Sheriff

SHAMBAUGH

394

ENTERED FOR TAXATION
THIS 9 DAY OF May 1975
AUDITORS FEE $ 2.00
George L. Shanahan
AUDITOR
DEPUTY AUDITOR

FILED NO. 589
BOOK 111 PAGE 394
1975 MAY -8 PM 10:21
MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA
Fee $.50

In the Matter of the Condemnation of Certain Lands by the Executive Council of Iowa for the Use and Benefit of the State of Iowa

Location: Winterset, Iowa
Madison, County

Project: Badger Creek Watershed

APPLICATION TO THE CHIEF JUDGE OF THE FIFTH JUDICIAL DISTRICT FOR THE CONDEMNATION OF LAND AND APPOINTMENT OF A COMPENSATION COMMISSION TO ASSESS DAMAGES

TO: The Honorable Maurice C. Herrick, Chief Judge of the Fifth Judicial District, including Madison County, Iowa.

Comes now the Executive Council of Iowa and states that the public interest requires that the State of Iowa acquire certain rights in agricultural land hereinafter described, by condemnation proceedings, as authorized and provided by law. The applicant herein has been unable to secure the described rights in lands by purchase and conveyance.

The lands or property rights affected and the record owners, lienholders encumbrancers, and other persons interested therein, are as listed on the sheets hereto attached and made a part hereof, and are shown with reference to their location as to lands affected on the plat(s) hereto attached, marked Exhibit(s) "A" and made a part hereof.

The State of Iowa desires fee title to the land herein sought to be condemned for public park and recreational purposes.

NOW, THEREFORE, the Executive Council of Iowa hereby requests the appointment of a compensation commission of six persons qualified as prescribed in Sec. 472.4, Code of Iowa, 1971, none of whom shall possess any interest in the proceeding which would cause such person to render a biased decision, to view and appraise the damages which the owners thereof, lienholders, encumbrancers, or other persons interested therein will sustain by reason of the appropriation of the land herein sought to be condemned, for the purpose herein stated, and make their report in writing to the Sheriff as provided by law.

Dated at Des Moines, Iowa, this 9th day of June, 1971.

RECEIVED
June 9, 1971
Rob Ronse
MADISON COUNTY
SHERIFF
WINTERSET, IOWA

BY RICHARD C. TURNER
Attorney General of Iowa

BY Clifford E. Peterson
CLIFFORD E. PETERSON
Assistant Attorney General

BY
JAMES C. DAVIS
Assistant Attorney General
ATTORNEYS FOR APPLICANT

Filed with me this 9th day of June, 1971.

Maurice C. Herrick
Chief Judge of the
Judicial District including
County, Iowa

Date ____ ____ ____ 19____
Book ____ Page ____

PLAT OF PROPERTY

Acquired From REX R. SHAMBAUGH ET UX

Area 58.83± Acres. Consideration ____

Acquired By ____ Project No. SITE M-1-A TRACT No. 19-27-29

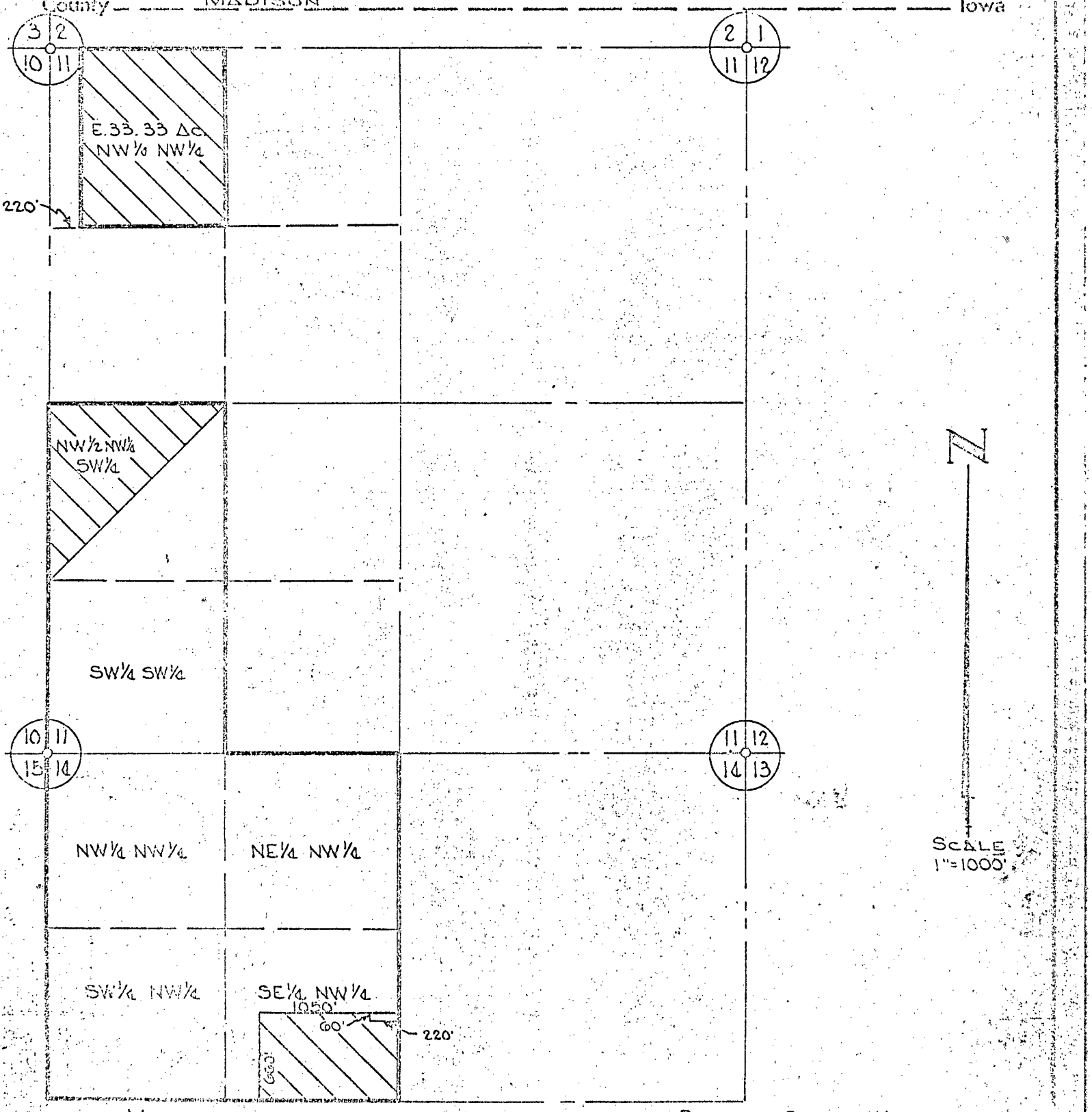
LOCATION

Section 11-14

Township (Civil) JEFFERSON

Township (Congressional) T77N Range R27W

County MADISON Iowa



MADISON County Project BADGER CREEK WATERSHED

Approved by ____ Supt. Land Acquisition Date ____ Drawn by ____ JAN 1970

395

Rex Shambaugh

396

IN THE MATTER OF the Condemnation of Land by the Executive Council of Ia. for the Use and Benefit of the State of Iowa

NOTICE OF ASSESSMENT

Location: Winterset, Iowa
Madison County

Project: Badger Creek Watershed

Madison County

TO: Rex R. Shambaugh, R.R. 1, Van Meter, Iowa
Anna Lee Shambaugh, R.R. 1, Van Meter, Iowa
Dallas County State Bank, Van Meter, Iowa
Equitable Life Assurance Society of the United States, Central National Bank Bldg, Mortagage Dept., Des Moines, Iowa
~~Creston Production Credit Association, Federal Office Building, Creston, Iowa~~

and all other persons companies, or corporations having any interest in or owning any of the following described real estate:

East 33 1/3 acres of NW 1/4 NW 1/4 Section 11-77-27 (record title held by Rex R. and Anna L. Shambaugh, husband and wife)

NW 1/4 SW 1/4 Sec. 11 (record title held by Rex R. Shambaugh)
E 1/2 NW 1/4 Sec. 14-77-27 (record title held by Rex R. Shambaugh)

YOU AND EACH OF YOU ARE HEREBY NOTIFIED THAT the Executive Council of Iowa desires the condemnation of the following described land: Tract #19 - NW 1/4 NW 1/4 except W 220 Feed of Sec. 11, T 77 N, R 27 W. of 5th P.M., 33.33 acres, more or less. Tract #27 - NW 1/2 NW 1/4 SW 1/4 Sec. 11, T77 N, R 27 West of 5th P.M., 20.0 acres more or less. - Tract #29 - East 1050 ft. of S. 550 ft. of SE 1/4 NW 1/4 Sec. 14, T 77 N, R 27 West of 5th P.M. except N 60 ft. of E. 220 ft. (15.5 acres more or less, all in Madison County)

Such condemnation is sought for the following purpose:

Public Park and recreational areas.

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

That said commissioners will, on the ~~24th~~ 29th day of June, 1971 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.

Dated at Des Moines, Iowa, this 9th day of June, 1971.

, Applicant

By RICHARD C. TURNER
Attorney General of Iowa

By Clifford E. Peterson
CLIFFORD E. PETERSON
Assistant Attorney General

By _____
JAMES C. DAVIS
Assistant Attorney General

RETURN OF SERVICE OF NOTICE

STATE OF IOWA, DALLAS COUNTY, SS:

I hereby certify and return that the hereto attached Notice of Assessment came into my hands for service on the 9th day of June, 1971, and on the 10th day of June, 1971, I served the same on Dillon Nerical, for: Dallas County State Bank, Van Meter by delivering a true and correct copy thereof to him personally in the Town of Van Meter, Dallas County, Iowa.

And on the _____ day of _____, 19_____, I served the same on _____, at _____ dwelling-house or usual place of abode in the _____ of _____, Dallas County, Iowa, by there delivering a true and correct copy thereof to _____, a person residing therein who was then more than eighteen years old.

Service $_____
Copy .50
Mileage 2.20
TOTAL $2.70

John T. Wright
Sheriff, Dallas County, Iowa

By John D. Wright cc ~~Deputy~~

RETURN OF SERVICE ~~on Company or Corporation~~ Governmental Body

STATE OF IOWA, Madison County, ss.

The within Notice of Assessment came into my hands on the 9th day of June, 1971 and on the 11th day of June, 19 71 I served the same upon the Madison County by offering to read the same to John Mahan, he being the Chairman of the Board of Supervisors of said Governmental Body of said corporation or company, 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, Sheriff
of Madison County
By _____ Deputy.

RETURN OF ORIGINAL NOTICE

STATE OF IOWA, Madison County } ss. No. _____

The within notice received this 9th day of June, 19 71 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 names:

Name of Defendants	Month	Day	Year	City, Town or Township	County	State
Rex R. Shambaugh	June	10th	1971	Jefferson	Madison	Iowa
Anna Lee Shambaugh	June	10th	1971	Jefferson	Madison	Iowa

Service & Copy 1.25
Mileage _____

Rex Rouse, Sheriff of Madison County
Official Title

243-1. STATES PUBLISHING CO., DAVENPORT, IOWA

397

Equitable Life

398

RECEIVED
6-28-71
9:00 AM
MADISON COUNTY
SHERIFF
WINTERSET, IOWA

IN THE MATTER OF the Condemnation of Land by the Executive Council of Ia. for the Use and Benefit of the State of Iowa

NOTICE OF ASSESSMENT

Location: Winterset, Iowa
Madison County

Project: Badger Creek Watershed

Madison County

TO: Rex R. Shambaugh, R.R. 1, Van Meter, Iowa
Anna Lee Shambaugh, R.R. 1, Van Meter, Iowa
Dallas County State Bank, Van Meter, Iowa
Equitable Life Assurance Society of the United States, Central National Bank Bldg, Mortagage Dept., Des Moines, Iowa
~~Creston Production Credit Association~~, Federal Office Building, ~~Creston,~~ Iowa

and all other persons companies, or corporations having any interest in or owning any of the following described real estate:

East 33 1/3 acres of NW 1/4 NW 1/4 Section 11-77-27 (record title held by Rex R. and Anna L. Shambaugh, husband and wife)

NW 1/4 SW 1/4 Sec. 11 (record title held by Rex R. Shambaugh)
E 1/2 NW 1/4 Sec. 14-77-27 (record title held by Rex R. Shambaugh)

YOU AND EACH OF YOU ARE HEREBY NOTIFIED THAT the Executive Council of Iowa desires the condemnation of the following described land: Tract #19 - NW 1/4 NW 1/4 except W 220 Feed of Sec. 11, T 77 N, R 27 W. of 5th P.M., 33.33 acres, more or less. Tract #27 - NW 1/2 NW 1/4 SW 1/4 Sec. 11, T77 N, R 27 West of 5th P.M., 20.0 acres more or less. - Tract #29 - East 1050 ft. of S. 550 ft. of SE 1/4 NW 1/4 Sec. 14, T 77 N, R 27 West of 5th P.M. except N 60 ft. of E. 220 ft. (15.5 acres more or less, all in Madison County)

Such condemnation is sought for the following purpose:

Public Park and recreational areas.

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

That said commissioners will, on the ~~24th~~ 29th day of June, 1971 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.

Dated at Des Moines, Iowa, this 9th day of June, 1971.

RECD
1971 JUN 10 AM 03
WILLIAM [illegible]
SHERIFF POLK COUNTY

Applicant

By RICHARD C. TURNER
Attorney General of Iowa

By Clifford E. Peterson
CLIFFORD E. PETERSON
Assistant Attorney General

By _____
JAMES C. DAVIS
Assistant Attorney General

STATE OF IOWA
POLK COUNTY } SS

RETURN OF SERVICE

I hereby certify and make return; that I received the within and attached notice on the 10th day of June 19 71, and that on the 10th day of June 19 71 I served the same on the within named defendant Equitable Life Assurance Society of the United States in Des Moines, Iowa (Name City, Town or Twp.), Polk (Name County) County, Iowa, by delivering a true copy thereof, ~~with copy of petition attached~~ (strike out if not so attached), to Bill Amos

Assistant Cashier (Give title of person served) of said Equitable Life Assurance Society of the United States (Name of defendant)

Fees	$ 25
Mileage	$ 20
County	$ 75
Total	$ 1.20

Paid by Plt'fs. Attorney.

POLK COUNTY IOWA SHERIFF'S OFFICE

Deputy Sheriff.

Subscribed and sworn to before me this 9th day of June, 19 71

Notary Public, Polk County, Iowa

Notary commission expires July 4, 19 72

"Foreign Corporation Notice Service Return"

408

In the Matter of the Condemnation of Certain Lands by the Executive Council of Iowa for the Use and Benefit of the State of Iowa

Location: Winterset, Iowa
Madison, County

Project: Badger Creek Watershed

SELECTION AND APPOINTMENT OF COMPENSATION COMMISSIONERS BY THE CHIEF JUDGE OF THE FIFTH JUDICIAL DISTRICT

An Application for Condemnation having been filed with me by the Executive Council of Iowa for the selection and appointment, by lot, of six suitable persons as the law provides to act as a compensation commission to assess and appraise the damages sustained by reason of the condemnation of certain lands described by Applicant, in its Application filed in the above entitled matter, I hereby designate, select, and appoint as the members of said compensation commission required in this matter the following persons:

NAME	ADDRESS	QUALIFICATIONS
Ole Olson		Licensed Real Estate Salesman or Broker
~~Chris Tucker Jr. Alternate~~		
Earl Whitworth		Licensed Real Estate Salesman or Broker
~~Fred Masters~~		Knowledgeable of Property Values by Virtue of Occupation
[Ronnie Williams alternate]		
John Foster		Knowledgeable of Property Values by Virtue of Occupation
Earl Crawford		Owner or Operator Agricultural Property
~~Harrison Powell alternate~~		
Raymond Clark		Owner or Operator of Agricultural Property

I further designate, select, and appoint, the above named John Foster to act as Chairman of said commission.

TO THE SHERIFF OF MADISON COUNTY, IOWA: Attached hereto please find a duplicate of the Application for Condemnation in the above-entitled matter.

Dated at Indianola, Iowa, this 9th day of June, 1971

M. E. Rhinehart
Chief Judge of the Fifth Judicial District
Including Madison County, Iowa

Filed in my office at Winterset, Iowa, this 9 day of June, 1971.

Roy Corse
Sheriff of Madison County, Iowa

IN THE MATTER OF the Condemnation of Certain Lands by the Executive Council of Iowa for the Use and Benefit of the State of Iowa.

OATH OF COMPENSATION COMMISSIONERS

Location: Winterset, Iowa
Madison County
Project:
Badger Creek

STATE OF IOWA)
) ss
County)

Each of the undersigned being duly sworn says:

That I do possess the qualifications listed under my name below, and

That I do not possess any interest in the proceeding which would cause me to render a biased decision, and

That I will, to the best of my ability, faithfully and impartially assess the damages which owners, lienholders, encumbrancers and other persons interested in the land which is sought to be appropriated by these proceedings will sustain by reason of the appropriation of the land as set forth and described in the Application in the Office of the Sheriff for Public Park and Recreational Area and make a written report to the sheriff as authorized and prescribed by law and in accordance with the instructions of the Chief Justice of the Supreme Court, and will well and truly perform any and all other duties imposed upon me by law as a member of the compensation commission selected and appointed to assess said damages.

Lowell L. Olsen
Name:
Licensed Real Estate Salesman or Broker

Earl DeBrodt
Name:
Licensed Real Estate Salesman or Broker

John W. Foster
Name:
Knowledgeable of Property Values by Virtue of Occupation

R. K. Williams
Name:
Knowledgeable of Property Values by Virtue of Occupation

Earl B. Grau Jr.
Name: Owner or Operator Agricultural Property

Raymond Clark
Name: Owner or Operator Agricultural Property

Subscribed and sworn to before me this 29 day of June, 1971.

Margaret Wheeler
~~(Notary Public)~~
(Clerk of Court)
in and for said County and State

Filed in my office at Winterset, Iowa, this 29 day of June 1971.

Ray Reise, Sheriff

401

IN THE MATTER OF the Condemnation of Certain Lands by the Executive Council of Iowa for the Use and Benefit of the State of Iowa

SHERIFF'S CERTIFICATION AS TO DAMAGES AND COSTS

Location: Winterset, Iowa
Madison County

To:

State Conservation Commission
300 - Fourth Street, Des Moines, Iowa

I hereby certify that the Compensation Commissioners in the above entitled cause convened at Winterset, Iowa on the 29th day of June, 1971, and thereupon proceeded to view the premises; and said commissioners did thereafter, on the 30th day of June, 1971, file their report in my office awarding damages as follows:

Rex R. Shambaugh; Anna Lee Shambaugh; Dallas County	$
State Bank, Van Meter, Ia.; Equitable Life Assurance	$
Society of the United States, Central National Bank Bldg,	$
Mortgage Dept., Des Moines, Ia..	$ 35,103.00
	$
Russell Kraft, attorney, Adel, Ia.	$ 750.00
TOTAL DAMAGES AWARDED	$ 35,853.00

I further certify that costs incident to this proceeding have been taxed as follows:

Serving notices, as listed below:

DATE	NAME OF PERSON SERVED	FEE	MILEAGE	AMOUNT	TOTAL
6-10-71	Rex R. Shambaugh	.75			
6-10-71	Anna Lee Shambaugh	.50			
6-11-71	Madison County, Ia.	.50			
6-10-71	Dallas Co. State Bank	2.70			
6-10-71	Equitable Life Assurance Society of the U.S.	1.20			5.65

Sheriff, summoning and attending commissioners (per day) . . $7.50

Sheriff, mileage while attending commissioners _____ @ $.10 $____

Rex Rouse

REX ROUSE
SHERIFF, MADISON COUNTY
WINTERSET, IOWA 50273

IN THE MATTER OF the Condemnation of Certain Lands by the Executive Council of Iowa for the Use and Benefit of the State of Iowa

APPRAISEMENT REPORT OF COMPENSATION COMMISSION

Location: Winterset, Iowa
Madison County

Project:
Badger Creek

TO: Rex Rouse, Sheriff of Madison County, Iowa.

We, the undersigned, being the duly appointed and qualified commissioners appointed to assess the damages sustained by the owners, lienholders, encumbrancers, and other persons interested in the appropriation of certain lands as set forth and described in the notice attached hereto pertaining to the above entitled matter respectfully reported as follows:

That we proceeded to view the respective premises at the time or times fixed in the notice to persons interested therein and do hereby assess and appraise the damages which the respective persons will sustain by reason of the appropriation as follows:

Value of Dwelling	Land and Improvements Other than a Dwelling	Additional Damages	Moving Persons & Property (not more than 25 miles from land.
$	$ 31,050.00	$ 3,000.00	$ ($500 max.)

Damage to Personal Property	Total Award	Condemnees' Attorney Fees & Costs
Fence $ 1053.00	$ 35,103.00	$ 750.00

Respectfully reported at Winterset, Iowa, this 30th day of June, 1971.

John W. Foster
Raymond Cook
(R. K. Williams)
Earl B. Brandhorst
Lowell L. Olson
Earl Edwards

I certify that the above amounts are legally payable to each claimant and that the claim is correct and just and that payment has not been received.

Filed in my office at Winterset, Iowa, this 30 day of June, 1971.

Rex Rouse
SHERIFF, Madison County, Iowa

403

IN THE MATTER OF the Condemnation of Land by the Executive Council of Ia. for the Use and Benefit of the State of Iowa

NOTICE OF ASSESSMENT

Location: Winterset, Iowa
Madison County

Project: Badger Creek Watershed

Madison County

TO: Rex R. Shambaugh, R.R. 1, Van Meter, Iowa
Anna Lee Shambaugh, R.R. 1, Van Meter, Iowa
Dallas County State Bank, Van Meter, Iowa
Equitable Life Assurance Society of the United States, Central National Bank Bldg, Mortagage Dept., Des Moines, Iowa
~~Creston Production Credit Association, Federal Office Building, Creston,~~ Iowa

and all other persons companies, or corporations having any interest in or owning any of the following described real estate:

East 33 1/3 acres of NW 1/4 NW 1/4 Section 11-77-27 (record title held by Rex R. and Anna L. Shambaugh, husband and wife)

NW 1/4 SW 1/4 Sec. 11 (record title held by Rex R. Shambaugh)
E 1/2 NW 1/4 Sec. 14-77-27 (record title held by Rex R. Shambaugh)

YOU AND EACH OF YOU ARE HEREBY NOTIFIED THAT the Executive Council of Iowa desires the condemnation of the following described land: Tract #19 - NW 1/4 NW 1/4 except W 220 Feed of Sec. 11, T 77 N, R 27 W. of 5th P.M., 33.33 acres, more or less. Tract #27 - NW 1/2 NW 1/4 SW 1/4 Sec. 11, T77 N, R 27 West of 5th P.M., 20.0 acres more or less. - Tract #29 - East 1050 ft. of S. 550 ft. of SE 1/4 NW 1/4 Sec. 14, T 77 N, R 27 West of 5th P.M. except N 60 ft of E. 220 ft. (15.5 acres more or less, all in Madison County)

Such condemnation is sought for the following purpose:

Public Park and recreational areas.

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

That said commissioners will, on the 24th day of June, 1971 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.

Dated at Des Moines, Iowa, this 9th day of June, 1971.

Applicant

By RICHARD C. TURNER
Attorney General of Iowa

By Clifford E. Peterson
CLIFFORD E. PETERSON
Assistant Attorney General

By _____
JAMES C. DAVIS
Assistant Attorney General

IN THE MATTER OF the Condemnation
of Certain Lands by the
Executive Council of Iowa
for the Use and Benefit of the
State of Iowa

AFFIDAVIT OF FINAL OFFER

Location: Madison County

Project: Badger Creek

On this 23rd day of June, 1971, comes the Executive Council of Iowa and states, as by law provided, that the most recent offers made to the owners, lienholders, encumbrancers and other persons interested in the appropriation of lands as described by the notice attached hereto and pertaining to the above matter as follows:

$ 27,500

Executive Council of Iowa

BY: Fred A Priewert
Fred A. Priewert, Director
IOWA STATE CONSERVATION COMMISSION

Subscribed and sworn to before me this 23 day of June, 1971

Jno Clarence Jorden
Notary Public in and for
Polk County, Iowa

Filed in my office at Winterset, Iowa, this 29 day of June, 1971.

Rep Rouse
SHERIFF, Madison County, Iowa

405

406

IN THE MATTER OF the Condemnation of Land by the Executive Council of Ia. for the Use and Benefit of the State of Iowa

NOTICE OF ASSESSMENT

Location: Winterset, Iowa
Madison County

Project: Badger Creek Watershed

Madison County

TO: Rex R. Shambaugh, R.R. 1, Van Meter, Iowa
Anna Lee Shambaugh, R.R. 1, Van Meter, Iowa
Dallas County State Bank, Van Meter, Iowa
Equitable Life Assurance Society of the United States, Central National Bank Bldg, Mortagage Dept., Des Moines, Iowa
Creston Production Credit Association, Federal Office Building, Creston, Iowa

and all other persons companies, or corporations having any interest in or owning any of the following described real estate:

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NW 1/4 SW 1/4 Sec. 11 (record title held by Rex R. Shambaugh)
E 1/2 NW 1/4 Sec. 14-77-27 (record title held by Rex R. Shambaugh)

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Public Park and recreational areas.

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

That said commissioners will, on the 24th day of June, 1971 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.

Dated at Des Moines, Iowa, this 9th day of June, 1971.

, Applicant

By RICHARD C. TURNER
Attorney General of Iowa

By _____
CLIFFORD E. PETERSON
Assistant Attorney General

By _____
JAMES C. DAVIS
Assistant Attorney General

SHERIFF'S CERTIFICATION OF COSTS

I further certify that costs incident to this proceeding have been taxed as follows:

	FEE	MILEAGE	TOTAL
1. Sheriff, serving Notices	$8.25	$18.50	$26.75
2. Fees advance for out of county services			7.15
3. Summoning Commissioners	3.50		3.50
4. Sheriff attending commissioners (2 days)	15.00	4.30	19.30
5. Commissioner's meals (advanced by Sheriff)			24.68
			$81.38

6. COMMISSIONERS EXPENSES:

Raymond Clark, RR, Booneville, Ia. 2 days service and mileage	$107.00
Ronnie K. Williams, Peru, Ia. 2 days service and mileage	105.00
Earl Crawford, RR 4, Winterset, Ia. 2 days service and mileage (car used in viewing)	109.90
Earle Whitworth, Macksburg, Ia. 2 days service and mileage	107.20
Lowell Olson, Winterset, Ia. 2 days service and mileage	102.00
John W. Foster, Winterset, Ia. (Chairman) 2 days service and mileage	102.00
TOTAL COMMISSIONER EXPENSES	$633.10

7. DAMAGES AWARDED:

Russell Craft, Attorney-in-fact for Selma W. Radke, Louise Gossett, Ann Vance and Marily Lipnik	$23,370.00
William E. Heldenbrand and Esther Heldenbrand	98,000.00
Virgil N. Smith, tenant	4,500.00
Rex R. Shambaugh; Anna Lee Shambaugh; Dallas County State Bank, Van Meter, Ia.; Equitable Life Assurance Society of the United States, Central National Bank Bldg., Mortgage Dept., Des Moines, Ia.	35,103.00
Russell Craft, attorney fee (award exceeded 110%)	750.00
Robert W. Cutshall; Judith A. Cutshall; Dallas County State Bank, Adel, Ia.; Federal Land Bank of Omaha, Nebr.	48,901.50
TOTAL DAMAGES AWARDED	$210,624.50

RECAPITULATION

TOTAL DAMAGES AWARDED	$210,624.50
TOTAL SHERIFF'S COSTS	81.38
TOTAL COMMISSIONER'S EXPENSES	633.10
GRAND TOTAL	$211,338.98

NOTE: Acopy of this report attached to each set of papers.

Certified a true statement of condemnation awards and expenses in connection with: "In the Matter of the Condemnation of Certain Lands by the Executive Council of Iowa for the Use and Benefit of the State of Iowa", Project - Badger Creek Watershed, Location - Madison County, Winterset, Iowa.

Rex Rouse

Rex Rouse, Sheriff
Madison County
Winterset, Iowa 50273

408

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

FILED
1975 JUL 22 PM 12
MARGARET WHEELER
CLERK OF DISTRICT COURT
MADISON COUNTY, IOWA

RECEIVED
7-13-71
940
MADISON COUNTY
SHERIFF
WINTERSET, IOWA

REX R. SHAMBAUGH, ANNA LEE SHAMBAUGH, DALLAS COUNTY STATE BANK, THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, MADISON COUNTY,

Plaintiffs,

vs.

EXECUTIVE COUNCIL OF IOWA,

Defendant.

NOTICE OF APPEAL FROM COMPENSATION COMMISSION AWARD

20838

FILED NO. 589
BOOK 111 PAGE 394
1975 MAY -8 PM 10:38
MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA

TO: Rex R. Shambaugh, R. R., Van Meter, Iowa
Anna Lee Shambaugh, R. R., Van Meter, Iowa
Dallas County State Bank, Van Meter, Iowa
Equitable Life Assurance Society of the United States
Central National Bank, Mortgage Dept., Des Moines, Iowa
Madison County, County Auditor, Madison County Courthouse
Winterset, Iowa

YOU AND EACH OF YOU ARE HEREBY NOTIFIED that the defendant, Executive Council of Iowa, does hereby appeal to the District Court of the State of Iowa in and for Madison County from the appraisal and award of damages made on the 29th of June, 1971, by the Compensation Commission appointed for the purpose of appraising and awarding to the plaintiffs the damages sustained as a result of the condemnation and taking by right of eminent domain for public park and recreational purposes, the following described real estate, to-wit:

Tract #19 - NW 1/4 NW 1/4 except W220 feet of Section 11, Township 77 North, Range 27 West of 5th PM, 33.33 acres, more or less.

Tract #27 - NW 1/2 NW 1/4 SW 1/4 Section 11, Township 77 North, Range 27 West of 5th P.M., 20.0 acres, more or less.

Tract #29 - East 1050 feet of South 660 feet of the SE 1/4 NW 1/4 Section 14, Township 77 North Range 27 West of 5th P.M., except the North 60 feet of the East 220 feet (15.5 acres, more or less) all in Madision County, Iowa.

Said appeal will come on for hearing and trial before said County in Winterset, Iowa, as by law provided.

RICHARD C. TURNER
Attorney General of Iowa

by Clifford E. Peterson
CLIFFORD E. PETERSON
Assistant Attorney General

by James C. Davis
JAMES C. DAVIS
Assistant Attorney General

ATTORNEYS FOR DEFENDANT

Executive Hills, East
1223 E. Court, Room 203
Des Moines, Iowa 50319
Phone (515) 281-5351

RETURN OF SERVICE—~~Company~~or Corporation

STATE OF IOWA, Madison County, ss.

The within Notice of Appeal from Compensation Commission Award came into my hands on the 13th day of July, 19 71 and on the 13th day of July, 19 71, I served the same upon the Dallas County State Bank, Van Meter, Iowa by offering to read the same to Dillen Merical, he being the Vice President of said corporation ~~or company~~ which he waived, and by giving him a true copy thereof, all done in Van Meter Township, Dallas County, Iowa.

FEES

Service - - $_____
Copies - - $_____
Mileage - - $_____
Total - - $_____

Rex Rouse, Sheriff
of Madison County
By _____ Deputy.

409

RETURN OF SERVICE—(Combined Forms) (No. 600) FIDLAR & CHAMBERS CO., DAVENPORT, IOWA

RETURN OF SERVICE—Personal

STATE OF IOWA, Madison County, ss.

The within / Notice of Appeal from Compensation Commission Award came into my hands on the 13th day of July, 19 71 and I certify that I served the same on the defendants named below by reading the same to them or by offering to read the original to them which he waived, and delivering to them a true copy of the same at the time and place set opposite their names.

Names of Persons	Month	Day	Year	Township	County	State
Rex R. Shambaugh	July	14th	1971	Jefferson	Madison	Iowa
Rex Rouse	July	13th	1971	Center	Madison	Iowa

FEES

Service - - $ .75
Copies - - $ 2.00
Mileage - - $ 5.80
Total - - $ 8.55

Rex Rouse, Sheriff

of Madison County

By _____ Deputy.

Subscribed and sworn to before me by the said _____ this _____ day of _____ 19____

_____ Notary Public in and for _____ County.

RETURN OF SERVICE—Leaving Copy

STATE OF IOWA, Madison County, ss.

The within / Notice of Appeal from Compensation Commission Award. came into my hands on the 13th day of July, 19 71 and on the 14th day of July, 19 71, I served the same on Anna Lee Shambaugh, by leaving a true copy thereof at the house of Anna Lee Shambaugh, situated in the township of Jefferson, Madison County, Iowa, the same being the usual place of residence of said defendant, with Rex R. Shambaugh a member of said defendant's family, with whom he resides, and over 18 ~~xx~~ 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.

RETURN OF SERVICE—Company or Corporation

STATE OF IOWA, Madison County, ss.

The within Notice of Appeal from Compensation Commission Award came into my hands on the 13th day of July, 19 71 and on the 13th day of July, 19 71, I served the same upon the Madison County by offering to read the same to George Abrahams, he being the Auditor of said corporation or company, 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, Sheriff

of Madison County

By _____ Deputy.

STATE OF IOWA
POLK COUNTY } SS

RETURN OF SERVICE

I hereby certify and make return; that I received the within and attached notice on the 13th day of July 1971, and that on the 15th day of July 1971 I served the same on the within named defendant Equitable Life Assurance Society of the United States in Des Moines, Iowa (Name City, Town or Twp.), Polk (Name County) County, Iowa, by delivering a true copy thereof, with copy of petition attached, to Mr H H Graham (strike out if not so attached)

Cashier (Give title of person served) of said Equitable Life Assurance Societ y of the United States (Name of defendant)

Fees $ 25
Mileage $ 20
County $ 75
Total $ 1.20
Paid by Plt'fs. Attorney.

PR 7/ 1-21- Petty

Deputy Sheriff.

Subscribed and sworn to before me this 15th day of July, 1971

Notary Public, Polk County, Iowa
Notary commission expires July 4, 1972

"Foreign Corporation Notice Service Return"

411

412

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

FILED
1971 JUL 29 AM 10:50
MARGARET HUTCHISON
CLERK DISTRICT COURT
MADISON COUNTY, IOWA

REX R. SHAMBAUGH and ANNA LEE SHAMBAUGH,

Plaintiffs,

vs.

EXECUTIVE COUNCIL OF IOWA,

Defendant.

LAW NO. 20851

NOTICE OF APPEAL

FILED NO. 589
BOOK 111 PAGE 394
1975 MAY -8 PM 10:45
MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA

TO: Executive Council of Iowa,
in the care of Richard C. Turner,
Attorney General of the State of Iowa;
Rex Rouse, Sheriff of Madison County, Iowa;
Equitable Life Assurance Society of the
United States, Des Moines, Iowa; Dallas
County State Bank, Van Meter, Iowa; and
Madison County, Iowa, in the care of
Madison County Auditor, Winterset, Iowa

You, and each of you, are hereby notified that the above named plaintiffs do hereby appeal in accordance with the provisions of Chapter 472 of the Code of Iowa, 1971, from the separate awards of the Condemnation Commission found and made on or about June 29, 1971, in the amount of Thirty-five Thousand one hundred and three dollars ($35,103.00) for the value of the land sought to be condemned, including consequential damages, and also the amount of Seven hundred fifty dollars ($750.00) for the Condemnee's attorneys fees and costs in connection with the taking of condemnee's land described as:

The East 33-1/3 acres, NW 1/4 NW 1/4 Section 11-77-27 and the NW 1/2, NW 1/4 SW 1/4, Section 11-77-27, E 1050' S 550' SE 1/4 NW 1/4 Section 14-77-27 (except N 60' E 220' thereof)

allegedly for public park and recreational areas.

You and each of you, are further hereby notified that the Plaintiff's Petition is now on file in the office of the Clerk of the District Court of the State of Iowa, in and for Madison County, in Winterset, Iowa, and that said appeal will come on for hearing in said Court as provided by law.

DUNCAN, JONES, RILEY & DAVIS

and Robert G. Riley

222 Equitable Bldg.
Des Moines, Iowa 50309

ATTORNEYS FOR PLAINTIFFS.

Service of the attached Notice of Appeal and receipt of copy thereof is herewith acknowledged:

Richard C. Turner, Attorney General of the State of Iowa

by James C. Davis, Ass't Atty Gen. 7/28/71

Rex Rouse, Sheriff of Madison County, Iowa

by Rex Rouse 7/27/71

Equitable Life Assurance Society of the United States

by M. Spry 7/28/71

Dallas County State Bank, Van Meter, Iowa

by George Merriam, Senior Vice Pres 7/21/71

Creston Production Credit Association, Creston, Iowa

by Lerta L. Kendrick, office assistant 7/28/71

Madison County, Iowa

by Darlene Hyatt, Dep auditor 7/27/71

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

FILED
1973 OCT -1 AM 9:58
MARGARET [illegible]
CLERK OF DISTRICT COURT
MADISON COUNTY, IOWA

REX R. SHAMBAUGH and ANNA LEE SHAMBAUGH, Plaintiffs vs. EXECUTIVE COUNCIL OF IOWA, Defendant.	FILED NO. 589 BOOK III PAGE 394 LAW No. 20851 1975 MAY -8 PM 10:47 MARY E. WELTY RECORDER MADISON COUNTY, IOWA APPLICATION FOR RELEASE OF DEPOSITED WARRANT

COMES NOW plaintiffs and state:

1. State warrant in sum of $35,103.00, payable to plaintiffs has been deposited with the Madison County Sheriff; see copy of his letter attached.

2. Said deposit was finally made on September 26, 1973, some 819 days after the award of damages was made by the condemnation commissioners in this matter; said deposit is not timely made, but plaintiffs should not be further prejudiced by the defendant's refusal up to the present time to pay any of the damages, (inadequate though they may be) awarded to plaintiffs.

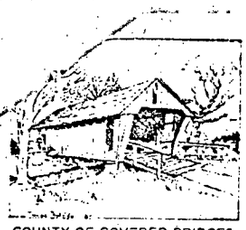
3. Section 472.25 of the Iowa Code permits the Court to direct the payment of such of these funds as it finds just and proper to these plaintiffs as the person entitled thereto; it would most certainly be just and proper, under all the circumstances, for the plaintiffs to receive the entire sum deposited, and that would appear to be the reasoning of defendant Council, by their untimely deposit of the funds.

WHEREFORE plaintiffs prays for an order directing the Sheriff to deliver the deposited funds to them forthwith.

REX R. SHAMBAUGH
AND ANNA LEE SHAMBAUGH

By Robert G. Riley
Robert G. Riley
222 Equitable Building
Des Moines, Iowa 50309
Their Attorney

Copy ~~filed for~~ mailed to
Thomas J. Whorley
Assistant Attorney General
State Capitol
Des Moines, Iowa 50319



OFFICE OF

Sheriff of Madison County

REX ROUSE, SHERIFF
EDWARD POWELL, DEPUTY
WINTERSET, IOWA 50273

TELEPHONE
DAY OR NIGHT
462 - 3575
AREA CODE 515

Sept. 26, 1973

Mr. Robert G. Riley
Attorney-at-law
222 Equitable Bldg.
Des Moines, Ia. 50309

Dear Sir:

This is to confirm our telephone conversation of this date as attorney of record for Selma Radke and Rex Shambaugh regarding their appeals (Law No. 20850 and 20851) from the Condemnation Award made on June 30, 1971 "In the Matter of the Condemnation of Certain Lands by the State Conservation Commission for the Use and Benefit of the State of Iowa for Public Recreation Grounds", located in Madison County, Iowa, Project - Badger Creek Watershed Site No. M-1-A 12-10-130-447.

On this date, Sept. 26, 1973, Mr. Robert H. Armstrong, Land Acquisition Agent, Iowa Conservation Commission deposited with me the following checks:

State Warrant #05735725 dated 9-24-73 payable to Selma W. Radke $23,370.00

State Warrant #05735724 dated 9-24-73 payable to Rex R. Shambaugh & Anna Lee Shambaugh $35,103.00

Notice of award to all condemnees were previously submitted on or about June 30, 1971 and appeals were filed in July, 1971. All original copies of this action are on file in the Clerk of Court's Office, Madison County, Ia.

In the past, I have filed the checks in the Clerk's Office with the appeal to keep all papers together (also since I have no lock or fireproof storage facilities), but in accordance with our conversation, I will retain custody of these checks pending further instructions or court order.

Yours truly,

Rex Rouse

Rex Rouse, Sheriff
Madison County, Ia.

cc: Clerk of Court, Madison Co.
Selma Radke
Rex R. Shambaugh

By Robert G. Riley
Robert G. Riley
222 Equitable Building
Des Moines, Iowa 50309
Their Attorney

Copy ~~filed for~~ mailed to
Thomas J. Whorley
Assistant Attorney General
State Capitol
Des Moines, Iowa 50319

415

416

FILED

1973 OCT 24 PM 1:33

MARGARET WHEELER
CLERK OF DIST. COURT
MADISON COUNTY, IOWA

IN THE DISTRICT COURT OF THE STATE OF IOWA

IN AND FOR MADISON COUNTY

FILED NO. 589
BOOK 111 PAGE 394

1975 MAY -8 PM 10:48

MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA

REX R. SHAMBAUGH AND ANNA LEE SHAMBAUGH, Plaintiffs, vs. EXECUTIVE COUNCIL OF IOWA, Defendant.	)	Law No. 20851 ORDER AUTHORIZING RELEASE OF FUNDS

NOW on this 23 day of October, 1973, this matter comes to the attention of the Court on the Application filed herein by the Plaintiffs for an Order Authorizing the Release of Funds evidenced by deposited warrant, and it appearing to the Court that the Attorneys for the Defendant, Executive Council of Iowa, have joined in a prayer for an Order directing the Sheriff of Madison County to deliver said deposit funds to the Plaintiffs herein.

IT IS THEREFORE ORDERED AS FOLLOWS:

The Sheriff of Madison County is authorized and directed to deliver the State Warrants heretofore deposited in the Office of the Sheriff by the Defendant in connection with the condemnation award, to the Plaintiffs herein, pursuant to the provisions of Iowa Code Section 472.25 and without prejudice to the Plaintiffs' pending appeal.

Robert O. Fredereck

JUDGE

Form 499

IN THE MATTER of the Condemnation of)
Certain Lands by the State Conserva-)
tion Commission for the Use and Bene-)
fit of the State of Iowa for Public)
Recreational Grounds.)
Madison County, Iowa)
Location - Badger Creek Watershed)
Project - Site No. # M-1-A)
12-10-130-447

SHERIFF'S REPORT OF DISPOSITION OF FUNDS DEPOSITED WITH HIM

FILED NO. 589
BOOK 111 PAGE 394

1975 MAY -8 PM 10:49

MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA

I, the undersigned, hereby certify that, in the above noted matter, of the state warrants deposited with me in payment of the condemnation awards, I made delivery of the same to the defendants as listed below:

State Warrant No.	Amount	In Favor of
05735725	$23,370.00	Selma W Radke
05735724	$35,103.00	Rex R Shambaugh & Anna Lee Shambaugh

10-26-73
Check received: ~~10-24-73~~ without prejudice per court order
Rex R Shambaugh Elma Lee Shambaugh

10-26-73
Check receive d: ~~10-24-73~~ without prejudice per court order
Selma W Radke

Signed this 26th day of October, 1973
at Winterset

Ray Ronse, Sheriff

417

Form 498

4/8

IN THE MATTER of the Condemnation of Certain Lands by the State Conservation Commission for the Use and Benefit of the State of Iowa for Public Recreational Grounds.

Location - Madison County, Iowa
Project - Badger Creek Watershed
Site No. M-1-A
12-10-130-447

SHERIFF'S RECEIPT
PAYMENT OF AWARDS AND COSTS

I, the undersigned, hereby acknowledge receipt of payment to me by the Iowa State Conservation Commission for payment of the awards ~~and costs~~ in the above entitled condemnation proceedings of the sums as listed below:

State Warrant No.	Date	Payee	Amount
05735725	09-24-73	Selma W Radke	$23,370.00
05735724	09-24-73	Rex R Shambaugh & Anna Lee Shambaugh	$35,103.30