

**STATEMENT OF STEPHEN E. WHITESELL, REGIONAL DIRECTOR, NATIONAL CAPITAL REGION, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS, COMMITTEE ON NATURAL RESOURCES, HOUSE OF REPRESENTATIVES, CONCERNING THE PROPOSED DWIGHT D. EISENHOWER MEMORIAL.**

**March 20, 2012**

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Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss the Dwight D. Eisenhower Memorial.

In 1999, Congress authorized the Dwight D. Eisenhower Memorial Commission (EMC) to consider a memorial to our 34th president and as a result of EMC's work, in 2002 Congress authorized the EMC to establish the Eisenhower Memorial. Since that time, the National Park Service (NPS) has worked closely with the EMC to establish the Memorial in accordance with both the authorizing legislation and the Commemorative Works Act (CWA).

The direction provided by the Congress in the CWA has been highly beneficial in guiding decision-making by memorial sponsors and federal agencies in determining both the location and design of memorials. The process is a rigorous and sometimes lengthy public process, requiring multiple consultations and approvals on the selection of a site and on the design of a commemorative work, as well as extensive environmental and historic preservation compliance. In our experience, the subjects of memorials can provoke strong emotional responses, because while many may agree on the value of commemorating a particular person or event, they may not all agree on the form that commemoration should take. The process requires the active involvement of federal and local agencies and other organizations. Ultimately, a memorial may only be constructed if it has been considered and approved by federal commissions and the memorial sponsor has raised all the funds it needs to complete the memorial.

Agencies Involved in the Commemorative Works Process

There are multiple agencies and organizations involved in the siting and approval of memorials under the CWA.

Historically, the NPS has facilitated the entire process because all the memorials that have been established so far under the CWA were to be sited on parkland or on lands that would be transferred to the NPS so that the NPS would administer that memorial. The NPS works closely with memorial sponsors to navigate a complicated series of studies, reviews, design hurdles, agency approvals and environmental compliance. Under the CWA, the actual construction of a memorial can only occur after that memorial's sponsor has satisfied the requirements of the CWA, up to and including the obtaining the construction permit as issued by the NPS. The NPS has facilitated the establishment of 18 commemorative works within the District of Columbia since the passage of the CWA roughly 26 years ago. These memorials include the Korean War Veterans Memorial, the George Mason Memorial, the World War II Memorial, and, most recently established, the Martin Luther King Jr. Memorial. The NPS is presently working with the sponsors of five new memorials authorized by the Congress, including the Memorial to

American Veterans Disabled for Life, the Adams Memorial, and the Dwight D. Eisenhower Memorial.

The Commission of Fine Arts (CFA) reviews site selection and design for each memorial and must approve both in order for the NPS to issue a permit for construction. The site selection process can take several reviews before a site is approved, and the CFA may apply design guidelines adopted in conjunction with the National Capital Planning Commission (NCPC) pursuant to the Commemorative Works Act as part of its review process. Design approval is completed in two stages – concept and final – with memorials typically requiring multiple reviews at each stage. The CFA reviews for approval takes place in meetings that are open to the public following public notice.

NCPC must also approve the memorial site and design, and the review process usually occurs in parallel with the CFA. NCPC may, pursuant to the Commemorative Works Act, apply joint guidelines developed in conjunction with CFA or develop independent, mitigation-related guidelines as part of the National Historic Preservation Act (NHPA), Section 106 process, or the National Environmental Policy Act (NEPA) process, to guide its review and approval process. Design approval may also require multiple reviews, and the NCPC requires completion of environmental and historic preservation compliance prior to design reviews.

The National Capital Memorial Advisory Commission (NCMAC), which has no approval authority, reviews proposed legislation and provides advice to Congress, makes recommendations to the Secretary of the Interior (Secretary) and the Administrator of General Services (GSA) regarding memorial proposals, and is a consulting body to the memorial sponsors regarding a memorial's location and design. This consultation for location and design must occur before the NPS can issue a construction permit. The NCMAC includes representatives of the NPS, the CFA, the NCPC, the Mayor of the District of Columbia, GSA, the American Battle Monuments Commission, the Architect of the Capitol, and the Department of Defense. This consultation, likewise, takes place in meetings that are open to the public and following public notice.

The District of Columbia Historic Preservation Officer (DCSHPO) is consulted during both the site selection and design phases to determine whether the establishment of a memorial could have an effect on historic properties. It may be the case that a new memorial could have an adverse effect on such properties, which prompts notice to the public and consultation with interested parties, who may include members of the public, in accordance with Section 106 of the NHPA. This may result in the negotiation of a Memorandum of Agreement between the NPS, the DCSHPO, the memorial sponsor, and the Advisory Council on Historic Preservation and others to mitigate any adverse effects.

The Secretary of the Interior grants final approval in the form of a construction permit after the requirements of the CWA are met. NCPC review and approval is also a pre-requisite to NPS issuance of the construction permit. The NCPC reviews for approval are also conducted in meetings that are open to the public following public notice. The GSA Administrator has the same authority to issue a permit for a memorial if that memorial is destined for GSA lands,

although, to date, all memorials established under the CWA have been permitted by the Secretary because they were sited on NPS parklands or on lands that were transferred to NPS.

### The Commemorative Works Process

The memorial process often begins with a member of the public or an organization with an idea to honor an individual or a group, or to commemorate an event, with a memorial in the nation's capital. Statutory authorization is required to locate a memorial on lands covered by the CWA, and thus legislation for a memorial must be introduced by a member of Congress. Such legislation authorizes the establishment of the memorial and designates a memorial sponsor, often the group itself, which would be responsible for planning, design, fundraising, and ultimately construction of the memorial. The CWA sets a time limit of seven years for the memorial sponsor to obtain the NPS construction permit which can only be issued after the sponsor has the approvals and funds in hand, although that time is often extended. Whenever authorizing legislation or time extension legislation is introduced, the NCMAC reviews the proposed legislation and provides comments to the authorizing committee of Congress.

When legislation for a memorial becomes law, NPS works with the memorial sponsor to investigate potential memorial sites on lands eligible for placement of new memorials. Not all federal parkland in the District of Columbia is available: in 2003, Congress designated an area including the National Mall that it called the Reserve, as a completed work of civic art where no additional memorials would be located. Often the search for the right site starts with consideration of the memorial's subject and whether there are certain locations relevant to it, using the 2001 *Memorials and Museums Master Plan*, a comprehensive study of potential sites produced by NCMAC, NCPC, CFA, and NPS. Such investigation typically involves the study of those sites with the most potential for that particular memorial, consultation with other agencies, the start of the environmental compliance process, and consultation with the DCSHPO and others. The memorial sponsor may submit a request to the Secretary to be authorized to consider sites in Area I, an area close to the National Mall, which is defined in the CWA. After consultation with NCMAC, if the Secretary determines that the memorial subject is of preeminent and lasting historical significance, the Secretary notifies Congress of this recommendation to authorize that memorial to be located at a site within Area I. Following Congressional approval, a site can be designated for the memorial in Area I. The site selection process concludes after NCMAC has been consulted on potential sites and the CFA and the NCPC have approved the preferred site.

The sponsor's next task is to select a designer, through a design competition or by any other means of its choosing, and start designing the memorial. As the design is developed, NPS coordinates multiple consultation meetings with staffs of the NCPC, the CFA, and the DCSHPO. The NPS consults the NCMAC regarding the design prior to submission to the CFA and the NCPC for approvals. During the approval process, NPS, with the assistance of the sponsor, completes all necessary environmental compliance work such as under NEPA, and complies with NHPA Section 106 and, if necessary, NHPA Section 110. During this time, the memorial sponsor continues to raise the all the needed funds that must be available before the NPS can issue the construction permit.

The Secretary, acting through the NPS, is authorized to issue a permit for construction once the following criteria are met: (1) the site and design have been approved by the NCPC and CFA, and NCMAC has been consulted; (2) knowledgeable experts have determined that the memorial will be structurally sound and durable; (3) construction documents have been submitted; (4) the memorial sponsor has sufficient funds to complete the memorial; and (5), in case of privately funded memorials, the sponsor has made a donation of 10% of the cost of constructing the memorial to be used for perpetual maintenance, which covers non-routine maintenance and catastrophic repairs.

#### Establishment of the Eisenhower Memorial

The Eisenhower Memorial is tracking the process prescribed by the CWA, including with its own authorizing legislation. Responsibility for the establishment of the Eisenhower Memorial, including its program, design, and construction is assigned by law to the EMC. The EMC is comprised of twelve commissioners, including members of Congress and, previously, a member of the Eisenhower family. In 2006, the EMC was authorized to locate the memorial within Area I. The proposed site, located at Maryland and Independence Avenues, SW, between 4<sup>th</sup> and 6<sup>th</sup> Streets, was then analyzed in studies and an NPS NEPA Environmental Assessment (EA) with public involvement, reviewed by the NCMAC and approved by the CFA and NCPC in 2006.

The NPS has continuously facilitated the work of the EMC in developing the design and has worked diligently on environmental and historic preservation compliance documentation that is required before NPS can issue a construction permit for the memorial. The EMC engaged GSA to use its Design Excellence program to select a designer for the Memorial, a process that culminated with the 2009 selection of Pritzker Prize-winning architect Frank Gehry.

Since it was first proposed, the design for the Eisenhower Memorial has gone through numerous changes during the rounds of the CWA review process, and as input was received from a number of sources including the public. The EMC is responsible for the design and addressing any concerns regarding the design from all sources, which includes the public and members of the Eisenhower family.

In September 2011, NCMAC was consulted on the design and the CFA granted Concept Approval for the overall configuration of the Memorial. Also in September, the NPS released to the public for review and comment, a second EA concerning the environmental effects of the design. Following years of consultation meetings under NHPA Section 106, the EMC, the NCPC, the GSA, DCSHPO, the Advisory Council on Historic Preservation, the NPS, and others executed a Memorandum of Agreement regarding the treatment of historic properties affected by the Memorial. On March 6, 2012, the NPS issued its Finding of No Significant Impact (FONSI). This FONSI is a determination pursuant to NEPA that the memorial, if completed in accordance with the current schematic design, will not have a significant impact on the environment; it is not an approval of the memorial pursuant to the CWA.

The project was placed on the NCPC agenda for consideration of Preliminary Approval at its April 5, 2012 meeting, but in response to recent concerns about the design of the Memorial, the EMC has requested that consideration of the Memorial design be deferred until NCPC's May 5, 2012 meeting.

Should the NCPC grant preliminary approval in May, the memorial design will undergo further refinement and the design will then be reviewed for further approvals by the CFA and the NCPC. The EMC's schedule calls for obtaining final approval by both Commissions later in 2012, and it is possible that reaching final approval will require further Commission reviews. The NPS will continue to work with the EMC to facilitate design reviews by NCPC and CFA, while conducting its own review of the construction drawings to ensure the structural soundness and durability of the memorial.

The NPS is honored to play a role in the establishment of commemorative works in our nation's capital and we take very seriously our role and duties in the process. The process for establishing memorials in Washington, as directed by the Congress, has worked very well to ensure that new memorials are thoughtfully considered, appropriately located, and beautifully designed. We expect that the Eisenhower Memorial, by virtue of the public process by which it is being established, will have all of these important characteristics and will be a source of pride for our entire nation.

Mr. Chairman, this concludes my statement. I would be pleased to respond to any questions you or the other members of the subcommittee may have.