

Lessard-Sams Outdoor Heritage Council

AGENDA ITEM MEMO:

Agenda Item # 12

DATE: November 14, 2013

SUBJECT: ML 2013, Ch. 137, Art. 1, Sec. 2, Subd. 5b Habitat Protection in Dakota County, Ph. IV

PRESENTING: Bill Becker

Background:

MS 97A.056, subd. 12 requires recipients of Outdoor Heritage Funds to submit accomplishment plans to the Lessard-Sams Outdoor Heritage Council in the form prescribed by the Council for Council approval. Those accomplishment plans are the deliverables tied to expenditure of the appropriation. Programs whose accomplishment plans conform to the submitted proposal, draft accomplishment plan, and appropriation language are placed on the consent agenda.

This accomplishment plan for ML 2013, Ch. 137, Art. 1, Sec. 2, Subd. 5b Habitat Protection in Dakota County, Ph. IV submitted by Dakota County was not on the June 4, 2013 consent agenda due to outstanding status and final reports. Those reports have been completed and the 2013 accomplishment plan is before the council for approval. Approval of the accomplishment plan will allow the DNR to negotiate a contract and the program to be implemented.

5b) Habitat Protection in Dakota County, Ph. IV	Dakota County	\$4,100,000
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Suggested Motion:

Move the approval of the ML 2013, Ch. 137, Art. 1, Sec. 2, Subd. 5b Habitat Protection in Dakota County, Ph. IV accomplishment plan.

Suggested Procedure

Place the motion before the Council. Then it is up for discussion, amendments and final passage.

Lessard-Sams Outdoor Heritage Council

Laws of Minnesota 2013 Accomplishment Plan

Date: October 18, 2012

Program or Project Title: Dakota County Habitat Protection/Restoration Phase 4

Funds Recommended: \$ 4,100,000

Manager's Name: Al Singer

Title: Land Conservation Manager

Organization: Dakota County

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Legislative Citation: ML 2013, Ch. 137, Art. 1, Sec. 2, Subd. 5(b)

Appropriation Language: \$4,100,000 in the first year is to the commissioner of natural resources for an agreement with Dakota County to acquire, restore, and enhance lands in Dakota County for fish and wildlife management purposes under Minnesota Statutes, section 86A.05, subdivision 8, or aquatic management area purposes under Minnesota Statutes, sections 86A.05, subdivision 14, and 97C.02, and to acquire permanent conservation easements and restore and enhance habitats in rivers and lake watersheds in Dakota County. Up to \$60,000 is for establishing a monitoring and enforcement fund, as approved in the accomplishment plan and subject to Minnesota Statutes, section 97A.056, subdivision 17. A list of proposed land acquisitions and permanent conservation easements must be provided as part of the required accomplishment plan.

County Locations: Dakota

Ecological Planning Regions:

- Metro / Urban
- Southeast Forest

Activity Type:

- Enhance
- Protect in Easement
- Protect in Fee
- Restore

Priority Resources Addressed by Activity:

- Habitat

Abstract:

This project will protect 820 acres of habitat along the Vermillion, Cannon and Mississippi Rivers, Marcott and Chub Lake and the largest privately owned forest in Dakota County through acquisition of conservation easements and fee title, as well as restore/enhance 350 acres.

Design and Scope of Work:

The long history of agricultural and urban/suburban development in Dakota County has resulted in the significant loss, degradation and fragmentation of our natural resource systems to a condition where less than three percent of the pre-settlement plant communities remain. And despite increased public awareness of water quality issues, improvement methods, and regulations, and improved, multi-agency efforts to assist landowners in protecting the environment, nearly every river, stream and lake in the County that has been monitored is officially impaired in some fashion. The majority of land is privately owned and does not provide close-to-home public access for most residents to hunt, fish or enjoy other outdoor recreational activities.

With a vibrant agricultural economy and high commodity prices, the pressure to plant corn and soybeans from fence row to fence row and continues to have a corresponding negative effect on wildlife habitat and water quality. Recent storm events illustrate the ever greater importance of protecting shoreland to reduce soil erosion and infrastructure damage. The current and near-term economic prospects continues to result in very low residential development pressure and has significantly lowered non-agricultural land prices. This combination of large-scale impacts and trends must be approached comprehensively, long-term and collaboratively if we are to maintain and improve our natural resource heritage and its many associated benefits. At the same time, there are tremendous opportunities to proactively and successfully address these challenges.

The County's initial response to these challenges was development of the Farmland and Natural Areas Program (FNAP) in 2003. This program, which used the best available technology, collaborative planning and partnerships and focused on multiple benefits, led to the successful passage of a \$20 million bond referendum in 2002. Over the past ten years, a total of 106 projects have been completed or are varying stages of completion that have/will protect nearly 10,000 acres with a real estate value of \$75 million. Aside from these significant on-the-ground natural resource successes, the program has greatly increased the political support and staff and process capacity within the County and has greatly increased County credibility among landowners and diverse partners such as the Natural Resources Conservation Service, MN Department of Natural Resources, Soil and Water Conservation District, Vermillion River Watershed Joint Powers Organization, Cannon River Watershed Partners, Friends of the Mississippi River, Trout Unlimited, Pheasants Forever, and many others.

The FNAP subsequently inspired the development and completion of the Vermillion River Corridor Plan which used a comprehensive and integrated approach to protecting and improving wildlife habitat and water quality while increasing opportunities for nature-based recreation along a very diverse, multi-jurisdictional corridor. Over 220 people participated in the plan and these efforts reduced property rights issues and led to wide-spread support for riparian easements that can accomplish multiple public benefits while compensating and protecting private landowners. This approach was adopted for the Mississippi and Cannon River systems and remaining undeveloped lakeshore. A system of established criteria including habitat quality and size; reducing non-point pollution; improving stream channel, floodplain and wetland functions; length of shoreline; proximity to other protected land; landowner commitment to current and future stewardship; cost and leveraged funds; improving appropriate outdoor recreational opportunities; and other considerations will be used to evaluate and rank projects. Easements do not require public access, but projects including public access receive higher scores. In addition, payment for public access easements similar to the DNR Angler Access Easement Program, will be available to landowners. Easements do not preclude providing public trails at a future date and reflect the principle of being able to adapt to future changes in demographics and local land use. A technical staff team reviews and ranks projects and then forwards recommendations to the County Board for approval. Easement values for projects in cities or exceeding \$50,000 will be based upon an independent, fair market appraisal.

Due to the lack of real estate comparables for riparian easements in the metro region and to increase staff and financial efficiency, a formula based on rural agricultural tax assessed value and variably adjusted according to regulatory conditions, floodplain, amount of cultivated land taken out of production, and vegetation types is used to determine per acre easement value in townships where the estimated easement value is less than \$50,000. Updated aerial photography and Minnesota Land Cover Classification System data, official FEMA floodplain

boundaries, and site visits will be used to determine the following respective acreage components of each easement:

Agricultural Land within and outside of 50 feet from the shoreline
Woodlands within and outside of 100-year floodplain, and
Grasslands and Wetlands within and outside of 100-year floodplain

The respective acreages are multiplied by the relevant valuation amount to determine the value of each respective component to produce the overall easement value. Payment for public access is based upon \$5/foot of shoreline within the easement. Phase I Environmental Assessments are completed for all projects and all solid waste has to be removed as a condition of participation. Easements are surveyed by the County Surveyor's Office and the resulting information is used for legal documents and establishing boundaries. Baseline Property Reports, referenced in the easement deed, are reviewed and signed by the landowner and the County prior to acquisition. All easements require joint development of a Natural Resource Management Plan (NRMP) by the landowner(s) and the County. A Landowner Agreement is then developed between the two parties identifying the priorities, activities, responsibilities, costs, and schedule for restoration/enhancement activities.

On June 5, 2012, the County Board approved Resolution No. 12-326 and No. 12-330 authorizing the submission of a FY14 LSOHC proposal that also included requested funds to acquire fee title for some properties. In some instances this is to augment the strong partnership with the DNR and to assist them in acquiring AMA or WMA lands for hunting and fishing. In other cases, the Board is committing to protecting land outside of the regional park system because of its habit value. Project evaluation criteria for these fee title projects will be consistent with criteria used to evaluate and prioritize easements.

Planning:

MN State-wide Conservation Plan Priorities:

- H1 Protect priority land habitats
- H2 Protect critical shoreland of streams and lakes
- H3 Improve connectivity and access to recreation
- H5 Restore land, wetlands and wetland-associated watersheds
- H6 Protect and restore critical in-water habitat of lakes and streams
- H7 Keep water on the landscape
- LU8 Protect large blocks of forest land

Plans Addressed:

- Minnesota DNR AMA Acquisition Plan
- Minnesota DNR Scientific and Natural Area's Long Range Plan
- Minnesota DNR Strategic Conservation Agenda
- Minnesota Sustainability Framework
- Minnesota's Wildlife Management Area Acquisition - The Next 50 Years
- Outdoor Heritage Fund: A 25 Year Framework
- Tomorrow's Habitat for the Wild and Rare

LSOHC Statewide Priorities:

- Address conservation opportunities that will be lost if not immediately acted on
- Address wildlife species of greatest conservation need, Minnesota County Biological Survey data, and rare, threatened and endangered species inventories in land and water decisions, as well as permanent solutions to aquatic invasive species
- Allow public access. This comes into play when all other things about the request are approximately equal
- Are able to leverage effort and/or other funds to supplement any OHF appropriation

- Are ongoing, successful, transparent and accountable programs addressing actions and targets of one or more of the ecological sections
- Ensures activities for "protecting, restoring and enhancing" are coordinated among agencies, non profits and others while doing this important work
- Produce multiple enduring conservation benefits
- Provide Minnesotans with greater public access to outdoor environments with hunting, fishing and other outdoor recreation opportunities
- Restore or enhance habitat on state-owned WMAs, AMAs, SNAs, and state forests
- Target unique Minnesota landscapes that have historical value to fish and wildlife
- Use a science-based strategic planning and evaluation model to guide protection, restoration and enhancement, similar to the United States Fish and Wildlife Service's Strategic Habitat Conservation model

LSOHC Metro Urban Section Priorities:

- Protect, enhance, and restore remnant native prairie, Big Woods forests, and oak savanna with an emphasis on areas with high biological diversity
- Protect habitat corridors, with emphasis on the Minnesota, Mississippi, and St. Croix rivers (bluff to floodplain)
- Enhance and restore coldwater fisheries systems
- Protect, enhance, and restore riparian and littoral habitats on lakes to benefit game and nongame fish species

LSOHC Southeast Forest Section Priorities:

- Protect, enhance, and restore habitat for fish, game, and nongame wildlife in rivers, cold-water streams, and associated upland habitat

Relationship to Other Constitutional Funds:

- Environmental and Natural Resource Trust Fund
- Clean Water Fund
- Parks and Trails Fund

Past investments of the Environment and Natural Resources Trust Fund (ENRTF) provided Dakota County with the opportunity to develop the Farmland and Natural Area Protection Plan and the Vermillion River Corridor Plan which provided the foundation for an integrated, comprehensive countywide land conservation vision, priorities and implementation strategies. The initial funding lead to the successful passage of a \$20M bond referendum in 2002 that has resulted in the permanent protection of nearly 10,000 acres and 57 miles of shoreline with an estimated fair market value of \$75M.

Current and recommended ENRTF allocations are focused on many of the same habitat areas included in this proposal.

Dakota County has already conducted extensive testing to establish significant water quality impairments. A significant benefit of these habitat protection and improvement projects are to prevent or reduce impairments that would otherwise require Clean Water Funds.

Much of the riparian habitat work is also included within the County's 200-mile regional greenway plan that focuses on integrating wildlife habitat, water quality and outdoor recreation within multi-purpose corridors. Many of the greenways are located along rivers and streams and the objective is to protect the corridors first and make provisions for potential recreational trail development at a future time. Metropolitan Council funds, through their bonding authority or through their Legacy Parks and Trails funds may be available for partial land acquisition funding.

Accelerates or Supplements Current Efforts:

The County has been undertaking an ambitious and award-winning, long-term approach to land conservation for the last ten years. The key components to this successful approach has been to develop integrated and comprehensive plans involving multiple interests, effectively using technology, relying on strategic collaboration, treating landowners fairly, and having committed local funds to match non-County funds.

This proposal would allow the County to continue these critical, long-term goals of combining various funding sources to achieve multiple public benefits in a very strategic and cost-effective manner. Of the approximately 350 river and stream miles (excluding the Mississippi and Minnesota Rivers) in the County, nearly 120 miles are now protected. This project would also provide near complete protection of the 300+ acre Marcott Chain of Lakes in Inver Grove Heights and facilitate the recently established Darvan Acres Outdoor Skills and Environmental education Center to provide more convenient programs and classes for hunting, fishing and other activities to the metro population.

Funding for fee title acquisition in which the County is willing to own land outside of the park system or to partner with the DNR to provide wildlife habitat protection and outdoor recreation opportunities would be another very positive step in achieving its overall land conservation vision.

Sustainability and Maintenance:

The majority of the land protection and restoration work will occur on private lands and is designed to achieve maximum conservation benefits with both short- and long-term fiscal efficiency. By primarily focusing on easements on private property, management responsibilities remain with private landowners creating less of a burden on the County. Moreover, the relationship-building, developing and implementing the NRMP, strategic assistance, and subsequent monitoring will provide opportunities to share updated natural resource information and best management practices with landowners and achieve a higher likelihood of increased private stewardship. This comprehensive wildlife habitat and water quality approach will provide the best opportunity to effectively protect these community assets and past public investments.

The County Board has shown a remarkable commitment to land conservation over the decade despite significant budgetary constraints. Their ongoing commitment to adopting a comprehensive land conservation vision, maintaining a dedicated staff, reorganizing existing departments and staff to more effectively achieve its land conservation goals; and approving current and future capital improvement program budgets upon completion of the \$20M bond referendum proceeds and the creation of a dedicated stewardship fund is further evidence that Dakota County has the interest, capacity and commitment to sustain this work into the future.

Government Approval:

Will local government approval be sought prior to acquisition? - **No**

The County attempts to align all of its land conservation work with existing plans by other local governments.

The County's current practice is notify other local governments of easement projects, but they have been explicit that the landowner should have the right to place an easement on their property if they so wish even if the local government objected. However, there has not been a single objection by a local government to this approach since 2003.

In the event of any proposed fee acquisition by the County, approval by any affected local government will be sought.

Permanent Protection:

*Is the land you plan to acquire free of any other permanent protection? - **Yes***

Hunting and Fishing Plan:

*Is this land open for hunting and fishing? - **Yes***

With regard to easements, most of the landowners do not allow public access and thereby would not allow public hunting. Many allow family, fiends and others to hunt. We anticipate that several easements will have fishing access either from the channel or adjacent land.

Any land acquired in fee title would be open to hunting and fishing.

Public Use:

*Will the eased land be open for public use? - **Yes***

There will be a mixture of public access and no public access. For example, the County has a signed Option Agreement with the two principle landowners of the land comprising the Marcott Lakes project to allow public use from 8:00 a.m. to dusk five years from acquisition, in addition to already accomodating current public use through programs and classes. In other projects, there will likely be no public access in conjunction with riparian easements especially if adjacent to agricultural lands.

Permanent Protection:

*Is the land you plan to acquire free of any other permanent protection? - **Yes***

Permanent Protection:

*Is the activity on permanently protected land and/or public waters per MS 103G.005, Subd. 15? - **Yes (WMA, AMA, Private Land, County/Municipal, Public Waters)***

Accomplishment Timeline

	Approximate Date
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Activity	Approximate Date Completed
Acquisition of fee title	June 30, 2016
Acquisition of easements	June 30, 2016
Restoration/Enhancement	June 30, 2017

Outcomes

Programs in metropolitan urbanizing region:

- A network of natural land and riparian habitats will connect corridors for wildlife and species in greatest conservation need
- Core areas protected with highly biologically diverse wetlands and plant communities, including native prairie, Big Woods, and oak savanna
- Improved aquatic habitat indicators

Programs in southeast forest region:

- Rivers, streams, and surrounding vegetation provide corridors of habitat
- Stream to bluff habitat restoration and enhancement will keep water on the land to slow runoff and degradation of aquatic habitat

Budget Spreadsheet

Budget reallocations up to 10% do not require an amendment to the Accomplishment Plan

Total Amount of Request: \$ 4100000

Budget and Cash Leverage

Budget Name	LSOHC Request	Anticipated Leverage	Leverage Source	Total
Personnel	\$147,000	\$288,000		\$435,000
Contracts	\$440,000	\$50,000	County	\$490,000
Fee Acquisition w/ PILT	\$500,000	\$100,000	County	\$600,000
Fee Acquisition w/o PILT	\$1,000,000	\$250,000	County	\$1,250,000
Easement Acquisition	\$1,928,000	\$950,000	County	\$2,878,000
Easement Stewardship	\$60,000	\$60,000	County	\$120,000
Travel	\$0	\$0		\$0
Professional Services	\$25,000	\$0		\$25,000
Direct Support Services	\$0	\$0		\$0
DNR Land Acquisition Costs	\$0	\$0		\$0
Capital Equipment	\$0	\$0		\$0
Other Equipment/Tools	\$0	\$0		\$0
Supplies/Materials	\$0	\$0		\$0
DNR IDP	\$0	\$0		\$0
Total	\$4,100,000	\$1,698,000		\$5,798,000

Personnel

Position	FTE	Over # of years	LSOHC Request	Anticipated Leverage	Leverage Source	Total
	0.70	3.00	\$147,000	\$288,000		\$435,000
Total	0.70	3.00	\$147,000	\$288,000		\$435,000

Output Tables

Table 1. Acres by Resource Type

Type	Wetlands	Prairies	Forest	Habitats	Total
Restore	0	0	0	280	280
Protect in Fee with State PILT Liability	0	0	0	100	100
Protect in Fee W/O State PILT Liability	0	0	0	250	250
Protect in Easement	0	0	0	470	470
Enhance	0	0	0	70	70
Total	0	0	0	1,170	1,170

Table 2. Total Requested Funding by Resource Type

Type	Wetlands	Prairies	Forest	Habitats	Total
Restore	\$0	\$0	\$0	\$420,000	\$420,000
Protect in Fee with State PILT Liability	\$0	\$0	\$0	\$400,000	\$400,000
Protect in Fee W/O State PILT Liability	\$0	\$0	\$0	\$1,000,000	\$1,000,000
Protect in Easement	\$0	\$0	\$0	\$2,210,000	\$2,210,000
Enhance	\$0	\$0	\$0	\$70,000	\$70,000
Total	\$0	\$0	\$0	\$4,100,000	\$4,100,000

Table 3. Acres within each Ecological Section

Type	Metro Urban	Forest Prairie	SE Forest	Prairie	N Forest	Total
Restore	220	0	60	0	0	280
Protect in Fee with State PILT Liability	100	0	0	0	0	100
Protect in Fee W/O State PILT Liability	250	0	0	0	0	250
Protect in Easement	420	0	50	0	0	470
Enhance	50	0	20	0	0	70
Total	1,040	0	130	0	0	1,170

Table 4. Total Requested Funding within each Ecological Section

Type	Metro Urban	Forest Prairie	SE Forest	Prairie	N Forest	Total
Restore	\$330,000	\$0	\$90,000	\$0	\$0	\$420,000
Protect in Fee with State PILT Liability	\$400,000	\$0	\$0	\$0	\$0	\$400,000
Protect in Fee W/O State PILT Liability	\$1,000,000	\$0	\$0	\$0	\$0	\$1,000,000
Protect in Easement	\$2,135,000	\$0	\$0	\$75,000	\$0	\$2,210,000
Enhance	\$50,000	\$0	\$0	\$20,000	\$0	\$70,000
Total	\$3,915,000	\$0	\$90,000	\$95,000	\$0	\$4,100,000

Table 5. Target Lake/Stream/River Miles

25 miles

Parcel List

For restoration and enhancement programs ONLY: Managers may add, delete, and substitute projects on this parcel list based upon need, readiness, cost, opportunity, and/or urgency so long as the substitute parcel/project forwards the constitutional objectives of this program in the Project Scope table of this accomplishment plan. The final accomplishment plan report will include the final parcel list.

Section 1 - Restore / Enhance Parcel List

Dakota

Name	TRDS	Acres	Est Cost	Existing Protection?
Cannon River	11219215	30	\$45,000	Yes
Chub, Dutch and Mud Creeks	11219217	120	\$180,000	Yes
Lindberg	02722217	60	\$75,000	Yes
Pine and Darden Creeks	11218201	50	\$75,000	Yes
Vermillion River Headwaters	11320209	30	\$50,000	Yes
Vermillion River Main Stem	11319201	20	\$30,000	Yes
Vermillion River South Branch	11418215	10	\$20,000	Yes
Vermillion River South, middle and north creek	11419229	30	\$45,000	Yes

Section 2 - Protect Parcel List

Dakota

Name	TRDS	Acres	Est Cost	Existing Protection?	Hunting?	Fishing?
Cannon River	11219215	25	\$62,000	No		
Chub, Dutch and Mud Creeks	11219217	150	\$325,000	No		
Chub Lake	11320233	30	\$75,000	No		
Grannis	02722220	60	\$1,200,000	No	Limited	Limited
Hampton Woods	11317206	200	\$1,000,000	No		
Lengsfeld	02722216	15	\$90,000	No		
Pine and Darden Creeks	11218201	20	\$50,000	No		
Trout Brook	11317226	10	\$25,000	No		
Vermillion River headwaters	11320209	40	\$100,000	No		
Vermillion River main stem	11319201	40	\$100,000	No		
Vermillion River Main stem	11319201	70	\$400,000	No		
Vermillion River south branch	11418215	30	\$75,000	No		
Vermillion. River south, middle and north creek	11419229	40	\$100,000	No		

Section 2a - Protect Parcel with Bldgs

No parcels with an activity type protect and has buildings.

Section 3 - Other Parcel Activity

No parcels with an other activity type.