



**DIVERSION AUTHORITY
Land Management Committee
City Commission Room
Fargo City Hall
Wednesday, February 22, 2017
3:00 p.m.**

1. Agenda Review
2. Approve January 11, 2017 Minutes (*item A*)
3. Property Acquisition Update (*item B*)
4. CCJWRD Update (*item C*)
5. Oxbow Home Removals (*item D*)
6. Mitigation Plan Adoption Discussion (*item E*)
7. Upstream Mitigation – Structure Impacts (*item F*)
8. Other business
9. Next meeting March 8, 2017

**DIVERSION AUTHORITY
Land Management Committee
City Commission Room
Fargo City Hall
Wednesday, January 11, 2017
3:00 p.m.**

Present: Cass County Commission Representative Mary Scherling; Clay County Commission Representative Kevin Campbell; Clay County Commission Representative Jenny Mongeau; Fargo City Administrator Bruce Grubb; Fargo Division Engineer Nathan Boerboom; Cass County Joint Water Resource District Representative Rodger Olson.

Others present: Eric Dodds - AE2S; Mark Brodshaug - Cass County Joint Water Resource District (CCJWRD); Joe Herbst - AE2S.

Absent: Moorhead Mayor Del Rae Williams; Moorhead City Engineer Bob Zimmerman; Moorhead City Council Representative Heidi Durand; Cass County Commission Representative Chad Peterson; Fargo City Commission Representative John Strand; Oxbow Mayor Jim Nyhof.

The meeting was called to order by Chair Mary Scherling.

Agenda Review

There were no additions or amendments to the agenda. Rodger Olson moved the Order of Agenda be approved. Kevin Campbell seconded. All the members present voted aye and the motion was declared carried.

Approve December 14, 2016 Minutes

Mr. Campbell moved the minutes from the December 14, 2016 meeting be approved. Jenny Mongeau seconded. All the members present voted aye and the motion was declared carried.

2017 Calendar

Eric Dodds shared the proposed calendar of dates for Outreach meetings, Land Management meetings, Finance meetings and DA Board meetings. The calendar is consistent with how meetings were scheduled in 2016, he said, and an electronic calendar is in the works.

Ms. Scherling said it has been confusing in the past on a few occasions when Land Management met on a third Wednesday rather than the second Wednesday of a month.

Mr. Dodds said the calendar shows the Diversion Authority Board and the Finance Committee meeting two times per month. The consensus seemed to be that one meeting per month is adequate for the Outreach and Land Management Committees, he said. In keeping it as it has been in the past, he said, the full suite of meetings is set during the second week of each month, with the second Finance and DA Board meetings in the month scheduled during the last week.

Mr. Dodds said there have been conversations about the extent and focus of this group. The Cass County Joint Water Resource District has been assigned the responsibility for acquiring land and there is a lot of value in their updates to this committee; however, perhaps those could be quarterly or less frequently. This committee was originally set up more as a policy based group, he said, and now those policies have been adopted, at least informally.

Mr. Olson said he feels this group is important, especially for the purpose of letting Minnesota know what is going on. He said while the Diversion Board is kept updated, he said, not everyone is a member of that Board.

Kevin Campbell moved to recommend that Land Management Committee meetings continue to be held monthly, on the Wednesday prior to the FM Area Diversion Board of Authority meetings, at 3:00 p.m. Ms. Mongeau seconded. All the members present voted aye and the motion was declared carried.

Farmland Management Report from Pifer's Land Management

Mr. Dodds said the 2016 Year End Farm Management Report from Pifer's lists the parcels Pifer's is managing on behalf of the Diversion Authority and the farmers working those properties, as well as maps of locations and photos of crops. He said 2016 was a pretty good farm year in the region with the net income from the land rent about \$250,000.00. Pifer's has secured rental agreements for those expiring in 2017, he said.

In response to a question from Ms. Scherling about how Pifer's was chosen to manage the farmland and whether that agreement gets revisited, Mr. Dodds said the agreement came about in 2013 when some farmland was acquired that would not be needed for the project for some time. Farmland management services went through an RFP process and Pifer's was the recommended firm, he said. He does not believe a term was placed on the contract, he said, and the recognition was this could be a long-term situation. Management fees are on a block scale, he said, and an advantage with working with Pifer's is that they also have a real estate team.

Mark Brodshaug said the approach when Pifer's was hired was for professional services and not necessarily for the absolute lowest cost. They have been relied on for other things too, he said, such as getting a sense of the market for land.

Ms. Scherling said Pifer's has a good reputation; however, it's always good to take a look from time to time to be sure things are on the right track.

CCJWRD Update:

In response to a question from Ms. Scherling about whether the expectation for the next year is to acquire a lot more property, Mr. Dodds said the map distributed titled "Phase 1 – LAP01 Parcels" shows parcels where property acquisitions are active. He said that land needs to be acquired by the time of the financial close with the P3 entity which is expected to be March 2018, so there is a little more than a year to secure those property rights. He said some farmland will likely be acquired in 2017, creating a situation where the farm owners or tenants will be allowed to continue to harvest their crops in 2017 and the land will be taken over in 2018.

Joe Herbst said there are still some property owners who feel the project will not happen or disagree with certain aspects of it; however, the majority now know this is going to happen and most of the hitches now are not so much a reluctance or opposition to sell, but due to differing ideas of valuation.

Mr. Dodds said one of the steps in the process has been to encourage the land agents to get out early and often to form a relationship with the property owners.

Mr. Brodshaug said the first visit or two with landowners has often ended up as a question and answer session about the project, so the land team has been given some contact names so various questions can be addressed, then things can move on to talking about valuations.

In response to a question from Ms. Scherling about the valuation process, Mr. Herbst said standard procedure is to have one appraisal done, which then goes through a formal review by another certified general appraiser to be sure the methodology checks out and is compliant with industry standards. He said if there is a large separation on price, and the owner requests it, a second appraisal would be done; however, there has not been a need to do that in Phase 1. In terms of negotiations, he said, if the appraisal missed something the landowner feels strongly about, there is some flexibility; however, the need to set an upper limit is being discussed. Some of the first acquisitions are looking to do land exchanges with the associated tax benefits, he said. Much of the land in the Red River Valley seems to be held by absentee landowners, he said, which makes each situation unique. The handout shows just Phase 1 properties, he said; however, there are 8-10 current opportunistic property acquisitions from Phases 2, 3 and the upstream mitigation area being added to the list to begin the process.

In response to a question from Ms. Scherling about timelines, Mr. Dodds said Phase 1 should be done by Spring 2018. He said Phase 2 is everything north of I94 not colored on the handout map and Phase 3 is everything south of I94 down to the inlet structure south of Horace. Phase 3 represents the largest in terms of number of parcels and area, he said, and the P3 developer is being asked to supply their design for the P3 area of the channel which is expected sometime this fall.

In response to a question from Mr. Campbell about whether land acquisition must still follow federal regulations in the P3 portions where the Corps is not directly involved, Mr. Dodds said the process is consistent since it is still overall a federal project. The PPA typically requires local sponsors to request credit on property acquisitions, he said; however, that crediting requirement has been removed. He said this allows more flexibility just in terms of the appraisal review steps and some other steps; however, the appraisals, reviews and relocation benefits all still need to follow the same rigorous federal standards.

Mr. Brodshaug reviewed the Land Management Summary outlining acquisitions completed through December 31, 2016. A favorable bid package was approved for the removal of 9 out of 11 homes in Oxbow, primarily on North Schnell Drive, he said, and the contractor intends to move the houses rather than demolishing them. Three appraisals were approved, he said, and the Land Management team is addressing early buyout requests in the upstream mitigation area. Two rural residences near Oxbow were demolished, he said. A recent Forum article featured the relocation of the School

District commercial property, he said, and it is good to see how well that is working out for them.

Other Business

Mr. Herbst said the Biotic and Geomorphic Monitoring Program is a pretty heavy lift. He said it will do some adaptive management and require long term access agreements on over 200 parcels along the Red River and its tributaries. He said letters are going out to landowners to explain the monitoring project and to request long term access agreements. Some of the parcels are not along the channel, he said, and there could be misunderstandings by property owners thinking the diversion is going through their property; however, these are just monitoring sites. The ongoing program is to determine the impacts of the project on the local watershed, such as erosion occurring and impacts to fish and biotic communities, he stated. The study will be conducted three times before the project is operated, he said, and each time after the project is operated. He said there are about 38 sites, and the impact will be small. He expects some property owners will simply allow access, he said; however, something like \$250.00 could be offered for putting in a survey marker if payment is requested for access.

Mr. Dodds said there are a few Minnesota properties on the list due to monitoring on both sides of a river; however, the bulk of the Minnesota parcels are not included on the list at this time.

The meeting adjourned at 3:34 p.m.

Property Acquisition Status Report

Feb 15, 2017

Diversion Channel Phase 1

- Involves 92 parcels & 48 land owners
- 19 appraisals complete and approved by the CCJWRD
- 6 parcels owned by CCJWRD (7%)
- Negotiations actively underway by Land Agents
- Deadline: All properties acquired by P3 Financial Close (Feb 2018)
- See attached "heat map" showing appraised values

Diversion Channel Phase 2

- Land Acquisition Directive (LAD) being presented to Finance Committee and CCJWRD next week for approval
- Assigning Phase 2 land parcels to Ulteig and HMG Task Orders
- 66 parcels & 34 land owners
- 2 parcels owned by County (Drain 14)
- 9 parcels owned by Rush River WRD
- 11 parcels owned by CCJWRD (17%)
- Boundary survey work complete, and 20+ Certificates of Survey complete
- See attached map of Phase 2 parcels

Opportunistic Acquisitions

- 20 property owners have sought early acquisition
-

Mitigation Projects

- Wild Rice Dam Removal (WP36)
 - Involves 2 parcels & 1 land owner
 - Easements needed for disruption to adjacent land during dam removal
 - Work to be completed summer of 2017 (pending USACE budget approval)
- Drayton Dam (WP40)
 - May involve up to 11 parcels & 6 land owners
 - Working with City of Drayton and American Crystal Sugar for access required
 - Requested further definition from USACE on the design
 - Work to be completed summer of 2017 (pending USACE budget approval)

Biotic and Geomorphology Monitoring Sites

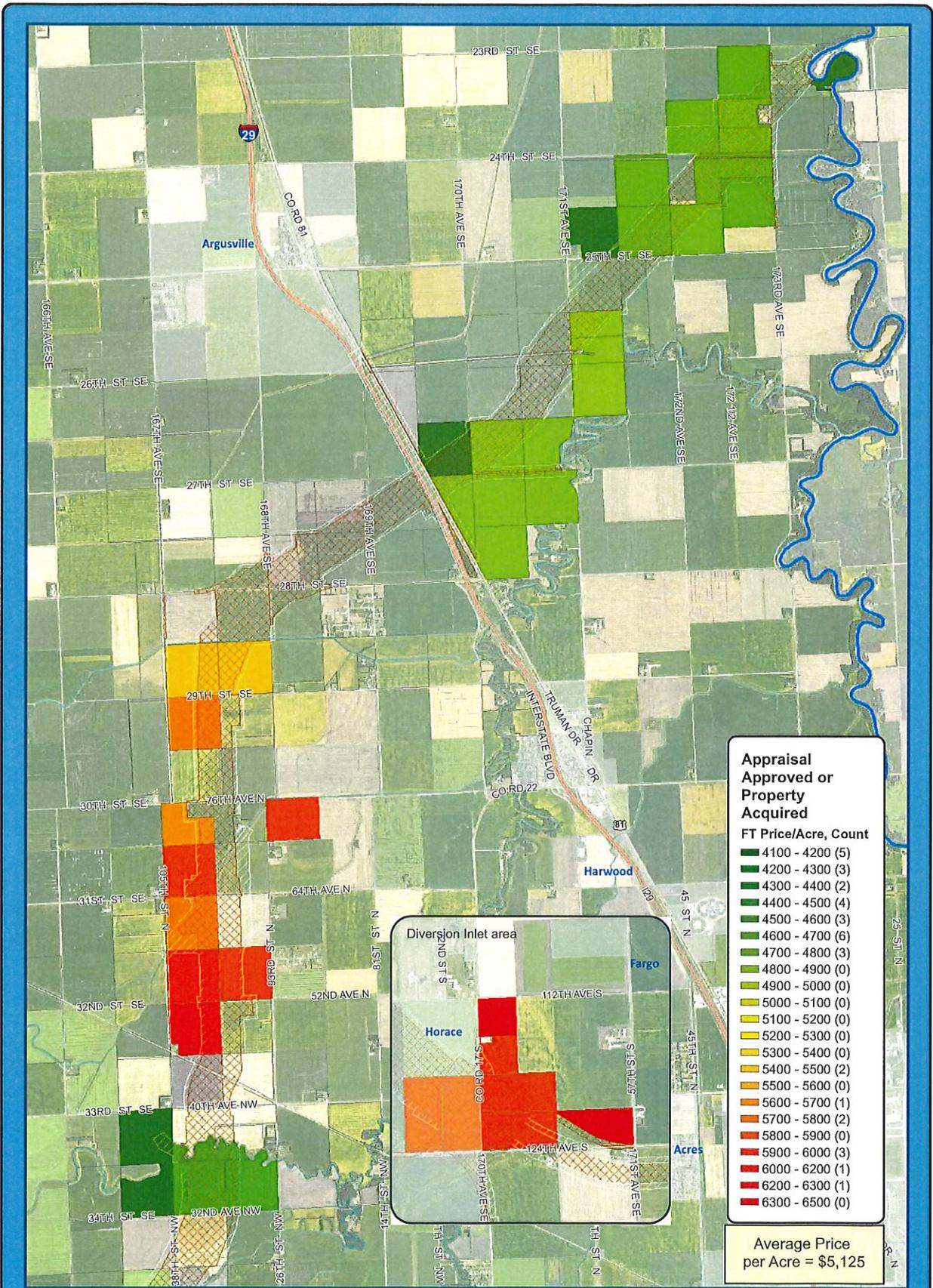
- Involves 318 parcels & 226 land owners in Cass and Richland Counties (ND)
- Involves 114 parcels & 37 land owners in MN (these are not being pursued presently)
- 11 ROEs signed by land owners
- Will require Easements for these parcels due to the extended period of monitoring activity after project completion
- See attached informational sheet regarding monitoring sites

Cultural Mitigation

- Phase 2 Cultural Work
 - Requires ROE so that more extensive Archeological investigation can occur early summer of 2017
 - Involves 3 parcels and 3 landowners
 - Could move to a Phase 3 Cultural project which would have to occur summer of 2017
- Phase 3 Cultural Work
 - Requires land ownership so that Archeological Digs can happen summer of 2017
 - Involves 5 parcels & 2 landowners
 - Archeological Digs will only occur within the Diversion Construction Work limits

Red River Control Structure Right-of-Entry

- USACE requested ROE to 7 parcels for planning and designing purposes



Any reliance upon this map is at user's own risk. AES2 does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use.

Work Limits

- Red River
- Rivers
- Levees
- Limited Service Spillway
- Southern Embankment
- Roads
- Interstate
- Impacted Parcels

FM Area Diversion Project
Land Valuation "Heat" Map
 2/15/2017





US Army Corps
of Engineers®
St. Paul District

FARGO-MOORHEAD AREA DIVERSION PROJECT

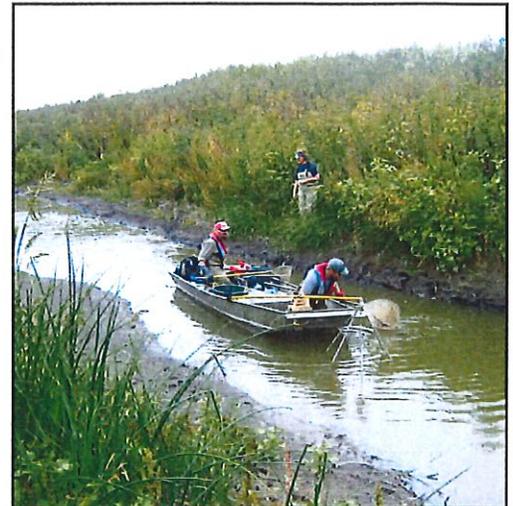
BIOTIC AND GEOMORPHIC MONITORING PROGRAM

December 2016

The U.S. Army Corps of Engineers, St. Paul District, is completing biotic/biological and geomorphic surveys in the Fargo, N.D./Moorhead, Minn., region as part of the Fargo/Moorhead Metropolitan Area Flood Damage Reduction Project. These surveys of the physical environment will provide the Corps with baseline information of the biological and geological environment before construction of the project. The Corps is committed to minimizing environmental impacts to the land and intends to have full and open communication with landowners in regards to these survey activities. All people on-site will be instructed to minimize any disturbance to property. See page 2 for a map showing all of the biotic and geomorphology survey sites.

BIOTIC SURVEYS

The purpose of the biotic surveys is to characterize the general ecological conditions of the rivers and streams affected by the project. Work will include monitoring the physical habitat and collecting and identifying fish and invertebrates [i.e., bugs, clams]. Electrofishing techniques will be used to stun fish, collect them, observe them and return them to the river. Invertebrates will be collected from the bottom of the river and sent to a lab for analysis. Work is planned to begin in 2017 and will include approximately three half-day events per site. Initial site visits are planned for early-summer but could be scheduled to a later date based on flow conditions. Actual sampling will likely occur later in July or August. Additional surveys may occur in later years prior to construction and will occur again following project construction and operation. The results of these surveys will help biologists confirm impacts as a result of the project and the effectiveness of mitigation. Work will be done by a crew of two to three people in the water with approximately one to five people watching from the shore.



Biotic survey, 2011 Rush River

GEOMORPHOLOGY SURVEYS

The purpose of the geomorphology surveys is to collect data at regularly spaced intervals before and after completing the project, as well as after flooding. The results of these surveys will be used to evaluate potential interactions between near and in-channel land-surface processes and the flood risk management project. Surveys will include measurement of width, depth, velocity and discharge of stream flow. Surveyors will collect stream bank and instream sediments and water samples and document vegetation types and sediment cores to establish deposit properties and depths. The anticipated timing for the regular sampling is every other year for up to three sampling cycles in a 5-year period both before and after project construction completion. Additional surveys will more than likely be performed in subsequent years and after flooding to identify any geomorphic changes. As outlined in the 2011 Final Feasibility Study and Environmental Impact Statement, no significant adverse impacts from the project are anticipated.



Geomorphology survey, 2011 Rush River

CONTACT INFORMATION

For questions or comments regarding the biotic and geomorphic monitoring surveys, please contact **Kimberly Warshaw, Corps of Engineers, at 651-290-5327.**

For questions or comments regarding land acquisition, please contact **Joe Herbst, Diversion Authority, at 701-364-9111.**

Request ROE by: Aug 1, 2017 thru Dec 31, 2019

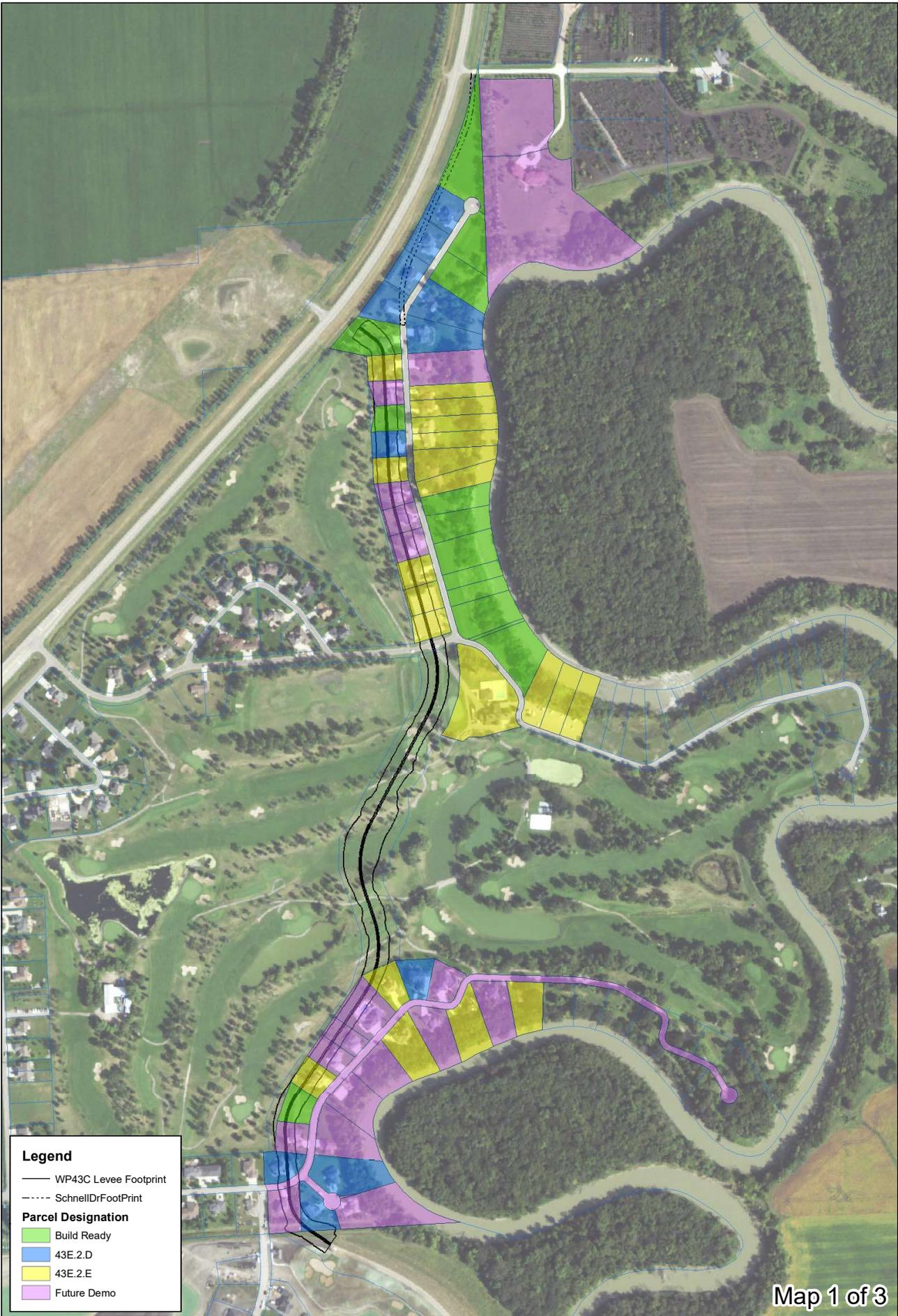


Fargo-Moorhead Metro Flood Risk Management Project
Southern Embankment
February 2017 ROE Request



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Printed 1/31/2017

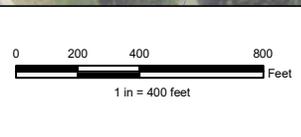
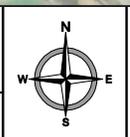
Field surveys: Cultural Phase I, Historic Bluffs, geotech borings, & HRTW surveys



Map 1 of 3

**2016 HOME DEMOLITION WORK PACKAGES
OH B RING LEVEE
CASS COUNTY, NORTH DAKOTA**

Created By: TJS Date Created: 08/24/16 Date Saved: 12/29/16 Date Plotted: 08/24/16 Date Expired: 12/29/16
 Plotted By: gary summer Parcel Date: 09/02/16 Aerial Image: 2015 County NAIP 500S Elevation Data: LIDAR
 Horizontal Datum: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet Vertical Datum: NAVD1988
 T:\Projects\17000\17036\17036_242_OH B_RingLevee_Home_Demo_11_21_16.mxd





Oct. 12, 2016

Mitigation Plan Summary

Table of Contents

The full Mitigation Plan is 177 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 Residential Property Acquisition
- Organic Farmland Acquisition Plan
- Acquisition/Mitigation of Properties in Upstream Retention Area
- USACE / FEMA Coordination Plan
- Flowage Easement Plan
- Sample Flowage Easement
- Disposal of Excess Property
- Cemetery Mitigation Plan
- Mitigation of Historic Places
- Post-Operation Debris Clean-Up Plan
- Summer Operation Supplemental Farm Revenue Program
- Financial Assurance Plan for On-going Mitigation
- Mitigation Communications Plan
- OHB Mitigation Project
- Comstock Mitigation Plan
- In-Town Levee Mitigation Projects
- Environmental Mitigation

The Diversion Authority has developed a detailed Mitigation Plan outlining mitigation requirements that will be followed for the Fargo-Moorhead Area Diversion Project (Project) to address mitigation needs previously identified during studies by the US Army Corps of Engineers and the Minnesota Department of Natural Resources (MDNR). The plan was submitted to the MDNR and the North Dakota State Water Commission (NDSWC).

The plan outlines the steps the Diversion Authority will take to ensure the fair treatment of people, property and the environment impacted by the project. The Mitigation Plan consists of comprehensive property mitigation and environmental mitigation components. The Mitigation Plan is also a compilation of a series of plans for a variety of topics.

The Diversion Authority is following all federal and state laws related to acquisition of property rights. In addition, the Diversion Authority has established additional protections beyond federal and state requirements for impacted properties in its Mitigation Plan.

The Project has been studied extensively by the Diversion Authority, Corps, MDNR and others. The Project has received a Federal Record of Decision (ROD), Federal authorization by Congress through the Water Resources Reform and Development Act (WRRDA) of 2014. The Project received a new start and its first Federal construction appropriation in 2016. In addition, the Diversion Authority entered into a Project Partnership Agreement (PPA) with USACE on July 11, 2016. The MDNR issued a Determination of Adequacy regarding its environmental study of the project in June 2016.

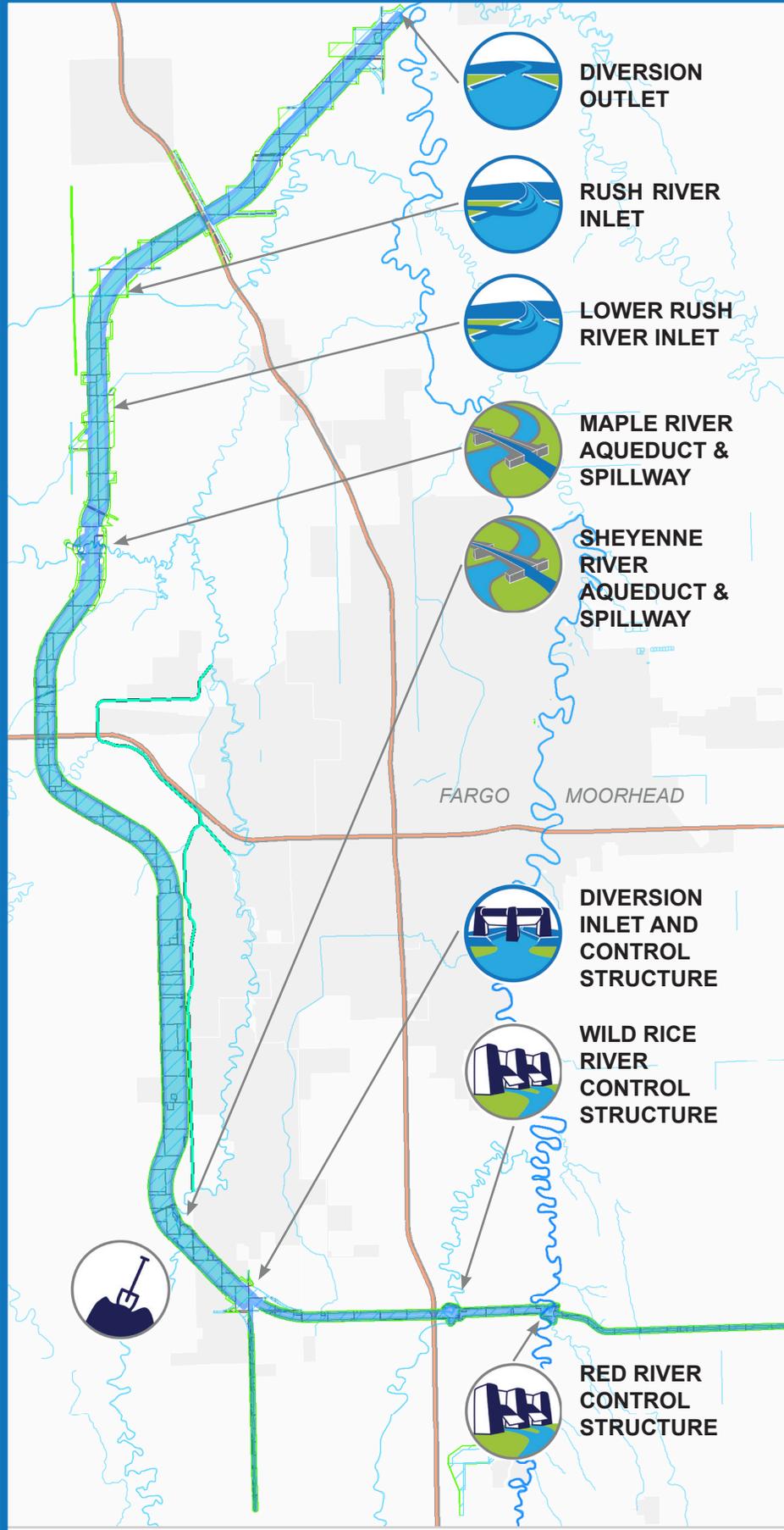
The Mitigation Plan is intended to be a living document that will be reviewed and amended periodically as additional information and operations prompt updates.

Full Mitigation Plan Document Available

www.fmdiversion.com/studies-technical-documents/



Project Footprint Properties Impacted



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.

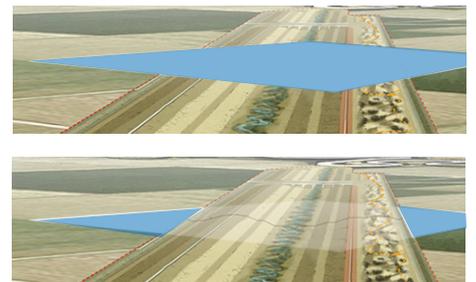
The Diversion Authority aims to acquire properties following a time line based on design and construction schedules. That being said, and now that the Project Partnership Agreement (PPA) has been executed with the Federal Government, the Diversion Authority will entertain requests for early acquisition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

By the Numbers

- Approximately 1,500 total impacted parcels
- Flowage easements on approximately 840 parcels
- Approximately 660 parcels to acquire in fee title
- 1,125 North Dakota parcels
- 375 Minnesota parcels
- 100 total residential structures in the Project Area
- 75 residential structures in the upstream mitigation area

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 retention area upstream of the Project. The retention 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 retention 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. For properties on the fringe of the impacted area, the Diversion Authority will offer to pay actual, physical damages after the Project operations as an alternative to encumbering those lands with a flowage easement.

SUPPLEMENTAL FARM REVENUE 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 Farm Revenue program to provide additional assurance to producers in the upstream retention 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 11 cemeteries upstream of the Diversion Project that may potentially be impacted by varying levels (ranging from 0.1 feet to 8.3 feet) of additional water during major floods due to operation of the Project in a 100-year (one-percent annual chance) flood. Analysis was also completed on these cemeteries for the 500-year event and those impacts are detailed on individual cemetery maps. Additionally, there are 19 cemeteries that currently would flood within the protected area that will now have permanent 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/.

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.

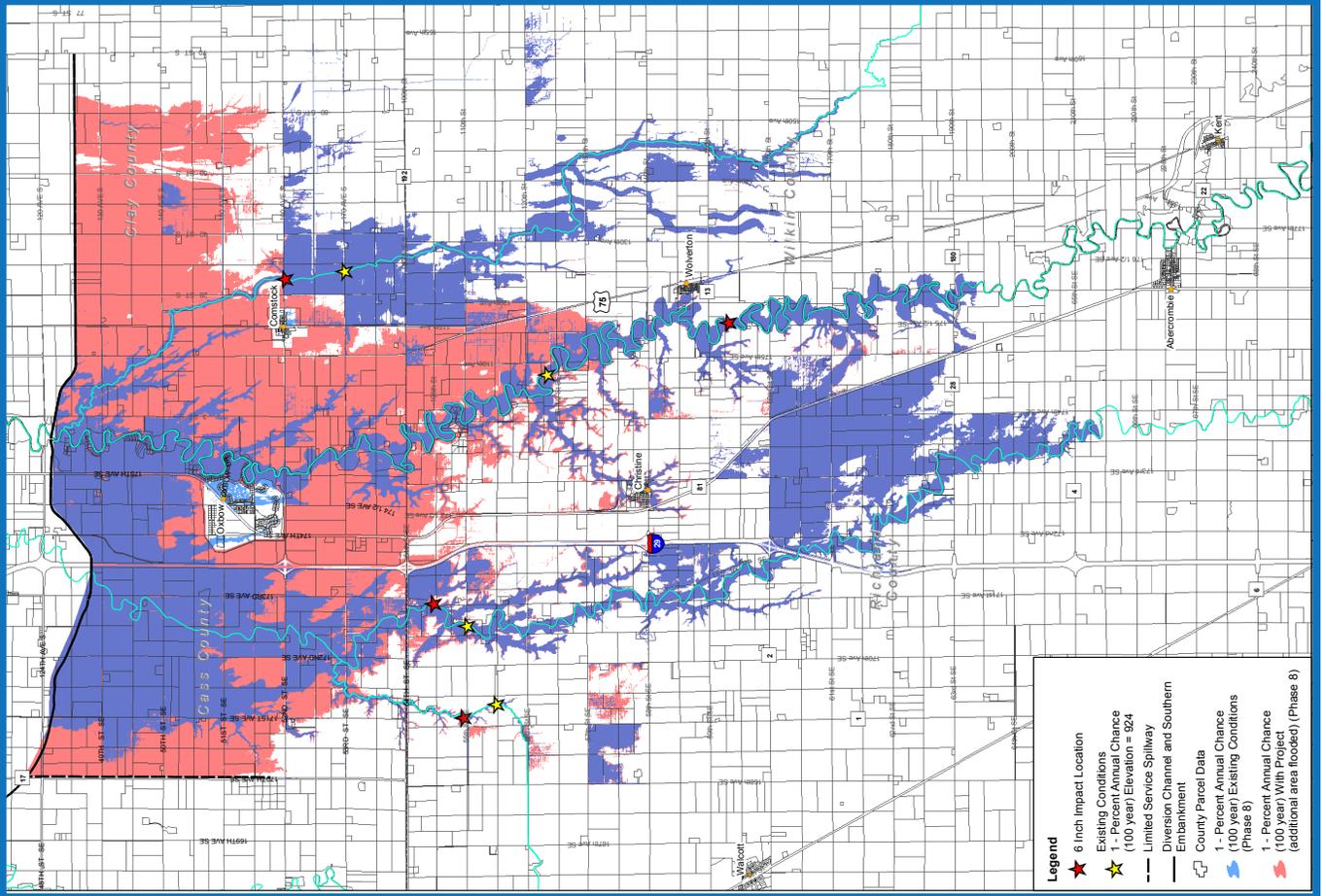
INDEPENDENT MITIGATION PROJECTS

The Diversion Authority has the following independent mitigation projects.

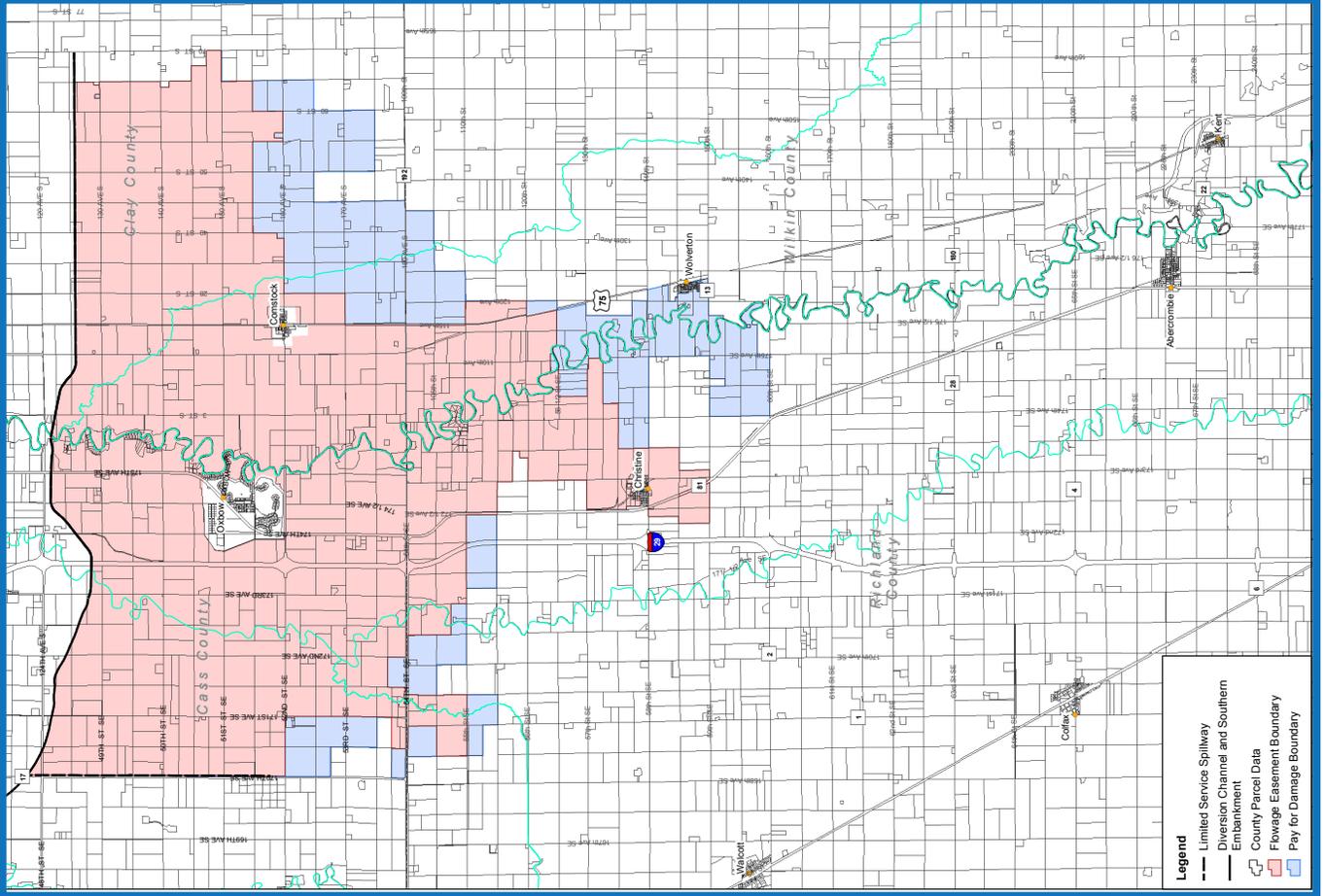
- In-town Levees
- Oxbow-Hickson-Bakkee Ring Levee
- Comstock Ring Levee
- Drayton Dam Improvements



Upstream impacts with and without the project



Upstream mitigation areas



Upstream Impact Area - Structure Mitigation Requirements

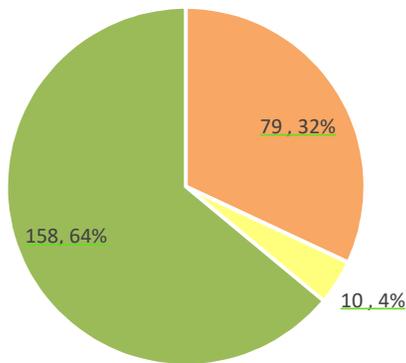
15-Feb-2017

	Total in Database	Mitigation Required		Potential Takings Analysis
		Buyout Required	Buyout or Other Mitigation	
<u>Residential Structures</u>	<u>247</u>	<u>79</u>	<u>10</u>	<u>158</u>
<u>Non-Residential Structures</u>	<u>1,377</u>	<u>516</u>	<u>173</u>	<u>688</u>
<u>Sites / Parcels</u>	<u>331</u>	<u>112</u>	<u>90</u>	<u>129</u>

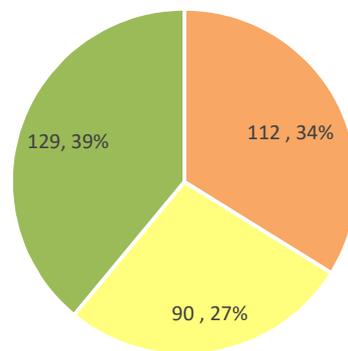
Notes:

- The database is bound on the south end at the limits of the Phase 8 hydraulic model.
- The database includes all identified structures and sites within the footprint and upstream of the southern embankment.
- The 'Buyout Required' category is based on structures / sites in the new floodway.
- The 'Buyout or Other Mitigation' category includes structures / sites that are impacted outside the floodway, and additional analysis is needed to define the mitigation plan.
- The 'Potential Takings Analysis' category includes properties that are not impacted (158 residential structures, 586 non-residential structures, and 109 sites) and properties that USACE will conduct a Takings Analysis (5 residential structures, 102 non-residential structures, 20 sites) to determine if the impacts are compensable.

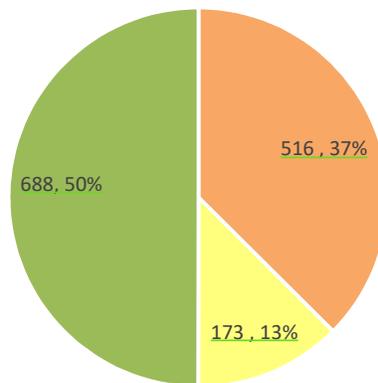
Residential Structures



Sites / Parcels



Non-Residential Structures



■ Buyout Required
 ■ Buyout or Other Mitigation
 ■ Potential Takings Analysis