

April 5, 1978

C. 19707

Robert W. Cunliffe, Deputy
Attorney General
Department of Transportation
Room 200, Capitol Associates Building
Harrisburg, Pennsylvania 17120

Department of Transportation of the
Commonwealth of Pennsylvania

v.

Reading Company, Debtor, Borough of
Conshohocken, Borough of West Consho-
hocken and County of Montgomery

Dear Sir:

Enclosed herewith are executed and three (3) copies of
Order issued by the Commission on March 21, 1978, in the
above entitled proceeding.

Kindly acknowledge receipt and service in behalf thereof,
using for that purpose the enclosed form.

Very truly yours,

C. J. McElwee
Secretary

fao
Encls.
Law Bureau
Bureau of Transportation
Copy of Order: List attached.

DOCUMENT
FOLDER

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Public Meeting held March 21, 1978
Harrisburg, PA 17120

Commissioners Present:

Louis J. Carter, Chairman
Robert K. Bloom
Helen B. O'Bannon
Michael Johnson
W. Wilson Goode

Department of Transportation of the
Commonwealth of Pennsylvania

Docket No.
C. 19707

v.

Reading Company, Debtor, Borough of
Conshohocken, Borough of West
Conshohocken and County of Montgomery

O R D E R

BY THE COMMISSION:

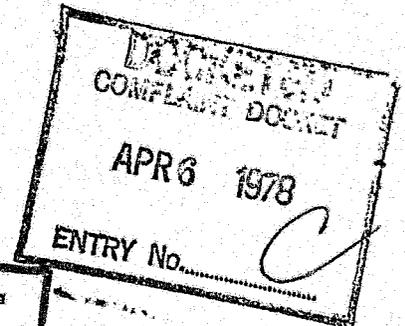
On March 8, 1978 the Department of Transportation of the Commonwealth of Pennsylvania (PennDOT) filed a petition for supersedeas seeking to stay part of our Order in this proceeding entered January 9, 1978. The Ordering Paragraphs for which PennDOT seeks a supersedeas direct PennDOT to submit within six (6) months detailed plans and estimates of costs for the reconstruction of the Matsonford Bridge and to submit every thirty (30) days, a memorandum detailing the status of the plans and cost estimates. PennDOT has filed an appeal of our January 9th Order with the Commonwealth Court.

We have reviewed PennDOT's petition and find no basis for the extraordinary relief requested; THEREFORE,

IT IS ORDERED: That the Application for Stay or Supersedeas filed on March 8, 1978 in this proceeding by the Department of Transportation of the Commonwealth of Pennsylvania is denied.

BY THE COMMISSION,

C. J. McElwee
C. J. McElwee
Secretary



(SEAL)



ORDER ADOPTED: March 21, 1978

ORDER ENTERED: APR 5 1978

May 4, 1978

C. 19707

Sheldon Seligsohn, Esquire
The Bell Telephone Company of PA
One Parkway
Philadelphia, PA 19102

Department of Transportation of the Commonwealth of Pennsylvania
v.
Reading, Company, Debtor, Borough of Conshohocken, Borough of West
Conshohocken and County of Montgomery

Dear Sir:

Enclosed, herewith, is Order issued by the Commission on
March 21, 1978 on the above entitled proceeding.

Kindly acknowledge receipt and service on behalf thereof,
using for that purpose the enclosed form.

Very truly yours,

C. J. McElwee
Secretary

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Encls.
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Receipt Requested



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File in C. 19707

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DEC 4 1978

IN THE COMMONWEALTH COURT
REFERRED TO
OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Petitioner

v.

PENNSYLVANIA PUBLIC UTILITY
COMMISSION,

Respondent

NO. 212 C. D. 1978

Before:

HONORABLE JAMES S. BOWMAN, President Judge
HONORABLE ROY WILKINSON, JR., Judge
HONORABLE GLENN E. MENCER, Judge
HONORABLE THEODORE O. ROGERS, Judge
HONORABLE GENEVIEVE BLATT, Judge
HONORABLE RICHARD DiSALLE, Judge
HONORABLE JOHN A. MacPHAIL, Judge

Argued:

September 12, 1978

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Presently before us is the Pennsylvania Public Utility Commission's (PUC) motion to quash a petition for review filed by the Commonwealth of Pennsylvania, Department of Transportation (PennDOT). For the reasons stated below, we dismiss the motion to quash.

The facts giving rise to PennDOT's petition for review are not in dispute and shall be only skeletally related. In September, 1972, PennDOT filed with the PUC a complaint alleging that a certain bridge in Montgomery County, carrying vehicular traffic over and above certain railroad tracks, was in a state of disrepair and requesting that the PUC approve PennDOT's plan of repair. In January, 1974, the PUC issued an order approving PennDOT's plan and directing PennDOT, at its initial cost and expense, to repair the bridge in accordance with said plan. In December, 1974, PennDOT filed with the PUC a petition seeking modification of the January, 1974 order, alleging, inter alia, that additional inspection of the bridge revealed such continued deterioration of the structure as to render the original plan of repair impracticable. After formal hearing, the PUC on October 21, 1975, granted PennDOT's modification petition and directed PennDOT to prepare and submit to the PUC, within twelve months of the service date of said order, a detailed plan and estimate of costs for the bridge's reconstruction.

On November 12, 1976, the Borough of Conshohocken--which, because of its propinquity to the bridge, may participate in an allocation of reconstruction costs--filed with the PUC a "letter petition" alleging that PennDOT had not complied with the October 21, 1975 order and praying that the PUC request the Attorney General to enforce said order against PennDOT. On December 16, 1976, PennDOT filed with the PUC a petition for modification of the October 21, 1975 order, in the nature of a time extension.

After public hearing on said letter petition and on PennDOT's petition, the PUC issued an order on November 22, 1977,¹ directing, inter alia, that PennDOT complete repairs to the bridge surface and adjacent sidewalks within sixty days of date of service of the order, and that PennDOT submit to the PUC detailed plans and estimates for costs of the bridge reconstruction within six months of said date of service. Also contained in the order was the following language: "Failure to strictly comply, within the time periods prescribed, shall result in the institution of legal proceedings against [PennDOT] for enforcement of this Order" It is from this order that PennDOT has filed the petition for review to which the PUC then filed the instant motion to quash.

The argument advanced by the PUC in support of its motion to quash is as follows. PennDOT's petition for review was filed by the Attorney General. Because the Attorney General has a statutorily mandated duty to enforce the PUC order of November 22, 1977

against PennDOT, an "irreconcilable conflict of interest" is created by permitting the Attorney General to represent PennDOT in a petition for review of the same PUC order.

The PUC is correct in its premise that the Attorney General has a statutorily mandated duty to enforce the order in question, should the necessity for enforcement proceedings arise. In Pennsylvania Public Utility Commission v. Department of Transportation, 13 Pa. Commonwealth Ct. 555, 320 A.2d 400 (1974),² we held that the PUC had no authority under Section 903 of the Public Utility Law, 66 P.S. §1343,³ to enforce a PUC order against the Commonwealth because the Commonwealth was not within the class of defendants specifically named in that section. We further held in Department of Transportation, supra at 560, 320 A.2d at 403, that Section 904 of the Public Utility Law, 66 P.S. §144,⁴ when read together with Section 903, places "a duty squarely upon the Attorney General to proceed, at the commission's [PUC's] request . . . to enforce obedience [of the Commonwealth] to the orders of the PUC." (Emphasis omitted). The mandatory word "shall" in Section 904, we held, "gives to the PUC a correlative right to expect the Attorney General to enforce PUC orders upon its request." Id.

The PUC is incorrect in its conclusion, however, that an irreconcilable conflict of interest is therefore created by permitting the Attorney General to represent PennDOT in pursuing this petition for review. The PUC argues that York v. Pennsylvania Public Utility Commission, 449 Pa. 136, 295 A.2d 825 (1972), wherein the issue of

conflict of interest on the part of the Attorney General was addressed, is close enough to the instant case factually to warrant a finding of conflict of interest here. We disagree.

In York, supra, the conflict of interest issue was whether the request of the Attorney General to intervene as an appellant in this Court in an appeal from a PUC order was properly refused. In York, the PUC order in question had approved the merger of three telephone companies. The City and County of York, complainants before the PUC, appealed that order to this Court. Two days prior to oral argument, the Attorney General petitioned this Court for leave to intervene as an appellant on behalf of the Commonwealth. Although we permitted the Attorney General to appear and argue on the merits of the appeal subject to later consideration of the intervention petition, we subsequently, after argument on that petition, denied said petition. The Supreme Court affirmed, quoting extensively from our opinion reported at 3 Pa. Commonwealth Ct. 270, 281 A.2d 261 (1971).

Examination of the reasoning in York reveals that the intervention of the Attorney General was refused because neither of the statutory bases relied upon by the Attorney General supported his intervention. We held that Section 1 of the Act of May 28, 1915, P.L. 616, as amended, 12 P.S. §145, did not permit intervention because the Commonwealth had "no real interest in this case except through the Public Utility Commission" 3 Pa. Commonwealth Ct. at 282, 281 A.2d at 267. We further held that Section 1104 of the Public Utility Law, 66 P.S. §1434,⁵ did not permit intervention because

the Commonwealth did not come within the meaning of the terms "person", "corporation" or "municipal corporation" contained therein. Id. at 286, 281 A.2d at 269. Moreover, the "irreconcilable conflict of interest" of which we spoke in York would have been created in large part because, at that time, the Attorney General had the statutory duty to appoint counsel to the PUC. See Section 9 of the Act of March 31, 1937, P.L. 160, formerly 66 P.S. §460, repealed by Section 12 of the Act of October 7, 1976, P.L. 1075 (see note 2, supra).

We reasoned:

"Since the Attorney General has the power to appoint counsel for the Commission, he likewise has the power to remove such counsel. If the Attorney General were permitted to intervene in opposition to the Commission's order, and as an opposing advocate to the counsel for the Commission, who is subject to removal by the Attorney General, then the Commission would be denied the effective representation of counsel to which it is entitled by statute. We cannot sanction such an irreconcilable conflict of interest." 3 Pa. Commonwealth Ct. at 285-86, 281 A.2d at 268 (footnote omitted).

Several crucial factors readily distinguish the case at bar from York. In York, the Attorney General was seeking intervention in an appeal to advocate a position which he, independently, had determined to be in the best interest of the Commonwealth. He was not acting on behalf of any particular Commonwealth department or agency. Furthermore, no statutory authority existed for his intervention. Inasmuch as an irreconcilable conflict of interest would have been created by his intervention, it would have derived from the fact that

he had the power to remove PUC counsel advocating a contrary legal position.

In the case at bar, we are not confronted with an attempt to intervene to advocate some independent determination of the best interest of the Commonwealth. Rather, the Attorney General is fulfilling his statutorily mandated duty under Section 903(b) of The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. §293(b) "[t]o represent the Commonwealth, or any department . . . thereof, in any litigation to which the Commonwealth or such department . . . may be a party" Moreover, it certainly cannot be argued, in light of the fact that PUC counsel are no longer appointed by the Attorney General, that an irreconcilable conflict exists as framed in York.

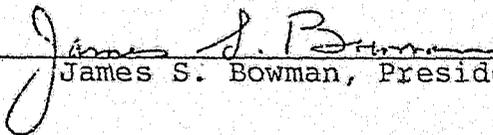
Finally, we find no irreconcilable conflict of interest in the fact that the Attorney General, now pursuing PennDOT's petition for review on the merits, may, at some future stage in these proceedings, be called upon by the PUC to enforce its order against PennDOT. It has long been recognized in this Commonwealth that there are situations which simply require the Attorney General to wear two hats, as it were. As Judge Woodside, who himself once served as Attorney General, wrote in Ault Unemployment Compensation Case, 188 Pa. Superior Ct. 260, 262-63 n.1, 146 A.2d 729, 730-31 n.1 (1958):

"[W]e recognize that the duties of an attorney general cannot always be measured by the same yard-stick used to measure the duties of private counsel. There are occasions where an attorney general is required to represent both sides of

a case, as, for example, when the Highway Department appeals from a Public Utility Commission order. In such cases he cannot believe both sides to be right, and yet he is charged by statute with presenting both sides to the court."

Similarly, in this case, the legislature has charged by statute that the Attorney General represent PennDOT in its petition for review and also that, should enforcement become necessary, he represent the PUC in enforcing its order against PennDOT. The legislature has determined that the Attorney General is capable of performing different roles at different stages in the proceedings.

Accordingly, we dismiss the PUC's motion to quash.


James S. Bowman, President Judge

¹This order was entered on January 9, 1978.

²The PUC advances alternatively that we reconsider our holding in Pennsylvania Public Utility Commission v. Department of Transportation, 13 Pa. Commonwealth Ct. 555, 320 A.2d 400 (1974), and interpret Section 902 of the Public Utility Law, Act of May 28, 1937, P.L. 1053, as amended, 66 P.S. §1342, now Section 501(a) of the Public Utility Code (Code), 66 Pa.C.S. §501(a), to confer upon the PUC's "own independent legal staff" the power and duty to enforce PUC orders against the Commonwealth. We believe that Department of Transportation, supra, was properly decided and are unpersuaded by the PUC's argument that the addition of Section 9.1 to the Public Utility Law by Section 12 of the Act of October 7, 1976, P.L. 1075, 66 P.S. §460.1, now Section 306 of the Code, 66 Pa.C.S. §306, should alter our decision

²Cont'd

in that case. In enacting Section 9.1, the legislature created the office of chief counsel to the PUC and provided for the establishment of a "multi-function legal staff." However, as counsel for PennDOT correctly points out, the legislature did not concurrently alter the language of Sections 903 and 904, now Sections 502 and 503 of the Code, 66 Pa.C.S. §§502, 503, which prescribe enforcement procedures.

³A similar provision is now Section 502 of the Code, 66 Pa.C.S. §502.

⁴A similar provision is now Section 503 of the Code, 66 Pa.C.S. §503.

⁵Repealed by Section 20 of the Act of October 7, 1976, P.L. 1075.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Petitioner

v.

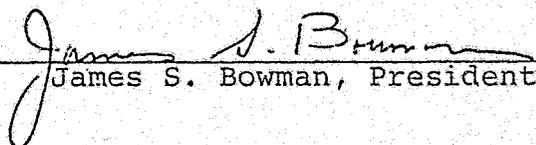
PENNSYLVANIA PUBLIC UTILITY
COMMISSION,
Respondent

: IN THE COMMONWEALTH COURT
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: OF PENNSYLVANIA
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: NO. 212 C. D. 1978

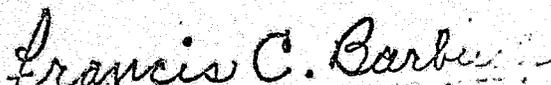
O R D E R

NOW, December 1, 1978, the motion to quash filed
by Pennsylvania Public Utility Commission is hereby dismissed.


James S. Bowman, President Judge

CERTIFIED FROM THE RECORD

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File in C-19707

COMMONWEALTH OF PENNSYLVANIA, :
DEPARTMENT OF TRANSPORTATION, :
Petitioner :

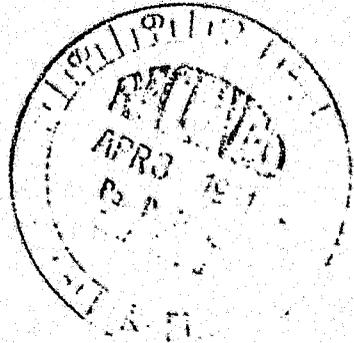
IN THE COMMONWEALTH COURT
OF PENNSYLVANIA

v. :

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, :

Respondent :

No. 212 C.D. 1978



BEFORE: HONORABLE JAMES C. CRUMLISH, President Judge
HONORABLE GLENN E. MENCER, Judge
HONORABLE THEODORE O. ROGERS, Judge
HONORABLE GENEVIEVE BLATT, Judge
HONORABLE DAVID W. CRAIG, Judge
HONORABLE JOHN A. MacPHAIL, Judge
HONORABLE ROBERT W. WILLIAMS, JR., Judge

ARGUED: June 3, 1980

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The Pennsylvania Department of Transportation (PennDot) here appeals from an order of the Pennsylvania Public Utility Commission (PUC) directing PennDot to prepare and submit, within six months, detailed plans and cost estimates for the reconstruction of the Matsonford Bridge in Montgomery County.

The bridge, which serves vehicular and pedestrian traffic, spans the Schuylkill River between the Borough of Conshohocken and the Borough of West Conshohocken, and crosses over tracks of the former Reading Railroad on both sides of the river. PennDot concedes that the PUC had the legal power to order it to prepare the plans and estimates, and to reconstruct the bridge, by force of Section 409(c) of the former Public Utility Law,¹ but PennDot contests the time limitation imposed by the PUC order for the submission of the plans and estimates.

In September 1972, PennDot had filed a complaint with the PUC alleging that the Matsonford Bridge was in a serious state of disrepair, that PennDot had prepared a plan for its repair, and that such repair was necessary to insure the life of the bridge.

In January 1974, after investigation and hearing, the PUC issued an order approving PennDot's repair plan, directing that PennDot make the repairs at its own initial cost and expense, and that a further hearing be held regarding cost allocation and future maintenance responsibilities. Included among the several other parties to the proceeding was the Borough of Conshohocken.²

In December 1974, PennDot petitioned the PUC to modify its order. In that petition PennDot asserted that repair of the bridge was not economically feasible and that the bridge had to be reconstructed, as a new bridge to be built at the same location. After further hearing the PUC issued a new order, on October 21, 1975, approving the petition for modification. The modified order directed PennDot to submit to the PUC and the other parties, within twelve months, detailed plans and cost estimates for the reconstruction of the Matsonford Bridge.

By November 12, 1976, PennDot had not submitted plans and estimates as directed by the modified order. On that date the Borough of Conshohocken petitioned the PUC to enforce the mandate. According to the Borough, the bridge was in such a state of disrepair as to endanger the public.

In the wake of the Borough's action, PennDot filed another petition of its own, on December 1, 1976, this time seeking a time extension to comply with the order of October 21, 1975. In that petition PennDot represented that its financial situation prevented it from completing the plans and estimates for reconstruction, and PennDot requested that the deadline set in the order of October 21, 1975, be extended to a time twelve months from legislative approval of funds for the entire reconstruction project.

In October 1977, an Administrative Law Judge entered an Initial Decision rejecting PennDot's contention that compliance with the PUC order had to await legislative approval, directing PennDot to repair the bridge surface within sixty days, and to complete and submit at its own cost, within six months of the Decision, the detailed plans and estimates. In January 1978, the PUC entered an order adopting the decision of the Administrative Law Judge; from that order PennDot has appealed to this Court.

Although PennDot itself thus was the originator of the petition to reconstruct the bridge, nevertheless PennDot now asserts that there is an independent legal impediment to full compliance as to plans and estimates within the six months specified by the order here in issue.

PennDot argues that reconstruction of the bridge is a "capital project" as defined by Section 2(1) of the Capital Facilities Debt Enabling Act (Debt Enabling Act)³ and that, therefore, legislative approval is required to expend funds even for the plans and cost estimates. From that contention, PennDot further argues that the need for legislative approval prevents compliance with the PUC order within the six months mandated.

On the other hand, the PUC claims that PUC projects, such as this reconstruction of the Matsonford Bridge, are not "capital projects" within the compass of the Debt Enabling Act and thus no legislative approval is required.

In order to narrow our inquiry to the key issue, we conclude, at the outset, that PennDot is correct in contending that:

1. A "capital project", if it is to be financed by debt incurred without voter approval, must be specifically itemized in a capital budget.

Pa. Const. art. VIII, §7(a)(4)

2. The reconstruction cost of the Matsonford Bridge, if it were to be debt-financed under the

above constitutional provision, is a "capital project" in that it involves the construction of a "structure, facility or physical public betterment or improvement" having "an estimated useful use in excess of five years and an estimated financial cost in excess of one hundred thousand dollars (\$100,000)". Section 2(1) of the Debt Enabling Act, 72 P.S. §3920.2(1)

3. Even if the bridge reconstruction were to be financed, not from debt without voter approval, but from other debt or from operating funds, the governor has a duty to identify such a project in the capital budget for the fiscal years in which such capital project expenditures are proposed. Pa. Const. art. VIII, §12; Section 613 of the Administrative Code⁴

However, the contested order here does not mandate the Matsonford Bridge reconstruction itself; it mandates only the completion of plans and estimates in preparation for that project, at a planning cost of approximately \$75,000, such plans being, according to PennDot, already 50% complete.

Therefore the pivotal issue is whether the expense of the plans and estimates ordered by the PUC must be treated as a capital project expenditure under the statutory and constitutional requirements on which PennDot relies for delay.

PennDot has not presented any authority to support the essential premise — that the plan-making cost must be treated as a capital project expenditure which cannot be made without specific legislative authorization — other than a reference to Section 2(6) of the Debt Enabling Act,⁵ which includes preliminary planning costs within the definition of the "financial cost" of a "capital project". However, that act relates only to the authorization of debt financing and therefore does not amount to a requirement that planning costs be treated as inseparable from the construction costs, at least where the planning costs might be financed by sources other than debt.

We cannot read the effect of that definition as doing more than authorizing planning expenses to be treated as capital costs for the purpose of debt financing; the act contains no words mandating that such expense shall be always so treated.

Our interpretation of Section 2(6) is illustratively confirmed by the fact that its definition of "financial cost"

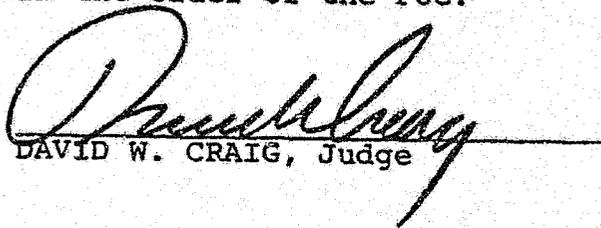
also includes personnel salaries incurred in planning a capital project. Although the act thus permits such operating costs to be debt-financed as a "financial cost" of a "capital project" when so related, to read the section as mandating that such salary expenses shall always be classed as capital project matters, so as to require advance legislative approval before any PennDot engineer could be devoted to construction plans for a possible project, would of course be ludicrous.

In addition, the Governor's Administrative Code duty, noted above, to include capital project expenditures in his capital budget, even if financed from operating funds, does not speak to the question of whether the planning costs must necessarily be treated as part of the "capital project" for that budgeting requirement.

Therefore, the preparation of plans and estimates does not involve expenditures which must await full capital project budgeting and legislative authorization of the specific project; the design funding here need only be made out of a lawful budgetary source like any other ongoing expense of PennDot. To treat design study costs otherwise would surely hamstring PennDot seriously hereafter, requiring it to have itemized legislative approval before proceeding even to engage in any planning for a crucial future project, whether or

not ordered by the PUC. To require specific legislative approval before preparing any design studies, themselves often necessary to provide a basis for legislative consideration of the capital project, would be putting the cart before the horse, and we do not perceive that the wording of the law requires that to be done.

Accordingly, we affirm the order of the PUC.


DAVID W. CRAIG, Judge

This decision was reached before the expiration of the term of office of Judge Wilkinson, Jr.

Footnotes

1. Act of May 28, 1937, P.L. 1053, as amended, 66 P.S. §1179(c), now Section 2702(c) of the Public Utility Code, 66 Pa.C.S. §2702(c).
2. Other parties respondent were the Borough of West Conshohocken, the County of Montgomery, the Trustees of the Reading Company, the Bell Telephone Company, and the Philadelphia Suburban Water Company.
3. Act of July 20, 1968, P.L. 550, as amended, 72 P.S. §3920.2(1).
4. Section 613 of the Act of April 9, 1929, P.L. 177, as amended, added by Section of the Act of September 27, 1978, P.L. 775, 71 P.S. §233.
5. 72 P.S. §3920.2(6).

COMMONWEALTH OF PENNSYLVANIA, :
DEPARTMENT OF TRANSPORTATION, :
Petitioner :

IN THE COMMONWEALTH COURT
OF PENNSYLVANIA

v. :

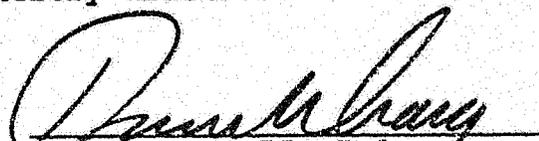
PENNSYLVANIA PUBLIC UTILITY
COMMISSION, :

Respondent :

No. 212 C.D. 1978

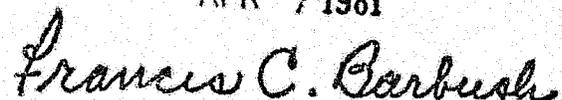
ORDER

AND NOW, this 7th day of April, 1981, the
order of the Pennsylvania Public Utility Commission at its
Complaint Docket No. 19707, adopted November 22, 1977 and
entered January 9, 1978, is hereby affirmed.


DAVID W. CRAIG, Judge

CERTIFIED FROM THE RECORD

APR 7 1981


CHIEF CLERK

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File in C-19707

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
Petitioner

v.

PENNSYLVANIA PUBLIC UTILITY
COMMISSION,
Respondent

IN THE COMMONWEALTH COURT
OF PENNSYLVANIA

No. 212 C.D. 1978



BEFORE: HONORABLE JAMES C. CRUMLISH, President Judge
HONORABLE GLENN E. MENCER, Judge
HONORABLE THEODORE O. ROGERS, Judge
HONORABLE GENEVIEVE BLATT, Judge
HONORABLE DAVID W. CRAIG, Judge
HONORABLE JOHN A. MacPHAIL, Judge
HONORABLE ROBERT W. WILLIAMS, JR., Judge

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ARGUED: June 3, 1980

I substantially agree with the factual history as set forth in the majority opinion. I do, however, respectfully dissent from the majority's legal conclusion.

Section 2(1) of the Debt Enabling Act provides in pertinent part that:

'Capital project' means and includes (i) any building, structure, facility, or physical public betterment or improvement;... or (iv) any undertaking to construct, repair, renovate, improve...any of the foregoing, provided that the project is designated in a capital budget as a capital project, has an estimated useful life in excess of five years and an estimated financial cost in excess of one hundred thousand dollars (\$100,000);...and shall include projects to be financed by the incurring of debt, such projects being separated into the following categories:

- 'Community College Projects'
- 'Highway Projects'
- 'Flood Control Projects'
- 'PIDA' Projects'
- 'Redevelopment Assistance Projects'
- 'Site Development Projects'
- 'Public Improvement Projects'
- 'Transportation Assistance Projects'

'Other Capital Projects'....

(Emphasis added.)

Structurally, Section 2(1) of the Debt Enabling Act can be viewed as having two "levels." The first level contains the generic characteristics of a "capital project," those characteristics being delineated in Sections 2(1)(i) through 2(1)(iv), and including part of the proviso in 2(1)(iv). On the second level, Section 2(1) enumerates nine classes of debt-financed projects which are put within the meaning of "capital project" by specific inclusion.

The question of whether the reconstruction of the Matsonford Bridge is itself a "capital project" within the terms of the Debt Enabling Act is one of constitutional significance. For, the Debt Enabling Act is an implementation of Article VIII, Section 7(a), clause (4), of the Pennsylvania Constitution, and gives definition to the term "capital project" contained in that constitutional provision. Section 7(a) declares that no debt shall be incurred by or on behalf of the Commonwealth except by law and in accordance with the provisions of that Section of the Constitution. Clause (4) of Section 7(a) provides, in pertinent part, as follows:

Debt may be incurred without the approval of the electors for capital projects specifically itemized in a capital budget if such debt will not cause the amount of all net debt outstanding to exceed one and three-quarters times the average of the annual tax revenues deposited....
(Emphasis added.)

The above constitutional clause is a grant of power to the state government to incur debt for "capital projects" without voter approval, if the project is itemized in a capital

budget and satisfies the other criteria of the clause. Therefore, if a given project is a "capital project" as defined by the implementing Debt Enabling Act, then the project must, among other requirements, be one that is itemized in a capital budget, if it is to be constitutionally debt financed without voter approval.

Regarding the reconstruction of the Matsonford Bridge, it is clear that the project represents an undertaking to construct or renovate a structure, facility or physical public improvement. The estimated useful life of the reconstructed bridge exceeds five years. And, there is no dispute that the reconstruction project will exceed \$100,000.00 in financial cost. According to PennDot's undisputed estimate, the cost of the entire project will exceed \$5,000,000.00. The bridge reconstruction project itself meets all the requirements of a "capital project" under Sections 2(1)(iv) of the Debt Enabling Act, except for one: the bridge project was never designated as a "capital project" in any capital budget.

It is another striking feature of this case that after PennDot apparently submitted the reconstruction project to the State Transportation Commission, the Commission never included the project in any capital program it submitted. As a result, the project was never designated or itemized in any capital budget sent to the General Assembly.

However, it is my conclusion that the project for the reconstruction of the bridge did not lose its characteristics as a "capital project" because of the failure of the Transportation Commission to include it in a capital program or because of the failure to designate the project in a capital budget. In my view,

the additional requirement in Section 2(1)(iv) of the Debt Enabling Act that a project be one designated as a "capital project" in a capital budget, is not intended to describe one of the generic characteristics of a "capital project." Rather, that part of the proviso in Section 2(1)(iv) sets forth one of the procedural requirements that must be satisfied before what is otherwise a "capital project" may be constitutionally debt financed without approval of the electors. Indeed, the above part of Section 2(1) (iv) of the Debt Enabling Act, which speaks of a project "designated in a capital budget as a capital project," is no more than a repetition of the constitutional requirement of Article VIII, Section 7(a), clause (4), that a "capital project" be specifically itemized in a capital budget, as one of the conditions for the debt financing of a "capital project" without the approval of the electors. In other words, the subject of the itemization requirement is a project which is in kind a "capital project."

For purposes of the case at bar, the applicability of the Debt Enabling Act means that the bridge reconstruction must be included as a capital project in a capital budget if the reconstruction is to be financed by incurring debt without voter approval. However, if the bridge project is to be financed by other means, then Article VIII, Section 12, of the Pennsylvania Constitution is of great significance. In pertinent part, that constitutional provision declares as follows:

Annually, at the times set by law,
the Governor shall submit to the General
Assembly:

(a)....

(b) A capital budget for the ensuing fiscal year setting forth in detail proposed expenditures to be financed from the proceeds of obligations of the Commonwealth or of its agencies or authorities or from operating funds; and

(c) A financial plan for not less than the next succeeding five fiscal years, which plan shall include for each such fiscal year:

(i) Projected operating expenditures classified by department or agency and by program, in reasonable detail....

(ii) Projected expenditures for capital projects specifically itemized by purpose, and the proposed sources of financing each.

(Emphasis added.)

Article VIII, Section 12, of the Constitution was implemented by Act No. 149 of September 27, 1978. In pertinent part, Section 3 of Act No. 149 provides as follows:¹

As soon as possible after the organization of the General Assembly... the Governor shall submit to the General Assembly copies of agency budget requests and a State budget and program and financial plan embracing:

(2) A capital budget for the ensuing fiscal year setting forth capital projects to be financed from the proceeds of obligations of the Commonwealth or of its agencies or authorities or from operating funds.

(3) A program and financial plan for not less than the prior fiscal year, the current fiscal year, this budget year and the four succeeding fiscal years, which plan shall include for each such fiscal year:

(i) Actual or estimated operating expenditures classified by department or agency and by program, in reasonable detail....

(Emphasis added.)

It must be concluded from Article VIII, Section 12, of the

Pennsylvania Constitution and its implementing legislation that the reconstruction of the Matsonford Bridge could not be financed from either the proceeds of obligations or from operating funds unless the project is contained in a capital budget or designated as the subject of operating expenditures in a financial plan, as required by Act No. 149.

I am mindful of the legal power vested in the PUC by Section 409 of the Public Utility Law and related statutory provisions. I recognize that the PUC has the statutory power to order PennDot to reconstruct the bridge. However, I must reject the contention of the PUC in this appeal, and the conclusion of the Administrative Law Judge below, that projects ordered by the PUC are not within the compass of the Debt Enabling Act. The statutes conferring powers upon the PUC are subordinate to the relevant fiscal provisions of the Pennsylvania Constitution and implementing statutes. Although the PUC may validly order a given project, the funds for it must be provided in accordance with constitutional mandates.

I am not suggesting that either PennDot or the Transportation Commission can nullify a project validly ordered by the PUC, by failing to have the project included in a capital program or capital budget. What I conclude is that the judicial enforcement of such an order must be in terms of constitutional fiscal requirements. In short, this Court can and will order PennDot to submit a budget request so that the total project may be placed before the General Assembly.

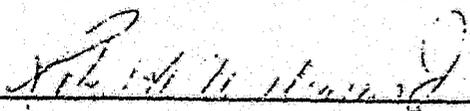
There remains the question of whether PennDot's completion of the detailed plans and cost estimates as ordered below have to

await legislative approval. Put differently, the issue is whether PennDot may expend funds and bear the cost of preparing the plans and estimates without having such an expenditure, or the reconstruction project itself, itemized in a budget or financial plan approved by the legislature.

The cost of preparing the plans and estimates was put at \$75,000.00. The PUC asserts that because the cost is less than the \$100,000.00 threshold amount set forth in Section 2(1) of the Debt Enabling Act, the preparation of the plans and estimates does come within the definition of a "capital project" as to require legislative approval. PennDot, to the contrary, argues that the plans and estimates cannot be divorced from the entire reconstruction project. In contending that legislative approval is required to expend funds even for the plans and estimates, appellant PennDot first points to Section 2(6) of the Debt Enabling Act. That Section declares, inter alia, that the expense of preparing plans and estimates for a "capital project" is a part of the "financial cost" of the project. That provision readily induces the idea that if a given "financial cost" requires legislative approval then all the elements of that cost also require legislative approval.

However, the Debt Enabling Act is concerned with the incurring of debt. Or more pervasive significance is Act. No. 149: "By force of Act No. 149, expenditures for capital projects from the proceeds of obligations or expenditures from operating funds are both items that must have been set forth in a budget submitted to the legislature by the Governor.² Therefore, I conclude that even the expenditure of operating funds to prepare the plans and cost estimates here in question would require legislative approval.

Even if the preparation of the plans and estimates could be viewed as separate from the project itself, the expenditure of funds for the plans and estimates would remain subject to fiscal requirements that have not been satisfied in this case. Thus, our enforcement of the PUC order for those plans and estimates must be tailored in terms of the constitutional provisions governing the expenditure of funds and the statutes that implement those provisions. The majority's decision in this case would empower the PUC to dictate the expenditure of public funds without regard for constitutionally mandated fiscal procedures.



ROBERT W. WILLIAMS, JR., JUDGE.

FOOTNOTES

1. Act of September 27, 1978, P.L. 775, 71 P.S. §233.

2. Perhaps one of the policy considerations underlying such a requirement, at least so far as operating funds are concerned, is the idea that substantial funds should not be expended for the initial stages of capital projects which may not be approved.

CERTIFIED FROM THE RECORD

APR 7 1981

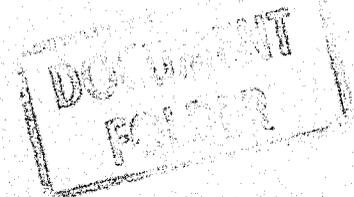
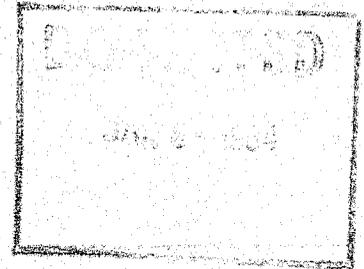
Francis C. Barbush
CHIEF CLERK

RECEIVED

DEC 27 1983

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION SECRETARY'S OFFICE
Public Utility Commission

Department of Transportation of :	
the Commonwealth of Pennsylvania:	COMPLAINT
:	:
vs. :	DOCKET
:	:
Reading Company, Debtor, Borough:	No. C-19707
of Conshohocken, Borough of West:	
Conshohocken and County of :	
Montgomery :	



PETITION OF THE PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION FOR MODIFICATION OF ORDER

TO THE HONORABLE, THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

The Petition of the Pennsylvania Department of
Transportation for modification of order respectfully represents:

1. That the name and address of your Petitioner is the
Department of Transportation of the Commonwealth of Pennsylvania,
Harrisburg, Pennsylvania 17120.

2. That the name and address of Counsel for the
Petitioner is Herbert G. Zahn, Assistant Counsel, and Stephen
Dittmann, Assistant Counsel, Office of Chief Counsel, Department
of Transportation, Harrisburg, Pennsylvania 17120.

3. That your Honorable Commission in Complaint Docket No. 19707 issued its Order dated October 21, 1975 which directed your Petitioner to, inter alia, prepare and submit detailed construction plans for reconstruction of the existing Matsonford Bridge structure, including such reconstruction as is required to be performed on the contiguous ramps to the bridge.

4. That because of the limited space available to replace the existing bridge, it is not feasible to re-attach the two existing ramps to the new bridge. In the alternative, your Petitioner proposes to alter the south approach to the existing Harry Street at-grade crossing in Conshohocken Borough and construct a new above-grade crossing by extending Bullock Street in West Conshohocken Borough, both crossing with Conrail.

5. That it is proposed to use a portion of State Highway L.R. 1010 (Mid-County Expressway) in Plymouth Township, Montgomery County, as a detour for southbound Matsonford Bridge traffic during construction of said bridge. Accordingly, it is proposed to reconstruct a temporary at-grade crossing of the industrial rail track owned by the Upper Merion and Plymouth Railroad Company which leads to the Lukens Steel Company facility with the proposed temporary southbound detour ramp (one-way traffic) to L.R. 1010 Southbound.

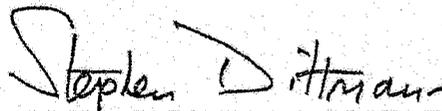
6. Unless any party has objection to the modification of these preliminary plans, attached hereto, the Department

requests that they be approved by the Commission without hearing pending a future hearing on the Final Construction Plans when submitted by the Department.

WHEREFORE, your Petitioner respectfully prays your Honorable Commission to approve the modification of its previous Order dated October 21, 1975 as described above.

AND, it will ever pray, etc.

Respectfully submitted,



Stephen Dittmann
Assistant Counsel

DATED: 23rd December 1983

COMMONWEALTH OF PENNSYLVANIA :

: SS

COUNTY OF DAUPHIN :

Before me, the undersigned, personally appeared,
David C. Sims, Deputy Secretary for Highway Administration of the
Department of Transportation of the Commonwealth of Pennsylvania,
who, being duly sworn according to law, deposes and says that the
foregoing facts are true and correct, to the best of his
knowledge and belief.

David C. Sims

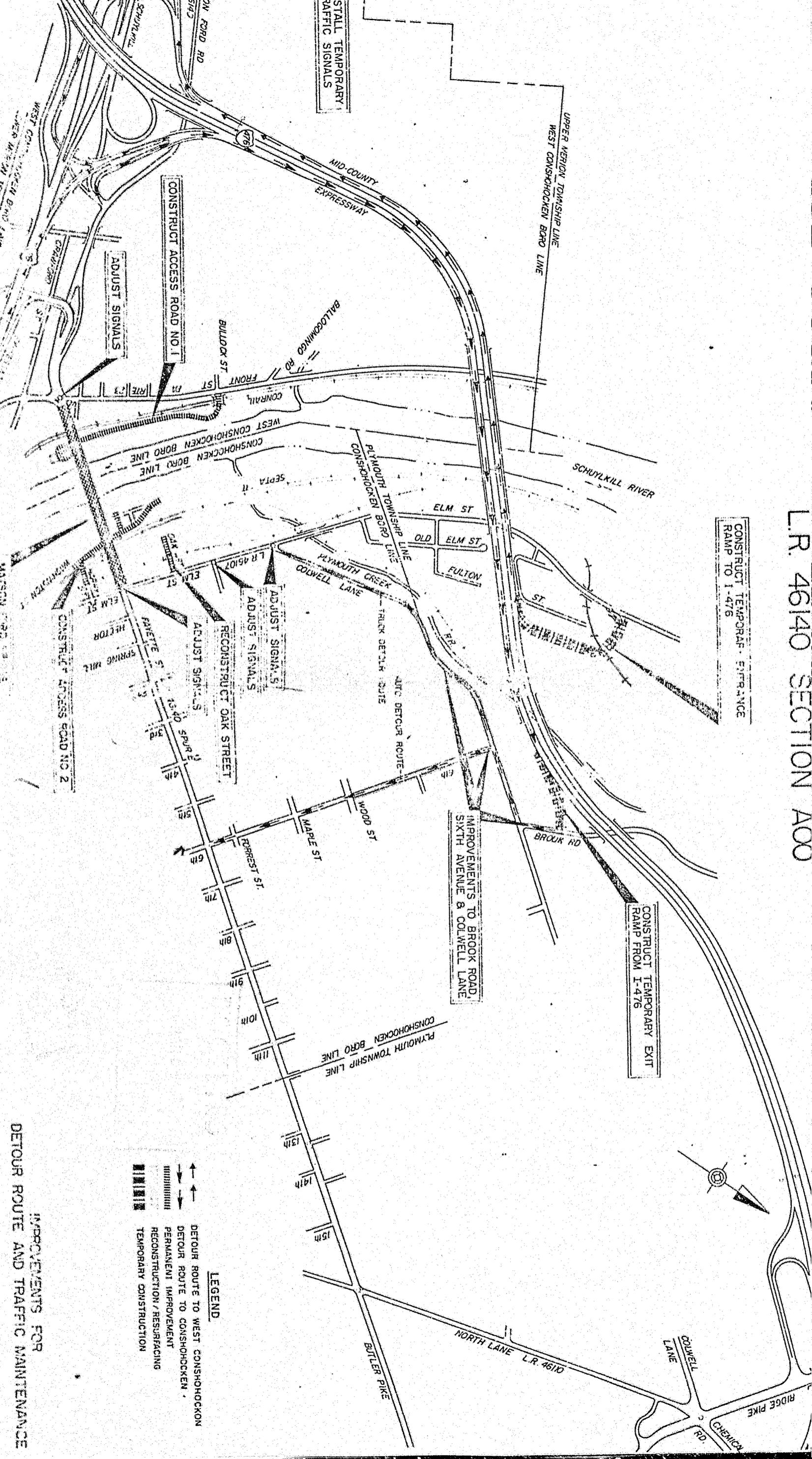
David C. Sims
Deputy Secretary for Highway
Administration

Sworn and subscribed before me
this 23rd day of December , 1983

Suzanne Marie Miller
NOTARY PUBLIC

My Commission Expires: 2/17/86

L.R. 46140 SECTION A00



CONSTRUCT TEMPORARY ENTRANCE RAMP TO I-476

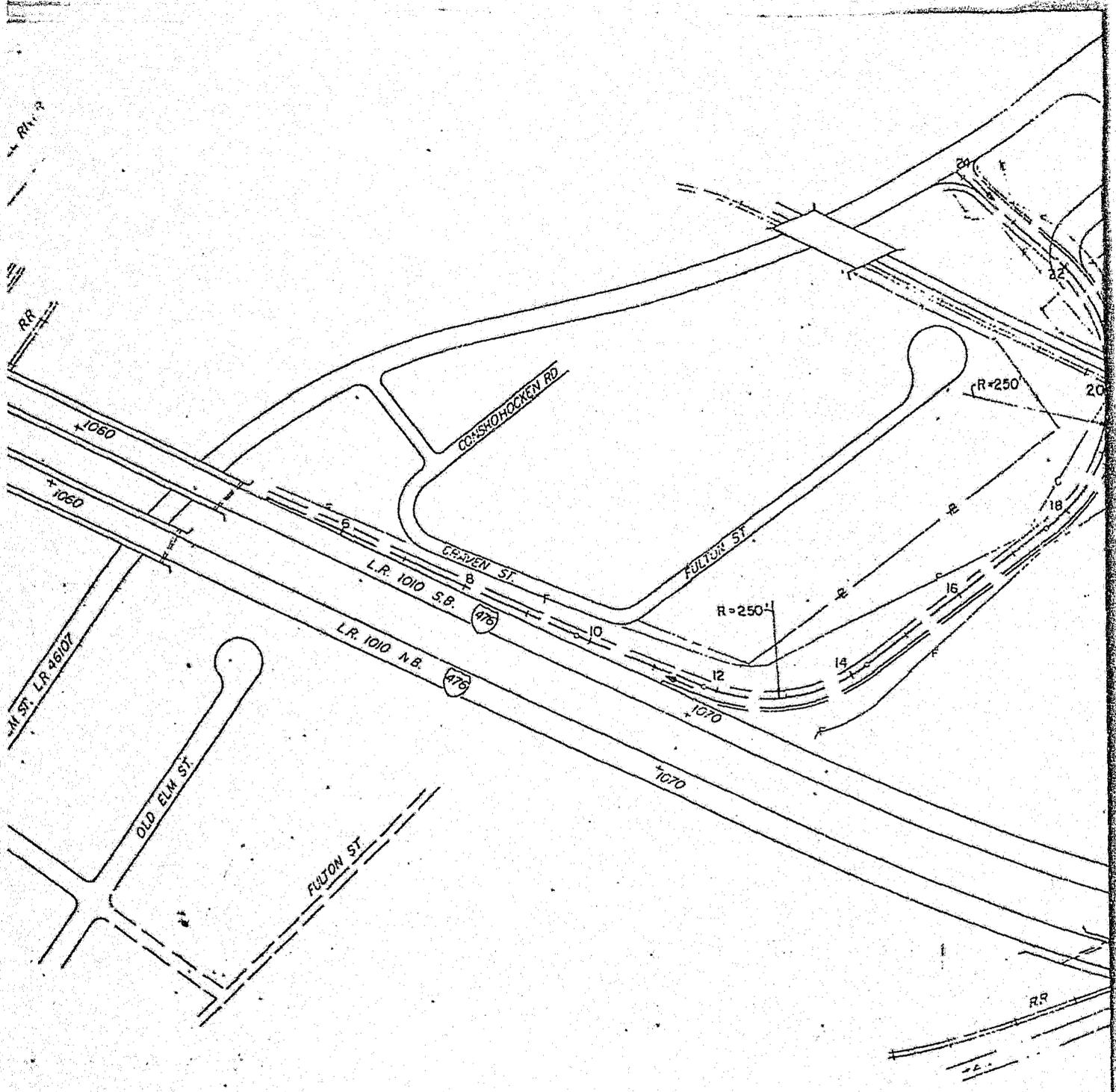
CONSTRUCT TEMPORARY EXIT RAMP FROM I-476

IMPROVEMENTS TO BROOK ROAD, SIXTH AVENUE & COLWELL LANE

LEGEND

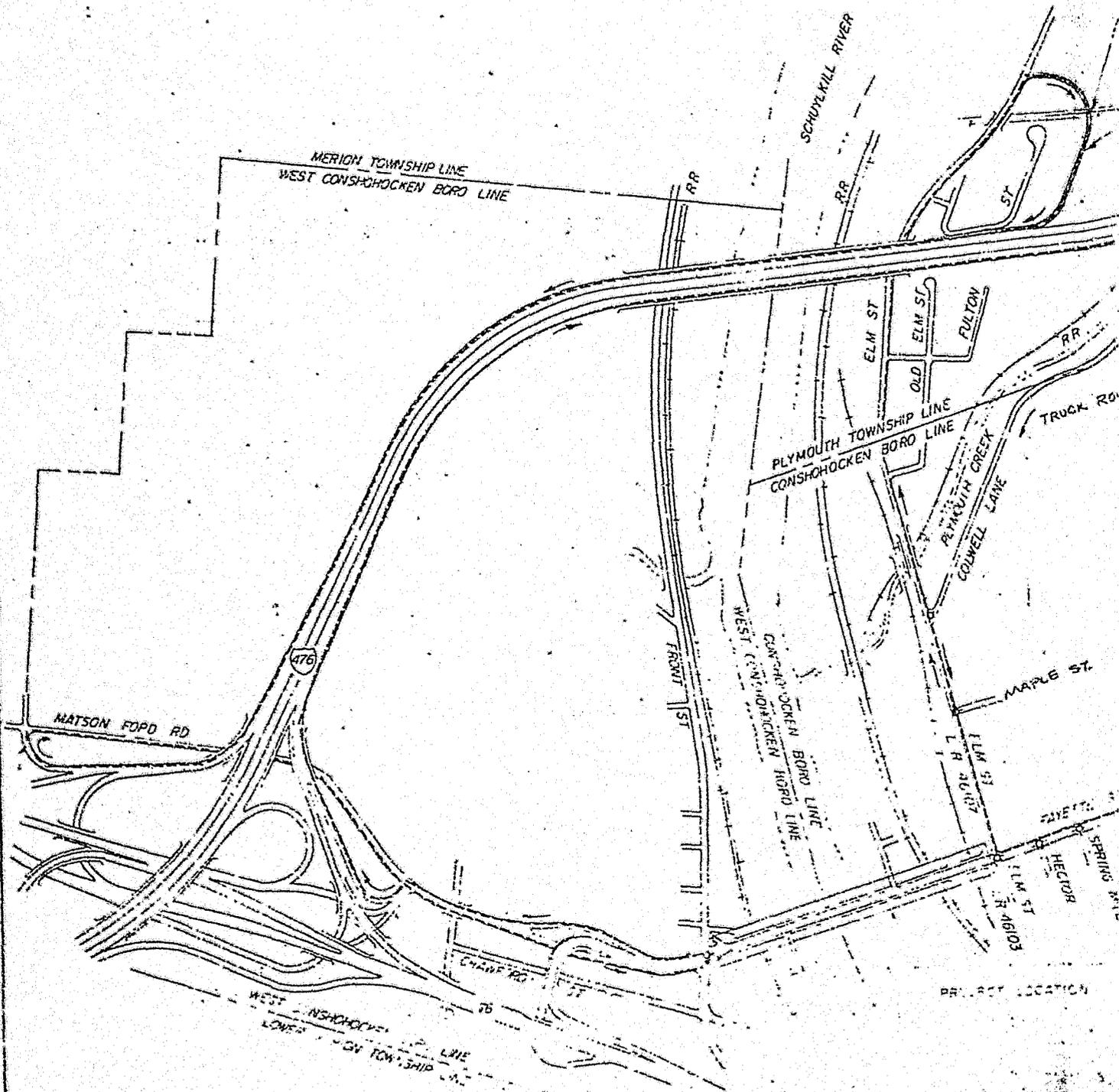
- ↑↑ DETOUR ROUTE TO WEST CONSHOHOCKON
- ←← DETOUR ROUTE TO CONSHOHOCKEN
- ▬ PERMANENT IMPROVEMENT
- ▨ RECONSTRUCTION / RESURFACING
- ▩ TEMPORARY CONSTRUCTION

IMPROVEMENTS FOR
DETOUR ROUTE AND TRAFFIC MAINTENANCE

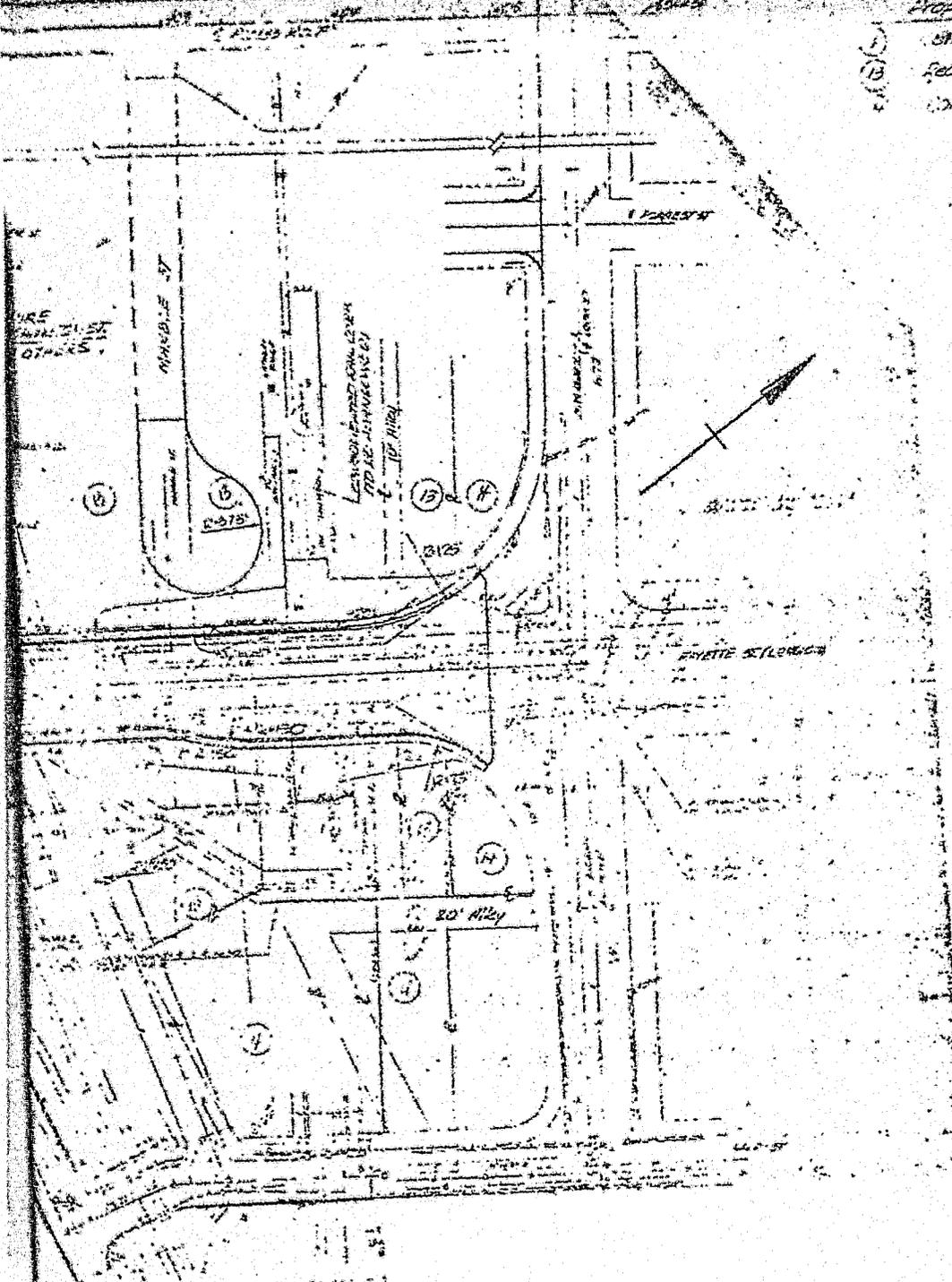


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DOCUMENT(S)**

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Property Owners
Brent Corp
Redevelopment Authority of Montgomery
County, Health of Penna. and Dept. of



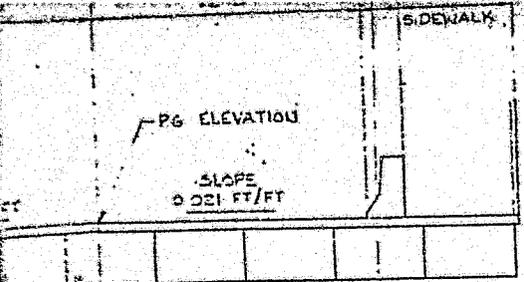
OVERSIZE DOCUMENT(S)

ACCESS ROAD E & F

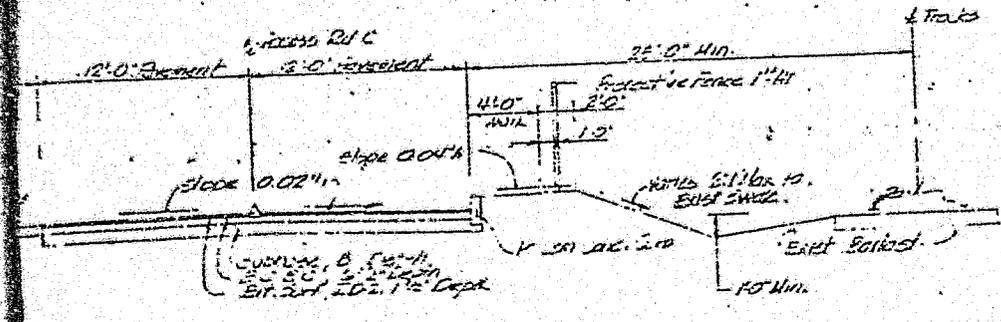
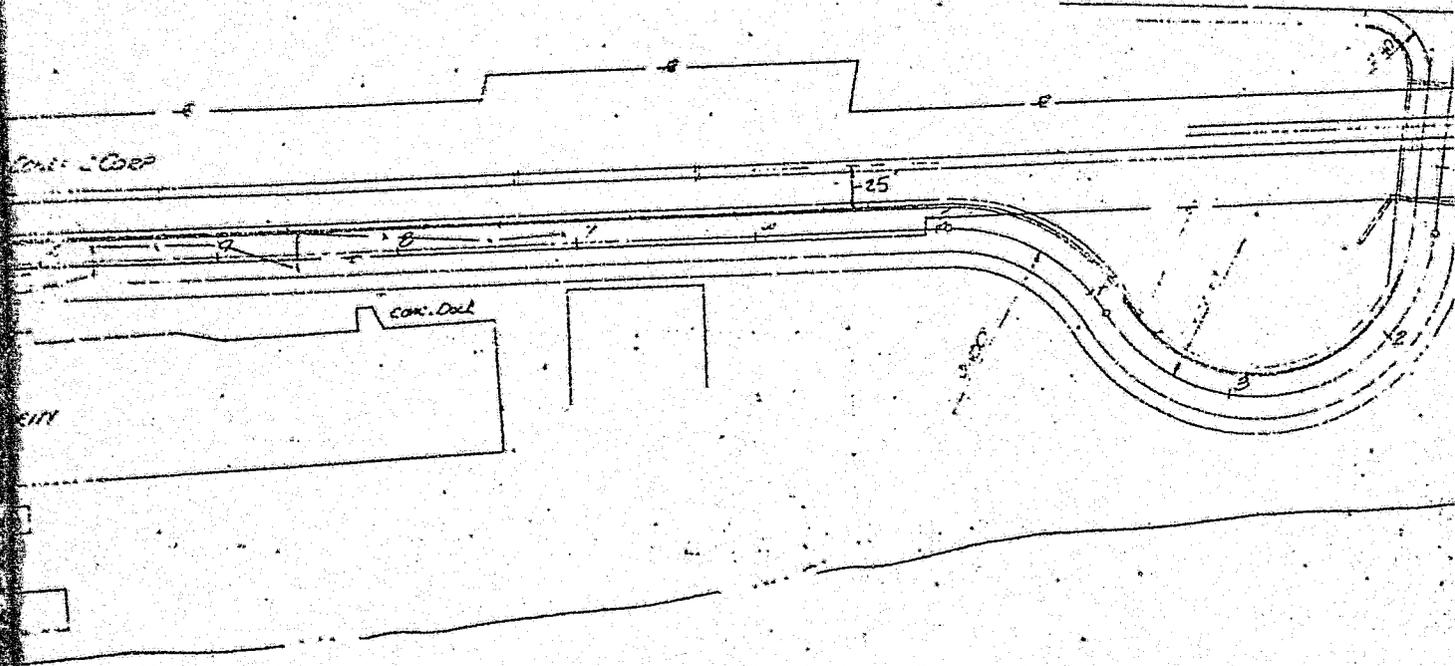
SCALE IN FEET
0 50 100 150

CONSI
ACCESS I

OVERSIZE DOCUMENT(S)



TYPICAL CROSS SECTION
ACCESS ROAD BRIDGE
OVER RAILROAD
SCALE 1/4" = 1'-0"

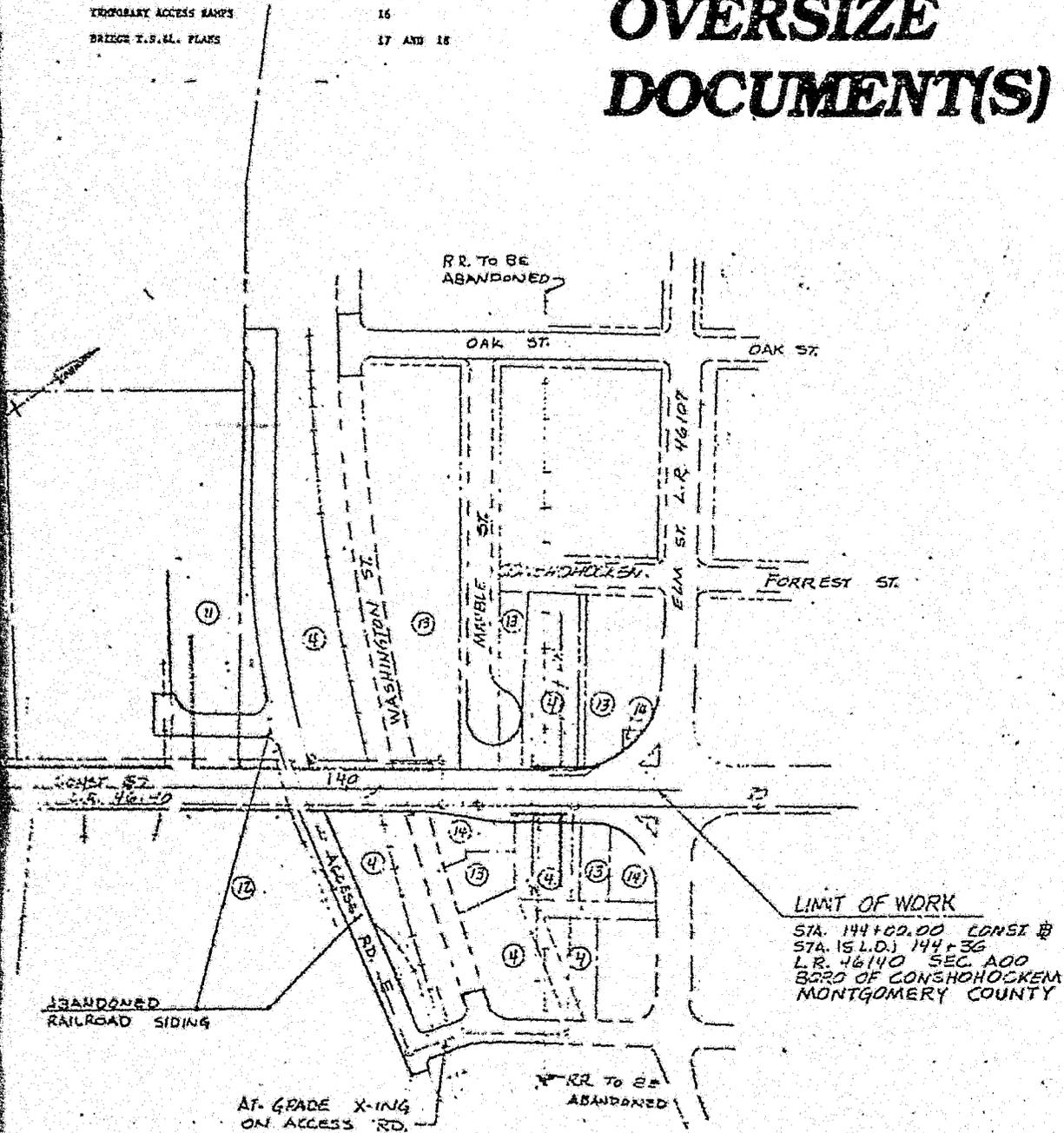


CROSS SECTION ACCESS ROAD 'C'
1/8" = 1'-0"

Preliminary Study
Access Road 'C'
0 50 100 150

DRAWING TITLE	SHEET NO.
TITLE SHEET	1
INDEX MAP	2
LOCATION MAP	3
TYPICAL SECTIONS	4
DETAIL SHEETS	5 THROUGH 10
ACCESS ROAD "C"	
PLAN	11
PROFILE	12
ACCESS ROADS "E" & "F"	
PLAN	13
PROFILE	14
DETOUR PLAN	15
TEMPORARY ACCESS RAMP	16
BRIDGE T.S.&L. PLANS	17 AND 18

OVERSIZE DOCUMENT(S)



**OVERSIZE
DOCUMENT(S)**

ORIGINAL

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Harrisburg, Pennsylvania 17120
Office of Chief Counsel



March 16, 1984

IN REPLY REFER TO

RECEIVED

MAR 20 1984

Jerry Rich, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, Pennsylvania 17120

SECRETARY'S OFFICE
Public Utility Commission

Re: Complaint Docket C-19707
Montgomery County

Dear Mr. Rich:

Please be advised that by a copy of this letter we are adding Plymouth Township, Upper Merion and Plymouth Railroad and Southeastern Rail Transportation Company as additional parties in this matter.

We are forwarding to them a copy of the Petition filed on December 23, 1983 and attachment thereto.

Very truly yours,

Herbert G. Zahn

Herbert G. Zahn *13/ama*
Assistant Counsel
(717) 787-5931

220/HGZ:rmm

cc: K. W. Walker, P.E. (Attn.: M. Davis)
District #6-0
Parties of Record - Pages 2 and 3

DOCKETED
MAR 21 1984

DOCUMENT
FILED

Jerry Rich, Secretary
Page 2
March 16, 1984
C-19707

PARTIES OF RECORD

Joseph I. Hallman, Esquire
Upper Merion & Plymouth Railroad Company
P. O. Box 404
Conshohocken, Pennsylvania 19428

Edward H. Huss, Esquire
Southeastern Pennsylvania Transportation Authority
200 West Wyoming Avenue
Philadelphia, Pennsylvania 19140

Joel E. Mazor, Esquire
Consolidated Rail Corporation
1138 Six Penn Center Plaza
Philadelphia, Pennsylvania 19104

Edward F. Kane, Esquire
Kane, Pugh, Anderson, Subers & McBrien
512 Swede Street
Norristown, Pennsylvania 19401

Bernard A. Moore, Esquire
Solicitor for Borough of Conshohocken
3038 Butler Pike
Conshohocken, Pennsylvania 19428

Sheldon Seligsohn, Esquire
The Bell Telephone Company of Pennsylvania
One Parkway
Philadelphia, Pennsylvania 19102

John W. Boyer, Jr., President
Philadelphia Suburban Water Company
762 Lancaster Avenue
Bryn Mawr, Pennsylvania 19010

Frederic M. Wentz, Esquire
Solicitor for County of Montgomery
Courthouse
Norristown, Pennsylvania 19404

Lockwood W. Fogg, Secretary
Trustees of Reading Company
One Plymouth Meeting
Plymouth Meeting, Pennsylvania 19462

Jerry Rich, Secretary
Page 3
March 16, 1984
C-19707

John B. Wilson, III, Deputy Chief Counsel
Pennsylvania Public Utility Commission
Law Bureau
P. O. Box 3265
Harrisburg, Pennsylvania 17120

Arthur Lefkoe, Esquire
Solicitor for Plymouth Township
515 Swede Street
Norristown, Pennsylvania 19401



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, Pa. 17120

March 19, 1984

IN REPLY PLEASE
REFER TO OUR FILE

C-19707

Monitor: Commissioner Johnson

Department of Transportation of the
Commonwealth of Pennsylvania

v.

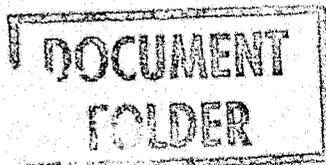
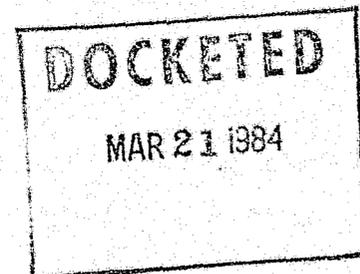
Reading Company, Debtor, Borough of Conshohocken,
Borough of West Conshohocken and County of Montgomery

This is to advise that a field investigation and conference will be held on March 28, 1984 at 10:30 a.m. to discuss the matters involved with Pennsylvania Department of Transportation's petition for modification of the Commission's order dated October 21, 1975.

Please arrange to have a representative present, especially if you have any concerns about the new crossings proposed for construction. We will meet initially at the proposed temporary at-grade crossing of the Upper Merion and Plymouth Railroad Company off Elm Street north of the Mid-County Expressway.

Very truly yours,

Donald R. Fleisher, P.E.
Bureau of Rail Transportation



Similar Letter List: C- 19707

Mr. K. W. Walker, P.E., Chief
Right of Way and Utility Division
Pennsylvania Department of Transportation
509 Transportation and Safety Building
Harrisburg, PA 17120
Dear Mr. Walker:

Mr. John W. Boyer, Jr., President
Philadelphia Suburban Water Company
762 Lancaster Avenue
Bryn Mawr, PA 19010
Dear Mr. Boyer:

Mr. J. T. Sullivan, P.E., Chief Engineer
Design and Construction
Consolidated Rail Corporation
15 North 32nd Street
Philadelphia, PA 19104
Dear Mr. Sullivan:

Edward H. Huss, Staff Counsel
Southeastern Pennsylvania Transportation Authority
130 South Ninth Street
Philadelphia, PA 19107
Dear Mr. Huss:

Mr. J. N. Ball, President and General Manager
Upper Merion & Plymouth Railroad Company
P.O. Box 404
Conshohocken, PA 19428
Dear Mr. Ball:

Mr. James T. Mitchell, Manager
Plymouth Township
700 Belvoir Road
Norristown, PA 19401
Dear Mr. Mitchell:

Honorable Francis J. Ruggiero, Mayor
Conshohocken Borough
113 West Third Avenue
Conshohocken, PA 19428
Dear Mayor Ruggiero:

Mr. Robert W. Graf, Chief Clerk
Montgomery County Courthouse
Norristown, PA
Dear Mr. Graf:

Mr. William L. Leonard, Vice President
The Bell Telephone Company of Pennsylvania
5th Floor, One Parkway
Philadelphia, PA 19102
Dear Mr. Leonard:

READING

Reading Company

READING CENTER • PHILADELPHIA, PA 19107 • 215/922-3303

March 23, 1984

RECEIVED

MAR 26 1984

Jerry Rich, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA. 17120

SECRETARY'S OFFICE
Public Utility Commission

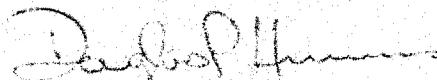
RE: Complaint Docket C-19707

Dear Mr. Rich:

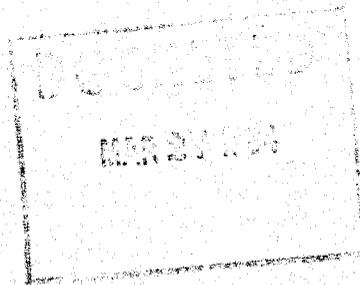
Please note for your records in the referenced case, and any other cases involving Reading Company that come to your attention, the following changes:

1. Lockwood W. Fogg has retired. Please forward correspondence to me.
2. The trustees of Reading Company, Andrew L. Lewis and Joseph L. Castle, were released from any further duties regarding the Company when it was discharged from bankruptcy in 1981.
3. The Company's mailing address is no longer Plymouth Meeting, but rather as shown on the letterhead.

Yours very truly,


Douglas P. Humes

DPH/11s



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17120
May 21, 1984

MONITOR: COMMISSIONER JOHNSON

In re: C-00019707

(See attached list)

Department of Transportation of the Commonwealth of Pennsylvania
vs.
Consolidated Rail Corporation, Southeastern Pennsylvania Transportation
Authority, Upper Merion and Plymouth Railroad Company, Boroughs of Conshocken
and West Conshocken, Plymouth Township, Montgomery County, The Bell Telephone
Company of Pennsylvania, Philadelphia Suburban Water Company, and Philadelphia
Electric Company.

NOTICE

This is to advise that a further hearing in the above-captioned proceeding
will be held Thursday, July 12, 1984, at 10:00 a.m., in Room A, Plymouth
Township Municipal Building, 700 Belvoir Road, Norristown.

This hearing is being held to consider the December 27, 1983 petition of
Pennsylvania Department of Transportation requesting modification of the
Commissions order of October 21, 1975, to permit construction of alternatives to
the reconstruction of the contiguous ramps to the Matsonford bridge; and all
other matters relating to this complaint such as approval to complete
construction, allocation of costs and assignment of future maintenance
responsibilities.

Each party in interest is requested to submit testimony and exhibits with
respect to the entire improvement, including the entire portion of those
alternatives proposed in the Department's petition and the temporary southbound
detour ramp, with the understanding that the Commission may, in adjudicating
this matter, take jurisdiction over any desired portion of this improvement.

We are enclosing herewith, a list of questions, prepared by our Bureau of
Rail Transportation, indicating information to be developed at the hearing,
along with other relevant testimony.

If any party intends to offer prepared written testimony, such testimony
must be served upon each participant of record no less than seven (7) days prior
to this hearing.

You are advised that if you fail to appear at the hearing, the hearing will
proceed without you. In that event, it is possible that you or your client will
have issues determined against you and that you might be assigned positive
duties or be required to pay money and will have waived any objection thereto.

**DOCUMENT
FOLDER**

**DOCKETED
MAY 21 1984**

The presiding officer in this proceeding will be Administrative Law Judge Joseph J. Klovekorn instead of Administrative Law Judge Rudolph S. Pallastrone. Judge Klovekorn can be contacted at 1302 Philadelphia State Office Building, Broad and Spring Garden Streets, Philadelphia, Pennsylvania 19130; telephone (215) 351-2105.

If you intend to file exhibits, please be advised that three copies of all hearing exhibits to be presented into evidence must be submitted to the Reporter and an additional copy should be furnished to the presiding officer and each party of record.

Enclosure

cc: Judge ~~Edouard~~ *Klovekorn*
Judge Pallastrone
Law Bureau
Bureau of Rail Trans.
Mr. Bramson
Ms. Dickson
Ms. Crouse
File Room

Spencer A. Manthorpe, Chief Counsel
Pennsylvania Department of Transportation
521 Transportation & Safety Building
Harrisburg, Pennsylvania 17120

Joel E. Mazor, General Attorney
Consolidated Rail Corporation
1138 Six Penn Center Plaza
Philadelphia, Pennsylvania 19104

John J. Gallagher, Assistant Counsel
Pa. P.U.C., Law Bureau
P. O. Box 3265
Harrisburg, Pennsylvania 17120

Edward F. Kane, Esquire
Kane, Pugh, Anderson, Subers & McBrien
512 Swede Street
Norristown, Pennsylvania 19401
(for Borough of West Conshohocken)

Bernard A. Moore, Solicitor
Borough of Conshohocken
3038 Butler Pike
Conshohocken, Pennsylvania 19428

Sheldon Seligsohn, Attorney
The Bell Telephone Company of Pennsylvania
One Parkway
Philadelphia, Pennsylvania 19102

John W. Boyer, Jr., President
Philadelphia Suburban Water Company
762 Lancaster Avenue
Bryn Mawr, Pennsylvania 19010

Frederic M. Wentz, Solicitor
County of Montgomery
Courthouse
Norristown, Pennsylvania 19404

Douglas P. Humes, Esquire
Reading Company
Reading Center
Philadelphia, Pennsylvania 19107

Joseph I. Hallman, Esquire
Upper Merion & Plymouth Railroad Co.
P. O. Box 404
Conshohocken, Pennsylvania 19428

Edward H. Huss, Esquire
Southeastern Pennsylvania Transportation
Authority
130 South Ninth Street, Fifth Floor
Philadelphia, Pennsylvania 19107

Edward G. Bauer, Jr., Vice President and
General Counsel
Philadelphia Electric Company
2301 Market Street
Philadelphia, Pennsylvania 19101

Arthur Lefkoe, Solicitor
Plymouth Township
515 Swede Street
Norristown, Pennsylvania 19401

QUESTIONS AND PROCEDURE

1. Pennsylvania Department of Transportation submit into evidence copies of its plans for the proposed replacement structure, including the additional crossings proposed in lieu of the ramps and for detouring traffic, and explain the proposed work.
2. Department state whether it will be necessary for the Commission to appropriate any property for the purpose of the proposed work. If so, submit copies of plans showing any such property and accurate descriptions, by metes and bounds, of each parcel of property to be appropriated by the Commission; said descriptions to be designated as property necessary for highway right-of-way or for purposes of the improvement other than highway right-of-way and to contain the name and post office address of each record owner and reference to the record of title thereof.
3. Department submit a detailed estimate of the cost of constructing the proposed improvement, including an estimate of the cost which would be incurred by the vacation and relocation, removal or demolition of any non-utility structures, including occupied dwellings, located on property to be appropriated by the Commission; said estimate to be prepared in such a manner as to show separately the quantity, unit prices and costs of each portion of the work.
4. Department submit an estimate of damages for any property to be appropriated for any purposes of the improvement, exclusive of the estimated costs which would be incurred by the vacation and relocation, removal or demolition of any non-utility structures, including occupied dwellings, located on property to be appropriated by the Commission, and an estimate of any damages that may accrue from the construction of any portion of the improvement, exclusive of damages for property appropriated for the purposes of the improvement.
5. Department state which portions of the proposed improvement project it proposes to construct and which portions it suggests should be constructed by other parties.
6. Department state which portions of the proposed improvement project it agrees to assume the cost thereof and which portions it suggests be born by other parties.
7. Department state which portions of the proposed improvement project it agrees to assume the responsibility for maintenance and the cost thereof and which portions it suggests be assigned to other parties.

8. Department state what portion of the property damages resulting from the construction of the crossing improvement it will agree to assume and whether it will reimburse any involved public utility companies for any costs incurred in the alteration or relocation of their respective facilities.
9. Department state whether it will be necessary to establish detours for highway traffic during the time the crossing improvement is being constructed and whether it will establish and maintain such detours, if required.
10. Department state what time it anticipates will be required to complete the construction of the proposed improvement.
11. Department state whether any portion of the crossing improvement project will be financed in whole or in part with funds appropriated for use on such projects by the Federal government.
12. Philadelphia Electric Company (hereinafter PECO) state whether it objects to the proposed improvement project and whether it has any constructive criticism to offer.
13. PECO submit detailed plans and cost estimates for all required work to its facilities to permit the construction of the subject improvement and submit testimony explaining the plans and estimate, indicating which portions of the work are within public right-of-way and which portions are outside of public right-of-way and state whether work will be performed prior to, concurrent with, or after bridge and approach roadway construction. If work will be performed prior to bridge and roadway construction, what time will be required to complete the work?
14. PECO state whether it will agree to perform the required alteration or relocation work for its facilities and state what portion of the cost involved it will agree to bear at its sole cost and expense.
15. PECO state whether it will agree to assume the responsibility for maintenance of its facilities after alteration or relocation work has been completed.
16. Philadelphia Suburban Water Company (hereinafter PSWC) state whether it objects to the proposed improvement project and whether it has any constructive criticism to offer.
17. PSWC submit detailed plans and cost estimate for all required work to its facilities to permit the construction of a subject improvement and submit testimony explaining the plans and estimate, indicating which portions of the work are within public right-of-way and which

portions are outside of public right-of-way and state whether work will be performed prior to, concurrent with, or after bridge and approach roadway construction. If work will be performed prior to bridge and roadway construction, what time will be required to complete the work?

18. PSWC state whether it will agree to perform the required alteration or relocation work for its facilities and state what portions of the cost involved it will agree to bear at its sole cost and expense.
19. PSWC state whether it will agree to assume the responsibility for maintenance of its facilities after alteration or relocation work has been completed.
20. The Bell Telephone Company of Pennsylvania (hereinafter Bell), state whether it objects to the proposed improvement project and whether it has any constructive criticism to offer.
21. Bell submit detailed plans and cost estimates for all required work to its facilities to permit the construction of the subject improvement and submit testimony explaining the plans and estimate, indicating which portions of the work will be within the public right-of-way and which portions are outside the public right-of-way and state whether work will be performed prior to, concurrent with, or after bridge and approach roadway construction. If work will be performed prior to bridge and roadway construction, what time will be required to complete the work?
22. Bell state whether it will agree to perform required alteration or relocation work for its facilities and state what portion of the costs involved it will agree to bear at its sole cost and expense.
23. Bell state whether it will agree to assume the responsibility for maintenance of its facilities after alteration or relocation work has been completed.
24. Consolidated Rail Corporation (hereinafter Conrail), state whether it objects to the proposed improvement project and whether it has any constructive criticism to offer.
25. Conrail submit a cost estimate for all required work to its facilities to permit the construction of the subject improvement, submit testimony explaining the required work and cost estimate and state what time will be required to complete the work necessary to permit the construction of the proposed bridge to proceed.
26. Conrail state what portion of the work required to alter its facilities it will agree to perform and state what portion of the costs involved it will agree to bear at its sole cost and expense.

27. Conrail state what portion of the costs of the improvement, other than its own facilities, it will agree to bear at its sole cost and expense.
28. Conrail state whether it will be necessary to maintain railroad flagmen, watchmen and inspectors during the construction of the proposed bridge.
29. Conrail state whether it will agree to assume the responsibility for maintenance of its facilities at the crossing after the improvement has been completed.
30. Conrail state what portion of the improvement, other than its own facilities, it will agree to maintain after the project has been completed.
31. Southeastern Pennsylvania Transportation Authority submit answers to Question Nos. 24, 25, 26, 27, 28, 29 and 30, as if same were directed to it.
32. Upper Merion and Plymouth Railroad Company submit answers to Question Nos. 24, 25, 26, 27, 28, 29 and 30, as if same were directed to it.
33. Boroughs of Conshohocken and West Conshohocken each state whether it objects to the proposed improvement project and whether it has any constructive criticism to offer.
34. Boroughs each state whether any facilities belonging to it will be affected by the construction of the proposed improvement and, if so, submit testimony explaining the work that is required and give a cost estimate for such work, indicating which portions of the work are within public right-of-way and which portions are outside of public right-of-way.
35. Boroughs each state whether it will agree to perform the required work to its facilities and what portion of the cost involved it will agree to bear at its sole cost and expense. If work will be performed prior to bridge and roadway construction, what time will be required to complete the work?
36. Boroughs each state what portion of the cost of the improvement, other than its own facilities, it will agree to bear at its sole cost and expense.
37. Boroughs each state whether it will agree to assume the responsibility for maintenance of its facilities at the crossing after the improvement has been completed.

38. Boroughs each state what portion of the improvement, other than its own facilities, it will agree to maintain after the project has been completed.
39. Montgomery County submit answers to Question Nos. 33, 34, 35, 36, 37 and 38, as if same were directed to it.
40. Plymouth Township submit answers to Question Nos. 33, 34, 35, 36, 37 and 38, as if same were directed to it.
41. Query whether any of the parties desires to submit any additional relevant information.

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17120
June 21, 1984

MONITOR: COMMISSIONER JOHNSON

In re: C-00019707

(See attached list)

Department of Transportation of the Commonwealth of Pennsylvania
vs.

Consolidated Rail Corporation, Southeastern Pennsylvania Transportation Authority, Upper Merion and Plymouth Railroad Company, Boroughs of Conshocken and West Conshocken, Plymouth Township, Montgomery County, The Bell Telephone Company of Pennsylvania, Philadelphia Suburban Water Company, and Philadelphia Electric Company.

NOTICE

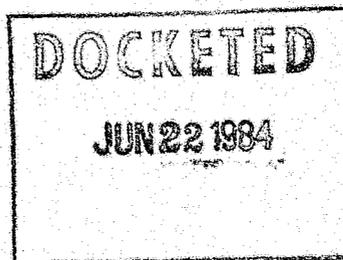
This is to advise that no objections have been received to counsel for Philadelphia Suburban Water Company's request to reschedule the hearing in the above-captioned proceeding which concerns the Matsonford Bridge.

Accordingly, the further hearing scheduled for July 12, 1984 is postponed to Tuesday, July 24, 1984, at 10:00 a.m., in Room A, Plymouth Township Municipal Building, 700 Belvoir Road, Norristown.

This hearing will be conducted in accordance with the instructions contained in our May 21, 1984 notice.

Please mark your records accordingly.

cc: Judge Klovekorn
Law Bureau
Bureau of Non-Rail Trans.
Mr. Bramson
Ms. Dickson
Ms. Crouse
File Room



Spencer A. Manthorpe, Chief Counsel
Pennsylvania Department of Transportation
521 Transportation & Safety Building
Harrisburg, Pennsylvania 17120

Joel E. Mazor, General Attorney
Consolidated Rail Corporation
1138 Six Penn Center Plaza
Philadelphia, Pennsylvania 19104

John J. Gallagher, Assistant Counsel
Pa. P.U.C., Law Bureau
P. O. Box 3265
Harrisburg, Pennsylvania 17120

Edward F. Kane, Esquire
Kane, Pugh, Anderson, Subers & McBrien
512 Swede Street
Norristown, Pennsylvania 19401
(for Borough of West Conshohocken)

Bernard A. Moore, Solicitor
Borough of Conshohocken
3038 Butler Pike
Conshohocken, Pennsylvania 19428

Sheldon Seligsohn, Attorney
The Bell Telephone Company of Pennsylvania
One Parkway
Philadelphia, Pennsylvania 19102

John W. Boyer, Jr., President
Philadelphia Suburban Water Company
762 Lancaster Avenue
Bryn Mawr, Pennsylvania 19010

Frederic M. Wentz, Solicitor
County of Montgomery
Courthouse
Norristown, Pennsylvania 19404

Douglas P. Humes, Esquire
Reading Company
Reading Center
Philadelphia, Pennsylvania 19107

Joseph I. Hallman, Esquire
Upper Merion & Plymouth Railroad Co.
P. O. Box 404
Conshohocken, Pennsylvania 19428

Edward H. Huss, Esquire
Southeastern Pennsylvania Transportation
Authority
130 South Ninth Street, Fifth Floor
Philadelphia, Pennsylvania 19107

Mark J. Kropilak, Esquire
Morgan, Lewis & Bockius
One Logan Square
Philadelphia, Pennsylvania 19103
(for Philadelphia Suburban Water Co.)

Arthur Lefkoe, Solicitor
Plymouth Township
515 Swede Street
Norristown, Pennsylvania 19401

Rudolph A. Chillemi, Esquire
Philadelphia Electric Company
2301 Market Street
Philadelphia, Pennsylvania 19101

ORIGINAL

The Bell Telephone Company
of Pennsylvania

Law Department
One Parkway, 16th Floor
Philadelphia, Pennsylvania 19102
Phone (215) 466-9000 5482



June 27, 1984

RECEIVED

JUL 6 1984

Jerry Rich, Secretary
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, PA 17120

SECRETARY'S OFFICE
Public Utility Commission

Re: Department of Transportation of the Commonwealth of Pennsylvania vs. Consolidated Rail Corporation, Southeastern Pennsylvania Transportation Authority, Upper Merion and Plymouth Railroad Company, Boroughs of Conshocken and West Conshocken, Plymouth Township, Montgomery County, The Bell Telephone Company of Pennsylvania, Philadelphia Suburban Water Company, and Philadelphia Electric Company (C-00019707)

Dear Mr. Rich:

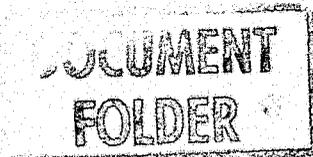
Please be advised that the addressee for all correspondence related to the above-referenced docket should be: William L. Leonard, Vice President & General Counsel, in place of Sheldon Seligsohn, Attorney.

Thank you very much.

Sincerely yours,

Mary Ellen Glace
Secretary to General Attorney

cc: All parties of record.



ORIGINAL

The Bell Telephone Company
of Pennsylvania

Law Department
One Parkway, 16th Floor
Philadelphia, Pennsylvania 19102
Phone (215) 466-~~9200~~ 3482

June 29, 1984

RECEIVED

JUL 6 1984

Jerry Rich, Secretary
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, Pennsylvania 17120

SECRETARY'S OFFICE
Public Utility Commission

Re: Department of Transportation of the Commonwealth
of Pennsylvania vs. Consolidated Rail Corporation,
Southeastern Pennsylvania Transportation Authority,
Upper Merion and Plymouth Railroad Company, Boroughs
of Conshohocken and West Conshohocken, Plymouth
Township, Montgomery County, The Bell Telephone
Company of Pennsylvania, Philadelphia Suburban
Water Company, and Philadelphia Electric Company.
C-0019707.

Dear Mr. Rich:

Please be advised that the addressee for all
correspondence related to the above-referenced docket
should be: William L. Leonard, Vice President & General
Counsel, in place of Sheldon Seligsohn, Attorney.

Thank you very much.

Sincerely,

Mary Ellen Glace

Secretary to General Attorney

cc: Rudolph S. Pallastrone, ALJ
William R. Shane, Chief ALJ
Joel E. Mazor, Esquire
Walter Phipps, Jr., Solicitor
Roger B. Reynolds, Solicitor
Lockwood W. Fogg, Secretary
Herbert G. Zahn, Esquire
Edward F. Kane, Esquire
State Rep. Anthony Scirica
Candace N. Kreiger, Esquire

DOCUMENT
FOUNDER

APPEARANCE SHEET

HEARING REPORT

DOCKET NO. C-00019707

CASE NAME Department of Transportation

vs. Consolidated Rail Corporation,

etc.

HEARING LOCATION Norristown, PA.

HEARING DATE July 24, 1984

ALJ Klovekorn

CHECK THOSE BLOCKS WHICH APPLY:

Hearing concluded _____

Record closed _____

Briefs to be filed _____

Further hearing

Estimated add'l days _____

BENCH DECISION _____

REMARKS: _____

DOCKETED

JUL 27 1984

RECEIVED

JUL 26 1984

Office of the ALJ
Public Utility Commission

DOCUMENT

FOLDER

Names and addresses of parties or counsel of record
Please Print Clearly
Incomplete Information May Result in Delay of Process

NAME	ADDRESS	APPEARING FOR
<i>copy</i> HERBERT G. ZANA	522 TRANSP & SAFETY BLDG City: HSBG State: PA Zip: 17120	PENNDOT
<i>copy</i> Edward S. Sacks	One Parkway, 16th Floor City: Phila State: PA Zip: 19102	Bell of PA
JOEL E. MAZOR BECKY PUGHAN	1136 G. NEW CENTER City: PHILADELPHIA State: PA Zip: 19103	CONSOLIDATED RAIL CO.
Jack E. Ferrett Mark J. Kropilatz Morgan, Lewis + Bocterus	Phila 2000 One Logan Sq City: Phila State: PA Zip: 19103	Phila Suburban Water Co

MP

Check this box if additional parties of counsel of record appear on back.

Paul L. Bantell
Reporter

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AUG 8 1984

PHILADELPHIA OFFICE
ALJ
PA. P.U.C.



Southeastern Pennsylvania
Transportation Authority

August 7, 1984

RECEIVED

5th Floor
150 South 9th Street
Philadelphia, PA 19107

(215) 974-7320

Office of General Counsel

Robert C. West
Joseph F. Keenan, Jr.
Erni F. Toffen
G. Roger Bowers
Edward H. Huss
Norman Hedger, Jr.
Robert H. Messerman
Stanley J. Smowitz
Stuart A. Schwartz
Judith B. Soken
James F. Kitcher
Eugene N. Cipriani
Timothy A. Kulp
Joan L. Gerson
Deborah R. Lanier
Vincent J. Walsh, Jr.
William F. Shindell
Brownington Crosswell
Eileen G. Katz
Nicholas J. Staffieri
Penny J. Scott-Sedley
Steven M. Liere
Mitchell R. Sargen
Margery E. Sickles
Ann M. Mau
Jose Colon-Vega
Robert A. Wilson

The Honorable Joseph J. Klovekorn
Administrative Law Judge
Pennsylvania Public Utility Commission
Room 1302
Philadelphia State Office Building
Broad and Spring Garden Streets
Philadelphia, PA 19130

AUG 18 1984

SECRETARY'S OFFICE
Public Utility Commission

RE: DEPARTMENT OF TRANSPORTATION v.
CONSOLIDATED RAIL CORPORATION, et al.
(MATSONFORD BRIDGE)
DOCKET NO. C-00019707

Dear Judge Klovekorn:

Enclosed for the record is a late filed Exhibit which was read into the record at the recent hearing in the above-matter (letter dated June 27, 1984 from Robert L. Rowland, P.E. District Engineer, Pennsylvania Department of Transportation to Thomas E. Margro, P.E., Chief Engineer-SEPTA).

This is to further advise that SEPTA will not bear the maintenance cost for the sidewalks or bridge stairs after the project has been completed.

Very truly yours,

Edward H. Huss
Edward H. Huss
Counsel for SEPTA

EHH:lh
Encl.

cc: All Parties of Record

DOCUMENT
FOLDER

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

200 Radnor-Chester Road
St. Davids, Penna. 19087



File II
P. Nowakowski

AL

IN REPLY REFER TO

WAL-JBO
Montgomery County
L.R. 46140-A00
Matson Ford Bridge
Harry Street

RECEIVED

June 27, 1984

AUG 13 1984

SECRETARY'S OFFICE

Mr. Thomas E. Margro, P.E., Public Utility Commission
Chief Engineer
Southeastern Pennsylvania Transportation Authority
200 West Wyoming Avenue
Philadelphia, Penna. 19140

RECEIVED

JUN 29 1984

T. E. MARGRO

Dear Mr. Margro:

Reference is made to your letter of May 15, 1984 concerning the Harry Street grade crossing in the Borough of Conshohocken. We agree that modification to the catenary support and transmission lines, warning devices and crossing surface will be required by our contract.

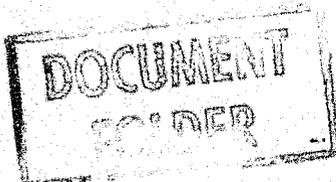
To coordinate work I propose the following:

1. Catenary support relocation and transmission relocation Department will incorporate design and construction into our highway contract subject to your review and approval.
2. Crossing surface - construct a rubber surface crossing as part of the Rail-Highway 203 contract. Design is anticipated to commence October 1984 and construction authorized June 1985.
3. Warning devices - temporary relocation of existing facilities upon start of highway project. Construct new warning devices as part of the Rail-Highway 203 contract. Design is anticipated to commence January 1985 and construction authorized November 1986.

An agreement for the crossing surface and warning device portion of the project will be prepared and submitted to you for signature. At the P.U.C. hearing the Department will state the above.

At the P.U.C. hearing will also state that the design and construction of the Catenary supports and transmission lines have been included in our contract at the Department's expense.

If you have any questions please contact James Ottinger, District Utility Relocation Supervisor, at 964-6647.



Very truly yours,

Robert L. Rowland, Jr.
Robert L. Rowland, P.E.
District Engineer

DOCKETED

SEP 10 1984

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATIONHarrisburg
March 6, 1985

ORIGIN



IN REPLY REFER TO

Montgomery County
L.R. 46140, Section A00
Matsonford Bridge
Conshohocken and W. Conshohocken Boroughs
PUC. C. 19707

RECEIVED

MAR - 7 1985
SECRETARY'S OFFICE
Public Utility Commission

Mr. Jerry Rich, Secretary
Public Utility Commission
Harrisburg, PA 17120

Dear Mr. Rich:

As we advised at the July 24, 1984 hearing, we are attaching a copy of the signed and recorded title sheet of the R/W plans and three (3) sets of the revised Railroad property descriptions.

A copy of the descriptions of ConRail's property plus a copy of this letter and a copy of the descriptions of SEPTA's property plus a copy of this letter are being forwarded this date to the two respective railroad parties, namely:

J. T. Sullivan, P. E., Chief Engineer, Consolidated Rail Corporation, Design and Construction, 12th Floor, 15 N. 32nd Street, Philadelphia, PA 19104
Thomas Margo, Chief Engineer, Southeastern Pennsylvania Transportation Authority, (SEPTA) 200 West Wyoming Avenue, Philadelphia, PA 19140

Very truly yours,

A handwritten signature in cursive script, appearing to read "W. J. Clements".

For: Alfred F. Lyng, P. E.
Chief Engineer
Highway Administration

Attachment



M. J. Davis

DESCRIPTION FOR REQUIRED RIGHT-OF-WAY FOR
AERIAL EASEMENT TO BE ACQUIRED FROM THE
CONSOLIDATED RAIL CORPORATION IN WEST CONSHOHOCKEN
BORO, MONTGOMERY COUNTY, PENNSYLVANIA

RECEIVED

MAR - 7 1985
SECRETARY'S OFFICE
Public Utility Commission

PARCEL "A"

BEGINNING at a point located forty five feet left and perpendicular to Station 128+99.00 of the L.R. 46140, Section A00 R/W Baseline; thence North 35°27'28" East, a distance of 66.94 feet to a point; thence North 35°25'47.5" East, a distance of 2.02' feet to a point, said point being located forty five feet left and perpendicular to Station 129+68.00 of the L.R. 46140, Section A00, R/W Baseline; thence along a line on a curve to the left, having a radius of 1865.08 feet, an arc distance of 11.00 feet, said line having a chord bearing South 54°32'34.5" East, and a chord length of 11.00 feet, to a point on the northwesterly Legal R/W Line for existing L.R. 46140, a.k.g. Fayette Street, fifty feet width; thence along the said existing Legal R/W Line, South 35°27'28" West, a distance of 68.96 feet to a point; thence leaving the Legal R/W Line of Fayette Street, along a line having a curve to the right with a radius of 1974.64 feet, an arc distance of 11.00 feet, said line having a chord bearing North 54°32'32" West and a chord length of 11.00 feet, to a point and the place of BEGINNING.

Containing 769.56 square feet of Aerial Easement Right-of-Way, which includes 189.20 square feet of surface easement for bridge piers and appurtenances.

PARCEL "B"

BEGINNING at a point located forty two feet right and perpendicular to Station 128+75.50 of the L.R. 46140 Section A00 R/W Baseline; thence along a line curving to the right, said line having a radius of 1999.64 feet and arc length 26.01 feet, with a chord bearing South 53°00'00.1" West and chord length of 26.01 feet to a point, said point being on the existing Legal Right-of-Way Line for L.R. 46140, a.k.a. Fayette Street, fifty feet width; thence along the southeasterly Legal Right-of-Way Line of Fayette Street, North 35°27'28" East, a distance 180.34 feet to a point; thence leaving the existing Legal Right-of-Way Line, South 56°19'36.7" East, a distance of 22.20 feet to a point; thence South 33°39'28" West, a distance of 24.23 feet to a point; thence along a line curving to the right, having a radius of 2135.30 feet, an arc distance of 67.08 feet, said line having a chord bearing South 34°33'28" West and chord distance of 67.08 feet, to a point; thence South 34°11'27.4" West, a distance of 90.46 feet to a point, and the place of BEGINNING.

Containing 4348.20 square feet of Aerial Easement Right-of-Way, which includes 1000.00 square feet of surface easement for bridge piers and appurtenances, and 1787.00 square feet of Required Right-of-Way for Access Road No. 1.

DOCKETED
DOCKET
MAR 08 1985

DESCRIPTION FOR REQUIRED RIGHT-OF-WAY FOR
AERIAL EASEMENT TO BE ACQUIRED FROM THE
SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY
IN THE BORO OF CONSHOHOCKEN, MONTGOMERY COUNTY
PENNSYLVANIA

PARCEL "A"

BEGINNING at a point located forty feet left and perpendicular to Station 140+63.00 of the L.R. 46140, Section A00 R/W Baseline; thence South 67°40'34.5" East, a distance of 15.40 feet to a point, said point being the northwesterly Legal Right-of-Way Line of L.R. 46140, a.k.a. Fayette Street, fifty feet width; thence along the said existing Legal Right-of-Way Line of Fayette Street, South 35°27'28" West, a distance of 128.50 feet to a point; thence leaving the Legal Right-of-Way Line, along a line curving to the right, with a radius of 275.00 feet, an arc distance of 15.52 feet, said line having a chord bearing North 69°28'25" West and chord distance of 15.52 feet, to a point; thence North 35°27'28" East, a distance of 129.00 feet, to a point and the place of BEGINNING.

Containing 1931.25 square feet of Aerial Easement Right-of-Way, which includes 720.00 square feet of surface easement for bridge piers and appurtenances.

PARCEL "B"

BEGINNING at a point located forty feet right and perpendicular to Station 140+81.00 of the L.R. 46140, Section A00 R/W Baseline; thence South 35°27'28" West, a distance of 109.00 feet; thence along a line curving to the right with a radius of 302.00 feet, an arc distance of 16.77 feet, said line having a chord bearing North 81°06'26.3" West and a chord distance of 16.77 feet, to a point, said point being on the southeasterly Legal Right-of-Way Line for L.R. 46140, ak.a. Fayette Street, fifty feet width, thence along the Legal Right-of-Way Line of Fayette Street, North 35°27'28" East, a distance of 110.00 feet to a point; thence leaving the Legal Right-of-Way Line, South 77°58'15.7" East, a distance of 16.35 feet to a point and the place of BEGINNING.

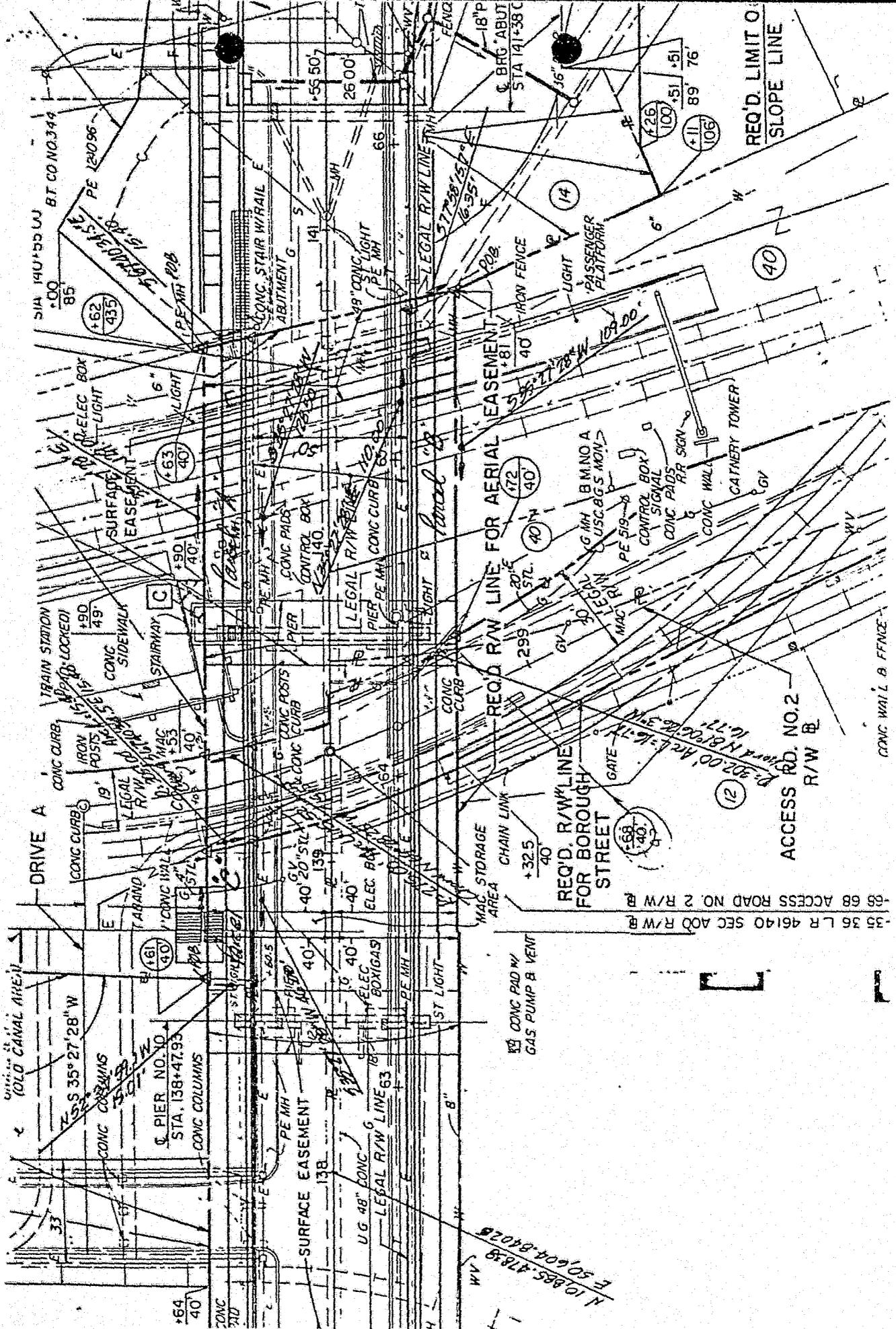
Containing 1635.00 square feet of Aerial Easement Right-of-Way, which includes 585.00 square feet of surface easement for bridge piers and appurtenances.

"PARCL C"

BEGINNING at a point located forty feet left and perpendicular to Station 139+61.00 of the L.R. 46140, Sec. A00 R/W Baseline; thence North 35°27'28" East, a distance of 42.00 feet to a point; thence along a line curving to the left with a radius of 305.00 feet, an arc distance of 15.40 feet, said line having a chord bearing South 67°40'34.5" East and a chord length of 15.40 feet, to a point, said point being on the northwesterly Legal Right-of-Way Line of L.R. 46140, a.k.a. Fayette Street, fifty feet width; thence along the said Legal Right-of-Way Line of Fayette Street, South 35°27'28" West, a distance of 46.00 feet; thence leaving the existing

Fayette Street Legal Right-of-Way Line, North 52°37'59.1" West, a distance of 15.01 feet to a point and the place of BEGINNING.

Containing 660.00 square feet of Aerial Easement Right-of-Way.



OLD CANAL AREA

DRIVE A

TRAIN STATION

LOCKED

CONC SIDEWALK

STAIRWAY C

CONC PIER NO. 10

STA. 138+47.93

CONC COLUMNS

SURFACE EASEMENT

LEGAL R/W LINE

CONC STORAGE AREA

CHAIN LINK

REQ'D. R/W LINE FOR BOROUGH STREET

REQ'D. R/W LINE FOR AERIAL EASEMENT

ACCESS RD. NO. 2

ACCESS ROAD NO. 2 R/W

CONC WALL & FENCE

REQ'D. LIMIT OF SLOPE LINE

35° 27' 28" W

CONC COLUMNS

PIER NO. 10

STA. 138+47.93

CONC COLUMNS

SURFACE EASEMENT

LEGAL R/W LINE

CONC STORAGE AREA

CHAIN LINK

REQ'D. R/W LINE FOR BOROUGH STREET

REQ'D. R/W LINE FOR AERIAL EASEMENT

ACCESS RD. NO. 2

ACCESS ROAD NO. 2 R/W

CONC WALL & FENCE

REQ'D. LIMIT OF SLOPE LINE

CONC STAIR W/RAIL ABUTMENT G

CONC STAIRWAY C

CONC PIER NO. 10

STA. 138+47.93

CONC COLUMNS

SURFACE EASEMENT

LEGAL R/W LINE

CONC STORAGE AREA

CHAIN LINK

REQ'D. R/W LINE FOR BOROUGH STREET

REQ'D. R/W LINE FOR AERIAL EASEMENT

ACCESS RD. NO. 2

ACCESS ROAD NO. 2 R/W

CONC WALL & FENCE

REQ'D. LIMIT OF SLOPE LINE

CONC STAIR W/RAIL ABUTMENT G

CONC STAIRWAY C

CONC PIER NO. 10

STA. 138+47.93

CONC COLUMNS

SURFACE EASEMENT

LEGAL R/W LINE

CONC STORAGE AREA

CHAIN LINK

REQ'D. R/W LINE FOR BOROUGH STREET

REQ'D. R/W LINE FOR AERIAL EASEMENT

ACCESS RD. NO. 2

ACCESS ROAD NO. 2 R/W

CONC WALL & FENCE

REQ'D. LIMIT OF SLOPE LINE

CONC STAIR W/RAIL ABUTMENT G

CONC STAIRWAY C

CONC PIER NO. 10

STA. 138+47.93

CONC COLUMNS

SURFACE EASEMENT

LEGAL R/W LINE

CONC STORAGE AREA

CHAIN LINK

REQ'D. R/W LINE FOR BOROUGH STREET

REQ'D. R/W LINE FOR AERIAL EASEMENT

ACCESS RD. NO. 2

ACCESS ROAD NO. 2 R/W

CONC WALL & FENCE

REQ'D. LIMIT OF SLOPE LINE

CONC STAIR W/RAIL ABUTMENT G

CONC STAIRWAY C

CONC PIER NO. 10

STA. 138+47.93

CONC COLUMNS

SURFACE EASEMENT

LEGAL R/W LINE

CONC STORAGE AREA

CHAIN LINK

REQ'D. R/W LINE FOR BOROUGH STREET

REQ'D. R/W LINE FOR AERIAL EASEMENT

ACCESS RD. NO. 2

ACCESS ROAD NO. 2 R/W

CONC WALL & FENCE

REQ'D. LIMIT OF SLOPE LINE

CONC STAIR W/RAIL ABUTMENT G

CONC STAIRWAY C

CONC PIER NO. 10

STA. 138+47.93

CONC COLUMNS

SURFACE EASEMENT

LEGAL R/W LINE

CONC STORAGE AREA

CHAIN LINK

REQ'D. R/W LINE FOR BOROUGH STREET

REQ'D. R/W LINE FOR AERIAL EASEMENT

ACCESS RD. NO. 2

ACCESS ROAD NO. 2 R/W

CONC WALL & FENCE

REQ'D. LIMIT OF SLOPE LINE

CONC STAIR W/RAIL ABUTMENT G

CONC STAIRWAY C

CONC PIER NO. 10

STA. 138+47.93

CONC COLUMNS

SURFACE EASEMENT

LEGAL R/W LINE

CONC STORAGE AREA

CHAIN LINK

REQ'D. R/W LINE FOR BOROUGH STREET

REQ'D. R/W LINE FOR AERIAL EASEMENT

ACCESS RD. NO. 2

ACCESS ROAD NO. 2 R/W

CONC WALL & FENCE

REQ'D. LIMIT OF SLOPE LINE

OVERSIZE DOCUMENT(S)

Montgomery County, Pa.

Recorded in the Office for Recording of Deeds & C.

In and for said County of HL. WAY

No. 46 Page 20-215

Witness my hand and seal of office this 5TH.

day of SEPTEMBER 1964.

James P. Jones

in the office for the recording of deeds, etc., in _____
County, Pennsylvania.
Book _____ Page _____
and seal of office _____
Recorder _____

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF DAUPHIN ES

Before me, a notary public, personally came _____

Thomas D. Lawson Secretary

of Transportation, who acknowledged the within plan, comprising

(45) separate sheets, to be an

official plan of the Pennsylvania Department of Transportation

and desired that the same be recorded as such.

Witness my hand and notarial seal Sept 19 1964

Carl W. Hunter

My commission expires April 17, 1965

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Harrisburg
April 5, 1985

IN REPLY REFER TO

Montgomery County
L.R. 46140, Section A00
Matsonford Bridge
Conshohocken & W. Conshohocken Boroughs
PUC. C. 19707

RECEIVED

APR 8 1985

SECRETARY'S OFFICE
Public Utility Commission

Mr. Jerry Rich, Secretary
Public Utility Commission
Harrisburg, PA 17120

Dear Mr. Rich:

This is to supplement our letter dated March 6, 1985, relating to the involved railroad-highway crossing project.

The attached descriptions (3 sets) are for property needed to construct Access Road No. 1 and Access Road No. 2.

A copy of the descriptions are being sent this date, to the affected railroad corporation and authority, namely:

J. T. Sullivan, P. E., Chief Engineer, Consolidated Rail Corporation,
Design and Construction, 12th Floor, 15 N. 32nd Street, Philadelphia, PA 19104
Thomas Margo, Chief Engineer, Southeastern Pennsylvania Transportation
Authority, (SEPTA) 200 West Wyoming Avenue, Philadelphia, PA 19140

Very truly yours,

For: Alfred F. Lyng, P. E.
wjc Chief Engineer
Highway Administration

Attachments

DOCUMENT
FOLDER

**ORIGINAL
RECEIVED**

DESCRIPTION FOR REQUIRED RIGHT-OF-WAY TO BE
ACQUIRED FROM THE CONSOLIDATED RAIL CORPORATION
IN WEST CONSHOHOCKEN BORO, MONTGOMERY COUNTY, PENNSYLVANIA

APR 8 1985

**SECRETARY'S OFFICE
Public Utility Commission**

PARCEL A

BEGINNING at a point on the Southeast side of L.R. 46140 (50' wide) at the Northwest corner of the Bridge Ramp R/W Line, said point also being located 18 feet to the right of Station 130+56 L.R. 46140, Sec. A00 R/W baseline; thence along the Consolidated Rail Corporation property line, South $54^{\circ}41'10.4''$ East, a distance of 105.00 feet to a point on the property line between the Consolidated Rail Corporation and Oil Distributors of Philadelphia, Inc.; thence along the said property line South $35^{\circ}18'49.6''$ West, a distance of 84.00 feet to a point on the required R/W line for Access Road No. 1; thence along the required R/W line of Access Road No. 1 by a curve to the right having a radius of 80.00 feet, an arc distance of 9.52 feet, said line having a chord bearing of North $57^{\circ}41'56.6''$ West, a distance of 9.51 feet to a point, said point being 21.5 feet left of Station 9+13.50 Access Road No. 1 R/W baseline; thence North $54^{\circ}41'10.4''$ West, a distance of 71.50 feet to a point, said point being 21.5 feet left of Station 9+85 Access Road No. R/W baseline; thence North $35^{\circ}18'49.6''$ East, a distance of 6.50 feet to a point; thence North $54^{\circ}41'10.4''$ West a distance of 24.00 feet to a point on the legal R/W line for L.R. 46140 (50' wide), said point being located 16 feet to the right of Station 129+78 L.R. 46140, Sec. A00 R/W baseline; thence along the legal R/W line of L.R. 46140, North $35^{\circ}18'49.6''$ East, a distance of 78.00 feet to a point the place of BEGINNING.

Containing 8925 square feet, more or less.

C. 19787

DOCUMENTED
APR 9 1985

PARCEL B

BEGINNING at a point where Access Road NO. R/W line intersects the Consolidated Rail Corporation and Telford Industrial Development Authority property line, said point also located 17.50 feet left of Station 11+25 of Access Road No. 1 R/W baseline; thence along the Access Road No. 1 required R/W line the following six courses and distances: First, by a curve to the left having a radius of 132.50 feet, an arc distance of 5.68 feet to a point said line having a chord bearing of North $75^{\circ}38'36''$ West, a distance of 5.68 feet, said point being located 17.50 feet to the left of Station 11+31.43 of Access Road No. 1 R/W baseline; Second, North $77^{\circ}26'43.7''$ West, a distance of 3.74 feet to a point, located 17.50 feet to the left of Station 11+35.17 Access Road No. 1 R/W baseline; Third, by a curve to the right having a radius of 167.50 feet, an arc distance of 84.31 feet to a point, said line having a chord bearing of North $63^{\circ}01'33.3''$ West, a distance of 83.42 feet, said point located 17.50 feet left of Station 12+10.67, Access Road No. 1 R/W baseline; Fourth, North $48^{\circ}36'25.1''$ West, a distance of 787.85 feet to a point, said point located 17.50 feet left of Station 19+98.52, Access Road No. R/W baseline; Fifth, by a curve to the right having a radius of 267.50 feet, an arc distance of 80.30 feet to a point, said line having a chord bearing of North $39^{\circ}53'58.3''$ West, a distance of 80.00 feet, said point located 17.50 feet left of Station 20+74.51 on Access Road No. 1 R/W baseline; Sixth, North $31^{\circ}11'31.6''$ West, a distance of 23.49 feet to a point on the Consolidated Rail Corporation and Telford Industrial Development Authority property line, said point located 17.50 feet left of Station 20+98 of Access Road No. 1 R/W baseline; thence along the said Consolidated Rail Corporation and Telford Industrial Development property line South $48^{\circ}28'10.9''$ East, a distance of 748.00 feet to a point located on the Access Road No. 1 R/W baseline at Station 13+53; thence by a curve to the left having a radius of 3774.83 feet, an arc

**DOCUMENT
FOLDER**

distance of 88.05 feet to a point, said line having a chord bearing of South 49° 15'18.3" East, a distance of 88.05 feet, said point located 1.00 feet right of Station 12+64.60 of Access Road No. 1 R/W baseline; thence by a curb to the left having a radius of 1865.05 feet an arc distance of 145.67 feet to a point, said line having a chord bearing of South 51° 42'09.4" East, a distance of 145.64 feet to a point, and the place of BEGINNING.

Containing 18,100 square feet, more or less.

PARCEL C

BEGINNING at a point on the Consolidated Rail Corporation and Telford Industrial Development Authority property line which point is located 65.00 feet left of Station 22+60 of Access Road No. 1 R/W baseline; thence North 85° 25'28.6" West, a distance of 24.41 feet to a point; thence North 49° 35'44.7" West a distance of 56.20 feet to a point, said point being 46 feet left of Station 23+83, Access Road No. 1 R/W baseline; thence North 48° 16'24.5" West a distance of 122.88 feet; thence North 41 19'52.3" East, a distance of 15.53 feet to a point, said point being located 68 feet right of Station 24+32, Access Road to NO. 1 R/W baseline; thence South 48° 25'12" East, a distance of 199.74 feet to a point, the place of BEGINNING.

Containing 2,950 square feet, more or less.

P.I. STA. 20+36.81
 ACCESS ROAD NO. 1 R/W @
 Δ 17° 24' 53.5" RT.
 D 22° 55' 05.9" L
 T 38.29
 L R 75.99
 E 250.00
 S.E. NORMAL CROWN
 S.E. REVERSE CROWN

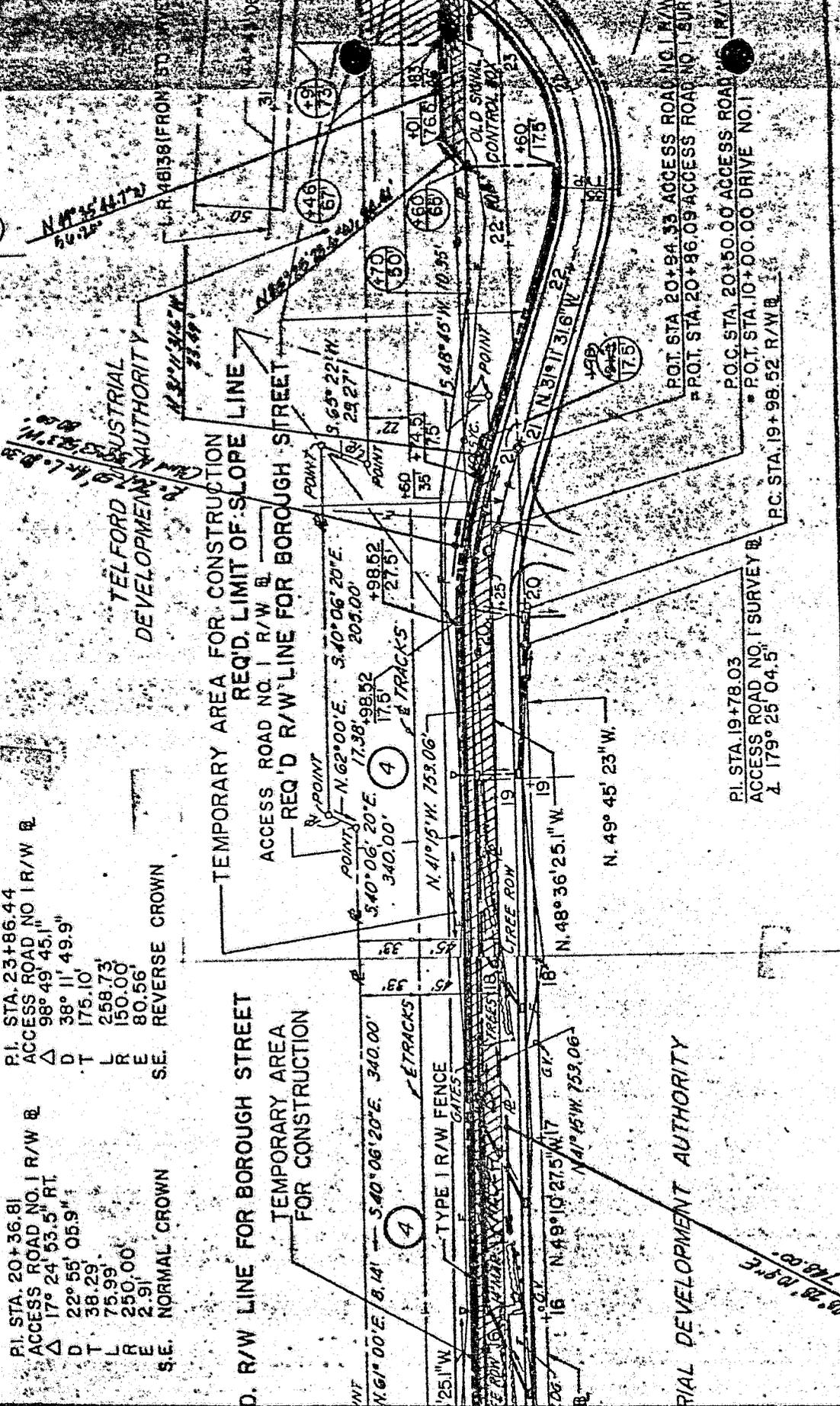
P.I. STA. 23+86.44
 ACCESS ROAD NO. 1 R/W @
 Δ 98° 49' 45.1" L
 D 38° 11' 49.9" T
 T 175.10
 L R 258.73
 E 150.00
 S.E. REVERSE CROWN

D. RAW LINE FOR BOROUGH STREET
 TEMPORARY AREA
 FOR CONSTRUCTION

TEMPORARY AREA FOR CONSTRUCTION
 REQ'D. LIMIT OF SLOPE LINE
 ACCESS ROAD NO. 1 R/W @
 REQ'D R/W LINE FOR BOROUGH STREET

TELFORD INDUSTRIAL
 DEVELOPMENT AUTHORITY

INDUSTRIAL DEVELOPMENT AUTHORITY



POOR ORIGINAL

67V

R/W STREET

DESCRIPTION FOR REQUIRED RIGHT-OF-WAY FOR
AERIAL EASEMENT TO BE ACQUIRED FROM THE
CONSOLIDATED RAIL CORPORATION IN WEST CONSHOHOCKEN
BORO, MONTGOMERY COUNTY, PENNSYLVANIA

BEGINNING at a point on the Southwest side of the Consolidated Rail Corporation property line, which point is located 67.00 feet left and radial to Station 24+46 of Access Road No. 1 R/W baseline; thence along the property line between the Consolidated Rail Corporation and the Telford Industrial Development Authority, North $47^{\circ}14'01.2''$ West, a distance of 121.03 feet to a point; thence crossing the railroad tracks, North $41^{\circ}19'52.3''$ East, a distance of 41.85 feet to a point; thence South $48^{\circ}16'24.5''$ East, a distance of 122.88 feet to a point also located 46.00 feet left and radial to Station 23+83 of Access Road NO. 1 R/W baseline; thence crossing over the railroad tracks, South $43^{\circ}25'22.4''$ West, a distance of 44.06 feet to a point, the place of BEGINNING.

Containing 5237.44 square feet, more or less.

151.160 00
27
00 79 88

RACKS
IL CORPORATION

① INCLUDES 7.311 SQ. FT. AERIAL EASEMENT
& SURFACE EASEMENT 3,556 SQ. FT.
1,071

"THIS PLAT IS PLOTTED FROM THE DEED OF RECORD RECORDED IN THE COUNTY COURT HOUSE AND REFLECTS THE ACCURACY AND/OR INACCURACY OF THE DEED"

MENT

NOTE

THE METES AND BOUNDS SHOWN ON THE RAILROAD PROPERTY WAS COMPILED OF INFORMATION OBTAINED FROM R.W. & TRACK MAP VIR248, RIGHT OF WAY AND TRACK MAP AND ADJOINING DEEDS.

SCALE IN FEET
50 100 150

PROPERTY PLAT
COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
LEG RTE. 46140 SEC. NO. 400 R/W WEST CONSHOHOCKEN BORO MONTGOMERY CO.
PARCEL NO 4 SHEET NO. 51, 51, 51, 51, 51 CLAIM NO
PROPERTY OWNER(S) CONSOLIDATED RAIL CORPORATION
GRANTOR(S) WILLIAM DAVIS, SAMUEL BERRY AND BETHEL MOORE

DEED BOOK	SEE NOTE	AREAS	- AGS/SQ FT	REQUIRED AREA	AGS/SQ FT
PAGE		DEED		RIGHT OF WAY	33,535 ①
DATE OF DEED		CALCULATED		CHANNEL	NONE
DATE OF RECORD		ADVERSES		SLOPE	2.150
CONSIDERATION		LEGAL R/W		TEMP AREA	11,065
TAX STAMPS		EFFECTIVE		UNDERGROUND DRAIN	1,719
		TOTAL REQD	33,535	PIPE AREA	
		TOTAL RESIDUE		VERIFICATION DATE	5-84
		RESIDUE FT		DRAWN BY	P-H
		RESIDUE RT		SCALE	SHOW

Designed By DUCHART-HORN consulting engineers and planners YORK, PA.

DESCRIPTION FOR REQUIRED RIGHT-OF-WAY TO BE
ACQUIRED FROM SOUTH EASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY IN THE BORO OF
CONSHOHOCKEN, MONTGOMERY COUNTY, PENNSYLVANIA

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APR 8 1985

SECRETARY'S OFFICE
Public Utility Commission

PARCEL A

BEGINNING at the point of intersection for the Legal Right-of-Way lines for the northwest side of Fayette Street (50' wide) and the southwest side of Old Canal Street (19' wide), said point also being located 17 feet southwest and radial from plan Station 299+96 of Access Road No. 2; thence along the northwest side of Fayette Street, South 35°27'28" West, a distance of 12.40 feet to a point on the required R/W line of Access Road No. 2; thence along the required R/W line of Access Road No. 2 by a curve to the right having a radius of 306.48 feet, an arc distance of 14.99 feet, said line also having a chord bearing of North 69°09'33.5" West, a distance of 14.99 feet to a point on the required R/W line of Access Road No. 2; thence continuing along the required R/W line of Access Road No. 2, the following courses and distances South 35°27'28" West, a distance of 41.40 feet to a point; thence North 53°15'06.9" West, a distance of 59.17 feet to a point; thence North 34°52'41.7" East a distance of 34.00 feet to a point, said point being located 20 feet to the left and radial from Station 300+69; thence along a curve to the right, having a radius of 306.48 feet, an arc distance of 30.29 feet, having a chord bearing of North 52°17'21.7" West, a distance of 30.27 feet, to a point; thence North 49°27'34" West, a distance of 82.07 feet to a point; thence by a curve to the left having a radius of 165.00 feet, an arc distance of 55.85 feet, and a chord bearing of North 59°09'21.8" West, a distance of 55.58 feet to a point on the Southeast Legal R/W Line of Forrest Street Ramp; thence along the Southeast Legal R/W Line of Forrest Street Ramp, North 35°43'38.3" East, a distance of 15.46 feet to a point at the Southwest corner of Old Canal Street (19' wide); thence along the Legal R/W Line for Old Canal Street (19' wide) the following courses and distances; along a curve to the right, having a radius of 250.00 feet more or less, an arc distance of 44.43 feet, having a chord bearing South 56°38'40" East, a distance of 44.37 feet to a point; thence South 49°42'35.5" East, a distance of 94.14 feet to a point; thence by a curve to the left having a radius of 294.48 feet, an arc distance of 104.14 feet, having a chord bearing of South 59°35'24.6" East, a distance of 103.60 feet, to a point on the Northwest side of Fayette Street and the place of BEGINNING.

DOCKETED
1-1970 APR 9 1985

Containing 5,338 square feet, more or less.

PARCEL B

BEGINNING at a point, said point being offset 20 feet left and radial to Access Road NO. 2 plan Station 303+08, thence crossing Access Road No. 2, North 53°28'37.3" West, a distance of 73.96 feet to a point 20 feet right of Access Road No. 2 plan Station 303+65; thence continuing along the required R/W line for Access Rd. No. 2, by a curve, to the right, having a radius of 205.00 feet, an arc distance of 92.00 feet, having a chord bearing of North 88°38'24.6" East, a distance of 91.23 feet to a point on the Northwest legal R/W line of Forrest Street Ramp; thence along the Northwest legal R/W line of Forrest Street Ramp, South 35°31'58.9" West, a distance 56.02 feet to a point, the place of BEGINNING.

Containing 2400 square feet, more or less.

DOCUMENT
FOLDER

PARCEL C

BEGINNING at a point, said point being the Northeast corner of intersection of Legal Right-of-Ways for Forrest Street Ramp and Old Canal Street, thence along the

Northeast side of Forrest Street, North $34^{\circ}42'51''$ East, a distance of 6.10 feet to a point on the Access Road No. 2 required R/W line; thence along a curve to the right having a radius of 205.00 feet, an arc distance of 11.72 feet, having a chord bearing of South $62^{\circ}37'10.5''$ East, a distance of 11.72 feet to a point; thence South $13^{\circ}01'52.9''$ West, a distance of 5.96 feet to a point on the Northeastern legal R/W line for Old Canal Street; thence along the Northeastern legal R/W line for Old Canal Street, on a curve to the left having a radius of 269.00 feet, an arc distance of 13.98 feet, having a chord bearing of North $63^{\circ}44'34.3''$ West, a distance of 13.98 feet to a point on the Southeast R/W line of Forrest Street and the place of BEGINNING.

Containing 88 square feet, more or less.

ROOSTRIES, INC.

1,298
30675-50 FT. SURFACE EASEMENT

(A) INCLUDES 30675 SQ. FT. AERIAL EASEMENT

(B) = L.R. 46140 SEC. A00 R/W R

* TRUSTEES OF THE PROPERTY OF PENN CENTRAL TRANSPORTATION COMPANY

"THIS PLAT IS PLOTTED FROM THE DEED OF RECORD RECORDED IN THE COUNTY COURTHOUSE AND REFLECTS THE ACCURACY AND/OR INACCURACY OF THE DEED"

OF THE ENTIRE
S WITHIN THAT

PROPERTY PLAT
COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
LEG. RTE. 46140 SEC. NO. A00 R/W BORO OF CONSHOHOCKEN MONTGOMERY COUNTY
PARCEL NO. 40 SHEET NO. 13, 20 & 21 CLAIM NO.
PROPERTY OWNER(S) SOUTH EASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY
GRANTOR(S) ROBERT W. BLANCHETTE, RICHARD C. BOND, AND JOHN H. MCARTHUR *

OWN WERE
PI/34

DEED BOOK * #	4357	AREAS	# AC/SQ. FT.	REQUIRED AREA	ACR/SQ. FT.
PAGE	156	DEED CALCULATED	NONE	RIGHT OF WAY	11,440 (A)
DATE OF DEED	NONE	ADVERSES	---	CHANNEL	NONE
DATE OF RECORD	11-1-76	LEGAL R/W	---	SLOPE	NONE
CONSIDERATION	NONE	EFFECTIVE	---	TEMP AREA	3,332
TAX STAMPS	NONE	TOTAL REQD.	11,440	AREA OF DITCH	3,970
		TOTAL RESIDUE	---	VERIFICATION DATE	4-5-84
		RESIDUE LT.	---	DRAWN BY	B-H
		RESIDUE RT.	---	SCALE	SHOWN

Designed By BUCHART-HORN consulting engineers and architects YORK PA

POOR ORIGINAL