



Board of County Commissioners Agenda Request



Requested Meeting Date:

Title of Item:

<p>REGULAR AGENDA</p> <p>CONSENT AGENDA</p> <p>INFORMATION ONLY</p>	<p>Action Requested:</p> <p>Approve/Deny Motion</p> <p>Adopt Resolution (attach draft) <i>*provide copy of hearing notice that was published</i></p>	<p>Direction Requested</p> <p>Discussion Item</p> <p>Hold Public Hearing*</p>
Submitted by:		Department:
Presenter (Name and Title):		Estimated Time Needed:
Summary of Issue:		
Alternatives, Options, Effects on Others/Comments:		
Recommended Action/Motion:		
<p>Financial Impact:</p> <p><i>Is there a cost associated with this request?</i> Yes No</p> <p><i>What is the total cost, with tax and shipping? \$</i></p> <p><i>Is this budgeted?</i> Yes No <i>Please Explain:</i></p>		

MEMORANDUM OF AGREEMENT

This Agreement (Agreement or MOA) is made and entered into by and among:

The Counties of Aitkin, Carlton, Cass, and Itasca by and through their respective County Board of Commissioners, and The Aitkin, Carlton, Cass, and Itasca, Soil and Water Conservation Districts, by and through their respective Soil and Water Conservation District Board of Supervisors, Townships of Salo (McGregor) and Logan in Aitkin County (Palisade) and the Non-Removable Mille Lacs Band of Ojibwe, a federally recognized American Indian Tribal government, by and through its Department of Natural Resources, are collectively referred to as the “Parties” and individually each is a “Party.”

RECITALS

WHEREAS, the Counties of this Agreement are political subdivisions of the State of Minnesota, with authority to carry out environmental programs and land use controls, pursuant to Minnesota Statutes Chapter 375 and as otherwise provided by law; and

WHEREAS, the Soil and Water Conservation Districts (SWCDs) of this Agreement are political subdivisions of the State of Minnesota, with statutory authority to carry out erosion control and other soil and water conservation programs, pursuant to Minnesota Statutes Chapter 103C and as otherwise provided by law; and

WHEREAS, the Non-Removable Mille Lacs Band of Ojibwe (“MLBO”) is a local governmental unit of the State of Minnesota pursuant to Minnesota Statute §471.59, subdivision 1. (a) & (b) and as that definition is incorporated into Minnesota Statute §103B; and the MLBO Department of Natural Resources has the authority to manage its natural resources pursuant to Mille Lacs Band Statute Title 11; and portions of the MLBO Reservation is situated within the Mississippi River-Grand Rapids Watershed area and there are contiguous MLBO lands affected by Watershed flow as depicted on Attachment A; and

WHEREAS, MLBO strives to work cooperatively and collaboratively with other governmental agencies with which it shares an interest in maintaining, managing and protecting natural resources and desires to join in this Agreement with the other Parties. For this purpose and within this Agreement MLBO is also identified or referred to as a “Party” or “Parties,” “County” or “SWCD”; and

WHEREAS, the parties to this Agreement have a common interest and statutory authority to prepare, adopt, and assure implementation of a comprehensive watershed management plan in the Mississippi River-Grand Rapids Watershed to conserve soil and water resources through the implementation of practices, programs, and regulatory controls that effectively control or prevent erosion, sedimentation, siltation and related pollution in order to protect natural resources, ensure continued soil productivity, protect water quality, reduce damages caused by floods, preserve wildlife, protect the tax base, and protect public lands and waters; and

WHEREAS, with matters that relate to coordination of water management authorities pursuant to Minnesota Statutes Chapters 103B, 103C, and 103D with public drainage systems pursuant to Minnesota Statutes Chapter 103E, this Agreement does not change the rights or obligations of the public drainage system authorities:

WHEREAS, this Agreement and the developed Mississippi River-Grand Rapids Watershed Management Plan does not replace or supplant local land use, planning/zoning authority of the respective Parties and the Parties intend that this Agreement shall not be construed in that manner; and

WHEREAS, the Parties have formed this Agreement for the specific goal of developing a plan pursuant to Minnesota Statutes § 103B.801, Comprehensive Watershed Management Planning, also known as *One Watershed, One Plan*.

NOW, THEREFORE, the Parties hereto agree as follows:

1. **Purpose:** The Parties to this Agreement recognize the importance of partnerships to plan and implement protection and restoration efforts for the Mississippi River-Grand Rapids Watershed depicted on Attachment A. The purpose of this Agreement is to collectively develop and adopt, as local government units, a coordinated watershed management plan for implementation per the provisions of the Plan. Parties signing this Agreement will be collectively referred to as “Mississippi River-Grand Rapids Watershed Collaboration.”
2. **Recitals:** All recitals set forth above are hereby incorporated into this Agreement.
3. **Term:** This Agreement is effective upon signature of all Parties in consideration of the Board of Water and Soil Resources (BWSR) Operating Procedures for One Watershed, One Plan; and will remain in effect until adoption of the plan by all Parties unless canceled according to the provisions of this Agreement or earlier terminated by law.
4. **Adding Additional Parties:** A qualifying Party desiring to become a member of this Agreement shall indicate its intent by adoption of a board resolution prior to a date that is six months from the BWSR One Watershed, One Plan Planning Grant Agreement execution. The Party agrees to abide by the terms and conditions of the Agreement; including but not limited to the bylaws, policies and procedures adopted by the Policy Committee.
5. **Withdrawal of Parties:** A Party desiring to leave the membership of this Agreement shall indicate its intent in writing to the Policy Committee in the form of an official board resolution. Notice must be made at least 30 days in advance of leaving the Agreement.
6. **General Provisions:**
 - a. **Compliance with Laws/Standards:** The Parties agree to abide by all federal, state, and local laws; statutes, ordinances, rules and regulations now in effect or hereafter adopted pertaining to this Agreement or to the facilities, programs, and staff for which the Agreement is responsible.
 - b. **Indemnification:** Each Party to this Agreement shall be liable for the acts of its officers, employees or agents and the results thereof to the extent authorized or limited by law and shall not be responsible for the acts of any other Party, its officers, employees or agents. The provisions of the Municipal Tort Claims Act, Minnesota Statute Chapter 466 and other applicable laws govern liability of the Parties. To the full extent permitted by law, actions by the Parties, their respective officers, employees, and agents pursuant to this Agreement are intended to be and shall be construed as a

“cooperative activity.” It is the intent of the Parties that they shall be deemed a “single governmental unit” for the purpose of liability, as set forth in Minnesota Statutes § 471.59, subd. 1a(a). For purposes of Minnesota Statutes § 471.59, subd. 1a(a) it is the intent of each Party that this Agreement does not create any liability or exposure of one Party for the acts or omissions of any other Party.

The Parties acknowledge that MLBO is not subject to the protections or provisions of Minnesota Statutes referenced within this subsection a. above but rather MLBO employees may be protected from personal liability under the Federal Torts Claims Act (28 U.S.C. Part VI, Chapter 171 and 28 U.S.C. Section 1346) and indemnification provisions under MLBO statutes.

- c. **Records Retention and Data Practices:** The Parties agree that records created pursuant to the terms of this Agreement will be retained in a manner that meets their respective entity’s records retention schedules that have been reviewed and approved by the State in accordance with Minnesota Statutes § 138.17. The Parties further agree that records prepared or maintained in furtherance of the Agreement shall be subject to the Minnesota Government Data Practices Act. At the time this Agreement expires, all records will be turned over to Itasca County for continued retention.
- d. **Timeliness:** The Parties agree to perform obligations under this Agreement in a timely manner and keep each other informed about any delays that may occur.
- e. **Extension:** The Parties may extend the termination date of this Agreement upon Agreement by all Parties.
- f. **Amendment of Memorandum of Agreement:** This MOA may be amended by recommendation of the Steering Committee and approval of the amendment(s) by the Policy Committee with final Approval by the Aitkin, Carlton, Cass, and Itasca, County Boards of Commissioners, Townships of Salo (McGregor) and Logan in Aitkin County (Palisade), MLBO Department of Natural Resources Commissioner, and Aitkin, Carlton, Cass, and Itasca, Soil and Water Conservation District Supervisors.

7. Administration:

- a. **Establishment of Committees for Development of the Plan.** The Parties agree to designate one representative, who must be an elected or appointed member of the governing board to a Policy Committee for development of the watershed-based plan and may appoint one or more technical representatives to a Technical Advisory Committee for development of the plan in consideration of the BWSR Operating Procedures for One Watershed, One Plan.
 - i. The Policy Committee will meet as needed to decide on the content of the plan, serve as a liaison to their respective boards, and act on behalf of their Board. Each representative shall have one vote.

- ii. Each governing board may choose one alternate to serve on the Policy Committee as needed in the absence of the designated member.
 - iii. The Policy Committee will establish bylaws within 90 days of the execution of the Memorandum of Agreement to describe the functions and operations of the committee(s).
 - iv. The Steering Committee will be comprised of staff from local agencies formally participating in 1W1P by signing the MOA and BWSR staff acting as advisors. The Steering Committee will provide the logistical organization of the planning process and associated meetings. They may make recommendations to the Technical Advisory Committee and to the Policy Committee.
 - v. The Technical Advisory Committee will meet monthly or as needed to assist and provide technical support and make recommendations to the Policy Committee on the development and content of the plan.
- b. **Submittal of the Plan.** The Policy Committee will recommend the plan to the Parties of this Agreement. The Policy Committee will be responsible for initiating a formal review process for the watershed-based plan conforming to Minnesota Statutes Chapters 103B and 103D, including public hearings. Upon completion of local review and comment, and approval of the plan for submittal by each Party, the Policy Committee will submit the watershed-based plan jointly to BWSR for review and approval.
- c. **Adoption of the Plan.** The Parties agree to adopt and begin implementation of the plan within 120 days of receiving notice of state approval, and provide notice of plan adoption pursuant to Minnesota Statutes Chapters 103B and 103D.
8. **Fiscal Agent:** Itasca SWCD will act as the fiscal agent for the purposes of this Agreement and agrees to:
- a. Accept all responsibilities associated with the implementation of the BWSR grant agreement for developing a watershed-based plan.
 - b. Perform financial transactions as part of grant agreement and contract implementation.
 - c. Annually provide a full and complete audit report.
 - d. Provide the Policy Committee with the records necessary to describe the financial condition of the BWSR grant agreement.
 - e. Retain fiscal records consistent with the agent's records retention schedule until termination of the Agreement (at that time, records will be turned over to the Board of Water Soil Resources.
9. **Grant Administration:** Itasca SWCD will act as the grant administrator for the purposes of this Agreement and agrees to provide the following services:
- a. Accept all day-to-day responsibilities associated with the implementation of the BWSR grant agreement for developing a watershed-based plan, including being the primary BWSR contact

for the *One Watershed, One Plan* Grant Agreement and being responsible for BWSR reporting requirements associated with the grant agreement.

- b. Provide the Policy Committee with the records necessary to describe the planning condition of the BWSR grant agreement.

10. The following parties agree to provide the following services:

- a. Grant Administration/Fiscal Agent: Itasca SWCD
- b. Policy and Advisory Committee Coordination: Itasca SWCD
- c. Outreach Coordinator: Aitkin SWCD
- d. Public Notice Requirements: Itasca SWCD

In the event of a vacancy of the above listed roles, the Party responsible for the role will determine if there is adequate capacity within the organization to fulfil the listed role. If it is determined by the partner agency they no longer have capacity and would like to relinquish their duties they must inform the Steering Committee. The Steering Committee will then reassign the service to another Party with the capacity to fulfil the grant agreement.

11. **Multiple Counterparts:** The Parties may sign multiple counterparts of this Agreement. Each signed counterpart shall be deemed an original, but all of them together represent the same Agreement.

Authorized Representatives: The following persons will be the primary contacts for all matters concerning this Agreement:

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS.]

IN TESTIMONY WHEREOF the Parties have duly executed this Memorandum of Agreement by their duly authorized officers.

PARTNER: *Aitkin County*

APPROVED:

BY: _____

Name

ITS: Chairperson

DATE: _____

APPROVED AS TO FORM

BY: _____

Name

County Administrator

DATE: _____

Attachment A

Mississippi River- Grand Rapids Watershed Planning Boundary Hydrologic Unit Code (07010103)

