JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

Kenneth Olson et al by U. S. District Court - To - Chicago, Rock Island and Pacific Railroad Company

#2006

Fee $65.40

Filed for record the 23 day of April A. D. 1958 at 4:00 o'clock P. M.

Mary E. Welty, Recorder

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA - CENTRAL DIVISION -

#3-841 Civil
U. S. DISTRICT COURT Filed
Nov. 15, 1957 So. Dist. of Iowa

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff,

vs.

Twelve (12) parcels of real estate located in Madison County, Iowa, and the record owners thereof, which parcels consist of strips of land of varying widths and which are generally designated as follows:

PARCEL 1. A strip of land containing 2.98 acres 100 feet in width located in the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Eugene C. Binns, Earlham, Iowa.

PARCEL 2. A strip of land 100 feet and 150 feet in width located in the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) in Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Leonard Binns, Earlham, Iowa.

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

PARCEL 3. A strip of land 100 feet in width and 150 feet in width comprising part of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Three (3) and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also two triangular parcels of land in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of said Section Three (3) and an easement across portions of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Ten (10) for purposes of constructing and maintaining a channel thereon, owned by Geraldine McDonald, Cyrus Bert McDonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald, all of Winterset, Iowa, and Delpha Delores McDonald of Des Moines, Iowa,

PARCEL 4. A strip of land 100, 150 and 200 feet in width in the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) and the East Half (E½) of the Southeast Quarter (SE¼) in Section Ten (10), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Kenneth Olsen of Winterset, Iowa.

PARCEL 5. A strip of land 100 and 150 feet in width in the West Half (W½) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, and the right to construct and maintain a channel on a strip of land fifty (50) feet in width in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township and Range aforesaid, which lands are owned by Carl J. Phearman and Bernice M. Phearman, his wife, of Winterset, Iowa.

PARCEL 6. A strip of land 100 feet in width and in part 150 feet in width through the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also a triangular parcel of land west of and adjoining the 100 foot strip in said Northwest Quarter (NW¼) in Section, Township and Range aforesaid; also an irregular parcel of land owned by William A. Busch and Mary Alice Busch, his wife, of Winterset, Iowa.

PARCEL 7. An irregular parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth **Principal** Meridian containing naught point thirty seven hundredths (0.37) acre, owned by Byron Garland and Iva Garland, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 8. The North thirty-four (N34) feet of Lot five (5), Block five (5), of A. B. Shriver's Addition to the City of Winterset owned by Melvin Macrander and Norma L. Macrander, as joint tenants, of Winterset, Iowa.

PARCEL 9. The North thirty-four (N34) feet of Lots six (6) and seven (7) in Block five (5) of A. B. Shriver's Addition to the City of Winterset, owned by Lowell J. Olsen and Velma M. Olsen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 10. The North thirty-four (N34) feet of Lot eight (8), Block five (5), A. B. Shriver's Addition to the City of Winterset, Iowa, owned by Edward V. Jensen and Maxine Jensen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 11. The North thirty-four (N34) feet of Lot five (5) and the West forty-nine (W49) feet of Lot six (6) of Shriver's addition to the City of Winterset, Iowa, owned by Ernest Stowell and Dorothy Stowell, husband and wife, as joint tenants, Winterset, Iowa.

PARCEL 12. The North thirty-four (N34) feet of Lots seven (7) and eight (8) and the East seventeen (E17) feet of Lot six (6), all in Block six (6) of A. B. Shriver's addition to the City of Winterset, owned by Nina Mable Hughes, Winterset, Iowa,

Defendants.

C O M P L A I N T

Plaintiff, for cause of action, states and shows to the Court as follows:

1. Plaintiff is a corporation organized under the laws of the State of Delaware and a resident and citizen of that state and has duly qualified as a foreign corporation to do business in the State of Iowa.

2. Plaintiff is the owner of lines of railroad, one of which is in process of construction and which extends from a point in the City of Winterset, Madison County, Iowa,

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

in a northwesterly direction to a connection with an existing line of railroad owned and operated by this Plaintiff near the town of Earlham, Madison County, Iowa.

3. Plaintiff, by virtue of the statutes of Iowa, is authorized to acquire real estate necessary for the constrution, operation and maintenance of its line of railroad, not exceeding 100 feet in width by process of eminent domain and is likewise authorized, upon the issuance of a certificate, to acquire additional lands for railroad purposes. Plaintiff has been authorized by the Iowa State Commerce Commission to acquire by process of eminent domain the parcels of land hereinafter more specifically described. A copy of the certificate issued by the Iowa State Commerce Commission as to each of said parcels is hereto attached and marked as Exhibits 1 to 12 of this Complaint. Plaintiff desires to acquire the property hereinafter described for the construction, operation and maintenance of its line of railroad.

4. The description of the particular parcels of real estate sought to be acquired by this Plaintiff and the names of the record owners thereof as presently known to Plaintiff and as disclosed by the records of Madison County, Iowa, are as follows:

PARCEL NO. 1

All that part of the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section three (3) Township seventy-six North (76N) Range twenty-eight West (28W) County and State aforesaid described as a strip of land one hundred (100') feet in width being fifty (50') feet on each side of the located main track centerline of the CRI&P R. R. CO's. Earlham to Winterset line as now staked and located on over and across said above described land said main track centerline being more particularly described as beginning at a point in the north line of said quarter quarter, said point being one thousand two hundred fifty-four and three tenths (1254.3') feet west of the Northeast corner of said quarter quarter; thence southerly in a straight line one thousand two hundred ninety-four and eight tenths (1294.8') feet to a point in the south line of said quarter quarter, said point being one thousand one hundred forty and eighty eight hundredths (1140.88') feet west of the southeast corner of said quarter quarter and containing in all two and ninety-eight hundredths (2.98) acres more or less.

Record owner is Eugene C. Binns.

PARCEL NO. 2

All that part of the Southeast Quarter (SE¼) Northeast Quarter (NE¼) Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West, County and state aforesaid, described as a strip of land one hundred (100) feet and one hundred fifty (150) feet in width being fifty (50) feet and seventy-five (75) feet on each side of the located main track centerline of the Chicago, Rock Island and Pacific Railroad Company's Earlham to Winterset line as now staked and located on, over and across said above described land, said main track centerline being more particularly described as beginning at a point in the north line of said quarter quarter one thousand one hundred forty and eighty-eight hundredths (1,140.88) feet west of the northeast corner thereof; thence southerly one thousand three hundred forty (1,340) feet to a point in the south line of said quarter quarter one thousand twenty-three and five-tenths (1,023.5) feet west of the southeast corner thereof; said one hundred (100) foot wide strip extending from the north line of said quarter quarter to a point five hundred eighty-seven and two tenths (587.2) feet southerly therefrom, measured along the said main track centerline, and said one hundred fifty (150) foot wide strip extending from a point five hundred eighty-seven and two tenths (587.2) feet southerly from the north line of said quarter quarter measured along said main track centerline seven hundred fifty-two and eight-tenths (752.8) feet measured along said main track centerline to the south line of said quarter quarter and containing in all 3.95 acres, more or less. Also, the right to construct and maintain a channel on part of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of said Section Three (3), described as a strip of land fifty (50) feet in width being twenty-five (25) feet on each side of a centerline described as commencing at a point on the easterly right of way line of said Railroad Company six hundred seventy-two and eight-tenths (672.8) feet north of the south line of said quarter quarter, as measured along said main track centerline, thence southeasterly at an interior angle of forty degrees twenty minutes (40° 20')

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

two hundred thirty (230) feet, comprising 3.21 acres.

Record owner is Lenard Binns.

PARCEL NO. 3

All that part of the Southeast Quarter (SE¼) Southeast Quarter (SE¼) Section Three (3), and the Northeast Quarter (NE¼) Northeast Quarter (NE¼) Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, described as a strip of land one hundred (100) feet in width being fifty (50) feet on each side of the located main track centerline of the Chicago, Rock Island and Pacific Railroad Company's Earlham to Winterset line as now staked and located on, over and across said above described land, said main track centerline being more particularly described as beginning at a point in the north line of the Southeast Quarter (SE¼) Southeast Quarter (SE¼) of said Section Three (3), four hundred fourteen and seven-tenths (414.7) feet East of the northwest corner thereof; thence southerly on a straight line two thousand three hundred forty-nine and twelve hundredths (2,349.12) feet to a point of naught degree thirty minute (0°30') curve to the left; thence continuing southerly on said naught degree thirty minute (0°30') curve to the left two hundred ninety-nine and ninety-eight hundredths (299.98) feet to a point in the south line of the Northeast Quarter (NE¼) Northeast Quarter (NE¼) said Section Ten (10), six hundred fifty and two-tenths (650.2) feet West of the southeast corner thereof. Also, two additional twenty-five (25) foot wide strips of land lying easterly and westerly of and adjacent to the above described one hundred (100) foot strip of land commencing on the south line of the Southeast Quarter (SE¼) Southeast Quarter (SE¼) said Section Three (3) and extending northerly two hundred forty-three (243) feet measured along said main track centerline; also a triangular tract of land in the West Half (W½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) of said Section Ten (10), described as beginning at the Northeast corner of said West Half (W½) Southeast Quarter (SE¼) Northeast Quarter (NE¼); thence west along the north line of said West Half (W½) Southeast Quarter (SE¼) Northeast Quarter (NE¼), thirty-one and sixty-three hundredths (31.63) feet; thence southeasterly on a naught degree thirty minute (0° 30') curve to the left two hundred thirty (230) feet to a point in the east line of said West Half (W½) Southeast Quarter Northeast Quarter (NE¼); thence north along the east line of said West Half (W½) Southeast Quarter (SE¼) Northeast Quarter (NE¼), two hundred twenty-eight and sixty-five hundredths (228.65) feet to the point of beginning. Also, a triangular parcel of land lying east of and adjoining the east right-of-way line of said Railroad Company through the Southeast Quarter Southeast Quarter (SE¼ SE¼) said Section three (3), more fully described as follows: beginning at a point in the north line of said quarter quarter fifty and thirty-one hundredths (50.31) feet east of the said Railroad Company's main track centerline measured east along said north line of said quarter quarter; thence continuing east along said north line of said quarter quarter one hundred fifty (150) feet; thence southwesterly in a straight line two hundred (200) feet to a point in the east right-of-way line of said Railroad Company; thence northwesterly at an angle of forty-eight degrees twelve minutes (48° 12') to the right of last described line one hundred fifty (150) feet to point of beginning; also a triangular parcel of land lying west of and adjoining the west right-of-way line of said Railroad Company and beginning at a point in the north line of said Southeast Quarter (SE¼) Southeast Quarter (SE¼) fifty and thirty-one hundredths (50.31) feet west of the main track centerline of said Railroad Company; thence southeasterly along said west right-of-way line one hundred (100) feet; thence northwesterly at an angle of forty-four degrees forty-eight minutes (44°48') to the right of last described line one hundred forty-nine and one-tenth (149.1) feet to a point in the north line of said quarter quarter; thence east along the north line of said quarter quarter one hundred (100) feet to the point of beginning containing in all six and ninety hundredths (6.90) acres more or less; Also, an additional 25 foot wide strip of land lying easterly of and adjacent to the above described 100 foot strip of land commencing at a point 269.7 feet north of the south line of the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of said Section Ten (10), and extending northerly six hundred (600) feet as measured along said main track centerline. Also, an easement for the purpose of constructing and maintaining a channel on part of the West Half (W½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) Section Ten (10), Township and range aforesaid described as a strip of land fifty (50) feet in width being twenty-five (25) feet on each side of the following described centerline; beginning at a point five hundred (500) feet north of the southeast corner of said West Half (W½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) which is the centerline of said channel; thence southwesterly on an interior angle of sixty-eight degrees fifteen minutes (68° 15') to last described line a distance of two hundred twenty-two (222) feet.

Record owners are Geraldine McDonald, Cyrus Bert

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

McDonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald and Delpha Delores McDonald.

PARCEL NO. 4

All that part of the East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) and the East Half Southeast Quarter (E½SE¼) all being in Section Ten (10), Township Seventy-six (76) North, Range Twenty-eight (28) West, and all that part of the West Half (W½) Southwest Quarter (SW¼) Section Eleven (11), Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, being described as a strip of land one hundred (100) and one hundred fifty (150) feet in width being fifty (50) and seventy-five (75) feet oneach side of the located main track centerline of Chicago, Rock Island and Pacific Railroad Company's Earlham to Winterset line as now staked and located on, over and across said East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) Section Ten (10), said one hundred (100) foot strip extending southerly from the north line of said East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼), six hundred thirty and three tenths (630.3) feet as measured along said main track centerline; said one hundred fifty (150) foot strip extending southerly from a point six hundred thirty and three tenths (630.3) feet south of the north line of said East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) as measured along said main track centerline to the south line of said East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) Section Ten (10). Also, a strip of land two hundred (200) feet in width being one hundred (100) feet on each side of the said main track centerline as now staked and located on over and across the said East Half (E½) Southeast Quarter (SE¼) Section Ten (10) and the said West Half (W½) Southwest Quarter (SW¼) Section Eleven (11), said two hundred (200) foot strip extending southerly from the north line of said East Half (E½) Southeast Quarter (SE¼) Section Ten (10) to the centerline of the present channel of North River in the said West Half (W½) Southwest Quarter (SW¼) Section Eleven (11) at the point of intersection of the said main track centerline with the said centerline of North River, and said main track centerline being more particularly described as beginning at a point in the north line of the East Half (E½) Northeast Quarter (NE¼) Section Ten (10), said point being seven hundred eighty-three and seven tenths (783.7) feet west of the northeast corner thereof; thence southeasterly in a straight line one thousand sixteen and seventy-two hundredths (1,016.72) feet to a point of naught degree thirty minute (0° 30') curve to the left; thence continuing southeasterly on said naught degree thirty minute (0° 30') curve to the left one thousand five hundred fifty (1,550) feet to a point of tangent, said curve crossing the north line of the East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) said section at a point six hundred fifty and two tenths (650.2) feet west of the northeast corner thereof; thence continuing southeasterly on said tangent to last described curve one thousand seven hundred seventy and seventy-five hundredths (1,770.75) feet to a point of two degree naught minute (2° 0') curve to the right, said tangent crossing the south line of the Northeast Quarter (NE¼) of said section at a point four hundred one and four tenths (401.4) feet west of the southeast corner thereof and crossing theeast line of the Southeast Quarter (SE¼) of said section at a point one thousand six hundred forty and fourth tenths (1,640.4) feet south of the northeast corner thereof; thence southwesterly on said two degree naught minute (2° 0') curve to the right one thousand three hundred forty-two and five tenths (1,342.5) feet to point of tangent; thence southwesterly on said tangent one hundred two and ninety-five hundredths (102.95) feet to a point in the east line of the Northeast Quarter (NE¼) Section Fifteen (15), Township and Range aforesaid, said point being five hundred forty-four and seven tenths (544.7) feet south of the northeast corner thereof. Also, four (4) triangular parcels of land in the East Half (E½) East Half (E½) Section Ten (10), Township and Range aforesaid, more fully described as follows: Beginning at the point of intersection where the centerline of the main track of said Railroad Company crosses the east and west centerline of Section Ten (10); thence east along said east and west centerline of said Section seventy-seven and twenty-one hundredths (77.21) feet to point of beginning of land to be conveyed; thence continuing east along said east and west centerline of said section two hundred (200) feet; thence northwesterly on an interior angle of thirty-eight degrees seven and one half minutes (38° 7½') to last described line three hundred fourteen and sixty-seven

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

(314.67) feet to a point in the east right-of-way line of said Railroad Company, said point being seventy-five (75) feet northeasterly from and measured radially to said main track centerline; thence southeasterly along said easterly right-of-way line two hundred (200) feet to the point of beginning. Also, beginning at said point of intersection where the centerline of the main track of said Railroad Company crosses the east and west centerline of Section Ten (10); thence west along said east and west centerline of said Section Ten (10) seventy-seven and twenty-one hundredths (77.21) feet to the point of beginning of the land to be conveyed; thence continuing west along said east and west centerline of said section one hundred eighty (180) feet; thence northeasterly on an interior angle of fifty-one degrees fifty-two and one-half minutes (51° 52½') to last described line two hundred twenty-two and three tenths (222.3) feet to a point in the westerly right of way line of said Railroad Company, said point being seventy-five (75) feet southwesterly from and measured radially to said main track centerline; thence southeasterly along said westerly right of way line one hundred eighty (180) feet to the point of beginning. Also, beginning at said point of intersection where the centerline of the main track of said Railroad Company crosses the east and west centerline of said Section Ten (10); thence east along said east and west centerline of said Section Ten (10) two hundred fifty-seven and twenty-one hundredths (257.21) feet to the point of beginning of the land to be conveyed; thence southwesterly on an interior angle of fifty-one degrees fifty-two and one-half (51° 52½') minutes to last described line to a point in the easterly right of way line of said Railroad Company, said point being one hundred (100) feet northeasterly from and measured radially to said main track centerline; thence northwesterly along said easterly right of way line to the point where said easterly right of way line intersects the east and west centerline of said Section Ten (10); thence east along said east and west centerline of Section Ten (10) to the point of beginning. Also, beginning at said point of intersection where the centerline of the main track of said Railroad Company crosses the east and west centerline of said Section Ten (10); thence west along said east and west centerline of Section Ten (10) two hundred fifty-seven and twenty-one hundredths (257.21) feet to the point of beginning of the land to be conveyed; thence southeasterly on an interior angle of thirty-eight degrees seven and one-half minutes (38°07½') to last described line to a point in the westerly right of way line of said Railroad Company, said point being one hundred (100) feet southwesterly from and measured radially to said main track centerline; thence northwesterly along said westerly right of way line to the point where said westerly right of way line intersects the east and west centerline of said Section Ten (10); thence west along said east and west centerline of Section Ten (10) to the point of beginning and containing in all fifteen and twenty-five hundredths (15.25) acres, more or less. Also, the right to construct and maintain channel for North River on, over and across the West Half (W½) Southwest Quarter (SW¼) Section Eleven (11) and the East Half (E½) Southeast Quarter (SE¼) Section Ten (10), both in Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, described as a strip of land one hundred (100) feet in width, being fifty (50) feet on each side of the following described centerline; commencing at a point in the centerline of the main track of Chicago, Rock Island and Pacific Railroad Company as hereinabove described which is one thousand five hundred seventy-six and four tenths (1,576.4) feet southeasterly from the north line of the Southeast Quarter (SE¼) of Section Ten (10), measured along said main track centerline; thence easterly at an angle of eighty-nine degrees naught minutes (89° 00') to the centerline of said Railroad Company's main track one thousand two hundred (1,200) feet to its intersection with the present channel of North River and also westerly along same angle three hundred fifty (350) feet to its intersection with the present channel of North River and containing three and fifty-six hundredths (3.56) acres, more or less. Also, the right to construct and maintain a channel fifty (50) feet in width being twenty-five (25) feet on each side of a centerline described as beginning at a point on the West line of the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Ten (10), Township seventy-six (76) North, Range Twenty eight (28) West, County and State aforesaid, five hundred (500) feet North of the southwest corner of the East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼), thence northeasterly on a straight line on an interior angle of sixty-eight degrees fifteen minutes (68° 15'), seventy-eight (78) feet to the point of intersection with the westerly right of way line of

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

said Railroad Company, comprising 18.9 acres.

Record owner is Kenneth Olsen.

PARCEL NO. 5

All that part of the West Half (W½) Northwest Quarter (NW¼) Section Twenty-three (23) Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, described as a strip of land one hundred (100) feet in width being fifty (50) feet on each side of the located main track centerline of the Chicago, Rock Island and Pacific Railroad Company's Earlham to Winterset line as now staked and located on over and across said above described land, said main track centerline being more particularly described as beginning at a point on the west line of the Southwest Quarter (SW¼) of Section Fourteen (14) Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, one thousand five hundred six (1,506) feet south of northwest corner thereof; thence southeasterly on a straight line eleven and seventy-two hundredths (11.72) feet to a point of one degree naught minute (1° 00') curve to the right; thence continuing southeasterly on said one degree naught minute (1° 00') curve to the right one thousand two hundred twenty-one and eight hundredths (1,221.08) feet to a point in the north line of said West Half Northwest Quarter (W½NW¼) Section Twenty-three (23) four hundred ninety-four and three tenths (494.3) feet east of the northwest corner thereof; thence continuing southeasterly on said one degree naught minute (1° 0') curve to the right one hundred forty-two and twenty-five hundredths (142.25) feet to point of tangent; thence southeasterly on a straight line two thousand six hundred two and sixty-five hundredths (2,602.65) feet to a point in the south line of said West Half Northwest Quarter (W½NW¼), one thousand two hundred fifty and eight tenths (1,250.8) feet east of the southwest corner thereof; also a strip of land twenty-five feet (25) in width lying east of and adjacent to said one hundred (100) foot strip of land and a strip of land twenty-five (25) feet in width lying west of and adjacent to said one hundred (100) foot strip of land and each twenty-five (25) foot strip of land commencing on the north line of said West Half Northwest Quarter (W½ NW¼) and extending southeasterly Eight Hundred Three and three tenths (803.3) feet measured along said main track centerline and containing in all seven and twenty-four hundredths (7.24) acres more or less.

Also, the right to construct and maintain a new channel on over and across a strip of land 50 feet in wid th and 125 feet in length in the NW¼ NW¼ of said Section 23, said strip of land described as commencing at a point in the easterly right of way line of said RR Co. at Chief Engineer's Station 2423400; thence northeasterly at right angles to said easterly right of way line 50 feet; thence northwesterly at right angles 125 feet; thence southwesterly at right angles 50 feet to a point in the easterly right of way line of said RR Co.; thence southeasterly along said right of way line 125 feet to the point of beginning.

Record owners are Carl J. Phearman and Berniece M. Phearman.

PARCEL NO. 6

All that part of the Northwest Quarter (NW¼) Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, described as a strip of land one hundred (100) feet wide, being fifty (50) feet on each side of the located main track centerline of the Chicago, Rock Island and Pacific Railroad Company's Earlham to Winterset line as now staked and located on, over and across said above described land, said main track centerline being more particularly described as beginning at a point in the North line of Section Thirty-six (36), said point being one hundred thirty-one and thirty-nine hundredths (131.39) feet East of the Northwest (NW) corner of said section; thence Southeasterly (SEly) at an angle of fifty-nine degrees nine minutes (59° 09') to the North line of Section Thirty-six (36) a distance of three hundred sixty-nine and ninety-seven hundredths (369.97) feet to the point of a one degree naught minute (1° 0') curve to the left; thence continuing Southeasterly (SEly) on said one degree naught minute (1° 0') curve to the left one thousand six hundred fifty-eight and thirty-three hundredths (1,658.33) feet to point of tangent; thence continuing Southeasterly (SEly) on said tangent one thousand forty-six and six hundredths (1,046.06) feet to point of six degree naught minute (6° 0') curve to the left; thence continuing Southeasterly (SEly) on said six degree naught minute (6° 0') curve to the left two hundred seventy-two and sixty-four

JENKINS-FERGEMANN CO., WATERLOO, IOWA—99067

hundredths (272.64) feet to a point two hundred thirty-one and seven tenths (231.7) feet North and two hundred eight-six and three tenths (286.3) feet East of the Southeast (SE) corner of the Northwest Quarter (NW¼) of said Section Thirty-six (36). Also, a triangular parcel of land in the Northwest Quarter (NW¼) of Section Thirty-six (36) lying west of and adjoining the above described land and being more fully described as follows: Beginning at the Northwest (NW) corner of Section Thirty-six (36); thence East along the North line thereof seventy-three and fifteen hundredths (73.15) feet to a point in the West right-of-way line of said Railroad Company; thence Southeasterly (SEly) along said West right-of-way line one hundred eleven and four tenths (111.4) feet; thence Northwesterly (NWly) at an angle of twenty-two degrees fifty-two minutes (22° 52') to the left of last described line one hundred sixty-one and sixty-one hundredths (161.61) feet to the point of beginning. Also, an irregular parcel of land in said Northwest Quarter (NW¼) of Section Thirty-six (36) described as follows: Beginning at the point of intersection of the East right-of-way line of said Railroad Company and the North line of Northwest Quarter (NW¼) of Section Thirty-six (36) said point being one hundred eighty-nine and sixty-three hundredths (189.63) feet East of the Northwest (NW) corner thereof, measured along the North line of said Section; thence East along the North line of said Section, two hundred forty-one and seventy-six hundredths (241.76) feet; thence South at right angles to last described line thirty-three (33) feet; thence Southwesterly (SWly) at an angle of eighty-five degrees eight minutes (85° 8') to the left of last described line one hundred twenty-five and two tenths (125.2) feet; thence Southwesterly (SWly) at an angle of fifty-five degrees thirty-three and one-half minutes (55° 33½') to the left of last described line eighty-nine and eight tenths (89.8) feet to a point in the East right-of-way line of said Railroad Company; thence Northwesterly (NWly) along said East right-of-way line which is at an angle of sixty degrees twenty-five and one-half minutes (60° 25½') to the right of last described line one hundred forty-one and seventy-six hundredths (141.76) feet to the point of beginning. Also, an additional strip of land fifty (50) feet in width lying Northeasterly (NEly) of and adjacent to said above described land, said strip extending from the north line of said Northwest Quarter (NW¼) of Section Thirty-six (36), Southeasterly (SEly) one Thousand one hundred eighty-nine and nine tenths (1,189.9) feet as measured along said main track centerline and containing in all nine and sixty-five hundredths (9.65) acres, more or less.

Record owners are Wm. A. Busch and Mary Alice Busch.

PARCEL NO. 7

A parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, described as follows: commencing at a point one hundred forty-seven and seven tenths (147.7) feet north of the southeast corner of the Northwest Quarter (NW¼) of said Section Thirty-six (36), which said point is in the north line of the land owned by Loren C. and Grace G. Blackburn; thence west along said Blackburn land one hundred thirty-two (132) feet; thence south along the west line of Blackburn land twenty-three and nine tenths (23.9) feet more or less to a point twenty-five (25) feet southwesterly from and measured radially to the located centerline of the main track of Chicago, Rock Island and Pacific Railroad Company's Earlham to Winterset line; thence Northwesterly along a six degree naught minute (6° 00') curve to the right twenty-five (25) feet southwesterly from measured radially to said main track centerline a distance of two hundred thirty-five (235) feet more or less to a point two hundred thirteen and seven tenths (213.7) feet north and three hundred forty and eight tenths (340.8) feet east of the southeast corner of the Northwest Quarter (NW¼) of said Section Thirty-six (36); thence east parallel with and two hundred thirteen and seven tenths (213.7) feet north of the south line of the Northwest Quarter (NW¼) of said Section Thirty-six (36) to its intersection with the north and south centerline of Section Thirty-six (36); thence south along said north and south centerline of Section Thirty-six (36) a distance of sixty-six (66) feet to the point of beginning containing 0.37 acre.

Record owners Byron Garland and Iva Garland.

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

PARCEL NO. 8

A strip of land 34 feet in width being the North 34 feet of Lot 5, Block 5, of A. B. Shrivers Addition to the City of Winterset, Madison County, Iowa, comprising approximately 2244 square feet.

Record owners are Melvin Macrander and Norma L. Macrander.

PARCEL NO. 9

The North 34 feet of Lots 6 and 7 in Block 5 of A. B. Shrivers Addition to the City of Winterset, Madison County, Iowa, comprising approximately 4488 square feet.

Record owners are Lowell J. Olson and Velma M. Olson.

PARCEL NO. 10

The North 34 feet of Lot 8, Block 5, A. B. Shrivers Addition to the City of Winterset, Madison County, Iowa, comprising approximately 2244 square feet.

Record owners are Edward V. Jensen and Maxine Jensen.

PARCEL NO. 11

The North 34 feet of Lot 5, and the North 34 feet of the West 49 feet of Lot 6, all in Block 6, of Shrivers Addition to the City of Winterset, Madison County, Iowa, comprising approximately 3910 square feet.

Record owners are Ernest Stowell and Dorothy Stowell.

PARCEL NO. 12

The North 34 feet of the East 17 feet of Lot 6, and the North 34 feet of Lots 7 and 8, all in Block 6 of A. B. Shrivers Addition to the City of Winterset, Madison County, Iowa, comprising 4986 square feet.

Record owner is Nina Mable Hughes.

5. The land described in Parcel No. 1 hereof is subject to a mortgage in favor of Chas. B. Binns of Winterset, Iowa. The land described in Parcel No. 2 above referred to is subject to a mortgage to Chas. B. Binns of Winterset, Iowa. The property described in Parcel No. 7 is subject to a mortgage in favor of Farmers and Merchants State Bank of Winterset, Iowa. The property described in Parcel No. 8 is subject to a mortgage to Farmers and Merchants State Bank of Winterset, Iowa. The property described in Parcel No. 9 is subject to a mortgage to Northwestern Mutual Life Insurance Company whose Home Office is located at Milwaukee, Wisconsin, but which has resident agents in Des Moines, Iowa. The property described in Parcel No. 10 is subject to a mortgage to Farmers and Merchants State Bank of Winterset, Iowa.

6. Plaintiff, coincident with the filing of this Complaint, has delivered to the Clerk of this Court notices directed to the defendants named or designated in the prior paragraphs of this Complaint for the purpose of service upon the persons named as Defendants, all as required by the provisions of Rule 71A, Federal Rules of Civil Procedure.

7. As to each of the parcels of land hereinbefore described, Plaintiff has been unable, by negotiation with the owners, to acquire the necessary real estate and as to each parcel the amount in controversy exceeds $3000, exclusive of interest and costs and each of the persons named as owners of any right or interest in the real estate described are residents and citizens of the State of Iowa. As to each parcel of real estate the controversy involves more than $3000, exclusive of interest and costs and is wholly between citizens of different states.

WHEREFORE, Plaintiff prays that this Court, by its Order, prescribe the procedure to be followed in providing for trial of the issue of compensation to which the landowners are entitled by commission and by jury, and that such Order and Judgment be entered as will vest in Plaintiff title to permanent and perpetual easement for railroad purposes in Plaintiff and its successors in title and interest in and to the lands here-

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99057

inbefore described, and that Plaintiff have the right to take possession of the real estate hereinbefore described for the purpose of constructing, operating and maintaining thereon a line of railroad.

/s/ A. B. Howland
A. B. Howland

/s/ J. H. Martin
J. H. Martin

/s/ B. A. Webster, Jr.
B. A. Webster, Jr.
500 Bankers Trust Building
Des Moines, Iowa

ATTORNEYS FOR PLAINTIFF.

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA - CENTRAL DIVISION -

#3-841 Civil
U. S. DISTRICT COURT Filed
Nov. 22, 1957 So. Dist. of Iowa

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff

vs.

Twelve (12) parcels of real estate located in Madison County, Iowa, and the record owners thereof, which parcels consist of strips of land of varying widths and which are generally designated as follows:

PARCEL 1. A strip of land containing 2.98 acres 100 feet in width located in the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Eugene C. Binns, Earlham, Iowa.

PARCEL 2. A strip of land 100 feet and 150 feet in width located in the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) in Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Leonard Binns, Earlham, Iowa.

PARCEL 3. A strip of land 100 feet in width and 150 feet in width comprising part of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Three (3) and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also two triangular parcels of land in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of said Section Three (3) and an easement across portions of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Ten (10) for purposes of constructing and maintaining a channel thereon, owned by Geraldine McDonald, Cyrus Bert McDonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald, all of Winterset, Iowa, and Delpha Delores McDonald of Des Moines, Iowa,

PARCEL 4. A strip of land 100, 150 and 200 feet in width in the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) and the East Half (E½) of the Southeast Quarter (SE¼) in Section Ten (10), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Kenneth Olsen of Winterset, Iowa.

PARCEL 5. A strip of land 100 and 150 feet in width in the West Half (W½) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, and the right to construct and maintain a channel on a strip of land fifty (50) feet in width in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township and Range aforesaid, which lands are owned by Carl J. Phearman and Bernice M. Phearman, his wife, of Winterset, Iowa.

PARCEL 6. A strip of land 100 feet in width and in part 150 feet in width through the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also a triangular parcel of land west of and adjoining the 100 foot strip in said Northwest Quarter (NW¼) in Section, Township and Range aforesaid; also an irregular parcel of land owned by William A. Busch and Mary Alice Busch, his wife, of Winterset, Iowa.

PARCEL 7. An irregular parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

containing naught point thirty seven hundredths (0.37) acre, owned by Byron Garland and Iva Garland, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 8. The North thirty-four (N34) feet of Lot five (5), Block five (5), of A. B. Shriver's Addition to the City of Winterset owned by Melvin Macrander and Norma L. Macrander, as joint tenants, of Winterset, Iowa.

PARCEL 9. The North thirty-four (N34) feet of Lots six (6) and seven (7) in Block five (5) of A. B. Shriver's Addition to the City of Winterset, owned by Lowell J. Olsen and Velma M. Olsen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 10. The North thirty-four (N34) feet of Lot eight (8), Block five (5), A. B. Shriver's Addition to the City of Winterset, Iowa, owned by Edward V. Jensen and Maxine Jensen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 11. The North thirty-four (N34) feet of Lot five (5) and the West forty-nine (W49) feet of Lot six (6) of Shriver's addition to the City of Winterset, Iowa, owned by Ernest Stowell and Dorothy Stowell, husband and wife, as joint tenants, Winterset, Iowa.

PARCEL NO. 12. The North thirty-four (N34) feet of Lots seven (7) and eight (8) and the East seventeen (E17) feet of Lot Six (6), all in Block six (6) of A. B. Shriver's addition to the City of Winterset, owned by Nina Mable Hughes, Winterset, Iowa,

Defendants.

NOTICE TO DEFENDANTS

TO LENARD BINNS, DEFENDANT ABOVE NAMED, AND TO CHAS. B. BINNS, HOLDER OF LIEN UPON PARCEL NO. 2 DESCRIBED IN THE CAPTION HEREOF:

You are hereby notified that there is now on file in the Office of the Clerk of the United States District Court, For the Southern District of Iowa, Central Division, at Des Moines, Iowa, the Complaint of Plaintiff in this action which is one to condemn property owned by you in Madison County, Iowa.

A description of the property owned by you which is to be taken is as follows:

PARCEL NO. 2

All that part of the Southeast Quarter (SE¼) Northeast Quarter (NE¼) Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West, County and state aforesaid, described as a strip of land one hundred (100) feet and one hundred fifty (150) feet in width being fifty (50) feet and seventy-five (75) feet on each side of the located main track centerline of the Chicago, Rock Island and Pacific Railroad Company's Earlham to Winterset line as now staked and located on, over and across said above described land, said main track centerline being more particularly described as beginning at a point in the north line of said quarter quarter one thousand one hundred forty and eighty-eight hundredths (1,140.88) feet west of the northeast corner thereof; thence southerly one thousand three hundred forty (1,340) feet to a point in the south line of said quarter quarter one thousand twenty-three and five-tenths (1,023.5) feet west of the southeast corner thereof; said one hundred (100) foot wide strip extending from the north line of said quarter quarter to a point five hundred eighty-seven and two tenths (587.2) feet southerly therefrom, measured along the said main track centerline, and said one hundred fifty (150) foot wide strip extending from a point five hundred eighty-seven and two tenths (587.2) feet southerly from the north line of said quarter quarter measured along said main track centerline seven hundred fifty-two and eight-tenths (752.8) feet measured along said main track centerline to the south line of said quarter quarter and containing in all 3.95 acres, more or less. Also, the right to construct and maintain a channel on part of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of said Section Three (3), described as a strip of land fifty (50) feet in width being twenty-five (25) feet on each side of a centerline described as commencing at a point on the easterly right of way line of said Railroad Company six hundred seventy-two and eight-tenths (672.8) feet north of the south line of said quarter quarter, as measured along said main track centerline, thence southeasterly at an interior angle of forty degrees twenty minutes (40° 20') two hundred thirty (230) feet, comprising 3.21 acres.

Record owner is Lenard Binns.

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

The interest to be taken in the property is a permanent and perpetual easement for railroad purposes as provided by the statutes of the State of Iowa.

You are hereby notified that you may, within twenty (20) days after service of this Notice upon you, serve upon Plaintiff's Attorneys, whose names and addresses are hereinafter set forth, your Answer to the Complaint and a failure on your part so to serve an Answer constitutes a consent to the taking and to the authority of the Court to proceed to hear the action and to fix the compensation to which you, as owner of the property, are entitled.

All of which you will take due notice and govern yourself accordingly.

A. B. Howland
A. B. Howland
J. H. Martin
J. H. Martin
/s/ B. A. Webster, Jr.
B. A. Webster, Jr.
500 Bankers Trust Building
Des Moines, Iowa
ATTORNEYS FOR PLAINTIFF.

Department of Justice

UNITED STATES MARSHAL Southern District of Iowa

MARSHAL'S RETURN

Des Moines, Iowa
Nov. 18. 1957.

I hereby certify and return that I served this writ on the within named Leonard Binns, Madison County, Iowa, by delivering a copy thereof to him in person on the 16th day of November, 1957, and at the same time informed him of the contents thereof. Service made in connection with Parcel #2 attached hereto.

I hereby certify and return that I served this writ on the within named Charles B. Binns, Madison County, Iowa, by delivering a copy thereof to him in person on the 16th day of November 1957, and at the same time informed him of the contents thereof. Service made in connection with Parcel #2 attached hereto.

Fees $ 4.00
Travel 11.50
$15.50

/s/ Roland A. Walter
Roland A. Walter
U. S. Marshal

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF IOWA - CENTRAL DIVISION -

CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY, Plaintiff
vs.

Twelve (12) parcels of real estate located in Madison County, Iowa, and the record owners thereof, which parcels consist of strips of land of varying widths and which are generally designated as follows:

PARCEL 1. A strip of land containing 2.98 acres 100 feet in width located in the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Eugene C. Binns, Earlham, Iowa.

PARCEL 2. A strip of land 100 feet and 150 feet in width located in the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) in Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Leonard Binns, Earlham, Iowa.

PARCEL 3. A strip of land 100 feet in width and 150 feet in width comprising part of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Three (3) and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also two triangular parcels of land in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of said Section Three (3) and an easement across portions of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Ten (10) for purposes of constructing and maintaining a channel thereon, owned by Geraldine McDonald, Cyrus Bert McDonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald, all of Winterset, Iowa, and Delpha Delores McDonald of Des Moines, Iowa.

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

PARCEL 4. A strip of land 100, 150 and 200 feet in width in the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) and the East Half (E½) of the Southeast Quarter (SE¼) in Section Ten (10), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Kenneth Olsen of Winterset, Iowa.

PARCEL 5. A strip of land 100 and 150 feet in width in the West Half (W½) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, and the right to construct and maintain a channel on a strip of land fifty (50) feet in width in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township and Range aforesaid, which lands are owned by Carl J. Phearman and Bernice M. Phearman, his wife, of Winterset, Iowa.

PARCEL 6. A strip of land 100 feet in width and in part 150 feet in width through the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also a triangular parcel of land west of and adjoining the 100 foot strip in said Northwest Quarter (NW¼) in Section, Township and Range aforesaid; also an irregular parcel of land owned by William A. Busch and Mary Alice Busch, his wife, of Winterset, Iowa.

PARCEL 7. An irregular parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian containing naught point thirty seven hundredths (0.37) acre, owned by Byron Garland and Iva Garland, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 8. The North thirty-four (N34) feet of Lot five (5), Block five (5), of A. B. Shriver's Addition to the City of Winterset owned by Melvin Macrander and Norma L. Macrander, as joint tenants, of Winterset, Iowa.

PARCEL 9. The North thirty-four (N34) feet of Lots six (6) and seven (7) in Block five (5) of A. B. Shriver's Addition to the City of Winterset, owned by Lowell J. Olsen and Velma M. Olsen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 10. The North thirty-four (N34) feet of Lot eight (8), Block five (5), A. B. Shriver's Addition to the City of Winterset, Iowa, owned by Edward V. Jensen and Maxine Jensen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 11. The North thirty-four (N34) feet of Lot five (5) and the West forty-nine (W49) feet of Lot six (6) of Shriver's addition to the City of Winterset, Iowa, owned by Ernest Stowell and Dorothy Stowell, husband and wife, as joint tenants, Winterset, Iowa.

PARCEL NO. 12. The North thirty-four (N34) feet of Lots seven (7) and eight (8) and the East seventeen (E17) feet of Lot six (6), all in Block six (6) of A. B. Shriver's addition to the City of Winterset, owned by Nina Mable Hughes, Winterset, Iowa,

Defendants.

NOTICE TO DEFENDANTS

TO GERALDINE McDONALD, CYRUS BERT McDONALD, TERESSA McDONALD, FRANK ARNOLD McDONALD, NANCY GRACE McDONALD, DENNIS DAVID McDONALD, CLARK JOSEPH McDONALD and DELPHA DELORES McDONALD, DEFENDANTS ABOVE NAMED AND OWNERS OF PARCEL NO. 3 DESCRIBED IN THE CAPTION HEREOF:

You are hereby notified that there is now on file in the Office of the Clerk of the United States District Court, For the Southern District of Iowa, Central Division, at Des Moines, Iowa, the Complaint of Plaintiff in this action which is one to condemn property owned by you in Madison County, Iowa.

A description of the property owned by you which is to be taken is as follows:

PARCEL NO. 3

All that part of the Southeast Quarter (SE¼) Southeast Quarter (SE¼) Section Three (3), and the Northeast Quarter (NE¼) Northeast Quarter (NE¼) Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, described as a strip of land one hundred (100) feet in width being fifty (50) feet on each side of the located main track centerline of the Chicago, Rock Island and Pacific Railroad Company's Earlham to Winterset line as now staked and located on, over and across said above described land, said main track centerline

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

being more particularly described as beginning at a point in the north line of the Southeast Quarter (SE¼) Southeast Quarter (SE¼) of said Section Three (3), four hundred fourteen and seven-tenths (414.7) feet East of the northwest corner thereof; thence southerly on a straight line two thousand three hundred forty-nine and twelve hundredths (2,349.12) feet to a point of naught degree thirty minute (0° 30') curve to the left; thence continuing southerly on said naught degree thirty minute (0° 30') curve to the left two hundred ninety-nine and ninety-eight hundredths (299.98) feet to a point in the south line of the Northeast Quarter (NE¼) Northeast Quarter (NE¼) said Section Ten (10), six hundred fifty and two-tenths (650.2) feet West of the southeast corner thereof. Also, two additional twenty-five (25) foot wide strips of land lying easterly and westerly of and adjacent to the above described one hundred (100) foot strip of land commencing on the south line of the Southeast Quarter (SE¼) Southeast Quarter (SE¼) said Section Three (3) and extending northerly two hundred forty-three (243) feet measured along said main track centerline; also a triangular tract of land in the West Half (W½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) of said Section Ten (10), described as beginning at the Northeast corner of said West Half (W½) Southeast Quarter (SE¼) Northeast Quarter (NE¼); thence west along the north line of said West Half (W½) Southeast Quarter (SE¼) Northeast Quarter (NE¼), thirty-one and sixty-three hundredths (31.63) feet; thence southeasterly on a naught degree thirty minute (0° 30') curve to the left two hundred thirty (230) feet to a point in the east line of said West Half (W½) Southeast Quarter Northeast Quarter (NE¼); thence north along the east line of said West Half (W½) Southeast Quarter (SE¼) Northeast Quarter (NE¼), two hundred twenty-eight and sixty-five hundredths (228.65) feet to the point of beginning. Also, a triangular parcel of land lying east of and adjoining the east right-of-way line of said Railroad Company through the Southeast Quarter Southeast Quarter (SE¼ SE¼) said Section three (3), more fully described as follows: beginning at a point in the north line of said quarter quarter fifty and thirty-one hundredths (50.31) feet east of the said Railroad Company's main track centerline measured east along said north line of said quarter quarter; thence continuing east along said north line of said quarter quarter one hundred fifty (150) feet; thence southwesterly in a straight line two hundred (200) feet to a point in the east right-of-way line of said Railroad Company; thence northwesterly at an angle of forty-eight degrees twelve minutes (48° 12') to the right of last described line one hundred fifty (150) feet to point of beginning; also a triangular parcel of land lying west of and adjoining the west right-of-way line of said Railroad Company and beginning at a point in the north line of said Southeast Quarter (SE¼) Southeast Quarter (SE¼) fifty and thirty-one hundredths (50.31) feet west of the main track centerline of said Railroad Company; thence southeasterly along said west right-of-way line one hundred (100) feet; thence northwesterly at an angle of forty-four degrees forty-eight minutes (44° 48') to the right of last described line one hundred forty-nine and one-tenth (149.1) feet to a point in the north line of said quarter quarter; thence east along the north line of said quarter quarter one hundred (100) feet to the point of beginning containing in all six and ninety hundredths (6.90) acres more or less; Also, an additional 25 foot wide strip of land lying easterly of and adjacent to the above described 100 foot strip of land commencing at a point 269.7 feet north of the south line of the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of said Section Ten (10), and extending northerly six hundred (600) feet as measured along said main track centerline. Also, an easement for the purpose of constructing and maintaining a channel on part of the West Half (W½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) Section Ten (10), Township and range aforesaid described as a strip of land fifty (50) feet in width being twenty-five (25) feet on each side of the following described centerline; beginning at a point five hundred (500) feet north of the southeast corner of said West Half (W½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) which is the centerline of said channel; thence southwesterly on an interior angle of sixty-eight degrees fifteen minutes (68° 15') to last described line a distance of two hundred twenty-two (222) feet.

Record owners are Geraldine McDonald, Cyrus Bert McDonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald and Delpha Delores McDonald.

The interest to be taken in the property is a permanent and perpetual easement for railroad purposes as provided by the statutes of the State of Iowa.

You are hereby notified that you may, within twenty-(20) days after service of this Notice upon you, serve upon Plaintiff's Attorneys, whose names and addresses are hereinafter set forth, your Answer to the Complaint and a failure on your part so to serve

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

an Answer constitutes a consent to the taking and to the authority of the Court to proceed to hear the action and to fix the compensation to which you, as owner of the property, are entitled.

All of which you will take due notice and govern yourself accordingly.

A. B. Howland
A. B. Howland
J. H. Martin
J. H. Martin
B. A. Webster, Jr.
B. A. Webster, Jr.
500 Bankers Trust Building
Des Moines, Iowa

ATTORNEYS FOR PLAINTIFF.

Department of Justice
UNITED STATES MARSHAL Southern District of Iowa.
Des Moines, Iowa
Nov. 18, 1957.

MARSHAL'S RETURN

I hereby certify and return that I served this writ on the within named Geraldine McDonald, Madison County, Iowa, by delivering to her in person a copy thereof on the 16th day of November, 1957 and at the same time informed her of the contents thereof. I further certify and return that I served this writ on the within named Cyrus Bert McDonald; Teresa McDonald; Frank Arnold McDonald; Nancy Grace McDonald; Dennis David McDonald; Clark Joseph McDonald and Delpha Delores McDonald, all children of the said Geraldine McDonald, the said Geraldine McDonald being authorized to accept service for her children. I delivered true copies to her on behalf of each of the above defendant children. Services made in connection with Parcel #3 attached hereto.

Fees $16.00 Travel

/s/ Roland A. Walter
Roland A. Walter
U. S. Marshal

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN

DISTRICT OF IOWA - CENTRAL DIVISION -

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff,
vs.

Twelve (12) parcels of real estate located in Madison County, Iowa, and the record owners thereof, which parcels consist of strips of land of varying widths and which are generally designated as follows:

PARCEL 1. A strip of land containing 2.98 acres 100 feet in width located in the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Eugene C. Binns, Earlham, Iowa.

PARCEL 2. A strip of land 100 feet and 150 feet in width located in the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) in Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Leonard Binns, Earlham, Iowa.

PARCEL 3. A strip of land 100 feet in width and 150 feet in width comprising part of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Three (3) and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also two triangular parcels of land in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of said Section Three (3) and an easement across portions of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Ten (10) for purposes of constructing and maintaining a channel thereon, owned by Geraldine McDonald, Cyrus Bert McDonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald, all of Winterset, Iowa, and Delpha Delores McDonald of Des Moines, Iowa.

PARCEL 4. A strip of land 100, 150 and 200 feet in width in the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) and the East Half (E½) of the Southeast Quarter (SE¼) in Section Ten (10), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Kenneth Olsen of Winterset, Iowa.

JENKINS-FERGEMANN CO., WATERLOO, IOWA—99067

PARCEL 5. A strip of land 100 and 150 feet in width in the West Half (W½) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, and the right to construct and maintain a channel on a strip of land fifty (50) feet in width in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township and Range aforesaid, which lands are owned by Carl J. Phearman and Bernice M. Phearman, his wife, of Winterset, Iowa.

PARCEL 6. A strip of land 100 feet in width and in part 150 feet in width through the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also a triangular parcel of land west of and adjoining the 100 foot strip in said Northwest Quarter (NW¼) in Section, Township and Range aforesaid; also an irregular parcel of land owned by William A. Busch and Mary Alice Busch, his wife, of Winterset, Iowa.

PARCEL 7. An irregular parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian containing naught point thirty seven hundredths (0.37) acre, owned by Byron Garland and Iva Garland, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 8. The North thirty-four (N34) feet of Lot five (5), Block five (5), of A. B. Shriver's Addition to the City of Winterset owned by Melvin Macrander and Norma L. Macrander, as joint tenants, of Winterset, Iowa.

PARCEL 9. The North thirty-four (N34) feet of Lots six (6) and seven (7) in Block five (5) of A. B. Shriver's Addition to the City of Winterset, owned by Lowell J. Olsen and Velma M. Olsen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 10. The North thirty-four (N34) feet of Lot eight (8), Block five (5), A. B. Shriver's Addition to the City of Winterset, Iowa, owned by Edward V. Jensen and Maxine Jensen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 11. The North thirty-four (N34) feet of Lot five (5) and the West forty-nine (W49) feet of Lot six (6) of Shriver's addition to the City of Winterset, Iowa, owned by Ernest Stowell and Dorothy Stowell, husband and wife, as joint tenants, Winterset, Iowa.

PARCEL NO. 12. The North thirty-four (N34) feet of Lots seven (7) and eight (8) and the East seventeen (E17) feet of Lot six (6), all in Block six (6) of A. B. Shriver's addition to the City of Winterset, owned by Nina Mable Hughes, Winterset, Iowa,

Defendants.

NOTICE TO DEFENDANTS

TO KENNETH OLSEN, ONE OF THE DEFENDANTS ABOVE NAMED AND OWNER OF PARCEL NO. 4 DESCRIBED IN THE CAPTION HEREOF:

You are hereby notified that there is now on file in the Office of the Clerk of the United States District Court, For the Southern District of Iowa, Central Division, at Des Moines, Iowa, the Complaint of Plaintiff in this action which is one to condemn property owned by you in Madison County, Iowa.

A description of the property owned by you which is to be taken is as follows:

PARCEL NO. 4

All that part of the East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) and the East Half Southeast Quarter (E½SE¼) all being in Section Ten (10), Township Seventy-six (76) North, Range Twenty-eight (28) West, and all that part of the West Half (W½) Southwest Quarter (SW¼) Section Eleven (11), Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, being described as a strip of land one hundred (100) and one hundred fifty (150) feet in width being fifty (50) and seventy-five (75) feet oneach side of the located main track centerline of Chicago, Rock Island and Pacific Railroad Company's Earlham to Winterset line as now staked and located on, over and across said East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) Section Ten (10), said one hundred (100) foot strip extending southerly from the north line of said East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼), six hundred thirty and three tenths (630.3) feet as measured along said main track

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

centerline; said one hundred fifty (150) foot strip extending southerly from a point six hundred thirty and three tenths (630.3) feet south of the north line of said East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) as measured along said main track centerline to the south line of said East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) Section Ten (10). Also, a strip of land two hundred (200) feet in width being one hundred (100) feet on each side of the said main track centerline as now staked and located on over and across the said East Half (E½) Southeast Quarter (SE¼) Section Ten (10) and the said West Half (W½) Southwest Quarter (SW¼) Section Eleven (11), said two hundred (200) foot strip extending southerly from the north line of said East Half (E½) Southeast Quarter (SE¼) Section Ten (10) to the centerline of the present channel of North River in the said West Half (W½) Southwest Quarter (SW¼) Section Eleven (11) at the point of intersection of the said main track centerline with the said centerline of North River, and said main track centerline being more particularly described as beginning at a point in the north line of the East Half (E½) Northeast Quarter (NE¼) Section Ten (10), said point being seven hundred eighty-three and seven tenths (783.7) feet west of the northeast corner thereof; thence southeasterly in a straight line one thousand sixteen and seventy-two hundredths (1,016.72) feet to a point of naught degree thirty minute (0° 30') curve to the left; thence continuing southeasterly on said naught degree thirty minute (0° 30') curve to the left one thousand five hundred fifty (1,550) feet to a point of tangent, said curve crossing the north line of the East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼) said section at a point six hundred fifty and two tenths (650.2) feet west of the northeast corner thereof; thence continuing southeasterly on said tangent to last described curve one thousand seven hundred seventy and seventy-five hundredths (1,770.75) feet to a point of two degree naught minute (2° 0') curve to the right, said tangent crossing the south line of the Northeast Quarter (NE¼) of said section at a point four hundred one and four tenths (401.4) feet west of the southeast corner thereof and crossing theeast line of the Southeast Quarter (SE¼) of said section at a point one thousand six hundred forty and four tenths (1,640.4) feet south of the northeast corner thereof; thence southwesterly on said two degree naught minute (2° 0') curve to the right one thousand three hundred forty-two and five tenths (1,342.5) feet to point of tangent; thence southwesterly on said tangent one hundred two and ninety-five hundredths (102.95) feet to a point in the east line of the Northeast Quarter (NE¼) Section Fifteen (15), Township and Range aforesaid, said point being five hundred forty-four and seven tenths (544.7) feet south of the northeast corner thereof. Also, four (4) triangular parcels of land in the East Half (E½) East Half (E½) Section Ten (10), Township and Range aforesaid, more fully described as follows: Beginning at the point of intersection where the centerline of the main track of said Railroad Company crosses the east and west centerline of Section Ten (10); thence east along said east and west centerline of said Section seventy-seven and twenty-one hundredths (77.21) feet to point of beginning of land to be conveyed; thence continuing east along said east and west centerline of said section two hundred (200) feet; thence northwesterly on an interior angle of thirty-eight degrees seven and one half minutes (38° 7½') to last described line three hundred fourteen and sixty-seven (314.67) feet to a point in the east right-of-way line of said Railroad Company, said point being seventy-five (75) feet northeasterly from and measured radially to said main track centerline; thence southeasterly along said easterly right-of-way line two hundred (200) feet to the point of beginning. Also, beginning at said point of intersection where the centerline of the main track of said Railroad Company crosses the east and west centerline of Section Ten (10); thence west along said east and west centerline of said Section Ten (10) seventy-seven and twenty-one hundredths (77.21) feet to the point of beginning of the land to be conveyed; thence continuing west along said east and west centerline of said section one hundred eighty (180) feet; thence northeasterly on an interior angle of fifty-one degrees fifty-two and one-half minutes (51° 52½') to last described line two hundred twenty-two and three tenths (222.3) feet to a point in the westerly right of way line of said Railroad Company, said point being seventy-five (75) feet southwesterly from and measured radially to said main track centerline; thence southeasterly along said westerly right of way line one hundred eighty (180) feet to the point of beginning. Also, beginning at said point of intersection where the centerline of the main track of said Railroad Company crosses the east and west centerline of said Section Ten (10); thence east along said east and

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

west centerline of said Section Ten (10) two hundred fifty-seven and twenty-one hundredths (257.21) feet to the point of beginning of the land to be conveyed; thence southwesterly on an interior angle of fifty-one degrees fifty-two and one-half (51° 52½') minutes to last described line to a point in the easterly right of way line of said Railroad Company, said point being one hundred (100) feet northeasterly from and measured radially to said main track centerline; thence northwesterly along said easterly right of way line to the point where said easterly right of way line intersects the east and west centerline of said Section Ten (10); thence east along said east and west centerline of Section Ten (10) to the point of beginning. Also, beginning at said point of intersection where the centerline of the main track of said Railroad Company crosses the east and west centerline of said Section Ten (10); thence west along said east and west centerline of Section Ten (10) two hundred fifty-seven and twenty-one hundredths (257.21) feet to the point of beginning of the land to be conveyed; thence southeasterly on an interior angle of thirty-eight degrees seven and one-half minutes (38°07½') to last described line to a point in the westerly right of way line of said Railroad Company, said point being one hundred (100) feet southwesterly from and measured radially to said main track centerline; thence northwesterly along said westerly right of way line to the point where said westerly right of way line intersects the east and west centerline of said Section Ten (10); thence west along said east and west centerline of Section Ten (10) to the point of beginning and containing in all fifteen and twenty-five hundredths (15.25) acres, more or less. Also, the right to construct and maintain channel for North River on, over and across the West Half (W½) Southwest Quarter (SW¼) Section Eleven (11) and the East Half (E½) Southeast Quarter (SE¼) Section Ten (10), both in Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, described as a strip of land one hundred (100) feet in width, being fifty (50) feet on each side of the following described centerline; commencing at a point in the centerline of the main track of Chicago, Rock Island and Pacific Railroad Company as hereinabove described which is one thousand five hundred seventy-six and four tenths (1,576.4) feet southeasterly from the north line of the Southeast Quarter (SE¼) of Section Ten (10), measured along said main track centerline; thence easterly at an angle of eighty-nine degrees naught minutes (89° 00') to the centerline of said Railroad Company's main track one thousand two hundred (1,200) feet to its intersection with the present channel of North River and also westerly along same angle three hundred fifty (350) feet to its intersection with the present channel of North River and containing three and fifty-six hundredths (3.56) acres, more or less. Also, the right to construct and maintain a channel fifty (50) feet in width being twenty-five (25) feet on each side of a centerline described as beginning at a point on the West line of the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Ten (10), Township seventy-six (76) North, Range Twenty eight (28) West, County and State aforesaid, five hundred (500) feet North of the southwest corner of the East Half (E½) Southeast Quarter (SE¼) Northeast Quarter (NE¼), thence northeasterly on a straight line on an interior angle of sixty-eight degrees fifteen minutes (68° 15'), seventy-eight (78) feet to the point of intersection with the westerly right of way line of said Railroad Company, comprising 18.9 acres.

Record owner is Kenneth Olsen.

The interest to be taken in the property is a permanent and perpetual easement for railroad purposes as provided by the statutes of the State of Iowa.

You are hereby notified that you may, within twenty (20) days after service of this Notice upon you, serve upon Plaintiff's Attorneys, whose names and addresses are hereinafter set forth, your Answer to the Complaint and a failure on your part so to serve an Answer constitutes a consent to the taking and to the authority of the Court to proceed to hear the action and to fix the compensation to which you, as owner of the property, are entitled.

All of which you will take due notice and govern yourself accordingly.

A. B. Howland
A. B. Howland
J. H. Martin
J. H. Martin

B. A. Webster, Jr.
B. A. Webster, Jr.

500 Bankers Trust Building
Des Moines, Iowa
ATTORNEYS FOR PLAINTIFF.

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

Department of Justice
UNITED STATED MARSHAL Southern District of Iowa
Des Moines, Iowa
Nov. 18. 1957

I hereby certify and return that I served this writ on the within named Kenneth Olsen, Madison County, Iowa, by delivering a copy thereof to him in person on the 16th day of November, 1957, and at the same time informed him of the contents thereof. Service made in connection with Parcel #4 attached hereto.

Fees $2.00 Travel

/s/ Roland A. Walter
Roland A. Walter
U. S. Marshal

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN

DISTRICT OF IOWA - CENTRAL DIVISION -

CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY, Plaintiff
vs.

Twelve (12) parcels of real estate located in Madison County, Iowa, and the record owners thereof, which parcels consist of strips of land of varying widths and which are generally designated as follows:

PARCEL 1. A strip of land containing 2.98 acres 100 feet in width located in the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Eugene C. Binns, Earlham, Iowa.

PARCEL 2. A strip of land 100 feet and 150 feet in width located in the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) in Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Leonard Binns.

PARCEL 3. A strip of land 100 feet in width and 150 feet in width comprising part of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Three (3) and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also two triangular parcels of land in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of said Section Three (3) and an easement across portions of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Ten (10) for purpose of constructing and maintaining a channel thereon, owned by Geraldine McDonald, Cyrus Bert McDonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald, all of Winterset, Iowa, and Delpha Delores McDonald of Des Moines, Iowa.

PARCEL 4. A strip of land 100, 150 and 200 feet in width in the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) and the East Half (E½) of the Southeast Quarter (SE¼) in Section Ten (10), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Kenneth Olsen of Winterset, Iowa.

PARCEL 5. A strip of land 100 and 150 feet in width in the West Half (W½) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, and the right to construct and maintain a channel on a strip of land fifty (50) feet in width in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township and Range aforesaid, which lands are owned by Carl J. Phearman and Bernice M. Phearman, his wife, of Winterset, Iowa.

PARCEL 6. A strip of land 100 feet in width and in part 150 feet in width through the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also a triangular parcel of land west of and adjoining the 100 foot strip in said Northwest Quarter (NW¼) in Section, Township and Range aforesaid; also an irregular parcel of land owned by William A. Busch and Mary Alice Busch, his wife, of Winterset, Iowa.

PARCEL 7. An irregular parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian containing naught point thirty seven hundredths (0.37) acre, owned by Byron Garland and Iva Garland, husband and wife, as joint tenants, of Winterset, Iowa.

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

PARCEL 8. The North thirty-four (N34) feet of Lot five (5), Block five (5), of A. B. Shriver's Addition to the City of Winterset owned by Melvin Macrander and Norma L. Macrander, as joint tenants, of Winterset, Iowa.

PARCEL 9. The North thirty-four (N34) feet of Lots six (6) and seven (7) in Block five (5) of A. B. Shriver's Addition to the City of Winterset, owned by Lowell J. Olsen and Velma M. Olsen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 10. The North thirty-four (N34) feet of Lot eight (8), Block five (5), A. B. Shriver's Addition to the City of Winterset, Iowa, owned by Edward V. Jensen and Maxine Jensen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 11. The North thirty-four (N34) feet of Lot five (5) and the West forty-nine (W49) feet of Lot six (6) of Shriver's addition to the City of Winterset, Iowa, owned by Ernest Stowell and Dorothy Stowell, husband and wife, as joint tenants, Winterset, Iowa.

PARCEL NO. 12. The North thirty-four (N34) feet of Lots seven (7) and eight (8) and the East seventeen (E17) feet of Lot six (6), all in Block six (6) of A. B. Shriver's addition to the City of Winterset, owned by Nina Mable Hughes, Winterset, Iowa,

Defendants.

NOTICE TO DEFENDANTS

TO CARL J. PHEARMAN AND BERNIECE M. PHEARMAN, HUSBAND AND WIFE, TWO OF THE DEFENDANTS ABOVE NAMED, AND OWNERS OF PARCEL NO. 5 DESCRIBED IN THE CAPTION HEREOF:

You are hereby notified that there is now on file in the Office of the Clerk of the United States District Court, For the Southern District of Iowa, Central Division, at Des Moines, Iowa, the Complaint of Plaintiff in this action which is one to condemn property owned by you in Madison County, Iowa.

A description of the property owned by you which is to be taken is as follows:

PARCEL NO. 5

All that part of the West Half ($W\frac{1}{2}$) Northwest Quarter ($NW\frac{1}{4}$) Section Twenty-three (23) Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, described as a strip of land one hundred (100) feet in width being fifty (50) feet on each side of the located main track centerline of the Chicago, Rock Island and Pacific Railroad Company's Earlham to Winterset line as now staked and located on over and across said above described land, said main track centerline being more particularly described as beginning at a point on the west line of the Southwest Quarter ($SW\frac{1}{4}$) of Section Fourteen (14) Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, one thousand five hundred six (1,506) feet south of northwest corner thereof; thence southeasterly on a straight line eleven and seventy-two hundredths (11.72) feet to a point of one degree naught minute (1° 00') curve to the right; thence continuing southeasterly on said one degree naught minute (1° 00') curve to the right one thousand two hundred twenty-one and eight hundredths (1,221.08) feet to a point in the north line of said West Half Northwest Quarter ($W\frac{1}{2}NW\frac{1}{4}$) Section Twenty-three (23) four hundred ninety-four and three tenths (494.3) feet east of the northwest corner thereof; thence continuing southeasterly on said one degree naught minute (1° 0') curve to the right one hundred forty-two and twenty-five hundredths (142.25) feet to point of tangent; thence southeasterly on a straight line two thousand six hundred two and sixty-five hundredths (2,602.65) feet to a point in the south line of said West Half Northwest Quarter ($W\frac{1}{2}NW\frac{1}{4}$), one thousand two hundred fifty and eight tenths (1,250.8) feet east of the southwest corner thereof; also a strip of land twenty-five feet (25) in width lying east of and adjacent to said one hundred (100) foot strip of land and a strip of land twenty-five (25) feet in width lying west of and adjacent to said one hundred (100) foot strip of land and each twenty-five (25) foot strip of land commencing on the north line of said West Half Northwest Quarter ($W\frac{1}{2}$ $NW\frac{1}{4}$) and extending southeasterly Eight Hundred Three and three tenths (803.3) feet measured along said main track centerline and containing in all seven and twenty-four hundredths (7.24) acres more or less.

Also, the right to construct and maintain a new channel on over and across a strip of land 50 feet in width and 125 feet in length in the $NW\frac{1}{4}$ $NW\frac{1}{4}$ of said Section 23, said strip of land described as commencing

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

at a point in the easterly right of way line of said RR Co. at Chief Engineer's Station 2423400; thence northeasterly at right angles to said easterly right of way line 50 feet; thence northwesterly at right angles 125 feet; thence southwesterly at right angles 50 feet to a point in the easterly right of way line of said RR Co.; thence southeasterly along said right of way line 125 feet to the point of beginning.

Record owners are Carl J. Phearman and Berniece M. Phearman.

The interest to be taken in the property is a permanent and perpetual easement for railroad purposes as provided by the statutes of the State of Iowa.

You are hereby notified that you may, within twenty (20) days after service of this Notice upon you, serve upon Plaintiff's Attorneys, whose names and addresses are hereinafter set forth, your Answer to the Complaint and a failure on your part so to serve an Answer constitutes a consent to the taking and to the authority of the Court to proceed to hear the action and to fix the compensation to which you, as owner of the property, are entitled.

All of which you will take due notice and govern yourselves accordingly.

A. B. Howland
A. B. Howland

J. H. Martin
J. H. Martin

B. A. Webster, Jr.
B. A. Webster, Jr.
500 Bankers Trust Building
Des Moines, Iowa

ATTORNEYS FOR PLAINTIFF.

Department of Justice

UNITED STATES MARSHAL Southern District of Iowa
Des Moines, Iowa
Nov. 18, 1957

MARSHAL'S RETURN

I hereby certify and return that I served this writ on the within named Carl J. Phearman and Bernice M. Phearman, Madison County, Iowa, by delivering to each of them a copy thereof in person on the 16th day of November, 1957 and at the same time informed them of the contents thereof. Service made in connection with parcel #5 attached hereto.

Fees $4.00 Travel

/s/ Roland A. Walter
Roland A. Walter
U. S. Marshal

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA - CENTRAL DIVISION -

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff,
vs.

Twelve (12) parcels of real estate located in Madison County, Iowa, and the record owners thereof, which parcels consist of strips of land of varying widths and which are generally designated as follows:

PARCEL 1. A strip of land containing 2.98 acres 100 feet in width located in the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Eugene C. Binns, Earlham, Iowa.

PARCEL 2. A strip of land 100 feet and 150 feet in width located in the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) in Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Leonard Binns.

PARCEL 3. A strip of land 100 feet in width and 150 feet in width comprising part of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Three (3) and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also two triangular parcels of land in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of said Section Three (3) and an easement across portions of the Southeast Quarter

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

(SE¼) of the Northeast Quarter (NE¼) of Section Ten (10) for purposes of constructing and maintaining a channel thereon, owned by Geraldine McDonald, Cyrus Bert McDonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald, all of Winterset, Iowa, and Delpha Delores McDonald of Des Moines, Iowa.

PARCEL 4. A strip of land 100, 150 and 200 feet in width in the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) and the East Half (E½) of the Southeast Quarter (SE¼) in Section Ten (10), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Kenneth Olsen of Winterset, Iowa.

PARCEL 5. A strip of land 100 and 150 feet in width in the West Half (W½) of the Northwest Quarter NW¼) of Section Twenty-three (23), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, and the right to construct and maintain a channel on a strip of land fifty (50) feet in width in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township and Range aforesaid, which lands are owned by Carl J. Phearman and Bernice M. Phearman, his wife, of Winterset, Iowa.

PARCEL 6. A strip of land 100 feet in width and in part 150 feet in width through the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also a triangular parcel of land west of and adjoining the 100 foot strip in said Northwest Quarter (NW¼) in Section, Township and Range aforesaid; also an irregular parcel of land owned by William A. Busch and Mary Alice Busch, his wife, of Winterset, Iowa.

PARCEL 7. An irregular parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian containing naught point thirty seven hundredths (0.37) acre, owned by Byron Garland and Iva Garland, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 8. The North thirty-four (N34) feet of Lot five (5), Block five (5), of A. B. Shriver's Addition to the City of Winterset owned by Melvin Macrander and Norma L. Macrander, as joint tenants, of Winterset, Iowa.

PARCEL 9. The North thirty-four (N34) feet of Lots six (6) and seven (7) in Block five (5) of A. B. Shriver's Addition to the City of Winterset, owned by Lowell J. Olsen and Velma M. Olsen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 10. The North thirty-four (N34) feet of Lot eight (8), Block five (5), A. B. Shriver's Addition to the City of Winterset, Iowa, owned by Edward V. Jensen and Maxine Jensen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 11. The North thirty-four (N34) feet of Lot five (5) and the West forty-nine (W49) feet of Lot six (6) of Shriver's addition to the City of Winterset, Iowa, owned by Ernest Stowell and Dorothy Stowell, husband and wife, as joint tenants, Winterset, Iowa.

PARCEL NO. 12. The North thirty-four (N34) feet of Lots seven (7) and eight (8) and the East seventeen (E17) feet of Lot six (6), all in Block six (6) of A. B. Shriver's addition to the City of Winterset, owned by Nina Mable Hughes, Winterset, Iowa,

Defendants.

NOTICE TO DEFENDANTS

TO WILLIAM A. BUSCH AND MARY ALICE BUSCH, DEFENDANTS ABOVE NAMED AND OWNERS OF PARCEL NO. 6 DESCRIBED IN THE CAPTION HEREOF:

You and each of you are hereby notified that there is now on file in the Office of the Clerk of the United States District Court, For the Southern District of Iowa, Central Division, at Des Moines, Iowa, the Complaint of Plaintiff in this action which is one to condemn property owned by you in Madison County, Iowa.

A description of the property owned by you which is to be taken is as follows:

PARCEL NO. 6

All that part of the Northwest Quarter (NW¼) Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, described as a strip of land one hundred (100) feet wide, being fifty (50) feet on each side of the located main track centerline of the Chicago,

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

Rock Island and Pacific Railroad Company's Earlham to Winterset line as now staked and located on, over and across said above described land, said main track centerline being more particularly described as beginning at a point in the North line of Section Thirty-six (36), said point being one hundred thirty-one and thirty-nine hundredths (131.39) feet East of the Northwest (NW) corner of said section; thence Southeasterly (SEly) at an angle of fifty-nine degrees nine minutes (59° 09') to the North line of Section Thirty-six (36) a distance of three hundred sixty-nine and ninety-seven hundredths (369.97) feet to the point of a one degree naught minute (1° 0') curve to the left; thence continuing Southeasterly (SEly) on said one degree naught minute (1° 0') curve to the left one thousand six hundred fifty-eight and thirty-three hundredths (1,658.33) feet to point of tangent; thence continuing Southeasterly (SEly) on said tangent one thousand forty-six and six hundredths (1,046.06) feet to point of six degree naught minute (6° 0') curve to the left; thence continuing Southeasterly (SEly) on said six degree naught minute (6° 0') curve to the left two hundred seventy-two and sixty-four hundredths (272.64) feet to a point two hundred thirty-one and seven tenths (231.7) feet North and two hundred eighty-six and three tenths (286.3) feet East of the Southeast (SE) corner of the Northwest Quarter (NW¼) of said Section Thirty-six (36). Also, a Triangular parcel of land in the Northwest Quarter (NW¼) of Section Thirty-six (36) lying west of and adjoining the above described land and being more fully described as follows: Beginning at the Northwest (NW) corner of Section Thirty-six (36); thence East along the north line thereof seventy-three and fifteen hundredths (73.15) feet to a point in the West right-of-way line of said Railroad Company; thence Southeasterly (SEly) along said West right-of-way line one hundred eleven and four tenths (111.4) feet; thence Northwesterly (NWly) at an angle of twenty-two degrees fifty-two minutes (22° 52') to the left of last described line one hundred sixty-one and sixty-one hundredths (161.61) feet to the point of beginning. Also, an irregular parcel of land in said Northwest Quarter (NW¼) of Section Thirty-six (36) described as follows: Beginning at the point of intersection of the East right-of-way line of said Railroad Company and the North line of Northwest Quarter (NW¼) of Section Thirty-six (36), said point being one hundred eighty-nine and sixty-three hundredths (189.63) feet East of the Northwest (NW) corner thereof, measured along the North line of said Section; thence East along the North line of said Section, two hundred forty-one and seventy-six hundredths (241.76) feet; thence South at right angles to last described line thirty-three (33) feet; thence Southwesterly (SWly) at an angle of eighty-five degrees eight minutes (85° 8') to the left of last described line one hundred twenty-five and two tenths (125.2) feet; thence Southwesterly (SWly) at an angle of fifty-five degrees thirty-three and one-half minutes (55° 33½') to the left of last described line eighty-nine and eight tenths (89.8) feet to a point in the East right-of-way line of said Railroad Company; thence Northwesterly (NWly) along said East right-of-way line which is at an angle of sixty degrees twenty-five and one-half minutes (60° 25½') to the right of last described line one hundred forty-one and seventy-six hundredths (141.76) feet to the point of beginning. Also, an additional strip of land fifty (50) feet in width lying Northeasterly (NEly) of and adjacent to said above described land, said strip extending from the north line of said Northwest Quarter (NW¼) of Section Thirty-six (36), Southeasterly (SEly) one Thousand one hundred eighty-nine and nine tenths (1,189.9) feet as measured along said main track centerline and containing in all nine and sixty-five hundredths (9.65) acres, more or less.

Record owners are Wm. A. Busch and Mary Alice Busch.

The interest to be taken in the property is a permanent and perpetual easement for railroad purposes as provided by the statutes of the State of Iowa.

You are hereby notified that you may, within twenty (20) days after service of this Notice upon you, serve upon Plaintiff's Attorneys, whose names and addresses are hereinafter set forth, your Answer to the Complaint and a failure on your part so to serve an Answer constitutes a consent to the taking and to the authority of the Court to proceed to hear the action and to fix the compensation to which you, as owner of the property, are entitled.

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

All of which you will take due notice and govern yourselves accordingly.

A. B. Howland
A. B. Howland
J. H. Martin
J. H. Martin
B. A. Webster, Jr.
B. A. Webster, Jr.
500 Bankers Trust Building
Des Moines, Iowa
ATTORNEYS FOR PLAINTIFF.

Department of Justice
UNITED STATES MARSHAL Southern District of Iowa
Des Moines, Iowa
Nov. 18, 1957

MARSHAL'S RETURN

I hereby certify and return that I served this writ on the within named Mary Alice Busch, Madison County, Iowa, by delivering a copy thereof to her in person on the 16th day of November, 1957 and at the same time informed her of the contents thereof.

I further certify and return that I served William A. Busch, Madison County, Iowa, by delivering a true copy of this writ to Mary Alice Busch, wife of defendant William A. Busch at their place of abode in Madison County, Iowa, on the 16th day of November, 1957 and at the same time informed her of the contents thereof. Service made in connection with Parcel #6 attached hereto.

Fees $4.00 Travel

/s/ Roland A. Walter
Roland A. Walter
U. S. Marshal

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA - CENTRAL DIVISION -

No. 3-841 Civil

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff

vs.

Twelve (12) parcels of real estate located in Madison County, Iowa, and the record owners thereof, which parcels consist of strips of land of varying widths and which are generally designated as follows:

PARCEL 1. A strip of land containing 2.98 acres 100 feet in width located in the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Eugene C. Binns, Earlham, Iowa.

PARCEL 2. A strip of land 100 feet and 150 feet in width located in the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) in Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Leonard Binns.

PARCEL 3. A strip of land 100 feet in width and 150 feet in width comprising part of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Three (3) and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also two triangular parcels of land in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of said Section Three (3) and an easement across portions of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Ten (10) for purposes of constructing and maintaining a channel thereon, owned by Geraldine McDonald, Cyrus Bert McDonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald, all of Winterset, Iowa, and Delpha Delores McDonald of Des Moines, Iowa.

PARCEL 4. A strip of land 100, 150 and 200 feet in width in the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) and the East Half (E½) of the Southeast Quarter (SE¼) in Section Ten (10), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Kenneth Olsen of Winterset, Iowa.

PARCEL 5. A strip of land 100 and 150 feet in width in the West Half (W½) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, and the right to construct and maintain a channel on a strip of land fifty (50) feet in width in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township and Range aforesaid, which lands are owned by Carl J. Phearman and Bernice M. Phearman, his wife, of Winterset, Iowa.

PARCEL 6. A strip of land 100 feet in width and in part 150 feet in width through the Northwest Quarter (NW¼)

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99087

of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also a triangular parcel of land west of and adjoining the 100 foot strip in said Northwest Quarter (NW¼) in Section, Township and Range aforesaid; also an irregular parcel of land owned by William A. Busch and Mary Alice Busch, his wife, of Winterset, Iowa.

PARCEL 7. An irregular parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian containing naught point thirty seven hundredths (0.37) acre, owned by Byron Garland and Iva Garland, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 8. The North thirty-four (N34) feet of Lot five (5), Block five (5), of A. B. Shriver's Addition to the City of Winterset owned by Melvin Macrander and Norma L. Macrander, as joint tenants, of Winterset, Iowa.

PARCEL 9. The North thirty-four (N34) feet of Lots six (6) and seven (7) in Block five (5) of A. B. Shriver's Addition to the City of Winterset, owned by Lowell J. Olsen and Velma M. Olsen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 10. The North thirty-four (N34) feet of Lot eight (8), Block five (5), A. B. Shriver's Addition to the City of Winterset, Iowa, owned by Edward V. Jensen and Maxine Jensen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 11. The North thirty-four (N34) feet of Lot five (5) and the West forty-nine (W49) feet of Lot six (6) of Shriver's addition to the City of Winterset, Iowa, owned by Ernest Stowell and Dorothy Stowell, husband and wife, as joint tenants, Winterset, Iowa.

PARCEL NO. 12. The North thirty-four (N34) feet of Lots seven (7) and eight (8) and the East seventeen (E17) feet of Lot six (6), all in Block six (6) of A. B. Shriver's addition to the City of Winterset, owned by Nina Mable Hughes, Winterset, Iowa,

Defendants.

NOTICE TO DEFENDANTS

TO BYRON GARLAND AND IVA GARLAND, DEFENDANTS ABOVE NAMED, AND FARMERS AND MERCHANTS STATE BANK, HOLDER OF A LIEN ON PARCEL NO. 7, DESCRIBED IN THE CAPTION HEREOF:

You are hereby notified that there is now on file in the Office of the Clerk of the United States District Court, For the Southern District of Iowa, Central Division, at Des Moines, Iowa, the Complaint of Plaintiff in this action which is one to condemn property owned by you in Madison County, Iowa.

A description of the property owned by you which is to be taken is as follows:

PARCEL NO. 7

A parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West, County and State aforesaid, described as follows: commencing at a point one hundred forty-seven and seven tenths (147.7) feet north of the southeast corner of the Northwest Quarter (NW¼) of said Section Thirty-six (36), which said point is in the north line of the land owned by Loren C. and Grace G. Blackburn; thence west along said Blackburn land one hundred thirty-two (132) feet; thence south along the west line of Blackburn land twenty-three and nine tenths (23.9) feet more or less to a point twenty-five (25) feet southwesterly from and measured radially to the located centerline of the main track of Chicago, Rock Island and Pacific Railroad Company's Earlham to Winterset line; thence Northwesterly along a six degree naught minute (6° 00') curve to the right twenty-five (25) feet southwesterly from measured radially to said main track centerline a distance of two hundred thirty-five (235) feet more or less to a point two hundred thirteen and seven tenths (213.7) feet morth and three hundred forty and eight tenths (340.8) feet east of the southeast corner of the Northwest Quarter (NW¼) of said Section Thirty-six (36); thence east parallel with and two hundred thirteen and seven tenths (213.7) feet north of the south line of the Northwest Quarter (NW¼) of said Section Thirty-six (36) to its intersection with the north and south centerline of Section Thirty-six (36); thence south along said north and south centerline of Section Thirty-six (36) a distance of sixty-six (66) feet to the point of beginning containing 0.37 acre.

Record owners Byron Garland and Iva Garland.

The interest to be taken in the property is a permanent and perpetual easement for railroad purposes as provided by the statutes of the State of Iowa.

You are hereby notified that you may, within twenty (20) days after service of this

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

Notice upon you, serve upon Plaintiff's Attorneys, whose names and addresses are hereinafter set forth, your Answer to the Complaint and a failure on your part so to serve an Answer constitutes a consent to the taking and to the authority of the Court to proceed to hear the action and to fix the compensation to which you, as owner of the property, are entitled.

All of which you will take due notice and govern yourselves accordingly.

A. B. Howland
A. B. Howland
J. H. Martin
J. H. Martin
B. A. Webster, Jr.
B. A. Webster, Jr.
500 Bankers Trust Building
Des Moines, Iowa
ATTORNEYS FOR PLAINTIFF.

Department of Justice
UNITED STATES MARSHAL Southern District of Iowa
Des Moines, Iowa
November 18, 1957

MARSHAL'S RETURN

I hereby certify and return that I served this writ on the within named Byron Garland and Iva Garland, Madison County, Iowa, by delivering to each of them, in person, a copy thereof, on the 16th day of November, 1957, and at the same time informed them of the contents thereof. Service made in connection with Parcel #7 attached hereto.

Fees $4.00 Travel

/s/ Roland A. Walter
Roland A. Walter
U. S. Marshal

I further certify and return that I served this writ on the within named Farmers and Merchants State Bank, Winterset, Iowa, by delivering a copy thereof to the Bank President Mr. Kelly in person, on the 16th day of Nov. 1957, and at the same time informed him of the contents thereof. Service made in connection Parcel #7 attached hereto.

/s/ Roland A. Walter
Roland A. Walter
U. S. Marshal

Fees $2.00

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA - CENTRAL DIVISION -

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff,
vs.

Twelve (12) parcels of real estate located in Madison County, Iowa, and the record owners thereof, which parcels consist of strips of land of varying widths and which are generally designated as follows:

PARCEL 1. A strip of land containing 2.98 acres 100 feet in width located in the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Eugene C. Binns, Earlham, Iowa.

PARCEL 2. A strip of land 100 feet and 150 feet in width located in the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) in Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Leonard Binns, Earlham, Iowa.

PARCEL 3. A strip of land 100 feet in width and 150 feet in width comprising part of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Three (3) and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also two triangular parcels of land in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of said Section Three (3) and an easement across portions of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Ten (10) for purposes of constructing and maintaining a channel thereon, owned by Geraldine McDonald, Cyrus Bert McDonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald, all of Winterset, Iowa, and Delpha Delores McDonald of Des Moines, Iowa,

PARCEL 4. A strip of land 100, 150 and 200 feet in width in the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) and the East Half (E½) of the Southeast Quarter (SE¼) in Section Ten (10), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99087

Principal Meridian, owned by Kenneth Olsen of Winterset, Iowa.

PARCEL 5. A strip of land 100 and 150 feet in width in the West Half (W½) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, and the right to construct and maintain a channel on a strip of land fifty (50) feet in width in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township and Range aforesaid, which lands are owned by Carl J. Phearman and Bernice M. Phearman, his wife, of Winterset, Iowa.

PARCEL 6. A strip of land 100 feet in width and in part 150 feet in width through the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also a triangular parcel of land west of and adjoining the 100 foot strip in said Northwest Quarter (NW¼) in Section, Township and Range aforesaid; also an irregular parcel of land owned by William A. Busch and Mary Alice Busch, his wife, of Winterset, Iowa.

PARCEL 7. An irregular parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian containing naught point thirty seven hundredths (0.37) acre, owned by Byron Garland and Iva Garland, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 8. The North thirty-four (N34) feet of Lot five (5), Block five (5), of A. B. Shriver's Addition to the City of Winterset owned by Melvin Macrander and Norma L. Macrander, as joint tenants, of Winterset, Iowa.

PARCEL 9. The North thirty-four (N34) feet of Lots six (6) and seven (7) in Block five (5) of A. B. Shriver's Addition to the City of Winterset, owned by Lowell J. Olsen and Velma M. Olsen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 10. The North thirty-four (N34) feet of Lot eight (8), Block five (5), A. B. Shriver's Addition to the City of Winterset, Iowa, owned by Edward V. Jensen and Maxine Jensen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 11. The North thirty-four (N34) feet of Lot five (5) and the West forty-nine (W49) feet of Lot six (6) of Shriver's addition to the City of Winterset, Iowa, owned by Ernest Stowell and Dorothy Stowell, husband and wife, as joint tenants, Winterset, Iowa.

PARCEL NO. 12. The North thirty-four (N34) feet of Lots seven (7) and eight (8) and the East seventeen (E17) feet of Lot Six (6), all in Block six (6) of A. B. Shriver's addition to the City of Winterset, owned by Nina Mable Hughes, Winterset, Iowa,

Defendants.

NOTICE TO DEFENDANTS

TO MELVIN MACRANDER AND NORMA L. MACRANDER, DEFENDANTS ABOVE NAMED, AND FARMERS AND MERCHANTS STATE BANK, HOLDER OF A LIEN ON PARCEL NO. 8, DESCRIBED IN THE CAPTION HEREOF:

You are hereby notified that there is now on file in the Office of the Clerk of the United States District Court, For the Southern District of Iowa, Central Division, at Des Moines, Iowa, the Complaint of Plaintiff in this action which is one to condemn property owned by you in Madison County, Iowa.

A description of the property owned by you which is to be taken is as follows:

> A strip of land 34 feet in width being the North 34 feet of Lot 5, Block 5, of A. B. Shrivers Addition to the City of Winterset, Madison County, Iowa, comprising approximately 2244 square feet.
>
> Record owners are Melvin Macrander and Norma L. Macrander.

The interest to be taken in the property is a permanent and perpetual easement for railroad purposes as provided by the statutes of the State of Iowa.

You are hereby notified that you may, within twenty (20) days after service of this Notice upon you, serve upon Plaintiff's Attorneys, whose names and addresses are hereinafter set forth, your Answer to the Complaint and a failure on your part so to serve an Answer constitutes a consent to the taking and to the authority of the Court to proceed

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

to hear the action and to fix the compensation to which you, as owner of the property, are entitled.

All of which you will take due notice and govern yourselves accordingly.

A. B. Howland
A. B. Howland
J. H. Martin
J. H. Martin
B. A. Webster, Jr.
B. A. Webster, Jr.
500 Bankers Trust Building
Des Moines, Iowa
ATTORNEYS FOR PLAINTIFF.

Department of Justice
UNITED STATES MARSHAL Southern District of Iowa
Des Moines, Iowa
Nov. 18, 1957

MARSHAL'S RETURN

I hereby certify and return that I served this writ on the within named Norma L. Macrander, Madison County, Iowa, by delivering a copy thereof to her in person on the 16th day of November, 1957 and at the same time informed her of the contents thereof. Service made in connection with Parcel #8 attached hereto.

I hereby certify and return that I served this writ on the within named Melvin Macrander, Madison County, Iowa, by delivering a true copy of this writ to Norma L. Macrander, wife of defendant Melvin Macrander at their usual place of abode in Madison County, Iowa, on the 16th day of November, 1957, and at the same time informed her of the contents thereof. Service made in connection with parcel #8 attached hereto.

I hereby certify and return that I served this writ on the within Farmers and Merchants State Bank, Winterset, Iowa, by delivering a copy thereof to the Bank President Mr. Kelly in person on the 16th day of Nov. 1957, and at the same time informed him of the contents thereof. Service made in connection with Parcel #8 attached hereto.

Fees $6.00 Travel

/s/ Roland A. Walter
Roland A. Walter
U. S. Marshal

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA - CENTRAL DIVISION -

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff
vs.

Twelve (12) parcels of real estate located in Madison County, Iowa, and the record owners thereof, which parcels consist of strips of land of varying widths and which are generally designated as follows:

PARCEL 1. A strip of land containing 2.98 acres 100 feet in width located in the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Eugene C. Binns, Earlham, Iowa.

PARCEL 2. A strip of land 100 feet and 150 feet in width located in the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) in Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Leonard Binns, Earlham, Iowa.

PARCEL 3. A strip of land 100 feet in width and 150 feet in width comprising part of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Three (3) and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also two triangular parcels of land in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of said Section Three (3) and an easement across portions of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Ten (10) for purposes of constructing and maintaining a channel thereon, owned by Geraldine McDonald, Cyrus Bert Mcdonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald, all of Winterset, Iowa, and Delpha Delores McDonald of Des Moines, Iowa,

PARCEL 4. A strip of land 100, 150 and 200 feet in width in the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) and the East Half (E½) of the Southeast Quarter (SE¼) in Section Ten (10), Township Seventy-

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Kenneth Olsen of Winterset, Iowa.

PARCEL 5. A strip of land 100 and 150 feet in width in the West Half (W½) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, and the right to construct and maintain a channel on a strip of land fifty (50) feet in width in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township and Range aforesaid, which lands are owned by Carl J. Phearman and Bernice M. Phearman, his wife, of Winterset, Iowa.

PARCEL 6. A strip of land 100 feet in width and in part 150 feet in width through the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also a triangular parcel of land west of and adjoining the 100 foot strip in said Northwest Quarter (NW¼) in Section, Township and Range aforesaid; also an irregular parcel of land owned by William A. Busch and Mary Alice Busch, his wife, of Winterset, Iowa.

PARCEL 7. An irregular parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian containing naught point thirty seven hundredths (0.37) acre, owned by Byron Garland and Iva Garland, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 8. The North thirty-four (N34) feet of Lot five (5), Block five (5), of A. B. Shriver's Addition to the City of Winterset owned by Melvin Macrander and Norma L. Macrander, as joint tenants, of Winterset, Iowa.

PARCEL 9. The North thirty-four (N34) feet of Lots six (6) and seven (7) in Block five (5) of A. B. Shriver's Addition to the City of Winterset, owned by Lowell J. Olsen and Velma M. Olsen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 10. The North thirty-four (N34) feet of Lot eight (8), Block five (5), A. B. Shriver's Addition to the City of Winterset, Iowa, owned by Edward V. Jensen and Maxine Jensen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 11. The North thirty-four (N34) feet of Lot five (5) and the West forty-nine (W49) feet of Lot six (6) of Shriver's addition to the City of Winterset, Iowa, owned by Ernest Stowell and Dorothy Stowell, husband and wife, as joint tenants, Winterset, Iowa.

PARCEL NO. 12. The North thirty-four (N34) feet of Lots seven (7) and eight (8) and the East seventeen (E17) feet of Lot six (6), all in Block six (6) of A. B. Shriver's addition to the City of Winterset, owned by Nina Mable Hughes, Winterset, Iowa,

Defendants.

NOTICE TO DEFENDANTS

TO LOWELL J. OLSON AND VELMA M. OLSON, DEFENDANTS ABOVE NAMED, AND NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY, HOLDER OF A LIEN ON PARCEL NO. 9 DESCRIBED IN THE CAPTION HEREOF:

You are hereby notified that there is now on file in the Office of the Clerk of the United States District Court, For the Southern District of Iowa, Central Division, at Des Moines, Iowa, the Complaint of Plaintiff in this action which is one to condemn property owned by you in Madison County, Iowa.

A description of the property owned by you which is to be taken is as follows:

The North 34 feet of Lots 6 and 7 in Block 5 of A. B. Shrivers Addition to the City of Winterset, Madison County, Iowa, comprising approximately 4488 square feet.

Record owners are Lowell J. Olson and Velma M. Olson.

The interest to be taken in the property is a permanent and perpetual easement for railroad purposes as provided by the statutes of the State of Iowa.

You are hereby notified that you may, within twenty (20) days after service of this Notice upon you, serve upon Plaintiff's Attorneys, whose names and addresses are hereinafter set forth, your Answer to the Complaint and a failure on your part so to serve an Answer constitutes a consent to the taking and to the authority of the Court to proceed to hear the action and to fix the compensation to which you, as owner of the property,

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

are entitled.

All of which you will take due notice and govern yourselves accordingly.

A. B. Howland
A. B. Howland
J. H. Martin
J. H. Martin
B. A. Webster, Jr.
B. A. Webster, Jr.
500 Bankers Trust Building
Des Moines, Iowa
ATTORNEYS FOR PLAINTIFF.

Department of Justice
UNITED STATES MARSHAL Southern District of Iowa
Des Moines, Iowa
Nov. 18, 1957

MARSHAL'S RETURN

I hereby certify and return that I served this writ on the within named Velma M. Olsen, Madison County, Iowa, on the 16th day of November, 1957, by delivering to her in person a copy thereof. At the same time informed her of the contents thereof. Service made in connection with parcel #9 attached thereto.

I hereby certify and return that I served this writ on the within named Lowell J. Olsen, Madison County, Iowa, on Nov. 16, 1957, by serving his wife Velma M. Olsen, at their usual place of abode. I delivered to her a copy thereof and at the same time informed her of the contents thereof. Service made in connection with Parcel #9 attached hereto.

Fees $4.00 Travel

/s/ Roland A. Walter
Roland A. Walter
U. S. Marshal

RETURN ON SERVICE OF WRIT

UNITED STATES OF AMERICA, :
So. District of Iowa. : SS:

I hereby certify and return that I served the annexed Notice on the therein-named The Northwestern Mutual Life Insurance Co. by handing to and leaving a true and correct copy thereof with James B. Smith, Reg. Manager, personally at 508 Insurance Exchange Bldg., at Des Moines, Iowa, in the said District at 3 P. M. on the 18th day of November, 1957.

ROLAND A. WALTER
United States Marshal
By /s/ Jack T. Pitt

Marshal's fees $2.00
Mileage 1.00
$3.00

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA - CENTRAL DIVISION -

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff,

vs.

Twelve (12) parcels of real estate located in Madison County, Iowa, and the record owners thereof, which parcels consist of strips of land of varying widths and which are generally designated as follows:

PARCEL 1. A strip of land containing 2.98 acres 100 feet in width located in the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Eugene C. Binns, Earlham, Iowa.

PARCEL 2. A strip of land 100 feet and 150 feet in width located in the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) in Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Leonard Binns, Earlham, Iowa.

PARCEL 3. A strip of land 100 feet in width and 150 feet in width comprising part of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Three (3) and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also two triangular parcels of land in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of said Section Three (3) and an easement across portions of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Ten (10) for purposes of constructing and maintaining a channel thereon, owned by Geraldine McDonald, Cyrus Bert McDonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald, all of Winterset, Iowa, and Delpha Delores McDonald of Des Moines, Iowa,

PARCEL 4. A strip of land 100, 150 and 200 feet in width in the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) and the East Half (E½) of the

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

Southeast Quarter (SE¼) in Section Ten (10), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Kenneth Olsen of Winterset, Iowa.

PARCEL 5. A strip of land 100 and 150 feet in width in the West Half (W½) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, and the right to construct and maintain a channel on a strip of land fifty (50) feet in width in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township and Range aforesaid, which lands are owned by Carl J. Phearman and Bernice M. Phearman, his wife, of Winterset, Iowa.

PARCEL 6. A strip of land 100 feet in width and in part 150 feet in width through the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also a triangular parcel of land west of and adjoining the 100 foot strip in said Northwest Quarter (NW¼) in Section, Township and Range aforesaid; also an irregular parcel of land owned by William A. Busch and Mary Alice Busch, his wife, of Winterset, Iowa.

PARCEL 7. An irregular parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian containing naught point thirty seven hundredths (0.37) acre, owned by Byron Garland and Iva Garland, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 8. The North thirty-four (N34) feet of Lot five (5), Block five (5), of A. B. Shriver's Addition to the City of Winterset owned by Melvin Macrander and Norma L. Macrander, as joint tenants, of Winterset, Iowa.

PARCEL 9. The North thirty-four (N34) feet of Lots six (6) and seven (7) in Block five (5) of A. B. Shriver's Addition to the City of Winterset, owned by Lowell J. Olsen and Velma M. Olsen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 10. The North thirty-four (N34) feet of Lot eight (8), Block five (5), A. B. Shriver's Addition to the City of Winterset, Iowa, owned by Edward V. Jensen and Maxine Jensen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 11. The North thirty-four (N34) feet of Lot five (5) and the West forty-nine (W49) feet of Lot six (6) of Shriver's addition to the City of Winterset, Iowa, owned by Ernest Stowell and Dorothy Stowell, husband and wife, as joint tenants, Winterset, Iowa.

PARCEL NO. 12. The North thirty-four (N34) feet of Lots seven (7) and eight (8) and the East seventeen (E17) feet of Lot six (6), all in Block six (6) of A. B. Shriver's addition to the City of Winterset, owned by Nina Mable Hughes, Winterset, Iowa

Defendants.

NOTICE TO DEFENDANTS

TO EDWARD V. JENSEN AND MAXINE JENSEN, DEFENDANTS ABOVE NAMED, AND FARMERS AND MERCHANTS STATE BANK, HOLDER OF A LIEN ON PARCEL NO. 10, DESCRIBED IN THE CAPTION HEREOF:

You are hereby notified that there is now on file in the Office of the Clerk of the United States District Court, For the Southern District of Iowa, Central Division, at Des Moines, Iowa, the Complaint of Plaintiff in this action which is one to condemn property owned by you in Madison County, Iowa.

A description of the property owned by you which is to be taken is as follows:

The North 34 feet of Lot 8, Block 5, A. B. Shrivers Addition to the City of Winterset, Madison County, Iowa, comprising approximately 2244 square feet.

Record owners are Edward V. Jensen and Maxine Jensen.

The interest to be taken in the property is a permanent and perpetual easement for railroad purposes as provided by the statutes of the State of Iowa.

You are hereby notified that you may, within twenty (20) days after service of this Notice upon you, serve upon Plaintiff's Attorneys, whose names and addresses are hereinafter set forth, your Answer to the Complaint and a failure on your part so to serve an Answer constitutes a consent to the taking and to the authority of the Court to proceed to hear the action and to fix the compensation to which you, as owner of the property, are entitled.

JENKINS-FERGEMANN CO., WATERLOO, IOWA—99067

All of which you will take due notice and govern yourselves accordingly.

A. B. Howland
A. B. Howland
J. H. Martin
J. H. Martin
B. A. Webster, Jr.
B. A. Webster, Jr.
500 Bankers Trust Building
Des Moines, Iowa
ATTORNEYS FOR PLAINTIFF.

Department of Justice
UNITED STATES MARSHAL Southern District of Iowa
Des Moines, Iowa
November 18, 1957

MARSHAL'S RETURN:

I hereby certify and return that I served this writ on the within named Maxine Jensen, Madison County, Iowa, by delivering a copy thereof to her in person on the 16th day of November, 1957, and at the same time informed her of the contents thereof. Service made in connection with Parcel #10 attached hereto.

I hereby certify and return that I served this writ on Edward V. Jensen, named within, by delivering to his wife Maxine Jensen, at their usual place of abode in Madison County, Iowa, a copy thereof on November 16, 1957 and at the same time informed her of the contents thereof. Service made in connection with Parcel #10 attached hereto.

Fees $4.00 Travel

/s/ Roland A. Walter
Roland A. Walter
U. S. Marshal

I further certify and return that I served this writ on the within Farmers and Merchants State Bank, Winterset, Iowa by delivering a copy thereof to the Bank President, Mr. Kelly in person on the 16th day of November, 1957, and at the same time informed him of the contents thereof. Service made in connection with Parcel #10 attached hereto.

/s/ Roland A. Walter
Roland A. Walter
U. S. Marshal

Fees $2.00

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA - CENTRAL DIVISION -

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff,
vs.

Twelve (12) parcels of real estate located in Madison County, Iowa, and the record owners thereof, which parcels consist of strips of land of varying widths and which are generally designated as follows:

PARCEL 1. A strip of land containing 2.98 acres 100 feet in width located in the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Eugene C. Binns, Earlham, Iowa.

PARCEL 2. A strip of land 100 feet and 150 feet in width located in the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) in Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Leonard Binns, Earlham, Iowa.

PARCEL 3. A strip of land 100 feet in width and 150 feet in width comprising part of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Three (3) and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also two triangular parcels of land in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of said Section Three (3) and an easement across portions of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Ten (10) for purposes of constructing and maintaining a channel thereon, owned by Geraldine McDonald, Cyrus Bert McDonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald, all of Winterset, Iowa, and Delpha Delores McDonald of Des Moines, Iowa,

PARCEL 4. A strip of land 100, 150 and 200 feet in width in the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) and the East Half (E½) of the Southeast Quarter (SE¼) in Section Ten (10), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Kenneth Olsen of Winterset, Iowa.

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

PARCEL 5. A strip of land 100 and 150 feet in width in the West Half (W½) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, and the right to construct and maintain a channel on a strip of land fifty (50) feet in width in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township and Range aforesaid, which lands are owned by Carl J. Phearman and Bernice M. Phearman, his wife, of Winterset, Iowa.

PARCEL 6. A strip of land 100 feet in width and in part 150 feet in width through the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also a triangular parcel of land west of and adjoining the 100 foot strip in said Northwest Quarter (NW¼) in Section, Township and Range aforesaid; also an irregular parcel of land owned by William A. Busch and Mary Alice Busch, his wife, of Winterset, Iowa.

PARCEL 7. An irregular parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian containing naught point thirty seven hundredths (0.37) acre, owned by Byron Garland and Iva Garland, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 8. The North thirty-four (N34) feet of Lot five (5), Block five (5), of A. B. Shriver's Addition to the City of Winterset owned by Melvin Macrander and Norma L. Macrander, as joint tenants, of Winterset, Iowa.

PARCEL 9. The North thirty-four (N34) feet of Lots six (6) and seven (7) in Block five (5) of A. B. Shriver's Addition to the City of Winterset, owned by Lowell J. Olsen and Velma M. Olsen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 10. The North thirty-four (N34) feet of Lot eight (8), Block five (5), A. B. Shriver's Addition to the City of Winterset, Iowa, owned by Edward V. Jensen and Maxine Jensen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 11. The North thirty-four (N34) feet of Lot five (5) and the West forty-nine (W49) feet of Lot six (6) of Shriver's addition to the City of Winterset, Iowa, owned by Ernest Stowell and Dorothy Stowell, husband and wife, as joint tenants, Winterset, Iowa.

PARCEL NO. 12. The North thirty-four (N34) feet of Lots seven (7) and eight (8) and the East seventeen (E17) feet of Lot six (6), all in Block six (6) of A. B. Shriver's addition to the City of Winterset, owned by Nina Mable Hughes, Winterset, Iowa,

Defendants.

NOTICE TO DEFENDANTS

TO ERNEST STOWELL AND DOROTHY STOWELL, DEFENDANTS ABOVE NAMED AND OWNERS OF PARCEL NO. 11 DESCRIBED IN THE CAPTION HEREOF:

You are hereby notified that there is now on file in the Office of the Clerk of the United States District Court, For the Southern District of Iowa, Central Division, at Des Moines, Iowa, the Complaint of Plaintiff in this action which is one to condemn property owned by you in Madison County, Iowa.

A description of the property owned by you which is to be taken is as follows:

The North 34 feet of Lot 5, and the North 34 feet of the West 49 feet of Lot 6, all in Block 6, of Shrivers Addition to the City of Winterset, Madison County, Iowa, comprising approximately 3910 square feet.

Record owners are Ernest Stowell and Dorothy Stowell.

The interest to be taken in the property is a permanent and perpetual easement for railroad purposes as provided by the statutes of the State of Iowa.

You are hereby notified that you may, within twenty (20) days after service of this Notice upon you, serve upon Plaintiff's Attorneys, whose names and addresses are hereinafter set forth, your Answer to the Complaint and a failure on your part so to serve an Answer constitutes a consent to the taking and to the authority of the Court to proceed to hear the action and to fix the compensation to which you, as owner of the property, are entitled.

All of which you will take due notice and govern yourselves accordingly.

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

A. B. Howland
A. B. Howland
J. H. Martin
J. H. Martin
B. A. Webster, Jr.
B. A. Webster, Jr.
500 Bankers Trust Building
Des Moines, Iowa
ATTORNEYS FOR PLAINTIFF.

Department of Justice
UNITED STATES MARSHAL Southern District of Iowa
Des Moines, Iowa
November 18, 1957

MARSHAL'S RETURN

I hereby certify and return that I served this writ on the within named Ernest Stowell, Madison County, Iowa, by delivering a copy thereof to him in person on the 16th day of November, 1957 and at the same time informed him of the contents thereof. Service made in connection with Parcel #11, attached hereto.

I hereby certify and return that I served this writ on the within named Dorothy Stowell by serving her husband in Madison County, Iowa on November 16, 1957. I delivered to him a copy thereof and at the same time informed him of the contents thereof. Service made in connection with Parcel #11.

Fees $4.00 Travel

/s/ Roland A. Walter
Roland A. Walter
U. S. Marshal

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA - CENTRAL DIVISION -

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff

vs.

Twelve (12) parcels of real estate located in Madison County, Iowa, and the record owners thereof, which parcels consist of strips of land of varying widths and which are generally designated as follows:

PARCEL 1. A strip of land containing 2.98 acres 100 feet in width located in the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Eugene C. Binns, Earlham, Iowa.

PARCEL 2. A strip of land 100 feet and 150 feet in width located in the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) in Section Three (3), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Leonard Binns, Earlham, Iowa.

PARCEL 3. A strip of land 100 feet in width and 150 feet in width comprising part of the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of Section Three (3) and the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of Section Ten (10), all in Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian; also two triangular parcels of land in the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of said Section Three (3) and an easement across portions of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) of Section Ten (10) for purposes of constructing and maintaining a channel thereon, owned by Geraldine McDonald, Cyrus Bert McDonald, Teressa McDonald, Frank Arnold McDonald, Nancy Grace McDonald, Dennis David McDonald, Clark Joseph McDonald, all of Winterset, Iowa, and Delpha Delores McDonald of Des Moines, Iowa,

PARCEL 4. A strip of land 100, 150 and 200 feet in width in the East Half (E½) of the Southeast Quarter (SE¼) of the Northeast Quarter (NE¼) and the East Half (E½) of the Southeast Quarter (SE¼) in Section Ten (10), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, owned by Kenneth Olsen of Winterset, Iowa.

PARCEL 5. A strip of land 100 and 150 feet in width in the West Half (W½) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian, and the right to construct and maintain a channel on a strip of land fifty (50) feet in width in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section Twenty-three (23), Township and Range aforesaid, which lands are owned by Carl J. Phearman and Bernice M. Phearman, his wife, of Winterset, Iowa.

PARCEL 6. A strip of land 100 feet in width and in part 150 feet in width through the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North,

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99087

Range Twenty-eight (28) West of the Fifth Principal Meridian; also a triangular parcel of land west of and adjoining the 100 foot strip in said Northwest Quarter (NW¼) in Section, Township and Range aforesaid; also an irregular parcel of land owned by William A. Busch and Mary Alice Busch, his wife, of Winterset, Iowa.

PARCEL 7. An irregular parcel of land located in the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the Fifth Principal Meridian containing naught point thirty seven hundredths (0.37) acre, owned by Byron Garland and Iva Garland, husband, and wife, as joint tenants, of Winterset, Iowa.

PARCEL 8. The North thirty-four (N34) feet of Lot five (5), Block five (5), of A. B. Shriver's Addition to the City of Winterset owned by Melvin Macrander and Norma L. Macrander, as joint tenants, of Winterset, Iowa.

PARCEL 9. The North thirty-four (N34) feet of Lots six (6) and seven (7) in Block five (5) of A. B. Shriver's Addition to the City of Winterset, owned by Lowell J. Olsen and Velma M. Olsen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 10. The North thirty-four (N34) feet of Lot eight (8), Block five (5), A. B. Shriver's Addition to the City of Winterset, Iowa, owned by Edward V. Jensen and Maxine Jensen, husband and wife, as joint tenants, of Winterset, Iowa.

PARCEL 11. The North thirty-four (N34) feet of Lot five (5) and the West forty-nine (W49) feet of Lot six (6) of Shriver's addition to the City of Winterset, Iowa, owned by Ernest Stowell and Dorothy Stowell, husband and wife, as joint tenants, Winterset, Iowa.

PARCEL NO. 12. The North thirty-four (N34) feet of Lots seven (7) and eight (8) and the East seventeen (E17) feet of Lot six (6), all in Block six (6) of A. B. Shriver's addition to the City of Winterset, owned by Nina Mable Hughes, Winterset, Iowa,

Defendants.

NOTICE TO DEFENDANTS

TO NINA MABLE HUGHES, DEFENDANT ABOVE NAMED, AND OWNER OF PARCEL NO. 12 DESCRIBED IN THE CAPTION HEREOF:

You are hereby notified that there is now on file in the Office of the Clerk of the United States District Court, For the Southern District of Iowa, Central Division, at Des Moines, Iowa, the Complaint of Plaintiff in this action which is one to condemn property owned by you in Madison County, Iowa.

A description of the property owned by you which is to be taken is as follows:

The North 34 feet of the East 17 feet of Lot 6, and the North 34 feet of Lots 7 and 8, all in Block 6 of A. B. Shrivers Addition to the City of Winterset, Madison County, Iowa, comprising 4986 square feet.

Record owner is Nina Mable Hughes.

The interest to be taken in the property is a permanent and perpetual easement for railroad purposes as provided by the statutes of the State Of Iowa.

You are hereby notified that you may, within twenty (20) days after service of this Notice upon you, serve upon Plaintiff's Attorneys, whose names and addresses are hereinafter set forth, your Answer to the Complaint and a failure on your part so to serve an Answer constitutes a consent to the taking and to the authority of the Court to proceed to hear the action and to fix the compensation to which you, as owner of the property, are entitled.

All of which you will take due notice and govern yourself accordingly.

A. B. Howland
A. B. Howland
J. H. Martin
J. H. Martin
B. A. Webster, Jr.
B. A. Webster, Jr.
500 Bankers Trust Building
Des Moines, Iowa
ATTORNEYS FOR PLAINTIFF.

JENKINS-FERGEMANN CO., WATERLOO, IOWA—99067

Department of Justice
UNITED STATES MARSHAL Southern District of Iowa
Des Moines, Iowa
Nov. 18. 1957

MARSHAL'S RETURN

I hereby certify and return that I served this writ on the within named Nina Mabel Hughes, Madison County, Iowa, by delivering a copy thereof to her in person on the 16th day of November, 1957 and at the same time informed her of the contents thereof. Service made in connection with Parcel #12 attached hereto.

Fees $2.00 Travel

/s/ Roland A. Walter
Roland A. Walter
U. S. Marshal

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA - CENTRAL DIVISION -

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff
vs.
Ten (10) Parcels of Real Estate Located in Madison County, Iowa, and the record owners thereof, et al., Defendants.

No. 3-841 Civil

AMENDMENT TO COMPLAINT

Filed Jan. 24, 1958
U.S. DISTRICT COURT
SO. DIST. OF IOWA

COMES NOW the Plaintiff, Chicago, Rock Island and Pacific Railroad Company, and hereby amends its Complaint by changing the form of the caption as above indicated and by striking from the caption Parcel No. 1 and Parcel No. 2 and by striking from paragraph four (4), Parcel No. 1 and Parcel No. 2, and as grounds for such Amendment states and shows the Court that the Plaintiff's controversy with Eugene C. Binns and Lenard Binns has been fully settled out of Court.

Dated this 23 day of January, 1958.

/s/ A. B. Howland
A. B. Howland
/s/ B. A. Webster, Jr.
B. A. Webster, Jr.
500 Bankers Trust Building
Des Moines, Iowa
ATTORNEYS FOR PLAINTIFF.

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA CENTRAL DIVISION

CHICAGO, ROCK ISLAND and PACIFIC RAILROAD COMPANY, Plaintiff
vs.
TEN (10) PARCELS OF REAL ESTATE LOCATED IN MADISON COUNTY, IOWA, and the RECORD OWNERS THEREOF, etc., Defendants

Civil Action No. 3-841

Filed Jan 28, 1958
U.S. DISTRICT COURT
SO. DIST. OF IOWA

CORRECTED MEMORANDUM OPINION
and
ORDER OVERRULING MOTIONS TO DISMISS

On November 15, 1957, plaintiff, Chicago, Rock Island & Pacific Railroad filed in the office of the Clerk of this Court its complaint, in which it seeks to condemn certain parcels of real estate located in Madison County, Iowa, for railroad purposes.

The complaint alleges all requisite jurisdictional facts, including diversity of citizenship, jurisdictional amount, and compliance with Iowa statutes as to the issuance of certificates authorizing condemnation proceedings, by the Iowa State Commerce Commission. The complaint also complies with the provisions of Rule 71A, Federal Rules of Civil Procedure.

To this petition certain of the defendants, claiming to be record owners of some of the parcels of real estate, have filed motions to dismiss the proceedings, in which they challenge the jurisdiction of this Court over the subject matter. (Since the submission of this case, two owners of the tracts of land have settled with the railroad.) Their motions are based on the following contentions:

a. That Section 1332 of Title 28, U.S.C.A., provides that the District Courts shall have original jurisdiction of all civil actions wherein the controversy exceeds the sum of $3,000 and there is diversity of citizenship, but they aver this proceeding is not a civil action as contemplated in the statute.

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

b. That by virtue of Section 1441 of Title 28, U.S.C.A., jurisdiction can be obtained by removal proceedings from the State court of Iowa, but that this case would not be removable at this stage of the proceedings because it is not a civil action, and that the law requires that it proceed beyond a point at which it consists of an administrative proceeding or "inquest," in the manner prescribed by the State laws of Iowa, before it can be transferred to the Federal court. Plaintiff is proceeding upon the theory that it has an express right to bring this action under the provisions of Section 1332. Defendants charge that plaintiff is seeking to acquire jurisdiction under Rule 71A, and claim that plaintiff's attempt to bring the action is in violation of Rule 82 of the Federal Rules of Civil Procedure, which provides that:

> "These rules shall not be construed to extend or limit the jurisdiction of the United States district courts or the venue of actions therein."

In other words, defendants interpret Rule 71A as being of itself a vehicle which is used to acquire jurisdiction.

It is conceded that the proceedings under which the railroad company is attempting to take the real estate arise by virtue of the eminent domain proceedings of the State. This statute, however, by Section 471.6 of the Code of Iowa specifically grants the right of eminent domain to a railway. Defendants further take the position that the condemnation proceedings under the Code of Iowa are a mandatory condition which is attached to the right of condemnation. In other words, they claim that if the railway company is to condemn under the Iowa law it must therefore follow the Iowa statutory proceedings strictly, which provide for the appointment of a commission of six freeholders of the county to assess damages, and generally lays out the duties and further procedures of the commission. It has been frequently held that this procedure is not a judicial proceeding nor a civil action, and that in fact it does not become a suit of a civil nature until it has been appealed to the State District Court of Iowa and thereby becomes removable to the Federal court.

Defendants cite and rely upon the early Iowa decision of Cole v. City of Muscatine, 14 Iowa 296 (1862). This was a proceeding under which a plaintiff sought damages done by the City of Muscatine for digging up and carrying away the earth from the street in front of their property, which was done by the City under its power to establish and alter the grades of streets. The statutory law under which the City acted provided a specific manner in which the damages should be ascertained by a commission, and as a result thereof the Supreme Court of Iowa held that the property owner who was damaged, could not claim the remedy which was afforded by the law and reject the mode therein pointed out for obtaining such redress. The opinion quoted a former opinion, which said:

> "'the well known principle applies, that where a statute gives a right and creates a liability which did not exist at common law, and the statute at the same time provides a specific mode in which such right shall be asserted and liability ascertained, that mode and that alone must be pursued.'"

Defendants interpret this to mean that if the railroad company condems under Iowa law it must be limited to following the specific procedure set out by the Iowa statutes. But it is of course fundamental that no state statute can confer jurisdiction upon a Federal court, and equally fundamental that the mere procedural statutes of a state may not limit the jurisdiction conferred on Federal courts by the Constitution and laws of the United States. These propositions are too well settled to require extensive citation of authority, but see Penn. Casualty Co. v. Pennsylvania, 294 U.S. 189, 79 L. Ed. 850.

Plaintiff has had previous experience in this Court as a condemnor. This arose most recently in the case of Chicago, R. I. & P. R. Co. v. Stude, 346 U.S. 574, 98 L. Ed. 317, 74 S. Ct. 290, and in allied cases. The railroad initiated its condemnation proceeding

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

by making application to the Sheriff of Pottawattamie County, Iowa, pursuant to Iowa statutes (Chapter 472 Code of Iowa 1954). There were actually two courses followed thereafter:

1. Awards were made to the landowners and the railroad then sought to appeal directly to the Federal court.

2. An appeal also was taken to the State court pursuant to the statutory Iowa proceedings, and the railroad attempted to remove the causes to Federal court as a defendant in a civil action. Thus, the railroad company actually was attempting to enter the jurisdiction of this Court astride two horses--one attempt being to appeal directly into the Court from a State administratrive proceeding, and the other being an attempt to remove by the defendant from civil court proceedings. The railway failed to hit the door on either horse.

My predecessor, the late Honorable William F. Riley, dismissed the complaint of the railroad company on its first contention; that is to say, its attempt to appeal to the Federal court, in the following language, Chicago, R. I. & P. R. Co. v. Kay, 107 F. Supp. 895, p.902:

> "There is nothing in the Iowa or the Federal statutes, or in the adjudicated cases that we have found, or in Rule 71A, which permits a condemnor to bring the commissioners' award directly to this court for review. . . . . Therefore, the motions to dismiss the complaints. . . . . will be sustained."

However, he sustained the right of the railroad company to remove the proceedings from the State court. In this respect, he said, p. 904:

> "The right to remove proceedings to this court applies to actions which could have been brought in this court in the first instance."
>
> "An action to condemn land is a civil action within the meaning of this section and may be brought in the federal court of the district in which the land lies. Franzen v. Chicago M. & St. P. Ry. Co., 7 Cir., 278 F. 370; Boom Co. v. Patterson, 8 Otto 403, 98 U.S. 403, 25 L. Ed. 206. . . . . .
>
> "The effect of the rule therefore, as I interpret it, is to provide for a condemnor undertaking to exercise the power of eminent domain under the law of a state, the means to proceed in this court in the first instance if jurisdiction resides here under Sec. 1332, Tit. 28, U.S.C. To hold otherwise would have the effect of depriving a citizen of another state of rights conferred upon him by Sec. 1332 to commence an action here. It would be equivalent to amending Sec. 1332 by inserting what we have italicized so that it would read thus: 'The district courts shall have original jurisdiction of all civil suits except those involving the exercise of the power of eminent domain (italics) where the matter in controversy exceeds the sum or value of $3,000, exclusive of interest and costs, and is between: (1) Citizens of different states.'
>
> . . . . ."One having the right to come here initially in condemnation proceedings surely cannot go partly down the road of the state procedure and then cut across from the sheriff's commissioners' award to this court. There is no such path defined."

The Court of Appeals, Chicago, R. I. & P. R. Co. v. Stude, 204 F. 2d 116, affirmed the lower court in its decision on point 1, that there was no right of appeal to Federal court from the commissioners' award for damages, but reversed Judge Riley by holding that the railroad company was not a defendant within the meaning of the removal statute and could not therefore remove the appeal of the condemnation proceedings from State court into Federal court. In its holding, however, the Court said:

> "The question of whether the Rock Island could have initiated the proceedings in the United States District Court is not before us for the simple reason that it did not do so and hence the propriety of such action is not presented. We express no opinion on that subject."

Further, on rehearing before the Circuit Court of Appeals, 204 F. 2d 954, the Court reviewed its decision and compared the result thereof with the case of Burford v. Sun Oil Co., 319 U.S. 315, 63 S. Ct. 1098, 87 L. Ed. 1424, in which case the Court observed that condemnor had commenced his original proceeding in the Federal court, and also

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

observed that the condemnor in the Stude case did not do so, for which reason the C.R.I. & P. Railroad complaint could not be treated as having created an original action in the Federal court. It reiterated the statement, however, that the Iowa Legislature could not restrict or enlarge jurisdiction of the Federal court by procedural statute. It added by saying: "It may well be that if this action had been commenced in the United States District Court, that court would have had jurisdiction."

The Supreme Court of the United States, Chicago, R. I. & P. R. Co. v. Stude, supra, affirmed the judgment of the Court of Appeals, and it is significant that the dissenting opinions indicate approval of Judge Riley's statement above quoted; while the majority opinion noted:

> "The Federal Rules of Civil Procedure do have elaborate provision for procedure in the federal court in condemnation proceedings. It is obvious that the petitioner was not proceeding under these Rules. Whether it could so proceed as an original action in the United States District Court for the Southern District of Iowa is not before us."

Mr. Justice Black in his dissenting opinion said: "I think the railroad has a right to have its case tried in the United States District Court." Mr. Justice Frankfurter, also dissenting, states:

> "If the Rock Island had decided to initiate this suit in the United States District Court for the Southern District of Iowa, as it was unquestionably entitled to do since there was diversity of citizenship, Madisonville Traction Co. v. Mining Co., 196 U.S. 239, the procedure defined by the Iowa Code would, under Rule 71A(k) of the Rules of Civil Procedure, have had to be followed."

We hold that Rule 71A neither creates any substantive rights nor enlarges the jurisdiction of the court, but merely that it prescribed a procedure to be followed where Federal jurisdictional requirements are already present. To otherwise hold by sustaining defendants' motions to dismiss, would mean that we would effectually deprive the plaintiff of its well established right to invoke the jurisdiction of a Federal court in a civil action where diversity of citizenship and jurisdictional requirements were present.

The decisions in the Stude case in the Court of Appeals and in the Supreme Court of the United States make it plain that if the condemnor were here to initiate its condemnation proceeding in Madison County under State law, it could not thereafter proceed in the United States District Court either as a plaintiff, or as a defendant by removal proceedings. It has followed the only method by which it can avail itself of its right to trial in Federal court.

Rule 71A makes no provision for the filing of motions to dismiss. It requires a landlowner to serve his answer to the complaint upon condemnor's counsel within twenty days after service of the notice.

In this case, however, no question has been raised as to the right of the landowners to file motions to dismiss. It has been done by raising the jurisdictional question. The Rule contemplates that all defenses shall be raised in a single pleading, and that the court shall promptly dispose of the matter. The Clerk will accordingly enter the following

O R D E R

IT IS HEREBY ORDERED that the motions to dismiss filed on behalf of the landowners be, and the same are, overruled.

IT IS FURTHER ORDERED that the defendants shall serve plaintiff's counsel within ten days after the date of this order with their answers to the complaint, setting up any defenses which they may assert in the condemnation proceedings.

Dated and Signed at Des Moines, Iowa, this 28th day of January, 1958.

/s/ Edwin R. Hicklin
UNITED STATES DISTRICT JUDGE

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA CENTRAL DIVISION

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff,
vs.
Twelve (12) parcels of real estate located in Madison County, Iowa, and the record owners thereof, et al., Defendants.

No. 3-841 Civil

ANSWER OF DEFENDANTS

Filed Feb. 4, 1958
U.S. DISTRICT COURT
SO. DIST. OF IOWA

Come now all of the defendants in the above entitled cause, except the owners of parcels No. 1 and No. 2, and for answer to the complaint of plaintiff state:

FIRST DEFENSE

This Court is without jurisdiction because the Iowa statutes require as a condition precedent to the bringing of a civil action an administrative proceeding, whereby the sheriff upon application of condemnor appoints a commission to assess the damages, and the proceeding before the sheriff is administrative, and there can be no "civil action" pending before the courts until the statutory conditions precedent have been complied with, pursuant to Chapter 472 of the Code of Iowa, 1954.

SECOND DEFENSE

The complaint of plaintiff is not a "civil action" within the requirements of 28 USCA 1332(a), and this Court does not have jurisdiction.

THIRD DEFENSE

Under the Iowa statutes, there can be no "civil action" in a condemnation proceeding until after the commissioners appointed by the sheriff have made final appraisement of the damages and the assessment has been appealed, and, therefore, this Court is without jurisdiction.

FOURTH DEFENSE

There can be no "case or controversy" between plaintiff and the defendants under Chapter 472 Code of Iowa 1954 until six commissioners appointed by the sheriff have returned an appraisement of damages and an appeal has been made therefrom, and, therefore, this Court is without jurisdiction.

FIFTH DEFENSE

Appraisement by a commission appointed by the sheriff is not a suit at law, there being no hearing and evidence introduced, but is rather in the nature of an inquest to ascertain the value of the land, and, therefore, this Court is without jurisdiction.

SIXTH DEFENSE

This Court is without jurisdiction to appoint a commission to ascertain the value of the land, for under Iowa statutes only an applicant for condemnation can initiate an application with the sheriff of the county within which the land sought to be condemned is located and the initiation of an application to ascertain the value of the land is not a "civil action", and, therefore, this Court has no jurisdiction.

SEVENTH DEFENSE

This Court is without jurisdiction to appoint a commission to ascertain the value of the land, for under Iowa statutes only an applicant for condemnation can initiate an application with the sheriff of the county within which the land sought to be condemned is located and the initiation of an application to ascertain the value of the land is not a "case or controversy", and, therefore, this Court has no jurisdiction.

EIGHTH DEFENSE

This Court is without jurisdiction for the reason that the power of eminent domain is granted to a railroad only by filing its application with the sheriff of the county in which the land sought to be condemned is located and said law contains no provision authorizing the United States District Court to be an applicant or initiate or authorize

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

any other party to initiate a condemnation proceedings.

NINTH DEFENSE

This Court is without jurisdiction because a proceeding for condemnation before a sheriff's jury under the Iowa statutes is a condition precedent and a prerequisite to jurisdiction of any court, state or federal.

TENTH DEFENSE

The Court is without jurisdiction because no right of eminent domain exists or can be exercised except in strict accordance with the Iowa statutes granting such right.

ELEVENTH DEFENSE

The Court is without jurisdiction because thereis no federal statute which grants to a railroad the right of eminent domain.

TWELFTH DEFENSE

The Court is without jurisdiction for the reason that Rule 71A(k) is not a legislative act and the court cannot by rule grant to plaintiff the right of eminent domain which exists in favor of a railroad only by statute and plaintiff must strictly follow the provisions of said statute to avail itself of such right.

THIRTEENTH DEFENSE

The Court is without jurisdiction for the reason that under the statutes of Iowa in a condemnation proceeding the only way in which any party so such proceedings before the sheriff can get into court is by appeal under Section 472.18 of the Code of Iowa, 1954, and said appeal can be only to the District Court of the State of Iowa and said appeal can be removed to the United States District Court only if the requisite facts exist and a railroad can remove said proceedings only in the event it is a defendant in said proceedings.

FOURTEENTH DEFENSE

This Court is without jurisdiction because the applicant for condemnation, under Iowa statutes, must exhaust its administrative remedy and plaintiff has failed to follow the requisite conditions precedent to bringing a civil action in that plaintiff has not initiated with the sheriff of Madison County an application for condemnation.

FIFTEENTH DEFENSE

This Court is without jurisdiction for the reason that the requisites for jurisdiction under the United States statutes conferring jurisdiction based upon diversity of citizenship are absent.

SIXTEENTH DEFENSE

The complaint of plaintiff should be dismissed because it fails to state a claim against each of said defendants upon which relief can be granted under the applicable Iowa statutes.

SEVENTEENTH DEFENSE

Until plaintiff has followed the necessary statutory conditions precedent in a condemnation proceeding, there can be no jurisdiction of any court.

EIGHTEENTH DEFENSE

1. These defendants specifically deny each and every allegation of the complaint ofplaintiff which is not hereafter specifically admitted.

2. These defendants admit the allegations of paragraphs 1 and 2 of the complaint of plaintiff.

3. For answer to the allegations in paragraph 3 of the complaint, these defendants admit that plaintiff "by virtue of the statutes of Iowa is authorized to acquire real estate necessary for the construction, operation and maintenance of its line of railroad," as statedin paragraph 3 of said complaint. These defendants admit the additional

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

allegations of said paragraph 3 and further state that the authorization by the Iowa State Commerce Commission of plaintiff to "acquire by process of eminent domain" the parcels of land herein involved is an authorization only to acquire under the method authorized by Iowa statutes, and these defendants specifically deny that said authorization of the Iowa State Commerce Commission authorizes condemnation of land in the manner plaintiff seeks in this law suit.

4. These defendants admit the allegations of paragraphs 4 and 5 of the complaint of plaintiff.

5. For answer to paragraph 6 of the complaint, these defendants admit that plaintiff has served purported notices under Rule 71A, Federal Rules of Civil Procedure, but these defendants specifically deny that this Court has jurisdiction under Rule 71A, Federal Rules of Civil Procedure.

6. For answer to paragraph 7 of the complaint, these defendants admit that there is diversity of citizenship and that the value of each parcel of land plaintiff seeks to acquire exceeds $3,000.00, but these defendants specifically deny that there is any case or controversy existing at this time.

WHEREFORE, these defendants pray that the complaint of plaintiff be dismissed at plaintiff's costs.

/s/ Shirley A. Webster
Shirley A. Webster

/s/ Robert O. Frederick
Robert O. Frederick

/s/ Jno. N. Hartley
John N. Hartley

/s/ Daniel J. Gallery
Daniel J. Gallery
Winterset, Iowa

/s/ Allan A. Herrick
Allan A. Herrick

/s/ Herschel G. Langdon
Herschel G. Langdon

/s/ David W. Belin
David W. Belin
501 Iowa-Des Moines Bank Bldg.
Des Moines, Iowa

Attorneys for Defendants Above Named.

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA CENTRAL DIVISION

Filed Feb. 8, 1958
U.S. DISTRICT COURT
SO. DIST. OF IOWA

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff, No. 3-841 Civil

vs.

Twelve (12) Parcels of Real Estate Located in Madison County, Iowa, and the record owners thereof, et al., Defendants.

MOTION OF PLAINTIFF FOR AN ORDER DIRECTING THE IMPANELLING OF A SHERIFF'S COMMISSION DIRECTING THE MANNER AND METHOD OF SELECTING THE COMMISSION, THE PROCEDURE TO BE FOLLOWED IN APPRAISING THE DAMAGES TO THE LANDS OF THE OWNERS OF THE PARCELS OF REAL ESTATE DESCRIBED IN PLAINTIFF'S COMPLAINT PROVIDING MANNER AND METHOD OF REVIEWING THE AWARDS MADE BY THE COMMISSIONERS AND FOR THE FURTHER PROCEEDINGS TO BE TAKEN BY ANY OTHER PARTY AGGRIEVED BY ANY AWARD.

COMES NOW Plaintiff and states and shows to the Court by the Answer of the Defendants filed herein, said Defendants attack only the jurisdiction of this Court, an issue which has been heretofore fully determined by the Order of this Court dated January 28, 1958, in which Motions to Dismiss interposed by the land owners were overruled by the Court and no issue of fact is presented by the Answer of Defendants, but only legal questions of law already determined by the Court.

Plaintiff moves the Court to enter an Order in conformity with the provisions of Rule 71A, Federal Rules of Civil Procedure, and by said Order to specifically provide for each and all of the following matters, to-wit:

A. The appointment of Commissioners to appraise the damages to the parcels of land involved in this proceeding by reason of the taking of the real estate sought to be condemned and described in Plaintiff's Complaint.

B. The method in which the commissioners shall qualify for performance of their duties.

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

C. The compensation to which such commissioners shall be entitled.

D. The manner and method of fixing the times and places when the Commission will view the premises and the notices of such time and place to be given to the land owners.

E. The manner and method of the awards of damages and the requirements thereof to be observed by the Commissioners.

F. The time when following the appraisal of damages the condemnor shall be entitled to take possession of the real estate to be condemned and the security to be furnished by Plaintiff for payment of the damages so awarded.

G. The manner and method by which any party hereto aggrieved by an award of damages may have the same reviewed and the amount of said damages determined by trial by jury.

H. The filing of any pleadings and the issue to be tried before the Court or jury in connection with the awards of damages.

I. Any other appropriate matters which the Court may at this time, by Order, properly determine.

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY
By /s/ A. B. Howland
/s/ B. A. Webster, Jr.
500 Bankers Trust Building
Des Moines, Iowa
ITS ATTORNEYS.

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA, CENTRAL DIVISION

CHICAGO, ROCK ISLAND and PACIFIC RAILROAD COMPANY Plaintiff
-vs-
TEN (10) PARCELS OF REAL ESTATE LOCATED IN MADISON COUNTY, IOWA, AND THE RECORD OWNERS THEREOF, etc., Defendants

Civil Action No. 3-841
Filed Mar. 13, 1958
U.S. DISTRICT COURT
SO. DIST. OF IOWA

ORDER OVERRULING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND DIRECTING FURTHER PROCEDURES.

On February 8, 1958, plaintiff filed in the office of the Clerk, a motion for an order directing the impanelling of a Commission to appraise damages and for other purposes. Defendants filed resistance thereto and oral arguments were heard by the Court on March 7, 1958, at Davenport, Iowa, at which time defendants stated that they would file a motion for summary judgment which could be ruled on by the Court at the same time plaintiff's motion for an order is ruled upon. Said motion for summary judgment is now on file.

The Court, having heard statements and arguments of counsel and being now fully advised in the premises, does hereby make the following order with respect to the further procedure to be followed herein.

1. The resistance of the defendants again raises the issue that this Court is without jurisdiction. This issue has been disposed of by the order of the Court dated January 28, 1958, and requires no further consideration.

2. Defendants' motion for summary judgment is hereby overruled.

3. In compliance with the provisions of Rule 71A, subparagraph (k), Federal Rules of Civil Procedure, the Court hereby Orders the Marshal of this Court to select six qualified freeholders residing in the Southern District of Iowa, to act as Commissioners to appraise the damages to the real estate described in the complaint by reason of the taking of a permanent easement thereover for railroad purposes.

The Marshal is directed to summon said six freeholders to appear at the Federal Post Office and Court House in the City of Davenport, Scott County, Iowa, at 2:00 o'clock p.m. on the 21st day of March, 1958, at which time they will qualify by taking an oath administered by the Court or the Clerk and will be by the Court instructed as to the law applicable to their deliberations, the measure of damages to be applied in appraising the damages to the lands described in the complaint, and will be further advised as to their duties in thepremises.

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

Each of said Commissioners shall be entitled to a per diem of $50.00 for each day spent in the performance of their duties as such Commissioners, together with necessary traveling expenses including mileage, lodging and meals. The Commissioners shall, during the performance of their duties, be in charge of the Marshal.

4. The Commissioners and the Marshal are directed to meet at the office of Webster & Frederick in Winterset, Iowa, on the 26th day of March, 1958, at 1:00 p.m., and proceed as rapidly as possible to view the premises described in plaintiff's complaint, viewing first the parcel described in plaintiff's complaint as Parcel No. 7, the record owners of which are Byron and Iva Garland, at 1:30 p.m. on said date; then Parcel No. 8, the record owners of which are Melvin Macrander and Norma L. Macrander, at 2:15 p.m. on said date; Parcel No. 9, the record owners of which are Lowell J. Olson and Velma M. Olson, at 2:45 p.m. on said date; Parcel No. 10, the record owners of which are Edward V. Jensen and Maxine Jensen at 3:15 p.m. on said date; Parcel No. 11, the record owners of which are Ernest Stowell and Dorothy Stowell, at 3:45 p.m. on said date, and Parcel No. 12, the record owner of which is Nina Mable Hughes, at 4:15 p.m. on said date.

The Commission is directed to meet on Parcel No. 3, the record owners of which are Geraldine McDonald, Geraldine McDonald, Guardian, et al., on the 27th day of March, 1958, at 9:30 a.m., and Parcel No. 4, the record owner of which is Kenneth Olsen, at 10:30 a.m. on said date; Parcel No. 5, the record owners of which are Carl J. Phearman and Berniece M. Phearman, at 11:30 a.m. on said date; Parcel No. 6, the record owners of which are Wm. A. Busch and Mary Alice Busch, at 1:30 p.m. on said date.

The Commissioners are expressly empowered to hear testimony offered by the parties and to fix the times and places when each of the landowners may appear and introduce such evidence. All of the landowners are represented by counsel in this proceeding, and no notice of the time and place of the meeting of the Commissioners need be given to any of the landowners. With respect to lienholders counsel for plaintiff are directed to serve upon each lienholder of record of any of the parcels described in the complaint a notice of the time and place when the Commission will meet on the premises for the purpose of appraising the damages. Said notice shall be served upon each lienholder by addressing to him or it at its last known post office address a notice in writing containing a description of the lands, a statement that an order has been entered by this Court appointing the Commissioners to appraise and assess the damages to the land and the time and place when the Commission will meet on the premises, by United States Registered Mail, return receipt requested, at least ten (10) days before the times at which the Commission will meet on the premises to appraise the damages to same.

5. Upon completing the appraisal and the hearing of evidence, if any, the Commissioners shall make a written report of their findings and report therein to the Court the amount of the damages to the various tracts by reason of the condemnation for railroad purposes of a permanent and perpetual easement over the properties described in plaintiff's complaint, the form of the report and the awards may be prepared by counsel for plaintiff and furnished to the Commissioners with blanks to be filled in for the amounts of the damages awarded. Upon return of the report and appraisal of damages a copy thereof shall forthwith be mailed to counsel of record for each of the landowners defendants and to counsel for plaintiff.

6. Any party aggrieved by the awards of damages may, within thirty (30) days after the filing of the awards, file in the office of the Clerk of this Court objections and exceptions to the awards and may request that the issue of the amount of said awards be tried by a jury. In the event no objections or exceptions are filed within the time specified or any extension thereof ordered by the Court, the appraisal of damages shall

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

become final and not subject to further question in this Court. If no demand for jury trial is made by the parties the issue of damages raised by the objections and exceptions shall be tried to the Court.

7. Plaintiff may take possession of the property described in plaintiff's complaint at any time after the filing of the awards of the Commission by first depositing with the United States Marshal the amount of the award for each parcel of which it desires to take possession.

8. In the event any objections or exceptions to the Commissioners' report and to the damages awarded are filed the Court will, at an appropriate time, make all necessary orders with respect to the method of trial, and any additional pleadings to be filed by any of the parties.

9. As to any parcels of real estate described in the complaint concerning which no objections or exceptions as to the report of the Commission are filed, title to a perpetual easement for railroad purposes shall be vested in plaintiff over the various parcels described in plaintiff's complaint when the time for filing objections and exceptions to the Commissioners' report expires. As to any parcels described in plaintiff's complaint concerning which objections and exceptions to the Commissioners' report and awards are filed, title to a perpetual easement for railroad purposes as to such parcels shall not vest in plaintiff until after the final determination of the amount of damages.

10. The Court will, at appropriate times, make and enter such further orders for judgments with respect to the particular parcels of real estate as may be appropriate and necessary.

11. All costs incurred in this cause up to the filing of any objections or exceptions to the Commissioners' report and awards, if any, shall be paid by plaintiff. Thereafter, the Court will make such further order as to the payment of costs as may seem appropriate to the Court.

To all the above defendants, and each of them, except.

Signed at Davenport, Iowa, for entry in the Central Division this 13th day of March, 1958.

/s/ Edwin R. Hicklin
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA CENTRAL DIVISION

Filed Mar 21 1958
U.S. DISTRICT COURT
SO. DIST. OF IOWA

CHICAGO, ROCK ISLAND and PACIFIC RAILROAD COMPANY Plaintiff
vs.
TEN (10) PARCELS OF REAL ESTATE LOCATED IN MADISON COUNTY, IOWA, and the RECORD OWNERS THEREOF, etc., Defendants

OATH OF COMMISSIONERS

The undersigned, A. E. Baldridge, 208 W. Washington St., Washington, Washington County, Wm. M. Hoaglin, 208 S. Van Buren, Mt. Pleasant, Henry County, Dean H. Parsons, Wapello, Louisa County, Harold K. Holden, 801 Savings and Loan Building, Des Moines, Polk County, H. O. Hintermeister, 1010 Lucas St., Muscatine, Muscatine County, and Ed Frick, 1402 W. 3rd St., Davenport, Scott County, selected and summoned by the United States Marshal of the Southern District of Iowa, as Commissioners, to assess and award just compensation for the taking of the real property and interests therein designated as Parcels Nos. 3 to 12, inclusive, in said proceedings for use in connection with the Chicago, Rock Island and Pacific Railroad right of way, same being more particularly described in the pleadings for condemnation heretofore filed, and each of the undersigned being duly sworn, say that they are residents of the Southern District of Iowa, and are not interested in the same or a like question as that involved herein, that they will to the

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

best of their ability faithfully and impartially assess the just compensation for the taking of the real property by the Chicago, Rock Island and Pacific Railroad as herein specified, and that they will make written report to said Court of all their doings in connection with the appraisement of said real property and do all other acts required of them as such Commissioners according to the Order and Instructions of said Court.

/s/ A. E. Baldrige
A. E. Baldrige

/s/ Wm. M. Hoaglin
Wm. M. Hoaglin

/s/ Dean H. Parsons
Dean H. Parsons

/s/ Harold K. Holden
Harold K. Holden

/s/ H. O. Hintermeister
H. O. Hintermeister

/s/ Ed Frick
Ed Frick

Subscribed and sworn to in my presence the 21st day of March, 1958.

(SEAL)

/s/ E. E. Poston
Clerk, U. S. District Court

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA CENTRAL DIVISION

Filed Mar. 31, 1958
U.S. DISTRICT COURT
SO. DIST. OF IOWA

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff,
vs.
TEN (10) PARCELS OF REAL ESTATE LOCATED IN MADISON COUNTY, IOWA, AND THE RECORD OWNERS THEREOF, ET AL., Defendants.

AWARD OF COMMISSIONERS

We, the undersigned Commissioners appointed by order of Court to appraise and assess the damages occasioned by the taking of certain described parcels of real estate for railroad purposes by Chicago, Rock Island, and Pacific Railroad Company, do hereby report that pursuant to the Order of the Court, Edwin R. Hicklin, Judge, we assembled at the Federal Post Office and Courthouse in the City of Davenport, Scott County, Iowa, at two o'clock P.M. on March 21, 1958, at which time we took an oath to serve as Commissioners and were instructed by the Court as to the law to be applied in appraising the damages to the lands involved. As directed the Commissioners met at Winterset, Iowa, at the office of Webster & Frederick on the 26 th day of March, 1958, at one o'clock P. M. and proceeded thereafter to view each of the parcels of real estate described in Plaintiff's complaint.

Plaintiff appeared by its counsel, A. B. Howland of Des Moines, Iowa, and Gordon K. Darling of Winterset, Iowa, and Kenneth Olsen, owner of Parcel No. 4 described in the complaint, appeared by Shirley A. Webster of Winterset, Iowa, his attorney; Carl J. Phearman and Berniece M. Phearman, owners of Parcel No. 5 described in the complaint, appeared by Daniel J. Gallery of Winterset, Iowa, their attorney; William A. Busch and Mary Alice Busch, owners of parcel No. 6 described in the complaint, appeared by Shirley A. Webster of Winterset, Iowa, their attorney; Byron Garland and Iva Garland, owners of Parcel No. 7 described in the complaint, appeared by Shirley A. Webster of Winterset, Iowa, their attorney; Melvin Macrander and Norma L. Macrander, owners of parcel No. 8 described in the complaint, appeared by Jno. N. Hartley, of Winterset, Iowa, their attorney; Lowell J. Olson and Velma M. Olson, owners of parcel No. 9 described in the complaint, appeared by Shirley A. Webster of Winterset, Iowa, their attorney; Edward V. Jensen and Maxine Jensen, owners of Parcel No. 10 described in the complaint, appeared by Jno. N. Hartley of Winterset, Iowa, their attorney; Ernest Stowell and Dorothy Stowell, owners of parcel No. 11 described in the complaint, appeared by Jno. N. Hartley of Winterset, Iowa, their attorney; and Nina Mable Hughes, owner of parcel No. 12 described in the complaint, appeared by Robert O. Frederick of Winterset, Iowa, her attorney.

After viewing the premises described as parcel No. 3 in Plaintiff's complaint the Commissioners were advised that the matter had been withdrawn from their consideration and that no further attention need be given thereto.

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

After viewing the premises we proceeded to hear the evidence offered by the parties and agruments of counsel were waived by all parties concerned.

We hereby report that we have appraised and assessed the damages to the real estate owned by Kenneth Olsen described as parcel No. 4 of Plaintiff's complaint, at $12,500, of which amount $3600 constitute the value of the land taken by Plaintiff for railroad purposes and the balance of $8900 constitutes the damage to the remaining portion of said real estate retained by the recordowner. Said award is subject to the lien of Madison County, Iowa, for 1957 real estate taxes payable in 1958. The award is also subject to the conditions and restrictions which are separately set out herein and made applicable to the taking of parcel No. 4 described in Plaintiff's complaint.

We hereby report that we have appraised and assessed the damages to the real estate owned by Carl J. Phearman and Berniece M. Phearman described as parcel No. 5 of Plaintiff's complaint, at $12,000, of which amount $1650 constitute the value of the land taken by Plaintiff for railroad purposes and the balance of $10,350 constitutes the damage to the remaining portion of said real estate retained by the record owner. Said award is subject to the lien of Madison County, Iowa, for 1957 real estate taxes payable in 1958. The award is also subject to the conditions and restrictions which are separately set out herein and made applicable to the taking of parcel No. 5 described in Plaintiff's complaint.

We hereby report that we have appraised and assessed the damages to the unplatted portion of the real estate owned by William A. Busch and Mary Alice Busch described in parcel No. 6 of Plaintiff's complaint at $19,000 of which amount $4350 constitutes the value of the land taken by Plaintiff for railroad purposes and the balance of $14,650 constitutes the damage to the remaining unplatted portion of said real estate retained by the record owners. We do further report that we have appraised and assessed the damages to the platted and contiguous portion of the real estate owned by William A. Busch and Mary Alice Busch consisting of platted lots on the westerly side of Eighth Avenue in the City of Winterset, Iowa, at $1000. No part of said platted lots are to be taken by Plaintiff for railroad purposes but the Commissioners being of the opinion that a full report and appraisal should be made report that all of the sum last stated is for damages to the platted lots by reason of the taking of the real estate for railroad purposes specifically described as parcel No. 6 of Plaintiff's complaint. Said award is subject to the lien of Madison County, Iowa, for 1957 real estate taxes payable in 1958. The award is also subject to the conditions and restrictions which are separately set out herein and made applicable to the taking of parcel No. 6 described in Plaintiff's complaint.

We hereby report that we have appraised and assessed the damages to the real estate owned by Byron Garland and Iva Garland and described as parcel No. 7 of Plaintiff's complaint at $5500 of which amount $3500 constitutes the value of the land taken by Plaintiff for railroad purposes and the balance of $2000 constitutes the damage to the remaining portion of said real estate retained by the record owners. Said award is subject to the lien of Madison County, Iowa, for 1957 real estate taxes payable in 1958 and to the lien of a mortgage to the Farmers & Merchants State Bank of Winterset. The award is also subject to the conditions and restrictions which are separately set out herein and made applicable to the taking of parcel No. 7 described in Plaintiff's complaint.

We hereby report that we have appraised and assessed the damages to the real estate owned by Melvin Macrander and Norma L. Macrander described as parcel No. 8 of Plaintiff's complaint at $3000 of which amount $1000 constitutes the value of the land taken by

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

Plaintiff for railroad purposes and the balance of $2000 constitutes the damage to the remaining portion of said real estate retained by the record owner. Said award is subject to the lien of Madison County, Iowa, for 1956 real estate taxes payable in 1957, for 1957 real estate taxes payable in 1958, and to the lien of a mortgage to Farmers & Merchants State Bank of Winterset. The award is also subject to the conditions and restrictions which are separately set out herein and made applicable to the taking of parcel No. 8 described in Plaintiff's complaint.

We hereby report that we have appraised and assessed the damages to the real estate owned by Lowell J. Olson and Velma M. Olson described as parcel No. 9 of Plaintiff's complaint at $5000 of which amount $2000 constitutes the value of the land taken by Plaintiff for railroad purposes and the balance of $3000 constitutes the damage to the remaining portion of said real estate retained by the record owner. Said award is subject to the lien of Madison County, Iowa, for 1957 real estate taxes payable in 1958, and to the lien of a mortgage to Northwestern Mutual Life Insurance Company of Milwaukee, Wisconsin. The award is also subject to the conditions and restrictions which are separately set out herein and made applicable to the taking of parcel No. 9 described in Plaintiff's complaint.

We hereby report that we have appraised and assessed the damages to the real estate owned by Edward V. Jensen and Maxine Jensen described as parcel No. 10 of Plaintiff's complaint at $4500 of which amount $1000 constitutes the value of the land taken by Plaintiff for railroad purposes and the balance of $3500 constitutes the damage to the remaining portion of said real estate retained by the record owner. Said award is subject to the lien of Madison County, Iowa, for 1957 real estate taxes payable in 1958, and to the lien of a mortgage to Farmers & Merchants State Bank of Winterset. This award is also subject to the conditions and restrictions which are separately set out herein and made applicable to the taking of parcel No. 10 described in Plaintiff's complaint.

We hereby report that we have appraised and assessed the damages to the real estate owned by Ernest Stowell and Dorothy Stowell described as parcel No. 11 of Plaintiff's complaint at $5000 of which amount $2000 constitutes the value of the land taken by Plaintiff for railroad purposes and the balance of $3000 constitutes the damage to the remaining portion of said real estate retained by the record owner. Said award is subject to the lien of Madison County, Iowa, for 1957 real estate taxes payable in 1958.

We hereby report that we have appraised and assessed the damages to the real estate owned by Nina Mable Hughes described as parcel No. 12 of Plaintiff's complaint at $5500 of which amount $2300 constitutes the value of the land taken by Plaintiff for railroad purposes and the balance of $3200 constitutes the damage to the remaining portion of said real estate retained by the record owner. Said award is subject to the lien of Madison County, Iowa, for 1957 real estate taxes payable in 1958.

The Commissioners attach hereto and return herewith a copy of the conditions and restrictions applicable to the taking as set forth in the Amendment to Plaintiff's complaint and the awards of damages are made with respect to such terms, conditions and restrictions.

Dated at Winterset, Iowa, the 29th day of March, 1958.

NAME	ADDRESS
/s/ A. E. Baldrige	Washington, Iowa
/s/ Dean H. Parsons	Wapello, Iowa
/s/ Ed. Frick	Davenport, Iowa
/s/ Wm. M. Hoaglin	M. Pleasant, Iowa
/s/ H. O. Hintermeister	Muscatine, Iowa
/s/ Harold K. Holden	Des Moines, Iowa

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA CENTRAL DIVISION

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff,
vs.
TEN (10) PARCELS OF REAL ESTATE LOCATED IN MADISON COUNTY, IOWA, AND THE RECORD OWNERS THEREOF, ET AL., Defendants.

AMENDMENT TO COMPLAINT

Filed March 31, 1958
U.S. DISTRICT COURT
SO. DIST. OF IOWA

Plaintiff, Chicago, Rock Island and Pacific Railroad Company, for the purpose of making of record in this proceeding certain terms and conditions with respect to which taking of the specific parcels of real estate described in its original complaint hereby consents and agrees that the taking of the various parcels of real estate described in the complaint shall in the future be subject to the terms, limitations and conditions hereinafter set forth with respect to the specifically numbered parcels, and agrees that its complaint may be considered as amended accordingly.

Par. 1

With respect to the taking of the property described as parcel No. 4 in its complaint, the record owner of which is named as Kenneth Olsen, Plaintiff does hereby make its taking subject to the following conditions and restrictions, to-wit:

A. The landowner, Kenneth Olsen, and his grantees and successors intitle and interest, retain an easement for the maintenance of a water pipe not exceeding two inches in diameter extending beneath the right of way and track of the railroad company from a certain well now located on the westerly side of Olsen's property in the Northeast Quarter of Section 10, Township 76 North, Range 28, West, for the purpose of supplying the farm buildings located on the easterly side of the railroad with water and an electric line to supply power for said well, together with the right of access to the water line for the purpose of repairing and maintaining the same upon reasonable notice to the Division office of the railroad having supervision of the line of railroad extending from Winterset to Earlham, Iowa. Any repair or maintenance work upon said pipeline shall be done under the supervision and subject to reasonable terms which may be prescribed by the engineers of Plaintiff or its successors in title or interest.

B. Plaintiff shall supply and install the necessary conduit pipe eight-four feet in length to carry the water pipe and necessary electric wires from a westerly point on its right of way beneath the track and extending to a point on the easterly side of the track structure, the landowner to make all necessary electric and pipe connections at his expense.

C. Olsen and his successors in title and interest retain the right to pass under the railroad bridge to be constructed across the relocated channel of North River on both the northerly and southerly sides of said stream. If Plaintiff by excavation of ditches along its right of way creates the necessity for installation of drainage pipes on either side of its roadbed beneath the bridge, the Plaintiff shall provide across any such ditch a roadway not more than sixteen feet in width together with necessary drainage openings or pipes to carry the water flowing in any ditch. Plaintiff shall not be required to maintain said roadway in the event of high water or floods which may change the channel of the stream or otherwise interfere with the use of any roadway used by the landowner.

D. Plaintiff shall not interfere with or disturb the existing farm entrances from the East and West highway extending through the center of Section 10, Township 76 North, Range 28, West.

E. Plaintiff shall construct a private farm crossing over its tracks and right of way and maintain same at a point opposite engineer's profile station 2516 plus 75 which is approximately 551 feet northerly from the East and West highway located on the center

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

line of Section 10, together with a crossing over an excavated channel to the north of such point on the westerly side of the track to enable landowner to have access to the well and pump and to his property located on the westerly side of the railroad at that point.

F. So long as the lands now owned by Kenneth Olsen located on the southerly side of North River in the Southeast Quarter of the Southeast Quarter of Section 10 continue to be owned by the same person owning the lands now owned by Kenneth Olsen in the East Half of Section 10, Township and Range aforesaid. Plaintiff will provide a farm crossing on the southerly line of the Southwest Quarter of the Southwest Quarter of Section 11, if the owner of the lands above referred to shall need same to obtain access to the property located on the southerly side of North River and provided that arrangements are made for the use of said crossing with the then owner of the property now recorded in the name of Ada Bunker located in the Southwest Quarter of the Southwest Quarter of said Section 11.

par. 2

With respect to the taking of the property described as parcel No. 5 in its complaint, the record owners of which are named as Carl J. Phearman and Berniece M. Phearman, Plaintiff does hereby make its taking subject to the following conditions and restrictions, to-wit:

A. In connection with the construction of its railroad at the point where the same will extend over and above an existing spring located in the Northwest Quarter of the Northwest Quarter of Section 23, Township 76 North, Range 28, West, Plaintiff will install seventy feet of eight inch hel-cor pipe for the purpose of carrying the spring water in an easterly direction to and beyond the embankment to be constructed at such point. Plaintiff shall not be responsible for any diminution or change in the flow of the spring.

B. Plaintiff shall construct and maintain at a point approximately 693 feet southerly from the north line of Section 23 an eighty-four inch multiplace corrugated metal pipe not over forty-three feet in length as a cattle pass. The bottom of the corrugated pipe shall be filled with packed earth to a depth of not more than six inches.

C. Plaintiff shall construct and maintain for the use of the landowners at a point approximately 942 feet north of the East and West centerline of Section 23, a private crossing sixteen feet in width consisting of plank on either side of each rail of the track and filled between the planks with earth, rock or gravel on either side of said private farm crossing, cattle guards shall be placed between the rails and immediately outside thereof and A frame and wing fences constructed connected with the railroad right of way fence on either side of Plaintiff's right of way.

D. Subject to approval by the Board of Supervisors of Madison County, Plaintiff shall construct a farm entrance extending from the East and West highway located on the center line of Section 23, Township 76 North, Range 28, West, to enable the landowners to obtain access from the highway to that portion of the farm located on the westerly side of the railroad.

Par. 3.

With respect to the taking of the property described as parcel No. 6 in its complaint, the record owners of which are named as William A. Busch and Mary Alice Busch, Plaintiff does hereby make its taking subject to the following conditions and restrictions, to-wit:

A. Plaintiff shall construct a private farm crossing over its track and right of way and maintain same at a point opposite engineer's profile station 2301 which is approximately 1090 feet southeasterly from the northerly line of Section 36, Township 76 North, Range 28 West, said crossing shall be sixteen feet in width and shall consist of planks

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

placed on either side of each rail of the track and filled between the planks with earth, rock or gravel. The landowners agree that Plaintiff shall not be required to maintain cattle guards or wing fences at the crossing referred to in this paragraph.

B. Plaintiff shall construct and maintain a private farm crossing over its track and right of way and maintain same at a point opposite engineer's profile station 2282 approximately 650 feet northwesterly from the North and South center line of Section 36, Township 76 North, Range 28, West, measured along the track center line. The crossing shall be sixteen feet in width consisting of plank on either side of each rail of the track and filled between the planks with earth, rock or gravel. On either side of said private farm crossing cattle guards shall be placed between the rails and immediately outside thereof and A frame and wing fences shall be constructed connecting with the railroad right of way fence on either side of the right of way.

C. Plaintiff shall construct at a point approximately opposite engineer's profile station 2294 plus 15 which is approximately 1775 feet southeasterly from the northerly line of Section 36 an eighty-four inch multiplate corrugated metal pipe approximately forty-three feet in length as a cattle pass, the bottom of the corrugated pipe shall be filled with concrete to a depth of not more than nine inches. At either end of the multiplated corrugated pipe a concrete apron or approach shall be constructed approximately fifty-four inches in width and extending from the end of the pipe a distance of three feet. Right of way fences shall be constructed so as to permit farm animals to have access to the pipe.

Par. 4.

With respect to the taking of the property described as parcel No. 7 in its complaint, the record owners of which are Byron Garland and Iva Garland, Plaintiff does hereby make its taking subject to the following conditions and restrictions, to-wit:

A. The Landowners may at their own cost and expense remove from the property described as parcel No. 7 in the complaint the existing barn, the lean-to garage attached thereto, and the chicken house; provided, however, that all of said buildings shall be removed prior to May 1, 1958. If the buildings have not been removed on or prior to May 1, 1958, the landowners shall be held to have waived any and all right to remove said buildings or to claim any salvage therefor.

Par. 5

With respect to the parcels described as No. 8, 9, 10, 11 and 12, residence properties located in Shriver's Addition to the Cityof Winterset, Iowa, the record owners of which are named as to No. 8 as Melvin Macrander and Norma L. Macrander, as to No. 9 as Lowell L. Olson and Velma M. Olson, as to No. 10 as Edward V. Jensen and Maxine Jensen, as to No. 11 as Ernest Stowell and Dorothy Stowell, and as to No. 12 as Nina Mable Hughes, Plaintiff does hereby make its taking subject to the following conditions and restrictions, to-wit:

A. With respect to each of the parcels referred to in this Paragraph 5, each landowner named and the grantees, their successors in title and interest, retain an easement for telephone lines either above or beneath the thirty-four foot strip of right of way to be taken.

B. The owners of the lots described as parcels No. 8, 9, 11 and 12 retain for themselves and their successors in title and interest, an easement or right to maintain pipes of one inch diameter for the transmission of gas at the present location where such pipes are now located and maintained across the thirty-four foot strip to be taken by Plaintiff. Before constructing its railroad fill add grade thereon, Plaintiff shall provide without cost to the landowners encasement pipes or concrete for the protection

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

of the existing pipes. The owners of the parcels herein referred to reserve to themselves, their successors in title and interest, a right to enter upon the thirty-four foot right of way for the purpose of maintaining, repairing or removing the existing pipes. Any and all repairs thereto shall be made after notice to the Division office of the railroad company having supervision over the line of railroad extending from Winterset to Earlham, Iowa, and in accordance with the standards, specifications and directions of the railroad companies for the safety of its tracks.

/s/ Gordon K. Darling
Winterset, Iowa
/s/ A. B. Howland
/s/ J. H. Martin
500 Bankers Trust Building
Des Moines 9, Iowa

Attorneys for Plaintiff.

CERTIFICATE

I, A. B. Howland, attorney for plaintiff in the above named proceedings, do hereby certify that on the 28th day of March, 1958, copy of the foregoing amendment to complaint was delivered to Shirley A. Webster and a separate copy to Daniel J. Gallery at Winterset, Iowa. That on March 29, 1958, a copy of the foregoing amendment to complaint was delivered to Mr. John N. Hartley and that the attorneys above named appeared for and represented all of the parties named as owners of lands involved in the condemnation action.

/s/ A. B. Howland
A. B. Howland

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA CENTRAL DIVISION

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff
vs.
NINE (9) PARCELS OF REAL ESTATE LOCATED IN MADISON COUNTY, IOWA, THE RECORD OWNERS THEREOF AND ALL PERSONS HAVING AN INTEREST OR CLAIM THEREIN OR LIENS THEREON, ET AL.,
Defendants.

STIPULATION

Filed Apr. 14, 1958
U.S. DISTRICT COURT
SO. DIST. OF IOWA

It is hereby stipulated and agreed by and between the parties to this cause, Chicago, Rock Island and Pacific Railroad Company, Plaintiff, appearing by its counsel, A. B. Howland and J. H. Martin of Des Moines, Iowa, and Gordon K. Darling of Winterset, Iowa; Kenneth Olsen, owner of parcel No. 4 described in the complaint, appearing by Shirley A. Webster of Winterset, Iowa, his attorney; Carl J. Phearman and Berniece M. Phearman, owners of parcel No. 5 described in the complaint, appearing by Daniel J. Gallery of Winterset, Iowa, their attorney; William A. Busch and Mary Alice Busch, owners of parcel No. 6 described in the complaint, appearing by Shirley A. Webster of Winterset, Iowa, their attorney; Byron Garland and Iva Garland, owners of parcel No. 7 described in the complaint, appearing by Shirley A. Webster of Winterset, Iowa, their attorney; Melvin Macrander and Norma L. Macrander, owners of parcel No. 8 described in the complaint, appearing by John N. Hartley of Winterset, Iowa, their attorney; Lowell J. Olson and Velma M. Olson, owners of Parcel No. 9 described in the complaint, appearing by Shirley A. Webster of Winterset, Iowa, their attorney, Edward V. Jensen and Maxine Jensen, owners of parcel No. 10 described in the complaint, appearing by John N. Hartley of Winterset, Iowa, their attorney; Ernest Stowell and Dorothy Stowell, owners of parcel No. 11 described in the complaint, appearing by John N. Hartley, their attorney, and Nina Mable Hughes, owner of parcel No. 12, described in the complaint, appearing by Robert O. Frederick of Winterset, Iowa, her attorney, as follows:

1. It is agreed that the awards of condemnation commissioners appointed by the United States Marshal made and dated March 29, 1958, and filed in the office of the Clerk of this Court on March 31, 1958, are accepted by all parties to this litigation; that

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

Chicago, Rock Island and Pacific Railroad Company will pay the amount of said awards within ____days hereafter, without interest, and that each and all of the landowners hereinabove described will accept the amounts of the awards in full, complete and final settlement and satisfaction of all claims which the landowners presently have by reason of the taking of a perpetual easement over the lands described in the complaint.

2. Each and all of the parties do hereby waive the right to file exceptions or objections to the awards and agree that a decree or judgment entry shall be entered in said cause by the terms of which a perpetual easement for railroad purposes in and to the lands described in plaintiff's complaint shall be vested in Chicago, Rock Island and Pacific Railroad Company, upon payment of the amount of the awards made by condemnation commissioners to the United States Marshal for the Southern District of Iowa or to the individual landowners, their attorneys, and any lienholders of record.

3. Any and all costs in connection with this proceeding had in the United States District Court for the Southern District of Iowa shall be taxed and paid by Chicago, Rock Island and Pacific Railroad Company.

4. The parties herein named as owners of the various parcels of real estate involved in this proceeding shall cause the proceeding instituted by them in the United States Court of Appeals for the Eighth Circuit to review, reverse, modify or set aside the Order entered by the United States District Court, Edwin R. Hicklin, Judge, providing for the appointment of condemnation commissioners by the United States Marshal and prescribing the procedure to be followed to be dismissed without cost or expense to Chicago, Rock Island and Pacific Railroad Company.

/s/ A. B. Howland
A. B. Howland

/s/ J. H. Martin
J. H. Martin
500 Bankers Trust Building
Des Moines, Iowa

/s/ Gordon K, Darling
Gordon K. Darling
Winterset, Iowa

ATTORNEYS FOR PLAINTIFF.

- -

/s/ Shirley A. Webster
Shirley A. Webster
Winterset, Iowa

/s/ Daniel J. Gallery
Daniel J. Gallery
Winterset, Iowa

/s/ Robert O. Frederick
Robert O. Frederick
Winterset, Iowa

/s/ Herrick & Langdon
Herrick and Langdon
Iowa-Des Moines National Bank Bldg.
Des Moines, Iowa

/s/ Jno. N. Hartley
John N. Hartley
Winterset, Iowa

ATTORNEYS FOR DEFENDANTS.

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF IOWA CENTRAL DIVISION

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, Plaintiff,
vs.
NINE (9) PARCELS OF REAL ESTATE LOCATED IN MADISON COUNTY, IOWA, THE RECORD OWNERS THEREOF AND ALL PERSONS HAVING AN INTEREST OR CLAIM THEREIN OR LIENS THEREON, ET AL., Defendants.

3-841 Civil

DECREE AND JUDGMENT ENTRY

Filed Apr. 14, 1958
U.S. DISTRICT COURT
SO. DIST. OF IOWA

NOW on this 14 day of April, 1958, this matter comes on for hearing before the Court on Motion of plaintiff for the entry of a final decree and judgment, plaintiff, Chicago, Rock Island and Pacific Railroad Company, appearing by its counsel, A. B. Howland and J. H. Martin of Des Moines, Iowa, and Gordon K. Darling of Winterset, Iowa; Kenneth Olsen, owner of parcel No. 4 described in the complaint, appearing by Shirley A. Webster of Winterset, Iowa, his attorney; Carl J. Phearman and Berniece M. Phearman, owners of parcel No. 5 described in the complaint, appearing by Daniel J. Gallery of Winterset, Iowa, their attorney; William A. Busch and Mary Alice Busch, owners of parcel No. 6 described in the complaint, appearing by Shirley A. Webster of Winterset, Iowa, their attorney; Byron Garland and Iva Garland, owners of parcel No. 7 described in the complaint, appearing by Shirley A. Webster of Winterset, Iowa, their attorney; Melvin Macrander and Norma L. Macrander, owners of parcel No. 8 described in the complaint, appearing by

JENKINS-FERGEMANN CO., WATERLOO, IOWA-99067

John N. Hartley of Winterset, Iowa, their attorney; Lowell J. Olson and Velma M. Olson, owners of parcel No. 9 described in the complaint, appearing by Shirley A. Webster of Winterset, Iowa, their attorney; Edward V. Jensen and Maxine Jensen, owners of parcel No. 10 described in the complaint, appearing by John N. Hartley of Winterset, Iowa, their attorney; Ernest Stowell and Dorothy Stowell, owners of parcel No. 11 described in the complaint, appearing by John N. Hartley of Winterset, Iowa, their attorney, and Nina Mable Hughes, owner of parcel No. 12, described in the complaint, appearing by Robert O. Frederick of Winterset, Iowa, her attorney.

A Stipulation signed by counsel of record was presented to the Court and it appearing that the commissioners appointed by the United States Marshal have made and filed awards in writing fixing the amount of the damages to the various parcels of real estate sought to be condemned by plaintiff, and that the parties by stipulation have agreed to accept said awards and make no objection thereto, and it further appearing to the Court that plaintiff has filed in this proceeding an amendment to its complaint by which the extent of the taking of properties described in the complaint has been modified, and

The Court being now fully advised in the premises, it is now and hereby Ordered, Adjudged and Decreed as follows:

1. The awards of condemnation commissioners appointed by the United States Marshal made and dated March 29, 1958, and filed in the office of the Clerk of this Court on March 31, 1958, be and they are hereby established, ratified and confirmed by the Court.

2. That Plaintiff, having paid to the various owners of the parcels of land sought to be condemned, their attorneys and lienholders of record the amounts of the awards so made by the commissioners, it is adjudged and decreed by the Court that plaintiff is now the unqualified owner of a perpetual easement for railroad purposes in and to the various parcels of lands described in plaintiff's complaint, and that title to said perpetual easement for railroad purposes, subject only to the modifications and restrictions set forth in the amendment to plaintiff's complaint filed March 31, 1958, be established, confirmed and quieted in plaintiff, Chicago, Rock Island and Pacific Railroad Company.

3. The Clerk of this Court is directed to prepare and certify a transcript of the proceedings had in this Court, consisting of a copy of the complaint, a copy of the summons with return of the Marshal thereon, defendants' motions to dismiss and the ruling of the Court thereon, the answer of defendants, the further Orders of the Court with respect to the proceedings, the awards of condemnation commissioners and this decree to the Recorder of Madison County, Iowa.

Signed in the Southern District of Iowa for entry in the Central Division this 14 day of April, 1958.

O.K.
/s/ Shirley A. Webster
/s/ Jno. N. Hartley
/s/ Daniel J. Gallery
/s/ Robert O. Frederick

/s/ Edwin R. Hicklin
Judge, United States District Court
For the Southern District of Iowa.

Approved as to form - /s/ Herrick & Langdon
By: David W. Belin a member of the firm.

UNITED STATES OF AMERICA Southern District of Iowa Central Division) ss:

I, E. E. POSTON, Clerk of the United States District Court for the Southern District of Iowa, do hereby certify that the annexed and foregoing is a true and full copy of the original Complaint; Notice with Marshal's Return; Amendment to Complaint; Corrected Memorandum Opinion and Order Overruling Motions to Dismiss; Answer of Defendants; Motion of Plaintiff for an Order Directing the Impanelling of a Sheriff's Commission Directing the Manner and Method of Selecting the Commission, the Procedure to be Followed in Appraising the Damages to the Lands of the Owners of the Parcels of Real Estate Described in Plaintiff's Complaint Providing Manner and Method of Reviewing the Awards Made by the

JENKINS-FERGEMANN CO., WATERLOO, IOWA—99067

Commissioners and for the Further Proceedings to be Taken by any Other Party Aggrieved by any Award; Order Overruling Defendants' Motion for Summary Judgment and Directing Further Procedures; Oath of Commissioners; Award of Commissioners; Amendement to Complaint; Stipulation; and Decree and Judgment Entry; now remaining among the records of the said Court in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Des Moines, Iowa, this 22nd day of April, A. D. 1958.

(CLERK OF THE U. S. DISTRICT COURT SEAL) COMPARED E. E. POSTON Clerk
By Esther Lyons Deputy Clerk