National Park Service
U.S. Department of the Interior

Mississippi National River and Recreation Area

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Superintendent's Compendium
Of Designations, Closures, Permit Requirements and Other Restrictions Imposed Under Discretionary Authority.

Approved:
Paul Labovitz, Superintendent
/s/ Paul Labovitz
Date 4-14-10

A. INTRODUCTION

1. Superintendent's Compendium Described

The Superintendent's Compendium is the summary of park specific rules implemented under 36 Code of Federal Regulations (36 CFR). It serves as public notice, identifies areas closed for public use, provides a list of activities requiring either a special use permit or reservation, and elaborates on public use and resource protection regulations pertaining specifically to the administration of the park. The Superintendent's Compendium does not repeat regulations found in 36 CFR and other United States Code and CFR Titles, which are enforced without further elaboration at the park level.

The regulations contained in 36 CFR, Parts 1-7, are the basic mechanism used by the National Park Service (NPS) to preserve and protect the natural and cultural resources of the park and to protect visitors and property within the park. Parts 1 through 6 are general regulations applicable to all areas of the National Park system, and Part 7 contains special regulations specific to individual parks. Each of these Parts has many sections and subsections articulating specific provisions. Within some of these Part 1-7 sections and subsections, the Superintendent is granted discretionary authority to develop local rules to be responsive to the needs of a specific park resource or activity, park plan, program, and/or special needs of the general public.

As an example, 36 CFR 1.5(a) *Closures and Public Use Limits* provides the Superintendent certain discretion in allowing or disallowing certain activities. The authority granted by the Section, however, requires the Superintendent to comply with the Administrative Procedures Act (6 USC Section 551), which requires public notice on actions with major impact on visitor use patterns, park resources or those that are highly controversial in nature.

Another example is 36 CFR 1.6 *Permits*, which allows the Superintendent to require a permit for certain uses and activities in the park. This Section, however, requires that a list of activities needing a permit (and a fee schedule for the various types of permits) be maintained by the park.

A final example is 36 CFR 2.1(c) (1) *Preservation of Natural, Cultural and Archeological Resources*, which provides the Superintendent the authority to designate certain fruits, nuts, berries or unoccupied seashells which may be gathered by hand for personal use or consumption. This activity can occur, however, only if a written determination shows that the allowed activity does not adversely affect park wildlife, the reproductive potential of a plant species, or otherwise adversely affect park resources.

This Compendium should be used in conjunction with Title 36 CFR, Parts 1-7, to more fully understand the regulations governing the use and enjoyment of all the areas of the national Park System.

A copy of Title 36, CFR, can be purchased from the U.S. Government Printing Office at:

Superintendent of Documents
P.O. Box 371954
Pittsburgh, PA 15250-7954

The CFR is also available on the Internet at:

http://www.access.gpo.gov/nara/cfr/waisidx_05/36cfrv1_05.html

2. Laws and Policies Allowing the Superintendent to Develop This Compendium

The National Park Service (NPS) is granted broad statutory authority under 16 United States Code (U.S.C.) Section 1 *et.seq.* (Organic Act of 1916, as amended) to "…regulate the use of the Federal areas known as national parks, monuments, and reservations…by such means and measures as conform to the fundamental purposes of the said parks…which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment for future generations" (16 U.S.C. Section 1). In addition, the NPS Organic Act allows the NPS, through the Secretary of the Interior, to "make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service" (16 U.S.C. Section 3).

In 1970, Congress amended the NPS Organic Act to clarify its intentions as to the overall mission of the NPS. Through the General Authorities Act of 1970 (16 U.S.C. Sections 1a1-1a8), Congress brought all areas administered by the NPS into one National Park System and directed the NPS to manage all areas under its administration consistent with the Organic Act of 1916.

In 1978, Congress amended the General Authorities Act of 1970 and reasserted System-wide the high standard of protection defined in the original Organic Act by stating "Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined by Section 1 of this Title, shall be consistent with and founded in the purpose established by Section 1 of this Title, to the common benefit of all people of the United States."

16 U.S.C. Section 1c defines the National Park System as"…any areas of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes."

In addition to the above statutory authority, the Superintendent is guided by established NPS policy as found in the *NPS Management Policies* (2006). The Superintendent is also guided by more specific policies promulgated by the Director, National Park Service, in the form of Director's Orders. As stated in the Management Policies, the primary responsibility of the NPS is to protect and preserve our national natural and cultural resources while providing for the enjoyment of these resources by visitor and other users, as long as use does not impair specific park resources or overall visitor experience. The appropriateness of any particular visitor use or recreational experience is resource-based and will vary from park to park; therefore, a use or activity that is appropriate in one park area may not be appropriate in another. The Superintendent is directed to analyze overall park use and determine if any particular use is appropriate. Where conflict arises between use and resource protection,

where the Superintendent has a reasonable basis to believe a resource is or would become impaired, than that Superintendent is obliged to place limitations on public use.

3. Consistency of This Compendium with Applicable Federal Law and Requirements

The Superintendent's Compendium is not considered a significant rule requiring review by the Office of Management and Budget under Executive Order 12866. In addition, this Compendium will not have a significant economic effect on a number of small entities nor impose a significant cost on any local, state or tribal government or private organization, and therefore does not fall under the requirements of either the Regulatory Flexibility Act or the Unfunded Mandates Reform Act.

The actions and requirements described in this Compendium are found to be categorically excluded from further compliance with the procedural requirements of the National Environmental Policy Act (NEPA) in Department of the Interior (DOI) Guidelines 516 DM 6 and as such, an Environmental Assessment will not be prepared.

4. Development of the Requirements of the Superintendent's Compendium

As outlined above, the NPS has broad authority and responsibility to determine what types of uses and activities are appropriate in any particular National Park System area. The requirements of the Superintendent's Compendium are developed through an analysis and determination process. The decision criteria used during this process are:

- Is there use or activity consistent with the NPS Organic Act and NPS policy?
- Is the use or activity consistent and compatible with the park's enabling legislation, management objectives, and corresponding management plans?
- Will the use or activity damage the park's protected natural and cultural resources and other protected values?
- Will the use or activity disturb or be in conflict with wildlife, vegetation, and environmental protection actions and values?
- Will the use or activity conflict with or be incompatible with traditional park uses and activities?
- Will the use or activity compromise employee or public safety?

5. Applicability of the Compendium

The rules contained in this Compendium apply to all persons entering, using, visiting or otherwise present on Federally owned lands, including submerged lands, and waters administered by the NPS within the legislative boundaries of the park. This includes all waters subject to the jurisdiction of the United States, including all navigable waters.

The regulations contained in this Compendium do not apply on Federally owned lands and waters administered by another department or agency, on lands owned by the States of Minnesota or its local political subdivisions, on Indian tribal trust lands, or on private lands, except those lands which are administered by the NPS for public use purposes pursuant to the terms of a written agreement or lease.

Federally owned lands administered by the NPS include islands and isolated lands that total less than 50 acres, as well as the Coldwater Unit, a 27-acre parcel that formerly housed the campus of the U.S. Bureau of Mines. The Coldwater Unit is located south of Minnehaha Falls Regional Park, north of Fort Snelling State Park, and immediately east of State Trunk Highway 55. Maps of all lands administered by NPS and therefore subject to 36 CFR Parts 1-7 and this compendium are found in Appendix A.

6. **Enforcement of Compendium Requirements**

NPS Law Enforcement Park Rangers enforce the requirements of the United State Code, 36 CFR, and this Superintendent's Compendium.

7. **Penalties for Not Adhering to the Compendium Requirements**

A person who violates any provision of the regulations found in 36 CFR, Parts 1-7, or provisions of this Compendium, is subject to a fine as provided by law (18 U.S.C. 3571) up to $5,000 for individuals and $10,000 for organizations, or by imprisonment not exceeding six months (18 U.S.C. 3559), or both, and shall be adjudged to pay all court costs associated with any court proceedings. You may receive a list of fines associated with any particular provision by contacting the Chief Ranger at the park address found below.

8. **Comments on the Compendium**

The Compendium is reviewed annually and revised as necessary. The park welcomes comments about its program and activities at any time.

Written comments on the Compendium may be submitted to:

Superintendent
Mississippi National River and Recreation Area
111 E. Kellogg Blvd., Suite 105
St. Paul, MN 55101

9. **Effective Date of the Superintendent Compendium**

The Superintendent's Compendium is effective on the approval date listed on the first page of this document, and remains in effect until revised for a period up to one year.

10. **Additional Information**

Some of the terms used in this Compendium may have specific meaning defined in 36 CFR 1.4 *Definitions*.

11. **Availability**

Copies of the Compendium are available at 111 E. Kellogg Blvd., Suite 105, St. Paul, MN 55101. It may also be found at http://www.nps.gov/miss/parkmgmt/index.htm

B. SUPERINTENDENT'S COMPENDIUM

In accordance with regulations and the delegated authority provided in Title 36, Code of Federal Regulations ("36 CFR"), Chapter 1, Parts 1-7, authorized by Title 16 United States Code, Section 3, the following provisions apply to all lands and waters administered by the National Park Service, within the boundaries of the Mississippi National River and Recreation Area. Unless otherwise stated, these regulatory provisions apply in addition to the requirements contained in 36 CFR, Chapter 1, Parts 1-7.

Written determinations, which explain the reasoning behind the Superintendent's use of discretionary authority, as required by Section 1.5(c), appear in this document identified by italicized print.

I. 36 CFR §1.5 – VISITING HOURS, PUBLIC USE LIMITS, CLOSURES, AND AREA DESIGNATIONS FOR SPECIFIC USE OR ACTIVITIES

(a)(1) The following visiting hours and public use limits are established for all or for the listed portions of the park, and the following closures are established for all or a portion of the park to all public use or to a certain use or activity:

Closures:

- Areas within 660 feet of active bald eagle nests are closed to all public use between March 1 and July 31 each year.

  The park contains numerous bald eagle nests, which must be protected from human disturbance during the nesting period in accordance with the Bald and Golden Eagle Protection Act of 1940 and Management Guidelines developed by the U.S. Fish and Wildlife Service. In Minnesota, nesting begins in early March and young fledge about mid-July.

- All buildings at the Coldwater Unit are closed to public use.

  The Coldwater Unit contains 11 abandoned buildings that contain numerous hazards, including broken glass, mold and exposed asbestos. Closing the buildings to the public is the minimum action necessary to protect visitor safety.

II. 36 CFR §1.6 – ACTIVITIES THAT REQUIRE A PERMIT

(f) The following is a compilation of those activities for which a permit from the superintendent is required:

- §2.5(a) Specimen collection (take plant, fish, wildlife, rocks or minerals)

  Specimen collection needs to be limited to ensure there is no damage to resources.

- §2.12 Audio Disturbances:
  - (a)(2) Operating a chain saw in developed areas
  - (a)(3) Operation of any type of portable motor or engine, or device powered by a portable motor or engine in non-developed areas
  - (a)(4) Operation of a public address system in connection with a public gathering or special event for which a permit has been issued pursuant to §2.50 or §2.51

  Audio disturbances need to be limited to protect public enjoyment of the resource.

- §2.50(a) Conduct a sports event, pageant, regatta, public spectator attraction, entertainment, ceremony, and similar events

  Events need to be regulated to ensure there is no resource damage and to ensure that events do not conflict with each other.

- §2.51(a) Public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views

  Gatherings need to be regulated to ensure there is no resource damage and to ensure that events do not conflict with each other.

- §2.52(c) Sale or distribution of printed matter that is not solely commercial advertising

  Distribution of printed matter needs to be limited to prevent littering and to protect public enjoyment of the park.

- §2.62 Memorialization:
  - (a) Erection of monuments (Requires approval from Regional Director)
  - (b) Scattering ashes from human cremation. No ashes will be scattered from an airplane flying less than 2,000 feet above the park. No teeth or identifiable human bones shall be included in the ashes.

  Memorialization needs to be regulated to prevent resource damage and to protect public enjoyment of the park.

- §5.1 Advertisements - (Display, posting or distribution.)

  Advertising needs to be regulated to prevent resource damage and to protect public enjoyment of the park.

- §5.3 Engaging in or soliciting any business (Requires a permit, contract or other written agreement with the United States, or must be pursuant to special regulations).

  Business on public land needs to be regulated to prevent resource damage and to protect public enjoyment of the park.

- §5.5 Commercial Photography/Filming:
  - (a) Commercial filming of motion pictures or television involving the use of professional casts, settings or crews, other than bona fide newsreel or news television
  - (b) Still photography of vehicles, or other articles of commerce or models for the purpose of commercial advertising.

  Commercial photography and/or filming need to be regulated to prevent resource damage and to protect public enjoyment of the park.

- §5.7 Construction of buildings, facilities, trails, roads, boat docks, path, structure, etc.

  Construction needs to be regulated to prevent resource damage.

- §6.9(a) Operation of a solid waste disposal site

  Solid waste disposal needs to be regulated to prevent resource damage.

III. GENERAL REGULATIONS

36 CFR §2.1 – PRESERVATION OF NATURAL, CULTURAL AND ARCHEOLOGICAL RESOURCES

(a)(4) Dead wood on the ground may be collected for use as fuel for campfires within the park only in areas where camping and/or picnicking is permitted.

- Cutting live or dead standing trees is prohibited.

Standing trees, both living and dead, provide habitat values essential to protection of park resources.

- The gathering by hand of edible fruits, berries and nuts for personal use or consumption on site is permitted. This includes the gathering of edible mushrooms or morels, but does not include the tapping of maple trees, or any other tree species, for sap.

Native vegetation in the park produces fruits, berries and mushrooms that may be harvested in small quantities without resource damage. Tapping trees for sap must be prohibited to prevent natural resource damage.

- The gathering and use of all live and dead mussels and empty mussel shells is prohibited.

Native mussels are relatively uncommon in the park and include two federally endangered species. Researchers use empty mussel shells to help evaluate mussel populations and their disturbance by the public must be prohibited.

- The collection or possession of any cultural, historic, or archeological resource is prohibited.

Artifacts within the park are the property of the United States and must not be removed. They provide researchers with clues to the site's past.

- The collection of wildflowers is prohibited.

Disturbance of native vegetation in the park must be prohibited to protect park resources.

- Damaging trees by pounding nails, attaching boards or ropes is prohibited.

Disturbance of native vegetation in the park must be prohibited to protect park resources.

- Cutting native vegetation or grading soils is prohibited.

Disturbance of native vegetation in the park must be prohibited to protect park resources

36 CFR §2.2 - WILDLIFE PROTECTION

- Hunting is prohibited on the Coldwater Unit, Island 108.01, Island 111.01, and Island 111.02. Hunting is allowed on other lands owned or administered by the National Park Service in accordance with applicable Federal, State, and Tribal laws and regulations. Building or hunting from a tree stand or other elevated device which is affixed to a tree by nails, spikes, lag-bolts, screws, or similar device is prohibited. The use of screw-in ladder steps is also prohibited.

Hunting should be prohibited in urban settings, including the Coldwater Unit and Island 108.01. Hunting is already prohibited on adjacent lands (Minnehaha Falls Regional Park and Fort Snelling State Park). Island 111.01 and 111.02 are no longer islands except during flooding, and are managed as part of Battle Creek Regional Park, where hunting is prohibited.

Where hunting is allowed, elevated stands that damage resources must be prohibited to protect those resources.

- Construction of a permanent hunting stand is prohibited. Temporary stands are allowed as long as they cause no damage to vegetation and are removed each day at the close of hunting hours.

Construction of a permanent hunting stand would amount to private use of public property and must be prohibited to protect public enjoyment.

- Clearing vegetation or brush for a shooting lane is prohibited.

Clearing must be prohibited to protect natural resources.

36 CFR §2.3 – FISHING

- Fishing is allowed in accordance with applicable Federal, state, and tribal laws and regulations.

36 CFR §2.10 – CAMPING and FOOD STORAGE

- Camping is prohibited on the Coldwater Unit, Island 108.01, Island 111.01, and Island 111.02. Camping is allowed on other lands owned or administered by the National Park Service in accordance with the regulations found in 36 CFR 2.10 *Camping and food storage*, with the following special conditions:

Camping must be prohibited in urban settings, including the Coldwater Unit and Island 108.01. Camping is prohibited on adjacent lands (Minnehaha Falls Regional Park and Fort Snelling State Park). Island 111.01 and 111.02 are no longer islands except during flooding, and are managed as part of Battle Creek Regional Park, where camping is prohibited

- Length of stay for any particular campsite is three nights; all campsites must be vacated by noon the day after the last night's stay. The maximum length of stay is 30 days between May 15 and September 15.

Camping must be limited in duration to prevent a single individual or group from "claiming" a site for extended periods, to ensure broader public enjoyment of the site, and to protect sensitive resources.

- Camping is prohibited where posted as *"no camping"* or *"area closed for restoration."*

It may from time to time be necessary to close a site to camping to ensure visitor safety and enjoyment, and to protect sensitive resources.

- Food, leftover food scraps, and food residue from cooking and cleaning, garbage and lawfully taken fish must be disposed of in proper garbage facilities, secured in air-tight containers or galley areas of boats. Park users must pack out all food scraps and garbage. Burning or burying food scraps or garbage is prohibited.

Food waste and other garbage must be regulated to protect park resources and ensure visitor safety and enjoyment.

36 CFR §2.11 – PICNICKING

- Picnicking is allowed on lands owned or administered by the National Park Service except where posted "area closed for restoration."

It may from time to time be necessary to close a site to picnicking to protect sensitive resources.

36 CFR 2.13 – FIRES

(a)(1) The lighting or maintaining of fires is generally prohibited, except as provided for in the following designated areas and/or receptacles, and under the conditions noted:

Designated Areas:

- Campfires and cook-fires are permitted at campsites or picnic sites only and must be contained.

Fires must be limited to prevent resource damage.

Established Conditions for Fires:

- Burning or placing garbage, food, or food scraps in fires is prohibited.

Fires must be limited to prevent resource damage.

- No fire shall be left unattended. All campfires and cook-fires will be out and cold before any site is permanently vacated or simply left for the day.

Fires must be limited to prevent resource damage and ensure visitor safety.

- During periods of elevated fire danger, open fires will be prohibited in accordance with appropriate State and local fire bans.

Fires may be prohibited at times to protect resources and ensure visitor safety.

36 CFR §2.14 – SANITATION and REFUSE

- All refuse will be removed from lands owned or administered by the National Park Service by park users in accordance with the park's carry in, carry out policy. Leaving of refuse on NPS lands is prohibited.

Food waste and other garbage must be regulated to protect park resources and ensure visitor safety and enjoyment.

- Fish remains shall be buried away from the shoreline or at least 50 feet from any developed campsite, landing, picnic area, or other developed facility.

The disposal of fish remains must be regulated to protect park resources and ensure visitor safety and enjoyment.

(b) Conditions for the disposal, containerization, or carryout of human body waste have been established as follows:

- Disposal of human waste is prohibited.

The disposal of human waste must be prohibited to protect visitor safety and to protect resources.

- Dumping of human waste into any water source, including the Mississippi River, is prohibited. All human waste from boats must be disposed of at an approved marina waste dump station.

The disposal of human waste in the river must be prohibited to protect water quality and visitor safety.

36 CFR §2.15 – PETS

- Pets must be leashed at all times, except unleashed pets are permitted on Island 108.01 if the pet and owner are in compliance with rules of the Minneapolis Park and Recreation Board for use of the Minnehaha Falls Regional Park off-leash dog area.

Pets must normally be leased on all NPS lands to prevent resource damage. Except during floods, Island 108.01 is no longer an island and lies adjacent to the Minnehaha Falls Regional Park off-leash dog area and it is impossible to keep dogs and their owners off the island. Annual monitoring shows that resource impacts have been minimal.

- Pets may not be left unattended or tied to an object.

Unattended pets would interfere with visitor enjoyment.

(a)(5) Pet excrement must be disposed of in accordance with the following conditions:

- Persons in the park must promptly dispose of all pet excrement. Excrement must be gathered up and removed from lands owned or administered by the National Park Service, or buried at least six inches underground and 100 feet from any trail, campsite, building, picnic area, landing, or any water source, including the Mississippi River.

Pet excrement must be prohibited to prevent resource damage and interference with visitor enjoyment.

(b) The use of dogs in support of hunting must be in accordance with Federal and State laws.

36 CFR §2.22 – PROPERTY

- Personal property, including camping gear, shall not be left unattended on lands owned or administered by the National Park Service. Property left unattended for 24 hours shall be considered abandoned property and will be confiscated by the National Park Service.

Personal property, including camping gear, is left to "claim" a site and prevent public use. Unattended property must be regulated and removed to reduce resource damage and ensure public enjoyment.

(a)(2) Property may be left unattended for periods longer than 24 hours in the following areas and under the following conditions:

- Geocaching: geocaching is allowed on NPS-owned islands, but is prohibited at the Coldwater Unit. Caches must not be buried or damage natural resources in any way. Individuals placing a cache shall notify the NPS of its location. NPS retains the right to remove, or have removed, a cache that it feels is in an inappropriate location or is causing undue impact to natural resources. When hiding, finding and trading items in a cache, individuals are subject to all applicable federal, state and local laws.

Site alterations, including removal of exotic vegetation, demolition of buildings and regrading of the site make it necessary to prohibit geocaching at the Coldwater Unit. On other park lands, geocaching may be permitted only if resource damage does not occur.

36 CFR §2.35 –ALCOHOLIC BEVERAGES and CONTROLLED SUBSTANCES

(a)(3)(i) The following public use areas, portions of public use areas, and/or public facilities within the park are closed to consumption of alcoholic beverages, and/or to the possession of a bottle, can or other receptacle containing an alcoholic beverage that is open, or has been

opened, or whose seal has been broken or the contents of which have been partially removed:

- The possession or consumption of alcoholic beverages is prohibited at the Coldwater Unit and on Island 108.01. Where otherwise lawful, possession or consumption of alcohol is permitted on other park property.

  The Coldwater Unit is maintained for passive recreational uses, including religious observances, and the possession or consumption of alcoholic beverages would be inappropriate and inconsistent with the purposes for which the area is maintained. Island 108.01 is managed as part of an off-leash dog area where the possession or consumption of alcoholic beverages would be inappropriate and inconsistent with the purposes for which the area is maintained. That the consumption of alcohol would be inappropriate considering the purpose of the park area and the dignity or atmosphere to be maintained.

36 CFR §2.38 – EXPLOSIVES

- Using or possessing fireworks, firecrackers, or any type of explosive material is prohibited. The only exceptions are Visual Distress Signals (VDS) that are properly stored on vessels and approved for use by the U.S. Coast Guard.

Explosive material must be prohibited to prevent resource damage and protect visitor safety.

36 CFR §2.62 – MEMORIALIZATION

The scattering of human ashes from cremation, without a permit, is allowed under the following terms and conditions:

- The remains to be scattered must have been cremated and pulverized.
- The scattering of remains by persons on the ground is to be performed at least 100 yards from any trail, road, developed facility, or body of water.
- The scattering of remains from the air is prohibited.

Limitations on the scattering of human ashes are needed to prevent resource damage and protect visitor enjoyment

36 CFR §3.21 – SWIMMING AND BATHING

(a)(2) The following restrictions apply to all swimming and bathing activities:

- Jumping or diving into the river from any tree, swing-rope, or similar structure is prohibited on lands owned or administered by the National Park Service.

These activities are prohibited to protect visitor safety.

Appendix A

Maps of all lands administered by NPS and therefore subject to 36 CFR Parts 1-7 and this compendium

The Mississippi National River and Recreation Area is comprised of 72 miles of the Mississippi River from Dayton, MN to the Vermillion River bottoms just south of Hastings, MN.

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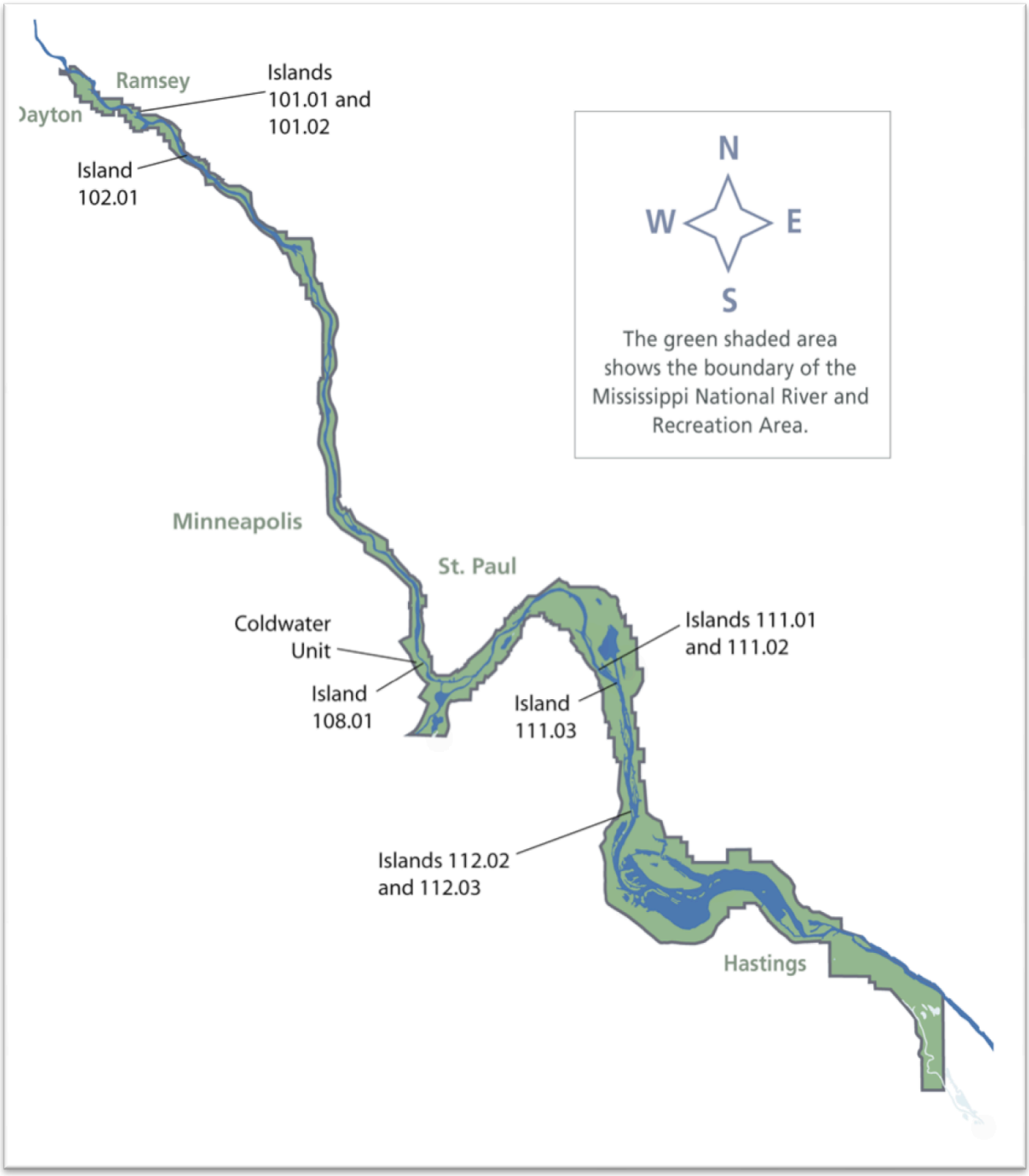
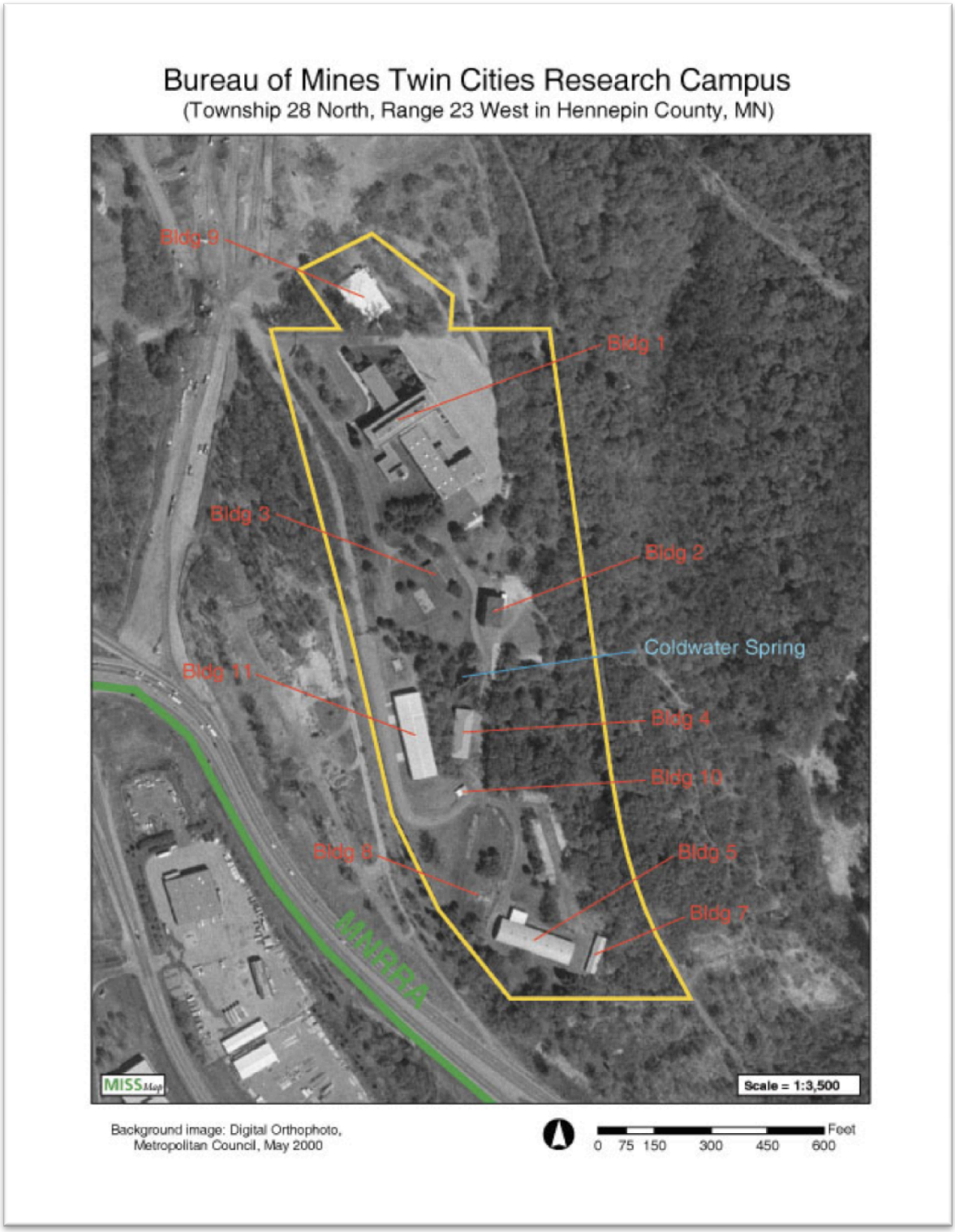
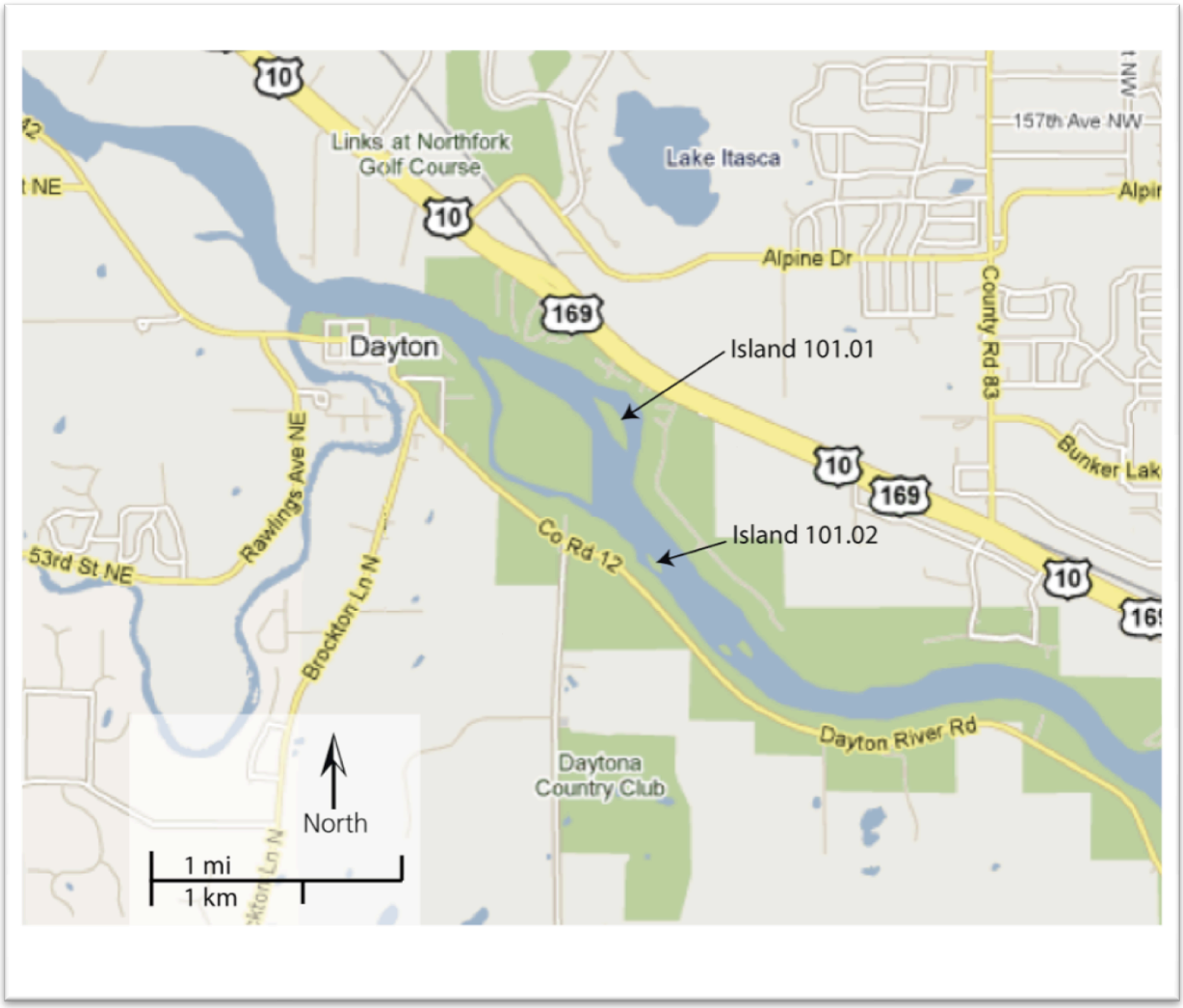


Coldwater Unit

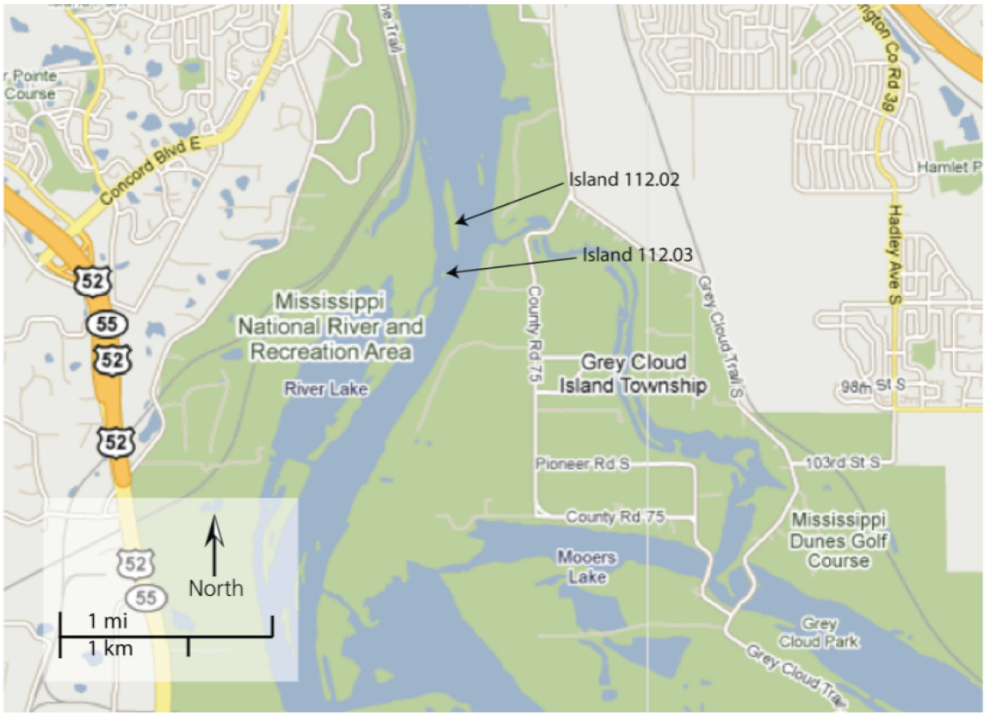


Island 101.01 and 101.02



Island 102.01

Island 108.01

Islands 111.01, 111.02 and 111.03

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