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BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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In Re: C-00913419 - Representative Daniel L. Anderson vs. Bessemer and Lake Erie Railroad Company. Alleging requests necessary repairs be done to Rural Ridge Tunnel on Russelton Road, Indiana Township.

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Pittsburgh, Pennsylvania  
January 29, 1997

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HOLBERT ASSOCIATES  
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Harrisburg, Pennsylvania 17112-0144

CERTIFIED ORIGINAL

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BEFORE

## THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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In Re: C-00913419 - Representative Daniel L. Anderson vs. Bessemer and Lake Erie Railroad Company. Alleging requests necessary repairs be done to Rural Ridge Tunnel on Russelton Road, Indiana Township.

- - - -

Stenographic report of hearing held in 11th Floor Conference Room, State Office Building, Pittsburgh, Pennsylvania.

Wednesday  
January 29, 1997  
at 10:00 a.m.

BEFORE

JOHN CORBETT, ADMINISTRATIVE LAW JUDGE

- - - -

## APPEARANCES:

ROBERT N. GENTILE  
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For - Bessemer & Lake Erie Railroad Company

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Harrisburg, PA 17101-1900  
For - PA Department of Transportation



1 JUDGE CORBETT: This is the time and place scheduled  
2 for further hearing on the complaint of Representative Daniel  
3 L. Anderson versus Bessemer and Lake Erie Railroad Company.  
4 The complaint was docketed with the Pennsylvania Public  
5 Utility Commission at Number C-00913419. I'm Administrative  
6 Law Judge John Corbett and I've been assigned to hear this  
7 case and draft a recommended decision for the Commission.

8 We have in the hearing room this morning Robert Gentile  
9 and Colette Ferris Shotton representing Bessemer and Lake  
10 Erie Railroad. We have Gina D'Alfonso representing the  
11 Department of Transportation for the Commonwealth of  
12 Pennsylvania, and David Salapa representing the Commission's  
13 Bureau of Transportation and Safety.

14 Before we go any further this morning, are there any  
15 other parties that I have not mentioned so far who have not  
16 signed the appearance sheet?

17 (No response.)

18 JUDGE CORBETT: Hearing no response, then we'll move  
19 on. Do we have any preliminary matters to address before we  
20 begin hearing testimony in this matter?

21 MR. D'ALPHONSO: No.

22 MR. SALAPA: No, your Honor.

23 MR. GENTILE: No.

24 JUDGE CORBETT: Then we'll turn to Bessemer and Lake  
25 Erie. Mr. Gentile, I understand you're going to present

1 first for us.

2 MR. GENTILE: That's correct, your Honor.

3 JUDGE CORBETT: All right.

4 MR. GENTILE: I'll call Mr. Rick Janus.

5 RICHARD J. JANUS, called as a witness, having been duly  
6 sworn, was examined and testified as follows:

7 JUDGE CORBETT: Would you begin by giving us your full  
8 name and spell your last name for the court reporter?

9 THE WITNESS: Richard J. Janus, J-a-n-u-s.

10 JUDGE CORBETT: Mr. Gentile?

11 DIRECT EXAMINATION

12 BY MR. GENTILE:

13 Q Are you employed, Mr. Janus?

14 A Yes sir.

15 Q By whom?

16 A Bessemer and Lake Erie Railroad.

17 Q And in what capacity?

18 A Engineer of structures.

19 Q How long have you been in that position?

20 A Ten years.

21 Q Prior to that time, were you employed by Bessemer  
22 and Lake Erie Railroad Company?

23 A I was employed by its sister railroad company, Union  
24 Railroad.

25 Q Union Railroad is an affiliated company of Bessemer

1 and Lake Erie?

2 A Yes, it is.

3 Q In what capacity did you work for the Union Railroad  
4 Company?

5 A I was supervisor of bridges and building.

6 Q How many years were you employed by Union Railroad  
7 Company?

8 A Sixteen.

9 Q So you have about 26 years experience with either  
10 Bessemer or Union Railroad Company in the bridges and build-  
11 ing area?

12 A Yes.

13 Q Tell us just a little bit about your formal educa-  
14 tion. Where did you attend college, if you did, sir?

15 A I graduated from the University of Pittsburgh in  
16 1970 with a Bachelor of Science degree in civil engineering.  
17 I was graduated from the University of Pittsburgh in 1991  
18 with a Masters in business administration.

19 Q Are you a registered professional engineer in the  
20 Commonwealth of Pennsylvania?

21 A Yes, I am.

22 Q And in what discipline or area of engineering?

23 A Civil.

24 Q Are you familiar with what's referred to as the  
25 Republic Arch?

1 A Yes.

2 Q Where is that located, sir?

3 A It's located in Indiana Township.

4 Q Here in western Pennsylvania?

5 A In Allegheny County, yes.

6 Q And is that arch located along the Bessemer and Lake  
7 Erie Railroad Company?

8 A Yes, it is.

9 Q And that's the arch that is the subject of today's  
10 proceedings; is that correct?

11 A Yes.

12 Q How are you familiar with it?

13 A I have visually inspected it recently and I've done  
14 an analysis of the arch in the past.

15 Q Do you have any individuals working for you who in-  
16 spect or maintain the arch?

17 A We have divisions that maintain the arch and we had  
18 a consultant who was inspecting the area for us.

19 Q Were there any reports made by those individuals  
20 concerning the condition of the arch?

21 A Yes; there's an annual inspection report on that  
22 arch.

23 Q Have you had occasion to review those reports or  
24 that report?

25 A Yes.

1 Q Let me just get this straight. Is there an annual  
2 report done every year concerning the condition of the arch?

3 A Yes, it is.

4 Q And you review these annual reports?

5 A Yes, I do.

6 Q In connection with today's proceedings, did your  
7 counsel, either myself or Ms. Shotton present here, ask you  
8 to prepare answers to questions that had been propounded by  
9 the Public Utility Commission's Bureau of Transportation and  
10 Safety?

11 A Yes.

12 MR. GENTILE: With your Honor's permission, I'd like to  
13 hand up to the witness B&LE Exhibit Number Seven---

14 JUDGE CORBETT: All right.

15 MR. GENTILE: And distribute copies to the court re-  
16 porter and other counsel and to your Honor.

17 JUDGE CORBETT: We'll have this document marked and  
18 identified as B&LE Exhibit Seven.

19 (B&LE Exhibit No. 7 was produced and marked for  
20 identification.)

21 MR. GENTILE: Thank you, your Honor.

22 BY MR. GENTILE:

23 Q With reference to B&LE Exhibit Number Seven, can you  
24 tell us what the first page of that exhibit is?

25 A These are answers to the questions as presented to

1 us by the Bureau of Transportation and Safety.

2 Q Mr. Janus, I'd like to very briefly read the ques-  
3 tions and ask you to read the answers you've prepared.

4 Question Number One, "Bessemer and Lake Erie Railroad  
5 Company describe the general physical condition of the sub-  
6 structure and superstructure of the bridge and state whether  
7 there are any changes in the condition of the bridge since  
8 the Commission's September 4, 1992 order in this proceeding."

9 A "The physical condition of the substructure and  
10 superstructure is good and has not changed since the PUC  
11 order of September 4, 1992. There are spalls on the south-  
12 west face of the arch, the southwest end of the barrel and 10  
13 feet in from the southeast end of the barrel. Additionally,  
14 there is some spalling at construction joints 20 feet and 30  
15 feet in from the west end. The west spandrel wall is cracked  
16 on the south end. All of these conditions existed in 1992."

17 Q B&Le was to submit the most recent bridge inspection  
18 report of the subject structure. Is the report a part of  
19 your exhibit?

20 A Yes, it is.

21 Q And where is that contained in the exhibit?

22 A Pages two and three, I believe.

23 Q Question Number Three, B&LE state its recommenda-  
24 tions as a result of the most recent inspection report as to  
25 any alterations or repairs to the structure that it deems

1 necessary to maintain a safe crossing at this location and  
2 what portion of any such alteration it would agree to per-  
3 form."

4 A "The latest inspection report dated June 24, 1996  
5 recommended clearing brush from wingwalls and top of arch be-  
6 cause it was hanging over the road. B&LE agrees to perform  
7 this work."

8 Q Question Number Four, "B&LE state the nature and  
9 type, extent, date, cost and any pertinent specific details  
10 as to any reported substantial items of maintenance and/or  
11 repair performed on the existing structure by the Railroad or  
12 its contractor since the Commission's September 4, 1992 order  
13 in this proceeding."

14 A "None. Maintenance of Way reports no record of any  
15 significant time spent maintaining or repairing this arch  
16 since September, 1992."

17 Q Did you, Mr. Janus, have a search of the Bessemer  
18 and Lake Erie Railroad Claims Department records done con-  
19 cerning any complaints or claims that might have been filed  
20 or noticed with the Railroad concerning this arch?

21 A BL&E Claims Department records reveal that since  
22 September 4, 1992, the PUC order, that there have been no  
23 complaints, concerns or claims of any nature submitted to the  
24 B&LE regarding the Republic Arch.

25 Q You did have that search conducted; is that correct?

1 A Yes, I did.

2 Q Have you recently performed a visible inspection of  
3 the arch?

4 A Yes; I looked at the arch last Thursday.

5 Q And what did you find its condition to be at that  
6 time?

7 A The condition appeared to be the same as it was from  
8 the inspection report.

9 Q Mr. Janus, based on your employment experience with  
10 Bessemer and Lake Erie Railroad, the Union Railroad Company,  
11 your formal training and certification as a civil engineer,  
12 your review of the inspection reports concerning the Republic  
13 Arch and your visual inspection of the arch, do you have a  
14 recommendation concerning whether - or I'm sorry; have you  
15 determined whether the arch is structurally sound?

16 A It's my opinion that the arch is structurally sound.

17 Q In light of those factors that I mentioned, your ex-  
18 perience, your education and your knowledge of this particu-  
19 lar arch, have you determined whether additional maintenance  
20 or repairs to the arch are necessary at this time?

21 A The only additional maintenance I foresee is some  
22 light scaling that the Railroad would probably do this  
23 spring.

24 Q Again, based on your background, training and knowl-  
25 edge, have you determined whether this arch is adequate for

1 the convenience and safety of the traveling public?

2 A It's adequate for the safety and convenience of the  
3 traveling public and for the Railroad.

4 MR. GENTILE: I have no further questions at this time  
5 of Mr. Janus.

6 JUDGE CORBETT: All right, Ms. D'Alfonso, do you have  
7 any cross examination?

8 MS. D'ALPHONSO: Yes, I do.

9 CROSS EXAMINATION

10 BY MS. D'ALPHONSO:

11 Q Good morning, Mr. Janus.

12 A Good morning.

13 Q You inspect the structure annually?

14 A We have inspectors perform this for us.

15 Q When was the last time it was inspected?

16 A In June of 1996.

17 Q Are those reports provided to any other parties?

18 Specifically, did PennDOT receive a copy of that report?

19 A No, they did not.

20 Q The 1992 report that was performed either by or on  
21 behalf of Bessemer and Lake Erie, were there any recommenda-  
22 tions in there regarding repairs to the spawling concrete?

23 A The only recommendation for repair of the spawling  
24 concrete was for cosmetic reasons only.

25 Q Is concrete still spawling?

1 A I haven't seen any indication of that.

2 Q Did the 1992 report make any recommendation or com-  
3 ment regarding the head wall?

4 A We also in that report said that we could cosmetic-  
5 ally repair the head wall.

6 Q Do you know or did the report indicate why the head  
7 wall would have moved?

8 A I don't recall that it stated it moved initially. I  
9 might add that we do monitor that head wall annually and we  
10 have noticed no movement.

11 Q How can you tell if there's been any movement? Have  
12 you found a reference point---

13 A There are reference points---

14 Q That you're measuring from?

15 A Established on the wall and the measurements are  
16 taken from those reference points. If the measurement  
17 changed, it indicates that the wall moved.

18 Q So it's your recommendation that the head wall can  
19 stay in place?

20 A Yes; we would continually monitor this but it's our  
21 recommendation that it stay as is for now.

22 Q Are you going to continue inspecting the structure  
23 on an annual basis?

24 A Yes.

25 Q Will you be willing to monitor the head wall on a

1 more regular basis than a year?

2 A We don't feel that's necessary at this time.

3 Q What in your opinion will make it necessary for it  
4 to be monitored more frequently than annually?

5 A An order.

6 Q And is Bessemer and Lake Erie willing to continue to  
7 maintain the structure of the arch at its sole cost and ex-  
8 pense?

9 A Bessemer is willing to continue to maintain the arch  
10 subject to application to the PUC for possible allocation of  
11 costs.

12 Q You're not willing to do this at your own expense?

13 A We are willing to do it presently at our own ex-  
14 pense, the maintenance, but we reserve the right to petition  
15 the PUC for allocation of costs in the future.

16 MS. D'ALPHONSO: May I have a moment, your Honor?

17 JUDGE CORBETT: Sure.

18 BY MS. D'ALPHONSO:

19 Q Mr. Janus, are there any guarantees that the head  
20 wall is not going to move any farther?

21 A No, there's no guarantee.

22 Q Would a good freeze-thaw cycle potentially cause it  
23 to move again?

24 A It's possible.

25 MS. D'ALPHONSO: I have nothing further. Thank you.

1 JUDGE CORBETT: Mr. Salapa, any cross examination?

2 MR. SALAPA: Thank you, your Honor.

3 CROSS EXAMINATION

4 BY MR. SALAPA:

5 Q Mr. Janus, point of clarification; you've referred  
6 to this structure as the Republic Arch.

7 A Yes.

8 Q Is that---

9 A Seven point seven, seven in the inspection report.

10 Q That was my question. Is that the same as what is  
11 denoted as 7.7 in your inspection report?

12 A Yes.

13 Q Also, I guess, referenced as the double concrete  
14 arch bridge number 12?

15 A Yes.

16 Q All right; when you said that the Railroad was will-  
17 ing to do additional maintenance, as necessary - and in par-  
18 ticular you referenced doing some light scaling in the  
19 spring---

20 A Yes.

21 Q Exactly what do you mean by light scaling?

22 A Our forces would go in and usually do some hammering  
23 of any loose concrete in the spawling areas found in the arch  
24 and removing the concrete.

25 Q That would be from the inside of the arch; that is,

1 over the roadway?

2 A Yes.

3 Q And would you coordinate that work with the  
4 Department of Transportation?

5 A Yes.

6 Q I'm assuming that you'd need to have the road closed  
7 in order to do that.

8 A In the past, they have closed one lane at a time.

9 Q Are you familiar with the in-depth inspection that  
10 was performed on this structure in 1992?

11 A Yes.

12 Q Do you recall it well enough to be able to summarize  
13 it?

14 A As I recall, it's stated that the arch was in good  
15 condition and would continue to be in good condition.

16 Q Do you recall that there was an attachment to that  
17 recommending some concrete repairs?

18 A There was an attachment stating that there could be  
19 cosmetic repairs performed and what those costs would be.

20 Q Specifically, one of the items referenced was in-  
21 stalling French drains over the west span wall?

22 A Yes.

23 Q Does Bessemer and Lake Erie believe that work needs  
24 to be done at this time to this structure?

25 A No; solely because we have no notice of any

1 additional movement of that wall.

2 Q What would have been the purpose of installing a  
3 French drain?

4 A To alleviate any possible concerns that the wall  
5 would move in the future.

6 Q Would the French drain channel the water away from  
7 the wall?

8 A Yes, it would.

9 Q So that if you indicated that the wall was moving  
10 again, you would possibly install a French drain in order to  
11 stop it from moving?

12 A Yes.

13 Q There's another item that I noted that says scaling  
14 and sealing of construction joints located 20 feet from the  
15 west end and 30 feet in from the west end of the south side  
16 of the barrel. Does Bessemer and Lake Erie now believe that  
17 work is not necessary here?

18 A It's not necessary to seal it at this time. We will  
19 scale that area.

20 Q And what would the purpose of the sealing have been?

21 A Sealing would just prevent any salt intrusion or  
22 water intrusion.

23 Q Then another item says repair spawling on the south-  
24 west face of the arch, the southwest end of the barrel and 10  
25 feet in from the southeast end of the barrel. Is that what

1 you're referring to now as doing light scaling?

2 A No, repairing spawls but that paper was to include  
3 forming and placing concrete in the spawled area.

4 Q You don't think that's necessary now?

5 A I didn't think it was necessary then.

6 Q Why was it in the report?

7 A It was in there because we were told to include any  
8 possible repair costs. And we stated in that report that we  
9 would only be doing it as a cosmetic repair.

10 Q So it would make the arch look nicer?

11 A But it would do nothing structurally to the arch.

12 Q You can accomplish the same thing by removing the  
13 concrete as it occurs on a yearly basis or however often it's  
14 required?

15 A Yes.

16 Q Is there any evidence at this point of any water  
17 that's seeping through the arch?

18 A The only moisture I saw in the arch last Thursday  
19 was coming from some weep holes. I believe there are two  
20 weep holes in the arch. I did see some moisture but I saw no  
21 evidence of ice or any water coming through the arch.

22 Q So there were no icicles or anything of that nature?

23 A I saw one icicle in the arch. I should have seen  
24 them if there was water throughout the arch.

25 Q Would the spawling that's taking place in the arch

1 be as a result of a certain amount of water infiltration?

2 A Possibly.

3 Q Would the water freezing and then thawing cause the  
4 concrete to crack?

5 A Yes.

6 MR. SALAPA: That's all that I have.

7 JUDGE CORBETT: Mr. Gentile, any redirect?

8 REDIRECT EXAMINATION

9 BY MR. GENTILE:

10 Q You made reference during cross examination to an  
11 inspection that was conducted in June, 1996, which I believe  
12 you referred to as a consultant.

13 A Yes.

14 Q What's the identify - who is that consultant?

15 A Donald Keefer.

16 Q K-e-e-f-e-r?

17 A Yes.

18 Q Was Mr. Keefer a witness in this proceeding?

19 A Yes, he was.

20 Q Was he an employee of the Bessemer and Lake Erie  
21 Railroad at one time?

22 A Yes, he was an employee of the railroad until 1993.

23 Q Until 1993?

24 A Yes.

25 Q I believe Ms. D'Alphonso asked you a question

1 whether concrete was still falling from the arch. In your  
2 review of the inspection reports and your visual inspection  
3 of the arch, have you come across any evidence that concrete  
4 ever fell from the arch?

5 A There's been evidence that there's been some small  
6 stones along the edges of the roadway that have been found.

7 Q When would those stones have been found?

8 A From what I've seen, before 1992, although I'm sure  
9 there are some stones along the edge. I didn't particularly  
10 notice any but that doesn't mean there weren't a few there.

11 Q In your review of the inspection reports and in your  
12 visual inspection of the arch, did you come across any phys-  
13 ical evidence that would suggest that chunks of concrete had  
14 fallen from the arch?

15 A Chunks?

16 Q Yes.

17 A If you mean by large sections of concrete, no; small  
18 pieces three quarters of an inch in diameter, less sure.  
19 There's evidence that that's occurred occasionally.

20 Q Referring to any movement of this head wall, can you  
21 tell us when the last movement of the head wall occurred?

22 A No. We've been monitoring it since 1991, I believe,  
23 and have noticed no movement since that time.

24 Q When was the last monitoring for movement of the  
25 head wall done?

1           A I believe Mr. Keefer monitored it during his inspec-  
2 tion of 1996.

3           Q Are you aware of how much movement of the head wall  
4 has occurred over the years?

5           A I don't recall.

6           Q Mr. Janus, I believe that you were also questioned  
7 about potential repairs to the arch by counsel for the PUC.  
8 And during that cross examination, there was reference to a  
9 report. Are you familiar with that report?

10          A Yes.

11          Q Who made that report?

12          A Don Keefer and I authored that. I authored the  
13 document he referred to, the recommended repairs. I don't  
14 believe it was recommended but the repairs that were listed  
15 at the end of the report were authored by Don Keefer and me.

16          Q Is it correct to say that report included these  
17 recommendations, installing a French drain, repairing spawls  
18 on the southwest end of the barrel and 10 feet in from the  
19 southeast end of the barrel and scale and seal construction  
20 joints located 20 feet from the west end and two spawls 30  
21 feet in from the west end of the south side of the barrel?

22          A Yes.

23          Q Was that report an estimate of the cost to do those  
24 things?

25          A Yes, it was.

1 Q And was that your estimate and Mr. Keefer's?

2 A Yes.

3 Q How did you come to any knowledge that those things  
4 might have to be done?

5 A I believe it was brought out through the testimony  
6 at the original hearing. I don't recall specifically.

7 Q And is it correct that what you and Mr. Keefer put  
8 together by way of a report was an estimate for recommended  
9 cosmetic repairs to the arch?

10 A Yes.

11 Q Each of these items, installation of the French  
12 drain, repairing the spawls, scaling and sealing, are cos-  
13 metic repairs; is that correct?

14 A The installation of the French drain might not be  
15 considered cosmetic.

16 Q Would the other two---

17 A Yes.

18 Q Is Bessemer and Lake Erie Railroad willing to make  
19 cosmetic repairs to the arch?

20 A No.

21 Q Why not?

22 A We don't have the financial resources to make cos-  
23 metic repairs.

24 Q Is it correct to say that cosmetic repairs - I'm  
25 sorry, the cosmetic condition of the arch does not affect its

1 structural integrity?

2 A Yes, that's fair to say.

3 Q To your knowledge, Mr. Janus, is there a Public  
4 Utility Commission order concerning the maintenance of this  
5 arch?

6 A To my knowledge, there is not.

7 Q But Bessemer and Lake Erie Railroad has been main-  
8 taining and inspecting the arch since it was constructed in  
9 the early 1900s; is that correct?

10 A Yes.

11 Q Would Bessemer and Lake Erie Railroad Company be  
12 willing to continue to inspect and maintain the arch?

13 A Yes, provided that future maintenance, we may ask  
14 the PUC for allocation of costs.

15 Q That's what I wanted to be clear on. Bessemer is  
16 willing to continue to maintain, to inspect and maintain this  
17 arch but at some future time, Bessemer may petition the PUC  
18 for an allocation of maintenance costs; is that correct?

19 A Yes.

20 MR. GENTILE: That's all I have.

21 JUDGE CORBETT: Any recross, Ms. D'Alphonso?

22 MS. D'ALPHONSO: Yes, thank you, your Honor.

23 RE-CROSS EXAMINATION

24 BY MS. D'ALPHONSO:

25 Q Mr. Janus, are you familiar with the September, 1992

1 order of this Commission?

2 A Yes.

3 Q Specifically, the order that directed Bessemer and  
4 Lake Erie to do an in-depth inspection report?

5 A Yes.

6 Q Didn't it also direct Bessemer and Lake Erie to  
7 furnish all material and do all work necessary to maintain  
8 the structure and its facilities? And I'll go further -  
9 during the interim period until further ordered.

10 A Yes, that's exactly what it said, during the interim  
11 period.

12 Q So there is one right now directing Bessemer and  
13 Lake Erie to maintain?

14 A Yes.

15 MS. D'ALPHONSO: Your Honor, that order was adopted  
16 September 3, 1992 and entered September 4, 1992.

17 JUDGE CORBETT: Right.

18 MS. D'ALPHONSO: Thank you. I just wanted to make sure  
19 the record was clear.

20 JUDGE CORBETT: Mr. Salapa?

21 MR. SALAPA: Thank you, your Honor.

22 RE CROSS EXAMINATION

23 BY MR. SALAPA:

24 Q One point of clarification, Mr. Janus; Bessemer and  
25 Lake Erie will maintain the structure at its sole cost or at

1 its initial cost subject to reimbursement?

2 A Initial cost subject to reimbursement.

3 JUDGE CORBETT: Anything further, Mr. Gentile?

4 MR. GENTILE: No.

5 JUDGE CORBETT: Mr. Janus, you may be excused. Any  
6 other witnesses?

7 MR. GENTILE: No, your Honor.

8 JUDGE CORBETT: Are you moving for the admission of  
9 your exhibit?

10 MR. GENTILE: Yes, your Honor.

11 JUDGE CORBETT: Without objection, it will be admitted.

12 (B&LE Exhibit No. 7 was admitted in evidence.)

13 JUDGE CORBETT: Ms. D'Alphonso?

14 MS. D'ALPHONSO: Thank you.

15 MARTIN L. NEAMAN, called as a witness, having been duly  
16 sworn, was examined and testified as follows:

17 JUDGE CORBETT: Would you begin by giving us your full  
18 name and spelling your last name for the court reporter?

19 THE WITNESS: Martin L. Neaman, N-e-a-m-a-n.

20 JUDGE CORBETT: All right, Ms. D'Alphonso.

21 MS. D'ALPHONSO: Thank you.

22 DIRECT EXAMINATION

23 BY MS. D'ALPHONSO:

24 Q Mr. Neaman, by whom are you employed?

25 A The Commonwealth of Pennsylvania.

1 Q And in what capacity are you currently employed by  
2 the Department of Transportation?

3 A I'm the District 11 bridge inspection supervisor.

4 Q And is this structure within PennDOT's District 11?

5 A Yes, it is.

6 Q Can you explain to us some of your responsibilities?

7 A Well, I direct the inspection of 1,900 bridges in  
8 Allegheny, Beaver and Lawrence Counties by three PennDOT  
9 crews and also oversee consultant inspections of a number of  
10 bridges.

11 Q How long have you been in this current position?

12 A I've been doing this since - bridge inspection since  
13 1984.

14 Q What did you do prior to becoming involved with  
15 bridge inspection?

16 A Prior to that for six years, I was with the  
17 Pennsylvania Department of Transportation bridge maintenance,  
18 bridge maintenance engineer where I repaired bridges.

19 Q How long have you been with the Department?

20 A Since 1971.

21 Q And did you do something before you became involved  
22 in bridge maintenance?

23 A Before that, I was in traffic from '73 to '78.  
24 Prior to that, I was in the Army Corps of Engineers.

25 Q What is your educational background, Mr. Neaman?

1           A I have a Bachelor's degree in civil engineering from  
2 the University of Pittsburgh. I have an MBA from Robert  
3 Morris.

4           Q Do you have your PE?

5           A No, I do not.

6           Q Let me ask you one more question. Are you author-  
7 ized to testify on behalf of the Department of Transportation  
8 at today's proceedings?

9           A Yes, I am.

10          Q Are you familiar with the subject structure?

11          A I am.

12          Q Have you visited the site recently?

13          A I was there in December of '96.

14          Q Can you tell us what you observed?

15          A I was asked to take a look at the structure and make  
16 comments. And two comments that I feel relevant are the  
17 spawling of the joints in the walls of the interior of the  
18 structure and also the wall at the west side of the structure  
19 that appears to be detached and sitting slightly over the  
20 edge of the barrel.

21          Q Would that be the head wall that I may have referred  
22 to earlier---

23          A That's the one.

24          Q With Mr. Janus? The spawling of joints and walls,  
25 did Mr. Janus mention that in his testimony at all?

1           A Yes, he did.

2           Q You two are talking about the same condition, the  
3 spawling of the joints?

4           A We are.

5           Q Do you have any recommendation regarding the spawl-  
6 ing of the joints and wall?

7           A Well, the spawling of the joints and the wall, to me  
8 the major problem with that is more of a nuisance type thing  
9 where small stones can be falling and breaking windshields  
10 and causing claims. And every now and then potentially a  
11 larger piece might dislodge. But if it's inspected regu-  
12 larly and maintenance to have the spawls and loose stuff re-  
13 moved on a regular basis, in lieu of anything else, it should  
14 be adequate.

15          Q Do you have an opinion as to what the maintenance on  
16 a regular basis should be?

17          A Well, I would say since they're inspecting that  
18 yearly, probably as a minimum, if any loose concrete is de-  
19 tected, for that crew to come out immediately and remove  
20 that. If every inspection showed loose concrete, I would  
21 probably do it on a more frequent basis, maybe every six  
22 months.

23          Q So that would be something the party who was in-  
24 specting the structure would have to use their best engi-  
25 neering judgment to determine?

1 A Correct.

2 Q And is that satisfactory to the Department?

3 A Well, I would say as far as small problems, indi-  
4 vidual pebbles falling out of there and causing chipped  
5 windshields, I suppose if the owner of the railroad is will-  
6 ing to take care of any claim on a nuisance basis, that's  
7 agreeable. And if they're willing to guarantee pretty much  
8 that nothing larger might fall where it could actually cause  
9 an accident - through their diligent inspection, if they feel  
10 they can guarantee that, that would be acceptable in lieu of  
11 doing anything.

12 Q So at this point, is an annual inspection sufficient  
13 in your opinion?

14 A Well, I'll tell you what. It would be if the  
15 Railroad says they're not finding anything wrong. We're not  
16 inspecting this thing annually to the degree that they are.

17 Q What do we do?

18 A We're directed to do, like, an inventory of inspec-  
19 tion. We go out and we do it - actually, we do it every two  
20 years, since it's not a posted bridge. And we look for any-  
21 thing that - typically, on an inventory inspection, anything  
22 that could be loose or falling, we need to notify the owner.  
23 We don't specifically grade or test the bridge.

24 Q And that's because it's not carrying a highway?

25 A Right - well, even if it was carrying a highway,

1 what we do, if we see anything that's defective, we notify  
2 the railroad or the non-PennDOT owner. If it is carrying a  
3 bridge and we feel an analysis is needed, we'll ask that the  
4 carrier do that. In some cases if they delay or don't do it,  
5 we will do it in the public interest.

6 Q Mr. Neaman, would PennDOT like to see copies of the  
7 annual inspection that are being performed by Bessemer and  
8 Lake Erie Railroad?

9 A We would. At least, we would know that something is  
10 being done on a regular basis, which up until today, we  
11 weren't sure of.

12 Q Moving on to the head wall, does the Department have  
13 an opinion as to what may need to be done at the head wall?

14 A If that was a state structure, if we owned that, we  
15 would direct that it be replaced because of its unknown  
16 future. We don't know - we assume a freeze-thaw cycle that  
17 it moves approximately two inches, two and a half, two inch-  
18 es. We don't know under what conditions that might occur  
19 again, whether or not another two-inch movement would cause  
20 it to collapse. It's the unknown involvement that bothers  
21 me.

22 Q Do we know if it's being held on by anything?

23 A I believe there's no rebar holding it whatsoever.  
24 Again, if someone was to investigate it and could guarantee  
25 that it wasn't going to move, that it was sound, we might

1 accept that. But as it is right now, I don't believe that's  
2 the case. I believe it's a potential hazard.

3 Q Do you have a ballpark estimate as to what you think  
4 it may cost to repair the head wall?

5 A I would think that if we did it with our own forces,  
6 I would think we could do it for 10 to \$5,000.

7 Q And is the Department offering to do it with its own  
8 forces?

9 A No, we're not.

10 Q You're just using that as a reference point?

11 A We would have ordered it replaced by now.

12 Q The head wall?

13 A The head wall, if it was our bridge.

14 Q If the Administrative Law Judge and the Commission  
15 were to order that the head wall be replaced, would the  
16 Department request anything in the interim or recommend any  
17 action in the interim until the head wall is actually re-  
18 placed?

19 A I would say frequent monitoring would satisfy us.

20 Q And what if the Commission would, in its discretion,  
21 determine that the head wall is sufficient the way it is and  
22 does not need to be replaced at this time? Does the  
23 Department have any recommendations as to what precautions  
24 might be taken?

25 A Well, I'd be uncomfortable with that because its

1 future is a long way off and something might happen five  
2 years from now. It could happen in two years. And in the  
3 interim if it dragged on for a long period of time, it gets  
4 costly monitoring this on a six-month basis. If it was a  
5 strong structure, that would just eliminate the monitoring  
6 and worry. We would replace it. But if they want to monitor  
7 this on a more frequent basis, probably mostly over the  
8 winter, that's my main concern.

9 Q The freeze-thaw cycle?

10 A You said on an interim - I wouldn't be comfortable  
11 if this went on five or 10 years. I want to know how long an  
12 interim is.

13 MS. D'ALPHONSO: I have nothing further for this wit-  
14 ness.

15 JUDGE CORBETT: All right, Mr. Salapa, any cross?

16 MR. SALAPA: Yes, thank you, your Honor.

17 CROSS EXAMINATION

18 BY MR. SALAPA:

19 Q Mr. Neaman, how large a piece of this wall has come  
20 loose? Would you describe it like two feet by three feet  
21 or---

22 A Well, probably looking at this picture here, proba-  
23 bly about 10 feet long and a triangular base, maybe about  
24 three or four feet on the one side and coming up over the  
25 arch about two feet. It's quite a large piece.

1 Q How far has this piece moved outward? Have you mea-  
2 sured it?

3 A We haven't measured it. We estimate an inch and a  
4 half to two inches possibly. Maybe the Railroad could fur-  
5 nish some figures. It also looks like it's dislodged far-  
6 ther. One part of the head wall seems to have moved more on  
7 the other side than the other.

8 Q Does the Department have any information as to when  
9 this movement started?

10 A Well, looking at our files, I see it was first not-  
11 iced in 1990, which was prior to when the Railroad said they  
12 started monitoring it. And I'm not sure if it was done be-  
13 cause their monitoring was based on their inspection or per-  
14 haps our recommendation back in 1990. I see nothing here  
15 that there's communication with the Railroad.

16 Q So it's possible that it moved in 1990 and it hasn't  
17 moved since?

18 A That's possible, yes.

19 Q And it's equally possible that it moved in 1990 and  
20 moved a little bit every year since? You don't have any way  
21 of knowing?

22 A No; we don't monitor that.

23 Q You heard the testimony of Mr. Janus earlier?

24 A Yes.

25 Q He suggested that if that wall were to move again,

1 that the Railroad might install a French drain in order to  
2 alleviate or disperse the water that might be causing that  
3 movement. Would that be a satisfactory solution instead of  
4 replacing the head wall?

5 A Well, I would - rather than go to the expense of a  
6 French drain, if it cost somewhat more, I would replace the  
7 wall and not have to worry about whether or not the French  
8 drain would be adequate in the future. I would replace the  
9 wall.

10 MR. SALAPA: That's all that I have.

11 JUDGE CORBETT: Mr. Gentile?

12 CROSS EXAMINATION

13 BY MR. GENTILE:

14 Q You mentioned earlier, Mr. Neaman, that PennDOT  
15 inspects this area every two years; is that correct, every  
16 other year?

17 A Every two years what we call an inventory, not an  
18 inspection.

19 Q Is there a written report done as a result of the  
20 inventory?

21 A No.

22 Q What does the inventory tell you?

23 A Basically, an inventory is for non-owned structures  
24 to look for any potential problems that need to be referred  
25 to the owner. A lot of times it's in the absence of the

1 owner doing any inspections on their own. In this case the  
2 Railroad was inspecting it yearly.

3 So it would be just to make sure that we keep on top of  
4 things, so we know what's going on out there because since we  
5 are - do have the motoring public's safety in our interests,  
6 we want to make sure that anything overhead or that carries  
7 traffic that's not owned by us doesn't have an adverse impact  
8 on them.

9 Q The inventory does not tell you how much movement---

10 A That's correct.

11 Q Occurred---

12 A Right.

13 Q With the head wall?

14 A That's correct.

15 Q And, in fact, PennDOT is not monitoring the move-  
16 ment, whether it is slight or whether it is large?

17 A We're not monitoring it.

18 Q You're not monitoring the rate of movement over some  
19 period of time?

20 A No, not at all.

21 Q Do you dispute or do you agree with Mr. Janus's tes-  
22 timony that no movement of the head wall has occurred since  
23 1991?

24 A If he has figures since 1991 showing monitoring and  
25 if it shows no movement, I would be in agreement.

1 Q You also testified about the cost of replacing the  
2 head wall.

3 A Yes.

4 Q And I believe your estimate was about \$5,000. The  
5 replacement, though, that you're considering as part of your  
6 estimate would be with Bessemer and Lake Erie doing the work;  
7 is that correct?

8 A As opposed to hiring a contractor. Things do get  
9 more expensive that way.

10 Q And as opposed to PennDOT, for example, doing the  
11 work?

12 A Right; we'd be looking at costs of some laborers,  
13 some MPT and cost of concrete, balance and rebarring to the  
14 archway. It was an estimate of \$5,000.

15 Q Do you have any idea of how many man hours would go  
16 into the labor?

17 A I haven't prepared an estimate. I was just asked  
18 off the top of my head to furnish something that it would  
19 probably cost us to do it ourselves.

20 Q Do you have any idea of what the labor rate would be  
21 if PennDOT were to undertake this particular project?

22 A For highway maintenance workers, I imagine - with or  
23 without benefits?

24 Q how about both?

25 MS. D'ALPHONSO: Your Honor, if I may object; Mr.

1 Neaman did say that this was a ballpark, off the top of his  
2 head figure. He's not worked out a detailed estimate. It  
3 was offered purely as some sort of - like he said, off the  
4 top of his head, a ballpark figure.

5 MR. GENTILE: Mr. Neaman must have some component of  
6 that in mind for labor. My only intent was to show that  
7 there's a difference in a labor rate with or without benefits  
8 between PennDOT and B&LE. And I assume Mr. Neaman is of a  
9 position that B&LE would conduct the work or do it through a  
10 contractor.

11 JUDGE CORBETT: I'll overrule the objection for right  
12 now. I don't think we need to go down this road too much  
13 further. You can answer the question if you recall it.

14 THE WITNESS: Would you restate the question?

15 BY MR. GENTILE:

16 Q I think the question was what kind of a labor rate  
17 with or without benefits would you be looking at for PennDOT?

18 A Without benefits, our labor is probably around 15 or  
19 sixteen dollars an hour. That might be a bit high - about 15  
20 or sixteen, depending on the longevity and other factors  
21 there.

22 Q If the head wall were replaced, would the highway  
23 have to be closed while the replacement was being undertaken?

24 A Permanently or intermittently.

25 Q Either, sir.

1           A I'd say at a minimum, intermittently; it may be -  
2 probably intermittently. I would think maybe things could be  
3 done without permanent closure. That's what we would try to  
4 do.

5           Q Would PennDOT be willing to agree that the head wall  
6 not be replaced unless and until further movement was de-  
7 tected, assuming an annual inspection by the Railroad?

8           A Well, that presupposes that the next movement would  
9 be slight and not large. I would rather not chance that.

10          MR. GENTILE: I have nothing further.

11          JUDGE CORBETT: Ms. D'Alfonso?

12          MS. D'ALPHONSO: I have nothing further from Mr.  
13 Neaman.

14          JUDGE CORBETT: Thank you very much. You're excused.  
15 Do you have any other witnesses?

16          MS. D'ALPHONSO: No other witnesses.

17          JUDGE CORBETT: Mr. Salapa, do you have anything to  
18 present?

19          MR. SALAPA: Yes, your Honor.

20          DAVID A. FISCHER, called as a witness, having been duly  
21 sworn, was examined and testified as follows:

22          JUDGE CORBETT: Would you begin, please, by giving us  
23 your full name and spell your last name for the court report-  
24 er?

25          THE WITNESS: My name is David A. Fischer,

1 F-i-s-c-h-e-r.

2 JUDGE CORBETT: All right, Mr. Salapa.

3 DIRECT EXAMINATION

4 BY MR. SALAPA:

5 Q Mr. Fischer, by whom are you employed and in what  
6 capacity?

7 A I am employed by the Commission's Bureau of  
8 Transportation and Safety as a civil engineer and consultant.

9 Q And how long have you been employed in that posi-  
10 tion?

11 A Twenty-three years.

12 Q And what are your duties?

13 A I schedule and conduct field investigations and con-  
14 ferences at all rail-highway crossings - any railway-highway  
15 crossings throughout the state. And I prepare recommenda-  
16 tions regarding those crossings for Commission approval.

17 Q Are you licensed as a professional engineer?

18 A Yes, I am.

19 Q And are you authorized to testify today on behalf of  
20 the Bureau of Transportation and Safety?

21 A Yes.

22 Q And you're familiar with this particular crossing?

23 A Yes.

24 Q When was the last time you visited the site of the  
25 crossing?

1 A December 4 of '96.

2 Q Can you tell me, have you reviewed the inspection  
3 report that was submitted by the Bessemer and Lake Erie  
4 Railroad? I think it was from 1992.

5 A Yes.

6 Q And do you agree with Mr. Janus's summary of the re-  
7 port that the structure is basically sound?

8 A Yes.

9 Q You've also reviewed the documents that were submit-  
10 ted as Exhibit Number Seven?

11 A Yes.

12 Q And in particular, the inspection report from June  
13 of 1996?

14 A Yes.

15 Q Do you agree with Mr. Janus's summary that the  
16 report indicates that there are no changes in the structure,  
17 the 1992 report?

18 A Well, except as you noted, there is some more minor  
19 scaling and spawling of the concrete. But other than that,  
20 the structure has remained the same.

21 Q Did you review these inspection reports prior to  
22 your last site visit?

23 A I do not have the latter provided by Bessemer but I  
24 had reviewed the others.

25 Q During your site visit, did you look to see - look

1 at the structure to see if any of the cosmetic repairs that  
2 were suggested by the 1992 report had been made?

3 A Yes; I noted that none of those recommended repairs  
4 had been done.

5 Q Based on your site visit - well, let me ask you  
6 this. Did it appear that any kind of scaling or removal of  
7 loose concrete had been done?

8 A Yes, it had looked - at sometime in the past some-  
9 body had periodically removed some of the loose concrete.

10 Q Do you recall, was there any evidence at that time  
11 of any loose concrete on the inside of the arch?

12 A No major sections of loose concrete.

13 Q Based on your site visit of the structure and review  
14 of the Bessemer and Lake Erie inspection reports, do you  
15 think the repairs suggested by Mr. Janus, i.e., scaling of  
16 the inside of the barrel of the arch, are sufficient to ad-  
17 dress the problems there?

18 A Yes, as long as you were just talking about problems  
19 inside the barrel of the arch. Some inspections apparently  
20 of the moving head wall should be done periodically, also.

21 Q Do you recall from your site visit how far that head  
22 wall had moved outward?

23 A No; to be perfectly honest, I didn't notice it. I  
24 was just walking on the roadway. I couldn't get up close  
25 enough to notice it.

1 Q Based on what you've heard today, do you believe  
2 that continued monitoring of that head wall is all that is  
3 necessary at this time?

4 A Yes, I would say a very frequent check, probably a  
5 six month check to make sure that the head wall has not moved  
6 any more is probably recommended.

7 Q And if there is further movement, other action may  
8 be necessary?

9 A Yes.

10 Q Could that include installation of the French drain,  
11 as suggested by Mr. Janus?

12 A Well, that would be one way to go, is to put a  
13 French drain in. But PennDOT has also said that it can be  
14 rather economical replacing the head wall. So either way  
15 would heal the situation.

16 Q It may depend on how much the head wall moves?

17 A Right; there may be points where just diverting some  
18 of the runoff would not suffice.

19 Q Is there any other issue at this point that you be-  
20 lieve needs to be addressed regarding this particular struc-  
21 ture?

22 A The previous Commission order in this proceeding ad-  
23 dressed just the initial cost and expense of the maintenance.  
24 I think that it should be possible that the parties were  
25 directed at their sole cost to maintain the structure and

1 wherever the parties maintain the highway approaches with  
2 some mention, also, that some regular inspections be done on  
3 the structure to make sure that some of the conditions that  
4 have been mentioned here do not get any worse.

5 Q Specifically monitoring the head wall and the poten-  
6 tial movement?

7 A Right.

8 MR. SALAPA: That's all that I have.

9 JUDGE CORBETT: Ms. D'Alfonso?

10 MS. D'ALPHONSO: Can I have a moment?

11 JUDGE CORBETT: Sure.

12 MS. D'ALPHONSO: I have nothing. Thank you.

13 JUDGE CORBETT: Mr. Gentile?

14 CROSS EXAMINATION

15 BY MR. GENTILE:

16 Q Good morning, Mr. Fischer.

17 A Good morning.

18 Q A couple of questions; if the head wall were contin-  
19 ued to be monitored, as you suggested it should, I assume  
20 that's every six months; correct?

21 A That would probably be a good recommendation. To be  
22 perfectly honest, there was no mention at all in the '92 in-  
23 spection report about the head wall movement. So that's why  
24 I would say six months inspections would be recommended.

25 Q If that were done, sir, and no movement was

1 detected, is it your recommendation that the head wall  
2 doesn't need to be replaced or a French drain does not have  
3 to be installed?

4 A Yes.

5 Q Now, considering those two alternatives, a French  
6 drain versus replacement of the head wall, and assuming just  
7 for a minute that the head wall did move further, that fur-  
8 ther movement was detected, are you saying that you're really  
9 indifferent as to whether under those circumstances you re-  
10 place the head wall or you put in a French drain?

11 A I think the best measure would be replacing the head  
12 wall because then you would not have to monitor it from then  
13 on. If you put the French drain in, then you're still going  
14 to have to periodically monitor it to see if the head wall  
15 moves any more.

16 Q Would it make sense, though, if the head wall did  
17 move to look at both alternatives at that time to develop  
18 cost estimates and to take cost into consideration in de-  
19 termining which alternative to pursue?

20 A I would rather not get into which cost is better  
21 than what cost right now. I think it would be which is the  
22 best method to maintain the safety of the public using the  
23 highway at this point in time. I mean it's rather nebulous  
24 right now what we're picking at. So I would opt for the  
25 safest measure being used.

1 Q But either one could be used, either replacement of  
2 the head wall or installation of a French drain?

3 A Either method could be used. One just slows down  
4 the process and one fixes the problem.

5 MR. GENTILE: I understand. That's all I have.

6 JUDGE CORBETT: Any redirect, Mr. Salapa?

7 MR. SALAPA: One or two questions.

8 REDIRECT EXAMINATION

9 BY MR. SALAPA:

10 Q Mr. Fischer, would which alternative was possible,  
11 either the French drain or a new head wall, depend to a cer-  
12 tain extent on how far the head wall moves?

13 A Yes.

14 Q In other words, were the head wall to move out a  
15 certain distance, it may not be advisable to put a French  
16 drain in there in order to divert water because of a piece of  
17 concrete falling off?

18 A Right.

19 MR. SALAPA: Thank you. That's all I have.

20 JUDGE CORBETT: Anything further?

21 RE CROSS EXAMINATION

22 BY MR. GENTILE:

23 Q And that would depend on whether movement occurred  
24 and how much movement occurred?

25 A And how fast.

1 Q Yes.

2 A Yes.

3 Q In other words, we'd have to wait until some move-  
4 ment was detected in order to determine what to do about it?

5 A Right, yes.

6 MR. GENTILE: That's all.

7 JUDGE CORBETT: Anything further?

8 MR. SALAPA: No, your Honor.

9 JUDGE CORBETT: Thank you very much, Mr. Fischer. Does  
10 that conclude your case, Mr. Salapa?

11 MR. SALAPA: Yes, it does, your Honor.

12 JUDGE CORBETT: Does any other party desire to submit  
13 any additional testimony, exhibits, or proposals relevant to  
14 this proceeding?

15 MS. D'ALPHONSO: Your Honor, as a further statement of  
16 counsel perhaps, the Department has been directed to maintain  
17 the existing public highway shoulder guiderails and drainage  
18 structures within the legal right-of-way of the subject  
19 crossing. That's in paragraph four of the 1992 order of the  
20 Commission.

21 I was remiss in asking the witness but I will make the  
22 statement in terms that the Department will do that at its  
23 sole cost and expense and will not oppose an order directing  
24 such.

25 JUDGE CORBETT: Anything else?

1 (No response.)

2 JUDGE CORBETT: Yesterday I received a letter from the  
3 Allegheny County Assistant County Solicitor. And I'll just  
4 briefly read this into the record. It says, "Dear Judge  
5 Corbett: Allegheny County has received notice of a hearing  
6 scheduled for Wednesday, January 29, 1997 in the above cap-  
7 tioned matter. Upon a review of the file, the county has  
8 determined that it has no material interest in the proceed-  
9 ings. Therefore, the county does not intend to be present at  
10 the hearing on Wednesday, January 29, 1997. Thank you very  
11 much for your consideration in this matter. Very truly  
12 yours, Howard M. Louik, Assistant County solicitor."

13 There's been mention made throughout the hearing this  
14 morning of the 1992 in-depth inspection report. It's my  
15 understanding that B&L filed that with the Commission some-  
16 time after the Commission entered its order on September 4  
17 of 1992. That may be on file with the Commission but if it  
18 is, it's in the file room in Harrisburg. And it may be help-  
19 ful to me to have a copy of it for my use. It may be better  
20 to handle this as an exhibit.

21 Mr. Gentile, if you would, do you have a copy of that  
22 report available to you? It doesn't have to be this morning  
23 but do you have access to that?

24 MR. GENTILE: Certainly, your Honor, and we'll furnish  
25 that to you.

1 JUDGE CORBETT: All right.

2 MR. GENTILE: And to the other parties in the proceed-  
3 ings.

4 JUDGE CORBETT: All right, why don't you do that? Mark  
5 it as B&LE Exhibit Eight. And if there are no objections to  
6 its admission, it will be admitted as a late filed exhibit in  
7 the case.

8 MR. SALAPA: No objection, your Honor.

9 MS. D'ALPHONSO: No objection.

10 JUDGE CORBETT: I hesitate to do this but I'd still  
11 like to get the position of the parties. I think it would be  
12 worthwhile to have the parties file briefs just to summarize  
13 what their positions are in lieu of closing statements this  
14 morning. So what I'll do is I'll wait until the transcript  
15 comes from this morning's hearing.

16 The transcript should arrive probably within the next  
17 three or four weeks. As soon as that transcript comes in,  
18 I'll send out a letter to the parties advising the parties  
19 that the main briefs will be filed by all parties at the same  
20 time. They'll be due within 30 days of the date of my brief-  
21 ing letter. The reply briefs are to be filed within 15 days  
22 after that.

23 The record will close upon receipt of the reply briefs  
24 and then I'll sit down and draft a recommended decision, as  
25 my schedule permits.

1           One additional thing; I would ask that the parties -  
2 let's put it this way. I would prefer that the parties file  
3 main briefs and then file reply briefs. I do not want to  
4 receive a reply brief from a party if the party has not filed  
5 a main brief. I don't think that - I think the parties  
6 should have an opportunity to respond to each other's posi-  
7 tions. So for that reason, I'm asking that if you're going  
8 to file briefs, you have to file main briefs. If you don't  
9 want to file a reply brief, that's fine. But at least give  
10 the other parties the opportunity to respond.

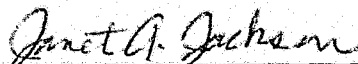
11           Anything else? Any questions or anything before we  
12 adjourn for this morning?

13           (No response.)

14           JUDGE CORBETT: Thank you, everyone. And you'll re-  
15 ceive my decision in due course.

16           (Whereupon, at 11:10 a.m., the hearing recessed.)  
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1 I HEREBY CERTIFY that the evidence and proceedings had  
2 are contained fully and accurately fully and accurately in  
3 the stenographic notes taken by me during the hearing of the  
4 within cause, and that this is a true and correct transcript  
5 of the same.

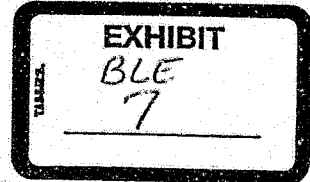
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JANET A. JACKSON,  
Court Reporter

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9  
10 The foregoing certification of this transcript does not  
11 apply to any reproduction of the same by any means unless  
12 under the direct control and/or supervision of the certifying  
reporter.

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Doc Note 00913419  
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112919  
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BESSEMER AND LAKE ERIE RAILROAD COMPANY RESPONSES TO QUESTIONS  
AND PROCEDURE PREPARED BY THE BUREAU OF TRANSPORTATION & SAFETY  
C-00913419

- 1. Bessemer and Lake Erie Railroad Company (B&LE) describe the general physical condition of the substructure and superstructure of the bridge and state whether there are any changes in the condition of the bridge since the Commission's September 4, 1992 order in this proceeding

The physical condition of the substructure and superstructure is good and has not changed since the PUC order of September 4, 1992. There are spalls on the southwest face of the arch, the southwest end of the barrel and 10' in from the southeast end of the barrel. Additionally, there is some spalling at construction joints 20' and 30' in from the west end. The west spandrel wall is cracked on the south end. All of these conditions existed in 1992.

- 2. B&LE submit the most recent bridge inspection report of the subject structure.

See attached.

- 3. B&LE state its recommendations as a result of the most recent inspection report as to any alterations or repairs to the structure that it deems necessary to maintain a safe crossing at this location and what portion of any such alterations it would agree to perform.

The latest inspection report dated 6/24/96 recommended clearing brush from wingwalls and top of arch because it was hanging over the road. B&LE agrees to perform this work.

- 4. B&LE state the nature and type, extent, date, cost and any pertinent specific details as to any recorded substantial items of maintenance and/or repair performed on the existing structure by the Railroad or its contractor since the Commission's September 4, 1992 order in this proceeding.

None. Maintenance of Way reports no record of any significant time spent maintaining or repairing this arch since September, 1992.

Please note that a review of B&LE Claims Department Records reveals that since the September 4, 1992 PUC Order, no complaints, concerns or claims of any nature have been submitted to the B&LE regarding the Republic Arch.

DOCUMENT  
FOLDER

DOCKETED  
FEB 20 1997

BUT	ANGLE	HL	HAIRLINE
/	ABUTMENT	HORZ	HORIZONTAL
RWL	BOTTOM	HR	HANDRAIL
M	BACKWALL	HVY	HEAVY
NT	BEAM	Hwy	HIGHWAY
RAC	BENT	I&C	NOT OWNED BY RAILROAD
R	BRACING	IN	INLET END
RG	BRIDGE	IS	INSIDE
TWN	BEARING	INT	INTERIOR OR INTERMEDIATE
ULKHD	BETWEEN	JT	JOINT
	BULKHEAD	LAT	LATERAL
	CENTER	LT	LIGHT
L	CENTERLINE	MED	MEDIUM
ONC	CONCRETE	MOD	MODERATE
ONST	CONSTRUCTION	N	NORTH
ONN	CONNECTION	NB	NORTHBOUND
OR/REST	CORROSION RESISTANT	NC	NO CHANGE
JV	COVER	OUT	OUTLET END
RKD	CRACKED	OS	OUTSIDE
BL	DOUBLE	PL L	PLATE
IA	DIAGONAL	REPL	REPLACE
K	DECK	REPR	REPAIR
KBM	DECK BEAM	R/W	RIGHT-OF-WAY
/W	DRIVEWAY	S	SOUTH
	EAST	SB	SOUTHBOUND
B	EASTBOUND	SEC	SECTION
FFLOR	EFFLORESCENCE	SP	SPAN
KP	EXPOSED OR EXPANSION	STIF	STIFFENER
XT	EXTERIOR	STRG	STRINGER
AST	FASTENER	SVE	SEVERE
LBM	FLOORBEAM	T/	TOP
LG	FLANGE	TRK	TRACK
LR	FLOOR	VERT	VERTICAL
ID	FOUNDATION	W	WEST
DR	GIRDER	WB	WESTBOUND
JS	GUSSET	W/	WITH
)	HEAD	X-FRAME	CROSS OR SWAY FRAME
XWL	HEADWALL		

COLUMN DESCRIPTIONS

NO.	Bridge Number
BRIDGE NAME	Bridge Name
DATE INSP	Date of Last Inspection
AR	See Below
WORK ITEM/REMARKS	Inspection Notes or Work Items

AR

Designation used to determine the type of work year or completed work year for the corresponding mark.

- 1 Field note only, used for condition found on structure.
- X" Example: 93 used to replace the number 1 to indicate the year in which additional notes on the structure were added.
- 00 Miscellaneous work item, repair work required on structure.
- XX Example: 1093 used to replace the 1000 number to indicate the year (93) in which the work item was added.
- \*XX Example: 9992 indicates the year that work was performed as stated under the remark column.
- \*\*XX Example: 1994 indicates the year that the work items/remarks are to be performed, with a priority on such noted items.

YE

WORK /REMARKS

1 N HAUNCH GDR VERT CLIP < BUCKLING @ E BENT  
 1 E BKWL CRKD @ CENTER W/SVE DETERIORATION  
 1 STRGS TIGHT AGAINST E BKWL  
 1 UNDERMINING @ N END E ABUT  
 1 END SWAY FRAME @ E ABUT: <'S 100% SEC LOSS  
 9994 REPR NW ABUT SECTION UNDER BRG SVE DETERIORATION  
 94 CONC ABUT BRGS POOR:CONC CRUMBLING  
 1 GDRS OVER TRK: B/FLG RIPPLING BETWEEN RIVETS DUE TO RUST  
 PACKING  
 1 SVE RUSTING W/100% RUSTING OF GDRS OF TRK SPAN  
 1 TRK SPAN S GDR: INT T/FLG < CRKD NEAR W END

BRIDGE # 5.87

BRIDGE NAME DBL CONC ARCH BR #13

DATE INSPECTED 06/12/95

SPAN #:

1093 CLEAN DEBRIS @ INLET W/CRAWLER LOADER  
 1 CRACKS BETWEEN ARCHES @ E FACE  
 1 N BARRELL IS PLUGGED AT INLET  
 9994 REMOVE TREES FROM INLET (CMD NOTIFIED)

BRIDGE # 6.54

BRIDGE NAME RURAL RIDGE ARCH

DATE INSPECTED 06/24/96

SPAN #:

1 MED-HVY SCALING W/EFFLOR

BRIDGE # 7.77

BRIDGE NAME DBL CONC ARCH BR #12

DATE INSPECTED 06/24/96

PAN #:

93 NO CHANGE SINCE IN-DEPTH INSP & TESTING FOR PUC- SEE  
 REPORT ON STRUCTURE  
 1 HAIRLINE CRACKS, HVY SCALING & EFFLOR THRUOUT  
 1 OPEN CRACKS @ W FACE (MONITOR)  
 1 LT-MOD SCOUR @ BASE OF S BSL WALLS (HVY @ SW)  
 1 EROSION @ SW WING TO B/CONC - NO UNDERCUTTING  
 9996 CLEARANCE SIGN MISSING ON E-FACE - REPLACED  
 9996 SCALE, ESPECIALLY W-FACE S-SIDE ROAD  
 94 T/W-FACE MONITORING CHECKED, NO SIGNIFICANT CHANGE  
 1996 CLEAR BRUSH FROM WINGWALLS AND TOP OF ARCH - HANGING OVER  
 ROAD

BRIDGE # 8.05

BRIDGE NAME REPUBLIC #2 STEEL BR

DATE INSPECTED 06/23/95

PAN #:

1 OUT OF SERVICE

BRIDGE # 9.67

BRIDGE NAME CREG/RUSLT UG

DATE INSPECTED 06/19/96

PAN #:

9994 EXTEND BALLAST RETAINERS: WALKS COVERED  
 1 SCALING @ NW ABUT T/CONST JT & NE WING  
 1 SVE SCALING @ SE BKWL EXTENSION  
 9994 BALLAST ON WALK PUSHING OUT PELLET PROTECTION AND FALLING  
 ON ROAD - REMOVED BALLAST  
 96 WATER RUNNING UNDER SE-BRG W/SEC LOSS ON B/FLG

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of January, 1997, I am serving by first class, United States mail, postage prepaid, a copy of the foregoing document upon the parties of record listed below:

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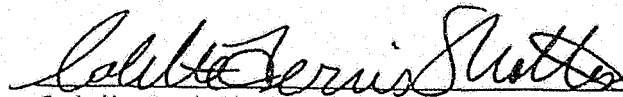
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