



August 2018

# Property Rights Acquisition and Mitigation Plan Summary

## Table of Contents

The full Mitigation Plan is 115 pages and includes the following items.

- Property Acquisition Philosophies
- Typical Property Acquisition Process
- Appraisal Review Plan
- Offer Presentation and Negotiation Process
- Property Rights Map
- Property Acquisition Schedule
- Early Property Acquisition Program
- Organic Farmland Acquisition Plan
- Disposal of Excess Property
- Mitigation of Properties in the Upstream Mitigation Area
- USACE/FEMA Coordination Plan
- Flowage Easement Plan
- Sample Flowage Easement
- Dispute Resolution Board
- Cemetery Mitigation Plan
- Mitigation of Historic Places
- Post-Operation Debris Clean-Up Plan: Private Lands
- Post-Operation Repair and Clean-Up Plan: Public Lands
- Summer Operation Supplemental Crop Loss Program
- Financial Assurance Plan for O&M, On-going Mitigation
- Mitigation Communications Plan
- Oxbow-Hickson-Bakke Mitigation Project
- In-Town Levee Mitigation Projects
- Pre-PPA Medical Hardship Acquisition Program
- Adaptive Management and Mitigation Plan

The Metro Flood Diversion Authority (Diversion Authority) has prepared the Property Rights Acquisition and Mitigation Plan to document the property rights acquisition and mitigation policies that will be followed for the Fargo-Moorhead (FM) Area Diversion Project (Project). This Property Rights Acquisition and Mitigation Plan has been drafted in coordination with the US Army Corps of Engineers (USACE), and in consultation with the North Dakota State Water Commission (NDSWC) and the Minnesota Department of Natural Resources (MDNR) along with input from the Diversion Authority's Land Management Committee and the Agriculture Policy Subcommittee. Throughout the Property Rights Acquisition and Mitigation Plan, the Project is commonly referred to as the 'FM Area Diversion Project', but it should be noted that USACE, other agencies, and certain documents identify the Project as the 'Fargo-Moorhead Metro Flood Risk Management Project'.

It should also be noted that the Project being referenced in the Property Rights Acquisition and Mitigation Plan is a refined and updated version of the Project that the Diversion Authority has submitted to MDNR as part of a permit application. The Project is now considered "Plan B", and is intended to be consistent with the recommendations of the Governors' Task Force.

The Property Rights Acquisition and Mitigation Plan is intended to be a living document that will be reviewed and amended periodically as additional information and operations prompt updates.

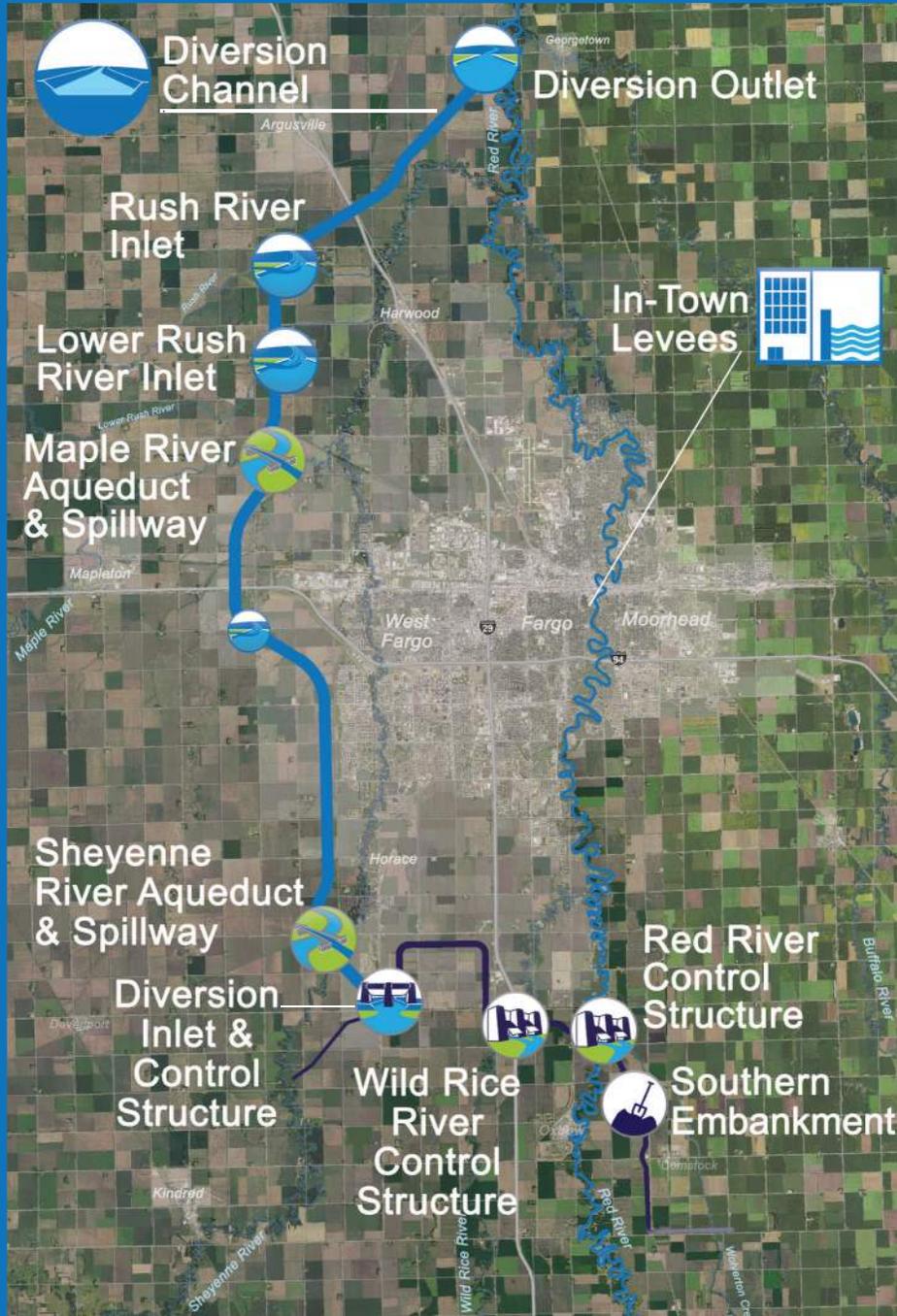
This Property Rights Acquisition and Mitigation Plan contains information about the acquisition of property rights needed for the Project and property mitigation programs. The document is a compilation of a series of plans for a variety of topics. Collectively, the individual topics contained within the document serve as the comprehensive Property Rights Acquisition and Mitigation Plan for the Project.

## Full Mitigation Plan Document Available

[www.fmdiversion.com/studies-technical-documents/](http://www.fmdiversion.com/studies-technical-documents/)



# Project Map



### Diversion Outlet

Water exiting the channel and entering the Red River.



### River or Drain Inlet

Water from surrounding drainage areas that enter the Diversion Channel.



### Aqueduct & Spillway

A structure that allows a river normally to cross the Diversion Channel and "spill" into the Channel during flood events.



### Diversion Inlet & Control Structure

During times of extreme flooding, water behind the Southern Embankment will enter the Diversion Channel through the inlet.



### Southern Embankment

The southern embankment is an earthen structure that temporarily holds water during extreme flood events.



### River Control Structure

Control structures safely regulate the flow of water.

## Process and Procedure

The Diversion Authority has adopted a thorough process for acquiring property. The mission of the Authority is to acquire necessary property in compliance with State and Federal guidelines and in accordance with the philosophy of being friendly, fair, and flexible to those whose property is required for the project.

The Diversion Authority aims to acquire properties following a timeline based on design and construction schedules. That being said, and now that the Project Partnership Agreement (PPA) has been executed with the Federal Government, the Diversion Authority will entertain requests for early acquisition. The intention of this program is to allow property to be acquired early if the property owners desire.

## By the Numbers

- Approximately 1,240 total impacted parcels
- Flowage easements on approximately 875 parcels
- Approximately 365 parcels to acquire in fee title
- 1,060 North Dakota parcels
- 180 Minnesota parcels

## Excess Property

If requested by the property owner, the Diversion Authority may purchase full parcels of land rather than simply the bare minimum property needed to implement the Project. If, as a result, the Diversion Authority owns excess property, the remnants will be sold via public sale in a timely fashion.



# Overview Of Some Key Elements

---

## CLEAN UP PLANS

Operation of the Project will result in the staging and retention of flood waters upstream of the Fargo-Moorhead metro area. The upstream retention area will impact a different amount of acres for each flood event depending on the magnitude of the flood. The Diversion Authority will obtain flowage easements on the properties that are within a defined mitigation area. The flowage easement will compensate property owners for the impacts associated with the Project. However, in recognition that operation of the upstream retention area may cause debris (logs, straw, trash, etc.) to accumulate within and along the edges of the upstream retention area, the Diversion Authority has developed post-operation debris clean-up plans for both private and public properties. The private-lands debris clean-up plan is patterned after the “clean-up week” approached used in the metro area where items to be disposed of are piled up at the curb. The public-lands repair and debris clean-up plan is patterned after the approach FEMA uses for post-disaster damage assessment and reimbursement where local government units are reimbursed for cleanup costs.

## FLOWAGE EASEMENTS

The FM Area Diversion Project includes a mitigation area upstream of the Project. The mitigation area is a necessary component of the Project, and it will occasionally and temporarily store flood waters. Flowage Easements will be purchased and applied to the properties in the upstream mitigation area. The value of each flowage easement will be determined through an appraisal that will consider the depth, duration, and frequency of additional flooding, and the highest and best use of the property to determine the market value of the property. Phase 1 of valuation study is underway now.

## SUPPLEMENTAL CROP LOSS PROGRAM

Summer operation of the Project would likely damage growing crops. Even though summer operation is extremely unlikely, the Diversion Authority will adopt a Summer Operation Supplemental Crop Loss program to provide additional assurance to producers in the upstream mitigation area. The Program would provide producers with coverage for the risk associated with Project induced flooding on growing crops if the Project operates during summer. The Diversion Authority understands and acknowledges that this program is important to the agricultural community because under these events, it is anticipated that producers will not be able to utilize the federal crop insurance program(s) for damages caused by operation of the Project.

## CEMETERIES

There are 5 cemeteries upstream of the Diversion Project that may potentially be impacted by varying levels (ranging from 0.3 feet to 6.3 feet) of additional water during major floods due to operation of the Project in a 100-year (one-percent annual chance) flood. Additionally, there are 21 cemeteries that currently would flood within the protected area that will now have improved flood protection due to construction of the Project.

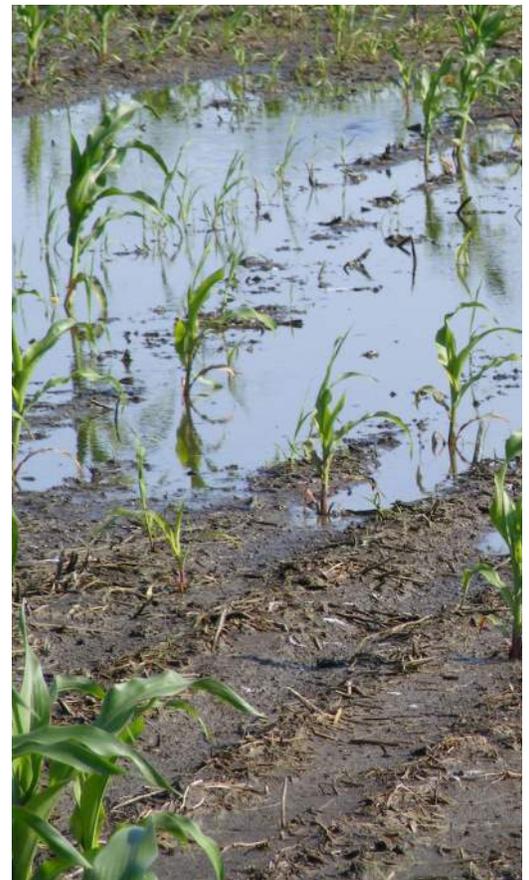
Some of the recommended mitigation steps for cemeteries include protective berms, access changes, debris fencing, anchoring headstones, and/or raising the site. The previously completed cemetery studies can be found at [www.fmdiversion.com/studies-technical-documents/](http://www.fmdiversion.com/studies-technical-documents/).

## FINANCIAL CONSIDERATIONS

The Diversion Authority will establish an on-going O&M Funding Program and utilize either sales taxes or a maintenance district, or a combination of both to fund the program. In addition, the Diversion Authority will make sure that all of the mitigation costs outlined in the Mitigation Plan will be eligible for funding through the O&M Funding Program. The O&M Funding Program will also provide a mechanism for funding unforeseen mitigation needs that may arise due to Project operation.

## DISPUTE RESOLUTION BOARD

In addition to acquiring the necessary property rights from property owners, the Diversion Authority will provide an informal, administrative forum for property owners to file claims for damages. The Diversion Authority will establish the Alternative Dispute Resolution Board for such purposes. It should be noted that the Dispute Resolution Board is modeled after a similar process created by the North Dakota State Water Commission (NDSWC) for the Devils Lake outlet project. The Dispute Resolution Board provides a fair and independent process and mechanism for property owners who believe they were impacted by the Project to submit a claim of damages. The Board will be relied upon for property owners outside of the mitigation boundaries described in the Property Rights Acquisition and Mitigation Plan.



# 100-year Event Map

