

# 1359

Sheriff of Wapello Co.

TO

Gilbert & Marjorie Hollingsworth  
et alFiled for Record the 9 day of SeptA.D., 1993 at 3:29 o'clock P.Carolyn Garrett

COUNTY RECORDER

RECORD FEES

761.00

957

IN THE MATTER OF THE CONDEMNATION OF \* SHERIFF'S FILING OF RECORD  
 CERTAIN REAL PROPERTY IN THE CITY OF \* 30 DAYS AFTER THE DATE OF  
 OTTUMWA, IOWA, IN CONNECTION WITH \* MAILING NOTICE OF APPRAISE-  
 SEWER LINES APPROVED BY THE CITY \* MENT OF DAMAGES  
 COUNCIL OF THE CITY OF OTTUMWA, IOWA \*

By the CITY OF OTTUMWA, IOWA \*  
 Applicant. \*

\*\*\*\*\*  
 TO: Carolyn Garrett, Wapello County Recorder

Please find attached the following papers regarding the above named condemnation which was held in my office on the 6th day of August, 1993: a certified copy of the application for condemnation, all notices with returns of service attached, report of the commissioners and all other papers filed with me during the proceedings. Also, please note that condemnee Josephine Stainer has appealed her award.

I further certify that I have in my possession the following warrants -- which were received from the City of Ottumwa -- and said warrants are payable to each condemnee listed below:

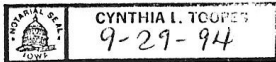
- 1) #027072, Gilbert and Marjorie Hollingsworth, \$8,465.00
- 2) #027073, Vernon and Delores Lowenberg, \$30,903.00
- 3) #027074, James and Nancy Sanford, \$315.75
- 4) #027075, Dennis Kurtz, \$204.00
- 5) #027076, Jack and Barbara Zwer, \$512.00
- 6) #027077, Josephine Stainer, \$317.00.

The application for condemnation was filed with the Wapello County Recorder on the 21st day of July, 1993, in Book 485, Page 639.

Bud C. Erwin

Bud C. Erwin, Sheriff  
 Wapello County, Iowa

Subscribed and sworn to in my presence this 9th day of September, 1993.

Cynthia L. Toopes

Notary Public in and for State of Iowa

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IN THE WAPELLO COUNTY IOWA DISTRICT COURT

RECEIVED  
93 JUL 23 PM 2:58  
CLERK OF DISTRICT COURT  
WAPELLO COUNTY

In the Matter of

THE CONDEMNATION OF CERTAIN  
REAL PROPERTY IN THE CITY OF  
OTTUMWA, IOWA, IN CONNECTION  
WITH SEWER LINES APPROVED BY  
THE CITY COUNCIL OF THE CITY  
OF OTTUMWA, IOWA

By the

CITY OF OTTUMWA, IOWA,  
  
Applicant.

APPLICATION FOR  
CONDEMNATION AND  
APPOINTMENT OF  
COMMISSIONERS

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TO: THE HONORABLE PHILLIP R. COLLETT, CHIEF JUDGE, EIGHTH JUDICIAL  
DISTRICT OF IOWA.

COMES NOW the City of Ottumwa, Iowa a municipal corporation  
located in Wapello County, Iowa, by and through its attorney of  
record, Thomas F. Kintigh, and pursuant to Iowa Code Section 6B  
hereby applies to condemn certain interests in real property in the  
City of Ottumwa, Iowa in connection with the sewer lines approved  
by the City Council of the City of Ottumwa, Iowa and in support  
thereof states as follows:

1. That the property owners, listed in Exhibit "A", attached  
hereto and made by this reference a part hereof, are the owners of  
the real estate described after their names in Exhibit "A". That  
the property sought to be condemned generally is a forty foot wide  
permanent right-of-way easement including the perpetual right of  
ingress and egress for sewer purposes, described as follows in  
Exhibit "B", by this reference made a part hereof and incorporated  
herein. For further particulars, the individual permanent

easements are described in Exhibit "B" attached hereto and by this reference made a part herein.

Also sought to be condemned is a temporary easement during the construction of the aforesaid sewer line, generally a parcel of land then feet on either side of the aforesaid permanent easements.

For further particulars regarding the temporary easements, see Exhibit "B" attached hereto and made by this reference a part hereof.

2. That attached herein is a plat showing the location of the interest in real estate sought to be condemned, listed as Exhibit "C" and made by this reference a part hereof.

3. That the names of all recordholders of the different tracts of land sought to be condemned or otherwise affected by such proceedings, and of all recordholders of liens and encumbrances on such lands, and the place of residence of all such persons so far as known to the applicant are as follows:

- a. Land Owned by Jack and Barbara Zwer, RR#5, Box 35 Ottumwa, Iowa, 52501; Firststar Bank & Trust Company, 123 E. Third, Ottumwa, Iowa, 52501; Wapello County Iowa, Wapello County Courthouse, Ottumwa, Iowa, 52501.
- b. Land Owned by Gilbert Hollingsworth and Marjorie M. Hollingsworth, RR#5, Box 30, Ottumwa, Iowa, 52501; Wapello County Iowa, Wapello County Courthouse, Ottumwa, Iowa 52501
- c. Vernon T. Lowenberg and Deloris P. Lowenberg, RR#5, Box 25, Ottumwa, Iowa 52501; Wapello County Iowa, Wapello County Courthouse, Ottumwa, Iowa 52501
- d. Edith May Sanford, RR#5, Ottumwa, Iowa 52501; Wapello County Iowa, Wapello County Courthouse, Ottumwa, Iowa 52501
- e. James and Nancy Sanford, RR#5, Ottumwa, Iowa 52501; Wapello County Iowa, Wapello County Courthouse, Ottumwa,

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Iowa 52501.

- f. Dorothy Donovan, 216 Bryan Road, Ottumwa, Iowa 52501; Firststar Bank f/k/a Union Trust Co., 123 E. Third, Ottumwa Iowa, 52501; Keokuk Federal Savings and Loan, P.O. Box 190, 320 Concert St., Keokuk, Iowa 52632; Wapello County Iowa, Wapello County Courthouse, Ottumwa, Iowa 52501
- g. Dennis Kurtz, 122 Bryan Road, Ottumwa, Iowa 52501; Hedrick Savings Bank, P.O. Box 217, Hedrick, Iowa 52563; Wapello County Iowa, Wapello County Courthouse, Ottumwa, Iowa 52501.
- h. Gary L. Linn and Beatrice K. Linn, 138 Bryan Road, Ottumwa, Iowa 52501; South Ottumwa Savings Bank, 320 Church Street, Ottumwa, Iowa 52501; Norwest Bank Ottumwa, N.A., 231 W. Second, Ottumwa, Iowa 52501, Wapello County Iowa, Wapello County Courthouse, Ottumwa, Iowa 52501.
- i. Albert D. Kreiner and Rita F. Kreiner, 112 Bryan Road, Ottumwa, Iowa 52501; Iowa Bankers Mortgage Corporation 508 10th Street, Des Moines, Iowa, 50308; Deere Community Federal Credit Union, 235 Richmond Avenue, Ottumwa, Iowa 52501; Wapello County Iowa, Wapello County Courthouse, Ottumwa, Iowa 52501.
- j. Josephine B. Stainer, RR#1, Box 190, Ottumwa, Iowa, 52501; Wapello County Iowa, Wapello County Courthouse, Ottumwa, Iowa 52501.

4. That the purpose for which condemnation is sought is the construction of a sewer line to serve the Ottumwa Industrial Airport.

5. That the undersigned applicant does hereby request that the Chief Judge appoint a commission to appraise the damages, pursuant to Section 6B.4 of the Code of Iowa.

WHEREFORE, the undersigned does ask that the Chief Judge approve the foregoing Application, and appoint six persons by lot from the list of county residents maintained pursuant to Section 6B.4, to serve as a compensation commission to assess the damages to the property to be taken by the applicant, and to name a chair-

person from the persons selected.

CITY OF OTTUMWA, IOWA  
A MUNICIPAL CORPORATION

By Thomas F. Kintigh  
Thomas F. Kintigh,  
City Attorney

The foregoing Application was received in my office this 20  
day of July, 1993, and is hereby approved in accordance with  
Section 6b.3(7) of the Code of Iowa.

Phillip R. Collett  
Phillip R. Collett  
Chief Judge  
Eighth Judicial District

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Jack and Barbara Zwer

A part of the Northwest Quarter of the Southwest Quarter of Section 36, Township 73 North, Range 14 West of the 5th P.M. in Wapello County, Iowa, more particularly described as follows: Commencing at a point on the West line of said Section which is the center line of the public road 677.3 feet South of the Northwest Corner of said Northwest Quarter of the Southwest Quarter; thence North 89° 36' 40" East 482.92 feet; thence North 32° 05' 20" West parallel to the Milwaukee Railway Spur right of way, a distance of 121.06 feet; thence South 89° 36' 40" West 418.61 feet; thence South 103 feet to the place of beginning. Subject to right of way for public road along the West 33 feet thereof.

Gilbert and Marjorie Hollingsworth

The Southwest Quarter (SW $\frac{1}{4}$ ) of Section Thirty-six (36), Township Seventy-three (73) North, Range Fourteen (14) West of the 5th P.M., Wapello County, Iowa, except the C. M. & St. P. Railroad right of way and except easements as shown of record. [ Except Part Sold]

Vernon T. and Deloris P. Lowenberg

The East Fractional Half of the Northwest Quarter of Section 1, Township Seventy-two (72), Range Fourteen (14), containing 92.67 acres. Also that part of the North 10.25 chains of the Northeast Quarter of the Southwest Quarter of said Section 1, lying East of the public highway. And the North part of the Northwest Quarter of the Southeast Quarter described as follows: Beginning at a stake and stone in the center of said Section 1; thence South on said line ten chains and 25 links to a stone; thence East 20 chains to a stone; thence North 10 chains and 25 links to a stone; thence West 20 chains to beginning, containing 20.50 acres. Also all that part of the Northeast Quarter of the Southeast Quarter of said Section 1, lying West of a line fifty feet in a Westerly direction from the center line of the Kansas City Division of the Chicago, Milwaukee & St. Paul Railway as re-located: Said 50 feet measuring on line at right angles to said center line. All of said land situated in Section 1, Township 72, Range 14, Wapello County, Iowa, excepting therefrom the right of way of the C.M. & St. Paul Railway Company.

ALSO

A part of the Northwest Fractional Quarter (NW $\frac{1}{4}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) of Section 1, Township 72 North, Range 14 West of the 5th P.M., in Wapello County, Iowa, described as follows, to-wit: Beginning at a point that is 429.0 feet North and 49.5 feet East of the Northwest corner of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) of said Section 1; thence North on a line that is parallel to the West line of the said Northwest Quarter (NW $\frac{1}{4}$ ) of Section 1, a distance of 43.66 feet to a point in an old existing boundary line fence; thence S. 24° 21' 10" W. along the said old existing boundary line fence, a distance of 47.94 feet; thence East, a distance of 19.0 feet to a point of beginning. Also a part of the Northwest Fractional Quarter (NW $\frac{1}{4}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) of Section 1, Township 72 North, Range 14 West of the 5th P.M., in Wapello County, Iowa, described as follows, to-wit: A part of the heretofore following described property: Commencing at a point 3 rods East and 26 rods North of the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section One (1); thence North parallel with the Section line, 25 rods to a stone in the middle of the Public Highway; thence in a Southeasterly direction along the Public Highway 10 rods to a stone; thence in Southwesterly direction to the place of beginning, the same being in a triangular form, containing 1 acre, said part being all of that part lying southeasterly of the following described line: Beginning at a point on the West line said Northwest Quarter (NW $\frac{1}{4}$ ) of Section 1 that is 363.5 feet North of the Northwest corner of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of said Section 1; thence N. 24° 23' 10" E. along an old existing boundary line fence and this line extended to the centerline of the now existing Public Road, a distance of 371.20 feet.

ALSO

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A part of the Northwest Quarter of Section One (1) in Township Seventy-two (72) North of Range Fourteen (14) West of the 5th P.M. in Wapello County, Iowa, described as follows: Commencing at the Southwest corner of the Northwest Quarter of said Section 1; thence running north on the line of said Section, 26 rods north of the Northwest corner of the Southwest Quarter of the Northwest Quarter of said Section; thence East 3 rods; thence North parallel with said Section line to the North line of said Northwest Quarter of said Section; thence East to the Northeast corner of said Northwest Quarter of the Northwest Quarter; thence South to the South line of said Quarter Section; thence West to the place of beginning, except 1 acre described as follows: Commencing at a point 3 rods East and 26 rods North of the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section One (1); thence

North parallel with the Section line 25 rods to a stone in the middle of the public highway; thence in a Southeasterly direction to the place of beginning, the same being in a triangular form containing 1 acre. Land herein described containing 49 acres more or less, since the date of the last certificate. Also, the Southeast Quarter of the Northeast Quarter of Section Two (2) in Township 72 North of Range 14, West of the 5th P.M. in Wapello County, Iowa.

Also the Northeast Quarter of the Southeast Quarter of Section 2, Township 72, North of Range 14, West of the 5th P.M. in Wapello County, Iowa, except a piece of land 10 rods square in the Southeast corner of said NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 2, containing 2 acres more or less.

Edith May Sanford

Tract 1 - A part of the NW $\frac{1}{4}$  of Section 12, Township 72 North, Range 14 West of the 5th P.M. described as follows:

Beginning at a point 216.92 feet East and 755.48 feet North of the Southeast corner of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of said Section 12; thence West to the right-of-way of the C.M. & St. P.R.R. Co., a distance of 745.6 feet; thence Northeasterly parallel to the center line of said Railroad upon and along the Northeasterly right-of-way line thereof to a point where it intersects the public highway; thence South along the center of the public highway a distance of 1,860 feet to the point of beginning containing 23.7 acres, more or less; said property located Wapello County, Iowa.

James and Nancy Sanford

Lot 1 in Sanford's First Subdivision in Wapello County, Iowa.

PERMANENT EASEMENT

Tract 1, A parcel of land located in the SW¼, Section 1, Township 72 North, Range 14 West of the 5th P.M., Wapello Co. Iowa described as follows: The westerly 70 ft of the SW¼ of said Section 1 lying easterly of and adjacent to the centerline of Wapello Co. Rd V311 and lying north of the property owned by Larry Ruble and Thomas & Odilda Welch described as: Beginning at a point located on the easterly R.O.W. line of the county road that is 916.6 ft north and 723.8 ft west of the south quarter corner of Section 1, Township 72, Range 14 West of the 5th P.M.; thence north 82° 32' 20" east 180.8 ft; thence at an angle to the left to form an included angle of 92° 12' 40" 187 ft in a direction north 5° 15' west; thence to the left to form an included angle of 87° 45' along a course that is south 82° 30' west 196.35 ft to the northeasterly line of the county road; thence continuing along this same course to the center line of the county road; thence south 10° east along the center line of the public road to the point of intersection with the first course herein called extended southwesterly; thence north 82° 32' 20" east to the place of beginning.

Tract 2, A parcel of land located in the SW¼, Section 1, township 72 North, Range 14 West of the 5th P.M., Wapello Co. Iowa described as follows: The westerly 70 ft. of the SW¼ of said Section 1 lying easterly of and adjacent to the centerline of Wapello Co. Rd V311 lying between the northerly R.O.W. line of the SOO Line R.R. Company and the south line of the property owned by Iowa Southern Utilities described as; commencing at a point 725.8 ft west and 916.6 ft north of the SE corner of the SW¼ of Section 1, Township 72 North, Range 14 West of the 5th P.M. at a point on the easterly R.O.W. line of the existing county road; thence north 82° 31' east 275 ft along existing property line fence extended; thence south 35° 41' east 192.26 feet more or less to a point 100 ft from the northwesterly boundary of the Soo Line R.R. R.O.W.; thence south 54° 19' west along a line parallel to and 100 ft from said Soo Line R.R. R.O.W. 350.49 ft more or less to the easterly boundary of said county road; thence northerly along the curved county road R.O.W. 340.8 ft more or less, measured along 100 ft chords and tangent to the point of beginning; all in said Section 1, Township 72 North, Range 14 West of the 5th P.M., Wapello Co., Iowa.

TEMPORARY EASEMENT

A parcel of land 30 ft in width lying east of and adjacent to the above described Tract 1 permanent easement, AND a parcel of land 10 ft in width lying east of and adjacent to the above described Tract 2 permanent easement.

This easement shall include, but not be limited to, the right to excavate and refill ditches and/or trenches for the location of said sewer lines, and the further right to remove trees, brush, undergrowth and other obstructions interfering with the location, construction and maintenance of sewer lines.

ALSO



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#### PERMANENT EASEMENT

A parcel of land located in the NW Fractional  $\frac{1}{4}$  of Section 1, Township 72 North, Range 14 West of the 5th P.M., Wapello Co., Iowa described as follows:

Tract 1, Beginning at a point on the centerline of Wapello Co. Rd V311, said point being on the north line of the NW Fractional  $\frac{1}{4}$  of said Section 1, thence east along the north line of the NW Fractional  $\frac{1}{4}$  of said Section 1, 75 ft; thence southerly parallel with and 75 ft easterly of the center line of Wapello Co. Rd V311 to a point 440 ft south of the north line of the NW Fractional  $\frac{1}{4}$  of said Section 1; thence southeasterly to a point 100 ft east of the centerline of Wapello Co. Rd V311 and 836 ft south of the north line of the NW Fractional  $\frac{1}{4}$  of said Section 1; thence westerly perpendicular to the centerline of Wapello Co. Rd V311 to the centerline of said county road; thence northerly along the centerline of said county road to the point of beginning.

Tract 2, a tract of land 30 ft in width 15 ft on either side of the following described line: Beginning at a point 85 ft easterly of the centerline of Wapello Co. Rd V311 and 836 ft south of the north line of the NW fractional  $\frac{1}{4}$  of said Section 1; thence southeasterly to a point 130 ft northeasterly of the centerline of Wapello Co. Rd V311 and 1322 ft south of the north line of the NW fractional  $\frac{1}{4}$  of said Section 1; thence southeasterly to a point 60 ft northeasterly of the centerline of Wapello Co. Rd V311 and 1539 ft south of the north line of the NW fractional  $\frac{1}{4}$  of said Section 1.

Tract 3, the westerly 70 ft. of the south 830 ft. of the north 2369 ft. of the NW fractional  $\frac{1}{4}$  of said Section 1 lying easterly of and adjacent to the centerline of Wapello Co. Rd. V311.

Tract 4, the westerly 70 ft. of the NW fractional  $\frac{1}{4}$  of said section 1, lying easterly of and adjacent to the centerline of Wapello Co. Road V311 except the north 2369 ft. there of.

#### TEMPORARY EASEMENT

A tract of land 30 ft. in width lying east of and adjacent to the permanent easement above described as Tract 1 AND

a tract of land 30 ft. in width lying on either side of and adjacent to the permanent easement described above as Tract 2 AND

a tract of land 30 ft. in width lying easterly of and adjacent to the permanent easement above described as Tract 3 AND

a tract of land 10 ft. in width lying easterly of and adjacent to the permanent easement above described as Tract 4.

This easement shall include, but not be limited to, the right to excavate and refill ditches and/or trenches for the location of said sewer lines, and the further right to remove trees, brush, undergrowth and other obstructions interfering with the location, construction and maintenance of sewer lines.

**PERMANENT EASEMENT**

**Tract 1**

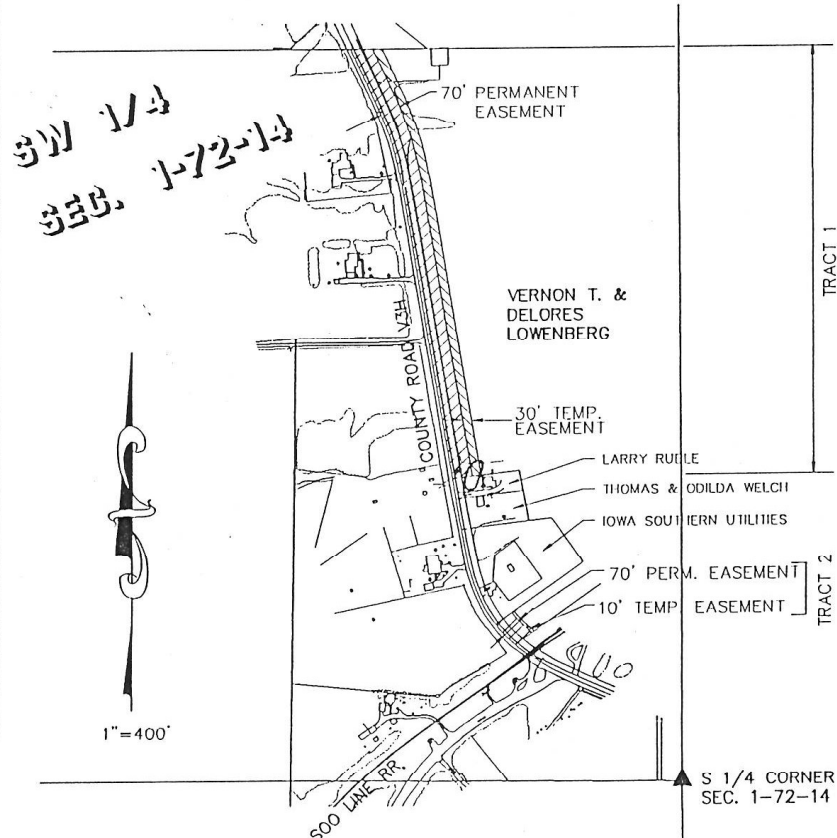
A parcel of land located in the SW 1/4, Section 1, Township 72 North, Range 14 West of the 5th P.M., Wapello Co. Iowa described as follows: The westerly 70 ft of the SW 1/4 of said Section 1 lying easterly of and adjacent to the centerline of Wapello Co. Rd V311 and lying north of the property owned by Larry Ruble and Thomas & Odilda Welch described as: Beginning at a point located on the easterly R.O.W. line of the county road that is 916.6 ft north and 723.8 ft west of the south quarter corner of Section 1, Township 72, Range 14 West of the 5th P.M.; thence north 82° 32' 20" east 180.8 ft; thence at and angle to the left to form an included angle of 92° 12' 40" 187 ft in a direction north 5° 15' west; thence to the left to form an included angle of 87° 45' along a course that is south 82° 30' west 196.35 ft to the northeasterly line of the county road; thence continuing along this same course to the center line of the county road; thence south 10° east along the center line of the public road to the point of intersection with the first course herein called extended southwesterly; thence north 82° 32' 20" east to the place of beginning.

**Tract 2**

A parcel of land located in the SW 1/4, Section 1, Township 72 North, Range 14 West of the 5th P.M., Wapello Co. Iowa described as follows: The westerly 70 ft. of the SW 1/4 of said Section 1 lying easterly of and adjacent to the centerline of Wapello Co. Rd V311 lying between the northerly R.O.W. line of the SOO LINE R.R. Company and the south line of the property owned by Iowa Southern Utilities described as; commencing at a point 725.8 ft west and 916.6 ft north of the SE corner of the SW 1/4 of Section 1, Township 72 North, Range 14 West of the 5th P.M. at a point on the easterly R.O.W. line of the existing county road; thence north 82° 31' east 275 ft along existing property line fence extended; thence south 35° 41' east 192.26 feet more or less to a point 100 ft from the northwesterly boundary of the Soo Line R.R. R.O.W.; thence south 54° 19' west along a line parallel to and 100 ft from said Soo Line R.R. R.O.W. 350.49 ft more or less to the easterly boundary of said county road; thence northerly along the curved county road R.O.W. 340.8 ft more or less, measured along 100 ft chords and tangent to the point of beginning; all in said Section 1, Township 72 North, Range 14 West of the 5th P.M., Wapello Co., Iowa.

**TEMPORARY EASEMENT**

A parcel of land 30 ft in width lying east of and adjacent to the above described Tract 1 permanent easement, AND a parcel of land 10 ft in width lying east of and adjacent to the above described Tract 2 permanent easement.



PROJECT:	OTTUMWA A.P. SEWER	PROJECT NO:	1238
OTTUMWA, IOWA		CK. BY: KJI	SHEET:
McCLURE ENGINEERING CO., P.C.		BY: JB	9
		DATE: 2-93	
FORT DODGE, IOWA CONSULTING ENGINEERS ALTOONA, IOWA			