

DOCKET NO. ROAD #7

YEAR	NUMBER	ACTION
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86-2-ROAD

INRE: PETITION FOR PRIVATE ROAD

BELL TOWNSHIP

VERSUS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

In re Petition for a Private :
Road in Bell Township, :
Clearfield County, Pennsylvania :
by Brian S. Sekula :
: No. 86-2-Road

O R D E R

AND NOW, to-wit, this 10 day of June,
1986, upon oral motion of counsel for Petitioner, the Court
hereby modifies its Order of February 4, 1986, to replace
Evo G. Facchine with Lex W. Curry as a member of the Board of
View appointed by said Order. Counsel for Petitioner is hereby
instructed to serve a copy of this Order upon Mr. Facchine,
Mr. Curry and the remaining members of the Board of View.

BY THE COURT:



Judge

FILED

MAR 21 1986

9:00 AM

RAY WITHEROW

Prothonotary

6 West Alky Street

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: Petition for a Private : CIVIL DIVISION
Road in Bell Township,
Clearfield County, : No. 86-2-ROAD
Pennsylvania by
Brian S. Sekula :
: Type of pleading:
:
: RESPONSE TO PETITION FOR THE
OPENING OF A PRIVATE ROAD
:
: Filed on behalf of:
:
: JOHN F. WEBER and
ALVIRA J. WEBER
:
: Counsel of record for this party:
:
: Robert M. Hanak, Esq.
Supreme Court No. 05911
:
: 311 Main Street
Reynoldsville, Pa. 15851
:
: (814) 653-8252

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

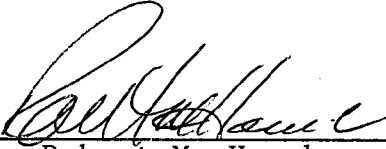
In Re: Petition for a Private:
Road in Bell Township, :
Clearfield County, : No. 86-2-ROAD
Pennsylvania by :
Brian S. Sekula :

RESPONSE TO PETITION FOR THE
OPENING OF A PRIVATE ROAD

AND NOW, comes John F. Weber and Alvira J. Weber,
and by their attorney, Robert M. Hanak, answers the petition
which has been served on them as of April 11, 1986:

1. Admitted.
2. Admitted.
3. It is admitted that the most proximate road
to Petitioner's property is LR 17008. It is denied that the
only means of ingress or egress into Plaintiff's property from
17008 is an unimproved dirt road which lies upon and across
property owned by John F. and Alvira J. Weber. To the contrary,
the property is serviced by an unimproved dirt road from
LR 17008 which does not lie on the Weber property, and which
road has historically been used by the Petitioner, and
predecessors in title to the Petitioner. Said road is a
viable road and is presently usable by the Petitioner.
4. The Respondent herein denies that a private
road should be opened across any property owned by Respondent.

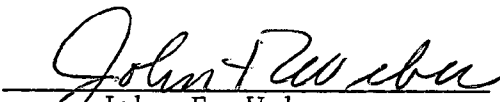
WHEREFORE, the Respondent respectfully requests
your Honorable Court to deny the opening of road across
lands of Respondent.



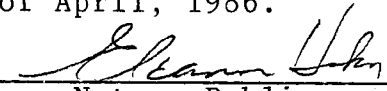
Robert M. Hanak
Attorney for Respondent

STATE OF PENNSYLVANIA:
COUNTY OF JEFFERSON : SS

JOHN F. WEBER, being duly sworn according to law,
deposes and says that the facts set forth in the foregoing
Response are true and correct to the best of his knowledge,
information and belief.


John F. Weber

Sworn to and subscribed
before me this 14th day
of April, 1986.


Notary Public

ELEANOR HAKY, NOTARY PUBLIC
REYNOLDSVILLE BORO, JEFFERSON COUNTY
MY COMMISSION EXPIRES MARCH 24, 1988
Member, Pennsylvania Association of Notaries

7:30 AM
M - 8:30 AM.
Eldon

Robert M. Hancock
ATTORNEY AT LAW
311 MAIN STREET
P. O. BOX 250
REYNOLDSVILLE, PENNSYLVANIA 15851

No. 398 Term, 19 86

[Signature]

No. _____ Term, 19 _____

No. _____ Term, 19 _____

No. _____ Term, 19 _____

No. 86-2-RD Term, 19

Wm Krenner Board / View

No. _____ Term, 19 _____

No. _____ Term, 19 _____

No. 86-222-08 Term, 19

George Kelly

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RE: PETITION FOR A PRIVATE :
ROAD IN BELL TOWNSHIP, :
CLEARFIELD COUNTY, : No. 86-2-Road
PENNSYLVANIA BY BRIAN S.:
SEKULA :

RESPONDENT'S COUNTER-STATEMENT OF APPEAL

TO THE HONORABLE JUDGES OF SAID COURT:

AND NOW, comes John F. Weber and Elvira J. Weber, his wife, and by their attorney, Robert M. Hanak, file a response to the Exceptions and Appeal taken by Plaintiff, Brian S. Sekula, in the above matter. There appears to be no distinct procedure governing the appeal from the Board of View, therefore, the Respondent will respond to each of the points raised in the Sekula appeal document.

1. Admitted.

2. Admitted.

3. Admitted.

4. It is denied that the report fails to state as required that the desired road is necessary. The Report of the Viewers specifically denied the Petition to Open a Private Road and specifically stated that Brian S. Sekula "should not be permitted to open a private road under 36 P.S. Section 2731 for his own use and benefit over property of John F. and

Elvira J. Weber." Because of the findings of the Board of View, the Board of View specifically held that there was not a finding of necessity as proven by Petitioner Sekula.

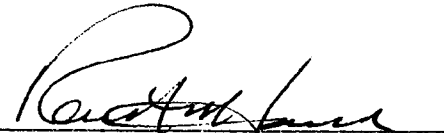
5. The Respondent is not aware of any procedural requirement that specific findings of fact be made and cited. The parties hereto have waived the requirement of a transcript as to the Board of View procedures. The Board of View found that there was no necessity, which is a factual finding inherent in the report. The case of Mattei v. Huray, 422 A.2d 899, as cited by the Petitioner, does not stand for the requirement that specific findings of fact be made. This case stands for the proposition that "necessity" of a roadway is strictly a factual matter before the Board of View, and that the Court of Common Pleas has no power to determine the facts of "necessity".

6. The assertions of the Petitioner in Paragraph No. 6 are denied. It is cited that the matter of determining whether a private road is necessary is strictly a matter of fact, and it is not a matter of law. This is cited in the case of Mattei v. Huray, *ibid*, and the case of Marinclin Appeal, 205 A.2d 885, and Little Appeal, 119 A.2d 587.

The Respondent further asserts that this Court does not have jurisdiction to entertain an appeal as requested by Petitioner. There is no standing for appeal simply because

the Board of View has determined factually that the
Petitioner's relief is not warranted, and there is not
necessity for such roadway.

WHEREFORE, Respondent prays your Honorable Court
to dismiss said appeal and affirm the decision of the Board
of View.



Robert M. Hanak
Attorney for Respondents

86-2-Road

FILED

JAN 29 1987

11:30 a.m.
RAY WITHEROW
Prothonotary

Robert M. Stanek

ATTORNEY AT LAW
311 MAIN STREET
P. O. BOX 250
REYNOLDSVILLE, PENNSYLVANIA 15851

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

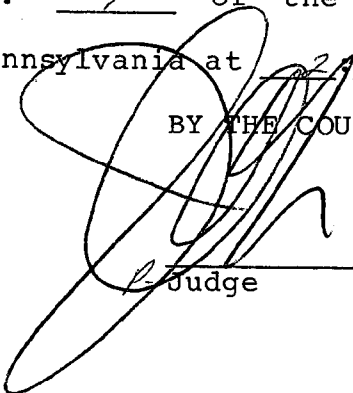
RE: PETITION FOR A PRIVATE :
ROAD IN BELL TOWNSHIP, : No. 86-2-Road
CLEARFIELD COUNTY, :
PENNSYLVANIA BY BRIAN :
S. SEKULA :

RULE TO SHOW CAUSE

AND NOW, to-wit: this 27 day of January 1987,
upon consideration of the foregoing Exceptions/Objections to and
Appeal from Report of Viewers, it is hereby **ORDERED** that a rule
shall be issued and directed to John F. Weber and Alvira J.
Weber, husband and wife, to show cause, if any, why the prayer of
the foregoing Exceptions/Objections should not be granted.

Rule returnable on the 17 day of February,
1987, in Courtroom No. 1 of the Clearfield County
Courthouse, Clearfield, Pennsylvania at 2:30 p.m.

BY THE COURT:


Judge

FILED

E
JAN 27 1987

B/ **2:35 PM**
RAY WITHEROW
Prothonotary

2 Ant Atty

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RE: PETITION FOR A PRIVATE :
ROAD IN BELL TOWNSHIP, :
CLEARFIELD COUNTY, : No. 86-2-Road
PENNSYLVANIA BY BRIAN :
S. SEKULA :

EXCEPTIONS/OBJECTIONS TO AND APPEAL
FROM REPORT OF VIEWERS

TO THE HONORABLE JUDGES OF SAID COURT:

AND NOW comes Brian S. Sekula by his counsel, Kim C. Kesner, Esquire, who avers:

1. On January 31, 1986, Petitioner Brian S. Sekula filed a Petition to open a private road under 36 P.S. Section 2731.

2. By Order of Court dated February 4, 1986, the Honorable John K. Reilly, Jr., appointed a Board of Viewers.

3. On December 3, 1986, the Board filed its report with this Court in which it "determined that the Petition filed should be denied and that Brian S. Sekula should not be permitted to open a private road under 36 P.S. Section 2731 for his own use and benefit over property of John F. and Elvira J. Weber."

4. The report fails to state as required by applicable law "whether the road desired is necessary." 36 P.S. Section 1831.

5. The Report of Viewers fails to set forth any findings of fact or conclusions of law on the issue of necessity and

otherwise despite requirements of law. 36 P.S. Section 2732; Mattei v. Huray, 422 A.2d 899, 901 N.3 (Pa.Cmwlth 1980).

6. Petitioner contends that the Board's failure to find that the dedication of a private road for his purposes is necessary is error as a matter of law, generally and for the following reasons particularly, inter alia:

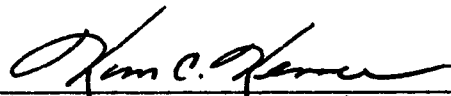
a. Petitioner believes and therefore avers that the Board utilized an improper legal standard in conducting the view and finding no necessity because of another claimed means of access where the Board failed to consider or improperly considered the burden, inconvenience, and impracticality in using said access and where it cannot be said that Petitioner's right to use said access is legally unquestionable.

b. Petitioner avers that the Board erred in determining lack of necessity for the desired dedication because of another claimed means of access where the Board failed to dedicate that access route for Petitioner's purposes. Therefore, despite Petitioner's resort to 36 P.S. Section 2731 he remains effectively landlocked in violation of the purposes and letter of said statute.

WHEREFORE, your Petitioner, Brian S. Sekula, respectfully requests this Honorable Court to grant him a hearing de novo on the issue of necessity or in the alternative, to remand this matter to the Board for review and specific statement of

their findings on the issue of necessity, including their findings of fact and conclusions of law.

Respectfully submitted,



Kim C. Kesner, Esquire
Attorney for Petitioner

COMMONWEALTH OF PENNSYLVANIA

:

: SS.

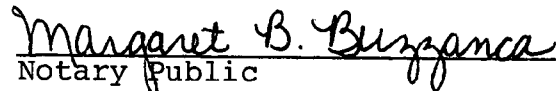
COUNTY OF CLEARFIELD

:

Before me the undersigned authority personally appeared BRIAN S. SEKULA, who, being duly sworn according to law deposes and says that the facts and averments set forth in the foregoing Exceptions/Objections to Appeal from Report of Viewers are true and correct to the best of his knowledge, information and belief.


Brian S. Sekula

Sworn to and subscribed before me this 14th day of January, 1987.


Notary Public

MARGARET B. BUZZANCA, Notary Public
Clearfield, Clearfield County, Pa.
My Commission Expires November 23, 1989

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA,
CIVIL DIVISION, NO. 86-2-ROAD

RE: Petition for a Private Road
in Bell Township, Clearfield
County, Pennsylvania by Brian
S. Sekula

EXCEPTIONS/OBJECTIONS TO AND APPEAL
FROM REPORT OF VIEWERS

FILED
JAN 14 1987
2:55 PM
RAY WITHEROW
Prothonotary

SUGHRUE & KESNER
ATTORNEYS AT LAW
23 North Second Street
CLEARFIELD, PA 16830
(814) 765-1701

1 Oct 1987

KRINER AND KOERBER
ATTORNEYS-AT-LAW
110 NORTH SECOND STREET
P. O. BOX 1320
CLEARFIELD, PENNSYLVANIA 16830

CERTIFIED COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RE: PETITION FOR A PRIVATE :
ROAD IN BELL TOWNSHIP, :
CLEARFIELD COUNTY, : No. 86-2-ROAD
PENNSYLVANIA BY BRIAN :
S. SEKULA :

REPORT OF VIEWERS

TO THE HONORABLE JOHN K. REILLY, JR., PRESIDENT JUDGE OF SAID
COURT:

The undersigned Board of View respectfully reports:

1. By Order of Court dated February 4, 1986, Roland E. Bechtel, Evo Facchine and William C. Kriner were appointed viewers.
2. That as a result of concerns that none of the viewers were registered surveyors, the Court issued an Order dated March 20, 1986, replacing Evo G. Facchine as a viewer with Lex W. Curry.
3. That the Petition of Brian S. Sekula requests the opening of a private road from his property to Legislative Route 17008 over the property of John F. Weber and Alvira J. Weber, husband and wife.
4. That in accordance with the allegations set forth in the Petition, Notice of View and Hearing dated March 26, 1986, was served on Kim Kesner, Esquire, Attorney for Brian S. Sekula; Robert Hanak, Esquire, Attorney for Mr. and Mrs. John Weber; and Mr. and Mrs. John Weber. The Notice set a view and hearing for April 3, 1986.

5. That because of scheduling conflicts, the view was rescheduled for April 17, 1986 and a Notice pertaining to such rescheduled view, dated April 3, 1986, was served upon Kim Kesner, Esquire, Robert Hanak, Esquire, and Mr. and Mrs. John Weber.

6. That the view was held on April 17, 1986 and present at the view were Brian S. Sekula, Kim Kesner, Esquire, Attorney for Brian S. Sekula, John Weber, and Robert Hanak, Esquire, Attorney for John Weber.

7. That upon request of Kim C. Kesner, Esquire, Attorney for Brian S. Sekula, a hearing was held on August 25, 1986. Attending the hearing were Brian S. Sekula, Kim C. Kesner, Esquire, Attorney for Brian S. Sekula, Mr. and Mrs. John Weber and Robert M. Hanak, Esquire, Attorney for the Webers.

8. That at said hearing testimony was taken from Brian Sekula and John Weber.

9. That the following exhibits were presented to the Board and accepted as exhibits and evidence by the Board to aid in their decision in this matter, copies of which are attached hereto:

- (a) A copy of a topographic map showing the approximate locations of the properties at issue in this matter;

(b) A Deed from B. J. Arnold, et al. to Brian Sekula, dated May 9, 1974, and recorded in Clearfield County Deed Book 679, at Page 189;

(c) Copies of Road Docket 6, at Page 289 concerning the vacation of various roads in Bell and Brady Townships, Clearfield County, Pennsylvania, including the Buck Run Road, said Buck Run Road being an access to and from Petitioner's property as per claim of John Weber;

(d) Deed from Mrs. Lawrence Dunmire, also known as Helen Dunmire, to John F. Weber and Alvira J. Weber, husband and wife, dated February 1, 1963, and recorded in Clearfield County Deed Book 500, at Page 531, this property being the subject premises over which the Petitioner wishes to have a private road opened.

10. That attached hereto are additional items which are made a part of this report:

(a) Notice of View and Hearing dated March 26, 1986;

(b) Notice of Rescheduled View and Hearing dated April 3, 1986; and

(c) Notice of formal hearing dated July 22, 1986; and

(d) Schedule of costs to be paid members of the Board of View by Clearfield County.

11. That no written request for findings of fact or conclusions of law were submitted to the Board of View by either party.

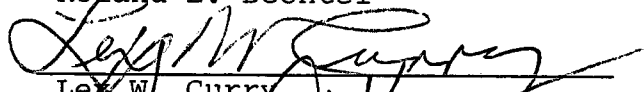
12. That after view of the premises, review of the legal memoranda submitted by the parties and a formal hearing where testimony under oath was taken, the Board of View empaneled in this matter has determined that the Petition filed should be denied and that Brian S. Sekula should not be permitted to open a private road under 36 P.S. §2731 for his own use and benefit over property of John F. and Alvira J. Weber.

13. That a copy of this Report, without the above listed attachments, were mailed to Kim C. Kesner, Esquire, Attorney for Petitioners, and Robert M. Hanak, Esquire, Attorney for John C. and Alvira J. Weber.

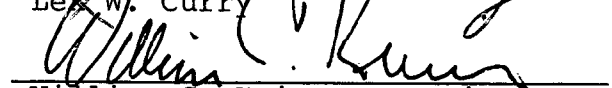
ALL OF WHICH IS RESPECTFULLY
SUBMITTED,



Roland E. Bechtel

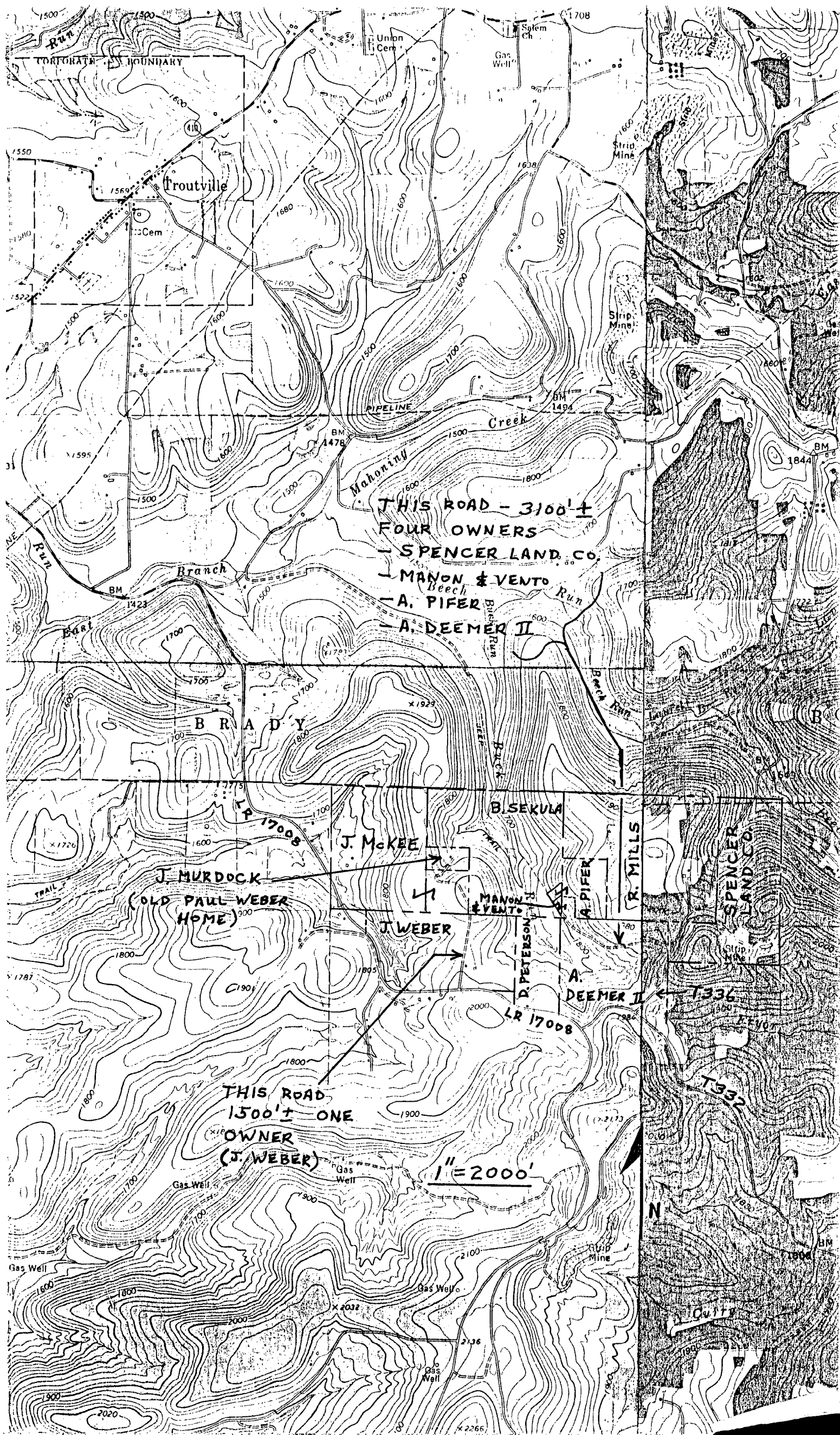


Lex W. Curry



William C. Kriner, Esquire

Board of View



THIS ROAD - 3100' ±
FOUR OWNERS
- SPENCER LAND CO.
- MANON & VENTO
- A. PIFER
- A. DEEMER II

J. MURDOCK
(OLD PAUL WEBER HOME)

THIS ROAD
1500' ± ONE
OWNER
(J. WEBER)

1" = 2000'

N

This Deed,

Made the Ninth (9th) day of May
in the year nineteen hundred and seventy-four (1974)

Between B. J. ARNOLD and ELNORA ARNOLD, his wife, of Brockport, Elk County, Pennsylvania; and R. WESLEY SMITH and SANANTHA L. SMITH, his wife, of the Borough of Reynoldsville, Jefferson County, Pennsylvania, Grantors, parties of the first part;

A
N
D

BRIAN SEKULA, of the City of DuBois, Clearfield County, Pennsylvania, Grantee, party of the second part;

Witnesseth, That in consideration of Fifteen Thousand Four Hundred (\$15,400.00) Dollars, in hand paid, the receipt whereof is hereby acknowledged, the said grantor s do hereby grant and convey to the said grantee ,

All that certain piece or parcel of land situate in Bell Township, Clearfield County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point, said point being on the Bell-Brady Township line, said point being 6,300 Feet more or less from the intersection of the Township line and Legislative Route 17008, said point being an existing Chestnut Oak, said point being the Northwest corner of lands of Robert Mills and the Northeast corner of the lands herein described, said point also being on the Southerly line of lands of Calvin Bean; thence along the Westerly line of Robert Mills South 8° 27' West, 1,732.4 Feet to an iron pipe; thence along the Northerly line of Arnold Pifer lands South 64° 33' West, 394.2 Feet to an iron pipe on the centerline of the old Buck Run Road; thence along the centerline of the old Buck Run Road and along the Westerly lines of Arnold Pifer's one acre tract and Robert Vento's four acre tract, South 27° 37' East, 36.3 Feet; thence South 22° 48' East, 106.1 Feet; thence South 24° 06' East, 247.4 Feet; thence South 26° 03' East, 208.0 Feet to an iron pipe on the centerline of the old Buck Run Road; thence along the Westerly line of Vento property South 8° 27' West, 8.1 Feet to an iron pipe, said pipe being the Southeast corner of the land herein described and common corner of Vento, Deemer and Peterson land; thence along the Northerly line of Donald Peterson and John Weber lands North 81° 33' West, 1,820.8 Feet to an iron pipe, said pipe being the Southeast corner of Jaye McKee's 17 acre tract; thence along the Easterly line of McKee's 17 acre tract, and Joseph Murdock's 5 acre tract North 8° 27' East, 1,204.5 Feet to an iron pipe, said pipe being the Northeast corner of the lands of Joseph Murdock; thence along Murdock's northerly line North 81° 33' West 825.0 Feet to an iron pipe, said pipe being the Northwest corner of Murdock's land, said point also being on the Easterly line of Jaye McKee's 100 acre tract; thence along the Easterly line of McKee's tract North 8° 27' East 1,255.8 Feet to an iron pipe, said pipe being the Northeast corner of McKee lands, said point being

the Northwest corner of the lands herein described, said poing being on the Bell-Brady Township line, said point also being on the South line of the lands of Frank Deemer; thence along the Bell-Brady Township line and Northerly line of the lands herein described, South 81° 33' East 2,645.8 Feet to a point, said point being a Chestnut Oak and the place of beginning. CONTAINING 123.9 Acres.

BEING the same premises which were conveyed to B. J. Arnold and R. Wesley Smith by deed of Nellie Miller dated October _____, 1971 and recorded at Clearfield, Pennsylvania in Deed Book No. 584, page 258.

NOTICE

To comply with the Act of July 17, 1957 (52 P.S. Supp. Section 1551-1554) notice is hereby given as follows:

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL, AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND, AND, ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND.

662 B

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

Edward V. Cherry

Brian Schula

This 10th day of May, 1974

DEEMER

BRUNO

BOOK 679 PAGE 191
BEAN

CHESTNUT
✓ OAK
POINT OF
BEGINNING

MILLS

CONTAINING :
123.9 ACRES

BRADY TWP. I.P.
BELL TWP.

S. 81° - 33' E.
2645.8'

$$\begin{array}{r} N. 8^{\circ}-27' E. \\ \hline 1255.8' \end{array}$$

McKEE

McKEE

N. 8°-27' E.
1204 ft.

1732.4'

VENTO

1820.81

WEBER

PETERSON

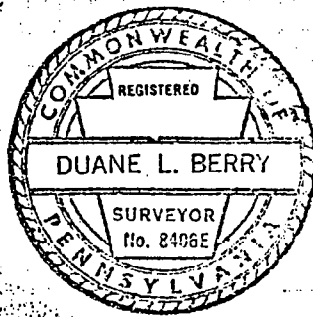
DEEMER

5.27' - 37' E. I.P.
36.3' ~

M, SE - 49.5

PIFER

VENTO



PLAT OF SURVEY FOR
BRIAN S. SEKULA
LANDS SITUATED IN

BELL TWP. CLFD. CO.

SCALE: 1"=500' MAY 1974

N. 81-33, V.

5.8°-27' W
8.1'

And the said grantor ~~will~~ **GENERALLY** Warrent and Forever Defend the property hereby conveyed.

In witness whereof, said grantors have hereunto set theirhand s and seals , the day and year first above-written.

Sealed and delivered in the presence of

B. J. Arnold
B. J. Arnold

SEAL

SEAL

SEAL

SEAL

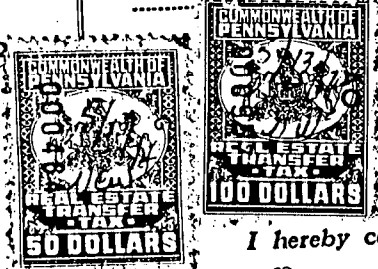
SEAL

SEAL

Elnora Arnold
Elnora Arnold

R. Wesley Smith
R. Wesley Smith

Sanantha L. Smith
Sanantha L. Smith



Certificate of Residence

herein is as follows:

I hereby certify, that the precise residence of the grantee

322 Quaryone, Wy Bae, Pa

Edward Cherry
Attorney or Agent for Grantee

Commonwealth of Pennsylvania } ss:
County of Clearfield

On this, the 10th day of May 1974, before me a Notary Public the undersigned officer, personally appeared B. J. ARNOLD and ELNORA ARNOLD, husband and wife, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Josephine M. Cherry
Notary Public
My Commission Expires Jan. 7, 1975

Commonwealth of Pennsylvania } ss:
County of Clearfield

On this, the 10th day of May 1974, before me a Notary Public the undersigned officer, personally appeared R. WESLEY SMITH and SANANTHA L. SMITH, husband and wife, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Josephine M. Cherry
Notary Public
My Commission Expires Jan. 7, 1975

Entered of Record 5-13 1974, Carl G. Burns Recorder

State of

County of

SS:

On this, the day of 19 , before me

the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person whose name subscribed to the within instrument, and acknowledged that executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

My Commission Expires

State of

County of

SS:

On this, the day of 19 , before me

the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person whose name subscribed to the within instrument, and acknowledged that executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

My Commission Expires

DEED

WARRANTY DEED—Published and Sold by
The Plankenhorn Co., Williamsport, Pa.

B. J. ARNOLD, ELMORA ARNOLD,
R. WESLEY SMITH and SANANTHA

L. SMITH

-to-

BRIAN SEKULA

Dated

For

Consideration

Recorded

Entered for Record in the Recorder's

Office of

County, the day of

19

Tax \$

Fees \$

Recorder

THE PLANKENHORN CO., WILLIAMSPORT, PA.

GLEASON AND CHERRY
ATTORNEYS AT LAW
109 NORTH BRADY STREET
DUBOIS, PENNSYLVANIA

Commonwealth of Pennsylvania

County of Charfield

Recorded in the Office for Recording of Deeds, etc., in and for said County, in Deed

Book No. 679 , Page 189

Witness my Hand and Official Seal this 13 day of May, 1974

Cecil A. Burns

Recorder of Deeds

My Comm.

CLEARFIELD CO. SS
ENTERED OF RECORD
Time 3:45
By E. V. Cherry
Fees \$8.50
Cecil A. Burns, Recorder

R. D. S.

Petition to vacate certain
roads in Bell and
Brady Township

4

Clerk

2.50

E. H. Boone

1.50

E. D. Billotte

28.50

Jack Michaels

35.70

1.730

July 29, 1931. Petition filed
That there is a certain road lying in
in the Townships of Bell and Brady Twp
that has become burdensome.

That the road sought to be vacated is known
as the Buck Run Road and lies between
the Peach Run Road and the road between

Mahaffey and Troutville.

That the portion of road sought to be vacated
is approximately 2-7/10 miles in length.

One and 3/10 mile of the same lying in
Bell Twp and one and 4/10 mile lying
in Brady Township.

July 28, 1931. E. H. Boone Esq. E. D. Billotte and
Jack Michaels are appointed Viewers to
view and report. By the Court. A. R. Chase.

Aug 21, 1931 Viewers Report filed.

Nov. Sept 22, 1931. Confirmed. By the Court. A. R. Chase. O. J.

Dec 22, 1931. Confirmed absolute. By the Court. A. R. Chase. O. J.

After the view and hearing the undersigned Viewers do agree that said road
has become useless, inconvenient and burdensome for the reason the road runs
parallel with the main traveled road leading from Troutville to Mahaffey, which
last named road has now been taken under supervision of Dept. of Highways
to be by the said Dept. improved and kept open for travel by the said
Dept at sole expenses of the County. That along said road proposed for
vacation there is a bridge crossing Buck Run which needs repairs which
would entail upon Bell Twp an expense of probably not less than
\$800.00. The viewers do not recommend an absolute vacation of the
road but do recommend that the Court make appropriate order or
decree making the said road a private road for the use of the
abutting landowners as may be done in such case by act of
Assembly now in force.

Witness our hands and seals this 20th day of August, A. D. 1931.

E. H. Boone

E. D. Billotte

J. S. Michaels

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

No. *4* September SS. 1931

In re: Vacation of a
certain road in the
Townships of Bell and
Brady Townships,
Clearfield County,
Pennsylvania

PETITION FOR VACATION OF
ROAD

now July 28th 1931

Earl Moore Jr.

and Wallace and

Jack Michaels are

afflicted persons

BETTY O'LAUGHLIN & SILBERMAN
ATTORNEYS AT LAW
KUNZ BUILDING
CLEARFIELD, PENNA.

FILED

JUL 29 1931

GEO. W. RALSTON
CLERK

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

In Re: Vacation of : No. September Sessions 1931
certain road in the :
Townships of Bell and :
Brady Townships, Clearfield :
County, Pennsylvania :
:

To the Honorable A. R. Chase, President Judge of said Court

The petition of the Supervisors of Bell and Brady Townships, Clearfield County, Pennsylvania, respectfully represents:

FIRST: That, there is a certain road lying in the Townships of Bell and Brady that has become useless to the traveling public.

SECOND: That both Townships are burdened with the upkeep and maintenance of a number of miles of road.

THIRD: That, the road herein sought to be vacated is little used as no persons reside or live along said road.

FOURTH: That, it is a burden to the tax payers of the Townships of Bell and Brady to maintain and keep in a passable condition said road.

FIFTH: That, the Townships of Bell and Brady may be subject to damages occurring to any user of said road if they fail to keep and maintain the same in a passable condition.

SIXTH: That, there is a bridge situate on this road which has been condemned and which requires an expenditure of a considerable sum of money to replace or repair all of which is unnecessary to the convenience of the traveling public.

SEVENTH: That, the road herein sought to be vacated is known as the Buck Run Road and lies between the Beach Run Road and the road between Mahaffey and Troutville.

EIGHTH: That the portion of the road herein sought to be vacated is approximately two and 7/10 miles in length, one and 3/10 mile of the same lying in Bell Township and one and 4/10 mile of the same lying in Brady Township.

NINTH: That said road is described as follows:

Beginning at a point on the Beach Run Road approximately four tenth (4/10) of a mile Northeast of the intersection of the Beach Run Road with what is known as the Troutville Road at the property of Daniel Fryers; thence in a Westerly direction along what is known as the Duck Run Road, past and through other property of Daniel Fryers and the property of Adam Haig, Henry Weber Estate and George Kouger and C. G. Gregg to the intersection of said Duck Run Road with another road running between Mahaffey and Troutville.

TENTH: That, the only use of said road would be for the purpose of hunters, fishermen and your petitioners believe that if the same is vacated as a public road and allowed to remain open as a private road that no one would be adversely affected.

WHEREFORE your petitioners pray that viewers be appointed in accordance with the requirements of the Act of Assembly to view said road and report to your Honorable Court with recommendation as to the vacation of the same as required by law.

And they will ever pray.

SUPERVISORS OF THE TOWNSHIP OF BELL

It is
Kauffman
B.H. Shaffer

SUPERVISORS OF THE TOWNSHIP OF BRADY

H.W. Bousell

STATE OF PENNSYLVANIA :
: SS
COUNTY OF CLEARFIELD :

Before me the subscriber hereto came H W Bonsell
who being duly sworn according to law, deposes and says that the
facts set forth in the within petition are true and correct to
the best of his knowledge and belief.

Sworn and subscribed to
before me this 17th day of
July A. D. 1931.

H W Bonsell

Geo H Palston
Notary

Now, July 1931, the within petition
having been read and considered,
and and
are appointed viewers to view certain premises and after
hearing are to report to the Court their recommendation relative
to the same according to the Act of Assembly in such cases made
and provided.

By the Court.

CLEARFIELD COUNTY, SS.:

At a Court of Quarter Sessions of the Peace of the County of Clearfield, Pa., held at Clearfield, Pa.,
in and for said County, on the 29th day of July in the year of our Lord, one
thousand nine hundred and thirty one

By the Honorable ^{A. R. CHASE} ~~Simon~~, President Judge of the said Court: Upon the petition of sundry
inhabitants of the Township of Bell and Brady, in the County aforesaid setting forth that there...
is a certain road lying in the townships of Bell and Brady that has become
useless to the travelling public: That the road sought to be vacated is
approximately two and 7/10 miles in length, one and 3/10 mile of the same
lying in Bell Township and one and 4/10 mile of the same lying in
Brady Township. described as follows: Beginning at a point on the Beach Run
road approximately 4/10 of a mile northeast of the intersection of the
Beach Run road with what is known as the Troutville road at the property of
Daniel Fryers; thence in a westerly direction along what is known as the
Buck Run road, past and through other property of Daniel Fryers and the
property of Adam Haig, Henry Weber Estate and George Kouger and O.G. Gregg
to the intersection of said Buck Run Road with another road running between
Mahaffey and Troutville That the only use of said road would be for the
purpose of hunters and believe that if the same is vacated as a public road and
allowed to remain open as a private road that no one would be adversely affected
and, therefore, praying the Court to appoint proper persons to view and vacate said road between the
points mentioned, whereupon the said Court, upon due consideration had of the premises, do order and ap-
point from and among the County Board of Viewers EARL BOOSE, ESQ. Ed Billotte and

Jack Michaels who have been duly appointed by the said Court on the
County Board of Viewers, and filed their oaths of office in the office of the Court of Common Pleas of the
County aforesaid, as required by law and are, therefore, duly qualified to perform the duties of their appoint-
ment, with impartiality and according to the best of their judgment; are to view the said road, and after
having viewed the same, if they, or a majority of them, do agree that there is no necessity for said road, they
shall proceed to vacate the same as agreeably to the desire of the petitioners as may be, and make report
thereof to the next Court of Quarter Sessions to be held in and for said County, stating particularly whether
there is any necessity for said road, or whether the same should be vacated; and the reason why, together
with a plot, or draft, thereof showing the courses and distances with reference to the improvements through
which said road passes.

And in case the viewers aforesaid shall decide in favor of vacating said road, they shall obtain from
the persons through whose lands the said road passes, or otherwise affected, or damaged, by the vacating
of said road, releases from whatever damage they may sustain by the vacation of said road; and in case the
owners of such lands, or persons affected, thereby refuse to release their claim to damages, the said Viewers
shall assess the same, taking into consideration the advantages, as well as the disadvantages, arising from
the vacation of said road; and make report of such assessment; which report they shall in like manner trans-
mit to the next Court of Quarter Sessions, with the draft, or plot, aforesaid. In which said reports they
shall state that they have been sworn, or affirmed, according to law, and that due and legal notice was given
of the time when and the place where they would meet, to view said road and the time and place of hearing.

By order of the Court.

Geo W. Ralston
Clerk.

and that a plan, or draft, of said road to be vacated showing the courses and distances, and over whose property the said road passes, is hereto attached and made a part hereof.

The undersigned Viewers further report that they endeavored to procure from all parties affected by the vacation of said road, or over whose properties said road passes, or in any way damaged by the vacation of said road, a release in writing of all claims to damages that may arise from the vacation thereof, and that they procured such release from: _____

And that the following persons having, in the opinion of the Viewers, been damaged by the vacation of said road, and having refused to release the damages to which they may be respectively entitled to by reason of the vacation, and closing up of the said road, we, the undersigned Viewers, after having considered the advantages to be derived to them, do assess them damages and make report thereof, as follows: _____

None of the parties at the view or hearing claimed any specific damages resulting from vacation of said road and the viewers do not find that any party in interest will suffer any specific damage as a result of making the said road a private instead of a public road and they have therefore assessed no damages.

and we herewith return releases obtained, and copy of the notices.

Witness our hands and seals this 20th

day of August

, A. D. 1931

..... [SEAL.]

..... [SEAL.]

..... [SEAL.]

Viewers.

THIS INDENTURE made the 1st day of February in the year of our Lord one thousand nine hundred and sixty-three

BETWEEN

MRS. LAWRENCE DUNNIRE, also known as HELEN DUNNIRE, of Vandergrift, Westmoreland County, Pennsylvania, Executrix of the last Will and Testament of William B. Haggey, deceased, and JOSEPH A. DAGUE, of Clearfield Borough, Clearfield County, Pennsylvania, Guardian of the Estate of Ward Donahue, an incompetent, GRANTORS,

AND

JOHN F. WEBER and ALVIRA J. WEBER, husband and wife, as tenants by the entirety, of Sykesville, Jefferson County, Pennsylvania, GRANTEES.

WHEREAS, William B. Haggey, during his lifetime, became the owner of an undivided 14/15 interest in certain tracts of land hereinafter described, and

WHEREAS, the said William B. Haggey died October 30, 1961, leaving a last will and testament dated September 17, 1951, and proved and registered in the office of the Register of Wills in and for the County of Clearfield by which he appointed the said Mrs. Lawrence Dunnire, also known as Helen Dunnire, to be Executrix, and

WHEREAS, Letters Testamentary on said estate were duly issued to Mrs. Lawrence Dunnire, also known as Helen Dunnire, by the Register of Wills of Clearfield County, and

WHEREAS, Ward Donahue became the owner of an undivided 1/15 interest in the said tracts of land hereinafter described, and

WHEREAS, the said Ward Donahue was declared mentally incompetent in a proceeding in the Court of Common Pleas of Clearfield County to No. 284 September Term, 1940 and Joseph A. Dague was duly appointed guardian of the estate of said incompetent, and

WHEREAS, by an order of the aforesaid Court the said guardian was authorized to join in this conveyance,

NOW, THIS INDENTURE WITNESSETH that the said Mrs. Lawrence Dunnire, also known as Helen Dunnire, Executrix as aforesaid, and Joseph A. Dague, guardian as aforesaid, for and in consideration of the sum of five thousand (\$5,000.00) Dollars to them in hand paid by the said John F. Weber and Alvira J. Weber, met and before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened

000-12-032-1
sell, alien, release and confirm unto the said John F. Weber and Alvira J. Weber, their heirs and assigns, all those pieces or parcels of land with the buildings and improvements constructed thereon, situate in Bell Township, Clearfield County, Pennsylvania, bounded and described as follows:

FIRST PIECE: BEGINNING at a post formerly a Beech the Southwest corner of Tract No. 5618; thence by Tract No. 5619, North one hundred seventy-four (174) perches to a Beech; thence by tract of Godfrey Weber, East one hundred fourteen (114) perches to a maple; thence by tract of G. Mangold, South one hundred seventy-four (174) perches; thence West one hundred fourteen (114) perches to the beginning, containing 116 acres, 60 perches, more or less.

EXCEPTING and RESERVING from the first piece herein described the following:

1. Tract conveyed to Catharine Freedline by deed dated June 7, 1887 and recorded in Deed Book Volume 132, page 242, containing 26 acres.
2. Tract conveyed to Jacob Freedline by deed dated November 9, 1891, duly recorded in Clearfield County, containing 27 acres, 96 perches.
3. Tract conveyed to John L. Hauck by deed dated November 9, 1891 and recorded in Deed Book Volume 93, Page 236, containing 16 acres, more or less.
4. Tract conveyed to Jacob Freedline by deed dated September 1, 1900, and recorded in Deed Book Volume 132, page 243, being 50 by 87 perches in size.

SECOND PIECE: BEGINNING at a Maple at the Northwest corner; thence South eighty-seven (87) perches to a stone; thence East one hundred nine and one-half (109 1/2) perches to a stone; thence North eighty-seven (87) perches to a stone; thence West one hundred nine and one-half (109 1/2) perches to a Maple the place of beginning. The said piece according to the said deed contains 56 acres and 28 perches, but by exact computation and without allowances, contains 59 acres and 86 1/2 perches.

THIRD PIECE: BEGINNING at a stone also corner of Jacob H. Freedline land; thence South along said Freedline land twenty-three (23) perches to a post at public road; thence West one (1) perch to a post; thence along said public road twenty-six (26) perches, more or less, to post on Jacob Freedline land; thence East along said line eight (8) perches, be the same more or less to stone and place of beginning, containing 108 perches, more or less.

EXCEPTING and RESERVING from the above described premises the right-of-way granted Paul Weber and Mae Weber by William B. Haggey by Agreement dated November 13, 1953 and the gas and oil conveyed by William B. Haggey to F. C. Deemer by deed dated July 5, 1955 and recorded in Deed Book 444 at page 14.

BEING the same premises title to which vested in William B. Haggey by deed of Harold C. and Nettie J. Knarr dated March 24, 1953 and recorded in Deed Book 428 at page 22. The aforesaid

Interest of Ward Donahue vested in him as an heir at law of Mabel Donahue

TOGETHER with all and singular the rights, liberties, privileges, hereditaments and appurtenances whatsoever, thereunto belonging or in any wise appertaining and the reversions and remainders, rents, issues and profits thereof, and also all the estate, right, title, interest, property, claim and demand whatsoever of the said William B. Haggey at and immediately before the time of his decease and of the said Ward Donahue, in law or equity or otherwise howsoever, of, in, to or out of the same.

TO HAVE AND TO HOLD the said messuage or tenement and tracts of land, hereditaments, and premises hereby granted or mentioned, or intended so to be, with the appurtenances, unto the said John F. Weber and Alvira J. Weber, their heirs and assigns, to the only proper use and behoof of the said John F. Weber and Alvira J. Weber, their heirs and assigns, forever.

And the said Mrs. Lawrence Dunmire, also known as Helen Dunmire, Executrix, and Joseph A. Dague, Guardian, for themselves, their heirs, executors and administrators, do severally, and not jointly, nor one for the other, or for the act or deed of the other, but each for his own acts only, covenant, promise and agree to and with the said John F. Weber and Alvira J. Weber, their heirs and assigns, by these presents that they the said Mrs. Lawrence Dunmire, also known as Helen Dunmire, and Joseph A. Dague have not heretofore done or committed any act, matter or thing whatsoever, whereby the premises hereby granted, or any part thereof, is, are or shall or may be impeached, charged or encumbered in title, charge, estate or otherwise howsoever.

IN WITNESS WHEREOF, the said Mrs. Lawrence Dunmire, also known as Helen Dunmire, and Joseph A. Dague have hereunto set their hands and seals the day and year first above written.

Mrs. Lawrence Dunmire (SEAL)
Mrs. Lawrence Dunmire

Helen Dunmire (SEAL)
Helen Dunmire
Executrix of the Estate of
William B. Haggey, deceased.

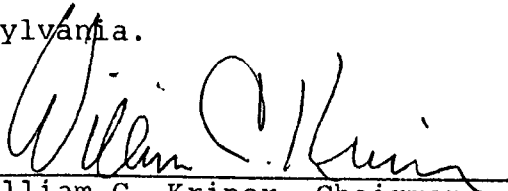
Joseph A. Dague (SEAL)
Joseph A. Dague
Guardian of the Estate of Ward
Donahue, An Incompetent

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RE: PETITION FOR A PRIVATE :
ROAD IN BELL TOWNSHIP, : NO. 86-2-ROAD
CLEARFIELD COUNTY, :
PENNSYLVANIA BY BRIAN :
S. SEKULA :
:

NOTICE OF VIEW AND HEARING

You are hereby notified that Roland E. Bechtel, Lex Curry,
and William C. Kriner, Esquire, Board of View in the above
captioned matter will hold a view on Thursday, April 3, 1986,
at 10:00 a.m., at the subject premises, and immediately following
this viewing there will be a hearing in this matter held at the
office of William C. Kriner, Kriner, Koerber & Kirk, 110 North
Second Street, Clearfield, Pennsylvania.



William C. Kriner, Chairman
Board of View

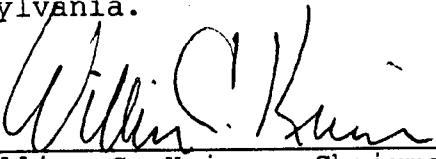
March 26, 1986

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RE: PETITION FOR A PRIVATE :
ROAD IN BELL TOWNSHIP, : NO. 86-2-ROAD
CLEARFIELD COUNTY, :
PENNSYLVANIA BY BRIAN :
S. SEKULA :
:

NOTICE OF RESCHEDULED VIEW AND HEARING

You are hereby notified that Roland E. Bechtel, Lex Curry,
and William C. Kriner, Esquire, Board of View in the above
captioned matter will hold a view on Thursday, April 17, 1986,
at 10:00 a.m., at the subject premises, and immediately following
this viewing there will be a hearing in this matter held at the
office of William C. Kriner, Kriner, Koerber & Kirk, 110 North
Second Street, Clearfield, Pennsylvania.



William C. Kriner, Chairman
Board of View

April 3, 1986

KRINER, KOERBER AND KIRK
ATTORNEYS-AT-LAW
110 NORTH SECOND STREET
P. O. BOX 1320
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-9611

WILLIAM C. KRINER
DWIGHT L. KOERBER, JR.
ALAN F. KIRK

COUNSEL TO THE FIRM
WILLIAM T. DAVIS

July 22, 1986

Kim C. Kesner, Esquire
Sughrue & Kesner
23 North Second Street
Clearfield, PA 16830

Robert M. Hanak, P.C.
Attorney at Law
P.O. Box 250
Reynoldsville, PA 15851

Mr. Lex Curry
1306 South Second Street
Clearfield, PA 16830

Mr. Roland Bechtel
10 South Third Street
DuBois, PA 15801

RE: Petition for Private Road in Bell
Township, Clearfield County, Pennsylvania
by Brian S. Sekula, No. 86-2-Road

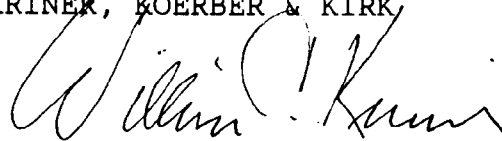
Gentlemen:

Per conversation with your offices today, please be advised
a formal hearing on the above captioned matter has been scheduled
for August 25, 1986, at 1:30 p.m. in my office.

Should you have any questions, please do not hesitate to
contact me.

Very truly yours,

KRINER, KOERBER & KIRK,



William C. Kriner

WCK/cv

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

RE: PETITION FOR A PRIVATE :
ROAD IN BELL TOWNSHIP, :
CLEARFIELD COUNTY, : No. 86-2-ROAD
PENNSYLVANIA BY BRIAN :
S. SEKULA :

BOARD OF VIEW SCHEDULE OF COSTS TO BE PAID BY CLEARFIELD COUNTY

Payable to Roland E. Bechtel
10 South Third Street
DuBois, PA 15801
3 days at \$75.00 per day \$ 225.00
160 miles @ 20¢ per mile 32.00
Total payable to Roland E. Bechtel \$ 257.00

Payable to Lex W. Curry
1306 South Second Street
Clearfield, PA 16830
3 days at \$75.00 per day \$ 225.00
56 miles @ 20¢ per mile 11.20
Total payable to Lex W. Curry \$ 236.20

Payable to William C. Kriner, Esquire
110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
4 days at \$75.00 per day \$ 300.00
Mileage - None -----
Postage Expense 8.38
Telephone Expense 4.03
Photocopy Expense - 221 copies
@ 15¢ per copy 33.15
Total payable to William C. Kriner \$ 345.56

FILED

DEC 2 PM

stopper
BY WILHELM

Ask Me

FILED

DEC 3 1986

RAY WITHEROW
Prothonotary

No Copies