

FILED NO. 2807

BOOK 134 PAGE 295

95 MAY -2 AM 10:48

MICHELLE UFSLER  
RECORDER  
MADISON COUNTY, 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: PHASE III;

Parcel M-0137-A - (NE $\frac{1}{4}$  NW $\frac{1}{4}$  17-74-26)  
Parcel M-0137-B - (NW $\frac{1}{4}$  NW $\frac{1}{4}$  17-74-26)

REC \$ 40.00

AUD \$

R.M.F. \$ 7.00

COMPUTER ✓  
RECORDED ✓  
COMPARED ✓

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

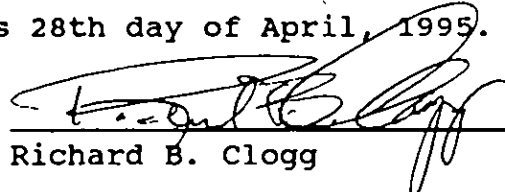
STATE OF IOWA, COUNTY OF WARREN: ss.

I, the undersigned, pursuant to the provisions of § 6B.3(7) of the Code of Iowa, 1995, 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.

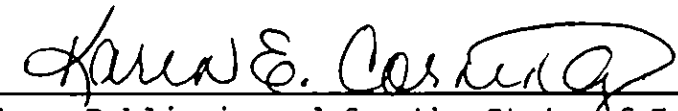
I hereby certify that attached hereto is the original Application by Warren Water District which was filed with the Honorable Richard D. Morr, Chief Judge of the Fifth Judicial District of Iowa, which includes Madison County, Iowa, on the 26th day of April, 1995, at his office in Des Moines, Iowa and 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 April, 1995.

  
Richard B. Clogg

Subscribed and sworn to before me by Richard B. Clogg this 28th day of April, 1995.

  
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: PHASE III;

Parcel M-0137-A - (NE $\frac{1}{4}$  NW $\frac{1}{4}$  17-74-26)  
Parcel M-0137-B - (NW $\frac{1}{4}$  NW $\frac{1}{4}$  17-74-26)

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 RICHARD D. MORR, 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 (1995), 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 708 North Avenue, Norwalk, Iowa 50211, and is  
authorized to make this application under the provisions of  
§357A.11(5) of the Code of Iowa (1995).

2. The Applicant seeks to acquire, by the process of eminent  
domain, permanent and perpetual easements 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 Warren County and 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 re-clear 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 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, is 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.

-3-

10. You are requested to appoint a Commission in compliance with Chapter 6B of the Code of Iowa (1995) 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 of Chapter 6B, Code of Iowa, as amended.

Dated this 25th day of April, 1995.

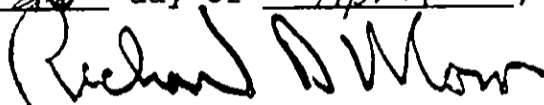
WARREN WATER DISTRICT

By 

Richard B. Clogg, WN000000895  
ELGIN, CLOGG & PATIN  
106 East Salem Avenue  
P.O. Box 215  
Indianola, Iowa 50125  
Telephone: (515) 961-2574

ATTORNEYS FOR APPLICANT,  
WARREN WATER DISTRICT

Application filed in duplicate in my office in Des Moines, Iowa, is approved this 26 day of April, 1995.



CHIEF JUDGE, FIFTH JUDICIAL DISTRICT OF IOWA

**EXHIBIT "A"**

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. M-0137-A**

The Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 17, Township 74 North, Range 26 West of the 5th P.M., Madison County Iowa.

**PARCEL NO. M-0137-B**

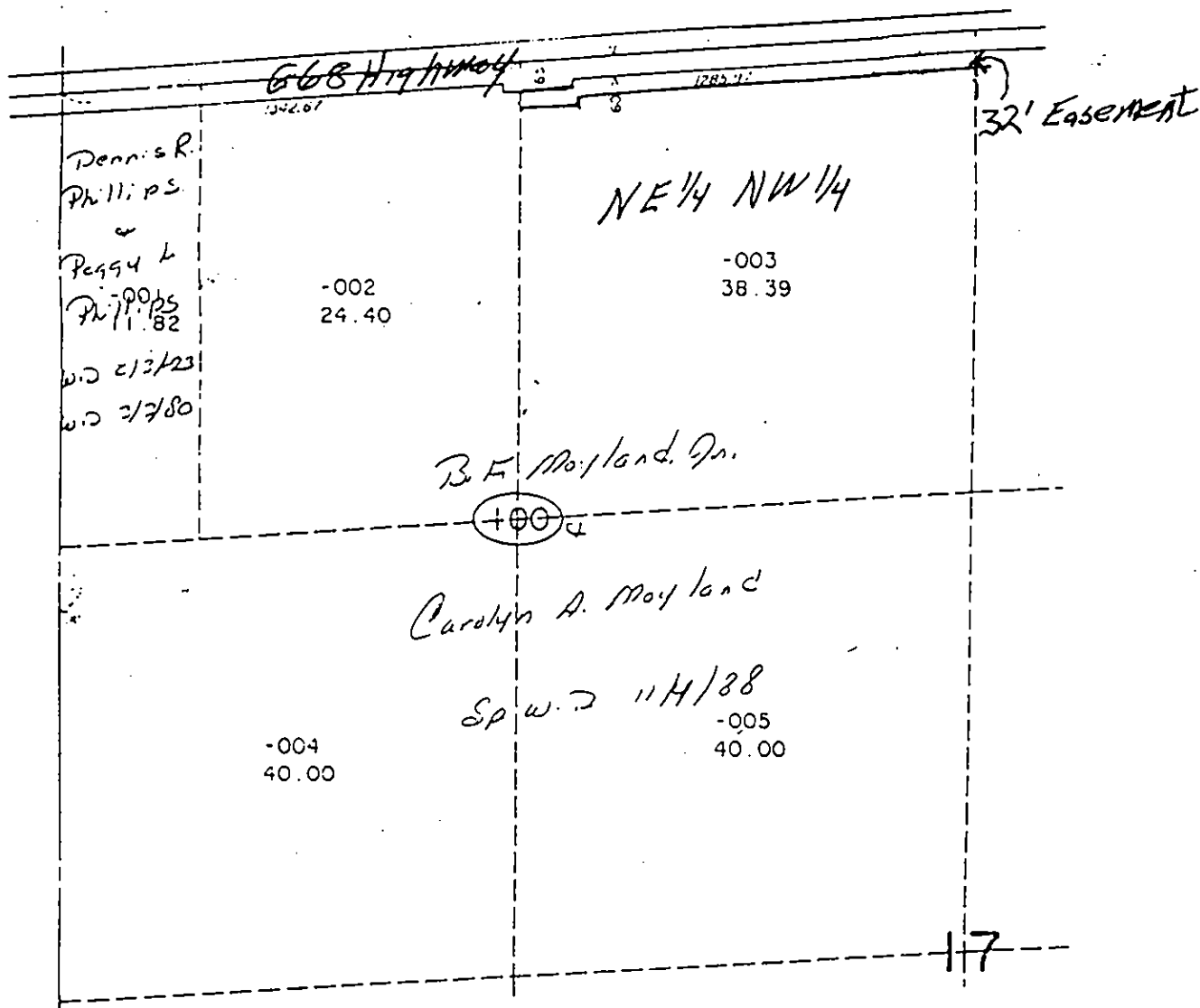
The East 28 Acres of Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 17, Township 74 North, Range 26 West of the 5th P.M., Madison County Iowa.

EXHIBIT "B"

PARCEL NO. M-0137-A

PLAT OF AN EASEMENT for construction and maintenance of a water distribution system across the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 17, Township 74 North, Range 26 West of the 5th P.M., Madison County Iowa DESCRIBED AS FOLLOWS: A 32 foot wide parcel of land adjacent to the South G68 Highway Right-of-way from the East boundary line of said property to the West boundary line of said property.

NW $\frac{1}{4}$  17-74-26



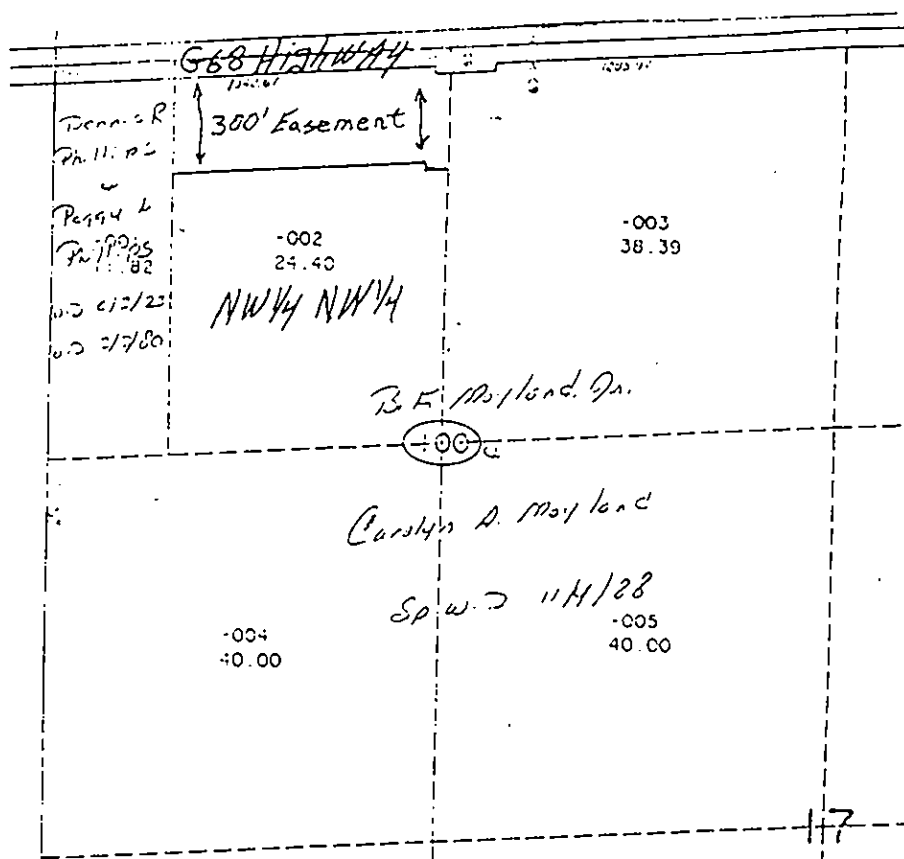
EASEMENT DESCRIPTION: A perpetual easement for erection, construction, installation, laying and thereafter use, operation, inspection, repair, maintenance, replacement and removal of water lines and appurtenances thereto, over, across and through the following described real estate situated in Madison County, Iowa, to-wit: A 32 foot wide parcel of land adjacent to the South G68 Highway Right-of-way from the East boundary line of said property to the West boundary line of said property in the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 17, Township 74 North, Range 26 West of the 5th P.M., Madison County, Iowa.

EXHIBIT "B"

PARCEL NO. M-0137-B

PLAT OF AN EASEMENT for construction and maintenance of a water distribution system across the East 28 Acres of Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 17, Township 74 North, Range 26 West of the 5th P.M., Madison County Iowa DESCRIBED AS FOLLOWS: A Three Hundred (300) foot wide parcel of land adjacent to the South G68 Highway Right-of-way from the East boundary line of said property to the West boundary line of said property, provided that after construction of said pipe line, the easement shall be a thirty-two (32) foot wide parcel of land the centerline of which shall be the pipe line as constructed.

NW $\frac{1}{4}$  17-74-26



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 following described real estate situated in Madison County, Iowa, to-wit: A Three Hundred (300) foot wide parcel of land adjacent to the South G68 Highway Right-of-way from the East boundary line of said property to the West boundary line of said property, provided that after construction of said pipe line, the easement shall be a thirty two (32) foot wide parcel of land the centerline of which shall be the pipe line as constructed, in the East 28 acres of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 17, Township 74 North, Range 26 West of the 5th P.M., Madison County, Iowa.

**EXHIBIT "C"**

**Parcel No. M-0137-A - NE $\frac{1}{4}$  NW $\frac{1}{4}$  17-74-26**

Property Owners:

B. F. Moyland, Jr.  
Rt. 2, Box 61  
Truro, Iowa 50357

Carolyn A. Moyland  
Rt. 2, Box 61  
Truro, Iowa 50357

Mortgagee: First Federal Savings Bank, FSB  
612 N. Main Street  
Rockford, Illinois 61103

Others that may be affected by the proceedings:

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

**Parcel No. M-0137-B - NW $\frac{1}{4}$  NW $\frac{1}{4}$  17-74-26**

Property Owner:

B. F. Moyland, Jr.  
Rt. 2, Box 61  
Truro, Iowa 50357

Carolyn A. Moyland  
Rt. 2, Box 61  
Truro, Iowa 50357

Mortgagee: First Federal Savings Bank, FSB  
612 N. Main Street  
Rockford, Illinois 61103

Others that may be affected by the proceedings:

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