

# Little-known board has power to levy property taxes to fund Fargo-Moorhead flood diversion

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This is a rendering of the Fargo-Moorhead flood diversion's dam inlet structure planned for near Horace, N.D., looking downstream. The inlet controls the flow of water from the dam into the diversion channel to reduce impact

**FARGO — The Cass County Joint Water Resource District usually attracts little attention. Its five-member board oversees field drainage, flood control and water management for the county’s rural areas.**

Those responsibilities seldom capture the spotlight. But it’s largely forgotten that the Joint Water Resource District created the property tax assessment that under dire circumstances could be activated to help pay the local share of the \$2.75 billion flood diversion.

The possibility of a property tax assessment for the project — which local officials say is not being considered — surfaced recently when legislators approved an additional \$180 million in state support for the diversion, \$120 million less than local officials had requested.

In 2015, Cass County voters approved the creation of the property assessment district, which includes properties that would be protected by the diversion channel designed to carry Red River floodwater around the Fargo-Moorhead area.

At the time, officials vowed that a diversion property tax would never be levied, but needed the taxing mechanism in order to satisfy the bond market that the project had sound financial backing behind the local sales taxes voters approved earlier to pay for the diversion’s local share.

That’s still what local officials are saying, although Fargo Mayor Tim Mahoney once told legislators that the property tax could serve as a fallback funding source if state support fell significantly short.

Mahoney later said he has never advocated using the property tax for the project, and Fargo city commissioners recently discussed a resolution expressly saying that they would not invoke the tax.

The chairman and vice chairman of the Cass County Joint Water Resource District board both said no one is contemplating levying the tax.

“It was basically set up to get us a lower interest rate for borrowing money,” said Dan Jacobson, chairman of the joint watershed board. “I don’t think our board would ever

be willing to do that unless we do everything else possible.”

The board’s vice chairman, Rodger Olson, agreed. “The intent was to use sales tax to make the bond payments,” he said. There’s been no discussion, he added, of “pulling the trigger” to levy special assessments.

That decision, if made, would fall to the Cass County Joint Water Resource District board.

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## Sales taxes are unpredictable

Voters by a wide margin approved creation of the assessment district, which is authorized to levy a special property tax assessment up to \$725 million.

Sales taxes approved by voters in Cass County and Fargo are expected to generate \$1 billion to pay the local share of the project.

But sales taxes are unpredictable, rising and falling with the economy, so the bond market requires additional financial backing, similar to collateral for a loan, said Mike Montplaisir, the Cass County auditor.

“Sales tax is never a sure thing,” he said. “The economy tanks, your sales tax tanks.”

Also, creating the diversion assessment district allows the project to borrow more money from the bond market, Montplaisir said.

Although the assessment district is an integral part of financing the diversion, officials never have considered levying a special property tax, he said.

“There hasn’t been any discussion of triggering that,” Montplaisir added. “There would have to be a lot of work in front of it.”

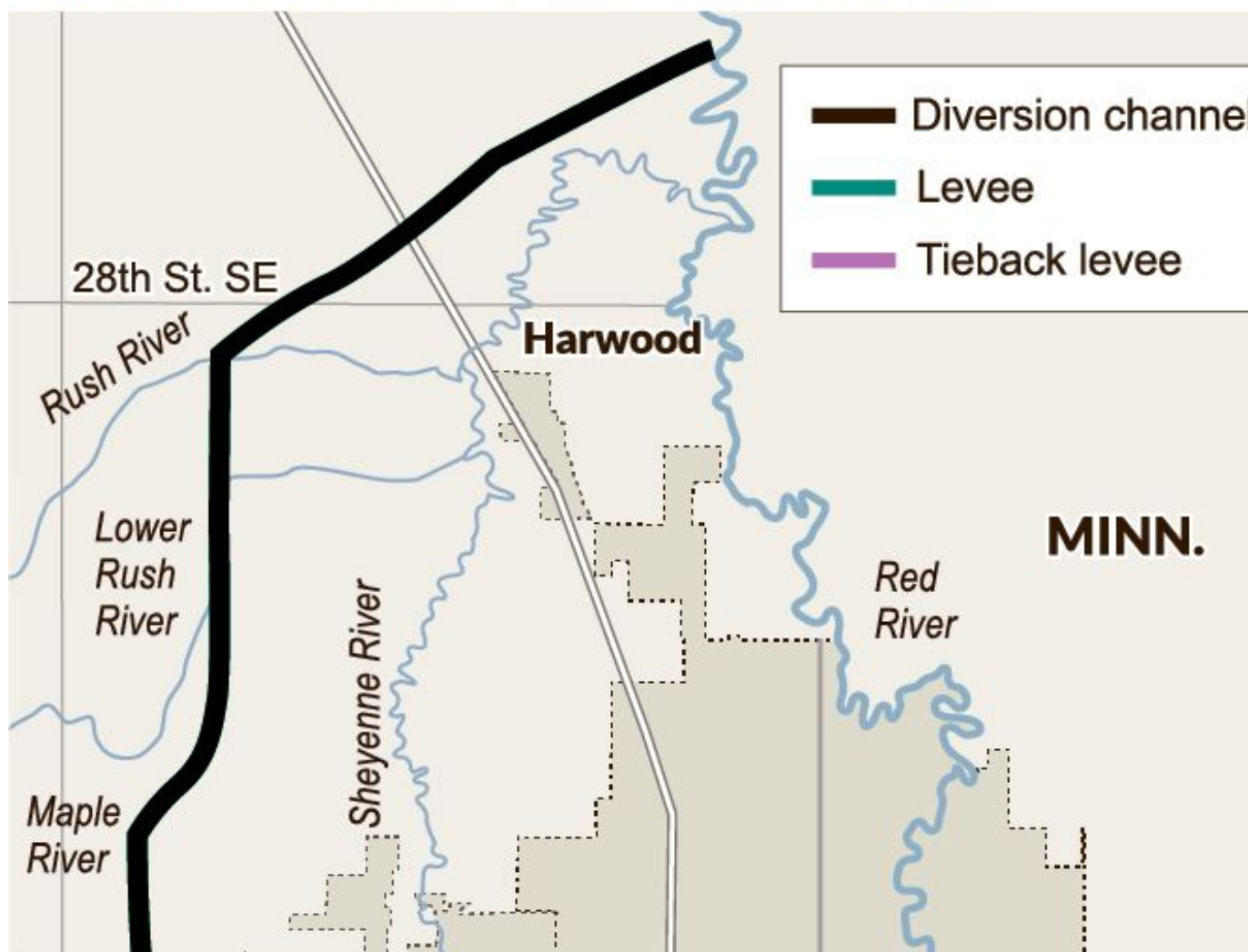
Officials would have to check to see what properties have been added to the

assessment district as well as properties that have been removed, and would have to reassess properties.

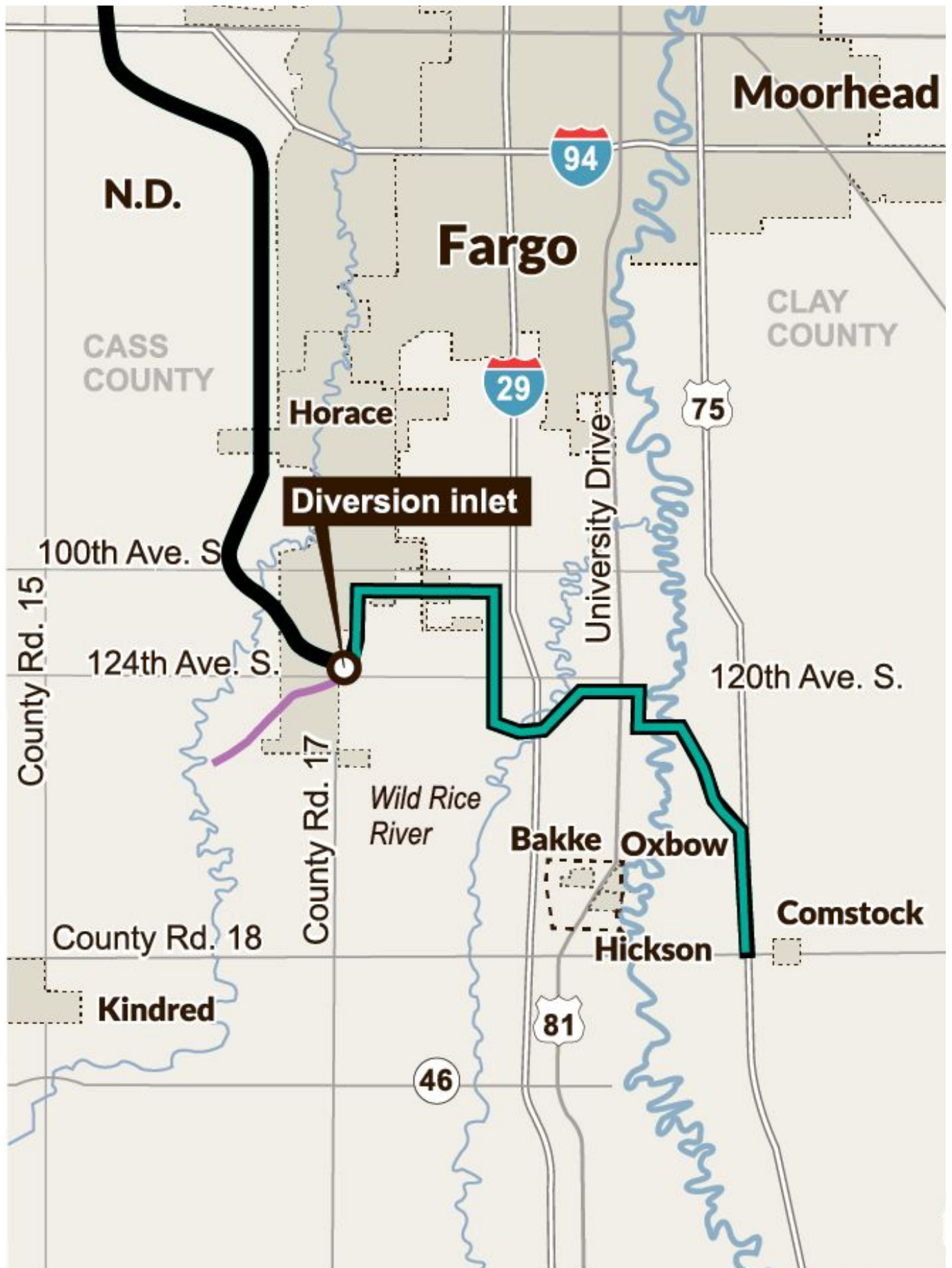
“So we’d have to do quite a bit of work,” Montplaisir said. “Do I think we’d actually ever levy the specials? Probably not.”

## Revised F-M diversion plan

A revised plan for the F-M diversion will seek a permit based on changes to the levee, which expands water-holding areas in Cass County while trimming retention in Minnesota’s Wilkin and Clay counties. The revisions also increase the amount of river water flowing through Fargo-Moorhead. There would be no changes to the diversion inlet or channel skirting the metro area.







# 'Just ridiculous'

In 2015, when the diversion assessment district was created, property valuations of those voting on the issue totaled \$622.8 million. Voters representing 79 percent of that value voted yes to create the district, while voters representing 21 percent voted no.

Sales tax collections to finance the diversion are rebounding after slowing and even declining some months from 2016 to 2018. The county “conservatively” forecasts sales taxes to grow by 3 percent, and expects collections to exceed 4.5 percent by June.

Sean Fredricks, a lawyer who represents the Cass County Joint Water Resource District, said some critics have made misleading statements suggesting the diversion property tax will be levied, and exaggerating the potential amount, in some cases suggesting levies topping \$1 billion.

“I think they're raising this flag,” he said. “A lot of it is just misinformation. The dollars they're throwing out are just ridiculous.”

That speculation followed action by the North Dakota Legislature bringing the state's total financial commitment for the diversion to \$750 million, \$120 million less than the \$870 million requested.

## Prepping for bids

The Metro Flood Diversion Authority will take the next two to three months to study the available funding and prepare for construction bidding. Bids likely will be solicited later this year from three pre-qualified groups of corporations, with an awarding decision expected next year.

“The Diversion Authority has had a consistent policy that special assessments would not be used as a direct financing method,” said John Shockley, the authority's lawyer, who is helping to structure the financing plan and bonding package.

Tony Grindberg, a Fargo city commissioner and Diversion Authority board member, has suggested breaking the bids for the project into components, perhaps separately bidding bridges that will span the 36-mile diversion channel.

Besides the diversion channel and three control structures, the project involves 12

county or township road bridges, four interstate highway bridges, four railroad bridges and two aqueducts. The Army Corps of Engineers is building and funding the control structures.

Splitting the project into pieces would allow construction of the diversion channel to begin with current funding commitments, Grindberg has said. Bridges won't be built until later, and starting them later will not slow the planned six-year construction process, he has said.

“Our next steps are really to identify what the list of options are,” Shockley said. “We’re exploring multiple options.”

If all goes well, officials hope to complete the diversion as early as 2025. But legal and regulatory obstacles remain.

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