

Headquarters, U.S. Army Corps of Engineers,
ATTN: CECW-P (IP),
7701 Telegraph Road,
Alexandria, VA 22315-3860

Fargo-Moorhead Metropolitan Area Flood Risk Management Project Final EIS

RE: Alignment Violates EO11988

The USACE previous responses to Violations of EO11988 are insufficient.

On August 10th, 2011 Senator Kent Conrad convened an official field hearing of the U.S. Senate Budget Committee to examine current efforts and potential roadblocks on the path to securing permanent flood protection for the Fargo-Moorhead community.

During that hearing no opposition was allowed to testify. However, Colonel Michael Price, Commander of the St. Paul District of the U.S. Army Corps of Engineers; **and** Fargo Mayor Dennis Walaker; Darrell Vanyo, Chairman of the Cass County Commission; testified that dams, levees and ring dikes would not be effective protection citing lack of high ground to tie into. However, the entire proposed LPP and FCP diversion will be tied into the same elevations that the aforementioned have claimed "do not exist".

If, *"Fargo area lacks high ground to begin and end levees, and that limits the potential levee height."* (pages 7-8 Appendix U) why would the USACE design a control structure, dam and levee system that stages water that exceeds the limits of potential levee height?

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7.5.3.4.5 Floodplain Impacts

Executive Order 11988 requires federal agencies to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.

This FEIS study, specifically Appendix O, has shown that the non-federal sponsors and local partners chose the current alignment and did not request any further consideration to alternative plans of combinations of plans. This suggests a conflict of interest and lack of representation to affected taxpayers and areas outside the protected area.

Darrel Vanyo testified August 10th, 2011 during the official field hearing of the U.S. Senate Budget Committee *"...can we in this region afford to say that we cannot grow anymore..."*. A square foot of land in the current floodplain is worth (x). Increasing the land value of (x) at the expense of communities upstream of the proposed dam and diversion for the benefit of Fargo and its economic development investors is appalling. Darrell Vanyo's testimony is self-evident that Fargo is pursuing this project for future flood plain development which is a direct violation of EO11988.

There exists the possibility of a minimum of \$142 million in savings (page 232 Appendix O) without having to sacrifice over 220 square miles of farmland and floodplain for Fargo's 80-100 square miles of future economic development and Violation of EO11988.

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8.4.2.1.6 Northern Inlet for North Dakota Diversion

This inlet for the North Dakota diversion was initially considered near river mile 479. Moving the inlet North near river mile 469 was considered as a measure to minimize downstream impacts. It was determined that this measure could result in reduced downstream impacts, however it could not eliminate them independently. It would also leave a number of existing developed properties outside the protected area.

Advantages: Page 241-242 of Appendix O - Plan Formulation

ADVANTAGES: This eliminates the intersection structures with the Wild Rice River. Because it intersects the Sheyenne River downstream of the Horace Diversion inlet and captures the water from the West Fargo Diversion, it is possible that neither Sheyenne River crossing will require an inlet to the diversion. It shortens the diversion by about 4 miles. It eliminates the railroad bridge near Horace and the 48th Street and 46th Street (and possibly the 44th Street) road bridges. (It does require a second intersection structure with the Sheyenne River.) Because the channel is shorter, there would be less maintenance on the finished channel.

Civil, PM and H&H Responses: Pages 298-299 of Appendix O - Plan Formulation

Proposal: Begin ND Diversion Channel Further North

CIVIL: Again, the ND alignment is a locally preferred alignment and therefore they chose the general location for the inlet. Their reasoning for the location of the inlet being further South than the MN alignment was **to accommodate the city of Fargo's current future plans of development** and to protect the city from the Wild Rice River flooding to the South.

PM: To eliminate and relocate the 10 houses of Horace will not be acceptable to the Locally Preferred Plan sponsors.

H&H: With the new location proposed of the inlet structure it is very probable that a control structure of some sort will need to be placed at the intercept of the Wild Rice River and the Red River of the North due to the amount of water build up that will occur. This is a similar concept to the extension channel on the MN alignment that was needed for conveyance, no structure at the proposed ND inlet on the Wild Rice will potentially disrupt the design of the channel.

The major costs relating to the current LPP and alignment are according to pages 9-10 of Appendix U (SDEIS Public and Private Summarized Comments and Corps Responses) "**Metro Flood Study Work Group (MFSWG) established the goal of a stage of 36 feet at the Fargo gage during a 0.2-percent chance event, or the 500-year event.**" Having set an unrealistic, and fiscally irresponsible goal, "**neither the LPP nor the FCP meet the MFSWG's original goal; however the MFSWG has accepted the level of flood risk reduction provided by the LPP, which is a stage of 40 feet for the 0.2-percent chance event. The proposed diversion would not remove the entire metropolitan area from the 0.2-percent chance floodplain,...**"

Page 142 - 3.10.4 Risk of Project Failure - Main Report FEIS states:

"...there will be a residual risk of a component failure or exceedance of the system's design capacity..."

"An overtopping or breach of a tie-back levee, storage area levee, or failure of a control structure in any of the alternatives could allow flood water into the protected area during any flood event in which the failure occurred. The effects of such a failure could be catastrophic, depending on the magnitude and timing of the stage increases within the protected area."

Is it necessary to spend \$1.8 billion+ on a structure that contains admitted residual risk of component failure and/or exceedance of the system design capacity for Fargo's future development, while simultaneously violating EO11988 for Fargo's future economic development, yet, denying West Fargo, Oxbow, Hickson, Bakke, Pleasant Township, Comstock MN, Richland County ND and Wilkin County MN the same benefits for economic development when viable alternatives exist?

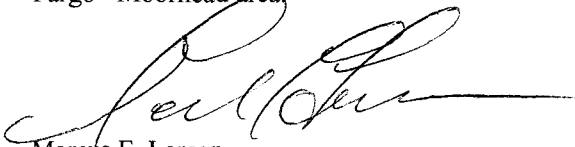
On Monday May 16th, 2011 the Board of Commissioners of Fargo, ND carried a motion to increase building protection to 42.5 which Mayor Dennis Walaker later testified and increased on August 10th, 2011 during the official field hearing of the U.S. Senate Budget Committee *"...roughly \$200 million dollars to bring us up to 43 feet..."*.

43 feet of protection in Fargo is a game changer and all previous cost benefit ratios are no longer valid.

Despite the USACE response (page 72 G-10 Appendix U) *"...the City of Fargo has not indicated to the Corps any intention to build a consistent line of protection to a 42-foot stage..."* this is a matter of public record that the USACE should be attentive to. Testimony from the August 10th, 2011 official field hearing of the U.S. Senate Budget Committee indicated a significant change in Fargo's flood protection need and page 169 of City of Fargo Commission Minutes May 16th, 2011 reinforces that 100 year flood protection can be achieved without a \$1.8 million Dam and Diversion structure.

[<http://files.cityoffargo.com/content/dam/1a0f948a64d24b935f3c5c4a9b4da4edbe587c/web110516.pdf>]

Is 500 year protection realistic and necessary? Should the local sponsor(s) Fargo, be allowed to violate EO11988? There is no evidence that a 500 year flood has occurred since ND was settled and little valid evidence that a 500 year event would occur during the lifespan of the proposed structure. However, the current flood events that Fargo has recently faced coincided with the Breckenridge Diversion going online. Current impacts on Fargo and the Red River Valley have been induced by other USACE projects and must be addressed to remove those downstream impacts before a responsible solution can be reached for the Fargo - Moorhead area.



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