

Testimony to the ND Water Topics Overview Committee
By: Commissioner Mary Scherling
June 15, 2016

Introduction

Good afternoon Chairman Schmidt and members of the committee. I am Mary Scherling. I am a Cass County Commissioner, representing District 5, which is the rural part of Cass County. I have the pleasure of representing parts of the legislative districts that are represented by Sen. Robinson, Sen. Sorvaag, Sen. Luick, and Sen. Lee.

This is my first time testifying before you about the Diversion Project. Mayor Mahoney and former county commission and current Diversion Authority Chair Darrell Vanyo wish they could be here today to continue their conversation with you about the Project, but they are attending previously scheduled meetings in Washington DC with our Senators and with the office of the Assistant Secretary of the Army to encourage continued federal participation.

I am happy today to give you our project update as there is a lot of progress being made, and I hope I'll be able to address any of your questions you may have. I may rely on Commissioner Williams, who is also testifying on the financial aspects of the project, or some other project representatives in the audience that are with me today.

JPA and PPA Approvals

The most significant recent update has been the approvals of a new Joint Powers Agreement and the local execution of a Project Partnership Agreement.

Now that federal appropriations for construction have been received, we needed a new Joint Powers Agreement to create a long-term governance structure that enables our local partnership to perform the duties necessary to begin construction. While the document is lengthy and sets up a number of legal parameters, I wanted to summarize one point. The board makeup of new Diversion Authority will change slightly with 8 members from ND and 5 from MN and also one spot that is appointed by the counties of Richland, ND and Wilkin, MN. We feel it's important to continue to offer that seat at the table to those

living upstream of Cass and Clay Counties and hope the offer is accepted at some point.

The Project Partnership Agreement, or PPA is the contract between the federal government and the local sponsors. The cities of Fargo and Moorhead both approved the PPA over the last two weeks and the Diversion Authority, the third local sponsor, will do so at our next meeting. In July, we expect the Corps to approve the PPA as well.

The PPA guarantees the federal commitment to the project and allows construction to begin this fall. Signing the PPA is a monumental achievement for the Project.

Construction Update and P3

Advertising for bids for the Corps' first piece of the Project is scheduled to start next month. Construction is anticipated to start by October. This construction will be led by the Corps of Engineers and will commence first on the Diversion Inlet Control structure, which is a \$50M structure south of the City of Horace.

The Corps-led construction will continue to the east across Cass County and then into Minnesota as annual appropriations are received. It's anticipated that construction within Minnesota will not begin until 2019.

Due to this Project being the first ever Corps project to utilize a public-private partnership or P3, construction will commence utilizing a split delivery. You've heard about where the Corps' portion will start and how they will proceed, while the other half of the Project, will commence on the north-end of the Project once a P3 team is procured in late 2017. The P3 team will complete the design, and then construct the diversion channel and associated features starting from the north and working toward the inlet structure that the Corps will start constructing this fall.

On June 7 we hosted an Industry Day for those companies interested in the Project and the opportunities it provides. We had 140 attendees from around the world attend the event and numerous one on one meetings with some of the top interested teams that have already formed. We anticipate an RFQ for the P3 in July with the shortlisted RFP proposals requested in November.

There is a lot of excitement around the nation about our Project due to it being the first Corps P3 and it being an innovative way to deliver the nation's infrastructure. We are excited about it for several reasons. First, it allowed us to secure federal dollars and complete construction sooner than traditional delivery methods. Also, it will give us cost certainty on a very large portion of the Project very early on. We hope that this cost certainty shows that we were able to capitalize on the innovation that these world class companies can bring to our local market, while still encouraging them to utilize our great local contractor assets as much as possible. Lastly, it's a great market to begin a Project like this because rates are extremely attractive and construction costs are coming in at or below estimates on other efforts we've seen.

MN DNR EIS

We have been so thankful to be where we are at with this Project and it would not be possible without the incredible support we've gotten from all of you, and from our local taxpayers. And while we have been focused on finding and developing the right Project and getting the commitments needed from the federal government, which has been no easy task, we also have worked diligently on a number of mitigation issues related to agricultural impacts, cemeteries, and housing relocations. Unfortunately, we have been unable to move a lot of these policies forward to fruition until all the studies have been complete in order to respect the processes of each state, North Dakota and Minnesota, and the federal government.

I am happy to report that the Minnesota DNR has finished its environmental impact statement and the final report found "no additional reasonable alternatives" to a Diversion Project. We were happy to receive this additional 3rd party validation of past studies.

While we hear a lot of 'what about this or what about that?' when it comes to alternatives, between the federal study of alternatives and the Minnesota study findings, we can safely say that we've considered all options and that your funding is supporting the right project. Now is the time to start construction and provide flood protection to the people of Cass County, and the entire FM Metro area.

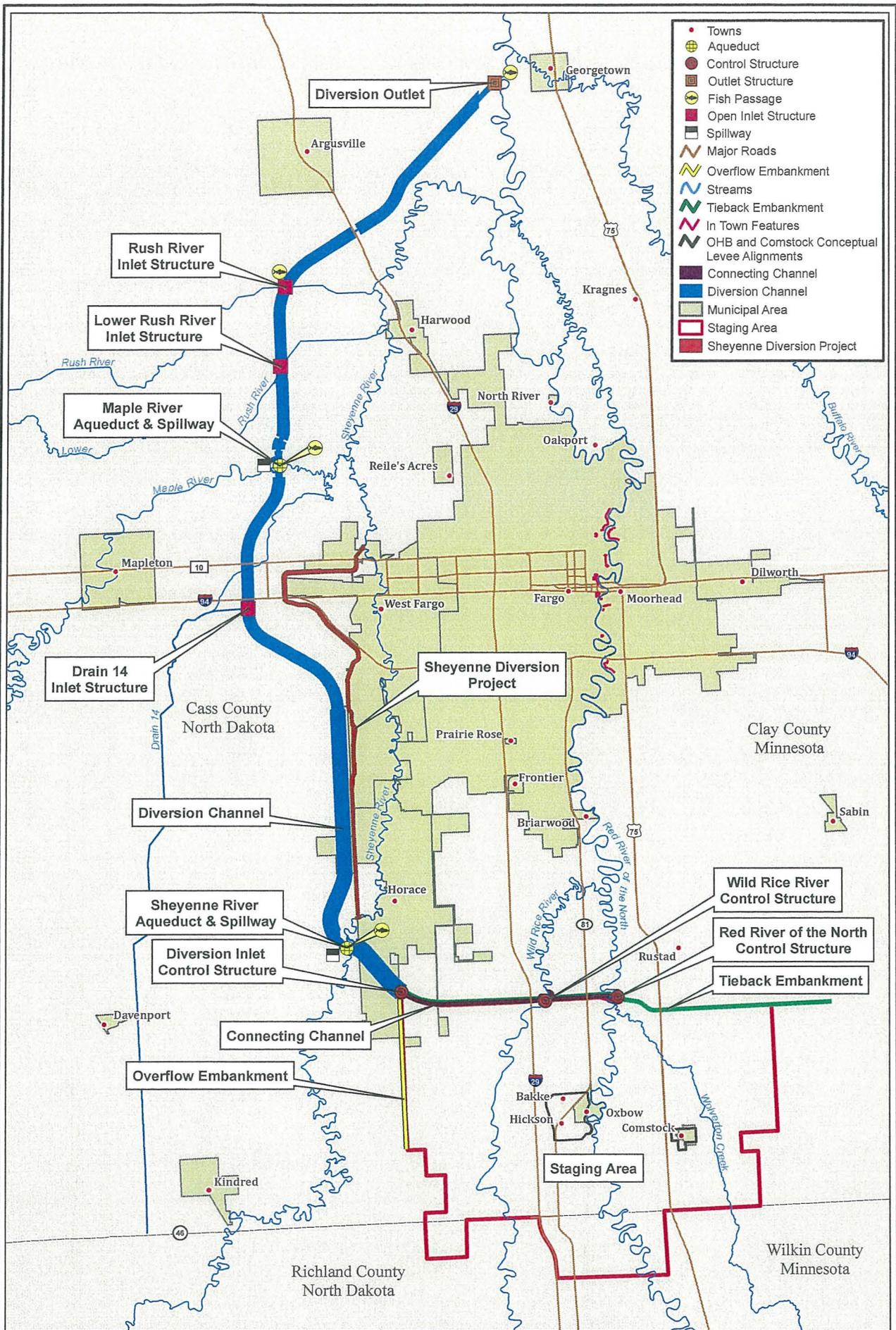
Closing

There are a host of other topics we could address, and some will be covered by Commissioner Williams, but I wanted to touch on one last topic, permitting.

We have been working closely with the Corps to file and attain permits in both States. I am happy to report that we are working through the permitting process with the State Water Commission and the MN DNR to attain those permits .

Due to the scale of this Project, both state agencies have agreed on a schedule of permits using a phased approach, and we look forward to the progress on this over the next several years as construction and permitting continue hand in hand. We will continue to update each of you on this effort as it proceeds.

Thank you for your time today, and I would be happy to answer any questions now, or can wait until you hear from the other presenters on this topic.



Project Features - April 2014
 Fargo Moorhead Metro Area Flood Risk Management

