

Recorded: 9/29/2023 at 8:38:29.0 AM
County Recording Fee: \$57.00
Iowa E-Filing Fee: \$3.00
Combined Fee: \$60.00
Revenue Tax:
Delaware County, Iowa
Daneen Schindler RECORDER
BK: 2023 PG: 2444

Prepared By & Return To: Lisa Obrecht, Right of Way Bureau, 800 Lincoln Way, Ames, IA 50010, 515-239-1813

In the Matter of the Condemnation of Certain
Rights in Land by the Iowa Department of
Transportation for the Improvement of

**Primary Road No. IA 13
North of the City of Manchester
located in Delaware County, Iowa**

**APPLICATION TO THE CHIEF
JUDGE OF THE 1ST
JUDICIAL DISTRICT FOR THE
APPOINTMENT OF A
COMMISSION TO APPRAISE
DAMAGES**

Project No. NHSN-013-2(43)-2R-28 Group A

TO: Kellyann Lekar, Chief Judge, 1ST Judicial District including Delaware County, Iowa

Comes now the Iowa Department of Transportation and states that the public interest requires that certain rights be acquired in **Nonagricultural** land by Condemnation proceedings. The Iowa Department of Transportation, acting on behalf of the State of Iowa and/or its political subdivisions, has not been able to secure rights in lands by purchase and conveyance for the improvement of roads and streets. In accordance with Sec. 6B.2A, 6B.2B and 6B.3, the Code of Iowa, as amended by H.F. 476, the following is set forth:

Description: The lands and/or property rights sought to be condemned or affected are described on the attached Notice of Condemnation which is made a part of this Application.

Plat: The location of the right of way or other property rights sought to be condemned or affected are shown on the plat(s) attached to and a part of the attached Notice of Condemnation.

Minimum Land Needs: The minimum amount of land necessary to achieve the public purpose is as described in and shown on the Notice of Condemnation and attached plat(s).

Names and Addresses: The names and addresses of the record owners, lienholders, encumbrancers and other persons affected by this proceeding are listed on the attached Notice of Condemnation.

Purpose: The Department of Transportation desires the rights specified in the lands sought to be condemned for the improvement and/or maintenance of roads and streets within the State of Iowa.

Statement of Individual Rights: The Iowa Department of Transportation has provided the owner(s) with a statement of their individual rights and written notification as required under Sec. 6B.2A.

Good Faith Negotiations: The Applicant has made an effort to negotiate in good faith with the

owner(s) to acquire the property sought to be condemned. These efforts include:

1. Provided the owner(s) with written notification at least 30 days prior to the intent to proceed with this public improvement.
2. Provided the owner(s) with a copy of the appraisal of the property sought.
3. Discussed the basis of determining value.
4. Reviewed the project design plans.
5. Discussed the contents of the acquisition contract.
6. Addressed owner's questions and concerns.
7. Provided the owner(s) with a written offer of the fair market value.

Based on these efforts, we were unable to reach an agreement.

Agricultural Land: A part of the lands sought to be appropriated may be classified as Class I or Class II within an agricultural area and, if so classified, is reasonably necessary for this internal improvement.

Request: NOW, THEREFORE, the Iowa Department of Transportation hereby requests the appointment of a compensation commission of six qualified persons to view the premises and appraise the damages which the owners, lienholders, encumbrancers and other persons affected will sustain by reason of this Condemnation.

Dated at Ames, Iowa, this 14th day of September, 2023.

IOWA DEPARTMENT OF TRANSPORTATION
SHEAN FLETCHALL
Transportation Section Chief
Assistant Attorney General

By Katie A. Johnson
Katie A. Johnson
Condemnation Unit Coordinator
Right of Way Bureau

Filed in my office at Waterloo, Iowa, this 21 day of September, 2023.

Kellyann Lekar
Kellyann Lekar
Chief Judge of the 1ST Judicial District
including Delaware County, Iowa.

I certify that this Application for Condemnation has been approved by the Chief Judge.

Lisa Obrecht
Lisa Obrecht, Condemnation Unit

In the Matter of the Condemnation of
Certain Rights in Land
by the Iowa Department of Transportation
for the Improvement of

NOTICE

Primary Road No. IA 13

North of the City of Manchester

located in Delaware County, Iowa

Project No. NHSN-013-2(43)--2R-28

Group "A"

TO:

Nicholas R. McGraw, 1901 Iowa Highway 13, Manchester, IA 52057

Rachel L. McGraw, 1901 Iowa Highway 13, Manchester, IA 52057

The Hangover Express, LLC, c/o Nick McGraw, Registered Agent, 1901 Iowa Highway 13,
Manchester, IA 52057

Delaware County, Iowa, c/o County Auditor, 301 East Main Street, Manchester, IA 52057

and to all other persons, companies or corporations having any interest in or owning any of the following described real estate: Part of Lots 4 and 5 of Block 1 of Sunset Beach, a Subdivision of parts of Sections 17, 18 and 20, Township 89 North, Range 5 West of the 5th P.M., Delaware County, Iowa.

You, and each of you, are hereby notified that the State of Iowa desires certain rights in land more specifically described as follows and shown with reference to their location as to land affected on the Acquisition Plat Exhibit "A" attached hereto and to the Application filed with the Chief Judge of the Judicial District containing Delaware County, Iowa, and in the Office of the Sheriff of Delaware County, Iowa, to which you are referred:

The easement for highway purposes sought to be appropriated is in land described as follows:

A parcel of land located in Lots 4 and 5 of Block 1 of Sunset Beach, a Subdivision of parts of Sections 17, 18 and 20, Township 89 North, Range 5 West of the 5th P.M., Delaware County, Iowa, as shown on Acquisition Plat Exhibit "A" attached hereto and by reference made a part hereof.

Said parcel is described as follows:

Beginning at the SE Corner of Lot 5, Block 1 of Sunset Beach, a Subdivision of parts of Sections 17, 18, and 20, Township 89 North, Range 5 West of the 5th P.M., Delaware County, Iowa as recorded in Plat Book 2, Page 20

Delaware County Project No. NHSN-013-2(43)--2R-28

Nicholas R. McGraw, et ux (Parcel 7)

Continued on next page

Page 1

in the Office of the Delaware County Recorder; thence S87°40'02"W 8.04 feet along the South line of said Lot 5; thence N07°25'57"E 30.76 feet; thence N02°44'43"W 69.61 feet to the North line of Lot 4 of said Block 1 of Sunset Beach; thence N87°42'20"E 4.03 feet along the North line and to the NE Corner of said Lot 4; thence S01°55'34"E 99.92 feet along the East line of Lots 4 and 5 of said Block 1 of Sunset Beach to the Point of Beginning, containing 0.01 acre more or less.

Note: The South line of Lot 5, Block 1 of Sunset Beach, a Subdivision of parts of Sections 17, 18, and 20, Township 89 North, Range 5 West of the 5th P.M, Delaware County, Iowa is assumed to bear S87°40'02"W.

In connection with this condemnation proceeding, it is specifically provided as follows:

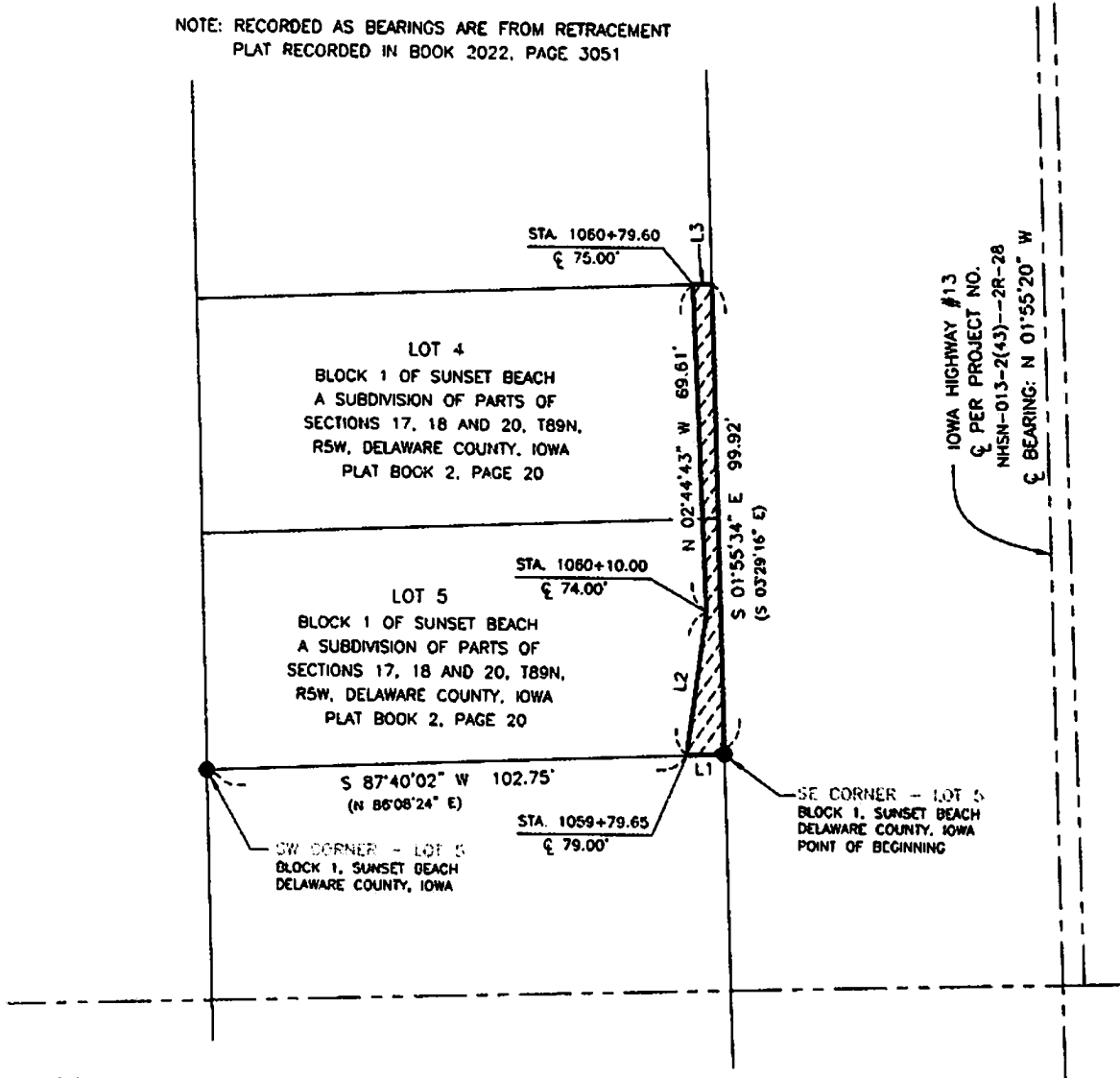
1. Any and all improvements, including fences or agricultural crops, if any, located wholly within the land sought by easement for highway purposes are condemned in their entirety.
2. Condemner hereby gives notice of condemnee's five-year right to renegotiate construction or maintenance damages not apparent at the time of the condemnation as required by the Code of Iowa, Section 6B.52.

Iowa Department of Transportation
ACQUISITION PLAT
EXHIBIT "A"



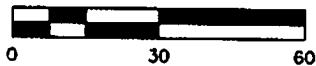
COUNTY DELAWARE STATE CONTROL NO. _____
 ROW PROJECT NO. NHSN-013-2(43)--2R-28 PARCEL NO. 7
 SECTION 17 TOWNSHIP 89 NORTH RANGE 5 WEST
 ROW-FEE _____ AC, EASE 0.01+/- AC EXCESS-FEE _____ AC
 ACCESS RIGHTS ACQUIRED - STA _____ STA _____ MAIN LINE _____ SIDE _____
 ACCESS RIGHTS ACQUIRED - STA _____ STA _____ SIDE ROAD _____ SIDE _____
 ACQUIRED FROM Nicholas R. McGraw, et ux

NOTE: RECORDED AS BEARINGS ARE FROM RETRACEMENT
 PLAT RECORDED IN BOOK 2022, PAGE 3051



DATE DRAWN: 7/27/2022
 DATE REVISED: 11/14/2022 & 4/21/2023

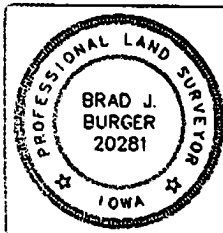
SCALE: 1" = 30'



LINE	BEARING	DISTANCE
L1	S 87°40'02" W (N 88°08'24" E)	8.04'
L2	N 07°25'57" E	30.76'
L3	N 87°42'20" E (N 88°10'41" E)	4.03'

LEGEND

- FD. 1/2" IRON ROD W/
ORANGE CAP #17939
- CENTERLINE
- SECTION LINE AND OR 1/4
OR 1/4 1/4 SECTION LINE
- PERMANENT EASEMENT
RECORDED AS



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

Brad J. Burger 4/24/2023
 BRAD J. BURGER LICENSE NO. 20281 DATE

My license renewed date is December 31, 2024

Pages or sheets covered by this seal: this page only

In the Matter of the Condemnation of
Certain Rights in Land
by the Iowa Department of Transportation
for the Improvement of

NOTICE

Primary Road No. IA 13

North of the City of Manchester

located in Delaware County, Iowa

Project No. NHSN-013-2(43)--2R-28

Group "A"

TO:

Gerald A. Heims, 1518 Iowa Highway 13, Manchester, IA 52057
Cheryl M. Heims, 1518 Iowa Highway 13, Manchester, IA 52057
Delaware County, Iowa, c/o County Auditor, 301 East Main Street, Manchester, IA 52057

and to all other persons, companies or corporations having any interest in or owning any of the following described real estate: Part of Parcel A in the NW¼ of the NW¼ of Section 32, Township 90 North, Range 5 West of the 5th P.M., Delaware County, Iowa.

You, and each of you, are hereby notified that the State of Iowa desires certain rights in land more specifically described as follows and shown with reference to their location as to land affected on the Acquisition Plat Exhibit "A" and Graphic Exhibit "B" (1 of 2) and (2 of 2) attached hereto and to the Application filed with the Chief Judge of the Judicial District containing Delaware County, Iowa, and in the Office of the Sheriff of Delaware County, Iowa, to which you are referred:

The easement for highway purposes sought to be appropriated is in land described as follows:

A parcel of land located in Parcel A in the NW¼ of the NW¼ of Section 32, Township 90 North, Range 5 West of the 5th P.M., Delaware County, Iowa, as shown on Acquisition Plat Exhibit "A" attached hereto and by reference made a part hereof.

Said parcel is described as follows:

A parcel of land located in Parcel A in the NW¼ of the NW¼ of Section 32, Township 90 North, Range 5 West of the 5th P.M., Delaware County, Iowa, as shown on the Acquisition Plat Exhibit "A", attached hereto and by reference made a part hereof and more particularly described as follows:

Delaware County Project No. NHSN-013-2(43)--2R-28
Gerald A. Heims, et ux (Parcel 36)
Continued on next page

Page 1

Commencing at the SW corner of the NW¼ of the NW¼ of Section 32, Township 90 North, Range 5 West of the 5th P.M., Delaware County, Iowa; thence N86°55'38"E, 78.58 feet along the South line of the NW¼ of the NW¼ of said Section 32, also being the South line of Parcel A as recorded in Book 7, Page 152 in the Office of the Delaware County Recorder to the existing Easterly right of way line of Primary Road No. 1A 13 and the Point of Beginning; thence N00°45'35"E, 854.39 feet along said existing Easterly right of way line to the Northerly line of said Parcel A; thence S58°00'34"E, 6.64 feet along the Northerly line of said Parcel A; thence S01°31'48"W, 297.73 feet; thence S21°37'12"E, 18.38 feet; thence S00°45'37"W, 460.00 feet; thence S06°04'37"E, 75.60 feet to the South line of said NW¼ of the NW¼ and the South line of said Parcel A; thence S86°55'38"W, 17.71 feet along the South line of said NW¼ of the NW¼ and the South line of said Parcel A to the Point of Beginning, containing 0.14 acre, more or less.

Note: The West line of the NW¼ of the NW¼ of Section 32, Township 90 North, Range 5 West of the 5th P.M., Delaware County, Iowa is assumed to bear S00°43'32"W.

In connection with this condemnation proceeding, it is specifically provided as follows:

1. Any and all improvements, including fences or agricultural crops, if any, located wholly within the land sought by easement for highway purposes are condemned in their entirety.
2. The State of Iowa shall have a right of temporary easement in Parcel A in the NW¼ of the NW¼ of Section 32, Township 90 North, Range 5 West of the 5th P.M., Delaware County, Iowa, for the specific purpose of constructing entrances, in land described as follows and as shown on Graphic Exhibit "B" (1 of 2) and (2 of 2) attached hereto and by reference made a part hereof:

Commencing at the SW corner of the NW¼ of the NW¼ of Section 32, Township 90 North, Range 5 West, of the 5th P.M., Delaware County, Iowa; thence N00°43'32"E 472.44 feet along the West line of the NW¼ of the NW¼ of said Section 32, also being the West line of Parcel A as recorded in Book 7, Page 152 in the Office of the Delaware County Recorder; thence S89°16'29"E, 87.35 feet to the Point of Beginning; thence N00°45'37"E, 69.00 feet; thence N21°37'12"W, 18.38 feet; thence S52°22'12"E, 40.00 feet; thence S00°34'19"E, 43.01 feet; thence S54°36'07"W, 32.20 feet to the Point of Beginning.

Note: The West line of the NW¼ of the NW¼ of Section 32, Township 90 North, Range 5 West of the 5th P.M., Delaware County, Iowa is assumed to bear N00°43'32"E.

and,

Commencing at the SW corner of the NW¼ of the NW¼ of Section 32, Township 90 North, Range 5 West, of the 5th P.M., Delaware County, Iowa; thence N86°55'38"E, 96.28 feet along the South line of the NW¼ of the NW¼ of said Section 32, also being the South line of Parcel A as recorded in Book 7, Page 152 in the Office of the Delaware County Recorder to the Point of Beginning; thence N06°04'37"W, 19.20 feet; thence S89°14'23"E, 6.29 feet; thence S00°45'37"W, 18.79 feet to the South line of said Parcel A; thence S86°55'38"W, 4.01 feet along said South line to the Point of Beginning.

Note: The South line of the NW¼ of the NW¼ of Section 32, Township 90 North, Range 5 West, of the 5th P.M., Delaware County, Iowa is assumed to bear N86°55'38"E.

3. The State of Iowa will construct Type C entrances at Sta. 1250+45 and at Sta. 1255+57 both on the east side of Primary Road No. IA 13.
4. Any farm field drainage tile, or outlets, which are located within the land being acquired under this proceeding, and are damaged or destroyed by highway construction, shall be relocated, replaced or restored by the condemner and at no expense to the condemnees, and the State of Iowa shall have a right of temporary easement as necessary over condemnee's remaining property for the specific purpose of effecting such relocation, replacement or restoration.
5. The areas sought to be appropriated by temporary easement, for the specific purpose of constructing entrances and for relocating, replacing, or restoring tile, if any, are reserved to the condemnees until the actual date said areas are required for construction of this highway improvement. Also, said temporary easement rights shall terminate immediately upon completion of the operations for which said rights are sought and in no event later than the completion of this highway improvement.
6. Condemner hereby gives notice of condemnees' five-year right to renegotiate construction or maintenance damages not apparent at the time of the condemnation as required by the Code of Iowa, Section 6B.52.

Iowa Department of Transportation

ACQUISITION PLAT EXHIBIT "A"



COUNTY DELAWARE STATE CONTROL NO. _____
 ROW PROJECT NO. NHSN-013-2(43)--2R-28 PARCEL NO. 36
 SECTION 32 TOWNSHIP 90 NORTH RANGE 5 WEST
 ROW-FEE _____ AC ±, EASE 0.14 AC ±, EXCESS-FEE _____ AC ±
 ACQUIRED FROM Gerald A. Heims, et ux

NORTHWEST CORNER
SECTION 32 T90N, R5W
FOUND CUT "X" PER
CORNER CERTIFICATE
BOOK 2020, PAGE 4687

P.O.T. STA 1263+76.23

EXISTING WESTERLY
ROW LINE IA 13

PARCEL 36 ACREAGE SUMMARY TABLE SECTION 32, T90N, R5W		
PLAT OF SURVEY	PARCEL	NEW R.O.W.
PARCEL "A"	NW 1/4 NW 1/4	0.14 AC. ±
ACQUISITION TOTAL ACREAGE		0.14 AC. ±

IA 13 CENTERLINE DATA FOR PROJECT NO. NHSN-013-2(43)--2R-28		
COURSE	BEARING	DISTANCE
STA 1237+04.98		
TO	N 00° 45' 37" E	2671.25'
STA 1263+76.23		

STATION/OFFSET NEW R.O.W. ACQUISITION		
POINT	STATION	OFFSET
T2431	1258+97.70	76.00'
T2438	1250+47.94	88.00'
T2439	1251+23.00	79.00'
T2440	1255+83.00	79.00'
T2442	1256+00.00	72.00'

R.O.W. STATIONS/OFFSETS
ARE PERPENDICULAR
TO PROJECT C

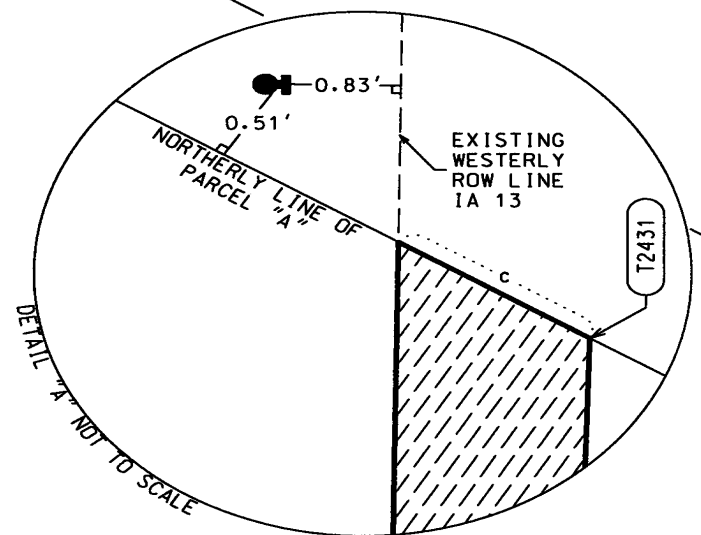
COURSE	BEARING	DISTANCE
A	N 86° 55' 38" E	78.58'
B	N 00° 45' 35" E	854.39'
C	S 58° 00' 34" E	6.64'
D	S 01° 31' 48" W	297.73'
E	S 21° 37' 12" E	18.38'
F	S 00° 45' 37" W	460.00'
G	S 06° 04' 37" E	75.60'
H	S 86° 55' 38" W	17.71'

NW CORNER TO
SW CORNER NW 1/4 NW 1/4
BEARING/DISTANCE
S 00° 43' 32" W
1334.80' (1334.80')

WEST LINE NW 1/4 NW 1/4 SECTION 32, T90N, R5W

IA HIGHWAY #13 C PER PROJECT NO. NHSN-013-2(43)--2R-2

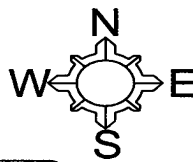
SEE DETAIL "A"



PARCEL "A" PART OF THE
NW 1/4 NW 1/4 SECTION 32, T90N, R5W
AS RECORDED IN BOOK 7, PAGE 152, IN THE
OFFICE OF THE DELAWARE COUNTY RECORDER

LEGEND

- P.O.B. POINT OF BEGINNING
- () RECORDED AS
- R.O.W. LINE
- ▨ PERMANENT EASEMENT
- FOUND 1/2" REBAR W/ORANGE CAP #8419
- FOUND ROW RAIL
- - - SECTION LINE AND OR 1/4 SECTION LINE



DATE DRAWN: 7/19/2022 DCF

SW CORNER NW 1/4 NW 1/4
SECTION 32, T90N, R5W
FOUND CUT "X" PER
CORNER CERTIFICATE
BOOK 2020, PAGE 4687

P.O.T. STA 1237+04.98

P.O.B.



I hereby certify that this land surveying document was prepared and related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.

Brad J. Burger 8/12/2022
 Brad J. Burger Date

License number 20281
 My license renewal date is December 31, 2022
 Pages or Sheets covered by this seal: Sheet 1 of 1

Iowa Department of Transportation

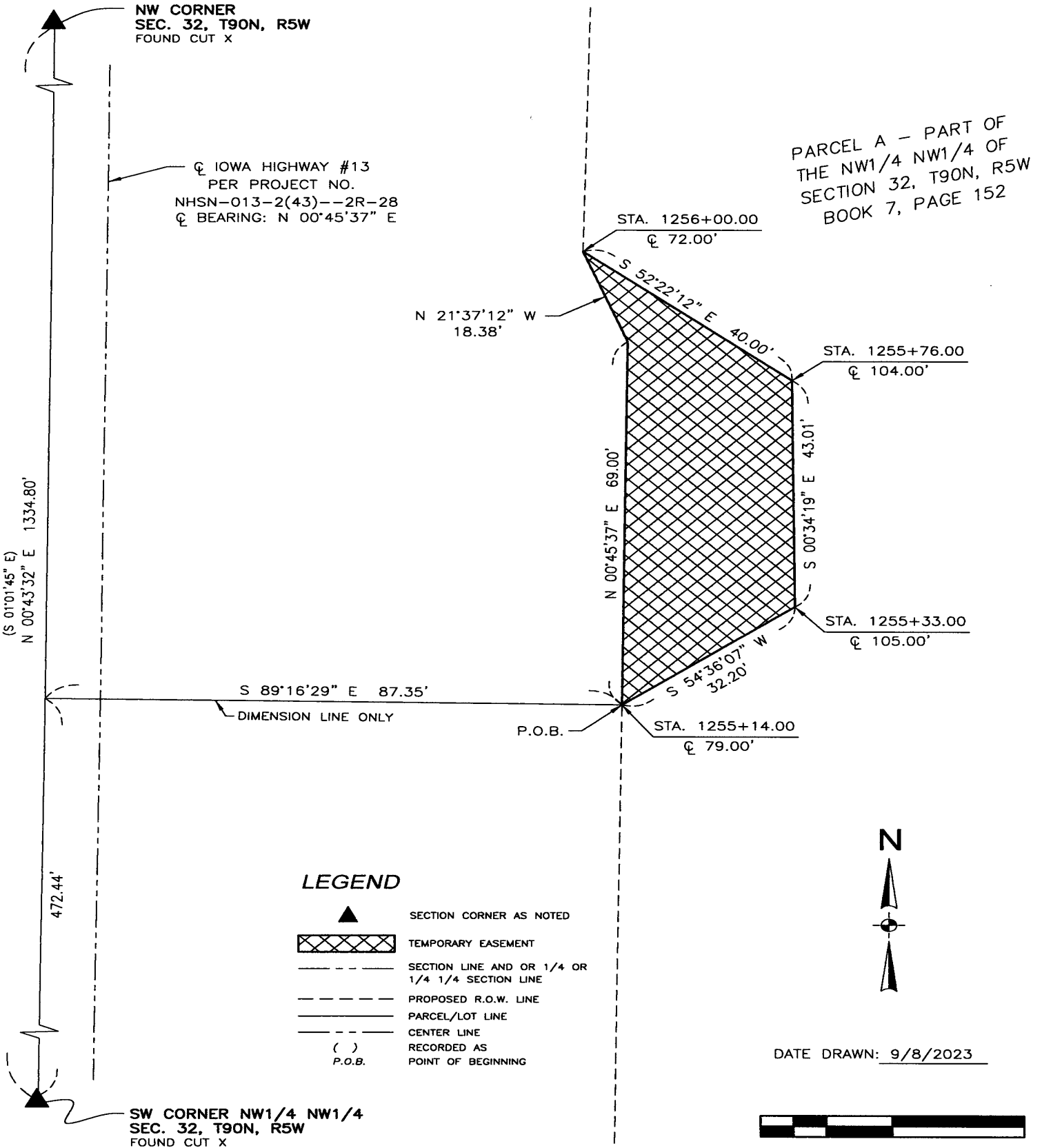
GRAPHIC EXHIBIT

"B" (1 of 2)



COUNTY DELAWARE STATE CONTROL NO. _____
 ROW PROJECT NO. NHSN-013-2(43)--2R-28 PARCEL NO. 36
 SECTION 32 TOWNSHIP 90 NORTH RANGE 5 WEST
 ROW-FEE _____ AC, EASE _____ AC EXCESS-FEE _____ AC
 Acquired from Gerald A. Heims, et ux

* TEMPORARY EASEMENT TO CONSTRUCT ENTRANCE

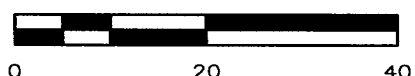


LEGEND

- SECTION CORNER AS NOTED
- TEMPORARY EASEMENT
- SECTION LINE AND OR 1/4 OR 1/4 1/4 SECTION LINE
- PROPOSED R.O.W. LINE
- PARCEL/LOT LINE
- CENTER LINE
- ()
P.O.B. RECORDED AS POINT OF BEGINNING



DATE DRAWN: 9/8/2023



Iowa Department of Transportation

GRAPHIC EXHIBIT
"B" (2 of 2)



COUNTY DELAWARE STATE CONTROL NO. _____
 ROW PROJECT NO. NHSN-013-2(43)--2R-28 PARCEL NO. 36
 SECTION 32 TOWNSHIP 90 NORTH RANGE 5 WEST
 ROW-FEE _____ AC, EASE _____ AC EXCESS-FEE _____ AC
 Acquired from Gerald A. Heims, et ux
 * TEMPORARY EASEMENT TO CONSTRUCT ENTRANCE

