

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-0067-A - (NW $\frac{1}{4}$ NW $\frac{1}{4}$ 16-74-26)
Parcel M-0067-B - (NE $\frac{1}{4}$ NW $\frac{1}{4}$ 16-74-26)

FILED NO. 366
BOOK 134 PAGE 604
95 AUG -8 PH 2: 19

COMPUTER
RECORDED
CORRECTED

MICHELLE UTSLER
RECORDER
MADISON COUNTY, IOWA

REC. S. 42¹⁰
ADD.
R.M.F. S. 100

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

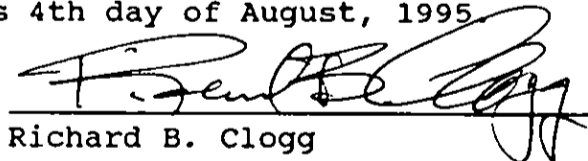
STATE OF IOWA, COUNTY OF WARREN: ss.

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.

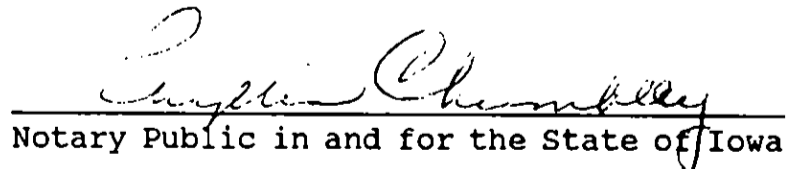
I hereby certify that attached hereto is the original Application by Warren Water District which was filed with the Honorable Richard D. Morr, Chief Judge of the Fifth Judicial District of Iowa, which includes Madison County, Iowa, on the 2nd day of August, 1995, at his office in Des Moines, Iowa and 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 4th day of August, 1995


Richard B. Clogg

Subscribed and sworn to before me by Richard B. Clogg this 4th day of August, 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-0067-A - (NW $\frac{1}{4}$ NW $\frac{1}{4}$ 16-74-26)
Parcel M-0067-B - (NE $\frac{1}{4}$ NW $\frac{1}{4}$ 16-74-26)

**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, also known as Warren
Water District 2, 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.

-2-

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.

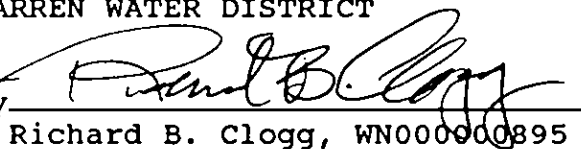
10. You are requested to appoint a Commission in compliance with Chapter 6B of the Code of Iowa (1995) to appraise the damages, said Commission shall be six in number and shall be residents of Madison County, Iowa.

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 Chapter 6B, Code of Iowa, as amended.

Dated this 2nd day of August, 1995.

WARREN WATER DISTRICT

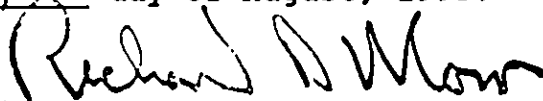
By



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 2nd day of August, 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-0067-A

The Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 16, Township 74 North, Range 26 West of the 5th P.M., Madison County Iowa.

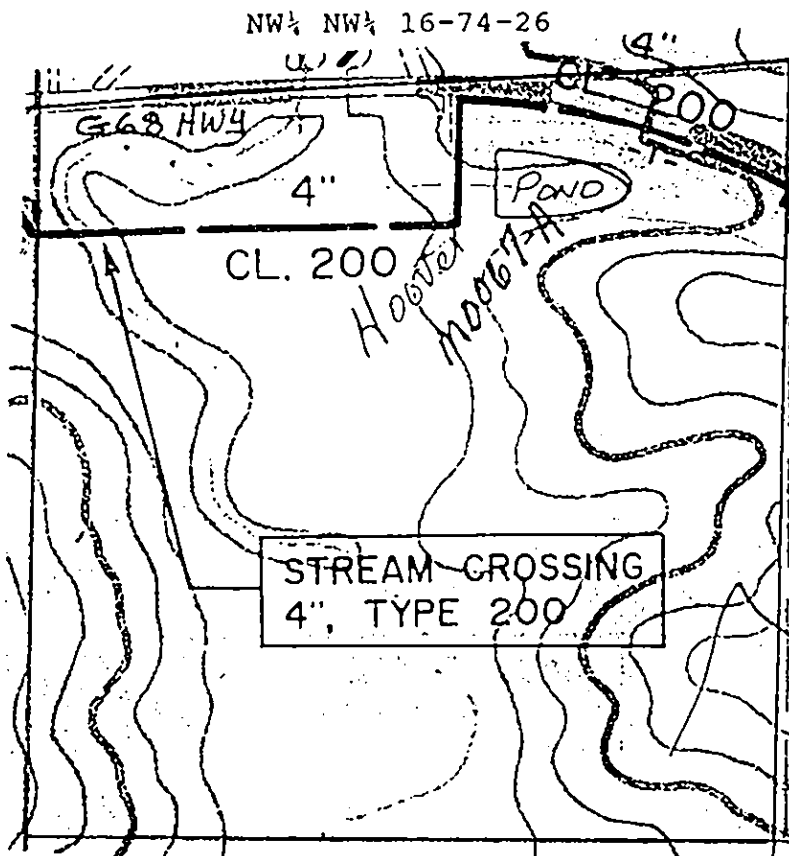
PARCEL NO. M-0067-B

The Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 16, Township 74 North, Range 26 West of the 5th P.M., Madison County Iowa.

EXHIBIT "B"

PARCEL NO. M-0067-A

PLAT OF AN EASEMENT for construction and maintenance of a water distribution system across the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 16, Township 74 North, Range 26 West of the 5th P.M., Madison County Iowa DESCRIBED AS FOLLOWS: A Two-Hundred Fifty (250) foot wide parcel of land adjacent to the South and Southwest G68 Highway Right-of-way from the West boundary line of said property to the East 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.

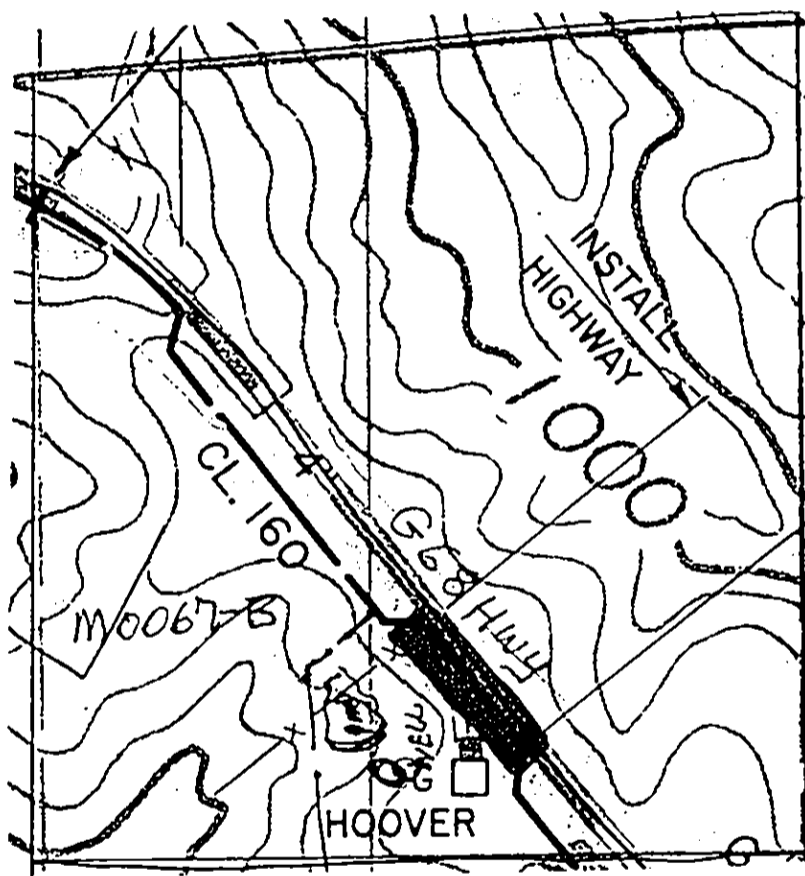


EASEMENT DESCRIPTION: A perpetual easement for erection, construction, installation, laying and thereafter use, operation, inspection, repair, maintenance, replacement and removal of water lines and appurtenances thereto, over, across and through the following described real estate situated in Madison County, Iowa, to-wit: A Two-Hundred Fifty (250) foot wide parcel of land adjacent to the South and Southwest G68 Highway Right-of-way from the West boundary line of the property to the East boundary of the 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 Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 16, Township 74 North, Range 26 West of the 5th P.M., Madison County, Iowa.

PARCEL NO. M-0067-B

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 16, Township 74 North, Range 26 West of the 5th P.M., Madison County Iowa DESCRIBED AS FOLLOWS: A Thirty-two (32) foot wide parcel of land adjacent to the South and Southwest G68 Highway Right-of-way from the West boundary line of the property to the East boundary of that part of said property that lies West of the G68 Highway Right-of-way,

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 16-74-26



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 Thirty-two (32) foot wide parcel of land adjacent to the South and Southwest G68 Highway Right-of-way from the West boundary line of the property to the East boundary of that part of said property that lies West of the G68 Highway Right-of-way, in the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 16, Township 74 North, Range 26 West of the 5th P.M., Madison County, Iowa.

EXHIBIT "C"

Parcel No. M-0067-A - NW $\frac{1}{4}$ NW $\frac{1}{4}$ 16-74-26

Property Owners:

Frederick J. Hoover
Rt. 2, Box 58
Truro, Iowa 50257

Donna C. Hoover
Rt. 2, Box 58
Truro, Iowa 50257

Others that may be affected by the proceedings:

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

Parcel No. M-0067-B - NE $\frac{1}{4}$ NW $\frac{1}{4}$ 16-74-26

Property Owners:

Frederick J. Hoover
Rt. 2, Box 58
Truro, Iowa 50257

Donna C. Hoover
Rt. 2, Box 58
Truro, Iowa 50257

Others that may be affected by the proceedings:

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