

06-281-CD
In Re: Irvona Borough et al

In RE: Irvona Municipal et al
2006-281-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

IN RE: Condemnation proceedings of
Irvona Municipal Authority relative to
certain lands situate in Irvona Borough,
Clearfield County, Pennsylvania
belonging to Donna G. Covert and
Harold E. Covert, her husband

No. 06-281-CD

IN REM

Type of Case: Civil

Type of Pleading: Declaration of
Taking

Counsel of Record for this Party:
Andrew P. Gates, Esquire

Supreme Court No.: 36604

GATES & SEAMAN
Attorneys at law
2 North Front Street
P. O. Box 846
Clearfield, Pennsylvania 16830
(814) 765-1766

FILED, Atty pd. 85.00
01/31/06
FEB 21 2006 No CC

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: Condemnation proceedings of :
Irvona Municipal Authority relative to :
certain lands situate in Irvona Borough, : No. 06-01 -CD
Clearfield County, Pennsylvania :
belonging to Donna G. Covert and : IN REM
Harold E. Covert, her husband :

DECLARATION OF TAKING

The Irvona Municipal Authority hereby declares:

1. The Condemnor is the Irvona Municipal Authority (hereafter called "Authority") whose primary office and place of business is situate in the Borough of Irvona, Clearfield County, Pennsylvania, with a mailing address of P. O. Box 247, Irvona, Pennsylvania 16656.
2. The parcel of real estate hereinafter described is hereby condemned in fee simple or absolute title by the Condemnor for the purpose of constructing an access road to provide the Authority with motor vehicle access to the site where two (2) additional wells are to be drilled and developed for use primarily as alternate sources of raw water so the demand of the Authority's customers for safe public drinking water may be met.
3. The Condemnor is hereby exercising its right to condemn the parcel in question pursuant to the authority vested in it by the Municipality Authorities Act, as amended, (Act No. 22 of 2001, approved June 19, 2001, as amended) particularly 53 P.S. §5607(a)(10), 53 P.S. §5607(d)(15) and 53 P.S. §5615,

and as otherwise authorized by Resolution Number 06- 01 adopted February 20, 2006, by Condemnor. A certified copy of the Resolution is attached as Exhibit "A". The original Resolution may be examined at the Offices of the Condemnor at the above address.

4. The purpose of the condemnation is to construct an access road to provide motor vehicle access to the site selected to drill and develop two (2) wells so the same may be utilized as either the primary and/or an auxiliary source by the Condemnor in order to supply public drinking water to the customers of the Condemnor.

5. A description of the parcel of real estate being condemned sufficient for its identification is set forth in the attached Exhibit "B" which is made a part hereof. On the same day as this Declaration of Taking is being filed with the Prothonotary of Clearfield County, Pennsylvania, plans showing the property condemned are being lodged for record in the Office of the Recorder of Deeds of Clearfield County in accordance with Section Number 404 of the Eminent Domain Code, 26 P.S. §1-404.

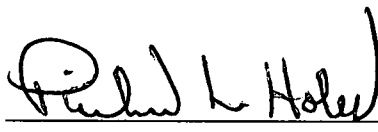
6. The nature of the title acquired in and to the property above described is a fee simple or absolute title.

7. The plans showing the condemned property may be inspected at the offices of the Condemnor, situate on Hemlock Street, Irvona (Clearfield County) Pennsylvania 16656.

8. The Condemnor files with this Declaration of Taking an open end bond, without security, pursuant to §403(a) of the Eminent Domain Code, 26 P.S. §1-403(a). Just compensation is made or secured by the filing of the bond. A copy of the bond is attached as Exhibit "C".

IRVONA MUNICIPAL AUTHORITY

ATTEST:



Secretary

By 

Chairman

(SEAL)

IRVONA MUNICIPAL AUTHORITY

RESOLUTION AUTHORIZING FILING OF A DECLARATION OF TAKING

RESOLUTION NO. 06-01

A RESOLUTION AUTHORIZING THE SELECTION AND APPROPRIATION OF A PARCEL OF REAL ESTATE SITUATE IN IRVONA BOROUGH, CLEARFIELD COUNTY, PENNSYLVANIA, CONTAINING 0.267 ACRES, FOR THE PURPOSE OF CONSTRUCTING AN ACCESS ROAD, APPROXIMATELY SIXTY-TWO (62) FEET IN WIDTH, TO PROVIDE ACCESS TO TWO (2) WELLS THE AUTHORITY HAS DECIDED TO DRILL AND DEVELOP FOR UTILIZATION AS A PRIMARY AND/OR AUXILIARY SOURCE OF PUBLIC DRINKING WATER FOR THE CUSTOMERS OF THE IRVONA MUNICIPAL AUTHORITY. SAID RESOLUTION IS TO OTHERWISE PROVIDE AUTHORIZATION FOR THE FILING OR A DECLARATION OF TAKING AND PROCEEDING WITH SUCH OTHER NECESSARY ACTION IN THE ACQUISITION OF SAID REAL ESTATE.

WHEREAS, the Irvona Municipal Authority (hereafter called "Authority"), a body corporate and politic, created and existing under the Municipality Authorities Act, as amended, (53 P.S. § 5601 et seq.), has a current need to supplement its current sources of raw water to insure it has adequate water resources in order to be able to meet the current and future demand of its customers for safe drinking water;

WHEREAS, to meet its current and future demand, the Authority has decided to drill and develop two (2) additional wells, on lands of a third party, which lands have no public road access, and to do so the Authority needs to construct an access road through lands of another private party;

WHEREAS, the Authority has been unable to agree with the owners of the property to be acquired as to a price or amount of damages to be paid; and

WHEREAS, in accordance with the Municipality Authorities Act, as amended, particularly 53 P.S. § 5607 (a) (10), 53 P.S. § 5607(d)(15) and 53 P. S. § 5615,

the Irvona Municipal Authority is authorized to acquire title to the real estate in question through Eminent Domain proceedings.

NOW, THEREFORE, BE IT RESOLVED, that the Irvona Municipal Authority, in accordance with the authority conferred by law and in order to construct an access road to the site selected to drill and develop two additional wells, hereby selects and appropriates for said purpose, a parcel of real estate assessed to and owned by Donna G. Covert and Harold E. Covert, her husband, consisting of 0.267 acres situate in Irvona Borough, Clearfield County, Pennsylvania, and further identified as being a portion of those lands identified by Clearfield County Assessment Map Number 11.0-H16-50. Attached hereto and made a part hereof are a reduced scale version of the survey map (with the 0.267 acre parcel being colored in yellow) and a metes and bounds description of the premises to be acquired.

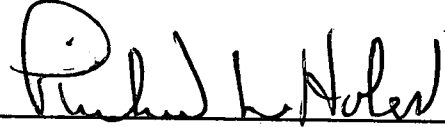
RESOLVED, the fee simple title to the aforementioned parcel, is hereby selected and appropriated for purposes of constructing an access road to the site selected for the drilling and development of two (2) additional wells to be used primarily as an auxiliary source of water by the Authority.

RESOLVED, that title to be acquired shall be absolute or fee simple title, including all easements, rights of way and real property interest of whatever nature.

RESOLVED, that legal counsel for the Irvona Municipal Authority and its proper officers are hereby authorized to file a Declaration of Taking and such other proceedings, including the entry of such bond as may be necessary or desirable, to carry out the purpose of this resolution.

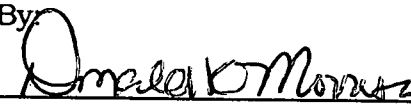
RESOLVED, that at the institution of such proceedings, any damages which may be agreed upon or awarded to any party in interest, including the owners of said property to be acquired, shall be paid out of the funds of the Irvona Municipal Authority.

ATTEST:


Secretary

IRVONA MUNICIPAL AUTHORITY

By


Chairman

(SEAL)

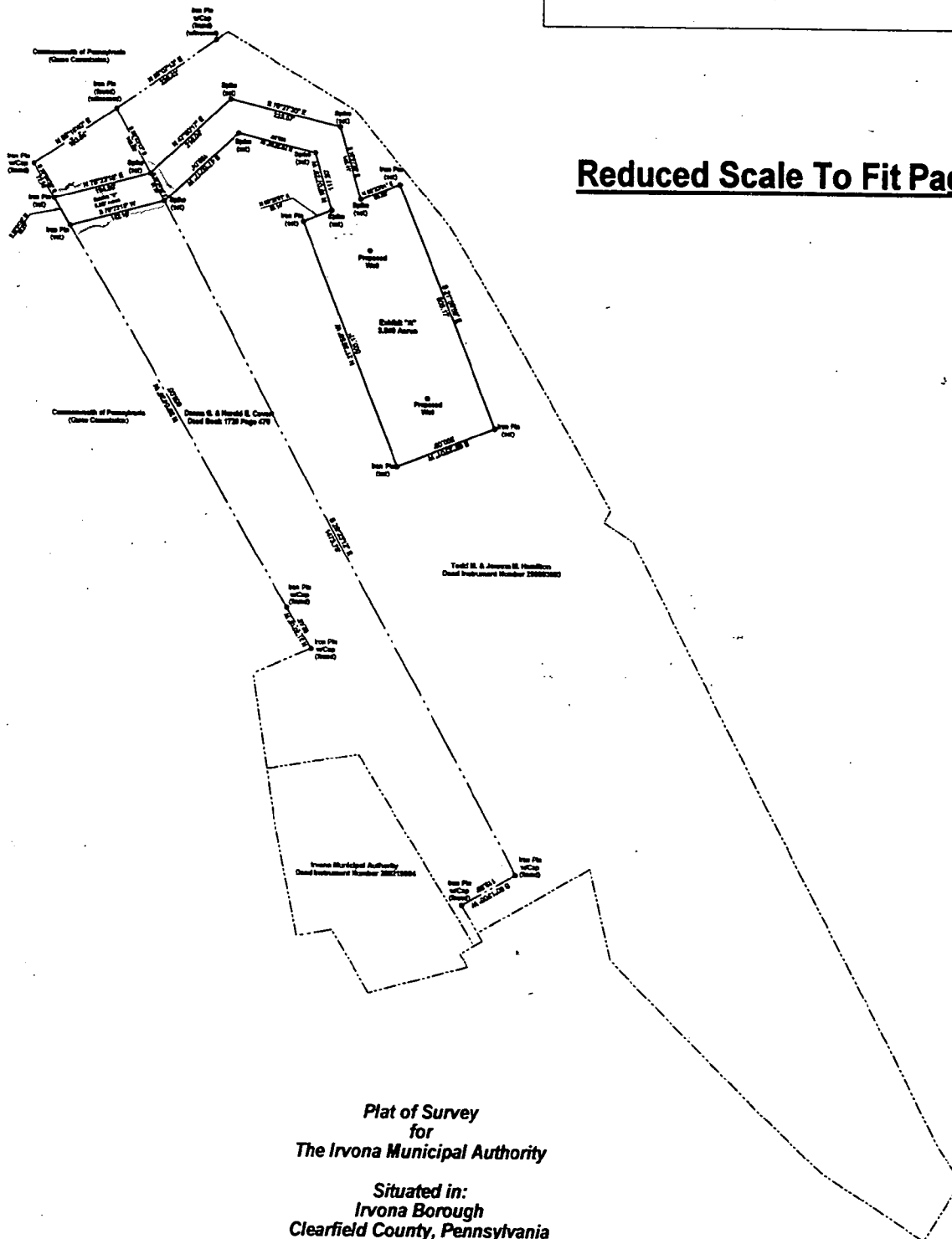


Line Legend

Newly Surveyed Lines —————

Existing Property Lines Formally Surveyed - - - - -

Existing Property Lines Not Formally Surveyed - - - - -



Reduced Scale To Fit Page

**Plat of Survey
for
The Irvona Municipal Authority**

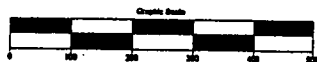
**Situated in:
Irvona Borough
Clearfield County, Pennsylvania**

Scale: One Inch = One Hundred Feet

**Surveyed by:
Jeffrey S. Doughty
Registered Professional Land Surveyor
116 Irvin Street
Irvona, PA 16656
(814) 672-5262**

Drawing Number: SU114205

Date: November 9, 2005



ALL that certain piece or parcel of land situate in the Borough of Irvona, County of Clearfield, Commonwealth of Pennsylvania, bounded and described as follows:

Commencing at an Iron Pin with cap (found) at the northwest corner of land now or formerly of Donna G. Covert and Harold E. Covert; thence along the dividing line between said land of Covert and the land now or formerly of The Commonwealth of Pennsylvania State Game Commission, S 30° 43' 26"E, a distance of 77.70 feet to an Iron Pin (set), said point being the POINT OF BEGINNING; thence through the said land of Covert, N 75° 23' 18"E, a distance of 194.99 feet to a Spike (set) on the dividing line between said land of Covert and the land now or formerly of Todd M. Hamilton and Joanna M. Hamilton; thence along the said dividing line between Covert and Hamilton, S 28° 23' 12"E, a distance of 61.78 feet to a Spike (set); thence through the said land of Covert, S 75° 23' 18"W, a distance of 192.16 feet to an Iron Pin (set) on the dividing line between the said land of Covert and the said land of The Commonwealth of Pennsylvania – State Game Commission; thence along the said dividing line between Covert and The Commonwealth of Pennsylvania – State Game Commission; N 30° 54' 26" W, a distance of 62.51 feet to the POINT OF BEGINNING; said described tract containing 0.267 acres as shown on the plat of survey prepared by Jeffrey S. Doughty, Registered Professional Land Surveyor.

CERTIFICATE

I, the undersigned, Secretary of the Irvona Municipal Authority (hereafter "Authority"), certify that: the foregoing is a true and correct copy of the Resolution which was duly enacted by affirmative vote of a majority of all members of the Board of the Authority's, in accordance with law, at a meeting duly held on February 20, 2006, at which meeting a quorum was present; said Resolution has been certified and recorded by me, as Secretary of the Authority, in the book provided for the purpose of such recording; said Resolution, upon enactment, as aforesaid, was assigned Resolution No. 06-01; the total number of members of the Board of the Authority is at the present time four (4), with one seat being open; the vote of the members of the Board of the Authority, upon enactment of said Resolution, the yeas and nays having been called, duly was recorded by me, as Secretary, as follows:

Donald Morrison, Chairman	- Yea
Terry Lender, Assistant Secretary/ Treasurer	- Yea
Robert Shomo	- Absent
Richard Holes, Secretary-Treasurer	- Yea

I further certify that the Authority met the advance notice and public comment requirements of the Sunshine Act, Act No. 1986-84 of the General Assembly of the Commonwealth of Pennsylvania, approved July 3, 1986, by advertising said meeting, by posting prominently a notice of said meeting at the principal office of the Authority or at the public building in which said meeting was held and by providing a reasonable opportunity for public comment at said meeting, all in accordance with such Act.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Authority, this 20th day of February, 2006.



Richard Holes, Secretary

(SEAL)

ALL that certain piece or parcel of land situate in the Borough of Irvona, County of Clearfield, Commonwealth of Pennsylvania, bounded and described as follows:

Commencing at an Iron Pin with cap (found) at the northwest corner of land now or formerly of Donna G. Covert and Harold E. Covert; thence along the dividing line between said land of Covert and the land now or formerly of The Commonwealth of Pennsylvania - State Game Commission, S 30° 54' 26"E, a distance of 77.70 feet to an Iron Pin (set), said point being the POINT OF BEGINNING; thence through the said land of Covert, N 75° 23' 18"E, a distance of 194.99 feet to a Spike (set) on the dividing line between said land of Covert and the land now or formerly of Todd M. Hamilton and Joanna M. Hamilton; thence along the said dividing line between Covert and Hamilton, S 28° 23' 12"E, a distance of 61.78 feet to a Spike (set); thence through the said land of Covert, S 75° 23' 18"W, a distance of 192.16 feet to an Iron Pin (set) on the dividing line between the said land of Covert and the said land of The Commonwealth of Pennsylvania - State Game Commission; thence along the said dividing line between Covert and The Commonwealth of Pennsylvania - State Game Commission; N 30° 54' 26" W, a distance of 62.51 feet to the POINT OF BEGINNING; said described tract containing 0.267 acres as shown on the plat of survey prepared by Jeffrey S. Doughty, Registered Professional Land Surveyor.

EXHIBIT "B"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: Condemnation proceedings of :
Irvona Municipal Authority relative to : No. 06- -CD
certain lands situate in Irvona Borough, :
Clearfield County, Pennsylvania : IN REM
belonging to Donna G. Covert and :
Harold E. Covert, her husband :

BOND

KNOW ALL MEN BY THESE PRESENTS, that a Declaration of Taking
having been filed the 21st day of February, 2006, by the Irvona Municipal Authority
("Obligor"), a body corporate and politic organized and existing under the
Municipality Authorities Act, as amended, being held and firmly bound unto the
Commonwealth of Pennsylvania ("Obligee") for the use and benefit of the owners of
the property condemned as hereinafter noted, and all other proper parties in interest,
for such amount of damages as the owners of the property and other parties in
interest shall be entitled to receive after the same shall have been agreed upon or
assessed in the manner prescribed by law, by reason of the condemnation by Obligor
of certain unimproved lands located in Irvona Borough, Clearfield County,
Pennsylvania and described as follows:

ALL that certain piece or parcel of land situate in the Borough of Irvona, County of
Clearfield, Commonwealth of Pennsylvania, bounded and described as follows:

Commencing at an Iron Pin with cap (found) at the northwest corner of land now or
formerly of Donna G. Covert and Harold E. Covert; thence along the dividing line
between said land of Covert and the land now or formerly of The Commonwealth of
Pennsylvania - State Game Commission, S 30° 54' 26"E, a distance of 77.70 feet to
an Iron Pin (set), said point being the POINT OF BEGINNING; thence through the
said land of Covert, N 75° 23' 18"E, a distance of 194.99 feet to a Spike (set) on the

dividing line between said land of Covert and the land now or formerly of Todd M. Hamilton and Joanna M. Hamilton; thence along the said dividing line between Covert and Hamilton, S 28° 23'12"E, a distance of 61.78 feet to a Spike (set); thence through the said land of Covert, S 75° 23'18"W, a distance of 192.16 feet to an Iron Pin (set) on the dividing line between the said land of Covert and the said land of The Commonwealth of Pennsylvania - State Game Commission; thence along the said dividing line between Covert and The Commonwealth of Pennsylvania - State Game Commission; N 30° 54' 26" W, a distance of 62.51 feet to the POINT OF BEGINNING; said described tract containing 0.267 acres as shown on the plat of survey prepared by Jeffrey S. Doughty, Registered Professional Land Surveyor.

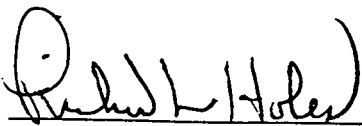
to which payment well and truly to be made, the Obligor does bind itself and its successors, and assigns firmly by these presents.

WHEREAS, the Obligor has condemned the said property and cannot agree with the owners of said unimproved land upon the just compensation to be paid for damages sustained by said owners as the result of the condemnation.


NOW, THE CONDITION of this Bond is such that if the Obligor shall pay or cause to be paid such amount of damages as the said owners of the property and other parties in interest shall be entitled to receive by reason of such condemnation, after the same shall have been agreed upon or assessed in the manner provided by law, then this obligation shall be void; otherwise, to be and remain in full force and effect.

SEAL with the corporate seal and duly executed the 24th day of February, 2006.

ATTEST:


Secretary

IRVONA MUNICIPAL AUTHORITY

By 
Chairman

VERIFICATION

I verify that the statements made in this Declaration of Taking are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

IRVONA MUNICIPAL AUTHORITY

By 
Chairman

DATED: February 20, 2006

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PA
CIVIL DIVISION
No. 06-01-CD
IN REM

IN RE: CONDEMNATION PROCEEDINGS
OF IRVONA MUNICIPAL AUTHORITY
RELATIVE TO CERTAIN LANDS SITUATE
IN IRVONA BOROUGH, CLEARFIELD
COUNTY, PENNSYLVANIA BELONGING TO
DONNA G. COVERT AND HAROLD E.
COVERT, HER HUSBAND

DECLARATION OF TAKING

LAW OFFICES
GATES & SEAMAN
2 NORTH FRONT STREET
P.O. BOX 846
CLEARFIELD, PA. 16830

THE PLANKENHORN CO., WILLIAMSPORT, PA.

FILED

FEB 21 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: Condemnation proceedings of :
Irvona Municipal Authority relative to : No. 06- **281** -CD
certain lands situate in Irvona Borough, :
Clearfield County, Pennsylvania : IN REM
belonging to Donna G. Covert and :
Harold E. Covert, her husband :

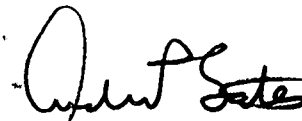
MEMORANDUM OF FILING OF NOTICE

TO: WILLIAM A. SHAW, PROTHONOTARY:

Notice of the above captioned condemnation proceedings have been
recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania as
Instrument No. 200602684.

GATES & SEAMAN

By:



Andrew P. Gates, Esquire
Attorney for Irvona Municipal
Authority, (Condemnor)

DATE: February 21, 2006

FILED NO
03:22 PM CC
FEB 21 2006
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: Condemnation proceedings of :
Irvona Municipal Authority relative to : No. 06 - 281 -CD
certain lands situate in Irvona Borough, :
Clearfield County, Pennsylvania : IN REM
belonging to Donna G. Covert and :
Harold E. Covert, her husband :

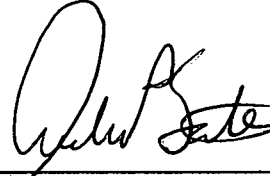
AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA :
:SS.
COUNTY OF CLEARFIELD :

ANDREW P. GATES, ESQUIRE, of Gates & Seaman, being duly sworn according to law, states that he mailed a true and correct copy of the Notice of Condemnation, in the above-captioned matter on March 1, 2006 to Donna G. Covert, by certified mail no. 7004 0550 0000 7175 8645, restricted delivery, return receipt requested, and to Harold E. Covert, by certified mail no. 7004 0550 0000 7175 8652, restricted delivery, return receipt requested. A copy of Notice of Condemnation is attached hereto as Exhibit "A" (without Exhibits). The green certified mail, return receipt cards evidencing receipt of said Notice by both, Donna G. Covert and Harold E. Covert are attached hereto collectively, as Exhibit "B".

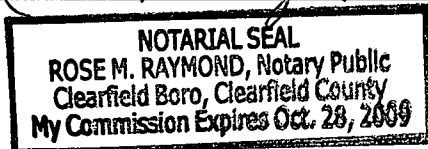
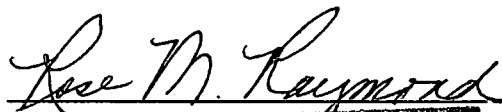
GATES & SEAMAN

By:



Andrew P. Gates, Esquire

Sworn to and subscribed before
me this ^{1st} 29 day of March, 2006.



FILED
0/3:22 am No CC.
MAR 29 2006

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION


IN RE: Condemnation proceedings of :
Irvona Municipal Authority relative to : No. 06- 281 -CD
certain lands situate in Irvona Borough :
Clearfield County, Pennsylvania : IN REM
belonging to Donna G. Covert and :
Harold E. Covert, her husband :

NOTICE OF CONDEMNATION

TO: DONNA G. COVERT and HAROLD E. COVERT (CONDEMNNEES)

In accordance with Section 405 of the Eminent Domain Code of 1964, 26 P.S. §1-405, the Irvona Municipal Authority notifies you that:

- (1) A Declaration of Taking, a copy of which is attached hereto and made a part hereof as Exhibit "A", was filed on February 21, 2006 in the Court of Common Pleas of Clearfield County, Pennsylvania to the above term and number.
- (2) Your property has been condemned for purpose of the Condemnor constructing an access road, approximately sixty-two (62) feet in width, to provide access to two (2) wells the Condemnor has decided to drill and develop so the same may be utilized as a primary and/or as an auxiliary source of public drinking water to be distributed to the Condemnor's customers.
- (3) Identification of your property appears on Exhibit "B" to the Declaration of Taking and on the Plat attached hereto and made a part hereof as Exhibit "B".
- (4) If you wish to challenge the power or right of the Irvona Municipal Authority to appropriate the condemned property, the sufficiency of the security, the procedure followed by the Condemnor, or the Declaration of Taking, you are required to file Preliminary Objections within thirty (30) days after being served with this Notice.



Andrew P. Gates, Esquire
Attorney for Irvona Municipal Authority

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Donna G. Covert
2715 Grand Point Road
Chambersburg, PA 17201

2. Article Number

(Transfer from service label) 7004 0550 0000 7175 8645

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Donna Covert* ☐ Agent ☒ Addressee

B. Received by (Printed Name)

Donna Covert

C. Date of Delivery

3/MAR/06

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☒ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Harold E. Covert
2715 Grand Point Road
Chambersburg, PA 17201

2. Article Number

(Transfer from service label) 7004 0550 0000 7175 8652

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Harold E. Covert* ☐ Agent ☒ Addressee

B. Received by (Printed Name)

Harold E. Covert

C. Date of Delivery

3/MAR/06

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☒ Yes

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: Condemnation proceedings of :
 Irvona Municipal Authority :
 relative to certain lands :
 situate in Irvona Borough, :
 Clearfield County, Pennsylv- :
 vania belonging to Donna G. :
 Covert and Harold E. Covert, :
 her husband :

No. 2006- 281 -CD

IN REM

PRAECIPE

TO: WILLIAM A. SHAW, PROTHONOTARY:

Attached hereto and made a part hereof, as Exhibit
"A", is an original of the **AGREEMENT AND RELEASE PURSUANT TO 26
Pa. C.S.A. § 501 (formerly 26 P.S. §1-501**, whereby the parties to
the within matter have resolved all outstanding issues regarding
monetary damages to be paid to the Condemnees by the Condemnor
and as to any other remedies available to the Condemnees under
the Pennsylvania Eminent Domain Code.

GATES & SEAMAN

By:



Andrew P. Gates, Esquire
Attorney for Irvona Municipal
Authority, Condemnor

Date: May 25, 2007

FILED

0 2:40 p.m. GK

MAY 29 2007

William A. Shaw
Prothonotary/Clerk of Courts

2 CC TO
ATTY GATES

(GK)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: Condemnation proceedings of :
 Irvona Municipal Authority :
 relative to certain lands : No. 2006-281-CD
 situate in Irvona Borough, :
 Clearfield County, Pennsyl- : IN REM
 vania belonging to Donna G. :
 Covert and Harold E. Covert, :
 her husband :

AGREEMENT AND RELEASE PURSUANT TO 26 Pa. C.S.A. §501
(formerly 26 P.S. § 1-501)

WHEREAS, Irvona Municipal Authority (hereafter referred to as "CONDEMNOR") commenced the above captioned Condemnation Proceedings by filing a Declaration of Taking with the Prothonotary of Clearfield County, Pennsylvania on February 21, 2006;

WHEREAS, CONDEMNOR within thirty (30) days of the filing of the Declaration of Taking, had the required "Notice to Condemnees" served upon Donna G. Covert and Harold E. Covert, her husband (hereafter referred to as "CONDEMNES") in accordance with 26 P.S. § 1-405(b);

WHEREAS, CONDEMNOR and CONDEMNES have reached an agreement as to the monetary damages to be paid by CONDEMNOR to the CONDEMNES in exchange for CONDEMNES releasing and discharging CONDEMNOR from all suits, damages, claims and demands which against the CONDEMNOR, CONDEMNES may have, had or will in the future have because of the taking, including the value of the

land, the diminution in value of CONDEMNNEES remaining property, any projected business losses as well as attorneys fees, appraisal fees and any other expenses, compensation or damages CONDEMNNEES could claim under the "Eminent Domain Code" (26 Pa. C.S.A. §101 et seq formerly 26 P.S. § 1-101 et seq.) or otherwise by virtue of the taking;

WHEREAS, CONDEMNOR and CONDEMNNEES wish to reduce the agreement to writing.

W I T N E S S E T H :

NOW, THEREFORE, in consideration of the covenants, condition and provisions contained herein and intending to be legally bound hereby, the parties hereto agree as follows:

1. Within ten (10) days of receiving an original of this Agreement fully executed by CONDEMNNEES, CONDEMNOR shall pay CONDEMNNEES the sum of ONE THOUSAND (\$1,000.00) DOLLARS.

2. In consideration of the amount to be paid to them by CONDEMNOR, the CONDEMNNEES, for themselves, their heirs, personal representatives and assigns do hereby release and discharge CONDEMNOR from all suits, damages, claims and demands which against the CONDEMNOR, CONDEMNNEES may have, had or will in the future have because of the taking, including the value of the land, the diminution in value of CONDEMNNEES remaining property, any projected business losses as well as for attorneys fees, appraisal fees and any other expenses, compensation or damages

CONDEMNNEES could claim under the "Eminent Domain Code" (26 Pa. C.S.A. §101 et. seq, formerly 26 P.S. § 1-101 et seq.), or otherwise by virtue of the taking.

3. This Agreement shall be construed under and in accordance with the laws of the Commonwealth of Pennsylvania.

4. This Agreement constitutes the sole and only agreement of the parties hereto affecting the aforesaid subject matter.

CONDEMNOR:

IRVONA MUNICIPAL AUTHORITY
By:

ATTEST:

Richard L. Hales

Secretary

Donna G. Covert

Date of execution: *4/11/07* DM

5-21-07

CONDEMNNEES:

O. Kelley Stewart

Witness

Donna G. Covert

Donna G. Covert

O. Kelley Stewart

Witness

Harold E. Covert

Harold E. Covert

Date of execution: *4/11/07*