

Acquisition Timeline in North Dakota

Quick Take Eminent Domain Process

The Cass County Joint Water Resource District (CCJWRD) has the responsibility for acquiring property rights in North Dakota for the FM Area Diversion Project. The Diversion Authority and CCJWRD have established property acquisition philosophies that include the goal of utilizing eminent domain only as a last resort. This means that a priority will be placed on negotiating a mutually agreeable compensation of property rights with the property owners. However, for situations where a fair, mutually agreeable compensation is not possible, the CCJWRD will follow the quick take eminent domain process as specified by NDCC 61-16.1-09(2)(b).

Timeline / Steps

Step	Timeline (min.)
PRE-OFFER STEPS (DESIGN, SURVEY, APPRAISAL)	
A. The final work limits are defined by the design team to show what property rights are required for each project component	Start of acquisition
B. Parcel maps are prepared based on the final work limits. (assume 5 days)	Day 5
C. CCJWRD sends letter and parcel maps to property owner(s) of the impacted OINs, introducing the Land Agent, providing Land Agent and CCJWRD contact information and identifying the timeline for property acquisition.	Day 10
D. Parcel maps are prepared based on the final work limits. Appraisers begin establishing a value of the taking based on the parcel maps. Surveyors conduct a boundary survey and develop a certificate of survey that will be used to complete the appraisal. (assume 60-days)	Day 70
E. Appraisal reviewed and just compensation amount approved by CCJWRD Board.	Day 80
INFORMAL NEGOTIATIONS	
1. Land Agent provides property owner(s) with a copy of appraisal of property rights and the offer of just compensation. (assume 10 days)	Day 90
2. Informal negotiations between Land Agent and property owner(s).	Day 90-150
FORMAL NEGOTIATIONS (if no agreement, no sooner than 60 days, proceed into formal negotiations)	
3. CCJWRD provides property owner(s) with formal offer of just compensation with a copy of appraisal of property rights. Formal Offer shall be sent by Certified Mail with Return Receipt Requested. (assume 30 days for service)	Day 180 (or upon receipt of formal offer)
If no agreement following receipt of the formal offer letter, no sooner than 15 days after receipt of the formal offer, proceed to Step 4.	+ 15 days (Day 195)
4. CCJWRD sends to property owner(s) an invitation to meet with CCJWRD at an upcoming CCJWRD Board Meeting. Invitation shall be sent by Certified Mail with Return Receipt Requested (assume 10 days for service).	Day 205
5. CCJWRD Board meets with property owner(s) within 30 days of receipt of CCJWRD invite letter.	Day 205-235

Step	Timeline (min.)
If no agreement within 30 days of property owner(s) receiving CCJWRD invite letter, proceed to Step 6.	within 30 days
6. CCJWRD sends to property owner(s) a Notice of Intent to Take Possession of the right of way. Notice shall be sent by Certified Mail with Return Receipt Requested. (assume 10 days for service)	Day 245
7. Land Agent prepares an Affidavit for the CCJWRD, which may include notes from the Land Agent’s negotiation journal and dated negotiation process steps they have completed, ensuring that no reference or threat of quick take eminent domain was used during informal or formal negotiations.	Prepare Affidavit during Days 245-275
8. CCJWRD reviews the Land Agent Affidavit. CCJWRD board chairman signs an Affidavit indicating that no reference or threat of quick take eminent domain was used during negotiations. CCJWRD will provide documentation of the CCJWRD Affidavit to the Cass County Commission.	Prepare Affidavit during Days 245-275
If no agreement regarding compensation within 30 days of property owner(s)’ receipt of Notice of Intent to Take Possession, formal negotiations conclude and proceed to Step 9.	within 30 days
9. CCJWRD passes a motion to move forward with the request to Cass County Commission to proceed with quick take eminent domain. Motion should also conditionally approve the deposit of funds with the County Clerk, pending approval by the Cass County Commission to proceed with quick take eminent domain after the public meeting.	CCJWRD Board Meeting on or before Day 276
10. CCJWRD sends a letter/email to Cass County Commission to request the Commission’s approval to take possession of the right of way by utilizing quick take eminent domain. Request from CCJWRD shall include a copy of the CCJWRD Affidavit verifying that no reference or threat of quick take eminent domain was used during negotiations.	Day 277 (following the next regular CCJWRD Board Meeting)
COUNTY COMMISSION INVOLVEMENT – if no agreement prior to this, proceed to next step.	
11. Cass County Commission places the quick take eminent domain topic on its agenda and sends property owner(s) a notice (invite) of an upcoming Cass County Commission Meeting within no less than 30 days. Invite shall be sent by Certified Mail with Return Receipt Requested (assume 7 days for agenda development and 10 days for service).	Day 294
If no agreement prior to county commission public meeting, proceed to step 12.	Assume 45 days
12. Cass County Commission holds public meeting and votes to approve use of quick take eminent domain by CCJWRD to take possession of right of way.	Day 339 (or the next regular County Commission Meeting)
If County Commission approves request to use quick take eminent domain, then proceed to Step 13.	
FORMAL QUICK TAKE FILING	
13. Legal team files pleadings with the clerk of district court, including updated CCJWRD board chair Affidavit that demonstrates the CCWJRD fulfilled the negotiating steps, and deposits the amount of the written offer with the clerk.	Day 340