



October 13, 2021

Direct Dial: 320-656-3523  
Ndelaney@RinkeNoonan.com  
Direct Dial: 320-656-3517  
Henzner@RinkeNoonan.com

Cass County Commission  
c/o Robert Wilson, Cass County Administrator  
Cass County Court Government  
211 Ninth Street South  
Fargo, ND 58103

**VIA U.S. MAIL AND EMAIL: wilsonro@casscountynd.gov**

**Re: Fargo-Moorhead Diversion Project  
Our File No. 28637-0001**

Dear Cass County Commission:

We are writing to contest the County's approval of the acquisition of the Bailly (OINs 213 and 214) and Sauvageau (OINs 28 and 1086) properties. On October 18, 2021, the County Board will be asked to vote to quick take property from several property owners. This approval is not only an approval of the acquisition of private property against the will of the owners, but also an acquisition of private property before the determination and payment of just compensation as established by a jury.

This use of eminent domain to seize private property has, as the Fargo-Moorhead Diversion Project proceeds, become a common event; a given. However, the County Board should ask itself why such a drastic government action has become a common event. As farmers, homeowners, and landowners have their properties taken, roles of government appear to have changed. Rather than ensuring the rights of individuals, local governments feel no hesitation in their sacrifice of individual rights. Process has become the excuse as individual farmers and landowners are sacrificed to that process without acknowledgement of their individual rights.

Why have you not heard from many? Because they have been told the fight is futile. The process is stacked against them. They have witnessed others waste their time appearing before boards who defer to the "process;" a process which, when push comes to shove, is all make believe.

The Cass County Joint Water Resource District has hired some of the most professional land acquisition agents in the Upper Midwest and have experienced attorneys at their disposal. However, it is our impression that these acquisition professionals have been handcuffed by the Cass County Joint Water Resource District Board ("CCJWRD Board"). This places the

Diversion Authority's professionals in an unenviable position of having to fake real negotiation. The result is that landowners are left to negotiate with hired consultants who have zero authority to negotiate on behalf of the CCJWRD Board.

The CCJWRD Board has retained sole and absolute authority over land purchases; summarily rejects deals brought by their own professional consultants; and provides little to no guidance to agents in terms of where their approval may lie.

In this one-sided negotiation process, it is made clear to all that the Board will not negotiate at their meetings and the invitation sent by mail is nothing more than the appearance of compliance with the statute. No real venue for discussion and negotiations exists. The Board leaves the acquisition agents to make various sacrifices of landowner rights and compensation in attempts to satisfy the Board. The Board, contrary to federal law, state law, and the Diversion Authority's published policies, refuses to consider material information provided by landowners.

All of this leaves landowners to negotiate with themselves. Landowners are left burning up time they need to relocate their homes, families, farms and businesses in a constant re-assessment and negotiation with themselves and agents who have no clue where the Board may end up on any given day. Landowners are directed through a system similar to that of an amusement park funhouse with 50 doors to try in an attempt to get to the negotiating room.

We shall go to the County Board we have told them. "Don't waste your time", they respond. We are told that the County's role has been limited to that of a rubber stamp. The County Board is said to be powerless and no more than a rubber stamp for the actions of the unelected CCJWRD Board. The Diversion Authority Board and its various boards and committees of elected officials have pushed off to a non-elected board the dirty work of taking land from farmers, kicking people out of their homes, and removing families from land they have owned for generations. When these farmers and landowners ask for the time of day, they are told that the elected officials have no authority over the process.

The "process" is an all-powerful excuse. The CCJWRD Board submits a letter to the County Board saying the CCJWRD has complied with the process and whatever the owner says will be ignored. The steam engine of the process shall crush all who stand in its way. Farmers and landowners are left with no recourse; take what they offer or they will take what they need by eminent domain.

The County's authority is not as limited as suggested by the CCJWRD Board. If the County Board is acting in a quasi-judicial capacity in this regard, then you must review whether the CCJWRD has complied with the statutory pre-requisites for acquisition (and these include negotiation and consideration of materials presented by landowners). If instead your role is one of participant in this acquisition, then you have the further obligation to ensure your actions are not complicit in their failures.

We challenge the CCJWRD Board's contention that they have complied with legal procedures

allowing the County to approve the acquisition of privately owned property against the will of the owners. We ask that the County Board hear this challenge, question the actions of the CCJWRD Board, question the limitations they have imposed upon you, and hear your constituents' concerns.

The actions of the CCJWRD Board have not complied with federal acquisition standards, North Dakota law, or the Property Rights Acquisition and Mitigation Plan policies established by the Diversion Authority.

The CCJWRD Board has refused to consider material information provided by landowners and refused informal negotiations.

The CCJWRD Board has refused to consider information presented by landowners as to matters they believe were either incorrectly considered or not considered at all by Diversion Authority hired appraisers.

The CCJWRD Board has refused to consider sales of comparable property identified by landowners.

The CCJWRD has recently informed landowners that they need not attempt to negotiate absent having an appraisal costing thousands of dollars. This form of negotiation is directly contrary to federal law, state law and the Diversion Authority's own policies, which require informal negotiation and consideration of any materials presented by landowners.

The FM Diversion Project Property Rights Acquisition and Mitigation Plan states that one of its "Overarching Property Acquisition Philosophies" is that "Negotiations are a necessary component of property acquisitions." The policy states the following:

- **Negotiations:** Negotiations are a necessary component of property acquisitions. Negotiation teams do their best to secure the property for the most equitable price possible and use Eminent Domain as a last resort. Property owners have been able to counter offer their appraised values and are encouraged to support these counter offers with factual data to support their position, this could include:
  - Updated comparable sales.
  - Updated cost approach information.
  - Updated financial information (for businesses).
  - Issues in the appraisal (i.e., square footage difference, missed features, incorrect data).



- Per the Project Partnership Agreement (PPA) executed on July 11, 2016, the federal government can also acquire land on behalf of the non-Federal sponsor.

North Dakota law requires both “informal” and “formal” negotiations prior to use of eminent domain. The CCJWRD Board has not engaged in informal or formal negotiations with regard to several properties. Contrary to law, they do not consider additional information from the owners and have informed owners they will only consider full blown appraisals. The concept of “informal negotiations” required by North Dakota law and the Diversion Authority’s own policies do not require that both sides obtain full blown appraisals, hire lawyers and battle before juries. Even formal negotiations do not “require” appraisals when comparable sales are provided, actual building cost bids submitted for consideration, and other information contradicting the CCJWRD Board’s appraisals are provided by landowners. North Dakota law and the Diversion Authority’s own policies require that this information be considered and not merely tossed in the trash.

Further, because the Diversion Authority is using federal funds, they are subject to the negotiation and land acquisition requirements of the Uniform Acquisition and Relocation Act and the rules promulgated under that law. Federal Acquisition Rules (which are clearly applicable to the CCJWRD Board) provide minimum standards for basic acquisition procedures which have not been followed by the Diversion Authority and provide that, “*owners be given a reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase.*” And, that same rule requires that the “*Agency shall consider the owner’s presentation.*” That has not been done by the CCJWRD Board.

The Board refuses to consider property owner presented information in direct contradiction to information handed out in brochures that tells owners “*If you believe that all relevant material was not considered during the appraisal, you may present such information at this time. Modifications in the proposed terms and conditions of the purchase may be requested. The agency will consider any reasonable requests that are made during negotiations.*” The Board has not and does not consider information from owners. Instead, they treat their own appraisals as a single point of negotiation. Such refusal to consider other information is clearly “coercive action” in violation of federal acquisition requirements.

For example, our office submitted information on behalf of the Bailly family. That information included references to several local sales. One of the sales identified for consideration occurred after the year-old appraisal completed by the CCJWRD Board’s valuation. The Baillys had actually engaged an MAI designated appraiser to review the recent sale. The Baillys did not receive a written response. Instead, they have been told the Board will only consider a full-blown appraisal costing thousands of dollars and delaying the matter for months. This is in spite of the legal requirement that the CCJWRD Board consider all information provided by the Bailly family and that they both informally and formally negotiate after obtaining input and comparable sales information from the property owners. This lack of formal response to their written proposal and refusal to present further negotiated numbers without an appraisal is nothing other than coercive action by a board that takes the use of eminent domain for granted.



North Dakota law requires that the CCJWRD Board “*shall make every reasonable and diligent effort to acquire property by negotiation.*” 32-15-06.1. This cannot mean refusal to consider material presented by the landowner, providing zero official response to a written proposal from the landowner, and proceeding to a County Board hearing to consider taking the property against the will of the property owner on an expedited time frame prior to any formal response to landowner submissions.

We ask that you request input from the Army Corp of Engineers. Ask the Army Corp whether good faith negotiations can “require” the property owner to obtain an appraisal before their input or challenges to a government appraisal can be considered. Ask the Army Corp whether the Board can refuse to respond or even consider comparable sales presented by a landowner. Ask the Army Corp whether federal rules prohibiting coercive action allow this matter to be sent for eminent domain without even responding to written information provided by a landowner.

When they hear of our objection to the County Board, the CCJWRD may scramble and claim they have in fact considered such other information. However, the negotiation requirements apply “*before*” they have submitted this action to you and not after. To suggest beginning negotiations on the eve of consideration by the County of eminent domain certification is “*coercive action*”, which violates Federal Acquisition Rules.

The CCJWRD is asking you as the County Board to bless their inaction. Inaction which clearly is not in accord with state or federal acquisition requirements, or even the Diversion Authority’s own policies on negotiation. The question before you is not whether you are in favor of the Diversion Project, but whether the CCJWRD has complied with the law. They have not negotiated and have not taken into consideration material presented by property owners. They have instead taken coercive action by pushing this process forward while demanding negotiation can only happen if the landowner incurs the costs of hiring an appraiser and provides them with a full-blown appraisal.

The CCJWRD is asking you to approve taking property from private landowners based upon appraisals with valuations that are a year old. They have not updated their valuations or estimates in spite of living in the midst of one of the fastest climbing real estate markets in generations, and they have refused to consider and respond to sales that have occurred after their year-old valuation dates.

We ask that you NOT approve this acquisition by the awesome power of eminent domain and instead send this matter back to the CCJWRD and the Diversion Authority’s Land Committee to negotiate in good faith and that you require that appraisals and offers be updated to consider recent sales and information provided by landowners.

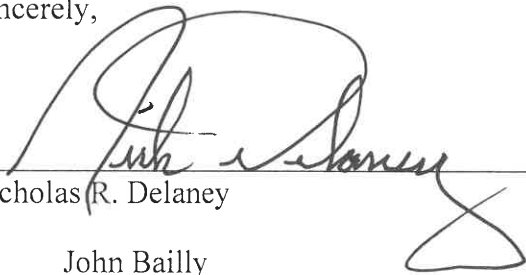
We plan on appearing at the County Board meeting on Monday and hope to have an opportunity to personally address the Board.

Cass County Commission

October 13, 2021

Page 6

Sincerely,



Nicholas R. Delaney



Igor S. Lenzner

cc: John Bailly  
Terry and Kristie Sauvageau  
Christopher McShane (CCJWRD Attorney)  
Birch Burdick (Cass County Attorney)  
Eric Dodds (Program Manager)  
Taylor Albrecht (Administrative Assistant, Cass County Commission)  
Ken Helvey (SRF Consulting)

FM AREA DIVERSION PROJECT

# Property Owner Information Packet for Cass County Commission

October 18<sup>th</sup>, 2021

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PROPERTY OWNER: Terry & Kristie Sauvageau

LAND AGENT: Ken Helvey with SRF

OIN: 28 1086



FM AREA  
**DIVERSION**  
PROJECT

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## Written Correspondence Timeline – Terry & Kristie Sauvageau

OIN 28 1086	Sent	Received
Offer to Purchase	01/27/2021	01/28/2021
Formal Negotiations and Written Offer of Just Compensation	04/14/2021	04/15/2021
Request for Meeting	06/03/2021	06/07/2021
Notice of Intent to Take Possession of Right-of-Way	07/23/2021	07/27/2021
Request for Approval to Take Possession of Necessary Right-of-Way and Temporary Easement	09/03/2021	09/03/2021
Invitation to Attend Public Meeting	09/08/2021	09/09/2021
Commission Meeting Date	10/18/2021	

**CASS COUNTY COMMISSION  
CHECKLIST — COMPLIANCE WITH N.D. CENT. CODE § 61-16.1-09(2)  
FARGO-MOORHEAD AREA DIVERSION PROJECT**

A. Subject Property Information:

1. Landowner: Terry Sauvageau and Kristie Sauvageau
2. Land Agent: Ken Helvey
3. Parcel Nos.: 64-0000-02570-010, 01-3514-00020-000
4. OIN Nos.: 28, 1086

B. Verification:

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

4. NDCC § 61-16.1-09(2)(b)(1)(b)[3] requires CCJWRD to send Landowner a written notice of intent to take possession of the right of way easement and 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 of way 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 easement for term of years regarding OINs 28 and 1086.

# FM Area Diversion Project Negotiation Summary

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October 18, 2021

OIN	28 and 1086
Property Owner	Terry and Kristie Sauvageau
Mailing Address	12004 57 <sup>th</sup> Street S, Horace, ND 58047
Property Location	Drain 27
Property Type	Agriculture
Land Agent	Ken Helvey - SRF
Landowner Representative	Nick Delaney- Rinke Noonan

## Property Need

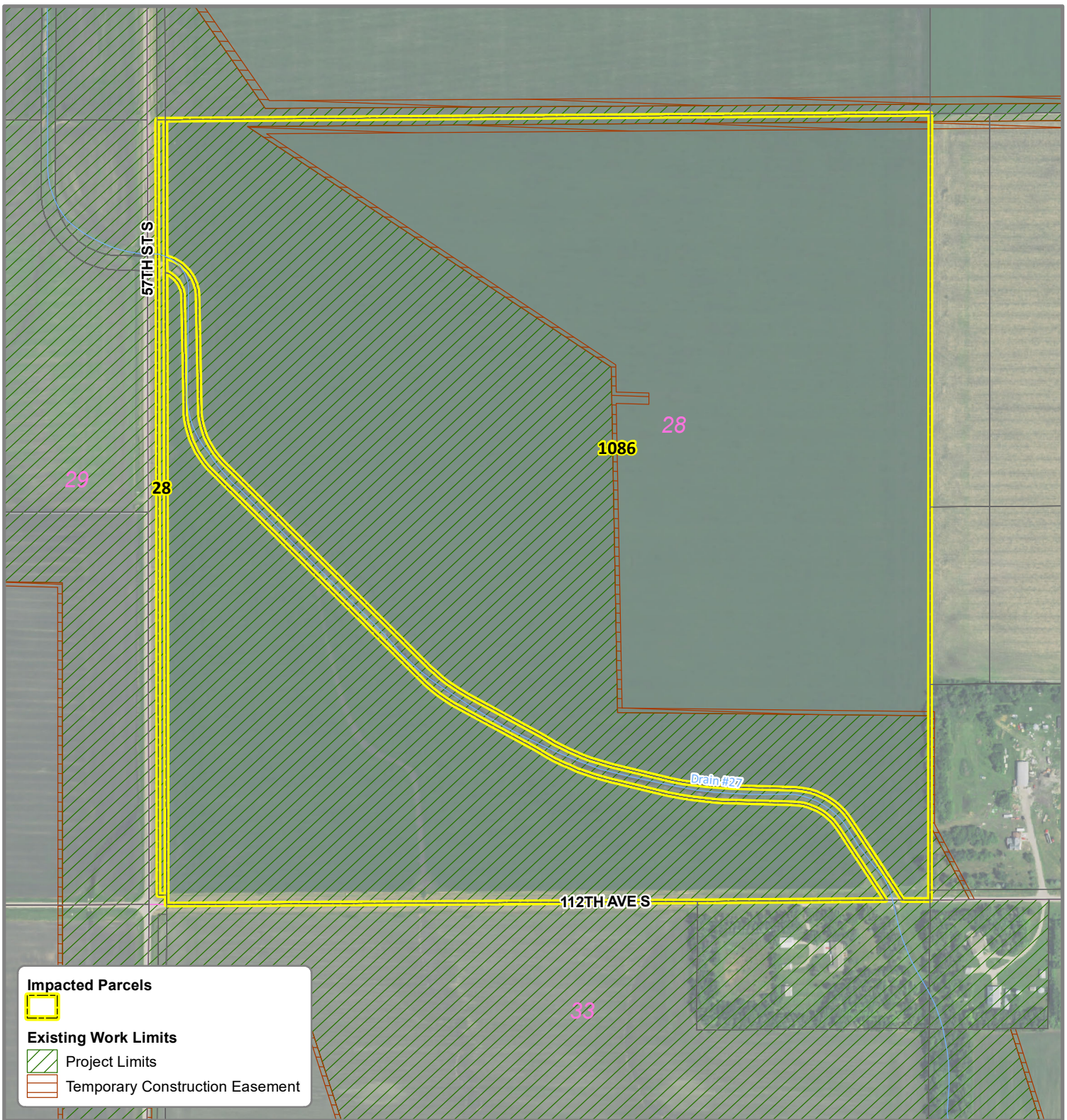
The parcels are within the Drain 27 Wetland Restoration area associated with the Project. The Diversion Authority is required to obtain a portion of the parcels for the Drain 27 Wetland Restoration. Landowner is requesting a sale of both parcels in their entirety.

## Valuation and Negotiation Summary:

Appraisal Value Date of Value Opinion  <b>Project Patchin Messner Appraisal</b>	\$1,176,650 – 09/23/2020 95.431 acres land/site taking at \$12,000/acre = \$1,145,172 60.199 acres severance at \$500/acre - \$30,128 1.518 acres TCE - \$1,350
	<b>Items below assume total acquisition of full parcel</b>
Appraisal Value Date of Value Opinion  <b>Property Owner CBRE Appraisal</b>	\$2,874,000 – 4/25/2021 155.61 acres+/- @ \$19,000 (rd)/acre = \$2,874,000
Property Owner Counteroffer  Offer Made 9/23/2021	\$3,252,250 155.61 +/- acres @ \$20,900/acre = \$3,252,249  Owners have an appraisal for \$19,000 per acre. Requesting \$20,900 per acres which is 10% over that amount as this is consistent with how they were paid for their land at the Diversion Inlet.

October 18, 2021





**Impacted Parcels**



**Existing Work Limits**

Project Limits

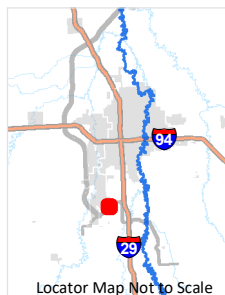
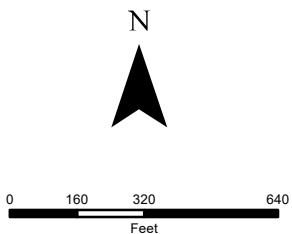
Temporary Construction Easement

*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: dlee - AE2S, Inc. |

C:\Data\Projects\GIS Projects\FM Area Diversion\Projects\Land Acquisition\Project Work Package\IProject Wide\Individual Property Maps - General Inquiry\IndividualLayout8x10\_ForDanielle\_Notdatadriven.mxd



**Terry M & Kristie M Sauvageau**

**OINs: 28, 1086**

**Parcel ID's: 01-3514-00020-000, 64-0000-02570-010**

**Cass County, ND**

FM AREA DIVERSION

Map Date: 11/5/2020





January 27, 2021

SRF No. 13783.00

Terry and Kristie Sauvageau  
12004 57th Street S  
Horace, ND 58047

RE: **Offer to Purchase - Addendum**  
**Parcel ID:** OIN 28 1086  
**Project Title:** Fargo Moorhead Diversion  
**PID:** 01-3514-00020-000 and 64-0000-02570-010

Dear Mr. and Mrs. Sauvageau,

You recently had received an offer letter from our office regarding the property that must be acquired for the Farm Moorhead Diversion project. The Cass County Joint Water Resource District's (CCJWRD) appraisal has now been updated with an addendum for the purchase of your real property associated only with the Drain 27 Wetland Restoration Project. As stated in the Addendum of the Appraisal, previously the after condition of the real property appraisal was assuming the larger upstream mitigation project, however this appraisal now just directly addresses the impacts associated specifically to the Drain 27 Wetland Restoration Project. Any severance caused by the establishment of a flowage easement will be addressed at a later date in that respective appraisal. Therefore, we have updated our offer letter to reflect the interests being purchased (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 Valuation Counselors. The appraiser has determined that the market value of the interests being purchased is **\$1,176,650**. 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. If the purchase amount is based on any conditions or exceptions (such as terms of the transfer of possession or retention of any interest); they will be included in Exhibit A. A summary of the appraisal is provided on Exhibit A (Appraisal Summary).

**The Cass County Joint Water Resource District hereby offers to pay you \$1,176,650 as Just Compensation for the property interests it must acquire from you. The CCJWRD is also willing to continue negotiations with you pre the previous offer. However, at this time only the land needed for the Drain 27 Project is needed.**

[www.srfconsulting.com](http://www.srfconsulting.com)

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

*Equal Employment Opportunity / Affirmative Action Employer*



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

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

If you have any questions about the acquisition process, please contact me at 763-249-6785 or by email at [khelvey@srfconsulting.com](mailto:khelvey@srfconsulting.com). We are here to help you understand the process and to assist in negotiating a fair direct purchase of the Parcel, however, we do not represent you. We are willing to meet with you in person as well as set up a time to discuss questions on the phone.

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

- Copy of the appraisal for Parcel ID OIN 28 1086 by Patchin Messner Valuation Counselors.
- Exhibit A (Acquisition Summary), and Exhibit B (Certificate of Survey)

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

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

Sincerely,



Ken Helvey  
Principal  
Direct # 763-249-6785  
[khelvey@srfconsulting.com](mailto:khelvey@srfconsulting.com)

cc: Nicholas Delaney

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

Enclosures: Appraisal Report, Exhibit A, Exhibit B

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

\_\_\_\_\_  
Terry Sauvageau

\_\_\_\_\_  
Kristie Sauvageau

Enclosures: Appraisal Report, Exhibit A, Exhibit B

**EXHIBIT A**

**ACQUISITION SUMMARY  
Fargo Moorhead Diversion**

**Offer to Purchase - Addendum**

**Parcel ID:** OIN 28 1086

**Project Title:** Fargo Moorhead Diversion

**PID:** 01-3514-00020-000 and 64-0000-02570-010

Recorded Fee Owner: Terry and Kristie Sauvageau

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

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**APPRAISAL ADDENDUM SUMMARY**

<b>Parcel Value</b>	<b>Area Size/ Description</b>	<b>Per Unit</b>	<b>Indicated Value</b>
<b>Land/Site Taking</b>	95.431 Acres	\$ 12,000 / Acre	\$ 1,145,172
<b>Easement</b>	1.518 Acres		\$ 1,350
<b>Severance</b>	60.199 Acres	\$ 500/ Acre	\$ 30,128
<b>TOTAL (rounded)</b>			<b>\$ 1,176,650</b>



FAQs >

Track Another Package +

28 1086 Sauvageau

Tracking Number: 9505511429321027567648

Remove X

Your item was delivered in or at the mailbox at 4:31 pm on January 28, 2021 in HORACE, ND 58047.

USPS Tracking Plus™ Available v

Feedback

**Delivered**

January 28, 2021 at 4:31 pm  
Delivered, In/At Mailbox  
HORACE, ND 58047

Get Updates v

---

Text & Email Updates v

---

Tracking History v

---

USPS Tracking Plus™ v

---

Product Information v

---

See Less ^



**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

**Cass County  
Joint Water  
Resource  
District**

April 14, 2021

Terry and Kristie Sauvageau  
12004 57th Street South  
Horace, ND 58047  
**Certified No. 7020 1290 001 0393 6191**

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Greetings:

Rodger Olson  
Manager  
Leonard, North Dakota

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Formal Negotiations and Written Offer of Just Compensation  
OINs: 28, 1086  
Parcel Nos.: 64-0000-02570-010, 01-3514-00020-000

Ken Lougheed  
Manager  
Gardner, North Dakota

The Cass County Joint Water Resource District (the "District") is in the process of acquiring property interests necessary for the Fargo-Moorhead Area Diversion Project (the "Project"), and the District has been in discussions with you regarding right of way the District must acquire from you to accommodate the Project. The District directed me to provide you this letter as the District's formal offer to purchase 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 64-0000-02570-010 and 01-3514-00020-000. The legal description of the property to be acquired is:

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

Right of Way Easement:  
OIN 28

The West 60.00 feet of the Southwest Quarter of Section 28, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, less that part lying within a tract described in Document No. 1270307, on file at the Cass County Recorder's Office.

Said tract contains 3.572 acres, more or less, and is subject to easements as may be of record.

AND

Carol Harbeke Lewis  
Secretary-Treasurer  
  
1201 Main Avenue West  
West Fargo, ND 58078-1301  
  
701-298-2381  
FAX 701-298-2397  
[wrld@casscountynnd.gov](mailto:wrld@casscountynnd.gov)  
[casscountynnd.gov](http://casscountynnd.gov)

OIN 1086

That part of the Southwest Quarter of Section 28, 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 Southwest Quarter; thence North 87°38'03" East, along the southerly line of said Southwest Quarter, for a distance of 60.00 feet to a point of intersection with the easterly line of the West 60.00 feet of said Southwest Quarter and the true point of beginning; thence continue North 87°38'03" East, along the southerly line of said Southwest Quarter, for a distance of 2418.78 feet to the southwest corner of a tract described in Document No. 1270308, on file at the Cass County Recorder's Office; thence North 35°23'22" West, along the westerly line of said tract, for a distance of 288.58 feet to a point of tangential curve to the left having a radius of 187.71 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 180.18 feet, through a central angle of 54°59'56"; thence South 89°36'42" West, along the westerly line of said tract, for a distance of 216.40 feet to a point of tangential curve to the right having a radius of 1170.42 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 245.13 feet, through a central angle of 12°00'00"; thence North 78°23'18" West, along the westerly line of said tract, for a distance of 163.00 feet to a point of tangential curve to the right having a radius of 843.01 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 228.03 feet, through a central angle of 15°29'53"; thence North 62°53'26" West, along the westerly line of said tract and along the westerly line of a tract described in Document No. 1270307, on file at the Cass County Recorder's Office, for a distance of 367.90 feet to a point of tangential curve to the right having a radius of 597.46 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 172.06 feet, through a central angle of 16°30'00"; thence North 46°23'26" West, along the westerly line of said tract, for a distance of 981.90 feet to a point of tangential curve to the right having a radius of 310.98 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 239.68 feet, through a central angle of 44°09'36"; thence North 02°13'50" West, along the westerly line of said tract, for a distance of 374.80 feet to a point of tangential curve to the left having a radius of 90.09 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 98.24 feet, through a central angle of 62°28'41" to a point of intersection with the easterly line of the West 60.00 feet of said Southwest Quarter; thence South 02°06'37" East, along the easterly line of the West 60.00 feet of said Southwest Quarter, for a distance of 2155.86 feet to the true point of beginning.



Said tract contains 38.544 acres, more or less, and is subject to easements as may be of record.

AND

That part of the Southwest Quarter of Section 28, 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 Southwest Quarter; thence North 87°38'03" East, along the southerly line of said Southwest Quarter, for a distance of 2537.22 feet to the southeast corner of a tract described in Document No. 1270308, on file at the Cass County Recorder's Office, and the true point of beginning; thence North 35°23'22" West, along the easterly line of said tract, for a distance of 320.42 feet to a point of tangential curve to the left having a radius of 236.71 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 227.22 feet, through a central angle of 54°59'56"; thence South 89°36'42" West, along the easterly line of said tract, for a distance of 216.40 feet to a point of tangential curve to the right having a radius of 1121.42 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 234.87 feet, through a central angle of 12°00'00"; thence North 78°23'18" West, along the easterly line of said tract, for a distance of 163.00 feet to a point of tangential curve to the right having a radius of 794.01 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 214.77 feet, through a central angle of 15°29'53"; thence North 62°53'26" West, along the easterly line of said tract and along the easterly line of a tract described in Document No. 1270307, on file at the Cass County Recorder's Office, for a distance of 367.90 feet to a point of tangential curve to the right having a radius of 548.46 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 157.94 feet, through a central angle of 16°30'00"; thence North 46°23'26" West, along the easterly line of said tract, for a distance of 981.90 feet to a point of tangential curve to the right having a radius of 261.98 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 201.92 feet, through a central angle of 44°09'36"; thence North 02°13'50" West, along the easterly line of said tract, for a distance of 374.80 feet to a point of tangential curve to the left having a radius of 139.09 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 176.09 feet, through a central angle of 72°32'12" to a point of intersection with the easterly line of the West 60.00 feet of said Southwest Quarter; thence North 02°06'37" West, along the easterly line of the West 60.00 feet of said Southwest Quarter, for a distance of 434.01 feet to a point of intersection with the northerly line of said Southwest Quarter;

thence North 87°34'17" East, along the northerly line of said Southwest Quarter, for a distance of 2575.25 feet to the northeast corner of said Southwest Quarter; thence South 01°58'02" East, along the easterly line of said Southwest Quarter, for a distance of 27.00 feet to a point of intersection with the southerly line of the North 27.00 feet of said Southwest Quarter; thence South 87°34'17" West, along the southerly line of the North 27.00 feet of said Southwest Quarter, for a distance of 2295.76 feet; thence South 58°30'10" East for a distance of 1464.73 feet; thence South 03°04'56" East for a distance of 1162.44 feet; thence North 88°38'48" East for a distance of 1051.20 feet to a point of intersection with the easterly line of said Southwest Quarter; thence South 01°58'02" East, along the easterly line of said Southwest Quarter, for a distance of 618.85 feet to the southeast corner of said Southwest Quarter; thence South 87°38'03" West, along the southerly line of said Southwest Quarter, for a distance of 91.40 feet to the true point of beginning.

Said tract contains 53.315 acres, more or less, and is subject to easements as may be of record.

AND

Easement for Term of Years

OIN 1086

That part of the Southwest Quarter of Section 28, 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 easterly of and being coincident with the following described line:

Commencing at the southeast corner of said Southwest Quarter; thence North 01°58'02" West, along the easterly line of said Southwest Quarter, for a distance of 618.85 feet to the true point of beginning of the line to be described; thence South 88°38'48" West for a distance of 1051.20 feet; thence North 03°04'56" West for a distance of 1060.31 feet to a point which will hereafter referred to as Point A; thence continue North 03°04'56" West for a distance of 102.13 feet; thence North 58°30'10" West for a distance of 1464.73 feet to a point of intersection with the southerly line of the North 27.00 feet of said Southwest Quarter and a point which will hereafter referred to as Point B, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the easterly line of said Southwest Quarter on the east, and to intersect the southerly line of the North 27.00 feet of said Southwest Quarter on the north.

Together with

A 40.00-foot-wide strip of land, being centered on the following described line:

Beginning at the above-described Point A; thence North 90°00'00" for a distance of 125.00 feet, said line there terminating. Said strip shall be shortened to intersect a line that is 15.00 feet easterly of and parallel with a line bearing North 03°04'56" West passing through said Point A.

Together with

A 25.00-foot-wide strip of land, lying southerly of and being coincident with the following described line:

Beginning at the above-described Point B; thence North 87°34'17" East, along the southerly line of the North 27.00 feet of said Southwest Quarter, for a distance of 2295.76 feet to a point of intersection with the easterly line of said Southwest Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect a line that is 15.00 feet easterly of and parallel with a line bearing South 58°30'10" East from said Point B, and to intersect the easterly line of said Southwest Quarter on the east.

Said tract contains 1.518 acres, more or less.

Enclosed is an appraisal and addendum to 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 \$1,145,172.00 and the value of the easement for term of years is \$1,350.00, plus damages to the remainder of your property in the amount of \$30,128.00, for a total purchase price of \$1,176,650.00. The District approved the appraisal and this letter is the District's offer to you in the amount of \$1,176,650.00 as just compensation to purchase the right of way easement and easement for term of years for the Project. If you are willing to accept the District's offer, please sign the enclosed *Purchase Agreement* and return it to the District in the enclosed self-addressed, stamped envelope.

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

Terry and Kristie Sauvageau  
April 14, 2021  
Page 6

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

**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:

TERRY AND KRISTIE SAUVAGEAU  
 12004 57TH STREET SOUTH  
 NORACE ND 58047



9590 9402 6380 0303 3972 68

2. Article Number (Transfer from service label)

7020 1290 0001 0393 6191

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *K. Sauvageau*

- Agent
- Addressee

B. Received by (Printed Name)

RW RR#1 C19

C. Date of Delivery

4-15-21

D. Is delivery address different from item 1?

If YES, enter delivery address below:  Yes

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- 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
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**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Cass County  
Joint Water  
Resource  
District

June 3, 2021

Terry and Kristie Sauvageau  
12004 57th Street South  
Horace, ND 58047  
**Certified No. 7020 1290 0001 0393 6382**

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Greetings:

Rodger Olson  
Manager  
Leonard, North Dakota

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
Request for Meeting  
OINs: 28, 1086  
Parcel Nos.: 64-0000-02570-010, 01-3514-00020-000

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). The District previously provided you a letter dated April 14, 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.

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

The District would like to discuss the District's offer to purchase the 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 June 10, 2021, or at its meeting on June 24, 2021; both meetings begin at 8:00 a.m. These will be virtual meetings so you can participate by Microsoft Teams or by telephone. The District is required by law to offer a physical location where the District will have a speakerphone or computer available for members of the public to view or participate in the meeting; with that in mind, if you prefer to utilize the District's speakerphone or computer to participate, you can do so at the District's office at 1201 Main Avenue West in West Fargo.

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

Terry and Kristie Sauvageau  
OINs 28, 1086  
June 3, 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. **Ken Helvey** of SRF Consulting Group, Inc. is your point of contact for getting answers to any questions you have about the Project. Ken can be reached at **(763) 249-6785** or **khelvey@srfconsulting.com**.

North Dakota law requires the District to provide you with a description of the District's negotiation timeline regarding your right of way 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@casscountynynd.gov](mailto:lewisc@casscountynynd.gov)

cc: Nicholas R. Delaney, Rinke Noonan  
Ken Helvey, Land Agent  
Eric Dodds, Program Manager, AE2S  
Rob Stefonowicz, Larkin Hoffman  
Chad Peterson, Chair, Cass County Commission  
Robert Wilson, Cass County Administrator  
Birch Burdick, Cass County State's Attorney  
Joel Paulsen, Executive Director, Diversion Authority



**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:

TERRY AND KRISTIE SAUVAGEAU  
12004 5TH STREET SOUTH  
HORACE ND 58047



9590 9402 6380 0303 3971 21

2. Article Number (Transfer from service label)

7020 1290 0001 0393 6382

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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *Terry Sauvageau*  Agent  
 Addressee

B. Received by (Printed Name)

*Terry Sauvageau*

C. Date of Delivery

*6-7-21*

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

3. Service Type

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- Insured Mail Restricted Delivery (over \$500)
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- Signature Confirmation Restricted Delivery

Domestic Return Receipt





**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

July 23, 2021

Cass County  
Joint Water  
Resource  
District

Terry and Kristie Sauvageau  
12004 57th Street South  
Horace, ND 58047  
**Certified No. 7020 1290 0001 0393 6689**

Dan Jacobson  
Chairman  
West Fargo, North Dakota

Greetings:

Rodger Olson  
Manager  
Leonard, North Dakota

RE: Cass County Joint Water Resource District  
Fargo-Moorhead Area Diversion Project  
NOTICE OF INTENT TO TAKE POSSESSION OF RIGHT OF WAY AND  
EASEMENT FOR TERM OF YEARS  
OINs: 28, 1086  
Parcel Nos. 64-0000-02570-010, 01-3514-00020-000

Ken Lougheed  
Manager  
Gardner, North Dakota

Jacob Gust  
Manager  
Fargo, North Dakota

Keith Weston  
Manager  
Fargo, North Dakota

As you know, the Cass County Joint Water Resource District (the "District") is in the process of developing the Fargo-Moorhead Area Diversion Project (the "Project"). On behalf of the District, I previously provided you a letter dated April 14, 2021, a copy of the District's appraisal and addendum to appraisal for your 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. In addition, I also provided you a letter dated June 3, 2021, to invite you to meet with the District for purposes of discussing the acquisition of the 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.

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

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

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

Terry and Kristie Sauvageau  
OINs 28, 1086  
July 23, 2021  
Page 2

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

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

cc: Nicholas R. Delaney, Rinke Noonan  
Ken Helvey, Land Agent  
Rob A. Stefonowicz, Larkin Hoffman  
Chad Peterson, Chair, Cass County Commission  
Robert Wilson, Cass County Administrator  
Birch Burdick, Cass County State's Attorney  
Eric Dodds, Program Manager, AE2S  
Joel Paulsen, Executive Director, Diversion Authority

**SENDER: COMPLETE THIS SECTION**

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

1. Article Addressed to:

TERRY & KRISTIE SAUVAGEAU  
 12004 5TH STREET SOUTH  
 NDANCE ND 58047



9590 9402 6380 0303 3968 03

2. Article Number (Transfer from service label)

7020 1290 0001 0393 6689

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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

*Terry Sauvageau*

- Agent
- Addressee

B. Received by (Printed Name)

Terry Sauvageau

C. Date of Delivery

7-27-21

D. Is delivery address different from item 1?

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3. Service Type

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- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt





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

Cass County  
Joint Water  
Resource  
District

September 3, 2021

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

Dan Jacobson  
Chairman  
West Fargo, North Dakota

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: 28, 1086  
Parcel Nos.: 64-0000-02570-010, 01-3514-00020-000

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 Terry Sauvageau and Kristie Sauvageau (the "Landowner"):

Keith Weston  
Manager  
Fargo, North Dakota

- Letter dated April 14, 2021, enclosing the District's appraisal and addendum to 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 June 3, 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 July 23, 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  
[wrđ@casscountynd.gov](mailto:wrđ@casscountynd.gov)  
[casscountynd.gov](http://casscountynd.gov)

The District has conducted months of negotiations with the Landowner to arrive at a mutually acceptable agreement for the District's purchase. More specifically, the District engaged in both informal and formal negotiations with the Landowner, as required under N.D. Cent. Code § 61-16.1-09(2)(b), in an effort to reach agreement regarding fair compensation to the Landowner for the acquisition of the necessary right of way 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 28

The West 60.00 feet of the Southwest Quarter of Section 28, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, less that part lying within a tract described in Document No. 1270307, on file at the Cass County Recorder's Office.

Said tract contains 3.572 acres, more or less, and is subject to easements as may be of record.

OIN 1086 – Parcel 1

That part of the Southwest Quarter of Section 28, 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 Southwest Quarter; thence North 87°38'03" East, along the southerly line of said Southwest Quarter, for a distance of 60.00 feet to a point of intersection with the easterly line of the West 60.00 feet of said Southwest Quarter and the true point of beginning; thence continue North 87°38'03" East, along the southerly line of said Southwest Quarter, for a distance of 2418.78 feet to the southwest corner of a tract described in Document No. 1270308, on file at the Cass County Recorder's Office; thence North 35°23'22" West, along the westerly line of said tract, for a distance of 288.58 feet to a point of tangential curve to the left having a radius of 187.71 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 180.18 feet, through a central angle of 54°59'56"; thence South 89°36'42" West, along the westerly line of said tract, for a distance of 216.40 feet to a point of tangential curve to the right having a radius of 1170.42 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 245.13 feet, through a central angle of 12°00'00"; thence North 78°23'18" West, along the westerly line of said tract, for a distance of 163.00



feet to a point of tangential curve to the right having a radius of 843.01 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 228.03 feet, through a central angle of 15°29'53"; thence North 62°53'26" West, along the westerly line of said tract and along the westerly line of a tract described in Document No. 1270307, on file at the Cass County Recorder's Office, for a distance of 367.90 feet to a point of tangential curve to the right having a radius of 597.46 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 172.06 feet, through a central angle of 16°30'00"; thence North 46°23'26" West, along the westerly line of said tract, for a distance of 981.90 feet to a point of tangential curve to the right having a radius of 310.98 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 239.68 feet, through a central angle of 44°09'36"; thence North 02°13'50" West, along the westerly line of said tract, for a distance of 374.80 feet to a point of tangential curve to the left having a radius of 90.09 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 98.24 feet, through a central angle of 62°28'41" to a point of intersection with the easterly line of the West 60.00 feet of said Southwest Quarter; thence South 02°06'37" East, along the easterly line of the West 60.00 feet of said Southwest Quarter, for a distance of 2155.86 feet to the true point of beginning.

Said tract contains 38.544 acres, more or less, and is subject to easements as may be of record.

AND

OIN 1086 – Parcel 2

That part of the Southwest Quarter of Section 28, 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 Southwest Quarter; thence North 87°38'03" East, along the southerly line of said Southwest Quarter, for a distance of 2537.22 feet to the southeast corner of a tract described in Document No. 1270308, on file at the Cass County Recorder's Office, and the true point of beginning; thence North 35°23'22" West, along the easterly line of said tract, for a distance of 320.42 feet to a point of tangential curve to the left having a radius of 236.71 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 227.22 feet, through a central angle of 54°59'56"; thence South 89°36'42" West, along the easterly line of said tract, for a distance of 216.40 feet to a point of



tangential curve to the right having a radius of 1121.42 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 234.87 feet, through a central angle of  $12^{\circ}00'00''$ ; thence North  $78^{\circ}23'18''$  West, along the easterly line of said tract, for a distance of 163.00 feet to a point of tangential curve to the right having a radius of 794.01 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 214.77 feet, through a central angle of  $15^{\circ}29'53''$ ; thence North  $62^{\circ}53'26''$  West, along the easterly line of said tract and along the easterly line of a tract described in Document No. 1270307, on file at the Cass County Recorder's Office, for a distance of 367.90 feet to a point of tangential curve to the right having a radius of 548.46 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 157.94 feet, through a central angle of  $16^{\circ}30'00''$ ; thence North  $46^{\circ}23'26''$  West, along the easterly line of said tract, for a distance of 981.90 feet to a point of tangential curve to the right having a radius of 261.98 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 201.92 feet, through a central angle of  $44^{\circ}09'36''$ ; thence North  $02^{\circ}13'50''$  West, along the easterly line of said tract, for a distance of 374.80 feet to a point of tangential curve to the left having a radius of 139.09 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 176.09 feet, through a central angle of  $72^{\circ}32'12''$  to a point of intersection with the easterly line of the West 60.00 feet of said Southwest Quarter; thence North  $02^{\circ}06'37''$  West, along the easterly line of the West 60.00 feet of said Southwest Quarter, for a distance of 434.01 feet to a point of intersection with the northerly line of said Southwest Quarter; thence North  $87^{\circ}34'17''$  East, along the northerly line of said Southwest Quarter, for a distance of 2575.25 feet to the northeast corner of said Southwest Quarter; thence South  $01^{\circ}58'02''$  East, along the easterly line of said Southwest Quarter, for a distance of 27.00 feet to a point of intersection with the southerly line of the North 27.00 feet of said Southwest Quarter; thence South  $87^{\circ}34'17''$  West, along the southerly line of the North 27.00 feet of said Southwest Quarter, for a distance of 2295.76 feet; thence South  $58^{\circ}30'10''$  East for a distance of 1464.73 feet; thence South  $03^{\circ}04'56''$  East for a distance of 1162.44 feet; thence North  $88^{\circ}38'48''$  East for a distance of 1051.20 feet to a point of intersection with the easterly line of said Southwest Quarter; thence South  $01^{\circ}58'02''$  East, along the easterly line of said Southwest Quarter, for a distance of 618.85 feet to the southeast corner of said Southwest Quarter; thence South  $87^{\circ}38'03''$  West, along the southerly line of said Southwest Quarter, for a distance of 91.40 feet to the true point of beginning.

Said tract contains 53.315 acres, more or less, and is subject to easements as may be of record.

Easement for Term of Years:

OIN 1086

That part of the Southwest Quarter of Section 28, 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 easterly of and being coincident with the following described line:

Commencing at the southeast corner of said Southwest Quarter; thence North 01°58'02" West, along the easterly line of said Southwest Quarter, for a distance of 618.85 feet to the true point of beginning of the line to be described; thence South 88°38'48" West for a distance of 1051.20 feet; thence North 03°04'56" West for a distance of 1060.31 feet to a point which will hereafter referred to as Point A; thence continue North 03°04'56" West for a distance of 102.13 feet; thence North 58°30'10" West for a distance of 1464.73 feet to a point of intersection with the southerly line of the North 27.00 feet of said Southwest Quarter and a point which will hereafter referred to as Point B, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the easterly line of said Southwest Quarter on the east, and to intersect the southerly line of the North 27.00 feet of said Southwest Quarter on the north.

Together with

A 40.00 foot wide strip of land, being centered on the following described line:

Beginning at the above-described Point A; thence North 90°00'00" for a distance of 125.00 feet, said line there terminating. Said strip shall be shortened to intersect a line that is 15.00 feet easterly of and parallel with a line bearing North 03°04'56" West passing through said Point A.

Together with

A 25.00 foot wide strip of land, lying southerly of and being coincident with the following described line:



Beginning at the above-described Point B; thence North 87°34'17" East, along the southerly line of the North 27.00 feet of said Southwest Quarter, for a distance of 2295.76 feet to a point of intersection with the easterly line of said Southwest Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect a line that is 15.00 feet easterly of and parallel with a line bearing South 58°30'10" East from said Point B, and to intersect the easterly line of said Southwest Quarter on the east.

Said tract contains 1.518 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 Landowners with the District's appraisal as the starting point for negotiations, then attempted to negotiate further with the Landowner over the course of several months. This step is not one the District takes lightly; quick take eminent domain is a serious undertaking, and the District has negotiated in good-faith with the Landowner to avoid this process. Despite the District's efforts to be fair, friendly, and flexible in both the informal and formal negotiations with the Landowner, unfortunately, the parties have not reached a mutually

Robert Wilson  
September 3, 2021  
Page 7

acceptable agreement for the acquisition of the right of way easement and easement for term of years.

The District respectfully requests that the Cass County Commission proceed with the public meeting process under Section 61-16.1-09(2)(b)(3) regarding the Landowner and the 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@casscountynynd.gov](mailto:lewisc@casscountynynd.gov)

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



September 8, 2021

**VIA UPS – DELIVERY CONFIRMATION**

**Board of County  
Commissioners**

Terry Sauvageau  
Kristie Sauvageau  
12004 57<sup>th</sup> Street South  
Horace, ND 58047

Chad M. Peterson  
Fargo, North Dakota

Rick Steen  
Fargo, North Dakota

Jim Kapitan  
Fargo, North Dakota

Duane Breitling  
West Fargo, North Dakota

Mary Scherling  
Stanley Township, North Dakota

Re: Cass County Commission  
Fargo-Moorhead Area Diversion Project  
Invitation to Attend Public Meeting  
OINs: 28, 1086  
Parcel Nos.: 64-0000-02570-010, 01-3514-00020-000  
**UPS Tracking No.: 1Z271RGT4300027013**

Greetings:

As you know, the METRO FLOOD DIVERSION AUTHORITY (the “Authority”) is proceeding with the Fargo Moorhead Area Diversion Project (“Project”); the Cass County Commission (the “Commission”) is a member of the Authority. The Cass County Joint Water Resource District (the “District”) is also a member of the Authority, and the Authority previously directed the District to obtain the North Dakota right of way easement and easement 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 14, 2021, enclosing the District’s appraisal, and addendum to 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 June 3, 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](http://www.casscountynd.gov)



Terry Sauvageau  
Kristie Sauvageau  
OINs 28, 1086  
September 8, 2021  
Page 2

- Letter dated July 23, 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 descriptions of the necessary right of way easement and easement for term of years are as follows:

Right of Way Easement:

OIN 28

The West 60.00 feet of the Southwest Quarter of Section 28, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, less that part lying within a tract described in Document No. 1270307, on file at the Cass County Recorder's Office.

Said tract contains 3.572 acres, more or less, and is subject to easements as may be of record.

AND

OIN 1086 – Parcel 1

That part of the Southwest Quarter of Section 28, 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 Southwest Quarter; thence North 87°38'03" East, along the southerly line of said Southwest Quarter, for a distance of 60.00 feet to a point of intersection with the easterly line of the West 60.00 feet of said Southwest Quarter and the true point of beginning; thence continue North 87°38'03" East, along the southerly line of said Southwest Quarter, for a distance of 2418.78 feet to the southwest corner of a tract described in Document No. 1270308, on file at the Cass County Recorder's Office; thence North 35°23'22" West, along the westerly line of said tract, for a distance of 288.58 feet to a point of tangential curve to the left having a radius of 187.71 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 180.18 feet, through a central angle of 54°59'56"; thence South 89°36'42" West, along the westerly line of said tract, for a distance of 216.40 feet to a point of tangential curve to the right having a radius of 1170.42 feet; thence

northwesterly, along the westerly line of said tract and along said curve, for a distance of 245.13 feet, through a central angle of 12°00'00"; thence North 78°23'18" West, along the westerly line of said tract, for a distance of 163.00 feet to a point of tangential curve to the right having a radius of 843.01 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 228.03 feet, through a central angle of 15°29'53"; thence North 62°53'26" West, along the westerly line of said tract and along the westerly line of a tract described in Document No. 1270307, on file at the Cass County Recorder's Office, for a distance of 367.90 feet to a point of tangential curve to the right having a radius of 597.46 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 172.06 feet, through a central angle of 16°30'00"; thence North 46°23'26" West, along the westerly line of said tract, for a distance of 981.90 feet to a point of tangential curve to the right having a radius of 310.98 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 239.68 feet, through a central angle of 44°09'36"; thence North 02°13'50" West, along the westerly line of said tract, for a distance of 374.80 feet to a point of tangential curve to the left having a radius of 90.09 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 98.24 feet, through a central angle of 62°28'41" to a point of intersection with the easterly line of the West 60.00 feet of said Southwest Quarter; thence South 02°06'37" East, along the easterly line of the West 60.00 feet of said Southwest Quarter, for a distance of 2155.86 feet to the true point of beginning.

Said tract contains 38.544 acres, more or less, and is subject to easements as may be of record.

AND

OIN 1086 – Parcel 2

That part of the Southwest Quarter of Section 28, 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 Southwest Quarter; thence North 87°38'03" East, along the southerly line of said Southwest Quarter, for a distance of 2537.22 feet to the southeast corner of a tract described in Document No. 1270308, on file at the Cass County Recorder's Office, and the true point of beginning; thence North 35°23'22" West, along the easterly line of said tract, for a distance of 320.42 feet to a point of tangential curve to the left having a radius of 236.71 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 227.22 feet, through a central angle of 54°59'56"; thence South 89°36'42" West, along



the easterly line of said tract, for a distance of 216.40 feet to a point of tangential curve to the right having a radius of 1121.42 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 234.87 feet, through a central angle of  $12^{\circ}00'00''$ ; thence North  $78^{\circ}23'18''$  West, along the easterly line of said tract, for a distance of 163.00 feet to a point of tangential curve to the right having a radius of 794.01 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 214.77 feet, through a central angle of  $15^{\circ}29'53''$ ; thence North  $62^{\circ}53'26''$  West, along the easterly line of said tract and along the easterly line of a tract described in Document No. 1270307, on file at the Cass County Recorder's Office, for a distance of 367.90 feet to a point of tangential curve to the right having a radius of 548.46 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 157.94 feet, through a central angle of  $16^{\circ}30'00''$ ; thence North  $46^{\circ}23'26''$  West, along the easterly line of said tract, for a distance of 981.90 feet to a point of tangential curve to the right having a radius of 261.98 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 201.92 feet, through a central angle of  $44^{\circ}09'36''$ ; thence North  $02^{\circ}13'50''$  West, along the easterly line of said tract, for a distance of 374.80 feet to a point of tangential curve to the left having a radius of 139.09 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 176.09 feet, through a central angle of  $72^{\circ}32'12''$  to a point of intersection with the easterly line of the West 60.00 feet of said Southwest Quarter; thence North  $02^{\circ}06'37''$  West, along the easterly line of the West 60.00 feet of said Southwest Quarter, for a distance of 434.01 feet to a point of intersection with the northerly line of said Southwest Quarter; thence North  $87^{\circ}34'17''$  East, along the northerly line of said Southwest Quarter, for a distance of 2575.25 feet to the northeast corner of said Southwest Quarter; thence South  $01^{\circ}58'02''$  East, along the easterly line of said Southwest Quarter, for a distance of 27.00 feet to a point of intersection with the southerly line of the North 27.00 feet of said Southwest Quarter; thence South  $87^{\circ}34'17''$  West, along the southerly line of the North 27.00 feet of said Southwest Quarter, for a distance of 2295.76 feet; thence South  $58^{\circ}30'10''$  East for a distance of 1464.73 feet; thence South  $03^{\circ}04'56''$  East for a distance of 1162.44 feet; thence North  $88^{\circ}38'48''$  East for a distance of 1051.20 feet to a point of intersection with the easterly line of said Southwest Quarter; thence South  $01^{\circ}58'02''$  East, along the easterly line of said Southwest Quarter, for a distance of 618.85 feet to the southeast corner of said Southwest Quarter; thence South  $87^{\circ}38'03''$  West, along the southerly line of said Southwest Quarter, for a distance of 91.40 feet to the true point of beginning.

Terry Sauvageau  
Kristie Sauvageau  
OINs 28, 1086  
September 8, 2021  
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Said tract contains 53.315 acres, more or less, and is subject to easements as may be of record.

AND

Easement for Term of Years:

OIN 1086

That part of the Southwest Quarter of Section 28, 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 easterly of and being coincident with the following described line:

Commencing at the southeast corner of said Southwest Quarter; thence North 01°58'02" West, along the easterly line of said Southwest Quarter, for a distance of 618.85 feet to the true point of beginning of the line to be described; thence South 88°38'48" West for a distance of 1051.20 feet; thence North 03°04'56" West for a distance of 1060.31 feet to a point which will hereafter referred to as Point A; thence continue North 03°04'56" West for a distance of 102.13 feet; thence North 58°30'10" West for a distance of 1464.73 feet to a point of intersection with the southerly line of the North 27.00 feet of said Southwest Quarter and a point which will hereafter referred to as Point B, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the easterly line of said Southwest Quarter on the east, and to intersect the southerly line of the North 27.00 feet of said Southwest Quarter on the north.

Together with

A 40.00 foot wide strip of land, being centered on the following described line:

Beginning at the above-described Point A; thence North 90°00'00" for a distance of 125.00 feet, said line there terminating. Said strip shall be shortened to intersect a line that is 15.00 feet easterly of and parallel with a line bearing North 03°04'56" West passing through said Point A.

Together with

A 25.00 foot wide strip of land, lying southerly of and being coincident with the following described line:

Beginning at the above-described Point B; thence North 87°34'17" East, along the southerly line of the North 27.00 feet of said Southwest Quarter,

Terry Sauvageau  
Kristie Sauvageau  
OINs 28, 1086  
September 8, 2021  
Page 6

for a distance of 2295.76 feet to a point of intersection with the easterly line of said Southwest Quarter, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect a line that is 15.00 feet easterly of and parallel with a line bearing South 58°30'10" East from said Point B, and to intersect the easterly line of said Southwest Quarter on the east.

Said tract contains 1.518 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 [albrechtt@casscountynd.gov](mailto:albrechtt@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 easement for term of years necessary for the Project. In fact, the Commission and the District encourage you to maintain contact with Ken Helvey and to continue discussions about the Project. Ken Helvey of SRF Consulting Group, Inc. is your point of contact regarding the Project. You can reach Ken Helvey at (763) 249-6785 or [khelvey@srfconsulting.com](mailto:khelvey@srfconsulting.com).

Finally, North Dakota law requires the Commission to provide you with a description of the District's timeline regarding your right of way easement 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.

Terry Sauvageau  
Kristie Sauvageau  
OINs 28, 1086  
September 8, 2021  
Page 7

Sincerely,

CASS COUNTY COMMISSION

A handwritten signature in black ink, appearing to read "R. Wilson".

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

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



# Proof of Delivery

Dear Customer,

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

**Tracking Number**

1Z271RGT4300027013

**Weight**

1.00 LBS

**Service**

UPS Ground

**Shipped / Billed On**

09/08/2021

**Delivered On**

09/09/2021 9:48 A.M.

**Delivered To**

12004 57TH ST S  
HORACE, ND, 58047, US

**Received By**

DRIVER RELEASE

**Left At**

Garage

**Reference Number(s)**

271RGT338ZX

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

Sincerely,

UPS

Tracking results provided by UPS: 09/10/2021 10:05 A.M. EST

**AFFIDAVIT OF LAND AGENT**

STATE OF Minnesota )  
 ) ss.  
COUNTY OF Hennepin )

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

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

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

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

Right of Way Easement  
OIN 28

The West 60.00 feet of the Southwest Quarter of Section 28, Township 138 North, Range 49 West of the Fifth Principal Meridian, in the City of Fargo, Cass County, North Dakota, less that part lying within a tract described in Document No. 1270307, on file at the Cass County Recorder’s Office.

Said tract contains 3.572 acres, more or less, and is subject to easements as may be of record.

AND

OIN 1086

That part of the Southwest Quarter of Section 28, 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 Southwest Quarter; thence North 87°38’03” East, along the southerly line of said Southwest Quarter, for a distance of 60.00 feet to a point of intersection with the easterly line of the West 60.00 feet

of said Southwest Quarter and the true point of beginning; thence continue North 87°38'03" East, along the southerly line of said Southwest Quarter, for a distance of 2418.78 feet to the southwest corner of a tract described in Document No. 1270308, on file at the Cass County Recorder's Office; thence North 35°23'22" West, along the westerly line of said tract, for a distance of 288.58 feet to a point of tangential curve to the left having a radius of 187.71 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 180.18 feet, through a central angle of 54°59'56"; thence South 89°36'42" West, along the westerly line of said tract, for a distance of 216.40 feet to a point of tangential curve to the right having a radius of 1170.42 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 245.13 feet, through a central angle of 12°00'00"; thence North 78°23'18" West, along the westerly line of said tract, for a distance of 163.00 feet to a point of tangential curve to the right having a radius of 843.01 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 228.03 feet, through a central angle of 15°29'53"; thence North 62°53'26" West, along the westerly line of said tract and along the westerly line of a tract described in Document No. 1270307, on file at the Cass County Recorder's Office, for a distance of 367.90 feet to a point of tangential curve to the right having a radius of 597.46 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 172.06 feet, through a central angle of 16°30'00"; thence North 46°23'26" West, along the westerly line of said tract, for a distance of 981.90 feet to a point of tangential curve to the right having a radius of 310.98 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 239.68 feet, through a central angle of 44°09'36"; thence North 02°13'50" West, along the westerly line of said tract, for a distance of 374.80 feet to a point of tangential curve to the left having a radius of 90.09 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 98.24 feet, through a central angle of 62°28'41" to a point of intersection with the easterly line of the West 60.00 feet of said Southwest Quarter; thence South 02°06'37" East, along the easterly line of the West 60.00 feet of said Southwest Quarter, for a distance of 2155.86 feet to the true point of beginning.

Said tract contains 38.544 acres, more or less, and is subject to easements as may be of record.

AND

That part of the Southwest Quarter of Section 28, 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 Southwest Quarter; thence North 87°38'03" East, along the southerly line of said Southwest Quarter, for a distance of 2537.22 feet to the southeast corner of a tract described in Document No.

1270308, on file at the Cass County Recorder's Office, and the true point of beginning; thence North  $35^{\circ}23'22''$  West, along the easterly line of said tract, for a distance of 320.42 feet to a point of tangential curve to the left having a radius of 236.71 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 227.22 feet, through a central angle of  $54^{\circ}59'56''$ ; thence South  $89^{\circ}36'42''$  West, along the easterly line of said tract, for a distance of 216.40 feet to a point of tangential curve to the right having a radius of 1121.42 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 234.87 feet, through a central angle of  $12^{\circ}00'00''$ ; thence North  $78^{\circ}23'18''$  West, along the easterly line of said tract, for a distance of 163.00 feet to a point of tangential curve to the right having a radius of 794.01 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 214.77 feet, through a central angle of  $15^{\circ}29'53''$ ; thence North  $62^{\circ}53'26''$  West, along the easterly line of said tract and along the easterly line of a tract described in Document No. 1270307, on file at the Cass County Recorder's Office, for a distance of 367.90 feet to a point of tangential curve to the right having a radius of 548.46 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 157.94 feet, through a central angle of  $16^{\circ}30'00''$ ; thence North  $46^{\circ}23'26''$  West, along the easterly line of said tract, for a distance of 981.90 feet to a point of tangential curve to the right having a radius of 261.98 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 201.92 feet, through a central angle of  $44^{\circ}09'36''$ ; thence North  $02^{\circ}13'50''$  West, along the easterly line of said tract, for a distance of 374.80 feet to a point of tangential curve to the left having a radius of 139.09 feet; thence northwesterly, along the easterly line of said tract and along said curve, for a distance of 176.09 feet, through a central angle of  $72^{\circ}32'12''$  to a point of intersection with the easterly line of the West 60.00 feet of said Southwest Quarter; thence North  $02^{\circ}06'37''$  West, along the easterly line of the West 60.00 feet of said Southwest Quarter, for a distance of 434.01 feet to a point of intersection with the northerly line of said Southwest Quarter; thence North  $87^{\circ}34'17''$  East, along the northerly line of said Southwest Quarter, for a distance of 2575.25 feet to the northeast corner of said Southwest Quarter; thence South  $01^{\circ}58'02''$  East, along the easterly line of said Southwest Quarter, for a distance of 27.00 feet to a point of intersection with the southerly line of the North 27.00 feet of said Southwest Quarter; thence South  $87^{\circ}34'17''$  West, along the southerly line of the North 27.00 feet of said Southwest Quarter, for a distance of 2295.76 feet; thence South  $58^{\circ}30'10''$  East for a distance of 1464.73 feet; thence South  $03^{\circ}04'56''$  East for a distance of 1162.44 feet; thence North  $88^{\circ}38'48''$  East for a distance of 1051.20 feet to a point of intersection with the easterly line of said Southwest Quarter; thence South  $01^{\circ}58'02''$  East, along the easterly line of said Southwest Quarter, for a distance of 618.85 feet to the southeast corner of said Southwest Quarter; thence South  $87^{\circ}38'03''$  West, along the southerly line of said Southwest Quarter, for a distance of 91.40 feet to the true point of beginning.



Said tract contains 53.315 acres, more or less, and is subject to easements as may be of record.

AND

Easement for Term of Years

OIN 1086

That part of the Southwest Quarter of Section 28, 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 easterly of and being coincident with the following described line:

Commencing at the southeast corner of said Southwest Quarter; thence North 01°58'02" West, along the easterly line of said Southwest Quarter, for a distance of 618.85 feet to the true point of beginning of the line to be described; thence South 88°38'48" West for a distance of 1051.20 feet; thence North 03°04'56" West for a distance of 1060.31 feet to a point which will hereafter referred to as Point A; thence continue North 03°04'56" West for a distance of 102.13 feet; thence North 58°30'10" West for a distance of 1464.73 feet to a point of intersection with the southerly line of the North 27.00 feet of said Southwest Quarter and a point which will hereafter referred to as Point B, said line there terminating. Said strip shall be lengthened or shortened as necessary to intersect the easterly line of said Southwest Quarter on the east, and to intersect the southerly line of the North 27.00 feet of said Southwest Quarter on the north.

Together with

A 40.00-foot-wide strip of land, being centered on the following described line:

Beginning at the above-described Point A; thence North 90°00'00" for a distance of 125.00 feet, said line there terminating. Said strip shall be shortened to intersect a line that is 15.00 feet easterly of and parallel with a line bearing North 03°04'56" West passing through said Point A.

Together with

A 25.00-foot-wide strip of land, lying southerly of and being coincident with the following described line:

Beginning at the above-described Point B; thence North 87°34'17" East, along the southerly line of the North 27.00 feet of said Southwest Quarter, for a distance of 2295.76 feet to a point of intersection with the easterly line of said Southwest Quarter, said line there terminating. Said strip shall be lengthened or shortened as

necessary to intersect a line that is 15.00 feet easterly of and parallel with a line bearing South 58°30'10" East from said Point B, and to intersect the easterly line of said Southwest Quarter on the east.

Said tract contains 1.518 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.

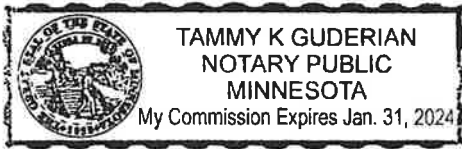
[¶8] I verify to the best of my knowledge, as Principal/Land Agent of SRF Consulting Group, Inc., nobody from SRF Consulting Group, Inc. has referenced, mentioned, or threatened quick take eminent domain to Landowner during negotiations since August 1, 2017.

Dated this 5 day of October, 2021.

*Ken Helvey*

Ken Helvey  
SRF Consulting Group, Inc.

Subscribed to and sworn to before me this 5<sup>th</sup> day of October, 2021.



*Tammy Guderian*

Notary Public

(SEAL)\

**EXHIBIT A**  
**OIN 28 1086 Sauvageau Contacts (Represented by Rinke Noonan)**  
**(Discussion related to farmstead included)**

<b>Date</b>	<b>Contact Notes</b>
7/16/2019	Talked to Joe Sauvageau (Joe) regarding move choices and new site.
7/23/2019	Talked to Joe regarding gas dryer system and timing
12/27/2020	Informal offer sent to owners for Drain 27 parcels
12/29/2021	Talked to Joe Sauvageau regarding guidelines for using money and access issues at new site
1/6/2021	Meeting with Terry and Kristie. Talked about RHDP, RIMP and farmstead offer. Provided all handouts.
1/13/2021	Meeting on site to view farmstead parcel
1/15/2021	Talked to Terry about how horse barn auction might affect his valuation. Told him it was a different pike of property than his. Also, discussed how the appraisal addendum works to establish value.
1/21/2021	Emails about offer for farmstead coming soon.
1/28/2021	Talked to Terry to set up meeting
1/29/2021	Talked to Terry about offer. He understands. No need to meet
2/11/2021	Talked to Terry and Kristie regarding their concerns about the RIMP program and how it would impact taxes
2/16/2021	Talked to Terry about how they might get progress payments and get reimbursements for expenses They want to start new farmstead in summer Sent RIMP package
2/17/2021	Talked to Joe about RIMP program issues
3/25/2021	Talked to Rinke regarding going through the process. They are getting their own appraisal- will need to wait for Drain 27 values
4/18/2021	Meeting with Sauvageau's to talk about farmstead issues.
8/3/2021	Site visit for RIMP
8/9/2021	Emails with Joe regarding relocation claims
8/9/2021	Email with Terry and Kristie and Rinke about meeting
8/12/2021	Sent relocation claims to Sauvageau's
9/9/2021	Sent meeting link to Sauvageau's
9/10/2021	Meeting with Sauvageau's to talk about farmstead issues.
9/20/2021	Email with Rinke regarding who's on land Coordination committee
9/21/2021	Talked to Terry regarding RIMP. He feels that it should be a direct payment not a loan. Needs more in any settlement
<b>9/20/2021</b>	<b>Received Sauvageau's Drain 27 Appraisal. Made a counter offer of 10% above their appraisal. \$20,900 per acre. This is their first counter offer to CCJWRD.</b>
9/23/2021	Sent farm lease to Joe
10/4/2021	Sent farm lease to Joe
10/4/2021	Call with Kristie - returned her call and left message. Kristie called me back: She wants to know why we won't just accept their appraisal. We talked about how there are differences in how appraisals are made and what's right. Told her I would sign onto something a bit lower (\$16 or \$17- pending CCJWRD approval). I never said their appraisal would be the final word.
<b>Various</b>	<b>Multiple minor discussions with attorney regarding appraisal status</b>





Commencing at the southwest corner of said Southwest Quarter; thence North 87°38'03" East, along the southerly line of said Southwest Quarter, for a distance of 60.00 feet to a point of intersection with the easterly line of the West 60.00 feet of said Southwest Quarter and the true point of beginning; thence continue North 87°38'03" East, along the southerly line of said Southwest Quarter, for a distance of 2418.78 feet to the southwest corner of a tract described in Document No. 1270308, on file at the Cass County Recorder's Office; thence North 35°23'22" West, along the westerly line of said tract, for a distance of 288.58 feet to a point of tangential curve to the left having a radius of 187.71 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 180.18 feet, through a central angle of 54°59'56"; thence South 89°36'42" West, along the westerly line of said tract, for a distance of 216.40 feet to a point of tangential curve to the right having a radius of 1170.42 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 245.13 feet, through a central angle of 12°00'00"; thence North 78°23'18" West, along the westerly line of said tract, for a distance of 163.00 feet to a point of tangential curve to the right having a radius of 843.01 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 228.03 feet, through a central angle of 15°29'53"; thence North 62°53'26" West, along the westerly line of said tract and along the westerly line of a tract described in Document No. 1270307, on file at the Cass County Recorder's Office, for a distance of 367.90 feet to a point of tangential curve to the right having a radius of 597.46 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 172.06 feet, through a central angle of 16°30'00"; thence North 46°23'26" West, along the westerly line of said tract, for a distance of 981.90 feet to a point of tangential curve to the right having a radius of 310.98 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 239.68 feet, through a central angle of 44°09'36"; thence North 02°13'50" West, along the westerly line of said tract, for a distance of 374.80 feet to a point of tangential curve to the left having a radius of 90.09 feet; thence northwesterly, along the westerly line of said tract and along said curve, for a distance of 98.24 feet, through a central angle of 62°28'41" to a point of intersection with the easterly line of the West 60.00 feet of said Southwest Quarter; thence South 02°06'37" East, along the easterly line of the West 60.00 feet of said Southwest Quarter, for a distance of 2155.86 feet to the true point of beginning.

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OIN 1086

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Together with

A 40.00-foot-wide strip of land, being centered on the following described line:

Beginning at the above-described Point A; thence North  $90^{\circ}00'00''$  for a distance of 125.00 feet, said line there terminating. Said strip shall be shortened to intersect a line that is 15.00 feet easterly of and parallel with a line bearing North  $03^{\circ}04'56''$  West passing through said Point A.

Together with

A 25.00-foot-wide strip of land, lying southerly of and being coincident with the following described line:

Beginning at the above-described Point B; thence North  $87^{\circ}34'17''$  East, along the southerly line of the North 27.00 feet of said Southwest Quarter, for a distance of 2295.76 feet to a point of intersection with the easterly line of said Southwest Quarter, said line there terminating. Said strip shall be lengthened or shortened as



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Together with

A 40.00-foot-wide strip of land, being centered on the following described line:

Beginning at the above-described Point A; thence North  $90^{\circ}00'00''$  for a distance of 125.00 feet, said line there terminating. Said strip shall be shortened to intersect a line that is 15.00 feet easterly of and parallel with a line bearing North  $03^{\circ}04'56''$  West passing through said Point A.

Together with

A 25.00-foot-wide strip of land, lying southerly of and being coincident with the following described line:

Beginning at the above-described Point B; thence North  $87^{\circ}34'17''$  East, along the southerly line of the North 27.00 feet of said Southwest Quarter, for a distance of 2295.76 feet to a point of intersection with the easterly line of said Southwest Quarter, said line there terminating. Said strip shall be lengthened or shortened as

necessary to intersect a line that is 15.00 feet easterly of and parallel with a line bearing South 58°30'10" East from said Point B, and to intersect the easterly line of said Southwest Quarter on the east.

Said tract contains 1.518 acres, more or less.

The property described above is the "Necessary Property."

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

¶8] The District sent a written offer of just compensation to Landowner by certified mail, along with an appraisal, addendum to appraisal and purchase agreement, on April 14, 2021. A copy of the offer (without the appraisal and addendum to appraisal that was included) is attached as **Exhibit 1**.

¶9] On June 3, 2021, the District sent Landowner a written request for a meeting, by certified mail; the District and Landowner have not reached an agreement regarding compensation, and more than fifteen days have passed since Landowner's receipt of the offer. A copy of the written request for a meeting with Landowner is attached as **Exhibit 2**.

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

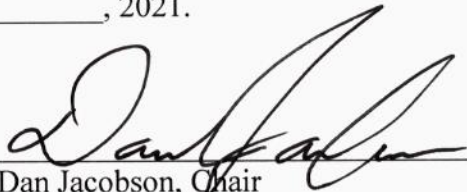
¶11] On July 23, 2021, the District sent Landowner a written notice of intent to take possession of the Right of Way and Easement for Term of Years, by certified mail. A copy of the notice of intent is attached as **Exhibit 3**.

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

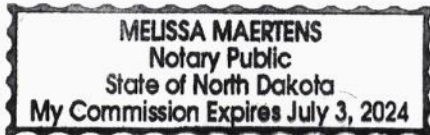
or threatened quick take eminent domain during the course of negotiations with Landowner since August 1, 2017.

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

Dated this 8<sup>th</sup> day of October, 2021.

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

Subscribed to and sworn to before me this 8<sup>th</sup> day of October, 2021.



  
\_\_\_\_\_  
Notary Public

(SEAL)