

**Dakota County Rural Collaborative**  
**Water Resources Management Ordinance**  
**Issues, Process and Timeline**  
January 21, 2009

**Issues**

**Issue # 1 – Adoption of Local Water Management Plan**

The Dakota County Rural Collaborative Local Water Management Plan (LWMP) was approved by the VRWJPO on October 23, 2008. Minnesota Statutes require that local communities adopt the LWMP within 120 days from the date of the watershed's approval of the LWMP. Collaborative communities must adopt the LWMP by February 23, 2009 in order to retain local permitting responsibility as the Local Government Unit (LGU). (10 of the 12 collaborative communities have approved resolutions adopting the LWMP to date).

**Issue # 2 – Adoption of Water Resources Management Ordinance**

Minnesota Statutes require that local communities adopt a Water Resources Management Ordinance within 180 days from the date of the watershed's approval of the LWMP. Collaborative communities must adopt a Water Resources Management Ordinance by April 23, 2009 in order to retain local permitting responsibility as the Local Government Unit (LGU).

**Issue # 3 – Ordinance Consistency with VRWJPO STANDARDS**

The pending Water Resources Management Ordinance must incorporate the VRWJPO Standards, adopted in March 2006 and amended in February 2008. The following excerpts are from the amended Standards.

“The Cities are the LGUs within their corporate limits. The Townships are the planning and zoning authority in the unincorporated areas in Dakota County; while Dakota County maintains authority for Shorelands, Floodplain and Individual Sewage Treatment Systems in unincorporated areas; both the County and Townships are considered LGUs for unincorporated areas in Dakota County. Dakota County will have authority over Floodplain, Individual Sewage Treatment Systems, and general Shoreland regulations in Shoreland areas.

“If an LGU incorporates the VRWJPO Standards into its ordinances and controls, and demonstrates compliance with the VRWJPO Standards, that LGU will be responsible for permitting. The VRWJPO will require LGUs responsible for permitting to submit some proposed land alteration plans to the VRWJPO for review and comment each year through a VRWJPO evaluation program (emphasis added). Land alteration plans with the following conditions are particularly important to the VRWJPO for review:

- ◆ Diversions
- ◆ Intercommunity flows (upon request from adjoining communities)
- ◆ Project site size of 40 acres or more
- ◆ Projects that are adjacent to or appear to impact major waterways or unique natural resources

“All land alteration plans that require an amendment to or a variance from the adopted local water plan must be submitted to the VRWJPO for review and approval or denial as prescribed by Minn. Stat. 103B.211 (emphasis added).

“The VRWJPO will enforce its permits and Rules as allowed by Minnesota Statutes Chapter 103B and 103D. The VRWJPO may also evaluate local government permitting programs. If these evaluations show non-compliance with the VRWJPO’s Standards and/or the local government’s ordinances, the VRWJPO will implement a permitting program in that local government.”

## **Basic VRWJPO Standards for incorporation in Collaborative Ordinance:**

### **1. FLOODPLAIN ALTERATION STANDARDS**

**Basic Regulation:** No person or political subdivision shall alter or fill land, or build a structure or infrastructure below the 100-year critical flood elevation of any major waterway, public waters, public waters wetland, or other wetland without first obtaining a permit from the appropriate LGU.

### **2. WETLAND ALTERATION STANDARDS**

**Basic Regulation:** No person or political subdivision shall drain, fill, excavate, or otherwise alter a wetland or public waters wetland without first submitting a Wetland Conservation Act (WCA) application to and obtaining the approval from the LGU with jurisdiction over the activity.

### **3. BUFFER STANDARDS (WETLANDS/WATERWAYS)**

**Basic Regulation:** For any lot created after the effective date of the VRWJPO Rules, a buffer shall be maintained around the perimeter of all wetlands, major waterways, and public waters wetlands. The buffer provisions shall not apply to any lot of record as of the date of published VRWJPO Rules until such lot is subdivided, and as long as the lots created are eligible for Green Acres or Agricultural Preserve. Buffer strips shall apply whether or not the major waterway, wetland, or public waters wetland is on the same lot as a proposed development.

A wetlands functional assessment for vegetative diversity will be completed with each wetland and public waters wetland, delineated for a project and buffers established according to the management classification in the following table:

<b>Wetland Buffer Requirement</b>	<b>Exceptional Quality Wetland</b>	<b>High Quality Wetland</b>	<b>Medium Quality Wetland</b>	<b>Low Quality Wetland</b>
Average Buffer Width	50 feet	40 feet	30 feet	25 feet
Minimum Buffer Width	30 feet	30 feet	25 feet	16.5 feet

Conservation easements (or public outlots within plats) must be dedicated to protect all buffer areas required. No structures, land alterations, routine mowing, cutting (except weeds and selective removal of dead and diseased trees), or agricultural practices are permitted within

required buffers. Retention of natural vegetation (undisturbed for five years) is preferred within required buffers.

Waterway corridor buffers include the following:

Classification	Waterway Corridor Buffer Width Standard
Conservation Corridor	<p>Lower Reach (Vermillion River downstream of Biscayne Avenue) – 150-foot average, 100-foot minimum measured from the edge of the meander belt of the river.</p> <p>Upper Reach (Vermillion River upstream of Biscayne Avenue and South Branch Vermillion River) – 150 foot average, 100-foot minimum .measured from the edge of the meander belt of the river.</p>
Aquatic Corridor – Principal Connector	Required buffer width 100-foot average, 65-foot minimum measured from the edge of the meander belt of the river.
Aquatic Corridor – Principal Connector with Trout Stream Designation	100 foot, no averaging, as required by the General Permit Authorization to Discharge Storm Water Associated With Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System Permit Program Permit MN R100001 (NPDES General Construction Permit) issued by the Minnesota Pollutant Control Agency, August 1, 2003.
Aquatic Corridor – Tributary Connector	50-foot average, 35-foot minimum: plus 2 feet for every 1 percent of slope .measured from the edge of the meander belt of the tributary.
Water Quality Corridor	30-foot average, 20-foot minimum where there is a flow path for concentrated surface runoff measured from the center line of the flow path.

#### 4. STORMWATER STANDARDS

**Basic Regulation:** No person or political subdivision shall commence a land disturbing activity or create new impervious surface, unless specifically exempted, without first obtaining a permit from the LGU that incorporates and approves a Stormwater Pollution Prevention Plan (SWPPP) for the activity, development, or redevelopment. For sites disturbing less than one acre an alternative permit approval is allowed, consisting of an Erosion and Sediment Control Plan requiring erosion prevention and sediment control BMPs for retaining sediment on site.

- ◆ Incorporate Construction Erosion Control Criteria
- ◆ Incorporate Post-construction Water Quality Criteria
- ◆ Incorporate Runoff Temperature Control Criteria
- ◆ Incorporate Peak Runoff Rate Control Criteria
- ◆ Incorporate Runoff Volume Control Criteria (Infiltration preferences)
- ◆ Permanent Maintenance for Stormwater Management Facilities Required

**Primary Exceptions:** Agricultural activity is not a land disturbing activity; land disturbing activities with less than 1 acre disturbance/impervious surface and without any offsite impacts (shoreland areas are limited to 10,000 square feet or 100 lineal feet of shoreline disturbance)

## 5. DRAINAGE ALTERATION STANDARDS

**Basic Regulation:** No person or political subdivision shall artificially drain surface water, or obstruct or divert the natural flow of runoff so as to affect a drainage system, or harm the public health, safety, or general welfare of the VRWJPO, without first obtaining a permit from the LGU or the VRWJPO.

**Primary Exception:** No permit shall be required where it is demonstrated that the proposed drainage alteration or diversion does not cause off-site erosion, sedimentation, flooding, or other damage.

## 6. AGRICULTURAL STANDARDS

There are no mandatory standards at this time. The VRWJPO is evaluating options to change from the current voluntary participation in programs to improve groundwater contamination from agricultural practices to establishing mandatory regulations. The Minnesota Department of Agriculture is lead agency for most regulatory functions at this time. Until the VRWJPO Standards are amended to include specific regulations, the collaborative ordinance will not contain specific provisions pertaining to any agricultural standards.

### Ordinance Development Process & Timeline

RSC will assemble all VRWJPO Standards into a single model ordinance for collaborative communities to adopt. The regulations in the ordinance will only affect actions, situations, or circumstances that are applicable. In other words, not all of the regulations will apply in any single activity, and in many instances, none of the regulations will apply. For example, a division of property retaining Green Acres eligibility triggers no special water resource permitting or regulations; whereas, a building permit on a resulting parcel may trigger a development standard (certain erosion control on less than 1 acre disturbances) or require a Stormwater Pollution Prevention Plan (SWPPP) and stormwater permit.

The deadline for Collaborative communities to adopt the ordinance is April 23. From a practical standpoint, the ordinance will need to be approved by the VRWJPO by March 26. Our goal at the present time will be to deliver a draft ordinance to the VRWJPO staff for review and comment by the end of February.

Similar to the public review process with the Collaborative Comprehensive Plan, we do not have the luxury of time or budget to consider 12 individual public hearings with my direct involvement or participation. It is proposed that two joint public hearings will be held in March – the locations and dates are yet to be determined. It will be necessary to identify the locations and know which location each community prefers to attend in order to meet publication requirements. Communities may also hold independent hearings.

Location #1: \_\_\_\_\_; Participants: \_\_\_\_\_

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