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November 27, 2006

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

HAND DELIVER

RE: Disposition of Bureau of Mines Property, Twin Cities Research Center Main Campus
Hennepin County, Minnesota
Comments to Draft Environmental Impact Statement (EIS); and
Comments to “Section 106 Review” pursuant to the National Historic Preservation Act

Dear National Park Service,

On behalf of my client, Preserve Camp Coldwater Coalition, I submit the following comments to the draft Environmental Impact Statement (EIS) for the “Disposition of Bureau of Mines Property, Twin Cities Research Center Main Campus, Hennepin County, Minnesota.”

Because “Section 106 Review” under the National Historic Preservation Act is “... taking place concurrently with the draft EIS planning process ...” (See Draft EIS, page 27), this letter also contains comments in that regard.

I. INTRODUCTION AND INFORMATION ABOUT PRESERVE CAMP COLDWATER COALITION.

The Draft EIS (page 114 – “Public Experience and Values”) purports to provide a brief history of activism to protect Coldwater Spring. Preserve Camp Coldwater Coalition has asked me to provide the following information from their records - to correct the draft EIS and to explain more carefully the activities of Preserve Camp Coldwater Coalition to date. Please insert this information in the final Environmental Impact Statement.

While it is true that the Highway 55 protests focused attention on the general area, the protests were almost entirely about the highway reroute. The protests resulted in virtually no protection for Coldwater Spring itself, especially since the Minnesota Department of Transportation (Mn/DOT) gave repeated assurances from 1981 on that Coldwater Spring would remain unharmed by the highway construction. (Note: an especially strong statement that there “... will be No Impact on the springs ...” was given by Mn/DOT on record at the Lower Minnesota River Watershed District meeting on November 15, 2000.) In fact, almost no protests

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occurred after the clearing for the Highway 55 reroute took place in December, 1999. Most of the Coldwater Spring legal protections occurred after that time.

Preserve Camp Coldwater Coalition formed entirely after the Highway 55 reroute protests and is the oldest of the active community groups dealing with Coldwater Spring. One of my client's first actions occurred in May of 2000, when they presented a 1000-signature petition to the Minnesota Board of Soil and Water Resources (BWSR) to secure watershed district protection for Coldwater Spring. As a result of my client's efforts, BWSR granted watershed district protection to Coldwater Spring and the Minneapolis-St. Paul International Airport - for the first time ever.

Preserve Camp Coldwater Coalition then put pressure on the Lower Minnesota River Watershed District and the Minnehaha Creek Watershed District, as well as the Mn/DOT, to begin studies of the area's hydrology. This three-year effort resulted in multiple independent hydrological studies of Coldwater Spring as well as a multi-million dollar redesign for the Highway 55/62 interchange, containing among other things, an unprecedented liner under a highway solely to protect Coldwater Spring.

Almost solely through the efforts of Preserve Camp Coldwater Coalition, in alliance with legislators and watershed, the following laws were enacted by the Minnesota Legislature, much to the surprise of Mn/DOT and other state agencies who fought it:

1. The Coldwater Spring protection law, enacted in 2001 [Chapter 101; (S.F. 2049)]; and
2. Legislation enacted in 2002 that allowed for the Highway 55/62 re-design and affirmed the "stipulation agreement" between Mn/DOT and the Minnehaha Creek Watershed District [Chapter 364, Sec. 33; (Senate File 3298)].

[Note: The final EIS should state that Chapter 101, Section 1 of the 2001 Session Laws was superceded by the "stipulation agreement" between the Minnehaha Creek Watershed District and Mn/DOT, cited in Chapter 364, Sec. 33 of the 2002 Session Laws. Because the "stipulation agreement" is not easily obtained by the general public, it should be attached as an exhibit to the final EIS.]

Without these efforts, Coldwater Spring would have been largely rerouted down a storm sewer with the remaining water draining through sandstone, thereby completely drying up the spring. Furthermore, it is largely the actions of Preserve Camp Coldwater Coalition that convinced Congressman Martin Sabo to obtain the \$750,000 appropriation for the Coldwater Spring area, which is why the EIS is being written now.

These results didn't happen because of media attention or protests, as suggested in the Draft EIS, but rather by, quite literally, many thousands of volunteer hours spent by Preserve Camp Coldwater Coalition members - often at the Minnesota State Capitol and meetings of the Minnehaha Creek Watershed District and Lower Minnesota River Watershed District.

While Preserve Camp Coldwater Coalition's efforts have been usually under the radar of other louder groups, no one else has had better results. Moreover, the Coalition's efforts have spun off other efforts that resulted in liners being constructed around the tunnels under the north-south runway at the Minneapolis-St. Paul International Airport to protect the groundwater – with the hope of helping to protect Coldwater Spring.

Preserve Camp Coldwater Coalition has a website at www.preservecampcoldwater.org, which contains the largest single on-line library of history and information about Camp Coldwater.

Given Preserve Camp Coldwater Coalition's success and easy internet access to information about the Coalition and Camp Coldwater in general, it is a substantial omission that Preserve Camp Coldwater Coalition wasn't even mentioned as a reference in the Draft EIS.

II. GROUNDWATER PROTECTION ISSUES.

A. GROUNDWATER MONITORING.

The draft EIS (page 95) states that Mn/DOT is required to monitor groundwater flows through May, 2006. As a condition of ownership transfer, it is very important that an appropriate government entity **continue to assume responsibility** to monitor the groundwater outflow from the Highway 55/62 interchange and its potential to adversely impact Coldwater Spring. The final EIS should discuss monitoring frequency and other parameters. (My client recommends groundwater testing on at least a monthly basis.)

The Draft EIS (page 12) states, "... planning for the realignment of SH 55/Hiawatha Avenue in the vicinity of SH 62 brought attention to potential impacts on the flow and water quality of Camp Coldwater Spring as a result of highway construction. An EIS ... was issued ... in 1985 ..." (According to Tom Holtzleiter, a member of Preserve Camp Coldwater Coalition, no mention is made of Coldwater Spring in this document.)

B. CORRECT FLOW RATES. The Draft EIS shows a fundamental lack of understanding of the connection between the Highway 55/62 interchange and Coldwater Spring. (Example: Draft EIS, page 95) The following are only two examples:

1. Instead of referencing a pre-construction flow rate of approximately 85 gallons per minute (as measured by my client and is consistent with many Mn/DOT measurements), the Draft EIS states that the Coldwater Spring flow rate varies from 27 to 161 gallons per minute. However there is NO reference that such low flow rates happened exclusively as a result of clogged flow meters and mechanical pumping by Mn/DOT at the Highway 55/62 interchange. Note also: Minnehaha Creek Watershed District's studies show a post construction measurement indicating a 30% diminishment in the ground water flow rate at Coldwater Spring as a result of construction of the Highway 55/62 Intersection. (See February 5, 2002 press release. of the Minnehaha Creek Watershed District, attached as **Exhibit 1**.)

2. The Draft EIS fails to mention that the high figure of 161 gallons/minute flow is also highly suspect, likely resulting from a combination of water from Coldwater Spring and rainwater flowing to the Coldwater Spring pool outlet - before the total outflow is measured.

In other words, the final EIS must contain an accurate statement of groundwater flow rates, leaving aside the “bounce” derived from rainwater and the artificially low flow rate resulting from pumping or a clogged flow meter.

III. OWNERSHIP CHOICE AND SUPPORT FOR “ALTERNATIVE C” OR “ALTERNATIVE D” – WITH CONDITIONS.

Preserve Camp Coldwater Coalition understands that the National Park Service is, contrary to NEPA regulations, electing to not designate a “preferred alternative” in the draft EIS. (See Draft EIS, page 45.) Therefore, it is vitally important that Preserve Camp Coldwater Coalition provide reasons for recommending a modification of “Alternative C” or “Alternative D” – with conditions, and the reasons for suggesting what government entity should own the property. Note: Preserve Camp Coldwater Coalition adopts no position regarding whether modifications should occur before or after the title transfer, except that it would not be fair to burden the Native American communities or Minnesota taxpayers with the cleanup costs for activities undertaken by the federal government. Therefore, complete environmental cleanup should occur before title is transferred.

Preserve Camp Coldwater Coalition supports a combination of two “conceptual land use scenarios” described in the draft EIS (pages 42-43). The scenarios entitled “open space/park” and “interpretative/nature/history center” would enhance the protection and restoration of the site to pre-European settlement conditions and interpret the site for its cultural significance.

Preserve Camp Coldwater Coalition rejects the “conceptual land use scenario” entitled “training center/office park” because this scenario further degrades the natural and cultural features that they seek to protect and enhance.

A. OWNERSHIP – CHOICE #1.

Preserve Camp Coldwater Coalition strongly recommends that one (or combination of more than one) of the recognized Dakota communities receive title to the Bureau of Mines/Coldwater Spring area property. Dakota communities and other Native American tribes have, from the distant past through the present time, continued to gather at the Coldwater Spring area for water and other ceremonies. This is why the Dakota communities have the largest vested interest in protecting the area. They also may have the financial resources to ward off would be interlopers. Some Dakota communities are also considering a serious bid of private funds for the area.

However, albeit unlikely, a future tribal election could result in elected officials who are less dedicated to protecting Coldwater Spring and the surrounding area. In that event - and to provide the highest level of protection - the conservation easement provisions described in paragraphs III.C and D. below are essential conditions for the transfer of ownership.

B. OWNERSHIP – CHOICE #2.

In the event that one or more of the recognized Dakota communities do not take title to the property, then my client's second choice is for the Minnesota Department of Natural Resources (DNR) to take title to the land as an addition to Fort Snelling State Park. However, an unfavorable change in state politics could amend laws or regulations to weaken protections for Coldwater Spring. In that event - and to provide the highest level of protection - the conservation easement provisions described in paragraphs III.C and D. below are essential conditions for the transfer of ownership.

Of great importance is that the DNR is willing to accept the property, with the goal of consultation with interested tribes and "passive" management of natural and cultural resources. (See Draft EIS, pages 364-365, which excerpts the DNR's June 25, 2005 letter to the Mississippi National River and Recreation Area.)

Furthermore, this choice is in the spirit of the Minnesota State Legislature, as evidenced by the language in Chapter 13, Section 17 of the 2001 Special Session (Minn. Stat. 473.603, Subd. 2a), wherein the Minnesota Legislature authorized the Metropolitan Airports Commission to convey the area in and around Coldwater Spring to the Minnesota Department of Natural Resources for "... park, green space, or similar uses."

Fort Snelling State Park has an excellent track record for dealing with the public on the varied interests of the area. Everyone from the general public, to the Indian tribes, to the Metropolitan Airports Commission, has given Fort Snelling State Park high marks in their fairness and professionalism. Coldwater Spring and Fort Snelling already border each other. Access can be facilitated between Fort Snelling and the Coldwater Spring area to allow visitor use consistent with protecting the spring and honoring Native American spiritual traditions.

It is also in keeping with Congressman Sabo's original intent when appropriating the money for the EIS process to "... Explore options to restore Bureau of Mines property to community use ..." [See Congressman Martin Sabo's February 13, 2003 press release, attached as **Exhibit 2.**]

It is important to note that Preserve Camp Coldwater Coalition members played a large role in getting the DNR proposal on the table. Furthermore, due to the lack of money, Coalition members are currently seeking funds for the \$1.2 million cost to demolish buildings on the property, to enable the land to be given to the Dakota communities or the Minnesota Department of Natural Resources. However, due to the time constraints of the comment period and the large sum of money, Preserve Camp Coldwater Coalition is unable to submit a written proposal with funds in hand at this time.

C. CONSERVATION EASEMENT - TERMS.

Having experience in drafting conservation easement under Minnesota law, this writer generally concurs with the language pertaining to conservation easements. (Draft EIS, page 51.) However, I suggest that the first paragraph be clarified by stating that a "third party right of enforcement" is also allowed. (The draft EIS does state this fact in paragraph 3, but it may be misleading that paragraph 1 does not mention this right.)

The Draft EIS (page 52, paragraph 2) contains an incorrect legal statement: "... The use of conditions or restrictions in Minnesota such as covenants **or easements** is modified and limited by state statute. The relevant sections contained in Minn. Stat. §500.20 ..." Several other places in this paragraph also mention "easement" in the context of this statute. It must be clarified that a conservation easement is not subject to this statute. In fact, the word "easement" is not even found in this statute.

I also note that the Draft EIS (page 52, paragraph 3) incorrectly states, "... any covenants or restrictions on real property, such as covenants or easements, may be disregarded automatically after 30 years ..." Again, Minn. Stat. § 500.20 does not contain the word "easement." (However, the draft EIS does state in the same paragraph that conservation easements are not subject to this law.)

Please include these corrections in the final EIS.

No matter who takes title to the property, it is vitally important that protection responsibilities not be in the hand of just one entity. Again, an unfavorable change in tribal politics could jeopardize protection efforts for Coldwater Spring. Moreover, laws protecting the Coldwater Spring area can be weakened by subsequent politicians.

Furthermore, "Section 110" of the National Historic Preservation Act, states in part,

"Prior to the approval of any federal undertaking ... the agency shall, to the **maximum extent possible**, undertake such ... actions as may be necessary to minimize harm ... (16 U.S.C. 470h-2(f))."

A properly drafted conservation easement, with a well-financed "holder" and several entities with "third party right of enforcement", would maximize the protection of the property under the National Historic Preservation Act.

Therefore, a revised draft EIS and the final EIS should analyze the various terms to be included in the conservation easement for the entire 27-acre Bureau of Mines property – and the entities capable of assuming the responsibilities of "holder" and "3rd party right of enforcement." The title transfer must be subject to a well-defined perpetual Conservation Easement, which contains at minimum the following language:

1. North ¼ of Coldwater area property:
 - a. Complete removal of all buildings, except building #1, with full compliance of all legal requirements;
 - b. The building #1 envelope shall be reduced in size to an area of no more than ½ of the area of the current building envelope;
 - c. The building height (restored or new) shall be subject to current building height legal requirements, with no "grandfathering" under previous laws;
 - d. The building use (new or remodeled) shall be as interpretative/cultural center, consistent with Native American spiritual heritage and the importance of Coldwater Springs;

- e. The building design (new or remodeled) shall be of the type that will receive “Leadership in Energy and Environmental Design (LEED)” certification and enhances the natural landscape
 - f. The parking size is consistent with expected visitor use and is designed according to the most up-to-date stormwater treatment standards;
 - g. All building activities are consistent with other applicable laws;
 - h. The remaining land is restored to a pre-European settlement vegetation condition; and
 - i. If the interpretative/cultural center described above cannot be built, then the entire north $\frac{1}{4}$ of the property shall be restored to pre-European settlement vegetation condition.
2. South $\frac{3}{4}$ of property
- a. All buildings removed;
 - b. The entire portion shall be restored to a pre-European settlement vegetation condition;
 - c. No permanent structure shall be allowed; temporary structures may be allowed for purposes of conducting Native American ceremonial traditions;
 - d. No motorized vehicles, except for emergency purposes; and
 - e. A non-motorized access trail to Coldwater Spring is specifically allowed.
3. Language applicable to the entire property:
- a. All archaeological sites shall be protected.
 - b. There shall be no removal of any water from the site by artificial means.
 - c. The use of road salts and other de-icers shall be prohibited or restricted.
 - d. The use of chemicals for fertilizer and pest control shall be prohibited.
 - e. Exclusive access to Coldwater Spring shall be provided at various times to allow Native American religious practices. General public access is allowed the remainder of the time except that, if the property is owned by one or more Dakota communities, general public access shall be negotiated prior to the title transfer.
 - f. A vigorous groundwater monitoring program shall be established to help protect Coldwater Spring from off-site and on-site impacts.
 - g. Close attention shall be paid to land alterations and construction activities within $\frac{1}{4}$ mile of the site. (See Exhibit 1 for discussion pertaining to the groundwater recharge area being $\frac{1}{4}$ mile from Coldwater Spring.)
 - h. The salvage and recycling of materials from the removed buildings shall be ensured to the extent possible.

D. HOLDERS/THIRD PARTY RIGHT OF ENFORCEMENT.

1. “HOLDER” OF CONSERVATION EASEMENT. Pursuant to Minnesota Statute, Chapter 84C, Preserve Camp Coldwater Coalition strongly recommends that the Minnesota DNR be a “holder” of the conservation easement, if the property is owned by one or more Dakota Communities. My client recommends that one or more Dakota communities be a “holder” of the conservation easement, if the property is owned by the Minnesota DNR.

An alternative “holder” under each scenario could be the Minnesota Land Trust or the National Park Service.

2. “THIRD PARTY RIGHT OF ENFORCEMENT” OF CONSERVATION EASEMENT. Preserve Camp Coldwater Coalition recommends that one or more the following entities be considered as a “third party right of enforcement” – no matter which entity owns property or is the “holder” of the conservation easement:

- a. Minneapolis Park Board;
- b. Three Rivers Park District;
- c. National Park Service (Mississippi National River and Recreational Area);
- d. Mendota Mdewakanton Dakota Community;
- e. Minnesota Land Trust;
- f. Preserve Camp Coldwater Coalition;
- g. U.S. Fish and Wildlife Service;
- h. Trust For Public Land; or
- i. Other organizations legally eligible under Minn. Stat. 84C.

E. CONSISTENCY WITH MISSISSIPPI RIVER NATIONAL RIVER AND RECREATION AREA COMPREHENSIVE MANAGEMENT PLAN.

Preserve Camp Coldwater Coalition’s requests are entirely consistent with the following provisions of the Mississippi National River and Recreation Area’s Comprehensive Management Plan (1995, as amended):

Page 7: “PURPOSE: Preserve, enhance, and interpret archaeological, ethnographic, and historic resources.”

“VISIONS: (In the future we will see:)

“... The significant historic, ethnographic, and archaeological resources of the corridor are preserved and protected.”

Page 8: “PURPOSE: Preserve, enhance, and interpret natural resources.”

“VISIONS:

“The public can learn about natural resources in the corridor through interpretive and educational programs.”

“Significant natural resources, such as native wildlife and plant diversity, in the corridor are preserved and enhanced.”

“Significant natural resources that have been adversely impacted in the past are restored.”

Page 12: “The corridor is rich in cultural values. Archeological sites, historic structures and landscapes, shorelands, wetlands, steep slopes and other sensitive resources will be preserved and enhanced.”

Page 14: “One of the guiding visions of the plan is that the corridor enriches the lives of metropolitan residents and visitors by enhancing natural, cultural, and aesthetic resources ...”

Page 14: “The native plant and animal communities in the corridor will be preserved.”

Page 20: “Encourage consultation with Native American groups when site development will affect any Native American cultural site.”

Page 24: “When developing parks and open space in natural areas, design the sites to preserve most of the land in a natural state.”

Page 25: “Encourage the formation of a nonprofit land trust or partnerships with existing land trusts to acquire open space lands and interests in lands along the river to supplement the capability of public agencies.”

[Note: The conveyance of a conservation easement to a non-profit organization as a “holder” or “third party right to enforce” is very compatible with this language.]

Page 31: “Reduce the use of chemicals for fertilizer and pest control ... on public lands, which could support sustainable land treatment activities and integrated pest management practices.”

Page 31: “Reduce the use of salt on area roads by encouraging greater use of alternative materials and increased efficiencies in winter maintenance ...”

Page 33: “Policies and Actions –

- “1. Protect wildlife habitat and natural plant diversity;
- “2. Work to increase and restore wildlife habitat and biological diversity ...”
- “5. Preserve native vegetation and encourage re-vegetation ..”

Page 34: “Policies and Actions –

- “5. “Restore historic structures and landscapes to an earlier appearance if restoration is essential to public understanding of the cultural associations of the area ...”

Page 42: “Interpretive Themes.”

“2. *The stories of human life along the Mississippi River have unfolded over 12,000 years ... The presence of Native Americans along the Mississippi, from the retreat of the glaciers to the present, has left a legacy of cultural traditions, spiritual beliefs, places names, and legends ... Many sites in the corridor were important to the Dakota who traveled the shores and plied the waters of the river ...*”

Page 59: “**Citizen participation will be an important part of ongoing national river and recreation area management ...**” [Emphasis added.]

[Note: The citations above are not intended to be a complete list.]

F. CONSISTENCY WITH FEDERAL LEGISLATION ESTABLISHING THE MISSISSIPPI RIVER NATIONAL RIVER AND RECREATION AREA (MNRRA).

Preserve Camp Coldwater Coalition’s proposals are entirely consistent with statutory findings and purposes of the Mississippi National River and Recreation Area.

16 U.S. Code, Section 460zz (a), states the findings of Congress, part of which is: (1) the MNRRA area is a “nationally significant historic, recreation, scenic, cultural, natural, economic, and scientific resource”; and (2) “there is a national interest in preservation, protection and enhancement of these resources.”

16 U.S. Code, Section 460zz (b), states the purposes of MNRRA, among which are: “to protect, preserve and enhance the significant values of waters and land in the ... Corridor ...”

IV. OTHER REQUESTED ADDITIONS TO THE FINAL EIS.

Preserve Camp Coldwater Coalition respectfully requests that the following items be added to the Final EIS:

A. The Draft EIS (page 82, paragraph 1) states: “... In addition, there are American Indian residents of the Twin Cities [sic] who are not members of a federally recognized tribe that claim cultural ties to the confluence region.” The final EIS should specifically mention that the Mendota Mdewakanton Dakota Community, not yet federally recognized, has been interested and active in the Coldwater area.

B. The Draft EIS (page 97, paragraph 1) states: “Camp Coldwater Spring is fed by groundwater originating upgradient of the Center property. The exact source of the spring water is subject to some debate; however, it is not expected that any of the alternatives proposed in this document would affect the source of the spring.” As stated in Section III.C.3.f. and g. above, the transfer of ownership should be subject to the requirements that groundwater monitoring be continued and close attention paid to land alteration and construction activities that may affect Coldwater Spring. Particular attention should be paid to the Highway 55/62 interchange area; it has been artificially lowered by highway construction and poses a significant risk to the Coldwater Spring in the event of infrastructure failure of that interchange. Also, Highway 55 roadbed has been raised from 54th Street to Highway 62 to remain above the groundwater flow to

the Coldwater Spring. In the likely event of reconstruction of the road, this height modification must remain.

C. The final EIS should also mention that the Federal Highway Administrator also reports: “Many Native American groups also consider the site to be sacred, a belief reported by Federal Highway Administration officials, Dan Ghere and Joe Krolak from Chicago and Baltimore respectively.” (See attached Exhibit 1.)

D. The Draft EIS (page 98, paragraph 1) discusses the poor water quality of Coldwater Spring. The National Park Service, in cooperation with other government agencies, should include a plan to address water quality issues as a condition of ownership transfer.

V. RESERVATION OF OTHER NEPA COMMENTS.

In the spirit of promoting an expeditious decision consistent with the protection of Coldwater Spring and its environs, Preserve Camp Coldwater Coalition has asked me to reserve any other comments pertaining to the National Park Service’s compliance with other requirements of the National Environmental Policy Act (NEPA), except for the legal conclusions stated in paragraph VII below.

VI. FREEDOM OF INFORMATION ACT REQUEST.

Pursuant to the Freedom of Information Act, please provide a copy of: (1) your responses to all of the comments to the draft EIS; (2) the final Environmental Impact Statement that you intend submit to the U.S. Department of Interior; (3) the names and addresses of the Department of Interior personnel that will be making the final decision regarding disposition of this very important property; and (4) the approximate dates the final decision is expected to be made.

VII. LEGAL CONCLUSIONS.

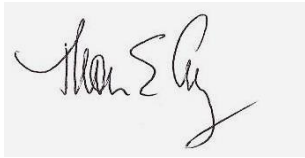
40 CFR, Section 1502.14, subparagraph (f) requires the agency to “... **include appropriate mitigation measures not already included in the proposed action or alternatives.**” 40 CFR, Section 1502.9 states in part: “ If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion.” Although the draft EIS mentions a conservation easement in name as a mitigation measure, the draft EIS lacks specific language to be included in the conservation easement and, therefore, precludes the opportunity for “meaningful analysis” to determine whether the conservation easement can “appropriately mitigate” impacts to the property’s cultural and natural features. Moreover, as explained above, the conservation easement sections of the draft EIS contains confusing language.

Therefore, for these reasons, **Preserve Camp Coldwater Coalition requests that a revised draft of the EIS be prepared for the sections pertaining to the conservation easement, to enable my client and others to have a meaningful opportunity to comment on the conservation easement’s adequacy.**

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On behalf of Preserve Camp Coldwater Coalition, I thank the National Park Service for its efforts in cataloging and documenting the Coldwater area for the EIS and look forward to your cooperation by incorporating my client's comments and suggestions into the final Environmental Impact Statement. **Your work is greatly appreciated.** After National Park Service's completion of the NEPA process and "Section 106" review, Preserve Camp Coldwater Coalition looks forward to working together to achieve the best possible use and protection for this very important property.

Very truly yours,



Thomas E. Casey

TEC/rf

cc: Preserve Camp Coldwater Coalition
file

Enclosures:

- Exhibit 1 – Minnehaha Creek Watershed District (February 5, 2002)
- Exhibit 2 – Congressman Martin Sabo's Press Release (February 13, 2003.)

EXHIBIT 1

MINNEAPOLIS, MN., FEBRUARY 5, 2002 -- A new scientific data report from the Minnehaha Creek Watershed District (MCWD) finds a direct 30-percent reduction in flow rate to Camp Coldwater Springs from MnDOT's construction of the Highway 55/62 Interchange. A news conference at the springs is scheduled today at 1:30 p.m., featuring Senator Julie Sabo (DFL, District 62), the sponsor of the 2001 Camp Coldwater Springs bill protecting the springs history and flow, MCWD spokespersons and others. Sabo and company will release the new report and question whether MnDOT's attempt to seek relief at the legislature this year for the unanimously passed law last session and signed by Governor Ventura would be prudent in light of the reports new findings.

Today, with new data over a two-year period of weekly monitoring from both the highway department and the watershed district, the rate of groundwater flow at CCS during December 2000-December 2001 has shown trends of decrease that correspond directly to MnDOT groundwater pumping, says Pam Blixt, President, MCWD Board of Managers. Between July and November 2001 -- during continuous pumping -- CCS flow diminished by more than 30 percent, regardless of whether the MCWD's or MnDOT's own flow data are used -- and

regardless of changes in rainfall patterns. These are real numbers that underscore the importance of the law passed last year and an indication that MnDOT can no longer play loose with data interpretation or potential impacts to the spring.

The new report reaffirms that without a suitable drainage design for groundwater flow from the Interchange site to CCS a solution upheld in Minnesota District Court last fall before MnDOT said it was terminating its project MnDOT is forcing legislators to choose between completing a highway project or protecting the springs, says Senator Sabo. The truth is, in fact, that both can be done without further waste of taxpayer dollars, impaired safety to motorists at the interchange, or environmental degradation of what many consider to be the birthplace of Minnesota.

Many Native American groups also consider the site to be sacred, a belief reported by Federal Highway Administration officials, Dan Ghere and Joe Krolak from Chicago and Baltimore respectively, along with Stanley Graczyk of St. Paul, in a November 16 summary letter to MnDOT Commissioner Tinklenberg about the springs and the controversy: The [FHWA -- Federal Highway Administration of Minnesota] Division has made commitments to the Tribal Governments that the FHWA would review the project to ensure no adverse effect to Camp Coldwater Springs. The Division wishes to honor this commitment irregardless (sic) of any engineering remedy accepted by other parties.

ADDITIONAL BACKGROUND: 2001

- An original settlement agreement last summer established that MNDOT and MCWD would work together to find a revised design for the highway 55/62 interchange that would not impede flow to Camp Coldwater Springs. This agreement was created under the guidance of Hennepin County District Judge Knoll last fall after MCWD litigated against MnDOT over its design of the groundwater drainage system.

Later, a jointly selected court-ordered -- independent engineering firm, Shannon & Wilson, found that MNDOT's current interchange design was indeed flawed. MnDOT estimated that the design recommended by the independent engineering firm could cost between \$4 to \$8 million. On August 27, MnDOT filed a legal request asking that it be released from fulfilling an out-of-court settlement agreement negotiated earlier this summer with the district.

- On September 18, MnDOT said it was terminating the project because the current law presented an unobtainable standard and that it feared citizens lawsuits. Yet such a suit brought last fall by the nonprofit advocacy group, Friends of Coldwater, was dismissed by Judge Knoll in December as untimely and redundant, thereby mooting MnDOT's fears of citizen litigation.

- Concerns that the original Highway 55/62 design initially proposed by MnDOT would harm the flow of the historic Camp Coldwater Springs were additionally confirmed by a series of dye tests conducted last June and during recent tests at the site during dewatering. The tests showed a connection between the flow of the springs and part of the spring's recharge area to the southwest, which included the interchange area, **only a quarter mile away from the springs.**

FOR A COMPLETE TIMELINE OF THE CONTROVERSY, SEE:

http://www.minnehahacreek.org/f-temp_coldwatertimeline.htm

The MCWD designs and builds projects to protect water resources including lake restoration, wetland enhancement, erosion repair and flood control. The District also coordinates

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cities, counties, park districts developers, and others within watershed boundaries for compatible and efficient water resource management.

For more information, or to interview key sources, please contact Martin Keller at 612-220-6515 (cell), or 612-729-8585 (office), or online at kelmart@aol.com