



FEATURED

Another group contesting diversion permit

Majority vote from Buffalo-Red River, founding member of Diversion Authority

By Frank Stanko • Daily News Media franks@wahpetondailynews.com Jan 17, 2019  0



With a majority vote Monday, Jan. 14, the Buffalo-Red River Watershed District decided to contest the Minnesota Department of Natural Resources' decision to give a permit to the Fargo-Moorhead Diversion.

F-M Diversion Authority



With a 3-2 vote Monday, Jan. 14, the Buffalo-Red River Watershed District decided to contest the decision to grant a permit for the Fargo-Moorhead Diversion.

The Minnesota Department of Natural Resources, on Dec. 27., 2018, announced it would grant a permit for the \$2.75 billion Plan B. A week later, the Richland-Wilkin Joint Powers Authority announced it would file to contest the decision.

“One of the things that bothers (the Fargo-Moorhead Diversion Authority) is that contesting adds more time,” said Commissioner Lyle Hovland, Wilkin County, Minnesota. “Well, we would rather this be done better rather than fast, as well as right rather than in error.”

Hovland remains opposed to Plan B, calling it a fraud attempt to promote development in an area that shouldn't be developed.

Jay Leitch, president of the Buffalo-Red River Watershed District, declined to comment on the vote. The Fargo Forum reported the voting was actually 4-2, with Leitch participating in the vote.

One member of Buffalo-Red River's board, Mark Anderson, excused himself from voting. According to Hovland, Anderson said he was doing so both on the advice of the board's attorney and under protest.

Voting in favor of contesting the permit were Troy Larson, Catherine Affield and John Hanson. Voting against contesting the permit were Vice President Peter Fjestad and Gerald Van Amburg. Leitch did not vote, according to Hovland, because there wasn't a tie to break.

Diversion opponents say the vote continues a pattern of significant breaks between the watershed district and the Diversion Authority.

“This is quite a statement from a founding member of the Diversion Authority,” said attorney Cash Aaland, Fargo. “It will also send a strong message to the new Minnesota DNR chair and governor.”

In addition to the Richland-Wilkin Joint Powers Authority, the cities of Comstock and Wolverton, Minnesota, have already filed contested case challenges.

“The question of whether or not the Diversion Authority can satisfy the 50 conditions placed on them by the Plan B permit won't even be an issue unless they can first survive the contested case challenges, which is unlikely,” Aaland continued.

Wilkin County and Richland County, North Dakota, have been in litigation against the diversion since 2012. Five years later, the parties included the U.S. Army Corps of Engineers and the Fargo-Moorhead Diversion Authority against the Richland-Wilkin Joint Powers Authority and the Minnesota Department of Natural Resources.

Commissioner Kevin Campbell, Clay County, Minnesota, spoke at the district meeting. Campbell is expected to be appointed the Diversion Authority's new vice chair later in January.

"I went there to let the watershed board know the Diversion Authority's intent was to file all the necessary permits," Campbell said. "We'd rather not litigate, but come to compromises."

The Diversion Authority, Campbell continued, has every intent of applying for the necessary permits. The authority, however, is facing upstream cities, districts and communities ranging from hesitant to unwilling toward the project.

"It's all smoke and mirrors," said Richland County Commissioner Nathan Berseth. "Every turn they make, they're in litigation."

Fargo-Moorhead leaders, Aaland observed, are constantly showing their arrogance regarding the project.

"Campbell got up in front of that meeting and said essentially what they're doing didn't matter because (diversion completion) was going to happen anyway," Aaland said. "I don't know where they get their public relations skills from."

Asked about the perceived message that the Diversion Authority will do what it wants, Campbell said he did not know if it ever came from the Diversion Authority board itself.

"The Corps, the Diversion Authority at times said they don't need those permits," Hovland continued. "It was a little disingenuous for them to suddenly show up on Monday and say they are looking for them. They sure took their sweet time to get here."

Mayor Tim Mahoney, Fargo, said he is disappointed by the vote to contest. He recalled a conversation during the 2017 meetings of a task force to reach a mutually agreeable diversion solution.

"We talked to the upstream people, we talked with Nathan Berseth. He said if you get a permit, we'll go away," Mahoney recalled.

That is a bold-faced lie, Berseth said.

“They don’t have a permit, so we’re not going to go away,” he continued. “That permit they received is conditional. Had they made the changes we requested, that would be different. They didn’t make any of the changes we requested for Plan B. There were a couple of tweaks made to appease Minnesota.”

Mahoney, Berseth continued, is rewriting history regarding what was agreed and what was requested.

According to Aaland, the Diversion Authority does not have an actual permit from the state of Minnesota. There will not be one until the ruling of an administrative law judge.

In the meantime, it’s a matter of waiting for the nearly \$3 billion diversion.

“The more the project is delayed, the more expensive it’s going to get,” Mahoney said.

Earlier in January, Richland County Commissioner Sid Berg called for citizens to advocate for a forensic audit concerning Fargo and the Diversion Authority.

“I don’t know what they’d be looking for,” Mahoney said. “We have an audit every year. Everything we do is transparent.”