



Agenda

Vermillion River Watershed Joint Powers Board Meeting

June 27, 2024, 1 p.m.

In-person at the Dakota County Extension and Conservation Center and virtual via Microsoft Teams

- | | | |
|--|--------|---------|
| 1. Call to Order | | |
| 2. Roll Call | | |
| 3. Audience Comments on Items Not on the Agenda
<i>(please limit audience comments to five minutes)</i> | | |
| 4. Approval of Agenda | Action | Page 1 |
| 5. Approval of Minutes from the May 23, 2024 Meeting | Action | Page 3 |
| 6. Consent Agenda | Action | |
| a. Acceptance of Treasurer’s Reports | Action | Page 10 |
| 7. Approval of Expenses | Action | Page 11 |
| 8. Business Items | | |
| a. Adoption of Revised Wetland Banking Policy | Action | Page 12 |
| b. Motion to Recommend Approval and Authorization to Execute the Revised Joint Powers Agreement that formed the Vermillion River Watershed Joint Powers Organization to the Dakota County Board of Commissioners and Scott County Board of Commissioners | Action | Page 16 |
| 9. Staff Reports | | |
| 10. Adjourn | Action | |

Please note, the June 27, 2024, Vermillion River Watershed Joint Powers Board meeting will take place **in-person** in Conference Room A at the Extension and Conservation Center, 4100 220th Street West, Farmington, Minnesota, **and via teleconference** on Microsoft Teams.

Microsoft Teams

[Join the meeting now](#)

Meeting ID: 216 321 817 765

Passcode: 7mRmXo

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Other Information

Next Meeting Date: **July 25, 2024**, at 1 p.m.
You will be notified if the meeting is cancelled due to an anticipated lack of quorum.



Meeting Minutes

Vermillion River Watershed Joint Powers Board (JPB) Meeting

Thursday, May 23, 2024, 1 p.m., in-person at the Dakota County Extension and Conservation Center and virtual via Microsoft Teams

Board Members in Attendance

Dakota County Commissioner Mike Slavik

Dakota County Commissioner Bill Droste

Watershed Planning Commission (WPC) Members in Attendance

Brad Blackett

Sandra Weber

Others in Attendance

Nikki Stewart, Dakota County, Environmental Resources Department Director

Brian Watson, Dakota County Soil & Water Conservation District, Manager

Travis Thiel, Dakota County, Vermillion River Watershed Joint Powers Organization (VRWJPO) Administrator

Melissa Bokman Ermer, Scott County, VRWJPO Co-Administrator (virtual)

Kelly Perrine, Dakota County, VRWJPO Senior Watershed Specialist

Jeff Dunn, Dakota County, VRWJPO Water Resources Engineer

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

Brian Wisdorf, Dakota County, Assistant County Attorney, VRWJPO legal counsel

Valerie Neppi, Dakota County, Groundwater Protection Unit Supervisor (virtual)

Terence Ruane, RES (virtual)

1. Call to Order

Meeting was called to order at 1 p.m.

2. Roll Call

Commissioners Slavik and Droste were in attendance.



3. Audience Comments on Items Not on the Agenda

Sandra Weber brought up the data centers planned for Castle Rock Township/Farmington. She is concerned about the centers' potential water use's effect on the Vermillion River and groundwater, as well as how the water use will be monitored since the centers do not have to apply for water appropriations permits from the Minnesota Department of Natural Resources.

4. Approval of Agenda

Res. No. VRW 24-17: Motion by Commissioner Droste to approve the agenda, seconded by Commissioner Slavik. Motion carried on a 2-0 voice vote.

5. Approval of Minutes from the April 25, 2024, Meeting

Res. No. VRW 24-18: Motion by Commissioner Droste to approve the minutes, seconded by Commissioner Slavik. Motion carried on a 2-0 voice vote.

6. Approval of Consent Agenda

a. Acceptance of Treasurer's Report

Res. No. VRW 24-19: Motion by Commissioner Droste to approve the consent agenda, seconded by Commissioner Slavik. Motion carried on a 2-0 vote.

7. Approval of Expenses

Travis Thiel presented the expenses submitted between April 11 and May 13, 2024, total \$72,054.47.

Res. No. VRW 24-20: Motion by Commissioner Droste to approve the expenses, seconded by Commissioner Slavik. Motion carried on a 2-0 roll call vote.

8. Business Items

a. Authorization to Execute a Joint Powers Agreement with Partners for Water Conservation Marketing and Landscaping for Clean Water Marketing

Kelly Perrine presented the proposed Joint Powers Agreement, which is with Dakota County, Dakota County SWCD, and other watershed organizations in Dakota County to initiate the collaborative marketing campaign.

Res. No. VRW 24-21: Motion by Commissioner Droste to authorize executing the Joint Powers Agreement, seconded by Commissioner Slavik. Motion carried on a 2-0 voice vote.



b. Authorization to Execute a Master Services Agreement with Tunheim for Water Conservation and Landscaping for Clean Water Marketing

Kelly presented the proposed Master Services Agreement with Tunheim, the selected consultant for the marketing campaign. Tunheim will provide an integrated communication and marketing campaign with videos to encourage residents to use less water and participate in the Landscaping for Clean Water program.

Res. No. VRW 24-22: Motion by Commissioner Droste to authorize executing the Master Services Agreement, seconded by Commissioner Slavik. Motion carried on a 2-0 voice vote.

c. Direction on Wetland Bank Credit Price Establishment for Revised Vermillion River Watershed Joint Powers Organization Wetland Banking Policy

Travis Thiel presented options on how VRWJPO could update its policy around wetland bank credit sale prices, seeking Board direction on which they'd like to pursue. The goal is to set a policy that doesn't have to be revised often.

Currently, for wetland impactors inside the Vermillion River Watershed, the credits sell for 4.5 times the estimated average market value per acre for class 2A agricultural lands graded A, B, or C in Dakota County, up to the \$37,000 maximum. This is below average compared to other wetland banks in the region, according to the Minnesota Board of Water and Soil Resources (BWSR). The price of credits sold for replacement of wetland impacts occurring outside the Vermillion River Watershed is set at 5.5 times the estimated average market value for class 2A agricultural lands graded A, B, or C in Dakota County up to a maximum of \$45,000 per credit. There have been no credits sold to impactors outside the watershed so far.

The options presented:

1. Keep the 4.5 land value multiplier and increase the maximum to \$50,000 per credit. Each year, the price for credits would be updated based on the Dakota County Assessor's Office establishment of class 2A agricultural land values.
2. Set the price per credit based on the most recent available data from BWSR for average cost per credit in Bank Service Area 8, the region in which the Vermillion River Watershed lies, with a maximum of \$50,000 per credit.

Travis said that the advantage of using BWSR's valuation would mean less effort on VRWJPO staff's end to figure out a pricing scheme and would be consistent with the average credit prices in Bank Service Area 8, which the VRWJPO is in; however, at the time of this meeting, BWSR had not released averages from 2023 and therefore using the 2022 averages as a guide would put VRWJPO behind compared to actual values as of today. He spoke with BWSR prior, and they estimated that 2023 averages for Bank Service Area 8 were around \$48,000 per credit, compared to \$40,466 in 2022.



Commissioner Droste asked how BWSR and County values compare to the market values of actual land sales. Travis said that BWSR bases their average values on transactions voluntarily provided to them. He had heard from BWSR that in 2023, 39% of transactions were reported back to them.

Commissioner Slavik said he had spoken with people who know about or bought credits in other watersheds and confirmed that VRWJPO's credit prices were lower than banks elsewhere. The purpose of this discount was possibly to encourage impactors within the watershed to purchase credits inside the watershed, which were not available previously. His idea was to create a third option, a hybrid between Options 1 and 2 appropriate for the watershed, increasing the multiplication factor up from 4.5 times the land value, and bring the price to around \$48,000 per credit. Commissioner Droste said he'd support 5.5 as the multiplier.

Travis said that when the policy was originally created, the JPB was not looking to compete with private wetland banks, while still charging enough to recoup the costs of the restoration projects. There are no private banks in the watershed currently.

Commissioner Slavik said he'd prefer not to use tax levy dollars as part of future wetland bank projects. The program is meant to be self-sustaining.

Brian Watson suggested focusing on the maximum dollar amount for the credit prices rather than the multipliers. He said it should be a reasonable amount, but not too high as to remain competitive.

Commissioner Droste asked if VRWJPO received the numbers on how much developers pay for land.

Commissioner Slavik asked if there are any credit sales planned currently. Travis shared that VRWJPO has made one sale in 2024 and has another one with a purchase agreement being drafted. These will be sold at \$37,000 per credit maximum. Commissioner Slavik responded that VRWJPO should pause credit sales until the new policy with a higher price is set. Travis said that the prices are still high enough to recoup costs on what was spent on the Braun wetland bank.

Brian advised against any sort of "moratorium" on credit sales because VRWJPO could lose the sales that are already in process. Commissioner Slavik responded that he didn't mean a hard stop but would like to make a motion to amend the policy at this meeting, and to proceed with the sales in process.

The agreed-upon update is to set the multiplier at 5.5 times the average cost of A-C 2A agricultural lands in Dakota County with a maximum of \$50,000 per acre credit price. Since this item was listed on the agenda as informational, the formal motion to approve this policy will take place at the June 27, 2024, VRWJPB meeting.

Information only.

d. Direction on Watershed Planning Commission Membership Requirements and Terms



Travis reviewed the recommendation of the WPC to eliminate the residency requirement for joining the WPC. Commissioner Slavik asked if there was any discussion on having some kind of requirement of a connection to the watershed. Brad Blackett said he believed staff would vet candidates based on these characteristics and knowledge of water resource issues. There would be no formal requirements otherwise.

The Commissioners suggested adding a stipulation that candidates for the WPC should live in Dakota or Scott County, which still extends the pool of people who could join.

The other recommendation from the WPC regarded terms for members. Members are appointed for 3-year terms and can serve a maximum of two consecutive terms. The change recommended is to allow an expiring term member of the WPC to continue to serve in an interim capacity if a new member is not found right away. The interim would expire when a new member is appointed.

Commissioner Droste asked why the WPC has term limits while County Commissioners do not. Commissioner Slavik asked him if his city commissions have term limits, which Droste said that they do. Commissioner Slavik said he thought that the term recommendation made sense. Legal Counsel Brian Wisdorf said that the worst-case scenario is that there could be demands that somebody step down, and term limits could mitigate that issue. There is also still the option for someone who's completed two terms to return after a year off the committee.

This item is part of the direction on revising the two-county Joint Powers Agreement establishing the VRWJPO.

Information only.

9. Staff Reports

Brian Watson

Brian is retiring on June 14. The Dakota County SWCD Board of Supervisors has appointed Ashley Gallagher as the next District Manager, who has been serving as a Resource Conservationist with the district. Other staff changes at the SWCD are Resource Conservationist John Stelzner's departure, the addition of a new soil health position, and a new Administrative Specialist with Diane Schmidtke's retirement on May 24.

Kelly Perrine

Kelly has been leading the Watershed Plan development process internally, drafting issue statements, goals, objectives, and actions based on stakeholder input.



Jeff Dunn

Jeff has been working on updating the budget for Capital Improvement Projects, assisting at the Byllesby Dam, and working with Vermillion Township on grading and erosion control permits and fees. The township would like to have a work session in June, and Jeff would like to train their building officials on what they're supposed to be doing and keeping their costs down. Commissioner Slavik asked Jeff to send him the date of that work session.

Commissioner Droste asked if the recent heavy rains have damaged any of VRWJPO's projects. Jeff said there was a problem at the Ravenna Trail Ravine Stabilization with one of the gabions. Water got through a puncture hole and it will need to be fixed.

Brian Wisdorf

Brian is working with staff on revising the VRWJPO JPA. He hopes to bring the proposed revised JPA to the Board at the June 27 meeting. He is also working on approving contracts and agreements as they arise.

Nikki Stewart

The Environmental Resources Department has been responding to questions regarding per- and poly-fluoroalkyl substances (PFAS) in Hastings and the new Environmental Protection Agency standards.

Valerie Neppi

The new EPA standards for PFAS in water are 4 parts per million for PFOA and PFOS. The City of Hastings has municipal wells that exceed that standard. Dakota County Groundwater staff are attending meetings with the city and workgroups in the East Metro. Most actions are being conducted by cities and the Minnesota Department of Health. There is an ongoing investigation to figure out the sources of PFAS in Hastings. Dakota County has posted a web page about PFAS recently, with tips to reduce exposure at home such as carbon water filters.

Brita Moore-Kutz

The Minnesota Department of Natural Resources recently stocked some brook trout in the South Creek and South Branch Vermillion River tributaries. Brita shared some photos from that day. The strain of trout stocked is called Minnesota Driftless, a native brook trout to streams in southeast Minnesota. The goal is to build a self-sustaining population. Projects that have improved stream water quality and coldwater habitat conditions made this possible.



Travis Thiel

The Treasurer’s Report and Expense Report may look different next month. Travis has been working with Finance on a new format for some time and is ready to test it out.

Within the last month, Travis has been hearing from SWCD about a number of soil health-related landowner contracts. Since many of these are multi-year contracts, the VRWJPO’s annual one-year contract for services with Dakota SWCD complicates their ability to know whether there will be consistent funding for these contracts. The organization is considering switching to five-year agreements with both Dakota and Scott SWCDs.

10. Adjourn

Motion by Commissioner Droste to adjourn the meeting, seconded by Commissioner Slavik. Motion carried on a 2-0 voice vote.

Next Meeting Date: Thursday, June 27, 2024, at 1 p.m. in Conference Room A at the Dakota County Extension and Conservation Center, 4100 220th Street West, Farmington, MN and via teleconference on Microsoft Teams.

Respectfully submitted by

Brita Moore-Kutz

Communications & Outreach Specialist for the Vermillion River Watershed Joint Powers Organization

Attest

Commissioner	Secretary/ Treasurer	Date
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**2024 Vermillion River Watershed Joint Powers Organization
Treasurer's Report
May 2024**

	<u>Budget Amounts</u>	<u>Expenses to Date</u>	<u>Expenses Pending</u>	<u>Account Balance</u>
A. Administration & Operations (601-5010001-00000000)	\$ 230,500.00	\$ 46,196.23	\$ 14,780.78	\$ 169,522.99
B. Research & Planning (601-5010001-50100130)	\$ 78,000.00	\$ 36,892.84	\$ 9,550.77	\$ 31,556.39
C. Monitoring & Assessment (601-5010001-50100230)	\$ 155,750.00	\$ 27,899.75	\$ 5,636.09	\$ 122,214.16
D. Public Communications & Outreach (601-5010001-50100330)	\$ 171,580.00	\$ 31,476.50	\$ 8,123.67	\$ 131,979.83
E. Irrigation and Irrigation Audit (601-5010001-50100431)	\$ 5,000.00	\$ -	\$ -	\$ 5,000.00
F. Regulation (601-5010001-50100530)	\$ 55,930.00	\$ 19,697.34	\$ 3,543.95	\$ 32,688.71
G. Coordination & Collaboration (601-5010001-50100531)	\$ 50,600.00	\$ 11,149.15	\$ 3,186.28	\$ 36,264.57
H. Feasibility/Preliminary Studies (601-5010001-50100631)	\$ 340,000.00	\$ 30,524.35	\$ 7,092.79	\$ 302,382.86
I. Capital Improvement Projects (601-5020001-50200130)	\$ 394,500.00	\$ 34,957.04	\$ 6,963.95	\$ 352,579.01
J. Lakeville East Lake Restoration (601-5010001-50100858)	\$ -	\$ 1,586.96	\$ 43.48	\$ (1,630.44)
K. CWF Comp Grant (BWSR) Foxborough TSS (601-5010001-50100859)	\$ 26,500.00	\$ -	\$ -	\$ 26,500.00
L. CWF Comp Grant (BWSR) Ravenna Trail (601-5010001-50100860)	\$ 27,500.00	\$ 3,884.34	\$ 860.11	\$ 22,755.55
M. 2022-2023 WBIF Grant (BWSR) Middle Creek (601-5010001-50100861)	\$ 21,000.00	\$ 601.26	\$ 155.84	\$ 20,242.90
N. 2023 CWF Competitive Grant (BWSR) East Lake (601-5010001-50100863)	\$ 127,500.00	\$ 4,035.42	\$ 779.22	\$ 122,685.36
O. 2022-2025 WBIF Grant (BWSR) Alimagnet Alum PPM 2000304 (601-5010001-50100864)	\$ 200,500.00	\$ 628.99	\$ 1,015.17	\$ 198,855.84
P. Lakeville Capital Projects 24-02 and 24-20 Cost Share (601-501001-5010865)	\$ 370,000.00	\$ -	\$ -	\$ 370,000.00
Q. Rosemount Campus Infiltration Basins (601-5010001-5010866)	\$ 25,000.00	\$ -	\$ -	\$ 25,000.00
R. 2024 CWF Competitive Grant (MDH) Water Conservation and LCW Marketing (601-5010001-5010867)	\$ 62,500.00	\$ -	\$ -	\$ 62,500.00
S. Wetland Bank (601-5010001-50100930)	\$ 406,800.00	\$ -	\$ -	\$ 406,800.00
VRW JPO Revised Budget Expense TOTAL	\$ 2,749,160.00	\$ 249,530.17	\$ 61,732.11	\$ 2,437,897.73

Budget Funding Sources

Wetland Bank	\$406,800.00
CIP Reserve	\$664,623.00
CIP Reserve Grant Match	\$21,500.00
Fund Balance from Underspending in Previous Year	\$672,000.00
CWF Grant (BWSR) Competitive 2022	\$420,750.00
CWF Grant (BWSR) Competitive 2023	\$150,000.00
CWF Grant WBIF (BWSR) 2022-2025	\$198,000.00
CPL Grant (DNR) 2022-2025	\$0.00
CWF Grant (BWSR) Competitive 2024	\$143,500.00
CWF Grant (MDH) Competitive 2024	\$50,000.00
Partner Match for MDH CWF Grant	\$15,000.00
Fee's on Permitting Activities	\$1,000.00
Dakota County Levy	\$965,600.00
Scott County Levy	\$34,400.00
Investment Earnings	\$14,000.00
Total	\$3,757,173.00



Vermillion River Watershed Joint Powers Organization

4100 220th St. W., Suite 103, Farmington, MN 55024

May 2024 Expense Report

The invoices submitted between April 11, 2024 and May 13, 2024 total: \$72,055.25

** this includes a .81 difference from reported due to expense correction**

The invoices submitted between May 14, 2024 and May 31, 2024 total:

<u>Invoice</u>	<u>Vendor</u>		<u>Amount</u>
	Staff Time	\$	46,689.61
	February 2024 Legal	\$	1,255.95
	May 2024 Legal	\$	2,796.58
IN30837	Scott County	\$	834.29
PCard: S Weber	PCard: HyVee Sales & Use Tax	\$	1.34
2024-029	Scott County Soil and Water Conservation District	\$	5,693.25
76983	The Journal	\$	273.60
PCard S Weber	Canva Premium Subscription	\$	119.40
38592	Moore Engineering	\$	2,015.00
38593	Moore Engineering	\$	1,842.50
Purchasing	Oscilloscope	\$	210.59
Total Expenses \$			61,732.11

Action Requested: Approval of all expenses as presented

8a. Adoption of Vermillion River Watershed Joint Powers Organization Wetland Banking Policy (Revised 5-24-2024)

Meeting Date: June 27, 2024
 Item Type: Regular-Action
 Contact: Travis Thiel
 Telephone: 952-891-7546
 Prepared by: Travis Thiel



PURPOSE/ACTION REQUESTED

- Adoption of Vermillion River Watershed Joint Powers Organization (VRWJPO) Wetland Banking Policy (Revised 5-24-2024)

SUMMARY

Vermillion River Watershed Joint Powers Organization staff are requesting the Vermillion River Watershed Joint Powers Board (VRWJPB) adopt the Wetland Banking Policy (Revised 5-24-2024).

The current Vermillion River Watershed Wetland Banking Policy (Policy) establishes how the Policy meets the minimum requirements of the Wetland Conservation Act (WCA). The Policy supersedes the WCA’s requirements in the following ways:

- Wetland banking credits (credits) must be purchased from a bank within the Vermillion River Watershed for wetland impacts occurring in the watershed if there are credits available from a wetland bank in the Vermillion River Watershed.
- The Policy describes how it will implement the goals of the Vermillion River Watershed Management Plan and will allow the VRWJPO to use the revenues from the sale of wetland credits to be applied toward future wetland banks or wetland restoration efforts.

When credits became available for sale from the Braun Wetland Bank in 2022, credits were to be sold at 4.5 times the average agricultural land value for Dakota County lands graded A-C with a maximum no greater than \$37,000 per acre. Previous credits were all sold for \$37,000 per acre. The VRWJPB provided direction to staff at their May 23, 2024, meeting on their preferred basis for establishing credit prices in order to be more in line with the price of credits being sold on the open market. The direction received was to establish credit prices at 5.5 times the average agricultural land value for Dakota County lands graded A-C with a maximum no greater than \$50,000 per acre.

Staff have drafted a Wetland Banking Policy (Revised 5-24-2024) for VRWJPB consideration. Staff request the VRWJPB adopt the Wetland Banking Policy (Revised 5-24-2024).

EXPLANATION OF FISCAL/FTE IMPACT

\$500,000 was previously expended as the VRWJPO’s investment in the establishment of the Braun Wetland Bank. Revenues from the sale of credits are placed in an account to recoup those investment costs and save for future wetland banks and wetland restoration projects. Using the Wetland Banking Policy (Revised 5-24-2024) will result in credit prices being more in line with what other wetland banks on the open market are selling credits for. This will result in the immediate increase in the credit price with the long-term prices yet unknown and will likely allow the VRWJPO to recoup its original \$500,000 investment in the Braun Wetland Bank sooner than it would have with the existing credit price.

Supporting Documents:

Attachment A: VRWJPO Wetland Banking Policy (Revised 5-24-2024)

Previous Board Action(s):

VRW 18-29; Adoption of VRWJPO Wetland Banking Policy

RESOLUTION

8a. Adoption of Revised Vermillion River Watershed Joint Powers Organization Wetland Banking Policy

WHEREAS, the Vermillion River Watershed Management Plan lists an action calling for the development of procedures to operate wetland banks and sustain wetland restorations in the Vermillion River Watershed, creating a revolving fund that rolls fees from purchasers back into further wetland restorations; and

WHEREAS, the Vermillion River Watershed Joint Powers Organization (VRWJPO) partnered with Dakota County and the Minnesota Board of Water and Soil Resources to develop a wetland bank in the watershed; and

WHEREAS, the bank was constructed and a portion of credits have been released by the State and Federal Government for the VRWJPO to sell based on the incremental release of credits resulting from successful performance standard attainment; and

WHEREAS, the VRWJPO adopted a Wetland Banking Policy in 2018 to require wetland impacts occurring within the watershed that are using wetland bank credits for replacement of functions and values use credits from wetland bank(s) within the watershed provides that those wetland functions and values are preserved within the watershed and reduce the overall ecological and hydrologic impacts that could occur if lost to the watershed; and

WHEREAS, the existing policy also allows allow for wetland impacts to be replaced with wetland bank credits from outside the watershed and within the Bank Service Area in the case where no wetland bank credits were available within the watershed; and

WHEREAS, the existing policy directs how price will be set for sale of wetland bank credits based upon agricultural land values as determined by the Dakota County Assessing Services Office; and

WHEREAS, the existing policy also provides that revenues derived from the sale of credits held by or for the VRWJPO will be applied to further restoration of wetlands and development of wetland bank credits for future sale; and

WHEREAS, the Vermillion River Watershed Joint Powers Board indicated their preference to revise the basis for credit prices due to changes in the market since 2018 and their desire to be more in line with credits sold on the open market to recoup the initial VRWJPO investment in the wetland bank; and

WHEREAS, bank credits being sold were sold at 4.5 times the average agricultural land value for Dakota County lands graded A-C with a maximum no greater than \$37,000 per acre, but it was determine that all previous credits were all sold for \$37,000 per acre; and

WHEREAS, at their May 23, 2024 meeting, the Vermillion River Watershed Joint Powers Board provided staff direction on their preferred basis for establishing credit prices as 5.5 times the average agricultural land value for Dakota County lands graded A-C with a maximum no greater than \$50,000 per acre; and

WHEREAS, staff have developed a Wetland Banking Policy (Revised 5-24-2024) for adoption by the VRWJPB.

NOW, THEREFORE, BE IT RESOLVED, that the Vermillion River Watershed Joint Powers Board (VRWJPB) adopts the Vermillion River Watershed Joint Powers Organization Wetland Bank Policy (Revised 5-24-2024).



Wetland Banking Policy for the Vermillion River Watershed (Revised 5-24-2024)

This policy generally refers to provisions within the Wetland Conservation Act (as amended) and its implementation according to Minnesota Rules Chapter 8420 “Board of Water and Soil Resources Wetland Conservation” (herein referred to as “the Rule”).

The purposes of the Wetland Conservation Act as listed in the Purpose section of the Rule (8420.0100 Subp. 1) are to:

- A. achieve no net loss in the quantity, quality, and biological diversity of Minnesota’s existing wetlands;
- B. increase the quantity, quality, and biological diversity of Minnesota’s wetlands by restoring or enhancing diminished or drained wetlands;
- C. avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality, and biological diversity of wetlands; and
- D. replace wetland values where avoidance of activity is not feasible and prudent.

The Rule identifies the following as its method (8420.0100 Subp. 2): “The regulatory provisions of the Wetland Conservation Act advance the purpose in this part by requiring persons proposing to impact a wetland to first, attempt to avoid the impact; second, attempt to minimize the impact, and finally, replace any impacted area with another wetland of at least equal function and value.”

To accomplish this the Rule sets further procedures and standards that must be followed. The Rule and the Act provide minimum standards. Part 8420.0233 provides that: “Local government units may require more procedures and more wetland protection, but not less”. To that end, this policy affects part 8420.0522 of the Rule as it applies to Replacement Standards. Although this policy does not replace the Rule it does supersede its effect in requiring replacement credits as applied through Wetland Banking (parts 8420.0700 through 8420.0820) to occur within the Vermillion River Watershed for wetland impacts occurring in the Vermillion River Watershed as long as there are wetland bank replacement credits available from a wetland bank within the Watershed.

To be more effective in implementing the goals of the Vermillion River Watershed Management Plan, the VRWJPO has partnered in the development of a wetland bank in the Vermillion River Watershed with the desire to develop additional wetland banks in the future.



The VRWJPO will offer wetland credits for sale on the open market upon successful completion of a wetland restoration creating wetland banks where the VRWJPO participates financially in their development. Revenues from the sale of wetland credits will be applied to further restoration of wetlands and development of wetland bank credits for future sale, thus developing a revolving fund to restore wetlands within the Watershed.

The VRWJPO will manage the sale of credits according to the Rule (Parts 8420.0745 through 8420.0755).

Price of wetland credits managed for sale by the VRWJPO shall be set as follows:

The price shall be set at 5.5 times the estimated average market value for class 2A agricultural lands graded A, B, or C in Dakota County up to a maximum of \$50,000 per acre.

Class 2A agricultural land values are established annually each spring by the Dakota County Assessor's Office. Each year, the price for credits will be changed based on the annual establishment of class 2A agricultural land values in Dakota County. Any credits where earnest money was paid to hold wetland credits prior to the change in the land values would be honored at the price it was previously agreed upon.

The minimum price at which credits will be sold for replacement of wetland impacts will be 1.5 times the sum of the cost to produce the wetland bank credits (easement and restoration, etc.) plus all fees associated with the wetland bank (as per BWSR Wetland Mitigation Fee Policy) plus \$500 per acre.

8b. Motion to Recommend Approval and Authorization to Execute the Revised Joint Powers Agreement that formed the Vermillion River Watershed Joint Powers Organization to the Dakota County Board of Commissioners and Scott County Board of Commissioners

Meeting Date: June 27, 2024
Item Type: Regular-Action
Contact: Brian Wisdorf
Telephone: 952-438-4474
Prepared by: Travis Thiel



PURPOSE/ACTION REQUESTED

- Make a motion to recommend approval and authorization to execute the revised joint powers agreement (JPA) that formed the Vermillion River Watershed Joint Powers Organization (VRWJPO) to the Dakota County Board of Commissioners and Scott County Board of Commissioners

SUMMARY

Vermillion River Watershed Joint Powers Organization staff are requesting the Vermillion River Watershed Joint Powers Board (VRWJPB) make a motion to the Dakota County Board of Commissioners and Scott County Board Commissioners to approve and authorize the execution of the revised JPA that shall apply to VRWJPO upon its execution by both parties.

The JPA between Dakota and Scott Counties that formed the VRWJPO has not be updated since its adoption in 2002. Recent procedural and operational changes necessitated staff to evaluate changes to the JPA. That evaluation led to a number of proposed changes to the JPA that updates language that is out of date, inaccurate, and reflects the current procedures and operations of the VRWJPO. The revised JPA is included as Attachment A. Changes to the JPA include:

- Housekeeping items to clean up outdated language and bring the JPA into compliance with various State requirements
- Recognizing changes to the assignment and terms of County Commissioners on the Vermillion River Watershed Joint Powers Board
- Requiring staffing services be provided by each County to the VRWJPO through separate service agreements
- Clarifying language on the delegated authority granted to the VRWJPO Administrator and Co-Administrator
- Revising the name of the committee (Vermillion River Watershed Planning Commission) to Community Advisory Committee to better describe its roles/responsibilities
- Updating responsibilities, membership, and term requirements for the Community Advisory Committee
- Removing the mandatory requirement that the Community Advisory Committee shall be subject to Open Meeting Law

Based on input and revisions to the JPA from staff, the Vermillion River Watershed Planning Commission, and the VRWJPB, staff are recommending the VRWJPB make a motion recommending approval and authorization to execute the revised JPA to the Dakota County Board of Commissioners and Scott County Board Commissioners.

EXPLANATION OF FISCAL/FTE IMPACT

No fiscal impact

Supporting Documents:

Attachment A: VRWJPO Joint Powers Agreement (red lines)

Attachment B: VRWJPO Joint Powers Agreement (clean version)

Previous Board Action(s):

RESOLUTION

8b. Motion to Recommend Approval and Authorization to Execute the Revised Joint Powers Agreement that formed the Vermillion River Watershed Joint Powers Organization to the Dakota County Board of Commissioners and Scott County Board of Commissioners

WHEREAS, the Vermillion River Watershed Joint Powers Organization (VRWJPO) was formed when a Joint Powers Agreement (JPA) was adopted in 2002 by Dakota and Scott County Boards agreeing to the operation and management of the VRWJPO; and

WHEREAS, the JPA establishes that the VRWJPO will carry out responsibilities and duties pursuant to Minnesota Stat. §§ 103B.211 to 103B.255; and

WHEREAS, the JPA has not been revised since the original adoption in 2002; and

WHEREAS, recent procedural and operational changes necessitated staff to evaluate changes to the JPA; and

WHEREAS, the evaluation led to a number of proposed changes to the JPA that updates language that is out of date, inaccurate, and reflects the current procedures and operations of the VRWJPO; and

WHEREAS, revisions to the JPA have been drafted based on the input from staff, Vermillion River Watershed Planning Commission, and Vermillion River watershed Joint Powers Board.

NOW, THEREFORE, BE IT RESOLVED, the Vermillion River Watershed Joint Powers Board recommends to the Dakota County Board of Commissioners and Scott County Board of Commissioners that they approve the revised Joint Powers Agreement (JPA) between Dakota County and Scott County, which shall apply to the Vermillion River Watershed Joint Powers Organization (VRWJPO) upon its execution by the parties, subject to approval by the Dakota County Attorney's Office and Scott County Attorney's Office as to form.

**JOINT POWERS AGREEMENT
BETWEEN DAKOTA COUNTY AND SCOTT COUNTY
FOR VERMILLION RIVER WATERSHED**

WHEREAS, Minnesota Statutes § 471.59 authorizes local governmental units to jointly or cooperatively exercise any power common to the contracting parties; and

WHEREAS, pursuant to Minn. Stat. § 103B.231 a watershed management plan is required for watersheds comprising all minor watershed units wholly or partly within the metropolitan area, in accordance with the requirements of § 103B.205 to § 103B.255; and

WHEREAS, the Vermillion River Watershed is a watershed comprising minor watershed units wholly within the metropolitan area, specifically, within Dakota County and Scott County; and

~~WHEREAS, pursuant to Minn. Stat. § 103B.231 if a watershed management organization within the metropolitan area is terminated, the counties containing the watershed unit shall prepare, adopt, and implement the watershed plan and shall have the planning, review, permitting, and financing authority of a watershed management organization specified in Minn. Stat. §§ 103B.211 to 103B.255; and~~

~~WHEREAS, the Vermillion River Watershed Management Organization, consisting of 21 20 cities and towns located within the Vermillion River Watershed ceased to exist as of August 1, 2000; and~~

WHEREAS, effective September 5, 2002, Dakota County and Scott County entered into a joint powers agreement (“2002 JPA”)~~desire~~ to cooperatively carry out their responsibilities and duties pursuant to Minn. Stat. §§ 103B. 211 to 103B.255; and

WHEREAS, the Vermillion River Watershed Joint Powers Organization (“VRWJPO”), an independent joint powers entity organized under Minn. Stat. § 471.59, was created by the 2002 JPA to carry out Dakota County’s and Scott County’s responsibilities and duties pursuant to Minn. Stat. §§ 103B. 211 to 103B.255; and

WHEREAS, Dakota County and Scott County desire to update the terms and conditions of their joint powers agreement to cooperatively carry out their responsibilities and duties pursuant to Minn. Stat. §§ 103B. 211 to 103B.255 de so pursuant to the authority granted to them pursuant to Minn. Stat. § 471.59; and

WHEREAS, Dakota County and Scott County desire that the terms and conditions of this Agreement to replace the terms and conditions of the 2002 JPA moving forward effective upon the full execution of this Agreement by the parties to this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and benefits that Dakota County and Scott County shall derive herefrom, Dakota County and Scott County hereby enter into this joint powers agreement for the purposes herein.

I. Purposes.

This Agreement has been executed by Dakota and Scott Counties for the purposes set forth at Minn. Stat. § 103B.201 within the political boundary of the Vermillion River watershed located in Dakota County and Scott County, as shown on the attached Map A, hereby incorporated by reference. Specifically, the purpose of this Agreement is to establish a joint powers board that will (1) exercise leadership in the development of policies, programs and projects that will promote the accomplishment of the purposes found at Minn. Stat. § 103B.201, including the preparation, adoption and implementation of the plan required by Minn. Stat. § 103B.211 for the Vermillion River watershed and (2) guide and assist Dakota County and Scott County in acting jointly and individually to take actions that will promote the goals listed in Minn. Stat. § 103B.201 and fulfill their responsibilities under Chapter 103B.

II. Joint Powers Board.

A. Creation and Composition of Joint Powers Board.

A joint powers board, known as the Vermillion River Watershed Joint Powers Board (VRWJPB), ~~has been~~ established for the purposes contained herein with the powers and duties set forth in this Agreement. ~~The VRWJPB shall consist of one county commissioner from Scott County and two county commissioners from Dakota County. The board of commissioners of each county shall appoint, by resolution, its representative(s) to the VRWJPB, together with one alternate commissioner. Resolutions appointing representatives of each county shall be filed with the clerk to the board of commissioners of Dakota County.~~

The commissioners of each county assigned to the VRWJPB receive no additional compensation for their appointment to the VRWJPB beyond what they receive as a county commissioner.

B. Terms.

Each county representative and alternate on the VRWJPB shall be appointed for a ~~two~~one-year term, ~~except that the terms of the initial members shall extend from the date of their appointment through December 31, 2004.~~ In the event that any county representative or alternate shall not have been appointed by the board of commissioners prior to expiration of the representative's term, the incumbent representative shall serve until a successor has been appointed.

C. Vacancies.

If the appointment of any representative commissioner or alternate to the VRWJPB is vacated before the end of their term, the vacancy shall be filled by

appointment by the appropriate county board of commissioners in accordance with Minn. Stat. § 103B.227, subd. 1, and Minn. Stat. § 471.59, subd. 11.- A vacancy shall be deemed to have occurred when any of the conditions specified in Minn. Stat. § 351.02 exist or if a representative fails to qualify or act as a commissioner. Dakota County and Scott County shall notify the Minnesota Board of Water and Soil Resources of their appointments and vacancies to the VRWJPB pursuant to Minn. Stat. Stat. § 103B.227, subd. 1.

D. Chair and Vice-chair.

The VRWJPB shall elect a chair and a vice-chair from its membership for one-year terms. The chair shall preside at all meetings of the VRWJPB and shall perform other duties and functions as may be determined by the VRWJPB. The vice-chair shall preside over and act for the VRWJPB during the absence of the chair.

E. Secretary/Treasurer.

The VRWJPB shall elect a secretary/treasurer from its membership for a one-year term. The secretary/treasurer shall submit all minutes of VRWJPB meetings for approval by the VRWJPB and shall assist the chair in overseeing the VRWJPB's budget and finances.

F. Meetings.

Minn. Rule § 8410.0030 requires ~~the VRWJPB shall~~ have regular meetings at least annually. The VRWJPB shall determine such times and places to conduct the meetings ~~and at such times and places as the VRWJPB shall determine.~~ Special meetings may be held on reasonable notice by the chair or by a majority of the VRWJPB upon terms and conditions as the VRWJPB may determine. The presence of a majority of the VRWJPB at a meeting shall constitute a quorum. The VRWJPB shall be subject to the requirements of the Open Meeting Law, Minn. Stat. Ch. 13D.

The VRWJPO shall post all notifications regarding the VRWJPB's meeting agendas and location and time of meetings on its website and any other location required by Open Meeting Law, Minn. Stat. Ch. 13D.

G. Voting.

Each county representative shall be entitled to one vote. If a county representative is absent that county's alternate is entitled to one vote. If more than one Dakota County representative is absent, Dakota County's alternate shall be entitled to only one vote. The VRWJPB shall function by a majority vote of the county representatives present.

Decisions of the VRWJPB, including decisions regarding capital improvement projects, require a majority vote.

H. Staff.

Dakota County and Scott County shall provide staff support to the VRWJPB. Dakota County and Scott County shall provide legal services as needed, and in accordance with law.

Both the Dakota County Attorney's Office and Scott County Attorney's Office have statutory obligations to represent their County Board, pursuant to Minnesota Statutes Chapter 388, and legal obligations imposed by various provisions of state statute. In the event that either the Dakota County Attorney's Office or Scott County Attorney's Office determines that a conflict of interest would exist if the County Attorney's Office represented both their County and the VRWJPO/VRWJPB on a specific matter, the County Attorney's Office will so inform the county and VRWJPB through its Administrator or Co-Administrator. In the event a County Attorney determines a conflict exists, the conflict of interest procedures of the applicable County Attorney's Office will be followed and the VRWJPO/VRWJPB will obtain independent legal counsel to represent the VRWJPO/VRWJPB in the matter where the conflict exists. The parties agree that there is no conflict of interest for either the Dakota County Attorney's Office or Scott County Attorney's Office to represent both their County and the VRWJPO/VRWJPB in preparation and execution of this Agreement. Requests for legal services made by the VRWJPO/VRWJPB will be handled on the same priority basis as that of the counties.

Funding for the staffing services described herein are covered by the VRWJPO/VRWJPB revenues from the counties, applicable grant funds or other State appropriations when available. The staffing services and payment for staffing services identified herein shall be in accordance to separate service agreements between the counties and VRWJPO/VRWJPB.

I. Duties of the VRWJPB.

The VRWJPB shall have the responsibility to prepare, adopt and implement a plan for the Vermillion River watershed that meets the requirements of Minn. Stat. § 103B.231; the responsibility to review and approve local water management plans as provided in Minn. Stat. § 103B.235; the responsibility to regulate the use and development of land in the Vermillion River watershed if the conditions found at Minn. Stat. §. 103B.211, subd. 1(a)(3)(i)(ii)(iii) are present.

III. Powers of the VRWJPB.

A. General Powers.

The VRWJPB is hereby authorized to exercise such authority as is necessary and proper to fulfill its purposes and perform the duties identified in paragraph II(I) above. Such authority shall include, but not be limited to, those specific powers enumerated in paragraph III (Sections B through I) herein. The VRWJPB may refer decisions for approval by the boards of commissioners of Dakota County and Scott County. The VRWJPB shall not have the authority described at Minn. Stat. § 103B.211, subd. 1(a)(6).

B. Contracts.

The VRWJPB may enter into any contract necessary or proper for the exercise of its powers or the fulfillment of its duties and enforce such contracts to the extent available in equity or at law, including contracts with Dakota County and/or Scott County. Additionally, the VRWJPB may enter into agreements pursuant to Minn. Stat. § 471.59. The VRWJPB may approve any contract up to the amount included in the approved annual budget and may authorize its chair, Administrator or Co-Administrator to execute these contracts. No payment on any invoice for services performed by a consultant or any other person or organization providing services in connection with this Agreement shall be authorized unless approved by the chair and vice-chair, ~~or by the chair and secretary/treasurer, or Administrator or Co-Administrator.~~ Administrator or Co-Administrator. The chair, Administrator or Co-Administrator shall report to the VRWJPB and the VRWJPB shall ratify any such payments authorized under this provision at its next regular meeting.

C. Funds.

The VRWJPB may disburse funds in a manner which is consistent with the Agreement and with the method provided by law for the disbursement of funds by the parties to this Agreement.

D. Bylaws.

The VRWJPB shall have the power to adopt and amend such bylaws that it may deem necessary or desirable for the conduct of its business. Such bylaws shall be consistent with this Agreement and any applicable laws or regulations.

E. Grants and Loans.

The VRWJPB may apply for and accept gifts, grants or loans of money, other property or assistance from the United States government, the State of Minnesota, or any person, association or agency for any of its purposes; enter

into any agreement in connection therewith; and hold, use and dispose of such money, other property and assistance in accordance with the terms of the gift, grant or loan relating thereto.

F. Property.

The VRWJPB may hold such property as may be required to accomplish the purposes of this Agreement and upon termination of this Agreement make distribution of such property as is provided for in this Agreement.

G. Insurance.

The VRWJPB may obtain any liability insurance or other insurance it deems necessary to insure itself and Dakota County and Scott County for action arising out of this Agreement.

H. Exercise of Powers.

All powers granted herein shall be exercised by the VRWJPB in a fiscally responsible manner and in accordance with the requirements of law. The purchasing and contracting requirements of the county which is the lead for the project shall apply to the VRWJPB.

I. Public Participation.

The VRWJPB shall provide for such public participation in the conduct of its activities as will promote understanding of its activities among the public and local governmental units affected by the activities and the informal resolution of disputes or complaints.

IV. Reservation of Authority.

All responsibilities not specifically set out to be jointly exercised by the VRWJPB under this Agreement are hereby reserved to the cCounties.

V. Budgeting and Funding.

A. Budget.

By September 1 of each year, the VRWJPB shall adopt a budget for the following calendar year in accordance with Minn. Stat. § 103B.211, subd. 1 (a)(5). Any proposed contribution from Dakota County or Scott County which the VRWJPB deems appropriate to be satisfied from the annual property tax levy must be recommended to Dakota County and Scott County prior to the date by which the counties shall establish their maximum levy pursuant to

Minn. Stat. § 275.065, subd. 1. Other proposed contributions or assessments from Dakota County or Scott County may be made at any time.

B. County Funding.

If there is proposed funding from Dakota County or Scott County which is to be satisfied from the annual property tax levy, such proposed funding shall not become the obligation of either county unless and until the respective county has agreed to the funding as part of the county's annual budget and levy process pursuant to Minn. Stat. § 275.065. If there is proposed funding from Dakota County or Scott County which is not to be satisfied from the annual property tax levy, such funding shall not become the obligation of either county until the respective county has agreed by resolution to the funding.

Any proposed funding from Dakota County or Scott County which has been included within the county's levy or which has been approved by resolution of the Dakota County or Scott County board of commissioners shall constitute an assessment against the county and shall be paid over to the VRWJPB pursuant to its terms, this Agreement, and as required by law.

C. Expenditure Policy.

Dakota County and Scott County agree that the budget for each year shall include expenditures which will benefit the portion of the Vermillion River Watershed located in Scott County.

D. Fiscal Agent.

Dakota County agrees to serve as the fiscal agent for the VRWJPB. Dakota County agrees to provide any and all budgeting and accounting services necessary or convenient for the VRWJPB. Such services include, but are not limited to, management of all funds, including county contributions and grant monies; payment for contracted services; relevant record keeping and bookkeeping. The ~~treasurer/auditor~~ [Finance Department](#) of Dakota County shall act as controller for the VRWJPB and shall draw warrants to pay demands against the VRWJPB when the demands have been approved by the VRWJPB. Scott County retains the authority to request reports pertaining to any and all budgeting and accounting services. All interest earned from VRWJPB funds shall be credited back to that fund.

E. Accountability.

All funds shall be accounted for according to generally accepted accounting principles.

VI. Watershed Planning Commission Community Advisory Committee.

~~As soon as practicable after appointment of the VRWJPB, t~~The VRWJPB by resolution shall establish and make appointments to the Community Advisory Committee (formally known as the Watershed Planning Commission (WPC), which shall initially be comprised of the currently appointed members of the Watershed Planning Commission, who shall serve as members of the Community Advisory Committee for the remainder of their current terms. Thereafter, the VRWJPB shall utilize an open appointments process for making these appointments.

A. Responsibilities of ~~WPC~~ Community Advisory Committee.

The ~~WPC~~ Community Advisory Committee shall have the responsibility to ~~advise the VRWJPB with respect to implementation of the VRMJPB's~~ VRWJPB's duties pursuant to this Agreement, including the responsibility to review and provide, ~~comment and recommend upon~~ regarding the VRWJPO's proposed watershed management plan; review and provide, ~~comment and recommend upon~~ regarding the VRWJPO's proposed annual work plan and budget; and recommend action regarding disputes pursuant to section IX hereof.

B. Membership.

The ~~WPC~~ Community Advisory Committee shall consist of nine members who are residents of ~~the Vermillion River Watershed~~ either Dakota County or Scott County. One shall be from Scott County and eight shall be from Dakota County. The VRWJPB shall appoint members of the Community Advisory Committee for a term of 3 years ("Appointment Term"). Excluding any "interim appointment," a member of the Community Advisory Committee can be appointed to serve two consecutive terms. The Appointment Term shall begin on the day of appointment. The VRWJPB may appoint an expiring term member of the Community Advisory Committee to continue to serve as an interim appointment upon the expiration of that member's term where the VRWJPB has not received applications for that expiring term member's position. The interim member's appointment shall expire upon the VRWJPB's appointment of a new member of the Community Advisory Committee filling the position held by the interim member.

~~WPC members shall be appointed to three year staggered terms. WPC members must be and remain residents of the watershed and the County from which they were appointed. WPC members are limited to serving two consecutive terms.~~

C. Conflict of Interest.

If any ~~WPC~~ Community Advisory Committee member has a financial interest or personal interest with respect to the parties involved, or stands to realize a

financial or personal gain or loss with respect to an ~~action-item~~ on any matter coming before the Community Advisory Committee~~WPC~~, that member shall disclose this fact and be disqualified from taking part in any discussion or ~~action-comment~~ on the matter as a member of the Community Advisory Committee~~WPC~~. The chair of the Community Advisory Committee~~WPC~~ shall make rulings on such disqualifications. Any Community Advisory Committee~~WPC~~ member who believes that the Community Advisory Committee~~WPC~~ chair should be disqualified from any matter hereunder may refer the matter to the vice-chair who shall make a ruling on such disqualification.

D. Compensation.

Members of the Community Advisory Committee~~WPC~~ shall be eligible to receive a per diem payment ~~of \$35- in an amount approved by each County~~ per meeting in lieu of expenses.

E. Officers.

The Community Advisory Committee~~WPC~~ shall elect a chair and vice-chair from among its members. The chair and vice-chair shall serve for one-year terms.

F. Meetings.

The ~~WPC-Community Advisory Committee~~ shall meet regularly pursuant to a schedule established by the WPCCommunity Advisory Committee. Special meetings may be called by the chair. ~~The WPC shall be subject to the Open Meeting Law, Minn. Stat. Ch. 13D.~~

G. Bylaws.

The Community Advisory Committee~~WPC~~ shall adopt bylaws governing its activities. Such bylaws shall be subject to approval by the VRWJPB and shall be consistent with law and terms of this Agreement.

H. Staff Support.

Dakota County and Scott County shall provide staff support to the Community Advisory Committee~~WPC~~. The cost of such support will be funded through the budget of the VRWJPB. The VRWJPB also may make technical support available to the Community Advisory Committee~~WPC~~.

VII. Indemnification.

If the VRWJPB incurs any expenses as a result of a claim for damages, the expenses and any damages paid shall be assessed against the counties in proportionate shares. Proportionality will be measured with reference to fault, percentage of county financial contribution, location of the project or other similar factors giving rise to the damages or expenses. Dakota County and Scott County hereby agree to indemnify, save, hold harmless and defend the VRWJPB, its officers, employees, and agents for negligent or intentional acts or omissions of itself, its officers, employees, and agents that result in expenses or damages assessed against the VRWJPB.

VIII. Records, Accounts, and Reports.

The books and records of the VRWJPB shall be subject to the provisions of Minn. Stat. Ch. 13. The VRWJPB annually shall give a complete written report of all financial activities for the previous fiscal year to the counties.

IX. Dispute Resolution.

Disputes between Dakota County and Scott County may be addressed by any means agreed upon by them, and may include the procedures set forth at Minn. Stat. § 103B.345.

X. Termination.

This Agreement shall continue until it is terminated upon the withdrawal of either member county. Either county may withdraw upon one year's written notice of intent to withdraw to the other county. Withdrawal shall not act to discharge any liability incurred or chargeable to the withdrawing county before the effective date of the withdrawal. Such liability shall continue until discharged by law or agreement.

XI. Distribution of Surplus Funds and Property.

Upon termination of this Agreement, funds and property held by the VRWJPB shall then be distributed to Dakota County and Scott County in proportion to their contributions.

XII. Amendments.

This Agreement may be amended only in writing and upon consent of each of the county boards of commissioners of Dakota County and Scott County.

XIII. Severability.

The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement unless the part or

parts that are void, invalid or otherwise unenforceable shall substantially impair the value of the entire Agreement with respect to either party.

XIV. Replaces Prior Agreement.

This Agreement replaces the 2002 JPA executed by Dakota County and Scott County as it relates the powers, duties and obligations to be exercised hereunder commencing on the date that this Agreement is executed by the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

Approved as to form:

Assistant Dakota County Attorney/Date

COUNTY OF DAKOTA

By _____
Joe Atkins
Chair, Board of Commissioners
Date of Signature _____

ATTEST:

~~Mary Scheide~~ Jennifer Reynolds
Clerk to the Board
Date of Signature _____

Approved as to form:

Assistant Scott County Attorney/Date

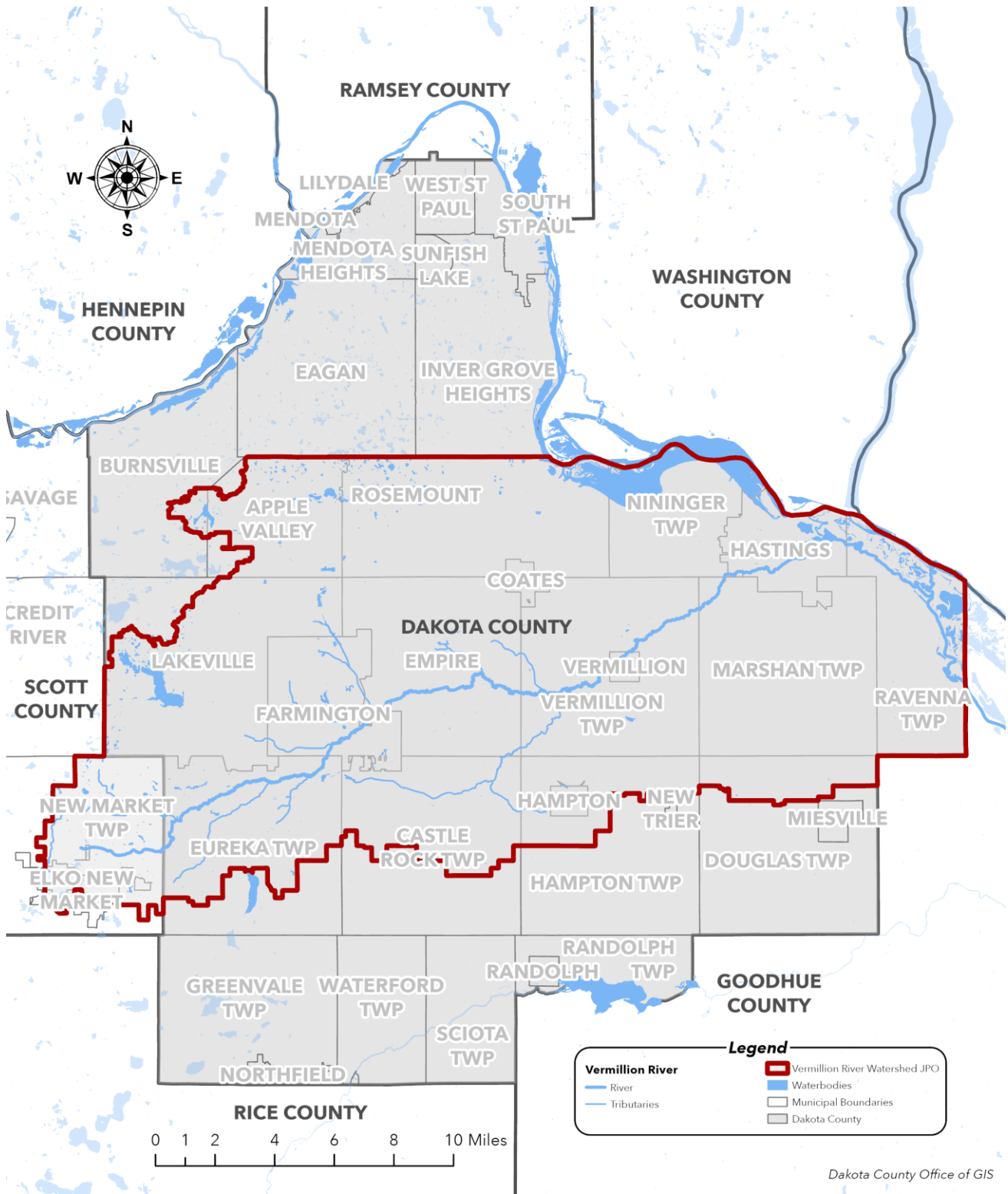
COUNTY OF SCOTT

By _____
Barb Weckman Brekke
Chair, Board of Commissioners
Date of Signature _____

ATTEST:

Lezlie Vermillion
Clerk to the Board/Administrator
Date of Signature _____

Vermillion River Watershed



**JOINT POWERS AGREEMENT
BETWEEN DAKOTA COUNTY AND SCOTT COUNTY
FOR VERMILLION RIVER WATERSHED**

WHEREAS, Minnesota Statutes § 471.59 authorizes local governmental units to jointly or cooperatively exercise any power common to the contracting parties; and

WHEREAS, pursuant to Minn. Stat. § 103B.231 a watershed management plan is required for watersheds comprising all minor watershed units wholly or partly within the metropolitan area, in accordance with the requirements of § 103B.205 to § 103B.255; and

WHEREAS, the Vermillion River Watershed is a watershed comprising minor watershed units wholly within the metropolitan area, specifically, within Dakota County and Scott County; and

WHEREAS, effective September 5, 2002, Dakota County and Scott County entered into a joint powers agreement (“2002 JPA”) to cooperatively carry out their responsibilities and duties pursuant to Minn. Stat. §§ 103B. 211 to 103B.255; and

WHEREAS, the Vermillion River Watershed Joint Powers Organization (“VRWJPO”), an independent joint powers entity organized under Minn. Stat. § 471.59, was created by the 2002 JPA to carry out Dakota County’s and Scott County’s responsibilities and duties pursuant to Minn. Stat. §§ 103B. 211 to 103B.255; and

WHEREAS, Dakota County and Scott County desire to update the terms and conditions of their joint powers agreement to cooperatively carry out their responsibilities and duties pursuant to Minn. Stat. §§ 103B. 211 to 103B.255 pursuant to the authority granted to them pursuant to Minn. Stat. § 471.59; and

WHEREAS, Dakota County and Scott County desire that the terms and conditions of this Agreement to replace the terms and conditions of the 2002 JPA moving forward effective upon the full execution of this Agreement by the parties to this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and benefits that Dakota County and Scott County shall derive herefrom, Dakota County and Scott County hereby enter into this joint powers agreement for the purposes herein.

I. Purposes.

This Agreement has been executed by Dakota and Scott Counties for the purposes set forth at Minn. Stat. § 103B.201 within the political boundary of the Vermillion River watershed located in Dakota County and Scott County, as shown on the attached Map A, hereby incorporated by reference. Specifically, the purpose of this Agreement is to establish a joint powers board that will (1) exercise leadership in the development of policies, programs and projects that will promote the accomplishment of the purposes found at Minn. Stat. § 103B.201, including the preparation, adoption and

implementation of the plan required by Minn. Stat. § 103B.211 for the Vermillion River watershed and (2) guide and assist Dakota County and Scott County in acting jointly and individually to take actions that will promote the goals listed in Minn. Stat. § 103B.201 and fulfill their responsibilities under Chapter 103B.

II. Joint Powers Board.

A. Creation and Composition of Joint Powers Board.

A joint powers board, known as the Vermillion River Watershed Joint Powers Board (VRWJPB), has been established for the purposes contained herein with the powers and duties set forth in this Agreement. The VRWJPB shall consist of one county commissioner from Scott County and two county commissioners from Dakota County. The board of commissioners of each county shall appoint, by resolution, its representative(s) to the VRWJPB, together with one alternate commissioner. Resolutions appointing representatives of each county shall be filed with the clerk to the board of commissioners of Dakota County.

The commissioners of each county assigned to the VRWJPB receive no additional compensation for their appointment to the VRWJPB beyond what they receive as a county commissioner.

B. Terms.

Each county representative and alternate on the VRWJPB shall be appointed for a one-year term. In the event that any county representative or alternate shall not have been appointed by the board of commissioners prior to expiration of the representative's term, the incumbent representative shall serve until a successor has been appointed.

C. Vacancies.

If the appointment of any representative commissioner or alternate to the VRWJPB is vacated before the end of their term, the vacancy shall be filled by appointment by the appropriate county board of commissioners in accordance with Minn. Stat. § 103B.227, subd. 1, and Minn. Stat. § 471.59, subd. 11. A vacancy shall be deemed to have occurred when any of the conditions specified in Minn. Stat. § 351.02 exist or if a representative fails to qualify or act as a commissioner. Dakota County and Scott County shall notify the Minnesota Board of Water and Soil Resources of their appointments and vacancies to the VRWJPB pursuant to Minn. Stat. Stat. § 103B.227, subd. 1.

D. Chair and Vice-chair.

The VRWJPB shall elect a chair and a vice-chair from its membership for one-year terms. The chair shall preside at all meetings of the VRWJPB and shall

perform other duties and functions as may be determined by the VRWJPB. The vice-chair shall preside over and act for the VRWJPB during the absence of the chair.

E. Secretary/Treasurer.

The VRWJPB shall elect a secretary/treasurer from its membership for a one-year term. The secretary/treasurer shall submit all minutes of VRWJPB meetings for approval by the VRWJPB and shall assist the chair in overseeing the VRWJPB's budget and finances.

F. Meetings.

Minn. Rule § 8410.0030 requires the VRWJPB have regular meetings at least annually. The VRWJPB shall determine such times and places to conduct the meetings. Special meetings may be held on reasonable notice by the chair or by a majority of the VRWJPB upon terms and conditions as the VRWJPB may determine. The presence of a majority of the VRWJPB at a meeting shall constitute a quorum. The VRWJPB shall be subject to the requirements of the Open Meeting Law, Minn. Stat. Ch. 13D.

The VRWJPO shall post all notifications regarding the VRWJPB's meeting agendas and location and time of meetings on its website and any other location required by Open Meeting Law, Minn. Stat. Ch. 13D.

G. Voting.

Each county representative shall be entitled to one vote. If a county representative is absent that county's alternate is entitled to one vote. If more than one Dakota County representative is absent, Dakota County's alternate shall be entitled to only one vote. The VRWJPB shall function by a majority vote of the county representatives present.

Decisions of the VRWJPB, including decisions regarding capital improvement projects, require a majority vote.

H. Staff.

Dakota County and Scott County shall provide staff support to the VRWJPB. Dakota County and Scott County shall provide legal services as needed, and in accordance with law.

Both the Dakota County Attorney's Office and Scott County Attorney's Office have statutory obligations to represent their County Board, pursuant to Minnesota Statutes Chapter 388, and legal obligations imposed by various provisions of state statute. In the event that either the Dakota County

Attorney's Office or Scott County Attorney's Office determines that a conflict of interest would exist if the County Attorney's Office represented both their County and the VRWJPO/VRWJPB on a specific matter, the County Attorney's Office will so inform the county and VRWJPB through its Administrator or Co-Administrator. In the event a County Attorney determines a conflict exists, the conflict of interest procedures of the applicable County Attorney's Office will be followed and the VRWJPO/VRWJPB will obtain independent legal counsel to represent the VRWJPO/VRWJPB in the matter where the conflict exists. The parties agree that there is no conflict of interest for either the Dakota County Attorney's Office or Scott County Attorney's Office to represent both their County and the VRWJPO/VRWJPB in preparation and execution of this Agreement. Requests for legal services made by the VRWJPO/VRWJPB will be handled on the same priority basis as that of the counties.

Funding for the staffing services described herein are covered by the VRWJPO/VRWJPB revenues from the counties, applicable grant funds or other State appropriations when available. The staffing services and payment for staffing services identified herein shall be in accordance to separate service agreements between the counties and VRWJPO/VRWJPB.

I. Duties of the VRWJPB.

The VRWJPB shall have the responsibility to prepare, adopt and implement a plan for the Vermillion River watershed that meets the requirements of Minn. Stat. § 103B.231; the responsibility to review and approve local water management plans as provided in Minn. Stat. § 103B.235; the responsibility to regulate the use and development of land in the Vermillion River watershed if the conditions found at Minn. Stat. §. 103B.211, subd. 1(a)(3)(i)(ii)(iii) are present.

III. Powers of the VRWJPB.

A. General Powers.

The VRWJPB is hereby authorized to exercise such authority as is necessary and proper to fulfill its purposes and perform the duties identified in paragraph II(I) above. Such authority shall include, but not be limited to, those specific powers enumerated in paragraph III (Sections B through I) herein. The VRWJPB may refer decisions for approval by the boards of commissioners of Dakota County and Scott County. The VRWJPB shall not have the authority described at Minn. Stat. § 103B.211, subd. 1(a)(6).

B. Contracts.

The VRWJPB may enter into any contract necessary or proper for the exercise of its powers or the fulfillment of its duties and enforce such contracts to the extent available in equity or at law, including contracts with Dakota County and/or Scott County. Additionally, the VRWJPB may enter into agreements pursuant to Minn. Stat. § 471.59. The VRWJPB may approve any contract up to the amount included in the approved annual budget and may authorize its chair, Administrator or Co-Administrator to execute these contracts. No payment on any invoice for services performed by a consultant or any other person or organization providing services in connection with this Agreement shall be authorized unless approved by the chair and vice-chair, the chair and secretary/treasurer, Administrator or Co-Administrator. The chair, Administrator or Co-Administrator shall report to the VRWJPB and the VRWJPB shall ratify any such payments authorized under this provision at its next regular meeting.

C. Funds.

The VRWJPB may disburse funds in a manner which is consistent with the Agreement and with the method provided by law for the disbursement of funds by the parties to this Agreement.

D. Bylaws.

The VRWJPB shall have the power to adopt and amend such bylaws that it may deem necessary or desirable for the conduct of its business. Such bylaws shall be consistent with this Agreement and any applicable laws or regulations.

E. Grants and Loans.

The VRWJPB may apply for and accept gifts, grants or loans of money, other property or assistance from the United States government, the State of Minnesota, or any person, association or agency for any of its purposes; enter into any agreement in connection therewith; and hold, use and dispose of such money, other property and assistance in accordance with the terms of the gift, grant or loan relating thereto.

F. Property.

The VRWJPB may hold such property as may be required to accomplish the purposes of this Agreement and upon termination of this Agreement make distribution of such property as is provided for in this Agreement.

G. Insurance.

The VRWJPB may obtain any liability insurance or other insurance it deems necessary to insure itself and Dakota County and Scott County for action arising out of this Agreement.

H. Exercise of Powers.

All powers granted herein shall be exercised by the VRWJPB in a fiscally responsible manner and in accordance with the requirements of law. The purchasing and contracting requirements of the county which is the lead for the project shall apply to the VRWJPB.

I. Public Participation.

The VRWJPB shall provide for such public participation in the conduct of its activities as will promote understanding of its activities among the public and local governmental units affected by the activities and the informal resolution of disputes or complaints.

IV. Reservation of Authority.

All responsibilities not specifically set out to be jointly exercised by the VRWJPB under this Agreement are hereby reserved to the counties.

V. Budgeting and Funding.

A. Budget.

By September 1 of each year, the VRWJPB shall adopt a budget for the following calendar year in accordance with Minn. Stat. § 103B.211, subd. 1 (a)(5). Any proposed contribution from Dakota County or Scott County which the VRWJPB deems appropriate to be satisfied from the annual property tax levy must be recommended to Dakota County and Scott County prior to the date by which the counties shall establish their maximum levy pursuant to Minn. Stat. § 275.065, subd. 1. Other proposed contributions or assessments from Dakota County or Scott County may be made at any time.

B. County Funding.

If there is proposed funding from Dakota County or Scott County which is to be satisfied from the annual property tax levy, such proposed funding shall not become the obligation of either county unless and until the respective county has agreed to the funding as part of the county's annual budget and levy process pursuant to Minn. Stat. § 275.065. If there is proposed funding from Dakota County or Scott County which is not to be satisfied from the annual

property tax levy, such funding shall not become the obligation of either county until the respective county has agreed by resolution to the funding.

Any proposed funding from Dakota County or Scott County which has been included within the county's levy or which has been approved by resolution of the Dakota County or Scott County board of commissioners shall constitute an assessment against the county and shall be paid over to the VRWJPB pursuant to its terms, this Agreement, and as required by law.

C. Expenditure Policy.

Dakota County and Scott County agree that the budget for each year shall include expenditures which will benefit the portion of the Vermillion River Watershed located in Scott County.

D. Fiscal Agent.

Dakota County agrees to serve as the fiscal agent for the VRWJPB. Dakota County agrees to provide any and all budgeting and accounting services necessary or convenient for the VRWJPB. Such services include, but are not limited to, management of all funds, including county contributions and grant monies; payment for contracted services; relevant record keeping and bookkeeping. The Finance Department of Dakota County shall act as controller for the VRWJPB and shall draw warrants to pay demands against the VRWJPB when the demands have been approved by the VRWJPB. Scott County retains the authority to request reports pertaining to any and all budgeting and accounting services. All interest earned from VRWJPB funds shall be credited back to that fund.

E. Accountability.

All funds shall be accounted for according to generally accepted accounting principles.

VI. Community Advisory Committee.

The VRWJPB by resolution shall establish and make appointments to the Community Advisory Committee (formally known as the Watershed Planning Commission), which shall initially be comprised of the currently appointed members of the Watershed Planning Commission, who shall serve as members of the Community Advisory Committee for the remainder of their current terms. Thereafter, the VRWJPB shall utilize an open appointments process for making these appointments.

A. Responsibilities of Community Advisory Committee.

The Community Advisory Committee shall have the responsibility to review and provide comment regarding the VRWJPO's proposed watershed management plan; review and provide comment regarding the VRWJPO's proposed annual work plan and budget.

B. Membership.

The Community Advisory Committee shall consist of nine members who are residents of either Dakota County or Scott County. One shall be from Scott County and eight shall be from Dakota County. The VRWJPB shall appoint members of the Community Advisory Committee for a term of 3 years ("Appointment Term"). Excluding any "interim appointment," a member of the Community Advisory Committee can be appointed to serve two consecutive terms. The Appointment Term shall begin on the day of appointment. The VRWJPB may appoint an expiring term member of the Community Advisory Committee to continue to serve as an interim appointment upon the expiration of that member's term where the VRWJPB has not received applications for that expiring term member's position. The interim member's appointment shall expire upon the VRWJPB's appointment of a new member of the Community Advisory Committee filling the position held by the interim member.

C. Conflict of Interest.

If any Community Advisory Committee member has a financial interest or personal interest with respect to the parties involved, or stands to realize a financial or personal gain or loss with respect to an item on any matter coming before the Community Advisory Committee, that member shall disclose this fact and be disqualified from taking part in any discussion or comment on the matter as a member of the Community Advisory Committee. The chair of the Community Advisory Committee shall make rulings on such disqualifications. Any Community Advisory Committee member who believes that the Community Advisory Committee chair should be disqualified from any matter hereunder may refer the matter to the vice-chair who shall make a ruling on such disqualification.

D. Compensation.

Members of the Community Advisory Committee shall be eligible to receive a per diem payment in an amount approved by each County per meeting in lieu of expenses.

E. Officers.

The Community Advisory Committee shall elect a chair and vice-chair from among its members. The chair and vice-chair shall serve for one-year terms.

F. Meetings.

The Community Advisory Committee shall meet regularly pursuant to a schedule established by the Community Advisory Committee. Special meetings may be called by the chair.

G. Bylaws.

The Community Advisory Committee shall adopt bylaws governing its activities. Such bylaws shall be subject to approval by the VRWJPB and shall be consistent with law and terms of this Agreement.

H. Staff Support.

Dakota County and Scott County shall provide staff support to the Community Advisory Committee. The cost of such support will be funded through the budget of the VRWJPB. The VRWJPB also may make technical support available to the Community Advisory Committee.

VII. Indemnification.

If the VRWJPB incurs any expenses as a result of a claim for damages, the expenses and any damages paid shall be assessed against the counties in proportionate shares. Proportionality will be measured with reference to fault, percentage of county financial contribution, location of the project or other similar factors giving rise to the damages or expenses. Dakota County and Scott County hereby agree to indemnify, save, hold harmless and defend the VRWJPB, its officers, employees, and agents for negligent or intentional acts or omissions of itself, its officers, employees, and agents that result in expenses or damages assessed against the VRWJPB.

VIII. Records, Accounts, and Reports.

The books and records of the VRWJPB shall be subject to the provisions of Minn. Stat. Ch. 13. The VRWJPB annually shall give a complete written report of all financial activities for the previous fiscal year to the counties.

IX. Dispute Resolution.

Disputes between Dakota County and Scott County may be addressed by any means agreed upon by them, and may include the procedures set forth at Minn. Stat. § 103B.345.

X. Termination.

This Agreement shall continue until it is terminated upon the withdrawal of either member county. Either county may withdraw upon one year’s written notice of intent to withdraw to the other county. Withdrawal shall not act to discharge any liability incurred or chargeable to the withdrawing county before the effective date of the withdrawal. Such liability shall continue until discharged by law or agreement.

XI. Distribution of Surplus Funds and Property.

Upon termination of this Agreement, funds and property held by the VRWJPB shall then be distributed to Dakota County and Scott County in proportion to their contributions.

XII. Amendments.

This Agreement may be amended only in writing and upon consent of each of the county boards of commissioners of Dakota County and Scott County.

XIII. Severability.

The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement unless the part or parts that are void, invalid or otherwise unenforceable shall substantially impair the value of the entire Agreement with respect to either party.

XIV. Replaces Prior Agreement.

This Agreement replaces the 2002 JPA executed by Dakota County and Scott County as it relates the powers, duties and obligations to be exercised hereunder commencing on the date that this Agreement is executed by the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

Approved as to form:

COUNTY OF DAKOTA

Assistant Dakota County Attorney/Date

By _____
Joe Atkins
Chair, Board of Commissioners
Date of Signature _____

ATTEST:

Jennifer Reynolds
Clerk to the Board
Date of Signature _____

Approved as to form:

Assistant Scott County Attorney/Date

COUNTY OF SCOTT

By _____
Barb Weckman Brekke
Chair, Board of Commissioners
Date of Signature _____

ATTEST:

Lezlie Vermillion
Clerk to the Board/Administrator
Date of Signature _____

Vermillion River Watershed

