



MEMORANDUM

**Highway
Department**

Jason Benson, P.E.
County Engineer

Thomas B. Soucy, P.E.
Deputy County Engineer

Blaine Laaveg
Superintendent

TO: Cass County Commission

FROM: Jason Benson, Cass County Engineer *JPB*

DATE: September 21, 2022

SUBJECT: Agenda Item for October 5th, 2022 Commission Meeting:
Transfer of Highway ND10 of the NDDOT to Cass County

Cass County has been working with the Metro Flood Diversion Authority (MFDA) and the North Dakota Department of Transportation (NDDOT) for a number of years on the transfer of a two mile segment of North Dakota Highway 10 (ND10) also known as the Interstate 94 frontage road. This transfer is discussed on page 18 in the memorandum of understanding signed on December 7, 2020 between the MFDA and Cass County for the Storm Water Diversion Channel and Associated Infrastructure (SWDCAI) (see attachment #1),

This transfer of ND10 is needed for the SWDCAI construction as this two-mile highway segment will be cut by the channel construction without a bridge connecting over the channel. Once the SWDCAI is constructed this two-mile segment will be split into an east segment approximately 0.3 miles in length and a west segment approximately 1.25 miles in length (see attached map). In the past year this transfer of ND10 to Cass County has been discussed between the Cass County Highway Department and the NDDOT Fargo District. The NDDOT has moved forward with a Quitclaim Deed conveying the ND10 right of way (ROW) to Cass County. These documents are now complete and the NDDOT is prepared to transfer this ROW to Cass County. The Cass County Highway Department has reviewed the Quitclaim Deed and approves of its transfer.

Along with the ROW, Cass County will also take responsibility of all future road maintenance of ND10. Due to the road being split by the SWDCAI, this road is not expected to have significant traffic volumes or future road maintenance. However, as part of these discussions, the NDDOT has acknowledged there are issues with the existing ND10 bridge over Drain 14. As part of this transfer process, the NDDOT is planning to complete a bridge deck replacement project on this bridge during the summer of 2023.

1201 Main Avenue West
West Fargo, North Dakota
58078-1301

701-298-2370
Fax: 701-298-2395

Cass County will take responsibility for the road maintenance on October 17, 2022. Cass County will then take responsibility for the bridge maintenance upon the completion of the bridge deck replacement project in 2023. By transferring the roadway to Cass County now, it provides for the Red River Valley Alliance and ASN Constructors to move forward in 2023 with any proposed work within the limits of ND10.

SUGGESTED MOTION: Accept the transfer to Cass County of the right of way as described in the quitclaim deed with the North Dakota Department of Transportation for the Interstate 94 frontage road, known as ND10, from the Kindred interchange to the Raymond interchange. Accept the transfer of road maintenance of this segment of highway to Cass County on October 17, 2022 and transfer bridge maintenance on the ND10 bridge over Drain 14 upon completion of the bridge deck replacement project in 2023. Approve the new name of this highway to be designated as Cass Highway 40.

Attachment #1

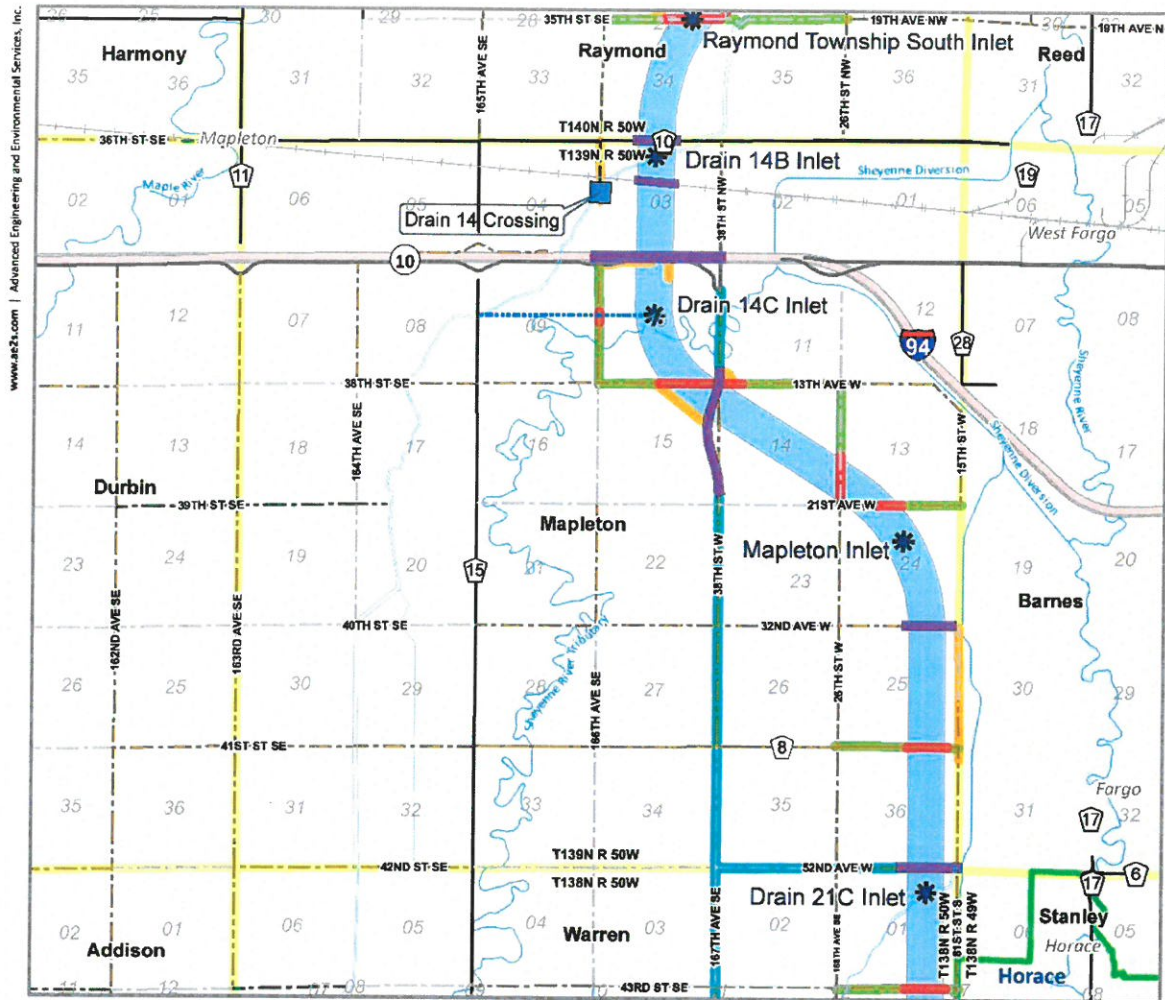
Frontage Road guidance from the memorandum of understanding signed in December 7, 2020 between the Metro Flood Diversion Authority and Cass County, page 18:

(c) NDDOT will convey its interest in the Frontage Road to the County under the terms of the memorandum of understanding entered by and between the NDDOT and the Authority for the SWDCAI.

Frontage Road guidance from the memorandum of understanding signed in February 1, 2022 between the Metro Flood Diversion Authority and the North Dakota Department of Transportation, page 17:

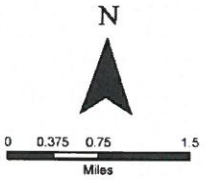
Section 5.11 FRONTAGE ROAD. Between 166th Avenue Southeast and the SWDCAI, the Authority will convert the Frontage Road to a minimum maintenance roadway by reclaiming/milling the existing asphalt. The Authority will install a gate on the east side of 166th Avenue Southeast. The remainder of the Frontage Road – between the SWDCAI and 38th Street Northwest and between 165th Avenue Southeast and 166th Avenue Southeast – will remain paved. That portion of the Frontage Road remaining between the SWDCAI and 38th Street Northwest will be utilized as a means to access the multi-use road/trail being constructed as part of the SWDCAI. The Authority will install a T-Type cul-de-sac for a Single Unit vehicle, as shown in Figure 5-1G of the AASHTO A Policy on Geometric Design of Highways and Streets, at the east side of the SWDCAI to allow access to the multi-use road/trail and to provide a turnaround for vehicles.

Attachment #2



Legend			
	Aqueduct		Township Road Closure
	Inlet Structures		Township Road Can Remain Open
	Drain Crossings		Mobility Improvements
	Channel/SE Crossings		New Gravel Road
	Channel		Other Agency Roadway Improvements
	Drain Construction		Railroad
	Township - Trail/Grass		County Road - Gravel
	Township - Unimproved		County Road - Paved
	Township - Dirt		State or US Highway
	Township - Gravel		Interstate
	Township - Paved		Township Boundary
	City of Horace		

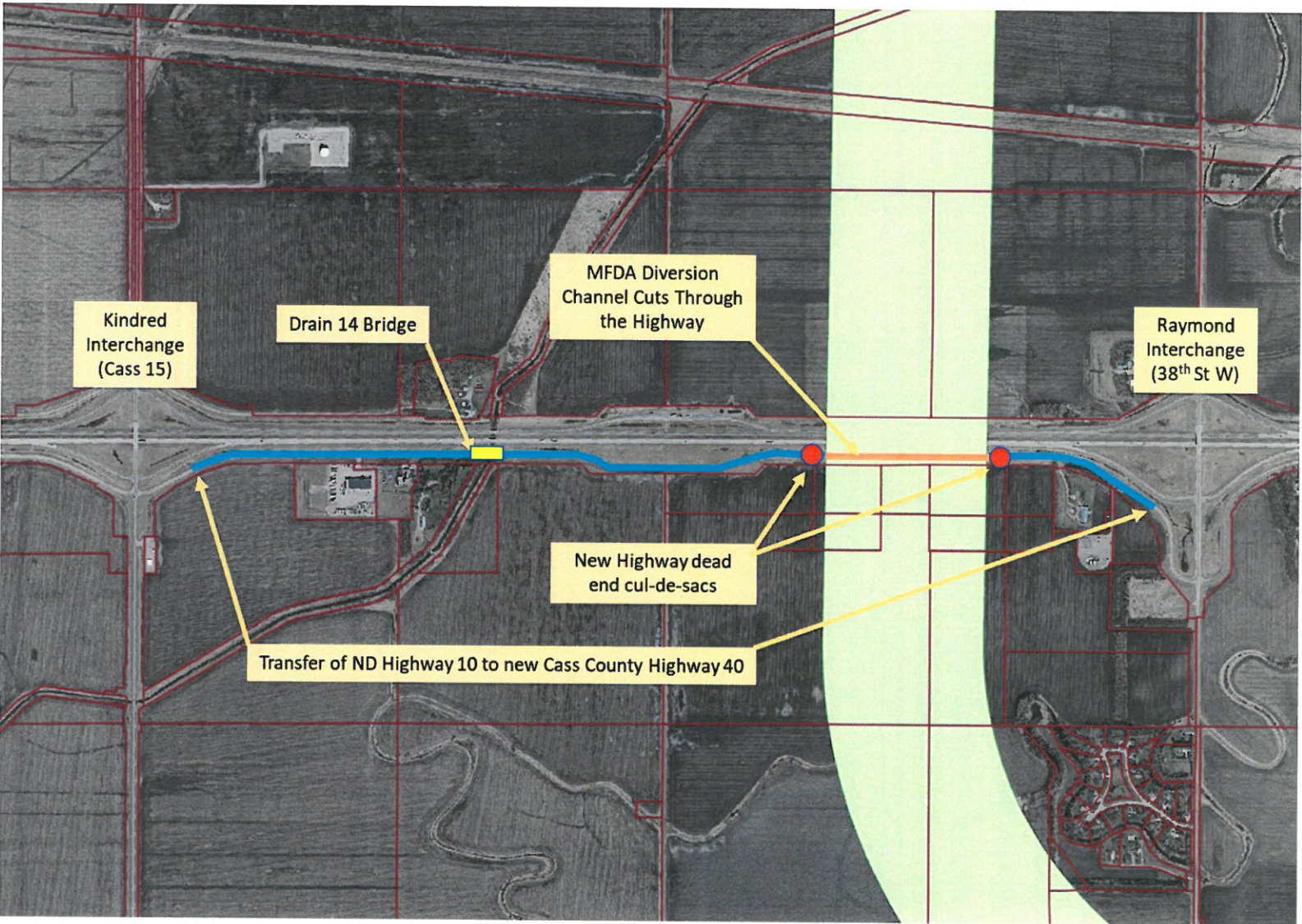
Any reliance upon this map is of user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. All parcel acreages and legal descriptions shown hereon are based on County GIS data. Final acreages and legal descriptions to be determined by boundary survey. Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Produced By: cwickenhiser - AE2S, Inc. | C:\Data\Projects\GIS\Projects\FM Area Diversion\Projects\Land Acquisition\Project Work Package\Project Wide\Overall LA Maps\WOU byTownship 8 x11.mxd



Mapleton

FM Area Diversion
Map Date: 10/7/2020





September 20, 2022

JASON BENSON
CASS COUNTY ENGINEERING DEPA
1201 W MAIN AVENUE
WEST FARGO, ND 58078

Re: West Fargo Diversion Project
PCN 20181

Mr. Benson:

Enclosed please find the original recorded Quit Claim Deed, from the State of North Dakota to the County of Cass, North Dakota, for the above referenced project. It includes lands located within Sections 9 & 10; Township 139 N; Range 50 W. This document should be retained by the County of Cass.

If you need any additional information, please feel free to contact Mr. Bob Walton, Director of the Fargo District Administration at 701-239-8903 or bwalton@nd.gov.

Respectfully submitted,

Mary L Fahlsing

Mary L Fahlsing
Admin Officer II
ETS/ROW Division



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8/31/2022 8:42 AM
QCD \$0.00

ND DEPARTMENT OF TRANSPORTATION

NDDOT Contract No. 19221146

**North Dakota Department of Transportation
QUITCLAIM DEED (State to Others)**

PCN: 20181

PROJECT:

PARCEL(S): 1-1, 2-1, 3-1 & 4-1

This deed, made this 18 day of August 2022, between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as Grantor, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and the County of Cass, North Dakota, hereinafter referred to as the Grantee(s), whose address is PO Box 2806, Fargo, North Dakota 58108-2806.

WITNESSETH, that the Grantor, for and in consideration of the sum of 10,000/100 Dollars, the receipt of which is hereby acknowledged, do BARGAIN, SELL, REMISE, RELEASE, QUITCLAIM, and CONVEY to the Grantee(s) its heirs and assigns, FOREVER, all its right, title, interest, claim, or demand in and to that tract or parcel of land lying and being in Cass County, State of North Dakota and more specifically described as follows, to wit:

Parcel 1-1

A portion of the N 1/2 of the NW 1/4 of Section 9, Township 139 N, Range 50 W, of the 5th Principal Meridian, County of Cass, State of North Dakota, as shown on plat 1 of 4 and described as follows:

Commencing at the NW 1/4 of section 9; thence southerly along the west line of section 9, S 2 deg. 33 min. 52 sec. E a distance of 258.47 feet; thence N 87 deg. 26 min. 08 sec. E a distance of 200.00 feet to the point of beginning; thence N 60 deg. 19 min. 16 sec. E a distance of 479.61 feet to the beginning of a tangent curve, concave to the right, southerly, having a radius of 989.93 feet; thence easterly along said curve 93.04 feet through a central angle of 5 deg. 23 min. 07 sec. to the end of the curve; thence N 87 deg. 04 min. 02 sec. E along a line that is 33 feet southerly of and parallel with the north line of section 9 a distance of 1928.81 feet; thence S 2 deg. 34 min. 17 sec. E along the 1/4 line a distance of 42.00 feet; thence S 87 deg. 04 min. 02 sec. W along a line that is 75 feet southerly of and parallel with the north line of section 9 a distance of 1568.02 feet; to the beginning of a tangent curve, concave to the left, southerly, having a radius of 879.93 feet; thence westerly along said curve 410.76 feet through a central angle of 26 deg. 44 min. 46 sec. to the end of the curve; thence S 60 deg. 19 min. 16 sec. W a distance of 310.94 feet; thence S 51 deg. 06 min. 08 sec. W a distance of 248.61 feet; thence N 2 deg. 33 min. 45 sec. W along a line that is 200 feet easterly of and parallel with the west line of section 9 a distance of 168.33 feet to the point of beginning.

Said parcel is shown on the plat as parcel 1-1 and contains 3.62 acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION

The legal description was prepared by Gregory A. Kolden, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota, 58505-0700.

Parcel 2-1

A portion of the N 1/2 of the NE 1/4 of Section 9, Township 139 N, Range 50 W, of the 5th Principal Meridian, County of Cass, State of North Dakota, as shown on plat 2 of 4 and described as follows:

Commencing at the north 1/4 corner of section 9, thence southerly along the 1/4 line of section 9, S 2 deg. 34 min. 34 sec. E a distance of 33.00 feet to the point of beginning; thence N 87 deg. 03 min. 59 sec. E along a line that is 33 feet southerly

No PINs



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ND DEPARTMENT OF TRANSPORTATION

of and parallel with north line of section 9 a distance of 1982.21 feet; thence S 78 deg. 45 min. 59 sec. E a distance of 171.59 feet; thence N 87 deg. 04 min. 01 sec. E along a line that is 75 feet southerly of and parallel with north line of section 9 a distance of 464.28 feet; thence S 2 deg. 31 min. 10 sec. E along a line that is 33 feet westerly of and parallel with the east line of section 9 a distance of 100.00 feet; thence S 87 deg. 04 min. 01 sec. W along a line that is 175.00 feet southerly of and parallel with north line of section 9 a distance of 711.00 feet; thence N 50 deg. 08 min. 06 sec. W a distance of 147.17 feet; thence S 87 deg. 03 min. 59 sec. W along a line that is 75 feet southerly of and parallel with north line of section 9 a distance of 1793.41 feet; thence N 2 deg. 34 min. 17 sec. W along the 1/4 line a distance of 42.00 feet to the point of beginning.

Said parcel is shown on the plat as parcel 2-1 and contains 3.75 acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION

The legal description was prepared by Gregory A. Kolden, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota, 58505-0700.

Parcel 3-1

A portion of the NW 1/4 of Section 10, Township 139 N, Range 50 W, of the 5th Principal Meridian, County of Cass, State of North Dakota, as shown on plat 3 of 4 and described as follows:

Commencing at the NW corner of section 10, thence southerly along the west line of section 10, S 02 deg. 31 min. 10 sec. E a distance of 75.00 feet; thence N 87 deg. 28 min. 50 sec. E a distance of 33.00 feet to the point of beginning; thence N 87 deg. 17 min. 45 sec. E along a line that is 75 feet southerly of and parallel with the north line of section 10 a distance of 594.23 feet; thence N 69 deg. 05 min. 34 sec. E a distance of 134.45 feet; thence N 87 deg. 17 min. 45 sec. E along a line that is 33 feet southerly of and parallel with north line of section 10 a distance of 1894.30 feet; thence S 2 deg. 27 min. 47 sec. E along the 1/4 line a distance of 42.00 feet; thence S 87 deg. 17 min. 45 sec. W along a line that is 75 feet southerly of and parallel with the north line of section 10 a distance of 1652.92 feet; thence S 42 deg. 22 min. 46 sec. W a distance of 141.63 feet; thence S 87 deg. 17 min. 45 sec. W along a line that is 175 feet southerly of and parallel with north line of section 10 a distance of 863.18 feet; thence N 2 deg. 31 min. 10 sec. W along a line that is 33 feet easterly of and parallel with west line of section 10 a distance of 100.00 feet to the point of beginning.

Said parcel is shown on the plat as parcel 3-1 and contains 3.98 acres more or less, and is subject to any easements or rights of way previously acquired.

END OF DESCRIPTION

The legal description was prepared by Gregory A. Kolden, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota, 58505-0700.

Parcel 4-1

A portion of the N 1/2 of the NE 1/4 of Section 10, Township 139 N, Range 50 W, of the 5th Principal Meridian, County of Cass, State of North Dakota, as shown on plat 4 of 4 and described as follows:

Commencing at the N 1/4 corner of section 10; thence southerly along the 1/4 line S 02 deg. 27 min. 47 sec. E a distance of 33.00 feet to the point of beginning; thence N 87 deg. 17 min. 45 sec. E along a line that is 33 feet southerly of and parallel with the north line of section 10 a distance of 1511.93 feet; thence S 77 deg. 23 min. 27 sec. E a distance of 199.53 feet; thence S 57 deg. 03 min. 38 sec. E a distance of 721.43 feet; thence S 2 deg. 24 min. 46 sec. E a distance of 317.19 feet; thence N 22 deg. 26 min. 49 sec. W a distance of 261.78 feet; thence N 57 deg. 03 min. 38 sec. W a distance of 669.78 feet; thence N 77 deg. 23 min. 27 sec. W a distance of 422.50 feet; thence S 87 deg. 17 min. 45 sec. W along a line that is 75 feet southerly of and parallel with the north line of section 10 a distance of 1248.99 feet; thence N 2 deg. 27 min. 47 sec. W along the 1/4 line of section 10 a distance of 42.00 feet to the point of beginning.



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ND DEPARTMENT OF TRANSPORTATION

Said parcel is shown on the plat as parcel 4-1 and contains 4.20 acres more or less, and is subject to any easements or rights of way previously acquired.
END OF DESCRIPTION

The legal description was prepared by Gregory A. Kolden, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota, 58505-0700.

Reserving and excepting therefrom, the right of access, ingress and egress, to and from Interstate 94. The right of access shall remain as full access control to be retained by the North Dakota Department of Transportation as shown on Relinquishment Plat ND 10.

The above parcels are burdened by permitted utility installations. The permitted utilities shall remain in place and be re-permitted by Cass County Highway Department as necessary. All costs to relocate these permitted utilities shall be the responsibility of the party requesting relocation of said utilities. Utility permits of record are available from the Fargo District Office and listed below.

Permittee	Permit Number(s)
Cass County Electric Cooperative	81736, 80586
NuStar Pipeline Operating Partnership L.P.	81678
Midcontinent Communication	81359, 81265
CenturyLink	80245, 80625, 80048
Otter Tail Power Company	81345, 81343, 81342
Dickey Rural Network	81698, 81701
Cass Rural Water Users	80325

This conveyance is contingent upon the above parcels remaining in public ownership, to be used for highway and stormwater diversion purposes. Should these conditions no longer be met, title to the above parcels will revert to and vest in and become absolute property of the Grantor and its assigns.

The Grantee, for him or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the property described in this deed for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Grantee will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

That in the event of breach of any of the above Non-discrimination covenants, the State of North Dakota will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the State of North Dakota and its assigns.

AUDITOR'S OFFICE
COUNTY OF CASS, NORTH DAKOTA
31 August 20 22
Taxes and Special Assessments paid
and transfer entered.
B. Madigan AUDITOR
CS DEPUTY





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ND DEPARTMENT OF TRANSPORTATION

TO HAVE AND TO HOLD, the above quitclaimed premises, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining to the Grantee(s) its heirs and assigns, forever.

IN TESTIMONY WHEREOF, the state of North Dakota has caused this instrument to be executed in the name of the state of North Dakota by the Governor of the state of North Dakota, on recommendation of the Director of the North Dakota Department of Transportation, and who has affixed his signature hereto and the seal of the state of North Dakota.

The above-described property was acquired by the state of North Dakota for the use and benefit of the North Dakota Department of Transportation by purchase. As required by Section 24-01-28 of the North Dakota Century Code, I hereby recommend to the Governor that this transaction be completed.

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

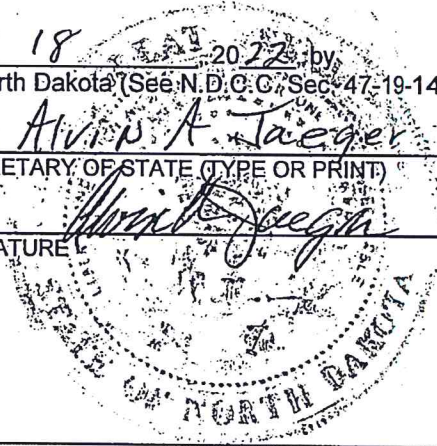
for Ronald Henke
the DIRECTOR (TYPE OR PRINT)
[Signature]
SIGNATURE

DOUGLAS J. BURGUM
GVERNOR (TYPE OR PRINT)
[Signature]
SIGNATURE

Attest:
STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH)

The foregoing instrument was executed before me, this August 18, 2022, by
Douglas J. Burgum, Governor of the State of North Dakota (See N.D.C.C. Sec. 47-19-14.5 et seq.)

Avin A. Jaeger
SECRETARY OF STATE (TYPE OR PRINT)
[Signature]
SIGNATURE



APPROVED as to form this
3rd day of August, 2022
ATTORNEY GENERAL
By [Signature]
SPECIAL ASST. ATTORNEY GENERAL

NDDOT USE ONLY

I certify that the full consideration paid for the property described in this deed is \$ None
(transfer title)
North Dakota Department of Transportation

MARK S. Gaydos As Agent
MARK S. GAYDOS, Director of Environmental & Transportation Services

Date August 18, 2022

For Recording Purposes Only

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ND DEPARTMENT OF TRANSPORTATION

RECORDER'S OFFICE, CASS COUNTY, ND
I CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD THIS DATE.
DEBORAH A. MOELLER, COUNTY RECORDER

8/31/2022 8:42 AM

by Teresa A. Kyrle, Deputy

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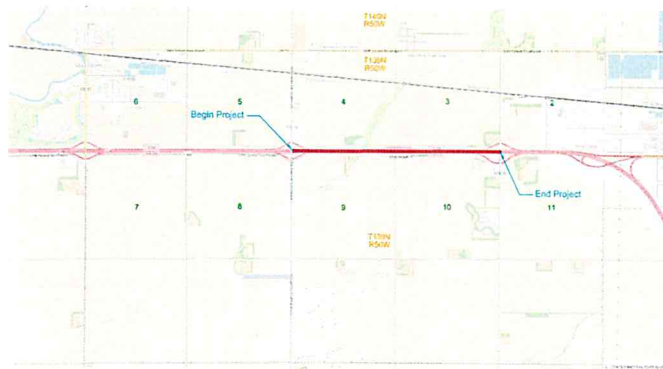
SURVEYOR'S SEAL

This document was originally issued and sealed by Gregory A. Kalden, Registration Number LS 4722 on 08/23/22 and the original document is stored at the County Recorder's Office.

15/
Gregory A. Kalden
REGISTERED LAND SURVEYOR
08/23/2022
DATE

For Recording Purposes Only

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY PLAT of
RELINQUISHMENT PLAT ND 10
PCN. 20181
In
CASS COUNTY

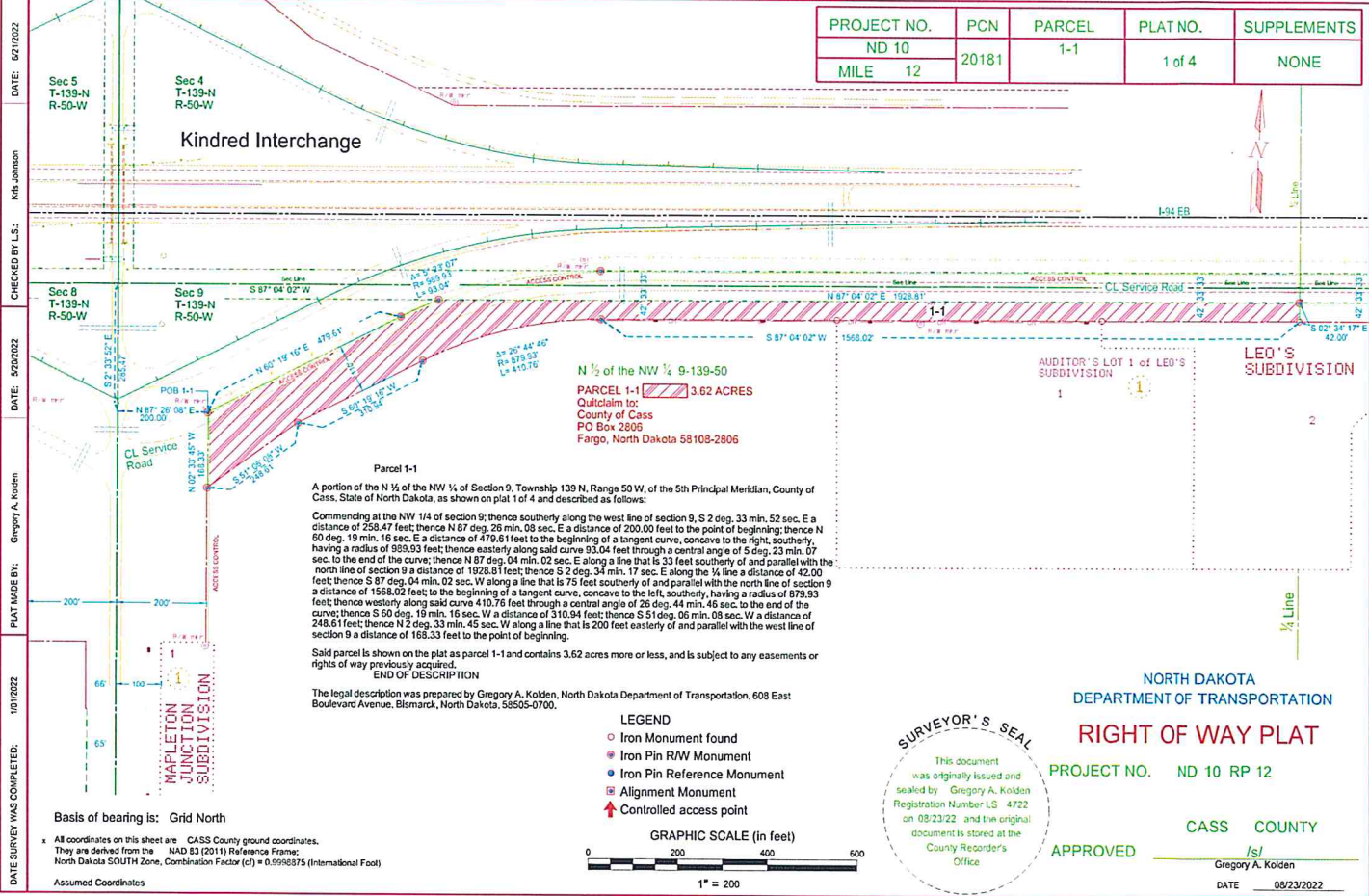


PLAT NO.	PARCELS
1 of 4	1-1
2 of 4	2-1
3 of 4	3-1
4 of 4	4-1



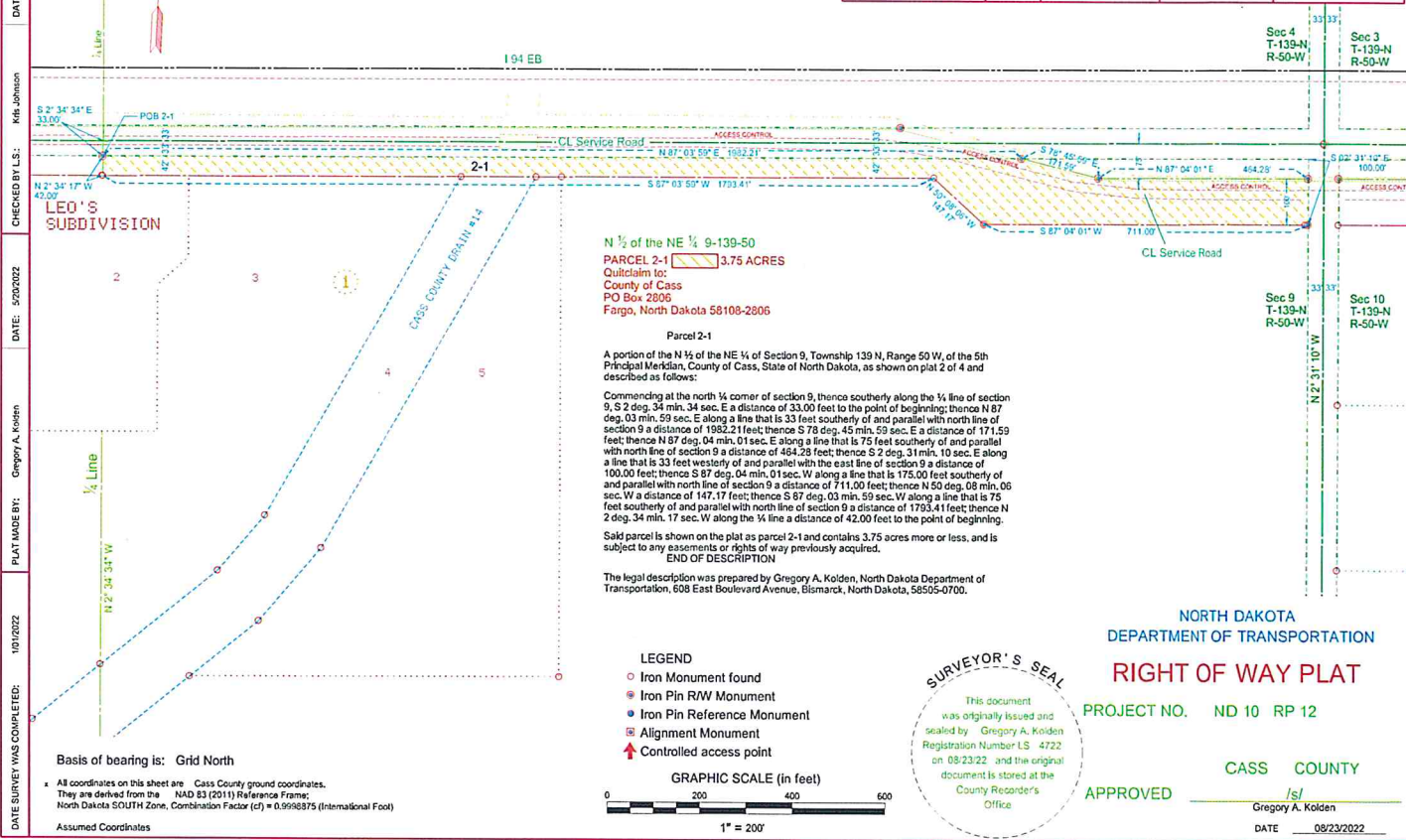
SKETCH MAP OF NORTH DAKOTA

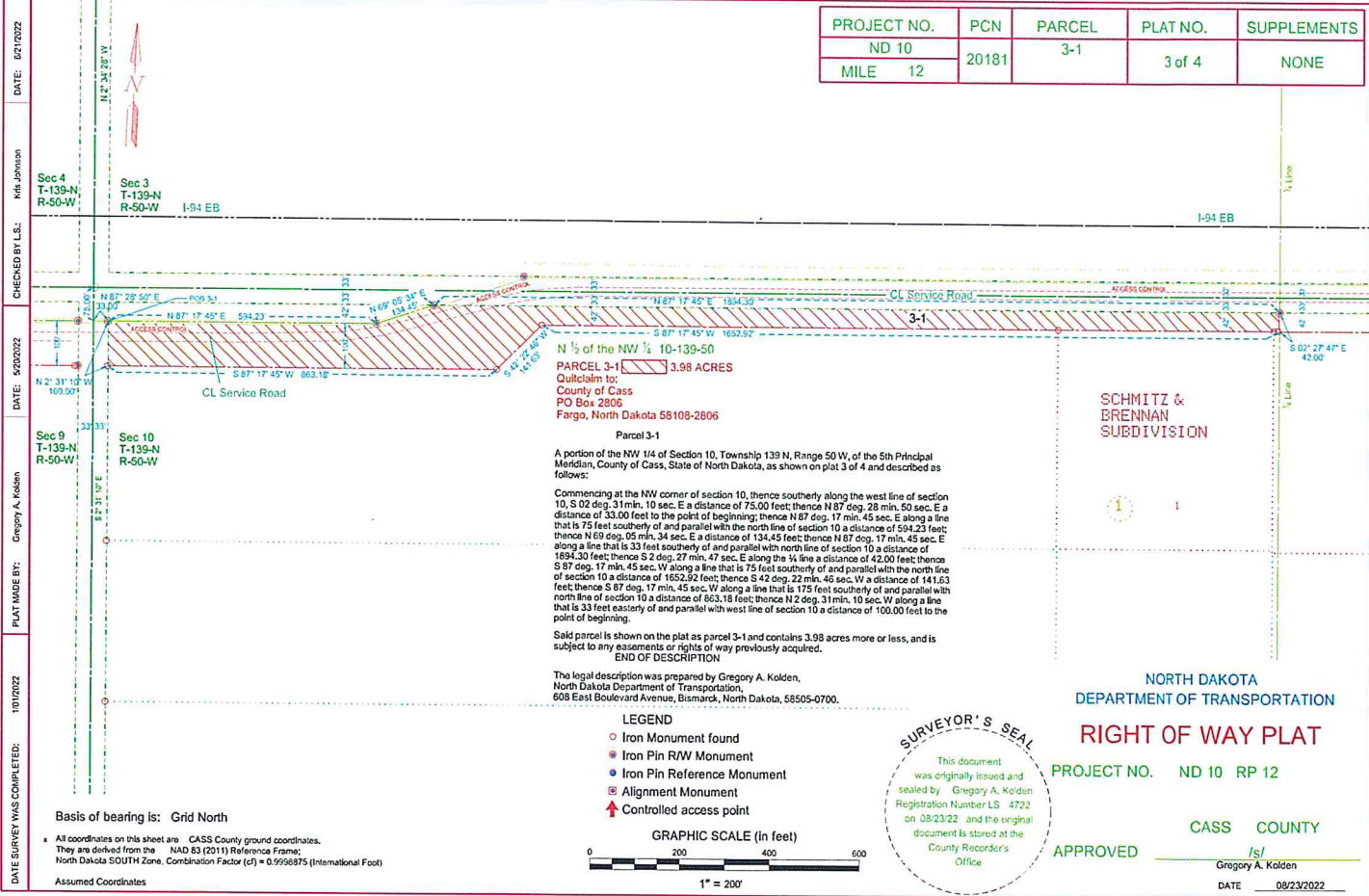
DOC # 11674236 (8-31-22)



DATE: 02/12/2022
 CHECKED BY: Kik Johnson
 DATE: 5/20/2022
 PLAT MADE BY: Gregory A. Kolden
 DATE SURVEY WAS COMPLETED: 10/1/2022

PROJECT NO.	PCN	PARCEL	PLAT NO.	SUPPLEMENTS
ND 10	20181	2-1	2 of 4	NONE
MILE 12				





PROJECT NO.	PCN	PARCEL	PLAT NO.	SUPPLEMENTS
ND 10	20181	3-1	3 of 4	NONE
MILE 12				

Parcel 3-1
 N 1/2 of the NW 1/4 10-139-50
 3.98 ACRES
 Quitclaim to:
 County of Cass
 PO Box 2806
 Fargo, North Dakota 58108-2806

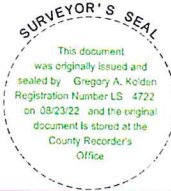
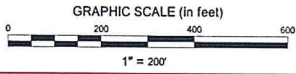
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END OF DESCRIPTION
 The legal description was prepared by Gregory A. Kolden,
 North Dakota Department of Transportation,
 608 East Boulevard Avenue, Bismarck, North Dakota, 58505-0700.

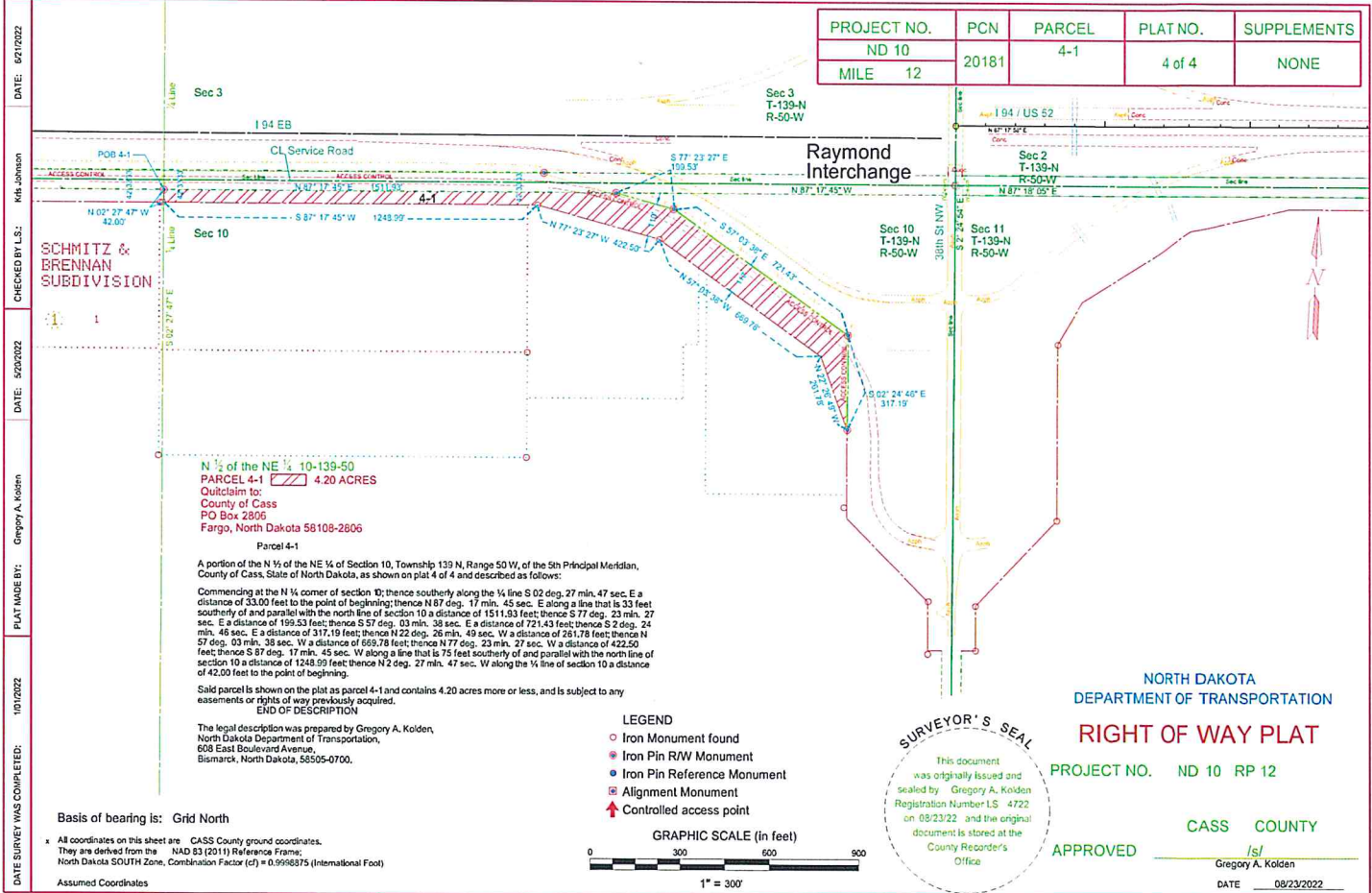
- LEGEND**
- Iron Monument found
 - Iron Pin R/W Monument
 - Iron Pin Reference Monument
 - Alignment Monument
 - ▲ Controlled access point



NORTH DAKOTA
 DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY PLAT
 PROJECT NO. ND 10 RP 12
 CASS COUNTY
 APPROVED _____ /s/_____
 Gregory A. Kolden
 DATE 08/23/2022

DATE: 02/10/2022
 CHECKED BY: L.S.: Mrs. Johnson
 DATE: 5/20/2022
 PLAT MADE BY: Gregory A. Kolden
 DATE SURVEY WAS COMPLETED: 10/10/2022

Basis of bearing is: Grid North
 * All coordinates on this sheet are CASS County ground coordinates.
 They are derived from the NAD 83 (2011) Reference Frame;
 North Dakota SOUTH Zone, Combination Factor (cf) = 0.9998975 (International Foot)
 Assumed Coordinates



MEMO

TO: William T. Panos

FROM: Mark S. Gaydos *MSG CMO*
Environmental & Transportation Services

DATE: August 3, 2022

SUBJECT: Relinquishment of Highway Facility – Highway 10 Near Fargo

Attached is a Quit Claim Deed (QCD) from the State of North Dakota to the County of Cass for relinquishment of right of way on a segment of Highway 10 adjacent to Interstate 94 near Fargo. This segment of Highway 10 will be severed by a stormwater diversion channel and associated infrastructure to provide flood protection for the region. The Cass County Highway Department will maintain the relinquished highway segments which will continue to serve the adjacent properties with access.

Because of the proximity to the interstate, the relinquishment was coordinated with, and approved by the Federal Highway Administration (FHWA).

The conveyance is without consideration and is made for the purpose of clearing title to the right of way for continued public use and highway purposes.

The QCD requires signature by yourself and Governor Burgum. If you have any questions, please give me a call at (701) 328-4417.

19/msg



U.S. Department
of Transportation
**Federal Highway
Administration**

North Dakota Division

June 15, 2022

4503 Coleman Street, Suite 205
Bismarck, North Dakota 58503
Phone 701-250-4204
Fax 701-250-4395

Ronald J. Henke
Deputy Director for Engineering
North Dakota Department of Transportation
608 East Boulevard Avenue
Bismarck, ND 58505-0700

Attention: Mark Gaydos, NDDOT

Subject: Relinquishment of Right of Way - Highway 10 - Fargo District - PCN 20181
Fargo-Moorhead Metropolitan Area Flood Risk Management Project

Dear Ron Henke:

Our office has received the North Dakota Department of Transportation (NDDOT) proposal to relinquish a portion of right of way to the Cass County Highway Department to construct a stormwater diversion channel and associated infrastructure. The segment of right of way is located on Highway 10 between Interstate 94 reference points 340 and 342 (165th Avenue Southeast and 38th Street Northwest), adjacent to the south side of Interstate 94.

We reviewed the subject proposal and determined they are in accordance with 23 CFR 620.203. Our office concurs with NDDOT's intent to relinquish the identified right of way to Cass County. If you have any questions, please contact Pam Todd at (701) 221-9477 or pamela.todd@dot.gov.

Sincerely yours,

Lee Potter, PE
Division Administrator

ecc: Chad Orn, NDDOT

June 1, 2022

Lee Potter
Division Administrator
Federal Highway Administration
Bismarck, North Dakota, 58503

Attn: Pam Todd, Civil Rights / Realty

Relinquishment of Right of Way – Highway 10 – Fargo District – PCN 20181
Fargo-Moorhead Metropolitan Area Flood Risk Management Project

The North Dakota Department of Transportation (NDDOT) plans to relinquish a portion of right of way on Highway 10 between Interstate 94 reference points 340 and 342 (165th Avenue Southeast and 38th Street Northwest) adjacent to the south side of Interstate 94. This segment of Highway 10 is not on the Federal-aid system and is a state highway. Highway 10 at this location was superseded by the interstate system and currently functions as a frontage road providing access to the adjacent properties and to the interstate. The right of way is proposed to be transferred to Cass County Highway Department for continued highway purposes.



The Metro Flood Diversion Authority (Authority) is constructing a storm water diversion channel and associated infrastructure (SWDCAI) as part of the diversion project. The SWDCAI will sever Highway 10 just to the east of 166th Avenue Southeast as shown on the above map.

Highway 10 from 165th Avenue Southeast to 166th Avenue Southeast will remain paved and provide access to the adjacent property. Between 166th Avenue Southeast and the SWDCAI, Highway 10 will be converted to a minimum maintenance roadway by reclaiming/milling the existing asphalt. The Authority intends to install a T-Type cul-de-sac and gate on the east side of 166th Avenue Southeast just west of the SWDCAI.

Highway 10 from the SWDCAI to 38th Street Northwest will remain paved and provide access to the adjacent property and will also be used to access a multi-use road/trail being constructed as part of the SWDCAI.

The relinquished roadway will continue to provide access to the adjacent properties and to the interstate.

The existing right of way for Highway 10 was acquired in the 1940's and is comprised of a combination of section line and acquired right of way. Additional right of way was acquired in the 1950's, 1970's and 2003 for the construction of the interstate, weigh stations, interchanges, and ramp modifications. Currently, access control is provided between the Interstate 94 and Highway 10, and at the interchanges located at reference points 340 and 342 as shown. No changes are proposed for the access control. Any permitted utilities located within the existing right of way will be transferred to the Cass County Highway Department or relocated as part of the overall diversion project.

The Fargo District has reviewed the remaining right of way and determined the right of way is sufficient to operate and maintain Interstate 94 now and in the future. The SWDCAI is part of an important public project to provide flood protection to the Metro area. Because Highway 10 serves only a local function at this location, the NDDOT plans to relinquish the right of way parcels to the Cass County Highway Department by quitclaim deed. The relinquishment provides for continued public use, is in the public interest, and benefits the public. Applicable reversionary provisions for non-public use and ownership will be included in the quitclaim deed.

In summary and in accordance with 23 CFR 620.203(i) & (j):

- The subject land will not be needed for Federal-aid highway purposes in the foreseeable future.

Highway 10 at this location is not on the Federal-aid system but is on the State system. Highway 10 is being severed because of the construction of a storm water diversion channel that provides flood management for the Fargo-Moorhead metropolitan area. The construction of Interstate 94 supersedes Highway 10 and replaced the primary function as a through highway but maintained the secondary function of local access. Relinquishment of Highway 10 was originally planned with the completion of Interstate 94 but was not transferred because Cass County was not a willing participant.

- The right of way being retained is adequate under present day standards for the facility.

Highway 10 was constructed prior to Interstate 94. Interstate 94 right of way was acquired north of the existing Highway 10 right of way and included the addition of interchanges and interchange modifications. The relinquishment retains sufficient right of way for future improvements and maintenance of the eastbound Interstate 94. The right of way retained at the interchanges is consistent with the original acquisitions. The widened area that was once a weigh scale is being retained for future purposes such as traffic management or electric vehicle charging.

Lee Potter
June 1, 2022
Relinquishment of Right of Way – Highway 10

- The release does not adversely affect the Federal-aid highway purposes or the traffic thereon.

The relinquishment of Highway 10 right of way does not change access control between the roadways or at ingress and egress at the existing interchange locations to Interstate 94. Highway 10 is no longer part of the Federal-aid system and does not impact traffic operations or safety on Interstate 94 as a result of the proposed relinquishment.

- The lands to be relinquished are not suitable for retention in order to restore, preserve, or improve the scenic beauty adjacent to the highway.

The land is currently and will continue to be used for highway purposes. The land was disturbed during the initial construction of the Highway 10 and is not of particular scenic beauty or historical significance.

Because this land is adjacent to the Interstate 94 right of way, your concurrence is requested in this relinquishment and transfer of the property by quitclaim deed to Cass County for the use and benefit of the Cass County Highway Department.

If you have any questions, please contact me at 701 328 4417 or mgaydos@nd.gov.



Mark S. Gaydos
Division Director – Environmental and Transportation Services

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Enclosures
- Hwy 10 Existing Plats.pdf

September 21, 2022

«CTitle» «First» «Last»
«Title»
«Department»
«Agency»
«Address»
«City», «State» «Zip»

PROJECT NO. BRO-8-010(048)013, PCN 23628
DECK REPLACEMENT
CASS COUNTY

The North Dakota Department of Transportation, in cooperation with the Federal Highway Administration, is proposing a structure improvement project at Bridge Number 0010-013.192, which carries ND Highway 10 traffic over the Legal Drain 14 approximately 8 miles west of I-29 at NE ¼ Sec 9, T139N, R50W and SE ¼ Sec 4, T139N, R50W. A project location map is enclosed with this letter.

The project consists of the replacing the deck on the existing 30'x80' prestressed concrete spread box beam bridge on ND Highway 10. It is anticipated that the bridge will be closed during construction and a detour will be necessary to bypass the construction site. A temporary bypass is not anticipated for this project.

This project is expected to be constructed during the 2023 construction season.

The project will not require the acquisition of permanent or temporary right-of-way.

To ensure that all social, economic, and environmental effects are considered in the development of this project, we are soliciting your views and comments on the proposed project pursuant to Section 102(2) (D) (IV) of the National Environmental Policy Act of 1969, as amended. We are particularly interested in any property which your department may own or have an interest in and which would be adjacent to the proposed roadway improvement. We would also appreciate being made aware of any proposed developments your department may be contemplating in the areas under consideration for the proposed roadway facility. Any information that might help us in our studies would be appreciated.

Information or comments relating to environmental or other matters that you might furnish will be used in determining if this project is a "categorical exclusion" or whether an "Environmental

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Assessment" or a "Draft Environmental Impact Statement" will be prepared.

It is requested that any comments or information be forwarded to our office on or before 10/21/2022. If no reply is received by this date, it will be assumed that you have no comment on this project.

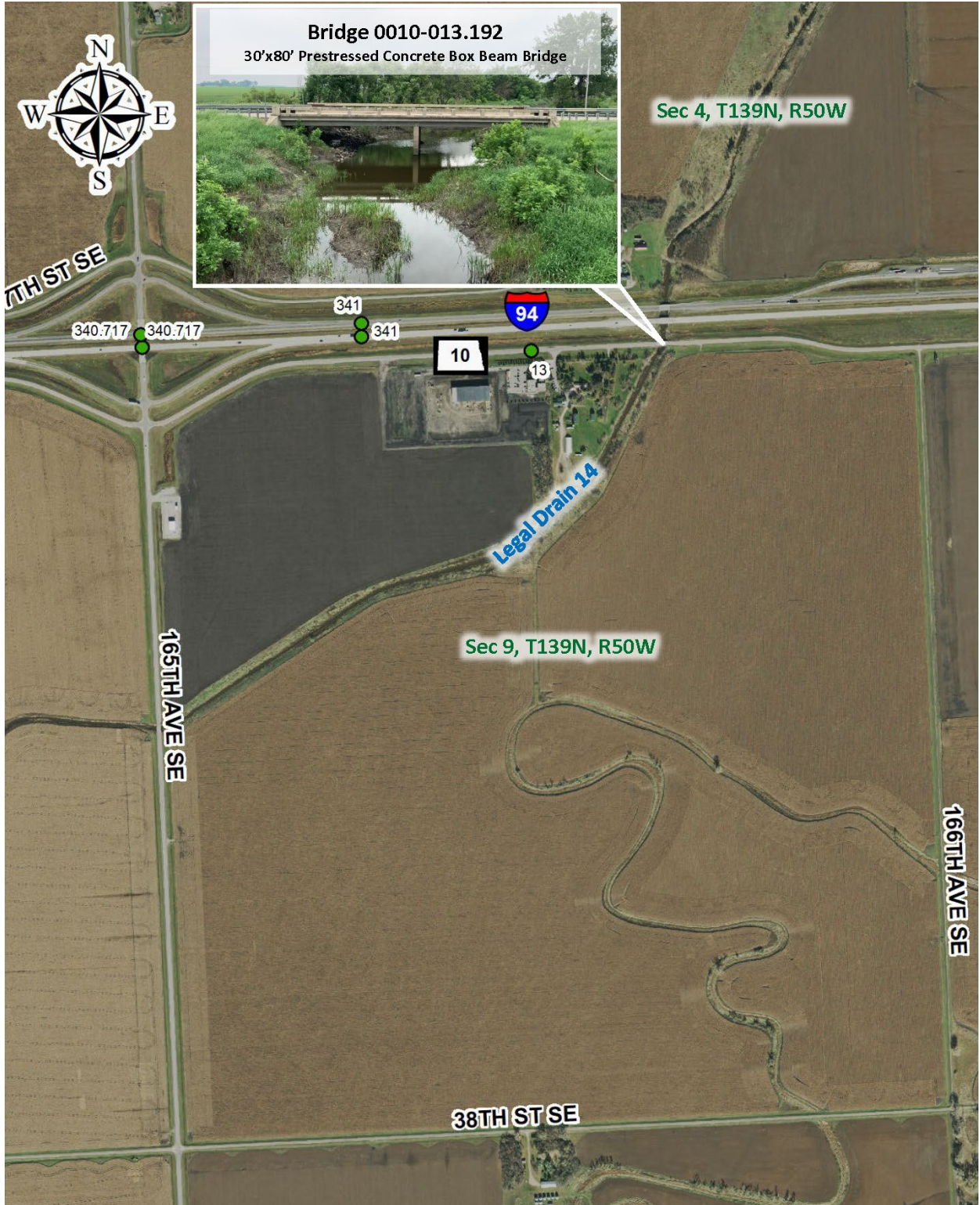
If further information is desired regarding the proposed roadway improvement, please contact Randall Sandvig at 701-328-3035 in Bismarck, ND.



JON KETTERLING, P.E., BRIDGE ENGINEER

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Enclosure



Project Location Map