

PUBLIC UTILITY COMMISSION
COMMONWEALTH OF PENNSYLVANIA

OCT 30 11 58 AM '80

VILLANOVA UNIVERSITY

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

vs.

NATIONAL RAILROAD PASSENGER CORPORATION : DOCKET NUMBER
(AMTRAK), CONSOLIDATED RAIL CORPORATION, : C-80011839
SOUTHEASTERN PENNSYLVANIA TRANSPORTA- :
TION AUTHORITY (SEPTA), PENNSYLVANIA :
DEPARTMENT OF TRANSPORTATION, COUNTY OF :
DELAWARE, AND RADNOR TOWNSHIP :

Alleging that respondents have failed to
construct a safe and appropriate
crossing where Route 320 (Spring Mill
Road) crosses over and above railway
tracks in Radnor Township, Delaware
County.

Hearing.

Hearing Room 2
State Office Building
Broad & Spring Garden Streets
Philadelphia, Pennsylvania

Tuesday, October 7, 1980

The above-entitled matter met pursuant to
notice at 10:00 A.M.

BEFORE: MARTIN R. FOUNTAIN
Administrative Law Judge

DOCKETED

OCT 29 1980



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I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>RE-DIRECT</u>	<u>RE-CROSS</u>
Father John Edward Deegan	4	36	57	63
Alfred K. Velter	68	80	-	-
Ronald Flagel	104	108	-	-
Richard H. Cooper	118	130	140	-
Roger W. Heebner	142	143	-	-
Bartholomew W. McQuoid	146	148	-	-
Charles B. Guernsey	155	-	-	-

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE MARKED</u>	<u>PAGE REC'D.</u>
✓ C-1	U.S. Geodetic Survey Map	5	35
✓ C-2	Diagram	7	35
✓ C-3	Photographs	9	35
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1 PROCEEDINGS

2 - - - - -

3 FATHER JOHN EDWARD DEEGAN, was exam-
4 ined and testified as follows:

5 - - - - -

6 DIRECT EXAMINATION

7 - - - - -

8 BY MR. PATTERSON:

9 Q Would you state your name and address for the
10 record, please?

11 A My name is Father John Edward Deegan. I am Vice-
12 President for Student Life, Villanova University,
13 Villanova, Pennsylvania.

14 Q And what are your duties and responsibilities as
15 Vice President of Student Life at the University?

16 A Vice-President for Student Life is in charge of
17 the life, developmental life, of the students outside
18 of the academic classroom.

19 The offices that report to my office are
20 the Dean of Men, Dean of Women who are in charge of
21 disciplinary and housing functions for the University.
22 Also reporting to me are the Director of Counseling
23 Services, Career Development Services, the University's
24 physician and infirmary staff, the Dean for activities,
25 student activities, programming for the University, the

1 International Student Adviser, and the Campus Ministry
2 Office.

3 Q Do you come into contact with questions of stu-
4 dent safety?

5 A Yes, I do.

6 Q Is that part of your duties and responsibilities?

7 A Yes, it would be, safety on campus and in the
8 vicinity.

9 Q Are you familiar with the complaint now docketed
10 with the Commission out of which this proceeding has
11 grown?

12 A Yes, I am.

13 Q Are you familiar with the geographical area which
14 is the subject matter of the complaint?

15 A Yes, I am.

16 Q Have you prepared or had prepared a copy of a
17 portion of a U.S. Geodetic Survey Map showing in rela-
18 tionship to some of the surrounding communities the
19 location of the underpass and crossing of the right-of-
20 way, the railroad right-of-way involved in this pro-
21 ceeding?

22 A Yes, we have.

23 MR. PATTERSON: Your Honor, may we
24 have this identified as Complainant's
25 Exhibit 1, C-1?

1 JUDGE FOUNTAIN: Mark it C-1.

2 (The document referred to was marked
3 as Complainant's Exhibit No. 1 for identi-
4 fication.)

5 BY MR. PATTERSON:

6 Q Father Deegan, is the document, the map that has
7 been placed in front of you and marked as Complainant's
8 Exhibit 1 or C-1, a Xeroxed copy of a U.S. Cost and
9 Geological Survey Map of the territory involved at
10 Villanova University?

11 A Yes, it is.

12 Q And is a copy of the overall map available in the
13 Hearing Room for inspection if need be?

14 A Yes.

15 Q I note that on the map there is an orange circle
16 drawn. Would you describe within that circle what is
17 located?

18 A Within the circle is the acreage that belongs to
19 Villanova University. It shows the University being
20 surrounded by Route 30, Lancaster Pike, and 320, Spring
21 Mill Road. It also shows on the main campus the
22 buildings that are central to the University. They are
23 bounded by Route 320 and the railroad, Penn Central
24 tracks.

25 Also it shows on the other side of the

1 tracks, two buildings. The large building being the
2 School of Nursing and a dormitory area and the building
3 on the south side of 320 being the University's Law
4 School building.

5 Q Now, sir, I show you another map or diagram more
6 accurately showing something called Spring Mill Road on
7 it. Do you recognize that document?

8 A Yes, I do.

9 JUDGE FOUNTAIN: Mark it C-2.

10 (The document referred to was marked
11 as Complainant's Exhibit No. C-2 for
12 identification.)

13 BY MR. PATTERSON:

14 Q I marked as C-2 a diagram showing various geo-
15 graphical building configurations in the immediate
16 vicinity of the rail crossing. Now, Father Deegan,
17 from what document was this copy that has been identi-
18 fied as Exhibit C-2 prepared?

19 A This was copied from a blueprint that the Univer-
20 sity Maintenance Department supplied us of the main
21 campus. It is a portion thereof.

22 Q And is a copy of the blueprint in the Hearing
23 Room for examination?

24 A Yes, sir.

25 Q Now, sir, in the right center of the map there

1 are several buildings connected by what appears to be a
2 tunnel or overpass. Could you describe what that is?

3 A Yes, those buildings are the railroad station
4 adjoining the house or former ticket office on either
5 side in an east/west direction to the railroad tracks.

6 Q Now, running horizontally across this diagram are
7 four lines. What do those lines represent?

8 A They would represent the tracks of the railroad.

9 Q And how many tracks are there at that location?

10 A There are four to the best of my knowledge.

11 JUDGE FOUNTAIN: Was that an overpass
12 or underpass?

13 MR. ZAHN: Underpass.

14 JUDGE FOUNTAIN: That's an underpass?

15 THE WITNESS: This is an underpass,
16 Your Honor, yes.

17 BY MR. PATTERSON:

18 Q Now, to the left of the diagram of the station
19 there is the road Spring Mill Road and what appears to
20 be a bridge over the tracks; is that correct?

21 A That's correct.

22 Q Now, in relationship to this map where is the
23 main portion, to this diagram, where is the main por-
24 tion of the Villanova campus?

25 A In relationship to this map it would be on the

1 south side.

2 Q That would be on the right bottom of this dia-
3 gram?

4 A That's correct.

5 Q Are there other portions of the Villanova campus
6 on the other side of the railroad tracks?

7 A Yes, there are. The Nursing School and the
8 resident hall to which I referred is on that side, the
9 north side of the tracks, as well as a tract of prop-
10 erty which we call the former Morris Estate which now
11 belongs to the University, but is not zoned institu-
12 tional.

13 Q Now, have you caused to be prepared some aerial
14 photographs of the Villanova campus taken from the
15 south side, in essence the right bottom of Exhibit C-2?

16 A Yes, I have.

17 Q For use as exhibits at this proceeding?

18 A Yes.

19 MR. PATTERSON: Your Honor, as Exhibit
20 C-3 I have a two-page document containing
21 two aerial photographs.

22 JUDGE FOUNTAIN: Mark it C-3.

23 (The documents referred to were marked
24 as Complainant's Exhibit No. 3 for identi-
25 fication.)

1 BY MR. PATTERSON:

2 Q Are the original photographs in the Hearing Room
3 for anyone who has difficulty reading through the
4 Xerox?

5 A Yes, they are, luckily.

6 Q I will place them on your hearing table.

7 MR. PATTERSON: Your Honor, do you
8 wish to see them?

9 JUDGE FOUNTAIN: Do I have use for
10 them? I can pretty well make out from the
11 copies.

12 These are just Xeroxed copies?

13 MR. PATTERSON: Yes, sir.

14 BY MR. PATTERSON:

15 Q Now, is the photograph on the top of Exhibit C-3
16 taken looking from south to north?

17 A It is.

18 Q And there is a circle in the left upper middle of
19 the first photograph making up Exhibit C-3. What does
20 that circle indicate, sir?

21 A That circle indicates the location of the over-
22 pass of 320 of the railroad tracks in relationship
23 between the Saint Mary's Hall, the nursing building,
24 and the main part of the campus which would be in the
25 foreground.

1 Q And the second photograph making up Exhibit C-3,
2 there is a circle in the lower left-hand corner. What
3 does that illustrate?

4 A That illustrates again the railroad overpass as
5 well as the railroad tracks and the contiguous train
6 station.

7 Q And the second photograph, I take it, is taken
8 from the opposite direction looking south; is that
9 correct?

10 A That's correct.

11 JUDGE FOUNTAIN: Is that looking north
12 to south?

13 MR. PATTERSON: The second one is
14 looking north to south. The first one is
15 south to north.

16 BY MR. PATTERSON:

17 Q Now, sir, coming down closer to the area in
18 question, have you caused three photographs to be taken
19 of the grade level of the tracks at the pedestrian
20 underpass area?

21 A I have.

22 Q And two photographs of the underpass itself?

23 A I have.

24 MR. PATTERSON: May we have those
25 marked as Exhibit C-4, sir?

1 JUDGE FOUNTAIN: Mark them C-4.

2 (The documents referred to were marked
3 as Complainant's Exhibit No. C-4 for
4 identification.)

5 BY MR. PATTERSON:

6 Q And are the originals of C-4 in the Hearing Room,
7 sir?

8 A Yes, they are.

9 Q Now, starting from the top photograph and going
10 down through the second photograph, would you explain
11 what they show?

12 A This will be a shot of the railroad station
13 looking from the west side of the tracks. It indicates
14 the tracks, the four tracks, we mentioned earlier, the
15 fence which separates the tracks from one side to the
16 other, and the location of the stairs going down to the
17 underpass.

18 Q The second photograph making up Exhibit C-4?

19 A The second photograph is a picture of the tunnel
20 itself, the underpass. I am not too sure which direc-
21 tion that is going in.

22 Q Both of them are of the tunnel?

23 A That's correct, sir.

24 Q When were they taken, sir?

25 A They were taken last Friday.

1 Q Have you caused three photographs to be taken and
2 prepared for use as an exhibit in this proceeding of
3 the Route 320 bridge over the Lionel Railroad?

4 A I have.

5 MR. PATTERSON: Your Honor, as Exhibit
6 C-5 I have another series of three photo-
7 graphs and this completes our photographs.

8 (The documents referred to were marked
9 as Complainant's Exhibit No. 5 for identi-
10 fication.)

11 BY MR. PATTERSON:

12 Q When were the photographs which make up Exhibit
13 C-5 taken?

14 A These were also taken last Friday.

15 Q And would you just briefly describe what they
16 show?

17 A The first photo shows a shot of the overpass
18 going from east --

19 Q Take a look at your map.

20 A East, I believe it would be, east to west.

21 JUDGE FOUNTAIN: That's Spring Mill
22 Road?

23 THE WITNESS: That's Spring Mill Road,
24 320. It indicates on the map -- there is
25 an asterisk indicating -- where the picture

1 was taken.

2 BY MR. PATTERSON:

3 Q To clear that up, on the diagram marked as Exhib-
4 it C-2 is there an asterisk put on the diagram at the
5 junction of Spring Mill Road and the bridge?

6 A There is.

7 Q And is that where the young men who are standing
8 in the photographs marked as Exhibit C-5 are standing?

9 A It is, correct.

10 The second photo shows just a projection
11 there and the third photograph shows pedestrians in
12 two-way traffic across the bridge going from east to
13 west.

14 Q Is there any sidewalk on the bridge at all, sir?

15 A No, there is not.

16 Q Is there room for a sidewalk on the bridge?

17 A No, there is not.

18 Q What events or circumstances, Father Deegan,
19 motivated the filing of this complaint with the
20 Pennsylvania Public Utility Commission?

21 A Since my becoming Vice-President in 1976 students
22 have at various times complained about traffic safety
23 in crossing both Lancaster Pike which is Route 30 and
24 Spring Mill Road, Route 320. Also there have been
25 complaints at various times about the condition of the

1 tunnel, especially at times when it did flood. These
2 were ongoing complaints and the students at various
3 times, depending upon the urgency of the matter, would
4 discuss in their various committees with me and also
5 in the University Senate ways of alleviating this
6 difficulty.

7 Q Now, directing yourself -- forgetting about
8 Lancaster Pike --

9 A Yes.

10 Q And directing yourself to the subject matter of
11 this complaint, would you go ahead and continue?

12 A The students have on a number of occasions
13 brought to my attention their inability to be able to
14 cross the railroad overpass because of the very narrow-
15 ness of the bridge and the lack of any pedestrian
16 crossway. When they were going back and forth between
17 Saint Mary's which is the Nursing School on the north
18 and their School of Engineering or Naval Science.

19 JUDGE FOUNTAIN: What do they do,
20 Father? They usually walk the distance
21 between the buildings or what?

22 THE WITNESS: Yes, there is no means
23 of travel except for walking on the part of
24 these students.

25 MR. ZAHN: Excuse me, just so I

1 understand, you said the Naval Science,
2 which side of 320 is that on?

3 THE WITNESS: Naval Science would be
4 on your south side, I believe, and the main
5 part of the campus, so it would be up from
6 your --

7 MR. ZAHN: Which part of Spring Mill
8 Road, just south of the School of Nursing
9 or the opposite side?

10 THE WITNESS: The opposite side,
11 southeast side.

12 BY MR. PATTERSON:

13 Q Take a look at Exhibit C-2 which is the diagram.
14 If I understand correctly and agree with me if you would to
15 save time, the campus is divided among other things by
16 the railroad tracks shown on the diagram. On the
17 lower part of the diagram, the side where the words
18 "metered parking" and "parking" appear on the lower
19 part, that is the location of the main campus of the
20 University?

21 A That is correct.

22 Q On the upper part of the diagram or in the north-
23 ward direction there are other buildings, dormitories
24 and classrooms and so forth?

25 A That is correct.

1 Q What is located on the northern side of the
2 tracks that is part of the University?

3 A On the north part of the tracks as part of the
4 University we have the building that is called Saint
5 Mary's Hall which houses the School of Nursing, the
6 College of Nursing, the Speech Communications Depart-
7 ment, and a male residence hall for two hundred and
8 twenty students.

9 It also has playing areas, tennis courts,
10 a gymnasium and a swimming pool which are a part of the
11 intramural program at the University. Also on the
12 other side of the tracks is our School of Law, Garey
13 Hall. It's the School of Law which accommodates the
14 Law School and their library for approximately six
15 hundred and twenty-five students.

16 Q All right, sir, have you brought with you a
17 Villanova University brochure which in somewhat of an
18 easier to see manner illustrates how the University is
19 laid out in connection with the railroad tracks?

20 A Yes, I have.

21 MR. PATTERSON: Your Honor, as Exhibit
22 C-6 a brochure entitled "Villanova Univer-
23 sity."

24 (The document referred to was marked
25 as Complainant's Exhibit No. 6 for

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identification.)

BY MR. PATTERSON:

Q Now, Father, looking at the inside of Exhibit C-6 there is something called campus map. Does that illustrate the relative location of the buildings of the University in reference to the railroad tracks?

A Yes, it does. They point out No. 18 being Saint Mary's Hall, the College of Nursing, which I just described and No. 19, Garey Hall, the School of Law Administration. They are on the north side of the railroad tracks.

Q And there are four other buildings illustrated over there nominated A, B, C, and D. Are they shown on this as well?

A That is correct.

Q Are they all residence halls?

A They are -- presently two of the buildings are empty and two of them are housing seminarians.

Q Why are two empty?

A Because they need work and we do not have the proper zoning for residence halls.

Q Is it the intention of the University to eventually use them as resident halls?

A Yes, it is, resident and administration.

Q Before I interrupted you I had asked you and you

1 were answering a question with regard to how this com-
2 plaint came to be filed. You had indicated that there
3 were several meetings that the students had expressed
4 some concern and so forth. Would you continue on with
5 that explanation, please?

6 A These meetings are, as I said, sporadic depending
7 upon the interest of the students in crises. Unfortu-
8 nately, like many good movements, the accident causing
9 the death of one of our female students precipitated
10 concentrated effort on the part of all concerned to see
11 if we could alleviate some of the problems with regard
12 to the pedestrian traffic across the railroad tracks.
13 We, as a result of this tragic accident, we met with
14 representatives of the Township, Penn DOT, Amtrak,
15 Villanova officials and students, in order to see if we
16 could get some relief from what we thought was a
17 dangerous crossing area. These meetings took place in
18 October and November, 1979 at which time the interested
19 parties agreed on certain steps that they would take in
20 order to bring some relief both to the crossing or the
21 overpass as well as to the tunnel situation, as well as
22 general concerns of traffic safety.

23 The Amtrak people agreed to take a look at
24 their drainage system in the tunnel, to improve the
25 lighting, and to fix the surface, the walking surface

1 of the tunnel, and also to paint.

2 The University agreed to purchase and put
3 up a fence along the whole perimeter of the campus
4 which runs from the train station down to Ithan Avenue.
5 If you look at your map there where it says --

6 Q Which map are you referring to, sir?

7 JUDGE FOUNTAIN: C-6.

8 BY MR. PATTERSON:

9 Q C-6, the campus map?

10 A The campus map where it says "Villanova Station,"
11 approximately from Villanova Station all the way down
12 to -- past Building No. 28, 29, down to the corner
13 which is the corner of Ithan and County Line Road. We
14 have established a fence in order to prohibit people
15 from crossing the tracks and trying to get onto campus
16 in another way than through the tunnel or over the
17 bridge.

18 Q Did the University itself erect that fence?

19 A Yes, it did.

20 Q At approximately what cost?

21 A My estimate, and I didn't see the thing, but from
22 the conversations, meetings, about \$20,000 it cost us
23 to put up that fence.

24 Q All right, sir.

25 A The Penn DOT people attended the meetings and

1 gave us directions in terms of what needed to be done
2 in terms of traffic safety on 320, but the University
3 was requesting some type of stoplight there, a well
4 designated crosswalk, so that crossing from the north
5 side, the Saint Mary's Hall side to the main campus
6 would be done under the safest possible conditions.

7 The Township undertook studies of the
8 traffic volume in that area and agreed to work with us
9 in establishing the crosswalk and the traffic light.
10 The University determined that it would close their
11 gate which is very close to the overpass, move it up
12 the middle of the hill there opposite Saint Mary's Hall
13 in conjunction with the direction from Penn DOT and the
14 Township to put the light in that place.

15 Q Let me interrupt you for a minute, sir. If you
16 generally look at the diagram which is marked as C-2,
17 there is what appears to be a road or a path running
18 from the upper left of Exhibit C-2 and connecting with
19 Spring Mill Road opposite what appears to be the
20 parking lot for the train station. Do you see that?

21 A Yes.

22 Q Is there a gate there at that path, at the point
23 at which it meets Spring Mill Road?

24 A There is. Along that whole boundary with Spring
25 Mill Road on the north side there is a gate, an iron

1 fence rather, wrought iron, which has a gate. The
2 gate is located right at the end of that pathway.

3 Q And that is the gate that you indicated you would
4 close at the end so that a pedestrian crossing on 320
5 could be located further up than the exhibit shows on
6 Spring Mill Road on Route 320?

7 A That's correct.

8 Q That is past the top of the diagram; is that
9 correct?

10 A That's correct.

11 Q Sir, I interrupted you again, but continue if you
12 will.

13 A As a result of our meetings and our working to-
14 gether most of those requests have been accomplished
15 except for the present complaint that we now have be-
16 fore the PUC that is some kind of relief from what we
17 believe to be a dangerous crossing situation over the
18 bridge, the overpass or the railroad tracks.

19 JUDGE FOUNTAIN: The bridge over
20 Spring Mill Road?

21 THE WITNESS: That's correct.

22 BY MR. PATTERSON:

23 Q Now, sir, has one of the rail parties to this
24 proceeding erected additional fencing in the middle of
25 the four track right-of-way?

1 A They have. They have extended their fence which
2 is shown in your Exhibit C-4, they have extended that
3 fence to run the whole length of the concerned area of
4 crossing in order to make it more difficult for people
5 to cross at that point.

6 JUDGE FOUNTAIN: Which railroad party
7 specifically, do you know, Father?

8 THE WITNESS: I believe it would be
9 the Amtrak people.

10 BY MR. PATTERSON:

11 Q Do you know for sure?

12 A No, I do not know for sure. I presume that is
13 who it is.

14 Q Now, sir, is it necessary for students, faculty
15 and students of the University, to cross the tracks?

16 A It is.

17 Q Why?

18 A In order to conduct their business of classes.
19 We have in Saint Mary's Hall, the north quadrants, a
20 residence hall for about two hundred and twenty-five
21 men who need to cross over to the main campus to attend
22 classes in our main science building and main classroom
23 buildings.

24 Also the campus library which we hope is
25 used constantly is in the main part of the campus so

1 the traffic needs to come from the north to the south.
2 Also, people who are on the main campus need to cross
3 to the opposite direction in order to attend the
4 classes, especially the nursing students, in Saint
5 Mary's Hall. Also for the Speech Communication Depart-
6 ment which is an offering which is for all four under-
7 graduate classes at the University.

8 As well Saint Mary's Hall is designated as
9 a center for women's sports so the intramural and club
10 sports for women are located on that side of the road,
11 back and forth. There are playing fields as well as
12 tennis courts.

13 Q Now, sir, looking back then to Exhibit C-2 there
14 are two areas indicated with the words "metered
15 parking." Are they public parking or are they just for
16 students of the University and staff?

17 A No, those parking lots belong to the railroad to
18 the best of my knowledge and students are not allowed
19 to park in there, hopefully.

20 Q So the public -- if we consider for the moment
21 staff and students not to be public -- the general
22 public likewise has to cross from one side of those
23 tracks to the other; is that not correct?

24 A That is correct.

25 JUDGE FOUNTAIN: The general public

1 using the railroad or what, Mr. Patterson?

2 MR. PATTERSON: Well, I would suspect

3 that's one category, yes, sir.

4 BY MR. PATTERSON:

5 Q Are you aware of whether or not the general
6 public other than that part of the general public which
7 is using the railroad has to cross from one side of the
8 tracks to the other?

9 A It would seem to me that anyone who would like to
10 get access from the east to the west would have to
11 cross the bridge as one option or else go out of their
12 way to go underneath the railroad.

13 Q As I understand it, there are two means of
14 getting across the tracks: either the overpass, the
15 Spring Mill Road bridge, or the underpass which
16 connects the two railroad stations?

17 A That is correct.

18 Q Where is the next closest means of crossing the
19 track?

20 A I think the best way to show that would be to
21 direct your attention to the campus map which is Ex-
22 hibit C-6. Again, if you cannot use the underpass or
23 cannot, -- of course, there is no pedestrian crossing
24 to the overpass -- you would be forced to go down to --
25 back up to the corner of County Line Road and Route 320

1 which is Spring Mill Road. The best way to show that
2 is from the Villanova Station on your map you go up to
3 Building No. 19 and come all the way down the road past
4 28 and 29 to the corner here, Ithan and County Line
5 Road, and back up to where it is marked "entrance".

6 We have erected a fence as I mentioned be-
7 fore along that line so the only way I can do it is to
8 go out down the road and come all the way around onto
9 the main entrance of the campus which is now on North
10 Ithan Avenue.

11 Q And how long would it take one to walk from
12 Villanova Station down to the intersection of Ithan and
13 Spring Mill from the railroad?

14 A It would be a guess on my part, but a good 15
15 minutes, some of us longer, I imagine.

16 Q Now, sir, in your view is there any difficulty
17 involved in utilizing the underpass to cross from one
18 side of the tracks to the other?

19 A I believe the difficulty there arose and it was
20 part of our meetings was that the underpass was
21 flooding and that it was very difficult and you will
22 see -- but it is very difficult to cross there in a
23 flooding condition if it rained very hard. It was
24 more than just a few inches, quite a few inches would
25 back up in the tunnel making it impossible to

1 cross over.

2 Also there is a fear on the part of a num-
3 ber of people and it is expressed on our campus mostly
4 in the female population of going down into the tunnel
5 at night when there are very few people around. The
6 fear is being caught in there by themselves by someone
7 who would, I guess, wish them harm either one person
8 or two people working either sides of the tunnel. The
9 women, both the undergraduate students and the evening
10 division, are unwilling and have expressed this a num-
11 ber of times to go down into the tunnel at night, but
12 I think those two conditions, the fear and the
13 flooding, have been the reason why the tunnel is a
14 problem.

15 Q What about the overpass, the Spring Mill Road
16 bridge, what is the difficulty, if any, involved in
17 using it?

18 A The difficulty with the overpass as you can see
19 from the photos is there is no pedestrian crossway
20 there. The bridge is so narrow that two cars going
21 across it at the same time have to go very cautiously.
22 There is no room for pedestrians.

23 Q As an indication of the amount of consideration
24 and concern which has been devoted to this problem,
25 have you brought with you and prepared for use as an

1 exhibit a collection of newspaper articles which but-
2 tress your testimony with regard to the amount of time
3 and concern spent on this subject?

4 A Yes, I have.

5 MR. PATTERSON: Your Honor, as Exhibit
6 C-7 I have a multi-paged document con-
7 taining some Xeroxed copies of local news-
8 paper articles on the subject.

9 MR. ARMENTROUT: Your Honor, I would
10 object at this point.

11 JUDGE FOUNTAIN: He is just asking me
12 to mark them. That's all.

13 MR. ARMENTROUT: Then I will object at
14 the appropriate time.

15 JUDGE FOUNTAIN: I think you should
16 enter it at the proper time. I am going
17 to permit him to mark them.

18 (The documents referred to were marked
19 as Complainant's Exhibit No. 7 for identi-
20 fication.)

21 BY MR. PATTERSON:

22 Q Father Deegan, am I correct that you have testi-
23 fied there was a continuing series of meetings and a
24 continuing expression of concern from the student body
25 with respect to the railroad crossing?

1 A That is correct.

2 Q Looking at Exhibit C-7 does that contain some
3 indication of the meetings and some indication of the
4 amount of concern which has been expressed regarding
5 the problem?

6 A I believe it does from this angle.

7 Q Does the University and its student body have a
8 suggested solution to the problem?

9 A The University has discussed at length a sug-
10 gested solution to the overpass problem and --

11 Q Let's take the whole problem first. That is the
12 problem of getting across the tracks which really is
13 in two parts, I understand?

14 A Yes. I think we tried to address the problem of
15 safety and protection in working with the various
16 parties concerned here in the tunnel situation and the
17 other part of it. The other part of the problem which
18 I believe is still outstanding is the overpass. Our
19 solution to answer your question, our recommendation
20 which I see as a non-professional one, but responding
21 to what seems to be the pedestrian and consumer need,
22 is that there be some type of a pedestrian walkway
23 attached to the bridge in order to allow pedestrians
24 to cross safely at the same time that traffic crosses
25 the bridge. Because we need some relief.

1 In our discussions with Penn DOT and
2 others we concluded that a new bridge at this time
3 probably would be a long time in coming and very ex-
4 pensive and we thought that perhaps we could get re-
5 lief which is needed immediately by having a catwalk
6 or something like that attached to the bridge.

7 Q All right, sir. Making the assumption for the
8 moment that the flooding problem in the underpass
9 either is or will be solved, why is that not suffi-
10 cient in your view?

11 A In my view it is not sufficient because people
12 use both means. If the tunnel was able to be passed
13 through there are still people who try because of the
14 directness of the route, and, I believe, their belief
15 of public use in getting across the bridge they use
16 the bridge and therefore the bridge is a constant
17 danger to people who do use it. People believe that
18 they have a right to cross the railroad at that point
19 and they have no need to go onto campus. In other
20 words, the solution of the tunnel directs itself only
21 to people who want to go onto the campus of Villanova.
22 The people who don't necessarily want to do that would
23 want access from the west to the east or north to the
24 south, however those directions are going. It is
25 difficult.

1 Q Now, sir, do you have an estimate of your own
2 knowledge of the number of students, staff, faculty,
3 pedestrians, who cross these tracks on a daily basis
4 out at Villanova?

5 A My estimate would be based on the number of
6 people who reside in those buildings as well as the
7 number of classes that are conducted there. The Law
8 School as we said is a facility for six hundred and
9 some students plus a staff of another fifty. The
10 Saint Mary's Hall has in residence two hundred and
11 twenty-five men plus the School of Nursing which has a
12 total enrollment of close to eight hundred, plus the
13 Speech Communication Department. So going back and
14 forth to classes, to residences, to playing fields,
15 etc., on a daily estimate which has not been done
16 through a scientific count but through the use of those
17 buildings and facilities, I would say probably around
18 two thousand per day cross back and forth.

19 Q Now, sir, have you been provided in the early
20 part of 1980 with a traffic report from the Radnor
21 Township Police Department?

22 A We have.

23 Q And does that traffic report cover a number of
24 subjects not just this bridge, but subjects related to
25 Route 30 and other problems?

1 A It does.

2 Q Have you extracted from that traffic report the
3 cover letter and the traffic volume study showing the
4 amount of vehicular traffic on North, so-called North,
5 Spring Mill Road which would be that portion of Spring
6 Mill Road in the block in which the Spring Mill Road
7 bridge is involved?

8 A Yes.

9 Q And have you prepared that for use as an exhibit
10 at this proceeding?

11 A I have.

12 MR. PATTERSON: At this point, Your
13 Honor, may I ask for a five minute recess?

14 JUDGE FOUNTAIN: Yes. We will recess
15 for five minutes.

16 (Recess taken.)

17 JUDGE FOUNTAIN: All right, Mr.
18 Patterson.

19 MR. PATTERSON: Your Honor, at the
20 time that we took the recess I had asked
21 -- may I ask the Reporter to go back and
22 see what the last thing I did was because
23 I think I want to undo it.

24 JUDGE FOUNTAIN: The last thing you
25 did was ask for a recess.

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MR. PATTERSON: Second to last.

(Whereupon the Court Reporter read back the last question and answer as follows: "Q And have you prepared that for use as an exhibit at this proceeding? A I have.")

MR. PATTERSON: It is our position now that we are not going to enter that exhibit since I see the same information in some testimony which has been supplied to me prior to the hearing today and I see no need to --

JUDGE FOUNTAIN: You mean like prepared testimony?

MR. PATTERSON: Yes, sir.

JUDGE FOUNTAIN: Are you talking about one of the adverse parties?

MR. PATTERSON: Yes, sir, I am.

I might add, sir, on the subject in question the prepared testimony and the source from which it comes is better qualified to speak to the subject than we are and that's the reason for the withdrawal.

JUDGE FOUNTAIN: All right.

BY MR. PATTERSON:

1 Q Father Deegan, one of the questions the Commis-
2 sion has inquired into is whether the University will
3 agree to perform any of the work in connection with the
4 solution which you have suggested to this problem or
5 whether it will bear any portion of the cost of such
6 improvements. Would you enlighten us as to the Univer-
7 sity's position, if any, on that subject?

8 A At this time I don't believe that I could speak
9 for the Board of Trustees who are the holders of the
10 Charter. They had discussed filing the complaint and
11 have given the President through me authority to do
12 that. As to their part in the solution, financially
13 or otherwise, I could not answer that question. How-
14 ever, I would point out that Villanova tries to and has
15 tried during this whole series of meetings to be very
16 reasonable and helpful and cooperative.

17 MR. PATTERSON: Indulge me, for a
18 moment if you would, sir. I want to make
19 sure I have touched on everything that I
20 wanted to touch on.

21 (Brief recess taken.)

22 MR. PATTERSON: Your Honor, that's
23 all I have of this witness. I tender him
24 for cross-examination and move subject to
25 cross-examination for the admission of

1 Exhibits C-1 through C-7.

2 JUDGE FOUNTAIN: All right, I don't
3 think there is any objection to the first
4 six exhibits. I will admit those and
5 reserve the ruling on C-7 which I will
6 make at the conclusion.

7 (The documents previously marked for
8 identification as Complainant's Exhibit
9 Nos. 1 through 6 were received into evi-
10 dence.)

11 (Discussion held off the record.)

12 JUDGE FOUNTAIN: Let's get back on
13 the record. I have just been handed on
14 the record a letter from Representative
15 John Alden relative to this proceeding. I
16 will let you look at it and I will put it
17 into the correspondence file on this
18 matter.

19 MR. PATTERSON: The witness is
20 tendered for cross.

21 JUDGE FOUNTAIN: Mr. Mazor, is that
22 gentleman with you your colleague?

23 MR. MAZOR: This gentleman is my
24 witness.

25 JUDGE FOUNTAIN: Do you want to

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cross-examine?

MR. MAZOR: I just have a few questions, Your Honor. I will be brief.

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CROSS-EXAMINATION

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BY MR. MAZOR:

Q Father Deegan, just referring to C-2 which most of my questions will be directed to, on Spring Mill Road approaching the bridge over the tracks both going in a northerly and a southerly direction are there sidewalks or clearly marked walkways along that road going to the bridge?

A No, there are not.

Q So the students crossing the bridge on foot are walking in the cartway or the shoulder of that road as they approach the bridge?

A That is correct.

Q Now, with respect to the station itself, is there any access to or from the metered parking on both sides of the station other than off of Spring Mill Road?

A I don't believe so.

Q So everybody coming in and out of the parking lots have to go onto Spring Mill Road in one direction

1 or the other?

2 A Yes.

3 Q And I assume other than possibly stop signs,
4 there are no traffic controls to those entrances and
5 exits from the station onto the road?

6 A I think you are right.

7 Q And just one other question, was there ever
8 discussed in your meetings the possibility, at least
9 as an interim measure, of possibly even further re-
10 ducing the cartway on the bridge to provide a pedes-
11 trian walkway and in condition with that traffic
12 signals on both sides of the bridge so that only
13 traffic in one direction would proceed over it at one
14 time?

15 A I don't recall that specific discussion.

16 MR. MAZOR: Thank you, Father.

17 That's all I have, Your Honor.

18 JUDGE FOUNTAIN: Are you Mr.

19 Armentrout?

20 MR. ARMENTROUT: Yes.

21 JUDGE FOUNTAIN: Do you want to cross-
22 examine the witness?

23 MR. ARMENTROUT: All right.

24

25 CROSS-EXAMINATION

1
2 BY MR. ARMENTROUT:

3 Q Father Deegan, looking at some of the other in-
4 formation contained on your Exhibit C-6, the brochure,
5 it seems to me from the enrollment count that is con-
6 tained in there that there are roughly nine thousand
7 or perhaps a few more than nine thousand students?

8 A The official figures for 1980 - 81 are ten thou-
9 sand and eighty-four.

10 Q And of that total student population do you have
11 any idea as to what percentage is in residence?

12 A Yes. There are exactly twenty-six hundred and
13 eighty in residence. We are talking about the resi-
14 dences only offered to the undergraduate population.

15 We don't offer residences to graduates or law students.

16 Q Are the remaining seventy-five hundred students
17 who are not in residence on the campus, are there
18 housing facilities in the immediate vicinity of the
19 campus for them?

20 A Yes, I think your figure seventy-five hundred is
21 misleading. We do not have the graduates, law students,
22 nor commuters. Therefore the population we are using
23 for residents would be, potential residents, would be
24 like close to four thousand. In other words, those
25 who request residency, etc., we are housing a little

1 more than fifty percent of them.

2 Now, to answer your question, there is
3 housing available in the area. We have an off-campus
4 listing. Our University does not get involved in that
5 legal argument between the landlord and tenant.

6 Q Let me clarify or try to understand your last
7 statement. You say you have a total of ten thousand
8 students of which twenty-six hundred are in residence,
9 that is in University facilities?

10 A In University facilities.

11 Q And then there are another fifteen hundred that
12 you consider residents who are not in University facil-
13 ities?

14 A That's right.

15 Q That's off-campus housing?

16 A We have a category called off-campus, and a per-
17 son who qualified for residency either had it or moved
18 off campus or is never given residency because of our
19 limited space.

20 Q So you have about six thousand that could be
21 categorized as commuters or day students?

22 A Yes.

23 Q Now, in your responsibilities do you have any
24 responsibility for the control of automobile parking
25 on the campus?

1 A No, I don't directly, no.

2 Q Do you know if there is some system for regulating
3 campus parking?

4 A There is. There is a security office which
5 issues parking permits.

6 MR. ZAHN: Father, I can't hear.

7 THE WITNESS: I'm sorry. It is a
8 University office of security which issues
9 permits.

10 JUDGE FOUNTAIN: Just keep facing
11 front, Father, otherwise we might not hear
12 you when your voice drops.

13 BY MR. ARMENTROUT:

14 Q These parking permits are to authorize parking
15 on campus parking facilities; is that correct?

16 A That's correct.

17 Q I notice on the map that is identified as C-2
18 there is an area designated for parking near Mendel
19 Hall which is the building in the southeast quadrant.
20 Is that University parking there?

21 A Yes, it is.

22 Q How many automobiles will that space accommodate,
23 do you know?

24 A I really don't know.

25 Q Do you know when Mendel Hall was constructed?

1 There is a date indicated in the brochure, if I can
2 find it.

3 A. 1961.

4 Q. Was the parking facility constructed about that
5 same time?

6 A. To the best of my knowledge it was.

7 Q. In the vicinity of Mendel Hall are there other
8 University parking lots to your knowledge?

9 A. Contiguous to it on the other side of the tracks?

10 Q. Yes, in that same southeast quadrant.

11 A. In the same southeast quadrant I think the only
12 parking off of Spring Mill Road would be the Mendel
13 parking lot.

14 Q. I now direct your attention to another building
15 that looks like a high-rise building that is identi-
16 fied as a green house biology research building, No.
17 20.

18 A. Yes.

19 Q. Does that have a parking facility?

20 A. Not to my knowledge. That would be all Mendel
21 parking lot. I think it is designated as the Mendel
22 parking lot. The green house is exactly that, a
23 greenhouse. It doesn't have any parking adjacent to
24 it.

25 Q. That is all part of Mendel Hall?

1 A That's right. That is all one building. There
2 is an access to these parking lots here and that is all
3 the Mendel parking lot (indicating).

4 Q Now, you have given as your primary concern the
5 fact that there is a need for pedestrian access from
6 what I will refer to as the southeast quadrant to the
7 northeast quadrant and also from the northeast quadrant.
8 When were the facilities on the north side of the
9 railroad tracks, the Law School, principally the Law
10 School and Saint Mary's Hall, constructed?

11 A Saint Mary's is 1964, I believe. The Law School
12 would be, if I can find it, is 1957.

13 Q Does the Law School have any residence facil-
14 ities or is that simply a classroom and library?

15 A Simply a classroom and library.

16 Q Saint Mary's Hall on the other hand you testi-
17 fied does have two hundred and twenty-five people in a
18 dormitory; is that correct?

19 A That's correct.

20 Q And are there any dormitory facilities in con-
21 nection with the Nursing School?

22 A No, there are not.

23 Q Now, you testified that in addition to the stu-
24 dents who cross back and forth across the railroad
25 right-of-way in this location there are also commuters

1 that use the Villanova Station. Now, do they park
2 only in the metered parking area in the northeast
3 quadrant by the station itself?

4 A I think that would depend upon where they are
5 coming from. Is that your question: Is that the only
6 area that is for that?

7 Q My question is is that the only area available
8 for users of the railroad station?

9 A The railroad has two parking lots that are
10 metered for their customers, that's correct, on either
11 side of the tracks.

12 Q The one designated as metered parking on the
13 southeast is also available for railroad patrons?

14 A That's correct.

15 Q Now, you mentioned a third group of users, or
16 let's call them a third group of crossers, if you will,
17 in addition to students and the railroad patrons, and
18 those are presumably members of the general public.
19 Have you made any attempt to define how large that
20 group of users is? How large that group of crossers
21 is?

22 A Not personally I haven't. In conversations with
23 the Township we have tried to look at that.

24 Q Have you made any effort to try to define either
25 generally or specifically who might fall into that

1 third category?

2 A Yes.

3 Q And who might those people be?

4 A The residents of the Township that live along
5 those areas, back in that housing development back on
6 320.

7 Q Back in what community, pinpoint that on the
8 exhibit?

9 A The northeast. On C-2 where you are looking at
10 where it is written in "Scale one inch" to, I think it
11 is fifty feet, in that area, back there there are
12 houses, private residences, that type of thing.

13 Q In this here, in the south (indicating), south-
14 west gradient?

15 A I'll take those directions. I'm not sure that's
16 what they are. They are in that area right there.

17 Q Do you have any information as to what might be
18 their reason for wanting pedestrian access across the
19 railroad right-of-way? Where would they be going from
20 that housing development?

21 A The conversations which were rather general indi-
22 cated that people are riding bikes, jogging, walking,
23 recreational purposes seem to go to the fore in most
24 of our conversations. They could also be going to the
25 facilities that we do at times let the community use

1 like our tennis courts.

2 Q Which are near Saint Mary's Hall?

3 A Saint Mary's Hall, right. They would have to
4 cross over here to get to the tennis courts. That's
5 to the best of my recollection.

6 Q But the fact of the matter is, isn't it, Father,
7 that the vast majority of the users or the vast major-
8 ity of the users that use the right-of-way are either
9 students of the University or patrons of the railroad?

10 MR. PATTERSON: You mean as pedes-
11 trians?

12 MR. ARMENTROUT: As pedestrians.

13 THE WITNESS: As pedestrians I think
14 that is probably it.

15 BY MR. ARMENTROUT:

16 Q Is it correct to say that when Villanova Univer-
17 sity started that its early growth was confined to the
18 area in the southeast quadrant of the intersection?

19 A I would think that is the original Belair Estate,
20 yes.

21 Q And it's only been in relatively recent years,
22 say the last thirty years, that facilities have been
23 constructed on the northerly side of the right-of-way;
24 is that right?

25 A That's correct.

1 Q You did point out, I believe, early on in your
2 direct testimony of Exhibit 6 the properties on the
3 Morris Estate. Do you know when those were acquired
4 by the University?

5 A It was within the last two years, I believe.

6 Q What, if you know, what was the student popula-
7 tion in 1950 say, thirty years ago?

8 A I do not know. That predates me.

9 Q I assume it is safe to say it was less than ten
10 thousand students?

11 A Sure.

12 Q Would you think it would be half that size?

13 A I would say that prior to World War II probably
14 it would be less than that, like two thousand. Our
15 growth has been since --

16 Q Since the end of World War II?

17 A The end of World War II.

18 Q Now, do you know if at the time the Mendel Hall
19 was constructed and the other buildings in the general
20 vicinity of Mendel Hall including the construction of
21 the parking lot, at the time that work was done, do
22 you know if any steps were taken by Villanova to take
23 care of water runoff that might have been caused by
24 that construction?

25 A No, I don't know about that, no.

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MR. ARMENTROUT: I believe that's all
I have, Your Honor.

JUDGE FOUNTAIN: Mr. Huss?

MR. HUSS: No questions.

JUDGE FOUNTAIN: That gentleman along
side of you, is he your colleague or your
witness?

MR. HUSS: My witness, Your Honor.

JUDGE FOUNTAIN: Mr. Guernsey, do you
have anything, sir?

MR. GUERNSEY: No, I do not.

JUDGE FOUNTAIN: Mr. Zahn, do you
have anything?

MR. ZAHN: Yes; a few.

- - - - -

CROSS-EXAMINATION

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BY MR. ZAHN:

Q Father Deegan, this pedestrian walkway and
traffic light which is north of the bridge has that
been installed?

A No, it has not.

Q Do you know when it will be installed?

A No, I do not except that I believe it has been
approved by Penn DOT.

1 Q And do you know whether or not that signal will
2 have any affect on traffic using 320?

3 A Vehicular traffic?

4 Q Yes.

5 MR. PATTERSON: We're going to object
6 to that.

7 JUDGE FOUNTAIN: I am just wondering
8 where you are on that question. I don't
9 want to hamper you on your cross-
10 examination, but for what purpose is that
11 question?

12 MR. ZAHN: Well, if the traffic light
13 is installed, it may back up traffic on
14 320.

15 JUDGE FOUNTAIN: Well, you are asking
16 this witness to offer a surmisaal, aren't
17 you in fact asking him --

18 MR. ZAHN: Well, he testified as to
19 how much traffic was using 320.

20 JUDGE FOUNTAIN: All right, I will
21 let it go, but I think you are pressing
22 something here and you are asking for
23 something minor.

24 BY MR. ZAHN:

25 Q Now, you said that something like two thousand

1 people crossed the crossing area. Of that number how
2 many would use the underpass? You didn't break that
3 two thousand figure out?

4 A No, the two thousand figure was based on my
5 understanding of the facilities and the traffic use of
6 those facilities. I think perhaps the railroad would
7 have an estimate as to how many people use their facil-
8 ities, I don't.

9 JUDGE FOUNTAIN: Excuse me, Mr. Zahn.
10 Before you ask him another question, does
11 Villanova conduct night classes?

12 MR. ZAHN: Yes, he stated night stu-
13 dents.

14 JUDGE FOUNTAIN: Did you state night
15 students?

16 THE WITNESS: Yes.

17 BY MR. ZAHN:

18 Q Besides the metered parking area and the other
19 area you mentioned on cross-examination, you have a
20 parking area on the south side of U.S. 30, do you not?

21 A That's correct.

22 Q Do you know whether or not the majority of your
23 students, that is the six thousand commuters, whether
24 they use that parking area as opposed to the other
25 area?

1 A I would say the majority are assigned to that
2 area.

3 Q And would you have any idea of your commuting
4 students how many would use facilities other than the
5 railroad? Are there buses or other means of coming to
6 the University?

7 A Yes, there are buses. There are also the SEPTA
8 High Speed Line as well as the railroad and cars.

9 Q And do you have any idea of what the breakdown
10 would be between the students using those facilities
11 and the railroad?

12 A No, I do not know.

13 Q Now, did the University ever consult professional
14 engineers to determine whether it is feasible to
15 attach a pedestrian walkway to this bridge?

16 A Not to my knowledge.

17 Q With the students that are using the north area
18 of the University down to the south area, would a
19 walkway overpass be more advantageous to the west of
20 this bridge than using the bridge itself?

21 MR. PATTERSON: Make sure you got
22 west and east straightened out before you
23 answer.

24 THE WITNESS: I'm not too sure I
25 followed the question.

1 BY MR. ZAHN:

2 Q Well, you have facilities, Saint Mary's and the
3 gym, and some recreational areas that are west of 320?

4 A Right.

5 Q And you also have facilities on the southwest
6 side of 320?

7 A Yes.

8 Q Would it be more advantageous to place a pedes-
9 trian walkway somewhere in that area west of the pre-
10 sent bridge than having a walkway either at the bridge
11 or attached to it or near the bridge?

12 A It possibly would be. I don't feel confident to
13 make that judgment.

14 Q Would it in your opinion be more advantageous to
15 have a walkway, a separate walkway, constructed east
16 of the bridge? In other words, where is the main
17 activity between the north and the south of the campus
18 that a bridge would be more advantageous other than at
19 or near 320? Would it be more advantageous on the
20 east rather than on the west side?

21 A I think I am having difficulty because I think
22 we have used different directions here at different
23 times. Perhaps you could just locate it on the map
24 and I will be able to answer that.

25 Q Well, your C-2 on the east side where this main

1 campus is.

2 A All right.

3 Q To the north side where the Law School is.

4 A Yes.

5 Q Would it be more advantageous to have a separate
6 walkway on that side, east of Spring Mill Road, than
7 having it placed on the west side of Spring Mill Road
8 or 320?

9 A I would think it would be more advantageous to
10 have it on the east side.

11 Q On the east side where the railroad stations
12 are?

13 A Yes, that's right.

14 Q Now, Father, when you said east for the crossing,
15 if you look at C-6 down toward Ithan Avenue between
16 Ithan Avenue and where it says Villanova Station --

17 A Yes.

18 Q -- isn't that the main area of the campus in
19 that area?

20 A Yes, I believe you are pointing to this section
21 here (indicating).

22 Q Yes, between Building 20, 23, down toward the
23 east or Ithan Street.

24 A Yes, that's right.

25 Q That's what we would call the main campus.

1 Wouldn't it be advantageous to have a pedestrian
2 crossing somewhere central in that area further east
3 of the Villanova Station, a pedestrian walkway?

4 A No, if that's what you meant I would say no.
5 The most advantageous route there using C-6 would be
6 someplace right around where it says Villanova Sta-
7 tion.

8 Q Around 19 or 20, around that area?

9 A Yes, I think that's where it would be so you are
10 getting direct entrance to the north campus or Saint
11 Mary's Hall.

12 MR. ZAHN: Thank you, Father.

13 JUDGE FOUNTAIN: Mr. Herskovitz?

14 - - - - -

15 CROSS-EXAMINATION

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17 BY MR. HERSKOVITZ:

18 Q Did you ever or did your campus ever discuss
19 with officials of the railway a pedestrian crossing
20 over the railroad tracks on the eastern portion of the
21 University?

22 A Well, in the series of meetings I referred to
23 those things were discussed with representatives of
24 all interested parties.

25 Q And no agreement was reached?

1 A That's right, that's right.

2 Q And the location for the pedestrian overpass, is
3 it in the location that you were just speaking of in
4 response to Mr. Zahn's questions?

5 A The discussions?

6 Q Yes, did you have a particular location planned?

7 A The discussion in our meetings centered around
8 the bridge itself and something -- like attaching
9 something to the bridge.

10 Q Well, what I'm speaking of is something separate
11 from the bridge near the station. Did you ever dis-
12 cuss that possibility?

13 A Yes. We never brought that up specifically. I
14 think it was mentioned at one time, but most of the
15 discussion had to do with the bridge itself and
16 attaching something to it from a layman's point of
17 view.

18 Q Would you feel that would be a viable alterna-
19 tive to attaching a pedestrian walkway onto the
20 bridge, just to move it to the east of the bridge and
21 just have a separate walkway, would that be a viable
22 alternative as far as the University is concerned?

23 A Yes.

24 JUDGE FOUNTAIN: Let me ask you this,

25 Mr. Herskovitz: The overhead pedestrian

1 walkway you are talking about, would that
2 eliminate the underground tunnel and what
3 affect would it have on the Spring Mill
4 Road crossing? Are you talking about an
5 overpass over the tracks; is that what you
6 are talking about?

7 MR. HERSKOVITZ: Yes, I am talking
8 about a walkway over the tracks in which
9 case it would not be part of this particu-
10 lar crossing. It would be something
11 separate from this crossing.

12 MR. ZAHN: Nor would it eliminate the
13 use of the underpass.

14 JUDGE FOUNTAIN: That's what I am
15 trying to get. If you had an overpass it
16 would probably take care of that tunnel
17 problem.

18 BY MR. HERSKOVITZ:

19 Q You mentioned that some of the problems have
20 been taken care of with the tunnel. Is it in satis-
21 factory condition at the present time?

22 A To the best of my knowledge the things that
23 Amtrak said they would do have been done in terms of
24 the drainage, a new surface down there and increasing
25 the lighting. One thing that has not been done is the

1 painting of the tunnel and the tunnel gets painted,
2 but not professionally, unfortunately, so we would
3 like to have that done. There is a union problem I
4 understand so that hasn't been painted.

5 JUDGE FOUNTAIN: Father, didn't you
6 also say the women students have a fear of
7 using that tunnel at night and that would
8 still be a major impediment in them using
9 that tunnel?

10 THE WITNESS: It is in our view.

11 BY MR. HERSKOVITZ:

12 Q But I think a crosswalk over the tracks would
13 correct that particular impediment. What is the con-
14 dition of the lighting on Spring Mill Road, the
15 crossing there, is it well lit?

16 A No, my impression is it is not. I would stand
17 corrected, but my last impression was it is not well
18 lighted.

19 Q And you did say the drainage problem, the water
20 problem, has been taken care of in the tunnel?

21 A Let me say this, after the railroad did work
22 down there it flooded only once and the flooding was
23 attributed by the railroad to some similar work they
24 are doing with ties and that type of thing. Since
25 then I don't have knowledge of a flooding.

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Q So other than the painting you are satisfied with the condition of the tunnel; is that correct?

A Today, before it rains.

MR. HERSKOVITZ: Thank you, that's all I have.

JUDGE FOUNTAIN: Is there any counsel I overlooked?

(No response.)

JUDGE FOUNTAIN: Mr. Patterson, do you have any re-direct?

MR. PATTERSON: Just a few, sir.

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RE-DIRECT EXAMINATION

- - - - -

BY MR. PATTERSON:

Q Father Deegan, is it possible to walk off of the roadway on 320 while approaching the bridges or do you have to walk on the roadway itself to get to the bridge as you walk towards 320?

A You have to walk in the roadway to get to the bridge.

Q But there is a sidewalk, if I understand your prior testimony, north of the bridge up near where the Law School is which is No. 19, I believe, on Exhibit C-6?

1 A That's correct. One of the things the Univer-
2 sity agreed to do from our conversations at the
3 meetings was to improve the sidewalk which runs on the
4 east side -- I guess it is the south side, depending
5 on what you are talking about, but the south side down
6 to the railroad station. We have a sidewalk in there
7 at this time.

8 Q Regardless of where students park when they
9 arrive at school in the morning or whenever they do
10 arrive, is it necessary for some of those students of
11 the number you suggested to cross back and forth on
12 foot between the main campus and that portion of cam-
13 pus which is north of the traffic?

14 A Yes. The students, if they are assigned to the
15 Lancaster Avenue parking lot south of Route 30, they
16 are not allowed to drive on campus or to drive their
17 cars to Saint Mary's for example. They would have to
18 walk from this parking lot across the campus, across
19 the tracks, to Saint Mary's and back again.

20 Q Now, sir, looking at Exhibit C-2 and using the
21 crossing of Spring Mill Road over the railroad as
22 creating four quadrants, the upper left being north-
23 west, upper right being northeast, lower left being
24 southwest, and lower right being southeast, I under-
25 stand that the southeast quadrant with that

1 explanation contains the main campus, most of the
2 buildings and dormitories and so forth, of Villanova
3 University?

4 A That's correct.

5 Q Are there any University buildings in the south-
6 western portion of that quadrant?

7 A No, there are not.

8 Q That is west of Spring Mill Road and south of the
9 railroad tracks there are no University facilities?

10 A It is not University property there.

11 Q Now, the major movement of students across the
12 tracks, is it from southeast to northwest and vice
13 versa or southeast to northeast and vice versa?

14 A It is from southeast to northwest.

15 Q And if you drew a line to the northwest quadrant
16 from southeast quadrant would that line essentially
17 bisect the railroad bridge?

18 A It would.

19 Q And is that the reason in your meetings that you
20 suggested in some manner to create a means for access
21 in the immediate vicinity of that bridge?

22 A It is.

23 Q What is the approximate distance from the bridge
24 eastward to the railroad station?

25 A I really don't know.

1 Q Well, based on the scale of the map, one inch to
2 fifty feet, would you estimate somewhere between a
3 hundred to a hundred and fifty feet?

4 A Yes, closer to two hundred I would think, but
5 that's an estimate.

6 Q In any event less than a football field?

7 A Yes.

8 Q Now, just to be clear, again directing your
9 attention to Exhibit C-2 the two areas marked metered
10 parking as distinguished from the one area that is
11 marked simply parking, those are both railroad parking
12 lots?

13 A Yes.

14 JUDGE FOUNTAIN: That's been brought
15 out at least twice.

16 BY MR. PATTERSON:

17 Q And are students permitted to park in those
18 lots?

19 A No, they are not.

20 MR. PATTERSON: Your Honor, indulge
21 me. I am sorry. I thought there was
22 still some remaining confusion on that
23 subject.

24 JUDGE FOUNTAIN: No, that has been
25 covered previously.

1 MR. PATTERSON: I beg your pardon.
2 BY MR. PATTERSON:
3 Q Do you recall, Father Deegan, when the tunnel
4 last flooded?
5 A My recollection would be vague, but I think it
6 was last spring and that is a vague recollection.
7 Q And did you go into the tunnel either at the
8 time of the flooding or immediately after it was
9 pumped out?
10 A Yes, I did.
11 Q And did you note any water running into the
12 tunnel?
13 A Yes.
14 Q From what location was the water running into
15 the tunnel?
16 A Most of the water at that time was coming from
17 the northeast quadrant which you outlined in Exhibit
18 C-2, that side, that east station side.
19 Q And is the property at the station or at the
20 northern end of the tunnel and the property immedi-
21 ately surrounding that University property?
22 A No, it is not.
23 Q Were there still pumps down in the underpass
24 when you were there?
25 A There were.

1 Q Now, sir, you were asked whether or not it would
2 satisfy the thoughts of the University, the problem,
3 if a pedestrian walkway separate from the Spring Mill
4 Road bridge was constructed somewhere between the
5 bridge and the railroad station as shown on Exhibit
6 C-2. Do you recall that question?

7 A Yes.

8 Q Was your answer that that would satisfy the
9 University's needs?

10 A The answer was, I believe, that it is a possi-
11 bility that it would be. I would have to see what
12 they are talking about there and if it does meet our
13 traffic pattern needs.

14 Q If that would meet your needs, why the discus-
15 sion of attaching or cantilevering a bridge to the
16 320 bridge?

17 A Because I think in our discussions that was the
18 most obvious redress of a grievance given people's
19 demurs in terms of costs and time, etc. They thought
20 the quickest, most sensible resolution would be some-
21 thing attached right there at the bridge. It would
22 serve our purposes of direct access to the northwest
23 quadrant there and it would also serve as an access
24 for all pedestrians from north to south on 320.

25 MR. PATTERSON: That's all I

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have, sir.

JUDGE FOUNTAIN: Any re-cross on that?

MR. HERSKOVITZ: Just one, Your Honor.

- - - - -
RE-CROSS EXAMINATION
- - - - -

BY MR. HERSKOVITZ:

Q If a pedestrian crossway cannot be attached or constructed without a total reconstruction of this structure itself, the current structure there on Spring Mill Road, at great cost, would the alternative of building a separate pedestrian walkway east of that bridge be satisfactory to the University?

A I think that judgment would have to be made once the solution was posed. As I said before, we are very reasonable. We are looking for redress.

MR. HERSKOVITZ: Thank you.

JUDGE FOUNTAIN: Is that it?

(No response.)

JUDGE FOUNTAIN: All right, Father, I take it you are excused.

THE WITNESS: Thank you.

MR. PATTERSON: Thank you, sir.

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(The witness was excused.)

MR. PATTERSON: I move for the admission of Exhibit C-7, sir, which is a series --

JUDGE FOUNTAIN: All right, C-1 through C-6 will be admitted. Now, Mr. Armentrout, I take it you are objecting to the collection of newspaper articles based on a hearsay objection?

MR. ARMENTROUT: Yes, sir, that's correct.

JUDGE FOUNTAIN: Now, Mr. Patterson, I am always very reluctant to admit newspaper articles.

MR. PATTERSON: They are not being admitted for the truth of what is in the articles.

JUDGE FOUNTAIN: You want them to be admitted to buttress Father Deegan's testimony.

It has been borne out there was a traffic fatality. It was borne out in the testimony.

MR. PATTERSON: And to illustrate the continuing concern that is reflected by

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those newspaper articles, not for the truth of what is mentioned therein.

JUDGE FOUNTAIN: Mr. Armentrout, in administrative law proceedings sometimes we admit hearsay. I am going to admit it and I am going to afford it the weight I usually afford hearsay testimony.

MR. ARMENTROUT: All right, thank you Your Honor.

MR. ZAHN: Your Honor, I was going to move that these be stricken.

JUDGE FOUNTAIN: What be stricken?

MR. ZAHN: That it not be admitted, that the pictures of a milling machine of Penn DOT on this has nothing to do with --

JUDGE FOUNTAIN: Is this C-7?

MR. ZAHN: Yes, that one down on the bottom.

JUDGE FOUNTAIN: This isn't very relevant, Mr. Patterson.

MR. MAZOR: It is a different side altogether.

MR. PATTERSON: It was part of that article. I have no objection if you want to expurgate that picture.

1 JUDGE FOUNTAIN: I will admit it, but
2 give me some credit for it.

3 MR. PATTERSON: Your Honor, we have
4 no further witnesses prepared for today.
5 It is our motion that this hearing be
6 recessed to reconvene at the site much in
7 the way as a view of jurors or jury view
8 proceeding is organized in condemnation
9 cases on the belief that since Your Honor
10 is the finder of facts in this proceeding
11 and at least the initial fact to be found
12 is whether or not the situation is danger-
13 ous, that the best way to help Your Honor
14 in making that determination is to view
15 the site that is the subject of this pro-
16 ceeding and we would make a motion in that
17 regard.

18 JUDGE FOUNTAIN: Mr. Patterson, I
19 fully intended to view the site. I would
20 like to have time to read the transcript.
21 I think we ought to take the other par-
22 ties' evidence today and what I might con-
23 sider is to have a hearing at the Univer-
24 sity itself if we can get space out there,
25 provided there is no objection from other

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counsel, but I want to look at that site.

MR. PATTERSON: Yes, sir. I was about to suggest to Your Honor that that be one technique used to somewhat expedite this proceeding and to allow us to place on the stand, if necessary, witnesses from the University to testify as to their problems with the situation which there exists, and since many of those witnesses will be students, it will certainly accommodate them by holding the hearing out there.

JUDGE FOUNTAIN: Would there be any objection to counsel holding the hearing out at Villanova?

MR. MAZOR: No, Your Honor.

MR. ARMENTROUT: I have none.

JUDGE FOUNTAIN: All right, I am going to take the rest of the testimony today. I will accede to your request that the next hearing be held out there. That will give me a chance to inspect the site personally.

MR. ARMENTROUT: Your Honor, I would make one request and that is that the

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respondents be given an opportunity to recall any witnesses that testify today and to the continuation of the hearing at Villanova.

MR. ZAHN: I would join in that.

MR. PATTERSON: I would be hard pressed, Your Honor, to say the respondents put their case in now and I get another bite later on, so I certainly would have no objection to that.

JUDGE FOUNTAIN: It is 12:00 o'clock. Do you want to continue or do you want to break for lunch or what do you want to do?

MR. ZAHN: I think the balance of it.

JUDGE FOUNTAIN: All right, we will take five minutes and we will continue it:

(Recess taken.)

- - - - -

ALFRED K. VELTER, having been duly sworn, was examined and testified as follows:

- - - - -

DIRECT EXAMINATION

- - - - -

BY MR. ZAHN:

1 Q What is your official office address?

2 A Pennsylvania Department of Transportation,
3 Transportation and Safety Building, Harrisburg,
4 Pennsylvania.

5 Q And you are employed by the Pennsylvania Depart-
6 ment of Transportation?

7 A Yes.

8 Q In what capacity?

9 A As a Civil Engineer in the Grade Crossing Sec-
10 tion.

11 Q And you are familiar with the crossing in to-
12 day's complaint proceeding?

13 A Yes.

14 Q Are you authorized to testify on behalf of the
15 Department?

16 A Yes, I am.

17 Q Now, the Department has been asked in the ques-
18 tions of procedure dated July, 1980, Question No. 4,
19 Department shall submit testimony describing accu-
20 rately the location of the existing rail-highway
21 crossing, above grade, involved in this proceeding,
22 including the location and termini of the State High-
23 way traversing said crossing.

24 A The rail-highway grade separation is located on
25 Legislative Route 225, Station 784+21 and at the

1 bridge the route is called Spring Mill Road, traffic
2 Route 320. In the vicinity of the bridge the road
3 lies in a northeasterly direction with the bridge
4 being located approximately 2230 feet northeast of its
5 intersection with Route 30, L.R. 142, and about 1040
6 feet southwest of County Line Road which is a township
7 road. L.R. 225 begins in the City of Chester about
8 14.85 miles south of the grade separation and the
9 Delaware County portion of Legislative Route 225 ends
10 at County Line Road in Villanova about two tenths of
11 a mile north of the crossing. Legislative Route 225
12 continues in a northerly direction to its terminus and
13 connection with L.R. 145 in Norristown Borough in
14 Montgomery County. The Department has prepared a por-
15 tion of the Delaware County map showing the subject
16 crossing location and is marked for identification as
17 Pennsylvania Department of Transportation Exhibit No.
18 1.

19 MR. ZAHN: If Your Honor pleases, I
20 have a one-page exhibit that I marked as
21 Penn DOT's Exhibit No. 1.

22 JUDGE FOUNTAIN: All right.

23 (The document referred to was marked
24 as Pennsylvania Department of Transporta-
25 tion's Exhibit No. 1 for identification.)

1 BY MR. ZAHN:

2 Q Question No. 5, the Department is to submit tes-
3 timony describing the general type of the existing
4 bridge, number of spans, principal dimensions, roadway
5 width, alignment, and gradient of the approaches and
6 state the general physical condition thereof.

7 A Our records indicate that the existing bridge is
8 a one-span iron thru truss with a length of 72'9" be-
9 tween bearings, and has a clear roadway width of
10 18'9". The roadway approaches on each side of the
11 bridge are on tangent and are on ascending grades to
12 the bridge. The width of the roadway approaches are
13 approximately 26'. The approaches and the bridge sur-
14 face are bituminous and are in generally good condi-
15 tion.

16 Q Question No. 6, Department submit testimony as
17 to the approximate class and volume of vehicular and
18 pedestrian traffic normally using the highway at this
19 location including pedestrian traffic traversing said
20 bridge and the north approach thereto and the pro-
21 jected future volume thereof.

22 A The 1978 average daily traffic for the section
23 of the roadway in the vicinity of the grade separation
24 is 12,720 and by the year of 1988 the volume will in-
25 crease by approximately 2,000 vehicles. Approximately

1 seven percent of this traffic are trucks. The road is
2 considered to be a minor arterial highway in the
3 Federal Aid Urban System. Pedestrian traffic counts
4 were taken on February 14, 1980 and February 15, 1980.
5 On February 14, 1980 a count was taken between the
6 hours of 12:00 Noon and 6:00 P.M. During that time
7 period 105 pedestrians crossed the bridge. On
8 February 15, 1980 a count was taken between the hours
9 of 7:30 A.M. and 12:00 Noon. During that time period
10 a total of 91 pedestrians crossed the bridge. From
11 these counts it can be assumed that about 200 pedes-
12 trians use the bridge during the hours when the Uni-
13 versity has its daytime classes. In December of 1979
14 an eleven hour pedestrian count on the north approach
15 showed 3175 pedestrians crossing Spring Mill Road at
16 mid block. We cannot predict the future pedestrian
17 traffic since this would be dependent on the Univer-
18 sity's operation.

19 Q Question No. 7, Department submit testimony as
20 to the accident record for the last five years with
21 time and details of such accidents that have occurred
22 on the bridge or the approaches thereto involved in
23 this proceeding.

24 A The Department has prepared copies of the acci-
25 dent records from the years of 1975 to 1979 inclusive

1 showing the details of accidents on the bridge and in
2 the immediate vicinity of the bridge. These records
3 consist of seven eight and a half by eleven sheets of
4 paper which are marked for identification as
5 Pennsylvania Department of Transportation Exhibit No.
6 2. Basically these --

7 MR. ZAHN: If Your Honor please, we
8 have the seven pages that I have marked
9 as Penn DOT's Exhibit No. 2 and both
10 Exhibits 1 and 2, three copies have been
11 given to the stenographer and to all par-
12 ties.

13 JUDGE FOUNTAIN: All right.

14 (The document referred to was marked
15 as Pennsylvania Department of Transporta-
16 tion's Exhibit No. 2 for identification.)

17 THE WITNESS: Basically these records
18 show that for the year of 1975 two acci-
19 dents occurred on the bridge and one at
20 the bridge rail; 1976, one accident
21 occurred on the bridge; 1977, two acci-
22 dents occurred on the bridge and one acci-
23 dent occurred off the end of the bridge;
24 1978, one accident occurred on the bridge;
25 1979, no accidents shown.

1 BY MR. ZAHN:

2 Q Mr. Velter, do these records show that there
3 were any fatalities as a result of these accidents?

4 A There have been some injuries, but I have not
5 noticed any fatalities.

6 Q Now, do you have a further breakdown on that as
7 to whether these accidents involved pedestrians?

8 A No, sir, these are vehicular traffic.

9 JUDGE FOUNTAIN: These are strictly
10 vehicular traffic accidents?

11 THE WITNESS: Yes, sir.

12 MR. ZAHN: If Your Honor please, I
13 have been told -- I haven't examined these
14 pages -- but I understand one or two of
15 these accidents resulted with vehicles as
16 a result of a bicyclist being on the
17 bridge and the car swerving to get out of
18 the way of the cyclist.

19 JUDGE FOUNTAIN: Do you have anything
20 in your exhibit about that?

21 MR. ZAHN: Yes, there is, but --

22 JUDGE FOUNTAIN: All right, then the
23 exhibit speaks for itself, Mr. Zahn.

24 BY MR. ZAHN:

25 Q Now, Question No. 8, Department state its

1 present obligation with respect to maintenance of the
2 subject bridge and the approaches thereto.

3 A According to our records which includes informa-
4 tion required by Public Utility Commission Investiga-
5 tion Docket No. 97 (October 28, 1968) the superstruc-
6 ture and substructure are maintained by the railroad.
7 The Pennsylvania Department of Transportation has the
8 maintenance responsibilities for the bridge approaches.

9 Q Question 9, Department state the nature and type,
10 extent, date, cost and other pertinent specific de-
11 tails as to any recorded substantial items of mainte-
12 nance and/or repairs performed on the existing struc-
13 ture by the Department.

14 A In accordance with former PUC Investigation
15 Docket No. 97 the railroad has performed all the
16 maintenance work on the bridge which has, for the most
17 part, been repairs to the bridge after accidents. On
18 occasion the Department has placed barricades at or on
19 the bridge until the railroad completed the repair.
20 We do not have any record of costs for this work. The
21 Department has not performed any maintenance or re-
22 pairs to the existing structure. However, the Depart-
23 ment has voluntarily maintained the wearing surface
24 and has repaired potholes to the wearing surface on
25 the bridge.

1 Q Question 10, Department submit testimony as to
2 whether, in its opinion, the subject bridge is ade-
3 quate to accommodate both vehicular and pedestrian
4 traffic, and, if not, submit testimony whether the
5 crossing should be altered or reconstructed in the
6 interest of safety and/or accommodation and conve-
7 nience of the traveling public.

8 A According to the Department's design criteria
9 the bridge is not adequate to accommodate the vehicu-
10 lar and pedestrian traffic. The bridge should have a
11 minimum cartway width of 30' with a sidewalk 5' wide
12 for pedestrian traffic. The existing structure is
13 not adequate for pedestrian traffic. Due to the type
14 of bridge the structure cannot be altered to obtain
15 the desired width and would have to be reconstructed.

16 Q In other words you are saying if this bridge
17 were rebuilt today it wouldn't meet present day design
18 criteria; is that it?

19 A That's true, especially where there are Federal
20 funds involved.

21 Q But at the time the bridge was constructed it
22 would have made the design criteria at that time?

23 A I don't know, sir. I don't know when the bridge
24 was constructed.

25 Q Question 11, Penn DOT submit testimony

1 indicating whether it would be feasible to attach a
2 pedestrian walkway on the existing structure.

3 A Although it is probably possible, it is not
4 feasible to attach a pedestrian walkway to the
5 existing structure. And at this point I would like to
6 have our District Branch ^{BRIDGE} Engineer answer further ques-
7 tions on the bridge and on attaching the sidewalks to
8 the existing bridge following my testimony.

9 Q Question No. 12, Department state whether the
10 existing structure is listed on the Department's 12
11 Year Improvement Program or is it anticipated that
12 said crossing would be listed thereon in the near
13 future.

14 A The bridge is not listed on the Department's 12
15 Year Capital Improvement Program. To date it is not
16 anticipated that the crossing will be listed on the
17 12 Year Program in the near future.

18 Q Does the Department have any additional relevant
19 testimony to give?

20 A Yes. Since the complaint is basically a pedes-
21 trian problem, the Department of Transportation recom-
22 mends that steps be taken, by others, to adequately
23 maintain the existing tunnel underpass drainage system
24 to its maximum efficient operating condition and that
25 a study be initiated by others to determine possible

1 steps to be taken to prevent surface water accumula-
2 tion that causes the periodic flooding of the pedes-
3 trian tunnel. If the Commission determines that a
4 pedestrian overpass is necessary, the Department of
5 Transportation recommends that a separate pedestrian
6 overpass be constructed, at the sole cost and expense
7 of others, and located to best serve the pedestrian
8 traffic users, over the railroad tracks. It is the
9 Department's opinion that these stated opinions would
10 be far less expensive to resolve the pedestrian prob-
11 lem than to build a new bridge, with sidewalk, in-
12 cluding the reconstruction of the abutments and the
13 roadway approach retaining walls at a rough estimate
14 of \$250,000.

15 Q Now, Mr. Velter, you have heard Mr. Mazor ask
16 the University's witness whether it was considered
17 that sidewalks be added to the present bridge and that
18 traffic signalization be placed on it to allow one-way
19 traffic in each direction. Has the Department made
20 any recommendation or study of that?

21 A The Department has not made any recommendation
22 or study and I recommend that the study should be made
23 as to the problems that might occur or be involved in
24 this type of an arrangement.

25 Q If traffic signals were placed there for one-way

1 traffic in each direction what might be some of the
2 problems that would result?

3 A Traffic would, in my opinion, back up on the
4 southerly approach to the bridge blocking off the
5 entrance to the University on the southeast quadrant.
6 Traffic signals operating a one-lane passage of motor
7 vehicles would also cause the blocking of the pedes-
8 trian crossing at the north end of the bridge.

9 MR. ZAHN: Thank you. The witness is
10 available for cross-examination.

11 JUDGE FOUNTAIN: Mr. Patterson?

12 MR. PATTERSON: May we go off the
13 record, Your Honor?

14 JUDGE FOUNTAIN: Yes.

15 (Discussion held off the record.)

16 JUDGE FOUNTAIN: All right, let's
17 adjourn until quarter past one.

18 (Luncheon recess taken at 12:30 P.M.)
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1 AFTERNOON SESSION

(1:15 P.M.)

2 JUDGE FOUNTAIN: Do you want to lead
3 off, Mr. Patterson?

4 MR. PATTERSON: Yes, sir.

5 - - - - -

6 CROSS-EXAMINATION

7 - - - - -

8 BY MR. PATTERSON:

9 Q Mr. Velter, on Page 2 of your prepared testimony
10 in your first answer on Page 2 you have indicated, I
11 believe, the length of the bridge itself and the width
12 of the bridge. Now, I just want to make sure that I
13 understand that the roadway width on the bridge itself
14 is 18'9"; do I understand correctly?

15 A That's correct.

16 Q And that the approaches to the bridge are approx-
17 imately 26'?

18 A That's right, sir.

19 Q Is there anything in your answers to the ques-
20 tions propounded to you which indicates the height of
21 the bridge above the mean height of the surrounding
22 roadway, that is how much of a hump is there made by
23 the bridge?

24 A I don't have that information, I'm sorry.

25 Q Have you been out to that site, Mr. Velter?

1 A Yes, I have.

2 Q Would it be safe to say if you stood at approxi-
3 mately 25' from the end of either side of the bridge
4 that you could not see to the other side of the bridge?

5 A I would say it would be more like -- in my opin-
6 ion, it would be more like 50' from the center.

7 Q So that a pedestrian crossing the street, taking
8 your number to be safe, who stays within 50' of the
9 bridge could not see a car approaching until it
10 crested the bridge, until it got up onto the bridge
11 itself?

12 MR. ZAHN: Where is the pedestrian?

13 MR. PATTERSON: Within 50' of either
14 side of the bridge crossing the roadway.
15 I thought that was clear.

16 THE WITNESS: Well, I'm taking your
17 question to mean 50' on the other side.

18 MR. PATTERSON: Yes, I figured he
19 could see a car on the same side of the
20 bridge as he was. I am talking about a
21 car approaching from the other side of the
22 bridge towards the pedestrian who was
23 crossing the road 50' from the edge of the
24 bridge.

25 THE WITNESS: I believe you could see

1 the top of the car 50' on the other side
2 of the bridge.

3 BY MR. PATTERSON:

4 Q The top of the car you think he could see?

5 A Yes.

6 Q In that same answer you indicate that the bridge
7 surface is in generally good condition. Do you see
8 that portion of your answer?

9 A Yes.

10 Q Let me show you a photograph which is one of the
11 set marked as Exhibit C-5, in fact, it is the last of
12 that set, and ask you whether -- and that was taken
13 last Friday, as I recall Father Deegan's testimony --
14 is that roadway surface in good condition would you
15 say?

16 A Well, when I had seen it it was last spring.
17 This deterioration probably has increased since then.

18 Q We can agree that the roadway in its present
19 condition or at least in the condition it was in last
20 Friday when this photograph was taken is not in good
21 condition, couldn't we?

22 MR. ZAHN: Objection.

23 JUDGE FOUNTAIN: What are the grounds?

24 MR. ZAHN: I think the photograph
25 speaks for itself.

1 JUDGE FOUNTAIN: Well, he is showing
2 the photograph to your witness and making
3 an amendment to his testimony that in
4 light of the picture is his testimony still
5 the same that the bridge is in good condi-
6 tion. I overrule your objection.

7 MR. ZAHN: To the answer?

8 JUDGE FOUNTAIN: No. You objected
9 before he even answered.

10 BY MR. PATTERSON:

11 Q We can agree, can we not, Mr. Velter, that the
12 roadway at least as of the time that this photograph
13 was taken last Friday was not in good condition?

14 A I agree that that portion of the roadway that
15 the photograph shows is not in good condition.

16 Q All right, sir. Did you have occasion to mea-
17 sure the grade of the roadway approaching on either
18 side of that bridge, say the last 50 or 75'?

19 MR. ZAHN: The roadway as it goes up
20 to the bridge.

21 THE WITNESS: No, sir, I have not.

22 BY MR. PATTERSON:

23 Q You were there so can you estimate what that
24 grade is?

25 A In my opinion that grade on either side is

1 between four and five percent.

2 Q Now, sir, in your next answer to Question No. 6,
3 still on Page 2 of your prepared testimony, who took
4 that pedestrian traffic count?

5 A Sir, a pedestrian traffic count was not taken.
6 That figure was extrapolated from other adjacent road-
7 ways having similar conditions, a mathematical pro-
8 cedure for determining traffic without a pedestrian
9 count.

10 Q I want to make sure we are --

11 MR. ZAHN: Excuse me, do you under-
12 stand the question?

13 MR. PATTERSON: I am going to make
14 sure he did.

15 BY MR. PATTERSON:

16 Q Your recorded answer on Page 2, Mr. Velter, says
17 that pedestrian traffic counts were taken on
18 February 14.

19 A Oh, excuse me, I misunderstood. I thought you
20 meant the average daily traffic.

21 Q Who took the pedestrian traffic count, sir?

22 A I don't know. The information came from the
23 District.

24 Q Someone in Penn DOT, in the District, has juris-
25 diction over that area?

1 A Yes.

2 Q And how many of the pedestrians counted were
3 students and how many were members of the general
4 public?

5 A There was no differentiation made of that sort.

6 Q And what was the weather like on February 14 and
7 February 15, 1980?

8 A I don't know, sir.

9 Q That would affect, would it not, especially in
10 February, the number of pedestrians out walking
11 around, wouldn't it?

12 A It could have an effect, yes.

13 Q Do you happen to know, I don't have a calendar,
14 what days of the week they were?

15 MR. ZAHN: If you put that question
16 aside until our Bridge Engineer gets on,
17 I think he can answer it for you.

18 MR. PATTERSON: The weather you mean?

19 MR. ZAHN: Yes. It was clear, but
20 he will answer that.

21 MR. MAZOR: It was a Thursday and
22 Friday.

23 BY MR. PATTERSON:

24 Q Now, sir, as I understand your testimony the
25 pedestrian count is of those pedestrians that crossed

1 the bridge?

2 A. Yes, on those particular days in February.

3 Q. And that does not include if I, just to make
4 doubly sure, that does not include pedestrians who
5 crossed the roadway not on the bridge?

6 A. No, it does not include those pedestrians.

7 Q. And can we agree looking down at the very last
8 sentence on Page 2 that the amount of future pedes-
9 trian traffic is dependent upon a whole series of
10 factors including development in the area, whether
11 that be apartment houses or other kinds of development
12 as well as the University operations?

13 A. Yes, that's a fair statement.

14 Q. Your answer to Question No. 6 also indicates
15 that this road is a minor arterial highway on the
16 Federal Aid Urban System. What does the Pennsylvania
17 Department of Transportation, the Federal Aid Urban
18 System aside, regard it? Is it minor or major or in-
19 between or what?

20 A. It's a minor -- it's classified as a minor arte-
21 rial and that's a classification of highways for a
22 level of surface related to design speed.

23 Q. Let me ask you a question then, I'm not sure I
24 fully understand. If Route 320 could be considered
25 to be a major artery for getting traffic from

1 southeastern Delaware County to the Turnpike and to
2 the Valley Forge area, how would that affect that
3 road's characterization as a minor arterial highway?

4 A In the design criteria, with the shoulders and
5 with the pave.

6 Q You mean because the road is designed in a parti-
7 cular way it becomes minor whether or not it is used
8 a lot; is that a fair statement?

9 A No, I wouldn't agree to that. It's a classifi-
10 cation for level of service which is the flow of
11 traffic related to the design speed.

12 Q So if that traffic on that highway doubled it
13 would make no difference in terms of its classifica-
14 tion?

15 A It would make probably some difference. It
16 might be a major arterial, but the line, speed, and
17 the level of service which is the quality of the flow
18 of traffic, how fast it moves, whether it backs up,
19 gets congested, moves slowly and efficiently, deter-
20 mines the classification.

21 Q I see, all right, thank you. Now, turn the page
22 if you would, sir, and in your answer to Question 7 on
23 Page 3 which refers to an Exhibit 2 which is an acci-
24 dent record for a period of some five years starting
25 in 1975, am I correct that vehicle/pedestrian

1 accidents would not show up on that study?

2 A In my review of it I have not seen under these
3 dates vehicle/pedestrian accidents.

4 Q Now, I can agree with you that none show, but my
5 question is are these accident reports or accident
6 location reports designed to include, if any occurred,
7 any vehicle/pedestrian accidents, anytime when a car
8 ran into somebody?

9 A I can't answer that question because I don't
10 know.

11 MR. ZAHN: The answer is yes, they
12 would have whether a pedestrian is
13 involved or not.

14 JUDGE FOUNTAIN: Do you accept that
15 statement or do you want --

16 MR. PATTERSON: I will accept it, but
17 I sure would like to have --

18 MR. ZAHN: Well, he doesn't know and
19 I was trying to help you out.

20 (Discussion held off the record.)

21 JUDGE FOUNTAIN: What are you trying
22 to establish, Mr. Patterson?

23 MR. PATTERSON: I guess what I am
24 trying to do, Your Honor is to begin to
25 investigate this thing a little bit.

1 JUDGE FOUNTAIN: Well, the man an-
2 swered that he didn't know. He was con-
3 tradicted by his lawyer, but -- or his
4 lawyer offered some clarifying statement,
5 and I don't know whether you will accept
6 that or not.

7 MR. PATTERSON: Well, if I have
8 counsel's assurance that that is a fact.

9 MR. ZAHN: Yes, sir.

10 BY MR. PATTERSON:

11 Q How serious does an accident have to be before
12 it gets picked up on one of these, Mr. Velter?

13 A Once the police are notified, this is probably
14 determined by the people involved that it should be
15 reported. If a local officer is called he takes the
16 information, the data on the accident.

17 Q So that you are telling me that every accident
18 that is reported to Radnor Township Police or to the
19 State Police, depending on who calls who, gets picked
20 up on this State Highway Accident Location Report that
21 you have attached as Exhibit 2 to your prepared testi-
22 mony?

23 A Well -- when you say every --

24 Q Is that its intent?

25 A That's its intent. I wouldn't say that every

1 accident is picked up and reported into the accident
2 data mechanism.

3 Q All right, sir, your answer to Question No. 8
4 says that according to your records the superstructure
5 and substructure of the bridge are maintained by the
6 railroad. Does your record system indicate to you
7 which of the three entities who are in different ways
8 related to providing rail service, which of those en-
9 tities: SEPTA, Amtrak, or Conrail, maintains the sub-
10 structure and superstructure?

11 A It's my information that it does not. The
12 records usually indicate probably when the records
13 were kept who the railroad owner was at that time.

14 Q So at that time it would have been the
15 Pennsylvania Railroad?

16 A Most likely.

17 Q And those records aren't kept anymore?

18 A Yes, they are kept.

19 Q Oh, they are? I misunderstood you. I thought
20 you said at the time those records were kept. Do you
21 have any more current information, more current than
22 November 28, 1968 as to who is supposed to or who is
23 maintaining the superstructure and substructure of
24 that bridge?

25 A I have no current knowledge myself. Mr. Flagel

1 may have some information on that.

2 Q Who?

3 A Mr. Flagel, that is the District Bridge Engi-
4 neer.

5 Q And I understand that except for repairing some
6 potholes and putting up some barricades when one of
7 the railroads is performing work on the bridge, the
8 Pennsylvania Department of Transportation hasn't done
9 anything with respect to that bridge for a period of
10 years?

11 A That's correct.

12 Q And that's the State Highway that runs over that
13 bridge?

14 A That's true.

15 Q Have you done any repairs or repaired any pot-
16 holes or any other more extensive repairs to the
17 immediate ramps to the bridge?

18 MR. ZAHN: Approaches?

19 MR. PATTERSON: Approaches to the
20 bridge?

21 THE WITNESS: I have no such records.

22 MR. PATTERSON: Sir?

23 THE WITNESS: I have no such records.

24 BY MR. PATTERSON:

25 Q So you don't know?

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A. No.

Q. Now, in your answer to Question No. 10 you indicate that the bridge should have a minimum cartway width of 30'. As I understand it, cartway is the width of the cartway defined as where the vehicles run, the surface upon which the vehicles run; is that a fair definition?

A. Yes.

Q. And an additional 5' of sidewalk for a pedestrian walkway?

A. That's true.

Q. Now, what standards is that dimension based on?

A. That's based on the Department's criteria for bridge construction.

Q. So if this bridge was being rebuilt or if there were no bridge there and you wanted to build one, that would be the minimum or that would be the proper dimension for the width of the bridge?

A. Yes.

Q. Is it also usual to divide a pedestrian walkway from the cartway with some sort of barrier?

A. Yes, it is.

Q. And that would add some additional footage, wouldn't it?

A. It would probably be a curb. It should be a

1 curb, safety curb --

2 Q So that would mean an additional -- I'm sorry, I
3 interrupted you.

4 A It should be a safety curb along each edge of
5 the roadway.

6 Q Do you know what the width of the bridge is now,
7 not the cartway width, but the width of the structure
8 itself or is that better left for Mr. Flagel?

9 MR. ZAHN: I think that is better
10 left to our Bridge Engineer.

11 JUDGE FOUNTAIN: You left part of a
12 question hanging, Mr. Patterson.

13 MR. PATTERSON: I think my question
14 was would that be better left to the
15 Bridge Engineer.

16 JUDGE FOUNTAIN: No, that wasn't it.
17 You said when the witness was saying some-
18 thing about a curb, you were saying and
19 that would add -- you were going to say
20 add another --

21 BY MR. PATTERSON:

22 Q Mr. Velter, you indicated a safety curb should
23 be placed on either side of the cartway. How much in
24 width would that add to the 35' which is your estimate
25 of the proper cartway plus sidewalk width?

1 A I believe it would be about 9".

2 Q Each?

3 A Yes.

4 Q That's another foot and a half. We have agreed,
5 I guess, that the existing structure is not adequate
6 for pedestrian traffic as it is presently built?

7 A Yes.

8 Q Under the Department of Transportation's stan-
9 dards?

10 A Right.

11 Q And it is your position that the structure can't
12 be widened based on its existing substructure?

13 A That's the Department's position, yes.

14 Q And I won't ask you why with the understanding
15 that there will be another witness on who I can ask
16 why.

17 The same is true with your answer to
18 Question 11, would that be better taken up by your --

19 MR. ZAHN: Yes, sir, that's the one
20 we did say we would have the witness testi-
21 fy about.

22 MR. PATTERSON: Yes, I thought I
23 remembered that.

24 BY MR. PATTERSON:

25 Q Your answer to Question No. 27 on the last page,

1 Mr. Velter, indicates that the complaint is basically
2 a pedestrian problem. We can agree, can we not, that
3 when we are dealing with bridges that have no separate
4 pedestrian walkway that the question of vehicular
5 movement and pedestrian movement are completely en-
6 twined?

7 MR. ZAHN: Objection.

8 MR. PATTERSON: You can't deal with
9 one without dealing with the other?

10 JUDGE FOUNTAIN: Mr. Zahn, that was
11 the question I was going to ask if Mr.
12 Patterson hadn't.

13 MR. ZAHN: Your Honor, he said the
14 complaint is basically a pedestrian prob-
15 lem.

16 JUDGE FOUNTAIN: Well, This man
17 termed it a pedestrian problem and I think
18 Mr. Patterson has a right under cross-
19 examination to see if there is an inter-
20 connection there. I think it is a proper
21 question and I am going to overrule your
22 objection.

23 BY MR. PATTERSON:

24 Q Can we agree that the two are inextricable since
25 there is no place on the roadway for the pedestrians

1 to walk and a place for the vehicles to drive?

2 A. Well, it is my opinion that it is basically a
3 pedestrian problem and we made a recommendation of
4 what steps should be taken to correct the problem.

5 Q Now, you can't get pedestrians over that bridge,
6 can you, without in some way altering the flow of
7 vehicular traffic, can you?

8 A. We advised steps to be taken that can take the
9 pedestrians off the bridge there by improving the flow
10 of vehicular traffic.

11 Q And that also takes the pedestrians off of the
12 roadway, doesn't it?

13 A. Basically.

14 Q That is it takes them down around, down the hill,
15 into a parking lot, and then over a footbridge so you
16 don't keep those pedestrians walking alongside the
17 roadway and up over the bridge?

18 A. As the situation is now, yes, unless you con-
19 struct an alternate pedestrian overpass.

20 JUDGE FOUNTAIN: Did you ever answer
21 his question as to whether or not the
22 pedestrian problem was interconnected with
23 the vehicular traffic at this spot? Did
24 you ever answer that question?

25 THE WITNESS: It is interconnected

1 under the present conditions because there
2 is no pedestrian sidewalk.

3 BY MR. PATTERSON:

4 Q Now, sir, your testimony indicates that a study
5 be initiated by others to determine possible steps to
6 be taken to prevent surface water accumulation that
7 causes the periodic flooding of the pedestrian tunnel.
8 From where do you get your information that it is
9 surface water accumulation that causes that flooding?

10 A At the field conference a discussion was brought
11 during heavy rains about the problems pedestrians had
12 with the tunnel caused by flooding.

13 Q Yes.

14 A And on that I based my statement.

15 Q Well, then let me ask you another question: What
16 is surface water accumulation? I mean when it rains
17 and something fills up with water and gets water in
18 it, that's all surface water accumulation in your
19 definition?

20 A If it runs down the steps and into the tunnel
21 and accumulates there, it's surface water accumula-
22 tion.

23 Q If it doesn't run down the steps, but runs out
24 the bottom of the tunnel and comes through the ceiling
25 of the tunnel underneath the railroad tracks; is that

1 surface water?

2 A. It could be surface water seeping into the
3 tunnel.

4 Q. How about if it comes up from beneath the
5 tunnel?

6 A. In that case it is probably a spring.

7 Q. You have no questions, Mr. Velter, that that
8 tunnel does flood periodically?

9 A. No.

10 Q. You agree with that?

11 A. According to the statements at the field confer-
12 ence we generally agreed that there was flooding of
13 the tunnel.

14 Q. When you were out there and when you have been
15 at that site, have you been there in the rain?

16 A. It was raining, but it wasn't raining that hard.

17 Q. Did you look into the tunnel?

18 A. Yes, sir.

19 Q. Was it wet at that point?

20 A. It was wet, but I think what I observed was
21 dampness from pedestrian foot traffic being tracked
22 into the tunnel.

23 Q. But it wasn't raining very hard on this day did
24 you say?

25 A. No, it wasn't.

1 Q Now, this rough estimate which is at the very
2 latter part, last word of your prepared testimony, the
3 estimate is \$250,000. How did you arrive at that?

4 A It is a very rough estimate.

5 Q Where did it come from, sir?

6 A I contacted our Department Bridge Engineer and
7 gave him the dimensions and the general description
8 and that's the figure he quoted me.

9 Q And I suspect that since in your testimony you
10 are suggesting that a separate pedestrian overpass be
11 constructed, you certainly would have found out
12 another rough estimate of what that would have cost?

13 A No, sir, I did not. We will have to take a
14 study to determine that because there were other
15 things involved with the construction of such an over-
16 pass.

17 Q Now, the Department of Transportation, the
18 Pennsylvania Department of Transportation, would not
19 be willing, would it, to contribute to the cost of a
20 separate pedestrian overpass?

21 A No, we would not.

22 Q But would you be willing to contribute to the
23 cost of constructing a pedestrian walkway either on a
24 new bridge or cantilevered out from the existing
25 bridge structure?

1 A We wouldn't be willing to contribute to the cost
2 of cantilevering a walkway to the existing structure.
3 If a new structure was so ordered by the Public
4 Utility Commission, we would inadvertently be contri-
5 buting to the cost of the pedestrian walkway. That is
6 under Federal funds, the State paying a certain per-
7 centage of that.

8 Q That is the Pennsylvania Department of Transpor-
9 tation has a direct financial interest in not having
10 the pedestrian walkway put on or connected to the
11 Spring Mill Road, the present Spring Mill Road Bridge?

12 A Yes.

13 MR. PATTERSON: That's all I have,
14 sir.

15 JUDGE FOUNTAIN: Mr. Mazor, do you
16 have anything?

17 MR. MAZOR: Yes, Your Honor.

18 - - - - -
19 CROSS-EXAMINATION

20 - - - - -

21 BY MR. MAZOR:

22 Q With respect to the maintenance problem, Mr.
23 Velter, may I assume from your answer you can find no
24 previous order of this Commission or the previous
25 Public Service Commission fixing responsibility for

1 any portion of the structure?

2 A I searched and could not find any.

3 Q And no agreement between any concerned parties,
4 municipalities, the old railroad, with respect to
5 maintenance?

6 A None that I know of.

7 Q So your answer is based solely on it being
8 supplied by whatever railroad in 1968 -- which I think
9 we can all agree was the Pennsylvania Railroad at that
10 time.

11 A Correct.

12 Q Now, with respect to a pedestrian bridge, either
13 cantilevered from or near to the existing structure,
14 would there be any point in constructing such a bridge
15 without adequate means for pedestrians to get onto it
16 and off of it? In other words, approach sidewalks or
17 walkways?

18 A Oh, definitely you would have to have walkways
19 and approaches.

20 Q Considering that your recent count was in excess
21 of one thousand vehicles, would you consider that
22 highway is by present criteria adequate for that
23 traffic?

24 A The roadway width is adequate for that present
25 traffic, 26'.

1 Q If this was on the program and you were re-
2 building this road and bridge, you would still build
3 it the same in the face of two thousand plus vehicles
4 and what is projected?

5 A Yes.

6 JUDGE FOUNTAIN: Mr. Armentrout?

7 MR. ARMENTROUT: I have nothing.

8 MR. HUSS: Nothing.

9 MR. HERSKOVITZ: Just one question,
10 Your Honor.

11 - - - - -

12 CROSS-EXAMINATION

13 - - - - -

14 BY MR. HERSKOVITZ:

15 Q Mr. Velter, you made the statement that accord-
16 ing to the dimensions, design material, that the
17 bridge is inadequate to accommodate the vehicular
18 traffic. Are you saying that this bridge is not
19 structurally adequate at the present time to accommo-
20 date the present traffic over it?

21 A No, I am saying that it's width, it's design
22 width, is not adequate.

23 Q In other words, if you were building a bridge at
24 this location today this would not be the type of
25 structure that would be put in there?

1 A It would be a wider structure.
2 Q But the bridge is structurally sound to the best
3 of your knowledge?
4 A Yes.
5 Q Or should we defer to the Bridge Engineer?
6 A It is not posted.
7 Q For any weight limit?
8 A That's right.
9 Q And to the best of your knowledge it is struc-
10 turally sound?
11 A To the best of my knowledge.

12 MR. HERSKOVITZ: Thank you.

13 JUDGE FOUNTAIN: Mr. Zahn, do you
14 have any re-direct?

15 MR. ZAHN: No. I move for the admis-
16 sion of Penn DOT's Exhibits 1 and 2.

17 JUDGE FOUNTAIN: Any objection?

18 MR. PATTERSON: No objection.

19 MR. MAZOR: No objection, Your Honor.

20 (The documents referred to, pre-
21 viously marked for identification as
22 Pennsylvania Department of Transportation's
23 Exhibit Nos. 1 and 2 were received in
24 evidence.)

25 - - - - -

1 RONALD FLAGEL, having been duly
2 sworn, was examined and testified as
3 follows:

4 - - - - -
5 DIRECT EXAMINATION
6 - - - - -

7 BY MR. ZAHN:

8 Q By whom are you employed?

9 A Pennsylvania Department of Transportation.

10 Q In what capacity?

11 A I am a District Bridge Engineer.

12 Q And where is your official office?

13 A Radnor, Chester Road, St. David's.

14 Q And you are familiar with the structure which is
15 the subject in today's proceeding?

16 A I am.

17 Q You are authorized to testify on behalf of the
18 Department?

19 A I am.

20 Q Mr. Flagel, would you answer Question 11 as to
21 Penn DOT's testimony indicating whether or not it
22 would be feasible to attach a pedestrian walkway on
23 the existing structure?

24 A Well, in my opinion it is possible, but not very
25 feasible to attach to the existing structure. The

1 existing structure is a thru truss that was built
2 according to our records in 1885. At that time it was
3 probably wrought iron. The metalurgy is extremely
4 questionable. Although it is certainly not weldable,
5 so any type of attachment would have to be some kind
6 of mechanical connection.

7 The connection would have to be made to
8 the transverse beams that rest on the bottom cord.
9 Now, to increase the problem of connecting that to the
10 transverse beams, we have the problem of knee braces
11 which support the main truss. Which means that not
12 only do we have to support a cantilever sidewalk
13 beyond the existing truss, but you also have to have
14 it wide enough to get beyond the existing knee braces.
15 I think it would become a special problem since you
16 have to construct some sort of barrier between the
17 existing highway and pedestrian walkway. It would be
18 very difficult in lieu of the type of bridge to con-
19 struct a steel barrier and because of construction of
20 the bridge and the weight limitations that the present
21 structure has, a concrete barrier would probably be
22 out of the question so that's another difficulty we
23 run into.

24 We have another problem. Each morning the
25 Federal criteria requires that all pedestrian bridges

1 have provisions for handicapped people. This would
2 run the approaches out for some distance. It would
3 interfere in the metered parking on either side of the
4 bridge or if it was cut straight out it would probably
5 block the driveway entrances to the metered parking
6 area. So to widen or attach this present bridge there
7 is a multitude of problems attached with it, plus the
8 fact that we have inside testimony here to the fact
9 that the bridge is really not sufficient. It is not
10 adequate as far as its geometry is concerned to carry
11 traffic alone, so that sometime hopefully in the near
12 future this bridge will be replaced and once it is
13 replaced along with the bridge goes the sidewalk and
14 we are right back to the situation where we are now.
15 So, you know, for that and a few other reasons, we
16 don't feel that widening or attaching to the existing
17 bridge with sidewalks is feasible.

18 JUDGE FOUNTAIN: What do you mean by
19 the near future?

20 THE WITNESS: Well, Your Honor, the
21 near future in my tenure in the Depart-
22 ment has been anywhere from five to
23 fifteen years.

24 BY MR. ZAHN:

25 Q Mr. Flagel, do you agree that the possible

1 solution to this complaint is to build a separate
2 pedestrian overpass walkway?

3 A I personally feel that a separate structure is
4 required here rather than an attachment to the
5 existing structure.

6 Q Do you have any idea of what the cost would be
7 for such a structure?

8 A Well, there is a lot of factors that enter into
9 it right away, foundation problems, dealing with the
10 railroad as far as height, clearance are concerned,
11 putting sheltering up to protect from the catenary
12 wires. I can only guess at this point. It would
13 probably be a quarter of a million dollar figure.

14 JUDGE FOUNTAIN: You could put up a
15 new bridge for that, couldn't you?

16 THE WITNESS: A pedestrian, yes, sir.

17 BY MR. ZAHN:

18 Q Well, would it be feasible to spend that kind of
19 money when an estimate for a new bridge is the same
20 amount, \$250,000?

21 A An estimate for a new highway bridge?

22 Q Yes. Mr. Velter stated in his direct testimony
23 that a new bridge with sidewalks and roadway approaches,
24 retaining walls, would roughly be estimated at
25 \$250,000.

1 A. There must have been some mix-up between our
2 conversations. That figure was for a new pedestrian
3 bridge. A new highway crossing would far exceed that.

4 Q What would a rough estimate be for a new highway
5 bridge?

6 A Well, again, my estimate might be very rough --

7 Q Just roughly.

8 A The present clearance for the railroad is not
9 what the railroad requires, the width would have to be
10 increased. An investigation would have to be made as
11 to whether or not we could use the existing abutments
12 and add onto them or have to replace the whole sub-
13 structure. I would say that a cost for a new struc-
14 ture at this location could vary anywhere from one and
15 a half million dollars on. I guess, it could almost
16 double that and get close to three million dollars,
17 you know, if you couldn't utilize any portion of the
18 existing structure.

19 MR. ZAHN: The witness is available
20 for cross-examination.

21 JUDGE FOUNTAIN: Mr. Patterson?

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23 CROSS-EXAMINATION

24 - - - - -

25 BY MR. PATTERSON:

1 Q Mr. Flagel, in the last two minutes we have been
2 subject to tremendous amounts of inflation from
3 \$250,000 for a whole bridge all the way up to three
4 million dollars. I think we can agree, can we not,
5 that whatever the solution is, it is a thorny problem?

6 A Yes, sir.

7 Q In trying to restructure something in that area
8 or to construct something in that area to get those
9 pedestrians safely across the tracks?

10 A Yes.

11 Q Would it not be less expensive to help support
12 a pedestrian walkway with an existing structure rather
13 than attempting to build on an entirely self-standing
14 basis a new pedestrian walkway?

15 A From a purely economic standpoint, probably.

16 Q And the problem there would be that if someday
17 the Route 320 bridge had to be completely rebuilt,
18 then both things, both the supported pedestrian walk-
19 way and the old bridge would have to come down to put
20 a new one in; is that right, the problem?

21 A No, sir. The problem gets a lot more compli-
22 cated than that. If you attach a walkway you can
23 start causing stress reversals in the transverse
24 beams. You can spur fatigue problems and there are a
25 magnitude of problems that could crop up. We have an

1 old structure. It would not be feasible or unfeasible
2 to see some fatigue, cracks, especially if we start to
3 make corrections to existing transverse beams. So
4 although it may appear to be economically feasible, I
5 would strongly advise against it.

6 Q Am I correct that the bridge now has no weight
7 limit on it?

8 A You are correct.

9 Q So what's the current highway maximum for a
10 structure, 80,000 pounds?

11 A Today it is 80,000 pounds for a qualifying
12 vehicle.

13 Q For one rig with the proper number of axles and
14 tires on it?

15 A And proper length.

16 Q Would two of them fit over the bridge at the
17 same time?

18 A Yes, sir.

19 Q But just barely?

20 A You are talking about side-by-side?

21 Q Yes.

22 A Yes.

23 Q You could have 160,000 pounds on that bridge at
24 any point?

25 A We probably have had a lot more than that.

1 Q It would handle a lot more than that?

2 A Well, I do know that a certain crane manufac-
3 turer in manufacturing funneled cranes down there
4 where one vehicle alone exceeded 200,000 pounds.

5 JUDGE FOUNTAIN: Yet you say in light
6 of your statement you wouldn't advise a
7 cantilever walkway because of possible
8 stress to the structure?

9 THE WITNESS: Your Honor, with knowl-
10 edge of what has gone across that bridge,
11 it just enforces my statement.

12 BY MR. PATTERSON:

13 Q Did you take the pedestrian count, Mr. Flagel?

14 A No, sir, our traffic unit did.

15 Q I think that's one of the areas when I was
16 asking Mr. Velter some questions that it was indicated
17 you might know a little more about it?

18 A Yes, sir, I had the results from the Traffic
19 Division on the pedestrian count that was taken, the
20 one that was taken on February 14, 1980. It was a
21 Thursday. The weather was clear. The traffic was
22 broken down at half hour increments and also direc-
23 tional.

24 JUDGE FOUNTAIN: What day of the week
25 was that?

1 THE WITNESS: That was a Thursday.

2 And also the same is true for the
3 next day, Friday. It was also clear. It
4 was taken by the same personnel, the
5 criteria was the same.

6 BY MR. PATTERSON:

7 Q And how many of the pedestrians were students
8 and how many of them were members of the general
9 public?

10 A I think anyone would be hard pressed to distin-
11 guish the two.

12 MR. PATTERSON: I would think so.

13 JUDGE FOUNTAIN: Do you mean to say
14 you couldn't detect the Villanova students
15 from the general public?

16 THE WITNESS: Unfortunately, not
17 these days.

18 MR. PATTERSON: That's all I have,
19 sir, thank you.

20 MR. ZAHN: Off the record.

21 MR. PATTERSON: I forgot to ask him
22 about one area.

23 BY MR. PATTERSON:

24 Q What is the width of the structure?

25 A Our records indicate that between the center-to-

1 center of the trusses is 22', 10". Now, you are
2 adding hardware from them so out-to-out measurements
3 you are adding inches. You would probably be in the
4 range of, you know, it depends on what point do you
5 want to stop at. Do you want to stop at the knee
6 braces? Do you want to stop at the outside of the
7 truss? I think the center-to-center trusses is your
8 clearance or clear roadway width is usually the figure
9 that we use.

10 Q When you say center-to-center of the trusses,
11 you are measuring the distance across the roadway in
12 that direction?

13 A That's correct.

14 Q You said that was what, sir?

15 A Twenty-two feet, ten inches, according to our
16 records -- I'm sorry, I stand corrected. I said 22',
17 10", and the railroad indicates to me a plan which
18 says 20', 10", and also my record says 20', 10". I
19 was incorrect with the 22', 10". It is 20', 10".

20 MR. PATTERSON: All right, sir,
21 that's all I have, thank you.

22 - - - - -
23 CROSS-EXAMINATION
24 - - - - -

25 BY MR. MAZOR:

1 Q Mr. Flagel, if a separate pedestrian bridge were
2 built at or near the existing bridge would the same
3 Federal requirements with respect to the provisions
4 for the handicap apply as you indicated before?

5 A My impression was some of our more recent
6 dealings with the Federal Highway Administration is
7 that yes, they do require the handicapped requirements.

8 Q So you would have almost the same problem as you
9 would in attaching that walkway to the structure as
10 far as what would happen if you built it in accordance
11 with those requirements, the same problems would
12 exist, wouldn't it, even if it were on a separate
13 bridge?

14 A The problems would vary on where you located the
15 structure. If you located it immediately adjacent to
16 the existing structure, yes, the problems are there.

17 Q That's what I wanted to make sure. Of course,
18 you said the present bridge was made somewhere around
19 1885 and there weren't even motor vehicles, of course.
20 Has the Department in any recent years made any
21 ratings of the various members of the bridge to deter-
22 mine whether it should be posted for any legal load
23 limits?

24 A Not according to our -- the bridge is the
25 maintenance responsibility of the railroad and that

1 would be their responsibility.

2 Q Even though it carries a State highway you have
3 no interest in whether it should be posted for a
4 lower rating?

5 A I most certainly do and that's why we carry out
6 regular inspections on the structure.

7 Q When was your last inspection on this structure?

8 A I'm not sure I can answer that. I can tell you
9 when the last inspection was I have on the file on the
10 structure which doesn't necessarily mean it is the
11 last inspection on the structure.

12 Q You have a record of it?

13 A We have a record on it. The last one I have in
14 my file here is 1977, it would be February 8, 1977.

15 Q I assume this was just the usual visual inspec-
16 tion without making any test of various members?

17 A That is correct.

18 Q And there was nothing available to the naked eye
19 that indicated any further investigation needed to be
20 done at that time?

21 A With the type of structure and that location it
22 would have to be something extremely obvious because
23 of the accessibility of the members.

24 Q And would that include the under members of the
25 bridge as well as through their frame?

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A And the same qualifications pertain.

JUDGE FOUNTAIN: Mr. Armentrout, do you have anything?

MR. ARMENTROUT: I have no questions.

MR. HUSS: No questions.

MR. HERSKOVITZ: Just one or two questions, Mr. Flagel.

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CROSS-EXAMINATION

- - - - -

BY MR. HERSKOVITZ:

Q For the purposes of clarification, it is your testimony that a pedestrian bridge would cost in the neighborhood of \$250,000; is that correct?

A Yes, you know, it is a very broad based estimate, you know, not knowing the conditions of where it is going to be placed, the right-of-way requirements, foundation requirements, you know, it is very difficult without getting into at least a preliminary study to try to pin down any sort of costs.

Q And a new bridge with a walkway on it, that could range from five hundred thousand to three million dollars?

A No, I believe my testimony was a million and a half to three million dollars.

1 Q And from your own knowledge and based on what
2 inspection reports you have, do you believe that the
3 bridge is structurally sound at the moment?

4 A For legal loads, yes.

5 Q And the service life of this bridge would be
6 another five to fifteen years; is that what you indi-
7 cated?

8 A No, sir, I did not indicate that.

9 JUDGE FOUNTAIN: No, that was his
10 definition of near future.

11 BY MR. HERSKOVITZ:

12 Q You said in the near future it would be replaced
13 and your guess was five to fifteen years?

14 A I hoped it would be replaced in the near future.

15 Q And you said five to fifteen years?

16 A I was asked what my interpretation was of the
17 near future and I said in the course of my tenure in
18 the Department that's what near future meant to me.

19 Q And that's when you hoped it would be replaced?

20 A Yes.

21 Q Does that equate with what the service life of
22 the bridge would be?

23 A It all depends on what you indicate the service
24 life is. If it is that is how long it can take legal
25 loads, it would probably not be the service life. If

1 service life is how long it can take vehicular traffic
2 with weight restrictions, it probably would apply.

3 Q What period of time would you say for legal
4 loads?

5 A If you are asking for a crystal ball, I couldn't
6 give you an answer to that.

7 JUDGE FOUNTAIN: Do you have any
8 re-direct?

9 MR. ZAHN: No.

10 JUDGE FOUNTAIN: All right, the
11 witness is excused.

12 (The witness was excused.)

13 JUDGE FOUNTAIN: And we will have a
14 five minute recess.

15 (Recess taken.)

16 JUDGE FOUNTAIN: Mr. Armentrout, I
17 think you are next on the agenda.

18 MR. ARMENTROUT: All right, Mr.
19 Cooper.

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21 RICHARD H. COOPER, having been duly
22 sworn, was examined and testified as
23 follows:

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25 DIRECT EXAMINATION

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BY MR. ARMENTROUT:

Q Mr. Cooper, would you state your full name and business address?

A My name is Richard H. Cooper and my address is 560 Suburban Station Building, 1617 JFK Boulevard, Philadelphia, Pennsylvania 19103.

Q And by whom are you employed?

A I am employed by the National Railroad Passenger Corporation also known as Amtrak.

Q And in what capacity?

A I am a Structural Engineer for them.

Q And will you recite for the benefit of the record and the people here your education and professional qualifications?

JUDGE FOUNTAIN: Hold it, just a minute. Will you accept --

MR. MAZOR: We have heard Mr. Cooper testify in many of these. We would certainly accept that he will be accepted as a witness for them.

MR. PATTERSON: Fine, I am willing to accept him.

JUDGE FOUNTAIN: Mr. Zahn, he was going to go into a list of his educational

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background. Do you accept him?

MR. ZAHN: We accept him.

MR. HERSKOVITZ: We also accept him.

JUDGE FOUNTAIN: I think Mr. Cooper has been before me, haven't you?

THE WITNESS: Yes, I have.

BY MR. ARMENTROUT:

Q Are you authorized to testify here on behalf of Amtrak?

A Yes, I am.

Q Now, on August 20, the Pennsylvania Public Utility Commission sent a list of questions to all parties of record in this matter. Do you have that list and have you prepared answers to those questions which were directed to Amtrak?

A Yes. Amtrak received the list of questions and I prepared answers to questions numbered 13 through 19 which we were directed to answer.

Q I will read through those questions for you, Mr. Cooper. Question 13 reads: National Railroad Passenger Corporation shall submit testimony as to the exact corporate name of the owner and operator of the line of railroad involved in this proceeding.

A The exact corporate name of the owner of the line of railroad involved in this proceeding is the

1 National Railroad Passenger Corporation. The same
2 Corporation also operates the railroad.

3 Q How many tracks are located at the site of the
4 crossing and the volume, class and approximate speed
5 of all trains operating daily over the tracks in the
6 vicinity of the crossing?

7 A There are four tracks through the Villanova
8 area. On a daily basis, Monday through Friday, Conrail
9 presently runs 72 scheduled commuter trains under con-
10 tract to SEPTA. Conrail also operates an average of
11 eight of its own freight trains through this area.
12 Amtrak runs 28 scheduled trains, none of which make
13 stops at Villanova. The freight trains run at to
14 speeds of 50 miles per hour while the passenger trains
15 are authorized to operate at 70 miles per hour.

16 Q Now, Mr. Cooper, I am going to ask you to clar-
17 ify for the record what you mean when you say that
18 Conrail operates and Conrail presently runs 72 com-
19 muter trains under contract to SEPTA. You said
20 earlier that Amtrak operates the railroad. Would you
21 elucidate on the operational responsibilities?

22 A All right. Amtrak owns and operates the rail-
23 road. That is we schedule the trains or tell them
24 how they are going to run. SEPTA is responsible for
25 the commuter service. Amtrak does not run local

1 commuter service, so therefore SEPTA is responsible
2 for it and they have contracted with Conrail to have
3 Conrail operate their trains for the commuter service.

4 Q In operating these trains does Conrail supply
5 Conductors and Engineers and train crew members for
6 SEPTA service?

7 A Yes, they do.

8 Q And these trains as well as the Amtrak passenger
9 trains are operated under the dispatching directions
10 of the Amtrak Dispatchers; is that correct?

11 A That's correct.

12 Q Question 15, the Commission asked for testimony
13 from Amtrak as to its present obligation with respect
14 to the maintenance of the existing bridge and the
15 pedestrian tunnel located southeast of the bridge.

16 A The overhead highway bridge adjacent to the
17 passenger station at Villanova carries Spring Mill
18 Road, State Highway Route 320, over the railroad.
19 Prior to February, 1978, the line of railroad was
20 operated by the Pennsylvania Railroad which was suc-
21 ceeded at that time by the Penn Central Railroad. On
22 April 1, 1976 Amtrak became the owner and operator of
23 this line of railroad. At that time the property
24 conveyed to Amtrak was only that property necessary
25 for the operation of trains.

1 It is our position that the overhead
2 bridges were not part of the conveyance but remained
3 the responsibility of the predecessor railroads.
4 Therefore, Amtrak claims it is not presently obligated
5 to maintain the bridge except for the catenary attach-
6 ments to the bridge necessary to operate the trains.

7 The pedestrian tunnel under the tracks at
8 the station is a commuter facility maintained by
9 Amtrak forces whose expenses are reimbursed by SEPTA
10 through Conrail pursuant to the commuter operating
11 agreement.

12 Q All right, Question No. 16 asks for testimony as
13 to whether the subject bridge is adequate to accommo-
14 date both vehicular traffic and pedestrian traffic and
15 whether the pedestrian tunnel is adequate to accommo-
16 date pedestrian traffic in this location.

17 A The existing structure provides a clear roadway
18 width between curbs of 18' 6" plus or minus; the
19 difference between the two main trusses supporting the
20 roadway is 20' 10". It is, therefore, our opinion
21 that the existing bridge is too narrow to accommodate
22 both vehicular and pedestrian traffic at the same
23 time.

24 The pedestrian tunnel was constructed more
25 than 90 years ago to provide access for commuter

1 passengers. We believe it is still adequate for its
2 original purpose.

3 Q Can you describe the drainage system including
4 the type of drains and conduits that exist in the
5 pedestrian tunnel and state whether in your opinion
6 the capacities of these appurtenances can be increased
7 to improve the drainage system.

8 A Amtrak has no records or plans which would
9 describe the existing drainage system in the pedes-
10 trian tunnel. Therefore, it is not possible at this
11 time to offer an opinion regarding the system's capac-
12 ity. We know that the tunnel is subject to flooding
13 during heavy rain, and believe that this is due in
14 large part to runoff from adjacent University prop-
15 erty.

16 Q Mr. Cooper, have you prepared or had prepared
17 under your supervision a plan showing the type of
18 drainage runoff in the vicinity of the tunnel?

19 A Yes.

20 MR. ARMENTROUT: I would like to
21 have this marked as Amtrak's Exhibit 1.

22 (The document referred to was marked
23 as Amtrak's Exhibit No. 1 for identifica-
24 tion.)

25 BY MR. ARMENTROUT:

1 Q Now, referring to what has been identified as
2 Amtrak's Exhibit 1, can you describe what it shows and
3 what has been highlighted in blue?

4 A Okay. On the north side of the railroad we have
5 highlighted an existing stream or large drainage ditch
6 and indicated with arrows that the flow in that ditch
7 would be to the east. More towards the center
8 crossing of the tracks there is what we have indicated
9 as a 30" cast iron pipe, 120' long beneath the tracks.
10 This collects water from a 3' open ditch on the south
11 side of the tracks and discharges it into the stream
12 or the swale on the north side of the tracks.

13 Adjacent to that 30" cast iron pipe there
14 is a small -- we would call it 2" diameter pump dis-
15 charge pipe. That comes from what is called MH on the
16 plan and that stands for manhole, and in the manhole
17 there is a sump pump which pumps water which is dis-
18 charged through that pipe again into that swale or
19 ditch.

20 As we go west towards the station in the
21 south side of the tracks, we have shown two inlets in
22 the parking lot. They are referred to as open mouth
23 inlets collecting water as it drains to them from the
24 parking lot area.

25 Q Which parking lot are you referring to?

1 Is that the station parking lot?

2 A. The station parking lot, that's correct.

3 In addition there are two gate inlets
4 adjacent to the sidewalk leading to the station. We
5 are making certain assumptions as to where these drain
6 by the blue line. We are assuming that there are
7 pipes collecting the water from those inlets directing
8 it to what are referred to as outlet pipes near the
9 3' open ditch. The outlet pipes are obvious when you
10 go out there and we can just assume that they come
11 from the direction of the inlets in the parking lot.

12 In the passenger tunnel underneath the
13 tracks there are two tunnel inlets, one on either side
14 of the tunnel at the north end of the tunnel.

15 We assume, of course, that the tunnel is
16 sloped sufficiently so any water or moisture that
17 accumulates in there, drains towards those inlets. We
18 have also indicated with dark blue arrows originating
19 from the one inlet in the parking lot on the south
20 side of the track the way water would flow if that
21 inlet was clogged, not allowing water to get into the
22 inlet. It would run over the inlet down through the
23 station and into the tunnel.

24 Q. Now, have you been to the vicinity of the
25 Villanova Station and examined the lay of the land in

1 that area?

2 A Yes, I have been there.

3 Q And can you describe for the record the slope of
4 the land immediately, I guess, it is south of the sta-
5 tion parking lot in the direction of -- we can refer
6 for a minute to Complainant's Exhibit, C-2, in the
7 direction of Mendel Hall and the parking lot associ-
8 ated with that building.

9 A The land generally slopes towards the railroad
10 from that area, from the Mendel Hall area.

11 Q And do you have an opinion as to whether or not
12 that would have an affect upon the volume of runoff
13 or drainage in the vicinity of the tunnel?

14 A I would think it would have a direct affect on
15 the volume.

16 Q And what would that be?

17 A It would increase the volume of water getting
18 to the area of the parking lot and the station.

19 Q Did you make any search of your records to de-
20 termine when the existing drainage system was con-
21 structed?

22 A We looked through the records and we do not have
23 anything that indicates when the drainage system was
24 put in. We have no idea at all other than if we were
25 to make the assumption that the drainage, some of the

1 drainage, was put in with the station. Then we can
2 perhaps date it, but there are no records that specif-
3 ically date the drain.

4 Q So you don't know whether any additions or modi-
5 fications were made to the drainage system at the time
6 the Mendel Hall construction and associated construc-
7 tion was made; is that right?

8 A That's right.

9 Q In your opinion is the existing system adequate
10 to handle the runoff in the vicinity of the south
11 entrance of the tunnel in a heavy rain and if you have
12 any qualifications to that?

13 A Yes, I would have reservations about saying
14 whether it was adequate or not without being able to
15 thoroughly investigate the system.

16 Q And you have not been able to do that because of
17 the lack of plans?

18 JUDGE FOUNTAIN: Because of the lack
19 of what?

20 MR. ARMENTROUT: Plans.

21 THE WITNESS: No.

22 BY MR. ARMENTROUT:

23 Q Have you made a search -- going back to this
24 thing -- have you made a search of the records to
25 determine what the record for accidents in the

1 vicinity of the station is?

2 A. Amtrak's accident records date only to April 1,
3 1976 when we started operating this line of railroad.
4 From that time to the present one fatality occurred on
5 October 1, 1979 when a student tried to cross the
6 tracks.

7 In addition, another student was severely
8 burned on March 31, 1978 by contacting the electric
9 catenary wire after climbing onto a standing Conrail
10 freight car.

11 Q. And what part of the work, if any, will Amtrak
12 agree to perform, what percentage of the cost will it
13 agree to assume in the event that this complaint is
14 sustained and an improvement is ordered by the Commis-
15 sion at this location?

16 A. It is Amtrak's position that any work performed
17 on the overhead highway bridge exclusive of the elec-
18 tric catenary should be performed by parties other
19 than Amtrak. Furthermore, Amtrak should not be bur-
20 dened with any costs incident thereto.

21 However, Amtrak is willing to assume what-
22 ever costs are incurred with regard to catenary ad-
23 justments or protecting a contractor working on the
24 bridge over the railroad.

25 Work in the pedestrian tunnel will be

1 performed by Amtrak forces or may be performed by an
2 outside contractor subject to approval of labor
3 clearance and any agreement between Amtrak and SEPTA
4 and/or Conrail. Amtrak is not willing to assume any
5 costs incurred if the Commission orders improvements
6 to the tunnel.

7 Q In your opinion is the tunnel adequate to handle
8 the pedestrian traffic indicated by passengers using
9 the railroad station?

10 A I believe it is adequate, yes.

11 MR. ARMENTROUT: I submit the witness
12 for cross-examination.

13 JUDGE FOUNTAIN: Mr. Patterson?

14 - - - - -

15 CROSS-EXAMINATION

16 - - - - -

17 BY MR. PATTERSON:

18 Q Mr. Cooper, I understand in looking at Amtrak's
19 Exhibit 1 which is an engineering drawing of the area
20 close by the railroad station at Villanova, I under-
21 stand from your testimony that the superimposed blue
22 line or aqua line that you have drawn on that diagram
23 on the south side of the tracks located from essen-
24 tially the parking lot to something called outlet
25 pipes is based on your assumption that there are

1 pipes there?

2 A We can see the outlet pipes. Those are there.
3 And we are just assuming that due to the lay of the
4 land and the way an engineer perhaps would design a
5 drainage system that there are in fact pipes from the
6 inlet or in the parking lot to the open ditch.

7 Q But those outlet pipes could come from inlet
8 grates somewhere entirely different than from where
9 you expected it to come; isn't a fact?

10 A It's possible.

11 Q Now, sir, you said that you visited the station
12 and saw the tunnel?

13 A Yes.

14 Q Have you ever visited it in a heavy rain or
15 shortly after a heavy rain?

16 A No, sir.

17 Q When you were there were you down in the tunnel?

18 A Yes, I was.

19 Q Did you notice when you were down in there any
20 bricks that had fallen out of the -- it's an arch
21 tunnel; is that correct?

22 A That's correct.

23 Q The ceiling is rounded?

24 A Right.

25 Q Did you notice any bricks that had fallen out of

1 that archway?

2 A. No, I didn't notice any.

3 Q. Did you notice the seepage of any subsurface
4 water, that is water coming in from the tunnel, I will
5 try to use my own definition, at some point below
6 ground level?

7 A. There was no obvious seepage in the tunnel. I
8 specifically looked for it. I did not note any.
9 There was generally dampness in the tunnel, but one
10 would expect that in structures of that type.

11 Q. Have you had reports from Amtrak employees who
12 are out there at the time when there was rain in the
13 tunnel or water in the tunnel?

14 A. I didn't get any reports about water in the
15 tunnel or how the water got in the tunnel except one
16 particular instance.

17 Q. Has anyone advised you that water has been
18 coming into the tunnel from the north side of the
19 tracks? That is the side opposite from the Villanova
20 parking lot and from the railroad's own parking lot?

21 A. No, I was not advised of water coming in from
22 that side.

23 Q. And the parking lot which is shown on Amtrak's
24 Exhibit 1 is below in level the Villanova parking lot;
25 is that not correct?

1 A Are you referring to the one on the north side?
2 Q Yes, I'm sorry. No, the one on the south side,
3 the parking lot shown on your diagram on the south
4 side of the tracks.
5 A Yes.
6 Q The parking lot on the north side of the tracks
7 on your diagram, Amtrak's Exhibit 1 --
8 A Right.
9 Q I direct you to the south side.
10 A South side.
11 Q Is that level below the Villanova parking lot
12 which is adjacent to the railroad parking lot?
13 A It is generally, yes.
14 Q If you look at Exhibit C-2 there is one lot on
15 the south side of the tracks nominated as metered
16 parking, another lot nominated as just plain old
17 parking?
18 A Right.
19 Q Am I correct that the metered parking lot shown
20 on Exhibit C-2 is a parking lot identified on your
21 Amtrak Exhibit 1 south of the tracks?
22 A That's right.
23 Q When was that parking lot shown on your Amtrak's
24 Exhibit 1 constructed?
25 A I have no idea.

1 Q And when was the last Villanova parking lot
2 which is adjacent to it constructed?

3 A I have no idea. I can only assume it was con-
4 structed at the time Mendel Hall was constructed.

5 Q Now, when you say, Mr. Cooper, that the tunnel
6 is adequate for the railroad's passengers, was that
7 your opinion?

8 A That was my opinion, yes.

9 Q Do you mean from a structural point of view that
10 it is adequate?

11 A From a functional point of view that it provides
12 access under the tracks between the inbound and out-
13 bound stations.

14 Q You are not taking the position as a matter of
15 engineering opinion that it is adequate, for example,
16 for women crossing at night for their own reasons who
17 might feel uncomfortable in that tunnel?

18 A No.

19 Q You are not addressing yourself to that issue,
20 are you?

21 A No.

22 Q Now, you say in the final answer, in your final
23 answer of your prepared testimony, that "Work in the
24 pedestrian tunnel will be performed by Amtrak forces,"
25 but Amtrak is not willing to assume any costs if the

1 Commission orders improvements to the tunnel. Where
2 do you draw the line between fixing things up and
3 improving them? In other words, I'm trying to figure
4 out what you are willing to pay for it, what Amtrak
5 is willing to pay for it?

6 A Amtrak basically is willing to pay for, as I
7 indicated in my answer, costs for protecting anyone
8 who wants to work over the railroad or any adjustments
9 which are necessary to our catenary system. Any other
10 work which we perform out there we expect to be reim-
11 bursed for, we expect our expenses to be reimbursed by
12 some party whether it is fixing it or improving it.

13 Q What if your assumed drain pipe is not there as
14 shown on your Exhibit 1? What if that assumed drain
15 is not there between the parking lot and the outlet
16 pipes? Is Amtrak willing to stand the cost of putting
17 a pipe in there?

18 A Which one are you referring to?

19 MR. ARMENTROUT: You mean the one on
20 the south side?

21 MR. PATTERSON: Yes, the one we have
22 talked about in the first part of your
23 cross-examination.

24 THE WITNESS: I can't answer that at
25 this time.

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BY MR. PATTERSON:

Q Mr. Cooper, have you asked anybody from your department to go out there and analyze whether there is any water rising in the tunnel in a rainstorm or where it is coming from and how to solve the problem?

A No, I have not.

Q And if I understand you, it's Amtrak's position that a bridge which gets traffic over your line of railroad so it can continue to operate a number of trains per day along those tracks, is not necessary to the functioning of that railroad?

A That's right.

Q I suspect that issue is being litigated elsewhere, isn't it?

A Yes, it is.

MR. PATTERSON: That's all I have, thank you.

MR. MAZOR: I have no questions, Your Honor.

MR. HUSS: No questions.

JUDGE FOUNTAIN: Mr. Zahn?

- - - - -
CROSS-EXAMINATION
- - - - -

BY MR. ZAHN:

1 Q Mr. Cooper, two things: You will admit, will
2 you not, that the separated crossing at this crossing
3 area is much safer than an at grade crossing?

4 A Yes, it is.

5 Q And your line of railroad, you own the line of
6 railroad beneath the crossing, no question about that,
7 right?

8 A Right.

9 Q Will you also admit if this was an at grade
10 crossing automatic protection and upkeep of the
11 crossing plus the liability at that time the railroad
12 would be subjected to would be an added burden for the
13 railroad?

14 A I would assume it would be, yes.

15 Q Now, are there any recommendations that Amtrak
16 could make as to whether or not Villanova could help
17 this drainage situation, this runoff of water? Could
18 Villanova do anything?

19 A Perhaps they could, yes.

20 Q Do you have any idea of what they could do?

21 A First of all, a very detailed study to deter-
22 mine where the water is coming from and where it is
23 going is necessary and, of course, once that study is
24 made then the solution to the problem could be de-
25 signed.

1 Q And isn't it true that the addition of parking
2 areas and buildings and cement concrete prevent or add
3 to the surface runoff rather than having the water
4 being absorbed by grass that was formerly in the place
5 of these areas?

6 A That's right.

7 MR. ZAHN: Thank you, Mr. Cooper.

8 JUDGE FOUNTAIN: Mr. Herskovitz?

9 MR. HERSKOVITZ: Just one question.

10 - - - - -

11 CROSS-EXAMINATION

12 - - - - -

13 BY MR. HERSKOVITZ:

14 Q Mr. Cooper, you state that Amtrak maintains the
15 pedestrian tunnel under the tracks, does Amtrak also
16 own that facility?

17 A I believe we do, but it's maintained under an
18 agreement for SEPTA because it is a commuter station
19 and not an Amtrak station.

20 Q But you think that Amtrak does own it, that
21 SEPTA would maintain it under an agreement?

22 A No, we would maintain it because we own the
23 railroad, but it would be maintained -- our expenses
24 to maintain it would be reimbursable from SEPTA via
25 Conrail because of the commuter operating agreements.

1 Q Who owns the stations?

2 A I think we do. I'm not sure. I would have to
3 check.

4 Q You state that Amtrak maintains the tunnel, then
5 you state that Amtrak is not willing to assume any
6 costs incurred if improvements are ordered to the
7 tunnel. Well, if you own it possibly and maintain it
8 which you definitely state, then why won't you improve
9 it at your own costs?

10 A Basically it is maintained for a commuter opera-
11 tion.

12 Q You are stating if any improvements had to be
13 made to accommodate Villanova students you would not
14 maintain it at your own costs to improve it?

15 A I feel that the original intent of the tunnel
16 was for the railroad passengers. The Villanova stu-
17 dents use it because of, you know, the ease to get
18 across the tracks.

19 Q What I am saying is if you maintain it and even
20 though Villanova students use it, you are still not
21 willing to provide any improvements to it?

22 A Right.

23 MR. HERSKOVITZ: Thank you.

24 JUDGE FOUNTAIN: Is that it?

25 MR. HERSKOVITZ: Yes, Your Honor.

1 MR. ARMENTROUT: Just a couple of
2 re-direct questions, Your Honor.

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4 RE-DIRECT EXAMINATION

5 - - - - -

6 BY MR. ARMENTROUT:

7 Q What do you mean when you say that Amtrak main-
8 tains this tunnel? I think perhaps if you can eluci-
9 date on that point a little bit it might clarify the
10 record.

11 A By maintenance Amtrak will perform any work
12 which is necessary to have that facility continue in
13 service.

14 Q Is that arrangement due in part to the agreement
15 with the railroad labor unions?

16 A Yes, to my knowledge it is.

17 Q Who claims the work by virtue of the fact that
18 Amtrak owns the right-of-way; is that right?

19 A Right.

20 Q And this maintenance is done not for Amtrak's
21 own account, but pursuant to an agreement that Amtrak
22 has with Consolidated Rail Corporation; is that right?

23 A Yes, to my knowledge that's correct.

24 Q And you are aware, are you not, of an agreement
25 of Consolidated Rail Corporation with SEPTA for the