



US Army Corps
Of Engineers
St. Paul District

Appendix D Real Estate

UPPER SAINT ANTHONY FALLS
LOCK AND DAM

MINNEAPOLIS, MINNESOTA
SECTION 216 DISPOSITION STUDY

December 2020 (Revised January 2021)

Executive Summary

The Real Estate Appendix D supports the tentatively selected plan milestone. The Appendix summarizes the market analysis and investigates the potential for alternative uses of the real property based on maximum economic productivity and/or value to the public. This appendix is written in accordance with Real Estate Policy Guidance Letter 33.

If disposal of the fee-owned Upper Saint Anthony Falls Lock and Dam and associated easement estates plus improvements are approved for disposition, there is potential for two (2) likely methods for real estate disposal. The first is disposal is by special Congressional legislation. Traditionally, special legislation would name the grantee(s) who the project would be conveyed to. Sometimes the legislation would provide a timeline for completion and could direct the Department of the Army, St. Paul District to execute the disposal. It is estimated this method would be a six (6) month to a two (2) year process.

The second method for real estate disposal would be through the standard General Services Administration (GSA) disposal process. A Report and Recommendation of Excess (RROE) is prepared and submitted, along with environmental and cultural resources clearances, through the Vicksburg Division to U.S. Army Corps of Engineers (USACE) headquarters for approval. When approval of the RROE is received, the USACE would screen the property with the Department of Defense (DOD) for interests. If there is no DOD interest, a SF 118 Report of Excess Real Property would then be prepared and forwarded to the appropriate GSA regional office. GSA would perform the disposal including screening with the Department of Housing and Urban Development (HUD), and Federal, state and local governments. A conservative timeline would be sixteen (16) months to three (3) years for the disposal process.

The Water Resources Development Act of 2020 (WRDA 2020), Section 356, Conveyances, subsection (f) authorizes the first method for direct disposal to the City of Minneapolis, or its designee, of real property owned by the United States adjacent to or in the vicinity of the Upper St. Anthony Falls lock and dam. Further provisions of WRDA 2020 pertaining to surveys, costs and liability of this conveyance are cited in the main report.

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1. Project Background and Authorization

The Rivers and Harbors Act of July 1930 (PL 71-520) established the Upper Mississippi River nine-foot navigation channel project. The project purpose was expanded to include recreation under the Flood Control Act of 1944 (PL 78-534). The Rivers and Harbors Act of 1937 (PL 75-392) authorized the Upper and Lower St. Anthony Falls Locks and Dams and the Minneapolis Upper Harbor Project, which extended the nine-foot channel upstream to river mile 857.6.

Section 2010 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), dated 10 June 2014, directed the Upper St. Anthony Falls (USAF) lock and dam, located at Upper Mississippi River mile 853.9 in Minneapolis, Minnesota, be closed within one year of the date of enactment of the Act. Section 2010 of WRRDA 2014 allows for emergency lock operations at USAF as necessary to mitigate for flood damage.

Prior to the closure of the lock at Upper St. Anthony Falls, the three locks located in the Minneapolis-St. Paul metropolitan area of Minnesota, (USAF, LSAF and L/D 1), operated as a system to support navigation on the upper reaches of the Mississippi River nine-foot navigation channel. With the lock at Upper St. Anthony Falls closed to navigation, the demand for both commercial and recreational lockage at LSAF and L/D 1 has decreased due to the navigational disconnect in the Mississippi river at USAF. Disposition of one or more of the three sites may be warranted if the sites are deemed to not be fulfilling their authorized purposes and, are therefore, no longer serving a Federal interest. The current authorized purposes are navigation and recreation.

1.1 History

The Upper Mississippi River (UMR) is an ecologically and economically important and historic waterway. Navigation of the river was unreliable between St. Paul, Minnesota and St. Louis, Missouri due to variable river depths, sandbars, rocks and snags. Since the early 19th century, river channel improvements resulted from private, state, and Federal efforts, which primarily consisted of dam construction, dredging, and snagging. The River and Harbor Act of 1866 allowed for the funding of permanent improvements to the UMR for commercial traffic administered by the United States Army Corps of Engineers (Corps).

By the late 19th century, the construction of wing dams and other river training structures created a four-and-one-half foot navigation channel to St. Paul. The river gorge above St. Paul was filled with debris from the recession of St. Anthony Falls with a one-hundred foot drop from the cascade to St. Paul. In 1907, the Meeker Island Dam was completed within the gorge. The same year Congress authorized a six-foot channel. Construction of Government Lock and Dam 1 (LD 1) was completed in 1917 (subsequently, the upstream Meeker Island Dam was partially demolished and submerged).

In 1927, Minneapolis constructed a barge terminal below St. Anthony Falls although it was not convenient for railroad or vehicular access. Meanwhile, with continued marine technology advances and increased barge capacity, the Nine-Foot Channel was authorized by River and Harbor Act in 1930. The Nine-Foot Channel created a system of 26 locks and dams that would create a series of slack water pools from the base of St. Anthony Falls to St. Louis. This included the existing structures at LD 1 and Lock and Dam 2 at Hastings, Minnesota. Still unsatisfied with its barge terminal location and with more suitable sites situated above the falls, boosters advocated for an extension of the navigation channel above the falls.

In 1937, the Upper Minneapolis Harbor Development Project was authorized. Two complexes were required to ascend the 74 foot drop of the cataract: Lower St. Anthony Falls Lock and Dam (LSAF), completed in 1956; and the Upper St. Anthony Falls Lock and Dam (USAF), completed in 1963.

1.2 Current Status of Project

Upper St. Anthony Falls Lock and Dam (Figures 1.1, 1.2) was authorized by the Rivers and Harbors Act of 1930 (PL 71-520) and the Rivers and Harbors Act of 1937 (PL 75-392). Construction began in 1959 and was completed in 1963. Upper St. Anthony Falls was placed in operation in September of 1963.

The main features of Upper St. Anthony Falls include a 56-foot-wide by 400-foot-long main lock with a hydraulic lift of 49.2 feet (Figure 1.3). There are short segments of gravity walls connecting the lock to the J.J. Hill Railroad Bridge (owned by the Minnesota Department of Transportation (DOT), and to the 2,045 foot-long horseshoe dam owned by Xcel Energy Corporation, and a 425-foot long straight-chord main spillway below the horseshoe dam, both of which are owned by Xcel Energy. The horseshoe dam is surmounted by a wooden flashboard system (owned by Xcel Energy) which enables Xcel Energy to maintain the upstream water elevation between 796.8 feet to 798.8 feet above mean sea level (1912 adjusted datum).

The horseshoe dam and spillway tie into the left bank of the Mississippi River at Water Power Park. Additional features on the left bank of the Mississippi River in the vicinity include the University of Minnesota Hydraulics Laboratory, the USAF hydropower facility (owned by Xcel Energy) and Father Hennepin Park (managed by Minneapolis Parks and Recreation). The National Park Service occupies and manages the visitor center under a License agreement with the U.S. Army Corps of Engineers. This License remains in effect through May 19, 2021. Additional out-grants are to the Minneapolis Park and Recreation Board (2), one to the Hennepin County Sheriff for mooring of a boat, and one to the Minnesota DOT for a storm sewer drain. The Park and Recreation Board has two extensive outgrants as part of their urban park plan for Minneapolis, for bike and pedestrian paths, fencing, and landscaping.

Xcel Energy operates the USAF hydropower project, located on the left bank of the Mississippi River, opposite the lock. The USAF hydropower project operates under FERC license P-2056. As part of its FERC license, the hydropower plant provides free electricity to Upper St. Anthony Falls Lock and Dam.

In the time since the upper lock was closed to navigation on June 9, 2015, the upper lock has continued to be used for flood risk management, public tours, and as a launching point for emergency water rescues. The observation deck/visitor center (Figure 1.5) and other points on the site, such as on the lock wall, overlooking the falls, have interpretive displays. The Corps has granted the National Park Service a license to conduct public tours at USAF during the summer. The license allows the NPS the use and access to parts of the Corps Central Control Station, including the second floor break room, elevator, third floor observation deck, and lock wall. Occasionally, the NPS and the Corps will partner to conduct special events at the site, such as open houses, and events tied to festivals in Minneapolis. The intakes for the Minneapolis city water supply are located upstream of the falls, and are sensitive to drops in upstream water level. The water levels are not controlled by the Corps, but are sometimes affected by Xcel Energy's operation of the horseshoe dam flashboard system. With the lock at Upper St. Anthony Falls closed to navigation, the demand for both commercial and recreational lockage at LSAF and L/D 1 has decreased due to the navigational disconnect in the Mississippi river at USAF.

Additional features of USAF include upper and lower miter gates; a submersible Tainter gate used for flood risk management; upper and lower control stations (Figures 1.4, 1.5), gate operating equipment; a central control station with an observation deck (Figure 1.5), an elevator and attached shop maintenance facilities (Figure 1.6), public restrooms (Figure 1.7), one upper small boat davit with lifeboat for emergency use, security fencing and facilities (Figure 1.8), lighting, a parking area located at the terminus of Portland Avenue, and an access road leading to the lower lock.



Figure 1.1. Upper Saint Anthony Falls Lock and Dam



Figure 1.2. Dam



Figure 1.3. Upper Lock



Figure 1.4. USAF Control Station



Figure 1.5. Upper Saint Anthony Falls Central Control Station and Visitor Center



Figure 1.6. Storage Building



Figure 1.7. Restroom Facility

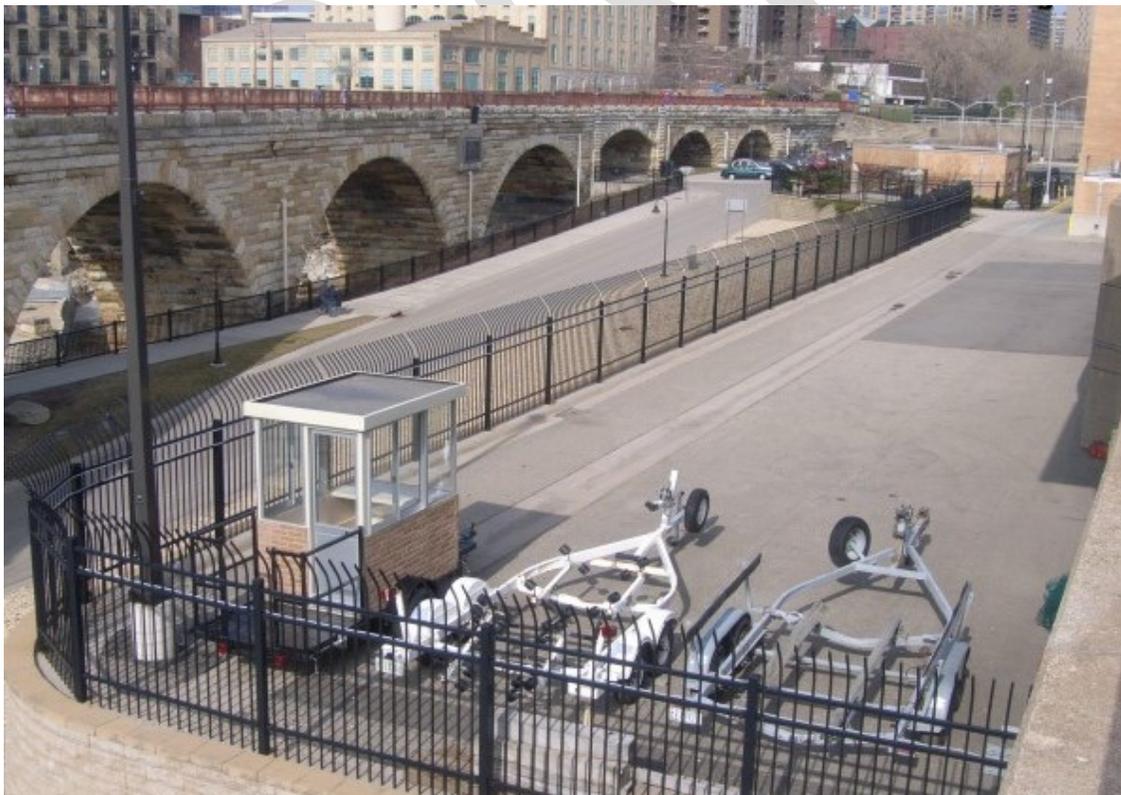


Figure 1.8. Security Fencing



Figure 1.9. View of lower end of lock and modification to Stone Arch Bridge



Figure 1.10. View of road between Upper and Lower Saint Anthony Falls

2. Description of Project Lands

Upper St. Anthony Falls Lock and Dam is located on the right bank of the Mississippi River in Minneapolis, Minnesota, at Upper Mississippi River mile 853.9. USAF is the top step in the upper Mississippi River “stairway of water” which, until the USAF lock was closed in June 2015, provided for commercial navigation to Minneapolis, Minnesota, as shown in Figure 2.1.

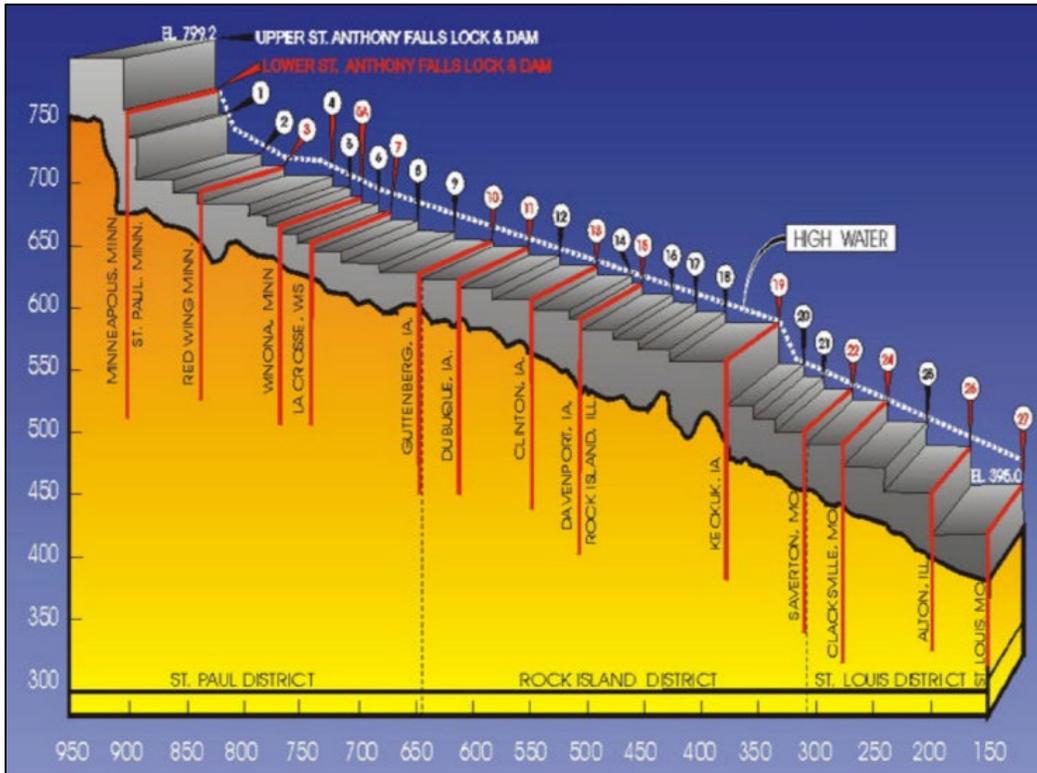


Figure 2.1 “Stairway of Water”

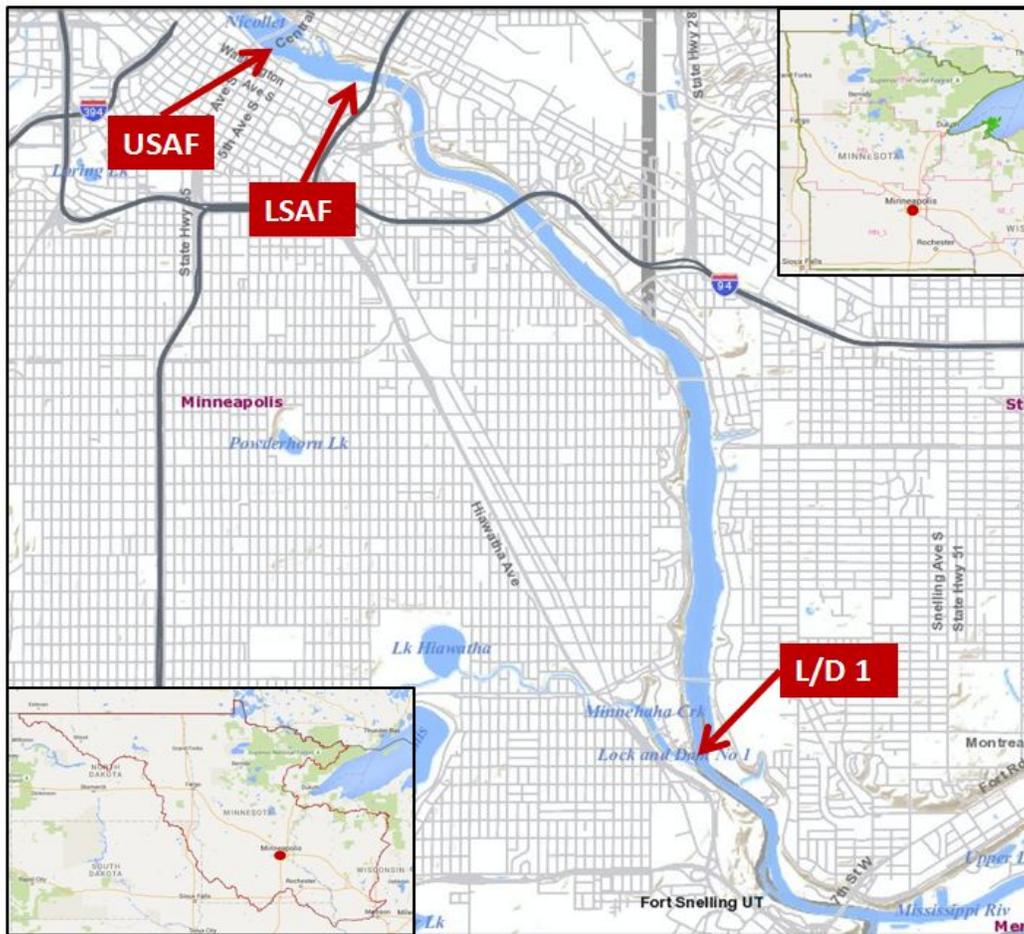


Figure 2.2 Location

Upper St. Anthony Falls lock and dam is located on the Mississippi River in Hennepin County, in Minneapolis, Minnesota, in Hennepin counties (Figure 2.2).

3. Real Estate Interests Held by the Government

Upper St. Anthony Falls was constructed as part of the Minneapolis Upper Harbor Project. The purpose of the Minneapolis Upper Harbor Project was to extend navigation to Minneapolis, Minnesota. The Project consisted of extending the existing 9 foot channel from its previous terminus to the lower lock, constructing the lower lock, constructing the upper lock and then extending the 9 foot channel to and creating a turning basin at the Minneapolis Upper Harbor terminal. Constructing the upper lock involved constructing a sheet-pile cofferdam, removing a portion of an existing masonry dam, excavating the site, constructing the upper lock; building the upper and associated support buildings, modifying a portion of the J.J. Hill railroad bridge, constructing an access road between from the lower lock, and other bridge modifications performed by the City of Minneapolis. The Mississippi River channel was dredged below the lower lock, between the two locks, and to the Minneapolis Upper Harbor.

A total of 9.01 acres of Lands, Easements, and Right-of-Way were acquired for the Upper Saint Anthony Falls (USAF) portion of the Mississippi River 9 foot Navigation Channel. The City of Minneapolis agreed to provide all necessary land interests for the project. All lands were acquired in Hennepin County, Minnesota. Fee lands consist of 6.83 acres and easement interests are 2.18 acres. Easement interests are a mix of flowage, road access, and utility easements. Some of the utility easements are placed under streets. Northern States Power

Company (NSP) deeded fee lands and a small portion of their power facility's dam directly to the U.S. They were required to permit their lands and facility to be utilized as a compatible use to the Federal Navigation facility. This deed contains a reservation to NSP for their continued use for their facility. Any disposition will need to recite this retained right in the disposal deed. All fee lands at USAF were provided by NSP.

3.1 Real Estate Summary

The Real Estate Management System (REMIS) lists three (3) active deeds in Fee Ownership and six (6) active Easements for the Project. A Real Estate Summary listing each tract, acreage and instrument type is below in Table 1 and in Figure 3.1

Table 1: Real Estate Summary

Tract No.	Fee Acres	Easement Acres	Notes
400-2	0.670		Deed
400-4	1.830		Deed
400-5	4.330		Deed
400E-1		1.75	Easement
404E-2		0.02	Easement
404E-3		0.11	Easement
404E-6		0.20	Easement
406E-1		0.05	Easement
406E-2		0.05	Easement
Total	6.83	2.18	Total = 9.01 acres



Figure 3.1 Upper Saint Anthony Falls Real Estate

3.2 Tract Information

Tract No. 400-2 Title to 0.670 acres Fee interest was vested in the United States of America by deed recorded 02 October 1945 from Northern States Power Company with an acquisition deed amount of \$0.00, however, with a donated value of \$4,325.71.

Tract No. 400-4 Title to 1.830 acres Fee interest was vested in the United States of America by deed recorded 02 October 1945 from Northern States Power Company with an acquisition deed amount of \$0.00, however, with a donated value of \$11,815.00.

Tract No. 400-5 Title to 4.330 acres Fee interest was vested in the United States of America by deed recorded 02 October 1945 from Northern States Power Company with an acquisition deed amount of \$0.00, however, with a donated value of \$27,954.72.

Tract No. 400E-1 Title to 1.75 acres Easement interest was vested in the United States of America by deed recorded 17 July 1959 from Northern States Power Company with an acquisition deed amount of \$0.00, however, with a donated value of \$11,298.50.

Tract No. 404E-2 Title to 0.02 acres Easement interest was vested in the United States of America by deed recorded 25 June 1962 from Northern States Power Company with an acquisition deed amount of \$0.00, however, with a donated value of \$129.13.

Tract No. 404E-3 Title to 0.11 acres Easement interest was vested in the United States of America by deed recorded 25 June 1962 from Northern States Power Company with an acquisition deed amount of \$0.00, however, with a donated value of \$710.19.

Tract No. 404E-6 Title to 0.20 acres Easement interest was vested in the United States of America by deed recorded 18 September 1964 from Northern States Power Company with an acquisition deed amount of \$0.00, however, with a donated value of \$1291.26.

Tract No. 406E-2 Title to 0.05 acres Easement interest was vested in the United States of America by deed recorded 5 August 1959 from Great Northern Railway Company with an acquisition deed amount of \$0.00, however, with a donated value of \$322.81.

3.3 Existing Outgrants

The Real Estate Management Information System (REMIS) lists eight (8) outgrants at the Project. A summary of the eight (8) outgrants identifying the grantee, description, and expiration date is below in Table 2.

Four (4) easements are issued in perpetuity, and two (2) easements have term ending dates, and one (1) permit and one (1) license are active.

Table 2: Summary of Outgrants at Upper Saint Anthony Falls, REMIS

Summary of Upper Saint Anthony Falls Outgrants				
Out-grant No.	Grantee	Description	Exp. Date	
1	DACW37-2-97-0020	City of MPLS, Park and Rec	Bike/Pedestrian Path	31 Dec 4000
2	DACW37-2-00-0044	City of MPLS, Park and Rec	Bike/ Pedestrian Path Fencing and Landscaping	31 Dec 4000
3	210018-C-63-0005	Minnesota DOT	Storm Drain Line (Underground)	31 Dec 4000
4	210018-C-63-0015	Minnesota DOT	Interstate 35W Piers	31 Dec 4000
5	DACW22-2-78-5027	Minnesota DOT	Storm Sewer Drain Line (Underground)	15 Jan 2028
6	DACW37-2-04-0095	Xcel Energy	Electric Transmission Lines	27 Aug 2054
7	DACW37-4-16-0055	US National Park Service	Tours at Observation Deck	19 May 2021
8	DACW37-3-18-0056	Hennepin County Sheriff	Mooring of Rescue Boat	31 Mar 2023

3.4 Real Property Inventory

The REMIS Real Property Inventory (RPI) lists seven (7) line items on the inventory report for the Project. A summary inventory report with betterments/components showing each item, along with the structure type, dimension, square footage, condition, and year built, original construction cost and location is included with this appendix as Exhibit A.

There are three (3) RPI structures on the property: the upper lock facility, the dam, and the storage building. Other RPI assets include security parking lots, security paved roads and security fencing. As detailed below in Exhibit A “Inventory Report”, the Project as a whole is in good condition with the storage building classified as new.

I N V E N T O R Y R E P O R T B Y H A N D R E C E I P T w i t h P r o p e r t y I D

Designated Employee : DERUSHA, MICHAEL E

Hand Receipt No: 112-5

Project : SAF

Name : LDSA ST. ANTHONY FALLS LOCK AND DAM

Account Number	Betterment No.	Rec Type	Property ID Code	Usage Code	Structure Type	Dimension	Square Ft	Type	Condition	Year Built	Cost Share	Percent Use	Cost	Location	
F5-0000-05		40	SAF-10619	18	UPPER LOCK	0x0x0		2	P	GOOD	1959	N	100	20,871,039.29	
F5-0000-05	01				CONTRIBUTED FUNDS					1932			20,871,039.29		
F5-0000-05	02				WINDOWS AND CABINETS					1992			20,871,039.29		
F5-0000-05	03				CONTROL STATION					1964			20,871,039.29		
F5-0000-05	04				CONTROL STAND (2)					1964			20,871,039.29		
F5-0000-05	05				RADIO TOWER (DISPOSED)					1965			20,871,039.29		
F5-0000-05	06				LOCK CONSTRUCTION COSTS					1960			20,871,039.29		
F5-0000-05	07				VISITOR CENTER/ CTRL BLDG UPGRADE					1998			20,871,039.29		
F5-0000-06		40	SAF-10620	18	DAM, UPPER	0x0x0		1	P	GOOD	1951	N	100	615,000.00	
B6-2008-01		35	SAF-27200	60	STORAGE BLDG, MULTI-USE, UPPER	50x0x23		1150	P	NEW	2007	N		580,095.57	USAF, ADJACENT TO CENTRAL CONTROL BUILDING
B6-2008-01	01				61000.2.2-USAF GARAGE/SHOP - A&B [117600]								580,095.57		
F5-0000-02		40	SAF-10572	76	SAF - PAVED RD., UPPER	1x0x0		1	P	GOOD	1959	N	100	138,186.82	
F5-0000-01		40	SAF-10571	66	SAF - PARKING LOTS, UPPER	0x0x0		100	P	GOOD	1959	N	100	0.00	
B6-05-04		40	SAF-23801	80	SECURITY FENCING, UPPER	0x0x0		1	P	GOOD	2005	N		614,805.81	UPPER SAF
B6-05-04	01				SECURITY FENCING					2005			614,805.81		
B6-05-03		40	SAF-23800	80	SECURITY SYSTEM, UPPER	0x0x0		1	P	GOOD	2005	N		779,626.32	
										** Hand Build **		7	19,895,317.49		

Exhibit A**4. Statement of Environmental Assessments**

An Environmental Assessment (EA) is being prepared for the Disposition Study. The EA will encompass the property owned by the U.S. Government and included the ingress and egress route under informal agreement with the adjacent landowners.

Prior to a real estate action to dispose of the property, a Phase 1 Environmental Site Assessment will be implemented to fully characterize and disclose the status of legacy hazardous materials on the site. The proposed action under the Preferred Alternative would adhere to any conditions set forth as a result of the Phase 1 Environmental Site Assessment. After the disposal of the property, the United States will no longer have any obligations with respect to the site that would give rise to liability, beyond what might be required to address the release of hazardous substance under the Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA, or Superfund).

5. Value of Real Estate Interests Held by the Government**5.1 Rough Order of Magnitude**

A Rough Order of Magnitude (ROM) Cost Estimate was prepared by a Saint Paul District Appraiser for the Disposition Study. The ROM is not an appraisal, and it is not considered appropriate for anything other than general planning. Based on the estates held by the U.S. Government and the indicated land uses from the recommended re-use scenario, the Real Estate Division developed a macro-level estimate based on comparable land sales listed below in Figure 5.1.

A survey of recent land sales in Hennepin County/Minneapolis was performed, with the most relevant sales information summarized on the chart Table 3 and Figure 5.2 below:

5.1 Table 3: Comparable Sales

Sale #	Sale Date	Sale Price	Special Circumstance	Sale Price and Capital Costs	Land Area SF	Number of Units	Density Units/Acre	\$ per SF Land Area	\$ per Unit
1	5/18/15	\$8,300,000	\$0	\$8,300,000	188,179	374	86.6	\$44.11	\$22,193
2	10/1/18	\$7,045,000	\$0	\$7,045,000	114,182	218	83.2	\$61.70	\$32,317
3	6/17/14	\$2,100,000	\$0	\$2,100,000	139,355	0	0	\$15.07	\$0
4	10/13/10	\$7,700,000	\$350,000	\$8,050,000	451,185	0	0	\$17.84	\$0
5	11/15/17	\$15,800,000	\$0	\$15,800,000	378,665	942	108.4	\$41.73	\$16,773
6	4/2/18	\$7,500,000	\$0	\$7,500,000	132,858	0	0	\$56.45	\$0
7	6/11/19	\$10,400,000	\$0	\$10,400,000	74,488	0	0	\$139.62	\$0
8	2/20/18	\$3,250,000	\$0	\$3,250,000	36,155	122	147	\$89.89	\$26,639
9	11/1/17	\$21,121,000	\$10,271,000	\$10,850,000	70,000	101	62.9	\$155	\$107,426
10	7/1/19	\$6,300,000	\$0	\$6,300,000	466,528	242	22.6	\$13.50	\$26,033

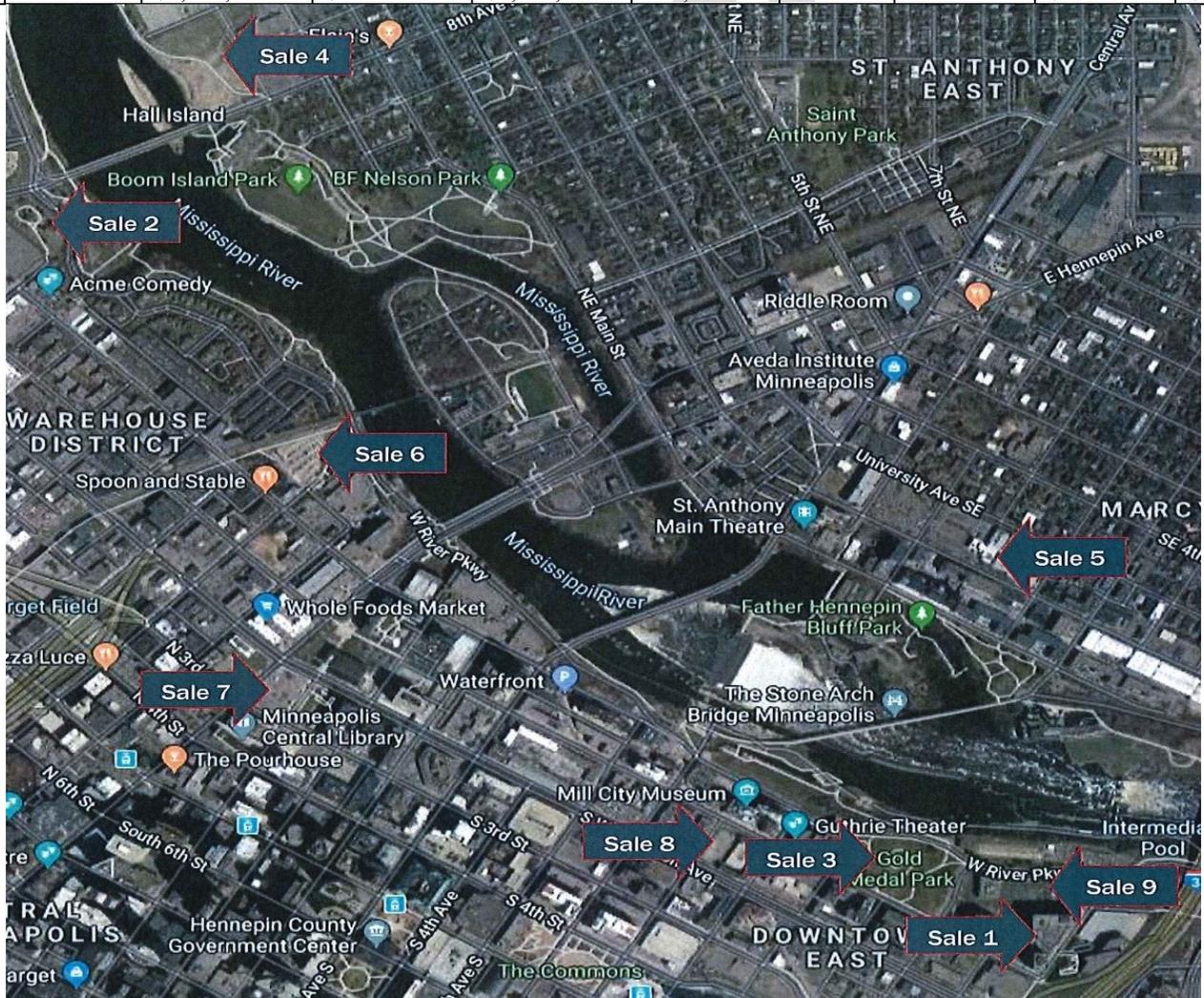


Figure 5.2 Land Sales

The number of units shown for those vacant sales indicates the proposed number of units that have been or are proposed to be constructed on the vacant site.

The three vacant land sales on the top of the range are influenced by several factors. Sale 2 sold for a premium due to the sale being the only remaining vacant land parcel available to develop with a view of the river in the market area. The Minneapolis Tribune newspaper owned the property and there were multiple bidders competing for the property. Currently, there are 218 units being constructed on the site.

VACANT AND IMPROVED COMPARABLE SALES CONSIDERED Sale #	Address	Special Circumstances
1	Legacy Condominiums Land Purchase, 121 12 th Avenue, Minneapolis MN	121,780 SF of improvements torn down
2	Vespi Apartments, 800 N 1 st Street, Minneapolis MN	Improved 218 Units Apartments on River Parkway
3	Gold Medal Park Land Sale, 916 2 nd Street South, Minneapolis MN	Vacant Land
4	Scherer Lumber Yard Site, Halls Island, Minneapolis MN	Vacant Land Soil remediation costs for buyer
5	Doran-CSM Development, University Avenue/3 rd Avenue S, Minneapolis MN	Improved 942 Units
6	Fed Reserve Parking Lot 24, 2 nd Avenue, Minneapolis MN	Vacant Land
7	United Properties Gateway, 30 3 rd Street South, Minneapolis MN	Vacant Land
8	205 Park Avenue, Minneapolis MN	Improved 122 Units
9	The Eleven – Luxury Condo, 1101 River Parkway West, Minneapolis MN	Improved 101 Condominiums
10	Island Station, 380 Randolph Avenue, Saint Paul MN	Improved 242 Units

Sale 7 is a major development deal for MPLS, United Properties acquired the site from the city to do a major mixed-use office tower (35 plus stories) with RBC as their anchor office tenant and an agreement with the Four Seasons to operate a hotel. The massing of the project and having the four seasons and major office tenant in place drove the value up on the site.

Sale 9 will be used to construct a 40-story very high-end luxury condominium tower. The 40 stories has not been allowed in the past and is considered an anomaly in this market. Again, a very unique high-rise deal. This sale was a parking lot for a building in front of this sale. The seller will be given parking stalls in the new building. These sales set the upper end of the downtown market near the river. These higher density parcels sell for a premium and are included to indicate where the big, high density land deal pricing is at.

5.3 Five Year Annual Holding Costs

The Saint Paul District estimates the average annual recurring cost to maintain the facility in the current caretaker status to be at approximately \$376,700 (No Action Alternative). This includes minimum caretaker maintenance, dam safety actions, periodic assessments and inspections, and emergency action plan drills.

6. Market Analysis

The potential re-uses of the property were studied through a market analysis taking into consideration the constraints of the property associated with its physical characteristics, zoning, historical significance, and other relevant factors. The market analysis reviewed uses that the project area is capable of providing with the associated land and improvements. It also reviewed the potential interest those uses would generate from a public or private entity.

Outside Interested Parties:

- Hydropower – Xcel Energy, Crown
- Minneapolis Parks and Recreation
- City of Minneapolis
- Friends of the Falls
- National Park Service

6.1 Potential Re-Use Options

The potential re-uses are limited. The narrow shape of the property, liability associated with the locks, and the zoning requirements of the property result in a negative effect to a market based re-use scenario. The lack of commercial traffic in the Mississippi River eliminates income potential from use of the lock system. The only improvement on the property with reasonable alternative use is the Central Control building. The building has parking spaces and an existing driveway connection and a security fencing system. Further, the building has leasing potential, however, risks associated with liability and with finding suitable tenants for the building are high from an investment standpoint.

The most reasonable users would be a public agency or a non-profit organization. A historical society or organization with the intent on preserving the property as part of the overall historical significance would also be a reasonable user. The transferees would undoubtedly consider the high costs and high risk liability of maintaining the property. They would also consider the amount of public interest or tourism the property could generate as a historic site. The market for the property is limited and divestiture via the market use could turn into a lengthy and expensive venture.

6.2 Alternatives Evaluated

This study analyzes three types of potential alternatives, including No Action, Full Disposal and Partial Disposal.

No Action would see the St. Paul District continue to operate the site as-is. Full Disposal would include deauthorization by Congress of all Corps' federal missions at the site, leading to complete disposal of the federal properties at the site. Partial Disposal would include partial deauthorization of federal missions at the site combined with partial disposal of federal properties, while retaining the floodgate operations and the facilities necessary to support these operations. Two Full Disposal alternatives are considered, including

disposing of the Federal property using standard General Services Administration (GSA) excess property disposal procedures (Alternative 1), as well as a Full Disposal alternative combined with a monetary incentive offered for the purpose of expediting the disposal (Alternative 1a). Two Partial Disposal alternatives are considered, including partial disposal with the Government continuing to support the cost of continued operation of the floodgate operations (Alternative 2), as well as Partial Disposal combined with most of the Corps' operational expenses being funded by a new project partner (Alternative 2a).

7. Disposal Methods

As the disposal of all or portions of the project would affect the authorized purposes of the project, Congress must first have to pass an act of Deauthorization before disposal of any of the property could proceed. If deauthorization was deemed necessary and appropriate, the Saint Paul District would work with the General Services Administration to proceed with disposal of the real estate.

The power to dispose of real estate belonging to the United States is vested in Congress (paragraph 2, Section 3, Article IV, Constitution of the United States). No real estate under Corps jurisdiction may be sold or otherwise disposed of without authority of Congress. Special legislative disposal authority and real property disposal authority from the Department of Defense (DOD) and General Services Administration provide disposal methods available for the property.

7.1 Special Legislation Disposal Authority

Congress has the authority to enact special legislation directing the disposal of specific Federal property. Special legislation reduces time and cost expenses by directing the conveyance to a specifically named entity. Special legislation also provides clear guidance on the screening requirements or waiver thereof, administrative costs, conveyance costs, and the overall disposal process. The specifically named entity identified in the legislation is typically a local organization, such as a county, or a designated local reuse authority or local economic development agency established by a state legislature to acquire and hold title to the property. Clarity on the costs of the administrative process and overall transfer are paramount to a successful special legislative disposal. The conveyance of real property owned by the United States adjacent to or in the vicinity of the Upper St. Anthony Falls lock and dam has recently been authorized by Section 356 of the Water Resources Development Act of 2020 (WRDA 2020). The exact acreage and legal description has not been determined, but it is anticipated that the City of Minneapolis will request conveyance of the lands adjacent to the lock, and not the lock structure itself.

7.2 Department of Defense Real Property Authority

The Federal Property Management Regulation (FMR) outlines procedures that must be followed prior to an agency declaring property as excess. First, the property must be screened against the needs of other Federal components, this is a timeline of thirty (30) days. After screening and compliance with Title 10 USC 2662, the Deputy Assistant Secretary of the Army, Installations, Housing and Partnerships (DASA, IH&P) may report the property as excess to the DOD.

The DOD has a delegation of authority from the GSA that allows the Corps to dispose of excess real property and related personal property having a total estimated fair market value, including all the component units of the property, of less than \$50,000.00. As identified in Section 3.1, Rough Order of Magnitude, of this appendix, the estimated fair market value of the real property is \$0.00. The DOD authority allows the Corps to dispose of the property by means deemed most advantageous to the United States per FMR, Subpart 102-75.1055. This delegation does not preclude the Corps to request for GSA to dispose of the property on behalf of the Corps. This delegation also requires the Corps to follow the Property Act (outlined below).

7.3 GSA Real Property Authority

Public Law 107-217, the Property Act (Traditional Disposal)

If the Corps reports the property to GSA as excess to its needs under the Property Act, the disposal requirements of the Act will be followed. The Act mandates statutory timeframes for identification of interest in the property, the hierarchy of availability and the actual process for disposal. GSA determines the highest and best use of the property and makes it available for certain uses including up to 100% public benefit discount for public benefit purposes. GSA ultimately decides the disposal method after considering all factors. The disposal process is as follows:

- The property is available for transfer to other Federal agencies for thirty (30) days.
- If there is no Federal interest and if determined suitable and available by the U. S. Department of Housing and Urban Development (HUD), the property is made available via the McKinney-Vento Homeless Assistance Act for 30 days.
- Initiated at the same time as the McKinney-Vento offering and also available for a period of thirty (30) days, the property is available to government entities for negotiated purchase and potentially to other public entities and non-profit organizations via a discounted conveyance for specific public uses such as schools, health clinics, correctional facilities or several other uses.
- The Property Act includes an option for a negotiated exchange of the property in this phase of the process. A negotiated sale at fair market value to a local or state government body for economic development is authorized by this section of the Property Act. It does not have a provision for a discounted or no cost conveyance for economic development. The sales agreement must be reviewed by GSA's oversight committees in Congress prior to execution.
- Pursuant to the statutory process, a public sale is the last phase.

8. Anticipated Local Support or Opposition

The U.S.A.C.E. has solicited the intent to dispose of USAF to State Governments, County Officials and to the public. The delegations are aware of the study and potential for deauthorization and disposition. Interest has been expressed in the lands surrounding the lock but not the lock itself.

Numerous organizations and individuals in the region provided comments during the public scoping process from August to October, 2019. Please refer to Section 2.6 of the Disposition Study Main Report for additional details.

9. Estimate of Administrative Cost

Estimated administrative costs for the alternatives is referenced in the Disposition Study Main Report.

10. Recommendation of Preferred Divestiture Path

The Real Estate factors considered within this Appendix supports four (4) alternatives – Alternative 1 and 1a, “Complete Deauthorization and Disposal”, and Alternative 2 and 2a, “Partial Deauthorization and Disposal.”

The Tentatively Selected Plan (TSP) is Alternative 1a Complete Deauthorization and Disposal with a payment incentive to the new owners. The incentive would be offered only as a means to expedite the disposal process, and would expire if disposal cannot be effected within 2 years, or reverts to the GSA disposal process. The primary navigation mission at USAF Lock and Dam would be deauthorized. Recreation would also be effectively deauthorized since it is a secondary purpose. All lands and project features that are not

separately conveyed as a result of WRDA 2020 would be transferred to another entity; the Corps would not have a continued presence at the site.

The TSP recommends that Congress deauthorize the project, but allow the Secretary of the Army two years in which to negotiate an arrangement, in which the terms of the transfer of remaining property would be agreed upon. Deauthorization of the project would be immediate; once deauthorized, the Secretary would continue to manage and maintain the project while disposal agreements are negotiated and until the project is transferred. The terms of the negotiations would include the authority to make a one-time incentive payment to the transferee.

10.1 Disposal Methods

The recommended deauthorization and disposal method for any property that has not already been conveyed via WRDA 2020 is through special legislation by Congress. Upon deauthorization of the project by Congress, the preferred method of transferring ownership of the remaining real property and all associated Government-owned improvements would be direct conveyance through the negotiated agreement between the Secretary of the Army and the transferee. Disposing of assets under the direct authority of Congressional legislation alleviates the requirement to screen the properties against the needs of state, local and private interests.

It is recommended for the passage of the title to the identified transferee by quitclaim deed. By this method, the United States will not profess that such title is valid, nor contain any warranty or covenants for the title. As such, the United States will not be liable for any title defects beyond what might be required to address the release of hazardous substance under the Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA, or Superfund). Any pre-existing, valid reservations in the deed may remain in effect after passage of title. The quitclaim provision of the special legislation is important due to the various encumbrances and reservations of adjacent owners that the title report identified on the property. The quitclaim transfer will release the Government from encumbrances and reservations as they will transfer with the property to a new owner. The new owner would assume and accept all risk of the property.

Without the enactment of special legislation, there is a strong possibility in which no non-federal transferees are discovered through the standard disposal process, and the Corps may have to continue ownership of a non-operable facility. The Corps would remain responsible and accountable for the property, including related personal property, and must perform the protection and maintenance of the property. Guidelines for protection and maintenance of excess and surplus real property are in the GSA Customer Guide to Real Property Disposal, FMR 102-75.965-980.

11. Level of Confidence

The results of the Real Estate Appendix reveal a moderate level of confidence that a transaction can be consummated if special legislative authority is approved. The recommendations identified in Section 10 will assist the USACE in working with the Congressional delegation and local support agencies in identifying a non-federal transferee and completing a successful transfer.

The results of the Real Estate Appendix reveal a moderate to high level of confidence that a transaction can be consummated if DOD or GSA disposal authorities are approved, especially if a willing owner is identified. There is significant risk in not identifying a transferee who would purchase the property at fair market value, or accept the property at no cost, due to the ongoing operation, maintenance costs associated with care and custody of the property; therefore, a monetary incentive has been recommended to encourage interest.