protection Act (ARPA), 16 U.S.C. 470 et seq., with its implementing regulations (43 CFR Part 7). The NPS shall ensure that all construction documents include the following provisions:

- A. If previously unidentified historic properties or unanticipated effects to historic properties are discovered in the Park during construction, the construction contractor shall immediately halt all activity within a 100-foot radius of the discovery, notify the NPS within 24 hours of the discovery, and implement interim measures to protect the discovery from looting and vandalism.
- B. Immediately following upon NPS' receipt of the notification the NPS shall
 - a) inspect the construction site to determine the extent of the discovery and ensure that construction activities have halted;
 - b) clearly mark the area of the discovery;
 - c) implement additional measures, as appropriate, to protect the discovery from looting and vandalism;
 - d) have an archeologist meeting *Secretary of the Interior's Professional Qualifications Standards for Archeologists* inspect the construction site to determine the extent of the discovery and provide recommendations regarding its NRHP eligibility and treatment; and
 - e) notify the SHPO and other Consulting Parties of the discovery describing the measures that have been implemented to comply with Stipulation 2.A.
- C. Within 48 hours of NPS' receipt of the notification described in Stipulation 2.A of this document, the NPS shall provide the SHPO and other Consulting Parties with its assessment of the NRHP eligibility of the discovery and the measures the NPS proposes to take to resolve adverse effects. In making its official evaluation, the NPS, in consultation with the SHPO and other Consulting Parties may assume the discovery to be NRHP-eligible for the purposes of Section 106 pursuant to 36 CFR Part 800.13(c). The SHPO and other Consulting Parties shall respond within 48 hours after their receipt of NPS' submission of its official evaluation.
- D. The NPS, which shall take into account the Consulting Parties' recommendations on eligibility and treatment of the discovery, shall ensure that appropriate actions are carried out and provide the SHPO and the other Consulting Parties with a report on these actions when they have been implemented.
- E. Construction activities may proceed in the area of the discovery when the NPS has determined that implementation of the actions undertaken to address the discovery pursuant to Stipulation 2.A are complete.
- F. If human remains are found, the NPS shall treat all human remains in a manner consistent with the ACHP's "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects" (February 23, 2007; <http://www.achp.gov/docs/hrpolicy0207.pdf>) or ACHP policy in effect at the time remains and funerary artifacts are handled. The NPS shall contact law enforcement and emergency personnel as appropriate if human remains are discovered. If the remains found on federal lands are determined to be of Native American origin, the NPS shall

comply with the provisions of the Native American Graves Protection and Repatriation Act, 25 USC § 3001 et seq. and the accompanying regulations at 43 CFR part 10.

3. Review and Monitoring

The Park will provide to the SHPO a summary report at the end of the Undertaking detailing work undertaken pursuant to the terms of this MOA. This report will include any problems encountered and any disputes and objections received in NPS's efforts to carry out the terms of this MOA.

4. Dispute Resolution

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented the objecting party will consult with the other parties to resolve the objection. If the Park determines that such objections cannot be resolved, the Park will:

- A. Forward all documentation relevant to the dispute, including the Park's proposed resolution, to the ACHP. The ACHP shall provide the Park with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Park shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and the signatories and provide them with a copy of this written response. The Park will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the Park may make a final decision on the dispute and proceed accordingly. Prior to reaching a final decision on the dispute, the Park shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and the signatories, and provide them with a copy of such written response.
- C. The Park's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of dispute will remain unchanged.

5. Amendments

Any party to this agreement may propose to the other party that it be amended, whereupon the parties will consult and consider the amendment pursuant to 36CFR 800.6(c)(7). The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

6. Termination

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation 7, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to continuing work on the undertaking, the Park shall execute a new MOA pursuant to 36 CFR 800.7. The Park shall notify the signatories as to the course of action it will pursue.

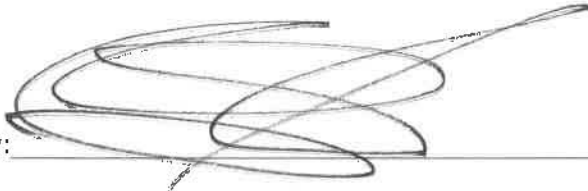
Execution of this MOA by the Park and SHPO and implementation of its terms constitutes evidence that the Park has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

7. Anti-Deficiency Act


The NPS' obligations under this MOA are subject to the availability of appropriated funds, and the stipulations of this MOA are subject to the provisions of the Anti-Deficiency Act. The NPS shall make reasonable and good faith efforts to secure the necessary funds to implement this MOA in its entirety. If compliance with the Anti-Deficiency Act alters or impairs the NPS's ability to implement the stipulations of this agreement, the NPS shall consult in accordance with the amendment and termination procedures found later in this MOA.

Signatories:

National Park Service

By:  Date: 2/16/18

Florida State Historic Preservation Office

By:  Date: 2/27/18

Concurring Parties:

US Corps of Engineers, Jacksonville District

By: _____ Date: _____

South Florida Water Management District

By: _____ Date: _____

Miccosukee Tribe of Indians of Florida

By: _____ Date: _____

Seminole Tribe of Florida

By: _____ Date: _____

Area of Potential Effect for the Old Tamiami Trail Modifications

