664

MARY E. WELTY
Madison County Recorder

664

BEFORE THE CHIEF JUDGE OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IOWA

FILED NO. 1169
BOOK 113 PAGE 664
1983 FEB 16 AM 8:23
MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA

Fee $78.00 paid

IN THE MATTER OF THE APPLICATION OF IOWA POWER AND LIGHT COMPANY FOR CONDEMNATION OF RIGHT OF WAY FOR TRANSMISSION LINE IN MADISON COUNTY, IOWA	* * * * * * * *	NO. APPLICATION FOR CONDEMNATION AND APPOINTMENT OF COMMISSION TO APPRAISE DAMAGES

TO: The Chief Judge of the Fifth Judicial District of the State of Iowa

The Applicant, Iowa Power and Light Company, pursuant to Section 472.3 of the Code of Iowa, hereby applies to Gibson C. Holliday 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 connection therewith Applicant states as follows:

1. That Applicant, Iowa Power and Light Company, is a corporation organized under the laws of the State of Iowa, with its principal place of business and its general offices in the City of Des Moines, Polk County, Iowa, and is engaged in the business of generating, transmitting and distributing electricity at various points and places within the State of Iowa.

2. That by Order dated December 30, 1977, the Iowa State Commerce Commission granted Applicant a franchise (Iowa State Commerce Commission Frachise No. 14897) authorizing the construction and operation of a nominal 345,000 volt (maximum 400,000 volt) electric transmission line extending through and across the property hereinafter described and other property in Madison County, Iowa together with the right of eminent domain to condemn for transmission line purposes the land hereinafter described which the Iowa State Commerce Commission has found to be necessary for the use of the Applicant for construction, operation and maintenance of said transmission line in Madison County. That a copy of said Order and Franchise is attached as Exhibit "A" and made a part of this application.

**FOR FRANCHISE SEE DEED REC. 113, Page 41.
" FOR GENERAL PROCEEDINGS AND SERVICE PERTAINING TO SELECTION, APPOINTMENT & SERVICE OF COMMISSIONERS SEE BOOK 113, Page 372-421, AS SHOWN IN PROCEEDINGS OF ARTHUR KNUTSON, et al."**

RECEIVED
MADISON COUNTY SHERIFF
WINTERSET, IOWA
RRR
FEB 20 1979

SHERIFF'S and CLERK'S NOTATION: FOR COMPLETE TEXT OF EXHIBIT "A" ATTACHED TO AND MADE A PART OF THIS APPLICATION FOR CONDEMNATION, SEE DOCKET # 21763, MADISON COUNTY, IOWA DISTRICT COURT.

22

2

3. Applicant seeks to condemn and acquire by the process of eminent domain a right of way and easement one hundred fifty feet (150') in width over, along and across the land hereinafter described to construct, operate and maintain a nominal 345,000 volt (maximum 400,000 volt) electric transmission line and all necessary wires and equipment incident thereto for the purpose of constructing, operating and maintaining said transmission line.

4. The description of the property to be effected or sought to be condemned by its congressional numbers in tracts not exceeding one-sixteenth (1/16) of a section; a description of the specific property sought to be condemned from each of said parcels to be condemned with reference to such description; the names of all record owners and parties in possession of the parcels of property sought to be condemned, or otherwise affected by such proceedings; the holders of liens or encumbrances upon such lands, and the places of residence of all such persons, so far as is known to Applicant, or as shown of record, are as follows, to wit:

SHERIFF'S NOTATION: ONLY THAT DESCRIPTION AND PLAT PERTAINING TO THESE DEFENDANTS IS SET FORTH:

3 666

PARCEL NO. 61-43

DESCRIPTION OF PROPERTY TO BE AFFECTED

The Northwest Quarter (NW¼) of the Southeast Quarter (SE¼) and the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 30, Township 74 North, Range 27 West of the 5th P.M., Madison County, Iowa.

DESCRIPTION OF SPECIFIC PROPERTY SOUGHT TO BE CONDEMNED

That part of a strip of land 150 feet in width which falls across the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 30, Township 74 North, Range 27 West of the 5th P.M., Madison County, Iowa, the centerline of said strip being described as follows:

Beginning at a point approximately 1,337 feet South of the Northwest corner of the Northeast Quarter (NE¼) of said Section 30, thence East to a point on the East property line approximately 1,340 feet South of the Northeast corner of the West Half (W½) of the Northeast Quarter (NE¼) of said Section 30.

This easement is limited to construction of one 345,000 volt electric transmission line across the above described property consisting of one 2-pole structure and associated conductors. (Maximum 400,000 volt).

NAMES OF ALL RECORD OWNERS AND PARTIES IN POSSESSION

OWNERS: Benjamin F. Kirk and Virginia C. Kirk
R 1
Lorimor, Iowa 50149

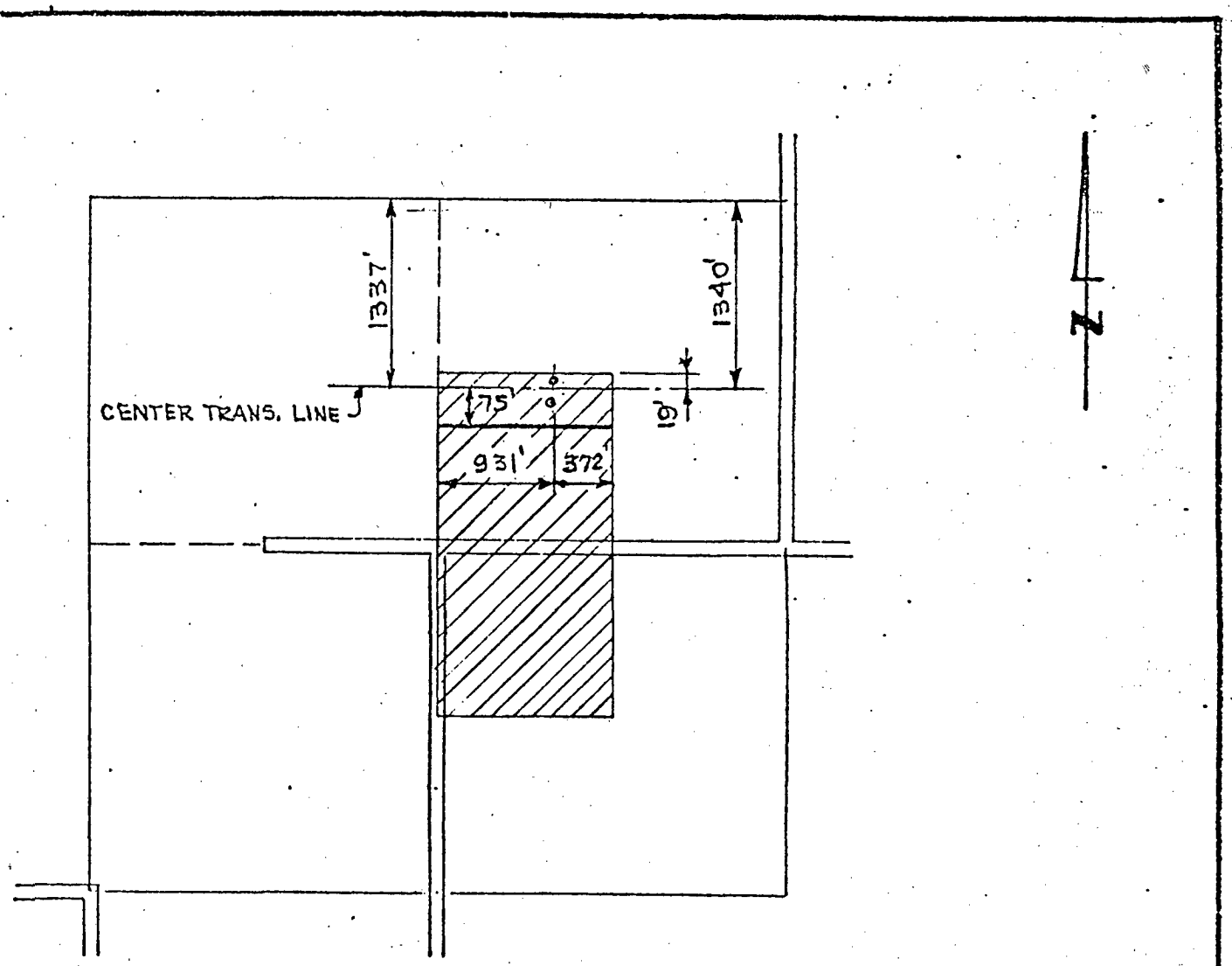
HOLDERS OF LIENS OR ENCUMBRANCES

LIEN HOLDER: Madison County

MORTGAGE HOLDER:
United States of America
Farmers Home Administration
1208 E. 2nd Avenue
Indianola, Iowa 50125

(A Plat showing the location of the property to be affected and the location of the specific property sought to be condemned is attached hereto, marked Parcel 61-43 and by this reference made a part hereof.)

4



Section 30, Township 74N, Range 27W

IOWA POWER AND LIGHT COMPANY
345KV TRANSMISSION LINE

FLUOR PIONEER INC.	REVISION	PROPERTY PLAT MADISON COUNTY	
DWN. BY [illegible] 4-26-76			
CHECKED			PARCEL NO. 61-43
APP'D			

5. 668

Applicant requests that the Chief Judge of this Judicial District appoint a Commission to appraise the damages to said lands in accordance with the terms and provisions of Chapter 472 of the Code of Iowa.

Dated this 16 day of February, 1979.

Keith D Hartje

Keith D. Hartje
666 Grand Avenue, P.O. Box 657
Des Moines, Iowa 50309

GAMBLE, RIEPE, BURT, WEBSTER & FLETCHER
2600 Ruan Center
Des Moines, Iowa 50309

By B. A. Webster
B. A. Webster

Attorneys for Applicant
IOWA POWER AND LIGHT COMPANY

State of Iowa)
)
County of Polk)

I, E. L. Birdsall, being first duly sworn, on oath depose and state that I am Vice-President of Iowa Power and Light Company, Applicant named in the foregoing Application; that I have read the above and foregoing Application; that I know the facts therein set forth, and that the same are true and correct as I verily believe.

E. L. Birdsall

Subscribed and sworn to before me by said E. L. Birdsall this 16 day of February, 1979.

LLOYD C. McLAUGHLIN
MY COMMISSION EXPIRES
September 30, 1979

Lloyd C. McLaughlin
Notary Public in and for the State of Iowa

Filed in duplicate in my office at Des Moines Iowa, this 16 day of February, 1979.

Chief Judge of the Fifth Judicial District of Iowa including Madison County.

RECEIVED
MADISON COUNTY SHERIFF
WINTERSET, IOWA

FEB 20 1979

PARCEL 61-43

BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

IN THE MATTER OF THE APPLICATION OF IOWA POWER AND LIGHT COMPANY FOR CONDEMNATION OF RIGHT OF WAY FOR TRANSMISSION LINE IN MADISON COUNTY, IOWA	))))	NO. _____ NOTICE OF HEARING BEFORE COMMISSIONERS

TO:

OWNERS: Benjamin F. Kirk and Virginia C. Kirk
R 1
Lorimor, Iowa 50149

HOLDERS OF LIENS OR ENCUMBRANCES

LIEN HOLDER: Madison County

MORTGAGE HOLDER:
United States of America
Farmers Home Administration
1208 E. 2nd Avenue
Indianola, Iowa 50125

and all other persons, companies, or corporations having any interest in or owning any of the following described real estate: See "Exhibit A" attached.

You are hereby notified that Iowa Power and Light Company, a corporation organized under the laws of the State of Iowa, with its principal place of business in the City of Des Moines, Polk County, Iowa, desires the condemnation of the following described easement in land: See "Exhibit B" attached.

That such condemnation is sought for the construction, operation and maintenance of a 345,000 volt electric transmission line and all necessary wires and equipment incident thereto, together with the permanent and perpetual right of ingress and egress on said easement to and from said property for the purpose of constructing, operating and maintaining said transmission line and associated wires and equipment incident to the operation and maintenance of said transmission line.

669

7

670

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 March 8 1979, at 9:00 o'clock A.M., view said premises and proceed to appraise said damages, at which time you may appear before the Commissioners if you care to do so.

Keith D Hartje

Keith D. Hartje
P.O. Box 657, 666 Grand Avenue
Des Moines, Iowa 50303

B. A. Webster

B. A. Webster
GRAMBLE, RIEPE, BURT, WEBSTER & FLETCHER
2600 Ruan Center
Des Moines, Iowa 50309

ATTORNEYS FOR APPLICANT,
IOWA POWER AND LIGHT COMPANY

8

PARCEL NO. 61-43

EXHIBIT "A"

DESCRIPTION OF PROPERTY TO BE AFFECTED

The Northwest Quarter (NW¼) of the Southeast Quarter (SE¼) and the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 30, Township 74 North, Range 27 West of the 5th P.M., Madison County, Iowa.

EXHIBIT B

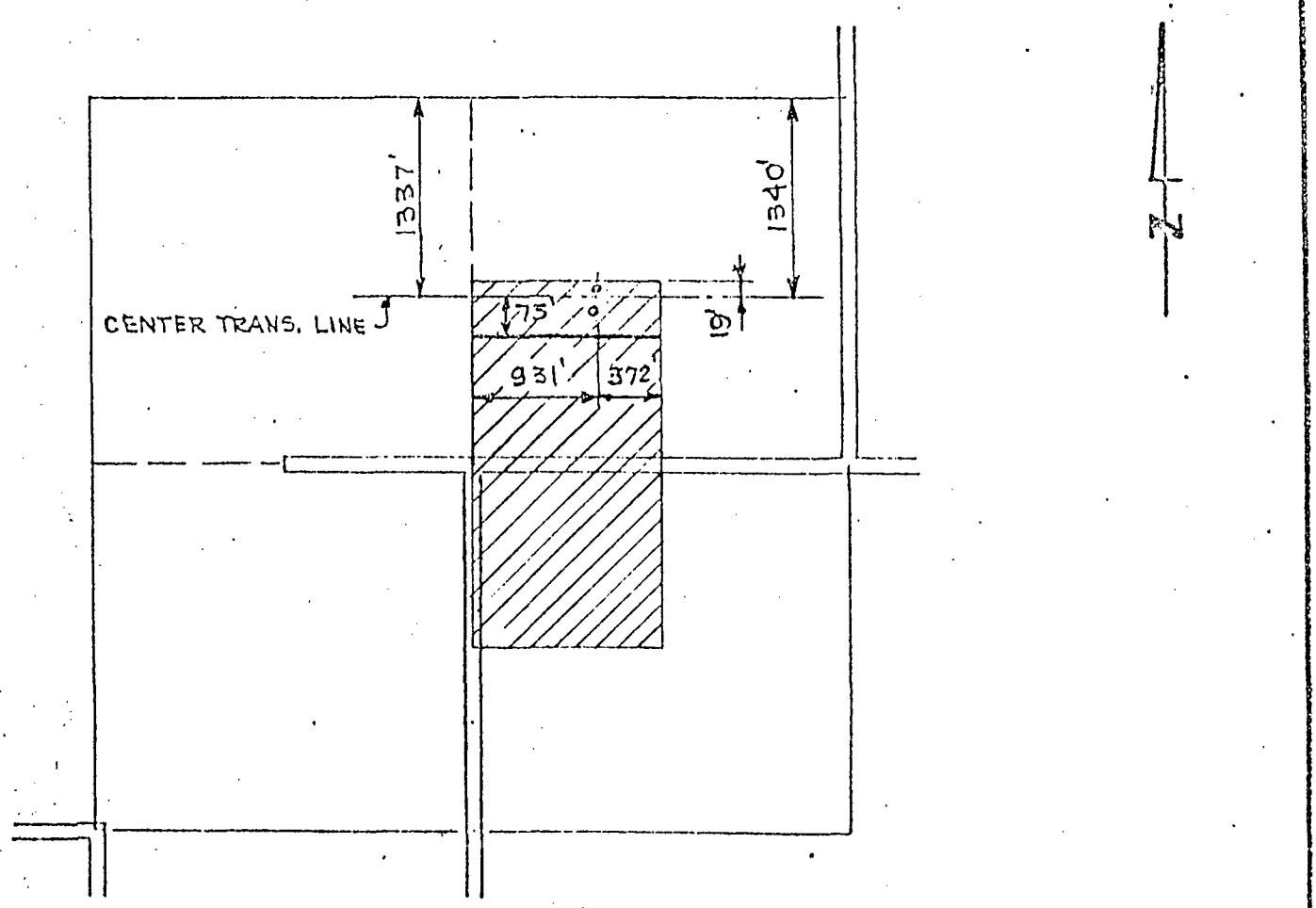
DESCRIPTION OF SPECIFIC PROPERTY SOUGHT TO BE CONDEMNED

That part of a strip of land 150 feet in width which falls across the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 30, Township 74 North, Range 27 West of the 5th P.M., Madison County, Iowa, the centerline of said strip being described as follows:

Beginning at a point approximately 1,337 feet South of the Northwest corner of the Northeast Quarter (NE¼) of said Section 30, thence East to a point on the East property line approximately 1,340 feet South of the Northeast corner of the West Half (W½) of the Northeast Quarter (NE¼) of said Section 30.

This easement is limited to construction of one 345,000 volt electric transmission line across the above described property consisting of one 2-pole structure and associated conductors. (Maximum 400,000 volt).

671



Section 30, Township 74N, Range 27W

IOWA POWER AND LIGHT COMPANY
345KV TRANSMISSION LINE

/ FLUOR PIONEER INC.	REVISION	PROPERTY PLAT MADISON COUNTY	
WN. BY [illegible] 4-26-76			
HECKED			PARCEL NO. 61-43
PP'D			

10

OFFICERS RETURN OF SERVICE

STATE OF IOWA, MADISON County, ss.

The attached notice with copy of Petition attached received this 20th day of February, 1979, and I certify that I served the same on the defendants named below by delivering a copy thereof to each of said defendants personally at the time and place set opposite their respective name.

Name of Defendants	Month	Day	Year	Township	County	State
Benjamin F. Kirk	February	20th	1979	Walnut	Madison	Iowa

Rex Rouse
Sheriff

Madison County, Iowa

By _____, Deputy Sheriff

RETURN OF ORIGINAL NOTICE

STATE OF IOWA, MADISON County, ss.

The within notice came into my hands on the 20th day of February 1979 and on the 20th day of February, 1979, I served the same on Virginia C. Kirk, by leaving a true copy thereof at the house of Virginia C. Kirk, situated in the Township of Walnut Madison County, Iowa, the same being the usual place of residence of said defendent with Benjamin F. Kirk, a member of said defendant's family, with whom he resides, and over 18 years of age, the said defendant not being found within the County.

FEES

Service, $_____

Copies, $_____

Mileage, $_____

Total, $_____

Rex Rouse
Sheriff of Madison County

By _____, Deputy

673

BBB

RETURN OF SERVICE — GOVERNMENTAL BODY

STATE OF IOWA, Madison County, ss.

The within Notice came into my hands on the 20th day of February, 1979 and on the 21st day of February, 1979, I served the same upon the Madison County by offering to read the same to George Abrahams, he being the Auditor of Madison County, Iowa of said Governmental Body, which he waived, and by giving him a true copy thereof, all done in Center Township, Madison County, Iowa.

FEES

Service - - - $_____

Copies - - - $_____

Mileage - - - $_____

Total - - - $_____

Rex Rouse

Rex Rouse, Sheriff

of _____ County

By _____
Deputy.

BOONE BLANK BOOK CO., BOONE, IOWA 1081-72

12

IN THE DISTRICT COURT OF THE STATE OF IOWA IN AND FOR MADISON COUNTY

IN THE MATTER OF THE APPLICATION OF IOWA POWER AND LIGHT COMPANY FOR CONDEMNATION OF RIGHT OF WAY FOR TRANSMISSION LINE IN MADISON COUNTY, IOWA

AFFIDAVIT OF FINAL OFFER

STATE OF IOWA)
) SS.
COUNTY OF POLK)

I, E. L. Birdsall, being first duly sworn, on oath depose and state that on the 23rd day of February, 19 79, as agent and representative of Iowa Power and Light Company, I delivered to the following named persons, ~~to wit:~~ by regular mail, to wit:

Benjamin F. Kirk and Virginia C. Kirk
R 1
Lorimor, Iowa 50149

United States of America
Farmers Home Administration
1208 E. 2nd Avenue
Indianola, Iowa 50125

a duplicate original of the "Final Offer to Acquire Easement", a true copy of which is attached hereto, marked Exhibit A, and by this reference made a part hereof.

Dated this 23rd day of February, 19 79.

E. L. Birdsall

Subscribed and sworn to before me by E. L. Birdsall this 23rd day of February, 19 79.

NOTARIAL SEAL IOWA
LLOYD C. McLAUGHLIN
MY COMMISSION EXPIRES
September 30, 1979

Lloyd C. McLaughlin
Notary Public in and for IOWA

675

13

676

IOWA POWER
823 Walnut Street
Des Moines, Iowa 50303

FINAL OFFER TO ACQUIRE EASEMENT

February 23, 1979

Benjamin F. Kirk and Virginia C. Kirk
R 1
Lorimor, Iowa 50149

Informational Copy to Mortgagee:

United States of America
Farmers Home Administration
1208 E. 2nd Avenue
Indianola, Iowa 50125

Pursuant to Chapter 472, entitled Procedures Under Power of Eminent Domain, Code of Iowa, Iowa Power and Light Company hereby makes its final offer to pay you the total lump sum of $ 2,816.00 in consideration of your execution, acknowledgement and delivery of a 345,000 volt electric transmission line easement in substance and form as, and across real estate described in, the "Transmission Line Easement" attached hereto, marked Exhibit "A", and made a part hereof. Such offer does not include construction damage to crops, tile or similar property which will be paid after construction when such damage can be ascertained.

If you wish to accept this offer, please call Iowa Power and Light Company collect at the following telephone number: 1-515-281-2713. If a voluntary easement is not acquired by the Company for this parcel, condemnation proceedings will be initiated.

A plat showing the proposed transmission line easement on your property is enclosed for your information.

Yours very truly,

E. L. Birdsall
Vice President

Enclosure

Parcel 61-43

14.

Parcel No. 61-43

Job No. _____

Draft No. _____

EXHIBIT "A"

County Madison

Township 74 North

Range 27 West of the 5th P.M.

Section 30

TRANSMISSION LINE EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

The undersigned Owners, Benjamin F. Kirk and Virginia C. Kirk

and the undersigned Tenant, _____

(hereinafter called the Grantor(s), in consideration of the sum of One Dollar and other valuable considerations in hand paid, do hereby grant to Iowa Power and Light Company, an Iowa Corporation, (hereinafter called the Grantee,) the perpetual right and easement to construct, reconstruct, repair, maintain, operate, inspect, patrol and remove a line of towers or poles for the transmission and supply of electric current, with wires and cables upon and from the same and all necessary foundations, anchors, guys, braces, fittings, equipment and apurtenances including a buried ground wire, and such culverts, bridges, and ways of access as may be reasonably necessary for the convienent construction, reconstruction, repair, maintenance, operation, inspection, patrolling and removal of said line over, along, across and under the following described property situated in Madison County, Iowa, to-wit:

That part of a strip of land 150 feet in width which falls across the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 30, Township 74 North, Range 27 West of the 5th P.M., Madison County, Iowa, the centerline of said strip being described as follows:

Beginning at a point approximately 1,337 feet South of the Northwest corner of the Northeast Quarter (NE¼) of said Section 30, thence East to a point on the East property line approximately 1,340 feet South of the Northeast corner of the West Half (W½) of the Northeast Quarter (NE¼) of said Section 30.

This easement is limited to construction of one 345,000 volt electric transmission line across the above described property consisting of one 2-pole structure and associated conductors. (Maximum 400,000 volt).

The Grantor(s) warrants and covenants unto Grantee that, subject to liens and encumbrances of record at the date of this easement, it is the owner of the above described land and has full right and authority to validly grant this easement, and that Grantee may quietly enjoy 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 adjacent to and overhanging the same, and the right to remove from the above described easement property any obstruction, including buildings, 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 said line, and to renew, replace, and to otherwise change the lines and 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 said property from Grantor's adjoining lands. The Grantee may erect and use gates in all fences which cross or which shall hereafter cross the route of said line.

In consideration of such grant, Grantee agrees that 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 said line. Grantor(s) covenants that no act will be permitted within the easement property which is inconsistent with the rights hereby granted; that no building 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.

Grantee, its contractor or agents, may enter said premises for the purpose of making surveys and preliminary estimates immediately upon the execution of this easement but the easement shall not otherwise be operative nor shall construction begin until a franchise for the line is issued by the Iowa State Commerce Commission and until the full consideration is paid as hereinafter provided.

The Grantor(s) acknowledges payment of $ _____ hereunder and it is agreed that if the additional sum of $ _____ is paid the undersigned Grantor(s) within one year from the date hereof, or the release of this easement from any liens or encumbrances of record, whichever date is later, this agreement shall become binding upon all parties hereto but shall terminate upon the permanent removal or abandonment of all lines and appurtenances of Grantee upon the easement property. If the additional amount of consideration is not paid within the time stated above, then the initial payment shall be forfeited to the Grantor(s) and both parties shall be released from all further obligation hereunder. The parties hereto agree that all payment made by virtue of this agreement shall be paid to _____ of _____ as agent for the Grantor(s).

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 _____, 19 _____.

_____ _____

_____ _____

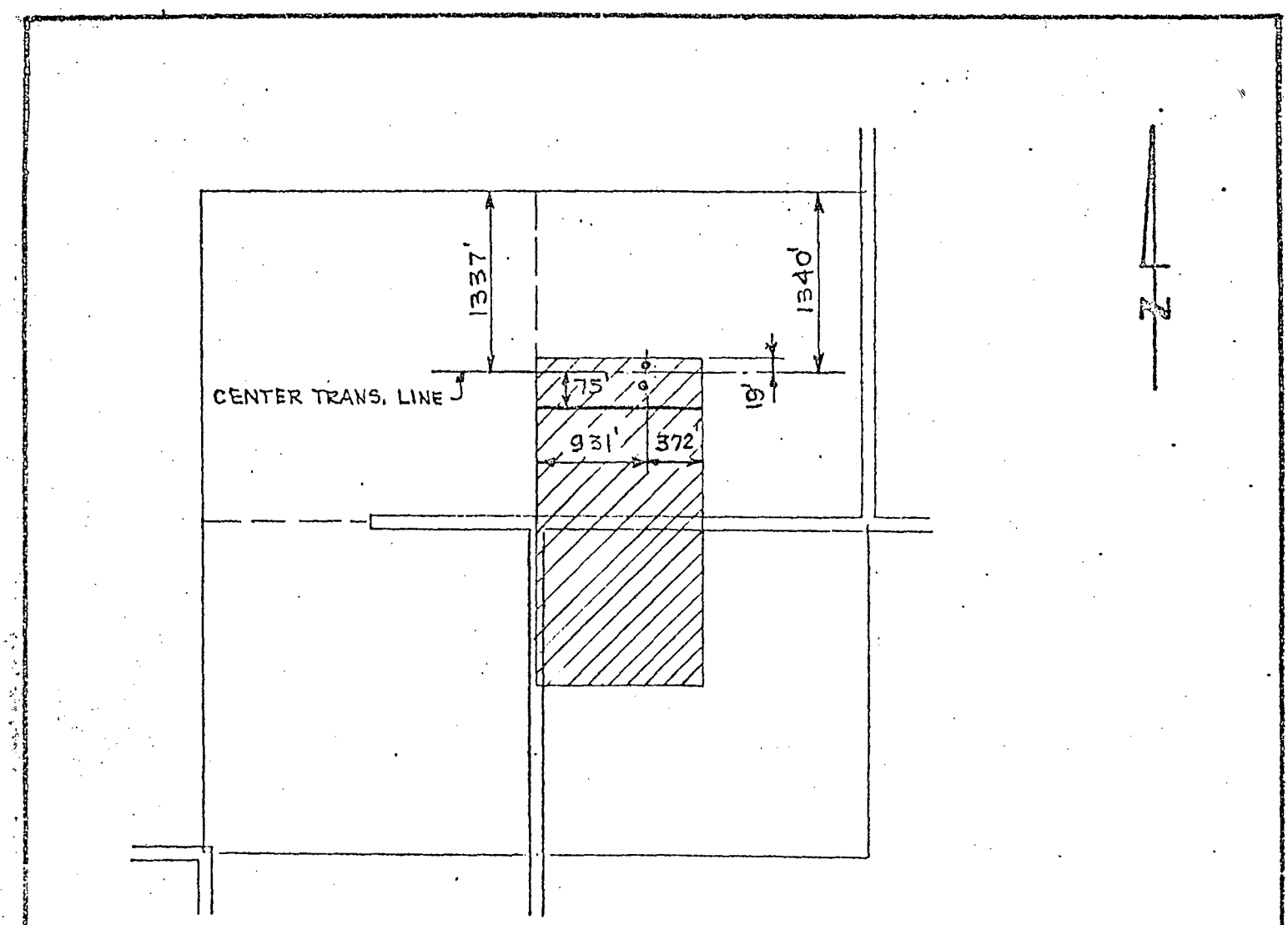
_____ _____

_____ _____

677

15

678



Section 30, Township 74N, Range 27W

IOWA POWER AND LIGHT COMPANY
345KV TRANSMISSION LINE

FLUOR PIONEER INC.	REVISION	PROPERTY PLAT MADISON COUNTY	
DWN. BY [illegible] 4-26-79			
CHECKED			PARCEL NO. 61-43
APP'D			

16

IN THE IOWA DISTRICT COURT FOR MADISON COUNTY

IOWA POWER AND LIGHT COMPANY, Plaintiff, vs. BENJAMIN F. KIRK, VIRGINIA C. KIRK, UNITED STATES OF AMERICA FARMERS HOME ADMINISTRATION, MADISON COUNTY, IOWA, and REX ROUSE, Sheriff of Madison County, Iowa, Defendants.	)	LAW NO. 21770 ORIGINAL NOTICE

FILED
WINTERSET, IOWA
5PM
MAR 20 1979

TO THE ABOVE-NAMED DEFENDANTS:

You are hereby notified that there is now on file in the Office of the Clerk of the above-named Court, a Petition in the above-entitled action, a copy of which Petition is hereto attached. The plaintiff's attorney is B. A. Webster, whose address is 2600 Ruan Center, Des Moines, Iowa 50309.

You are further notified that unless you appear thereto and defend in the Iowa District Court for Madison County at the County Courthouse in Winterset, Iowa within twenty (20) days after the service of this Original Notice upon you, judgment by default will be rendered against you for the relief demanded in the Petition.

SEAL OF MADISON COUNTY IOWA CLERK OF COURT

Margaret Wheeler

Margaret Wheeler,
Clerk of the Above Court
Madison County Courthouse
Winterset, Iowa 50273

NOTE:

Persons named as defendants are told to "appear thereto and defend." These words are not always understood. The required appearance may be made either by the defendant or by defendant's attorney. IT IS NECESSARY TO SERVE AND FILE A SPECIAL APPEARANCE, MOTION OR PLEADING TO PREVENT A DEFAULT (RULE 87). The attorney who is expected to appear for the defendant should be promptly advised by the defendant of the service of this Original Notice.

17.

680

ACCEPTANCE OF SERVICE

Service of the foregoing Notice of Appeal, Original Notice and Petition is hereby acknowledged, and receipt of a copy acknowledged this 20th day of March, 1979 at Winterset, Iowa.

Rex Rouse

Rex Rouse, Sheriff
Sheriff of Madison County, Iowa

By _____

ACCEPTANCE OF SERVICE

Service of the foregoing Notice of Appeal, Original Notice and Petition is hereby acknowledged, and receipt of a copy acknowledged this 20 day of MARCH, 1979 at Winterset, Iowa.

MADISON COUNTY, IOWA

By Phillip Cushman

18

IN THE IOWA DISTRICT COURT FOR MADISON COUNTY

FILED
1979 MAR 20 PM 4:34
MARGARET WHEELER
CLERK OF DISTRICT COURT
MADISON COUNTY, IOWA

IOWA POWER AND LIGHT COMPANY, Plaintiff,	)	
vs.	)	LAW NO. 21770
BENJAMIN F. KIRK, VIRGINIA C. KIRK, UNITED STATES OF AMERICA FARMERS HOME ADMINISTRATION, MADISON COUNTY, IOWA, and REX ROUSE, Sheriff of Madison County, Iowa,	)	NOTICE OF APPEAL
Defendants.	)	

COMES NOW Iowa Power and Light Company, plaintiff condemnor, and pursuant to Chapter 472, Code of Iowa (1977), hereby appeals to the District Court from the award of the Compensation Commission entered herein on March 9, 1979.

B A Webster

B. A. Webster
GAMBLE, RIEPE, BURT, WEBSTER & DAVIS
2600 Ruan Center
Des Moines, Iowa 50309
Telephone: (515) 243-6251

Keith D. Hartje
IOWA POWER AND LIGHT COMPANY
666 Grand Avenue
P. O. Box 657
Des Moines, Iowa 50303
Telephone: (515) 281-2331

ATTORNEYS FOR IOWA POWER AND LIGHT COMPANY, Plaintiff-Condemnor

681

19

682

IN THE IOWA DISTRICT COURT FOR MADISON COUNTY

FILED
1979 MAR 20 PM 4:34
MARGARET WHEELER
CLERK OF DISTRICT COURT
MADISON COUNTY, IOWA

IOWA POWER AND LIGHT COMPANY, Plaintiff, vs. BENJAMIN F. KIRK, VIRGINIA C. KIRK, UNITED STATES OF AMERICA FARMERS HOME ADMINISTRATION, MADISON COUNTY, IOWA, and REX ROUSE, Sheriff of Madison County, Iowa, Defendants.	LAW NO. 2,770 PETITION ON APPEAL FROM COMPENSATION COMMISSION AWARD

COMES NOW Iowa Power and Light Company and, for its Petition on Appeal, pursuant to Chapter 472, Code of Iowa (1977) states:

1. Plaintiff, Iowa Power and Light Company, has been granted a Franchise by the Iowa State Commerce Commission, pursuant to Chapter 478, Code of Iowa (1977) for construction and maintenance of a 345-K.V. electric transmission line through Madison County, Iowa together with the right of eminent domain.

2. Said line passes across lands owned by defendants or in which they have an interest described in Exhibit A hereto attached and incorporated herein by reference.

3. The easement acquired by plaintiff is set forth in Exhibit B and shown in the plat attached, incorporated herein by reference.

4. Said easement on defendants' property is 94 feet in width, 1303 feet in length, contains 2.8 acres and one structure. It is solely for the purposes of said line and defendants retain full ownership and use of said land for all purposes not inconsistent with plaintiff's easement.

5. That on March 9, 1979 said easement was condemned by plaintiff by eminent domain proceedings. That the award returned by the Compensation Commission was excessive and unreasonable. That the difference between the fair and reasonable market value of

20

the property before and after the condemnation of the easement did not exceed $ 2,800.00.

6. That pursuant to law all construction damage, crop damage or damage to personal property now or hereafter incurred will be paid in addition to the payment for said easement.

WHEREFORE, plaintiff prays that damages to said property be determined in accordance with law.

B. A. Webster

B. A. Webster
GAMBLE, RIEPE, BURT, WEBSTER & DAVIS
2600 Ruan Center
Des Moines, Iowa 50309
Telephone: (515) 243-6251

Keith D. Hartje
IOWA POWER AND LIGHT COMPANY
666 Grand Avenue
P. O. Box 657
Des Moines, Iowa 50303
Telephone: (515) 281-2331

Attorneys for Iowa Power and Light Company, Plaintiff-Condemnor

683

21 6 84

OFFICERS RETURN OF SERVICE

BBB

STATE OF IOWA, MADISON County, ss.

The attached notice with copy of Petition attached received this 20th day of March, 19 79, and I certify that I served the same on the defendants named below by delivering a copy thereof to each of said defendants personally at the time and place set opposite their respective name.

Name of Defendants	Month	Day	Year	Township	County	State
Virginia C. Kirk	March	21st	1979	Walnut	Madison	Iowa
Rex Rouse	March	21st	1979	Center	Madison	Iowa
Sheriff of Madison County, Iowa						

Rex Rouse Rex Rouse Sheriff

Madison County, Iowa

By _____, Deputy Sheriff

RETURN OF ORIGINAL NOTICE

STATE OF IOWA, MADISON County, ss.

The within notice came into my hands on the 20th day of March 19 79, and on the 21st day of March, 19 79, I served the same on Benjamin F. Kirk, by leaving a true copy thereof at the house of Benjamin F. Kirk, situated in the Township of Walnut Madison County, Iowa, the same being the usual place of residence of said defendent with Virginia C. Kirk, a member of said defendant's family, with whom he resides, and over 18 years of age, the said defendant not being found within the County.

FEES

Service, $ 5.00

Copies, $ _____

Mileage, $ _____

Total, $ _____

Rex Rouse Rex Rouse

Sherriff of Madison County

By _____, Deputy

BEFORE THE SHERIFF OF MADISON COUNTY, IOWA

FILED
1979 MAR 21 AM 11:15
MARGARET WHEELER
CLERK OF DISTRICT COURT
MADISON COUNTY, IOWA

IN THE MATTER OF THE APPLICATION OF IOWA POWER AND LIGHT COMPANY FOR CONDEMNATION OF RIGHT OF WAY FOR TRANSMISSION LINE IN MADISON COUNTY, IOWA	* * * * * * * * *	NO. REPORT OF COMPENSATION COMMISSION

TO: Benjamin F. Kirk and Virginia C. Kirk MAR 13 1979

We, the undersigned, being the duly appointed and qualified Commissioners appointed to inspect the agricultural land described in Iowa Power and Light Company's Application herein, and to assess the damages sustained by the respective owners, lien holders, encumbrancers, and other persons interested in the premises affected by the appropriation or condemnation of the real estate described in said Application for the construction, operation and maintenance of a 345,000 volt electric transmission line to be located on a strip of land as specifically described in said Application, do hereby make report as follows:

That we proceeeded to view the respective premises at the time fixed in the Notices to the persons interested in the parcel numbers hereinafter mentioned, which parcel numbers in this report correspond with the parcel numbers in the said Application, and do hereby assess the damages sustained by the respective persons interested in said lands as follows, all of which is respectfully submitted:

PARCEL NO. 61-43

OWNERS: Benjamin F. Kirk and Virginia C. Kirk
R 1
Lorimor, Iowa 50149

AWARD: $ 5,639.00 for damages, including consequential damages, to owners.

ATTORNEY FEES AND COSTS: $ _____

I hereby certify this to be a true and correct copy of the original instrument on file in my office.
Rex Rouse
REX ROUSE, SHERIFF
MADISON COUNTY, IOWA

685

686

L-23

Dated March 12, 1979.

John Foster

Lloyd L. Hedges

William Hunter

Raymond Clark

[illegible]

Jewell L. Olson, Chairman

I, the undersigned, Sheriff of Madison County, Iowa hereby endorse and certify to the attached Report of Compensation Commission; that I have mailed by ordinary mail on 3-13, 1979, a copy of said Report of Compensation Commission together with a Notice of Appraisement of Damages and Time for Appeal to each of the persons designated thereon.

Rep Reese

Sheriff of Madison
County, Iowa

34

PARCEL 61-43

BEOFRE THE SHERIFF OF MADISON COUNTY, IOWA

IN THE MATTER OF THE APPLICATION OF IOWA POWER AND LIGHT COMPANY FOR CONDEMNATION OF RIGHT OF WAY FOR TRANSMISSION LINE IN MADISON COUNTY, IOWA	*	NO. NOTICE OF APPRAISEMENT OF DAMAGES AND TIME FOR APPEAL

TO: Benjamin F. Kirk and Virginia C. Kirk

OWNERS: Benjamin F. Kirk and Virginia C. Kirk
R 1
Lorimor, Iowa 50149

You and each of you are hereby notified that the duly appointed and qualified commissioners assessed and appraised the damages sustained by you by reason of the condemnation as set out upon the attached report of Compensation Commission, and that pursuant to Section 472.18 of the Code of Iowa, as amended by House File 215, Acts of the 64th General Assembly, you may within thirty (30) days from the date of mailing of this Notice, appeal to the District Court as by law provided.

Rep Reese

Sheriff of MADISON
County, Iowa

Date Mailed: 3-13-79

687

25

688

FILED
SEP 22 AM 8 52
CLERK DISTRICT COURT
MADISON COUNTY, IOWA

IN THE IOWA DISTRICT COURT FOR MADISON COUNTY

IOWA POWER AND LIGHT COMPANY, Plaintiff,	)	LAW NOS. 21769 and 21770
v.	)	
BENJAMIN F. KIRK, et al., Defendants.	)	RECEIPT FOR VERDICT and STIPULATION FOR DISMISSAL

The defendants hereby acknowledge payment of the amount of the Jury Verdict entered of record herein and the parties stipulate that the case may be dismissed by the Clerk, at plaintiff's costs.

L. P. Van Werden

L. P. Van Werden

REYNOLDSON, VAN WERDEN, KIMES,
REYNOLDSON & LLOYD
200 W. Jefferson
P. O. Box 199
Osceola, Iowa 50213
Telephone: (515) 342-2157

Attorneys for Defendants,
Benjamin F. Kirk and
Virginia C. Kirk

B. A. Webster

GAMBLE, RIEPE, BURT, WEBSTER
& DAVIS
2600 Ruan Center
Des Moines, Iowa 50309
Telephone: (515) 243-6251

Attorneys for Plaintiff,
Iowa Power and Light Company

CERTIFICATE

The undersigned certifies that a true copy of the foregoing instrument was served upon all attorneys of record in this cause by enclosing a copy in an envelope addressed to each such attorney at his office address as disclosed by the pleadings of record herein, and by depositing the same in a United States mail box with proper postage fully prepaid thereon on the 21 day of September, 82.

2.6

FILED

1983 FEB 10 AM 9:52

MARGARET O'KEEFE
CLERK OF DISTRICT COURT
MADISON COUNTY, IOWA

IN THE DISTRICT COURT IN AND FOR THE STATE OF IOWA AND MADISON COUNTY

IOWA POWER AND LIGHT COMPANY	:	
vs.	:	
BENJAMIN F. KIRK and VIRGINIA C. KIRK	:	Law No. 21770

This is to certify that the costs in the above numbered cause have been satisfied.

Margaret O'Keefe

Clerk of District Court
Madison County, Iowa

689