

M.L. 2016 Project Abstract

For the Period Ending June 30, 2022

PROJECT TITLE: Otter Tail River Recreational Trail Acquisition

PROJECT MANAGER: Andrew Bremseth

AFFILIATION: City of Fergus Falls

MAILING ADDRESS: 112 Washington Avenue West

CITY/STATE/ZIP: Fergus Falls, Minnesota 56537

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FUNDING SOURCE: Environment and Natural Resources Trust Fund

LEGAL CITATION: M.L. 2016, Chp. 186, Sec. 2, Subd. 09g as extended by M.L. 2018, Chp. 214, Art. 4, Sec. 2, Subd. 20 (b)4 and M.L. 2021, First Special Session, Chp. 6, Art. 6, Sec. 2, Subd. 18

APPROPRIATION AMOUNT: \$600,000

AMOUNT SPENT: \$7,616

AMOUNT REMAINING: \$592,384

Sound bite of Project Outcomes and Results

The City of Fergus Falls proposed, but was unable, to acquire 3,476 lineal feet of frontage on the Otter Tail River.

Overall Project Outcome and Results

The City of Fergus Falls proposed to acquire 3,476 lineal feet of frontage on the Otter Tail River. The former Mid-American Dairy property, a 28.9 acre industrial site fronting on the Otter Tail River in downtown Fergus Falls, is currently owned by the Fergus Falls Port Authority. In preparation for the acquisition by the City of Fergus Falls and with the guidance of a work plan approved by the MPCA, the site has been carefully returned to a green field site from its former industrial use and subdivided into two parcels, with 11.57 acres identified as the location of a multi-use non-motorized trail.

By obtaining 11.57 acres from the Port Authority, the City would ensure in perpetuity the protection of 3,476 lineal feet of river frontage and foster recreational activities led by trail development. The acquisition would provide public access to river frontage that was previously inaccessible as well as create a trail link that would provide a major point of future connectivity between the Central Lakes Trail and north bound Pelican to Perham Trail, with eventual connection to the Heartland Trail. The Dairy trail segment factored into trail master plans initiated and approved by the City of Fergus Falls and Otter Tail County and recognized as regionally significant by the Greater Minnesota Parks and Trails Commission.

Unfortunately, the City of Fergus Falls was unable to secure the approval of the DNR's Appraisal Management Unit for acquisition of the property, rendering the aforementioned project outcomes incomplete. It is therefore not clear that Minnesotans will benefit from the protection of and recreational access to the Otter Tail River in this location. The failure of this project suggests a rigidity of policy by State agencies that counteracts the will of the Legislature.

DNR comment:

The DNR's Attachment E process, which requires the review that Fergus Falls mentions, is designed to ensure that the will of the legislature regarding acquisitions with ENRTF funds is followed. ENRTF session law requires that we pay no more than 100% of appraised value, and Office of Grants Management Policy 08-11 states that we have a duty to monitor pass-through grants to the same standards applied to other state grants.

Accordingly, we apply to ENRTF pass-through grants the same appraisal quality standards that we apply to our own land acquisitions and those of competitive grants the DNR awards. We are tasked with conducting valuations in a way that is independent and unbiased for the protection of the funding sources and taxpayers of

the State of Minnesota. Technical reviews are designed to ensure that the appraiser complied with USPAP and DNR Supplemental Guidelines on completing appraisals.

Fergus Falls submitted two appraisal reports, reviewed under two different qualified reviewers. In both cases the reviewer determined the appraisal met neither USPAP standards nor DNR Supplemental Guidelines. To reimburse using an appraisal determined to be inadequate would not have been consistent with the expectations set in appropriation law or OGM policy for the administration of these grants.

Project Results Use and Dissemination

This project has been closely monitored by both the City of Fergus Falls' City Council and the Fergus Falls Port Authority by in-person updates from the project manager.



Environment and Natural Resources Trust Fund (ENRTF) M.L. 2016 Work Plan Final Report

Date of Report: August 15, 2022

Date of Next Status Update Report: Final Report

Date of Work Plan Approval: June 7, 2016

Project Completion Date: June 30, 2022

PROJECT TITLE: Otter Tail River Recreational Trail Acquisition

Project Manager: Andrew Bremseth

Organization: City of Fergus Falls

Mailing Address: 112 Washington Avenue West

City/State/Zip Code: Fergus Falls, Minnesota 56537

Telephone Number: 218-332-5403

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Location: The work will take place in Fergus Falls in Otter Tail County. Downstream counties, which touch the Otter Tail and Red Rivers on their way to the Canadian Border will be positively impacted.

Total ENRTF Project Budget:

ENRTF Appropriation: \$600,000

Amount Spent: \$7,616

Balance: \$592,384

Legal Citation: M.L. 2016, Chp. 186, Sec. 2, Subd. 09g as extended by M.L. 2018, Chp. 214, Art. 4, Sec. 2, Subd, 20 (b)4 and M.L. 2021, First Special Session, Chp. 6, Art. 6, Sec. 2, Subd. 18

Appropriation Language:

\$600,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the City of Fergus Falls to acquire land acres along the Otter Tail River for a recreational trail and park. This appropriation is contingent on at least a 40% match of nonstate money. Prior to the acquisition, a phase 1 environmental assessment must be completed and the city must not accept any liability for previous contamination of lands acquired with this appropriation.

M.L. 2021, First Special Session, Chp. 6, Art. 6, Sec. 2, Subd. 18. ENVIRONMENT AND NATURAL RESOURCES TRUST FUND; EXTENSIONS. [to June 30, 2022]

I. PROJECT TITLE: Otter Tail River Protection and Recreation Trail Acquisition

II. PROJECT STATEMENT:

A. Basic Background and Context: The City of Fergus Falls has the opportunity to acquire the past Mid-American Dairy property, which is a 28.9 acre industrial site fronting on the Otter Tail River in downtown Fergus Falls. The City is proposing to acquire the property, then subdivide it into two parcels with 16.6 acres ("Encumbered Site") or Trust Fund Property fronting on the Otter Tail River to be used for 1) River Protection (via environmental buffers) and 2) Multi-Use, non-motorized trail development. An illustration of the proposed Encumbered Site and the total Dairy Property follow as Exhibits B and C respectively.

If an option to purchase agreement and/or contingent purchase agreement can be successfully negotiated between the seller and the City, the agreement would contain a lengthy due diligence period in order for the City to further study the entire site. Due diligence items would include but not be limited to title, survey, appraisal, environmental evaluation, demolition and site clean-up costs, etc. During this period, the Encumbered Site size and location for the buffer zone, non-motorized paths plus a proposed legal description and site value would be determined.

The City is in the process of engaging Mr. Robert J. Strachota, President of Shenehon Company, MAI, MCBA, and CRE® to provide an appraisal of the Encumbered Site. Mr. Strachota is listed as a DNR approved appraiser.

As noted above, the City will retain a qualified environmental engineering, testing and consulting Services Company to conduct a thorough site analysis. The City will not accept any liabilities associated with environmental contamination if any should exist on the site.

The City of Fergus Falls is proposing to finance the proposed acquisition of the Encumbered Site, portion of the entire site with matching funds from LCCMR. It is believed (but ultimately determined by appraisal) that the Encumbered Site has a value of approximately \$1,000,000; therefore, funding would be \$600,000 from LCCMR and \$400,000 from the City of Fergus Falls.

The Encumbered Site (16.6 acres) includes all 3,476 lineal feet of the entire Dairy Property frontage on the Otter Tail River. The Encumbered Site does not include buildings, foundations or old dairy infrastructure therefore, minimal site cleanup would be required for this portion of the Dairy Site.

B. Major Project Objectives: The City of Fergus Falls wishes to obtain the 16.6 acres to ensure protection of the river and foster recreational activities led by the first phase of trail development and appropriate buffers. This provides public access to river frontage that was previously inaccessible as well as creating a trail link that will provide a major point of connectivity between the Central Lakes Trail and north bound trail to Pelican to Perham Trail with eventual connection to the Heartland Trail.

These goals contribute to the improvement of water quality of the Otter Tail River, true headwaters of the Red River of the North and benefit downstream communities, counties and countries (Canada) by accomplishing objectives laid out in the comprehensive DNR, Otter Tail River Master Plan (2009), following the designation of the Otter Tail as the 31st Water Trail in Minnesota. This section of river, The Fergus Falls Reach, has "potentially the highest number of users nearby" yet has been noted to have been the least accessible municipal stretch on the 186.0 miles of the Otter Tail's total drainage (Otter Tail River Master Plan, page 5).

C. General Project Activities and Methods: The anticipated activities to achieve the planned acquisition already in process are an appraisal by a DNR Certified Appraiser, a Phase One Environmental Analysis, the due diligence necessary to ensure the City takes no responsibility for any potential obligations or clean-up resulting from previous activities on the site, and a demolition estimate on the Retained Site the City would acquire as a next step.

The City Council of Fergus Falls, at its October 5, 2015 meeting, authorized by resolution the hiring of MDNR Certified Appraiser Bob Strachota of the Shenehon Group and he has been retained with agreement to complete the work prior to February 1, 2016. The City Council also approved, on November 6, 2015, the hiring of West Central Environmental Consultants to conduct the Phase One Environmental Analysis, with work beginning in November 2015. Discussions are also in process with the West Otter Tail Soil and Water Conservation office regarding cooperative efforts on creating buffers and rain gardens and on the 16 acre site and with the regional DNR Trails Officer on river access amenities near the site.

D. Overall Project Significance: A municipally guided plan for this section of the scenic Otter Tail River is a win/win for the city, region and the State. First it leverages the LCCMR funding and City match toward a staged development involving adjoining properties with complementary, long-term resource protection recreation and economic benefit. It also increases the project value in supplying crucial connectivity for Biking (Central Lakes Trail) and Hiking (National Scenic Trail) through Fergus Falls and beyond. Furthermore, it enhances requests in process for Legacy funding (Glacial Edge Trails) toward anticipated Regional Trails Designation in 2016. Local healthful living efforts and regional connectivity of state and national trails have brought many supporters to realize and energize in support of this acquisition as the necessary jump-start/catalyst for long term protection, use and enhancement of what has been a neglected and grossly underused resource.

III. OVERALL PROJECT STATUS UPDATES:

Project Status as of January 20, 2017:

The Appraisal is yet to be completed. A Phase II Environment Assessment was completed on June 8, 2016. A Pre-Demolition Hazardous Building Materials Inspection Report was completed on August 11, 2016. The negotiations toward a purchase agreement have been suspended until the seller resolves environmental questions. In no case will the City accept responsibility for any environmental problems. The City Administrator in keeping apprised of seller progress to issue resolution.

Amendment Request (01/20/2017):

The amendment request is to extend the completion date from June 30, 2017 to June 30, 2018 or one year. The reason is extended negotiations with the property seller.

Project Status as of July 20, 2017:

The appraisal is yet to be completed. Further environmental analysis is being completed by Braun Inter Tec.

Project Status as of January 20, 2018:

The Braun Intertec environmental study referenced above (Phase 2 environmental) has now been completed and submitted to the Minnesota Pollution Control Agency (MPCA) for their review. Additional environmental findings in the report need to be examined. The City is waiting for a response from MPCA regarding the findings of the Phase 2 environmental study. Negotiations with the property owner continue and a purchase agreement on the property was extended on February 20 for an additional 90 days. The purchase agreement extension will allow more time for the City and property owner to hear a response from the MPCA before proceeding with any transaction.

Amendment Request (03/09/2018):

The amendment request is to extend the completion date from June 30, 2018 to June 30, 2019 or one year. The reason for the request is for additional time for due diligence. The City is currently waiting for a review and response of a Phase 2 environmental study from the MPCA. –Withdrawn

Amendment Request 06/01/2018

1. Per the legislative change, extend project duration by two years so that it ends June 30, 2020.
2. Reduce the size of the ENRTF encumbered parcel from 16 acres to approximately 11 acres
3. Revise the shape and location of the ENRTF encumbered parcel so that it is of approximately equal depth across the parcel but sufficient to include those uses as illustrated in the Downtown Riverfront Master Plan and on the attached drawing – approximately 11 acres.
4. Change the Landowner (seller) from Steve Cheney (Cheney Properties) to Fergus Falls Port Authority.
5. Per the 2018 legislative change, change the match to 40% non-state instead of the \$400,000 match

Amendment Approved by LCCMR 6/5/2018

Project Status as of May 24, 2018:

Since the prior project status update, site acquisition due diligence has revealed that several project statements, activities and outcomes will need revision. These revisions include changes to the size, shape, location, uses, ownership and environmental status for the “LCCMR encumbered” parcel. Changes to the appropriation language regarding the project size and matching requirement are pending legislative approval. Additional changes are discussed in section IV.

Project Status as of January 31, 2019:

The project work plan has been amended (see Amendment Request 06/01/2018) and approved by LCCMR on June 5, 2018. A Response Action Plan (RAP)/Construction Contingency Plan was completed by Braun Intertec in October 2018. The RAP was accepted by MPCA on November 28, 2018. The Fergus Falls Port Authority completed its acquisition of the property on December 31, 2018. A letter of no association determination (NAD) was issued by MPCA on January 16, 2019. Two funding proposals to DEED are underway and depending on the results, demolition and cleanup of the site could begin as soon as July 2019.

Project Status as of July 26, 2019

The Minnesota Pollution Control Agency submitted a revised letter of no association determination (NAD) to the Fergus Falls Port Authority in January 2019. The determination made by the MPCA was subject to the removal of chemical containers abandoned in the plant and the elemental mercury observed on the floor of the boiler room within 90 days of the Fergus Falls Port Authority acquiring the property. The elemental mercury cleanup has been completed and the NAD remains on track.

The Port Authority has submitted an application to the Minnesota Department of Employment and Economic Development (DEED) for Minnesota Cleanup Revolving Loan Funds. As a part of the loan application process, the Fergus Falls Port Authority has established a Community Relations Plan. The Community Relations Plan includes the publication of pertinent information regarding the cleanup of the site as well as a public meeting to discuss the project and proposed cleanup. Public comments are being solicited as a part of this plan. The public meeting has been set for August 7.

Project Status as of January 31, 2020

The Port Authority has received funding from the Minnesota Department of Employment and Economic Development (DEED) for the demo and cleanup. Funding includes: \$851,510 Demolition Loan with up to 50% forgiven upon redevelopment of the portion of the land to be held by the Port Authority (non-encumbered parcel) and \$1,230,000 Cleanup Revolving Loan (\$780,000 given as a grant and \$450,000 as a loan).

The Port Authority has retained Braun Intertec to provide environmental consulting services including assisting with the bidding for demo and cleanup as well as monitoring cleanup to ensure accordance with the RAP and NAD. Bids were opened on January 14 with eight bids submitted. A recommendation to award a contract to the low bidder will be made to the Port Authority on February 3. At the same time, a contract with Otter Tail Power will also be considered for the removal and storage of the ash.

Once a contract has been awarded, a pre-construction meeting will take place which will help identify a substantial completion date. This date will trigger the completion of the DNR approved appraisal needed for a clean site prior to closing with the City of Fergus Falls. A binding purchase agreement was executed by the Fergus Falls Port Authority and the City of Fergus Falls on November 18, 2019 (see January 31, 2020 update in project activities).

Amendment Request 1/31/20

A binding purchase agreement was executed by the City of Fergus Falls and the Fergus Falls Port Authority on November 18, 2019. The purchase agreement is for the sale/purchase of the property for \$1,000,000 with the following contingencies for closing:

- The Port Authority will pay for an appraisal of the clean site by a DNR approved appraiser.
- The appraisal must support an appraised value of \$1,000,000.
- The property must be surveyed and subdivided to be approximately 11 acres in size and matching the property dimensions proposed in the work plan (see Map E.)
- The Port Authority must provide a clean site, described as buildings demolished, debris removed, and environmental contamination remediated all in accordance with the RAP and complying with the NAD. The City will develop a trail system on the property in accordance with the RAP.
- The City will agree to use the property as a park and trail as proposed in the work plan.

With the executed purchase agreement, the City is requesting an extension of the project completion date from June 30, 2020 to one year from the execution of the purchase agreement (November 18, 2020).

Amendment Approved by LCCMR 4/9/20

Project Status as of July 31, 2020:

Carleton Companies, Inc. was hired through the bidding process for demo and cleanup and has begun with the work. Abatement and disposal of regulated materials in the boiler of the north plant building is in progress and should be completed by the end of July. A portion of the plant's west side has been demolished. Demolition of the south plant is nearing completion. A portion of foundation walls and concrete floor slabs remain. The cold storage building demolition along the Otter Tail River is complete. The concrete debris continues to be processed on site and placed in a stockpile.

Looking ahead, once the north plant abatement is complete, Carleton Companies will demolish all remaining surface structures consisting of the north plant. Ash impacted soil excavation and disposal will then commence followed by riverbank stabilization work.

A binding purchase remains in place between the Port Authority and City of Fergus Falls.

Amendment Request 7/31/20

With the binding purchase agreement mentioned previously, the project completion date may be extended up to one fiscal year from the original project completion date. At the time of the 1/31/20 amendment request, the City could have extended the project deadline from June 30, 2020 to June 30, 2021. In the 1/31/20, the City mistakenly requested an extension to only one year from the purchase agreement date of 11/18/19, however, the City would like the full fiscal year extension to June 31, 2021.

Amendment Approved by LCCMR 8/18/20

Amendment Request 12/14/20

Otter Tail County wishes to change the project manager from Ryan Miller to Andrew Bremseth

Amendment Approved by LCCMR 12/14/20

Project Status as of January 20, 2021:

Environmental remediation and demolition of all structures on the site is substantially complete. Carleton Companies, Inc has begun removing the stockpiles of aggregate materials and Otter Tail Power has removed and stored the fly ash per an agreement with the Fergus Falls Port Authority, the current owner of the site. Quiet title action has been completed by the city attorney.

Amendment Request as of 3/31/21

Per DNR Land Acquisition Reporting Procedures, properties appraised at a value greater than \$1,000,000 require a technical appraisal review to be conducted by the DNR. In order to have a technical review conducted by the DNR, the grantee must have \$5,000 in a "DNR Land Acquisition" line item in the approved work plan budget to pay for any DNR land acquisition services related to the project. The City of Fergus Falls therefore requests an amendment be made to the work plan budget to designate \$5,000 of the \$600,000 ENRTF budget to be a "DNR Land Acquisition" line item.

Amendment Approved by LCCMR 4/16/2021

Project extended to June 30, 2022 by LCCMR 6/30/21 as a result of M.L. 2021, First Special Session, Chp. 6, Art. 6, Sec. 2, Subd. 18, legislative extension criteria being met.

Project Status as of July 1, 2021:

The property appraisal was returned with an appraised amount of \$2,570,000, with a value of \$1,200,000 assigned to the 11.57 acres to be acquired by the City of Fergus Falls. DNR Land Acquisition Division has begun their technical review and returned comment. Shenehon is processing the comments and expanding the report to include items requested by the DNR.

The remaining aggregate materials on the site will be substantially removed by Carleton Companies, Inc by September 2021.

Amendment request as of 12/2/2021:

We request to update the Parcel List to reflect a change in parcel division. Four parcels were combined to create two parcels. The parcel being acquired with ENRTF funds is now Part of 71003500004014 totaling 11.75 acres, which is consistent with the revised parcel shown on the visual document dated 12-02-2021.

Amendment approved by LCCMR 12/22/2021

Project Status as of February 18, 2022:

A final necessary step before the transaction may be closed and funds disbursed is appraisal review by the DNR's Appraisal Management Unit. The City of Fergus Falls chose to have an appraisal performed by Shenehon Companies, a DNR-approved appraisal firm familiar with the dairy site (see update from July 2021). Unfortunately, it seems the true intent of the transaction has been lost in the mechanics of acquisition. On February 2, 2022, after a request from the City for a status update, the City received the following email:

The DNR did receive the review back from the review appraiser. The appraisal report was not approved by the review appraiser because it does not meet the requirements of the Uniform Standards of Professional Appraisal Practice (USPAP) or the MN Department of Natural Resources Supplemental Appraisal & Appraisal Review Guidelines.

*Greg A Heyblom
Appraisal Coordinator | Lands and Minerals
Minnesota Department of Natural Resources*

The City of Fergus Falls and the Fergus Falls Port Authority may not close the transaction until an appraisal is approved.

Final Update June 30, 2022

The City of Fergus was unable to acquire 3,476 lineal feet of frontage on the Otter Tail River following rejection by the DNR Appraisal Review Unit of a second appraisal by Shenehon Companies.

Overall Project Outcome and Results:

The City of Fergus Falls proposed to acquire 3,476 lineal feet of frontage on the Otter Tail River. The former Mid-American Dairy property, a 28.9 acre industrial site fronting on the Otter Tail River in downtown Fergus Falls, is currently owned by the Fergus Falls Port Authority. In preparation for the acquisition by the City of Fergus Falls and with the guidance of a work plan approved by the MPCA, the site has been carefully returned to a green field site from its former industrial use and subdivided into two parcels, with 11.57 acres identified as the location of a multi-use non-motorized trail.

By obtaining 11.57 acres from the Port Authority, the City would ensure in perpetuity the protection of 3,476 lineal feet of river frontage and foster recreational activities led by trail development. The acquisition would provide public access to river frontage that was previously inaccessible as well as create a trail link that would provide a major point of future connectivity between the Central Lakes Trail and north bound Pelican to Perham Trail, with eventual connection to the Heartland Trail. The Dairy trail segment factored into trail master plans initiated and approved by the City of Fergus Falls and Otter Tail County and recognized as regionally significant by the Greater Minnesota Parks and Trails Commission.

Unfortunately, the City of Fergus Falls was unable to secure the approval of the DNR's Appraisal Management Unit for acquisition of the property, rendering the aforementioned project outcomes incomplete. It is therefore not clear that Minnesotans will benefit from the protection of and recreational access to the Otter Tail River in this location. The failure of this project suggests a rigidity of policy by State agencies that counteracts the will of the Legislature.

DNR comment on appraisal process:

The DNR's Attachment E process, which requires the review that Fergus Falls mentions, is designed to ensure that the will of the legislature regarding acquisitions with ENRTF funds is followed. ENRTF session law requires that we pay no more than 100% of appraised value, and Office of Grants Management Policy 08-11 states that we have a duty to monitor pass-through grants to the same standards applied to other state grants.

Accordingly, we apply to ENRTF pass-through grants the same appraisal quality standards that we apply to our own land acquisitions and those of competitive grants the DNR awards. We are tasked with conducting valuations in a way that is independent and unbiased for the protection of the funding sources and taxpayers of the State of Minnesota. Technical reviews are designed to ensure that the appraiser complied with USPAP and DNR Supplemental Guidelines on completing appraisals.

Fergus Falls submitted two appraisal reports, reviewed under two different qualified reviewers. In both cases the reviewer determined the appraisal met neither USPAP standards nor DNR Supplemental Guidelines. To reimburse using an appraisal determined to be inadequate would not have been consistent with the expectations set in appropriation law or OGM policy for the administration of these grants.

IV. PROJECT ACTIVITIES AND OUTCOMES:

ACTIVITY 1: Acquire land for Trail.

Description: To acquire past Mid American Dairy property. This results in acquisition transaction costs such as due diligence, appraisals, environmental assurances, refining negotiations, drafting of sales documents, identification of local match, purchase of property, and recording.

Summary Budget Information for Activity 1:

ENRTF Budget: \$ 600,000
Amount Spent: \$ 7,616
Balance: \$ 592,384

| Outcome | Completion Date |
|--|-----------------|
| 1. The acquisition of 11 acres of land | June 30 2022 |
| | |
| | |

Activity Status as of January 20, 2017:

While the appraisal was intended to be completed by February 1, 2016, the environmental analysis effort that began in November of 2015 was not completed until June 8, and August 11, 2016. Those documents identified environmental questions that the seller would have to resolve prior to the drafting of a purchase agreement. Since the City will not take any responsibilities for existing environmental problems if any exist on the site, the City Administrator has been monitoring seller progress toward issue resolution. Once we are satisfied with all environmental questions we will negotiate a purchase agreement. We have delayed appraisal completion until we have a better understanding of the condition of the encumbered property.

Activity Status as of July 20, 2017:

Still awaiting full conclusions or environmental solution.

Activity Status as of January 20, 2018:

Awaiting complete environmental review. A purchase agreement was extended on February 20 for an additional 90 days.

Activity Status as of May 24, 2018:

Due to the complexities and anticipated costs, processes and approval times associated with the demolition and environmental remediation as well as the processes associated with the transfer of title, it is anticipated that the Fergus Falls Port Authority ("Port Authority") will acquire the Dairy Site from the current owner, Cheney Properties.

Once the Port Authority acquires the Dairy Site, it will complete the demolition, environmental remediation, general site cleanup and then combine the four parcels and sub-divide the Dairy Site into two parcels running east to west. The south parcel, identified as the ENRTF encumbered parcel, containing approximately 11 acres of land will be sold to the City of Fergus Falls with the sale price based on an appraisal. The north parcel, approximately 17.6 acres, will be retained by the Port Authority for future development including east to west roadway access serving both the retained and LCCMR encumbered Parcels. Although the City of Fergus Falls will retain title to the ENRTF encumbered parcel, a notice of funding restriction in accordance with Section 116P.15

Land Acquisition Restrictions will encumber the parcel. As of this date, preliminary discussions with the appraiser indicate a market value for the ENRTF encumbered parcel of approximately \$1,000,000.

It is intended that the uses as illustrated on an updated drawing (Map E), taken from the Fergus Falls Downtown Riverfront Master Plan with an overlay to show the two future parcels, will be allowed within the ENRTF encumbered parcel. An additional use not currently identified in the workplan is limited roadway access and right of way on the east portion of the site at Broadway Avenue if extended to provide safe road access to the park. Except for this small amount of roadway right of way as illustrated, the balance of future road right of way for the Dairy Site area will be located on the parcel retained for future development by the Port Authority. Due to the complexity of the overall Dairy Site transaction, the duration of the project should be extended to June 30, 2020.

It is acknowledged that the purchase price for the parcel to be sold to the City of Fergus Falls will be based on an appraisal of the fair market value, by an appraiser as certified or accepted by the Commissioner of Natural Resources. The appraiser that has been selected and has conducted preliminary work is Robert Strachota of Shenehon Company. Further, the Port Authority and City of Fergus Falls will coordinate any environmental remediation or environmental site cleanup through the MPCA and will obtain a no further action or letter of non-association naming ENRTF and/or the appropriate agency for any environmental issues identified on the ENRTF encumbered site.

Activity Status as of *January 31, 2019*

The property was purchased by the Fergus Falls Port Authority on December 31, 2018. With the property now under public ownership, the Port Authority will begin the process of demolition and cleanup of the former dairy plant. Demo and cleanup will occur before the property is subdivided into the encumbered parcel and the redevelopment parcel.

A Response Action Plan (RAP)/Construction Contingency Plan was completed by Braun Intertec in October 2018. The RAP was accepted by MPCA on November 28, 2018. The RAP includes response actions for both the future encumbered parcel that will include the trail as well as the future redevelopment parcel. Response actions included in the RAP for the trail parcel cover: demolition/hazardous material removal, well sealing, underground storage tank removal, excavation of contaminated soils, slope stability/ash correction excavation, and other tasks for site cleanup and preparation. In addition to the RAP, a letter of no association determination was issued by MPCA on January 16, 2019.

Activity Status as of *July 26, 2019*

Prior to and after demolition, the environmental contamination will be remediated in accordance to a MPCA-approved Response Action Plan (RAP). The RAP was submitted to the MPCA on October 15, 2018 and accepted on November 28, 2018. A Non-Association Determination ("NAD") was issued for the Site and was revised to extend the date by which cleanup of free elemental Mercury must be completed. The elemental Mercury cleanup has since been completed, but no other environmental remediation has been undertaken by the City or Port.

Current focus is on the facilitation of a Community Relations Plan associated with a Minnesota Cleanup Revolving Loan Fund application to DEED.

Project Status as of *January 31, 2020*

The immediate cleanup required in the NAD has been completed as has the community relations plan mentioned in the July 26 update. Demo and cleanup should commence shortly upon awarding of a contract on February 3 (see overall project status update for January 31, 2020.) DEED funding has been secured to help pay for demo and cleanup.

A binding purchase agreement was executed by the City of Fergus Falls and the Fergus Falls Port Authority on November 18, 2019. The purchase agreement is for the sale/purchase of the property for \$1,000,000 with the following contingencies for closing:

- The City will pay for an appraisal of the clean site by a DNR approved appraiser.
- The appraisal must support an appraised value of \$1,000,000.
- The property must be surveyed and subdivided to be approximately 11 acres in size and matching the property dimensions proposed in the work plan (see Map E.)
- The Port Authority must provide a clean site, described as buildings demolished, debris removed, and environmental contamination remediated all in accordance with the RAP and complying with the NAD. The City will develop a trail system on the property in accordance with the RAP.
- The City will agree to use the property as a park and trail as proposed in the work plan.

With the executed purchase agreement, the City is requesting an extension of the project completion date from June 30, 2020 to one year from the execution of the purchase agreement (November 18, 2020).

Activity Status as of July 31, 2020:

While the Port Authority works with Braun Intertec and Carleton Companies on the cleanup and demo, additional work is being done to clean up the title for the property. Quiet title action is needed to remove easements on the property used for former railroad spurs. Once cleanup, demo, and title issues are completed, the property will be subdivided into two parcels. The City of Fergus Falls will then secure an appraisal of the river buffer parcel according to DNR appraisal requirements.

Activity Status as of January 20, 2021:

With cleanup and demolition work substantially done, the Fergus Falls Port Authority has received a quote from Anderson Land Surveying to split the property and provide a legal description for the sale of approximately 11 acres along the riverfront to the City of Fergus Falls. Christopher Stockness of the Shenehon Group, whose company will provide the services of a MDNR certified appraiser to facilitate the sale, is reviewing project materials in preparation for appraisal.

Project Status as of July 1, 2021:

The cleanup of the site and survey work are complete. The appraisal process is underway. The DNR Land Acquisition division is reviewing the appraisal documents. They have provided feedback, and a revised appraisal has been ordered and submitted.

Project Status as of February 18, 2022:

The complexity of site cleanup and effects of the COVID-19 pandemic has led to the continual delay of the land transaction between the Fergus Falls Port Authority and the City of Fergus Falls. Despite the lengthy remediation process, continued communication with LCCMR staff has ensured the City of Fergus Falls has successfully extended its access to the \$600,000 of LCCMR acquisition funds through legislative action three separate times, but opportunities to further extend access to LCCMR funding no longer exist. Having received an appraisal rejection, The City of Fergus Falls has submitted a data request to the DNR for more information regarding the rejection in order to determine a path forward, but as yet has received no further documentation from which to make a decision.

Final Update June 30, 2022

Following the rejection of a first appraisal in early 2022, the City of Fergus Falls worked closely with the DNR's Appraisal Review Unit and LCCMR staff to determine a path forward: a new appraisal by Shenehon Companies, performed with the understanding that Shenehon Companies would be in close contact with a DNR-hired review appraiser. The City of Fergus Falls therefore released a further \$10,000 in its ENTRF budget to cover the expense of the review. Unfortunately, like the first review, the City of Fergus Falls was unable to secure the approval of the DNR's Appraisal Management Unit, receiving word just before the June 30 deadline and closing the door to

\$600,000 of ENTRF funds. Without the funds, the City of Fergus Falls will not close on the 11.57 acres of land from the Fergus Falls Port Authority. The failure of this project seems to be situational and unique, though poor communication from the DNR Appraisal Review Unit remains a frustration as the City looks back over the life of the project.

V. DISSEMINATION:

Description: The Fergus Falls City Council will receive regular public updates related to the purchase process. The updates will be in monthly staff reports, City Council Subcommittee Minutes, City Council Meeting Minutes, Fergus Falls Port Authority Minutes and or Fergus Falls Economic Improvement Commission Minutes. The Fergus Falls City Council Subcommittee minutes and the Fergus Falls City Council minutes are posted to the City website at www.ci.fergus-falls.mn.us

Status as of January 20, 2017:

There have been numerous public meetings related to the LCCMR grant, purchase process, related environmental discussion, and through both a now begun Downtown Riverfront Master Plan and a Glacial Edge Trail Master Plan process. The planning efforts are targeting the encumbered site of 16.6 acres as one of many to enhance. Many public input sessions have been held as both planning processes move forward.

August 15, 2016 City Council Work Session was held to discuss the LCCMR project and the information defining the purchase of the encumbered site. From that meeting a later regular City Council meeting resulted in a request for further information and a delay in purchase negotiations. At the January 17, 2017 City Council Meeting a major discussion of the LCCMR grant requirements, matching dollars, purchase strategies, and trail building grants was to take place.

It has been a very public process.

Status as of July 20, 2017:

The activities related to the project site have been well documented in the public record (City Council Minutes). The Glacial Edge Trail Master Plan is complete and shows the trail as described in the grant. The draft Downtown Riverfront Master Plan also includes conceptual trail on and near the site.

Status as of January 20, 2018:

Updates on the activity have been discussed at recent City Council meetings. The 90 day purchase agreement extension was discussed during the February 20 council meeting. The phase 2 environmental report is now public and has been submitted to the MPCA for review.

The draft Downtown and Riverfront Master Plan mentioned above has since been completed and approved by the City Council.

Status as of January 20, 2018:

The project has continued to be discussed at various City Council and Fergus Falls Port Authority meetings as the acquisition by the Port Authority has taken place. The project has been reviewed by and discussed with the MPCA through various reviews and reports such as the Response Action Plan and letter of no association.

Status as of January 31, 2019:

The project has continued to be publicly discussed through the various stages at City Council and Fergus Falls Port Authority meetings. The MPCA has reviewed the process via reviews of the Response Action Plan (RAP). MPCA has issued a letter of no association determination (NAD).

Status as of July 26, 2019:

In addition to the standard dissemination of information regarding this project, a Community Relations Plan has been established in accordance with an application for Minnesota Cleanup Revolving Loan Funds through DEED. The Community Relations Plan includes the publication of pertinent information regarding the cleanup of the site as well as a public meeting to discuss the project and proposed cleanup. Public comments are being solicited as a part of this plan. The public meeting has been set for August 7.

Project Status as of January 31, 2020

The Community Relations Plan was implemented as part of the application process for the Minnesota Department and Employment and Economic Development (DEED) loan programs. Updates on the project have been given at monthly Port Authority meetings.

Status as of July 31, 2020:

Project updates have been shared at recent Fergus Falls Port Authority meetings.

Status as of January 20, 2021:

Project updates continue to be shared at Fergus Falls Port Authority meetings. Several members of the Fergus Falls City Council serve on the Port Authority and therefore remain apprised of project status.

Project Status as of July 1, 2021:

Since physical work on the site is substantially complete, updates to the City Council and Port Authority consist mostly of timeline updates regarding the appraisal review process. A copy of the appraisal draft/ final draft of the appraisal is available on the Port Authority page of the City of Fergus Falls website: <https://www.ci.fergus-falls.mn.us/home/showpublisheddocument/2594/637667732023900000>

Project Status as of February 18, 2022:

In anticipation of project completion by June 30, 2022, the Fergus Falls Port Authority released a RFP for reuse of the Dairy site as housing. The RFP closes February 25, 2022. The Port and Council continue to receive updates regarding the appraisal review process, which has not yet reached a resolution.

Final Update June 30, 2022

The Port and Council received their final project-related informational update stating that acquisition through the LCCMR process had failed based on the DNR Appraisal Review Unit's appraisal rejection. No attributions or disseminations are therefore due to LCCMR as no funds are forthcoming.

VI. PROJECT BUDGET SUMMARY:

A. ENRTF Budget Overview:

Explanation of Use of Classified Staff: N/A

Explanation of Capital Expenditures Greater Than \$5,000: N/A

Number of Full-time Equivalents (FTE) Directly Funded with this ENRTF Appropriation: N/A

Number of Full-time Equivalents (FTE) Estimated to Be Funded through Contracts with this ENRTF Appropriation: N/A

B. Other Funds:

| Source of Funds | \$ Amount Proposed | \$ Amount Spent | Use of Other Funds |
|--|--------------------|-----------------|---|
| Non-state | | | |
| City tax receipts, sale of City assets, and/ or City bonding | \$ 400,000 | \$ 0 | Fee Title Acquisition (cost up to 40% of acquisition and related costs) |

| | | | |
|---------------------------|------------|------|--|
| State | | | |
| | \$ | \$ | |
| TOTAL OTHER FUNDS: | \$ 400,000 | \$ 0 | |

VII. PROJECT STRATEGY:

A. Project Partners:

None of the project partners will be receive any ENRTF funds. They are as follows:

- Fergus Falls Port Authority (will provide staff time)
- Fergus Falls DT Council (a not for profit which may volunteer professional services and/or time)
- US Soil & Water Service (tech services)
- MN DNR (tech services)

At all times, the City of Fergus Falls will manage the project. The City Community Development Director will complete the purchase and assure proper recording and paperwork. The City Finance Director will handle all financial matters including local match creation, receipts collections and disbursements. The City Attorney will advise the process and prepare documents.

B. Project Impact and Long-term Strategy:

An opportunity has surfaced to acquire 16.6 acres with, 3,476 lineal feet of river shoreline in the center of Fergus Falls in Otter Tail County. Once a publicly inaccessible and threatened by neglect, this piece of ground now can provide for an important portion of trail with environmental buffering to enhance the health of the Otter Tail River. 64.64 acres of the Otter Tail River or abutting the Otter Tail River will benefit downstream communities, counties, states, and countries.

The planned trail will be a key connector for several regional trails. An important piece of a Otter Tail River Trail it will to connect the Central Lakes Trail and northward to the Pelican to Perham Trail.

C. Funding History: N/A

| | | |
|----------------------------------|------------------|----------|
| City Staff Time | In kind donation | \$ |
| Phase One Environmental Analysis | Lump sum | \$2,0000 |
| Appraisal Cost 16.6 acres | Not to exceed | \$18,500 |
| | | |

VIII. FEE TITLE ACQUISITION/CONSERVATION EASEMENT/RESTORATION REQUIREMENTS:

A. Parcel List: See attached Parcel List. Also see Attachment D.

B. Acquisition/Restoration Information:

Fee Title Acquisition

1. Describe the selection process for identifying and including proposed parcels on the parcel list, including explanation of the criteria and decision-making process used to rank and prioritize parcels.

Parcels identified in "Preliminary Report for Otter Tail River Trail Plan West Segment 2010".

2. List all adopted state, regional, or local natural resource plans in which the lands included in the parcel list are identified. Include a link to the plan if one is available.

These resource plans and any similar federal plans, not for profit plans, recreational advocacy plans will be consulted. At this point, the Minnesota DNR's 2009 Otter Tail River Master Plan is a key reference.

- 3. For any parcels acquired in fee title, a restoration and management must be prepared. Summarize the components and expected outcomes of restoration and management plans for parcels acquired by your organization, how these plans are kept on file by your organization, and overall strategies for long-term plan implementation, including how long-term maintenance and management needs of the parcel will be financed into the future.**

This process is currently taking place. The City Engineering Department has already been involved in contracting for the Phase One Environmental Analysis on the property to be acquired, that is essential to a proper appraisal and negotiation due diligence. That same department will be working in 2016 to begin the initial design of the trail and environmental features. City resources or other identified grant dollars will construct the future identified improvements. The City Parks Department will do long term maintenance. The City will develop the trail using BOWSR vegetative guidelines.

- 4. For each parcel to be conveyed to a State of Minnesota entity (e.g., DNR) after purchase, provide a statement confirming that county board approval will be obtained.**

All parcels (i.e. land obtained) will be retained by the City of Fergus Falls. The City and/or city partners will construct a trail and environmental buffering. No portion of the land will be conveyed to the State of Minnesota.

- 5. If applicable (see M.S. 116P.17), provide a statement confirming that written approval from the DNR Commissioner will be obtained 10 business days prior to any final acquisition transaction.**

The City of Fergus Falls, after reviewing M.S. 116p.17, understands that it must get written approval from the DNR Commissioner at least 10 business days prior to any acquisition transaction. This is acknowledged by Gordon Hydukovich, Project Manager.

IX. VISUAL COMPONENT or MAP(S): See attached maps. They are as follows:

Map A: Location of LCCMR project within the City of Fergus Falls (line map showing indicated location).

Map B: Proposed 16.6 Acre Encumbered LCCMR Grant Request 182-G (aerial map showing acres to be purchased).

Map C: Dairy Property (total 28.9 acres recently made available for sale).

Map D: Proposed 16.6 acre Parcel Portion Map (line map indicating 4 parcels transected by acquisition lines).

Map E: Updated May 2018 Site Map (overlaid on Downtown and Riverfront Master Plan map for the site This map shows the intended boundaries of the revised ENRTF parcel at approximately 11 acres).

X. RESEARCH ADDENDUM: N/A

XI. REPORTING REQUIREMENTS:

Periodic work plan status update reports will be submitted no later than January 20 and July 20 each year. A final report and associated products will be submitted between June 30, 2022 and August 15, 2022.

Environment and Natural Resources Trust Fund
M.L. 2016 Project Budget- Final

Project Title: *Otter Tail River Recreational Trail Acquisition*

Legal Citation: M.L. 2016, Chp. 186, Sec. 2, Subd. 09g

Project Manager: Andrew Bremseth

Organization: City of Fergus Falls

M.L. 2016 ENRTF Appropriation: \$600,000

Project Length and Completion Date: 6 years, June 30, 2022

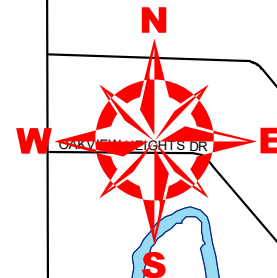
Date of Report: August 15, 2022



| ENVIRONMENT AND NATURAL RESOURCES TRUST FUND BUDGET | | Revised Budget 3/18/22 | Amount Spent | Balance |
|---|------------------------------|---------------------------|----------------|------------------|
| BUDGET ITEM | | | | |
| | <i>Fee Title Acquisition</i> | | | |
| Fee Title Acquisition | | | | |
| <i>11 acres of land having 3,476 lineal feet of river shoreland all property held by the City</i> | | \$585,000 | \$0 | \$585,000 |
| | | | | |
| Professional Services for Acquisition | | | | |
| <i>DNR Land Acquisition Costs</i> | | \$15,000 | \$7,616 | \$7,384 |
| COLUMN TOTAL | | \$600,000 | \$7,616 | \$592,384 |

CITY OF FERGUS FALLS

Glacial Edge Trail



Future Trail Extension To: M State Community College,
Kirkbride Park & Maplewood State Park

Exit 54

Former Dairy Site

Exit 55

Exit 57

Legend

Glacial Edge Trail Designations

- Current Project
- To Be Completed
- Future Extension

- Proposed Trailheads
- Dairy Property
- City Parks
- Municipal Boundary

SCALE: 1" = 2400.00'
7/25/19