

**FOR IMMEDIATE RELEASE**

## Flowage Easement Acquisitions Move to Next Phase for FM Area Diversion Project

**FARGO, ND** (December 2, 2022) – The Cass County Joint Water Resource District, a member of the Metro Flood Diversion Authority, is moving to the next step in acquiring the flowage easements necessary for the FM Area Diversion project. The easements will provide the legal right to periodically and temporarily store floodwater when the FM Area Diversion operates.

CCJWRD has been negotiating for the past 10 months with landowners from whom a flowage easement is necessary. The negotiations have included CCJWRD obtaining an appraisal to determine the proper amount of just compensation to be paid to the landowners for the flowage easements. Landowners were provided a copy of the appraisals obtained by CCJWRD for the landowner's property as well as information on how the payments have been calculated.

Despite nearly a year of negotiations, CCJWRD has not been able to reach an agreement with some landowners from whom a flowage easement must be acquired. As a result, CCJWRD must proceed with using eminent domain to acquire flowage easements from eight North Dakota landowners. These actions are being filed with the district court, and landowners will be served the corresponding documents.

This next step involves properties in the upstream mitigation area, which includes roughly 29,000 acres south of a 20-mile-long earthen embankment. When flood conditions become severe enough for the FM Area Diversion project to operate, water will be held in the area for anywhere from a few days to more than a week to help control the flows downstream and prevent catastrophic flooding.

"Property owners have been able to negotiate with independent land agents hired by CCJWRD over the past 10 months, during which time they had an opportunity to challenge the appraisal findings. Unfortunately, not all of those negotiations were successful. We hope to continue to negotiate — or, in several cases with landowners who have yet to engage after numerous attempts, begin to negotiate — with those who are moving into eminent domain," said Jodi Smith, MFDA director of lands and compliance. "We fully understand that this can be a challenging situation for property owners, but construction is well underway, and these easements are necessary to keep the area on schedule for permanent flood protection."

On behalf of the MFDA, CCJWRD in North Dakota and the Moorhead-Clay County Joint Powers Authority in Minnesota have been working to purchase the property rights necessary to complete the FM Area Diversion project. For the flowage easements, landowners receive a one-time payment calculated based on the property's current value, how restrictive the flowage easement will be with respect to constructing improvements on the property, and how much longer the property will have water on it when the FM Area Diversion project operates than it would in the absence of the project.

To date, roughly 29 percent of flowage easements necessary for the FM Area Diversion project have been acquired. Sixteen additional properties are at risk of going into eminent domain early next year.

While floodwater will not be backed up into the upstream mitigation area until 2027 at the earliest, when the project is ready to operate, it's necessary to acquire the flowage easements now, primarily because the eminent domain process can last for years before acquisitions have been completed.

In addition to paying landowners for the flowage easements, programs are being developed to help producers in the upstream mitigation area in years when the FM Area Diversion project operates. These include two forms of free, supplemental crop insurance, as well as a debris cleanup program that will commence once floodwaters recede. The flowage easement requires implementing these crop insurance programs to protect producers in the upstream mitigation area. More information on these programs and flowage easements is available in a [recording of a public meeting](#) that took place November 3 and at [www.FMDiversion.gov/flowageeasements](http://www.FMDiversion.gov/flowageeasements).

### **About the Metro Flood Diversion Authority**

The MFDA is a permanent North Dakota political subdivision that is cooperatively implementing the Fargo-Moorhead Area Diversion comprehensive project with the U.S. Army Corps of Engineers. The MFDA works in partnership with the Red River Valley Alliance in a public-private partnership as well as the City of Fargo, City of Moorhead, Cass County, Clay County and the Cass County Joint Water Resource District. More information is available at [www.FMDiversion.gov](http://www.FMDiversion.gov).

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## **Upstream Mitigation Area Background/Timeline**

**2018:** Phase 1 study on upstream mitigation area (UMA) commences

**August 2020:** Partners complete FM Area Diversion project studies and preliminary designs

**October 2020:** FEMA issues a Conditional Letter of Map Revision (CLOMR), the first step in acknowledging the changing floodplain

**April 2021:** Independent land agents and appraisers begin meeting with property owners in the UMA

**July 2021:** Public meetings in North Dakota share information on the UMA and programs that will be available once construction is completed

**November 2021:** Crop insurance focus groups begin as a way to determine producers' needs following construction

**December 2021:** An independent appraisal company completes appraisals on properties in the UMA

**January-February 2022:** Cass County Joint Water Resource District in North Dakota and Moorhead-Clay County Joint Powers Authority in Minnesota approve the first two phases of flowage easement appraisals

**February-March 2022:** Landowners receive a packet detailing the process, their appraisal and the corresponding offer, as well as information on how to negotiate and reach a resolution with their land agents

**March 2022:** Public meetings in North Dakota and Minnesota take place to discuss the packets with property owners

**July 2022:** Property owners who have not signed a flowage easement receive a reminder and copies of their offers

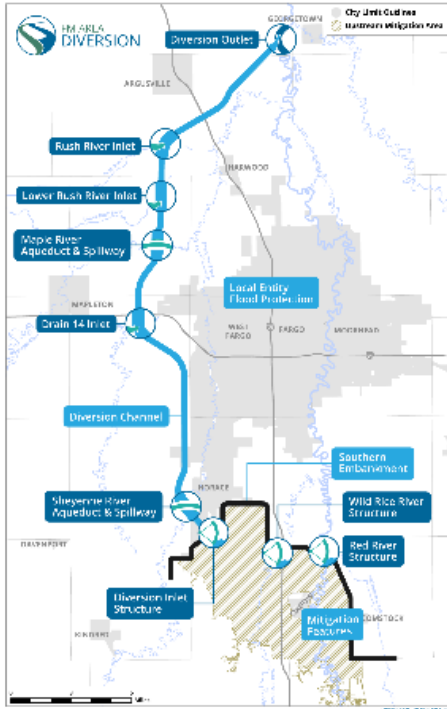
**October 2022:** Landowners who have not signed for the easement receive notice that they have 90 days to complete the process before their case must go into eminent domain

**Early November 2022:** Public meetings hosted to provide final flowage easement information, as well as details on the free insurance programs available to producers in the UMA

**→ November 30, 2022:** The first batch of parcels for which the necessary flowage easements have not been obtained begins moving into eminent domain

**January 3, 2023:** The second batch of parcels for which the necessary flowage easements have not been obtained begins moving into eminent domain

## Imagery



**MFDA\_Map.jpg:** The FM Area Diversion comprehensive project includes a 20-mile southern embankment, behind which water will accumulate during project operations. Landowners in this area, called the upstream mitigation area, will receive payments for flowage easements on their land and producers in the area will be provided with free, supplemental crop insurance from the Metro Flood Diversion Authority. A debris cleanup program and timelines also have been developed so that any detritus and garbage left after the diversion operates will be quickly removed and disposed of. To see in more detail how the project will operate, watch the [FM Area Diversion Operations video](#).

Map available to download at [www.FMDiversion.gov](http://www.FMDiversion.gov)