

## MEMORANDUM OF AGREEMENT

### PERTAINING TO COORDINATION AND COOPERATION OF ACTIVITIES AND PROGRAMS RELATED TO PROTECTION AND MANAGEMENT OF THE SOUTHWEST METROPOLITAN AREA'S GROUND WATER AND SURFACE WATER RESOURCES

This Memorandum of Agreement (MOA) is entered into by and among the following parties:

Minnesota Department of Natural Resources (MDNR),  
Metropolitan Council (MC),  
Dakota County,  
Scott County,  
City of Burnsville,  
City of Lakeville,  
City of Prior Lake,  
City of Savage,  
City of Shakopee and the Shakopee Public Utilities Commission,  
Credit River Township, and  
Shakopee Mdewakanton Sioux Community (SMSC),

each acting by and through its duly authorized officers.

The parties to this Memorandum of Agreement hereby agree as follows:

#### **I. INTRODUCTION AND BACKGROUND**

The parties agree that addressing the water supply needs of the Southwest Metropolitan Area (referred to in this agreement as the "Area") while protecting surface water features requires cooperation among all interested parties. A cooperative approach to both technical and institutional issues related to water quantity, water quality, and data gathering and management is necessary to ensure the long-term viability of the Area. The following parties to this Agreement are served by municipal water supplies and will be referred to herein as the Communities:

- City of Burnsville,
- City of Lakeville,
- City of Prior Lake,
- City of Savage,
- City of Shakopee and the Shakopee Public Utilities Commission, and  
the Shakopee Mdewakanton Sioux Community (SMSC).

Dakota County, Scott County, the Minnesota Department of Natural Resources (MDNR), and the Metropolitan Council (MC) will be referred to in this Agreement as the Agencies.

Credit River Township is also a party to this agreement but is not defined as either one of the Communities or one of the Agencies for the purposes of this Agreement.

The parties will encourage other interested public and private entities to continue their participation in discussions and planning relating to the protection and management of the Area's ground and surface water resources.

In early 1997, several cities in the southwest portion of the metropolitan area, south of the Minnesota River began meeting to discuss the anticipated challenges the communities may face in obtaining sufficient water to supply projected growth. In particular, the communities addressed the need for additional water resulting from or related to the drawdown of ground water in the Area and the impact this had on some unique surface water features in the Area. The area of concern includes all the area within the Communities and Credit River Township. However, the surface water features of concern were primarily wetlands, streams and springs in the Minnesota River Valley. The Southwest Metro Ground Water Work Group (SMGWG) was formed in April 1997 to serve as a forum to discuss the issues facing the Communities and the Agencies. A Management Plan (Attachment I) was prepared in 2002 outlining the group's history, accomplishments, and needs for the future. Attachment I is incorporated herein as if fully set forth. The SMGWG has served as a forum for sharing of information and discussion of each community's development of plans for supplying water while protecting surface water features.

## **II. PURPOSE**

The purpose of this Memorandum of Agreement is for the Communities, Credit River Township, and the Agencies to commit to work together to address the need for a sufficient supply of water to the Communities and Credit River Township while protecting natural resources in the Area. This MOA also seeks to establish a minimum set of water conservation and development standards that the parties will strive toward implementing and the respective roles and responsibilities of the parties in that endeavor consistent with their statutory responsibilities and authorities.

## **III. AUTHORITY**

Nothing in this Agreement shall be constructed to modify, amend, or alter any statutory authority or legal obligations or responsibilities of the parties. In addition, each party's activities and obligations under this Agreement are expressly subject to the availability of appropriated or budgeted funds to the party. This Memorandum of Agreement is only intended to facilitate cooperative implementation of statutory requirements and efforts.

## **IV. IMPLEMENTATION**

The Communities, Agencies, and Credit River Township fully support the concepts of cooperation and coordination and are committed to developing efficient mechanisms to address the water supply needs of the Southwest Metro area while protecting natural resources. To advance this effort, the Communities, the Agencies and Credit River Township will continue to participate in the SMGWG. Specific needs and recommendations are contained in the Management Plan. Through the SMGWG, the

parties will strive to meet the following general needs and goals. (In each case, those parties currently involved in the activities are indicated.)

- Collect and evaluate additional water resource information including, pump test data, water level measurements, surface water measurements, and ground water withdrawals to better assess the effects of pumping on surface water features such as Savage Fen, Boiling Springs, Eagle Creek, Minnesota River Valley wetlands, Black Dog Fen and the potential impact on other water bodies – Ongoing activity involving the MDNR, MC and the Communities.
- Continue to evaluate source water alternatives including intercepting quarry water, use of surface waters, inter-community sharing, and alternative aquifer use – Ongoing activity involving the Communities and Credit River Township with assistance from MDNR and MC.
- Evaluate means and methods to minimize the impact of increased impervious surface on ground water recharge and surface water flow – Ongoing activity involving the Agencies, Communities, and Credit River Township.
- Continue to implement conservation and demand reduction practices and strive to maintain or reduce overall and residential per capita demand –Implementation by the Communities with oversight and input by MDNR and MC to the extent of their statutory authority and responsibility.
- Continue to utilize the SMGWG as a forum for discussion of sub-regional issues with meetings to be held as necessary – facilitated by MC with participation of involved parties.
- Explore potential funding sources for regional data collection and evaluation efforts, and for alternative source and interconnection evaluation – Agencies, Communities, Credit River Township and other interested entities.

## **V. WATER CONSERVATION**

Minnesota Statutes Section 103G.291, subdivision 3(b) requires that public water suppliers serving more than 1,000 people must employ demand reduction measures that include evaluation of conservation rate structures and a public education program prior to requesting approval to construct a water supply well or an increase in the authorized appropriation volume. In addition to these requirements, the Communities agree to work toward the following conservation goals and applicable measures.

- Keep unaccounted/unmetered water demand below 10% and try to lower it whenever possible.
- Maintain or reduce both overall and residential per capita demand. A goal for residential demand of 75 gallons per capita per day or less should be set.
- Establish water efficient landscaping on public lands and set an example in the community with water efficient practices in municipal uses.

- Provide customers with information on the benefits of conservation and how they can reduce water use. Start education efforts related to lawn watering before the season begins and continue throughout the irrigation season.
- Work with businesses and industry to lower water use and increase re-use where possible.
- Implement conservation rate structures and ordinances to encourage improvements in water use efficiencies and reduce peak demands to the maximum extent possible. Ordinances that should be considered include, without limitation: time of day lawn watering restrictions, limiting lawn watering to a certain number of days per week, requirements for soil moisture meters or rain sensors that prevent the operation of systems after an adequate amount of water has accumulated, use of drought tolerant turf, requirements for 4" or more of black dirt on sandy soils before establishing new lawns, prohibiting irrigation of landscape strips that are less than eight feet wide, prohibiting water waste or runoff from irrigation systems, and establishing a minimum number of trees based on lot size.
- Implement development approval provisions to minimize large open spaces that include water intensive landscaping or turf. Consider establishing limits on the percent of total open space lot area that can be developed with water intensive landscaping.

Credit River Township will also consider promoting these conservation goals and measures to the Township's residents.

Each of the Communities, except the SMSC, which is a sovereign nation, will agree to the following measures:

- To determine the location of future wells in consultation with the MDNR.
- To have a MDNR-approved water emergency and conservation plan, developed in accord with Minnesota Statutes, section 103G.291, subdivision 3, and water supply plan in accord with section 473.859, subdivision 3(4), updated as required.
- To work with the MDH on a Wellhead Protection Plan when required.

The designated parties agree to the following where applicable:

- Each of the Communities will inform adjacent communities when a new water supply well is being planned. This will include the proposed location and aquifer that is to be utilized.
- Each party with authority for land use planning will encourage designs in their land use decisions and development requirements, to the extent feasible, that promote infiltration of storm water, in order to maintain ground water recharge.
- Each party will share ground water monitoring and modeling information and results with others conducting modeling efforts with the goal of developing and utilizing a standard set of modeling assumptions for the Area.

## **VI. SPECIFIC RESPONSIBILITIES**

Specific responsibilities for each of the Communities and each of the Agencies are listed below.

## **1. Burnsville**

The City of Burnsville will work with the MDNR to protect the hydrologic integrity of the Black Dog Fen from further degradation. The city will continue its discussion with Savage on the possibility of jointly developing water supply sources.

## **2. Lakeville**

The City of Lakeville will remain a possible source of water to supply neighboring communities, as long as it can maintain sufficient volume to make this a viable option without adversely impacting other groundwater users.

## **3. Prior Lake**

The City of Prior Lake will continue to work with the MDNR on monitoring the two Jordan observation wells associated with City Well #6 and assessing the information to site additional wells.

## **4. Savage**

The City of Savage will continue to implement its prior agreement with the MDNR to develop the city's supply system through calendar year 2008. Part of the city's effort may include negotiating with adjacent communities to enter into a cooperative arrangement for the development of a supplemental water supply. The city will work with the MDNR to develop additional water capacity from sources that do not adversely affect the Savage Fen. The city will continue to size pipes in the vicinity of its neighboring communities such that interconnections can be made to exchange water if it is ever desired to do so.

## **5. Shakopee Public Utilities Commission (SPUC) and the City of Shakopee**

The City of Shakopee will work with its Public Utility Commission to assure that an adequate supply of water exists prior to approval of new areas for development.

SPUC will develop its well system in accord with a plan agreed upon with the MDNR. SPUC will continue to evaluate interconnection possibilities as its supply lines reach closer to adjacent communities.

## **6. Shakopee Mdewakanton Sioux Community (SMSC)**

The SMSC will continue to participate with SMGWG in studying, developing and protecting the ground water resource and in examining potential sharing opportunities. The SMSC will implement water-conserving measures where appropriate.

## **7. Dakota County**

Dakota County will continue to participate with SMGWG communities and agencies in studying, developing and protecting ground water and surface water resources. Dakota County will assist in the use of its ground water model by parties to this MOA. Recognizing that Dakota County has limited land use authority (i.e., only in rural

shoreland areas), Dakota County will encourage wise use and conservation of ground water, including following the State and local delegated well regulations. Dakota County will encourage the use of water conservation concepts/techniques by cities, townships, and watershed organizations during plat review processes and other appropriate document reviews.

## **8. Scott County**

Scott County will consider establishing permitting authority, possibly as part of the plat review requirements, of new well construction in townships for private wells and/or community well systems. The County will consider requiring a minimum well depth so as to minimize well interference and ‘out of water’ events. The County will also consider requiring backflow prevention and that a minimum set of water conservation standards be met prior to plat approval.

## **9. Minnesota Department of Natural Resources (MDNR)**

- i. The MDNR will act in a timely manner on all permit requests, while fulfilling its Legislative mandate to be the State’s agent in protecting its waters. The MDNR will apply the same scrutiny to permitted private water users as it does to the public systems in the study area.
- ii. The MDNR will work with each water supplier and with the SMSC, if requested, to develop a framework agreement on how the water supply systems will be developed. These agreements will form the basis for permitting through the Water Appropriation process. The MDNR will support a flexible approach geared to achieving a goal of ground water protection and long-term reasonable use.
- iii. The MDNR Division of Waters will coordinate internal DNR interests in developing the agreement referenced in the immediately previous paragraph such that only a single MDNR position is formulated.
- iv. The MDNR will consider the establishment of “allowable volumes” from select aquifers and, if allowed, will respond to community proposals on how this volume can best be developed.
- v. The MDNR will continue its basic data collection programs in the Area, as long as funding is available. The MDNR will work with the Communities to establish the data collection program for new wells.
- vi. The permitting approach for issuing permits in the Mt. Simon–Hinkely/Aquifer will be in accord with the MDNR guidelines developed in 1998 in response to legislation requiring protection of the that aquifer. The MDNR will work with the aquifer’s users to collect data and monitor application of the guidance to assure the integrity of the aquifer.
- vii. The MDNR will work with parties interested in proposing legislation to support funding for cooperative solutions to this Area’s water problems. This effort would reflect items of regional interest.

viii. The MDNR will evaluate well interferences in accordance with Minnesota Rules, part 6115.0730. Municipalities proposing new production wells or significant increases in authorized after volumes will coordinate with adjacent local units of governments to minimize domestic well interferences. When requested, the MDNR will provide information to prospective new domestic well owners so the likelihood of well interference with permitted wells can be minimized.

ix. The MDNR will work with the Metropolitan Council and the Communities to define minimum conservation measures that all communities need to adopt as part of their framework agreements. These minimum elements would be adopted in the next iteration of the community's water conservation and emergency plan and also be part of any new or amended permits.

#### **10. Metropolitan Council (MC)**

i. MC will continue to facilitate the SMGWG, including coordination of special projects such as the Scott County groundwater modeling currently underway, as agreed by the participants.

ii. MC will maintain the ground water model currently being used and facilitate future model developments to evaluate alternative ground water scenarios. When requested, through the use of models, the MC will assist the Communities and Credit River Township in their efforts to assess and minimize potential impacts of the future appropriation of the water necessary to support their planned growth.

iii. MC will seek opportunities to incorporate a more thorough assessment of water availability and a community's water supply plan prior to extending municipal services.

iv. MC will work with the MDNR on developing new water supply plan guidelines for the next iteration of community plans.

#### **VII. PRIMARY CONTACTS**

The parties intend that the work under this MOA shall be carried out in the most efficient manner possible. To that end, the parties hereby designate the following individuals who will serve as the primary contacts between the parties. The parties intend that, to the maximum extent possible, all significant communications between the parties shall be made through the primary contacts. However, nothing in this Agreement shall be deemed to authorize the primary contacts to modify, or execute amendments to, this Agreement on behalf of their respective organizations. The primary contacts are as follows:


Minnesota Department of Natural Resources - Pat Lynch  
Metropolitan Council – Chris Elvrum  
Dakota County – Bill Olsen  
Scott County – Al Frechette  
City of Burnsville – Paul Ohme  
City of Lakeville – Keith Nelson  
City of Prior Lake – Bud Osmundson  
City of Savage – Garry Larson

City of Shakopee – Michael Leek  
Shakopee Public Utilities Commission – John Crooks  
Credit River Township – John Kane  
Shakopee Mdewakanton Sioux Community – Scott Walz

Any party may modify its designation of its primary contact by written notice to the other parties.


**VIII. MODIFICATION, TERMINATION AND EXPIRATION**

This Agreement shall become effective upon execution by all parties and shall remain effective until terminated. This Agreement may be amended upon the mutual agreement of all of the parties, and only by a written amendment executed by duly authorized representative of all the parties. Any of the parties may terminate its participation in this Agreement, by a written notification to the other parties specifying the termination date and issued by the terminating party not less than 30 calendar days before the specified termination date. This Agreement may also be terminated by the mutual agreement of all the entities that remain parties to the Agreement at the time of the termination. Unless earlier terminated as provided above, this Agreement shall terminate 6 years after its effective date.

  
Director Date 11-21-03  
Minnesota Department of Natural Resources  
Division of Waters


  
Chair Date 12/10/03  
Metropolitan Council


  
Mayor Date  
City of Burnsville


  
Mayor Date 1/5/04  
City of Lakeville

  
Chair Date 12/16/03  
Scott County Board of Commissioners


 10-20-03  
Mayor Date  
City of Prior Lake


 3-23-04  
Chair Date  
Dakota County Board of Commissioners

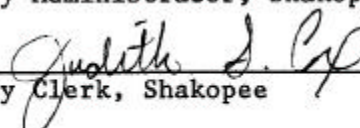
Approval As to Form  
 3-22-04  
Assistant County Attorney/Date

Attest:   
Clerk to County Board 3-23-04


 8/19/03  
Mayor Date  
City of Savage

 01/07/04  
Mayor Date  
City of Shakopee

  
City Administrator, Shakopee

  
City Clerk, Shakopee

 12-11-03  
Board Member Date  
Credit River Township

 12-18-03  
Chairman Date  
Shakopee Mdewakanton Sioux Community

 12/8/03  
President Date  
Shakopee Public Utilities Commission