

MN denies diversion permit, says F-M should keep on sandbagging

By [Tu-Uyen Tran](#) on Oct 3, 2016 at 7:38 p.m.



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FARGO – The massive flood diversion is not needed by Fargo-Moorhead because emergency measures used in the successful 2009 flood fight and new dikes should be enough for future floods, according to Minnesota regulators.

It's one of the reasons the Department of Natural Resources gave Monday, Oct. 3, in denying a permit for a dam straddling the Red River that would limit flow into the diversion channel to a more manageable volume.

Fargo Mayor Tim Mahoney said the Fargo-Moorhead Diversion Authority will continue to work with the agency, but he doesn't expect changes to the construction schedule for projects in North Dakota.

A key player in the 2009 flood fight when he was a city commissioner, Mahoney said it's "ridiculous" to expect the city to fight future floods with fragile sandbag walls.

“You had to have people checking the dikes every hour on the hour. You had to be watching for leaks. You had to watch for different stuff,” he said. “If anybody screws up, then you got a problem.”

While Moorhead is on higher ground, Mayor Del Rae Williams said new flood-risk estimates show that 820 homes there are vulnerable to a 100-year flood, which the DNR didn't seem to address. She said she asked the agency about that Monday, but it didn't have an immediate answer.

The DNR said it believes the \$2.2 billion diversion project protects too much “sparsely-developed” rural land that could otherwise be allowed to flood naturally. By displacing floodwater farther south, the agency said, the dam harms those who normally don't see flooding, and benefits developers seeking to expand the city of Fargo, reflecting arguments long made by diversion opponents.

“The DNR and the state of Minnesota have great empathy for people who experience flooding,” said DNR Commissioner Tom Landwehr. “But as we explained in our findings of facts, the proposed project is not consistent with Minnesota policy, rules and laws.”

“They've confirmed what we've tried to warn the Diversion Authority all along,” said Nathan Berseth, spokesman for the Richland-Wilkin Joint Powers Authority, which has sued to stop the project. He said the group, some members of which gathered Monday night at a bar in Hickson, N.D., looks forward to discussing other options for protecting not just Fargo-Moorhead, but the entire Red River Valley.

- **Video: West Fargo school bus involved in morning crash** (<http://inforum.com/news/4128768-video-west-fargo-school-bus-involved-morning-crash>)

Weighing harms

Minnesota regulators have three broad objections to the the diversion project.

First, the concerns of upstream communities haven't been fully addressed, particularly the reduction of tax revenue to local schools when property values drop because of additional flooding.

Second, plans to reduce the environmental harm don't go far enough, particularly the monitoring of the project area to detect harms.

- **Superior wrestles with high-speed rail** (<http://duluthnewstribune.com/news/4128458-superior-wrestles-high-speed-rail>)

And third, the project removes too much sparsely-developed land from the flood plain. In this case, 54 percent of the protected area would be rural, but Landwehr said there isn't any fixed definition of “too much” because it's all relative to potential benefit. Asked if the DNR has an opinion on a variant of the project with the dam moved farther north and closer to city limits, he said the agency didn't study it.

From the agency's perspective, new dikes through Fargo-Moorhead and emergency measures should be adequate because emergency measures alone were adequate in 2009. That means the diversion project's “primary benefits” are “economic benefits” rather than the protection of life and property. Those include homeowners no longer having to buy flood insurance and developers being able to build in what's now the flood plain. Upstream homeowners would have to buy flood insurance, however, because of flooding.

Minnesota Gov. Mark Dayton added another objection in a statement released Monday: "While 60 percent of the lands newly flooded by this project would be in Minnesota, we would receive only 14 percent of its benefits. North Dakota would receive 86 percent of the benefits, while hosting only 40 percent of the newly flooded land."

Different situation

According to Diversion Authority officials, the DNR has misread the situation.

Williams said the only way Moorhead's dikes could be considered adequate is if the DNR ignored the higher flood-risks calculated by the U.S. Army Corps of Engineers. While the dikes are good enough for the existing flood risks as determined by the Federal Emergency Management Agency using data from before the 2009 flood, she said, they wouldn't be using the corps' newer calculations.

- **Future of 8 UND sports up in the air as committee considers cuts** (<http://grandforksherald.com/news/education/4128488-future-8-und-sports-air-committee-considers-cuts>)

Landwehr initially said the DNR relied on the "existing floodplain" but Randall Doneen, a DNR staff member, said the agency used new hydrology models developed by the corps.

While it's true that the diversion protects a lot of rural areas, Mahoney said, that the corps' decision and not the city's. He said his understanding is building a dam farther north would be more difficult because it would need to block not just the Red River but also the Wild Rice River.

And not having a dam wouldn't prevent developers from building in the flood plain, he said, because they already are doing that by putting buildings on man-made mounds. Instead, he said it's the owners of homes and businesses that already exist south of Interstate 94 who will be harmed because they're not built on mounds.

The city's decision to allow growth farther south isn't based on flood protection, but on funding for extending streets and sewers, he said.

Corps vs. state?

The DNR said Monday that if the Diversion Authority doesn't like the decision, it could appeal administratively first and then through the court system.

But there's another option Diversion Authority officials have hinted at: Ask the corps to step in.

In July, the corps signed a project partnership agreement with the Diversion Authority to build the diversion. It did so knowing there were still regulatory hurdles and a lawsuit in the way because an Army official determined those hurdles were likely to be overcome. Corps officials have quietly asserted that, as a federal agency, the corps doesn't need to obey state regulations.

On Monday, Col. Sam Calkins, commander of the corps' St. Paul District, released a statement in response to a request for comment: "The Minnesota DNR just provided this information, and we will need time to digest it before providing a response. Right now, what I can say is that we are deeply disappointed with this determination after having worked with the state of Minnesota on this project for more than eight years. We will continue working with the sponsors to get this project completed."

- **Surprise of son has mom seeing blue** (<http://www.inforum.com/variety/4126674-surprise-son-has-mom-seeing-blue>)

Williams and Mahoney speculated there will be some confrontation between the corps and Dayton. In September, the governor excoriated corps commander Lt. Gen. Todd Semonite for appearing in a YouTube video praising the diversion project without mentioning the need for a Minnesota permit.

Asked if the DNR thought it likely the corps would assert federal authority, Landwehr said Monday that the state's position is the diversion project is a local project contracted out to the corps, which will pay for just 20 percent of the project. The Diversion Authority would also own and operate the dam, he said.

Mahoney said the diversion is a project authorized by Congress.

On the Web: To see the DNR's decision-making documents, go to <http://www.dnr.state.mn.us/waters/fm-flood-risk.html> (<http://www.dnr.state.mn.us/waters/fm-flood-risk.html>) .

