

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

August 3rd, 2020

PROPERTY OWNER: Stuart Johnson

LAND AGENT: Ken Helvey with SRF

OIN: 903 935 936



FM AREA
DIVERSION
PROJECT

TABLE OF CONTENTS

WRITTEN CORRESPONDENCE TIMELINE.....	1
L.R.E.D CHECKLIST FOR COMPLIANCE WITH N.D. CENTURY CODE	2
NEGOTIATING SUMMARY	4
PARCEL EXHIBIT	5
OFFER TO PURCHASE	6
<i>Proof of Delivery</i>	9
FORMAL NEGOTIATIONS AND WRITTEN OFFER OF JUST COMPENSATION	11
<i>Proof of Delivery</i>	15
REQUEST FOR MEETING.....	16
<i>Proof of Delivery</i>	18
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY	19
<i>Proof of Delivery</i>	21
REQUEST FOR APPROVAL TO TAKE POSSESSION OF NECESSARY RIGHT OF WAY AND TEMPORARY EASEMENT	22
INVITATION TO ATTEND PUBLIC MEETING.....	27
<i>Proof of Delivery</i>	33
AFFIDAVIT OF LAND AGENT	35
<i>Contact Log</i>	39
AFFIDAVIT OF DAN JACOBSON FOR CASS COUNTY COMMISSION.....	40

Written Correspondence Timeline – Stuart & Laurie Johnson

OIN 903, 935, 936	Sent	Received
Offer to Purchase	8/2/2019	8/19/2019
Formal Negotiations and Written Offer of Just Compensation	12/17/2019	12/18/2019
Request for Meeting	1/30/2020	2/1/2020
Notice of Intent to Take Possession of Right-of-Way	5/22/2020	5/26/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	6/26/2020	6/26/2020
Invitation to Attend Public Meeting	6/29/2020	6/30/2020
Commission Meeting Date	8/3/2020	

CASS COUNTY COMMISSION
CHECKLIST — COMPLIANCE WITH N.D. CENT. CODE § 61-16.1-09(2)
FARGO-MOORHEAD AREA DIVERSION PROJECT

A. Subject Property Information:

1. Landowner: Stuart and Laurie Johnson
2. Land Agent: Jamie Wark
3. Parcel No.: 59-0000-10866-010, 59-0000-10919-000, 59-0000-10920-010
4. OIN No.: 903, 935, 936

B. Verification:

1. NDCC § 61-16.1-09(2)(b)(1)(a) requires the Cass County Joint Water Resource District (“CCJWRD”) to conduct 60 days of informal negotiations.
 - Did CCJWRD verify at least 60 days of informal negotiations with Landowner:

2. NDCC § 61-16.1-09(2)(b)(1)(b)[1] requires CCJWRD to send the landowner an appraisal and written offer for just compensation by certified mail or commercial delivery requiring a signed receipt or other evidence of constructive notice.
 - Did CCJWRD verify it sent Landowner an appraisal and written offer for just compensation: _____
 - Did CCJWRD verify service of the appraisal and offer by certified mail or commercial delivery, and that Landowner either signed for them or had constructive notice: _____
3. NDCC § 61-16.1-09(2)(b)(1)(b)[2] requires CCJWRD to send Landowner a written request for a meeting by certified mail or commercial delivery requiring a signed receipt [if the parties have not come to an agreement within 15 days of Landowner’s receipt or notice of CCJWRD’s offer].
 - Did CCJWRD verify it sent Landowner a written request for a meeting by certified mail or commercial delivery, and that Landowner either signed for the notice or had constructive notice: _____

4. NDCC § 61-16.1-09(2)(b)(1)(b)[3] requires CCJWRD to send Landowner a written notice of intent to take possession of the right of way, by certified mail or commercial delivery requiring a signed receipt [if the parties have not come to an agreement within 30 days of Landowner's receipt or notice of CCJWRD's invitation to a meeting].
 - Did CCJWRD verify it sent a written notice of intent to take possession of right away by certified mail or commercial delivery, and that Landowner either signed for the notice or had constructive notice: _____
5. NDCC § 61-16.1-09(2)(b)(2) requires all written communications to Landowner to include contact information for responding to CCJWRD and a description of the required negotiation timeline.
 - Did CCJWRD verify that all written communications to Landowner included contact information for responding to CCJWRD and a description of the required negotiation timeline: _____
6. NDCC § 61-16.1-09(2)(b)(3) prohibits a district from including or utilizing any reference to quick take eminent domain during negotiations.
 - Did CCJWRD verify it did not include or utilize any reference to quick take eminent domain during negotiations: _____

If the Commission answers in the affirmative to the above questions,
RECOMMENDED MOTION:

- I move to authorize the Cass County Joint Water Resource District to utilize quick take eminent domain under Section 61-16-1.09(2) of the North Dakota Century Code to take an easement for a right of way, and temporary easement (if any), regarding the OIN described above in A.4.

FM Area Diversion Project

Property Negotiation Summary

July 27, 2020

Owner	Stuart W Johnson
Address	16697 33 rd Street Southeast, Harwood, ND 58042
Property Location	Diversion Channel - Cass County, ND
Property Type	Agriculture
OIN	903, 935, 936
Land Firm & Land Agent	SRF - Ken Helvey

Property Need

The parcels are within the Diversion Channel associated with the Project. The Diversion Authority is required to obtain these parcels for the channel. The Diversion Authority desires 276.84 acres of this property for Land/Site Taking.

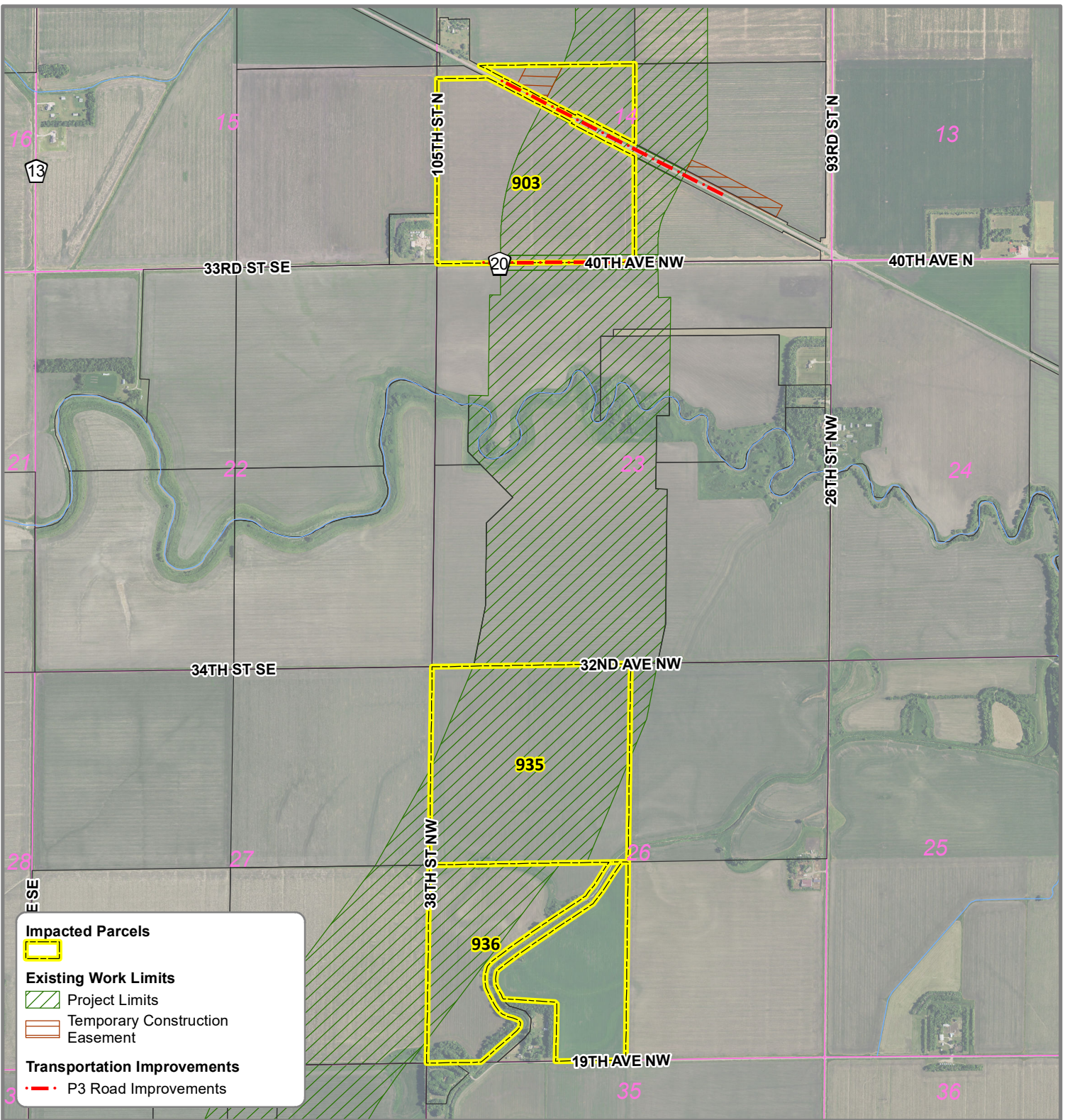
Valuation and Negotiation Summary:

Appraisal Value / Date	\$1,793,697 dated December 17, 2019 (formal offer letter) 189.48 acres Land/Site Taking \$5,500/acre = \$1,042,140 87.36 Acres Land/Site Taking \$5,800 = \$506,688 4.08 Acres Temporary Easement \$200 x 5 years = \$4,080 Severance = \$240,789
Counteroffer	N/A
Purchase Agreement	\$-

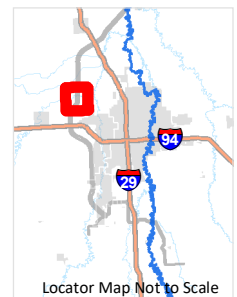
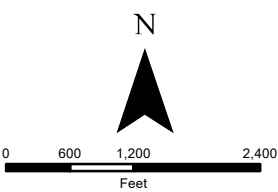
Negotiation Notes

- Ken Helvey and Jamie Wark have spoken with Stuart Johnson multiple times regarding the acquisition process and offer
- Stuart would prefer to have all 3 parcels sold in one transaction (10/25/19), and also wants to keep the land in OIN 936 on the east side of Drain 14
- Formal Offer letter sent on 12/17/20
- Owner wants to go to court

July 27, 2020



Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. All parcel acreages and legal descriptions shown herein are based on County GIS data. Final acreages and legal descriptions to be determined by boundary survey. Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | C:\Data\Projects\GIS Projects\FM Area Division\Projects\Land Acquisition\Project Work Package\IProject Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105notdatadriven.mxd



Stuart Johnson

OIN: 903
PIN: 59-0000-10866-010

OIN: 935 PIN: 59-0000-10919-000 OIN: 935 PIN: 59-0000-10920-010

FM AREA DIVERSION
Map Date: 3/4/2020





August 2, 2019

Stuart and Laurie Johnson
16697 33rd Street SE
Harwood, ND 58042

RE: **Offer to Purchase**
Parcel ID: OIN 903 935 936
Project Title: Fargo Moorhead Diversion
PID: 59-0000-10866-010; 59-0000-10919-000; and 59-0000-10920-010

Dear Mr. and Mrs. Johnson,

The Cass County Joint Water Resource District (CCJWRD) and other partners are constructing a flood control improvement project in your area. The CCJWRD has hired the HMG Group to aid in the acquisition of right-of-way for the project. You are receiving this letter as the owner of property that must be acquired for the project. This letter conveys CCJWRD's offer to purchase all interests in the real property that are necessary for the project. The interests being purchased (the "Parcel") are listed on Exhibit A (Acquisition Summary) and shown on Exhibit B (Certificate of Survey), and the amount stated in this letter as the purchase amount is for all of those interests. If the Parcel includes interests that another person or entity may own (for example a mortgage lender or easement holder), the CCJWRD's offer is contingent on all parties with interest agreeing to the amount and allocation of the purchase funds.

To determine market value of the interest being acquired, CCJWRD retained the services of the independent property appraisal firm, Compass Land Consultants Inc. The appraiser has determined that the market value of the interests being purchased is **\$1,789,617.00**. The CCJWRD has used the market value set forth in the appraisal as the basis for determining Just Compensation for the property interests being acquired from you. A copy of the appraisal is attached to this letter and provided to you. If the purchase amount is based on any conditions or exceptions (such as terms of the transfer of possession or retention of any interest) they will be included in Exhibit A. A summary of the appraisal is provided on Exhibit A (Appraisal Summary).

The Cass County Joint Water Resource District hereby offers to pay you \$1,789,617.00 as Just Compensation for the property interests it must acquire from you.

Please note, at the time this appraisal was completed the Cass County Joint Water Resource District was proposing to purchase Temporary Construction Easement (TCE) for the project and therefore the appraisal and Certificate of Survey include TCE acres. However, the CCJWRD has determined not to proceed with purchasing some of the previously allocated TCE and therefore your Just Compensation and Exhibit A do not include some TCE values.

Once we agree on the basic terms of an agreement for you to sell, and the CCJWRD to buy the property interests described in this letter, a Purchase Agreement will be drafted and presented to you for approval. The Purchase Agreement will contain all of the pertinent terms and conditions of this offer, as well as several standard legal, property acquisition terms. The Purchase Agreement will be between you and the CCJWRD.

We appreciate your willingness to negotiate with the CCJWRD. We request counteroffers or acceptance of this offer within 30 days from the date of this letter. CCJWRD has flexibility regarding closing, rent and/or leaseback options. We also support 1031-1033 tax exchanges.

If you have any questions about the acquisition process, please contact the representative at 701-893-7435. The representative is here to help you understand the process and to assist in negotiating a fair direct purchase of the Parcel, however, we do not represent you. We are willing to meet with you in person as well as set up a time to discuss questions on the phone.

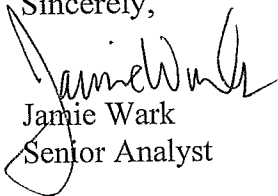
Upon receipt of this letter, please sign below. Your signature indicates only that you have received this Offer to Purchase, and the following documents:

- Copy of the appraisal for Parcel ID OIN 903 935 936 by Compass Land Consultants Inc.
- Exhibit A (Acquisition Summary), and Exhibit B (Certificate of Survey)

Your signature DOES NOT indicate your acceptance or rejection of the offered amount. Nor does it affect your right to continue to negotiate with the CCJWRD.

On behalf of CCJWRD, we wish to thank you for your cooperation and assistance, and we look forward to working with you toward a mutually satisfactory completion of the acquisition process.

Sincerely,



Jamie Wark
Senior Analyst

I acknowledge that on _____, 20 ____, I received this letter and all documents listed above.

Stuart Johnson

Laurie Johnson

Enclosures: Appraisal Report, Exhibit A, Exhibit B

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Offer to Purchase

Parcel ID: OIN 903 935 936

Project Title: Fargo Moorhead Diversion

PID: 59-0000-10866-010; 59-0000-10919-000; and 59-0000-10920-010

Recorded Fee Owner: Stuart and Laurie Johnson

Property Legal Description:

SEE ATTACHED SURVEY

Description of Property Interests to be Acquired: Fee Simple and Temporary Easement

Noted and Waived Exceptions, Reservations or Encumbrances: None


*Unless otherwise noted, any offer to purchase is contingent on the following:

1. Demonstration of marketable title,
2. Conveyance of all interests identified, unless waived in writing by the Cass County Joint Water Resource District,
3. Execution of a purchase agreement signed by the Cass County Joint Water Resource District, or its designee.

APPRAISAL SUMMARY

Parcel Value	Area Size/ Description	Per Unit	Indicated Value
Land/Site Taking 935 936	189.48 Acres	\$ 5,500	\$ 1,042,140.00
Land/Site Taking 903	87.36 Acres	\$ 5,800	\$ 506,688.00
Temporary Easement 903	4.08 Acres	\$ 200 x 5 years	\$ 4,080.00
Severance 935 936		\$ 165,105	\$ 165,105.00
Severance 903		\$ 75,684	\$ 75,684.00
TOTAL (rounded)			\$ 1,793,697.00

903 935 930

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Stuart Johnson</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery <i>STUART JOHNSON</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>																
<p>1. Article Addressed to:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>STUART AND LAURIE JOHNSON 16697 33RD STREET SE HARWOOD, ND 58042</p> </div>  <p>9590 9402 4522 8278 7729 98</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input checked="" type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input checked="" type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®																
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™																
<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery																
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise																
<input type="checkbox"/> Collect on Delivery	<input checked="" type="checkbox"/> Signature Confirmation™																
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery																
<input type="checkbox"/> Insured Mail																	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)																	
<p>2. Article Number (Transfer from service label)</p> <p>7015 1520 0001 9715 8178</p>																	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt</p>																	

903 935 930

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

HARWOOD, ND 58042

OFFICIAL USE

<table border="0"> <tr> <td>Certified Mail Fee</td> <td style="text-align: right;">\$3.50</td> </tr> <tr> <td>Extra Services & Fees (check box, add fee as appropriate)</td> <td style="text-align: right;">\$2.80</td> </tr> <tr> <td><input checked="" type="checkbox"/> Return Receipt (hardcopy)</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td><input type="checkbox"/> Return Receipt (electronic)</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Required</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td style="text-align: right;">\$0.00</td> </tr> </table>	Certified Mail Fee	\$3.50	Extra Services & Fees (check box, add fee as appropriate)	\$2.80	<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$0.00	<input type="checkbox"/> Return Receipt (electronic)	\$0.00	<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	<input type="checkbox"/> Adult Signature Required	\$0.00	<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	<p>0102 06</p>  <p>Postmark Here</p>
Certified Mail Fee	\$3.50														
Extra Services & Fees (check box, add fee as appropriate)	\$2.80														
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$0.00														
<input type="checkbox"/> Return Receipt (electronic)	\$0.00														
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00														
<input type="checkbox"/> Adult Signature Required	\$0.00														
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00														
Postage	\$7.85														
Total Postage and Fees	\$14.15														

STUART AND LAURIE JOHNSON
16697 33RD STREET SE
HARWOOD, ND 58042

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



[FAQs > \(https://www.usps.com/faqs/uspstracking-faqs.htm\)](https://www.usps.com/faqs/uspstracking-faqs.htm)

Track Another Package +

Tracking Number: 70151520000197158178

Remove X

Your item was delivered at 12:20 pm on August 19, 2019 in HARWOOD, ND 58042.

Delivered

August 19, 2019 at 12:20 pm
Delivered
HARWOOD, ND 58042

Get Updates v

Text & Email Updates	v	Feedback
Tracking History	v	
Product Information	v	

See Less ^

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

[FAQs \(https://www.usps.com/faqs/uspstracking-faqs.htm\)](https://www.usps.com/faqs/uspstracking-faqs.htm)



CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY

December 17, 2019

**Cass County
Joint Water
Resource
District**

Stuart and Laurie Johnson
16697 33rd Street SE
Harwood, ND 58042-9743
Certified No. 7018 0040 0000 5525 6854

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Loughheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OINs: 903, 935, 936
Parcel No.: 59-0000-10866-010, 59-0000-10920-010,
59-0000-10919-000

The Cass County Joint Water Resource District (the "District") is in the process of acquiring property interests necessary for the Fargo-Moorhead Area Diversion Project (the "Project"), and the District has been in discussions with you regarding right of way the District must acquire from you to accommodate the Project. The District directed me to provide you this letter as the District's formal offer to purchase right of way from you. More specifically, to accommodate the Project, the District must acquire right of way from you over property located in Cass County and identified as Parcel Identification Number 59-0000-10866-010, 59-0000-10920-010, and 59-0000-10919-000. The legal description of the property to be acquired is:

Right of Way:

OIN 903

That part of the Southwest Quarter (SW1/4) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Southeast Corner of the Southwest Quarter (SW1/4) of said Section 14; thence North 01° 55' 29" West on the east line of said SW1/4 a distance of 1401.52 feet to the southerly line of the Great Northern Railway Co. Right-of-Way; thence North 64° 39' 06" West on said southerly Right-of-Way line a distance of 948.67 feet; thence North 25° 20' 54" East on said southerly Right-of-Way line a distance of 25.00 feet; thence North 64° 39' 06" West on said southerly Right-of-Way line a distance of 454.71 feet; thence South 25° 20' 54" West a distance of 461.28 feet; thence 1479.46 feet on the arc of a tangential curve, concave to the southeast, having a radius of 3050.00 feet; a central angle of 27° 47' 33", and a long chord length of 1465.00 feet bearing South 11° 27' 08" West; thence South 02° 26' 39" East a distance of 247.74 feet to the south line of said SW1/4; thence North 87° 33' 21"

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

701-298-2381
FAX 701-298-2397
wrđ@casscountynđ.gov
casscountynđ.gov

East on said south line of the SW1/4 a distance of 1784.05 feet to the Point of Beginning.

Said parcel contains 67.77 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

That part of the Southwest Quarter (SW1/4) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southwest Quarter (SW1/4) of said Section 14; thence North 01° 55' 29" West on the east line of said SW1/4 a distance of 1570.28 feet to the Point of Beginning; thence continuing North 01° 55' 29" West on said east line of the SW1/4 a distance of 1069.80 feet to the Northeast Corner of said SW1/4; thence South 87° 20' 54" West on the north line of said SW1/4 a distance of 946.63 feet; thence South 25° 20' 54" West a distance of 531.46 feet to the northerly line of the Great Northern Railway Co. Right-of-Way; thence South 64° 39' 06" East on said northerly Right-of-Way line a distance of 454.71 feet; thence North 25° 20' 54" East on said northerly Right-of-Way line a distance of 25.00 feet; thence South 64° 39' 06" East on said northerly Right-of-Way line a distance of 871.33 feet to the Point of Beginning.

Said parcel contains 19.59 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 935

That part of the Northwest Quarter (NW1/4) of Section 26, Township 140 North, Range 50 West, Cass County, North Dakota, further described as follows:

Beginning at the Southwest Corner of the Northwest Quarter (NW1/4) of said Section 26; thence North 01° 17' 31" West on the west line of said NW1/4 a distance of 1290.19 feet; thence North 20° 39' 35" East a distance of 1470.71 feet to the north line of said NW1/4; thence North 87° 06' 54" East on said north line a distance of 2094.01 feet to the Northeast Corner of said NW1/4; thence South 01° 10' 34" East on the east line of said NW1/4 a distance of 1291.37 feet; thence South 20° 39' 35" West a distance of 1469.83 feet to the south line of said NW1/4; thence South 87° 07' 23" West on said south line a distance of 2091.72 feet to the Point of Beginning.

Said parcel contains 143.00 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 936

That part of the Southwest Quarter (SW1/4) of Section 26, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northwest Corner of said SW1/4; thence North 87° 07' 23" East on the north line of said SW1/4 a distance of 1746.88 feet; thence South 35° 07' 21" West a distance of 2941.63 feet to the west line of said SW1/4; thence North 01° 17' 31" West on said west line a distance of 2318.94 feet to the Point of Beginning.

Said parcel contains 46.48 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement:

That part of the Southwest Quarter (SW1/4) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of the Southwest Quarter (SW1/4) of said Section 14; thence North 87° 20' 54" East on the north line of said SW1/4 a distance of 1202.78 feet to the Point of Beginning; thence continuing North 87° 20' 54" East on said north line of the SW1/4 a distance of 481.34 feet; thence South 25° 20' 54" West a distance of 531.46 feet to the northerly line of the Great Northern Railroad Co. Right-of-Way; thence North 64° 39' 06" West on said northerly right-of-way line a distance of 425.00 feet; thence North 25° 20' 54" East a distance of 305.48 feet to the Point of Beginning.

Said tract contains 4.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Enclosed is an appraisal regarding the value of the right of way the District must acquire from you, as determined by a licensed North Dakota appraiser. As you can see from the appraisal, the appraiser indicated the value of the right of way the District must acquire from you is \$1,789,617.00, and the temporary easement is \$4,080.00 for a total of \$1,793,697.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$1,793,697.00 as just compensation to purchase right of way from you for the Project. If you are willing to accept the District's offer, please sign the enclosed *Purchase Agreement* and return it to the District in the enclosed self-addressed, stamped envelope.

Stuart and Laurie Johnson
December 17, 2019
Page 4

You are encouraged to maintain contact with the land agent assigned to your property. **Jamie Wark** of SRF Consulting Group, Inc. can be reached at **(701) 893-7435** or **jwark@srfconsulting.com**. Jamie is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way from you for the Project.

For your information, North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way. If you do not accept the District's offer of just compensation and do not return a signed purchase agreement within fifteen (15) days, the District will send you a written request to discuss the Project and required right of way to be acquired at an upcoming Cass County Joint Water Resource District meeting. Ultimately, the District must conclude all negotiations and complete all acquisitions by Fall 2020.

We look forward to reaching a mutually acceptable agreement to resolve this matter. Thank you for your consideration.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis
Secretary-Treasurer
1201 Main Avenue West
West Fargo, ND 58078
(701) 298-2381
Lewisc@casscountynynd.gov

Enclosures

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

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 STUART AND LAURIE JOHNSON
 16817 33RD STREET SE
 HARWOOD ND 58042-9743



9590 9402 3806 8032 1533 79

2. Article Number (Transfer from service label)

7018 0040 0000 5525 6854

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery
 STUART JOHNSON 12-18-19

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Insured Mail
 - Insured Mail Restricted Delivery (over \$500)
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery



CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY

January 30, 2020

Cass County
Joint Water
Resource
District

Stuart and Laurie Johnson
16697 33rd Street SE
Harwood, ND 58042-9743
Certified No. 7018 0040 0000 5525 7042

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OINs: 903, 935, 936
Parcel No.: 59-0000-10866-010, 59-0000-10920-010 and
59-0000-10919-000

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). The District previously provided you a letter dated December 17, 2019; a copy of the District's appraisal for your right of way; and a Purchase Agreement as the District's offer of just compensation to purchase right of way from you. The District's letter specifically described the right of way the District must acquire from you for the Project. We have not received a signed Purchase Agreement from you, and we have not otherwise arrived at mutually acceptable terms regarding the District's purchase of right of way from you to accommodate the Project.

The District requests your attendance at a meeting to discuss the District's offer to purchase right of way from you. The District is meeting at the Cass County Highway Department, 1201 Main Avenue West in West Fargo, North Dakota, on February 13, 2020, and February 27, 2020, at 8:00 a.m.

The District hopes you will attend one of the above meetings to discuss the Project and the right of way the District must acquire from you to accommodate the Project.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

Please continue to maintain contact and negotiate with the land agent assigned to your property. **Jamie Wark** of SRF Consulting Group, Inc. is your point of contact for getting answers to any questions you have about the Project. Jamie can be reached at **(701) 893-7435** or jwark@srfconsulting.com.

701-298-2381
FAX 701-298-2397
wrld@casscountynynd.gov
casscountynynd.gov

Stuart and Laurie Johnson
903, 935, 936
January 30, 2020
Page 2

North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way. The District must conclude all negotiations and complete the acquisition of right of way necessary for construction of Project components on your property by Fall of 2020.

The District hopes you will attend one of the upcoming District meetings to discuss the Project and the required right of way. The District looks forward to meeting with you.


Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis
Secretary-Treasurer
1201 Main Avenue West
West Fargo, ND 58078
(701) 298-2381
lewisc@casscountynynd.gov

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

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>X <i>Stuart Johnson</i></p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p><i>STUART JOHNSON</i> <i>2-1-20</i></p>
<p>1. Article Addressed to:</p> <p><i>STUART AND LAURIE JOHNSON</i> <i>16697 33RD STREET SE</i> <i>HARWOOD ND 58042-9743</i></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
 <p>9590 9402 3806 8032 1531 71</p>	<p>3. Service Type</p> <ul style="list-style-type: none"> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery
<p>2 Article Number (Transfer from service label)</p> <p><i>7018 0040 0000 5525 7042</i></p>	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>	<p>Domestic Return Receipt</p>



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

May 22, 2020

**Cass County
Joint Water
Resource
District**

Stuart and Laurie Johnson
16697 33rd Street SE
Harwood, ND 58042-9743
Certified No. 7019 1640 0002 0398 8699

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Loughheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

**RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY
OINs: 903, 935, 936
Parcel Nos. 59-0000-10866-010, 59-0000-10919-000,
59-0000-10920-010**

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). On behalf of the District, I previously provided you a letter dated December 17, 2019, a copy of the District's appraisal for your right of way and temporary easement, and a Purchase Agreement as the District's offer of just compensation to purchase the right of way and temporary easement from you. In addition, I also provided you a letter dated January 30, 2020, to invite you to meet with the District for purposes of discussing the acquisition of your land. The parties have conducted the informal and formal negotiation procedures required by law but, unfortunately, the parties have not yet reached a mutually-acceptable agreement regarding compensation for the District's purchase of the right of way and temporary easement from you to accommodate the Project.

This letter is the District's NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY. If we do not have an agreement, the District will be requesting approval from the Cass County Commission to take possession of a right of way easement and temporary easement over your property. Cass County will provide you with at least 30 days' notice of a public meeting, and will invite you to the meeting to discuss the District's request.

This NOTICE does not preclude the parties from continuing negotiations. The District still hopes the parties can arrive at a mutually-acceptable agreement.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

701-298-2381
FAX 701-298-2397
wrđ@casscountynđ.gov
casscountynđ.gov

Stuart and Laurie Johnson
OINs 903, 935, 936
May 22, 2020
Page 2

You are encouraged to maintain contact with the land agent assigned to your property. **Jamie Wark** of **SRF Consulting Group, Inc.** can be reached at **(701) 893-7435** or **jwark@srfconsulting.com**. Jamie is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way and temporary easement from you for the Project.

North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way and temporary easement. Ultimately, the District must conclude all negotiations and complete all acquisitions by Fall 2020.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis
Secretary-Treasurer
1201 Main Avenue West
West Fargo, ND 58078
(701) 298-2381
lewisc@casscountynd.gov

cc: Jamie Wark, Land Agent
Rob Stefonowicz, Larkin Hoffman Daly & Lindgren, Ltd.
Chad Peterson, Chair, Cass County Commission
Robert Wilson, Cass County Administrator
Birch Burdick, Cass County State's Attorney
Eric Dodds, Program Manager, AE2S
Joel Paulsen, Executive Director, Diversion Authority

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 STUART AND LAURIE JOHNSON
 16697 33RD STREET SE
 HARWOOD NO 58042-9743



9590 9402 3806 8032 1543 90

2. Article Number (Transfer from service label)
 7019 1640 0002 0398 8699

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
 X BB

B. Received by (Printed Name) C. Date of Delivery
 CO 19 5-26-20

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input checked="" type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |

Domestic Return Receipt



SENT VIA EMAIL wilsonro@casscountynnd.gov

June 26, 2020

**Cass County
Joint Water
Resource
District**

Robert Wilson
Cass County Administrator
Cass County Commission
211 9th Street S
Fargo, ND 58103

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

701-298-2381
FAX 701-298-2397
wrđ@casscountynnd.gov
casscountynnd.gov

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Approval to Take Possession of Necessary Right of Way and
Temporary Easement
OINs: 903, 935, 936
Parcel Nos. 59-0000-10866-010, 59-000-10919-000, 59-0000-10920-010

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 the right of way and temporary easement from Stuart and Laurie Johnson (the "Landowner"):

- Letter dated December 17, 2019, enclosing the District's appraisal for the acquisition of the right of way and temporary easement from the Landowner and a proposed Purchase Agreement;
- Letter dated January 30, 2020, inviting the Landowner to meet with the District for purposes of negotiating compensation for the right of way and temporary easement to be acquired; and
- Letter dated May 22, 2020, notifying the Landowner the District planned to submit a request to the Cass County Commission seeking immediate possession of the right of way and temporary easement necessary for the Project.

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

Right of Way Easement:

OIN 903

That part of the Southwest Quarter (SW1/4) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Southeast Corner of the Southwest Quarter (SW1/4) of said Section 14; thence North 01° 55' 29" West on the east line of said SW1/4 a distance of 1401.52 feet to the southerly line of the Great Northern Railway Co. Right-of-Way; thence North 64° 39' 06" West on said southerly Right-of-Way line a distance of 948.67 feet; thence North 25° 20' 54" East on said southerly Right-of-Way line a distance of 25.00 feet; thence North 64° 39' 06" West on said southerly Right-of-Way line a distance of 454.71 feet; thence South 25° 20' 54" West a distance of 461.28 feet; thence 1479.46 feet on the arc of a tangential curve, concave to the southeast, having a radius of 3050.00 feet; a central angle of 27° 47' 33", and a long chord length of 1465.00 feet bearing South 11° 27' 08" West; thence South 02° 26' 39" East a distance of 247.74 feet to the south line of said SW1/4; thence North 87° 33' 21" East on said south line of the SW1/4 a distance of 1784.05 feet to the Point of Beginning.

Said parcel contains 67.77 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

That part of the Southwest Quarter (SW1/4) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southwest Quarter (SW1/4) of said Section 14; thence North 01° 55' 29" West on the east line of said SW1/4 a distance of 1570.28 feet to the Point of Beginning; thence continuing North 01° 55' 29" West on said east line of the SW1/4 a distance of 1069.80 feet to the Northeast Corner of said SW1/4; thence South 87° 20' 54" West on the north line of said SW1/4 a distance of 946.63 feet; thence South 25° 20' 54" West a distance of 531.46 feet to the northerly line of the Great Northern Railway Co. Right-of-Way; thence South 64° 39' 06" East on said northerly Right-of-Way line a distance of 454.71 feet; thence North 25° 20' 54" East on said northerly Right-of-Way line a distance of 25.00 feet; thence South 64° 39' 06" East on said northerly Right-of-Way line a distance of 871.33 feet to the Point of Beginning.

Said parcel contains 19.59 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 935

That part of the Northwest Quarter (NW1/4) of Section 26, Township 140 North, Range 50 West, Cass County, North Dakota, further described as follows:

Beginning at the Southwest Corner of the Northwest Quarter (NW1/4) of said Section 26; thence North 01° 17' 31" West on the west line of said NW1/4 a distance of 1290.19 feet; thence North 20° 39' 35" East a distance of 1470.71 feet to the north line of said NW1/4; thence North 87° 06' 54" East on said north line a distance of 2094.01 feet to the Northeast Corner of said NW1/4; thence South 01° 10' 34" East on the east line of said NW1/4 a distance of 1291.37 feet; thence South 20° 39' 35" West a distance of 1469.83 feet to the south line of said NW1/4; thence South 87° 07' 23" West on said south line a distance of 2091.72 feet to the Point of Beginning.

Said parcel contains 143.00 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 936

That part of the Southwest Quarter (SW1/4) of Section 26, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northwest Corner of said SW1/4; thence North 87° 07' 23" East on the north line of said SW1/4 a distance of 1746.88 feet; thence South 35° 07' 21" West a distance of 2941.63 feet to the west line of said SW1/4; thence North 01° 17' 31" West on said west line a distance of 2318.94 feet to the Point of Beginning.

Said parcel contains 46.48 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

That part of the Southwest Quarter (SW1/4) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of the Southwest Quarter (SW1/4) of said Section 14; thence North 87° 20' 54" East on the north line of said SW1/4 a distance of 1202.78 feet to the Point of Beginning; thence continuing North 87° 20' 54" East on said north line of the SW1/4 a distance of 481.34 feet; thence South 25° 20' 54" West a distance of 531.46 feet to the northerly line of the Great Northern Railroad Co. Right-of-Way; thence North 64° 39' 06" West on said northerly right-of-way line a distance of 425.00 feet; thence North 25° 20' 54" East a distance of 305.48 feet to the Point of Beginning.

Said tract contains 4.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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). 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 and temporary easement 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 the Landowner no less than thirty days' notice of the meeting. The District will also attend the meeting, along with the land agent, Ken Helvey, who was the Landowner'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 and temporary easement necessary for the Project, and construction of the Project will not be possible without acquiring the right of way and temporary easement identified above. As the District will explain and verify for the Commission in more detail through this process, the District provided the Landowner with the District's appraisal as the starting point for negotiations, then attempted to negotiate further with the Landowner 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 the Landowner to avoid this process. Despite the District's efforts to be fair, friendly, and flexible in both the informal and formal negotiations with the Landowner, unfortunately, the parties have not reached a mutually acceptable agreement for the acquisition of the right of way and temporary easement.

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 the Landowner and the right of way and temporary easement identified in this letter. Further, the 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 and temporary easement 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 still hopes the parties can arrive at a mutually-acceptable agreement.

Robert Wilson
June 26, 2020
Page 5

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis
Secretary-Treasurer
1201 Main Avenue West
West Fargo, ND 58078
(701) 298-2381
lewisc@casscountynynd.gov

cc: Ken Helvey, Land Agent
Rob Stefonowicz, Larkin Hoffman Daly & Lindgren, Ltd.
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority
Eric Dodds, AE2S Program Manager
Heather Worden, Administrative Assistant, Cass County Commission



June 29, 2020

VIA UPS – DELIVERY CONFIRMATION

**Board of County
Commissioners**

Stuart W. Johnson
Laurie L. Johnson
16697 33rd Street Southeast
Harwood, North Dakota 58042

Chad M. Peterson
Fargo, North Dakota

Rick Steen
Fargo, North Dakota

Ken Pawluk
Fargo, North Dakota

Duane Breitling
West Fargo, North Dakota

Mary Scherling
Stanley Township, North Dakota

**Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OINs: 903, 935, 936
Parcel Nos. 59-0000-10866-010, 59-0000-10919-000,
59-0000-10920-010
UPS Tracking No. 1ZRT87R14320001012**

Greetings Stuart and Laurie Johnson:

As you know, the METRO FLOOD DIVERSION BOARD OF AUTHORITY (the "Authority") is proceeding with the Fargo Moorhead Diversion Area Project ("Project"); the Cass County Commission (the "Commission") is a member of the Authority. The Cass County Joint Water Resource District (the "District") is also a member of the Authority, and the Authority previously directed the District to obtain the North Dakota right of way necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding right of way the District must acquire from you for the Project. The District copied the Commission on the following three letters the District sent to you regarding the District's negotiations with you:

- Letter dated December 17, 2019, enclosing the District's appraisal for the acquisition of the right of way and temporary easement from you, along with a proposed Purchase Agreement;
- Letter dated January 30, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way and temporary easement to be acquired; and
- Letter dated May 22, 2020, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way and temporary easement necessary for the Project.

Heather Worden
Commission Assistant

The District informed the Commission that you and the District have not reached a mutually-acceptable agreement, and have not signed a purchase agreement, regarding the right of way the District must purchase from you

P.O. Box 2806
211 9th Street South
Fargo, North Dakota 58108
701-241-5609
www.casscountynd.gov

to accommodate the Project. With that in mind, the District recently requested approval from the Commission to utilize quick take eminent domain to take possession of the right of way the District must acquire from you. The legal description of the necessary right of way is as follows:

Right of Way
OIN 903

That part of the Southwest Quarter (SW1/4) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Southeast Corner of the Southwest Quarter (SW1/4) of said Section 14; thence North 01° 55' 29" West on the east line of said SW1/4 a distance of 1401.52 feet to the southerly line of the Great Northern Railway Co. Right-of-Way; thence North 64° 39' 06" West on said southerly Right-of-Way line a distance of 948.67 feet; thence North 25° 20' 54" East on said southerly Right-of-Way line a distance of 25.00 feet; thence North 64° 39' 06" West on said southerly Right-of-Way line a distance of 454.71 feet; thence South 25° 20' 54" West a distance of 461.28 feet; thence 1479.46 feet on the arc of a tangential curve, concave to the southeast, having a radius of 3050.00 feet; a central angle of 27° 47' 33", and a long chord length of 1465.00 feet bearing South 11° 27' 08" West; thence South 02° 26' 39" East a distance of 247.74 feet to the south line of said SW1/4; thence North 87° 33' 21" East on said south line of the SW1/4 a distance of 1784.05 feet to the Point of Beginning.

Said parcel contains 67.77 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

That part of the Southwest Quarter (SW1/4) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southwest Quarter (SW1/4) of said Section 14; thence North 01° 55' 29" West on the east line of said SW1/4 a distance of 1570.28 feet to the Point of Beginning; thence continuing North 01° 55' 29" West on said east line of the SW1/4 a distance of 1069.80 feet to the Northeast Corner of said SW1/4; thence South 87° 20' 54" West on the north line of said SW1/4 a distance of 946.63 feet; thence South 25° 20' 54" West a distance of 531.46 feet to the northerly line of the Great Northern Railway Co. Right-of-Way; thence South 64° 39' 06" East on said northerly Right-of-Way line a distance of 454.71 feet; thence

North 25° 20' 54" East on said northerly Right-of-Way line a distance of 25.00 feet; thence South 64° 39' 06" East on said northerly Right-of-Way line a distance of 871.33 feet to the Point of Beginning.

Said parcel contains 19.59 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 935

That part of the Northwest Quarter (NW1/4) of Section 26, Township 140 North, Range 50 West, Cass County, North Dakota, further described as follows:

Beginning at the Southwest Corner of the Northwest Quarter (NW1/4) of said Section 26; thence North 01° 17' 31" West on the west line of said NW1/4 a distance of 1290.19 feet; thence North 20° 39' 35" East a distance of 1470.71 feet to the north line of said NW1/4; thence North 87° 06' 54" East on said north line a distance of 2094.01 feet to the Northeast Corner of said NW1/4; thence South 01° 10' 34" East on the east line of said NW1/4 a distance of 1291.37 feet; thence South 20° 39' 35" West a distance of 1469.83 feet to the south line of said NW1/4; thence South 87° 07' 23" West on said south line a distance of 2091.72 feet to the Point of Beginning.

Said parcel contains 143.00 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 936

That part of the Southwest Quarter (SW1/4) of Section 26, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northwest Corner of said SW1/4; thence North 87° 07' 23" East on the north line of said SW1/4 a distance of 1746.88 feet; thence South 35° 07' 21" West a distance of 2941.63 feet to the west line of said SW1/4; thence North 01° 17' 31" West on said west line a distance of 2318.94 feet to the Point of Beginning.

Said parcel contains 46.48 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Johnson
OINs: 903, 935, 936
June 29, 2020
Page 4

Temporary Easement:

OIN 903

That part of the Southwest Quarter (SW1/4) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of the Southwest Quarter (SW1/4) of said Section 14; thence North 87° 20' 54" East on the north line of said SW1/4 a distance of 1202.78 feet to the Point of Beginning; thence continuing North 87° 20' 54" East on said north line of the SW1/4 a distance of 481.34 feet; thence South 25° 20' 54" West a distance of 531.46 feet to the northerly line of the Great Northern Railroad Co. Right-of-Way; thence North 64° 39' 06" West on said northerly right-of-way line a distance of 425.00 feet; thence North 25° 20' 54" East a distance of 305.48 feet to the Point of Beginning.

Said tract contains 4.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

The Commission invites you to attend the Commission's meeting on Monday, August 3, 2020 at 3:30 p.m. The District will also participate in the meeting, along with the District's land agent, **Jamie Wark**, who was your primary point of contact throughout the negotiation process. At the meeting, the Commission will ask the District to verify the District's compliance with Section 61-16.1-09(2) of the North Dakota Century Code. The Commission will ultimately vote on whether to approve the District's use of quick take eminent domain to take a right of way easement and temporary easement over your property.

If you wish to participate in the Commission's , 2020 public meeting via conference call or Microsoft Teams, please contact Heather Worden at (701) 241-5609 or wordenh@casscountynd.gov as soon as possible so Ms. Worden can assist you with the necessary arrangements.

This Notice does not preclude you from continuing to work with the District regarding the right of way easement and temporary easement necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **Jamie Wark** and to continue discussions about the Project. **Jamie Wark** of **SRF Consulting Group, Inc.** is your point of contact regarding the Project. You can reach **Jamie Wark** at (701) 893-7435 or jwark@srfconsulting.com.

Johnson
OINs: 903, 935, 936
June 29, 2020
Page 5

Finally, North Dakota law requires the Commission to provide you with a description of the District's timeline regarding your right of way. The District must complete the acquisition of right of way necessary for construction of Project components on your property by Fall of 2020.

Sincerely,

CASS COUNTY COMMISSION



Robert Wilson, Cass County Administrator
Cass County Commission
211 Ninth Street South
Fargo, ND 58103
(701) 241-5609

cc: Jamie Wark, Land Agent
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority
Rob Stefonowicz, Larkin Hoffman Attorneys
Eric Dodds, AE2S Program Manager
Heather Worden, Administrative Assistant, Cass County Commission

F:\Water\CCJT\Basin Project 2009\Right Of Way\Channel Phase I\21 - Johnson, Stuart & Laurie 935 903\Correspondence\OIN 903 935 936 Johnson Cass County Commission 30 Day Notice To Landowner Of Public Meeting V.2.Docx

FedEx Priority Overnight
394332488299 0.10 lb (S) 36.80

Direct Signature Required

Declared Value 100

Recipient Address:

Stuart W Johnson

Laurie L Johnson

16697 33RD ST SE

HARWOOD, ND 58042-9743

0000000000

Scheduled Delivery Date 6/30/2020

Pricing option:

ONE RATE

Package Information:

FedEx Envelope

IMPORTANT!

We are continuing to respond to the impact of COVID-19 around the world. [See our latest updates.](#) For COVID-19-related recipient closures, you can [redirect packages](#), [Ask FedEx](#), or contact the shipper.

Johnson 394332488299 

Delivered
Tuesday 6/30/2020 at 9:08 am

**DELIVERED**

Signed for by: S.JOHNSON



[GET STATUS UPDATES](#)
[OBTAIN PROOF OF DELIVERY](#)

Want to know when your package will arrive?

See your estimated delivery time with FedEx Delivery Manager. [Sign up or Log in](#)

FROM	TO
Fargo, ND US	HARWOOD, ND US

Shipment Facts

TRACKING NUMBER 394332488299	SERVICE FedEx Priority Overnight	WEIGHT 0.5 lbs / 0.23 kgs
SIGNATURE SERVICES Direct signature required	DELIVERED TO Residence	TOTAL PIECES 1
TOTAL SHIPMENT WEIGHT 0.5 lbs / 0.23 kgs	TERMS Shipper	PACKAGING FedEx Envelope
SPECIAL HANDLING SECTION Deliver Weekday, Residential Delivery, Direct Signature Required	STANDARD TRANSIT  6/30/2020 by 10:30 am	SHIP DATE  Mon 6/29/2020
ACTUAL DELIVERY Tue 6/30/2020 9:08 am		

Travel HistoryLocal Scan Time 

Tuesday, 6/30/2020

9:08 am

HARWOOD, ND

Delivered

Page 33 of 43**08/03/2020**

7/1/2020

Track your package or shipment with FedEx Tracking

8:32 am FARGO, ND On FedEx vehicle for delivery

7:36 am FARGO, ND At local FedEx facility

Monday, 6/29/2020

6:31 pm FARGO, ND At local FedEx facility

5:35 pm FARGO, ND Picked up

1:44 pm Shipment information sent to FedEx

1:43 pm FARGO, ND Picked up

Tendered at FedEx Office

AFFIDAVIT OF LAND AGENT

STATE OF North Dakota)
) ss.
COUNTY OF Cass)

[¶1] I, Ken Helvey, do hereby state on oath:

[¶2] I am employed by SRF Consulting Group, Inc. as Principal/Land Agent. The Cass County Joint Water Resource District (“the District”) hired SRF Consulting Group, Inc. to negotiate and acquire the necessary right of way for the Fargo-Moorhead Area Diversion Project (the “Project”).

[¶3] The District must acquire certain real property from Stuart Johnson and Laurie Johnson (“Landowner”) for construction, operation, and maintenance of the Project.

[¶4] Landowner’s real property where the District must acquire a Right of Way and Temporary Easement for the Project located in Cass County, North Dakota, more fully described as follows:

Right of Way

OIN 903

That part of the Southwest Quarter (SW¼) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Southeast Corner of the Southwest Quarter (SW¼) of said Section 14; thence North 01° 55' 29" West on the east line of said SW¼ a distance of 1401.52 feet to the southerly line of the Great Northern Railway Co. Right-of-Way; thence North 64° 39' 06" West on said southerly Right-of-Way line a distance of 948.67 feet; thence North 25° 20' 54" East on said southerly Right-of-Way line a distance of 25.00 feet; thence North 64° 39' 06" West on said southerly Right-of-Way line a distance of 454.71 feet; thence South 25° 20' 54" West a distance of 461.28 feet; thence 1479.46 feet on the arc of a tangential curve, concave to the southeast, having a radius of 3050.00 feet; a central angle of 27° 47' 33", and a long chord length of 1465.00 feet bearing South 11° 27' 08" West; thence South 02° 26' 39" East a distance of 247.74 feet to the south line of said SW¼; thence North 87° 33' 21" East on said south line of the SW¼ a distance of 1784.05 feet to the Point of Beginning.

Said parcel contains 67.77 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

That part of the Southwest Quarter (SW¼) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southwest Quarter (SW¼) of said Section 14; thence North 01° 55' 29" West on the east line of said SW¼ a distance of 1570.28 feet to the Point of Beginning; thence continuing North 01° 55' 29" West on said east line of the SW¼ a distance of 1069.80 feet to the Northeast Corner of said SW¼; thence South 87° 20' 54" West on the north line of said SW¼ a distance of 946.63 feet; thence South 25° 20' 54" West a distance of 531.46 feet to the northerly line of the Great Northern Railway Co. Right-of-Way; thence South 64° 39' 06" East on said northerly Right-of-Way line a distance of 454.71 feet; thence North 25° 20' 54" East on said northerly Right-of-Way line a distance of 25.00 feet; thence South 64° 39' 06" East on said northerly Right-of-Way line a distance of 871.33 feet to the Point of Beginning.

Said parcel contains 19.59 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 935

That part of the Northwest Quarter (NW¼) of Section 26, Township 140 North, Range 50 West, Cass County, North Dakota, further described as follows:

Beginning at the Southwest Corner of the Northwest Quarter (NW¼) of said Section 26; thence North 01° 17' 31" West on the west line of said NW¼ a distance of 1290.19 feet; thence North 20° 39' 35" East a distance of 1470.71 feet to the north line of said NW¼; thence North 87° 06' 54" East on said north line a distance of 2094.01 feet to the Northeast Corner of said NW¼; thence South 01° 10' 34" East on the east line of said NW¼ a distance of 1291.37 feet; thence South 20° 39' 35" West a distance of 1469.83 feet to the south line of said NW¼; thence South 87° 07' 23" West on said south line a distance of 2091.72 feet to the Point of Beginning.

Said parcel contains 143.00 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 936

That part of the Southwest Quarter (SW¼) of Section 26, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northwest Corner of said SW¼; thence North 87° 07' 23" East on the north line of said SW¼ a distance of 1746.88 feet; thence South 35° 07' 21"

West a distance of 2941.63 feet to the west line of said SW¼; thence North 01° 17' 31" West on said west line a distance of 2318.94 feet to the Point of Beginning.

Said parcel contains 46.48 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement

That part of the Southwest Quarter (SW¼) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of the Southwest Quarter (SW¼) of said Section 14; thence North 87° 20' 54" East on the north line of said SW¼ a distance of 1202.78 feet to the Point of Beginning; thence continuing North 87° 20' 54" East on said north line of the SW¼ a distance of 481.34 feet; thence South 25° 20' 54" West a distance of 531.46 feet to the northerly line of the Great Northern Railroad Co. Right-of-Way; thence North 64° 39' 06" West on said northerly right-of-way line a distance of 425.00 feet; thence North 25° 20' 54" East a distance of 305.48 feet to the Point of Beginning.

Said tract contains 4.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

The property described above is the "Necessary Property."

[¶5] Affiant is familiar with the records maintained by SRF Consulting Group, Inc. with respect to the Necessary Property and has reviewed all such records prior to executing this affidavit.

[¶6] SRF Consulting Group, Inc. has attempted to negotiate with Landowner to acquire the Necessary Property. Attached as **Exhibit A** is a log of all contacts SRF Consulting Group, Inc. has had with Landowner.

[¶7] The District has instructed SRF Consulting Group, Inc. to refrain from referencing, mentioning, or threatening quick take eminent domain during negotiations since August 1, 2017.

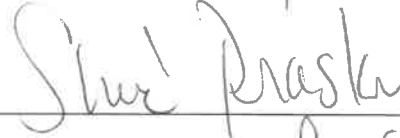
[¶] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

Dated this 22 day of July, 2020.

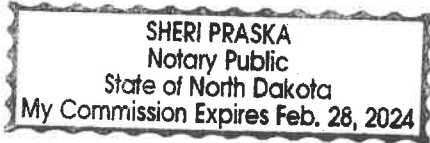


Ken Helvey
SRF Consulting Group, Inc.

Subscribed to and sworn to before me this 20 day of July, 2020.



Notary Public, County of Cass
State of North Dakota
My Commission Expires: 2/28/2024



(SEAL)

"Exhibit A"

OIN 903 935 936 - Johnson Contact Log	
Date	Contact Summary
9/28/2016	ROE and ROE letter sent
10/26/2016	Nicole spoke with Stuart - hasn't had time to sign ROE, intends to
11/9/2016	Nicole lvm for stuart requesting a call back to discuss getting ROE signed
12/16/2016	Nicole lvm for Stuart requesting a meeting
2/21/2017	Nicole lvm for Stuart informing him that Braun will be out completing soil borings
8/21/2017	Nicole spoke with Stuart and set up a meeting for Friday 8/25
2/1/2018	Nicole lvm for Stuart requesting a meeting
2/8/2018	Nicole contacted Stuart and informed him they have been instructed to begin negotiations
2/12/2018	Nicole called Stuart and they talked about \$/acre
2/19/2018	Emailed Stuart with a copy of the FM Diversion map
2/20/2018	Nicole emailed stuart - passed along his questions to engineers regarding drainage
2/20/2018	Nicole called Stuart to talk about \$/acre
2/21/2018	Nicole called Stuart and informed him Joe Herbst from AE2S will be contacting for a meeting in the next few days
5/8/2019	Mike called Stuart to introduce him as the new RW specialist assigned to these parcels
8/19/2019	Appraisal and offer letter received
10/25/2019	Jamie called Stuart and discussed the ROE agreement
10/28/2019	Jamie called Stuart to discuss land in section 14
11/19/2019	Jamie mailed out maps of the properties the CCJWRD is negotiating with them on
12/17/2019	Formal offer letter sent
12/18/2019	Formal offer letter received
1/7/2020	Meeting with Stuart- not intested in selling and offered no counter offer. Discussed flooding issues
1/30/2020	CCJWRD invite sent
2/1/2020	CCJWRD invite received
5/22/2020	Possession intent sent
5/26/2020	Possession intent received
7/2/2020	Talked to Stuart about ROE and counter offer. Ok to acces land. No counter offer provided
7/9/2020	Checked in with Stuart on access. They ruttud up his field. Will provide photos.
7/14/2020	Asked Stuart for photos of field damage - photos received and sent to Dean
7/17/2020	Asked Staurt to call Joint Board to give bank info for damagage payment

AFFIDAVIT OF DAN JACOBSON FOR CASS COUNTY COMMISSION

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 and Temporary Easement owned by Stuart Johnson and Laurie Johnson (“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 and Temporary Easement must be acquired by the District for the Project is located in Cass County, North Dakota, more fully described as follows:

Right of Way
OIN 903

That part of the Southwest Quarter (SW¼) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Southeast Corner of the Southwest Quarter (SW1¼) of said Section 14; thence North 01° 55' 29" West on the east line of said SW¼ a distance of 1401.52 feet to the southerly line of the Great Northern Railway Co. Right-of-Way; thence North 64° 39' 06" West on said southerly Right-of-Way line a distance of 948.67 feet; thence North 25° 20' 54" East on said southerly Right-of-Way line a distance of 25.00 feet; thence North 64° 39' 06" West on said southerly Right-of-Way line a distance of 454.71 feet; thence South 25° 20' 54" West a distance of 461.28 feet; thence 1479.46 feet on the arc of a tangential curve, concave to the southeast, having a radius of 3050.00 feet; a central angle of 27° 47' 33", and a long chord length of 1465.00 feet bearing South 11° 27' 08" West; thence South 02° 26' 39" East a distance of 247.74 feet to the south line of said SW¼;

thence North 87° 33' 21" East on said south line of the SW¼ a distance of 1784.05 feet to the Point of Beginning.

Said parcel contains 67.77 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

That part of the Southwest Quarter (SW¼) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southwest Quarter (SW¼) of said Section 14; thence North 01° 55' 29" West on the east line of said SW¼ a distance of 1570.28 feet to the Point of Beginning; thence continuing North 01° 55' 29" West on said east line of the SW¼ a distance of 1069.80 feet to the Northeast Corner of said SW¼; thence South 87° 20' 54" West on the north line of said SW¼ a distance of 946.63 feet; thence South 25° 20' 54" West a distance of 531.46 feet to the northerly line of the Great Northern Railway Co. Right-of-Way; thence South 64° 39' 06" East on said northerly Right-of-Way line a distance of 454.71 feet; thence North 25° 20' 54" East on said northerly Right-of-Way line a distance of 25.00 feet; thence South 64° 39' 06" East on said northerly Right-of-Way line a distance of 871.33 feet to the Point of Beginning.

Said parcel contains 19.59 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 935

That part of the Northwest Quarter (NW¼) of Section 26, Township 140 North, Range 50 West, Cass County, North Dakota, further described as follows:

Beginning at the Southwest Corner of the Northwest Quarter (NW¼) of said Section 26; thence North 01° 17' 31" West on the west line of said NW¼ a distance of 1290.19 feet; thence North 20° 39' 35" East a distance of 1470.71 feet to the north line of said NW¼; thence North 87° 06' 54" East on said north line a distance of 2094.01 feet to the Northeast Corner of said NW¼; thence South 01° 10' 34" East on the east line of said NW¼ a distance of 1291.37 feet; thence South 20° 39' 35" West a distance of 1469.83 feet to the south line of said NW¼; thence South 87° 07' 23" West on said south line a distance of 2091.72 feet to the Point of Beginning.

Said parcel contains 143.00 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 936

That part of the Southwest Quarter (SW¼) of Section 26, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northwest Corner of said SW¼; thence North 87° 07' 23" East on the north line of said SW¼ a distance of 1746.88 feet; thence South 35° 07' 21" West a distance of 2941.63 feet to the west line of said SW¼; thence North 01° 17' 31" West on said west line a distance of 2318.94 feet to the Point of Beginning.

Said parcel contains 46.48 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement

That part of the Southwest Quarter (SW¼) of Section 14, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of the Southwest Quarter (SW¼) of said Section 14; thence North 87° 20' 54" East on the north line of said SW¼ a distance of 1202.78 feet to the Point of Beginning; thence continuing North 87° 20' 54" East on said north line of the SW¼ a distance of 481.34 feet; thence South 25° 20' 54" West a distance of 531.46 feet to the northerly line of the Great Northern Railroad Co. Right-of-Way; thence North 64° 39' 06" West on said northerly right-of-way line a distance of 425.00 feet; thence North 25° 20' 54" East a distance of 305.48 feet to the Point of Beginning.

Said tract contains 4.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

[¶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 a written offer for just compensation to the landowner by certified mail, along with an appraisal and purchase agreement, on December 17, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On January 30, 2020, 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**.

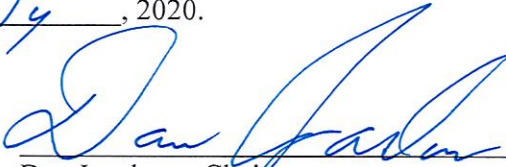
[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶11] On May 22, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way and Temporary Easement, 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 since August 1, 2017.

[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 23 day of July, 2020.



Dan Jacobson, Chair
Cass County Joint Water Resource District

Subscribed to and sworn to before me this 23rd day of July, 2020.



Notary Public, Cass County, State of North Dakota

