

STATE OF MINNESOTA

Office of Governor Mark Dayton

116 Veterans Service Building ♦ 20 West 12th Street ♦ Saint Paul, MN 55155

September 1, 2016

The Honorable Shaun Donovan
Director
Office of Management and Budget
725 17th Street NW
Washington, DC 20503

The Honorable Jo-Ellen Darcy
Assistant Secretary for Civil Works
Department of the Army
108 Army Pentagon
Washington, DC 20310

Dear Director Donovan and Assistant Secretary Darcy:

I write you with regard to the proposed Fargo-Moorhead Flood Risk Management Diversion Project. I am dismayed and deeply disappointed that the U.S. Army Corps of Engineers is proceeding without any evident regard for the unresolved issues Minnesota has identified. As I have expressed on multiple occasions, it is essential that the Army Corps of Engineers respect Minnesota's permit decision-making process and not act prematurely to initiate construction before our process is complete.

The Chief of Engineers, Lieutenant General Semonite, toured the proposed project area on August 22 and met with the Diversion Authority on August 23. Given how clearly Minnesota has communicated the state permitting issues facing this project, it was inconceivable to me that General Semonite did not also request an opportunity to meet with Minnesota and learn more about these challenges during his visit. But then I viewed his five-minute infomercial for the project (<https://www.youtube.com/watch?v=IwdOeqWxaug>) and realized this was not a fact finding visit, but rather a promotional tour. In the video, Lieutenant General Semonite did not so much as acknowledge the unresolved permitting questions, while he sung the praises of the "amazing project" that he promised to deliver by 2023, apparently with or without the required Minnesota permits. As his project manager stated, "We are racing with local sponsors to get it done as quick[ly] as possible."

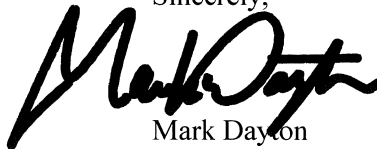
This is not how we do business in Minnesota. Despite Lieutenant General Semonite's unfounded representation to the contrary, Minnesota has not "come together" with the Army Corps of Engineers and the State of North Dakota to advance the proposed project. In all my years of public service at the state and federal levels, I have never seen such a complete disregard for the process of a co-regulator. You should understand that a favorable permit decision by Minnesota is by no means guaranteed, and I take exception to actions by the U.S. Army Corps of Engineers and its non-federal sponsors to suggest otherwise or attempt to advance project construction in the absence of the required Minnesota permits.

These most recent developments are a very disappointing extension of Assistant Secretary Darcy's premature decision to execute the Project Partnership Agreement (PPA) for this project on July 11. Given what Minnesota communicated prior to July 11 about the very significant and unresolved issues relative to our threshold permit requirements, Assistant Secretary Darcy could not have reasonably concluded that the Army Corps of Engineers "is likely to resolve any outstanding regulatory issues that could affect the prospects for completing construction of the project." (Previous correspondence enclosed.)

Statements and actions like those described above demonstrate a federal disregard for state regulatory authority, which is very concerning to me and confusing to members of the public. Such rhetoric clouds an already complicated process and is a source of significant stress for many citizens in the project area.

Finally, let me assure you that Minnesota Department of Natural Resources continues to carefully evaluate the Diversion Authority's permit application, and is currently awaiting required information that was not provided with the Diversion Authority's original application. Minnesota has no desire to take any more time than is necessary in reaching its permit decision.

Sincerely,



Mark Dayton
Governor

Enclosures

cc: Lieutenant General Todd Semonite, USACE Chief of Engineers
Major General Michael Wehr, USACE Mississippi Valley Division
Commander
Colonel Samuel Calkins, USACE St. Paul District Commander
Mayor Timothy Mahoney, City of Fargo
Mayor Del Rae Williams, City of Moorhead
Darrell Vanyo, Chair, Flood Diversion Board of Authority
U.S. Senator Amy Klobuchar
U.S. Senator Al Franken
U.S. Congressman Collin Peterson