

HOLL & ASSOCIATES

Attorneys At Law
A PROFESSIONAL CORPORATION

P.O. BOX 807
920 SOUTH BROAD STREET
LANSDALE, PENNSYLVANIA 19446

GREGORY F. LEPORE, ESQ.

(215) 362-1015
FAX (215) 362-8530
EMAIL: Hollaw@voicenet.com

September 28, 2000

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OCT -2 PM 9:48

ORIGINAL

James McNulty, Secretary
Commonwealth of Pennsylvania
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. Box 3265
Harrisburg, PA 17120

DOCUMENT
FOLDER

Re: WHITE HAVEN BOROUGH v. READING, BLUE MOUNTAIN & NORTHERN
RAILROAD COMPANY, et al.
Complaint Docket No.: C-00004204
Our File No.: BMRR-003

Dear Mr. McNulty:

Enclosed please find an original Defendant's Answer to Plaintiff's Complaint to be filed as well as two copies relative to the above matter. Also enclosed is another copy to be time-stamped and returned to me in the enclosed self-addressed stamped envelope.

Thank you for your cooperation in this matter.

Sincerely,


GREGORY F. LEPORE

GFL/jmy

Enclosures

cc: Andy Muller
Jill Moran, Esquire
Richard Goldberg, Esquire
Andrew Gordon, Esquire

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

WHITE HAVEN BOROUGH :
 :
 v. : Complaint Docket
 READING, BLUE MOUNTAIN & : No.: C-00004204
 NORTHERN RAILROAD COMPANY, :
 LUZERNE COUNTY SOLICITOR, and :
 PENNDOT :

ANSWER OF READING, BLUE MOUNTAIN AND NORTHERN RAILROAD COMPANY
TO THE FORMAL COMPLAINT OF WHITE HAVEN BOROUGH

1. DENIED. The Railroad completed the repairs at issue. The Railroad has not obligation to communicate with the Borough with regard to repair of its facilities.

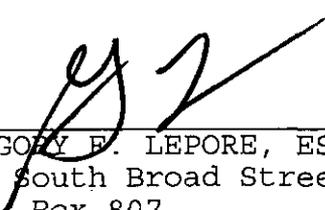
2. DENIED. The Railroad conducts regular inspections of the bridge in question and it is structurally sound and adequate.

3. DENIED. The retaining wall was structurally sound and no repairs were required.

WHEREFORE, for the above reasons, Respondent Reading, Blue Mountain and Northern Railroad Company respectfully requests this Honorable Court dismiss the Complaint against them.

Respectfully submitted,

HOLL & ASSOCIATES, P.C.

By: 

GREGORY F. LEPORE, ESQUIRE
920 South Broad Street
P.O. Box 807
Lansdale, PA 19446
(215) 362-1015

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OCT 4 2000

V E R I F I C A T I O N

I hereby verify that the statements made in the foregoing document are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to the authorities.



GREGORY F. LEPORE

DATED: _____

9/28/00

LUZERNE COUNTY COMMISSIONERS

THOMAS A. MAKOWSKI, ESQ., CHAIRMAN
THOMAS P. PIZANO
STEPHEN A. URBAN

EUGENE R. KLEIN
Chief Clerk / Administrator

JAMES P. BLAUM, ESQ.
County Solicitor

JACQUELINE S. ORKISZ
Executive Administrative Assistant



ORIGINAL

LUZERNE COUNTY
200 NORTH RIVER STREET
WILKES-BARRE, PENNSYLVANIA 18711-1001

(570) 825-1500
FAX (570) 825-9343
TDD (570) 825-1860
October 4, 2000

James McNulty, Secretary
Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg PA 17120

DOCUMENT
FOLDER

10/17/64

RE: WHITE HAVEN BOROUGH V. READING, BLUE MOUNTAIN & NORTHERN
RAILROAD COMPANY ET AL.
COMPLAINT DOCKET NO.: C-00004204

Dear Mr. McNulty:

Enclosed find an original Answer to Plaintiff's Complaint on behalf of the Luzerne County Solicitor to be filed as well as two copies relative to the above matter. Also enclosed is another copy to be timed stamped and returned to me in the enclosed self-addressed stamped envelope. Thank you for your cooperation in this matter.

RECEIVED
SECRETARY'S BUREAU
OCT 19 8:39 AM

Respectfully,


James P. Blaum, Esquire
County Solicitor

JPB/hem
enclosures
cc: Mr. Michael Cormier
Gregory F. Lepore, Esquire
Andrew Gorden, Esquire
Jill A. Moran, Esquire

19

PENNSYLVANIA PUBLIC UTILITY COMMISSION

WHITE HAVEN BOROUGH,

Complainant

VS.

READING, BLUE MOUNTAIN &
NORTHERN RAILROAD COMPANY,
LUZERNE COUNTY SOLICITOR,
Commonwealth of Pennsylvania
Department of Transportation

Respondents

DOCUMENT
FOLDER

DOCKET NO: C-00004204

DOCKETED

OCT 6 2000

ORIGINAL

ANSWER OF LUZERNE COUNTY SOLICITOR
TO THE FORMAL COMPLAINT OF WHITE HAVEN BOROUGH

AND NOW, comes the Luzerne County Solicitor, James P. Blaum
making Answer to the formal Complaint of White Haven Borough as follows:

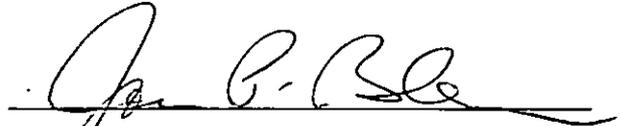
1. Admitted.
2. Admitted.
3. Denied. The averments contained in paragraph three (3) of the Complaint are deemed to be denied in that after reasonable investigation the Luzerne County Solicitor is without knowledge as to the truth of the averments contained therein and strict proof is demanded at time of hearing. By way of further Answer it is averred that neither Luzerne County nor the Luzerne County Solicitor's office has any proprietary interest in the use of the real estate, railway, railroad bed , trestles or abutments referred to in Complainant's Complaint. Further, neither Luzerne County nor the Office of the Luzerne County Solicitor

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have the duty or the authority to perform any type of maintenance or inspection on, at, or around the area the complained of in the Complainant.

4. No response required.

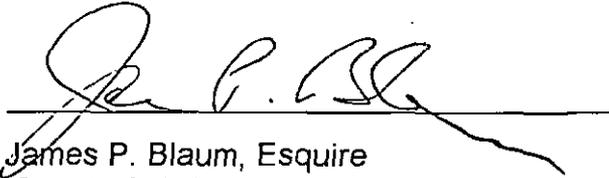
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. P. Blaum', written over a horizontal line.

James P. Blaum, Esquire
County Solicitor
For Luzerne County

VERIFICATION

I, verify that the statements contained in the foregoing ANSWER OF LUZERNE COUNTY SOLICITOR TO THE FORMAL COMPLAINT OF WHITE HAVEN BOROUGH is true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification.



James P. Blaum, Esquire
County Solicitor

CERTIFICATE OF SERVICE

I hereby certify that I am this date serving the foregoing document upon the persons and in the manner indicated below:

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

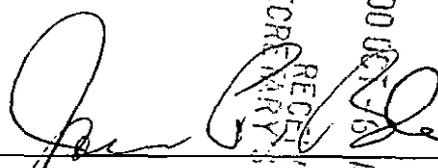
Mr. Michael Cormier, Track Superintendent
Reading, Blue Mountain & Northern Railroad Company
P. O. Box 218
Port Clinton PA 19549

Gregory F. Lepore, Esquire
920 South Broad Street
P.O. Box 807
Lansdale PA 19446

PENNDOT
ATTN: Andrew Gorden, Esquire
Office of Chief Counsel
555 Walnut Street 9th Floor
Harrisburg PA. 17101-1900

Jill A. Moran, Esquire
White Haven Solicitor
123 Warren Street
Hazleton PA 18201

391768


James P. Blaum, Esquire
Luzerne County Solicitor
Luzerne County Courthouse
200 N River Street
Wilkes-Barre, PA 18711

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00 OCT 16 AM 8:30

DATED: October 4, 2000

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
www.dot.state.pa.us



ORIGINAL

DOCUMENT
FOLDER

Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212
Telephone No. (717) 787-3128
FAX No. (717) 772-2741

Tuesday, October 10, 2000

SECRETARY'S BUREAU
OCT 10 PM 12:22

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P.O.Box 3265
Harrisburg, PA 17105-3265

In Re: White Haven Borough v. Reading Blue Mountain & Northern Railroad
Company,
PUC Complaint Docket # C-00004204

Dear Secretary McNulty:

Enclosed for filing please find the original and three (3) copies of the Department of Transportation's Answer in the above-captioned matter.

I hereby certify that two (2) copies of the Department's Answer have been served on all parties of record, as indicated on the attached Certificate of Service.

Very Truly Yours,

Jason D. Sharp
Assistant Counsel

220/JDS:
jdsharp@justice.com

cc: Parties of Record
Gary Fawver, P.E., Chief, Right of Way & Utilities
Joseph Strok, Grade Crossing Engineer, District 4-0

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

White Haven Borough
Complainant

v.

Reading Blue Mountain and
Northern Railroad Company
Respondent

Docket Number

C-00004204

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ANSWER OF THE DEPARTMENT OF TRANSPORTATION

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation ("Department"), by and through its counsel, Jason D. Sharp, and offers the following Answer:

1. Admitted

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2. Admitted

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3.

3.1 Admitted in part. It is admitted that a retaining wall adjacent to a crossing of Reading Blue Mountain and Northern Railroad Company's (Reading) line and Berwick Street in White Haven Borough, Luzerne County, Pennsylvania suffered two separate failures. It is further admitted that the

retaining wall was repaired after each failure. The Department has no independent information to confirm or deny the remainder of the averments in paragraph 3.1. Therefore, the Department demands strict proof at the time of hearing.

3.2. Admitted.

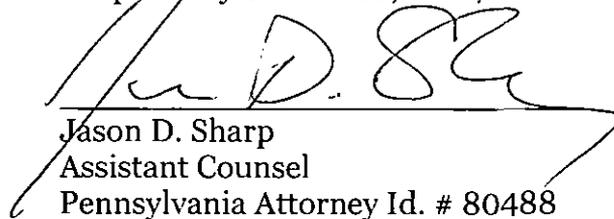
3.3. Neither admitted nor denied. The Department has no independent information to confirm or deny the averments in paragraph 3.3.

Therefore, the Department demands strict proof at the time of hearing.

By way of further answer, the road complained about is a Township road.

4. Paragraph four (4) is a prayer for relief for which no response is warranted.

Respectfully Submitted,



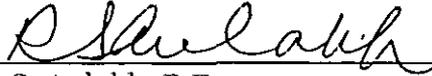
Jason D. Sharp
Assistant Counsel
Pennsylvania Attorney Id. # 80488

Commonwealth of Pennsylvania
Department of Transportation
P.O. Box 8212
Harrisburg, Pa 17105-8212
(717) 787-3128

DATE: Tuesday, October 10, 2000

VERIFICATION

I, Roger S. Aulakh, P.E., hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to the unsworn falsification to authorities).



Roger S. Aulakh, P.E.

DATE: Tuesday, October 10, 2000

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

White Haven Borough	:	
Complainant	:	
	:	Docket Number
v.	:	
	:	C-00004204
Reading Blue Mountain and Northern Railroad Company	:	
Respondent	:	

CERTIFICATE OF SERVICE

I, Jason D. Sharp, hereby certify that a true and correct copy of the Department of Transportation's Answer was served upon the parties listed below by first class mail, postage prepaid this 10th day of October, 2000:

PENNSYLVANIA PUBLIC UTILITY COMMISSION
BUREAU OF TRANSPORTATION AND SAFETY - LEGAL DIVISION
P.O. BOX 3265
HARRISBURG, PA 17105-3265

READING, BLUE MTN & NORTHERN RR
P.O. BOX 218
PORT CLINTON, PA 19549

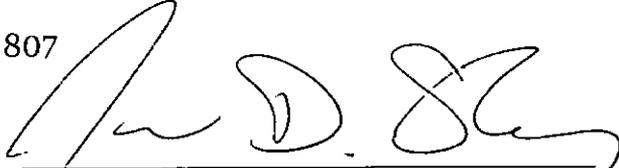
WHITE HAVEN BOROUGH
312 MAIN STREET
WHITE HAVEN, PA 18664

JILL A MORAN, ESQUIRE SOLICITOR FOR
WHITE HAVEN BOROUGH
123 WARREN STREET
WEST HAZLETON, PA 18201

JAMES P BLAUM ESQUIRE COUNTY SOLICITOR
LUZERNE COUNTY COURT HOUSE
200 NORTH RIVER STREET
WILKES BARRE, PA 18711

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GREGORY F LEPORE ESQUIRE
HOLL & ASSOCIATES
920 SOUTH BROAD STREET PO BOX 807
LANSDALE, PA 19446



Jason D. Sharp
Assistant Counsel
Pennsylvania Attorney Id. # 80488

Commonwealth of Pennsylvania
Department of Transportation
Office of Chief Counsel
P.O. Box 8212
Harrisburg, Pa. 17105-8212
(717) 787-3128

DATED: Tuesday, October 10, 2000

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