



Highway Department

Jason Benson, P.E.
County Engineer

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

Blaine Laaveg
Superintendent

MEMORANDUM

TO: Cass County Commission

FROM: Jason Benson, Cass County Engineer *JB*

DATE: April 21, 2023

SUBJECT: Agenda topic for May 1st, 2023 Commission Meeting: Request a public hearing for June 5th, 2023 for a resolution to grant permission to permanently obstruct the underlying section lines of portions of County Road 40/37th Street Southeast and County Road 8/40th Avenue West that will be impacted by Phase 3 of the FM Diversion SWDCAI.

Cass County has been working with the Metro Flood Diversion Authority (FMDA) on road closures for the construction of the Diversion Project. In April 2021, the FMDA, Cass County Joint Water Recourse District (CCJWRD), and Cass County approved a Memorandum of Understanding (MOU) for the construction of the diversion over road rights-of-way (ROW).

We are now being asked by the CCJWRD to prepare to close portions of County Road 40/37th Street Southeast and County Road 8/40th Avenue West that will be impacted by Phase 3 of the FM Diversion SWDCAI. (see map in the attached CCJWRD Resolution).

Pursuant to the terms of the MOU, the next step in the process is for Cass County to set a date and time for a public hearing on the requests. Once the public hearing date and time is set, we have agreed to issue notices of the public hearing to landowners within 1,000 feet of the requests at least 30 days prior to the hearing. The FMDA will provide the list of property owners impacted within the 1000-foot area (see attached sample letter).

I am requesting the public hearing be set for June 5th, 2023 during the regular meeting of the Cass County Commission. Following the public hearing the Commission will be asked to approve a resolution granting written permission to permanently obstruct the underlying section lines (see attached sample resolution).

SUGGESTED MOTION: Move that the Cass County Board of Commissioners set a public hearing for June 5th, 2023 during the regular meeting of the Cass County Commission for a resolution to grant written permission to permanently obstruct County Road 40/37th Street Southeast and County Road 8/40th Avenue West.

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

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

Manager Weston introduced the following resolution and moved its adoption:

**RESOLUTION REQUESTING AUTHORIZATION
TO PERMANENTLY OBSTRUCT
RIGHT-OF-WAY AND SECTION LINE
(SWDCAI – County Roads)**

WHEREAS, the Cass County Joint Water Resource District (the “District”) is a North Dakota water resource district and political subdivision under Chapter 61-16.1 of the North Dakota Century Code; and

WHEREAS, the District is a member entity of the Metro Flood Diversion Authority (the “Authority”) and has been tasked by the Authority to acquire all property interests necessary for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (the “Comprehensive Project”); and

WHEREAS, one element of the Comprehensive Project is the storm water diversion channel and associated infrastructure (“SWDCAI”); and

WHEREAS, the SWDCAI will intersect those portions of County Road 8 and County Road 40 that are depicted in the color purple on Exhibit A (the “ROW”); and

WHEREAS, on April 22, 2021, the Authority, Cass County, and the District entered into a Memorandum of Understanding (the “ROW MOU”), which outlined the roles and responsibilities of the Authority, Cass County, and the District regarding road rights-of-way acquired in North Dakota as part of land acquisition for the Comprehensive Project; and

WHEREAS, in accordance with the ROW MOU, the District now seeks, pursuant to N.D.C.C. § 24-06-28, permission from Cass County to permanently obstruct the ROW and underlying section lines with the SWDCAI.

NOW, THEREFORE, BE IT RESOLVED, pursuant to N.D.C.C. § 24-06-28, that the District hereby requests permission from Cass County to permanently obstruct the ROW and underlying section lines in the areas depicted on Exhibit A for the SWDCAI, with the actual timing of obstruction dependent upon the commencement of construction of the SWDCAI as set forth in the ROW MOU.

BE IT FURTHER RESOLVED, that the District, in accordance with the ROW MOU, will notify landowners within one thousand (1,000) feet of the ROW of its request to Cass County to permanently obstruct the ROW.


(Signatures appear on the following page.)

APPROVED:



Rodger Olson, Chair

ATTEST:

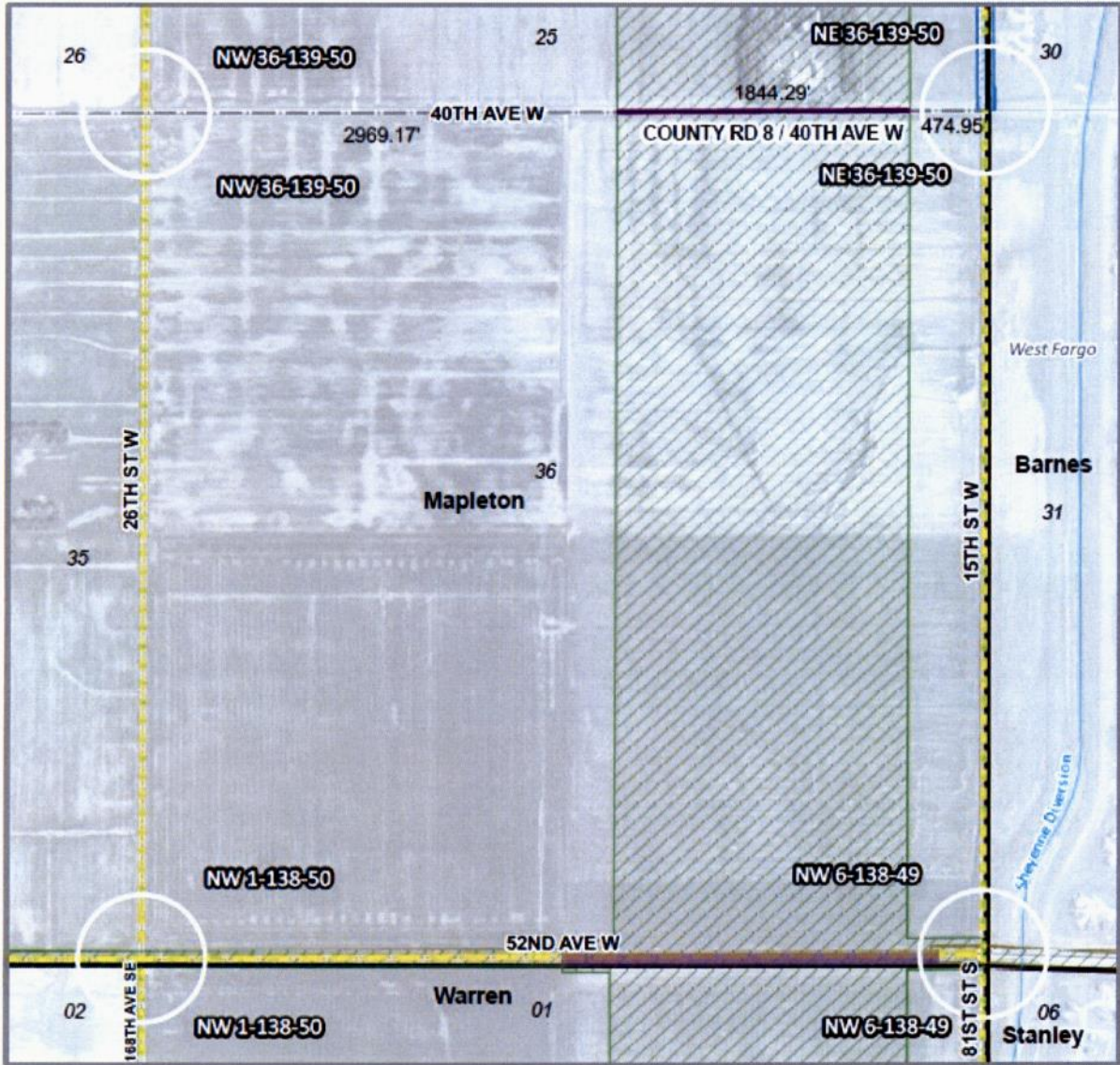


Carol Harbeke Lewis
Secretary-Treasurer

The motion for the adoption of the foregoing resolution was duly seconded by Manager Lougheed. On roll call vote the following Managers voted aye: Olson, Lougheed, Weston, Gust, Steen. The following Managers voted nay: none. The following Managers were absent: none. Upon roll call vote, the motion carried unanimously, and the resolution was duly adopted.

Date Approved: April 13, 2023.

EXHIBIT A



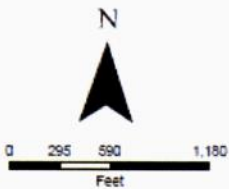
Any reliance upon this map is at user's own risk. AE2S does not warrant the map or its features are either spatially or temporally accurate or fit for a particular use. All parcel acreages and legal descriptions shown hereon are based on County GIS data. Final acreages and legal descriptions to be determined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

Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3502 Feet | Produced By: Records - AE2S, Inc. |
 © 2023 Project GIS Project FM Area Diversion 012 Land Use Program Property Acquisition/Project Work/Owner LA Map/County Res Mapbook MOU Revisions April 2023.mxd

	Channel/SE Crossings		Proposed County Roadway Closure
	Township Boundary		Road Controlled by Cass County
	Project Limits		Road Controlled by Township
	Temporary Construction		County Road
	MOU		State or US Highway

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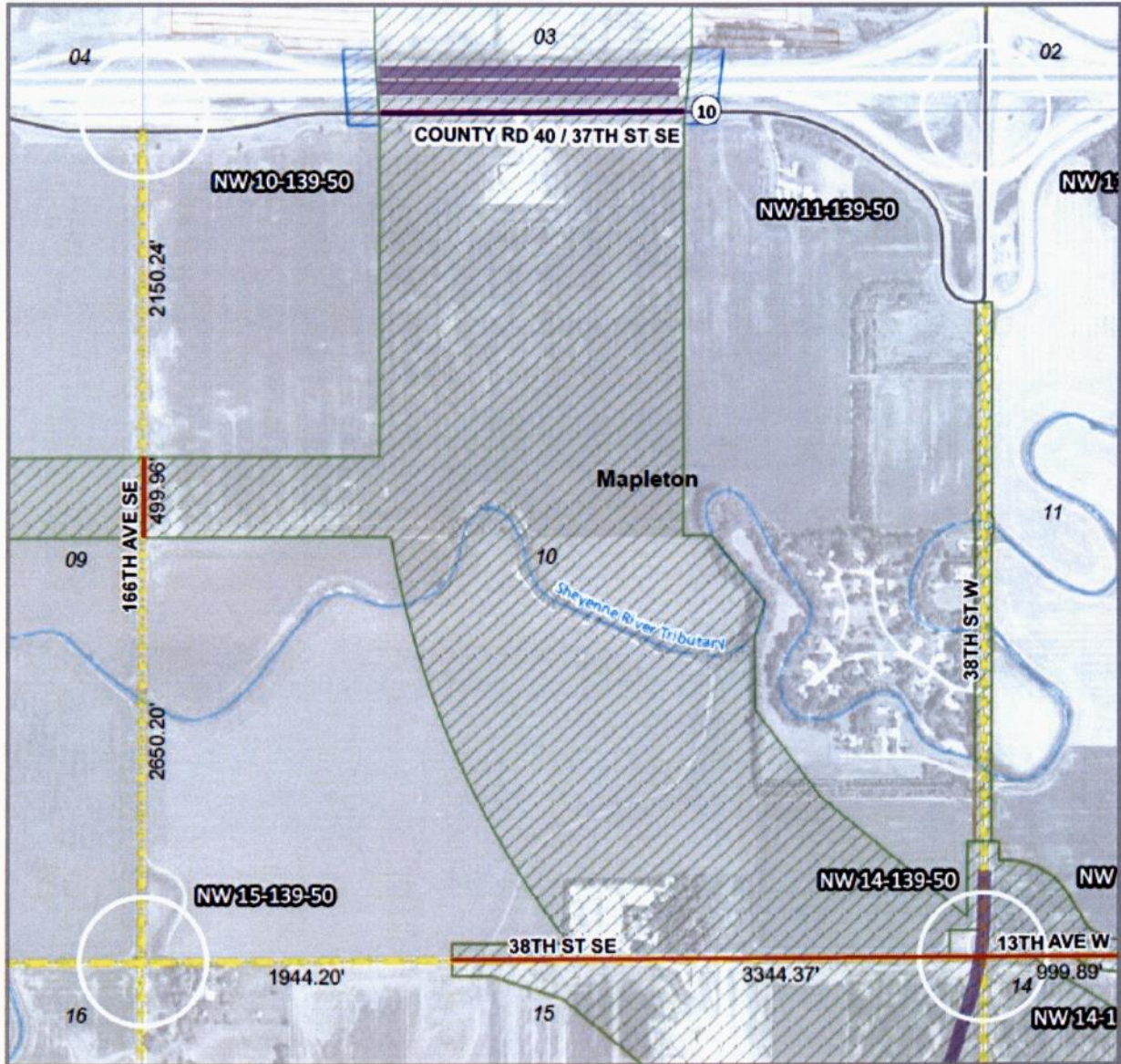
**Vacated portions will be defined by plat.
 Dimensions are GIS measurements.**



Mapleton Township

FM Area Diversion
 Map Date: 4/4/2023





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	Channel/SE Crossings		Proposed County Roadway Closure
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Dimensions are GIS measurements.**



Highway Department

Jason Benson, P.E.
County Engineer

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

Blaine Laaveg
Superintendent

May 1st, 2023

Dear Property Owner:

Notice is hereby given that the Cass County Commission will conduct a Public Hearing to consider approval or denial of a request from the Cass County Joint Water Resource District to permanently obstruct the ROW and the underlying section lines within the **Metro Flood Diversion Channel** of the Fargo-Moorhead Metropolitan Area Flood Risk Management Project.

As part of the request procedure, the County is notifying adjacent property owners within 1,000 feet of the ROW. If you have any comments, please submit them or attend the Commission meeting on **June 5th, 2023, at 3:30 P.M. at Cass County Courthouse**. This will be a in person as well as virtual meeting, and there will be both online and phone access.

For questions, please contact me at 701-298-2374 or soucyt@casscountynd.gov.

Sincerely,

Tom Soucy, P.E.
Deputy County Engineer

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West Fargo, North Dakota
58078-1301

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Fax: 701-298-2395