

1 Road

No 6 Dec SS 1903

Road in Grand Top

Road 101/2" clay above, note
to gravel on the top of
the Grand Top and on the
bottom of the clay cover
very irregular about
the top of the clay
Relevant to 1" Grand Top
from, hence it is made
on clay top for the
bottom, by the Grand

William D. Smith

037.

Deerhurst

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNA.

IN RE ROAD OF) No 6. December Sessions 1903.
)
GIRARD TOWNSHIP)

The petition of the Surveyor Run Lumber Company Limited
respectfully represents:-

That proceedings were had in the above stated case in which
a petition was filed on the 16th day of September 1903 praying for a
public road "to lead from a point on a public road leading from
Clearfield to Harthaus at or near the mouth of Surveyor Run to connect
with a public road leading from Deer Creek to the Knobs at or near
Gillingham School House". That viewers were appointed on the 14th
of September 1903 who filed their report on the 7 day of December
1903, which report was confirmed ni si on the 12th day of December
1903. That no exceptions having been filed the Prothonotary
noted upon the records of said road a confirmation absolute at Feb.
Sessions 1904. That no order was ever made by the Court or any Judge
thereof confirming absolute. this road, and confirmation was noted in
accordance with the construction then given to the rules of Court.
That your petitioners have just learned of this proceeding, and the
laying out of this road, and are taking this action promptly. That
said road has not been opened, nor anything done under the confirma-
tion, and the Supervisors of said Township are now opposing the open-
ing of said road and have moved the Court to strike off the confirma-
tion. That your petitioners are the owners of ^{Suite} land along the route
of the proposed road, and were in actual occupation of the same but no
notice was ever given to them of this proceeding, although the said
road extends through their lands for more than two (2) miles.

That your petitioners were awarded no damages in this proceed-
ing, although the construction of this road as proposed will be

a serious injury to your petitioners in that it occupies the route intended by them for the construction of a Railroad for the purpose of mining coal and other minerals. That the termini of the road as returned is not the termini as fixed by ~~the~~ petition, the one terminus being 1000 feet from the Gillingham School House, and the other 1000 feet or more from the ^{mouth of} Surveyor Run. Your petitioner therefore prays that confirmation may be stricken off, and your petitioners permitted to file exceptions or motion to quash this proceeding in order that they may have a proper opening to be had and their rights protected. And they will ever pray.

Surveyor Run Lumber Co. Limited
Per Alfred Graham, Supt.

Clearfield County, ss.

Alfred Graham being sworn according to law doth depose and say that he is a member of the Surveyor Run Lumber Company Limited and the facts above stated are true.

Sworn and subscribed before me
this 28 day of April, A. D. 1905.

Alfred Graham

Robert Thompson
CK

Rule to Take Depositions.

Clearfield County, ss:

Public Road
VERSUS in
Gerard Tp
In The Court of ~~Common Pleas~~ ^{Quarrel Sessions} of
of Clearfield County, Penn'a.

No. 6 Dec. S.S. Term, 1903

AND NOW, to wit, the 6 day of June, in the year
of our Lord one thousand nine hundred and five
the Exceptants enter a Rule to
take the Depositions of ancient, infirm and going witnesses,
to be read in evidence on the argument
of this case. Exparate rule of exceptants on
five days notice.

Deed B. Thompson
Prothonotary
Chick

To W.D. Europe, Esq:
Atty. for Petitioners

You will please take notice, that in pursuance of the foregoing Rule depositions will be
taken before B. J. Thase Esq., or some other person authorized to ad-
minister an oath or affirmation in Pennsylvania, in and for the County of Clearfield,
at the office of Bell & Hartman in the borough
of Clearfield, in the county of Clearfield
and State of Pennsylvania, on the 16th day of June A. D. 1903,
between the hours of 10 o'clock A.M. and 5 o'clock P.M., when and where you may
attend and cross-examine.

Clearfield, Pa., June 6, 1903
Bell & Hartman
Atty for Exceptants

And now June 6. 1903 I hereby accept
service of above notice

William L. Europe
Atty for Clayton & Humphreys

No. 6 Dec ^{SS}~~1911~~ 1903

Public Road

VERSUS in

Grand Township

Rule to Take Depositions.

IN THE COURT OF QUARTER SESSION OF CLEARFIELD COUNTY.

In re PUBLIC ROAD in :
: No. 6 December Term, 1903
GIRARD TOWNSHIP :

By agreement of Counsel, testimony of Exceptants' Witnesses is to be taken on the 17th day of June, 1905, by virtue of the attached rule, to have the same effect as if taken on the date in said Rule mentioned.

Bell & Hartswick appeared for Rule to Show Cause Why, Krebs & Liveright and W. I. Swoope, for Petitioners for the Road.

Alfred Graham being duly called and sworn, testifies as follows:-

By Mr. Hartswick.

Q. Where do you reside ?

A. In the Second Ward of Clearfield Borough.

Q. Are you a member of the Surveyor Run Lumber Co.?

A. I am.

Q. Does the Surveyor Run Lumber Co. own a large tract of land in Girard Township ?

A. Yes, part of it is in Girard Township.

Q. State whether or not they are the owners of the entire land surface for minerals.

A. Yes sir, they are.

Q. About how many acres ?

A. At first we had about 2400 acres 44 perches, but we have bought some since.

Q. What do you estimate as the total acreage ?

A. About 3000 acres.

Q. State whether or not this land has been examined with reference to the minerals.

A. Yes, I have spent quite a bit of money on it, driving in

drifts, etc.

Q. When did your Company receive the first notice in regard to the proposed road in Girard Township ?

A. I do not know that I can give the exact date , but it was sometime about a year ago.

Q. Did your Company ever receive formal notice by the Viewers or by anyone for the Viewers of the proposed view on this road ?

A. No, not to my recollection.

Q. Your duties with the Surveyor Run Lumber Co. are largely for outside work, are they not ?

A. Yes, mostly, I am the Superintendent.

Q. If any notice had sent to the Company, it would have come to you, would it not ?

Mr. Liveright objected to that form of question.

A. Yes.

Q. Do you know what proportion of this land was seated ?

A. No, I forget the amount of acres seated without looking at the duplicate.

Q. Is part of it seated ?

A. Yes, I think it is somewhere near two or three hundred acres.

Q. Does this road run entirely in Girard Township ?

A. Yes, the entire road.

Q. State if you have examined the petition for the view ? (petition produced).

A. I have.

Q. In the petition for the View, what termini are mentioned ?

A. Leading from a point on public road leading from Clearfield to Karthaus at or near the mouth of Surveyor Run; beginning at the public road leading from Deer Creek to the Hobbs at or near the Gillingham School House.

Q. One terminus here is mentioned near the mounth of the Surveyor Run, is it not ?

A. Yes.

Q. And the other terminus at or near Gillingham School House?

Q. State whether the terminus has been located by the Viewers as described in the petition at or near the mouth of the Surveyor Run.

A. They came out at the blacksmith shop, about eight rods from the boarding house.

Q. How far is that from the mouth of Surveyor Run ?

A. It is about thirty rods , maby a little more.

Q. Is the terminus of the proposed road located on seated land of the Company ?

A. Yes.

Q. How fardo you estimate that this proposed road goes through land that is seated ?

A. I suppose 80 or 100 rods.

Q. What has the Surveyor Run Lumber Co. done in reference to the developements of the mineral under this land ?

A. We built a railroad, and paid out about \$4500 for it. We paid out quite a bit of money for prospecting, something over \$1200 or \$1500.

Q. Did you expend large sums for the developement of this land ?

A. Yes, at different times.

Q. This proposed road as laid out, does it or does it not occupy the most available route that the Company could have for a railroad or tram road for the mineral as contained under that land ?

A. Yes sir, this road would ~~cross~~ our improvement, when we go up to open up the minerals, possible three or four times within two miles.

Q. Would that be an interference to the developement of that land ?

A. Yes it would and the township would object if that road was built, and any way we have a right to protect ~~our~~ interest there.

Q. Did the Company receive any notice to attend any hearing of the Viewers ?

A. No, they never had any notice.

Q. Did any one of the Company attend the hearing ?

A. No, not that I know of.

Q. Would this road as proposed, be in your opinion an injury to

your Company ?

A. Yes, it would have to open tram roads and other unnecessary things.

Q. Is it the intention of the Surveyor Run Lumber Company to develop this land ?

A. Yes, certainly.

Cross examined by Mr. Liveright.

Q. What office do you hold with the Surveyor Run Lumber Co.?

A. Superintendent.

Q. Who are the other officers ?

A. A. B. Weaver, Secretary, and Porter, President.

Q. Where is the office of the Company ?

A. In the Kurtz Building, Clearfield.

Q. In 1903, were you working at the mill a good deal ?

A. Yes, I am there most any year.

Q. In the Fall of 1903, were you there a good deal?

A. I don't know whether I was there any more than any other year. I am there a good deal of the time. Sometimes I was there every week; just according to what amount of work I had to do.

Q. Did you see posted up, a printed notice of this intended road down near your mill ?

A. I think I did, but did not stop to read it.

Q. Where did you see it ?

A. I think it was on the blacksmith shop door.

Q. How often did you pass back and forth ?

A. I could not say exactly.

Q. Did you pass that door many times a day ?

A. Yes, I went past it quite often. I think it was Harry Byers who told me they wanted a road there.

Q. When was that ?

A. I think that was well on to two years ago he told me about it. I do not know for sure.

Q. Did Mr. Byers come to the Clearfield office of the Surveyor Run Lumber Co. to talk about this road ?

A. No, not to my knowledge.

Q. Did any one tell you he had been there ?

A. No sir.

Q. Do you remember the month in 1903 that you saw this printed notice of the view on the door?

A. No, I cannot remember the month, and it was either on the blacksmith shop or bard door; I am not positive where it was. I rather think they had a couple notices up there. The first notice they tore down for some cause.

Q. Do you know Ira Jury ?

A. Yes.

Q. Is that the gentleman ?

A. Yes.

Q. Did you have any conversation with him about this new road, in 1903 ?

A. Not to my recollection. We might have spoken something about it.

Q. Then you do not deny any conversation with him ?

A. No sir.

Q. Do you know Edward Billotte?

A. Yes.

Q. Did you have any conversation with him regarding the proposed road in Girard Township ?

Q. Not any more than he asked me if I would have any objections to a road starting on his place and coming down ~~through~~ past Sam Bradford's line until it would strike our land and then down the mouth of the run to the Blacksmith Shop. They took that question ^{up} in 1897.

Q. Did you object to that ?

A. I said if they built the road we wanted it so it would be of some benefit to operating our lumber. We might have talked about it later on, but never built the road.

Q. Did you ask Mr. Jury and Mr. Billotte to have your appointed as one of the Viewers ?

A. No. They did ask me, but I think I refused.

Q. In 1903, did you suggest to Mr. Billotte or Mr. Jury that

you would act as one of the Viewers ?

A. No. I think they asked me in 1903.

Q. Did you prospect for mineral in 1904, last year ?

A. Yes, sir, as also in 1902 and 1903, we bored down there, not exactly on the Surveyor Run Lumber Land, but adjoining it on the Schick and also on the Murray lands.

Q. Q. Did you prospect on the Surveyor Run Lumber Co. land last summer ?

A. Yes.

Q. Was that the first ?

A. No, a couple years before.

Q. Did you have any opening made?

A. Yes.

Q. Have you a drift made ?

A. Yes sir.

Q. Where ?

A. On Coal Bank Run.

Q. How far is that from this proposed road ?

A. About one mile on the direct line.

Q. Is that the nearest that you have a drift to this road ?

A. No.

Q. What is the nearest point you have a drift made on this coal ?

A. It would be on the main Run, I suppose a half mile or a little better.

Q. Have you made any arrangements to operate this coal ?

A. No. I have not made any arrangements.

Q. It may be a number of years before it is operated, will it ?

A. No, it may be we will do something in less than a year.

Q. Have you had any surveys made for the purpose of locating a railroad to your coal drifts ?

A. Yes. We surveyed up to the mill or past it.

Q. What connections did you make ?

A. Railroad.

Q. Is that at the mouth of the Run ?

A. Yes, clear up to the mill.

Q. Have you any assurance that the tram road will be used for transporting the coal for you ?

A. Yes, that is what we built it for.

Q. Have you any assurance of a railroad connection ?

A. Yes, we own it and have it paid for. It cost us \$4500 to get the connection made.

Q. When did you first see the marking of the survey made when they laid out the road ?

A. I do not know exactly.

Q. Was it shortly after the view ?

A. Yes, it was not very long after that; it might have been a couple weeks or it may have been longer.

Q. Did you tell any people in Girard Township that you had any claim for damage by reason for location of this road ?

A. Yes, I believe Mr. Byers asked me if I had any claim for damage.

Q. Did you know about the view, and if so, how long before it was held ?

A. I knew they were going to have a view. I did not look at or read the notice and did not know when it was to be.

Q. Why didn't you attend ?

A. They did not give me notice.

Q. You knew about it, did you not ?

A. Yes, but I did not want to run around and look it up.

Q. Was Mr. Kratzer in your employ down there ?

A. Yes, he was our clerk.

Q. Did you have any other men working there ?

A. Yes, we had other men working for us.

Q. In 1903 ? November ?

A. Yes.

Q. Is it true that the reason you did not attend the view was that you did not think you were damaged any and it did not make any difference to you ?

A. No, I did not take that into consideration at all.

Q. Isn't it only lately that you began any developments in the matter

A. No, It has been within the last two years that I saw the road was not of any benefit to us, and if the road was there it would interfere with our railroad.

Q. If it were not for your comparative recent plan to build a railroad into the coal, would you care about the Girard Township Road ?

A. Well, I did not want it as we have had a great many Township road changes there, and I did tell the Supervisor once that I would give them a road free, gratis, from Isaac Jury's up to the Bald Hill school house if they would take care of the second growth timber, and I'll do it yet. I think the Surveyor Run Lumber Company have been very liberal with the Girard Township roads.

Q. Do you know where this proposed road goes ?

A. Yes, I know.

Q. Does it follow the route of the road that is travelled more or less by the public, and has been for several years ?

A. Yes, they travel it in the winter.

Q. Is it necessary to get out that way in the winter ?

A. Yes it is better because it would drift and they would have to go another road.

Q. How many years do you know of this road being travelled ?

A. I suppose it is 30 years.

Clearfield County, SS:

I do hereby certify that the foregoing testimony was taken by me by virtue of annexed rule by agreement of Counsels, on Saturday, June 17, 1905, at the office of W. I. Swoope, by Stenographic notes, and that the typewritten copy hereto attached is correct.

Witness my hand and Notarial seal this 19th day of June,
A.D., 1905.

Benjamin F. Chase
Notary Public
My Commission Expires Jan. 26-1907.

126 Dec, Dec. 1903-

In Re Public

Road in

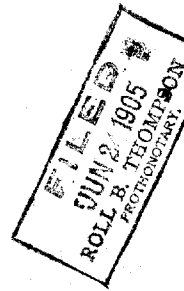
Grand Township

Testimony of Excerpt

N.P. per. \$250

6/19/05 - Paid by R.H.

at place N.P.



BENJAMIN F. GRASE
ATTORNEY-AT-LAW
CLEARFIELD, PA.

SMITH PTL. CO., REEDSVILLE, PA.

John R. Subler
Grand Juror
versus

In the Court of *Quarter Sessions*
of Clearfield County, Pa.

No. *100* Term, 190

Fi. Fa., No. 190

And now, *April 18*, A. D. 1905, petition read and considered,
and a rule is granted on *Petitioner's*
to show cause why confirmation
the report of Viewers should not be set
aside

Returnable *first Monday of June 1905*

By the Court,

HON. ALLISON O. SMITH, P. J.

Certified from the record this *19* day
of *April*, 1905

John E. Thompson

OK.

Apr. 21st 1905 Served the within Rule on Clayton Smith,
E. D. Billore, and Samuel Bradford of the Petitioners for me
personally by reading the same to them and making
the contents known.

Served & Subscribed -

Apr 22nd 1905

Wesley Thompson Provy,

James O Leonard

No. 6 Dec Sept 1903

Public Road

vs
Grand Juror

versus

RULE ON

Exponere

Condemnation, v
Sherrill
2.00
2.40
4.40

Property
Attorney for Plaintiff

Attorney for Plaintiff.

Attorney for Defendant.