

FM AREA DIVERSION PROJECT

# Property Owner Information Packet for Cass County Commission

December 7<sup>th</sup>, 2020

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PROPERTY OWNER: Karn Jameson

LAND AGENT: Jamie Wark with SRF

OIN: 9749



FM AREA  
**DIVERSION**  
PROJECT

# TABLE OF CONTENTS

WRITTEN CORRESPONDENCE TIMELINE.....	1
L.R.E.D CHECKLIST FOR COMPLIANCE WITH N.D. CENTURY CODE .....	2
NEGOTIATING SUMMARY .....	4
PARCEL EXHIBIT .....	5
OFFER TO PURCHASE .....	6
<i>Proof of Delivery</i> .....	9
FORMAL NEGOTIATIONS AND WRITTEN OFFER OF JUST COMPENSATION .....	10
<i>Proof of Delivery</i> .....	11
REQUEST FOR MEETING.....	12
<i>Proof of Delivery</i> .....	14
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY .....	15
<i>Proof of Delivery</i> .....	17
REQUEST FOR APPROVAL TO TAKE POSSESSION OF NECESSARY RIGHT OF WAY AND TEMPORARY EASEMENT .....	18
INVITATION TO ATTEND PUBLIC MEETING.....	22
<i>Proof of Delivery</i> .....	26
AFFIDAVIT OF LAND AGENT .....	27
<i>Contact Log</i> .....	30
AFFIDAVIT OF DAN JACOBSON FOR CASS COUNTY COMMISSION.....	31

## Written Correspondence Timeline – Karn Jameson

OIN 9749	Sent	Received
Offer to Purchase	3/17/2020	3/19/2020
Formal Negotiations and Written Offer of Just Compensation	6/22/2020	6/23/2020
Request for Meeting	7/21/2020	7/23/2020
Notice of Intent to Take Possession of Right-of-Way	9/11/2020	9/14/2020
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	10/15/2020	10/15/2020
Invitation to Attend Public Meeting	10/28/2020	10/29/2020
Commission Meeting Date	12/7/2020	

**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: Karn E. Jameson
2. Land Agent: Jamie Wark
3. Parcel No.: 9749
4. OIN No.: 53-0000-09061-010

B. Verification:

1. NDCC § 61-16.1-09(2)(b)(1)(a) requires the Cass County Joint Water Resource District (“CCJWRD”) to conduct 60 days of informal negotiations.
  - Did CCJWRD verify at least 60 days of informal negotiations with Landowner:  
\_\_\_\_\_
2. NDCC § 61-16.1-09(2)(b)(1)(b)[1] requires CCJWRD to send the landowner an appraisal and written offer for just compensation by certified mail or commercial delivery requiring a signed receipt or other evidence of constructive notice.
  - Did CCJWRD verify it sent Landowner an appraisal and written offer for just compensation: \_\_\_\_\_
  - Did CCJWRD verify service of the appraisal and offer by certified mail or commercial delivery, and that Landowner either signed for them or had constructive notice: \_\_\_\_\_
3. NDCC § 61-16.1-09(2)(b)(1)(b)[2] requires CCJWRD to send Landowner a written request for a meeting by certified mail or commercial delivery requiring a signed receipt [if the parties have not come to an agreement within 15 days of Landowner’s receipt of notice of CCJWRD’s offer].
  - Did CCJWRD verify it sent Landowner a written request for a meeting by certified mail or commercial delivery, and that Landowner either signed for the notice or had constructive notice: \_\_\_\_\_

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

If the Commission answers in the affirmative to the above questions,

**RECOMMENDED MOTION:**

- I move to authorize the Cass County Joint Water Resource District to utilize quick take eminent domain under Section 61-16.1-09(2) of the North Dakota Century Code to take an easement for a right of way and temporary easement regarding OIN 9749.

# FM Area Diversion Project

## Property Negotiation Summary

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December 1, 2020

Owner	Karn Jameson
Mailing Address	3905 9 <sup>th</sup> Avenue West, Fargo, ND 58078
Property Location	Channel
Property Type	Agricultural
OIN	9749
Land Agent	Jamie Wark - SRF
Landowner Representative	Husband - Rob
Formal Process	Commission Invite recd 10/29/20

### Property Need

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

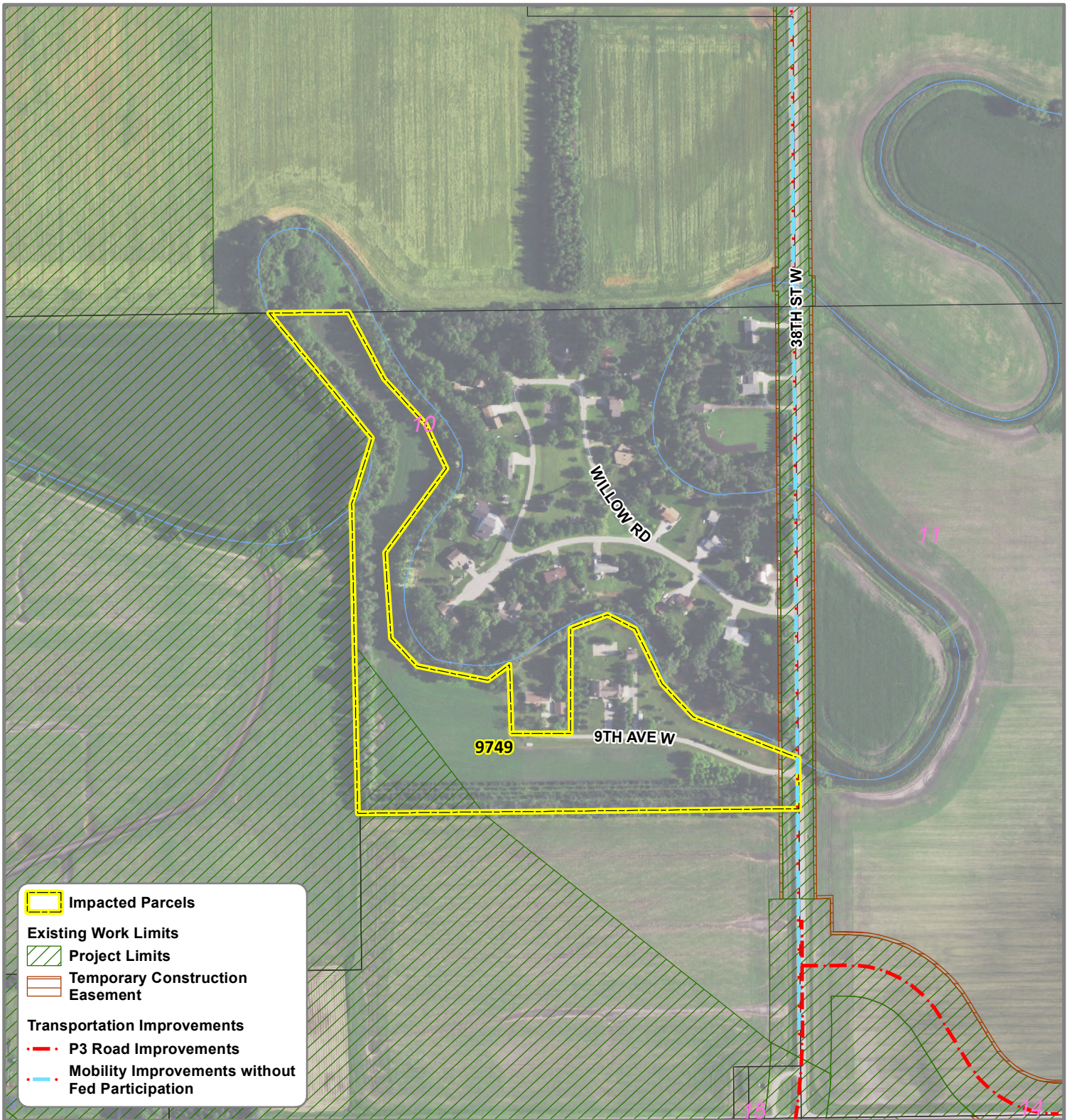
### Valuation and Negotiation Summary:

Appraisal Value / Date	\$22,000 – 3/14/19 2.77 acres land/site taking at \$8,000/acre – \$22,160 0.04 acres TCE at \$165/5years - \$33.00
Counteroffer	\$44,353 (declined by CCJWRD 10/22/20) 2.77 acres land/site taking at \$16,000/acre - \$44,320 0.04 acres TCE at \$165/5 years - \$33.00

### Negotiation Notes

- SRF Land agent, Jamie Wark, has had contact with landowner regarding the offer to purchase approximately 20 times.
- Landowner has asked her husband, Rob, to handle negotiations.
- Landowner had hoped to complete a DIRECT 1031 EXCHANGE with neighboring property (OIN 9750). It was determined that the full parcel was needed for the diversion for OIN 9750.
- Landowner has provided a counteroffer of \$16k/acre which was declined by board on 10/22/20.
- Land agent and landowner have been unable to reach an agreement.





**Impacted Parcels**

**Existing Work Limits**

**Project Limits**

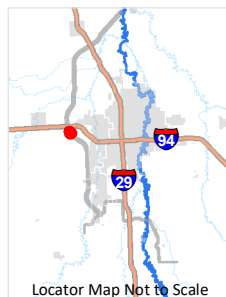
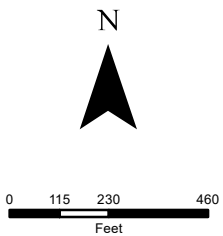
**Temporary Construction Easement**

**Transportation Improvements**

- P3 Road Improvements**
- Mobility Improvements without Fed Participation**

*Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. All parcel acreages and legal descriptions shown hereon are based on County GIS data. Final acreages and legal descriptions to be determined by boundary survey.*

Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Produced by: hrecords - AE2S, Inc. |  
 C:\Data\Projects\GIS Projects\FM Area Diversion\Projects\Land Acquisition\Project Work Package\IProject Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105.mxd



**OIN: 9749**  
**KARN E JAMESON**  
**Parcel ID: 53-0000-09061-010**  
**Cass County, ND**

FM AREA DIVERSION  
 Map Date: 7/30/2020







March 17, 2020

Karn Jameson  
3905 9th Avenue West  
Fargo, ND 58078

RE: **Revised Offer to Purchase**  
**Parcel ID:** OIN 9749  
**Project Title:** Fargo Moorhead Diversion  
**PID:** 53-0000-09061-010

Dear Mrs. Jameson,

We previously mailed you an Offer to Purchase for your property necessary for the construction of the flood control improvement project in your area. Since our previous letter dated October 23, 2019, there have been changes to the survey of your parcel. As such, our previous offer to purchase has been revised to reflect these changes. The previous offer stated 2.71 acres were to be purchased in fee, and a temporary easement of 0.03 acres were required for the project. The revised offer includes 2.77 acres purchased in fee, and a temporary easement of 0.04 acres. Please see the attached Exhibit A (Acquisition Summary) and Exhibit B (Certificate of Survey) for more details on the interests being purchased.

With this updated survey and appraisal, the appraiser has determined that the market value of the interests being purchased is **\$22,000.00**. The CCJWRD has used the market value set forth in the appraisal as the basis for determining Just Compensation for the property interests being acquired from you. A copy of the appraisal is attached to this letter and provided to you. If the purchase amount is based on any conditions or exceptions (such as terms of the transfer of possession or retention of any interest); they will be included in Exhibit A. A summary of the appraisal is provided on Exhibit A (Appraisal Summary).

**The Cass County Joint Water Resource District hereby offers to pay you \$22,000.00 as Just Compensation for the property interests it must acquire from you.**

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 9749 by Crown Appraisals, Inc.
- Exhibit A (Acquisition Summary), and Exhibit B (Certificate of Survey)

Your signature DOES NOT indicate your acceptance or rejection of the offered amount. Nor does it affect your right to continue to negotiate with the CCJWRD.



On behalf of CCJWRD, we wish to thank you for your cooperation and assistance, and we look forward to working with you toward a mutually satisfactory completion of the acquisition process.

Sincerely,



Jamie Wark

Senior Analyst

T: 701793-7435

jwark@srfconsulting.com

One North Second Street, Fargo, ND 58102

I acknowledge that on \_\_\_\_\_, 20 \_\_\_\_, I received this letter and all documents listed above.

---

Karn Jameson

*Required Notice:* Schedule and Cass County Joint Board Information can be found at: <https://fmdiversion.gov/lands-schedule/>

Enclosures: Appraisal Report, Exhibit A, Exhibit B

**EXHIBIT A**

**ACQUISITION SUMMARY  
Fargo Moorhead Diversion**

**Revised Offer to Purchase**

**Parcel ID:** OIN 9749

**Project Title:** Fargo Moorhead Diversion

**PID:** 53-0000-09061-010

**Property Address:** 3905 9th Ave. W, West Fargo, ND 58078

Recorded Fee Owner: Karn Jameson

Property Legal Description:

SEE ATTACHED SURVEY

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

Noted and Waived Exceptions, Reservations or Encumbrances: None

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

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

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**APPRAISAL SUMMARY**

<b>Parcel Value</b>	<b>Area Size/ Description</b>	<b>Per Unit</b>	<b>Indicated Value</b>
<b>Land/Site Taking</b>	2.77 Acres	\$ 8,000.00	\$ 22,160.00
<b>Temporary Easement</b>	0.04 Acres	\$ 165/acre x 5 years	\$ 33.00
<b>TOTAL (rounded)</b>			<b>\$ 22,000.00</b>

## Track Another Package +

**Tracking Number:** 9505511429320078405114

[Remove X](#)

Your item was delivered in or at the mailbox at 10:32 am on March 19, 2020 in WEST FARGO, ND 58078.

**USPS Premium Tracking™ Available** ∨

### **Delivered**

March 19, 2020 at 10:32 am  
Delivered, In/At Mailbox  
WEST FARGO, ND 58078

Feedback

**Get Updates** ∨

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**Text & Email Updates**



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**Tracking History**



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**Premium Tracking**



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**Product Information**



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**See Less** ^



VIA UPS DELIVERY

Cass County  
Joint Water  
Resource  
District

June 22, 2020

Karn E. Jameson  
3905 9th Avenue W  
West Fargo, ND 58078

Dan Jacobson  
Chairman  
West Fargo, North Dakota

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Formal Negotiations and Written Offer of Just Compensation  
OIN: 9749  
Parcel No.: 53-0000-09061-010

Rodger Olson  
Manager  
Leonard, North Dakota

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

Dear Karn:

On June 5, 2020, the enclosed letter regarding property you own in Cass County, North Dakota was sent to you. The return receipt for the June 5, 2020, letter was returned blank to our office.

As the enclosed letter indicates, 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](mailto:jwark@srfconsulting.com).

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT

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

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

Enclosures

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynd.gov](mailto:wrđ@casscountynd.gov)  
[casscountynd.gov](http://casscountynd.gov)



# Proof of Delivery



Dear Customer,

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

**Tracking Number**

1ZY93E24A818955137

**Weight**

1.00 LBS

**Service**

UPS Ground

**Shipped / Billed On**

06/22/2020

**Additional Information**

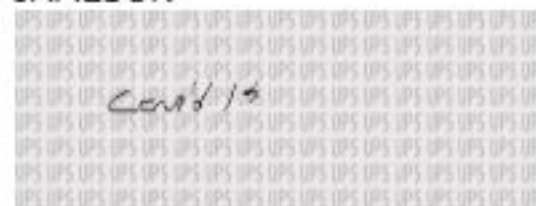
Adult Signature Required

**Delivered On**

06/23/2020 9:47 A.M.

**Received By**

JAMESON



**Delivered To**

3905 9TH AVE W  
WEST FARGO, ND, 58078, US

**Left At**

Residential

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

Sincerely,

UPS

Tracking results provided by UPS: 06/24/2020 11:24 A.M. EST

[Print this page](#)



**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

July 21, 2020

Cass County  
Joint Water  
Resource  
District

Karn E. Jameson  
3905 9th Avenue W  
West Fargo, ND 58078  
**Certified No. 7020 0090 0000 7648 4243**

Greetings:

Dan Jacobson  
Chairman  
West Fargo, North Dakota

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Request for Meeting  
OIN: 9749  
Parcel No.: 53-0000-09061-010

Rodger Olson  
Manager  
Leonard, North Dakota

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). The District previously provided you a letter dated June 5, 2020; a copy of the District's appraisal for the right of way and temporary easement needed from you; and a Purchase Agreement as the District's offer of just compensation to purchase the right of way and temporary easement from you. The District's letter specifically described the right of way and temporary easement the District must acquire from you for the Project. We have not received a signed Purchase Agreement from you, and we have not otherwise arrived at mutually acceptable terms regarding the District's purchase of right of way and temporary easement from you to accommodate the Project.

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrld@casscountynnd.gov](mailto:wrld@casscountynnd.gov)  
[casscountynnd.gov](http://casscountynnd.gov)

The District requests your attendance at a meeting to discuss the District's offer to purchase right of way and temporary easement from you. The District is meeting at 8:00 a.m. on August 13, 2020, and August 27, 2020. Over the next several months, District meetings will be conducted via conference call and District board members will not be attending in person. The requirements that a meeting room be available to the public and that a speakerphone or monitor be provided at a physical location under NDCC § 44-04-19 have been suspended indefinitely pursuant to Governor Burgum's Executive Order 2020-16; therefore, we request your attendance by telephone.

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

Karn E. Jameson  
OIN 9749  
July 21, 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](mailto: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 and temporary easement. The District must conclude all negotiations and complete the acquisition of right of way and temporary easement necessary for construction of Project components on your property by Fall of 2020.

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



Carol Harbeke Lewis  
Secretary-Treasurer  
1201 Main Avenue West  
West Fargo, ND 58078  
(701) 298-2381  
[lewisc@casscountynd.gov](mailto: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:  
**KARN E JAMESON**  
**3905 9TH AVENUE W**  
**WEST FARGO ND 58078**



9590 9402 5989 0062 9058 63

2 Article Number (Transfer from service label)  
**7020 0090 0000 7648 4243**

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
 X **Carl E. S. CIA**  Agent  Addressee

B. Received by (Printed Name) C. Date of Delivery  
**7/13/2020**

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

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

Domestic Return Receipt





Cass County  
Joint Water  
Resource  
District

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Rodger Olson  
Manager  
Leonard, North Dakota

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

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

701-298-2381  
FAX 701-298-2397  
[wrđ@casscountynđ.gov](mailto:wrđ@casscountynđ.gov)  
[casscountynđ.gov](http://casscountynđ.gov)

VIA UPS DELIVERY

September 11, 2020

Karn E. Jameson  
3905 9th Avenue W  
West Fargo, ND 58078

Greetings:

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY AND  
TEMPORARY EASEMENT  
OIN: 9749  
Parcel No. 53-0000-09061-010

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 June 5, 2020, a copy of the District's appraisal for your right of way and temporary easement, and a Purchase Agreement as the District's offer of just compensation to purchase the right of way and temporary easement from you. In addition, I also provided you a letter dated July 21, 2020, to invite you to meet with the District for purposes of discussing the acquisition the right of way and temporary easement in and to 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 right of way and temporary easement from you to accommodate the Project.

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

Karn E. Jameson  
OIN 9749  
September 11, 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. **Jamie Wark** of **SRF Consulting Group, Inc.** can be reached at **(701) 893-7435** or **[jwark@srfconsulting.com](mailto:jwark@srfconsulting.com)**. Jamie is your point of contact for getting answers to any questions you have about the Project and acquisition of the right of way and temporary easement from you for the Project.

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

# Proof of Delivery



Dear Customer,

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

**Tracking Number**

1ZY93E24A801552264

**Weight**

1.00 LBS

**Service**

UPS Ground

**Shipped / Billed On**

09/11/2020

**Additional Information**

Adult Signature Required

**Delivered On**

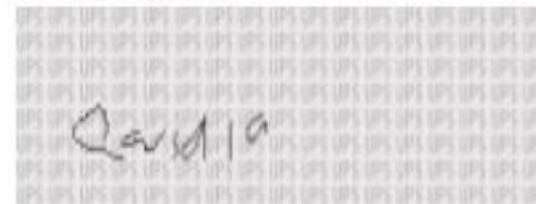
09/14/2020 10:04 A.M.

**Received By**

SIG ON FILE

**Delivered To**

3905 9TH AVE W  
WEST FARGO, ND, 58078, US



**Left At**

Residential

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

Sincerely,

UPS

Tracking results provided by UPS: 09/14/2020 11:46 A.M. EST

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SENT VIA EMAIL [wilsonro@casscountynd.gov](mailto:wilsonro@casscountynd.gov)

Cass County  
Joint Water  
Resource  
District

October 15, 2020

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

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Rodger Olson  
Manager  
Leonard, North Dakota

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

Greetings:

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Request for Approval to Take Possession of Necessary Right of Way  
and Temporary Easement  
OIN: 9749  
Parcel No.: 53-0000-09061-010

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

- Letters dated June 5, 2020, and June 22, 2020, enclosing the District's appraisal for the acquisition of the right of way and temporary easement from the Landowner and a proposed Purchase Agreement;
- Letter dated July 21, 2020, inviting the Landowner to meet with the District for purposes of negotiating compensation for the right of way and temporary easement to be acquired; and
- Letter dated September 11, 2020, notifying the Landowner the District planned to submit a request to the Cass County Commission seeking immediate possession of the right of way and temporary easement necessary for the Project.

Carol Harbeke Lewis  
Secretary-Treasurer

1201 Main Avenue West  
West Fargo, ND 58078-1301

701-298-2381  
FAX 701-298-2397  
[wrld@casscountynd.gov](mailto:wrld@casscountynd.gov)  
[casscountynd.gov](http://casscountynd.gov)



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

Right of Way Easement:

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

Commencing at the Northeast Corner of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 10; thence South 02° 24' 34" East on the east line of said SE $\frac{1}{4}$  a distance of 1645.33 feet to the south line of Auditor's Lot 5; thence South 87° 17' 26" West on said south line a distance of 1025.00 feet to the Point of Beginning; thence continuing South 87° 17' 26" West on said south line a distance of 406.54 feet to the southwest corner of said Auditor's Lot 5; thence North 03° 12' 33" West on the west line of said Auditor's Lot 5 a distance of 550.00 feet; thence South 39° 30' 10" East a distance of 686.79 feet to the Point of Beginning.

Said parcel contains 2.57 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

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

Commencing at the Northeast Corner of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 10; thence South 02° 24' 34" East on the east line of said SE $\frac{1}{4}$  a distance of 1645.33 feet to the south line of Auditor's Lot 5, said point being the Point of Beginning; thence South 87° 17' 26" West on said south line a distance of 50.00 feet; thence North 02° 24' 34" West parallel with said east line of the SE $\frac{1}{4}$  a distance of 188.37 feet to the north line of said Auditor's Lot 5; thence South 70° 31' 53" East on said north line a distance of 53.88 feet to said east line of the SE $\frac{1}{4}$ ; thence South 02° 24' 34" East on said east line a distance of 168.03 feet to the Point of Beginning.

Said parcel contains 0.20 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

Temporary Easement

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

Commencing at the Northeast Corner of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 10; thence South 02° 24' 34" East on the east line of said SE $\frac{1}{4}$ ) a distance of 1645.33 feet to the south line of Auditor's Lot 5; thence South 87° 17' 26" West on said south line a distance of 50.00 feet to the Point of Beginning; thence continuing South 87° 17' 26" West on said south line a distance of 10.00 feet; thence North 02° 24' 34" West parallel with said east line of the SE $\frac{1}{4}$ ) a distance of 192.44 feet to the north line of said Auditor's Lot 5; thence South 70° 31' 53" East on said north line a distance of 10.78 feet; thence South 02° 24' 34" East parallel with said east line of the SE $\frac{1}{4}$ ) a distance of 188.37 feet to the Point of Beginning.

Said easement contains 0.04 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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

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

Robert Wilson  
October 15, 2020  
Page 4

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

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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



October 28, 2020

**VIA UPS – DELIVERY CONFIRMATION**

**Board of County  
Commissioners**

Karn E. Jameson  
3905 9<sup>th</sup> Avenue West  
West Fargo, ND 58078

Chad M. Peterson  
Fargo, North Dakota

Re: Cass County Commission  
Fargo-Moorhead Area Diversion Project  
Invitation to Attend Public Meeting  
OIN: 9749  
Parcel No.: 53-0000-09061-010  
UPS Tracking No. 1Z F51 82Y 30 9833 6992

Rick Steen  
Fargo, North Dakota

Ken Pawluk  
Fargo, North Dakota

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 and temporary easements necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding the right of way and temporary easement the District must acquire from you for the Project. The District copied the Commission on the following letters the District sent to you regarding the District’s negotiations with you:

- Letters dated June 5, 2020 and June 22, 2020, enclosing the District’s appraisal for the acquisition of the right of way and temporary easement from you, along with a proposed Purchase Agreement;
- Letter dated July 21, 2020, inviting you to meet with the District for purposes of negotiating compensation for the right of way and temporary easement to be acquired; and
- Letter dated September 11, 2020, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way and temporary easement necessary for the Project.

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 and temporary easement the District must purchase from you to accommodate the Project. With that in mind, the District recently requested approval from the Commission to utilize quick take eminent domain to take possession of the right of way and temporary easement the District must acquire from you. The legal description of the necessary right of way and temporary easement is as follows:

Right of Way Easement:

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

Commencing at the Northeast Corner of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 10;  
thence South 02° 24' 34" East on the east line of said SE $\frac{1}{4}$  a distance of 1645.33 feet to the south line of Auditor's Lot 5;  
thence South 87° 17' 26" West on said south line a distance of 1025.00 feet to the Point of Beginning;  
thence continuing South 87° 17' 26" West on said south line a distance of 406.54 feet to the southwest corner of said Auditor's Lot 5;  
thence North 03° 12' 33" West on the west line of said Auditor's Lot 5 a distance of 550.00 feet;  
thence South 39° 30' 10" East a distance of 686.79 feet to the Point of Beginning.

Said parcel contains 2.57 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

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

Commencing at the Northeast Corner of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 10;  
thence South 02° 24' 34" East on the east line of said SE $\frac{1}{4}$  a distance of 1645.33 feet to the south line of Auditor's Lot 5, said point being the Point of Beginning;  
thence South 87° 17' 26" West on said south line a distance of 50.00 feet;  
thence North 02° 24' 34" West parallel with said east line of the SE $\frac{1}{4}$  a distance of 188.37 feet to the north line of said Auditor's Lot 5;  
thence South 70° 31' 53" East on said north line a distance of 53.88 feet to said east line of the SE $\frac{1}{4}$ ;



thence South 02° 24' 34" East on said east line a distance of 168.03 feet to the Point of Beginning.

Said parcel contains 0.20 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement:

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

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

thence South 02° 24' 34" East on the east line of said SE¼ a distance of 1645.33 feet to the south line of Auditor's Lot 5;

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

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

thence North 02° 24' 34" West parallel with said east line of the SE¼ a distance of 192.44 feet to the north line of said Auditor's Lot 5;

thence South 70° 31' 53" East on said north line a distance of 10.78 feet;

thence South 02° 24' 34" East parallel with said east line of the SE¼ a distance of 188.37 feet to the Point of Beginning.

Said easement contains 0.04 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

The Commission invites you to attend the Commission's meeting on December 7, 2020 at 3:30 p.m. The District will also participate in the meeting, along with a representative of the land firm which was your primary point of contact throughout the negotiation process. At the meeting, the Commission will ask the District to verify the District's compliance with Section 61-16.1-09(2) of the North Dakota Century Code. The Commission will ultimately vote on whether to approve the District's use of quick take eminent domain to take a right of way and temporary easement over your property.

If you wish to participate in the Commission's December 7, 2020 public meeting via conference call or Microsoft Teams, please contact Heather Worden at (701) 241-5609 or [wordenh@casscountynd.gov](mailto:wordenh@casscountynd.gov) as soon as possible so Ms. Worden can assist you with the necessary arrangements.

This Notice does not preclude you from continuing to work with the District regarding the right of way and temporary easement necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **Jamie Wark** and to continue



Jameson  
October 28, 2020  
Page 4

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](mailto: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 and temporary easement. The District must complete the acquisition of right of way necessary for construction of Project components on your property by Fall of 2020.

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

# Proof of Delivery

Dear Customer,

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

**Tracking Number**

1ZF5182Y3098336992

**Weight**

1.00 LBS

**Service**

UPS Next Day Air Saver®

**Shipped / Billed On**

10/27/2020

**Delivered On**

10/29/2020 11:18 A.M.

**Delivered To**

WEST FARGO, ND, 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: 10/29/2020 12:35 P.M. EST



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

Commencing at the Northeast Corner of the Southeast Quarter (SE¼) of Section 10;  
thence South 02° 24' 34" East on the east line of said SE¼ a distance of 1645.33 feet to the south line of Auditor's Lot 5, said point being the Point of Beginning;  
thence South 87° 17' 26" West on said south line a distance of 50.00 feet;  
thence North 02° 24' 34" West parallel with said east line of the SE¼ a distance of 188.37 feet to the north line of said Auditor's Lot 5;  
thence South 70° 31' 53" East on said north line a distance of 53.88 feet to said east line of the SE¼;  
thence South 02° 24' 34" East on said east line a distance of 168.03 feet to the Point of Beginning.

Said parcel contains 0.20 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement

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

Commencing at the Northeast Corner of the Southeast Quarter (SE¼) of Section 10;  
thence South 02° 24' 34" East on the east line of said SE¼ a distance of 1645.33 feet to the south line of Auditor's Lot 5;  
thence South 87° 17' 26" West on said south line a distance of 50.00 feet to the Point of Beginning;  
thence continuing South 87° 17' 26" West on said south line a distance of 10.00 feet  
thence North 02° 24' 34" West parallel with said east line of the SE¼ a distance of 192.44 feet to the north line of said Auditor's Lot 5;  
thence South 70° 31' 53" East on said north line a distance of 10.78 feet;  
thence South 02° 24' 34" East parallel with said east line of the SE¼ a distance of 188.37 feet to the Point of Beginning.

Said easement contains 0.04 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

The property described above is the "Necessary Property."

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

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

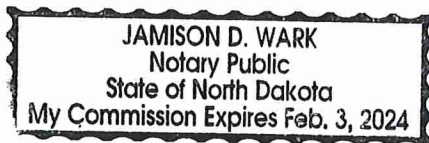
[¶7] The District has instructed SRF Consulting Group, Inc. to refrain from referencing, mentioning, or threatening quick take eminent domain during negotiations since August 1, 2017.

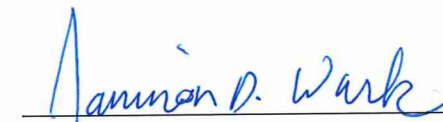
[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

Dated this 18<sup>th</sup> day of November, 2020.

  
\_\_\_\_\_  
Ken Helvey  
SRF Consulting Group, Inc.

Subscribed to and sworn to before me this 18 day of November, 2020.



  
\_\_\_\_\_  
Notary Public, County of Cass  
State of North Dakota  
My Commission Expires: February 3, 2024

(SEAL)

**OIN 9749 - Jameson Contact Attempts**

<b>Date</b>	<b>Note</b>
10/24/2019	Appraisal and offer letter sent
10/26/2019	Appraisal and offer letter received
11/5/2019	Called and LM
11/8/2019	Discussed appraisal land type, property lines, abandoned land in neighboring parcels
11/22/2019	Called and LM
1/30/2020	Spoke to Rob - discussed land swap
2/7/2020	Called and LM
2/11/2020	Rob called. Discussed tax assessment. Rob would like to be involved in assessment meetings moving forward.
2/27/2020	Called and LM
3/18/2020	Revised appraisal and offer letter sent
3/24/2020	Spoke to Rob, asked to called back 3/25/20
3/25/2020	Called and LM
4/1/2020	Provided email with language of counteroffer (land swap).
4/13/2020	Spoke to Rob - asked Rob to review email sent on 4/1/20
4/15/2020	Called and LM
4/16/2020	Spoke to Rob - counteroffer language approved
5/14/2020	Counteroffer presented to Board - declined
5/20/2020	Spoke to Rob, notified counteroffer was turned down by Board - entirety of Tintes property needed for project.
6/5/2020	Formal offer letter sent
6/16/2020	Called and LM
6/30/2020	Spoke to Rob, will consider counteroffer
8/5/2020	Spoke to Rob, questions about building setbacks and special assessments, landagent will call back week of August 17 as property owner will provide counteroffer
9/2/2020	Spoke to Rob. Upset with offer. Will provide a counteroffer next week. Mentioned purchase of entire property as property is ruined by the 2.77 acre taking
9/24/2020	Spoke to Rob. Busy. Rob will call back later that afternoon.
9/25/2020	Spoke to Rob. Still upset with process. Questions whether special assesement will be needed. Made a counteroffer of \$16k/acre. Stated if no agreement is reached willing to go forward to court.
10/23/2020	Called Rob. No answer. Left message stating the \$16k/acre counteroffer wad declined by the CCJWRD. Asked him to call me back and find out how he would like to move forward.
11/5/2020	Spoke to Rob. Rob requested he speak with someone else to discuss land swap with neighboring parcel.
11/5/2020	Ken spoke at lenght with Rob. Told him theTintes land was off the table. It's not ours to swap to him. Dicussed ohter values and could not reach an agreement





AND

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

Commencing at the Northeast Corner of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 10;  
thence South 02° 24' 34" East on the east line of said SE $\frac{1}{4}$  a distance of 1645.33 feet to the south line of Auditor's Lot 5, said point being the Point of Beginning;  
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thence North 02° 24' 34" West parallel with said east line of the SE $\frac{1}{4}$  a distance of 188.37 feet to the north line of said Auditor's Lot 5;  
thence South 70° 31' 53" East on said north line a distance of 53.88 feet to said east line of the SE $\frac{1}{4}$ ;  
thence South 02° 24' 34" East on said east line a distance of 168.03 feet to the Point of Beginning.

Said parcel contains 0.20 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

AND

Temporary Easement

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thence South 70° 31' 53" East on said north line a distance of 10.78 feet;  
thence South 02° 24' 34" East parallel with said east line of the SE $\frac{1}{4}$  a distance of 188.37 feet to the Point of Beginning.

Said easement contains 0.04 acres, more or less, and is subject to all prior easements, reservations, restrictions, and conveyances of record.

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

[¶8] The District sent a written offer of just compensation to Landowner by certified mail, along with an appraisal and purchase agreement, on June 5, 2020. Additionally, the District sent a written offer of just compensation to Landowner by UPS, along with an appraisal and purchase agreement, on June 22, 2020. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] On July 21, 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 26, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way and Temporary Easement by certified mail. Additionally, on September 11, 2020, the District sent Landowner a written notice of intent to take possession of the Right of Way and Temporary Easement by UPS. A copy of the notice of intent is attached as **Exhibit 3**.

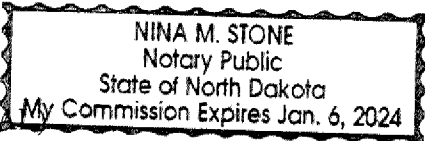
[¶12] The District has retained land agents who are in direct contact with Landowner. The District instructed our land agents not to reference, mention, or threaten quick take eminent domain during negotiations. The land agents have verified they have not referenced, mentioned, or threatened quick take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

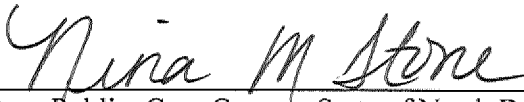
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 23 day of November, 2020.

  
\_\_\_\_\_  
Dan Jacobson, Chair  
Cass County Joint Water Resource District

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

(SE) 

  
\_\_\_\_\_  
Notary Public, Cass County, State of North Dakota