

References to "Grantor" herein shall be modified as appropriate to confer rights of "Grantor" on Iowa Interstate Railroad and Heartland, Inc. and, in particular, the easement shall expressly grant Iowa Interstate Railroad and Heartland, Inc. and their respective successors and assigns the rights to enforce the covenants and benefit from the indemnities of the "Grantee".

EASEMENT GRANT

KNOW ALL MEN BY THESE PRESENTS:

That Hawkeye Land Co., "Grantor", and pursuant to every other power and authority to him pertaining; in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) and other good and valuable consideration in hand paid, does hereby grant, convey and quitclaim unto City of Earlham, Iowa, "Grantee", an easement for pipeline purposes, and no other purpose, in the County of Madison, State of Iowa, along the course indicated in hatched lines on the print attached hereto marked Exhibit "A", and by reference made a part hereof, legally described on Exhibit "C" attached hereto and by reference made a part hereof.

Grantee's use of the property herein described is made subject to the following terms and conditions which are deemed covenants and shall run with the land:

1. The pipeline, when constructed, or if and when the existing pipe shall be replaced, shall be constructed of PVC-ASTMD3034 where it passes beneath the tracks of the Grantor, and across the Grantor's property, and it shall not be more than 8 inches in diameter, inside measurement. Said pipeline shall be encased in a steel ASTM A139 pipe under the Grantor's tracks and for a distance of 45 feet on each side of the track as measured at right angles thereto. Said pipe shall be laid at a substantially uniform grade entirely across the property of the Grantor, and the top of pipe shall not be less than 16 feet below the base of the rail of any tracks, nor at any point hereto, as shown on Exhibit "B" and by reference made a part of this agreement.
2. Grantor shall permit Grantee reasonable right of entry for the purpose of constructing, replacing, repairing, maintaining and operating said pipeline.
3. Grantee shall pay the entire cost of constructing, replacing, repairing, maintaining and operating said pipeline. All of said work shall be done in a good and workmanlike manner and in accordance with the plans, specifications and profiles, specifically including date of commencement of work, to be prepared by Grantee and submitted in writing for approval to Grantor; and, except in emergencies, until such approval is first had, and such approval shall not be unreasonably withheld, said work upon Grantor's premises shall not be begun by Grantee. Grantor reserves the right to have a representative present, but in no way waives any rights under this easement agreement by failing to have said representative present.
4. Grantor shall have the right to retain existing tracks and other improvements at the location of this easement and shall also have the right at any and all times in the future to construct, maintain and operate over said easement such additional track, tracks and other improvements as he may from time to time elect. Nothing shall be done or suffered to be done by Grantee that will in any manner impair the usefulness or safety of the existing tracks and other improvements of the Grantor or of such track, tracks and other improvements as Grantor may construct in the future across or above said easement. The Grantor reserves the right to grant future easements under, over, across or parallel with the above-described premises.

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STATE OF IOWA, MADISON COUNTY, ss.	Inst. No. <u>1112</u>	Filed for Record this <u>21</u> day of <u>November</u> 19 <u>90</u> at <u>2:10 PM</u>
	Book <u>127</u> Page <u>417</u> Recording Fee <u>30.00</u>	Mary E. Welby, Recorder, By <u>M. Welby</u> Deputy

1112

5. Grantee agrees that before and during the construction, replacement, repair, maintenance or operation of said pipeline, or at any other time, Grantor shall have the right to provide such safe and temporary structures as he may deem necessary for safety, caring for and preserving his tracks, buildings or other improvements, and Grantee agrees to pay to Grantor the entire cost of putting in and removing such temporary structures and of restoring the property of Grantor as near as may be to the same condition in which it was before the commencement of the work.

6. Grantee agrees that if, at anytime, Grantor shall change the location or grade of his tracks at any point of crossing or at any point along a parallel course for any purpose whatever, Grantee, at its own expense shall make all changes required by Grantor. If Grantee shall fail, neglect or refuse to make such change for a period of thirty (30) days after receiving written notice from Grantor, then Grantor may forthwith make such change at Grantee's expense.

7. Grantee shall at all times construct, replace, repair, maintain and operate said pipeline in a secure, safe and sanitary condition and in accordance with all applicable laws, ordinances, rules and regulations and shall pay promptly when due all taxes levied or assessed upon Grantee or upon Grantee's use and enjoyment of the rights granted herein including income derived therefrom. If the manner of constructing, replacing, repairing, maintaining and operating said pipeline shall at anytime be in violation of any applicable law, rule, regulation or ordinance, then Grantee shall at no cost or expense to Grantor, upon receipt of appropriate notice from a governmental agency having enforcement jurisdiction in the premises make such changes or repairs as shall be necessary. Failure or refusal of Grantee to make the required changes or repairs within the time prescribed by said agency or to make timely payment of taxes shall terminate this easement, provided that it shall not terminate as long as Grantee in good faith and by pursuit of appropriate legal or equitable remedies, enjoins, defends against, appeals from or pursues other lawful measures to avoid the enforcement of said laws, ordinances, rules, regulations or taxes.

8. Grantee agrees that it will at all times defend, indemnify and hold harmless the Grantor, his tenants, his tenants, agents and employees, against all claims, demands, actions and cause of actions, including, but not limited to, judgments, settlements, attorneys' fees and court costs in connection therewith, arising or growing out of loss or damage to property or injury to or death of any persons resulting in any manner from said pipeline, (irrespective of whether any act or omission to act by Grantor, his tenants, agents or employees, shall cause or contribute thereto, and shall promptly pay to the Grantor the full amount of any loss or damage which the Grantor may sustain, incur or become liable for, and all sums which the Grantor may pay or be compelled to pay in settlement of any claim on account thereof).

9. All rights and interest to said property shall revert to Grantor if Grantee vacates, abandons or ceases to use said easement with the intent to permanently vacate, abandon or cease to use said easement. Upon such permanent abandonment, Grantee, at its own expense, shall remove its improvements and restore said easement premises to their original condition.

10. Notwithstanding anything to the contrary herein, the Grantor shall in no even incur liability to Grantee for the failure of or defect in the title or estate of the Grantor in and to the real estate over, under or along which the above-described easement lies.

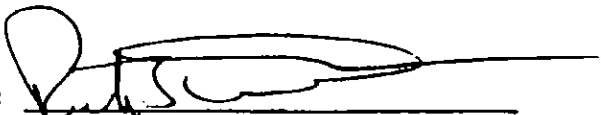
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11. The grants, covenants and stipulations hereof shall extend to and be binding upon the respective successors and assigns of the parties hereto, including Iowa Interstate Railroad and Heartland, Inc. and subsequent owners of the real estate burdened with this easement.

12. Each of the parties hereto agree to execute and deliver unto the other all such documents as may be necessary or appropriate for the effectuation of the provision and intent of this agreement.

IN WITNESS WHEREOF, this instrument is executed this 1 day of May, 1990.

HAWKEYE LAND CO.

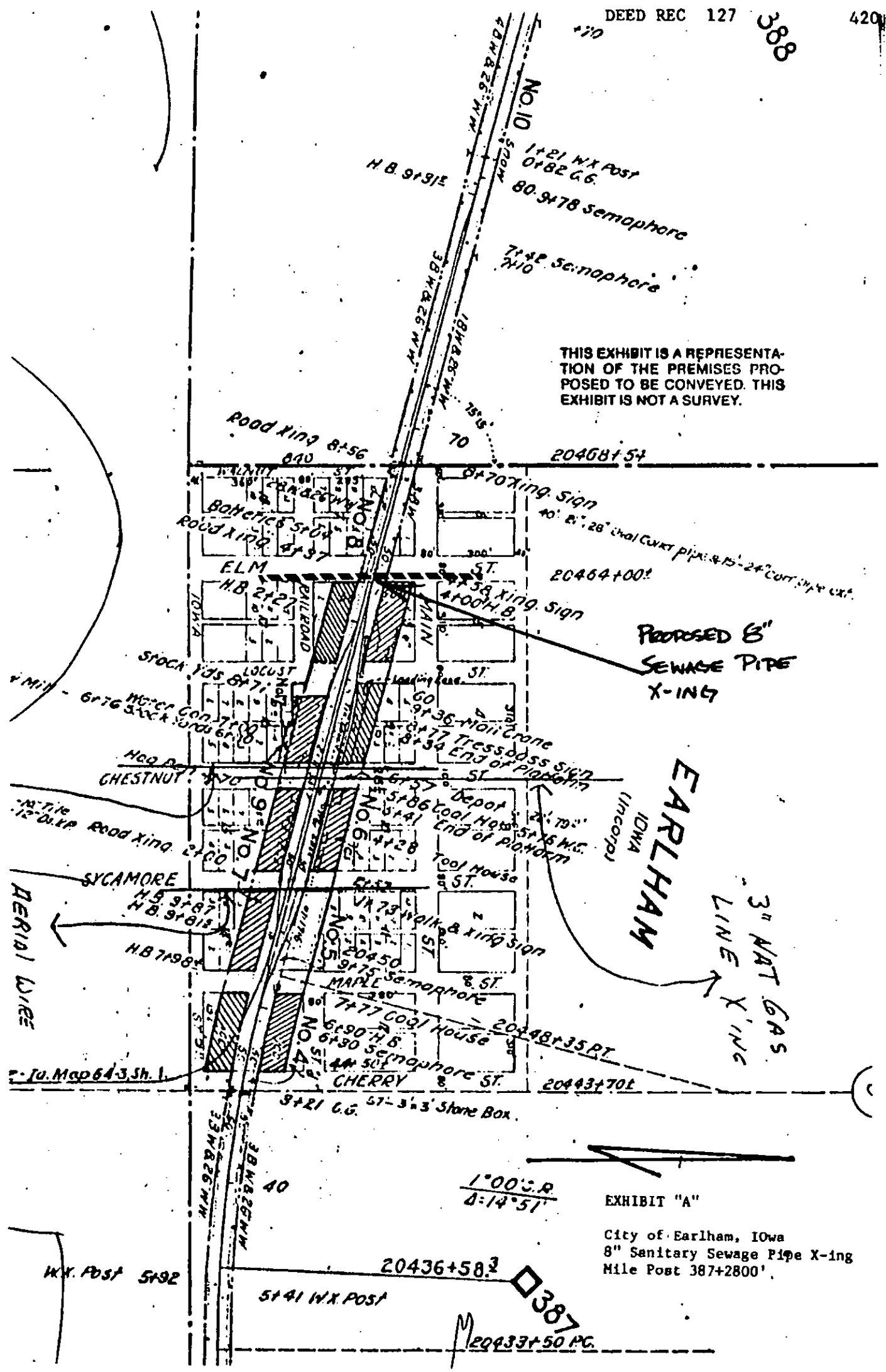
BY: 
RICK STICKLE, PRESIDENT

STATE OF IOWA)
) SS
COUNTY OF LINN)

On this 1st day of May, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared Rick Stickle, to me personally known, who being by me duly sworn, did say that he is the President of said corporation; that no seal has been procured by the said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Rick Stickle as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.


NOTARY PUBLIC IN AND FOR SAID STATE





THIS EXHIBIT IS A REPRESENTATION OF THE PREMISES PROPOSED TO BE CONVEYED. THIS EXHIBIT IS NOT A SURVEY.

PROPOSED 8" SEWAGE PIPE X-ING

EARLHAM (Incorp) IOWA
3" NAT GAS LINE X-ING

1"00" S. R.
D=14°51'

EXHIBIT "A"

City of Earlham, Iowa
8" Sanitary Sewage Pipe X-ing
Mile Post 387+2800'

387

WX POST 5492

5141 WX POST

20436+58.3

20433+50 PG.

To Map 64-3, Sh. 1.

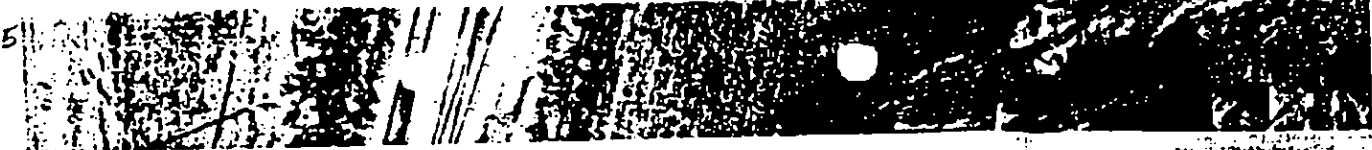
DERIAL WIRE

1/4 Mile

RAILROAD

ROAD XING

NO. 10



NOTES:

1.1 IF DIVISION III IS NOT CC
BETWEEN MANHOLES 137 & 45
MANHOLE 45 INTO NEW SEWER
IN EXISTING OUTLET OF MANHOLE

MH #44
TOP 101.8±
INV. IN S. 93.2±
INV. OUT N. 93.1±

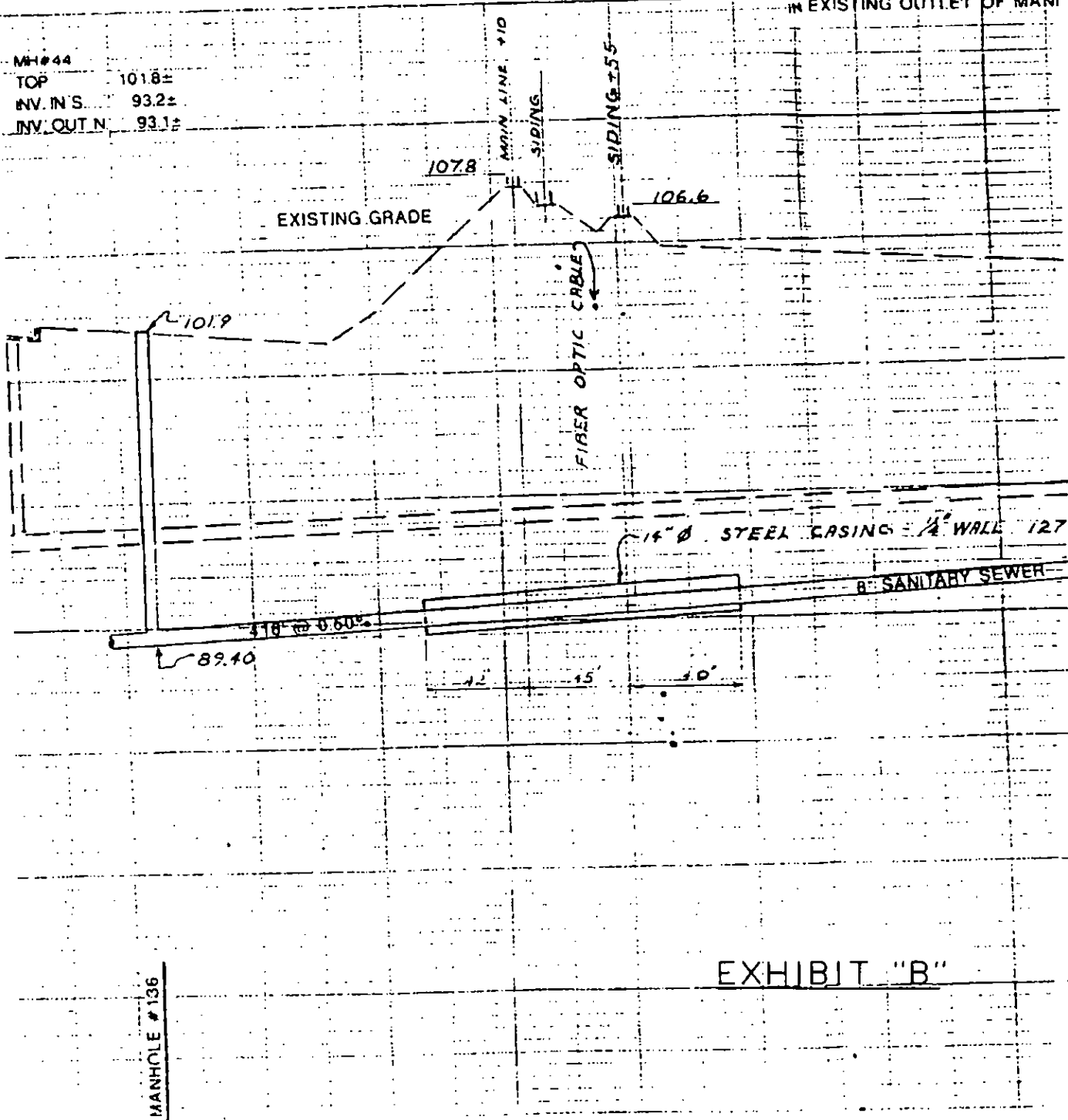


EXHIBIT "B"

EXHIBIT "C"

FILE NO.: 90-0334

GRANTEE: City of Earlham, Iowa

M.P.: 387 + 2800

LOCATION: Earlham, Iowa

E.P.B.: 20464 + 58

USE: 8" Sewage Pipe

A 10 foot non-exclusive easement across the former right-of-way of the Chicago, Rock Island and Pacific Railroad Co. having a width of 100 feet, as now evidenced, monumented, occupied, or recorded in the Southwest Quarter of Section 6, Township 77 North, Range 28 West, of the 5th Principal Meridian, the centerline of said easement being described as intersecting the centerline of said Grantor's right-of-way a distance of 2088 feet West of the East line of said Southwest Quarter of Section 6, as measured along the centerline of said Grantor's right-of-way, all in Madison County, Iowa.