

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

October 5th, 2020

PROPERTY OWNER: Janet Wanzek Etal

LAND AGENT: Ken Helvey with SRF

OIN: 8672 8673 8674 8675 9747



FM AREA
DIVERSION
PROJECT

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Written Correspondence Timeline – Janet Wanzek Etal

OIN 8672 8673 8674 8675 9747	Sent	Received
Offer to Purchase	11/1/2019	11/5/2019
Formal Negotiations and Written Offer of Just Compensation	3/13/2020	3/26/2020
Request for Meeting	5/22/2020	5/27/2020
Notice of Intent to Take Possession of Right-of-Way	7/8/2020	7/10/2020
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: Juliet F. Everist, Jantze L. Haley and Goldman Sachs Trust Company, N.A., as Co-Personal Representatives of the Janet Wanzek Estate, and Nikolas Larsen as Trustee of the Daniel Edwin Everist III Irrevocable Trust
2. Land Agent: Ken Helvey
3. Parcel Nos.: 53-0000-09054-000; 53-0000-09055-000; 53-0000-09052-000; 53-0000-09053-020; 53-0000-09061-007
4. OIN Nos.: 8672; 8673; 8674; 8675; 9747

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 and temporary easement, 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 regarding OINs 8672; 8673; 8674; 8675; 9747.

FM Area Diversion Project

Property Negotiation Summary

September 28, 2020

Owner	Janet L Wanzek Estate
Mailing Address	(Everist) 37 McDonald Dr., Sioux City, IA 51104
Property Location	Diversion Channel
Property Type	Agriculture
OIN	8672 8673 8674 8675 (9747 – not included in this Summary)
Land Agent	Ken Helvey - SRF
Land Owner Rep	Steve Quam

Property Need

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

Valuation and Negotiation Summary:

Appraisal Value / Date	\$688,000 (rd) – 8/29/19
	Section 9 - \$496,092
OIN 8674 -	29.97 acres Fee \$7,407/acre = \$221, 987 96.03 acres Severance \$267/acre = \$25,640
OIN 8675 -	26.92 acres Fee \$4,799/acre = \$129,189 17.58 Acres Severance \$364/acre = \$6,399
OINS 8672 &- 8673	303.5 Acres Severance \$364/acre = \$110,474 Severance Larger Parcel 9 acres \$267/acre = \$2,403
9747 FOR REFERENCE ONLY	Section 10 - \$191,666 31.13 Acres Fee \$5,843/acre = \$181,892 8.32 acres Severance \$1,168/acre = \$9,717 0.07 TCE Acres \$165/acre x 5 years = \$57

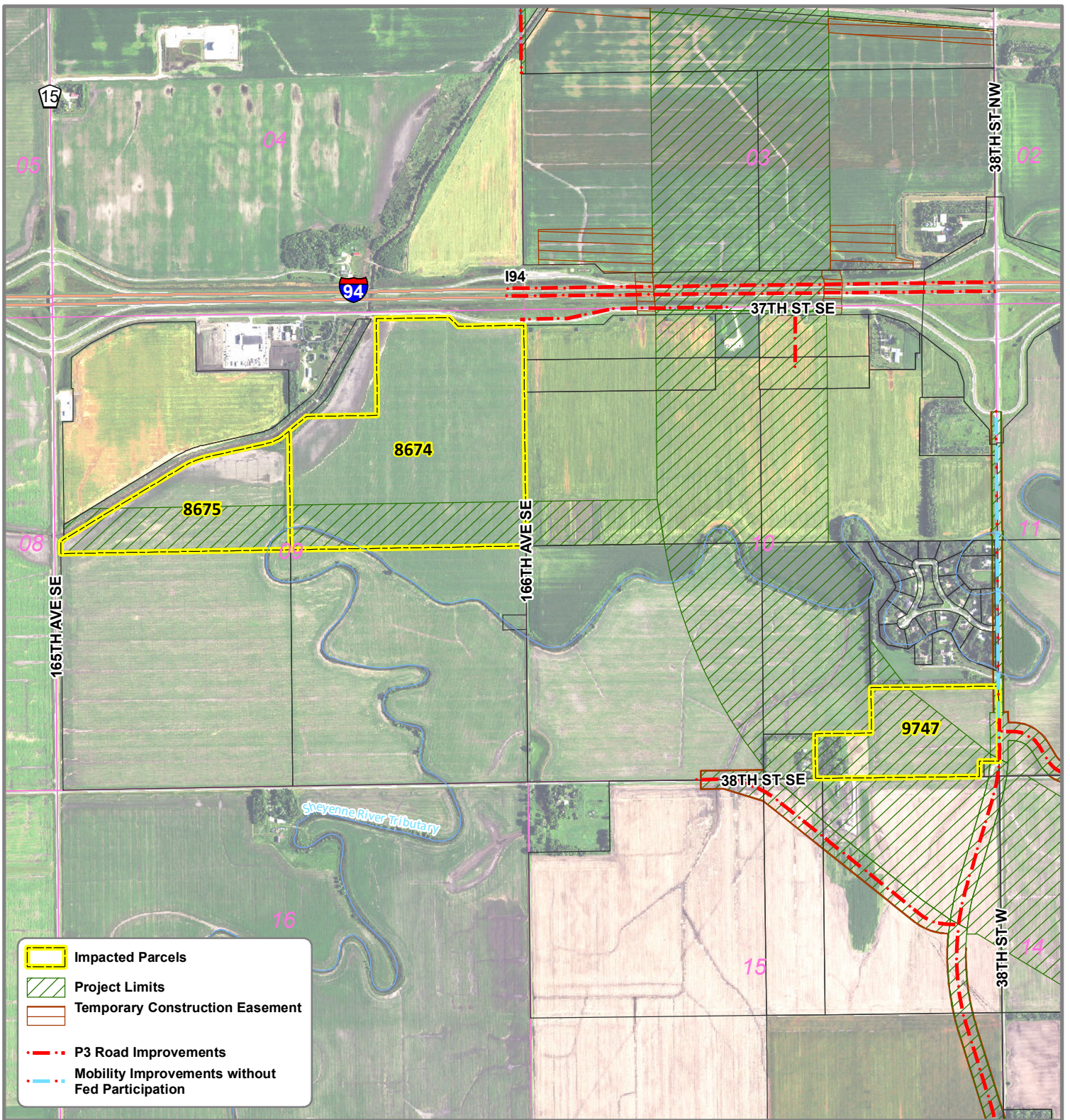
Negotiation Notes

- Previous landowner counteroffer \$1,698,980 for Parcels in both sections
- Landowner is represented by Attorney Steven J. Quam and he wrote a very lengthy counteroffer to CCJWRD's offer. The Board rejected the owner's counteroffer for the land in both Section 9 and 10. In consultation with the owner's attorney we decided to try to take this a bit more piecemeal. So, the Summary focuses just on the land in Section 9 (OIN 8672 8673 8674 8675).
- Proposed Settlement from owner:

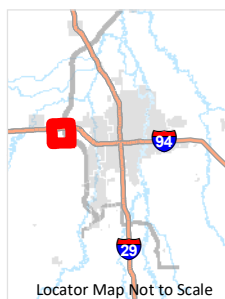
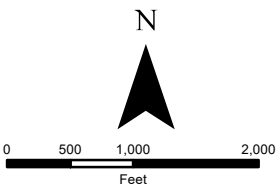
OIN	Needed Acres		Severance		
8675	26.92 A	\$ 9,507	\$ 255,928		
8674	29.97 A	\$ 9,507	\$ 284,925	96.03 A	\$ 950
8672 and 8673				303.5 A	\$ 500
Larger Parcel				9 A	\$ 950
	Remnant Acres				
8675	17.58	\$ 9,507	\$ 167,133		
				Total	\$ 959,515

Rational from Steve Quam:

- For the value of the land needed for the project, plus the additional 17.58 acre remnant that will be acquired, we request a value of \$9,507. This is supported not only by the data referenced in earlier emails, it is also consistent with the settlement, at roughly \$8,500 per acre, of the property located to the east. The difference between the Wanzek property and the parcels to the east is basic. The Wanzek property is adjacent to Interstate 94, the neighboring property is not. The frontage, and the visibility to the larger parcel that comes with it, justifies an adjustment or premium. This translates into \$707,986.29 in direct damages for the property that will be acquired.
- We also suggest severance in the amount of \$950 per acre for the remaining land that will be located north of the new ditch (96.03 acres). This represents a 10 percent reduction from the before value, and that is not an unreasonable adjustment. The owner's attorney has reviewed several appraisals that were prepared for the District that value caused by a property being located outside of the Sheyenne Diversion. Those appraisals suggest that property located outside of a diversion channel are far less valuable than property located within the diversion, and the impact is far greater than 10 percent. At \$950, severance for the remaining 96.03 acres is \$99,750.
- We also discussed severance for the remaining 303.5 acres. They suggest \$500 per acre for the remaining land. This is close to the appraised amount.
- **This was rejected by the CCJWRD on September 24, 2020**
- NO land in Section 10 is being negotiated. Owner feels we are too far apart to negotiate.



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 herein 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\LAP02-Phase 2 Land Acquisition\OIN 8674 8675 9747 Wanzek_06.17.20.mxd



Janet Wanzek, ETAL
Cass County, ND

OIN: 8674 OIN: 8675
 PIN: 53-0000-09052-000 PIN: 53-0000-09053-020

OIN: 9747
 PIN: 53-0000-09061-007

FM AREA DIVERSION
 Map Date: 6/17/2020





November 1, 2019

Janet Wanzek Estate
c/o Juliet F. Everist, PR
2913 S. Ridgeview Way
Sioux City, IA 51104

Janet Wanzek Estate
c/o Goldman Sachs Trust Company, N.A.
200 West Street
New York, NY 10282

Janet Wanzek Estate
c/o Jantze L. Haley, PR
4230 Woodland Trail
Golden Valley, MN 55422

Daniel Edwin Everist III Irrevocable Trust under
Agreement dated December 19, 2012
Nikolaus Larsen, Trustee
1805 Lake Street West
Minneapolis, MN 55408

RE: **Offer to Purchase**

Parcel ID: OIN 8672_8673_8674_8675_9747

Project Title: Fargo Moorhead Diversion

PID: 53-0000-09054-000, 53-0000-09055-000, 53-0000-09052-000, 53-0000-09053-020,
53-0000-09061-007

Dear Wanzek Family,

The Cass County Joint Water Resource District (CCJWRD) and other partners are constructing a flood control improvement project in your area. The CCJWRD has hired the HMG Group to aid in the acquisition of right-of-way for the project. You are receiving this letter as the owner of property that must be acquired for the project. This letter conveys CCJWRD's offer to purchase all interests in the real property that are necessary for the project. The interests being purchased (the "Parcel") are listed on Exhibit A (Acquisition Summary) and shown on Exhibit B (Certificate of Survey), and the amount stated in this letter as the purchase amount is for all of those interests. If the Parcel includes interests that another person or entity may own (for example a mortgage lender or easement holder), the CCJWRD's offer is contingent on all parties with interest agreeing to the amount and allocation of the purchase funds.

To determine market value of the interest being acquired, CCJWRD retained the services of the independent property appraisal firm, Crown Appraisals Inc. The appraiser has determined that the market value of the interests being purchased is **\$688,000.00**. 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 \$688,000.00 as Just Compensation for the property interests it must acquire from you.

Please note, at the time this appraisal was completed the Cass County Joint Water Resource District was proposing to purchase Temporary Construction Easement (TCE) for the project and therefore the appraisal and Certificate of Survey include TCE acres. However, the CCJWRD has determined not to proceed with purchasing all of the TCE and therefore your Just Compensation and Exhibit A includes only the updated TCE acres and values.

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

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

If you have any questions about the acquisition process, please contact me at 763-249-6785 or by email at khelvey@srfconsulting.com. We are here to help you understand the process and to assist in negotiating a fair direct purchase of the Parcel, however, we do not represent you. We are willing to meet with you in person as well as set up a time to discuss questions on the phone.

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

- Copy of the appraisal for Parcel ID OIN 8672_8673_8674_8675_9747 by Crown Appraisals 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,



Ken Helvey
Principal
Direct # 763-249-6785
khelvey@srfconsulting.com
One North Second Street, Fargo, ND 58102

Enclosures: Appraisal Report, Exhibit A, Exhibit B

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

Janet Wanzek Estate
By: Juliet F. Everist, Personal Representative

Janet Wanzek Estate
By: Jantze L. Haley, Personal Representative

Janet Wanzek Estate
Goldman Sachs Trust Company, N.A., Personal Representative
By: _____
Its: _____

Daniel Edwin Everist III Irrevocable Trust under Agreement dated December 19, 2012
By: Nikolaus Larsen, Trustee

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Offer to Purchase

Parcel ID: OIN 8672_8673_8674_8675_9747

Project Title: Fargo Moorhead Diversion

PID: 53-0000-09054-000, 53-0000-09055-000, 53-0000-09052-000, 53-0000-09053-020,
53-0000-09061-007

Recorded Fee Owner: Janet Wanzek Estate Etal

Property Legal Description:

SEE ATTACHED APPRAISAL AND SURVEYS

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

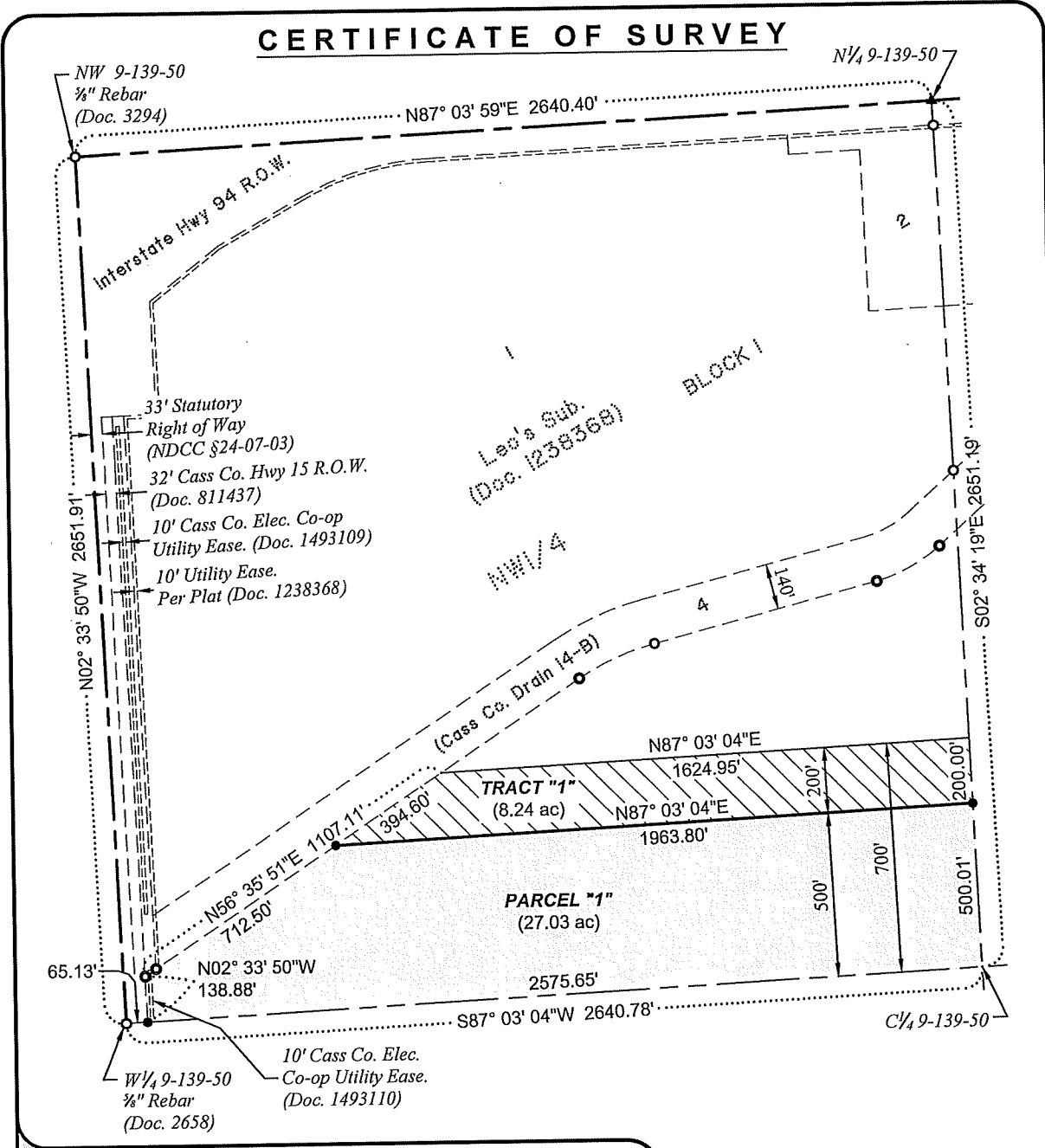
Parcel Value	Area Size/ Description	Per Unit	Indicated Value
Severance OIN 8672 8673	303.5 Acres	\$ 364	\$ 110,474.00
Land/Site Taking OIN 8674	29.97 Acres 0.38 Acres	\$ 7,407 \$ 0.00	\$ 221,987.79
Severance OIN 8674	96.03 Acres	\$ 267	\$ 25,640.01
Land/Site Taking OIN 8675	26.92 Acres 0.11 Acres	\$ 4,799 \$ 0.00	\$ 129,189.08
Severance OIN 8675	17.58 Acres	\$ 364	\$ 6,399.12

Enclosures: Appraisal Report, Exhibit A, Exhibit B

I:\Projects\7715-18\RW_Parcels\8672 8673 8674 8675 9747 Janet Wanzek Estate\OIN 8672 8673 8674 8675 9747 Wanzek Etal - Offer Letter (002).docx

Severance Larger Parcel	9 Acres	\$ 267	\$ 2,403.00
Land/Site Taking OIN 9747	31.13 Acres	\$ 5,843	\$ 181,892.59
Severance OIN 9747	8.32 Acres	\$ 1,168	\$ 9,717.76
Temporary Easement	0.07 Acres	\$ 165 (x 5 years)	\$ 57.75
TOTAL (rounded)			\$ 688,000.00

CERTIFICATE OF SURVEY

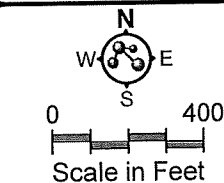


BASIS OF BEARING

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) Subject to a Kaneb Pipe Line Operating Partnership, L.P. Utility Easement (Doc. 1051377)



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

PRELIMINARY

JANET WANZEK, ETAL

Plat of the North West Quarter (NW1/4),
Section 9, T139N, R50W, Cass County, ND

CERTIFICATE OF SURVEY

DRAWING TYPE COS	DATE May 18, 2017
PROJECT NUMBER P-10735-2017-001	DATE 10/05/2020
PREPARED BY TML	DRAWING 1



Plotted By: Tam Landrecht Date: Monday, July 10, 2017

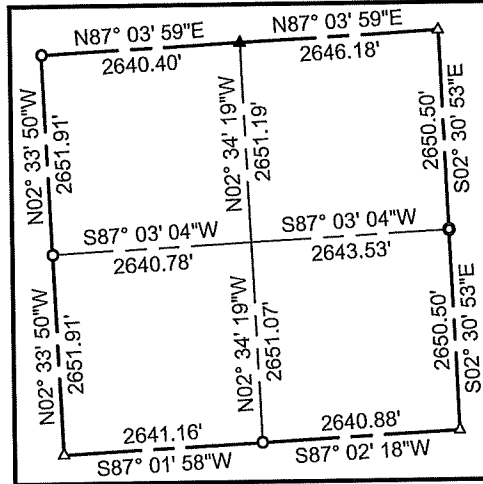
File: W:\SH\2017\17-05\17-05-001\17-05-001.dwg Plot Date: 10/05/2020 10:05:20 AM User: jwanzek

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CERTIFICATE OF SURVEY

Part of the Northwest Quarter (NW1/4) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota.

SECTION 9



PARENT PARCEL - FROM QUIT CLAIM DEED DOC. NO. 1374782
 OWNER: JANET WANZEK, ETAL

That part of the Northwest Quarter of Section Nine, in Township One Hundred Thirty-nine North of Range Fifty, West of the Fifth Principal Meridian, Cass County, North Dakota, except that part included in the plat of Leo's Subdivision, and except highway rights of way.

PARCEL "1" - LEGAL DESCRIPTION

That part of the Northeast Quarter (NE1/4) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South Five Hundred (500.00) feet of the NE1/4, LESS all that portion within Leo's Subdivision, also LESS all that portion within the Cass County Highway Right-of-way.

Said parcel contains 27.03 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 Northeast Quarter (NE1/4) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The North Two Hundred (200.00) feet of the South Seven Hundred (700.00) feet of the NE1/4, LESS all that portion within Leo's Subdivision, also LESS all that portion within the Cass County Highway Right-of-way.

Said tract contains 8.24 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

	JANET WANZEK, ETAL Part of the Northwest Quarter (NW1/4), Section 9, T139N, R50W, Cass County, ND	DRAWING TYPE COS	DATE May 18, 2017
	CERTIFICATE OF SURVEY	PROJECT NUMBER P10733-4-10-15 011120	SHEET 2 OF 3
		PREPARED BY TML	DRAWING 2

Page 13 of 54 10/05/2020

Plotted By: Tara Lenzbrecht Date: Monday, July 10, 2017 File: W:\0124\0124-18 - PA Division Land Acquisition Management\Survey Support\Survey Data\Drawings\1139N R50W Section 9\015 Janet Wanzek Etal.dwg Layout: COS (P)

CERTIFICATE OF SURVEY

Part of the Northwest Quarter (NW1/4) of Section 9, Township 139 North, Range 50 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. Stattelman
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. 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: _____

RESERVED FOR COUNTY RECORDER USE



JANET WANZEK, ETAL
Part of the Northwest Quarter (NW1/4),
Section 9, T139N, R50W, Cass County, ND

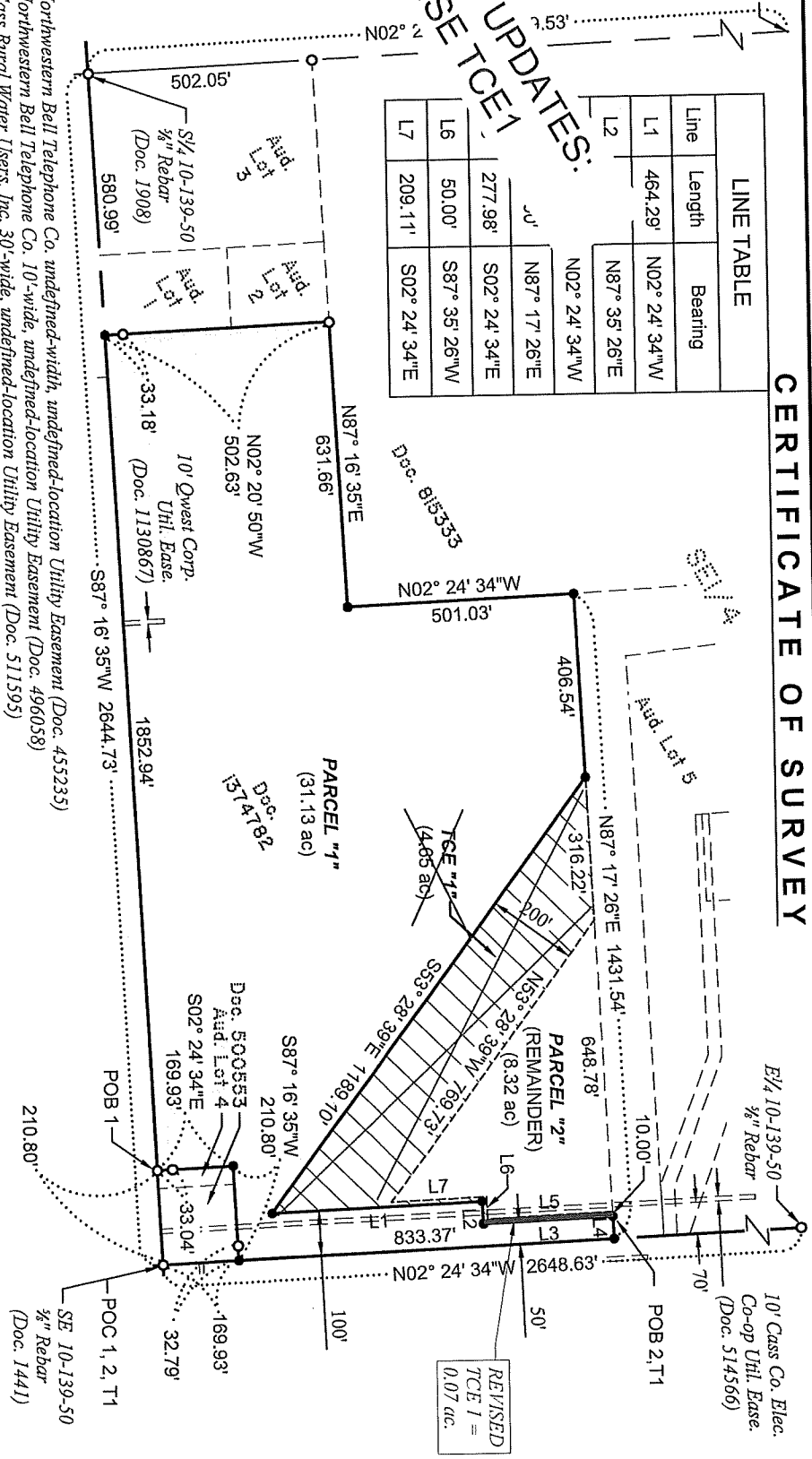
CERTIFICATE OF SURVEY

DRAWING TYPE COS	DATE May 18, 2017
PROJECT NO. P10733-2017-011	DATE 10/05/2020
PREPARED BY TML	DRAWING 3

CERTIFICATE OF SURVEY

NEEDS UPDATES:
-REVISE TCE!

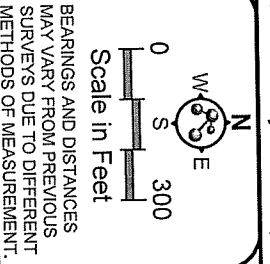
LINE TABLE		
Line	Length	Bearing
L1	464.29'	N02° 24' 34"W
L2		N87° 35' 26"E
		N02° 24' 34"W
		N87° 17' 26"E
		S02° 24' 34"E
L6	50.00'	S87° 35' 26"W
L7	209.11'	S02° 24' 34"E



Notes:
 1) Subject to a Northwestern Bell Telephone Co. undefined-width, undefined-location Utility Easement (Doc. 455235)
 2) Subject to a Northwestern Bell Telephone Co. 10'-wide, undefined-location Utility Easement (Doc. 496058)
 3) Subject to a Cass Rural Water Users, Inc. 30'-wide, undefined-location Utility Easement (Doc. 511595)
 4) Subject to a Cass Co. Electric Co-op, Inc. 10'-wide, undefined-location Utility Easement (Doc. 542966)

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

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



SECTION LINE
 1/4 LINE
 1/4 - 1/4 LINE
 EXIST. PARCEL LINE
 EXIST. EASE.
 NEW PARCEL LINE
 NEW DIVERSION PARCEL
 TEMP. CONST. EASE.
 DEEDED R.O.W.

LEGEND

	END ORIGINAL MON.
	FIND IRON MON. W/ ALUM. CAP
	FIND IRON MON. W/ PLASTIC CAP
	FIND IRON MON.
	SET IRON MON. W/ PLASTIC CAP LS-8218
	SET IRON MON. W/ ALUM. CAP LS-8218
	MEASURED
	PREVIOUSLY RECORDED

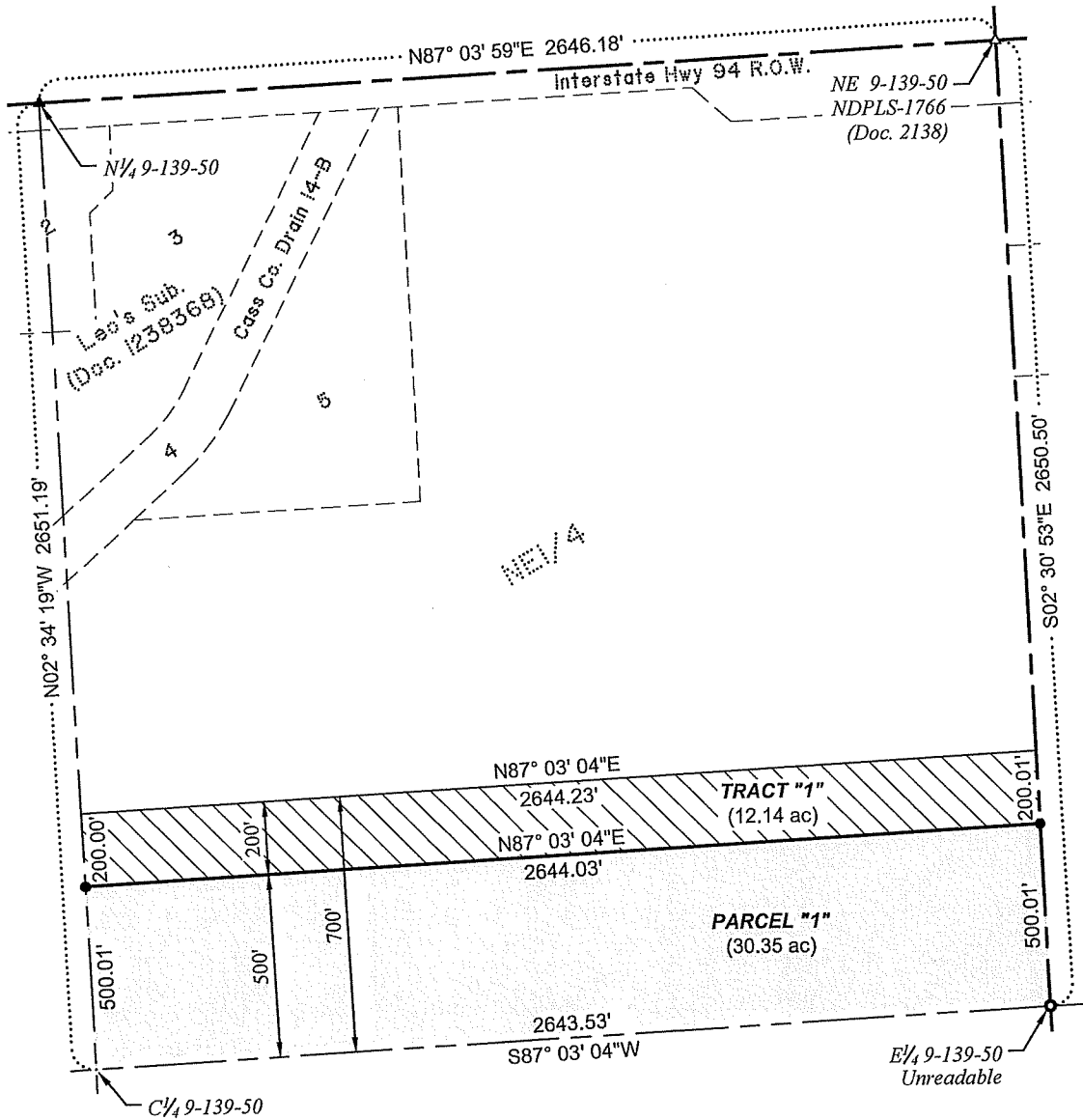
PRELIMINARY

DRAWING TYPE: COS
 PROJECT NUMBER: P/101702
 PREPARED BY: TML
 DATE OF SURVEY: MAY 18, 2017
 SHEET: 1 OF 4
 PROJECT OR: 9747

JANET WANZEK, ETAL
 Part of the Southeast Quarter (SE1/4),
 Section 16, Township 35N, Range 14E, County, ND
Page 15 of 54
 CERTIFICATE OF SURVEY



CERTIFICATE OF SURVEY



BASIS OF BEARING

COORDINATE SYSTEM:
ND STATE PLANE - SOUTH ZONE

HORIZONTAL DATUM:
NAD83 (Conus)

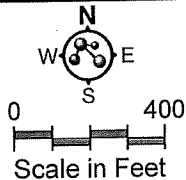
VERTICAL DATUM:
NAVD 88 (GEOID 09)

DISTANCES:
MEASURED ON THE GROUND IN
U.S. SURVEY FEET

BASIS OF BEARINGS:
GRID NORTH

Notes:

- 1) Subject to a Northwestern Bell Telephone Co. 10'-wide, undefined-location Utility Easement (Doc. 704296)
- 2) Subject to a Kanab Pipe Line Operating Partnership, L.P. Utility Easement (Doc. 1051377)



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

LEGEND

- | | | | |
|-------|----------------------|-----|--------------------------------------|
| ----- | SECTION LINE | ■ | FND ORIGINAL MON. |
| ----- | 1/4 LINE | △ | FND IRON MON. W/ ALUM. CAP |
| ----- | 1/4 -1/4 LINE | ○ | FND IRON MON. W/ PLASTIC CAP |
| ----- | EXIST. PARCEL LINE | ○ | FND IRON MON. |
| ----- | EXIST. EASE. | ● | SET IRON MON. W/ PLASTIC CAP LS-8218 |
| ----- | NEW PARCEL LINE | ▲ | SET IRON MON. W/ ALUM. CAP LS-8218 |
| ▨ | NEW DIVERSION PARCEL | (M) | MEASURED |
| ▨ | TEMP. CONST. EASE. | (R) | PREVIOUSLY RECORDED |
| XXXX | DEEDED R.O.W. | | |

PRELIMINARY

JANET WANZEK, ETAL

Part of the Northeast Quarter (NE 1/4),
Section 9, T139N, R50W, Cass County, ND

CERTIFICATE OF SURVEY

DRAWING TYPE COS	DATE May 18, 2017
---------------------	----------------------

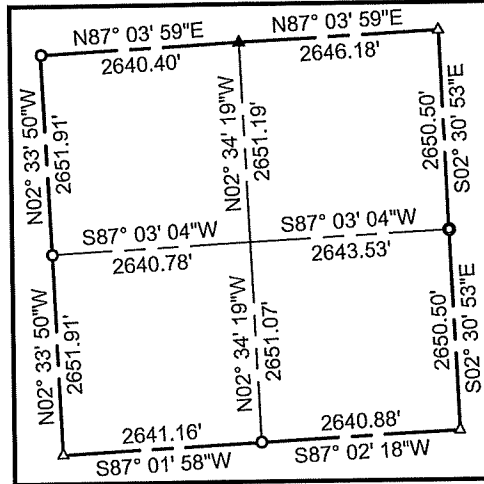
PROJECT NUMBER P10733-2-1011	DATE 10/05/2020
PREPARED BY TML	DRAWING 1



CERTIFICATE OF SURVEY

Part of the Northeast Quarter (NE1/4) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota.

SECTION 9



PARENT PARCEL - FROM QUIT CLAIM DEED DOC. NO. 1374782
 OWNER: JANET WANZEK, ETAL

The Northeast Quarter of Section Nine, in Township One Hundred Thirty-nine North of Range Fifty West of the Fifth Principal Meridian, situate in the County of Cass and the State of North Dakota, except the following described parcel:

Beginning at a point on the West line of said Northeast Quarter a distance of Seventy-five feet South of the Northwest corner of said Northeast Quarter; said point of beginning lying on the South Right-of-Way of Interstate Highway No. 94 Service Road; thence North 89°38'50" East parallel to the North line of said Northeast Quarter and along said highway Right-of-Way for a distance of Nine Hundred Eighty-eight and Fifty-three hundredths feet; thence South 00°00'00" West parallel to the West line of said Northeast Quarter for a distance of One Thousand Eighty-three and Thirty-eight hundredths feet; thence South 89°38'50" West parallel to the North line of said Northeast Quarter for a distance of Nine Hundred Eighty-eight and Fifty-three hundredths feet to the West line of said Northeast Quarter; thence North 00°00'00" East along the West line of said Northeast Quarter for a distance of One Thousand Eighty-three and Thirty-eight hundredths feet to the point of beginning, and except a ninety-nine foot (99') wide strip of land for Cass County Drain #14.

PARCEL "1" - LEGAL DESCRIPTION

That part of the Northeast Quarter (NE1/4) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South Five Hundred (500.00) feet of the NE1/4 of Section 9.

Said parcel contains 30.35 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 Northeast Quarter (NE1/4) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The North Two Hundred (200.00) feet of the South Seven Hundred (700.00) feet of the NE1/4 of Section 9.

Said tract contains 12.14 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

	JANET WANZEK, ETAL Part of the Northeast Quarter (NE1/4), Section 9, T139N, R50W, Cass County, ND	DRAWING TYPE COS	DATE May 18, 2017
	CERTIFICATE OF SURVEY	PROJECT NUMBER P107933	SHEET 3
PREPARED BY TML		DRAWING 2	

Page 17 of 54

10/05/2020

Plotted By: Nick Sabban Date: Thursday, June 29, 2017
 File: W:\CH\2017\2017 - FM Division Land Acquisition Management\Survey Support\Survey Data\DWG\2017\139N\50W\Section 9\2017 Janet Wanzek ELS\2017 - Janet Wanzek ELS.dwg Layout: COS (2)



FAQs >

Track Another Package +

8072 8073 8074 8075
WanzeK 9747

Tracking Number: 9505516760619305001113

Remove X

Your item was delivered in or at the mailbox at 2:00 pm on November 2, 2019 in MINNEAPOLIS, MN 55422.

Delivered

November 2, 2019 at 2:00 pm
Delivered, In/At Mailbox
MINNEAPOLIS, MN 55422

Feedback

Get Updates v

- **Text & Email Updates** v
- **Tracking History** v
- **Product Information** v

See Less ^

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.



[FAQs >](#)

Track Another Package +

8072 8073 8074 8075
9747
wanzek

Tracking Number: 9505516760619305001120

[Remove X](#)

Your item was delivered in or at the mailbox at 4:06 pm on November 4, 2019 in MINNEAPOLIS, MN 55408.

Delivered

November 4, 2019 at 4:06 pm
Delivered, In/At Mailbox
MINNEAPOLIS, MN 55408

Get Updates

Feedback

Text & Email Updates

Tracking History

Product Information

See Less

Can't find what you're looking for?

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



FAQs >

Track Another Package +

8072 8073 8074 8075
wanzek 9747

Tracking Number: 9505516760619305001106

Remove X

Your item has been delivered to an agent at 12:31 pm on November 4, 2019 in NEW YORK, NY 10007.

Delivered

November 4, 2019 at 12:31 pm
Delivered, To Agent
NEW YORK, NY 10007

Get Updates v

Feedback

Text & Email Updates v

Tracking History v

Product Information v

See Less ^

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.



[FAQs >](#)

Track Another Package +

8072 8073 8074 8075
Wanzek 9747

Tracking Number: 9505516760619305001090

[Remove X](#)

Your item was delivered in or at the mailbox at 4:44 pm on November 5, 2019 in SIOUX FALLS, SD 57105.

Delivered

November 5, 2019 at 4:44 pm
Delivered, In/At Mailbox
SIOUX FALLS, SD 57105

Feedback

Get Updates

- **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

March 13, 2020

**Cass County
Joint Water
Resource
District**

Juliet F. Everist
Co-Personal Representative of the Janet Wanzek Estate
37 McDonald Drive
Sioux City, IA 51104
Certified No. 7018 0040 0000 5525 7356

Dan Jacobson
Chairman
West Fargo, North Dakota

Jantze L. Haley
Co-Personal Representative of the Janet Wanzek Estate
4230 Woodland Trail
Golden Valley, MN 55422
Certified No. 7018 0040 0000 5525 7363

Rodger Olson
Manager
Leonard, North Dakota

Goldman Sachs Trust Company, N.A.
Co-Personal Representative of the Janet Wanzek Estate
200 West Street
New York, NY 10282
Certified No. 7018 0040 0000 5525 7370

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Nikolaus Larsen
Trustee of the Daniel Edwin Everist III Irrevocable Trust
1805 Lake Street West, Apt. 402
Minneapolis, MN 55408
Certified No. 7018 0040 0000 5525 7387

Keith Weston
Manager
Fargo, North Dakota

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OINs: 8672, 8673, 8674, 8675, 9747
Parcel Nos.: 53-0000-09054-000, 53-0000-09055-000, 53-0000-09052-000,
53-0000-09053-020, 53-0000-09061-007

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

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 over property located in Cass County and identified as Parcel Identification Numbers 53-0000-09054-000, 53-0000-09055-000, 53-0000-09052-000, 53-0000-09053-020, and 53-0000-09061-007. The legal description of the property to be acquired is:

Right of Way:

OIN 8674

That part of the Northeast Quarter (NE1/4) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South Five Hundred (500.00) feet of the NE1/4 of Section 9.

Said parcel contains 30.35 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 8675

That part of the Northwest Quarter (NW1/4) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South Five Hundred (500.00) feet of the NW1/4, LESS all that portion within Leo's Subdivision, also LESS all that portion within the Cass County Highway Right-of-way.

Said parcel contains 27.03 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9747

That part of the Southeast Quarter (SE1/4) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southeast Quarter (SE1/4) of Section 10; thence South 87° 16' 35" West on the south line of said SE1/4 a distance of 210.80 feet to Point of Beginning; thence continuing South 87° 16' 35" West on said south line a distance of 1852.94 feet to the southeast corner Auditor's Lot 1; thence North 02° 20' 50" West on the east line of said Aud. Lot 1 and Auditor's Lot 2 a distance of 502.63 feet to the northeast corner of said Aud. Lot 2; thence North 87° 16' 35" East on the north line of the parcel described in Document No. 1374782, records of Cass County, a distance of 631.66 feet; thence North 02° 24' 34" West on the west line of said parcel a distance of 501.03 feet to the southwest corner of Aud. Lot 5; thence North 87° 17' 26" East on the south line of said Aud. Lot 5 a distance of 406.54 feet; thence South 53° 28' 39" East a distance of 1189.10 feet; thence North 02° 24' 34" West parallel with, and 100 feet west of, the east line of said SE1/4 a distance of 464.29 feet; thence North 87° 35' 26" East perpendicular to said east line of the SE1/4 a distance of 50.00 feet; thence North 02° 24' 34" West parallel with, and 50 feet west of, said east line of the SE1/4 a distance of 288.04 feet to said south line of Aud. Lot 5; thence North 87° 17' 26" East on said south line of Aud. Lot 5 a distance of 50.00 feet to said east line of the SE1/4; thence South 02° 24' 34" East on said east line of the SE1/4 a distance of 833.37 feet to the northeast corner of the parcel described in Doc. No. 500553,

records of Cass County; thence South 87° 16' 35" West on the north line of said parcel and the north line of Auditor's Lot 4 a distance of 210.80 feet to the northwest corner of said Aud. Lot 4; thence South 02° 24' 34" East on the west line of said Aud. Lot 4 a distance of 169.93 feet to the Point of Beginning.

Said parcel contains 31.13 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

That part of the Southeast Quarter (SE1/4) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southeast Quarter (SE1/4) of Section 10; thence North 02° 24' 34" West on the east line of said SE1/4 a distance of 1003.30 feet to the south line of Auditor's Lot 5; thence South 87° 17' 26" West on said south line a distance of 50.00 feet to the Point of Beginning; thence continuing South 87° 17' 26" West on said south line a distance of 10.00 feet; thence South 02° 24' 34" East a distance of 287.98 feet; thence North 87° 35' 26" East a distance of 10.00 feet; thence North 02° 24' 34" West a distance of 288.04 feet to the Point of Beginning.

Said easement contains 0.07 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 \$532,472.00, and the temporary easement is \$57.75, plus severance damages to the remainder of your property in the amount of \$154,606.13, for a total purchase price of \$ 687,135.88, rounded to \$688,000.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$688,000.00 as just compensation to purchase right of way and temporary easement from you for the Project. If you are willing to accept the District's offer, please sign the enclosed *Purchase Agreement* and return it to the District in the enclosed self-addressed, stamped envelope.

You are encouraged to maintain contact with the land agent assigned to your property. **Ken Helvey** of SRF Consulting Group, Inc. can be reached at **(763) 249-6785** or **khelvey@srfconsulting.com**. Ken is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way and temporary easement from you for the Project.

Janet Wanzek Estate, et al
March 13, 2020
Page 4

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

Enclosures

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

SENDER: COMPLETE THIS SECTION

- Complete 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:

JANTZE L HALEY
 CO - PERSONAL REPRESENTATIVE
 JANET WANZEL ESTATE
 4230 WOODLAND TRAIL
 GOLDEN VALLEY MN 55422



9590 9402 3806 8032 1528 60

2. Article Number (Transfer from service label)

7018 0040 0000 5525 7363

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

3/14/2020

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

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:
 JULIET F EVERIST
 CO-PERSONAL REPRESENTATIVE
 JANET WANZEK ESTATE
 37 McDONALD DRIVE
 SIOUX CITY IA 51104



9590 9402 3806 8032 1528 77

2. Article Number (Transfer from service label)

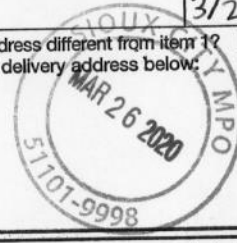
7018 0040 0000 5525 7356

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery
 3/26/2020

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

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

Domestic Return Receipt



VIA EMAIL ONLY – SQUAM@FREDLAW.COM

Cass County
Joint Water
Resource
District

May 22, 2020

Juliet F. Everist
Co-Personal Representative of the Janet Wanzek Estate
2913 South Ridgeway Way
Sioux City, IA 51104

Dan Jacobson
Chairman
West Fargo, North Dakota

Jantze L. Haley
Co-Personal Representative of the Janet Wanzek Estate
4230 Woodland Trail
Golden Valley, MN 55422

Rodger Olson
Manager
Leonard, North Dakota

Goldman Sachs Trust Company, N.A.
Co-Personal Representative of the Janet Wanzek Estate
200 West Street
New York, NY 10282

Ken Lougheed
Manager
Gardner, North Dakota

Nikolaus Larsen
Trustee of the Daniel Edwin Everist III Irrevocable Trust
1805 Lake Street West, Apt. 402
Minneapolis, MN 55408

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 Meeting
OINs: 8672, 8673, 8674, 8675, 9747
Parcel Nos.: 53-0000-09054-000, 53-0000-09055-000,
53-0000-09052-000, 53-0000-09053-020, 53-0000-09061-007

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). The District previously provided you a letter dated March 13, 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

1201 Main Avenue West
West Fargo, ND 58078-1301

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

Janet Wanzek Estate
OINs 8672, 8673, 8674, 8675
May 22, 2020
Page 2

The District requests your attendance at a meeting to discuss the District's offer to purchase right of way and temporary easement 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.

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

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

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

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

Sincerely,





CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

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

RE: Request to meet with the Cass County Joint WRD - Janet Wanzek Estate (OINs 8672-8675, 9747)

 Quam, Steven <squam@fredlaw.com>
To  Maertens, Melissa
Cc  Chris McShane;  Ken Helvey

 Reply  Reply All  Forward 

Wed 5/27/2020 8:11 AM

 You replied to this message on 5/29/2020 10:56 AM.

CAUTION: EXTERNAL EMAIL

Melissa, Chris, and Ken—

I am confirming that I received the email. Thanks.

As you may recall, I called into the meeting on May 14. If it makes sense to you, My plan would be touch base with Ken sometime next week, and then to participate in the June 11 call if the group thought it would be helpful. Does that make sense to you?

Thanks,

Steve Quam

From: Maertens, Melissa <MaertensM@casscountynd.gov>
Sent: Friday, May 22, 2020 4:30 PM
To: Quam, Steven <squam@fredlaw.com>
Cc: Chris McShane <cmcshane@ohnstadlaw.com>; Ken Helvey <khelvey@srfconsulting.com>
Subject: Request to meet with the Cass County Joint WRD - Janet Wanzek Estate (OINs 8672-8675, 9747)

[EXTERNAL E-MAIL]

Good afternoon Steven,

Attached please find a request to meet with the Cass County Joint Water Resource District regarding the Janet Wanzek Estate parcels (OINs 8672-8675, 9747) regarding the Metro Flood Diversion Project. Please confirm you have received the attached letter.

Best regards,
Melissa

Melissa Maertens
Administrative Assistant
Cass County Water Resource Districts
1201 Main Avenue West



VIA EMAIL ONLY – SQUAM@FREDLAW.COM

Cass County
Joint Water
Resource
District

July 8, 2020

Juliet F. Everist
Co-Personal Representative of the Janet Wanzek Estate
37 McDonald Drive
Sioux City, IA 51104

Dan Jacobson
Chairman
West Fargo, North Dakota

Jantze L. Haley
Co-Personal Representative of the Janet Wanzek Estate
4230 Woodland Trail
Golden Valley, MN 55422

Rodger Olson
Manager
Leonard, North Dakota

Goldman Sachs Trust Company, N.A.
Co-Personal Representative of the Janet Wanzek Estate
200 West Street
New York, NY 10282

Ken Lougheed
Manager
Gardner, North Dakota

Nikolaus Larsen
Trustee of the Daniel Edwin Everist III Irrevocable Trust
1805 Lake Street West, Apt. 402
Minneapolis, MN 55408

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
OINs: 8672, 8673, 8674, 8675, 9747
Parcel Nos. 53-0000-09054-000, 53-0000-09055-000, 53-0000-09052-000,
53-0000-09053-020, 53-0000-09061-007

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

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). On behalf of the District, I previously provided you a letter dated March 13, 2020, a copy of the District's appraisal for your right of way and temporary easement, and a Purchase Agreement as the District's offer of just compensation to purchase the right of way and temporary easement from you. In addition, I also provided you a letter dated 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.

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

Janet Wanzek Estate
OINs 8672, 8673, 8674, 8675, 9747
July 8, 2020
Page 2

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.

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

You are encouraged to maintain contact with the land agent assigned to your property. **Ken Helvey** of **SRF Consulting Group, Inc.** can be reached at **(763) 249-6785** or **khelvey@srfconsulting.com**. Ken is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way and temporary easement from you for the Project.

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

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

RE: Metro Flood Diversion Project - Janet Wanzek Estate



Quam, Steven <squam@fredlaw.com>
To Maertens, Melissa
Cc Chris McShane; khelvey@srfconsulting.com

Reply Reply All Forward

Fri 7/10/2020 8:10 AM

CAUTION: EXTERNAL EMAIL

Melissa-

Confirmed that letter was received.

From: Maertens, Melissa <MaertensM@casscountynd.gov>
Sent: Wednesday, July 8, 2020 4:54 PM
To: Quam, Steven <squam@fredlaw.com>
Cc: Chris McShane <cmcshane@ohnstadlaw.com>; khelvey@srfconsulting.com
Subject: Metro Flood Diversion Project - Janet Wanzek Estate

[EXTERNAL E-MAIL]

Good afternoon Steven,

Attached please find a letter from the Cass County Joint Water Resource District regarding the Janet Wanzek Estate parcels (OINs 8672-8675, 9747) regarding the Metro Flood Diversion Project. Please confirm when you have received the attached letter.

Best regards,
Melissa

Melissa Maertens
Administrative Assistant
Cass County Water Resource Districts



SENT VIA EMAIL 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

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Approval to Take Possession of Necessary Right of Way and
Temporary Easement
OINs: 8672, 8673, 8674, 8675, 9747
Parcel Nos. 53-0000-09054-000, 53-0000-09055-000,
53-0000-09052-000, 53-0000-09053-020, 53-0000-09061-007

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 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 Juliet F. Everist, Jantze L. Haley and the Goldman Sachs Trust Company, N.A. as Co-Personal Representatives of the Janet Wanzek Estate, and Nikolas Larsen as Trustee of the Daniel Edwin Everist III Irrevocable Trust (the "Landowner"):

- Letter dated March 13, 2020, enclosing the District's appraisal for the acquisition of the right of way and temporary easement from the Landowner and a proposed Purchase Agreement;
- Letter dated 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 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 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
wrđ@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 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 and temporary easement is as follows:

Right of Way Easement:

OIN 8674

That part of the Northeast Quarter (NE¼) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South Five Hundred (500.00) feet of the NE¼ of Section 9.

Said parcel contains 30.35 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 8675

That part of the Northeast Quarter (NW¼) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South Five Hundred (500.00) feet of the NW¼, LESS all that portion within Leo's Subdivision, also LESS all that portion within the Cass County Highway Right-of-way.

Said parcel contains 27.03 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9747

That part of the Southeast Quarter (SE¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southeast Quarter (SE¼) of Section 10; thence South 87° 16' 35" West on the south line of said SE¼ a distance of 210.80 feet to Point of Beginning; thence continuing South 87° 16' 35" West on said south line a distance of 1852.94 feet to the southeast corner Auditor's Lot 1; thence North 02° 20' 50" West on the east line of said Aud. Lot 1 and Auditor's Lot 2 a distance of 502.63 feet to the northeast corner of said Aud. Lot 2; thence North 87° 16' 35" East on the north line of the parcel described in Document No. 1374782, records of Cass County, a distance of 631.66 feet; thence North 02° 24' 34" West on the west line of said parcel a distance of 501.03 feet to the southwest corner of Aud. Lot 5; thence North 87° 17' 26" East on the south line of said Aud. Lot 5 a distance of 406.54 feet; thence South 53° 28' 39" East a distance of 1189.10 feet; thence North 02° 24' 34" West parallel with, and 100 feet west of, the east line of said SE¼ a distance of 464.29 feet; thence North 87° 35' 26" East perpendicular to said east line of the SE¼ a distance of 50.00 feet; thence North 02° 24' 34" West parallel with, and 50 feet west of, said east line of the SE¼ a distance of 288.04 feet to said south line of Aud. Lot 5; thence North 87° 17' 26" East on said south line of Aud. Lot 5 a distance of 50.00 feet to said east line of

the SE¼; thence South 02° 24' 34" East on said east line of the SE¼ a distance of 833.37 feet to the northeast corner of the parcel described in Doc. No. 500553, records of Cass County; thence South 87° 16' 35" West on the north line of said parcel and the north line of Auditor's Lot 4 a distance of 210.80 feet to the northwest corner of said Aud. Lot 4; thence South 02° 24' 34" East on the west line of said Aud. Lot 4 a distance of 169.93 feet to the Point of Beginning.

Said parcel contains 31.13 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

That part of the Southeast Quarter (SE¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southeast Quarter (SE¼) of Section 10; thence North 02° 24' 34" West on the east line of said SE¼ a distance of 1003.30 feet to the south line of Auditor's Lot 5; thence South 87° 17' 26" West on said south line a distance of 50.00 feet to the Point of Beginning; thence continuing South 87° 17' 26" West on said south line a distance of 10.00 feet; thence South 02° 24' 34" East a distance of 287.98 feet; thence North 87° 35' 26" East a distance of 10.00 feet; thence North 02° 24' 34" West a distance of 288.04 feet to the Point of Beginning.

Said easement contains 0.07 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.

Robert Wilson
August 21, 2020
Page 4

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

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



August 26, 2020

VIA EMAIL ONLY – SQUAM@FREDLAW.COM

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

Juliet F. Everist
Co-Personal Representative of the Janet Wanzek Estate
37 McDonald Drive
Sioux City, IA 51104

Jantze L. Haley
Co-Personal Representative of the Janet Wanzek Estate
4230 Woodland Trail
Golden Valley, MN 55422

Goldman Sachs Trust Company, N.A.
Co-Personal Representative of the Janet Wanzek Estate
200 West Street
New York, NY 10282

Nikolas Larsen
Trustee of the Daniel Edwin Everist III Irrevocable Trust
1805 Lake Street West, Apt. 402
Minneapolis, MN 55408

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OINs: 8672; 8673; 8674; 8675; 9747
Parcel Nos.: 53-0000-09054-000; 53-0000-09055-000;
53-0000-09052-000; 53-0000-09053-020; 53-0000-09061-007

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 easements necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding the 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:

Heather Worden
Commission Assistant

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

- Letter dated March 13, 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 8, 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.

The District informed the Commission that you and the District have not reached a mutually acceptable agreement, and have not signed a purchase agreement, regarding the right of way and temporary easement the District must purchase from you to accommodate the Project. With that in mind, the District recently requested approval from the Commission to utilize quick take eminent domain to take possession of the right of way and temporary easement the District must acquire from you. The legal description of the necessary right of way and temporary easement is as follows:

Right of Way Easement:
OIN 8674

That part of the Northeast Quarter (NE $\frac{1}{4}$) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South Five Hundred (500.00) feet of the NE $\frac{1}{4}$ of Section 9.

Said parcel contains 30.35 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 8675

That part of the Northeast Quarter (NW $\frac{1}{4}$) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South Five Hundred (500.00) feet of the NW $\frac{1}{4}$, LESS all that portion within Leo's Subdivision, also LESS all that portion within the Cass County Highway Right-of-way.

Said parcel contains 27.03 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9747

That part of the Southeast Quarter (SE $\frac{1}{4}$) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southeast Quarter (SE $\frac{1}{4}$) of Section 10;
thence South 87° 16' 35" West on the south line of said SE $\frac{1}{4}$ a distance of 210.80 feet to Point of Beginning;
thence continuing South 87° 16' 35" West on said south line a distance of 1852.94 feet to the southeast corner Auditor's Lot 1;
thence North 02° 20' 50" West on the east line of said Aud. Lot 1 and Auditor's Lot 2 a distance of 502.63 feet to the northeast corner of said Aud. Lot 2;
thence North 87° 16' 35" East on the north line of the parcel described in Document No. 1374782, records of Cass County, a distance of 631.66 feet;
thence North 02° 24' 34" West on the west line of said parcel a distance of 501.03 feet to the southwest corner of Aud. Lot 5;
thence North 87° 17' 26" East on the south line of said Aud. Lot 5 a distance of 406.54 feet;
thence South 53° 28' 39" East a distance of 1189.10 feet;
thence North 02° 24' 34" West parallel with, and 100 feet west of, the east line of said SE $\frac{1}{4}$ a distance of 464.29 feet;
thence North 87° 35' 26" East perpendicular to said east line of the SE $\frac{1}{4}$ a distance of 50.00 feet;
thence North 02° 24' 34" West parallel with, and 50 feet west of, said east line of the SE $\frac{1}{4}$ a distance of 288.04 feet to said south line of Aud. Lot 5;
thence North 87° 17' 26" East on said south line of Aud. Lot 5 a distance of 50.00 feet to said east line of the SE $\frac{1}{4}$;
thence South 02° 24' 34" East on said east line of the SE $\frac{1}{4}$ a distance of 833.37 feet to the northeast corner of the parcel described in Doc. No. 500553, records of Cass County;
thence South 87° 16' 35" West on the north line of said parcel and the north line of Auditor's Lot 4 a distance of 210.80 feet to the northwest corner of said Aud. Lot 4;
thence South 02° 24' 34" East on the west line of said Aud. Lot 4 a distance of 169.93 feet to the Point of Beginning.

Said parcel contains 31.13 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement:

[That part of the Southeast Quarter (SE¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southeast Quarter (SE¼) of Section 10;
thence North 02° 24' 34" West on the east line of said SE¼ a distance of 1003.30 feet to the south line of Auditor's Lot 5;
thence South 87° 17' 26" West on said south line a distance of 50.00 feet to the Point of Beginning;
thence continuing South 87° 17' 26" West on said south line a distance of 10.00 feet;
thence South 02° 24' 34" East a distance of 287.98 feet;
thence North 87° 35' 26" East a distance of 10.00 feet;
thence North 02° 24' 34" West a distance of 288.04 feet to the Point of Beginning.

Said easement contains 0.07 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 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 and temporary 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 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 **Ken Helvey** and to continue discussions about the Project. **Ken Helvey** of **SRF Consulting Group, Inc.** is your point of contact regarding the Project. You can reach **Ken Helvey** at [(763) 249-6785 or khelvey@srfconsulting.com.

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

Janet Wanzek Estate
August 26, 2020
Page 5

Sincerely,

CASS COUNTY COMMISSION



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

cc: Ken Helvey, Land Agent
Steven J. Quam, Fredrikson & Byron, P.A.
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

Sabrina Tusa

From: Christopher M. McShane <CMcShane@OhnstadLaw.com>
Sent: Tuesday, September 15, 2020 3:12 PM
To: Quam, Steven
Subject: FW: FM Area Diversion Project - Invitation to Attend Public Meeting for Janet Wanzek Estate OINs 8672 8673 8674 8675 9747
Attachments: OIN 8672 8673 8674 8675 9747 Wanzek County Commission Meeting Invite Sent.pdf

Steve,

Did you receive the attached letter inviting you to the Cass County Commission meeting on October 5? There is an option to attend in person or virtually. Let Heather Worden know if you would like to attend and in what format.

Chris

From: Worden, Heather <WordenH@casscountynd.gov>
Sent: Wednesday, August 26, 2020 11:40 AM
To: squam@fredlaw.com
Cc: Wilson, Robert <WilsonRo@casscountynd.gov>; Paulsen, Joel <PaulsenJ@FMDiversion.gov>; Dawn Lindblom <LindblomD@fmdiversion.gov>; Burdick, Birch <BurdickB@casscountynd.gov>; Eric.Dodds <Eric.Dodds@AE2S.com>; Sabrina Tusa <Sabrina.Tusa@AE2S.com>; Christopher M. McShane <CMcShane@OhnstadLaw.com>; Sharon K. Oliver <SOliver@OhnstadLaw.com>; Ken Helvey <khelvey@srfconsulting.com>
Subject: FM Area Diversion Project - Invitation to Attend Public Meeting for Janet Wanzek Estate OINs 8672 8673 8674 8675 9747

Attached is an invitation to attend the Cass County Commission meeting on October 5, 2020, regarding the Fargo Moorhead Diversion Project for the Janet Wanzek Estate OINs 8672 8673 8674 8675 9747.



Heather Worden
Administrative Assistant
Cass County Commission Office
211 9th Street South
PO Box 2806
Fargo ND 58108-2806
wordenh@casscountynd.gov
D: 701-241-5609

CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

Right of Way
OIN 8675

That part of the Northeast Quarter (NW¹/₄) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South Five Hundred (500.00) feet of the NW¹/₄, LESS all that portion within Leo's Subdivision, also LESS all that portion within the Cass County Highway Right-of-way.

Said parcel contains 27.03 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Right of Way
OIN 9747

That part of the Southeast Quarter (SE¹/₄) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southeast Quarter (SE¹/₄) of Section 10;
thence South 87° 16' 35" West on the south line of said SE¹/₄ a distance of 210.80 feet to Point of Beginning;
thence continuing South 87° 16' 35" West on said south line a distance of 1852.94 feet to the southeast corner Auditor's Lot 1;
thence North 02° 20' 50" West on the east line of said Aud. Lot 1 and Auditor's Lot 2 a distance of 502.63 feet to the northeast corner of said Aud. Lot 2;
thence North 87° 16' 35" East on the north line of the parcel described in Document No. 1374782, records of Cass County, a distance of 631.66 feet;
thence North 02° 24' 34" West on the west line of said parcel a distance of 501.03 feet to the southwest corner of Aud. Lot 5;
thence North 87° 17' 26" East on the south line of said Aud. Lot 5 a distance of 406.54 feet;
thence South 53° 28' 39" East a distance of 1189.10 feet;
thence North 02° 24' 34" West parallel with, and 100 feet west of, the east line of said SE¹/₄ a distance of 464.29 feet;
thence North 87° 35' 26" East perpendicular to said east line of the SE¹/₄ a distance of 50.00 feet;
thence North 02° 24' 34" West parallel with, and 50 feet west of, said east line of the SE¹/₄ a distance of 288.04 feet to said south line of Aud. Lot 5;
thence North 87° 17' 26" East on said south line of Aud. Lot 5 a distance of 50.00 feet to said east line of the SE¹/₄;

thence South 02° 24' 34" East on said east line of the SE¼ a distance of 833.37 feet to the northeast corner of the parcel described in Doc. No. 500553, records of Cass County;

thence South 87° 16' 35" West on the north line of said parcel and the north line of Auditor's Lot 4 a distance of 210.80 feet to the northwest corner of said Aud. Lot 4;

thence South 02° 24' 34" East on the west line of said Aud. Lot 4 a distance of 169.93 feet to the Point of Beginning.

Said parcel contains 31.13 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement

OIN 9747

That part of the Southeast Quarter (SE¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southeast Quarter (SE¼) of Section 10;

thence North 02° 24' 34" West on the east line of said SE¼ a distance of 1003.30 feet to the south line of Auditor's Lot 5;

thence South 87° 17' 26" West on said south line a distance of 50.00 feet to the Point of Beginning;

thence continuing South 87° 17' 26" West on said south line a distance of 10.00 feet;

thence South 02° 24' 34" East a distance of 287.98 feet;

thence North 87° 35' 26" East a distance of 10.00 feet;

thence North 02° 24' 34" West a distance of 288.04 feet to the Point of Beginning.

Said easement contains 0.07 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.

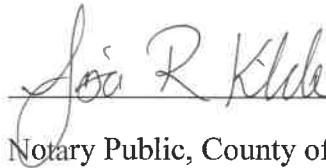
[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

Dated this 23 day of September, 2020.



Ken Helvey
SRF Consulting Group, Inc.

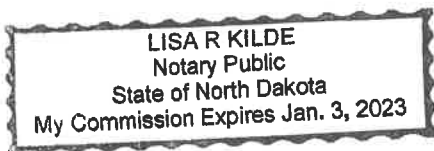
Subscribed to and sworn to before me this 23 day of September, 2020.



Notary Public, County of Cass

State of North Dakota

My Commission Expires: _____



(SEAL)

"Exhibit A"

OIN 8672 8673 8674 8675 9747 - Wanzek Contact Attempts

Date	Note
11/1/2019	Appraisal and offer letter sent
11/5/2019	Appraisal and offer letter received
11/19/2019	Ken left Janet a voicemail
1/10/2020	Ken called Steve Quam (attorney)
1/15/2020	Steve called Ken back. Steve is meeting with his clients tomorrow
2/12/2020	Email to S. Quam about meeting and counter offer
2/20/2020	Call with S. Quam asking about counter offer and status
3/13/2020	Formal offer letter sent
5/22/2020	CCJWRD invite sent
5/27/2020	CCJWRD invite received
7/14/2020	Talked to S. Quam regarding appraisal and their counter. He will talk to McShane regarding steps
7/24/2020	Call with S. Quam about surrounding values and them getting us counter offer
8/5/2020	Call with Wanzek's attorney
8/6/2020	Talked to S. Quam regarding appraisal and their counter. Proposed a possible arrangement to settle Section 10
8/21/2020	Email to Wanzek attorney regarding settlement proposal we had discussed
8/28/2020	Talked to Wanzek attorney regarding counter offer- he will email me their proposal
9/2/2020	Received email proposal. Reviewed and sent back questions about numbers
9/4/2020	Email with owner attorney about areas in their counter proposal
9/11/2020	Email that we could get the proposal on the agenda. It will be on the 9/24/2020 agenda
9/23/2020	Emailed attorney about appearing at the meeting. Told him it was his option.

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 Julie F. Everist, Jantze L. Haley and Goldman Sachs Trust Company, N.A., as Co-Personal Representatives of the Janet Wanzek Estate, and Nikolaus Larsen, as Trustee of the Daniel Edwin Everist III Irrevocable Trust (“Landowners”) is necessary for the Project.

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

[¶6] The real property owned by Landowners 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 8674

That part of the Northeast Quarter (NE¼) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South Five Hundred (500.00) feet of the NE¼ of Section 9.

Said parcel contains 30.35 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Right of Way
OIN 8675

That part of the Northeast Quarter (NW¼) of Section 9, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The South Five Hundred (500.00) feet of the NW¼, LESS all that portion within Leo's Subdivision, also LESS all that portion within the Cass County Highway Right-of-way.

Said parcel contains 27.03 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Right of Way
OIN 9747

That part of the Southeast Quarter (SE¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southeast Quarter (SE¼) of Section 10;
thence South 87° 16' 35" West on the south line of said SE¼ a distance of 210.80 feet to Point of Beginning;
thence continuing South 87° 16' 35" West on said south line a distance of 1852.94 feet to the southeast corner Auditor's Lot 1;
thence North 02° 20' 50" West on the east line of said Aud. Lot 1 and Auditor's Lot 2 a distance of 502.63 feet to the northeast corner of said Aud. Lot 2;
thence North 87° 16' 35" East on the north line of the parcel described in Document No. 1374782, records of Cass County, a distance of 631.66 feet;
thence North 02° 24' 34" West on the west line of said parcel a distance of 501.03 feet to the southwest corner of Aud. Lot 5;
thence North 87° 17' 26" East on the south line of said Aud. Lot 5 a distance of 406.54 feet;
thence South 53° 28' 39" East a distance of 1189.10 feet;
thence North 02° 24' 34" West parallel with, and 100 feet west of, the east line of said SE¼ a distance of 464.29 feet;
thence North 87° 35' 26" East perpendicular to said east line of the SE¼ a distance of 50.00 feet;
thence North 02° 24' 34" West parallel with, and 50 feet west of, said east line of the SE¼ a distance of 288.04 feet to said south line of Aud. Lot 5;
thence North 87° 17' 26" East on said south line of Aud. Lot 5 a distance of 50.00 feet to said east line of the SE¼;

thence South 02° 24' 34" East on said east line of the SE¼ a distance of 833.37 feet to the northeast corner of the parcel described in Doc. No. 500553, records of Cass County;
thence South 87° 16' 35" West on the north line of said parcel and the north line of Auditor's Lot 4 a distance of 210.80 feet to the northwest corner of said Aud. Lot 4;
thence South 02° 24' 34" East on the west line of said Aud. Lot 4 a distance of 169.93 feet to the Point of Beginning.

Said parcel contains 31.13 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement
OIN 9747

That part of the Southeast Quarter (SE¼) of Section 10, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Southeast Corner of the Southeast Quarter (SE¼) of Section 10;
thence North 02° 24' 34" West on the east line of said SE¼ a distance of 1003.30 feet to the south line of Auditor's Lot 5;
thence South 87° 17' 26" West on said south line a distance of 50.00 feet to the Point of Beginning;
thence continuing South 87° 17' 26" West on said south line a distance of 10.00 feet;
thence South 02° 24' 34" East a distance of 287.98 feet;
thence North 87° 35' 26" East a distance of 10.00 feet;
thence North 02° 24' 34" West a distance of 288.04 feet to the Point of Beginning.

Said easement contains 0.07 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 Landowners by certified mail, UPS and by email to the attorney for Goldman Sachs Trust Company, N.A., Steven J. Quam of Fredrikson & Byron, P.A., along with an appraisal and purchase agreement, on March 13, 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 Landowners a written request for a meeting, by email to Landowners' attorney, Steven J. Quam of Fredrikson & Byron, P.A. pursuant to Mr. Quam's request; the District and Landowners have not reached an agreement regarding compensation, and more than fifteen days have passed since Landowners' receipt of the offer. A copy of the written request for a meeting with the Landowners is attached as **Exhibit 2**.

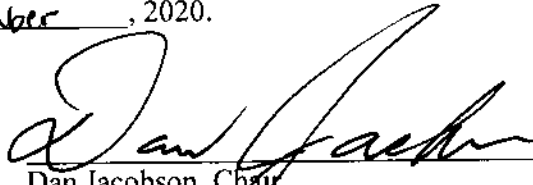
[¶10] The District and Landowners have not reached an agreement regarding compensation, and more than thirty days have passed since Landowners' receipt of the request for a meeting.

[¶11] On July 8, 2020, the District sent Landowners a written notice of intent to take possession of the Right of Way and Temporary Easement, by email to Landowners' attorney, Steven J. Quam of Fredrikson & Byron, P.A. pursuant to Mr. Quam's request. 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 Landowners. 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 Landowners 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)