

ROAD #7
DOCKET NO. _____

YEAR	NUMBER	ACTION
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86-2-ROAD

INRE: PETITION FOR PRIVATE ROAD

BELL TOWNSHIP

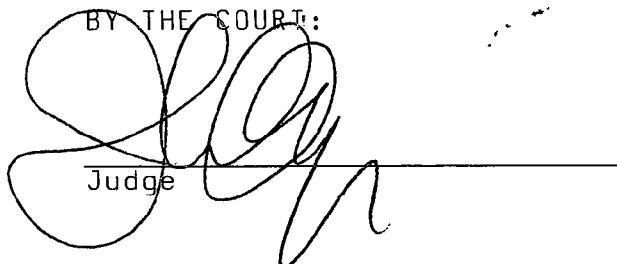
VERSUS

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 20 day of March,
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 1946

RAY WITHEROW
9:00 A.M.

Prothonotary

6 West 4th 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: SS
COUNTY OF JEFFERSON :

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
John F. Weber

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

of April, 1986.

Eleanor J. Shy
Notary Public

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

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

10 AM
M - 8:30 AM.

No. 200-115398 Term, 19 _____

200-115398

Signature

No. _____ Term, 19 _____

No. _____ Term, 19 _____

No. _____ Term, 19 _____

No. 86-2-20 Term, 19
Wm Kinner Board / View

No. _____ Term, 19 _____

No. _____ Term, 19 _____

No. 86-2-20 Term, 19

Wm Kinner Board / View

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.

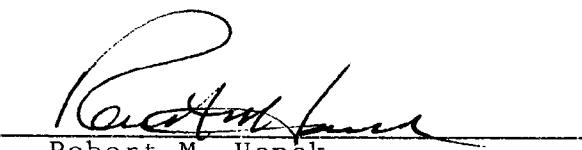
5. The Respondent is not aware of any procedural requirement that specific findings of fact be made and cited. The parties hereto have waived the requirement of a transcript as to the Board of View procedures. The Board of View found that there was no necessity, which is a factual finding inherent in 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

16-2-Road

FILED

JAN 29 1987

10:30 A.M.

RAY WITHERROW
Prothonotary

Robert M. Hanak
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

JAN 27 1987
B18 2:35 PM
RAY WITHEROW
Prothonotary

2nd 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*:

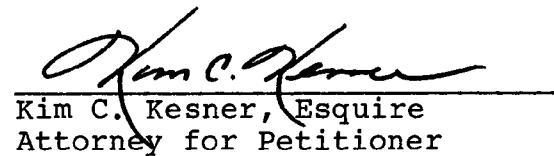
a. Petitioner believes and therefore avers that the Board utilized an improper legal standard in conducting the view and finding no necessity because of another claimed means of access where the Board failed to consider or improperly considered the burden, inconvenience, and impracticality in using said 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

Kim C. Kesner, Esquire
Attorney for Petitioner

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF CLEARFIELD : SS.
: :

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 Sekula
Brian S. Sekula

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

Margaret B. Buzzanca
Notary Public

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

on

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

APR 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.

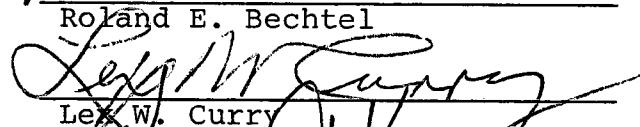
12. That after view of the premises, review of the legal memoranda submitted by the parties and a formal hearing where testimony under oath was taken, the Board of View empaneled in this matter has determined that the Petition filed should be denied and that Brian S. Sekula should not be permitted to 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

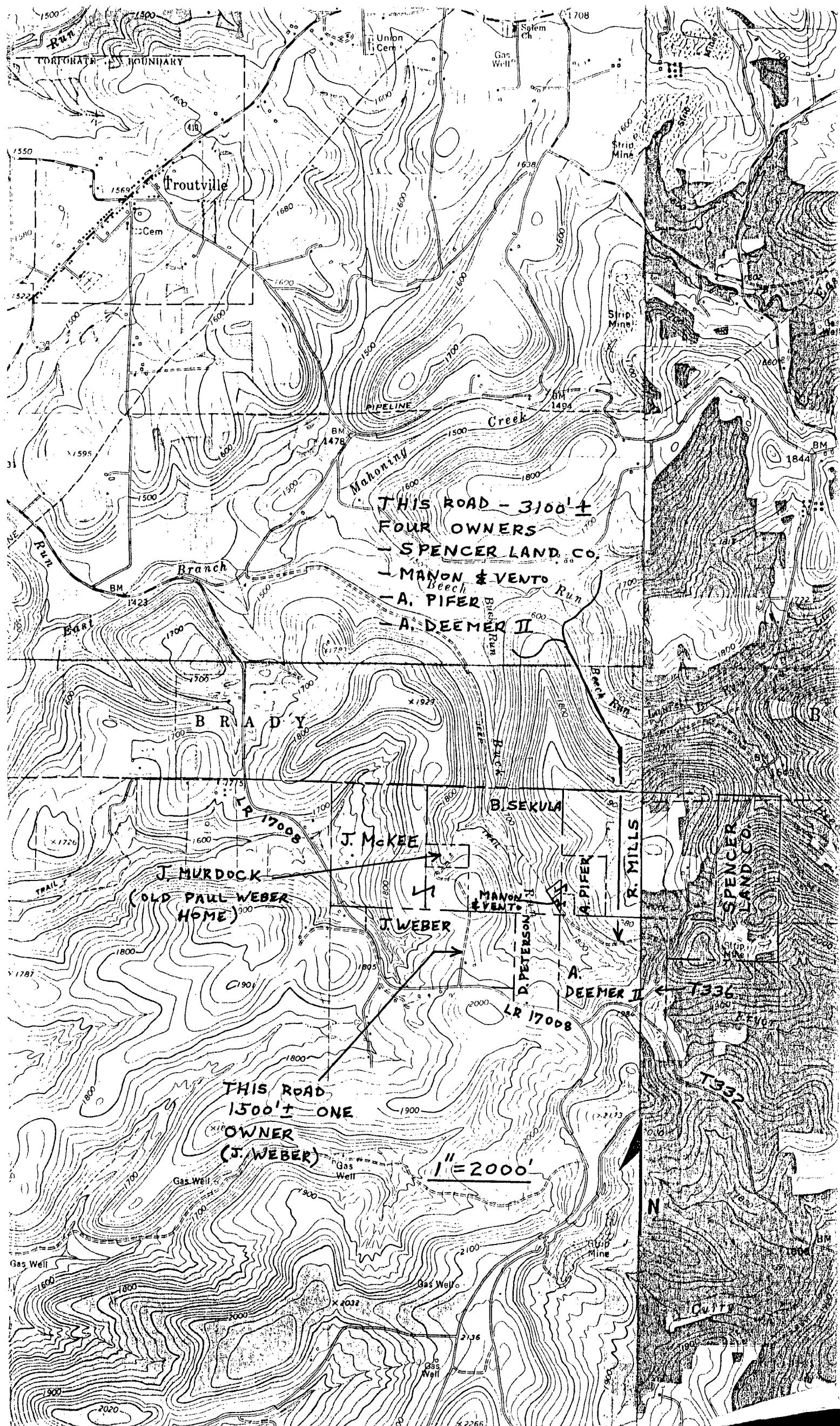


Lex W. Curry



William C. Kriner, Esquire

Board of View



This 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 grantees ,

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 point 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 1, 1971 and recorded at Clearfield, Pennsylvania in Deed Book No. 584, page 258.

NOTICE

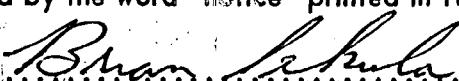
To comply with the Act of July 17, 1957 (52 P.S. Supp. Section 1551-1554) notice is hereby given as follows:

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.

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966" I/we, the undersigned 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:



This

10th

day of

May 1974

DEEMER

BRUNO

CHESTNUT
OAK

BRADY TWP. I.P.

S.81°-33'E.

BELL TWP.

2645.8'

POINT OF
BEGINNINGN. 8°-24'E.
1255.8'

CONTAINING:

123.9 ACRES

MILLS

MCKEE

I.P.

S.85.0

I.P.

M,EE-18 N

MURDOCK

N. 8°-27'E.
1204.5'

MCKEE

I.P.

M,EE-18 N

SEE
DETAIL

VENTO

I.P.

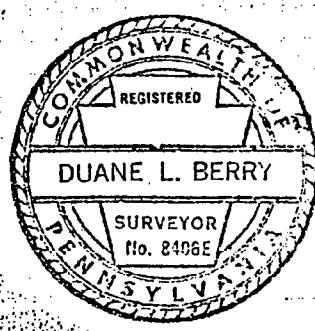
S.27°-37'E. I.P.
36.3'

PIFER

WEBER

PETERSON

DEEMER



PLAT OF SURVEY FOR

BRIAN S. SEKULA

LANDS SITUATED IN

BELL TWP. CLFD. CO.

SCALE: 1"=500' MAY 1974

M,EE-18 N

I.P.

S.8°-27'W

8.1'

And the said grantor will GENERALLY hereby conveyed.

In witness whereof, said grantors have hereunto set their hand 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

Elnora Arnold
Elnora Arnold

SEAL

SEAL

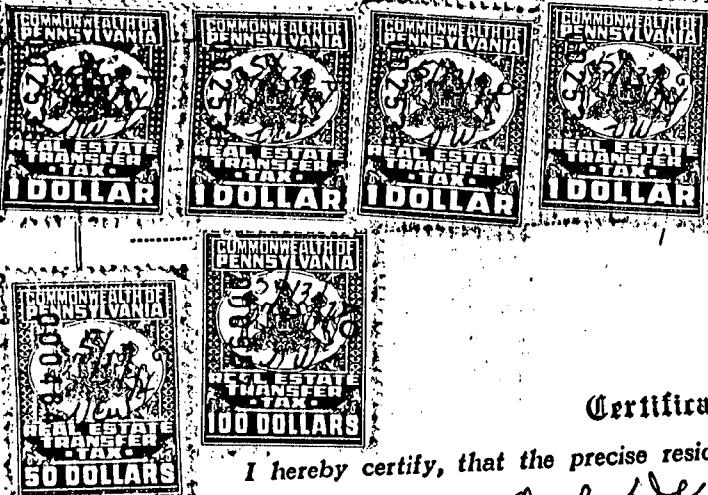
SEAL

R. Wesley Smith
R. Wesley Smith

SEAL

Sananthal L. Smith
Sananthal L. Smith

SEAL



Certificate of Residence

I hereby certify, that the precise residence of the grantees

herein is as follows:

322 Queeny One, Derry, Pa., Edward W. Cherry
Attorney or Agent for Grantees

Commonwealth of Pennsylvania
County of Clearfield

{ ss:

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 instrument, and acknowledged that they contained.

whose names are subscribed to the within executed the same for the purpose therein

IN WITNESS WHEREOF, I have hereunto set my hand and

Official

seal.

Notary Public

My Commission Expires

Jan. 7, 1975

Commonwealth of Pennsylvania
County of Clearfield

{ ss:

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 instrument, and acknowledged that they contained.

whose names are subscribed to the within executed the same for the purpose therein

IN WITNESS WHEREOF, I have hereunto set my hand and

Official

seal.

Notary Public

My Commission Expires

Jan. 7, 1975

Entered of Record 5-13

1974, Cecil Q. Burns

Recorder

R. D. 6

Petition to vacate certain roads in Bell and Brady Township

4

Clerk

2.50

1.50

E. G. Boose

28.50

Ed Billotte

35.70

Jack Michaels

17.30

July 29, 1931, Petition filed
That there is a certain road lying 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 Pencil Run Road and the road between
Mahaffey and Troutville.

That the portion of road sought to be vacated
is approximately $2\frac{7}{10}$ miles in length
One and $\frac{3}{10}$ mile of the same lying in
Bell Twp and One and $4\frac{1}{10}$ miles lying
in Brady Township.

July 28, 1931, E. G. Boose, Ed Billotte and
Jack Michaels are appointed Viewers to
view and report. By the Court. A. R. Chase

Aug 21, 1931, Viewer Report filed

Now, Sept 11, 1931, Confirmed No. 11. By the Court. A. R. Chase O. J.

Dec 11, 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 expense of the Court, that along said road proposed for
vacation there is a bridge crossing Buck Run which will require which
would entail upon Bell Twp an expense of probably not less than
\$100.00 The Viewers do not recommend an absolute vacation of the
road but do recommend that the Court make appropriate orders 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 21st day of August, A. D. 1931.

E. G. Boose

E. S. Billotte

J. S. Michaels

IN THE COURT OF QUARTER SS.
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

July 28th 1931

FILED
JUL 29 1931
GEO. W. RALSTON
CLERK

On July 28th 1931
Sam Rose, Jr.
of Bellville of
Jack Daniels and
Alfred Neens
Petitioners
vs AUGHLIN & SILBERBLATT
ATTORNEYS AT LAW
Kingsley & Thomas
CLEARFIELD COUNTY
of which

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 Buck Run Road, past and through other property of Daniel Fryers and the property of Adam Haig, Henry Weber Estate and George Kougher and C. G. Gregg to the intersection of said Buck 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

W. M. Kauffman
B. H. Shaffer

SUPERVISORS OF THE TOWNSHIP OF BRADY

H. W. Bonsell

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 W. Rakstot
Notary Public

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

A. R. CHASE

By the Honorable ~~Sixty XXXX~~, President Judge of the said Court: Upon the petition of sundry

Brady

inhabitants of the Township of Bell and , 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 aporoximately 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 Kougher and C.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 appointment, 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 transmit 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

John B. [SEAL.]

E. J. Billott [SEAL.]

J. S. Michael [SEAL.]

Viewers.

7
100-500-154
THIS INDENTURE made the 1st day of February in the year
of our Lord one thousand nine hundred and sixty-three.

BETWEEN

MRS. LAWRENCE DUNMIRE, also known as Helen Dunmire, of
Vandergrift, Westmoreland County, Pennsylvania, Executrix of the
Last Will and Testament of William B. Baggy, 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 entireties, of Sykesville, Jefferson County, Penn-
sylvania, GRANTEES.

WHEREAS William B. Baggy, 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. Baggy died October 10,
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 Dunmire, also known as Helen Dunmire, to be Executrix
of his estate.

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

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

WHEREAS the said Ward Donahue was declared mentally
incompetent in a proceeding in the Court of Common Pleas of Clear-
field 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 Dunmire, also known as Helen Dunmire, Executrix as aforesaid,
and Joseph A. Dague, guardian as aforesaid, for and in con-
sideration 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, and
before the sealing and delivery hereof, the receipt whereof is

200-10032
sell, convey, release and confirm unto the said John F. Weber and Alvin 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 193, 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 at 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 at the 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, the same more or less to stone and place of beginning, containing 108 perches, more or less.

EXCEPTING and **RESERVING** from the above described premise the right-of-way granted Paul Weber and Mae Weber by William B. Hagkey by Agreement dated November 13, 1953 and the gas and oil conveyed by William B. Hagkey to F. C. Deemer by deed dated July 31, 1955 and recorded in Deed Book 147 at page 146, BEING the same premises title to which vested in W. B. Hagkey by deed of Harold C. and Nettie J. Knott dated March 1953 and recorded in Deed Book 128 at page 22. The aforesaid

OCT 30 1953

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 hereof, is, or is, 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.

2023 RELEASE UNDER E.O. 14176
FIRST LAWRENCE DUNMIRE

JOSEPH A. DAGUE
2023 RELEASE UNDER E.O. 14176
WILLIAM B. HAGGEY, deceased

(SEAL)

JOSEPH A. DAGUE
2023 RELEASE UNDER E.O. 14176
WILLIAM B. HAGGEY, deceased

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

On this 18 day of February, 1963, before me, the undersigned officer, personally appeared Mrs. Lawrence Dunnire, also known as Helen Dunnire, of Vandergrift, Pennsylvania, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and acknowledged that she executed the same in the capacity therein stated and for the purposes therein contained.

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

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

On this 18 day of February, 1963, before me, the undersigned officer, personally appeared JOSEPH A. DAGUE, of Clearfield, Pennsylvania, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

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

RECODER OF DEEDS, BY ORDER OF THE COMMONWEALTH

The address of the within Grantees is 34 Main Street, Sykesville, Pa.

On behalf of Grantees

RECORDED

10-13

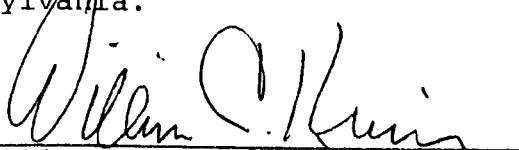
RECORDED

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

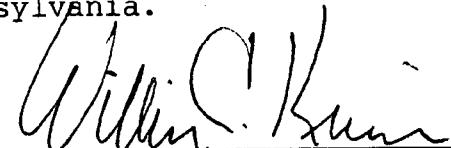
March 26, 1986

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

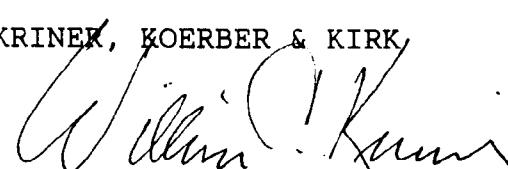
Gentlemen:

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

RECEIVED
COURT OF COMMON PLEAS
CLEARFIELD COUNTY
PA
MAY 21 1986

FILED

DEC 3 1986

100-1150-83
RAY WITHEROW
Prothonotary

No Copies

Att Hs