

DECISION NOTICE

AND

FINDING OF NO SIGNIFICANT IMPACT

MARTIN LUTHER KING, JR. NATIONAL MEMORIAL
ENVIRONMENTAL ASSESSMENT

NATIONAL PARK SERVICE

Abstract

The National Park Service (NPS) and the Washington, DC Martin Luther King, Jr. National Memorial Project Foundation, Inc. have prepared and issued an Environmental Assessment (EA) to evaluate the potential impacts of a national memorial to be established on an approved site on the northwestern side of the Tidal Basin in Southwest Washington, DC. The NPS hereby announces its decision to issue a Finding of No Significant Impact (FONSI) in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, the Council on Environmental Quality (CEQ) Regulations 40 CFR Parts 1500-1508, the National Historic Preservation Act (NHPA), and NPS Director's Orders (DO) 12 and 55. The purpose of this Decision Notice and FONSI is to clearly communicate the consideration by the NPS of reasonable alternatives, provide the NPS rationale for selecting the Preferred Alternative, identify mitigation measures that would minimize the identified impacts of the Preferred Alternative, and explain the finding that the Preferred Alternative will have no significant environmental impacts on the natural or man-made environment.

August 22, 2008

I. BACKGROUND

The National Park Service (NPS) and Washington, DC Martin Luther King, Jr. National Memorial Project Foundation, Inc. (the Foundation) together prepared the Martin Luther King, Jr. National Memorial Environmental Assessment (EA) in July 2005, and made the EA available to public and government agencies for a 63-day review and comment period from July 19, 2005 to September 19, 2005, the extended review period was provided to enable the broadest opportunity for public comment during summer recess and traditional period of public vacation. The NPS prepared the EA consistent with the National Environmental Policy Act (NEPA) of 1969, as amended; the Council on Environmental Quality (CEQ) regulations implementing NEPA; the National Historic Preservation Act (NHPA) of 1966, as amended; and the NPS Director's Orders (DO) 12 and 55. The EA assessed the potential environmental impacts associated with the establishment of the proposed memorial and evaluated a No Action Alternative. Mitigation measures were recommended for potential impacts identified.

Upon conclusion of the EA public review period, the NPS project team analyzed the scientific and regulatory components of the EA, reviewed the conclusions of the EA, and considered the public comments on the EA. Consistent with NEPA, NPS announces its decision to select the alternative that it will implement, and identify its environmental findings. The purpose of this Decision Notice and Finding of No Significant Impact (FONSI) is to clearly communicate consideration by the NPS of reasonable alternatives, provide the NPS's rationale for selecting the preferred alternative, identify mitigation measures that minimize the identified impacts of the preferred alternative, and explain the finding that the preferred alternative will have no significant impact or effect on the natural or man-made environment.

II. PROPOSED ACTION

The Foundation proposes to establish a national memorial to honor Dr. Martin Luther King, Jr. Authority to establish the memorial is provided in Public Law 104-333, Section 508, as passed by the Congress, and signed into law by President William J. Clinton on November 12, 1996. On July 16, 1998, H.J. Res. 113 was approved by the President, as Public Law 105-201, to authorize the location of the memorial within Area I in the Nation's Capital. Area I is defined within the Commemorative Works Act, Public Law 99-652, approved November 14, 1986, as amended. Public Law 104-333 provided that the memorial was to be established in accordance with the standards set forth in the Commemorative Works Act.

The site of the Martin Luther King Jr. Memorial (Memorial) was approved in December 1999 by the National Capital Planning Commission with 11 design parameters that were agreed to by the Foundation, National Park Service, and the National Capital Planning Commission on October 21, 1999. The Commission of Fine Arts approved the site at its December 16, 1999 meeting.

The Memorial site is located at the intersection of West Basin Drive, SW and Independence Avenue, SW adjacent to the Tidal Basin and 750 feet north of the Franklin Delano Roosevelt Memorial. The site is comprised of an area of approximately 4 acres near the northwestern side of the Tidal Basin within West Potomac Park. Having a view of the Thomas Jefferson Memorial, and being situated adjacent to the historic plantings of cherry trees along the Tidal Basin, the site is a prominent and symbolic location that is relevant to the subject of the Memorial.

III. AGENCY DECISION

Environmentally Preferred Alternative

CEQ regulations implementing NEPA require a Federal agency to identify the alternative or alternatives that are considered to be environmentally preferable. Following an initial evaluation of 12 potential sites, development potential and limitations were investigated and the list of potential sites was narrowed to five sites. The five sites were investigated in a Site Selection Study, which culminated in a report dated October 1998 and ultimately resulted in the selection of the approved site. Upon completion of the site selection process, two alternatives were analyzed in the EA, the Proposed Memorial Alternative and a No Action Alternative. The No Action Alternative would result in no changes to the existing parcel and would not satisfy the purpose and need of the proposed action to establish a national memorial as specified in the authorizing legislation.

The Proposed Memorial Alternative would potentially result in adverse, but mitigated effects, on historic resources in the area and would alter the roadway network near the site. The Proposed Memorial Alternative would re-organize the spatial relationships of existing separated asphalt roadways and concrete sidewalks with a distinct landscaped commemorative space in a manner similar to the FDR Memorial where roadway pavements were adapted to create the majority of the commemorative space in lieu of converting open space areas of West Potomac Park. The Proposed Memorial Alternative would involve the construction of the proposed Memorial by the Foundation and eventual, maintenance, and operation of the proposed by the National Park Service.

IV. ENVIRONMENTAL IMPACTS OF THE PREFERRED ALTERNATIVE

Establishment of the Memorial on the selected site is not expected to result in significant adverse impacts on the socio-economic environment, cultural resources, natural resources, or transportation and urban systems. The potential positive and negative environmental impacts associated with the Proposed Memorial Alternative, as documented in the EA, are summarized below. Where no mention is made of impacts for a given resource area, there were no substantive issues of concern attributable to the Proposed Memorial Alternative.

Socio-Economic Environment

Land Use: Establishment of the Memorial would refine the uses of approximately 3 acres of open park space and one acre of roadway into a coherent, landscaped commemorative space. The establishment of the Memorial design, with the attendant design reviews and approvals required by the application of the standards of the Commemorative Works Act, the maintenance requirements of the National Park Service, the public review process, and completion of the Section 106, Historic Preservation Review of the National Historic Preservation Act of 1969, will provide a space consistent with other commemorative uses within West Potomac Park. Commemorations in West Potomac Park that have been established within the congressionally approved standards include the Memorials to World War II, Korean War, and George Mason.

Planning Controls and Policies: The Memorial would be consistent with the Comprehensive Plan for the National Capital, the Commemorative Zone Policy of 2000, and the Commemorative Works Act of 1986, as amended.

Visitation: The landscaped character of the proposed Memorial would continue the commemorative aspect of West Potomac Park and the National Mall. As a destination, the Memorial would likely experience higher than average visitation during the first few years of its existence. In the long term however, visitation would likely stabilize at a level similar to other memorials such as the Lincoln, Vietnam Veterans, Korean War Veterans, and the FDR Memorial. Accordingly, projected annual visitation in the first year would range from three million to five million persons. Stabilized visitation would average approximately 1.2 million persons annually, with about 2,000 persons per weekday to 5,000 persons on peak weekend days.

As a result of the selected site, visitation to the new Memorial, determined by Public Law to be of preeminent historical and lasting significance to the United States, will be directed to an area of West Potomac Park with limited accessibility. Mitigation in the form of a visitor support and interpretive facilities (restrooms, interpretation and visitor information) was identified in the EA, and as a result, a facility much like that at the FDR Memorial was incorporated as part of the Memorial design within the limits of the approved site. The services associated with the facility are consistent with the NPS's Visitor Facility Planning Model (December 2004), and do not rise to the broader level of services that are typically found in a "Visitor Center." In addition to public restrooms, support spaces, and an interpretation area, a visitor center typically includes a lobby, exhibit area, theater, interpretation offices, and approach a minimum size of 5000SF to 7000SF. During the Section 106 process and consultation with NCPC and the Commission of Fine Arts (CFA), the size, location and design has been refined and the overall Memorial has been reduced in scale.

Security: Once the Memorial design had been developed to a level of substance beyond the conceptual arrangement of spaces and was made available to the NPS for operational and safety review, the NPS requested an assessment of the physical security requirements for the Memorial and its visitors. Professionals from the Department of the Interior and other law enforcement agencies were consulted and it was recommended that the design include security features that would deter access to the central, visited areas of the Memorial. The National Park Service, in conformance with the recommendation, will require that the project be provided with appropriate means of protection.

Cultural Resources

Historic Resources: Through consultation with the District of Columbia State Historic Preservation Office (DC SHPO), it was determined that the establishment of the Memorial could potentially have an adverse effect on West Potomac Park. The proposed Memorial would not adversely affect the Tidal Basin or its surrounding walk. The display planting of old and new cherry trees, begun in 1912, remains intact, although the Memorial does provide a single pedestrian entrance from the Tidal Basin walkway. The proposed Memorial would not affect the Stone Seawall, which is a contributing structure to the West Potomac Park Historic District; but may relocate up to 9 of the Japanese cherry trees, which are contributing elements to the West Potomac Park Historic District; and would not adversely affect other memorials in the area. An initial Section 106 consultation meeting occurred on September 19, 2005 which was attended by the DC SHPO, Advisory Council on Historic Preservation (ACHP), NCPC, Committee of 100 and the Coalition to Save Our Mall. Consultation with the consulting parties was resumed after the design detail was refined by the Foundation and made available in November 2007.

Consultation meetings were held on March 3, April 22, and June 30, 2008. The consultation process was concluded with a Memorandum of Agreement (MOA) signed on 8/25/08 by the NPS, DC SHPO, ACHP, the Foundation.

Visual Resources: Short term visual disruption would result during the construction phase. With the introduction of a tapering earthen berm, the proposed Memorial will impact vegetation-filtered summer views and remove a larger area of open, winter views from the site to other nearby memorials around the Tidal Basin at the terminal ends of the wall, while obscuring views near the central areas of the Memorial. To mitigate the impact on the views, the original design was amended in 2006 to reduce the height of the Memorial walls, a proposed pedestrian bridge was removed, and the earthen berm was shortened on the east by approximately 120 feet and on the west end by approximately 80 feet. The proposed Memorial will preserve the cherry trees, which frame the views toward the Tidal Basin. The panoramic vista to the Jefferson Memorial from the walk surrounding the Tidal Basin, which is a contributing view to the West and East Potomac Parks Historic District, will also be preserved. Similarly, panoramic views from the Jefferson Memorial to the Memorial site and to the top of the Lincoln Memorial will be preserved, save for the introduction into the high tree canopied foreground, of the upper limits of a new vertical element, the Stone of Hope.

The proposed Memorial design, as a result of a several reviews between 2005 and 2008, was significantly refined to ensure the preservation of the symbolically open and expansive character and continuity of the existing historic landscape of extraordinary significance. The Memorial design, in accord with the Commemorative Works Act, is subject to approval by the Secretary of the Interior (through NPS), the CFA, and the NCPC.

Natural Resources

Geophysical Resources: The potential impacts on geophysical resources associated with the proposed Memorial include topography, soils, geology, and groundwater. Establishment of the proposed Memorial would require the Foundation to realign and reconstruct a portion of West Basin Drive along the western edge of the site to connect with Independence Avenue in a new, signalized location. The reconstructed road would not, however, alter any of the slopes and contours from the existing conditions. Cut-and-fill operations would be conducted on the site and the slope would be altered starting at the Independence Avenue and traveling down through the Memorial Plaza (elevation eight and one-half feet) and ending outside the root protection area of the cherry trees to avoid the Tidal Basin edge (elevation four feet). Geologic resources would be altered by the proposed Memorial. Piles would be driven 45 to 50 feet to reach bedrock to strengthen the stability of the site, which was created in the late 19th century and early 20th century by pouring unconsolidated river sediments across tidal marshland of the Potomac River.

Vegetation: Construction of the proposed Memorial would involve the disturbance of trees, grasses, and soils on the site, including approximately 85 existing deciduous trees. With the exception of one specimen tree, the on-site trees are immature and small. No habitat of rare, threatened, or endangered species would be disturbed. Although the existing cherry trees next to the site would be protected during construction; up to 9 cherry trees may be relocated to allow for a pathway connecting the Memorial plaza to the Tidal Basin walkway. At present the construction plans indicate that only 5 cherry trees will be relocated.

Transportation and Urban Systems

Roadway Traffic: The proposed Memorial would require changes to the existing roadway network including the relocation of West Basin Drive; redesign and replacement of the controlled intersection and provision of both east and west bound turning functions of West Basin Drive at Independence Avenue; closure of the “spur road” connection, which currently traverses the site from West Basin Drive to eastbound Independence Avenue; and elimination of the 5 public parking spaces now provided within the site. The design of and expense for these proposed changes will be undertaken by the Foundation as part of the proposed Memorial, and will involve, consultation with the DCSHPO, the ACHP, and consulting parties and review and approval by NPS, NCPC and CFA.

Parking: 5 spaces designated for disabled, and drop-off pick-up spaces will be provided for cars and buses along the realigned West Basin Drive spur. It is anticipated that visitors using personal vehicles would use the nearly 2000 available parking spaces provided within West Potomac Park, in the area of the FDR Memorial and Ohio Drive, as well as to the east in the area of East Basin Drive, at the Tidal Basin lot and within the 3 parking lots in the vicinity of the 14th Street Bridge complex as well as on Constitution Avenue and Madison and Jefferson Drives.

Storm Water Management: Development of the proposed Memorial would slightly increase the amount of impervious surfaces on the project site, resulting in an increased potential for impacts related to runoff. In order to avoid impacts to the soil and water resources on and adjacent to the Memorial site, stormwater collection and conveyance utilities would be installed on the project site. Overall, the development of stormwater utilities on the project site in association with the proposed Memorial would result in a minor positive effect on stormwater management.

V. PUBLIC INVOLVEMENT

The Memorial project underwent substantial public involvement during the site selection process. With respect to NEPA, this EA was made available for public review and comment from July 19 to September 19, 2005. The EA was published on the NPS web site and a press release announcing the document’s availability was published in a local newspaper. The EA was distributed to Federal and District of Columbia agencies as well as interested citizen organizations. A public reading copy was made available in the regional office headquarters building at 1100 Ohio Drive, SW.

Public Comments

Three comment letters on the EA were received from the public and government agencies during the public review period. These comments concerned the role of the NPS, the NEPA process and fulfillment of NEPA requirements, the site approval process, status of the Memorial design, Section 106 consultation, visual elements within the horizontal landscape, views from the Jefferson Memorial and Independence Avenue, use of the Memorial and site, access and circulation around the Memorial, parking and wayfinding, roadways, and floodplain constraints.

Response to Comments

National Coalition to Save Our Mall: There is no possibility for meaningful public input since the NPS is acting as a co-sponsor of the memorial.

Response NPS Role: The participatory roles of NPS and the Foundation in the process to establish a proposed Martin Luther King, Jr. National Memorial are defined by Congress in the Commemorative Works Act and related procedures. The NPS administers the approved site of the Memorial and will administer the Memorial upon its completion and acceptance. The sponsor of the Memorial is required to consult with the NPS, and ultimately has to request a construction permit from the NPS. In terms of public input, the NPS conducted a facilitated public scoping meeting for the EA and provided for extended public review of the EA. In addition, the NPS sponsored a public review of the design scheme in September 2005, in advance of the consultations with the CFA and NCPC. Based on these reviews and others to follow, the NPS will make its final decision.

National Coalition to Save Our Mall: The assessment is incomplete until variations on alternatives on the proposed design, different designs or sites are considered to include one or more realistic alternatives.

Response NEPA Process and Requirements: The sponsor of a Memorial within the process established by Congress in the Commemorative Works Act is responsible for establishing the Memorial, including its selection of a design. The development work is accomplished following consultations with the Secretary of the Interior (accomplished through the National Park Service) the Commission of Fine Arts, and the National Capital Planning Commission. The established standards were followed throughout each phase of review and approval.

The purpose of an EA is to assess and mitigate the environmental consequences of a proposed action; it is not intended to serve as a design review document. Therefore, in accordance with NEPA, the EA documents the potential effects of the proposed Memorial and acknowledges that the final design may include minor revisions. Subsequent to the EA process, the MLK Memorial design underwent a thorough review and was ultimately subject to approval by NPS, NCPC, and CFA.

National Coalition to Save Our Mall: The assessment is incomplete until alternative sites are considered.

Response Site Approval: A thorough site selection and evaluation process was completed by the Foundation in consultation with NPS, the DC Office of Planning, the DC Fire Department, the DC Department of Housing and Community Development, the DC Department of Public Works/Department of Transportation, the Washington Metropolitan Area Transit Authority, General Services Administration, and NCPC. On December 2, 1999 the four-acre site adjacent to the Tidal Basin for the Washington, DC, Martin Luther King, Jr. National Memorial was approved. This site was also approved by the CFA and NCPC.

National Coalition to Save Our Mall: We understand the design has been altered since the EA was completed.

Response Design Status: The MLK Memorial design has been accomplished within the approved site, and has been developed to minimize effect and fulfill operational, and expected visitor support functions. The Foundation, upon the selection of a winning scheme from its juried, international design competition was provided the opportunity to exhibit the winning scheme before the CFA and the NCPC in 2001 and 2002. The presentations were intended to enable informal reaction and potential

refinement of the winning scheme in advance of a formal submission of a concept design concept by the Foundation through the National Park Service.

In its preliminary review, the Commission of Fine Arts stated that niches, a pedestrian bridge, and an upper walkway might be removed so that height of the scheme could be reduced. Further, it was suggested that the radius of the curved, inscription wall might be amended so that the wall might be moved further from Independence Avenue.

The Foundation, in response to approving agency comment has responded in the formal review process that occurred first in 2005-2006, and with the talents of a new design team in 2007-2008 by: Commemorative niches were eliminated; The wall heights were reduced; A pedestrian bridge which impacted views was eliminated; The berm length was shortened by approximately 200 feet; Secondary entrances at either end of the berm wall were added to provide connection points to Independence Avenue and West Basin Drive; Tree selections and arrangement were amended to reduce the height and formality of the design.

District of Columbia State Historic Preservation Office: The Section 106 consultation meeting of September 19, 2005 has initiated an exchange of letters, the project chronology, public comments and historical information on construction, demolition and reconstruction of West Basin Drive.

Response Section 106 Consultation: The NPS and Foundation have coordinated the Section 106 consultation and review and will continue the process on three issues: the potential realignment of West Basin Drive to reflect the curved edge of the Tidal Basin, the introduction of security barriers, and the treatment of the visitor facility. In its review, the DC SHPO concurred with the determination that the proposed design concept would potentially have an adverse effect on the National Register qualities of West Potomac Park. The recommended steps to address views and visitor experience, the effects of the earthen berm, and realigned roadway in particular have been addressed in response to comments received during the Section 106 consultation process. A Memorandum of Agreement was signed by the NPS, DC SHPO, ACHP, and the Foundation on August 25, 2008.

Earthen Berm within the Horizontal Landscape: An earthen berm will frame the MLK Memorial site, placed to take advantage of the existing topography of West Potomac Park. The FDR Memorial introduced a similar vegetated berm along the entire length of its site. Similar to the FDR Memorial site, the berm is essentially replacing a view that is not interrupted by vegetation between West Basin Drive and the Tidal Basin. Retention of the athletic fields will ensure the openness of the park as it is today. Given the size of the berm relative to the Mountain of Despair and the Stone of Hope, and in consideration of the cluster of existing cherry trees and proposed vegetation that would characterize the site, the MLK Memorial is intended to punctuate the horizontal landscape of West Potomac Park without reducing its pastoral quality. The NCPC, NPS and CFA expressed similar concerns with regard to the combined height of the berm, inscription wall and upper walkway parapet wall and the designers of the Memorial responded to these concerns during the design approval process.

National Capital Planning Commission, Executive Director: The view from the Jefferson Memorial would be altered.

Response, Views from the Jefferson Memorial: The proposed MLK Memorial would be placed into this current view behind the Cherry trees and in front of the large deciduous trees along Independence Avenue. In addition, the MLK Memorial would be inserted into the upwardly sloping topography of the

area. As a result, while the Stone of Hope will likely be minimally visible from the Jefferson Memorial within the canopy of the cherry trees, the large existing trees and the Lincoln Memorial beyond would continue to dominate the view.

The MLK Memorial site is located approximately 2,500 feet northwest of the Jefferson Memorial. Existing views from the Jefferson Memorial toward this direction include the expanse of the Tidal Basin, the large deciduous trees that rise above the site, and the upper portions of the Lincoln Memorial in the background. The visual impact analysis indicates that there will be no discernable impact on the view from the Jefferson Memorial. The FDR Memorial is a good example in which the visitor cannot see FDR from Jefferson because of the density of the vegetation.

National Coalition to Save Our Mall: The berms intended to disguise the view of the Memorial appear to cut off existing views of the Jefferson Memorial, yet this view is an important experience for those entering Washington's Monumental Core.

Response, Views from Independence Avenue: The competition winning design would have removed summer, filtered views of the Jefferson Memorial during a portion of the approach to the monumental core from the west. The National Park Service successfully pursued lowering and reducing the length of the berm during the design development phase.

The Mountain of Despair, which will consist of two, approximately 29 foot high stones, would be prominently visible from Independence Avenue. The interior space of the MLK Memorial would not be visible from Independence Avenue, although the Memorial entrance will be visible. As a result, the views from this direction will be the subject of careful consideration by the review/approving commissions and the NPS so that transparency and openness of the park can be maintained to the greatest extent practical.

National Coalition to Save Our Mall: We find little discussion of the impact of large and small gatherings, as well the impact on recreational use.

Response Memorial Use: There are no organized recreational uses at the site. At present, the site is comprised of paved roadway and pedestrian walks, in the midst of an ornamental tree planting. Groups may gather in the planned plaza which, according to the concept design, will be framed by the proposed inscription walls and berms. Gatherings at the future Memorial will be the subject of coordination with the National Park Service and the issuance of a Special Events permit. Such activities vary in size and complexities, and involve coordination by the NPS and the special event organizer/sponsor with a wide range of public agencies.

National Coalition to Save Our Mall: How will people get to the memorial?

Response Access and Circulation: The majority of potential MLK Memorial visitors (approximately 65%) are expected to arrive on foot. It is anticipated that most visitors to the Memorial would be pedestrians originating at the Washington Monument, Ellipse, and the White House to the north; the Mall and the Smithsonian museums, the Holocaust Memorial Museum, and Bureau of Engraving and Printing to the east; the Franklin Delano Roosevelt Memorial from the south; and the Lincoln Memorial, Korean War Veterans and Vietnam Veterans Memorial from the west.

At present, the internal visitor circulation system does not traverse a route past the MLK Memorial site. Rather, the nearest drop-off/pick-up stop is at the intersection of Ohio Drive and West Basin Drive, approximately a five minute walk. NPS is currently studying alternative transportation systems for future implementation. In addition, the MLK Memorial can also be reached by automobile or bus via West Basin Drive.

With respect to pedestrian accommodations, provisions for a pedestrian-friendly environment are planned. This will include new sidewalks, additional bench seating, and other public realm improvements. In addition, secondary access points to the Memorial plaza area have been added to the scheme and are now part of the final design.

National Capital Planning Commission, Executive Director: Further analysis should be accomplished to define the amount of parking within a reasonably convenient walking distance for the Memorial, and additional communication media could be used to inform visitors of parking.

Response Parking and Wayfinding: No general parking lot will be constructed for the MLK Memorial. Limited parking spaces are expected to be provided for disabled persons in proximity to the Memorial entrance. Curb-side spaces for drop off and pick-up would be provided on West Basin Drive south of the Memorial.

The majority of visitors arriving by private vehicle would use the existing parking spaces in the area. There are about 2,000 parking spaces within reasonable walking distance of the Memorial site. The majority of these are located within West Potomac Park with the closest of these spaces at the base of West Basin Drive and the Tidal Basin parking lot. The three parking lots in West Potomac Park will also be available. Bus parking will be accommodated along Ohio Drive. Bus operators have had to find remote locations for short- and long-term parking, including lay-by drop-off spaces. A special study of remote parking for tour buses is being conducted by DDOT.

The NPS has increased its signage to the three parking lots within West Potomac Park. Also, provisions have been made to provide a pedestrian friendly environment by installing additional sidewalks and bench seating.

District of Columbia State Historic Preservation Office: The historic and newly constructed roads at the Memorial site should be identified in order to evaluate effect of the Memorial.

Response Roadways: The original roadway around the Tidal Basin near the MLK Memorial site was constructed in 1908. However, in 1992 as part of the reconstruction of Ohio Drive and the preparations of the roadway system for the Franklin Delano Roosevelt Memorial, West Basin Drive pavement and curbing were demolished. Reconstruction of the roadway, curbing and step-outs, and sidewalks occurred in 1996-97 pursuant to plans developed in 1994. Similarly, the West Basin Drive spur connection and traffic light with Independence Avenue was part of the 1994 plan and 1996-97 reconstruction work.

National Capital Planning Commission, Executive Director: The Tidal Basin is subject to flood events, the Memorial should be developed to withstand the impacts of flooding.

Response Floodplain Constraints: The Memorial site is within the 100-year. The memorial designers will be required to design the Memorial so that it can withstand flood events and be able to be reopened to public use within a reasonable time period with a minimal amount of reclamation to provide a safe environment for the visitors.

VI. IMPAIRMENT OF PARK RESOURCES AND VALUES

In addition to determining the environmental consequences of the preferred alternative, NPS Management Policies (NPS, 2006), Director's Order 12 and Director's Order 55 require analysis of potential impacts to determine if the proposed action 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. NPS managers must always seek ways to avoid or minimize to the greatest degree practicable adverse impacts on park resources and values. However, these laws do give NPS managers discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, as long as the impact does not constitute impairment of the affected resources and values. Although Congress has given NPS managers 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 specifically 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 and values, including opportunities that otherwise would be present for the enjoyment of those resources and values. An impact to any park resource or value may constitute an impairment to the extent it affects a resource or value whose conservation is necessary to fulfill specific purpose identified in the establishing legislation or proclamation of the park, key to natural or cultural integrity of the park or to opportunities for enjoyment of the park or identified as a goal in the park's management plan or other relevant NPS planning document.

The open space features that are enjoyed in the park will be affected temporarily during construction, but the implementation of the Memorial will provide increased opportunities for visitors to enjoy improvements to the park.

In addition to reviewing the significance of constructing this Memorial, I as Superintendent of National Mall & Memorial Parks, have determined that implementation of the preferred alternative will not constitute an impairment of the Park's resources and values. This conclusion is based on a thorough analysis of the impacts described in the EA, the agency and public comments received, and the professional judgment of the decision-maker in accordance with NPS Management Policies, 2006 and Director's Order 55. As described in the EA, implementation of the preferred alternative will not result in major adverse impacts to a resource or value whose conservation is (1) necessary to fulfill specific purposes identified in the establishing legislation of the park system of the nations capital; (2) key to the natural or cultural integrity of the selected site; or (3) identified as a goal in the park's general management plan or other relevant National Park Service planning documents.

VII. FINDING OF NO SIGNIFICANT IMPACT

This FONSI is based on the Environmental Assessment for the Martin Luther King, Jr. National Memorial. As previously identified, NPS prepared the document to fulfill the requirements of NEPA, NHPA, DO-12 and DO-55. Consistent with these regulatory requirements, the EA addresses short-term construction-related impacts and long-term changes to existing environmental conditions under the alternatives, as well as the cumulative impacts that would result from this and other proposed projects in the area.

The NPS has fully evaluated the information and analysis contained in the EA, and has considered comments on the EA received from the public, reviewing agencies, and others. On the basis on these considerations, the NPS has determined the EA adequately and accurately addresses the environmental issues and impacts of the proposed project. The NPS has further evaluated and selected the Proposed Memorial Alternative as the preferred alternative using the criteria of 40 CFR § 1508.27 to determine the significance of the proposed action by examining its context and intensity. On this basis, the NPS has determined that the preferred alternative for the Martin Luther King, Jr. National Memorial does not constitute a major Federal action significantly affecting the quality of the human environment and that an Environmental Impact Statement (EIS) is not required.

Recommended:

Margaret O'Dell
Margaret G. O'Dell
Superintendent
National Mall & Memorial Parks

Date 8/25/08

Approved:

Lisa A Mendelson-Ielmini
Lisa Mendelson-Ielmini
Acting Regional Director
National Capital Region, National Park Service

Date 8/25/08