

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

August 17th, 2020

PROPERTY OWNER: Patsy Gust Living Trust Etal

LAND AGENT: Ken Helvey with SRF

OIN: 952



FM AREA
DIVERSION
PROJECT

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Written Correspondence Timeline – Patsy Gust Living Trust Etal

OIN 952	Sent	Received
Offer to Purchase	9/23/2019	9/27/2019
Formal Negotiations and Written Offer of Just Compensation	1/10/2020	1/30/2020
Request for Meeting	3/31/2020	4/1/2020
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	7/8/2020	7/8/2020
Invitation to Attend Public Meeting	7/13/2020	7/14/2020
Commission Meeting Date	8/17/2020	

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: Patsy G. Gust and David R. Gust, as Trustees under the Patsy G. Gust Living Trust dated September 19, 2013
2. Land Agent: Ken Helvey
3. Parcel No.: 59-0400-00010-000
4. OIN No.: 952

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

August 1, 2020

Owner	Patsy G. Gust Living Trust, David and Patsy Gust, Trustees
Mailing Address	3724 26 th Street NW, Harwood, ND 58042
Property Location	Diversion Channel
Property Type	Agriculture
OIN	952
Land Agent	Ken Helvey - SRF
Landowner Representative	None known
Formal Process	Possession intent letter received plus 30 – 6/25/20

Property Need

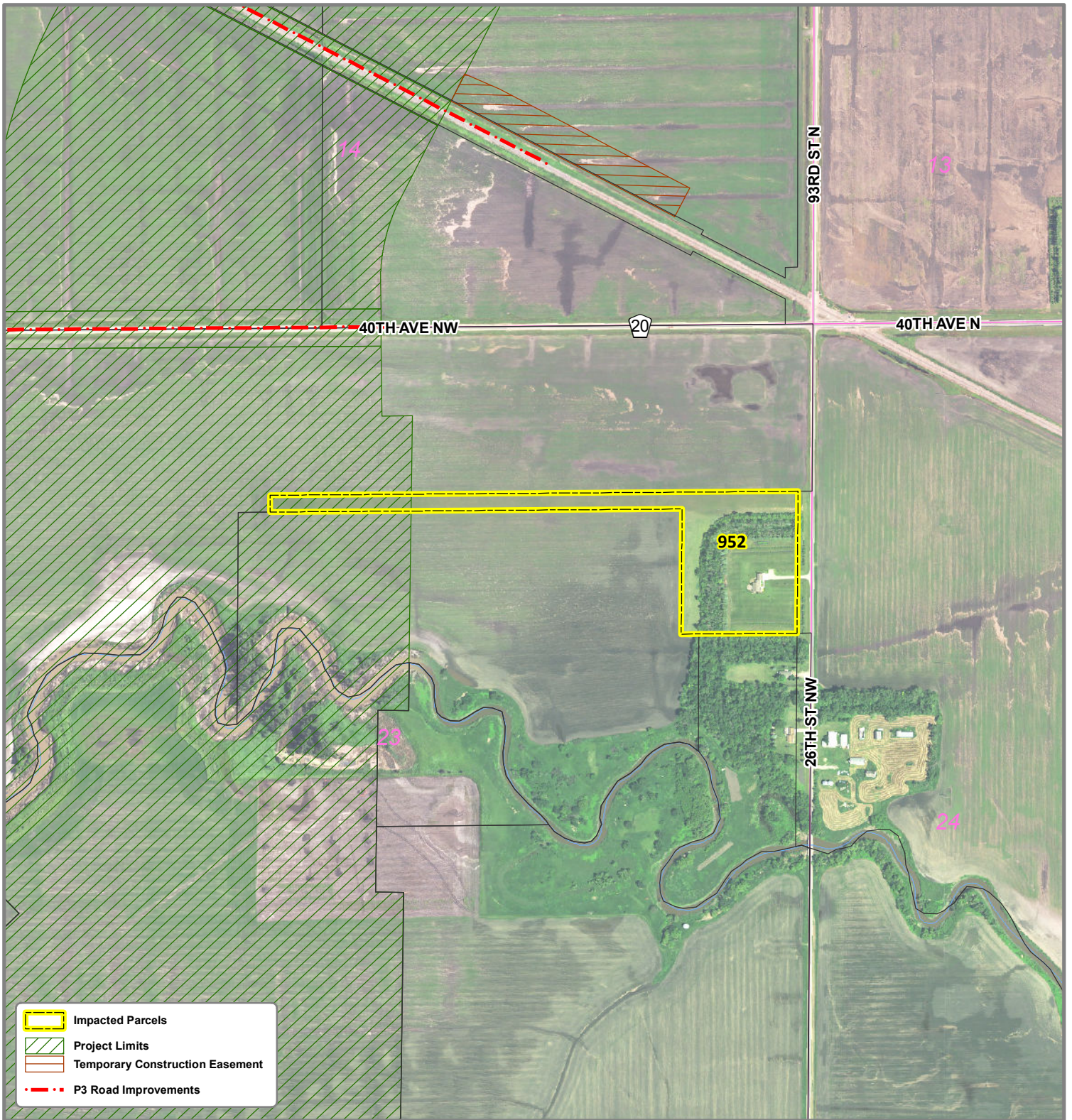
The Parcel is located within the Diversion Channel area associated with the Project. The Diversion Authority is required to obtain a portion of the channel for the Diversion Channel.

Valuation and Negotiation Summary:

Appraisal Value / Date	\$30,580 – May 15, 2019 67,954 SF land/site taking at \$.40/SF – \$27,182 22,651 SF TCE at \$.03/5years - \$3,398
Counteroffer	\$1,000,000 back in 2017 (verbal)

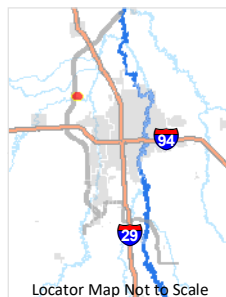
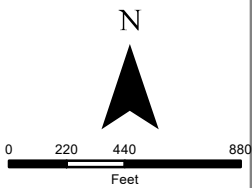
Negotiation Notes

- SRF Land agent, Ken Helvey, has had contact with landowner regarding the offer to purchase multiple times.
- Landowner was not happy with the appraisal. The property is used as a landing strip for owner’s crop-dusting business. Acquisition of the property would make the strip non-functional
- Negotiations have stalled due to the large difference in opinion when it comes to the value of the crop-dusting business. Land agents and CCJWRD have not been able to get landowner to budge from their 2017 counteroffer of \$1,000,000.



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 hereon 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 Diversion\Projects\Land Acquisition\Project Work Package\IProject Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105.mxd



OIN: 952
PATSY G GUST LIVING TRUST ETAL
Parcel ID: 59-0400-00010-000
Cass County, ND

FM AREA DIVERSION
 Map Date: 4/2/2020





September 23, 2019

Patsy G Gust Living Trust
Patsy G and David R Gust, Trustees
3724 26th Street Northwest
Harwood, ND 58042

RE: **Offer to Purchase**
Parcel ID: OIN 952
Project Title: Fargo Moorhead Diversion
PID: 59-0400-00010-000

Dear Patsy and David, as Trustees,

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, Patchin Messner Valuation Counselors. The appraiser has determined that the market value of the interests being purchased is **\$134,500.00**. 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) and a summary of the offer is provided on Exhibit A (Offer Summary).

The Cass County Joint Water Resource District hereby offers to pay you \$134,500.00 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 TCE and therefore your Just Compensation and Exhibit A do not include the 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 me at 763-249-6785 or by email at khelvey@srfconsulting.com We are 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 952 by Patchin Messner Valuation Counselors.
- 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,



Ken Helvey
Principal
khelvey@srfconsulting.com
One North Second Street, Fargo, ND 58102

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

David R. Gust, as Trustee of the Patsy G. Gust Living Trust

Patsy G. Gust, as Trustee of the Patsy G. Gust Living Trust

Enclosures: Appraisal Report, Exhibit A, Exhibit B

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Offer to Purchase

Parcel ID: OIN 952

Project Title: Fargo Moorhead Diversion

PID: 59-0400-00010-000

Property Address: 3724 26th Street NW, Raymond Township

Recorded Fee Owner: Patsy G Gust Living Trust

Property Legal Description:

SEE ATTACHED SURVEY

Description of Property Interests to be Acquired: Fee Simple

Noted and Waived Exceptions, Reservations or Encumbrances: None

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

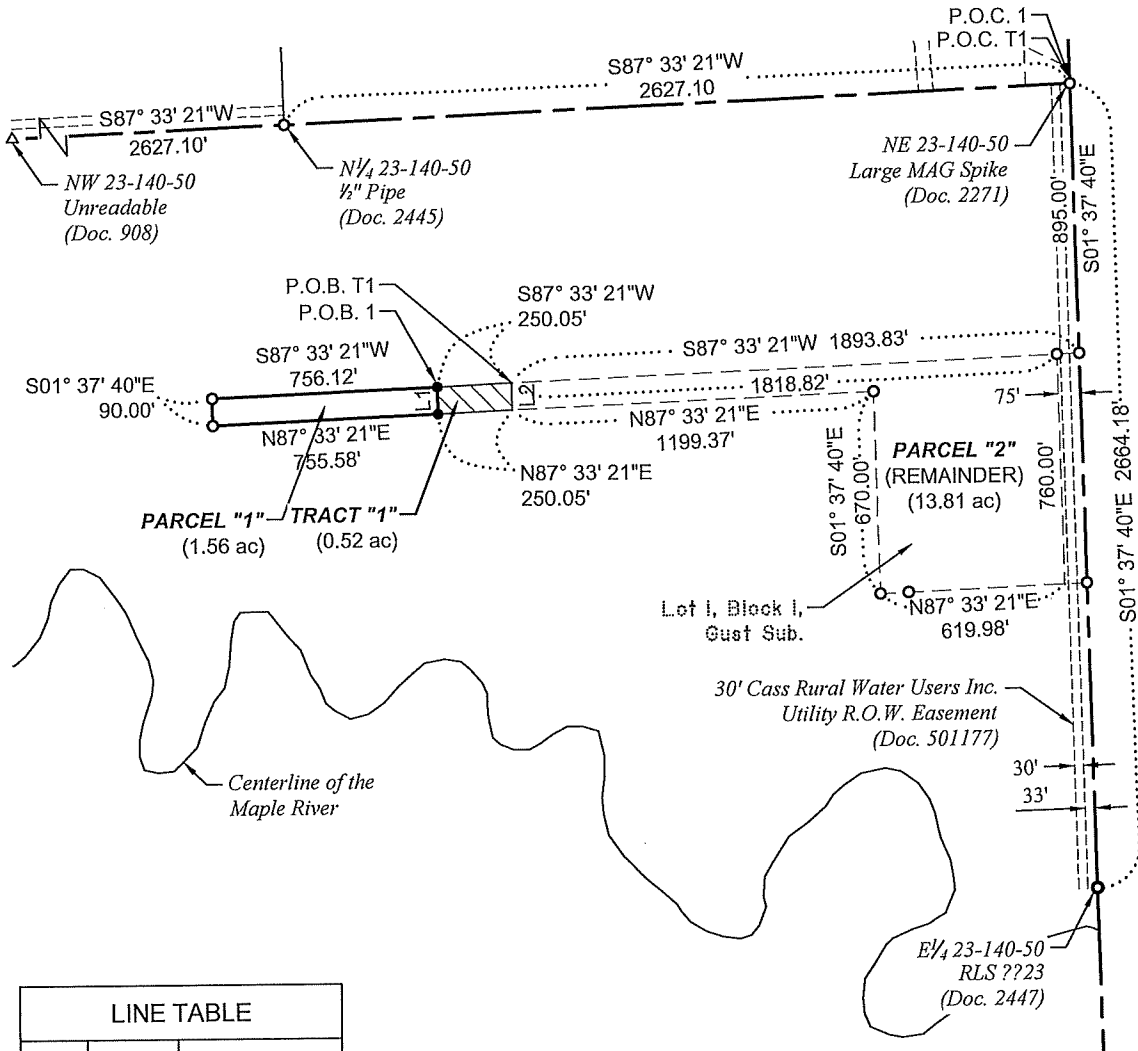
1. Demonstration of marketable title,
2. Conveyance of all interests identified, unless waived in writing by the Cass County Joint Water Resource District,
3. Execution of a purchase agreement signed by the Cass County Joint Water Resource District, or its designee.

APPRAISAL SUMMARY

Parcel Value	Area Size/ Description	Per Unit	Indicated Value
Land/Site Taking	1.56 Acres	\$ 13,000	\$ 134,500.00
TOTAL (rounded)			\$ 134,500.00

EXHIBIT B

CERTIFICATE OF SURVEY



LINE TABLE		
Line	Length	Bearing
L1	90.01'	N01° 17' 14"W
L2	90.01'	N01° 17' 14"W

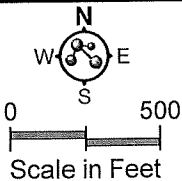
BASIS OF BEARING

COORDINATE SYSTEM:
ND STATE PLANE - SOUTH ZONE
HORIZONTAL DATUM:
NAD83 (Conus)
VERTICAL DATUM:
NAVD 88 (GEOID 09)

DISTANCES:
MEASURED ON THE GROUND IN
U.S. SURVEY FEET
BASIS OF BEARINGS:
GRID NORTH

Notes:

- 1) Parcel subject to a 40'-wide, undefined location, Cass Rural Water Users Inc. utility R.O.W. Easement (Doc. 1242094) and a Cass Rural Water Users Inc. blanket utility R.O.W. Easement (Doc. 859879)
- 2) Centerline of Maple River shown per Cass County GIS.



BEARINGS AND DISTANCES
MAY VARY FROM PREVIOUS
SURVEYS DUE TO DIFFERENT
METHODS OF MEASUREMENT.

LEGEND

- SECTION LINE
- - - 1/4 LINE
- - - 1/4 - 1/4 LINE
- - - EXIST. PARCEL LINE
- - - EXIST. EASE.
- NEW PARCEL LINE
- ▭ NEW DIVERSION PARCEL
- ▨ TEMP. CONST. EASE.
- FND ORIGINAL MON.
- ▲ FND IRON MON. W/ ALUM. CAP
- FND IRON MON. W/ PLASTIC CAP
- FND IRON MON.
- SET IRON MON. W/ PLASTIC CAP LS-8218
- ▲ SET IRON MON. W/ ALUM. CAP LS-8218
- (M) MEASURED
- (R) PREVIOUSLY RECORDED

PRELIMINARY



PATSY G. GUST LIVING TRUST

Lot 1, Block 1 of Gust Subdivision,
Section 23, T10N, R00W, Cass County, ND

CERTIFICATE OF SURVEY

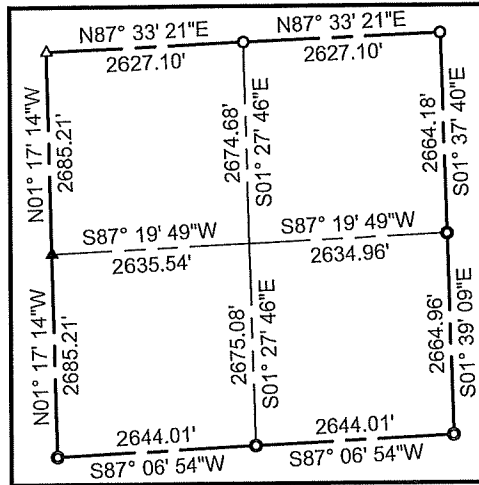
DRAWING TYPE COS	DATE Oct. 14, 2016
PROJECT NUMBER P10733-2016-08	SHEET 59
PREPARED BY T.M.L.	DRAWING 1

08/17/2020

CERTIFICATE OF SURVEY

Part of Lot 1, Block 1 of Gust Subdivision in Section 23, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota.

SECTION 23



PARENT PARCEL - CONTRACT FOR DEED DOC. NO. 1231245

OWNER: PATSY G. GUST LIVING TRUST

Lot 1, Block 1 of Gust Subdivision in Section 23, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota.

PARCEL "1" - LEGAL DESCRIPTION

That part of Lot 1, Block 1 of Gust Subdivision, Section 23, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of the Northeast Quarter (NE1/4) of Section 23;
 thence South 01° 37' 40" East on the east line of said NE1/4 a distance of 895.00 feet to the Northeast Corner of Gust Subdivision;
 thence South 87° 33' 21" West on the north line of said Gust Sub. a distance of 2143.88 feet to the Point of Beginning;
 thence continuing South 87° 33' 21" West on said north line a distance of 756.12 feet to the Northwest Corner of said Gust Sub.;
 thence South 01° 37' 40" West on the west line of said Gust Sub. a distance of 90.00 feet to the south line of said Gust Sub.;
 thence North 87° 33' 21" East on the south line of said Gust Sub. a distance of 755.58 feet;
 thence North 01° 17' 14" West a distance of 90.01 feet to the Point of Beginning.

Said parcel contains 1.56 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

TRACT "1" - TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION

That part of Lot 1, Block 1 of Gust Subdivision in Section 23, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of the Northeast Quarter (NE1/4) of Section 23;
 thence South 01° 37' 40" East on the east line of said NE1/4 a distance of 895.00 feet to the Northeast Corner of Gust Subdivision;
 thence South 87° 33' 21" West on the north line of said Gust Sub. a distance of 1893.83 feet to the Point of Beginning;
 thence continuing South 87° 33' 21" West on said north line a distance of 250.05 feet;
 thence South 01° 17' 14" East a distance of 90.01 feet to the south line of said Gust Sub.;
 thence North 87° 33' 21" East on said south line a distance of 250.05 feet;
 thence North 01° 17' 14" West a distance of 90.01 feet to the Point of Beginning.

Said tract contains 0.52 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.



PATSY G. GUST LIVING TRUST
 Lot 1, Block 1 of Gust Subdivision,
 Section 23, T140N, R50W, Cass County, ND
 CERTIFICATE OF SURVEY

DRAWING TYPE COS	DATE Oct. 14, 2016
PROJECT NUMBER P10733-2016-03	SHEET 2
PREPARED BY TML	DRAWING 2



[FAQs >](#)

Track Another Package +

*Datsy Gust Trust
95Z*

Tracking Number: 9505511429339269212653

[Remove X](#)

Your item was delivered in or at the mailbox at 1:01 pm on September 27, 2019 in HARWOOD, ND 58042.

Delivered

September 27, 2019 at 1:01 pm
Delivered, In/At Mailbox
HARWOOD, ND 58042

Get Updates

Feedback

Text & Email Updates

Tracking History

Product Information

See Less

Can't find what you're looking for?

Go to our [FAQs](#) section to find answers to your tracking questions.



CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY

January 10, 2020

**Cass County
Joint Water
Resource
District**

**Patsy G. Gust and David R. Gust,
as Trustees under the Patsy G. Gust Living Trust dated September 19, 2013
3724 26th Street NW
Harwood, ND 58042
Certified No. 7018 0040 0000 5525 6984**

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@casscountynđ.gov
casscountynđ.gov

Greetings:

RE: **Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OIN: 952
Parcel No.: 59-0400-00010-000**

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 59-0400-00010-000. The legal description of the property to be acquired is:

That part of Lot 1, Block 1 of Gust Subdivision, Section 23, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of the Northeast Quarter (NE¼) of Section 23; thence South 01° 37' 40" East on the east line of said NE¼ a distance of 895.00 feet to the Northeast Corner of Gust Subdivision; thence South 87° 33' 21" West on the north line of said Gust Subdivision a distance of 2143.88 feet to the Point of Beginning; thence continuing South 87°33'21" West on said north line a distance of 756.12 feet to the Northwest Corner of said Gust Subdivision; thence South 01° 37' 40" West on the west line of said Gust Subdivision a distance of 90.00 feet to the south line of said Gust Subdivision.; thence North 87° 33' 21" East on the south line of said Gust Subdivision a distance of 755.58 feet; thence North 01° 17' 14" West a distance of 90.01 feet to the Point of Beginning.

Said parcel contains 1.56 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Patsy G. and David R. Gust
January 10, 2020
Page 2

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 \$134,500.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$134,500.00 is 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.

You are encouraged to maintain contact with the land agent assigned to your property. **Ken Helvey** of SRF Consulting Group, Inc., Inc. can be reached at **(763) 249-6785** or **khelvey@srfconsulting.com**. Ken Helvey 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@casscountynd.gov

Enclosures

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



HAND DELIVERY

January 30, 2020

**Cass County
Joint Water
Resource
District**

Patsy G. Gust and David R. Gust,
as Trustees under the Patsy G. Gust Living Trust dated September 19, 2013
3724 26th Street NW
Harwood, ND 58042

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

**RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OIN: 952
Parcel No.: 59-0400-00010-000**

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Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

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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

Patsy G. and David R. Gust
January 30, 2020
Page 2

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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@casscountynd.gov

Enclosures

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



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 31, 2020

**Cass County
Joint Water
Resource
District**

Patsy G. Gust and David R. Gust,
Trustees under the Patsy G. Gust Living Trust dated September 19, 2013
3724 26th Street NW
Harwood, ND 58042
Certified No. 7018 0040 0000 5525 7462

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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
wrld@casscountynnd.gov
casscountynnd.gov

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OIN: 952
Parcel No.: 59-0400-00010-000

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 January 10, 2020; a copy of the District's appraisal for the right of way needed from you; and a Purchase Agreement as the District's offer of just compensation to purchase the 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, either by phone or in person, 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, at 8:00 a.m., on April 9, 2020, and April 23, 2020. Over the next several months, District meetings will be conducted via conference call originating at the Cass County Highway Department; however, District board members will not be attending in person. Therefore, if possible, we request your attendance by telephone.

The District hopes you will attend one of the above-mentioned meetings to discuss the Project and the right of way the District must acquire from you to accommodate the Project. If you would like to attend either meeting by phone, please contact me or Melissa Maertens at (701) 298-2381 at least 24 hours in advance of the meeting so the necessary arrangements can be made and the call-in information provided to you.

Patsy G. Gust and David R. Gust
OIN 952
March 31, 2020
Page 2

Please continue to maintain contact and negotiate with the land agent assigned to your property. **Ken Helvey** of SRF Consulting Group, Inc. is your point of contact for getting answers to any questions you have about the Project. Ken can be reached at **(763) 249-6785** or **khelvey@srfconsulting.com**.

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: Ken Helvey, Land Agent
Eric Dodds, Program Manager, AE2S
Chris McShane, Ohnstad Twichell, P.C.
Chad Peterson, Chair, Cass County Commission
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 type="checkbox"/> Addressee</p> <p>X <u>Dave Gust</u></p>																	
<p>1. Article Addressed to:</p> <p>PATSY G GUST & DAVID R GUST TRUSTEES UNDER PATSY G GUST LIVING TRUST 3724 26TH ST NW HARWOOD ND 58042</p>	<p>B. Received by (Printed Name)</p> <p><u>Dave Gust</u></p>	<p>C. Date of Delivery</p> <p><u>4-1-20</u></p>																
 <p>9590 9402 3806 8032 1527 61</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>2. Article Number (Transfer from service label)</p> <p>7018 0040 0000 5525 7462</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 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 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®																	
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<input type="checkbox"/> Insured Mail																		
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)																		
<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**

Patsy G. Gust and David R. Gust
Trustees under the Patsy G. Gust Living Trust dated September 19, 2013
3724 26th Street NW
Harwood, ND 58042
Certified No. 7019 1640 0002 0398 8637

Dan Jacobson
Chairman
West Fargo, North Dakota

Greetings:

Rodger Olson
Manager
Leonard, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY
OIN: 952
Parcel No. 59-0400-00010-000

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"). On behalf of the District, I previously provided you a letter dated January 30, 2020, 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 the right of way from you. In addition, I also provided you a letter dated March 31, 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 from you to accommodate the Project.

Carol Harbeke Lewis
Secretary-Treasurer

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 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.

1201 Main Avenue West
West Fargo, ND 58078-1301

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

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

Patsy G. and David R. Gust
OIN 952
May 22, 2020
Page 2

You are encouraged to maintain contact with the land agent assigned to your property. **Ken Helvey** of **SRF Consulting Group, Inc.** can be reached at **(763) 249-6785** or **khelvey@srfconsulting.com**. Ken 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.

North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way. 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: Ken Helvey, Land Agent
Chris McShane, Ohnstad Twichell, P.C.
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:

PATSY G GUST AND DAVID R GUST
 PATSY G GUST LIVING TRUST
 3724 26 TH STREET NW
 HARWOOD ND 58042



9590 9402 3806 8032 1542 39

2. Article Number (Transfer from service label)

7019 1640 0002 0398 8637

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X BB

- Agent
- Addressee

B. Received by (Printed Name)

CO 19

C. Date of Delivery

5-26-20

D. Is delivery address different from item 1?

- Yes
 - No
- If YES, enter delivery address below:

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

Domestic Return Receipt



SENT VIA EMAIL wilsonro@casscountynd.gov

Cass County
Joint Water
Resource
District

July 8, 2020

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

Dan Jacobson
Chairman
West Fargo, North Dakota

Greetings:

Rodger Olson
Manager
Leonard, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Approval to Take Possession of Necessary Right of Way
OIN: 952
Parcel No. 59-0400-00010-000

Ken Lougheed
Manager
Gardner, North Dakota

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 from Patsy G. Gust and David R. Gust, as Trustees under the Patsy G. Gust Living Trust dated September 19, 2013 (the "Landowner"):

Jacob Gust
Manager
Fargo, North Dakota

- Letter dated January 10, 2020, enclosing the District's appraisal for the acquisition of the right of way from the Landowner and a proposed Purchase Agreement;
- Letter dated March 31, 2020, inviting the Landowner to meet with the District for purposes of negotiating compensation for the right of way 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 necessary for the Project.

Keith Weston
Manager
Fargo, North Dakota

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 over, across, and through certain property owned by the Landowner in Cass County, North Dakota. The legal description of the necessary right of way is as follows:

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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

Robert Wilson
July 8, 2020
Page 2

Right of Way Easement:

That part of Lot 1, Block 1 of Gust Subdivision, Section 23, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of the Northeast Quarter (NE¼) of Section 23; thence South 01° 37' 40" East on the east line of said NE¼ a distance of 895.00 feet to the Northeast Corner of Gust Subdivision; thence South 87° 33' 21" West on the north line of said Gust Subdivision a distance of 2143.88 feet to the Point of Beginning; thence continuing South 87° 33' 21" West on said north line a distance of 756.12 feet to the Northwest Corner of said Gust Subdivision; thence South 01° 37' 40" West on the west line of said Gust Subdivision a distance of 90.00 feet to the south line of said Gust Subdivision.; thence North 87° 33' 21" East on the south line of said Gust Subdivision a distance of 755.58 feet; thence North 01° 17' 14" West a distance of 90.01 feet to the Point of Beginning.

Said parcel contains 1.56 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 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 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 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.

Robert Wilson
July 8, 2020
Page 3

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 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 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.

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: Ken Helvey, Land Agent
Chris McShane, Ohnstad Twichell, P.C.
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority
Eric Dodds, AE2S Program Manager
Sharon Oliver, ROW Acquisition Coordinator, Ohnstad Twichell, P.C.
Heather Worden, Administrative Assistant, Cass County Commission



July 13, 2020

VIA UPS – DELIVERY CONFIRMATION

Patsy G. Gust and David R. Gust
Trustees under the Patsy G. Gust Living Trust
dated September 19, 2013
3724 – 26th Street NW
Harwood, ND 58042

**County
Administrator**

Robert Wilson
701-241-5770
wilsonro@casscountynd.gov

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OIN: 952
Parcel No. 59-0400-00010-000
UPS Tracking No. 1Z RT8 7R1 25 2212 0889

Greetings:

As you know, the METRO FLOOD DIVERSION BOARD OF AUTHORITY (the "Authority") is proceeding with the Fargo Moorhead Area Diversion 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 January 10, 2020, enclosing the District's appraisal for the acquisition of the right of way from you, along with a proposed Purchase Agreement;
- Letter dated March 31, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way 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 necessary for the Project.

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

Box 2806
211 Ninth Street South
Fargo, North Dakota 58103

www.casscountynd.gov

purchase from you 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 Easement:

That part of Lot 1, Block 1 of Gust Subdivision, Section 23, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of the Northeast Quarter (NE $\frac{1}{4}$) of Section 23; thence South 01° 37' 40" East on the east line of said NE $\frac{1}{4}$ a distance of 895.00 feet to the Northeast Corner of Gust Subdivision; thence South 87° 33' 21" West on the north line of said Gust Subdivision a distance of 2143.88 feet to the Point of Beginning; thence continuing South 87°33'21" West on said north line a distance of 756.12 feet to the Northwest Corner of said Gust Subdivision; thence South 01° 37' 40" West on the west line of said Gust Subdivision a distance of 90.00 feet to the south line of said Gust Subdivision.; thence North 87° 33' 21" East on the south line of said Gust Subdivision a distance of 755.58 feet; thence North 01° 17' 14" West a distance of 90.01 feet to the Point of Beginning.

Said parcel contains 1.56 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 August 17, 2020 at 3:30 p.m. The District will also participate in the meeting, along with the District's land agent, Ken Helvey, 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 over your property.

If you wish to participate in the Commission's August 17, 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 necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with Ken Helvey and to continue discussions about the Project. Ken Helvey of SRF Consulting Group, Inc. is your point of contact regarding the Project. You can reach Ken Helvey at (763) 249-6785 or khelvey@srfconsulting.com.

Gust
OIN 952
July 13, 2020
Page 3

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: Ken Helvey, Land Agent
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority
Chris McShane, Ohnstad Twichell, P.C.
Eric Dodds, AE2S Program Manager
Sharon Oliver, Ohnstad Twichell, P.C.
Heather Worden, Administrative Assistant, Cass County Commission

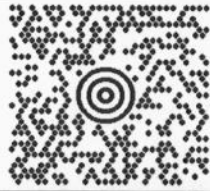
CASS COUNTY GOVERNMENT
7012415609
211 9TH ST S
FARGO ND 581082806

0.1 LBS LTR

1 OF 1

SHIP TO:

PATSY G. & DAVID R. GUST
TRUSTEES-PATSY G GUST LIVING TRUST
3724 26TH ST NW
HARWOOD ND 58042-9745



ND 581 9-02



UPS NEXT DAY AIR

TRACKING #: 1Z RT8 7R1 25 2212 0889

1



BILLING: P/P

UIS 22.0.11. WNTNV50 28.0A 04/2020



Proof of Delivery

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number

1ZRT87R12522120889

Patsy Gust & David Gust, Trustees under Patsy E. Gust Living Trust

Weight

0.10 LBS

Service

UPS Next Day Air®

Shipped / Billed On

07/13/2020

Delivered On

07/14/2020 9:31 A.M.

Delivered To

HARWOOD, ND, US

Left At

Garage

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

Sincerely,

UPS

Tracking results provided by UPS: 07/14/2020 3:45 P.M. EST

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 interests in real property from Patsy G. Gust and David R. Gust, as Trustees under the Patsy G. Gust Living Trust dated September 19, 2013 (“Landowner”) for construction, operation, and maintenance of the Project.

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

Right of Way
OIN 952

That part of Lot 1, Block 1 of Gust Subdivision, Section 23, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of the Northeast Quarter (NE¼) of Section 23; thence South 01° 37' 40" East on the east line of said NE¼ a distance of 895.00 feet to the Northeast Corner of Gust Subdivision; thence South 87° 33' 21" West on the north line of said Gust Subdivision a distance of 2143.88 feet to the Point of Beginning; thence continuing South 87°33'21" West on said north line a distance of 756.12 feet to the Northwest Corner of said Gust Subdivision; thence South 01° 37' 40" West on the west line of said Gust Subdivision a distance of 90.00 feet to the south line of said Gust Subdivision.; thence North 87° 33' 21" East on the south line of said Gust Subdivision a distance of 755.58 feet; thence North 01° 17' 14" West a distance of 90.01 feet to the Point of Beginning.

Said parcel contains 1.56 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.”

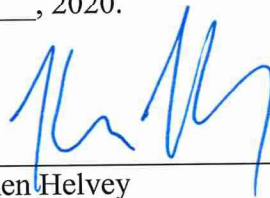
[¶5] Affiant is familiar with the records maintained by SRF Consulting Group, Inc. with respect to the Necessary Property and has reviewed all such records prior to executing this affidavit.

[¶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.

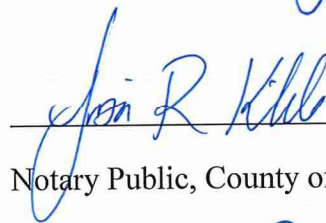
[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

Dated this 3 day of August, 2020.



Ken Helvey
SRF Consulting Group, Inc.

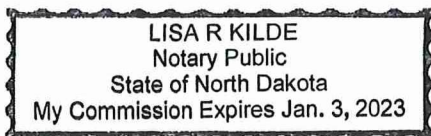
Subscribed to and sworn to before me this 3 day of August, 2020.



Notary Public, County of Cass

State of North Dakota

My Commission Expires: _____



(SEAL)

OIN 952- Gust Contact Attempts

Date	Note
10/26/2016	Nicole spoke with David and he has no intentions of signing the ROE
10/31/2016	Nicole left message for David requesting that he contact her regarding the ROE. – David called Nicole back
11/9/2016	Nicole called David and explained that she will be in the area this week on Friday 11 and asked if he would be available for a meeting
11/13/2016	Nicole called David's phone but the mailbox was full so she couldn't not leave a message.
11/14/2016	Nicole spoke with David and explained she called the night before. They talked about when they could meet
12/16/2016	Nicole spoke with David and set up an initial meeting for Monday December 19th
12/19/2016	Nicole arrived at the Gust's property to introduce herself and talk about the project
1/20/2017	Nicole called David and they talked about details on his runway strip
4/21/2017	Nicole called David and informed him that she mailed his offer package on April 21st and he should receive it Tuesday
4/28/2017	Nicole called David to confirm he has received the offer form the Diversion. Dave started to laugh and asked if it was a joke
5/19/2017	Nicole called David and gave him the information of an appraiser out of St. Cloud
6/2/2017	Nicole called David, he is in contact with an appraiser in South Dakota who is writing a rebuttal to the Diversion's
6/23/2017	Nicole called David and talked about him getting another appraisal
7/5/2017	Nicole called David following up to see if he'd hired an attorney yet
3/14/2019	In email to Mary Scherling David made it very clear he will no work with agents of the project. Commissioner Scherling offered to meet
5/31/2019	Ken talked with Dave about the process. Dave won't allow access, told not to call again
9/23/2019	Appraisal and offer letter sent
9/27/2019	Appraisal and offer letter received
11/19/2019	Email sent advising of forthcoming offer
1/10/2020	Formal offer letter sent
1/20/2020	Formal offer letter received by all property owners
1/30/2020	Phone call asking to meet. Told not possible until they get back from vacation in February
3/31/2020	CCJWRD invite letter sent
4/1/2020	CCJWRD invite letter received
5/8/2020	Letter sent asking for meeting
5/22/2020	Possession intent letter sent
5/26/2020	Possession intent letter received
5/26/2020	Received copy of an email where it was clear Gust would no longer work with SRF

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 a Right of Way Easement in and to real property owned by Patsy G. Gust and David R. Gust, as Trustees of the Patsy G. Gust Living Trust dated September 19, 2013 (“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 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 952

That part of Lot 1, Block 1 of Gust Subdivision, Section 23, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of the Northeast Quarter (NE¼) of Section 23; thence South 01° 37' 40" East on the east line of said NE¼ a distance of 895.00 feet to the Northeast Corner of Gust Subdivision; thence South 87° 33' 21" West on the north line of said Gust Subdivision a distance of 2143.88 feet to the Point of Beginning; thence continuing South 87°33'21" West on said north line a distance of 756.12 feet to the Northwest Corner of said Gust Subdivision; thence South 01° 37' 40" West on the west line of said Gust Subdivision a distance of 90.00 feet to the south line of said Gust Subdivision.; thence North 87° 33' 21" East on the south line of said Gust Subdivision a distance of 755.58 feet; thence North 01° 17' 14" West a distance of 90.01 feet to the Point of Beginning.

Said parcel contains 1.56 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 of just compensation to Landowner by certified mail, along with an appraisal and purchase agreement, on January 10, 2020. Additionally, on January 30, 2020, the District sent the written offer of just compensation to Landowner, along with an appraisal and purchase agreement, to be personally served upon Landowner by Chis Laid, process server. A copy of the offers (without the appraisal that was included) are attached as **Exhibit 1**.

[¶9] On March 31, 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.

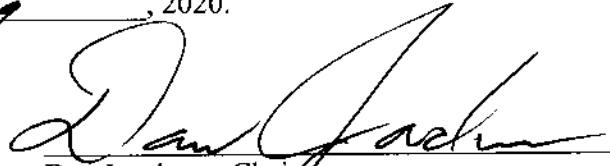
[¶11] On May 22, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way Easement, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

[¶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.

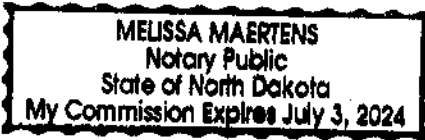
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

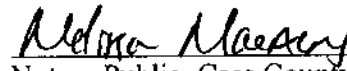
Dated this 5th day of Aug, 2020.



Dan Jacobson, Chair
Cass County Joint Water Resource District

Subscribed to and sworn to before me this 5 day of August, 2020.





Notary Public, Cass County, State of North Dakota

(SEAL)