

CHAPTER 2: DESCRIPTION OF ALTERNATIVES

INTRODUCTION

This section of the draft EIS describes alternatives for disposition of the Center, conceptual land-use scenarios considered under each alternative, and mitigation measures that may be applicable to each alternative.

A complete discussion of existing conditions at the Center is contained in Chapter 3: Affected Environment.

This draft EIS presents four alternatives for disposition of the Center. The alternatives are:

1. Alternative A, no action/retention of the Center by the federal government.
2. Alternative B, convey the Center, *without conditions*, to a university or a nonfederal government entity.
3. Alternative C, convey the Center, *with condition(s)*, to a university or nonfederal government entity.
4. Alternative D, modify land, structures, or other improvements at the Center prior to conveyance (either without conditions, as in alternative B, or with conditions, as in alternative C) or retention.

The alternatives were developed by the planning team to include a reasonable range of potential uses discussed in scoping comments and address issues and concerns raised during the scoping period. The alternatives present a reasonable range of potential future uses of the Center, including potential future land uses. Potential environmental impacts that may or would result from each alternative are discussed in chapter 4. The no-action alternative is included as a baseline for comparing the potential environmental consequences of implementing each alternative. Each alternative is described in detail below.

CONCEPTUAL LAND-USE SCENARIOS

The environmental impacts of alternatives B, C, and D depend on how a future owner would use the Center, and on the activities associated with that use. However, neither the future owner nor the future use of the Center could be identified precisely until after this draft EIS were completed. Therefore, this draft EIS analyzes the impacts of alternatives B, C, and D in terms of a reasonable range of potential uses of the Center by a future owner under three conceptual land-use scenarios.

The conceptual land-use scenarios reflect potential uses of the Center suggested in public comments during the scoping process, and encompass a reasonable range of environmental impact-generating activities. The impact analysis in chapter 4 of this draft EIS applies each scenario to alternatives B, C, and D, and thus captures the impacts that may or would result from disposition of the Center.

The three conceptual land-use scenarios follow.

OPEN SPACE / PARK

Under this conceptual scenario, the Center would be converted to open space and natural areas where the focus would be on restoration and use of the natural environment. The Center property would become a park or be used as open space. This could be accomplished by removing some or all buildings, structures, and roadways. Nonnative plant species could be identified and removed. Native vegetation could then be planted and the site naturalized to recreate the historic characteristics of an open oak savanna, prairie-type setting.

INTERPRETIVE / NATURE / HISTORY CENTER

Under this conceptual scenario, some portion of the Center would represent a natural environment, while development and structures would be used in conjunction with the natural environment for learning and interpretation. New structures could be built at the Center, and all or a portion of the existing structures could be demolished. New construction would be limited by the Minnesota Critical Areas legislation, airport zoning restrictions, Minnesota S.F. 2049 (Camp Coldwater Spring groundwater protection legislation), and other applicable federal, state, and local regulations. Most of the existing buildings at the Center have the potential for reuse; however, some are in better condition and more readily lend themselves to reuse. Most of the infrastructure is not reusable in the current form; improvements may be required if reuse is desired.

TRAINING CENTER / OFFICE PARK

Under this conceptual scenario, the focus of the Center would be the built environment and active reuse of the Center. Under this scenario uses would include total reuse of existing

structures, reuse of as few as one building, and all new construction. Most of the existing buildings at the Center have the potential for reuse; however, some are in better condition and more readily lend themselves to reuse. Most of the infrastructure is not reusable in the current form; improvements would be required. New construction would be limited by the Minnesota Critical Areas legislation, airport zoning restrictions, Minnesota S.F. 2049 (Camp Coldwater Spring groundwater protection legislation), and other applicable federal, state, and local regulations.

LAWS, REGULATIONS, AND PLANNING DOCUMENTS GOVERNING USE

Potential environmental impacts may vary depending on the final recipient of the property and the land uses implemented by the recipient. The laws, regulations, and plans that apply to use of the property may also depend on the recipient of the Center because various governing authorities or documents may not apply equally to all potential future owners. Some common authorities govern resources including, but not limited to, those related to protection of air quality, water quality, and wetlands. Others, such as the airport zoning ordinance, relate to public safety or other concerns. The potentially applicable authorities typically would not preclude uses of the Center lands, but may require mitigative measures. There are several key laws and regulations that may preclude certain types of activities, development, or uses of the Center. Implications of these laws and regulations are discussed by alternative, in the sections that follow.

ALTERNATIVES

This draft EIS identifies and analyzes a reasonable range of alternatives that may or would result in varied environmental impacts including a no-action alternative. The no-action alternative is included as a baseline for comparing the environmental consequences of implementing each alternative. Each alternative is described in the sections that follow.

Additionally, CEQ regulations for implementing NEPA state that agencies shall “identify the agency’s preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference” 40 C.F.R. § 1502.14(e). The National Park Service has expressly not chosen a preferred alternative in this draft EIS. The National Park Service believes that an open, public process would best be facilitated in the absence of a preferred alternative at the draft EIS stage. The National Park Service intends to review the information developed and comments submitted in response to the draft EIS in identifying a preferred alternative for the final EIS (NPS 2005a).

ALTERNATIVE A: NO ACTION—RETENTION OF THE CENTER BY THE FEDERAL GOVERNMENT

The Secretary of the Interior is authorized, but not directed, to convey the Center under the USBM closure legislation, Pub. L. No. 104-134 (1996). Accordingly, the Center could be retained by the federal government. Under the no-action alternative, existing conditions would continue at the Center. Disposition of the Center to a university or nonfederal government entity would not occur and the Center would continue in caretaker status under control of the federal government.

Under alternative A, the no-action alternative, the Center would continue as it is currently used and maintained. Currently, the Center is open from 9:00 a.m. until 3:00 p.m., Monday through Friday. Under alternative A, this schedule would not change. The Center gate and fence would be maintained to limit entry by the general public, as determined by the administering agency. The buildings would continue to be vacant, except for occasional permitted special use. Maintenance would consist of lawn care, security patrols to ensure the buildings remain locked, inspecting the fence surrounding the site and repairing breaks, maintaining power and phone service for the existing alarm system, and boarding up broken windows. The USFWS currently maintains the Center and the federal government has no current plans to change this under alternative A. The Center would remain available for future disposal or use by the federal government. Should the no-action alternative be selected, the federal government would retain the responsibility and authority to respond to future needs and conditions, such as general maintenance or repair, without major actions or change in present use.

The no-action alternative does not preclude short-term minor repair or improvement activities that would be part of routine maintenance of the Center. No plans currently exist, however, for improvement or renovation of the buildings. The no-action alternative would not include use of the buildings for anything other than short-term, special, permitted use. The no-action alternative is used to compare baseline conditions at the Center with potential impacts that could result from implementing any of the other action alternatives. Impacts associated with the no-action alternative, which would be considered continuing or ongoing impacts of current conditions, are discussed in chapter 4 of this draft EIS.

ALTERNATIVE B: CONVEY THE CENTER WITHOUT CONDITIONS TO A UNIVERSITY OR NONFEDERAL GOVERNMENT ENTITY

Under alternative B, the Center would be conveyed to a university or nonfederal government entity with no conditions imposed on the future use of the Center or the land, except for those restrictions on use that currently exist for the property and arise out of applicable laws and regulations.

Under alternative B, a university or nonfederal government entity that receives the Center would have no restrictions on subsequent transfer or sale of the property. Therefore, any future owner under this alternative would be free to subsequently use, sell, or transfer the Center property to a private entity for use or development.

Except for the restrictions on future use outlined in chapter 1, the actual use or combination of uses of the Center would be determined by the recipient. This draft EIS evaluates potential impacts from uses under alternative B as a park or as open space, as an interpretive nature or history center and as a training center or office park.

LAWS, REGULATIONS, AND PLANNING DOCUMENTS GOVERNING USE UNDER ALTERNATIVE B

MNRRRA Enabling Legislation and the MNRRRA Comprehensive Management Plan

Under the MNRRRA enabling legislation and the MNRRRA CMP, the National Park Service would review federally funded or permitted activities. The CMP was developed to provide a similar level of protection as the Critical Area legislation. Any nonfederal government entity would be subject to these state requirements, as discussed below.

Mississippi River Corridor Critical Area

If the Center were conveyed under this alternative, the entity would be required to comply with the Critical Areas Act of 1973, State Executive Order 79-19. This would limit structure height, prevent disturbance of steep slopes and limit removal of vegetation.

Minneapolis-St. Paul International Airport Zoning Ordinance

In any of the circumstances in alternative B, the transferee of the Center would be required to comply with the requirements of the airport zoning ordinance. If the Center were to transfer to a university or nonfederal government entity, the entity that administers the Center would have to determine its own compliance obligations pertaining to the airport zoning ordinance. All existing buildings on the Center are currently within the topographic height limitations of

the airspace obstruction zone. However, evaluation of the airport zoning ordinance requirements and restrictions may be necessary for rehabilitation of existing structures.

Under the airport zoning ordinance, the maximum construction height for most of the Center is 30 feet (see figure 6). The northernmost part of the Center falls into an area of maximum construction height of 60 feet. Any new construction on the Center property would be required to comply with these maximum construction heights. Also, permits may be required for repairs or rehabilitation for any existing building that is taller than the maximum construction height (Buildings 1 and 2).

Under land-use scenarios calling for use as a training center / office park or as an interpretive / nature / history center, new construction and rehabilitation of existing structures should proceed, while giving consideration to the safety zone requirements in the airport zoning ordinance (see figure 5). No new structures or trees would be allowed in Safety Zone A. Buildings 4 and 11 lie in Safety Zone A. However, because these buildings are existing, they could be rehabilitated or repaired, provided they were not rehabilitated to a height greater than the maximum construction height of Safety Zone A.

Buildings 1, 2, 3, and 9 are located in Safety Zone B. Under the airport zoning ordinance, certain uses that would result in large group gatherings or storage and use of fuels are prohibited. Although none of the land-use circumstances described above are prohibited uses in Safety Zone B, certain structures that could be associated with those uses, such as an outdoor amphitheater, may be prohibited. Planting vegetation that could reach certain heights may also be prohibited.

Camp Coldwater Spring Protection Legislation – Minnesota Senate File 2049 and Minnesota Historic Sites Act

The state of Minnesota enacted legislation in 2001 to protect the flow of groundwater to and from Camp Coldwater Spring. The legislation, sometimes referred to as S.F. 2049, dated May 15, 2001 (2001 Minn. Sess. L. Serv. ch. 101), states that

Neither the state, nor a unit of metropolitan government, nor a political subdivision of the state may take any action that may diminish the flow of water to or from Camp Coldwater Spring [sic]. All projects must be reviewed under the Minnesota Historic Sites Act and the Minnesota Field Archaeology Act with regard to the flow of water to or from Camp Coldwater Spring [sic].

Camp Coldwater is designated as a state historic site under the Minnesota Historic Sites Act, Minn. Stat. §§ 138.661 – 138.669 (see § 138.662, subdivision 6). As a Minnesota historic site, any state departments, agencies, and political subdivisions, including the Board of Regents of the University of Minnesota, have a responsibility to protect the physical features and historic character of Camp Coldwater if any of these entities were to undertake projects affecting this resource. Specifically, the Minnesota Historic Sites Act states that

Before carrying out any undertaking that will affect designated or listed properties, or funding or licensing an undertaking by other parties, the state department or agency shall consult with the Minnesota Historical Society pursuant to the society's established procedures to determine appropriate treatments and to seek ways to avoid and mitigate any adverse effects on designated or listed properties.

Any state recipient of the Center property must comply with the requirements of Minnesota S.F. 2049 and the Minnesota Historic Sites Act in any development and use of the property. Any projects that may impact the flow of groundwater to or from Camp Coldwater Spring or the physical features of Camp Coldwater, such as the spring, contemplated by a future owner that is considered a state entity must be reviewed in accordance with the Camp Coldwater Spring protection legislation and the Minnesota Historic Sites Act under this alternative.

National Historic Preservation Act

The federal government will comply with section 106 of the NHPA to determine appropriate mitigation for historic properties prior to conveyance. Once the NHPA section 106 process is completed, no covenants or restrictions protecting cultural resources would be placed on the conveyance. The NHPA section 106 process would be completed with the knowledge that any required mitigation could not include protective measures that would require conditions to be placed on the transfer. Therefore, any identified mitigation would be completed prior to conveyance of the Center. Once the Center is conveyed to a university or nonfederal government entity, no federal protections would be available for historic properties unless an action causing an effect to the site was a federal action as defined by the NHPA.

ALTERNATIVE C: CONVEY THE CENTER WITH CONDITION(S) TO A UNIVERSITY OR NONFEDERAL GOVERNMENT ENTITY

Alternative C would include the transfer of the Center to a university or nonfederal government entity, as described in alternative B. However, transfer of the Center would be subject to conditions that would limit the recipient's use of the property or create affirmative obligations to be carried out by the recipient. Examples of restrictions that could be placed on the transfer include building or redevelopment restrictions, restrictions on use of resources, or restrictions on operations or types of uses. Affirmative obligations that may be placed on the transfer include those that create a duty in the recipient to manage or maintain the Center or its resources in a specific way. For example, the federal government could convey with conditions designed to protect natural, historic, cultural resources, or with conditions designed to ensure compliance with various authorities that may apply to the recipient. These foregoing examples, however, are not meant to limit the types or subject matter of conditions available for use by the federal government in the actual transfer of the Center.

Preservation and protection of Center resources upon transfer could be accomplished by applying restrictions to the transfer agreement or by retaining title to a portion of the property. Methods by which restrictions on use of the Center may be imposed by the transfer agreement include the use of various types of defeasible estates, covenants, or easements, including conservation easements. A general description of the more applicable methods for placing conditions on the transfer is provided below. The legislation that authorizes the disposal of the Center, as discussed in chapter 1 of this draft EIS, limits the transfer to either a nonfederal government entity or university. Therefore, the federal government would impose conditions on the transfer of the Center based on the types of recipients that could receive the property to reflect the proposed use of the property.

CONDITIONS

Various means exist to place conditions on the transfer of the Center for the purpose of future protection of Center resources. Some conditions, however, would provide better or more definite protections for the resources at the Center than other conditions. The two types of conditions that would offer the best protections for the Center after transfer to a university or nonfederal government entity are retention of a portion of or interest in the Center property, and use of conservation easements. This section describes various means of placing conditions on the transfer of the Center, including retention of a portion of or interest in the Center, and conservation easements. This section also describes other potential conditions that could be utilized, and why they would not afford sufficient protections of Center resources after transfer.

Retention of a Portion of the Center Property

Under this option, the federal government could reserve any portion of or interest in the Center property from conveyance. The federal government would continue to own and maintain any retained portion of the Center property. Selectively retaining portions of the

Center would afford the federal government continued control and management of the retained portions of or interest in the Center.

Conservation Easements

A conservation easement (or conservation restriction) is a legal agreement between a landowner and a land trust or government entity that permanently limits uses of the land in order to protect its conservation values. It allows the present owner to continue to own and use the land and to sell it or pass it on to heirs. When a conservation easement is donated or sold to a land trust, the landowner loses some of the rights associated with the land. The land trust, or other conservation easement holder, such as a government entity, is responsible for making sure the easement's terms are followed (Land Trust Alliance 2005). Conservation easements in Minnesota are perpetual as long as they are created in accordance with Minn. Stat. § 84C.

The Minnesota conservation easement statute defines conservation easement as a non-possessory interest of a holder in real property imposing limitations or affirmative obligations, the purpose of which include retaining or protecting natural, scenic, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archeological, or cultural aspects of real property (Minn. Stat. § 84C.01 [2005]).

The Minnesota conservation easement statute provides that the easement may be indefinite in duration and may impose affirmative duties or obligations on the holder of the easement (often a private land trust or government entity serving in the capacity of land trust) or the owner of the burdened property. Another notable point of the Minnesota conservation easement statute is that it allows for third-party enforcement of the easement. This means that the easement language can create easement enforcement rights in other entities, even though these third-party entities are neither holders of the easement nor owners of the burdened property. This would include interested or affected persons or organizations. This means of placing conditions on the transfer of the Center would afford definitive and perpetual protections to resources at the Center.

Covenants and Easements

A covenant is a contractual obligation between two parties. It can stand alone, or be incorporated into other documents such as deeds to transfer property. A covenant could be used as a means to restrict or limit future use of the Center. When a covenant is broken, a landowner who is benefited by the covenant may enforce it. However, landowners who are not benefited by the covenant would have no power to enforce it if such landowners are not a party to the contract creating the covenant, or the contract creating the covenant is not specifically made to benefit such third parties.

Easements are recorded instruments that establish non-possessory property rights in the land of another, such as the right to access certain areas subject to the easement. Easements are created when the owner of the property that is burdened by the easement conveys the easement right to another person or entity. The most likely type of easement for use in restricting use of property is the “negative” easement, which gives the owner of the easement the right to prevent the owner of the burdened property from using the land in a certain way. Other easements may establish a right to enter or use a portion of real property for a specific purpose. An easement may be binding on subsequent owners of the property as long as the easement is established by written instrument such as a deed, and duly recorded.

Although either a covenant or easement could be used to protect certain resources at the Center, they have the potential under Minnesota law to become void under certain circumstances. Therefore, these means for applying conditions to the transfer of the Center may not provide definite protections for Center resources. The use of conditions or restrictions in Minnesota such as covenants or easements is modified and limited by state statute. The relevant sections contained in Minn. Stat. § 500.20 first create a mechanism whereby any restrictions, covenants, or conditions placed on real property automatically become void if, over time, the conditions become “nominal” and of no actual or substantial benefit to the party or parties to whom or in whose favor they are to be performed. This situation could arise at any point in the future and is not dependant on statutory deadlines. This law creates uncertainty as to the future enforceability of conditions or restrictions like covenants or easements on real property in Minnesota. Under current practice, the United States interprets conditions under state law.

Minnesota law also states that any conditions or restrictions on real property, such as covenants or easements, may be disregarded automatically after 30 years (although this does not affect conservation easements created in accordance with Minn. Stat. § 84C). Before the 30-year period is over, the Minnesota law first gives the person who owns or has an interest in the real estate against which covenants, conditions, or restrictions have been filed, and who claims to be benefited by the conditions or restrictions, the opportunity to file a statement that the person still claims the benefit created by the conditions or restrictions. If such a statement is filed between the 28th and 30th anniversary of the recordation of the original restriction or condition, then filing the required notice may extend the condition or restriction for an additional seven years. The person claiming the benefit of the restrictions or conditions would be required to seek judicial intervention to keep the restrictions or conditions alive for longer than the additional seven years.

Minnesota law also restricts the window of time within which a person who owns a right of re-entry may actually re-enter and take back real property where a condition or restriction is broken. In Minnesota, the right to re-enter the property upon breach of a condition or restriction subsequent is only valid for six years after the breach was committed.

LAWS, REGULATIONS, AND PLANNING DOCUMENTS GOVERNING USE UNDER ALTERNATIVE C

MNRRRA Enabling Legislation and the MNRRRA Comprehensive Management Plan

The relationship of the MNRRRA enabling legislation and the MNRRRA CMP to uses under alternative C would be much the same as that described for alternative B. Under the CMP, the MNRRRA would retain review authority for federally funded or permitted activities that were to occur on the Center property, regardless of ownership. Additionally, upon conveyance, the Center property would continue to be subject to the requirements of the Critical Area legislation, as discussed below. Under alternative C, conditions could be imposed on the conveyance to ensure that site development occurs within the tenets of the MNRRRA enabling legislation and the MNRRRA CMP.

Mississippi River Corridor Critical Area Legislation

The relationship of the Critical Area legislation to uses under alternative C would be much the same as that described for alternative B. If the Center is acquired by a nonfederal government entity, regardless of the proposed land use, the entity would be required to adopt plans and zoning ordinances that implement the requirements of the Critical Areas Act of 1973, State Executive Order 79-19. In addition, under alternative C, conditions could be imposed on the conveyance to provide added protections to this critical area or to enhance those protections already in existence through the Critical Area legislation.

Minneapolis-St. Paul International Airport Zoning Ordinance

In any of the situations in alternative C, the transfer or sale of the Center property into nonfederal ownership would require evaluation of the airport zoning ordinance. Should the Center transfer to a nonfederal government entity, the agency that administers the Center would have to determine its compliance obligations pertaining to the ordinance. Much the same as discussed under alternative B, building height restrictions under the airspace obstruction zones and maximum construction height would need to be determined for new construction and rehabilitation of existing buildings. Uses would be evaluated under the safety zone requirements and no new construction would be allowed in Safety Zone A. Under alternative C, additional conditions could also be imposed through the conveyance that would limit building heights, vegetation to be planted, or uses.

Camp Coldwater Spring Protection Legislation – Minnesota Senate File 2049

Under alternative C, a university or nonfederal government entity would need to determine its compliance obligations with respect to the Camp Coldwater Spring protection legislation, sometimes referred to as Minnesota S.F. 2049, in any development and use of the property. Under alternative C, the federal government could also impose additional conditions to protect the flow of groundwater to and from the spring, as well as protections for the physical

structure of the existing discharge and reservoir. Although this state law does not guarantee access to the Camp Coldwater Spring area, alternative C could allow for conditions on the transfer of the Center that would assure public access.

National Historic Preservation Act

The federal government will evaluate application of the NHPA section 106 consultation process to determine appropriate mitigation potential adverse effects on historic properties prior to conveyance. Under alternative C, the additional conveyance conditions to be imposed could include mitigation measures to protect identified historic properties at the Center. Once transferred to a nonfederal entity, protection of historic properties would not be guaranteed without conditions placed on the conveyance because the NHPA section 106 responsibilities apply only to the federal government.

ALTERNATIVE D: MODIFICATION OF LAND, STRUCTURES, OR OTHER IMPROVEMENTS BY THE FEDERAL GOVERNMENT PRIOR TO CONVEYANCE OR RETENTION OF THE CENTER

Under alternative D, the federal government would manage and bear the costs for modification of all or part of the land, structures, or other improvements prior to conveyance or retention of the Center. Modifications could include removal of all or a portion of the existing structures and associated aboveground infrastructure (roads, powerlines, ore bins, etc.) at the Center. Modifications could also include construction of new structures, or rehabilitation of existing buildings, or both.

Following completion of the modifications, the property would be disposed through transfer to a university or nonfederal government entity without restrictions (alternative B), transfer to a university or nonfederal government entity with restrictions (alternative C), or retention by the federal government for use such as those described under the three conceptual land-use scenarios.

The National Park Service completed a building demolition report as part of the environmental review process outlined in this draft EIS (appendix G). The removal report includes a cost estimate for possible demolition activities at the Center that could take place under alternative D. The demolition report indicates the cost to abate all hazardous materials such as asbestos, remove all structures, and clean and grade the areas around the removals would be approximately \$1,081,000 (Innovar 2006). The demolition report assumes that the majority of all salvageable materials comprising the structures on the Center property would be salvaged, rather than disposed of in a landfill, resulting in a significant cost savings for demolition of the Center. The removal report also assumes that all hazardous materials encountered during removal would be abated and disposed of in accordance with applicable federal, state, and local requirements. The costs outlined in the removal report take into account an estimate for removing hazardous materials that could be encountered during the demolition.

LAWS, REGULATIONS, AND PLANNING DOCUMENTS GOVERNING MODIFICATION AND USE UNDER ALTERNATIVE D

The application of laws, regulations, and planning documents governing use of the Center under alternative D would be the same as under alternative B if the Center were conveyed without conditions, or the same as under alternative C if the Center were conveyed with conditions. The difference between this alternative and alternatives B and C is that under alternative D, the federal government would modify the Center prior to conveyance or retaining the Center by demolishing structures, removing paved areas, or other related activities. Any modifications made by the federal government prior to conveyance or retention would be made in compliance with all laws, regulations, and planning documents that govern use of and resources located at the Center.

