

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

September 21st, 2020

PROPERTY OWNER: Larry & Leone Roth

LAND AGENT: Jamie Wark with SRF

OIN: 566



FM AREA
DIVERSION
PROJECT

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Written Correspondence Timeline – Larry & Leone Roth

OIN 566	Sent	Received
Offer to Purchase	8/19/2019	9/16/2019
Formal Negotiations and Written Offer of Just Compensation	1/14/2020	2/18/2020
Request for Meeting	5/22/2020	5/26/2020
Notice of Intent to Take Possession of Right-of-Way	7/2/2020	7/3/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	7/30/2020	7/30/2020
Invitation to Attend Public Meeting	8/6/2020	8/17/2020
Commission Meeting Date	9/21/2020	

**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: Larry R. Roth and Leon M. Roth
2. Land Agent: Jamie Wark
3. Parcel No.: 44-0000-00638-000
4. OIN No.: 566

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

September 14, 2020

Owner	Larry and Leone Roth
Address	PO Box 606, Glen Ullin, ND 58631
Property Location	Diversion Channel
Property Type	Agriculture
OIN	566
Land Firm & Agent	SRF – Jamie Wark

Property Need

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

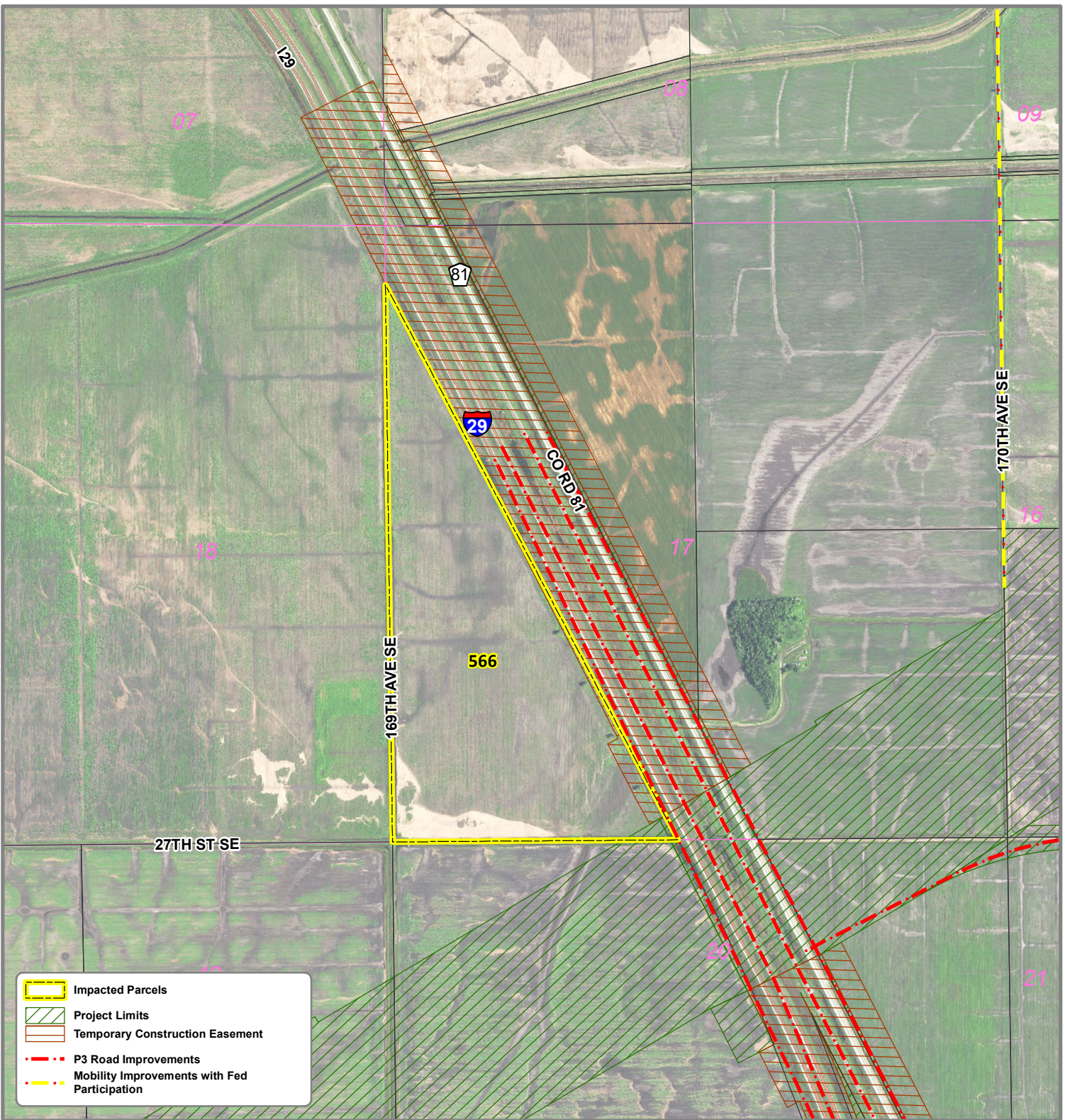
Valuation and Negotiation Summary:

Appraisal Value / Date	\$6,830 dated January 14, 2020 (formal offer letter) 0.84 acres Land/Site Taking \$6,000/acre = \$5,040 1.79 acres Temporary Easement \$200/acre x 5 years = \$1,790
Counteroffer	\$7,500 – and reimbursement for drain tile and end cap repair as part of construction of the channel. Counteroffer was approved by CCJWRD July 2020.
Purchase Agreement	\$7,500

Negotiation Notes

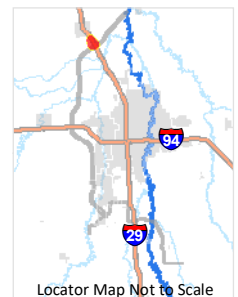
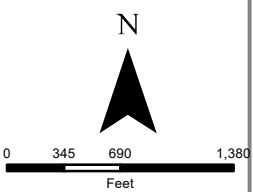
- Initial offer letter (dated August 19, 2019) identified 3.8 acres of TCE and 0.84 acres of Land/Site Taking.
- Revised offer letter (dated December 16, 2019) identified 1.79 acres of TCE and 0.84 acres of Land/Site Taking.
- SR Land agent, Jamie Wark, has been in contact with landowner many times. Landowner has concerns over drainage that will occur post construction.
- CCJWRD approved counteroffer (\$7,500 + reimbursement of drain tile and end cap repair) July 2020.
- Landowner has been working with land agent and Ohnstad Twichell to finalize purchase agreement language to address post construction drainage concerns.
- Land agent will continue to work with landowner to provide sufficient language in purchase agreement to finalize agreement

September 14, 2020



Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. All parcel acreages and legal descriptions shown 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: 566
LARRY R & LEONE M ROTH
 Parcel ID: 44-0000-00638-000
 Cass County, ND

FM AREA DIVERSION
 Map Date: 4/2/2020





August 19, 2019

Larry R. and Leone M. Roth
P.O. Box 606
Glen Ullin, ND 58631

RE: **Offer to Purchase**
Parcel ID: OIN 566
Project Title: Fargo Moorhead Diversion
PID: 44-0000-00638-000

Dear Mr. and Mrs. Roth,

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 **\$8,900.00**. 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 \$8,900.00 as Just Compensation for the property interests it must acquire from you.

Larry R. and Leone M. Roth
Offer to Purchase

OIN 566

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

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

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

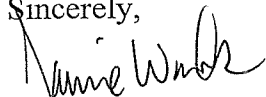
Upon receipt of this letter, please sign below. Your signature indicates only that you have received this Offer to Purchase, and the following documents:

- Copy of the appraisal for Parcel ID OIN 566 by Compass Land Consultants, Inc..
- Exhibit A (Acquisition Summary), and Exhibit B (Certificate of Survey)

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

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

Sincerely,



Jamie Wark
Senior Analyst

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

Larry R. Roth

Leone M. Roth

Enclosures: Appraisal Report, Exhibit A, Exhibit B

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Offer to Purchase

Parcel ID: OIN 566

Project Title: Fargo Moorhead Diversion

PID: 44-0000-00638-000

Recorded Fee Owner: Larry R. and Leone M. Roth

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

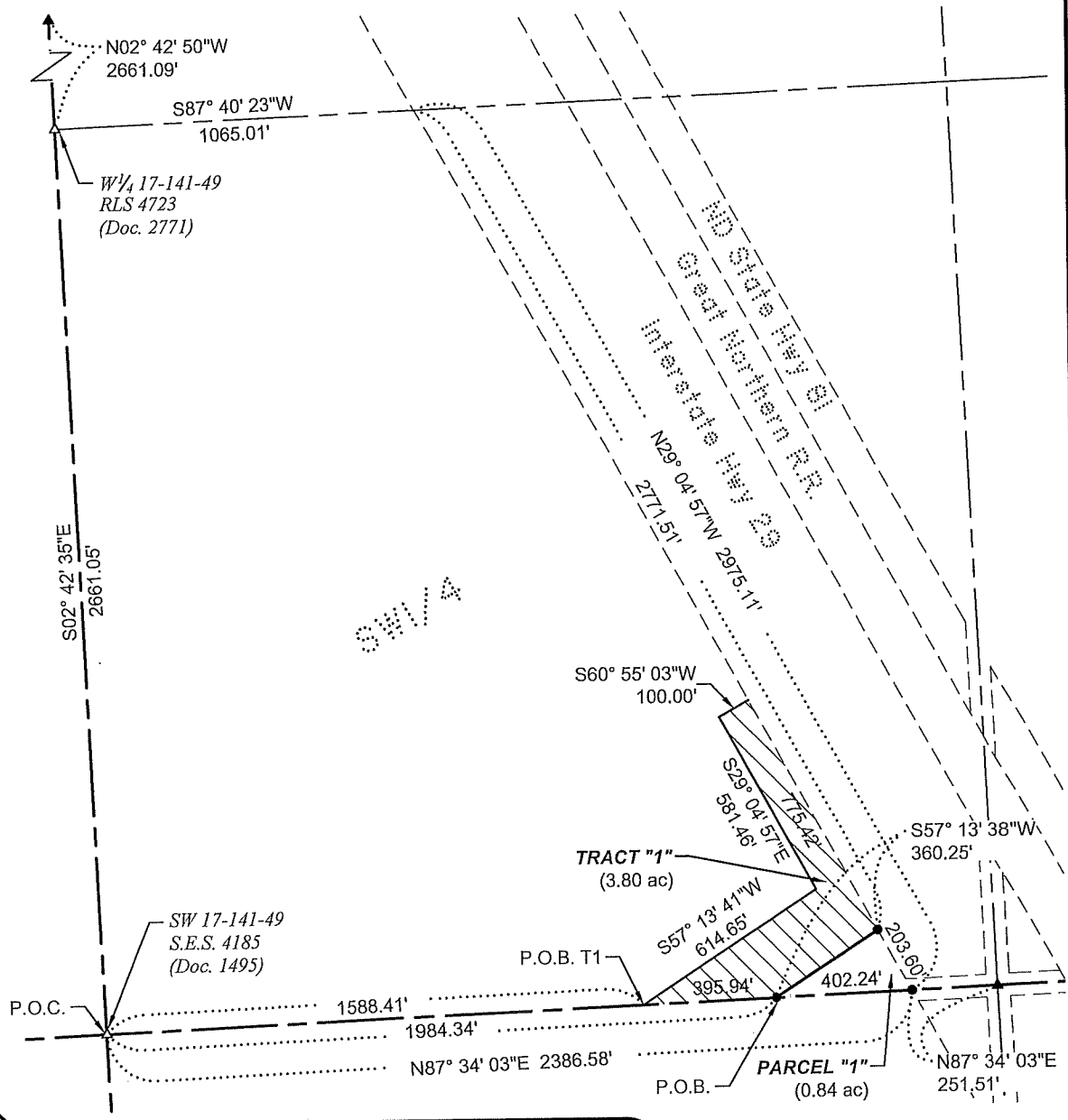
*Unless otherwise noted, any offer to purchase is contingent on the following:

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	.84 Acres	\$ 6,000	\$ 5,040.00
Temporary Easement	3.8 Acres	\$ 200 (x 5 years)	\$ 3,800.00
TOTAL			\$ 8,900.00

CERTIFICATE OF SURVEY

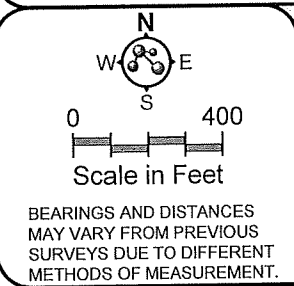


BASIS OF BEARING


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

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

Notes:
1) Parcel subject to a blanket sign easement (Doc. 1318714) and a Cass Rural Water Users 30'-wide, undefined location, utility easement (Doc. 511397)



LEGEND		PRELIMINARY
— — — — —	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	(M) MEASURED
▨	TEMP. CONST. EASE.	(R) PREVIOUSLY RECORDED



LARRY R. & LEONE M. ROTH
West Half (W1/2),
Section 14, T14N, R14W, Cass County, ND

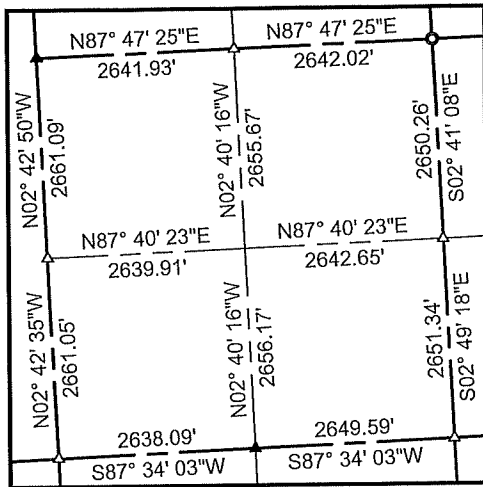
Page 9 of 41

CERTIFICATE OF SURVEY

DRAWING TYPE COS	DATE Sept. 2, 2016
PROJECT NUMBER P10733-2013-003	SHEET 3
PREPARED BY NRS	DATE 09/21/2020
SCALE 1" = 100'	SHEET 1

CERTIFICATE OF SURVEY

SECTION 17



Part of West Half (W1/2) of Section 17,
Township 141 North, Range 49 West of the 5th
Principal Meridian, Cass County, North Dakota.

PARENT PARCEL - TRUSTEE'S DEED DOC. NO. 1360015
OWNER: LARRY R. & LEONE M. ROTH
That part of the West Half (W1/2) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, lying Westerly and Southerly of the Interstate Highway No. 29 right of way, situate in the County of Cass and the State of North Dakota.

PARCEL "1" - LEGAL DESCRIPTION

That part of the Southwest Quarter (SW1/4) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southwest Corner of the Southwest Quarter (SW1/4) of Section 17;
thence North 87° 34' 03" East on the south line of said SW1/4 a distance of 1984.34 feet to the Point of Beginning;
thence continuing North 87° 34' 03" East on said south line a distance of 402.24 feet to the westerly right-of-way line of Interstate Highway 29 as platted in NDDOT Plat I-29-2(2);
thence North 29° 04' 57" West on said westerly right-of-way line a distance of 203.60 feet;
thence South 57° 13' 38" West a distance of 360.25 feet to the Point of Beginning.

Said parcel contains 0.84 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

TRACT "1" - TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION

That part of the Southwest Quarter (SW1/4) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southwest Corner of the Southwest Quarter (SW1/4) of Section 17;
thence North 87° 34' 03" East on the south line of said SW1/4 a distance of 1588.41 feet to the Point of Beginning;
thence continuing North 87° 34' 03" East on said south line a distance of 395.94 feet;
thence North 57° 13' 38" East a distance of 360.25 feet to the westerly right-of-way line of Interstate Highway 29 as platted in NDDOT Plat I-29-2(2);
thence North 29° 04' 57" West on said westerly right-of-way line a distance of 775.42 feet;
thence South 60° 55' 03" West, perpendicular to said westerly right-of-way line, a distance of 100.00 feet;
thence South 29° 04' 57" East, parallel with said westerly right-of-way line, a distance of 581.46 feet;
thence South 57° 13' 41" West a distance of 614.65 feet to the Point of Beginning.

Said tract contains 3.80 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.



LARRY R. & LEONE M. ROTH
West Half (W1/2),
Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, ND
Page 10 of 41
CERTIFICATE OF SURVEY

DRAWING TYPE	DATE
COS	Sept 2, 2016
PROJECT NUMBER	SHEET
P10733-213-003	3
100	2
PREPARED BY	
NRS	
	2

CERTIFICATE OF SURVEY

Part of West Half (W1/2) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian,
Cass County, North Dakota.

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. Stattelmann
N.D. Registration No. LS-8218
Date: _____

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. Stattelmann, 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: _____

RESERVED FOR COUNTY RECORDER USE

	LARRY R. & LEONE M. ROTH	DRAWING TYPE COS	DATE Sept. 2, 2016
	West Half (W1/2)	PROJECT NUMBER P10733-141-009	SHEET 11
	Section 17, T141N R49W Cass County, ND	PREPARED BY NRS	DATE 09/21/2020
	Page 11 of 41	CERTIFICATE OF SURVEY	SHEET 3

Plotted By: Nick Stachman Date: Sunday, October 16, 2016 File: W:\D\37\01\348 - FU Division Land Acquisition Management\Survey Support\Survey Data\Drawings\141N R49W Cass County 17565 Part 1026 Plot.dwg Layout: COS (3)

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 checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>																
<p>1. Article Addressed to:</p> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>LARRY R. AND LEONE M. ROTH PO BOX 606 GLEN ULLIN ND 58631</p> </div>	<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 4522 8278 7725 54	<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>2. Article Number (Transfer from service label)</p> <div style="border: 1px solid black; padding: 2px;"> <p>7018 3090 0001 9483 1956</p> </div>																	

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

Domestic Return Receipt

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

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

GLEN ULLIN, ND 58631

OFFICIAL USE

Certified Mail Fee	\$3.50	
Extra Services & Fees (check box, add fee as appropriate)		\$2.80
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$	\$0.00
<input type="checkbox"/> Adult Signature Required	\$	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	\$0.00
Postage	\$2.20	
Total Postage and Fees	\$8.50	

0560
05

Postmark
Here

08/30/2019

LARRY R. AND LEONE M. ROTH
 PO BOX 606
 GLEN ULLIN ND 58631

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

Track Another Package +

Tracking Number: 70183090000194831956

Remove X

Your item was delivered at 3:15 pm on September 16, 2019 in GLEN ULLIN, ND 58631.

Delivered

September 16, 2019 at 3:15 pm

Delivered

GLEN ULLIN, ND 58631

Get Updates ✓

Feedback

Text & Email Updates



Tracking History



Product Information



See Less ^

Can't find what you're looking for?

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



CERTIFIED MAIL – RETURN RECEIPT REQUESTED – HAND DELIVERY

January 14, 2020

**Cass County
Joint Water
Resource
District**

Larry R. and Leone M. Roth
P.O. Box 606
Glen Ullin, ND 58631
Certified No. 7018 0040 0000 5525 6991

Greetings:

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

**RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OIN: 566
Parcel No.: 44-0000-00638-000**

The Cass County Joint Water Resource District (the "District") is in the process of acquiring property interests necessary for the Fargo-Moorhead Area Diversion Project (the "Project"), and the District has been in discussions with you regarding right of way the District must acquire from you to accommodate the Project. The District directed me to provide you this letter as the District's formal offer to purchase right of way 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 44-0000-00638-000. The legal description of the property to be acquired is:

Right of Way:

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southwest Corner of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17; thence North 87° 34' 03" East on the south line of said SW $\frac{1}{4}$ a distance of 1984.34 feet to the Point of Beginning; thence continuing North 87° 34' 03" East on said south line a distance of 402.24 feet to the westerly right-of-way line of Interstate Highway 29 as platted in NDDOT Plat I-29-2(2); thence North 29° 04' 57" West on said westerly right-of-way line a distance of 203.60 feet; thence South 57° 13' 38" West a distance of 360.25 feet to the Point of Beginning.

Said parcel contains 0.84 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
casscountynđ.gov

Temporary Easement:

That part of the Southwest Quarter (SW¼) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southwest Corner of the Southwest Quarter (SW¼) of Section 17; thence North 87° 34' 03" East on the south line of said SW¼ a distance of 1984.34 feet; thence North 57° 13' 38" East a distance of 260.04 feet to the Point of Beginning; thence continuing North 57° 13' 38" East a distance of 100.21 feet to the westerly right-of-way line of Interstate Highway 29 as platted in NDDOT Plat I-29-2(2); thence North 29° 04' 57" West on said westerly right-of-way line a distance of 775.42 feet; thence South 60° 55' 03" West, perpendicular to said westerly right-of-way line, a distance of 100.00 feet; thence South 29° 04' 57" East, parallel with said westerly right-of-way line, a distance of 781.87 feet to the Point of Beginning.

Said easement contains 1.79 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 \$5,040.00, and the Temporary Easement is \$1,790.00 for a total purchase price of \$6,830.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$6,830.00 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. **Jamie Wark** of SRF Consulting Group, Inc., Inc. can be reached at **(701) 893-7435** or **jwark@srfconsulting.com**. Jamie is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way from you for the Project.

For your information, North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way 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 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.

Larry R. and Leone M. Roth
January 14, 2020
Page 3

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: Jamie Wark, 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 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:

LARRY R AND LEDNE M ROTH
 PO BOX 606
 GLEN ULLIN ND 58631



9590 9402 3806 8032 1532 25

2. Article Number (Transfer from service label)

7018 0040 0000 5525 6991

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

2/18/2020

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



VIA UPS DELIVERY

May 22, 2020

Cass County
Joint Water
Resource
District

Larry R. and Leone M. Roth
3015 Chisholm Trail
Bismarck, ND 58503

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OIN: 566
Parcel No.: 44-0000-00638-000

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). The District previously provided you a letter dated January 14, 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.

Carol Harbeke Lewis
Secretary-Treasurer

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 8:00 a.m. on May 28, 2020, and June 11, 2020. Over the next several months, District meetings will be conducted via conference call and District board members will not be attending in person. The requirements that a meeting room be available to the public and that a speakerphone or monitor be provided at a physical location under NDCC § 44-04-19 have been suspended indefinitely pursuant to Governor Burgum's Executive Order 2020-16; therefore, we request your attendance by telephone.

1201 Main Avenue West
West Fargo, ND 58078-1301

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

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

Larry R. and Leone M. Roth
OIN 566
May 22, 2020
Page 2

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

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@casscountynd.gov

cc: Jamie Wark, 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

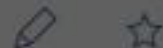


Quick Start ▾

Tracking Details

< [Back to Results](#)

1ZY93E24A822665246



Delivered

Delivered On

Tuesday
05/26/2020

Send Updates

File a Claim

Proof of Delivery



Dear Customer,

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

Tracking Number

1ZY93E24A822665246

Weight

1.00 LBS

Service

UPS Ground

Shipped / Billed On

05/22/2020

Additional Information

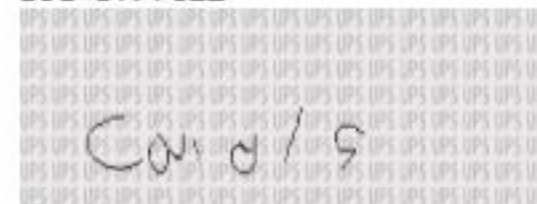
Adult Signature Required

Delivered On

05/26/2020 12:12 P.M.

Received By

SIG ON FILE



Delivered To

3015 CHISHOLM TRL
BISMARCK, ND, 58503, US

Left At

Residential

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: 06/09/2020 5:07 P.M. EST

[Print this page](#)



Hello, your package has been delivered.

Delivery Date: Tuesday, 05/26/2020

Delivery Time: 12:12 PM

Left At: RESIDENTIAL

Signed by: SIG ON FILE



[Set Delivery Instructions](#)

[Manage Preferences](#)

[View Delivery Planner](#)

CASS WATER RESOURCE DISTRICT

Tracking Number:

[1ZY93E24A822665246](#)

Ship To:

LARRY R & LEONE M ROTH
3015 CHISHOLM TRAIL
BISMARCK, ND 585030810
US

Number of Packages:

1 **Page 21 of 41**

09/21/2020

UPS Service:

UPS Ground



CERTIFIED MAIL – RETURN RECEIPT REQUESTED AND UPS DELIVERY

July 2, 2020

Cass County
Joint Water
Resource
District

Larry R. and Leone M. Roth
PO Box 606
Glen Ullin, ND 58631
Certified No. 7020 0090 0000 7648 4144

Dan Jacobson
Chairman
West Fargo, North Dakota

Larry R. and Leone M. Roth
3015 Chisholm Trail
Bismarck, ND 58503

Rodger Olson
Manager
Leonard, North Dakota

Greetings:

Ken Lougheed
Manager
Gardner, 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: 566
Parcel No. 44-0000-00638-000

Jacob Gust
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 14, 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 letters dated March 31, 2020, May 5, 2020, and May 22, 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.

Keith Weston
Manager
Fargo, North Dakota

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.

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

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

Larry R. and Leone M. Roth
OIN 566
July 2, 2020
Page 2

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

cc: Jamie Wark, Land Agent
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



Hello, your package has been delivered.

Delivery Date: Friday, 07/03/2020

Delivery Time: 11:24 AM

Left At: RESIDENTIAL

Signed by: LARRY



[Set Delivery Instructions](#)

[Manage Preferences](#)

[View Delivery Planner](#)

CASS WATER RESOURCE DISTRICT

Tracking Number:

[1ZY93E24A834927977](#)

Ship To:

LARRY R & LEONE M ROTH
3015 CHISHOLM TRAIL
BISMARCK, ND 58503
US

Number of Packages:

1

UPS Service:

UPS Ground

Package Weight:

1.0 LBS

Proof of Delivery



Dear Customer,

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

Tracking Number

1ZY93E24A834927977

Weight

1.00 LBS

Service

UPS Ground

Shipped / Billed On

07/02/2020

Additional Information

Adult Signature Required

Delivered On

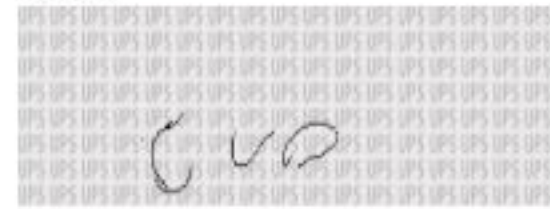
07/03/2020 11:24 A.M.

Received By

LARRY

Delivered To

3015 CHISHOLM TRL
BISMARCK, ND, 58503, US



Left At

Residential

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: 07/06/2020 11:03 A.M. EST

[Print this page](#)



SENT VIA EMAIL wilsonro@casscountynd.gov

Cass County
Joint Water
Resource
District

July 30, 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

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
OIN: 566
Parcel No. 44-0000-00638-000

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 and temporary easement from Larry R. Roth and Leone R. Roth (the "Landowner"):

- Letter dated January 14, 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;
- Letters dated March 31, 2020, May 5, 2020, and May 22, 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 July 2, 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.

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 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:

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southwest Corner of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17; thence North 87° 34' 03" East on the south line of said SW $\frac{1}{4}$ a distance of 1984.34 feet to the Point of Beginning; thence continuing North 87° 34' 03" East on said south line a distance of 402.24 feet to the westerly right-of-way line of Interstate Highway 29 as platted in NDDOT Plat I-29-2(2); thence North 29° 04' 57" West on said westerly right-of-way line a distance of 203.60 feet; thence South 57° 13' 38" West a distance of 360.25 feet to the Point of Beginning.

Said parcel contains 0.84 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement:

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southwest Corner of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17; thence North 87° 34' 03" East on the south line of said SW $\frac{1}{4}$ a distance of 1984.34 feet; thence North 57° 13' 38" East a distance of 260.04 feet to the Point of Beginning; thence continuing North 57° 13' 38" East a distance of 100.21 feet to the westerly right-of-way line of Interstate Highway 29 as platted in NDDOT Plat I-29-2(2); thence North 29° 04' 57" West on said westerly right-of-way line a distance of 775.42 feet; thence South 60° 55' 03" West, perpendicular to said westerly right-of-way line, a distance of 100.00 feet; thence South 29° 04' 57" East, parallel with said

westerly right-of-way line, a distance of 781.87 feet to the Point of Beginning.

Said easement contains 1.79 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 a representative of the land firm which was the Landowner's main point of contact throughout the negotiation process. Prior to the public meeting, the land firm representative and the District will verify neither the District nor any of its agents referenced or threatened quick take eminent domain during the informal and formal negotiation process.

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

Robert Wilson
July 30, 2020
Page 4

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: Jamie Wark, 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, Ohnstad Twichell, P.C.
Heather Worden, Administrative Assistant, Cass County Commission



August 6, 2020

VIA CERTIFIED MAIL – DELIVERY CONFIRMATION

Board of County Commissioners

Larry R. Roth
Leone M. Roth
PO Box 606
Glen Ullin, ND 58631-0606

Chad M. Peterson
Fargo, North Dakota

Rick Steen
Fargo, North Dakota

Ken Pawluk
Fargo, North Dakota

Duane Breitling
West Fargo, North Dakota

Mary Scherling
Stanley Township, North Dakota

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OIN: 566
Parcel No.: 44-0000-00638-000
Certified No. 7020 0640 0000 1512 6509

Greetings:

As you know, the METRO FLOOD DIVERSION BOARD OF AUTHORITY (the "Authority") is proceeding with the Fargo Moorhead Area Diversion Project ("Project"); the Cass County Commission (the "Commission") is a member of the Authority. The Cass County Joint Water Resource District (the "District") is also a member of the Authority, and the Authority previously directed the District to obtain the North Dakota right of way and temporary easement necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding right of way and temporary easement 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 14, 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 May 22, 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 July 2, 2020, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way and temporary easement necessary for the Project.

Heather Worden
Commission Assistant

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

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southwest Corner of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17; thence North 87° 34' 03" East on the south line of said SW $\frac{1}{4}$ a distance of 1984.34 feet to the Point of Beginning; thence continuing North 87° 34' 03" East on said south line a distance of 402.24 feet to the westerly right-of-way line of Interstate Highway 29 as platted in NDDOT Plat I-29-2(2); thence North 29° 04' 57" West on said westerly right-of-way line a distance of 203.60 feet; thence South 57° 13' 38" West a distance of 360.25 feet to the Point of Beginning.

Said parcel contains 0.84 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement:

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southwest Corner of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17; thence North 87° 34' 03" East on the south line of said SW $\frac{1}{4}$ a distance of 1984.34 feet; thence North 57° 13' 38" East a distance of 260.04 feet to the Point of Beginning; thence continuing North 57° 13' 38" East a distance of 100.21 feet to the westerly right-of-way line of Interstate Highway 29 as platted in NDDOT Plat I-29-2(2); thence North 29° 04' 57" West on said westerly right-of-way line a distance of 775.42 feet; thence South 60° 55' 03" West, perpendicular to said westerly right-of-way line, a distance of 100.00 feet; thence South 29° 04' 57" East, parallel with said westerly right-of-way line, a distance of 781.87 feet to the Point of Beginning.

Said easement contains 1.79 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 September 21, 2020 at 3:30 p.m. The District will also participate in the meeting, along with a representative of the land firm which 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 and temporary easement over your property.

If you wish to participate in the Commission's September 21, 2020 public meeting via conference call or Microsoft Teams, please contact Heather Worden at (701) 241-5609 or wordenh@casscountynd.gov as soon as possible so Ms. Worden can assist you with the necessary arrangements.

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

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


Sincerely,

CASS COUNTY COMMISSION



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

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

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>																
<p>1. Article Addressed to:</p> <p>Lamy A. Roth Leone M. Roth P.O. Box 606 Glen Linn, MO 68031-0606</p>  <p>9590 9402 5717 9346 3144 64</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>																
<p>2. Article Number (Transfer from service label)</p> <p>7020 0640 0000 1512 6509</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®																
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<p>PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt</p>																	

USPS TRACKING LABEL ND 585



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Signature card was not dated by the Property Owner upon delivery. This receipt was returned to the Cass County Commission Office on August 17, 2020.

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 Larry R. Roth and Leone M. Roth (“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 566

That part of the Southwest Quarter (SW¼) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southwest Corner of the Southwest Quarter (SW¼) of Section 17; thence North 87° 34' 03" East on the south line of said SW¼ a distance of 1984.34 feet to the Point of Beginning; thence continuing North 87°34'03" East on said south line a distance of 402.24 feet to the westerly right of-way line of Interstate Highway 29 as platted in NDDOT Plat I-29-2(2); thence North 29° 04' 57" West on said westerly right-of-way line a distance of 203.60 feet; thence South 57° 13' 38" West a distance of 360.25 feet to the Point of Beginning.

Said parcel contains 0.84 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement
OIN 566

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southwest Corner of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17; thence North 87° 34' 03" East on the south line of said SW $\frac{1}{4}$ a distance of 1984.34 feet; thence North 57° 13' 38" East a distance of 260.04 feet to the Point of Beginning; thence continuing North 57° 13' 38" East a distance of 100.21 feet to the westerly right-of-way line of Interstate Highway 29 as platted in NDDOT Plat I-29-2(2); thence North 29° 04' 57" West on said westerly right-of-way line a distance of 775.42 feet; thence South 60° 55' 03" West, perpendicular to said westerly right-of-way line, a distance of 100.00 feet; thence South 29° 04' 57" East, parallel with said westerly right-of-way line, a distance of 781.87 feet to the Point of Beginning.

Said easement contains 1.79 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 8 day of September, 2020.

Ken Helvey

Ken Helvey
SRF Consulting Group, Inc.

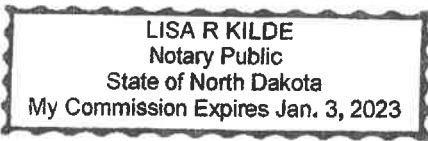
Subscribed to and sworn to before me this 8 day of September, 2020.

Lisa R. Kilde

Notary Public, County of Cass

State of North Dakota

My Commission Expires: _____



(SEAL)

OIN 566 - Roth Contact Attempts

Date	Note
6/23/2016	Dave called Larry and Larry verbally agreed to sign the ROE
7/7/2016	Dave called and confirmed that Larry has/will send in the signed ROE
12/14/2016	Dave received a call from Larry Roth with questions regarding the diversion
12/14/2016	Dave emailed Larry with a question about contacting someone for the billboards on his property
2/16/2017	Dave called Larry and said the appraisal and offer letter would be sent in the mail, and asked for a meeting
3/21/2017	Dave called Larry and gave him his cell number for him to call at a more convenient time
4/3/2017	Dave received Larry's returned offer packet in the mail. Dave called Larry and left a message
4/6/2017	Dave emailed Larry asking when he would be returning to ND
4/7/2017	Dave mailed the original offer regular mail
6/6/2017	Dave called Larry and left a message
8/3/2017	Dave met Larry at his house in Bismarck to discuss the project
8/14/2017	Dave emailed Ross with drain title and visuals
8/17/2017	Dave met with Ross in Buxton
8/31/2017	Dave emailed Ross in regard to the TCE
5/24/2019	Jamie spoke with Larry, he was unsatisfied with the previous appraisal. Jamie told him Crown appraisals would be in the area June 7-10
6/24/2019	Jamie sent Larry and Leone a written response to their questions
8/30/2019	Jamie called Larry
9/16/2019	Appraisal and offer letter received via mail
9/19/2019	Jamie called Larry
9/30/2019	Jamie called Larry
10/28/2019	Jamie called Larry
11/5/2019	Jamie called Larry
11/6/2019	Jamie called Larry
1/10/2020	Jamie called Larry
1/13/2020	Jamie called Larry
1/14/2020	Jamie called Larry
1/14/2020	Formal offer letter sent
1/15/2020	Jamie called Larry
3/24/2020	Jamie called Larry
4/13/2020	Left a message for Larry
4/15/2020	Larry still stuck in AZ, hopeful to be back in May
5/26/2020	CCJWRD invite received
6/10/2020	Jamie spoke to Larry - awaiting information on decision
6/19/2020	Larry will reluctantly agree to sell the 0.84 acres but asked for a 10-20% increase in appraised value
6/26/2020	Possession intent letter sent
7/2/2020	Larry has agreed to drainage language in PA - will mail PA to Larry
7/29/2020	PA mailed and emailed to Larry
7/30/2020	Jamie spoke to Larry and notified him of the electronic and mailed PA has been sent
8/12/2020	Larry called and LM
8/12/2020	Larry called and LM
8/12/2020	Larry called and LM
8/13/2020	Larry called and LM
8/14/2020	Received an email from Larry that included a document. Document was a legal review of the PA with suggestions for changes to the PA.
8/17/2020	Spoke to Larry. Informed him I would take his document and review it with team and respond in a timely manner.
8/19/2020	Spoke to Larry. Informed him OT has reviewed his requests. Provided answers via email to Larry. Will await Larry's approval before revising purchase agreement and sending it to him for signature
8/20/2020	Received an email from Larry that included revisions to the purchase agreement. Email was forwarded to Ohnstad Twichell.
8/21/2020	Spoke to Larry. Discussed language that he has requested be revised
8/26/2020	Provided response to Larry via email on revisions to PA
9/4/2020	Spoke to Larry - asked for response to previous PA revision
9/8/2020	Received an email with additional revisions to PA. Email has been forwarded onto OT

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 Metro Flood Diversion 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 Larry and Leone Roth (“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 566

That part of the Southwest Quarter (SW¼) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southwest Corner of the Southwest Quarter (SW¼) of Section 17; thence North 87° 34' 03" East on the south line of said SW¼ a distance of 1984.34 feet to the Point of Beginning; thence continuing North 87° 34' 03" East on said south line a distance of 402.24 feet to the westerly right of way line of Interstate Highway 29 as platted in NDDOT Plat I 29 2(2); thence North 29° 04' 57" West on said westerly right-of-way line a distance of 203.60 feet; thence South 57° 13' 38" West a distance of 360.25 feet to the Point of Beginning.

Said parcel contains 0.84 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement

OIN 566

That part of the Southwest Quarter (SW¹/₄) of Section 17, Township 141 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southwest Corner of the Southwest Quarter (SW¹/₄) of Section 17; thence North 87° 34' 03" East on the south line of said SW¹/₄ a distance of 1984.34 feet; thence North 57° 13' 38" East a distance of 260.04 feet to the Point of Beginning; thence continuing North 57° 13' 38" East a distance of 100.21 feet to the westerly right-of-way line of Interstate Highway 29 as platted in NDDOT Plat I-29-2(2); thence North 29° 04' 57" West on said westerly right-of-way line a distance of 775.42 feet; thence South 60° 55' 03" West, perpendicular to said westerly right-of-way line, a distance of 100.00 feet; thence South 29° 04' 57" East, parallel with said westerly right-of-way line, a distance of 781.87 feet to the Point of Beginning.

Said easement contains 1.79 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 14, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On May 22, 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**.

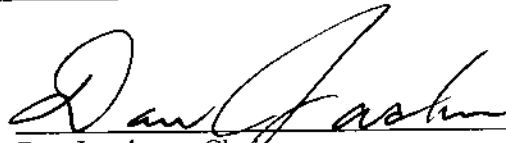
[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶11] On July 2, 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.


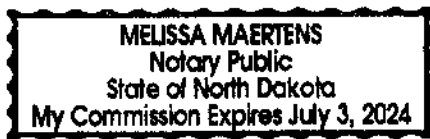
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 14 day of September, 2020.



Dan Jacobson, Chair
Cass County Joint Water Resource District

Subscribed to and sworn to before me this 14 day of September, 2020.


Notary Public, Cass County, State of North Dakota

(SEAL)