

FM AREA DIVERSION PROJECT

# Property Owner Information Packet for Cass County Commission

October 5<sup>th</sup>, 2020

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PROPERTY OWNER: Mickeal & Bonnie Fosse

LAND AGENT: Lisa Kilde with SRF

OIN: 1186



FM AREA  
**DIVERSION**  
PROJECT

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## Written Correspondence Timeline – Mickeal & Bonnie Fosse

OIN 1186	Sent	Received
Offer to Purchase	2/7/2020	2/8/2020
Formal Negotiations and Written Offer of Just Compensation	4/22/2020	4/23/2020
Request for Meeting	5/18/2020	5/20/2020
Notice of Intent to Take Possession of Right-of-Way	7/8/2020	7/13/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	8/21/2020	8/21/2020
Invitation to Attend Public Meeting	8/26/2020	8/27/2020
Commission Meeting Date	10/5/2020	

**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: Mickeal and Bonnie Fosse
2. Land Agent: Lisa Kilde
3. Parcel No.: 67-0000-12710-020
4. OIN No.: 1186

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, regarding OIN 1186.

# FM Area Diversion Project Property Negotiation Summary

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September 28, 2020

Owner	Mickeal and Bonnie Fosse
Mailing Address	16862 46 <sup>th</sup> Street SE, Horace, ND 58047
Property Location	Diversion Channel
Property Type	Agriculture/Residential
OIN	1186 1191 1193
Land Agent	Ken Helvey and Lisa Kilde – SRF
Landowner Representative	Rinke Noonan

## Property Need

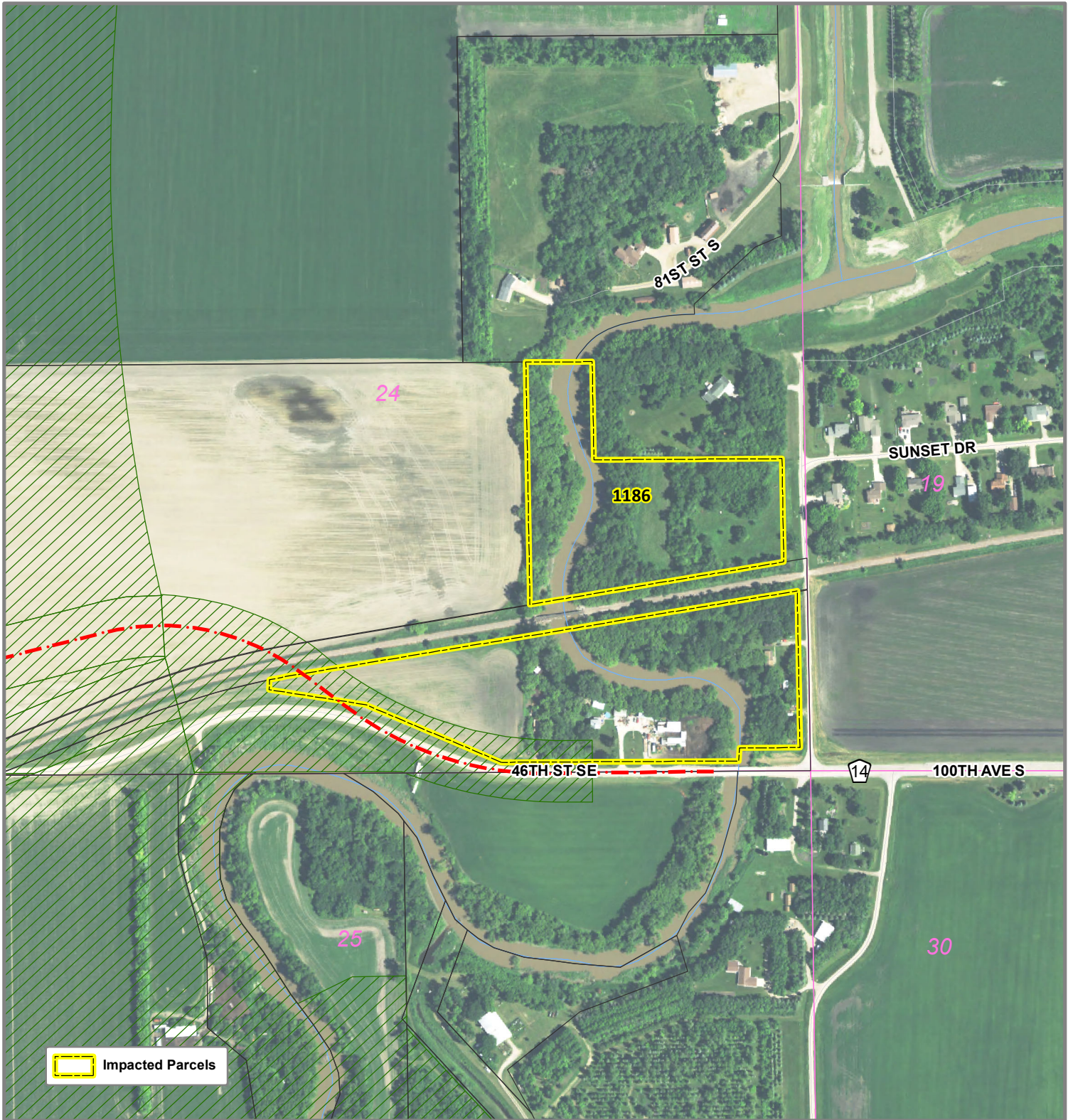
The parcel is located within the Diversion Channel area associated with the Project. The Diversion Authority is required to obtain a portion of the parcel for the Diversion Channel.

## Valuation and Negotiation Summary:

Appraisal Value / Date	\$18,000 – April 10, 2019 1.5 acres land/site taking at \$12,000/acre – \$18,000
Counteroffer	<b>None received to date</b>

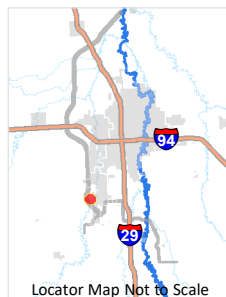
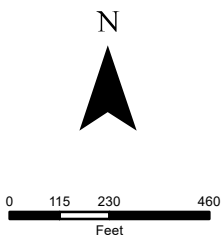
## Negotiation Notes

- SRF Land agents, Lisa Kilde and Ken Helvey has had contact with landowner regarding the offer to purchase approximately 3 times.
- Landowners have retained Rinke Noonan, and they are getting their own appraisal.
- Land agent has most recently been in touch with Rinke Noonan on September 25th regarding road improvement questions that the landowner had.
- Owner is currently moving items from site.



*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 | Produced by: hrecords - AE2S, Inc. |  
 C:\Data\Projects\GIS Projects\FM Area Diversion\Projects\Land Acquisition\Project Work Package\!Project Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105.mxd



**OIN: 1186**  
**MICKEAL & BONNIE FOSSE**  
**Parcel ID: 67-0000-12710-020**  
**Cass County, ND**

FM AREA DIVERSION  
 Map Date: 5/19/2020





February 7, 2020

Mickeal and Bonnie Fosse  
16862 46th Street SE  
Horace, ND 58047

RE: **Revised Offer to Purchase**  
**Parcel ID:** OIN 1186  
**Project Title:** Fargo Moorhead Diversion  
**PID:** 67-0000-12710-020

Dear Mickeal and Bonnie Fosse,

The appraisal that was previously presented to you on August 12, 2019 has been revised to reflect the amount of acres CCJWRD is required to purchase from you for the project. With this updated appraisal, the appraiser has determined that the market value of the interests being purchased is **\$34,800.00**. 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.

**The Cass County Joint Water Resource District hereby offers to pay you \$34,800.00 as Just Compensation for the property interests it must acquire from you.**

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 1186 by Integra Realty Services.
- 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,  
  
Lisa Kilde  
Senior Right of Way Specialist  
Direct # 701-893-7437  
lkilde@srfconsulting.com  
cc: Nick Delaney



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

\_\_\_\_\_  
Michael Fosse

\_\_\_\_\_  
Bonnie Fosse

**EXHIBIT A**

**ACQUISITION SUMMARY  
Fargo Moorhead Diversion**

**Revised Offer to Purchase**

**Parcel ID:** OIN 1186

**Project Title:** Fargo Moorhead Diversion

**PID:** 67-0000-12710-020

**Property Address:** 16862 46th St SE, Horace, ND 58407

Recorded Fee Owner: Mickeal and Bonnie Fosse

Property Legal Description:

SEE ATTACHED SURVEY

Description of Property Interests to be Acquired: Fee Simple

Noted and Waived Exceptions, Reservations or Encumbrances: None

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

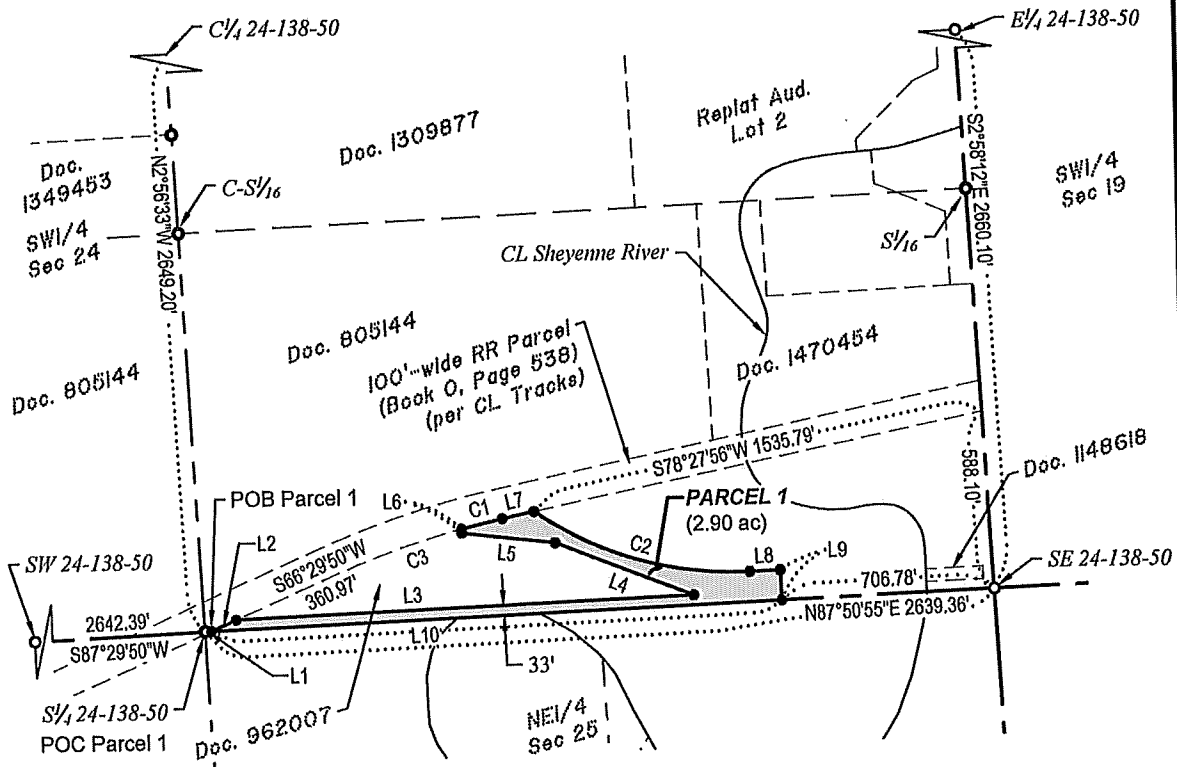
1. Demonstration of marketable title,
2. Conveyance of all interests identified, unless waived in writing by the Cass County Joint Water Resource District,
3. Execution of a purchase agreement signed by the Cass County Joint Water Resource District, or its designee.

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**APPRAISAL SUMMARY**

<b>Parcel Value</b>	<b>Area Size/ Description</b>	<b>Per Unit</b>	<b>Indicated Value</b>
<b>Land/Site Taking</b>	2.9 Acres	\$ 12,000	\$ 34,800.00
<b>TOTAL (rounded)</b>			<b>\$ 34,800.00</b>

# CERTIFICATE OF SURVEY



CURVE TABLE					
Curve	Length	Radius	Delta	L.C.	L.C Bearing
C1	140.93'	2815.00'	2°52'07"	140.92'	N77°01'53"E
C2	768.29'	1200.00'	36°41'00"	755.24'	S73°48'35"E
C3	447.09'	2815.00'	9°06'00"	446.62'	N71°02'50"E

LINE TABLE		
Line	Length	Bearing
L1	22.10'	N87°50'55"E
L2	90.64'	N66°29'50"E
L3	1532.08'	N87°50'55"E
L4	497.79'	N68°50'08"W
L5	315.35'	N83°03'36"W
L6	13.68'	N01°18'52"W
L7	108.47'	N78°27'56"E
L8	100.00'	N87°50'55"E
L9	100.00'	S02°09'05"E
L10	1910.48'	S87°50'55"W

- Notes:**
- 1) Parcel subject to a Warren Township Road ROW (Doc. 15448).
  - 2) Parcel subject to a Northwestern Bell Tel. Co. undefined-location utility ROW ease. (Doc. 455152 & 522794).
  - 3) Parcel subject to a CCEC util. ROW ease. (Doc. 543742).
  - 4) Centerline of Sheyenne River shown per 2019 Bing Aerial Image.

### BASIS OF BEARING

<p><b>COORDINATE SYSTEM:</b> ND STATE PLANE - SOUTH ZONE</p> <p><b>HORIZONTAL DATUM:</b> NAD83 (Conus)</p> <p><b>VERTICAL DATUM:</b> NAVD 88 (GEOID 09)</p>	<p><b>DISTANCES:</b> MEASURED ON THE GROUND IN U.S. SURVEY FEET</p> <p><b>BASIS OF BEARINGS:</b> GRID NORTH</p>
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Scale in Feet

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

<p>— SECTION LINE</p> <p>--- 1/4 LINE</p> <p>--- 1/4 -1/4 LINE</p> <p>- - - EXIST. PARCEL LINE</p> <p>- - - EXIST. EASE.</p> <p>— NEW PARCEL LINE</p> <p>▨ NEW DIVERSION PARCEL</p> <p>▧ TEMP. CONST. EASE. (TCE)</p> <p>▩ DEEDED RIGHT-OF-WAY</p>	<p>■ FND ORIGINAL MON.</p> <p>▲ FND IRON MON. W/ ALUM. CAP</p> <p>● FND IRON MON. W/ PLASTIC CAP</p> <p>○ FND IRON MON.</p> <p>● SET IRON MON. W/ PLASTIC CAP LS-8218</p> <p>▲ SET IRON MON. W/ ALUM. CAP LS-8218</p> <p>● SET NAIL MONUMENT</p> <p>(M) MEASURED</p> <p>(R) PREVIOUSLY RECORDED</p>
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**LEGEND**

■ 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

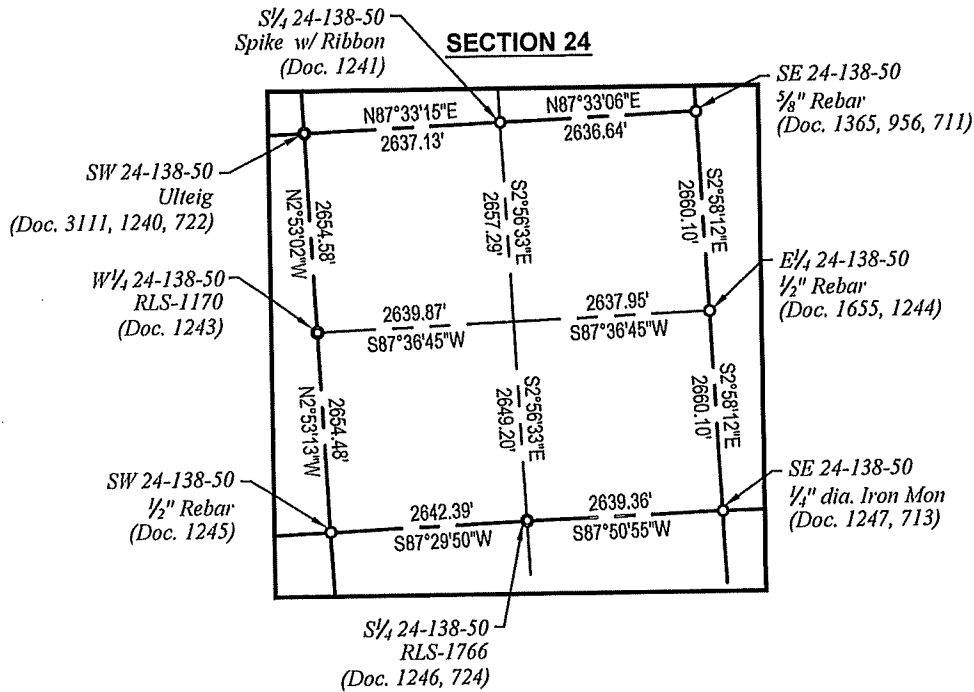
● SET NAIL MONUMENT

(M) MEASURED

(R) PREVIOUSLY RECORDED

**PRELIMINARY**

# CERTIFICATE OF SURVEY



**PARENT PARCEL - DERIVED FROM WARRANTY DEED DOC. NO. 1470454**

The South Half of the South Half (S1/2S1/2) lying and being South of the Railway Right of Way, all of the above in Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, excepting therefrom that parcel described in Doc. No. 962007, records of Cass County.

**PARCEL 1 - LEGAL DESCRIPTION**

That part of the Southeast Quarter (SE1/4) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Southwest Corner of the SE1/4;  
 thence N87°50'55"E on the south line of said SE1/4 a distance of 22.10 feet to the southerly railroad parcel line as described in Book O, Page 538, records of Cass County, said point being the Point of Beginning;  
 thence N66°29'50"E on said southerly RR parcel line a distance 90.64 feet to the south line of the parcel described in Doc. No. 962007, records of Cass County;  
 thence N87°50'55"E on said south parcel line a distance of 1,532.08 feet to the southeast corner of said parcel.  
 thence N68°50'08"W on the easterly line of said parcel a distance of 497.79 feet;  
 thence N83°03'36"W on said easterly parcel line a distance of 315.35 feet;  
 thence N1°18'52"W on said easterly parcel line a distance of 13.68 feet to said southerly RR parcel line;  
 thence on said southerly RR parcel line, 140.93 feet on the arc of a non-tangential curve, concave to the south, having a radius of 2,815.00 feet, a central angle of 2°52'07", and a long chord length of 140.92 feet bearing N77°01'53"E;  
 thence N78°27'56"E on said southerly RR parcel line and tangent to preceding curve a distance of 108.47 feet;  
 thence 768.29 feet on the arc of a non-tangential curve, concave to the north, having a radius of 1,200.00 feet, central angle of 36°41'00", and a long chord length of 755.24 feet bearing S73°48'35"E;  
 thence N87°50'55"E tangent to preceding curve a distance of 100.00 feet;  
 thence S2°09'05"E perpendicular to said south line of the SE1/4 a distance of 100.00 feet to said south line of the SE1/4;  
 thence S87°50'55"W on said south line of the SE1/4 a distance of 1,910.48 feet to the Point of Beginning

Said parcel contains 2.90 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

	<b>MICKEAL &amp; BONNIE FOSSE</b> <span style="color: red; font-size: 1.2em;">Page 10 of 36</span>	DRAWING TYPE COS DATE OF SURVEY Apr. 24, 2019
	Part of the Southeast Quarter (SE1/4) of Section 24, T138N, R50W, Cass County, ND	SHEET 10/05/2020 PREPARED BY RF PROJECTION 1186
CERTIFICATE OF SURVEY		

# 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: 5/21/19

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: \_\_\_\_\_



**MICKEAL & BONNIE FOSSE**  
**Page 11 of 36**  
Part of the Southeast Quarter (SE 1/4) of Section 24, T138N, R50W, Cass County, ND

DRAWING TYPE COS	DATE OF SURVEY Apr. 24, 2019
P10733-2019-095 0160	PROJECT 10/05/2020
PREPARED BY RF	PROJECT ON 1186

ALERT: USPS WILL BE TEMPORARILY SUSPENDING THE GUARANTEE ON PRIORITY MAIL EX...



FAQs >

Track Another Package +

1186  
Fosse  
Revised

Tracking Number: 9505511429330038254294

Remove X

Your item was delivered in or at the mailbox at 1:41 pm on February 8, 2020 in HORACE, ND 58047.

USPS Premium Tracking™ Available v

Feedback

**Delivered**

February 8, 2020 at 1:41 pm  
Delivered, In/At Mailbox  
HORACE, ND 58047

Get Updates v

Text & Email Updates v

Tracking History v

Premium Tracking v

Product Information v

See Less ^



**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

April 22, 2020

**Cass County  
Joint Water  
Resource  
District**

Mickeal and Bonnie Fosse  
16862 46th Street SE  
Horace, ND 58047  
**Certified No. 7019 1640 0002 0398 8231**

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Greetings:

Rodger Olson  
Manager  
Leonard, North Dakota

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Formal Negotiations and Written Offer of Just Compensation  
OIN: 1186  
Parcel No.: 67-0000-12710-020

Ken Loughheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

The Cass County Joint Water Resource District (the "District") is in the process of acquiring property interests necessary for the Fargo-Moorhead Area Diversion Project (the "Project"), and the District has been in discussions with you regarding right of way the District must acquire from you to accommodate the Project. The District directed me to provide you this letter as the District's formal offer to purchase right of way from you. More specifically, to accommodate the Project, the District must acquire right of way from you over property located in Cass County and identified as Parcel Identification Number 67-0000-12710-020. The legal description of the property to be acquired is:

Right of Way:

That part of the Southeast Quarter (SE¼) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Southwest Corner of the SE¼; thence N87°50'55"E on the south line of said SE¼ a distance of 22.10 feet to the southerly railroad parcel line as described in Book O, Page 538, records of Cass County, said point being the Point of Beginning; thence N66°29'50"E on said southerly RR parcel line a distance 90.64 feet to the south line of the parcel described in Doc. No. 962007, records of Cass County; thence N87°50'55"E on said south parcel line a distance of 1,532.08 feet to the southeast corner of said parcel; thence N68 50'08"W on the easterly line of said parcel a distance of 497.79 feet;

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

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

Mickeal and Bonnie Fosse  
April 22, 2020  
Page 2

thence N83°03'36"W on said easterly parcel line a distance of 315.35 feet a distance of 1,532.08 feet to the southeast corner of said parcel; thence N68°50'08"W on the easterly line of said parcel a distance of 497.79 feet; thence N83°03'36"W on said easterly parcel line a distance of 315.35 feet; thence N1°18'52"W on said easterly parcel line a distance of 13.68 feet to said southerly RR parcel line; thence on said southerly RR parcel line, 140.93 feet on the arc of a non-tangential curve, concave to the south, having a radius of 2,815.00 feet, a central angle of 2°52'07", and a long chord length of 140.92 feet bearing N77°01'53"E; thence N78°27'56"E on said southerly RR parcel line and tangent to preceding curve a distance of 108.47 feet; thence 768.29 feet on the arc of a non tangential curve, concave to the north, having a radius of 1,200.00 feet, central angle of 36°41'00", and a long chord length of 755.24 feet bearing S73°48'35"E; thence N87°50'55"E tangent to preceding curve a distance of 100.00 feet; thence S2°09'05"E perpendicular to said south line of the SE¼ a distance of 100.00 feet to said south line of the SE¼; thence S87°50'55"W on said south line of the SE¼ a distance of 1,910.48 feet to the Point of Beginning.

Said parcel contains 2.90 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Enclosed is an appraisal regarding the value of the right of way the District must acquire from you, as determined by a licensed North Dakota appraiser. As you can see from the appraisal, the appraiser indicated the value of the right of way the District must acquire from you is \$34,800.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$34,800.00 as just compensation to purchase right of way from you for the Project. If you are willing to accept the District's offer, please sign the enclosed *Purchase Agreement* and return it to the District in the enclosed self-addressed, stamped envelope.

You are encouraged to maintain contact with the land agent assigned to your property. **Lisa Kilde** of SRF Consulting Group, Inc. can be reached at **(701) 893-7437** or **lkilde@srfconsulting.com**. Lisa 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.



Mickeal and Bonnie Fosse  
April 20, 2020  
Page 3

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

Enclosures

cc: Nicholas Delaney, Attorney at Law, Rinke Noonan  
Lisa Kilde, 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:  
 MICKEAL AND BONNIE FOSSE  
 16862 46TH STREET SE  
 HORACE ND 58047



9590 9402 3806 8032 1547 03

2. Article Number (Transfer from service label)  
 7019 1640 0002 0398 8231

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X *Mary Gales*  Agent  Addressee

B. Received by (Printed Name) *Mary Gales* 019 C. Date of Delivery *4-23*

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

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



**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

May 18, 2020

Cass County  
Joint Water  
Resource  
District

Mickeal and Bonnie Fosse  
16862 46th Street SE  
Horace, ND 58047  
**Certified No. 7019 1640 0002 0398 8453**

Greetings:

Dan Jacobson  
Chairman  
West Fargo, North Dakota

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Request for Meeting  
OIN: 1186  
Parcel No.: 67-0000-12710-020

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 April 22, 2020; a copy of the District's appraisal for the right of way needed from you; and a Purchase Agreement as the District's offer of just compensation to purchase the right of way from you. The District's letter specifically described the right of way the District must acquire from you for the Project. We have not received a signed Purchase Agreement from you, and we have not otherwise arrived at mutually acceptable terms regarding the District's purchase of right of way from you to accommodate the Project.

The District requests your attendance at a meeting 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.

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

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

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.

Mickeal and Bonnie Fosse  
OIN 1186  
May 18, 2020  
Page 2

Please continue to maintain contact and negotiate with the land agent assigned to your property. **Lisa Kilde** of SRF Consulting Group, Inc. is your point of contact for getting answers to any questions you have about the Project. Lisa can be reached at **(701) 893-7437** or **lkilde@srfconsulting.com**.

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

cc: Lisa Kilde, 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 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:  
 MICKEAL AND BONNIE FOSSE  
 16862 46TH STREET SE  
 HORACE ND 58047



9590 9402 3806 8032 1544 82

2. Article Number (Transfer from service label)

7019 1640 0002 0398 8453

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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

x ABC0019RZ

- Agent
- Addressee

B. Received by (Printed Name)

ABC0019 RZ

C. Date of Delivery

5/26

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

16889 46th St SE

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



**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

**Cass County  
Joint Water  
Resource  
District**

July 8, 2020

Mickeal and Bonnie Fosse  
16862 46th Street SE  
Horace, ND 58047  
**Certified No. 7020 0090 0000 7648 3383**

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  
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY  
OIN: 1186  
Parcel No. 67-0000-12710-020**

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 April 22, 2020, a copy of the District's appraisal for your right of way, and a Purchase Agreement as the District's offer of just compensation to purchase the right of way from you. In addition, I also provided you a letter dated May 18, 2020, to invite you to meet with the District for purposes of discussing the acquisition of your land. The parties have conducted the informal and formal negotiation procedures required by law but, unfortunately, the parties have not yet reached a mutually-acceptable agreement regarding compensation for the District's purchase of the right of way from you to accommodate the Project.

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

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

Carol Harbeke Lewis  
Secretary-Treasurer  
  
1201 Main Avenue West  
West Fargo, ND 58078-1301

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

Mickeal and Bonnie Fosse  
OIN 1186  
July 8, 2020  
Page 2

You are encouraged to maintain contact with the land agent assigned to your property. **Lisa Kilde** of **SRF Consulting Group, Inc.** can be reached at **(701) 893-7437** or **lkilde@srfconsulting.com**. Lisa is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way from you for the Project.

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

cc: Nicholas Delaney, Rinke Noonan  
Lisa Kilde, 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:  
**MICKEAL AND BONNIE FOSSE**  
**16862 46TH STREET SE**  
**NORACE ND 58047**



9590 9402 5989 0062 9066 31

2. Article Number (Transfer from service label)  
**7020 0090 0000 7648 3383**

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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X *d n*  Agent  
 Addressee

B. Received by (Printed Name) **Fosse C19** C. Date of Delivery **7-13-2020**

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

3. Service Type
- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature                               | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery           | <input type="checkbox"/> Registered Mail™                           |
| <input checked="" type="checkbox"/> Certified Mail®                    | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery            | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Collect on Delivery                           | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery       | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail                                  |   |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$300) |   |

Domestic Return Receipt





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

August 21, 2020

Cass County  
Joint Water  
Resource  
District

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

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Rodger Olson  
Manager  
Leonard, North Dakota

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

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

Greetings:

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Request for Approval to Take Possession of Necessary Right of Way  
OIN: 1186  
Parcel No. 67-0000-12710-020

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

- Letter dated April 22, 2020, enclosing the District's appraisal for the acquisition of the right of way from the Landowner and a proposed Purchase Agreement;
- Letter dated May 18, 2020, inviting the Landowner to meet with the District for purposes of negotiating compensation for the right of way to be acquired; and
- Letter dated July 8, 2020, notifying the Landowner the District planned to submit a request to the Cass County Commission seeking immediate possession of the right of way necessary for the Project.

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

Right of Way Easement:

That part of the Southeast Quarter (SE¼) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Southwest Corner of the SE¼; thence N87°50'55"E on the south line of said SE¼ a distance of 22.10 feet to the southerly railroad parcel line as described in Book O, Page 538, records of Cass County, said point being the Point of Beginning; thence N66°29'50"E on said southerly RR parcel line a distance 90.64 feet to the south line of the parcel described in Doc. No. 962007, records of Cass County; thence N87°50'55"E on said south parcel line a distance of 1,532.08 feet to the southeast corner of said parcel; thence N68°50'08"W on the easterly line of said parcel a distance of 497.79 feet; thence N83°03'36"W on said easterly parcel line a distance of 315.35 feet a distance of 1,532.08 feet to the southeast corner of said parcel; thence N68°50'08"W on the easterly line of said parcel a distance of 497.79 feet; thence N83°03'36"W on said easterly parcel line a distance of 315.35 feet; thence N1°18'52"W on said easterly parcel line a distance of 13.68 feet to said southerly RR parcel line; thence on said southerly RR parcel line, 140.93 feet on the arc of a non-tangential curve, concave to the south, having a radius of 2,815.00 feet, a central angle of 2°52'07", and a long chord length of 140.92 feet bearing N77°01'53"E; thence N78°27'56"E on said southerly RR parcel line and tangent to preceding curve a distance of 108.47 feet; thence 768.29 feet on the arc of a non-tangential curve, concave to the north, having a radius of 1,200.00 feet, central angle of 36°41'00", and a long chord length of 755.24 feet bearing S73°48'35"E; thence N87°50'55"E tangent to preceding curve a distance of 100.00 feet; thence S2°09'05"E perpendicular to said south line of the SE¼ a distance of 100.00 feet to said south line of the SE¼; thence S87°50'55"W on said south line of the SE¼ a distance of 1,910.48 feet to the Point of Beginning.

Said parcel contains 2.90 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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

More specifically, Section 61-16.1-09(2)(b)(3) requires the County Commission to hold a public meeting and to provide the Landowner no less than thirty days' notice of the meeting. The District will also attend the meeting, along with 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 necessary for the Project, and construction of the Project will not be possible without acquiring the right of way identified above. As the District will explain and verify for the Commission in more detail through this process, the District provided the Landowner with the District's appraisal as the starting point for negotiations, then attempted to negotiate further with the Landowner over the course of several months. This step is not one the District takes lightly; quick take eminent domain is a serious undertaking, and the District has negotiated in good-faith with the Landowner to avoid this process. Despite the District's efforts to be fair, friendly, and flexible in both the informal and formal negotiations with the Landowner, unfortunately, the parties have not reached a mutually acceptable agreement for the acquisition of the right of way.

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

Robert Wilson  
August 21, 2020  
Page 4

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

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



August 26, 2020

**VIA UPS – DELIVERY CONFIRMATION**

**Board of County Commissioners**

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

Mickeal Fosse  
Bonnie Fosse  
16862 46<sup>th</sup> Street SE  
Horace, ND 58047

Re: Cass County Commission  
Fargo-Moorhead Area Diversion Project  
Invitation to Attend Public Meeting  
OIN: 1186  
Parcel No.: 67-0000-12710-020  
UPS Tracking No. 1Z F51 82Y 30 9431 3157

**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 easements necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding the right of way 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 April 22, 2020, enclosing the District’s appraisal for the acquisition of the right of way easement from you, along with a proposed Purchase Agreement;
- Letter dated May 18, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way easement to be acquired; and
- Letter dated July 8, 2020, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way 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.casscountynd.gov

The District informed the Commission that you and the District have not reached a mutually-acceptable agreement, and have not signed a purchase agreement, regarding the right of way 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 easement the District must acquire from you. The legal description of the necessary right of way easement is as follows:

Right of Way Easement:

OIN 1186

That part of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Southwest Corner of the SE $\frac{1}{4}$ ; thence N87°50'55"E on the south line of said SE $\frac{1}{4}$  a distance of 22.10 feet to the southerly railroad parcel line as described in Book O, Page 538, records of Cass County, said point being the Point of Beginning; thence N66°29'50"E on said southerly RR parcel line a distance 90.64 feet to the south line of the parcel described in Doc. No. 962007, records of Cass County; thence N87°50'55"E on said south parcel line a distance of 1,532.08 feet to the southeast corner of said parcel;

thence N68 50'08"W on the easterly line of said parcel a distance of 497.79 feet; thence N83°03'36"W on said easterly parcel line a distance of 315.35 feet a distance of 1,532.08 feet to the southeast corner of said parcel; thence N68°50'08"W on the easterly line of said parcel a distance of 497.79 feet; thence N83°03'36"W on said easterly parcel line a distance of 315.35 feet; thence N1°18'52"W on said easterly parcel line a distance of 13.68 feet to said southerly RR parcel line; thence on said southerly RR parcel line, 140.93 feet on the arc of a non-tangential curve, concave to the south, having a radius of 2,815.00 feet, a central angle of 2°52'07", and a long chord length of 140.92 feet bearing N77°01'53"E; thence N78°27'56"E on said southerly RR parcel line and tangent to preceding curve a distance of 108.47 feet; thence 768.29 feet on the arc of a non-tangential curve, concave to the north, having a radius of 1,200.00 feet, central angle of 36°41'00", and a long chord length of 755.24 feet bearing S73°48'35"E; thence N87°50'55"E tangent to preceding curve a distance of 100.00 feet; thence S2°09'05"E perpendicular to said south line of the SE $\frac{1}{4}$  a distance of 100.00 feet to said south line of the SE $\frac{1}{4}$ ; thence S87°50'55"W on said south line of the SE $\frac{1}{4}$  a distance of 1,910.48 feet to the Point of Beginning.

Said parcel contains 2.90 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Fosse  
August 26, 2020  
Page 3

The Commission invites you to attend the Commission's meeting on October 5, 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 easement over your property.

If you wish to participate in the Commission's October 5, 2020 public meeting via conference call or Microsoft Teams, please contact Heather Worden at (701) 241-5609 or [wordenh@casscountynd.gov](mailto:wordenh@casscountynd.gov) as soon as possible so Ms. Worden can assist you with the necessary arrangements.

This Notice does not preclude you from continuing to work with the District regarding the right of way easement necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **Lisa Kilde** and to continue discussions about the Project. **Lisa Kilde** of **SRF Consulting Group, Inc.** is your point of contact regarding the Project. You can reach **Lisa Kilde** at **(701) 893-7437** or [lkilde@srfconsulting.com](mailto:lkilde@srfconsulting.com).

Finally, North Dakota law requires the Commission to provide you with a description of the District's timeline regarding your right of way 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: Lisa Kilde, Land Agent  
Nicholas Delaney, Rinke Noonan  
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

# Proof of Delivery

Dear Customer,

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

**Tracking Number**

1ZF5182Y3094313157

**Weight**

1.00 LBS

**Service**

UPS Next Day Air Saver®  
with UPS Carbon Neutral 

**Shipped / Billed On**

08/25/2020

**Delivered On**

08/27/2020 9:27 A.M.

**Delivered To**

FOSSE  
16862 SE 46TH ST  
HORACE, ND, 58047, US

**Received By**

FOSSE

**Left At**

Front Desk

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: 08/31/2020 4:32 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 Mickeal Fosse (“Landowner”) for construction, operation, and maintenance of the Project.

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

OIN 1191, 1193  
That part of the West Half of the Northeast Quarter of Section Twenty-five, in Township One hundred Thirty-eight, of Range Fifty, lying West of the Sheyenne River, situate in the County of Cass and the State of North Dakota.

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 23 day of September, 2020.



\_\_\_\_\_  
Ken Helvey  
SRF Consulting Group, Inc.

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



\_\_\_\_\_  
Notary Public, County of Cass

State of North Dakota

My Commission Expires: \_\_\_\_\_

(SEAL)

## "Exhibit A"

### OIN 1186 - Fosse Contact

<b>Date</b>	<b>Notes</b>
12/15/2016	Dave DuToit called Mike to discuss project.
2/15/2017	Dave called Mike to request an ROE for BIO-GEO
2/24/2017	Dave called Mike to request an ROE for soil borings
5/24/2017	Dave met with Mike to discuss Offer. Mike was not interested in selling his property.
8/12/2019	Offer Letter mailed to Mickeal and Bonnie for OIN 1186
8/15/2019	Lisa called and left a message for Mickeal to call back to talk about the offer package and if he would like to meet
8/26/2019	Appraisal and offer letter received
8/26/2019	Mike called Lisa to talk about questions on the appraisal and offer
8/26/2019	Lisa met with Mickeal at his home to talk and deliver the appraisal and offer letter for the other 2 (of 3) parcels
8/26/2019	Lisa emailed Nick Delaney regarding Offer for OIN 1191 1193
11/7/2019	Ken emailed Nick Delaney regarding status of counteroffer
1/2/2020	Ken emailed Nick Delaney regarding counteroffer
2/4/2020	Relocation notice sent
2/7/2020	Revised Offer mailed to Mickeal and Bonnie and emailed to Nick Delaney
4/13/2020	owner is getting their own appraisal
4/17/2020	Ken emailed Igor Lenzner regarding parcel
4/22/2020	Lisa emailed Lenzner regarding questions on road improvements
4/22/2020	Formal offer letter sent
4/23/2020	Ken emailed Igor Lenzner regarding Zitzow property
5/22/2020	Lisa emailed Nick Delaney regarding Fosse parcel to see if they can put a deal together to move the buildings
6/22/2020	Melissa Maertens emailed Nick Delaney Formal Invite Letter
6/24/2020	Nick Delaney emailed Melissa Maertens regarding invitation to meet at CCJWRD Board meeting
7/16/2020	Talked to Rinke regarding possible new locations and counter offers and staking
7/22/2020	Talked to Rinke regarding possible new locations and counter offers and staking
8/5/2020	Visited site and spoke with owner about options for RW area and moving issues
	Talked to Rinke regarding moving and difficulties we see in getting that done on time. Also RW taking areas for roac
8/5/2020	items. Waiting their appraisals
8/24/2020	Emailed attorney about access for testing. They replied that it was OK
9/1/2020	Emails with attorney regarding relocation. Was told to only talk to him about acquisition. They are getting appraisals
9/2/2020	Emailed owner and attorney giving them the go ahead to get going on moving
9/10/2020	Email with owner attorney regarding design issues and relocation benefits- no counter offer to date
9/15/2020	Email with owner attorney regarding move status - they are checking in with their client
9/23/2020	Spoke with owner attorney. No counter offer yet to offer to us.

**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 Easement in and to real property owned by Mickeal Fosse and Bonnie Fosse (“Landowner”) is necessary for the Project.

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

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

OIN 1186

That part of the Southeast Quarter (SE¼) of Section 24, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

Commencing at the Southwest Corner of the SE¼; thence N87°50'55"E on the south line of said SE¼ a distance of 22.10 feet to the southerly railroad parcel line as described in Book O, Page 538, records of Cass County, said point being the Point of Beginning; thence N66°29'50"E on said southerly RR parcel line a distance 90.64 feet to the south line of the parcel described in Doc. No. 962007, records of Cass County; thence N87°50'55"E on said south parcel line a distance of 1,532.08 feet to the southeast corner of said parcel;

thence N68 50'08"W on the easterly line of said parcel a distance of 497.79 feet; thence N83°03'36"W on said easterly parcel line a distance of 315.35 feet a distance of 1,532.08 feet to the southeast corner of said parcel; thence N68°50'08"W on the easterly line of said parcel a distance of 497.79 feet; thence N83°03'36"W on said easterly parcel line a distance of 315.35 feet; thence N1°18'52"W on said easterly parcel line a distance of 13.68 feet to said southerly RR parcel line; thence on said

southerly RR parcel line, 140.93 feet on the arc of a non-tangential curve, concave to the south, having a radius of 2,815.00 feet, a central angle of 2°52'07", and a long chord length of 140.92 feet bearing N77°01'53"E; thence N78°27'56"E on said southerly RR parcel line and tangent to preceding curve a distance of 108.47 feet; thence 768.29 feet on the arc of a non-tangential curve, concave to the north, having a radius of 1,200.00 feet, central angle of 36°41'00", and a long chord length of 755.24 feet bearing S73°48'35"E; thence N87°50'55"E tangent to preceding curve a distance of 100.00 feet; thence S2°09'05"E perpendicular to said south line of the SE¼ a distance of 100.00 feet to said south line of the SE¼; thence S87°50'55"W on said south line of the SE¼ a distance of 1,910.48 feet to the Point of Beginning.

Said parcel contains 2.90 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 April 22, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On May 18, 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 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.

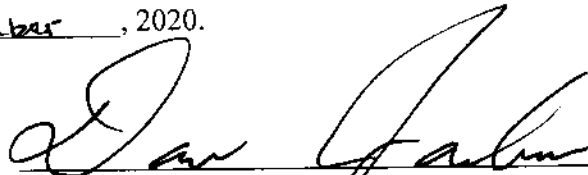
[¶11] On July 8, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way Easement, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

[¶12] The District has retained land agents who are in direct contact with Landowner. The District instructed our land agents not to reference, mention, or threaten quick take eminent

domain during negotiations. The land agents have verified they have not referenced, mentioned, or threatened quick take eminent domain during the course of negotiations with Landowner since August 1, 2017.

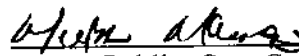
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 25 day of September, 2020.

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

Subscribed to and sworn to before me this 25 day of September, 2020.



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

(SEAL)