

FM AREA DIVERSION PROJECT

# Property Owner Information Packet for Cass County Commission

August 17<sup>th</sup>, 2020

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PROPERTY OWNER: Lannie Runck

LAND AGENT: Lisa Kilde with SRF

OIN: 9263



FM AREA  
**DIVERSION**  
PROJECT

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## Written Correspondence Timeline – Lannie Runck

<b>OIN 9263</b>	<b>Sent</b>	<b>Received</b>
<b>Offer to Purchase</b>	9/4/2019	9/7/2019
<b>Formal Negotiations and Written Offer of Just Compensation</b>	1/8/2020	1/9/2020
<b>Request for Meeting</b>	1/31/2020	2/5/2020
<b>Notice of Intent to Take Possession of Right-of-Way</b>	5/22/2020	5/23/2020
<b>Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement</b>	7/8/2020	7/8/2020
<b>Invitation to Attend Public Meeting</b>	7/13/2020	7/14/2020
<b>Commission Meeting Date</b>	<b>8/17/2020</b>	

**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: Lannie D. Runck, as Trustee U/A dated December 28, 2012
2. Land Agent: Lisa Kilde
3. Parcel No.: 59-0000-10918-000
4. OIN No.: 9263

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

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August 1, 2020

Owner	Lannie D. Runck, Trustee U/A dated December 28, 2012
Mailing Address	1730 11 <sup>th</sup> St S, Fargo, ND 58103
Alt. Mailing Address	20630 County Highway 22, Detroit Lakes, MN 56501
Property Location	Diversion Channel
Property Type	Agriculture
OIN	9263
Land Agent	Lisa Kilde - SRF
Landowner Representative	N/A

### Property Need

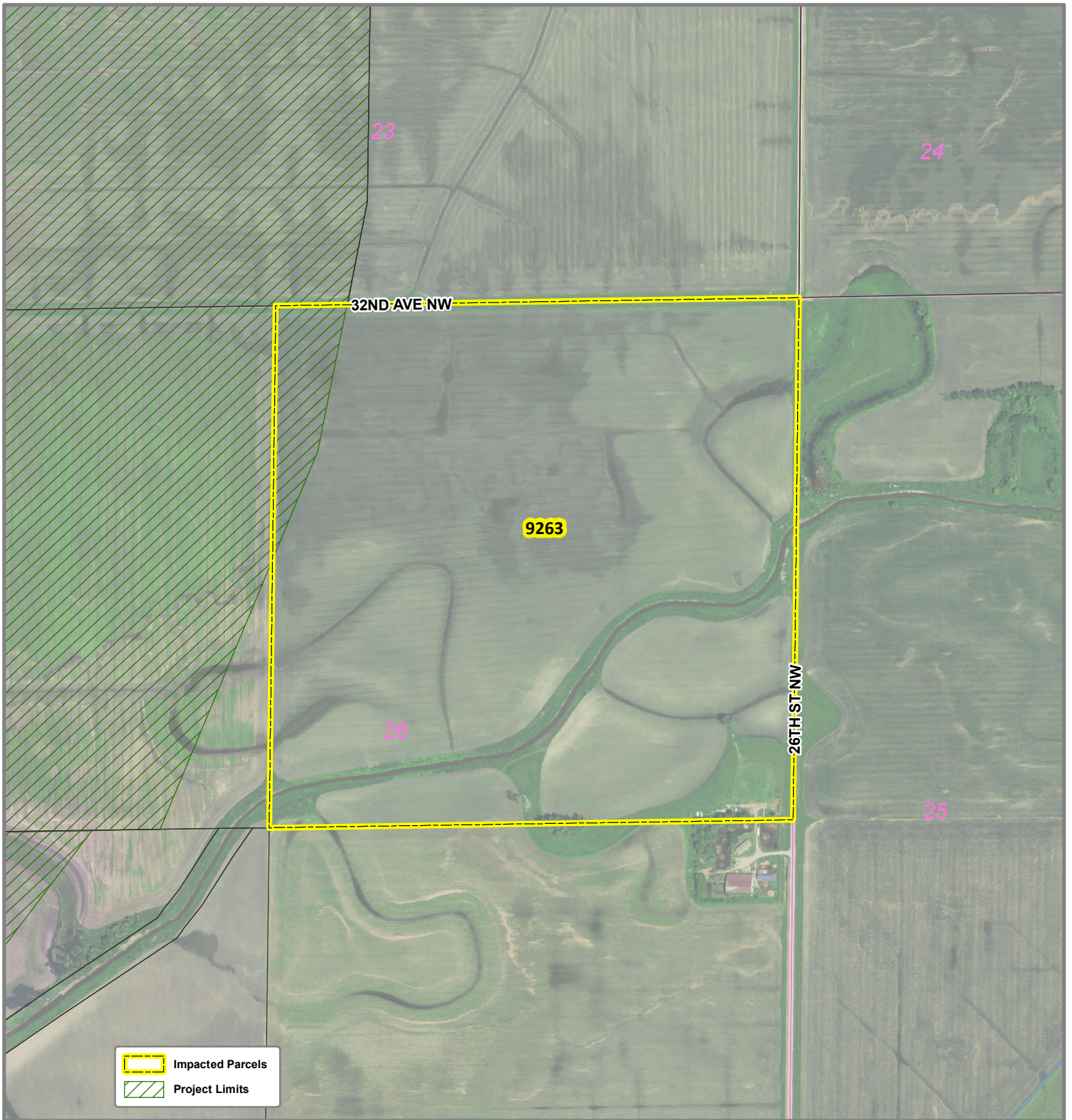
The parcel is located within the Diversion Channel area associated with the Project. The Diversion Authority is required to obtain a portion of the parcel for the Diversion Channel.

### Valuation and Negotiation Summary:

Appraisal Value / Date	\$35,100 (rd) - July 18, 2019 - 6.38 acres Fee @ \$5,500/acre
Counteroffer	<b>\$38,600</b>

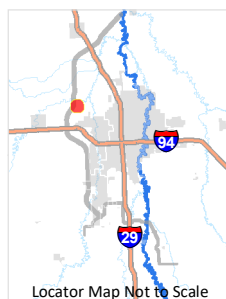
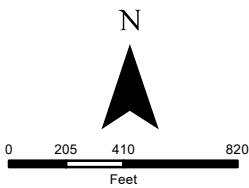
### Negotiation Notes

- SRF Land agent, Lisa Kilde, has had contact with landowner regarding the offer to purchase numerous times.
- Mr. Runck originally stated he would like \$12,500/acre for his property. Land agent, Tim Magnusson with SRF, continued negotiating with the landowner. Mr. Runck reduced his counteroffer to \$10,000/acre.
- Land agent continued to negotiate with Mr. Runck and he said his last and final offer would be \$54,230 purchase price, \$8,500/acre (54% increase). An acquisition summary was presented to this Board and it was not approved.
- Mr. Runck has been very reluctant to sell this land as he has continued to say he is not interested in selling the property at all.
- Mr. Runck has now stated that he is willing to accept \$6,050/acre (10% increase) for a total purchase price of \$38,600. Acquisition Summary will be presented at 8/13 Board meeting
  - Would need to be subject to the 2020 lease and landowner is responsible for the 2020 real estate taxes
  - Right of First Offer



*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: 9263**  
**LANNIE D RUNCK**  
**Parcel ID: 59-0000-10918-000**  
**Cass County, ND**

FM AREA DIVERSION  
 Map Date: 3/4/2020





September 4, 2019

Lannie D. Runck  
20630 County Hwy 22  
Detroit Lakes, MN 56501

RE: **Offer to Purchase**  
**Parcel ID:** OIN 9263  
**Project Title:** Fargo Moorhead Diversion  
**PID:** 59-0000-10918-000

Dear Mr. Runck,

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 **\$35,100.00**. 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 \$35,100.00 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 Tim Magnusson at 701-893-7436 or [tmagnusson@srfconsulting.com](mailto:tmagnusson@srfconsulting.com). He 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 9263 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,



Timothy Magnusson  
Associate Planner

I acknowledge that on \_\_\_\_\_, 20 \_\_\_\_, I received this letter and all documents listed above.

\_\_\_\_\_  
Lannie D. Runck

Enclosures: Appraisal Report, Exhibit A, Exhibit B

**EXHIBIT A**

**ACQUISITION SUMMARY  
Fargo Moorhead Diversion**

**Offer to Purchase**

**Parcel ID:** OIN 9263

**Project Title:** Fargo Moorhead Diversion

**PID:** 59-0000-10918-000

Recorded Fee Owner: Lannie D. Runck

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.

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**APPRAISAL SUMMARY**

<b>Parcel Value</b>	<b>Area Size/ Description</b>	<b>Per Unit</b>	<b>Indicated Value</b>
<b>Land/Site Taking</b>	6.38 Acres	\$ 5,500	\$ 35,090.00
<b>TOTAL (rounded)</b>			<b>\$ 35,100.00</b>

9203

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  <input checked="" type="checkbox"/> <i>Lannie D. Runck</i> <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p>																
<p>1. Article Addressed to:</p> <div style="border: 1px solid black; padding: 5px; margin: 5px;"> <p>LANNIE D. RUNCK            20630 COUNTY RD 22            DETROIT LAKES MN 56501</p> </div>	<p>B. Received by (Printed Name) <span style="float: right;">C. Date of Delivery</span>  <i>Lannie Runck</i> <span style="float: right;">SEP 08</span></p>																
<p>2. Article Number (Transfer from service label)            7018 3090 0001 9483 2083</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 4522 8278 7725 78</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®																
<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)																	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053 <span style="float: right;">Domestic Return Receipt</span></p>																	

9203

7018 3090 0001 9483 2083

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT	
Domestic Mail Only	
For delivery information, visit our website at <a href="http://www.usps.com">www.usps.com</a> ®.	
DETROIT LAKES, MN 56501	
OFFICIAL USE	
Certified Mail Fee \$3.50	0560 05
Extra Services & Fees (check box, add fee as appropriate)	Postmark Here  09/04/2019
<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 \$2.20	
Total Postage and Fees \$8.50	
LANNIE D. RUNCK 20630 COUNTY RD 22 DETROIT LAKES MN 56501	
PS Form 3800, April 2015 PSN 7530-02-000-9057 <span style="float: right;">See Reverse for Instructions</span>	



FAQs > (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

### Track Another Package +

**Tracking Number:** 70183090000194832083

Remove X

Your item was delivered at 11:08 am on September 7, 2019 in DETROIT LAKES, MN 56501.

## Delivered

September 7, 2019 at 11:08 am  
Delivered  
DETROIT LAKES, MN 56501

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.

**FAQs** (<https://www.usps.com/faqs/uspstracking-faqs.htm>)



**CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY**

Cass County  
Joint Water  
Resource  
District

January 8, 2020

Lannie D. Runck  
Trustee U/A dated December 28, 2012  
1730 11th Street S  
Fargo, ND 58103  
**Certified No. 7018 0040 0000 5525 6953**

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  
Formal Negotiations and Written Offer of Just Compensation  
OIN: 9263  
Parcel No.: 59-0000-10918-000

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

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 59-0000-10918-000. The legal description of the property to be acquired is:

That part of the Northeast Quarter (NE ¼) 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 the Northeast Quarter (NE1/4) of said Section 26; thence North 87° 06' 54" East on the north line of said NE1/4 a distance of 360.49 feet; thence South 09° 12' 42" West a distance of 754.94 feet; thence South 20° 39' 35" West a distance of 602.80 feet to the west line of said NE1/4; thence North 01° 10' 34" West on said west line of the NE1/4 a distance of 1291.37 feet to the Point of Beginning.

Said parcel contains 6.38 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynđ.gov](mailto:wrđ@casscountynđ.gov)  
[casscountynđ.gov](http://casscountynđ.gov)

Lannie D. Runck  
January 8, 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 \$35,100.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$35,100.00 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.

You are encouraged to maintain contact with the land agent assigned to your property. **Tim Magnusson** of SRF Consulting Group, Inc. can be reached at **(701) 893-7436** or **tmagnusson@srfconsulting.com**. Tim 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: Tim Magnusson, 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:  
**LANNIE D RUNCCK**  
**1730 11TH STREET S**  
**FARGO ND 58103**



9590 9402 3806 8032 1532 63

2. Article Number (Transfer from service label)

7018 0040 0000 5525 6953

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*Lannie Runcck*

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

01/02/2020

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**

**Cass County  
Joint Water  
Resource  
District**

January 31, 2020

Lannie D. Runck  
Trustee U/A dated December 28, 2012  
1730 11th Street S  
Fargo, ND 58103  
**Certified No. 7018 0040 0000 5525 7165**

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 Meeting  
OIN: 9263  
Parcel No.: 59-0000-10918-000**

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"). The District previously provided you a letter dated January 8, 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 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.

Carol Harbeke Lewis  
Secretary-Treasurer

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.

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynd.gov](mailto:wrđ@casscountynd.gov)  
[casscountynd.gov](http://casscountynd.gov)

Please continue to maintain contact and negotiate with the land agent assigned to your property. **Tim Magnusson** of SRF Consulting Group, Inc. is your point of contact for getting answers to any questions you have about the Project. Tim can be reached at (701) 893-7436 or [tmagnusson@srfconsulting.com](mailto:tmagnusson@srfconsulting.com).



Lannie D. Runck  
OIN 9263  
January 31, 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@casscountynd.gov

cc: Tim Magnusson, 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"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <span style="float: right;"><input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</span></p> <p>X <i>M. Runch</i></p>
<p>1. Article Addressed to:</p> <p>LANNIE D RUNCH 1730 11TH STREET S FARGO ND 58103</p>	<p>B. Received by (Printed Name) <span style="float: right;">C. Date of Delivery</span></p> <p>M. RUNCH <span style="float: right;">2-5-20</span></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 1530 58</p>	<p>3. Service Type <span style="float: right;"><input type="checkbox"/> Priority Mail Express®</span></p> <p><input type="checkbox"/> Adult Signature <span style="float: right;"><input type="checkbox"/> Registered Mail™</span></p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <span style="float: right;"><input type="checkbox"/> Registered Mail Restricted Delivery</span></p> <p><input checked="" type="checkbox"/> Certified Mail® <span style="float: right;"><input type="checkbox"/> Return Receipt for Merchandise</span></p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <span style="float: right;"><input type="checkbox"/> Signature Confirmation™</span></p> <p><input type="checkbox"/> Collect on Delivery <span style="float: right;"><input type="checkbox"/> Signature Confirmation Restricted Delivery</span></p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <span style="float: right;"><input type="checkbox"/> Signature Confirmation Restricted Delivery</span></p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>
<p>2. Article Number (Transfer from service label)</p> <p>7018 0040 0000 5525 7165</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

Lannie D. Runck  
Trustee U/A dated December 28, 2012  
1730 11th Street S  
Fargo, ND 58103  
**Certified No. 7019 1640 0002 0398 8767**

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: 9263  
Parcel No. 59-0000-10918-000

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 8, 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 January 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](mailto:wrđ@casscountynđ.gov)  
[casscountynđ.gov](http://casscountynđ.gov)

Lannie D. Runck  
OIN 9263  
May 22, 2020  
Page 2

You are encouraged to maintain contact with the land agent assigned to your property. **Tim Magnusson** of **SRF Consulting Group, Inc.** can be reached at **(701) 893-7436** or **tmagnusson@srfconsulting.com**. Tim 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](mailto:lewisc@casscountynd.gov)

cc: Tim Magnusson, 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:  
**LANNIE D RUNCK**  
**1136 W STREET S**  
**FARGO ND 58103**



9590 9402 3806 8032 1544 68

2. Article Number (Transfer from service label)  
**7019 1640 0002 0398 8767**

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
**X C19**  Agent  
 Addressee

B. Received by (Printed Name) C. Date of Delivery  
**5/23/20**

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) |   |



SENT VIA EMAIL [wilsonro@casscountynd.gov](mailto:wilsonro@casscountynd.gov)

July 8, 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  
[wd@casscountynd.gov](mailto:wd@casscountynd.gov)  
[casscountynd.gov](http://casscountynd.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  
OIN: 9263  
Parcel No. 59-0000-10918-000

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 Lannie D. Runck (the "Landowner"):

- Letter dated January 8, 2020, enclosing the District's appraisal for the acquisition of the right of way from the Landowner and a proposed Purchase Agreement;
- Letter dated January 31, 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.

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:

Right of Way Easement:

That part of the Northeast Quarter (NE¼) 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 the Northeast Quarter (NE¼) of said Section 26; thence North 87° 06' 54" East on the north line of said NE¼ a distance of 360.49 feet; thence South 09° 12' 42" West a distance of 754.94 feet; thence South 20° 39' 35" West a distance of 602.80 feet to the west line of said NE¼; thence North 01° 10' 34" West on said west line of the NE¼ a distance of 1291.37 feet to the Point of Beginning.

Said parcel contains 6.38 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, Lisa Kilde. The Landowner's main points of contact throughout the negotiation process were Tim Magnusson, who has since retired, and Lisa Kilde. 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](mailto:lewisc@casscountynd.gov)

cc: Lisa Kilde, 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**

Lannie D. Runck  
Trustee U/A dated December 28, 2012  
1730 – 11<sup>th</sup> Street South  
Fargo, ND 58103

**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: 9263  
Parcel No. 59-0000-10918-000  
UPS Tracking No. 1Z RT8 7R1 25 0878 5662

Greetings Mr. Runck:

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 8, 2020, enclosing the District's appraisal for the acquisition of the right of way from you, along with a proposed Purchase Agreement;
- Letter dated January 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.

Box 2806  
211 Ninth Street South  
Fargo, North Dakota 58103

www.casscountynd.gov

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 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 the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 26, Township 140 North, Range 50 West of the 5<sup>th</sup> Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northwest Corner of the Northeast Quarter (NE $\frac{1}{4}$ ) of said Section 26; thence North 87° 06' 54" East on the north line of said NE $\frac{1}{4}$  a distance of 360.49 feet; thence South 09° 12' 42" West a distance of 754.94 feet; thence South 20° 39' 35" West a distance of 602.80 feet to the west line of said NE $\frac{1}{4}$ ; thence North 01° 10' 34" West on said west line of the NE $\frac{1}{4}$  a distance of 1291.37 feet to the Point of Beginning.

Said parcel contains 6.38 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, Lisa Kilde, who took over as the land agent with respect to your property following Tim Magnusson's retirement. 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](mailto: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 Lisa Kilde and to continue discussions about the Project. Lisa Kilde of SRF Consulting Group, Inc. is your point of contact regarding the Project. You can reach Lisa Kilde at (701) 893-7437 or [lkilde@srfconsulting.com](mailto:lkilde@srfconsulting.com).

Runck  
OIN 9263  
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: Lisa Kilde, 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

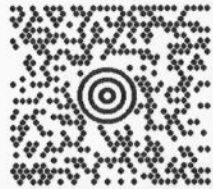
0.1 LBS LTR

1 OF 1

**SHIP TO:**

LANNIE D. RUNCK  
1730 11TH ST S

FARGO ND 58103-4914



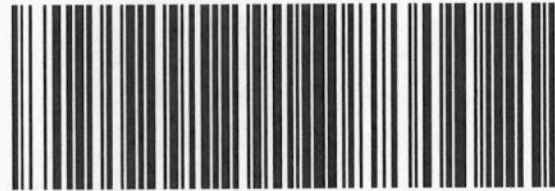
**ND 581 9-02**



**UPS NEXT DAY AIR**

TRACKING #: 1Z RT8 7R1 25 0878 5662

**1**



BILLING: P/P

UIS 22.0.11. WNTINV50 28.0A 04/2020



# Proof of Delivery

Dear Customer,

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

**Tracking Number**

1ZRT87R12508785662

*Lannie Runck, Trustee W/A dated December 28, 2012***Weight**

0.10 LBS

**Service**

UPS Next Day Air®

**Shipped / Billed On**

07/13/2020

**Delivered On**

07/14/2020 10:13 A.M.

**Delivered To**

FARGO, ND, US

**Left At**

Front Door

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 3:51 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 Lannie D. Runck (“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 9263

That part of the Northeast Quarter (NE¼) of Section 26, Township 140 North, Range 50 West of the 5<sup>th</sup> Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northwest Corner of the Northeast Quarter (NE¼) of said Section 26; thence North 87° 06' 54" East on the north line of said NE¼ a distance of 360.49 feet; thence South 09° 12' 42" West a distance of 754.94 feet; thence South 20° 39' 35" West a distance of 602.80 feet to the west line of said NE¼; thence North 01° 10' 34" West on said west line of the NE¼ a distance of 1291.37 feet to the Point of Beginning.

Said parcel contains 6.38 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.”

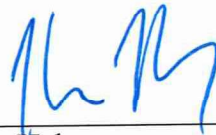
[¶5] Affiant is familiar with the records maintained by SRF Consulting Group, Inc. with respect to the Necessary Property and has reviewed all such records prior to executing this affidavit.

[¶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.

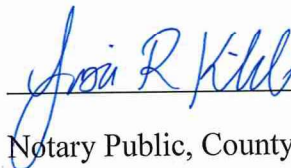
[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

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 9263 - Runck Contact Attempts

<b>Date</b>	<b>Note</b>
8/3/2016	Nicole LVM requesting that Lannie call back to talk about the ROE
8/9/2016	Nicole received a VM from Lannie
8/16/2016	Nicole called lannie and they discussed the ROE
8/17/2016	Nicole spoke with lannie and he wanted to know more about the testing and the ROE
10/10/2016	Nicole called lannie and discussid info regarding the location of the testing
10/26/2016	Nicole spoke with lannie and he will sign the ROE
11/1/2016	Nicole LVM requesting that he call back when he is available
12/16/2016	Nicole called Lannie to request a meeting but he will be in California
12/16/2016	Nicole called Lannie's mother Madelyne and set up a meeting
12/20/2016	Nicole met with Clayton and Madelyne at their home and she explained the impacts on the property
4/3/2017	Nicole spoke with Lannie and they agreed to talk later about the offer
4/17/2017	Nicole received a call from Lannie and they discussed his questions on the offer
4/26/2017	Nicole called Lannie to follow up on his questions about the land being resurveyed
5/11/2017	Nicole LVM requesting that he call back when he is available
6/7/2017	Nicole spoke with Lannie and discussed a counter offer
7/5/2017	Nicole called lannie and informed him the board could not go as high as \$10,000
7/14/2017	Nicole called Lannie with a proposed settlement and Lannie said he would consider
7/19/2017	Nicole spoke with Lannie and informed him that the settlement was approved
8/17/2017	Nicole called Lannie and they discussed the settlement
8/21/2017	Nicole spoke with Lannie and informed him they will not need his abstract for the purposes of closing
9/7/2019	Appraisal and offer letter sent
1/8/2020	Formal offer letter sent
1/9/2020	Formal offer letter received by all property owners
1/29/2020	Tim contact Lannie regarding counteroffer and presenting it to the Board
1/31/2020	CCJWRD invite sent
2/5/2020	CCJWRD invite received
2/13/2020	Owner attended CCJWRD meeting
3/27/2020	Tim called and left a message for Lannie
3/31/2020	Tim left a message for Lannie stating the counteroffer was not accepted by the Board
3/31/2020	Tim called and spoke with Lannie regarding the counteroffer
4/8/2020	Tim called and left a message
4/9/2020	Lannie called back and Tim discussed a different counteroffer to present to the Board
5/22/2020	Possession intent letter sent
5/23/2020	Possession intent letter received
6/3/2020	Lisa called and left a message for Lannie
6/11/2020	Lannie returned an earlier phone call from Lisa. She introduced herself, and they discussed the negotiations
7/27/2020	Lannie called to discuss board's decisions on counteroffers, was curious if we could still negotiate
7/28/2020	Lannie called to let Lisa know that he would be in touch with her this week to discuss a counteroffer and he had some other questions.
8/3/2020	Lannie called and Lisa discussed questions regarding the acquisition and presenting a counteroffer to the Board. Lannie agreed to selling for 10% over appraised and Lisa stated she would present it to the Board.



**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 Lannie D. Runck (“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 9263

That part of the Northeast Quarter (NE¼) of Section 26, Township 140 North, Range 50 West of the 5<sup>th</sup> Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northwest Corner of the Northeast Quarter (NE¼) of said Section 26; thence North 87° 06' 54" East on the north line of said NE¼ a distance of 360.49 feet; thence South 09° 12' 42" West a distance of 754.94 feet; thence South 20° 39' 35" West a distance of 602.80 feet to the west line of said NE¼; thence North 01° 10' 34" West on said west line of the NE¼ a distance of 1291.37 feet to the Point of Beginning.

Said parcel contains 6.38 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 8, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On January 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**.

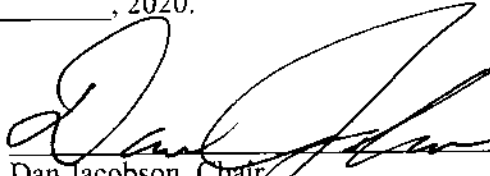
[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶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**.

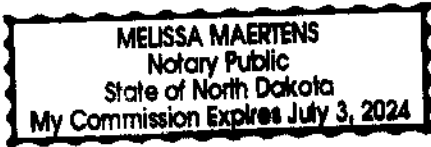
[¶12] The District has retained land agents who are in direct contact with Landowner. The District instructed our land agents not to reference, mention, or threaten quick take eminent domain during negotiations. The land agents have verified they have not referenced, mentioned, or threatened quick take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

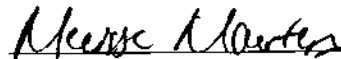
Dated this 5<sup>th</sup> day of Aug, 2020.

  
\_\_\_\_\_  
Dan Jacobson, Chair  
Cass County Joint Water Resource District

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



(SEAL)

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