

5 Summary and FAQ's

Q: *What are CME's?*

A: *Channel Migration Easements are a type of conservation easement that transfers the property right of a landowner to channelize, harden, rip-rap, or stabilize the bankline and historical Channel Migration Zone in perpetuity in exchange for financial compensation. The landowner still maintains ownership of the land and retains all of the other property rights that are not explicitly limited in the easement. The purpose of a CME is to protect the river's ability to move freely across its floodplain and allow it to adjust to changes in hydrology and bed load with erosional and depositional processes.*

Q: *How are the boundaries of CME's determined?*

A: *CME boundaries are based on the Channel Migration Zone, a corridor that represents the most likely places that a large river will migrate based on the past 100 years. A CME boundary may include areas outside of the Channel Migration Zone, but this determination is based on the size and shape of the parcel, the available funding for purchasing the easement, and the land trust holding the easement.*

Q: *Can CME's be donated or are they always purchased?*

A: *Yes, CME's can be donated and in exchange, the landowner may be eligible for a tax deduction based on the value the property has depreciated as a result of extinguishing certain rights (primarily, the right to subdivision). However, if the easement is donated, often the entire parcel must be placed under easement (e.g., it is not recommended that the landowner consider subdividing land and donating only the Channel Migration Zone). If purchased, non-profit organizations and agencies are restricted to paying no more than Fair Market Value of the easement, which is based on a qualified conservation easement appraisal.*

Q: *The river has changed the shape of my property – how do I know what I still own, and what belongs to the state?*

A: *The state of Montana owns the bed, banks, and land below the ordinary high water mark of navigable rivers. That means that islands that have arisen out of the bed of the river over time through vertical accretion belong to the state. However, if the river avulsed (changed course abruptly) and cut off a piece of your land in the process, it may still belong to you. It is best to hire an attorney and seek the advice of a geomorphologist who can analyze a series of aerial imagery and give you an opinion. Appendix A: Legal Considerations of CME's provides more detailed information.*

Q: *How long will it take to complete a CME on my property?*

A: *This depends a number of factors including funding and on whether a Quiet Title Action is required (if the shape of your property has changed quite a bit then it is best practice to hire an attorney and establish certainty around landownership). It usually takes at least 9-12 months for an appraisal, survey, baseline documentation report, and any other requirements the land trust may have (e.g., survey for environmental hazards, investigate mineral rights).*

Q: *What if there are bridges or roads in the CMZ?*

A: *MARS believes it is best practice to communicate with county planners, city officials, and transportation agencies early and often to address concerns related to maintaining infrastructure (e.g., ensuring the road right-of-way is outside the easement boundary).*

Q: *If I do a CME, is public access required?*

A: *No, not unless you want to build that into your easement. Typically, public access is a negotiable part of a conservation easement (although some funding sources and easement holders require it, such as Montana Fish Wildlife and Parks).*

Q: *How long will it take to complete a CME?*

A: *This depends on a number of factors, including: whether the funding is readily available (e.g., sometimes it takes time to get required approvals if the project is using compensatory mitigation funds), which land trust or public agency is going to hold your easement (and what their due diligence requirements are), whether you need to do a Quiet Title Action, and how soon an easement appraiser can be available to determine the value of the easement, and whether you need to subordinate loans you have on the mortgage. It's safe to assume it will take at least a year.*