

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

October 18th, 2021

PROPERTY OWNER: Ryan & Jessica Richard

LAND AGENT: Ken Helvey with SRF

OIN: 5002



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>	10
FORMAL NEGOTIATIONS AND WRITTEN OFFER OF JUST COMPENSATION	11
<i>Proof of Delivery</i>	13
REQUEST FOR MEETING.....	14
<i>Proof of Delivery</i>	16
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY	17
<i>Proof of Delivery</i>	19
REQUEST FOR APPROVAL TO TAKE POSSESSION OF NECESSARY RIGHT OF WAY AND TEMPORARY EASEMENT	20
INVITATION TO ATTEND PUBLIC MEETING.....	24
<i>Proof of Delivery</i>	27
AFFIDAVIT OF LAND AGENT	28
<i>Contact Log</i>	30
AFFIDAVIT OF DAN JACOBSON FOR CASS COUNTY COMMISSION.....	31

Written Correspondence Timeline – Ryan & Jessica Richard

OIN 5002	Sent	Received
Offer to Purchase	01/27/2021	01/28/2021
Formal Negotiations and Written Offer of Just Compensation	04/28/2021	04/30/2021
Request for Meeting	05/20/2021	06/02/2021
Notice of Intent to Take Possession of Right-of-Way	07/20/2021	07/26/2021
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	09/03/2021	09/03/2021
Invitation to Attend Public Meeting	09/08/2021	09/09/2021
Commission Meeting Date	10/18/2021	

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. Landowners: Ryan Richard and Jessica Richard
2. Land Agent: Ken Helvey
3. Parcel No.: 64-0000-02710-040
4. OIN No: 5002

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; addendum to appraisal; and written offer for just compensation: _____
 - Did CCJWRD verify service of the appraisal; addendum to 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 easement for term of years, 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 the easement for term of years 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 term of years regarding OIN 5002.

FM Area Diversion Project Acquisition Summary

October 18, 2021

OIN	5002
Property Owner	Ryan and Jessica Richard
Mailing Address	11701 57 th Street S, Horace, ND 58047
Property Location	Drain 27
Property Type	Agriculture
Land Agent	Ken Helvey - SRF
Landowner Representative	Nick Delaney

Property Need

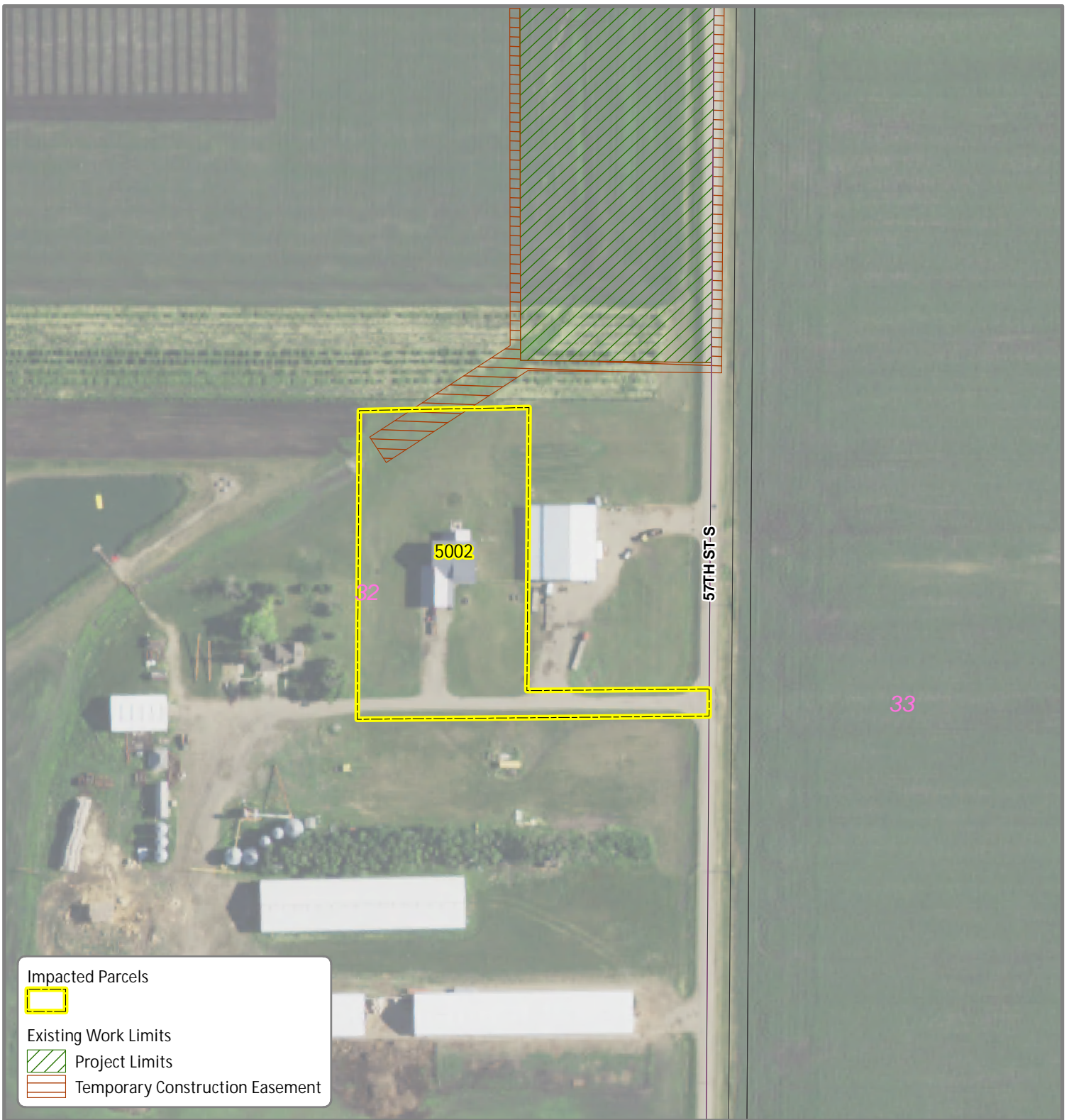
The parcel is within the Drain 27 Southern Embankment area associated with the Project. The Diversion Authority is required to obtain the entire parcel for the Drain 27 Southern Embankment.

Valuation and Negotiation Summary:

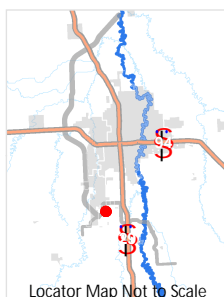
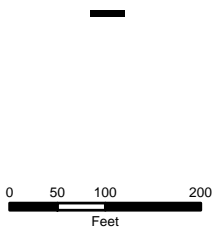
Appraisal Value / Date	\$1,250 – 9/23/2021 - Necessary TCE <u>Alternate (not part of this action)</u> Homestead and 2.39 acres land/site taking – \$775,000
------------------------	--

Miscellaneous Provisions

Counteroffer received for \$1,400,000. CCJWRD did not take action on this counteroffer.



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, LLC |
 C:\Data\Projects\GIS Projects\FM Area Diversion\Projects\Land Acquisition\Project Work Package\Project Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10v105.mxd



OIN: 5002
RYAN C & JESSICA L RICHARD
Parcel ID: 64-0000-02710-040
Cass County, ND

FM AREA DIVERSION
 Map Date: 2/19/2021





January 27, 2021

SRF No. 13783.00

Ryan & Jessica Richard
11701 57th Street S
Horace, ND 58047

RE: **Offer to Purchase**
Parcel ID: OIN 5002
Project Title: Fargo Moorhead Diversion
PID: 64-0000-02710-040

Dear Mr. and Mrs. Richard,

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 SRF Consulting Group Inc. 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, Patchin Messner. The appraiser has determined that the market value of the interests being purchased is **\$1,250**. 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 and addendum is attached to this letter and provided to you. An addendum was added to the original appraisal as it was updated for the purchase of your real property associated only with Drain 27 Wetland Restoration Project. As stated in the Addendum of the Appraisal, previously the after condition of the real property appraisal was assuming the larger upstream mitigation project, however this appraisal now just directly addresses the impacts associated specifically to the Drain 27 Wetland Restoration Project. Any severance caused by the establishment of a flowage easement will be addressed at a later date in that respective appraisal. Therefore, we have updated our offer letter to reflect the interests being purchased. 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 \$1,250 as Just Compensation for the property interests it must acquire from you. The CCJWRD is also willing to continue negotiations with you pre the previous offer. However, at this time only the land needed for the Drain 27 Project is needed.

www.srfconsulting.com

Case Plaza, One North Second Street, Suite 226 | Fargo, ND 58102-4801 | 701.237.0010 Fax: 1.866.440.6364

Equal Employment Opportunity / Affirmative Action Employer

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 me at 763-249-0773 or by email at khelvey@srfconsulting.com. We are here to help you understand the process and to assist in negotiating a fair direct purchase of the Parcel, however, we do not represent you. We are willing to meet with you in person as well as set up a time to discuss questions on the phone.

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

- Copy of the appraisal for Parcel ID OIN 5002 by Patchin Messner.
- Exhibit A (Acquisition Summary), and Exhibit B (Certificate of Survey)

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

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

Sincerely,



Ken Helvey
Principal
Direct # 763-249-0773
khelvey@srfconsulting.com

cc: Nicholas Delaney

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

Ryan Richard

Jessica Richard

*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

I:\Projects\7715-18\RW_Parcels\5002 - Ryan and Jessica Richard\OIN 5002 Richard Offer Letter with Addendum.docx

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Offer to Purchase

Parcel ID: OIN 5002

Project Title: Fargo Moorhead Diversion

PID: 64-0000-02710-040

Recorded Fee Owner: Ryan & Jessica Richard

Property Legal Description:

SEE ATTACHED SURVEY

Description of Property Interests to be Acquired: 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

APPRAISAL ADDENDUM SUMMARY

Parcel Value	Area Size/ Description	Per Unit	Indicated Value
Easement	0.113 Acres		\$ 1,250
TOTAL (rounded)			\$ 1,250

Track Another Package +

5002 Richard

Tracking Number: 9505511429321027567655

Remove X

Your item was delivered to the garage or an alternate location at the address at 4:09 pm on January 28, 2021 in HORACE, ND 58047.

USPS Tracking Plus[™] Available ∨

Feedback

Delivered

January 28, 2021 at 4:09 pm
Delivered, Garage or Other Location at Address
HORACE, ND 58047

Get Updates ∨

Text & Email Updates ∨

Tracking History ∨

USPS Tracking Plus[™] ∨

Product Information ∨

See Less ^



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

April 28, 2021

**Cass County
Joint Water
Resource
District**

Ryan and Jessica Richard
11701 57th Street South
Horace, ND 58047
Certified No. 7020 1290 0001 0393 6085

Greetings:

RE: Cass County Joint Water Resource District
 Fargo-Moorhead Area Diversion Project
 Formal Negotiations and Written Offer of Just Compensation
 OIN: 5002
 Parcel No.: 64-0000-02710-040

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

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 an easement for term of years from you. More specifically, to accommodate the Project, the District must acquire an easement for term of years from you over property located in Cass County and identified as Parcel Identification Number 64-0000-02710-040. The legal description of the property to be acquired is:

Easement for Term of Years

That part of the East Half of the Northeast Quarter of Section 32, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 45.00-foot-wide strip of land, centered on the following described line:

Commencing at the southeast corner of said Northeast Quarter; thence North 01°35'46" West, along the easterly line of said Northeast Quarter, for a distance of 1156.92 feet; thence South 87°28'49" West for a distance of 268.81 feet to the southeast corner of a tract described in Document No. 1419124, on file at the Cass County Recorder's Office; thence North 01°35'31" West, along the easterly line of said tract, for a distance of 415.27 feet to the northeast corner of said tract; thence South 87°29'24" West, along the northerly line of said tract, for a distance of 131.10 feet to the true point of beginning of the line to be described; said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said tract on the north.

Said tract contains 0.113 acres, more or less.

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

Ryan and Jessica Richard
April 28, 2021
Page 2

Enclosed is an appraisal regarding the value of the easement for term of years 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 easement for term of years the District must acquire from you is \$1,250.00. The District approved the appraisal, and this letter is the District's offer to you in the amount of \$1,250.00 as just compensation to purchase the easement of term for years from you for the Project. If you are willing to accept the District's offer, please sign the enclosed Purchase Agreement and return it to the District in the enclosed self-addressed, stamped envelope.

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

For your information, North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your easement for term of years. 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 easement for term of years 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 2021.

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

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

Enclosures

cc: Nicholas R. Delaney, Rinke Noonan
Ken Helvey, Land Agent
Eric Dodds, Program Manager, AE2S
Chris McShane, Ohnstad Twichell, P.C.
Chad Peterson, Cass County Commission Chair
Robert Wilson, Cass County Administrator
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:
 RYAN AND JESSICA RICHARD
 11701 57TH STREET SOUTH
 HORACE ND 58047



9590 9402 6141 0209 1910 79

2. Article Number (Transfer from service label)

7020 1290 0001 0393 6085

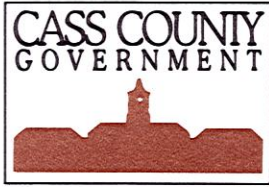
COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 X *Ry Del* Addressee

B. Received by (Printed Name) C. Date of Delivery
Ryan Richard 4-30-21

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

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



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Cass County
Joint Water
Resource
District

May 20, 2021

Ryan and Jessica Richard
11701 57th Street South
Horace, ND 58047
Certified No. 7020 1290 0001 0393 6276

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
Request for Meeting
OIN: 5002
Parcel No.: 64-0000-02710-040

Ken Loughheed
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 April 28, 2021; a copy of the District’s appraisal for the easement for term of years; and a Purchase Agreement as the District’s offer of just compensation to purchase the easement for term of years from you. The District’s letter specifically described the easement for term of years 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 the easement for term of years from you to accommodate the Project.

Carol Harbeke Lewis
Secretary-Treasurer

1201 Main Avenue West
West Fargo, ND 58078-1301

The District would like to discuss the District’s offer to purchase the easement for term of years from you at an upcoming meeting. The District requests your participation either at its meeting on May 27, 2021, or at its meeting on June 10, 2021; both meetings begin at 8:00 a.m. These will be virtual meetings so you can participate by Microsoft Teams or by telephone. The District is required by law to offer a physical location where the District will have a speakerphone or computer available for members of the public to view or participate in the meeting; with that in mind, if you prefer to utilize the District’s speakerphone or computer to participate, you can do so at the District’s office at 1201 Main Avenue West in West Fargo.

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

Ryan and Jessica Richard
OIN 5002
May 20, 2021
Page 2

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

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

North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your easement for term of years. The District must conclude all negotiations and complete the acquisition of the easement for term of years necessary for construction of Project components on your property by Fall of 2021.

The District hopes you will attend one of the upcoming District meetings to discuss the Project and the required easement for term of years. 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: Nicholas R. Delaney, Rinke Noonan
Ken Helvey, Land Agent
Eric Dodds, Program Manager, AE2S
Chris McShane, Ohnstad Twichell, P.C.
Chad Peterson, Chair, Cass County Commission
Robert Wilson, Cass County Administrator
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:
 RYAN AND JESSICA RICHARD
 11701 5TH STREET SOUTH
 HORACE ND 58047



9590 9402 6380 0303 3972 13

2. Article Number (Transfer from service label)
 7020 1290 0001 0393 6276

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X Jessica Richard Agent Addressee

B. Received by (Printed Name) C. Date of Delivery
 Jessica Richard 6/2/21

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

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

Domestic Return Receipt



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Cass County
Joint Water
Resource
District

July 20, 2021

Ryan and Jessica Richard
11701 57th Street South
Horace, ND 58047
Certified No. 7020 1290 0001 0393 6580

Dan Jacobson
Chairman
West Fargo, North Dakota

Greetings:

Rodger Olson
Manager
Leonard, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
NOTICE OF INTENT TO TAKE POSSESSION OF EASEMENT FOR TERM OF
YEARS
OIN: 5002
Parcel No. 64-0000-02710-040

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"). On behalf of the District, I previously provided you a letter dated April 28, 2021, a copy of the District's appraisal for your easement for term of years, and a Purchase Agreement as the District's offer of just compensation to purchase the easement for term of years from you. In addition, I also provided you a letter dated May 20, 2021, to invite you to meet with the District for purposes of discussing the acquisition of the easement for term of years in and to your property. 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 easement for term of years 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@casscountynd.gov
casscountynd.gov

This letter is the District's NOTICE OF INTENT TO TAKE POSSESSION OF THE EASEMENT FOR TERM OF YEARS. If we do not have an agreement, the District will be requesting approval from the Cass County Commission to take possession of the easement for term of years in and to 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.

Ryan and Jessica Richard
OIN 5002
July 20, 2021
Page 2

You are encouraged to maintain contact with the land agent assigned to your property. **Ken Helvey** of **SRF Consulting Group, Inc.** can be reached at **(763) 249-6785** or **khelvey@srfconsulting.com**. Ken is your point of contact for getting answers to any questions you have about the Project and acquisition of the easement for term of years 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 2021.

Sincerely,

CASS COUNTY JOINT WATER RESOURCE DISTRICT



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

cc: Nicholas R. Delaney, Rinke Noonan
Ken Helvey, Land Agent
Chris McShane, Ohnstad Twichell, P.C.
Chad Peterson, Chair, Cass County Commission
Robert Wilson, Cass County Administrator
Birch Burdick, Cass County State's Attorney
Eric Dodds, Program Manager, AE2S
Joel Paulsen, Executive Director, Diversion Authority

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:
 RYAN AND JESSICA RICHARD
 11701 5TH STREET SOUTH
 HORACE ND 58047



9590 9402 6380 0303 3969 19

2. Article Number (Transfer from service label)

7020 1290 0001 0393 6580

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

BR

Agent

Addressee

B. Received by (Printed Name)

Ryan Richard

C. Date of Delivery

7-26-21

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

Adult Signature

Adult Signature Restricted Delivery

Certified Mail®

Certified Mail Restricted Delivery

Collect on Delivery

Collect on Delivery Restricted Delivery

Insured Mail

Insured Mail Restricted Delivery (over \$500)

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

Domestic Return Receipt



SENT VIA EMAIL wilsonro@casscountynd.gov

Cass County
Joint Water
Resource
District

September 3, 2021

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 Easement for
Term of Years
OIN: 5002
Parcel No.: 64-0000-02710-040

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 easement for term of years from Ryan Richard and Jessica Richard (the "Landowner"):

- Letter dated April 28, 2021, enclosing the District's appraisal and addendum to appraisal for the acquisition of the easement for term of years from the Landowner and a proposed Purchase Agreement;
- Letter dated May 20, 2021, inviting the Landowner to meet with the District for purposes of negotiating compensation for the easement for term of years to be acquired; and
- Letter dated July 20, 2021, notifying the Landowner the District planned to submit a request to the Cass County Commission seeking immediate possession of the easement for term of years 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 easement for term of years in, on, over, across, and through certain property owned by the Landowner in Cass County, North Dakota. The legal description of the necessary easement for term of years is as follows:

Easement for Term of Years:

That part of the East Half of the Northeast Quarter of Section 32, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 45.00-foot-wide strip of land, centered on the following described line:

Commencing at the southeast corner of said Northeast Quarter; thence North 01°35'46" West, along the easterly line of said Northeast Quarter, for a distance of 1156.92 feet; thence South 87°28'49" West for a distance of 268.81 feet to the southeast corner of a tract described in Document No. 1419124, on file at the Cass County Recorder's Office; thence North 01°35'31" West, along the easterly line of said tract, for a distance of 415.27 feet to the northeast corner of said tract; thence South 87°29'24" West, along the northerly line of said tract, for a distance of 131.10 feet to the true point of beginning of the line to be described; said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said tract on the north.

Said tract contains 0.113 acres, more or less.

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 easement for term of years 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

Robert Wilson
September 3, 2021
Page 3

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 easement for term of years necessary for the Project, and construction of the Project will not be possible without acquiring the easement for term of years identified above. As the District will explain and verify for the Commission in more detail through this process, the District provided the Landowners 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 easement for term of years.

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 easement for term of years 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 easement for term of years identified above 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 3, 2021
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: Ken Helvey, Land Agent
Chris McShane, Ohnstad Twichell, P.C.
Birch Burdick, Cass County State's Attorney
Joel Paulsen, Executive Director, Diversion Authority
Eric Dodds, AE2S Program Manager
Taylor Albrecht, Administrative Assistant, Cass County Commission



September 8, 2021

VIA UPS – DELIVERY CONFIRMATION

**Board of County
Commissioners**

Ryan Richard
Jessica Richard
11701 57th Street South
Horace, ND 58047

Chad M. Peterson
Fargo, North Dakota

Rick Steen
Fargo, North Dakota

Jim Kapitan
Fargo, North Dakota

Duane Breitling
West Fargo, North Dakota

Mary Scherling
Stanley Township, North Dakota

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OIN: 5002
Parcel No.: 64-0000-02710-040
UPS Tracking No.: 1Z271VTN4300007616

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

- Letter dated April 28, 2021, enclosing the District's appraisal and addendum to appraisal for the acquisition of the easement for term of years from you, along with a proposed Purchase Agreement;
- Letter dated April 28, 2021, inviting you to meet with the District for purposes of negotiating compensation for the easement for term of years to be acquired; and
- Letter dated July 20, 2021, notifying you the District planned to submit a request to the Commission seeking immediate possession of the easement for term of years necessary for the Project.

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

Ryan Richard
Jessica Richard
OIN 5002
September 8, 2021
Page 2

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 easement for term of years 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 easement for term of years the District must acquire from you. The legal description of the necessary easement for term of years is as follows:

Easement for Term of Years:

That part of the East Half of the Northeast Quarter of Section 32, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 45.00-foot-wide strip of land, centered on the following described line:

Commencing at the southeast corner of said Northeast Quarter; thence North 01°35'46" West, along the easterly line of said Northeast Quarter, for a distance of 1156.92 feet; thence South 87°28'49" West for a distance of 268.81 feet to the southeast corner of a tract described in Document No. 1419124, on file at the Cass County Recorder's Office; thence North 01°35'31" West, along the easterly line of said tract, for a distance of 415.27 feet to the northeast corner of said tract; thence South 87°29'24" West, along the northerly line of said tract, for a distance of 131.10 feet to the true point of beginning of the line to be described; said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said tract on the north.

Said tract contains 0.113 acres, more or less.

The Commission invites you to attend the Commission's meeting on October 18, 2021 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 an easement for term of years in and to your property.

If you wish to participate in the Commission's October 18, 2021 public meeting via conference call or Microsoft Teams, please contact Taylor Albrecht at (701) 241-5609 or albrecht@asscountyn.d.gov as soon as possible so Ms. Albrecht can assist you with the necessary arrangements.

This Notice does not preclude you from continuing to work with the District regarding the easement for term of years necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **Ken Helvey** and to continue discussions

Ryan Richard
Jessica Richard
OIN 5002
September 8, 2021
Page 3

about the Project. **Ken Helvey** of **SRF Consulting Group, Inc** is your point of contact regarding the Project. You can reach **Ken Helvey** at **(763) 249-6785** or **khelvey@srfconsulting.com**.

Finally, North Dakota law requires the Commission to provide you with a description of the District's timeline regarding your easement for term of years. The District must complete the acquisition of the easement for term of years necessary for construction of Project components on your property by Fall of 2021.

Sincerely,

CASS COUNTY COMMISSION



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

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

Proof of Delivery

Dear Customer,

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

Tracking Number

1Z271VTN4300007616

Weight

1.00 LBS

Service

UPS Ground

Shipped / Billed On

09/08/2021

Delivered On

09/09/2021 9:46 A.M.

Delivered To

11701 57TH ST S
HORACE, ND, 58047, US

Received By

DRIVER RELEASE

Left At

Garage

Reference Number(s)

271VTN3348D

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: 09/10/2021 10:03 A.M. EST

[¶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.

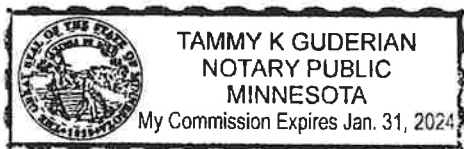
[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

Dated this 5 day of October, 2021.



Ken Helvey
SRF Consulting Group, Inc.

Subscribed to and sworn to before me this 5th day of October, 2021.


Notary Public

(SEAL)

EXHIBIT A

OIN 5002 Richards, R & J Contacts (Represented by Rinke Noonan)

Date	Contact Notes
9/23/2020	Property inspection and meeting with owners. Gave booklets and discussed relocations
12/23/2020	Email with Rinke regarding how to do RHDP calculations
1/27/2021	Informal offer sent to owners and attorney
1/28/2021	Email with Rinke regarding the appraisal addendum approach to the process
2/11/2021	Email with Rinke regarding fee versus easement approach as well as damages
2/15/2021	Email with Rinke regarding how long they could stay- Fall 2024. As well as their proposal for a stipulation of fee acquisition
3/25/2021	Call with Rinke regarding their proposal to do stipulation. Passed along to McShane. Owner getting their own appraisal.
6/5/2021	Talked to Rinke- still waiting on appraisal
4/15/2021	Email with Rinke regarding stipulation they are requesting
4/20/2021	Relocating package sent to owner
8/5/2021	Rinke email with McShane regarding stipulation
8/31/2021	Email with Rinke regarding his thoughts on depreciation and RCN- Ryan agreed with Nick
8/31/2021	Rinke provided counter offer of \$1.4 million
9/16/2021	Emails with Rinke regarding cost approach and replacement cost new based on estimates. Sent him my thoughts about numbers- a counter offer
9/21/2021	Meeting with Ryan about values and his counter offer. He rejected my proposal. We talked about how he was asking for replacement not fair market value. Talked about a possible site that the project owns.
9/23/2021	Emailed site map to Rinke and talked to Rinke regarding same. Discussed counter offer with Rinke as well as my calculations
10/4/2021	Call with Rinke regarding the proposed TCE needed. Asked if we can get his done. We then talked about how to get the house settled based on the RCN plus depreciation
Various	Multiple minor conversations over the last 6 months

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 an Easement for Term of Years in and to real property owned by Ryan Richard and Jessica Richard (“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 an Easement for Term of Years must be acquired by the District for the Project is located in Cass County, North Dakota, more fully described as follows:

Easement for Term of Years

OIN 5002

That part of the East Half of the Northeast Quarter of Section 32, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 45.00-foot-wide strip of land, centered on the following described line:

Commencing at the southeast corner of said Northeast Quarter; thence North 01°35’46” West, along the easterly line of said Northeast Quarter, for a distance of 1156.92 feet; thence South 87°28’49” West for a distance of 268.81 feet to the southeast corner of a tract described in Document No. 1419124, on file at the Cass County Recorder’s Office; thence North 01°35’31” West, along the easterly line of said tract, for a distance of 415.27 feet to the northeast corner of said tract; thence South 87°29’24” West, along the northerly line of said tract, for a distance of 131.10 feet to the true point of beginning of the line to be described; said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said tract on the north.

Said tract contains 0.113 acres, more or less.

The property described above is the “Necessary Property.”

[¶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, addendum to appraisal and purchase agreement, on April 28, 2021. A copy of the offer (without the appraisal and addendum to appraisal that was included) is attached as **Exhibit 1**.

[¶9] On May 20, 2021, 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 July 20, 2021, the District sent Landowner a written notice of intent to take possession of the Easement for Term of Years, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

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

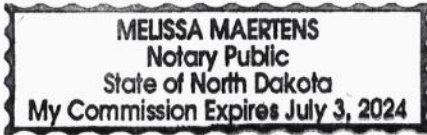
[¶13] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.

Dated this 8th day of October, 2021.



Dan Jacobson, Chair
Cass County Joint Water Resource District

Subscribed to and sworn to before me this 8th day of October, 2021.



Notary Public

(SEAL)