National Park Service
U.S. Department of the Interior
In cooperation with the U.S. Fish and Wildlife Service

Final Environmental Impact Statement

Disposition of Bureau of Mines Property, Twin Cities Research Center Main Campus Hennepin County, Minnesota

Volume II Appendices
December 2009



FINAL ENVIRONMENTAL IMPACT STATEMENT
Disposition of Bureau of Mines Property
Twin Cities Research Center Main Campus
Hennepin County, Minnesota

Volume 2 of 2
Appendices

Mississippi National River and Recreation Area
National Park Service
U.S. Department of the Interior

In cooperation with the U.S. Fish and Wildlife Service

Prepared By:
National Park Service
U.S. Department of the Interior

with assistance from
engineering-environmental Management, Inc.

December 2009

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APPENDIX A

AUTHORITIES FOR TRANSFERRING THE CENTER

*Public Law 104–134
104th Congress

An Act

Making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

Apr. 26, 1996
[H.R. 3019]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Consolidated Rescissions and Appropriations Act of 1996.

SECTION 101. For programs, projects or activities in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1996.

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $74,282,000; including not to exceed $3,317,000 for the Facilities Program 2000, and including $5,000,000 for management and oversight of Immigration and Naturalization Service activities, both sums to remain available until expended: *Provided,* That not to exceed 48 permanent positions and 55 full-time equivalent workyears and $7,477,000 shall be expended for the Department Leadership Program, exclusive of augmentation that occurred in these offices in fiscal year 1995: *Provided further,* That not to exceed 76 permanent positions and 90 full-time equivalent workyears and $9,487,000 shall be expended for the Offices of Legislative Affairs, Public Affairs and Policy Development: *Provided further,* That the latter three aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

*Note: This is a typeset print of the original hand enrollment as signed by the President on April 26, 1996. The text is printed without corrections. Footnotes indicate missing or illegible text in the original.

30 USC 191b.

or Tribes, or to correct prior unrecoverable erroneous payments: *Provided further*, That beginning in fiscal year 1996 and thereafter, the Secretary shall take appropriate action to collect unpaid and underpaid royalties and late payment interest owed by Federal and Indian mineral lessees and other royalty payors on amounts received in settlement or other resolution of disputes under, and for partial or complete termination of, sales agreements for minerals from Federal and Indian leases.

OIL SPILL RESEARCH

For necessary expenses to carry out the purposes of title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $6,440,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

BUREAU OF MINES

MINES AND MINERALS

Government organization. 30 USC 1 note.

For expenses necessary for, and incidental to, the closure of the United States Bureau of Mines, $64,000,000, to remain available until expended, of which not to exceed $5,000,000 may be used for the completion and/or transfer of certain ongoing projects within the United States Bureau of Mines, such projects to be identified by the Secretary of the Interior within 90 days of enactment of this Act: *Provided*, That there hereby are transferred to, and vested in, the Secretary of Energy: (1) the functions pertaining to the promotion of health and safety in mines and the mineral industry through research vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines at its Pittsburgh Research Center in Pennsylvania, and at its Spokane Research Center in Washington; (2) the functions pertaining to the conduct of inquiries, technological investigations and research concerning the extraction, processing, use and disposal of mineral substances vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines under the minerals and materials science programs at its Pittsburgh Research Center in Pennsylvania, and at its Albany Research Center in Oregon; and (3) the functions pertaining to mineral reclamation industries and the development of methods for the disposal, control, prevention, and reclamation of mineral waste products vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines at its Pittsburgh Research Center in Pennsylvania: *Provided further*, That, if any of the same functions were performed in fiscal year 1995 at locations other than those listed above, such functions shall not be transferred to the Secretary of Energy from those other locations: *Provided further*, That the Director of the Office of Management and Budget, in consultation with the Secretary of Energy and the Secretary of the Interior, is authorized to make such determinations as may be necessary with regard to the transfer of functions which relate to or are used by the Department of the Interior, or component thereof affected by this transfer of functions, and to make such dispositions of personnel, facilities, assets,

liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with, the functions transferred herein as are deemed necessary to accomplish the purposes of this transfer: *Provided further*, That all reductions in personnel complements resulting from the provisions of this Act shall, as to the functions transferred to the Secretary of Energy, be done by the Secretary of the Interior as though these transfers had not taken place but had been required of the Department of the Interior by all other provisions of this Act before the transfers of function became effective: *Provided further*, That the transfers of function to the Secretary of Energy shall become effective on the date specified by the Director of the Office of Management and Budget, but in no event later than 90 days after enactment into law of this Act: *Provided further*, That the reference to "function" includes, but is not limited to, any duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be.

Effective date.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, other contributions, and fees from public and private sources, and to prosecute projects using such contributions and fees in cooperation with other Federal, State or private agencies: *Provided*, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral products that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That notwithstanding any other provision of law, the Secretary is authorized to convey, without reimbursement, title and all interest of the United States in property and facilities of the United States Bureau of Mines in Juneau, Alaska, to the City and Borough of Juneau, Alaska; in Tuscaloosa, Alabama, to the University of Alabama; in Rolla, Missouri, to the University of Missouri-Rolla; and in other localities to such university or government entities as the Secretary deems appropriate.

43 USC 1473a note.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 15 passenger motor vehicles for replacement only; $95,470,000, and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1996: *Provided*, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1996 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That notwithstanding any other provision of law, appropria-

30 USC 1211 note.

APPENDIX C—H.R. 3423

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), $646,218,000, to remain available until expended, of which $2,147,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96–487 (16 U.S.C. 3150); and of which not to exceed $1,000,000 shall be derived from the special receipt account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–6a(i)); and of which $2,500,000 shall be available in fiscal year 2000 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation, to such Foundation for cost-shared projects supporting conservation of Bureau lands and such funds shall be advanced to the Foundation as a lump sum grant without regard to when expenses are incurred; in addition, $33,529,000 for Mining Law Administration program operations, including the cost of administering the mining claim fee program; to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $646,218,000, and $2,000,000, to remain available until expended, from communication site rental fees established by the Bureau for the cost of administering communication site activities, and of which $2,500,000, to remain available until expended, is for coalbed methane Applications for Permits to Drill in the Powder River Basin: *Provided*, That unless there is a written agreement in place between the coal mining operator and a gas producer, the funds available herein shall not be used to process or approve coalbed methane Applications for Permits to Drill for well sites that are located within an area, which as

(3) The Secretary may, at the request of the head of an executive branch agency, waive the repayment under paragraph (2) if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(4) In addition to any other payment which is required to be made under subchapter III of chapter 83 of title 5, United States Code, the Bureau of Indian Affairs shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the Bureau of Indian Affairs to whom a voluntary separation incentive payment has been or is to be paid under the provisions of this section.

(c) Employees of the Bureau of Indian Affairs, in Central Office West divisions that are moved due to the implementation of the National Academy of Public Administration recommendations and who are entitled to severance pay under 5 U.S.C. 5595, may apply for, and the Bureau of Indian Affairs may pay, the total amount of severance pay to the employee in a lump sum. Employees paid severance pay in a lump sum and subsequently reemployed by the Federal Government shall be subject to the repayment provisions of 5 U.S.C. 5595(i)(2) and (3), except that any repayment shall be made to the Bureau of Indian Affairs.

(d) Employees of the Bureau of Indian Affairs, in Central Office West divisions that are moved due to the implementation of the National Academy of Public Administration recommendations and who voluntarily resign on or before December 31, 1999, or who are separated, shall be liable for not more than the required employee contribution under 5 U.S.C. 8905a(d)(1)(A) if they elect to continue health benefits after separation. The Bureau of Indian Affairs shall pay for 12 months the remaining portion of required contributions.

SEC. 138. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to acquire lands from the Haines Borough, Alaska, consisting of approximately 20 acres, more or less, in four tracts identified for this purpose by the Borough, and contained in an area formerly known as "Duncan's Camp"; the Secretary shall use $340,000 previously allocated from funds appropriated for the Department of the Interior for fiscal year 1998 for acquisition of lands; the Secretary is authorized to convey in fee all land and interests in land acquired pursuant to this section without compensation to the heirs of Peter Duncan in settlement of a claim filed by them against the United States: *Provided*, That the Secretary shall not convey the lands acquired pursuant to this section unless and until a signed release of all claims is executed.

SEC. 139. Funds appropriated for the Bureau of Indian Affairs for postsecondary schools for fiscal year 2000 shall be allocated among the schools proportionate to the unmet need of the schools as determined by the Postsecondary Funding Formula adopted by the Office of Indian Education Programs.

SEC. 140. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 104–134, as amended by Public Law 104–208, the Secretary may accept and retain land and other forms of reimbursement: *Provided*, That the Secretary may retain and use any such reimbursement until expended and without further

appropriation: (1) for the benefit of the National Wildlife Refuge System within the State of Minnesota; and (2) for all activities authorized by Public Law 100–696; 16 U.S.C. 460zz.

SEC. 141. None of the funds made available by this Act shall be used to issue a notice of final rulemaking with respect to the valuation of crude oil for royalty purposes until March 15, 2000. The rulemaking must be consistent with existing statutory requirements.

SEC. 142. EXTENSION OF AUTHORITY FOR ESTABLISHMENT OF THOMAS PAINE MEMORIAL. (a) IN GENERAL.—Public Law 102–407 (40 U.S.C. 1003 note; 106 Stat. 1991) is amended by adding at the end the following:

"SEC. 4. EXPIRATION OF AUTHORITY.

"Notwithstanding the time period limitation specified in section 10(b) of the Commemorative Works Act (40 U.S.C. 1010(b)) or any other provision of law, the authority for the Thomas Paine National Historical Association to establish a memorial to Thomas Paine in the District of Columbia under this Act shall expire on December 31, 2003.".

(b) CONFORMING AMENDMENTS.—

(1) APPLICABLE LAW.—Section 1(b) of Public Law 102–407 (40 U.S.C. 1003 note; 106 Stat. 1991) is amended by striking "The establishment" and inserting "Except as provided in section 4, the establishment".

(2) EXPIRATION OF AUTHORITY.—Section 3 of Public Law 102–407 (40 U.S.C. 1003 note; 106 Stat. 1991) is amended—

(A) by striking "or upon expiration of the authority for the memorial under section 10(b) of that Act," and inserting "or on expiration of the authority for the memorial under section 4,"; and

(B) by striking "section 8(b)(1) of that Act" and inserting "section 8(b)(1) of the Commemorative Works Act (40 U.S.C. 1008(b)(1))".

SEC. 143. USE OF NATIONAL PARK SERVICE TRANSPORTATION SERVICE CONTRACT FEES. Section 412 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5961) is amended—

(1) by inserting "(a) IN GENERAL.—" before "Notwithstanding"; and

(2) by adding at the end the following:

"(b) OBLIGATION OF FUNDS.—Notwithstanding any other provision of law, with respect to a service contract for the provision solely of transportation services at Zion National Park, the Secretary may obligate the expenditure of fees received in fiscal year 2000 under section 501 before the fees are received.".

SEC. 144. EXTENSION OF DEADLINE FOR RED ROCK CANYON NATIONAL CONSERVATION AREA. (a) IN GENERAL.—Section 3(c)(1) of Public Law 103–450 (108 Stat. 4767) is amended by striking "the date 5 years after the date of enactment of this Act" and inserting "May 2, 2000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on November 1, 1999.

SEC. 145. NATIONAL PARK PASSPORT PROGRAM. Section 603(c)(1) of the National Park Omnibus Management Act of 1998 (16 U.S.C. 5993(c)(1)) is amended by striking "10" and inserting "15".

107TH CONGRESS | HOUSE OF REPRESENTATIVES | REPORT
2d Session | 107–564

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, 2003

JULY 11, 2002—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SKEEN, from the Committee on Appropriations, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 5093]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 2003. The bill provides regular annual appropriations for the Department of the Interior (except the Bureau of Reclamation) and for other related agencies, including the Forest Service, the Department of Energy, the Indian Health Service, the Smithsonian Institution, and the National Foundation on the Arts and the Humanities.

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These funds may not be expended until the Service presents a more detailed plan to the Committee on how these funds will be spent. The following funds are provided to the George Washington Memorial Parkway—$600,000 to complete the environmental assessment associated with the Arlington boathouse proposal, $250,000 to complete assessments for the Mt Vernon Trail, and $200,000 for improvements to the parkway.

Also included is $2,500,000 to complete conservation work at Gettysburg NMP. In addition, $600,000 is to complete construction planning, including design documents and construction drawings, for the proposed museum of Japanese-American history at Presidio Building 640. In accordance with this public/private partnership, this completes the Federal contribution. All funding for actual construction of this facility is to be raised through non-federal sources.

The Committee has included $500,000 for failing drainage problems at Chalmette Battlefield and for exhibits at the Barataria unit, both located within the Jean Lafitte NHP in Louisiana; $1,000,000 for the John H. Chafee Blackstone River Valley NHA and $10,000,000 for the Lincoln Library. Also included is $1,000,000 for exhibits at St. Anthony's Center, which is part of the Mississippi National River & Recreation Area in Minnesota.

The Committee has included $750,000 in the planning portion of the Service's construction budget for the National Park Service to lead a public planning process associated with disposition of the former Twin Cities Bureau of Mines Research Center. After lengthy discussions with the Department of the Interior, the Metropolitan Airports' Commission decided against acquiring the Center. The Committee is informed that the Department of the Interior has concluded that reuse of the Center as an office complex for its bureaus and offices is not economically viable. The Committee agrees with this conclusion and with the decision of the Department to examine other options, including returning the site to natural conditions.

The Committee understands that while the responsibility for the site rests with the Secretary of the Interior, the National Park Service participated extensively and effectively in prior public efforts to determine the potential future uses of the site. The funds provided will allow the Park Service to oversee the necessary studies and reviews associated with the potential disposal of Federal property. The Service should use the funds provided to obtain the necessary assistance for the studies and reviews, including contracting for services as appropriate.

Other Department of the Interior bureaus, including the U.S. Fish and Wildlife Service, should provide such assistance as is necessary to facilitate the Service's accomplishment of this work. The Committee does not intend for the Service's oversight of this process to disrupt or interfere with the ongoing operations at the Mississippi National River and Recreation Area (MNRRA), and thus provides the resources necessary to accomplish this workload.

While the Park Service is being asked to coordinate the process, it is imperative that other public interests, including the U.S. Fish and Wildlife Service and local and state governments participate in the public review and comment periods. By requesting Park Service to lead this process, it is not the Committee's intention that the site be transferred to the MNRRA. The Committee understands

that this option is inconsistent with MNRRA's comprehensive management plan.

The Committee has provided $3,200,000 to complete the federal share of rehabilitation work at Morristown NHS. Also included is $6,100,000 for the National Underground Railroad Freedom Center in Ohio. This completes the federal share of this project.

The Committee also recommends $300,000 for exhibits at Saratoga NHP in New York; $500,000 for Stones River NB to plan for a tour route and pedestrian trail; $3,000,000 to continue work at the SW Pennsylvania Heritage Commission in Pennsylvania; and $500,000 to continue oral histories of the Tuskegee Airmen.

The Committee has included $3,500,000 for the Washita National Battlefield. This completes the federal share of this project. This facility will also house the Black Kettle National Grassland office, a unit of the Forest Service. An additional $750,000 for the Forest Service portion of this project is included in the Forest Service capital improvement and maintenance account. The Committee expects the Park Service to make appropriate and suitable space available to the Forest Service to enable it to provide information, including historical and current program orientation. The Forest Service should not be required to pay more than $20,000 per year for routine maintenance and basic utilities, an amount slightly higher than its current expenses.

The Committee expects that interagency collaboration on facilities, as well as cultural and natural resource protection and use, will result in greater long-term efficiency and better service to the public. To facilitate this collaboration, all future personnel placements by either agency at these sites should be considered for maximum interagency staffing opportunities.

Within the amount provided for equipment replacement, $350,000 is earmarked for two replacement vessels at Apostle Island NL in Wisconsin.

Of the total amount provided for construction, $53,736,000 is funded under the conservation spending category.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

Appropriation enacted, 2002	−$30,000,000
Budget estimate, 2003	−30,000,000
Recommended, 2003	−30,000,000
Comparison:	
Appropriation, 2002	0
Budget estimate, 2003	0

The Committee recommends the rescission of $30,000,000 in the annual contract authority provided by the 16 U.S.C. 4601–10a. This authority has not been used in years, and there are no plans to use it in fiscal year 2003.

LAND ACQUISITION AND STATE ASSISTANCE

Appropriation enacted, 2002	$274,117,000
Budget estimate, 2003	286,057,000
Recommended, 2003	253,099,000
Comparison:	
Appropriation, 2002	−21,018,000
Budget estimate, 2003	−32,958,000

APPENDIX B

NATIONAL PARK SERVICE
AND U.S. FISH AND WILDLIFE SERVICE
MEMORANDUM OF AGREEMENT (2004)

National Park Service
U.S. Fish and Wildlife Service
Disposition of the Bureau of Mines, Twin Cities Research Center
Hennepin County, Minnesota

INTERAGENCY MEMORANDUM OF AGREEMENT

Section 1. Nature of Document, Parties.

This is a Memorandum of Agreement (Agreement) between the National Park Service (NPS or Agency) and the U.S. Fish and Wildlife Service (FWS or Agency) in the U.S. Department of the Interior (DOI).

Section 2. Purpose

This Agreement documents the actions the NPS and FWS agree to take in connection with the preparation of an environmental impact statement (EIS) and an ensuing Record of Decision (ROD) on the proposed disposition of the former Bureau of Mines Twin Cities Research Campus in Minneapolis, Minnesota (BOM /TCRC).

Section 3. Authority

This Agreement is authorized by:

A. *Appropriations Resolution*. Section 2, Division D, Title II of the Consolidated Appropriations Resolution, 2003, H.J. Res. 2, 108th Cong. (2003), Pub. L. 108-7, 117 Stat. 224-228, *as explained by* H.R. Rep. No. 107-564, at 56-57 (2002).
B. *Economy Act*. 31 U.S.C. § 1535.
C. *CEQ Regulations*. 40 C.F.R. § 1501.6 – Cooperating Agencies.

Section 4. Agency Responsibilities

In connection with the preparation of an EIS and an ensuing decision on the proposed disposition of the BOM/TCRC, the NPS and FWS agree to take the following actions

A. *National Park Service*

1. The NPS will act as lead agency for preparing the EIS. In that capacity, the NPS will, among other things:
    a. Designate an NPS point of contact concerning the EIS;

b. Establish, and manage adherence to a schedule for completing the EIS, related documents, and performing related activities;
c. Coordinate all activities related to the EIS;
d. Conduct public meetings, hearings, and site visits related to the EIS;
e. Prepare public notices, scoping documents, and replies to public inquiries related to the EIS, and responses to public comments on the EIS;
f. Define the scope and content and ensure the legal sufficiency of the EIS;
g. Hire and supervise a contractor to write the EIS and related documents;
h. Give the contractor all agency information needed to write the EIS and related documents;
i. Facilitate review of working draft documents written by the contractor;
j. Ensure compliance with NPS Director's Order DO-12 and timely review of the EIS;
k. Coordinate publication and distribution of the draft and final EIS's and related documents.

2. After the EIS is completed, the NPS will coordinate and document the decision process within the DOI for disposition of the BOM/TCRC.

B. *U.S. Fish and Wildlife Service*

1. The FWS will act as a cooperating agency for preparing the EIS. In that capacity, the FWS will, among other things:

a. Designate an FWS point of contact concerning the EIS;
b. Assist the NPS with establishing a schedule for completing the EIS, related documents, and performing related activities;
c. Give the NPS available information and professional advice related to the EIS;
d. Review and give the NPS comments on working draft and final EIS, public notices, scoping documents, replies to public inquiries, public comments on the draft EIS, and other documents related to the EIS;
e. If staff are available, assist the NPS with conducting public meetings, hearings, and site visits related to the EIS;
f. If staff are available, participate in public meetings, hearings, and site visits related to the EIS, and in meetings with the contractor hired by the NPS to prepare the EIS;

2. After the EIS is completed, the FWS will cooperate with the NPS as may be necessary to facilitate the decision process within DOI for the disposition of the BOM/ TCRC.

Section 5. Administrative Provisions

A. *Funding, Equipment, and Personnel.* Subject to available funding and personnel, each Agency will provide its own funding, equipment, personnel, and other resources needed to meet its responsibilities under this Agreement.

B. *Effective Date.* The Effective date of this Agreement is the date on which the last signature is inscribed below.
C. *Term.* This Agreement will remain in force until DOI makes a final decision on disposition of the BOM/TCRC, or for four years from its effective date, whichever occurs first. Either Agency may terminate this Agreement by giving the other Agency thirty-days, advance, written notice. The Agencies may extend the term of this Agreement only by amending this Agreement.
D. *Amendment.* The Agencies may amend this Agreement only by written amendment executed in the same manner as this Agreement.

Section 6. Key Officials

Except as provided in section 4.A.1 of this Agreement for communications concerning the EIS, the Agencies will direct all communications concerning this Agreement to the following key officials:

A. *In the National Park Service.*
JoAnn Kyral
Superintendent
Mississippi National River and Recreation Area
111 Kellogg Boulevard East
St. Paul, MN 55111
Telephone: 651-290-3030 ext. 222
Fax: 651-290-3214

B. *In the U.S. Fish and Wildlife Service.*

Barbara Milne
Assistant Regional Director
Region 3
U.S. Fish and Wildlife Service
1 Federal Drive
Fort Snelling, MN 55101
Telephone: (612) 713-5306
Fax: (612) 713-5308

In consideration of the foregoing, the Parties have executed this Agreement, below.

For the National Park Service:

Date: Oct. 15, 2004

Ernest Quintana
Regional Director
Midwest Region
National Park Service

For the U.S. Fish and Wildlife Service:

Date: SEP 29 2004

Robyn Thorson
Regional Director
Region 3
U.S. Fish and Wildlife Service

APPENDIX C

MNRRA ENABLING LEGISLATION

From the U.S. Code Online via GPO Access
[wais.access.gpo.gov]
[Laws in effect as of January 24, 2002]
[Document not affected by Public Laws enacted between
January 24, 2002 and December 19, 2002]
[**CITE: 16USC460zz**-6]

TITLE 16--CONSERVATION

CHAPTER 1--NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Part A--Mississippi National River and Recreation Area

Sec. 460zz-6. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary
to carry out this part.

(Pub. L. 100-696, title VII, Sec. 707, Nov. 18, 1988, 102 Stat. 4607.)

TITLE 16--CONSERVATION

CHAPTER **1**--NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Part A--Mississippi National River and Recreation Area

Sec. 460zz-**1**. Establishment

(a) In general

There is hereby established the Mississippi National River and Recreation Area (hereinafter in this subchapter referred to as the ``Area'') which shall consist of the State designated Mississippi Critical Area encompassing that portion of the Mississippi River and adjacent lands generally within the Saint Paul-Minneapolis Metropolitan Area, as depicted on the map entitled Mississippi National River and Recreation Area numbered MI-NRA/80,000 and dated April 1987. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, District of Columbia, and in the offices of the Metropolitan Council of the Twin Cities Area in Saint Paul, Minnesota.

(b) Boundaries

The Secretary of the Interior (hereinafter referred to as the ``Secretary'') shall publish in the Federal Register, as soon as practicable after November 18, 1988, a detailed description and map of the boundaries established under subsection (a) of this section.

(Pub. L. 100-696, title VII, Sec. 702, Nov. 18, 1988, 102 Stat. 4600.)

Section Referred to in Other Sections

This section is referred to in sections 460zz-2, 460zz-3 of this title.

TITLE 16--CONSERVATION

CHAPTER 1--NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Part A--Mississippi National River and Recreation Area

Sec. 460zz-2. Mississippi River Coordinating Commission

(a) Establishment

There is hereby established a Mississippi River Coordinating Commission whose purpose shall be to assist Federal, State, and local authorities in the development and implementation of an integrated resource management plan for those lands and waters as specified in section 460zz-1 of this title. The Commission shall consist of the following 22 members appointed by the Secretary of the Interior:

(1) The Director of the National Park Service, or his designee.

(2) The Chief of the Corps of Engineers, or his designee.

(3) The Director of the Fish and Wildlife Service, or his designee.

(4) Three individuals, from recommendations by the Governor of Minnesota, to represent the Minnesota Department of Natural Resources, Department of Transportation, and Minnesota Environmental Quality Board.

(5) One individual, to represent the Minnesota Historical Society.

(6) One individual, to represent the Metropolitan Council of the Twin Cities Area.

(7) Four elected officials, to represent the cities of Saint Paul and Minneapolis.

(8) Four elected officials, from recommendations by the Governor of Minnesota, to represent the interests of the other affected municipalities and counties.

(9) One individual, to represent the Metropolitan Parks and Open Spaces Commission.

(10) One individual, from recommendations by the Governor of Minnesota, to represent the interests of commercial navigation.

(11) Four individuals, from recommendations by the Governor of Minnesota, to be chosen from the general public.

(b) Terms

(1) Except as provided in paragraphs (**2**) and (3), members (other than ex officio members) shall be appointed for terms of three years.
(**2**) Of the members first appointed--
(A) Under paragraph (4) of subsection (a) of this section:
(i) One shall be appointed for a term of one year.
(ii) One shall be appointed for a term of two years.

(B) Under paragraphs (7) and (8) of subsection (a) of this section, one shall be appointed for a term of one year.
(C) Under paragraph (11) of subsection (a) of this section:
(i) One shall be appointed for a term of one year.
(ii) One shall be appointed for a term of two years.
(iii) One shall be appointed for a term of four years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(c) Compensation

Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services
for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5.

(d) Chairperson

The Chairperson of the Commission shall be appointed by the Secretary from among the members of the Commission nominated by the Governor of Minnesota and shall serve for a term of three years.

(e) Quorum

Twelve members of the Commission shall constitute a quorum.

(f) Meetings

The Commission shall meet at the call of the Chairman \1\ or a majority of its members.

\1\ So in original. Probably should be ``Chairperson''.

(g) Development of policies and programs

As a coordinator and advisory organization, the Commission shall assist the Secretary, the State of Minnesota and local units of government, endeavoring to use existing Federal, State, regional, and

local plans and programs where consistent with the intent and goals of this part, in developing the following:

(1) Policies and programs for the preservation and enhancement of the environmental values of the Area.

(2) Policies and programs for enhanced public outdoor recreation opportunities in the Area.

(3) Policies and programs for the conservation and protection of the scenic, historical, cultural, natural and scientific values of the Area.

(4) Policies and programs for the commercial utilization of the Area and its related natural resources, consistent with the protection of the values for which the Area is established as the Mississippi National River and Recreation Area.

(h) Staff

The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Upon request of the Secretary, any Federal agency may provide information, personnel, property, and services on a reimbursable basis, to the Commission to assist in carrying out its duties under this part. The Secretary may accept the services of personnel detailed from the State of Minnesota or any political subdivision of the State and may reimburse the State or such political subdivision for such services. The Commission may procure temporary and intermittent services under section 3109(b) of title 5.

(i) Plan

Within 3 years after appointment of the full membership of the Commission, the Commission shall submit to the Secretary and the Governor of Minnesota a comprehensive plan for land and water use measures for the area to be developed and implemented by the responsible Federal agencies, the State of Minnesota, and local political subdivisions. The plan shall endeavor to use existing Federal, State, regional, and local plans and where consistent with the intent and goals of this part shall coordinate those plans to present a unified comprehensive plan for the Area. The plan shall include but not be limited to each of the following:

(1) A program for management of existing and future land and water use which--

(A) considers and details the application of a variety of land and water protection and management techniques;

(B) includes a policy statement for the use of Federal, State, and local regulatory responsibilities to manage land and water resources in a manner consistent with the purposes of this

part; and
(C) recognizes existing economic activities within the area \2\ and provides for the management of such activities, including barge transportation and fleeting and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this part.

\2\ So in original. Probably should be capitalized.

(2) A program providing for coordinated implementation and administration of the plan with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, regional and local levels, including each of the following:
(A) Ways in which local, regional, State, and Federal policies and permits may better be coordinated to the goals and policies of this part.
(B) A financial plan to provide and support the public improvements and services recommended in the plan; and a mechanism for coordinating local, regional, State, and Federal planning to promote the purposes of this part.
(C) How the goals and policies of the management plan will be compatible with the existing channel maintenance program on the Mississippi River, and the existing Federal, State, regional, and local programs and goals on the Minnesota and Saint Croix Rivers.
(D) The provisions of the Clean Water Act [33 U.S.C. 1251 et seq.] and the Safe Drinking Water Act (title XIV of the Public Health Service Act) [42 U.S.C. 300f et seq.] which pertain to the surface waters of the Mississippi National River and Recreation Area.

(3) A coordination and consistency component which details the ways in which local, State, and Federal programs and policies may best be coordinated to promote the purposes of this part.
(4) A program for the coordination and consolidation, to the extent feasible, of permits that may be required by Federal, State, and local agencies having jurisdiction over land and waters within the Area.

(j) Development of plan

(1) In developing the plan the Commission shall consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the Area.
(2) In developing the plan the Commission shall consult with interested conservation, business, professional and citizen organizations.
(3) In developing the plan the Commission shall conduct public hearings within the Area, and at such other places as may be appropriate, for the purposes of providing interested persons with the

opportunity to testify with respect to matters to be addressed by the plan.

(k) Approval of plan

The Commission shall submit the plan to the Secretary and the Governor of Minnesota, for their review. The Governor shall act on the plan within 90 days and shall submit the plan to the Secretary along with any recommendations. The Secretary shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

(1) The adequacy of public participation.

(2) Assurances of plan implementation from State and local officials.

(3) The adequacy of regulatory and financial tools that are in place to implement the plan.

(4) Plan provisions for continuing oversight of the plan implementation by the Secretary and the Governor of Minnesota.

If the Secretary disapproves the plan, he shall, within 60 days after the date of such disapproval advise the Governor and Commission in writing of the reasons therefor, together with his recommendations for revision. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the plan to the Governor for his review. Following his review, the Governor shall submit the revised plan, together with any recommendations he may have, to the Secretary who shall approve or disapprove the revision within 60 days.

(l) Interim program

Prior to the adoption of the Commission's plan, the Secretary and the Commission shall monitor all land and water use activities within the Area to ensure that said activities are in keeping with the purposes
of this part, and shall advise and cooperate with the appropriate Federal, State, and local governmental entities to minimize adverse impacts on the values for which the Area is established.

(m) Commission review

The Commission shall assist the Secretary and the Governor of Minnesota in reviewing and monitoring the implementation of the plan by Federal, State, and local governmental agencies having jurisdiction in the Area. The Commission may, after providing, for public comment and subject to the review and approval, as set forth in subsection (k) of this section, modify said plan, if the Commission determines that such modification is necessary to further the purposes of this part.

(n) Termination of Commission

The Commission shall terminate on the date 10 years after November 10, 1988. Following termination of the Commission the State is authorized to establish a State Commission which shall exercise the functions and authorities described in subsection (m) of this section. The Secretary of the Interior and the Secretary of the Army are authorized and directed to participate as members of such State Commission.

(Pub. L. 100-696, title VII, Sec. 703, Nov. 18, 1988, 102 Stat. 4600; Pub. L. 101-40, Sec. 4(2), June 20, 1989, 103 Stat. 82; Pub. L. 102-525,
title III, Sec. 302, Oct. 26, 1992, 106 Stat. 3441.)

References in Text

The Clean Water Act, referred to in subsec. (i)(2)(D), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, Sec. 2, Oct. 18, 1972, 86 Stat. 816, also known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (Sec. 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Safe Drinking Water Act, referred to in subsec. (i)(2)(D), is title XIV of act July 1, 1944, as added Pub. L. 93-523, Sec. 2(a), Dec. 16, 1974, 88 Stat. 1660, as amended, which is classified generally to subchapter XII (Sec. 300f et seq.) of chapter 6A of Title 42, The Public
Health and Welfare. For complete classification of this Act to the Code,
see Short Title note set out under section 201 of Title 42 and Tables.

Amendments

1992--Subsec. (i). Pub. L. 102-525 substituted ``3 years after appointment of the full membership of the Commission'' for ``3 years after November 18, 1988''.

1989--Subsec. (d). Pub. L. 101-40 substituted ``and shall serve'' for ``to serve''.

Section Referred to in Other Sections

This section is referred to in sections 460zz-3, 460zz-4, 460zz-5 of
this title.

TITLE 16--CONSERVATION

CHAPTER 1--NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Part A--Mississippi National River and Recreation Area

Sec. 460zz-3. Federal lands and developments

(a) Lands

Notwithstanding any other provision of law, any Federal property located within the boundaries of the Area as identified on the map referred to in section 460zz-1 of this title, is hereby transferred

without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purposes of this part, except as follows:

(1) Facilities and lands administered by the Secretary of the Army through the Corps of Engineers for navigational and flood control purposes may continue to be used by the Secretary of the Army subject to the provisions of subsection (b) of this section.

(2) Federal property on which there is located any building or other structure which is in use (as of November 18, 1988) or for which a lease is in effect shall not be transferred under this subsection without the concurrence of the administering agency.

(b) Federal agency activities

(1) In general

Before any department, agency, or instrumentality of the United States issues or approves any license or permit for any facility or undertaking within the Area and before any such department, agency, or instrumentality commences any undertaking or provides any Federal assistance to the State or any local governmental jurisdiction for any undertaking within the Area, the department, agency, or instrumentality shall notify the Secretary. The Secretary shall review the proposed facility or undertaking to assess its compatibility with the plan approved under section 460zz-2 of this title. The Secretary shall make a determination with respect to the compatibility or incompatibility of a proposed facility or undertaking within 60 days of receiving notice under this subsection. If the Secretary determines that the proposed facility or undertaking is incompatible with the plan, he shall immediately notify such Federal department, agency, or instrumentality and request such department, agency, or instrumentality to take the actions necessary to conform the proposed facility or undertaking to the plan. The Federal department, agency, or instrumentality shall, within 60 days after receiving the Secretary's request, notify the Secretary of the specific decisions made in response to the request.

To the extent that such department, agency, or instrumentality does not then conform such facility or undertaking to the request of the Secretary, the Secretary is directed to notify the Congress in writing of the incompatibility of such facility or undertaking with the plan approved under section 460zz-2 of this title.

(2) Navigation

(A) Nothing in this part shall be deemed to impact or otherwise affect such existing statutory authority as may be vested in the Secretary of the Department in which the Coast Guard is operating or the Secretary of the Army for the maintenance of navigation aids and navigation improvements: Provided, That in exercising such authority the Secretary of the Army, through the Corps of Engineers and the Secretary of the Department in which the Coast Guard is operating,

shall not take any action that would have a direct and adverse effect on the values for which the Area is established unless such action is essential for the protection of public health or safety or is necessary for national security or defense.

(B) In planning for the development and public use of the Area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource developments or flood control projects and that of the Area are compatible.

(Pub. L. 100-696, title VII, Sec. 704, Nov. 18, 1988, 102 Stat. 4604.)

Transfer of Functions

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TITLE 16—CONSERVATION

CHAPTER 1--NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Part A--Mississippi National River and Recreation Area

Sec. 460zz-4. Administration

(a) Authorities

The Secretary shall administer the Area in accordance with this part. Only those lands within the Area under the direct jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System. Other lands and waters within the Area shall be administered under State and local laws. In the case of any conflict between the provisions of this part and such generally applicable provisions of law, the provisions of this part shall govern.

(b) State and local authorities

The Secretary shall consult and cooperate with the State of Minnesota and its political subdivisions concerning the development and management of Federal lands within the Area.

(c) Land acquisition

Within the boundaries of the Area, the Secretary is authorized, in consultation with the State of Minnesota and the affected local governmental unit, to acquire land and interests therein by donation, purchase with donated or appropriated funds, exchange or transfer, except as provided in paragraphs (1) and (2).

(1) Any lands or interests therein owned by the State of Minnesota or any political subdivision thereof may be acquired only by donation.

(2) Privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary makes a determination pursuant to subsection (d)(2) of this section,

In no event may the Secretary use the authority provided in subsection (d)(3) of this section to acquire land or interests in land without the owner's consent for any use exercised prior to January 1, 1987, that is consistent with the plan under section 460zz-2 of this title.

(d) Review of local plans

(1) Authority

For the purpose of protecting the integrity of the Area the Secretary shall cooperate and consult with the State and the appropriate political subdivisions to review all relevant local plans, laws and ordinances to determine whether they substantially conform to the plan approved pursuant to section 460zz-2 of this title. Additionally the Secretary shall in consultation with the State and its political subdivisions determine the adequacy of enforcement of such plans, laws, and ordinances, including review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances. The Secretary shall enter into agreements with the State or its political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of such local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring or the enforcement thereof by local governments having jurisdiction over any areas to which the management plan applies.

(2) Purpose

The purpose of review under paragraph (1) shall be to determine the degree to which actions by local governments are compatible with the purposes of this subchapter. Following the approval of the plan under section 460zz-2 of this title and after a reasonable period of time has elapsed, upon a finding by the Secretary that such plans, laws and ordinances are nonexistent, are otherwise not in conformance with the plan or are not being enforced in a manner consistent with the plan, and if the Secretary determines that there is no feasible alternative available to prevent uses which would be

substantially incompatible with the plan, the Secretary may exercise the authority available to him under the provisions of paragraph (3).

(3) Enforcement

In those sections of the Area where local plans, laws and ordinances, or amendments thereto or variances therefrom are found by the Secretary not to be in conformance with the plan approved pursuant to section 460zz-2 of this title, or are not being enforced in a manner consistent with the plan, the Secretary shall notify the local government authority concerned. The Secretary may withhold from the local government authority concerned or, require reimbursement of, (A) Federal funds made available for implementation of the plan, or (B) any grant under section 460zz-5(a) of this title if the local plan, law, ordinance, amendment, or variance is not modified to conform with the plan and enforced in such manner as will carry out the purposes of this part. If the State has not initiated, within a 60-day period, such judicial or other action as necessary to ensure conformity with the plan, and if noncompliance with the plan or failure to enforce the plan continues after the end of such 60-day period, the Secretary may acquire, subject to appropriations, land or interests in land under this subsection without the consent of the owner thereof. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local government unit failing to conform with the plan and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for the protection of the Area in a manner compatible with the plan.

(e) Retention by owner of use and occupancy

The Secretary may permit the owner or owners of any improved residential property acquired by the Secretary under this part to retain a right of use and occupancy of the property for noncommerical \1\ residential uses not incompatible with the plan approved under section 460zz-2 of this title. The provisions of subsection (c), (d), and (e) of section 460ii-1 of this title shall apply to the retention of such rights, except that for purposes of this part, the applicable date shall be January 1, 1987 in lieu of January 1, 1975 and the purposes of this part shall be substituted for the purposes referred to in section 460ii-1(d) of this title.

\1\ So in original. Probably should be ''noncommercial''.

(Pub. L. 100-696, title VII, Sec. 705, Nov. 18, 1988, 102 Stat. 4605; Pub. L. 101-40, Sec. 4(1), June 20, 1989, 103 Stat. 82.)

Amendments

1989--Subsec. (a). Pub. L. 101-40 substituted ''Other'' for ''Our'' in third sentence.

TITLE 16--CONSERVATION

CHAPTER 1--NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Part A--Mississippi National River and Recreation Area

Sec. 460zz-5. State and local assistance and jurisdiction

(a) Grants

Upon approval of the plan under section 460zz-2 of this title, the Secretary is authorized to make grants to the State of Minnesota, or its political subdivisions, to cover not more than 50 percent of the cost of acquisition and development within the Area of lands and waters or interests therein in a manner consistent with the purposes of this part.

(b) Cooperative agreements

The Secretary is authorized to enter into cooperative agreements with the State of Minnesota or any political subdivision thereof pursuant to which he may assist in the planning for and interpretation of non-Federal publicly owned lands within the Area.

(c) Technical assistance

To enable the State of Minnesota and its political subdivisions to develop and implement programs compatible with the plan, the Secretary shall provide such technical assistance to the State and its political subdivisions as he deems appropriate.

(d) State and local jurisdiction

Nothing in this part shall diminish, enlarge, or modify any right of the State of Minnesota or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out State fish and wildlife

laws, rules, and regulations within the Area, or to tax persons, corporations, franchises, or private property on the lands and waters included in the Area.

(Pub. L. 100-696, title VII, Sec. 706, Nov. 18, 1988, 102 Stat. 4607.)

Section Referred to in Other Sections

This section is referred to in section 460zz-4 of this title.

TITLE 16--CONSERVATION

CHAPTER 1--NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Part A--Mississippi National River and Recreation Area

Sec. 460zz-6. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary
to carry out this part.

(Pub. L. 100-696, title VII, Sec. 707, Nov. 18, 1988, 102 Stat. 4607.)

APPENDIX D

PUBLIC SCOPING REPORT

PUBLIC SCOPING COMMENT SUMMARY

Bureau of Mines Twin Cities Research Center Disposition Environmental Impact Statement

Prepared for:

National Park Service
Mississippi National River and Recreation Area
(MNRRA)

Prepared by:



engineering-environmental Management, Inc.

July 2005

I. Introduction

The Mississippi National River and Recreation Area (MNRRA) has been designated by Congress to lead the public planning process to address the disposition of the federal property known as the Bureau of Mines, Twin Cities Research Center Main Campus (Center) pursuant to the National Environmental Policy Act of 1969 (NEPA). Additional background information on the planning process and Center can be found at http://www.nps.gov/miss/bom. Congress closed the Center in 1996. The Center occupies federal land located in Hennepin County, Minnesota, and is within the boundary of MNRRA, a unit of the national park system. The National Park Service (NPS) is the lead agency for the environmental impact statement (EIS) planning process and the U.S. Fish and Wildlife Service (USFWS) has responsibility for managing the daily operations at the Center.

The NEPA process is explained and described in the regulations by the Council on Environmental Quality (CEQ) published at 40 *Code of Federal Regulations* (CFR) 1500–1508. The planning process will address the disposition of the Center in an EIS. The National Park Service has contracted with engineering-environmental Management, Inc. (e^2M) to prepare the EIS.

Scoping provides an early and open process for determining the scope of issues to be addressed in an EIS. Scope consists of the range of actions, alternatives, and impacts to be considered in an EIS. To determine the scope of an EIS, the agency shall consider three types of actions, three types of alternatives, and three types of impacts. They include:

(a) Actions (other than unconnected single actions), which may be:

1. Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:

    (i) automatically trigger other actions which may require an EIS
    (ii) cannot or will not proceed unless other actions are taken previously or simultaneously
    (iii) are interdependent parts of a larger action and depend on the larger action for their justification

2. Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same EIS.
3. Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same EIS. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single EIS.

(b) Alternatives, which include:

1. no action alternative
2. other reasonable courses of action
3. mitigation measures (not in the proposed action)

(c) Impacts, which may be: (1) direct, (2) indirect, and (3) cumulative.

As part of the scoping process, the National Park Service invited the participation of affected federal, state, and local agencies, Indian tribes, and other interested persons. Interested parties were invited to comment via e-mail, post, and/or fax. Public meetings were held by the National Park Service at the end of March 2005 to invite further participation in the scoping process.

This report summarizes the results of the initial scoping period for the Center EIS and includes comments received from January 2005, when the Notice of Intent to Prepare an EIS was published in the *Federal Register* (01/28/05), until June 30, 2005.

The comments have been categorized into several broad categories based on the similar nature of the comments received.

II. Public Outreach

Public Notices and Scoping Newsletter

The Web page for the Center EIS was launched on MNRRA's Web site on January 18, 2005 (http://www.nps.gov/miss/bom). The *Federal Register* Notice of Intent to Prepare an EIS was published on January 28, 2005. The National Park Service issued two news releases and a newsletter to a mailing list of over 500 individuals, organizations, agencies, Indian tribes, and media outlets. Of that total, 20 copies were sent to federally recognized Indian tribes; 12 copies were sent to colleges and universities in the Twin Cities area; copies were faxed to the two Minnesota U.S. Senators: Mark Dayton and Norm Coleman, and to Minnesota U.S. Representatives Martin Olav Sabo and Betty McCollum; 12 copies were sent to various National Park Service offices and to the General Services Administration; and 35 copies were sent to other federal agency offices. The newsletter was also posted on MNRRA's Web page (www.nps.gov/miss), distributed upon request, and made available at public meetings.

News releases were distributed on January 31, 2005 and March 28, 2005, and a scoping newsletter was distributed on March 11, 2005, inviting public participation in the scoping process for the Center EIS. The newsletter provided background on the planning process; the dates, locations, and time of the public scoping meetings; and included an opportunity to provide comment via a self-addressed comment card. Legal notices announcing the start of the public scoping meetings were printed in the *St. Paul Pioneer Press* and the *Minneapolis Star Tribune* on March 21, 2005.

Scoping Public Meetings

Open public scoping meetings provided information on the Center EIS planning process. A total of four separate public scoping meetings were held on March 30 and 31, 2005, from 1:00 P.M. until 3:00 P.M. and from 6:00 P.M. until 9:00 P.M. each day at the Four Points Sheraton Hotel in St. Paul, Minnesota. The public scoping meetings were set up in an open house format. Four different information stations provided background and information on NEPA and the planning process, details of the Center, MNRRA and the National Park Service, and cultural and historic resources. Handouts and maps were available at each station.

Agency personnel and EIS contractor representatives participating in the open house meetings included:

- JoAnn Kyral, Superintendent, MNRRA/NPS
- Kim Berns, Project Manager, MNRRA/NPS
- John Anfinson, Ph.D., Cultural Historian, MNRRA/NPS
- Steve Johnson, Manager, Stewardship and Community Assistance, MNRRA/NPS
- Jim Von Haden, Development Review, MNRRA/NPS
- Andrew J. McDermott III, Architect/Engineer, USFWS
- Jeffrey C. Gosse, Ph.D., Regional NEPA Specialist, USFWS
- Bob Hansen, Associate Regional Director, Special Projects, USFWS
- Anne Baldrige, Project Manager, e²M
- Schelle Frye, Planning Specialist, e²M

The public scoping meetings were attended by federal agency officials, local government representatives, neighborhood organization representatives, elected officials, organizations, tribal members, developers, and the general public. A total of 70 people attended the public scoping meetings over the two-day period.

MNRRA Meetings with Interested Parties

MNRRA staff contacted and conducted numerous meetings with potentially interested federal, state, and local government entities, as well as other interested parties. These contacts and meetings included the following:

Contacts with Federal, State, and Local Government Entities and Officials

- telephone briefing: Sharon M. Wagener, office of Minnesota U.S. Representative Martin Olav Sabo (02/01/05)
- process initiation letter: Minnesota State Historic Preservation Office (02/17/05)
- meeting: Minnesota State Representative Dan Larson (Minnesota State Legislative District 63) (03/10/05)
- meeting: Office of Minnesota State Senator Jane Ranum (03/14/05)
- meeting: Minnesota U.S. Representative Martin Olav Sabo and staff, Minneapolis (03/11/05)
- meeting: Minneapolis City Council member, Sandy Colvin Roy (03/23/05)

- meeting: Minneapolis Park and Recreation Board of Commissioners monthly meeting (04/06/05)
- meeting: Veterans Administration (04/11/05)
- meeting: Minnesota Historical Society, St. Paul, MN (04/19/05)
- meeting: U.S. Army Corps of Engineers, St. Paul District (04/20/05)
- Center visit and meeting: Hennepin County staff (04/20/05)
- telephone briefing: staff of Minnesota U.S. Senator Mark Dayton (04/20/05)
- letters: 34 federal agencies in the metropolitan area inquiring about their interest in the property (04/24/05)
- meeting: Minnesota State Senator Satveer Chaudhary (05/3/05), along with other state agencies and interested parties
- meeting: Metropolitan Council, council chair and staff (05/17/05)
- telephone briefings: staff of Minnesota U.S. Representative Betty McCollum (05/24/05, 05/25/05)
- Center visit and meeting: U.S. Department of Homeland Security, Transportation Security Administration (05/26/05)
- meeting: Minnesota Department of Transportation (05/26/05)

Contacts made with Federally Recognized Indian Tribes

A total of 20 federally recognized Indian tribes have been contacted as part of the Center EIS scoping process.

- letter: four federally recognized Dakota Tribes (Upper Sioux, Lower Sioux, Prairie Island, and Shakopee) and the Iowa Tribe of Oklahoma inviting participation in the Center EIS planning process (02/18/05)
- letter: National Park Service scoping newsletter/comment card faxed and mailed to above tribes (03/15/05)
- letter: 11 federally recognized tribes inviting participation in the Center EIS/Section 106 process (04/06/05)
- meeting: Minnesota Indian Affairs Council (04/26/05)
- Center visit and meeting: member of the Shakopee Mdewakanton Sioux Community (04/29/05)
- letters: 16 federally recognized tribes inviting participation in the ethnographic study (including traditional cultural property and sacred site analysis) (04/11/05)–contacts included: Winnebago Tribe of Nebraska, Sisseton Wahpeton Sioux Tribe, Ho-Chunk Nation, Bois Forte Reservation, Fond du Lac Reservation, Grand Portage Reservation, Leech Lake Reservation, Mille Lacs Band of Ojibwe, Red Lake Band of Chippewa, White Earth Reservation, Iowa Tribe of Oklahoma, Lower Sioux Indian Community, Lac Courte Oreilles Community, Prairie Island Indian Community, Shakopee Mdewakanton Sioux Community, and Upper Sioux Indian Community
- letters: Sioux Tribes outside Minnesota inviting participation in the Center EIS process (Santee, Spirit Lake, Flandreau, and Crow Creek) (05/18/05)
- Center visit and meeting: members of three federally recognized Dakota Tribes and the Minnesota Indian Affairs Council (05/05/05)

Contacts with Other Organizations

- Center visit and meeting: Friends of the Mississippi River (04/15/05)
- meeting: Friends of Coldwater and Preserve Camp Coldwater Coalition organizations (05/10/05) and (05/26/05)

Contacts with Universities and Colleges

- letters: 12 universities and colleges in the Minneapolis-St. Paul metropolitan area inquiring about interest in the Center (04/15/05)
- Center visit and meeting: Minneapolis Colleges and Universities Vice President (04/25/05)
- meeting: Minnesota State Colleges and Universities, Real Estate Services (05/20/05)

Contacts with Neighborhood Associations

- meeting: public meeting sponsored by the Nokomis East Neighborhood Association Annual Meeting to discuss the Center EIS process (04/21/05)
- Center visit and meeting: local resident (04/28/05)
- informational table: Minneapolis farmers market, "Midtown Public Market," serving six different neighborhood associations near the Center (05/07/05)

Media Contacts and Publications

- legal notices: announcement of public scoping meetings published in the *St. Paul Pioneer Press* and the *Minneapolis Star Tribune* (03/21/05)
- news releases: two new releases issued, "Public Planning Process Begins for Future of Former Bureau of Mines Property" (01/31/05) and "Public Invited to Scoping Meetings on the Future of the Former Bureau of Mines Property" (03/28/05) (to television stations, radio stations, and newspapers in the Twin Cities metropolitan area)
- letter: Scoping Newsletter and Comment Card – (03/11/05)
- article: included in Upper Mississippi Waterway Association publication, "NPS Looks for Input on Historic Property" (February)
- article: Southside Pride local newspaper – Nokomis Edition, "Coldwater to Change Hands" (April Edition)
- articles: two articles in *Minneapolis Star Tribune*: "Park Service Seeks Advice on Closed Research Center" (02/16/05) and "U.S. to Seek Public's Ideas for Bureau of Mines Land" (03/29/05)
- article: the *Highland Villager* "New Uses Sought for Old Bureau of Mines Site" (04/13/05)

III. Written Comments Received

Comments on the Center EIS planning process were received by e-mail, fax, and post. The majority of comments were received on the comment card provided with the March 2005 scoping newsletter. Written comments were also accepted at the public scoping meetings held on March 30 and 31, 2005.

A total of 107 written comments were received. The number of comments received by type is as follows:

- comment card: 46
- e-mail: 37
- letter: 24

The state of residence for each respondent was recorded when indicated. All those who commented and indicated the state they were from, were from Minnesota.

Respondents were classified as:

- U.S. Government: 1
- unaffiliated individuals: 85
- civic groups: 2
- conservation/preservation organizations: 11
- tribal government: 1
- state government: 1
- town or city government: 2
- county government: 1
- businesses: 1
- recreation: 1
- university: 1

Government entities that submitted comments included:

- City of Minneapolis, Planning Division
- Metropolitan State University
- U.S. Department of Agriculture, Food Safety and Inspection Service
- Metropolitan Council
- Hennepin County Department of Housing, Community Works & Transit
- Minneapolis Community and Technical College
- Minneapolis Police Department
- Minnesota Department of Natural Resources

Organizations that submitted comments include:

- Mendota Mdewakanton Dakota Community
- Indigenous Tourism Rights International

- Friends of the Mississippi River
- Joseph R. Brown Minnesota River Center
- Sacred Sites International Foundation
- Friends of the Parks and Trails of St. Paul and Ramsey County
- St. Louis Park Historic Society
- Nokomis East Neighborhood Association
- Friends of Coldwater
- Preserve Camp Coldwater Coalition

IV. Summary of Responses to Comment Forms

The comment card requested that respondents state the issues they wanted to see addressed in the EIS for the Center. Comments received ranged from one or two sentences, to complex comments that laid out comprehensive concepts of ownership, management, and use.

In general, comments received fell into three broad categories: ownership/stewardship, values, and amenities/uses. Many respondents suggested potential parties as owners or stewards of the Center as a part of their overall site concept. Values included aspects, features, or qualities of the Center that respondents indicated worthy of protection or restoration.

The following discussion is a compilation of comments received from the public and organizations by the National Park Service.

Ownership/Stewardship

Respondents indicated preference for ownership/stewardship in one of two ways. Respondents either specifically identified a party, or parties, they believe should be the owners/stewards of the property, or indicated a general category of owners/stewards they thought would be best for the Center and site.

Twelve respondents advocated tribal ownership/stewardship of the Center and site.

Continued federal ownership of the Center site was advocated by nine respondents; three respondents recommended state ownership; and two respondents recommended county or city ownership.

Seven respondents recommended National Park Service ownership/stewardship of the property, and four respondents recommended U.S. Fish and Wildlife Service ownership/stewardship. Continued ownership by the Department of the Interior was opposed by three respondents.

Seven respondents recommended the Center site should be included as a part of Fort Snelling State Park, and three respondents recommended that the Center site become incorporated into the Minnehaha Regional Park system (Minneapolis Park and Recreation Board).

Ownership/stewardship by specific entities such as the Minneapolis Park and Recreation Board or the University of Minnesota was both recommended and not recommended. Six respondents indicated the Center site should be turned over to the Minneapolis Park and Recreation Board. Four respondents specifically indicated their disapproval of potential ownership/stewardship of the Center site by the Minneapolis Park and Recreation Board. The University of Minnesota was recommended as owner/steward of the Center site by four respondents, but specifically opposed by three respondents.

Ownership/stewardship of the Center site by the Metropolitan Airports Commission was opposed by two respondents.

Ownership/stewardship of the Center site by the Minnesota Historical Society was opposed by three respondents.

A partnership scenario of ownership/stewardship of the Center site was suggested by 18 respondents. Suggestions for potential partners/owners of the Center site included: the Minnehaha Creek Watershed District, the Lower Minnesota River Watershed District, and The Nature Conservancy.

Values

Protecting the flow of Coldwater Spring and protection of historical and cultural values was suggested by 36 respondents, receiving the greatest support of all values stated by respondents. Value of American Indian culture was expressed by 30 respondents.

Commercial or residential development of the Center site was specifically opposed by 18 respondents. Eighteen respondents indicated support for valuing the Center site as "sacred." Expanded access to the Center site, beyond the present open hours of 9:00 A.M. to 3:00 P.M., Monday through Friday, was requested by 13 respondents.

Restoration of the Center site to "prairie savannah" was recommended by 10 respondents. Ten respondents indicated the Center should be a park or provide a park-like setting. Five respondents indicated the Center site should be converted to green or open space. Wildlife and wildlife viewing were values indicated by four respondents.

Amenities/Uses

Recommendations on uses for the Center included museum, interpretive center, or an education center and have been categorized together for analysis purposes. Twenty-eight respondents suggested a museum-interpretive facility at the Center. Twenty-two respondents suggested that some or all of the buildings should be removed from the property, while seven respondents suggested reuse of some or all of the buildings.

A Green Museum concept for the Center was suggested by 22 respondents and identified as:

> ". . .preserving a living, changing piece of land. Instead of a building with artifacts inside frames and glass boxes, or a reenactment where history is fixed in time, a green museum would be a landscape where change could be observed."

Use of the Center site for American Indian education was suggested by seven respondents. Six respondents suggested increased tourism as a possible positive outcome on use of the site, and one respondent specifically opposed using the site to increase tourism. Five respondents requested additional trails or paths be made available on the site. Two respondents advocated reducing or eliminating parking at the Center.

Other specific potential uses of the Center that were outlined in the responses included the following:

- AIDS/HIV quarantine facility
- hostel (suggested by two respondents)
- urban equestrian center
- light manufacturing creating job opportunities
- homeless shelter where veterans could work
- disc golf facility
- group campsite for urban camping
- community gardens
- building 1 (large main building) to be used to store artifacts from the site
- sky, water, and earth museum

Other Specific Suggestions

- increase trees and other vegetation
- expand the historic district
- the federal government should clean up the site
- establishment of "The Coldwater Foundation" to seek grant funding
- use development of part of the area to leverage preservation of other parts
- environmental contamination of the property needs to be cleaned up
- belief that previous archeological studies were flawed
- school children could take water quality samples at the spring

Specific Quotes

The following quotes capture ideas that could not be adequately represented in the statistics or bulleted statements above, and are included here in order to present the full range of ideas contained in the responses submitted.

- "There are solutions someplace . . .continue searching [for a solution/use/management alternative] until a good fit is found."
- "A live [archeological] dig should always be on hand for locals, tourist, scholars, etc."

- "The name Camp Coldwater literally invokes the image of Scout, family, or other groups camping out. What a fabulous venue for family values!"
- "There should be a Camp Coldwater/Spring 'coordinating commission' similar to the one laid out on p. 754 of Public Law 100-696 hand-out" (i.e., MNRRA legislation).
- "This area should be recommended as a World Heritage Site."
- "With congressional discussions of a Department of Peace, Coldwater might be an ideal location for administrative offices in the 106,000-square-foot refurbished Bureau of Mines building."
- "Consideration should be given to incorporating the Coldwater Springs area—which triangulates with the Fort Snelling and Sibley historic areas at the confluence of the Mississippi and Minnesota Rivers—into a single historic district which could enhance the inter-connectedness of the regional and cultural history and add greater protection to the entire contiguous area."

V Specific Proposals from Agencies and Organizations

Hennepin County Department of Housing, Community Works and Transit

Hennepin County – Department of Housing, Community Works and Transit submitted a letter as an indication of their interest in examining reuse of the Center as part of the Fort Snelling properties. Hennepin County requested time to complete an evaluation of reuse options and limitations of the Center.

Mendota Mdewakanton Dakota Community (the proposal was labeled "Draft Proposal 2001")

"This proposal puts forth a planning agenda for a historical and spiritual interpretive center at Coldwater Springs. This would be located at Camp Coldwater, a historic sacred site that lies adjacent to Minnehaha Falls. This initiative advocates for preserving the site through methods that will enhance awareness of the significance of the site as a place of local culture, history, and natural heritage."

Minneapolis Community and Technical College and Metropolitan State University

Currently, Metropolitan State University and Minneapolis Community and Technical College have a capital request proposed for consideration during the 2006 legislative session. The request relates to building a new and permanent facility that would provide a range of classroom and technical skills training in law enforcement and criminal justice. Currently, both institutions house these programs in leased space in the midway area of St. Paul. The two institutions have collaborated to develop a regional center for law enforcement skills training as well as academic programs that range from certificate programs to a Master's Degree.

Minneapolis Community and Technical College and Metropolitan State University would propose acquiring the Center and remodeling some of the existing buildings into office,

laboratory, and classroom use. While it would be desirable to have all of the acreage, these institutions believe that the northern-most half of the property is most desirable for meeting their needs, and could see the south end of the property used for other public purposes.

Minneapolis Police Department

"The long-range facilities plan for the Minneapolis Police Department (MPD) outlines the need for a centralized public safety center to house nearly all functions exclusive of precinct stations. The MPD believes the Center land and buildings can be tailored to fit departmental space needs and improve the efficiency of MPD operations. Specifically and ideally, the MPD would like to use the site to house property and evidence, which is currently using three separate spaces for storage. Also, the MPD crime lab would be located next to property and evidence, due to proximity needs. The crime lab is also currently split into three separate sites due to a lack of one central facility. The Criminal Investigations Division of the MPD is comprised of approximately 80 staff members, and should be near the crime lab. Co-locating property and evidence with the crime lab would be the highest priority in the event the MPD isn't given enough space for the other functions outlined in this proposal."

Additionally, the following functions would be housed in the central facility:

- support services (criminal history, records, transcription)
- administrative services division (human resources, operations development, business technology unit)
- training unit
- licensing division

Minnesota Department of Natural Resources

"It is clear that the land is an excellent natural resources asset to the community. The Department of Natural Resources, however, has been facing a challenging budgetary climate which we anticipate will continue into the foreseeable future. As a consequence, the Department of Natural Resources would consider accepting the former Bureau of Mines property in Minneapolis for inclusion in Fort Snelling State Park under the following conditions:

1. The property transfer from the U.S. Department of the Interior to the state of Minnesota is at no cost to the state.
2. All existing buildings must be removed from the site and building sites filled and graded to allow planting required for restoration to natural conditions.
3. Phase I and II environmental site assessments should be completed for the property and all hazardous materials removed or remediated.
4. An assessment of cultural resources should be completed for the site and any cultural resource management activities required after property transfer should be identified. This step should include consultation with the Minnesota Indian Affairs Council and any interested tribes.

5. The Department of the Interior and other interested agencies and groups should understand that if the property becomes part of Fort Snelling State Park, the intent of the DNR Division of Parks and Recreation would be to possibly manage natural and cultural resources and not to develop new facilities on the property. If vehicle access by the public is a condition of the property transfer, state park vehicle permits would be required to drive into the area."

No Interest At This Point In Time:

The Minneapolis Park and Recreation Board determined they were not interested in ownership/ stewardship of the property at a public meeting held on April 6, 2005.

The U.S. Department of Agriculture, Food Safety and Inspection Service, Minneapolis Field Office, is not interested in acquiring land for the agency's use at this time.

In a letter dated April 26, 2005, the Minnesota Historical Society stated: "The Bureau of Mines Twin Cities Research Center is a valuable resource for the right owner. The Historical Society is in no position to acquire, develop, operate, or manage this resource. Our hope is that you are able to find an eventual owner able to make the best possible re-use of this asset."