

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

August 17th, 2020

PROPERTY OWNER: Daniel Flaten

LAND AGENT: Ken Helvey with SRF

OIN: 9286 9743



FM AREA
DIVERSION
PROJECT

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Written Correspondence Timeline – Daniel Flaten

OIN 9286 9743	Sent	Received
Offer to Purchase	11/22/2019	11/22/2019
Formal Negotiations and Written Offer of Just Compensation	3/2/2020	3/5/2020
Request for Meeting	3/20/2020	3/24/2020
Notice of Intent to Take Possession of Right-of-Way	5/18/2020	5/19/2020
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: Daniel Flaten
2. Land Agent: Ken Helvey
3. Parcel No.: 53-0000-09085-000, 53-0000-09083-010
4. OIN No.: 9286, 9743

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 7, 2020

Owner	Daniel Flaten
Address	1809 6 th Street W, West Fargo, ND 58078
Property Location	Diversion Channel
Property Type	Agriculture
OIN	9286, 9743
AGENT	Ken Helvey - SRF
Attorney	Nick Delaney – Rinke Noonan

Property Need

The parcels are within the Diversion Channel associated with the Project. The Diversion Authority is required to obtain a portion of the parcels for the Diversion Channel.

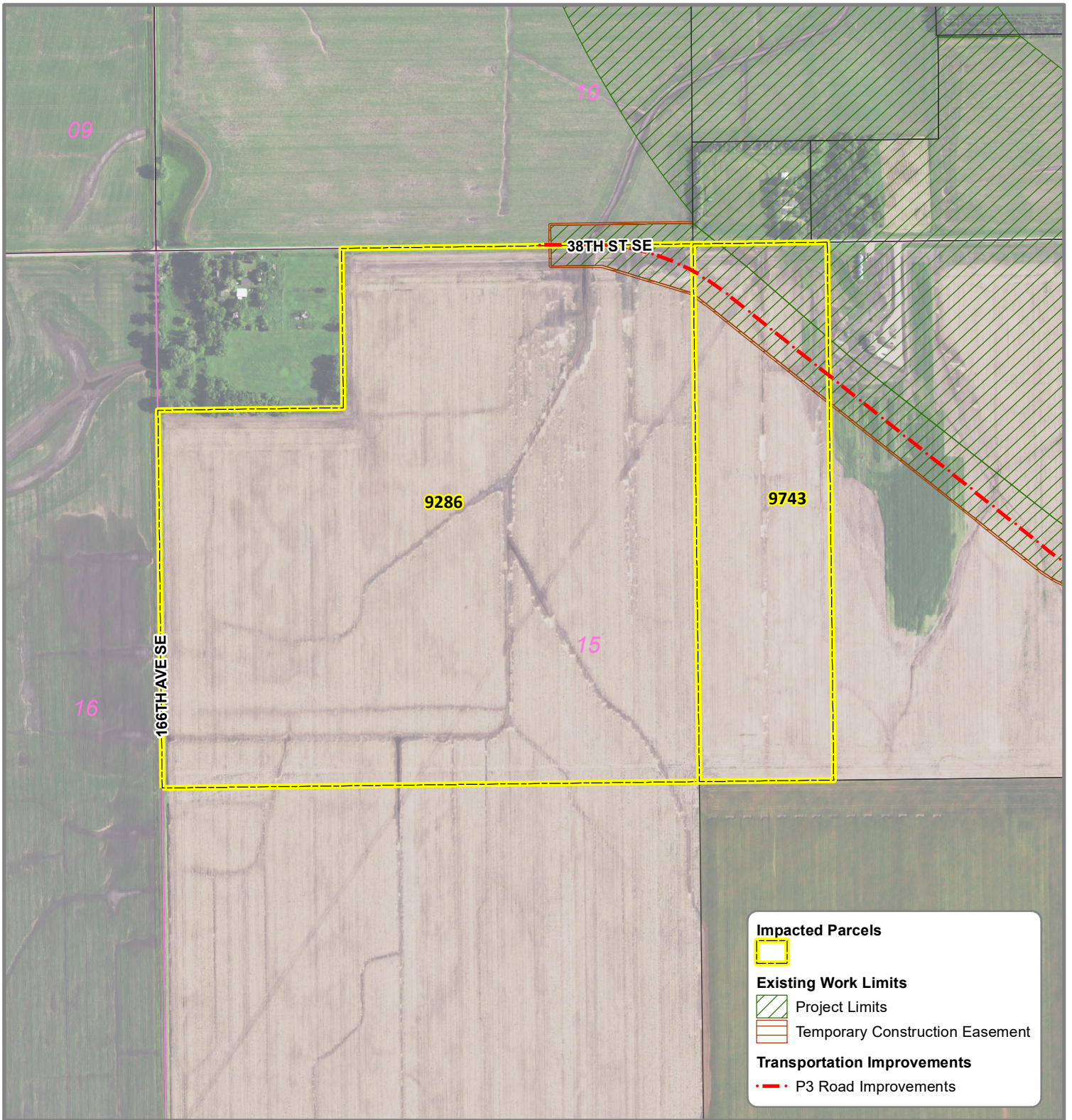
Valuation and Negotiation Summary:

Appraisal Value / Date	\$72,200 (rd) – 07/02/19 9.41 acres Land/Site Taking \$7,636/acre = \$71,854.76 1.04 road/waste acres \$0/acre 0.39 acres of Remnant – Severance \$170/acre x 5 years = \$331.50
Counteroffer	\$348,998

Negotiation Notes

- SRF Land agent Ken Helvey has spoken with and attempted to speak with Daniel Flaten regarding the acquisition of OINs 9286 and 9743 multiple times
- Derek (Son) farms the land that Daniel (father) owns, and owns his own land OIN 9742
- Daniel offered a counter of \$20,000/acre for all the land on all three parcels. He believes the appraisals are far too low.
- Formal offer sent 03/02/20
- Late July
 - Landowner has presented a counteroffer for a total of \$348,998 (383% increase)
 - **OIN 9743**
8.08 acres x \$16,750 /A - \$135,340
31.93 acres x \$1,000 /A damages to remainder – \$31,930
 - **OIN 9286**
2.37 acres x \$16,750 /A - \$39,698
142.03 acres x \$1,000 /A damages to remainder - \$142,030

August 7, 2020

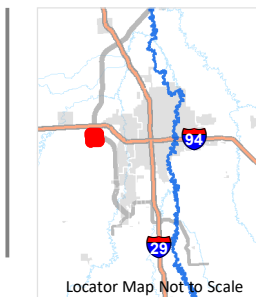
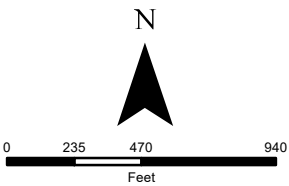


Impacted Parcels

Existing Work Limits
 Project Limits
 Temporary Construction Easement

Transportation Improvements
 P3 Road Improvements

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\!Project Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105notdatadriven.mxd



OINs: 9286 9743
Owner: Daniel Scott Flaten
PINs: 53-0000-09085-000 & 53-0000-09083-010
Cass County, ND

FM AREA DIVERSION
 Map Date: 3/23/2020





November 22, 2019

Daniel Flaten
1809 6th St W
West Fargo, ND 58078

RE: **Offer to Purchase**
Parcel ID: OIN 9286_9743
Project Title: Fargo Moorhead Diversion
PID: 53-0000-09085-000 & 53-0000-09083-010

Dear Mr. Flaten,

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, Crown Appraisals. The appraiser has determined that the market value of the interests being purchased is **\$72,200.00**. 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 \$72,200.00 as Just Compensation for the property interests it must acquire from you.

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 9286_9743 by Crown Appraisals.
- 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
Direct # 763-249-6785
khelvey@srfconsulting.com
One North Second Street, Fargo, ND 58102

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

Daniel Scott Flaten

Required Notice: For your information the contact information for Cass County Joint Water Resource District (CCJWRD) is Carol Harbeke-Lewis, Secretary-Treasurer, at 701-298-2381. The property, that is the subject of this written communication, must be acquired by CCJWRD before October 15, 2020.

Enclosures: Appraisal Report, Exhibit A, Exhibit B

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Offer to Purchase

Parcel ID: OIN 9286_9743

Project Title: Fargo Moorhead Diversion

PID: 53-0000-09085-000 & 53-0000-09083-010

Recorded Fee Owner: Daniel Flaten

Property Legal Description:

SEE ATTACHED SURVEY

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

Noted and Waived Exceptions, Reservations or Encumbrances: None

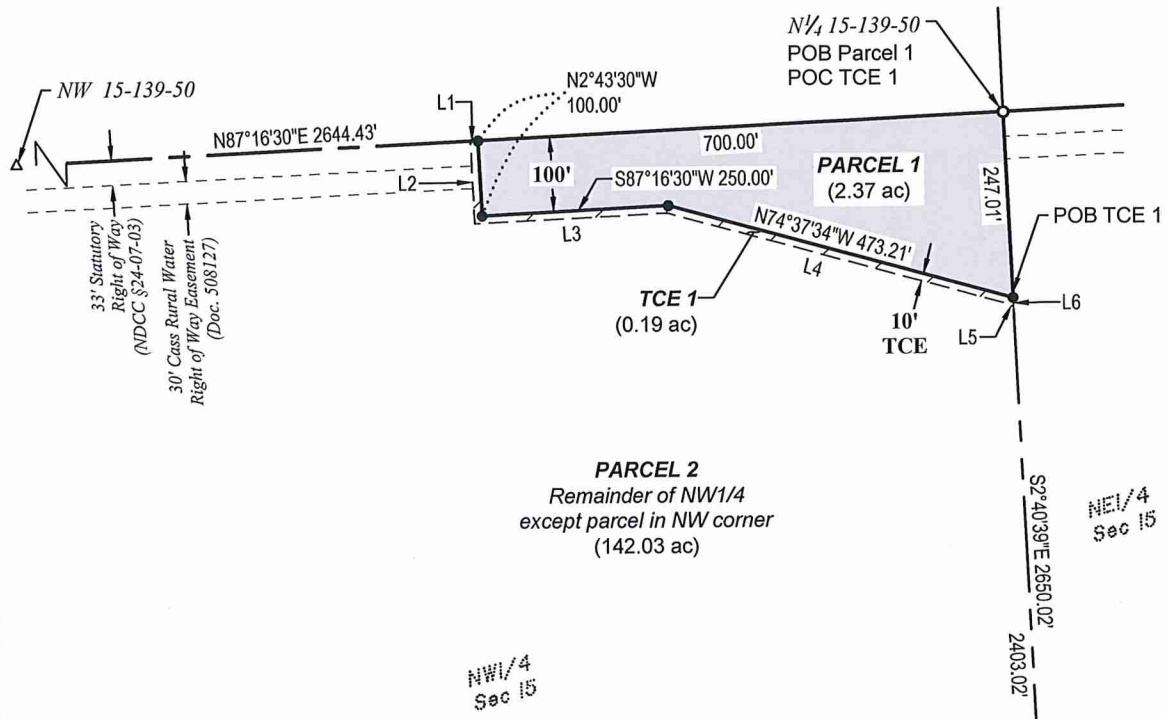
*Unless otherwise noted, any offer to purchase is contingent on the following:

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

APPRAISAL SUMMARY

Parcel Value	Area Size/ Description	Per Unit	Indicated Value
Land/Site Taking	9.41 Acres	\$ 7,636	\$ 71,854.76
Road/Waste	1.04 Acres	\$ 0.00	
Temporary Easement	.39 Acres	\$ 170 (x 5 years)	\$ 331.50
TOTAL (rounded)			\$ 72,200.00

CERTIFICATE OF SURVEY



LINE TABLE		
Line	Length	Bearing
L1	10.00'	S87° 16' 30"W
L2	110.00'	S02° 43' 30"E
L3	258.41'	N87° 16' 30"E
L4	469.74'	S74° 37' 34"E
L5	6.31'	S53° 23' 16"E
L6	12.92'	N02° 40' 39"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

Scale in Feet

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

LEGEND

	SECTION LINE		FND ORIGINAL MON.
	1/4 LINE		FND IRON MON. W/ ALUM. CAP
	1/4 - 1/4 LINE		FND IRON MON. W/ PLASTIC CAP
	EXIST. PARCEL LINE		FND IRON MON.
	EXIST. EASE.		SET IRON MON. W/ PLASTIC CAP LS-8218
	NEW PARCEL LINE		SET IRON MON. W/ ALUM. CAP LS-8218
	NEW DIVERSION PARCEL		SET NAIL MONUMENT
	TEMP. CONST. EASE. (TCE)	(M)	MEASURED
	DEEDED RIGHT-OF-WAY	(R)	PREVIOUSLY RECORDED

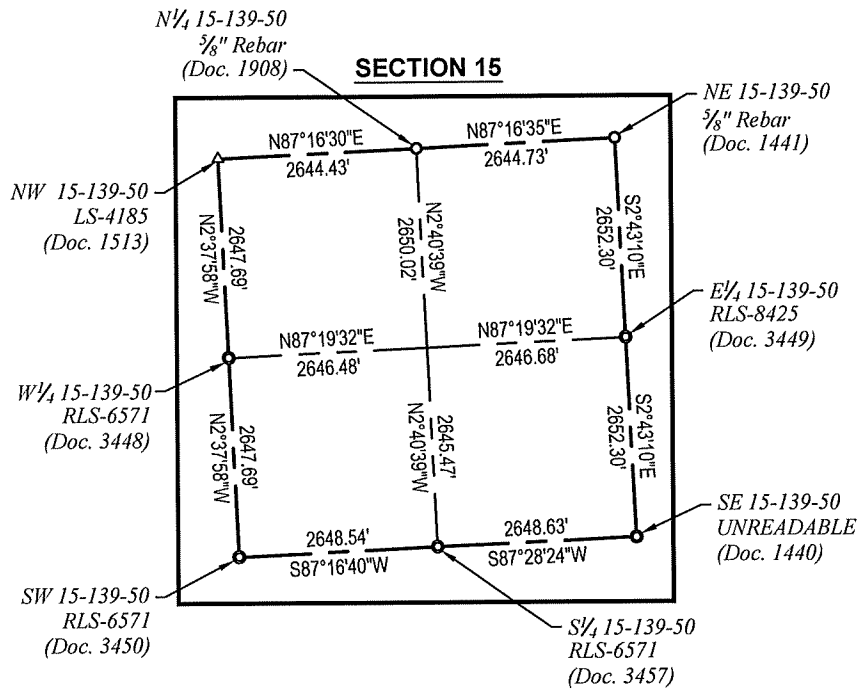
PRELIMINARY



DANIEL FLATEN
Part of the Northwest Quarter of Section 15, Township 146N, Range 50W, Cass County, ND
CERTIFICATE OF SURVEY

DRAWING TYPE COS	DATE OF SURVEY May 18, 2017
P10733-2016-005	SHEET
016	9286
PREPARED BY TML	DATE 08/17/2020

CERTIFICATE OF SURVEY



PARENT PARCEL - Derived from TRUSTEE'S DEED DOC. NO. 1338813
 N1/2, SW1/4, Sec. 15, T139N, R50W, Except the following described tracts:

Commencing at the Northwest corner of said Section 15, which is also the POINT OF BEGINNING; thence East 913 feet; thence South 786 feet; thence West 913 feet to the West boundary line of said Section 15; thence North to the point of beginning.

And the East 120 Acres of the Northeast Quarter (NE1/4) of Section Fifteen (15).

PARCEL 1 - LEGAL DESCRIPTION

That part of the Northwest Quarter (NW1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northeast Corner of the Northwest Quarter (NW1/4) of Section 15; thence South 02° 40' 39" East on the east line of said NW1/4 a distance of 247.01 feet; thence North 74° 37' 34" West a distance of 473.21 feet; thence South 87° 16' 30" West parallel with, and 100.00 feet south of, the north line of said NW1/4 a distance of 250.00 feet; thence North 02° 43' 30" West perpendicular to said north line a distance of 100.00 feet to said north line; thence North 87° 16' 30" East on said north line a distance of 700.00 feet to the Point of Beginning.

Said parcel contains 2.37 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

TCE 1 - LEGAL DESCRIPTION

A 10-foot-wide temporary construction easement across the Northwest Quarter (NW1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of the Northwest Quarter (NW1/4) of Section 15; thence South 02° 40' 39" East on the east line of said NW1/4 a distance of 247.01 feet to the Point of Beginning; thence North 74° 37' 34" West a distance of 473.21 feet; thence South 87° 16' 30" West parallel with, and 100.00 feet south of, the north line of said NW1/4 a distance of 250.00 feet; thence North 02° 43' 30" West perpendicular to said north line a distance of 100.00 feet to said north line; thence South 87° 16' 30" West on said north line a distance of 10.00 feet; thence South 02° 43' 30" East perpendicular to said north line a distance of 110.00 feet; thence North 87° 16' 30" East parallel with, and 110.00 feet south of, said north line a distance of 258.41 feet; thence South 74° 37' 34" East a distance of 469.74 feet; thence South 53° 23' 16" East a distance of 6.31 feet to the east line of said NW1/4; thence North 02° 40' 39" West on said east line a distance of 12.92 feet to the Point of Beginning.

Said easement contains 0.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

	DANIEL FLATEN	DRAWING TYPE COS	DATE OF SURVEY May 18, 2017
	Part of the Northwest Quarter (NW1/4) of Section 15, Township 139N, R50W, Cass County, ND	PREPARED BY TML	SHEET 9286
Page 10 of 46 CERTIFICATE OF SURVEY		08/17/2020	

Printed By: Nick Shatzman Date: Sunday, April 14, 2019 File: W:\CPL\DR\2016-17\139N\50W\Section 15\2016-Daniel Flaten\9286-Daniel Flaten.dwg Layer: 9286

CERTIFICATE OF SURVEY

CERTIFICATE OF SURVEYOR

I hereby certify that this survey was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of North Dakota. All distances and measurements are true and correct to the best of my knowledge and belief, and all monuments shall be placed in the ground as shown.

Nicholas R. Stattelman
N.D. Registration No. LS-8218
Date: 4/14/19

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

On this ____ day of _____, in the year 20____, before me a notary public in and for said county and state, personally appeared Nicholas R. Stattelman, known to me to be the person(s) described in, and who executed the within instrument and acknowledged to me that he/she executed the same.

Notary Public:
State of North Dakota
My commission expires: _____



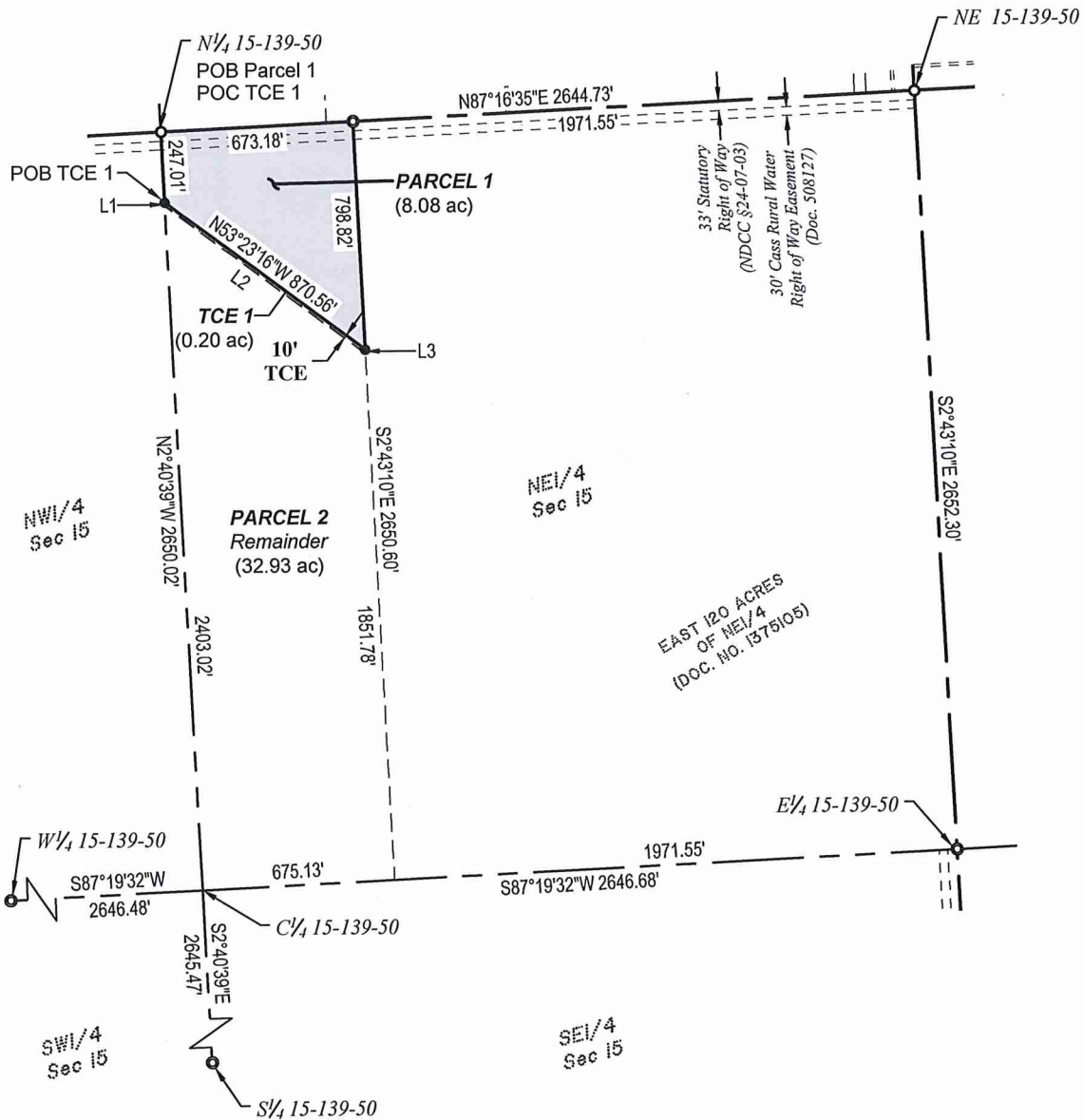
DANIEL FLATEN
Part of the Northwest Quarter (NW 1/4) of Section 15, T199N, R50W, Cass County, ND
CERTIFICATE OF SURVEY

DRAWING TYPE COS	DATE OF SURVEY May 18, 2017
P10733-2016-005 016	SHEET 213
PREPARED BY TML	PROJECT NO. 9286

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08/17/2020

CERTIFICATE OF SURVEY



EAST 120 ACRES
OF NE 1/4
(DOC. NO. 1375105)

LINE TABLE		
Line	Length	Bearing
L1	12.92'	S02° 40' 39"E
L2	870.57'	S53° 23' 16"E
L3	12.93'	N02° 43' 10"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

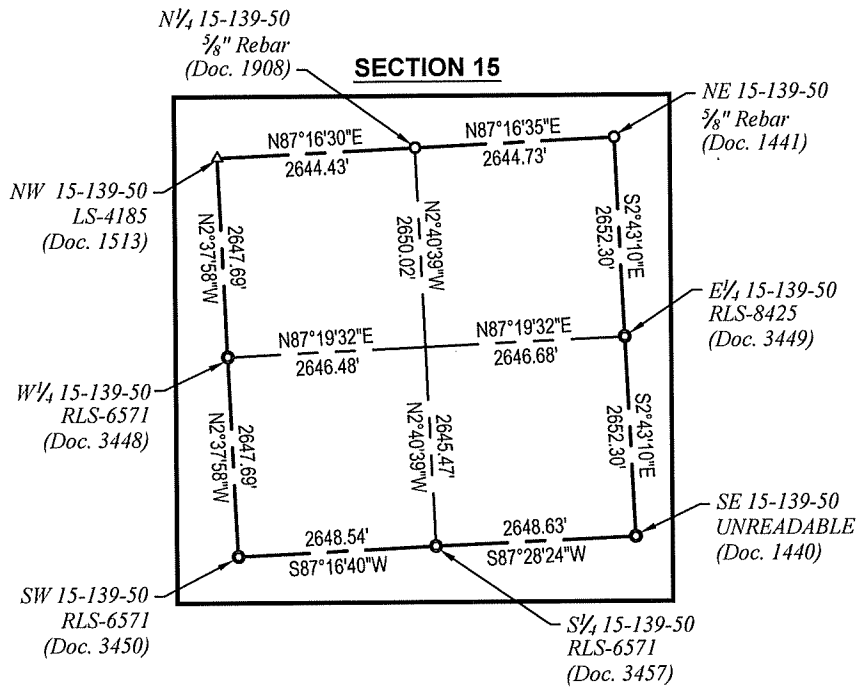
Scale in Feet

0 500

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

<p>LEGEND</p> <ul style="list-style-type: none"> — SECTION LINE --- 1/4 LINE - - - 1/4 -1/4 LINE - · - · - EXIST. PARCEL LINE - · - · - EXIST. EASE. — NEW PARCEL LINE ▭ NEW DIVERSION PARCEL ▨ TEMP. CONST. EASE. (TCE) ▩ DEEDED RIGHT-OF-WAY 	<p style="color: red; font-weight: bold; font-size: 1.2em;">PRELIMINARY</p> <ul style="list-style-type: none"> ■ 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 ● SET NAIL MONUMENT (M) MEASURED (R) PREVIOUSLY RECORDED
--	--

CERTIFICATE OF SURVEY



PARENT PARCEL - Derived from TRUSTEE'S DEED DOC. NO. 1338813
 N1/2, SW1/4, Sec. 15, T139N, R50W, Except the following described tracts:

Commencing at the Northwest corner of said Section 15, which is also the POINT OF BEGINNING; thence East 913 feet; thence South 786 feet; thence West 913 feet to the West boundary line of said Section 15; thence North to the point of beginning.

And The East 120 Acres of the Northeast Quarter (NE1/4) of Section Fifteen (15).

PARCEL 1 - LEGAL DESCRIPTION

That part of the Northeast Quarter (NE1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Beginning at the Northwest Corner of the Northeast Quarter (NE1/4) of Section 15; thence North 87° 16' 35" East on the north line of said NE1/4 a distance of 673.18 feet to the west line of the East 120 acres of said NE1/4; thence South 02° 43' 10" East on said west line a distance of 798.82 feet; thence North 53° 23' 16" West a distance of 870.56 feet to the west line of said NE1/4; thence North 2° 40' 39" West on said west line a distance of 247.01 feet to the Point of Beginning.

Said parcel contains 8.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

TCE 1 - LEGAL DESCRIPTION

A 10-foot-wide temporary construction easement across the Northeast Quarter (NE1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Northwest Corner of the Northeast Quarter (NE1/4) of Section 15; thence South 2° 40' 39" East on the west line of said NE1/4 a distance of 247.01 feet to the Point of Beginning; thence continuing South 2° 40' 39" East on said west line a distance of 12.92 feet; thence South 53° 23' 16" East a distance of 870.57 feet to the west line of the East 120 acres of said NE1/4; thence North 02° 43' 10" West on said west line a distance of 12.93 feet; thence North 53° 23' 16" West a distance of 870.56 feet to the Point of Beginning.

Said easement contains 0.20 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.



DANIEL FLATEN
 Part of the Northeast Quarter (NE1/4) of Section 15, T139N, R50W, Cass County, ND
Page 13 of 46
 CERTIFICATE OF SURVEY

DRAWING TYPE COS	DATE OF SURVEY May 18, 2017
P10733-2016-005	SHEET
016	13
PREPARED BY TML	9743

CERTIFICATE OF SURVEY

CERTIFICATE OF SURVEYOR

I hereby certify that this survey was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of North Dakota. All distances and measurements are true and correct to the best of my knowledge and belief, and all monuments shall be placed in the ground as shown.

Nicholas R. Stattelman
N.D. Registration No. LS-8218
Date: 4/14/19

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

On this ____ day of _____, in the year 20____, before me a notary public in and for said county and state, personally appeared Nicholas R. Stattelman, known to me to be the person(s) described in, and who executed the within instrument and acknowledged to me that he/she executed the same.

Notary Public:
State of North Dakota
My commission expires: _____



DANIEL FLATEN

Part of the Northeast Quarter () of Section 15, T54N, R50W, Cass County, ND

CERTIFICATE OF SURVEY

DRAWING TYPE	DATE OF SURVEY
COS	May 18, 2017
P10733-2016-005	SHEET
016	1
PREPARED BY	PROJECT NO.
TML	9743

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08/17/2020


AFFIDAVIT OF PERSONAL SERVICE

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

I, Lisa Kilde, swear that I am at least 18 years of age, and that I personally served the following attached documents:

- 1. Offer Letter dated November 22, 2019 addressed to Daniel Flaten for OIN 9286 9743;
- 2. Certificate of Survey for OIN 9286;
- 3. Certificate of Survey for OIN 9743;
- 4. Offer Letter dated November 22, 2019 addressed to Derek Scott Flaten for OIN 9742;
- 5. Certificate of Survey for OIN 9742;
- 6. Appraisal Report by Crown Appraisals Inc. for OIN 9286 9742 9743;

on Daniel Flaten on November 22, 2019 at 4:30 p.m., by handing a true and correct copy of the documents to him at the following location: 2401 45th St S, Fargo, ND 58104



 Signature

Subscribed and sworn to before me this 12th day of December, 2019.

KENNETH HELVEY
 Notary Public
 State of North Dakota
 My Commission Expires Dec. 31, 2022



 Notary Public
 My Commission Expires: 12/31/2022



CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY

March 2, 2020

**Cass County
Joint Water
Resource
District**

Daniel Scott Flaten
1809 6th Street W
West Fargo, ND 58078
Certified No. 7018 0040 0000 5525 7271

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
OINs: 9286, 9743
Parcel Nos.: 53-0000-09085-000, 53-0000-09083-010**

Rodger Olson
Manager
Leonard, North Dakota

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 and a temporary easement from you. More specifically, to accommodate the Project, the District must acquire right of way and a temporary easement from you with respect to property located in Cass County and identified as Parcel Identification Number 53-0000-09085-000 and 53-0000-09083-010 The legal description of the property to be acquired is:

Right of Way:

OIN 9286

That part of the Northwest Quarter (NW1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northeast Corner of the Northwest Quarter (NW1/4) of Section 15; thence South 02° 40' 39" East on the east line of said NW1/4 a distance of 247.01 feet; thence North 74° 37' 34" West a distance of 473.21 feet; thence South 87° 16' 30" West parallel with, and 100.00 feet south of, the north line of said NW1/4 a distance of 250.00 feet; thence North 02° 43' 30" West perpendicular to said north line a distance of 100.00 feet to said north line; thence North 87° 16' 30" East on said north line a distance of 700.00 feet to the Point of Beginning.

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

Said parcel contains 2.37 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9743

That part of the Northeast Quarter (NE1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Beginning at the Northwest Corner of the Northeast Quarter (NE1/4) of Section 15; thence North 87° 16' 35" East on the north line of said NE1/4 a distance of 673.18 feet to the west line of the East 120 acres of said NE1/4; thence South 02° 43' 10" East on said west line a distance of 798.82 feet; thence North 53° 23' 16" West a distance of 870.56 feet to the west line of said NE1/4; thence North 2° 40' 39" West on said west line a distance of 247.01 feet to the Point of Beginning.

Said parcel contains 8.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

OIN 9286

A 10-foot-wide temporary construction easement across the Northwest Quarter (NW1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of the Northwest Quarter (NW1/4) of Section 15; thence South 02° 40' 39" East on the east line of said NW1/4 a distance of 247.01 feet to the Point of Beginning; thence North 74° 37' 34" West a distance of 473.21 feet; thence South 87° 16' 30" West parallel with, and 100.00 feet south of, the north line of said NW1/4 a distance of 250.00 feet; thence North 02° 43' 30" West perpendicular to said north line a distance of 100.00 feet to said north line; thence South 87° 16' 30" West on said north line a distance of 10.00 feet; thence South 02° 43' 30" East perpendicular to said north line a distance of 110.00 feet; thence North 87° 16' 30" East parallel with, and 110.00 feet south of, said north line a distance of 258.41 feet; thence South 74° 37' 34" East a distance of 469.74 feet; thence South

53° 23' 16" East a distance of 6.31 feet to the east line of said NW1/4; thence North 02° 40' 39" West on said east line a distance of 12.92 feet to the Point of Beginning.

Said easement contains 0.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9743

A 10-foot-wide temporary construction easement across the Northeast Quarter (NE1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Northwest Corner of the Northeast Quarter (NE1/4) of Section 15; thence South 2° 40' 39" East on the west line of said NE1/4 a distance of 247.01 feet to the Point of Beginning; thence continuing South 2° 40' 39" East on said west line a distance of 12.92 feet; thence South 53° 23' 16" East a distance of 870.57 feet to the west line of the East 120 acres of said NE1/4; thence North 02° 43' 10" West on said west line a distance of 12.93 feet; thence North 53° 23' 16" West a distance of 870.56 feet to the Point of Beginning.

Said easement contains 0.20 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Enclosed is an appraisal regarding the value of the right of way and temporary easement 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 \$71,855.00, and the temporary easement is \$332.00 for a total purchase price of \$72,200.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$72,200.00 as just compensation to purchase right of way and temporary easement 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. 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 and temporary easement 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 and temporary easement. 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 and temporary easement 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.

Daniel Scott Flaten

March 2, 2020

Page 4

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](mailto: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

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>
<p>1. Article Addressed to:</p> <p>DANIEL SCOTT FLATEN 1809 6TH STREET W WEST FARGO ND 58078</p>	<p>B. Received by (Printed Name)</p> <p>C. Date of Delivery 3/5/2020</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>
 9590 9402 3806 8032 1529 52	<p>3. Service Type</p> <ul style="list-style-type: none"> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery
<p>2. Article Number (Transfer from service label)</p> <p>7018 0040 0000 5525 7271</p>	
PS Form 3811, July 2015 PSN 7530-02-000-9053	Domestic Return Receipt



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 20, 2020

**Cass County
Joint Water
Resource
District**

Daniel Scott Flaten
1809 6th Street W
West Fargo, ND 58078
Certified No. 7018 0040 0000 5525 7431

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Loughheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OINs: 9286, 9743
Parcel Nos.: 53-0000-09085-000, 53-0000-09083-010

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). The District previously provided you a letter dated March 2, 2020; a copy of the District's appraisal for the right of way and temporary easement needed from you; and a Purchase Agreement as the District's offer of just compensation to purchase the right of way and temporary easement from you. The District's letter specifically described the right of way and temporary easement 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 and temporary easement 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 and a temporary easement 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 March 26, 2020, and April 9, 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.

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

The District hopes you will attend one of the above-mentioned meetings to discuss the Project and the right of way and temporary easement 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.

Daniel Scott Flaten
OINs 9286, 9743
March 20, 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 and temporary easement. The District must conclude all negotiations and complete the acquisition of right of way and temporary easement 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 and temporary easement. 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</p> <p>X <u>J Merrill</u> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>
<p>1. Article Addressed to:</p> <p><u>DANIEL SCOTT FLATEN</u> <u>1800 6TH STREET W</u> <u>WEST FARGO ND 58078</u></p>	<p>B. Received by (<i>Printed Name</i>) C. Date of Delivery</p> <p><u>Vel C19 R044</u> <u>3/24/20</u></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 style="text-align: center;">  9590 9402 3806 8032 1527 92 </p>	<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>
<p>2. Article Number (<i>Transfer from service label</i>)</p> <p><u>7018 0040 0000 5525 7431</u></p>	
<p>PS Form 3811, July 2015 PSN 7530-02-008-9053</p>	<p style="text-align: right;">Domestic Return Receipt</p>



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

May 18, 2020

Cass County
Joint Water
Resource
District

Daniel Scott Flaten
1809 6th Street W
West Fargo, ND 58078
Certified No. 7019 1640 0002 0398 8446

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

**RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY
OINs: 9286, 9743
Parcel Nos. 53-0000-09085-000, 53-0000-09083-010**

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). On behalf of the District, I previously provided you a letter dated March 2, 2020, a copy of the District's appraisal for your right of way and temporary easement, and a Purchase Agreement as the District's offer of just compensation to purchase the right of way and temporary easement from you. In addition, I also provided you a letter dated March 20, 2020, to invite you to meet with the District for purposes of discussing the acquisition of your land. The parties have conducted the informal and formal negotiation procedures required by law but, unfortunately, the parties have not yet reached a mutually-acceptable agreement regarding compensation for the District's purchase of the right of way and temporary easement from you to accommodate the Project.

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 and temporary easement over your property. Cass County will provide you with at least 30 days' notice of a public meeting, and will invite you to the meeting to discuss the District's request.

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
wrld@casscountynd.gov
casscountynd.gov

Daniel Scott Flaten
OINs 9286, 9743
May 18, 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 and temporary easement from you for the Project.

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

cc: 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:

DANIEL SCOTT FLATEN
1809 6TH STREET W
WEST FARGO ND 58078



9590 9402 3806 8032 1544 99

2. Article Number (Transfer from service label)

7019 1640 0002 0398 8446

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *MM C2*

- Agent
- Addressee

B. Received by (Printed Name)

MM

C. Date of Delivery

5/9

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

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

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
wrj@casscountynd.gov
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 and
Temporary Easement
OINs: 9286, 9743
Parcel Nos. 53-0000-09085-000, 53-0000-09083-010

As you know, the Cass County Joint Water Resource District (the "District") is in the process of acquiring the right of way necessary for the Fargo Moorhead Diversion Area Project ("Project"). I previously copied you on the following three letters whereby the District sought to negotiate the acquisition of the right of way and temporary easement from Daniel Scott Flaten (the "Landowner"):

- Letter dated March 2, 2020, enclosing the District's appraisal for the acquisition of the right of way and temporary easement from the Landowner and a proposed Purchase Agreement;
- Letter dated March 20, 2020, inviting the Landowner to meet with the District for purposes of negotiating compensation for the right of way and temporary easement to be acquired; and
- Letter dated May 18, 2020, notifying the Landowner the District planned to submit a request to the Cass County Commission seeking immediate possession of the right of way and temporary easement necessary for the Project.

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

Right of Way Easement:

OIN 9286

That part of the Northwest Quarter (NW1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northeast Corner of the Northwest Quarter (NW1/4) of Section 15; thence South 02° 40' 39" East on the east line of said NW1/4 a distance of 247.01 feet; thence North 74° 37' 34" West a distance of 473.21 feet; thence South 87° 16' 30" West parallel with, and 100.00 feet south of, the north line of said NW1/4 a distance of 250.00 feet; thence North 02°43'30" West perpendicular to said north line a distance of 100.00 feet to said north line; thence North 87° 16' 30" East on said north line a distance of 700.00 feet to the Point of Beginning.

Said parcel contains 2.37 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9743

That part of the Northeast Quarter (NE1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Beginning at the Northwest Corner of the Northeast Quarter (NE1/4) of Section 15; thence North 87° 16' 35" East on the north line of said NE1/4 a distance of 673.18 feet to the west line of the East 120 acres of said NE1/4; thence South 02° 43' 10" East on said west line a distance of 798.82 feet; thence North 53° 23' 16" West a distance of 870.56 feet to the west line of said NE1/4; thence North 2° 40' 39" West on said west line a distance of 247.01 feet to the Point of Beginning.

Said parcel contains 8.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

OIN 9286

A 10-foot-wide temporary construction easement across the Northwest Quarter (NW1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of the Northwest Quarter (NW1/4) of Section 15; thence South 02° 40' 39" East on the east line of said NW1/4 a distance of 247.01 feet to the Point of Beginning; thence North 74°37'34" West a distance of 473.21 feet; thence South 87°16'30" West parallel with, and 100.00 feet south of, the north line of said NW1/4 a distance of 250.00 feet; thence North 02°43'30" West perpendicular to said north line a distance of 100.00 feet to said north line; thence

South 87°16'30" West on said north line a distance of 10.00 feet; thence South 02°43'30" East perpendicular to said north line a distance of 110.00 feet; thence North 87° 16' 30" East parallel with, and 110.00 feet south of, said north line a distance of 258.41 feet; thence South 74°37'34" East a distance of 469.74 feet; thence South 53° 23' 16" East a distance of 6.31 feet to the east line of said NW1/4; thence North 02° 40' 39" West on said east line a distance of 12.92 feet to the Point of Beginning.

Said easement contains 0.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9743

A 10-foot-wide temporary construction easement across the Northeast Quarter (NE1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Northwest Corner of the Northeast Quarter (NE1/4) of Section 15; thence South 2° 40' 39" East on the west line of said NE1/4 a distance of 247.01 feet to the Point of Beginning; thence continuing South 2°40'39" East on said west line a distance of 12.92 feet; thence South 53° 23' 16" East a distance of 870.57 feet to the west line of the East 120 acres of said

NE1/4; thence North 02°43'10" West on said west line a distance of 12.93 feet; thence North 53°23'16" West a distance of 870.56 feet to the Point of Beginning.

Said easement contains 0.20 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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

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

Robert Wilson
July 8, 2020
Page 4

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

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

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

UPS – DELIVERY CONFIRMATION

**County
Administrator**

Daniel Scott Flaten
1809 6th Street West
West Fargo, ND 58078

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

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OIN: 9286, 9743
Parcel No. 53-0000-09085-000, 53-0000-09083-010
UPS Tracking No. 1Z RT8 7R1 25 1448 2674

Greetings Mr. Flaten:

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

- Letter dated March 2, 2020, enclosing the District's appraisal for the acquisition of the right of way and temporary easement from you, along with a proposed Purchase Agreement;
- Letter dated March 20, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way and temporary easement to be acquired; and
- Letter dated May 18, 2020, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way and temporary easement necessary for the Project.

Box 2806
211 Ninth Street South
Fargo, North Dakota 58103

www.casscountynd.gov

Daniel Scott Flaten
OINs 9286, 9743
July 13, 2020
Page 2

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 and temporary easement 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 and temporary easement the District must acquire from you. The legal description of the necessary right of way and temporary easement is as follows:

Right of Way Easement:

OIN 9286

That part of the Northwest Quarter (NW1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northeast Corner of the Northwest Quarter (NW1/4) of Section 15; thence South 02° 40' 39" East on the east line of said NW1/4 a distance of 247.01 feet; thence North 74° 37' 34" West a distance of 473.21 feet; thence South 87° 16' 30" West parallel with, and 100.00 feet south of, the north line of said NW1/4 a distance of 250.00 feet; thence North 02°43'30" West perpendicular to said north line a distance of 100.00 feet to said north line; thence North 87° 16' 30" East on said north line a distance of 700.00 feet to the Point of Beginning.

Said parcel contains 2.37 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9743

That part of the Northeast Quarter (NE1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Beginning at the Northwest Corner of the Northeast Quarter (NE1/4) of Section 15; thence North 87° 16' 35" East on the north line of said NE1/4 a distance of 673.18 feet to the west line of the East 120 acres of said NE1/4; thence South 02° 43' 10" East on said west line a distance of 798.82 feet; thence North 53° 23' 16" West a distance of 870.56 feet to the west line of said NE1/4; thence North 2° 40' 39" West on said west line a distance of 247.01 feet to the Point of Beginning.

Daniel Scott Flaten
OINs 9286, 9743
July 13, 2020
Page 3

Said parcel contains 8.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

OIN 9743

A 10-foot-wide temporary construction easement across the Northeast Quarter (NE1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

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Said easement contains 0.20 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9286

A 10-foot-wide temporary construction easement across the Northwest Quarter (NW1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of the Northwest Quarter (NW1/4) of Section 15; thence South 02° 40' 39" East on the east line of said NW1/4 a distance of 247.01 feet to the Point of Beginning; thence North 74° 37' 34" West a distance of 473.21 feet; thence South 87° 16' 30" West parallel with, and 100.00 feet south of, the north line of said NW1/4 a distance of 250.00 feet; thence North 02° 43' 30" West perpendicular to said north line a distance of 100.00 feet to said north line; thence South 87° 16' 30" West on said north line a distance of 10.00 feet; thence South 02° 43' 30" East perpendicular to said north line a distance of 110.00 feet; thence North 87°16'30" East parallel with, and 110.00 feet south of, said north line a distance of 258.41 feet; thence South 74° 37' 34" East a distance of 469.74 feet; thence South 53° 23' 16" East a distance of 6.31 feet to the

Daniel Scott Flaten
OINs 9286, 9743
July 13, 2020
Page 4

east line of said NW1/4; thence North 02° 40' 39" West on said east line a distance of 12.92 feet to the Point of Beginning.

Said easement contains 0.19 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., via conference call or Microsoft Teams. 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 and temporary easement over your property.

Over the next several months, in light of Covid-19, the Commission will conduct its meetings via conference call and Microsoft Teams, in accordance with Governor Burgum's Executive Order 2020-16. With that in mind, we request your attendance electronically or by telephone. If you plan to participate in the Commission's August 17, 2020 public meeting, please contact Heather Worden at (701) 241-5609 or wordenh@casscountynd.gov as soon as possible so Ms. Worden can assist you with the necessary arrangements.

This Notice does not preclude you from continuing to work with the District regarding the right of way easement and temporary easement necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **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.

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.

Daniel Scott Flaten
OINs 9286, 9743
July 13, 2020
Page 5

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

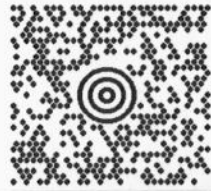
0.1 LBS LTR

1 OF 1

SHIP TO:

DANIEL SCOTT FLATEN
1809 6TH ST W

WEST FARGO ND 58078-4612



ND 581 9-02



UPS NEXT DAY AIR

TRACKING #: 1Z RT8 7R1 25 1448 2674

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

1ZRT87R12514482674

*Daniel Scott Flaten***Weight**

0.10 LBS

Service

UPS Next Day Air®

Shipped / Billed On

07/13/2020

Delivered On

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

Delivered To

WEST 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 3:53 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 Daniel Scott Flaten (“Landowner”) for construction, operation, and maintenance of the Project.

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

Right of Way
OIN 9286

That part of the Northwest Quarter (NW1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northeast Corner of the Northwest Quarter (NW1/4) of Section 15; thence South 02° 40' 39" East on the east line of said NW1/4 a distance of 247.01 feet; thence North 74° 37' 34" West a distance of 473.21 feet; thence South 87° 16' 30" West parallel with, and 100.00 feet south of, the north line of said NW1/4 a distance of 250.00 feet; thence North 02°43'30" West perpendicular to said north line a distance of 100.00 feet to said north line; thence North 87° 16' 30" East on said north line a distance of 700.00 feet to the Point of Beginning.

Said parcel contains 2.37 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9743

That part of the Northeast Quarter (NE1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Beginning at the Northwest Corner of the Northeast Quarter (NE1/4) of Section 15; thence North 87° 16' 35" East on the north line of said NE1/4 a distance of 673.18 feet to the west line of the East 120 acres of said NE1/4; thence South 02° 43' 10" East on said west line a distance of 798.82 feet; thence North 53° 23' 16" West a distance of 870.56 feet to the west line of said NE1/4; thence North 2° 40' 39" West on said west line a distance of 247.01 feet to the Point of Beginning.

Said parcel contains 8.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

OIN 9743

A 10-foot-wide temporary construction easement across the Northeast Quarter (NE1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Northwest Corner of the Northeast Quarter (NE1/4) of Section 15; thence South 2° 40' 39" East on the west line of said NE1/4 a distance of 247.01 feet to the Point of Beginning; thence continuing South 2°40'39" East on said west line a distance of 12.92 feet; thence South 53° 23' 16" East a distance of 870.57 feet to the west line of the East 120 acres of said NE1/4; thence North 02°43'10" West on said west line a distance of 12.93 feet; thence North 53°23'16" West a distance of 870.56 feet to the Point of Beginning.

Said easement contains 0.20 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9286

A 10-foot-wide temporary construction easement across the Northwest Quarter (NW1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

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distance of 469.74 feet; thence South 53° 23' 16" East a distance of 6.31 feet to the east line of said NW1/4; thence North 02° 40' 39" West on said east line a distance of 12.92 feet to the Point of Beginning.

Said easement contains 0.19 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

Ken Helvey
SRF Consulting Group, Inc.

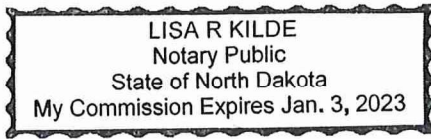
Subscribed to and sworn to before me this 3 day of August, 2020.

Lisa R Kilde

Notary Public, County of Cass

State of NORTH Dakota

My Commission Expires: _____



(SEAL)

OIN 9286 9743 - Dan Flaten Contact Attempts

Date	Note
11/22/2019	Appraisal and offer letter hand delivered
1/8/2020	Ken left a VM for dan regarding land acquisition
1/23/2020	Ken left another voicemail for Dan
2/19/2020	Talked to Derek regarding offers-They are not for sale and to leave them alone
3/2/2020	Formal offer letter sent
3/5/2020	Formal offer letter received by all property owners
3/20/2020	CCJWRD invite sent
3/24/2020	CCJWRD invite received
3/27/2020	Sent copies of formal offer to Rinke as they said they were representing the Flaten's
4/22/2020	Email to Rinke Noonan regarding counter offer
5/18/2020	Possession intent letter sent
5/19/2020	Possession intent letter received
6/3/2020	Ken spoke with owner - wants \$20,000/acre or to not be contacted
6/23/2020	Email to Nick Delaney to see if they are in fact representing Flaten's
7/16/2020	Rinke confirmed that the Flatens are not under contract
7/16/2020	Call with Dan to arrange a meeting
7/22/2020	Meeting with Dan (and Derek) to review offers and discuss counter offer. They are going to seek and appraisal
7/23/2020	Sent maps that we ere using at the meeting

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 and Temporary Easement in and to real property owned by Daniel Scott Flaten (“Landowner”) is necessary for the Project.

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

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

Right of Way
OIN 9286

That part of the Northwest Quarter (NW1/4) of Section 15, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northeast Corner of the Northwest Quarter (NW1/4) of Section 15; thence South 02° 40' 39" East on the east line of said NW1/4 a distance of 247.01 feet; thence North 74° 37' 34" West a distance of 473.21 feet; thence South 87° 16' 30" West parallel with, and 100.00 feet south of, the north line of said NW1/4 a distance of 250.00 feet; thence North 02° 43' 30" West perpendicular to said north line a distance of 100.00 feet to said north line; thence North 87° 16' 30" East on said north line a distance of 700.00 feet to the Point of Beginning.

Said parcel contains 2.37 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 9743

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Said parcel contains 8.08 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement:

OIN 9286

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Said easement contains 0.20 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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

[¶8] The District sent a written offer for just compensation to the landowner by certified mail, along with an appraisal and purchase agreement, on March 2, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On March 20, 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.

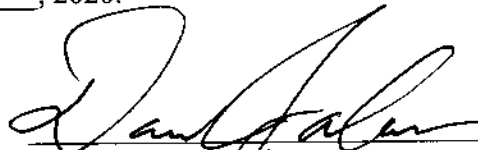
[¶11] On May 19, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way and Temporary Easement, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

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

or threatened quick take eminent domain during the course of negotiations with Landowner since August 1, 2017.

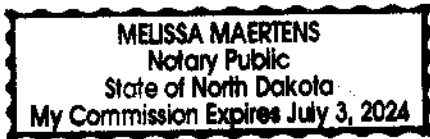
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 5th day of August, 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)