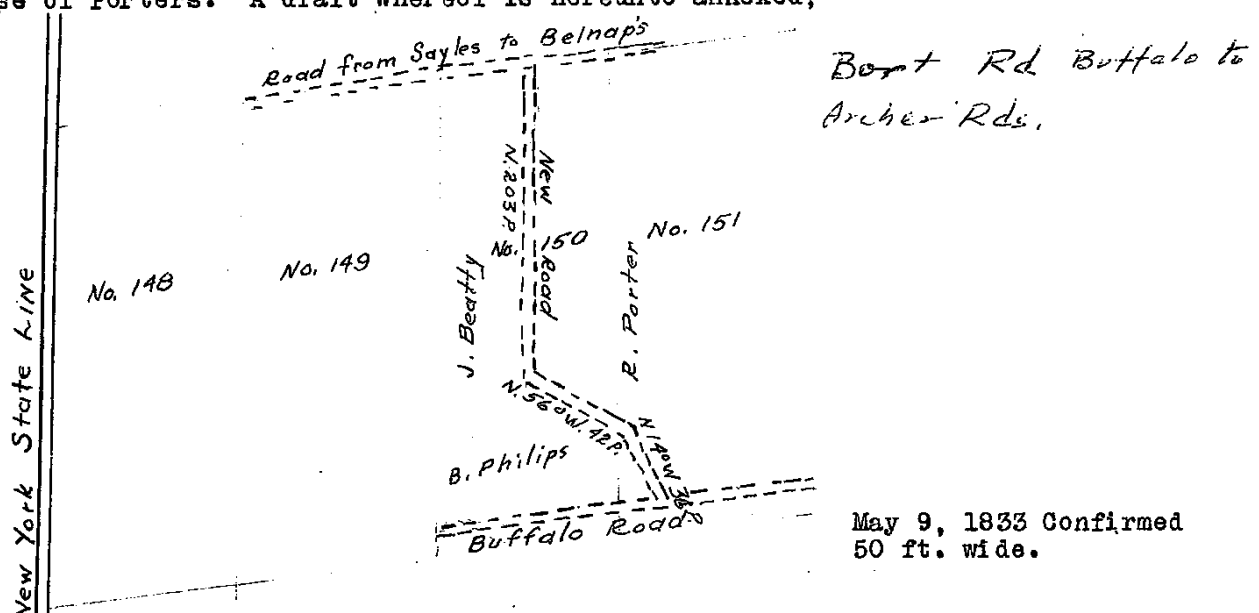


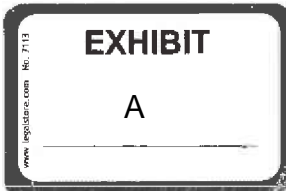
NORTH EAST TOWNSHIP.

At a Court of Quarter Sessions held at Erie in and for the County of Erie,
Nov. 8, 1832. Upon the petition of sundry inhabitants of the township of North
East. The Court do order and appoint persons to view and lay out a Road in
said County.

We the persons appointed by the within order of Court to view and lay out
the Road therein mentioned having first been sworn as the Law directs. Do re-
port that in pursuance of the said order We have viewed laid out and do return
for public use the following Road to wit:- Beginning at the South West Corner
of John Beatty's land on the Road leading from Sayles to Belnaps at a post
from thence North two hundred and three perches to a post or land of Phillips
from thence North fifty-six degrees. West forty-two perches to a post, thence
North fourteen degrees. West thirty-six perches to the Buffalo Road near to the
house of Porters. A draft whereof is hereunto annexed;-



May 9, 1833 Confirmed
50 ft. wide.



PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Public Meeting held October 27, 1988

Commissioners Present:

Bill Shane, Chairman
William H. Smith, Vice Chairman
Linda C. Talliferro, Commissioner
Joseph Rhodes, Jr., Commissioner
Frank Fischl, Commissioner

DOCUMENT
FOLDER

Investigation upon the Commission's
own motion into matters pertaining to
the maintenance of the rail-highway
crossing (AAR 524 035 A) carrying Bort
Road (R-786) over and above the grade
of the tracks of Consolidated Rail
Corporation, in North East Township,
Allegheny County.

I-870042

DOCKETED

NOV 17 1988

ORDER

BY THE COMMISSION:

We adopt as our action the Recommended Decision of
Administrative Law Judge Michael A. Nemeec dated August 29, 1988;
THEREFORE,

IT IS ORDERED:

1. That the posting of the structure for 12 ton single and
17 ton combination vehicles as existing at the crossing, be and
is hereby approved.

2. That Consolidated Rail Corporation, at its sole
cost and expense, furnish all material and do all work necessary
to maintain the entire sub and superstructure of the bridge at
the posted maximum load limits, except bituminous surface course
if any on the deck, in a safe and satisfactory condition.

EXHIBIT

C

3. That North East Township, at its sole cost and expense, furnish all material and do all work necessary to maintain the approach roadways to the structure as well as bituminous surface course, if any on the deck, in a safe and satisfactory condition.

4. That the costs incurred by the parties, if any, in performing work at the crossing in accordance with the previous orders of the Commission issued in this proceeding, be borne by the parties involved.

BY THE COMMISSION,



Jerry Rich
Secretary

APPROVED: October 27, 1988

APPROVED: OCT 31 1988

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation upon the Commission's : I-870042
own motion into matters pertaining to :
the maintenance of the rail-highway :
crossing (AAR 524 035 A) carrying Bort :
Road (T-780) over and above the grade :
of the tracks of Consolidated Rail :
Corporation, in North East Township, :
Erie County. :

RECOMMENDED DECISION

Before
Michael A. Nemeo
Administrative Law Judge

History of the Proceeding

The present investigation was instituted by order of this Commission adopted June 25, 1987, and entered July 10, 1987. The order recounts that the subject structure is presently posted, but no Commission order has directed such posting. The order assigned interim maintenance responsibility to the Consolidated Rail Corp. for the structure and to North East Township for any bituminous road surface.,

The hearing in the investigation was held on June 9, 1988, in Erie. The resulting record consists of a 34 page transcript and one Commission exhibit. No briefs were requested or filed.



NET 000003

Summary of the Testimony

Mr. W. R. Addison, senior civil engineer for Consolidated Rail Corp., testified that Conrail owns and operates two main line tracks at the crossing site which are not electrified. Train Traffic averages 50 freight trains at authorized maximum speeds of 50 and 70 miles per hour, and two Amtrak passenger trains at an authorized maximum speed of 79 miles per hour. No change in operations is currently contemplated. (Tr. 5-7)

Mr. Addison stated Conrail has had no prior responsibility for the subject bridge. He described the structure as consisting of three spans with a single traffic lane and a total length of 151 feet. The main span over Conrail's tracks is a through girder while the approach spans are supported by steel I-beams. The floor system is made up of timber stringers with a plank deck. He described the bridge as being in good condition. (Tr. 7)

Mr. Addison described the location of the bridge as being mainly rural. However, some businesses are located along Route 20, about one hundred yards north of the bridge. On cross-examination, he stated that the former railroad had maintained the bridge in the past. Conrail has replaced one floor beam in the structure. Also the center span now has steel rather than timber floor beams. The structure is presently posted for 12

tons for single vehicles and 17 tons for combination vehicles. The cartway width is 16 feet. The bridge was built in 1905 by the Lake Shore and Michigan Southern Railroad. (Tr. 7-12)

Mr. Frank Fenton, supervisor and road master for North East Township, testified that the Township has never maintained the subject bridge, and will not agree to do so in the future. He recounted that the deck had been replaced within the ten years. He confirmed that the road crossing on the bridge, Bort Road, is a township road. Bort Road is less than a mile in length but is vital to the local grape growers. Bort road is maintained by the Township which includes removal of snow and ice. Bort Road, which is also known as Township Road 780, is crossed by I-90 just south of the subject crossing. Bort Road connects to Township Road 773 (Archer Road) at its Southern end, and to Traffic Route 20 at its northern end. The present posting was done by the Township, but Mr. Fenton could not recall whether it was done at the request of Erie County or the Pennsylvania Department of Transportation. (Tr. 12-22)

Mr. Jeffrey E. Spaulding, a Planner with the Erie County Planning Department, testified that the County has never had maintenance responsibility for the subject bridge and would not agree to assume such responsibility. (Tr. 22-25)

Mr. David W. Ruhlman, grade crossing engineer for the Pennsylvania Department of Transportation, testified that the

Department had no maintenance responsibility for the subject structure and would not willingly assume any responsibility. (Tr. 26-27)

Mr. Donald R. Fleisher, civil engineer in the Commission's rail safety division sponsored as an exhibit a copy of a report made to the Commission by the Penn Central Company in 1968 which indicated that the Penn Central was maintaining the subject structure. He recommended that Conrail be assigned on-going maintenance responsibility for the bridge. He also noted that Bort Road crosses tracks of the Norfolk Southern Railroad at grade some 150 feet south of the subject crossing. He agreed that the subject structure is listed on the so-called Billion Dollar Bridge Bill for replacement. (Tr. 28-32, Pa. P.U.C. Ex. 1)

The Township was to make a late filed submission of the in-depth inspection report prepared as a part of PennDOT bridge inspection program. I am not aware of the Township submitting such a report as of this date.

Findings of Fact ,

1. The structure carrying Bort Road, or Township Road 780, over and above the grade of two tracks owned and operated by the Consolidated Rail Corporation in North East Township, Erie County, was built in 1905 by the Lake Shore and Michigan Southern Railroad.

2. The subject structure consists of three spans with a total length of 151 feet. The center span over Conrail's tracks is a through girder while the approach spans are made up of steel I-beams and timber stringers. The center span has steel floor beams. The entire bridge has a timber deck.

3. The subject structure crosses two Conrail tracks on which the average daily train traffic consists of 50 freight trains and 2 Amtrak passenger trains with maximum allowed speeds of 50 to 79 miles per hour.

4. Bort Road connects Township Road 773 (Archer Road) at its Southern end to Traffic Route 20 at its northern end.

5. Bort Road is an important means of travel to local grape growers.

6. The subject structure is in generally good condition.

7. The subject structure is presently posted for 12 tons for single vehicles and 17 tons for combination vehicles, but no Commission order has directed such posting.

Discussion

The record in this proceeding indicates that the subject structure is in fair condition. It is capable of carrying 12 ton single and 17 ton combination vehicles for which it is presently posted although without a formal Commission order. The posting is appropriate and will be allowed to stand.

No repair work needs to be performed at the crossing and none will be ordered.

Maintenance responsibilities of the structure will be assigned to Conrail. The structure was built and maintained by the operating railroads. Conrail is the appropriate party to bear this responsibility at this time. Maintenance of the approach roadways and the bituminous surface, if any, on the structure will be assigned to North East Township.

Conclusions of Law

1. This Commission has, pursuant to Section 2702 of the Public Utility Code, 66 Pa. C.S.A. §2702, jurisdiction over the parties to and subject matter of this proceeding.

2. The subject structure was posted without the permission or authority of this Commission.

Recommended Order

In consideration of the foregoing it is ordered (subject to Commission approval):

1. That the posting of the structure for 12 ton single and 17 ton combination vehicles as existing at the crossing, be and is hereby approved.

2. That Consolidated Rail Corporation, at its sole cost and expense, furnish all material and do all work necessary to maintain the entire sub and superstructure of the bridge at

the posted maximum load limits, except bituminous surface course if any on the deck, in a safe and satisfactory condition.

3. That North East Township, at its sole cost and expense, furnish all material and do all work necessary to maintain the approach roadways to the structure as well as bituminous surface course, if any on the deck, in a safe and satisfactory condition.

4. That the costs incurred by the parties, if any, in performing work at the crossing in accordance with the previous orders of the Commission issued in this proceeding, be borne by the parties involved.

August 29, 1988



MICHAEL A. NEMEC
Administrative Law Judge