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PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Public Meeting held April 11, 1980

Commissioners Present:

Susan M. Shanaman, Chairman
Michael Johnson
James H. Cawley
Linda C. Tallaferra

Borough of Tamaqua

v.

Consolidated Rail Corporation, County
of Schuylkill and Pennsylvania Department
of Transportation

Docket No.
C-79020749
through
C-79020756

FINAL DECISION AND ORDER

BY THE COMMISSION:

We adopt as our action the Initial Decision of Administrative
Law Judge Banzhoff dated January 8, 1980, as herein modified. The excep-
tions of the Pennsylvania Department of Transportation and Consolidated
Rail Corporation are hereby granted to the extent consistent herein.

HISTORY OF THE PROCEEDINGS

By these complaints, all docketed on March 15, 1979, the
Borough of Tamaqua (hereafter Borough) alleges that Consolidated Rail
Corporation (Conrail) has failed to maintain the subject railroad
crossings in good repair, so that these crossings are a hazard and
inconvenience to the traveling public. The crossings involved, located
in the Borough of Tamaqua, are identified as follows:

- C-79020749 West Broad Street
- C-79020750 Rose Street
- C-79020751 Vine Street
- C-79020752 Elm Street
- C-79020753 East Broad Street
- C-79020754 Spruce Street
- C-79020755 Greenwood Street
- C-79020756 Center Street

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Also named as respondents in each complaint were the County of Schuylkill (County) and Pennsylvania Department of Transportation (PennDOT).

On April 13, 1979, PennDOT filed answers to the complaints, denying the allegations contained in them. Likewise, by its answers of April 25, 1979, Conrail denied that the subject crossings constitute a danger to the public.

Commission Staff held a field conference on June 1, 1979 to examine the crossings and discuss the issues. It was found that three of the crossings required immediate repair. Those crossings are:

C-79020749	West Broad Street
C-79020754	Spruce Street
C-79020756	Center Street

Accordingly, by emergency order of June 5, 1979, the Commission directed that Conrail, at its sole cost and expense, within one week of receipt of the order, repair those crossings to the extent that they would no longer constitute an undue threat to the public. These repairs were to be completed on or before July 31, 1979. On July 23, 1979, Conrail filed a Petition for Extension of Time for an additional 30 days to complete the work. The Borough filed Answer to the Petition, stating that it had no objection to granting the extension of time.

Hearing was held on September 18, 1979 in Pottsville, Pa., resulting in a transcript of 50 pages and 1 exhibit.

FINDINGS OF FACT

1. All of the subject crossings are located in the Borough of Tamaqua.
2. Conrail is the owner and operator of the railroad facilities located at each crossing. (N.T. 23)
3. The crossings are located along two branches of the Conrail system: the Little Schuylkill Branch, which has an average daily traffic volume of six trains traveling at a speed of 25 mph through the crossing; and the Greenwood Branch, which has an average traffic volume of two trains daily, five days a week traveling at 6 mph. (N.T. 23)
4. The highway approaches to all of the crossings are in good condition. (N.T. 15)

5. Under Sections 203 and 203(c) of the 1976 Federal Highway Act, federal funds are available to improve safety at railroad-highway crossings which a diagnostic team determines to be hazardous. The federal government provides 90% of the funds and the remaining 10% must be provided by either the state or local municipality, whichever party owns the highway involved at the crossing. (N.T. 37)

6. To be eligible for consideration for federal funding, a crossing must have an average daily traffic volume (ADT) of over 10,000 vehicles per day, of which at least 10% must be trucks. (N.T. 40)

The following findings pertain to a specific crossing and are presented under the heading for that crossing.

C-79020749 - West Broad Street

7. This crossing is at a point where West Broad Street, also designated as State Highway Route 209, crosses one track of the Little Schuylkill Branch of Conrail.

8. The protection at the crossing consists of gates and automatic flashing lights. (N.T. 9, 14, 16)

9. In compliance with the Commission order of June 5, 1979, which declared this crossing dangerous and ordered emergency repairs, Conrail has elevated the track to the grade of the roadway and placed blacktop adjacent to the track to provide a safe road surface. (N.T. 9)

10. As directed by Commission order of June 5, 1979, Conrail has altered this crossing by removing one track and resurfacing the remaining track. The bumpy condition causing the complaint has thus been eliminated. (N.T. 26, 34)

11. Presently this crossing is in good condition.

12. PennDOT considers this crossing to be eligible for federal funding for a "high-type crossing surface." Thus, PennDOT will submit it for placement on a State-wide supplemental program for high-type crossing surfaces for Federal approval. Since the highway involved is a state highway, PennDOT will provide the 10% matching funds. (N.T. 40)

C-79020750 - Rose Street

13. This crossing is located at a point where Rose Street, a borough street, crosses one track of Conrail's Little Schuylkill Branch. (N.T. 11, 23)

14. Rose Street is level to the east of the crossing and is descending to the west and forms an intersection of 90 degrees with the railroad tracks. There are flanged timbers along the track. The crossing has been paved to a width of 50 feet with a cartway of 30 feet. (N.T. 24)

15. This crossing is protected by flashing lights and gates. (N.T. 16, 17)

16. The ties in the crossing are beginning to deteriorate. Some of the spikes are protruding from one half to one inch and some of the rails in the pedestrian portion of the crossing are in poor condition with spikes sticking up and posing a hazard to pedestrian traffic. (N.T. 11)

17. This street receives a relatively low volume of traffic.

C-79020751 - Vine Street

18. This crossing is located at a point where Vine Street, a borough street, crosses one track of the Little Schuylkill Branch. (N.T. 23)

19. The street is level in the area of the crossing and forms a 90 degree intersection with the railroad track. There are flanged timbers along the track. The crossing is paved with bituminous paving material to a width of 57 feet, having a driving cartway of 36 feet. (N.T. 23, 24)

20. This crossing is protected by flashing lights and gates. (N.T. 16, 17)

21. The crossing has spikes protruding two or three inches and ties that are wearing. (N.T. 11)

C-79020752 - Elm Street

22. This complaint involves the crossing of Elm Street, a borough street, with one track of the Little Schuylkill Branch. This crossing has approximately the same physical lay-out as the crossing on Vine Street, except that it has a higher volume of traffic.

23. Spikes are protruding two to three inches and ties are wearing at this crossing also. (N.T. 11)

C-79020753 - East Broad Street

24. This crossing is located at a point where East Broad Street, a state highway, crosses one track of the Greenwood Branch. The street is level to the west of the railroad tracks and at an ascending grade to the east, and forms an intersection of 45 degrees with the tracks. Broad Street is 42 feet wide between the curbs with concrete sidewalks on each side. The roadway through the crossing is paved to a length of 120 feet. (N.T. 25).

25. This crossing involves a state highway and is protected by flashing lights. (N.T. 14 and 16)

26. PennDOT believes this crossing is not eligible for federal funding because it does not have a severe wearing condition requiring the use of very expensive high-type surfacing. The crossing has an average daily traffic of less than 10,000 vehicles and only 8% are trucks.

C-79020754 - Spruce Street

27. This complaint involves Spruce Street, a Borough street, which crosses one track of the Greenwood Branch and two tracks of the Little Schuylkill Branch of Conrail. (N.T. 23)

28. The roadway is generally level and forms a 90 degree intersection with the crossing. There are flanged timbers along all tracks, and the crossing is paved with bituminous paving material to a width of 36 feet, including a cartway of 24 feet. (N.T. 25, 26)

29. The crossing has recently been totally rehabilitated and is in good condition. (N.T. 26)

30. The crossing is protected by gates and flashing lights. (N.T. 16)

C-79020755 - Greenwood Street

31. The Greenwood Street crossing is comprised of a T-intersection formed by the intersection of Greenwood and Hazel Streets, with the railroad tracks crossing diagonally through this T-intersection. The crossing involves four tracks of the Greenwood Branch of Conrail, of which only one track is in service. (N.T. 23)

32. This crossing is basically level. Hazel Street is 42 feet wide between the curbs and is on an ascending grade eastward of the crossing and has sidewalks on each side. Greenwood Street is 36 feet wide between the curbs and has a sidewalk on the west side. Generally the street is level north of the crossing and on an ascending grade south of it. The entire crossing is paved with bituminous paving material. (N.T. 26)

33. The crossing is protected by flashing lights. (N.T. 16)

34. Both Greenwood and Hazel Streets are borough streets. (N.T. 10)

35. The paving at the crossing disintegrates in winter causing potholes. The Borough contends that the three tracks which are no longer in use should be removed. (N.T. 10)

36. The Borough contends that it should not be required to pay 10% of an estimated \$50,000 to rehabilitate the crossing because it has no money for such a project. The remaining 90% funds would be from federal funding. (N.T. 12)

37. The \$50,000.00 improvement proposed through federal funding includes the removal of three tracks and the reconstruction of the crossing. (N.T. 18)

38. The crossing is on the Federal Highway Safety List for total rehabilitation. (N.T. 27)

39. PennDOT contends that if the Borough does not agree to contribute the 10% matching funds, the crossing project would not be eligible for federal funding. The Borough's share could not be paid by PennDOT or Conrail, but by the local authorities which would include the county. (N.T. 45)

C-79020756 - Center Street

40. This complaint involves the crossing of Center Street with one track of the Greenwood Branch of Conrail. Center Street is a state highway, and is on an ascending grade from south to north as it crosses the railroad track. The track is on a curve to the west and forms an approximately 60 degree angle with the road. The crossing is paved with bituminous paving material to a width of 75 feet, including a cartway of 45 feet. (N.T. 15, 26)

41. The crossing is protected by flashing lights. (N.T. 16)

42. The road approaches are superelevated in the area adjacent to and between the rails and the paving is in deplorable condition. (N.T. 5)

43. Since the Commission order of June 5, 1979, this crossing has been patched as a temporary repair, and has been placed on the Federal Highway Safety Program for the installation of a rubber surface (high type surface) at the crossing. (N.T. 26, 27)

44. Although Conrail has made repairs, the crossing is presently in poor shape. The crossing is difficult to repair, and Conrail intends to continue to patch it as required until it has been rehabilitated under the federal program. (N.T. 28, 29)

45. The rehabilitation of this crossing has been approved for federal funding. PennDOT has informed Conrail of this with approval to proceed with preliminary engineering for the design of a high-type panel crossing surface, which will cost an estimated \$42,500.00. PennDOT will supply the 10% matching funds, since the crossing involves a state road. The design work is just about complete. (N.T. 33, 39)

Other Findings

46. The Borough manager and council are aware that federal money is available on borough roads only if the borough supplies the 10% matching funds. (N.T. 15)

47. Conrail will assume the cost for all work performed to date for altering the Spruce and Broad Street crossings and repairs to the remaining crossings. Conrail will agree to assume the maintenance of its tracks and paving of the crossing between the rail and 2 feet beyond each rail, along with the protective facilities at the crossing. (N.T. 27)

48. Schuylkill County has only general account and liquid fuels tax funds available for funding repairs. The liquid fuels tax is dispersed to the boroughs and townships in the county. The County itself maintains 66 bridges and 2 roads. The County has no funds available for rehabilitation of railroad crossings. (N.T. 49)

DISCUSSION

This Commission has exclusive jurisdiction over the construction, alteration, suspension or abolition of rail-highway crossings, and no alteration of a crossing can be made without an order from the Commission (Public Utility Code, 66 Pa.C.S. §2702). Therefore, these complaints are properly before the Commission. This Commission has exclusive power to allocate the cost of performing the work among the parties (Public Utility Code, 66 Pa.C.S. §2704(a)).

For purposes of discussion, these cases will be divided into groups of like cases.

C-79020749 - West Broad Street
C-79020754 - Spruce Street
C-79020756 - Center Street

These complaints on the respective crossings allege that those crossings are in a state of disrepair which presents a danger to the traveling public. These allegations are confirmed by the fact that, immediately following its field investigation on all of the crossings, the Commission issued an emergency order on June 5, 1979 noting that these three crossings were hazardous and in need of urgent repairs. This evidence is sufficient to establish the validity of the allegations, and therefore, we sustain these complaints.

The emergency order of June 5, 1979 directed that Conrail perform repairs to make those crossings safe. The records show that Conrail performed those repairs.

With respect to the crossing at Spruce Street, Conrail has removed three unused tracks and has completely rehabilitated the crossing. The crossing has been made safe to the satisfaction of the complainant, and we will order no further work.

The crossings at West Broad and Center Streets have been repaired and are now safe for public use, although the one at Center Street is difficult to maintain and presents a continuous problem. Conrail has attempted to maintain the crossing in safe condition, and intends to continue to do so. However, it appears that nothing further can be done to permanently improve this condition until the crossing is totally rehabilitated. PennDOT is in the process of obtaining federal funds for the rehabilitation of both these crossings. Therefore, we will order that Conrail continue to maintain the crossings in a safe condition until the rehabilitation is performed.

C-79020750 - Rose Street
C-79020751 - Vine Street
C-79020752 - Elm Street

Complainant alleges that each of these crossings is in a condition posing a hazard and inconvenience to the traveling public. However, testimony by its witness suggests that the major difficulty at each of these crossings is the problem of spikes protruding from 1/2 to 3 inches above their normal position. Complainant argues that this is particularly hazardous at the Rose Street crossing in the pedestrian area of the crossing.

While this condition could be quite bothersome and should be corrected by Conrail, we do not find it sufficient to render the crossing dangerous.

In the absence of further evidence establishing more significant deficiencies at this crossing, we accept the evaluation of Conrail's engineer who testified that each of the crossings is in basically sound condition. We will, therefore, dismiss these complaints, but will order Conrail to inspect each crossing and to secure any protruding spikes.

C-79020153 - East Broad Street

The complaint on this crossing alleges that the crossing is in hazardous condition. However, complainant's own witness has testified that repairs were made at this crossing several years ago and that the crossing is in good condition. Therefore, this complaint will be dismissed.

C-79020755 - Greenwood Street

This complaint alleges that the crossing is in unsafe condition. Complainant's witness testified that three of the four tracks at this crossing are not being used and that the ties are in very bad condition. These move up and down with traffic through the crossing. Conrail contends that the crossing is in fair condition. However, PennDOT has received federal approval for rehabilitation of the crossing with 90% federal funding. This means that a federal diagnostic team has determined that the crossing is hazardous (N.T. 37), which supports complainant's argument that the crossing is unsafe. Thus, we are convinced by the evidence that the crossing is dangerous and should be rehabilitated. Therefore, we will sustain the complaint.

PennDOT indicates that the crossing has received federal approval for rehabilitation by the removal of the unused tracks and repairing the remaining facilities, at an estimated cost of \$50,000.00. That approval, however, requires that the Borough provide the 10% matching funds. The Borough is unwilling to provide those funds, arguing that it has no money available for such expenditures, and that it should not be required to repair a crossing which belongs to another party, namely Conrail. PennDOT has testified that it would be illegal for Conrail or PennDOT to provide the matching share, although it would be legal for the Borough to enter into an outside agreement with Conrail to reimburse the Borough for all or part of the matching funds. If the Borough does not give PennDOT a written commitment to provide the matching funds, the 90% federal funding will be lost.

It is certainly in the interest of public safety to remove the three unused tracks from the crossing so as to reduce the crossing to the smallest possible area and keep the danger inherent in any at-grade crossing to a minimum. We will order Conrail to perform this work at its initial cost.

As for the rehabilitation of the remaining live track at the crossing, we believe the railroad should perform this work at its sole cost.

Since federal funds could be used to improve the Greenwood Street crossing, the cost to any party will be greatly reduced. However, in line with our discussion above, we are of the opinion that the remaining 10% of the cost should be borne by the Borough so as not to jeopardize federal funding. Conrail will be responsible for preparation of engineering plans and construction of the improvement at its initial cost. Without prejudice to the parties' rights to obtain federal funding, we will order PennDOT to reimburse Conrail for 90% of the cost, and the Borough of Tamaqua to reimburse Conrail for the remaining 10% of the total cost.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction of the subject matter and of the parties involved.
2. The Commission has the authority to assess costs upon the concerned public utilities, municipal corporations, or the Commonwealth of Pennsylvania, as it shall determine.
3. The Commission has the authority to order the construction, reconstruction, alteration, repair or protection of the railroad crossings involved in the complaints.
4. The Commission has the authority as it may deem necessary to protect the public interest, safety, convenience and accommodation.

ORDER

1. That the complaints at Docket Nos. C-79020750, C-79020751, C-79020752 and C-79020753 are dismissed subject, however, to compliance with the provisions of ordering paragraph No. 7.
2. That the complaints at Docket Nos. C-79020749, C-79020754, C-79020755 and C-79020756 are sustained.

3. That Consolidated Rail Corporation, at its initial cost and expense, within six (6) months of the date of service of this order, prepare and submit to all parties of record, and to this Commission for review and approval, detailed plans, together with estimates of costs, for the repair of the crossing at grade, at West Broad Street and Center Street, both in the Borough of Tamaqua, said plans for repair to be limited to the installation of a high-type rubber crossing surface on the West Broad Street Crossing as well as the repositioning of the automatic protection located on the east side of the West Broad Street Crossing, and limited to the installation of a high-type rubber crossing surface at the Center Street Crossing.

4. That Consolidated Rail Corporation, at its initial cost and expense, within six (6) months of the date of service of this order, prepare and submit to all parties of record and to this Commission for review and approval, detailed plans, together with estimates of cost for the repair of the crossing, at grade, at Greenwood Street in the Borough of Tamaqua, said plans to be for repairs limited to the removal of the three unused tracks, the replacing of the areas left after the removal of the track, the repositioning of the existing automatic flashing lights to a distance which is a minimum 12 feet from the center line of the remaining single live track, as well as the removal of the automatic flashing light at the former side road entrance to the crossing.

5. That Consolidated Rail Corporation, at its initial cost and expense, do all work and provide all materials for the rehabilitation of the crossings at West Broad Street and Center Street in accordance with the approved plans prepared in accordance with Paragraph 3 of this order, and do all work and provide all materials for the removal of the three unused tracks at Greenwood Street, the repavement of the area in question, the repositioning of the existing automatic flashing lights to a minimum of twelve feet from the center line of the remaining single track and the removal of the automatic flashing light on the former side road entrance to the crossing, in accordance with the approved plans prepared in accordance with Paragraph 4 of this order.

6. That Consolidated Rail Corporation, at its sole cost and expense, furnish all material and do all work necessary to rehabilitate as necessary the single remaining live track at the Greenwood Street crossing.

7. That Consolidated Rail Corporation, at its sole cost and expense, within 60 days of the date of service of this order, and in cooperation with the Borough of Tamaqua, provide all material and perform all work to insure that all spikes are secure and not protruding in the crossings at Rose, Elm and Vine Streets.

8. That Consolidated Rail Corporation, at its initial cost and expense, furnish and maintain flagmen and watchmen necessary to protect its operations during the time the improvements are being constructed, across, along and adjacent to its tracks.

3. That Consolidated Rail Corporation, at its initial cost and expense, within six (6) months of the date of service of this order, prepare and submit to all parties of record, and to this Commission for review and approval, detailed plans, together with estimates of costs, for the repair of the crossing at grade, at West Broad Street and Center Street, both in the Borough of Tamaqua, said plans for repair to be limited to the installation of a high-type rubber crossing surface on the West Broad Street Crossing as well as the repositioning of the automatic protection located on the east side of the West Broad Street Crossing, and limited to the installation of a high-type rubber crossing surface at the Center Street Crossing.

4. That Consolidated Rail Corporation, at its initial cost and expense, within six (6) months of the date of service of this order, prepare and submit to all parties of record and to this Commission for review and approval, detailed plans, together with estimates of cost for the repair of the crossing, at grade, at Greenwood Street in the Borough of Tamaqua, said plans to be for repairs limited to the removal of the three unused tracks, the replacing of the areas left after the removal of the track, the repositioning of the existing automatic flashing lights to a distance which is a minimum 12 feet from the center line of the remaining single live track, as well as the removal of the automatic flashing light at the former side road entrance to the crossing.

5. That Consolidated Rail Corporation, at its initial cost and expense, do all work and provide all materials for the rehabilitation of the crossings at West Broad Street and Center Street in accordance with the approved plans prepared in accordance with Paragraph 3 of this order, and do all work and provide all materials for the removal of the three unused tracks at Greenwood Street, the repavement of the area in question, the repositioning of the existing automatic flashing lights to a minimum of twelve feet from the center line of the remaining single track and the removal of the automatic flashing light on the former side road entrance to the crossing, in accordance with the approved plans prepared in accordance with Paragraph 4 of this order.

6. That Consolidated Rail Corporation, at its sole cost and expense, furnish all material and do all work necessary to rehabilitate as necessary the single remaining live track at the Greenwood Street crossing.

7. That Consolidated Rail Corporation, at its sole cost and expense, within 60 days of the date of service of this order, and in cooperation with the Borough of Tamaqua, provide all material and perform all work to insure that all spikes are secure and not protruding in the crossings at Rose, Elm and Vine Streets.

8. That Consolidated Rail Corporation, at its initial cost and expense, furnish and maintain flagmen and watchmen necessary to protect its operations during the time the improvements are being constructed, across, along and adjacent to its tracks.

9. That Consolidated Rail Corporation, at its initial cost and expense, furnish engineering and construction inspection services, as necessary, to observe the progress and work during the time that the crossings are being constructed in accordance with this order.

10. That any relocation of, changes in, or removal of any existing structures, equipment or facilities of any public utility other than Consolidated Rail Corporation, located within the limits of any highway under this Commission's jurisdiction which may be required as incidental to the execution of the improvements, be made by said public utility and in such a manner as will not interfere with construction of the improvement.

11. That any relocation of, changes in or removal of any adjacent structure, equipment or facilities of any public utility other than Consolidated Rail Corporation located beyond the limits of any highway under this Commission's jurisdiction which may be required as incidental to the execution of the improvements, be made by the said utility and in such a manner as will not interfere with construction of the improvements.

12. That Consolidated Rail Corporation, at least ten (10) days prior to the start of work, notify the Borough of Tamaqua and Pennsylvania Department of Transportation of the actual date the work will be started on these projects.

13. That Pennsylvania Department of Transportation, at its initial cost and expense, furnish all materials and do all work necessary to establish, mark and maintain any detour which may be required to properly accommodate highway traffic during the time of the improvements are being constructed at West Broad Street and Center Street crossings.

14. That the Borough of Tamaqua, at its initial cost and expense, furnish all materials and do all work necessary to establish, mark and maintain any detour which may be required to properly accommodate highway traffic during the time the improvement is being constructed at the Greenwood Street crossing.

15. That Consolidated Rail Corporation, Pennsylvania Department of Transportation and Borough of Tamaqua cooperate with each other during the construction of the repairs ordered at the crossing so that the operations of facilities of any of these parties will not be endangered or unnecessarily impeded.

16. That the improvements to the West Broad Street, Center Street and Greenwood Street be completed in a manner satisfactory to this Commission on or before December 31, 1981, and that on or before that date; Consolidated Rail Corporation, Pennsylvania Department of Transportation and Borough of Tamaqua each report to this Commission the actual date of completion of work at the earliest practical time subsequent

to said date of completion; and that each party submit to this Commission a detailed statement of the actual costs incurred in furnishing material and performing work in accordance with this order.

17. That Consolidated Rail Corporation, beginning one month following the date of service of this order and at two month intervals thereafter, submit to this Commission on a form of the type attached to this order a report of the progress of work it performed in accordance with this order.

18. That Pennsylvania Department of Transportation, when and as certified by this Commission, pay to Consolidated Rail Corporation a sum or sums of money equal to 100% of the actual cost of materials furnished, work performed and services rendered by Consolidated Rail Corporation in accordance with the numbered paragraphs 3, 5, 8 and 9 of this order as they relate to the rehabilitation of the West Broad and Center Street crossing; the salvage value of materials recovered or temporarily used to be deducted from the actual cost of that portion of the work performed and the material furnished at the expense of Pennsylvania Department of Transportation.

19. That the Pennsylvania Department of Transportation, when and as certified by this Commission, pay to Consolidated Rail Corporation a sum or sums of money equal to 90% of the actual cost of materials furnished, work performed and services rendered by Consolidated Rail Corporation in accordance with paragraphs 4, 5, 8 and 9 of the order as they pertain to the alteration of the crossing at Greenwood Street; the salvage value of materials recovered or temporarily used to be deducted from the actual cost of that portion of the work performed and the material furnished at the expense of Pennsylvania Department of Transportation.

20. That the Borough of Tamaqua, when and as certified by this Commission, pay to Consolidated Rail Corporation, 10% of the actual cost of material furnished, work performed and services rendered by Consolidated Rail Corporation in accordance with paragraphs 4, 5, 8 and 9 of this order, as they pertain to the alteration of the crossing at Greenwood Street; the salvage value of materials recovered or temporarily used to be deducted from the actual cost of that portion of the work performed and the material furnished at the expense of the Borough of Tamaqua.

21. That Pennsylvania Department of Transportation bear 10% of the actual cost of material furnished, work performed and services rendered in accordance with Paragraph 13 of this order.

22. That Pennsylvania Department of Transportation, when and as certified by this Commission, pay to the Borough of Tamaqua 90% of the actual cost of material furnished, work performed and services rendered by Borough of Tamaqua in accordance with Paragraph 14 of this order.

23. That upon completion of the improvement and its opening to public use, Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the highway approaches to the crossings at West Broad Street, East Broad Street and Center Street to within two feet of the outermost rails at each crossing.

24. That upon completion of the improvement and its opening to public use, the Borough of Tamaqua, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the highway approaches to the crossings at Rose, Elm, Vine, Spruce and Greenwood Streets to within two feet of the outermost rails at each crossing.

25. That Consolidated Rail Corporation, at its sole cost and expense, do all work and provide all materials to maintain the crossings at West Broad, Rose, Vine, Elm, East Broad, Spruce, Greenwood and Center Streets, including the paved portion of the crossing to a distance of two feet beyond the outermost tracks.

26. That this order, insofar as it imposes the cost of the improvements on Pennsylvania Department of Transportation, Consolidated Rail Corporation, and the Borough of Tamaqua, is without prejudice to those parties' rights to recover from others the costs so incurred in accordance with any lawful agreement between or among said parties. The Commission's order as above set forth is also without prejudice to the parties' rights to proceed with and ultimately obtain available federal funding for any portion of the within project.

BY THE COMMISSION,



William P. Thierfelder
Secretary

(SEAL)

ORDER ADOPTED: April 11, 1980

ORDER ENTERED: MAY 2 1980

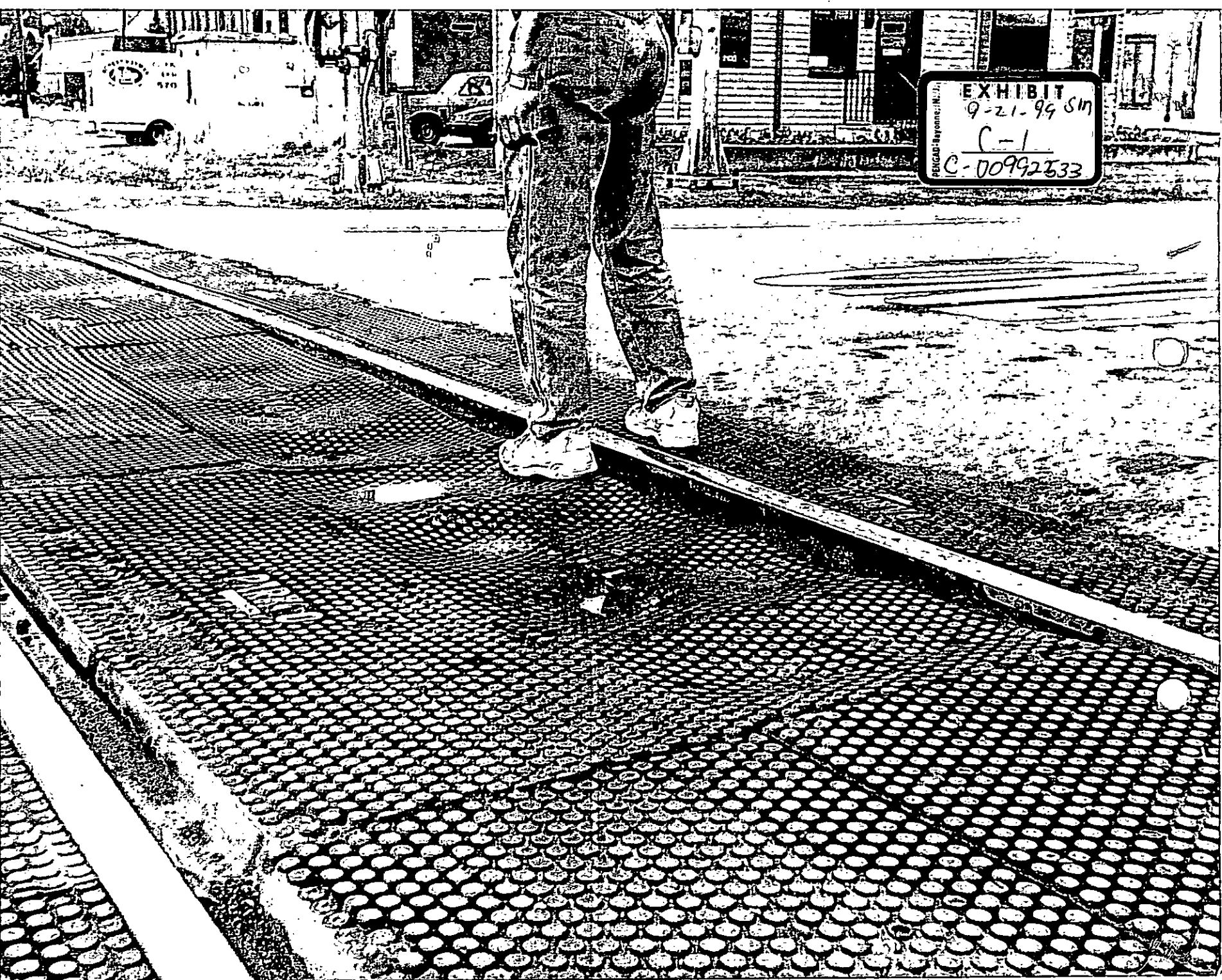
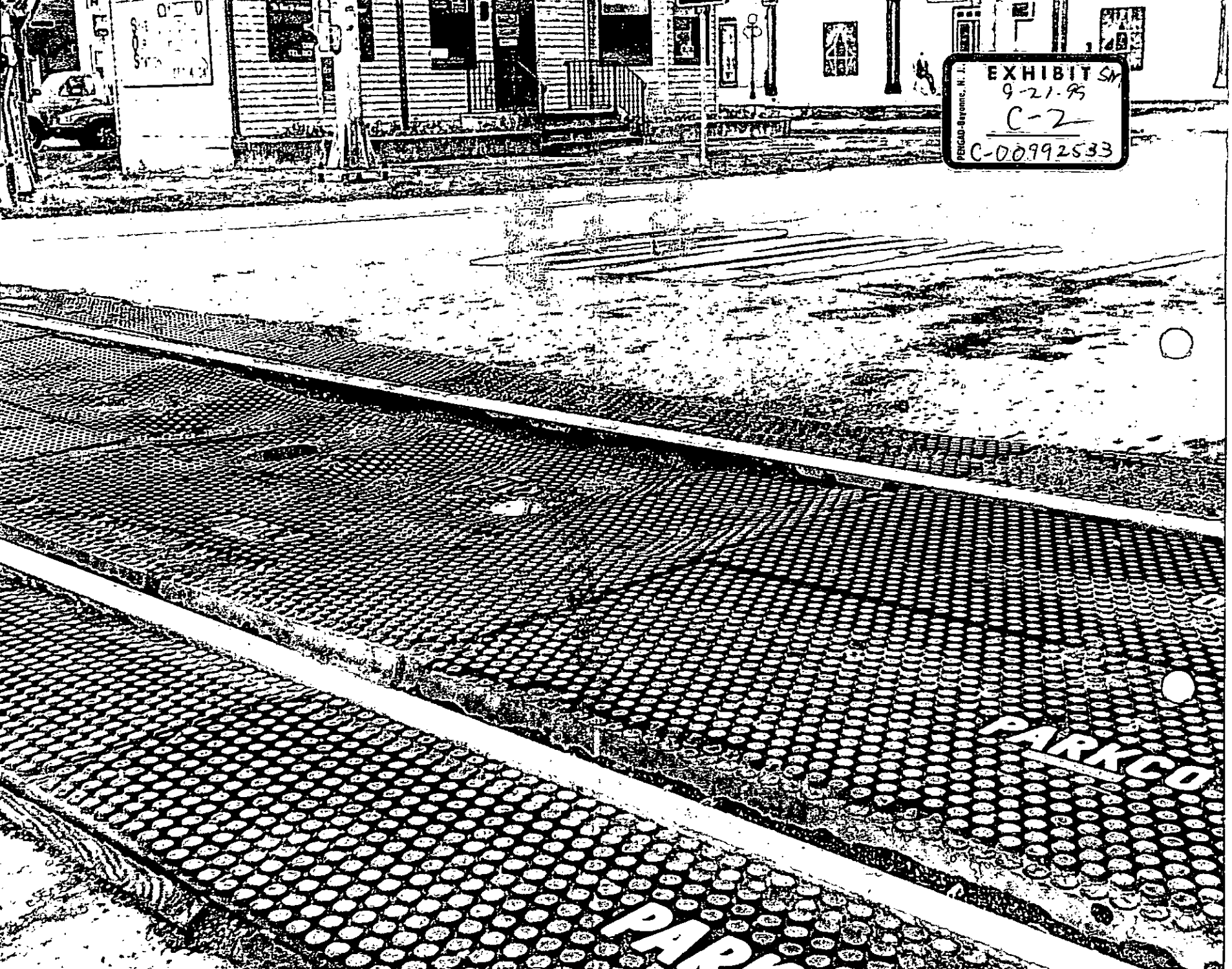


EXHIBIT
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PERCAD-Bygonne, N. J.
EXHIBIT SM
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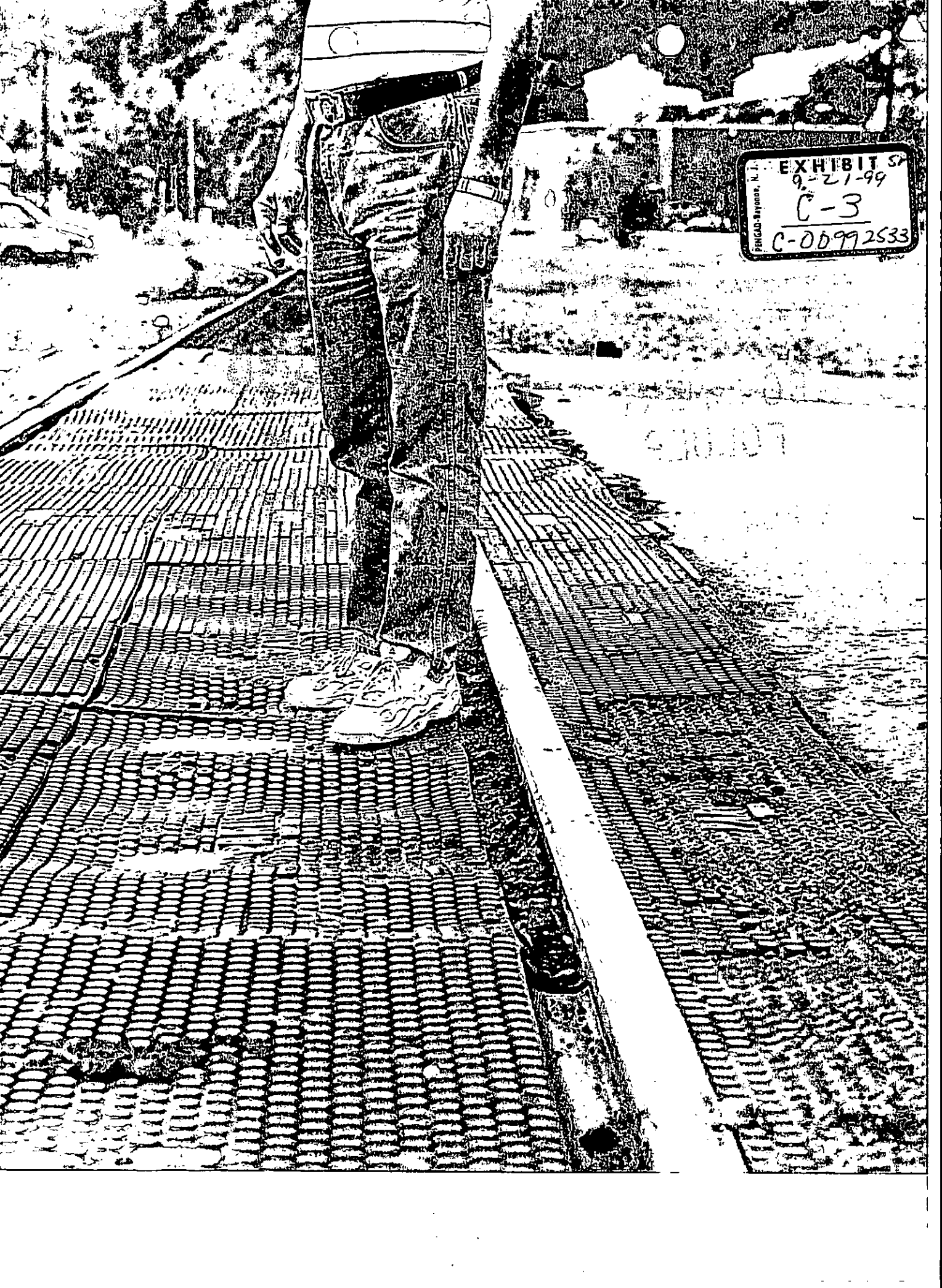


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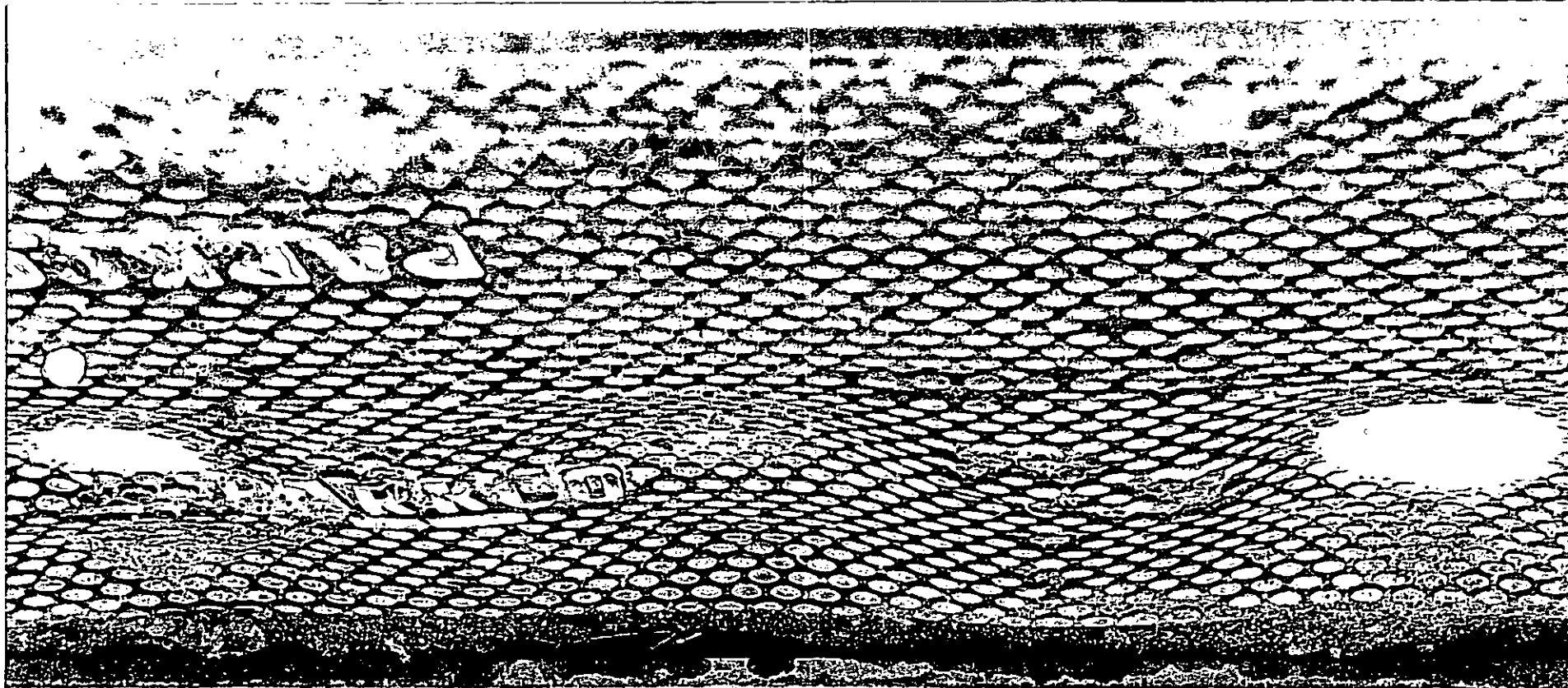


EXHIBIT
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FBI/DOJ - Bayonne, N.J.

EXHIBIT
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ARKCO



A. Naming of Streets

Section 1. Certain Streets and Alleys Named.

1. All that certain street beginning at the western boundary line of the Borough of Tamaqua, and extending east to the Philadelphia and Reading Railway tracks, shall be known as West Broad Street.

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2. All that certain street lying east of the said railroad tracks, and extending to the eastern boundary line of the Borough, shall be known as East Broad Street.

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Broad Street shall be the division line between the northern and the southern sections of the Borough, and the Philadelphia and Reading Railway tracks shall be the division line between the eastern and the western section of the Borough.

3. All that certain street lying south of West Broad Street, beginning at the western boundary line of the Borough, and extending east to the Philadelphia and Reading Railway tracks, shall be known as West Cottage Avenue.

4. All that certain street lying south of West Cottage Avenue, beginning at the western boundary line of the Borough, and extending east to Cherry Street shall be known as Mahanoy Street.

5. All that certain street lying south of Mahanoy Street, beginning at the western boundary line of the Borough, and extending east to South Nescopeck Street, shall be known as High Street.

6. All that certain street lying south of High Street, beginning at the western boundary line of the Borough, and extending east to Bow Street, shall be known as Van Gelder Street.

7. All that certain street lying south of Van Gelder Street, beginning at the western boundary line of the Borough, and extending east to the Philadelphia and Reading Railway tracks, shall be known as West Spruce Street.

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OCT 07 1999

EXHIBIT
9-21-98
C-6
C-00992533

8. All that certain street lying south of East Broad Street, and extending from the Philadelphia and Reading Railway tracks to Centre Street, shall be known as East Spruce Street.

9. All that certain street lying south of West Spruce Street, beginning at the western boundary line of the Borough, and extending east to Bow Street, shall be known as Race Street.

10. All that certain street lying south of Race Street, beginning at the western boundary line of the Borough, and extending east to Hunter Street, shall be known as Penn Street.

11. All that certain street lying south of Penn Street, beginning at the western boundary line of the Borough, and extending east to Bow Street, shall be known as South Street.

12. All that certain street lying south of South Street, beginning at the western boundary line of the Borough, and extending east to the Philadelphia and Reading tracks, shall be known as Orwigsburg Street.

13. All that certain alley lying south of Orwigsburg Street, beginning at the western boundary line of the Borough, and extending east to the Philadelphia and Reading Railway tracks, shall be known as Ridge Alley.

14. All that certain street lying north of West Broad Street, beginning at the western boundary line of the Borough, and extending east to the Philadelphia and Reading Railway tracks, shall be known as Rowe Street.

15. All that certain street lying north of Rowe Street, beginning at the western boundary line of the Borough, and extending east to Washington Street, shall be known as Lafayette Street.

16. All that certain street lying north of Lafayette Street, beginning at Pitt Street, and extending east to Washington Street shall be known as Franklin Street.

17. All that certain street lying north of Franklin Street, beginning at Pitt Street, and extending east to Washington Street, shall be known as Clay Street.

18. All that certain street lying north of Clay Street, beginning at Pitt Street, and extending east to the Philadelphia and Reading Railway tracks, shall be known as West Union Street.

19. All that certain street lying north of West Union Street, beginning at Pitt Street, and extending east to North Nescopeck Street, shall be known as Brown Street.

20. All that certain street lying north of Brown Street, beginning at the western boundary line of the Borough, and extending east to Washington Street, shall be known as Jerome Street.

21. All that certain street lying north of Jerome Street, beginning at the western boundary line of the Borough, and extending east to the Philadelphia and Reading Railway tracks, shall be known as Elm Street.

22. All that certain street lying north of West Elm Street, beginning at West Street, and extending east to the Philadelphia and Reading Railway tracks, shall be known as West Vine Street.

23. All that certain street extending along the western boundary line of the Borough, from the north to the south line, shall be known as West Street.

24. All that certain street lying north of West Vine Street, beginning at West Street, and extending east to the Philadelphia and Reading Railway tracks, shall be known as West Rose Street.

25. All that certain street extending along the western boundary line of the Borough, from the north to the south line, shall be known as Catawissa Street.

26. All that certain street lying east of Catawissa Street, beginning at the northern boundary line of the Borough, and extending south to West Cottage Avenue, shall be known as Lehigh Street.

27. All that certain street lying west of Catawissa Street, beginning at West Cottage Avenue, and extending south to Ridge Alley, shall be known as Coal Street.

28. All that certain street lying west of Lehigh Street, beginning at Rowe Street, and extending north to Jerome Street, shall be known as Lombard Street.

29. All that certain street lying east of Lehigh Street, beginning at the southern boundary line of the Borough, and extending north to Van Gelder Street, shall be known as Oak Street.

30. All that certain street lying east of Oak Street, beginning at the southern boundary line of the Borough, and extending north to Van Gelder Street, shall be known as Green Street.

31. All that certain street lying east of Green Street, beginning at Orwigsburg Street, and extending north to West Cottage Avenue, shall be known as Bow Street.

32. All that certain street lying east of Bow Street, beginning at the southern boundary line of the Borough, and extending north to West Broad Street, shall be known as Hunter Street.

33. All that certain street lying east of Hunter Street, beginning at Orwigsburg Street, and extending north to Mahanoy Street, shall be known as Cherry Street.

34. All that certain alley lying east of Lehigh Street, beginning at Lafayette Street, and extending north to Jerome Street, shall be known as Hamilton Alley.

35. All that certain street lying east of Hamilton Alley, beginning at Lafayette Street and extending north to West Elm Street, shall be known as Gay Street.

36. All that certain street lying east of Lehigh Street, beginning at Van Gelder Street, and extending north to West Broad Street, shall be known as South Swatara Street.

37. All that certain street lying east of Lehigh Street, beginning at West Broad Street, and extending north to Jerome Street, shall be known as North Swatara Street.

38. All that certain street lying east of Gay Street, beginning at Lafayette Street, and extending north to West Elm Street, shall be known as Pitt Street.

39. All that certain street lying east of South Swatara Street, beginning at West Spruce Street, and extending north to West Broad Street, shall be known as South Nescopeck Street.

40. All that certain street lying east of North Swatara Street, beginning at West Broad Street, and extending north to the northern boundary line of the Borough, shall be known as North Nescopeck Street.

41. All that alley lying east of South Nescopeck Street, beginning at Lafayette Street, and extending north to West Union Street, shall be known as Rock Alley.

42. All that certain street lying east of Rock Alley, beginning at Lafayette Street, and extending north to the northern boundary line of the Borough, shall be known as Washington Street.

43. All that certain street lying east of Lehigh Street, beginning at Jerome Street, and extending north to Rose Street, shall be known as West Street.

44. All that certain street lying east of West Street, beginning at West Union Street, and extending north to the northern boundary line of the Borough, shall be known as Lincoln Street.

45. All that certain street lying partly in the west and partly on the east side of, and along the Philadelphia and Reading Railway tracks, from the southern to the northern boundary lines of the Borough, shall be known as Railroad Street.

46. All that certain street lying east of the Philadelphia and Reading Railway tracks, beginning at the southern boundary line of the Borough, and extending to the north to East Broad Street, shall be known as Centre Street.

47. All that certain street lying west of the Little Schuylkill River, beginning at East Cottage Avenue, and extending north to the northern boundary line of the Borough, shall be known as Pine Street.

48. All that certain street lying east of Railroad Street, beginning at Biddle Street, and extending north to the northern boundary line of the Borough, shall be known as Rolling Mill Avenue.

49. All that certain street lying east of Railroad Street, beginning at East Broad Street, and extending northwardly to Pine Street, shall be known as Mauch Chunk Street.

50. All that certain street lying north of East Mauch Chunk Street, beginning at Railroad Street, and extending east to the eastern boundary line of the Borough, shall be known as Biddle Street.

51. All that certain street lying north of East Broad Street, beginning at Pine Street and extending east to the eastern boundary line of the Borough, shall be known as East Mauch Chunk Street.

52. All that certain street lying along the eastern bank of the Little Schuylkill River, beginning at East Mauch Chunk Street, and extending north to the northern boundary line of the Borough, shall be known as Schuylkill Avenue.

53. All that certain street lying east of Schuylkill Avenue, beginning at the southern boundary line of the Borough, and extending north to East Broad Street, shall be known as South Greenwood Street.

54. All that certain street lying east of Schuylkill Avenue, beginning at East Broad Street, and extending north to the northern boundary line of the Borough, shall be known as North Greenwood Street.

55. All that certain street lying east of North Greenwood Street, beginning at East Broad Street, and extending north to the northern boundary line of the Borough, shall be known as Market Street.

56. All that certain street lying east of Market Street, beginning at the southern boundary line of the Borough, and extending north to East Broad Street, shall be known as South Patterson Street.

57. All that certain street lying east of Market Street, and extending north to Willing Street, shall be known as North Patterson Street.

58. All that certain street lying east of Patterson Street, beginning at the southern boundary line of the Borough, and extending north to East Broad Street, shall be known as South Elizabeth Street.

59. All that certain street lying east of North Patterson Street, beginning at Biddle Street, and extending to the northern boundary line of the Borough, shall be known as North Elizabeth Street.

60. All that certain street lying east of South Elizabeth Street, beginning at the southern boundary line of the Borough, and extending north to East Broad Street, shall be known as South Columbia Street.

61. All that certain street lying east of North Elizabeth Street, beginning at Biddle Street, and extending north to the northern boundary line of the Borough, shall be known as North Columbia Street.

62. All that certain street lying east of South Columbia Street, beginning at the southern boundary line of the Borough, and extending north to East Broad Street, shall be known as South Federal Street.

63. All that certain street lying north of Biddle Street, beginning at Schuylkill Avenue, and extending east to the eastern boundary line of the Borough, shall be known as Willing Street.

64. All that certain street lying south of Willing Street, and beginning at North Patterson Street, and extending east to the eastern boundary line of the Borough, shall be known as Church Street.

65. All that certain street lying north of Willing Street, beginning at Market Street, and extending east to the eastern boundary line of the Borough, shall be known as Maple Street.

66. All that certain street lying north of Willing Street, beginning at Railroad Street, and extending east to the boundary line of the Borough, shall be known as East Union Street.

67. All that certain street lying north of East Union Street, beginning at Market Street, and extending east to the eastern boundary line of the Borough, shall be known as Birch Street.

68. All that certain street lying north of Birch Street, beginning at Railroad Street, north of Union Street, and extending east to the eastern boundary line of the Borough, shall be known as East Elm Street.

69. All that certain street lying north of East Elm Street, beginning at Railroad Street, and extending east to the eastern boundary line of the Borough, shall be known as East Vine Street.

70. All that certain street lying north of East Vine Street, beginning at Railroad Street, and extending east to the eastern boundary line of the Borough, shall be known as East Broad Street.

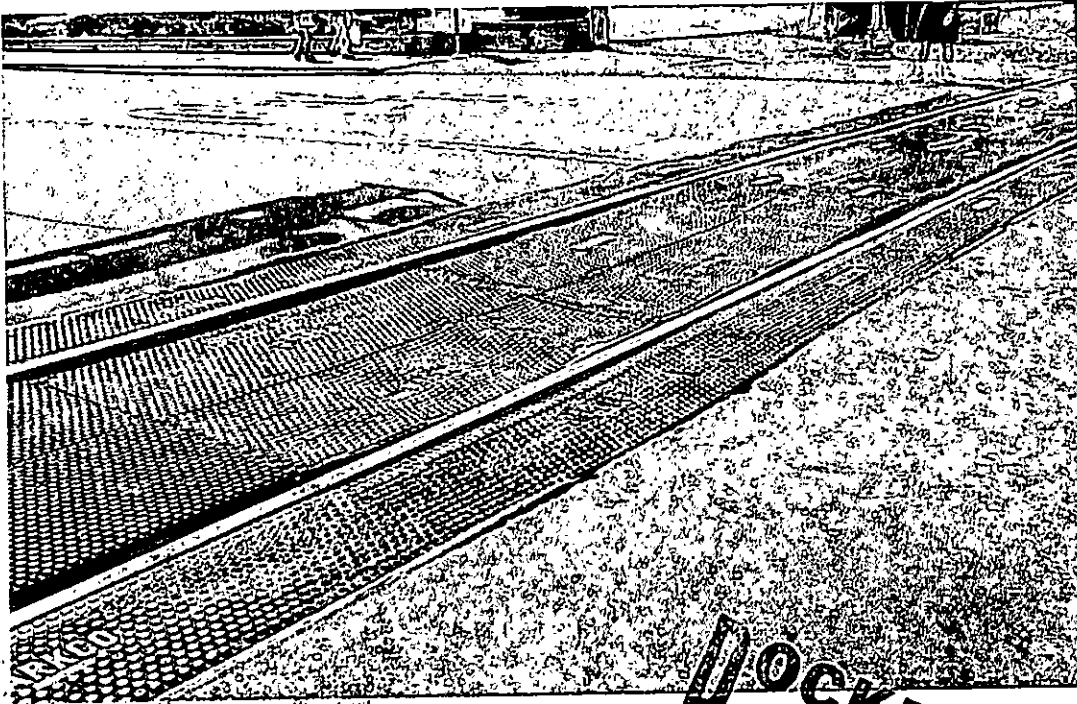
71. All that certain street lying south of East Broad Street, beginning at Centre Street, and extending east to the eastern boundary line of the Borough, shall be known as Hazle Street.

72. All that certain street lying south of East Broad Street, beginning at Centre Street, and extending east to South Greenwood Street, shall be known as Cedar Street.

73. All that certain street lying east of North Nescopeck Street, beginning at West Broad Street, and extending north to Rowe Street, shall be known as Berwick Street.¹

(Ordinance 56, November 30, 1907, Section 1)

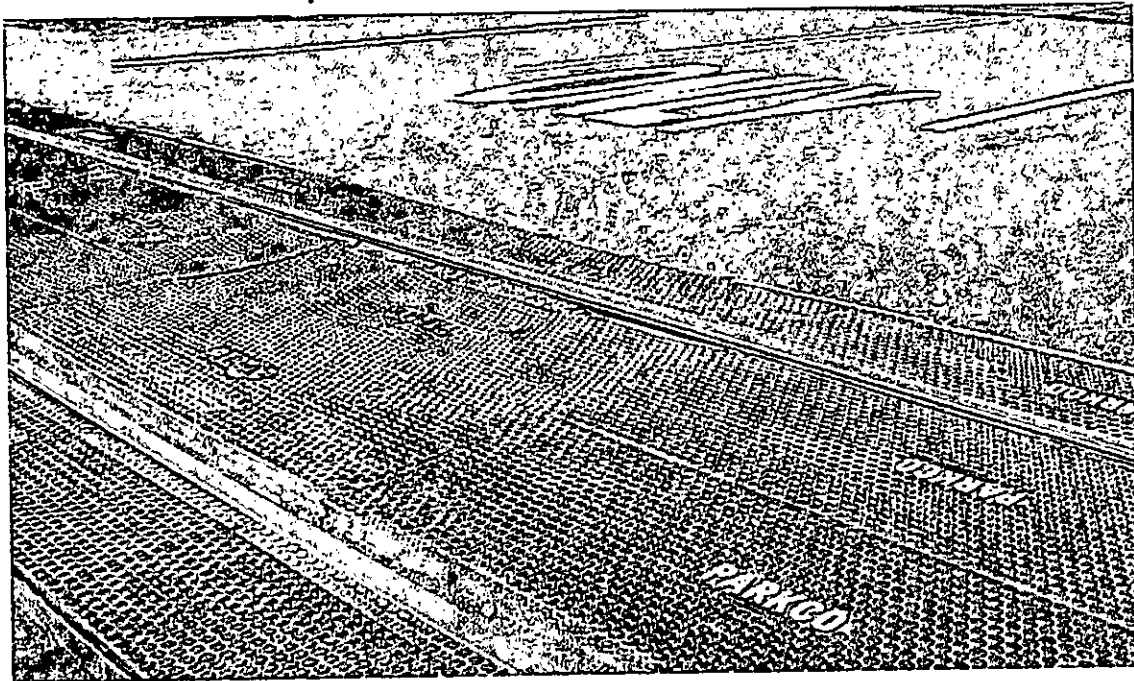
1. Sections 2 to 8 of this ordinance were repealed by Section 2 of Ordinance 304(1).



Picture #1 – Deteriorated Rubber Crossing Panels

DOCUMENT
FOLDER

DOCKETED
OCT 12 1999



Picture #2 – Differing Elevations Between Rail, Rubber Panel, and Approach

Department Exhibit #1

EXHIBIT sm
9-21-99
D-1
C-00992533
PRIGAD-Bayonne, N. J.

REQUESTS FOR MANUAL OR PORTABLE TRAFFIC COUNTS

Person Requesting Count K. McClain
 Date Requested 8/6/99
 COUNTY SCHUYLKILL
 MUNICIPALITY TAMAGUA
 L.R., S.R. & STREET NAME SR 0209
 L.R., S.R. & STREET NAME SEG. 890/314

DATE SCHEDULED

1. _____
 2. _____
 (Thurs.) (Hrs.)
8-12-99 / _____ to _____
 (Fri.) (Hrs.)
8-13-99 / _____ to _____

INSTRUCTIONS:

HOURS TO BE COUNTED: 6 - 6

SEPARATE CARS & TRUCKS: YES NO
 OTHER:

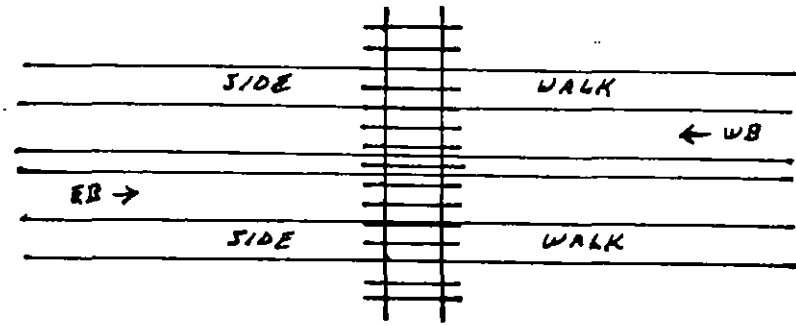
COUNT PED'S: YES NO

DOCUMENT
 FOLDER

SKETCH THE INTERSECTION.
 TO BE COUNTED:

SHOW NORTH-SOUTH & MOVEMENTS

DOCKETED
 OCT 12 1999



RECEIVED

OCT 07 1999

PA PUBLIC UTILITY COMMISSION
 SECRETARY'S BUREAU

EXHIBIT
 8-21-99
 D-2
 c-00992533

Coding for Bi-Weekly & Travel Expenses

STATE PROJECT NUMBER						SYM	ALLOT	MIN. OBJ.	COST FUNC.	P. C.	T.B.C.
SYS	LR OR WO.	SPLR	PHA	SECTION	ORGN						
23	24-29	29	30	31-33	34-35	37-39	40-42	43-45	46-48	49	50

Department Exhibit #2

Site Code : 8080 / TANQUA
 N-S Street: SR-0209 SEG-0990
 E-W Street:
 Weather : CLEAR

PAGE: 2
 FILE: 530209PC
 DATE: 8/13/99

Primary Movements: Cars

Time Begin	From North				From East				From South				From West				Vehicle Total	PES Total
	PES	RT	THRU	LT	PES	RT	THRU	LT	PES	RT	THRU	LT	PES	RT	THRU	LT		
6:00 AM	3	0	0	0	0	0	19	0	2	0	0	0	0	0	45	0	64	5
6:15	2	0	0	0	0	0	20	0	2	0	0	0	0	0	55	0	75	4
6:30	2	0	0	0	0	0	37	0	2	0	0	0	0	0	57	0	94	4
6:45	1	0	0	0	0	0	39	0	4	0	0	0	0	0	63	0	102	5
HR TOTAL	8	0	0	0	0	0	115	0	10	0	0	0	0	0	220	0	335	18
7:00 AM	6	0	0	0	0	0	31	0	3	0	0	0	0	0	41	0	72	9
7:15	6	0	0	0	0	0	48	0	4	0	0	0	0	0	59	0	107	10
7:30	1	0	0	0	0	0	40	0	3	0	0	0	0	0	56	0	96	4
7:45	4	0	0	0	0	0	53	0	3	0	0	0	0	0	66	0	119	7
HR TOTAL	17	0	0	0	0	0	172	0	13	0	0	0	0	0	222	0	394	30
8:00 AM	5	0	0	0	0	0	55	0	3	0	0	0	0	0	58	0	113	8
8:15	5	0	0	0	0	0	48	0	6	0	0	0	0	0	41	0	89	11
8:30	4	0	0	0	0	0	44	0	4	0	0	0	0	0	55	0	99	8
8:45	4	0	0	0	0	0	45	0	4	0	0	0	0	0	61	0	106	8
HR TOTAL	18	0	0	0	0	0	192	0	17	0	0	0	0	0	215	0	407	35
9:00 AM	6	0	0	0	0	0	58	0	6	0	0	0	0	0	62	0	120	12
9:15	7	0	0	0	0	0	51	0	5	0	0	0	0	0	57	0	108	12
9:30	8	0	0	0	0	0	43	0	6	0	0	0	0	0	56	0	99	14
9:45	2	0	0	0	0	0	70	0	14	0	0	0	0	0	68	0	138	16
HR TOTAL	23	0	0	0	0	0	222	0	31	0	0	0	0	0	243	0	465	54
10:00 AM	9	0	0	0	0	0	80	0	11	0	0	0	0	0	57	0	137	20
10:15	9	0	0	0	0	0	78	0	8	0	0	0	0	0	93	0	171	17
10:30	7	0	0	0	0	0	82	0	8	0	0	0	0	0	81	0	163	15
10:45	2	0	0	0	0	0	94	0	10	0	0	0	0	0	70	0	164	12
HR TOTAL	27	0	0	0	0	0	334	0	37	0	0	0	0	0	301	0	635	64
11:00 AM	6	0	0	0	0	0	89	0	7	0	0	0	0	0	78	0	167	13
11:15	4	0	0	0	0	0	84	0	0	0	0	0	0	0	77	0	161	4
11:30	5	0	0	0	0	0	78	0	8	0	0	0	0	0	68	0	146	13
11:45	4	0	0	0	0	0	70	0	13	0	0	0	0	0	101	0	171	17
HR TOTAL	19	0	0	0	0	0	321	0	28	0	0	0	0	0	324	0	645	47

DAY TOTAL	112	0	0	0	0	0	1356	0	136	0	0	0	0	0	1525	0	2881	248
	<u>205</u>								<u>331</u>									
	317								467									

Site Code : BORO / YAMAQUA
 N-S Street: SR-0209 SEG-0890
 E-W Street:
 Weather : CLEAR

Primary Movements: Cars

PAGE: 1
 FILE: 530209PC
 DATE: 8/12/99

Time Begin	From North				From East				From South				From West				Vehicle Total	PEDS Total
	PEDS	RT	THRU	LT	PEDS	RT	THRU	LT	PEDS	RT	THRU	LT	PEDS	RT	THRU	LT		
12:00 PM	8	0	0	0	0	0	77	0	11	0	0	0	0	0	77	0	154	19
12:15	7	0	0	0	0	0	84	0	16	0	0	0	0	0	97	0	181	23
12:30	7	0	0	0	0	0	76	0	20	0	0	0	0	0	92	0	168	27
12:45	12	0	0	0	0	0	68	0	17	0	0	0	0	0	76	0	144	29
HR TOTAL	34	0	0	0	0	0	305	0	64	0	0	0	0	0	342	0	647	98
1:00 PM	5	0	0	0	0	0	91	0	16	0	0	0	0	0	83	0	174	21
1:15	9	0	0	0	0	0	81	0	21	0	0	0	0	0	78	0	159	30
1:30	11	0	0	0	0	0	98	0	15	0	0	0	0	0	79	0	177	26
1:45	16	0	0	0	0	0	81	0	10	0	0	0	0	0	93	0	174	26
HR TOTAL	41	0	0	0	0	0	351	0	62	0	0	0	0	0	333	0	684	103
2:00 PM	10	0	0	0	0	0	107	0	3	0	0	0	0	0	92	0	199	13
2:15	10	0	0	0	0	0	93	0	14	0	0	0	0	0	90	0	183	24
2:30	2	0	0	0	0	0	113	0	21	0	0	0	0	0	110	0	223	23
2:45	7	0	0	0	0	0	83	0	9	0	0	0	0	0	92	0	175	16
HR TOTAL	29	0	0	0	0	0	396	0	47	0	0	0	0	0	384	0	780	76
3:00 PM	5	0	0	0	0	0	96	0	11	0	0	0	0	0	95	0	191	16
3:15	11	0	0	0	0	0	91	0	14	0	0	0	0	0	99	0	190	25
3:30	3	0	0	0	0	0	114	0	13	0	0	0	0	0	91	0	205	16
3:45	7	0	0	0	0	0	95	0	8	0	0	0	0	0	112	0	207	15
HR TOTAL	26	0	0	0	0	0	396	0	46	0	0	0	0	0	397	0	793	72
4:00 PM	14	0	0	0	0	0	83	0	4	0	0	0	0	0	103	0	186	18
4:15	7	0	0	0	0	0	103	0	19	0	0	0	0	0	103	0	206	26
4:30	10	0	0	0	0	0	82	0	20	0	0	0	0	0	109	0	191	30
4:45	14	0	0	0	0	0	110	0	17	0	0	0	0	0	110	0	220	31
HR TOTAL	45	0	0	0	0	0	378	0	60	0	0	0	0	0	425	0	803	105
5:00 PM	2	0	0	0	0	0	99	0	11	0	0	0	0	0	95	0	194	13
5:15	5	0	0	0	0	0	108	0	16	0	0	0	0	0	78	0	186	21
5:30	8	0	0	0	0	0	96	0	17	0	0	0	0	0	75	0	171	25
5:45	15	0	0	0	0	0	91	0	8	0	0	0	0	0	90	0	181	23
HR TOTAL	30	0	0	0	0	0	394	0	52	0	0	0	0	0	338	0	732	82

Break

DAY TOTAL 205 0 0 0 0 0 2220 0 331 0 0 0 0 0 0 2219 0 4439 536

Site Code : BOKU / TANAKUA
 N-S Street: SR-0209 SEG-0890
 E-W Street:
 Weather : CLEAR

PAGE: 3
 FILE: 530209PC
 DATE: 0/13/99

Primary Movements: Cars

PEAK PERIOD ANALYSIS FOR THE PERIOD: 12:00 PM - 12:00 PM

DIRECTION FROM	START PEAK HOUR	PEAK HR FACTOR VOLUMES PERCENTS			
			PEDS	Right	Thru	Left	Total	PEDS	Right	Thru	Left
North	12:00 AM	0.00	22	0	0	0	0	-	0	0	0
East	4:45 PM	0.94	0	0	413	0	413	-	0	100	0
South	4:45 PM	0.00	61	0	0	0	0	-	0	0	0
West	3:45 PM	0.95	0	0	427	0	427	-	0	100	0

Entire Intersection

North	4:15 PM	0.00	33	0	0	0	0	-	0	0	0
East		0.90	0	0	394	0	394	-	0	100	0
South		0.00	67	0	0	0	0	-	0	0	0
West		0.95	0	0	417	0	417	-	0	100	0

Site Code : BURU/ IAWAQUA
 W-S Street: SR-0209 SEG-0890
 E-W Street:
 Weather : CLEAR

PAGE: 2
 FILE: 530209PT

Primary Movements: Trucks

DATE: 8/13/99

Time Begin	From North			From East			From South			From West			Vehicle Total
	RT	THRU	LT	RT	THRU	LT	RT	THRU	LT	RT	THRU	LT	
6:00 AM	0	0	0	0	1	0	0	0	0	0	4	0	5
6:15	0	0	0	0	3	0	0	0	0	0	3	0	6
6:30	0	0	0	0	1	0	0	0	0	0	1	0	2
6:45	0	0	0	0	1	0	0	0	0	0	0	0	1
HR TOTAL	0	0	0	0	6	0	0	0	0	0	8	0	14
7:00 AM	0	0	0	0	4	0	0	0	0	0	2	0	6
7:15	0	0	0	0	6	0	0	0	0	0	5	0	11
7:30	0	0	0	0	6	0	0	0	0	0	4	0	10
7:45	0	0	0	0	2	0	0	0	0	0	7	0	9
HR TOTAL	0	0	0	0	18	0	0	0	0	0	18	0	36
8:00 AM	0	0	0	0	2	0	0	0	0	0	5	0	7
8:15	0	0	0	0	6	0	0	0	0	0	5	0	11
8:30	0	0	0	0	4	0	0	0	0	0	4	0	8
8:45	0	0	0	0	5	0	0	0	0	0	4	0	9
HR TOTAL	0	0	0	0	17	0	0	0	0	0	18	0	35
9:00 AM	0	0	0	0	8	0	0	0	0	0	6	0	14
9:15	0	0	0	0	6	0	0	0	0	0	7	0	13
9:30	0	0	0	0	9	0	0	0	0	0	6	0	15
9:45	0	0	0	0	10	0	0	0	0	0	5	0	15
HR TOTAL	0	0	0	0	33	0	0	0	0	0	24	0	57
10:00 AM	0	0	0	0	5	0	0	0	0	0	3	0	8
10:15	0	0	0	0	3	0	0	0	0	0	6	0	9
10:30	0	0	0	0	8	0	0	0	0	0	4	0	10
10:45	0	0	0	0	7	0	0	0	0	0	7	0	14
HR TOTAL	0	0	0	0	21	0	0	0	0	0	20	0	41
11:00 AM	0	0	0	0	7	0	0	0	0	0	6	0	13
11:15	0	0	0	0	6	0	0	0	0	0	3	0	9
11:30	0	0	0	0	4	0	0	0	0	0	5	0	9
11:45	0	0	0	0	4	0	0	0	0	0	4	0	8
HR TOTAL	0	0	0	0	21	0	0	0	0	0	18	0	39

DAY TOTAL 0 0 0 0 116 0 0 0 0 0 106 0 222

$$\begin{array}{r} 125 \\ \hline 241 \end{array}$$

$$\begin{array}{r} 93 \\ \hline 199 \end{array}$$

Site Code : BORO/ TAMAQUA
 N-S Street: SR-0209 SEG-0890
 E-W Street:
 Weather : CLEAR

PAGE: 1
 FILE: 530209PT
 DATE: 8/12/99

Primary Movements: Trucks

Time Begin	From North			From East			From South			From West			Vehicle Total
	RT	THRU	LT	RT	THRU	LT	RT	THRU	LT	RT	THRU	LT	
12:00 PM	0	0	0	0	5	0	0	0	0	0	6	0	11
12:15	0	0	0	0	7	0	0	0	0	0	3	0	10
12:30	0	0	0	0	6	0	0	0	0	0	2	0	8
12:45	0	0	0	0	6	0	0	0	0	0	6	0	12
HR TOTAL	0	0	0	0	24	0	0	0	0	0	17	0	41
1:00 PM	0	0	0	0	8	0	0	0	0	0	4	0	12
1:15	0	0	0	0	6	0	0	0	0	0	6	0	12
1:30	0	0	0	0	6	0	0	0	0	0	4	0	10
1:45	0	0	0	0	9	0	0	0	0	0	8	0	17
HR TOTAL	0	0	0	0	29	0	0	0	0	0	22	0	51
2:00 PM	0	0	0	0	6	0	0	0	0	0	4	0	10
2:15	0	0	0	0	9	0	0	0	0	0	8	0	17
2:30	0	0	0	0	5	0	0	0	0	0	5	0	10
2:45	0	0	0	0	5	0	0	0	0	0	8	0	11
HR TOTAL	0	0	0	0	25	0	0	0	0	0	23	0	48
3:00 PM	0	0	0	0	6	0	0	0	0	0	5	0	11
3:15	0	0	0	0	9	0	0	0	0	0	3	0	12
3:30	0	0	0	0	4	0	0	0	0	0	3	0	7
3:45	0	0	0	0	4	0	0	0	0	0	9	0	13
HR TOTAL	0	0	0	0	23	0	0	0	0	0	20	0	43
4:00 PM	0	0	0	0	4	0	0	0	0	0	0	0	4
4:15	0	0	0	0	2	0	0	0	0	0	2	0	4
4:30	0	0	0	0	1	0	0	0	0	0	2	0	3
4:45	0	0	0	0	2	0	0	0	0	0	1	0	3
HR TOTAL	0	0	0	0	9	0	0	0	0	0	5	0	14
5:00 PM	0	0	0	0	7	0	0	0	0	0	3	0	10
5:15	0	0	0	0	3	0	0	0	0	0	2	0	5
5:30	0	0	0	0	3	0	0	0	0	0	0	0	3
5:45	0	0	0	0	2	0	0	0	0	0	1	0	3
HR TOTAL	0	0	0	0	15	0	0	0	0	0	6	0	21

Break

DAY TOTAL 0 0 0 0 125 0 0 0 0 0 93 0 218

SITE CODE : 0000/ 1AANAQA
 N-S Street: SR-0209 SEG-0890
 E-W Street:
 Weather : CLEAR

PAGE: 3
 FILE: 530209PT
 DATE: 8/13/99

Primary Movements: Trucks

PEAK PERIOD ANALYSIS FOR THE PERIOD: 12:00 PM - 12:00 PM

DIRECTION FROM	START PEAK HOUR	PEAK HR FACTOR VOLUMES PERCENTS ...		
			Right	Thru	Left	Total	Right	Thru	Left
North	12:00 AM	0.00	0	0	0	0	0	0	
East	9:00 AM	0.82	0	33	0	33	0	100	
South	9:00 AM	0.00	0	0	0	0	0	0	
West	1:45 PM	0.78	0	25	0	25	0	100	

Entire Intersection

North	9:00 AM	0.00	0	0	0	0	0	0
East		0.82	0	33	0	33	0	100
South		0.00	0	0	0	0	0	0
West		0.86	0	24	0	24	0	100

N-S Street: SR-0209 SEG-0890

E-W Street:

Weather : CLEAR

Primary Movements: Vehicles

DATE: 8/13/99

Time Begin	From North			From East			From South			From West			Vehicle Total
	RT	THRU	LT	RT	THRU	LT	RT	THRU	LT	RT	THRU	LT	
6:00 AM	0	0	0	0	20	0	0	0	0	0	49	0	69
6:15	0	0	0	0	23	0	0	0	0	0	58	0	81
6:30	0	0	0	0	38	0	0	0	0	0	58	0	96
6:45	0	0	0	0	40	0	0	0	0	0	63	0	103
HR TOTAL	0	0	0	0	121	0	0	0	0	0	228	0	349
7:00 AM	0	0	0	0	35	0	0	0	0	0	43	0	78
7:15	0	0	0	0	54	0	0	0	0	0	64	0	118
7:30	0	0	0	0	46	0	0	0	0	0	60	0	106
7:45	0	0	0	0	55	0	0	0	0	0	73	0	128
HR TOTAL	0	0	0	0	190	0	0	0	0	0	240	0	430
8:00 AM	0	0	0	0	57	0	0	0	0	0	63	0	120
8:15	0	0	0	0	54	0	0	0	0	0	46	0	100
8:30	0	0	0	0	48	0	0	0	0	0	59	0	107
8:45	0	0	0	0	50	0	0	0	0	0	65	0	115
HR TOTAL	0	0	0	0	209	0	0	0	0	0	233	0	442
9:00 AM	0	0	0	0	66	0	0	0	0	0	68	0	134
9:15	0	0	0	0	57	0	0	0	0	0	64	0	121
9:30	0	0	0	0	52	0	0	0	0	0	62	0	114
9:45	0	0	0	0	80	0	0	0	0	0	73	0	153
HR TOTAL	0	0	0	0	255	0	0	0	0	0	267	0	522
10:00 AM	0	0	0	0	85	0	0	0	0	0	60	0	145
10:15	0	0	0	0	81	0	0	0	0	0	99	0	180
10:30	0	0	0	0	88	0	0	0	0	0	85	0	173
10:45	0	0	0	0	101	0	0	0	0	0	77	0	178
HR TOTAL	0	0	0	0	355	0	0	0	0	0	321	0	676
11:00 AM	0	0	0	0	96	0	0	0	0	0	84	0	180
11:15	0	0	0	0	90	0	0	0	0	0	80	0	170
11:30	0	0	0	0	82	0	0	0	0	0	73	0	155
11:45	0	0	0	0	74	0	0	0	0	0	105	0	179
HR TOTAL	0	0	0	0	342	0	0	0	0	0	342	0	684

DAY TOTAL	0	0	0	0	1472	0	0	0	0	0	1631	0	3103
					<u>3345</u>						<u>2317</u>		<u>3943</u>
					3817						3943		

N-S Street: SR-0209 SEG-0890

E-W Street:

Weather : CLEAR

Primary Movements: Vehicles

DATE: 8/12/99

Time Begin	From North			From East			From South			From West			Vehicle Total
	RT	THRU	LT	RT	THRU	LT	RT	THRU	LT	RT	THRU	LT	
12:00 PM	0	0	0	0	82	0	0	0	0	0	83	0	165
12:15	0	0	0	0	91	0	0	0	0	0	100	0	191
12:30	0	0	0	0	82	0	0	0	0	0	94	0	176
12:45	0	0	0	0	74	0	0	0	0	0	82	0	156
HR TOTAL	0	0	0	0	329	0	0	0	0	0	359	0	688
1:00 PM	0	0	0	0	99	0	0	0	0	0	87	0	186
1:15	0	0	0	0	87	0	0	0	0	0	84	0	171
1:30	0	0	0	0	104	0	0	0	0	0	83	0	187
1:45	0	0	0	0	90	0	0	0	0	0	101	0	191
HR TOTAL	0	0	0	0	380	0	0	0	0	0	355	0	735
2:00 PM	0	0	0	0	113	0	0	0	0	0	96	0	209
2:15	0	0	0	0	102	0	0	0	0	0	98	0	200
2:30	0	0	0	0	118	0	0	0	0	0	115	0	233
2:45	0	0	0	0	88	0	0	0	0	0	98	0	186
HR TOTAL	0	0	0	0	421	0	0	0	0	0	407	0	828
3:00 PM	0	0	0	0	102	0	0	0	0	0	100	0	202
3:15	0	0	0	0	100	0	0	0	0	0	102	0	202
3:30	0	0	0	0	118	0	0	0	0	0	94	0	212
3:45	0	0	0	0	99	0	0	0	0	0	121	0	220
HR TOTAL	0	0	0	0	419	0	0	0	0	0	417	0	836
4:00 PM	0	0	0	0	87	0	0	0	0	0	103	0	190
4:15	0	0	0	0	105	0	0	0	0	0	105	0	210
4:30	0	0	0	0	83	0	0	0	0	0	111	0	194
4:45	0	0	0	0	112	0	0	0	0	0	111	0	223
HR TOTAL	0	0	0	0	387	0	0	0	0	0	430	0	817
5:00 PM	0	0	0	0	106	0	0	0	0	0	98	0	204
5:15	0	0	0	0	111	0	0	0	0	0	80	0	191
5:30	0	0	0	0	99	0	0	0	0	0	75	0	174
5:45	0	0	0	0	93	0	0	0	0	0	91	0	184
HR TOTAL	0	0	0	0	409	0	0	0	0	0	344	0	753

Break

DAY TOTAL	0	0	0	0	2345	0	0	0	0	0	2312	0	4657
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Primary Movements: Vehicles

PEAK PERIOD ANALYSIS FOR THE PERIOD: 12:00 PM - 12:00 PM

DIRECTION FROM	START PEAK HOUR	PEAK HR FACTOR VOLUMES PERCENTS ...		
			Right	Thru	Left	Total	Right	Thru	Left
North	12:00 AM	0.00	0	0	0	0	0	0	
East	4:45 PM	0.96	0	428	0	428	0	100	0
South	4:45 PM	0.00	0	0	0	0	0	0	
West	3:45 PM	0.91	0	440	0	440	0	100	0

Entire Intersection

North	3:00 PM	0.00	0	0	0	0	0	0	
East		0.89	0	419	0	419	0	100	0
South		0.00	0	0	0	0	0	0	
West		0.86	0	417	0	417	0	100	0

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
 BUREAU OF HIGHWAY SAFETY & TRAFFIC ENGINEERING
 ACCIDENT RECORDS SYSTEMS
 TRAFFIC ACCIDENT HISTORY REPORT
 SR 0209 ACCIDENT HISTORY AT RR XING

COUNTY SCHUYLKILL STATE ROUTE 0209 DIRECTION P FROM SEG/OFFSET 0890 0304 TO SEG/OFFSET 0890 0324 PRIMARY ALL LOCATIONS
 DATE OF ACCIDENT HISTORY FROM 01/01/1994 TO 12/31/1998 PREPARED BY ATOMCZA PREPARED ON 09/10/99

	FATAL ACCIDENTS	PERSONS KILLED	INJURY ACCIDENTS	PERSONS INJURED	PROPERTY DAMAGE ACCIDENTS	TOTAL ACCIDENTS
994	0	0	0	0	0	0
995	0	0	0	0	0	0
996	0	0	0	0	0	0
997	0	0	0	0	0	0
998	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

DOCUMENT FOLDER

DOCKETED
 OCT 12 1999

---ACCIDENT DESCRIPTION TYPES---

	ANGLE	REAR END	HIT FIXES OBJ	SIDE SWIPE	HEAD ON	BACKING	HIT PEDESTRIAN	NON-COLLISION	OTHER OTHER	TOTAL ACCIDENTS
994	0	0	0	0	0	0	0	0	0	0
995	0	0	0	0	0	0	0	0	0	0
996	0	0	0	0	0	0	0	0	0	0
997	0	0	0	0	0	0	0	0	0	0
998	0	0	0	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0	0	0	0

---ROAD SURFACE DESCRIPTIONS---

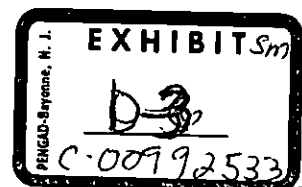
	DRY	WET	SLIPPERY	SHOUL	ICE
0	0	0	0	0	0
FLOWED SNOW	0	SALTED AND CINDER	0	ICE PATCHES	0
				UNKNOWN	0

---ILLUMINATION DESCRIPTIONS---

	DAYLIGHT	DARK/LIGHTS ON	DARK/LIGHTS OFF	DUSK	UNKNOWN
0	0	0	0	0	0

---SELECTED ACCIDENT COUNTS---

	TRACTOR TRAILER	MOTORCYCLE	SCHOOL BUS	PEDESTRIAN
0	0	0	0	0



** THE INFORMATION CONTAINED IN THIS DOCUMENT IS DRAWN FROM RAW DATA AND SHOULD NOT BE INTERPRETED AS REPRESENTING ANY ENGINEERING JUDGEMENT OR DETERMINATION MADE BY THE DEPARTMENT OF TRANSPORTATION AS TO THE TYPE AND SEVERITY OF ACCIDENTS NOTED HEREIN.

DEPT. OF TRANSPORTATION

MAY 05 1980

GRADE CROSSING UNIT
HARRISBURG, PENNA.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Commonwealth of Pennsylvania
Department of Transportation
RECEIVED
MAY 5 1980
OFFICE OF CHIEF COUNSEL

Public Meeting held April 11, 1980

Commissioners Present:

- Susan M. Shanaman, Chairman
- Michael Johnson
- James H. Cawley
- Linda C. Taliaferro

RECEIVED

66295

OCT 07 1999

DOCUMENT
FOUNDER

Borough of Tamaqua
v.
Consolidated Rail Corporation, County
of Schuylkill and Pennsylvania Depart-
ment of Transportation

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Docket No.
C-79020749
through
C-79020756

FINAL DECISION AND ORDER

DOCKETED
OCT 12 1999

BY THE COMMISSION:

We adopt as our action the Initial Decision of Administrative Law Judge Banzhoff dated January 8, 1980, as herein modified. The exceptions of the Pennsylvania Department of Transportation and Consolidated Rail Corporation are hereby granted to the extent consistent herein.

HISTORY OF THE PROCEEDINGS

By these complaints, all docketed on March 15, 1979, the Borough of Tamaqua (hereafter Borough) alleges that Consolidated Rail Corporation (Conrail) has failed to maintain the subject railroad crossings in good repair, so that these crossings are a hazard and inconvenience to the traveling public. The crossings involved, located in the Borough of Tamaqua, are identified as follows:

- | | |
|------------|----------------------------------|
| C-79020749 | West Broad Street - 162 (865+49) |
| C-79020750 | Rose Street |
| C-79020751 | Vine Street |
| C-79020752 | Elm Street |
| C-79020753 | East Broad Street |
| C-79020754 | Spruce Street |
| C-79020755 | Greenwood Street |
| C-79020756 | Center Street - 226 (597+40) |

Department Exhibit # 4

EXHIBITsm
9-21-96
D-4
C-00992533

Also named as respondents in each complaint were the County of Schuylkill (County) and Pennsylvania Department of Transportation (PennDOT).

On April 13, 1979, PennDOT filed answers to the complaints, denying the allegations contained in them. Likewise, by its answers of April 25, 1979, Conrail denied that the subject crossings constitute a danger to the public.

Commission Staff held a field conference on June 1, 1979 to examine the crossings and discuss the issues. It was found that three of the crossings required immediate repair. Those crossings are:

C-79020749	West Broad Street
C-79020754	Spruce Street
C-79020756	Center Street

Accordingly, by emergency order of June 5, 1979, the Commission directed that Conrail, at its sole cost and expense, within one week of receipt of the order, repair those crossings to the extent that they would no longer constitute an undue threat to the public. These repairs were to be completed on or before July 31, 1979. On July 23, 1979, Conrail filed a Petition for Extension of Time for an additional 30 days to complete the work. The Borough filed Answer to the Petition, stating that it had no objection to granting the extension of time.

Hearing was held on September 18, 1979 in Pottsville, Pa., resulting in a transcript of 50 pages and 1 exhibit.

FINDINGS OF FACT

1. All of the subject crossings are located in the Borough of Tamaqua.
2. Conrail is the owner and operator of the railroad facilities located at each crossing. (N.T. 23)
3. The crossings are located along two branches of the Courrail system: the Little Schuylkill Branch, which has an average daily traffic volume of six trains traveling at a speed of 25 mph through the crossing; and the Greenwood Branch, which has an average traffic volume of two trains daily, five days a week traveling at 6 mph. (N.T. 23)
4. The highway approaches to all of the crossings are in good condition. (N.T. 15)

5. Under Sections 203 and 203(c) of the 1976 Federal Highway Act, federal funds are available to improve safety at railroad-highway crossings which a diagnostic team determines to be hazardous. The federal government provides 90% of the funds and the remaining 10% must be provided by either the state or local municipality, whichever party owns the highway involved at the crossing. (N.T. 37)

6. To be eligible for consideration for federal funding, a crossing must have an average daily traffic volume (ADT) of over 10,000 vehicles per day, of which at least 10% must be trucks. (N.T. 40)

The following findings pertain to a specific crossing and are presented under the heading for that crossing.

C-79020749 - West Broad Street

7. This crossing is at a point where West Broad Street, also designated as State Highway Route 209, crosses one track of the Little Schuylkill Branch of Conrail.

8. The protection at the crossing consists of gates and automatic flashing lights. (N.T. 9, 14, 16)

9. In compliance with the Commission order of June 5, 1979, which declared this crossing dangerous and ordered emergency repairs, Conrail has elevated the track to the grade of the roadway and placed blacktop adjacent to the track to provide a safe road surface. (N.T. 9)

10. As directed by Commission order of June 5, 1979, Conrail has altered this crossing by removing one track and resurfacing the remaining track. The bumpy condition causing the complaint has thus been eliminated. (N.T. 26, 34)

11. Presently this crossing is in good condition.

12. PennDOT considers this crossing to be eligible for federal funding for a "high-type crossing surface." Thus, PennDOT will submit it for placement on a State-wide supplemental program for high-type crossing surfaces for Federal approval. Since the highway involved is a state highway, PennDOT will provide the 10% matching funds. (N.T. 40)

C-79020750 - Rose Street

13. This crossing is located at a point where Rose Street, a borough street, crosses one track of Conrail's Little Schuylkill Branch. (N.T. 11, 23)

14. Rose Street is level to the east of the crossing and is descending to the west and forms an intersection of 90 degrees with the railroad tracks. There are flanged timbers along the track. The crossing has been paved to a width of 50 feet with a cartway of 30 feet. (N.T. 24)

15. This crossing is protected by flashing lights and gates. (N.T. 16, 17)

16. The ties in the crossing are beginning to deteriorate. Some of the spikes are protruding from one half to one inch and some of the rails in the pedestrian portion of the crossing are in poor condition with spikes sticking up and posing a hazard to pedestrian traffic. (N.T. 11)

17. This street receives a relatively low volume of traffic.

C-79020751 - Vine Street

18. This crossing is located at a point where Vine Street, a borough street, crosses one track of the Little Schuylkill Branch. (N.T. 23)

19. The street is level in the area of the crossing and forms a 90 degree intersection with the railroad track. There are flanged timbers along the track. The crossing is paved with bituminous paving material to a width of 57 feet, having a driving cartway of 36 feet. (N.T. 23, 24)

20. This crossing is protected by flashing lights and gates. (N.T. 16, 17)

21. The crossing has spikes protruding two or three inches and ties that are wearing. (N.T. 11)

C-79020752 - Elm Street

22. This complaint involves the crossing of Elm Street, a borough street, with one track of the Little Schuylkill Branch. This crossing has approximately the same physical lay-out as the crossing on Vine Street, except that it has a higher volume of traffic.

23. Spikes are protruding two to three inches and ties are wearing at this crossing also. (N.T. 11)

C-79020753 - East Broad Street

24. This crossing is located at a point where East Broad Street, a state highway, crosses one track of the Greenwood Branch. The street is level to the west of the railroad tracks and at an ascending grade to the east, and forms an intersection of 45 degrees with the tracks. Broad Street is 42 feet wide between the curbs with concrete sidewalks on each side. The roadway through the crossing is paved to a length of 120 feet. (N.T. 25).

25. This crossing involves a state highway and is protected by flashing lights. (N.T. 14 and 16)

26. PennDOT believes this crossing is not eligible for federal funding because it does not have a severe wearing condition requiring the use of very expensive high-type surfacing. The crossing has an average daily traffic of less than 10,000 vehicles and only 8% are trucks.

C-79020754 - Spruce Street

27. This complaint involves Spruce Street, a Borough street, which crosses one track of the Greenwood Branch and two tracks of the Little Schuylkill Branch of Conrail. (N.T. 23)

28. The roadway is generally level and forms a 90 degree intersection with the crossing. There are flanged timbers along all tracks, and the crossing is paved with bituminous paving material to a width of 36 feet, including a cartway of 24 feet. (N.T. 25, 26)

29. The crossing has recently been totally rehabilitated and is in good condition. (N.T. 26)

30. The crossing is protected by gates and flashing lights. (N.T. 16)

C-79020755 - Greenwood Street

31. The Greenwood Street crossing is comprised of a T-intersection formed by the intersection of Greenwood and Hazel Streets, with the railroad tracks crossing diagonally through this T-intersection. The crossing involves four tracks of the Greenwood Branch of Conrail, of which only one track is in service. (N.T. 23)

32. This crossing is basically level. Hazel Street is 42 feet wide between the curbs and is on an ascending grade eastward of the crossing and has sidewalks on each side. Greenwood Street is 36 feet wide between the curbs and has a sidewalk on the west side. Generally the street is level north of the crossing and on an ascending grade south of it. The entire crossing is paved with bituminous paving material. (N.T. 26)

33. The crossing is protected by flashing lights. (N.T. 16)

34. Both Greenwood and Hazel Streets are borough streets. (N.T. 10)

35. The paving at the crossing disintegrates in winter causing potholes. The Borough contends that the three tracks which are no longer in use should be removed. (N.T. 10)

36. The Borough contends that it should not be required to pay 10% of an estimated \$50,000 to rehabilitate the crossing because it has no money for such a project. The remaining 90% funds would be from federal funding. (N.T. 12)

37. The \$50,000.00 improvement proposed through federal funding includes the removal of three tracks and the reconstruction of the crossing. (N.T. 18)

38. The crossing is on the Federal Highway Safety List for total rehabilitation. (N.T. 27)

39. PennDOT contends that if the Borough does not agree to contribute the 10% matching funds, the crossing project would not be eligible for federal funding. The Borough's share could not be paid by PennDOT or Conrail, but only by the local authorities which would include the county. (N.T. 45)

C-79020756 - Center Street

40. This complaint involves the crossing of Center Street with one track of the Greenwood Branch of Conrail. Center Street is a state highway, and is on an ascending grade from south to north as it crosses the railroad track. The track is on a curve to the west and forms an approximately 60 degree angle with the road. The crossing is paved with bituminous paving material to a width of 75 feet, including a cartway of 45 feet. (N.T. 15, 26)

41. The crossing is protected by flashing lights. (N.T. 16)

42. The road approaches are superelevated in the area adjacent to and between the rails and the paving is in deplorable condition. (N.T. 5)

43. Since the Commission order of June 5, 1979, this crossing has been patched as a temporary repair, and has been placed on the Federal Highway Safety Program for the installation of a rubber surface (high type surface) at the crossing. (N.T. 26, 27)

44. Although Conrail has made repairs, the crossing is presently in poor shape. The crossing is difficult to repair, and Conrail intends to continue to patch it as required until it has been rehabilitated under the federal program. (N.T. 28, 29)

45. The rehabilitation of this crossing has been approved for federal funding. PennDOT has informed Conrail of this with approval to proceed with preliminary engineering for the design of a high-type panel crossing surface, which will cost an estimated \$42,500.00. PennDOT will supply the 10% matching funds, since the crossing involves a state road. The design work is just about complete. (N.T. 33, 39)

Other Findings

46. The Borough manager and council are aware that federal money is available on borough roads only if the borough supplies the 10% matching funds. (N.T. 15)

47. Conrail will assume the cost for all work performed to date for altering the Spruce and Broad Street crossings and repairs to the remaining crossings. Conrail will agree to assume the maintenance of its tracks and paving of the crossing between the rail and 2 feet beyond each rail, along with the protective facilities at the crossing. (N.T. 27)

48. Schuylkill County has only general account and liquid fuels tax funds available for funding repairs. The liquid fuels tax is dispersed to the boroughs and townships in the county. The County itself maintains 66 bridges and 2 roads. The County has no funds available for rehabilitation of railroad crossings. (N.T. 49)

DISCUSSION

This Commission has exclusive jurisdiction over the construction, alteration, suspension or abolition of rail-highway crossings, and no alteration of a crossing can be made without an order from the Commission (Public Utility Code, 66 Pa.C.S. §2702). Therefore, these complaints are properly before the Commission. This Commission has exclusive power to allocate the cost of performing the work among the parties (Public Utility Code, 66 Pa.C.S. §2704(a)).

For purposes of discussion, these cases will be divided into groups of like cases.

C-79020749 - West Broad Street
C-79020754 - Spruce Street
C-79020756 - Center Street

These complaints on the respective crossings allege that those crossings are in a state of disrepair which presents a danger to the traveling public. These allegations are confirmed by the fact that, immediately following its field investigation on all of the crossings, the Commission issued an emergency order on June 5, 1979 noting that these three crossings were hazardous and in need of urgent repairs. This evidence is sufficient to establish the validity of the allegations, and therefore, we sustain these complaints.

The emergency order of June 5, 1979 directed that Conrail perform repairs to make those crossings safe. The records show that Conrail performed those repairs.

With respect to the crossing at Spruce Street, Conrail has removed three unused tracks and has completely rehabilitated the crossing. The crossing has been made safe to the satisfaction of the complainant, and we will order no further work.

The crossings at West Broad and Center Streets have been repaired and are now safe for public use, although the one at Center Street is difficult to maintain and presents a continuous problem. Conrail has attempted to maintain the crossing in safe condition, and intends to continue to do so. However, it appears that nothing further can be done to permanently improve this condition until the crossing is totally rehabilitated. PennDOT is in the process of obtaining federal funds for the rehabilitation of both these crossings. Therefore, we will order that Conrail continue to maintain the crossings in a safe condition until the rehabilitation is performed.

C-79020750 - Rose Street
C-79020751 - Vine Street
C-79020752 - Elm Street

Complainant alleges that each of these crossings is in a condition posing a hazard and inconvenience to the traveling public. However, testimony by its witness suggests that the major difficulty at each of these crossings is the problem of spikes protruding from 1/2 to 3 inches above their normal position. Complainant argues that this is particularly hazardous at the Rose Street crossing in the pedestrian area of the crossing.

While this condition could be quite bothersome and should be corrected by Conrail, we do not find it sufficient to render the crossing dangerous.

In the absence of further evidence establishing more significant deficiencies at this crossing, we accept the evaluation of Conrail's engineer who testified that each of the crossings is in basically sound condition. We will, therefore, dismiss these complaints, but will order Conrail to inspect each crossing and to secure any protruding spikes.

C-79020753 - East Broad Street

The complaint on this crossing alleges that the crossing is in hazardous condition. However, complainant's own witness has testified that repairs were made at this crossing several years ago and that the crossing is in good condition. Therefore, this complaint will be dismissed.

C-79020755 - Greenwood Street

This complaint alleges that the crossing is in unsafe condition. Complainant's witness testified that three of the four tracks at this crossing are not being used and that the ties are in very bad condition. These move up and down with traffic through the crossing. Conrail contends that the crossing is in fair condition. However, PennDOT has received federal approval for rehabilitation of the crossing with 90% federal funding. This means that a federal diagnostic team has determined that the crossing is hazardous (N.T. 37), which supports complainant's argument that the crossing is unsafe. Thus, we are convinced by the evidence that the crossing is dangerous and should be rehabilitated. Therefore, we will sustain the complaint.

PennDOT indicates that the crossing has received federal approval for rehabilitation by the removal of the unused tracks and repairing the remaining facilities, at an estimated cost of \$50,000.00. That approval, however, requires that the Borough provide the 10% matching funds. The Borough is unwilling to provide those funds, arguing that it has no money available for such expenditures, and that it should not be required to repair a crossing which belongs to another party, namely Conrail. PennDOT has testified that it would be illegal for Conrail or PennDOT to provide the matching share, although it would be legal for the Borough to enter into an outside agreement with Conrail to reimburse the Borough for all or part of the matching funds. If the Borough does not give PennDOT a written commitment to provide the matching funds, the 90% federal funding will be lost.

It is certainly in the interest of public safety to remove the three unused tracks from the crossing so as to reduce the crossing to the smallest possible area and keep the danger inherent in any at-grade crossing to a minimum. We will order Conrail to perform this work at its initial cost.

As for the rehabilitation of the remaining live track at the crossing, we believe the railroad should perform this work at its sole cost.

Since federal funds could be used to improve the Greenwood Street crossing, the cost to any party will be greatly reduced. However, in line with our discussion above, we are of the opinion that the remaining 10% of the cost should be borne by the Borough so as not to jeopardize federal funding. Conrail will be responsible for preparation of engineering plans and construction of the improvement at its initial cost. Without prejudice to the parties' rights to obtain federal funding, we will order PennDOT to reimburse Conrail for 90% of the cost, and the Borough of Tamaqua to reimburse Conrail for the remaining 10% of the total cost.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction of the subject matter and of the parties involved.
2. The Commission has the authority to assess costs upon the concerned public utilities, municipal corporations, or the Commonwealth of Pennsylvania, as it shall determine.
3. The Commission has the authority to order the construction, reconstruction, alteration, repair or protection of the railroad crossings involved in the complaints.
4. The Commission has the authority as it may deem necessary to protect the public interest, safety, convenience and accommodation.

ORDER

1. That the complaints at Docket Nos. C-79020750, C-79020751, C-79020752 and C-79020753 are dismissed subject, however, to compliance with the provisions of ordering paragraph No. 7.
2. That the complaints at Docket Nos. C-79020749, C-79020754, C-79020755 and C-79020756 are sustained.

3. That Consolidated Rail Corporation, at its initial cost and expense, within six (6) months of the date of service of this order, prepare and submit to all parties of record, and to this Commission for review and approval, detailed plans, together with estimates of costs, for the repair of the crossing at grade, at West Broad Street and Center Street, both in the Borough of Tamaqua, said plans for repair to be limited to the installation of a high-type rubber crossing surface on the West Broad Street Crossing as well as the repositioning of the automatic protection located on the east side of the West Broad Street Crossing, and limited to the installation of a high-type rubber crossing surface at the Center Street Crossing.

4. That Consolidated Rail Corporation, at its initial cost and expense, within six (6) months of the date of service of this order, prepare and submit to all parties of record and to this Commission for review and approval, detailed plans, together with estimates of cost for the repair of the crossing, at grade, at Greenwood Street in the Borough of Tamaqua, said plans to be for repairs limited to the removal of the three unused tracks, the replacing of the areas left after the removal of the track, the repositioning of the existing automatic flashing lights to a distance which is a minimum 12 feet from the center line of the remaining single live track, as well as the removal of the automatic flashing light at the former side road entrance to the crossing.

5. That Consolidated Rail Corporation, at its initial cost and expense, do all work and provide all materials for the rehabilitation of the crossings at West Broad Street and Center Street in accordance with the approved plans prepared in accordance with Paragraph 3 of this order, and do all work and provide all materials for the removal of the three unused tracks at Greenwood Street, the repavement of the area in question, the repositioning of the existing automatic flashing lights to a minimum of twelve feet from the center line of the remaining single track and the removal of the automatic flashing light on the former side road entrance to the crossing, in accordance with the approved plans prepared in accordance with Paragraph 4 of this order.

6. That Consolidated Rail Corporation, at its sole cost and expense, furnish all material and do all work necessary to rehabilitate as necessary the single remaining live track at the Greenwood Street crossing.

7. That Consolidated Rail Corporation, at its sole cost and expense, within 60 days of the date of service of this order, and in cooperation with the Borough of Tamaqua, provide all material and perform all work to insure that all spikes are secure and not protruding in the crossings at Rose, Elm and Vine Streets.

8. That Consolidated Rail Corporation, at its initial cost and expense, furnish and maintain flagmen and watchmen necessary to protect its operations during the time the improvements are being constructed, across, along and adjacent to its tracks.

9. That Consolidated Rail Corporation, at its initial cost and expense, furnish engineering and construction inspection services, as necessary, to observe the progress and work during the time that the crossings are being constructed in accordance with this order.

10. That any relocation of, changes in, or removal of any existing structures, equipment or facilities of any public utility other than Consolidated Rail Corporation, located within the limits of any highway under this Commission's jurisdiction which may be required as incidental to the execution of the improvements, be made by said public utility and in such a manner as will not interfere with construction of the improvement.

11. That any relocation of, changes in or removal of any adjacent structure, equipment or facilities of any public utility other than Consolidated Rail Corporation located beyond the limits of any highway under this Commission's jurisdiction which may be required as incidental to the execution of the improvements, be made by the said utility and in such a manner as will not interfere with construction of the improvements.

12. That Consolidated Rail Corporation, at least ten (10) days prior to the start of work, notify the Borough of Tamaqua and Pennsylvania Department of Transportation of the actual date the work will be started on these projects.

13. That Pennsylvania Department of Transportation, at its initial cost and expense, furnish all materials and do all work necessary to establish, mark and maintain any detour which may be required to properly accommodate highway traffic during the time of the improvements are being constructed at West Broad Street and Center Street crossings.

14. That the Borough of Tamaqua, at its initial cost and expense, furnish all materials and do all work necessary to establish, mark and maintain any detour which may be required to properly accommodate highway traffic during the time the improvement is being constructed at the Greenwood Street crossing.

15. That Consolidated Rail Corporation, Pennsylvania Department of Transportation and Borough of Tamaqua cooperate with each other during the construction of the repairs ordered at the crossing so that the operations of facilities of any of these parties will not be endangered or unnecessarily impeded.

16. That the improvements to the West Broad Street, Center Street and Greenwood Street be completed in a manner satisfactory to this Commission on or before December 31, 1981, and that on or before that date, Consolidated Rail Corporation, Pennsylvania Department of Transportation and Borough of Tamaqua each report to this Commission the actual date of completion of work at the earliest practical time subsequent

to said date of completion; and that each party submit to this Commission a detailed statement of the actual costs incurred in furnishing material and performing work in accordance with this order.

17. That Consolidated Rail Corporation, beginning one month following the date of service of this order and at two month intervals thereafter, submit to this Commission on a form of the type attached to this order a report of the progress of work it performed in accordance with this order.

18. That Pennsylvania Department of Transportation, when and as certified by this Commission, pay to Consolidated Rail Corporation a sum or sums of money equal to 100% of the actual cost of materials furnished, work performed and services rendered by Consolidated Rail Corporation in accordance with the numbered paragraphs 3, 5, 8 and 9 of this order as they relate to the rehabilitation of the West Broad and Center Street crossing; the salvage value of materials recovered or temporarily used to be deducted from the actual cost of that portion of the work performed and the material furnished at the expense of Pennsylvania Department of Transportation.

19. That the Pennsylvania Department of Transportation, when and as certified by this Commission, pay to Consolidated Rail Corporation a sum or sums of money equal to 90% of the actual cost of materials furnished, work performed and services rendered by Consolidated Rail Corporation in accordance with paragraphs 4, 5, 8 and 9 of the order as they pertain to the alteration of the crossing at Greenwood Street; the salvage value of materials recovered or temporarily used to be deducted from the actual cost of that portion of the work performed and the material furnished at the expense of Pennsylvania Department of Transportation.

20. That the Borough of Tamaqua, when and as certified by this Commission, pay to Consolidated Rail Corporation, 10% of the actual cost of material furnished, work performed and services rendered by Consolidated Rail Corporation in accordance with paragraphs 4, 5, 8 and 9 of this order, as they pertain to the alteration of the crossing at Greenwood Street; the salvage value of materials recovered or temporarily used to be deducted from the actual cost of that portion of the work performed and the material furnished at the expense of the Borough of Tamaqua.

21. That Pennsylvania Department of Transportation bear 10% of the actual cost of material furnished, work performed and services rendered in accordance with Paragraph 13 of this order.

22. That Pennsylvania Department of Transportation, when and as certified by this Commission, pay to the Borough of Tamaqua 90% of the actual cost of material furnished, work performed and services rendered by Borough of Tamaqua in accordance with Paragraph 14 of this order.

23. That upon completion of the improvement and its opening to public use, Pennsylvania Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the highway approaches to the crossings at West Broad Street, East Broad Street and Center Street to within two feet of the outermost rails at each crossing.

24. That upon completion of the improvement and its opening to public use, the Borough of Tamaqua, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the highway approaches to the crossings at Rose, Elm, Vine, Spruce and Greenwood Streets to within two feet of the outermost rails at each crossing.

25. That Consolidated Rail Corporation, at its sole cost and expense, do all work and provide all materials to maintain the crossings at West Broad, Rose, Vine, Elm, East Broad, Spruce, Greenwood and Center Streets, including the paved portion of the crossing to a distance of two feet beyond the outermost tracks.

26. That this order, insofar as it imposes the cost of the improvements on Pennsylvania Department of Transportation, Consolidated Rail Corporation, and the Borough of Tamaqua, is without prejudice to those parties' rights to recover from others the costs so incurred in accordance with any lawful agreement between or among said parties. The Commission's order as above set forth is also without prejudice to the parties' rights to proceed with and ultimately obtain available federal funding for any portion of the within project.

BY THE COMMISSION,



William P. Thierfelder
Secretary

(SEAL)

ORDER ADOPTED: April 11, 1980

ORDER ENTERED: MAY 2 1980