

MEMOFredrikson and Byron
Legislative Update

TO: Chris Volkers and Steve Larson

FROM: Andrew G. Pomroy

DATE: May 21, 2019

SUBJECT: End of Regular Session F-M Diversion, legislative update 5-21-19

The Minnesota legislature adjourned its 2019 Regular Session last night with much of the work on the two-year budget left to be finished. While legislative leaders and Governor Walz agreed to a budget framework, including budget targets for each area and some specific items that needed to be included in the various budget bills, they ran out of time to negotiate the details before the constitutionally required adjournment at midnight. In the end, just the budget for Higher Education passed both House and Senate floors before adjournment. The Senate passed the Agriculture, Housing, and Broadband bill, but the House ran out of time on that one. No other subject area had a bicameral agreement as of last night and no new significant progress has taken place as of the writing of this report. The goal was to have the details wrapped up this week and for the Governor to call a one or two day special session to pass the remaining parts of the budget, but there is lingering doubt as to whether or not that will be possible.

The budget deal, should it be finalized and passed by the legislature could lead to some positive outcomes for the Fargo-Moorhead Diversion project, namely in capital investments. The agreement signed by Governor Walz, Speaker Hortman, and Majority Leader Gazelka calls for a \$440 million bill. As you may recall, the rolling average on an odd-year bonding bill in Minnesota is more like \$250 million, while Governor Walz had initially proposed an over \$1 billion bill and the House topped that at roughly \$1.5 billion (including \$10 million in unearmarked flood hazard mitigation funding and \$1.3 million for the Redpath impoundment project in the Bois de Sioux Watershed). The Senate capital investment committee never met this session, despite leadership in that chamber calling for a bill in the scale of that rolling average. While this agreement should be seen as a positive and necessary step to get an appropriation for the DNR's flood hazard mitigation program, the Minority Leaders in the House and Senate have yet to confirm their support for a bonding bill, or one of that size. Senate Minority Leader Tom Bakk and several of his DFL colleagues we have discussed the bill with are known to be seeking a larger bill, while Minority Leader Kurt Daudt said that Republicans in the House will be unwilling to support the budget deal due to an unrelated health care tax item. That opposition jeopardizes the deal, at least for a bonding bill, as that bill is required to pass with 60% support in each chamber, meaning minority and majority votes are necessary.

Also relevant to the Diversion project is the Environment budget. The Governor and House each proposed a \$32 million increase. The Senate, meanwhile, proposed a \$57 million reduction in general fund spending offset somewhat by using other dedicated funds such as lottery revenue and Legacy sales tax revenue to offset some of those general fund cuts. In the end, leaders agreed to a \$14 million increase. While possible, it is unlikely that committee chairs will opt to use any

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of this funding for any capital projects, such as the flood hazard mitigation program, and the spending levels will also make it difficult for the legislature to approve significant dedicated funds for the DNR's legal costs.

We will be working as closely as possible with capital investment committee chairs, staff, and other members in the upcoming final negotiations and Special Legislative Session as the budget deal becomes final and will keep the Diversion updated as developments occur.

Going forward into the legislative interim, this summer will be critical for the Diversion's short, medium, and long-term efforts to secure funding for the requested Minnesota share of the project's costs. This summer, the legislative capital investment committees and representatives from the Governor's administration will be touring the state to see in person capital requests throughout Minnesota. It is vital that the Diversion put its best foot forward in making the case to these state leaders. The first step in that process is to determine if the Diversion and/or its Minnesota local government partners will submit a formal request for funding through the local government request process. Those applications are due to MMB by June 14th and more information on the process is available on the MMB Capital Budget website, linked below: <https://mn.gov/mmb/budget/budget-instructions/capbud/>

While the primary funds being requested for the Diversion are through a state agency program, it is not uncommon for local governments to submit their own requests instead of solely relying on the DNR to request these funds. It could be a wise decision, especially considering the Governor's 2019 capital request did not include any funding for flood hazard mitigation grants. If desired, staff at Fredrikson & Byron would be available in the next two weeks to seek an answer from the DNR on what they intend to request for that program. We will also be working as closely as possible with the administration and legislative staff planning the upcoming bonding tours to ensure the Diversion is included in any visits to the region this summer.



1 Diversion Inlet Structure Construction

A revised construction schedule from Ames Construction is expected 31 May. Re-start of operations should begin mid-June. Activities for 2019 will include dewatering, test pile program and completion of channel excavation.

2 Wild Rice River Structure Construction

Final Plans and Specs were completed May 1, 2019. The Request for Proposals (RFP) is scheduled to be issued early June 2019 with a 45-day bidding period. Contract award is scheduled for late September 2019.

3 Red River Structure Design

Detailed design has started. A physical model (1:40 scale) is being contracted for to verify flows and design downstream scour protection. The design schedule is being developed with goal of starting construction in 2021.

4 Southern Embankment – Plan B Design

Detailed design, incorporating the Plan B alignment, is ongoing. Geotechnical borings to begin in June 2019.

5 Cultural Resources Mitigation – Diversion Channel Sites

Completing further investigations of two archaeological sites along the Diversion Channel this summer. Our contractor should begin field work by July and the results will determine if further excavation will be required. We are in the process of reengaging with the Native American tribes and ND State Historic Preservation Office staff in regards to these sites. There may be opportunities for the public to participate in these investigations as well.

6 Colonel Calkins/Colonel Jansen Visit – 27 June 2019

Colonel Sam Calkins and Colonel Karl Jansen will attend the 27 June Diversion Authority meeting. Colonel Jansen assumes command of the St. Paul District on 10 July 2019 (see bio on reverse).



Col. Karl Jansen

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG.

Col. Karl Jansen will assume command of the St. Paul District in July 2019, becoming the district's 66th commander and district engineer. Prior to assuming this command, he served as the executive officer to the commanding general, U.S. Army Corps of Engineers in Washington, D.C.

The St. Paul District employs nearly 650 professionals that work at more than 40 sites in five upper-Midwest states. The district serves the American public in the areas of environmental enhancement, navigation, flood damage reduction, water and wetlands regulation, recreation sites and disaster response.

Col. Jansen's previous assignments include serving as the 72nd commander of the Buffalo District; deputy commanding officer, 1st Maneuver Enhancement Brigade, Fort Polk, Louisiana; operations officer and executive officer of the 46th Engineer Battalion at Fort Polk, Louisiana; operations officer and project engineer for the Seattle District; company commander, battalion logistics officer, battalion personnel officer, and company executive officer for the 84th Engineer Battalion at Schofield Barracks, Hawaii; and battalion maintenance officer and platoon leader for the 10th Engineer Battalion at Fort Stewart, Georgia.

He earned a Bachelor of Science Degree in Environmental Engineering from the United States Military Academy and a Master of Science Degree in Civil Engineering (Hydraulics & Hydrology) from the University of Washington. He is a registered professional engineer in the State of Washington and a certified project management professional. His military education includes the Engineer Officer Basic and Advanced Courses and the Army Command and General Staff College.

Col. Jansen's military awards and decorations include the Army Superior Unit Award (with Bronze Oak Leaf Cluster), Bronze Star Medal, Legion of Merit, Meritorious Service Medal (with three Oak Leaf Clusters), Army Commendation Medal (with two Oak Leaf Clusters), Army Achievement Medal (with three Bronze Oak Leaf Clusters), National Defense Service Medal (with Bronze Service Star), Armed Forces Expeditionary Medal, Iraqi Campaign Medal (with two Bronze Campaign Stars), Global War on Terrorism Service Medal, Army Service Ribbon, Overseas Service Ribbon (with numeral two), Combat Action Badge, Parachutist Badge and Air Assault Badge

Col. Jansen is a native of Loveland, Colorado. He and his wife, Sarah, have two sons, Henry and Peter.