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Preparator Information  Richard B. Clogg, 106 E. Salem Ave., Indianola, IA 50125-0215, (515) 961-2574  
Individual's Name Street Address City Phone

JULIE UTSLY  
 RECORDER  
 MADISON COUNTY, IOWA  
 SPACE ABOVE THIS LINE  
 FOR RECORDER

IN THE MATTER OF THE CONDEMNATION OF  
 EASEMENT RIGHTS IN AGRICULTURAL LAND  
 BY WARREN WATER DISTRICT TO  
 CONSTRUCT, OPERATE AND MAINTAIN  
 A WATER DISTRIBUTION SYSTEM  
 IN MADISON COUNTY, IOWA

RE: SERVICE AREA 5  
 Parcel No. M5-2171 (SE¼ NW¼ 3-75-27)  
 Parcel No. M5-2172 (SE¼ NW¼ 3-75-27)  
 Parcel No. M5-2173 (SE¼ NW¼ 3-75-27)

**CERTIFICATION OF APPROVAL  
 OF APPLICATION BY CHIEF JUDGE**

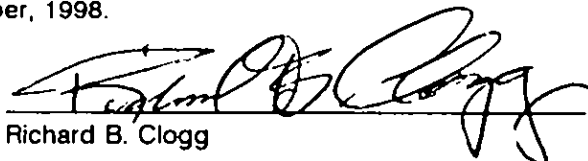
STATE OF IOWA: ss.

I, the undersigned, pursuant to the provisions of §6B.3(7) of the Code of Iowa, 1997, being first duly sworn on oath, depose and state that I am attorney for Warren Water District, Applicant in the above-captioned condemnation proceeding and that I make the following certifications upon the direction of and on behalf of the Applicant.

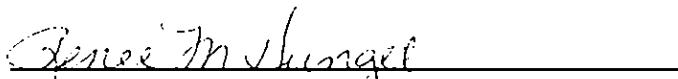
I hereby certify that attached hereto is the original Application by Warren Water District which was filed with the Honorable Arthur E. Gamble, Chief Judge of the Fifth Judicial District of Iowa, which includes Madison County, Iowa, on the 21st day of October, 1998, at his office in Des Moines, Iowa and that said Application has been approved by the said Chief Judge. I further certify that the statements accompanying the attached are true.

I further certify that the original approved application is filed with the Madison County Recorder in the manner required under § 6B.37, Code of Iowa, all pursuant to § 6B.3(7), Code of Iowa, to constitute constructive notice to all parties that a proceeding to condemn the property is pending and that the Applicant has the right to acquire the property.

Dated at Indianola, Iowa, this 28th day of October, 1998.

  
 Richard B. Clogg

Subscribed and sworn to before me by Richard B. Clogg this 28th day of October, 1998.

  
 Notary Public in and for the State of Iowa



IN THE MATTER OF THE CONDEMNATION OF  
EASEMENT RIGHTS IN AGRICULTURAL LAND  
BY WARREN WATER DISTRICT TO  
CONSTRUCT, OPERATE AND MAINTAIN  
A WATER DISTRIBUTION SYSTEM  
IN MADISON COUNTY, IOWA

RE: SERVICE AREA 5

Parcel No. M5-2171 (SE¼ NW¼ 3-75-27)

Parcel No. M5-2172 (SE¼ NW¼ 3-75-27)

Parcel No. M5-2173 (SE¼ NW¼ 3-75-27)

**APPLICATION FOR CONDEMNATION TO THE CHIEF JUDGE  
OF THE FIFTH JUDICIAL DISTRICT AND  
FOR THE APPOINTMENT OF A  
COMMISSION TO APPRAISE DAMAGES**

TO THE HONORABLE ARTHUR E. GAMBLE, Chief Judge of the Fifth Judicial District of Iowa:

COMES NOW Warren Water District, sometimes hereinafter the "Applicant" or "District", a rural water district incorporated and organized pursuant to the provisions of Chapter 357A of the Code of Iowa, and pursuant to § 6B.3, Code of Iowa (1997), states:

1. Applicant, Warren Water District is a rural water district incorporated and organized pursuant to the provisions of Chapter 357A of the Code of Iowa, with its principal place of business at 1204 East 2nd Avenue, Indianola, Iowa 50125, and is authorized to make this application under the provisions of §357A.11(5) of the Code of Iowa (1997).

2. The Applicant seeks to acquire, by the process of eminent domain, a permanent and perpetual easement thirty-two (32) feet in width on, under, across and through the real estate hereinafter set forth to erect, construct, install, lay and thereafter use, operate, inspect, repair, maintain, replace and remove water lines and appurtenances thereto. Applicant shall have the right of ingress to and egress from said strip of land across the described tract for these purposes. The owners and other affected persons may continue to use and enjoy the grounds within the easement areas, but subject to Applicant's rights as set forth above; provided, however, that no building, structure or other improvement shall be constructed upon the easement strip which would directly interfere with Applicant's rights hereby acquired, including access to the easement strip and the safe operation of its water lines.

3. The purpose for which the condemnation is sought is an easement for water lines for water distribution purposes over and across the described real estate, said water distribution system to serve residents of Madison County, Iowa.

4. The easement rights of Warren Water District to be acquired pursuant to this Application and the resultant assessment of damages shall be and are limited by the following:

- (a) That during construction the Applicant will bury all pipeline to provide a minimum cover of 36 inches.
- (b) That Applicant will pay for any damages to growing crops, grasses, trees, shrubbery, fences, or other property caused by the inspection, repair, replacement, removal, maintenance or operation of Applicant's facilities on the land described above; provided, however, that the Applicant shall have the right (without liability for damages) from time to time after initial construction of the pipeline to reclear the right-of-way by cutting and removing therefrom trees, brush and other obstructions that may, in Applicant's judgment, interfere with Applicant's use of the easement strip.
- (c) That Applicant will restore the surface of all disturbed areas on said land to its original contour as nearly as practicable.

(d) Any drainage tile disturbed by the installation or repair of the pipeline will be repaired or replaced by Applicant with tile of comparable quality.

5. Exhibit "A" attached hereto, and by this reference made a part hereof, is a list showing and describing all property affected or sought to be condemned in Madison County by the Applicant.

6. That said land described in Exhibit "A" is agricultural property.

7. Exhibit "B" attached hereto, and by this reference made a part hereof, are a series of plats specifically describing the property affected or sought to be condemned, and showing the location of the right-of-way with reference to such description.

8. Exhibit "C" attached hereto, and by this reference made a part hereof, are the names of all record owners of the different tracts of land sought to be condemned or otherwise affected by these proceedings, and the names of all record holders of liens and encumbrances on such lands, together with the place of residence of all such persons so far as known to Applicant.

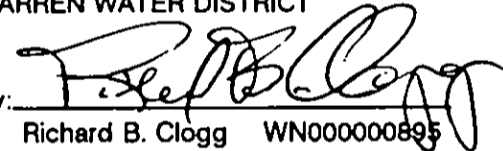
9. Warren Water District has been unable to secure the described rights in said real estate by purchase and conveyance and, therefore, requests the appointment of a commission to appraise damages.

10. You are requested to appoint a Commission in compliance with Chapter 6B of the Code of Iowa (1997) to appraise the damages, said Commission shall be six in number and shall be residents of Madison County, Iowa.

WHEREFORE, Warren Water District hereby requests the appointment of a compensation commission to view the real estate involved and appraise the damages which the owners thereof, lienholders, encumbrances, or other persons interested therein will sustain by reason of the appropriation of the easement rights for the purposes herein stated, and make their report to the Sheriff as provided by law, all in accordance with the terms and provisions of Chapter 6B, Code of Iowa, as amended.

Dated this 15th day of October, 1998.

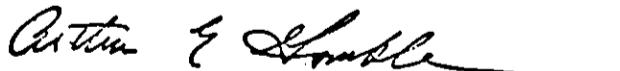
WARREN WATER DISTRICT

By: 

Richard B. Clogg WN000000895  
ELGIN, CLOGG & PATIN  
106 East Salem Avenue  
P.O. Box 215  
Indianola, Iowa 50125  
Telephone: (515) 981-2574  
Facsimile: (515) 981-2577

ATTORNEYS FOR APPLICANT,  
WARREN WATER DISTRICT

Application filed in duplicate in my office in Des Moines, Iowa, is approved this 21 day of October, 1998.



CHIEF JUDGE, FIFTH JUDICIAL DISTRICT OF IOWA

**EXHIBIT "A"**  
Page 1 of 1

A description of all the property in Madison County affected or sought to be condemned by its congressional numbers in tracts not exceeding one-sixteenth of a section.

**Parcel No. M5-2171 (SE $\frac{1}{4}$  NW $\frac{1}{4}$  3-75-27)**

The South 30 acres of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 3, Township 75 North, Range 27 West of the 5th P.M., Madison County, Iowa, EXCEPT Parcel "A" of the survey of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 3, Township 75 North, Range 27 West of the 5th P.M., as filed of record in Plat Book 2, Page 521 in the Office of the Madison County Recorder on December 6, 1994, AND EXCEPT Parcel "B" of the survey of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 3, Township 75 North, Range 27 West of the 5th P.M., as filed of record in Plat Book 2, Page 562 in the Office of the Madison County Recorder on May 9, 1995.

**Parcel No. M5-2172 (SE $\frac{1}{4}$  NW $\frac{1}{4}$  3-75-27)**

Parcel "B" of the survey of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 3, Township 75 North, Range 27 West of the 5th P.M., as filed of record in Plat Book 2, Page 562 in the Office of the Madison County Recorder on May 9, 1995

**Parcel No. M5-2173 (SE $\frac{1}{4}$  NW $\frac{1}{4}$  3-75-27)**

Parcel "A" of the survey of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 3, Township 75 North, Range 27 West of the 5th P.M., as filed of record in Plat Book 2, Page 521 in the Office of the Madison County Recorder on December 6, 1994.

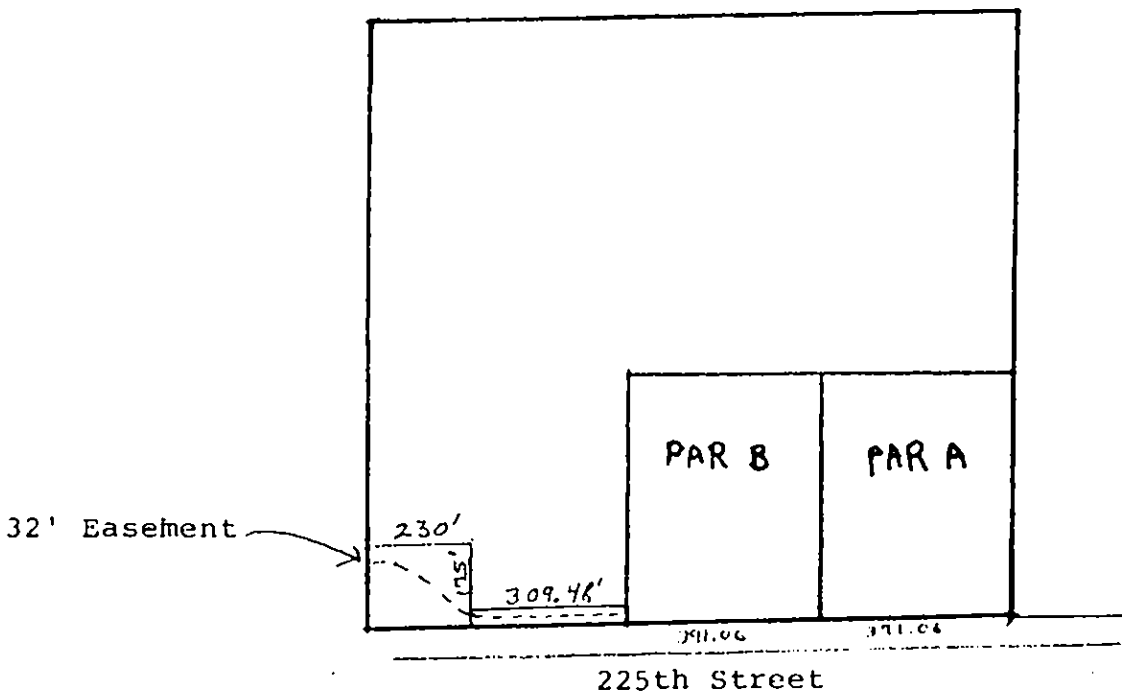
EXHIBIT "B"  
Page 1 of 3

A plat of each parcel showing the location of the right-of-way or other property sought to be condemned with reference to such description.

Parcel No. M5-2171 (SE¼ NW¼ 3-75-27)

PLAT OF AN EASEMENT for construction and maintenance of a water distribution system across all that part of the South 30 acres of the Southeast Quarter of the Northwest Quarter (SE¼ NW¼) of Section 3, Township 75 North, Range 27 West of the 5th P.M., Madison County, Iowa, EXCEPT Parcels "A" and "B" located therein, lying North of the 225th Street county road right-of-way as located across the said South 30 acres of the Southeast Quarter of the Northwest Quarter (SE¼ NW¼) of said Section, DESCRIBED AS FOLLOWS: The South 32 feet of the East 230 feet and, during construction, the South 175 feet of the West 309.48 feet of said property which is parallel and adjacent to the 225th Street county road right-of-way, beginning at the East boundary line of said property, thence West along and adjacent to the said county road right-of-way to the West boundary line of said property; after construction, the easement shall be limited to 32 feet in width and the centerline of the easement shall be the pipe line as constructed.

SE¼ NW¼ 3-75-27



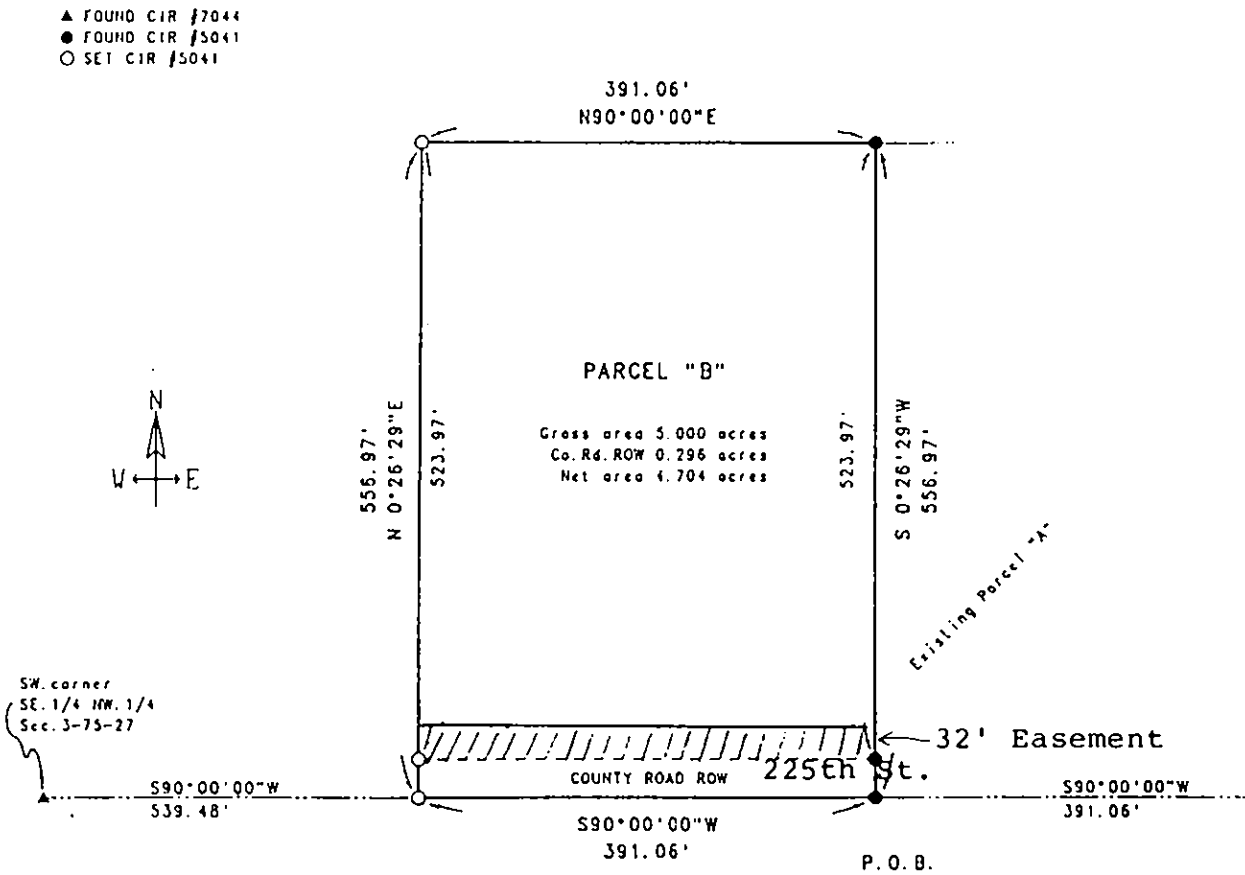
EASEMENT DESCRIPTION: A perpetual easement for erection, construction, installation, laying and thereafter use, operation, inspection, repair, maintenance, replacement and removal of water lines and appurtenances thereto, over, across and through the above-described real estate.

EXHIBIT "B"  
Page 2 of 3

Parcel No. M5-2172 (SE 1/4 NW 1/4 3-75-27)

PLAT OF AN EASEMENT for construction and maintenance of a water distribution system across all that part of Parcel "B" of the survey of the SE 1/4 of the NW 1/4 of Section 3, Township 75 North, Range 27 West of the 5th P.M., as filed of record in Plat Book 2, Page 562 in the Office of the Madison County Recorder on May 9, 1995, lying North of the 225th Street county road right-of-way as located across the said Parcel "B", DESCRIBED AS FOLLOWS: The South 32 feet of the said property which is parallel and adjacent to the 225th Street county road right-of-way, beginning at the East boundary line of said property, thence West along and adjacent to the said county road right-of-way to the West boundary line of said property.

SE 1/4 NW 1/4 3-75-27



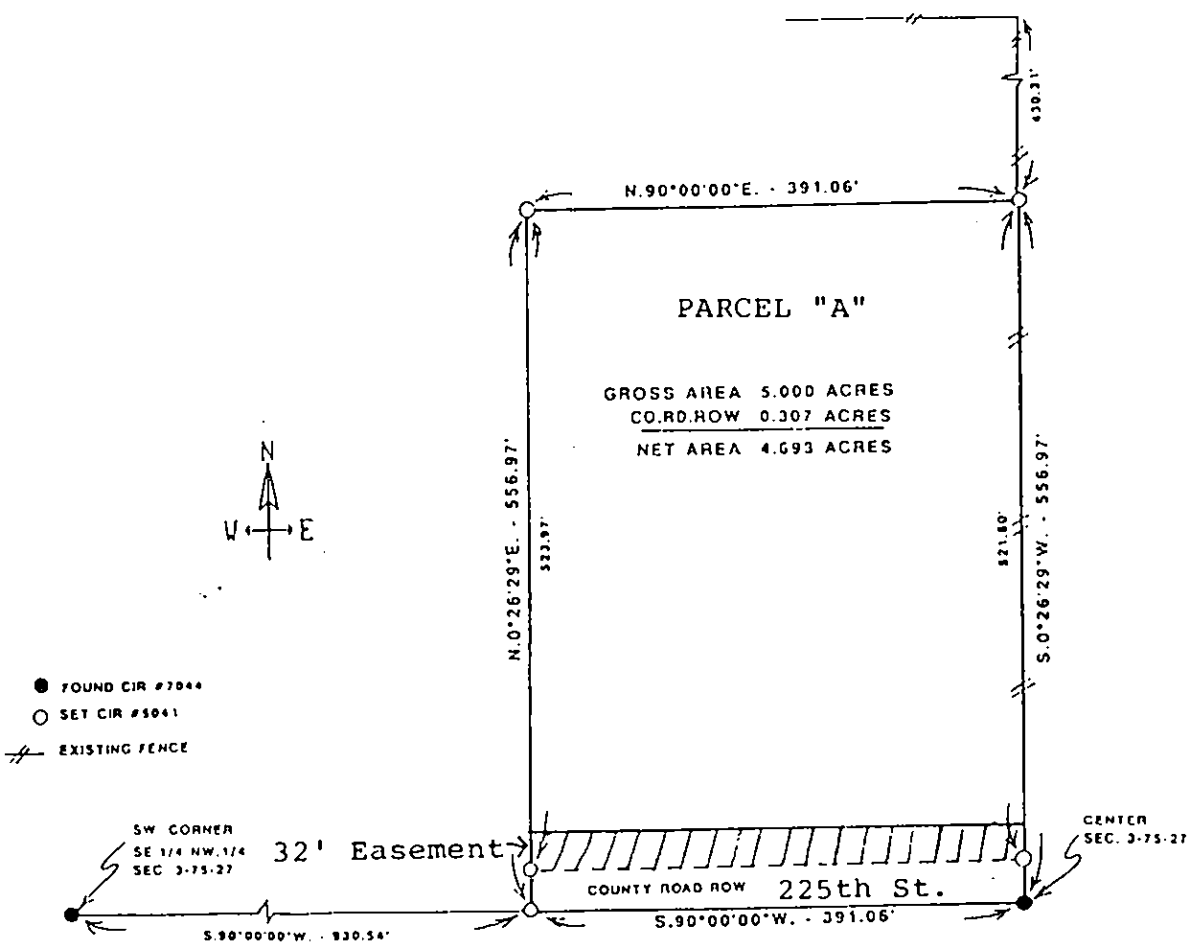
EASEMENT DESCRIPTION: A perpetual easement for erection, construction, installation, laying and thereafter use, operation, inspection, repair, maintenance, replacement and removal of water lines and appurtenances thereto, over, across and through the above-described real estate.

EXHIBIT "B"  
Page 3 of 3

Parcel No. M5-2173 (SE 1/4 NW 1/4 3-75-27)

PLAT OF AN EASEMENT for construction and maintenance of a water distribution system across all that part of Parcel "A" of the survey of the SE 1/4 of the NW 1/4 of Section 3, Township 75 North, Range 27 West of the 5th P.M., as filed of record in Plat Book 2, Page 521 in the Office of the Madison County Recorder on December 6, 1994, lying North of the 225th Street county road right-of-way as located across the said Parcel "A", DESCRIBED AS FOLLOWS: The South 32 feet of the said property which is parallel and adjacent to the 225th Street county road right-of-way, beginning at the East boundary line of said property, thence West along and adjacent to the said county road right-of-way to the West boundary line of said property.

SE 1/4 NW 1/4 3-75-27



EASEMENT DESCRIPTION: A perpetual easement for erection, construction, installation, laying and thereafter use, operation, inspection, repair, maintenance, replacement and removal of water lines and appurtenances thereto, over, across and through the above-described real estate.

EXHIBIT "C"  
Page 1 of 1

**Parcel No. M5-2171 (SE¼ NW¼ 3-75-27)**

Property Owners:

Niada McFarland, 2554 - 225th Trail, Winterset, Iowa 50273.

Others that may be affected by the proceedings:

Madison County, Iowa, c/o County Auditor, Madison County Courthouse, Winterset, Iowa 50273.

Holders of Lien or encumbrance:

None.

**Parcel No. M5-2172 (SE¼ NW¼ 3-75-27)**

Property Owners:

Geoffrey McFarland, 2553 - 225th Street, Winterset, Iowa 50273.

Others that may be affected by the proceedings:

Madison County, Iowa, c/o County Auditor, Madison County Courthouse, Winterset, Iowa 50273.

Holders of Lien or encumbrance:

Earlham Savings Bank, 7300 Lake Drive, West Des Moines, Iowa 50266.

**Parcel No. M5-2173 (SE¼ NW¼ 3-75-27)**

Property Owners:

Rodney McFarland, 2543 - 225th Street, Winterset, Iowa 50273.  
Jennifer J. McFarland, 2543 - 225th Street, Winterset, Iowa 50273.

Others that may be affected by the proceedings:

Madison County, Iowa, c/o County Auditor, Madison County Courthouse, Winterset, Iowa 50273.

Holders of Lien or encumbrance:

DeGeorge Capital Corp., c/o Prentice-Hall Corp. System, 729 Insurance Exchange Bldg., Des Moines, Iowa 50309.

Reliastar Mortgage Corporation, 7015 Vista Drive, West Des Moines, Iowa 50266.