

cannot guarantee that we will be able to do so.

**Edward W. Shepard,**

*State Director, Oregon/Washington BLM.*

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## DEPARTMENT OF THE INTERIOR

### National Park Service

#### National Mall and Memorial Parks, Washington, DC; Notice of Availability of a Finding of No Significant Impact for the Proposed West Potomac Park Levee Project

**AGENCY:** Department of the Interior, National Park Service.

**ACTION:** Notice of Availability of a Finding of No Significant Impact.

**SUMMARY:** Pursuant to the National Environmental Policy Act (NEPA) and National Park Service (NPS) NEPA guidelines, NPS prepared and, from January 30 to March 2, 2009, made available for a 30-day public review an Environmental Assessment (EA) evaluating the potential impacts of proposed improvements to the existing West Potomac Park Levee System which extends from 23rd Street, NW., to the grounds of the Washington Monument in Washington, DC. The goal of this project is to improve the reliability of the existing levee in order to meet the current post-Hurricane Katrina standards for flood protection as required by the U.S. Army Corps of Engineers (USACE) and the Federal Emergency Management Agency (FEMA). The existing levee protects much of the monumental core and large portions of downtown Washington, DC.

After the end of the 30-day public review period, the NPS selected for implementation, the preferred alternative as described in the EA, and determined it will not have a significant impact on the quality of the human environment and that an Environmental Impact Statement is not required. In making that selection and determination, the NPS considered the information and analysis contained in the EA and the comments received during the public review period. The NPS has accordingly prepared a Finding of No Significant Impact (FONSI) for the proposed West Potomac Park Levee Project. The FONSI is also accompanied by an errata sheet that corrected some minor inaccuracies and updated some information. The errata did not result in any changes in the overall findings of the EA and had no bearing on its determination of no significant impact.

**FOR FURTHER INFORMATION CONTACT:** Mr. Doug Jacobs, Deputy Associate Regional Director for Lands, Resources and Planning, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242, by telephone at (202) 619-7025 or by e-mail at [doug\\_jacobs@nps.gov](mailto:doug_jacobs@nps.gov).

**SUPPLEMENTARY INFORMATION:** Since the Potomac Park levee was constructed in the late 1930's, the levee system has relied upon a temporary earthen closure being built across 17th Street in the event of a flood emergency. Based on new policies since Hurricane Katrina (33 CFR 208.10), the USACE has deemed the temporary 17th Street closure unreliable and consequently gave the levee an unacceptable inspection rating. For this reason, FEMA's most recently proposed 100-year floodplain map for this area reflects a 100-year flood event as if the currently-designed 17th Street closure did not exist (44 CFR part 67, 72 FR 54631-54635). This new mapping would place portions of southeast and downtown Washington, DC, including the monumental core, within the 100-year flood insurance rate zone. The placement would require additional flood insurance and/or costly upgrades to comply with building standards for those facilities that would fall within the new 100-year floodplain. In addition, a number of projects that are currently in development on the National Mall would need to be revised and could be delayed in order to comply with these building codes. At the District of Columbia's request, FEMA agreed to delay issuance of the new floodplain map until November, 2009, in order to allow the District and the NPS time to design and implement a solution that will reliably stop a 100-year flood at 17th Street, NW., and therefore make re-mapping unnecessary.

In addition, the USACE requested that the solution be designed in such a manner as to allow for easy modification to meet the higher level of protection authorized by Congress in 1936 but never funded. The congressionally authorized level of protection is roughly equivalent to a 187-year storm. The District and NPS agreed that any improvements to the levee should be consistent with the current authorization so that the congressionally authorized level of protection can ultimately be achieved once funding is appropriated.

The EA evaluated five alternatives, all of which incorporate a permanent structure from Overlook Terrace in Constitution Gardens to the west side of 17th Street and another permanent

structure on the east side of 17th Street which extends into the natural rise of the Washington Monument Grounds. The intervening space across 17th Street will have footings designed to receive a temporary post and panel closure system that would be deployed only during a major flood event. The permanent structures on either side of 17th Street will be a combination of earthen berms and concrete walls/embankments which will be clad in stone during a subsequent phase of the project. Since full funding for the entire project was not certain, all of the alternatives in this EA are presented in a phased approach.

The NPS identified Alternative 1B as its Preferred Alternative and has selected it for implementation. During the completion of this EA, it became apparent that considerable costs and time of construction and, therefore, time of disturbance to the National Mall and visitors, could be avoided if the levee at 17th Street was constructed to the higher level of protection initially, if funding would be available. Under Phase 1 of the alternative, a levee closure structure will be constructed at 17th Street, approximately 253 feet south of the centerline of Constitution Avenue, NW. The closure structure will consist of two symmetrical curved concrete flood walls built to the height of the Congressionally-authorized solution and set back approximately 23 feet to the east and west of 17th Street. The flood walls will require the re-grading of both the northwest corner of the Monument Grounds as well as the eastern edge of Constitution Gardens between the Overlook Terrace and 17th Street. Tree planting and final landscaping will also be completed as the first phase of the project. In the second phase of implementation, the remaining visible sections of the levee wall at 17th Street will be clad in stone to match the historic character of the adjacent cultural landscapes and historic resources. The cladding will enhance the aesthetic quality and character of the landscape to mitigate against adverse effects associated with concrete walls.

Phase Two includes a pedestrian path and additional landscaping. Improvements to the other parts of the Potomac Levee will also occur as part of the second phase of implementation since the existing conditions at 23rd Street, NW. and the Reflecting Pool do not meet the Congressionally-authorized level of protection. At the southwest corner of 23rd Street and Constitution Avenue, NW., portions of the site will be re-graded and raised by approximately one to two feet. Along

the levee that runs parallel to the Reflecting Pool, several hundred feet of low spots will be filled to bring the height of the levee to the Congressionally-authorized level of protection.

This alternative will be further developed into preliminary and final designs which will be subject to additional review by the National Park Service, the National Capital Planning Commission and the Commission of Fine Arts.

The FONSI and other documents related to this action are available for review on the NPS's Planning, Environment, and Public Comment (PEPC) Web site at <http://parkplanning.nps.gov/projectHome.cfm?parkID=427&projectId=22260>. You may also request a hard copy at (202) 619-7025.

Signed on July 29, 2009.

**Margaret O'dell,**

*Regional Director, National Capital Region.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLCAN00000.L18200000.ZX0000]

#### Notice of Public Meeting: Northwest California Resource Advisory Council

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest California Resource Advisory Council will meet as indicated below.

**DATES:** The meeting will be held Thursday and Friday, October 29 and 30, 2009, in Calistoga, CA. On October 29, the council convenes at 10 a.m. at the Calistoga Spa Hot Springs, 1006 Washington St., and departs for a field tour to public land sites managed by the BLM Ukiah Field Office. On October 30, the council meeting begins at 8 a.m. in the Conference Room of the Silver Rose Inn, 351 Rosedale Rd. The meeting will run until about 3 p.m. Public comments will be accepted at 11 a.m.

**FOR FURTHER INFORMATION CONTACT:** Nancy Haug, BLM Northern California District Manager, (530) 221-1743; or BLM Public Affairs Officer Joseph J. Fontana, (530) 252-5332.

**SUPPLEMENTARY INFORMATION:** The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northwest California. At this meeting agenda topics include discussion of BLM image and identity issues, a status report on public land equestrian projects, a status report on land use planning, information on the Weaverville Community Forest, a status report on development of a north coast Geotourism Map Guide, access to South Cow Mountain, and an update on BLM projects under the American Reinvestment and Recovery Act (ARRA). All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours, but they must provide their own transportation and meals. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: September 24, 2009.

**Joseph J. Fontana,**

*Public Affairs Officer.*

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Clean Air Act and the Emergency Planning & Community Right-To-Know Act

Notice is hereby given that on September 23, 2009, a proposed Stipulation of Settlement and Judgment in *United States v. Midwest Renewable Energy, LLC*, Civil Action No. 8:09CV337, was lodged with the United States District Court for the District of Nebraska.

In this action, the United States sought an injunction ordering the defendant to comply with Sections 112(r) and 113(b) of the Clean Air Act, 42 U.S.C. 7412(r) and 7413(b), and Section 325(c) of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. 11025(c), and the regulations promulgated thereunder. The United States also sought civil penalties for the past violations of these statutes and

regulations, arising out of Midwest Renewable Energy's operations at an ethanol plant it owns and operates Sutherland, Nebraska. Midwest Renewable Energy ("MRE") began production of ethanol at the facility in September 2004. In the stipulation, MRE certifies that it has remedied each of the alleged violations in the complaint and agrees to pay a civil penalty of \$10,000.

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the Stipulation of Settlement and Judgment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. In either case, the comments should refer to *United States v. Midwest Renewable Energy, LLC*, Civil Action No. 8:09CV337, D.J. Ref. No. 90-5-2-1-09275.

The stipulation may be examined at the Office of the United States Attorney, District of Nebraska, 1620 Dodge Street, Suite 1400, Omaha, Nebraska 68102. During the comment period, the Stipulation of Settlement and Judgment may be examined on the following Department of Justice Web site: <http://www.usdoj.gov/enrd/ConsentDecrees.html>. A copy of the Stipulation of Settlement and Judgment may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$38.00 (25 cents per page reproduction cost) payable to the United States Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen Katz,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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