

TESTIMONY BY DIVERSION AUTHORITY
CHAIRMAN DARRELL VANYO AND
FARGO MAYOR DR. TIM MAHONEY TO THE
WATER TOPICS OVERVIEW COMMITTEE

AUGUST 12, 2015

TESTIMONY TO THE WATERS TOPICS OVERVIEW COMMITTEE
By: DARRELL VANYO
FM DIVERSION AUTHORITY CHAIRMAN
August 12, 2015

Good afternoon Chairman Schmidt and committee members. Thank you for the opportunity to provide you with an update on the Fargo Moorhead Area Diversion Project.

I am happy to report that we continue to move closer to achieving long-term, permanent flood protection for the 200,000 people living within the Fargo metro area.

When I testified before this body roughly a year ago, we announced that our Project had received final approval from Congress and the President. Since that time, we have been working to make sure that, when federal appropriations are received, we will be shovel ready. Thanks to all of you, the Governor, and your colleagues for helping in this effort, and appropriating an additional \$69 million last session, bringing the total state contribution to \$244 million. Without your support, we would not be where we are on the federal level. On behalf of all the citizens of North Dakota that will benefit from this Project, thank you.

We have spent many hours with you talking about the many complexities of this \$2 billion Project. Instead of rehashing our past conversations about the numerous aspects of the Project, I would instead like to focus on four major events happening in the next month, what they mean for the Project, how they address the concerns expressed in the past, and how they will lead to the realization of the flood protection we so badly need.

Federal Support

Thanks to Sens. Hoeven and Heitkamp, and others, our Project has been the topic of several federal committee hearings and meetings with the White House as the Corps looks to modernize and develop new methods to deliver and construct projects. The interest level at the Corps headquarters for our Project has never been higher, and because of that, within the next month we are anticipating a visit from Gen. Bostick, the top ranking military official within the Corps. Due to the work that been put into

our Project and the financial backing from the State and local taxpayers, we are seen as one of the top flood risk reduction Projects in the whole country.

Public Private Partnerships (P3)

The Diversion Authority has been working closely with our Congressional Delegation and the Corps to respond to Congress's charge to find new ways to complete projects like ours. Chosen as a "Demonstration Project" by the Corps, the Diversion Authority has determined that a public-private-partnership, or P3 is the best way to deliver part of the Project and maximize the value of the money spent. P3's are a collaboration between the public and private sectors to efficiently and effectively deliver projects that have multi-generational benefits. This method of project delivery allows for innovation and optimizes the use of private sector technical expertise to significantly reduce the cost and time of project delivery. While there is still a significant amount of work to do to define the specifics of a P3 as it relates to the Diversion Project, the Diversion Authority has retained the management, technical, financial, and legal expertise needed to do so effectively. We have also been regularly reporting to the State Water Commission on this effort and others regarding the Project. In the next month, the Diversion Authority intends to issue a Notice of Intent that will clarify how the Authority will establish the P3 in an open and transparent way for all interested parties to obtain information in advance of the formal procurement process. It is important to note that prior to any procurement process starting, the Diversion Authority is committed to resolving three key issues: receiving a Determination of Adequacy from the DNR on the MN EIS; a successful resolution of the federal lawsuit; and an appropriation and new construction start from Congress/Corps.

Minnesota Involvement

As you are aware, the Project involves our neighboring State of Minnesota. As a partner in the Project, the Minnesota Department of Natural Resources (MDNR) is conducting an Environmental Impact Statement (EIS) due to the Project including what Minnesota defines as a Class 1 Dam on the Red River. The draft MN EIS report is due out in the next month. You will be thankful to know that our review of a preliminary version of the report indicates that MDNR is likely to agree with the Corps that there is only one type of Project alternative that can provide the full metro area with adequate flood protection, a North Dakota Diversion with an upstream staging area. This is a satisfying justification

and validation of the years of work that have been put into our Project and, with the ultimate release of the MN EIS, we look forward to our continued work with our partners in Minnesota on how best to address the mitigation needs due to the Project.

Oxbow-Hickson-Bakke Ring Levee Project

As you are likely well aware, with the support of the Governor, the legislature, and permits from the State Water Commission and Corps, we started construction of the OHB ring levee in 2014. We have completed about a quarter of the ring levee that ultimately will provide Oxbow with protection from both natural flood risks and, later on, temporarily stored water due to future operation of the Diversion Project. We had planned to complete another \$10 million of construction this summer, but a federal Judge issued a preliminary injunction that stopped physical construction of the levee this past spring until the MN EIS is complete. We have complied with the injunction order and recently received clarification from the Judge that we are still able to proceed with mitigation related to property acquisitions and home relocations. The injunction was narrow in scope and only related to levee work; all other Diversion-related activities were not impacted. Litigation is an unfortunate result when two parties come to an impasse, but the court is there to resolve these types of disputes and in the end, we will continue to move forward towards permanent flood protection the people need and deserve.

NDSU Agricultural Income Impact Study

The Diversion Authority has been working with the NDSU Agribusiness and Applied Economics Department for over a year on identifying and quantifying the farming income impacts resulting from the temporarily staging of water due to the operation of the Diversion Project. Last legislative session, the legislature approved of this effort and increased the scope of it by \$80,000. We expect to have initial results within the coming months and expect to have results from the expanded study well ahead of the Sept. 1, 2016 deadline set by the legislature. The study will determine the farm income impacts associated with operation of the Diversion Project. The study includes developed of a detailed model that incorporates all of the complex variables that affect farm income such as fall moisture, spring moisture, temperature, flood frequency, flood duration, etc. The study will determine the annualized farm income impacts for 98 regions within the staging area. This incredibly detailed study will give policy makers information they need to consider mitigation policies that compensate for the

potential loss of income during extreme flood events. I also hope this study gives some comfort to those farmers who will be impacted by letting them know definitively the scope of the impacts. We will continue to work closely with the State Water Commission, and our local Agricultural Policy Subcommittee, which you all are invited to sit in on, to review the results and create future policy around it.

Other Mitigation

In addition to the OHB ring levee and farm income impacts, the Diversion Authority is completing mitigation and developing policy for future mitigation efforts. Mitigation has been a top priority of the Diversion Authority and its member entities. Home buyouts are a common form of mitigation. In recent years, approximately 500 homes have been removed in Fargo, Moorhead, Cass County, and Clay County to provide flood protection for the metro area. In addition to home buyouts, which are costly and impactful to people, we have looked for ways to provide ring levees to keep communities intact like we are doing in Oxbow-Hickson-Bakke and will potentially do in Comstock, MN. Where possible, we have also started to look at the feasibility of providing individual ring levees for some farmsteads within the staging area of the Project on a case-by-case basis.

Another issue that was discussed last legislative session, and has been the subject of a lot of effort locally, is the impact to several cemeteries and how those impacts might be mitigated. A Corps report was released in June detailing the federal mitigation requirements and the potential mitigation options for each site, none of which involve moving cemeteries. The Diversion Authority is planning to create a local group to review those options with the cemetery representatives after the MN EIS is completed.

Budget

The support we have received from you in past sessions has been incredible. To date, the State has appropriated \$244 million and has committed to \$450 million in total. The State Water Commission has reimbursed \$76 million worth of expenses so far, leaving approximately \$167 million left over. This is a lot of money, but with the work plan we have before us on the Diversion Project, it will be utilized to its fullest soon we hope. In addition to these reimbursed expenses, the Diversion Authority has spent \$127 million to date, which has been funded locally thanks to two voter-approved sales taxes. Additional financial information can be found in your packets.

Closing

Thank you for the opportunity to update you on this important Project. I, myself, have been an elected official in some capacity for over two decades. I have been involved in a lot of Projects and have made a lot of decisions that impact people. The scope of this Project outweighs anything I have undertaken previously, but the basic principle is the same. I try to keep the problem at the forefront of my mind. We need to reduce and remove the flood risk for the Fargo metro area. We need to do the most good for the most people. But in doing so, we need to treat those impacted with respect and mitigate and compensate them adequately for those impacts. I commit to you that we will continue to address the concerns I know you have heard. These answers do not always come as quick as some would like, but work on them continues to progress and we will get there.

I would like to thank you for the part you have played in this Project. Our constituents have been through a lot of floods. A lot of people have lost their homes, their livelihoods, and that additional stress of flooding has had a great impact on their lives. This Project has a number of challenges ahead of it, but there are more of them behind us. Today, we are closer than ever to achieving permanent flood protection for 200,000 people.

Thank you.

TESTIMONY TO THE WATERS TOPICS OVERVIEW COMMITTEE

By: Dr. Tim Mahoney

Mayor, City of Fargo

August 12, 2015

Mr. Chairman and members of the committee, thank you for your tremendous support of our flood protection efforts in Fargo and for the opportunity to spend a couple minutes updating you on our progress.

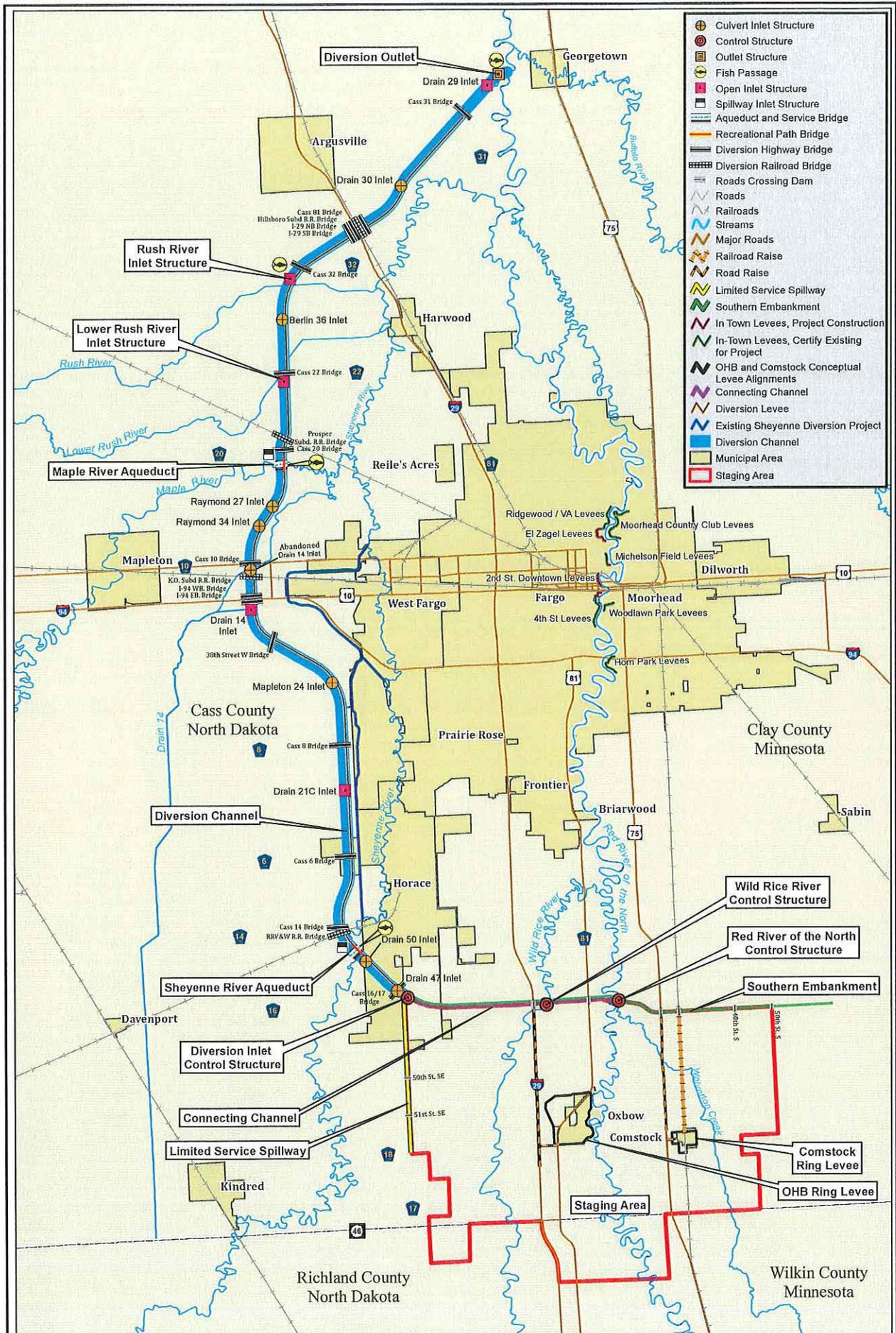
We have made great strides in our ability to protect the City, its residents, and its businesses. Since 2009, we have built 15 miles of permanent earthen levees and another mile of flood wall. These improvements have reduced our sandbagging needs during a flood by 4 million bags; however, we still have a long way to go to feel safe from flooding.

FEMA (the Federal Emergency Management Agency), which dictates the 100-year floodplain and flood insurance requirements, increased the floodplain locally in January putting an additional approximately 2,000 homes into the floodplain. These were 2,000 homes that previously were thought to be safe that are now at risk. The levee work done to date and our plans for the future will help alleviate the flood insurance requirements and will go a long way to removing these homes from the floodplain. This is a big deal for these homes and to the homeowners as new flood insurance plans on an average home can cost several thousands of dollars a year. In total, the annual premiums from these 2,000 homes could exceed \$6M every year in perpetuity; this is a significant economic impact for our City, State, and region.

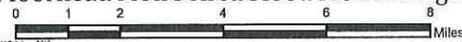
If this was the extent of our flooding problem, I would probably not be here before you today. However, we know that the floodplain will continue to increase and we need to keep driving for more flood protection. In April, Sen. John Hoeven brought a top FEMA official to Fargo. FEMA was very clear with those of us at the table. The information they used for the remapping that went into place in January was based on old data. FEMA said that in five years they will be back to remap our local area utilizing all of the recent river data, including the last decade of extreme flood events like the 2009, 2010, and 2011 events. Experts tell us that this remapping will put another 20,000 homes in Fargo into the floodplain and require them to buy flood insurance. If you can do some quick math, that means in five years the total annual premiums paid locally would increase tenfold. That is the economic crisis that is facing Fargo, the surrounding metro area, and the State of North Dakota.

Levees in town are a critical aspect to our flood protection plans, but they cannot prevent this flood insurance requirement. Only the Diversion Project can provide 100-year flood protection to the level needed. Your support in the past has meant so much to me and the citizens I represent. We will need that support going forward as we continue to face the challenges ahead.

On behalf of the City of Fargo, thank you for the time and effort you all have put in on our efforts. We appreciate it and it will not be forgotten.

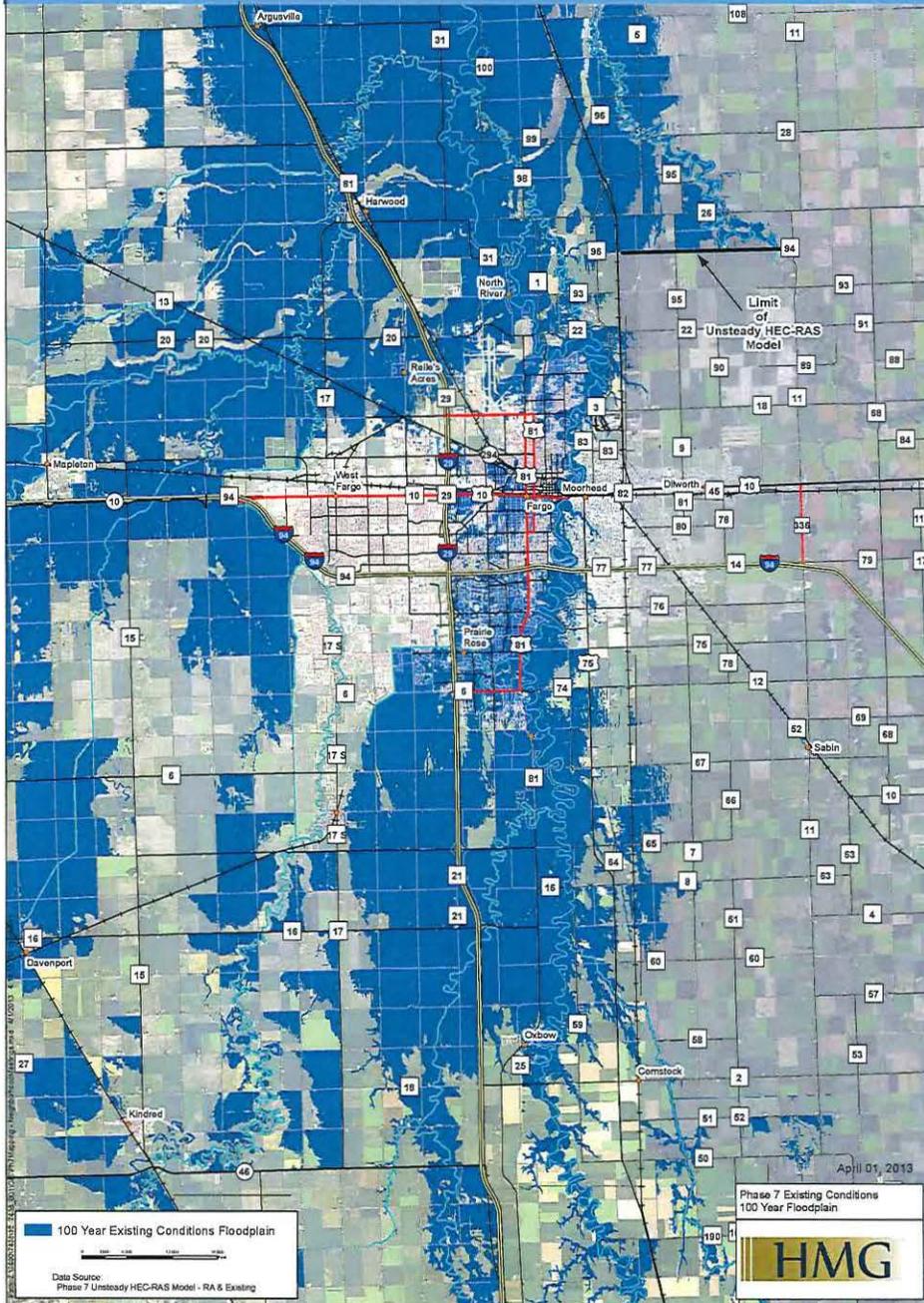


Project Features - June 2015
 Fargo Moorhead Metro Area Flood Risk Management

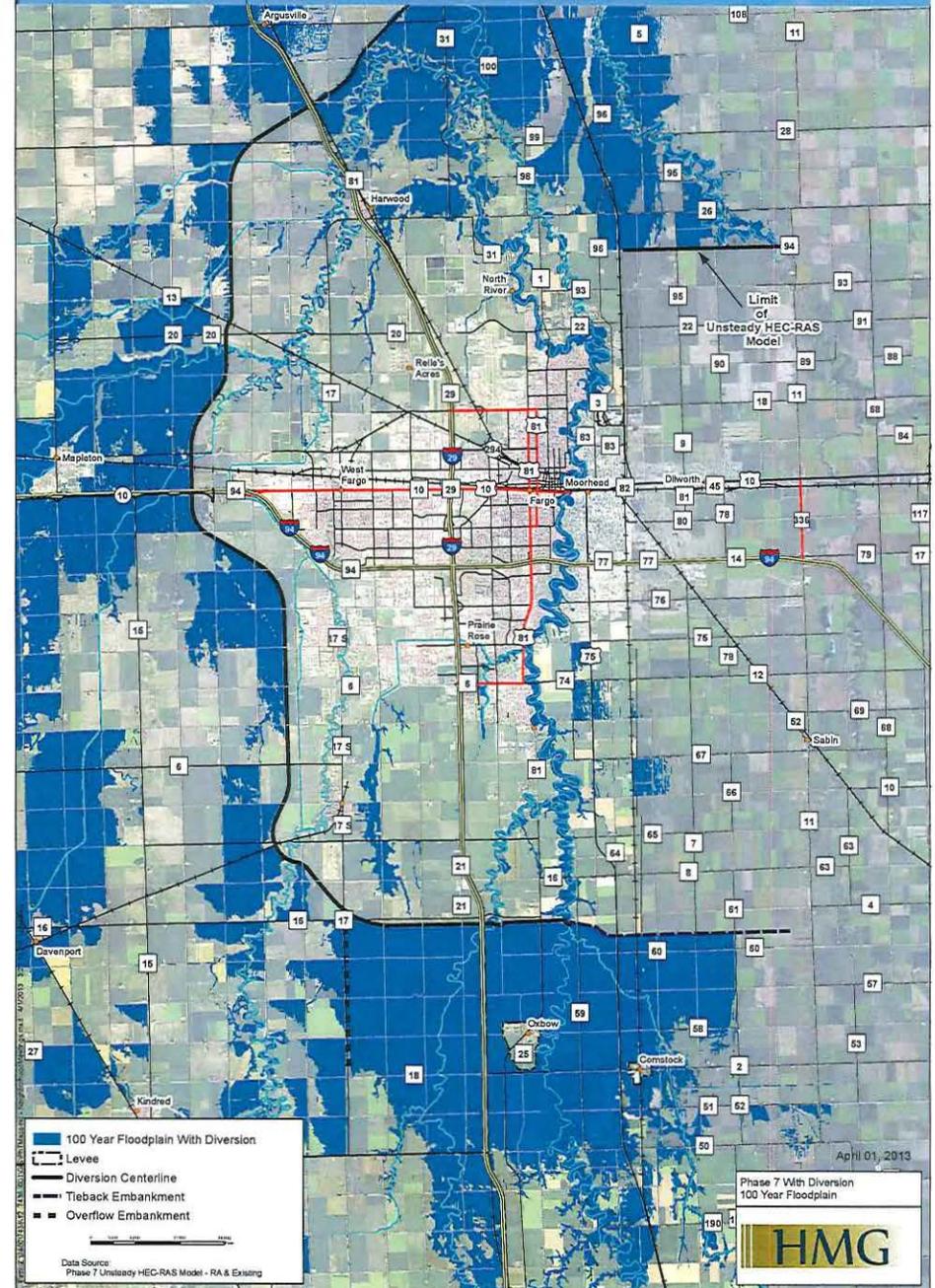


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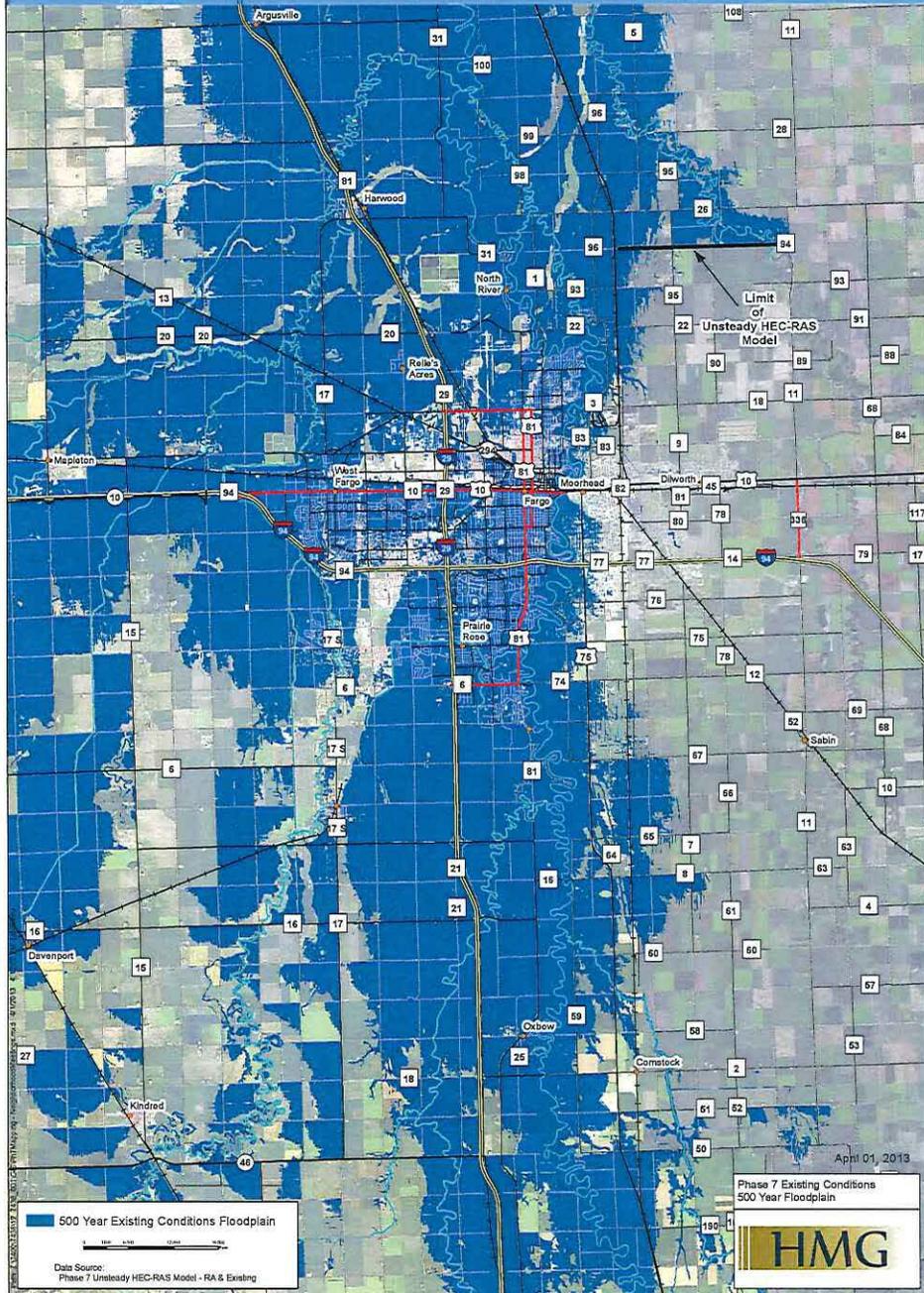
100-YEAR FLOOD WITHOUT THE FM DIVERSION



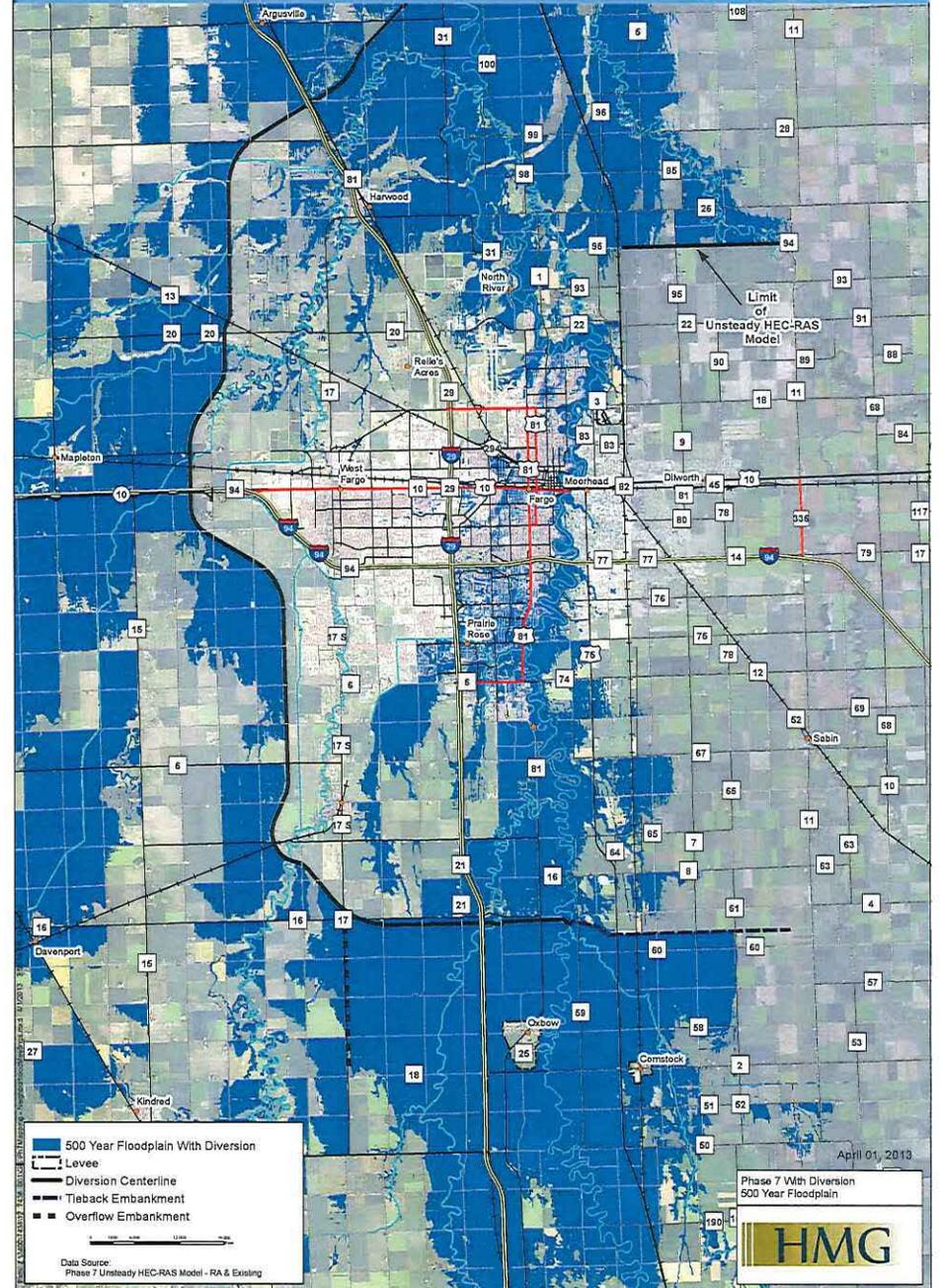
100-YEAR FLOOD WITH THE FM DIVERSION

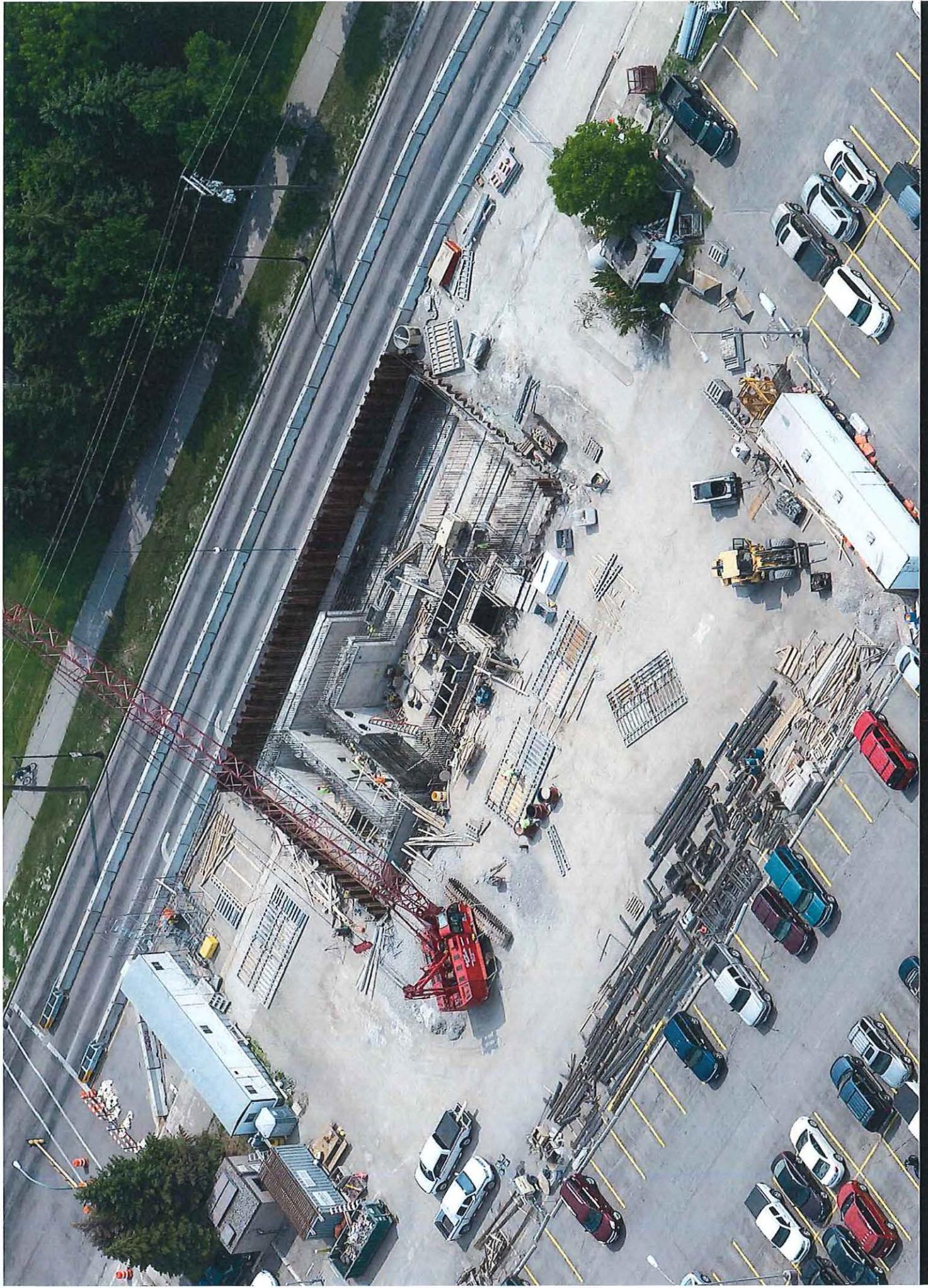


500-YEAR FLOOD WITHOUT THE FM DIVERSION

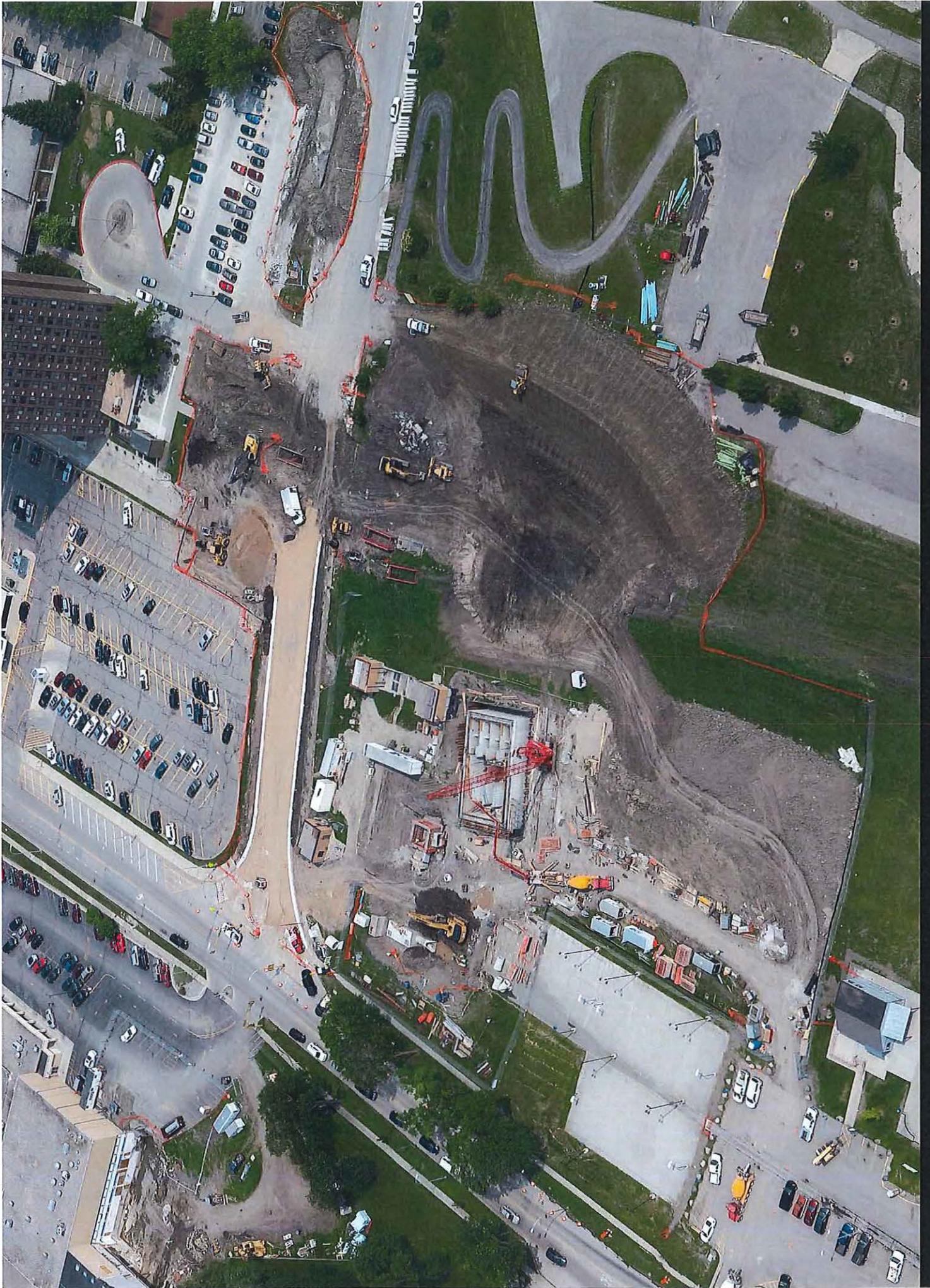


500-YEAR FLOOD WITH THE FM DIVERSION

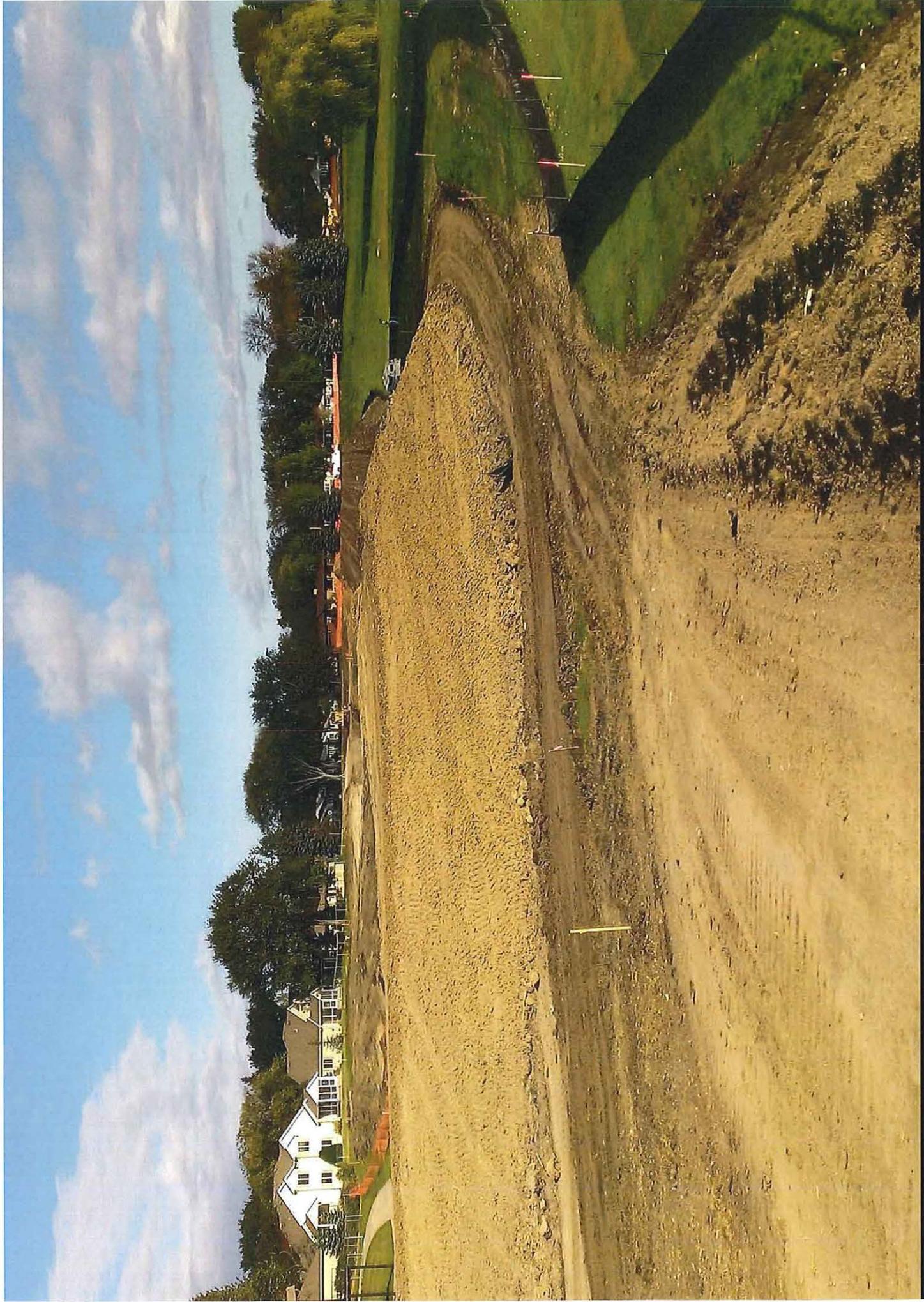




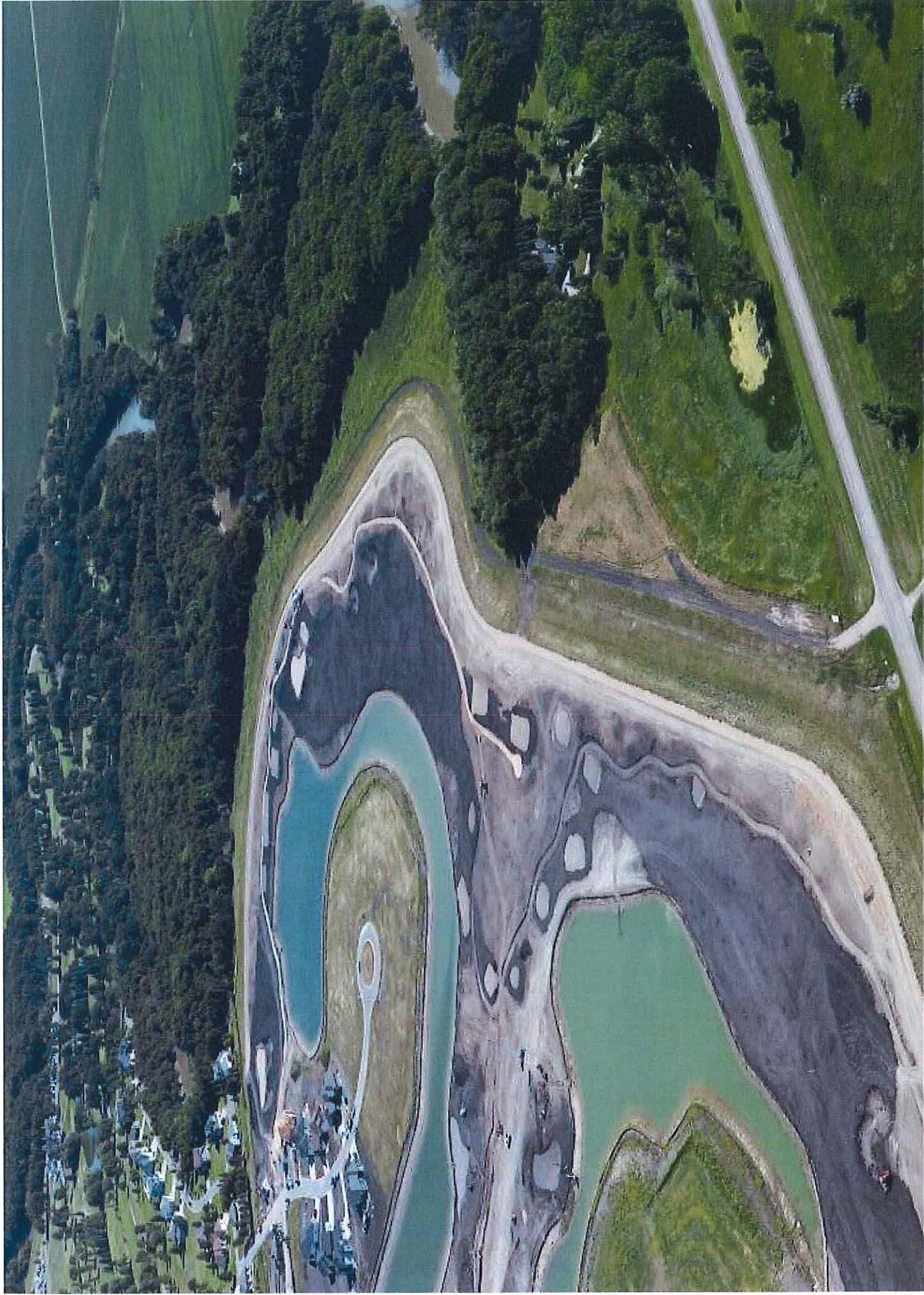
FM Area Diversion Project - Downtown Fargo 2nd Street



FM Area Diversion Project - Downtown Fargo 4th Street

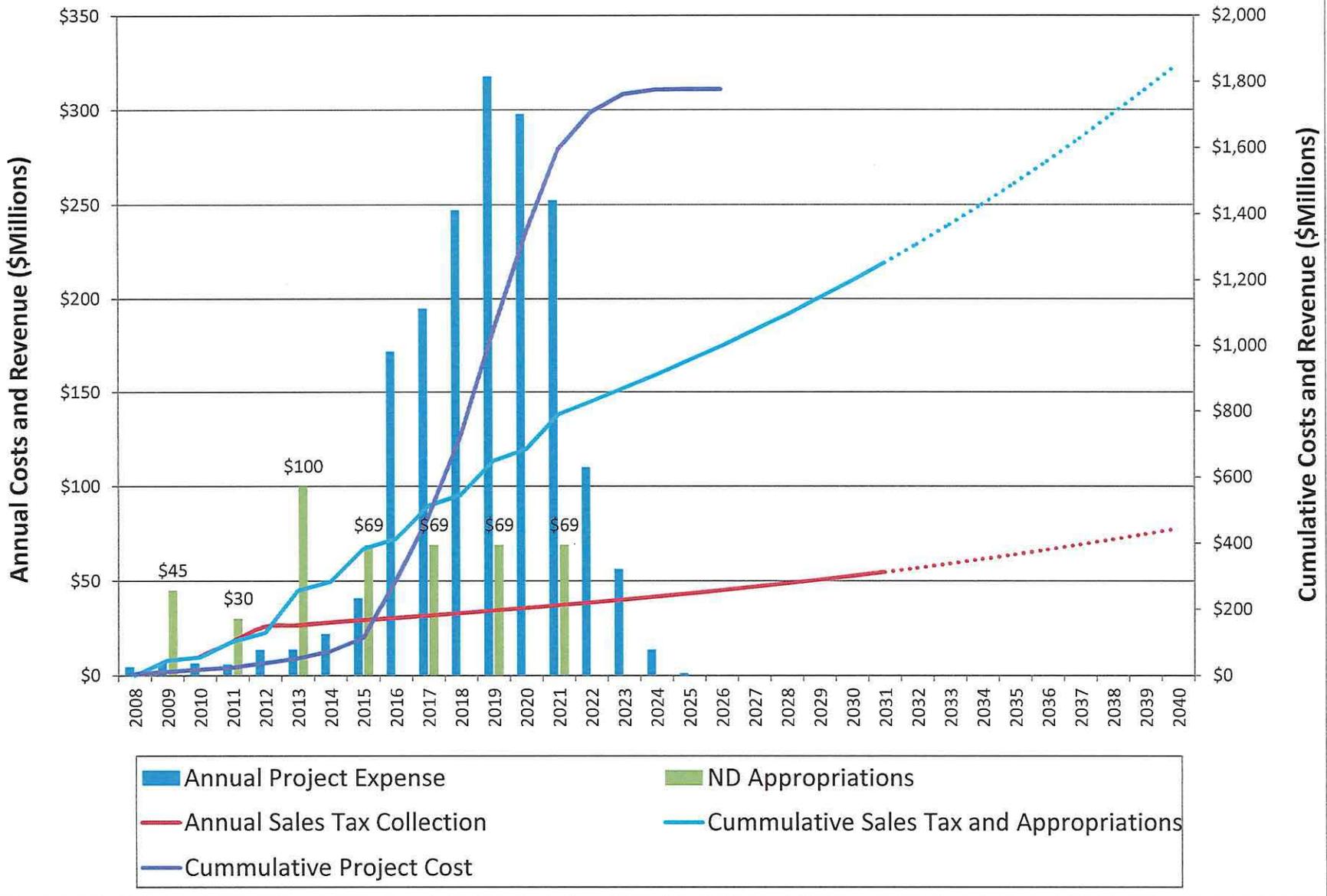


FM Area Diversion Project - North Fargo



FM Area Diversion Project - OHB Ring Levee Project

Projected Project Expenses & Revenues



Diversion Financial Summary

as of 7/31/2015

State Aid Summary	
Summary of State Funds Appropriated	
Appropriations from 2009 Legislative Session	\$ 45,000.00
Appropriations from 2011 Legislative Session	\$ 30,000.00
Appropriations from 2013 Legislative Session	\$ 100,000.00
Appropriations from 2015 Legislative Session	\$ 69,000.00
Total State Funds Appropriated	\$ 244,000.00
Total State Funds Reimbursed	\$ 76,264,438.00
Total State Funds Balance Remaining	\$ 167,730,562.00

Local Funds Summary	
Diversion Authority Expenditures to Date	\$ 127,263,852.00
City of Fargo Flood Sales Tax Revenue to Date	\$ 59,753,949.00
Cass Country Flood Sales Tax Revenue to Date	\$ 62,784,394.00

Oxbow-Hickson-Bakke Ring Levee Project - Financials

Category	Cost-to-Date
Engineering/Design/Permitting	\$6,500,000
Land Acquisition & Relocation	\$33,100,000
Management & Oversight	\$500,000
Construction	\$14,200,000
Wetlands Mitigation	\$600,000
Total to Date	\$54,900,000



US Army Corps
of Engineers®
St. Paul District

Fargo-Moorhead Diversion **ALTERNATIVE FINANCING (P3)**

*An innovative solution
to meet the Nation's
water resource needs*

Consistent with the **President's Expanding Public-Private Collaboration on Infrastructure Development and Financing** directive and the **Build America Investment Initiative**, alternative financing of Fargo-Moorhead Diversion will improve collaboration between the public and private sectors, and develop new financing of infrastructure while safeguarding communities, and the environment.

The Fargo-Moorhead Diversion Alternative Financing approach is designed to **efficiently** and **effectively deliver** water resource solutions. The approach **reallocates** risk, **expands** partnerships, and optimizes use of technical expertise while **significantly reducing** the cost and time of project delivery. Implementing this approach will allow the Corps to be **relevant, responsive, reliable** and efficient in the 21st Century economy. Applying this model will allow the Corps to deliver more projects to the American people in a continually constrained environment.

Alternative Financing:

- ▶ Responsive to the President's and Nation's call for innovative financing
- ▶ Demonstrates what can be done within existing laws and policies
- ▶ Innovative approach leading to significant gains in efficiency, productivity, and resiliency
- ▶ Supports, promotes, and expands opportunities for infrastructure investments
- ▶ Improves project delivery for Civil Works
- ▶ Cost effective investment

What is Alternative Financing? An approach that will transfer risk and leverage public and private resources to construct the FMM Flood Risk Management Project in a cost effective and timely manner.

What can Alternative Financing do? It will reduce the project delivery timeline by more than 50% compared with traditional approaches.

Is this authorized? YES – the project being constructed was authorized by Congress in 2014 and existing authorities will be used to implement alternative financing.

Why this project? This is the first flood risk management project well suited to demonstrate the effective use of a Public Private Partnership:

- 1) The project is **shovel ready**;
- 2) The Corps and local sponsors have a **strong partnership**; and,
- 3) **Local funding is secured**.

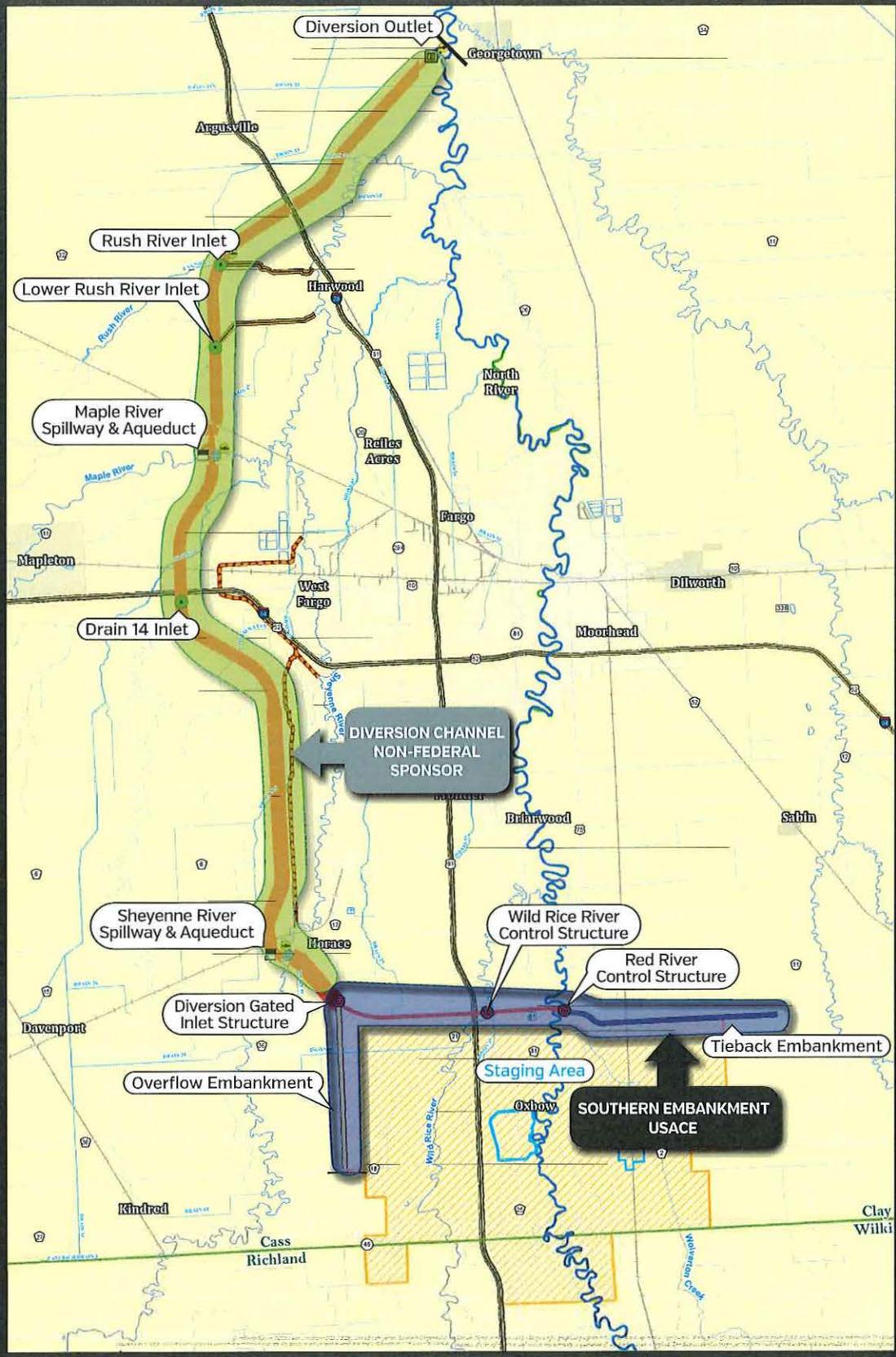
Fargo-Moorhead is a cultural, commercial, manufacturing, health care and education hub for the region, and with the development of energy resources in North Dakota, the communities are critical to the national economy and national energy security.

What is the Split Delivery plan? (see map on back)

Sponsors construct the diversion channel using a P3 with funding provided locally. USACE constructs the Southern Embankment/dam using traditional delivery with funding provided federally.

Does anything need to change to make

this a reality? We need a new approach for the new millennium that goes beyond budgeting solely for benefit costs ratios. Return on Federal investment is a more appropriate measurement for alternative financing.



ALTERNATIVE FINANCING BENEFITS

ACCELERATED project delivery

REDUCE COST to tax payers

Provide benefits **QUICKER** and **CHEAPER**:

SAFEGUARD a population of 225,000 persons & **\$14 billion** in property value

Provide **\$1.9 BILLION** in public benefits

REDUCE RISK, EXPOSURE & FUTURE COSTS for many federal agencies including **FEMA, DOE, USDA, NRCS** and **SBA**

PROTECT the local economy, which generates **\$4.35 billion** in annual non-farming wages and over **\$2.77 billion** in annual taxable sales

ALTERNATIVE FINANCING is the most **COST-EFFECTIVE** option to flood risk management for FMM

- Aqueduct
 - Control Structure
 - Fish Passage
 - Inlet
 - Diversion Outlet
 - Spillway
 - Overflow Embankment
 - Tieback Embankment
 - Abandoned River Channel
 - Sheyenne Diversion
 - Diversion Channel
 - County Boundary
 - Proposed Levees
 - Staging Area
- As Of: 9/24/2014

ALTERNATIVE FINANCING PLAN

Split Delivery Plan

SEPTEMBER 2014

FARGO-MOORHEAD METRO
FLOOD RISK MANAGEMENT PROJECT



US Army Corps
of Engineers®

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