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GROUP

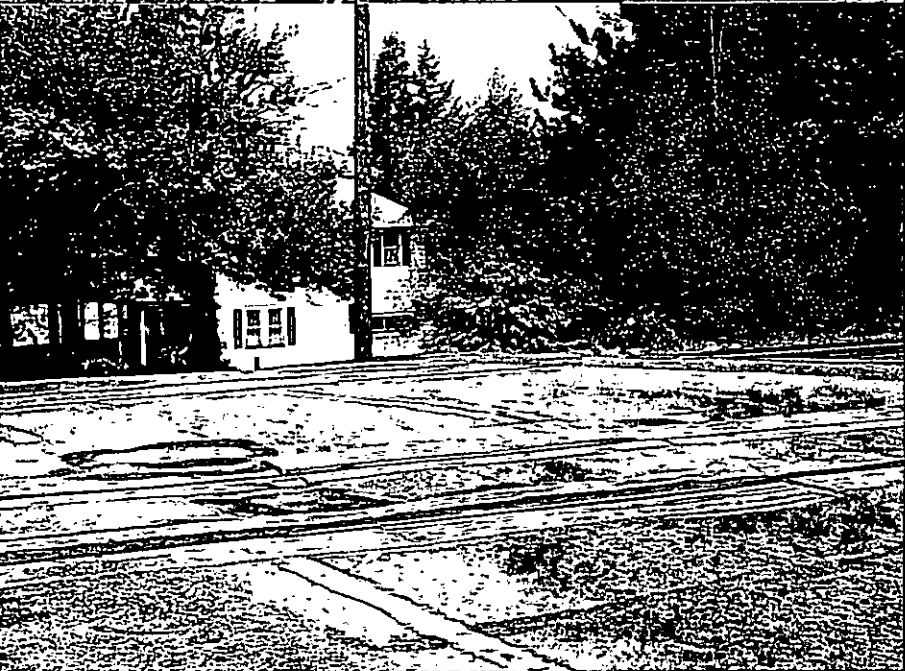
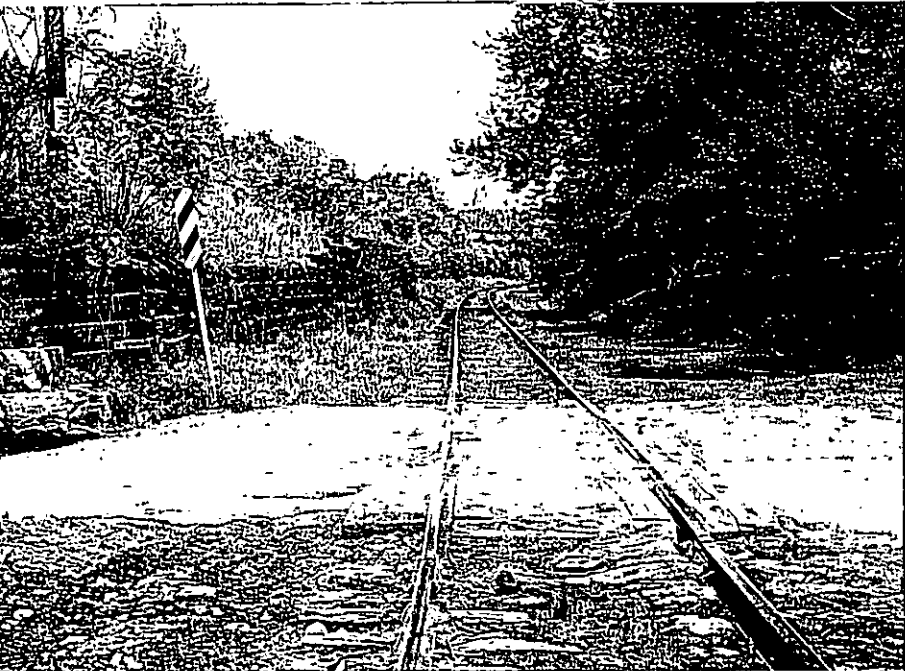
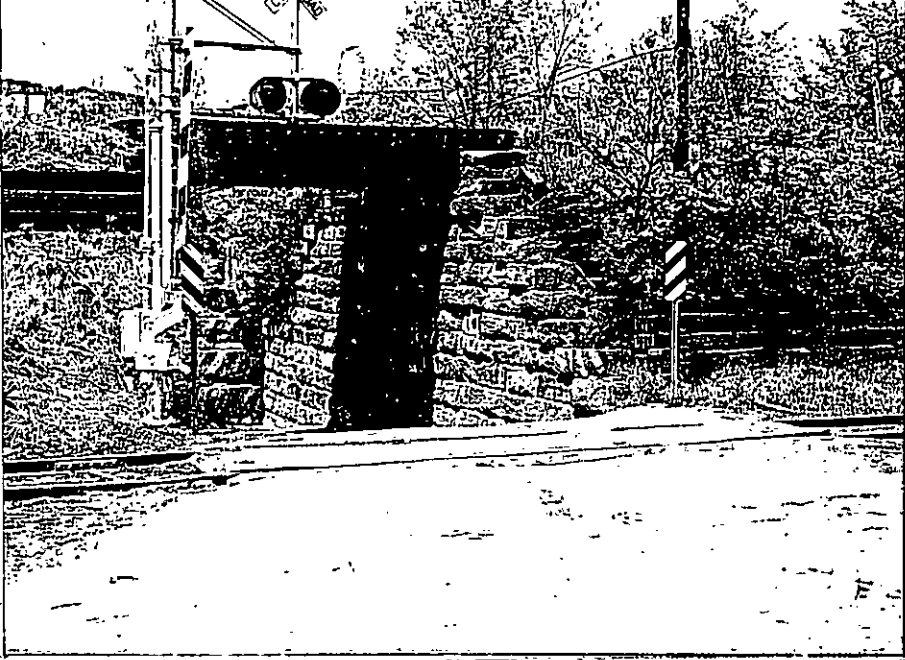
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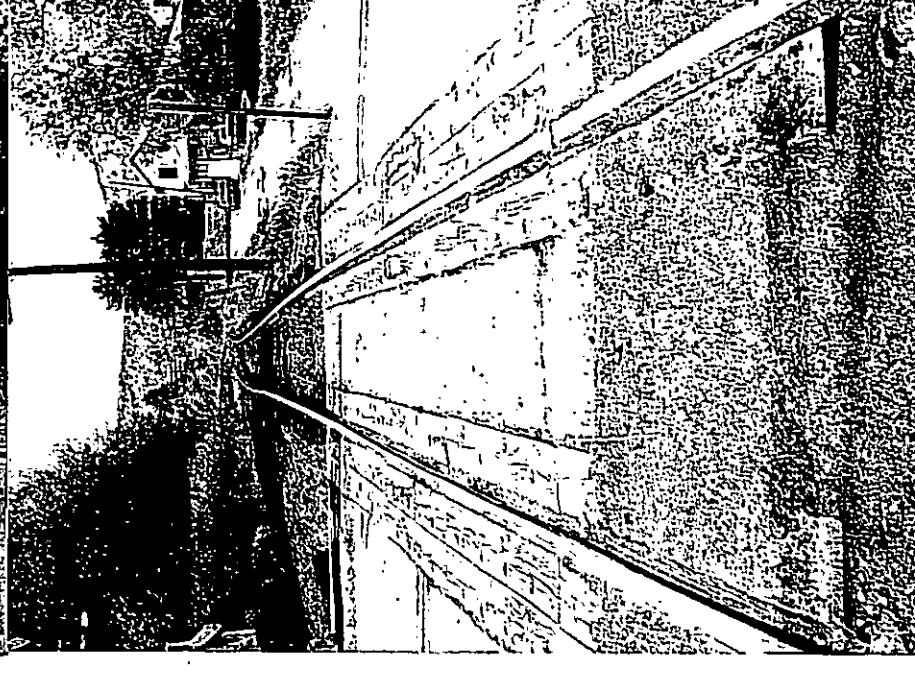
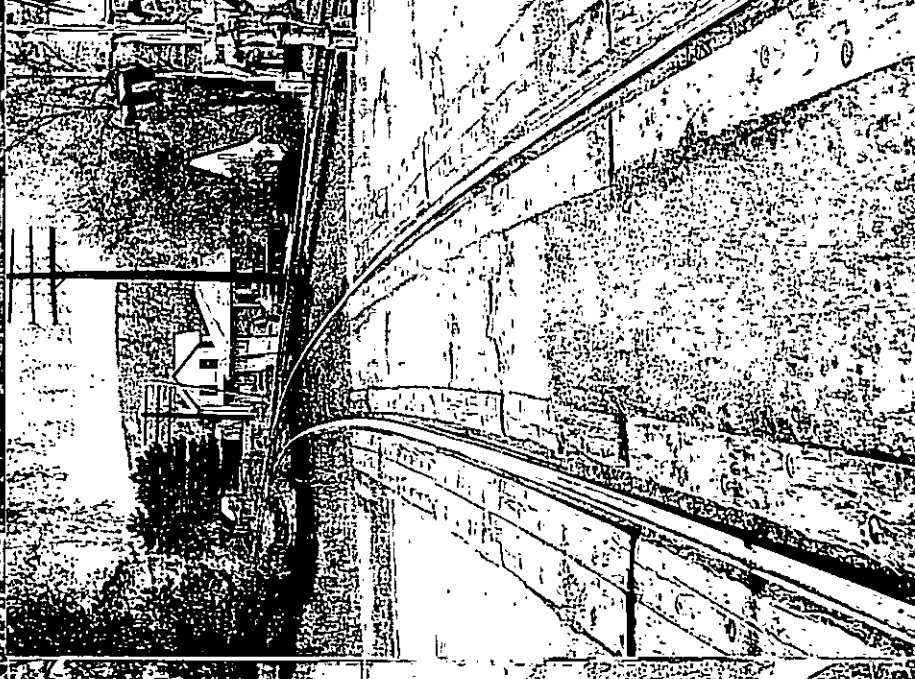
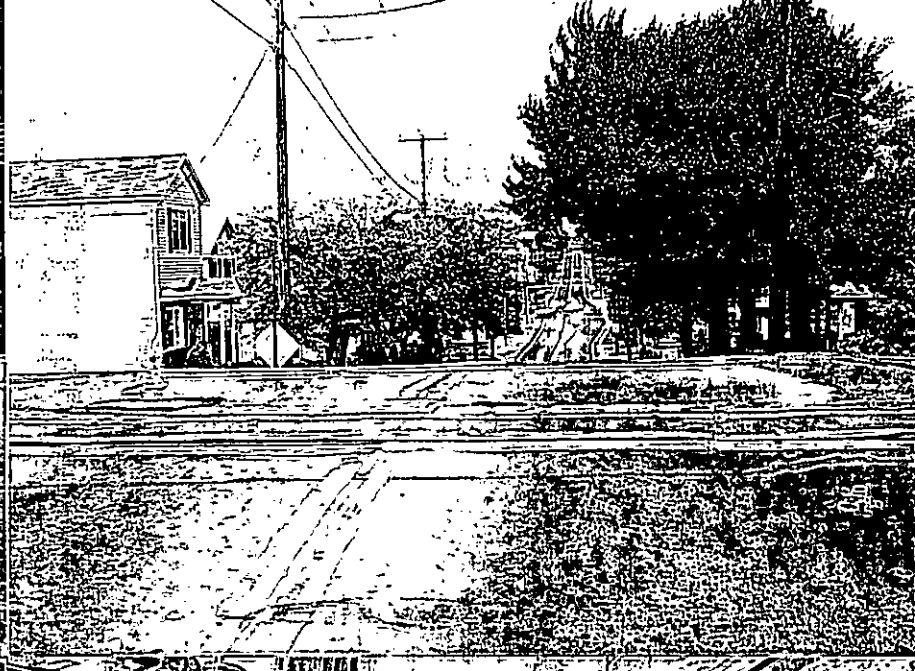
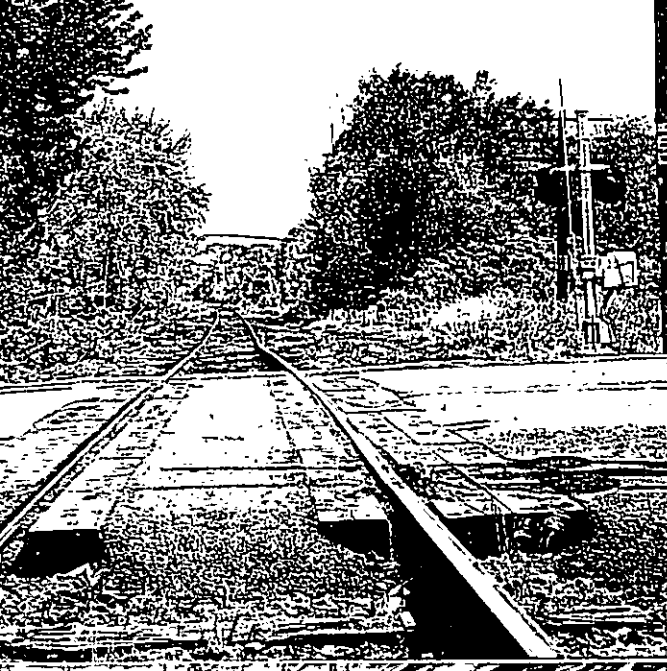
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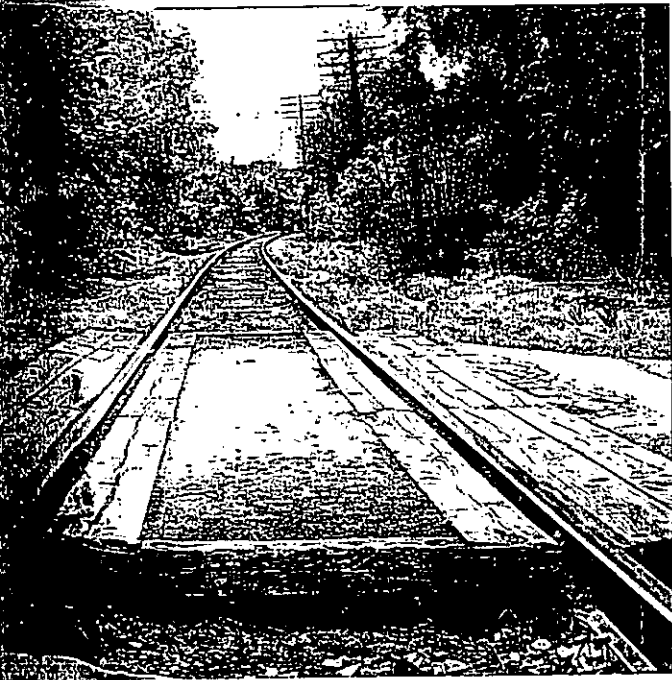
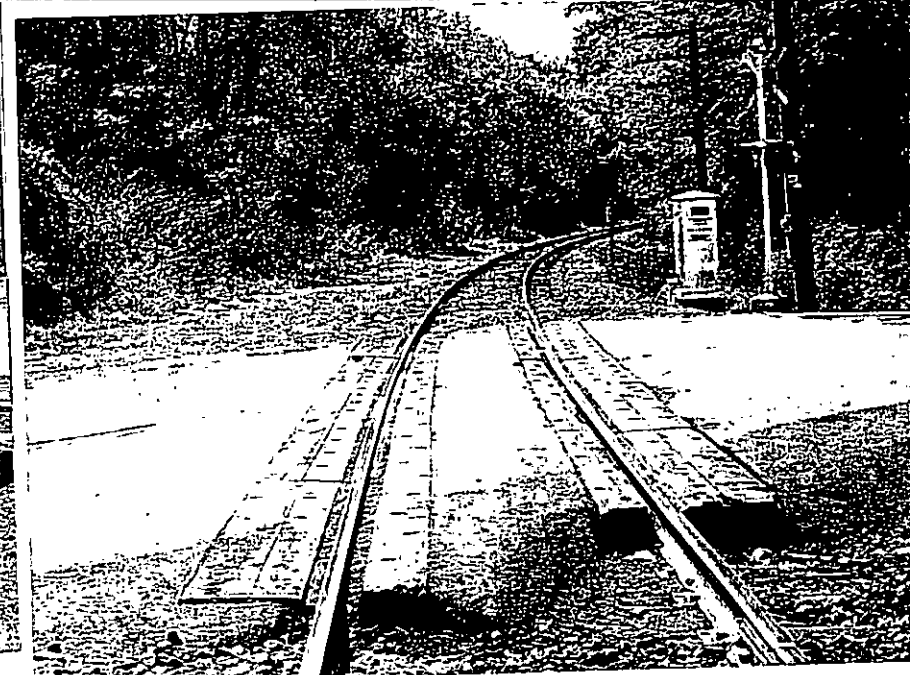
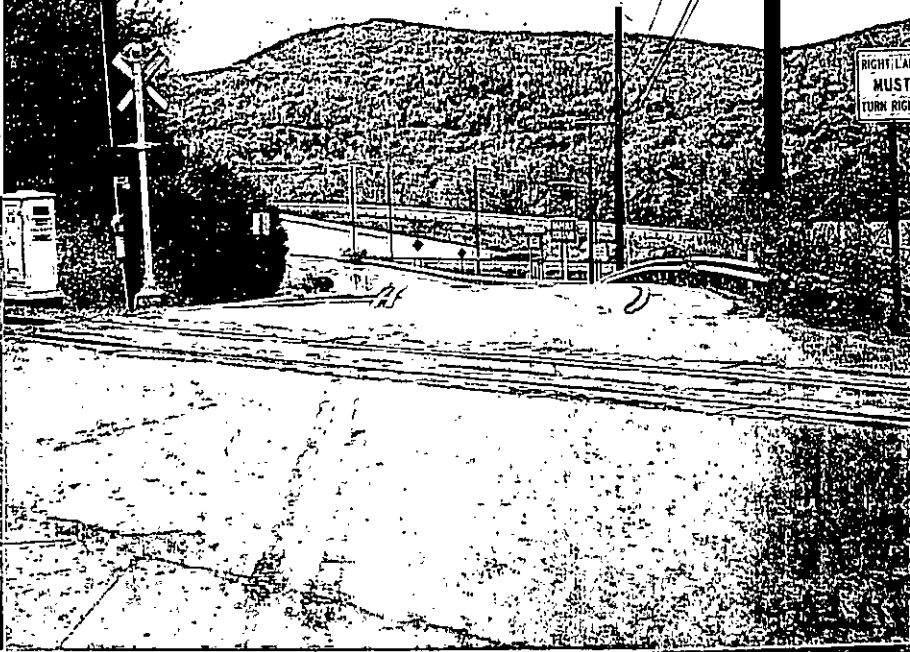
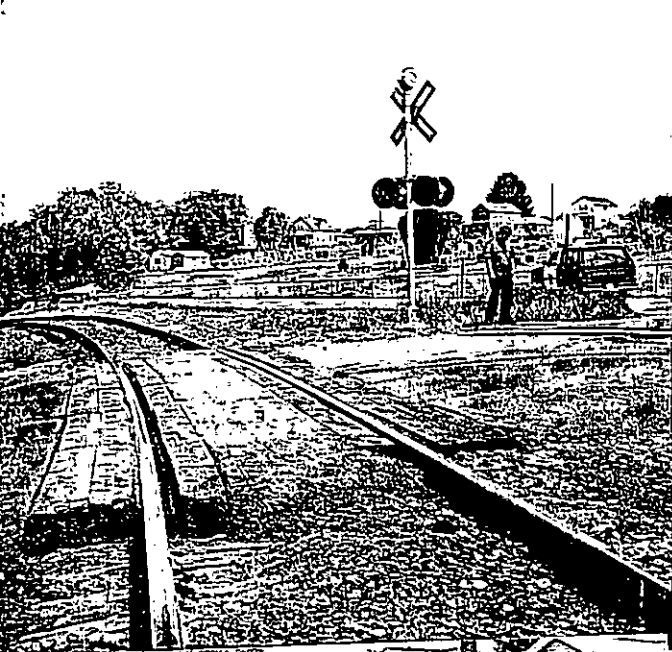
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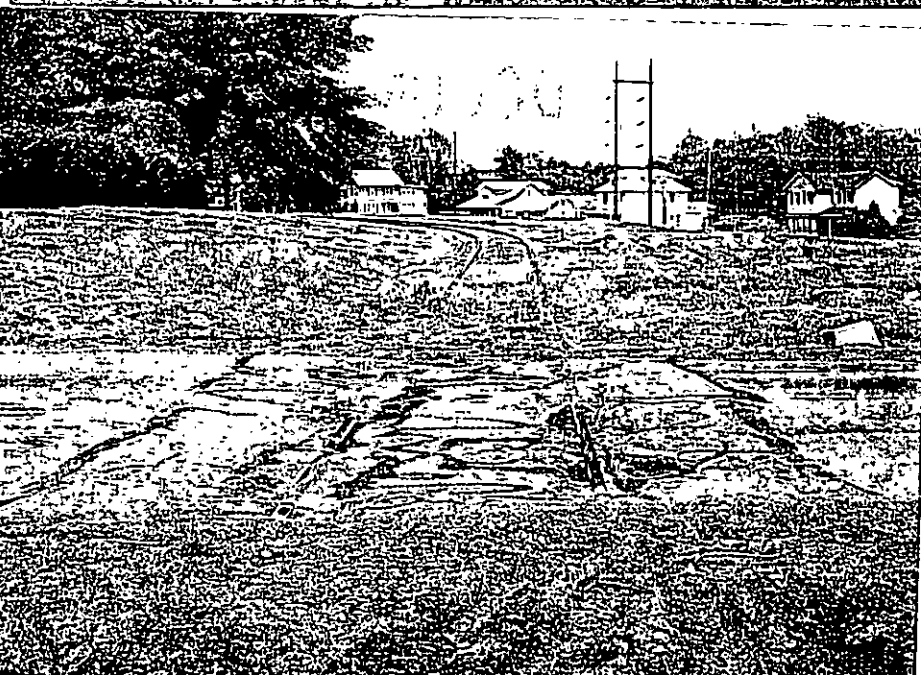
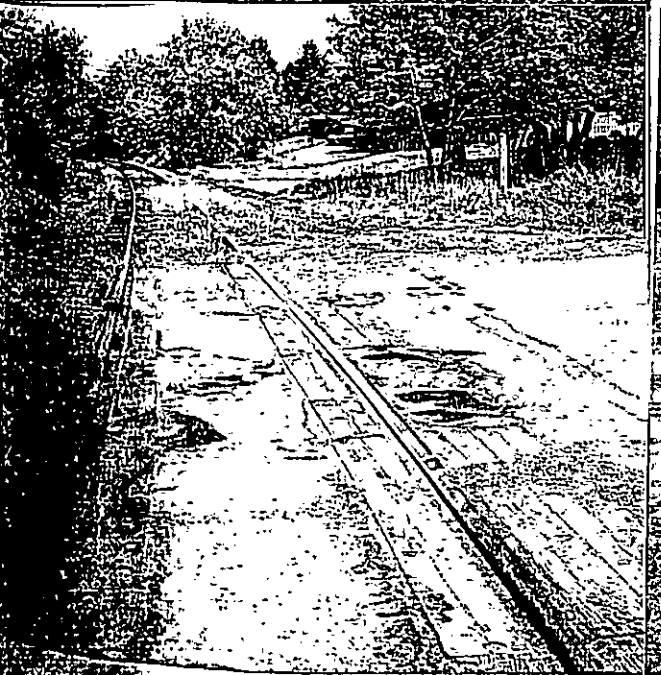
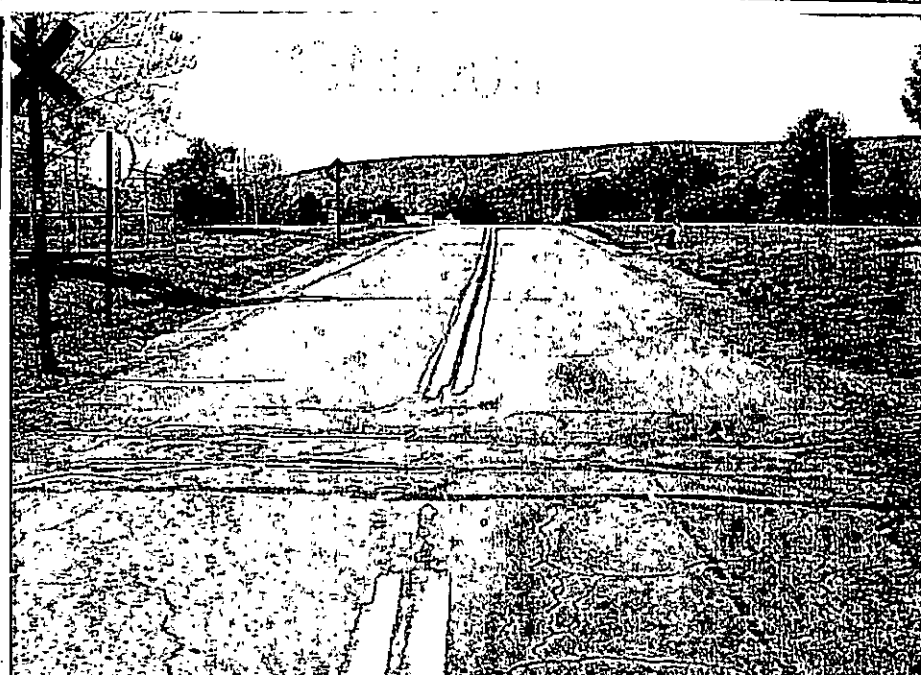
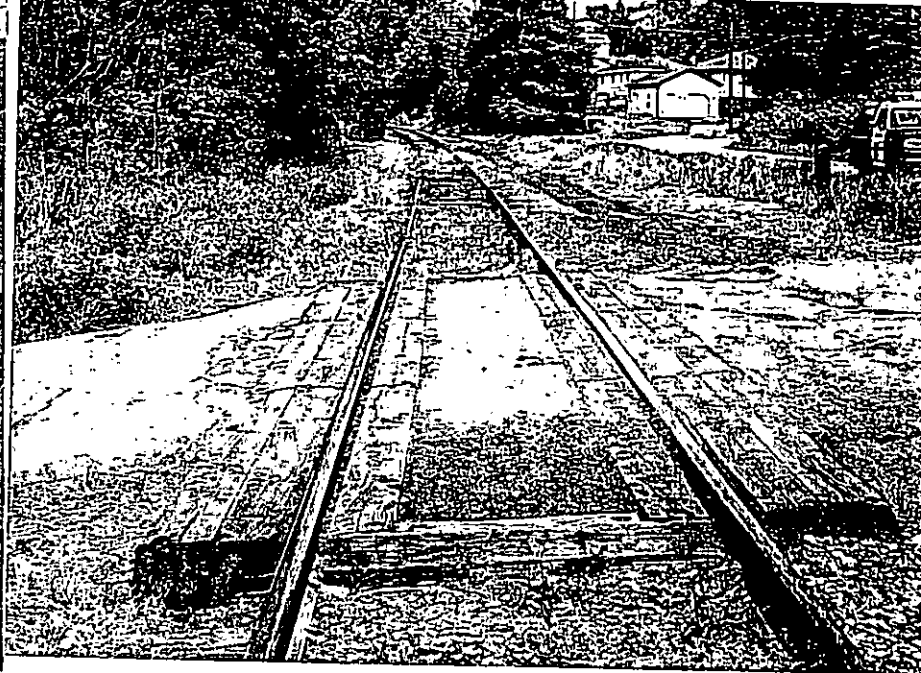
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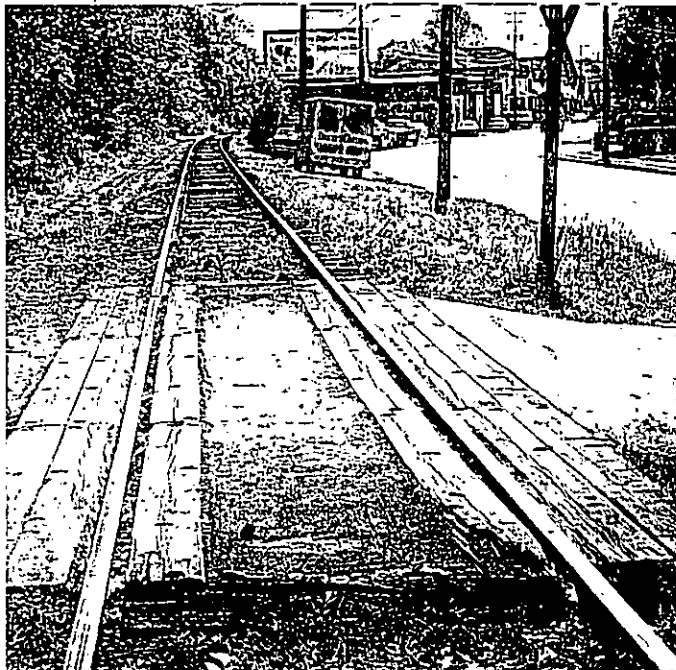
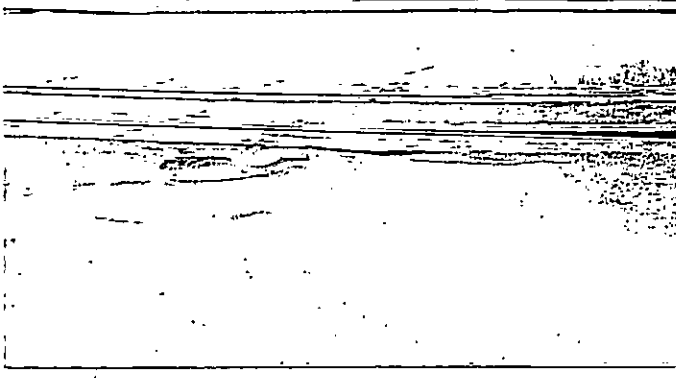
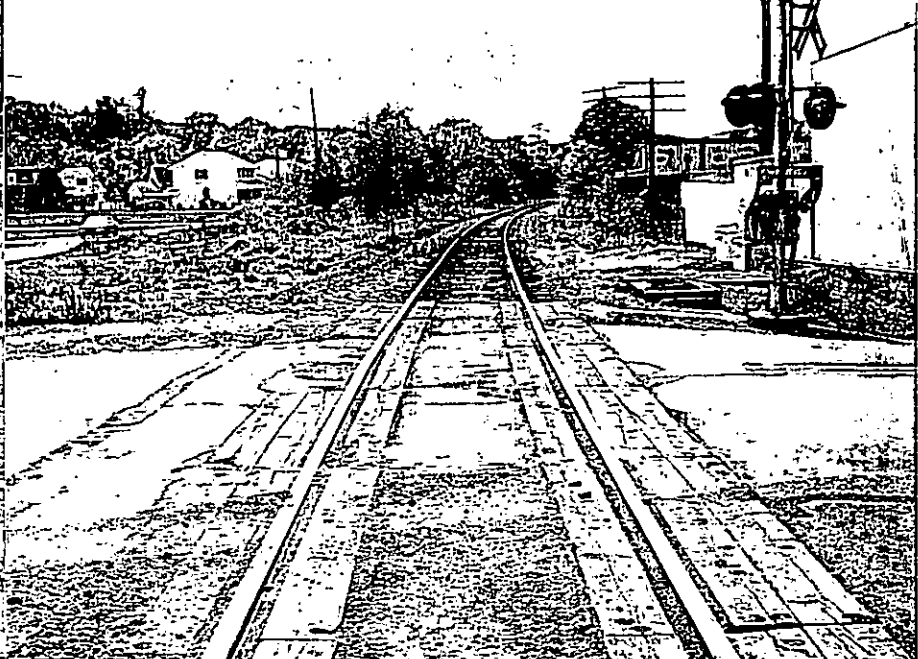
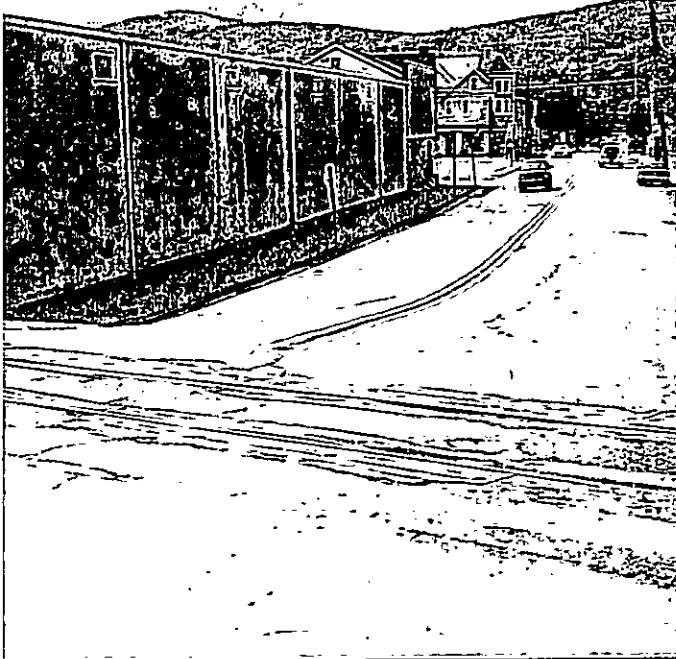
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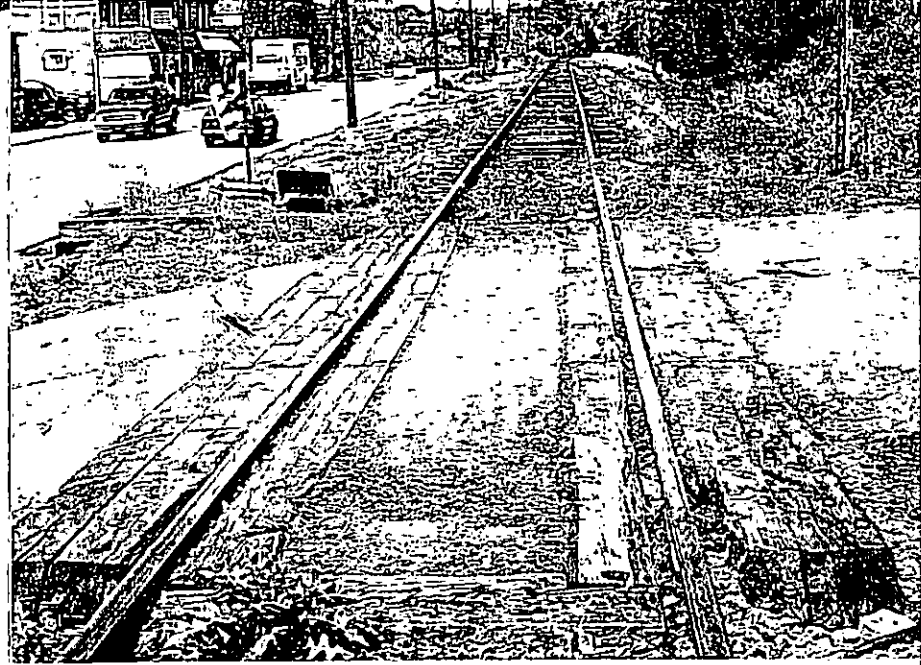








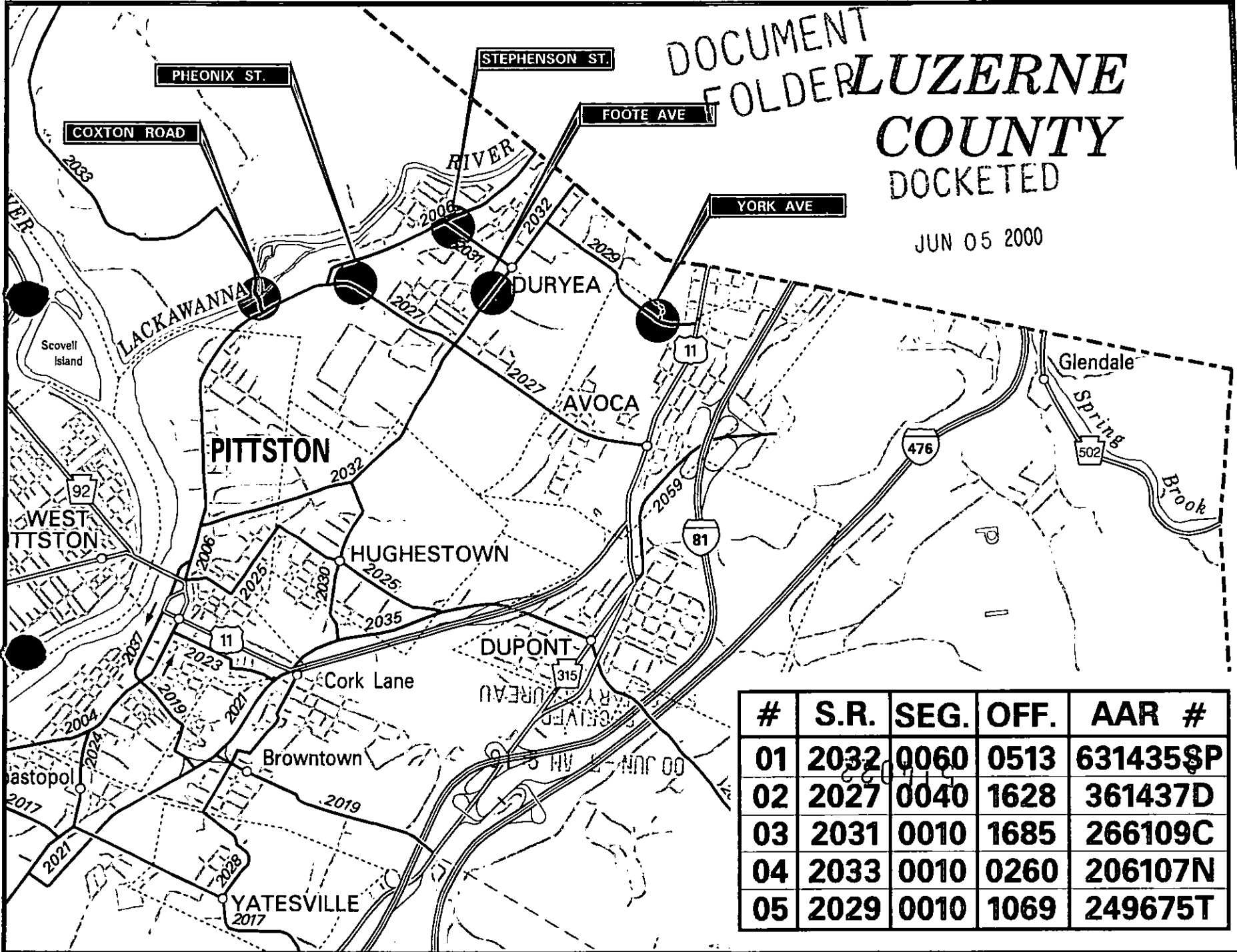




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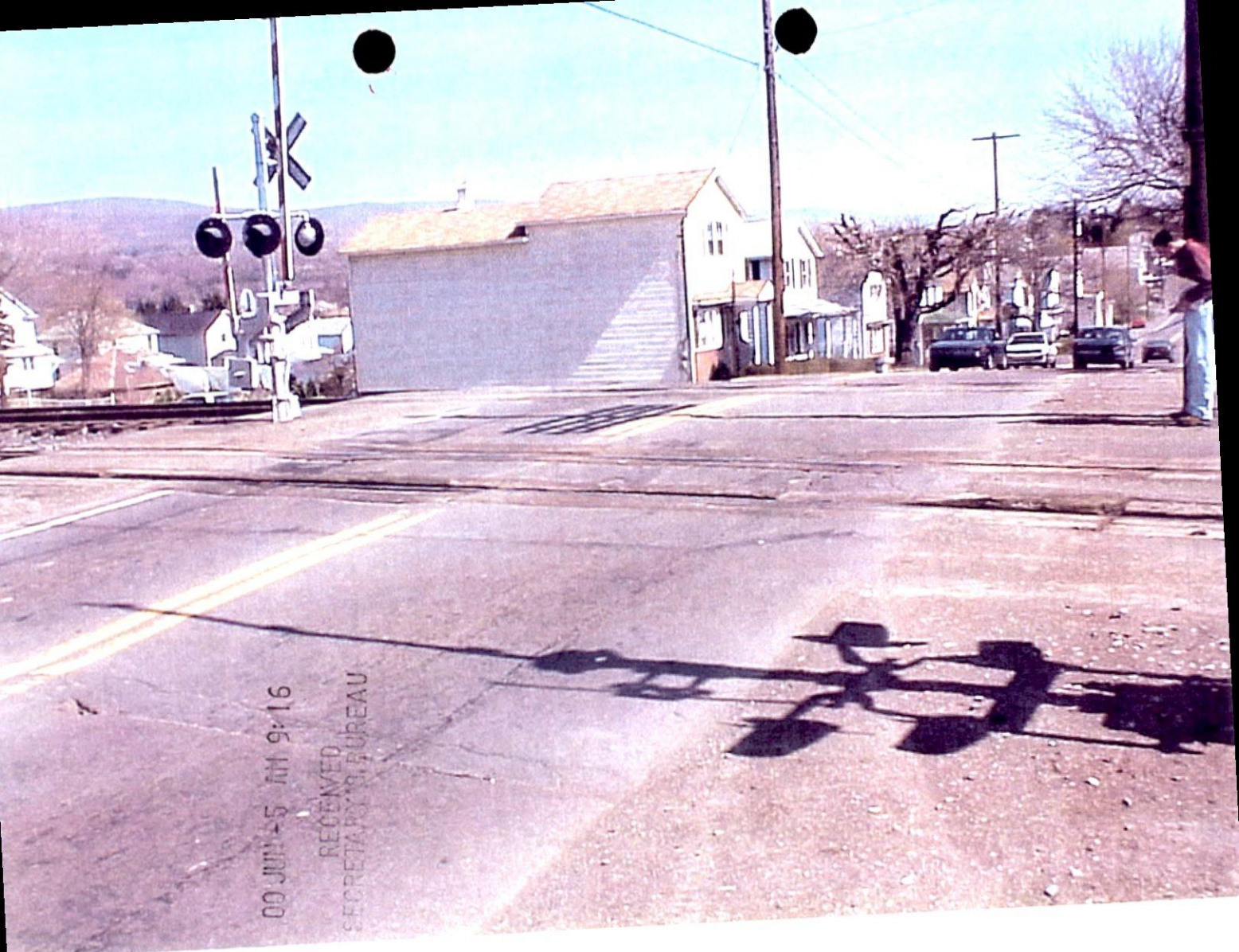
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C-5572585
PENNSYLVANIA DEPARTMENT OF TRANSPORTATION



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EEF Pa DOT Exhibit #1



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PA. DEPT. OF TRANSPORTATION
EXHIBIT NO. A
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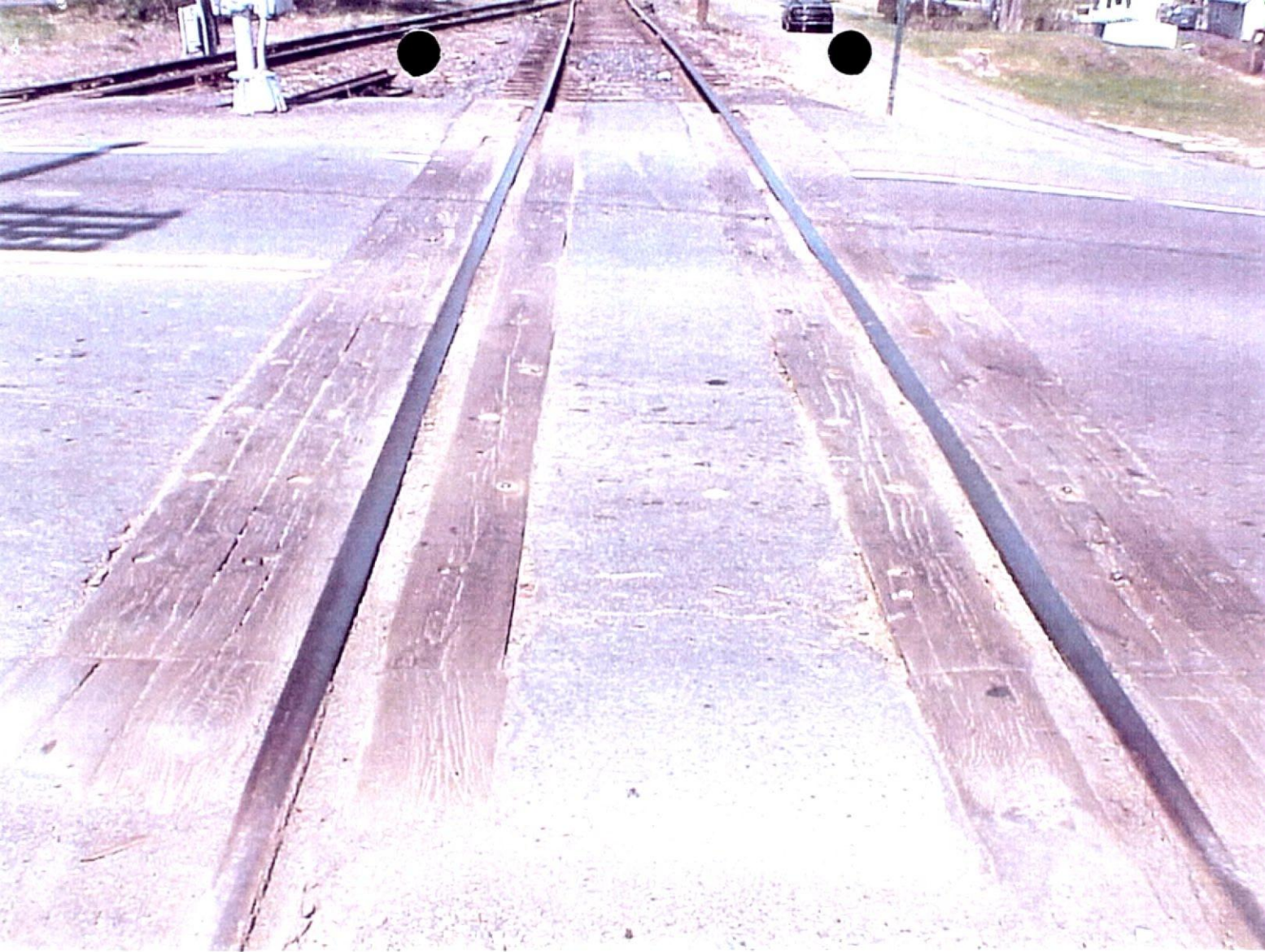


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EXHIBIT NO. B

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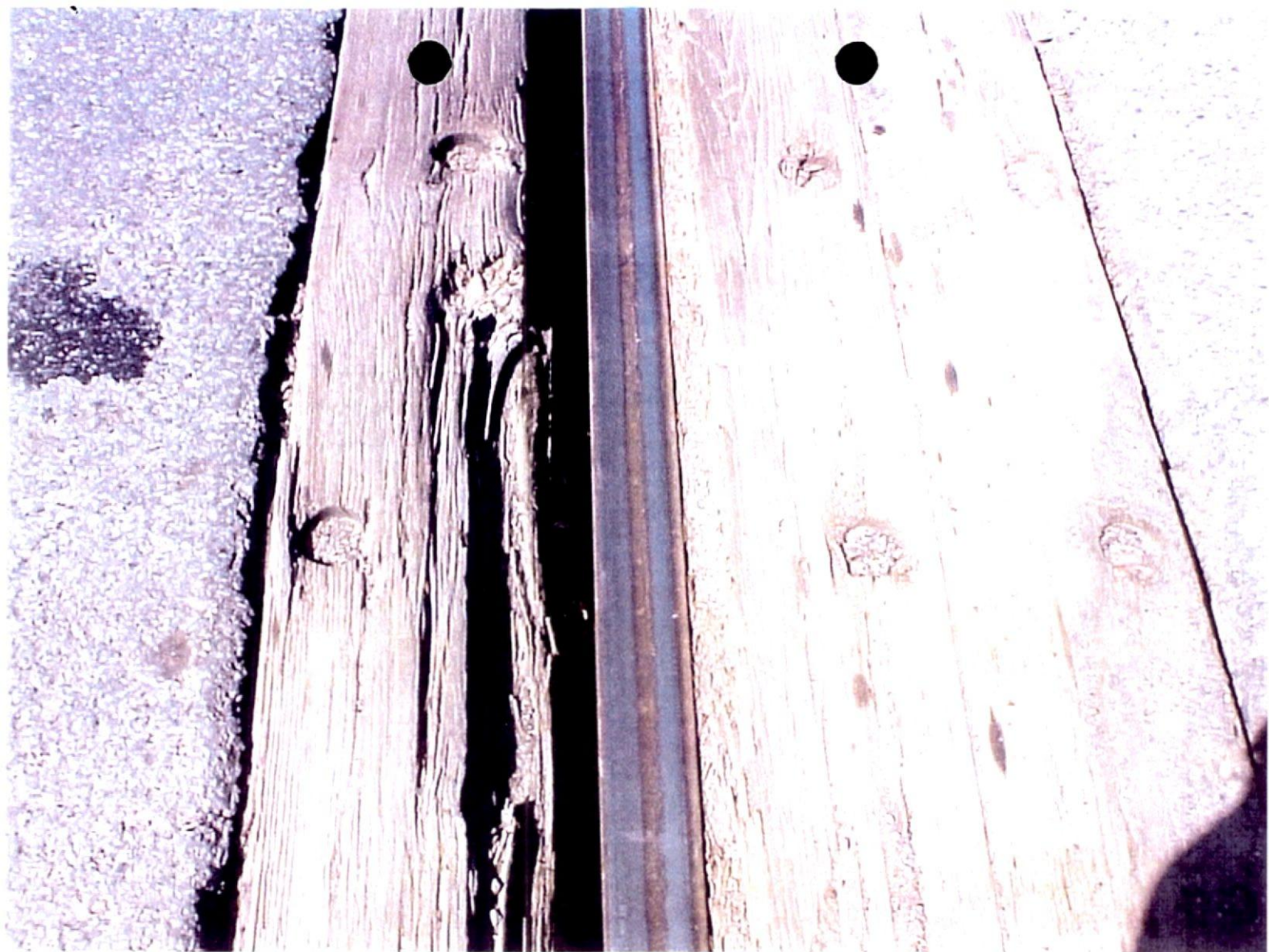


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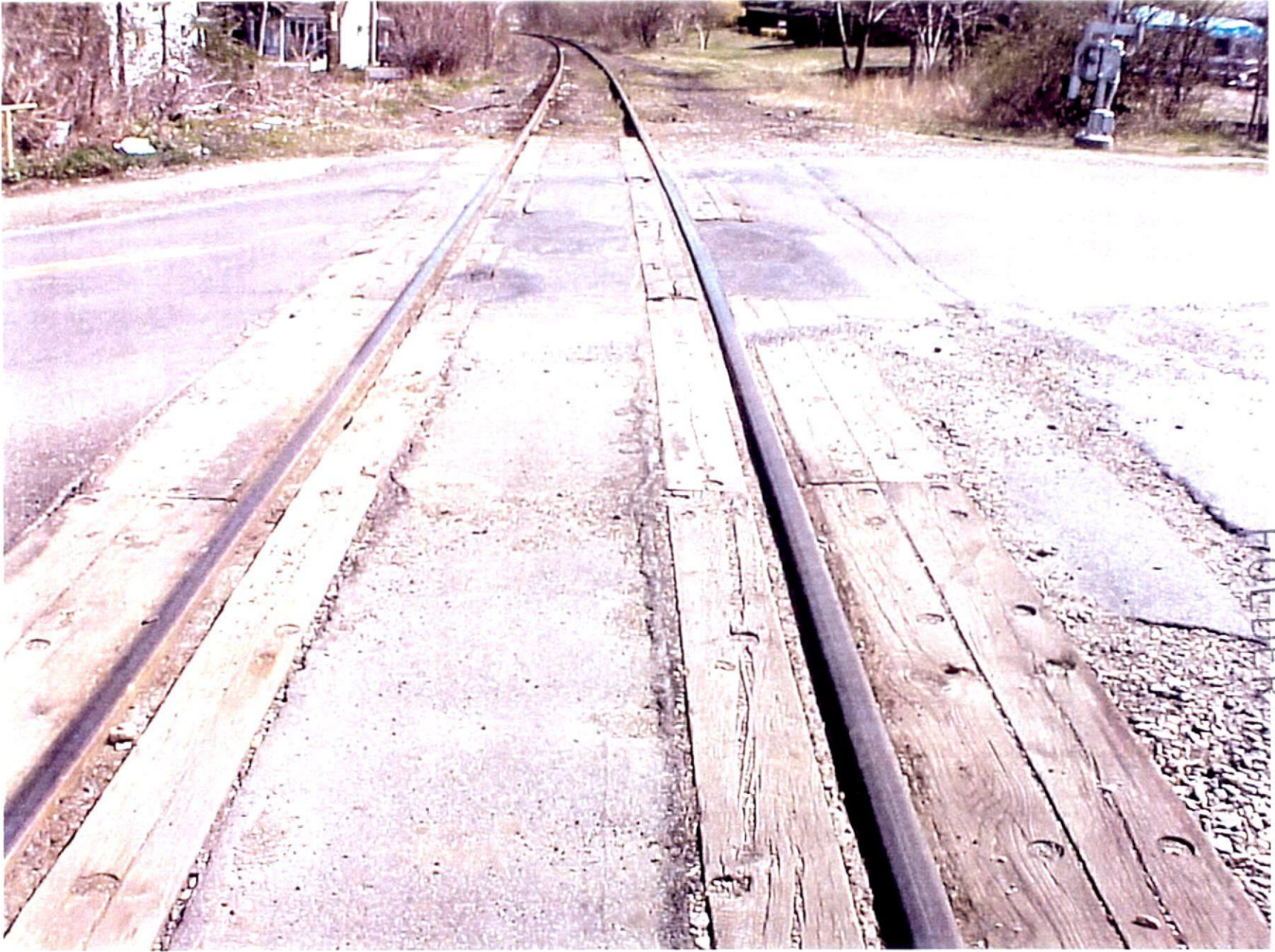
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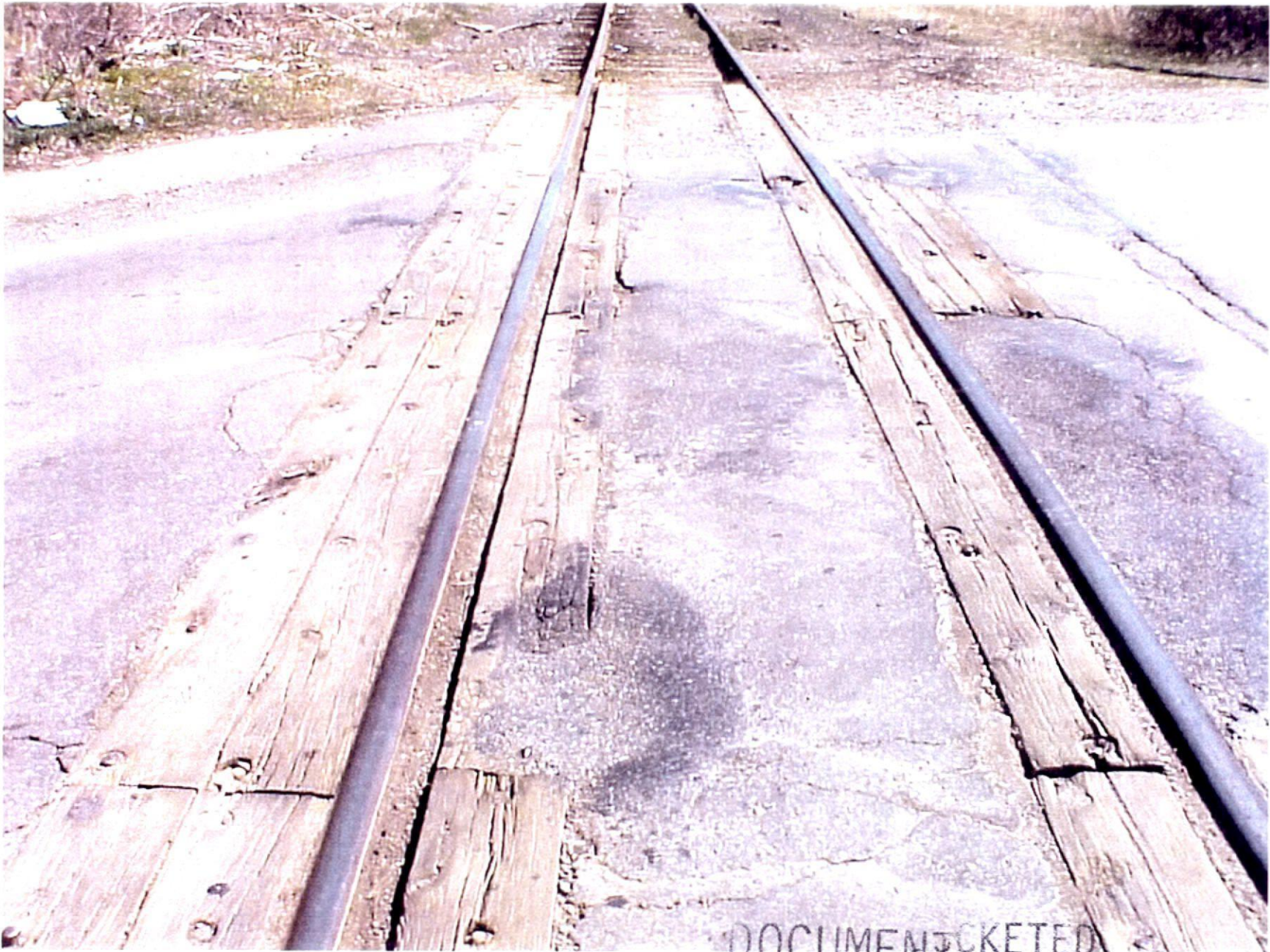


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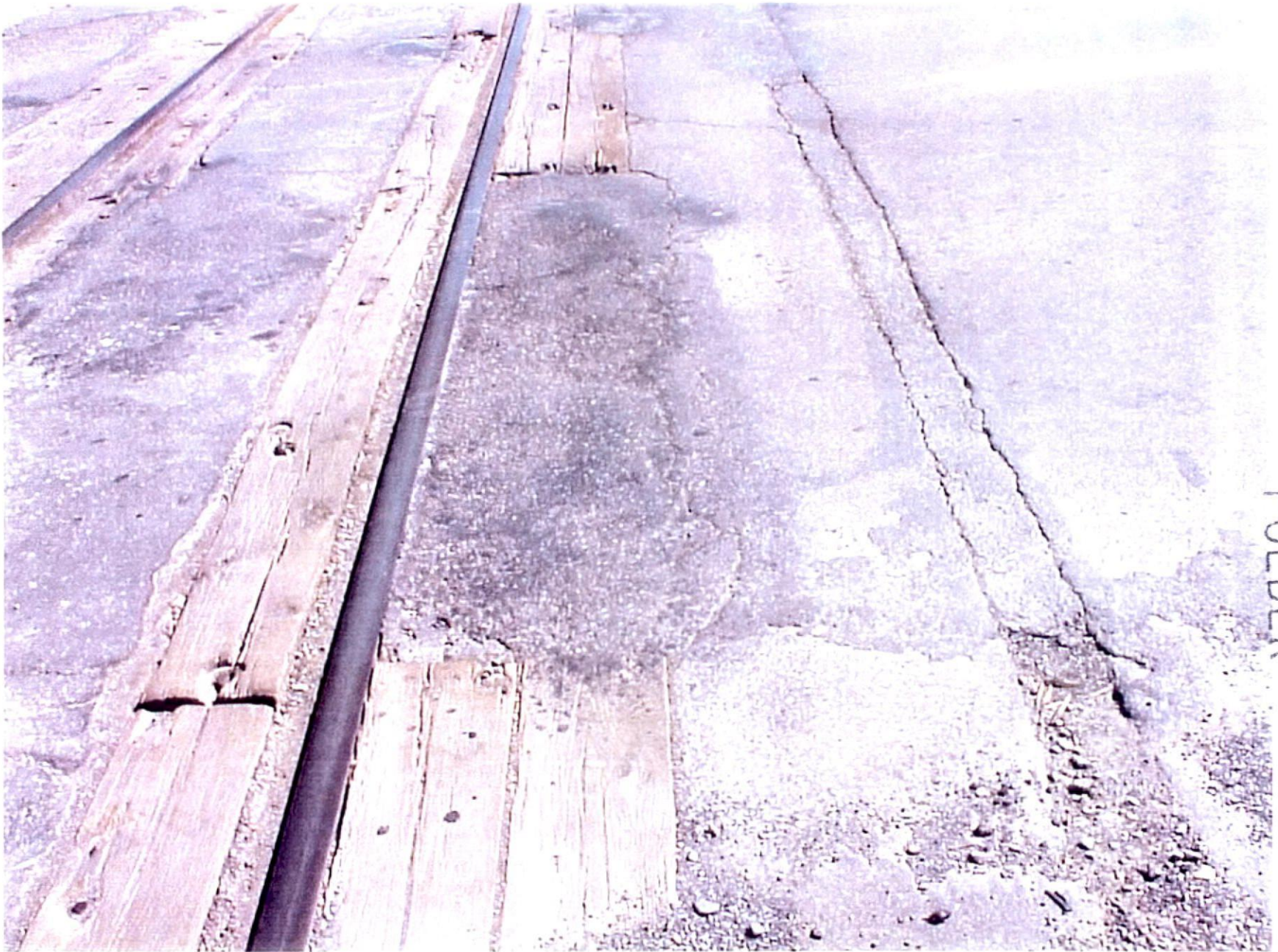
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EXHIBIT NO. D

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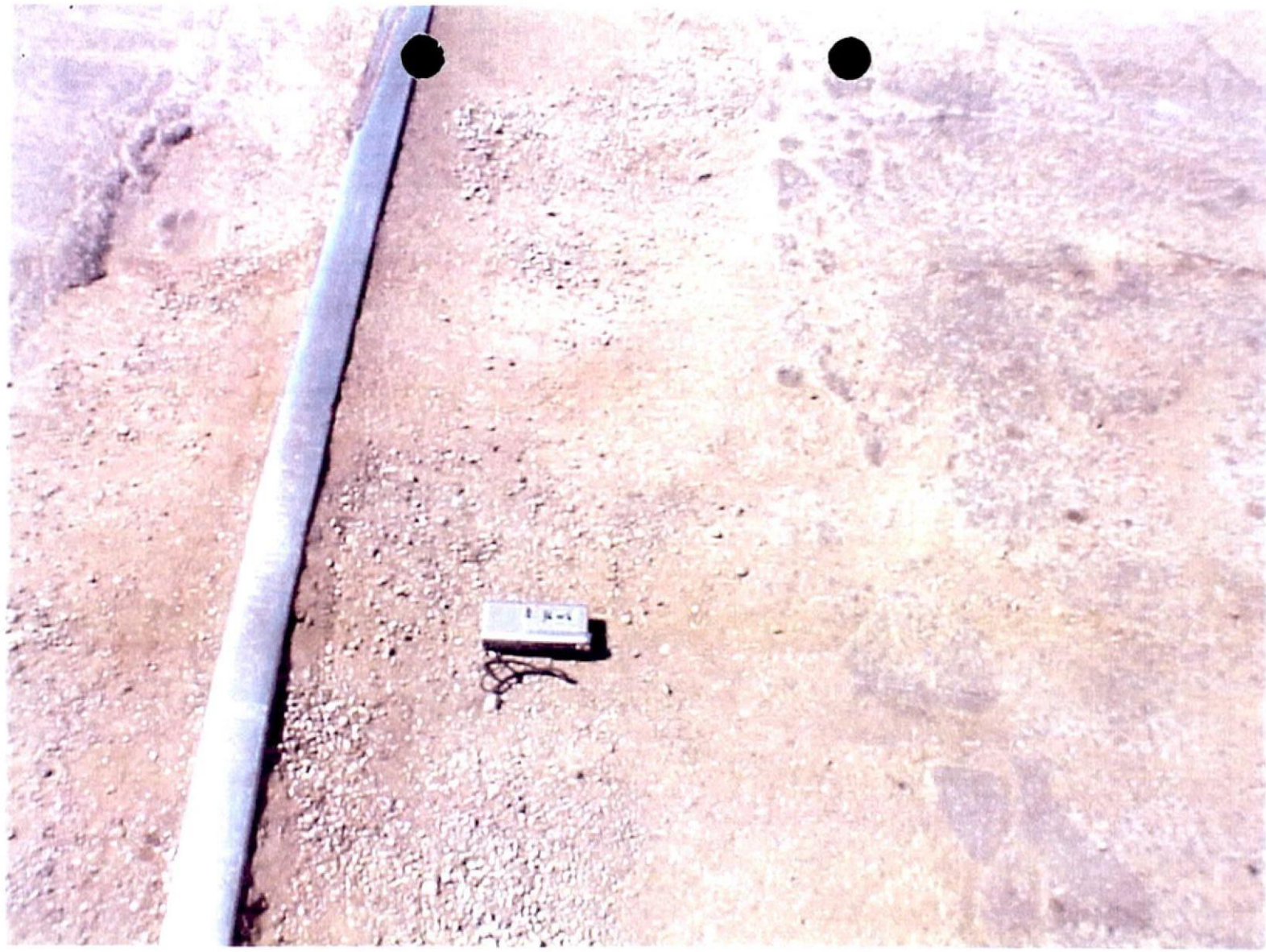


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PA. DEPT. OF TRANSPORTATION
EXHIBIT NO. E
P.U.C. NO. C-00992528
DATE OF HEARING 5/18/2000

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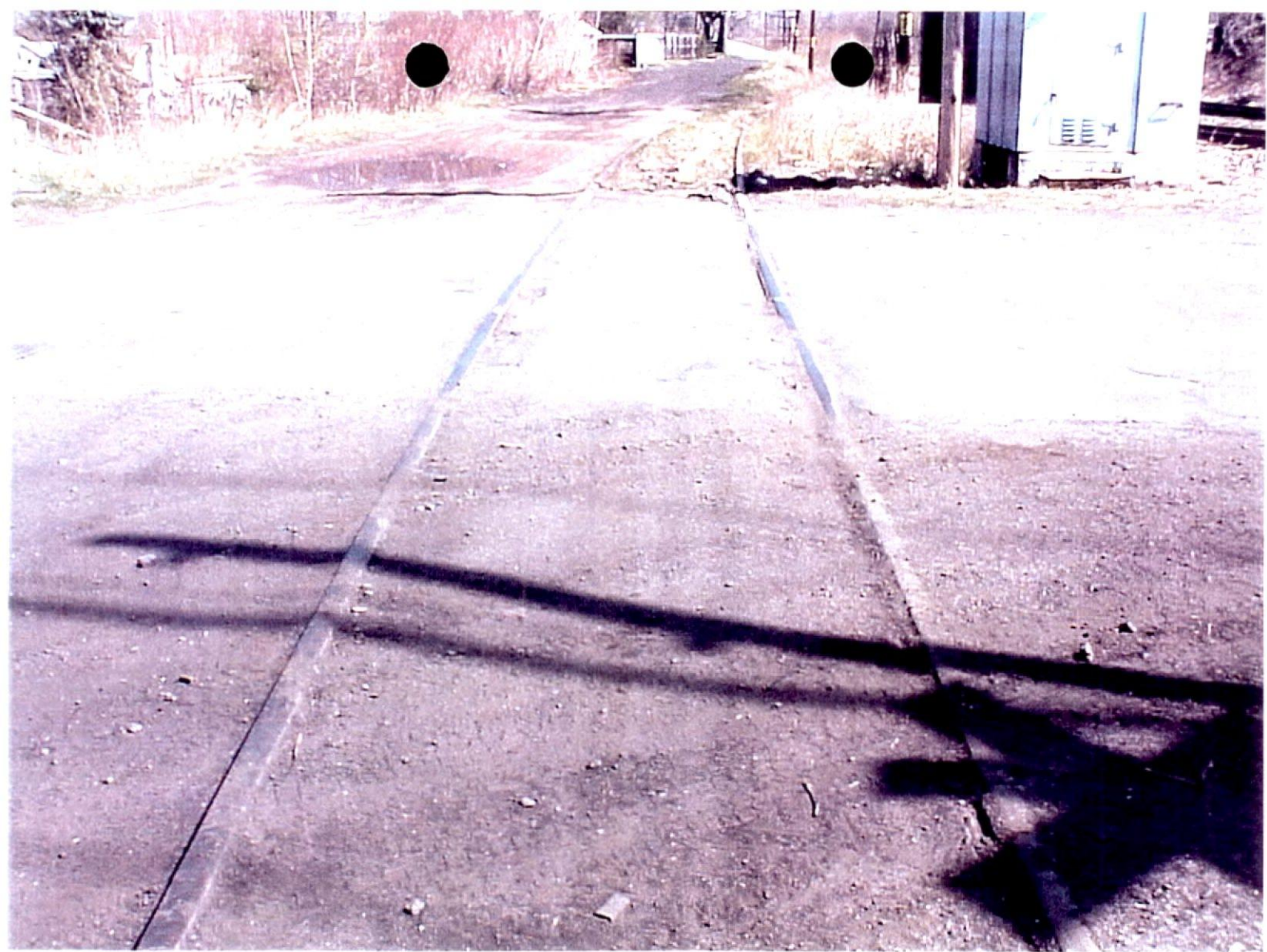


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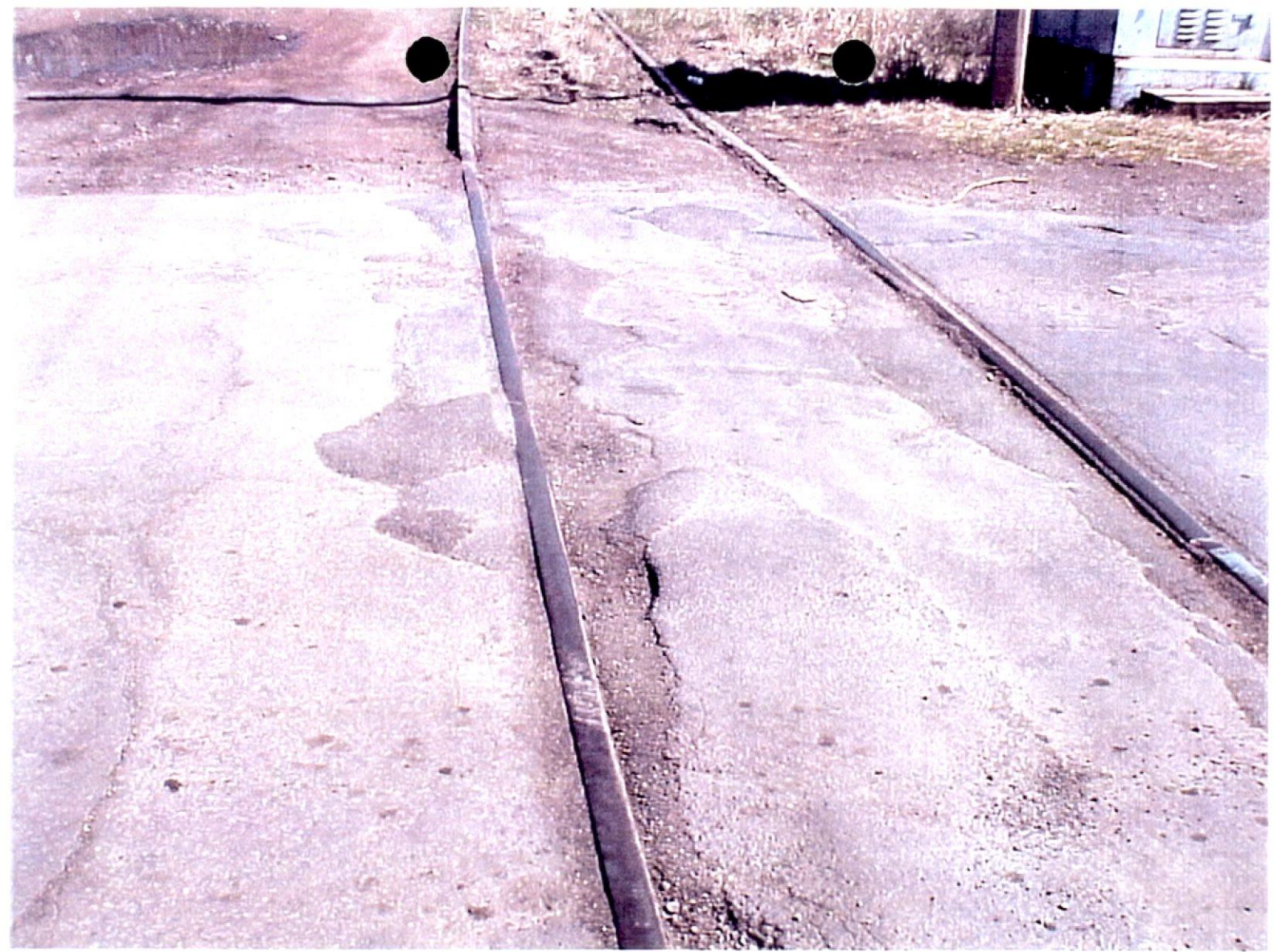
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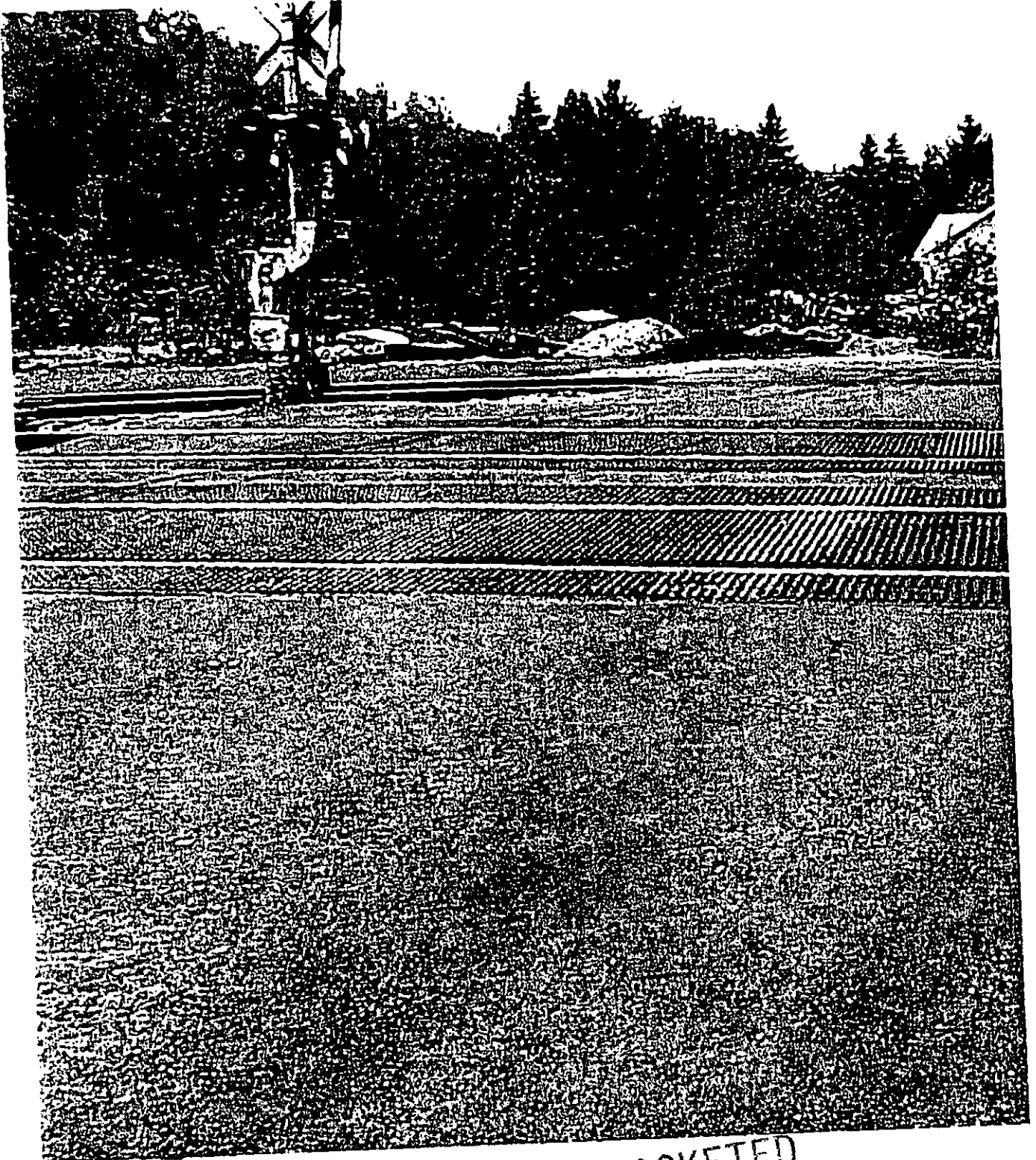


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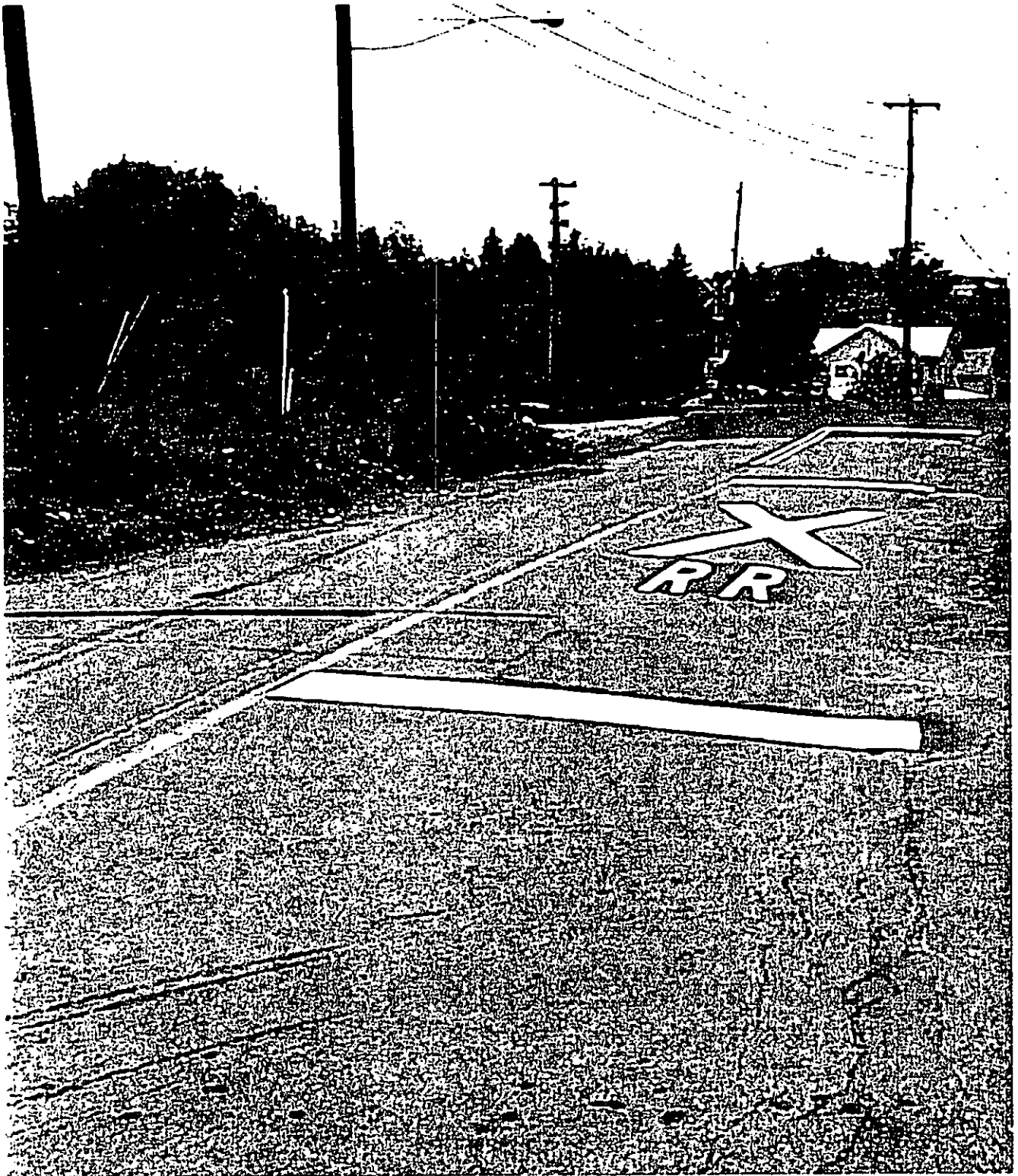
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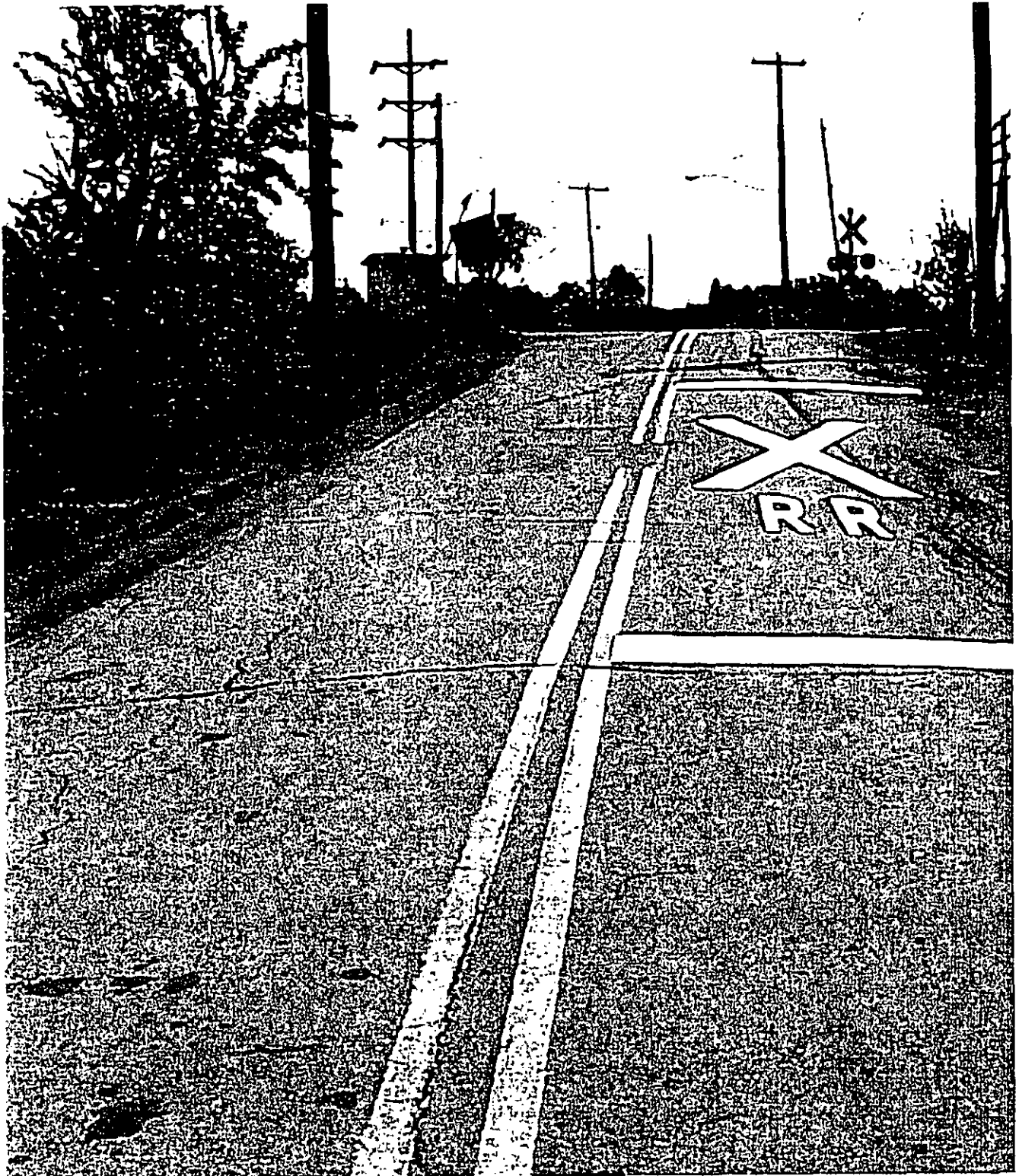
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5-18-00
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C-00992585

PERCAD-Bayonne, N. J.





BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Duryea Borough

v.

Reading, Blue Mountain and
Northern Railroad Company,
Pennsylvania Department of
Transportation and Luzerne County

Docket No. C-00992585

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PREPARED TESTIMONY OF
ANDREW M. MULLER, JR.
ON BEHALF OF READING BLUE MOUNTAIN
& NORTHERN RAILROAD COMPANY

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Reading Blue Mountain & Northern Railroad Company

("RBMN"), through Andrew M. Muller, President, hereby responds to the "Questions and Procedures" directed to RBMN as set forth in the Commission's hearing notice dated March 28, 2000:

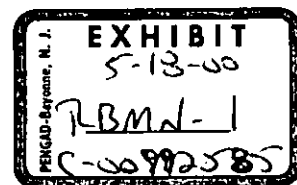
14. Reading, Blue Mountain and Northern Railroad Company submit testimony as to the exact corporate name of the owner and operator of the line of railroad at the subject crossings (excluding York Avenue, AAR 249 675 T).¹

5

Answer:

The exact corporate name of the owner and operator of the line of railroad at the subject crossings (excluding York Avenue) is: Reading Blue Mountain & Northern Railroad Company. RBMN operates over all of

¹ From the hearing notice, RBMN understands the "subject crossings" to include the crossings at Coxtan Rd., Foote Ave., Phoenix St., Marcy St. and York Ave.



the subject crossings (excluding York Avenue).
Additionally, Luzerne & Susquehanna Railway Co. ("LS") operates over the portion of the Lehigh Main that includes the Foote Ave. and Phoenix St. crossings, and Delaware-Lackawanna Railroad Co., Inc. ("DL") operates over the portion of the Taylor Secondary that includes the Marcy St. and Coxtton Rd. crossings.

15. Reading, Blue Mountain and Northern Railroad Company submit testimony as to the number of tracks presently located at the subject crossings (excluding York Avenue, AAR 249 675 T), and the volume, class and approximate speed of all trains operated daily over its track and whether any significant changes to such operations are contemplated in the foreseeable future.

Answer:

There is one track at each of the subject crossings (excluding York Avenue), except for Foote Ave. where there are two tracks.

RBMN operates over the Lehigh Main (including the Foote Ave. and Phoenix St. crossings) six days per week. The trains operate at 10 miles per hour. RBMN handles approximately 6,000 to 7,000 carloads of general merchandise per year over this portion of the Lehigh Main, not counting any short-term changes that have resulted from the Conrail breakup and the resulting service disruptions that have resulted. Additionally, LS operates approximately three to five

times per week over this portion of the Lehigh Main, handling approximately 15 to 25 cars per week.

RBMN operates over the Taylor Secondary (including the Marcy St. and Coxtton Rd. crossings) approximately three times a week to serve its customers in the Kaiser Valley. These trains also operate at 10 miles per hour. The trains can have three to five cars to as many as 20 cars due to the seasonality of some of the business. In addition, DL operates over this portion of the Taylor Secondary five days per week, handling approximately 3 to 5 cars each day.

No significant changes in operations are contemplated in the foreseeable future.

16. Reading, Blue Mountain and Northern Railroad Company submit testimony describing the physical condition and characteristics of the subject crossings (excluding York Avenue, AAR 249 675 T), including the type of warning facilities, roadway width, type of paving intersection angle, condition of the rail, and the general physical condition of the crossings and sidewalk surfaces.

Answer:

The right-of-way at each of the subject crossings (excluding York Avenue) is one track wide, and each of the crossing streets is two lanes wide. There are no sidewalks at any of the subject crossings.

The crossings have the following protection: Marcy St. (flashing lights); Foote Ave. (flashing lights and

gates); Phoenix St. (flashing lights); and Coxton Rd. (flashing lights and gates).

All of the crossings are constructed of asphalt and timber. All of the tracks are safe for current rail operations. (There is a split rail at Coxton, however, it is currently safe for railroad operations, and does not impact on highway operations.) As RBMN understands it, Duryea Borough is complaining about the condition of the paving at the crossings and its impact on highway operations.

17. Reading, Blue Mountain and Northern Railroad Company submit testimony as to whether any accidents involving a train and a motor vehicle have occurred at the subject crossings (excluding York Avenue, AAR 249 675 T) within the past years; and, if so, submit testimony as to the number of such accidents and the nature and cause thereof.

Answer:

There have been no accidents at the subject crossings (excluding York Avenue) involving an RBMN train since RBMN acquired the rail lines in August, 1996.

18. Reading, Blue Mountain and Northern Railroad Company submit testimony as to whether, in its opinion, the crossings (excluding York Avenue, AAR 249 675 T) should be altered or reconstructed, and/or whether any additional warning facilities are necessary to effectuate the prevention of accidents and to promote safety for the traveling public.

Answer:

As RBMN understands it, only paving is being requested. There is no need to alter the type of crossing, nor is there a need for additional warning protection.

19. Reading, Blue Mountain and Northern Railroad Company, submit testimony describing the general nature, extent and estimate cost of any repairs, work or changes which it deems necessary or advisable at the subject crossings (excluding York Avenue, AAR 249 675 T).

Answer:

No repairs are currently required for continued safe rail operations. The repairs required by Duryea Borough would entail paving and possibly some timber replacement. Although RBMN has not obtained proposals, it believes the cost of fully reconstructing a crossing of this type would cost approximately \$15,000 to \$20,000. Flagging and detours would be additional costs. Because of the location of these crossings, detouring costs could be substantial if RBMN were required to bear the costs.

20. Reading, Blue Mountain and Northern Railroad Company submit testimony indicating what portion of the work it will agree to perform; what portion of the costs it will agree to assume; and what portion of the completed work it will agree to maintain in the future; in the event the complaint is sustained and an improvement of the crossings is ordered by the Commission.

Answer:

RBMN purchased these light density rail lines in August, 1996. The low traffic volume on the lines, and the revenues earned from such traffic, do not provide sufficient benefit to RBMN to justify the imposition of maintenance or rehabilitation costs on RBMN. Because the crossings are currently safe for rail operations, RBMN would not receive any benefit from the proposed repairs. The costs of repairs should be borne by the parties receiving the most benefit and not by RBMN.

RBMN is willing to perform all work to the tracks and track structures that may be ordered by the Commission, but does not agree to bear any of the costs of such repairs. Similarly, RBMN is willing to perform future maintenance that is necessary to keep the tracks in safe working order for its trains, but not to perform future maintenance that is for the benefit of the traveling public.

VERIFICATION

I, Andrew M. Muller, Jr., President of Reading Blue Mountain & Northern Railroad Company, have reviewed the foregoing document and verify that the facts set forth therein are true and correct to the best of my information and belief, and that this verification is made subject to the penalties of 18 Pa.C.S. 4904.

Dated: April 26, 2000



Andrew M. Muller, Jr.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below, in accordance with the requirements of §1.54 (relating to service by a participant):

Administrative Law Judge
Richard M. Lovenwirth
Room 317
Scranton State Office Building
100 Lackawanna Avenue
Scranton, PA 18503

Lois Morreale, Secretary
Borough of Duryea
315 Main Street
Duryea, PA 18642

Gina M. D'Alfonso, Esquire
PennDOT
Forum Place, 9th Floor
555 Walnut Street
Harrisburg, PA 17101-1900

James P. Blaum
County Solicitor
Luzerne County
Luzerne County Court House
200 North River Street
Wilkes Barre, PA 18711-1001

Barry J. Chromey, Solicitor
126 South Main Street
Suite 201
Pittston, PA 18640

Brian Corcoran, Esquire
400 Third Avenue
Kingston, PA 18704

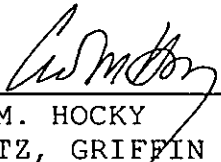
William Pickering, PE Chief
PennDOT Bureau of Design
ROW and Utility Division
P.O. Box 3362
Harrisburg, PA 17105-3362

Joseph Strok
PennDOT District 4-0
P.O. Box 111
Scranton, PA 18501

Kevin Carr
Delaware & Hudson Railway Company
P.O. Box 8002
200 Clifton Corporate Park
Clifton Park, NY 12065

David Salapa, Esquire
PA PUC Trans & Safety
Rail Division
P.O. Box 3265
Harrisburg, PA 17105-3265

Dated this 27th day of April, 2000.


ERIC M. HOCKY
GOLLATZ, GRIFFIN & EWING, P.C.
213 West Miner Street
P.O. Box 796
West Chester, PA 19381-0796
(610) 692-9116
Counsel for Reading Blue Mountain
& Northern Railroad Company

PENNSYLVANIA PUBLIC UTILITY COMMISSION

EXHIBIT
5-13-00
PUC STAFF
1
C-00992585

Application Docket No. 95397

In re: Application of ERIE LACKAWANNA RAILWAY COMPANY - For approval of the alteration of the crossings, at grade, by the removal of one track where the tracks of said company cross (1) Hill Road, Marcy, Everhart's (State Highway Route 35011) and Stevenson (State Highway Route 35055 Spur) streets, in the borough of Duryea, (2) Exeter (State Highway Route 232), Luzerne, Montgomery and Delaware avenues, in the borough of West Pittston, (3) Tunkhannock Avenue (State Highway Route 514), partly in the borough of West Pittston and partly in the borough of Exeter, (4) Boston Road, Penn and Lincoln avenues and Grant and Schooly Avenues (State Highway Route 40183), in the borough of Exeter, (5) Sixth (State Highway Route 40156), Eighth (State Highway Application 2188), Hunts and Swetland streets, in the borough of Wyoming, (6) Dennison (State Highway Route 40132), Owen, Hughes, Durkee (Neidland), Shoemaker and Slocum (State Highway Route 41052) streets, in the borough of Swoyersville, (7) West Bennett (State Highway Route 11) and Vernon (State Highway Route 40105) streets, partly in the borough of Luzerne and partly in the borough of Kingston; (8) Division Street, in the borough of Kingston, (9) Main Street (State Highway Route 40132 Spur E) partly in the borough of Kingston and partly in the borough of Edwardsville; (10) Perry, Center and Hanover streets and Flat Road, in the borough of Plymouth, all in Luzerne County, and (11) Moosic Road (State Highway Route 35064) and Main Street, in the borough of Old Forge, Lackawanna County.

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ORDER

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BY THE COMMISSION, MAY 4, 1970:

The tracks of Erie Lackawanna Railway Company's Bloomsburg Branch are crossed, at grade, by various roads, streets and highways in the boroughs of Duryea, West Pittston, Exeter, Wyoming, Swoyersville, Luzerne, Kingston, Edwardsville and Plymouth in Luzerne County, and Borough of Old Forge, Lackawanna County, as indicated in the caption in this proceeding.

In this application, Erie Lackawanna Railway Company seeks Commission approval of the alteration of these crossings by the removal of one main track at each of the crossings in order to change from double track to single track operation.

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APPLICATION DOCKET

STAFF RECEIVED # 1

A hearing was held at Wilkes-Barre, Luzerne County, on September 19, 1969, and all parties in interest were notified in advance of their opportunity to be heard.

The first witness for the applicant testified that rail traffic between Old Forge and Kingston consists of four to six freight train movements daily at varying authorized speeds of ten to 25 miles an hour.

A second witness for the applicant testified that Erie Lackawanna Railway Company proposes to remove, at its sole cost and expense, the rails, ties and other facilities of one of its tracks from the various crossings, at grade, and restore the roads, streets and highways affected.

On cross-examination the applicant's witness advised that 14 of 34 crossings, at grade, to be altered, were state highways. Questioned concerning the condition of the crossing pavings, the witness admitted that there might be some need for maintenance which has been postponed and that the remaining track areas at the crossings would be rehabilitated during the next construction season.

This witness also agreed to assume the cost of the Department of Highways' inspection services in connection with the alteration of the state highway crossings involved in this project.

A third witness for the applicant testified that there were 29 crossings protected by automatic flashing light railroad crossing warning signals. Stanchions for these flashing light signals will be relocated to proper locations nearer the remaining track, at the sole cost and expense of Erie Lackawanna Railway Company.

A witness for Department of Highways testified that the department has no objection to the alteration of the state highway crossings, at grade, as shown on P.D.H. Exhibit No. 1, admitted at the hearing, provided the carrier performs the work in accordance with the department's specifications for construction and materials and at no cost to Department of Highways; and requested two weeks' advance notice of the start of work on the state highways. The department agrees to establish and maintain any detours that may be required and requests

reimbursement for the expense thereof. Exhibit No. 1 of Department of Highways shows that in addition to those highways indicated in the caption as state highways the following are also state highways; Schooly Avenue, State Highway Route 40183, in the borough of Exeter; Sixth Street, State Highway Route 40156, in the borough of Wyoming; Dennison Street, State Highway Route 40138, in the borough of Swoyersville; Main Street, State Highway Route 40132 Spur E, partly in the borough of Kingston and partly in the borough of Edwardsville, all in Luzerne County, and Main Street, State Highway Route 40103 Spur E, in the borough of Old Forge, Lackawanna County.

Department of Highways is of the opinion that the surface of the crossing paving where the remaining track is located is in poor condition and that this track should be rehabilitated and the total crossing area restored and resurfaced at each of the 14 crossings identified on P.D.H. Exhibit No. 1, and that Erie Lackawanna Railway Company should provide any additional drainage facilities that may be required to properly drain each of the altered state highway crossings.

Department of Highways will agree to maintain the approaches to the altered state highway crossings, including the portions of the highways formerly occupied by the retired railroad facilities, only on condition that workmanship and materials used in restoring the disturbed areas meet the Pennsylvania Department of Highways' construction and materials standards. The department is of the opinion that inspection services will be necessary and requests the Commission to allocate such costs against Erie Lackawanna Railway Company.

A witness for Pennsylvania Gas and Water Company testified that his company has water and/or gas lines under most of the crossings involved in this project, but since there is to be no change in grade the company has no objection to the proposed alteration of the crossings, at grade.

Luzerne County has no objection to the proposed alteration of the crossings provided the county is not assessed any of the costs thereof.

Upon full consideration of the matters and things involved, we find and determine that the alteration of the crossings, at grade, as above described, is necessary or proper for the service, accommodation, convenience or safety of the public; THEREFORE,

IT IS ORDERED:

1. That the application be and is hereby approved.
2. That the crossings, at grade, where Erie Lackawanna Railway Company's Bloomsburg Branch tracks cross (1) Hill Road, Marcy, Everhart's (State Highway Route 35011) and Stevenson (State Highway Route 35055 Spur) Streets, in the borough of Duryea; (2) Exeter (State Highway Route 232), Luzerne, Montgomery and Delaware avenues, in the borough of West Pittston; (3) Tunkhannock Avenue (State Highway Route 514) partly in the borough of West Pittston and partly in the borough of Exeter; (4) Boston Road, Penn and Lincoln Avenues and Grant and Schooly avenues (State Highway Route 40183) in the borough of Exeter; (5) Sixth, (State Highway Route 40156) Eighth (State Highway Application 2188), Hunts and Swetland streets, in the borough of Wyoming; (6) Dennison (State Highway Route 40138), Owen, Hughes, Durkee (Neidland), Shoemaker and Slocum (State Highway Route 41052) streets, in the borough of Swoyersville; (7) West Bennett (State Highway Route 11) and Vernon (State Highway Route 40105) streets, partly in the borough of Luzerne and partly in the borough of Kingston; (8) Division Street, in the borough of Kingston; (9) Main Street (State Highway Route 40132 Spur E), partly in the borough of Kingston and partly in the borough of Edwardsville; (10) Ferry, Center and Hanover Streets and Flat Road, in the borough of Plymouth, all in Luzerne County; and (11) Moosic Road (State Highway Route 35064) and Main Street, in the borough of Old Forge, Lackawanna County, be altered by the removal of one main track, all in accordance with the plans, Exhibits "A" and "B", attached to the application; which plans are made part hereof and are hereby approved.

3. That Erie Lackawanna Railway Company, at its sole cost and expense, furnish all material and do all work necessary to remove the rails, ties and other railroad facilities of one main track within the limits of each of the crossings above mentioned in accordance with the approved plans, and restore the areas thus disturbed with bituminous concrete or other suitable material conforming with the abutting highway paving.

4. That Erie Lackawanna Railway Company, at least seven days prior to the removal of its one main track from each of the 14 state highway crossings, notify Department of Highways of the actual date that the work will be started on each of the particular crossings.

5. That Erie Lackawanna Railway Company, at its sole cost and expense, furnish all material and do all work necessary to rehabilitate its remaining track within the limits of Everhart's (State Highway Route 35011) and Stevenson Street (State Highway Route 35055 spur) in the borough of Duryea; Exeter Avenue (State Highway Route 232) in the borough of West Pittston; Tunkhannock Avenue (State Highway Route 514) partly in the borough of West Pittston and partly in the borough of Exeter; Schooly Avenue (State Highway Route 40183) in the borough of Exeter; Sixth Street (State Highway Route 40156) and Eighth Street (State Highway Application 2188) in the borough of Wyoming; Dennison Street (State Highway Route 40138) and Slocum Street (State Highway Route 40152) in the borough of Swoyersville; West Bennett Street (State Highway Route 11) and Vernon Street, (State Highway Route 40105) partly in the borough of Kingston and partly in the borough of Luzerne; Main Street (State Highway Route 40132 Spur "E") partly in the borough of Kingston and partly in the borough of Edwardsville, all in Luzerne County and Main Street (State Highway Route 40103 Spur "E") and Moosic Road (State Highway Route 35064) in the borough of Old Forge, in Lackawanna County, and repave the total crossing areas remaining with suitable bituminous material.

6. That Erie Lackawanna Railway Company, at its sole cost and expense, furnish all material and do all work necessary to relocate the flashing light railroad crossing warning signals to a proper location with relation to the remaining track at each of the altered crossings so protected, generally in accordance with Bulletin No. 6, Recommended Practices of the Association of American Railroads.

7. That Erie Lackawanna Railway Company, at its sole cost and expense, furnish all material and do all work necessary to replace the crossbuck railroad crossing warning signs with standard 90-degree reflectorized crossbuck railroad crossing warning signs at proper locations on each side of the altered crossings, at grade, where its track or tracks cross Hill Road in the borough of Duryea, Boston Road in the borough of Exeter, Hunts Street in the borough of Wyoming, Durkee (Neidland) Street in the borough of Swoyersville, Division Street in the borough of Kingston and Hanover Street in the borough of Plymouth, all in Luzerne County.

8. That Department of Highways furnish and maintain any necessary construction inspectors necessary during the time work is being performed on the state highways in accordance with this order and, in addition, establish and maintain any necessary detours for highway traffic.

9. That any relocation of, changes in, or removal of any adjacent structures, equipment or other facilities of any public utility, other than Erie Lackawanna Railway Company, which may be required as incidental to the alteration of the crossings, be made by said public utility, at the sole cost and expense of Erie Lackawanna Railway Company, and in such manner as will not interfere with the alteration of the crossings.

10. That Erie Lackawanna Railway Company, at its sole cost and expense, furnish all material and do all work necessary to complete the alteration of the crossings in accordance with the approved plans, including the alteration or installation of any drainage facilities required by reason of the crossing alteration to drain properly the highways at the crossings involved.

11. That all work necessary to complete the alteration of the crossings be done in a manner satisfactory to this Commission on or before October 31, 1970 and that on or before said date Erie Lackawanna Railway Company report to this Commission the date of actual completion of the work.

12. That Erie Lackawanna Railway Company pay all compensation for damages, if any, due to the owners for property taken, injured or destroyed by reason of the alteration of the crossings in accordance with this order.

13. That upon completion of the alteration of the 14 state highway crossings, at grade, Erie Lackawanna Railway Company pay Department of Highways, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to the actual cost of inspector services rendered by the department in compliance with numbered Paragraph 8 of this order.

14. That upon completion of the alteration of the crossings, at grade, of Hill Road and Marcy Street, Borough of Duryea, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the approaches to the altered crossings to points two feet beyond each outside remaining rail, including any highway drainage facilities installed or altered in accordance with this order.

15. That upon completion of the alteration of the crossings, at grade, of Luzerne, Montgomery and Delaware avenues, Borough of West Pittston, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the approaches to the altered crossings to points two feet beyond each outside remaining rail, including any highway drainage facilities installed or altered in accordance with this order.

16. That upon completion of the alteration of the crossings, at grade, of Boston Road, Penn and Lincoln avenues and Grant Street, Borough of Exeter, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the approaches to the altered crossings to points two feet beyond each outside remaining rail, including any highway drainage facilities installed or altered in

17. That upon completion of the alteration of the crossings, at grade, of Hunts and Swetland streets, Borough of Wyoming, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the approaches to the altered crossings to points two feet beyond each outside remaining rail, including any highway drainage facilities installed or altered in accordance with this order.

18. That upon completion of the alteration of the crossings, at grade, of Owen, Hughes, Durkee (Neidland) and Shoemaker streets, Borough of Swoyersville, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the approaches to the altered crossings to points two feet beyond each outside remaining rail, including any highway drainage facilities installed or altered in accordance with this order.

19. That upon completion of the alteration of the crossing, at grade, of Division Street, Borough of Kingston, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the approaches to the altered crossing to points two feet beyond each outside remaining rail, including any highway drainage facilities installed or altered in accordance with this order.

20. That upon completion of the alteration of the crossings, at grade, of Ferry, Center and Hanover streets and Flat Road, Borough of Plymouth, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the approaches to the altered crossings to points two feet beyond each outside remaining rail, including any highway drainage facilities installed or altered in accordance with this order.

21. That upon completion of the alteration of the crossings, at grade, of Main Street, Borough of Old Forge, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the approaches to the altered crossing to points two feet beyond each outside remaining rail, including any highway drainage facilities installed or altered in accordance with this order.

22. That upon completion of the alteration of the state highway crossings, at grade, within the limits of Everhart's (State Highway 35011) and Stevenson streets (State Highway Route 35055 Spur), in the borough of Duryea; Exeter Avenue (State Highway Route 232) in the borough of West Pittston and Tunkhannock Avenue (State Highway Route 514) partly in the borough of West Pittston and partly in the borough of Exeter; Schooly Avenue (State Highway Route 40183) in the borough of Exeter; Sixth Street (State Highway Route 40156) and Eighth Street (State Highway Application 2188) in the borough of Wyoming; Dennison Street (State Highway Route 40138) and Slocum Street (State Highway Route 40152) in the borough of Swoyersville, West Bennett Street (State Highway Route 11) in the borough of Luzerne; Vernon Street (State Highway Route 40105) in the borough of Kingston; Main Street (State Highway Route 40132 spur "E") partly in the borough of Kingston and partly in the borough of Edwardsville, all in Luzerne County; and Main Street (State Highway Route 40103 spur "E") and Moosic Road (State Highway Route 35064) in the borough of Old Forge in Lackawanna County, Department of Highways, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the approaches to the altered crossings to points two feet beyond each outside remaining rail, including any highway drainage facilities installed or altered in accordance with this order.

23. That upon completion of the alteration of the crossings, at grade, beforementioned, Erie Lackawanna Railway Company, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its remaining facilities at each of the altered crossings, and to maintain in a smooth and satisfactory condition the crossing pavement between rails, between the tracks, where applicable, and for a distance of at least two feet beyond each outside rail.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

George Bloom

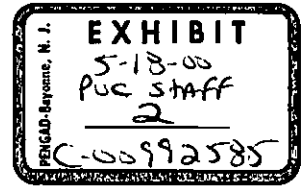
Chairman

ATTEST:

C. P. Huyett
Assistant Secretary

Commissioner Huyett being absent did not participate in the vote on the order.

PENNSYLVANIA PUBLIC UTILITY COMMISSION



Application Docket No. 95397

In re: Application of ERIE LACKAWANNA RAILWAY COMPANY - For approval of the alteration of the crossings, at grade, by the removal of one track where the tracks of said company cross (1) Hill Road, Marcy, Everhart's (State Highway Route 35011) and Stevenson (State Highway Route 35055 Spur) streets, in the Borough of Duryea, (2) Exeter (State Highway Route 232), Luzerne, Montgomery and Delaware avenues, in the Borough of West Pittston, (3) Tunkhannock Avenue (State Highway Route 514), partly in the Borough of West Pittston and partly in the Borough of Exeter, (4) Boston Road, Penn and Lincoln avenues and Grant and Schooly avenues (State Highway 40183), in the Borough of Exeter, (5) Sixth (State Highway Route 40156), Eighth (State Highway Application 2188), Hunts and Swetland streets, in the Borough of Wyoming, (6) Dennison (State Highway Route 40138), Owen, Hughes, Durkee (Neidland), Shoemaker and Slocum (State Highway Route 41052) streets, in the Borough of Swoyersville, (7) West Bennett (State Highway Route 11) and Vernon (State Highway Route 40105) streets, partly in the Borough of Luzerne and partly in the Borough of Kingston, (8) Division Street, in the Borough of Kingston, (9) Main Street (State Highway Route 40132 Spur E) partly in the Borough of Kingston and partly in the Borough of Swoyersville, (10) Ferry, Center and Hanover streets and Flat Road, in the Borough of Plymouth, all in Luzerne County, and (11) Moosic Road (State Highway Route 35064) and Main Street, in the Borough of Old Forge, Lackawanna County.

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ORDER

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BY THE COMMISSION, SEPTEMBER 14, 1970:

This matter is before us upon petition of Erie Lackawanna Railway Company dated June 3, 1970, seeking modification of our order dated May 4, 1970, so as to retain double track operation on its Bloomsburg Branch between mileposts 139.20 and 142.67.

Our order of May 4, 1970 approved the application of the railway company and, among other things, directed the alteration of various crossings on the company's Bloomsburg Branch in Luzerne and Lackawanna counties by removal of one main track from each crossing and repaving of the disturbed pavement. Our order also directed that the remaining track within the crossing areas of state highways be rehabilitated and that the entire crossing areas be restored and repaved with suitable bituminous material.

DOCKETED

In its petition, the railway company avers that

- "2. By reason of an increase in the volume of rail traffic subsequent to June 5, 1969, it was determined that operating efficiency would be served better by the retention of double track on Erie's Bloomsburg Branch between mileposts 139.20 and 142.67."

Six of the 34 crossings named in the application occur between the aforementioned mileposts and the petition proposes that those six crossings be withdrawn from the caption of the original application and that appropriate revisions to our order of May 4, 1970, be recorded and approved.

In reviewing this matter we find evidence adduced at the hearing held in Wilkes-Barre, Luzerne County, indicating that rehabilitation of track and paving in the crossings and modification of the protection or warning signs may be appropriate whether or not a track is removed. Accordingly, our approval of the petition is limited.

No objection was taken to the petition and no party at interest desired to be heard.

After full consideration of the matters and things involved, we find and determine that in accordance with the prayer of the petitioner, retention of double track at the six crossings, at grade, between mileposts 139.20 and 142.67 on the Bloomsburg Branch of Erie Lackawanna Railway Company in the borough of Duryea, Luzerne County, and in the borough of Old Forge, Lackawanna County, is necessary or proper for the service, accommodation, convenience or safety of the public and that to the extent indicated below, the prayer of the petition should be granted and our order at this docket dated May 4, 1970 should be modified; THEREFORE,

IT IS ORDERED:

1. That numbered Paragraph 2 of our order dated May 4, 1970 which read as follows, to wit:

- "2. That the crossings, at grade, where Erie Lackawanna Railway Company's Bloomsburg Branch tracks cross (1) Hill Road, Marcy, Everhart's (State Highway Route 35011) and Stevenson (State Highway Route 35055 Spur)

Streets, in the borough of Duryea; (2) Exeter (State Highway Route 232), Luzerne, Montgomery and Delaware Avenues, in the borough of West Pittston; (3) Tunkhannock Avenue (State Highway Route 514) partly in the borough of West Pittston and partly in the borough of Exeter; (4) Boston Road, Penn and Lincoln Avenues and Grant and Schooly Avenues (State Highway Route 40183) in the borough of Exeter; (5) Sixth, (State Highway Route 40156), Eighth (State Highway Application 2188), Hunts and Swetland Streets, in the borough of Wyoming; (6) Dennison (State Highway Route 40138), Owen, Hughes, Durkee (Neidland), Shoemaker and Slocum (State Highway Route 41052) Streets, in the borough of Swoyersville; (7) West Bennett (State Highway Route 11) and Vernon (State Highway Route 40105) Streets, partly in the borough of Luzerne and partly in the borough of Kingston; (8) Division Street, in the borough of Kingston; (9) Main Street (State Highway Route 40132 Spur E), partly in the borough of Kingston and partly in the borough of Edwardsville; (10) Ferry, Center and Hanover Streets and Flat Road, in the borough Plymouth, all in Luzerne County; and (11) Moosic Road (State Highway Route 35064) and Main Street, in the borough of Old Forge, Lackawanna County, be altered by the removal of one main track, all in accordance with the plans, Exhibits "A" and "B" attached to the application; which plans are made part hereof and are hereby approved."

be and is hereby modified to read as follows:

2. That the crossings, at grade, where Erie Lackawanna Railway Company's Bloomsburg Branch tracks cross (1) Hill Road, Marcy, Everhart's (State Highway Route 35011) and Stevenson (State Highway Route 35055 Spur) streets, in the borough of Duryea, be altered by rehabilitating the tracks through the crossing and repaving the crossing area and replacing, relocating or rehabilitating crossing warning signs and/or protective devices as necessary;
- (2) Exeter (State Highway Route 232), Luzerne, Montgomery and Delaware avenues, in the borough of West Pittston;
- (3) Tunkhannock Avenue (State Highway Route 514) partly in the borough of West Pittston and partly in the borough of Exeter;
- (4) Boston Road, Penn and Lincoln avenues and Grant and Schooly avenues (State Highway Route 40183) in the borough of Exeter;
- (5) Sixth, (State Highway Route 40156), Eighth (State Highway Application 2188), Hunts and

Swetland streets, in the borough of Wyoming; (6) Dennison (State Highway Route 40138), Owen, Hughes, Durkee (Neidland), Shoemaker and Slocum (State Highway Route 41052) streets, in the borough of Swoyersville; (7) West Bennett (State Highway Route 11) and Vernon (State Highway Route 40105) streets, partly in the borough of Luzerne and partly in the borough of Kingston; (8) Division Street, in the borough of Kingston; (9) Main Street (State Highway Route 40132 Spur E), partly in the borough of Kingston and partly in the borough of Edwardsville; and (10) Ferry, Center and Hanover streets and Flat Road, in the borough of Plymouth, all in Luzerne County, be altered by the removal of one main track all in accordance with the plans, Exhibits "A" and "B" attached to the application; which plans are made part hereof and are hereby approved except insofar as they relate to removal of track between mileposts 139.20 and 142.67; and (11) Moosic Road (State Highway Route 35064) and Main Street, in the borough of Old Forge, Lackawanna County, be altered by rehabilitating the tracks through the crossing and repaving the crossing area and replacing, relocating or rehabilitating crossing warning signs and/or protective devices as necessary.

2. That numbered Paragraph 4 of our order dated May 4, 1970 which reads as follows, to wit:

"4. That Erie Lackawanna Railway Company, at least seven days prior to the removal of its one main track from each of the 14 state highway crossings, notify Department of Highways of the actual date that the work will be started on each of the particular crossings."

be and is hereby modified to read as follows:

4. That Erie Lackawanna Railway Company, at least seven days prior to the commencement of work on any state highway crossing, notify Department of Transportation (formerly Department of Highways) of the actual date that the work will be started on the particular crossings.

3. That numbered Paragraph 5 of our order dated May 4, 1970 which reads as follows, to wit:

"5. That Erie Lackawanna Railway Company, at its sole cost and expense, furnish all material and do all work necessary to rehabilitate its remaining track within the limits of Everhart's (State Highway Route 35011) and Stevenson Street (State Highway Route 35055 Spur) in the borough of Duryea; Exeter Avenue (State Highway Route 232) in the borough of West Pittston; Tunkhannock Avenue (State Highway Route 514) partly in the borough of West Pittston and partly in the borough of Exeter; Schooly Avenue (State Highway Route 40183) in the borough of Exeter; Sixth Street (State Highway Route 40156) and Eighth Street (State Highway Application 2188) in the borough of Wyoming; Dennison Street (State Highway Route 40138) and Slocum Street (State Highway Route 40152) in the borough of Swoyersville; West Bennett Street (State Highway Route 11) and Vernon Street (State Highway Route 40105) partly in the borough of Kingston and partly in the borough of Luzerne; Main Street (State Highway Route 40132 Spur "E") partly in the Borough of Kingston and partly in the borough of Edwardsville, all in Luzerne County and Main Street (State Highway Route 40103 Spur "E") and Moosic Road (State Highway Route 35064) in the borough of Old Forge, in Lackawanna County, and repave the total crossing areas remaining with suitable bituminous material."

be and is hereby modified to read as follows:

5. That Erie Lackawanna Railway Company, at its sole cost and expense, furnish all material and do all work necessary to rehabilitate its remaining track or tracks within the limits of Everhart's (State Highway Route 35011) and Stevenson Street (State Highway Route 35055 Spur) in the borough of Duryea; Exeter Avenue (State Highway Route 232) in the borough of West Pittston; Tunkhannock Avenue (State Highway Route 514) partly in the borough of West Pittston and partly in the borough of Exeter; Schooly Avenue (State Highway Route 40183)

in the borough of Exeter; Sixth Street (State Highway Route 40156) and Eighth Street (State Highway Application 2188) in the borough of Wyoming; Dennison Street (State Highway Route 40138) and Slocum Street (State Highway Route 40152) in the borough of Swoyersville; West Bennett Street (State Highway Route 11) and Vernon Street, (State Highway Route 40105) partly in the borough of Kingston and partly in the borough of Luzerne; Main Street (State Highway Route 40132 Spur "E") partly in the borough of Kingston and partly in the borough of Edwardsville, all in Luzerne County and Main Street (State Highway Route 40103 Spur "E") and Moosic Road (State Highway Route 35064) in the borough of Old Forge, in Lackawanna County, and repave the total crossing areas remaining with suitable bituminous material.

4. That in all respects, not inconsistent herewith, our order dated May 4, 1970 in this proceeding remain in full force and effect.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Thomas B. ...
Chairman

ATTEST:

C. J. Mc ...
Acting Secretary

EXHIBIT
5-13-00
PUC STAFF
3
C-00992585

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

EEF

Public Meeting held February 24, 1994

Commissioners Present:

- David W. Rolka, Chairman
- Joseph Rhodes, Jr., Vice-Chairman
- John M. Quain
- Lisa Crutchfield
- John Hanger

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Borough of Duryea
Consolidated Rail Corporation

C-00902790

OPINION AND ORDER

BY THE COMMISSION:

DOCKETED
MAR 28 1994
DOCKETED
JUN 05 2000

This matter is before us upon a complaint filed on February 28, 1990, by the Borough of Duryea alleging that a deplorable condition exists at the crossing where tracks of Consolidated Rail Corporation cross, at grade, Foote Avenue in the Borough of Duryea, Luzerne County.

In its complaint, the Borough avers that the crossing has been a hazard since a train derailment in 1989. The crossing timbers are cracked and sections of wood are missing. Automobiles almost need to come to a stop to cross the tracks safely without damaging the underside of their vehicles.

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A field conference was held at the site of the crossing on April 11, 1990. Representatives of the Commission, Consolidated Rail Corporation, Duryea Borough, Pennsylvania Department of Transportation, "Times Leader", (local newspaper), and Senator Musto's district office were in attendance.

At the conference Consolidated Rail Corporation's representative stated that the crossing consists of 3 tracks and is equipped with flashing light railroad crossing warning signals

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and gates. The crossing surface is timber and asphalt. Consolidated Rail Corporation operates 6 to 8 trains a day at a speed of 25 miles an hour. Consolidated Rail Corporation agreed to replace the broken timbers at the crossing.

By letter dated June 28, 1991, Consolidated Rail Corporation advised the Commission that it proposed to correct deficiencies at the subject crossing. Part of the work included the removal of one of the three tracks. The work was to be completed by July 3, 1991.

An inspection of the crossing made on July 30, 1993 revealed that Consolidated Rail Corporation has, in fact, removed a track from the crossing and performed other improvements to the crossing.

The record having been certified to this Commission, we issue this order sustaining the complaint pursuant to Section 335(a) of the Public Utility Code (66 Pa. C.S. §335(a))

THEREFORE,

IT IS ORDERED:

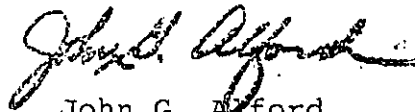
1. That the subject complaint be and is hereby sustained.
2. That the action taken by Consolidated Rail Corporation in improving the crossing where tracks of said Corporation cross, at grade, Foote Avenue (State Route 2032) in the Borough of Duryea, Luzerne County, including removal of one track, repair of crossing timbers at the remaining tracks, and relocation of flashing light railroad crossing warning signals, be and is hereby affirmed.

3. That Consolidated Rail Corporation furnish all material and do all work necessary thereafter to maintain its railroad facilities at the altered crossing and to maintain at all times in a smooth and satisfactory condition the crossing paving and timbers between the rail and for a distance of at least two feet beyond each rail for the full width of the street.

4. That Pennsylvania Department of Transportation furnish all material and do all work necessary thereafter to maintain its state highway approaches to the altered crossing including the area between the tracks for a distance to within two feet of the tracks.

5. That the record in this proceeding be marked closed.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: February 24, 1994

ORDER ENTERED: MAR 02 1994

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held December 1, 1994

Commissioners Present:

- David W. Rolka, Chairman
- Joseph Rhodes, Jr., Vice-Chairman
- John M. Quain
- Lisa Crutchfield
- John Hanger

Application of Consolidated Rail Corporation for the alteration of six crossings where Conrail's Lehigh Secondary Track crosses public high-ways between mile posts 176.18 and 178.49, in the Boroughs of Avoca and Duryea, Luzerne County.

A-00111309

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ORDER

BY THE COMMISSION: ET

At six locations in the Boroughs of Avoca and Duryea, Luzerne County, two tracks of Consolidated Rail Corporation's (Conrail) Lehigh Secondary Track cross public roadways at grade, above grade, and below grade.

In its application, filed March 29, 1994, Conrail seeks Commission approval to remove one track of these crossings. At each at-grade crossing, Conrail agrees, at its sole cost and expense, to remove the rails, ties and other appurtenances and to repair the highways in accordance with Department and local criteria. Conrail also agrees to relocate the flashers and gates to proper standards. At the grade separated crossings, Conrail agrees to remove the inactive track.

A list of crossings and their locations follows:

<u>No.</u>	<u>Highway Route</u>	<u>Crossing Type</u>	<u>Location</u>	<u>AAR No.</u>
1.	McAlpine St. (SR 2027)	At-Grade	Borough of Avoca	361 430 F
2.	McAlpine St. (siding) (SR 2027)	At-Grade	Borough of Avoca	361 431 M
3.	Mill St. (siding)	At-Grade	Borough of Avoca	361 433 B
4.	Cemetery St.	Highway Over	Borough of Duryea	361 434 H

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PUC STAFF EXHIBIT #4

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5.	Foote Ave. (SR 2032)	At-Grade	Borough of Duryea	361 435 P
6.	New St.	At-Grade	Borough of Duryea	361 436 W
7.	Phoenix St. (SR 2027)	At-Grade	Borough of Duryea	361 437 D
8.	Main St. (SR 2006)	Highway Under	Borough of Duryea	361 438 K
9.	State Route 2033	Highway Under	Borough of Duryea	361 439 S

A field investigation and conference, arranged by a Commission staff engineer and held at the site of the crossings on May 27, 1994, was attended by representatives from the following parties:

Consolidated Rail Corporation (applicant)
 Pennsylvania Department of Transportation
 Borough of Avoca
 Bell Atlantic

Although notified by letter dated May 3, 1994, there were no representatives of Borough of Duryea, Luzerne County, City of Pittston, Pittston Township, Pennsylvania Power and Light Company or Pennsylvania Department of Environmental Resources in attendance.

At the field conference, Conrail noted that the inactive track at Crossing No. 5, Foote Avenue, has already been removed under C-902790, and can be deleted from the application. It also became apparent, at the field conference, that only a single track exists at the siding track for Crossing Nos. 2 and 3, and since the track is active, Conrail requests that these two crossings also be deleted from its application. Regarding the remaining six crossings listed on Conrail's application, all parties agreed to the alteration of the crossings by removing the inactive track.

No non-carrier utilities will be attached by the alteration of the crossings.

A copy of the subject application has been served on the affected municipalities and utility companies. Inasmuch as there are no objections by any party of record to the alteration of the crossings, it appears that an order can be issued altering the crossings without the need of a formal hearing.

The record having been certified to this Commission, we issue this order approving the alterations pursuant to Section 335(a) of the Public Utility Code (66 Pa. C.S. §335(a)), and find that the alteration of the crossings is necessary and proper for the service, accommodation, convenience or safety of the public; **THEREFORE,**

IT IS ORDERED:

1. That the application be and is hereby approved.
2. That the caption at the subject proceeding be and is hereby revised as shown herein so as to revise the number of crossings to be altered.
3. That the crossings where the tracks of Consolidated Rail Corporation's Lehigh Secondary Track cross McAlpine Street (Crossing No. 1), in the Borough of Avoca and Cemetery Street, New Street, Phoenix Street, Main Street and State Route 2033 (Crossing Nos. 4, 6, 7, 8 and 9) in the Borough of Duryea, all in Luzerne County, be altered as herein ordered.
4. That Consolidated Rail Corporation, at its sole cost and expense, furnish all material and do all work necessary to alter the at-grade crossings at McAlpine Street (Crossing No. 1) in the Borough of Avoca, and New Street and Phoenix Street (Crossing Nos. 6 and 7) in the Borough of Duryea, all in Luzerne County, by removal of the rails, ties, and other railroad facilities of the inactive track and restore the area of the highway disturbed by the track removal with a suitable material conforming with the abutting highway pavement, in accordance with Pennsylvania Department of Transportation and local criteria.
5. That Consolidated Rail Corporation, at its sole cost and expense, furnish all material and do all work necessary to relocate its flashing warning signals and gates, at the at-grade crossings, to a proper location in accordance with Part VIII of the Manual on Uniform Traffic Control Devices.
6. That Consolidated Rail Corporation, at its sole cost and expense, remove the rails of the subject track above and below grade at the highways at Cemetery Street, Main Street, and State Route 2033, (Crossing Nos. 4, 8 and 9) in the Borough of Duryea.

7. That Consolidated Rail Corporation, at its sole cost and expense, furnish all material and do all work necessary to establish and maintain any detours or traffic controls at the subject crossings, that may be required to properly and safely accommodate highway and pedestrian traffic during the time the crossings are being altered.

8. That any relocation of, changes in or removal of any adjacent structures, equipment or the facilities of any public utility, other than Consolidated Rail Corporation, which may be required as incidental to the alteration of the crossings, be made by said public utility at its sole cost and expense, and in such a manner as will not interfere with the alteration of the crossings; and such relocated or altered facilities hereinafter be maintained by said public utility, at its sole cost and expense.

9. That Consolidated Rail Corporation notify all parties of record, at least ten (10) days prior to performing any work in accordance with this order.

10. That all parties involved herein cooperate fully with each other so that during the time the work is being performed, vehicular and pedestrian traffic will not be endangered or unnecessarily inconvenienced and so that the requirements of each of the parties will be provided for and accommodated insofar as possible.

11. That all work necessary to complete the alteration of the crossings be done in a manner satisfactory to this Commission on or before December 31, 1995 and that on or before said date Consolidated Rail Corporation report to this Commission the date of actual completion of the work.

12. That Consolidated Rail Corporation pay all compensation for damages, if any, due to owners of property taken, injured or destroyed by reason of the alteration of the crossings, in accordance with this order.

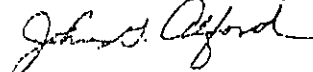
13. That upon completion of the alteration of the McAlpine Street Crossing and Phoenix Street Crossing (Crossing Nos. 1 and 7), Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the roadway to the site of the altered crossings, including the portion of highway formerly occupied by the railroad facility, all in accordance with this order.

14. That upon completion of the alteration of the New Street Crossing (Crossing No. 6), Borough of Duryea, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the roadway at the site of the altered crossing, including the portion of the highway formerly occupied by the railroad facility, all in accordance with this order.

15. That upon completion of the alteration, Consolidated Rail Corporation, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its remaining facilities at the crossings altered in accordance with this order.

16. That this order is without prejudice to the right of any party to recover part or all of any costs incurred by said party in compliance with the provisions of this order, in accordance with any lawful agreement between it and any other party.

BY THE COMMISSION,



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: December 1, 1994

ORDER ENTERED: DEC 13 1994

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held December 13, 1990

Commissioners Present:

William H. Smith, Chairman
Joseph Rhodes, Jr., Vice-Chairman
Frank Fischl
Wendell F. Holland, not participating
David W. Rolka

DOCUMENT
FOLDER
DOCKETED

A-001093AP 05 2000

Application of Pennsylvania Gas and Water Company for approval, nunc pro tunc, of the alteration of a crossing by the installation of a 12-inch water line under the track of Consolidated Rail Corporation where said track crosses York Avenue, (S.R. 2029), in Duryea Borough, Luzerne County, (AAR 265 876 A).

DOCKETED
JAN 09 1991

EEF

ORDER

BY THE COMMISSION:

By application filed with the Commission on May 11, 1990, Pennsylvania Gas and Water Company (PG&W), requests the Commission to approve the work that PG&W has already performed at the subject crossing. The project involved the installation of a twelve-inch water line under the track where York Avenue crosses, at-grade, the track of Consolidated Rail Corporation, in the Borough of Duryea, Luzerne County.

DOCUMENT
FOLDER

A field conference was arranged by a Commission staff engineer. All parties were notified of the conference and representatives of the following entities were in attendance:

Pennsylvania Gas and Water Company (applicant)

Although notified by letter dated June 7, 1990, there were no representatives of Pennsylvania Department of Transportation, Borough of Duryea, County of Luzerne or Consolidated Rail Corporation in attendance at the conference.

At the field conference, Pennsylvania Gas and Water Company described the work already performed at the crossing. A twelve-inch water line, encased in a 20-inch steel casing pipe was installed beneath the railroad track by boring. A minimum of five-feet, six-inch cover was provided. The water line was placed outside the roadway pavement, but within the highway right-of-way. PG&W agrees to bear all costs it incurred in furnishing

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REC'D
SECRETARY

EXHIBIT #5

EXHIBIT
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material and performing the work necessary to install the water main and agrees to bear all costs to maintain these facilities in the future. No non-carrier utility was affected by the alteration of the crossing.

This Commission establishes its jurisdictional limits at the crossing as the area within the confines of the railroad right-of-way and the highway right-of-way.

A copy of the application has been served on all parties herein involved, and none has advised that it desires to be heard, or has any objection to the alteration of the crossing. None of the parties present at the field conference objected to the issuance of an order pertaining to the alteration of the crossing.

Inasmuch as all the parties are in agreement with the alteration of the crossing, and since Pennsylvania Gas and Water Company agrees to bear all costs incurred by it in altering the crossing, it appears that an order can be issued approving the application without the need of a formal hearing.

We have carefully reviewed the record in this proceeding and, upon full consideration of the matters involved, we find and determine that the alteration of the crossing was necessary and proper for the service, accommodation, convenience or safety of the public.

The record having been certified to this Commission, we issue this order approving the alteration of the crossing pursuant to Section 335(a) of the Public Utility Code (66 Pa. C.S. 5335(a)); THEREFORE,

IT IS ORDERED:

1. That the application for the alteration of the crossing be and is hereby approved.
2. That the work at the crossing where York Avenue crosses, at grade, the track of Consolidated Rail Corporation, in the Borough of Duryea, Luzerne County, done in accordance with the application, be and is hereby approved.
3. That Pennsylvania Gas and Water Company bear all costs and expenses incurred by it in furnishing material and performing work necessary to alter the crossing by the installation of the twelve-inch water line under the track of the said railroad where it is crossed at grade by York Avenue.
4. That Pennsylvania Gas and Water Company, at its sole cost and expense, pay all compensation for damages, if any, due to owners of property taken, injured or destroyed by reason of the alteration of the crossing in accordance with this order.
5. That Pennsylvania Gas and Water Company, at its sole cost and expense, furnish all material and do all work necessary hereinafter to maintain the water line installed in accordance with this order.

6. That this proceeding be and is hereby marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Jerry Rich", written over a large, stylized, handwritten "X" or similar mark.

Jerry Rich
Secretary

(SEAL)

ORDER ADOPTED: December 13, 1990

ORDER ENTERED: DEC 19 1990