

**The 2018 bonding bill: Lawsuit has vital clean-water money in limbo**

*At issue is the funding source. The state must either fight to defeat the suit or pass a new bill.*

**By Greg Zylka**

December 6, 2018

Like many city officials, I breathed a sigh of relief when Gov. Mark Dayton signed the $1.5 billion public works bill into law last spring.

The bill included $123 million for clean-water infrastructure upgrades and repairs across the state. It meant that my city was slated to receive a nearly $7 million state grant to help pay for facility upgrades needed to remove pollutants from our wastewater.

My relief was short-lived, however. Our project and several other critical water infrastructure projects are now in limbo because of a lawsuit that threatens to prevent cities from obtaining the funding they were supposed to receive through the 2018 bonding bill.

The lawsuit was initiated by a group of nine environmental organizations led by the Minnesota Center for Environmental Advocacy and Minnesota Environmental Partnership. They argue that a provision in the bonding bill allocating $98 million to clean-water grant programs and other projects violates the state Constitution because the funds are slated to come from the Environment and Natural Resources Trust Fund rather than general obligation bonds. Because of the pending lawsuit, the state cannot sell the bonds, leaving Little Falls and other cities in the lurch.

The state currently has two options that would allow the projects to proceed: Either fight back and take action to get the suit dismissed, or have the Legislature pass a new bonding bill with significant clean-water infrastructure funding as one of the first orders of business when it convenes in January.

Neither option is simple.

With a new administration coming in, the state appears reluctant to take sides on the lawsuit. And many legislators argue that a new bonding bill is unnecessary because they feel that they completed their work last year.

For his part, Gov. Dayton expressed frustration with the funding mechanism, but he ultimately signed the bonding bill because he recognized that too many important projects would suffer if he vetoed it.

Gov. Dayton was right. The lawsuit and resulting hold-up of funds has serious ramifications. It further delays important projects, many of which have been in the works for years. For the communities anticipating grants, it means water-quality concerns will persist and projects will become more expensive as construction costs rise.

The perverse outcome is that a lawsuit initiated by environmental advocates is counterproductive to efforts to improve water quality.

For my city of 8,700 residents, the $7 million state grant is a big deal. It would allow us to proceed with state-mandated upgrades to our treatment plant to remove excessive phosphorus from wastewater that flows into the Mississippi River. Without this grant, the project’s entire $21 million price tag will be placed on the backs of city residents and businesses already paying hefty water fees.

Many other cities also have worthy projects near the top of the list to receive grant funding this year — projects that are now delayed as a result of the lawsuit:

Austin was anticipating a $2.5 million grant to address failing septic systems that have direct discharge to the surface water and pose imminent public health threats.

Marshall was anticipating a $7 million grant to reduce the amount of salt, which can harm fish and plants, released into the Redwood River.

Mountain Lake was anticipating a $2.75 million grant to upgrade an aging facility to remove more nutrient pollution from the wastewater system.

I ran for mayor because I care about the health and future of my city. One of the most basic needs for a viable community is clean water. I have no desire to get into the middle of a constitutional challenge. But I want to ensure that all Minnesotans have clean water to drink and that our city can continue to be a good steward of the environment.

By preventing our project from receiving state funding, the lawsuit puts those goals in jeopardy.

As we head into the legislative session, I call on the new governor and Legislature to choose a path that will allow vital water infrastructure projects to move forward — either vigorously defend the bonding bill signed into law last May or pass new funding to replace the money we cannot receive due to the lawsuit. Doing nothing is not an option.

*Greg Zylka is mayor of Little Falls, Minn.*