



## Diversion Authority Land Management Committee

July 24, 2024 @ 3:00pm CST

This meeting will be in-person at Fargo City Hall Commission Chambers (225 4<sup>th</sup> St N, Fargo ND 58102).

1. Call to Order
  - a. Roll call of Members
2. Approve minutes from June 26, 2024  
[Attachment 00.01] (Pg. 2)
3. Approve Order of Agenda
4. OIN 7249 Sales of Excess Land Recommendation  
[Attachment 01.00] (Pg. 4)
5. OINs 7247 & 7248 Sales of Excess Land Recommendation  
[Attachment 02.00] (Pg. 6)
6. OINs 7234A & 7234B Variance to Excess Lands Policy  
[Attachment 03.00] (Pg. 8)
7. OIN 858 Sales of Excess Land Recommendation  
[Attachment 04.00] (Pg. 12)
8. Other Business
9. Next Meeting: To Be Determined
10. Adjournment

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### **MEDIA AND PUBLIC PARTICIPATION INFORMATION**

There are multiple ways to attend or watch this public meeting.

- View the Meeting on Fargo TV or at [www.TVFargo.com](http://www.TVFargo.com)
- View the Meeting on the City of Fargo's Facebook or Twitter feed.
- View the Meeting at [FMDiversion.com/Meeting](http://FMDiversion.com/Meeting)
- View the Meeting at [Twitter.com/FMDiversion](https://twitter.com/FMDiversion)



# Metro Flood Diversion Authority Land Management Committee Meeting Minutes

**2:00 PM – June 26, 2024**

City of Fargo Commission Chambers

A meeting of the Metro Flood Diversion Authority Land Management Committee was held on June 26, 2024. The following members were present: Mary Scherling, Cass County Commissioner; Nathan Boerboom, Fargo Division Engineer; Matt Stamness, Cass County Engineer; Arlette Preston, Fargo City Commissioner; Brenda Derrig, Assistant Administrator, City of Fargo; Rodger Olson, Cass County Joint Water Resource District; Jenny Mongeau, Clay County Commissioner and Bob Zimmerman, Moorhead City Engineer.

Member(s) absent: Kevin Campbell, Clay County Commissioner; Chuck Hendrickson, Moorhead City Council and Duane Breitling, Cass County Commissioner.

## **1. INTRODUCTION**

Mrs. Scherling called the meeting to order at 2:01 PM. Roll call was taken, and a quorum was present.

## **2. APPROVE MEETING MINUTES FROM THE APRIL 2024 MEETING**

### **MOTION PASSED**

**Mr. Stamness moved to approve the minutes from April 23, 2024, and Mr. Zimmerman seconded the motion. On a voice vote, the motion carried.**

## **3. APPROVE ORDER OF AGENDA**

### **MOTION PASSED**

**Mr. Boerboom moved to approve the order of the agenda as presented and Mr. Olson seconded the motion. On a voice vote, the motion carried.**

## **4. OINs 9191Y1 AND 9741Y EXCESS LAND RECOMMENDATIONS**

Ms. Smith introduced the above-referenced OINs and asked for approval to sell the parcels per the Excess Lands Policy.

**OIN 9191Y1:** 66.9 acres (surveyed), this parcel will be subject to a 3.43-acre TCE. The USACE has required that the TCE shall remain in place through December 31, 2029; however, MFDA anticipates they may be completed and the TCE may be released prior to that date. It is assumed that the TCE for I-29 will be released prior to the sale of this excess land. This parcel is immediately east of I29, south of the Wild Rice River, and north of the Southern Embankment Reach 3 (SE-3) portion of the Comprehensive Project.

**OIN 9741Y:** OIN 9741Y is located on 38th St W on the west side of the Diversion Channel Area associated with the Comprehensive Project. This parcel (the full parent parcel) is impacted by the Diversion Channel portion of the Comprehensive Project. The prior owner chose to retain the unimpacted land north of the Diversion Channel but sold the small southerly remnant (9741Y) to the Authority. This remnant piece is outside of the Diversion Channel work limits and is not needed for the construction or operation of the Comprehensive Project.

**MOTION PASSED**

**Mr. Olson moved to approve the recommendation and declare OINs 9191Y1 and 9741Y as excess land and proceed with the disposal of these parcels per the Excess Land Policy. Mr. Stamness seconded the motion and on a roll call vote, the motion carried.**

**5. OIN 7234B EXCESS LAND RECOMMENDATION**

**OIN 7234B:** this parcel is a stretch of abandoned railroad property between Center Avenue and Park Drive in Horace, ND. This parcel was previously owned and maintained by BNSF. The parcel is located east of the Diversion Channel within Horace and is not impacted by construction of the Comprehensive Project.

There was dialogue regarding what would be the best course of action to dispose of this parcel given its value, suggesting that it may be an exception to the Excess Land Policy. The recommendation is for staff to draft an exception and bring it to the July or August Board meeting for approval. Approval would allow us to go directly to public sale via auction or a commercial realtor.

**MOTION PASSED**

**Ms. Derrig recommended creating an exception to the Excess Land Policy regarding the disposal of parcels OINs 7234A and 7234B. Ms. Preston seconded the recommendation and on a roll call vote, the motion carried.**

**6. RIMP LOAN GUIDANCE**

A property owner has requested to utilize the RIMP loan in a manner that has not been acknowledged. The request went to the CCJWRD Board on two separate occasions, and they are seeking the land committee's advisement on whether this request is within the spirit of the RIMP loan policy.

After extensive dialogue amongst the committee, no action was taken.

**7. OTHER BUSINESS**

There was no additional business to discuss.

**8. NEXT MEETING**

To be determined.

**9. ADJOURNMENT**

The meeting adjourned at 3:23 PM.

# Memorandum



To: Metro Flood Diversion Authority Lands Committee  
From: Jodi Smith, Director of Lands and Compliance  
Date: 07/24/2024  
Re: OIN 7249 Approach for Selling of Excess Lands

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## RECOMMENDATION/ACTIONS NEEDED:

Approve the recommended approach for splitting and selling OIN 7249 to the Adjacent Owners

## BACKGROUND:

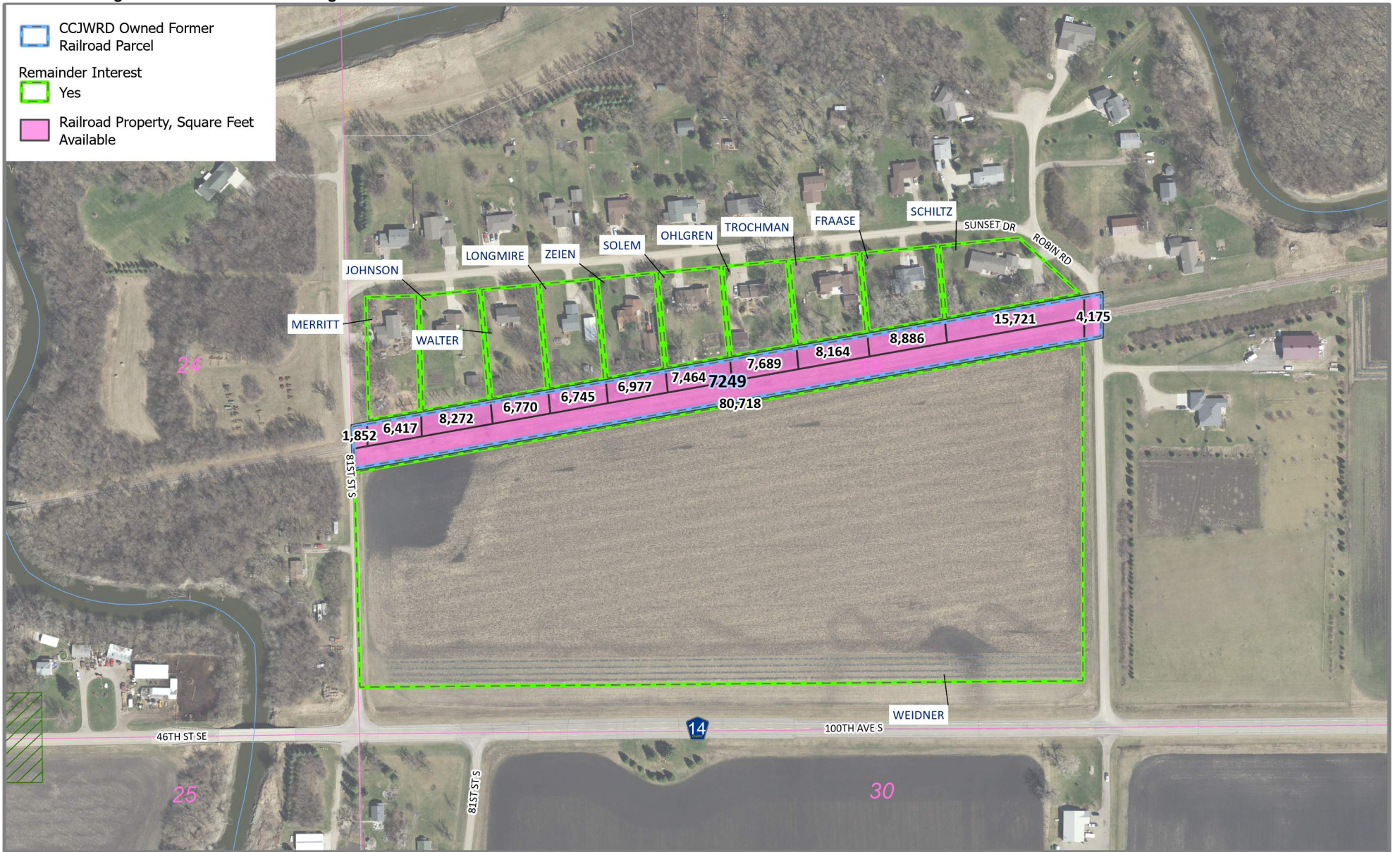
The Metro Flood Diversion Authority (MFDA) Co-Executive Directors recommended that OIN 7249 be declared as Excess Land on April 17<sup>th</sup>, 2024. The MFDA Land Management Committee, Cass County Joint Water Resources District (CCJWRD) Board, and MFDA Board approved the recommendation on April 24<sup>th</sup> and 25<sup>th</sup>, 2024. Since that approval, staff have been working to notify the appropriate parties as outlined in the Policy of the Disposition and Management of Comprehensive Project Lands (Policy). With no interest from the Member Entities or Prior Owner, we notified the Adjacent Owners, as noted in section 5.4 of the Policy. To date we have received an intent to purchase from all notified parties and we have prepared a map exhibit depicting our recommended approach for splitting and selling OIN 7249 to the Adjacent Owners. Please see the attached map depicting our recommended approach for splitting and selling OIN 7249 to the Adjacent Owners and showing the area of each portion based on GIS acreage. Upon approval of this recommendation, staff will complete the surveying, platting, and closing of OIN 7249. Additionally, we have received interest from one property owner to purchase all of the 7249 corridor.

## ATTACHMENTS:

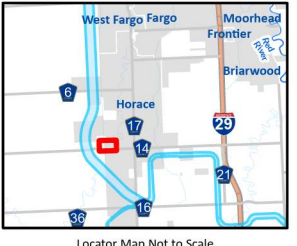
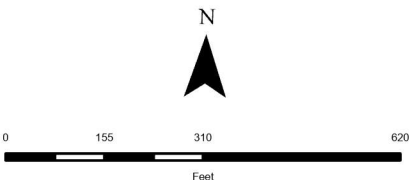
- Map exhibit depicting the recommendation for splitting and selling OIN 7249 to the Adjacent Owners.



- CCJWRD Owned Former Railroad Parcel
- Remainder Interest
- Yes
- Railroad Property, Square Feet Available



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 | Edited by: cwickenheiser | C:\Data\Projects\GIS Projects\FM Area Diversion\012 Lands Program\Property Acquisition\DCA\Horace Railroad\HoraceRailroad.aprx | Horace Railroad\_AdjacentOwners\_OINs



### Railroad Corridor near Horace, ND Adjacent Owners, Adjacent Square Feet OIN 7249

FM AREA DIVERSION  
Map Date: 7/8/2024



# Memorandum



To: Metro Flood Diversion Authority Lands Committee  
From: Jodi Smith, Director of Lands and Compliance  
Date: July 24<sup>th</sup>, 2024  
Re: OINs 7247 and 7248 Approach for Selling of Excess Lands

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## RECOMMENDATION/ACTIONS NEEDED:

Approve the recommended approach for splitting and selling OINs 7247 and 7248 to the Adjacent Owners

## BACKGROUND:

The Metro Flood Diversion Authority (MFDA) Co-Executive Directors recommended that OINs 7247 and 7248 be declared as Excess Land on April 17<sup>th</sup>, 2024. The MFDA Land Management Committee, Cass County Joint Water Resources District (CCJWRD) Board, and MFDA Board approved the recommendation on April 24<sup>th</sup> and 25<sup>th</sup>, 2024. Since that approval, staff have been working to notify the appropriate parties as outlined in the Policy of the Disposition and Management of Comprehensive Project Lands (Policy). With no interest from the Member Entities or Prior Owner, we notified the Adjacent Owners, as noted in section 5.4 of the Policy. To date we have received an intent to purchase from all notified parties. Additionally, we have received interest from one property owner to purchase all of 7248 and the entire 7247 corridor.

Please see the attached map depicting our recommended approach for splitting and selling OINs 7247 and 7248 to the Adjacent Owners and showing the area of each portion based on GIS acreage. Upon approval of this recommendation, staff will complete the surveying, platting, and closing of OINs 7247 and 7248.

## ATTACHMENTS:

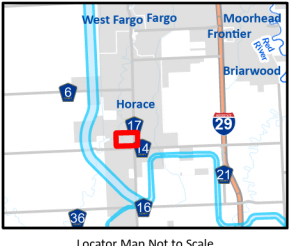
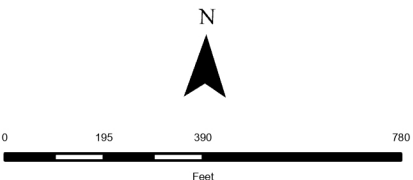
- Map exhibit depicting the recommendation for splitting and selling OINs 7247 and 7248 to the Adjacent Owners.



- CCJWRD Owned Former Railroad Parcel
- Remainder Interest
- Yes
- Railroad Property, Square Feet Available



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### Railroad Corridor near Horace, ND Adjacent Owners, Adjacent Square Feet OINs 7247 7248

FM AREA DIVERSION  
Map Date: 7/8/2024



# Memorandum



To: Metro Flood Diversion Authority Lands Committee  
From: Jodi Smith, Director of Lands and Compliance  
Cc: Co-Executive Directors  
Date: 07/24/2024  
Re: Excess Lands Policy Variance for the Disposal of OINs 7234A & 7234B

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## RECOMMENDATION/ACTIONS REQUESTED:

Approve a variance to the Policy of Disposition and Management of Comprehensive Project Lands (Policy) to allow for public sale of OINs 7234A and 7234B.

## BACKGROUND:

The MFDA Land Management Committee, at its June 28<sup>th</sup> meeting recommended development of a variance to the Policy of Disposition and Management of Comprehensive Project Lands (Policy) to use a public sale for disposal of specific parcels associated with the old elevator and abandoned railroad corridor in Horace, ND. This variance to the Policy means that the potential sale will bypass the sequential notification to the Member Entities, Prior Owners, and Adjacent Owners, and start with a public sale.

The specific variance to the Policy would include bypassing the steps from the Policy presented below in underlined text.

## 5. MANNER OF DISPOSAL OF EXCESS LAND

5.1 The purchaser of Excess Land will be responsible for closing costs, as well as any necessary costs, subdivision costs, rezoning fees, and other costs to complete the sale or exchange.

### 5.2 Preference to Member Entities:

5.2.1 The Authority will give first preference of the sale of Excess Land to Member Entities. Upon the Authority's determination that Excess Land should be sold, it will first give written notice of intent to sell to the Member Entities, subject to any conditions in the original acquisition of the Excess Land. Should a Member Entity desire to retain the Excess Land for purposes consistent with its policies and procedures, it shall, within thirty (30) calendar days of receiving the notice of intent, provide written notice to the Authority of its intent to acquire the Excess Land. The Authority will transfer all obligations of the ownership and management of the Excess Land to the purchasing Member Entity upon receipt of funds equal to or greater than Market Value in accordance with standard real property sale procedures.



5.3 Preference to Prior Landowner: Section 5.3 will only apply to Excess Land located outside of the geographical boundaries and extraterritorial zoning jurisdiction of the City of Fargo and the City of Moorhead.

5.3.1 The Authority or Member Entity will give second preference to the Prior Landowner. To carry out this principle, the Member Entity who owns the Excess Land will, subject to any conditions in the original acquisition of the Excess Land, provide the Prior Landowner with a notice of intent to sell the Excess Land at Market Value and ask the Prior Landowner to provide written notice of their commitment to acquire the Excess Land at Market Value within thirty (30) calendar days from the date of the notice.

5.3.2 If there are multiple parties that make up the Prior Landowner and those parties do not want to collectively repurchase the Excess Land at the Market Value, priority shall be given to the Prior Landowner party that within the 30-day period offers to acquire the land for the highest purchase price at or above the Market Value.

5.3.3 If the Prior Landowner does not commit to acquire the Excess Land in the allotted timeframe, the Member Entity will offer the Excess Land to the Adjacent Landowner.

5.4 Preference to Adjacent Landowner: Section 5.4 will only apply to Excess Land located outside of the geographical boundaries and extraterritorial zoning jurisdiction of the City of Fargo and the City of Moorhead.

5.4.1 The Authority, or Member Entity will give the third preference of the sale of Excess Land to the Adjacent Landowners. To carry out this principle, the Member Entity who owns the Excess Land will, subject to any conditions in the original acquisition of the Excess Land, provide the Adjacent Landowners with a notice of intent to sell the Excess Land at Market Value and ask the Adjacent Landowners to provide written notice of their interest in acquiring the Excess Land at the Market Value within thirty (30) calendar days from the date of the notice.

5.4.2 If there are multiple interested Adjacent Landowners, priority shall be given to the Adjacent Landowner that, within the 30-day period, offers to acquire the land for the highest purchase price above the Market Value.

5.4.3 If no Adjacent Landowners submit interest in acquiring the Excess Land in the allotted timeframe, the Member Entity will sell the Excess Land at a Public Sale.

5.5 Public Sale:

5.5.1. Public Sale will be subject to a reserve price that is calculated based on current Market value. If the Excess Land cannot be sold for Market Value, the Executive Director will make a recommendation of the Authority to adjust the


Market Value, sell the Excess Land at the most favorable offer received, or postpone the sale to a later date.

**ATTACHMENTS:**

- Map exhibit of OIN 7234A and 7234B



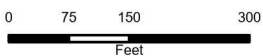


 Impacted Parcel

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Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Edited by: cwickenheiser | C:\Data\Projects\GIS Projects\FM Area Division\012 Lands Program\Property Acquisition\DCA\Horace Railroad\HoraceRailroad.aprx | Horace RR Parcel Exhibit A



**OIN: 7234A and 7234B  
CCJWRD  
Cass County, ND**

FM AREA DIVERSION  
Map Date: 6/25/2024





# Memorandum



To: Metro Flood Diversion Authority Lands Committee  
From: Michael Redlinger, Co-Director  
Robert Wilson, Co-Director  
Cc: John Shockley, MFDA Legal Counsel  
Date: July 25, 2024  
Re: OIN 858 Excess Land

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## RECOMMENDATION/ACTIONS NEEDED:

Approve OIN 858 (11.79 acres), subject to a flowage easement, to begin the process to dispose of the excess Land per the Policy on the Disposition and Management of Comprehensive Project Lands.

## BACKGROUND/KEY POINTS:

Excess land was purchased in the upstream mitigation area. The former owner desired a full-take buyout of the property. The former buildings on the parcel have been demoed and the site has been restored.

Per the Policy, the Co-Executive Director has declared these lands as Excess Land.

## ATTACHMENTS:

- Memo – Excess Lands Recommendation – OIN 858





# Memorandum

TO: Robert Wilson & Michael Redlinger

FROM: Jodi A. Smith

DATE: July 10, 2024

RE: Excess Lands Recommendation – OIN 858, subject to Flowage Easement

## 1. Introduction

The Metro Flood Diversion Authority (Authority) adopted the Policy on the Disposition and Management of Comprehensive Project Lands (Policy) in March 2021. Per the Policy Preamble, the Authority will periodically review its inventory of real property to determine if its land ownership exceeds its foreseeable needs for the Fargo-Moorhead Area Flood Diversion Project (Comprehensive Project). Land that is no longer needed, not expected to be needed in the future for the Comprehensive Project and declared “Excess Land” by the Co-Executive Directors may be made available for sale, lease, or exchange in accordance with this Policy.

This Memorandum serves as a recommendation for the Co-Executive Directors to declare OIN 858 as Excess Land and begin the process to dispose of the property following the Policy.

## 2. Pertinent Facts Regarding OIN 858

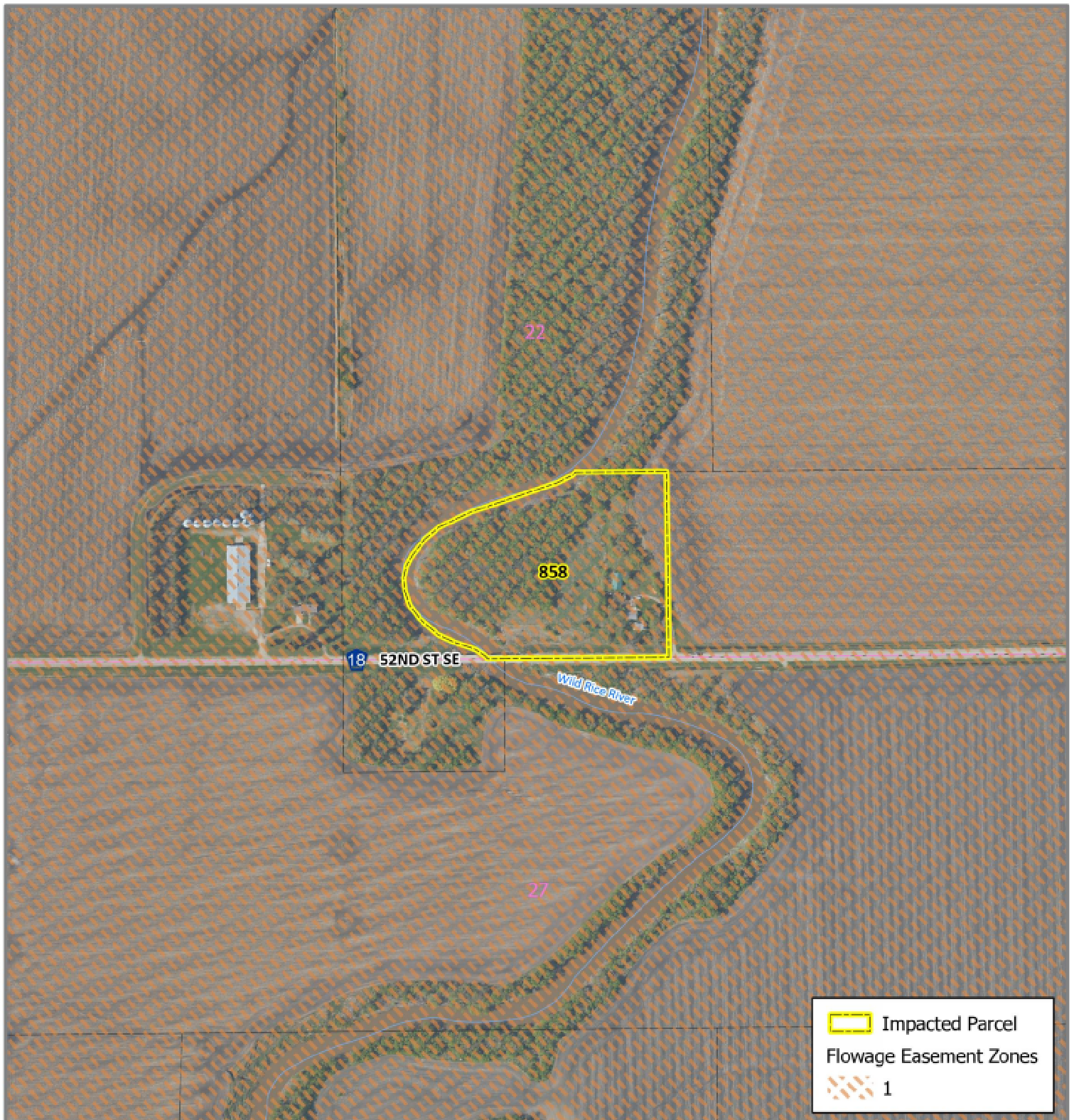
Description of Parcel(s)	See Exhibit A for a map showing the parcel recommended as excess land.
Legal Description	See Exhibit B for legal description for the parcel recommended as excess land.
Asset Parcel(s) Size	11.79 acres

Narrative Description of Parcel(s)	<p>OIN 858 is located on the north side of Cass County Road 18 (52<sup>nd</sup> Street SE) approximately one mile west of I-29 in the Upstream Mitigation Area associated with the Comprehensive Project.</p> <p>New owner will need to seek access easement from neighboring property owner or seek approval from the County to install a new field approach.</p>
Purchase Date	August 4, 2022
Purchase Price	\$522,000, inclusive of a home, detached garage, and storage building, which have been removed from the parcel.
Proposed Sale Price	<p>\$65,000</p> <p>Based on \$5,500/acre for flowage easement encumbered recreational land.</p>
Former Owner	LeLonnie & William Graham
Adjacent Owners	<p>OIN 857 &amp; 1973 – Brodshaug Cass County Farms LLLP</p> <p>OIN 859 – Irene Backlund</p>
Property Management Approach	This parcel has been maintained through a haying agreement with Schmidt and Sons since 2023.
Property Taxes	The 2023 property taxes were \$2,419.95
Relation to Construction	This parcel is in the UMA, and not impacted by construction of the Comprehensive Project. The former owner desired a full-take buyout of the property. The former buildings on the parcel have been removed from the site, and the site has been restored. Any future sale will need to reserve a flowage easement on the parcel to ensure no future development.
Right of First Refusal	The prior landowner is not entitled to a ROFO.

### 3. Conclusion and Recommendation

Based on the pertinent facts presented above, it is recommended to declare OIN 858 as “Excess Land” and proceed with the process outlined in the Policy. If you agree with this recommendation, please sign the attached declaration form for our records (Exhibit C).

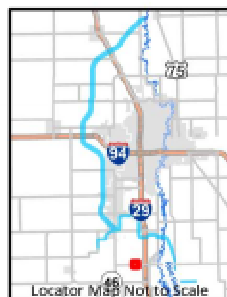
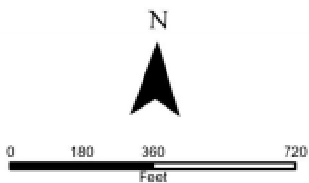
## Exhibit A: Map Exhibit of Parcel Recommended as Excess Lands



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Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet | Edited by: cwickenheiser | C:\Data\Projects\GIS Projects\FM Area Diversion\012 Lands Program\Property Acquisition\Project Wide\Individual Property Maps - General Inquiry\ArcPro General Individual Layout.aprx | IndividualLayout



OIN: 858  
**CASS COUNTY JOINT WATER RESOURCE DISTRICT**  
 Parcel ID: 57-0000-10350-017  
 Cass County, ND

FM AREA DIVERSION  
 Map Date: 7/10/2024



## Exhibit B: Legal Description for Parcel Recommended as Excess Lands

The following legal description is from the O & E Report dated June 28, 2021.

**Legal Description:**

That part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 22, Township 137 North of Range 49 West of the 5th Principal Meridian, Cass County, North Dakota, described as follows:  
Commencing at the Southeast corner of the Southwest Quarter of said Section 22; thence West along the South line of said Section 22 a distance of 10 rods to the point of beginning; thence North parallel to the West line of said Section 22, 40 rods; thence West parallel to the South line of said Section 22 to the center of the Wild Rice River; thence left upstream along the center line of the Wild Rice River to a point of intersection with the South line of said Section 22; thence along the South line of said Section 22 to the point of beginning.

## Exhibit C: Declaration of Excess Land Form

I hereby declare that           OIN 858 as noted in Exhibit A           (the parcel) is deemed Excess Land and authorize the disposal of the parcel in accordance with the Policy on the Disposition and Management of Comprehensive Project Lands.

**Robert W.  
Wilson**

Digitally signed by Robert  
W. Wilson  
Date: 2024.07.15 14:08:31  
-05'00'

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Robert Wilson  
Co-Executive Director

07/10/2024

Date

**Michael J.  
Redlinger**

Digitally signed by Michael J. Redlinger  
Date: 2024.07.15 13:59:01 -05'00'

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Michael Redlinger  
Co-Executive Director

07/10/2024

Date