

National Park Service

**Sacred Site and Traditional Cultural Property Analysis**

Bureau of Mines Twin Cities Research Center, Main Campus, Hennepin County, MN

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To identify cultural resources present on the Bureau of Mines property, the National Park Service (NPS) undertook three studies. One covered the archeology, another the history and the third the ethnography. The ethnography study is entitled “The Cultural Meaning of Coldwater Spring in Dakota and Ojibwe Community Life: Ethnographic Resources Study of the Former Bureau of Mines Twin Cities Research Center Property, Hennepin County, Minnesota.” Summit Envirosolutions, Inc. and Two Pines Resources Group, LLC completed this report under contract with the NPS. This report looked for three types of ethnographic resources: ethnographic sites, as defined by NPS guidelines; sacred sites, as defined by Executive Order (E.O.) 13007, and Traditional Cultural Properties (TCPs), as defined by *Bulletin 38* of the National Register of Historic Places.

The primary focus of this review is the Traditional Cultural Property portion of the Bureau of Mines ethnography study. As the general public often confuses sacred sites and TCPs, we will briefly address the sacred site issue. The purpose of the TCP portion of the study was to determine whether Coldwater Spring or other areas on the Bureau of Mines property are eligible for the National Register and, therefore, subject to the Section 106 provisions of the National Historic Preservation Act (36 CFR Part 800).

The report title includes the Ojibwe, but after reviewing a first draft of the ethnography report it became clear that there are no TCP sites at the Bureau of Mines property for the Ojibwe. Historically, the Ojibwe spent little time in the project area, and when there, risked open conflict with the Dakota. As a result, this review does not deal with the Ojibwe.

Coldwater Spring is a contributing element to the Fort Snelling National Historic Landmark (NHL) and National Register Historic District because it was the water source for the fort for over 100 years. Any action that adversely affects the flow of water would constitute an adverse effect on the quality that makes the spring a contributing element to the NHL and National Register District. As stated in the ethnography report and in letters from the Dakota tribes cited below, protection of the spring as a water source and access to the spring are essential to the Dakota. As a NHL, Coldwater Spring will receive the highest level of historic preservation review and protection possible for a historic site. Eligibility as a TCP would give Coldwater Spring another level of status under the National Register and Section 106, but not as high as the NHL status. If the Dakota declare Coldwater Spring sacred, the Department of the Interior will adhere to the provisions of E.O. 13007 on access and protection. Neither the Section 106 process nor E.O. 13007 guarantees a particular outcome. The alternatives discussed in the Draft Environmental Impact Statement address the impacts to historic sites and access to them under the various alternatives.

## **Sacred Site**

According to E.O. 13007, “a ‘Sacred site’ means any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site.”

The NPS does not make the determination of whether a sacred site exists. It is up to a federally recognized tribe to make such a determination. Once a tribe declares a site sacred on Federal land, Section 1, E.O. 13007 says:

(a) In managing Federal lands, each executive branch agency with statutory or administrative responsibility for the management of Federal lands shall, to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions, (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies shall maintain the confidentiality of sacred sites.

Inherent in E.O. 13007 is the idea that a sacred site is sacred to the specific tribe declaring it so. Just because one tribe declares a site sacred does not mean it is sacred to other tribes or to the general public. When a tribe declares a site sacred, the agency does not normally ask for details or evidence supporting why the site is sacred.

## **Sacred Site Documentation**

The Department of the Interior, the NPS and Minnesota State Senator Carol Flynn have received letters from tribes related to the sacred, spiritual and cultural significance of Coldwater Spring. The key portions of these letters appear below.

### Four Dakota Tribes to Minnesota Senator Carol Flynn. 3/29/99.

The tribal leaders of the four recognized Dakota tribes in Minnesota submitted this letter in response to the Highway 55 reroute controversy. The Dakota leaders stated:

As you are aware, the Coldwater Spring and the area at the meeting of the Minnesota and Mississippi Rivers have held significant cultural and practical importance to Indian people for thousands of years. We once again state our support of our spiritual leaders that the Coldwater Spring is a spiritual and cultural sacred site. . . . Foremost, it is more factually accurate to state that the area maintains cultural significance for all Dakota people in Minnesota.

Letter to JoAnn Kyril, MNRRA Superintendent, from the elected leaders of the Prairie Island Indian Community, 9/12/2000.

This letter came in response to a meeting between the NPS and the four federally recognized Dakota tribes on September 11, 2000, at the Shakopee Mdewakaton Sioux Community. At this meeting, the NPS briefed the four tribes on the Bureau of Mines project, the Section 106 process, and the sacred site issue. The NPS encouraged the tribes to declare Coldwater Spring sacred if they felt it was so. Separately, the Prairie Island Indian Community submitted this letter. With regard to Coldwater Spring, the Community said the following:

As we discussed on September 11, it is well established that the Coldwater Springs and the area where the Minnesota and Mississippi rivers converge hold significant cultural importance to the Dakota people. Our own history tells us that the spring was used in the Dakota healing Lodge because of its purity. River or lake water would never have been used in the healing lodge; only the pure water from the spring could be used. Because of this important use and cultural connection, we feel that the protection of the site from any development is critical. We are relying on the Department of the Interior to assure us that the site will forever be protected and Dakota people will have access to the site.

Four Federally Recognized Dakota Tribes in Minnesota to JoAnn Kyril. 9/13/2000.

This letter also came in response to the September 11, 2000, meeting with the four Dakota tribes. Here all four tribal chairs signed the letter stating:

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.

The protection of all parts of the area is of vital importance to all Indian people. This area also holds great significance for all the people of the State of Minnesota. The fact that this area has been important to many different groups for such a long period of time should, in itself, be sufficient cause for the federal government to provide this place with the maximum level of protection.

The September 13 letter is our last official correspondence on this issue with the four recognized Dakota tribes in Minnesota. In this letter, the tribes do not say that Coldwater Spring is a sacred, religious or spiritual site, as they did in the 1999 letter to Senator Carol Flynn above. In fact, the letter is quite similar to the letter to Senator Flynn, except the sentence mentioning sacred and spiritual is deleted. If one or all of the Dakota tribes comes forward with a new letter or testimony saying Coldwater Spring is sacred to them, we will inform the Department of the Interior.

Lawrence Murray, Chairman, Iowa Tribe of Oklahoma to The Honorable Bruce Babbitt, Secretary of the Interior, January 29, 1999.

In a tribal resolution, the Iowa of Oklahoma declared Camp Coldwater sacred, rather than the spring. They probably meant to say Coldwater Spring. Camp Coldwater is a very large area associated with early settlers, much of which is outside federal ownership. To determine whether the Iowa meant all of Camp Coldwater or an area around Coldwater Spring, how the Iowa wanted the portion of this site on the Bureau of Mines property protected and when they wanted access to the spring, the Mississippi National River and Recreation Area (MNRRA) sent three letters to them and called them three times. The tribe has not responded. We consider the portion of the Camp Coldwater site on the Bureau of Mines property sacred to the Iowa, but we are waiting for input from them on the exact size of the area they are concerned about and for their input on level and nature of protection and access they want.

## **Traditional Cultural Property Review**

### General Overview - TCPs and the Arguments for One

The review below explains why the NPS did not concur with the analysis and conclusions concerning a TCP found in the ethnography report. The report's authors argued that Coldwater Spring merited inclusion on the National Register under Criterion A and C(4). Most importantly, the NPS finds the authors did not offer enough evidence specific to Coldwater Spring. We first begin by reviewing what a TCP is and the authors' arguments for one.

*Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties* defines a TCP as:

a location associated with the traditional beliefs of a Native American group about its origins, its cultural history, or the nature of the world; . . . a location where Native American religious practitioners have historically gone, and are known or thought to go today, to perform ceremonial activities in accordance with traditional cultural rules of practice, . . . (*Bulletin 38*, p. 1)

And:

A traditional cultural property, then, can be defined generally as one that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community. (*Bulletin 38*, p. 1)

Criterion A concerns "association with events that have made a significant contribution to the broad patterns of our history." In this case, the statement should read: ". . . events that

have made a significant contribution to Dakota history.” Criterion C(4) concerns sites that are “Representative of a significant and distinguishable entity whose components may lack individual distinction.” (*Bulletin 38*, pp. 11-12)

The authors present two arguments for why they think Coldwater Spring should be considered a TCP, each relating to a group.

First, they state, “. . . Coldwater Spring is recommended as eligible . . . under Criterion A for its association with the Dakota cultural landscape of *Mdote*, . . .” (*Mdote* is the confluence of the Minnesota and Mississippi rivers. Abstract, p. ii. See p. 98 for a discussion of the *Mdote* Cultural District.)

Second, they say that “Coldwater Spring is also recommended as eligible . . . under Criterion C as representative of a resource type of natural springs, many of which have been destroyed or which are no longer accessible, that are an integral component in the practice of Dakota traditional ceremonies and lifeways that require pure spring water.” (Abstract p. ii.) Under Criterion C, they argue, Coldwater Spring is a TCP under sub criterion 4, as “representative of a significant and distinguishable entity whose components may lack individual distinction . . .” (p. 96)

Putting the two together, they state:

For the Dakota, Coldwater Spring is imbued with cultural importance, because of its association with the cultural landscape of *Mdote* and because springs figure significantly in the practice of their traditional ceremonies, in particular the *Inipi* (sweat lodge), that require pure water for their performance. . . . it is representative of the type of natural springs . . . that are significant for their role in Dakota traditional lifeways. Hence, Coldwater Spring and springs like it are integral to the continued observance of these rituals. (p. 75)

Further into the study, they say, “The results of this study ensure that Coldwater Spring is a property, and in particular, it is identified as a site (natural spring) that is culturally significant for its associations with:

- \* the *Mdote* area as the confluence of the Minnesota and Mississippi rivers, which is regarded as the center of all things and historically significant by the Mdewakanton Dakota;
- \* the Dakota tradition of the *Unktehi*; and
- \* the activity of collecting spring water for ceremonial use.” (p. 95)

### Ethnographic Accounts and Coldwater Spring

Overall, the authors' arguments for a TCP under both Criteria depend upon the evidence that ties Coldwater Spring to the proposed group. As presented below, the ethnographic accounts directly relating the Dakota and Coldwater Spring are slim.

#### *Chris Leith, Dakota Elder, Prairie Island Community*

Chris Leith talks about the historic use of Coldwater Spring. He says that the “people in the old village [*Ti Tanka Tanina*] used the spring water for medicine, for ceremonies, washing, and purification . . .” He also says that the “water nurtured the Indians who lived in the village, it was sacred. They used the water in their sweat lodges (Hotopp et. al. 1999:38).” The “old village” lay near or at the confluence for a short time. (pp. 44, 60)

#### *Gary Cavender, Dakota Elder, Not Enrolled*

Cavender tells of the Dakota origin story at the confluence, its possible connection to Coldwater Spring, the spirit *Unktehi* and its association with the spring and the fact that there is no Dakota name for the spring. With regard to the Dakota origin tradition, he told the interviewers that:

There are seven groups of Dakota [Mdewakanton, Wahpekute, Wahpeton, Sisseton, Yankton, Yanktonai, and Teton]. There are seven stars in the constellation of Orion. We are the spirit beings from the constellation of Orion and those seven stars. This whole area [*Mdote*] is important to us because this is where we first came as spirit beings - to the confluence of the Mississippi and Minnesota rivers. We spread out from there becoming human beings as we spread out from there. (p. 58)

He also stated that, “The water from Coldwater Spring comes out from underneath the land and some of the spirit beings that arrived went into the water and they appeared on earth here and so became Dakotahs. That is the connection there.” (p. 58)

About *Unktehi*, ethnography report authors relate the following from Cavender:

While Coldwater Spring is associated with the *Unktehi* by virtue of being a spring, Gary Cavender, . . . has specifically linked *Unktehi* to Coldwater Spring both during previous testimony for the TH 55 Reroute project when he stated that “our underwater God ‘*Unktehi*’ lives in the Spring [Coldwater]” (Cavender 1998), as well as during an interview for this study when he informed us that *Unktehi* “lived in that tepee [*Taku Wakan Tipi*]” and “he would go into the river down that spring [referring specifically to Coldwater Spring] . . .” He has said elsewhere, as well, that Coldwater Spring is the dwelling place of *Unktehi*. (p. 61)

Finally, the authors briefly address the fact that Coldwater Spring does not have a Dakota name historically. “In our interview with Gary Cavender, a key cultural expert and elder,” they report, “he said that the name of the spring was not ‘cold water,’ but he could not recall its Dakota name . . .” (p. 60)

### **Specific Documentation and Coldwater Spring as TCP**

Now let’s look at this evidence in relation to the potential eligibility of Coldwater Spring for the National Register of Historic Places as a TCP. The three letters from the Dakota tribes discussed under sacred sites above simply assert that Coldwater Spring is of practical and cultural significance (and in the 1999 letter of spiritual and sacred importance) but offer no specific evidence. On this point, the NPS did not ask for specific evidence from the Dakota with regard to sacred site designation. The discussion below focuses on three issues: the fact that the spring has no Dakota known Dakota name historically, Dakota use of the spring, and associations with *Unktehi*.

Chris Leith’s statement provides the only historical connection to Dakota use of the spring. He asserts that people from the old village at the confluence in 1689 used the spring water for a variety of ceremonial purposes. But one must wonder why and how this information was passed down but not the name of the spring. If the spring were so important, why doesn’t it have a specific name, like other Dakota sites in the area do? Granted, the Dakota could have adopted the name Coldwater for the spring name, or Coldwater Spring could have been their original name for it, but we have no evidence of this. Nevertheless, as the spring has no known Dakota name, how do we know that Coldwater Spring was the spring the people from the old village went to? Many springs near the confluence could have been used. As we discuss below, any spring could provide pure water for ceremonies and *Unktehi* is present in all springs. So we need to know if Coldwater Spring had some special or unique significance.

The report’s authors acknowledge that, “During the course of this study, no historical documentary evidence for the American Indian use of the specific spring known as Coldwater was encountered, but is inherently understood by the official Dakota representatives interviewed that a natural spring like Coldwater Spring would have been used for ceremonial purposes particularly because of its relationship to *Mdote*.” (p. 60) This paragraph captures the authors’ primary argument and the arguments of some of the interviewees. They assume, or speculate, that since Coldwater is a spring and is in the confluence area it must have been used. This argument could be made for all springs for some unspecified distance around the confluence. Use alone would not qualify Coldwater Spring for inclusion on the National Register.

According to the ethnography report:

Other Dakota tribal members, while unable to verify the use of this particular spring, acknowledge spring use in the area. Everett Black Thunder, son of Sisseton-Wahpeton tribal historian Elijah Black Thunder learned from his father that people used springs “especially in that area,” but because the name of the

spring is lost to him, he does not know if it was Coldwater Spring (Everett Black Thunder, key cultural expert, February 21, 2006). Others, like Curtis Campbell, elder, historian, and Prairie Island Indian Community member, inherently believe that the Dakota people that lived in the Mendota area would have used the spring (Curtis Campbell, Prairie Island Indian Community, September 20, 2005 and February 14, 2006).

Again the lack of a Dakota name is important here, as is the assumption that since Coldwater Spring is in the confluence area it must have been used. Everett Black Thunder's account is important in saying that people used springs in the area, not just one spring.

Gary Cavender's interview explains why *Unktehi* is significant in Dakota culture, and the report authors emphasize the connection of *Unktehi* to Coldwater Spring. However, as the authors thoroughly and consistently show, *Unktehi* is associated with all springs.

The most critical aspect of Cavender's account concerns the Dakota origin tradition at the confluence. There is no question that the confluence is significant to the Dakota. And Cavender's statement that some of the Dakota emerged on earth at the spring (which he presumes was Coldwater Spring) is powerful.

In his Affidavit before the United States District Court, District of Minnesota, regarding the Highway 55 reroute, Gary Cavender also talks about Coldwater Spring and the Dakota origin tradition. This account is not related in the ethnography report, but it is very important. Cavender testified that, "The Spring is the site of our creation myth (or 'Garden of Eden') and the beginning of Indian existence on Earth." He does not explain what this means. Since *Mdote* (the confluence) is recognized as the place at which the Dakota came to Earth, Cavender could be including the spring in a broad area around the confluence that would be within the bounds of their "Garden of Eden."

As noted above, under *Bulletin 38*, a TCP can be a location associated with the traditional beliefs of a Native American group about its origins. Although the authors point this out, they focus on the *Mdote* cultural landscape and do not explore the origin tradition with other interviewees or the other interviewees did not have anything to say about it. Still, a key problem is that Coldwater Spring has no known, historic Dakota name linking it directly with the origin tradition. How do we know this was the spring where some of the Dakota came out on Earth? And Cavender's account begs other questions. Did the Dakota spirits go into all springs in the confluence area and come out on earth or just this spring? Did one or more of the seven bands come out at a spring thought to be Coldwater Spring or did a certain number of Dakota, unrelated to band association, emerge there? At this point, Gary Cavender is the only one who relates the origin tradition story to the spring believed to be Coldwater Spring.

The oral interviews presented above are all the documentation the authors present specific to finding Coldwater Spring eligible as a TCP. In fact, none of the reports done for the Bureau of Mines project supports a Dakota history of cultural practices at Coldwater Spring or that those practices or any use of Coldwater Spring specifically were



rooted in Dakota history. Since any spring that provides pure water will work for the ceremonies the Dakota perform, loss of this spring would not undermine the cultural identity or continuity of the Dakota community. In fact, spring water is not necessary. As the ethnography report states:

In the absence of access to a spring source, well water (Chris Leith, key cultural expert, September 22, 2005) has been used by interviewees for sweat lodges and other ceremonies. Indeed, as some traditional community springs, like 'Rattling Springs' near Prairie Island, are now on private property, alternative water sources must be sought (Chris Leith, key cultural expert, September 22, 2005. (p. 53)

The NPS believes that more evidence is necessary to determine Coldwater Spring eligible under either Criterion A or C. To this end, we should ask the four recognized Dakota tribes some additional questions relating to the origin tradition and springs in the confluence area. If the Dakota choose to answer the questions, they could provide the documentation needed. If they decide that we should not have access to detailed stories of their origin tradition, that is their choice, but without such information the basis for a TCP cannot be substantiated. Again, Coldwater Spring is already a contributing element to the Fort Snelling NHL, and the tribes have the option to declare the site sacred under E.O. 13007.

In the discussion below, the NPS addresses the issues presented above in more detail in relation to *Bulletin 38*.

#### Criterion A analysis

The report's authors argue that Coldwater Spring is part of a group of sites around the confluence that are associated with "the Dakota cultural landscape of *Mdote*." That landscape includes events and places. Specifically, they state, "The occurrence of these significant events within the radius around the physical confluence is a testimony for the Dakota of the centrality and power of this location . . ." The places and events include:

*Mdote*. The physical confluence of the Minnesota and Mississippi rivers, which figures in Dakota history as a place of origin and the center of the earth.

*Oheyawahi* or Pilot Knob. The bluff overlooking the confluence, where the Dakota placed their dead on scaffolds and/or buried them, and a place where they conducted certain ceremonies. Pilot Knob is also the location of the Treaty of 1851, by which the Mdewakanton and Wapekute bands of the Dakota gave up their lands west of the Mississippi.

*Taku Wakan Tipi* or Morgan's Mound. Located over a mile to the west of the confluence and has a tradition associated with *Unktehi*.

*Wita Tanka* or Pike Island. The location of the Treaty 1805 and an 1838 Dance.

Mendota. The authors include Mendota, as it was where five bands of the Mdewakanton signed the Doty Treaty of 1841.

The land below Fort Snelling where the 1862 internment camp was located following the Dakota Conflict of 1862.

Clearly, many important events in Dakota history have occurred around the confluence. Notably, the key Dakota places above have Dakota names that are associated with specific stories that have been known for a long time.

Two immediate questions arise, however. First, with regard to the *Mdote* cultural landscape, are we talking about a TCP or a National Register district? Rightly, the authors note that it was outside the scope of their project to undertake a nomination for the confluence area. But, they still needed to relate the history of Coldwater Spring to the confluence area, which they could not do with any substance or depth. Because Coldwater Spring is in the area does not automatically make it part of the group.

Fundamentally the report's argument is that Coldwater Spring is associated with events (or cultural practices or beliefs) that have made a significant contribution to the history of the Dakota people, and/or it is associated with broad themes that have. Their argument for association with significant events and/or broad themes is speculative and confusing. Granted, with more information, the connection between the Dakota origin tradition and the spring might be strengthened and the basis for a TCP might be substantiated.

### Criterion C analysis

The ethnography report insists that Coldwater Spring is representative of a type of site that is significant to Dakota, and, therefore, eligible for listing on the National Register. Specifically the authors rely on the following provision in *Bulletin 38* to argue that Coldwater Spring merits inclusion on the National Register under Criterion C: "A property may be regarded as representative of a significant and distinguishable entity, even though it lacks individual distinction, if it represents or is an integral part of a larger entity of traditional cultural importance." The authors' position is that Coldwater Spring is part of such an entity.

*Bulletin 38* offers two examples of how a site could be a natural feature representative of a larger group. One is from Micronesian navigation markers and the other Pomo Indian sedge fields.

Micronesian navigational markers.

... some deeply venerated landmarks in Micronesia are natural features, such as rock outcrops and groves of trees; these are indistinguishable visually (at least to the outside observer) from other rocks and trees, but they figure importantly in chants embodying traditional sailing directions and lessons about traditional history. As individual objects they lack distinction, but the larger entity of which they are a part – Micronesian navigational and historical tradition – is of prime importance in the area’s history. (*Bulletin 38*, p. 14)

Pomo sedge fields.

... certain locations along the Russian River in California are highly valued by the Pomo Indians, and have been for centuries, as sources of high quality sedge roots needed in the construction of the Pomo’s world famous basketry. The sedge mats are “representative of, and vital to, the larger entity of Pomo basket making.” (*Bulletin 38*, p. 14)

Thus, the authors say,

Using this example [Micronesian navigation markers] as a model, Coldwater Spring is a natural spring that is indistinguishable to the casual observer from any other natural spring. For the Dakota, Coldwater Spring is imbued with cultural importance, because of its association with the cultural landscape of *Mdote* and because springs figure significantly in the practice of their traditional ceremonies, in particular the *Inipi*, that require pure water for their performance. (pp. 74-75)

The focus in both examples in *Bulletin 38* is on a finite number of resources. The Micronesians did not employ every rock outcropping. The Pomo did not regard every sedge field as important. For Coldwater Spring the case would have to be that this spring was one of a defined number of such springs. The authors would have to assert that while others could not tell the difference, the Dakota could, due to the spring’s qualities or its unique place in Dakota culture. The authors, however, do not establish the fact that the Dakota valued certain springs over others. In fact the argument is that the Dakota used and still use any natural spring with pure water. The authors suggest that since Coldwater Spring is in the *Mdote* area, it would have been used as a source of water for ceremonial purposes. But they do not establish that use of Coldwater Spring was more important than the use of any other spring. Any source of pure water works for the *Inipi* and other ceremonies. The report is essentially saying that all springs in the current or former Dakota territory are eligible as TCPs. The National Register does not recognize such a generic designation. It would not accept all rivers or all lakes or all waterfalls or all mountains as TCPs. The National Register focuses on sites or groups of sites that are unique historically.

The authors do not adequately examine the idea that Coldwater Spring is imbued with cultural importance, because of its association with the cultural landscape of *Mdote*. As discussed above, there is one source relating Coldwater Spring to the Dakota origin story

and one account relating to the potential use of Coldwater Spring by Dakota people living at the confluence. The authors simply do not establish a clear or substantive connection between Coldwater Spring and *Mdote* or the other Dakota sites related to it.

The authors dismissed eligibility under Criterion B because, they concluded, “the *Unktehi*’s association with this spring is no more significant than his association with any other spring (Gary Cavender . . . ; Curtis Campbell . . . ) . . .” (pp. 73-74) This same argument should apply to the use of springs for the *Inipi* sweat lodge. Because any pure water can be used for the *Inipi* sweat lodge, Coldwater Spring should not be considered as eligible under Criterion C.

For the reasons above, the NPS believes the authors of the ethnography study did not present valid arguments under Criterion A or C and did not provide enough specific evidence under either to merit finding Coldwater Spring eligible for the National Register as a TCP.

*Bulletin 38* focuses on a community or tribe to whom a site is significant. We need to define the tribe or community for any TCP. The assumption in the report is that Coldwater Spring is a TCP to the four Mdewakanton Dakota tribes in Minnesota and to the unrecognized Mendota Mdewakanton. We may not presume this. We need to ask whether Gary Cavender speaks for each of the communities. If we get further information concerning a TCP at Coldwater Spring, we should make clear what communities and tribes the spring is a TCP to. This will require officially corresponding with the tribes.

This analysis does not go into the requirements of the National Register as defined in *Bulletins 15 (How to Apply the National Register Criteria for Evaluation)* and *16A (How to Complete the National Register Form)* that would need to be addressed. The above analysis clearly shows that more work is needed before pursuing National Register eligibility or a nomination.

The NPS must also consider another point. There is the danger that we would be giving a site a meaning and power for the Dakota that it did not historically have. If the evidence does not support historical use of the spring by the Dakota for any day to day or special ceremonial use, then maybe it was not special to them. If this were the case, then we (and all those non-Dakota interests who support giving the spring a special designation) may be creating Dakota history, rather than recording it. Since this process will be well documented, what we say now about Coldwater Spring will become permanent fact.