



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

June 29, 1999

WILLIAM D PICKERING PE CHIEF  
ROW & UTILITY DIVISION  
PENNDOT BUREAU OF DESIGN  
PO BOX 3362  
HARRISBURG PA 17105-3362

99 JUN 29 AM 9:35  
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JUN 29 1999

C-00992533

Borough of Tamaqua  
v.  
Reading, Blue Mountain and Northern Railroad Company

Dear Mr. Pickering:

This is to advise that a field investigation and conference will be held at the site of the West Broad Street crossing on Tuesday, July 13, 1999, at 10:00 a.m. to discuss the borough's complaint.

Kindly arrange to have a representative present.

Very truly yours,

W. J. Knerr, Senior Civil Engineer  
Rail Safety Division  
Bureau of Transportation and Safety  
717-787-1106

WJK:lg

SRB

Similar letter list.  
C-00992533

WILLIAM D PICKERING PE CHIEF  
ROW & UTILITY DIVISION  
PENNDOT BUREAU OF DESIGN  
PO BOX 3362  
HARRISBURG PA 17105-3362

KENNETH MCCLAIN  
PENNDOT DISTRICT 5-0  
1713 LEHIGH STREET  
ALLENTOWN PA 18103

MR JOHN WATERS  
READING BLUE MOUNTAIN AND NORTHERN RAILROAD COMPANY  
PO BOX 218  
PORT CLINTON PA 19549

MR DONALD MATALAVAGE  
BOROUGH MANAGER  
320 EAST BROAD STREET  
TAMAQUA PA 18252

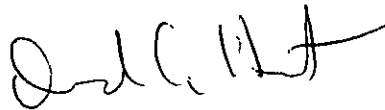
MS JEAN M HEFFNER  
CHIEF CLERK - SCHUYLKILL COUNTY  
401 NORTH 2ND STREET  
POTTSVILLE PA 17901-2528

COMMONWEALTH OF PENNSYLVANIA  
Public Utility Commission

DATE: July 16, 1999  
SUBJECT: C-00992533  
TO: James J. McNulty, Secretary  
FROM: David C. Hart, P.E., Manager  
Rail Safety Division  
Bureau of Transportation & Safety

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DOCKETED  
JUL 20 1999



In re:

Borough of Tamaqua  
v.  
Reading, Blue Mountain & Northern Railroad Company

065572

It is requested that this proceeding be reassigned to the Bureau of Administrative Law Judge and be scheduled for a hearing.

A field conference was held to discuss the complaint and it was determined that the subject railroad is unwilling to repair or reconstruct the subject crossing.

Please be advised that State Representative David G. Argall, who was present at the field conference, has requested that scheduling of the hearing be expedited.

The following parties should be served notice of the time and location of the hearing:

Borough of Tamaqua  
Reading, Blue Mountain and Northern Railroad Company  
Pennsylvania Department of Transportation  
Schuylkill County  
Representative David G. Argall

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JUL 19 1999 8:02

It is recommended that testimony be adduced at the hearing upon the appended list of Questions and Procedure and that the Questions and Procedure be incorporated into the record in this proceeding.

RDB:lg

cc: Office of Administrative Law Judge

27

QUESTIONS AND PROCEDURE

1. Borough of Tamaqua submit testimony describing in detail what, in its opinion, makes the subject crossing dangerous or hazardous to the traveling public.
2. Borough of Tamaqua submit testimony as to what, in its opinion, should be done to improve the safety of the subject crossing.
3. Borough of Tamaqua submit testimony as to whether the subject crossing is a borough ordained and maintained street or on the State Highway System.
4. Borough of Tamaqua submit testimony as to whether any accidents involving trains and motor vehicles or motor vehicles and other motor vehicles have occurred at the subject crossing within the past five years and, if so, submit testimony as to the approximate number of such accidents and the nature and cause thereof.
5. Pennsylvania Department of Transportation submit testimony describing in detail the highway approaches to the subject crossing including the alignment, grades, roadway width, speed limit, sidewalks, and the general physical condition of the approach roadways.
6. Pennsylvania Department of Transportation submit testimony as to the approximate class and volume of vehicular and pedestrian traffic traversing the crossing daily.
7. Pennsylvania Department of Transportation submit testimony as to whether any accidents involving trains and motor vehicles or motor vehicles and other motor vehicle have occurred at the subject crossing within the past five years and, if so, submit testimony as to the approximate number of such accidents and the nature and cause thereof.
8. Pennsylvania Department of Transportation submit testimony as to what, in its opinion, should be done to improve the safety of the subject crossing.
9. Pennsylvania Department of Transportation submit testimony as to whether Federal or State Funding would be available for any improvement at the subject crossing.
10. Reading, Blue Mountain and Northern Railroad Company submit testimony as to the exact corporate name of the owner and operator of the line or railroad at the subject crossing.
11. Reading, Blue Mountain and Northern Railroad Company submit testimony as to the number of tracks presently located at the subject crossing, and the volume, class and approximate speed of all trains operated daily over its tracks; and whether any significant changes to such operations are contemplated in the foreseeable future.

12. Reading, Blue Mountain & Northern Railroad Company submit testimony describing the physical condition and characteristics of the subject crossing, including the type of warning facilities, roadway width, type of paving, intersection angle, condition of the rail, and the general physical condition of the crossing and sidewalk surfaces.
13. Reading, Blue Mountain & Northern Railroad Company submit testimony as to whether any accidents involving a train and a motor vehicle have occurred at the subject crossing within the past five years; and, if so, submit testimony as to the number of such accidents and the nature and cause thereof.
14. Reading, Blue Mountain & Northern Railroad Company submit testimony as to whether, in its opinion, the crossing should be altered or reconstructed, and/or whether additional warning facilities are necessary to effectuate the prevention of accidents and to promote safety for the traveling public.
15. Reading, Blue Mountain & Northern Railroad Company submit testimony indicating what portion of the work it will agree to perform; what portion of the costs it will agree to assume; and what portion of the completed work it will agree to maintain in the future; in the event the complaint is sustained and an improvement of the crossing is ordered by the Commission.
16. Schuylkill County submit testimony as to whether the subject crossing is located within its jurisdiction and whether, in its opinion, the subject crossing is adequate for the prevention of accidents and promotion of safety of the public.
17. Query whether any of the parties desires to submit any additional relevant testimony.

**DOCKETED**

DATE: July 14~~th~~ 1999

SUBJECT: C-00992533

TO: Office of Administrative Law Judge

FROM: James J. McNulty, Secretary

**DOCUMENT  
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IN RE:  
Borough of Tamaqua  
v.  
Reading, Blue Mountain & Northern Railroad Company

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

This matter is assigned to your Office for appropriate action.

Attachment

cc: TSL  
TSR

laf

BTL



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

IN REPLY PLEASE  
REFER TO OUR FILE

July 29, 1999

**DOCKETED** Re: C-00992533  
AUG 02 1999

(See attached list.)

**Borough of Tamaqua v. Reading, Blue Mountain & Northern Railroad  
Company**

Donald Matalavage, Borough Manager is filing complaint for Borough of Tamaqua. They feel the condition of crossing on West Broad Street endangers the safety of pedestrian using sidewalks and motor vehicles traveling in opposite direction because drivers swerve to miss significant depressions in crossing area.

972

Hearing Notice

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

Type: Initial Hearing  
Date: Tuesday, September 21, 1999  
Time: 10:00 a.m.  
Location: In an available hearing room  
Ground Floor  
North Office Building  
North Street and Commonwealth Avenue  
Harrisburg, Pennsylvania  
Presiding: Administrative Law Judge Herbert S. Cohen  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
Telephone: (717) 783-5452  
Fax: (717) 787-0481

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AUG 30 AM 11:19

BTL

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

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

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

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

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

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

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

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



QUESTIONS AND PROCEDURE

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2. Borough of Tamaqua submit testimony as to what, in its opinion, should be done to improve the safety of the subject crossing.
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9. Pennsylvania Department of Transportation submit testimony as to whether Federal or State Funding would be available for any improvement at the subject crossing.
10. Reading, Blue Mountain and Northern Railroad Company submit testimony as to the exact corporate name of the owner and operator of the line or railroad at the subject crossing.
11. Reading, Blue Mountain and Northern Railroad Company submit testimony as to the number of tracks presently located at the subject crossing, and the volume, class and approximate speed of all trains operated daily over its tracks; and whether any significant changes to such operations are contemplated in the foreseeable future.

12. Reading, Blue Mountain & Northern Railroad Company submit testimony describing the physical condition and characteristics of the subject crossing, including the type of warning facilities, roadway width, type of paving, intersection angle, condition of the rail, and the general physical condition of the crossing and sidewalk surfaces.
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16. Schuylkill County submit testimony as to whether the subject crossing is located within its jurisdiction and whether, in its opinion, the subject crossing is adequate for the prevention of accidents and promotion of safety of the public.
17. Query whether any of the parties desires to submit any additional relevant testimony.



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

August 3, 1999

IN REPLY PLEASE  
REFER TO OUR FILE

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

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

**DOCKETED**  
AUG 06 1999

Dear Mr. Hoffman:

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

DOCUMENT  
FOLDER

Very truly yours,

Barbara Bruin  
Executive Director

Enclosure

cc: Chief Counsel Pankiw  
Regulatory Review Coordinator DelBiondo  
New Assignments and Filings ✓

SRB

PENNSYLVANIA PUBLIC UTILITY COMMISSION

NOTICE

Borough of Tamaqua v. Reading, Blue Mountain and Northern Railroad Company, complainant feels the condition of the crossing on West Broad Street endangers the safety of pedestrians using the sidewalks and motor vehicles traveling in opposite directions because drivers swerve to miss significant depressions in crossing area.

Docket No. C-00992533

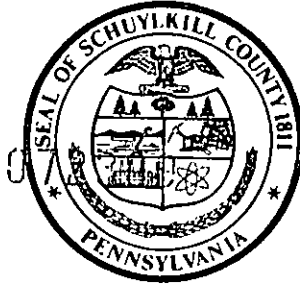
An Initial Hearing on this matter will be held Tuesday, September 21, 1999 at 10:00 a.m. in an available hearing room, Ground Floor, North Office Building, North Street and Commonwealth Avenue, Harrisburg, Pennsylvania when and where all persons in interest may appear and be heard, if they so desire.

BY THE COMMISSION

James J. McNulty  
Secretary

# BOARD OF COMMISSIONERS

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



JOSEPH H. JONES, JR., Solicitor  
FRANK ROBERT CORI, Assistant Solicitor  
MARY KAY BERNOSKY, Assistant Solicitor

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

Telephone: (570) 628-1129  
99 Telecopier: (570) 628-1106

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August 23, 1999

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

ORIGINAL

**In Re: Borough of Tamaqua vs. Reading, Blue Mountain & Northern Railroad  
Docket No. C-00992533**

Dear Mr. McNulty:

Please find enclosed the Written Testimony of the County of Schuylkill for filing with your office. I am also enclosing three (3) copies of the Exhibits which the County of Schuylkill will offer into evidence at hearing, two (2) copies for the reporter and one (1) copy for the presiding officer. By copy of this letter, copies of the Written Testimony and the Exhibits are also provided to each party of record.

Very truly yours,

*Mary Kay Bernosky*  
MARY KAY BERNOSKY

MKB:cah

Enclosures

cc: All Parties Indicated on Attached Mailing List (w/encl.)

✓

SRB

ORIGINAL

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED  
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DOCKET NO. C-00992533

BOROUGH OF TAMAQUA :  
vs. :  
READING, BLUE MOUNTAIN & :  
NORTHERN RAILROAD COMPANY :

WRITTEN TESTIMONY OF THE COUNTY OF SCHUYLKILL

The County intends to call one witness, George W. Parker, County Engineer, to testify at the hearing in this matter. George Parker's testimony will be in accordance with this written statement, which is an answer to the Pennsylvania Public Utility Commission's Question No. 16. The crossing in question is located in the Borough of Tamaqua, which lies in the geographical boundaries of the County of Schuylkill. The crossing appears to be deteriorating and depressed and vehicles attempt to avoid the crossing to prevent damage to their vehicle. Additionally, the crossing is only a few feet from a signalized intersection and, often cars stop abruptly upon viewing the crossing to avoid damage to the vehicle which may result in a rear-end collision. Furthermore, the crossing causes congestion at the intersection, in that it delays vehicle movement through the intersection.

George Parker is the County Engineer and is not offered as an expert in the area of railroad crossings. The County would offer the following four exhibits.

Exhibit "A" is a photograph depicting overall damage to the crossing.

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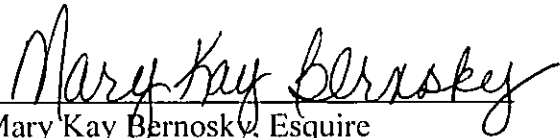
AUG 27 1999

Exhibit "B" is the photograph depicting common depth of depressions.

Exhibit "C" is a photograph depicting a vehicle swerving to avoid the depressions.

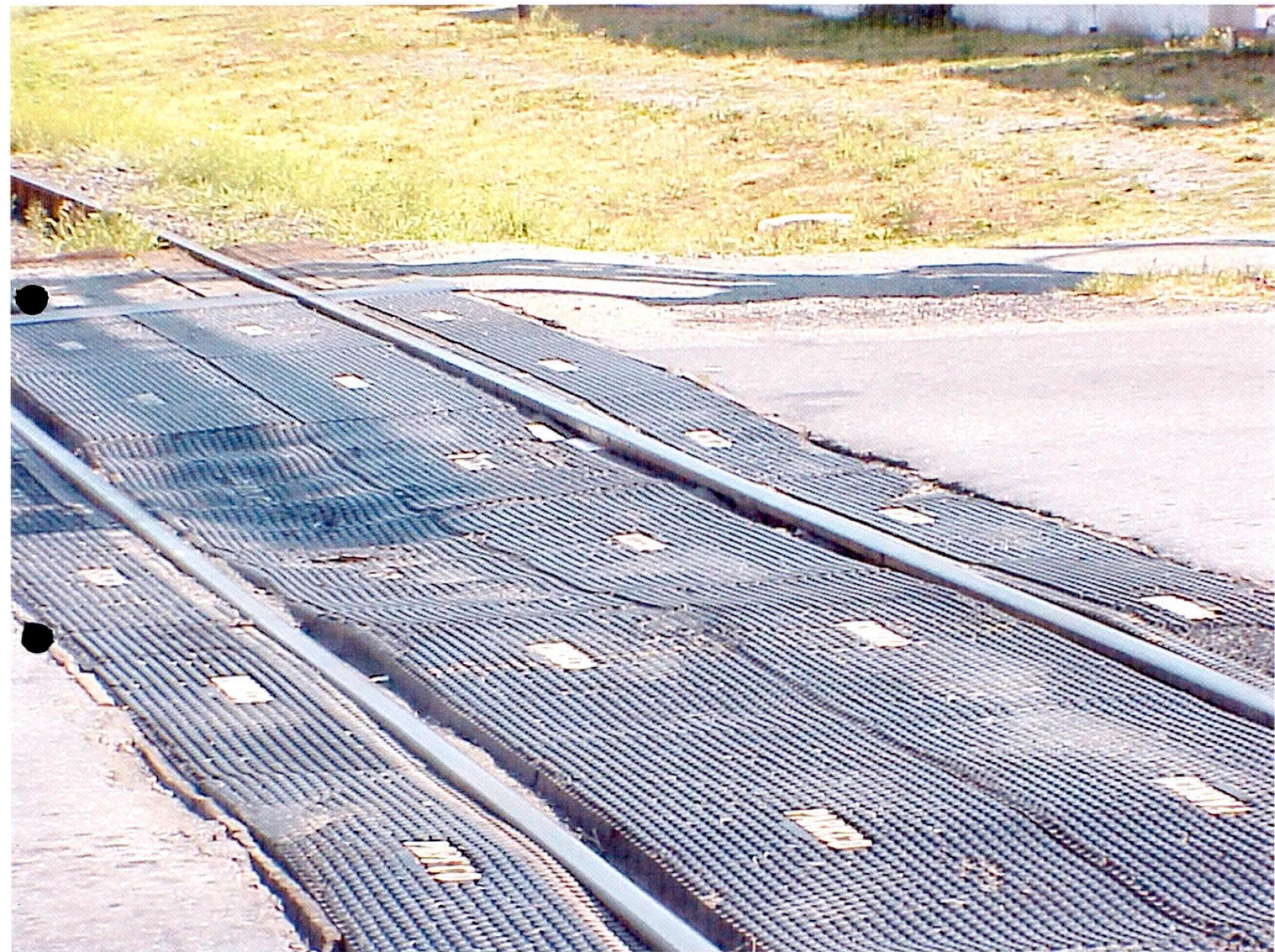
Exhibit "D" is a photograph depicting the raised edge of bituminous sidewalk area.

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: County of Schuylkill

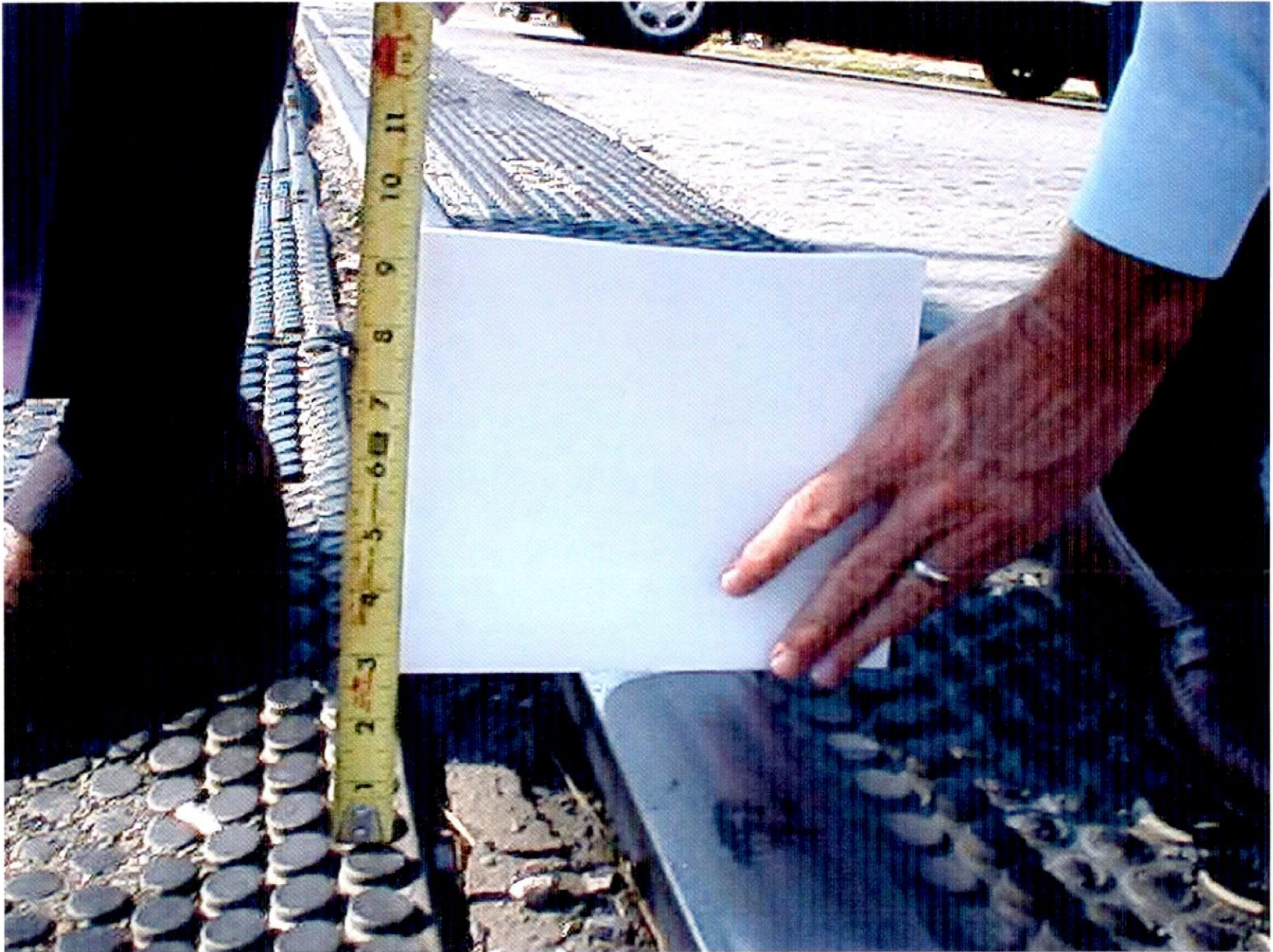




T R 209 RR-XING TAMAQUA 08-18-99 #002X



Exhibit "A" : Photograph depicting overall damage to crossing



T.R.209 RR-XING TAMAQUA 08-18-99 #767

Exhibit "B" Photograph depicting Common depth of depressions





T.R.209 RR-XING TAMAQUA 08-18-99 #013X

Exhibit "C" : Photograph depicting vehicle swerving onto  
sidewalk to avoid depressions





T.R.209 RR-XING TAMAQUA 08-18-99 #765

Exhibit "D" : Photograph depicting raised edge of bituminous  
sidewalk area.

**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

**PHILADELPHIA OFFICE**

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

GREGORY F. LEPORE, ESQ.

REPLY TO  
LANSDALE

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August 24, 1999

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AUG 27 1999

Administrative Law Judge Herbert S. Cohen  
Commonwealth of Pennsylvania  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. Box 3265  
Harrisburg, PA 17105-3265

HARRISBURG O&EJ  
PUBLIC UTILITY COMMISSION

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

Dear Judge Cohen:

Enclosed please find an original Written Testimony of John Waters to be filed relative to the above matter. Also enclosed is one copy to be time-stamped and returned to me in the enclosed self-addressed stamped envelope. Thank you for your cooperation in this matter.

Sincerely,

  
GREGORY F. LEPORE

GFL/jmy  
Enclosures

- cc: Jeffrey Bowe, Esquire
- Donald Matalavage
- Andrew Gordon, Esquire
- Gina D'Alfonso, Esquire
- Joseph Jones, Jr., Esquire
- William Pickering
- Kenneth McClain
- Jean Heffner
- David Salapa, Esquire
- Honorable David Argall
- Wandaleen Poynter-Cole, Esquire
- Randal Noe, Esquire

PHILADELPHIA  
AUG 27 1999  
10:05 AM



BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DONALD MATALAVAGE, :  
BORO MANAGER, BORO OF TAMAQUA :  
 :  
v. : Complaint Docket  
READING, BLUE MOUNTAIN & : No.: C-00992533  
NORTHERN RAILROAD COMPANY :

WRITTEN TESTIMONY OF JOHN WATERS

I, JOHN WATERS, Senior Vice President of the Reading Blue Mountain and Northern Railroad Company, hereby depose and say as follows:

1. The correct corporate name of Respondent is the Reading Blue Mountain and Northern Railroad Company.

2. The subject crossing consists of a single line of track, protected by both signals and gates. The crossing surface is a rubberized surface. The crossing was constructed prior to the Reading Blue Mountain and Northern Railroad Company's ownership of the line in question.

3. The crossing is utilized by train traffic approximately four to six times per day. It is not anticipated that there will be any substantial increase in the foreseeable future. There have been no accidents at the crossing involving a train and a vehicle during the current ownership of the Railroad.

4. It is believed that the rubberized crossing has reached the end of its useful design life and requires reconstruction. The Railroad believes that the wear and tear on the crossing was caused primarily by vehicular, not rail, traffic, given the infrequency with which trains traverse the crossing.

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SEP 10 1999

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5. The Railroad does not believe that it is economically feasible for it to reconstruct the crossing in question. The crossing at this point requires more than simple maintenance, but requires the reconstruction of the crossing. It is submitted that it would be most appropriate for PennDOT to bear the cost of reconstruction. The Railroad would be willing to maintain the reconstructed crossing at its expense. The Railroad is also willing to either perform the physical reconstruction of the crossing, or contract for its performance, at PennDOT's expense.

Respectfully submitted,

JOHN WATERS, Senior Vice President  
for Reading Blue Mountain and  
Northern Railroad Company

By:

  
\_\_\_\_\_  
GREGORY F. LEPORE, ESQUIRE