

## MEMORANDUM

**To:** MCWD Board of Managers  
**From:** Tom Dietrich, Permit Coordinator  
**CC:**  
**Date:** February 12<sup>th</sup>, 2015  
**Re:** MCES Tunnel Interceptor Project Timeline & Comments

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### **Purpose:**

The purpose of this memo is to provide the Board an update on the schedule for Board action and additional comments received for the MCES Tunnel Interceptor Project, permit 14-577.

Based on Board and public request for information on the ground penetrating radar analysis currently being conducted by the applicant, consideration of the permit will be postponed until the analysis and report are completed which is expected by the end of February.

Comments received at the Public Hearing on January 29, 2015 and during the comment period will be compiled and presented to the Board when the permit is heard for consideration. The attached comment was received after the conclusion of the comment period which requires no response or action, but was requested to be provided to the Board of Managers.

### **Background:**

Metropolitan Council Environmental Services (MCES) has applied for an MCWD permit triggering the rules Erosion Control, Floodplain Alteration, and Waterbody Crossings & Structures for the installation of a new sanitary interceptor line located within MCES easements near 3901 Minnehaha Parkway E., in the City of Minneapolis. The project proposed will install a new, five foot diameter interceptor tunnel parallel to Minnehaha Parkway E., along with a large buried regulator vault and two vertical, ten foot diameter access shafts. The new MCES sanitary interceptor has been proposed to address the aging infrastructure currently in place. In addition to having regulatory authority for Erosion Control, Floodplain Alteration, and Waterbody Crossings & Structures in the City of Minneapolis, the District is bound to state legislation, 2001 Ch. 101.

On January 29, 2015 the District hosted a public informational meeting to gather public comments and questions. Verbal and written comments were received the night of the meeting, and the Chair provided an additional opportunity to the public to submit written comments to the District by February 5, 2015 at 4:30 p.m.

Board and public request of additional analytical information regarding the ground penetrating radar study during the public informational meeting was received.

**Next Steps:**

Staff and consultants are in the process of compiling responses to all received comments. Comments and responses will be assembled into a matrix and presented before the Board when the permit is heard for consideration. Additionally, staff continues to coordinate with the applicant in compilation of the ground penetrating radar analysis and report. The permit will be scheduled on the Board agenda for consideration at such a time when all information regarding the analysis and report are available.

If there are questions in advance of the meeting, please contact: Tom Dietrich at (952) 641-4518 or [tdietrich@minnehahacreek.org](mailto:tdietrich@minnehahacreek.org)

## Thomas Dietrich

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**From:** Susu <susujeffrey@msn.com>  
**Sent:** Friday, February 06, 2015 6:03 PM  
**To:** Thomas Dietrich  
**Subject:** Sewer Project Near Coldwater Springs  
**Attachments:** Eddie Benton Benais testimony.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Tom,  
Please forward this email to the Board and other pertinent MCWD staff.  
--Susu

Report on Minnehaha Creek Watershed District Meeting (1.29.15) to Hear Public Comments on a 2-Year Dewatering Sewer Construction Plan Near Coldwater Springs [www.minnehahacreek.org](http://www.minnehahacreek.org)

Coldwater Springs is the last major *natural* (water coming out of bedrock, not a pipe) spring in Hennepin County. Coldwater is at least 10,000-years old and furnished water to Fort Snelling 1820-1920. Coldwater figures in the birthplace of the Dakota people and the political state of Minnesota.

### THE PROJECT

A sanitary sewer pipe will be replaced at the north end of Minnehaha Park. It is an underground construction, about 45 to 50 feet below the surface, with two 18-foot diameter access shafts cut through bedrock at either end.

Construction will run from 39<sup>th</sup> Avenue South, eastward paralleling the parkway to the round-about entrance/exit to Minnehaha Park. Work is scheduled to run from this summer to June of 2017.

A new 1,000-foot pipe would run horizontally below Minnehaha Creek, the Hiawatha Light Rail Transit line and Highway 55 to replace a 1930s-era sanitary sewer pipe.

Both groundwater and deep well dewatering is planned that is, dewatering above the limestone bedrock and below in the sandstone. Daily monitoring at Coldwater is called for.

In addition to the new 5-foot diameter sewer pipe, underground constructions include abandoning in place and grouted (waterproofed): the old 1930s horizontal sewer pipe, two 18-foot diameter vertical access tunnels cut into limestone and sandstone, plus a 44 by 60-foot vault. Groundwater "will just flow around" these subterranean buried structures we were assured.

That is an echo of the assurances by experts who designed the Highway 55 reroute which resulted in the loss of about a third of the flow to Coldwater. MnDOT was court-ordered to monitor the spring flow for 20 months post-construction. Despite the Coldwater protection law a permanent, daily loss of flow of 27,500 gallons was reported.

There was no discussion about the seeps (mini springs) around the top of the Mississippi bluff in Minnehaha and Coldwater parks and the rare black ash seep in the Minnehaha gorge.

## THE LAW

Sacred landscape is a reality not common in the dominate world. So it was not surprising when Minnehaha Creek Watershed District (MCWD) board managers wondered why the Coldwater Protection law of 2001 was written so narrowly.

### *Section 1. [PROTECTION OF NATURAL FLOW.]*

*Neither the state, nor a unit of metropolitan government, nor a political subdivision of the state may take any action that may diminish the flow of water to or from Camp Coldwater Springs. All projects must be reviewed under the Minnesota Historic Sites Act and the Minnesota Field Archaeology Act with regard to the flow of water to or from Camp Coldwater Springs.*

The language of the law is specific, forbidding "any action that may diminish the flow." Not "temporary" dewatering, not permanent dewatering—no "action that **may** diminish."

## LEGAL INTERPRETATION

At the MCWD meeting staff attorney Louis Smith delivering a "legal interpretation" said because Coldwater is a mile and a half distance away there would need to be a "direct impact" on the spring. "Remote possibilities are not a violation of the law," "possibilities are fixable" and temporary construction impacts are allowable if "minimized."

During Highway 55 reroute construction a grit chamber was cut into limestone bedrock at Minnehaha Park at about 50<sup>th</sup> Street, one mile north of Coldwater. The result was dewatering at a rate of 500 gal/min for several months. There was a "measureable reduction of flow to the spring."

That grit chamber cut intercepted the main limestone fracture that leads to Coldwater. The proposed sewer bedrock cuts, at 39<sup>th</sup> Street, are just 1.5 miles north of Coldwater, a half mile north of the great dewatering cut during Highway 55 reroute construction.

## CONTINGENCY PLANS

Consultants at the MCWD meeting admitted that the "contingency plans" are unknown, that conditions are "unforeseeable," that an observer will be on site to come up with "reasonable solutions."

--A 10-20 percent variation in the flow is "hard to tell."

--There is a "low risk of permanent impact to the flow." Planners are "confident" about "restoring" the spring without the evidence of an underground fracture map, without figures on dewatering amounts or duration of dewatering.

A fracture map would show the natural subterranean limestone bedrock cracks that funnel water by gravity. Braun Intertec consultant Kelton Barr said the main fracture could be blocked between construction points.

MCWD Manager Jim Calkins noted, "Once you damage the system it's pretty hard to fix."

## GRADUAL DOWNWARD TREND

MCWD engineer Mike Panzer said "There is an appearance of a gradual downward trend in flow over the past 6 or 7 years," (2/05). This is what concerns Friends of Coldwater, a constant degradation of the spring. With every cut Coldwater bleeds water.

The sanitary sewer project has not yet been reviewed under the Minnesota Historic Sites Act and the Minnesota Field Archaeology Act with regard to the flow of water to or from Coldwater Springs.

Within the two week time period between meetings Braun Intertec should execute a ground penetrating radar map to define the main Platteville limestone fracture that funnels some water to Coldwater Springs. This is the bedrock cut that required 500 gal/day dewatering at 50<sup>th</sup> and Minnehaha Park during highway construction, a mile north of Coldwater. Just a half mile further north is the sewer construction site.

It seems like a backwards process when so much expensive planning has gone into the proposed sewer replacement and it is known to be in close proximity to the main "joint" or limestone fault.

MCWD is normally the last agency to permit a project.

## ANCIENT SACRED LANDSCAPE

Coldwater is a "Traditional Cultural Property" that is, a landscape that is not limited in importance to one tribe or one time period, it is generically special land. Coldwater is considered to be at least 10,000 years old. The designation was made by the Minnesota State Historic Preservation Office based on the 2006 Ethnographic Study commissioned by the National Park Service.

Coldwater is also a "Dakota Tribal Sacred Site." The Dakota people were the latest Native group living here in 1803 when the U.S. concluded the Louisiana Purchase. People have been here since the glaciers melted.

A 9,000-year old bison spear point was found at the Sibley House archaeological dig in Mendota (1996). The site was a backwater of the confluence where a bison, twice the size of today's buffaloes, got stuck in the muck, speared and eaten.

Dakota teachers say Un K'te Hi, a powerful spirit of water and the underworld, dwells at Coldwater. It is not just any spring but the spring linked to Taku Wakan Tipi (Something Sacred Dwells Here) a traditional Dakota burial mound at the Veteran's Administration pushed up by Un K'te Hi from an underground water passage (such as a limestone fracture) between Coldwater and the hill.

Religious mythology typically includes a geographic place and a story.

## THE ALTERNATIVE

The alternative of replacing the sewer pipe in situ was dismissed as too hard to get to, too expensive. It would involve temporary rerouting of the sewage for the construction period.

What is Coldwater worth? It is the last major natural spring in Hennepin County. It is part of the emergence landscape of the Dakota Oyate (nation/people) and some say the birthplace of the political state of Minnesota. The soldiers who built Fort Snelling lived around the spring and a civilian community gathered to service the fort. Coldwater was used as an emergency drinking water supply for south Minneapolis in the summer of 1976 when city water was putrid with algae.

—Susu Jeffrey  
[www.FriendsofColdwater.org](http://www.FriendsofColdwater.org)

Attachment: Native American spiritual elder's testimony about Indian history at Coldwater.

P.S. In addition to historic Native American life at Coldwater, I regret that Dred Scott is not publicly celebrated. Scott drank Coldwater, was stationed at Fort Snelling between 1836-40, met and married his wife Harriet there, and used his residency in the then-free Wisconsin Territory in part to plead his famous case for freedom from slavery (1858).

I recommend Lea VanderVelde's book, Mrs. Dred Scott, best research on Fort Snelling Indians-whites-slaves I've run across.

**Excerpts of the testimony of Eddie Benton Benais**, Ojibway spiritual elder, to Minnesota state archeologist Joe Hudak, MnDOT staff and a consultant, under mediation ordered by state Judge Peter Albrecht regarding sacred land and traditional cultural property rights claimed by the Mendota Mdewakanton Dakota Community, the Iowa people (pre-Dakota), Anishinabe people and other indigenous peoples.

March 19, 1999, Minnesota State Office Building, Room 400, St. Paul Capitol grounds

Mr. Benais credentials include:

- Grand Chief of the Mdewiwin Society, also called the lodge or the Medicine Lodge
- fullblood Ojibway (Anishinabe)
- currently living on the Lac Courte Oreilles Indian Reservation in Northern Wisconsin
- works as a Native Education Consultant
- bachelor's degree University of Minnesota
- Master's of Educational Administration, California Western University
- 25 years in Indian education, notably with the Red School House in St. Paul
- published curricula for Indian education
- Previous to his education career, he worked as a journeyman steel construction worker for 14 years.
- Mr. Benais was active in DFL politics, mentioned his lobby background and said Minnesota was a leader in Indian education in the mid-1980s.

### Excerpts

About 900-950 AD the forebearers of the Ojibway people migrated from the mouth of the St. Lawrence River westward across the Great Lakes. These people brought a particular philosophy or spirituality with them. "We have a different relationship with the Creator, and thus with the Creation." The Ojibway Creator is "kind, forgiving, nurturing, encouraging, it is *that* kind of relationship."

Mr. Benais talked about "the rampant use of free will without discretion" which "brings us to where we are today." He spoke of a 300 year old prophecy, inconceivable at the time, about rivers running with poison. The Mdewiwin [M'day-wi-win] Lodge teaching about the need to protect waters is "to show the world how to love fish....How we take care of the water is how it will take care of us...Water is sacred." He called for a "covenant or relationship" with the earth as "the mother of all living things." He invited us to "come to the door of the (Mdewiwin) lodge and ask, 'How can we stay alive'...There is a new thinking," he said. It is respect. "The first commandment of our spirituality is respect."

The elder also talked about the importance of oral history. "The Bible itself is a result of oral history. Yet we hold it to be sacred." He compared swearing on the Bible to touching the sacred pipe. "Our history is valid....It is time for us to share our story. Our

story goes back 50,000 years.” This period of time now, holds the possibility of “a new brotherhood of the nations and the beginning of the Great Peace. Or not.”

Mr. Benais began speaking specifically about the land between Minnehaha Falls and Coldwater Springs, near the confluence of the Mississippi and Minnesota Rivers.

“We know that the falls which came to be known as Minnehaha Falls, was a sacred place, was a neutral place, a place for many nations to come. And that (to) further geographically define (it), the confluence of the three rivers, which is actually the two rivers. That point was a neutral place. And that somewhere between that point and the falls there were sacred grounds that were mutually held to be a sacred place. And that the spring from which the sacred water should be drawn was not very far. I’ve never heard any direction from which I could pinpoint, but that there’s a spring, near the lodge, that all nations used to draw the sacred water for the ceremony. That’s in the words of our water people of the (Mdewiwin) lodge.

“The people that are concerned, the people that are identified are the Dakota, the Sauk, the Fox, the Potawatamie, the Wahpeton Dakotas, the Mdewakanton Dakotas, the Mesquakie people as all having used and recognizing and mutually agreeing that that is forever a neutral place and forever a sacred place. That is confirmed by our oral history.

“It is difficult to even estimate when the last sacred ceremony was held inter-tribally there. But my grandfather who lived to be 108, died in 1942. [born 1834] I will tell you this. Many times he retold how we traveled, how he and his family, he as a small boy traveled by foot, by horse, by canoe to this great place to where there would be these great religious, spiritual events. And that they always camped between the falls and the sacred water place. Those are his words....

“And I, having been born into an Ojibway/Anishinabe family, having been raised in this tradition, and having been now entrusted with teaching this tradition and articles of faith, I can say that to you....

“Some of the research that correlates with the oral tradition is from” *Indian Notes and Monographs volume IV: A Series of Publications Relating to the American Aborigines*, Allison Skinner, 1920, NY Museum of the American Indian, “Medicine Ceremony of the Menominee, Iowa and Wahpeton Dakota With Notes on the Ceremony Among the Punka, Among the Ojibway and Potawatamie People.”

“The lodge to which we refer is now known as the Mdewiwin Lodge-- was common to all of those people. And this study indicates that the people known as the



Ojibway were the carriers and the people who first brought this belief system and this theology into this area.

“But I want to make special note of this, again, it characterizes something about Indian people, and that is-- we share that which we have. There was respect among us, even as different-speaking people. Respect of the land, the same respect for the land, the same respect for the sacred....And the people were given access to this spiritual teaching, to the lodge, and then at some point were given, *were given* the lodge for them to worship and to practice.

“Within my physical memory, visiting the Prairie Island Dakota Nation as early as the 1940s there were still elders in that community who were still members of the Mdewiwin Lodge, along with the Winnebago of Wisconsin....There was a great dialogue-- there was always dialogue among our people and those of the Prairie Island Community regarding the lodge. That’s how we have always known this way of life and practice, as the lodge, meaning the Mdewiwin Lodge, the system of belief.

“With the passing of the Honorable Amos Owen, who was the last person of that community who I ever heard refer to the time, as ‘when we belonged to the lodge.’ He’s the last person that I ever heard of talk about that mutually sacred place, meaning the falls and the spring from which sacred water would be drawn—Coldwater.”

Mr. Benais noted that the Indian Monographs book is centered on the Medicine Ceremony of the Menominee but it also includes Dakota words for the Initiation Ceremony and the Reinstatement, ceremonies of the lodge. “It goes on to describe the Iowa Medicine Dance and includes the Dakota origin myth, the initiation by purchase. In the initiation by purchase I have discovered that the Wahpeton Dakota people actually purchased the rights to have, maintain, and to carry on the lodge from the Ojibway people. That purchase was not monetary. It was not goods of any kind. They purchased to right to have and maintain it, by their faith. Nothing else....

“It is our belief that the prophecies contain a promise. The new people, the new awareness is here among us, among all people. There’s a growing awareness that we need to care for the earth, we need become concerned with the water, the air and all of creation. We need to do this together....We have to begin to reach out and say, ‘Brother, we are of the earth.’ That all prayer originates at the same place and arrives at the same place. That is what I believe.”

Transcribed from an audio-visual tape of the testimony,  
by Susu Jeffrey, April 1999.