

**BUFFALO-RED RIVER WATERSHED
COMPREHENSIVE WATERSHED MANAGEMENT PLAN
IMPLEMENTATION AGREEMENT**

THIS AGREEMENT is made and entered into this 17 day of February, 2021 (the “Effective Date”), by and between Becker, Clay, Otter Tail, and Wilkin Counties (the “Counties”); and Becker, Clay, West Otter Tail, and Wilkin Soil and Water Conservation Districts (the “Conservation Districts”); and the Buffalo-Red River Watershed District (the “Watershed District”), all Minnesota political subdivisions, collectively referred to herein as the Parties.

RECITALS

WHEREAS, the Counties have the statutory authority to carry out environmental programs and land use controls pursuant to Minn. Stat. Ch. 375, and as otherwise provided by law; and

WHEREAS, the Conservation Districts have the statutory authority to carry out erosion control and other soil and water conservation programs pursuant to Minn. Stat. Ch. 103C, and as otherwise provided by law; and

WHEREAS, the Watershed District has the statutory authority to conserve the natural resources of the state by land use planning, 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 Minn. Stat. Chs. 103B, 103D, and 103E and as otherwise provided by law; and

WHEREAS, the Parties have a common interest and/or statutory authority to implement the Buffalo-Red River Watershed Comprehensive Watershed Management Plan (the “Plan”) to conserve soil and water resources through the implementation of practices, programs, and regulatory controls that effectively control or prevent erosion, sedimentation, and siltation in order to reduce damages caused by floods, protect the tax base, protect water quality, preserve and conserve natural resources, and ensure continued soil productivity; protect public land and waters; and

WHEREAS, with matters that relate to coordination of water management authorities pursuant to Minn. Stat. Chs. 103B, 103C, and 103D, and public drainage systems pursuant to Minn. Stat. Ch. 103E, this Agreement does not change the rights or obligations of public drainage system authorities; and

WHEREAS, pursuant to Minn. Stat. § 103B.101, subd. 14, the Minnesota 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;” and

WHEREAS, it is understood by the Parties, that the Plan does not replace or supplant local land use, planning, and/or zoning authorities – but, instead, provides a framework to provide increased opportunities for cooperation and consistency on a watershed basis, and to allow local governments units (LGUs) to cooperatively work together to implement projects with the highest return on investment for improving water quality/quantity issues on a watershed basis; and

WHEREAS, the Parties have formed this Agreement for the specific purpose of implementing the Plan pursuant to authority granted under Minn. Stat. § 103B.801.

NOW, THEREFORE, the Parties agree that the above recitals are true and correct, and in consideration of the foregoing recitals and mutual covenants, promises, and agreements under this Agreement, the Parties hereby agree as follows:

AGREEMENT

1. **Purpose.** The purpose of this Agreement is to collectively implement, as local government units (LGUs), the Plan while providing assurances that decision-making, spanning political boundaries, is supported by a written commitment from participants. The Parties are authorized to enter into this Agreement pursuant to Minn. Stat. § 471.59 and recognize the importance of partnerships to implement protection and restoration efforts for the Buffalo-Red River Watershed on a cooperative and collaborative basis.
2. **Relationship of the Parties.** This Agreement does not establish a joint powers entity, joint venture, or partnership; rather it sets 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.” Minn. Stat. § 471.59. This Agreement does not include a financial obligation, but rather an ability to share resources and grant funds.
3. **Term.** This Agreement commences on the Effective Date and expires upon expiration of the Plan, which has an initial term of ten (10) years, unless terminated sooner as provided under this Agreement. If the term of the Plan is extended by the Parties, this Agreement shall extend equivalent to any subsequent term of the Plan, unless terminated sooner as provided under this Agreement.
4. **Adding Parties.** A qualifying party within the Buffalo-Red River Watershed, that is responsible for water planning and resource management according to state law, desiring to become a member of this Agreement shall indicate its intent to join by having its governing body adopt a resolution of intent and filing it with the Policy Committee for consideration. The signed resolution shall be mailed to the existing Policy Committee to initiate consideration by the Policy Committee to join the Plan. Upon approval, the joining party automatically agrees to abide by the terms and conditions of this Agreement; including, but not limited to, the rules, policies, and operating guidelines adopted by the Policy Committee.

5. **Withdrawal of Parties.** A party desiring to withdraw membership from the Plan shall indicate its intent, in writing, to the Policy Committee in the form of a resolution adopted by its governing body. Written notice must be made at least thirty (30) days in advance of withdrawing from the Plan. Any party that withdraws from the Plan remains obligated to comply with the terms of any grants that party has at the time of the party's notice to withdraw, and is obligated to participate until the grant expires or closes-out.

6. **Committees.** Committees are established to carry out the coordinated implementation of the Plan. The Parties agree to establish a Policy Committee, a Planning Team, and an Advisory Committee in accordance with this Agreement.
 - a. **Policy Committee.** The Parties agree to establish the Policy Committee for the purpose of implementing the Plan. The Policy Committee will operate cooperatively and collaboratively, but not as a separate entity or governing body. The Parties agree to appoint one (1) representative, either an elected or appointed official of the respective party, to serve on the Policy Committee. Each party's governing body may choose to appoint an alternate, either an elected or appointed official of the respective party, to serve on the Policy Committee in the event the appointed representative is unavailable. Each party will have one (1) vote regardless of whether they choose to appoint an alternate.
 - i. Authority. The Policy Committee will make recommendations to the Fiscal Agent and to individual governing bodies with respect to grant agreements and amendments, interim reports, project related payments, professional contracts, work plans, budgets, and activities. Each representative is responsible for providing timely and accurate information to their respective governing bodies when actions are required by individual governing bodies of the Parties, and shall act only as directed by their respective governing bodies. The Policy Committee will meet as needed, but no less than annually, to decide on the implementation of the Plan.
 - ii. Operating Guidelines. The Policy Committee will establish operating guidelines to describe the functions and operations of the committees. Once established, the committees will follow the adopted operating guidelines. The Policy Committee may amend the operating guidelines as desired.
 - iii. Work Plan and Budget. The Policy Committee shall review and approve an annual work plan and budget consisting of an itemized statement of the revenues and expenses of implementing the Plan for the ensuing calendar year which shall be presented to the respective governing bodies that are represented on the Policy Committee.
 - iv. Liaison. Representatives of the Policy Committee serve as liaisons to their respective governing bodies.

- b. **Planning Team.** The Planning Team will consist of one (1) staff member from each of the Parties or their alternate. The Planning Team will provide support and make recommendations on implementing the Plan, including identification of priorities. The Planning Team will meet as needed but at least quarterly to discuss project and grant status.
 - c. **Advisory Committee.** The Policy Committee may appoint technical representatives to an Advisory Committee to provide support and make recommendations on implementation of the Plan. The Advisory Committee may consist of the Planning Team, contacts for the state's main water agencies, and/or plan review agencies, and area stakeholders. The Advisory Committee will meet, as needed.
7. **Fiscal Agent.** The Policy Committee shall appoint one (1) of the Parties to be the Fiscal Agent. The Fiscal Agent will provide direct time tracking and expenses for grant reimbursement to their respective LGU. Local grant administration, management, and reporting that is directly related to and necessary for implementation are considered grant eligible activities. The Fiscal Agent agrees to:
- a. Accept fiscal responsibilities associated with grant agreements and execute the grant agreement in conjunction with the respective party receiving grant funds.
 - b. Execute subcontracts with grant recipients describing how funds will be disbursed for the respective projects.
 - c. Perform financial transactions as part of Plan implementation, including reporting requirements.
 - d. Pursuant to Minn. Stat. § 471.59, subd. 3, be strictly accountable for all funds and regularly report all receipts and disbursements and annually provide interim/final reports and a full and complete audit report to the Policy Committee and the Parties' respective governing bodies.
 - e. Provide the Policy Committee and the Planning Team with such records as are necessary to describe the financial condition of the various grant agreements.
 - f. Be responsible for fiscal records retention consistent with the Fiscal Agent's records retention schedule.
 - g. Convene meetings, as needed.
8. **Plan Administrator.** The Policy Committee may appoint one (1) of the Parties to fulfill the duties of Plan Administrator. Local grant administration, management, and reporting that is directly related to and necessary for implementation are considered grant eligible activities.

If an individual Plan Administrator is appointed, the Plan Administrator will provide direct time tracking for grant reimbursement to their respective LGU. These duties may also be appointed to the Planning Team. The Plan Administrator agrees to provide the following services under this Agreement:

- a. Handle administrative responsibilities associated with the implementation of the Plan and any subsequent grant(s), if any, the Parties apply for and receive to implement the Plan.
- b. Be the main contact for the Plan and grant agreements, if any, the Parties apply for/request and receive.
- c. Be responsible for BWSR and other grant reporting requirements.
- d. Provide for proper public notice of all meetings.
- e. Ensure the minutes of Policy Committee meetings are recorded and made available in a timely manner to the Policy Committee and maintain a file of all approved minutes including corrections and changes.
- f. Assist the Policy Committee and the Planning Team with the administrative details to oversee implementation of the Plan.
- g. Meet grant website reporting requirements.
- h. Perform other duties to keep the Policy Committee and the Planning Team informed regarding the implementation of the Plan.

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

Becker County
Barry Nelson [or successor]
County Commissioner
12972 Co Hwy 11
Audubon, MN 56511
Telephone: 218-439-3275
bknelso@co.becker.mn.us

Becker SWCD
Eugene Pavelko [or successor]
District Supervisor
809 8th Street SE
Detroit Lakes, MN 56501
Telephone: 218-846-7360
epavelko@arvig.net

Clay County
Jenny Mongeau [or successor]
County Commissioner
4886 110th Ave S
Moorhead, MN 56560-7726
Telephone: 701-238-2987
jenny.mongeau@co.clay.mn.us

Clay SWCD
Randy Schellack [or successor]
District Supervisor
302 Hwy. 75 North
Moorhead, MN 56560
Telephone: 701-238-8121
Randyschellack@yahoo.com

Otter Tail County
Wayne Johnson [or successor]
County Commissioner
38992 183rd Ave
Pelican Rapids, MN 56572
Telephone: 218-863-3373
waynejohnsonotc@outlook.com

West Otter Tail SWCD
Rick Drevlow [or successor]
District Supervisor
13502 330th St
Rothsay, MN 56579
Telephone: 218-867-2149
drevlowre@gmail.com

Wilkin County
Lyle Hovland [or successor]
County Commissioner
1353 310th Ave
Rothsay, MN 56579-9623
Telephone: 218-867-2563
ldkhovland@rtelnet.net

Wilkin SWCD
Ross Aigner [or successor]
District Supervisor
1689 160th Ave
Wolverton, MN 56594
Telephone: 218-995-2173
edward@wtc-mail.net

Buffalo-Red River Watershed
District
Peter Fjestad [or successor]
President
26563 130th Ave
Fergus Falls, MN 56537
Telephone: 218-731-4630
pfjestad@prtcl.com

Becker County (alternate)
John Okeson [or successor]
County Commissioner
13167 W Lake Sallie Dr
Detroit Lakes, MN 56501
Telephone: 218-847-6244
jokeson@co.becker.mn.us

Becker SWCD (alternate)
Travis Schauer [or successor]
District Supervisor
11720 CO RD 146
Lake Park, MN 56554-9662
Telephone: 218-238-5077
travisschauer@yahoo.com

Clay County (alternate)
Frank Gross [or successor]
County Commissioner
505 3rd St NE
Dilworth, MN 56529
Telephone: 218-790-0287
frank.gross@co.clay.mn.us

Clay SWCD (alternate)
Carol Schoff [or successor]
District Supervisor
8142 200th Street North
Glyndon, MN 56549
Telephone: 218-483-4248
dcschoff@gmail.com

Otter Tail County (alternate)
TBD [or successor]

West Otter Tail SWCD (alternate)
David Johnson [or successor]
District Supervisor
506 Western Ave N
Fergus Falls, MN 56537
Telephone: 701-429-8482
bardfarm1@gmail.com

Wilkin County (alternate)
Dennis Larson [or successor]
County Commissioner
402 Reber Ave
Breckenridge, MN 56520
Telephone: 218-643-2596
dlarson@co.wilkin.mn.us

Wilkin SWCD (alternate)
Jared Nordick [or successor]
District Supervisor
2675 250th Street
Rothsay, MN 56579
Telephone: 218-867-2590
jlnfarms@hotmail.com

Buffalo-Red River Watershed
District (alternate)
Paul Krabbenhoft [or successor]
District Supervisor
1119 25th Avenue South
Moorhead, MN 56560
Telephone: 701-799-0369
pkrabbenhoft@gmail.com

10. **Plan Implementation.** The Parties agree to adopt and begin implementation of the Plan within one hundred twenty (120) days of state approval and to provide notice of plan adoption pursuant to the respective governing bodies' resolution adopting the Plan.
11. **Additional Documents.** The Policy Committee will create and implement operating guidelines, subcontracts, and cost share agreements, as needed. The operating guidelines describe the functions and operations of the committees. Subcontracts will be entered into between the Fiscal Agent and the respective party acting as project operator describing how funds will be disbursed for the project. Cost share agreements will be entered into between

project operators and landowners describing how the project operator will disburse funds to participating landowners.

12. **Compliance with Laws.** 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 Plan.
13. **Indemnification.** Each party to this Agreement shall be liable for the acts of its officers, employees, contractors, subcontractors, 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, contractors, subcontractors, or agents. The provisions of the Municipal Tort Claims Act found under Minn. Stat. Ch. 466, and other applicable laws, govern liability of the Parties. To the fullest extent permitted by law, actions by the Parties, and their respective officers, employees, contractors, subcontractors, 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 Minn. Stat. § 471.59, subd. 1a(a) and does not create any liability or exposure of one party for the acts or omissions of any other party.
14. **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.
15. **Records Retention and Data Practices.** The Parties agree that each respective party will be responsible for any records prepared or maintained by that party, and all parties shall be subject to the Minnesota Government Data Practices Act. Record retention will follow the Fiscal Agent’s retention schedule in accordance with Minn. Stat. § 138.17. If this Agreement is terminated, all records will be turned over to the Fiscal Agent for continued retention.
16. **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.
17. **Termination.** This Agreement may be terminated at any time before expiration upon written consent of a majority of the Parties hereto. The parties acknowledge their respective and applicable obligations, if any, under Minn. Stat. § 471.59, subd. 5 after the purpose of this Agreement has been terminated.
18. **Amendment.** Any amendment, addition, alteration, or deletion of any part of this Agreement can be introduced by the Policy Committee at any meeting. Upon thirty (30) days’ advance written notice of the proposed amendment given to each party to this Agreement, the Policy Committee may enact the amendment, addition, alteration, or deletion of this Agreement upon consent of a majority of the Parties of this Agreement.

19. **Severability.** In the event that any term, part, or provision of this Agreement is held to be invalid or unenforceable, all other terms, parts, and provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable term, part, or provision severed from the remainder of this Agreement.
20. **Entire Agreement.** This Agreement, the Plan, the operating guidelines, and any exhibits and amendments thereto, contains the entire and exclusive understanding of the Parties with respect to implementation of the Plan and supersedes all prior agreements, understandings, statements, representations, and negotiations, in each case oral or written, between the Parties with respect to their subject matter, except as otherwise provided herein.
21. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Minnesota.
22. **Assignment.** The terms of this Agreement are hereby made binding upon the Parties hereto, their successors and assigns, and no party under this Agreement may assign their interest in this Agreement to any other person or entity without the written consent of the other Parties.
23. **Rules of Construction.** The Parties acknowledge that they have had the opportunity to review this Agreement, and that they have an equal bargaining position in this transaction. No rule of construction that would cause any ambiguity in any provision to be construed against the drafter of this document will be operative against any party to this Agreement.
24. **Representation.** The Parties, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this Agreement, and agree they have not been influenced by any representations or statements made by any other Parties.
25. **Counterparts.** This Agreement may be executed in counterparts, meaning that the Agreement is valid if signed by each party even if the signatures of the Parties appear on separate copies of the same Agreement rather than on a single document.
26. **Effective Date.** The Effective Date of this Agreement is the date of the last signature appearing below.

IN TESTIMONY WHEREOF, the Parties have executed this Agreement on the dates written below.

[Signatures appear on the following pages.]

Becker County

Date: 2-16-21, 2021



Chair

Attest:

Date: 2-16-21, 2021



, Auditor
County Administrator

[Signatures continue on the following pages.]

Becker Soil & Water Conservation District

Date: 2/17, 2021

By: 

Its: Board Chair

Attest:

Date: 2/17, 2021

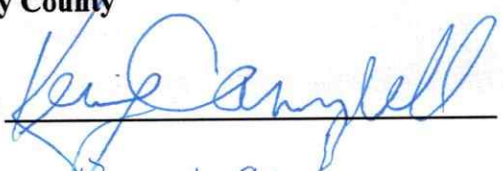
By: Bryan E Malone

Its: District Administrator

[Signatures continue on the following pages.]


Clay County

Date: 2/9/, 2021

By: 
Its: Board Chair

Attest:

Date: 2/09, 2021

By: 
Its: County Administrator

[Signatures continue on the following pages.]

Clay Soil & Water Conservation District

Date: 2/11, 2021

By: Randy Lohsted

Its: Secretary

Attest:

Date: 2/11, 2021

By: Kevin Kassenborg

Its: Manager

[Signatures continue on the following pages.]

Otter Tail County

Date: February 9, 2021

By: Leeland P. Rogers

Its: Chair

Attest:

Date: February 9, 2021

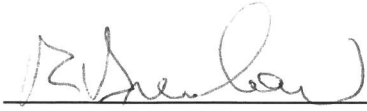
By: Si Colkorse

Its: Administrator

[Signatures continue on the following pages.]

**West Otter Tail Soil & Water Conservation
District**

Date: 28, 2021

By: 

Its: Chairman

Attest:

Date: 2/0, 2021

By: 

Its: District Manager

[Signatures continue on the following pages.]

Wilkin County

Date: February 9, 2021

By: [Signature]

Its: Bo Chair

Attest:

Date: February 9, 2021

By: [Signature]

Its: Auditor - Treasurer

[Signatures continue on the following pages.]

Wilkin Soil & Water Conservation District

Date: 2-10-, 2021

By: Kyle Coon

Its: Chairman SWCD

Date: 02-10, 2021

Attest:
By: Donald Bajunpae

Its: District Manager

[Signatures continue on the following page.]

Buffalo-Red River Watershed District

Date: Feb. 8, 2021

By: Peter V. Fjortstad

Its: President

Attest:

Date: February 8, 2021

By: Catherine Affield

Its: Vice President