

FILED NO. 2865

BOOK 131 PAGE 499

93 MAY 14 AM 10:22

REC 395
AUD

COMPUTER
RECORDED
MICHELLE UTSLER
RECORDER
MADISON COUNTY, IOWA

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

)
)
) SHERIFF'S FILING OF RECORD
)
)

TO: MICHELLE UTSLER, MADISON COUNTY RECORDER:

PLEASE FIND ATTACHED THE FOLLOWING PAPERS REGARDING THE ABOVE NAMED
CONDEMNATION WHICH WAS HELD IN MY OFFICE OF THE 13TH DAY OF
APRIL, 1993:

A CERTIFIED COPY OF THE APPLICATION FOR CONDEMNATION;
ALL NOTICES, TOGETHER WITH ALL RETURNS OF SERVICE ENDORSED ON
THE RETURNS OR ATTACHED TO THE RETURNS;
THE REPORT OF THE COMMISSIONERS;
ALL OTHER PAPERS FILED WITH THE SHERIFF IN THE PROCEEDINGS.

I FURTHER CERTIFY THAT WARRANT NO. 009062 IN THE AMOUNT OF
\$21,000.00 RECEIVED FROM THE CITY OF WINTERSET WAS PAID
TO JACK BENOIT ON THE 22ND DAY OF APRIL, 1993,
AND WARRANT NO. 009063 IN THE AMOUNT OF \$630.00 RECEIVED FROM THE
CITY OF WINTERSET WAS PAID TO LEWIS JORDAN ON THE 22ND DAY OF
APRIL, 1993.

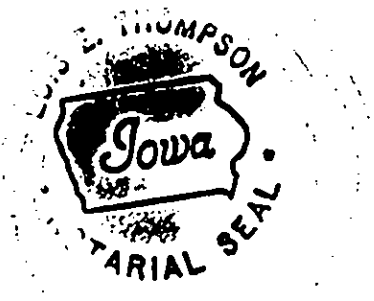
THIS APPLICATION FOR CONDEMNATION WAS FILED WITH THE COUNTY
RECORDER ON THE 12TH DAY OF MARCH, 1993, IN BOOK NUMBER
131 PAGE(S) 265.

Paul D. Welch
SHERIFF
MADISON COUNTY, IOWA

STATE OF IOWA)
) SS
MADISON COUNTY)

ON THIS 13th DAY OF May, 1993, BEFORE ME, A NOTARY
PUBLIC IN THE STATE OF IOWA, PERSONALLY APPEARED PAUL D. WELCH,
SHERIFF TO ME KNOWN TO BE THE PERSON NAMED IN AND WHO EXECUTED THE
FOREGOING INSTRUMENT, AND ACKNOWLEDGED THAT HE EXECUTED THE SAME
AS HIS VOLUNTARY ACT AND DEED.

Lois E. Thompson
LOIS E. THOMPSON, NOTARY PUBLIC
IN AND FOR THE STATE OF IOWA



IN THE DISTRICT COURT IN AND FOR MADISON COUNTY, IOWA

IN THE MATTER OF THE CONDEMNATION)
 OF CERTAIN RIGHTS IN LAND BY) SHERIFF'S CERTIFICATION
 CITY OF WINTERSET, IOWA) OF
) COSTS AND AWARDS
)

TO: MADISON COUNTY RECORDER

I CERTIFY THAT THE APPOINTED COMMISSIONERS IN THIS PROCEEDING
 CONVENED AT THE MADISON COUNTY SHERIFF'S OFFICE ON THE 13TH DAY OF
APRIL, 1993, PROCEEDED TO VIEW THE PREMISES, AND ON THE
13TH DAY OF APRIL, 1993, FILED THEIR WRITTEN REPORT WITH
 ME AWARDING DAMAGES AS FOLLOWS:

A. AWARDS MADE BY COMMISSION TO CONDEMNNEES

<u>NAME</u>	<u>ADDRESS</u>	
JACK L. BENOIT	RR 3 BOX 147, WINTERSET, IOWA	50273
LEWIS JORDAN, ATTORNEY	WINTERSET, IOWA	50273

TOTAL AWARD \$21,630.00

B. DEPOSITS TO SHERIFF MADE BY CONDEMNOR

<u>NAME</u>	<u>AMOUNTS</u>	<u>DATES</u>
JACK BENOIT	\$21,000.00	APRIL 13, 1993
LEWIS JORDAN, ATTORNEY	\$ 630.00	APRIL 13, 1993

TOTAL AMOUNTS DEPOSITED \$21630.00

C. AWARDS OR DAMAGES PAID TO CONDEMNNEES

<u>NAME</u>	<u>AMOUNTS</u>	<u>DATES</u>
JACK BENOIT	\$21,000.00	APRIL 22, 1993
LEWIS JORDAN, ATTORNEY	\$ 630.00	APRIL 22, 1993

TOTAL AMOUNTS PAID TO CONDEMNNEES \$21,630.00

D. COMMISSIONER'S FEES AND EXPENSES
NAMES

1. DONALD NOACK
2. DALE TUTTLE
3. GUS HENRICHS
4. LOREN MYERS
5. CHESTER HAYMOND
6. RUSSELL ANDERSON

FEES & EXPENSES

\$ 62.11
\$ 53.50
\$ 53.91
\$ 66.20
\$ 62.88
\$ 58.47

TOTAL

\$ 357.07

DATE PAID _____

E. SHERIFF'S CIVIL FEES AND EXPENSES

MILEAGE \$ 8.10
COUNTY FEES \$ 64.60
ATTEND COMMISSION \$ 60.00
RECORDING FEE \$ _____

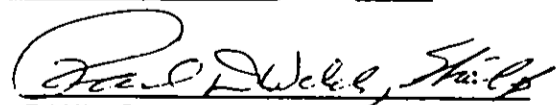
TOTAL \$ 132.70

DATE PAID MAY 7, 1993

F. THE NOTICE OF APPRAISEMENT OF DAMAGES AND TIME FOR APPEAL WAS MAILED TO ALL INTERESTED PARTIES BY ORDINARY MAIL ON THE 13TH DAY OF APRIL, 1993.

G. THE APPLICATION FOR CONDEMNATION WAS FILED WITH THE COUNTY RECORDER FOR MADISON COUNTY, IOWA, ON THE 12TH DAY OF MARCH, 1993, RECORDED WITH THE FOLLOWING BOOK, PAGE OR INSTRUMENT NUMBER: DEED RECORD BOOK 131 AT PAGE 265

I FURTHER CERTIFY THAT THE ATTACHED PAPERS ARE THE FULL AND COMPLETE ORIGINAL FILES IN THE PROCEEDINGS AND THE STATEMENTS ACCOMPANYING THE SAME ARE CORRECT AND TRUE. GIVEN UNDER MY HAND THIS 13TH DAY OF MAY, 1993.


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

*
*

APPLICATION FOR CONDEM-
NATION 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:

Jack L. Benoit

Patricia Benoit

TENANTS: None

ADDRESS:

R. R. 3 Box 147
Winterset, Iowa 50273

R. R. 3 Box 147
Winterset, Iowa 50273

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

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, Sheriff

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 125.76 feet to the Point of Beginning, containing 5.116 acres including 0.224 acres of road right-of-way.

EXHIBIT "A"

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.

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"

[REDACTED] [REDACTED] [REDACTED]

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

*

*

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:

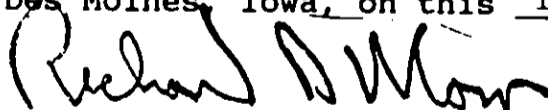
<u>Name</u>	<u>Address</u>	<u>Qualifications</u>
1. Don Noack	Booneville	Real Estate Sales or Broker
2. Don Eyerly	Winterset	Real Estate Sales or Broker
3. Margaret Schafer	Earlham	Knowledgeable about Values
4. Loren Myers	Macksburg	Knowledgeable about Values
5. Chester Haymond	Winterset	Agricultural 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 WINTERSET, IOWA

*

SELECTION AND
APPOINTMENT OF
SUBSTITUTE
COMPENSATION COMMISSIONERS

*

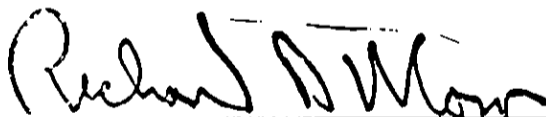
The above entitled matter upon written Application having come before me and a Compensation Commission so appointed pursuant thereto, the undersigned, in the event a commission or commissioners are unable to serve herein, does hereby select and appoint by lot the following persons as substitute commissioners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

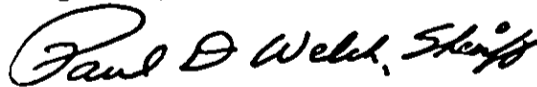
In the event DON NOACK who has been designated as Chairperson of the said Commission is unable to serve, then, and only then, DON EYERLY shall serve as the Chairperson of the said Commission.

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



Richard D. Morr, 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 of Madison County, Iowa

BEFORE THE SHERIFF OF MADISON COUNTY

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

*
*

SUMMONS TO COMMISSIONERS

TO: Don Noack, R. R. #1 Box 93, Booneville, IA 50038
Don Eyerly, R. R. 3, Winterset, IA 50273
Margaret Schafer, 1104 Main, Earlham, IA 50072
Loren Myers, R. R. #1, Macksburg, IA 50155
Chester Haymond, R. R. #4 Box 102, Winterset, IA 50273
Russell Anderson, R. R. #1, Peru, IA 50222

Upon application of the above condemnor to the Chief Judge of the Fifth Judicial District of Iowa for the selection of a compensation commission to appraise damages to real estate by reason of these proceedings, the Chief Judge of the Fifth Judicial District has selected and appointed you as member of such compensation commission, which selection has been duly filed in my office. Further the Chief Judge designated Don Noack as Chairperson of the said Commission.

YOU ARE THEREFORE COMMANDED to appear before the undersigned in the office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on the 13th day of April, 1993, at 9:30 o'clock A.M., Central Daylight Time, for the purpose of qualifying as a member of such commission and to proceed to view the premises and made an award of damages according to law.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

Due and proper service of the above summons is hereby accepted and receipt of a copy of the Summons acknowledged at Peru, Iowa, on this 2nd day of April, 1993.

Russell Anderson
Commission Member

CERTIFICATION

The undersigned hereby certified that he or she does not possess any interest in the above proceeding which would cause the undersigned to render a biased decision herein.

Russell Anderson
Commission Member

REFUSAL TO SERVE

The undersigned will be unable to serve for the reason that the undersigned possesses an interest in the above proceeding which would cause me to render a biased decision and/or for the reason that _____

Commission Member

Filed in the Office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on this 5th day of April, 1993.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

BEFORE THE SHERIFF OF MADISON COUNTY

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

*
*

SUMMONS TO COMMISSIONERS

TO: Don Noack, R. R. #1 Box 93, Booneville, IA 50038
Don Eyerly, R. R. 3, Winterset, IA 50273
Margaret Schafer, 1104 Main, Earlham, IA 50072
Loren Myers, R. R. #1, Macksburg, IA 50155
Chester Haymond, R. R. #4 Box 102, Winterset, IA 50273
Russell Anderson, R. R. #1, Peru, IA 50222

Upon application of the above condemnor to the Chief Judge of the Fifth Judicial District of Iowa for the selection of a compensation commission to appraise damages to real estate by reason of these proceedings, the Chief Judge of the Fifth Judicial District has selected and appointed you as member of such compensation commission, which selection has been duly filed in my office. Further the Chief Judge designated Don Noack as Chairperson of the said Commission.

YOU ARE THEREFORE COMMANDED to appear before the undersigned in the office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on the 13th day of April, 1993, at 9:30 o'clock A.M., Central Daylight Time, for the purpose of qualifying as a member of such commission and to proceed to view the premises and made an award of damages according to law.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

Due and proper service of the above summons is hereby accepted and receipt of a copy of the Summons acknowledged at Booneville, Iowa, on this 1 day of April, 1993.

Donald Q Noack
Commission Member

CERTIFICATION

The undersigned hereby certified that he or she does not possess any interest in the above proceeding which would cause the undersigned to render a biased decision herein.

Donald G. Neack
Commission Member

REFUSAL TO SERVE

The undersigned will be unable to serve for the reason that the undersigned possesses an interest in the above proceeding which would cause me to render a biased decision and/or for the reason that _____

Commission Member

Filed in the Office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on this 5th day of APRIL, 1993.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

BEFORE THE SHERIFF OF MADISON COUNTY

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

*
*

SUMMONS TO COMMISSIONERS

TO: Don Noack, R. R. #1 Box 93, Booneville, IA 50038
Don Eyerly, R. R. 3, Winterset, IA 50273
Margaret Schafer, 1104 Main, Earlham, IA 50072
Loren Myers, R. R. #1, Macksburg, IA 50155
Chester Haymond, R. R. #4 Box 102, Winterset, IA 50273
Russell Anderson, R. R. #1, Peru, IA 50222

Upon application of the above condemnor to the Chief Judge of the Fifth Judicial District of Iowa for the selection of a compensation commission to appraise damages to real estate by reason of these proceedings, the Chief Judge of the Fifth Judicial District has selected and appointed you as member of such compensation commission, which selection has been duly filed in my office. Further the Chief Judge designated Don Noack as Chairperson of the said Commission.

YOU ARE THEREFORE COMMANDED to appear before the undersigned in the office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on the 13th day of April, 1993, at 9:30 o'clock A.M., Central Daylight Time, for the purpose of qualifying as a member of such commission and to proceed to view the premises and made an award of damages according to law.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

Due and proper service of the above summons is hereby accepted and receipt of a copy of the Summons acknowledged at Winterset, Iowa, on this 2 day of April, 1993.

Chester Haymond
Commission Member

CERTIFICATION

The undersigned hereby certified that he or she does not possess any interest in the above proceeding which would cause the undersigned to render a biased decision herein.

Chester Raymond
Commission Member

REFUSAL TO SERVE

The undersigned will be unable to serve for the reason that the undersigned possesses an interest in the above proceeding which would cause me to render a biased decision and/or for the reason that _____

Commission Member

Filed in the Office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on this 3rd day of April, 1993.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

10

BEFORE THE SHERIFF OF MADISON COUNTY

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

*
*

SUMMONS TO COMMISSIONERS

TO: Don Noack, R. R. #1 Box 93, Booneville, IA 50038
~~Don Eyerly, R. R. #3, Winterset, IA 50273~~
Margaret Schafer, 1104 Main, Earlham, IA 50072
Loren Myers, R. R. #1, Macksburg, IA 50155
Chester Haymond, R. R. #4 Box 102, Winterset, IA 50273
Russell Anderson, R. R. #1, Peru, IA 50222
SUBSTITUTE Dale Tuttle, 522 N 2nd Avenue, Winterset, IA 50273

Upon application of the above condemnor to the Chief Judge of the Fifth Judicial District of Iowa for the selection of a compensation commission to appraise damages to real estate by reason of these proceedings, the Chief Judge of the Fifth Judicial District has selected and appointed you as member of such compensation commission, which selection has been duly filed in my office. Further the Chief Judge designated Don Noack as Chairperson of the said Commission.

YOU ARE THEREFORE COMMANDED to appear before the undersigned in the office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on the 13th day of April, 1993, at 9:30 o'clock A.M., Central Daylight Time, for the purpose of qualifying as a member of such commission and to proceed to view the premises and made an award of damages according to law.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

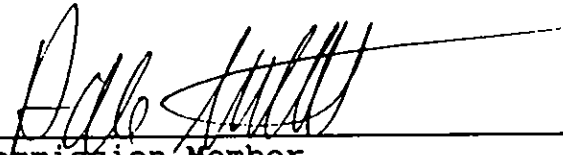
ACCEPTANCE OF SERVICE

Due and proper service of the above summons is hereby ~~accepted~~ and receipt of a copy of the Summons acknowledged at Winterset, Iowa, on this 9 day of April, 1993.

Dale Tuttle
Commission Member

CERTIFICATION

The undersigned hereby certified that he or she does not possess any interest in the above proceeding which would cause the undersigned to render a biased decision herein.



Commission Member

REFUSAL TO SERVE

The undersigned will be unable to serve for the reason that the undersigned possesses an interest in the above proceeding which would cause me to render a biased decision and/or for the reason that _____

Commission Member

Filed in the Office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on this 5th day of APRIL, 1993.



Paul D. Welch, Sheriff of Madison County, Iowa

BEFORE THE SHERIFF OF MADISON COUNTY

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

*
*

SUMMONS TO COMMISSIONERS

TO: Don Noack, R. R. #1 Box 93, Booneville, IA 50038
Don Eyerly, R. R. 3, Winterset, IA 50273
Margaret Schafer, 1104 Main, Earlham, IA 50072
Loren Myers, R. R. #1, Macksburg, IA 50155
Chester Haymond, R. R. #4 Box 102, Winterset, IA 50273
Russell Anderson, R. R. #1, Peru, IA 50222

Upon application of the above condemnor to the Chief Judge of the Fifth Judicial District of Iowa for the selection of a compensation commission to appraise damages to real estate by reason of these proceedings, the Chief Judge of the Fifth Judicial District has selected and appointed you as member of such compensation commission, which selection has been duly filed in my office. Further the Chief Judge designated Don Noack as Chairperson of the said Commission.

YOU ARE THEREFORE COMMANDED to appear before the undersigned in the office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on the 13th day of April, 1993, at 9:30 o'clock A.M., Central Daylight Time, for the purpose of qualifying as a member of such commission and to proceed to view the premises and made an award of damages according to law.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

Due and proper service of the above summons is hereby accepted and receipt of a copy of the Summons acknowledged at Macksburg, Iowa, on this 6 day of April, 1993.

Loren Myers

Commission Member

CERTIFICATION

The undersigned hereby certified that he or she does not possess any interest in the above proceeding which would cause the undersigned to render a biased decision herein.

Tom Meyer
Commission Member

REFUSAL TO SERVE

The undersigned will be unable to serve for the reason that the undersigned possesses an interest in the above proceeding which would cause me to render a biased decision and/or for the reason that _____

Commission Member

Filed in the Office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on this 7th day of APRIL, 1993.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

BEFORE THE SHERIFF OF MADISON COUNTY

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

*
*

SUMMONS TO COMMISSIONERS

TO: Don Noack, R. R. #1 Box 93, Booneville, IA 50038
~~Don Eyerly, R. R. #3, Winterset, IA 50273~~
~~Margaret Schafer, 1104 Main, Earlham, IA 50072~~
Loren Myers, R. R. #1, Macksburg, IA 50155
Chester Haymond, R. R. #4 Box 102, Winterset, IA 50273
Russell Anderson, R. R. #1, Peru, IA 50222
SUBSTITUTE Dale Tuttle, 522 N 2nd Avenue, Winterset, IA 50273
SUBSTITUTE Gus Henrichs, 303 W. Filmore, Winterset, IA 50273

Upon application of the above condemnor to the Chief Judge of the Fifth Judicial District of Iowa for the selection of a compensation commission to appraise damages to real estate by reason of these proceedings, the Chief Judge of the Fifth Judicial District has selected and appointed you as member of such compensation commission, which selection has been duly filed in my office. Further the Chief Judge designated Don Noack as Chairperson of the said Commission.

YOU ARE THEREFORE COMMANDED to appear before the undersigned in the office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on the 13th day of April, 1993, at 9:30 o'clock A.M., Central Daylight Time, for the purpose of qualifying as a member of such commission and to proceed to view the premises and made an award of damages according to law.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

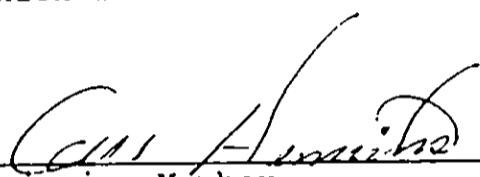
Due and proper service of the above summons is hereby accepted and receipt of a copy of the Summons acknowledged at Winterset, Iowa, on this 8 day of April, 1993.

[Signature]

Commission Member

CERTIFICATION

The undersigned hereby certified that he or she does not possess any interest in the above proceeding which would cause the undersigned to render a biased decision herein.



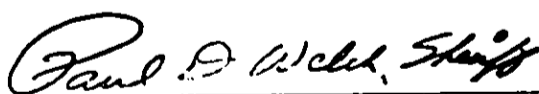
Commission Member

REFUSAL TO SERVE

The undersigned will be unable to serve for the reason that the undersigned possesses an interest in the above proceeding which would cause me to render a biased decision and/or for the reason that _____

Commission Member

Filed in the Office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on this 8th day of APRIL, 1993.



Paul D. Welch, Sheriff of Madison County, Iowa

BEFORE THE SHERIFF OF MADISON COUNTY

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

*
*

SUMMONS TO COMMISSIONERS

TO: Don Noack, R. R. #1 Box 93, Booneville, IA 50038
Don Eyerly, R. R. 3, Winterset, IA 50273
Margaret Schafer, 1104 Main, Earlham, IA 50072
Loren Myers, R. R. #1, Macksburg, IA 50155
Chester Haymond, R. R. #4 Box 102, Winterset, IA 50273
Russell Anderson, R. R. #1, Peru, IA 50222

Upon application of the above condemnor to the Chief Judge of the Fifth Judicial District of Iowa for the selection of a compensation commission to appraise damages to real estate by reason of these proceedings, the Chief Judge of the Fifth Judicial District has selected and appointed you as member of such compensation commission, which selection has been duly filed in my office. Further the Chief Judge designated Don Noack as Chairperson of the said Commission.

YOU ARE THEREFORE COMMANDED to appear before the undersigned in the office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on the 13th day of April, 1993, at 9:30 o'clock A.M., Central Daylight Time, for the purpose of qualifying as a member of such commission and to proceed to view the premises and made an award of damages according to law.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

Due and proper service of the above summons is hereby accepted and receipt of a copy of the Summons acknowledged at _____, Iowa, on this ____ day of _____, 1993.

Commission Member

CERTIFICATION

The undersigned hereby certified that he or she does not possess any interest in the above proceeding which would cause the undersigned to render a biased decision herein.

Commission Member

REFUSAL TO SERVE

The undersigned will be unable to serve for the reason that the undersigned possesses an interest in the above proceeding which would cause me to render a biased decision and/or for the reason that _____

No longer HAVE REAL ESTATE LICENSE

4-5-93

[Signature]
Commission Member

Filed in the Office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on this 6th day of April, 1993.

[Signature]

Paul D. Welch, Sheriff of Madison County, Iowa

BEFORE THE SHERIFF OF MADISON COUNTY

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

*

SUMMONS TO COMMISSIONERS

*

TO: Don Noack, R. R. #1 Box 93, Booneville, IA 50038
Don Eyerly, R. R. 3, Winterset, IA 50273
Margaret Schafer, 1104 Main, Earlham, IA 50072
Loren Myers, R. R. #1, Macksburg, IA 50155
Chester Haymond, R. R. #4 Box 102, Winterset, IA 50273
Russell Anderson, R. R. #1, Peru, IA 50222

Upon application of the above condemnor to the Chief Judge of the Fifth Judicial District of Iowa for the selection of a compensation commission to appraise damages to real estate by reason of these proceedings, the Chief Judge of the Fifth Judicial District has selected and appointed you as member of such compensation commission, which selection has been duly filed in my office. Further the Chief Judge designated Don Noack as Chairperson of the said Commission.

YOU ARE THEREFORE COMMANDED to appear before the undersigned in the office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on the 13th day of April, 1993, at 9:30 o'clock A.M., Central Daylight Time, for the purpose of qualifying as a member of such commission and to proceed to view the premises and made an award of damages according to law.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

ACCEPTANCE OF SERVICE

Due and proper service of the above summons is hereby accepted and receipt of a copy of the Summons acknowledged at _____, Iowa, on this ____ day of _____, 1993.

Commission Member

CERTIFICATION

The undersigned hereby certified that he or she does not possess any interest in the above proceeding which would cause the undersigned to render a biased decision herein.

Commission Member

REFUSAL TO SERVE

The undersigned will be unable to serve for the reason that the undersigned ~~possesses an interest in the above proceeding which would cause me to render a biased decision and/or for the reason that~~ _____

has previous commitments for date of proceedings - April 13, 1993.

Margaret P. Schafra

Commission Member

Filed in the Office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on this 6th day of APRIL, 1993.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

Filed in the Office of the Sheriff of Madison County, Iowa at
Winterset, Iowa, on this 13th day of APRIL, 1993.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

RETURN OF SERVICE

FORM 141-Q June 1989

IN THE IOWA DISTRICT COURT FOR MADISON COUNTY

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY CITY OF WINTERSET, IOWA TO BENOTT, JACK L. & PATRICIA

Type of Service Code

Case No. Notice Rec'd this date March 16th, 1993

RETURN OF SERVICE:

- Personal, Dwelling/Substitute, Hotel, Boarding/Rooming House, Corporation/Association, Official (State, County, City), Spouse away from residence, Other

- 1, 2, 3, 4, 5, 6, 7

STATE OF IOWA MADISON County ss.

I certify that I served a copy of:

- Petition and Original Notice, Modification/Application and Notice, Order to Show Cause, Order Filed, Writ, Other Notice of Hearing Before Commissioners

Served:

Patricia Benoit at RR 3 Box 147 Winterset, Iowa on March 17, 1993

Jack L. Benoit by serving Patricia Benoit at RR 3 Box 147 Winterset, Iowa on March 18, 1993

(a person residing therein who was then at least 18 years old) or (Spouse away from residence). (Strike non-applicable part.)

its (Title) on (Date) at (Name)

NOTE: (Diligent Search, etc.)

Paul D. Welch, Sheriff

Madison County, Iowa

L. Zeutenhorst, Chief Deputy

FEES:

Table with 2 columns: Fee Type, Amount. Processing \$15.00, Mileage \$2.70, Copy \$.50, Notary \$, TOTAL \$18.20

Fees charged to/paid by Atty/Party:

CITY OF WINTERSET

NOTE: Copy of Original Notice, if served, must be attached to this form.

BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

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

*

*

*

NOTICE OF HEARING
BEFORE COMMISSIONERS

TO:

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

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
Board of Supervisors

Madison County Courthouse
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

and all other persons, companies, or corporations having any interest in or owning any of the real estate described in Exhibit "A" attached hereto and incorporated herein.

YOU ARE HEREBY NOTIFIED that the City of Winterset, Iowa desires the condemnation of the land described in Exhibit "B" attached hereto and incorporated herein.

Page -2-

That such condemnation is sought for the following purpose, to-wit: establish City easement right-of-way upon and across the real estate described on Exhibit "B" for the purpose of installing, operating and maintaining a sanitary sewer line with related facilities and equipment. Exhibit "C" attached hereto and incorporated herein by this reference provides a further explanation of the taking.

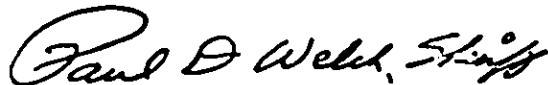
That a commission has been appointed as provided by law for the purpose of appraising the damages which will be caused by said condemnation.

That said commissioners will, on the 13th day of April, 1993 at 9:30 o'clock A.M., Central Daylight Time, view said premises and proceed to appraise said damage, at which time you may appear before the commissioners if you care to do so.



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

Filed in the Office of the Sheriff of Madison County at Winterset, Iowa on the 6th day of March, 1993.



Paul D. Welch
Madison County Sheriff

Jack L. Benoit Property Description

1. Parcel in Section 8 - 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 94.6 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"

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"

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.

17

BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

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

*
*

ACCEPTANCE OF SERVICE

I hereby accept service on behalf of the Madison County, Iowa,
Board of Supervisors of the Notice of Hearing of the Compensation
Commission in the above captioned matter to be held on April 13,
1993.

MADISON COUNTY, IOWA

4-2-93
Date

By Joan Welch
Joan Welch, Auditor

RECEIVED
MADISON COUNTY SHERIFF
WINTERSET, IOWA
APR 2 1993
2:40 AM (PM)
BY Paul D. Welch, Sheriff

BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

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

*
*

ACCEPTANCE OF SERVICE

I hereby accept service on behalf of the Union State Bank of Winterset of the Notice of Hearing of the Compensation Commission in the above captioned matter to be held on April 13, 1993.

Union State Bank of Winterset

3/8/93
Date

By Steven D. Warrington
Steven D. Warrington
VICE PRESIDENT

Filed in the Office of the Sheriff of Madison County at Winterset, Iowa on this 2nd day of March, 1993.

Paul D. Welch, Sheriff

Paul D. Welch
Madison County Sheriff

BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

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

*

*

ACCEPTANCE OF SERVICE

I hereby accept service on behalf of the Central Iowa Power Cooperative of the Notice of Hearing of the Compensation Commission in the above captioned matter to be held on April 13, 1993.

CENTRAL IOWA POWER COOPERATIVE

3-18-93
Date

By



John T. Ward, Attorney for Central Iowa Power Coop

Filed in the Office of the Sheriff of Madison County at Winterset, Iowa on this 2nd day of ~~March~~ ^{APRIL}, 1993.


Paul D. Welch
Madison County Sheriff

BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

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

*
*

ACCEPTANCE OF SERVICE

I hereby accept service on behalf of the North American Savings Bank, FSB, of the Notice of Hearing of the Compensation Commission in the above captioned matter to be held on April 13, 1993.

North American Savings Bank, FSB

3/24/93
Date

By *Bruce J. Thielert*
Bruce J. Thielert, V.P.

Filed in the Office of the Sheriff of Madison County at Winterset, Iowa on this 2nd day of March, 1993.

Paul D. Welch, Sheriff
Paul D. Welch
Madison County Sheriff

4/3

BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

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

*
*

ACCEPTANCE OF SERVICE

I hereby accept service on behalf of the Midwest Gas of the Notice of Hearing of the Compensation Commission in the above captioned matter to be held on April 13, 1993.

MIDWEST GAS

3-24-93
Date

By

Stephen L. Solberg
DISTRICT MANAGER

Filed in the Office of the Sheriff of Madison County at Winterset, Iowa on this 2nd day of ~~March~~ ^{APRIL}, 1993.

Paul D. Welch, Sheriff
Paul D. Welch
Madison County Sheriff

BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

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

*
*

ACCEPTANCE OF SERVICE

I hereby accept service on behalf of the City of Winterset, Iowa of the Notice of Hearing of the Compensation Commission in the above captioned matter to be held on April 13, 1993.

CITY OF WINTERSET, IOWA

3/31/93
Date

By Mark Hitchcock City Admin.

Filed in the Office of the Sheriff of Madison County at Winterset, Iowa on this 2nd day of ~~March~~ ^{APR.} 1993.

Paul D. Welch, Sheriff
Paul D. Welch
Madison County Sheriff

BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

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

*
*
*

NOTICE OF HEARING
BEFORE COMMISSIONERS

TO:

OWNERS:

Jack L. Benoit

Patricia Benoit

TENANTS: None

LIENHOLDERS:

North American Savings Bank, FSB

Union State Bank of Winterset

Madison County, Iowa
Board of Supervisors

ENCUMBRANCERS:

City of Winterset, Iowa

Central Iowa Power Cooperative

Midwest Gas

ADDRESS:

R. R. 3 Box 147
Winterset, Iowa 50273

R. R. 3 Box 147
Winterset, Iowa 50273

12125-D Blue Ridge Extension
Grandview, MO 64030

201 West Court Avenue
Winterset, IA 50273

Madison County Courthouse
Winterset, Iowa 50273

101 East Jefferson
Winterset, Iowa 50273

P. O. Box 2517
Cedar Rapids, IA 52406

P. O. Box 10410
Des Moines, IA 50306

and all other persons, companies, or corporations having any interest in or owning any of the real estate described in Exhibit "A" attached hereto and incorporated herein.

YOU ARE HEREBY NOTIFIED that the City of Winterset, Iowa desires the condemnation of the land described in Exhibit "B" attached hereto and incorporated herein.

Page -2-

That such condemnation is sought for the following purpose, to-wit: establish City easement right-of-way upon and across the real estate described on Exhibit "B" for the purpose of installing, operating and maintaining a sanitary sewer line with related facilities and equipment. Exhibit "C" attached hereto and incorporated herein by this reference provides a further explanation of the taking.

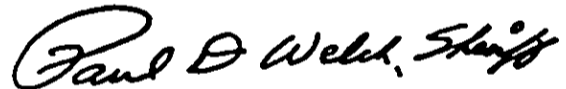
That a commission has been appointed as provided by law for the purpose of appraising the damages which will be caused by said condemnation.

That said commissioners will, on the 13th day of April, 1993 at 9:30 o'clock A.M., Central Daylight Time, view said premises and proceed to appraise said damage, at which time you may appear before the commissioners if you care to do so.



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

Filed in the Office of the Sheriff of Madison County at Winterset,
Iowa on the 2nd day of APRIL, 1993.



Paul D. Welch
Madison County Sheriff

Jack L. Benoit Property Description

1. Parcel in Section 8 - 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 8, Township 75 North, Range 27 West of the 5th P.M., lying and being West of U.S. Highway No. 160 (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 80.0 feet, thence North 88°20' West 50.0 feet, thence South 89°40' West 94.8 feet, thence continuing South 89°40' West 638.4 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 125.76 feet to the Point of Beginning, containing 5.118 acres including 0.224 acres of road right-of-way.

EXHIBIT "A"

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"

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.

AFFIDAVIT OF PUBLICATION

STATE OF IOWA SS. Madison County

BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

IN THE MATTER OF THE CONDEMNATION OF CERTAIN RIGHTS IN LAND BY CITY OF WINTERSET, IOWA NOTICE OF HEARING BEFORE COMMISSIONERS

TED GORMAN BEING DULY SWORN SAYS HE IS PUBLISHER OF THE WINTERSET MADISONIAN, a once weekly newspaper of general circulation, published in Winterset, Iowa, and that the notice, a copy which is annexed and made part hereof, was correctly published in said newspaper

for the period of four consecutive weeks, the last publication thereof being on the 7th day of April, 1993

Ted Gorman

Subscribed and sworn to before me this 7th day of April, 1993

Lynn M. Gheer



NOTARY PUBLIC In and for Madison County

Fee \$ 284.63

TO OWNERS: Jack L. Benoit, Patricia Benoit, North American Savings Bank, FSB, Union State Bank of Winterset, Madison County, Iowa, Board of Supervisors, ENCUMBRANCES: City of Winterset, Iowa, Central Iowa Power Cooperative, Midwest Gas

ADDRESS: R.R. 3 Box 147 Winterset, Iowa 50273, 12125-D Blue Ridge Extension Grandview, MO 64030, 201 West Court Avenue Winterset, Iowa 50273, Madison County Courthouse Winterset, Iowa 50273, 101 East Jefferson Winterset, Iowa 50273, P.O. Box 2517 Cedar Rapids, IA 52406, P.O. Box 10410 Des Moines, IA 50306

and all other persons, companies, or corporations having any interest in or owning any of the real estate described in Exhibit "A" attached hereto and incorporated herein.

YOU ARE HEREBY NOTIFIED that the City of Winterset, Iowa desires the condemnation of the land described in Exhibit "B" attached hereto and incorporated herein.

That such condemnation is sought for the following purpose, to-wit: establish City easement right-of-way upon and across the real estate described on Exhibit "B" for the purpose of installing, operating and maintaining a sanitary sewer line with related facilities and equipment. Exhibit "C" attached hereto and incorporated herein by this reference provides a further explanation of the taking.

That a commission has been appointed as provided by law for the purpose of appraising the damages which will be caused by said condemnation.

That said commissioners will, on the 13th day of April, 1993 at 9:30 o'clock A.M., Central Daylight Time, view said premises and proceed to appraise said damage, at which time you may appear before the commissioners if you care to do so.

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

Jack L. Benoit Property Description 1. Parcel in Section 8 - T73N - R27W of the 5th P.M. All that part of the South Fractional Half (Spr 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 8, Township 75 North, Range: 27 West of the 5th P.M., lying and being West of U.S. Highway No. 169 (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 68°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°06' 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 652.92 feet to the west line of said SE. 1/4 of the NE. 1/4; thence, a long said West line, North 00°18'57" East 125.78 feet to the Point of Beginning, containing 5.116 acres including 0.224 acres of road right-of-way.

EXHIBIT A

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 170.88 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 170.88 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.

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.

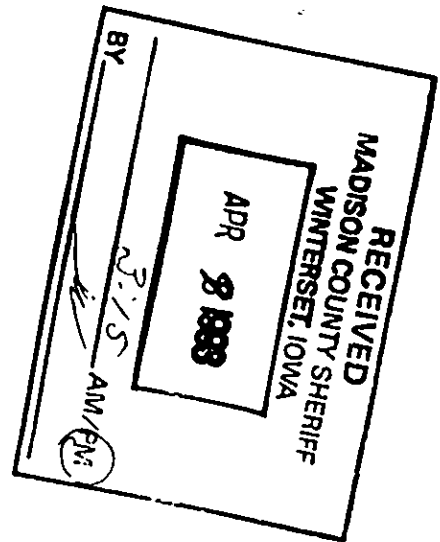
After the final backfill and grading of the trench during initial construction of the sanitary sewer main and related accessories is completed, the Condemnor, or its agents, shall cause the disturbed areas to be restored to original grade and to be tilled, fertilized and seeded.

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 tile line cut or disturbed.

EXHIBIT "C"

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.



BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

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

*
*
*

NO. _____

AFFIDAVIT OF FINAL
OFFER

STATE OF IOWA)
) SS
MADISON COUNTY)

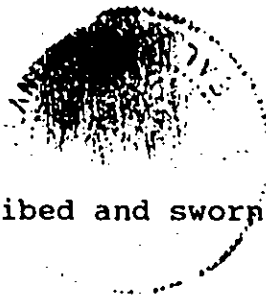
The undersigned upon being duly sworn says:

That the most recent offer made to the following person or persons
whose property is sought to be condemned was:

<u>Person</u>	<u>Offer</u>
Jack L. Benoit and Patricia Benoit	\$10,000.00
United Federal Savings and Loan Association	
Union State Bank	
Southwestern Federated Power Cooperative	
Midwest Gas Company	
Central Iowa Power Cooperative	
Midwest Power, FNA Iowa Power	
Resolution Trust Corporation	
North American Savings Bank, FSB	
Madison County, Board of Supervisors	

as shown by the duplicate original of the "Final Offer to Acquire Real Estate", a true copy of which is attached hereto as Exhibit "A" and incorporated herein.

Dated on this 26th day of February, 1993.



John E. Casper

John E. Casper
Winterset City Attorney

Subscribed and sworn to before me this 26th day of February, 1993.

Beth Flander

Beth Flander Notary Public

Filed in the Office of the Sheriff of Madison County, Iowa, at Winterset, Iowa, on this 5th day of APRIL, 1993.

Paul D. Welch, Sheriff

Paul D. Welch, Sheriff of Madison County, Iowa

CITY of WINTERSET

WINTERSET, IOWA 50273

Mayor and City Council

Board of Trustees
Electric Light Plant, Waterworks

February 26, 1993

Jack L. Benoit
R. R. 3 Box 147
Winterset, Iowa 50273

Patricia Benoit
R. R. 3 Box 147
Winterset, Iowa 50273

United Federal Savings and Loan Association
113 S. John Wayne Drive
Winterset, Iowa 50273

Union State Bank
201 West Court
Winterset, Iowa 50273

Southwestern Federated Power Cooperative
Box 437
Creston, Iowa 50801

Midwest Gas Company
500 East Court
Des Moines, Iowa 50309

Central Iowa Power Cooperative
Rt. 1 Box 220
Creston, Iowa 50801

Midwest Power, FNA
Iowa Power
P. O. Box 778
Sioux City, IA 51102

Resolution Trust Corporation
Attention: William R. Burhart
4th and Locust
Des Moines, IA 50308

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

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

FINAL OFFER TO ACQUIRE REAL ESTATE

Dear Mr. and Mrs. Benoit:

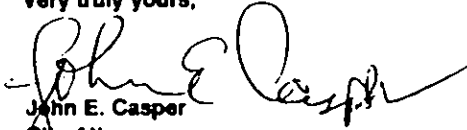
Pursuant to Chapter 472 of the Code of Iowa, the City of Winterset, Iowa hereby makes its final offer to pay you the total lump sum of \$10,000.00 in consideration of your execution, acknowledgment and delivery of an easement in form and substance as provided by the agreement attached hereto as Exhibit "A" and made a part hereof.

Page -2-

A plat showing the proposed taking of your property is enclosed for your information.

If you wish to accept this offer, please advise us by no later than March 5, 1993 of this intention. If a voluntary acquisition cannot be made, condemnation proceedings will be initiated.

Very truly yours,



John E. Casper
City Attorney
JEC:sd
Enc.

Filed in the Office of the Sheriff of Madison County at Winterset, Iowa on this 5th day of April, 1993.



Paul D. Welch
Madison County Sheriff

MUNICIPAL UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENCE:

The undersigned owners, Jack Benoit and Patricia Benoit, hereafter called the Grantor, in consideration of the sum of one dollar and other valuable considerations, receipt of which is acknowledged, does hereby grant to the City of Winterset, Iowa, hereafter called the Grantee, the perpetual right and easement to construct, install, repair, maintain, operate, inspect, patrol and remove municipal sanitary sewer facilities including buried pipe, manholes and accessories for the same and all necessary appurtenances as may be reasonably necessary for the convenient construction, repair, maintenance, operation, inspection, patrolling and removal of the facilities over, along, across and under the following described property situated in Madison County, Iowa, to-wit:

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 "A"

The Grantor warrant and covenant to the Grantee that, subject to liens and encumbrances of record at the date of this easement, they are the owner of the above described land and has full right and authority to validly grant this easement, and the Grantee may quietly enjoy its estate in the premises.

Grantee is given the right to trim, cut and clear away any trees, limbs and brush, whether located on the above described easement property or overhanging the same, and the right to remove from the above described easement property any obstruction, including inflammable materials, brush, structures of any kind or other obstructions wherever in its judgment such will interfere with or endanger the construction, operation or maintenance of the utilities; and to renew, replace, and to otherwise change the utilities or any part thereof and all appurtenances thereto and the location thereof within the easement property; and to pass along the easement property to and from adjoining lands and to have reasonable access to this property from Grantor's adjoining lands.

In consideration of such grant, Grantee agrees it will repair or pay for any damage which may be caused to crops, fences or other property of the undersigned by the construction, operation, maintenance, inspection, patrolling or removal of this line.

The Grantors covenant that no act will be permitted within the easement property which is inconsistent with the rights hereby granted; that no buildings or structures will be erected upon said property and that the present grade or ground level thereof will not be changed by excavation or filling.

The temporary construction easement is granted for the initial sanitary sewer construction and installation during the period from the date of execution of this easement agreement until sixty (60) days after final acceptance by the Grantee of the general contractor's performance. This temporary easement shall expire on said date without further agreement or action by the parties or either of them.

This Agreement shall run with the land and bind and inure to the benefit of the heirs, successors and assigns of the parties.

Dated this _____ day of _____, 1993.

Grantor: Jack Benoit and
Patricia Benoit

Grantee: CITY OF WINTERSET, IOWA

By _____

By _____
Robert W. Howell, Mayor

By _____

By _____
Mark Nitchals,
City Administrator



STATE OF IOWA)
) SS
 COUNTY)

On this _____ day of _____, 1993 before me, the undersigned, a Notary Public in and for said State, personally appeared Jack Benoit and Patricia Benoit to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged to me that they executed the same as their voluntary act and deed.

_____ Notary Public in and for said State

STATE OF IOWA)
) SS
MADISON COUNTY)

On this _____ day of _____ A.D., 1993, before me, _____, a Notary Public in and for said County and State, personally appeared Robert W. Howell and Mark Nitchals, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Administrator, respectively, of the City of Winterset, Iowa; that the seal affixed thereto is the seal of said corporation; and that said authority of its City Council, as contained in the Resolution adopted by the City Council of the City on the _____ day of _____, 1991; and, that Mark Nitchals and Robert W. Howell acknowledge the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

_____ Notary Public

BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

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

*
*
*

NO. _____

**NOTICE OF APPRAISEMENT
OF DAMAGES AND TIME FOR
APPEAL**

TO:

OWNERS:

ADDRESS:

Jack L. Benolt

**R. R. 3 Box 147
Winterset, Iowa 50273**

Patricia Benolt

**R. R. 3 Box 147
Winterset, Iowa 50273**

TENANTS: None

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**

CONDEMNER: City of Winterset, Iowa

YOU AND EACH OF YOU are hereby notified that the duly appointed and qualified compensation commissioners assessed and appraised the damages sustained by reason of the condemnation in the above entitled matter as set forth upon the attached Report of Compensation Commission which is made a part hereof and that pursuant to Chapter 472.18 of the Code of Iowa, you may within thirty (30) days from the date of mailing this Notice appeal to the District Court as by law provided.



BEFORE THE SHERIFF OF MADISON COUNTY

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

REPORT OF
 COMPENSATION COMMISSION

TO: Paul D. Welch, Madison County Sheriff

Condemnee	Land and Improvements	Consequen- tial Damages	Total Award	Condemnee's Attorney Fees and Costs
Jack L. Benoit	15000.	6000.	21000.	⁴ 630.
Patricia Benoit				
North American Savings Bank, FSB				
Union State Bank of Winterset				
Madison County, Iowa Board of Supervisors				
City of Winterset, Iowa				
Central Iowa Power Cooperative				
Midwest Gas				

Date Notice mailed: April 13th, 1993.


Paul D. Welch, Sheriff of Madison County, Iowa

Filed In this Office of the Sheriff of Madison County at Winterset, Iowa on this 15th day of April, 1993.


Paul D. Welch
Madison County Sheriff

Dated on the 13 day of April, 1993 at Winterset, Iowa.

Don Noack
Don Noack, Chairperson
Compensation Commission

Hale Tuttle
Dale Tuttle

Gus Henrichs
Gus Henrichs

Loren Myers
Loren Myers

Chester Haymond
Chester Haymond

Russell Anderson
Russell Anderson

Filed in the Office of the Sheriff of Madison County at Winterset, Iowa
on this 13 day of April, 1993.

Paul D. Welch
Paul D. Welch
Madison County Sheriff

563