

Frequently Asked Questions about “Plan B” Permit Decision (December 2018)

What was the DNR’s decision on the Fargo-Moorhead Plan B permit application?

The DNR has granted the dam safety and public waters work permit for the Fargo-Moorhead “Plan B” Flood Diversion Project. The permit includes 54 conditions, or requirements, that must be met.

When can project construction start?

The dam safety and public waters work permit is the major DNR permit required for project construction. However, additional DNR permits and approvals are required, as identified in the dam safety and public waters work permit. In addition, the project must obtain all other required local, state, and federal approvals. The current U.S. District Court injunction will also need to be addressed before project construction.

Why did the DNR approve the permit?

We have determined that the project, as permitted, meets all regulatory requirements. Plan B offers significant changes over the 2016 proposed project and satisfactorily addressed the issues that led the DNR to deny a permit for the 2016 project. Plan B is a modified version of that earlier project. It includes a high hazard dam on the Red River and Wild Rice River and a 30-mile diversion channel in North Dakota. Compared with the previously proposed project, Plan B creates a better balance between the two states regarding the number of acres impacts and benefitted. It also improves on the mitigation of adverse impacts to property and natural resources and retains more existing floodplain. The attached maps show the areas benefitted and adversely impacted for Plan B and the 2016 project.

What process led to this decision?

Our decision followed a thorough environmental review and permitting process, including extensive public comments and development of numerous permit conditions. The DNR completed both a 2016 Environmental Impact Statement for the Diversion Authority’s previously proposed project and a 2018 Supplemental Environmental Impact Statement for Plan B. The strong work of a diverse Task Force convened by Governors Burgum and Dayton in 2017 was also critical to informing DNR’s work. The Diversion Authority submitted its Plan B proposal following the work of that Task Force.

How many comments did the DNR receive during this process?

During the entire six-year environmental review process, the DNR considered more than 1,800 public comments and analyzed 33 project alternatives.

What are the conditions on the permit?

The permit contains 54 conditions, or requirements, that must be met for the permit to remain valid. Some of the more notable conditions address:

- Required mitigation, including fish passage at Drayton Dam.
- Acquisition of property rights for any impacted property in Minnesota.
- DNR review and approval of all final engineering prior to each construction phase (the project will be built in several phases over approximately 10 years).

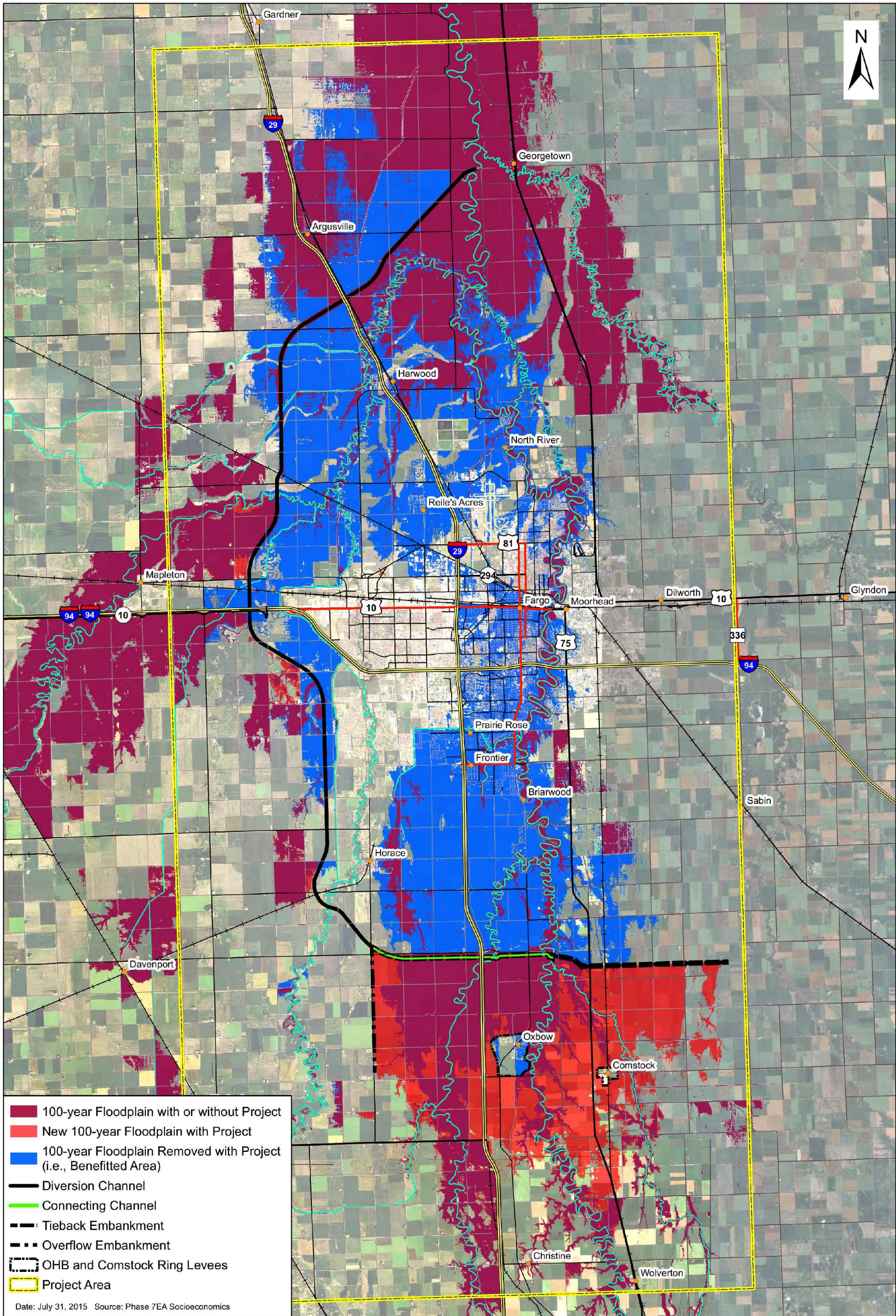
- DNR review and approval of the project Operation and Maintenance Plan prior to completion of the construction phase.
- Coordination with Buffalo-Red River Watershed District on the Wolverton Creek crossing structure.

The DNR will have an ongoing regulatory role to ensure that the project is built and maintained properly and all mitigation is completed. The full list of conditions is found within the permit, which can be found on the DNR's website at: mndnr.gov/fmproject and at: https://www.dnr.state.mn.us/waters/surfacewater_section/damsafety/fm-flood-risk.html.

Can the permit decision be appealed?

Yes. There are two types of appeals.

1. The Permit Applicant and certain governmental units may request a contested case hearing within 30 days of permit issuance.
 - At the conclusion of the contested case hearing process, if the appealing party is dissatisfied with the result, that party may then appeal to the Minnesota Court of Appeals.
 - If a contested case hearing is granted, the DNR's permit decision is no longer treated as final. Parties may not undertake work governed by the permit until completion of the contested case hearing.
2. Individuals and entities without legal standing to request a contested case hearing may appeal directly to the Minnesota Court of Appeals. The permit remains in full force and effect during such an appeal.



Phase 7 Proposed Project 100-year Floodplain

Created By: enelson Date Created: 5/9/2014 Date Exported: 8/11/2015 Image: 2012 County NAIP Elevation Data: -
Coordinate System: NAD 1983 UTM Zone 14N Datum: North American 1983
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FARGO-MOORHEAD FLOOD RISK MANAGEMENT PROJECT

Proposed Project - 100-year Flood Inundation Area

Figure 4

Sources: Phase 7EA Socioeconomics, July 31 2015