

## **Worden, Heather**

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**Subject:** Diversion - Water Resource District Update on Quick Take Process

Heather and Robert,

Please find attached some information from the Water Resource District related to the property acquisition process that is described in statues and being followed for the FM Diversion Project. We (Dan Jacobson, Sean Fredricks, Chris McShane, Dean Vetter, and myself) will plan to attend (virtually) the Cass County Commission meeting next Monday afternoon to discuss the acquisition process. As you are aware, the statutory process being followed by CCJWRD involved several letters to the property owner, and if an agreement is not reached, eventually the process involves asking the Cass County Commission to invite the property owner to a Commission meeting and authorizing the WRD to utilize Quick Take. We can walk through the process and steps with the Commission on Monday.

The attached documents include the following:

1. Excerpt from NDCC 61-16.1-09 – Powers of water resource board
2. Acquisition Timeline in ND, which outlines the steps and timeframes associated with complying with the NDCC
3. Sample Letter from CCJWRD to Cass County Commission requesting approval to take possession via quick take (this letter is step 10 of the acquisition timeline doc)
4. Sample Affidavit Regarding Formal Offer
5. Sample Affidavit Regarding Meeting Invitation

I think items 1-3 are most pertinent to the discussion on Monday, however items 4-5 will certainly be part of the process. If you want to limit the papers going into the packet, please use items 1-3. Otherwise, feel free to share all items.

Please let us know if you have any questions/comments.

Thanks,

Eric

**Eric Dodds**

**Program Manager**

**Advanced Engineering and**

**Environmental Services, Inc. (AE2S)**

4170 28<sup>th</sup> Avenue South

Fargo, ND 58104

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# NDCC 61-16.1-09. Powers of water resource board.

Each water resource board shall have the power and authority to:

1. Sue and be sued in the name of the district.

2. Exercise the power of eminent domain as follows:

a. Except as permitted under subdivision b, the board shall comply with title 32 for the purpose of acquiring and securing by eminent domain any rights, titles, interests, estates, or easements necessary or proper to carry out the duties imposed by this chapter, and particularly to acquire the necessary rights in land for the construction of dams, flood control projects, and other water conservation, distribution, and supply works of any nature and to permit the flooding of lands, and to secure the right of access to such dams and other devices and the right of public access to any waters impounded thereby.

b. (1) If the interest sought to be acquired is an easement for a right of way for any project authorized in this chapter for which federal or state funds have been made available, the district may acquire the right of way by quick take eminent domain as authorized by section 16 of article I of the Constitution of North Dakota, after the district attempts to purchase the easement for the right of way by:

(a) Conducting informal negotiations for not less than sixty days.

(b) If informal negotiations fail, the district shall engage in formal negotiations by:

[1] Sending the landowner an appraisal and written offer for just compensation, which includes a specific description of the exact location of the right of way, by certified mail or commercial delivery requiring a signed receipt, and receiving the signed receipt or documentation of constructive notice. Page No. 3

[2] Sending the landowner a written request for a meeting by certified mail or commercial delivery requiring a signed receipt if there is no agreement regarding compensation or no response to the written offer within fifteen days of receipt, and receiving the signed receipt or documentation of constructive notice.

[3] Sending the landowner a written notice, by certified mail or commercial delivery requiring a signed receipt, of intent to take possession of the right of way if there is no agreement regarding compensation or no response to the written request for a meeting within thirty days of receipt, and receiving the signed receipt or documentation of constructive notice.

(2) Any written communication to the landowner must include contact information for responding to the board and a description of the required negotiation timeline.

(3) A district may not include or utilize any reference to quick take eminent domain during negotiations to acquire the necessary easement for a right of way. If formal negotiation efforts fail, the district shall request approval from the board of county commissioners of the county in which the right of way is located to take possession of the right of way by quick take eminent domain. After receiving the request, the county commissioners shall hold a public meeting and give the landowner thirty days' notice of the meeting to allow the landowner to attend. After receiving verification from the district that there has been no reference or threat of quick take eminent domain by the district during negotiations, the commissioners shall vote on whether to approve the taking of the easement for a right of way using quick take eminent domain. If the county commissioners approve the use of quick take eminent domain by a majority vote, the district may take immediate possession of the right of way, but not a blanket easement, if the district files an affidavit by the chairman of the water resource board which states the district has fulfilled the required negotiation steps and deposits the amount of the written offer with the clerk of the district court of the county in which the right of way is located.

(4) Within thirty days after notice has been given in writing to the landowner by the clerk of the district court that a deposit has been made for the taking of a right of way as authorized in this subsection, the owner of the property taken may appeal to the district court by serving a notice of appeal upon the acquiring agency, and the matter must be tried at the next regular or special term of court with a jury unless a jury be waived, in the manner prescribed for trials under chapter 32-15.

(5) If ownership of a right of way has not terminated, ownership of a right of way acquired under this subdivision terminates automatically when the district no longer needs the right of way for the purpose for which it was acquired.

# Acquisition Timeline in North Dakota

## Following the Quick Take Eminent Domain Process

Updated, October 10, 2019

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 be possible, the CCJWRD will follow the Quick Take Eminent Domain process as specified by NDCC 61-16.1-09(2)(b).

This document outlines the steps and timeline that shall be followed during property acquisition for the FM Diversion Project. It is important to note that the acquisition of property starts with the work limits defined by the design team.

## Timeline / Steps

Step	Timeline (minimum)
<b>PRE-OFFER STEPS (DESIGN, SURVEY, APPRAISAL)</b>	
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 process
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 & 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 finalize the appraisal. Appraisal completed (assume 60-days)	Day 70
E. Appraisal reviewed and just compensation amount approved by CCJWRD Board.	Day 80
<b>INFORMAL NEGOTIATIONS</b>	
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 91
2. Informal negotiations between Land Agent and property owner(s).	Day 91-150
<b>FORMAL NEGOTIATIONS – if no agreement, no sooner than 60 days, proceed into formal negotiations.</b>	
3. Land Agent 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 10 days).	Day 160 (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 6.	+ 15 days
4. CCJWRD sends to property owner(s) an invitation to meet in person with CCJWRD at an upcoming CCJWRD Board Meetings. Invitation shall be sent by Certified Mail with Return Receipt Requested (assume 10 days).	Day 185
5. CCJWRD Board meets with property owner(s) within 30 days of receipt of CCJWRD invite letter.	Day 185-215
If no agreement within 30 days of property owner(s) receiving CCJWRD invite letter, proceed to Step 8.	within 30 days
6. CCJWRD sends to property owner(s) a notice “of intent to take possession of the right of way if there is no agreement regarding compensation”. Notice shall be sent by Certified Mail with Return Receipt Requested (assume 10 days).	Day 255
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	Day 255-285

Step	Timeline (minimum)
completed, ensuring that no reference or threat of quick take eminent domain was used during informal or formal negotiations. Land Firm will provide a copy of the Land Agent Affidavit, along with all supporting materials to AE2S for upload into WMX.	
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.	Day 255-285
If no agreement within 30 days of notice "of intent to take possession of the right of way if there is no agreement regarding compensation", formal negotiations conclude and proceed to Step 11.	within 30 days
9. CCJWRD passes a motion to move forward with request to Cass County Commission to proceed with quick take eminent domain. Motion should also include approving the deposit of funds with the County Clerk and proceeding with quick take, pending approval by the Cass County Commission to proceed with QT-ED after the public meeting (Step 14).	Day 286 (or the next regular CCJWRD Board Meeting)
10. CCJWRD sends a letter 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 286 (following the next regular CCJWRD Board Meeting)
<b>COUNTY COMMISSION INVOLVEMENT – if no agreement prior to this, proceed to next step.</b>	
11. Cass County Commission places the QT-ED topic on its agenda and sends property owner(s) a 30-day notice letter (invite) of an upcoming Cass County Commission Meeting. Invite shall be sent by Certified Mail with Return Receipt Requested (assume 10 days).	Day 296 (assume one week for agenda development)
If no agreement prior to county commission public meeting, proceed to step 14.	within 30 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 326 (or the next regular County Commission Meeting)
If Cass County Commission approves request to use QT-ED, then proceed to Step 15.	
<b>FORMAL QUICK TAKE FILING</b>	
13. OT files pleadings with the clerk of district court, including updated CCJWRD board chair Affidavit that demonstrates the CCJWRD fulfilled the negotiating steps, and deposits the amount of the written offer with the clerk.	Day 327

April 13, 2020

Chad M. Peterson, Chair  
Cass County Commission  
211 Ninth Street South  
Fargo, ND 58103

Re: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Request for Approval to Take Possession of Necessary Right of Way  
OIN: [OIN]  
Parcel No. [PIN]

Greetings Mr. Peterson:

As you know, the Cass County Joint Water Resource District (the "District") is in the process of acquiring the right of way necessary for the Fargo Moorhead Diversion Area Project ("Project"). I previously copied you on the following three letters whereby the District sought to negotiate the acquisition of right of way from [land owner name]:

- Letter dated [1st Letter date], enclosing the District's appraisal for the acquisition of right of way from [landowner name] and a proposed Purchase Agreement;
- Letter dated [2nd Letter date], inviting the landowner to meet with the District for purposes of negotiating compensation for the right of way to be acquired; and
- Letter dated [3rd Letter date], 2020, notifying [landowner name] the District planned to submit a request to the Cass County Commission seeking immediate possession of the right of way necessary for the Project.

The District has conducted months of negotiations with [landowner name] to arrive at a mutually-acceptable agreement for the District's purchase. More specifically, the District engaged in both informal and formal negotiations with [landowner name], as required under N.D. Cent. Code § 61-16.1-09(2)(b), in an effort to reach agreement regarding fair compensation to [landowner name] for the acquisition of the necessary right of way over, across, and through certain property they own in Cass County, North Dakota. The legal description of the necessary right of way is as follows:

[Last Name]  
[OIN]  
April 13, 2020  
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Right of Way Easement:  
[Legal Description]

Temporary Easement:  
[Legal Description]

As you may recall, in 2017, the North Dakota Legislature modified the process for water resource districts to acquire immediate possession of right of way necessary for water projects; the new process is set forth in Section 61-16.1-09(2)(b). A copy of Section 61-16.1-09 is attached for your convenience. The District has followed all of the necessary steps under the statute, but the parties have not reached a mutually acceptable agreement. Under the new acquisition process enumerated in Section 61-16.1-09(2)(b)(3), the District must next seek the County Commission's approval to proceed further, and to ultimately utilize quick take eminent domain to take possession of the right of way above to commence the Project.

More specifically, Section 61-16.1-09(2)(b)(3) requires the County Commission to hold a public meeting and to provide [landowner] no less than thirty days' notice of the meeting. The District will also attend the meeting, along with the land agent who was [landowner name]'s main point of contact throughout the negotiation process. Prior to the public meeting, the land agent and the District will verify neither the District nor any of its agents referenced or threatened quick take eminent domain during the informal and formal negotiation process.

While the District takes all landowners' rights very seriously, the District also has an obligation, as a member of the Metro Flood Diversion Authority, to acquire the right of way necessary for the Project, and construction of the Project will not be possible without acquiring the right of way identified above. As the District will explain and verify for the Commission in more detail through this process, the District provided [landowner name] with the District's appraisal as the starting point for negotiations, then attempted to negotiate further with [landowner name] over the course of several months. This step is not one the District takes lightly; quick take eminent domain is a serious undertaking, and the District has negotiated in good-faith with [landowner name] to avoid this process. Despite the District's efforts to be fair, friendly, and flexible in both the informal and formal negotiations with [landowner name], unfortunately, the parties have not reached a mutually acceptable agreement for the acquisition of the right of way.

The District respectfully requests that the Cass County Commission proceed with the public meeting process under Section 61-16.1-09(2)(b)(3) regarding [landowner name] and the right of way identified in this letter. Further, District respectfully requests that the Cass County Commission ultimately approve the District's use of quick take eminent domain to take possession of the right of way identified above by quick take eminent domain so the Project may proceed. For your information, while the County conducts the process under Section 61-16.1-09(2)(b)(3), the District will continue negotiations with [landowner name] in hopes the parties can still arrive at a mutually-acceptable agreement.

[Last Name]  
[OIN]  
April 13, 2020  
Page 3

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT

Carol Harbeke Lewis, Secretary-Treasurer  
Cass County Joint Water Resource District  
1201 Main Avenue West  
West Fargo, ND 58078  
(701) 298-2381  
[lewisc@casscountynd.gov](mailto:lewisc@casscountynd.gov)

cc: [Land Agent Name], Land Agent  
Chris McShane, Ohnstad Twichell, P.C.  
Robert Wilson, Cass County Administrator  
Chad Peterson, Chair, Cass County Commission  
Birch Burdick, Cass County State's Attorney  
Joel Paulsen, Executive Director, Diversion Authority  
Eric Dodds, AE2S Program Manager





[Legal Description]

The property described above is the “Necessary ROW Easement Property.”

[¶5] [IF TCE NEEDED] The real property owned by Landowner where a Temporary Easement must be acquired by the District for the Project is located in Cass County, North Dakota, and more fully described as follows:

[TCE Legal Description]

The property described above is the “Necessary Temporary Easement Property.”

[¶6] Collectively, the Necessary ROW Easement Property and the Necessary Temporary Easement Property are referred to as the “Necessary Property”.

[¶7] [LAND FIRM] has attempted to negotiate with Landowner to acquire the Necessary Property.

[¶8] On [INSERT DATE FORMAL OFFER LETTER SENT BY CERTIFIED MAIL], the District sent Landowner an appraisal, by certified mail requiring signed receipt, along with a written offer for just compensation, and a purchase agreement, for the District to purchase the necessary permanent Right of Way easement interests in and to the Necessary ROW Easement Property for \$ \_\_\_\_\_ .00, and the necessary easement interests in and to the Necessary Temporary Easement Property for \$ \_\_\_\_\_ .00, for a total purchase price of \$ \_\_\_\_\_ .00. The written offer for just compensation and purchase agreement both include a specific description of the exact location of the Necessary Property [NECESSARY ROW EASEMENT PROPERTY IF NO TCE]. A true and accurate copy of the return receipt is attached as **Exhibit A**; as noted on the return receipt, delivery was not accomplished because [Addressee not at address (unknown, moved, or deceased), 2) mail unclaimed, or 3) mail refused by the addressee at time of delivery].

[¶9] On [INSERT DATE FORMAL OFFER LETTER SENT BY COMMERCIAL DELIVERY SERVICE REQUIRING SIGNED RECEIPT (can be the same date as formal offer

sent by certified mail)], the District sent Landowner an appraisal, by [UPS/FedEx/OTHER COMMERCIAL DELIVERY SERVICE] requiring signed receipt, along with a written offer for just compensation, and a purchase agreement for the District to purchase the necessary permanent right of way easement interests in and to the Necessary ROW Easement Property for \$ \_\_\_\_\_ .00, and the necessary easement interests in and to the Necessary Temporary Easement Property for \$ \_\_\_\_\_ .00, for a total purchase price of \$ \_\_\_\_\_ .00. The written offer for just compensation and purchase agreement both include a specific description of the exact location of the Necessary Property [NECESSARY ROW EASEMENT PROPERTY IF NO TCE]. A true and accurate copy of the [INSERT NAME OF DOCUMENT STATING DELIVERY WAS UNSUCCESSFUL] is attached as **Exhibit B**; as noted, delivery by commercial carrier was unsuccessful.

[¶10] The District engaged a process server, duly authorized by law to perform personal service, to personally serve Landowner an appraisal, along with a written offer for just compensation, and a purchase agreement for the District to purchase the necessary easement interests in and to the Necessary ROW Easement Property for \$ \_\_\_\_\_ .00, and the necessary easement interests in and to the Necessary Temporary Easement Property for \$ \_\_\_\_\_ .00 for a total purchase price of \$ \_\_\_\_\_ .00. The written offer for just compensation and purchase agreement both include a specific description of the exact location of the Necessary Property [NECESSARY ROW EASEMENT PROPERTY IF NO TCE]. The process server unsuccessfully attempted to personally serve Landowner the written offer for just compensation, purchase agreement, and appraisal on [INSERT DATE(S) PROCESS SERVER ATTEMPTED SERVICE ON LANDOWNER (10 DAYS AFTER SENT BY CERTIFIED MAIL)]. A true and accurate copy of the process server's Affidavit of Not Found is attached as **Exhibit C**.

[¶11] I verify the above attempts at delivery upon Landowner have been unsuccessful; this Affidavit, recorded in the office of the Cass County Recorder, provides Landowner with constructive notice of the above-described written offer of just compensation, purchase agreement, and appraisal.

[¶12] True and accurate copies of the written offer of just compensation, purchase agreement, and appraisal may be obtained by the Landowner from Cass County Joint Water Resource District, at 1201 Main Avenue West, West Fargo, North Dakota, 58078, (701-298-2381).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Carol Harbeke Lewis

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public, North Dakota

(SEAL)

Document11

**EXHIBIT A**  
**(Copy of Return Receipt)**

**EXHIBIT B**  
**(Copy of Return Receipt)**

**EXHIBIT C**

**(Copy of Affidavit of Not Found)**

**AFFIDAVIT REGARDING MEETING INVITE**

STATE OF NORTH DAKOTA            )  
  ) ss.  
COUNTY OF CASS                    )

[¶1] I, Carol Harbeke Lewis, do hereby state on oath:

[¶2] I am the Secretary-Treasurer of the Cass County Joint Water Resource District (“the District”), the entity responsible for acquiring the necessary right of way in North Dakota for the Fargo-Moorhead Area Flood Risk Management Project (the “Project”).

[¶3] The District must acquire certain real property from [LANDOWNER’S NAME] (“Landowner”) for construction, operation, and maintenance of the Project.

[¶4] The real property owned by Landowner where a Right of Way Easement must be acquired by the District for the Project is located in Cass County, North Dakota, and more fully described as follows:

[Legal Description]

The property described above is the “Necessary ROW Easement Property.”

[¶5] [IF TCE NEEDED] The real property owned by Landowner where a Temporary Easement must be acquired by the District for the Project is located in the Cass County, North Dakota, and more fully described as follows:

[TCE Legal Description]



The property described above is the “Necessary Temporary Easement Property.”

[¶6] On [INSERT DATE INVITE LETTER SENT BY CERTIFIED MAIL], the District sent Landowner, by certified mail requiring signed receipt, a copy of the letter requesting Landowner attend the District’s meeting on either [INSERT DATE OF FIRST MEETING ON INVITE LETTER] or [INSERT DATE OF SECOND MEETING ON INVITE LETTER]. A true and accurate copy of the return receipt is attached as **Exhibit A**; as noted on the return receipt, delivery was not accomplished because [Addressee not at address (unknown, moved, or deceased), 2) mail unclaimed, or 3) mail refused by the addressee at time of delivery].

[¶7] On [INSERT DATE INVITE LETTER SENT BY COMMERCIAL DELIVERY SERVICE REQUIRING SIGNED RECEIPT (can be the same date as Invite sent by certified mail)], the District sent Landowner, by [UPS/FedEx/OTHER COMMERCIAL DELIVERY SERVICE] requiring signed receipt, a copy of the letter requesting Landowner attend the District’s meeting on either [INSERT DATE OF FIRST MEETING ON INVITE LETTER] or [INSERT DATE OF SECOND MEETING ON INVITE LETTER]. A true and accurate copy the [INSERT NAME OF DOCUMENT STATING DELIVERY WAS UNSUCCESSFUL] noting delivery by commercial carrier was unsuccessful is attached as **Exhibit B**.

[¶8] The District engaged a process server, duly authorized by law to perform personal service, to personally serve Landowner a copy of the letter requesting the Landowner attend the District’s meeting on either [INSERT DATE OF FIRST MEETING ON INVITE LETTER] or [INSERT DATE OF SECOND MEETING ON INVITE LETTER]. The process server unsuccessfully attempted to personally serve Landowner the letter on [INSERT DATE(S) PROCESS SERVER ATTEMPTED SERVICE ON LANDOWNER (10 DAYS AFTER SENT

BY CERTIFIED MAIL)]. A true and accurate copy of the process server's Affidavit of Not Found is attached as **Exhibit C**.

[¶9] I verify the above attempts at delivery upon Landowner have been unsuccessful; the District will record this Affidavit in the office of the Cass County Recorder to provide Landowner with constructive notice of the letter; a true and accurate copy of the letter is attached as **Exhibit D**.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Carol Harbeke Lewis

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public  
Cass County, North Dakota  
My Commission Expires:

(SEAL)

Document7

**EXHIBIT "A"**  
**(Copy of Return Receipt)**

**EXHIBIT "B"**  
**(Copy of Return Receipt)**

**EXHIBIT "C"**

**(Copy of Affidavit of Not Found)**

**Exhibit "D"**  
**(Copy of Invite Letter)**

**AFFIDAVIT OF DAN JACOBSON**

STATE OF NORTH DAKOTA     )  
  ) ss.  
COUNTY OF CASS             )

[¶1] I, Dan Jacobson, do hereby state on oath:

[¶2] I serve as Chair of the Cass County Joint Water Resource District (“the District”).

[¶3] As a member of the FM Diversion Board of Authority, the District is responsible for acquiring the right of way in North Dakota necessary to accommodate the Fargo-Moorhead Area Diversion Project (the “Project”).

[¶4] The District has concluded acquisition of certain right of way owned by \_\_\_\_\_ (“Landowner”) is necessary for the Project.

[¶5] State and federal funds have been made available for the Project.

[¶6] The real property owned by Landowner where a Right of Way must be acquired by the District for the Project is located in Cass County, North Dakota, more fully described as follows: ·

[¶7] The District has fulfilled the required negotiation steps in accordance with subsection 2 of section 61-16.1-09 of the North Dakota Century Code.

[¶8] The District sent an appraisal and written offer for just compensation to the landowner by certified mail on \_\_\_\_\_, 20\_\_\_. A copy of the appraisal and offer is attached as **Exhibit 1.**

[¶9] On \_\_\_\_\_, 20\_\_\_, the District sent Landowner a written request for a meeting, by certified mail; the District and Landowner have not reached an agreement regarding

compensation, and more than fifteen days have passed since Landowner's receipt of the offer. A copy of the written request for a meeting with the landowner is attached as **Exhibit 2**.

[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶11] On \_\_\_\_\_, 20\_\_, the District sent Landowner a written notice of intent to take possession of the right of way in thirty days, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

[¶12] The District has retained land agents who are in direct contact with Landowner. The District instructed our land agents not to reference, mention, or threaten quick take eminent domain during negotiations. The land agents have verified they have not referenced, mentioned, or threatened quick take eminent domain during the course of negotiations with Landowner.

[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations.

[¶14] All written communications to Landowner included contact information for purposes of responding to the District, as well as a description of the required negotiation timeline.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Dan Jacobson

Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.



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Notary Public, State of North Dakota

(SEAL)

F:\Water\CCJT\Basin Project 2009\Right of Way\Foms\Affidavit of District Chair.doc



\_\_\_\_\_  
[affiant]

Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public, State of North Dakota

(SEAL)