

BOARD OF COMMISSIONERS

FORREST L. SHADLE, Chairman of the Board
JERRY KNOWLES, Vice Chairman of the Board
EDWARD D. BARKET, Commissioner

Office of the Solicitor
Schuylkill County Courthouse
401 North Second Street
Pottsville, PA 17901-2528



JOSEPH H. JONES, JR., Solicitor
FRANK ROBERT CORI, Assistant Solicitor
MARY KAY BERNOSKY, Assistant Solicitor
99 JUN 17 AM 7:55
Telephone: (570) 628-1129
Telecopier: (570) 628-1106
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SECRETARY'S BUREAU

June 16, 1999

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

ORIGINAL

In Re: Donald Matalavage, Boro Manager, Boro of Tamaqua vs.
Reading, Blue Mountain and Northern Railroad Company
Docket No. C-00992533

Dear Secretary McNulty:

Please find enclosed Respondent's Answer to Formal Complaint for filing with your office in connection with the above-captioned matter.

Very truly yours,

Mary Kay Bernosky / Cah
MARY KAY BERNOSKY

MKB:cah

EEF

Encl.

cc: Jeffrey P. Bove, Esquire (w/encl.)
Andrew J. Goncharoff, Esquire (w/encl.)
David Schmit, Assistant Real Estate Director (w/encl.)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DONALD MATALAVAGE, BOROMANAGER, BORO OF TAMAQUA,

060239 Complaint Docket
No. C-00992533

JUN 17 AM 7:55

Complainant

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vs.

READING, BLUE MOUNTAIN AND
NORTHERN RAILROAD COMPANY,

Respondent.

ORIGINAL

ANSWER TO FORMAL COMPLAINT

Respondent, the County of Schuylkill, by and through its attorney, Mary Kay Bernosky, Assistant County Solicitor, hereby sets forth the following by way of answer to the Formal Complaint:


1. Admitted.
2. Admitted.
3. Denied. After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth or accuracy of the averments contained in ¶3 of the Complaint and, therefore, said averments are denied. Strict proof thereof, if relevant, is demanded at time of trial.
4. Denied. After reasonable investigation, Respondent is without sufficient knowledge or information to form a belief as to the truth or accuracy of the averments contained in ¶4 of the Complaint and, therefore, said

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averments are denied. Strict proof thereof, if relevant, is demanded at time of trial.

Respectfully submitted,



MARY KAY BERNOSKY, ESQUIRE
Atty. I.D. No. 67082
Schuylkill County Courthouse
Office of the Solicitor
401 North Second Street
Pottsville, PA 17901
Tel. (570) 628-1129
Attorney for Respondent

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DONALD MATALAVAGE, BORO	:	Complaint Docket
MANAGER, BORO OF TAMAQUA,	:	No. C-00992533
	:	
Complainant	:	
vs.	:	
READING, BLUE MOUNTAIN AND	:	
NORTHERN RAILROAD COMPANY,	:	
Respondent.	:	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Answer to Formal Complaint was served on the person(s) and in the manner indicated below:

Service by first-class mail, addressed as follows:

Jeffrey P. Bowe, Esquire
109 West Broad Street
P.O. Box 290
Tamaqua, PA 18252

Andrew J. Goncharoff, Esquire,
Director of Real Estate and Counsel
Reading, Blue Mountain and Northern Railroad Company
P.O. Box 248
Port Clinton, PA 19549



MARY KAY BERNOSKY, ESQUIRE

Date: June 16, 1999 _____

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DONALD MATALAVAGE, BORO	:	Complaint Docket
MANAGER, BORO OF TAMAQUA,	:	No. C-00992533
	:	
Complainant	:	
	:	
vs.	:	
READING, BLUE MOUNTAIN AND	:	
NORTHERN RAILROAD COMPANY,	:	
	:	
Respondent.	:	

VERIFICATION

I, DAVID SCHMIT, Assistant Real Estate Director for the County of Schuylkill, certify that the statements made in the foregoing Petition, which are within my personal knowledge are true, and those which are based on information received from others I believe to be true. I understand that false statements herein are subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.



DAVID SCHMIT

Date: June 16, 1999

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Office of Chief Counsel
Forum Place

555 Walnut Street - 9th Floor
Harrisburg, Pennsylvania 17120
Telephone No. (717) 787-3128
Fax No. (717) 772-2741

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June 21, 1999

JUN 22 1999

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

99-00123-112-31

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

Re: Borough of Tamaqua v.
Reading, Blue Mountain and
Northern Railroad Company
Docket No. C-00992533

Dear Prothonotary:

Enclosed for filing please find the original and two (2) copies of the Answer of the Department of Transportation to be filed in the above-captioned matter.

I hereby certify that the parties indicated on the Certificate of Service have been served with a copy of said Answer.

Very truly yours,

Gina M. D'Alfonso

BT

Gina M. D'Alfonso
Assistant Counsel in Charge

220/GMD:sls

cc: William D. Pickering, P.E. (Attn: Roger S. Aulakh, P.E.)
District 5-0 (Ken McClain)
Parties of Record

C:\SIMMSAN\GINA8\981956A.WPD

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

BOROUGH OF TAMAQUA

: Docket No.
: C-00981856

v.

READING, BLUE MOUNTAIN AND
NORTHERN RAILROAD COMPANY

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ANSWER

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation, (Department), by and through its Counsel, Gina M. D'Alfonso and offers the following Answer:

1. Admitted.

2. Admitted.

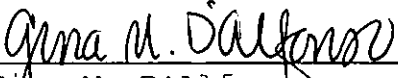
2. The Department is without sufficient information to respond to the allegations in paragraph 3. Strict proof thereof is demanded.

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JUN 22 1999

3. This paragraph is a prayer for relief to which no response is warranted.

Respectfully submitted,



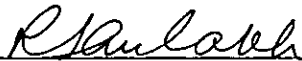
Gina M. D'Alfonso
Assistant Counsel in Charge
ID No. 46767
Commonwealth of Pennsylvania
Department of Transportation
Forum Place - 9th Floor
555 Walnut Street
Harrisburg, PA 17101-1900
Telephone No. (717) 787-3128

DATED: June 21, 1999

A F F I D A V I T

I, Roger S. Aulakh, P.E., Grade Crossing Engineer, on behalf of the Pennsylvania Department of Transportation, Respondent in the foregoing action, hereby verify that I am authorized to execute this Affidavit. I have read the foregoing Answer and the facts set forth are true and correct to the best of my knowledge, information and belief.

This Affidavit is made subject to penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.



Roger S. Aulakh, P.E.
Grade Crossing Engineer

DATED: June 21, 1999

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

I, Gina M. D'Alfonso, Assistant Counsel in Charge, counsel for the Commonwealth of Pennsylvania, Department of Transportation, in this matter, hereby verify that the statements made in the foregoing Answer are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to penalties of 18 Pa. C.S. §4904, relating to the unsworn falsification to authorities.

Gina M. D'Alfonso cdz/99
Gina M. D'Alfonso
Assistant Counsel in Charge

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

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

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOW:

Jeffrey P. Bowe, Esquire
109 West Broad Street
P.O. Box 290
Tamaqua, PA 18252

David Salapa, Esquire
PA PUC
Transportation & Safety Legal Bureau
P.O. Box 3265
Harrisburg, PA 17105-3265

Joseph H. Jones, Jr., Solicitor
401 North Second Street
Pottsville, PA 17901

Reading, Blue Mountain &
Northern Railroad
P.O. Box 218
Port Clinton, PA 19549

Donald Matalavage, Borough Manager
320 East Broad Street
Tamaqua, PA 18252

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Gina M. D'Alfonso
Gina M. D'Alfonso
Assistant Counsel in Charge
ID No. 46767
Commonwealth of Pennsylvania
Department of Transportation
Forum Place - 9th Floor
555 Walnut Street
Harrisburg, PA 17101-1900
Telephone No. (717) 787-3128

DATED: June ²²~~21~~, 1999

HOLL & ASSOCIATES
Attorneys At Law
A PROFESSIONAL CORPORATION

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

(215) 362-1015
FAX (215) 362-8530

ORIGINAL
PHILADELPHIA OFFICE

Suite 806
1515 Market Street
Philadelphia, Pa 19102
(215) 557-6966
Fax (215) 557-9632

GREGORY F. LEPORE, ESQ.

REPLY TO
LANSDALE

July 14, 1999

ATTENTION: SECRETARY
Commonwealth of Pennsylvania
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. Box 3265
Harrisburg, PA 17120

065000

Re: BORO OF TAMAQUA v. READING, BLUE MOUNTAIN & NORTHERN
RAILROAD COMPANY
Complaint Docket No.: C-00992533
Our File No.: BMRR-002

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Dear Sir/Madam:

Enclosed please find an original Answer of Reading, Blue Mountain and Northern Railroad Company to the Formal Complaint of the Boro of Tamaqua as well as two copies. Please return a time-stamped copy to me in the enclosed self-addressed stamped envelope.

Thank you for your cooperation in this matter.

Sincerely,


GREGORY F. LEPORE

GFL/jmy
Enclosures
cc: Jeffrey Bowe, Esquire

EEF

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

DONALD MATALAVAGE, :
BORO MANAGER, BORO OF TAMAQUA :

v. :
READING, BLUE MOUNTAIN & :
NORTHERN RAILROAD COMPANY :

Complaint Docket
No.: C-00992533

ANSWER OF READING, BLUE MOUNTAIN AND NORTHERN RAILROAD COMPANY
TO THE FORMAL COMPLAINT OF THE BORO OF TAMAQUA

1. The Reading, Blue Mountain & Northern Railroad Company specifically DENIES that it is responsible for the condition of, or the repair of, the crossing situate where West Broad Street (PA Route 209) intersects the railroad right of way. To the contrary, the condition of the crossing is solely the result of vehicular traffic which the crossing receives, and repairs to the crossing should be initiated at the request of, and at the expense of, the Pennsylvania Department of Transportation.

The Boro of Tamaqua is not the owner of the roadway in question, it being a state highway, and has no standing to compel the railroad to repair the crossing at issue.

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

Respectfully submitted,

HOLL & ASSOCIATES, P.C.

By:

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

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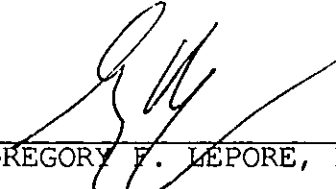
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V E R I F I C A T I O N

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



GREGORY F. LEPORE, ESQUIRE

DATED: 7/15/99