

FM AREA DIVERSION PROJECT

Property Owner Information Packet for Cass County Commission

October 18th, 2021

PROPERTY OWNER: Phyllis Brunelle

LAND AGENT: Lisa Kilde with SRF

OIN: 1108 1109 1110



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>	10-12
FORMAL NEGOTIATIONS AND WRITTEN OFFER OF JUST COMPENSATION	13
<i>Proof of Delivery</i>	20-22
REQUEST FOR MEETING.....	23
<i>Proof of Delivery</i>	25
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY	26
<i>Proof of Delivery</i>	28
REQUEST FOR APPROVAL TO TAKE POSSESSION OF NECESSARY RIGHT OF WAY AND TEMPORARY EASEMENT	29
INVITATION TO ATTEND PUBLIC MEETING.....	36
<i>Proof of Delivery</i>	43
AFFIDAVIT OF LAND AGENT	44
<i>Contact Log</i>	50
AFFIDAVIT OF DAN JACOBSON FOR CASS COUNTY COMMISSION.....	51

Written Correspondence Timeline – Phyllis Brunelle

OIN 1108 1109 1110	Sent	Received
Offer to Purchase	02/01/2021	02/03/2021
Formal Negotiations and Written Offer of Just Compensation	04/28/2021	04/30/2021
Request for Meeting	05/20/2021	05/20/2021
Notice of Intent to Take Possession of Right-of-Way	06/21/2021	06/21/2021
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	08/05/2021	08/05/2021
Invitation to Attend Public Meeting	09/08/2021	09/13/2021
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. Landowner: Phyllis J. Brunelle, Julie A. Hoffman, Steven R. Brunelle
2. Land Agent: Lisa Kilde, SRF
3. Parcel No(s): 64-0000-02790-000, 64-0000-02792-000, 64-0000-02793-000
4. OIN No(s): 1108, 1109, 1110

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 easement and an 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 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 an easement for term of years regarding OINs 1108, 1109, and 1110.

FM Area Diversion Project Acquisition Summary

October 18, 2021

OIN	1108 1109 1110
Property Owner	Phyllis Brunelle, Life Estate & Steven Brunelle and Julie Hoffman, Remainderman Interest
Mailing Address	704 Preserve Place Road, Bottineau ND 58318
Property Location	Drain 27
Property Type	Residential and Ag Land
Land Agent	Lisa Kilde – SRF
Landowner Representative	Jordan Weir

Property Need

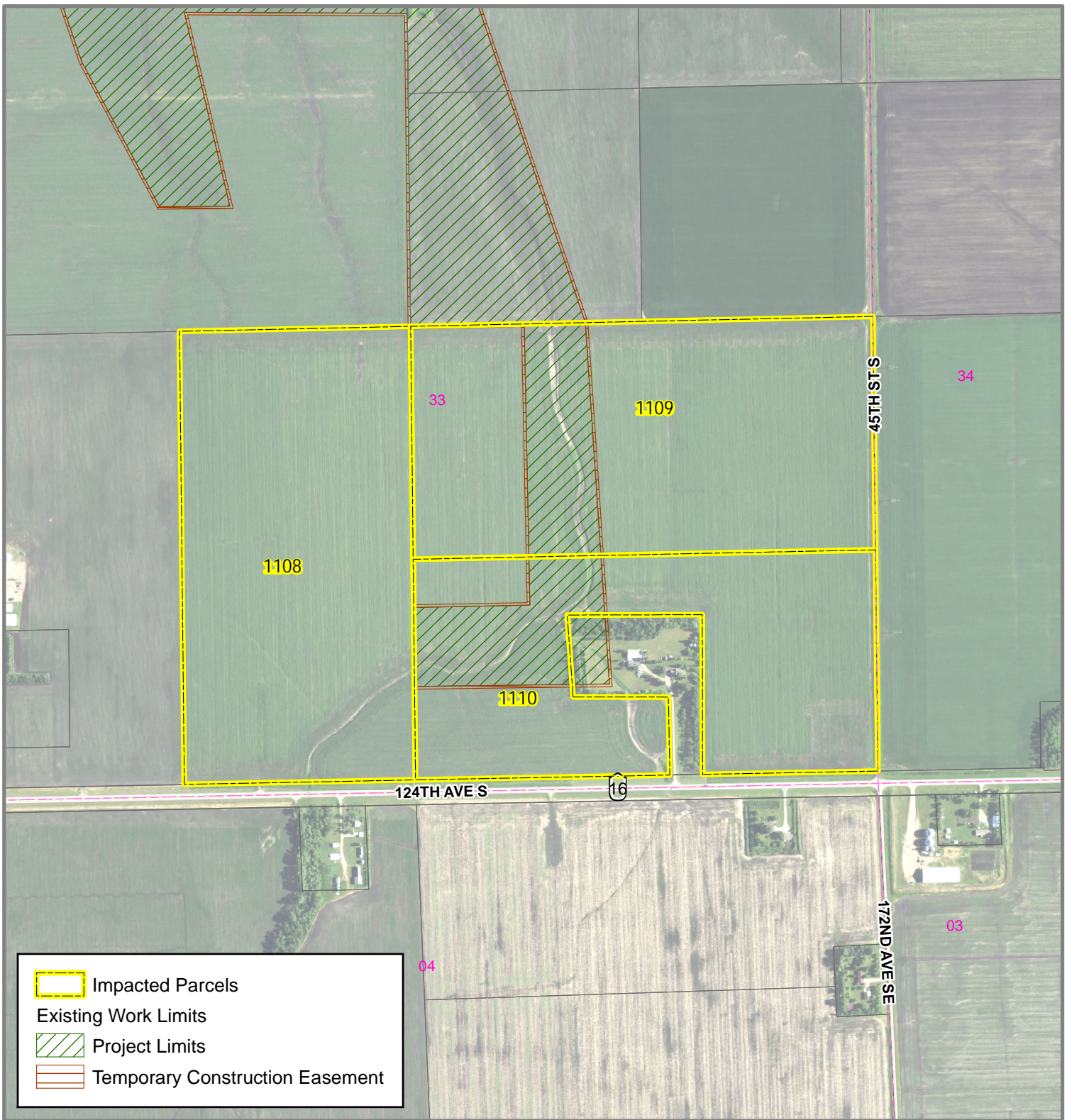
The parcel is within the Drain 27 Southern Embankment area associated with the Project. The Diversion Authority is required to obtain the entire parcel for the Drain 27 Southern Embankment.

Valuation and Negotiation Summary:

Appraisal Value / Date	\$201,160 1.879 Acres Easement - \$1,660 23.634 Acres Fee Simple - \$199,500
------------------------	--

Miscellaneous Provisions

No counteroffer to date. Landowner is obtaining their own appraisal. See Exhibit A of Affidavit for contact notes.



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\IndividualLayout_NotDataDriven.mxd

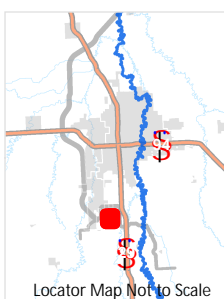
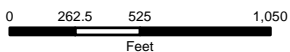
OINs: 1108, 1109, 1110

**Parcel IDs: 64-0000-02790-000, 64-000-02792-000,
64-0000-02793-010**

Owner: Phyllis J. Brunelle LE

Cass County, ND

FM AREA DIVERSION
Map Date: 2/19/2021





February 1, 2021

SRF No. 13783.00

Phyllis Brunelle, Life Estate
704 Preserve Place Road
Bottineau, ND 58318

Steven R. Brunelle, Remainder
311 Park Road
Burlington, ND 58722

Julie A. Hoffman, Remainder
10622 12th Avenue NE
Bottineau, ND 58318

RE: **Offer to Purchase**
Parcel ID: OIN 1108 1109 1110
Project Title: Fargo Moorhead Diversion
PID: 64-0000-02790-000 (1108) 64-0000-02792-000 (1109) 64-0000-02793-010 (1110)

Dear Ms. Brunelle,

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 the 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, the 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 **\$201,160**. 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 due to Drain 27 Wetland Restoration Project exclusively. 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 Drain 27 Wetland Restoration Project and any severance caused

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

by the flowage easement will be addressed 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 \$201,160 as Just Compensation for the property interests it must acquire from you.

Once we agree on the basic terms of an agreement for you to sell, and the CCJWRD to buy the property interests 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. The 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 701-893-7437 or by email at lkilde@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 1108 1109 1110 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 the 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,



Lisa Kilde
Associate
Direct # 701-893-7437
lkilde@srfconsulting.com

Enclosures: Appraisal Report, Exhibit A, Exhibit B

I:\Projects\7715-18\RW_Parcels\1108 1109 1110 Phyllis Brunelle\OIN 1108 Offer Letter with Addendum v2.docx

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

Phyllis Brunelle

Steven Brunelle

Julie A. Hoffman

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

EXHIBIT A

**ACQUISITION SUMMARY
Fargo Moorhead Diversion**

Offer to Purchase

Parcel ID: OIN 1108 1109 1110

Project Title: Fargo Moorhead Diversion

PID: 64-0000-02790-000 (1108) 64-0000-02792-000 (1109) 64-0000-02793-010 (1110)

Recorded Fee Owner: Phyllis Brunelle

Property Legal Description:

SEE ATTACHED SURVEY

Description of Property Interests to be Acquired: Fee Simple and 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 OIN 1108	0.005 Acres		\$10
Land/Site Taking OIN 1109	11.529 Acres	\$8,500	\$98,000
Easement OIN 1109	1.131 Acres		\$1,000
Land/Site Taking OIN 1110	12.105 Acres	\$8,385	\$101,500
Easement OIN 1110	0.743 Acres		\$650
TOTAL (rounded)			\$ 201,160

[Track Another Package +](#)

1108 1109 1110
Brunelle

Tracking Number: 9505511429311032032187

[Remove X](#)

Your item was delivered in or at the mailbox at 2:17 pm on February 3, 2021 in BOTTINEAU, ND 58318.

USPS Tracking Plus[™] Available [v](#)

Feedback

 **Delivered**

February 3, 2021 at 2:17 pm
Delivered, In/At Mailbox
BOTTINEAU, ND 58318

Get Updates [v](#)

Text & Email Updates [v](#)

Tracking History [v](#)

USPS Tracking Plus[™] [v](#)

Product Information [v](#)

[See Less ^](#)

Track Another Package +

1108 1109 1110
Brunelle

Tracking Number: 9505511429311032032194

Remove X

Your item was delivered to a parcel locker at 10:31 am on February 3, 2021 in BURLINGTON, ND 58722.

USPS Tracking Plus[™] Available ✓

Feedback

✓ Delivered

February 3, 2021 at 10:31 am
Delivered, Parcel Locker
BURLINGTON, ND 58722

Get Updates ✓

Text & Email Updates



Tracking History



USPS Tracking Plus[™]



Product Information



See Less ^

Track Another Package +

1108 1109 1110
Brunelle

Tracking Number: 9505511429311032032200

Remove X

Your item was delivered in or at the mailbox at 11:01 am on February 3, 2021 in BOTTINEAU, ND 58318.

USPS Tracking Plus[™] Available ∨

Feedback

Delivered

February 3, 2021 at 11:01 am
Delivered, In/At Mailbox
BOTTINEAU, ND 58318

Get Updates ∨

Text & Email Updates ∨

Tracking History ∨

USPS Tracking Plus[™] ∨

Product Information ∨

See Less ^



CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Cass County
Joint Water
Resource
District

April 28, 2021

Phyllis J. Brunelle
704 Preserve Place Road
Bottineau, ND 58318
Certified No. 7020 1290 0001 0393 6979

Dan Jacobson
Chairman
West Fargo, North Dakota

Julie A. Hoffman
10622 12th Avenue NE
Bottineau, ND 58318
Certified No. 7020 1290 0001 0393 6962

Rodger Olson
Manager
Leonard, North Dakota

Steven R. Brunelle
311 Park Road
Burlington, ND 58722
Certified No. 7020 1290 0001 0393 6108

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Greetings:

Keith Weston
Manager
Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Formal Negotiations and Written Offer of Just Compensation
OINs: 1108, 1109, 1110
Parcel Nos.: 64-0000-02790-000, 64-0000-02792-000,
64-0000-02793-010

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

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 a right of way easement and easement for term of years from you. More specifically, to accommodate the Project, the District must acquire a right of way easement and an easement for term of years from you over property located in Cass County and identified as Parcel Identification Numbers 64-0000-02790-000, 64-0000-02792-000 and 64-0000-02793-010. The legal description of the property to be acquired is:

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

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle
April 28, 2021
Page 2

Right of Way Easement

OIN 1109

That part of the Northwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the northeast corner of said Southeast Quarter; thence South 87°46'34" West, along the northerly line of said Southeast Quarter, for a distance of 1635.75 feet to the true point of beginning; thence South 04°48'30" East for a distance of 1327.82 feet to a point of intersection with the southerly line of the Northwest Quarter of said Southeast Quarter; thence South 87°50'15" West along the Southerly line of the Northwest Quarter of said Southeast Quarter, for a distance of 409.31 feet; thence North 02°10'17" West for a distance of 1326.03 feet to a point of intersection with the northerly line of said Southeast Quarter; thence North 87°46'34" East along the northerly line of said Southeast Quarter, for a distance of 348.22 feet to the true point of beginning.

Said tract contains 11.532 acres, more or less, and is subject to easements as may be of record.

AND

OIN 1110

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Southeast Quarter; thence North 01°37'18" West, along the westerly line of said Southeast Quarter, for a distance of 601.64 feet to the true point of beginning; Thence North 88°15'37" East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's office; thence North 05°09'48" West, along the westerly line of said tract, for a distance of 395.90 feet to the northwest corner of said tract; thence North 88°50'59" East, along the northerly line of said tract, for a distance of 213.38 feet; thence North 04°48'30" West for a distance of 339.12 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter; thence South 87°50'15"

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle
April 28, 2021
Page 3

West, along the northerly line of the Southwest Quarter of said Southeast Quarter, for a distance of 409.31 feet; thence South 02°10'17" East for a distance of 274.84 feet; thence South 87°54'48" West for a distance of 660.96 to a point of intersection with the westerly line of said Southeast Quarter; thence South 01°37'18" East, along the westerly line of said Southeast Quarter, for a distance of 449.78 feet to the true point of beginning.

Said tract contains 12.103 acres, more or less, and is subject to easements as may be of record.

AND

Easement for Term of Years
OIN 1108

The North 15.00 feet of the East 15.00 feet of the Northeast Quarter of the Southwest Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota.

Said tract contains 0.005 acres, more or less.

AND

OIN 1109

That part of the Northwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

A 15.00 foot wide strip of land, lying easterly of and being coincident with the following described line:

Commencing at the northeast corner of said Southeast Quarter; thence South 87°46'34" West, along the northerly line of said Southeast Quarter, for a distance of 1635.75 feet to the true point of beginning of the line to be described; thence South 04°48'30" East for a distance of 1327.82 feet to a point of intersection with the southerly line of the Northwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle
April 28, 2021
Page 4

Southeast Quarter on the north, and to intersect the southerly line of the Northwest Quarter of said Southeast Quarter on the south.

Said tract contains 0.457 acres, more or less.

AND

That part of the Northwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying southerly and westerly of and being coincident with the following described line:

Commencing at the northeast corner of said Southeast Quarter; thence South $87^{\circ}46'34''$ West, along the northerly line of said Southeast Quarter, for a distance of 2629.59 feet to the northwest corner of said Southeast Quarter and the true point of beginning of the line to be described; thence North $87^{\circ}46'34''$ East, along the northerly line of said Southeast Quarter, for a distance of 645.62 feet; thence South $02^{\circ}10'17''$ East for a distance of 1326.03 feet to a point of intersection with the southerly line of the Northwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the southerly line of the Northwest Quarter of said Southeast Quarter on the south.

Said tract contains 0.674 acres, more or less.

OIN 1110

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

A 15.00 foot wide strip of land, lying southerly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter, thence North $01^{\circ}37'18''$ West, along the westerly line of said Southeast Quarter, for

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle
April 28, 2021
Page 5

a distance of 601.64 feet to the point of beginning of the line to be described; thence North 88°15'37" East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's Office, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the westerly line of said tract of land on the east.

Said tract contains 0.309 acres, more or less.

AND

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying easterly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter; thence North 01°37'18" West, along the westerly line of said Southeast Quarter, for a distance of 6601.64 feet; thence North 88°15'37" East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's Office; thence North 05°09'48" West along the westerly line of said tract, for a distance of 395.90 feet to the northwest corner of said tract; thence North 88°50'59" East, along the northerly line of said tract, for a distance of 213.38 feet to the true point of beginning of the line to be described; thence North 04°48'30" West for a distance of 339.12 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said tract on the south, and to intersect the northerly line of the Southwest Quarter of said Southeast Quarter on the north.

Said tract contains 0.117 acres, more or less.

AND

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle
April 28, 2021
Page 6

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying northerly and westerly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter; thence North $01^{\circ}37'18''$ West, along the westerly line of said Southeast Quarter, for a distance of 1051.42 feet to the true point of beginning of the line to be described; thence North $87^{\circ}54'48''$ East for a distance of 660.96 feet; thence North $02^{\circ}10'17''$ West for a distance of 274.84 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the northerly line of the Southwest Quarter of said Southeast Quarter on the north.

Said tract contains 0.317 acres, more or less.

Enclosed is an appraisal regarding the value of the right of way easement and 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 right of way easement the District must acquire from you is \$199,500.00, and the easement for term of years is \$1,660.00, for a total purchase price of \$201,160.00. The District approved the appraisal, and this letter is the District's offer to you in the amount of \$201,160.00 as just compensation to purchase the right of way easement and 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. **Lisa Kilde** of SRF Consulting, Inc. can be reached at **(701) 893-7437** or **lkilde@srfconsulting.com**. Lisa is your point of contact for getting answers to any questions you have about the Project and acquisition of the required right of way easement and easement of term for years from you for the Project.

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle
April 28, 2021
Page 7

For your information, North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way easement and 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 right of way easement and 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: Jordan Weir, Vogel Law Firm
Lisa Kilde, 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:

STEVEN R BRUNELLE
 311 PARK ROAD
 BURLINGTON ND 58722



9590 9402 6141 0209 1910 93

2. Article Number (Transfer from service label)

7020 1290 0001 0393 6108

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Tammy Brunelle*

- Agent
- Addressee

B. Received by (Printed Name)

Tammy Brunelle

C. Date of Delivery

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

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:
 JULIE A HOFFMAN
 10622 17TH AVENUE NE
 BOTTINEAU ND 58318



9590 9402 6141 0209 1911 09

2. Article Number (Transfer from service label)

7020 1290 0001 0393 6962

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
 X Julie Hoffman
 B. Received by (Printed Name) C. Date of Delivery
 4-30-21

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

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:

PHYLLIS J BRUNELLE
704 PRESERVE PLACE ROAD
BOTTINEAU ND 58318



9590 9402 6141 0209 1911 16

2 Article Number (Transfer from service label)

7020 1290 0001 0393 6979

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Phyllis Brunelle* Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

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 Restr. Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery



SENT VIA EMAIL ONLY TO JORDAN WEIR, VOGEL LAW FIRM:
jweir@vogellaw.com

Cass County
Joint Water
Resource
District

May 20, 2021

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle

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
wrdd@casscountynnd.gov
casscountynnd.gov

Greetings:

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
Request for Meeting
OINs: 1108, 1109, 1110
Parcel Nos.: 64-0000-02790-000, 64-0000-02792-000,
64-0000-02793-010

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"). The District previously provided you a letter dated April 28, 2021; a copy of the District's appraisal and addendum to appraisal for the right of way easement and an easement for term of years; and a Purchase Agreement as the District's offer of just compensation to purchase the right of way easement and easement for term of years from you. The District's letter specifically described the right of way easement and 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 right of way easement and easement for term of years from you to accommodate the Project.

The District would like to discuss the District's offer to purchase the right of way easement and 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.

Phyllis J. Brunelle Life Estate
OINs 1108, 1109, 1110
May 20, 2021
Page 2

The District hopes you will attend one of the above-mentioned meetings to discuss the Project and the right of way easement and 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. **Lisa Kilde** of SRF Consulting, Inc. is your point of contact for getting answers to any questions you have about the Project. Lisa can be reached at **(701) 893-7437** or **lkilde@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 easement and easement for term of years. The District must conclude all negotiations and complete the acquisition of the right of way easement and 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 right of way easement and 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: Lisa Kilde, 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

RE: Cass County Joint WRD Meeting Invitation - OINs 1108 1109 1110 Brunelle L.E.



Jordan B. Weir <jweir@vogellaw.com>
To Maertens, Melissa
Cc Lewis, Carol

Reply Reply All Forward

Thu 5/20/2021 11:43 AM

CAUTION: EXTERNAL EMAIL

Received, thank you Melissa.

Jordan Weir

Attorney
P: 701.237.6983 | TF: 800.677.5024 | F: 701.476.7676
jweir@vogellaw.com

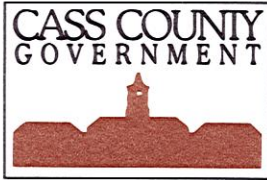
From: Maertens, Melissa <MaertensM@casscountynd.gov>
Sent: Thursday, May 20, 2021 11:24 AM
To: Jordan B. Weir <jweir@vogellaw.com>
Cc: Lewis, Carol <LewisC@casscountynd.gov>
Subject: Cass County Joint WRD Meeting Invitation - OINs 1108 1109 1110 Brunelle L.E.

Good morning Jordan,

Attached is an invitation from the Cass County Joint Water Resource District (CCJWRD) to attend and participate in an upcoming CCJWRD meeting regarding OINs 1108, 1109, 1110 Phyllis J. Brunelle Life Estate regarding the Fargo-Moorhead Area Diversion Project. Please confirm you have received the attached letter. The CCJWRD looks forward to meeting with you.

Best regards,
Melissa

Melissa Maertens
Administrative Assistant
Cass County Water Resource Districts
1201 Main Avenue West
West Fargo, ND 58078
(701) 298-2384
maertensm@casscountynd.gov



SENT VIA EMAIL ONLY TO JORDAN WEIR, VOGEL LAW FIRM:
jweir@vogellaw.com

Cass County
Joint Water
Resource
District

June 21, 2021

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle

Greetings:

Dan Jacobson
Chairman
West Fargo, North Dakota

Rodger Olson
Manager
Leonard, North Dakota

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

Keith Weston
Manager
Fargo, North Dakota

RE: Cass County Joint Water Resource District
Fargo-Moorhead Area Diversion Project
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY
OINs: 1108, 1109, 1110
Parcel Nos. 64-0000-02790-000, 64-0000-02792-000,
64-0000-02793-010

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 April 28, 2021, a copy of the District's appraisal and addendum to appraisal for your right of way easement and your easement for term of years, and a Purchase Agreement as the District's offer of just compensation to purchase a right of way easement and 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 a right of way easement and 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 right of way easement and easement for term of years from you to accommodate the Project.

This letter is the District's NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY AND 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 a right of way easement and an 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.

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

Phyllis J. Brunelle Life Estate
OINs 1108, 1109, 1110
June 21, 2021
Page 2

You are encouraged to maintain contact with the land agent assigned to your property. **Lisa Kilde of SRF Consulting Group, Inc.** can be reached at **(701) 893-7437** or **lkilde@srfconsulting.com**. Lisa is your point of contact for getting answers to any questions you have about the Project and acquisition of the right of way easement and an 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 easement and easement for term of years. 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@casscountynd.gov

cc: Lisa Kilde, 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

File Message Help Laserfiche Tell me what you want to do

Share to Teams Mark Unread Find Zoom Insights Phish Alert Report

RE: Cass County Joint WRD Letter RE: OINs 1108 1109 1110 Brunelle L.E.

 Jordan B. Weir <jweir@vogellaw.com>
 To:  Maertens, Melissa
 Cc:  Lewis, Carol;  tottum

Reply Reply All Forward

Mon 6/21/2021 2:05 PM

CAUTION: EXTERNAL EMAIL

Received Melissa, thank you.

Jordan Weir
 Attorney
 P: 701.237.6983 | TF: 800.677.5024 | F: 701.476.7676
jweir@vogellaw.com

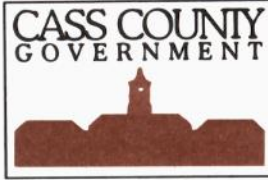
From: Maertens, Melissa <MaertensM@casscountynd.gov>
Sent: Monday, June 21, 2021 1:52 PM
To: Jordan B. Weir <jweir@vogellaw.com>
Cc: Lewis, Carol <LewisC@casscountynd.gov>
Subject: Cass County Joint WRD Letter RE: OINs 1108 1109 1110 Brunelle L.E.

Good afternoon Jordan,

Attached is a letter from Cass County Joint Water Resource District regarding OINs 1108, 1109 and 1110 Phyllis J. Brunelle Life Estate regarding the Fargo-Moorhead Area Diversion Project. Please confirm you have received the attached letter.

Best regards,
Melissa

Melissa Maertens
 Administrative Assistant
 Cass County Water Resource Districts



SENT VIA EMAIL wilsonro@casscountynd.gov

Cass County
Joint Water
Resource
District

August 5, 2021

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

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 Approval to Take Possession of Necessary Right of Way
Easement and Easement for Term of Years
OINs: 1108, 1109, 1110
Parcel Nos.: 64-0000-02790-000, 64-0000-02792-000,
64-0000-02793-010

Ken Lougheed
Manager
Gardner, North Dakota

Jacob Gust
Manager
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of acquiring the right of way necessary for the Fargo Moorhead Diversion Area Project ("Project"). I previously copied you on the following three letters whereby the District sought to negotiate the acquisition of the right of way easement and easement for term of years from Phyllis J. Brunelle, Julie A. Hoffman and Steven R. Brunelle (the "Landowner"):

Keith Weston
Manager
Fargo, North Dakota

- Letter dated April 28, 2021, enclosing the District's appraisal for the acquisition of the right of way easement and 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 right of way easement and easement for term of years to be acquired; and
- Letter dated June 21, 2021, notifying the Landowner the District planned to submit a request to the Cass County Commission seeking immediate possession of the right of way easement and 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
wrld@casscountynd.gov
casscountynd.gov

The District has conducted months of negotiations with the Landowner to arrive at a mutually acceptable agreement for the District's purchase. More specifically, the District engaged in both informal and formal negotiations with the Landowner, as required under N.D. Cent. Code § 61-16.1-09(2)(b), in an effort to reach agreement regarding fair compensation to the Landowner for the acquisition of the necessary right of way easement and 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 right of way easement and easement for term of years is as follows:

Right of Way Easement:

OIN 1109

That part of the Northwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the northeast corner of said Southeast Quarter; thence South 87°46'34" West, along the northerly line of said Southeast Quarter, for a distance of 1635.75 feet to the true point of beginning; thence South 04°48'30" East for a distance of 1327.82 feet to a point of intersection with the southerly line of the Northwest Quarter of said Southeast Quarter; thence South 87°50'15" West along the Southerly line of the Northwest Quarter of said Southeast Quarter, for a distance of 409.31 feet; thence North 02°10'17" West for a distance of 1326.03 feet to a point of intersection with the northerly line of said Southeast Quarter; thence North 87°46'34" East along the northerly line of said Southeast Quarter, for a distance of 348.22 feet to the true point of beginning.

Said tract contains 11.532 acres, more or less, and is subject to easements as may be of record.

AND

OIN 1110

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Southeast Quarter; thence North 01°37'18" West, along the westerly line of said Southeast Quarter, for a distance of 601.64 feet to the true point of beginning; Thence North 88°15'37" East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's office; thence North 05°09'48" West, along the

westerly line of said tract, for a distance of 395.90 feet to the northwest corner of said tract; thence North 88°50'59" East, along the northerly line of said tract, for a distance of 213.38 feet; thence North 04°48'30" West for a distance of 339.12 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter; thence South 87°50'15" West, along the northerly line of the Southwest Quarter of said Southeast Quarter, for a distance of 409.31 feet; thence South 02°10'17" East for a distance of 274.84 feet; thence South 87°54'48" West for a distance of 660.96 to a point of intersection with the westerly line of said Southeast Quarter; thence South 01°37'18" East, along the westerly line of said Southeast Quarter, for a distance of 449.78 feet to the true point of beginning.

Said tract contains 12.103 acres, more or less, and is subject to easements as may be of record.

AND

Easement for Term of Years:

OIN 1108

The North 15.00 feet of the East 15.00 feet of the Northeast Quarter of the Southwest Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota.

Said tract contains 0.005 acres, more or less.

AND

OIN 1109

That part of the Northwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

A 15.00 foot wide strip of land, lying easterly of and being coincident with the following described line:

Commencing at the northeast corner of said Southeast Quarter; thence South 87°46'34" West, along the northerly line of said Southeast Quarter, for a distance of 1635.75 feet to the true point of beginning of the line to be described; thence South 04°48'30" East for a distance of 1327.82 feet to a point of intersection with the southerly line of the Northwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said

Southeast Quarter on the north, and to intersect the southerly line of the Northwest Quarter of said Southeast Quarter on the south.

Said tract contains 0.457 acres, more or less.

AND

That part of the Northwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying southerly and westerly of and being coincident with the following described line:

Commencing at the northeast corner of said Southeast Quarter; thence South $87^{\circ}46'34''$ West, along the northerly line of said Southeast Quarter, for a distance of 2629.59 feet to the northwest corner of said Southeast Quarter and the true point of beginning of the line to be described; thence North $87^{\circ}46'34''$ East, along the northerly line of said Southeast Quarter, for a distance of 645.62 feet; thence South $02^{\circ}10'17''$ East for a distance of 1326.03 feet to a point of intersection with the southerly line of the Northwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the southerly line of the Northwest Quarter of said Southeast Quarter on the south.

Said tract contains 0.674 acres, more or less.

OIN 1110

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

A 15.00 foot wide strip of land, lying southerly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter, thence North $01^{\circ}37'18''$ West, along the westerly line of said Southeast Quarter, for a distance of 601.64 feet to the point of beginning of the line to be described; thence North $88^{\circ}15'37''$ East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's Office, said line there terminating. Said strip shall be lengthened or shortened as necessary to

intersect the westerly line of said Southeast Quarter on the west, and to intersect the westerly line of said tract of land on the east.

Said tract contains 0.309 acres, more or less.

AND

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying easterly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter; thence North $01^{\circ}37'18''$ West, along the westerly line of said Southeast Quarter, for a distance of 6601.64 feet; thence North $88^{\circ}15'37''$ East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's Office; thence North $05^{\circ}09'48''$ West along the westerly line of said tract, for a distance of 395.90 feet to the northwest corner of said tract; thence North $88^{\circ}50'59''$ East, along the northerly line of said tract, for a distance of 213.38 feet to the true point of beginning of the line to be described; thence North $04^{\circ}48'30''$ West for a distance of 339.12 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said tract on the south, and to intersect the northerly line of the Southwest Quarter of said Southeast Quarter on the north.

Said tract contains 0.117 acres, more or less.

AND

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying northerly and westerly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter; thence North $01^{\circ}37'18''$ West, along the westerly line of said Southeast Quarter, for a distance of 1051.42 feet to the true point of beginning of the line to be

described; thence North 87°54'48" East for a distance of 660.96 feet; thence North 02°10'17" West for a distance of 274.84 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the northerly line of the Southwest Quarter of said Southeast Quarter on the north.

Said tract contains 0.317 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 right of way easement and 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 firm which was the Landowner's main point of contact throughout the negotiation process. Prior to the public meeting, the land firm representative and the District will verify neither the District nor any of its agents referenced or threatened quick take eminent domain during the informal and formal negotiation process.

While the District takes all landowners' rights very seriously, the District also has an obligation, as a member of the Metro Flood Diversion Authority, to acquire the right of way easement and easement for term of years necessary for the Project, and construction of the Project will not be possible without acquiring the right of way easement and 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 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 easement and easement for term of years.

Robert Wilson
August 5, 2021
Page 7

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 easement and 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 right of way easement and 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.

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: Lisa Kilde, 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.
Taylor Albrecht, Administrative Assistant, Cass County Commission



SENT VIA EMAIL ONLY TO JORDAN WEIER, VOGEL LAW FIRM:
jweir@vogellaw.com

Board of County Commissioners

September 8, 2021

Chad M. Peterson
Fargo, North Dakota

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle

Rick Steen
Fargo, North Dakota

Re: Cass County Commission
Fargo-Moorhead Area Diversion Project
Invitation to Attend Public Meeting
OINs: 1108; 1109; 1110
Parcel Nos.: 64-0000-02790-000, 64-0000-02792-000,
64-0000-02793-000

Jim Kapitan
Fargo, North Dakota

Greetings:

Duane Breitling
West Fargo, North Dakota

Mary Scherling
Stanley Township, North Dakota

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 easements for term of years necessary to accommodate the Project. You have been in negotiations with the District and its agents regarding the right of way easement and 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 for the acquisition of the right of way and easement for term of years from you, along with a proposed Purchase Agreement;
- Letter dated May 20, 2021, inviting you to meet with the District for purposes of negotiating compensation for the right of way easement and easement for term of years to be acquired; and

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

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle
OINs 1108, 1109, 1110
September 8, 2021
Page 2

- Letter dated June 21, 2021, notifying you the District planned to submit a request to the Commission seeking immediate possession of the right of way easement and easement for term of years necessary for the Project.

The District informed the Commission that you and the District have not reached a mutually-acceptable agreement, and have not signed a purchase agreement, regarding the right of way easement and 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 right of way easement and easement for term of years the District must acquire from you. The legal description of the necessary right of way easement and easement for term of years is as follows:

Right of Way Easement:

OIN 1109

That part of the Northwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the northeast corner of said Southeast Quarter; thence South 87°46'34" West, along the northerly line of said Southeast Quarter, for a distance of 1635.75 feet to the true point of beginning; thence South 04°48'30" East for a distance of 1327.82 feet to a point of intersection with the southerly line of the Northwest Quarter of said Southeast Quarter; thence South 87°50'15" West along the Southerly line of the Northwest Quarter of said Southeast Quarter, for a distance of 409.31 feet; thence North 02°10'17" West for a distance of 1326.03 feet to a point of intersection with the northerly line of said Southeast Quarter; thence North 87°46'34" East along the northerly line of said Southeast Quarter, for a distance of 348.22 feet to the true point of beginning.

Said tract contains 11.532 acres, more or less, and is subject to easements as may be of record.

AND

OIN 1110

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle
OINs 1108, 1109, 1110
September 8, 2021
Page 3

Commencing at the southwest corner of said Southeast Quarter; thence North 01°37'18" West, along the westerly line of said Southeast Quarter, for a distance of 601.64 feet to the true point of beginning; Thence North 88°15'37" East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's office; thence North 05°09'48" West, along the westerly line of said tract, for a distance of 395.90 feet to the northwest corner of said tract; thence North 88°50'59" East, along the northerly line of said tract, for a distance of 213.38 feet; thence North 04°48'30" West for a distance of 339.12 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter; thence South 87°50'15" West, along the northerly line of the Southwest Quarter of said Southeast Quarter, for a distance of 409.31 feet; thence South 02°10'17" East for a distance of 274.84 feet; thence South 87°54'48" West for a distance of 660.96 to a point of intersection with the westerly line of said Southeast Quarter; thence South 01°37'18" East, along the westerly line of said Southeast Quarter, for a distance of 449.78 feet to the true point of beginning.

Said tract contains 12.103 acres, more or less, and is subject to easements as may be of record.

AND

Easement for Term of Years:

OIN 1108

The North 15.00 feet of the East 15.00 feet of the Northeast Quarter of the Southwest Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota.

Said tract contains 0.005 acres, more or less.

AND

OIN 1109

That part of the Northwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

A 15.00 foot wide strip of land, lying easterly of and being coincident with the following described line:

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle
OINs 1108, 1109, 1110
September 8, 2021
Page 4

Commencing at the northeast corner of said Southeast Quarter; thence South 87°46'34" West, along the northerly line of said Southeast Quarter, for a distance of 1635.75 feet to the true point of beginning of the line to be described; thence South 04°48'30" East for a distance of 1327.82 feet to a point of intersection with the southerly line of the Northwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said Southeast Quarter on the north, and to intersect the southerly line of the Northwest Quarter of said Southeast Quarter on the south.

Said tract contains 0.457 acres, more or less.

AND

That part of the Northwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying southerly and westerly of and being coincident with the following described line:

Commencing at the northeast corner of said Southeast Quarter; thence South 87°46'34" West, along the northerly line of said Southeast Quarter, for a distance of 2629.59 feet to the northwest corner of said Southeast Quarter and the true point of beginning of the line to be described; thence North 87°46'34" East, along the northerly line of said Southeast Quarter, for a distance of 645.62 feet; thence South 02°10'17" East for a distance of 1326.03 feet to a point of intersection with the southerly line of the Northwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the southerly line of the Northwest Quarter of said Southeast Quarter on the south.

Said tract contains 0.674 acres, more or less.

OIN 1110

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle
OINs 1108, 1109, 1110
September 8, 2021
Page 5

A 15.00 foot wide strip of land, lying southerly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter, thence North $01^{\circ}37'18''$ West, along the westerly line of said Southeast Quarter, for a distance of 601.64 feet to the point of beginning of the line to be described; thence North $88^{\circ}15'37''$ East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's Office, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the westerly line of said tract of land on the east.

Said tract contains 0.309 acres, more or less.

AND

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying easterly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter; thence North $01^{\circ}37'18''$ West, along the westerly line of said Southeast Quarter, for a distance of 6601.64 feet; thence North $88^{\circ}15'37''$ East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's Office; thence North $05^{\circ}09'48''$ West along the westerly line of said tract, for a distance of 395.90 feet to the northwest corner of said tract; thence North $88^{\circ}50'59''$ East, along the northerly line of said tract, for a distance of 213.38 feet to the true point of beginning of the line to be described; thence North $04^{\circ}48'30''$ West for a distance of 339.12 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said tract on the south, and to intersect the northerly line of the Southwest Quarter of said Southeast Quarter on the north.

Said tract contains 0.117 acres, more or less.

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle
OINs 1108, 1109, 1110
September 8, 2021
Page 6

AND

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying northerly and westerly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter; thence North 01°37'18" West, along the westerly line of said Southeast Quarter, for a distance of 1051.42 feet to the true point of beginning of the line to be described; thence North 87°54'48" East for a distance of 660.96 feet; thence North 02°10'17" West for a distance of 274.84 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the northerly line of the Southwest Quarter of said Southeast Quarter on the north.

Said tract contains 0.317 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 a right of way easement and 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@casscountynd.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 right of way easement and an easement for term of years necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with **Lisa Kilde** and to continue discussions about the Project. **Lisa Kilde** of SRF Consulting Group, Inc. is your point of contact regarding the Project. You can reach **Lisa Kilde** at **(701) 893-7437** or **lkilde@srfconsulting.com**.

Phyllis J. Brunelle
Julie A. Hoffman
Steven R. Brunelle
OINs 1108, 1109, 1110
September 8, 2021
Page 7

Finally, North Dakota law requires the Commission to provide you with a description of the District's timeline regarding your right of way easement and easement for term of years. The District must complete the acquisition of right of way 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: Lisa Kilde, 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.
Taylor Albrecht, Administrative Assistant, Cass County Commission

Sabrina Tusa

From: Albrecht, Taylor <AlbrechtT@casscountynd.gov>
Sent: Monday, September 13, 2021 10:10 AM
To: Wilson, Robert; Lisa Kilde; Burdick, Birch; Paulsen, Joel; Dawn Lindblom; Christopher M. McShane; Eric Dodds; Sabrina Tusa; Sharon K. Oliver; Lukas D. Andrud
Subject: FW: Diversion Right of Way Acquisition - Invitation to Public Meeting for OINs 1108; 1109; 1110

Below is the delivery confirmation for OINs 1108, 1109, 1110.



Taylor Albrecht
Commission Assistant
Cass County Commission Office
211 9th Street South
PO Box 2806
Fargo ND 58108-2806
albrechtT@casscountynd.gov
D: 701-241-5609

From: Jordan B. Weir <jweir@vogellaw.com>
Sent: Monday, September 13, 2021 10:00 AM
To: Albrecht, Taylor <AlbrechtT@casscountynd.gov>
Cc: tottum <tottum@vogellaw.com>
Subject: RE: Diversion Right of Way Acquisition - Invitation to Public Meeting for OINs 1108; 1109; 1110

CAUTION: EXTERNAL EMAIL

Yes Taylor, thanks.

Jordan Weir

Attorney
P: 701.237.6983 | TF: 800.677.5024 | F: 701.476.7676
jweir@vogellaw.com

From: Albrecht, Taylor <AlbrechtT@casscountynd.gov>
Sent: Monday, September 13, 2021 9:57 AM
To: Jordan B. Weir <jweir@vogellaw.com>
Subject: FW: Diversion Right of Way Acquisition - Invitation to Public Meeting for OINs 1108; 1109; 1110

Attached is a letter sent on September 8th to Jordan Weir at Vogel Law Firm for of Phyllis J. Brunelle, Julie A. Hoffman, and Steven R. Brunelle, who have been invited to the Cass County Commission meeting on October 18, 2021, beginning at 3:30 PM.

Can you confirm that you received the letter?

Thank you.

AND

OIN 1110

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Southeast Quarter; thence North 01°37'18" West, along the westerly line of said Southeast Quarter, for a distance of 601.64 feet to the true point of beginning; Thence North 88°15'37" East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's office; thence North 05°09'48" West, along the westerly line of said tract, for a distance of 395.90 feet to the northwest corner of said tract; thence North 88°50'59" East, along the northerly line of said tract, for a distance of 213.38 feet; thence North 04°48'30" West for a distance of 339.12 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter; thence South 87°50'15" West, along the northerly line of the Southwest Quarter of said Southeast Quarter, for a distance of 409.31 feet; thence South 02°10'17" East for a distance of 274.84 feet; thence South 87°54'48" West for a distance of 660.96 to a point of intersection with the westerly line of said Southeast Quarter; thence South 01°37'18" East, along the westerly line of said Southeast Quarter, for a distance of 449.78 feet to the true point of beginning.

Said tract contains 12.103 acres, more or less, and is subject to easements as may be of record.

AND

Easement for Term of Years:

OIN 1108

The North 15.00 feet of the East 15.00 feet of the Northeast Quarter of the Southwest Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota.

Said tract contains 0.005 acres, more or less.

AND

OIN 1109

That part of the Northwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

A 15.00 foot wide strip of land, lying easterly of and being coincident with the following described line:

Commencing at the northeast corner of said Southeast Quarter; thence South 87°46'34" West, along the northerly line of said Southeast Quarter, for a distance of 1635.75 feet to the true point of beginning of the line to be described; thence South 04°48'30" East for a distance of 1327.82 feet to a point of intersection with the southerly line of the Northwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said Southeast Quarter on the north, and to intersect the southerly line of the Northwest Quarter of said Southeast Quarter on the south.

Said tract contains 0.457 acres, more or less.

AND

That part of the Northwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying southerly and westerly of and being coincident with the following described line:

Commencing at the northeast corner of said Southeast Quarter; thence South 87°46'34" West, along the northerly line of said Southeast Quarter, for a distance of 2629.59 feet to the northwest corner of said Southeast Quarter and the true point of beginning of the line to be described; thence North 87°46'34" East, along the northerly line of said Southeast Quarter, for a distance of 645.62 feet; thence South 02°10'17" East for a distance of 1326.03 feet to a point of intersection with the southerly line of the Northwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the southerly line of the Northwest Quarter of said Southeast Quarter on the south.

Said tract contains 0.674 acres, more or less.

OIN 1110

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

A 15.00 foot wide strip of land, lying southerly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter, thence North 01°37'18" West, along the westerly line of said Southeast Quarter, for a distance

of 601.64 feet to the point of beginning of the line to be described; thence North 88°15'37" East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's Office, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the westerly line of said tract of land on the east.

Said tract contains 0.309 acres, more or less.

AND

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying easterly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter; thence North 01°37'18" West, along the westerly line of said Southeast Quarter, for a distance of 6601.64 feet; thence North 88°15'37" East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's Office; thence North 05°09'48" West along the westerly line of said tract, for a distance of 395.90 feet to the northwest corner of said tract; thence North 88°50'59" East, along the northerly line of said tract, for a distance of 213.38 feet to the true point of beginning of the line to be described; thence North 04°48'30" West for a distance of 339.12 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said tract on the south, and to intersect the northerly line of the Southwest Quarter of said Southeast Quarter on the north.

Said tract contains 0.117 acres, more or less.

AND

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying northerly and westerly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter; thence North 01°37'18" West, along the westerly line of said Southeast Quarter, for a distance of 1051.42 feet to the true point of beginning of the line to be described; thence

North 87°54'48" East for a distance of 660.96 feet; thence North 02°10'17" West for a distance of 274.84 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the northerly line of the Southwest Quarter of said Southeast Quarter on the north.

Said tract contains 0.317 acres, more or less.

The property described above is the "Necessary Property."

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

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

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

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

(Signatures on following page)

Dated this 5 day of October, 2021.

Ken Helvey

Ken Helvey
SRF Consulting Group, Inc.

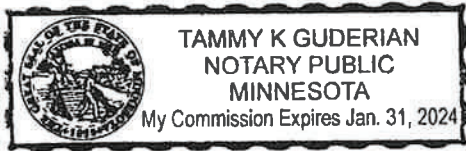
Subscribed to and sworn to before me this 5th day of October, 2021.

Tammy Guderian

Notary Public, County of Hennepin

State of Minnesota

My Commission Expires: 1/31/2024



(SEAL)

EXHIBIT A
OIN 1108 1109 1110 Phyllis Brunelle, Steven Brunelle and Julie Hoffman Contacts
(Represented by Jordan Weir)

Date	Contact Notes
2/3/2021	Telephone call with Phyllis and Julie regarding project questions and process of acquisition. Phyllis, Julie and Steven will discuss possible counteroffer.
3/8/2021	Email with Jordan Weir regarding representation of landowners.
3/10/2021	Email Offer package to Jordan Weir.
3/17/2021	Email with Jordan Weir regarding appraisal and questions.
3/26/2021	Email with Jordan Weir regarding conference call.
3/30/2021	Telephone call with Jordan Weir regarding appraisal. Discuss flowage easement and Drain 27 impacts.
5/5/2021	Email with Jordan Weir regarding question on correspondence.
5/26/2021	Telephone call with Jordan Weir regarding Drain 27 impacts and severance. Discussed Flowage Easement and Drain 27 acquisition at the same time.
5/26/2021	Email with Lyndon Pease regarding questions on the Drain 27 and upstream mitigation area.
5/27/2021	Telephone call with Jordan Weir, left message.
6/16/2021	Email with Jordan Weir regarding telephone call to discuss update.
6/17/2021	Telephone call with Jordan Weir regarding counteroffer and landowner appraisers.
6/27/2021	Email with Jordan Weir regarding landowner appraisers.
8/2/2021	Telephone call with Rose regarding appraisal of property. Discussed flowage easement vs. fee acquisition.

Said tract contains 11.532 acres, more or less, and is subject to easements as may be of record.

AND

OIN 1110

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

Commencing at the southwest corner of said Southeast Quarter; thence North 01°37'18" West, along the westerly line of said Southeast Quarter, for a distance of 601.64 feet to the true point of beginning; Thence North 88°15'37" East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's office; thence North 05°09'48" West, along the westerly line of said tract, for a distance of 395.90 feet to the northwest corner of said tract; thence North 88°50'59" East, along the northerly line of said tract, for a distance of 213.38 feet; thence North 04°48'30" West for a distance of 339.12 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter; thence South 87°50'15" West, along the northerly line of the Southwest Quarter of said Southeast Quarter, for a distance of 409.31 feet; thence South 02°10'17" East for a distance of 274.84 feet; thence South 87°54'48" West for a distance of 660.96 to a point of intersection with the westerly line of said Southeast Quarter; thence South 01°37'18" East, along the westerly line of said Southeast Quarter, for a distance of 449.78 feet to the true point of beginning.

Said tract contains 12.103 acres, more or less, and is subject to easements as may be of record.

AND

Easement for Term of Years:

OIN 1108

The North 15.00 feet of the East 15.00 feet of the Northeast Quarter of the Southwest Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota.

Said tract contains 0.005 acres, more or less.

AND

OIN 1109

That part of the Northwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

A 15.00 foot wide strip of land, lying easterly of and being coincident with the following described line:

Commencing at the northeast corner of said Southeast Quarter; thence South $87^{\circ}46'34''$ West, along the northerly line of said Southeast Quarter, for a distance of 1635.75 feet to the true point of beginning of the line to be described; thence South $04^{\circ}48'30''$ East for a distance of 1327.82 feet to a point of intersection with the southerly line of the Northwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said Southeast Quarter on the north, and to intersect the southerly line of the Northwest Quarter of said Southeast Quarter on the south.

Said tract contains 0.457 acres, more or less.

AND

That part of the Northwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying southerly and westerly of and being coincident with the following described line:

Commencing at the northeast corner of said Southeast Quarter; thence South $87^{\circ}46'34''$ West, along the northerly line of said Southeast Quarter, for a distance of 2629.59 feet to the northwest corner of said Southeast Quarter and the true point of beginning of the line to be described; thence North $87^{\circ}46'34''$ East, along the northerly line of said Southeast Quarter, for a distance of 645.62 feet; thence South $02^{\circ}10'17''$ East for a distance of 1326.03 feet to a point of intersection with the southerly line of the Northwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the southerly line of the Northwest Quarter of said Southeast Quarter on the south.

Said tract contains 0.674 acres, more or less.

OIN 1110

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota described as follows:

A 15.00 foot wide strip of land, lying southerly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter, thence North $01^{\circ}37'18''$ West, along the westerly line of said Southeast Quarter, for a distance of 601.64 feet to the point of beginning of the line to be described; thence North $88^{\circ}15'37''$ East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's Office, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the westerly line of said tract of land on the east.

Said tract contains 0.309 acres, more or less.

AND

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying easterly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter; thence North $01^{\circ}37'18''$ West, along the westerly line of said Southeast Quarter, for a distance of 6601.64 feet; thence North $88^{\circ}15'37''$ East for a distance of 897.53 feet to a point of intersection with the westerly line of a tract described in Document No. 1375127, on file at the Cass County Recorder's Office; thence North $05^{\circ}09'48''$ West along the westerly line of said tract, for a distance of 395.90 feet to the northwest corner of said tract; thence North $88^{\circ}50'59''$ East, along the northerly line of said tract, for a distance of 213.38 feet to the true point of beginning of the line to be described; thence North $04^{\circ}48'30''$ West for a distance of 339.12 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the northerly line of said tract on the south, and to intersect the northerly line of the Southwest Quarter of said Southeast Quarter on the north.

Said tract contains 0.117 acres, more or less.

AND

That part of the Southwest Quarter of the Southeast Quarter of Section 33, Township 138 North, Range 49 West of the Fifth Principal Meridian, Cass County, North Dakota, described as follows:

A 15.00 foot wide strip of land, lying northerly and westerly of and being coincident with the following described line:

Commencing at the southwest corner of said Southeast Quarter; thence North 01°37'18" West, along the westerly line of said Southeast Quarter, for a distance of 1051.42 feet to the true point of beginning of the line to be described; thence North 87°54'48" East for a distance of 660.96 feet; thence North 02°10'17" West for a distance of 274.84 feet to a point of intersection with the northerly line of the Southwest Quarter of said Southeast Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the westerly line of said Southeast Quarter on the west, and to intersect the northerly line of the Southwest Quarter of said Southeast Quarter on the north.

Said tract contains 0.317 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 and purchase agreement, on April 28, 2021. A copy of the offer (without the appraisal that was included) is attached as **Exhibit 1**.

[¶9] Landowner through Landowner's attorney, Jordan Weir, subsequently requested all correspondence with respect to this negotiation including the notices provided for under NDCC 61-16.1-09 to be sent to Mr. Weir via email. A copy of Mr. Weir's email containing this request is attached as **Exhibit 2**.

[¶10] In accordance with Landowner's request, on May 20, 2021, the District sent Landowner's attorney a written request for a meeting; 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 3**.

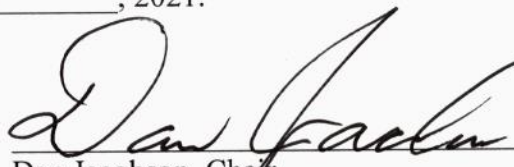
[¶11] The District and Landowner have not reached an agreement regarding compensation, and more than thirty days have passed since Landowner's receipt of the request for a meeting.

[¶12] In accordance with Landowner's request, on June 21, 2021, the District sent Landowner a written notice of intent to take possession of the Right of Way Easement and Easement for Term of Years. A copy of the notice of intent is attached as **Exhibit 4**.

[¶13] 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.

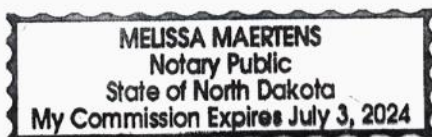
[¶14] I verify there have been no references, mention, or threats of quick take eminent domain by the District during negotiations since August 1, 2017.


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, Cass County, State of North Dakota

(SEAL)