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FILED NO. 2035  
BOOK 137 PAGE 188  
97 JAN 31 PM 12:06

MICHELLE UTSLER  
RECORDER  
MADISON COUNTY, IOWA

IN THE IOWA DISTRICT COURT FOR MADISON COUNTY

THOMAS E. HELMS and  
BARBARA E. HELMS,

Plaintiffs-Appellants,

vs.

IOWA DEPARTMENT OF TRANSPORTATION,  
And, MADISON COUNTY, IOWA,

Defendants.

NOTICE OF APPEAL

FILED  
JAN -5 PM 2:20  
JANICE BECK'S  
CLERK OF DISTRICT COURT  
MADISON COUNTY, IOWA

TO.....IOWA DEPARTMENT OF TRANSPORTATION, Defendant; MADISON COUNTY, IOWA,  
Defendant; and PAUL WELCH, Sheriff of Madison County, Iowa:

YOU AND EACH OF YOU ARE HEREBY NOTIFIED that the above-named Plaintiffs-Appellants hereby appeal to the District Court aforesaid the award made to the Plaintiffs-Appellants by the Compensation Commission on December 12, 1995, as damages for the Defendant's taking of the following-described real estate, to-wit:

A permanent easement for highway purposes:


A parcel of land located in the Southwest Quarter (SW $\frac{1}{4}$ ) of the Northeast Quarter (NE $\frac{1}{4}$ ) of Fractional Section Thirty (30), Township Seventy-six (76) North, Range Twenty-six (26) West of the 5th P.M., Madison County, Iowa, more particularly described as: Commencing at the Southeast corner of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Northeast Quarter (NE $\frac{1}{4}$ ) of said Fractional Section Thirty (30), thence North 1° 39' 02" West 160.97 feet along the east line of said Southwest Quarter (SW $\frac{1}{4}$ ) of the Northeast Quarter (NE $\frac{1}{4}$ ) to a point on the former centerline of Primary Road No. 92, the Point of Beginning, thence northwesterly 531.58 feet along said former centerline on an 1145.92 foot radius curve, concave northeasterly and having a chord bearing North 56° 21' 49" West 526.82 feet, thence North 43° 04' 27" West 404.42 feet along said former centerline, thence North 46° 55' 33" East 33.09 feet to the point on the present northeasterly right of way line of Primary Road No. 92; thence South 66° 19' 02" East 206.19 feet, thence South 37° 04' 34" East 238.93 feet, thence southeasterly 393.31 feet along a 1427.89 foot radius curve, concave northeasterly and having a chord bearing South 64° 12' 21" East 392.06 feet to a point on the east line of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Northeast Quarter (NE $\frac{1}{4}$ ) of said Section Thirty (30); thence South 1° 39' 02" East 165.85 feet along said east line to a point on the former centerline of Primary Road No. 92, the Point of Beginning; excepting therefrom present easements of record, containing 1.14 acres, exclusive of said exceptions;

And, the temporary easement for the specific purpose of constructing an entrance on the land described as follows:

Commencing at the Southeast corner of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Northeast Quarter (NE $\frac{1}{4}$ ) of said Fractional Section Thirty (30); thence North 1°39'02" West 702.22 feet along the east line of said Southwest Quarter (SW $\frac{1}{4}$ ) of the Northeast Quarter (NE $\frac{1}{4}$ ); thence South 88°20'58" West 486.44 feet to a point on the Northeasterly line of the land sought by easement for highway purposes, the Point of Beginning; thence North 66°19'02" West 206.19 feet along said northeasterly line to a point on the present northeasterly right of way line of Primary Road No. 92, thence North 43°01'43" West 41.87 feet along said present northeasterly right of way line; thence North 61°24'40" East 167.65 feet; thence South 44°16'09" East 183.92 feet; thence South 43°12'45" West 85.60 feet to the Point of Beginning.

Said appeal will come on for hearing before this Court which convenes and is held at Winterset, Madison County, Iowa, as by law provided.

JORDAN, OLIVER & WALTERS, P.C.

By   
Lewis H. Jordan  
Farmers & Merchants Bank Bldg.  
Post Office Box 230  
Winterset, IA 50273  
Telephone: 515/462-3731  
ATTORNEYS FOR PLAINTIFFS-APPELLANTS.

ACCEPTANCE OF SERVICE

The Iowa Department of Transportation hereby accepts due, timely and legal service of the within and foregoing Notice of Appeal.

Dated at Ames, Iowa, this 2nd day of January, 1996.

  
\_\_\_\_\_  
Assistant Attorney General

IN THE IOWA DISTRICT COURT FOR MADISON COUNTY

THOMAS E. HELMS and BARBARA E. HELMS \*

NO. 23821

Plaintiffs-Appellants,

v.

IOWA DEPARTMENT OF  
TRANSPORTATION, and  
MADISON COUNTY, IOWA

Defendants.

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STIPULATION OF SETTLEMENT

FILED  
95 NOV 25 AM 11:29  
JUDGE HELMS  
IOWA DISTRICT COURT  
MADISON COUNTY, IOWA

COMES NOW the Plaintiffs, Thomas E. Helms and Barbara E. Helms, and the Defendant, Iowa Department of Transportation; and, in settlement of the above-captioned case hereby stipulate as follows:

1. Defendant, Iowa Department of Transportation, concedes that the pond to the north and west of Plaintiff's driveway, as it existed prior to condemnation, has been silted full due to the construction, and that the Defendant, through its contractor, will remove the dam and old driveway and push the dirt to the north and west and sloped away from house.
2. Defendant, Iowa Department of Transportation, will rock the new driveway this fall and in the spring of 1997 pursuant to the oral agreement between Plaintiffs and the resident engineer.
3. Defendant, Iowa Department of Transportation, will pay one thousand dollars (\$1,000) in attorney fees to Plaintiffs' attorneys and the costs of this action.
4. Plaintiffs will dismiss this appeal.
5. All parties agree that Section 6B.52 of the Code of Iowa still applies and that the Plaintiffs will have the time allowed by said statute from the date of the execution of this stipulation to renegotiate any other construction or maintenance damage not apparent at this time; and, that this

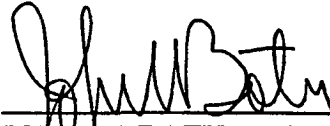
stipulation will be considered written notice to the Plaintiffs of such right of renegotiation. However, it is acknowledged by the Plaintiff that they claimed at the compensation commission their existing well requires replacement, as the result of the acquisition.

6. Plaintiffs and Defendant, Iowa Department of Transportation, agree that Madison County, Iowa, was named as a Defendant solely for the reason that they were a lienholder based on the second half of the real estate taxes payable in the fiscal year beginning July 1, 1995, and ending June 30, 1996, and it is not necessary for the Defendant, Madison County, Iowa, to be a party to this stipulation.

7. Plaintiffs shall be entitled to retain the award made by the condemnation commission which has been previously paid.

Date: 11-18-96

IOWA DEPARTMENT OF TRANSPORTATION



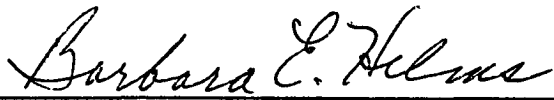
JOHN W. BATY ST0100010  
Assistant Attorney General  
Iowa Department of Transportation  
800 Lincoln Way  
Ames, IA 50010  
(515) 239-1368 FAX No. (515) 239-1609

Date: 11-22-96



THOMAS E. HELMS Plaintiff

Date: Nov. 22, 1996



BARBARA E. HELMS Plaintiff

Date: Nov 22, 1996

JORDAN, OLIVER & WALTERS, P.C.



LEWIS H. JORDAN  
Farmers & Merchants State Bank Bldg.  
P.O. Box 230  
Winterset, IA 50273-0230  
ATTORNEY FOR PLAINTIFFS

Approved as to form:



Lewis Jordan  
ATTORNEY FOR PLAINTIFF



John W. Baty ST0100010  
ATTORNEY FOR DEFENDANT  
Iowa Department of Transportation

Copies to:

John Baty  
Iowa Department of Transportation  
800 Lincoln Way  
Ames, IA 50010

Lewis Jordan  
Farmers & Merchants State Bank Building  
PO Box 230  
Winterset, IA 50273-0230

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IN THE IOWA DISTRICT COURT FOR MADISON COUNTY

THOMAS E. HELMS and BARBARA E. HELMS \*

NO. 23821

Plaintiffs-Appellants, \*

v. \*

IOWA DEPARTMENT OF  
TRANSPORTATION, and  
MADISON COUNTY, IOWA

ORDER APPROVING  
STIPULATION OF SETTLEMENT

Defendants. \*

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IOWA DISTRICT COURT  
MADISON COUNTY

AND NOW, a Stipulation of Settlement having come before the Court and the Court having been fully advised in the premises, finds that the same should be approved. It is therefore Ordered, Adjudged and Decreed that the Stipulation of Settlement dated November 22, 1996, is hereby approved.

The Defendant shall pay the court costs.

Upon delivery of the warrants called for in this stipulation to the Court, this case shall stand dismissed with prejudice.

Dated this 25~~th~~ day of November 1996.

Danell Hewell  
JUDGE OF THE FIFTH JUDICIAL DISTRICT



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XXX-349

IN THE IOWA DISTRICT COURT FOR MADISON COUNTY

THOMAS E. HELMS and BARBARA E. HELMS \*

NO. 23821

Plaintiffs-Appellants, \*

v. \*

IOWA DEPARTMENT OF  
TRANSPORTATION, and  
MADISON COUNTY, IOWA

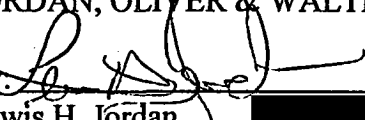
SATISFACTION

Defendants. \*

FILED  
DEC 23 11 11 AM '96  
IOWA DISTRICT COURT  
MADISON COUNTY

COMES NOW the Plaintiffs and acknowledges satisfaction of the Order dated November 25, 1996, requiring the payment of \$1,000.00 attorney fees by the Defendant to the Plaintiffs.

JORDAN, OLIVER & WALTERS, P.C.

  
Lewis H. Jordan

Farmers & Merchants State Bank Bldg.  
PO Box 230  
Winterset, IA 50273-0230  
Telephone: 515/462-3731  
ATTORNEYS FOR PLAINTIFFS-APPELLANTS

Copies to:

John W. Baty  
Iowa Department of Transportation  
General Counsel Division  
800 Lincoln Way  
Ames, IA 50010

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause by depositing a copy thereof in the U.S. Mail, postage prepaid, in envelopes addressed to each of the attorneys of record herein or their respective addresses disclosed on the pleadings, on Dec 23, 1996.

Signature 

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on December 9, 1996.

By:  U.S. Mail  FAX  Hand Delivered  
 UPS  Federal Express  Other

Signature: \_\_\_\_\_

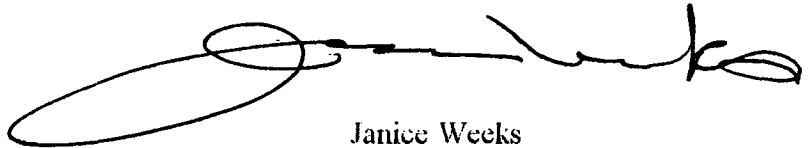
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Thomas E. Helms and  
Barbara E. Helms

vs.

Iowa Department of Transportation  
and Madison County, Iowa

No. 23821

I received two checks from the Iowa Dept. Of Transportation on December 23, 1996.  
One for \$1000.00 which was turned over to Plaintiff's attorney, Lewis Jordan and  
the other for \$80.00 court cost.



Janice Weeks  
Clerk of District Court  
Madison County, Iowa