



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

November 1, 2013

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

RE: **Docket No. M-2013-2364201**

Dear Secretary Chiavetta:

Enclosed for filing please find the Department's *Joint Petition for Partial Remand of Matters Pending*, 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 cursive script that reads "gina m d'alfonso".

Gina M. D'Alfonso  
Assistant Counsel in Charge

Enclosure

220/GMD:gw

cc: David A. Salapa, Administrative Law Judge  
Parties of Record  
Mark J. Chappell, P.E., Chief, Utilities and Right-of-Way Section  
Joseph Strok, District Grade Crossing Engineer, District 4-0

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bridge Structure where State Route 1025,	:	
crosses over a single track of Canadian	:	Docket Number M-2013-2364201
Pacific Railroad (264 293 K) in Nicholson	:	
Borough, Wyoming County	:	<b>Filed Electronically</b>

**JOINT PETITION FOR PARTIAL REMAND OF MATTERS PENDING**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (“Department”), by and through its counsel, Gina M. D’Alfonso; Delaware and Hudson Railway Company, Inc. dba Canadian Pacific (D&H), by and through its counsel, Erin A. Brennan; and the Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement (“I&E”), by and through its counsel, Adam D. Young, and petitions the Pennsylvania Public Utility Commission (“Commission”) for a Partial Remand of Matters Pending before Administrative Law Judge David A. Salapa (“ALJ”) and submits the following in support of its Petition:

1. A hearing is currently scheduled on November 20, 2013 before the ALJ to determine whether it is feasible to reopen the structure, under what circumstances the structure can be reopened, which party will bear the costs to do so, the costs incurred to date and future maintenance of the structure.
2. The Commission had directed the Department to prepare an engineering study and analysis to determine the feasibility and any remedial action to reopen the bridge safely to the public.
3. The Department did prepare said report and under cover of the protective order entered by the Commission on August 16, 2013, provided the parties with said engineering analysis on October 4, 2013.

4. The result of the engineering analysis is that the structure can be reopened to a single lane of travel after the installation of barrier and pedestrian fencing. The structure will be posted at 28T/32T combinations. Traffic would be controlled by stops signs at either end of the structure. This scope of work is detailed in the plans attached to this pleading as Attachment 1.
5. D&H will perform the work as described in these plans necessary to reopen the structure at its sole cost and expense.
6. D&H will also reimburse the Department all costs incurred which to date is \$12,045.73.<sup>1</sup>
7. D&H also agrees to reimburse the Department twenty percent (20%) of the costs of inspecting the structure. The Department will inspect the structure as required.
8. In the interest of facilitating the reopening of this structure as soon as possible, the parties hereto concur in this scope of work and the plans as proposed and do not object to the reopening of the bridge in this manner.
9. The parties hereto waive the right to reply to this pleading and request an order as soon as possible.
10. The parties will not object to the matter being referred to the Bureau of Technical Services for the limited purposes referenced above – plan approval, final inspection upon completion of the work and the reopening of the bridge.
11. The parties are still discussing future maintenance responsibilities and disposition of the structure and request additional time to do so. The parties further request that these issues remain pending before Your Honor.

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<sup>1</sup> The pedestrian fencing at the bridge has been damaged and needs to be repaired. The Department is performing those repairs and D&H will reimburse the Department for the costs it incurs in making those repairs.

12. The parties also request that the hearing currently scheduled for November 20, 2013, be converted to a telephonic status conference and that the litigation schedule be suspended.
13. Neither Wyoming County nor Nicholson Borough opposes this motion.

REMAINDER OF PAGE LEFT BLANK

**WHEREFORE**, the parties respectfully request that the Commission grant this Petition for Partial Remand granted.

Respectfully submitted,



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Gina M. D'Alfonso  
Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel  
P.O. Box 8212  
Harrisburg, PA 17105-8212  
Telephone No. (717) 787-3128  
Attorney for the Commonwealth of Pennsylvania  
Department of Transportation  
gdalfonso@pa.gov

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Erin A. Brennan, Esquire  
Oliver Price & Rhodes  
P.O. Box 240  
Clarks Summit, PA 18411  
Telephone: (570) 585-1200  
Attorneys for Delaware and Hudson Railway  
Company, Inc.  
d/b/a Canadian Pacific  
eab@oprlaw.com

---

Adam D. Young, Prosecutor  
P.O. Box 3265  
Pennsylvania Public Utility Commission  
Harrisburg, PA 17105-3265  
Telephone No. (717) 772-8582  
Attorney for Bureau of Investigation and  
Enforcement  
adyoung@pa.gov

DATED: October 31, 2013

WHEREFORE, the parties respectfully request that the Commission grant this Petition for Partial Remand granted.

Respectfully submitted,

---

Gina M. D'Alfonso  
Assistant Counsel in Charge  
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*Erin A. Brennan*

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Attorney for Bureau of Investigation and  
Enforcement  
adyoung@pa.gov

DATED: October 29, 2013

**WHEREFORE**, the parties respectfully request that the Commission grant this Petition for Partial Remand granted.

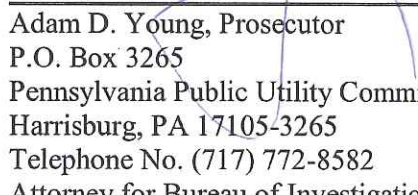
Respectfully submitted,

---

Gina M. D'Alfonso  
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DATED: October 29, 2013

**ATTACHMENT 1**

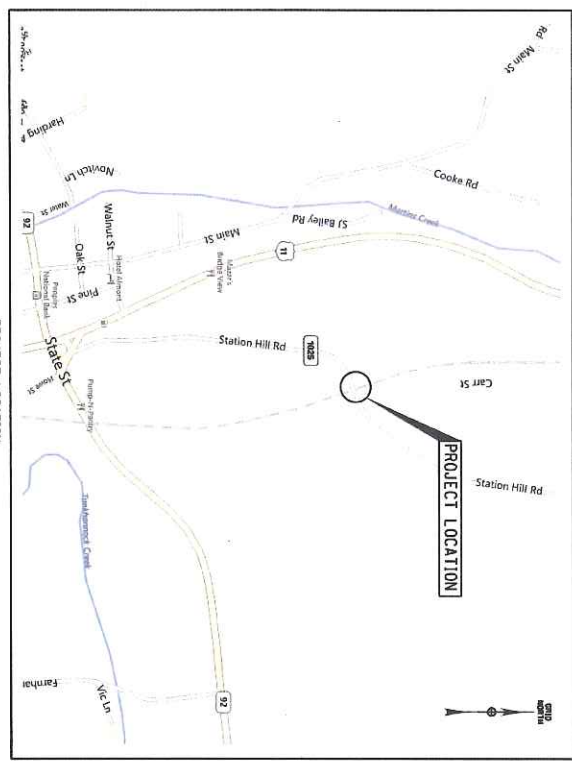


# STATE ROUTE 1025 STATION HILL ROAD OVER DELAWARE AND HUDSON RAILROAD CONCRETE ARCH BRIDGE TRAFFIC CONTROL PLANS

## TOWN OF NICHOLSON WYOMING COUNTY, PENNSYLVANIA

3 SHEETS

WYOMING COUNTY



PROJECT LOCATION  
(NOT TO SCALE)

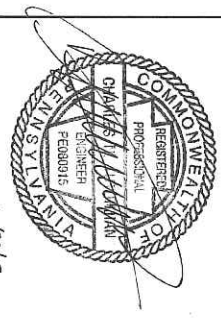
RECOMMENDED \_\_\_\_\_

DATE \_\_\_\_\_

DISTRICT TRAFFIC ENGINEER \_\_\_\_\_

CONTRACT PLANS HAVE BEEN DESIGNED IN ACCORDANCE WITH THE FEDERAL MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) AND THE PENNSYLVANIA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (PA MUTCD). ENGINEERING PUBLICATION 213, WORK ZONE TRAFFIC CONTROL GUIDELINES.

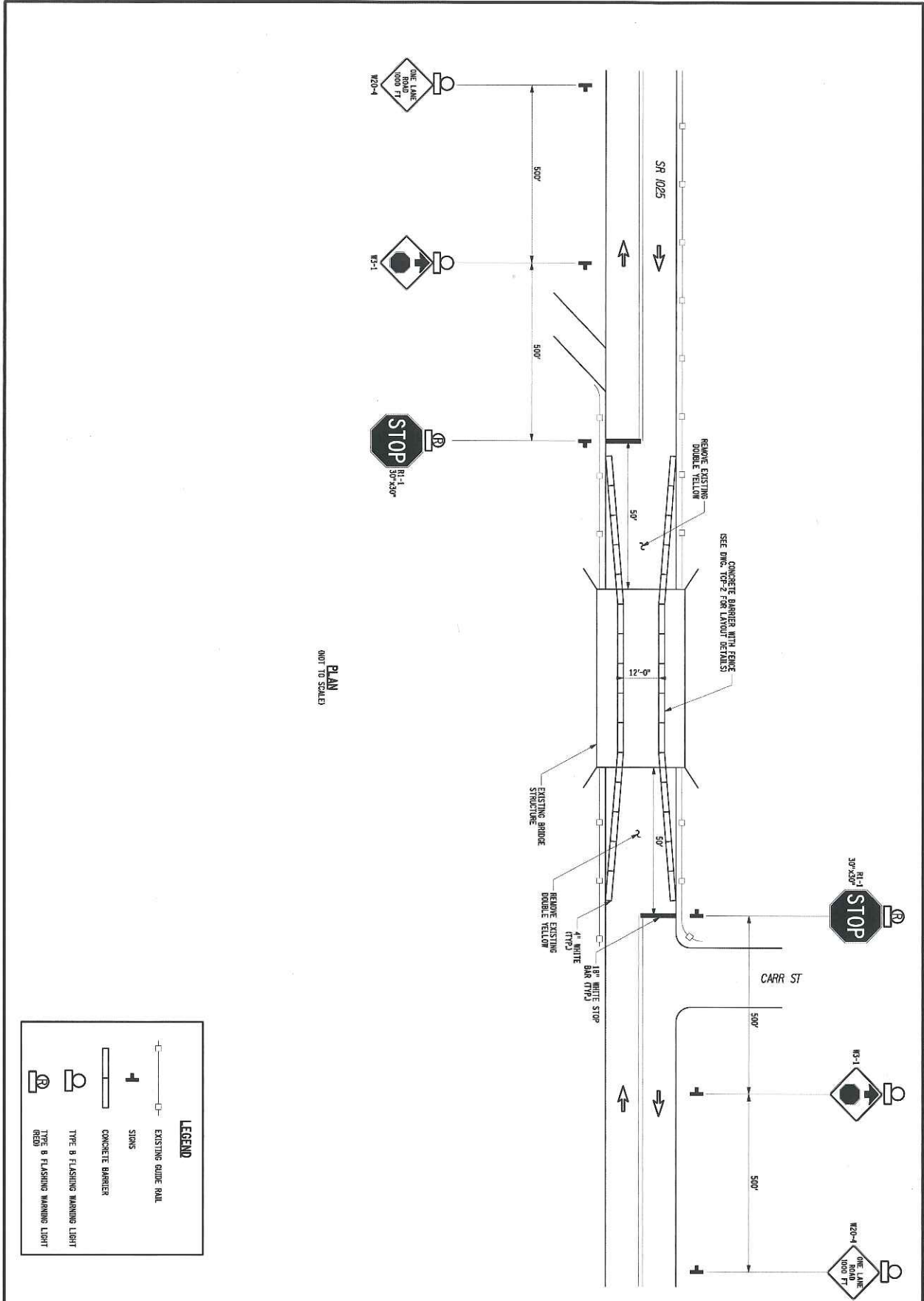
PREPARED AND RECOMMENDED BY:



CHARLES M. TUTUNJIAN, P.E.  
 P.L. LIC. NO. 090915

Creighton Manning CORPORATE MEMBER ENGINEERING LLP A PROFESSIONAL CORPORATION		
CM PROJECT #113-257		
WYOMING COUNTY SR 1025 SEC BRG		
SEGMENT 0020 OFFSET 0000		
SR 1025, SEC BRG STA. 25+15.00		
OVER DELAWARE & HUDSON RAILROAD		
CONCRETE ARCH BRIDGE		
TRAFFIC CONTROL PLANS		
SUBMISSION: FINAL		
OCTOBER 2013		
STATE	SHEET NO.	TOTAL SHEETS
PENNSYLVANIA	1	3

IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT, OR LAND SURVEYOR, TO ALTER AN ITEM IN ANY WAY. IF AN ITEM BEARING THE STAMP OF A LICENSED PROFESSIONAL IS ALTERED, THE ALTERING ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT, OR LAND SURVEYOR SHALL STAMP THE DOCUMENT AND INCLUDE THE NOTATION "ALTERED BY" FOLLOWED BY THEIR SIGNATURE, THE DATE OF SUCH ALTERATION, AND A SPECIFIC DESCRIPTION OF THE ALTERATION.



LEGEND	
	EXISTING GUIDE RAIL
	STOPS
	CONCRETE BARRIER
	TYPE B FLASHING WARNING LIGHT
	TYPE B FLASHING WARNING LIGHT (RED)

SHEET NUMBER 2 OF 3  
**TCP-1**

S.R. 1025 OVER DELAWARE AND HUDSON RAILROAD WYOMING COUNTY, PA  
**TRAFFIC CONTROL PLAN**  
 DATE: OCTOBER 2013 CME No.: 113-257 SCALE: AS SHOWN

Creighton Manning  
 CREIGHTON MANNING ENGINEERING, LLP  
 3 WINNERD CIRCLE - ALBANY, NEW YORK - 12208  
 P: (518) 468-0208 F: (518) 468-0207 WWW.CMEELP.COM

PREPARED FOR:  
 CANADIAN PACIFIC RAILWAY  
 200 CLIFTON CORPORATE PARKWAY  
 CLIFTON PARK, NY 12065

FINAL PLAN  
 SEE COVER FOR STAMP

NO.	REVISION	DATE	BY
1	Description	mm/dd/yy	XXX

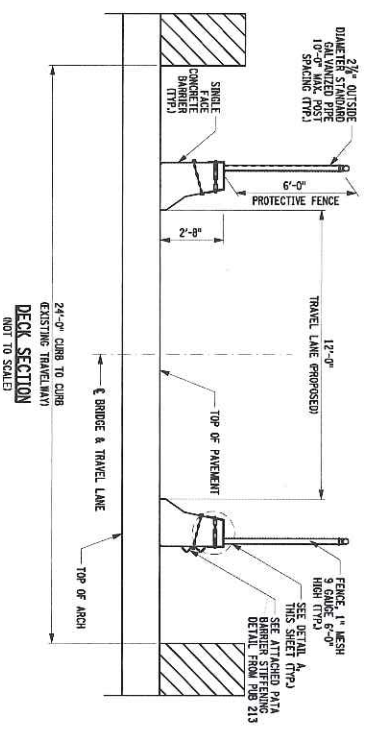
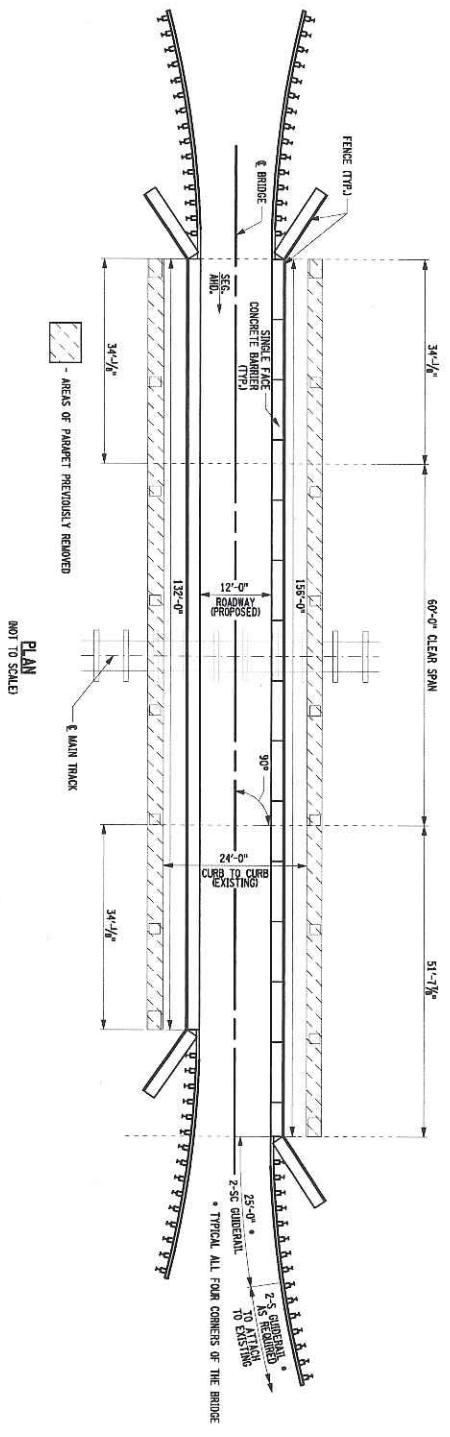
IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT, OR LAND SURVEYOR, TO ALTER AN ITEM IN ANY WAY, IF AN ITEM BEARING THE STAMP OF A LICENSED PROFESSIONAL IS ALTERED. THE ALTERING ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT, OR LAND SURVEYOR SHALL STAMP THE DOCUMENT AND INCLUDE THE NOTATION "ALTERED BY" FOLLOWED BY THEIR SIGNATURE, THE DATE OF SUCH ALTERATION, AND A SPECIFIC DESCRIPTION OF THE ALTERATION.

**FABRICATED STEEL SCHEDULE**

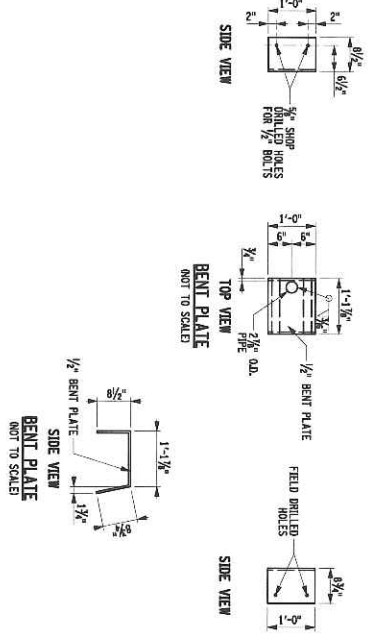
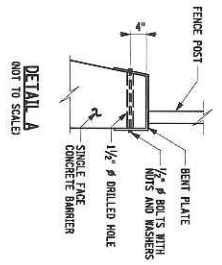
ITEM NO.	DESCRIPTION	QUANTITY	WEIGHT (LBS)
PLATE	2'-2 1/2" x 1'-0" x 1/2"	30	5335
TOTAL			1565.50

**APPROXIMATE QUANTITIES**

DESCRIPTION	UNIT	QUANTITY
TEMPERATURE SINGLE FACE CONCRETE BARRIER STEFFING	LF	346
FABRICATED STRUCTURAL STEEL	LBS	1566
PROJECTIVE FENCE	LF	346



- NOTES:**
1. PROVIDE MATERIALS AND METHOD WORK IN ACCORDANCE WITH SPECIFICATIONS, PUBLICATION 09/2011, AND ASSISTIVE/MS/OSM BRIDGE BUILDING CODE 2002 AND CONTRACT SPECIAL PROVISIONS.
  2. PROVIDE STRUCTURAL STEEL CONFORMING TO ASTM A572 GRADE 50 (GRADE 50) DESIGNATION, EXCEPT WHEN NOTED OTHERWISE.
  3. VERIFY ALL DIMENSIONS AND GEOMETRY OF THE EXISTING STRUCTURE IN THE FIELD AS NECESSARY FOR PROPER FIT OF THE PROPOSED CONSTRUCTION.
  4. PROVIDE ALL STEEL PLATES IN ACCORDANCE WITH PAR 408 SECTION 1060.
  5. THE INFORMATION SHOWN ON THE PLAN FOR THE EXISTING BRIDGE IS NOT PART OF THE CONTRACT. THE CONTRACTOR SHALL BE RESPONSIBLE TO THE CONTRACTOR FOR THE VERIFICATION OF THE EXISTING BRIDGE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE BRIDGE REPAIRS, THERE IS NO EXPRESS OR IMPLIED WARRANTY THAT THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE BRIDGE REPAIRS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE BRIDGE REPAIRS, BUT IS TO ASSUME THE RESPONSIBILITY THAT CONDITIONS AFFECTING COST AND/OR QUANTITIES OF WORK TO BE PERFORMED MAY DIFFER FROM THOSE INDICATED.



**SUPPLEMENTAL DRAWINGS**

DESCRIPTION	DWG. NO.	RECORD DATE
PROJECTIVE FENCE	BC-701A	05-18-12
BARRIER PLACEMENT AT OBSTRUCTIONS	RC-34A	06-01-10

S.R. 1025 OVER DELAWARE AND HUDSON RAILROAD WYOMING COUNTY, PA

**TCP-2**

DATE: OCTOBER 2013 CME No.: 113-257 SCALE: AS SHOWN

Creighton Manning Engineering, LP

**Creighton Manning**

CREIGHTON MANNING ENGINEERING, LLP  
 2 WYOMING CENTER ALBANY, NEW YORK 12206  
 P: (518) 448-0299 F: (518) 448-0287 WWW.CMEELL.COM

DESIGNED: K.K. DRAWN BY: K.D. CHECKED: G.G.

PREPARED FOR:

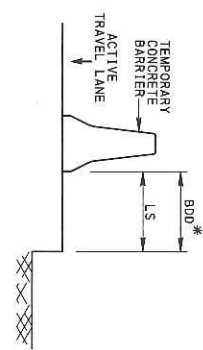
CANADIAN PACIFIC RAILWAY  
 200 CLIFTON CORPORATE PARKWAY  
 CLIFTON PARK, NY 12065

FINAL PLAN  
 SEE COVER FOR STAMP

NO.	REVISION	DATE	BY
1	Description	mm/dd/yy	XXX

PUBLICATION 213  
LATERAL PLACEMENT OF BARRIER IN A DROPOFF CONDITION

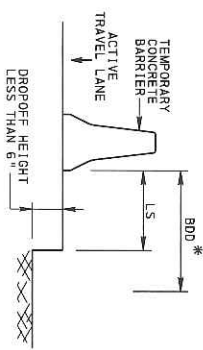
- LEGEND**
- BDD - BARRIER DEFLECTION DISTANCE
  - LS - LATERAL SPACE-DISTANCE REQUIRED BEHIND THE BARRIER TO ACCOMMODATE BARRIER DEFLECTION.
  - \* - FOR DEFLECTION DISTANCE OF VARIOUS APPROVED BARRIERS, SEE PUBLICATION 213, "DEFLECTION DISTANCES TABLE".



REMEDIAL TREATMENT - NONE

**DESIRABLE CONDITION**  
FOR DROPOFF HEIGHT GREATER THAN 2"

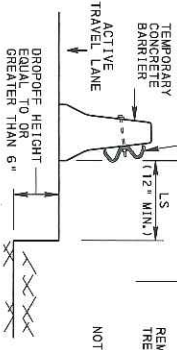
CONDITION - BDD IS GREATER THAN LS AND DROPOFF IS LESS THAN 6"



REMEDIAL TREATMENT - NONE

NOTE: THIS CONDITION IS ONLY PERMISSIBLE WHEN THE DROPOFF IS LESS THAN 6" AND THE WORK TO MAXIMIZE THE LS.

CONDITION - BDD IS GREATER THAN LS AND DROPOFF IS EQUAL TO OR GREATER THAN 6"



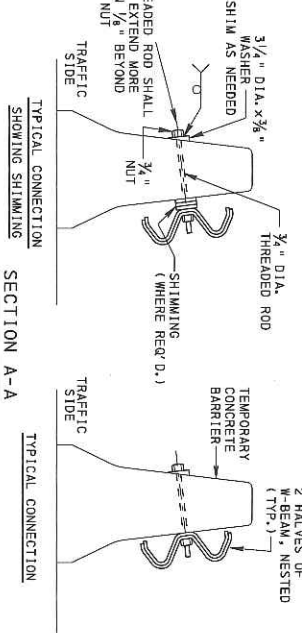
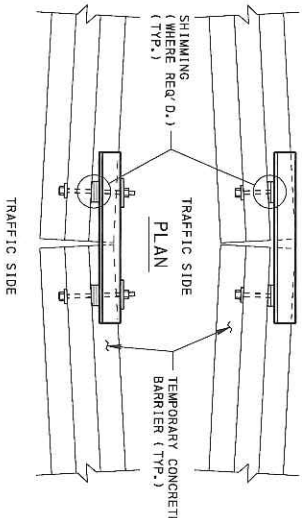
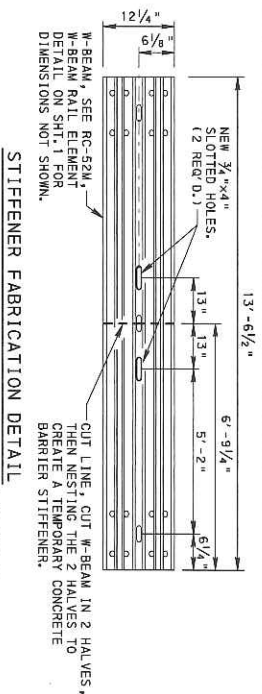
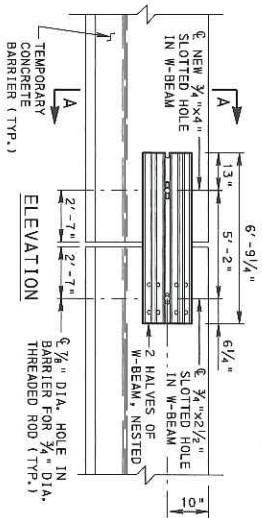
REMEDIAL TREATMENT - STIFFEN TEMPORARY CONCRETE BARRIER WITH W-BEAM CUT IN HALF, THEN NESTING THE 2 HALVES AS SHOWN ON SHEET 2.

NOTE: OTHER METHODS TO LIMIT THE BDD MUST BE APPROVED BY THE BUREAU OF DESIGN.

SHEET 1 OF 2

PATA  
Barrier Stiffening

PUBLICATION 213  
LATERAL PLACEMENT OF BARRIER IN A DROPOFF CONDITION



TEMPORARY CONCRETE BARRIER STIFFENING

- NOTES:
1. STIFFENED BARRIER WALL IS REQUIRED IN WORK ZONES WHEN BARRIER WALL IS LOCATED WITHIN THE DEFLECTION DISTANCE OF THE BARRIER AS SHOWN IN PUBLICATION 213, APPENDIX B, "TEMPORARY BARRIER DEFLECTION DISTANCES TABLE".
  2. STIFFENER SHALL BE INSTALLED WHEN BARRIER IS SET AND BEFORE ROADWAY IS OPEN TO TRAFFIC OR PLOTTING TO DROPOFF CONDITION BEING EXPOSED IN WORK ZONE.
  3. PROVIDE MATERIALS AND CONSTRUCTION MEETING THE REQUIREMENTS OF PUBLICATION 408, SECTIONS 520 AND 1109.
  4. WHEN BARRIERS ARE PLACED ON A RADIUS, THE AREA BETWEEN THE W-BEAM AND BARRIER WALL SHALL BE SHIMMED AS SHOWN ABOVE.
  5. ALL MATERIALS AND LABOR INVOLVED WITH THIS BARRIER STIFFENER SYSTEM SHALL BE PAID AS A SEPARATE PAY ITEM.
  6. SHIM SHALL CONSIST OF ONE SQUARE PLATE 3/8" THICK WITH AS MANY 3/4" DIA. x 3/8" THICK WASHERS AS NEEDED.
  7. ROD PERPENDICULAR TO BARRIER WALL SURFACE (TYP.) ON THE WORK ZONE SIDE OF THE BARRIER.

SHEET 2 OF 2  
DATA  
Barrier Stiffening

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bridge Structure where State Route 1025 :  
crosses over a single track of Canadian : M-2013-2364201  
Pacific Railway (264 293 K) in Nicholson :  
Borough, Wyoming County :

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Department's *Joint Petition for Partial Remand of Matters Pending* was served upon the parties below by E-mail and First-Class mail; postage prepaid this 29<sup>th</sup> day of October, 2013:

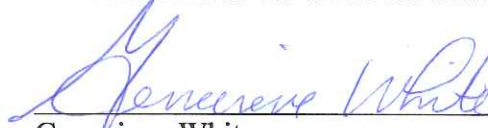
Erin A. Brennan, Esquire  
Oliver Price and Rhodes  
1212 South Abington Road  
P.O. Box 240  
Clarks Summit, PA 18411

James E. Davis, Esquire  
7 Marion Street  
Tunkhannock, PA 18657

Anthony P. Litwin Esquire  
24 East Tioga Street  
Tunkhannock, PA 18657

Adam D. Young, Esquire  
PA Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17120

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION



Genevieve White  
Legal Assistant to Gina M. D'Alfonso  
Assistant Counsel in Charge  
Commonwealth of Pennsylvania  
Department of Transportation  
Office of Chief Counsel  
P.O. Box 8212  
Harrisburg, PA 17105-8212  
Telephone No. (717) 787-3128

DATED: November 1, 2013