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BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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In re: C-00923909 Department of Transportation
of the Commonwealth of Pennsylvania v.
CSX Transportation, Inc. Initial hearing.

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2611 Doehne Road
Harrisburg, Pennsylvania 17110

CERTIFIED ORIGINAL

BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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In re: C-00923909 Department of Transportation
of the Commonwealth of Pennsylvania v.
CSX Transportation, Inc. Initial hearing.

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Stenographic report of hearing
held in Eleventh Floor Hearing
Room, Pittsburgh State Office
Building, 300 Liberty Avenue,
Pittsburgh, Pennsylvania,

Tuesday
September 15, 1992
at 10:00 o'clock a.m.

BEFORE

MICHAEL A. NEMEC, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

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appearing on behalf of the Pennsylvania
Public Utility Commission

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Commonwealth of Pennsylvania
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Pittsburgh, PA 15222
appearing on behalf of PennDOT

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100 North Charles Street
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appearing on behalf of CSX

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1 ADMINISTRATIVE LAW JUDGE NEMEC: This morning
2 we are at the at the case captioned Department of
3 Transportation of the Commonwealth of Pennsylvania
4 versus CSX Transportation, Incorporated.

5 The matter is docketed at C923909.

6 My name is Michael Nemec. I'm the
7 Administrative Law Judge with the Pennsylvania
8 Public Utility Commission assigned to conduct this
9 hearing and any other hearings that may be required
10 in this matter and to prepare a recommended
11 decision.

12 I'd like to start by having counsel identify
13 themselves and state on the record the parties that
14 they represent.

15 MR. SALAPA: My name is David A. Salapa. I'm
16 here on behalf of the Law Bureau of the Public
17 Utility Commission.

18 MS. D'ALFONSO: Gina M. D'Alfonso. I'm
19 Assistant Counsel with the Pennsylvania Department
20 of Transportation.

21 MS. POYNTER: And I am Wandaleen Poynter,
22 senior counsel with CSX Transportation, Inc.

23 JUDGE NEMEC: Does counsel have any
24 preliminary matters before we start?

25 MS. POYNTER: No, Your Honor.

1 JUDGE NEMEC: All right.

2 There are a set of questions and procedures
3 that have been prepared. Unless there's an
4 objection, we'll follow these and have each party
5 present testimony that they wish to present in
6 conjunction with the questions and procedures.

7 Any objection with regard to the questions
8 and procedures?

9 MR. SALAPA: No.

10 MS. POYNTER: No.

11 JUDGE NEMEC: All right.

12 Let's have all witnesses who intend to
13 testify today stand.

14 (All potential witnesses were duly sworn at
15 this time.)

16 JUDGE NEMEC: We'll start with the Department
17 of Transportation.

18 MS. D'ALFONSO: Thank you, Your Honor.

19 At this time, I would like to call Henry
20 Farrell.

21 HENRY FARRELL, called as a witness, having
22 been previously sworn, was examined and testified
23 as follows:

24 DIRECT EXAMINATION

25 BY MS. D'ALFONSO:

1 Q Would you please state your full name?

2 A My name is Henry W. Farrell.

3 Q By whom are you employed?

4 A Pennsylvania Department of Transportation.

5 Q In what capacity are you employed with the
6 Pennsylvania Department of Transportation?

7 A I'm a civil engineer in the Bureau of
8 Design.

9 Q Do you have any specific responsibility as
10 a civil engineer in the Bureau of Design?

11 A Yes, I do.

12 I have responsibility to investigate the
13 particular structure that we're discussing today.

14 Q Therefore, you are familiar with this
15 structure and the questions and procedures?

16 A Yes.

17 I was present at the field view when we
18 looked at the structure.

19 Q And are you authorized by the Department
20 of Transportation to testify in today's proceeding?

21 A Yes, I am.

22 Q With that, I would direct your attention
23 to question #1, which asks the Department to submit
24 testimony describing the general location of all
25 highway crossings involved in this proceeding.

1 A The particular crossing is located in
2 Washington County, Buffalo Township. It's midway
3 between Interstate Route 70 and Taylorstown.

4 The highway involved with the crossing is
5 State Route 3009, and we do have an exhibit
6 prepared that's the location of this crossing.

7 MS. D'ALFONSO: I'm going to show you what's
8 been marked as PennDOT Exhibit 1.

9 BY MS. D'ALFONSO:

10 Q Is that the location that you're referring
11 to?

12 A That's correct.

13 Q How is the structure identified on that
14 map?

15 A The structure is identified by a yellow
16 circle.

17 Q Question #2 asks the Department to submit
18 testimony describing the general type of structure,
19 the number of spans, principal dimensions -- and to
20 state the general physical condition thereof.

21 A The structure itself consists of a tunnel
22 which has approximately a 30-foot embankment over
23 it and railroad tracks of CSX Transportation on top
24 of the fill.

25 The structure itself is a tunnel which

1 carries a railroad over State Route 3009 and also
2 in addition, Buffalo Creek or maybe Little Buffalo
3 Creek, I'm not sure, passes through the tunnel and
4 underneath the roadway.

5 The Department records indicate the structure
6 was built in 1907 and, presumably, constructed by
7 the railroad company at that time.

8 State Route 3009 is presently closed due to
9 damage on the abutments of the arch structure which
10 supports the roadway deck and this damage was
11 caused by scouring of Buffalo Creek.

12 Q What is scouring?

13 A Scouring is erosion, or washout would be a
14 good way to describe it, the portion of the
15 structure, abutment portion, which is below the
16 waterline of Buffalo Creek.

17 The dimensions of the tunnel arch is not a
18 Department structure. I'm not sure if we did any
19 measurements on it, but to the best of my
20 recollection, I'm informed that there is 13 feet
21 vertical clearance and very limited horizontal
22 clearance here, as the arch-type structure does
23 restrict both vertical and horizontal clearance for
24 traffic.

25 Q The next question, question #3, asks the

1 Department to submit data concerning the highway
2 traffic before the structure was closed to traffic,
3 including --

4 A The structure is presently closed.

5 By previous traffic information, we estimate
6 that 500 cars would use this structure daily, if it
7 were open.

8 We are proposing to do some repairs which
9 we'll discuss later that will open the structure to
10 restricted weight limits; three tons, five tons
11 maximum, and with these weight restrictions, there
12 would be no heavy vehicles, no heavy truck traffic.

13 What we're proposing is basically to open
14 this to cars and light vehicles.

15 Q Question #4 asks the Department to state
16 the present obligation with respect to maintenance
17 of the existing structure.

18 A The Department recognizes no obligation
19 with respect to maintenance of the existing
20 structure.

21 Q Question #5 asks the Department to state
22 the nature, type, extent, date, cost and other
23 specific pertinent details as to any recorded
24 substantial items of maintenance and/or repairs on
25 existing structure.

1 A Neither the Department nor any of its
2 contractors has done any repairs to this structure.
3 We just placed some stone on the stream bank to
4 guard against further erosion and undermining of
5 the structure, but this minor stone placement had
6 nothing to do with the structure itself. It was
7 done upstream.

8 Q That was to divert the water from the
9 damaged area?

10 A That's correct.

11 Q Question #6 asks the Department to state
12 whether the existing crossing is adequate for the
13 convenience and safety of the public, or should be
14 altered, rehabilitated or demolished; and if so, to
15 submit testimony regarding the general nature and
16 all workup changes.

17 A As we previously said, currently the
18 roadway is closed, and to open the roadway, it
19 would be necessary to make the repairs to both
20 abutments.

21 And with the type of repairs that we are
22 proposing, this would allow the crossing, the
23 roadway, to be open to three ton posting, which is
24 significantly lighter than the legal load limits.

25 In order to obtain legal load limits, 15 ton

1 for heavier vehicles, it's our opinion that the
2 structure would have to be replaced.

3 Q What type of work would be necessary for
4 this structure to be opened for the three to five
5 ton load limit?

6 A We've done some preliminary estimates.

7 At this time, we don't have any plans done to
8 date.

9 My understanding is that the stream itself
10 would be dammed and pumped dry, as well as we're
11 able to in the area of the abutments, and then
12 after we expose the area in question, we go in
13 there and do some form work with some wood and
14 would pour concrete in the abutment, fill in the
15 eroded or cracked areas and strengthen the abutment
16 with concrete reinforcement, as required.

17 The preliminary estimate for these repairs is
18 \$50,000.

19 Q That is a preliminary estimate?

20 A The preliminary cost estimate for these
21 repairs is \$50,000. Right now, that's a very rough
22 estimate.

23 Q Question #7 asks the Department to state
24 whether it has prepared any inspection reports,
25 plans, or cost estimates as may be required for

1 work necessary or advisable at this location.

2 A The Department has performed safety
3 inspections on the structure, and several years ago
4 we had a consultant do an underwater inspection.

5 At that time the result of that inspection
6 revealed the problems which justified closing the
7 roadway.

8 Other than that, we've only done cursory
9 inspections of the structure itself.

10 Since it's not our structure, we haven't done
11 anything extensive with it.

12 Our preliminary repair estimate of \$50,000 is
13 basically based on the consultant's report that was
14 done several years ago.

15 Q Question #8 asks the Department to state
16 whether any bridge bill funds are available to be
17 used at this location.

18 A There are no bridge bill funds currently
19 available for this location.

20 Q Question #9 asks the Department to submit
21 testimony as to what portion, if any, of any
22 construction work that they will agree to perform,
23 and what portion, if any, of the cost --

24 A We've already contacted the Commission on
25 this by letter of August 25, 1992, and by that

1 letter we have agreed to do the necessary repairs
2 to open the roadway to vehicular traffic.

3 We will do this at our initial cost and
4 expense in the interest of public safety; however,
5 we feel that the responsibility here rests with CSX
6 Transportation Company, and in today's hearing we
7 are trying to get reimbursement for this work.

8 We will not agree to assume any of the costs,
9 nor will we agree to assume any future maintenance
10 costs for the structure.

11 The work will be done at our initial cost and
12 expense in the interest of public safety.

13 MS. D'ALFONSO: I have nothing further for
14 Mr. Farrell. He's available for cross-examination.

15 JUDGE NEMEC: CSX.

16 MS. POYNTER: Yes, thank you.

17 CROSS-EXAMINATION

18 BY MS. POYNTER:

19 Q Mr. Farrell, you've indicated that your
20 Department has -- forgive my use of terms. I think
21 you placed some riprap which has rechanneled the
22 movement of Buffalo Creek?

23 A I'm not sure that it rechannels the
24 movement exactly, but we did place some riprap on
25 the upstream side of the structure, and the purpose

1 of that was to try to avoid any further damage from
2 erosion of the stream.

3 Q Do you recall if at any time that it would
4 try to rechannel the movement of the creek?

5 A No, I do not.

6 Q Have you had an -- when did you exactly
7 put this riprap in?

8 A Our records have December of '90.

9 It would have been a very small operation,
10 and it would have been done by our maintenance
11 forces.

12 Q Has there been an inspection of the site
13 since that date?

14 A Yes, there was. There was an inspection
15 done by the Department people, structure people,
16 and it was done June 1, 1992.

17 At that time, again this was a cursory
18 inspection, but at that time we found no
19 significant changes from the earlier recommendation
20 and the earlier problems that were reported with
21 the structure.

22 Q Was there any indication when you made
23 that inspection that the riprap was doing what it
24 should be doing?

25 A I really can't say.

1 It seems to me that the damage was already
2 done, and whether or not it prevented any further
3 damage would be very difficult to say.

4 Q Would you describe for me precisely what
5 inspecting a structure of this nature entails?

6 Do you have a checklist that you follow, or
7 is there some pattern that you follow in making
8 these inspections?

9 A Yes, there is a checklist that we would
10 follow in making this type of inspection. However,
11 in this case of inspection, I understand it was a
12 very cursory inspection because the roadway is
13 closed and it's not a Department structure.
14 Therefore, it was a very quick inspection, so to
15 speak, not the indepth thing we would do on a
16 Department bridge that was currently open.

17 Q It was a little misleading because I
18 hadn't limited my question to the June 1, 1990
19 inspection, but to the normal inspection which your
20 Department would make of a structure.

21 A The normal inspection would include a
22 checklist of various things that we would look for
23 in a structure, and it would include many things;
24 condition of the roadway, the abutments, bearing
25 joints, any supporting steel; whatever would be

1 involved in the structure to assure us that it
2 would be safe for the traveling public.

3 Q And about how long does it normally take
4 for that kind of inspection to be made?

5 (An off-the-record discussion was held.)

6 BY MS. POYNTER:

7 Q Who was responsible for getting the
8 preliminary estimate of that?

9 We're talking about today.

10 Is that a level of approximately \$50,000 for
11 reconstruction?

12 A That was done by our District 12-0 bridge
13 and design people. It was done in-house by the
14 Department.

15 Q And did I hear you -- correct me if you
16 didn't say it, but basically the estimate was based
17 on the prior engineering report that you had
18 commissioned several years ago?

19 A Yes.

20 Q Now, I believe there were two.

21 Can you specify for me which one you're
22 relying on at this time?

23 MS. D'ALFONSO: Perhaps that's best suited
24 for Mr. Herbert.

25 BY MS. POYNTER:

1 Q You indicated there was no bridge bill
2 funds.

3 Forgive me for my ignorance, but can you
4 explain for me what that phrase means "bridge bill
5 funds"?

6 A The Department does have a 12-year plan
7 for structures which need replacement are
8 recognized and funded.

9 The cost construction is question is not
10 currently funded by any monies for any type of
11 repairs or replacement within the next few years.

12 Q And this 12-year program is based solely
13 and specifically on State funds?

14 A It's based on priority, and funding is
15 made available as those priorities come up.

16 This particular crossing is on the bridge
17 bill, but it's not funded. It's on the latter
18 portion of the bridge bill, at least four years
19 from the present date, and there are no funds
20 committed for it.

21 During that period of time, this type of
22 priority could change, which is a normal thing.

23 Every year priorities are reviewed and some
24 projects may move ahead and others may move behind.

25 At this time we really can't say what would

1 happen.

2 What I'm saying at this point is, there are
3 no available funds currently for the replacement or
4 repair of this structure.

5 Q On a structure where you do have funds
6 available, do those funds come out of the State
7 funds, or do they come out of State funds that have
8 been donated by the Federal Highway Department?

9 A They could be either; they could be
10 Federal, State, or it could be State money, and
11 that's another decision that would be made at the
12 time that the placement structure is actually
13 programmed.

14 And to complicate things further, the funding
15 could change from the time that we initially decide
16 to do the work and start construction.

17 Q Do I understand you correctly, that in
18 this bridge bill fund all bridges within the State
19 of Pennsylvania are prioritized somewhere on that
20 list?

21 A Well, not all, but the bridges that we
22 feel within a 12-year period would need some
23 attention would be prioritized or put on the list
24 by the district that is making that recommendation.

25 Q And you did indicate that the bridge that

1 is the subject of this hearing is on the list?

2 A Right.

3 Q You indicate that you project that there
4 would be 500 cars that would use this bridge on a
5 daily basis if it were reopened?

6 A That's correct.

7 Q Could I ask you how you arrived at that
8 figure?

9 A That was done, again in-house by the
10 Department, and the projections were based on
11 previous traffic counts before the crossing was
12 closed.

13 Q Do you have anything in your files that
14 you could give me a little more specificity on
15 that?

16 For instance, was this an official count that
17 was done with a counter, or some kind of State
18 project where counts were taken of specific
19 arteries, or precisely why did you have that count
20 done?

21 A Well, we have traffic counts on just about
22 every road, so it's done at one particular time or
23 another.

24 And this particular crossing has been closed
25 since 1989, and I don't have any hard data with me

1 to back up the traffic count. That information was
2 supplied by our district in-house people. And as I
3 indicated, it was based on previous counts before
4 the structure was closed.

5 We obviously haven't done anything here since
6 1989.

7 Q Could you tell me what changes and basic
8 configurations of roads have occurred in and around
9 the area we're talking about?

10 For instance, have there been any new roads
11 built? Have there been any roads closed? Has
12 there been any activity that would or could impact
13 the level of traffic on this road since 1989?

14 A From driving around the area when I viewed
15 the structure, I didn't notice anything of any
16 significance in that area.

17 I'm informed by the district people that
18 there were no significant changes to the road or
19 configuration or construction that would have
20 changed things since the crossing itself was
21 closed.

22 Q Can you tell me where the traffic has been
23 diverted by the closing of this bridge?

24 A By inspection of Exhibit 1, the traffic
25 that would use this State Route 3009 would most

1 likely go over to Traffic Route 221, which is I
2 would say, a mile east of the subject crossing.

3 Q Is that also a State road?

4 A That is a State road.

5 Q So we can assume that the diverted traffic
6 of 500 cars has been diverted to State Road 221?

7 A I would say that's correct.

8 Now, they could also by further inspection,
9 they could also use Township Road T-422, which is
10 west of the crossing at a distance of about twice
11 as far as Traffic Route 221.

12 It may be that some vehicle would take that
13 pattern.

14 Q You indicated that your -- I think I am to
15 defer all questions about the \$50,000 preliminary
16 estimate to the next witness; is that correct?

17 MS. D'ALFONSO: Yes.

18 MS. POYNTER: I have no further questions of
19 this witness at this time.

20 JUDGE NEMEC: Commission.

21 MR. SALAPA: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. SALAPA:

24 Q Mr. Farrell, in your research on the
25 traffic count, could you tell whether there has

1 been any truck traffic using the structure prior to
2 its closure?

3 A We don't have any information on that.

4 If you would like a guess on my part, an
5 assumption, there's normally two to five percent
6 truck traffic on a road like this, but due to the
7 configuration of this arch, we have vertical and
8 horizontal restrictions, so there's very little
9 truck traffic prior to 1989.

10 Q You stated that the Department is going to
11 do the repair work necessary to open the structure
12 back up.

13 Is part of that going to be preparing plans
14 for the work you're going to do?

15 A Yes.

16 Q Approximately how long will it take to
17 prepare those plans?

18 A Sixty days.

19 Q So they would be ready for submission to
20 the Commission within 60 days; is that what you're
21 saying?

22 A Yes.

23 Q Does the work that you are proposing just
24 involve the bridge? Does it include anything like
25 replacing guardrails, or is it strictly limited to

1 the structure itself?

2 A The structure.

3 Q Are you aware that there was repair work
4 done to the structure by CSX?

5 A I am aware that there was some work done
6 in the area of the structure. I'm not familiar
7 with exactly CSX has done to the structure.

8 Q Fair enough. I'll defer that question to
9 the next witness.

10 Once these repairs are made to the structure,
11 does the Department have any estimate as to how
12 long these repairs will last?

13 In other words, if the bridge is opened back
14 up for hard traffic, how long will it be before
15 more repairs may be necessary?

16 A We don't have that information. That
17 would be very difficult to say.

18 MR. SALAPA: That's all I have.

19 JUDGE NEMEC: Mr. Farrell, I want to
20 understand the thing we're dealing with here.

21 EXAMINATION

22 BY JUDGE NEMEC:

23 Q From your description, this is a bridge
24 carrying the roadway above Buffalo Creek, but it's
25 also within a culvert-type setting or a tunnel?

1 A That's correct.

2 Q And on top of the tunnel or fill are the
3 railroad tracks?

4 A That's correct, Your Honor.

5 Q Do you have information as to when the
6 structure was built?

7 A No, I don't. I'm sorry.

8 By structure, are you referring to the arch
9 itself?

10 Q The bridge over the stream.

11 A No, Your Honor, I don't.

12 Q Or the arch carrying the railroad tracks?

13 A The arch itself, which is a railroad
14 structure, that was built in 1907.

15 Q So the railroad built the structure.

16 Did the railroad build the highway structure
17 as well?

18 A No, I don't think so, Your Honor. I
19 really don't know.

20 Q And did the railroad structure, the arch
21 over the crossing, did that come sometime after the
22 roadway was in place, or the bridge was in place,
23 or before?

24 A We don't know.

25 Q Don't know.

1 Since this has been closed since 1989, do you
2 have any information regarding the effect on the
3 local community of this closing?

4 A The reason that we are doing the work to
5 reopen the structure is because of input from the
6 local community.

7 Q And what type of information have you
8 received?

9 A We've been approached by --

10 Q Is there someone else who can talk about
11 that or testify to that?

12 A Could I just have a second, Your Honor?

13 Q Sure.

14 A Senator Barry Stoudt (phonetic), Your
15 Honor.

16 He was contacted by constituents who assured
17 residents of the immediate area that complained
18 about the road, from the structure being closed,
19 and that's one of the reasons that we're acting on
20 this right now.

21 Q Do you have any alternatives to repairing
22 the structure or its course, for example rerouting
23 the road?

24 A No, Your Honor.

25 We did have some very preliminary discussion

1 on what it would take, for instance a replacement,
2 which would probably include rechanneling the
3 stream and changing the road configuration, and it
4 would be a very involved, costly project. We're
5 looking at billions of dollars.

6 JUDGE NEMEC: I have no additional questions.

7 Are you through with the witness?

8 MS. D'ALFONSO: I have a few more questions.

9 REDIRECT EXAMINATION

10 BY MS. D'ALFONSO:

11 Q Mr. Farrell, isn't it true that this road
12 and this crossing was posted in 1987?

13 A Yes, that's true.

14 Q So between 1987 and the time the bridge
15 was closed, there would not have been any heavy
16 vehicles?

17 A That's correct.

18 Q And when the State sets up a detour, does
19 the State always detour on State routes?

20 A Not necessarily.

21 Q But an official detour would generally be
22 on a State route?

23 A We would try to find the best available
24 road to accommodate the traffic. In most cases,
25 that would be a State route.

1 MS. D'ALFONSO: I have nothing further from
2 Mr. Farrell.

3 JUDGE NEMEC: Any other questions?

4 MR. SALAPA: No further questions.

5 JUDGE NEMEC: Thank you, sir, you're excused.

6 DON HERBERT, called as a witness, having been
7 previously sworn, was examined and testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MS. D'ALFONSO:

11 Q Would you please state your full name?

12 A Donald Wayne Herbert.

13 Q By whom are you employed?

14 A The Pennsylvania Department of
15 Transportation.

16 Q How are you employed by the Department of
17 Transportation?

18 A I am Assistant District Bridge Engineer in
19 District 12-0 Bridge Unit.

20 Q Are you --

21 A Yes, I am.

22 Q How long have you been --

23 A I believe about four years.

24 Q How long have you been with PennDOT?

25 A Nine years.

1 Q And are you familiar with this crossing
2 and the structure?

3 A Yes, I am.

4 Q You heard some questions initially about
5 the riprap or the stones that Ms. Poynter was
6 addressing to Mr. Farrell.

7 Can you clear that up a little?

8 What did the Department do with the stream?

9 A To the best of our records, we were
10 directed or had agreed to place stone as a result
11 of a PUC field conference.

12 Essentially, what we were trying to do, what
13 we were trying to accomplish with the stone, was to
14 fill in an area that had presumably been causing
15 the stream to be directed towards the abutment that
16 had been significantly undermined.

17 The placement of stone was to try to prevent
18 that from happening further.

19 Q And there was, pursuant to an agreement
20 reached by the PUC field conference?

21 A Yes, it was.

22 Q Do you have any knowledge about what
23 estimates we based our \$50,000 estimate on to
24 perform these repairs?

25 A Yes, I do.

1 Q Can you enlighten us?

2 A Yes.

3 We had a field meeting at the site within the
4 past month in which we had viewed the site with
5 some of our construction people and design people.
6 That was an amount that we had arrived at as a
7 result of that field meeting and the review of the
8 underwater inspection that was done by a
9 consultant.

10 MS. D'ALFONSO: I have nothing further for
11 Mr. Herbert.

12 CROSS-EXAMINATION

13 BY MS. POYNTER:

14 Q When you went for this most recent field
15 investigation, where were you working on the
16 preliminary estimate?

17 Did you observe whether or not the work you
18 had done placing the riprap had actually diverted
19 the water?

20 A No.

21 I was unaware of the work at the time of this
22 field meeting.

23 I should add that I was unaware that it -- I
24 was not completely familiar with the case at the
25 time, and I was not aware that that work had been

1 done by --

2 Q Is it fair to say that you are the
3 individual who was assigned within the Department
4 to now spearhead this event and to get the
5 preliminary plans together and carry out the work?

6 A No.

7 Q Would you tell me who that would be?

8 A As far as the person ultimately
9 responsible for the preparation of the plans?

10 Q And if it's more than one person, who is
11 responsible for the plan, and then, if you will,
12 who will be the foreman of the job?

13 A The preparation of the plan will take
14 place in our unit by another manager in our unit
15 who is my counterpart. The work would -- we have
16 not decided at this point who will perform the
17 actual work in the field, whether it will be a
18 contract project or have it done by the Department.

19 Q Could I ask you, what is your relationship
20 to this case now?

21 A I am in charge of all bridge safety
22 inspections, coordination of bridge maintenance
23 work. That's the extent as it relates to this
24 case.

25 Q So, someone who reports to you, then,

1 actually does the bridge inspections?

2 A Yes.

3 Q Do you do them, or do you have them --

4 A We have two inspection teams that do them,
5 as well as our staff is supplemented by --

6 Q What determines whether or not a bridge is
7 on your list for inspection?

8 A As far as our inspections, we inspect
9 everything that affects a State road or is owned by
10 us.

11 Q Do you have any kind of categories? Do
12 you have priority, medium priority, low priority
13 inspections? Do you inspect some bridges more
14 often?

15 Describe to me basically how your
16 inspections --

17 A We are required by law to inspect all of
18 our structures at least once every two years.

19 It is a judgment call as to shortening that
20 frequency, and generally we do inspect our weight-
21 restricted structures on a more frequent basis,
22 whatever.

23 And every two years on any other structure
24 that we have determined that there is a problem
25 that warrants a more frequent inspection.

1 Q Define for me what a weight-restricted
2 structure would be.

3 I assume that all bridges have a maximum
4 tonnage limit?

5 A That's true, but a weight-restricted
6 structure is something that's posted by signs for
7 something less than the legal load.

8 Q And what is a legal load?

9 A Eighty thousand pounds in the State of
10 Pennsylvania. However, depending on your axle
11 configuration, it becomes much more complicated
12 than that; depending on the axle configuration.

13 Q And what was the load restriction on this
14 bridge prior to the time the State closed it?

15 A We had it posted in a three ton.

16 Q And you proposing to reopen it as a three
17 ton?

18 A A three ton or something slightly higher,
19 possibly. We haven't determined that amount yet.

20 Q And at a three ton limit, precisely what
21 does that limit by way of vehicle? Does it limit
22 any passenger vehicles; does it limit only trucks
23 and buses, or things of larger capacity?

24 Can you describe for me approximately what --

25 A Basically, a three ton limit, you could

1 run any small passenger vehicles across it, not
2 trucks. Pickup trucks, yes.

3 Basically, no loaded trucks. Automobiles are
4 fine.

5 Q In approaching this situation and
6 determining that you would reopen the bridge and
7 that you would require it be a certain load limit,
8 did you do any traffic studies, as indicating that
9 a three or five ton would be appropriate?

10 A Do I personally do any traffic studies?

11 Q Did you, or anyone who reports to you, or
12 anyone in your Department?

13 A No.

14 Q Could I ask then, why you arrived at this
15 specific load?

16 A We had previous analysis that indicated
17 that that's all the structure would take.

18 Q Could you give me a little further
19 definition on that?

20 Your studies indicate that that's all it
21 could take. Can you tell me something specific
22 that that would be an indicator?

23 A That rating was probably arrived at by the
24 deck -- the immediate structure that carries
25 vehicles.

1 When the structure problems were determined,
2 that was what prompted the closing.

3 Q Do you always do a subterranean, an
4 underwater inspection of the bridge? Is that a
5 normal process you would follow? Is that a normal
6 type of inspection?

7 A Yes, it is.

8 Q And do you have people on staff that
9 actually do the diving?

10 A No, we don't. The extent is what
11 constitutes whether or not we get a consultant
12 involved that can do the diving.

13 Q Is it fair to say that on most structures
14 that do have a subterranean area underwater, that
15 at least every two years you do a dive?

16 A No, we are not required.

17 Q Then could you tell me what would prompt
18 you to take the next step and do a dive?

19 A We would have diving performed if we were
20 unable to do it by probing.

21 Q I'm afraid you're going to have to
22 describe that for me.

23 A Probing, we have scouring poles, a long
24 rod is the best way to describe it, that can be
25 used to prod along the interface between the

1 structure and the subsurface material.

2 Q And I take it if it penetrates at all, you
3 would consider that a problem?

4 A Not at all.

5 I mean if voids are noticed and that kind of
6 thing and if the extent cannot be determined by the
7 prodding itself --

8 Q Going back to your preliminary estimates,
9 to my knowledge there have been two engineering
10 studies done on the structure for the State.

11 I think I can say between 1988 and now.

12 Which of those studies would you be relying
13 upon in arriving at your preliminary or final
14 estimate actually on what the cost of this repair
15 would be?

16 A Can I correct a statement?

17 Q Yes, of course.

18 A There have been various consultant
19 investigations performed. There has only been one
20 underwater inspection, so to speak.

21 Q And what was the date of that one?

22 A Well, the date of the actual inspection --
23 we can just leave it at October of '89.

24 Q That's fine.

25 Q The field investigation occurred, and then

1 preparation of the report.

2 Q And could you describe that for the record
3 and indicate which engineering firm was involved?

4 A The engineering firm's name is Pickering
5 Courts & Somerson, Incorporated (phonetic) in
6 Newton, Pennsylvania.

7 Q And have you been in contact with them
8 recently?

9 A Not related to this structure.

10 Q So in arriving at your preliminary plan,
11 you will not be asking them to update this report?

12 A No, we will not.

13 MS. POYNTER: Question of counsel.

14 Will you be having someone testify who
15 represents --

16 MS. D'ALFONSO: No, we will not.

17 BY MS. POYNTER:

18 Q I think Mr. Farrell may have already
19 addressed this, but just to make sure that we're
20 all of the same understanding, do the Highway
21 Department's records and Department of
22 Transportation's records in any way indicate when
23 the State road was constructed, when the term
24 you're using, the deck for the highway, was built?

25 Is there anything in your records that

1 indicates who had responsibility for that
2 construction?

3 A I don't believe so. I see nothing.

4 Q Has anyone within your Department
5 attempted to do a document check in a courthouse or
6 anything along that line to check easement rights?

7 A Not that I'm aware of.

8 Backing up, when you say easement rights --

9 Q Presumably, this property at some point in
10 time was in ownership other than the State, and I'm
11 just wondering if there's anything in the
12 Department files that would indicate that there was
13 a purchase of the land, that there was some
14 agreement for easement rights?

15 Basically, if anyone has any information that
16 would lead to who has some kind of contact with
17 this bridge --

18 MS. D'ALFONSO: To the best of my knowledge,
19 we don't have any of that information. I don't
20 believe a title search has been performed. I did
21 not ask for one to be performed.

22 What I can do is, if the Commission would
23 desire, I can inquire whether or not a title search
24 has been performed.

25 JUDGE NEMEC: Well, why don't you ask and you

1 can share the information in a letter to everybody.

2 MS. D'ALFONSO: I will do that.

3 JUDGE NEMEC: Thank you.

4 MS. POYNTER: I have no further questions at
5 this time.

6 JUDGE NEMEC: Law Bureau.

7 MR. SALAPA: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. SALAPA:

10 Q Mr. Herbert, would it be your opinion that
11 the arch portion of this bridge was actually
12 constructed separate and apart from the roadway?

13 A I can't speak to that. I have nothing
14 that would indicate, that would give me an opinion
15 one way or another as to how the entire structure
16 was built.

17 Q But it's possible that one part could have
18 preceded the other?

19 A That's possible.

20 Q Are you aware that CSX did some work at
21 this particular crossing?

22 A Yes, I am.

23 Q Just briefly, what work did they do there?

24 A They did some work to one of the
25 wingwalls, and placed some gabion baskets, to the

1 best of our records.

2 Q And what they did was insufficient to
3 allow the Department to reopen the structure?

4 A That's correct.

5 Q Why? Why was it inadequate?

6 A The actual undermining that was found and
7 described in our underwater inspection was not
8 addressed.

9 Q Do you know, or would you have any way of
10 knowing, when this bridge deck was originally
11 constructed?

12 What was it -- what kind of weight load was
13 it designed to carry?

14 A I have no idea, because we do not know as
15 to when it was constructed or have any plans
16 showing that.

17 MR. SALAPA: That's all I have, Your Honor.

18 JUDGE NEMEC: Gabion baskets.

19 MR. HERBERT: Yes?

20 JUDGE NEMEC: What are they?

21 MR. HERBERT: They're a method that can be
22 used to construct a retaining wall. They're wire
23 mesh baskets that are filled with stone.

24 JUDGE NEMEC: Any more questions?

25 MS. POYNTER: Just one, if you don't mind.

CROSS-EXAMINATION

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BY MS. POYNTER:

Q Is it unusual to have a situation where you have nothing in your records that indicates how property was acquired to place a road?

A My records, yes, because I have no records pertaining to roadways. But I believe so.

We're talking about around the beginning of the century. There's been a lot of roads that the State has acquired by --

Q So it could have been a Township road at some time?

A That's true.

Q Is that likely the reason that you don't have any records in the State files, is that you potentially or possibly took over a Township or County road and then wouldn't have any records?

Is it likely?

MS. D'ALFONSO: If counsel would desire, I could address that in the letter.

MS. POYNTER: I would like that, yes.

EXAMINATION

BY JUDGE NEMEC:

Q You've been there to the crossing, and this is within the district that you're responsible

1 for; is that correct?

2 A Yes.

3 Q Now, this roadway generally runs north and
4 south, as best I can tell from your Exhibit 1.

5 Can you tell me what structures, if any,
6 exist north of the subject cross to the next
7 intersection?

8 A No, I can't tell you at this time without
9 researching.

10 Q And, likewise, you can't tell me what lies
11 to the south on either side of the roadway to the
12 next intersection?

13 A That's true.

14 Q Is it a residential area, rural area,
15 industrialized area?

16 A I can't recall.

17 I know there is -- on the approaching roadway
18 from Traffic Route 40 into this structure, which is
19 the southern end, there is a recreational area in
20 the --

21 Q Township, County?

22 A I don't know as far as the ownership.

23 I've seen a baseball field, soccer field;
24 possibly something like that.

25 Q Have you had contact with either the

1 County or Buffalo Township with regard to their
2 desire and need for this crossing?

3 A No, I have not.

4 Q Would officials or residents of either the
5 County or the Township normally contact you or your
6 office if they had questions about this crossing?

7 A More than likely, yes.

8 Q Do you have any record of any contact from
9 either the County or Township regarding this
10 crossing, say in the last two years?

11 A I don't believe so.

12 One of the other vehicles that they use is as
13 was stated by Mr. Farrell, contacting their State
14 or local representative.

15 Q All right.

16 In addition to the reference to the State
17 Senator, who contacted your office? Have you had
18 contact with any other elected official, State,
19 County or local, other than Senator Barry Stoudt?

20 A Yes, we have.

21 Q Can you identify who those officials are?

22 A We had a contact by Representative Leo
23 Trish, Jr. (phonetic).

24 I don't believe there are any others.

25 Q And that's one contact from Representative

1 Trish and one contact from Senator Stoudt?

2 A One from Representative Trish. There may
3 be more than one from Senator Stoudt.

4 Q Have you had any significant change in
5 terms of the number of contacts from anybody else,
6 you can include that in your letter, also.

7 A I can't speak to phone conversations that
8 may have taken place.

9 Q Who could?

10 Who would receive phone inquiries?

11 A Possibly our District Engineer.

12 JUDGE NEMEC: I have no additional questions.

13 MS. D'ALFONSO: I have one follow up.

14 REDIRECT EXAMINATION

15 BY MS. D'ALFONSO:

16 Q We talked about there being undermining to
17 a portion of the structure.

18 What is the undermining? What's the name of
19 the structural feature?

20 A The foundation.

21 Q The foundation.

22 What does the foundation support?

23 A The foundation would support both the
24 roadway structure and the tunnel.

25 MS. D'ALFONSO: I have nothing further.

1 JUDGE NEMEC: Anything else?

2 MR. SALAPA: No.

3 JUDGE NEMEC: Thank you, sir, you're excused.

4 MS. D'ALFONSO: Your Honor, we also have
5 marked as Commonwealth Exhibit 2, the proof of
6 publication of today's hearing.

7 At this time I would move for the admission
8 of Commonwealth Exhibits 1 and 2.

9 JUDGE NEMEC: Any objection?

10 MS. POYNTER: No objections.

11 MR. SALAPA: No objection.

12 JUDGE NEMEC: Pennsylvania Department of
13 Transportation Exhibits 1 and 2 are admitted into
14 the record.

15 MS. D'ALFONSO: Thank you.

16 We have no other witnesses, Your Honor.

17 JUDGE NEMEC: CSX.

18 MS. POYNTER: I'd like to call Mr. Wayne
19 Martin, please.

20 WAYNE MARTIN, called as a witness, having
21 been previously sworn, was examined and testified
22 as follows:

23 DIRECT EXAMINATION

24 BY MS. POYNTER:

25 Q Will you state your full name, business

1 address and current railroad responsibility for the
2 record?

3 A My name is Wayne J. Martin. My business
4 address is CSX Transportation, Engineering
5 Department, 722 Virginia Avenue, Room 105,
6 Cumberland, Maryland 21502.

7 Q Give us a brief resume of your various
8 positions with the railroad company.

9 A I'm a project engineer. I have been a
10 project engineer since 1987, approximately.

11 Before that, I was an assistant project
12 engineer from 1978 when I started with the railroad
13 until 1987.

14 Q Could you give us your educational
15 background?

16 A I have a Bachelor of Science Degree in
17 civil engineering from the University of
18 Pittsburgh.

19 Q Could you just describe briefly what the
20 scope of your duties are as a project engineer?

21 A Briefly, no, but I'll attempt.

22 Basically, I'm a coordinator for all railroad
23 and outside party projects. Outside parties would
24 be State, Federal, local.

25 I'm also -- I also assist the Department from

1 an engineering standpoint, maintaining railroad
2 track structures and bridge and building
3 structures, and basically any other duty that I'm
4 assigned to do.

5 Q Are you authorized by CSX to testify in
6 this hearing today?

7 A I am.

8 Q Are you personally familiar with the
9 location that we're talking about?

10 A Yes, I am.

11 MS. POYNTER: Your Honor, we didn't have time
12 to circulate it, as required by the Commission's
13 Order.

14 We do have prepared an exhibit that has
15 answers to questions 10 through 17 that we can
16 submit to have entered in the record as if
17 testified to.

18 Is that acceptable, or we could read it into
19 the record.

20 BY MS. POYNTER:

21 Q Mr. Martin, CSX has been requested to
22 submit testimony as to the exact corporate name of
23 the owners and of the operators of the line of
24 railroad located at the subject crossing, including
25 the number of tracks and the volume, class, and the

1 approximate speed of all trains operated daily
2 thereon, and whether any significant changes to
3 such operations are contemplated in the foreseeable
4 future.

5 A Part A to the question is owners and
6 operators.

7 The owner and operator is CSX Transportation,
8 Inc., Baltimore Division-W&P Subdivision.

9 Part B to the question is the number of
10 tracks; one.

11 The volume of train traffic is zero trains
12 per day.

13 The class of traffic is N/A existing. It's
14 not existing. There is no train traffic. But it's
15 proposed to be freight only.

16 The approximate train speed at this time is
17 non-existent, but it's proposed 25 miles per hour.

18 These proposals are based on the potential
19 for a significant increase in coal train traffic
20 (freight only), contemplated within the next three
21 years, more or less, as Pennsylvania Coal is
22 planned to be mined, loaded and shipped over this
23 line from Taylorstown, Pennsylvania, to the
24 surrounding area, to Pittsburgh, Pennsylvania, then
25 east or west, as determined.

1 CSX has also been instructed to describe the
2 general type of existing structure, number of
3 spans, principal dimensions, and the general
4 physical condition thereof.

5 A We broke that question down into four
6 parts, A, B, C, D.

7 I'd like to answer Parts A, B and C, and
8 defer Part D.

9 MS. POYNTER: One of my other witnesses will
10 be addressing some of these questions.

11 MR. MARTIN: Part A to the question is type
12 of existing structure.

13 The railroad considers it to be Bridge 161,
14 which is a concrete arch.

15 Part B to the question is the number of
16 spans, one.

17 Part C of the question is principal
18 dimensions.

19 It's approximately 30 feet high by 90 feet
20 long, a tangent structure which crosses over State
21 Route 3009 and Buffalo Creek.

22 Part D, I will defer.

23 Q CSX has been asked to state the
24 approximate date of construction of the existing
25 structure and any significant changes that have

1 been made to the structure in the past which have
2 affected or altered the structure.

3 A To the best of our records, the date of
4 construction of the existing structure was built in
5 1907, and any significant structure changes, to the
6 best of our knowledge, there have been none.

7 Q CSX has been asked to state its present
8 obligation with respect to the maintenance of
9 existing structure.

10 A CSX's Bridge and Building Department of
11 the Baltimore Division have been inspecting the
12 concrete arch which supports the railroad above.

13 The railroad at the present time is out of
14 service.

15 Q CSX has been asked to state the nature and
16 type, extent, date, cost, and any other pertinent
17 specific details as to any recorded substantial
18 item of maintenance and/or repair performed on the
19 existing structure by the railroad or its
20 contractor.

21 A I'd like to defer that question.

22 Q CSX has been further requested to state
23 whether the existing crossing is adequate for the
24 convenience and safety of the public, or should be
25 altered, rehabilitated or demolished and if so,

1 submit testimony regarding the general nature and
2 extent of all work or changes, if any, which the
3 railroad deems advisable to provide a safe and
4 convenient crossing at this location.

5 A In regard to the existing roadway's width
6 and vertical clearance through the concrete arch,
7 CSX feels that the existing structure is adequate.

8 Referring to the convenience and safety of
9 the public, CSX feels that it is not qualified to
10 make that judgment as it seems to be a highway
11 traffic and safety question, not a railroad
12 question.

13 Part B to the question is CSX feels that the
14 existing crossing does not need to be altered or
15 demolished, but may need some rehabilitation work,
16 the details of which should be addressed by
17 PennDOT, as it was the party that contacted CSX
18 regarding the existing problem through the
19 Pennsylvania Public Utility Commission in 1988.

20 Q CSX has been asked to state whether it
21 will agree to prepare any inspection report, plans,
22 or cost estimates as may be required for any work
23 necessary or advisable at this location.

24 MS. POYNTER: Your Honor, while we haven't
25 answered this question since the State has

1 indicated that it is determined it will make these
2 estimates, I see no reason to put our answer on the
3 record.

4 JUDGE NEMEC: All right.

5 BY MS. POYNTER:

6 Q CSX has also been asked to submit
7 testimony as to what portion, if any, of any
8 construction work that it will agree to perform,
9 and what portion, if any, of the cost of same and
10 future maintenance that it will agree to bear. And
11 the portion, if any, of said work and cost thereof
12 which should be performed and borne by each of the
13 other parties hereto.

14 The response should be specific as to the
15 percentage of allocation suggested, and include the
16 reasons for such allocation.

17 A Part A to the question, CSX is requesting
18 that it be required to perform none of the proposed
19 construction work on the roadway surface and the
20 substructure for the reasons stated below.

21 Part B to the question, CSX is requesting
22 that none of the construction costs or any future
23 maintenance responsibilities be placed on it
24 because the existing roadway structure and the
25 requested repairs that are said to be needed by

1 PennDOT are for the benefit of the motoring public
2 and not CSX.

3 MS. POYNTER: CSX feels that it's necessary
4 to put kind of a chronological listing of events on
5 the record on how we got to point A, which
6 apparently started in November of 1988 to point B,
7 which is today.

8 BY MS. POYNTER:

9 Q Mr. Martin, you have before you a set of
10 documents, and I'm going to ask you to briefly
11 describe each and give the date of each.

12 If you would, just go through those
13 documents.

14 We are fully prepared to make copies of these
15 and make them part of the record, if that's
16 required.

17 Unfortunately, I did not have them available
18 to me until today, so I could not do so.

19 But for at least the first approach to this,
20 we're going to describe them and walk through
21 things.

22 A The first document that I have is a
23 document that was given to myself as the PUC field
24 conference of November 3, 1988, and it is a
25 document prepared by Macon Engineering Company

1 (phonetic), regarding State Route 3009 over Buffalo
2 Creek. It was prepared for the Pennsylvania
3 Department of Transportation. The date submitted
4 is August 9, 1988, by Mr. Atello V. Macon.

5 And I assume by what was told at the meeting,
6 that it was involving what work needed to be done,
7 or the actual existing condition of the structure
8 at that point in time.

9 And it involved some xeroxes of pictures
10 taken on both sides of the structure and the bridge
11 inspection report.

12 Basically, that is what it was.

13 The second one I have is my field notes taken
14 November 3, 1988 at the field meeting that we had
15 between the Pennsylvania PUC, PennDOT and CSX
16 Transportation.

17 Q Could you list all the attendees at that
18 meeting?

19 A The attendees were Mr. Robert Impedo
20 (phonetic) from PennDOT, Mr. Dave Fischer from
21 Pennsylvania PUC, Mr. John D. Crowd (phonetic) from
22 PennDOT, Mr. Dave Taubken from CSX Transportation,
23 Mr. Louis J. Rucci (phonetic) from PennDOT, Mr.
24 Maurice C. Snowden from PennDOT.

25 The meeting involved work that PennDOT felt

1 needed to be done at this structure.

2 We discussed the southeast wingwall being
3 collapsed and the footer rolled over.

4 To make a comment, that our directions when I
5 say southeast and northwest, is different from
6 PennDOT, because we use railroad direction being
7 east of Pittsburgh and west -- and natural due
8 north or south.

9 Also, we talked about the temporary repairs
10 of the footers and three eye-beams that support the
11 roadway structure by PennDOT to be resupported and
12 that PennDOT and the railroad are trying to work
13 out the situation themselves without the
14 Pennsylvania PUC involvement.

15 And PennDOT at that time stated that they
16 were looking to raise the bridge load to possibly a
17 9-ton, two-axle, 17-ton combination axle loading.
18 And we basically agreed at that meeting that the
19 problem seemed to be the southeast wingwall and the
20 area right near the southeast wingwall needed to be
21 addressed and repaired, that we needed to have some
22 riprap placed by PennDOT on the embankment leading
23 up to the structure, where the stream was actually
24 eroding away the ground, causing the water to be
25 able to hit that structure and cause more damage.

1 And at the field conference, PennDOT said
2 that they would direct information to Mr. Dale
3 Houchin (phonetic) and a copy to my office in
4 Cumberland with this information.

5 Mr. Houchin would contact Jacksonville once
6 information is sent to the railroad from PennDOT
7 for doing design and construction of these repairs.

8 And then of course I stated that PennDOT put
9 riprap on the edge of the southwest bank of the
10 creek to help with the existing erosion.

11 The next piece of information I have is a
12 letter dated February 6, 1989 from the Commonwealth
13 of Pennsylvania, Department of Transportation to
14 Mr. Dale Houchin, Director of Public Projects and
15 Contracts with CSX Transportation, Inc.,
16 Jacksonville, Florida, and it refers to a letter
17 from PennDOT dated September 16, 1988 and the
18 subsequent informal field investigation of November
19 3, 1988 at the subject crossing.

20 It talks about myself, Wayne Martin,
21 attending and Dave Taubken attending from CSX, and
22 basically it says our concern at the crossing is
23 focused at the northeast corner of the northerly
24 abutment.

25 The footing of the abutment has been

1 undermined and rotated, leaving the encased high
2 beam slab to act as a cantilever support for a
3 vital portion of the roadway deck.

4 Also, the remaining wall has cracked
5 approximately ten feet from the tip due to the loss
6 of support.

7 And it goes on to say that what we had were,
8 what we were going to do, et cetera.

9 The final also states that a PUC Order does
10 not exist assigning maintenance responsibility at
11 the crossing.

12 It appears that the structure was built by
13 the railroad in 1907 to support its embankment. We
14 request that CSX -- and reconstruct the abutment
15 wall to support the roadway deck at a five ton load
16 limit, and it talks about the current posting of
17 three tons, which they'd like to have upgraded to
18 five tons, if the proper repairs are performed.

19 The next item I have is a second engineering
20 report that I assume was given to PennDOT. It says
21 the Pennsylvania Department of Transportation,
22 District 12, underwater bridge inspection, State
23 Route 3009 over branch of Buffalo Creek in Buffalo
24 Township, Washington County.

25 Q Is there any indication how that document

1 came to be in our files? Was there any cover
2 letter accompanying it that you're aware of?

3 A Not that I'm aware of, no.

4 As a matter of fact, I think it was sent
5 to --

6 Q As far as you know, from file materials
7 that we've been able to search, there was no
8 specific cover letter to that indicating what
9 significance that document has?

10 A Not that I could find, and the date of
11 this document is October 12, 1989.

12 I didn't really go into detail. It was
13 submitted by Pickering, Courts & Somerson. I
14 haven't really read it, but I basically assumed it
15 was on underwater inspection and the same type of
16 situation, what work needs to be done at the bridge
17 structure.

18 MS. POYNTER: At this point, Your Honor, you
19 might want to go off the record, if you're curious
20 about what the configuration is here; what this
21 looks like.

22 There are some pictures.

23 JUDGE NEMEC: I'll look at that later.

24 MS. POYNTER: All right.

25 JUDGE NEMEC: Go ahead.

1 MR. MARTIN: The next piece of information I
2 have is a letter written to a Mr. William E. Moyer,
3 Professional Engineer, Chief Engineer, with the
4 Highway Administration, Transportation and Safety
5 in Harrisburg from CSX Transportation, Mr. H.
6 Clarkson (phonetic), dated April 27, 1990.

7 The subject of the letter is Taylorstown, PA,
8 State Route 3009, TOT Crossing 145626A, and it
9 basically says, Dear Mr. Moyer, referring to your
10 March 15, 1990 letter, our repairs were completed
11 on December 20, 1989.

12 Pennsylvania Department of Transportation
13 still must rechannel stream, as agreed to at PUC
14 site meeting prior to repairs. This rechanneling
15 will complete future undermining. Please advise
16 PennDOT work has been completed. Very truly
17 yours, --

18 MS. D'ALFONSO: Your Honor, before we go any
19 further, I'm going to object to the continuing
20 recitation of what is in Mr. Martin's file. I
21 don't see the relevancy of this.

22 If there is a specific question as to what
23 CSX has done, that's fine, but it appears that
24 we're going through Mr. Martin's file page by page.

25 JUDGE NEMEC: All right.

1 This is offered for the purpose of giving a
2 chronology and how we've arrived at the point we're
3 at today.

4 I'm going to overrule the objection.

5 You may continue.

6 MR. MARTIN: The next piece of information I
7 have is a letter dated November 8, 1990 from Mr.
8 Leo J. Trish, House of Representatives,
9 Commonwealth of Pennsylvania, Harrisburg, and it
10 was written to me and it basically said it was
11 brought to his attention that -- needs to be
12 repaired, so Legislative Route 3009170 can be
13 reopened.

14 Later on in November, November 27, 1990, I
15 received a phone call from Mr. Dave Fischer with
16 the Pennsylvania PUC in regard to this letter
17 written from a State Senator about the roadway
18 still being closed through the underpass, and I
19 told Mr. Fischer that I would have to talk to Dave
20 Taubken, Building Supervisor of Connellsville, and
21 he had told me that the railroad repairs had been
22 completed.

23 I said to verify what I was saying was true,
24 I would call Mr. Taubken up again and make sure and
25 then call Mr. Fischer back.

1 So I talked to Dave Taubken on the phone the
2 same day and he told me that he had prepared the
3 three eye-beams and he had installed 27 yards of
4 concrete and he had installed gabion baskets to
5 protect the footers.

6 And this work was completed on 12/20/89 and
7 the as-built plan was made up in Jacksonville
8 12/20/89. I did call Mr. Fischer back and gave him
9 this information.

10 The next piece of information I have is a
11 letter to Mr. William O'Malley (phonetic), P.E.,
12 District Engineer for Pennsylvania Department of
13 Transportation, District 12, dated December 11,
14 1991. It is to the attention of Mr. John Krubrack
15 (phonetic), Engineer. It's over Mr. Ramsey's
16 signature, Mr. M.D. Ramsey, who is the Division
17 Manager for CSX, Baltimore Division, but I wrote
18 the letter.

19 It basically states to Mr. O'Malley that in
20 response to inquiries from the Pennsylvania PUC and
21 the Pennsylvania House of Representatives and
22 PennDOT directed to CSX on the status of this
23 crossing, CSX is writing to reaffirm that the work
24 required has been completed for quite some time and
25 we verbally related to PennDOT by CSX on different

1 occasions. And, basically, I restated that the
2 work done on 12/20/89 was completed, with the as-
3 built being done by Jacksonville, Florida's Chief
4 Engineer's office on 12/21/89.

5 That was basically the end of that letter.

6 The next letter I have is a letter from the
7 Commonwealth of Pennsylvania, Department of
8 Pennsylvania dated January 13, 1992 to Mr. Ramsey,
9 Division Engineer with CSX, and it states
10 basically, reference is made to your December 11,
11 1991 letter concerning the repair work required of
12 CSX being completed on December 20, 1989.

13 It basically says repairs made to date have
14 not permitted the Department to reopen the
15 structure for even a three ton load limit, as noted
16 at the PUC field conference held November 3, 1988.

17 BY MS. POYNTER:

18 Q Mr. Martin, is this the first time in your
19 file that there's any indication that the work that
20 CSX has agreed to do and has done is not adequate
21 for the purpose --

22 A It is.

23 Then it goes on to just state some additional
24 things about the -- and it says after the field
25 conference the Department's underwater inspection

1 revealed serious undermining at the east and west
2 abutments.

3 Q And what was the date of that letter,
4 again?

5 A January 13, 1992.

6 The last piece of information I have in my
7 file is a second field conference that was held at
8 the crossing on April 29, 1992. The attendees were
9 Mr. Louis J. Rucci, bridge inspector with PennDOT,
10 District 12, Mr. Dave Fischer, civil engineer with
11 the Pennsylvania PUC, Mr. Hank Farrell, the
12 Pennsylvania Department of Transportation in
13 Harrisburg, Mr. John Crowd, Grade Crossing Liaison
14 with the Pennsylvania TOT, Mr. Ken Sharp, Grade
15 Crossing Liaison, Pennsylvania TOT, and Mr. Seifus
16 Mounts (phonetic), and also a Mr. Forrest -- it
17 looks like Clark, but I can't really say for sure,
18 but they were with Buffalo Township.

19 At that meeting PennDOT expressed that the
20 work that was done by the railroad was not
21 satisfactory to open up the road and the railroad
22 felt that the work we did we felt was satisfactory,
23 but we're not highway engineers and don't claim to
24 be, and we couldn't come to an agreement on what
25 needed to be done or what didn't need to be done.

1 So it was decided to solve this situation
2 that the PUC would set this crossing up for a
3 hearing in the Fall of 1992, per PennDOT's request
4 at that field meeting.

5 At the field meeting, PennDOT was looking to
6 put the roadway bridge on a bridge bill, but would
7 not commit to any details until CSXT gave an exact
8 status of the line subdivision at this bridge
9 location.

10 PennDOT also wanted the scouring adjacent to
11 the bridge sidewalls fixed and the spalling in the
12 tunnel repaired prior to the opening up of the
13 bridge. PennDOT feels that as the bridge is
14 unsafe, including the three ton weight limit and
15 must keep it closed, we were given an estimated
16 cost of repairs to the walls by PennDOT's
17 consultants of \$120,000 to repair the scouring
18 problem.

19 They also asked that CSX needed to come up
20 with the cost to fix the spalling in the tunnel.

21 And that was basically the gist of the that
22 field meeting.

23 And then the next step is that of course
24 we're in this hearing today.

25 A That's correct.

1 Q Now, during that interim period, did you
2 do any further -- give any further consideration or
3 discuss internally whether or not -- we being CSX,
4 felt that we had exerted our best effort to comply
5 with the request in the form of repairs that we did
6 or completed on December 20, 1988.

7 A I thought what we had done was
8 satisfactory, but I am not a bridge engineer. So I
9 couldn't say what we did was satisfactory and what
10 was not.

11 Q Are there any comparable situations to the
12 one that we have before us today that you could use
13 as an example of comparable handling of a highway-
14 related situation where we did not take on the
15 responsibility of a highway engineer, and where
16 the --

17 MS. D'ALFONSO: Your Honor, I'm going to
18 object at this point to this structure.

19 JUDGE NEMEC: What's the relevancy of the
20 question?

21 MS. POYNTER: Basically, establishing that
22 CSX has not been held accountable for highway
23 structures in the past.

24 JUDGE NEMEC: Not held accountable for repair
25 responsibility, or for the designing, or

1 redesigning?

2 MS. POYNTER: Repair or maintenance, Your
3 Honor.

4 JUDGE NEMEC: Financially responsible?

5 MS. POYNTER: That's right.

6 JUDGE NEMEC: I don't see the relevance of
7 that.

8 Sustained.

9 MS. POYNTER: Thank you.

10 JUDGE NEMEC: Any other questions?

11 MS. POYNTER: No, Your Honor. I think that's
12 all I have for this witness at this time.

13 JUDGE NEMEC: You may cross.

14 MS. D'ALFONSO: Thank you.

15 CROSS-EXAMINATION

16 BY MS. D'ALFONSO:

17 Q Mr. Martin, you testified that your file
18 indicates that the first contact you had with the
19 Department saying the repairs were not satisfactory
20 was in January of 1992.

21 A That's correct.

22 Q Would you have a record of all telephone
23 calls that would have been made to CSX and all
24 correspondence made to CSX regarding this?

25 A No.

1 Q So it's possible that CSX may have been
2 contacted via people other than yourself, and that
3 the repairs were not satisfactory to --

4 A It is possible, yes.

5 Q Has CSX inspected the foundation?

6 A I can't answer that. I'm going to have to
7 defer that question.

8 MS. D'ALFONSO: I have nothing further for
9 Mr. Martin.

10 Thank you.

11 JUDGE NEMEC: Law Bureau.

12 CROSS-EXAMINATION

13 BY MR. SALAPA:

14 Q Mr. Martin, would it be your -- Mr.
15 Martin, based on the records that you have, would
16 it be fair to infer that both the bridge structure
17 and the roadway would have been built at the same
18 time?

19 A I can't answer that because I'm not sure.

20 Q CSX's position is that additional work
21 that the Department wants to do at this time is
22 unnecessary; is that a fair statement of your
23 position?

24 A No, I couldn't say it was unnecessary; I
25 just felt that CSX feels that the work that needs

1 to be done is for the benefit of the motoring
2 public to support the roadway structure.

3 Q But not necessarily for the support of the
4 railroad structure, all right.

5 MR. SALAPA: Thank you.

6 EXAMINATION

7 BY JUDGE NEMEC:

8 Q Sir, you've been there, you've conducted
9 an indepth study of the structure. In addition to
10 the railroad tracks and CSX and utilities, are you
11 aware of any other facilities that have utilities
12 there?

13 A The only utility -- I think this was an
14 electric line or phone line. That runs over the
15 tracks. It's one of them that runs either -- just
16 to the west of the structure itself, but it should
17 not be -- it does not affect the structure for the
18 railroad.

19 Q Not connected to the structure?

20 A That's correct.

21 Q Either portion of the structure?

22 A That's correct.

23 Q I just noticed the GTE on the service
24 list.

25 A It's a telephone line.

1 JUDGE NEMEC: I have no additional questions.

2 MS. D'ALFONSO: Just one further question.

3 RECROSS-EXAMINATION

4 BY MS. D'ALFONSO:

5 Q Don't you agree that this same foundation
6 supports the roadway as supports the arch?

7 A Yes.

8 Q It's the same foundation?

9 A Yes, it's the same foundation.

10 JUDGE NEMEC: Anything else?

11 MS. POYNTER: No.

12 JUDGE NEMEC: Thank you, sir. You're
13 excused.

14 Call your next witness.

15 D.T. TAUBKEN, called as a witness, having
16 been previously, sworn, was examined and testified
17 as follows:

18 DIRECT EXAMINATION

19 BY MS. POYNTER:

20 Q State your full name and business address
21 for the record, please.

22 A David T. Taubken, CSX Transportation, P&B
23 Supervisor, 700 West Gibson Avenue, Connellsville,
24 PA.

25 Q Did you give your title, your current

1 title?

2 A P&B Supervisor.

3 Q Could you describe what your duties are
4 within the job?

5 A I do the bridge inspections and take care
6 of the maintenance. I've got gangs of men that I
7 direct where they go.

8 Q Are you familiar with, and are you
9 responsible for, the structure before this
10 Commission?

11 A I am familiar with it, and the
12 responsibility would be kind of an internal thing
13 right now, since the tracks are out of service.

14 Q For while the tracks are out, it stills
15 calls for --

16 A Yes.

17 Q On the questions that the Commission
18 directed to us, could you refer to those, please,
19 and fill in the responses that are within your area
20 of responsibility?

21 A I believe that one question was 11D.

22 Mr. Martin didn't answer it.

23 The general structure condition, it says it's
24 good, a couple cracks inside the arch, sidewalls.
25 No movement noted in the last six years. Spalling

1 concrete at all construction joints inside the
2 arch. Minor spalling.

3 Q Now, were you responsible for this
4 territory or this area or the specific bridge at
5 the time that the construction repairs were made,
6 were completed on December 20, 1988?

7 A Yes, I was.

8 Q Could you describe in detail what you were
9 instructed to do, or perhaps better, what you
10 agreed with the Pennsylvania Department of
11 Transportation to do and what you did?

12 A At the time of the site meeting which I
13 believe was 1988, November, I forget the date of it
14 with the PUC, Wayne Martin and I and PennDOT, our
15 biggest concern and their biggest concern was the
16 southeast abutment and wingwall, which I did agree
17 with it.

18 And in November, around November 15, '88, I
19 started to work on that area. I did concrete
20 repair to the southeast abutment and I completed
21 them December of '89 at a cost of \$30,570. And
22 installed roof bolts to the wingwall that had full
23 length crack which looked as if it had settled
24 because of the abutment failure.

25 Two of the roof bolts were 12 feet long and

1 two of them were 8 feet long, put in with a resin,
2 kind of like a glue.

3 And then the crack was filled with grout. I
4 installed gabion baskets on the back side of the
5 wingwall that we had constructed after we had
6 poured the 27 yards of concrete to help so we
7 wouldn't have any more erosion because of the way
8 the creek would come down and bank off the
9 retaining wall and come over right toward this
10 southeast corner.

11 And I installed some gabion baskets in the
12 bed of the creek and the front of the abutment to
13 help so no more undermining would happen.

14 And I had the baskets in where you could walk
15 right inside the culvert itself at the time, and
16 there was some undermining in that area.

17 So the only way that I could get to it is I
18 got behind the wingwall by hand, of course. I had
19 seven men digging by hand behind the wingwall in
20 order to get to this undermining of the footer.

21 We did accomplish that and put in
22 approximately 20 bags of cement and then
23 backfilled.

24 Q Have you had occasion to inspect your work
25 since you put it in in December of '88 (sic)?

1 A Yes, I have.

2 JUDGE NEMEC: December of '89.

3 MS. POYNTER: Excuse me. Thank you.

4 MR. TAUBKEN: December of '89.

5 I do have bridge inspection reports from back
6 in '87 through '92; February of '92 is the last I
7 inspected it officially.

8 BY MS. POYNTER:

9 Q What did you find the condition of the
10 repairs to be today?

11 A The condition of our repairs are great. I
12 don't see where it would be any problem. They are
13 supporting the beams that weren't supported before,
14 and we are supporting the roadway.

15 MS. POYNTER: Your Honor, we have some before
16 and after pictures of this, but I always find that
17 photocopying is meaningless, because you really
18 can't see them.

19 We will be pleased, if there's no objection,
20 to put one before and one after photograph in the
21 record, and we will make photocopies, although they
22 really don't show. If you want them in the record.

23 JUDGE NEMEC: That's your decision whether
24 you want to offer them or not.

25 MS. POYNTER: I would like to offer two, if I

1 could take those out.

2 JUDGE NEMEC: You can submit them later, if
3 you wish.

4 MS. POYNTER: I'll attempt then to have these
5 reproduced through some photographic means and
6 entered.

7 (An off-the-record discussion was held.)

8 MS. POYNTER: I will then submit a late filed
9 exhibit showing one before and one after photograph
10 of the work that was accomplished at this site by
11 CSXT.

12 JUDGE NEMEC: You may do so, subject to any
13 later objections by counsel for the parties which
14 have to deal with them at the time they're raised.

15 MS. POYNTER: I have no further questions of
16 this witness at this point.

17 CROSS-EXAMINATION

18 BY MS. D'ALFONSO:

19 Q Mr. Taubken, are you familiar with the
20 1989 study, the underwater study?

21 A I'm familiar with it now. I did not have
22 this at the time of our meeting in '88, and as far
23 as I was concerned, this was the only thing that I
24 had to really get out and do.

25 Q Well, you wouldn't have that in '88

1 because that's an '89 study, right?

2 A Right, right. That's what I meant, is
3 '89. I got the -- the work I did was in December
4 of '89. This was October of '88, but I did not
5 receive this particular inspection until after I
6 had already done this other work.

7 Q Did CSX address everything that was
8 mentioned in that underwater report, to the best of
9 your knowledge?

10 A No, they did not, but CSX felt that the
11 undermining for a five ton load limit would not
12 bother the structure at that time, and we had an
13 agreement we wanted to put the five ton load limit
14 back in and felt it was safe.

15 MS. D'ALFONSO: May I see the photos that you
16 intend to offer?

17 MS. POYNTER: (Hands photographs.)

18 BY MS. D'ALFONSO:

19 Q Now, when was the last time you were at
20 the site?

21 A Yesterday.

22 Q Yesterday.

23 Would you agree with me that the problem goes
24 much further than what you can see in these
25 pictures? That they go through to the other side?

1 A That's a possibility, but the undermining
2 came in from this crack and the wingwall
3 (indicating), this area, was all completed.

4 That's what I'm saying. We dug in behind
5 this wingwall all the way down, filled it in from
6 the back side.

7 Q But it wouldn't surprise you if this
8 problem was much more --

9 A Not the way the water was coming into that
10 thing. The creek needed rechanneled to shoot the
11 water straight in. The problem was the water was
12 bouncing off of here, just bouncing back and forth
13 throughout this thing, scouring out the bottom.

14 Q Have you ever inspected the foundation?

15 A No, I haven't.

16 MS. D'ALFONSO: May I have a moment, Your
17 Honor?

18 JUDGE NEMEC: Yes.

19 BY MS. D'ALFONSO:

20 Q And it's true at this time there are no
21 trains operating at this structure, this crossing?

22 A No trains.

23 Q In response to your answer to question
24 #11, upon what visit was that determination based,
25 the general structure condition?

1 A Well, the last official one was an
2 inspection done on February 27, '92.

3 Q And when you were there yesterday?

4 A It was just a visual -- I do that a lot.
5 If I'm in the area, which I was in the area with
6 other business, whenever I'm in an area, I'll visit
7 the site whenever I'm in the area.

8 Q And what you saw yesterday is consistent
9 with the February report?

10 A Yes.

11 MS. D'ALFONSO: I have nothing further for
12 Mr. Taubken.

13 Thank you.

14 CROSS-EXAMINATION

15 BY MR. SALAPA:

16 Q What work that CSX did not do is spelled
17 out in this report, if you could elaborate a little
18 bit?

19 A Well, some undermining at different
20 locations of the full -- not full length, but some
21 undermining of the --

22 Q And would that have been along the same
23 side of the structure where you did your repair
24 work, or are we talking the other side?

25 A The other side.

1 Q The other side. The opposite site.

2 Your repair amount, it's \$30,570.

3 Is that for all the repairs you did, or just
4 the concrete work, or --

5 A I've got a breakdown here. There was 27
6 yards of concrete, 12 gabion baskets, gabion and
7 rock is what we call it, to fill the baskets,
8 sacrete, roof bolts, resin, grout, and I had labor.
9 The total cost was \$27,667, and the material was
10 \$3,203.

11 Q Is CSX seeking any reimbursement for any
12 portion of that that they've already put out?

13 A I can't answer that; I don't know.

14 MS. POYNTER: I can, yes.

15 MR. SALAPA: And that's -- all right.

16 BY MR. SALAPA:

17 Q When you talk about this concrete work,
18 was that concrete work done in order to support the
19 beams that hold the roadway?

20 A Yes.

21 Q And that was done satisfactorily, in your
22 estimation?

23 A Oh, yes. I put a train on that.

24 Q Regarding these roof bolts, I'm a little
25 bit confused.

1 BY JUDGE NEMEC:

2 Q Spalling that's referenced in one of the
3 reports within the tunnel itself, the roof of the
4 tunnel, what's your opinion as to that as a problem
5 for traffic on the highway?

6 A It's just minor spalling as far as I'm
7 concerned.

8 Q What's involved in repairing that?

9 A That would be bringing a tunnel force in
10 there and doing a lot of chipping of old concrete
11 and wiring, what we call wiring shotgun.

12 Q Any idea of how much time that would take
13 and expense?

14 A Not right now. It might take a couple
15 weeks.

16 Q A couple weeks to do it?

17 A Yes, if I could ever get them. That's an
18 internal thing.

19 Q Now, you're familiar with the area. You
20 were there yesterday?

21 A Yes.

22 Q North of this crossing to the next highway
23 intersection, what's there?

24 A North, I guess that's going all the way
25 through.

1 Q It can't be more than a half mile or so.

2 A All right.

3 Generally, I never go through it. I went
4 through it years ago. I'm likely to remember just
5 swinging up around to get to this 227.

6 Q You haven't been there recently? You came
7 in from the south yesterday?

8 A Yes.

9 Q What did you see yesterday in terms of
10 from the last intersection north to the subject
11 crossing?

12 A Well, there's a road that comes off of
13 that right before this, temporary lock or
14 something, whatever it is. There was a little
15 ballfield down to the right side of it. Then
16 there's a couple houses up to the left side of the
17 structure.

18 Q So two residents.

19 No commercial buildings; no industrial
20 buildings?

21 A No, it's kind of out in the wilderness.

22 Q Described as a rural setting?

23 A Uh-huh (indicating affirmatively.)

24 Q Any commercial enterprises at this
25 intersection south of the subject crossing?

1 A No.

2 Swimming pool. That's out on Route 40,
3 though.

4 Q Well, I wasn't referring to Route 40, I
5 was referring to the next intersection where the
6 road comes -- would be the intersection with
7 Township Route T-489.

8 A 489.

9 No, that's a real little dirt road type of
10 thing; gravel road.

11 Q T-489's a dirt road?

12 A Yeah. I know yesterday it had fresh
13 gravel on it.

14 Q Now, the report that you're referring to
15 with the photograph, what report is that?

16 A October of 1989.

17 Q That's the so-called underwater report?

18 A Yes.

19 Q Now, you had additional photographs that
20 were taken after you'd done your work?

21 A Yes.

22 Q Is that correct?

23 A Matter of fact, I have dated 7/12/90,

24 so --

25 Q Did you take any photographs?

1 A Yes, I did.

2 That was almost a year later. I came back
3 and took photographs.

4 JUDGE NEMEC: I have no additional questions.

5 MS. POYNTER: I have one additional thing.

6 REDIRECT EXAMINATION

7 BY MS. POYNTER:

8 Q You were questioned about the cracking in
9 the tunnel.

10 Is the defects that are noted there, are
11 those structural or cosmetic?

12 A Well, they could be structural, but
13 nothing real recent. I mean these things could
14 have been there for 40 years, these cracks.
15 Concrete is going to crack.

16 MS. POYNTER: That's all I have, Your Honor.

17 JUDGE NEMEC: Any other questions?

18 MR. SALAPA: No, Your Honor.

19 JUDGE NEMEC: Thank you, sir, you're excused.

20 Any other witnesses?

21 MS. POYNTER: No, I have no other witnesses.

22 I would like to ask a question at this point.

23 I was not formally aware of it. I think
24 there was some discussion just conversationally
25 about possibly having allocation of cost discussed

1 today.

2 Is that part of the record we are building
3 today, or is that for a later hearing?

4 JUDGE NEMEC: I haven't heard any -- I think
5 we better make some decisions regarding what's
6 going to be done here.

7 I think that's probably the most reasonable
8 approach. I think a lot of things are still up in
9 the air.

10 So the answer to your question is cost of
11 allocation will be handled later.

12 MS. POYNTER: Thank you.

13 JUDGE NEMEC: But it's certainly pertinent to
14 know what CSX has expended to date in repairs.

15 For that reason, I think that you should
16 submit as a late filed exhibits, a copy of the
17 estimate that your witness referenced and has in
18 his possession, the photograph you intend to offer
19 and the as-built plans you indicate you would look
20 for.

21 MS. POYNTER: Yes.

22 JUDGE NEMEC: For DOT's part, I think you
23 should prepare an exhibit with the underwater
24 report.

25 I don't know that you -- since CSX is going

1 to do the photographs, I don't know if you -- but
2 textural information should be supplied as an
3 exhibit so that we have that.

4 MS. D'ALFONSO: Your Honor, to that end, the
5 Department has also incurred costs relative to --
6 and we wish to be given the same opportunity as to
7 costs already incurred.

8 JUDGE NEMEC: Fine.

9 MS. D'ALFONSO: Thank you.

10 JUDGE NEMEC: I don't have any problem with
11 that.

12 Commission.

13 MR. SALAPA: thank you, Your Honor.

14 I'd like to call Mr. Fischer.

15 DAVE FISCHER, called as a witness, having
16 been previously sworn, was examined and testified
17 as follows:

18 DIRECT EXAMINATION

19 BY MR. SALAPA:

20 Q Would you please state your name for the
21 record?

22 A My name is David A. Fischer. That's
23 F-I-S-C-H-E-R.

24 Q And how are you employed, Mr. Fischer?

25 A I'm employed as a civil engineer with the

1 Bureau of Safety & Compliance, Pennsylvania Public
2 Utility Commission.

3 Q How long have you been employed in that
4 capacity?

5 A Approximately 19 years.

6 Q And what are your duties in that position?

7 A I act as an engineering representative of
8 the Commission concerning the design, construction
9 and rehabilitation and safety in matters of all
10 rail highway crossings throughout this State.

11 Q And are you a licensed professional
12 engineer?

13 A Yes.

14 Q Are you authorized to testify today on
15 behalf of the Bureau of Safety & Compliance?

16 A Yes.

17 Q And you're familiar with the structure?

18 A Yes, I am.

19 Q When was the last time you visited the
20 site of this crossing?

21 A April 29, '92 would be the last official
22 PUC field conference.

23 Q Did you research Commission records
24 regarding the crossing?

25 A Yes.

1 Q Did you find any prior Commission Orders
2 regarding this crossing at all?

3 A No.

4 Q At your last field meeting, then, you saw
5 the work that was performed by CSX at the crossing?

6 A Yes.

7 Q And you've also had an opportunity to
8 review some of the studies and inspection reports
9 that the Department has done over the past several
10 years?

11 A Yes.

12 Q Based on the work that you saw done at the
13 crossing, and the review of the inspection reports
14 done by the Department, could this bridge be
15 reopened to traffic without additional work?

16 A I would have to answer that hesitantly
17 without seeing the as-built plans of exactly what
18 happened.

19 CSX repairs, I cannot actually make a
20 statement there as to whether it could be reopened
21 for traffic.

22 Q Could the additional work that the
23 Department has outlined here erase any kind of
24 doubt that you had in terms of what needs to be
25 done?

1 A Once again, without having seen their
2 final plans, I'm not going to -- I can't exactly
3 say one hundred percent sure, but if they address
4 the stream scour as they propose to, I think that
5 should adequately take care of the problem.

6 What they said is between the three and five
7 ton weight restriction.

8 Q And you think that the work they've
9 outlined here today would be satisfactory, assuming
10 that the plans reflect that?

11 A Right.

12 Q Other than this work that the Department
13 proposes to do, what other steps would you
14 recommend the Commission take regarding this
15 particular crossing?

16 A Well, one inspection report and being at
17 the site, I know that either end of the structure
18 there's a steel railing. I would suggest that this
19 could be replaced by a modern guiderail to protect
20 automobiles from going off the road into the
21 stream.

22 Without having seen exactly what PennDOT has
23 planned, I can't comment any further.

24 Q Would it be advisable for the Commission
25 to assign some kind of maintenance responsibility

1 to this structure?

2 At least on an interim basis, yes.

3 The problem you have with the stream is flash
4 floods can come through and change the picture
5 overnight, literally. So at least on an interim
6 basis a definite maintenance responsibility should
7 be assigned.

8 Q On a structure of this kind, would you
9 recommend some kind of shared maintenance
10 responsibility, or between either of the parties?

11 A If you're referring to if something
12 happened to this section of the structure as
13 opposed to something happening that section of the
14 structure, it's tough with this construction to do
15 that, because it's hard to split apart what is --
16 hold up the railroad embankment, or what holds up
17 the highway.

18 So actual work delineation is hard. A
19 splitting up or percentage of costs incurred by one
20 party or the other would be easier.

21 Q So in other words it might be better to
22 assign one party to do all maintenance
23 responsibilities and have the other one reimburse
24 that party?

25 A Correct.

1 Whatever percentage of allocation may be
2 determined.

3 Q As part of the Commission's decision, it
4 might be well that these proposed plans be
5 submitted for review by the Bureau of Safety &
6 Compliance?

7 A Yes.

8 It would be a recommendation that I don't
9 know; I think the time frame is 60 days, or
10 whatever these plans be submitted, and we would
11 recommend the approval of the Commission before,
12 after construction starts.

13 MR. SALAPA: That's all I have.

14 MS. POYNTER: I have no questions.

15 CROSS-EXAMINATION

16 BY MS. D'ALFONSO:

17 Q Review of the underwater study --

18 A Yes, we have not seen that at all.

19 MS. D'ALFONSO: The Court has asked that we
20 provide that to you.

21 I have no further questions.

22 JUDGE NEMEC: Anything else?

23 MR. SALAPA: No redirect, Your Honor.

24 JUDGE NEMEC: I have no questions.

25 All right.

1 Anybody else have anything they want to offer
2 here today?

3 MS. POYNTER: No, Your Honor.

4 MS. D'ALFONSO: No.

5 MR. SALAPA: No.

6 JUDGE NEMEC: It doesn't help to not have
7 someone here from the County or Township, but
8 they're not here, so we'll do the best we can.


9 Thank you all for your attendance. I ask
10 that you submit what you've either volunteered to
11 submit or been asked to submit within 30 days.

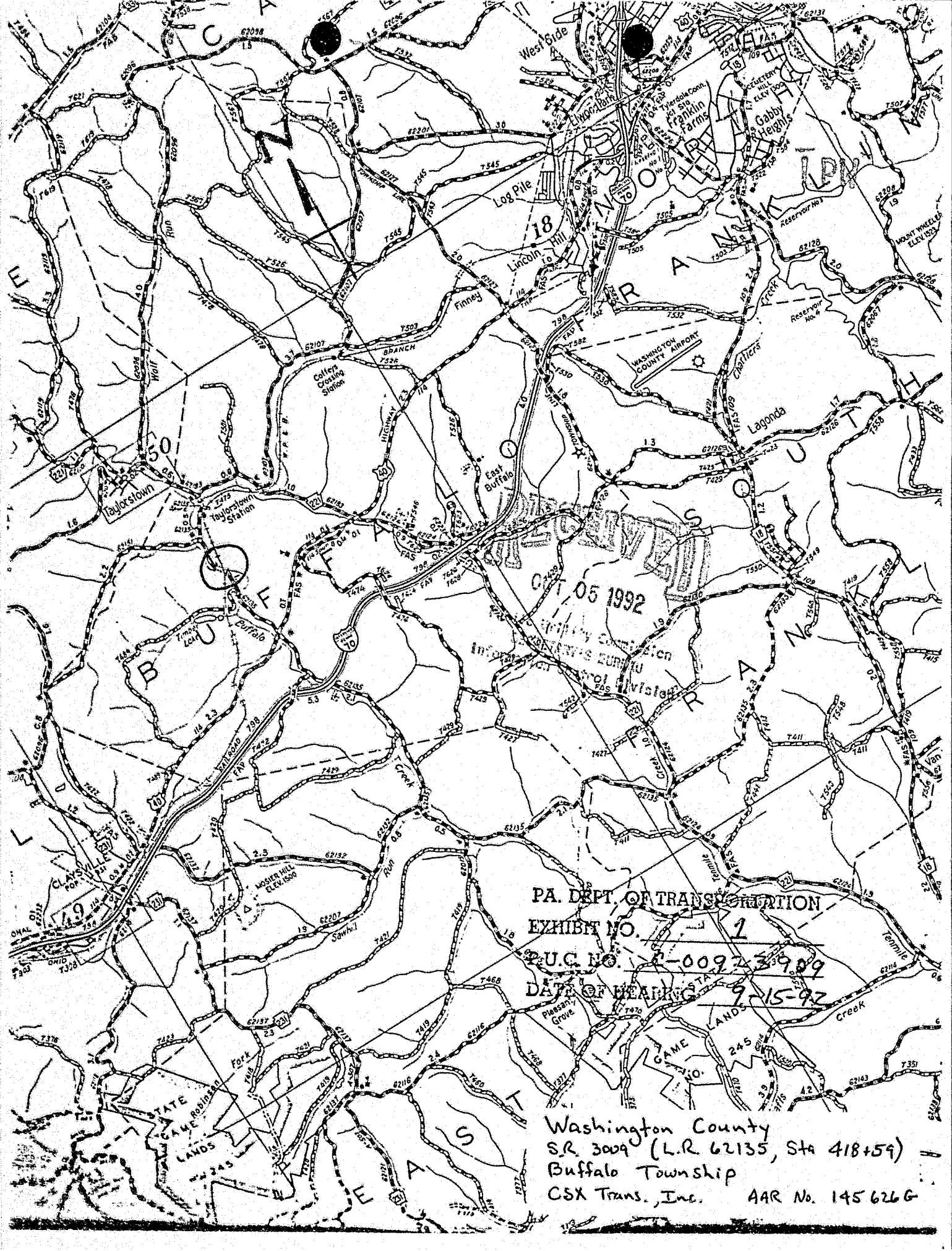
12 We're adjourned.

13 (The hearing concluded at 12:30 p.m.)

14 - - -

15 I hereby certify that the proceedings and
16 evidence taken by me in the above-entitled matter
17 are fully and accurately indicated in my notes and
18 that this is a true and correct transcript of same.

19
20 
21 Edward Gerenda, Jr., Reporter/slg
22
23
24
25



PA. DEPT. OF TRANSPORTATION

EXHIBIT NO. 1

P.U.C. NO. R-00923909

DATE OF HEARING 9-15-92

Washington County
S.R. 3009 (L.R. 62135, Sta 418+59)
Buffalo Township
CSX Trans., Inc. AAR No. 145626

PUBLICATIONS AUTHORIZATION AND INVOICE

PUBLICATIONS AUTHORIZATION (To be completed by agency):

TO NAME AND ADDRESS OF NEWSPAPER: Observer Reporter
 122 S. Main Street
 Washington, Pennsylvania 15301

FEDERAL ID NO SOC SEC NO: 25-0699690

FROM NAME AND ADDRESS OF AGENCY: Pennsylvania Department of Transportation
 P.O. Box 450
 Uniontown, Pennsylvania 15401

AGENCY TELEPHONE NO: 412-439-7260

HEREWITH IS ENCLOSED COPY FOR PUBLICATION OF ADVERTISEMENT FOR PROPOSALS TO

EMPLOY PURCHASE CONTRACT SELL

TYPE OF AD CLASSIFIED LEGAL NOTICE

PUBLISH ADVERTISEMENT NO OF TIMES: Two (2)

MAXIMUM NO OF LINES: Print as Required

DATE: August 26, 1992

ORDER NO: Prepared by Ken Sharp-Grade King

DATES OF INSERTION: Sept. 1, 1992 and Sept. 8, 1992

SIGNATURE FOR AGENCY: W.L. Beaumariage, P.E., District Engineer

You, as vendor, are authorized to publish this advertisement in your newspaper, subject to the terms of this order, as follows: Advertisement to be published in regular advertising columns, no position specified; caption of two lines and signature to be in capitals and subject matter and title of officer to be set solid in type regularly used by your newspaper for public (legal) notice advertising; charge to be made at the rate charged to and paid by commercial advertisers for matter similarly set and occupying similar space; advertisement to be run in the editions specified above. Vendor agrees that, in the performance of any contract awarded to it hereunder, said vendor will not discriminate against any employee or other persons on account of race, color, sex, religious creed, ancestry, age or national origin and that the Commonwealth, upon receipt of satisfactory evidence of such discrimination, shall have the right to cancel said contract. Return this copy at once if you will not accept this advertisement under the terms set forth.

Proof of advertising in the form of a tearsheet must be included on Parts 1, 2 & 3. Return original and two copies (signed by the editor or publisher) to Agency listed above. Part 1 must be notarized. Part 4 is your

Commonwealth to be billed only for actual number of printed lines published.

RECEIVED
 OCT 05 1992
 PUBLIC UTILITY COMMISSION
 SECRETARY'S BUREAU
 INFORMATION CONTROL DIVISION
 TOTAL DIVISION

ACCOUNT CODE	FUND	DEPT	APP	YEAR	LDG	ORG	COST FUNCTION	OBJ

INVOICE (To be completed by publisher):

	DATE OF INSERTION	ACTUAL NO OF PRINTED LINES	COST PER LINE	
1st Ad	Sept 2 1992	25	2.04	51 : 00
2nd Ad	Sept 8 1992	25	2.04	51 : 00
3rd Ad			Notary	3 : 25
GRAND TOTAL →				105 : 25

Commonwealth of Pennsylvania
 County of WASHINGTON

Before me, the subscriber, a Notary Public who being duly sworn, doth depose and say that the observer-REPORTER that the advertisement, of which tearsheet is att in the editions of said newspaper, in all respects therefor at a rate higher than is charged any or set in a similar manner, in said newspaper.

OFFICIAL NOTICE OF
 DEPARTMENT OF TRANSPORTATION OF
 THE COMMONWEALTH OF PENNSYLVANIA
 VS CSX TRANSPORTATION INC.
 C-0092309

Notice is hereby given that a complaint having been filed with the Pennsylvania Public Utility Commission, alleging that a railroad bridge carrying SR 3009 over Buffalo Creek have repairs made to accommodate a 3 ton posting which can be upgraded to 5 tons if the proper repairs are performed. Complainant, Department of Transportation of the Commonwealth of Pennsylvania requests The Commission to assign repairs and maintenance to CSX Transportation and to re-open the bridge for public use. The proceeding is entitled Department of Transportation Commonwealth of Pennsylvania VS CSX Transportation. The commission has fixed Tuesday, September 15, 1992 at 10:00 a.m. in the 11th Floor Hearing Room, Pittsburgh Pennsylvania as the time and place for hearing when and where all persons in interest may appear and so be heard if they so desire.

Signature: Mark F Vater
 WASHINGTON PA 15301
 regular advertising columns of said newspaper, and that the Commonwealth is not charged similar amount of matter occupying similar space

Sworn and subscribed before me this _____ day of _____ Sept 9-2,8

Notary Public: Elizabeth G. Sanders
 My commission expires _____

Signature of Affiant: Mark F Vater
 Penn DOT EVN 2
 C-00923969