

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF UTAH, IN AND FOR SEBER COUNTY

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WABATON GAS COMPANY,

Plaintiff,

v.

FINAL ORDER OF CONDEMNATION

CHRISTIAN BOUWHUIS, MARY HAART BOUWHUIS,
his wife, JESSE BOUWHUIS, MARIE DRAAYER
BOUWHUIS, his wife, WANDER BOUWHUIS and
CELENA BOUWHUIS, his wife,

Defendants

Upon the written stipulation heretofore made and entered into
by and between the parties hereto, by and through their respective
counsel:

IT IS ORDERED, ADJUDGED AND DECREED:

1. That notwithstanding the decision of the Supreme Court of
the State of Utah in the above entitled cause, and the remittitur filed
pursuant thereto, the findings of fact, conclusions of law and judgment
and decree of condemnation as made and entered by this court on the
4th day of December, 1939, shall stand, and be and constitute the find-
ings of fact, conclusions of law and judgment and decree of this court,
except as to the amount of damages to be paid by the plaintiff to the
defendants, as set out in findings of fact numbered 18, 17 and 18
of said findings of fact and except as to the amounts set out in
paragraphs numbered 1-c, 2-c and 3-d of the conclusions of law, and
except as to the said amounts of damages set out in paragraph (c)
relating to the defendant Christian Bouwhuis, paragraph (c) relating
to the defendant Wander Bouwhuis and paragraph (d) relating to the
defendant Jesse Bouwhuis of the said judgment and decree of condemna-
tion, and in lieu of said amounts so set out in said findings of
fact, conclusions of law and judgment and decree of condemnation there
shall be substituted the following in said findings of fact, to wit:

1. 3

That the fair and reasonable value of the strips of land of the defendants over, under and across which the plaintiff seeks to condemn the rights of way and easements herein, and as set out in paragraphs 4, 5 and 6 hereof, being strips ten (10) feet in width on either side of the course of said pipe lines described in said paragraphs 4, 5 and 6 on the first day of April, 1929, and the damages to the remaining parcels of land owned by said defendants, of which said strip is a part, by the taking of the easements sought to be condemned by the plaintiff in this action for the construction, maintenance and operation and repair of the pipe lines described herein, and the easements and rights of way over and across said strips for the purpose of constructing, maintaining and operating said pipe lines was on the said first day of April, 1929, the sum of \$1150.00, including interest to date.

And the following in said conclusions of law, to wit:

1-a, 2-c and 3-d.

That the plaintiff, upon the payment to the said defendants, or its deposit with the clerk of this court for said defendants of the sum of \$1150.00, which said sum constitutes the value of the rights of way and easements sought to be condemned herein and as described in these conclusions of law, and the damages to the remaining lands of the defendants described in the findings of fact herein, with interest to date, the plaintiff shall be entitled to a final order of condemnation of the rights of way and easements hereinbefore described, the plaintiff and the defendants to pay their own costs.

And the following in said judgment and decree of condemnation,

to wit:

- (c), relating to Wander Bouwhuis.
- (d), relating to Jesse Bouwhuis, and
- (e), relating to Christian Bouwhuis.

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That upon the payment to the said defendants, or its deposit with the clerk of this court for said defendants of the sum of \$1150.00, which said sum constitutes the value of the rights of way and easements sought to be condemned and the damages to the remainder of the tracts of land of said defendants hereinbefore described, with interest to the date hereof, the plaintiff shall be entitled to a final order of condemnation of the rights of way and easements hereinbefore described, the plaintiff and the defendants to pay their own costs.

And it appearing to the court that said sum of \$1150.00 has been paid to the said defendants, the court makes and enters its final order of condemnation as follows:

1. That as against the defendant Christian Bouwhuis and his wife, Mary Raart Bouwhuis, the following perpetual easements and rights of way be and they are hereby condemned to the use of the plaintiff and that the plaintiff take and acquire for its use the following perpetual easements and rights of way over, across and under the following described tracts of land in Weber County, State of Utah, to wit:

A part of the northeast quarter of Section 1, Township 5 North, Range 2 West, Salt Lake Meridian, N. S. Survey:
 Beginning at the intersection of north line of said Section 1 and east right of way line of Oregon Short Line Railroad, said point being North 89° 35' East 1607.4 feet from the northwest corner of said Section 1, running thence North 89° 35' East 53.4 feet, thence South 0° 28' East 1313.1 feet to the quarter quarter section line, thence South 89° 27' West 1263.9 feet to the east right of way line of the Oregon Short Line Railroad, thence North 42° 11' East 1787.7 feet and along said right of way to beginning, containing 19.85 acres.

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Also, a part of the northwest quarter of Section 1, in Township 5 North, Range 2 West, Salt Lake Meridian, U. S. Survey: Beginning at a point 7 1/2 chains west of the northeast corner of said northwest quarter, and running thence west 7 1/2 chains, thence south 20 chains, thence east 7 1/2 chains, thence north 20 chains to the place of beginning. Excepting from the above tract or parcel of land that portion thereof heretofore conveyed to Weber County for road purposes.

Also, a part of the northwest quarter of Section 1, in Township 5 North, Range 2 West, Salt Lake Meridian, U. S. Survey: Beginning at a point 7 1/2 chains west of the northeast corner of said northwest quarter, and running thence east 7 1/2 chains, thence south 20 chains, thence west 7 1/2 chains, thence north 20 chains to the place of beginning. Excepting from the above tract or parcel of land that portion thereof heretofore conveyed to Weber County for road purposes.

(a) a perpetual easement and right of way over, across and under said tracts of land above described for the purpose of constructing, maintaining, operating and repairing a 14 inch pipe line consisting of steel pipe of the diameter of 14 inches to be welded at joints and to be laid underneath the surface of the ground, the top of said pipe line to be 26 inches from the surface of the ground, and for that purpose perpetually to occupy a cylindrical space underneath the surface of said ground extending laterally 10 inches on either side of the course hereinafter described and vertically a distance of 20 inches in depth below the top of said pipe line, the space occupied by said pipe line to commence at a depth of 36 inches below the surface of the ground. The course of said pipe line, being the center line of said pipe line, is described as follows:

Beginning at a point on south fence line which is approximately 1300 feet south and 1045 feet east of the northwest corner of Section 1, Township 5 North, Range 2 West, Salt Meridian, U. S. Survey: thence North 34° 52' East 266 feet, North 25° 20' East 341 feet, North 9° 01' East 173 feet, North 18° 40' West 249 feet to south fence on Oregon Short Line Railroad right of way.

(b) a perpetual right of way and easement over, across and under said tracts of land above described for the purpose of constructing, maintaining, operating and repairing a 10 inch pipe line, consisting of steel pipe 10 inches in diameter to be welded at the joints and to be laid underneath the surface of the ground, the top of said pipe line to be 26 inches from the surface of the ground, and for that purpose perpetually to occupy a cylindrical space underneath the

surface of said ground extending laterally 2 inches on either side of the course hereinafter described and vertically a distance of 16 inches in depth below the top of said pipe line, the space occupied by said pipe line to commence at a depth of 26 inches below the surface of the ground. The course of said pipe line, being the center line of said pipe line, is described as follows:

Beginning at a point where the 14 inch pipe line intersects said right of way of the Oregon Short Line Railroad Company, as described in paragraph 1 (a) of the conclusions of law herein, and running thence North 55° 12' East a distance of 800 feet to a point on the north fence line on the lands of said defendant Christian Bonshuis hereinbefore described, said point being 23 feet south and 1850 feet east of the northwest corner of said Section 1, in said Township and Range.

(c) A perpetual right of way and easement over, across and under a strip of land 10 feet on either side of the course of the pipe lines described in paragraphs (a) and (b) hereof, for the entire length thereof, for the purpose of constructing, maintaining, operating and repairing said pipe lines; that for the purpose of having ingress and egress to and from said pipe lines and the valves hereinafter described to construct, maintain, operate and repair the same, the plaintiff shall have the right to enter upon said strips of land at any time it may be necessary or convenient for it to do so and to use said strips of land for the purpose of constructing, maintaining, operating and repairing said pipe lines; but that except insofar as such use interferes with the easements and rights of way hereby conveyed to the use of the plaintiff, the defendant Christian Bonshuis, his heirs, executors, administrators and assigns, shall have the right to use and occupy said strips of land for any lawful purpose.

(d) a perpetual easement and right of way over, across and under said tracts of land hereinbefore described for the purpose of installing, maintaining, operating and repairing valves at the junction of said 14 inch and 10 inch pipe lines, said valves to be inclosed in two square cement boxes 5 feet by 5 feet, which boxes will not extend more than 10 feet from the west fence line of said premises.

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2. That as against the defendant Wander Bouwhuis and his wife Crisna Bouwhuis, the following perpetual easement and right of way be and it is hereby conveyed to the use of the plaintiff and that the plaintiff take and acquire for its use the following perpetual easement and right of way over, across and under the following described tract of land in Weber County, State of Utah, to wit:

All of Lots 9 and 10, in the southwest quarter of Section 36, Township 6 North, Range 2 West, Salt Lake Meridian, N. M. Survey.

(a) a perpetual easement and right of way over, across and under said tract of land above described for the purpose of constructing, maintaining, operating and repairing a 14 inch pipe line consisting of steel pipe of the diameter of 14 inches to be welded at joints and to be laid underneath the surface of the ground, the top of said pipe line to be 26 inches from the surface of the ground, and for that purpose perpetually to occupy a cylindrical space underneath the surface of said ground extending laterally 10 inches on either side of the course hereinafter described and vertically a distance of 20 inches in depth below the top of said pipe line, the space occupied by said pipe line to commence at a depth of 26 inches below the surface of the ground. The course of said pipe line, being the center line of said pipe line, is described as follows:

Beginning at a point on the north fence line of State highway which is approximately 1300 feet north and 1685 feet east of the southwest corner of Section 36, Township 6 North, Range 2 West, Salt Lake Meridian, N. M. Survey, running North 7° 00' East 112 feet, North 18° 54' East 42 feet to a point on the north fence line of Lot 9, in the southwest quarter of said Section 36, which is approximately 1330 feet north and 1710 feet east of the southwest corner of said Section 36, in said Township and Range, a total of 154 feet or 3.4 rods.

(b) a perpetual right of way and easement over, across and under a strip of land 10 feet on either side of the course of the pipe line described in paragraph (a) hereof, for the entire length thereof, for the purpose of constructing, maintaining, operating and repairing said pipe line; that for the purpose of having ingress and egress to and from said pipe line to construct, maintain, operate and repair

the same, the plaintiff shall have the right to enter upon said strip of land at any time it may be necessary or convenient for it to do so and to use said strip of land for the purpose of constructing, maintaining, operating and repairing said pipe line; but that except insofar as such use interferes with the easement and right of way hereby condemned to the use of the plaintiff the defendant Vander Bouwhuis, his heirs, executors, administrators and assigns, shall have the right to use and occupy said strip of land for any lawful purpose.

3. That as against the defendant Jesse Bouwhuis and his wife, Marie Braayer Bouwhuis, the following perpetual easements and rights of way be and they are hereby condemned to the use of the plaintiff and that the plaintiff take and acquire for its use the following perpetual easements and rights of way over, across and under the following described tracts of land in Weber County, State of Utah, to wit:

Part of the northwest quarter of Section 1, in Township 5 North, Range 2 West, Salt Lake Meridian, U. S. Survey:
Beginning at the northwest corner of said Section 1, running thence South 0° 25' East 1317.2 feet along the section line to the southwest corner of the northwest quarter of the northwest quarter of said Section 1; thence North 59° 27' East 262 feet more or less to the west right of way line of the Oregon Short Line Railroad; thence North 42° 11' East 1727.7 feet along said right of way line to the north line of Section 1; thence South 89° 35' West 1471.2 feet along the section line to beginning. Except a 100 foot right of way along the old line of the Oregon Short Line Railroad. Containing 23.8 acres.

(a) a perpetual easement and right of way over, across and under said tracts of land above described for the purpose of constructing, maintaining, operating and repairing a 14 inch pipe line consisting of steel pipe of the diameter of 14 inches to be welded at joints and to be laid underneath the surface of the ground, the top of said pipe line to be 26 inches from the surface of the ground, and for that purpose perpetually to occupy a cylindrical space underneath the surface of said ground extending laterally 10 inches on either side of the course hereinafter described and vertically a distance of 20 inches in depth below the top of said pipe line, the space occupied by said pipe line to commence at a depth of 36 inches below the surface of

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the ground. The course of said pipe line, being the center line of said pipe line, is described as follows:

Beginning at a point on the north fence line of the Oregon Short Line Railroad right of way that is approximately 335 feet south and 1195 feet east of the northwest corner of Section 1, Township 5 North, Range 2 West; running thence North 18° 40' West 93 feet, North 12° 30' East 134 feet, North 27° 10' East 111 feet to a point on the south fence line of County Road, which is 1255 feet east and 23 feet south of the northwest corner of said Section 1, in said Township and Range, a total of 338 feet or 20.5 rods.

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Also, beginning at a point on fence line on the north side of County Road, which is 1280 feet east and 23 feet north of the southwest corner of Section 36, Township 6 North, Range 2 West, Salt Lake Meridian, U. S. Survey; running thence North 27° 10' East 730 feet, North 16° 00' East 124 feet, North 7° 00' East 125 feet to a point on south fence line of Oregon Short Line Railroad right of way, approximately 1845 feet east and 915 feet north of the southwest corner of said Section 36, in said Township and Range. Total linear distance of 979 feet or 59.4 rods.

(b) a perpetual right of way and easement over, across and under said tracts of land above described for the purpose of constructing, maintaining, operating and repairing a 10 inch pipe line, consisting of steel pipe 10 inches in diameter to be welded at joints and to be laid underneath the surface of the ground, and for that purpose perpetually to occupy a cylindrical space underneath the surface of said ground extending laterally 8 inches on either side of the course hereinafter described and vertically a distance of 16 inches in depth below the top of said pipe line, the space occupied by said pipe line to commence at a depth of 36 inches below the surface of the ground. The course of said pipe line, being the center line of said pipe line, is described as follows:

Beginning at a point on fence line on north side of County road at a point approximately 1950 feet east and 23 feet north of the southwest corner of Section 36, Township 6 North, Range 2 West, Salt Lake Meridian, U. S. Survey; running thence North 55° 12' East 115 feet to the east fence line of Lot 1 in the southwest quarter of said Section 36 to a point approximately 2050 feet east and 110 feet north of the southwest corner of said Section 36, in said Township and Range. Total linear distance of 115 feet, or 7 rods.

(c) a perpetual right of way and easement over, across and under a strip of land 10 feet on either side of the source of the pipe line described in paragraphs (a) and (b) hereof, for the entire length

THIS DEED IS CONSIDERED AS VALID

AND BINDING IN ALL RESPECTS AND SHALL BE VALID AND BINDING IN ALL RESPECTS

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thereof, for the purpose of constructing, maintaining, operating and repairing said pipe lines; that for the purpose of having ingress and egress to and from said pipe lines to construct, maintain, operate and repair the same, the plaintiff shall have the right to enter upon said strips of land at any time it may be necessary or convenient for it to do so and to use said strips of land for the purpose of constructing, maintaining, operating and repairing said pipe lines; but that except insofar as such use interferes with the easements and rights of way hereby condemned to the use of the plaintiff, the defendant Jesse Boushuie, his heirs, executors, administrators and assigns, shall have the right to use and occupy said strips of land for any lawful purpose, provided, however, that if in the exercise by the plaintiff of its rights under the easements and rights of way herein condemned in constructing any pipe lines other than the pipe line already constructed across said lands, the plaintiff shall encounter any drains or drain pipes of the defendants in said lands, the said plaintiff shall either go over or under said drain or drain pipes, so that said pipe lines shall not interfere with the same or their use by the defendants, and if any of said drains of said defendants are interfered with by the construction of said pipe lines in the future, then that the same shall be repaired by the plaintiff at its sole cost and expense.

Dated and signed in open court this 2nd day of

April, 1834.

LESTER A. WADE,
Judge

STATE OF UTAH
County of Weber

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I, -- LAWRENCE A. VAN DYKE * * * * * County Clerk and Ex-Officio Clerk
of the Second Judicial District Court of the State of Utah, in and for the County of Weber,
do hereby certify that the foregoing is a full, true and correct copy of the original

FINAL ORDER OF CONDEMNATION,

In the case of

WASATCH GAS COMPANY,

Plaintiff,

vs.

CHRISTIAN BOUWHUIS, et al,

Defendants,

UTAH RECORDS
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as appears on file -- and of record ----- in my office in Ogden City,

Witness my hand and Seal, this the --- 21st ----- day

of --- July ----- 1924.

LAWRENCE A. VAN DYKE,

Clerk

By

Agnes S. Smith
Deputy Clerk



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STATE OF UTAH 1 SS
COUNTY OF WEBER 1 SS
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Mrs. Estate of Paul Supply
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DOROTHY B. CAMPBELL
COUNTY RECORDER

Paul H. Drury

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