FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

Dale & Lola Mapes
By Madison County Sheriff
To
Madison County, Iowa

#4393

No Fee

Filed for record the 29 day of November A. D. 1961 at 4:00 o'clock P. M.

Mary E. Welty, Recorder

TRANSCRIPT OF CONDEMNATION

CERTIFICATE OF TRANSCRIPT

THE STATE OF IOWA, MADISON COUNTY, SS.

I, Marguerite Morrissey Clerk of the District Court in and for said County, do hereby Certify that the attached is a full, true and correct copy of "NOTICE OF APPEAL FROM CONDEMNATION OF PROPERTY BY MADISON COUNTY, IOWA, TRANSCRIPT OF CONDEMNATION PROCEEDINGS FILED BY SHERIFF OF MADISON COUNTY, IOWA, AMENDMENT TO ANSWER OF DEFENDANT, MADISON COUNTY, IOWA, PLAINTIFFS' REPLY TO AMENDMENT TO ANSWER OF DEFENDANT, MADISON COUNTY, IOWA, JUDGMENT ENTRY AND STIPULATION AS TO WAIVER OF RIGHT OF APPEAL" In Cause Entitled Dale Mapes and Lola Mapes, Plaintiffs-vs-Madison County, Iowa, Defendants, Lawn No. 19225, Madison County, Iowa District Court, as the same appears of record in my office.

WITNESS my hand and the Seal of said Court hereto affixed at my office in Winterset, in said County, on this 27th day of November, 1961.

(DISTRICT COURT SEAL)

Marguerite Morrissey Clerk

IN THE DISTRICT COURT OF IOWA
IN AND FOR MADISON COUNTY

RECEIVED 7-11-61 2:40 P.M.
MADISON COUNTY SHERIFF
WINTERSET, IOWA

DALE MAPES and LOLA MAPES, Plaintiffs, -vs- MADISON COUNTY, IOWA, Defendant,	: No 19225 Law 37-260 : NOTICE OF APPEAL FROM CONDEMNATION OF PROPERTY BY MADISON COUNTY, IOWA	FILED 1961 JUL 11 PM 4:12 MARGUERITE MORRISSEY CLERK OF DISTRICT COURT MADISON COUNTY, IOWA

TO- - - MADISON COUNTY, IOWA, AND TO THE BOARD OF SUPERVISORS OF MADISON COUNTY, IOWA AND TO REX ROUSE, SHERIFF OF MADISON COUNTY, IOWA

YOU ARE HEREBY NOTIFIED that the undersigned, Dale Mapes and Lola Mapes, have appealed from the award of damages made by the commissioners appointed in connection with the condemnation proceedings against the following described real estate, to-wit:

> Commencing at the center of Section 8, T75N R27W of the 5th P. M., thence North 1057 ft. to the point of beginning, thence S88°51'E 538.7 ft, thence S79°24'E 80.3 ft., thence southeasterly along a 327 ft. radius curve, concave southwesterly 362.55 ft., thence S13°17'E 486.5 ft., thence S76°43'W 30 ft., thence S13°17'E 90 ft., thence N76°43'E 35 ft., thence S13°17'E 246.2 ft., thence east 133.57 ft., thence N13°17'W 156.89 ft., thence S76°43'W 40 ft., thence N13°17'W 696.51 ft., thence northwesterly along a 422 ft. radius curve concave southwesterly, 546.24 ft., thence N88°51'W 549.0 ft., thence south 90 ft., to the point of beginning, containing 1.88 acres, more or less, exclusive of the present established roadway.

by reason of any additional taking of land by any failure of Madison County, Iowa, to provide adequate lateral support in connection with the construction of the public highway along and upon the said right of way heretofore acquired by Madison County, Iowa, as aforesaid, or by any failure of Madison County, Iowa, to prevent land on said right of way from sliding or encroaching onto land and improvements belonging to said landowners outside of said right of way as the same now exists:
by Madison County, Iowa, Defendant, said award being dated July 10, 1961, and filed with the Sheriff of Madison County, Iowa, on said date.

YOU ARE FURTHER NOTIFIED that said appeal will come on for hearing at the September 1961 term of the District Court of the State of Iowa, in and for Madison County, which term of court will commence and be held at the Courthouse in Winterset, Madison County, Iowa, on the 5 day of September, 1961, and that on or before the first day of said term of court, a written Petition will be filed by the Plaintiffs stating specificially the items of Plaintiffs' damages on account of taking of real estate by the Defendant, Madison County, Iowa.

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

DALE MAPES AND LOLA MAPES

WEBSTER, FREDERICK & JORDAN
By Shirley A. Webster
Farmers & Merchants State Bank Bldg.
Winterset, Iowa
Attorneys for Plaintiffs.

ACKNOWLEDGMENT OF SERVICE

I, Rex Rouse, Sheriff of Madison County, Iowa, hereby acknowledge due, timely and legal service of the within and foregoing Notice of Appeal from Condemnation of Property by Madison County, Iowa.

Dated at Winterset, Iowa, this 11 day of July, 1961.

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

IN THE MATTER OF THE APPLICATION BY MADISON COUNTY, IOWA, FOR THE APPOINTMENT OF COMMISSIONERS TO ASSESS DAMAGES FOR THE TAKING OF RIGHTS RESPECTING REAL ESTATE FOR ROAD IMPROVEMENT PURPOSES.	APPLICATION TO SHERIFF FOR CONDEMNATION

RECEIVED June 30, 1961
11:40 AM RRR
MADISON COUNTY SHERIFF
WINTERSET, IOWA

TO: REX ROUSE, SHERIFF OF MADISON COUNTY, IOWA:

WHEREAS the undersigned, Madison County, Iowa, a municipal corporation, heretofore completed condemnation proceedings and the taking and acquisition of ownership of certain real estate for the relocation of a public highway as the same proceeded through Section 8, Township 75 North, Range 27, West of the 5th P. M., Madison County, Iowa; and

WHEREAS the Madison County, Iowa District Court in proceedings entitled Dale Mapes and Lola Mapes, Plaintiffs, vs. Madison County, Iowa, and Garland Howell, Glenn Shoemaker, and W. C. More, as members of the Board of Supervisors of Madison County, Iowa, Defendants Number 18904 Equity, ordered that the undersigned proceed by further condemnation proceedings to have determined and ascertained the amount of damages suffered by the said landowners, Dale Mapes and Lola Mapes, on account of any additional taking of land by any failure of the undersigned Madison County, Iowa, to provide adequate lateral support in connection with the construction of the public highway along and upon the right of way heretofore acquired by the undersigned as aforesaid, or by any failure of the undersigned to prevent land on said right of way from sliding or encroaching onto land and improvements belonging to said landowners outside of said right of way, and

WHEREAS the said Madison County, Iowa is desirous of having said damages, if any, determined under its powers as provided by the Chapters 471 and 472, 1958 Code of Iowa, and any and all other pertinent statutory provisions, and consistent with the said decree and order of the Madison County, Iowa District Court, and

WHEREAS it is necessary and proper and within the powers of Madison County, Iowa, that said damages, if any, respecting real estate, should be determined by condemnation proceedings, for such public purposes, and

WHEREAS, the said real estate of the said Dale Mapes and Lola Mapes heretofore condemned and acquired by Madison County, Iowa, as aforesaid is described in Exhibit "A" attached hereto, and by this reference made a part hereof, and whereas the right of way of said Public highway as relocated and reconstructed utilizing said real estate heretofore so condemned and acquired, is shown and described in the Plat attached hereto, marked Exhibit "B" and by this reference made a part hereof, and

WHEREAS Dale Mapes and Lola Mapes, residing at Winterset, Iowa, were the record title holders of the real estate heretofore acquired as aforesaid, with respect to which said damages, if any, pertain, and Bankers Life Company, Des Moines, Iowa, was a mortgagee and lien holder upon said real estate.

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

NOW, THEREFORE, this Applicant, Madison County, Iowa, requests that you appoint six disinterested freeholders of Madison County, Iowa, who are not interested in the same or a like queston, "to inspect the said real estate, the existing right of way of said public highway, and the land adjacent thereto, and to assess the damages, if any, which have been sustained by the said Dale Mapes and Lola Mapes or the Bankers Life Company, by reason of any additional taking of land by any failure of the undersigned Applicant, Madison County, Iowa to provide adequate lateral support in connection with the construction of the public highway along and upon the said right of way heretofore acquired by the undersigned as aforesaid, or by any failure of the undersigned to prevent land on said right of way from sliding or encroaching onto land and improvements belonging to said landowners outside of said right of way as the same now exists; and you are requested to proceed with said application as provided by law."

Dated this 30th day of June, 1961.

MADISON COUNTY, IOWA
By Emery L. Goodenberger
County Attorney in and for Madison County, Iowa

EXHIBIT "A"

Description of real estate heretofore condemned and taken and acquired by Madison County, Iowa.

Commencing at the center of Section 8, T75N R27W of the 5th P. M., thence North 1057 ft. to the point of beginning, thence S88°51'E 538.7 ft, thence S79°24'E 80.3 ft., thence southeasterly along a 327 ft. radius curve, concave southwesterly 362.55 ft., thence S13°17'E 486.5 ft., thence S76°43'W 30 ft., thence S13°17'E 90 ft., thence N76°43'E 35 ft., thence S13°17'E 246.2 ft., thence east 133.57 ft., thence N13°17'W 156.89 ft., thence S76°43'W 40 ft., thence N13°17'W 696.51 ft., thence northwesterly along a 422 ft. radius curve concave southwesterly, 546.24 ft., thence N88°51'W 549.0 ft., thence south 90 ft., to the point of beginning, containing 1.88 acres, more or less, exclusive of the present established roadway.
Note: The west line of the NE¼ of said Sec. 8 is assumed to bear due North and South.

EXHIBIT "B"

PROPERTY PLAT

Acquired from Dale & Lola Mapes Married or Single Married Earnest Dale & Lola Mae R.O.W. Area 1.88 Acres Borrow Area - - Acres. Total Consideration $ -

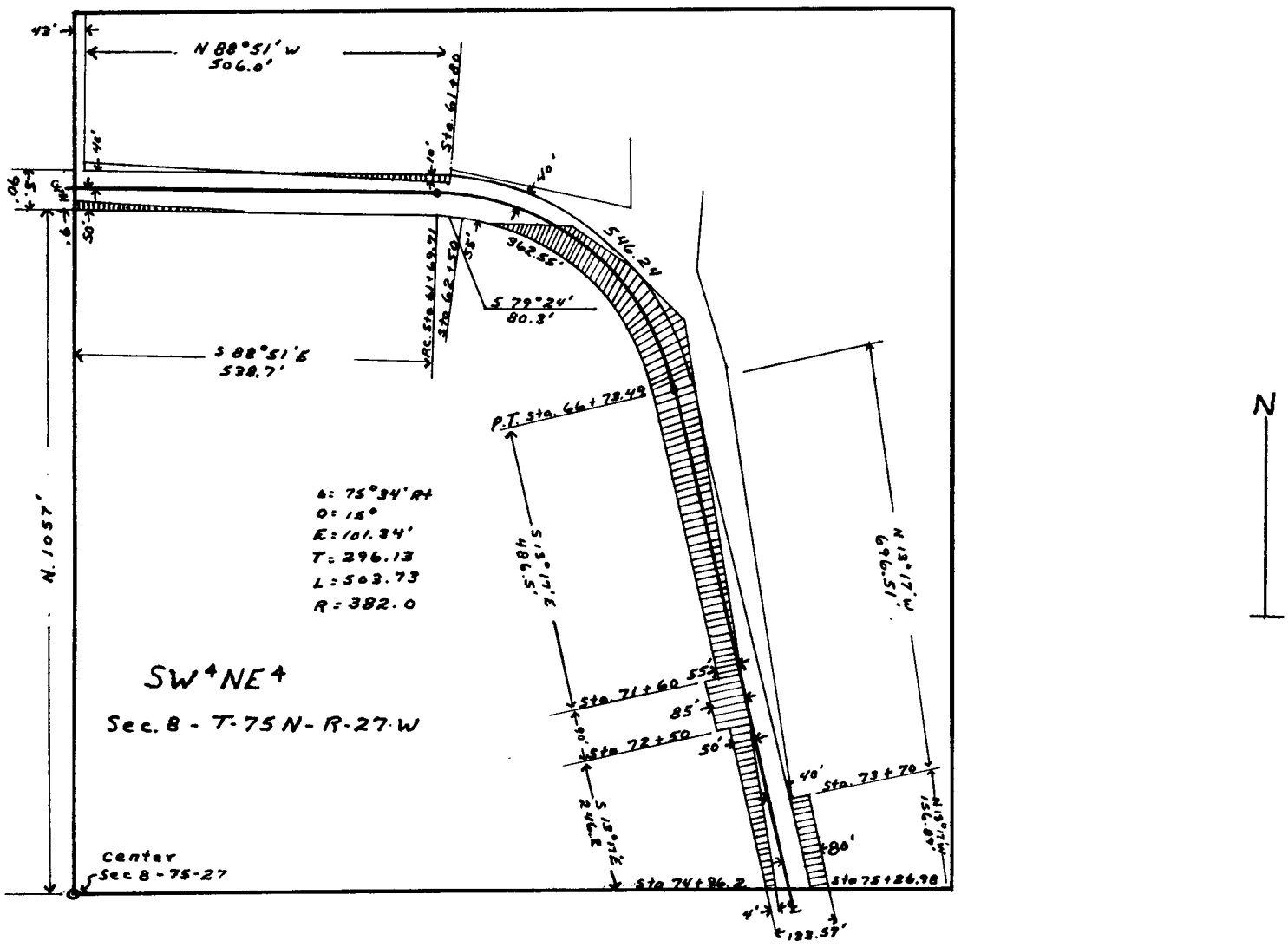
Acquired by Condemnation Date of Contract - - 19 -

LOCATION

From CL Station - - - to CL Station 75+08 Section 8, Township 75N, Range 27W

Township (Civil) Scott Iowa.

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101



Madison County Project No. S-299(4)

IN THE MATTER OF THE APPLICATION BY MADISON COUNTY, IOWA, FOR THE APPOINTMENT OF COMMISSIONERS TO ASSESS DAMAGES FOR THE TAKING OF RIGHTS RESPECTING REAL ESTATE FOR ROAD IMPROVEMENT PURPOSES. : NOTICE OF CONDEMNATION BY MADISON COUNTY, IOWA

TO: DALE MAPES AND LOLA MAPES AND BANKERS LIFE COMPANY.

YOU ARE HEREBY NOTIFIED that Madison County, Iowa, a municipal corporation, desires the condemnation of rights respecting the following described real estate, and has filed with the Sheriff of Madison County, Iowa, a written application for condemnation respecting said rights, which real estate is described as follows, to-wit:

Commencing at the centerof Section 8, T75N R27W of the 5th P. M., thence North 1057 ft. to the point of beginning, thence S88°51'E 538.7 ft., thence S79°24'E 80.3 ft., thence southeasterly along a 327 ft. radius curve, concave southwesterly 362.55 ft., thence S13°17'E 486.5 ft., thence S76°43'W 30 ft., thence S13°17'E 90 ft., thence N76°43'E 35 ft., thence S13°17'E 246.2 ft., thence east 133.57 ft., thence N13°17'W 156.89 ft., thence S76°43'W 40 ft., thence N13°17'W 696.51 ft., thence northwesterly along a 422 ft. radius curve concave southwesterly, 546.24 ft., thence N88°51'W 549.0 ft., thence south 90 ft., to the point of beginning, containing 1.88 acres,more or less, exclusive of the present established roadway.
Note: The west line of the NE¼ of said Sec. 8 is assumed to bear due North and South.

YOU ARE FURTHER NOTIFIED that such condemnation is sought in connection with the improving and relocating of the public highway which now adjoins said real estate.

YOU ARE FURTHER NOTIFIED that a commission of said appraisers has been appointed as provided by law for the purpose of appraising any damages which will be sustained by you or which will be caused by said condemnation.

YOU ARE FURTHER NOTIFIED that said commissioners will, on the 10th day of July, A.D. 1961, at 10 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.

MADISON COUNTY, IOWA, APPLICANT
By Emery L. Goodenberger County Attorney
in and for Madison County, Iowa.

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

STATE OF IOWA, MADISON COUNTY, IOWA, SS. RETURN OF ORIGINAL NOTICE

The within notice received this 30th day of June 1961 and I hereby certify that I served the same on the defendants named below by delivering a copy thereof to each of the said defendants personally at the time and place set opposite their respective names:

Name of Defendant	Month	Day	Year	City, Town or Township	County	State
Dale Mapes	June	30	61	Scott Township	Madison	Iowa
Lola Mapes	June	30	61	Scott Township	Madison	Iowa

FEES
Service $1.25
Copies $ -
Mileage $ .36
Total $1.61

Rex Rouse Sheriff
of Madison County, Iowa

IN THE MATTER OF THE APPLICATION BY MADISON COUNTY, IOWA, FOR THE APPOINTMENT OF COMMISSIONERS TO ASSESS DAMAGES FOR THE TAKING OF RIGHTS RESPECTING REAL ESTATE FOR ROAD IMPROVEMENT PURPOSES.

NOTICE OF CONDEMNATION BY MADISON COUNTY, IOWA

RECEIVED 1961 JUN 30 PM 12:40
WILBUR T. HILDRETH
SHERIFF POLK COUNTY

TO: DALE MAPES AND LOLA MAPES: AND BANKERS LIFE COMPANY:

YOU ARE HEREBY NOTIFIED that Madison County, Iowa, a municipal corporation, desires the condemnation of rights respecting the following described real estate, and has filed with the Sheriff of Madison County, Iowa, a written application for condemnation respecting said rights, which real estate is described as follows, to-wit:

Commencing at the center of Section 8, T75N R27W of the 5th P. M., thence North 1057 ft. to the point of beginning, thence S88°51'E 538.7 ft., thence S79°24'E 80.3 ft., thence southeasterly along a 327 ft. radius curve, concave southwesterly 362.55 ft., thence S13°17'E 486.5 ft., thence S76°43'W 30 ft., thence S13°17'E 90 ft., thence N76°43'E 35 ft., thence S13°17'E 246.2 ft., thence east 133.57 ft., thence N13°17'W 156.89 ft., thence S76°43'W 40 ft., thence N13°17'W 696.51 ft., thence northwesterly along a 422 ft. radius curve concave southwesterly, 546.24 ft., thence N88°51'W 549.0 ft., thence south 90 ft., to the point of beginning, containing 1.88 acres, more or less, exclusive of the present established roadway.
Note: The west line of the NE¼ of said Sec. 8 is assumed to bear due North and South.

YOU ARE FURTHER NOTIFIED that such condemnation is sought in connection with the improving and relocating of the public highway which now adjoins said real estate.

YOU ARE FURTHER NOTIFIED THAT a commission of said appraisers has been appointed as provided by law for the purpose of appraising any damages which will be sustained by you or which will be caused by said condemnation.

YOU ARE FURTHER NOTIFIED that said commissioners will, on the 10th day of July A.D. 1961, at 10 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.

MADISON COUNTY, IOWA, APPLICANT
By Emery L. Goodenberger County Attorney
in and for Madison County, Iowa.

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 30 day of June 1961, and that on the 30 day of June 19 - I served the same on the within named defendant Bankers Life Company in Des Moines, Polk County, Iowa, by delivering a true copy thereof, to Herman D. Bailey Associate Counsel of said Bankers Life Company.

Fees $ .25
Mileage $ .18
County $ .75
Total $1.18
Paid by Plt'fs. Attorney.
7-10-61 Patty

Claude Hall Deputy Sheriff.

Subscribed and sworn to before me this 30 day of June, 1961.

(NOTARIAL SEAL)

Gertrude Gebhard Notary Public
Polk County, Iowa
My commission expires July 4, 1963.

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

IN THE MATTER OF THE APPLICATION BY MADISON COUNTY,IOWA, FOR THE APPOINTMENT OF COMMISSIONERS TO ASSESS DAMAGES FOR THE TAKING OF RIGHTS RESPECTING REAL ESTATE FOR ROAD IMPROVEMENT PURPOSES. : NOTICE TO APPRAISERS OF TIME FOR APPRAISEMENT

To: Lee Wheeler, Alfred Koch, Emory Ackelson, Walter W. Heimberger, Fred Morford, Jr., Merrill Creger.

YOU AND EACH OF YOU ARE HEREBY NOTIFIED, that having heretofore been appointed by me as appraisers to appraise any damages respecting rights connected with certain real estate owned by Dale Mapes and Lola Mapes and located in Section 8, Township 75 North, Range 27, West of the 5th P. M., Madison County, Iowa, on account of Madison County, Iowa. heretofore taking and appropriating a part thereof for road purposes respecting which rights said Madison County, Iowa, asked to have condemned in an application filed by said Madison County with the undersigned Sheriff on the 30th day of June A.D. 1961, are hereby notified that Notices of such Condemnation have been served on all the Parties named in said application as being interested in said real estate, as shown by the Returns of Service thereon on file in my office, and that the time stated in said Notice as the time when the Commissioners will view the premises and appraise the damages is the 10 day of July A.D. 1961, at 10 o'clock A.M., and that you are now and hereby notified that you are required to proceed with the appraisement of damages in connection with said condemnation at the time and date so stated.

YOU ARE FURTHER NOTIFIED that the real estate affected by said condemnation is described in said application and in the copy of said application which is attached to this Notice, marked Exhibit "A", and by this reference made a part hereof.

Dated this 6th day of July A.D. 1961.

Rex Rouse Sheriff
of Madison County, Iowa.

ACCEPTANCES AND ACKNOWLEDGEMENTS OF SERVICE

We, the undersigned, having been appointed as Commissioners to appraise the damages to real estate in connection with the Condemnation by Madison County, Iowa, do hereby acknowledge and accept due and legal service of the above and foregoing Notice this 10th day of July, 1961.

W. W. Heimberger
Fred Morford, Jr.
Alfred H. Koch

M. S. Creger
Lee Wheeler
Emory Ackelson

IN THE MATTER OF THE APPLICATION BY MADISON COUNTY, IOWA, FOR THE APPOINTMENT OF COMMISSIONERS TO ASSESS DAMAGES FOR THE TAKING OF RIGHTS RESPECTING REAL ESTATE FOR ROAD IMPROVEMENT PURPOSES. : APPLICATION TO SHERIFF FOR CONDEMNATION

TO: REX ROUSE, SHERIFF OF MADISON COUNTY, IOWA:

WHEREAS the undersigned, Madison County, Iowa, a municipal corporation, heretofore completed condemnation proceedings and the taking and acquisition of ownership of certain real estate for the relocation of a public highway as the same proceeded through Section 8, Township 75 North, Range 27, West of the 5th P. M., Madison County, Iowa; and

WHEREAS the Madison County, Iowa District Court in proceedings entitled Dale Mapes and Lola Mapes, Plaintiffs, vs. Madison County, Iowa, and Garland Howell, Glenn Shoemaker and W. C. More, as members of the Board of Supervisors of Madison County, Iowa, defendants, Number 18904 Equity, ordered that the undersigned proceed by further condemnation proceedings to have determined and ascertained the amount of damages suffered by the said landowners, Dale Mapes and Lola Mapes, on account of any additional taking of land by any failure of the undersigned Madison County, Iowa to provide adequate lateral support in connection with the construction of the public highway along and upon the right of way

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

heretofore acquired by the undersigned as aforesaid, or by any failure of the undersigned to prevent land on said right of way from sliding or encroaching onto land and improvements belonging to said landowners outside of said right of way, and

WHEREAS the said Madison County, Iowa is desirous of having said damages, if any, determined under its powers as provided by the Chapters 471 and 472, 1958 Code of Iowa, and any and all other pertinent statutory provisions, and consistent with the said decree and order of the Madison County, Iowa District Court, and

WHEREAS it is necessary and proper and within the powers of Madison County, Iowa, that said damages, if any, respecting real estate, should be determined by condemnation proceedings, for such public purposes, and

WHEREAS, the real estate of the said Dale Mapes and Lola Mapes heretofore condemned and acquired by Madison County, Iowa, as aforesaid is described in Exhibit "A" attached hereto, and by this reference made a part hereof, and whereas the right of way of said public highway as relocated and reconstructed utilizing said real estate heretofore so condemned and acquired, is shown and described in the Plat attached hereto, marked Exhibit "B" and by this reference made a part hereof, and

WHEREAS Dale Mapes and Lola Mapes, residing at Winterset, Iowa, were the record title holders of the real estate heretofore acquired as aforesaid, with respect to which said damages, if any, pertain, and Bankers Life Company, Des Moines, Iowa, was a mortgagee and lien holder upon said real estate.

NOW, THEREFORE, this Applicant, Madison County, Iowa, requests that you appoint six disinterested freeholders of Madison County, Iowa, who are not interested in the same or a like question, to inspect the said real estate, the existing right of way of said public highway, and the land adjacent thereto, and to assess the damages, if any, which have been sustained by the said Dale Mapes and Lola Mapes or the Bankers Life Company, by reason of any additional taking of land by any failure of the undersigned Applicant, Madison County, Iowa to provide adequate lateral support in connection with the construction of the public highway along and upon the said right of way heretofore acquired by the undersigned as aforesaid, or by any failure of the undersigned to prevent land on said right of way from sliding or encroaching onto land and improvements belonging to said landowners outside of said right of way as the same now exists; and you are requested to proceed with said application as provided by law.

Dated this 30th day of June, 1961.

MADISON COUNTY, IOWA
By Emery L. Goodenberger
County Attorney in and for Madison
County, Iowa.

EXHIBIT "A"

Description of real estate heretofore condemned and taken and acquired by Madison County, Iowa.

Commencing at the center of Section 8, T75N R27W of the 5th P. M., thence North 1057 ft. to the point of beginning, thence S88°51'E 538.7 ft, thence S79°24'E 80.3 ft., thence southeasterly along a 327 ft. radius curve, concave southwesterly 362.55 ft., thence S13°17'E 486.5 ft., thence S76°43'W 30 ft., thence S13°17'E 90 ft., thence N76°43'E 35 ft., thence S13°17'E 246.2 ft., thence east 133.57 ft., thence N13°17'W 156.89 ft., thence S76°43'W 40 ft., thence N13°17'W 696.51 ft., thence northwesterly along a 422 ft. radius curve concave southwesterly, 546.24 ft., thence N88°51'W 549.0 ft., thence south 90 ft., to the point of beginning, containing 1.88 acres, more or less, exclusive of the present established roadway.
Note: The west line of the NE¼ of said Sec. 8 is assumed to bear due North and South.

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

PROPERTY PLAT EXHIBIT "B"

Acquired from Dale & Lola Mapes Married or Single Married Earnest Dale & Lola Mae R.O.W. Area 1.88 Acres Borrow Area - - Acres.

Total Consideration $ - - Acquired by Condemnation Date of Contract - - 19-

LOCATION

From CL Station - - to CL Station 75+08 Section 8, Township 75N Range 27 W Township (Civil) Scott Iowa.

FOR COPY OF PLAT AS SHOWN ON FILED INSTRUMENT
SEE PLAT RECORDED IN DEED RECORD 91, PAGE 469
Madison County Project No. S-299(4)

IN THE MATTER OF THE APPLICATION BY MADISON COUNTY, IOWA, FOR THE APPOINTMENT OF COMMISSIONERS TO ASSESS DAMAGES FOR THE TAKING OF RIGHTS RESPECTING REAL ESTATE FOR ROAD IMPROVEMENTS PURPOSES. : APPOINTMENT AND COMMISSION

WHEREAS, written application has been made to me by Madison County, Iowa, a municipal corporation, for the Appointment of Commissioners to assess any damages sustained by those having interest in certain real estate in Madison County, Iowa, by reason of rights in connection with the appropriation of such real estate for the purpose of improving and relocating a part of the public highway system of Madison County, Iowa, which is more particularly described in said application, a copy of which application is attached to this order, marked Exhibit "A" and by this reference made a part hereof.

IT IS NOW HEREBY ORDERED that the following persons, to-wit:

Lee Wheeler	Grand River Twp.	Walter W. Heimberger	Penn Twp
Alfred Koch	Jefferson Twp.	Fred Morford, Jr.	Penn Twp
Emory Ackelson	Walnut Twp.	Merrill Creger	Ohio Twp

being six freeholders of Madison County, Iowa, not interested in the same or a like question be and they are hereby appointed Commissioners, whose duty it shall be to inspect the real estate described in said application and assess the damages which the owner thereof and the Parties interested therein will sustain, if any, respecting such sale, for road purposes, for the use of Madison County, Iowa, and make Report thereof in writing to the undersigned Sheriff, as provided by law, said real estate being situated in Madison County, Iowa, and described as set out in said Exhibit "A", a part hereof.

Dated at Winterset, Madison County, Iowa, this 6th day of July A.D. 1961.

Rex Rouse Sheriff
of Madison County, Iowa.

OATH AND QUALIFICATION OF COMMISSIONERS

STATE OF IOWA MADISON COUNTY)SS

We and each of us, being first duly sworn, on oath depose and state that we are each one of the persons appointed by Rex Rouse, Sheriff of Madison County, Iowa, on the 6th day of July, 1961, as a Commissioner to assess damages respecting real estate, on account of Madison County, Iowa, asking to have certain rights respecting real estate appraised and condemned, said real estate being located in Section 8, Township 75 North, Range 27, West of the 5th P. M., Madison County, Iowa, and being more particularly described in the order for Appointment of Commissioners to which this oath and qualification is attached; we and each of us further state that he is a resident freeholder of Madison County, Iowa; that he is not interested in the same or a like or similar question; that he will to the best of his ability faithfully and impartially assess said damages and make written report to the Sheriff, as provided by law.

W. W. Heimberger
Fred Morford, Jr.
Alfred H. Koch

M. S. Creger
Lee Wheeler
Emory Ackelson

FIDLAR & CHAMBERS CO., DAVENPORT, IOWA 84101

Subscribed and sworn to before by all and each of the foregoing named individuals, in my presence this 10th day of July A.D. 1961.

(DISTRICT COURT SEAL) Marguerite Morrissey Clerk of District Court in and for Madison County, Iowa.

IN THE MATTER OF THE APPLICATION BY MADISON COUNTY, IOWA, FOR THE APPOINTMENT OF COMMISSIONERS TO ASSESS DAMAGES FOR THE TAKING OF RIGHTS RESPECTING REAL ESTATE FOR ROAD IMPROVEMENT PURPOSES.	:	APPLICATION TO SHERIFF FOR CONDEMNATION

TO: REX ROUSE, SHERIFF OF MADISON COUNTY, IOWA:

WHEREAS the undersigned, Madison County, Iowa, a municipal corporation, heretofore completed condemnation proceedings and the taking and acquisition of ownership of certain real estate for the relocation of a public highway as the same proceeded through Section 8, Township 75 North, Range 27, West of the 5th P. M., Madison County, Iowa; and

WHEREAS the Madison County, Iowa District Court in proceedings entitled Dale Mapes and Lola Mapes, Plaintiffs, vs. Madison County, Iowa, and Garland Howell, Glenn Shoemaker and W. C. More, as members of the Board of Supervisors of Madison County, Iowa, Defendants, Number 18904 Equity, ordered that the undersigned proceed by further condemnation proceedings to have determined and ascertained the amount of damages suffered by the said landowners, Dale Mapes and Lola Mapes, on account of any additional taking of land by any failure of the undersigned Madison County, Iowa to provide adequate lateral support in connection with the construction of the public highway along and upon the right of way heretofore acquired by the undersigned as aforesaid, or by any failure of the undersigned to prevent land on said right of way from sliding or encroaching onto land and improvements belonging to said landowners outside of said right of way, and

WHEREAS the said Madison County, Iowa is desirous of having said damages, if any, determined under its powers as provided by the Chapters 471 and 472, 1958 Code of Iowa, and any and all other pertinent statutory provisions, and consistent with the said decree and order of the Madison County, Iowa District Court, and

WHEREAS it is necessary and proper and within the powers of Madison County, Iowa, that said damages, if any, respecting real estate, should be determined by condemnation proceedings, for such public purposes, and

WHEREAS, the real estate of the said Dale Mapes and Lola Mapes heretofore condemned and acquired by Madison County, Iowa, as aforesaid is described in Exhibit "A" attached hereto, and by this reference made a part hereof, and whereas the right of way of said public highway as relocated and reconstructed utilizing said real estate heretofore so condemned and acquired, is shown and described in the Plat attached hereto, marked Exhibit "B" and by this reference made a part hereof, and

WHEREAS Dale Mapes and Lola Mapes, residing at Winterset, Iowa, were the record title holders of the real estate heretofore acquired as aforesaid, with respect to which said damages, if any, pertain, and Bankers Life Company, Des Moines, Iowa, was a mortgagee and lien holder upon said real estate.

NOW, THEREFORE, this Applicant, Madison County, Iowa, requests that you appoint six disinterested freeholders of Madison County, Iowa, who are not interested in the same or a like question, to inspect the said real estate, the existing right of way of said public highway, and the land adjacent thereto, and to assess the damages, if any, which have been sustained by the said Dale Mapes and Lola Mapes or the Bankers Life Company, by reason of any additional taking of land by any failure of the undersigned Applicant, Madison County, Iowa to provide adequate lateral support in connection with the construction of the public highway along and upon the said right of way heretofore acquired by the undersigned as aforesaid, or by any failure of the undersigned to prevent land on said right

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of way from sliding or encroaching onto land and improvements belonging to said landowners outside of said right of way as the same now exists; and you are requested to proceed with said application as provided by law.

Dated this 30th day of June, 1961.

MADISON COUNTY, IOWA
By Emery L. Goodenberger County Attorney
in and for Madison County, Iowa.

EXHIBIT "A"

Description of real estate heretofore condemned and taken and acquired by Madison County, Iowa.

Commencing at the center of Section 8, T75N R27W of the 5th P. M., thence North 1057 ft. to the point of beginning, thence S88°51'E 538.7 ft, thence S79°24'E 80.3 ft., thence Southeasterly along a 327 ft. radius curve, concave southwesterly 362.55 ft., thence S13°17'E 486.5 ft., thence S76°43'W 30 ft., thence S13°17'E 90 ft., thence N76°43'E 35 ft., thence S13°17'E 246.2 ft., thence east 133.57 ft., thence N13°17'W 156.89 ft., thence S76°43'W 40 ft., thence N13°17'W 696.51 ft., thence northwesterly along a 422 ft. radius curve concave southwesterly, 546.24 ft., thence N88°51'W 549.0 ft., thence south 90 ft., to the point of beginning, containing 1.88 acres, more or less, exclusive of the present established roadway.
Note: The west line of the NE¼ of said Sec. 8 is assumed to bear due North and South.

PROPERTY PLAT EXHIBIT B

Acquired from Dale & Lola Mapes Married or Single Married Earnest Dale & Lola Mae R.O.W. Area 1.88 Acres Borrow Area - Acres Total Consideration $ - -

Acquired by Condemnation Date of Contract - - 19- -

LOCATION

From CL Station - - to CL Station 75+08 Section 8, Township 75N Range 27 W Township (Civil) Scott Iowa.

FOR COPY OF PLAT AS SHOWN ON FILED INSTRUMENT
SEE PLAT RECORDED IN DEED RECORD 91, PAGE 469
Madison County Project No. S-299(4)

IN THE MATTER OF THE APPLICATION BY MADISON COUNTY, IOWA, FOR THE APPOINTMENT OF COMMISSIONERS TO ASSESS DAMAGES FOR THE TAKING OF RIGHTS RESPECTING REAL ESTATE FOR ROAD IMPROVEMENT PURPOSES. :

OBJECTIONS TO CONDEMNATION PROCEEDINGS

RECEIVED 7-10-61 9:40 AM RRR
MADISON COUNTY SHERIFF
WINTERSET, IOWA

TO: REX ROUSE, SHERIFF OF MADISON COUNTY, IOWA

The undersigned, Dale Mapes and Lola Mapes, hereby object to the condemnation proceedings purported to be commenced on the Application to Sheriff for Condemnation filed in your office on June 30, 1961, at 11:40 A.M. in the above captioned matter and as grounds therefore states:

1. That there is no admeasurement or definite description of any land taken by the condemnor that would afford any basis for any award of damages.

2. That the right to lateral support is a propriatory right which the owner does not part with when adjacent land is acquired for highway purposes.

3. That any award of damages on the basis of said application would be purely speculative and conjectural.

4. That said application is so vague and indefinite that it constitutes a nullity and affords no basis for any condemnation proceedings.

5. That said purported condemnation proceedings in no manner comply with the said Writ of Mandamus directed to Madison County, Iowa.

Webster, Frederick & Jordan
Webster, Frederick & Jordan
Farmers & Merchants State Bank Bldg.
Winterset, Iowa
Attorneys for Dale Mapes and Lola Mapes

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

1. Serving Original Notices	1.25	.54	1.79
2. Sheriff Serving Notice oa Appointment of Commissioners	3.25	11.52	14.77
3. Sheriff Attending Commissioners	7.50	.54	8.04
		TOTAL SHERIFF'S COSTS	$24.60

4. Commissioners Expenses:

Alfred H. Kock, Jefferson twp. 1 day service and mileage (used his car in viewing)	17.10
Lee Wheeler, Grand River twp. 1 day service and mileage	17.66
Emory Ackelson, Walnut twp. 1 day service and mileage	16.54
Walter W. Heimberger, Penn twp. 1 day service and mileage	18.08
Fred Morford, Jr., Penn twp. 1 day service and mileage	17.80
Merrill Creger, Ohio Twp. 1 day service and mileage	17.24
Meals	7.34
TOTAL JURY COSTS	$111.76

5. Damage awarded
Dale Mapes and Lola Mapes $200.00

RECAPITULATION

TOTAL DAMAGES AWARDED	$200.00
TOTAL SHERIFF'S COSTS	24.60
TOTAL COMMISSIONER'S EXPENSES	111.76
GRAND TOTAL	$336.36

Certified a true statement of Dale Mapes and Lola Mapes condemnation expenses and original copies of proceedings therewith.

Rex Rouse
Rex Rouse, Sheriff
of Madison County, Iowa

IN THE MATTER OF THE APPLICATION BY MADISON COUNTY, IOWA, FOR THE APPOINTMENT OF COMMISSIONERS TO ASSESS DAMAGES FOR THE TAKING OF RIGHTS RESPECTING REAL ESTATE FOR ROAD IMPROVEMENT PURPOSES. : REPORT OF COMMISSIONERS

TO: REX ROUSE, SHERIFF OF MADISON COUNTY, IOWA:

The undersigned, Commissioners, appointed by you by Order of Appointment dated July 6, 1961, to inspect the real estate hereinafter described and assess the damages which the owners and parties interested therein are sustained by reason of the Condemnation and Appropriation thereof, for the use of Madison County, Iowa, in connection with improvement of certain roads in Madison County, Iowa, subsequent to condemnation and taking heretofore completed on May 14, 1959, as stated in its Application for Condemnation of Property filed with you the 30 day of June, 1961, do hereby make report that upon due notice we met upon said premises, viewed, and inspected the same on the 10 day of July, 1961, at ten o'clock A. M. and appraised and assessed the damages sustained by reason thereof as follows by reason of the taking of certain rights pertaining to the following described tract of real estate by Madison County, Iowa:

Commencing at the center of Section 8, T75N R27W of the 5th P. M., thence North 1057 ft to the point of beginning, thence S88°51'E 538.7 ft. thence S79°24'E 80.3 ft., thence southeasterly along a 327 ft. radius curve, concave southwesterly 362.55 ft., thence S13°17'E 486.5 ft., thence S76°43'W 30 ft., thence S13°17'E 90 ft., thence N76°43'S 35 ft., thence S13°17'E 246.2 ft., thence east 133.57 ft., thence N13°17'W 156.89 ft., thence S76°43'W 40 ft., thence N13°17'W 696.51 ft., thence northwesterly along a 422 ft. radius curve concave southwesterly, 546.24 ft., thence N88°51'W 549.0 ft.,

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thence south 90 ft., to the point of beginning, containing 1.88 acres, more or less, exclusive of the present established roadway.'
Note: the west line of the NE¼ of said Sec. 8 is assumed to bear due North and South.

said damages being occasioned by the taking of additional land by the failure of Madison County, Iowa, to provide adequate lateral support in connection with the construction of the public highway along and upon the right of way heretofore acquired by Madison County, Iowa, as aforesaid, and by the failure of Madison County, Iowa, to prevent land on said right of way from sliding or encroaching onto land and improvements belonging to the land owners herein named outside of said right of way.

To Dale Mapes and Lola Mapes, Owners: $200.00

The basis of this award is based on our finding that a strip of land 40 feet wide and running north from a point 100 feet south of the landowners present driveway, along the west side of the present road right of way a distance of five hundred feet, fairly defines the area of the landowners' land which might reasonably be subject to further sloughing; and that a strip of land 10 feet wide and running south from the landowners' driveway at their property line, along the east side of the present road right of way a distance of two hundred feet, fairly defines the area of the landowners' land which might reasonably be subject to having further earth from the grade of the driveway fall onto it.

We assessed the fair value of said land at $100,and the reasonable cost of fence replacement at $100 and therefore find that the landowners have been damaged by having their property reduced in value by this amount, namely $200.00.

We further report that the costs of said assessment are as follows:

NOTICES: Sheriff of Madison County, Iowa Costs of mileage and attendance of Sheriff's office	$ 4.50
Mileage	$12.60
Attendance	$ 7.50
APPRAISER'S FEES:	
Lee Wheeler	$17.66
Alfred Koch	$17.10
Emery Ackelson	$16.54
Walter W. Heimberger	$18.08
Fred Morford Jr.	$17.80
Merrill Creger	$17.24
Meals	$ 7.34

STATE OF IOWA MADISON COUNTY) SS

We, the undersigned, being each duly sworn on oath depose and state that we are the six Commissioners appointed by the Sheriff of Madison County, Iowa, to appraise and assess the damages in connection with the Condemnation pertaining to certain real estate by Madison County, Iowa, said real estate being described in the within and foregoing Report, said real estate being condemned for road purposes, and that we have viewed thepremises involved and have appraised and assessed said damages and that the above and foregoing Report contains the assessment of damages as made by us as such Commissioners, and that in making such assessment, we have to the best of our ability, faithfully and impartially assessed such damages, all of which is true and correct as we verily believe.

Merrill Creger
W. W. Heimberger
Fred Morford, Jr.

Lee Wheeler
Emory Ackelson
Alfred H, Koch

Subscribed and sworn to before me by the above named individuals this 10 day of July A.D. 1961.

(DISTRICT COURT SEAL)

Marguerite Morrissey Clerk of District Court in and for Madison County, Iowa.

IN THE DISTRICT COURT OF IOWA IN AND FOR MADISON COUNTY

DALE MAPES and LOLA MAPES, Plaintiffs,	:	LAW NO. 19225
-vs-	:	AMENDMENT TO ANSWER OF DEFENDANT,
MADISON COUNTY, IOWA Defendant	:	MADISON COUNTY, IOWA.

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Comes now the Defendant, Madison County, Iowa, first having obtained leave of Court, by way of amendment to its Answer, heretofore filed herein, states:

Par. 1

If it acquired any right to lateral support or any of the rights of the Plaintiffs herein against encroachment to the entire tract of real estate owned by the Plaintiffs herein, it does hereby surrender and relinquish any rights so acquired to the Plaintiffs and consents that the judgment find and established that the Defendant has surrendered, relinquished and quit claimed to the Plaintiffs herein any rights it may have, or may have acquired, under the condemnation proceedings herein (outside of the present existing highway right of ways across Plaintiffs' land) to encroach upon said land or deprive said land of lateral support, except the two tracts of land hereinafter specifically described.

Par. 2

Defendant further states that by the condemnation proceedings herein, it has acquired for highway purposes the following described tracts of real estate in addition to the present existing highway right of ways across Plaintiffs' real estate, to-wit:

Commencing at the center of Section Eight (8), Township Seventy-five (75) North, Range Twenty-seven (27) West of the 5th P. M., thence North 907 feet to the point of beginning, thence South 88°51' East 538.7 feet, thence South 79°24' East 80.3 feet, thence southeasterly along a 177 foot radius curve concave southwesterly, 196.24 feet, thence South 13° 17' East 486.5 feet, thence South 76° 43' West 30 feet, thence South 13° 17' East 90 feet, thence North 76° 43' East 35 feet, thence South 13° 17' East 210.79 feet, thence East 154.12 feet, thence North 13° 17' West 246.2 feet, thence South 76° 43' West 35 feet, thence North 13° 17' West 90 feet, thence North 76° 43' East 30 feet, thence North 13° 17' West 486.5 feet, thence northwesterly 362.55 along a 327 foot radius curve concave southwesterly, thence North 79° 24' West 80.3 feet, thence North 88° 51' West 538.7 feet, thence South 150 feet to the point of beginning, containing 5.86 Acres, more or less.

NOTE: The west line of the Northeast Quarter (NE¼) of said Section Eight (8) is assumed to bear due North and South.

Commencing at the center of Section Eight (8), Township Seventy-five (75) North, Range Twenty-seven (27) West of the 5th P. M., thence East 1198.9 feet to the point of beginning, thence North 13° 17' West 156.89 feet, thence South 76° 43' West 40 feet, thence North 7° 13' West 700.9 feet, North 25° 46' West 108 feet, thence South 64° 14' West 20 feet, thence South 25° 46' East 108 feet, thence South 7° 13' East 700.9 feet, thence North 76° 43' East 40 feet, thence South 13° 17' East 156.89 feet, thence East 20.5 feet to the point of beginning, containing 0.44 Acres, more or less.

NOTE: The South line of the Northeast Quarter (NE¼) of said Section Eight (8) is assumed to bear due East and West.

Par. 3

Defendant further states that the use of said tracts for such highway purposes by the Defendant shall be limited to: (1) the taking of soil from said tracts by depriving said tracts of lateral support or by the taking of soil from said tracts by mechanical means for use in improving and maintaining the present highway and entrances thereto through and across Plaintiffs' land; and (2) encroachment upon said tracts by permitting soil and water to slide upon or wash onto said tracts as the result of maintaining or improving the existing highway and entrances thereto through Plaintiffs' real estate.

Par. 4

The Defendant states that the Plaintiffs shall have the privilege of maintaining fences on the two tracts of real estate herein specifically described and to use the same at Plaintiffs' peril and subject at all times to the rights of the Defendant acquired by these proceedings. Defendant further states that Plaintiffs shall have reasonable ingress and egress across the two tracts of real estate herein

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before specifically described to the remaining real estate owned by Plaintiffs.

Par. 5

In addition to the above, the Defendant states that it has acquired by condemnation proceedings herein, the right to accumulate and empty water through a thirty-inch (30-inch) culvert as the same now exists in an easterly and westerly direction across the present constructed highway on the right of way now held by Madison County, Iowa, said water to be emptied onto and across Plaintiffs' real estate in substantially the same manner as it now empties onto and across said Plaintiffs' real estate.

Par. 6

Defendant consents and agrees that the judgment to be entered herein find and establish that the Defendant has acquired by the condemnation proceedings herein only such additional rights in and to the real estate owned by the Plaintiffs herein as are specifically set forth in this Answer.

WHEREFORE, Defendant asks that the amount of damages sustained by the Plaintiffs herein on account of this taking as stated in this Amendment be determined.

Emery L. Goodenberger
Emery L. Goodenberger County Attorney
of Madison County Winterset, Iowa

Gordon K. Darling
Gordon K. Darling Special Assistant County
Attorney Winterset, Iowa
Attorneys for Defendant

IN THE DISTRICT COURT OF IOWA IN AND FOR MADISON COUNTY

DALE MAPES and LOLA MAPES Plaintiffs,	:	LAW NO. 19225
-vs-	:	PLAINTIFFS' REPLY TO AMENDMENT TO ANSWER OF DEFENDANT, MADISON COUNTY, IOWA
MADISON COUNTY, IOWA Defendants	:	

Comes now the Plaintiffs herein and by way of reply to the Amendment to the Answer filed herein by Madison County, Iowa, admit that said amendment correctly describes the property of the Plaintiffs acquired by the Defendant, Madison County, Iowa, in the condemnation proceedings herein.

WHEREFORE, Plaintiffs pray for judgment as in their original Petition filed herein.

WEBSTER, FREDERICK & JORDAN
By Shirley A. Webster
Shirley A. Webster
Farmers & Merchants State Bank Bldg.
Winterset, Iowa
Attorneys for Plaintiffs.

IN THE DISTRICT COURT OF IOWA IN AND FOR MADISON COUNTY

DALE MAPES and LOLA MAPES Plaintiffs,	:	LAW NO. 19225
-vs-	:	
MADISON COUNTY, IOWA Defendants.	:	JUDGMENT ENTRY

At Winterset, Iowa, on this 22 day of November, 1961, this cause coming on for trial and final determination to the court, and the court having examined the amendment to answer filed by the Defendant, Madison County, Iowa, and the Plaintiffs' reply thereto, and this cause being submitted to the court on the pleadings involved and the statements of counsel made in open court, and the court being well and fully advised in the premises, finds:

That the Defendant, Madison County, Iowa, has surrendered, relinquished and quit claimed to the Plaintiffs any rights which it may have acquired under the condemnation proceedings herein (outside of the present existing highway right of way across plaintiffs' land) to encroach upon said land or deprive said land of lateral support except as to two tracts of real estate hereinafter specifically described.

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The court further finds that by the condemnation proceedings herein, the Defendant, Madison County, Iowa, has acquired for highway purposes the following described tracts of real estate in addition to the present existing highway right of way across plaintiffs' real estate, to-wit:

Commencing at the center of Section Eight (8), Township Seventy-five (75) North, Range Twenty-seven (27) West of the 5th P. M., thence North 907 feet to the point of beginning, thence South 88°51' East 538.7 feet, thence South 79°24' East 80.3 feet, thence southeasterly along a 177 foot radius curve concave southwesterly 196.24 feet, thence South 13° 17' East 486.5 feet, thence South 76° 43' West 30 feet, thence South 13° 17' East 90 feet, thence North 76° 43' East 35 feet, thence South 13°17' East 210.79 feet, thence East 154.12 feet, thence North 13° 17' West 246.2 feet, thence South 76° 43' West 35 feet, thence North 13° 17' West 90 feet, thence North 76° 43' East 30 feet, thence North 13° 17' West 486.5 feet, thence Northwesterly 362.55 along a 327 foot radius curve concave southwesterly, thence North 79° 24' West 80.3 feet, thence North 88° 51' West 538.7 feet, thence South 150 feet to the point of beginning containing 5.86 acres, more or less.

NOTE: The west line of the Northeast Quarter (NE¼) of said Section Eight (8) is assumed to bear due North and South.

Commencing at the center of Section Eight (8), Township Seventy-five (75) North, Range Twenty-seven (27) West of the 5th P.M., thence East 1198.9 feet to the point of beginning, thence North 13°17' West 156.89 feet, thence South 76° 43' West 40 feet, thence North 7° 13' West 700.9 feet, North 25° 46' West 108 feet, thence South 64° 14' West 20 feet, thence South 25° 46' East 108 feet, thence South 7° 13' East 700.9 feet, thence North 76° 43' East 40 feet, thence South 13° 17' East 156.89 feet, thence East 20.5 feet to the point of beginning, containing 0.44 acres, more or less.

NOTE: The South line of the Northeast Quarter (NE¼) of said Section Eight (8) is assumed to bear due East and West.

The Court further finds that the Defendant, Madison County, Iowa, has limited its use of the above described two tracts of real estate to:

(1) The taking of soil from said tracts by depriving said tracts of lateral support or by the taking of soil from said tracts by mechanical means for use in improving and maintaining the present highway and entrances thereto as the same extends through and across Plaintiffs' land;

(2) By encroachment upon said tracts by permitting soil and water to slide upon or wash onto said tracts as a result of maintaining or improving the present highway and entrances thereto as the same extends through and across Plaintiffs' land;

(3) Plaintiffs shall have the privilege of maintaining fences on the two tracts of real estate at their peril and subject at all times to the rights of the Defendant in and to said tracts; and,

(4) Plaintiffs shall have reasonable ingress and egress across said tracts to the remaining real estate owned by Plaintiffs.

The court further finds that in addition to the rights in the two above described tracts of real estate acquired by the Defendant in the condemnation proceedings herein, the Defendant has acquired the right to accumulate and empty water through a 30-inch culvert as the same now exists in an easterly and westerly direction across the present constructed highway on the right of way now owned by the Defendant, Madison County, Iowa, said water to be emptied onto and across Plaintiffs' real estate in substantially the same manner as it now empties onto and across said real estate.

The court further finds that the amount of damages sustained by the Plaintiffs herein on account of the taking of the two additional tracts of real estate hereinbefore described with the limitations thereon hereinbefore stated, amounts to the total sum of Eight Hundred Dollars ($800), and that judgment should be awarded to the Plaintiffs herein for said amount.

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The court further finds that in addition to said damages, there should be awarded as part of the costs herein the sum of Eight Hundred Dollars ($800) as attorney fees in favor of Plaintiffs' attorneys, Webster, Frederick & Jordan of Winterset, Iowa.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the court that the rights of the Defendant, Madison County, Iowa, in and to the two parcels of real estate hereinbefore described, be and are hereby established as hereinbefore found by this court.

IT IS FURTHER ORDERED by the court that the Defendant has no right under the condemnation proceedings herein (outside of the present existing highway right of way across Plaintiffs' land) to encroach upon any of the Plaintiffs' land or deprive any of the Plaintiffs' land of lateral support with the exception of the two tracts of land hereinbefore specifically described.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the court that the Plaintiffs' damages on account of such taking by the Defendant, Madison County, Iowa, be and are now and hereby established in the amount of Eight Hundred Dollars ($800) and judgment is hereby entered in favor of the Plaintiffs and against the Defendant, Madison County, Iowa, in the sum of Eight Hundred Dollars ($800) with interest thereon at the rate of 5% per annum from the date of said condemnation, to-wit: July 10, 1961, together with costs of maintaining this action, including the sum of $800 attorney fees taxed in favor of Plaintiffs' attorneys, Webster, Frederick & Jordan of Winterset, Iowa.

All of which is now and hereby ordered and entered of record.

Hobart E. Newton Judge of the Fifth
Judicial District of Iowa

Approved as to Form
G. K. Darling, Atty
for Defendant

IN THE DISTRICT COURT OF IOWA IN AND FOR MADISON COUNTY

DALE MAPES and LOLA MAPES, Plaintiffs, -vs- MADISON COUNTY, IOWA, Defendants.	:	LAW NO. 19225 STIPULATION AS TO WAIVER OF RIGHT OF APPEAL.

WHEREAS, the Plaintiffs and the Defendant herein are each desirous of terminating litigation in this matter without further expense.

NOW THEREFORE IT IS STIPULATED by and between the Plaintiffs herein and the Defendant that each of the parties hereto hereby waive any right of appeal from the Judgment Entry entered in this cause.

COMPARED

DALE MAPES AND LOLA MAPES
By Webster, Frederick & Jordan
Attorneys at Law Winterset, Iowa
Their Attorneys

MADISON COUNTY, IOWA
By Gordon K. Darling
Darling & Armknecht Attorneys at Law
Winterset, Iowa Attorneys for Defendant
By Emery L. Goodenberger
Emery Goodenberger County Attorney