



Meeting Minutes

Vermillion River Watershed Joint Powers Board Meeting

January 26, 2023, 1 p.m., In-person and Teleconference using Microsoft Teams

Board Members in Attendance

Dakota County Commissioner Mike Slavik

Dakota County Commissioner Mary Hamann-Roland

Scott County Commissioner Tom Wolf

Others in Attendance

Renee Christianson, City of Elko-New Market, City Planner

Tom Terry, City of Elko-New Market, City Administrator

Janelle Kuznia, Elko-New Market Citizen

Carrie Jennings, Freshwater

Samantha Berger, City of Apple Valley, Staff (virtual)

Jessica Schaum, City of Apple Valley, Staff (virtual)

Bruce Johnson, Dakota County SWCD, Supervisor

Brian Watson, Dakota County SWCD, Manager

Troy Kuphal, Scott SWCD, Manager (virtual)

Valerie Neppl, Dakota County, Groundwater Protection Unit Supervisor

Nikki Stewart, Dakota County, Environmental Resources Department Director

Paul Beaumaster, Assistant Dakota County Attorney, VRWJPO Counsel

Travis Thiel, Dakota County, VRWJPO Senior Watershed Specialist

Mark Ryan, Dakota County, VRWJPO Water Resources Engineer

Brita Moore-Kutz, Dakota County, VRWJPO Communications and Outreach Specialist

Mark Zabel, Dakota County, VRWJPO Watershed Administrator

1. Call to Order

Meeting was called to order at 1:00 p.m.

2. Election of Officers

Mark Zabel called for nominations for Chair. Commissioner Hamann-Roland nominated Commissioner Slavik as Chair. There were no other nominations. Mark Zabel called for any objection to the election of Commissioner Slavik as Chair. There was no objection.

Commissioner Slavik was elected Chair by acclamation. Chair Slavik asked for nominations for Vice-chair. Commissioner Hamann-Roland nominated Commissioner Wolf as Vice-chair. There were no other nominations. Commissioner Wolf was unanimously elected as Vice-chair. Chair Slavik called for nominations for Secretary-Treasurer. Commissioner Wolf nominated Commissioner Hamann-Roland as Secretary-Treasurer. There were no other nominations. Commissioner Hamann-Roland was unanimously elected Secretary-Treasurer.

3. Roll Call

Commissioners Wolf, Hamann-Roland, and Slavik were in attendance.

4. Audience Comments on Items Not on the Agenda

Janelle Kuznia addressed the Board regarding the proposed development by Niagara Bottling, LLC in the City of Elko-New Market. Janelle expressed concerns regarding the Vermillion River Watershed and the newly identified Kelleher Fen in the Murphy-Hanrehan Park Reserve and the overall need for management of groundwater in the area. Niagara Bottling is proposing to use the Elko-New Market municipal water supply for its water bottling and distribution process requesting up to 310 million gallons of water per year at its ultimate build-out. Currently, the City of Elko-New Market has an appropriations permit allowing for 135 million gallons per year of withdrawal. Last years' (2021) actual reported use for the City was 126 million gallons. The City has applied to the Minnesota DNR for an increase in its appropriations to 365 million gallons per year or 2.7 times its current appropriations. Janelle also noted that the Niagara Bottling phase 1 proposal would immediately more than double the Cities current water use. Citizens submitted a petition for an Environmental Assessment Worksheet (EAW) for this project. The Environmental Quality Board has assigned the Minnesota DNR as the Responsible Governmental Unit for a decision on the need for an EAW. The DNR is expected to provide a decision by the end of February. The Citizen petitioners believe that further testing is needed to protect groundwater resources and sensitive surface water resources (Vermillion River and Kelleher Fen) and local domestic wells. Janelle provided a slide showing a schematic of the Elko-New Market water supply and distribution and pointed out the location of proposed new wells to be placed to the north of the developed area of the City near the headwater of the Vermillion River. Janelle asked what this proposed development might do to the Vermillion River. Janelle suggested that a multiple-aquifer test is required to determine if aquifers in the area are connected and withdrawals from the deeper Jordan aquifer might impact the overlying aquifers. Janelle referred to a multi-aquifer test that was performed in the City of Lakeville for increased use that resulted in identifying a negative impact reducing flow to the South Creek tributary to the Vermillion River. Janelle indicated that no similar testing has been done in Scott County in the Elko-New Market area. Janelle referred to the newly identified Kelleher Fen, a calcareous fen in Murphy-Hanrehan Regional Park Reserve and Burnsville City Park which is a unique groundwater supported resource that is highly sensitive. Minnesota State laws direct the DNR prepare and approve a Fen Management Plan that would act to protect the fen. To Janelle's knowledge, the DNR has not yet completed a management plan for the Kelleher Fen. A new study is needed in this area to determine if surrounding City wells in the southwest region of the Twin Cities Metro Area are already affecting the Kelleher Fen. Janelle shared a slide prepared by the City of Elko-New Market showing water use for several cities in the area

around Elko-New Market. Janelle noted several of the cities on the slide whose reported use is already close to or in exceedance of their permitted appropriations. In closing, Janelle requests that the VRWJPO please contact the DNR in writing in support of an EAW for the Elko-New Market project, a multiple aquifer test, and a groundwater study to look into cumulative effects of regional groundwater use.

Commissioner Wolf asked to review the slide showing a graphic of municipal water supplies in the area in bar graph comparison. Tom Terry indicated the City of Elko-New Market current usage and each of the proposed usages with the two phases of the water bottling project for comparison. Tom pointed out that the current request for appropriations by the City of Elko-New Market includes needs for the City for the next several years and the inclusion of phase 1 of the bottling plant proposal, but does not include phase 2. Commissioner Wolf pointed out that what is depicted for use by the City of Elko-New Market, both existing and proposed, amounts to only a small percentage of what is being taken from the aquifer by others. Tom Terry noted that the Prairie du Chien – Jordan aquifer is extensive in area (reaching into many mid-western states) and widely used. Tom added that the amount of water being discussed in the proposed appropriations permit is 0.4% of what is removed from the aquifer in the State of Minnesota on an annual basis. Tom Terry commented that there are processes in place in the State of Minnesota for the protection of aquifers and the states' waters through the Minnesota Department of Natural Resources. Tom noted that citizens have accessed these processes, as is their right, in requesting the DNR consider if additional study is required. Tom indicated that Minnesota has a robust system of environmental review among the highest of states in this region in the protection of natural resources. Tom Terry asks that the City receive fair, impartial, action consistent with normal practices by agencies reviewing and those agencies which may comment in review.

Carrie Jennings commented in support of Janelle's presentation and comments. Carrie commented specifically supporting a regional groundwater study, which would look at the use of groundwater on a holistic basis and its potential impacts. Carrie noted the concern with cumulative impacts and the potential effect of additional pumping on deepening cones of depression in the aquifer around the City of Lakeville and its potential effect in decreasing groundwater contributions to the Vermillion River. The river is near important temperature thresholds and losing its source water would quickly degrade the water quality.

There were no further comments. Chair Slavik thanked all those who spoke and invited guests to stay for the rest of the meeting if they so wished.

5. Approval of Consent Agenda

- a. Approval of Agenda
- b. Approval of Minutes from the December 1, 2022, Meeting
- c. Acceptance of Treasurer's Report
- d. Authorization to Execute a Joint Powers Agreement with Dakota County Soil and Water Conservation District for Services in 2023

- e. Authorization to Execute a Joint Powers Agreement with Scott Soil and Water Conservation District for Services in 2023

Res. No. VRW 23-01: Motion by Commissioner Hamann-Roland, Second by Commissioner Wolf and passed on a 3-0 vote to approve the consent agenda.

6. Approval of Expenses

Mark Zabel presented the current expenses for approval as shown on item 6.

Res. No. VRW 23-02: Motion by Commissioner Wolf, Second by Commissioner Hamann-Roland and passed on a 3-0 vote to approve the expenses totaling \$193,595.22 incurred between November 14, 2022, and December 31, 2022.

Business Items

7a. Presentation of 2023 Vermillion River Watershed Joint Powers Organization Communications Plan

Chair Slavik introduced the item. Brita Moore-Kutz began the presentation of the Communications, Outreach, and Engagement Plan 2023 by noting the addition of the term Engagement in the title to better reflect the intent of the efforts of the plan to further engage the public with the VRWJPO. In this update, Brita expanded the scope to be a more complete description of the watershed and its resources. Brita noted that engagement entails a lot of collaboration with partners which has been a strength for the VRWJPO but identifying it provides clarity in the Plan. The primary reference source for activities within the Plan is the 2016-2025 Vermillion River Watershed Management Plan and its goals and objectives for outreach. That is not the only resource for the Plan and other sources are identified in the References section. Measurable outcomes for the Plan will be provided in the Annual Report and Measurable Outcomes report this year. The document is a living document and so is open to amendment as needed. It is an internal document that is used to guide our activities in the areas of communications, outreach, and engagement. We are open to any input Board members may have and any comments should be directed to Mark Zabel.

Commissioner Hamann-Roland thanked Brita for her efforts and noted that as an alternate to the Board last year she appreciated following the activities of the VRWJPO. Commissioner Hamann-Roland inquired about Stewardship Grants. Brita responded that the Stewardship Grants haven't been offered over the past few years in part due to fiscal concerns. But that offering them could be a future consideration. Commissioner Slavik added that there were concerns around the Stewardship Grants beyond just the fiscal aspects and that there was a lot of discussion for little return. Commissioner Hamann-Roland asked if there might be a reconsideration of the program. Commissioner Slavik noted that the initial effort was around the same time as the onset of the Dakota County Volunteer Program which now provides a significant resource in support of natural resources activity.

Commissioner Slavik noted that the function of communication and outreach is very important but the measurables on its impact is much harder to effectively perform. Commissioner Slavik

suggests that some communications outcomes be reported regularly through staff updates to keep Board members informed about the effect of outreach activities.

7b. Authorization to Execute an Agreement with the Minnesota Board of Water and Soil Resources for a Fiscal Year 2023 Clean Water Fund Grant

Chair Slavik introduced the item. Travis Thiel informed the Board that staff had applied to the Minnesota Board of Water and Soil Resources (BWSR) for grant funds through the Clean Water Fund for implementation of a fish barrier and rough fish removal in East Lake in the City of Lakeville. The application was made last summer, and staff were notified in December of a grant funding award of \$300,000 to support the project. The project will install a fish barrier at the outlet of East Lake to North Creek to prevent movement of rough fish (carp and goldfish) between the two water bodies. The total project cost is estimated at approximately \$375,000 when considering the rough fish removals planned in addition to the barrier. Match in the amount of \$75,000 will be applied to engineering and fish removals and will be split between the VRWJPO and City. Staff recommend execution of the grant agreement between the BWSR and VRWJPO.

Res. No. VRW 23-03: Motion by Commissioner Hamann-Roland, Second by Commissioner Wolf and passed on a 3-0 vote to authorize execution of an agreement with the BWSR in an amount not to exceed \$300,000 for a Clean Water Fund Grant.

7c. Authorization to Execute a Joint Powers Agreement with the City of Lakeville for the East Lake Rough Fish Barrier and Rough Fish Removals Project

Chair Slavik introduced the item. Travis Thiel described this item as the method to convey funding from the Clean Water Fund grant for the fish barrier described in the previous item along with VRWJPO match contribution for project implementation to the City of Lakeville. The City of Lakeville is managing the construction of the project and fish removals.

Res. No. VRW 23-04: Motion by Commissioner Hamann-Roland, Second by Commissioner Wolf and passed on a 3-0 vote to authorize execution of a Joint Powers Agreement with the City of Lakeville for the East Lake rough fish barrier and rough fish removals project in an amount not to exceed \$337,500.

Staff Reports

Travis Thiel

Travis reported that staff from the City of Rosemount invited VRWJPO staff to join discussions about development of a new Public Works and Police Campus for future construction and currently in the planning stage. Plans are in consideration for significant stormwater treatment on-site along with potential capture and reuse of rainwater for vehicle washing. Practices in consideration could have a large positive impact for conservation of groundwater and stormwater management. More details of this development will be reported in future as the project moves forward.

Brian Watson

Brian thanked the Board for their approval of this year's Joint Powers Agreement with the Dakota County Soil and Water Conservation District and the ongoing partnership and support of the work with the watershed. Brian noted that the cost share policies of the Dakota County SWCD will be on the SWCD's agenda for approval in February that includes changes to policies addressing some non-structural practices such as cover crops and harvestable filter strips, generally with some funding increases. Brian also mentioned that the "Landscaping for Clean Water" program workshops are scheduled and will begin soon with both in-person and virtual options.

Valerie Neppel

Valerie highlighted the "We Are Water MN" exhibit that was hosted by Dakota County and efforts in support of the exhibit that were partnered with the VRWJPO. Valerie noted that "We Are Water MN" is among the projects in consideration for a Dakota County "HEROES" award.

Brita Moore-Kutz

Brita commented that she is currently planning for events in 2023 with the expectation that the VRWJPO will be collaborating with partners such as the City of Lakeville for their Earth Day event. Brita noted that VRWJPO staff are planning to modify their newsletter process by changing both the format and timing of newsletters to four email newsletters with more targeted emails for different groups in addition to the newsletters. First newsletter is planned for March, early Spring. Brita also reported that six interpretive signs for projects have completed designs and the VRWJPO will be soliciting quotes for sign fabrication with the expectation of placing completed signs sometime after Spring thaw. Commissioner Hamann-Roland asked if there might be an opportunity for the Board to go out to see some of these installations. Mark Zabel added that interpretive signs for projects are not pursued for all projects but are targeted to projects that have public exposure and access. Mark also commented that there will be an opportunity to review some projects this year as the VRWJPO plans its biennial tour.

Mark Ryan

Mark Ryan reported that the Senior Water Resources Engineer for Dakota County has resigned his position and Mark has applied for that position. Mark reported that there was a meeting held with Fisheries and Waters staff of the Minnesota Department of Natural Resources and staff from the VRWJPO and Dakota County. The meeting focused on areas of common interest and the application of State of Minnesota Rules in permitting, especially regarding fish passage. The meeting was useful for increasing understanding between the parties and will hopefully lead to better communication and coordination going forward.

Mark Zabel

Mark noted that the Minnesota Clean Water Council released their funding recommendations for Clean Water Fund for the next biennium and the Minnesota Board of Water and Soil Resources is recommended to receive significant funding (approximately \$150M). BWSR Clean Water Fund has been a significant source of funding for projects of the VRWJPO from both Watershed Based Implementation Funds and from Competitive Grant Funds. That is good news

for the VRWJPO as we expect that will continue. The VRWJPO has partnered with the SWCDs in funding some cover crop and soil health types of projects through cost share. The Governors' Budget is proposing to increase from \$5M in the previous budget to \$27M in State funding which would leverage another \$15M in Federal funding, representing an eightfold increase for soil health programs. There could be some policy development in this area to address how these dollars are rolled out into program delivery.

Commissioner Slavik asked if BWSR had addressed how Watershed Based Implementation Funding distribution is being planned. Mark Zabel stated that he believes the distribution formula will continue as had been done previously, at least there is no new information at this point. Mark described that the number of completed One Watershed, One Plan plans increases each year and the amount of funding allocated to those plans increases accordingly. Those increases cause the overall funds available for competitive grant funds to decrease. The overall allocation to the Seven County Metro Area remains approximately the same (proportionally). Brian Watson noted that this refers to the allocation, but the actual distribution is according to BWSR policy and that has remained the same. The manner of funds distribution within the Seven County Metro has changed with each round but is expected to remain the same as last round.

Mark asked if the Board wanted to revisit the request from citizens of Elko-New Market. Commissioner Slavik commented that the timeline for the State Agencies to make a decision is fairly tight. Mark stated that the DNR decision was originally targeted to be available by today. However, DNR requested an extension from the City of 30 days for their decision and so that deadline is now set for February 25, 2023. If there is a requirement for an EAW that would have its own comment period. If there isn't a requirement for an EAW, there would still be a comment period on the appropriations permit. Commissioner Slavik asked if the VRWJPO generally commented on DNR appropriations permits in past practice. The VRWJPO has not generally commented on appropriations permits of EAWs unless there was something that engaged with VRWJPO Standards or practices. But, we have never had a specific citizen request to comment in support of an EAW. Mark shared that he recently received notice from the DNR on a well assessment that was performed as a preliminary well construction assessment for the City of Rosemount. A well assessment is another tool that DNR uses to evaluate the potential impact of well construction and appropriation. In this case, this would be preliminary to the request for an appropriations permit. Rosemount is proposing to construct a new well and this assessment was to determine whether that new well construction would have any potential negative impacts. The assessment discovered that the resulting cone of depression from planned pumping would negatively impact a private well. This resulted in a request for a change in the planned pumping for that well to avoid the impact. Commissioner Slavik asked if the Metropolitan Council has been involved in this. Mark Zabel responded that the Metropolitan Council is involved as a planning entity and is involved in public water supply planning. Tom Terry noted that, in discussion with DNR staff and the City's consultant staff, the Metropolitan Council would be involved in consultation on the appropriations permitting. Commissioner Slavik commented that he had watched a recent meeting of the Metropolitan Council and that the Council decided that it would not take an action at this point. Commissioner Wolf

commented that there has been a great deal of growth in the area resulting in additional withdrawals of groundwater and no one has come to our VRWJPO meetings commenting on these withdrawals so there is no precedent for an action. Mark noted that the VRWJPO does not have a direct authority regarding appropriations, that authority lies entirely with the DNR. We haven't commented on appropriations in the past as we have not had a citizen request to do so. Commissioner Wolf asked what percentage had been presented for the appropriation request compared to existing withdrawals. Tom Terry reported that 0.4% of the total appropriations from the Prairie du Chien-Jordan aquifer for the State of Minnesota is being requested. Many of the other cities in the area continue to expand and continue to withdraw water and Elko-New Market should have similar opportunity. Mark highlighted that the VRWJPO has implemented its Irrigation Audit and Cost Share program as means to engage with cities for water conservation to reduce demands on water supplies. Commissioner Slavik offered that the rigorous process of the State should be allowed to play out and the VRWJPO could consider comment once a decision has occurred and a comment period identified. At that time, it may be appropriate to place an item on the agenda for the Board to discuss and decide on whether to comment and what comments may be provided. Commissioner Hamann-Roland agreed that this is a reasonable approach and thanked the guest who came to the meeting to speak to the issue. Valerie Neppel noted that the DNR could still require a pumping test prior to issuing the permit even if an EAW is not required, based on conversations with DNR staff, the DNR will have to evaluate regional impacts including impacts to the Vermillion River as part of the appropriation permit application. Commissioner Slavik noted that Dakota County has the second highest number of agricultural irrigators in the State and that there have been issues in the recent past regarding concerns around impacts of agricultural irrigation in the watershed and the impact to the river. Mark commented that most of the agricultural irrigation wells are not finished in the Jordan aquifer, although more are being finished in the Jordan with new irrigation well construction, most are in the surficial aquifer.

Adjourn

Motion by Commissioner Wolf, Second by Commissioner Hamann-Roland and passed on a 3-0 vote to adjourn the meeting at 2:01 p.m.

Next Meeting Date: Thursday, February 23, 2023, at 1 p.m. in Conference Room A at the Dakota County Extension and Conservation Center, 4100 220th Street West, Farmington, MN.

Respectfully submitted by

Mark Zabel
Administrator for the Vermillion River Watershed Joint Powers Organization

Attest



Commissioner Secretary/ Treasurer

3-23-2023
Date