

**James A. Favero**  
**Attorney at Law**

250 Arch Street  
Kittanning, PA 16201

Telephone: (724) 545-7711  
Facsimile: (724) 543-2553

December 13, 2010

Honorable Robert P. Meehan  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
1103 Pittsburgh State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222

RE: Brestensky v. Pittsburgh and Shawmut Railroad Company  
Docket NO. C-20030388

Dear Judge Meehan:

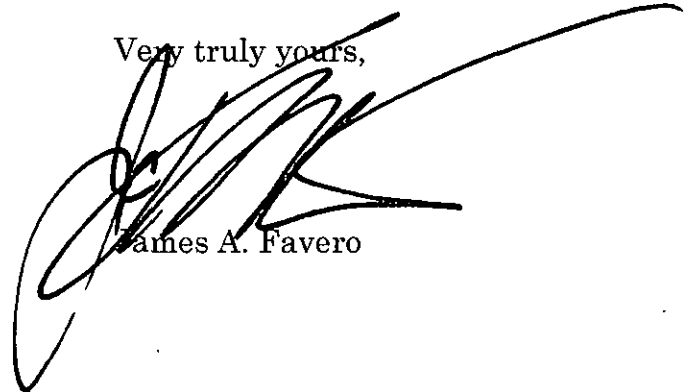
As you may recall, in December , 2009, South Buffalo requested an extension of time for completion of the Whiterock Relocation project.

Due to the Archeological, Geological studies and Engineering cost estimates, South Buffalo in once again in need of an extension on this project.

Enclosed please find an original plus one copy of the Motion for Extension of Time. Should you approve the Extension, I am asking that you please have the Motion filed, and have the copy certified and returned to my office in the envelope provided.

Should you have any questions, please contact my office.

Very truly yours,



James A. Favero

JAF/sfb

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Pittsburgh Office of A.L.J.  
Public Utility Commission

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DAVE BRESTENSKY, SUPERVISOR :  
SOUTH BUFFALO TOWNSHIP :  
Complainant :

v. :

DOCKET NO. C-20030388

PITTSBURGH AND SHAWMUT :  
RAILROAD COMPANY :  
ARMSTRONG COUNTY :  
Commonwealth of Pennsylvania :  
Department of Transportation :

**TYPE OF PLEADING:**

MOTION FOR EXTENSION

**FILED ON BEHALF OF:**

South Buffalo Township

**ATTORNEY OF RECORD:**

**JAMES A. FAVERO**  
250 Arch Street  
Kittanning, PA 16201  
(724) 545-7711  
Sup. I.D. # 35932

PA PUC  
SECRETARY'S BUREAU

2010 DEC 22 AM 9:13

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**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DAVE BRESTENSKY, SUPERVISOR :  
SOUTH BUFFALO TOWNSHIP :  
Complainant :  
 :  
v. : DOCKET NO. C-20030388  
 :  
PITTSBURGH AND SHAWMUT :  
RAILROAD COMPANY :  
ARMSTRONG COUNTY :  
Commonwealth of Pennsylvania :  
Department of Transportation :

**MOTION FOR EXTENSION**

AND NOW, comes South Buffalo Township, by and through it solicitor, James A. Favero, Esquire, and brings this Motion upon the following:

1. South Buffalo Township is a municipal corporation governed by the Pennsylvania Second Class Township Code, with its principal office located at 384 Iron Bridge Road, Freeport, Armstrong County, Pennsylvania.

2. South Buffalo Township was a party to the above captioned matter.

3. The terms of the Recommended Decision of Robert P. Meehan, Administrative Law Judge dated April 21, 2009, which was adopted as an Order of the Public Utility Commission on June 19, 2009, contained the provision that South Buffalo Township submit the final design for the project on or before, December 31, 2009.

4. By letter dated November 23, 2009, the undersigned informed all of the attorneys that the project was delayed but did submit preliminary plans as drafted by the township engineer. As a result of this letter, a request for extension was made and granted.

5. Since the above request for extension was granted, some of the required studies have been completed, including the Geomorphological Investigations, however, because of the delays in completing these studies, Archeological and Engineering studies and design have not been completed.

6. Based upon the information that has been provided to the undersigned by the township engineer, this project is not going to be in final design before December 31, 2010. The design cannot be completed because, among other matters, the permits have not been obtained from DEP since all of the required studies have not been completed.

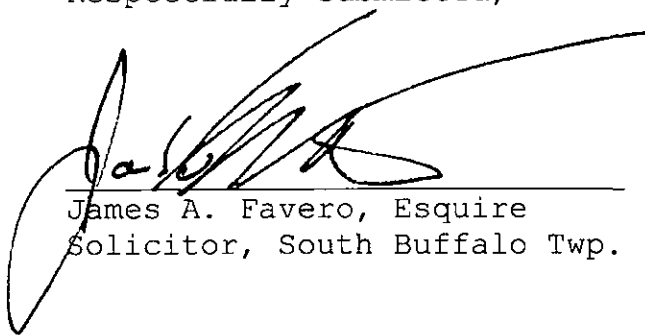
7. The other parties involved in the above matter have been contacted and are in agreement with this request for a extension of time. See Exhibit "A" attached hereto and made a part hereof.

8. It is believed that an additional year will be needed to obtain the permits to complete the final design and move the project forward.

WHEREFORE, it is respectfully requested that South Buffalo Township be granted an extension of an additional one year until on or about December 31, 2011 to comply with paragraph 4 of the Order of the Public Utility Commission entered on June 19, 2009.

Respectfully submitted,

Dated: 12-13-10



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James A. Favero, Esquire  
Solicitor, South Buffalo Twp.

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DAVE BRESTENSKY, SUPERVISOR :  
SOUTH BUFFALO TOWNSHIP :  
Complainant :  
v. : DOCKET NO. C-20030388  
PITTSBURGH AND SHAWMUT :  
RAILROAD COMPANY :  
ARMSTRONG COUNTY :  
Commonwealth of Pennsylvania :  
Department of Transportation :

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2010,  
upon consideration of the attached Motion, and all parties  
being in agreement with the request for an extension of  
time, NOW THEREFORE, IT IS ORDERED, that South Buffalo  
Township is granted an extension of time, until on or  
before, December 31, 2011 to comply with paragraph 4 of the  
Public Utility Commission Order entered on June 19, 2009.

BY THE COMMISSION:

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COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

October 19, 2010

James Anthony Favero, Esquire  
250 Arch Street  
Kittanning, PA 16201-2438


RE: Brestensky v. Buffalo & Pittsburgh RR  
PUC Docket No.: C-20030388

Dear Mr. Favero:

Please see the attached letters regarding a request for an extension of time on the Whiterock Road project related to the PUC case that we settled some time ago. PennDOT will process the extension for the above referenced agreement, but the Township will need to request an extension of time from the PUC as well.

Please let me know if you have any questions or need any additional information. Thank you for your attention to this correspondence.

Very truly yours,



Jason D. Sharp  
Assistant Counsel

Enclosures  
220/JDS:gw

cc: Mark Chappell, P.E., Chief, Utilities and Right of Way Section  
Allen Williams, Engineering District 10-0  
Lawrence Cernansky, P.E., Engineering District 10-0





**South Buffalo Township**  
BOARD OF SUPERVISORS  
ARMSTRONG COUNTY

384 Iron Bridge Road  
Freeport, PA 16229

724-295-0455

Fax 724-295-0477

Email: sbuffalo@salsgiver.com

**Penndot Engineering District  
Municipal Services Unit  
2550 Oakland Ave, PO Box 429  
Indiana, PA 15701-0429**

**RE: Whiterock Relocation Project**

**Dear Allen Williams,**

**South Buffalo Township is requesting an extension for the  
Whiterock Road Project.**

**Due to the Archeological, Geological studies and Engineering  
cost estimates; we are in need for the extension on this project.**

**Thank you for your time and cooperation.**

**South Buffalo Township  
Board of Supervisors**

*Tracy Van Dyke*

**HEILMAN AND MCCLISTER**  
**ATTORNEYS AT LAW**  
**200 NORTH WATER STREET**  
**KITTANNING, PENNSYLVANIA 16201-1333**

**H. H. HEILMAN, JR. (1917-2006)**  
**JAMES D. MCCLISTER**  
**CHASE G. MCCLISTER**

**TEL (724) 548-1596**  
**FAX (724) 545-9301**

December 10, 2010

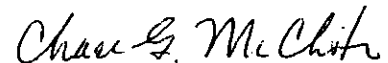
James A. Favero  
250 Arch Street  
Kittanning, PA 16201

Re: Brestensky vs. Pittsburgh and Shawmut Railroad Company

Dear Mr. Favero:

On behalf of Armstrong County, I consent to the relief requested in your petition for an extension of time, giving South Buffalo Township an additional year, until December 31, 2011 to comply with the PUC Order.

Very truly yours,



Chase G. McClister



**Brestensky/South Buffalo Twp.**

Thursday, November 4, 2010 2:59 PM

**From:** "Lawson Johnston" <LJohnston@pionjohnston.com>  
**To:** "jafavero@yahoo.com" <jafavero@yahoo.com>

Jim, Please see my new contact information. I received your fax yesterday from my former firm and have no objection to the extension. Thanks, Lawson

J. Lawson Johnston  
PionJohnston  
1500 One Gateway Center  
Pittsburgh Pa. 15222  
Office: 412-281-2288  
Direct dial: 412-667-6222  
fax: 412-281-3388  
cell: 412-427-1905  
Email: ljohnston@pionjohnston.com

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

Public Meeting held June 18, 2009

Commissioners Present:

James H. Cawley, Chairman  
Tyrone J. Christy, Vice Chairman  
Kim Pizzingrilli  
Wayne E. Gardner  
Robert F. Powelson

Dave Brestensky, Supervisor  
South Buffalo Township

v.

Pittsburgh and Shawmut Railroad Company;  
Armstrong County; and Commonwealth of  
Pennsylvania, Department of Transportation

C-20030388

PA PUC  
SECRETARY'S BUREAU

2010 DEC 22 AM 9:13

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ORDER

BY THE COMMISSION:

We adopt as our action the Recommended Decision of Administrative Law Judge Robert P. Meehan dated April 21, 2009;

THEREFORE,

IT IS ORDERED:

1. That the Stipulation of Settlement entered into by the Pennsylvania Department of Transportation, the Buffalo and Pittsburgh Railroad Company, South Buffalo Township and Armstrong County, and filed at Docket No. C-20030388, is approved.
2. That South Buffalo Township, having agreed to do so, shall enact any Resolution required to accept the property from Snyder Brothers for use in reconfiguring White Rock Road.

3. That South Buffalo Township, having agreed to do so, shall, at its sole cost and expense, pay for all attorneys' fees for the transfer of said piece of property from Snyder Brothers to the Township.

4. That South Buffalo Township, having agreed to do so, shall, at its sole cost and expense, prepare and submit to the Commission the final design and/or survey plans for the subject project for its approval, and to all other parties for their review and comment, on or before December 31, 2009.

5. That South Buffalo Township, having agreed to do so, shall, at its sole cost and expense, furnish all material and do all work necessary to complete the project in accordance with the approved plans within one year from the date of the Commission's approval.

6. That South Buffalo Township, having agreed to do so, shall, at its sole cost and expense, furnish all material and do all work necessary to maintain the roadway approaches to and the wearing surface on the subject bridge, including snow, ice and debris removal, and periodic crack sealing to the wearing surface as may be necessary.

7. That the Buffalo and Pittsburgh Railroad Company, having agreed to do so, shall, at its sole cost and expense, furnish all material and do all work necessary to maintain the existing substructure and superstructure of the subject bridge, excluding the wearing surface and the approaches, for a weight limit of ten (10) tons.

8. That the Commission's records and official references to the subject crossing reflect that the roadway involved is now a Township road, Clinton Road (T-881).

9. That Armstrong County, having agreed to do so, shall, at its sole cost and expense, inspect the Bridge on an annual basis, and report its findings to the Commission, and the parties hereto, together with its request that the report be kept confidential under a protective order to be issued pursuant to 52 Pa. Code § 5.423.

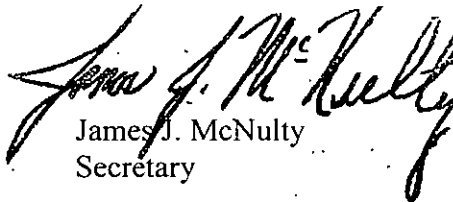
10. That this Order, to the extent that it assigns work and allocates costs among the parties, is without prejudice to the rights of the parties to recover costs pursuant to any other lawful agreement

11. That upon completion of the project, South Buffalo Township shall certify to the Commission that the project has been completed. Within 30 days of the filing of the certification that the project has been completed, all parties shall file with the Commission an itemized statement of their respective costs in performing work on the project pursuant to this Order.

12. That the petition of Dave Brestensky for leave to withdraw his complaint at Docket No. C-20030388 is granted.

13. That, upon completion of the project and its opening to public use, the docket at C-20030388 shall be marked closed.

BY THE COMMISSION,

  
James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: June 18, 2009

ORDER ENTERED: June 19, 2009