

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Date: December 21, 2000

Subject: C-00004204
DOCUMENT
FOLDER

ORIGINAL

To: James J. McNulty, Secretary

From: David C. Hart, PE, Manager
Rail Safety Division
Bureau of Transportation and Safety

01 JAN -4 AM 8:43
RECEIVED
PENNSYLVANIA'S BUREAU OF TRANSPORTATION AND SAFETY

LOGGED
JAN 05 2001

In Re:
White Haven Borough
v.

Reading, Blue Mountain and Northern Railroad Company

743106

The above-captioned complaint was filed September 18, 2000, by White Haven Borough expressing concern of the condition of the rail facilities within its municipality, specifically the condition of the bridge which carries the railroad above the grade of Susquehanna Street and the adjacent retaining wall.

A field investigation and conference was held and several parties expressed safety concerns at the crossing. Accordingly, it is suggested that the case be assigned to the Office of Administrative Law Judge and scheduled for a hearing at the earliest convenience date and that the following parties of interest be served notice thereof:

- White Haven Borough (complainant)
- Reading Blue Mountain and Northern Railroad Company
- Pennsylvania Department of Transportation
- Luzerne County
- Dennison Township

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The purpose of the hearing is to receive testimony from all of the parties to the complaint, and if the complaint is to be sustained, actions necessary to address the safety issues, including the performance of any work required, the allocation of any costs incurred in connection therewith, and the assignment of future maintenance responsibilities.

It is also suggested that each party be instructed to submit testimony on the portion of the crossing area along the railroad right-of-way line, with the understand that the Commission may expand its jurisdiction as necessary, in order to properly adjudicate the case.

In addition to any other relevant information, it is suggested that testimony be adduced at the hearing upon the appended list of questions and procedure and the appropriate action be taken at the hearing to incorporate the questions and procedure into the record in this proceeding.

pc: Office of Administrative Law Judge

Legal Division - Bureau of Transportation and Safety

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1. White Haven Borough (Borough) shall submit testimony describing in detail, its reason for filing the complaint.
2. Borough shall submit testimony describing in detail the type of relief sought in order to satisfy its complaint, and the reasons therefor.
3. Borough shall submit any testimony, which, in its opinion, is relevant to proper adjudication of the complaint.

Rail-Highway Crossing at Susquehanna Street

Questions Nos. 4 thru 13, inclusive

4. Borough submit testimony regarding the highway at the involved crossing, indicating a name, route number and termini thereof, and explaining its relationship to other existing highways and streets in the area.
5. Borough submit testimony indicating the daily volume of vehicular and pedestrian traffic that is using the existing crossing, including a breakdown of type of vehicles, and also estimate the volume of vehicular and pedestrian traffic that will use it in the future, including a breakdown by type of vehicle.
6. Borough state how its residents benefit as a result of the existence of the subject grade crossing.
7. Borough submit testimony into the record copies of any past orders or actions of this Commission, or its predecessor, which may have dealt with the construction, alteration, reconstruction or maintenance of the crossing involved herein.
8. Borough submit testimony describing in detail the conditions, if any, presently existing at the subject crossing and in the vicinity thereof, which, in its opinion, render the crossing dangerous or inadequate for the safety, accommodation, or convenience of the highway, pedestrian, rail users or property owners located at the crossing.
9. Borough submit testimony describing the general nature, extent and estimated cost of any repair work or changes which it deems necessary or advisable at the subject crossing.
10. Borough state whether it agrees to perform the actual work, including plan preparation, if required, and assume the cost for any repairs to the existing crossing found necessary and ordered by the Commission and, if not, which party or parties, in its opinion, should be required to perform such work and assume the cost thereof, and state its reasons therefor.
11. Borough state whether the facilities of any non-carrier public utility company will be affected by its recommended repair work and explain the extent of the involvement.
12. Borough state what maintenance and/or improvements it has performed at the existing crossing, if any, together with approximate date and costs of such work; and state what its past and present obligations are with respect to maintenance of the structure and the highway approaches thereto.
13. Borough state what portions of the involved crossing it will agree to maintain in the future and what maintenance costs it will agree to assume, and state which party or parties should, in its opinion, be required to perform and assume the cost of maintenance of the remaining portions, if any, and state its reasons therefor.

14. Reading, Blue Mountain and Northern Railroad Company (Railroad) submit testimony as to the exact corporate name of the owner and operator of the line of railroad involved in this proceeding.
15. Railroad submit a plan or map of the general area of the involved proceeding, among other things, the location of the existing rail-highway crossings, in the Borough limits the highways involved and present testimony describing the submitted plan or map.
16. Railroad submit testimony describing the conditions, if any, presently existing along its line which may be deemed deficient to its operations or adjacent property and what corrective measures are needed to remedy these deficiencies.

Rail-Highway Crossing at Susquehanna Street

Question Nos. 17 thru 24, inclusive

17. Railroad submit testimony describing the general type of the crossing structure and approaches, including number of spans, principal dimensions, roadway width, number and width of traffic lanes and sidewalks, and the vertical and horizontal clearance of the structure over the roadway; identify the date the crossing was constructed, the purpose of its construction and who constructed it.
18. Railroad submit testimony indicating the number of tracks presently located at the crossing site and state whether any track is electrified, state the volume, class and approximate speed of all trains operated daily over these tracks; and state whether any changes in such operations are contemplated in the foreseeable future.
19. Railroad state how the railroad company benefits from the existence of the subject grade crossing.
20. Railroad submit testimony describing in detail the conditions, if any, presently existing at the crossing structure and in the vicinity of thereof, which in its opinion, render the crossing dangerous or inadequate for the safety, accommodation and convenience of the highway, pedestrian or rail users currently traversing the crossing area or adjacent properties.
21. Railroad submit testimony describing the general nature, extent and estimated cost of any repair work or changes which it deems necessary or advisable at the subject crossing.
22. Railroad state whether it will agree to perform the actual work, including plan preparation if required, and assume the cost for any repairs to the existing crossing found necessary and ordered by the Commission and, if not, which party or parties, in its opinion, should be required to perform such work and assume the cost thereof, and state its reasons therefore.
23. Railroad state what maintenance and/or improvements it, or any predecessor railroad has performed at the crossing, if any, together with approximate date and cost of such work; and state what obligation it has been assigned or has assumed with respect to maintenance of the subject crossing.
24. Railroad state what portions of the involved crossing it will agree to maintain in the future and what maintenance costs it will agree to assume; and state which party or parties should, in its opinion, be required to perform and assume the cost of maintenance of the remaining portions, if any, and state its reasons therefor.

25. Pennsylvania Department of Transportation (Department), Luzerne County and Dennison Township each submit testimony indicating whether, in its opinion, there are any safety concerns along the rail line in this proceeding and particularly the rail-highway crossing at Susquehanna Street, and any work required to rectify the safety concerns.
26. Department, Luzerne County and Dennison Township each submit testimony indicating what portion of any cost and what portion of the cost of construction it will agree to assume if any improvements are ordered by the Commission, and if not, which party or parties should assume such responsibilities.
27. Query whether any party in interest or any other party desires to submit any additional relevant testimony.

DATE: January 4, 2001
SUBJECT: C-00004204
TO: Office of Administrative Law Judge
FROM: James J. McNulty, Secretary

INDEXED
JAN 05 2001

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FOLDER

IN RE:
White Haven Borough
v.
Reading, Blue Mountain and Northern Railroad Company

Attached is memorandum received from the Bureau of Transportation & Safety - Rail Division suggesting that the above entitled proceeding be reassigned to your Office to be set for hearing and that testimony be adduced at the hearing upon the attached list of questions and procedures.

This matter is assigned to your Office for appropriate action.

Attachment

cc: TSL
TSR

laf



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Office Of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265
January 16, 2001

IN REPLY PLEASE
REFER TO OUR FILE

In Re: C-00004204

GINO ANDREOZZI ESQUIRE
SOLICITOR FOR DENNISON TOWNSHIP
101 WEST BROAD STREET
HAZLETON PA 18201

**White Haven Borough v. Reading, Blue Mountain and Northern
Railroad Company**

White Haven Borough is expressing concern about the condition of the rail facilities within its municipality, specifically the condition of the bridge which carries the railroad above the grade of Susquehanna Street and the adjacent retaining wall.

Hearing Notice

This is to inform you that a hearing on the above-captioned case will be held as follows:

Type: Initial Hearing

Date: Thursday, March 8, 2001

Time: 10:00 a.m.

Location: Room 318
Scranton State Office Building
100 Lackawanna Avenue
Scranton, Pennsylvania

Presiding: Administrative Law Judge Richard M. Lovenwirth
Room 317 Scranton State Office Building
100 Lackawanna Avenue
Scranton, PA 18503
Telephone: (570) 963-4818
Fax: (570) 963-3310

DOCUMENT
FOLDER

We have enclosed a list of questions prepared by the Bureau of Transportation & Safety indicating information to be developed at the hearing along with other relevant testimony.

Each party should submit testimony and exhibits with respect to the entire crossing alteration project with the understanding that the Commission may, in determining this manner, take jurisdiction over any portion of the project.

If any party intends to offer prepared written testimony, the testimony must be served on the presiding officer and each party at least 20 days prior to the hearing unless a different schedule has been ordered by the presiding officer.

The Commission's rules require that all parties, except for those individuals appearing on their own behalf, be represented by counsel. Therefore, you should have an attorney of your choice file an entry of appearance before the scheduled hearing.

If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence must be submitted to the reporter. An additional copy must be furnished to the Presiding Officer. A copy must also be provided to each party of record.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call Norma Lewis at the Public Utility Commission:

- Scheduling Office: 717-787-1399
- AT&T Relay Service number for persons who are deaf or hearing impaired: 1-800-654-5988.

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2. Borough shall submit testimony describing in detail the type of relief sought in order to satisfy its complaint, and the reasons therefor.
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Rail-Highway Crossing at Susquehanna Street
Questions Nos. 4 thru 13, inclusive

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**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Office Of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265
January 16, 2001

IN REPLY PLEASE
REFER TO OUR FILE

In Re: **C-00004204**

(See attached list)

**White Haven Borough v. Reading, Blue Mountain and Northern
Railroad Company**

White Haven Borough is expressing concern about the condition of the rail facilities within its municipality, specifically the condition of the bridge which carries the railroad above the grade of Susquehanna Street and the adjacent retaining wall.

Hearing Notice

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Type: **Initial Hearing**

Date: **Thursday, March 8, 2001**

Time: **10:00 a.m.**

Location: **Room 318
Scranton State Office Building
100 Lackawanna Avenue
Scranton, Pennsylvania**

Presiding: **Administrative Law Judge Richard M. Lovenwirth
Room 317 Scranton State Office Building
100 Lackawanna Avenue
Scranton, PA 18503
Telephone: (570) 963-4818
Fax: (570) 963-3310**

DOCKETED
JAN 19 2001

**DOCUMENT
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- AT&T Relay Service number for persons who are deaf or hearing impaired: 1-800-654-5988.

pc: Judge Lovenwirth
Eric Levis - BPL 101
John Wilson - T&S Legal
Dave Hart - T&S Rail
Judy Weaver, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE



January 16, 2001

Gary R. Hoffman, Esquire
Director, Pennsylvania Code & Bulletin
Room 647, Main Capitol Building
Harrisburg, PA 17120

DOCKETED
JAN 19 2001

**DOCUMENT
FOLDER**

Re: Notice
White Haven Borough v. Reading, Blue Mountain
and Northern Railroad Company
Docket No. C-00004204

Dear Mr. Hoffman:

Enclosed please find two (2) copies of a notice as captioned above. The Commission requests that this notice be published in the Pennsylvania Bulletin.

Very truly yours,

A handwritten signature in black ink, appearing to read "B. L. Bruin".

Barbara Bruin
Executive Director

Enclosure

cc: Regulatory Coordinator DelBiondo
New Assignments and Filings ✓

PENNSYLVANIA PUBLIC UTILITY COMMISSION

N O T I C E

White Haven Borough v. Reading, Blue Mountain and Northern Railroad Company. Complainant states its concern about the condition of the rail facilities within its municipality, specifically the condition of the bridge which carries the railroad above the grade of Susquehanna Street and the adjacent retaining wall.

Docket Number C-00004204.

An Initial Hearing on this matter will be held Thursday, March 8, 2001 at 10:00 a.m. in Room 318, Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania, when and where all persons in interest may appear and be heard, if they so desire.

BY THE COMMISSION

James J. McNulty
Secretary

Charles D. McCormick

ATTORNEY AND COUNSELOR AT LAW

DOCUMENT
FOLDER

ORIGINAL

SUITE 808

67-69 PUBLIC SQUARE

WILKES-BARRE, PENNSYLVANIA 18701

PHONE: (570) 825-0500

TELEFAX: (570) 825-0547

February 16, 2001

Commonwealth of Pennsylvania
Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

RE: White Haven Borough v. Reading,
Blue Mountain Northern Railroad Company
Docket Number: C-00004204

Dear Sir/Madam:

Pursuant to the above-captioned case enclosed for your file please find a photocopy of a letter from the Luzerne County Engineer dated February 2, 2001 together with the original photos of the inspection referred to in said letter.

Please note the answers to the questions pertaining to Luzerne County pursuant to the enclosed letter from the County Engineer. Kindly make these answers a part of the record.

Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Charles D. McCormick

CHARLES D. McCORMICK
Assistant Luzerne County Solicitor

CDM:tmh

Enclosures

pc: James P. Blaum, Esquire
Chief County Solicitor

00004204
RECEIVED
SECRETARY'S BUREAU
01 FEB 20 AM 11:13

145

LUZERNE COUNTY COMMISSIONERS
THOMAS A. MAKOWSKI, ESQ., CHAIRMAN
THOMAS P. PIZANO
STEPHEN A. URBAN

EUGENE R. KLEIN
Chief Clerk / Administrator



LUZERNE COUNTY ENGINEER'S OFFICE
LUZERNE COUNTY COURT HOUSE
WILKES-BARRE, PA 18711
(570) 825-1600
FAX (570) 825-1606
TDD (570) 825-1860
www.courthouse.luzerne.pa.us

JAMES J. BROZENA, P.E.
County Engineer

JOHN J. GLUSHEFSKI, P.E.
Assistant County Engineer

JAMES P. BLAUM, ESQ.
County Solicitor

JACQUELINE S. ORKISZ
Executive Administrative Assistant

February 2, 2001

James Blaum, Esq.
Luzerne County Solicitor
Luzerne County Courthouse

Re: **White Haven Borough v. Reading, Blue Mountain
Northern Railroad Company**

Dear Jim:

On January 29, 2001, Mr. Greg Parrs of my staff conducted a site inspection of the area in the vicinity of the railroad bridge over Susquehanna Street in White Haven Borough. Photos of the inspection are included.

In response to questions 25 and 26, I offer the following:

25). The proper authority should insure the placement of appropriate height restriction signing, width restriction signing and all necessary advance warning signing. Signs should be installed in accordance with current Penn DOT criteria.

26). Luzerne County does not own or operate any facilities in the vicinity of the structure and should not be held responsible for any costs associated with any safety improvements.

If you should have any questions, please do not hesitate to call me.

POCKETED
FEB 26 2001

**DOCUMENT
FOLDER**

JJB/tml
Enclosure

Sincerely,

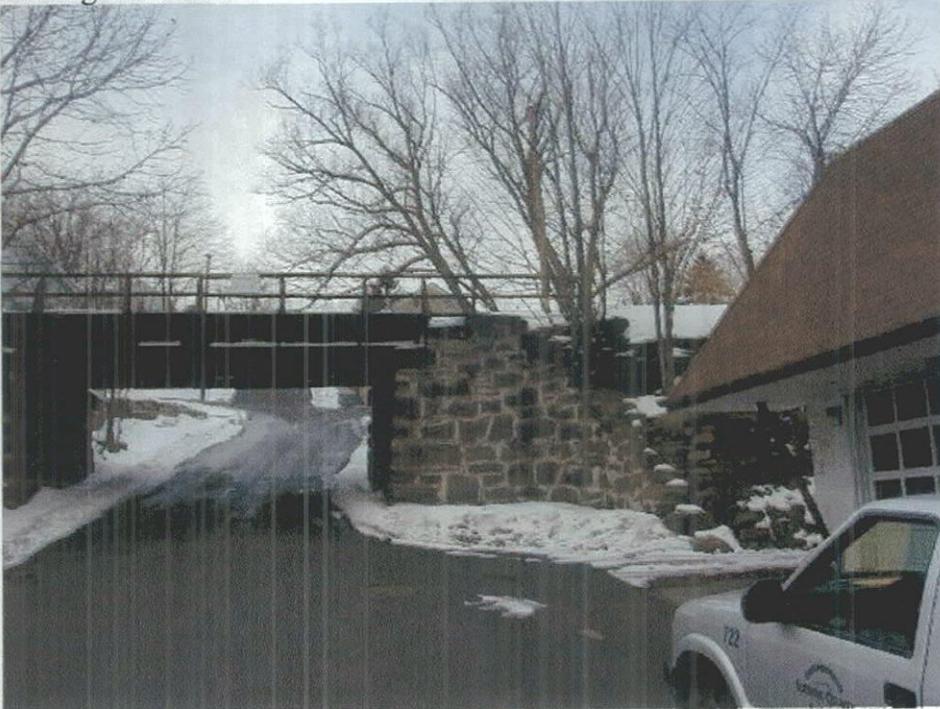
James J. Brozena, P.E.
Luzerne County Engineer

Near Right Abutment



DOCUMENT
FOLDER

Far Right Abutment



Underside of Superstructure



DOCUMENT
FOLDER

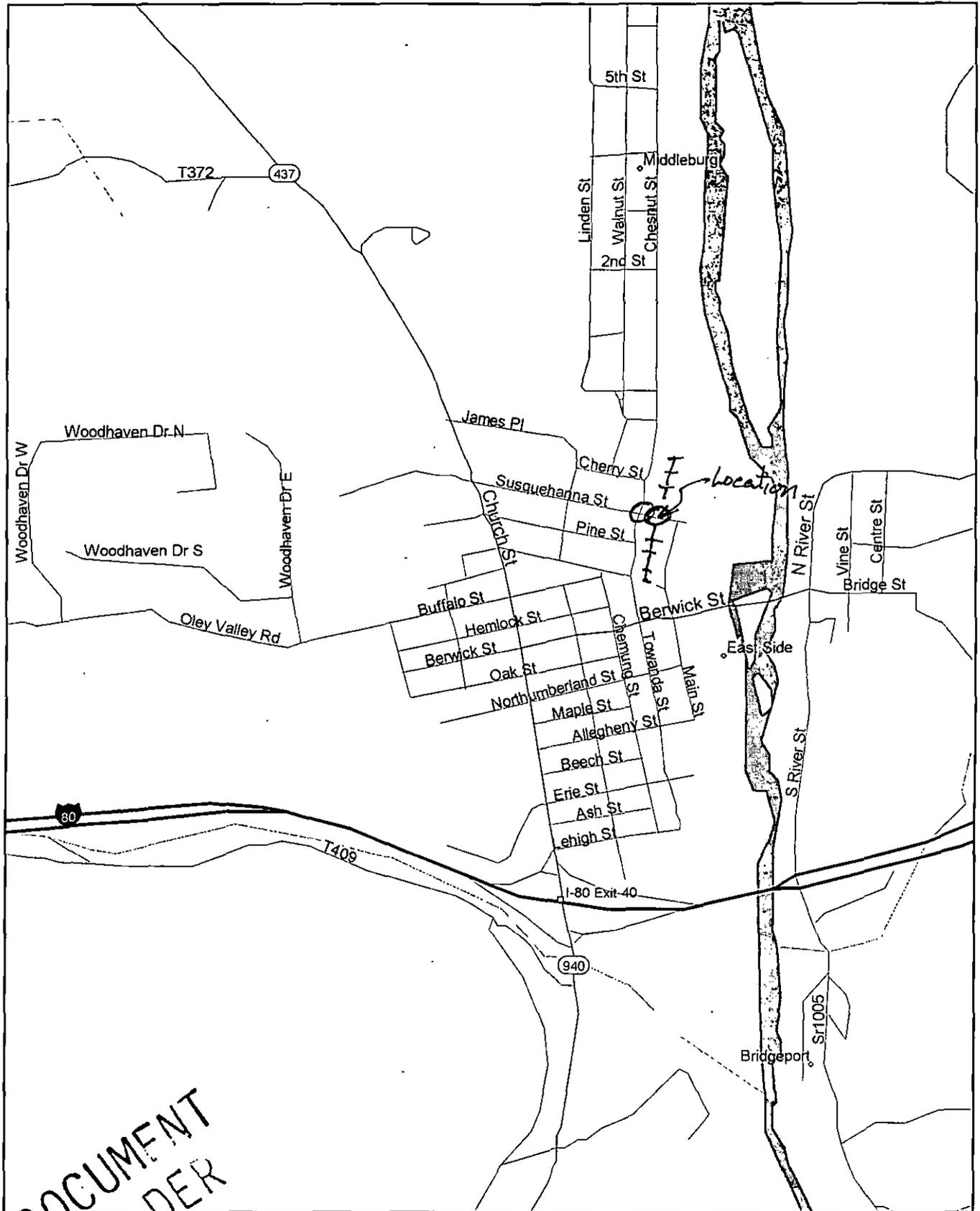
Far Left Abutment



Near Left Abutment



DOCUMENT
FOLDER



DOCUMENT
FOLDER

Mapson Experts
Streets98

Charles D. McCormick

ATTORNEY AND COUNSELOR AT LAW

SUITE 808

67-69 PUBLIC SQUARE

WILKES-BARRE, PENNSYLVANIA 18701

PHONE: (570) 825-0500

TELEFAX: (570) 825-0547

February 15, 2001

Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

ORIGINAL

RE: White Haven Borough v. Reading, Blue Mountain
and Northern Railroad Company, et al
Docket Number: C-00004204

DOCUMENT
FOLDER

-AND-

Ronald Wickizer v. Luzerne County Redevelopment
Authority, et al
Docket Number: C00004009

Dear Sir/Madam:

Enclosed please find an original and three (3) copies of my Entry of Appearance on behalf of Luzerne County regarding the above-referenced cases.

Please file my appearance of record in these case on behalf of Luzerne County and return the time-stamped copies to me for my file. I have enclosed an addressed, stamped envelope for your convenience in returning said time-stamped copies to me.

Thank you for your time and consideration in this matter.

Sincerely,



CHARLES D. McCORMICK

0000960

CDM:tmh

Enclosures

RECEIVED
SECRETARY'S BUREAU
01 FEB 21 AM 10:38

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

WHITE HAVEN BOROUGH, :
 : Docket Number
vs. :
 : C-00004204
READING, BLUE MOUNTAIN AND :
NORTHERN RAILROAD COMPANY, :
ET AL., :

ENTRY OF APPEARANCE

TO THE DOCKETING CLERK:

Kindly enter my appearance for and on behalf of the Defendant, LUZERNE COUNTY,
in the above-captioned case.



CHARLES D. McCORMICK, ESQUIRE
Solicitor for Luzerne County
ID#: 25603

Suite 808
67-69 Public Square
Wilkes-Barre, PA 18701-2598
(570) 825-0500

DOCUMENT
FOLDER

DOCKETED
FEB 26 2001

01 FEB 22 AM 10:19

BEFORE THE

PA PUIC
PENNSYLVANIA PUBLIC UTILITY COMMISSION

COPY

WHITE HAVEN BOROUGH,

vs.

READING, BLUE MOUNTAIN AND
NORTHERN RAILROAD COMPANY,
ET AL.,

:
:
: Docket Number

:
: C-00004204

:
:
:
:

ENTRY OF APPEARANCE

TO THE DOCKETING CLERK:

Kindly enter my appearance for and on behalf of the Defendant, LUZERNE COUNTY,
in the above-captioned case.



CHARLES D. McCORMICK, ESQUIRE
Solicitor for Luzerne County
ID#: 25603

Suite 808
67-69 Public Square
Wilkes-Barre, PA 18701-2598
(570) 825-0500

000963

RECEIVED
SECRETARY'S BUREAU

01 FEB 21 AM 10:39

APPEARANCE SHEET

ALJ HEARING REPORT

Docket No. C-00004204

Case Name White Haven
Borough v. Reading, Blue
Mountain, & Northern RR Co

Location Scranton

Date March 8, 2001

ALJ LOVENWIRTH

Reporting Firm COMMONWEALTH

CHECK THOSE BLOCKS WHICH APPLY:

Prehearing held YES NO

Hearing held YES NO

Testimony taken YES NO

Hearing concluded YES NO

Further hearing needed YES NO

Estimated add'l days _____

RECORD CLOSED YES NO

DOCUMENT
FOLDER

Briefs to be Filed YES NO

BENCH DECISION YES NO

DATE APR 04 2001

REMARKS:
Pursuant to briefing letter.

RECEIVED
OFFICE OF C.A.L.J.

01 MAR 12 AM 9:25

368101
 PA PUB

APR -3 PM 2:51

RECEIVED
SECRETARY'S BUREAU

NAMES, ADDRESSES AND TELEPHONE NUMBERS OF PARTIES OR COUNSEL OF RECORD
 PLEASE PRINT CLEARLY
 INCOMPLETE INFORMATION MAY RESULT IN DELAY OF PROCESS

NAME and TELEPHONE NUMBER	ADDRESS	APPEARING FOR
<u>Charles J. McCune</u> Telephone No. <u>(570) 825-7500</u>	<u>67 Public Square</u> <u>Suite 808</u> City <u>Wilkes-Barre</u> State <u>Pa</u> Zip <u>18701</u>	<u>Luzerne County</u>
<u>DAVID A. SLAPPA</u> Telephone No. <u>(717) 783-2840</u>	<u>P.O. Box 3265</u> City <u>HARRISBURG</u> State <u>PA</u> Zip <u>17105-3265</u>	<u>Pa P.U.C.</u> <u>BUREAU OF TRANSPORTATION</u> <u>AND SAFETY</u>
<u>Gregory Lepore</u> Telephone No. _____	<u>Box 907</u> City <u>Lansdale</u> State <u>Pa</u> Zip <u>18073</u>	<u>B.N.R.R.</u>

CHECK THIS BOX IF ADDITIONAL PARTIES
 OR COUNSEL OF RECORD APPEAR ON BACK.

William Hoyt
 REPORTER

NAME and TELEPHONE NUMBER	ADDRESS			APPEARING FOR
Jill MORAN 570-450-5529 Telephone No.	123 WARREN ST. City W. Hazleton State PA Zip 18201			Borough of White Haven
Jason D. Sharp Telephone No. 717 787 3128	P.O. BOX 8212 City HBL State PA Zip 17105-8212			PA DOT
GIROL. ANDREUZZI Telephone No. 570-450-5529	P.O. BOX 343 City DRUMS PA State PA Zip 18222			DENNISON TP.
Telephone No.	City State Zip			
Telephone No.	City State Zip			
Telephone No.	City State Zip			
Telephone No.	City State Zip			
Telephone No.	City State Zip			
Telephone No.	City State Zip			
Telephone No.	City State Zip			

C-00004204



GSA Hardware Inc.
107 Susquehanna St.
White Haven, Pa. 18661
570-443-8744
570-443-7939 Fax

April 18, 2001

PUBLIC UTILITY COMMISSION

Commonwealth of Pennsylvania
Pa Public Utility Commission
P O Box 3265
Harrisburg Pa 17105-3265
ATTN: Ronald J Hull

DOCKETED

APR 25 2001

APR 18 2001

BEAU OF TRANSPORTATION & SAFETY
RAIL SAFETY DIVISION

DOCUMENT
FOLDER

Dear Ron:

In reference to the railroad crossing at Susquehanna St in White Haven. My family owns, and works in the Hardware Store next to the railroad. Since the hearing in Scranton, I have cleaned the junk, and brush away from the retaining wall. I have noticed a new bulge in the wall further back than the ones already mentioned at the hearing. This new bulge is in imminent danger of collapse. It is severely bulged out, and stones in the wall have fresh cracks in them. I do not care if the wall collapses, however if it does collapse while a train is passing above, I am concerned that the rail could shift and cause a derailment. Since our building is only ten feet from the base of the wall, a derailment could easily crush our building and the people in it. Additionally, this new bulge is back where there is less earth between the rails and the wall. I have taken some measurements, and made a drawing to help explain my concerns.

I know we are waiting for the judge to make a decision in this case, and I do not mean to cause trouble, however, I believe I have the most at stake. Should a train derail here, I could loose several members of my family. Of all the attorneys and engineers present at the hearing, I think you are the only one that seemed somewhat concerned about a derailment should the wall collapse while a train is passing.

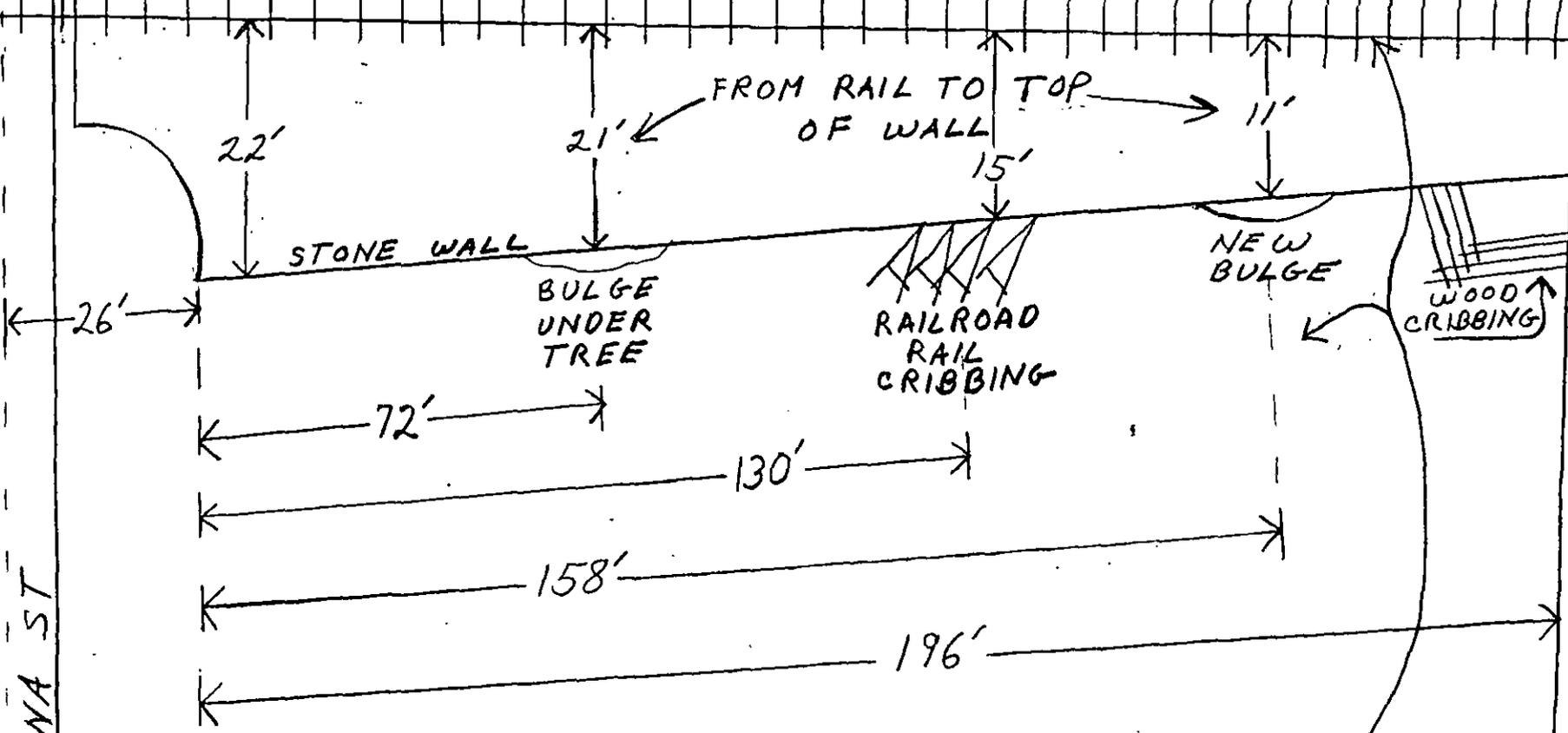
Would it be possible for someone to have a close look at this new bulge in the wall to determine if more immediate action needs to be taken?

Sincerely,

George J Jarick

BTL

← RAILROAD TRESTLE



SUSQUEHANNA ST

HARDWARE STORE

19' VERTICAL RISE FROM GROUND AT BASE OF WALL TO TOP OF RAIL.

REAR STONE WALL →