

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

October 19th, 2020

PROPERTY OWNER: Glen Libbrecht

LAND AGENT: Ken Helvey with SRF

OIN: 698 9756 9757 9758 9759



FM AREA
DIVERSION
PROJECT

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Written Correspondence Timeline – Glen Libbrecht

OIN 698 9756 9757 9758 9759	Sent	Received
Offer to Purchase	1/22/2020	1/23/2020
Formal Negotiations and Written Offer of Just Compensation	4/30/2020	5/1/2020
Request for Meeting	5/18/2020	6/9/2020
Notice of Intent to Take Possession of Right-of-Way	7/21/2020	7/23/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	9/2/2020	9/2/2020
Invitation to Attend Public Meeting	9/11/2020	9/14/2020
Commission Meeting Date	10/19/2020	

**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: Glen Libbrecht
2. Land Agent: Ken Helvey
3. Parcel Nos.: 53-0000-09032-000, 53-0000-09034-010, 53-0000-09033-000, 53-0000-09031-010, 53 0000-09031-000
4. OIN Nos.: 698, 9756, 9757, 9758, 9759

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 right of way, and temporary easements, regarding OINs 698, 9756, 9757, 9758, and 9759.

FM Area Diversion Project Property Negotiation Summary

October 12, 2020

Owner	Glen Libbrecht
Mailing Address	206 38 th Street NW, West Fargo, ND 58078
Property Location	Channel
Property Type	Agriculture
OIN	698 9756 9757 9758 9759
Agent	Ken Helvey - SRF
Attorney	Nicholas Delaney – Rinke Noonan

Property Need

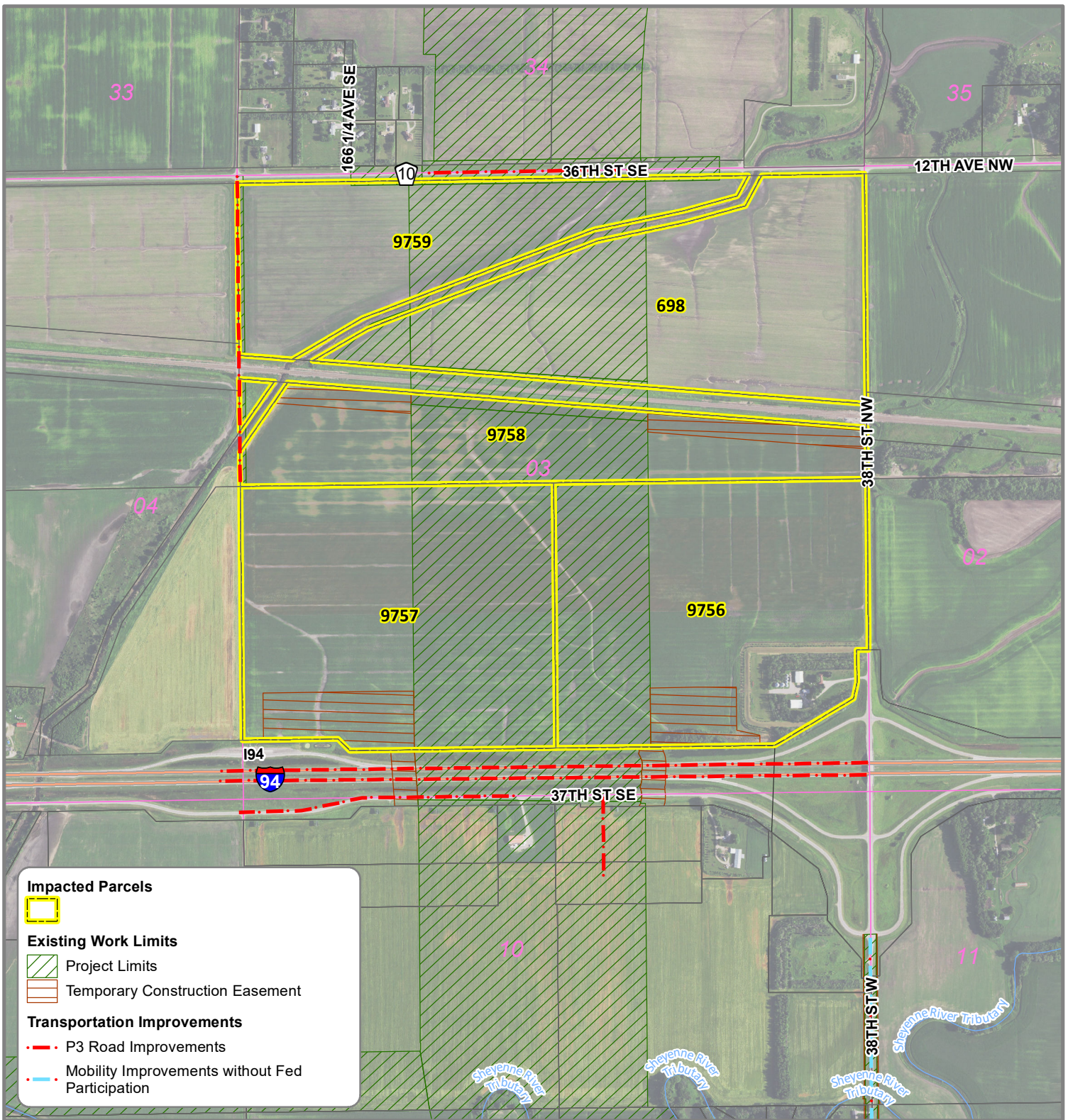
The parcels are located within the Channel area associated with the Project. The Diversion Authority is required to obtain a portion of the parcels for the Channel.

Valuation and Negotiation Summary:

Appraisal Value / Date	\$1,723,500 – 4/16/20 215.44 acres land/site taking at \$7,430/acre – \$1,600,719.20 298.56 acres remainder/severance at \$222/acre - \$66,280 32.03 acres TCE at \$165/5years - \$26,424.50 Farm HQ = \$30,000
Counteroffer	Have not received a counteroffer to date

Negotiation Notes

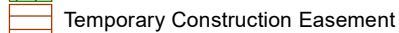
- SRF Land agent, Ken Helvey, has had contact with landowner and/or landowner's attorney regarding the offer to purchase, and former SRF land agents have had contact.
- Property owner has hired attorney Nicholas Delaney with Rinke Noonan.
- They are getting their own appraisal.
- Owner is seeking \$18,000 per acre.
- Working with their attorney to achieve settlement and waiting on the landowner's appraisal.



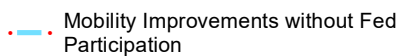
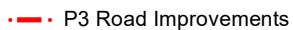
Impacted Parcels



Existing Work Limits



Transportation Improvements

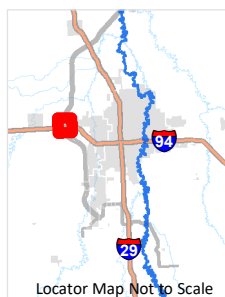
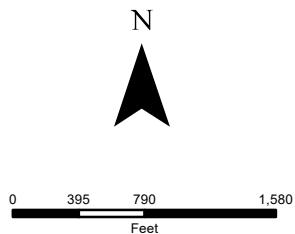


Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use.

All parcel acreages and legal descriptions shown hereon are based on County GIS data. Final acreages and legal descriptions to be determined by boundary survey.

Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | 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\IndividualLayout8x10x105notdatadriven.mxd



Glen Libbrecht

OINs: 698, 9756, 9757, 9758, 9759

Parcel ID's: 53-0000-09032-000, 53-0000-09034-010,
53-0000-09033-000, 53-0000-09031-010,
53-0000-09031-000

Cass County, ND

FM AREA DIVERSION

Map Date: 5/19/2020





January 22, 2020

Glen and Marilyn Libbrecht
c/o Nicolas R. Delaney, Attorney
RINKE NOONAN
P.O. Box 1497
St. Cloud, MN 56302

RE: **Revised Offer to Purchase**

Parcel ID: OIN 698 945 9741 9756 9757 9758 9759 9760

Project Title: Fargo Moorhead Diversion

PID: 53-0000-09032-000; 59-0000-10951-000; 53-0000-09079-000; 53-0000-09034-010; 53-0000-09033-000; 53-0000-09031-010; 53-0000-09031-000; 59-0000-10950-000

Dear Mr. and Mrs. Libbrecht,

Crown Appraisals, Inc. has completed an updated appraisal pursuant to Cass County Joint Water Resource District's (CCJWRD) request to revise the amount of acres that CCJWRD needs to acquire to complete the flood control improvement project. With this updated appraisal, the appraiser has determined that the market value of the interests being purchased is **\$3,150,200.00**. The CCJWRD has used the market value set forth in the appraisal as the basis for determining Just Compensation for the property interests being acquired from you. A copy of the appraisal is attached to this letter and provided to you. If the purchase amount is based on any conditions or exceptions (such as terms of the transfer of possession or retention of any interest); they will be included in Exhibit A. A summary of the appraisal is provided on Exhibit A (Appraisal Summary).

The Cass County Joint Water Resource District hereby offers to pay you \$3,150,200.00 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 more Temporary Construction Easement (TCE) for the project and therefore the appraisal and Certificate of Survey include more TCE acres. However, the CCJWRD has determined not to proceed with purchasing TCE and therefore your Just Compensation and Exhibit A do not include all of the TCE values.

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 698 945 9741 9756 9757 9758 9759 9760 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.

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 698 945 9741 9756 9757 9758 9759 9760 by Crown Appraisals, Inc. dated December 30, 2019
- 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

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

Glen Libbrecht

Marilyn Libbrecht

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

Enclosures: Appraisal Report, Exhibit A, Exhibit B

EXHIBIT A
ACQUISITION SUMMARY
Fargo Moorhead Diversion

Revised Offer to Purchase

Parcel ID: OIN 698 945 9741 9756 9757 9758 9759 9760

Project Title: Fargo Moorhead Diversion

PID: 53-0000-09032-000; 59-0000-10951-000; 53-0000-09079-000; 53-0000-09034-010; 53-0000-09033-000; 53-0000-09031-010; 53-0000-09031-000; 59-0000-10950-000

Recorded Fee Owner: Glen and Marilyn Libbrecht

Property Legal Description:

SEE ATTACHED SURVEY

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

Noted and Waived Exceptions, Reservations or Encumbrances: None

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

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

APPRAISAL SUMMARY

Parcel Value	Area Size/ Description	Per Unit	Indicated Value
Farm Headquarter			\$ 30,000.00
Land/Site Taking 698 9758 9759 9756 9757	215.44 Acres 6.44 Acres road/waste	\$ 7,430 \$0.00	\$ 1,600,719.20
Severance 698 9758 9759 9756 9757	298.56 Acres	\$222	\$ 66,280.32
Temporary Easement 698 9758 9759 9756 9757	32.16 Acres	\$ 165 (x 5 years)	\$ 26,532.00
Land/Site Taking 945 9760	111.88 Acres 3.61 Acres road/waste	\$ 4,939 \$0.00	\$ 552,575.32
Severance 945 9760 & Larger Parcel	127.24 Acres	\$301	\$ 38,299.24
Land/Site Taking 9741	146.40 Acres	\$ 5,464.48	\$ 800,000.00
Land/Site Taking Sheldon Levee	6.88 Acres 0.22 Acres road/waste	\$ 4,939 \$0.00	\$ 33,980.32
Temporary Easement Sheldon Levee	2.22 Acres	\$ 158.40 (x 5 years)	\$ 1,758.24
TOTAL (rounded)			\$ 3,150,200.00

Enclosures: Appraisal Report, Exhibit A, Exhibit B



FAQs >

Track Another Package +

U98
Libbrecht

Tracking Number: 9505511429320022382959

Remove X

Your item was delivered in or at the mailbox at 11:06 am on January 23, 2020 in WEST FARGO, ND 58078.

Delivered

January 23, 2020 at 11:06 am
Delivered, In/At Mailbox
WEST FARGO, ND 58078

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.



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

April 30, 2020

Cass County
Joint Water
Resource
District

Glen Libbrecht
206 38th Street NW
West Fargo, ND 58078
Certified No. 7019 1640 0002 0398 8392

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OINs: 698, 9756, 9757, 9758, 9759
Parcel Nos.: 53-0000-09032-000, 53-0000-09034-010, 53-0000-09033-000,
53-0000-09031-010; 53-0000-09031-000

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

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 and temporary easement 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 53-000-09032-000, 53-000-09034-010, 53-000-09033-000, 53-0000-09031-010, and 53-000-09031-000. The legal description of the property to be acquired is:

Right of Way:

OINs 698, 9758, 9759

Parcel 1

That part of the North Half (N1/2) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

Commencing at the Northwest Corner of Section 3; thence North 87°09'37" East on the north line of the Northwest Quarter (NW1/4) of said Section 3 a distance of 962.50 feet to the Point of Beginning; thence continuing North 87°09'37" East on said north line a distance of 1690.84 feet northeast corner of said NW1/4; thence North 87°07'54" East on the north line of the Northeast Quarter (NE1/4) of said Section 3 a distance of 1428.34 feet; thence South 02°52'06" East perpendicular to said north line a distance of 100.00 feet; thence South 87°07'54" West parallel with, and 100.00 feet south of, said north line of the NE1/4 a distance of 628.92 feet; thence South 02°31'48" East a

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

distance of 1739.60 feet to the north line of the existing railroad right-of-way; thence North 87°34'44" West on said north railroad right-of-way line a distance of 2870.50 feet to the southeasterly line of the Cass County Drain parcel as described in Doc. No. 113110, records of Cass County; thence North 57°41'28" East on said southeasterly line a distance of 626.83 feet; thence North 67°10'44" East on said southeasterly line a distance of 336.63 feet; thence North 02°31'48" West a distance of 1052.59 feet; thence South 87°09'37" West parallel with, and 100.00 feet south of, said north line of the NW1/4 a distance of 490.28 feet; thence North 02°50'23" West perpendicular to said north line of the NW1/4 a distance of 100.00 feet to the Point of Beginning.

Said parcel contains 88.15 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Road Right-of-way as described in Document No. 681544 & 681545, a deeded Cass County Drain Right-of-way, as described in Document No. 113110 & 113111, and a Cass County Drainage Easement as described in Document No. 429245, all on file at the Cass County Recorder's Office.

Parcel 2

That part of the North Half (N1/2) of Section 3, 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 Northeast Quarter (NE1/4) of Section 3; thence South 87° 11' 06" West on the south line of said N1/2 a distance of 1851.62 feet to the Point of Beginning; thence continuing South 87°11'06" West on said south line a distance of 2000.02 feet; thence North 02°31'48" West a distance of 776.53 feet to the south line of the existing railroad right-of-way; thence South 87°34'44" East on said south railroad right-of-way line a distance of 3866.29 feet to the east line of said NE1/4; thence South 02°29'34" East on said east line a distance of 25.09 feet; thence North 87°34'44" West parallel with, and 25.00 feet south of, said south railroad right-of-way line a distance of 1858.79 feet; thence South 02°31'48" East a distance of 568.23 feet to the Point of Beginning.

Said parcel contains 32.51 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Parcel 3

That part of the Northwest Quarter (NW1/4) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West 50.00 feet of the Northwest Quarter (NW1/4) of Section 3, lying north of the railroad right-of-way.

Said parcel contains 1.75 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Road Right-of-way as described in Document No. 681545 on file at the Cass County Recorder's Office.

Parcel 4

That part of the Northwest Quarter (NW1/4) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West 50.00 feet of the Northwest Quarter (NW1/4) of Section 3, lying south of the railroad right-of-way.

Said parcel contains 1.04 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Drain Right-of-way, as described in Document No. 113110 on file at the Cass County Recorder's Office.

OIN 9756

That part of the Southeast Quarter (SE1/4) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West Eight Hundred (800.00) Feet of the Southeast Quarter (SE1/4), as measured perpendicular to the west line of said SE1/4, LESS the Interstate Highway 94 right-of-way.

Said parcel contains 41.39 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9757:

That part of the Southwest Quarter (SW1/4) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The East Twelve Hundred (1200.00) feet of the Southwest Quarter (SW1/4) of Section 3, as measured perpendicular to the east line of said SW1/4, LESS the Interstate Highway 94 right-of-way.

Said parcel contains 62.03 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

OINs 698, 9758, 9759

TCE 1

That part of the Northeast Quarter (NE1/4) of Section 3, 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 said NE1/4; thence North 02°29'34" West on the east line of said NE1/4 a distance of 243.02 feet to the Point of Beginning; thence continuing North 02°29'34" West on said east line a distance of 155.57 feet; thence North 87°34'44" West a distance of 1858.79 feet; thence South 02°31'48" East a distance of 155.58 feet; thence South 87°34'44" East a distance of 1858.68 feet to the Point of Beginning.

Said easement contains 6.61 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

TCE 2

That part of the Northwest Quarter (NW1/4) of Section 3, 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 Northeast Quarter (NE1/4) of said Section 3; thence South 87° 11' 06" West on the south line of the North Half (N1/2) of said Section 3 a distance of 3851.64 feet; thence North 02°31'48" West a distance of 595.86 feet to the Point of Beginning; thence continuing North 02°31'48" West a distance of 180.67 feet to the south line of the existing railroad right-of-way; thence North 87°34'44" West on said south railroad right-of-way line a distance of 1047.21 feet to the southeasterly line of the Cass County Drain parcel as described in Doc. No. 113110, records of Cass County; thence South 34°46'03" West on said southeasterly line a distance of 213.06 feet; thence South 87°34'44" East a distance of 1176.80 feet to the Point of Beginning.

Said easement contains 4.60 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9756

That part of the Southeast Quarter (SE1/4) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of said SE1/4; thence South 87°11'06" West on the north line of said SE1/4 a distance of 1851.61 feet; thence South 02°31'47" East parallel with the west line of said SE1/4 a distance of 1754.16 feet to the Point of Beginning; thence continuing South 02°31'47" East a distance of 500.00 feet to

the north line of the Interstate Highway 94 right-of-way; thence North 87°17'15" East on said north right-of-way line a distance of 925.00 feet; thence North 02°31'47" West parallel with said west line of the SE1/4 a distance of 90.00 feet; thence North 82°14'47" West a distance of 330.31 feet; thence North 02°31'47" West parallel with said west line of the SE1/4 a distance of 350.00 feet; thence South 87°17'15" West parallel with said north right-of-way line a distance of 600.00 feet to the Point of Beginning.

Said easement contains 7.78 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9757

That part of the Southwest Quarter (SW1/4) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said SW1/4; thence South 02°34'26" East on the west line of said SW1/4 a distance of 2147.44 feet to the north line of the Interstate Highway 94 right-of-way; thence North 87°25'34" East on said north right-of-way line a distance of 174.61 feet to the Point of Beginning; thence North 02°31'47" West parallel with the east line of said SW1/4 a distance of 400.00 feet; thence North 87°25'34" East parallel with said north right-of-way line a distance of 1275.00 feet; thence South 02°31'47" East parallel with said east line of the SW1/4 a distance of 496.74 feet to said north line of the Interstate Highway 94 right-of-way; thence South 87°18'04" West on said north right-of-way line a distance of 547.74 feet; thence North 47°14'21" West on said north right-of-way line a distance of 137.70 feet; thence South 87°25'34" West on said north right-of-way line a distance of 630.39 feet to the Point of Beginning.

Said easement contains 13.04 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 \$1,600,719.20, the value of the temporary easement the District must acquire from you is \$26,424.75, and the damages to the remainder of your property is \$96,280.32 for a total of \$1,723,424.27, this figure has been rounded so the total purchase price is \$1,723,500.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$1,723,500.00 as just compensation to purchase right of way and a 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.

Glen Libbrecht
April 30, 2020
Page 6

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 a temporary easement from you for the Project.

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

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 R. Delaney, Rinke Noonan
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:

GLEN LIBBRECHT
 206 38TH STREET NW
 WEST FARGO ND 58078



9590 9402 3806 8032 1545 50

2. Article Number (Transfer from service label)

7019 1640 0002 0398 8392

PS Form 3811, July 2015 PSN 7530-02-006-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *GA-1215-C19* Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

5/11/2020

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)
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- Registered Mail Restricted Delivery
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- Signature Confirmation Restricted Delivery

Domestic Return Receipt



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

May 18, 2020

**Cass County
Joint Water
Resource
District**

Glen Libbrecht
208 38th Street NW
West Fargo, ND 58078
Certified No. 7019 1640 0002 0398 8507

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OINs: 698, 9756, 9757, 9758, 9759
Parcel Nos.: 53-0000-09032-000, 53-0000-09034-010,
53-0000-09033-000, 53-0000-09031-010, 53-0000-09031-000

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 30, 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 and temporary easement from you. The District's letter specifically described the right of way and temporary easement the District must acquire from you for the Project. We have not received a signed Purchase Agreement from you, and we have not otherwise arrived at mutually acceptable terms regarding the District's purchase of right of way and temporary easement from you to accommodate the Project.

The District requests your attendance at a meeting 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.

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 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.

Glen Libbrecht
OINs 698, 9756, 9757, 9758, 9759
May 18, 2020
Page 2


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

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

cc: Nicholas Delaney, Rinke Noonan
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



Quick Start ▾

Tracking Details

< [Back to Results](#)

1ZY93E24A832766261 ✎ ☆

Delivered

Delivered On

Tuesday
06/09/2020

Send Updates

File a Claim

Proof of Delivery



Dear Customer,

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

Tracking Number

1ZY93E24A832766261

Weight

1.00 LBS

Service

UPS Ground

Shipped / Billed On

06/05/2020

Additional Information

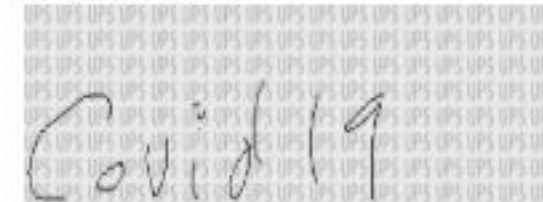
Adult Signature Required

Delivered On

06/09/2020 11:53 A.M.

Received By

SIG ON FILE



Delivered To

206 38TH ST NW
WEST FARGO, ND, 58078, US

Left At

Residential

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

Sincerely,

UPS

Tracking results provided by UPS: 06/09/2020 3:42 P.M. EST

[Print this page](#)



Hello, your package has been delivered.

Delivery Date: Tuesday, 06/09/2020

Delivery Time: 11:53 AM

Left At: RESIDENTIAL



[Set Delivery Instructions](#)

[Manage Preferences](#)

[View Delivery Planner](#)

CASS WATER RESOURCE DISTRICT

Tracking Number:

[1ZY93E24A832766261](#)

Ship To:

GLEN LIBBRECHT
208 38TH STREET NW
WEST FARGO, ND 58078
US

Number of Packages:

1

UPS Service:

UPS Ground

Package Weight:

1.0 LBS



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Cass County
Joint Water
Resource
District

July 21, 2020

Glen Libbrecht
206 38th Street NW
West Fargo, ND 58078
Certified No. 7020 0090 0000 7648 4281

Dan Jacobson
Chairman
West Fargo, North Dakota

Greetings:

Rodger Olson
Manager
Leonard, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY
OINs: 698, 9756, 9757, 9758, 9759
Parcel Nos. 53-0000-09032-000, 53-0000-09034-010
53-0000-09033-000, 53-0000-09031-010,
53-0000-09031-000

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). On behalf of the District, I previously provided you a letter dated April 30, 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 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 and temporary easement from you to accommodate the Project.

Keith Weston
Manager
Fargo, North Dakota

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

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

701-298-2381
FAX 701-298-2397
wrд@casscountynд.gov
casscountynд.gov

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

Glen Libbrecht
OINs 698, 9756, 9757, 9758, 9759
July 21, 2020
Page 2

You are encouraged to maintain contact with the land agent assigned to your property. **Ken Helvey of SRF Consulting Group, Inc.** can be reached at **(763) 249-6785** or **kehlvey@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 a 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: Nicholas Delaney, Rinke Noonan
Ken Helvey, Land Agent
Chris McShane, Ohnstad Twichell, P.C.
Chad Peterson, Chair, Cass County Commission
Robert Wilson, Cass County Administrator
Birch Burdick, Cass County State's Attorney
Eric Dodds, Program Manager, AE2S
Joel Paulsen, Executive Director, Diversion Authority

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
GLEN LIBBRECHT
206 38TH STREET NW
WEST FARGO ND 58078



9590 9402 5989 0062 9058 25

2. Article Number (Transfer from service label)
7020 0090 0000 7648 4281

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *ch 12-15 C19* Agent Addressee

B. Received by (Printed Name) _____ C. Date of Delivery
7/23/2020

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 \$500) | |

Domestic Return Receipt



SENT VIA EMAIL wilsonro@casscountynd.gov

Cass County
Joint Water
Resource
District

September 2, 2020

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

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Approval to Take Possession of Necessary Right of Way
and Temporary Easement
OINs: 698, 9756, 9757, 9758, 9759
Parcel Nos.: 53-0000-09032-000, 53-0000-09034-010,
53-0000-09033-000, 53-0000-09031-010,
53-0000-09031-000

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

- Letter dated April 30, 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 18, 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 21, 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:

OINs 698, 9758, 9759

PARCEL 1:

That part of the North Half (N½) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of Section 3; thence North 87°09'37" East on the north line of the Northwest Quarter (NW¼) of said Section 3 a distance of 962.50 feet to the Point of Beginning; thence continuing North 87°09'37" East on said north line a distance of 1690.84 feet northeast corner of said NW¼; thence North 87°07'54" East on the north line of the Northeast Quarter (NE¼) of said Section 3 a distance of 1428.34 feet; thence South 02°52'06" East perpendicular to said north line a distance of 100.00 feet; thence South 87°07'54" West parallel with, and 100.00 feet south of, said north line of the NE¼ a distance of 628.92 feet; thence South 02°31'48" East a distance of 1739.60 feet to the north line of the existing railroad right-of-way; thence North 87°34'44" West on said north railroad right-of-way line a distance of 2870.50 feet to the southeasterly line of the Cass County Drain parcel as described in Doc. No. 113110, records of Cass County; thence North 57°41'28" East on said southeasterly line a distance of 626.83 feet; thence North 67°10'44" East on said southeasterly line a distance of 336.63 feet; thence North 02°31'48" West a distance of 1052.59 feet; thence South 87°09'37" West parallel with, and 100.00 feet south of, said north line of the NW¼ a distance of 490.28 feet; thence North 02°50'23" West perpendicular to said north line of the NW¼ a distance of 100.00 feet to the Point of Beginning.

Said parcel contains 88.15 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Road Right-of-way as described in Document No. 681544 & 681545, a deeded Cass County Drain Right-of-way, as

described in Document No. 113110 & 113111, and a Cass County Drainage Easement as described in Document No. 429245, all on file at the Cass County Recorder's Office.

PARCEL 2:

That part of the North Half (N½) of Section 3, 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 Northeast Quarter (NE¼) of Section 3; thence South 87° 11' 06" West on the south line of said N½ a distance of 1851.62 feet to the Point of Beginning; thence continuing South 87°11'06" West on said south line a distance of 2000.02 feet; thence North 02°31'48" West a distance of 776.53 feet to the south line of the existing railroad right-of-way; thence South 87°34'44" East on said south railroad right-of-way line a distance of 3866.29 feet to the east line of said NE¼; thence South 02°29'34" East on said east line a distance of 25.09 feet; thence North 87°34'44" West parallel with, and 25.00 feet south of, said south railroad right-of-way line a distance of 1858.79 feet; thence South 02°31'48" East a distance of 568.23 feet to the Point of Beginning.

Said parcel contains 32.51 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

PARCEL 3:

That part of the Northwest Quarter (NW¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West 50.00 feet of the Northwest Quarter (NW¼) of Section 3, lying north of the railroad right-of-way.

Said parcel contains 1.75 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Road Right-of-way as described in Document No. 681545 on file at the Cass County Recorder's Office.

PARCEL 4:

That part of the Northwest Quarter (NW¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West 50.00 feet of the Northwest Quarter (NW¼) of Section 3, lying south of the railroad right-of-way.

Said parcel contains 1.04 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Drain Right-of-way, as described in Document No. 113110 on file at the Cass County Recorder's Office.

OIN 9756

That part of the Southeast Quarter (SE¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West Eight Hundred (800.00) Feet of the Southeast Quarter (SE¼), as measured perpendicular to the west line of said SE¼, LESS the Interstate Highway 94 right-of-way.

Said parcel contains 41.39 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9757

That part of the Southwest Quarter (SW¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The East Twelve Hundred (1200.00) feet of the Southwest Quarter (SW¼) of Section 3, as measured perpendicular to the east line of said SW¼, LESS the Interstate Highway 94 right-of-way.

Said parcel contains 62.03 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

OIN 698, 9758, 9759

TCE 1:

That part of the Northeast Quarter (NE¼) of Section 3, 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 said NE¼; thence North 02°29'34" West on the east line of said NE¼ a distance of 243.02 feet to the Point of Beginning; thence continuing North 02°29'34" West on said east line a distance of 155.57 feet; thence North 87°34'44" West a distance of 1858.79 feet; thence South 02°31'48" East a distance of 155.58 feet; thence South 87°34'44" East a distance of 1858.68 feet to the Point of Beginning.

Said easement contains 6.61 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

TCE 2:

That part of the Northwest Quarter (NW¼) of Section 3, 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 Northeast Quarter (NE¼) of said Section 3; thence South 87° 11' 06" West on the south line of the North Half (N½) of said Section 3 a distance of 3851.64 feet; thence North 02°31'48" West a distance of 595.86 feet to the Point of Beginning; thence continuing North 02°31'48" West a distance of 180.67 feet to the south line of the existing railroad right-of-way; thence North 87°34'44" West on said south railroad right-of-way line a distance of 1047.21 feet to the southeasterly line of the Cass County Drain parcel as described in Doc. No. 113110, records of Cass County; thence South 34°46'03" West on said southeasterly line a distance of 213.06 feet; thence South 87°34'44" East a distance of 1176.80 feet to the Point of Beginning.

Said easement contains 4.60 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9756

That part of the Southeast Quarter (SE¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of said SE¼; thence South 87°11'06" West on the north line of said SE¼ a distance of 1851.61 feet; thence South 02°31'47" East parallel with the west line of said SE¼ a distance of 1754.16 feet to the Point of Beginning; thence continuing South 02°31'47" East a distance of 500.00 feet to the north line of the Interstate Highway 94 right-of-way; thence North 87°17'15" East on said north right-of-way line a distance of 925.00 feet; thence North 02°31'47" West parallel with said west

line of the SE¼ a distance of 90.00 feet; thence North 82°14'47" West a distance of 330.31 feet; thence North 02°31'47" West parallel with said west line of the SE¼ a distance of 350.00 feet; thence South 87°17'15" West parallel with said north right-of-way line a distance of 600.00 feet to the Point of Beginning.

Said easement contains 7.78 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9757

That part of the Southwest Quarter (SW¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said SW¼; thence South 02°34'26" East on the west line of said SW¼ a distance of 2147.44 feet to the north line of the Interstate Highway 94 right-of-way; thence North 87°25'34" East on said north right-of-way line a distance of 174.61 feet to the Point of Beginning; thence North 02°31'47" West parallel with the east line of said SW¼ a distance of 400.00 feet; thence North 87°25'34" East parallel with said north right-of-way line a distance of 1275.00 feet; thence South 02°31'47" East parallel with said east line of the SW¼ a distance of 496.74 feet to said north line of the Interstate Highway 94 right-of-way; thence South 87°18'04" West on said north right-of-way line a distance of 547.74 feet; thence North 47°14'21" West on said north right-of-way line a distance of 137.70 feet; thence South 87°25'34" West on said north right-of-way line a distance of 630.39 feet to the Point of Beginning.

Said easement contains 13.04 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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

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

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

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.

Robert Wilson
September 2, 2020
Page 8

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



September 11, 2020

UPS – DELIVERY CONFIRMATION

Board of County Commissioners

Glen Libbrecht
206 38th Street Northwest
West Fargo, ND 58078

Chad M. Peterson

Fargo, North Dakota

Rick Steen

Fargo, North Dakota

Ken Pawluk

Fargo, North Dakota

Duane Breitling

West Fargo, North Dakota

Mary Scherling

Stanley Township, North Dakota

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OIN: 698, 9756, 9757, 9758, 9759
Parcel No.: 53-0000-09032-000, 53-0000-09034-010,
53-0000-09033-000, 53-0000-09031-010, 53-0000-09031-000
UPS Tracking No. 1Z RT8 7R1 47 0156 1151

Greetings Mr. Libbrecht:

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

- Letter dated April 30, 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 18, 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 21, 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

Heather Worden
Commission Assistant

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

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:

OINs 698, 9758, 9759

PARCEL 1:

That part of the North Half (N½) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of Section 3; thence North 87°09'37" East on the north line of the Northwest Quarter (NW¼) of said Section 3 a distance of 962.50 feet to the Point of Beginning; thence continuing North 87°09'37" East on said north line a distance of 1690.84 feet northeast corner of said NW¼; thence North 87°07'54" East on the north line of the Northeast Quarter (NE¼) of said Section 3 a distance of 1428.34 feet; thence South 02°52'06" East perpendicular to said north line a distance of 100.00 feet; thence South 87°07'54" West parallel with, and 100.00 feet south of, said north line of the NE¼ a distance of 628.92 feet; thence South 02°31'48" East a distance of 1739.60 feet to the north line of the existing railroad right-of-way; thence North 87°34'44" West on said north railroad right-of-way line a distance of 2870.50 feet to the southeasterly line of the Cass County Drain parcel as described in Doc. No. 113110, records of Cass County; thence North 57°41'28" East on said southeasterly line a distance of 626.83 feet; thence North 67°10'44" East on said southeasterly line a distance of 336.63 feet; thence North 02°31'48" West a distance of 1052.59 feet; thence South 87°09'37" West parallel with, and 100.00 feet south of, said north line of the NW¼ a distance of 490.28 feet; thence North 02°50'23" West perpendicular to said north line of the NW¼ a distance of 100.00 feet to the Point of Beginning.

Said parcel contains 88.15 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Road Right-of-way as described in Document No. 681544 & 681545, a deeded Cass County Drain Right-of-way, as described in Document No. 113110 & 113111, and a Cass County Drainage Easement as described in Document No. 429245, all on file at the Cass County Recorder's Office.

PARCEL 2:

That part of the North Half (N½) of Section 3, 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 Northeast Quarter (NE¼) of Section 3; thence South 87° 11' 06" West on the south line of said N½ a distance of 1851.62 feet to the Point of Beginning; thence continuing South 87°11'06" West on said south line a distance of 2000.02 feet; thence North 02°31'48" West a distance of 776.53 feet to the south line of the existing railroad right-of-way; thence South 87°34'44" East on said south railroad right-of-way line a distance of 3866.29 feet to the east line of said NE¼; thence South 02°29'34" East on said east line a distance of 25.09 feet; thence North 87°34'44" West parallel with, and 25.00 feet south of, said south railroad right-of-way line a distance of 1858.79 feet; thence South 02°31'48" East a distance of 568.23 feet to the Point of Beginning.

Said parcel contains 32.51 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

PARCEL 3:

That part of the Northwest Quarter (NW¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West 50.00 feet of the Northwest Quarter (NW¼) of Section 3, lying north of the railroad right-of-way.

Said parcel contains 1.75 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Road Right-of-way as described in Document No. 681545 on file at the Cass County Recorder's Office.

PARCEL 4:

That part of the Northwest Quarter (NW¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West 50.00 feet of the Northwest Quarter (NW¼) of Section 3, lying south of the railroad right-of-way.

Said parcel contains 1.04 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Drain Right-of-way, as described in Document No. 113110 on file at the Cass County Recorder's Office.

OIN 9756

That part of the Southeast Quarter (SE $\frac{1}{4}$) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West Eight Hundred (800.00) Feet of the Southeast Quarter (SE $\frac{1}{4}$), as measured perpendicular to the west line of said SE $\frac{1}{4}$, LESS the Interstate Highway 94 right-of-way.

Said parcel contains 41.39 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9757

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The East Twelve Hundred (1200.00) feet of the Southwest Quarter (SW $\frac{1}{4}$) of Section 3, as measured perpendicular to the east line of said SW $\frac{1}{4}$, LESS the Interstate Highway 94 right-of-way.

Said parcel contains 62.03 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

OIN 698, 9758, 9759

TCE 1:

That part of the Northeast Quarter (NE $\frac{1}{4}$) of Section 3, 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 said NE $\frac{1}{4}$; thence North 02°29'34" West on the east line of said NE $\frac{1}{4}$ a distance of 243.02 feet to the Point of Beginning; thence continuing North 02°29'34" West on said east line a distance of 155.57 feet; thence North 87°34'44" West a distance of 1858.79 feet; thence South 02°31'48" East a distance of 155.58 feet; thence South 87°34'44" East a distance of 1858.68 feet to the Point of Beginning.

Said easement contains 6.61 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

TCE 2:

That part of the Northwest Quarter (NW $\frac{1}{4}$) of Section 3, 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 Northeast Quarter (NE $\frac{1}{4}$) of said Section 3; thence South 87° 11' 06" West on the south line of the North Half (N $\frac{1}{2}$) of said Section 3 a distance of 3851.64 feet; thence North 02° 31' 48" West a distance of 595.86 feet to the Point of Beginning; thence continuing North 02° 31' 48" West a distance of 180.67 feet to the south line of the existing railroad right-of-way; thence North 87° 34' 44" West on said south railroad right-of-way line a distance of 1047.21 feet to the southeasterly line of the Cass County Drain parcel as described in Doc. No. 113110, records of Cass County; thence South 34° 46' 03" West on said southeasterly line a distance of 213.06 feet; thence South 87° 34' 44" East a distance of 1176.80 feet to the Point of Beginning.

Said easement contains 4.60 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9756

That part of the Southeast Quarter (SE $\frac{1}{4}$) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of said SE $\frac{1}{4}$; thence South 87° 11' 06" West on the north line of said SE $\frac{1}{4}$ a distance of 1851.61 feet; thence South 02° 31' 47" East parallel with the west line of said SE $\frac{1}{4}$ a distance of 1754.16 feet to the Point of Beginning; thence continuing South 02° 31' 47" East a distance of 500.00 feet to the north line of the Interstate Highway 94 right-of-way; thence North 87° 17' 15" East on said north right-of-way line a distance of 925.00 feet; thence North 02° 31' 47" West parallel with said west line of the SE $\frac{1}{4}$ a distance of 90.00 feet; thence North 82° 14' 47" West a distance of 330.31 feet; thence North 02° 31' 47" West parallel with said west line of the SE $\frac{1}{4}$ a distance of 350.00 feet; thence South 87° 17' 15" West parallel with said north right-of-way line a distance of 600.00 feet to the Point of Beginning.

Said easement contains 7.78 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9757

That part of the Southwest Quarter (SW¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said SW¼; thence South 02°34'26" East on the west line of said SW¼ a distance of 2147.44 feet to the north line of the Interstate Highway 94 right-of-way; thence North 87°25'34" East on said north right-of-way line a distance of 174.61 feet to the Point of Beginning; thence North 02°31'47" West parallel with the east line of said SW¼ a distance of 400.00 feet; thence North 87°25'34" East parallel with said north right-of-way line a distance of 1275.00 feet; thence South 02°31'47" East parallel with said east line of the SW¼ a distance of 496.74 feet to said north line of the Interstate Highway 94 right-of-way; thence South 87°18'04" West on said north right-of-way line a distance of 547.74 feet; thence North 47°14'21" West on said north right-of-way line a distance of 137.70 feet; thence South 87°25'34" West on said north right-of-way line a distance of 630.39 feet to the Point of Beginning.

Said easement contains 13.04 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 19, 2020 at 3:30 p.m. The District will also participate in the meeting, along with the District's land agent, **Ken Helvey**, who was your primary point of contact throughout the negotiation process. At the meeting, the Commission will ask the District to verify the District's compliance with Section 61-16.1-09(2) of the North Dakota Century Code. The Commission will ultimately vote on whether to approve the District's use of quick take eminent domain to take a right of way easement and temporary easement over your property.

If you wish to participate in the Commission's October 19, 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 easement and temporary easement necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **Ken Helvey** and to continue discussions about the Project. **Ken Helvey** of **SRF Consulting Group, Inc.** is your point of contact regarding the Project. You can reach **Ken Helvey** at (763) 249-6785 or khelvey@srfconsulting.com.

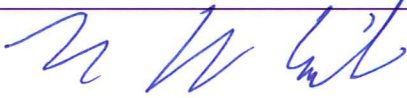
Finally, North Dakota law requires the Commission to provide you with a description of the District's timeline regarding your right of way. The District must complete the

Libbrecht
September 11, 2020
Page 7

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: Ken Helvey, Land Agent
Nicholas R. 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

1ZRT87R14701561151

Weight

1.00 LBS

Service

UPS Next Day Air®
Saturday Delivery
with UPS Carbon Neutral 

Shipped / Billed On

09/10/2020

Delivered On

09/14/2020 10:28 A.M.

Delivered To

WEST FARGO, ND, US

Received By

DRIVER RELEASE

Left At

Front Door

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

Sincerely,

UPS

Tracking results provided by UPS: 09/15/2020 9:40 A.M. EST

parallel with, and 100.00 feet south of, said north line of the NW $\frac{1}{4}$ a distance of 490.28 feet; thence North 02°50'23" West perpendicular to said north line of the NW $\frac{1}{4}$ a distance of 100.00 feet to the Point of Beginning.

Said parcel contains 88.15 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Road Right-of-way as described in Document No. 681544 & 681545, a deeded Cass County Drain Right-of-way, as described in Document No. 113110 & 113111, and a Cass County Drainage Easement as described in Document No. 429245, all on file at the Cass County Recorder's Office.

PARCEL 2:

That part of the North Half (N $\frac{1}{2}$) of Section 3, 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 Northeast Quarter (NE $\frac{1}{4}$) of Section 3; thence South 87° 11' 06" West on the south line of said N $\frac{1}{2}$ a distance of 1851.62 feet to the Point of Beginning; thence continuing South 87°11'06" West on said south line a distance of 2000.02 feet; thence North 02°31'48" West a distance of 776.53 feet to the south line of the existing railroad right-of-way; thence South 87°34'44" East on said south railroad right-of-way line a distance of 3866.29 feet to the east line of said NE $\frac{1}{4}$; thence South 02°29'34" East on said east line a distance of 25.09 feet; thence North 87°34'44" West parallel with, and 25.00 feet south of, said south railroad right-of-way line a distance of 1858.79 feet; thence South 02°31'48" East a distance of 568.23 feet to the Point of Beginning.

Said parcel contains 32.51 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

PARCEL 3:

That part of the Northwest Quarter (NW $\frac{1}{4}$) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West 50.00 feet of the Northwest Quarter (NW $\frac{1}{4}$) of Section 3, lying north of the railroad right-of-way.

Said parcel contains 1.75 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Road Right-of-way as described in Document No. 681545 on file at the Cass County Recorder's Office.

PARCEL 4:

That part of the Northwest Quarter (NW¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West 50.00 feet of the Northwest Quarter (NW¼) of Section 3, lying south of the railroad right-of-way.

Said parcel contains 1.04 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Drain Right-of-way, as described in Document No. 113110 on file at the Cass County Recorder's Office.

OIN 9756

That part of the Southeast Quarter (SE¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West Eight Hundred (800.00) Feet of the Southeast Quarter (SE¼), as measured perpendicular to the west line of said SE¼, LESS the Interstate Highway 94 right-of-way.

Said parcel contains 41.39 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9757

That part of the Southwest Quarter (SW¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The East Twelve Hundred (1200.00) feet of the Southwest Quarter (SW¼) of Section 3, as measured perpendicular to the east line of said SW¼, LESS the Interstate Highway 94 right-of-way.

Said parcel contains 62.03 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

OIN 698, 9758, 9759

TCE 1:

That part of the Northeast Quarter (NE¼) of Section 3, 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 said NE¼; thence North 02°29'34" West on the east line of said NE¼ a distance of 243.02 feet to the Point of Beginning; thence continuing North 02°29'34" West on said east line a distance of 155.57 feet; thence North 87°34'44" West a distance of 1858.79 feet; thence South 02°31'48" East a distance of 155.58 feet; thence South 87°34'44" East a distance of 1858.68 feet to the Point of Beginning.

Said easement contains 6.61 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

TCE 2:

That part of the Northwest Quarter (NW¼) of Section 3, 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 Northeast Quarter (NE¼) of said Section 3; thence South 87° 11' 06" West on the south line of the North Half (N½) of said Section 3 a distance of 3851.64 feet; thence North 02°31'48" West a distance of 595.86 feet to the Point of Beginning; thence continuing North 02°31'48" West a distance of 180.67 feet to the south line of the existing railroad right-of-way; thence North 87°34'44" West on said south railroad right-of-way line a distance of 1047.21 feet to the southeasterly line of the Cass County Drain parcel as described in Doc. No. 113110, records of Cass County; thence South 34°46'03" West on said southeasterly line a distance of 213.06 feet; thence South 87°34'44" East a distance of 1176.80 feet to the Point of Beginning.

Said easement contains 4.60 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9756

That part of the Southeast Quarter (SE¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of said SE¼; thence South 87°11'06" West on the north line of said SE¼ a distance of 1851.61 feet; thence South 02°31'47" East parallel with the west line of said SE¼ a distance of 1754.16 feet to the Point of Beginning; thence continuing South 02°31'47" East a distance of 500.00 feet to the north line of the Interstate Highway 94 right-of-way; thence North 87°17'15" East on said north right-of-way line a distance of 925.00 feet; thence North 02°31'47" West parallel with said west line of the SE¼ a distance of 90.00 feet; thence North 82°14'47" West a distance of 330.31 feet; thence North 02°31'47" West parallel with said west line of the SE¼ a distance of 350.00 feet; thence South 87°17'15" West parallel with said north right-of-way line a distance of 600.00 feet to the Point of Beginning.

Said easement contains 7.78 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9757

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said SW $\frac{1}{4}$; thence South 02°34'26" East on the west line of said SW $\frac{1}{4}$ a distance of 2147.44 feet to the north line of the Interstate Highway 94 right-of-way; thence North 87°25'34" East on said north right-of-way line a distance of 174.61 feet to the Point of Beginning; thence North 02°31'47" West parallel with the east line of said SW $\frac{1}{4}$ a distance of 400.00 feet; thence North 87°25'34" East parallel with said north right-of-way line a distance of 1275.00 feet; thence South 02°31'47" East parallel with said east line of the SW $\frac{1}{4}$ a distance of 496.74 feet to said north line of the Interstate Highway 94 right-of-way; thence South 87°18'04" West on said north right-of-way line a distance of 547.74 feet; thence North 47°14'21" West on said north right-of-way line a distance of 137.70 feet; thence South 87°25'34" West on said north right-of-way line a distance of 630.39 feet to the Point of Beginning.

Said easement contains 13.04 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.

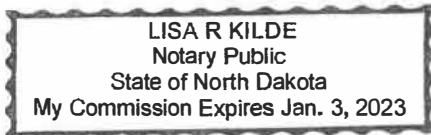
[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.


Dated this 7 day of October, 2020.



Ken Helvey
SRF Consulting Group, Inc.

Subscribed to and sworn to before me this 7 day of October, 2020.





Notary Public, County of Cass
State of North Dakota
My Commission Expires: _____

(SEAL)

"Exhibit A"

OIN 698 945 9741 9756 9757 9758 9759 9760 - Libbrecht Contact Attempts

Date	Note
8/21/2017	Nicole called - rang with no answer machine
8/23/2017	Nicole spoke with Glen and he informed her that he and other landowners would get together to talk
8/30/2017	Glen left a voicemail for Nicole requesting she call back regarding the appraisal process for his land
8/31/2017	Nicole called Glen to talk about his questions
8/26/2019	Ken returned a call to Glen regarding the name on the package
10/15/2019	Ken spoke to Nick Delaney regarding the appraisal
10/16/2019	Ken sent Nick an email with details
1/23/2020	Appraisal and offer letter received
2/12/2020	Ken emailed Nick & Igor. Glen is asking for another change in the TCE
4/30/2020	Formal Offer letter sent
5/18/2020	CCJWRD Invite sent
6/9/2020	CCJWRD invite received
7/16/2020	Talked to Rinke regarding status of counter offer. Still waiting on appraisals
7/30/2020	Spoke to owners attorney. They are still waiting on appraisals before making a counter offer
8/20/2020	Spoke to owner and attorney regarding appraisal and next steps. Told Libbrecht his attorney will need to fill in details
8/24/2020	Followed up with attorney to see if he had connected with his client
9/30/2020	Ken spoke with Libbrecht attorney and they are still awaiting appraisal, no counteroffer received

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 Glen Libbrecht (“Landowner”) is necessary for the Project.

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

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

Right of Way
OINs 698, 9758, 9759
PARCEL 1:

That part of the North Half (N½) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of Section 3; thence North 87°09'37" East on the north line of the Northwest Quarter (NW¼) of said Section 3 a distance of 962.50 feet to the Point of Beginning; thence continuing North 87°09'37" East on said north line a distance of 1690.84 feet northeast corner of said NW¼; thence North 87°07'54" East on the north line of the Northeast Quarter (NE¼) of said Section 3 a distance of 1428.34 feet; thence South 02°52'06" East perpendicular to said north line a distance of 100.00 feet; thence South 87°07'54" West parallel with, and 100.00 feet south of, said north line of the NE¼ a distance of 628.92 feet; thence South 02°31'48" East a distance of 1739.60 feet to the north line of the existing railroad right-of-way; thence North 87°34'44" West on said north railroad right-of-way line a distance of 2870.50 feet to the southeasterly line of the Cass County Drain parcel as described in Doc. No. 113110, records of Cass County; thence

North 57°41'28" East on said southeasterly line a distance of 626.83 feet; thence North 67°10'44" East on said southeasterly line a distance of 336.63 feet; thence North 02°31'48" West a distance of 1052.59 feet; thence South 87°09'37" West parallel with, and 100.00 feet south of, said north line of the NW¼ a distance of 490.28 feet; thence North 02°50'23" West perpendicular to said north line of the NW¼ a distance of 100.00 feet to the Point of Beginning.

Said parcel contains 88.15 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Road Right-of-way as described in Document No. 681544 & 681545, a deeded Cass County Drain Right-of-way, as described in Document No. 113110 & 113111, and a Cass County Drainage Easement as described in Document No. 429245, all on file at the Cass County Recorder's Office.

PARCEL 2:

That part of the North Half (N½) of Section 3, 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 Northeast Quarter (NE¼) of Section 3; thence South 87° 11' 06" West on the south line of said N½ a distance of 1851.62 feet to the Point of Beginning; thence continuing South 87°11'06" West on said south line a distance of 2000.02 feet; thence North 02°31'48" West a distance of 776.53 feet to the south line of the existing railroad right-of-way; thence South 87°34'44" East on said south railroad right-of-way line a distance of 3866.29 feet to the east line of said NE¼; thence South 02°29'34" East on said east line a distance of 25.09 feet; thence North 87°34'44" West parallel with, and 25.00 feet south of, said south railroad right-of-way line a distance of 1858.79 feet; thence South 02°31'48" East a distance of 568.23 feet to the Point of Beginning.

Said parcel contains 32.51 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

PARCEL 3:

That part of the Northwest Quarter (NW¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West 50.00 feet of the Northwest Quarter (NW¼) of Section 3, lying north of the railroad right-of-way.

Said parcel contains 1.75 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Road Right-of-way as described in Document No. 681545 on file at the Cass County Recorder's Office.

PARCEL 4:

That part of the Northwest Quarter (NW¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West 50.00 feet of the Northwest Quarter (NW¼) of Section 3, lying south of the railroad right-of-way.

Said parcel contains 1.04 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Drain Right-of-way, as described in Document No. 113110 on file at the Cass County Recorder's Office.

OIN 9756

That part of the Southeast Quarter (SE¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The West Eight Hundred (800.00) Feet of the Southeast Quarter (SE¼), as measured perpendicular to the west line of said SE¼, LESS the Interstate Highway 94 right-of-way.

Said parcel contains 41.39 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9757

That part of the Southwest Quarter (SW¼) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

The East Twelve Hundred (1200.00) feet of the Southwest Quarter (SW¼) of Section 3, as measured perpendicular to the east line of said SW¼, LESS the Interstate Highway 94 right-of-way.

Said parcel contains 62.03 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement:

OIN 698, 9758, 9759

TCE 1:

That part of the Northeast Quarter (NE¼) of Section 3, 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 said NE $\frac{1}{4}$; thence North 02°29'34" West on the east line of said NE $\frac{1}{4}$ a distance of 243.02 feet to the Point of Beginning; thence continuing North 02°29'34" West on said east line a distance of 155.57 feet; thence North 87°34'44" West a distance of 1858.79 feet; thence South 02°31'48" East a distance of 155.58 feet; thence South 87°34'44" East a distance of 1858.68 feet to the Point of Beginning.

Said easement contains 6.61 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

TCE 2:

That part of the Northwest Quarter (NW $\frac{1}{4}$) of Section 3, 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 Northeast Quarter (NE $\frac{1}{4}$) of said Section 3; thence South 87° 11' 06" West on the south line of the North Half (N $\frac{1}{2}$) of said Section 3 a distance of 3851.64 feet; thence North 02°31'48" West a distance of 595.86 feet to the Point of Beginning; thence continuing North 02°31'48" West a distance of 180.67 feet to the south line of the existing railroad right-of-way; thence North 87°34'44" West on said south railroad right-of-way line a distance of 1047.21 feet to the southeasterly line of the Cass County Drain parcel as described in Doc. No. 113110, records of Cass County; thence South 34°46'03" West on said southeasterly line a distance of 213.06 feet; thence South 87°34'44" East a distance of 1176.80 feet to the Point of Beginning.

Said easement contains 4.60 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9756

That part of the Southeast Quarter (SE $\frac{1}{4}$) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northeast Corner of said SE $\frac{1}{4}$; thence South 87°11'06" West on the north line of said SE $\frac{1}{4}$ a distance of 1851.61 feet; thence South 02°31'47" East parallel with the west line of said SE $\frac{1}{4}$ a distance of 1754.16 feet to the Point of Beginning; thence continuing South 02°31'47" East a distance of 500.00 feet to the north line of the Interstate Highway 94 right-of-way; thence North 87°17'15" East on said north right-of-way line a distance of 925.00 feet; thence North 02°31'47" West parallel with said west line of the SE $\frac{1}{4}$ a distance of 90.00 feet; thence North 82°14'47" West a distance of 330.31 feet; thence North 02°31'47" West parallel with said west line of the SE $\frac{1}{4}$ a distance of 350.00 feet; thence South 87°17'15" West parallel with said north right-of-way line a distance of 600.00 feet to the Point of Beginning.

Said easement contains 7.78 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

OIN 9757

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 3, Township 139 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Commencing at the Northwest Corner of said SW $\frac{1}{4}$; thence South 02°34'26" East on the west line of said SW $\frac{1}{4}$ a distance of 2147.44 feet to the north line of the Interstate Highway 94 right-of-way; thence North 87°25'34" East on said north right-of-way line a distance of 174.61 feet to the Point of Beginning; thence North 02°31'47" West parallel with the east line of said SW $\frac{1}{4}$ a distance of 400.00 feet; thence North 87°25'34" East parallel with said north right-of-way line a distance of 1275.00 feet; thence South 02°31'47" East parallel with said east line of the SW $\frac{1}{4}$ a distance of 496.74 feet to said north line of the Interstate Highway 94 right-of-way; thence South 87°18'04" West on said north right-of-way line a distance of 547.74 feet; thence North 47°14'21" West on said north right-of-way line a distance of 137.70 feet; thence South 87°25'34" West on said north right-of-way line a distance of 630.39 feet to the Point of Beginning.

Said easement contains 13.04 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 30, 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 the landowner is attached as **Exhibit 2**.


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

[¶11] On July 21, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way and Temporary Easement, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

[¶12] The District has retained land agents who are in direct contact with Landowner. The District instructed our land agents not to reference, mention, or threaten quick take eminent domain during negotiations. The land agents have verified they have not referenced, mentioned, or threatened quick take eminent domain during the course of negotiations with Landowner since August 1, 2017.

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

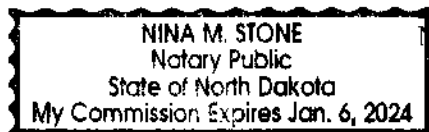
Dated this 8th day of October, 2020.



Dan Jacobson, Chair
Cass County Joint Water Resource District

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

(SEAL)





Notary Public, Cass County, State of North Dakota