

BUFFALO-RED RIVER WATERSHED DISTRICT

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August 26, 2016

Rodger Hemphill, Area Hydrologist
Minnesota Department of Natural Resources
14593 CO HWY 19
Detroit Lakes, MN 56501

RE: Fargo-Moorhead Flood Risk Management Project
Comments Regarding DNR Permit Application

Mr. Hemphill,

The Buffalo-Red River Watershed District (BRRWD) has reviewed the permit application submitted to your office regarding the proposed Fargo-Moorhead (F-M) Flood Risk Management Project. We want to note up front, that the BRRWD has Rules regarding the development of this type of project within our jurisdictional boundaries. To date, the Flood Diversion Authority (FDA) has not applied for a permit from this office. Secondly, we would concur with all of Jason Boyle's comments in his letter dated 07/27/16 to the FDA regarding the need for securing the necessary property interest and rights from all affected landowners before the issuance of any permits. They also need to develop a mitigation plan, address the details already identified in Mr. Boyle's letter (Items A-J), and they need to complete the risk analysis.

At the present time, we also feel that the project is not consistent with the BRRWDs Revised Watershed Management Plan (RWMP) dated 06/23/10, nor is it consistent with the goals and policies identified in the Flood Damage Reduction Work Group Mediation Agreement, dated 12/09/98. The Mediation Agreement goals state "to reach consensus agreements and long-term solutions for reducing flood damage and for the protection and enhancement of natural resources. Such agreements should balance important economic, environmental, and social considerations. Such agreements should provide for fair and effective procedures to resolve future conflicts related to flood damage reduction." I don't believe the FDA can say they complied with this terminology since they haven't even contacted most of the affected landowners in the staging area on the Minnesota side of the Red River.

In terms of the BRRWD's RWMP, as previously noted they have not applied for a permit from our office for their proposed project. In Section 4.1.1.3, the RWMP talks about "an integrated resource management approach." It also states "the BRRWD believes an integrated approach to resource management is essential." This adaptive management approach can be defined as "an approach that uses credible, technical information to help formulate strategies, approaches, and policies in order to learn so that subsequent improvements can be made when implementing strategies and formulating successful policy approaches and strategies." In accordance with our plan, and as noted in Section 4.1.1.6, the BRRWD believes this project is not taking a balanced approach to managing resources, resolving issues, and implementing solutions. The District seeks the best outcome considering the resources within the entire Watershed and the stakeholders involved. The BRRWD also believes cooperation is essential to effectively manage the resources of the District. I don't think you will find any landowners involved with the proposed F-M Diversion Project on the Minnesota side of the Red River that can say this is the case. Section 4.1.1.2, lists the goals and policies of the BRRWD. We feel that the proposed project does not manage flood plains

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correctly, and if ever constructed, will allow more North Dakota and Minnesota people to continue to build in harm's way (flood plain). Section 3 of our goals and policies talks about the legal drainage systems, which at this point in time, have not been addressed by the FDA. Section 4 of our goals and policies talks about water quality, which this project will have a huge impact on, if ever constructed. Section 6 talks about wetlands and we have not seen a detailed analysis as to which wetlands may be affected by the proposed project. Section 8 talks about erosion and sediment control. If they store water in the noted area on the Minnesota side of the Red River, there are going to be effects regarding bank erosion, slumping, etc. that need to be addressed before we can consider their permit application. Section 9 of our goals talks about education and we feel that the FDA has fallen short of even beginning to work with landowners on the Minnesota side of the Red River to design and support their project.

In Section 4.2, of our RWMP, we talk about District Programs and the Rules and Permitting. The purpose of our permitting process is to implement the Rules of the District and policies identified within the RWMP. I could cite numerous examples of where the proposed project (given their limited information) will not meet many of the BRRWD's goals and objectives.

Some other issues which were discussed with Carol Greisen, Planner, Environmental Policy and Review Unit, Division of Ecological and Water Resources, Minnesota Department of Natural Resources (DNR), back in early February 2016 regarding the Environmental Impact Statement still have not been addresses by the FDA. These comments include, but are not limited to:

1. How the FDA is going to drain and release water from the staging area?
2. How they are going to install an orderly conveyance system of water from the staging area. Right now, all of the conveyance systems are designed to handle local flows, not additional stored water from the proposed dam.
3. What are the potential impacts to Wolverton Creek? The BRRWD is currently planning a restoration project on Wolverton Creek. If the proposed dam is built across the outlet, that is going to change our project substantially. We already have bank sloughing problems along the creek channel. If they store more water on the channel, these problems are also going to get worse. Aggradation and degradation are going to be concerns. This important fisheries resource will be totally blocked off by the proposed dam.
4. What is the plan and process to obtain landowner approval/easements to flood land that has never historically flooded before on the Minnesota side of the Red River?
5. We will need to know which roads are going to be raised or maintained in the storage area in Minnesota and what structures in these roads will need to be increased in capacity to release the staging area water.
6. It appears that the staging area will impact a number of our legal drainage systems, including Clay County Ditch (C.D.) No. 36 (where we already have major bank failures on the outlet), Clay C.D. No. 60, Clay C.D. No. 53, Clay-Wilkin Judicial Ditch (J.D.) No. 1, and a possible outlet channel on the Clay-Wilkin line that is currently being discussed as an overflow for J.D. No. 1. As these drainage systems have altered the natural topography of the landscapes, stored water in the staging area will back up into these drainage systems outside of the box currently defined as the staging area by the FDA. Depending on the areas affected, the same concerns/issues pertaining to Wolverton Creek would exist such as bank sloughing or failures due to saturation and silt deposits, etc.
7. Noting that the BRRWD will have permitting authority over all work done on the Minnesota side of the Red River including a possible ring dike/levee for the City of Comstock.

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8. We still don't know whether there will be an outlet channel constructed on the Minnesota side of the tieback embankment to aid and assist in drawdown of the staging area or if the existing facilities will need to handle the stored water release. If there is a channel, will there be conveyance channels constructed in certain areas to get the water into the diversion channel?
9. To our knowledge, no discussions have taken place with the Minnesota Department of Transportation or the Burlington Northern Santa Fe (BNSF) Railroad regarding possible impacts to their facilities on the Minnesota side of the Red River of the North. These discussions could bring into play additional changes needed that would also require BRRWD permits.
10. To our knowledge, the FDA has not even identified the size, scope, magnitude, or elevation, for the proposed staging area in Minnesota. Water is not going to stay inside their "red box."

We feel the Minnesota DNR should table any action on the FDA permit application until these and many more concerns and issues are adequately addressed. The BRRWD is very familiar with the DNR's permitting process and we have used it successfully to develop several key projects within our Watershed District. Most recently, the Manston Slough Restoration Project. We have also received a permit from your office for the restoration of 26.2 miles of Wolverton Creek. All of our planning, processes, etc. have followed the proper channels and the subsequent result has been the issuance of permits by your office to build these projects. The FDA needs to do the same if they are going to receive your approval for a project that affects Minnesota's residents and our natural resources.

If you should have questions or comments concerning the above or enclosed, please feel free to contact this office.

Sincerely,

BUFFALO-RED RIVER WATERSHED DISTRICT

Bruce E. Albright
Office Administrator

BEA/ds

cc: Senator Kent Eken, 3463 120th AVE, Twin Valley, MN 56584
Representative Paul Marquart, 605 First ST NE, Dilworth, MN 56529
Representative Ben Lien, 3001 Fifth ST S, Moorhead, MN 56560

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