



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting

Wednesday, December 15, 2021

Agenda Item

Item 8. A. – Lower Minnesota River East One Watershed One Plan

Prepared By

Linda Loomis, Administrator

Summary

The Board should discuss LMRWD representation on the Policy Committee for this project. The Board decided it was important for the LMRWD to have input into the development of the One Watershed One Plan (1W1P) for the Lower Minnesota River HUC 8 (Hydrologic Unit Code)*. The Lower Minnesota River HUC 8 has been split into two for development of the 1W1P. The LMRWD was invited to be an active participant to the Lower MN River East and adopted a Resolution in 2020 indicating its intent. I have been involved on the Planning Committee for this project. BWSR awarded a grant to begin development of the 1W1P and the committee is now ready to begin the work of developing the plan.

The LMRWD is entitled to representation on the Policy Committee. The representative should be a member of the Board. The first meeting of the Policy Committee is planned for December 16, 2021 from 2:00 to 4:00 PM. Meetings are held in person with an option to join virtually. Manager Raby had volunteered to represent the LMRWD, but with his planned retirement from the Board, the Board should discuss who will replace him.

A draft Memorandum of Agreement (MOA) has been prepared and each participating party will be asked to sign the MOA. This is a draft document which is under review by the county attorneys and legal counsel for other parties. I have attached the MOA and suggest that legal counsel review it on behalf of the LMRWD.

The LMRWD has been involved peripherally with the Lower MN River West 1W1P. The District was not part of the planning for the Lower MN River West, but has been invited to be part of the Technical Advisory Group (TAG). I have been attending meetings of the TAG. The next meeting is scheduled for December 16, 2021 from 2:00 to 4:00 PM.

Attachments

Resolution 20-04 Expressing and Intent to Participate in One Watershed Planning and Supporting a Planning Grant Application

Draft Memorandum of Agreement

Lower Minnesota River East Planning Area Map

Agenda for Lower Minnesota River East 1W1P Informational Policy Committee Meeting

Recommended Action

Motion to appoint a Manager (and Alternate) to represent the LMRWD on the Lower MN River East 1W1P Policy Committee and authorize legal counsel review of Memorandum of agreement

*Hydrologic Unit Codes - The United States is divided and sub-divided into successively smaller hydrologic units which are classified into four levels: regions, subregions, accounting units, and cataloging units. The hydrologic units are arranged or nested within each other, from the largest geographic area (regions) to the smallest geographic area (cataloging units). Each hydrologic unit is identified by a unique hydrologic unit code (HUC) consisting of two to eight digits based on the four levels of classification in the hydrologic unit system. More information can be found at the US Geological Survey website using this [link](#).

RESOLUTION # 20-04

RESOLUTION OF THE LOWER MINNESOTA RIVER WATERSHED DISTRICT BOARD OF MANAGERS

Expressing and Intent to Participate in One Watershed Planning and Supporting a Planning Grant Application

Manager Raby offered the following Resolution and moved its adoption, seconded by Manager Hartmann:

WHEREAS, the Lower Minnesota River Watershed District (LMRWD) exists in a portion of One Watershed Planning Area 56 as established by the Board of Water and Soil Resources (BWSR); and

WHEREAS, other watershed districts, watershed management organizations, counties and county soil and water conservations districts in Planning Area 56 have expressed an interest in initiating One Watershed Planning and in applying for a Planning Grant from the BWSR; and

WHEREAS, all of the interested entities, including the LMRWD, are required by statutes chapters 103B, 103C or 103D to prepare an adopt a water management plan for their organization or entity; and

WHEREAS, One Watershed Planning facilitates coordination of water management priorities, goals and actions across the Planning Area and between entities; and

WHEREAS, One Watershed Planning results in a One Watershed One Plan (watershed management plan) that may be adopted by the participating entities to replace their individually required plans under statutes chapters 103B, 103C and 103D; and

WHEREAS, notwithstanding the recent adoption of the LMRWD's Comprehensive Watershed Management Plan (2019) and the significant time and resources involved in developing that plan, the Board of Managers finds merit in coordinating with its neighboring entities in a One Watershed Planning effort and in seeking a Planning Grant to facilitate coordination and development of a One Watershed One Plan for Planning Area 56.

THEREFORE, BE IT RESOLVED, that the LMRWD Board of Managers intends to participate in One Watershed Planning for Planning Area 56 should the process move forward; and

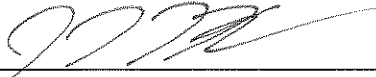
FURTHER, the Board supports the efforts of other entities within Planning Area 56 to seek a Planning Grant from the BWSR for the planning effort; and

FURTHER, given the recent adoption of the LMRWD Comprehensive Watershed Management Plan, the Board reserves any decision on whether to adopt a subsequent One Watershed One Plan to replace its current plan. Rather, the Board, by intending to participate fully the planning process, seeks to coordinate its existing priority, goals and actions with any subsequent One Watershed One Plan.

The question was on the adoption of the Resolution and there were 3 yeas and 0 nays as follows:

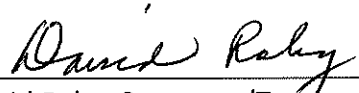
	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
FREY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RABY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HARTMANN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Upon vote, the President declared the Resolution adopted.



 Jesse Hartmann, President


ATTEST:



 David Raby, Secretary/Treasurer

I, David Raby, Secretary/Treasurer of the Lower Minnesota River Watershed District, do hereby certify that I have compared the above Resolution with the original thereof as the same appears of record and on file with the District and find the same to be a true and correct transcript thereof.

IN TESTIMONY WHEREOF, I hereunto set my hand this 18th day of March 2020.



 David Raby, Secretary/Treasurer

MEMORANDUM OF AGREEMENT

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

The Counties of Le Sueur, Rice, and Scott by and through their respective County Board of Commissioners, and

The Le Sueur, Rice, and Scott Soil and Water Conservation Districts, by and through their respective Soil and Water Conservation District (SWCD) Board of Supervisors, and

The Lower Minnesota River Watershed District (LMRWD), by and through their respective Board of Managers, and

The Scott Watershed Management Organization (SWMO), by and through their respective 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 (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 Watershed Districts and Watershed Management Organizations of this Agreement are political subdivisions of the State of Minnesota, with statutory authority to carry out conservation of the natural resources of the state by land use controls, flood control, and other conservation projects for the protection of the public health and welfare and the provident use of the natural resources, pursuant to Minnesota Statutes Chapters 103B, 103D 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 *Lower Minnesota River East 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 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, 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 *Lower Minnesota River East 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 Lower Minnesota River East Watershed (*see Attachment A with a map of the planning area*). 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 Lower Minnesota River East Watershed Partnership.
2. **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 1-year after the term of the BWSR One Watershed, One Plan Planning Grant Agreement, unless canceled according to the provisions of this Agreement or earlier terminated by law.
3. **Adding Additional Parties:** A qualifying party within Lower Minnesota River East Watershed 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.
4. **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. BWSR has identified the following parties as required parties for this agreement: Le Sueur County and Le Sueur SWCD. If one of the required Parties according to the BWSR Operating Procedures for One Watershed One Plan withdraws from this agreement, it does not make this MOA null and void. Should this occur, the remaining Parties will hold discussions with BWSR representatives regarding the reallocation of reassignment of duties, grant funds, and future projection of the project as a whole.
5. **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.

- 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 the Fiscal Agent 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. **Termination:** The parties anticipate that this Agreement will remain in full force and effect through the term of the grant agreement with BWSR and 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 Minn. Stat. Section 471.59, Subd. 5 after the purpose of the Agreement have been completed.
- g. **Amendment:** The Parties may modify this Agreement upon approval by the majority. Any amendment to this Agreement shall be in writing, adopted by each party in the same manner as the original Agreement.
- h. This is a collaborative effort by the Parties and as such, no employees shall be hired as part of this planning project.

6. **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 of one or more technical representatives to an 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 by within 6-months of the date of the BWSR One Watershed, One Plan Planning Grant Agreement to describe the functions and operations of the committee(s).
 - iv. The 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. Members of the Advisory Committee may not be a current board member of any of the Parties.
- 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.
7. **Fiscal Agent:** Scott Soil and Water Conservation District 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 *(Fiscal Agent)*).
 - f. Administration of the grant with BWSR for the purposes of developing a watershed-based plan, including reporting, process oversight, consistent planning and update meetings with BWSR staff, and overall coordination of the process.
8. **Grant Administration:** Le Sueur County 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.
 - c. Coordination and facilitation of Steering Team meetings including establishing date, location, time, space, technology needs, taking meeting notes and sending out meeting minutes, and any necessary accommodations such as refreshments.
 - d. Retain fiscal records consistent with the Day-to-Day agent's records retention schedule until termination of the agreement (at that time, records will be turned over to *(Fiscal Agent)*).
9. The following parties agree to provide the following services to the Lower Minnesota River East Watershed Partnership:
- a. Additional work tasks and responsibilities will be identified in the work plan and sub agreements.
10. **Authorized Representatives:** The following persons will be the primary contacts for all matters concerning this Agreement:

Le Sueur County

Joseph Martin or successor
County Administrator
88 South Park Ave
Le Center, MN 56057
Telephone: (507) 357-8220

Le Sueur Soil and Water Conservation District

Michael Schultz or successor
District Manager
181 W Minnesota Street
Le Center, MN 56057
Telephone: (507) 419-0365

Rice County

Sara Folsted or successor
County Administrator
320 Third Street NW
Faribault, MN 55021
Telephone: (507) 332-6100

Rice County Soil and Water Conservation District

Steve Pahs or successor
District Manager
1810 30th Street NW
Faribault, MN 55021
Telephone: (507) 332-5408

Scott County

Lezlie Vermillion
County Administrator
200 4th Avenue W
Shakopee, MN 55379
Telephone: (952) 496-8100

Scott Soil and Water Conservation District

Troy Kuphal or successor
District Director
7151 W 190th Street Suite 125
Jordan, MN 55352
Telephone: (952) 492-5425

Lower Minnesota River Watershed District

Jesse Hartmann or successor
Watershed District President
112 E 5th Street #102
Chaska, MN 55318
Telephone: (952) 856-5880

Scott Watershed Management Organization

Virgil Pint or successor
Water Management Organization Chair
200 4th Avenue W
Shakopee, MN 55379
Telephone: (952) 496-8177

IN TESTIMONY WHEREOF the Parties have duly executed this agreement by their duly authorized officers.

PARTNER: Lower Minnesota River Watershed District

APPROVED:

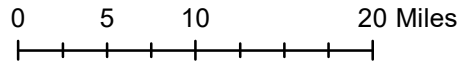
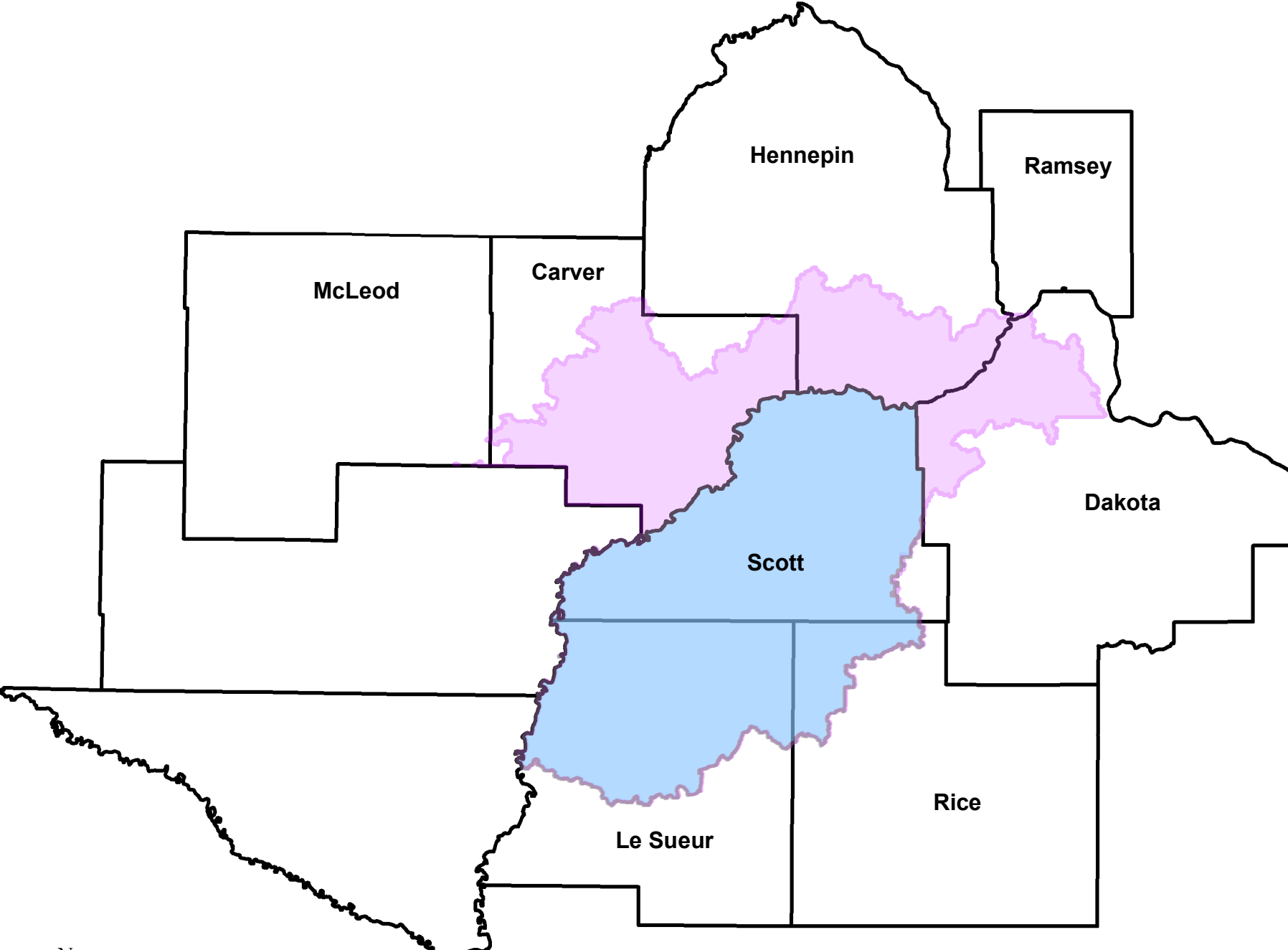
BY: _____
President of the Watershed District Board Date

BY: _____
Secretary of the Watershed District Board Date



Attachment A

(insert map of planning area)

Lower Minnesota River East 1W1P Planning Boundary



Legend

-  Lower Minnesota River East 1W1P Planning Boundary
-  Planning Area 56

Agenda

Lower Minnesota River East 1W1P Informational Policy Committee Meeting

Date & Time: 2:00-4:00pm, Thursday, December 16, 2021

Location:

Le Sueur County Justice Center-EOC Room, 435 East Derrynane Street, Le Center, MN 56057

or

Webex

<https://lesueurcounty.webex.com/lesueurcounty/j.php?MTID=mb068358f3632e9b943a8d305dd1af970>

Meeting number: 2486 196 9438

Password: 3iTRPwPpY77

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|-----------------------|--|
| 2:00pm -2:05pm | Welcome & Review Agenda |
| 2:05pm -2:25pm | Ice Breaker |
| 2:25pm -2:45pm | BWSR Introduction to 1W1P |
| 2:45pm -3:05pm | Share Experiences with 1W1P |
| 3:05pm -3:25pm | Draft Memorandum of Agreement (MOA) |
| 3:25pm-3:40pm | Draft Budget & Timeline |
| 3:40pm-3:50pm | Set Meeting Schedule |
| 3:50pm-4:00pm | Introduction to Next Steps <ul style="list-style-type: none">• Election of Officers• Bylaws• Hiring Consultant |