



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

March 8, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: **Docket No. C-2012-2319319**

Dear Secretary Chiavetta:

Enclosed for filing please find a copy of the Department's *Letter to ALJ Ember S. Jandebaur regarding the Department's February 11, 2013 Motion* in the above-captioned matter.

I hereby certify that a copy has been sent to all parties of record as indicated by the Certificate of Service.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Nicholas D. Mertens".

Nicholas D. Mertens
Assistant Counsel

Enclosure

220/NDM:aca

cc: Ember Jandebaur, Administrative Law Judge
Parties of Record
Mark J. Chappell, P.E., Chief, Utilities and Right-of-Way Section
Steve Betts, Grade Crossing Engineer, District 3-0



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

March 8, 2013

Administrative Law Judge Ember S. Jandebaur
Room 317 Scranton State Office Building
100 Lackawanna Avenue
Scranton, PA 18503

RE: ***Carl Lute v. Reading Blue Mountain & Northern Railroad***
Docket No. C-2012-2319319

Dear Judge Jandebaur:

On February 11, 2013, the Department submitted to the Public Utility Commission and Your Honor its Motion for Interim Order Assigning Maintenance of the Crossing and Approaches in the above captioned matter. In Paragraph 5, the Department stated that “[t]here are no Commission or Pennsylvania Public Service Commission orders assigning maintenance responsibilities at the subject crossing.”

On March 7, 2013, the Department discovered a prior Commission Order directing maintenance responsibilities upon the Department of Highways and Reading Company, both predecessors-in-interest to the parties hereto. Please find enclosed this Order.

I hereby certify that a copy has been sent to all parties of record as indicated by the Certificate of Service.

Very truly yours,

A handwritten signature in blue ink, appearing to read "N. D. Mertens".

Nicholas D. Mertens
Assistant Counsel

Enclosure

cc: Ember Jandebaur, Administrative Law Judge
Parties of Record
Mark J. Chappell, P.E., Chief, Utilities and Right-of-Way Section
Steve Betts, Grade Crossing Engineer, District 3-0

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application Docket No. 94696

In re: Application of DEPARTMENT OF HIGHWAYS OF THE COMMONWEALTH OF PENNSYLVANIA - For approval of the abolition of the crossing, at grade, where State Highway Route 19081 crosses the track of Reading Company and the construction of a crossing, at grade, in lieu thereof, where the same highway, relocated as proposed, will cross the same track of said company, all in Conyngham Township, Columbia County, and the allocation of the costs and expenses incident thereto.

O R D E R

BY THE COMMISSION, MARCH 3, 1969:

Department of Highways of the Commonwealth of Pennsylvania proposes to relocate and reconstruct about 0.61 of a mile of the state highway which extends between the village of Locust Gap in Mt. Carmel Township, Northumberland County, and the borough of Ashland in Schuylkill County. This highway bears three state highway route numbers, namely, 49015 in Northumberland County, 19081 in crossing through the village of Locust Dale in the southernmost tip of Columbia County, and 53084 in Schuylkill County.

In this application, Department of Highways seeks Commission approval of the abolition of the crossing, at grade, where State Highway Route 19081 crosses the track of Reading Company and the construction of a crossing, at grade, in lieu thereof, where the same highway, relocated as proposed, will cross the same track of said company and the allocation of the costs and expenses incident thereto.

At a location near the west end of the village of Locust Dale, the existing State Highway Route 19081 is crossed, at grade, and in the middle of a sharp "S" or reverse curve in the highway, by a single main track of Reading Company, which is also on curved alignment. The easterly approach to the crossing is on a southwesterly ascending grade of about 6 per cent and the southwesterly approach descends toward the crossing on a grade of about 16 per cent.

The present volume of vehicular traffic is estimated by Department of Highways at 1,600 vehicles daily and it is expected to increase to 2,700 vehicles daily in the next 20 years.

Railroad traffic consists of 6 freight trains daily, operated at a maximum authorized speed of 20 miles an hour. There are no scheduled passenger trains operated on this line of railroad.

The existing highway is paved with bituminous concrete to a width of 22 feet, with earth shoulders 3 feet in width. The crossing is protected by automatic flashing light railroad crossing warning signals and advance railroad crossing warning signs.

A plan prepared by Department of Highways, consisting of a title sheet and five sheets of drawings authorizing condemnation and construction of this highway by the State Highway and Bridge Authority, was admitted at the hearing held December 4, 1968 as Department of Highways' Exhibit No. 1. Subsequent to the hearing a titled sheet signed by the Governor on December 11, 1968 was received and placed in the record in this proceeding. The plan indicates that it is proposed to relocate State Highway Route 19081 about 260 feet southward on an easy curving alignment, crossing, at grade, the same track about 370 feet southeast of the existing crossing. The crossing, at an angle of about 40 degrees with the highway, will be on a short tangent portion of track connecting track curving in opposite directions.

The relocated highway will be paved with bituminous concrete to a width of 24 feet, flanked with paved shoulders 10 feet in width and a recovery area varying from 10 feet to 20 feet in width. The crossing will be paved for a width of 44 feet normal to the highway. Approaching the crossing from the west, the highway will descend eastwardly on a 5.8 per cent grade, and by an appropriate vertical curve ease into an eastwardly descending grade of 0.5 per cent across the track, then by another vertical curve to an eastward descending grade of 5.4 per cent.

The department's estimated cost of this railroad-highway crossing project in the amount of \$87,405, between Stations 1+100 and 13+50, the portion over which the Commission is taking jurisdiction, was admitted as the department's Exhibit No. 3 and is tabulated below:

Grading	\$40,254
Drainage	12,874
Paving approaches	23,035
Crossing	334
Guard fence	1,194
Roadside development	1,768
Engineering and contingencies	7,946
Total	<u>\$87,405</u>

This highway will not be constructed as a limited-access highway. In view of the few trains operated on this line of railroad and the low volume of vehicular traffic, it is the department's opinion that advance railroad crossing warning signs and automatic flashing light railroad crossing warning signals, together with the widened crossing and greater sight distances for motorists, will provide a safe and adequate crossing. The department is also of the opinion that construction of a crossing with separated grades can not be economically justified at this location.

Department of Highways expects to use Federal aid funds for secondary highways to finance this project.

The department agrees to construct, at its sole cost and expense, this railroad-highway crossing project in accordance with its Exhibit No. 1, inclusive of paving the new crossing, and to complete all work within 24 months from date of service of the Commission's order.

The department requests that Reading Company be required to rehabilitate its track and install guard timbers at the site of the new crossing prior to the paving of the crossing, to furnish any inspectors and engineering services required to protect its operations that may be affected by construction of the project and to alter or relocate its signal and communication lines as required to permit construction of the project, and it agrees to reimburse Reading Company for all such costs when certified by the Commission.

The department requests that the company furnish watchman and flagman services as may be necessary to protect its operation during the time work is being performed on or adjacent to its track and agrees to reimburse the company for such services which it suggests need not be certified by the Commission.

Department of Highways also requests that Reading Company be required to relocate its automatic flashing light railroad crossing warning signals outside the graded width of the highway and agrees to bear 50 per cent of the cost of providing such signals and to install and bear the entire cost of providing special guard fence to protect the signals and the public at an estimated cost of \$1,030. It further requests that any utility, other than Reading Company, whose facilities are in public right of way, be required to alter or relocate its facilities, at its sole cost and expense, in order to permit construction of the railroad-highway crossing project.

It will not be necessary to establish and maintain any temporary route as traffic will be maintained on the existing highway during construction of the relocated highway. It will be necessary for the Commission to appropriate all property required between Survey Stations 1+00 and 13+50, all of which is properly described in 14 typewritten sheets of descriptions of property admitted at the hearing as Department of Highways' Exhibit No. 2. The department estimates the cost of property damages to be \$6,645, exclusive of the appropriation of Reading Company's operating right of way for which it suggests the company release damages.

It will be necessary to vacate the portion of existing State Highway Route 19081 north of the northerly right-of-way line of relocated State Highway Route 19081 about 100 feet north of Survey Station 2+29 and the westerly legal right-of-way line of existing State Highway Route 19081 in the village of Locust Dale about 288 feet north of Survey Station 10+33. Upon completion of the project and its opening to public use the department will remove the pavement from the existing highway and asks that Reading Company be required to remove the existing crossing, at its

own cost and expense. In the department's opinion barricades would not be necessary.

Department of Highways agrees to maintain the highway to within 24 inches of the rail at the crossing and asks that Reading Company maintain the drain pipe under the highway and track at the crossing, the crossing paving, flashing light signals, and its other facilities at the crossing.

Reading Company has no objection to the relocation and construction of the highway, abolition of the existing crossing, and construction of a new crossing in lieu thereof, and will rehabilitate its track, install guard timbers and cantilevered automatic flashing light railroad crossing warning signals at the new crossing, and remove the old crossing, all at the estimated total cost of \$26,200, admitted at the hearing as Reading Company's Exhibit No. 1 and tabulated below.

	<u>Labor</u>	<u>Material</u>	<u>Total</u>
Removal of old crossing and installation of timber guard rail	\$3,800	\$ 1,500	\$ 5,300
Installation cantilevered flashing light signals and removal of existing signals	<u>9,000</u>	<u>11,900</u>	<u>20,900</u>
Totals	\$12,800	\$13,400	\$26,200

Reading Company requests that it be fully reimbursed for all of its expenses incurred on this railroad-highway crossing project, including its cost of \$100 for preliminary engineering. The company agrees to waive damages for appropriation of its operating right of way and to maintain its facilities at the crossing, but it does not agree to maintain the highway drain pipe to be installed under the highway and track at the new crossing.

It is evident that the crossing, paved for a width of 44 feet measured normal to the highway, requiring the paving of the railroad track for a length of about 92 feet on the flat angle of this crossing, is ample. However, the wide recovery area on each side of the highway approaches must be restricted to funnel highway traffic onto the paved crossing. We will require therefore, that the

automatic flashing light railroad crossing warning signals be located 6 feet from the edge of the 24-foot wide highway pavement in accordance with the standards of the Association of American Railroads and that a special protective guard fence be provided to protect each warning signal light and the public as proposed by Department of Highways.

Upon full consideration of the matters and things involved, we find and determine that construction of the above-described railroad-highway crossing project is necessary or proper for the service, accommodation, convenience, or safety of the public; THEREFORE,

IT IS ORDERED:

1. That this application be and is hereby approved.
2. That the railroad-highway crossing, at grade, where State Highway Route 19081 crosses the track of Reading Company in Conyngham Township, Columbia County, be abolished and a new crossing, at grade, in lieu thereof, where State Highway Route 19081, as relocated, crosses the same track of said company in the aforesaid township, be constructed generally in accordance with the plan prepared by Department of Highways and admitted at the hearing held December 4, 1968 as Applicant's Exhibit No. 1, which plan is attached hereto, made part hereof, and is hereby approved, except insofar as it may relate to the division of the work, the deletion of work, or to the allocation of the costs and expenses incident thereto.

3. That in accord with the provisions of Section 409 of the Public Utility Law, 1937, P.L. 1053, as amended and supplemented, 66 P. S. 1179, the following described properties be and are hereby severally taken and appropriated for the purpose of the improvement in accordance with the approved plan attached hereto and that numbered paragraph 3 of this order, together with a copy of said plan, shall be recorded by the Recorder of Deeds of Columbia County and shall be indexed under the name or names of the record owners of said properties, grantor(s), and to the Commonwealth of Pennsylvania, grantee, at the sole cost and expense of Department of Highways of the Commonwealth of Pennsylvania, applicant herein.

1. Kodiak Coal Company, record owner
200 Mahantongo Street
Pottsville, Pennsylvania

ALL THOSE CERTAIN tracts of land, together with all buildings, structures or parts thereof of any description or use whatsoever, erected or located thereon, situated in Conyngham Township, Columbia County, bounded and described as follows, to wit:

TRACT NO. 1

Beginning at a point on the northerly side of Legislative Route 19081, said point being on the northerly required right-of-way line for said route distant one hundred (100) feet northerly and measured at right angles from the survey center line of said route at or about Station 1+00 thereof; thence in an easterly direction along said required right-of-way line to a point of curve distant one hundred (100) feet northerly and measured at right angles from the survey center line of said route at or about Station 1+01.78 thereof; thence in an easterly direction along said required right-of-way line curved to the right with a radius of three thousand one hundred fifteen and fifty-seven hundredths (3,115.57) feet to a point and intersection with the westerly legal right-of-way line of existing Legislative Route 19081 distant one hundred (100) feet northerly and measured radially from the survey center line of relocated Route 19081 at or about Station 2+02 thereof; thence in a southwesterly direction along said legal right-of-way line of existing Legislative Route 19081 curved to the right with an unknown radius to a point distant twenty-five (25) feet northerly and measured at right angles from the survey center line of relocated Legislative Route 19081 at or about Station 1+00 thereof; thence in a northerly direction to a point and place of beginning and containing nine hundredths (0.09) of an acre of land, more or less.

TRACT NO. 2

Beginning at a point on the northerly side of Legislative Route 19081, relocated, said point being the intersection of the easterly legal right-of-way line of existing Legislative Route 19081 and the northerly required right-of-way line of Legislative Route 19081 relocated distant one hundred (100) feet northerly and measured radially from the survey center line of said route at or about Station 2+52 thereof; thence in an easterly direction along said required right-of-way line curved to the right with a radius of three thousand one hundred fifteen and fifty-seven hundredths (3,115.57) feet to a point and intersection with the southwesterly operating right-of-way line of Reading Company distant one hundred (100) feet northerly and measured radially from the survey center line of said route at or about Station 3+50 thereof; thence in a southeasterly direction along said railroad operating right-of-way line to a point and intersection with the southerly required right-of-way line for Legislative Route 19081 relocated distant eighty-five (85) feet southerly and measured radially from the survey center line of said route at or about Station 5+87 thereof; thence in a westerly direction along said required right-of-way line curved to the left with a radius of two thousand nine hundred thirty and fifty-seven hundredths (2,930.57) feet to a point distant eighty-five (85) feet southerly and measured radially from the survey center line of said route at or about Station 5+50 thereof; thence in a southerly direction along said required right-of-way line to a point distant one hundred twenty-five (125) feet southerly and measured radially from the survey center line of said route at or about Station 5+50 thereof; thence in a westerly direction along said required right-of-way line curved to the left with a radius of two thousand eight hundred ninety and fifty-seven hundredths (2,890.57) feet to a point of curve distant one hundred twenty-five (125) feet southerly and measured at right angles from the survey center line of said route at or about Station 1+01.78 thereof; thence in a westerly direction along said required right-of-way line to a point distant one hundred twenty-five (125) feet southerly and measured at right angles from the survey center line of said route at or about Station 1+00 thereof; thence in a northerly direction to a point and intersection with the southerly legal right-of-way line of existing Legislative Route 19081 distant twenty-five (25) feet southerly and measured at right angles from the survey center line of Legislative Route 19081 relocated at or about Station 1+00 thereof; thence in a north-easterly direction along said legal right-of-way line of existing Legislative Route 19081 to a point and place of beginning and containing one and thirty-four hundredths (1.34) acres of land, more or less.

TRACT NO. 3

Beginning at a point on the northerly side of Legislative Route 19081 relocated, said point being the intersection of the northeasterly operating right-of-way line of Reading Company and the northerly required right-of-way line for said route distant one hundred (100) feet northerly and measured radially from the survey center line of said route at or about Station 4+85 thereof; thence in an easterly direction along said required right-of-way line curved to the right with a radius of three thousand one hundred fifteen and fifty-seven hundredths (3,115.57) feet to a point distant one hundred (100) feet northerly and

measured radially from the survey center line of said route at or about Station 5+25 thereof; thence in a northerly direction along said required right-of-way line to a point distant one hundred twenty-five (125) feet northerly and measured radially from the survey center line of said route at or about Station 5+25 thereof; thence in an easterly direction along said required right-of-way line curved to the right with a radius of three thousand one hundred forty and fifty-seven hundredths (3,140.57) feet to a point and intersection with a property line distant one hundred twenty-five (125) feet northerly and measured radially from the survey center line of said route at or about Station 7+40 thereof; thence in a southerly direction along said property line to a point distant three (3) feet northerly and measured radially from the survey center line of said route at or about Station 7+41 thereof; thence in an easterly direction along said property line to a point and intersection with the westerly legal right-of-way line of a township road distant two and five tenths (2.5) feet northerly and measured radially from the survey center line of said route at or about Station 7+45 thereof; thence in a southerly direction along said legal right-of-way line to a point and intersection with the southerly legal right-of-way line of the township road distant twenty-one (21) feet southerly and measured radially from the survey center line of said route at or about Station 7+46 thereof; thence in an easterly direction along said legal right-of-way line to a point and intersection with the westerly legal right-of-way line of existing Legislative Route 19081 distant thirteen (13) feet northerly and measured radially from the survey center line of Legislative Route 19081 relocated at or about Station 10+85 thereof; thence in an easterly direction along said legal right-of-way line of existing Legislative Route 19081 to a point and intersection with the property line distant twenty-two (22) feet southerly and measured radially from the survey center line of Legislative Route 19081 relocated at or about Station 13+50 thereof; thence in a southerly direction along said property line to a point and intersection with the property line distant twenty-seven (27) feet southerly and measured radially from the survey center line of Legislative Route 19081 relocated at or about Station 13+50 thereof; thence in a westerly direction along said property line to a point and intersection with a property line distant forty-five (45) feet southerly and measured radially from the survey center line of Legislative Route 19081 relocated at or about Station 11+26 thereof; thence in a southerly direction along said property line to a point and intersection with the southerly required right-of-way line of Legislative Route 19081 relocated distant fifty-five (55) feet southerly and measured radially from the survey center line of said route at or about Station 11+25 thereof; thence in a westerly direction along said required right-of-way line curved to the right with a radius of three thousand seventy and fifty-seven hundredths (3,070.57) feet to a point of curve distant fifty-five (55) feet southerly and measured at right angles from the survey center line of said route at or about Station 10+94.59 thereof; thence in a westerly direction along said required right-of-way line to a point distant fifty-five (55) feet southerly and measured at right angles from the survey center line of said route at or about Station 10+00 thereof; thence in a northerly direction along said required right-of-way line to a point distant forty-five (45) feet southerly and measured at right angles from the survey center line of said route at or about Station 10+00 thereof; thence in a westerly direction along said required right-of-way line to a point of tangent distant forty-five (45) feet southerly and

measured at right angles from the survey center line of said route at or about Station 9+55.29 thereof; thence in a westerly direction along said required right-of-way line curved to the left with a radius of two thousand nine hundred seventy and fifty-seven hundredths (2,970.57) feet to a point distant forty-five (45) feet southerly and measured radially from the survey center line of said route at or about Station 9+10 thereof; thence in a southerly direction along said required right-of-way line to a point distant eighty-five (85) feet southerly and measured radially from the survey center line of said route at or about Station 9+10 thereof; thence in a westerly direction along said required right-of-way line curved to the left with a radius of two thousand nine hundred thirty and fifty-seven hundredths (2,930.57) feet to a point and intersection with the northeasterly operating right-of-way line of Reading Company distant eighty-five (85) feet southerly and measured radially from the survey center line of said route at or about Station 11+32 thereof; thence in a northwesterly direction along said railroad right-of-way line to a point and place of beginning and containing one and sixty-five hundredths (1.65) acres of land, more or less.

TRACT NO. 4

Beginning at a point on the northerly side of Legislative Route 19081 relocated, said point being the intersection of the northerly legal right-of-way line of existing Legislative Route 19081 and a property line distant forty-two (42) feet northerly and measured radially from the survey center line of Legislative Route 19081 relocated at or about Station 11+30 thereof; thence in a northeasterly direction along said property line to a point and intersection with a property line distant fifty-three (53) feet northerly and measured radially from the survey center line of Legislative Route 19081 relocated at or about Station 12+41 thereof; thence in a southerly direction along said property line to a point and intersection with the northerly legal right-of-way line of existing Legislative Route 19081 distant thirty-two (32) feet northerly and measured radially from the survey center line of Legislative Route 19081 relocated at or about Station 12+41 thereof; thence in a westerly direction along said legal right-of-way line to a point and place of beginning and containing three hundredths (0.03) of an acre of land, more or less.

TRACT NO. 5

Beginning at a point on the northerly side of Legislative Route 19081 relocated, said point being the intersection of the northeasterly operating right-of-way line of Reading Company and the southerly legal right-of-way line of existing Legislative Route 19081 distant two hundred twenty-five (225) feet northerly and measured radially from the survey center line of Legislative Route 19081 relocated at or about Station 2+90 thereof; thence in an easterly direction along said legal right-of-way line to a point and intersection with the easterly boundary line of a temporary easement for construction distant two hundred thirty-four (234) feet northerly and measured radially from the survey center line of Legislative Route 19081 relocated at or about Station 5+57 thereof; thence in a southeasterly direction along said boundary line of a temporary easement for construction to a point distant two hundred eight (208) feet northerly and measured radially from the survey center line of Legislative Route 19081 relocated at or about Station 6+00 thereof; thence in a southerly direction along said boundary line of a temporary easement for construction to a point and intersection with a

northerly required right-of-way line for Legislative Route 19081 relocated distant one hundred twenty-five (125) feet northerly and measured radially from the survey center line of said route at or about Station 6+00 thereof; thence in a westerly direction along said required right-of-way line curved to the left with a radius of three thousand one hundred forty and fifty-seven hundredths (3,140.57) feet to a point distant one hundred twenty-five (125) feet northerly and measured radially from the survey center line of said route at or about Station 5+25 thereof; thence in a southerly direction along said required right-of-way line to a point distant one hundred (100) feet northerly and measured radially from the survey center line of said route at or about Station 5+25 thereof; thence in a westerly direction along said required right-of-way line curved to the left with a radius of three thousand one hundred fifteen and fifty-seven hundredths (3,115.57) feet to a point and intersection with the northeasterly operating right-of-way line of Reading Company distant one hundred (100) feet northerly and measured radially from the survey center line of said route at or about Station 4+85 thereof; thence in a northwesterly direction along said railroad operating right-of-way line to a point and place of beginning and containing seventy-two hundredths (0.72) of an acre of land, more or less.

TRACT NO. 6

Beginning at a point on the northerly side of Legislative Route 19081 relocated, said point being the intersection of the easterly boundary line of a temporary easement for construction and the northerly boundary line of an area required for channel change distant two hundred eight (208) feet northerly and measured radially from the survey center line of said route at or about Station 6+00 thereof; thence in a southeasterly direction along said boundary line of an area required for channel change to a point distant one hundred seventy-one (171) feet northerly and measured radially from the survey center line of said route at or about Station 6+63 thereof; thence in a southerly direction along said boundary line of an area required for channel change to a point and intersection with the northerly required right-of-way line for Legislative Route 19081 relocated distant one hundred twenty-five (125) feet northerly and measured radially from the survey center line of said route at or about Station 6+63 thereof; thence in a westerly direction along said required right-of-way line curved to the left with a radius three thousand one hundred forty and fifty-seven hundredths (3,140.57) feet to a point and intersection with the easterly boundary line of a temporary easement for construction distant one hundred twenty-five feet northerly and measured radially from the survey center line of said route at or about Station 6+00 thereof; thence in a northerly direction along said boundary line of a temporary easement for construction to a point and place of beginning and containing nine hundredths (0.09) of an acre of land, more or less.

The above six tracts of land, namely; Tracts Nos. 1, 2, 3, and 4 shown on the plan as required right of way and containing a total three and eleven hundredths (3.11) acres of land, more or less; Tract No. 5 shown on the plan as a temporary easement for construction and containing a total of seventy-two hundredths (0.72) of an acre of land, more or less; and Tract No. 6 shown

on the plan as an area required for channel change and containing a total of nine hundredths (0.09) of an acre of land, more or less, are portions of real estate which became legally vested in Kodiak Coal Company, Inc., by deed of Reserve Carbon Corporation dated February 1, 1961 and recorded in Deed Book 212, page 235, in the Columbia County Courthouse.

2. Reading Company, record owner
Room No. 512
503 Reading Terminal
12th & Market Streets
Philadelphia, Pennsylvania

ALL THOSE CERTAIN tracts of land, situated in Conyngham Township, Columbia County, bounded and described as follows, to wit:

TRACT NO. 1

Beginning at a point on the northerly side of Legislative Route 19081 relocated, said point being the intersection of the southwesterly operating right-of-way line of Reading Company and the northerly required right-of-way line for said route distant one hundred (100) feet northerly and measured radially from the survey center line of said route at or about Station 3+50 thereof; thence in an easterly direction along said required right-of-way line curved to the right with a radius of three thousand one hundred fifteen and fifty-seven hundredths (3,115.57) feet to a point and intersection with the northeasterly operating right-of-way line of Reading Company distant one hundred (100) feet northerly and measured radially from the survey center line of said route at or about Station 4+85 thereof; thence in a southeasterly direction along said railroad operating right-of-way line to a point and intersection with the southerly required right-of-way line for said route distant eighty-five (85) feet southerly and measured radially from the survey center line of said route at or about Station 7+32 thereof; thence in a westerly direction along said required right-of-way line curved to the left with a radius of two thousand nine hundred thirty and fifty-seven hundredths (2,930.57) feet to a point and intersection with the southwesterly operating right-of-way line of Reading Company distant eighty-five (85) feet southerly and measured radially from the survey center line of said route at or about Station 5+87 thereof; thence in a northeasterly direction along said railroad operating right-of-way line to a point and place of beginning and containing fifty-eight hundredths (0.58) of an acre of land, more or less.

TRACT NO. 2

Beginning at a point on the northerly side of Legislative Route 19081 relocated, said point being the intersection of the southwesterly boundary line of a temporary easement for construction and the northeasterly operating right-of-way line of Reading Company distant one hundred eighty-two (182) feet northerly and measured radially from the survey center line of said route at or about Station 3+65 thereof; thence in a southeasterly direction along said railroad operating right-of-way line to a point and intersection with the southerly boundary line of a temporary easement for construction distant one hundred forty-five (145)

feet northerly and measured radially from the survey center line of said route at or about Station 4+25 thereof; thence in a westerly direction along said boundary line of a temporary easement for construction to a point distant one hundred forty-five (145) feet northerly and measured radially from the survey center line of said route at or about Station 4+00 thereof; thence in a northwesterly direction along said boundary line of the temporary easement for construction to a point and place of beginning and containing one hundredths (0.01) of an acre of land, more or less.

The above two tracts of land; namely, Tract No. 1 shown on the plans as required right-of-way and containing a total of fifty-eight hundredths (0.58) of an acre of land, more or less; and Tract No. 2 shown on the plan as a temporary easement for construction and containing a total of one hundredths (0.01) of an acre of land, more or less, are portions of real estate which became legally vested in Reading Company by a deed of John Anspach and J. B. Brock, unrecorded

3. Pottsville Hospital
A. C. Milliken Hospital and
Lemos B. Warne Hospital and Clinic,
record owners
Mauch Chuck and Jackson Streets
Pottsville, Pennsylvania

ALL THOSE CERTAIN tracts of land, together with all buildings, structures or parts thereof of any description or use whatsoever, erected or located thereon, situated in Conyngham Township, Columbia County, bounded and described as follows, to wit:

TRACT NO. 1

Beginning at a point on the northerly side of Legislative Route 19081, relocated, said point being the intersection of a property line with a northerly required right-of-way line for said route distant one hundred twenty-five (125) feet northerly and measured radially from the survey center line of said route at or about Station 7+40 thereof; thence in an easterly direction along said required right-of-way line curved to the right with a radius of three thousand one hundred forty and fifty-seven hundredths (3,140.57) feet to a point of tangent distant one hundred twenty-five (125) feet northerly and measured at right angles from the survey center line of said route at or about Station 9+55.29 thereof; thence in an easterly direction along the said required right-of-way line to a point and intersection with the westerly legal right-of-way line of existing Legislative Route 19081 distant one hundred twenty-five (125) feet northerly and measured at right angles from the survey center line of Legislative Route 19081 relocated at or about Station 10+55 thereof; thence in a southerly direction along said legal right-of-way line to a point and intersection with the northerly legal right-of-way line of a township Road distant thirty-five (35) feet northerly and measured at right angles from the survey center line of Legislative Route 19081 relocated at or about Station 10+65 thereof; thence in a westerly direction along said

legal right-of-way line to a point distant thirteen (13) feet northerly and measured radially from the survey center line of Legislative Route 19081 relocated at or about Station 7+45 thereof; thence in a southerly direction along said legal right-of-way line to a point and intersection with a property line distant two and five tenths (2.5) feet northerly and measured radially from the survey center line of Legislative Route 19081 relocated at or about Station 7+45 thereof; thence in a westerly direction along said property line to a point distant three (3) feet northerly and measured radially from the survey center line of Legislative Route 19081 relocated at or about Station 7+41 thereof; thence in a northerly direction along said property line to a point and place of beginning and containing seventy-four hundredths (0.74) of an acre of land, more or less.

TRACT NO. 2

Beginning at a point on the southerly side of Legislative Route 19081, relocated, said point being the intersection of the southerly required right-of-way line for said route and a property line distant fifty-five (55) feet southerly and measured radially from the survey center line of said route at or about Station 11+25 thereof; thence in a northerly direction along said property line to a point distant forty-five (45) feet southerly and measured radially from the survey center line of said route at or about Station 11+26 thereof; thence in an easterly direction along said property line to a point distant twenty-seven (27) feet southerly and measured radially from the survey center line of said route at or about Station 13+50 thereof; thence in a southerly direction along said property line to a point and intersection with the southerly required right-of-way line for said route distant thirty-five (35) feet southerly and measured radially from the survey center line of said route at or about Station 13+50 thereof; thence in a westerly direction along said required right-of-way line curved to the right with a radius of three thousand fifty and fifty-seven hundredths (3,050.57) feet to a point distant thirty-five (35) feet southerly and measured radially from the survey center line of said route at or about Station 13+00 thereof; thence in a southerly direction along said required right-of-way line to a point distant fifty-five (55) feet southerly and measured radially from the survey center line of said route at or about Station 13+00 thereof; thence in a westerly direction along said required right-of-way line curved to the right with a radius of three thousand seventy and fifty-seven hundredths (3,070.57) feet to a point and place of beginning and containing eight hundredths (0.08) of an acre of land, more or less.

TRACT NO. 3

Beginning at a point on the northerly side of Legislative Route 19081, relocated, and the westerly side of existing Legislative Route 19081, said point being the intersection of the westerly required right-of-way line for township road and the westerly legal right-of-way line of existing Legislative Route 19081 distant ninety (90) feet northerly and measured at right angles from the survey center line of Legislative Route

19081, relocated, at or about Station 10+59 thereof; thence in an easterly direction along said legal right-of-way line of existing Legislative Route 19081 to a point distant ninety-one (91) feet northerly and measured at right angles from the survey center line of Legislative Route 19081 relocated at or about Station 10+63 thereof; thence in a southerly direction along said legal right-of-way line of existing Legislative Route 19081 to a point and intersection with the northerly legal right-of-way line of a township Road distant thirty-seven (37) feet northerly and measured at right angles from the survey center line of Legislative Route 19081 relocated at or about Station 10+63 thereof; thence in a westerly direction along said legal right-of-way line for said township road to a point and intersection with the westerly required right-of-way line of township road distant thirty-five (35) feet northerly and measured at right angles from the survey center line of Legislative Route 19081, relocated, at or about Station 10+65 thereof; thence in a northerly direction along said required right-of-way line for township road to a point and place of beginning and containing a total of one hundredths (0.01) of an acre of land, more or less.

The above three tracts of land, namely; Tract Nos. 1 and 2 shown on the plans as required right of way for Legislative Route 19081 relocated and containing a total of eighty-two hundredths (0.82) of an acre of land, more or less, and Tract No. 3 shown on the plans as required right of way for township road and containing a total of one hundredths (0.01) of an acre of land, more or less, are portions of real estate which became legally vested in Pottsville Hospital, A. C. Milliken Hospital and Lemos B. Warne Hospital and Clinic by deed of Philadelphia and Reading Corporation dated December 19, 1957 and recorded in Deed Books 188 and 187, pages 92 and 535, in the Columbia County Courthouse.

4. That Reading Company furnish all material and do all work necessary to rehabilitate its track at the site of the new crossing, installing continuous rail through the entire crossing, and install guard timbers along each rail, with flangeways not in excess of 2-1/2 inches in width, for the full graded width of the highway.

5. That Reading Company, within 60 days after date of service of this order, prepare and submit to parties of record for examination and to this Commission for approval, a detail location and circuit plan providing for the installation of automatic flashing light railroad crossing warning signals at the relocated crossing in accordance with Bulletin No. 6, Recommended Practices of the Association of American Railroads.

6. That Reading Company furnish all material and do all work necessary to install the automatic flashing light railroad crossing warning signals in accordance with the approved plan and, upon opening of the new crossing to public use, remove the automatic flashing light railroad crossing warning signals on each side of the existing crossing.

7. That Reading Company furnish all material and do all work required to make any temporary or permanent alterations to its track, wire lines or other facilities required to permit construction of the project and, in addition, furnish and maintain watchmen, flagmen, and inspectors necessary to protect its operations during the time the highway is being constructed across and adjacent to its track and during the time alterations are being made to its facilities in accordance with this order.

8. That Department of Highways, at its sole cost and expense, furnish all material and do all work necessary to construct the railroad-highway crossing project, install necessary drainage facilities, pave the crossing area between the guard timbers and outside of the rails with bituminous concrete or other suitable material, and install a protective guard fence at each flashing light railroad crossing warning signal.

9. That any relocation of, changes in, or removal of any adjacent structures, equipment, or other facilities of any public utility, other than Reading Company, located within the limits of any highway within the limits of this Commission's jurisdiction, which may be required as incidental to the execution of the project, be made by said public utility, at its sole cost and expense, and in such manner as will not interfere with the construction of the improvement and such relocated or changed facilities thereafter be maintained by said utility.

10. That any relocation of, changes in, or removal of any adjacent structures, equipment, or other facilities of any public utility, other than Reading Company, located beyond the limits of any highway within the limits of this Commission's jurisdiction, which may be required as incidental to the execution of the project, be made by said public utility in such manner as will not interfere with the construction of the improvement and such relocated or changed facilities thereafter be maintained by said utility.

11. That Department of Highways, at its sole cost and expense, furnish all material and do all work necessary to effect the vacation, relocation, removal, or demolition of any nonutility structures, including occupied dwellings, located upon property required for the purpose of the improvement.

12. That Department of Highways, at its sole cost and expense, furnish all material and do all work necessary to complete the remainder of the railroad-highway crossing project in accordance with the approved plan, including the installation of a reflectorized advance railroad crossing warning sign at a proper location on each approach to the crossing.

13. That the railroad-highway crossing project be fully completed in a manner satisfactory to this Commission on or before November 30, 1971, and that on or before said date Department of Highways and Reading Company each report to this Commission the date of actual completion of its respective portion and, at the earliest practicable

time subsequent to said date of completion, submit to this Commission a detailed statement of the actual cost incurred by it in furnishing material and in performing work in compliance with this order.

14. That Department of Highways cooperate with Reading Company so that in the construction of the crossing project, the operation of the facilities of the company will not be endangered or unnecessarily impeded.

15. That during the time the railroad-highway crossing project is being constructed across and adjacent to its track, Reading Company cooperate with Department of Highways and conduct its operations in the vicinity of the crossing in a safe manner and under control.

16. That Reading Company pay any money to which it may be entitled as compensation for any of its operating right-of-way property taken, injured, or destroyed by reason of the construction of the railroad-highway crossing project in accordance with this order.

17. That Department of Highways pay all compensation for damages due to the owners, exclusive of Reading Company, as hereinabove provided, for property taken, injured, or destroyed by reason of the construction of the project in accordance with this order.

18. That Department of Highways pay Reading Company a sum or sums of money equal to the actual cost of watchman and flagman services rendered by said company to protect its operations and facilities contingent solely upon the work and operations of Department of Highways and/or its contractor during the time the highway is being constructed across and adjacent to its track.

19. That Department of Highways pay Reading Company, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to the actual cost of material furnished and work performed by the railroad company in compliance with numbered paragraph 4, 5, 6, and 7, of this order, exclusive of the cost of services of watchmen and flagmen reimbursed to the company by Department of Highways in compliance

with numbered paragraph 18 of this order; provided, however, said reimbursement to the company by the department may include items of work and expense incurred by the company such as are eligible for payment under the rules, regulations, and administrative orders of the Bureau of Public Roads covering grade crossing projects undertaken with Federal funds; the salvage value of material recovered or temporarily used to be deducted from the actual cost of that portion of the work done and material furnished by the company at the expense of the department.

20. That upon completion of the railroad-highway crossing project and its opening to public use, Reading Company, at its sole cost and expense, furnish all material and do all work required to rehabilitate its track and remove the pavement between the rails and outside each rail to points at least 24 inches beyond each rail at the site of the existing crossing.

21. That upon completion of the railroad-highway crossing project and its opening to public use, Reading Company, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its facilities located at the crossing, including the automatic flashing light railroad crossing warning signals, and at all times maintain in a smooth and satisfactory condition the crossing paving between the rails and for a distance of at least 24 inches beyond each rail, and any drainage facilities installed under its track in accordance with this order.

22. That upon completion of the railroad-highway crossing project and its opening to public use, Department of Highways, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the remainder of the improvement.

23. That upon completion of the improvement and its opening to public use, the following portion of existing State Highway Route 19081 be and is hereby vacated and closed to public use:

(a) That portion of existing State Highway Route 19081, approximately 800 feet in length, beginning at a point about 100 feet north of Survey Station 2+29 on the northerly required right-of-way line for relocated State Highway Route 19081, thence in a generally easterly direction across the right-of-way of Reading Company to a point on the westerly right-of-way line of existing State Highway Route 19081 about 288 feet north of Survey Station 10+33.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

(signed) George I. Bloom

Chairman

ATTEST:

Secretary



**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Carl Lute	:	
	:	
v.	:	C-2012-2319319
	:	
Reading Blue Mountain & Northern	:	
Railroad, Conyngham Township,	:	filed electronically
Columbia County, Commonwealth of	:	
Pennsylvania Department of Transportation	:	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the *Letter to ALJ Ember S. Jandebaur regarding the Department's February 11, 2013 Motion* was served upon the parties below by first-class mail postage prepaid this 8th day of March, 2013:


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