

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

November 2nd, 2020

PROPERTY OWNER: Nancy and Doris Krogh

LAND AGENT: Ken Helvey with SRF

OIN: 886



FM AREA
DIVERSION
PROJECT

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Written Correspondence Timeline – Nancy and Doris Krogh

OIN 886	Sent	Received
Offer to Purchase	9/5/2017	8/14/2020
Formal Negotiations and Written Offer of Just Compensation	4/6/2020	5/13/2020
Request for Meeting	6/17/2020	6/24/2020
Notice of Intent to Take Possession of Right-of-Way	8/14/2020	8/19/2020
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	10/1/2020
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: Doris Krogh and Nancy Krogh
2. Land Agent: Ken Helvey
3. Parcel No.: 59-0000-10810-000
4. OIN No.: 886

B. Verification:

1. NDCC § 61-16.1-09(2)(b)(1)(a) requires the Cass County Joint Water Resource District (“CCJWRD”) to conduct 60 days of informal negotiations.
 - Did CCJWRD verify at least 60 days of informal negotiations with Landowner:

2. NDCC § 61-16.1-09(2)(b)(1)(b)[1] requires CCJWRD to send the landowner an appraisal and written offer for just compensation by certified mail or commercial delivery requiring a signed receipt or other evidence of constructive notice.
 - Did CCJWRD verify it sent Landowner an appraisal and written offer for just compensation: _____
 - Did CCJWRD verify service of the appraisal and offer by certified mail or commercial delivery, and that Landowner either signed for them or had constructive notice: _____
3. NDCC § 61-16.1-09(2)(b)(1)(b)[2] requires CCJWRD to send Landowner a written request for a meeting by certified mail or commercial delivery requiring a signed receipt [if the parties have not come to an agreement within 15 days of Landowner’s receipt or notice of CCJWRD’s offer].
 - Did CCJWRD verify it sent Landowner a written request for a meeting by certified mail or commercial delivery, and that Landowner either signed for the notice or had constructive notice: _____

4. NDCC § 61-16.1-09(2)(b)(1)(b)[3] requires CCJWRD to send Landowner a written notice of intent to take possession of the right of way, by certified mail or commercial delivery requiring a signed receipt [if the parties have not come to an agreement within 30 days of Landowner's receipt 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 886.

FM Area Diversion Project Negotiation Summary

October 26, 2020

Owner	Doris Krogh, Life Estate James Krogh, Remainder (525 & 882) Nancy Krogh, Remainder (886 & 8938)
Mailing Address	9610 76 th Ave N, Harwood, ND 58042
Property Location	Diversion Channel
Property Type	Agriculture
OIN	525 882 886 8938
Land Agent	Ken Helvey - SRF
Landowner Representative	None

Property Need

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

Valuation and Negotiation Summary:

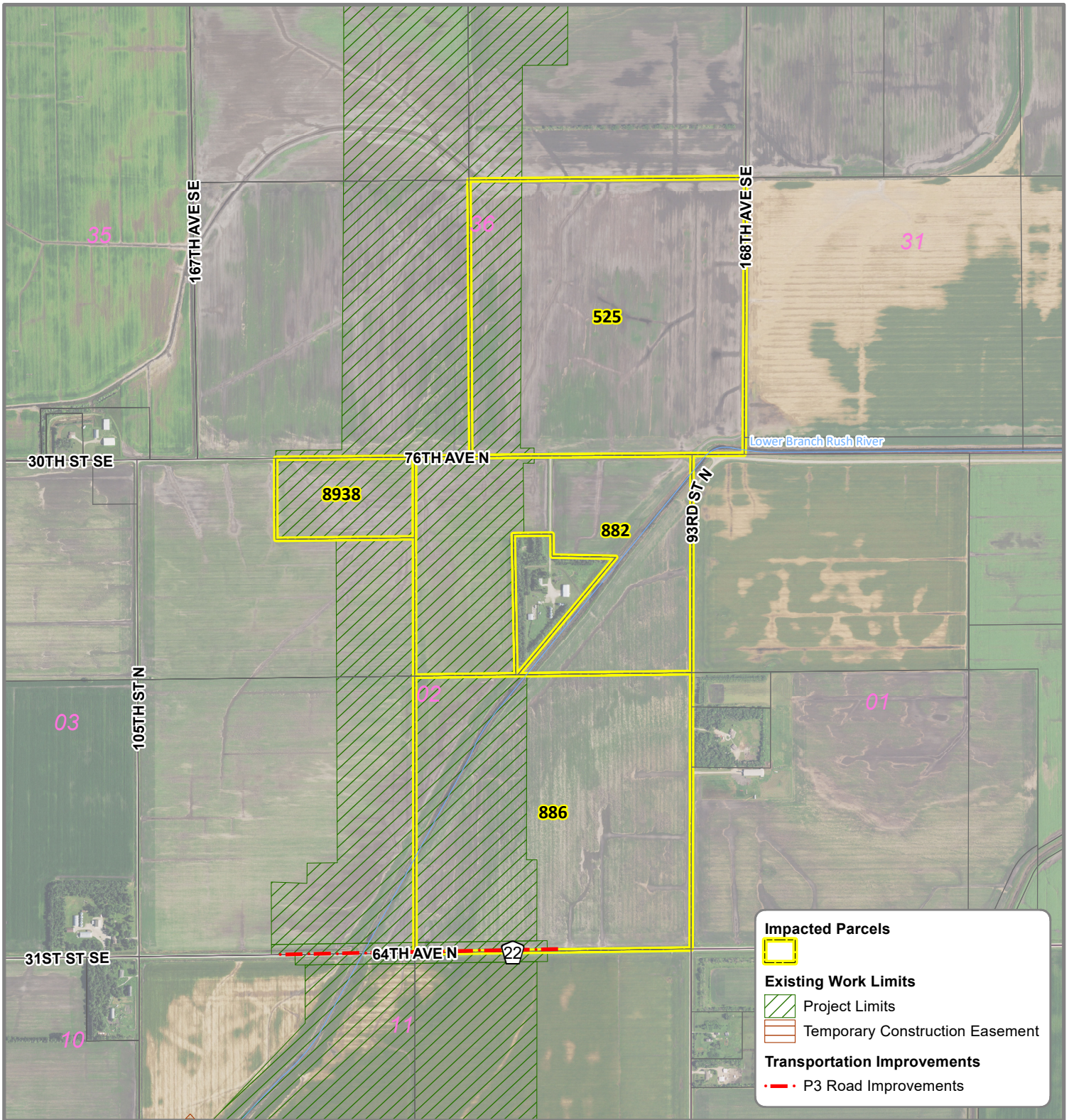
Appraisal Value / Date	\$1,053,576 – 7/12/19			
	<u>Parcel</u>	<u>Acres</u>	<u>Per Acre</u>	<u>Indicated Value</u>
	525 - Fee	29.87	\$5,800	\$173,246
	882/8938 - Fee	71.18	\$5,800	\$412,844
	882/8938 - Severance			\$77,784
	886 - Fee	67.19	\$5,800	\$389,702
Counteroffer	Desires land to be replaced- no cash counteroffer received			

Miscellaneous Provisions

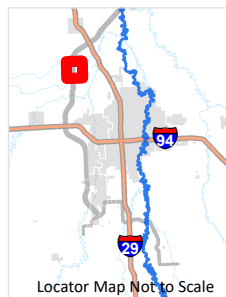
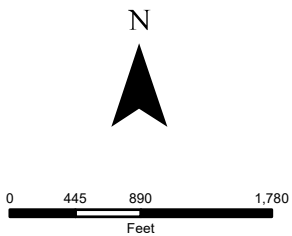
- Landowner has significant concerns over flooding and how property will be impacted in the “after” project condition. This Board, Moore Engineering and SRF have had many discussions with the Krogh’s regarding these issues.
- The owners desire a land swap.
- They are proposing a swap of the project required acres of their 4 parcels for 3 project-owned remnant parcels shown in the chart below.
- The owners’ proposal creates a proposed “swap” of 1.75 acres to 1.

Owners' Proposal to Swap Project-Owned Parcels				
OIN	Fee Title Needed to Purchase for Project		OIN	Project Owned Remnant Acres
525	29.87		880	126.50
882	47.63		884	72.40
886	67.19		885	92.20
8938	23.55			
Total	168.24		Total	291.1
			Severance	\$77,784
	\$5,800/A = \$975,792			\$6,000/A = \$1,746,600
	\$77,784 Severance			(79% increase)
	Total = \$1,053,576			\$77,784 Severance
				Total = \$1,824,384

- This proposal was rejected by the CCJWRD at a previous meeting
- Multiple scenarios have been presented the owners for consideration. But a land swap is their only proposed approach.
- The Krogh's will be addressing the CCJWRD at their meeting on the 22nd of October.
 - Nancy addressed the Board. Made statements about quality of land swap
- Ken and the Krogh's attorney spoke on the 26th and the Krogh's are working up a land trade that Ken thinks may be acceptable to the Board.



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\I\Project Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105notdatadriven.mxd



Clarence and/or Doris Krogh

OINs: 525, 882, 886, 8938

**Parcel ID's: 27-0000-01651-000 & 59-0000-0807-040
& 59-0000-10810-000 & 59-0000-10807-050**

Cass County, ND

**FM AREA DIVERSION
Map Date: 6/18/2020**



September 5, 2017

Delivered via Certified Mail

Doris Krogh Life Estate
James Krogh
Nancy Krogh
9610 76th Ave. N
Harwood, ND 58042

RE: **Letter Conveying Offer to Purchase**

Project Parcel ID: 525, 882, 886, 8938

Parcel Address:

OIN 525: SE1/4, Section 36, Township 141N, Range 50W, Cass County, North Dakota

OIN 882: Part of the NE1/4, Section 2, Township 140N, Range 50W, Cass County, North Dakota

OIN 886: SE1/4, Section 2, Township 140N, Range 50W, Cass County, North Dakota

OIN 8938: Govt. Lot 3 of NW1/4, Section 2, Township 140N, Range 50W, Cass County, North Dakota

Project Title: Fargo Flood Diversion

PID: 27-0000-01651-000 (OIN 525)

59-0000-10807-040 (OIN 882)

59-0000-10810-000 (OIN 886)

59-0000-10807-050 (OIN 8938)

Dear Doris and Family,

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

The Cass County Joint Water Resource District hereby offers to pay you \$780,000.00 as Just Compensation for the property interests it must acquire from you.

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

If you have any questions about the acquisition or relocation process, please contact the representative listed below. The representative is here to help you understand the process and to assist in negotiating a fair direct purchase of the Parcel, however, she does not represent you.

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

- Exhibit A (Acquisition Summary)
- Exhibit B (Acquisition Summary)
- Appraisals – OIN 525, OIN 882, OIN 886, OIN 8938

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 your review of the offer we would like to receive a response from you as to whether the offer is acceptable or if a counter-offer is being presented. If you make a counter-offer we would appreciate receiving a written letter or email with the counter-offer amount and the reasons justifying said counter-offer.

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,

Jodi Moser
 Ulteig Engineers, Inc.
 Lead Right of Way Specialist
 701-280-8615
 jodi.moser@ulteig.com

I (we) acknowledge that on _____, 2017, I (we) received this letter and all documents listed above.

By: _____
James Krogh

cc: Cass County Joint Water Resource District

EXHIBIT A**ACQUISITION SUMMARY
Fargo Flood Diversion – Phase II****Letter Conveying Offer to Purchase****Project Parcel ID:** 525**Parcel Address:** SE1/4, Section 36, Township 141N, Range 50W, Cass County, North Dakota**Project Title:** Fargo Flood Diversion**PID:** 27-0000-01651-000

Recorded Fee Owner: Doris Krogh Life Estate, James Krogh Remainder

Other Interests or Encumbrances: None

Description of Property Interests to be Acquired*:

That part of the Southeast Quarter (SE1/4) of Section 36, Township 141 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Southwest Corner of said SE1/4; thence North 02°21'08" West on the west line of said SE1/4 a distance of 2648.28 feet to Northwest Corner of said SE1/4; thence North 87°26'49" East on north line of said SE1/4 a distance of 502.10 feet; thence South 01°42'51" East parallel with the east line of said SE1/4 a distance of 2568.29 feet; thence North 87°25'03" East parallel with, and 80.00 feet north of, the south line of said SE1/4 a distance of 129.99 feet; thence South 01°42' 51" East parallel with said east line of the SE1/4 a distance of 80.01 feet to said south line of the SE1/4; thence South 87°25'03" West on said south line a distance of 602.59 feet to the Point of Beginning.

Said parcel contains 29.87 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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.

EXHIBIT A**ACQUISITION SUMMARY
Fargo Flood Diversion – Phase II****Letter Conveying Offer to Purchase****Project Parcel ID:** 882**Parcel Address:** Part of the NE1/4, Section 2, Township 140N, Range 50W, Cass County, North Dakota**Project Title:** Fargo Flood Diversion**PID:** 59-0000-10807-040

Recorded Fee Owner: Doris Krogh Life Estate; James Krogh and Nancy Krogh Remainder

Other Interests or Encumbrances: None

Description of Property Interests to be Acquired*:

That part of the Northeast Quarter (NE1/4) of Section 2, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Northwest Corner of said NE1/4; thence North 87°25'03" East on the north line of said NE1/4 a distance of 1143.40 feet; thence South 02°34'57" East perpendicular to said north line a distance of 65.00 feet; thence South 87°25'03" West parallel with, and 65.00 feet south of, said north line a distance of 105.00 feet; thence South 02°34'57" East perpendicular to said north line a distance of 682.98 feet to the north line of the parcel described in Doc. No. 1417255 on file at the Cass County Recorder's Office; thence South 87°25'03" West on said north parcel line a distance of 95.42 feet; thence South 03°01'42" East on the west line of the parcel described in Doc. No. 1417255 on file at the Cass County Recorder's Office a distance of 1339.40 feet to the south line of said NE1/4; thence South 87°17'31" West on said south line a distance of 973.01 feet to the Southwest Corner of said NE1/4; thence North 02°02'41" West on the west line of said NE1/4 a distance of 2089.56 feet to the Point of Beginning.

Said parcel contains 47.63 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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.

EXHIBIT A**ACQUISITION SUMMARY
Fargo Flood Diversion – Phase II****Letter Conveying Offer to Purchase****Project Parcel ID:** 886**Parcel Address:** SE1/4, Section 2, Township 140N, Range 50W, Cass County, North Dakota**Project Title:** Fargo Flood Diversion**PID:** 59-0000-10810-000

Recorded Fee Owner: Doris Krogh Life Estate; Nancy Krogh Remainder

Other Interests or Encumbrances: None

Description of Property Interests to be Acquired*:

That part of the Southeast Quarter (SE1/4) of Section 2, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Southwest Corner of said SE1/4; thence North 02°02'41" West on the west line of said SE1/4 a distance of 2649.09 feet to the Northwest Corner of said SE1/4; thence North 87°17'31" East on the north line of said SE1/4 a distance of 1072.27 feet; thence South 01°52'33" East parallel with the east line of said SE1/4 a distance of 1771.00 feet; thence North 88°07'27" East perpendicular to said east line a distance of 100.00 feet; thence South 01°52'33" East parallel with said east line a distance of 775.00 feet; thence North 87°12'25" East parallel with the south line of said SE1/4 a distance of 100.00 feet; thence South 02°47'35" East perpendicular to said south line a distance of 100.00 feet to said south line; thence South 87°12'25" West on said south line a distance of 1266.10 feet to the Point of Beginning.

Said parcel contains 67.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Drain as described in Document No. 55035 on file at the Cass County Recorder's Office and a Rush River Water Management District Drainage Easement as described in Document No. 483427 on file at the Cass County Recorder's Office.

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.

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Flood Diversion – Phase II**

Letter Conveying Offer to Purchase

Project Parcel ID: 8938

Parcel Address: Govt. Lot 3 of NW1/4, Section 2, Township 140N, Range 50W, Cass County, North Dakota

Project Title: Fargo Flood Diversion

PID: 59-0000-10807-050

Recorded Fee Owner: Doris Krogh Life Estate; James Krogh and Nancy Krogh Remainder

Other Interests or Encumbrances: None

Description of Property Interests to be Acquired*:

Government Lot 3 of the NW1/4, Section 2, Township 140 North, Range 50 West, Cass County, North Dakota.

Said parcel contains 23.55 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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.

**EXHIBIT B
ACQUISITION SUMMARY**

Type of Interest	Area or Amount	Per Unit	Indicated Value
OIN 525: Fee Simple	29.87	\$5088.00	\$152,000.00*
OIN 882: Fee Simple	47.63	\$4576.00	\$218,000.00*
OIN 886: Fee Simple	67.19	\$4524.00	\$304,000.00*
OIN 8938: Fee Simple	23.55	\$4501.00	\$106,000.00*
TOTAL			\$780,000.00

**Rounded up*

Oly Olafson

From: UPS Quantum View <pkginfo@ups.com>
Sent: Wednesday, August 14, 2019 5:04 PM
To: Oly Olafson
Subject: UPS Delivery Notification, Tracking Number 1ZE31W950391060341

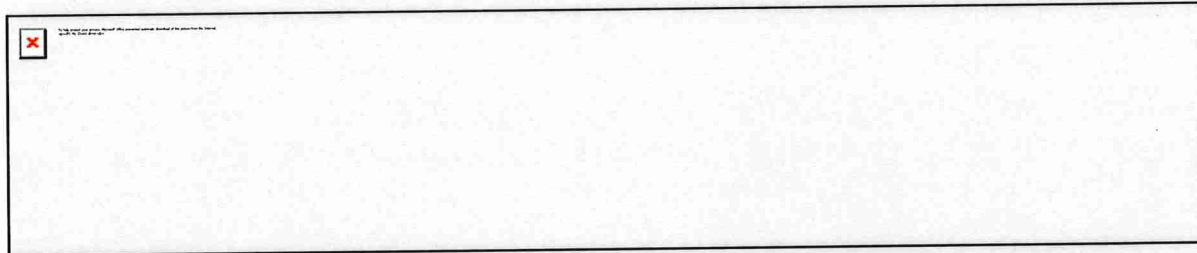
SECURITY NOTICE: This email originated from an external sender. Exercise caution before clicking on any links or attachments and consider whether you know the sender. If you have any questions about the authenticity of this message, please contact the IT help desk at x4357.



Your package has been delivered.

Delivery Date: Wednesday, 08/14/2019

Delivery Time: 05:01 PM



Set Delivery Instructions

Get Free Alerts

View Delivery Planner

At the request of ULTEIG ENGINEERS INC this notice alerts you that the status of the shipment listed below has changed.

Shipment Detail

Tracking Number:	1ZE31W950391060341
Ship To:	James & Nancy Krogh 604 23RD ST E ROOM B WEST FARGO, ND 58078 US
UPS Service:	UPS GROUND
Number of Packages:	1



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

April 6, 2020

Cass County
Joint Water
Resource
District

Doris I. Krogh
9610 76th Avenue N
Harwood, ND 58042
Certified No. 7019 1640 0002 0398 8125

Dan Jacobson
Chairman
West Fargo, North Dakota

Nancy Krogh
150 Old Clyde Park Road
Livingston, MT 59047
Certified No. 7019 1640 0002 0398 8132

Rodger Olson
Manager
Leonard, North Dakota

Greetings:

Ken Lougheed
Manager
Gardner, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OIN: 886
Parcel No.: 59-0000-10810-000

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

The Cass County Joint Water Resource District (the "District") is in the process of acquiring property interests necessary for the Fargo-Moorhead Area Diversion Project (the "Project"), and the District has been in discussions with you regarding right of way the District must acquire from you to accommodate the Project. The District directed me to provide you this letter as the District's formal offer to purchase right of way from you. More specifically, to accommodate the Project, the District must acquire right of way from you over property located in Cass County and identified as Parcel Identification Number 59-0000-10810-000. The legal description of the property to be acquired is:

OIN 886

That part of the Southeast Quarter (SE $\frac{1}{4}$) of Section 2, Township 140 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

Beginning at the Southwest Corner of said SE $\frac{1}{4}$; thence North 02° 02' 41" West on the west line of said SE $\frac{1}{4}$ a distance of 2649.09 feet to the Northwest Corner of said SE $\frac{1}{4}$; thence North 87° 17' 31" East on the north line of said SE $\frac{1}{4}$ a distance of 1072.27 feet; thence South 01° 52' 33" East parallel with the east line of said SE $\frac{1}{4}$ a distance of 1771.00 feet; thence North

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

Doris I. Krogh
Nancy Krogh
April 6, 2020
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88° 07' 27" East perpendicular to said east line a distance of 100.00 feet; thence South 01° 52' 33" East parallel with said east line a distance of 775.00 feet; thence North 87° 12' 25" East parallel with the south line of said SE¼ a distance of 100.00 feet; thence South 02° 47' 35" East perpendicular to said south line a distance of 100.00 feet to said south line; thence South 87° 12' 25" West on said south line a distance of 1266.10 feet to the Point of Beginning.

Said parcel contains 67.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Drain as described in Document No. 55035 on file at the Cass County Recorder's Office and a Rush River Water Management District Drainage Easement as described in Document No. 483427 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 \$389,702.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$389,702.00 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. **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 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. 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.

Doris I. Krogh
Nancy Krogh
April 6, 2020
Page 3

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

Enclosures

cc: 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:

NANCY KROGH
 150 OLD CLYDE PARK ROAD
 LIVINGSTON MT 59047



9590 9402 3806 8032 1547 89

2. Article Number (Transfer from service label)

7019 1640 0002 0398 8132

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Handwritten Signature]

- Agent
- Addressee

B. Received by (Printed Name)

[Handwritten Name]

C. Date of Delivery

4/9/2020

- 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



Quick Start ▾

Tracking Details

< [Back to Results](#)

1ZY93E24A810315057  

[1 of 3 Piece Shipment](#)

Delivered

Delivered On

Wednesday
05/13/2020

Send Updates

File a Claim

Proof of Delivery



Dear Customer,

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

Tracking Number

1ZY93E24A810315057

Weight

1.00 LBS

Service

UPS Ground

Shipped / Billed On

05/12/2020

Additional Information

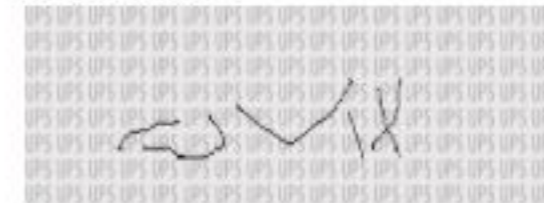
Adult Signature Required

Delivered On

05/13/2020 4:35 P.M.

Received By

SIG ON FILE



Delivered To

9610 76TH AVE N
HARWOOD, ND, 58042, US

Left At

Residential

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

Sincerely,

UPS

Tracking results provided by UPS: 06/09/2020 5:11 P.M. EST

[Print this page](#)



Hello, your package has been delivered.

Delivery Date: Wednesday, 05/13/2020

Delivery Time: 04:35 PM

Left At: RESIDENTIAL

Signed by: SIG ON FILE



[Set Delivery Instructions](#)

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[View Delivery Planner](#)

CASS WATER RESOURCE DISTRICT

RESIDENTIAL

Tracking Number: [1ZY93E24A810315057](#)

Ship To: DORIS I KROGH
9610 76TH AVENUE N
HARWOOD, ND 580429717
US

Number of Packages: 1

UPS Service: UPS Ground



CERTIFIED MAIL – RETURN RECEIPT REQUESTED AND UPS DELIVERY

June 17, 2020

**Cass County
Joint Water
Resource
District**

Nancy Krogh
150 Old Clyde Park Road
Livingston, MT 59047
Certified No. 7020 0090 0000 7648 2676

Dan Jacobson
Chairman
West Fargo, North Dakota

James Krogh
Doris I. Krogh
9610 76th Avenue N
Harwood, ND 58042
Certified No. 7020 0090 0000 7648 2683

Rodger Olson
Manager
Leonard, North Dakota

Greetings:

Ken Lougheed
Manager
Gardner, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OIN: 886
Parcel No.: 59-0000-10810-000

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

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

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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 25, 2020, and July 9, 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.

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

Krogh
OIN 886
June 17, 2020
Page 2

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@casscountynd.gov

cc: 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:
 JAMES KROGH
 DORIS I KROGH
 9610 76TH AVENUE N
 HARWOOD NO 56042



9590 9402 5989 0062 9066 86

2. Article Number (Transfer from service label)
 7020 0090 0000 7648 2683

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery
 6/22/2020

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

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

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:
NANCY KROGH
150 OLD WYDE PARK ROAD
LIVINGSTON MT 59047



9590 9402 5989 0062 9066 93

2. Article Number (Transfer from service label)
7020 0090 0000 7648 2676

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

NANCY KROGH

C. Date of Delivery

11/24/20

D. Is delivery address different from item 1?
 If YES, enter delivery address below:

- Agent
- Addressee
- Yes
- 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



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Cass County
Joint Water
Resource
District

August 14, 2020

Doris I. Krogh
9610 76th Avenue N
Harwood, ND 58042
Certified No. 7020 0090 0000 7648 3598

Dan Jacobson
Chairman
West Fargo, North Dakota

Nancy Krogh
150 Old Clyde Park Road
Livingston, MT 59047
Certified No. 7020 0090 0000 7648 3604

Rodger Olson
Manager
Leonard, North Dakota

Greetings:

Ken Lougheed
Manager
Gardner, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY
OIN: 886
Parcel No. 59-0000-10810-000

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). On behalf of the District, I previously provided you a letter dated April 6, 2020, a copy of the District's appraisal for your right of way, and a Purchase Agreement as the District's offer of just compensation to purchase the right of way from you. In addition, I also provided you a letter dated June 17, 2020, to invite you to meet with the District for purposes of discussing the acquisition of your land. The parties have conducted the informal and formal negotiation procedures required by law but, unfortunately, the parties have not yet reached a mutually-acceptable agreement regarding compensation for the District's purchase of the right of way from you to accommodate the Project.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

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

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

Doris I. Krogh
Nancy Krogh
OIN 886
August 14, 2020
Page 2

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

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

cc: 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 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</p> <p><input checked="" type="checkbox"/> <i>Nancy Krogh</i></p> <p><input type="checkbox"/> Agent</p> <p><input type="checkbox"/> Addressee</p>
<p>1. Article Addressed to:</p> <p>NANCY KROGH 150 OLD CLYDE PARK ROAD LIVINGSTON MT 59047</p>	<p>B. Received by (Printed Name)</p> <p><i>Nancy Krogh</i></p> <p>C. Date of Delivery</p> <p>AUG 19 2020</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
 <p>9590 9402 5989 0062 9055 35</p>	<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery</p> <p><input checked="" type="checkbox"/> Certified Mail®</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p> <p><input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Signature Confirmation Restricted Delivery</p>
<p>2. Article Number (Transfer from service label)</p> <p>7020 0090 0000 7648 3604</p>	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>	<p>Domestic Return Receipt</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 checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p>
<p>1. Article Addressed to: DORIS KROGH 9610 76TH AVENUE N HARWOOD ND 58042</p>	<p>B. Received by (Printed Name) <input type="checkbox"/> C. Date of Delivery <i>Benny Krogh</i> 8/19/2020</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
 9590 9402 5989 0062 9055 42	<p>3. Service Type</p> <ul style="list-style-type: none"> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)
<p>2. Article Number (Transfer from service label) 7020 0090 0000 7648 3598</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery
PS Form 3811, July 2015 PSN 7530-02-000-9053	Domestic Return Receipt



SENT VIA EMAIL wilsonro@casscountynd.gov

September 18, 2020

Cass County
Joint Water
Resource
District

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

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Loughheed
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
wrj@casscountynd.gov
casscountynd.gov

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Approval to Take Possession of Necessary Right of Way
OIN: 886
Parcel No.: 59-0000-10810-000

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 Doris Krogh and Nancy Krogh (the "Landowner"):

- Letter dated April 6, 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 17, 2020, inviting the Landowner to meet with the District for purposes of negotiating compensation for the right of way to be acquired; and
- Letter dated August 14, 2020, notifying the Landowner the District planned to submit a request to the Cass County Commission seeking immediate possession of the right of way necessary for the Project.

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

Right of Way Easement:

OIN 886

That part of the Southeast Quarter (SE¼) of Section 2, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Southwest Corner of said SE¼; thence North 02° 02' 41" West on the west line of said SE¼ a distance of 2649.09 feet to the Northwest Corner of said SE¼; thence North 87° 17' 31" East on the north line of said SE¼ a distance of 1072.27 feet; thence South 01° 52' 33" East parallel with the east line of said SE¼ a distance of 1771.00 feet; thence North 88° 07' 27" East perpendicular to said east line a distance of 100.00 feet; thence South 01° 52' 33" East parallel with said east line a distance of 775.00 feet; thence North 87° 12' 25" East parallel with the south line of said SE¼ a distance of 100.00 feet; thence South 02° 47' 35" East perpendicular to said south line a distance of 100.00 feet to said south line; thence South 87° 12' 25" West on said south line a distance of 1266.10 feet to the Point of Beginning.

Said parcel contains 67.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Drain as described in Document No. 55035 on file at the Cass County Recorder's Office and a Rush River Water Management District Drainage Easement as described in Document No. 483427 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.

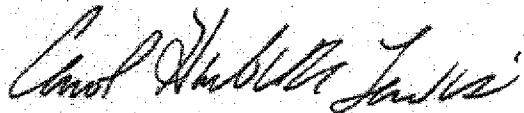
Robert Wilson
September 18, 2020
Page 3

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

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

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

Doris I. Krogh
9610 76th Avenue North
Harwood, ND 58042
UPS Tracking No. 1Z F51 82Y 30 9468 0251

Chad M. Peterson
Fargo, North Dakota

Nancy Krogh
150 Old Clyde Park Road
Livingston, MT 59047
UPS Tracking No. 1Z F51 82Y 36 9822 2568

Rick Steen
Fargo, North Dakota

Ken Pawluk
Fargo, North Dakota

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OIN: 886
Parcel No.: 59-0000-10810-000

Duane Breitling
West Fargo, North Dakota

Mary Scherling
Stanley Township, North Dakota

Greetings:

As you know, the METRO FLOOD DIVERSION 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:

- Letter dated April 6, 2020, enclosing the District’s appraisal for the acquisition of the right of way easement from you, along with a proposed Purchase Agreement;
- Letter dated June 17, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way easement to be acquired; and
- Letter dated August 14, 2020, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way easement necessary for the Project.

Heather Worden
Commission Assistant

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

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

OIN 886

That part of the Southeast Quarter (SE $\frac{1}{4}$) of Section 2, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Southwest Corner of said SE $\frac{1}{4}$; thence North 02° 02' 41" West on the west line of said SE $\frac{1}{4}$ a distance of 2649.09 feet to the Northwest Corner of said SE $\frac{1}{4}$; thence North 87° 17' 31" East on the north line of said SE $\frac{1}{4}$ a distance of 1072.27 feet; thence South 01° 52' 33" East parallel with the east line of said SE $\frac{1}{4}$ a distance of 1771.00 feet; thence North 88° 07' 27" East perpendicular to said east line a distance of 100.00 feet; thence South 01° 52' 33" East parallel with said east line a distance of 775.00 feet; thence North 87° 12' 25" East parallel with the south line of said SE $\frac{1}{4}$ a distance of 100.00 feet; thence South 02° 47' 35" East perpendicular to said south line a distance of 100.00 feet to said south line; thence South 87° 12' 25" West on said south line a distance of 1266.10 feet to the Point of Beginning.

Said parcel contains 67.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Drain as described in Document No. 55035 on file at the Cass County Recorder's Office and a Rush River Water Management District Drainage Easement as described in Document No. 483427 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.

Krogh
September 25, 2020
Page 3

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 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 easement. The District must complete the acquisition of right of way necessary for construction of Project components on your property by Fall of 2020.

Sincerely,

CASS COUNTY COMMISSION



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

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

Doris Kragh

Proof of Delivery

Dear Customer,

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

Tracking Number

1ZF5182Y3094680251

Weight

1.00 LBS

Service

UPS Next Day Air Saver®

Shipped / Billed On

09/24/2020

Delivered On

09/28/2020 4:47 P.M.

Delivered To

9610 76TH AVE N
HARWOOD, ND, 58042, 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 10:09 A.M. EST

Nancy Krogh

Proof of Delivery

Dear Customer,

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

Tracking Number

1ZF5182Y3698222568

Weight

1.00 LBS

Service

UPS 2nd Day Air®

Shipped / Billed On

09/24/2020

Delivered On

10/01/2020 4:03 P.M.

Delivered To

LIVINGSTON, MT, 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: 10/02/2020 8:33 A.M. EST

AFFIDAVIT OF LAND AGENT

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

[¶1] I, Ken Helvey, do hereby state on oath:

[¶2] I am employed by SRF Consulting Group, Inc. as Principal/Land Agent. The Cass County Joint Water Resource District (“the District”) hired SRF Consulting Group, Inc. to negotiate and acquire the necessary right of way for the Fargo-Moorhead Area Diversion Project (the “Project”).

[¶3] The District must acquire certain interests in real property from Doris Krogh and Nancy Krogh and (“Landowner”) for construction, operation, and maintenance of the Project.

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

Right of Way
OIN 886

That part of the Southeast Quarter (SE¼) of Section 2, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Southwest Corner of said SE¼; thence North 02° 02' 41" West on the west line of said SE¼ a distance of 2649.09 feet to the Northwest Corner of said SE¼; thence North 87° 17' 31" East on the north line of said SE¼ a distance of 1072.27 feet; thence South 01° 52' 33" East parallel with the east line of said SE¼ a distance of 1771.00 feet; thence North 88° 07' 27" East perpendicular to said east line a distance of 100.00 feet; thence South 01° 52' 33" East parallel with said east line a distance of 775.00 feet; thence North 87° 12' 25" East parallel with the south line of said SE¼ a distance of 100.00 feet; thence South 02° 47' 35" East perpendicular to said south line a distance of 100.00 feet to said south line; thence South 87° 12' 25" West on said south line a distance of 1266.10 feet to the Point of Beginning.

Said parcel contains 67.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded Cass County Drain as described in Document No. 55035 on file at the Cass County Recorder's Office and a Rush River Water Management District Drainage Easement as described in Document No. 483427 on file at the Cass County Recorder’s Office.

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.

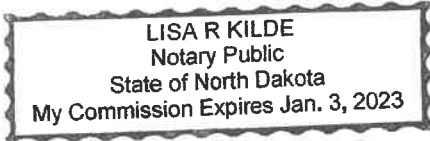
(Signatures on following page.)

Dated this 20 day of October, 2020.

Ken Helvey

Ken Helvey
SRF Consulting Group, Inc.

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



Lisa R Kilde

Notary Public, County of Cass

State of North Dakota

My Commission Expires: _____

(SEAL)

OIN 525 882 886 8938 - Krogh Contacts

Date	Note
8/14/2019	Appraisal and offer letter (sent by Oly) received
11/22/2019	Ken called James Krogh
1/24/2020	Appraisal and offer letter received
2/6/2020	Emails with Krogh's to arrange at meeting
2/28/2020	Meeting with Krogh family. Ken L., Ken H., Lyndon. Discussed trade and drainage
4/6/2020	Formal letter sent
6/3/2020	Owners want to trade land. Ken has told them we have nothing to trade, and they have not made at counteroffer in cash
7/13/2020	Email with family to show map of trade lands
7/14/2020	Call with Krogh family about land trade, flooding, leases and drainage issues- proposed at trade of land. Arrived at proposal from the family for the Board to consider
7/16/2020	Emails regarding concept road west of channel. Told them a trade was not likely at 2:1 ratio
7/21/2020	Email to family asking about need for farm leases
7/23/2020	Toured trade sites with Jim
8/5/2020	Emailed the family the Acquisition Summary that was going to go to the Board
8/6/2020	Received email from Nancy that they had some questions but Jim was out of town. I emailed back asking for the questions to be emailed to me as I was going to be on vacation the week of August 10th.
8/13/2020	Trade counter offer proposed to CCJWRD. Turned down.
8/13/2020	Email from Jim that he didn't know about Board looking at their offer.
8/17/2020	Emailed about rejected land swap and asked for cash counter offer. Reminded him about my August 5th email where we sent him the Acquisition Summary that was going to be presented.
8/18/2020	Email with Jim K. regarding trade and asked for cash counter offer
8/20/2020	Emails with Krogh's regarding land trade and issues with valuation matching
8/25/2020	Emails with family about proposed offer to the Board
8/26/2020	Sent the family the Acquisition Summary that would go to Board
8/27/2020	CCJWRD rejected the owners proposal and provided some direction on their wishes
9/2/2020	Email to owners asking what they wanted to do for next steps as Board was clear as to what they would accept.
9/9/2020	Phone call with attorney to discuss entire project. Provide background and discuss position
9/25/2020	Emailed copies of CCC letters to attorney. Also spoke with attorney regarding overall project and next steps.
10/9/2020	Email with attorney regarding status of their meeting request to meet with subset of Board
10/12/2020	Email with attorney that the Board would like the family to address the entire Board not just a sub-set
10/21/2020	Email with attorney regarding status of their meeting request to meet with 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 Metro Flood Diversion Authority, the District is responsible for acquiring the right of way in North Dakota necessary to accommodate the Fargo-Moorhead Area Diversion Project (the “Project”).

[¶4] The District has concluded acquisition of a Right of Way Easement in and to real property owned by Doris Krogh and Nancy Krogh (“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 886

That part of the Southeast Quarter (SE¼) of Section 2, Township 140 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows:

Beginning at the Southwest Corner of said SE¼; thence North 02° 02' 41" West on the west line of said SE¼ a distance of 2649.09 feet to the Northwest Corner of said SE¼; thence North 87° 17' 31" East on the north line of said SE¼ a distance of 1072.27 feet; thence South 01° 52' 33" East parallel with the east line of said SE¼ a distance of 1771.00 feet; thence North 88° 07' 27" East perpendicular to said east line a distance of 100.00 feet; thence South 01° 52' 33" East parallel with said east line a distance of 775.00 feet; thence North 87° 12' 25" East parallel with the south line of said SE¼ a distance of 100.00 feet; thence South 02° 47' 35" East perpendicular to said south line a distance of 100.00 feet to said south line; thence South 87° 12' 25" West on said south line a distance of 1266.10 feet to the Point of Beginning.

Said parcel contains 67.19 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record, including a deeded

Cass County Drain as described in Document No. 55035 on file at the Cass County Recorder's Office and a Rush River Water Management District Drainage Easement as described in Document No. 483427 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. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On June 17, 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 August 14, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way Easement, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

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

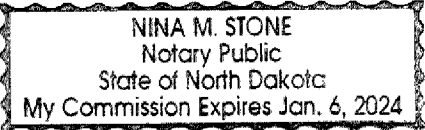

[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 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