

BEFORE THE CHIEF JUDGE OF THE FIFTH JUDICIAL
DISTRICT OF THE STATE OF IOWA

IN THE MATTER OF THE
CONDEMNATION OF CERTAIN
RIGHTS IN LAND BY
CITY OF WINTERSET, IOWA

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SELECTION AND
APPOINTMENT OF
SUBSTITUTE
COMPENSATION COMMISSIONERS

The above entitled matter upon written Application having come before me and a Compensation Commission so appointed pursuant thereto, the undersigned, in the event a commission or commissioners are unable to serve herein, does hereby select and appoint by lot the following persons as substitute commissioners to fill the vacancy in the category in which their name appears:

<u>Category</u>	<u>Name</u>	<u>Address</u>
Licensed real estate salesperson or broker	1. Dale Tuttle	Winterset
	2. Steve Weeks	Winterset
Knowledgeable of property values by reason of occupation	1. Gus Henrichs	Winterset
	2. Gail Leeper	Winterset
Agricultural owners-operators	1. Raymond Clark	Booneville
	2. Dean Molln	Winterset

These substitute commissioners shall not serve unless a vacancy occurs. In the event of a vacancy the Sheriff of Madison County, Iowa shall notify the substitute commissioner or commissioners of their appointment as by law provided.

In the event DON NOACK who has been designated as Chairperson of the said Commission is unable to serve, then, and only then, DON EYERLY shall serve as the Chairperson of the said Commission.

Dated at Des Moines, Iowa, on this 12th day of March, 1993.

Richard D. Morr

Richard D. Morr, Judge of the Fifth Judicial District
including Madison County, Iowa

Filed in the Sheriff's Office of Madison County, Iowa at Winterset, Iowa, on this 12th day of March, 1993.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

ENTERED FOR TAXATION:
THIS 12th DAY OF MARCH 1993
AUDITORS FEE \$ 10.00
James Welch
AUDITOR
Deby Kite
DEPUTY AUDITOR

COMPUTER
RECORDED
COMPARED

Fee \$50.00

FILED NO. 2276
BOOK 131 PAGE 265
93 MAR 12 PM 3:27
MICHELLE UTSLER
RECORDER
MADISON COUNTY, IOWA

BEFORE THE CHIEF JUDGE OF THE FIFTH JUDICIAL
DISTRICT OF THE STATE OF IOWA

IN THE MATTER OF THE
CONDEMNATION OF CERTAIN
RIGHTS IN LAND BY
CITY OF WINTERSET, IOWA

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SELECTION AND APPOINT-
MENT OF COMPENSATION
COMMISSIONER BY THE
FIFTH JUDICIAL DISTRICT

The above entitled matter upon written Application having come before me for the selection and appointment by lot of six (6) suitable persons as by law provided to act as a compensation commission to appraise the damage to the property described by the Applicant, the undersigned hereby selects and appoints as the members of this compensation commission the following persons:

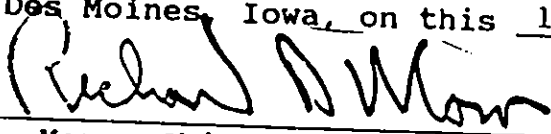
<u>Name</u>	<u>Address</u>	<u>Qualifications</u>
1. Don Noack	Booneville	Real Estate Sales or Broker
2. Don Eyerly	Winterset	Real Estate Sales or Broker
3. Margaret Schafer	Earlham	Knowledgeable about Values
4. Loren Myers	Macksburg	Knowledgeable about Values
5. Chester Haymond	Winterset	Agricultural owner/operator
6. Russell Anderson	peru	Agricultural owner/operator

The undersigned further appoints DON NOACK to serve as Chairperson of said Commission. I further appoint DON EYERLY as Alternate Chairperson of said Commission.

Substitute commissioners have been appointed by lot and shall not serve unless a vacancy occurs. In the event of a vacancy the Sheriff of Madison County, Iowa, shall notify the substitute commissioner or commissioners of their appointment in the same manner as the original commissioners were notified.

Attached hereto is the duplicate of the Application for condemnation filed in this matter.

Dated at Des Moines, Iowa, on this 12th day of March, 1993.



Richard D. Morr, Chief Judge of the Fifth Judicial District including Madison County, Iowa

Filed in the Sheriff's Office of Madison County at Winterset, Iowa,
on this 12th day of March, 1993.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

BEFORE THE CHIEF JUDGE OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IOWA

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY CITY OF WINTERSSET, IOWA

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APPLICATION FOR CONDEMNATION AND APPOINTMENT OF COMMISSION TO APPRAISE DAMAGES

TO: Richard D. Morr, The Chief Judge of the Fifth Judicial District of the State of Iowa

The Applicant, City of Winterset, Iowa, pursuant to Chapter 472.3 of the Code of Iowa, hereby applies to the Chief Judge of the Fifth Judicial District of Iowa, for the appointment of a commission to appraise the damages to real estate hereinafter described, and in support thereof, states as follows:

1. The applicant is the City of Winterset, Iowa.
2. A description of all the property in the county, affected or sought to be condemned, by its congressional numbers, in tracts not exceeding one-sixteenth (1/16th) of a section, or, if the land consists of lots in a city, by the numbers of the lot and block, and plat designation is attached hereto as Exhibit "A" and incorporated herein.
3. The applicant seeks to condemn and acquire by eminent domain an easement upon and over the real estate described on Exhibit "B" for the purpose of installing and maintaining one sanitary sewer main with related accessory facilities and equipment.
4. A further definition of the "taking" is shown as Exhibit "C" which is incorporated herein by this reference.
5. The names of all record owners of the different tracts of land sought to be condemned, or otherwise affected by such proceedings, and of all record holders of liens and encumbrances on such lands; and, the place of residence of all such persons so far as known to the applicant is as follows:

NAMES AND ADDRESSES OF ALL RECORD OWNERS AND PARTIES IN POSSESSION OF SAID PROPERTY

OWNERS:	ADDRESS:
Jack L. Benoit	R. R. 3 Box 147 Winterset, Iowa 50273
Patricia Benoit	R. R. 3 Box 147 Winterset, Iowa 50273
TENANTS: None	

Page -2-

LIENHOLDERS:

North American Savings Bank, FSB 12125-D Blue Ridge Extension
Grandview, MO 64030

Union State Bank of Winterset 201 West Court Avenue
Winterset, IA 50273

Madison County, Iowa Madison County Courthouse
Board of Supervisors Winterset, Iowa 50273

ENCUMBRANCERS:

City of Winterset, Iowa 101 East Jefferson
Winterset, Iowa 50273

Central Iowa Power Cooperative P. O. Box 2517
Cedar Rapids, IA 52406

Midwest Gas P. O. Box 10410
Des Moines, IA 50306

6. The plat or plats showing the location of the easement right-of-way or other property sought to be condemned with reference to the real estate heretofore described is attached hereto as Exhibit "B" and incorporated herein.

7. The property to be condemned is agricultural property with damages to be paid by the City of Winterset. The land is classified as Class I and II under the United States Department of Agriculture soil conservation service land capability classification system and is reasonably necessary for the work of internal improvement for which condemnation is sought.

Applicant requests that the Chief Judge of this Judicial District appoint a Commission to appraise the damages to said real estate pursuant to Chapter 472 of the Code of Iowa.

Dated this 12th day of March, 1993, at Winterset, Madison County, Iowa.

Applicant: CITY OF WINTERSET, IOWA

By John E. Casper
John E. Casper
Winterset City Attorney
223 East Court Avenue
P. O. Box 67
Winterset, IA 50273-0067
Tele: (515) 462-4912
Attorney for Applicant

Page -3-

DESCRIPTION OF PROPERTY TO BE AFFECTED

See attached Exhibit "A"

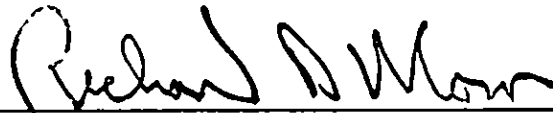
DESCRIPTION OF SPECIFIC PROPERTY SOUGHT TO BE CONDEMNED

See attached Exhibit "B"

DESCRIPTION OF TAKING

See attached Exhibit "C"

Filed in duplicate in my office at Des Moines, Iowa on this 12 day of March, 1993.



Richard D. Morr, Chief Judge of the Fifth Judicial District of Iowa including Madison County

Filed in the Office of the Sheriff of Madison County at Winterset, Iowa on this 12th day of March, 1993.



Paul D. Welch
Madison County Sheriff

Jack L. Benoit Property Description

1. Parcel in Section 6 - T75N - R27W of the 5th P.M.

All that part of the South Fractional Half (SFr 1/2) of the Northwest Quarter (NW 1/4); and the North Half (N 1/2) of the North Half (N 1/2) of the Southwest Quarter (SW 1/4) of Section 6, Township 75 North, Range 27 West of the 5th P.M., lying and being West of U.S. Highway No. 189 (now designated Madison County P-71)

2. Parcel in Section 1- T75N - R28W of the 5th P.M.

The Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) and a tract described as beginning 1222.5 feet South of the Northeast Corner of Section 1, Township 75 North, Range 28 West of the 5th P.M., Madison County, Iowa, and on the East line of the Northeast Quarter (NE 1/4) of said Section 1, thence North 90°00' West 533.2 feet, thence North 0°20' West 90.0 feet, thence North 88°20' West 50.0 feet, thence South 89°40' West 94.8 feet, thence continuing South 89°40' West 838.4 feet to the West line of the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of Section 1, thence South 0°00' West 281.7 feet, thence South 89°20' East along the South line of the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of said Section One 1313.4 feet to the East line of the Northeast Quarter (NE 1/4) of said Section 1, thence North 0°08' West 173.0 feet to the point of beginning all being in Section 1, Township 75 North, Range 28 West of the 5th P.M., Madison County, Iowa except a tract of land described as beginning at the Northwest Corner of the Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of said Section 1; thence North 00°00'00" 211.22 feet; thence North 89°40'39" East 524.74 feet; thence South 00°00'00" 512.01 feet; thence North 71°52'04" West 552.92 feet to the west line of said SE. 1/4 of the NE. 1/4; thence, along said West line, North 00°19'57" East 125.78 feet to the Point of Beginning, containing 5.116 acres including 0.224 acres of road right-of-way.

EXHIBIT "A"

5

PERMANENT EASEMENT: A 30 feet wide parcel being 15 feet either side of the following described centerline: Commencing at the Northwest Corner of the NE.1/4 of the SE.1/4 of Section 1, Township 75 North, Range 28 West of the 5th P.M., Madison County, Iowa thence South 286.3 feet along the West line of said NE.1/4 of the SE.1/4; thence North 88°49'48" East 39.69 feet; thence North 61°33'08" East 394.66 feet; thence North 76°12'28" East 399.16 feet; thence North 62°21'04" East 42 feet more or less to the North line of said NE.1/4 of the SE.1/4 which is the Point of Beginning; thence continuing North 62°21'04" East 193.77 feet more or less; thence North 70°39'03" East 170.98 feet; thence North 69°22'00" East 321.00 feet; thence South 83°04'25" East 305.00 feet; thence North 87°41'59" East 350.00 feet; thence South 27°34'47" East 234.00 feet; thence South 31°49'10" East 328.00 feet; thence South 81°37'27" East 343.00 feet; thence North 80°47'42" East to the Madison County Road P-71 right of way which is the easterly limit of this easement.

TEMPORARY EASEMENT: A 60 feet wide parcel being 30 feet either side of the following described centerline: Commencing at the Northwest Corner of the NE.1/4 of the SE.1/4 of Section 1, Township 75 North, Range 28 West of the 5th P.M., Madison County, Iowa thence South 286.3 feet along the West line of said NE.1/4 of the SE.1/4; thence North 88°49'48" East 39.69 feet; thence North 61°33'08" East 394.66 feet; thence North 76°12'28" East 399.16 feet; thence North 62°21'04" East 42 feet more or less to the North line of said NE.1/4 of the SE.1/4 which is the Point of Beginning; thence continuing North 62°21'04" East 193.77 feet more or less; thence North 70°39'03" East 170.98 feet; thence North 69°22'00" East 321.00 feet; thence South 83°04'25" East 305.00 feet; thence North 87°41'59" East 350.00 feet; thence South 27°34'47" East 234.00 feet; thence South 31°49'10" East 328.00 feet; thence South 81°37'27" East 343.00 feet; thence North 80°47'42" East to the Madison County Road P-71 right of way which is the easterly limit of this easement.

EXHIBIT "B"

TAKING

The taking is for the purpose of granting the City of Winterset, Iowa, its successors and assigns the perpetual right and easement to construct, install, repair, maintain, operate, inspect, replace, and remove one sanitary sewer main with manholes and related accessory facilities and equipment including the right of ingress and egress upon and across the easement for the above described purposes. This taking shall be a covenant running with the land binding upon the Condemnee, their successors and assigns.

The Condemnor shall have the right to cut, trim and/or remove such trees, limbs, brush or other obstructions which are within the easement area as will, in the sole discretion of the Condemnor, reasonably interfere with the initial construction and installation of the sewer main and related accessories. The Condemnee shall be offered the first choice to keep the wood from any such trees cut or trimmed. In the event the Condemnee declines to keep such wood, or any part thereof, the Condemnor, or its agents, shall cause the wood to be removed from Condemnee's real estate.

After completion of the initial construction and installation of the sanitary sewer main and related accessories, the Condemnor shall thereafter pay the Condemnee, their successors or assigns for any damages which may be caused to crops, fences or other property by the acts of the Condemnor or its agents in entering upon the easement for the purposes of operating, repairing, maintaining, inspecting, replacing, and removing the sanitary sewer main and related accessories.

EXHIBIT "C"

17
The Condemnor shall repair or replace to as good or better condition any fence damaged or removed during the initial construction and installation of the sanitary sewer main and related accessories.

Wherever reasonably feasible, the Condemnor or its agents upon excavation of the soil shall separate the topsoil from the subsoil so that when any trench is backfilled the topsoil is on the surface.

After the final backfill and grading of the trench during initial construction of the sanitary sewer main and related accessories is completed, the Condemnor, or its agents, shall cause the disturbed areas to be restored to original grade and to be tilled, fertilized and seeded.

In the event field tile lines are cut or disturbed during initial construction and installation of the sanitary sewer, the Condemnor or its agents shall repair each such tile line cut or disturbed.

TEMPORARY EASEMENT

The temporary construction easement is for the initial construction and installation of the sanitary sewer main and shall be deemed abandoned and relinquished without further action by the Condemnor at the earlier of sixty (60) days after the date of Condemnor's final acceptance of the contractor's construction of the sanitary sewer or January 1, 1995.