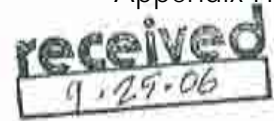


APPENDIX H

CULTURAL RESOURCES AND SECTION 106 CONSULTATION AND CORRESPONDENCE



MINNESOTA HISTORICAL SOCIETY
State Historic Preservation Office

September 21, 2006

Mr. Steve Johnson
Acting Superintendent
National Park Service
Mississippi National River & Recreation Area
111 E. Kellogg Blvd., Suite 105
St. Paul, MN 55101-1256

Re: Bureau of Mines, Twin Cities Research Center (TCRC) Main Campus
Hennepin County
SHPO Number: 1996-0884

Dear Mr. Johnson:

Thank you for the opportunity to review and comment on the above project. It has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800).

The area of this proposed land transfer includes a portion of a National Historic Landmark, and at least two "layered" historic districts with National Register eligible/listed properties with different periods of significance. It is probable that all of the alternatives have potential adverse effects on historic properties. That said, some alternatives have a greater potential for a broader range of effects. We offer our comments below as a first step in the Section 106 consultation process.

Due to the levels of significance and complexity of the resources, and due to considerable public interest in the undertaking, we recommend that the Section 106 consulting parties be identified, and that the consultation process be initiated. Based on concerns of consulting parties and further analysis of information, additional issues other than those we have outlined below may need to be addressed as the process moves forward.

1. Regarding the identification of listed/eligible historic properties, the EIS includes information on the National Historic Landmark, the Ft. Snelling Historic District (listed on the National Register), and the U.S. Bureau of Mines Twin Cities Research Center Historic District (eligible for the National Register), along with recommendations for the modification of boundaries to the above properties. Other levels of designation and protection are also described.

A. The Archaeological Research report (Clouse, 2001) divides the proposed land transfer parcel into five zones. We concur with the determination that Zones I and II have archaeological potential, and that Zones III and IV do not. There appears to be a discrepancy between the EIS and the Archaeological Research report regarding Zone V. The EIS indicates that Zone V was found to contain no important cultural materials, while the Archaeological Research report indicates that Zone V includes a military railroad grade that is a contributing element of the Ft. Snelling Historic District.

B. The Archaeological Research report and the Historical Study report (Henning, 2002) recommend that the boundary of the Ft. Snelling Historic District be expanded to include the entire areas of Zones I and II and the area of Coldwater Spring. Generally, we concur with these recommendations, but we would like to consult further with you regarding the proposed boundaries of the expanded area.

C. A Phase II archaeology survey should be completed for Zones I and II as part of this planning process, before any property transfer takes place. Then, a comprehensive map of historic contributing properties – including all identified archaeological sites, the spring, the reservoir, the spring house, and the military railroad grade – can be prepared to serve as a basis for a specific treatment/mitigation strategy under any of the alternatives. In addition to the Phase II archaeology survey, an evaluation of the Camp Coldwater summer camp (1820-c. 1823) should be completed to assess if it is a contributing site to the Ft. Snelling Historic District (more for associative significance than for archaeological information potential). If it is contributing, it should be included on the comprehensive map.

D. The Ethnographic Resources Study (Terrell et.al., 2005) concludes that the Coldwater Spring meets the National Register criteria as a traditional cultural property (TCP). However, the EIS indicates that the National Park Service has determined that the spring does not meet TCP criteria. We believe that it is important to consider the views of interested parties as well as more information on the NPS evaluation as part of our assessment of this aspect of the spring's significance.

2. We have some concerns regarding the use of the three tables (pages 124-126) to assess effects for Section 106 purposes. The tables establish a relationship between impact intensity and effect determination/mitigation that is more specific than the effect definition in the Section 106 regulations. As a result, the effect determinations as proscribed in the table may not hold true in all cases. For example, a minor adverse effect on the overall integrity of a historic property could still be adverse (such as a case where certain elements of work on a historic building do not meet the Secretary of the Interior's Standards). On the other hand, major adverse effects do not always result in a situation where a mitigation agreement cannot be achieved. Since these tables could be misleading, it may be less confusing to simply use the assessment of effect as presented in 36 CFR 800.

We note that the table for ethnographic resources is presented only for NEPA assessments. Should additional consideration of Coldwater Spring establish that it is

eligible as a TCP (see comment 1.E., above), the table may need to be revised for 106 purposes.

3. As we stated above, all four alternatives have the potential for adverse effects to historic properties. (Again, should additional consideration of Coldwater Spring establish that it is eligible as a TCP, the comments below may need to be expanded.)

A. Alternative B, or the version of Alternative D with no use restrictions, would seem to have the potential for the highest level of adverse effects, since the property would transfer out of the federal government, with no Section 106 review of future projects, and with no restrictions. Mitigation would focus on data recovery and recordation so that a record of the historic properties would be made before the transfer is completed.

B. Alternative C, or the version of Alternative D with use restrictions, could offer much better protection of historic properties by including restrictions in the transfer. These could establish a process for review of future actions, maintenance thresholds, and other preservation measures. (We note that even under these alternatives it is quite possible that there would be some level of adverse effect. Certain uses may be more compatible with the historic properties from certain periods, leading to choices for removal of some elements. In addition, the cost of renovating all of the historic buildings associated with the Bureau of Mines is expected to be quite high.)

C. Alternative A could result in continued deterioration of historic properties, with accompanying adverse effects. However, under continued federal ownership, the federal agency would presumably have responsibility for stewardship of the historic properties under Section 110 of the National Historic Preservation Act.

We look forward to continuing to work with you and other interested parties as the review of this proposed undertaking moves forward. Contact our Compliance Section at 651-296-5462 with questions or concerns.

Sincerely,

A handwritten signature in dark ink, appearing to read "Britta L. Bloomberg". The signature is fluid and cursive, with the first name "Britta" and last name "Bloomberg" clearly distinguishable.

Britta L. Bloomberg
Deputy State Historic Preservation Officer



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste. 105
St. Paul, Minnesota 55101-1256

L7617 (MISS-BOM)

December 23, 2008

Britta Bloomberg
Minnesota State Historic Preservation Office
Minnesota Historical Society
345 Kellogg Boulevard West
St. Paul, Minnesota 55111

Dear Ms. Bloomberg:

The National Park Service completed a Draft Environmental Impact Statement (EIS) for the Bureau of Mines Property in fall of 2006. In order to finalize the EIS, the National Park Service (NPS) has been waiting for recommendations from the Department of the Interior regarding the Preferred Alternative and the potential property owner. Those recommendations have now been made. The Department of Interior Preferred Alternative is to restore the land to a mostly natural landscape and for the NPS, Mississippi National River and Recreation Area, to take over management. The Fish and Wildlife Service and NPS will oversee the removal of buildings, roads, parking lots and other structures, as well as the land restoration. As part of the EIS process, the National Park Service (NPS) is the lead agency for Section 106 compliance.

If implemented, the Preferred Alternative would eliminate many of the potential adverse effects anticipated under the alternatives calling for transferring the land out of federal control or for uses not compatible with the site's historic significance. Still, some adverse effects to historic resources will occur.

The most direct adverse effect would be to the Bureau of Mines (Bureau) historic site, as we have agreed that it is potentially eligible for the National Register of Historic Places. By restoring the land to a mostly natural landscape, the two federal agencies would remove all the buildings and most of the infrastructure associated with the Bureau. Removing the Bureau buildings and infrastructure would have beneficial effects on the Fort Snelling National Historic Landmark (NHL) and National Register Historic District.

The restoration could have beneficial and adverse effects to the Fort Snelling NHL and National Register District. Three eras of Fort Snelling's history are potentially represented on the Bureau lands. The first dates from the building of the frontier fort between 1820 to 1824. As soldiers from the fort probably acquired water from Coldwater Spring after completing the fort, this era

could extend up to 1857, when the Army sold the fort. The second era falls within the first but is associated with the squatter community that is known as Camp Coldwater. This era runs from the early 1820s up to the Civil War. The last era dates from 1879 to the 1920s, when the Army expanded Coldwater Spring into a major waterworks for the Upper Post. This is the era most represented by historic features visible on the site today: the spring, reservoir, spring house and an abandoned railroad bed.

As a result of consultation, at least three scenarios could play out on the property, with differing effects on contributing elements to the NHL and Historic District. First, the spring and immediate area around it could be restored to a best guess of what it might have looked like when the soldiers from Fort Snelling camped there. This would require removing the deteriorating reservoir structure, including the spring house. Without the reservoir structure, the reservoir would drain. A small stream would flow through the reservoir area to the bluff edge, where it would continue down the bluff along the existing (and presumably historic) stream course. This alternative would adversely affect those contributing elements associated with the Upper Post era from 1880 to the 1920s, but it could establish a look more compatible with the fort's earlier history, which would in its own right fit the period of significance for the NHL and Historic District.

Second, the reservoir structure could be repaired to look like it did between 1880 and the early 1920s. Pathways or roads on the land could also be reestablished based on this era. This would preserve the most visible and material of the elements contributing to the NHL and Historic District.

Third, based on what we have heard of current sentiments, some people may want to keep the reservoir as a ruin and allow it to continue deteriorating. The spring house would be repaired and maintained, however. A variation of this could be to remove all remnants of the reservoir but leave the spring house. Either way, this alternative would result in an adverse effect to the reservoir as a contributing element to the NHL and Historic District and would be mixing the look of two different historic eras.

Based on the archeological survey, historic maps and historic photographs, the NPS recognizes the potential that archeological remains associated with one or more periods of Fort Snelling's history could lie buried on the Bureau property. As part of the Programmatic Agreement negotiated for this project, the NPS will work out the requirements for any archeological surveys or monitoring that will be needed prior to removing the buildings and restoring the land.

As you know, the NPS did not concur with the conclusions of the Traditional Cultural Property (TCP) Study, as we believed the evidence was not strong enough and the arguments did not fit the National Register requirements for a TCP. We received comments on the TCP study from a number of individuals not affiliated with a tribe or community wanting the TCP designation and from one individual from the Mendota Mdewakanton Community. None of the federally recognized tribes offered comments on the TCP study, and none have pushed for the TCP designation. We have requested more information concerning Coldwater Spring from the tribes, but none have replied. We will continue working with the tribes on this issue as we finalize the EIS and Section 106 processes. Some American Indian tribes have declared Coldwater Spring sacred, under Executive Order 13007. While this is not a Section 106 issue, we will continue to

coordinating with the federally recognized tribes to understand and address their concerns regarding the spring.

As part of finalizing the EIS and Section 106 processes, the NPS will be seeking input from the public and American Indian tribes concerning the potential adverse effects to historic sites on the Bureau property and to Coldwater Spring specifically and will be holding two public meetings. Your office offered a number of comments on the Draft EIS which we will address through the consultation process.

It is clear that some adverse effects will occur to National Register eligible or listed properties if the Preferred Alternative is implemented. We request your comments on this determination of effect, understanding that we have many details to work out. We would appreciate your comments by January 30, 2009. If you have any questions regarding this letter, please contact John Anfinson of my staff at john_anfinson@nps.gov or at 651-290-3030, ext. 285.

Sincerely,



PL
Paul Labovitz
Superintendent

cc:
Chris Jensen, Asst. Reg'l Dir., US FWS



United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste. 105
St. Paul, Minnesota 55101-1256

IN REPLY REFER TO:

D18 (MISS-BOM)

January 22, 2009

Please provide an email address for future contact if at all possible. This measure saves paper and minimizes the cost of personnel and postage. Your information will be used for the sole purpose of communicating with you about the Bureau of Mines/Cold Water Springs. You can send that information to denise_niedzolkowski@nps.gov.

Dear Interested Party,

In our letter of December 3, 2008, we told you public meetings would be conducted in the winter and spring of 2009 to help determine some of the details for restoration of the site.

An informational open house has been scheduled to give the public an opportunity to provide comment on planning for the reuse and restoration of federal property formally occupied by the U.S. Department of the Interior, Bureau of Mines.

The open house will be held Monday February 23, 2009 from 5 p.m. to 9 p.m. in the auditorium on the first floor of the VA Hospital, located at One Veterans Drive in Minneapolis.

National Park Service and U.S. Fish and Wildlife Service staff will be available to provide information concerning the DEIS preferred alternative, historical preservation and interpretation, and to gather input to guide planning for the future reuse and restoration of the site.

Sincerely,

for Paul Labovitz
Superintendent



Minnesota
Historical Society

State Historic Preservation Office

January 23, 2009

Mr. Paul Labovitz
Superintendent
National Park Service
Mississippi National River & Recreation Area
111 E. Kellogg Blvd., Suite 105
St. Paul, MN 55101-1256

Re: U.S. Bureau of Mines, Twin Cities Research Center Property Transfer
Minneapolis, Hennepin County
SHPO Number: 1996-0884PA

Dear Mr. Labovitz:

We last commented on the above referenced undertaking in September of 2006. Thank you for your recent correspondence, describing the Department of the Interior's selection of a preferred alternative.

As you know, the subject area includes a portion of a National Historic Landmark, and at least two "layered" historic districts with National Register eligible/listed properties that have different periods of significance.

We have reviewed your summary of cultural resource issues for the alternative, and have the following comments:

1. We concur with your determination that removal of the Bureau of Mines buildings and structures will constitute an adverse effect on historic properties. We would expect to consult with you and other interested parties to discuss avoidance/mitigation measures.
2. You have proposed three potential strategies for landscape treatment of the parcel. We look forward to working with you to evaluate these strategies. As part of this study, the potential eligibility of Coldwater Spring as a Traditional Cultural Property should be re-reviewed (see our 2006 comments), and the presence and integrity of other historic components present on the parcel needs to be considered as well. The outcome should include a Cultural Landscape Treatment plan prepared in accordance with the Secretary of the Interior's Standards. If implementing such a treatment plan results in an adverse effect, we will need to consult with you and other interested parties to discuss avoidance/mitigation measures.

Contact us at 651-259-3456 with questions or concerns.

Sincerely,

A handwritten signature in cursive script, reading "Britta L. Bloomberg".

Britta L. Bloomberg
Deputy State Historic Preservation Officer



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste. 105
St. Paul, Minnesota 55101-1256

L7617 (MISS-BOM)

February 26, 2009

Office of Federal Agency Programs
Reid Nelson, Director
Old Post Office Building
1100 Pennsylvania Avenue, NW, Suite 803
Washington, DC 20004

Dear Mr. Nelson:

The National Park Service, on behalf of the Department of the Interior (DOI), is completing the Environmental Impact Statement and Section 106 processes for former Twin Cities Bureau of Mines Research Center Main Campus (Center), in Hennepin County, Minnesota. The Mississippi National River and Recreation Area, a unit of the National Park Service (NPS), is leading both. The U.S. Fish and Wildlife Service (USFWS) is overseeing the Center's day-to-day management. We have included a CD labeled Draft EIS and a CD labeled Bureau of Mines PowerPoint Presentation, which contain maps and images of the site.

Part of the 27-acre Center falls within the Fort Snelling National Historic Landmark (NHL) and the Fort Snelling National Register of Historic Places Historic District. The Center itself has been determined eligible for the National Register by a consensus determination with the Minnesota State Historic Preservation Office (SHPO), because of the Center's national and international contributions to the science of mining and mine safety.

During the Draft Environmental Impact Statement (EIS) preparation, the U.S. Department of the Interior and Related Agencies Appropriations Act of 1996, Pub. L. 104-134 (1996), under the Bureau of Mines heading, defined the undertaking as follows:

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 ... to such university or government entities as the Secretary deems appropriate.

Consequently, transferring the Center out of federal control was a key focus of the Draft EIS and Section 106 processes. While the SHPO determined that the project could have

adverse effects (letter dated September 21, 2006 enclosed) the SHPO believed that until the DOI selected a Preferred Alternative, it could not move toward a Programmatic Agreement.

The NPS finished the Draft EIS and forwarded it to the DOI in fall of 2006 for review and for selection of the Preferred Alternative and a landowner. On November 25, 2008, the DOI issued the Preferred Alternative (memorandum enclosed). The DOI Preferred Alternative is to restore the land to a mostly natural landscape, restore Coldwater Spring and for the NPS, Mississippi National River and Recreation Area to take over management. Under the Preferred Alternative, the USFWS and NPS will oversee the removal of buildings, roads, parking lots, other structures, and the restoration of the land and Coldwater Spring.

If implemented, the Preferred Alternative would eliminate many of the potential adverse effects anticipated under the alternatives calling for transferring the land out of federal control or for uses that would not be compatible with the site's historic significance. Still, some adverse effects to historic resources will occur if the Preferred Alternative is implemented. The most direct adverse effect would be to the Bureau of Mines historic site. By restoring the land to a mostly natural landscape, all the buildings and most of the infrastructure associated with the Bureau would be removed.

The restoration could have beneficial and adverse effects to the Fort Snelling NHL and Historic District. Coldwater Spring and Reservoir are the primary contributing elements to the NHL and Historic District. Soldiers from Fort Snelling camped at the spring between 1820 and 1823 to build the fort. After the soldiers moved into the fort, the spring continued to supply water to the soldiers up to the 1920s.

Three phases of Fort Snelling's history are represented on the Center. The first is associated with the building of the frontier fort and the use of Coldwater Spring as the fort's water supply. This phase dates from 1820 to 1857. The second phase is associated with the squatter community known as Camp Coldwater that formed around Coldwater Spring and up the Mississippi River from the fort. This phase runs from the early 1820s up to the Civil War. The last phase dates from 1879 to the 1920s. During this time, the Army expanded Coldwater Spring into a major waterworks for the Fort Snelling Upper Post. This is the phase most represented by historic features visible on the site today: the spring, reservoir, spring house and an abandoned railroad bed. (images in PowerPoint presentation).

Depending upon the outcome of consultation, at least three scenarios could play out on the property, with differing effects on contributing elements to the NHL and Historic District. First, the spring could be restored to a best guess of what it looked like when the soldiers from Fort Snelling camped there. This would require removing the deteriorating reservoir structure, including the spring house. This alternative would adversely affect those contributing elements associated with the Upper Post era from 1879 to the 1920s, but it could establish a look more compatible with the frontier fort's history.

Second, the reservoir structure could be repaired to look like it did between 1879 and the early 1920s. Pathways or roads on the land could also be reestablished based on this era. This would preserve the most visible and material of the elements contributing to the NHL and Historic District.

Third, some people have indicated an interest in keeping the reservoir as a ruin. As the iconic image of the site, the spring house would be repaired and maintained. A variation of this could be to remove all remnants of the reservoir and leave the spring house. Either way, this alternative would result in an adverse effect to the reservoir as a contributing element to the NHL and Historic District.

The NPS has conducted an archeological survey, a historic study and ethnography of the Center. These studies suggest that archeological remains associated with all the phases of Fort Snelling's history could lie buried on the Center property. The archeological study was conducted in partnership with the Minnesota Historical Society. Neither this study nor one done by the Bureau of Mines Closure team located pre-contact American Indian artifacts on the site. As part of the consultation process, the NPS will work out the requirements for any additional archeological surveys or monitoring that will be needed should the Preferred Alternative be implemented.

As noted above, the NPS conducted an ethnographic study to determine whether Coldwater Spring merited inclusion on the National Register as a Traditional Cultural Property (TCP) and whether any tribes considered the spring sacred under Executive Order 13007. The NPS undertook this work in part because Coldwater Spring has gained increasing popularity since 1996, when protests related to a nearby highway project led some American Indians and non-Indians to declare that Coldwater Spring was sacred.

While the ethnography provided some good background information, the NPS did not concur with its conclusions regarding the spring as a TCP. The evidence simply was not strong enough, and the arguments did not fit the National Register requirements for a TCP. The NPS has asked for additional information and has stated that it is willing to reconsider the issue, if want to. The NPS will continue working with the tribes on this issue as we finalize the EIS and Section 106 processes. Two American Indian tribes have declared Coldwater Spring sacred, under Executive Order 13007.

As part of finalizing the EIS and Section 106 processes, the NPS will be seeking input from the public and American Indian tribes concerning the potential adverse effects to historic sites on the Bureau property and to Coldwater Spring specifically. To that end, a public open house was held on February 23, 2009; the comment period closes March 25th. A second open house is under consideration. We have developed a consultation list that includes all the interested organizations, over 20 federally-recognized tribes and many individuals. The list includes the names of some 450 individuals and organizations.

It is clear that some adverse effects will occur to National Register eligible or listed properties if the Preferred Alternative is implemented, and the Minnesota SHPO concurs

It is clear that some adverse effects will occur to National Register eligible or listed properties if the Preferred Alternative is implemented, and the Minnesota SHPO concurs (letter dated January 23, 2009 enclosed). Therefore, we invite your participation and comments on this undertaking. We would appreciate your reply by March 30, 2009. If you have any questions regarding this letter or project, please contact John Anfinson of my staff at john_anfinson@nps.gov or at 651-290-3030, ext. 285.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Labovitz". The signature is fluid and cursive, with a large, stylized "L" and "V".

Paul Labovitz
Superintendent

cc w/o encl:

Chris Jensen, Asst. Regl Dir., US FWS



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste. 105
St. Paul, Minnesota 55101-1256

L7617 (MISS-BOM)

February 27, 2009

Turkiya Lowe
National Park Service
National Register of Historic Places
1849 C Street, NW (2280)
Washington, DC 20240

Dear Ms. Lowe,

Thank you for taking time to discuss the Bureau of Mines project in Hennepin County, Minnesota. The property covers 27 acres along a bluff above the Mississippi River and includes 11 buildings and the Coldwater Spring and Reservoir. Since the Bureau of Mines closed in 1996, the property reverted to the Department of the Interior and has been abandoned. The U.S. Fish and Wildlife Service, Region 3, oversees day to day management, and the National Park Service, Mississippi National River and Recreation Area, is completing an Environmental Impact Statement (EIS) for potential disposition and treatment of the property. While the Draft EIS considered transfer of the property out of federal hands, the Department of the Interior has determined that the preferred alternative is to remove the 11 buildings, restore the land to a natural landscape and retain the property for management by the Mississippi National River and Recreation Area. The exact treatment of the spring and reservoir will be resolved through consultation as we finalize the Section 106 process.

The Department of Interior and Minnesota State Historic Preservation Office have agreed that the Bureau of Mines campus is eligible for the National Register of Historic places. Coldwater Spring and Reservoir are contributing elements to the Fort Snelling National Historic Landmark (NHL) and Fort Snelling National Register of Historic Places Historic District.

The project has a number of politically and emotionally charged issues tied to it. One concerns Coldwater Spring and its historical significance for American Indians. Although well-known as a site associated with Fort Snelling's history, the spring had not been recognized for any separate American Indian historical significance or associations until the late 1990s, when protests began over a nearby highway project. Protestors, including some American Indians, found Coldwater Spring on the abandoned Bureau of Mines property, and it became a gathering place. Since that time the spring's

significance as a spiritual place for some American Indians and for various groups of non Indians has grown.

I have enclosed a number of documents concerning the project. One CD contains the Draft Environmental Impact Statement and the three cultural resources studies the NPS completed for the site. One is an ethnography that included a Traditional Cultural Property assessment. I have included a written copy of the analysis I wrote disagreeing with the study's conclusion that Coldwater Spring qualified as a TCP. I added a CD of some PowerPoint images about the site's history that might help put the site in context. Finally, I have enclosed the letter we recently sent to the Advisory Council on Historic Preservation providing some background information regarding potential impacts to historic resources on the property under the preferred alternative.

The question I called you about concerned the difference between the evidence needed to determine a site eligible for the National Register as a TCP or as a site of "religious and cultural significance" to an American Indian tribe. My question arose after reviewing the Advisory Council's "Consultation with Indian Tribes in the Section 106 Process: A Handbook." On page 19, point 3, the Handbook states:

Within the Section 106 process, the appropriate terminology for sites of importance to Indian tribes is "historic property of religious and cultural significance to an Indian tribe." Unlike the term TCP, this phrase appears in NHPA and the Section 106 regulations. It applies (strictly) to tribal sites, unlike the term TCP. Furthermore, Section 101(d)(6)(A) of the NHPA reminds agencies that historic properties of religious and cultural significance to Indian tribes may be eligible for the National Register. Thus, it is not necessary to use the term TCP when considering whether a site with significance to a tribe is eligible for the National Register as part of the Section 106 process.

And, on page 20, point 5, the Handbook says:

Is the federal agency required to verify a tribe's determination of significance with archaeological or ethnographic evidence before making a National Register eligibility determination?

No. The agency is not required to verify a tribe's determination that a historic property is of religious and cultural significance to the tribe. The ACHP regulations at 36 CFR 800.4(c)(1) state, in part, that "[t]he agency official shall acknowledge that Indian tribes...possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance to them." The National Register considers the information obtained from a tribe's recognized expert to be a valid line of evidence in considering determinations of significance. For additional guidance on making eligibility determinations, the agency should consult with the staff of the National Register.

Given the above statements, I thought it appeared that the simple assertion by a tribe that Coldwater Spring was National Register eligible or merited listing on the National Register required no documentation. After looking at the full context of 36 CFR 800.4(c)(1), I saw that it stated,

In consultation with the SHPO and any Indian tribe that attaches religious and cultural significance to identified properties and guided by the Secretary's standards and guidelines for evaluation, the agency official shall apply the National Register criteria (36 CFR part 63) to properties identified within the area of potential effects that have not been previously evaluated for National Register eligibility.

So, it appears we are required to gather and evaluate the available documentation before making a determination of eligibility. This is what we have done and will continue to do.

The NPS does not have a National Register determination of significance from any tribe, but we do have a letter from the four recognized Dakota tribes in Minnesota dated September 13, 2000, stating that "It is well established that for centuries, the entire area around Coldwater Springs and the meeting place of the Minnesota and Mississippi River have held very significant cultural and practical importance to the Dakota." And we have an October 12, 2006, resolution from the Lower Sioux Indian Community stating the Coldwater Spring is a sacred site and that "the Lower Sioux Indian Community publicly declares that Coldwater Springs and the land surrounding it is a usual and accustomed place for the exercise of fundamental religious, spiritual and cultural purposes." The resolution asserted that the Lower Sioux Indian Community should get the Bureau of Mines property. A number of other tribes have made claims to the land as well, and some Dakota are insisting that it go to all the Dakota or a number of bands of the Dakota. Again, the DOI has stated that its preferred alternative is to keep the land and have the Mississippi National River and Recreation Area manage it.

The confluence of the Minnesota and Mississippi rivers lies about one mile from Coldwater Spring and is recognized as a place of historic and cultural importance to the Dakota. We do not, however, have specific documentation regarding Dakota use of the spring. As you will see from my comments on the TCP determination and the ethnographic study, we have good contextual background on why the spring might be historically significant but almost no evidence concerning the specific use or importance of this particular spring to the Dakota. In contrast, other significant Dakota sites in the Twin Cities area have historic names and stories associated with them that have been known for hundreds of years.

The NPS is not adverse to the site being a TCP or one of National Register religious or cultural significance. The NPS already recognizes the spring as a sacred site to the Lower Sioux based on their resolution. The NPS also recognizes the need to work closely with the Dakota to address their concerns regarding the spring, regardless of the Section 106 and National Register issues. We have sent over 20 tribes letters asking for direct consultation and will be following up with telephone calls. Whether considered a

site of religious and cultural significance or a TCP, the NPS simply would like more documentation that shows that the Dakota used the spring historically and for what so we can better plan for future use and possible restoration of Coldwater Spring as a natural area.

Thank you for taking time to discuss this complex project with me and your willingness to help us work through any National Register issues that arise. The NPS will continue to work with the Minnesota SHPO and the tribes to as we finalize the EIS and Section 106 processes. The attached documents do not adequately convey the complexity of the issues surrounding the Bureau of Mines Property, and I am available to answer any questions you might have. You can send an email to me at john_anfinson@nps.gov or call me at 651-290-3030, ext. 285.

Sincerely,

John O. Anfinson
Historian

Encls as stated

cc w/o encls:
Chris Jensen, U.S. Fish and Wildlife Service, Region 3



United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste. 105
St. Paul, Minnesota 55101-1256

IN REPLY REFER TO:

L7617 (MISS-BOM)

April 28, 2009

Dennis Gimmestad
Minnesota State Historic Preservation Office
Minnesota Historical Society
345 Kellogg Boulevard West
St. Paul, Minnesota 55111

Dear Mr. Gimmestad:

Please find attached a Draft Memorandum of Agreement (MOA) for the Bureau of Mines, Twin Cities Research Center Main Campus. We are sending this Draft MOA to the federally-recognized Dakota tribes on our tribal coordination list, as the Dakota are the only tribes that have shown an interest in the property during the EIS process. The only official responses we have had from the Dakota are from the Minnesota Dakota tribes and the Sisseton-Wahpeton. We are also sending the Draft MOA to the following organizations: U.S. Fish and Wildlife Service, Mendota Mdewakanton Community, Preserve Camp Coldwater Coalition, Friends of Coldwater, Friends of the Mississippi River, Fort Snelling State Park Association, Minnesota Historical Society and Friends of the Sibley Historic Site. The Fish and Wildlife Service will be a signatory on the Final MOA and the tribes and other organizations will be invited to concur.

To help with your review, we have also included a brief overview of the historic preservation considerations for the Bureau of Mines Campus and a PowerPoint presentation. We have received no comments or additional information from any tribes concerning the Traditional Cultural Property (TCP) evaluation and still believe that there is not enough documentation to support a determination that Coldwater Spring or the area around it constitute a TCP. We recognize that some Dakota tribes consider the spring culturally and historically important and that two Dakota tribes have declared it sacred. The last attachment has the comments we received on the Draft Environmental Impact Statement (EIS) and our responses to them. These are not final, but should change little from what is published in the Final EIS.

We have not heard from the Advisory Council on Historic Preservation yet, although we requested their response within 30 days from or by March 30. We will forward all comments we receive on the Draft MOA to your office and work with you to finalize it. I will be contacting your office to set up a meeting to discuss finalizing this MOA. Our goal is to have a Final MOA completed for inclusion in the Final EIS. Any comments we get on the MOA during the Final

EIS review period will be included with our submission to the Department of the Interior for the Record of Decision.

Sincerely,

A handwritten signature in black ink, appearing to read "John O. Anfinson". The signature is fluid and cursive, with the first name "John" being the most prominent.

John O. Anfinson
Cultural Resources Program Manager

Robert Hansen@FWS

05/01/2009 03:14 PM

To: John Anfinson/MISS/NPS@NPS
cc: Chris Jensen/R3/FWS/DOI@FWS
Subject: Draft MOA for Bureau of Mines

Hi John,

We have one comment regarding the subject MOA, which pertains to the following draft paragraph:

"WHEREAS, the U.S. Fish and Wildlife Service oversees day-to-day management of the TCRC Main Campus and would lead the building removal and land restoration work called for under the Preferred Alternative; and"

We would like to soften the draft language to read as follows:

"WHEREAS, the U.S. Fish and Wildlife Service is involved with management of the TCRC Main Campus and will cooperate in the building removal and land restoration work called for under the Preferred Alternative; and"

Please call me at 612-713-5212 if you have any questions. Thanks.

Paul Labovitz
Sent by: Denise
Niedzolkowski

To: j.pearson@spiritlakenation.com
cc: John Anfinson/MISS/NPS@NPS
Subject: Draft Memorandum of Agreement, Bureau of Mines

05/11/2009 02:46 PM

Dear Chairwoman Pearson:

Please find attached the cover letter and Draft MOA for the Bureau of Mines Property for your review and comments, as well as accompanying images and the tribal coordination list. Please contact me (information below) or John Anfinson of my staff at 651-290-3030 ext 285 if you have any questions.

Sincerely,

Paul Labovitz



DRAFT MOA Bureau of Mines.doc



Draft MOA Letter Images.pptx



TribalCoordinationListBOM_MOA.docx



SpiritLakeNationPearson051109.doc

National Park Service
EXPERIENCE YOUR AMERICA

Paul Labovitz, Superintendent
Mississippi National River & Recreation Area
111 Kellogg Blvd. East, Suite 105
St. Paul, MN 55101
651-290-3030/222 651-290-3214 FAX
www.nps.gov/miss/

learn more about how to help the Mississippi National River & Recreation Area by visiting the Mississippi River Fund at www.missriverfund.org



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste 105
St. Paul, Minnesota 55101-1256

L7617 (MISS-BOM)

May 11, 2009

Chairperson Myra Pearson
Spirit Lake Nation
PO Box 99
Fort Totten, ND 58335

Dear Chairperson Myra Pearson:

Please find attached a Draft Memorandum of Agreement (MOA) for the Bureau of Mines, Twin Cities Research Center Main Campus. This Draft MOA is being developed to comply with Section 106 of the National Historic Preservation Act. The Draft MOA addresses the known and potential impacts to historic resources that merit inclusion on the National Register of Historic Places.

To help with your review, we have also included a brief overview of the historic preservation considerations for the Bureau of Mines Campus. The discussion of the Camp Coldwater Community is based upon our effort to rectify the 1837 Smith Map with the current landscape. Given changes to the landscape and problems with scale, we have to emphasize that map we have included is at best an approximation.

We request that you review this Draft MOA and offer any suggestions you have for how we might improve it by May 29. If you have any questions regarding the Draft MOA please contact John Anfinson of my staff at john_anfinson@nps.gov or 651-290-3030, ext. 285. You are welcome to contact me as well at paul_labovitz@nps.gov or 651-290-3030, ext. 222.

Sincerely,

Paul Labovitz
Superintendent



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste 105
St. Paul, Minnesota 55101-1256

L7617 (MISS-BOM)

May 11, 2009

President Jean Stacy
Lower Sioux Indian Community
39527 Reservation Hwy #1
PO Box 308
Morton, Minnesota 56270

Dear President Stacy:

Please find attached a Draft Memorandum of Agreement (MOA) for the Bureau of Mines, Twin Cities Research Center Main Campus. This Draft MOA is being developed to comply with Section 106 of the National Historic Preservation Act. The Draft MOA addresses the known and potential impacts to historic resources that merit inclusion on the National Register of Historic Places.

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We request that you review this Draft MOA and offer any suggestions you have for how we might improve it by May 29. If you have any questions regarding the Draft MOA please contact John Anfinson of my staff at john_anfinson@nps.gov or 651-290-3030, ext. 285. You are welcome to contact me as well at paul_labovitz@nps.gov or 651-290-3030, ext. 222.

Sincerely,

Paul Labovitz
Superintendent



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste 105
St. Paul, Minnesota 55101-1256

L7617 (MISS-BOM)

May 11, 2009

Chairman Roger Trudell
Santee Sioux Tribe of Nebraska
425 Frazier Avenue North
Suite 2
Niobara, NE 68760

Dear Chairman Trudell:

Please find attached a Draft Memorandum of Agreement (MOA) for the Bureau of Mines, Twin Cities Research Center Main Campus. This Draft MOA is being developed to comply with Section 106 of the National Historic Preservation Act. The Draft MOA addresses the known and potential impacts to historic resources that merit inclusion on the National Register of Historic Places.

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Sincerely,

Paul Labovitz
Superintendent



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NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste 105
St. Paul, Minnesota 55101-1256

L7617 (MISS-BOM)

May 11, 2009

Chairman AT Rusty Stafne
Fort Peck Assiniboine and Sioux
501 Medicine Bear Road
P.O. Box 1027
Poplar, MT 59255

Dear Chairman Stafne:

Please find attached a Draft Memorandum of Agreement (MOA) for the Bureau of Mines, Twin Cities Research Center Main Campus. This Draft MOA is being developed to comply with Section 106 of the National Historic Preservation Act. The Draft MOA addresses the known and potential impacts to historic resources that merit inclusion on the National Register of Historic Places.

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Sincerely,

Paul Labovitz
Superintendent



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NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste 105
St. Paul, Minnesota 55101-1256

L7617 (MISS-BOM)

May 11, 2009

President Joshua Weston
Flandreau Santee Sioux Tribe
PO Box 283
603 West Broad Avenue
Flandreau, SD 57028

Dear President Weston:

Please find attached a Draft Memorandum of Agreement (MOA) for the Bureau of Mines, Twin Cities Research Center Main Campus. This Draft MOA is being developed to comply with Section 106 of the National Historic Preservation Act. The Draft MOA addresses the known and potential impacts to historic resources that merit inclusion on the National Register of Historic Places.

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We request that you review this Draft MOA and offer any suggestions you have for how we might improve it by May 29. If you have any questions regarding the Draft MOA please contact John Anfinson of my staff at john_anfinson@nps.gov or 651-290-3030, ext. 285. You are welcome to contact me as well at paul_labovitz@nps.gov or 651-290-3030, ext. 222.

Sincerely,

Paul Labovitz
Superintendent



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NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste 105
St. Paul, Minnesota 55101-1256

L7617 (MISS-BOM)

May 11, 2009

Mr. Scott Larson
Cultural Department
Upper Sioux Community
PO Box 147
Granite Falls, MN 56241

Dear Mr. Larson:

Please find attached a Draft Memorandum of Agreement (MOA) for the Bureau of Mines, Twin Cities Research Center Main Campus. This Draft MOA is being developed to comply with Section 106 of the National Historic Preservation Act. The Draft MOA addresses the known and potential impacts to historic resources that merit inclusion on the National Register of Historic Places.

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Sincerely,

Paul Labovitz
Superintendent



IN REPLY REFER TO:

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NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste 105
St. Paul, Minnesota 55101-1256

L7617 (MISS-BOM)

May 11, 2009

Chairman Kevin Jensvold
Board of Trustees
Upper Sioux Community
PO Box 147
Granite Falls, MN 56241

Dear Chairman Jensvold:

Please find attached a Draft Memorandum of Agreement (MOA) for the Bureau of Mines, Twin Cities Research Center Main Campus. This Draft MOA is being developed to comply with Section 106 of the National Historic Preservation Act. The Draft MOA addresses the known and potential impacts to historic resources that merit inclusion on the National Register of Historic Places.

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Sincerely,

Paul Labovitz
Superintendent



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NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste 105
St. Paul, Minnesota 55101-1256

L7617 (MISS-BOM)

May 11, 2009

Ms. Dianne Desrosiers
THPO, Sisseton Wahpeton Oyate
PO Box 509
Agency Village, SD 57262

Dear Ms. Desrosiers:

Please find attached a Draft Memorandum of Agreement (MOA) for the Bureau of Mines, Twin Cities Research Center Main Campus. This Draft MOA is being developed to comply with Section 106 of the National Historic Preservation Act. The Draft MOA addresses the known and potential impacts to historic resources that merit inclusion on the National Register of Historic Places.

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We request that you review this Draft MOA and offer any suggestions you have for how we might improve it by May 29. If you have any questions regarding the Draft MOA please contact John Anfinson of my staff at john_anfinson@nps.gov or 651-290-3030, ext. 285. You are welcome to contact me as well at paul_labovitz@nps.gov or 651-290-3030, ext. 222.

Sincerely,

Paul Labovitz
Superintendent



IN REPLY REFER TO

United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste 105
St. Paul, Minnesota 55101-1256

L7617 (MISS-BOM)

May 11, 2009

Chairman Michael Selvage
Sisseton Wahpeton Oyate
PO Box 509
Agency Village, SD 57262

Dear Chairman Selvage:

Please find attached a Draft Memorandum of Agreement (MOA) for the Bureau of Mines, Twin Cities Research Center Main Campus. This Draft MOA is being developed to comply with Section 106 of the National Historic Preservation Act. The Draft MOA addresses the known and potential impacts to historic resources that merit inclusion on the National Register of Historic Places.

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We request that you review this Draft MOA and offer any suggestions you have for how we might improve it by May 29. If you have any questions regarding the Draft MOA please contact John Anfinson of my staff at john_anfinson@nps.gov or 651-290-3030, ext. 285. You are welcome to contact me as well at paul_labovitz@nps.gov or 651-290-3030, ext. 222.

Sincerely,

Paul Labovitz
Superintendent



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste 105
St. Paul, Minnesota 55101-1256

L7617 (MISS-BOM)

May 11, 2009

Chairman Stanley Crooks, Sr.
Shakopee Mdewakantan Sioux Community
2330 Sioux Trail NW
Prior Lake, Minnesota

Dear Chairman Crooks:

Please find attached a Draft Memorandum of Agreement (MOA) for the Bureau of Mines, Twin Cities Research Center Main Campus. This Draft MOA is being developed to comply with Section 106 of the National Historic Preservation Act. The Draft MOA addresses the known and potential impacts to historic resources that merit inclusion on the National Register of Historic Places.

To help with your review, we have also included a brief overview of the historic preservation considerations for the Bureau of Mines Campus. The discussion of the Camp Coldwater Community is based upon our effort to rectify the 1837 Smith Map with the current landscape. Given changes to the landscape and problems with scale, we have to emphasize that map we have included is at best an approximation.

We request that you review this Draft MOA and offer any suggestions you have for how we might improve it by May 29. If you have any questions regarding the Draft MOA please contact John Anfinson of my staff at john_anfinson@nps.gov or 651-290-3030, ext. 285. You are welcome to contact me as well at paul_labovitz@nps.gov or 651-290-3030, ext. 222.

Sincerely,

Paul Labovitz
Superintendent



United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste 105
St. Paul, Minnesota 55101-1256

IN REPLY REFER TO:

L7617 (MISS-BOM)

May 11, 2009

President Ron Johnson
Prairie Island Indian Community
5636 Sturgeon Lake Road
Welch, Minnesota 55089

Dear President Johnson:

Please find attached a Draft Memorandum of Agreement (MOA) for the Bureau of Mines, Twin Cities Research Center Main Campus. This Draft MOA is being developed to comply with Section 106 of the National Historic Preservation Act. The Draft MOA addresses the known and potential impacts to historic resources that merit inclusion on the National Register of Historic Places.

To help with your review, we have also included a brief overview of the historic preservation considerations for the Bureau of Mines Campus. The discussion of the Camp Coldwater Community is based upon our effort to rectify the 1837 Smith Map with the current landscape. Given changes to the landscape and problems with scale, we have to emphasize that map we have included is at best an approximation.

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Sincerely,

Paul Labovitz
Superintendent

Paul Labovitz
Sent by: Denise
Niedzolkowski

To: CAMPCOLDWATER@YAHOO.COM, fredlud@aol.com
cc: John Anfinson/MISS/NPS@NPS
Subject: Draft Memorandum of Agreement, Bureau of Mines

05/11/2009 03:37 PM

Dear Preserve Camp Coldwater Representative:

Please find attached the cover letter and Draft MOA for the Bureau of Mines Property for your review and comments, as well as accompanying images. Please contact me (information below) or John Anfinson of my staff at 651-290-3030 ext 285 if you have any questions.

Sincerely,

Paul Labovitz



DRAFT MDA Bureau of Mines.doc



Draft MOA Letter Images.pptx



DraftMDAConsultingPartiesCover Letter.doc

National Park Service
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Paul Labovitz, Superintendent
Mississippi National River & Recreation Area
111 Kellogg Blvd. East, Suite 105
St. Paul, MN 55101
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United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste 105
St. Paul, Minnesota 55101-1256

IN REPLY REFER TO:

L7617 (MISS-BOM)

May 11, 2009

Please find attached a Draft Memorandum of Agreement (MOA) for the Bureau of Mines, Twin Cities Research Center Main Campus. This Draft MOA is being developed to comply with Section 106 of the National Historic Preservation Act. The Draft MOA addresses the known and potential impacts to historic resources that merit inclusion on the National Register of Historic Places.

To help with your review, we have also included a brief overview of the historic preservation considerations for the Bureau of Mines Campus. The discussion of the Camp Coldwater Community is based upon our effort to rectify the 1837 Smith Map with the current landscape. Given changes to the landscape and problems with scale, we have to emphasize that map we have included is at best an approximation.

We request that you review this Draft MOA and send us any suggestions you have for what we should add, delete, or change by May 29. We drafted the MOA based on comments we received from your organization and others concerning the property's historic resources. If you have any questions regarding the Draft MOA please contact John Anfinson of my staff at john_anfinson@nps.gov or 651-290-3030, ext. 285. You can email your comments to John or send them to him by mail. We invite you to concur in the Final MOA if you chose to do so.

Sincerely,

Paul Labovitz
Superintendent

FRIENDS OF COLDWATER

200 Oliver Avenue South Minneapolis MN 55405-2045 612-396-6966
www.friendsofcoldwater.org info@friendsofcoldwater.org

John Anfinson, Historian
National Park Service/Mississippi National River and Recreation Area
111 East Kellogg Blvd., Ste. 105
Saint Paul MN 55101-1256
651-290-3030 x 285
john_anfinson@nps.gov

Re: Comments on Draft MOA for Coldwater/BoM
May 15, 2009

Dear Dr. Anfinson:

Friends of Coldwater have a few comments about the Draft MOA for Coldwater:

- 1) Please include Friends of Coldwater to the list of "consulting parties" (Consultation, p. 3).
- 2) A 6,000-year old hand axe was found just south of the Coldwater fence line by hikers. The area appears to be the site of an ancient village. Although MnDOT flushes stormwater down that ravine, there may still be artifacts surviving washouts. We mention it for the attention of site archaeologists during the destruction/construction period.
- 3) The pines planted by the Twin Cities Research Center should be added as a preserved landscape element (Stipulations, I., C. p. 4). They are beautiful and there has been enough tree-killing which, ironically, brought this ancient spring property to preservation. The pine grove south of the Main Building is a great habitat protecting indigenous birds from the famous local owl.

A line of evergreens along part of the west property line separates this park-to-be from the over-developed impervious highway complex. Furthermore a "green screen" along the west property line was suggested by both Friends of Coldwater and Preserve Camp Coldwater Coalition for the FEIS.

We understand two preserved ore bins would be filled and planted. (The southern-most ore bin area across from the reservoir is becoming a dump site. This problem happened after the 3/26/09 sheriff's exercises at Coldwater. In 9/03 when similar exercises were held windows in the Crusher Building were shot out and the pigeons moved in. Six Winchester 308 spent rifle casings were recovered from the shooter's position.)

The old BoM volleyball court is still sand filled but the net has rotted and the sand hosts a stand of cottonwood trees. Consider leaving this little hidey-habitat but perhaps without the metal net poles.

4) Under Stipulations, II, B, land restoration—with the planting of burr oaks we urge MNRRA to consult with oak arborist Dan Keiser for proper microrhizome feed for young trees. The microrhizomes allow burr oaks to absorb soil nutrients—you can't just stick these trees in the ground unless they are in close proximity to mature burr oak trees. (Dan Keiser, International Oak Society, 2524 Harriet Av.S., Mpls MN 55405, 612-872-2255 leave message.)

The Minneapolis Park Board allowed young burr oaks to die after they were transplanted into Minnehaha Park following the Highway 55 reroute construction because they apparently do not understand the burr oak tree. The toothpick trees MNRRA will plant are slow-growing, for example burr oaks only begin to flower at about 38-years of age (another reason for leaving the pines in place).

As to a pristine oak savanna habitat at Coldwater—it seems improbable that we will return to that dry landscape. Increased greening of the area with European landscaping has increased the humidity along with plant varieties that have naturalized.

5) Part VI. Human Remains

It is rumored that a couple of white people were buried near the trading post/hotel. Because bodies become corrupt before they become fertilizer, Native and European Americans tended to bury their dead on hills. Spiritually a hill would be nearer my God to thee. A spring, at the foot of a hill, would be protected with strict practices about where to collect potable water, wash, bathe etc.

There is a rumor about a slightly irradiated bear buried "somewhere on the property" which more than one old BoM employee has shared.

Friends of Coldwater is looking forward to seeing Coldwater an urban wilderness and we want to keep suggesting that the park be designated a Green Museum, where the land itself is the museum. Part of the history of Coldwater is that it outflows atop the 451-million year old Mississippi gorge, only true river gorge on the entire 2,350-mile long river.

Sincerely,
Susu Jeffrey
for Friends of Coldwater

What happens to the water happens to the people.
Friends of Coldwater is a Minnesota Non-Profit Organization



Friends of Fort Snelling

The Fort Snelling State Park Association

*Dedicated to the Preservation of the Historic
and Natural Values of the Fort Snelling Area*

1078 Colne Street, Saint Paul MN 55103 • 651-917-0930 • www.fortsnelling.org

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May 28, 2009

Paul Labovitz, Superintendent
Mississippi National River & Recreation Area
111 Kellogg Blvd. East, Suite 105
Saint Paul, Minnesota 55101

Re: Draft Memorandum of Agreement for the Bureau of Mines,
Twin Cities Research Center Main Campus

Dear Superintendent Labovitz,

Our officers and directors have carefully studied the proposals put forth for the Bureau of Mines property in the Twin Cities of Minnesota. This letter is to convey to you and other interested agencies the support of our Association for the draft memorandum of agreement for the property.

The following motion was unanimously adopted by our Board of Directors on April 24, 2009:

Resolved, that the Friends of Fort Snelling recommends that federal ownership of the Bureau of Mines Site, including the Greater Camp Coldwater, should continue; that the Site should be restored to an oak savannah environment; and that such restoration should include an emphasis on historic preservation, particularly with respect to Coldwater Spring.

If you have any further questions, please feel free to contact me.

Sincerely,

Dorothy Waltz, President



State Historic Preservation Office

June 1, 2009

Mr. Paul Labovitz
Superintendent
MNRRA
111 E. Kellogg Blvd., Suite 105
St. Paul, MN 55101-1256

Re: U.S. Bureau of Mines, Twin Cities Research Center Main Campus
Memorandum of Agreement (MOA)
Hennepin County, Minnesota
SHPO Number: 1996-0884MOA

Dear Mr. Labovitz:

Thank you for the opportunity to review and comment on your proposed memorandum of agreement.

As you point out, the former Bureau of Mines property lies largely within the Ft. Snelling Historic District. This parcel contains a complex array of historic resources that merit careful attention. At this time, we have the following comments on the proposed agreement. Pursuant to our responsibility to take into account the concerns of others in avoiding/mitigating effects to historic properties, we also request the opportunity to review other comments you receive. We may have additional comments at that point.

1. The agreement uses both "MNRRA" and "NPS" to reflect the federal agency. This should be standardized.
2. We concur with the proposal to record the Bureau of Mines Twin Cities Research Center (TCRC) complex for the Minnesota Historic Property Record before it is removed. We also concur with the proposal for interpretation of the TCRC; the interpretation stipulation in the agreement needs to be more specific to reflect a particular level of effort and product. Given the nature of all of the historic resources on this parcel, we think that actual preservation of elements of the TCRC complex on the site may not be a priority. If additional parties have other opinions about this last statement, we are open to further discussion.
3. Regarding the Coldwater Spring and Reservoir, a more detailed protection plan for this area during building removal/land restoration is needed, either as an attachment to

this agreement or pursuant to its terms. The protection plan needs to address specific buffer zones, building removal/land restoration activities, hydrology, landscape elements, and access issues. The plan for final treatment of the spring and reservoir will need to take into account the importance of the area as ascribed by various groups (as documented in the agreement's WHEREAS clauses). The need for additional consideration of the Traditional Cultural Property evaluation of the spring and NPS's review of that study should be part of the discussion.

4. The agreement provides for archaeological monitoring of the building removal/land restoration activities, with provisions for evaluation and treatment if archaeological resources are found. Alternatively, we believe that an archaeological survey in advance of building removal/land restoration should be completed. Monitoring is problematic on several fronts, including: 1) demolition procedures may make it difficult for monitoring personnel to see artifacts and related data, 2) halting of construction activities can be difficult given authority lines and the costs involved in idling crews, 3) if artifacts are found, adequate assessment of significance, integrity, and effect can be extremely difficult under the time pressure, and 4) given our current staff constraints, our office is unable to commit to a 5 day response in discovery situations.

5. A landscape restoration plan is needed, either as an attachment to this agreement or pursuant to its terms. This plan needs to be developed pursuant to the Secretary of the Interior's Standards for the Treatment of Cultural Landscapes.

6. The provision dealing with burials should clearly reference the applicable federal and/or state statutes and required consultation requirements.

7. The method for consultation with other interested parties regarding the protection plan for the reservoir and spring area, the final treatment plan for the reservoir and spring area, the archaeological survey/monitoring of the project area, and the landscape restoration plan need to be clearly outlined.

We look forward to working with you and other interested parties in this review. Contact us at 651-259-3456 with questions or concerns.

Sincerely,



Britta L. Bloomberg

Deputy State Historic Preservation Officer

THOMAS E. CASEY

Attorney at Law
2854 Cambridge Lane
Mound, MN 55364
(952) 472-1099 (office)
(952) 472-4771 (fax)
tcasey@frontiernet.net

June 5, 2009

John Anfinson
National Park Service
Mississippi National River and Recreation Area
111 Kellogg Blvd. East, Suite 105
St. Paul, MN 55101-1256

VIA U.S. MAIL AND E-MAIL
john_anfinson@nps.gov

RE: Draft Memorandum of Agreement (MOA) – National Park Service, U.S. Fish and Wildlife Service, and Minnesota State Historic Preservation Officer
U.S. Bureau of Mines, Twin City Research Center Campus, Hennepin County, Minnesota

Dear National Park Service,

On behalf of my client, Preserve Camp Coldwater Coalition (PCCC), I submit the following comments in response to the National Park Service's May 11, 2009 invitation to review the Draft Memorandum of Agreement (MOA) between the National Park Service, U.S. Fish and Wildlife Service, and the Minnesota State Historic Preservation Officer regarding the restoration of the Coldwater/Bureau of Mines property.

My comments are intended to clarify the comments e-mailed to you by Tom Holtzleiter on behalf of PCCC on May 29, 2009 and supplement the comments I mailed to you on behalf of PCCC on March 25, 2009.

1. The Draft MOA, paragraph II. B., states, "MNRRA will ensure that building removal and land restoration actions around the Spring and Reservoir do not cause any long-term harm to them." This language appears to inadvertently allow short-term harm. I remind the contracting parties that Chapter 101, Section 1, of the 2001 Minnesota Legislative Session Laws states in part, "

"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 Springs." [Emphasis added.]

Therefore, to conform to this statute, the language "long-term" should be deleted in Paragraph II.B.

2. The Draft MOA, paragraph III ("Unanticipated Discoveries"), should be amended to include the following language:

*John Anfinson, National Park Service
June 5, 2009*

"B. In an effort to ensure that all archaeological resources are spotted, and to reduce the the probability of damage to an archaeological resource, the contracting parties shall allow reasonable access to the site for any of the consulting parties listed herein during the time the MOA is in effect."

This language will help to alleviate the concern of Mr. Holtzleiter, as stated in his May 29, 2009 e-mail, "We would ... like to see more eyes watching than just one archaeologist ..."

3. PCCC would like a paragraph added, to read in substance, "Any archaeological resources that are not human remains or funerary objects shall be available for inspection by the public." This opportunity will increase knowledge and appreciation of this very important site.

4. PCCC would like a paragraph added, to read in substance, "Best management practices to control runoff and erosion shall be applied during the activities stated in this agreement. This is particularly important for any activity on the hill just above the spring outlet. Furthermore, all significant trees shall be protected on the subject property."

5. The Draft MOA, paragraph V, should be amended to read in substance, "Consulting parties shall be notified, provided a copy, and allowed to comment on any proposed amendment to this Agreement."

6. The Draft MOA, paragraph VI, second subparagraph, should be amended to clarify that the language, "consulting parties", means "consulting parties as stated in this MOA." This language would include PCCC and other parties stated in the "consultation" portion of the "whereas" clauses.

7. The Draft MOA, paragraph VII, should include the phrase, "... whichever comes first" after the first sentence. This clarifies what appears to be the intent of the drafter.

8. PCCC suggests that a paragraph be added to read in substance, "Consulting parties shall include: (a) any of the 20 federally-recognized tribes that have been contacted; and (b) any other tribe that has been historically connected to Camp Coldwater Spring (including exiled Dakota communities), even if they have not been previously contacted, if they decide to be a consulting party at any time during the term of this Agreement by notifying the National Park Service in writing."

Finally, Preserve Camp Coldwater Coalition would like to convey its general position regarding this site: "Camp Coldwater Spring is a unique place to be honored. The water is a symbol of life to be upheld. This area has historically been a sacred, natural place for the Dakota and other Native American Tribes and still is a gathering place of community, centered around the life-giving properties of the water. This area deserves our special attention and protection."

On behalf of PCCC, I **thank** the National Park Service for allowing PCCC to comment on the draft MOA.

John Anfinson, National Park Service
June 5, 2009

Preserve Camp Coldwater Coalition looks forward to working together to achieve the best possible use and protection for this very special property.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Tom Casey", written in a cursive style.

Thomas E. Casey

TEC/rf

cc: Preserve Camp Coldwater Coalition
file

P.S. – Please provide my office with a copy of the signed MOA as soon as it is available.
Thank you.

APPENDIX I

COMMENT ANALYSIS REPORT COMMENTS RECEIVED ON THE DRAFT EIS

Appendix I

Comment Analysis Report – Comments Received on the Draft EIS

The draft environmental impact statement (DEIS) for the disposition of Bureau of Mines Property, Twin Cities Research Center Main Campus (the Center) was on public review between August 22 and November 27, 2006. In addition, four public meetings were conducted in an open house format at the Minnesota Valley National Wildlife Refuge Visitor Center, in Bloomington, Minnesota, where oral comments were solicited. A total of 509 responses on the DEIS were received via oral comments, written letters, e-mails, and Web responses. During the public comment period, these responses were entered into the Planning, Environment, and Public Comment (PEPC) system either from direct entry by the commenter, or uploading of emails, faxes, and hard copy letters by NPS staff. A *Comment Analysis Report – Comments Received on the Draft EIS* was prepared from the responses received on the Draft EIS.

The *Comment Analysis Report – Comments Received on the Draft EIS* is available online at <http://parkplanning.nps.gov>.

Using the PEPC search feature, select <Minnesota> and then select <Mississippi NR &RA>, to access the *Comment Analysis Report* and other Environmental Impact Statement reports and supporting documentation for the disposition of the Bureau of Mines property.

The National Park Service's PEPC site provides access to current plans, environmental impact analyses, and related documents on public review. The National Park Service prepares a variety of planning and environmental documents to help guide it in managing park resources. These documents can range from site-specific impact analyses on facility locations to broader park-wide plans for future use and management of a park.

APPENDIX J

MINNESOTA LAWS, STATUTES AND AGREEMENTS AFFECTING COLDWATER SPRING

Minnesota Session Laws

Search

Key: (1) language to be deleted (2) new language

2001, Regular Session

CHAPTER 101-S.F.No. 2049

An act relating to historic preservation; recognizing and extending the protection of the Minnesota Historic Sites Act and the Minnesota Field Archaeology Act to historic Camp Coldwater Springs; amending Minnesota Statutes 2000, section 138.73, subdivision 13.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [PROTECTION OF NATURAL FLOW.]

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 Springs. 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 Springs.

Sec. 2. Minnesota Statutes 2000, section 138.73, subdivision 13, is amended to read:

Subd. 13. Old Fort Snelling historic district in Hennepin county is located within the following boundaries: beginning at the intersection of the westerly Chicago, Milwaukee, St. Paul and Pacific Railroad (abandoned) right-of-way and the south boundary of Minnehaha state park extended (which is an extension of East 55th Street, Minneapolis); thence east along the extension of East 55th Street to the easterly county line of Hennepin county (center line of Mississippi river); thence southerly and easterly along said county line to the point of intersection of Hennepin, Ramsey and Dakota counties; thence easterly along the Ramsey-Dakota common boundary to intersection with the easterly line of Government Lot No. 1, Section 28, Township 28, north, range 23, west Dakota county; thence south on east line of said Government Lot No. 2, to intersection with the east-west quarter line of said Section 28; thence westerly on said east-west quarter line to the intersection with the easterly right-of-way line of Minnesota state highway No. 5; thence southerly on said right-of-way line to intersect with the metropolitan airports commission boundary line extended; thence northwesterly along last described boundary line to intersection with a line parallel to Old Trunk Highway 100 (Bloomington Road) and 600 feet northwesterly thereof, measured on a line perpendicular to said highway; thence northeasterly on last described parallel line to intersect with the northerly right-of-way line of state highway No. 55; thence westerly on said right-of-way line to intersect with the westerly right-of-way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad (abandoned); thence northerly on last described right-of-way line to the point of the beginning and there terminating. The tract herein described contains 580 acres more or less. This district aligns with the boundaries of the Fort Snelling Historic District in the National Register of Historic Places, as the description of that district is amended from time to time.

Sec. 3. [EFFECTIVE DATE.]

This act is effective the day following final enactment.

Presented to the governor May 11, 2001

Signed by the governor May 15, 2001, 1:55 p.m.

Minnesota Session Laws

Key: (1) ~~language to be deleted~~ (2) new language

2002, Regular Session

CHAPTER 364-S.F.No. 3298

Sec. 33. [PROTECTION OF NATURAL FLOW.]

A stipulation agreement entered into between the Minnehaha Creek watershed district and the Minnesota department of transportation concerning the controversy at issue in Court File No. MC01-07478 in the fourth judicial district of Hennepin county, has the force of law and supersedes the provisions of Laws 2001, chapter 101, section 1.

INTERAGENCY AGREEMENT
BETWEEN
MINNESOTA DEPARTMENT OF TRANSPORTATION AND
MINNEHAHA CREEK WATERSHED DISTRICT
FOR GROUNDWATER TRACER TEST

This Interagency Agreement (Agreement) is made between the State of Minnesota, acting by and through the Department of Transportation ("MnDOT"), and the Minnehaha Creek Watershed District ("MCWD"). This Agreement is based upon the following facts:

A. MCWD desires to perform a groundwater tracer test in groundwater in MnDOT right of way or lands otherwise under MnDOT control in, Hennepin County, Minnesota ("Site"). The Minnesota Department of Health has indicated no public health concern relating to the test in a letter dated April 20, 2001, attached as Exhibit 1 and made part of this Agreement. The MCWD has consulted with the following agencies/entities regarding the groundwater tracer test: Minnesota Pollution Control Agency, Department of Natural Resources, the State Historic Preservation Office, Mendota Mdewakanton Community, Shakopee Mdewakanton Community, the Preserve Camp Coldwater Coalition, the Federal Highway Administration, and the Bureau of Mines, U.S. Department of Interior. The MCWD has hired Kelton Barr Consulting, Inc. ("KBC") and Dr. Calvin Alexander to perform the dye trace study at the Site, and has retained an excavation contractor to perform any required excavation and backfill.

B. MCWD desires to enter upon MnDOT right of way in the area of the intersection of T.H. 55 and T.H. 62 at the location indicated on the map identified as Figure 1 in the April 22, 2001 KBC memorandum attached as Exhibit 2 to this Agreement and incorporated herein. This area is an active MnDOT construction project. The intersection of T.H. 55 and T.H. 62 is being reconstructed. MCWD desires to enter upon this state land for the purpose of introducing dye to the groundwater, and monitoring Camp Coldwater Spring for traces of the dye, as described in Exhibit 2. MCWD's plan is contained within Exhibit 2 and further described in the April 12, 2001 letter from Eric Evenson to Val Svensson attached as Exhibit 3 and incorporated herein. MCWD will use the results of this study to obtain additional information about the Site groundwater.

C. The position of the MCWD is that its authority at Minnesota Statutes §103D.335, subdivision 14, allows it to enter the area under MnDOT control and conduct the tracer test free from MnDOT conditions. MnDOT does not necessarily agree with that position. Without waiving their ability to assert their respective positions or their rights to act thereunder, MnDOT and the MCWD desires to cooperate in obtaining additional groundwater information of the Site and for that reason enter into this Agreement to clarify the arrangements agreed to for the MCWD's performance of the tracer test.

NOW THEREFORE, in consideration of the mutual promises of the parties contained in this Agreement, which both parties acknowledge as adequate and sufficient, the parties agree to the following.

1. MnDOT and the MCWD agree that the MCWD and its authorized consultants and contractors (collectively "MCWD") may enter upon the right of way at the Site as shown on the Site Map to complete a groundwater dye tracer study at the locations indicated in Exhibit 2. In the event that the locations indicated in Exhibit 2 are determined unsuitable for the test, Valerie Svensson, MnDOT Maintenance and Operations, and Kelton Barr, MCWD Consultant, will determine suitable alternative locations as soon as possible. MCWD shall limit its activities upon MnDOT property to those areas necessary for this work and for reasonable access to it.

2. This Agreement is an interagency agreement pursuant to Minnesota Statutes §16C.05, subdivision 2(b), and shall be effective when it has been executed by the Commissioner of Transportation or his delegate. MCWD shall not commence any activities on MnDOT property until MCWD has received or is advised by MnDOT of a fully executed copy of this Agreement. This Agreement shall remain in effect for 90 days from the date of full execution, and may only be extended by agreement of the parties under Paragraph 21.

3. Notwithstanding Paragraph 2, this Agreement shall be terminated upon written notice given by the Commissioner of Transportation, or a representative of the Department, if at any time its continuance will conflict with a public use of the landowner, under, or upon which it is granted. Such notice shall be effective and this Agreement shall terminate thirty (30) days after mailing of said notice addressed to MCWD at its last known address by certified mail. Upon termination, MnDOT will allow a reasonable time for MCWD to vacate the affected property. If the affected MnDOT property is sold or leased by MnDOT, this Agreement shall terminate on the date of sale or lease. Nothing in this paragraph, or elsewhere in this Agreement, shall constitute or be understood as a waiver by the MCWD of its right to enter and make surveys and investigations pursuant to Minnesota Statutes §103D.335, subdivision 14.

4. MCWD has retained one or more consultants or contractors to perform the investigative and sampling activities described in Paragraph B and will ensure that said consultants/contractors fully comply with the terms of this Agreement.

5. On execution of this Agreement and notice to and coordination with the MnDOT project engineer, the MCWD may enter the site to perform the work described in Paragraph B. MCWD shall permit a MnDOT representative to be present during the time any work is being performed. MnDOT represents that its schedule calls for no dewatering or other activity that could disturb the tracer test until at least May 15, 2001. At such time as MnDOT determines on what day it wishes to begin such dewatering, it shall notify the MCWD before commencing such activity. MnDOT agrees to meet with the MCWD in a timely manner so that the parties in good faith may discuss site activity in an effort to avoid the activity of one party interfering with the activity of the other.

Each party reserves its right to take other steps to preserve what it believes to be its authority with respect to site activity. MnDOT shall not direct its contractor to advance the date of dewatering and shall carefully assess any request of its contractor to do so in order to avoid a potential conflict between the parties if possible.

6. MCWD shall comply with all federal, state, and local laws, rules, regulations, and ordinances affecting MnDOT's property in any activities conducted on or near MnDOT property.

7. MCWD shall comply with all applicable safety regulations imposed by federal and state law, including but not limited to 29 C.F.R. Part 1910 and all subsequent revisions thereof.

8. MCWD shall perform all work and activities in accordance with accepted industry standards and shall take all reasonable precautions to prevent any damage to MnDOT land. MCWD shall not, without approval of the MnDOT project engineer, store or park any equipment on MnDOT property, except during the limited time when it is conducting work on the property as contemplated by the terms of this Agreement. MCWD shall pay all costs of actual damages associated with its work on MnDOT property under this Agreement.

9. It shall be the responsibility of MCWD to utilize the "Gopher State Once Call" excavation notice system as required under Minn. Stat. §216D (1996, as amended), prior to performing any excavation (phone 454-0002 in Twin Cities area or Toll Free 1-800-252-1166).

10. MCWD shall provide MnDOT with any data obtained or generated relating to the investigative work upon written request by MnDOT to MCWD. MCWD shall comply with the Minnesota Data Practices Act as it applies to all data created, gathered, or acquired under this Agreement.

11. After the work has been completed, and in no event later than the termination date of this Agreement, MCWD shall at its expense restore the MnDOT property to its original condition. MCWD shall remove all equipment, waste materials and debris relating to its activities from MnDOT property not later than the termination date of this Agreement.

12. MCWD shall backfill any excavation made at the Site as directed by the MnDOT Project Engineer.

13. MCWD shall defend, indemnify and hold the State of Minnesota and MnDOT harmless from any liability, claims, suits, actions, damages, and costs, that are brought, filed, assessed, or incurred by or against the State of Minnesota, MnDOT, or their agents or employees, for any injury, death, property loss, or damage which arises out of or relates to any activities performed by MCWD or its agents, assigns, consultants, or contractors in or about the MnDOT property, structures, or equipment (i) but only to

the extent such injury, death, property loss, or damages is caused by the aforementioned MCWD parties, and; (ii) except to the extent that such injury, death, property loss, or damage results from the negligence of the State, MnDOT, or their agents, employees, officials, contractors or other representatives.

MnDOT and the State of Minnesota shall defend, indemnify and hold the MCWD harmless from any liability, claims, suits, actions, damages, and costs, that are brought, filed, assessed, or incurred by or against the MCWD, or its officials, agents or employees for any injury, death, property loss, or damage which arises out of or relates to any activities performed by MnDOT or its officials, agents, assigns, Consultants, or contractors in or about the MnDOT property, structures, or equipment (i) but only to the extent such injury, death, property loss, or damages is caused by the aforementioned MnDOT and State of Minnesota parties, and; (ii) except to the extent that such injury, death, property loss, or damage results from the negligence of the MCWD or its agents, employees, officials, contractors or other representatives.

14. MCWD or its consultant or contractor shall at all times during the term of this Agreement carry commercial general liability insurance of not less than \$1 million combined single limit per occurrence for bodily injury and death, personal injury, and property damages, automobile liability insurance of not less than \$1 million combined single limit per accident for bodily injury and death, personal injury, and property damage, workers compensation and employers liability insurance in accordance with the statutory requirement of the State of Minnesota, and, for the excavation contractor, contractor's pollution liability insurance against claims or injuries to persons or damages to property that may arise from or in connection with the performance of the investigative or other corrective action associated with contamination at the Site no less than \$1 million per claim. Nothing herein shall constitute a waiver of any immunity with respect to any third party.

15. It is expressly understood and agreed that this Agreement does not create the relation of lessor and lessee. Rather, the Agreement establishes the terms by which MnDOT and the MCWD have arranged how the MCWD will conduct the tracer test described at Paragraph B. MCWD shall at all times be considered an independent third party, and not an employee or agent of the State. The MCWD's site activity shall not be understood as a joint venture between the parties. MnDOT shall not be understood to be a participating body in the activity and shall not be responsible for any costs of that activity.

16. All personal property in or about the MnDOT property belonging to or placed there by MCWD or any visitors shall be there at the sole risk of MCWD or such other person only, and the State shall not be liable for any theft or misappropriation thereof, nor for any loss or damage that may occur. MnDOT assumes no responsibility for security of MCWD property against theft, vandalism, or accidental loss of any kind whatsoever.

17. MCWD agrees that any traffic control in connection with the work under this Agreement shall be in accordance with the Minnesota Field Manual on Temporary Traffic Control Zone Layouts (January 2001.) ("Field Manual") MCWD agrees that there shall be no traffic detours in connection with the work under this Agreement. MCWD agrees that it shall be responsible for finishing and maintaining all traffic control devices in accordance with the Field Manual.

18. Except as indicated in Exhibit 2, MCWD shall not undertake any excavation in partially constructed roadbed areas on the Site. Exhibit 2 identifies the field locations where excavation work under this Agreement will take place. Because the Site is an active construction zone, MCWD will conduct its work so as to avoid hindering the movement of construction equipment at the Site.

19. The designated contact for purposes of administration of this Agreement for MnDOT is Keith Van Wagner, Metro Division, District Permits Coordinator. The designated contact for purposes of administration of this Agreement for MCWD is L. Eric Evenson, District Administrator. All notices relating to administration of the Agreement and not indicated otherwise in the Agreement shall be sent to the parties at the following addresses:

MnDOT	MnDOT Metro Division Attn: Keith Van Wagner 1500 West County Road B2 Roseville, MN 55113-3105 Telephone: (651) 582-1443
MCWD	Minnehaha Creek Watershed District Attn: L. Eric Evenson Gray Freshwater Center 2500 Shadywood Road Excelsior, MN 55331 Telephone: (952) 471-0590

Or at an address designated in writing by a party

20. MCWD shall not assign or transfer any rights or obligations under this Agreement without the prior written consent of MnDOT.


21. Any amendment to this Agreement must be made in writing and signed by an authorized representative of each party.

22. Consistent with this Agreement, the State may issue other licenses for the use of the same or overlapping areas of land. The MCWD reserves its right to assert its statutory authority under Minn. Stat. §103D.335, subd. 14 in order to prevent other activities from interfering with the groundwater tracer test.

23. This Agreement is binding on the parties and their respective successors, assigns, agents, consultants, and contractors

24. This Agreement will be governed by the laws of the State of Minnesota.

**MINNEHAHA CREEK
WATERSHED DISTRICT**

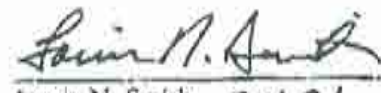

Pamela Blixt
President

Date: April 24, 2001


Eric Evenson
Administrator

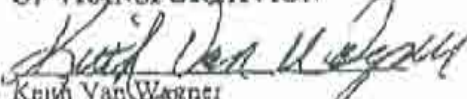
Date: 4/26/2001

APPROVED AS TO FORM
AND EXECUTION


Louisa N. Smith
Counsel, MCWD 5-4-01


Date:

**MINNESOTA DEPARTMENT
OF TRANSPORTATION**


Keith Van Wagner
District Permits Coordinator

Date: May 7, 2001

APPROVED AS TO FORM
AND EXECUTION


Lisa Crum
Assistant Attorney General

Date: 5/07/01

APPENDIX K

CORRESPONDENCE RECEIVED ON THE REQUEST FOR PROPOSALS TO TRANSFER CENTER PROPERTY

PROPOSAL CRITERIA 2006

Disposition of the Bureau of Mines Twin Cities Research Center

Main Campus (Center), Hennepin County, Minnesota

Any written proposals submitted from a University and/or government entity for acquisition of the Center will be required to address the following criteria:

1. How do you qualify as a government or university entity?
2. What is your capacity to manage the Center property? Describe any relevant property management experience or current property holdings that are comparable to the Center property or that demonstrate your capacity to manage the Center.
3. What are your proposed plans for the future use of the Center?
4. What resources do you have including but not limited to: personnel, financing, programs, etc. that would enable you to manage the Center property?
5. What plans do you have to address and protect the cultural, historic, and environmental aspects of

the Center, including Camp Coldwater and the spring?

6. Are you willing and able to offer land or other reimbursement in exchange for the Center and if so, what would you offer?

It should be noted that the National Park Service's receipt of any proposal does not reflect any decision regarding the proposed future use of the former Bureau of Mines property. Additionally, the National Park Service's purpose in requesting such proposals is to assist the Secretary of the Interior in considering possible alternative future available uses for the property. In the event that the Secretary of the Interior makes a decision regarding the future use of the property, the Secretary will fully evaluate proposals for ownership and management of the former Bureau of Mines property.



IN REPLY REFER TO:
FWS-AJWE-TCPO

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Twin Cities Field Office
4101 East 80th Street
Bloomington, Minnesota 55425-1665

NOV 27 2006

Appendix K

TAKE
PRIDE IN
AMERICA

Mr. Steven P. Johnson
Acting Superintendent
Mississippi National River and
Recreation Area
National Park Service
111 East Kellogg Blvd.
St. Paul, MN 55101-1256

received
11/29/06

Dear Mr. Johnson:

This responds to the Draft Environmental Impact Statement, Disposition of Bureau of Mines Property, Twin Cities Research Center Main Campus, Hennepin County, Minnesota (DEIS). The DEIS was prepared for the National Park Service (NPS) by Engineering-environmental Management, Inc. to address the disposition of the Federal property known at the U.S. Bureau of Mines (USBM) Property, Twin Cities Research Center Main Campus (Center). The U.S. Fish and Wildlife Service (FWS), in a 2004 Interagency Memorandum of Agreement with the NPS, agreed to act as a cooperating agency, assisting and providing comments to the NPS on the DEIS, and cooperating with the NPS to facilitate the decision process within the Department of the Interior (DOI) for the disposition of the USBM property and Center.

The USBM property consists of 27 acres near the intersection of State Highways 62 and 55 in Hennepin County, Minnesota. It lies entirely within the boundaries of the Mississippi National River and Recreation Area (MNRRA) as designated by the NPS and which has also been designated by the Governor of Minnesota as the Mississippi River Critical Area (MRCA). As a result the USBM property should be administered under provisions of law generally applicable to units of the National Park System. One of the major objectives of MRCA is to protect and preserve the biological and ecological functions of the corridor. The NPS is authorized by Congress to acquire the entire 27 acres of USBM property.

Three alternatives are identified in the DEIS in addition to the no-action alternative (Alternative A), which is to maintain the property in DOI ownership while having the FWS continue as the property caretaker. The three action alternatives include: (1)

based
11-27-06

transfer of the Center to a university or nonfederal government entity without conditions (Alternative B), (2) transfer of the Center to a university or nonfederal government entity with conditions (Alternative C), and (3) modification of the Center property prior to transfer or retention (either with or without conditions on the transfer) (Alternative D). Three land use scenarios that could be implemented by a recipient were applied in the DEIS to all three action alternatives, including: (1) open space/park, (2) interpretive/nature/history center, and (3) training center/office park. The NPS also conducted a cumulative impact analysis identifying past, present, or reasonably foreseeable projects in the area of the Center that, when combined with the potential impacts from the disposition of the Center, could have cumulative effects on the environment. The NPS has not selected a preferred alternative in the DEIS.

Under Alternative A, the Center would remain under DOI ownership and current maintenance practices at the Center would continue, not including rehabilitation, renovation, or stabilization of the structures, which would continue to deteriorate. This assumes that the DOI would not remove any of the buildings and restore the native vegetation. We question this assumption. Even without removal of the buildings, some areas of the Center may be appropriate for restoration of natural plant communities, should funding become available.

Under Alternative B, the United States would transfer the USBM property to a university or nonfederal government entity without conditions imposed on the future use of the Center or the land, except for restrictions imposed by applicable laws and regulations. In our opinion, one significant shortfall of this option is the inability to require the restoration of native vegetation, even though the property lies within MNRRA and MCRA boundaries.

Under Alternative C, the DEIS provides that the university or nonfederal governmental owner could be required to restore the native vegetation, remove existing non-native vegetation, and/or control the spread of invasive species. We recommend that should this alternative be selected, the future owner must be required to restore native vegetation, remove non-native vegetation, and control the spread of exotic vegetation including common buckthorn.

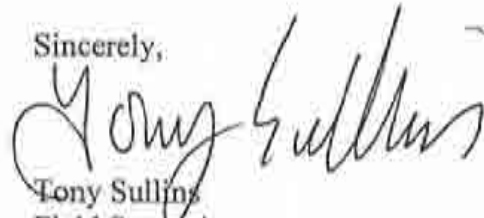
Under Alternative D, DOI would manage and bear the cost of modification for all or a part of the land, structures, or other improvements prior to conveyance or retention of the Center. Again, it was not explicitly stated in the DEIS that this alternative require the restoration of native vegetation, removal of existing non-native vegetation, and/or control

of the spread of exotic vegetation. Should this alternative be selected, we recommend that DOI be required to restore native vegetation, remove non-native vegetation, and control the spread of exotic vegetation including common buckthorn.

The FWS currently uses Building 11, which has 14,000 square feet, for storage of important equipment used in biological field work. Various federal, state, and county partners have indicated interest in using this building for similar purposes. If FWS loses the use of Building 11, we will be hard-pressed to locate and acquire a suitable replacement facility. Such space, even if available, would be very costly to lease or purchase. Building 11 is located on the periphery of the USBM property, and is conveniently accessed by an existing road skirting the southwestern edge of the property. The building itself lies near a busy highway, and is situated between the highway and Camp Coldwater Spring, such as to arguably provide some level of noise abatement for the spring site. Thus, we recommend consideration be given to retaining Building 11 and its existing access road in federal ownership, for continued use by FWS and its partners. In the attached January 17, 2006 letter to Engineering-environmental Management, Inc., Innovar Environmental, Inc. estimated that the cost of removing Building 11 to be \$40,917. The estimated cost of removing all the buildings and adjacent structures was \$1.08 million.

We appreciate the opportunity to comment and look forward to working with you in the future. If you have questions regarding our comments, please call Nick Rowse of my staff at (612) 725-3548, extension 210 or by email at nick_rowse@fws.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Sullins", written in a cursive style.

Tony Sullins
Field Supervisor

Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-4037



received
10-6-06

October 4, 2006

Kim Burns
Mississippi National River and Recreation Area
111 Kellogg Blvd. East
St. Paul, MN 55101-1256

Dear Ms. Burns:

There has been much discussion in recent years regarding the future of the former Bureau of Mines property, currently managed by the National Park Service. It is clear that the land is an excellent natural resource asset to the community. The Department of Natural Resources (DNR), however, has been facing a challenging budgetary climate, which we anticipate will continue into the foreseeable future. As a consequence, the DNR 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 Phase 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 U.S. 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 passively 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.

In addition to this correspondence, the DNR is currently reviewing the Draft Environmental Impact Statement for the disposition of this property, and may submit



Burns
October 4, 2004
page 2

technical comments by the October 24, 2006 deadline. If you have any questions, please feel free to contact me at 651-259-5027.

Sincerely,



Laurie H. Martinson
Acting Assistant Commissioner

c: US Representative Martin Sabo
Mark Holsten, DNR Deputy Commissioner
Courtland Nelson, DNR State Parks Director
Lee Pfannmuller, DNR Ecological Services Director
Bob Meier, DNR Legislative Director



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Ste. 105
St. Paul, Minnesota 55101-1256

March 19, 2007

L14(MISS-BOM)

Courtland Nelson
Director, Division of Parks and Recreation
Minnesota Department of Natural Resources
500 Lafayette Road
Saint Paul, Minnesota 55155-4039

Dear Mr. Nelson:

On October 4, 2006, we received a letter from the Minnesota Department of Natural Resources (DNR) stating that it would "consider accepting" the Bureau of Mines property currently held by the Department of the Interior. Your statement is ambiguous and at this time we need to confirm whether or not the DNR would indeed accept ownership of the property if offered by the Department of the Interior.

We understand that the DNR has the following caveats:

1. The property transfer from the Department of the Interior to the State of Minnesota would be at no cost to the state.
2. All existing buildings would 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 would be completed for the property and all hazardous materials removed or remediated.
4. An assessment of cultural resources would be completed for the site and any cultural resource management activities required after the property transfer would be identified. This step would include consultation with the Minnesota Indian Affairs Council and any interested tribes.
5. If the land became part of Fort Snelling State Park, the DNR Division Parks and Recreation would intend to engage in passive management of the natural and cultural resources and not develop new facilities on the property, and if public vehicles required access to the property, they would need state park vehicle permits.

We need to note that, depending upon the outcome of the federal cultural resources process, Coldwater Spring and reservoir might require some ongoing maintenance.

If the Department of the Interior met the above caveats, would the DNR be willing to acquire the Bureau of Mines Property? We do want to make it clear that the DNR should not take this request for confirmation of its interest in the property as an indication on our part that the DNR will receive the property. The Secretary of the Interior will make that decision.

If you have any questions concerning this letter or the Bureau of Mines property, please call me at 651-290-3030, ext. 222.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Labovitz". The signature is fluid and cursive, with a large, stylized "P" and "L".

Paul Labovitz
Superintendent

cc:
Harvey Blank
Al Kashinski
Nick Chevance



Minnesota Department of Natural Resources

500 Lafayette Road
St. Paul, Minnesota 55155-40

August 30, 2007

Paul Labovitz
Superintendent
Mississippi National River and Recreation Area
111 Kellogg Blvd. East
Suite 105
St. Paul, MN 55101-1256

Dear Paul:

With regards to the Bureau of Mines property discussed in your letter of March 19, 2007 and phone calls over the last few weeks, this letter is to confirm that the Department of Natural Resources has no interest in acquiring and managing the property.

After more internal discussions involving the Commissioner's Office, it was concluded that we would not be the best agency to manage the land and facilities given the location of the property and other DNR issues that we are currently dealing with on the Upper Bluff. I believe that these concerns were relayed to you earlier this summer by Laurie Martinson.

If you have any further need for clarification, please contact me at (651) 259-5591. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Courtland Nelson', with a long horizontal flourish extending to the right.

Courtland Nelson, Director
DIVISION OF PARKS AND RECREATION

DNR Information: 651-296-6137 • 1-888-646-6367 • TTY: 651-296-5484 • 1-800-657-3929

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Lower Sioux Indian Community

P.O. Box 308 • 39527 Res. Hwy. 1
Morton, Minnesota 56270

October 13, 2006



Kim Bernes
Department of Interior
National Park Service
Mississippi National River and Recreation Area
111 E. Kellogg Blvd.
Suite 105
St. Paul, MN 55101-1256

Dear Kim,

On the October 2, 2006, I gave you a letter regarding Lower Sioux Indian Community Resolution 06-144 concerning the U.S. Bureau of Mines property. Since that time, the resolution has been amended. I am attaching for your review, the last page of Resolution 06-144 signed by the Council and the Amended Resolution 06-146 also signed by the Council.

Thank you for your information and if you need to get a hold of me, please feel free to call me on my work cell phone (507) 430-3625.

Respectfully,

Sheldon Peters Wolfchild
President



Lower Sioux Indian Community

P.O. Box 308 • 39527 Res. Hwy. 1
Morton, Minnesota 56270

LOWER SIOUX INDIAN COMMUNITY AMENDMENT TO RESOLUTION NO. 06-146

COLDWATER SPRINGS: THE FORMER U.S. BUREAU OF MINES
TWIN CITIES RESEARCH CENTER PROPERTY, HENNEPIN COUNTY, MINNESOTA

WHEREAS, The Lower Sioux Indian Community is a duly organized and federally-recognized Indian Tribe under 25 U.S.C. §476, and is governed by the terms of a Constitution and By-Laws originally adopted by the Tribal Members on May 16, 1936, and approved by the Secretary of the Interior on April 23, 1936; and,

WHEREAS, pursuant to said Constitution and Bylaws, the Community Council is the governing body of the Lower Sioux Indian Community; and

WHEREAS, the Community Council has the authority, as enumerated in ARTICLE V – POWERS, including but not limited to: (a) To negotiate with the Federal, State, and local Governments on behalf of the Community, and to advise and consult with the representatives of the Interior Department ...; (b) To employ counsel for the protection and advancement of the rights of the Community and its members ...; (c) To approve or veto any sale, disposition, lease, or encumbrance of community lands, interests in lands, or other community assets; (d) To advise the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the Community prior to the submission of such estimates to the Bureau of the Budget and to Congress; (e) To make assignments of community land to members of the Community in conformity with Article IX of this Constitution; (f) To manage all economic affairs and enterprises of the Community in accordance with the terms of a charter ...; (g) To appropriate for public purposes of the Lower Sioux Indian Community available funds within the exclusive control of the Community; (h) To levy assessments upon members of the Community for the use of Community property and privileges, and to permit the performance of reservation labor in lieu thereof, and to levy; (i) To safeguard and promote the peace, safety, morals, and general welfare of the Community by regulating the conduct of trade and the use and disposition of property upon the reservation ...; (j) To establish ordinances ...; (k) To regulate the manner of taking nominations for Community officers and of holding community elections

...; (l) To adopt resolutions regulating the procedure of the Community Council itself and of other Community agencies and community officials; (m) To encourage and foster the arts, crafts, traditions, and culture of the Mdewakanton Sioux Indians of Minnesota; (n) To charter subordinate organizations for economic purposes and to regulate the activities of all such organizations ...; (o) To protect and preserve the property, wildlife and natural resources of the Community; (p) To delegate to subordinate boards, or community officials, or to cooperative associations ...; (q) To select delegates to sit in the annual conference of the Minnesota Mdewakanton Sioux Indians and in the National Council of the entire Sioux Nation; and,

WHEREAS, Article VI, Clause 2 of the United States Constitution provides that "all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land;" and

WHEREAS, In 1805 Lieutenant Zebulon Pike met at Little Crow's Kaposia Village to initiate negotiations with certain chiefs of the Mdewakanton band for two (2) tracts of land intended for the establishment of military outposts; and

WHEREAS, The outcome of the negotiations, the Treaty with the Sioux Nation of Indians – 1805, was formally executed by Z.M. Pike, Le Petit Corbeau and Way Aga Enogee and reads as follows:

Conference Between the United States of America and the Sioux Nation of Indians.

Whereas, a conference held between the United States of America and the Sioux Nation of Indians, Lieut. Z. M. Pike, of the Army of the United States, and the chiefs and warriors of the said tribe, have agreed to the following articles, which when ratified and approved of by the proper authority, shall be binding on both parties:

ARTICLE 1. That the Sioux Nation grants unto the United States for the purpose of the establishment of military posts, nine miles square at the mouth of the river St. Croix, also from below the confluence of the Mississippi and St. Peters, up the Mississippi, to include the falls of St. Anthony, extending nine miles on each side of the river. That the Sioux Nation grants to the United States, the full sovereignty and power over said districts forever, without any let or hindrance whatsoever.

ARTICLE 2. That in consideration of the above grants the United States shall, prior to taking possession thereof, pay to the Sioux two thousand dollars, or deliver the value thereof in such goods and merchandise as they shall choose.

ARTICLE 3. The United States promise on their part to permit the Sioux to pass, repass, hunt or make other uses of the said districts, as they have formerly done, without any other exception, but those specified in article first.

In testimony hereof, we, the undersigned, have hereunto set our hands and seals, at the mouth of the river St. Peters' on the 23rd day of September, one thousand eight hundred and five; and

- WHEREAS, In his compilation of all United States treaties with the Indian Nations, Charles J. Kappler added the following footnote: "This treaty does not appear among those printed in the United States Statutes at Large. It was, however, submitted by the President to the Senate, March 29, 1808"; and
- WHEREAS, In this form the Senate, on the 16th of April, 1808, advised and consented to its ratification by a unanimous vote; and
- WHEREAS, The 1805 Treaty is a political agreement entered into between the United States government and the Mdewakantons, and has lost none of the force it had when first made. Hence, it continues to be fully in effect as a political agreement which must be maintained by both parties; and
- WHEREAS, Although treaties are considered the supreme law of the land, the United States, either through design or sheer oversight has failed to satisfy its treaty obligations as enumerated in the Treaty of 1805; and
- WHEREAS, the American Indian Religious Freedom Act of 1978 (42 USC 1996) states that henceforth it shall be the policy of the United States to protect and preserve for American Indians their inherent right to freedom to believe, express, and exercise the traditional religions of the American Indians, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.
- WHEREAS, the President of the United States signed an Executive Order on May 24, 1996 to protect and preserve Indian religious practices;
- WHEREAS, Coldwater Springs and the land that surrounds it, is the ancestral land of the MN. Mdewakanton and has been used for traditional, spiritual, religious and cultural ceremonies by the MN. Mdewakanton and their hereditary descendents for thousands of years and therefore it is deemed legal ancestral property of the Lower Sioux Indian Community; and

WHEREAS, the Lower Sioux Indian Community is concerned with the effective management and control by Indian peoples over cultural resources on federal lands, and

WHEREAS, the Lower Sioux Indian Community publicly declares that Coldwater Springs and the land surrounding it is a usual and accustomed place for the exercise of fundamental religious, spiritual and cultural purposes.

WHEREAS, The United States National Park Service has provided public notice that it will consider applications to transfer ownership of certain Department of Interior lands, including Coldwater Spring, to an appropriate Indian tribe, governmental unit or University.

WHEREAS, The Coldwater Spring is a sacred spring for the Dakota people. The spring is the dwelling place of underwater spirit "Unktehi" and encompasses part of the center of the Earth for the Dakota people.

WHEREAS, The Water Spirit "Unktehi" at Coldwater Spring is the name given to the sacred spring by Dakota Spiritual Healers. The water of Coldwater Spring has been traditionally utilized for healing of Dakota people and others including Father Hennepin, whom Hennepin County is named after.

NOW THEREFORE BE IT RESOLVED, The Community Council hereby declares that Coldwater Spring and the land that surrounds it, is defined in the Treaty with the Sioux Nation of Indians-1805 and is part of the ancestral lands of the MN. Mdewakanton people.

NOW THEREFORE BE IT RESOLVED, The Lower Sioux Indian Community demands that the United States uphold their "promise"...to permit the Sioux to pass, repass, hunt or make other uses of the said districts, as they have formerly done, without any other exception..." and recognize the cultural nexus that the Lower Sioux Indian Community has with Coldwater Springs and the land that surrounds it.

NOW THEREFORE BE IT RESOLVED, The Community Council hereby requests that the United States restore to it's natural state-Coldwater Springs and the land that surrounds it *and* recognize the cultural and religious significance to the Lower Sioux Indian Community and that the Coldwater Springs site be protected as a traditional cultural property.

NOW THEREFORE BE IT FINALLY RESOLVED, The Community Council does hereby request the United States Department of Interior to transfer Department of Interior lands constituting the former Bureau of Mines property inclusive of Coldwater Spring to the Lower Sioux Indian Community, and that the Lower

Sioux Community does assert its commitment to maintain the property in a natural state as to Coldwater Spring and to permit access to it by all interested parties, including Indian tribes for ceremonial, cultural, and educational purposes.

CERTIFICATION

I certify that Resolution No. 06-146 WAS DULY ADOPTED BY THE Community Council of the Lower Sioux Indian Community at a meeting held on the 13 day of October, 2006, a quorum being present by a vote of 3 in favor, 0 opposed, and 0 abstaining.



Shannon Blue, President



Jody Goodthunder, Secretary




Loren Johnson, Treasurer

This is the first Resolution signed by Council on 10-02-06, before the new amendment.

CERTIFICATION

I certify that Resolution No. 06-174 WAS DULY ADOPTED BY THE Community Council of the Lower Sioux Indian Community at a meeting held on the 2nd day of October, 2006, a quorum being present by a vote of 3 in favor, 0 opposed, and 0 abstaining.


Sheldon Peters Wolfchild, President


Scott Adolphson, Vice President


Jody Goodthunder, Asst. Secretary/Treasurer



Lower Sioux Indian Community

P.O. Box 308 • 39527 Res. Hwy. 1
Morton, Minnesota 56270

received
1 NOV. 2006
hand delivered by
Joe Samangia

October 31, 2006

Kim Bernes
Mississippi National River and Recreation Area
National Park Service, Department of the Interior
111 E. Kellogg Blvd, Suite 105
Saint Paul, MN 55101-1256

Subject: Transfer of former Bureau of Mines property from the Department of the Interior to the Lower Sioux Indian Community; request for

Reference: Lower Sioux Indian Community Amended Resolution 06-146; "Coldwater Springs: The Former U.S. Bureau of Mines Twin Cities Research Center Property, Hennepin County, Minnesota."

Dear Ms. Bernes:

On October 13, 2006, we forwarded a copy of the Lower Sioux Indian Community's Amended Resolution 06-146, referenced above, to address a transfer of ownership of the subject property from the Government to the Lower Sioux Indian Community.

We have subsequently been informed that you were diligent in honoring our resolution by forwarding a copy of our letter to the Department of the Interior. Thank you for your prompt attention to our concerns about the disposition of the subject property. Your sensitivity to the subject matter is greatly appreciated.

In our cover letter dated October 13, 2006, we omitted making a specific request for a response and/or for a call for action by the Department of the Interior concerning our referenced Resolution, even though there were specific requests to that effect contained within the body of that Resolution. Accordingly, we wish to correct our oversight by following up on our letter of October 13 with the following, excerpted from our Amended Resolution:

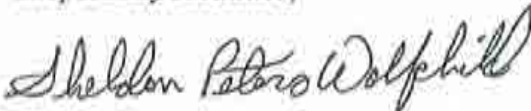
The Lower Sioux Indian Community hereby declares that Coldwater Springs and the land that surrounds it, is defined in the Treaty with the Sioux Nation of Indians [the 1805 Treaty between the U. S. Government and the Minnesota Mdewakaton people]. Hence, the Lower Sioux Indian Community demands that the United States uphold their "promise" ... "to permit the Sioux to pass, repass, hunt or make other uses of the said districts, as they have formerly done, without any other exception ..." and recognize the cultural nexus that the Lower Sioux Indian Community has with Coldwater Springs and the land that surrounds it.

Accordingly, the Lower Sioux Indian Community Council hereby requests that the United States restore to its natural state, Coldwater Springs and the land that surrounds it, recognize the cultural and religious significance to the Lower Sioux Indian Community, and that the Coldwater Springs site be protected as a [Native American Indian] traditional cultural property.

The Lower Sioux Community Council further requests the United States Department of the Interior to transfer Department of the Interior lands constituting the former Bureau of Mines property, inclusive of Coldwater Springs, to the Lower Sioux Indian Community, and that the Lower Sioux Indian Community does assert its commitment to maintain the [cited] property to permit access to it by all interested parties, including Indian tribes for ceremonial, cultural, and educational purposes.

Again, thank you for your cooperation and assistance concerning this matter that is of utmost importance to our community and to all Native Americans with ancestral ties to the surrounding area. If you wish to contact me in regards to this request, please feel free to call me at (507) 430-3626.

Respectfully submitted,

A handwritten signature in cursive script that reads "Sheldon Peters Wolfchild".

Sheldon Peters Wolfchild
for the Lower Sioux Council

Attachment: Copy of the Lower Sioux Community Council's Amended Resolution 06-146
cc: Files

Audrey Bennett
President

Johnny Johnson
Secretary



Victoria Winfrey
Vice President

Alan W. Childs II
Treasurer

Ronald Johnson
Assistant Secretary/Treasurer

November 27, 2006

United States Department of the Interior
National Parks Service
Mississippi National River and Recreation Area
111 East Kellogg Blvd., Suite 105
Saint Paul, Minnesota 55101-1256

Re: Draft Environmental Impact Statement for Disposition of Bureau of Mines Property
Twin Cities Research Center Main Campus, Hennepin County, Minnesota

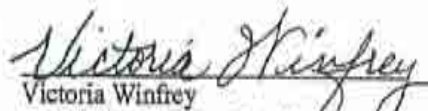
Greetings:

Enclosed please find the Prairie Island Indian Community's Comments to the Draft Environmental Impact Statement for Disposition of Bureau of Mines Property Twin Cities Research Center Main Campus, Hennepin County, Minnesota.

If you have any questions, please contact Philip Mahowald, Prairie Island Indian Community General Counsel, at (651) 267-4006.

Sincerely,


Audrey Bennett
Tribal Council President


Victoria Winfrey
Tribal Council Vice President


Johnny Johnson
Tribal Council Secretary


Alan Childs II
Tribal Council Treasurer


Ronald Johnson
Tribal Council Assistant Secretary/Treasurer

**COMMENTS BY PRAIRIE ISLAND INDIAN COMMUNITY,
A FEDERALLY RECOGNIZED INDIAN TRIBE HAVING A
GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH
THE UNITED STATES OF AMERICA,
TO THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
OF THE NATIONAL PARK SERVICE REGARDING DISPOSITION
OF THE BUREAU OF MINES TWIN CITIES RESEARCH CENTER
MAIN CAMPUS, HENNEPIN COUNTY, MINNESOTA**

Thank you for including tribal entities in the process to determine the disposition of the Bureau of Mines Twin Cities Center ("Center"). In that regard we have designated representatives to assist in this process on behalf of Prairie Island Indian Community. You have appropriately included some references to our representatives and their positions in the Draft Environmental Impact Statement dated July 2006 ("Draft EIS"). Mindful of the importance of this property to all Dakota peoples of Minnesota, of which the Prairie Island Indian Community is a federally recognized representative part, we do wish to assert our position as an integral party in the processes for determinations and ultimately, the conveyance, of this property. It is in the context of the historical and cultural significance of the lands upon which the Center is located and the sacred associations our people have with the spring water that flows within the property, that we provide the following comments to the Draft EIS.

COMMENT #1: CLARIFICATION OF SIGNIFICANCE OF THE CENTER SITE TO NATIVE AMERICANS:

It is noted there are several instances within the Center documents which indicate that the Center probably does not or will not qualify for protective benefits under the Indian Sacred Sites protective legislation. While it is true that the use of land for tribal religious ceremonies may make a site "sacred," land may be considered traditional cultural property if, as in the instant case, the spring water flowing from and taken from the land is utilized by native peoples for use in religious ceremonies, even though those religious ceremonies may be conducted off the property and upon other land which is considered "sacred."¹ Reliance upon preliminary findings that there is little or no evidence that the land was a defined location for tribal religious ceremonies fails to give credence to the real native religious element at this site—the sacred spring water. This spring water, water which comes from the earth, water which has been purified by the earth, is the significant native religious element at this site and what in turn makes the site itself historically and culturally significant and traditional cultural property. It is this

¹ The spring waters have been used in different religious ceremonies or in different ways by different Dakota bands over the years. Each of the various uses, as passed down through the oral tradition of particular bands, is a valid expression of that particular band's tradition, and entitled to deference and respect. In other words, no one Dakota band or community can claim exclusivity of the uses of the spring waters in traditional religious ceremonies, and all of the varied traditions and beliefs about the sacred nature of the spring water, the medicinal and religious uses of the water, and the importance of the lands in the immediate vicinity are likewise entitled to deference and respect, even though differences might exist within the respective Dakota traditions.

water that the tribal people recognize as sacred and which is utilized for their traditional religious ceremonies and for making medicines. This "sacred water" needs to be preserved and that means preserving the site where the water is located. Without the continuation of the religious ceremonies of the Dakota peoples which have been practiced throughout their history, these ceremonies are likely to further dissipate or even disappear.

COMMENT #2: RESTATEMENT OF JOINT TRIBAL CONVEYANCE OF PROPERTY OR, AT THE LEAST, CONTINUED NATIVE ACCESS:

In the recent past, the Center, and its surrounding property with historical and cultural significance to the native peoples of the area, has been the subject of several invasive efforts, including this dispositional effort regarding the Center. We believe that the original Native American occupiers and owners of the property should at this time be given due consideration for the disposition of the Center property. The federally recognized tribes affected by the property are easily ascertainable. Their status of governmental entities with government-to-government relationships with the United States of American is well documented. Their right for notice, information and consideration as any other governmental body is federal law. Their governmental status should not be disregarded by giving more consideration to other governmental bodies and their priorities should not be disregarded in favor of private or non-profit entities.

In this regard, the federally recognized tribes now representing the Dakota people whose ancestors allowed the United States government to use the Center should now be given due consideration for the return of the property. It has always and continuously been recognized as Dakota property. If not in the sense of fee ownership, always in the sense of right of use. It is of significance, that in Article 3 of the Pike Treaty of 1805 which granted the land on which the Center is located to the United States, the rights of the Dakota were recognized by stating: "The United States promises, on their part, to permit Sioux to pass, repass, hunt or make other uses of the said districts, as they have formerly done, without any other exception but those specified in the article first." There is also some evidence in the Dakota's history indicating that the Dakota people and their Chiefs did not really agree to this conveyance in the first place. However, in any event, it is clearly evident that the United States recognized the tribal right to continued use of the property, and permitted access to the Coldwater Spring throughout the duration of the United States' ownership and occupation of the property. Even though some may assert that even this treaty right was abrogated by unwarranted and wrongful congressional actions, that did not totally take away the access to the site and use by native peoples of the sacred water though such access and use has been severely limited during the most recent governmental occupation. Now with the use of the property by the United States no longer necessary or desirable, it is only right that the property should be returned to those who have the most significant existing and continuing rights to use of the site, the native peoples of the region.

COMMENT #2: FAILURE TO INCLUDE FEDERALLY RECOGNIZED TRIBES AS ELIGIBLE ENTITIES AS GRANTEES OF PROPERTY:

As part of the Draft Environmental Impact Statement, several alternatives for disposition of the Bureau of Mines Property were included. However, the federally recognized Indian tribes did not receive consideration at all as a dispositional alternative. Based upon the location of the Center within original native lands, such lands being ceded to the United States by treaty and with such treaty providing a continuing right of access and use by Native Americans, the federally recognized tribes neighboring the site are the most logical alternative for disposition of the site. It appears clearly that the Dakota's access and use to the site was always a consideration for the United States. It is therefore only common sense that when the opportunity arises, as it has, for the United States to dispose of the site as no longer needed for use by the United States, the federally recognized Dakota tribes are the best alternative for disposition of the site. As federally recognized government's with government-to-government relationships representing the native peoples whose history and culture is most predominate to the interests sought to be protected, disposition of the property to the tribes is the best alternative for the site.

Alternative A is a no-action alternative which would continue existing conditions for the Center including low intensity visitor use. This is assumed to include visitor use by Native Americans. As previously stated, the waters from Camp Coldwater Springs are associated with Dakota and other Native American peoples sacred ceremonies. Native peoples have not been pleased with this very limited access to the springs. It most certainly does not coincide with the unfettered use granted in the Pike Treaty. Therefore, this alternative is not acceptable.

Alternative B is conveyance to a university or nonfederal government entity with no conditions imposed on future use. Except for a Minnesota state recipient, and even then with only limited restrictions on use, this alternative leaves available the opportunity for use of the property in a manner which is detrimental to the historical, cultural and designated rights of the Native Americans. This alternative is not acceptable.

Alternative C is conveyance to a university or nonfederal government entity with conditions. Even with conditions such as conservation easements, partial retention or other efforts to maintain the historical, cultural and natural resources of the site, this is not an acceptable alternative. Placing the property in the hands of non-Native Americans affords little comfort that the best intentions set forth in the conditions, would be carried out as fully intended. Certainly, those conditions, conditions which all deal with Native American interests in the site, could be most adequately fulfilled by the federally recognized tribes themselves and whose historical, cultural and religious connections to the site any considered conditions would address.

Alternative D is leaving the site in federal management with modifications to the site and then with subsequent conveyance to a university or nonfederal government entity. This conveyance could be with or without conditions. While the modifications are a nice enticement for this alternative, they are not complete unless the property is conveyed to the Prairie Island Indian Community individually or jointly with other federally recognized Mdewakanton Dakota tribes, for the reasons above stated.

Being aware of the kind of minimal care and limitations on access and use of the site at the present time, the Prairie Island Indian Community as a representative of some of the Dakota peoples with a historical, cultural and religious connection to the site, would respectfully request an additional alternative be considered involving conveyance to the Prairie Island Indian Community individually or jointly with the other federally recognized Mdewakanton Dakota tribes. This would not include non-profit organizations or other entities who may label themselves as interested or connected to Native American interests. None are as interested or connected as the tribes. As federally recognized tribes, these entities, have the resources, though limited in some respects, and the desire to seek full use and enjoyment of the original treaty provisions and stand in a position to develop, preserve and protect the site for the use and access that has been the stated intention of the United States government. The development of the site as a Dakota historical and cultural center open to the general public is a direction our Community is certainly willing to entertain and promote, individually or jointly. Returning most or all of the site to its original, pre-treaty and pre-Fort Snelling condition as a Dakota historical and cultural center would compliment the existing historical and recreational uses adjacent lands, and indeed provide the final piece to a cultural, historical and recreational corridor running from Minnehaha Falls Park to Historic Fort Snelling in the heart of the Dakota tribes' former lands, but also the heart of the Twin Cities metropolitan area. Such an additional alternative should be developed in consultation with the federally recognized tribes nearest to the Center property.

Please be aware that several of the detail matters set forth in the EIS to which comment could have been made have been set aside for the moment in favor of what is considered the major concern for comment, that the federally recognized Mdewakanton Dakota tribes have not been given due consideration as a possible grantee for protection of their cultural, historical and religious connections to the Center. Hoping that such an alternative will become a viable alternative through consultation with the tribes, this tribal entity reserves the right to comment further on such specific detail matters.



Shakopee Mdewakanton Sioux Community

2330 SIOUX TRAIL NW • PRIOR LAKE, MINNESOTA 55372
TRIBAL OFFICE: 952•445-8900 • FAX: 952•445-8906

OFFICERS

Stanley R. Crooks
Chairman

Glynn A. Crooks
Vice Chairman

Keith B. Anderson
Secretary/Treasurer

November 27, 2006

received
11/29/06

Steven P. Johnson, Acting Superintendent
Mississippi National River and Recreation Area
National Park Service
United States Department of Interior
111 Kellogg Boulevard East, Suite #105
St. Paul, Minnesota 55101

**RE: *Proposal to Acquire Bureau of Mines Twin Cities
Research Center Main Campus***

Dear Acting Superintendent Johnson:

I am writing on behalf of the Shakopee Mdewakanton Sioux Community and my fellow Business Council members Vice Chairman Glynn Crooks and Secretary/Treasurer Keith Anderson. The Shakopee Mdewakanton Sioux Community ("SMSC") is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934 ("IRA") and its Constitution.

Until approximately two hundred years ago, the Mdewakanton and other Dakota people resided in the area and otherwise utilized the land now known as the Bureau of Mines Twin Cities Research Center Main Campus ("Center"). The Center is located in a geographic region Dakota bands considered their territory for use and sustenance. The SMSC, for itself and on behalf of future generations of Dakota people, seeks to repatriate this land to its care. The SMSC intends to restore the Center to its natural ecological condition, and to construct interpretive facilities.

The Center, located proximate to the convergence of the Minnesota and Mississippi Rivers, is host to Coldwater Spring. The Center area and Coldwater Spring are of great historical and cultural significance to the Shakopee Mdewakanton Sioux Community and all Dakota people.

SMSC intends to request that, after the Federal government's demolition and removal of all buildings at the Center and the removal and remediation of all hazardous materials and conditions thereon, the Center be conveyed to the SMSC without condition or impediment;

otherwise held in trust for the benefit of the SMSC. Attached hereto is the SMSC's first attempt to provide specificity to a proposal regarding this effort. See, Exhibit A.

In specific response to the National Park Service *Proposal Criteria 2006, Disposition of the Bureau of Mines Twin Cities Research Center Main Campus (Center), Hennepin County, Minnesota*, please find the following information:

1. How do you qualify as a government or university entity?

The SMSC is a federally recognized Indian tribe organized under the IRA. Its Constitution has been approved by the Department of Interior.

2. What is your capacity to manage the Center property? Describe any relevant property management experience or current property holdings that are comparable to the Center property or that demonstrate your capacity to manage the Center.

The SMSC currently manages over 2,500 acres of tribal lands located in Prior Lake, and Shakopee, Minnesota. These lands are governed pursuant to tribal ordinances and regulations relating to land use, zoning, building codes and permits, construction site management, grading, stormwater management, and the health, safety and welfare of those who live on or visit these properties.

Federal environmental laws and regulations apply to tribal land including, but not limited to, the Clean Air Act, Clean Water Act, Comprehensive Environmental Response, Compensation and Liability Act, Endangered Species Act, Resource Conservation and Recovery Act, Safe Drinking Water Act and the National Environmental Policy Act. The SMSC responsibly manages its property in compliance with these laws and regulations. In fact, the SMSC strives successfully to provide a higher level of environmental protection than required by these laws and regulations.

Please note that the Federal Aviation Act would continue to apply to the Center in the event of its conveyance to the SMSC. This means the use of Runway 4-22 at Minneapolis-St. Paul International Airport would continue unimpaired, because the land use proscriptions arising from the federal Runway Protection Zone, which extends over a portion of the Center, and the Federal airspace height restrictions, which extend over the entire Center, would continue to apply the Center.

Also, in the event of the transfer of the Center to the SMSC, the Indian Gaming Regulatory Act would apply to the transferred property and the laws and regulations thereunder would therefore prohibit a gaming facility on the Center property.

The SMSC also successfully operates several tribal enterprises including casinos, a hotel, a golf course, retail merchandising outlets, a health club, a day care center, a recreational vehicle park and related governmental departments in support of these enterprises.

3. What are your proposed plans for the future use of the Center?

The SMSC will request that, before the Federal government conveys the Center, the Federal government remove all existing buildings located at the Center; remove all hazardous wastes located at the Center, including any such wastes resulting from the demolition of the existing buildings; and remediate any remaining hazardous conditions at the Center.

The SMSC will request that the Secretary of the Interior take the Center into trust for the benefit of the SMSC. Then the SMSC would plan to restore the remainder of the Center to its native ecological condition and, thereafter, propose to construct a cultural and historical interpretive center.

4. What resources do you have including, but not limited to, personnel, financing, programs, etc., that would enable you to manage the Center property?

The SMSC has professional, dedicated, and trained permanent staff including biologists, geologists, engineers, hydrologists, educators, accountants, medical practitioners, firefighters, cultural resource specialists and other skilled employees who are available to assist in the management of the Center property. Please refer to our response to Question Number 2 with regard to the SMSC's managerial experience and its ability to successfully manage the Center property.

The SMSC has the financial ability to sustain and manage the Center, to construct an interpretive center and to return the Center to its native ecological condition due to its successful operation of several tribal enterprises which are described in response to Question Number 2 above.

5. What plans do you have to address and protect the cultural, historic, and environmental aspects of the Center, including Camp Coldwater and the spring?

In addition to its responses to prior questions, which have addressed this question, the SMSC would like to expand its response regarding the proposed interpretive center and restoration of the native ecology.

Superintendent
November 27, 2006
Page 4

a. Restoration of the Environment

The SMSC intends to restore the Center's land as an oak savannah, its ecological condition when the Dakota people were the caretakers of the land.

b. Cultural and Historical Interpretive Center.

The proposed interpretive center will focus on American Indian culture and history in order to bring a greater understanding of the Indian people who lived, and visited the confluence of the Mississippi and Minnesota Rivers, including a history of the birth of the State of Minnesota.

Each federally recognized tribe in Minnesota will be invited to present its particular historical and cultural perspective on the evolution of its respective tribe and its contributions to the collective history of the State of Minnesota.

The story of Coldwater Spring will be told and will be a part of the permanent presentation. The story of the Center and the contributions made by the employees of the Twin Cities Bureau of Mines Research Center will also be told, as part of the history of the area.

6. Are you willing and able to offer land or other reimbursement in exchange for the Center and if so, what would you offer?

In return for conveyance of the Center to the SMSC, our Community proposes to preserve and care for the land; to preserve and protect Coldwater Spring; to build an interpretive center for the display of the history of the land and our Dakota people and the Center; and to return the land to its natural condition.

Thank you for the opportunity to comment on the *Draft Environmental Impact Study, Disposition of the Bureau of Mines Property, Twin Cities Research Center Main Campus*, which accompanies this proposal under separate cover. Thank you also for the opportunity to submit this proposal to acquire the Center property. If you have any questions regarding this matter, please do not hesitate to contact myself, SMSC Land Manager Stanley Ellison at 952.496.6158 or staff counsel William Hardacker at 952.496.6110.

Sincerely,



Stanley R. Crooks
Tribal Chairman

Preliminary Proposal
Disposition of Bureau of Mines
Twin Cities Research site Main Campus
Hennepin County, Minnesota
Mississippi River and Recreation Area
National Park Service, 2006

Submitted to
National Park Service
St. Paul, MN

Submitted by
Shakopee Mdewakanton Sioux Community
Prior Lake, MN



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1. SUMMARY

The Shakopee Mdewakanton Sioux Community ("SMSC") is a federally recognized Indian tribe organized under the Indian Reorganization Act (IRA). It is well established that the Coldwater Springs area and the area where the Minnesota and Mississippi rivers converge hold significant cultural and historical importance to the Dakota people. The disposition of the Bureau of Mines Twin Cities Research site Main Campus (the site), Hennepin County, Minnesota and Mississippi National River and Recreation Area presents a unique opportunity to protect a physical location that is part of Dakota history. The SMSC requests the site be transferred to the United States in trust for the Shakopee Mdewakanton Sioux Community for preservation as a place of cultural and historical importance. The proposed use of the trust land is for native plant community restoration and interpretative facilities.

2. QUALIFICATION AS A GOVERNMENT ENTITY

The SMSC is a federally recognized Indian tribe organized under the IRA. Appendix A contains a copy of the federal register listing of federally recognized Indian Tribes. The SMSC has a duly passed Constitution approved by the Department of the Interior. The SMSC exerts full jurisdiction over all lands held in trust for the SMSC by the United States Government and manages additional land owned in fee but not yet in trust status. The SMSC government consists of a General Council as its primary legislative body and three elected officials. Daily governmental affairs are managed by the Business Council, consisting of the three elected officials: the Chairman, the Vice-Chairman, and the Secretary/Treasurer. The Business Council directly or indirectly oversees all governmental departmental activities. Governmental functions are organized into various departments reporting to the Business Council either directly or through the Tribal Administrator.

The SMSC has tribal ordinances and regulations covering land use, zoning, building codes and permits, construction site management, grading, stormwater management, government administration, and many other areas not related to land or land use. Tribal building codes conform to requirements of the State of Minnesota Building Codes. Federal environmental regulations apply to tribal lands, including but not limited to: the Clean Air Act, Clean Water Act (CWA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), the Endangered Species Act, the Resource Conservation and Recovery Act (part of the Solid Waste Disposal Act), the Safe Drinking Water Act and the National Environmental Policy Act.

3. CAPACITY AND RESOURCES TO MANAGE SITE PROPERTY

Currently, the SMSC manages over 2,500 acres of tribal lands located in Prior Lake and Shakopee, Scott County, Minnesota. The SMSC has invested in the staff and resources that ensure compliance with tribal and federal regulations. Staff includes cultural resource specialists, biologists, geologists, engineers, hydrologists, building officials and inspectors, educators, attorneys, accountants, medical practitioners, firefighters, and many skilled laborers. The staff has worked cooperatively with the Bureau of Indian Affairs, the Environmental Protection Agency, the U.S. Army Corps of Engineers, the National Park Service, the U. S. Fish and Wildlife Service, the U.S. Geological Survey,

the Minnesota Historical Society, the Minnesota Department of Natural Resources, and many other federal and state agencies.

The SMSC has restored over 100 acres of prairie on its lands and additional areas in the City of Shakopee under a cooperative arrangement with that city. The SMSC successfully restored 40 acres of wetland. Forest management and invasive species control is part of the SMSC's active natural resource management program. Habitat restoration and resource management are conducted using a combination of SMSC staff, consultants and contractors.

The SMSC has been a vital resource in the areas of cultural and natural resources consultation for federal, state and local agencies and non-governmental organizations. These parties seek guidance, education and financial support and often request the SMSC's participation in cooperative projects.

The SMSC is actively involved in cultural education, providing instruction on Dakota Language and culture to SMSC members and American Indians living in Scott County. In addition, the SMSC is also a participant in local schools.

Financing for government activities are drawn from the successful operation of tribal enterprises. As stated above the SMSC has invested in staff and resources in the areas of cultural resource preservation, land and natural resource management, and education. These activities are directly related to the SMSC's proposed use of the site as discussed below.

4. SMSC PROPOSED PLANS FOR THE SITE

4.1. Summary

The core of the SMSC's proposal is to preserve important cultural, historic, and environmental aspects of the site, restore the original natural characteristics and establish a venue for Tribal governments to provide historical and cultural information of their choice. The area surrounding the site represents a pivotal part of both American Indian and Minnesota history. As it currently exists, this area includes Minnehaha Falls, the first home site in Minneapolis, the Longfellow house, historic Fort Snelling, Pike Island and the historic structures on the upper bluff. There is no dedicated place to tell the story from the perspective of the people living in Minnesota when Europeans arrived. This project provides an opportunity to let Tribes tell their story in their own language. It also protects a physical location that is a part of Dakota history. Restoration of the site to natural conditions provides a small glimpse of what was here and what has been lost. The project will also address the history of the site after conversion to European use including the scientific advances that originated in the Bureau of Mines facility.

The project will integrate with existing sites and facilities to provide an overall picture of Minnesota before, at, and after European contact. The project provides a location for Tribes in Minnesota to tell their part of the story with the dignity and respect that can only flow from the descendants of the people who lived the history.

4.2. Federal Removal of Buildings, Debris, and Contaminants

The existing structures, debris, and land-use related contaminants are not consistent with the proposed land use. The federal government should manage and bear the cost of building and debris removal and any contaminants. Upon removal of structures and contaminants, the SMSC requests that the land be retained by the federal government in trust for the Shakopee Mdewakanton Sioux SMSC¹.

4.3. Initiation of Ethnographic and Cultural Study

The SMSC will plan, initiate, and complete a study of the ethnography and cultural attributes of the facility area.

4.4. SMSC Restoration of Native Plant Communities

Restoration of the site to natural pre-European arrival conditions provides visitors a small glimpse of what was here and what was lost. Degraded forest, savannah, and wetlands will be restored. This restoration will include removal of lawns, pavement, introduced ornamentals, and invasive plants.

4.4.1. Site Current and Original conditions

Currently the site consists of several land cover types including: manicured lawn and landscaped vegetation, degraded oak savannah, forested wetlands (1.6 acres), and emergent wetlands (0.9 acres). Introduced species are present at some plant strata on nearly 100% of the site. Based on Public Land Survey notes and site characteristics it is likely that only two plant communities were present at the time of European arrival at the site: oak savannah and emergent wetland. Based on the young age of the trees in the forested wetlands, it is likely that they were able to establish in emergent wetlands due to suppression of the natural fire regime.

4.4.2. Introduced Species Management

A significant portion of the vegetation at the site consists of lawn, introduced trees, and non-native invasive species; none of which were present prior to European arrival. Cultural fire suppression in the non-manicured plant communities at the site allowed colonization by various trees and shrubs. This lack of fire has also resulted in non-native invasive species establishment including: buckthorn (*Rhamnus cathartica*), black locust (*Robinia pseudoacacia*), butter and eggs (*Linaria vulgaris*), garlic mustard (*Allaria petiolata*), reed canary grass (*Phalaris arundinaceae*), spotted knapweed (*Centaurea maculosa*), and Tartarian honeysuckle (*Lonicera tartarica*). All these introduced species require special management to achieve the SMSC's goal of site restoration. SMSC staff already has the equipment, training, and experience to perform or oversee this management plan.

4.4.2.1. Trees

Removal of introduced trees and lawn will be important to the restoration. Introduced trees that would likely be removed include weeping willow (*Salix babylonica*), black locust, and introduced pine and spruce.

¹ This proposal is specifically a non-gaming trust request.

4.4.2.2. Garlic Mustard

Garlic mustard has heavily infested the wooded portions of the site and will require management prior to buckthorn removal. In the fall or the very early spring, the plants are green while native plants are dormant, and can be treated with herbicide. Spot burnings may also be effective. Because of seed number and viability there is high probability of reestablishment, thus garlic mustard management will be considered a multi-year project.

4.4.2.3. Buckthorn

Buckthorn control measures will include hand pulling seedlings, weed-wrenching saplings, and cutting and herbiciding the stumps of larger trees. Black locust and honeysuckle can also be controlled by similar methods. This process is time and labor intensive initially, and may require the hiring of temporary staff.

4.4.2.4. Reed Canary Grass

Reed canary grass levels are currently low enough to adequately manage. Management methods will include cutting, herbicide application, and burning. The SMSC is currently conducting research to determine which sequence or combination of management techniques is most effective against reed canary grass. SMSC staff also consults with other researchers on reed canary grass control.

4.4.2.5. Hydrology

Restoration of wetland hydrology will be aided by the removal of buildings and other impermeable surface areas. Additional hydrology will be leverage to weaken existing stands of reed canary grass.

4.4.2.6. Proposed Management Staging

The majority of introduced species management will occur in within the first two years after conveyance. Initial steps include removal of hard surface areas and impediments to the natural hydrology. Manual removal of selected species will continue throughout the management process. Selective herbicide applications will be conducted at the appropriate season for the species of concern.

4.4.3. Oak Savannah Restoration

Historically, the bluff region was oak savannah.² Several large oak trees currently stand as remnants at the site, but lack the associated shrubs and forbs that comprise an oak savannah. Removal of the site's buildings, pavement, and introduced species will afford the SMSC an opportunity to restore the oak savannah plant community. It is estimated that 19 acres of land is available for oak savannah restoration.

4.4.3.1. Native Species for Savannah Restoration

Several native plant species are present on site that would have been part of an oak savannah plant community, but not enough to be seen as a reasonable seed source to restore the entire site. It is doubtful that a viable seed bank exists in the soil, due to the period of time the area has spent as lawn. The most reasonable source of seed

² Minnesota Department of Natural Resources, Presettlement Vegetation: Public Land Survey from 1846-1908.

will be from a commercial distributor that specializes in prairie species indigenous to Minnesota. Grass species selected will include Porcupine-grass (*Stipa spartea*), Indian grass (*Sorghastrum nutans*), hay sedge (*Carex siccata*), big bluestem (*Andropogon gerardii*), and little bluestem (*Schizachyrium scoparium*). Forb species selected will include western ragweed (*Ambrosia psilostachya*), gray goldenrod (*Solidago nemoralis*), white sage (*Artemisia ludoviciana*), and hairy puccoon (*Lithospermum carolinense*). Species selection was based on *Species List for Terrestrial and Palustrine Native Plant Communities in East-central Minnesota*, description of an oak savannah. This list was a joint project of the Minnesota Department of Natural Resources, Great River Greening, and Ecological Strategies LLC.

Young oaks trees will be planted to supplement the existing trees on the site, once the grass and forbs are established. Acorns from the existing trees will serve as the seed source for these trees.

4.4.3.2. Proposed Management Staging

Implementation of the introduced species management will precede oak savannah restoration. Once the introduced species have been removed or managed to appropriate levels former lawns, removed pavement areas, and degraded sites can be seeded with native savannah species.

After seeding, management will include mowing, spot herbicide application of non-native weeds, and prescribed burns. A prescribed burn will be conducted at two to three year intervals. The SMSC has a wildland firefighting program, including equipment and trained personnel. The Bureau of Indian Affairs assists the SMSC in trust land burns.

4.4.3.3. Cost Estimate

The estimated cost of for this restoration is \$40,120 in the first three years is, resulting from seed cost (\$19,220), personnel (\$18,000), equipment operation and maintenance (\$500), prescribed burn (\$2,400). After the first three years cost is reduced to prescribed burns every three to ten years.

4.4.4. Wetland Restoration

The site has several emergent and forested wetlands, each of which will be aided by introduced species management. All of the wetlands have a viable native plant component, which could serve as a seed source for supplemental planting. Given the relatively small size of the wetlands this is an appropriate method of restoring these plant communities.

Forested wetlands were not likely part of the sites landscape at the time of European arrival, based on Public Land Survey notes, cultural fire suppression, and the age and colonizing nature of the wetland trees. It is likely that these areas were emergent wetlands. One of two management strategies should be considered for these wetlands. Strategy 1 would entail removal of all wetland trees, primarily box elder (*Acer negundo*) and green ash (*Fraxinus pensylvanica*). These species, though native, are only present at the site due to European cultural fire suppression. Physical access for machinery to

perform removal is a limiting factor for this strategy. Strategy 2 would manage these areas as forested wetlands.

4.4.4.1. Structure Removal

Where feasible and allowed, all man-made structure altering native hydrology will be removed. This includes culverts, pipes, concrete lining, and well houses. In addition, several emergent wetlands at the site will see a drastic improvement from current conditions by the removal of buildings and associated material from the wetland footprint.

4.4.4.2. Wetland Enhancement

Certain wetland areas will be enhanced by returning the water depth and hydrologic controls to those more closely representing the original condition. This stage will also include portions of the above discussed invasive species management.

4.4.4.3. Proposed Staging

Implementation of the introduced species management and removal of man-made structures nearly complete wetland restoration. Therefore, the majority of wetland restoration is expected within the first two years. Additional work may involve seed collection and tree removal that could also be performed at the same time.

4.5. Heritage and Historical Interpretive sites

The SMSC proposes to construct cultural and historical facilities at the site. The primary interpretive area will present American Indian heritage and history. A small trail will bring guests passed the spring, to an area that will focus on present Euro-American site use and history, including the Bureau of Mines.

The confluence of the Minnesota and Mississippi rivers represents a pivotal part of both American Indian and Minnesota history. As it currently exists, the area includes Minnehaha Falls, the first home site in Minneapolis, the Longfellow house, historic Fort Snelling, Pike Island and the historic structures on the upper bluff. There is no dedicated place to tell the story from the perspective of the people living in Minnesota when Europeans arrived. This project provides an opportunity to let Tribes tell their story in their own language.

The cultural and historical interpretive area will bring a greater understanding of the Indian people that lived and the visited the confluence of the Minnesota and Mississippi Rivers. Each federally recognized Tribe in Minnesota will be given the opportunity to provide input for this interpretative area. The facility will also present a unique historical aspect of the nascence of the State of Minnesota.

The Coldwater Spring area will be maintained as a free flowing natural spring available for viewing. The relevance of the spring to Dakota culture and the history of the spring will be explained in the interpretative area.

5. REIMBURSEMENT IN EXCHANGE FOR THE SITE

The SMSC will be spending a substantial amount of its own resources to restore the native vegetation and ecology and construct and maintain interpretative facilities.

Minnehaha Creek Watershed District

Improving Quality of Water, Quality of Life
Established in 1967

received
21 NOV 06

The Minnehaha Creek Watershed District is committed to a leadership role in protecting, improving, and managing the surface waters and affiliated groundwater resources within the District, including their relationships to the ecosystems of which they are an integral part, through regulation, capital projects, education, cooperative endeavors, and other programs based on sound science, innovative thinking, an informed and engaged constituency, and the cost effective use of public funds.

November 17, 2006

Ms. Kim Burns
Mississippi National River and Recreation Area
111 Kellogg Blvd. East
St. Paul, MN 55101-1256

Dear Ms. Burns:

The Minnehaha Creek Watershed District (MCWD) would like to offer its availability to assist with the protection and restoration of the former Bureau of Mines property, currently managed by the National Park Service. We will separately be sending in our comments on the draft EIS, but wanted to use this opportunity to propose our availability as a partner in the protection and restoration of the site.

We understand that you have received a proposal from the Minnesota Department of Natural Resources and are expecting to receive some tribal proposals. We further understand that there are some members of the community that will be asking you to consider retaining the site in federal ownership.

Regardless of which disposition strategy is chosen, the MCWD feels strongly that the site presents an unprecedented natural community restoration opportunity. Restoration of more than 27 acres near Minneapolis is a unique opportunity in and of itself. The property's connectivity with extensive, high-quality protected natural areas along the Mississippi River, Minnehaha Creek, and Minnesota River make restoration of the site all the more unique and compelling. Its rich and extensive cultural and geologic history provide exceptional opportunities for public use, interpretation, and learning.

MCWD operates a Land Conservation Program and actively works to acquire land and conservation easements in key conservation areas throughout our District. We do not think we are best suited to be in the first position as owners and managers of this site. However, we do understand that there may be some obstacles to finding the perfect solution for the site. To that end, the District would be happy to entertain being a partner in holding real estate interests (including either less than fee interests or, if necessary, fee interests on portions of the site) and explore opportunities to partner in ecological restoration of the site.

We would be happy to talk with you further about how we can best play a partnership role in a multi-agency approach.

Ultimately, for the District to take any real estate interests in the land, we would require that the following conditions be met:

1. any real estate interests transferred to the Minnehaha Creek Watershed District is at no cost to the District;
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 Phase II environmental site assessments should be completed for the property and all hazardous materials removed or remediate;
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. a final decision on acceptance of any real estate interests on the property by the District must be rendered by the Board of Managers once all terms of the agreement are developed.

Regarding the specific criteria you have posted, we offer the following:

1. How do you qualify as a government or university entity?

The Minnehaha Creek Watershed District is a unit of local government established pursuant to, and with authorities contained in, Minnesota Statutes Chapters 103B and 103D.

2. What is your capacity to manage the Center property? Describe any relevant property management experience or current property holdings that are comparable to the Center property or that demonstrate your capacity to manage the Center.

MCWD proposes to manage the property in partnership with other state, federal, and/or tribal agencies. The District's Land Conservation Program has accomplished the following results over the last 2 ½ years:

	Projects To Date	Total Including 3 in Process
# of Projects	5	8
Acres Conserved	256	286
Linear Feet Lakeshore/ Stream Frontage	15,440	17,650
Expected Net Land/Easement Costs	\$1.5 m	\$1.8 m
Add'l \$ Leveraged	\$6.2 m	\$6.2 m
Match Ratio	4.13	3.44

3. What are your proposed plans for the future use of the Center?

A partnership-based approach to permanent protection, ecological restoration, and public access.

4. What resources do you have including but not limited to: personnel, financing, programs, etc. that would enable you to manage the Center property?

District staff that would be available to assist with this project include, 2 FTE positions in our Land Conservation Program, 1 FTE in Operations and Maintenance, and 2 FTE's in Hydrologic Monitoring and Analysis, including a PhD Civil Engineer.

The District's Land Conservation Program is currently budgeted at \$2 million per year. For 2007 we have budgeted \$150,000 for restoration on protected lands.

5. What plans do you have to address and protect the cultural, historic, and environmental aspects of the Center, including Camp Coldwater and the spring?

The District would develop this in partnership with the other agencies involved. The District has been extensively involved in previous efforts regarding protection of the spring. Our goals for the site are protection, restoration, and interpretation of the environmental, cultural, and historic resources.

6. Are you willing and able to offer land or other reimbursement in exchange for the Center and if so, what would you offer?

The District is interested in participating in this project, should our assistance be needed, provided that there is no financial cost for any real estate interests and the conditions noted above are met. We would also be happy to explore opportunities to partner in the ecological restoration of the site once all existing buildings are removed and building sites filled and graded to allow planting required for restoration to natural conditions.

Thank you for your consideration and your work on this important project. Please let us know if we can be of any assistance as you evaluate disposition alternatives.

Sincerely,



L. Eric Evenson
District Administrator

