

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

November 2nd, 2020

PROPERTY OWNER: Martin Johnson

LAND AGENT: Ken Helvey with SRF

OIN: 227 228



FM AREA
DIVERSION
PROJECT

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Written Correspondence Timeline – Martin Johnson

OIN 227 228	Sent	Received
Offer to Purchase	1/27/2020	1/28/2020
Formal Negotiations and Written Offer of Just Compensation	4/6/2020	5/4/2020
Request for Meeting	6/5/2020	6/10/2020
Notice of Intent to Take Possession of Right-of-Way	8/21/2020	8/24/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	9/18/2020	9/18/2020
Invitation to Attend Public Meeting	9/25/2020	9/28/2020
Commission Meeting Date	11/2/2020	

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: Martin Johnson
Douglas W. Johnson
Jeffrey K. Johnson and Mary M.W. Johnson, as Trustees of the
Jeffrey K. Johnson Trust Under Agreement August 30, 2019
2. Land Agent: Ken Helvey
3. Parcel Nos.: 15-0000-02680-010 and 15-0000-02684-000
4. OIN Nos.: 227 (LESS Auditors Lot 1 of NW¼ 31-138-49) and 228

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 of notice of CCJWRD’s offer].
 - Did CCJWRD verify it sent Landowner a written request for a meeting by certified mail or commercial delivery, and that Landowner either signed for the notice or had constructive notice: _____

4. NDCC § 61-16.1-09(2)(b)(1)(b)[3] requires CCJWRD to send Landowner a written notice of intent to take possession of the right of way, by certified mail or commercial delivery requiring a signed receipt [if the parties have not come to an agreement within 30 days of Landowner's receipt of notice of CCJWRD's invitation to a meeting].
 - Did CCJWRD verify it sent a written notice of intent to take possession of right away by certified mail or commercial delivery, and that Landowner either signed for the notice or had constructive notice: _____
5. NDCC § 61-16.1-09(2)(b)(2) requires all written communications to Landowner to include contact information for responding to CCJWRD and a description of the required negotiation timeline.
 - Did CCJWRD verify that all written communications to Landowner included contact information for responding to CCJWRD and a description of the required negotiation timeline: _____
6. NDCC § 61-16.1-09(2)(b)(3) prohibits a district from including or utilizing any reference to quick take eminent domain during negotiations.
 - Did CCJWRD verify it did not include or utilize any reference to quick take eminent domain during negotiations: _____

If the Commission answers in the affirmative to the above questions,
RECOMMENDED MOTION:

- I move to authorize the Cass County Joint Water Resource District to utilize quick take eminent domain under Section 61-16.1-09(2) of the North Dakota Century Code to take an easement for a right of way regarding OIN 227 (Less Auditors Lot 1) and OIN 228.

FM Area Diversion Project Negotiation Summary

October 26, 2020

Owner	Martin G. Johnson
Address	7806 112 Ave S, Horace, ND 58047
Property Location	Diversion Channel
Property Type	Agriculture
OIN	227, 228
Land Agent	Ken Helvey - SRF
Landowner Representative	Nick Delaney – Rinke Noonan

Property Need

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

Valuation and Negotiation Summary:

Ag Land Appraisal Value / Date	\$1,481,700 dated April 10, 2019 109.52 acres Land/Site Taking \$9,500/A = \$1,040,440 220.63 acres of Remnant – Severance \$2,000/A = \$441,260
Landowner Counteroffer	\$ 3,971,000 (BOARD APPROVED ON 10/22/2020)

Counteroffer Provisions

- Landowners have an appraiser, Ellen Herman, who has provided a written valuation of \$18,000 per acre.

LAND VALUATION DATA AND CONCLUSION

We reviewed over twenty comparable sales for consideration in our preliminary analysis. From these sales, we researched and analyzed the following four comparable sales, which were considered to be the most applicable to the subject property for determining the preliminary land valuation opinion presented in this restricted appraisal report. If a written appraisal report is requested in the future, additional comparable sales may be referenced and/or considered in that report. The four comparable sales used in determining our preliminary land valuation are as follows:

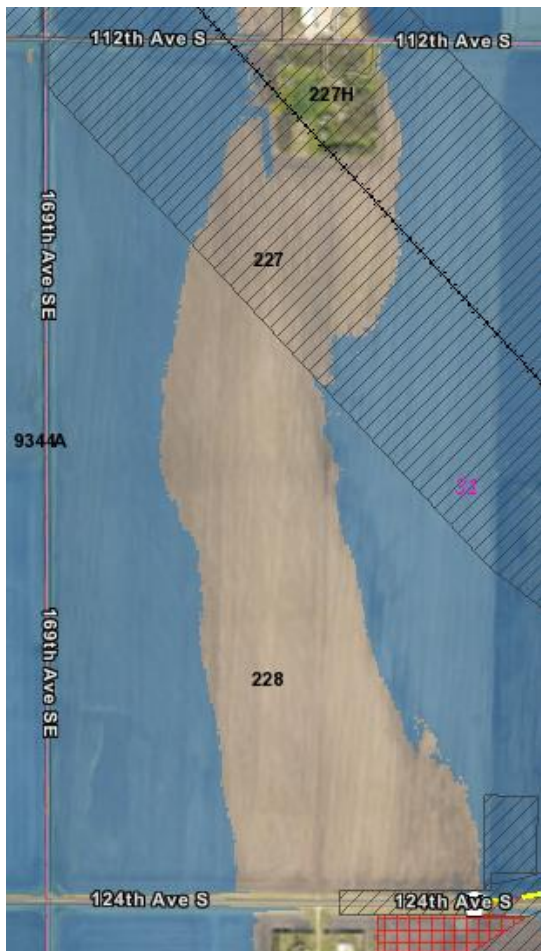
Sale Data	Sale #1	Sale #2	Sale #3	Sale #4
Address	S of 100 th Ave and W of 72 nd Street	S of 100 th Ave and W of 72 nd Street	SEC 76 th Ave and 81 st Street	NWC 100 th Ave and 172 nd Street
City/County	Horace, Cass	Horace, Cass	Horace, Cass	Stanley Twp, Cass
PID #	15-0000-02635-070	15-0000-02070-030	15-0000-01680-050	Multiple
Buyer	MERCO Investments, LLLP	EAV Family Holdings, LLC	Bryan J. Smith	Contractors Leasing
Seller	Adelman Investments, LLC	Danny and Cathy Holmen	Sunset View, LLC	Multiple (4 sellers)
Sale Date	2/23/2018	7/10/2018	11/2/2018	5/1/2019
Sale Price	\$1,000,000	\$1,150,000	\$625,000	\$2,503,025
Sale Price per Acre	\$15,672	\$12,182	\$24,811	\$16,430
Land Size (excl ROW)	63.81 acres	94.40 acres	25.19 acres	152.34 acres

Based on this data our preliminary analysis indicates a value for the subject land, as if vacant, of \$18,000 per acre for the subject's net land area of 320.43 acres.

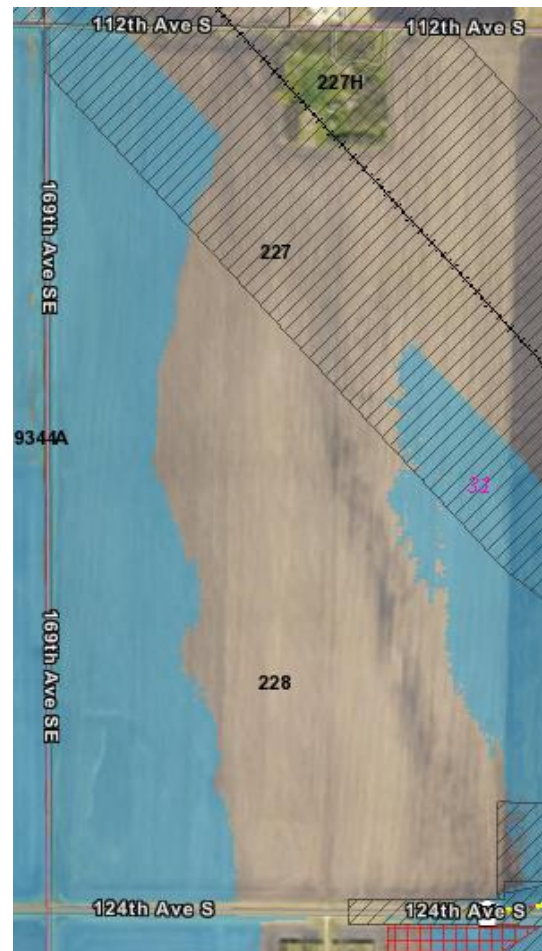
After consideration of the information and comparable data contained in this restricted report or our file documentation, it is our opinion that the preliminary market value of the fee simple interest in the subject real estate, under the hypothetical conditions the subject property is vacant and unaffected by the taking and/or public project as of March 16, 2020 is:

**FIVE MILLION SEVERN HUNDRED SEVENTY THOUSAND DOLLARS
\$5,770,000**

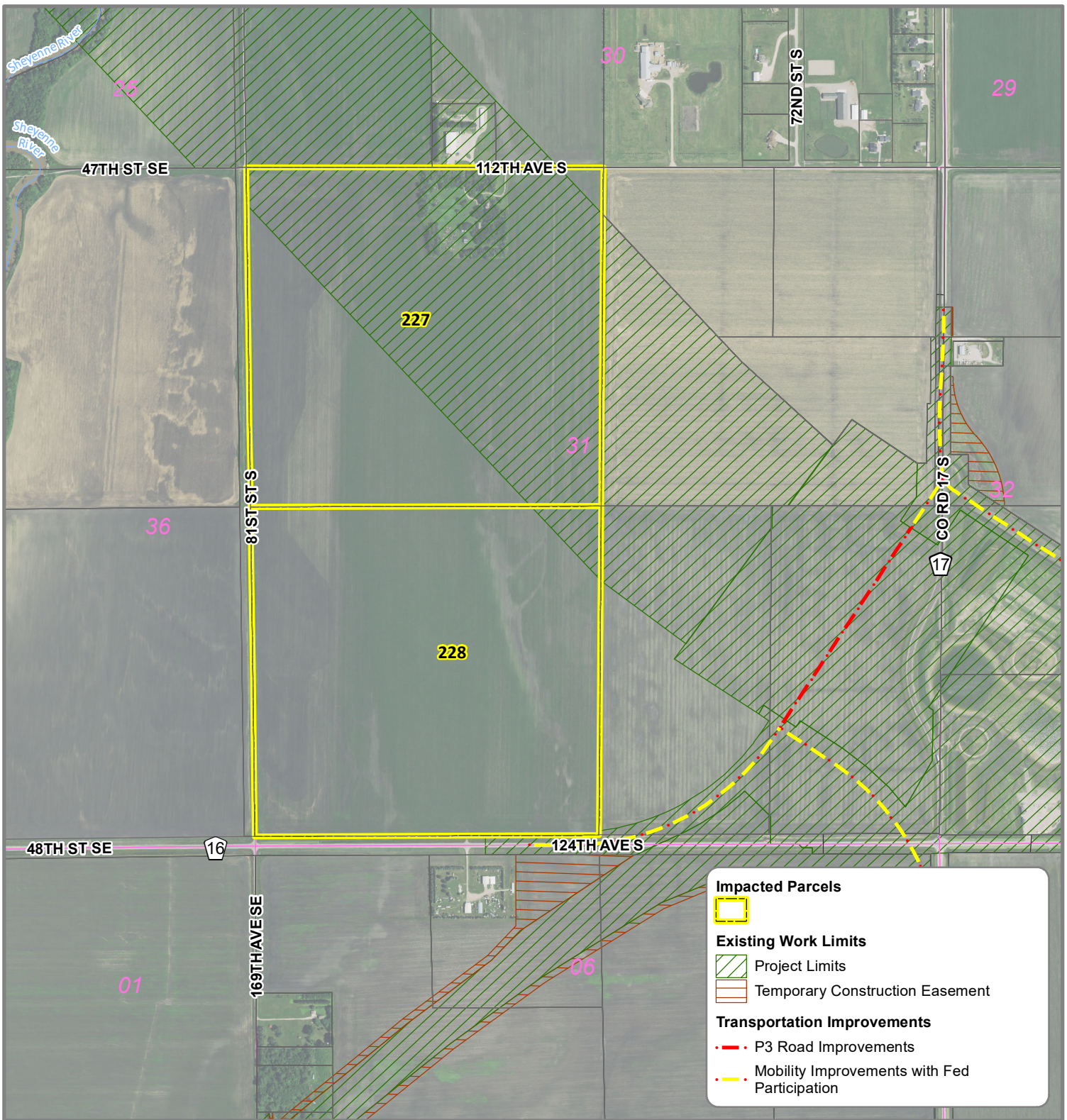
- Landowners propose that CCJWRD purchase all of OIN 227 and 228.
 - 109.52 Project Required Acres at \$17,120/A (80% increase) = \$1,875,015
 - 220.63 Remnant Purchased Acres at \$9,500/A = \$2,095,985
 - Landowners current counteroffer would result in an "average" per acre price of \$11,877 (a 25% increase on all acres)
- The remnant parcel of OIN 227 and 228 is considered "high" ground, see the attached map.



100-year Flood Existing



100 year Flood With Project

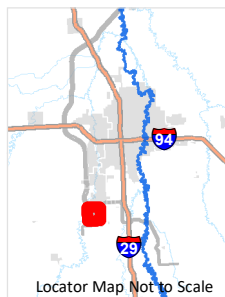
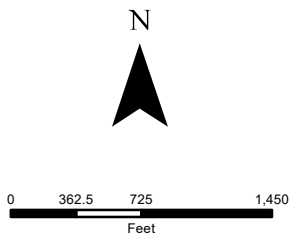


Impacted Parcels

Existing Work Limits
 Project Limits
 Temporary Construction Easement

Transportation Improvements
 P3 Road Improvements
 Mobility Improvements with Fed Participation

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 Division\Projects\Land Acquisition\Project Work Package\!Project Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105notdatadriven.mxd



Martin G. Johnson
 OINs: 227 & 228
 Parcel ID's: 15-0000-02680-000 & 15-0000-02684-000
 Cass County, ND
 FM AREA DIVERSION
 Map Date: 6/8/2020





January 27, 2020

Martin G. Johnson
7806 112th Ave S
Horace, ND 58047

RE: **Revised Offer to Purchase**
Parcel ID: OIN 227 228
Project Title: Fargo Moorhead Diversion
PID: 15-0000-02680-000 and 15-0000-02684-000

Dear Mr. Johnson,

It has come to our attention that a number of technical corrections were required in the appraisal was used in our previous Offer to Purchase letter dated August 5, 2019. Therefore, we are presenting a new and revised Offer to Purchase with the correct appraisal enclosed.

With this updated appraisal, the appraiser has determined the market value of the interests being purchased is \$1,746,700.00. 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. A summary of the appraisal is provided on Exhibit A (Appraisal Summary).

The Cass County Joint Water Resource District hereby offers to pay you \$1,746,700.00 as Just Compensation for the property interests it must acquire from you.

Separate from this agreement are relocation benefits provided as a part of the acquisition of your property.

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

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

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

- Copy of the appraisal for Parcel ID OIN 227 228 by Integra Realty Resources dated January 20, 2020
- 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

cc: Nicholas Delaney, Rinke Noonan

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

Jeffrey K. Johnson

Martin G. Johnson

Douglas W. Johnson

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 September 1, 2020.

Enclosures: Appraisal Report, Exhibit A, Exhibit B

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Revised Offer to Purchase

Parcel ID: OIN 227 228

Project Title: Fargo Moorhead Diversion

PID: 15-0000-02680-000 and 15-0000-02684-000

Property Address: 7806 112th Ave. S., Horace, ND 58047

Recorded Fee Owner: Martin G. Johnson ET AL

Property Legal Description:

SEE ATTACHED SURVEY

Description of Property Interests to be Acquired: Fee Simple

Noted and Waived Exceptions, Reservations or Encumbrances: None

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

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

APPRAISAL SUMMARY

Parcel Value	Area Size/ Description	Per Unit	Indicated Value
Land/Site Taking	109.52 Acres	\$ 9,500	\$ 1,040,440.00
Homestead	5 Acres	\$ 265,000	\$ 265,000.00
Severance	220.63 Acres	\$ 2,000	\$ 441,260.00
TOTAL (rounded)			\$ 1,746,700.00



FAQs >

Track Another Package +

Revised
227

Tracking Number: 9505511429310027017642

Remove X

Your item was delivered in or at the mailbox at 1:16 pm on January 28, 2020 in HORACE, ND 58047.

Delivered

January 28, 2020 at 1:16 pm
Delivered, In/At Mailbox
HORACE, ND 58047

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

**Cass County
Joint Water
Resource
District**

April 6, 2020

Martin G. Johnson
7806 112th Avenue S
Horace, ND 58047
Certified No. 7019 1640 0002 0398 8040

Dan Jacobson
Chairman
West Fargo, North Dakota

Douglas W. Johnson
P.O. Box 182
Horace, ND 58047
Certified No. 7019 1640 0002 0398 8057

Rodger Olson
Manager
Leonard, North Dakota

Jeffrey K. Johnson
1812 1st Avenue S
Minneapolis, MN 55403
Certified No. 7019 1640 0002 0398 8064

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Greetings:

Keith Weston
Manager
Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OINs: 227, 228
Parcel Nos.: 15-0000-02680-0000, 15-0000-02684-000

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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

The Cass County Joint Water Resource District (the "District") is in the process of acquiring property interests necessary for the Fargo-Moorhead Area Diversion Project (the "Project"), and the District has been in discussions with you regarding right of way the District must acquire from you to accommodate the Project. The District directed me to provide you this letter as the District's formal offer to purchase right of way from you. More specifically, to accommodate the Project, the District must acquire right of way from you over property located in Cass County and identified as Parcel Identification Number 15-0000-02680-000 and 15-0000-02684-000. The legal description of the property to be acquired is:

That part of the West Half (W½) of Section 31, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, further described as follows:

Martin G. Johnson
Douglas W. Johnson
Jeffrey K. Johnson
April 6, 2020
Page 2

Beginning at the Northwest Corner of the Northwest Quarter (NW¼) of Section 31; thence North 88°00'43" East on the north line of said NW¼ a distance of 2793.48 feet to the Northeast Corner of said NW¼; thence South 01°49'59" East on the east line of the West Half (W½) of said Section 31 a distance of 3239.02 feet; thence North 45°17'57" West a distance of 4053.92 feet to the west line of said NW¼; thence North 02°45'30" West on said west line a distance of 289.24 feet to the Point of Beginning.

Said parcel contains 112.96 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

That part of the Southwest Quarter (SW¼) of Section 31, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, further described as follows:

The East Nine Hundred and Five (905.00) feet of the South Seventy-five (75.00) feet of the Southwest Quarter (SW¼) of Section 31 as measured at right angles to east and south lines of said SW¼.

Said parcel contains 1.56 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deed Cass County right-of-way as described in Document No. 436633 on file at the Cass County Recorder's Office.

Enclosed is an appraisal regarding the value of the right of way the District must acquire from you, as determined by a licensed North Dakota appraiser. As you can see from the appraisal, the appraiser indicated the value of the right of way the District must acquire from you is \$1,040,440.00, plus damages to the remainder of property in the amount of \$441,260.00, plus structure costs in the amount of \$265,000.00 for a total of \$1,746,700.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$1,746,700.00 as just compensation to purchase right of way from you for the Project. If you are willing to accept the District's offer, please sign the enclosed *Purchase Agreement* and return it to the District in the enclosed self-addressed, stamped envelope.

You are encouraged to maintain contact with the land agent assigned to your property. **Tim Magnusson** of SRF Consulting Group, Inc. can be reached at **(701) 893-7436** or **tmagnusson@srfconsulting.com**. Tim is your point of contact for getting answers to any questions you have about the Project and acquisition of right of way from you for the Project.

Martin G. Johnson
Douglas W. Johnson
Jeffrey K. Johnson
April 6, 2020
Page 3

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

Enclosures

cc: Nicholas Delaney, Attorney at Law, Rinke Noonan
Tim Magnusson, 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:

MARTIN G JOHNSON
 7806 112TH AVE S
 HORACE ND 58047



9590 9402 3806 8032 1548 71

2. Article Number (Transfer from service label)

7019 1640 0002 0398 8040

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Martin G Johnson Agent Addressee

B. Received by (Printed Name)

Martin G Johnson 4-7-20

C. Date of Delivery

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

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

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

Domestic Return Receipt

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:

DOUGLAS W JOHNSON
 125 9TH STREET E
 APT 205
 WEST FARGO ND 58078



9590 9402 2341 6225 7723 84

2. Article Number (Transfer from service label)

7019 1640 0002 0398 7517

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X HRA CM

- Agent
- Addressee

B. Received by (Printed Name)

Douglas Johnson

C. Date of Delivery

5/1/20

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

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

JEFFREY K JOHNSON
 5008 34TH AVENUE S
 MINNEAPOLIS MN 55417



9590 9402 2341 6225 7723 77

2. Article Number (Transfer from service label)

7019 1640 0002 0398 7524

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x M.N. 34

Agent

Addressee

B. Received by (Printed Name)

Covid

C. Date of Delivery

5/4/2020

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Insured Mail

Insured Mail Restricted Delivery (over \$500)

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Return Receipt for Merchandise

Signature Confirmation™

Signature Confirmation Restricted Delivery

Domestic Return Receipt



Cass County
Joint Water
Resource
District

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

June 5, 2020

Martin G. Johnson
7806 112th Avenue S
Horace, ND 58047
Certified No. 7019 1640 0002 0398 8668

Douglas W. Johnson
125 9th Street E
Apt. 205
West Fargo, ND 58078
Certified No. 7019 1640 0002 0398 8675

Jeffrey K. Johnson and Mary M.W. Johnson
As Trustees of the Jeffrey K. Johnson Trust
5008 34th Avenue S
Minneapolis, MN 55417
Certified No. 7019 1640 0002 0398 8682

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OINs: 227, 228
Parcel Nos.: 15-0000-02680-000, 15-0000-02684-000

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 6, 2020; a copy of the District's appraisal for the right of way needed from you; and a Purchase Agreement as the District's offer of just compensation to purchase the right of way from you. The District's letter specifically described the right of way the District must acquire from you for the Project. We have not received a signed Purchase Agreement from you, and we have not otherwise arrived at mutually acceptable terms regarding the District's purchase of right of way from you to accommodate the Project.

Johnson
OINs 227, 228
June 5, 2020
Page 2

The District requests your attendance at a meeting to discuss the District's offer to purchase right of way from you. The District is meeting at 8:00 a.m., on June 11, 2020, and June 25, 2020. Over the next several months, District meetings will be conducted via conference call and District board members will not be attending in person. The requirements that a meeting room be available to the public and that a speakerphone or monitor be provided at a physical location under NDCC § 44-04-19 have been suspended indefinitely pursuant to Governor Burgum's Executive Order 2020-16; therefore, we request your attendance by telephone.

The District hopes you will attend one of the above-mentioned meetings to discuss the Project and the right of way the District must acquire from you to accommodate the Project. If you would like to attend one of the meetings by phone, please contact me or Melissa Maertens at (701) 298-2381 at least 24 hours in advance of the meeting so the necessary arrangements can be made and the call-in information provided to you.

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

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

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:
 DOUGLAS W JOHNSON
 125 9TH STREET E
 APT 205
 WEST FARGO ND 58078



9590 9402 3806 8032 1542 77

2. Article Number (Transfer from service label)
 7019 1640 0002 0398 8675

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
Douglas W Johnson

B. Received by (Printed Name) Agent
Douglas W. Johnson


C. Date of Delivery
6/10/2020

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

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

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature X <i>J. Johnson</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p>
<p>1. Article Addressed to: <i>JEFFREY K JOHNSON & MARY M. JOHNSON</i> <i>5008 34TH AVENUE S</i> <i>MINNEAPOLIS MN 55417</i></p>	<p>B. Received by (Printed Name) <i>J. Johnson</i> C. Date of Delivery <i>6/9/20</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>
 9590 9402 3806 8032 1543 83	<p>3. Service Type</p> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™ <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)
<p>2. Article Number (Transfer from service label) 7019 1640 0002 0398 8682</p>	
PS Form 3811, July 2015 PSN 7530-02-000-9053	Domestic Return Receipt

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:
MARTIN G JOHNSON
7806 112TH AVENUE S
HORACE ND 58047



9590 9402 3806 8032 1542 60

2. Article Number (Transfer from service label)

7019 1640 0002 0398 8668

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *Martin Johnson* Agent
 Addressee

B. Received by (Printed Name) **Martin JOHNSON** C. Date of Delivery **6/19/2020**

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



VIA UPS DELIVERY

Cass County
Joint Water
Resource
District

August 21, 2020

Jeffrey K Johnson and Mary M.W. Johnson
as Trustees of the Jeffrey K. Johnson Trust
5008 34th Avenue S
Minneapolis, MN 55417

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
Notice of Intent to Take Possession of Right of Way
OIN: 227, 228
Parcel Nos.: 15-0000-02680-000, 15-0000-02684-000

Dear Jeffrey:

On July 21, 2020, the enclosed letter regarding property you own in Cass County, North Dakota, with Martin G. Johnson and Douglas W. Johnson was sent to you. The return receipt for the July 21, 2020, letter was not received by our office.

As the enclosed letter indicates, 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.

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

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

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

Enclosures

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>
<p>1. Article Addressed to: MARTIN G JOHNSON 7806 112TH AVENUE S NORACE ND 58047</p>	<p>B. Received by (Printed Name) C. Date of Delivery Andrew B 7/23</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>
 9590 9402 5989 0062 9058 56	<p>3. Service Type</p> <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 idise e Confirmation™ e Confirmation id Delivery
<p>2. Article 70</p>	<p>Domestic Return Receipt</p>
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>	

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p><i>X Douglas W Johnson</i></p>
<p>1. Article Addressed to:</p> <p>DOUGLAS W JOHNSON 125 9TH STREET E APT 205 WEST FARLEND ND 58078</p>	<p>B. Received by (Printed Name) C. Date of Delivery</p> <p>DOUGLAS W JOHNSON 7/24/2020</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>
 <p>9590 9402 5989 0062 9058 49</p>	<p>3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>
<p>2. Article Number (Transfer from service label)</p> <p>7020 0090 0000 7648 4267</p>	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>	<p>Domestic Return Receipt</p>



SENT VIA EMAIL wilsonro@casscountynd.gov

Cass County
Joint Water
Resource
District

September 18, 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
OINs: 227, 228
Parcel Nos.: 15-0000-02680-010, 15-0000-02684-000

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 from Martin Johnson; Douglas W. Johnson; and Jeffrey K. Johnson and Mary M.W. Johnson as Trustees of the Jeffrey K. Johnson Trust under Agreement dated August 30, 2019 (the "Landowner"):

- Letters dated April 6, 2020, and April 30, 2020, enclosing the District's appraisal for the acquisition of the right of way from the Landowner and a proposed Purchase Agreement;
- Letter dated June 5, 2020, inviting the Landowner to meet with the District for purposes of negotiating compensation for the right of way to be acquired; and
- Letters dated July 21, 2020, and August 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 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 in, on, over, across, and through certain property owned by the Landowner in Cass County, North Dakota. The District and the Landowner successfully negotiated a *Purchase Agreement* with respect to a portion of the property needed from the Landowner, but it remains necessary for the District to acquire additional property rights from the Landowner. The legal description of the necessary right of way that must still be acquired is as follows:

Right of Way Easement:

OIN 227

That part of the West Half ($W\frac{1}{2}$) of Section 31, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northwest Corner of the Northwest Quarter ($NW\frac{1}{4}$) of Section 31; thence North $88^{\circ} 00' 43''$ East on the north line of said $NW\frac{1}{4}$ a distance of 2793.48 feet to the Northeast Corner of said $NW\frac{1}{4}$; thence South $01^{\circ} 49' 59''$ East on the east line of the West Half ($W\frac{1}{2}$) of said Section 31 a distance of 3239.02 feet; thence North $45^{\circ} 17' 57''$ West a distance of 4053.92 feet to the west line of said $NW\frac{1}{4}$; thence North $02^{\circ} 45' 30''$ West on said west line a distance of 289.24 feet to the Point of Beginning.

Said parcel contains 112.96 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

LESS

Auditor's Lot 1 of the Northwest Quarter ($NW\frac{1}{4}$) of Section 31, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota.

Said excepted parcel contains 5.0 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 228

That part of the Southwest Quarter (SW¼) of Section 31, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, further described as follows:

The East Nine Hundred and Five (905.00) feet of the South Seventy-five (75.00) feet of the Southwest Quarter (SW¼) of Section 31 as measured at right angles to east and south lines of said SW¼.

Said parcel contains 1.56 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County right-of-way as described in Document No. 436633 on file at the Cass County Recorder's Office.

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

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

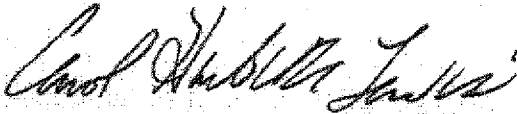
While the District takes all landowners' rights very seriously, the District also has an obligation, as a member of the Metro Flood Diversion Authority, to acquire the right of way necessary for the Project, and construction of the Project will not be possible without acquiring the right of way identified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

Robert Wilson
September 18, 2020
Page 4

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

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 25, 2020

VIA UPS – DELIVERY CONFIRMATION

Board of County Commissioners

Chad M. Peterson
Fargo, North Dakota

Rick Steen
Fargo, North Dakota

Ken Pawluk
Fargo, North Dakota

Duane Breitling
West Fargo, North Dakota

Mary Scherling
Stanley Township, North Dakota

Martin G. Johnson
7806 112th Avenue South
Horace, ND 58047
UPS Tracking No. 1Z F51 82Y 30 9376 8829

Douglas W. Johnson
125 9th Street E, Apartment 205
West Fargo, ND 58078
UPS Tracking No. 1Z F51 82Y 30 9366 6037

Jeffrey K. Johnson and Mary M.W. Johnson,
as Trustees of the Jeffrey K. Johnson Trust
Under Agreement August 30, 2019
5008 34th Avenue S
Minneapolis, MN 55417
UPS Tracking No. 1Z F51 82Y 30 9183 7847

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OINs: 227, 228
Parcel Nos. 15-0000-02680-010, 15-0000-02684-000

Greetings:

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

- Letters dated April 6, 2020 and April 30, 2020, enclosing the District's appraisal for the acquisition of the right of way easement from you, along with a proposed Purchase Agreement;

Heather Worden
Commission Assistant

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

- Letter dated June 5, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way easement to be acquired; and
- Letters dated July 21, 2020 and August 21, 2020, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way easement necessary for the Project.

The District informed the Commission that while a Purchase Agreement has been entered into with respect to a portion of the property needed from you for the Project, you and the District have not reached a mutually-acceptable agreement, and have not signed a purchase agreement, regarding the right of way easement the District must purchase from you to accommodate the Project, for the balance of the Property interest the District must acquire from you. With that in mind, the District recently requested approval from the Commission to utilize quick take eminent domain to take possession of the right of way easement the District must acquire from you. The legal description of the necessary right of way easement is as follows:

OIN 227

That part of the West Half (W $\frac{1}{2}$) of Section 31, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northwest Corner of the Northwest Quarter (NW $\frac{1}{4}$) of Section 31; thence North 88° 00' 43" East on the north line of said NW $\frac{1}{4}$ a distance of 2793.48 feet to the Northeast Corner of said NW $\frac{1}{4}$; thence South 01° 49' 59" East on the east line of the West Half (W $\frac{1}{2}$) of said Section 31 a distance of 3239.02 feet; thence North 45° 17' 57" West a distance of 4053.92 feet to the west line of said NW $\frac{1}{4}$; thence North 02° 45' 30" West on said west line a distance of 289.24 feet to the Point of Beginning.

Said parcel contains 112.96 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

LESS

Auditor's Lot 1 of the Northwest Quarter (NW $\frac{1}{4}$) of Section 31, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota.

Said excepted parcel contains 5.0 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 228

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 31, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, further described as follows:

The East Nine Hundred and Five (905.00) feet of the South Seventy-five (75.00) feet of the Southwest Quarter (SW $\frac{1}{4}$) of Section 31 as measured at right angles to east and south lines of said SW $\frac{1}{4}$.

Said parcel contains 1.56 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County right-of-way as described in Document No. 436633 on file at the Cass County Recorder's Office.

The Commission invites you to attend the Commission's meeting on November 2, 2020 at 3:30 p.m. The District will also participate in the meeting, along with a representative of the land firm which was your primary point of contact throughout the negotiation process. At the meeting, the Commission will ask the District to verify the District's compliance with Section 61-16.1-09(2) of the North Dakota Century Code. The Commission will ultimately vote on whether to approve the District's use of quick take eminent domain to take a right of way easement over your property.

If you wish to participate in the Commission's November 2, 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 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, 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 easement. The District must complete the acquisition of right of way necessary for construction of Project components on your property by Fall of 2020.

Johnson
September 25, 2020
Page 4

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 Delaney, Rinke Noonan
Chris McShane, Ohnstad Twichell, P.C.
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

Johnson
September 25, 2020
Page 4

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 Delaney, Rinke Noonan
Chris McShane, Ohnstad Twichell, P.C.
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

Martin Johnson

Proof of Delivery

Dear Customer,

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

Tracking Number

1ZF5182Y3093768829

Weight

1.00 LBS

Service

UPS Next Day Air Saver®

Shipped / Billed On

09/24/2020

Delivered On

09/28/2020 10:54 A.M.

Delivered To

7806 112TH AVE S
HORACE, ND, 58047, US

Left At

Met Customer Man

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: 09/28/2020 4:49 P.M. EST

Douglas Johnson

Proof of Delivery

Dear Customer,

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

Tracking Number

1ZF5182Y3093666037

Weight

1.00 LBS

Service

UPS Next Day Air Saver®

Shipped / Billed On

09/24/2020

Delivered On

09/28/2020 6:05 P.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: 09/29/2020 10:07 A.M. EST

Jeffrey + Mary Johnson

Proof of Delivery

Dear Customer,

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

Tracking Number

1ZF5182Y3091837847

Weight

1.00 LBS

Service

UPS Next Day Air Saver®

Shipped / Billed On

09/24/2020

Delivered On

09/28/2020 1:10 P.M.

Delivered To

5008 34TH AVE S
MINNEAPOLIS, MN, 55417, US

Received By

RICHARDS

Left At

Front Desk

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

Sincerely,

UPS

Tracking results provided by UPS: 09/28/2020 4:51 P.M. EST

Auditor's Lot 1 of the Northwest Quarter (NW¼) of Section 31, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota.

Said excepted parcel contains 5.0 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 228

That part of the Southwest Quarter (SW¼) of Section 31, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, further described as follows:

The East Nine Hundred and Five (905.00) feet of the South Seventy-five (75.00) feet of the Southwest Quarter (SW¼) of Section 31 as measured at right angles to east and south lines of said SW¼.

Said parcel contains 1.56 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County right-of-way as described in Document No. 436633 on file at the Cass County Recorder's Office.

The property described above is the "Necessary Property."

[¶5] The District and Landowner have reached a voluntary agreement with respect to the 5 acre parcel described as Auditor's Lot 1 of the Northwest Quarter (NW¼) of Section 31, Township 138 North, Range 49 West, Cass County, North Dakota. The required property interests in and to the Necessary Property must still be acquired.

[¶6] 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.

[¶7] 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.

[¶8] The District instructed SRF Consulting Group, Inc. to refrain from referencing, mentioning, or threatening quick take eminent domain during negotiations since August 1, 2017.

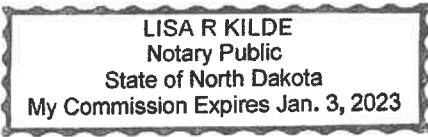
[¶9] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc. nobody from SRF Consulting Group Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.


Dated this 20 day of October, 2020.



Ken Helvey

Subscribed to and sworn to before me this 20 day of October, 2020.





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

(SEAL)

OIN 227 228 - Johnson Contact Attempts

Date	Note
7/16/2019	Emails with attorney that is now representing Johnson
8/21/2019	Email from attorney about relocation information and offer= They are getting their own appraisal
8/27/2019	Meeting with Marty Johnson regarding relocation and offer
10/24/2019	Talked to Marty about permission to survey. Granted
1/2/2020	Email to attorney regarding status of their appraisal and counter- Still waiting on report
1/27/2020	Revised Informal Offer sent
1/28/2020	Informal negotiation received
1/30/2020	Various emails with attorney regarding relocation issues, carve out and moving
to 02/04/2020	
2/18/2020	Discussions with separating out the residential parcel
2/27/2020	Call with attorney about separating out parcels- everyone on board
3/18/2020	Emails with attorney regarding survey and settlement issues
4/20/2020	Sent survey info to attorney and emails regarding grain bins
Late April/May	Emails and calls about PA issues
5/4/2020	Formal offer received
6/1/2020	Email to attorney regarding December vacate - OK
6/2/2020	Sent revised PA to attorney
6/3/2020	Residential portion is settled, PA waiting on draft for homestead 5 acres
6/3/2020	Various emails addressing PA terms
6/5/2020	Various emails addressing PA terms
6/10/2020	CCJWRD Invite received
6/11/2020	Acquisition summary approved
6/19/2020	Email to attorney regarding PA status. Getting client to sign
6/23/2020	Email with attorney- PA will be delivered to O/T.
7/16/2020	Talked to Rinke regarding values and counter offer
7/30/2020	Talked to owners attorney regarding moving and schedule. As well as discussing land acquisition. Told them we would write up their counter offer but we could not support it.
8/3/2020	Many emails and calls with owners attorney regarding land acquisition.
8/24/2020	Talked to attorney about possible counter offer
9/12/2020	Email with attorney discussing counter offer
9/25/2020	Email with attorney regarding severance and proposals
10/1/2020	Talked to attorney regarding status of counter offer
10/21/2020	Talked to attorney regarding proposal to the Board on the 22nd

AFFIDAVIT OF DAN JACOBSON FOR CASS COUNTY COMMISSION

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

[¶1] I, Dan Jacobson, do hereby state on oath:

[¶2] I serve as Chair of the Cass County Joint Water Resource District (“the District”).

[¶3] As a member of the FM Diversion Board of Authority, the District is responsible for acquiring the right of way in North Dakota necessary to accommodate the Fargo-Moorhead Area Diversion Project (the “Project”).

[¶4] The District has concluded acquisition of a Right of Way Easement in and to real property owned by Martin Johnson; Douglas W. Johnson; and Jeffrey K. Johnson and Mary M.W. Johnson, as Trustees of the Jeffrey K. Johnson Trust Under Agreement August 30, 2019 (“Landowner”) is necessary for the Project.

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

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

Right of Way
OIN 227

That part of the West Half (W½) of Section 31, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northwest Corner of the Northwest Quarter (NW¼) of Section 31; thence North 88° 00' 43" East on the north line of said NW¼ a distance of 2793.48 feet to the Northeast Corner of said NW¼;thence South 01° 49' 59" East on the east line of the West Half (W½) of said Section 31 a distance of 3239.02 feet; thence North 45° 17' 57" West a distance of 4053.92 feet to the west line of said NW¼;thence North 02° 45' 30" West on said west line a distance of 289.24 feet to the Point of Beginning.

Said parcel contains 112.96 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

LESS

Auditor's Lot 1 of the Northwest Quarter (NW $\frac{1}{4}$) of Section 31, Township 138 North, Range 49 West of the 5th Principal Meridian, Cass County, North Dakota.

Said excepted parcel contains 5.0 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 228

That part of the Southwest Quarter (SW $\frac{1}{4}$) of Section 31, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, further described as follows:

The East Nine Hundred and Five (905.00) feet of the South Seventy-five (75.00) feet of the Southwest Quarter (SW $\frac{1}{4}$) of Section 31 as measured at right angles to east and south lines of said SW $\frac{1}{4}$.

Said parcel contains 1.56 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County right-of-way as described in Document No. 436633 on file at the Cass County Recorder's Office.

[¶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 6, 2020 and April 30, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On June 5, 2020, the District sent Landowner a written request for a meeting, by certified mail; the District and Landowner did not reach 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**.

[¶1] The District and Landowner have reached a voluntary agreement with respect to the 5 acre parcel described as Auditor's Lot 1 of the Northwest Quarter (NW $\frac{1}{4}$) of Section 31,

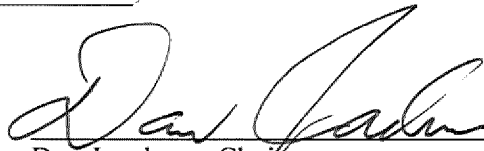
Township 138 North, Range 49 West, Cass County, North Dakota, but the District and Landowner have not reached an agreement with respect to the required property interests in and to the Necessary Property that must still be acquired, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

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

[¶3] 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.

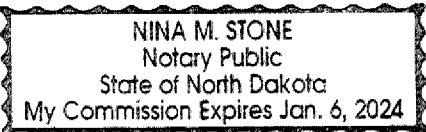
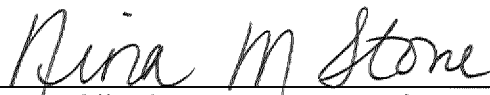
[¶4] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 23rd day of October, 2020.



Dan Jacobson, Chair
Cass County Joint Water Resource District

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

(SEAL)  

Notary Public, Cass County, State of North Dakota