

MEMORANDUM OF COOPERATIVE AGREEMENT

RED LAKE RIVER PLANNING GROUP

This cooperative agreement (Agreement) is made and entered into by and between:

The Counties of Polk, Red Lake, and Pennington (Counties) by and through their respective County Board of Commissioners, and
The West Polk, Red Lake County, and Pennington Soil and Water Conservation Districts (SWCDs), by and through their respective Soil and Water Conservation District Board of Supervisors, and
The Red Lake Watershed District (RLWD), by and through its Board of Managers,
Collectively referred to as the “parties.”

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 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 Watershed District of this Agreement is a political subdivision of the State of Minnesota, with statutory authority to conserve the natural resources of the state by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources, pursuant to Minnesota Statutes Chapter 103B, 103D, 103E and as otherwise provided by law; 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 Red Lake River 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 preserve 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 and 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; and

WHEREAS, pursuant to Minnesota Statutes Section 103B.101 Subd. 14, the Board of Water and Soil Resources (BWSR) “may adopt resolutions, policies, or orders that allow a comprehensive plan, local water management plan, or watershed management plan, developed or amended, approved and adopted, according to chapter 103B, 103C, or 103D to serve as substitutes for one another or be replaced with a comprehensive watershed management plan,” also known as the “One Watershed, One Plan”; and

WHEREAS, the parties previously entered into a Memorandum of Agreement for the purpose of planning the One Watershed, One Plan for the Red Lake River Watershed, and the parties have now formed this Agreement for the specific goal of implementing the One Watershed, One Plan for the Red Lake River Watershed.

NOW, THEREFORE, the parties hereto agree as follows:

1. **Purpose:** The parties to this Agreement recognize that a guiding principle of One Watershed, One Plan is that “One Watershed, One Plan implementation will be accomplished through formal agreements among participating local governments on how to manage and operate the watershed.” The parties to this Agreement acknowledge “that the purpose of this principle is to provide assurances that decision-making spanning political boundaries is supported by an in-writing commitment from participants.” [The quoted sections are from *One Watershed One Plan Operating Procedures for Pilot Watersheds*, Page 13 BWSR June 25, 2014 document.]

The parties working together for the purpose of planning the One Watershed, One Plan for the Red Lake River Watershed (Attachment A), known collectively as the “Red Lake River Planning Group” under the Memorandum of Agreement, now establish, through this Agreement, the process for governance of the implementation of the plan as they continue to recognize the importance of partnerships to plan and implement, protection and restoration efforts for the Red Lake River Watershed. Parties signing this Agreement will continue to be collectively referred to as the “Red Lake River Planning Group” and are partnering together in the form of this Agreement pursuant of the cooperative authority contained in Minnesota Statutes Section 471.59.

This Agreement does not establish a joint powers entity but set out the terms and provisions by which the parties “may jointly or cooperatively exercise any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised.” Minnesota Statutes Section 471.59. As is permitted under the joint exercise of powers statute, Minnesota Statutes Section 471.59, the parties agree that under this Agreement, and as agreed upon and directed by the Policy Committee, one or more of the parties may exercise any power common to them on behalf of the other participating units, such as they have done under the Memorandum of Agreement where the Red Lake Watershed District has provided the day-to-day administrative duties of the Red Lake River Planning Group and the Pennington SWCD has been the fiscal agent.

2. **Term:** This Agreement is effective upon signature of all parties in consideration of the BWSR Participation Requirements for One Watershed, One Plan; and will remain in effect until canceled according to the provisions of this Agreement, unless earlier terminated by law.
3. **Adding Additional Parties:** A qualifying party within the Red Lake River Watershed that is responsible for water planning and resource management according to Minnesota State Statutes desiring to become a member of this Agreement shall indicate its intent by adoption of a governing board resolution that includes a request to the Policy Committee to join the Red Lake River Planning Group, a representative appointed to the Policy Committee, and a statement that the qualifying party agrees to abide by the terms and conditions of this Agreement; including but not limited to the bylaws, policies, and procedures adopted by the Policy Committee.
4. **Procedure for Parties to Leave Membership of the Agreement:** 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 180 days in advance of leaving the Red Lake River Planning Group. A party that leaves the membership of the Agreement remains obligated to complying with the terms of any grants the Red Lake River Planning Group has at the time of the party’s notice to leave membership and is obligated until the grant has ended.

5. General Provisions:

- a. **Compliance with Laws/Standards:** The parties agree to abide by all Federal, State or local laws; statutes, ordinances, rules and regulations now in effect or hereafter adopted pertaining to this Agreement.
- 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 Statutes 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” and 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 pursuant to Minnesota Statutes Section 471.59, Subd. 1a. (a). If a party is found responsible for any liability associated with the actions of the Group, said party agrees to indemnify and hold harmless any of the other non-liable parties of the Group for any defense costs and expenses associated with any such claim.
- c. **Employee Status:** The parties agree that the respective employees or agents of each party shall remain the employees or agents of each individual respective party.
- d. **Data Practices and Records Retention:** The parties agree that each respective party will be responsible for complying with the Minnesota Government Data Practices Act (Minnesota Statutes Chapter 13), and the Official Records Act (Minnesota Statutes Section 15.17) for the data collected, created, received, maintained, disseminated or stored by each respective party pursuant to the terms of this Agreement. The Group will designate a responsible data official to collect and comply with all data requests associated with grants awarded or projects undertaken by the Group.
- e. **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.
- f. **Termination:** The parties anticipate that this Agreement will remain in full force and effect until canceled by all parties, unless otherwise terminated in accordance with law or other provisions of this Agreement. The parties acknowledge their respective and applicable obligations, if any, under Minnesota Statutes Section 471.59, Subd. 5 after the purpose of the Agreement has been completed.
- g. **Distribution of Property:** At the time of termination, any property acquired as the result of such cooperative exercise of powers and any surplus monies remaining shall be divided pro-rata in proportion to the contributions of the several contracting parties. If no contributions have been made, the assets and surplus monies shall be divided equally among the parties.

6. **Structure:** To carry out the planning, development, implementation and governance of the Red Lake River One Watershed, One Plan, the parties agree to continue the structure established under the Memorandum of Agreement, which includes the Policy Committee, the Advisory Committee, and the Planning Workgroup.
- a. **Policy Committee.** The parties agree that the Policy Committee established under the Memorandum of Agreement for the purpose of developing the One Watershed, One Plan shall continue to operate cooperatively, but not as a single entity, for the purpose of implementation of the Red Lake River Watershed plan. Membership on the Policy Committee shall remain as each party's designated representative. That individual who serves as their respective party's designated representative must be an elected or appointed member of that party's governing board. The governing boards may choose alternates to serve on the Policy Committee from their boards as needed. The Policy Committee will meet quarterly or as needed.
 - i. Authority of Policy Committee Members: Each representative on the Policy Committee shall have one vote, and shall have the authority to act on behalf of the party they represent in the following matters: grant applications for grants the Policy Committee has voted to apply for/request on behalf of the Red Lake River Planning Group; report review and approval, payments under Red Lake River Planning Group grant(s), the implementation of the plan, plan amendments, and the governance of the plan. The Policy Committee will follow the bylaws adopted by the Policy Committee and will have the power to modify the bylaws.
 - ii. Policy Committee Member Duties: Each Policy Committee member will serve as a liaison to their respective governing boards and has the responsibility to inform their governing board on actions taken by the Policy Committee.
 - b. **The Advisory Committee.** The parties agree that the Advisory Committee shall continue to provide technical support on the plan implementation to the Policy Committee, including identification of priorities. The Advisory Committee will remain as consisting of the local Planning Workgroup, the state's main water agencies, citizens, and other identified stakeholders. The Advisory Committee will meet quarterly or as needed.
 - c. **The Planning Workgroup.** The parties agree that the Planning Workgroup shall continue and shall consist of the One Watershed One Plan Coordinator, local water planners, and the WD Administrator for the purposes of logistical and day-to-day decision-making in the implementation process. The Planning Workgroup will meet quarterly or as needed.
7. **Implementation of the Plan.** The parties agree to adopt and begin implementation of the plan within 120 days of state approval and provide notice of plan adoption pursuant to Minnesota Statutes Chapter 103B and 103D.

8. **Fiscal Agent.** The Policy Committee shall appoint annually one of the parties to the Agreement to be the Fiscal Agent for the Red Lake River One Watershed One Plan. The Fiscal Agent agrees to:
 - a. Accept all fiscal responsibilities associated with grant agreements applied for and received by the Red Lake River Planning Group.
 - b. Perform financial transactions as part of contract implementation.
 - c. Pursuant to Minnesota Statutes Section 471.59, Subd. 3, provide for strict accountability of all funds and report of all receipts and disbursements and annually provide a full and complete audit report.
 - d. Provide the Policy Committee and the Planning Workgroup with such records as are necessary to describe the financial condition of the grant agreements the Policy Committee oversees.
 - e. Responsible for fiscal records retention consistent with the Fiscal Agent's records retention schedule until termination of this Agreement. At that time, the fiscal records will be turned over to the One Watershed One Plan Coordinator.

9. **One Watershed One Plan Coordinator.** The Policy Committee shall appoint annually a "One Watershed One Plan Coordinator" to handle the administrative work of the Red Lake River One Watershed One Plan. "In the circumstance that the One Watershed One Plan Coordinator position is vacated, the Policy Committee shall appoint one of the parties to the Agreement to fill this role until the position is re-filled." The party that is the One Watershed One Plan Coordinator handling the administration agrees to provide the following to the Red Lake River Planning Group for the purposes of this Agreement:
 - a. Handle administrative responsibilities associated with the implementation of the Red Lake River One Watershed One Plan and any subsequent grant(s), if any, the Red Lake River Planning Group applies for and receives to implement the watershed-based plan.
 - b. Be the contact for the Red Lake River One Watershed One Plan and grant agreements, if any, the Red Lake River Planning Group applies for/requests and receives.
 - c. Be responsible for the BWSR and other grant reporting requirements.
 - d. Assist the Policy Committee and the Planning Workgroup with the administrative details to oversee implementation of the watershed-based plan.
 - e. Maintain the Red Lake River One Watershed One Plan webpage
 - f. Perform other duties to keep the Policy Committee, the Advisory Committee, and the Planning Workgroup informed about the implementation of the watershed-based plan.

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

Polk County
County Administrator
612 N Broadway
Crookston, MN 56716
Telephone: (218) 281-2554

Red Lake County
County Auditor
124 Langevin Ave.
Red Lake Falls, MN 56750
Telephone: (218) 253-2598

Pennington County
County Auditor
101 Main Ave. North
Thief River Falls, MN 56701
Telephone: (218) 683-7000

Pennington SWCD
District Manager
201 Sherwood Ave. S
Thief River Falls, MN 55965
Telephone: (218) 683-7075

Red Lake County SWCD
District Manager
2602 Wheat Drive
Red Lake Falls, MN 56750
Telephone: (218) 253-2593 ext. 4

West Polk SWCD
District Manager
525 Strander Ave.
Crookston, MN 56716
Telephone: (218) 281-6070 ext. 122

Red Lake Watershed District
District Administrator
1000 Pennington Ave. South
Thief River Falls, MN 56701
Telephone: (218) 681-5800

11. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

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IN TESTIMONY WHEREOF the parties have duly executed this Agreement by their duly authorized officers.


Partner: Polk County

APPROVED:

BY: 
Board Chair Date

BY:  1-24-17
Administrator Date

APPROVED AS TO EXECUTION

BY:  1-30-17
County Attorney Date

IN TESTIMONY WHEREOF the parties have duly executed this Agreement by their duly authorized officers.


Partner: Red Lake County

APPROVED:

BY:  12/27/10
Board Chair Date

BY:  12-27-10
Auditor Date

APPROVED AS TO EXECUTION


BY:  01/28/2017
County Attorney Date

IN TESTIMONY WHEREOF the parties have duly executed this Agreement by their duly authorized officers.

Partner: Pennington County

APPROVED:

BY:  Vice Chair 1/24/17
Board Chair Date

BY:  1/24/17
Auditor Date

APPROVED AS TO EXECUTION

BY:  1-24-17
County Attorney Date

IN TESTIMONY WHEREOF the parties have duly executed this Agreement by their duly authorized officers.


Partner: Pennington SWCD

APPROVED:

BY:  _____ 1-19-17
Board Chair Date

BY:  _____ 1/26/17
District Manager Date

APPROVED AS TO EXECUTION

BY:  _____ 1-24-17
County Attorney Date

IN TESTIMONY WHEREOF the parties have duly executed this Agreement by their duly authorized officers.

Partner: Red Lake County SWCD

APPROVED:

BY:  1-09-17
Board Chair Date

BY:  1-9-17
District Manager Date

APPROVED AS TO EXECUTION

BY:  01/28/2017
County Attorney Date

IN TESTIMONY WHEREOF the parties have duly executed this Agreement by their duly authorized officers.

Partner: West Polk SWCD

APPROVED: 1/19/17

BY: Elaine Lacher 1-19-17
Board Chair Date

BY: Michelle Beard 1/19/17
District Manager Date

APPROVED AS TO EXECUTION


BY: _____
County Attorney Date

IN TESTIMONY WHEREOF the parties have duly executed this Agreement by their duly authorized officers.

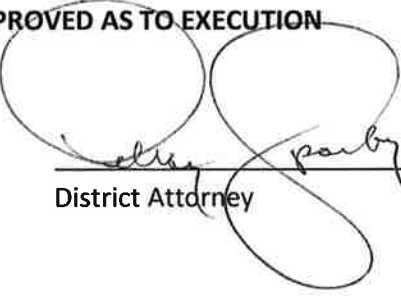
Partner: Red Lake Watershed District

APPROVED:

BY:  1-12-17
Board Chair Date

BY:  1-12-17
District Administrator Date

APPROVED AS TO EXECUTION

BY:  1-12-17
District Attorney Date

Attachment A

