

Transportation Advisory Board
of the Metropolitan Council of the Twin Cities

ACTION TRANSMITTAL

No. 2011-16

DATE: February 9, 2011
TO: Transportation Advisory Board
FROM: Technical Advisory Committee
SUBJECT: Sunset Date Extension for Dakota County SP#91-090-47 Mississippi River Regional Trail Pine Bend

MOTION: That the TAB approve a one year sunset date extension from March 31, 2011 to March 31, 2012 for Dakota County SP#91-090-47 Mississippi River Regional Trail Pine Bend.

BACKGROUND AND PURPOSE OF ACTION: This project is a component of the completion of the Mississippi River Regional Trail (MRRT), which involves the construction of 1.5 miles of off-road bituminous trail in the city of Inver Grove Heights. Dakota County has had numerous difficulties in getting a legal agreement for an easement on Land O Lakes cooperative property. The county has also needed to negotiate with Swift Transportation who owns property north of Land O Lakes on using a portion of its property as well as Flint Hills refinery property. Flint Hills has been supportive of the project and has indicated a willingness to donate the easements and provide other assistance but security assessments must be made on the design. The county is resolving the issues with Land O Lakes and Swift Transportation by negotiating an acceptable design and ensuring that the design of the trail through the Flint Hills property meets mandated security requirements. The alternative design that is emerging from the negotiations will likely result in a significant increase in cost, which the County has agreed to cover. The TAC Funding & Programming Committee heard a presentation from Dakota County staff and after discussion, unanimously agreed to grant the sunset date extension. Background material is attached.

ROUTING

TO	ACTION REQUESTED	DATE COMPLETED
TAC Funding & Programming Committee	Review & Recommend	January 20, 2011
Technical Advisory Committee	Review & Recommend	February 2, 2011
TAB Programming Committee	Review & Recommend	
Transportation Advisory Board	Review & Approve	



Physical Development Division
Lynn Thompson, Director

Dakota County
Western Service Center
14955 Galaxie Avenue
Apple Valley, MN 55124

952-891-7000
Fax 952-891-7031
www.dakotacounty.us

Environmental Mgmt Dept
Office of GIS
Parks & Open Space Department
Surveyor's Office
Transit Office
Transportation Department
Water Resources Department

December 8, 2010

Mr. James Andrew
Transportation Planner
Metropolitan Council
390 Robert Street North
St. Paul, MN 55101-1805

Re: Request for Sunset Date Extension S. P. 91-090-47
Mississippi River Regional Trail

Dear Mr. Andrew,

Dakota County respectfully requests a one year sunset date extension for a segment of the Mississippi River Regional Trail project within the City of Inver Grove Heights. This 1.5 mile long segment traverses from the northern boundary of the Pine Bend Bluffs State Natural Area, southerly to the border of Inver Grove Heights and Rosemount. We request consideration of this extension by the Transportation Advisory Board, Funding and Programming Committee at their December 16, 2010 meeting.

The enclosed information provides the project background, progress and justification of the extension request. Dakota County has diligently pursued this project and seeks the sunset date extension.

If you have any questions, I can be reached at bruce.blair@co.dakota.mn.us and 952.891.7990.

Sincerely,

A handwritten signature in black ink that reads "Bruce Blair". The signature is written in a cursive style with a large initial "B".

Bruce Blair
Manager, Facility Development

C: Steve Sullivan, Dakota County Parks Director
Colleen Van Wagner, MN/DOT Metro District State Aid
Craig Johnson, Dakota County Engineering Technician

SUNSET DATE EXTENSION REQUEST
S.P. 91-090-47

The Mississippi River Regional Trail – Pine Bend Bluffs Segment

Location: Pine Bend Bluffs Scientific and Natural Area (SNA) northern boundary southerly through the
SNA to Inver Grove Heights/Rosemount City Limit Line

1. PROJECT BACKGROUND

A. Project Name:

Mississippi River Regional Trail – Pine Bend Bluffs Segment (within the City of Inver Grove Heights) (City).

B. Location Map:

A location map is attached in **Appendix A – Exhibit 1**.

C. Sponsoring Agency:

Dakota County Parks and Open Space Department
Western Service Center
14955 Galaxie Avenue
Apple Valley, MN 55124

D. Other Participating Agencies:

The City, Minnesota Department of Natural Resources, Dakota County Soil and Water Conservation District and MNDOT have been involved in the review of trail alignments. No financial participation is anticipated from these agencies.

E. Project Description:

This project involves the construction of a portion of the Mississippi River Regional Trail (MRRT). The MRRT is planned to be a non-motorized regional trail connecting the Cities of South St. Paul and Hastings. Paralleling the Mississippi River, the MRRT will be 25 miles long and connect cities; recreational, historic and cultural destinations; schools; and more. Furthermore, the MRRT will connect with additional trail opportunity.

This segment of trail involves construction of 1.5 miles of off-road bituminous trail with a desired width of 10 feet.

F. Funding Category:

The project is funded with Federal Transportation Enhancement (TE) Funds.

G. Federal Funds Allocated:

Federal funds in the amount of \$943,312 have been secured.

H. Local Share and Source:

The approved 2010-2014 Dakota County Parks and Open Space Capital Improvement Program (CIP) includes \$550,000 to be applied to the local share of the project cost. The draft 2011-2015 CIP includes additional funds for the project.

I. Fiscal Year Program:

The project is programmed in the 2010 fiscal year.

2. PROJECT PROGRESS

A. Project Schedule:

A project schedule is attached in **Appendix A – Exhibit 2** showing the current progress on the project.

B. Right-of-Way Acquisition:

Appendix A – Exhibit 1 shows the proposed trail location, including a section where the final alignment is undetermined. This section of undetermined alignment is the principle origin of this sunset extension request.

C. Plans:

Development of plans is underway, but cannot be completed until a final alignment is selected.

D. Permits:

The following table is a complete list of permitting agencies and agencies with approval authority and the status of their reviews:

Agency	Permit	Status
Mn/DOT	Project Memorandum	Draft to be submitted December 2010
	Plan Approval	Not yet submitted. Final approval June 2011
MPCA	NPDES	Not yet submitted. Permit by May 2011
City of Inver Grove Heights	Layout Approval	Formal approval will be sought early 2011.
	Plan Approval	Final approval expected February 2011
City of Inver Grove Heights (Local Government Unit administering the Wetland Conservation Act)	-Wetland Replacement Plan (if there are impacts, not anticipated) -Stormwater Management Plan approval	Process concurrent with City Plan approval.
Lower Mississippi River Watershed Management Organization	Wetland Replacement Plan (if there are impacts, not anticipated) -Stormwater Management Plan approval	

E. Identified Funds Spent to Date on Project:

To date, Dakota County derived funds have been spent on the design and preparation for right-of-way acquisition for the project. It is anticipated that Dakota County derived funds in the amount of \$150,000 will be spent preparing the project for acquisition and construction.

3. JUSTIFICATION FOR EXTENSION AND NEW ALIGNMENT REQUEST

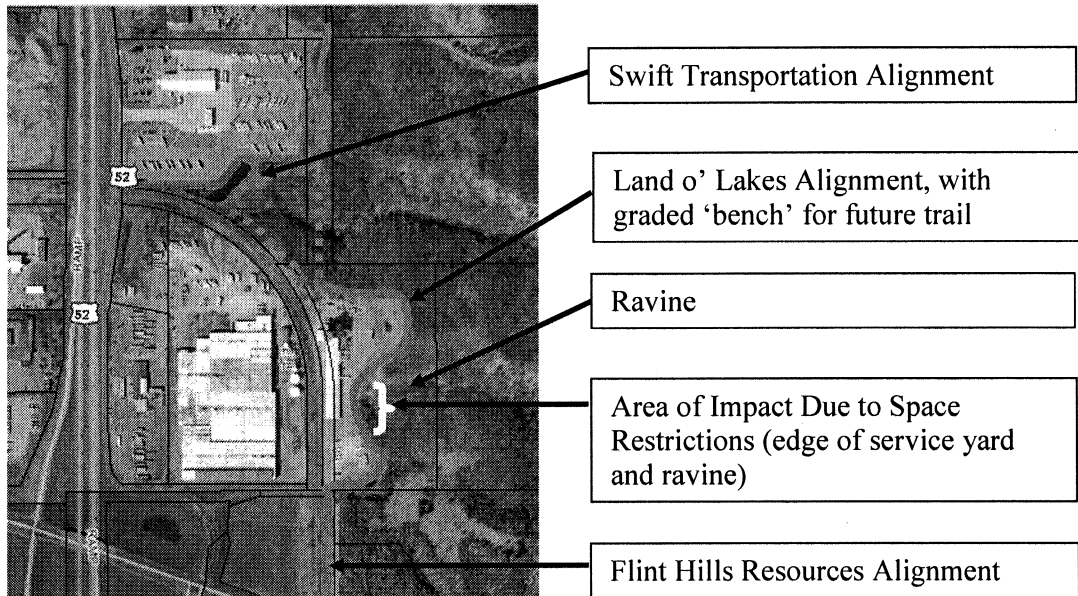
A. What is unique about this project that requires an extension of the Sunset?

A sunset extension request has become necessary primarily due to:

1. Difficulty and delays in identifying and securing the approvals in a collaborative manner, for the preferred alignment from:

Land o' Lakes Cooperative – Inver Grove Heights Facility

In about 2000, due to severe storm events, water runoff from this facility contributed to a massive erosion blow-out in the ravine between the bituminous service yard and Mississippi River (see map). With planning and funding assistance from local units of government (totally over \$150,000) the blow-out was repaired and storm water is now managed through ponding, swales and infiltration before entering the ravine. During this planning process accommodating the future regional trail was discussed and a 'bench' was graded into the project for a portion of the trail. However, no legal arrangement for future placement of the trail was secured from Land o' Lakes.



For a year Dakota County has chosen a collaborative, consultative approach to problem solving with Land o' Lakes, involving site visits with the plant manager and face-to-face meetings with senior Land o' Lakes management. However to date the process has been unsuccessful in securing a cooperative agreement allowing the trail on Land o' Lakes property in a manner satisfactory to them and consistent with trail development criteria.

Business Interference Challenge

The most challenging design issue relates to potential interference with plant operations at a restricted location in the service yard. Due to extreme drop-offs in elevation from the edge of the service yard, it is most economical to route the trail on the edge of the service yard. However the trail in this location would restrict maneuvering tractor trailer rigs and this interference is unacceptable to Land o' Lakes. Dakota County is pursuing a design that would cantilever the trail over the drop-off, but has not yet identified the most reasonable, affordable solution. Preliminary cost estimates suggest this design could cost \$300,000 for only a 220' section of trail. Furthermore, no reasonably alternative to the Land o' Lakes alignment has been found.

Dakota County is anxious to both avoid negative impacts to business and to economically construct the trail; therefore additional time for design and consultation with Land o' Lakes is required.

Security Challenge

Since "9/11" there is understandably considerable heightened sensitivity and requirements related to security. Routing the public close to a facility with exterior tanks and equipment vulnerable to tampering requires additional consulting and design expertise and vigorous review. Presently Dakota County is pursuing design options that provide the security required.

Swift Transportation

In between Land o' Lakes property and Swift Transportation to the north is a substantial ravine, a portion of which is owned by Swift and a portion by the MnDNR as part of the Pine Bend Bluffs SNA. Previous trail routing investigations suggested bridging the ravine. While technically feasible, a bridge is a major cost item. Looking for an alternative, Dakota County has had conversations with Swift Transportation and learned of their willingness to consider a trail route that, using Swift Transportation property, skirts the head of the ravine, resulting in much lower construction costs. We are working with Swift, respecting their schedule for deliberations, on this alternative and Swift has discussed property or easement donation. To fully vet this potential major benefiting action will require several more months.

Flint Hills Resources

South of Land o' Lakes the trail is proposed to occupy property owned by Flint Hills Resources. Flint Hills has worked cooperatively on alignment issues and

has indicated a willingness to donate the required easements and perhaps provide other assistance. Complicating the design is the need for security assessments, review, design responses and likely approval by the United State Coast Guard. The Flint Hills refinery is critical infrastructure resulting in mandatory security regulation by the Coast Guard due to the proximity to the Mississippi River. Understanding and designing to meet security requirements and secure approval is requiring more time than the original schedule allocated.

2. Construction Costs

Dakota County is presently actively involved in master planning, feasibility studies, detailed design and/or construction in nine segments of regional trail, totaling over 20 miles. Additionally over the years the County has either participated in, or constructed, 13 miles of trail which are open to the public. This has given the County experience to better plan and fund future trail projects.

Generally these projects to date have been underfunded, requiring County Board action to reallocate funds or implement other strategies to keep the projects viable. Therefore in the draft 2011-2015 CIP the County substantially increases funding to reflect the reality of the cost of these trail projects.

Increased funding for the Mississippi River Regional Trail - Pine Bend Bluffs Segment was included in this draft CIP, which is expected to be approved December 14, 2010 by the County Board. If approved, Dakota County staff will know the new financial position for final design, acquisition and construction of the MRRT - Pine Bend Bluffs Segment.

See Appendix A, Exhibit 4: Summary of Actions for a description, in chronology format, of action steps and impact to project.

B. What are the financial impacts if this project does not meet its sunset date?

The MRRT Pine Bend Bluffs segment will not be built if the nearly one million dollars of Federal funds for this project are not available. The County has no alternative funding source that could replace the Federal funds, especially in the current economic situation of local government. Should the Federal funds not be available, the project would be delayed indefinitely until such time as funding becomes available for some unknown source. Presently in the draft 2011-2015 CIP there is no known possibility of finding this nearly one million dollars.

As more of the MRRT is constructed each of the next five years, any remaining gaps will become increasing detrimental to the public realizing the full benefit of a continuous trail.

C. How does this project implement regional policies?

The value of the trail along the Mississippi River in Dakota County and the Greater Minneapolis/St. Paul Metropolitan Area has been long recognized. The Minnesota Critical Areas Act of 1973 included a planning requirement for open

space and recreation in the Mississippi Corridor, including the identification of potential sites for trail, scenic overlooks, and public accesses. The initial requirement for identifying trail locations is also included in the Mississippi National River and Recreation Area (MNRRA) Comprehensive Management Plan; the realization of a “continuous trail corridor” being one of the plan’s goals. The Metropolitan Council Study on projects in the upper Mississippi River pool also identified the Mississippi River Regional Trail in Dakota County as a significant regional priority.

D. What are the implications if the project does not obtain the requested extension?

An extension of the sunset date is critical to allow time for the successful implementation of this segment of the MRRT. If the extension were not granted Dakota County would forfeit the TE funding on the project and abandon it until funding can be obtained. Abandonment until an unknown future date would seriously complicate political approval processes, render useless some of the work done to date, and be very inefficient.

Furthermore, abandonment leaves a significant gap in the MRRT. A gap of this size would result in a serious loss of public recreational potential.

E. What actions will the agency take to resolve the problem facing the project in the next three to six months?

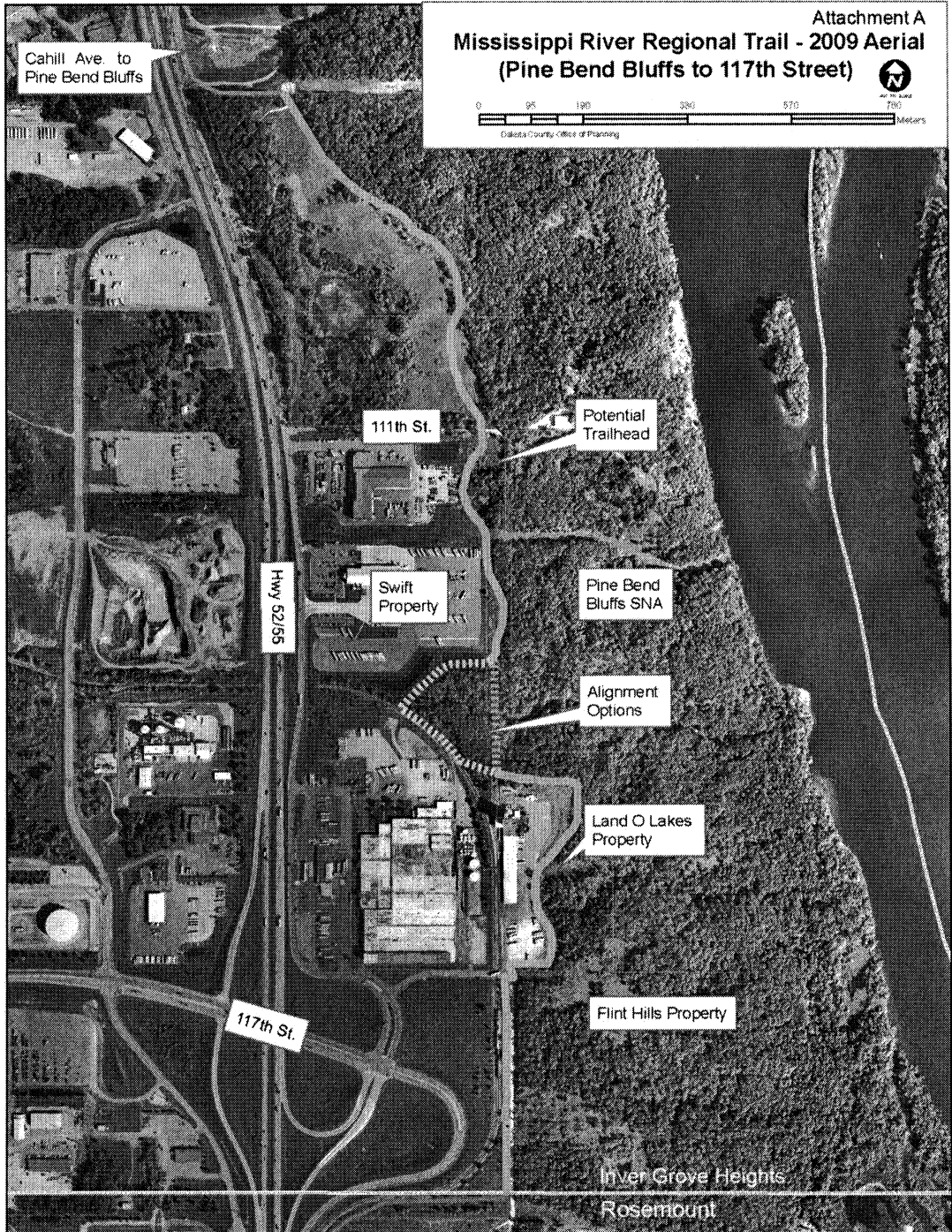
The County has taken significant action to resolve the alignment issues but needs more time than the current sunset date allows.

Specifically, the action steps necessary to secure a politically approved alignment include:

- Resolving the impact to business issues with Land o’ Lakes, through design (with expected significant increased cost) and negotiation.
- Secure a favorable outcome with Swift Transportation and complete design for that vicinity.
- Ensuring that the trail through Flint Hills Resources property meets mandated security requirements.

Appendix A, Exhibit 2 describes the process that the County is committed to, to bring this project to a successful conclusion. This schedule will allow the County to complete the right-of-way acquisition and Project Memorandum early enough in 2011 to allow construction to begin in late 2011.

Appendix A: Sunset Date Extension Request
Exhibit 1: Mississippi River Regional Trail



Appendix A: Sunset Date Extension Request
Exhibit 2: Revised Project Schedule

Proposed Revised Project Schedule
December 6, 2010

Preliminary Design

Feasibility Study Report.....	November 2009
Wetland Delineation.....	October 2010
Concept Layouts.....	November 2010
Updated field Surveys.....	December 2010
Agency and Landowner Meetings/Review	December 2010 – February 2011
Public Information Meeting.....	April 2011

Final Design

Project Memorandum	
Review Draft to Mn/DOT.....	December 2010
Final (to Mn/DOT).....	March 2011
Approved.....	April 2011
Right-of-Way	
Final Areas.....	January 2011
Property Negotiations.....	September 2010 - January 2011
Begin Condemnation (if required)....	February - March 2011
Right-of-Way Certificate No. 1.....	July 2011
Final Plans/Specification/Estimates	
60% Review.....	March 2011
Agency Meeting.....	April 2011
95% Review.....	May 2011
Public Information Meeting.....	April 2011
Final (to Mn/DOT).....	May 2011
Approved.....	June 2011
<u>Agency Approvals</u>	
County/City Staff Final Review.....	March 2011
City Council.....	March 2011
Mn/DOT.....	June 2011
County Board.....	June 2011
Federal Authorization.....	July 2011
<u>Construction</u>	Late summer 2011

Sunset Date Extension Request Appendix A
Exhibit 2

PROGRESS SCHEDULE FOR SUNSET EXTENSIONS

ENVIRONMENTAL DOCUMENTATION

EA

Project Memorandum (Will be submitted for preliminary review December 2010)

Completed/Approved

Date of Approval _____

Not Complete

Anticipated Date of Completion – March 2011. Final Approval April 2011

OPPORTUNITY FOR PUBLIC HEARING (not necessary for Project Memorandum)

Completed

Date of Approval _____

Not Complete

Anticipated Date of Completion _____

FINAL ENVIRONMENTAL ASSESSMENT (Not required for Project Memorandum)

Completed/FONSI Approved

Date of Approval _____

Not Complete

Anticipated Date of Completion _____

STUDY REPORT (required for Environmental Assessment Only)

Completed

Date of Approval _____

Not Complete

Anticipated Date of Completion _____

CONSTRUCTION PLANS

Completed (Includes signature of District State Aid Engineer)

Date _____

Not Complete

Anticipated Date of Completion – May 2011. Final Approval by July 2011.

RIGHT-OF-WAY ACQUISITION

Completed (Includes approval of right-of-way Cert. #1 or #1A)

Date of Approval _____

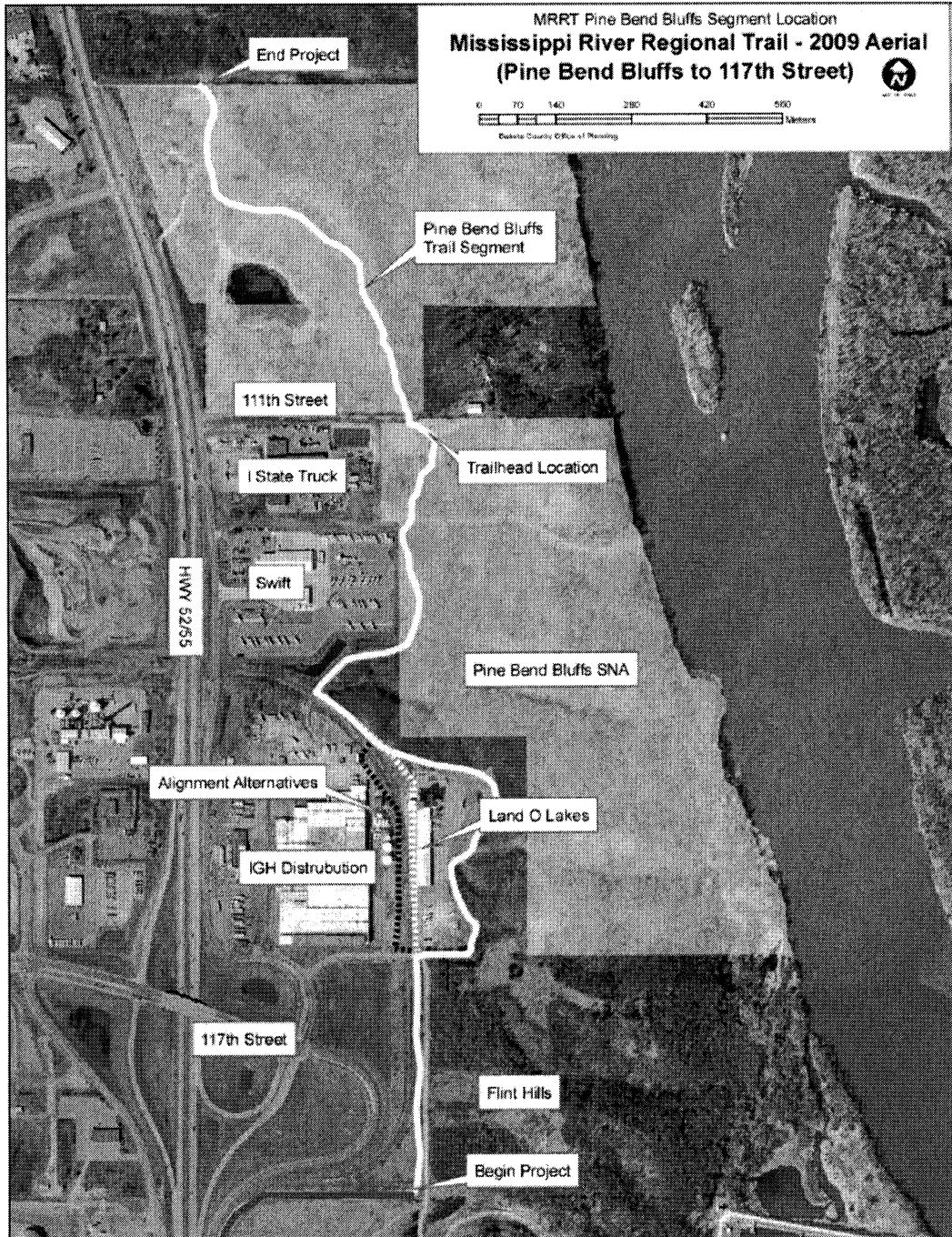
Not Complete

Anticipated Date of Completion – July 2011

LETTING

Anticipated Letting Date – August 2011

Sunset Date Extension Request Appendix A
Exhibit 3: Right-of-Way



Sunset Date Extension Request Appendix A
 Exhibit 4: Summary of Actions

Date	Event/Action	Impact Comment
1999	Dakota County Board approves Development Plan for the MRRT	<ul style="list-style-type: none"> Funding for final design and construction was not anticipated to be available for five years or so
2001 - 2003	Ravine blow-out repair project at Land O' Lakes site	<ul style="list-style-type: none"> Repair included graded 'bench' for MRRT. No trail easement secured which has now proved to be problematic.
2004	MnDNR establishes the approx. 200 acre Pine Bend Scientific and Natural Area (SNA)	<ul style="list-style-type: none"> A location for a trailhead and the trail route identified and incorporated into the establishment of the SNA.
2004 – Present	MnDNR continues acquisition, expanding the SNA	<ul style="list-style-type: none">
2005	Easement for trail secured from Swift Transportation via a Conditional Use Permit issued by the City of Inver Grove Heights	<ul style="list-style-type: none"> This easement benefits planning.
Late 2005	Transportation Enhancement grant for trail construction secured.	<ul style="list-style-type: none"> Serves as the financial 'trigger' to begin planning and design processes.
2006	Dakota County CIP: Funding for design in 2008 included.	<ul style="list-style-type: none">
2004 – 2007	Cumulative changes in ownership and easements make the 2004 trailhead and SNA trail route illogical in some places.	<ul style="list-style-type: none"> The new routing opportunities required 'going back to the drawing board' within the SNA regarding determining preferred alignment.
Late 2007	Revived discussions with MnDNR about trailhead and trail route locations.	<ul style="list-style-type: none">
Early to mid 2008	Numerous meetings and site visits to SNA, and extensive discussions with City of Inver Grove Heights staff about city concerns, etc.	<ul style="list-style-type: none"> Worked on determining preferred alignments. More interest develops in environmental protection of the SNA, requiring nearly starting over again on trail alignment planning.
2008	Interstate Trucking land donation to MnDNR, with allowance for trail included.	<ul style="list-style-type: none"> Another potentially preferred alignment location emerges.
2008 – 2010	Nearly continuous review of new developments that affected trail alignments and feasibilities, including working closely with SNA staff, other landowners, and the City.	<ul style="list-style-type: none"> By late 2009 it becomes clear that finding the preferred alignment will require considerable more process, and overcome more opposition, than previously known.
Early 2010	Staff developed a draft preferred alignment, with an alternative at Swift Transportation location.	<ul style="list-style-type: none"> Staff begins process of formal review of the preferred alignment with all landowners. County surveys the preferred alignment where landowner permission had been obtained.
February 2010	County hires SRF Consulting Group for final design services, at a cost of \$114,826.	<ul style="list-style-type: none"> Planning and engineering advances rapidly.
March – July 2010	Consultants and staff meet with landowners to advance alignment analysis and engineering in an informed manner.	<ul style="list-style-type: none"> Significant progress is made with all landowners, except Land O Lakes. Land O Lakes determines they cannot support the trail being on their property.
May 2010	Hired consultant to assist County staff in working with multiple landowners, including the MnDNR to identify trail easement options, and to secure the easements.	<ul style="list-style-type: none"> County knew that determining the final alignment and securing easements was becoming increasingly problematic, and so hired a consultant to help.

Date	Event/Action	Impact Comment
August – Sept. 2010	Senior County staff, after consulting with County Board members and the City of Inver Grove Heights, appeals to Land O Lakes senior management for reconsideration.	<ul style="list-style-type: none"> • Land O Lakes senior management more precisely defines their concerns and suggests that if the trail design can alleviate the issue of negative impacts to service yard operations, then they would review and perhaps (no guarantee) reconsider. • Consultants and staff anticipate that designing a solution to Land O Lakes concerns will add significant cost for which there was no budget
Sept. – Oct. 2010	County staff reprioritize the draft 2011-2015 Parks Department Capital Improvement Program (CIP) to allocate more funds to this MRRT project, in anticipation of increased costs due to Land O Lakes concerns.	<ul style="list-style-type: none"> • This staff action creates an opportunity for the County Board to agree to increased funding.
Nov. 5, 2010	County Board reviews draft CIP and moves it forward unchanged for formal adoption on December 14, 2010	<ul style="list-style-type: none"> • This action gives staff confidence to design a response to Land O Lakes concern, knowing that if the CIP is approved December 14th, there would be funds for a reasonable solution.
Mid – Nov. 2010	Draft Project Memorandum prepared (with gaps that reflect alignment uncertainties)	<ul style="list-style-type: none"> •
Dec. 2010	Requested DNR final approval of trail alignment and trailhead site and building preliminary plans	<ul style="list-style-type: none"> • Approval still pending.
Dec. 2010	Design options for Land O Lakes situation advance – cost estimate for first option is \$300,000	<ul style="list-style-type: none"> • Staff gives direction to explore less costly design alternatives.