

**DONALD G. KARPOWICH**

ATTORNEY-AT-LAW, P.C.

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June 25, 2010

Rosemary Chiavetta, Secretary  
PA PUC  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: White Haven Borough vs. Reading Blue Mountain & Northern Railroad  
Docket No. C-000042**

Dear Secretary Chiavetta:

Enclosed please find an original and one (1) copy of Plaintiff's Objections to the Plan submitted by Reading Blue Mountain & Northern Railroad for Repair/Replacement of the White Haven Wall in the above referenced matter. After filing, kindly return a time-stamped copy in the envelope provided.

Copies have been served on the parties in accordance with the Certificate of Service. Should you have any questions or concerns, please do not hesitate to contact me.

Thank you for your time and cooperation.

Very truly yours,

**DONALD G. KARPOWICH**  
Attorney-at-Law, P.C.



Sean W. Logsdon, Esquire

SWL:cry  
Enclosures  
cc: White Haven Borough

RECEIVED  
2010 JUN 28 AM 10:12  
SECRETARY'S BUREAU  
PA P.U.C.

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

WHITE HAVEN BOROUGH, :

v. :

READING BLUE MOUNTAIN & :  
NORTHERN RAILROAD :

DOCKET NO. C-000042

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**WHITE HAVEN BOROUGH'S OBJECTIONS TO PLAN SUBMITTED BY  
READING BLUE MOUNTAIN & NORTHERN RAILROAD FOR  
REPAIR/REPLACEMENT OF THE WHITE HAVEN WALL**

Now comes, White Haven Borough, by and through its attorneys, Donald G. Karpowich, Esquire, Sean W. Logsdon, Esquire, and Kevin M. Walsh, Jr., Esquire, and files the following Objections to Reading Blue Mountain & Northern Railroad's Plan for Repair/Replacement of White Haven Wall, and avers as follows:

1. The Administrative Law Judge's (hereinafter ALJ) recommended decision dated November 18, 2007, required in Paragraph No. 5, Reading Blue Mountain and Northern Railroad (hereinafter RBMNR) to replace the retaining wall in question in this matter.

2. RBMNR has continually argued that the recommended decision was issued without consideration of the cost of replacement and feasible alternatives to replacement, and argued that the ordering paragraph was against the weight of the evidence.

3. Secretary James J. McNulty adopted and approved the recommended decision of the ALJ on February 14, 2008.

4. The provisions of Secretary McNulty's Order required that RBMNRNRR replace 171 feet of retaining wall along its right-of-way in the approach to the Susquehanna Street Bridge in White Haven Borough.

5. The replacement retaining wall was to be completed within one year from the date of the Secretary's Order.

6. On or about July 30, 2008, Paul R. Ober, Esquire entered his appearance on behalf of RBMNRNRR.

7. Attorney Ober has filed exceptions, a petition for reconsideration and an appeal on behalf of RBMNRNRR.

8. There is currently an appeal pending before the Commonwealth Court at Docket No. 2168 CD 2009, which relates to whether it was an abuse of discretion for the Pennsylvania Public Utility Commission ("PUC") to deny the RBMNRNRR's Petition for Reconsideration.

9. No decision has been handed down by the Commonwealth Court and Secretary McNulty's Order still stands.

10. On or about June 8, 2010, RBMNRNRR submitted its Plan for Repair/Replacement of White Haven Wall.

11. The plans submitted are for repair of the wall when the Order in question, which has not been overturned by the Commonwealth Court or any other Court, still stands.

12. White Haven Borough submits that the decision issued by the ALJ in Ordering Paragraph Number 5 was supported by the facts on record, a sound and thorough analysis and basis for the decision.

13. RBMNR's Plan should be denied and rejected based on the fact that it is not a plan for replacement of the wall, which is what was required under the Order.

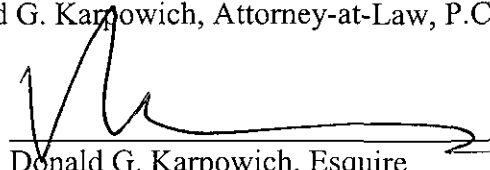
Wherefore, White Haven Borough respectfully requests that the Commission reject RBMNR's Plan as it is not in conformance with the Court Order which requires replacement of the wall, and/or in the alternative, hold the plan submitted in abeyance until a decision is reached by the Commonwealth Court. RBMNR should be compelled to comply with the Order that was issued and properly served.

DATE: 6/25/10

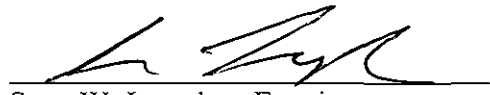
Respectfully submitted,

Donald G. Karpowich, Attorney-at-Law, P.C.

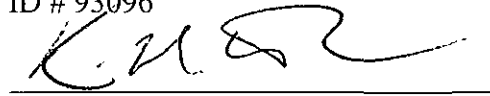
By:

  
Donald G. Karpowich, Esquire  
ID # 78176

By:

  
Sean W. Logsdon, Esquire  
ID # 93096

By:

  
Kevin M. Walsh, Jr., Esquire  
ID # 20  
Attorneys for White Haven Borough  
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**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

WHITE HAVEN BOROUGH, :  
 :  
 :  
 v. : DOCKET NO. C-00004204  
 :  
 :  
 READING BLUE MOUNTAIN & :  
 NORTHERN RAILROAD :  
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**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving the forgoing Objections to the Plan for Repair/Replacement of White Haven Wall in accordance with 52 Pa. Code Section 1.54 *et. Seq.*, upon the persons listed below by fist class mail:

Hon. Ember S. Jandebour  
Administrative Law Judge  
PA Public Utility Commission  
Room 317 Scranton Office Bldg.  
100 Lackawanna Ave.  
Scranton, PA 18503

Thomas P. Pizano, Chairman  
Luzerne County  
Luzerne County Courthouse  
200 N. River Street  
Wilkes-Barre, PA 18711

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Law Bureau Prosecutory Staff  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

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Elizabeth J. Altero, Secretary  
White Haven Borough  
312 Main Street  
White Haven, PA 18661

Samuel T. Guesto, Jr., Chief Clerk  
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Dennison Township  
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White Haven, PA 18661

Wesley Westerhoefer  
Reading Blue Mtn. & Northern Railroad  
PO Box 218  
Port Clinton, PA 19549

Sam Macurak, Jr., Chairman  
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20 Macorak Lane  
White Haven, PA 18661

Reading Blue Mtn. & Northern Railroad  
PO Box 218  
Port Clinton, PA 19549

Kathleen Stortz, Secretary  
Dennison Township  
67 Coallagher Lane  
White Haven, PA 18661

Paul R. Ober, Esquire  
234 N. 6<sup>th</sup> Street  
Reading, PA 19601

Ron Sturgeon  
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Scranton, PA 18503

Joseph Strok  
Penn DOT District 4-0  
PO Box 111  
Scranton, PA 18501

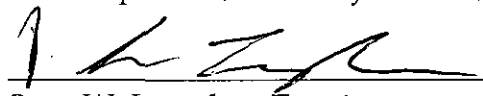
Jason D. Sharp, Esquire  
PA Dept. of Transportation  
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PO Box 8212  
Harrisburg, PA 17105-8212

Gary C. Fawver, Chief  
Penn DOT Right of Way & Utilities  
7<sup>th</sup> Floor Keystone Building  
PO Box 3362  
Harrisburg, PA 17105-3362

Donald G. Karpowich, Attorney-at-Law, P.C.

DATE: 6/25/00

By:



Sean W. Logsdon, Esquire  
ID # 93096

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