

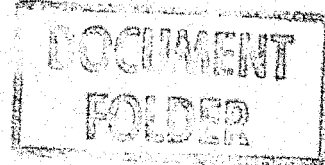


COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P. O. BOX 3265, HARRISBURG, Pa. 17120

October 29, 1982

IN REPLY PLEASE  
REFER TO OUR FILE  
C-80011839

Larry R. McDowell, Esquire  
1200 Western Savings Bank Bldg.  
Philadelphia, PA 19107



Villanova University

v.

National Railroad Passenger Corporation (AMTRAK),  
Consolidated Rail Corporation (Conrail), South-  
eastern Pennsylvania Transportation Authority  
(SEPTA), Pennsylvania Department of Transporta-  
tion (PennDOT), County of Delaware and Radnor

TO WHOM IT MAY CONCERN: Township

Enclosed is a copy of a proposed Initial Decision prepared by  
Administrative Law Judge Martin R. Fountain.

An original and nine (9) copies of exceptions to the decision,  
if any, must be filed in the Secretary's Office and a copy to each party  
of record within 15 days of the date of this letter.

Replies to the exceptions, if any, must be filed within 20 days  
of the date of this letter.

Exceptions and reply exceptions shall obey 1 Pa. Code 35.212,  
particularly the 50 page limit.

Exceptions should be clearly labeled as "EXCEPTIONS OF (name of  
party) - (protestant, complainant, staff, etc.)". Do NOT label exceptions  
as a "Brief" or "Brief on Exceptions".

All timely filed exceptions and replies thereto will be attached  
to the decision for consideration at Public Meeting. Late filed exceptions  
and late filed replies will not be attached.

Very truly yours,

jr

Enclosures

Certified Mail

Receipt Requested

cc: ALJ Fountain/B. Bigelow/Bureau of Rail Trans./Law Bureau  
Chairman/Commissioners/OSA/Mr. Bramson

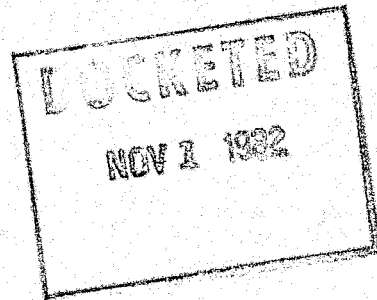
William R. Shane, Chief  
Administrative Law Judge

Similar letters to: see attached list

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

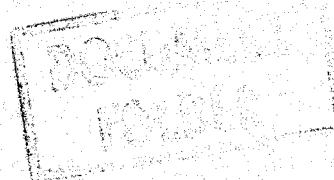
VILLANOVA UNIVERSITY : DOCKET NUMBER  
: :  
V. : :  
: :  
NATIONAL RAILROAD PASSENGER :  
CORPORATION (AMTRAK), :  
CONSOLIDATED RAIL CORPORATION :  
(CONRAIL), SOUTHEASTERN PENN- :  
SYLVANIA TRANSPORTATION :  
AUTHORITY (SEPTA), PENNSYLV- :  
ANIA DEPARTMENT OF TRANS- :  
PORTATION (PennDOT), COUNTY :  
OF DELAWARE AND RADNOR :  
TOWNSHIP : C-80011839

INITIAL DECISION



MARTIN R. FOUNTAIN  
Administrative Law Judge

1302 Philadelphia State Office Building  
Philadelphia, Pennsylvania 19130



## I HISTORY OF THE PROCEEDINGS

The gravamen of the subject complaint, received on January 31, 1980, from Villanova University encompasses the alleged inadequate and dangerous condition of 'the facilities for pedestrian movement' under, above and across the lines of National Railroad Passenger Corporation (hereinafter Amtrak). The initial hearing in the case was held on October 7, 1980, before the undersigned Administrative Law Judge in Philadelphia. A further hearing was held at Villanova University on December 4, 1980. On April 28, 1981, an Interim Initial Decision was issued by the undersigned which was approved by the Commission on June 9, 1981. The third hearing in the case was held in Philadelphia on June 2, 1982. No briefs or reply briefs have been filed by any of the parties.

## II FINDINGS OF FACT

1. Villanova University is surrounded by Route 30 (Lancaster Pike), Traffic Route 320 (Spring Mill Road), Ithan Avenue and railroad tracks. (N. T. 5, 6; Ex. C-1)
2. The main campus and the buildings, central to the University, are located on the south side of the tracks and are bounded by Traffic Route 320. (N. T. 6)
3. Two buildings of the University are located on the north side of the tracks which house a school of nursing, dormitories, athletic facilities and law school. (N. T. 6, 7; Ex. C-1)

4. To get to those buildings, students (approximately 2,000 daily ) and faculty must cross the tracks. (N. T. 23)

5. There are two ways of crossing the tracks in the vicinity of the main capus: one is the overhead bridge carrying Spring Mill Road and the other is a tunnel (pedestrian underpass) under the tracks. The above-grade bridge and tunnel are less than 200 feet apart. (N. T. 25)

6. There are problems with both of these facilities: The bridge is narrow and does not have any pedestrian walkways. Clear roadway width on the bridge is only 18 feet, 6 inches. The tunnel has inadequate drainage and floods during rainy periods. (N. T. 26, 27)

7. There is yet another way of crossing the tracks by way of Ithan Avenue and County Line Road; however, that involves an additional distance of a mile, or a mile and a half. (N. T. 26)

8. The students, at times, tend to cross the tracks at-grade illegally, especially when the tunnel is flooded, which has resulted in one fatality in 1979. (N. T. 26, Tr. 2)

9. The bridge, carrying Spring Mill Road, is approximately 100 years old, narrow, and has ascending grades on both sides and is without a pedestrian walkway. Highway vehicular traffic presently using the structure is 12,720 vehicles a day. Pedestrian traffic counts are also substantial, i.e., 196 pedestrians for an approximate 12-hour period. (N. T. 71, 72)

10. The structure is adequate for vehicular loads but hardly meets present-day criteria. (N. T.76)

11. The railroad tracks are presently owned by Amtrak. A high volume of trains, about 108 per day, are operated over the tracks at speeds of up to 70-mph. All train movements are scheduled by Amtrak, which is also responsible for operation of passenger trains. (N. T. 121)

12. Conrail operates freight trains as well as commuter trains under agreement with SEPTA. (N. T. 121, 122)

13. The structure would qualify for 75% or 80% federal funds. (PennDOT's Exh. 3, Page 4; N. T. 6/2/82-98)

14. A pedestrian crossing will cost \$345,000. (PennDOT's Exh. 3, Page 5)

15. A new structure will cost \$645,000 excluding roadway approach work and the right-of-way costs. (PennDOT's Exh. 3, Page 5)

16. Replacement of the existing tunnel drainage pipe, 2000 feet long, will cost \$250,000. (Amtrak's Exh. 2, Page 4)

17. The lighting in the tunnel was renewed by Amtrak at a cost of about \$3,000. (Amtrak's Exh. 2, lighting section)

18. Most of the water in the tunnel now seems to be coming from the state highway on the southern side of the tracks. (Amtrak's Exhs. 3 and 4)

### III DISCUSSION

A review of the facts established in the series of hearings of the case at bar is necessary background for a full understanding

of the recommended corrective action of the problem here presented for resolution.

'The facilities for pedestrian movement' complained of by Villanova University are a tunnel below and a structure above the railroad tracks. The tunnel, built by the railroad, which previously operated at this location, is primarily for the use of railroad passengers desiring to travel from one side of Villanova Train Station to the other. <sup>1/</sup> The structure over the railroad tracks carries a state highway, Spring Mill Road (State Highway Route 225, Traffic Route 320). It is located a few hundred feet west of the railroad station.

Villanova University is located next to the railroad tracks. Although most of the university buildings are located on the south side of the tracks, i.e., Mendel Hall etc., some of the buildings are on the north side, i. e., School of Nursing, Law School, tennis courts, etc. Approximately 2000 students and faculty find the need to cross the tracks daily. The crossing can be accomplished either by means of the tunnel or the structure. <sup>2/</sup> Both the tunnel and the structure present problems. The structure is narrow in width (18.5' wide roadway) and has no sidewalks. It is also located on a vertical curve with inadequate sight distances. The tunnel floods during rainy periods.

---

<sup>1/</sup> Villanova Train Station belongs to Amtrak. However, none of Amtrak's trains stop at this location. The station is used primarily by SEPTA commuters and is leased to SEPTA by Amtrak.

<sup>2/</sup> At-grade crossing of the tracks is neither advisable nor safe because of high-speed trains. Such attempts by the students in the past have resulted in the death of one student and electric burns to another.

Until recently, the lighting in the tunnel had been inadequate which made female students fearful to use the tunnel, especially at night. <sup>3/</sup>

In the Interim Initial Decision issued in this proceeding, PennDOT was directed to study: 1) the possibility of attaching a pedestrian walkway to the structure; 2) investigate the possibility of constructing a separate walkway for pedestrian use; and, 3) to look into the possibility of the replacement of the structure. Amtrak was directed to make temporary improvements and/or repairs to the tunnel to correct the flooding and the lighting problems; to investigate the cause of the flooding in the tunnel and make recommendations as to the permanent elimination of the problems.

Both PennDOT and Amtrak have studied the project as directed and have submitted their reports. PennDOT, in its report, indicates that because of the age of the structure (built in 1875) and because of the type of material used (wrought iron or non-weldable mild steel), a walkway cannot be attached to the structure. It recommends an immediate in-depth inspection to determine the load-carrying capabilities of the structure. <sup>4/</sup>

---

<sup>3/</sup> The lighting has now been improved by Amtrak.

<sup>4/</sup> The structure is unposted at the present time.

PennDOT also recommends the construction of a separate walkway east of the existing structure at an estimated cost of \$345,000<sup>+</sup>-. The replacement of the existing structure may cost as much as \$645,000+. PennDOT indicates that the structure will qualify for federal funds (75% or 80%). However, there are no funds presently available for the project. The structure is programmed for replacement in nine to twelve years on PennDOT's 12-year highway program. PennDOT states that it intends to move the structure up in priority on its 12-year program and plans to replace the structure as soon as funds become available.

Amtrak's investigation reveals that the tunnel floods because of surface runoff finding its way into the tunnel. Drainage system for the tunnel consists of a 12" vitrified clay pipe connected by two manholes. The pipe is capable of taking care of the subsurface drainage but cannot take care of the surface runoff. The pipe may also be blocked in sections either by tree roots or collapse due to age. Amtrak's recommendations for the correction of the problem are as follows:

1. Installation of drainage inlets along Spring Mill Road on the southern approach to the structure to intercept the surface runoff finding its way into the tunnel.
2. Removal of trees suspected of causing root damage to the pipe.

3. Location of exact points of blockage and excavation and replacement of blocked sections of the pipe.
4. Construction of a new manhole as near the tunnel as possible and/or installation of larger sump pump in manhole No. 1.
5. Possibility of outletting the drainage pipe at some intermediate location.

Amtrak has already performed some of the corrective work pertaining to the tunnel. As previously indicated, Amtrak has improved the lighting in the tunnel. It has also repaved the floor of the tunnel; installed 2' x 6" gutters in the tunnel; cleansed some of the track ditches; built a 1'3" splash wall to block some of the surface water from finding its way into the tunnel; improved inlets in its nearby parking area and constructed an "L-shaped" headwall at the east end of the eastern platform to keep ballast out of the surface drainage pipes. <sup>5/</sup> Amtrak is willing to bear all of the expense incurred by it to date. It is also willing to do most of the above-listed work at its sole cost and expense except the installation of drainage inlets along the highway, which, in its opinion, should be installed by PennDOT at PennDOT's cost and expense. Amtrak does not recommend replacement of the entire 12" drainage pipe (approximately 2000' long), which may cost as much as \$250,000.

---

<sup>5/</sup> Surface drainage system is separate from the tunnel drainage system.

With the foregoing in mind and for current consideration, the ALJ notes PennDOT's first recommendation is to perform an in-depth inspection to determine the load-carrying capabilities of the structure. Although such an inspection would be desirable, the ALJ does not perceive an urgent need for such action. The complaint relates centrally to a pedestrian crossing rather than the structure. There is no evidence of any structural deficiencies of the bridge at this time; however, if PennDOT believes an in-depth inspection is warranted, the ALJ has no objection, provided the work is done at PennDOT's own cost and expense.

PennDOT's next recommendation concerns the construction of a separate pedestrian walkway at an estimated cost of \$345,000. The ALJ cannot see the justification for spending such a large sum of money on a pedestrian bridge when the entire structure can be replaced for \$645,000 with Federal funds.<sup>6/</sup> Alternatively, the ALJ urges PennDOT to pursue replacement of the structure with federal funds. [Although this Commission is not bound by PennDOT's programming schedules and can order replacement of the structure much sooner than its scheduled nine to twelve years, the ALJ is setting no deadlines because the safety of the structure is not an issue at this time; but PennDOT should try to accomplish replacement of the structure sooner than nine to twelve years.]

---

<sup>6/</sup> Whether federal funds will be available for the pedestrian bridge or not, is unknown at this time.

As far as the tunnel under the tracks is concerned, the ALJ notes that the lighting in the tunnel has since been improved. Amtrak has also improved inlets in and near the tunnel and constructed a splash wall to keep some of the water out of the tunnel. Villanova University has also installed inlets in its Mendel Hall parking lot. At one time, Amtrak was of the view that most of the surface water in the tunnel was coming from Mendel Hall parking area, but this is not the case anymore. Amtrak believes that most of the water comes from the state highway, more specifically, the southern highway approach to the structure. Amtrak states that the surface water flows along the roadway for about 800 feet<sup>+</sup> to a gutter in Amtrak's nearby parking area and from there finds its way into the tunnel. See Amtrak's Exhibits 3 and 4. Amtrak's recommendation is to intercept the roadway water by means of inlets and pipes before it gets into the parking area and outlet it into Amtrak's track ditch, preferably to the east of the eastbound platform.

The ALJ is of the opinion that Amtrak's recommendations have merit and should be adopted. Flooding of the tunnel will not cease unless the surface water is kept out. The drainage system of the tunnel is not big enough to drain all of the surface water. Therefore, the ALJ will direct that PennDOT, at its sole cost and expense, install a system of inlets and pipes along the western highway approach to the structure and carry the surface water to a suitable location away from the tunnel.

If the water is outletted in the railroad's track ditch, it should preferably be done to the east of the tunnel; because, if outletted to the west of the tunnel, it may find its way back into the tunnel by means of overflow and/or seepage.

PennDOT is being directed to do this work for two reasons. One, the highway involved is a state highway. Drainage of the highway should be PennDOT's responsibility. Two, Amtrak has already performed a considerable amount of work on the project. (It may have to perform more) It is only fair that PennDOT also perform an appropriate amount of work under the circumstances.

Amtrak may have already performed some additional corrective work which it was contemplating, i.e., removal of trees causing root damage to pipe, replacement of failed sections of the pipe, etc. The work is essential for proper functioning of the 12" pipe. If not completed yet, it should be finished by Amtrak as soon as possible.

The ALJ trusts that, with the preceding corrective measures, flooding of the tunnel will cease. If not, the ALJ will direct that Amtrak look into its other recommended alternatives, i. e., installation of larger sump pump, outletting the 12" pipe at some intermediate points, etc., and take whatever steps necessary for the alleviation of the flooding.

Amtrak has also requested that Villanova University extend a pipe from its tennis court area (in the northeast quadrant) down to Amtrak's ditch because the existing pipe is causing slope

erosion of the bank in the area. Since Villanova University is a private party, the ALJ cannot order it to do this work. However, since the actual and potential corrective action will inure mostly to the benefit of Villanova University, it is in the interest of the University to do this work promptly.

We note that Amtrak is willing to bear the costs incurred by it to date. PennDOT, too, appears willing to bear its costs. Therefore, both Amtrak and PennDOT will be directed to bear their respective costs incurred to date. The ALJ will also direct that PennDOT report the progress made towards the replacement of the structure on a yearly basis.

#### IV CONCLUSIONS OF LAW

1. That the Pennsylvania Public Utility Commission has jurisdiction over the subject matter of this Complaint docketed at C-80011839.

2. That the record is to remain open.

#### O R D E R

THEREFORE, IT IS ORDERED:

1. That the Pennsylvania Department of Transportation, in cooperation with the National Railroad Passenger Corporation, at its sole cost and expense, immediately furnish all material and do all work necessary to intercept the surface water from the southern highway approach to the structure finding its way into the tunnel, by some suitable means, such as, the installation of inlets and pipes along the highway, and discharge the water at a suitable location away from the tunnel, preferably to the east of the tunnel.

2. That the National Railroad Passenger Corporation, if it has not already done so, at its sole cost and expense, furnish all material and do all work necessary to remove the trees suspected of causing root damage to the 12" drainage pipe and locate and replace sections of the pipe which may have failed with age and may not be functioning properly.

3. That upon completion of the work ordered to be performed in Paragraph No. 1, the Pennsylvania Department of Transportation and the National Railroad Passenger Corporation report to this Commission the status of flooding in the tunnel during periods of heavy rain in the area.

4. That if subsequent to the completion of work ordered to be performed in Paragraph 1, the flooding in the tunnel still persists, National Railroad Passenger Corporation, at its sole cost and expense, take suitable steps to correct the problem, such as, the installation of a bigger sump pump in Manhole No. 1, or outlet the 12" pipe at some intermediate point, etc.

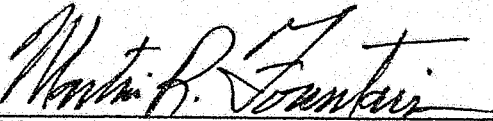
5. That the Pennsylvania Department of Transportation, on or about July 1st of every year, inform this Commission concerning the status of progress it may have made towards the replacement of the structure involved in this proceeding.

6. That the National Railroad Passenger Corporation, at its sole cost and expense, continue to maintain the tunnel in a safe and satisfactory condition.

7. That the National Railroad Passenger Corporation bear all of the costs incurred by it in furnishing material and performing work in accordance with the previous orders of the Commission issued in this proceeding.

8. That the Pennsylvania Department of Transportation bear all of the costs incurred by it in furnishing material and performing work in accordance with the previous orders of the Commission issued in this proceeding.

9. That the record in the above-captioned proceeding docketed at C-80011839 is to remain open.

  
MARTIN R. FOUNTAIN  
Administrative Law Judge

DATED: 10/13/82

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



November 12, 1982

IN REPLY REFER TO

RECEIVED

1982

SECRETARY'S OFFICE  
Public Utility Commission

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

Re: Complaint Docket No. C-80011839  
Delaware County

Dear Mr. Rich:

I enclose for filing with the Commission the original and nine copies of Exceptions of the Pennsylvania Department of Transportation to Proposed Initial Decision of Administrative Law Judge, in the above-captioned matter.

I hereby certify that copies have been served upon all parties of record.

Very truly yours,

Herbert G. Zahn  
Assistant Counsel  
(717) 787-5931

220/HGZ:rmm  
Enclosures

cc: K. W. Walker, P.E. (Attn.: R. Kohli)  
District #6-0  
Parties of Record - Page 2

DOCUMENT  
FOLDER

Jerry Rich, Secretary  
C-80011839

-2-

November 12, 1982

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

Edward H. Huss, Staff Counsel  
Southeastern Pennsylvania Transportation Authority  
130 South 9th Street  
Philadelphia, Pennsylvania 19107

Richard Herskovitz, Esquire  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, Pennsylvania 17120

Francis P. Connors, Solicitor  
County of Delaware  
107 West Third Street  
Media, Pennsylvania 19063

W. Scott Armentrout, Assistant General Counsel  
National Railroad Passenger Corporation  
400 North Capitol Street, N.W.  
Washington, D.C. 20001

Eugene H. Evans, Solicitor  
Township of Radnor  
131 West Market Street  
West Chester, Pennsylvania 19380

Honorable Martin R. Fountain  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
1310 Philadelphia State Office Building  
1400 West Spring Garden Street  
Philadelphia, Pennsylvania 19130

RECEIVED

5 1982

SECRETARY'S OFFICE  
Public Utility Commission

Before the  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Villanova University	:	
	:	
v.	:	
	:	
National Railroad Passenger Corporation (AMTRAK), Consolidated Rail Corporation (Conrail), Southeastern Pennsylvania Transportation Authority (SEPTA), Pennsylvania Department of Transportation (PennDOT), County of Delaware and Radnor Township	:	COMPLAINT
	:	DOCKET
	:	NO. C-80011839

EXCEPTIONS OF THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION TO PROPOSED INITIAL DECISION OF ADMINISTRATIVE LAW JUDGE

AND NOW, this 12th day of November, 1982, comes the Pennsylvania Department of Transportation (Department), by its undersigned attorney, and takes Exceptions to the proposed Initial Decision of Administrative Law Judge Martin R. Fountain in the above entitled matter as follows:

1. Exception is taken to the Proposed Initial Decision as to its lack of inclusion of any provision for inspection of the subject bridge.

DOCKETED  
NOV 16 1982

2. In the report submitted by the Department it was stated "...the Department feels that first and foremost the bridge should have an in-depth inspection to determine its load-carrying capabilities. Because of the heavy involvement with railroad traffic, the presence of the catenary wires and the design which is peculiar to railroad bridges, the bridge should be inspected by the railroad engineers."

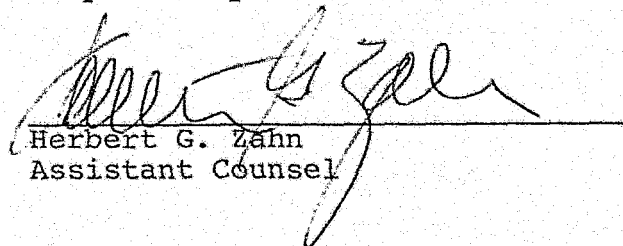
However, on Page 9 in the first paragraph the Administrative Law Judge states "... There is no evidence of any structural deficiencies of the bridge at this time ..."

3. As the Department has no control over the railroad and its electrified lines, the railroad is best able to make such an inspection at this time. The Department will be willing to provide the services of our laboratory for any materials testing it may be able to do, and provide traffic control on the state highway traversing the structure.

It is therefore respectfully submitted that the National Railroad Passenger Corporation be ordered to prepare a

bridge inspection report sufficient to evaluate whether or not the bridge should be posted for any load limit at its initial cost and expense.

Respectfully submitted,



Herbert G. Zahn  
Assistant Counsel

COMMONWEALTH OF PENNSYLVANIA :  
: SS  
COUNTY OF DAUPHIN :

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

David C. Sims  
David C. Sims  
Deputy Secretary for Highway  
Administration

Sworn and subscribed before me  
this 15 day of November, 1982

Suzanne M. Miller  
NOTARY PUBLIC

My Commission Expires: 2/17/86