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Political obstacles: A contentious consensus possible

Dave Roepke - 06/14/2009

Not even a week had passed since the patchwork collection of temporary flood walls up and down the Red River had been pushed to their presumed limits when the first sign of the political support for a more permanent form of flood protection emerged. Six days after the crest in Fargo-Moorhead, a broad assortment of elected officials – governors, mayors, county board heads and federal and state lawmakers representing both cities – crowded about their new spirit of cooperation.

When it came time for Rep. Collin Peterson, the Democrat who represents the large and mostly rural Congressional district that includes Moorhead, to say his piece at that news conference, he warned the biggest challenge would be reaching consensus, a sentiment he echoed a month later in a summit in Washington, D.C., attended by a similar set of officials. It didn't take Peterson long to prove his point. Three weeks after the Capitol Hill meeting, while speaking with Moorhead officials and area landowners, he ruled out a Minnesota diversion channel, a plan a federal report released the next day portrayed as not cost-efficient, and also said that projects protecting the metro area were bound to help Fargo more than Moorhead. It was too brash, he conceded later, an assessment many others shared.

“I think the congressman made a mistake,” said Rep. Morrie Lanning, R-Moorhead, former Moorhead mayor. “It was a different tone than we had in Washington. If that really was the underlying feeling, that would have been a good place to air it.” The episode illustrates that even though a major project could carry a price tag of \$1 billion, the key issue in protecting Fargo-Moorhead from flooding won't be the John Hancock on the front of the check. It'll be the endorsing signatures on the back, not to mention those from bureaucrats on the necessary state and federal permits.

The political pitfalls

The problem with pushing through permanent protection from flooding is that votes aren't like water. They don't flow across borders. A chorus of “Kumbaya” can easily give way to the prevent defense of local concern if a plan's detractors, which every flood control measure has, have the ear of crucial officials. That was the cause behind Peterson's preemptive rejection of a Minnesota-side diversion, a project that would require buying more than 7,000 acres of farmland, said Jim Danielson, a retired political science professor from Minnesota State University Moorhead and a former Moorhead councilman. “He's obviously referencing his political beheldness to his base, which is agrarian western Minnesota,” Danielson said. “They're saying, ‘Right on, Collin. We're with you on that one.’ ” It's the most vexing problem with getting support for flood control along the Red, Danielson said. Because the Red is both a river and a border, political backing to contain its continual spring flooding in the F-M area inherently has to come from North Dakota and Minnesota. Different officials, however, owe their political

clout to different populations. “It’s so difficult to get across that political demarcation,” Danielson said.

Lance Yohe, executive director of the Red River Basin Commission, deals with this all the time. The commission he directs includes representatives from throughout the basin, including Canada. Hundreds of jurisdictions, from local water management boards to federal agencies, can lay claim on governing at least a portion of the watershed, he said. To get the federal support needed, not just for funding but for permit approval, those heads need to nod in approval. For that, projects have to be framed as being advantageous up and down the river, Yohe said. “You have to find benefits for everybody and everything,” he said. “Somehow we need to look at it like that.”

Or to come at it the other way, plans have to make sure that everyone is equally unhappy, Peterson said last week. “Water is about the most political thing you deal with, at all different levels. You’re going to have people unhappy no matter what you do,” he said.

Few people in the region have more experience trying to accomplish that than Jeff Volk, CEO and president of West Fargo-based Moore Engineering. Volk’s firm shepherded the West Fargo diversion project and the recently built Maple River Dam through the approval process, two projects that limited the effects of the 2009 flooding. A veteran of public-input meetings, he knows there’s no way to get every last farmer, riverside resident or taxpaying homeowner to sign off on a project. That’s why local officials have to buy in to any plan, he said. “If the challenge is we have to convince everyone in that community, it’s impossible. They need to be leaders. They need to be able to stand up and say I believe this project will not harm us, and say it with authority,” Volk said.

That’s why Volk is worried by rumblings from Minnesota on the \$161 million Southside Flood Control Project for which Fargo will soon seek a permit. One of their big concerns is it is too centered on Fargo. But that’s how flood control happens, one piece at a time, he said. Agreeing isn’t everything. As Fargo Mayor Dennis Walaker has pointed out, there’s a window of opportunity in the wake of a big flood. Speaking at the flood summit in Washington, D.C., he put the length of the goodwill honeymoon at six months.

Yet the Army Corps of Engineers, which is studying possible flood-control solutions, predicts the earliest construction start date for any new project is April 2012, a timetable that was doubted even as it was distributed. “This is the most optimistic schedule I have seen in my whole career,” Aaron Snyder, a project manager and planner working on the corps’ report on flood-protection options for Fargo-Moorhead, told a cross-border group of officials in late May. Stamina is important on flood-control projects because they are notoriously fraught with red-tape delays. Even if the necessary political accord is reached, there are regulatory roadblocks that can stretch a project across decades. “These projects take time. We’ve got to keep everybody focused,” Yohe said. Take the Maple River Dam near Enderlin, N.D., said Volk. That was a project that took two decades to build, much of that time spent mired in the thick muck of federal rules. Because the dam would stretch across the Maple, a permit from the Army Corps was required even though the project didn’t tap federal money. That’s because the Maple’s water eventually flows

into the Red, which is considered a navigable river and hence needs the corps' to sign off. An Army Corps permit, which the southside project also needs, opens the door to opposition via a long list of federal laws, such as the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, the Archeological Resources Protection Act and the Native American Graves Protection and Repatriation Act.

This presents a number of problems, Volk said. For instance, the standard for landing a permit has become having no environmental impact. "Do you realize how difficult that is, to have a no-impact plan?" he said. On Fargo's southside project, which was designed to reduce overland flooding, the need to find a plan that won't affect river levels on the Red required cutting channels in oxbows – a concession increasing the project's price tag by \$50 million, Volk said. "Is it worth it? Nobody asks that question," he said. Also, the Army Corps treats all objections as equally valid, Volk said. That's especially true, he said, with interest groups corps officials deal with regularly. Regulators are bound to give the groups credence because they work with them continually while permit applicants are a one-shot deal. "Nobody will look at them and say, 'That's not true,' " he said. Many applicants end up giving up, Volk said. And though the prospects for landing federal dollars are considered bright – Sen. Byron Dorgan, the North Dakota Democrat, is the chairman of the subcommittee that funds the corps – money will be a constant complication. It always is, Yohe said "You've got to get it year after year after year," he said.

Venue for compromise

Volk warns of another potential problem for permanent flood protection: a dizzying array of possible alternatives. "Part of it is many times there are other options. Based on how it's affecting you, you're going to pick the option that's affecting somebody else," he said. When Dorgan held a congressional hearing on flood control at the Fargodome late last month, Volk spotted supporters of restoring wetlands to reduce flooding. "They were sitting in the room (at the hearing) – quiet, listening. When their time is right, they'll come to the table and suggest, 'You guys are all wet. You're just completely missing the boat. You just simply need to restore the wetlands,' " he said.

Lanning and many other seasoned seekers of flood protection believe that's why a basinwide organization with some sort of legal authority is needed to evaluate options and give recommendations. He and Tom Fischer, a North Dakota state legislator who was worked extensively on water issues, sponsored legislation giving \$500,000 apiece to the Red River Basin Commission to study the possibility of such an organization. "There's going to have to be a higher level to deal with what's going on," Lanning said. Lanning believes there is newfound momentum for the plan, one he backed 30 years ago when he was still a Moorhead alderman. At the D.C. meeting, the suggestion drew broad support and has had backing in later meetings. "I'm more optimistic right now than I've ever been," Lanning said. "I hope it doesn't take another 30 years." But he concedes that to keep the ball moving, local consensus is needed before details for a newly empowered basin commission can be ironed out.

Unprecedented joint meetings of city and county officials from the surrounding area will need to continue. That's where details like the desired height of protection will have to be hashed out, said Moorhead Mayor Mark Voxland. "We'll have to have that number sooner rather than later," Voxland said. But given the inherent political roadblocks, agreement may have to come from the top, Danielson said. He foresees the Obama administration brokering a compromise, albeit behind closed doors. "It may very well take the executive branch to step in and say, 'Look guys, here's the deal we want you to reach, OK?' " he said.

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