

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

November 2nd, 2020

PROPERTY OWNER: Bruce Thue Living Trust Etal

LAND AGENT: Jamie Wark with SRF

OIN: 1169 1200



FM AREA
DIVERSION
PROJECT

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Written Correspondence Timeline – Bruce Thue Living Trust Etal

OIN 1169 1200	Sent	Received
Offer to Purchase	7/8/2019	7/23/2019
Formal Negotiations and Written Offer of Just Compensation	5/12/2020	5/14/2020
Request for Meeting	6/26/2020	7/10/2020
Notice of Intent to Take Possession of Right-of-Way	8/14/2020	8/18/2020
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: Bruce C. Thue, as Trustee of the Bruce C. Thue Living Trust
2. Land Agent: Jamie Wark
3. Parcel Nos.: 1169, 1200
4. OIN Nos.: 67-0000-12604-010, 67-0000-12718-000

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 OINs 1169 and 1200.

FM Area Diversion Project

Property Negotiation Summary

October 26, 2020

Owner	Bruce C. Thue
Address	5457 Marine Avenue Lawndale, CA 90206
Property Location	Diversion Channel
Property Type	Agricultural
OIN	1169 & 1200
Land Agent	Jamie Wark - SRF

Property Need

The parcel is within the Diversion Channel area associated with the Project. The Diversion Authority is required to obtain the parcels for the channel. The diversion authority desires to purchase 46.82 acres in OIN 1169 and 0.93 acres in OIN 1200.

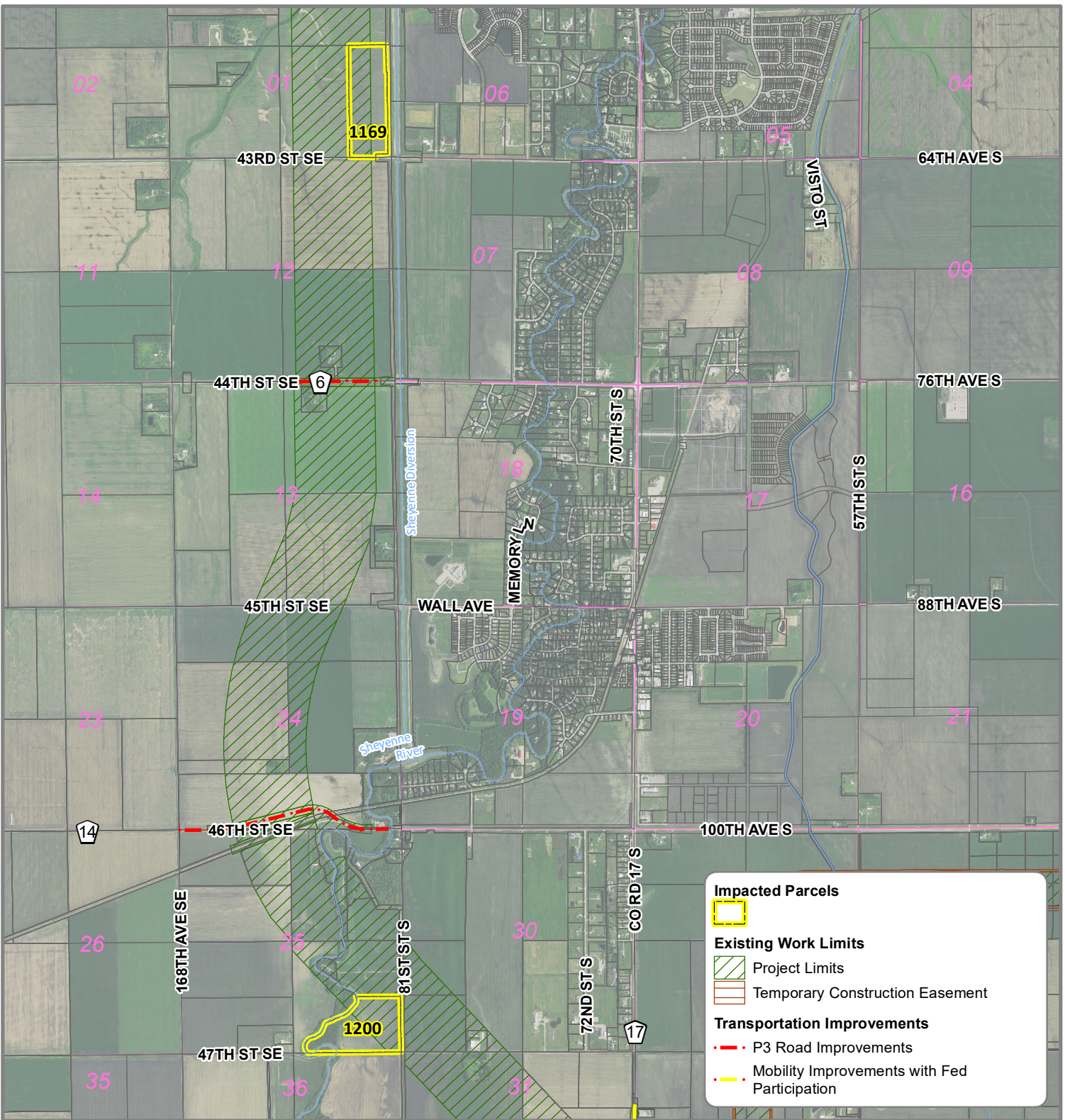
Valuation and Negotiation Summary:

Appraisal Value / Date	<u>Initial Offer 6/5/2019</u> OIN 1169: 31.21 Acres @ \$9,000/acre (Fee) 23.16 Acres @ \$3,000/acre (Severance) - \$350,400 OIN 1200: 25.78 Acres @ \$5,500/acres (Fee) 25.37 Acres @ \$700/acres (Severance) - \$159,549
Counteroffer	\$1,582,800 OIN 1200: 51.15 Acres @ \$15,000/acre - \$767,250 OIN 1169: 54.37 Acres @ \$15,000/acre - \$815,550
Purchase Agreement Value	\$0

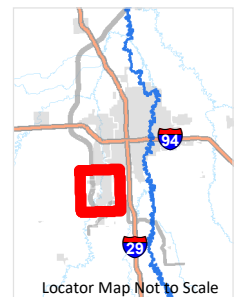
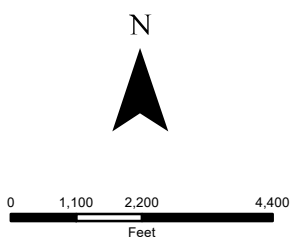
Negotiation Notes

- Land agent Jamie Wark has spoken 20+ times with Bruce Thue regarding the acquisition of OIN 1169 & 1200.
- Landowner had previously agreed on price for OIN 1169 but pulled offer after counteroffer for OIN 1200 was rejected
- Landowner previously counteroffered OIN 1200 of 51.15 acres @ \$12,000/acre and it was declined by this Board
- Landowner previously counteroffer OIN 1200 @ \$21,000/acre and it was declined by this Board
- Landowner most recently counteroffered OINs 1169 & 1200 @ \$15,000/acre and was declined by this Board
- Landowner believes more recent comparable sales reflect a range of \$13,000/a - \$30,000/a
- Landowner counteroffer represents a full take for both OIN's (105.52 acres)

October 26, 2020



Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use.
 All parcel acreages and legal descriptions shown herein are based on County GIS data. Final acreages and legal descriptions to be determined by boundary survey.
 Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Produced by: hrecords - AE2S, Inc. |
 C:\Data\Projects\GIS Projects\FM Area Diversion\Projects\Land Acquisition\Project Work Package\IProject Wide\Individual Property Maps - General Inquiry\OIN 1169 1200 Thue Living Trust Parcel Exhibit.mxd



Bruce C. Thue Living Trust Et Al
 OINs: 1169, 1200
 Parcel ID's: 67-0000-12604-010, 67-0000-12718-000
 Cass County, ND
 FM AREA DIVERSION
 Map Date: 7/1/2020





July 8, 2019

Bruce C. Thue Living Trust
Attn: Mr. Bruce C. Thue
5457 Marine Avenue
Lawndale, CA 90260

RE: **Offer to Purchase**
Parcel ID: OIN 1169
Project Title: Fargo Moorhead Diversion
PID: 67-0000-12604-010

Dear Mr. Thue,

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

To determine market value of the interest being acquired, CCJWRD retained the services of the independent property appraisal firm, Compass Appraisal. The appraiser has determined that the market value of the interests being purchased is **\$187,300.00**. 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). If the purchase amount is based on any conditions or exceptions (such as terms of the transfer of possession or retention of any interest); they will be included in Exhibit A.

The Cass County Joint Water Resource District hereby offers to pay you \$187,300.00 as Just Compensation for the property interests it must acquire from you.

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

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

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

If you have any questions about the acquisition process, please contact the representative at 701-893-7435. The representative is here to help you understand the process and to assist in negotiating a fair direct purchase of the Parcel, however, we do not represent you. We are willing to meet with you in person as well as set up a time to discuss questions on the phone.

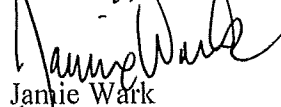
Upon receipt of this letter, please sign below. Your signature indicates only that you have received this Offer to Purchase, and the following documents:

- Copy of the appraisal for Parcel ID OIN 1169 by Compass Appraisal.
- 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,



Jamie Wark
Senior Analyst

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

Bruce C. Thue Living Trust

Bruce C. Thue, Trustee

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Offer to Purchase

Parcel ID: OIN 1169

Project Title: Fargo Moorhead Diversion

PID: 67-0000-12604-010

Property Address: Part SE¼ Section 1, Warren Township

Recorded Fee Owner: Bruce C. Thue Living Trust

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	31.21 Acres	\$ 6,000	\$ 187,260.00
TOTAL (rounded)			\$ 187,300.00

Lisa Kilde

From: Jamie Wark
Sent: Wednesday, September 11, 2019 1:09 PM
To: Lisa Kilde
Subject: FW: OIN 1200 Offer_FM Diversion

FYI – OIN 1169 & 1200

Jamie Wark | Senior Analyst
Planner, ND Planning Group
SRF Consulting Group
1 North Second Street, Suite 226, Fargo, ND 58102
701-893-7435 | jwark@srfconsulting.com

From: Jamie Wark
Sent: Thursday, July 25, 2019 8:55 AM
To: bruce.thue@gmail.com
Cc: Ken Helvey <khelvey@srfconsulting.com>; Lisa Kilde <lkilde@srfconsulting.com>
Subject: OIN 1200 Offer_FM Diversion

Bruce,

Thank you for taking time to speak with me Tuesday about your property located in S2SE1/4 of Section 25, T138N, R50W (25.78 acres).

As we discussed on the phone you had questions in regards to impact on your parcel. This email is to provided written responses to your questions. They are:

Farm Value – The property to the north of the parcel has a residence on it. Would like the property to be reconsidered as developed land because of its close proximity to the rural residential site to the north. The appraiser determined the highest and best use of the property. The CCJWRD cannot unilaterally consider it development land.

Tax Liability – Would like to gather information on real estate trusts (IRF form 1031 and 1033). Can CCJWRD provide information to assist in the process? Will need to discuss with your lawyer and/or accountant to determine your best options. CCJWRD can provide documentation that may be needed to assist.

Severance – If the 25.78 acres is purchased access is blocked to the remaining 25.37 of property. Will the southern road be improved? CCJWRD will prefer to buy the entire parcel (51.17 acres) instead of improve the road. The offer for the **25.78 acres is \$6,270.00/acre** with an offer of **\$5,700 for the remaining 25.37 acres**. If you chose to sell all 51.17 acres no severance pay will be included.

Land for Land Swap – As part of a purchase agreement CCJWRD can include language to include the possibility of a land exchange. CCJWRD can look for property it has acquired to exchange for land it has purchased from you. It is understood that you would prefer to exchange land near Section 25, T138N, R50W or Section 1, T138N, R50W (near land you currently own). The amount of acreage you are looking to exchange would consist of 60+ acres. Please note that land acquired by CCJWRD for this project may not match your request.

*Note: All information provided in this email is subject to approval by CCJWRD.

Thank You.
Jamie

Lisa Kilde

From: Jamie Wark
Sent: Friday, July 26, 2019 2:21 PM
To: Ken Helvey
Cc: Lisa Kilde
Subject: FW: Offer Letter_OIN 1169 Fargo Moorhead Diversion 67-0000-12604-010

Ken,
I just got off the phone with Bruce Thue. I again spoke with him on the revised offer price for OIN 1200. The revised price of \$6,270/acre (10% more than appraisal) was turned down. He had originally told me he wouldn't take anything less than \$6,600/acre. This afternoon he told me he would not take \$6,600. He is looking for more. I asked him to provide me a counter offer. I will let you know of the counter offer when I hear back from Bruce.

Jamie Wark | Senior Analyst
Planner, ND Planning Group
SRF Consulting Group
1 North Second Street, Suite 226, Fargo, ND 58102
701-893-7435 | jwark@srfconsulting.com

From: Jamie Wark
Sent: Tuesday, July 23, 2019 3:00 PM
To: Ken Helvey <khelvey@srfconsulting.com>
Cc: Lisa Kilde <lkilde@srfconsulting.com>
Subject: Offer Letter_OIN 1169 Fargo Moorhead Diversion 67-0000-12604-010

Mr. Thue,
Based on our telephone conversation earlier today you will find attached the offer letter and exhibits for your parcel of property northwest of Horace (OIN 1169) affected by the flood control improvement project. The appraisal report will included in the mailed packet that will be sent out Thursday (7/24/2019). If you have any questions about the acquisition process, please contact me at 701-893-7435.

Thank You.

Jamie Wark | Senior Analyst
Planner, ND Planning Group
SRF Consulting Group
1 North Second Street, Suite 226, Fargo, ND 58102
701-893-7435 | jwark@srfconsulting.com



VIA UPS DELIVERY

Cass County
Joint Water
Resource
District

May 12, 2020

Bruce C. Thue
Trustee of the Bruce C. Thue Living Trust
5457 Marine Avenue
Lawndale, CA 90260-1102

Dan Jacobson
Chairman
West Fargo, North Dakota

Greetings:

Rodger Olson
Manager
Leonard, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OINs: 1169, 1200
Parcel No.: 67-0000-12604-010, 67-0000-12718-000

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

The Cass County Joint Water Resource District (the "District") is in the process of acquiring property interests necessary for the Fargo-Moorhead Area Diversion Project (the "Project"), and the District has been in discussions with you regarding right of way the District must acquire from you to accommodate the Project. The District directed me to provide you this letter as the District's formal offer to purchase right of way from you. More specifically, to accommodate the Project, the District must acquire right of way from you over property located in Cass County and identified as Parcel Identification Number 67-0000-12604-010 and 67-0000-12718-000. The legal description of the property to be acquired is:

OIN 1169

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

The East 60.00 acres of the Southeast Quarter (SE $\frac{1}{4}$) excepting therefrom the East 475.00 feet of said SE $\frac{1}{4}$.

Said parcel contains 31.21 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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

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

Bruce C. Thue
May 12, 2020
Page 2

AND

OIN 1200

That part South Half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 25, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows: Commencing at the Southeast Corner of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 25; thence South 87° 33' 00" West on the south line of said SE $\frac{1}{4}$ a distance of 83.00 feet to the Point of Beginning; From said Point of Beginning, the following describes the easterly and northerly parcel boundaries: thence North 02° 48' 18" West, parallel with, and 83.00 feet west of, the east line of said SE $\frac{1}{4}$ a distance of 1323.02 feet to the north line of said South Half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 25; thence South 87° 33' 47" West on said north line a distance of 1058 feet, more or less, to the centerline of the Sheyenne River; thence southwesterly on said centerline to the Point of Intersection with a line described in the final call of the following southerly and westerly parcel boundary: From said Point of Beginning, the following describes the southerly and westerly parcel boundaries: thence South 87° 33' 00" West on the south line of said SE $\frac{1}{4}$ a distance of 313.83 feet; thence North 45° 17' 57" West a distance of 1325 feet, more or less, to the Point of Intersection on said centerline of the Sheyenne River.

Said parcel contains 25.78 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Enclosed is an appraisal regarding the value of the right of way the District must acquire from you, as determined by a licensed North Dakota appraiser. As you can see from the appraisal, the appraiser indicated the value of the right of way the District must acquire from you is \$509,950.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$509,950.00 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. **Jamie Wark** of SRF Consulting Group, Inc. can be reached at **(701) 893-7435** or **jwark@srfconsulting.com**. Jamie 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.

Bruce C. Thue
May 12, 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: Jamie Wark, 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



Quick Start ▾

Tracking Details

< [Back to Results](#)

1ZY93E24A718335031

Delivered

Delivered On

Thursday
05/14/2020

[Send Updates](#)

[File a Claim](#)

Proof of Delivery



Dear Customer,

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

Tracking Number

1ZY93E24A718335031

Weight

1.00 LBS

Service

UPS 3 Day Select®

Shipped / Billed On

05/12/2020

Additional Information

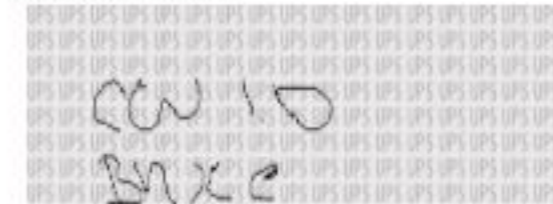
Adult Signature Required

Delivered On

05/14/2020 7:23 P.M.

Received By

SIG ON FILE



Delivered To

5457 MARINE AVE
LAWNDALE, CA, 90260, 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 5:12 P.M. EST

[Print this page](#)



Hello, your package has been delivered.

Delivery Date: Thursday, 05/14/2020

Delivery Time: 07:23 PM

Left At: RESIDENTIAL

Signed by: SIG ON FILE



[Set Delivery Instructions](#)

[Manage Preferences](#)

[View Delivery Planner](#)

CASS WATER RESOURCE DISTRICT

RESIDENTIAL

Tracking Number:

[1ZY93E24A718335031](#)

Ship To:

BRUCE C THUE
5457 MARINE AVENUE
LAWNDALE, CA 902601102
US

Number of Packages:

1 **Page 15 of 36**

11/02/2020

UPS Service:

UPS 3 Day Select®



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

June 26, 2020

**Cass County
Joint Water
Resource
District**

Bruce C. Thue
Trustee of the Bruce C. Thue Living Trust
5457 Marine Avenue
Lawndale, CA 90260-1102
Certified No. 7020 0090 0000 7648 3987

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
wrld@casscountynnd.gov
casscountynnd.gov

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OINs: 1169, 1200
Parcel Nos.: 67-0000-12604-010, 67-0000-12718-000

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 May 12, 2020; a copy of the District's appraisal for the right of way needed from you; and a Purchase Agreement as the District's offer of just compensation to purchase the right of way from you. The District's letter specifically described the right of way the District must acquire from you for the Project. We have not received a signed Purchase Agreement from you, and we have not otherwise arrived at mutually acceptable terms regarding the District's purchase of right of way from you to accommodate the Project.

The District requests your attendance at a meeting to discuss the District's offer to purchase right of way from you. The District is meeting at 8:00 a.m. on July 9, 2020, and July 23, 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.

Bruce C. Thue Trust
OINs 1169, 1200
June 26, 2020
Page 2

Please continue to maintain contact and negotiate with the land agent assigned to your property. **Jamie Wark** of SRF Consulting Group, Inc. is your point of contact for getting answers to any questions you have about the Project. Jamie can be reached at **(701) 893-7435** or **jwark@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: Jamie Wark, 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:
BRUCE C THUE
 TRUSTEE OF BRUCE C THUE LIVING TRUST
 5457 MARINE AVENUE
 LAWDALE CA 90260-1102



9590 9402 5989 0062 9061 29

2. Article Number (Transfer from service label)
7020 0090 0000 7648 3987

COMPLETE THIS SECTION ON DELIVERY

A. Signature X *[Signature]* Agent Addressee

B. Received by (Printed Name) C. Date of Delivery
 7-10-20

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

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



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**Cass County
Joint Water
Resource
District**

August 14, 2020

Bruce C. Thue
Trustee of the Bruce C. Thue Living Trust
5457 Marine Avenue
Lawndale, CA 90260
Certified No. 7020 0090 0000 7648 3543

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

Greetings:

**RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY
OINs: 1169, 1200
Parcel Nos. 67-0000-12604-010, 67-0000-12718-000**

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"). On behalf of the District, I previously provided you letters dated April 6, 2020, and May 12, 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 26, 2020, to invite you to meet with the District for purposes of discussing the acquisition of your land. The parties have conducted the informal and formal negotiation procedures required by law but, unfortunately, the parties have not yet reached a mutually-acceptable agreement regarding compensation for the District's purchase of the right of way from you to accommodate the Project.

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

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

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

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

Bruce C. Thue Trust
OINs 1169, 1200
August 14, 2020
Page 2

You are encouraged to maintain contact with the land agent assigned to your property. **Jamie Wark** of **SRF Consulting Group, Inc.** can be reached at **(701) 893-7435** or **jwark@srfconsulting.com**. Jamie 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: Jamie Wark, Land Agent
Chris McShane, Ohnstad Twichell, P.C.
Chad Peterson, Chair, Cass County Commission
Robert Wilson, Cass County Administrator
Birch Burdick, Cass County State's Attorney
Eric Dodds, Program Manager, AE2S
Joel Paulsen, Executive Director, Diversion Authority

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:
 BRUCE C THUE
 TRUSTEE OF BRUCE C THUE LIVING TRUST
 5457 MARINE AVENUE
 LAWDALE CA 90260



2. Article Number (Transfer from service label)
 7020 0090 0000 7648 3543

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *C-19* Agent Addressee

B. Received by (Printed Name) *RM* C. Date of Delivery *8/18/2020*

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

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



SENT VIA EMAIL wilsonro@casscountynd.gov

Cass County
Joint Water
Resource
District

September 18, 2020

Dan Jacobson
Chairman
West Fargo, North Dakota

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

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 Approval to Take Possession of Necessary Right of Way
OINs: 1169, 1200
Parcel Nos.: 67-0000-12604-010, 67-0000-12718-000

Jacob Gust
Manager
Fargo, North Dakota

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

Keith Weston
Manager
Fargo, North Dakota

- Letters dated April 6, 2020, and May 12, 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 26, 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.

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 legal description of the necessary right of way is as follows:

Right of Way Easement:

OIN 1169

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

The East 60.00 acres of the Southeast Quarter (SE $\frac{1}{4}$) excepting therefrom the East 475.00 feet of said SE $\frac{1}{4}$.

Said parcel contains 31.21 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 1200

That part South Half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 25, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows: Commencing at the Southeast Corner of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 25; thence South 87° 33' 00" West on the south line of said SE $\frac{1}{4}$ a distance of 83.00 feet to the Point of Beginning; From said Point of Beginning, the following describes the easterly and northerly parcel boundaries: thence North 02° 48' 18" West, parallel with, and 83.00 feet west of, the east line of said SE $\frac{1}{4}$ a distance of 1323.02 feet to the north line of said South Half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 25; thence South 87° 33' 47" West on said north line a distance of 1058 feet, more or less, to the centerline of the Sheyenne River; thence southwesterly on said centerline to the Point of Intersection with a line described in the final call of the following southerly and westerly parcel boundary: From said Point of Beginning, the following describes the southerly and westerly parcel boundaries: thence South 87° 33' 00" West on the south line of said SE $\frac{1}{4}$ a distance of 313.83 feet; thence North 45° 17' 57" West a distance of 1325 feet, more or less, to the Point of Intersection on said centerline of the Sheyenne River.

Robert Wilson
September 18, 2020
Page 3

Said parcel contains 25.78 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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

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

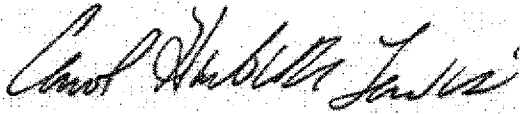
While the District takes all landowners' rights very seriously, the District also has an obligation, as a member of the Metro Flood Diversion Authority, to acquire the right of way necessary for the Project, and construction of the Project will not be possible without acquiring the right of way identified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

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

Robert Wilson
September 18, 2020
Page 4

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

cc: Jamie Wark, 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

Bruce C. Thue
Trustee of the Bruce C. Thue Living Trust
5457 Marine Avenue
Lawndale, CA 90260

Chad M. Peterson
Fargo, North Dakota

Rick Steen
Fargo, North Dakota

Ken Pawluk
Fargo, North Dakota

Duane Breitling
West Fargo, North Dakota

Mary Scherling
Stanley Township, North Dakota

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OINs: 1169, 1200
Parcel Nos.: 67-0000-12604-010, 67-0000-12718-000
UPS Tracking No. 1Z F51 82Y 30 9830 9173

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:

- Letters dated April 6, 2020 and May 12, 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 26, 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.casscountynd.gov

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

OIN 1169

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

The East 60.00 acres of the Southeast Quarter (SE $\frac{1}{4}$) excepting therefrom the East 475.00 feet of said SE $\frac{1}{4}$.

Said parcel contains 31.21 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 1200

That part South Half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 25, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows: Commencing at the Southeast Corner of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 25; thence South 87° 33' 00" West on the south line of said SE $\frac{1}{4}$ a distance of 83.00 feet to the Point of Beginning; From said Point of Beginning, the following describes the easterly and northerly parcel boundaries: thence North 02° 48' 18" West, parallel with, and 83.00 feet west of, the east line of said SE $\frac{1}{4}$ a distance of 1323.02 feet to the north line of said South Half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 25; thence South 87° 33' 47" West on said north line a distance of 1058 feet, more or less, to the centerline of the Sheyenne River; thence southwesterly on said centerline to the Point of Intersection with a line described in the final call of the following southerly and westerly parcel boundary: From said Point of Beginning, the following describes the southerly and westerly parcel boundaries: thence South 87° 33' 00" West on the south line of said SE $\frac{1}{4}$ a distance of 313.83 feet; thence North 45° 17' 57" West a distance of 1325 feet, more or less, to the Point of Intersection on said centerline of the Sheyenne River. Said parcel contains 25.78 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

The Commission invites you to attend the Commission's meeting on 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 easement necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **Jamie Wark** and to continue discussions about the Project. **Jamie Wark** of **SRF Consulting Group, Inc.** is your point of contact regarding the Project. You can reach **Jamie Wark** at **(701) 893-7435** or jwark@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: Jamie Wark, 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

Bruce Thue

Proof of Delivery

Dear Customer,

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

Tracking Number

1ZF5182Y3098309173

Weight

1.00 LBS

Service

UPS Next Day Air Saver®

Shipped / Billed On

09/24/2020

Delivered On

09/28/2020 9:34 A.M.

Delivered To

BRUCE THUE
5457 MARINE AVE
LAWNDALE, CA, 90260, US

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: 09/28/2020 4:52 P.M. EST

Point of Beginning, the following describes the easterly and northerly parcel boundaries: thence North 02° 48' 18" West, parallel with, and 83.00 feet west of, the east line of said SE¼ a distance of 1323.02 feet to the north line of said South Half of the Southeast Quarter (S½ SE¼) of Section 25; thence South 87° 33' 47" West on said north line a distance of 1058 feet, more or less, to the centerline of the Sheyenne River; thence southwesterly on said centerline to the Point of Intersection with a line described in the final call of the following southerly and westerly parcel boundary: From said Point of Beginning, the following describes the southerly and westerly parcel boundaries: thence South 87° 33' 00" West on the south line of said SE¼ a distance of 313.83 feet; thence North 45° 17' 57" West a distance of 1325 feet, more or less, to the Point of Intersection on said centerline of the Sheyenne River.

Said parcel contains 25.78 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

The property described above is the "Necessary Property."

[¶5] Affiant is familiar with the records maintained by SRF Consulting Group, Inc. with respect to the Necessary Property and has reviewed all such records prior to executing this affidavit.

[¶6] SRF Consulting Group, Inc. has attempted to negotiate with Landowner to acquire the Necessary Property. Attached as **Exhibit A** is a log of all contacts SRF Consulting Group, Inc. has had with Landowner.

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

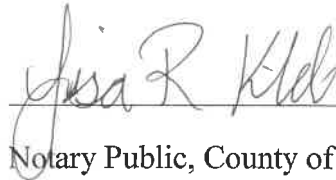
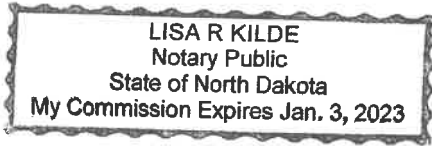
[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

Dated this 20 day of October, 2020.



Ken Helvey
SRF Consulting Group, Inc.

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 1169 1200 - Thue Contact Attempts

Date	Note
4/8/2019	Jamie called Bruce to notify him that the appraisers would be in the area for the next week
6/5/2019	Appraisal and offer letter for OIN 1200 sent
6/11/2019	Discussed farm values, 1031 & 1033 exchanges, Severance payment, Remnant piece, land exchange
7/11/2019	Bruce called, left message
7/18/2019	Called Bruce, left message
7/19/2019	Called, left message
7/22/2019	Bruce called, left message
7/23/2019	Spoke to Bruce, increased offer and provided answers to previous questions he had, followed up with email
7/24/2019	Appraisal and offer letter for OIN 1169 sent
7/25/2019	Sent Bruce email answering questions about farm value, tax liability and severance
7/26/2019	Spoke to Bruce - Turned down 10% increase for OIN 1200.
8/16/2019	Jamie called and left a message to check on the status of a counter offer
8/19/2019	Jamie called and talked with Bruce, he is still in the process of gathering info
10/28/2019	Left message
11/14/2019	Jamie spoke with Bruce after playing phone tag the last two weeks. Bruce provided a counter for OIN 1200
2/11/2020	Notified Bruce a new offer will be made for OIN 1200
2/17/2020	Spoke to Bruce - awaiting information from someone before making counteroffer
2/24/2020	Spoke about offer, requested approval
3/16/2020	Provided OIN 1200 counteroffer amounts
3/24/2020	Jamie spoke with Bruce and provided an update
3/26/2020	LM for Bruce
3/27/2020	Provided Bruce with counteroffer from board
3/30/2020	Spoke with Bruce - awaiting information for a counteroffer
4/2/2020	Received a message from Bruce - called back to discuss new offers for OIN 1169 & 1200 based on information Bruce recently received
4/6/2020	Formal offer letter sent for both OINs
4/10/2020	Called and LM
4/13/2020	Spoke with Bruce - negotiations for OIN 1169 - discussed comparables
4/16/2020	Spoke with Bruce continued negotiations
4/17/2020	Spoke to Bruce - continued negotiations OIN 1200
4/18/2020	Spoke to Bruce - negotiations for OIN 1169
4/20/2020	Bruce revised his counteroffer for both parcels
4/23/2020	Spoke to Bruce - discussed comparables he believes is relevant for his next counteroffer \
4/29/2020	Spoke to Bruce - he has decided to go ahead with his latest offer - \$1.15M for OIN 1169 & \$1.15M for OIN 1200
5/4/2020	Discussed previous offers for OIN 1169 & 1200.
5/12/2020	Spoke to Bruce and informed him board turn down offer
6/3/2020	Bruce called. LM
6/4/2020	Spoke to Bruce. Discussed recent comps for appraisal
6/17/2020	CCJWRD invite sent
6/23/2020	Bruce provided verbal permission for ROE
6/25/2020	Jamie & Lisa spoke to Bruce. Has requested best offer from board in hopes of restarting negotiations
6/29/2020	CCJWRD invite received
7/13/2020	Bruce called, left a message to call back.
7/14/2020	Called Bruce back, left message
7/29/2020	Called Bruce, left message
8/10/2020	Bruce called, left message to call him back
8/14/2020	Notice of Intent letter mailed
8/18/2020	Spoke to Bruce Thue (x2). Provided a new counteroffer of \$15k/acre for both parcels (OIN 1169 & 1200). Would like to get both parcels taken care of.
8/31/2020	Spoke to Bruce. Discussed latest counteroffer amount of \$15/k acre.
9/25/2020	Invite letter to County Commission Meeting mailed
9/28/2020	Missed a call from Bruce
9/29/2020	Missed a call from Bruce. Returned call no answer.
9/30/2020	Spoke to Bruce. Informed him CCJWRD declined his offer of \$15k/acre for purchase of all property in OIN 1169 & OIN 1200. Discussed making a reduced offer to CCJWRD. Bruce would think about it.
10/13/2020	Called Bruce, no answer, left message. Bruce returned call later that afternoon and agreed to talk next day.
10/14/2020	Called Bruce. Will wait on making another offer to CCJWRD. He is hoping more surrounding property owners will agree to deals. He asked me to check back in with him week of 11/2/2020.

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 Bruce C. Thue, as Trustee of the Bruce C. Thue Living Trust dated February 7, 2002, (“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 1169

That part of the Southeast Quarter (SE¼) of Section 1, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, being further described as follows:

The East 60.00 acres of the Southeast Quarter (SE¼) excepting therefrom the East 475.00 feet of said SE¼.

Said parcel contains 31.21 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

OIN 1200

That part South Half of the Southeast Quarter (S½SE¼) of Section 25, Township 138 North, Range 50 West of the 5th Principal Meridian, Cass County, North Dakota, further described as follows: Commencing at the Southeast Corner of the Southeast Quarter (SE¼) of said Section 25; thence South 87° 33' 00" West on the south line of said SE¼ a distance of 83.00 feet to the Point of Beginning; From said Point of Beginning, the following describes the easterly and northerly parcel boundaries: thence North 02° 48' 18" West, parallel with, and 83.00 feet west of, the east line of said SE¼ a distance of 1323.02 feet to the north line of said South Half of the Southeast Quarter (S½ SE¼) of Section 25; thence South 87° 33' 47" West on said north line a distance of 1058 feet, more or less, to the centerline of the Sheyenne River; thence southwesterly on said centerline to the Point of Intersection with a line described in the final call of the following southerly and westerly parcel boundary: From said Point of Beginning, the following describes the southerly and westerly parcel boundaries: thence South 87° 33' 00" West on the south line of said SE¼ a distance of 313.83 feet; thence North 45° 17' 57" West a distance of 1325 feet, more or less, to the Point of Intersection on said centerline of the Sheyenne River.

Said parcel contains 25.78 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

[¶7] The District has fulfilled the required negotiation steps in accordance with subsection 2 of section 61-16.1-09 of the North Dakota Century Code.

[¶8] The District sent a written offer of just compensation to Landowner by certified mail, along with an appraisal and purchase agreement, on April 6, 2020, and by UPS on May 12, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On June 26, 2020, the District sent Landowner a written request for a meeting, by certified mail; the District and Landowner have not reached an agreement regarding compensation, and more than fifteen days have passed since Landowner's receipt of the offer. A copy of the written request for a meeting with Landowner is attached as **Exhibit 2**.

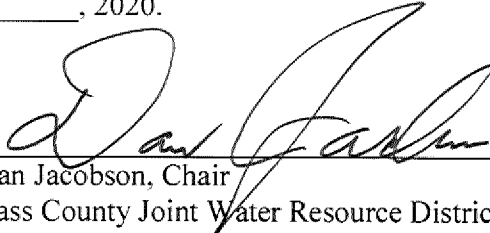
[¶10] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶11] On 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.

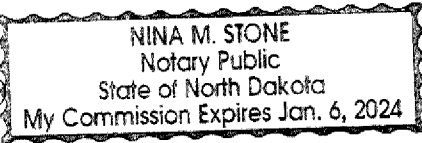
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

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) 
NINA M. STONE
Notary Public
State of North Dakota
My Commission Expires Jan. 6, 2024



Nina M. Stone
Notary Public, Cass County, State of North Dakota