

DOCKET No. 7

No. 88-8-ROAD

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PETITION FOR PRIVATE ROAD

IN SANDY TWP.

by: JOSEPH J. GOOD

**Versus**

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA  
CIVIL ACTION - LAW

In Re: Petition for a Private : CIVIL DIVISION  
Road in Sandy Township, :  
Clearfield County, : NO. 88-8- ROAD  
Pennsylvania (Amended):  
by Joseph J. Good : Type of Pleading:  
: ANSWER TO NEW MATTER  
: Filed on behalf of:  
: JOSEPH J. GOOD

Counsel of Record for  
this Party:

Matthew B. Taladay  
Supreme Court No. 49663  
Robert M. Hanak, P.C.  
311 Main Street  
Reynoldsville, PA 15851

**FILED**

JAN 17 1980

ALLEN D. BIEZ  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA  
CIVIL ACTION - LAW

In Re: Petition for a Private : CIVIL DIVISION  
Road in Sandy Township,:  
Clearfield County, : NO. 88-8- ROAD  
Pennsylvania (Amended):  
by Joseph J. Good :  
:

ANSWER TO NEW MATTER

AND NOW, comes the Petitioner, Joseph J. Good, by his Attorney Matthew B. Taladay, and hereby responds to New Matter filed on behalf of Colleen C. Overturf as follows:

9. Joseph J. Good hereby incorporates by reference Paragraphs 1 through 8 of his Petition as if set forth in full.

10. Denied. Petitioner's property at this time is landlocked, not accessible by any road, has no other means of ingress or regress, and therefore the proposed roadway is necessary to Petitioner's use and enjoyment of his property.

11. It is admitted that Petitioner's property was formally part of a larger tract owned by Samuel Spicher. The remaining allegations of New Matter, Paragraph 11 constitute a conclusion of law to which no response is required. To the extent that a response is required Petitioner has been denied access to his property by all adjacent landowners.

12. It is denied that the proposed road will create a nuisance and result in severe diminishment in value of property of Colleen Overturf. By way of further answer, Petitioner intends to compensate Colleen Overturf for any diminution in property value caused by the proposed private road.

13. Denied as stated. The proposed private road is located on the border of Colleen Overturf's property and is separated from her swimming pool by an area of woods and brush. The proposed roadway would not encroach in the privacy of Colleen Overturf.

14. Denied as stated. Paragraphs 3, 4 and 5 of the Amended Petition aver facts showing the necessity of the proposed roadway.

WHEREFORE, Joseph J. Good requests judgment in his favor.

  
Matthew B. Taladay  
Attorney for Petitioner

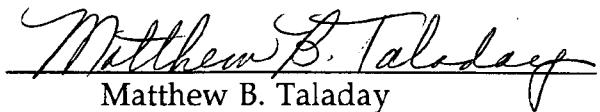
CERTIFICATE OF SERVICE

I, Matthew B. Taladay, Attorney for Joseph J. Good, hereby certify that I have served, by first class mail, postage prepaid, one (1) copy of the Answer to New Matter on the following parties:

John J. Cherry  
Attorney at Law  
23 Beaver Drive  
DuBois, PA 15801

Rick Mattern, Esq.  
Chairman Board of View  
211 East Pine Street  
Clearfield, PA 16830

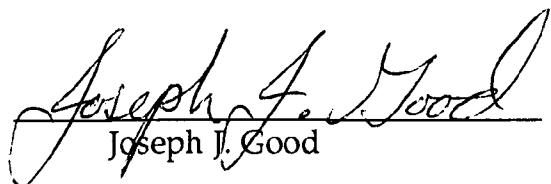
Anthony S. Guido  
996 Beaver Drive  
P O. Box 585  
DuBois, PA 15801

  
Matthew B. Taladay  
Attorney for Joseph J. Good

Date: January 16, 1990

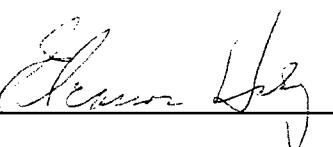
COMMONWEALTH OF PENNSYLVANIA :  
COUNTY OF *Jefferson* :  
SS :

I, JOSEPH J. GOOD, being duly sworn according to law, deposes and says that the facts set forth in the foregoing ANSWER are true and correct to the best of his knowledge, information and belief.

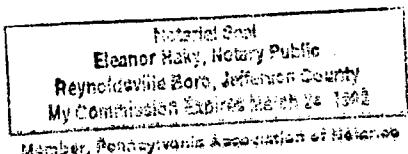


*Joseph J. Good*  
Joseph J. Good

Sworn to and subscribed  
before me this 15<sup>th</sup> day of  
January, 1990.



*Eleanor Haiky*



Copy

88-8 - Rd

All papers mailed to  
Superior Ct.

~~7/1/88~~  
7/6/88 - 21-88

~~21-88~~  
7/6/88 - 21-88

M E M O

TO: Prothonotary's Office  
FROM: Official Court Reporters  
DATE: February 20, 1991  
RE: In re: Petition For a Private Road in  
          Sandy Township, Clearfield County, Pennsylvania  
          by Joseph J. Good

Please be informed that our office received a Notice of Appeal in the above entitled case, and after contacting the attorneys involved in this case, our office will be preparing the following transcripts:

No hearing was ever made on record.

No transcription required

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Copy

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

In Re: Petition for a Private : 88-8-ROAD  
Road in Sandy Township, :  
Clearfield County, :  
Pennsylvania by :  
Joseph J. Good :  
:

ORDER

AND NOW, this 5<sup>th</sup> day of December

1988, upon the Petition of Joseph J. Good and in accordance with 36 P.S.  
Section 2731, this Court hereby appoints J. Richard Mather, II, Esquire,  
Robert Lester, and Leonard Kantar, as a  
Board of View to view the property described in the foregoing Petition and  
the vicinity where the private road is requested and to report to this Court in  
accordance with the law.

BY THE COURT:

/s/ John K. Reilly, Jr.

✓ ✓ -

I hereby certify this to be a true and  
attested copy of the original statement  
filed in this case.

Attest: Raymond Detherow

Prothonotary

] SUPERIOR COURT DOCKET NO. ASSIGNED  
] 00289PGH91

PROTHONOTARY  
CLEARFIELD COUNTY  
CLEARFIELD CTY. COURTHOUSE  
CLEARFIELD, PA 16830

IN RE: PETITION FOR A PRIVATE ROAD IN SANDY  
TOWNSHIP, CLEARFIELD COUNTY, PENNSYLVANIA BY  
JOSEPH J. GOOD

1T APPEAL OF: JOSEPH J. GOOD  
2P COLLEEN OVERTURF, ADJOINING LANDOWNER  
3P WELDON FROST, ADJOINING LANDOWNER

May 3 -----1991, RECEIVED FROM THE  
SUPERIOR COURT OF PENNSYLVANIA, PITTSBURGH OFFICE, THE  
CERTIFICATE OF DISCONTINUANCE OF THE COURT, IN THE ABOVE  
ENTITLED CASE.

- ] RECORD(S) IN ( ) PARTS
- ] NOTES OF TESTIMONY
- ] PARTIAL RECORD
- ] EXHIBITS
- ] SUPPLEMENTAL RECORD
- ] TRANSCRIPT(S)
- ] OTHER:

Allen D. Bietz

RETURN TO:

SUPERIOR COURT OF PENNSYLVANIA  
OFFICE OF THE PROTHONOTARY  
1015 GRANT BUILDING  
PITTSBURGH, PENNSYLVANIA 15219  
412-565-592

TRIAL COURT DOCKET NUMBER(S):  
88-8 ROAD

FILED  
MAY 10 1991 AM  
MAY 03 1991  
AB

ALLEN D. BIETZ  
Prothonotary

# In the Superior Court of Pennsylvania

Sitting at Pittsburgh

No.

289

PITTSBURGH, 19 91

IN RE: PETITION FOR A PRIVATE  
ROAD IN SANDY TOWNSHIP, CLEARFIELD  
COUNTY, PENNSYLVANIA BY JOSEPH  
J. GOOD

APPEAL OF: JOSEPH J. GOOD

Appeal from the Order of 1/11/91, by the Honorable  
John K. Reilly, of the Court of Common Pleas,  
Civil Division,  
of the County of CLEARFIELD

No. 88-8 Road

xxxxxx

Certified from the Record

April 26, 1991 - Praecipe To Discontinue, filed. (APPEAL DISCONTINUED)

In Testimony Whereof,

I have hereunto set my hand and the seal of said Court at Pittsburgh,

PA, this 26th

day of April

19 91

*Eleanor R. Valecko*  
Deputy Prothonotary

No.

Pittsburgh, 19

SUPERIOR COURT  
SITTING AT PITTSBURGH

**CERTIFIED COPY OF RECORD**

In Re: Private Road/Joseph Good

M E M O

TO: PROTHONOTARY'S OFFICE  
FROM: COURT REPORTERS' OFFICE  
DATE: 3/26/91  
IN RE: 88-8-Road

Please be advised that no transcripts are pending  
in the above captioned case.

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

IN RE: PETITION FOR A PRIVATE :  
ROAD IN SANDY TOWNSHIP :  
CLEARFIELD COUNTY, : No. 88 - 8 - ROAD  
PENNSYLVANIA BY :  
JOSEPH J. GOOD :

O R D E R

NOW, this 28th day of March, 1991, upon  
consideration of Motion for Reconsideration filed on behalf of  
Joseph J. Good and argument thereon, it is the ORDER of this  
Court that said Motion be and is hereby granted to the extent  
that the County of Clearfield shall assume one half of the  
costs of the viewers' fees. Total costs having been \$2,242.20,  
the County shall pay \$1,121.10. The balance of the costs shall  
be the responsibility of Joseph J. Good.

By the Court,

President Judge

CA/ 3:30 pm  
8/19/21

02/15/91  
1000

SUPERIOR COURT OF PENNSYLVANIA  
OFFICIAL DOCKET

DOCKET # 00289PGH91

FULL CAPTION

IN RE: PETITION FOR A PRIVATE ROAD IN SANDY  
TOWNSHIP, CLEARFIELD COUNTY, PENNSYLVANIA BY  
JOSEPH J. GOOD  
001T APPEAL OF: JOSEPH J. GOOD  
002P COLLEEN OVERTERF, ADJOINING LANDOWNER  
003P WELDON FROST, ADJOINING LANDOWNER

COUNSEL	TITLE	FOR	MAIL
49663 MATTHEW B. TALADAY 311 MAIN STREET P.O. BOX 250 REYNOLDSVILLE, PA 15851	ESQUIRE	001T	Y
		814-653-8252	
05877 ANTHONY S GUIDO P.O. BOX 585 996 BEAVER DRIVE DUBOIS, PA 15801		002P	Y
		814-371-7768	
05876 JOHN A CHERRY 23 BEAVER DRIVE DUBOIS, PA 15801		003P	Y

CONSOLIDATED DOCKET NUMBER

BACKGROUND DATA

TRIAL COURT RECORDS

CATEGORY:	CV
COURT NAME:	CIVIL
COUNTY:	CLEARFIELD
JUDICIAL DISTRICT:	46
CASE TYPE/CHARGE:	OTHER
TRIAL COURT CHARGES:	
JUDGE(S):	REILLY, J2
DISPOSITION TYPE:	ORDER ENTERED
DISPOSITION DATE:	01/11/91
APPEAL FILE DATE:	01/23/91
DISPOSITION ENTERED:	
TRIAL CRT DOCKET NO.:	(88-8 ROAD)
OFFENSE TRACKING NO.:	

FILED  
M 18:30 pm  
FEB 19 1991

ALLEN D. BIETZ  
Prothonotary

STATUS INFORMATION

03/01/91 DOCKETING STATEMENT DUE  
03/04/91 LOWER COURT RECORD DUE

DOCKET ENTRIES

02/14/91 NOTICE OF APPEAL  
02/15/91 DOCKETING STATEMENT EXITED

FOR  
001T  
001T

#11

SUPERIOR COURT OF PENNSYLVANIA  
OFFICE OF THE PROTHONOTARY  
1015 GRANT BUILDING  
PITTSBURGH, PENNSYLVANIA 15219  
412-565-7592

FEBRUARY 15, 1991

NOTICE OF APPEAL DOCKETING  
SUPERIOR COURT DOCKET NO. ASSIGNED  
00289PGH91

PROTHONOTARY  
CLEARFIELD COUNTY  
CLEARFIELD CTY. COURTHOUSE  
CLEARFIELD, PA 16830

RE: RE: PETITION FOR PRIVATE ROAD IN SANDY TWP

YOU ARE HEREBY ADVISED THAT THE ATTACHED DOCKET INFORMATION HAS BEEN ENTERED INTO THE SUPERIOR COURT RECORDS IN A CASE IN WHICH YOU APPEAR AS AN OFFICER OF THE COURT. PLEASE REVIEW THIS INFORMATION CAREFULLY AND NOTIFY THIS OFFICE IMMEDIATELY IF YOU BELIEVE CORRECTION(S) ARE IN ORDER. THANK YOU.

DAVID A. SZEWCAK  
PROTHONOTARY

02/15/91  
1000

SUPERIOR COURT OF PENNSYLVANIA  
OFFICIAL DOCKET

DOCKET # 00289PGH91

T=APPELLANT E=APPELLEE \*=COURT APPOINTED

PRESIDENT JUDGE

88-8-ROAD, so that such a suit may be instituted in the circuit court of record before the said cause of action.

1. Allen D. Bizzell, Promotions  
of the Court of Common Pleas in and for said County,  
especially certify that the foregoing is a true, true and correct record, whereon  
copy of the same is hereby certified to be made a record in and for said County,  
in the case of the Commonwealth v. a. J. Bizzell, whereon  
certification is hereby made in and for said County, on the 10th day of January, 1968,  
in the Commonwealth of Pennsylvania, at Philadelphia, Pennsylvania, in the year of our Lord, 1968.

CERTIFICATE AND TRANSMITTAL OF RECORD  
UNDER  
PENNSYLVANIA RULE OF APPELLATE PROCEDURE 1931(c)

To the Prothonotary of the appellate Court  
to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the Court of Common Pleas of Clearfield County, the said Court being a court of record, do hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

IN RE:

PETITION FOR A PRIVATE ROAD  
IN SANDY TOWNSHIP, CLEARFIELD  
COUNTY, PENNA  
BY JOSEPH J. GOOD

In compliance with Pa. R.A.P. 1931(c).

The documents compromising the record have been numbered from No. 1 to No. 11, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record has been transmitted to the appellate court is \_\_\_\_\_.

\_\_\_\_\_  
Prothonotary

(seal)

IN RE:  
 PETITION FOR A PRIVATE ROAD  
 IN SANDY TOWNSHIP, CLEARFIELD  
 COUNTY, PENNA.  
 BY: JOSEPH J. GOOD

DECEMBER 5, 1988, PETITION TO OPEN PRIVATE ROAD  
 UNDER 36 P.S. SECTION 2731 & ORDER, filed  
 1 copy cert to atty.

AND NOW, this 5th day of December, 1988, upon the Petition of Joseph J. Good and in accordance with 36 P.S. Section 2731, this Court hereby appoints J. Richard Mattern, II, Esq; Robert Kester, and Leonard Kantar, as a Board of View to view the property described in the foregoing Petition and the vicinity where the private road is requested and to report to this Court in accordance with the law.

BY THE COURT: John K. Reilly, Jr President Judge.

NOVEMBER 21, 1989, PETITION TO OPEN PRIVATE ROAD  
 AMENDED UNDER 36 P.S. SECTION 2731, filed  
 by Joseph J. Good, Esq. 1 cert Shff.

Pro	by Atty	40	00
Shff.	by Atty	28	80
Sur-	charge by Atty	2	00
Pro	by Atty	30	00

DECEMBER 4, 1989, AFFIDAVIT OF SERVICE, filed  
 NOW, November 29, 1989 at 1:28 Pm EST served the within Petition on Colleen C. Overturf, defendant at employment, Dr. Fugate's Office, DuBois, Clearfield County, PA by handing to Colleen C. Overturf. /s/ Chester A. Hawkins, Shff by Marilyn Hamm

DECEMBER 18, 1989, ANSWER AND NEW MATTER TO PETITION TO  
 OPEN PRIVATE ROAD AMENDE UNDER 36 P.S. SECTION 2731,  
 filed by Anthony S. Guido, Esq.

88-8-ROAD

JANUARY 18, 1990, ANSWER TO NEW MATTER, filed by Matthew B. Taladay, Esq.

CERTIFICATE OF SERVICE, filed

I, Matthew B. Taladay, Attorney for Joseph J. Good, Herby certify that I have served, by first class mail, postage prepaid, one (1) copy of the Answer to New Matter on the following parties:

John J. Cherry, 23 Beaver Dr., DuBois, PA 15801,  
 Rick Mattern, Esq, 211 East Pine St, Clearfield, PA 16830  
 Anthony S. Guido, Esq. 996 Beaver Dr., PO Box 585, DuBois PA 15801. /s/ Matthew B. Taladay, Esq.

JANUARY 11, 1991, PETITION TO OPEN PRIVATE ROAD UNDER 36 P.S. SECTION 2731, filed by J. Richard Mattern II, Esq. 5 cert/Atty

REPORT OF VIEWERS, FINDINGS OF FACT AND CONCLUSIONS OF LAW ON ISSUE OF NECESSITY, filed by  
 /s/ J. Richard Mattern, II, Esq, Robert L. Kester, Esq; Leonard Kantar, Esq. (Board of View)

BOARD OF VIEW SCHEDULE OF COSTS TO BE PAID BY CLEARFIELD COUNTY, filed by J. Richard

Mattern, II, Chairman 3 cert/Atty 1 cert/Controller

NOTICE OF VIEW AND HEARING, filed by J. Richard Mattern, II, Chairman, Esq.

CERTIFICATE OF SERVICE, filed

I, J. Richard Mattern, II, Esq, Chairman of the Board of View, hereby Certify that a true and correct copy of the foregoing Notices of View and Hearing was served by US Mail, first class, this 17th day of May, 1989, and on July 19, 1989 and July 23, 1990 upon the following:  
 1. Matthew B. Taladay, Esq.; 2. Honorable John A. Cherry, Esq.; 3. Anthony S. Guido, Esq;  
 4. Leonard Kantar, -5. Robert L. Kester. /s/ J. Richard Mattern II, Chairman.

JANUARY 11, 1991, ORDER, filed 4 cert/Atty

AND NOW, this 11th day of January, 1991, the Findings of Fact, REport and REcommendaiton of the Board of View is acknowledged. We approve the Board's REcommendation.

The Court concludes it is not necessary to Open the Road Petitioned for by Joseph J.

Good in his Amended Petiton.

Accordingly, it is the ORDER of this Court that the Petition to Open said Raod be and is hereby DISMISSED.

It is the further ORDER of this Court that Clearfield County pay the Board of View Members Leonard Kantar, Robert L. Kester and J. Richard Mattern, II, Esq for their services rendered as per the Baord of View Schedule of Costs attached to said Report.

Finally it is the further ORDER of this Court that the Petitioner, Joseph J. Good, reimburse Clearfield County for all costs. BY THE COURT: John K. Reilly, Jr., P.J.

JANUARY 23, 1991, NOTICE OF APPEAL, filed by s/Matthew B. Taladay, Esq. One (1) Copy Cert to Atty  
 CERTIFICATE OF SERVICE, filed.

I hereby certify that on January 23, 1991, I mailed by first class mail, postage prepaid, a copy of the Notice of Appeal to the following:

- 1) Honorable John K. Reilly, Jr., President Judge, Clearfield County Courthouse, 2nd & Market St., P.O. Box 549, Clearfield, PA 16830
- 2) Anthony Guido, Esq., 996 Beaver Drive, P.O. Box 585, DuBois, Pa. 15801
- 3) Court Reporter, Clearfield County Courthouse, 2nd & Market St., P.O. Box 549, Clearfield, PA 16830
- 4) Raymond L. Billotte, Court Administrator, Clearfield County COURthouse, 2nd & Market St., 549, Clearfield, PA 16830
- 5) John A. Cherry, Esquire, 23 Beaver Drive, DuBois, PA 15801. s/MATTHEW B. TALADAY, ESQ.

PA 16830  
 P.O. Box

JANUARY 23, 1991, PETITION FOR RECONSIDERATION, filed by s/Matthew B. Taladay, Esq.  
 CERTIFICATE OF SERVICE, filed.

I hereby certify that on January 22, 1991, I mailed by first class mail, postage prepaid, a copy of the Petition for Reconsideration to the following:

- 1) Anthony Guido, Esq., 996 Beaver Drive, P.O. Box 585, DuBois, PA 15801
- 2) John A. Cherry, Esq., 23 Beaver Drive, DuBois, PA 15801 s/Matthew B. Taladay, Esq.

FEBRUARY 15, 1991, PETITION FOR CONTINUANCE, filed by John A. Cherry, Esq.

FEBRUARY 19, 1991, SUPERIOR COURT # 00289PGH91, filed

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

In Re: Petition for a Private 13 : CIVIL DIVISION  
Road in Sandy Township, :  
Clearfield County, : NO. 98-8 ROAD  
Pennsylvania by :  
Joseph J. Good : Type of Pleading:  
: PETITION TO OPEN  
: PRIVATE ROAD  
: UNDER 36 P.S. SECTION  
: 2731  
: Filed on behalf of:  
: JOSEPH J. GOOD  
: Counsel of Record for  
: this Party:  
: Matthew B. Taladay  
: Robert M. Hanak, P.C.  
: Supreme Court No. 05911  
: 311 Main Street  
: Reynoldsville, PA 15851  
: (814) 653-8252

FILED

DEC 5 1993

RAY WITHEROW  
Prothonotary

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

In Re: Petition for a Private :  
Road in Sandy Township,:  
Clearfield County, :  
Pennsylvania by :  
Joseph J. Good :  
:

PETITION TO OPEN PRIVATE ROAD  
UNDER 36 P.S. SECTION 2731

AND NOW, comes the Petitioner, Joseph J. Good, by his Attorney Matthew B. Taladay, and files the following Petition pursuant to 36 P.S. Section 2731, averring as follows:

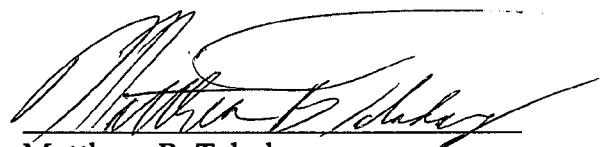
1. Petitioner is Joseph J. Good, an adult individual, who resides at 107 Hill Street, Dubois, Clearfield County, Pennsylvania.

2. The Petitioner owns real estate located in Sandy Township, Clearfield County, which was acquired by him by deed from John Joseph Spinda III and Jill A. Spinda, dated April 8, 1987 and recorded in Clearfield County Deed Book Vol 1152, page 16.

3. The most proximate public highway to Petitioner's property is Township Road 401, known as the Paul Short Road. The only means of ingress and egress to Plaintiff's property from T-401 is an unimproved dirt road which lies upon and across the property of Weldon Frost, who claims exclusive ownership of this road and who has denied petitioner its use. Petitioner has no means of ingress or egress to his property.

4. Petitioner requests that a private road be opened from his property to Township Road 401 under 36 P.S. Section 2731.

WHEREFORE, Petitioner requests that this Honorable Court appoint a Board of View, directing that a view be had by them of this property and that a report thereof be made by them and a private road be opened from this property to Township Road 401.



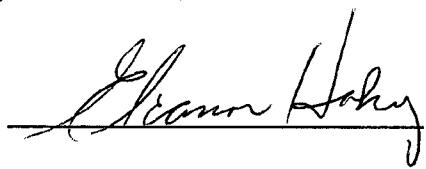
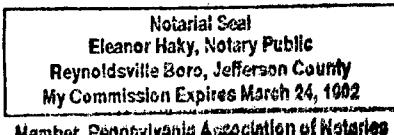
Matthew B. Taladay  
Attorney for Petitioner

COMMONWEALTH OF PENNSYLVANIA :  
SS :  
COUNTY OF :

I, JOSEPH J. GOOD being duly sworn according to law, deposes and says that the facts set forth in the foregoing Petition to Open Private Road are true and correct to the best of his knowledge, information and belief.

  
\_\_\_\_\_  
Joseph J. Good

Sworn to and subscribed  
before me this 10<sup>th</sup> day of  
November, 1988.

  
\_\_\_\_\_  
Eleanor Haky

Member, Pennsylvania Association of Notaries

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

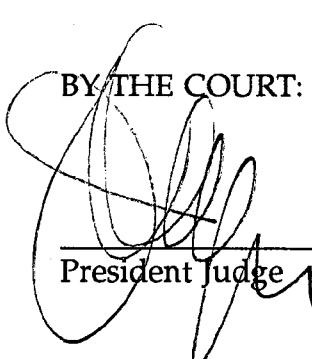
In Re: Petition for a Private :  
Road in Sandy Township, :  
Clearfield County, :  
Pennsylvania by :  
Joseph J. Good :  
:

ORDER

AND NOW, this 5<sup>th</sup> day of December, 1988

1988, upon the Petition of Joseph J. Good and in accordance with 36 P.S.  
Section 2731, this Court hereby appoints J. Richard Matteson, II, Esquire,  
Robert Kester, and Leonard Kantar, as a  
Board of View to view the property described in the foregoing Petition and  
the vicinity where the private road is requested and to report to this Court in  
accordance with the law.

BY THE COURT:

  
President Judge

County Parcel No. \_\_\_\_\_

1-

## This Deed,

MADE the Eighth (8th) day of April  
in the year nineteen hundred and eighty-seven (1987)

BETWEEN JOHN JOSEPH SPINDA, III, and JILL A. SPINDA, his wife, of R. D. #1,  
Box 281, Brockway, Jefferson County, Pennsylvania, GRANTORS, Parties of the  
First Part;

A  
N  
D

JOSEPH J. GOOD, of Sandy Township, Clearfield County, Pennsylvania, GRANTEE,  
Party of the Second Part;

WITNESSETH, That in consideration of TEN THOUSAND and 00/100-----  
-----(\$10,000.00)----- Dollars,  
in hand paid, the receipt whereof is hereby acknowledged, the said grantors do hereby grant  
and convey to the said grantee ,

ALL that certain piece, parcel or lot of land lying and being situate in SANDY  
TOWNSHIP, Clearfield County, Pennsylvania, being bounded and described as follows,  
to wit:

BEGINNING at the Northwest corner of lands now or formerly of Mrs.  
Rhoda A. Moore; thence by line of lands of said Rhoda A. Moore,  
South 13° West 8.98 chains to a corner post; thence by the same  
land South 89° 44' East 11.7 chains to a corner post; thence by  
lands of same, South 8° 29' East 2.01 chains to a maple corner, the  
Southwest corner of the said lands now or formerly of Mrs. Rhoda  
A. Moore; thence by lands now or formerly of John E. DuBois, of  
which this is a part, South 62° 56' West 18.39 chains; thence North  
20° 59' West 15.67 chains; thence North 69° East 13 chains to the  
place of beginning. Containing 18.72 acres, more or less,  
according to the survey made by H. S. McMinn.

EXCEPTING AND RESERVING from the above described premises, portion, if any,  
of 3 acre parcel affecting the same as reserved in deed from James G. Saffell,  
et ux., to Samuel Spicher, et ux., dated November 16, 1937, and recorded in  
Deed Book No. 314, page 565.

The above described premises is more accurately described as follows in  
accordance with a survey of Alexander Surveying, Falls Creek, Pennsylvania,  
dated December 4, 1985:

BEGINNING at an existing iron pin (replaced by this survey with a 1"  
iron pipe), said iron pipe being the southeastern most corner of Weldon  
Frost, and being the southwestern most corner of the herein described

VOL 1152 PAGE 017

parcel; thence North 20° 59' West along the lands of Weldon Frost a distance of 1034.22 feet to a 1" iron pipe set by this survey, said iron pipe being the northwest corner of the herein described parcel; thence North 69° 01' East along the lands of Weldon Frost a distance of 693.74 feet to a 1" iron pipe set by this survey; thence South 17° 50' East along lands intended to be conveyed to Samuel and Martha Spicher a distance of 265.59 feet to a 1" iron pipe set by this survey; thence South 20° 59' East along lands of Samuel and Martha Spicher a distance of 285.54 feet to a 1" iron pipe set by this survey; thence South 89° 43' East along the lands of Samuel Spicher et ux., a distance of 608.50 feet to a 1" iron pipe set by this survey; thence South 08° 30' East along the lands of Samuel Spicher et ux., a distance of 136.36 feet to a 1" iron pipe set by this survey, said iron pipe being the southeast corner of the herein described parcel; thence South 62° 56' West along the lands of Green Glen Corp. a distance of 1223.53 feet to an iron pipe, the place of beginning. Containing 831,125 square feet or 19.08 Acres.

SUBJECT to the perpetual right hereby expressly reserved to enter upon, mine and remove therefrom the coal, gas, oils and other minerals which may be found in said lands without being liable for any damages caused to the surface thereof, or to the buildings thereon by operations carried on beneath the surface of said land.

BEING the same premises which were conveyed to John Joseph Spinda, III, one of the Grantors herein, by deed of Robert Allen Spicher and Rene Spicher, husband and wife, dated January 15, 1986, and recorded in Clearfield County Deeds and Records Book Vol. 1128, page 265, on December 12, 1986.

## 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:

*John J. Good*

Joseph J. Good

*Joseph J. Good*

This ..... 14 ..... day of April, 1987

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. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

AND the said grantors ~~shall~~ ~~generally~~ hereby conveyed.

WARRANT AND FOREVER DEFEND the property

IN WITNESS WHEREOF, said grantors have hereunto set their hands and seals, the day and year first above-written.

Sealed and delivered in the presence of

*John J. Spinda*  
John J. Spinda

*Jill A. Spinda*  
Jill A. Spinda

*John J. Spinda* (SEAL)  
John Joseph Spinda, III (SEAL)  
*Jill A. Spinda* (SEAL)  
Jill A. Spinda (SEAL)  
..... (SEAL)  
..... (SEAL)

#### CERTIFICATE OF RESIDENCE

I hereby certify, that the precise residence of the grantee herein is as follows:

107 Hill Street  
DuBois, PA 15801

*Paula M. Cherry*  
Attorney ~~for~~ ~~Agent~~ for Grantee

Commonwealth of Pennsylvania  
County of CLEARFIELD

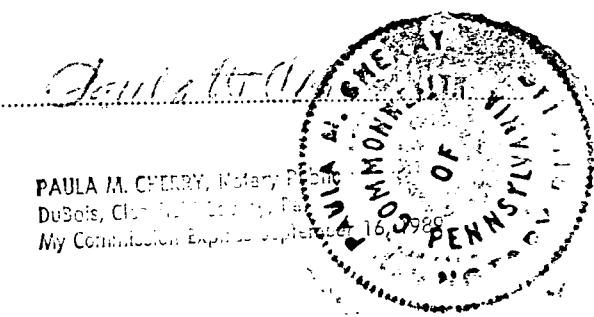
} ss.

On this, the 11 day of April, 1987, before me, a Notary Public, the undersigned officer, personally appeared JOHN JOSEPH SPINDA, III, and JILL A. SPINDA, his wife, known to me (or satisfactorily proven) to be the person <sup>s</sup> whose name <sup>s</sup> / <sup>are</sup> 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.

My Commission Expires *11/18/97*

PAULA M. CHERRY, Notary Public  
DuBois, Clearfield County, Pa.  
My Commission Expires September 16, 1998





# WILSON'S INDEPENDENCE

Made the THIRTY-FIRST (31st) day of August  
in the year nineteen hundred and fifty-four (1954).

Between M. W. FROST and E. GOBLE FROST, husband and wife, both of  
the City of DuBois, Clearfield County, Pennsylvania, Grantors,  
parties of the first part;

A  
N  
D

WELDON GOBLE FROST, Single, of Sandy Township, Clearfield County,  
Pennsylvania, party

of the second part, Witnesseth, That the said parties of the first part, for and in consideration of the sum of One (\$1.00)

Dollars, lawful money of the United States of America, well and truly paid by the said party of the second part to the said parties of the first part, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, enfeoffed, released, conveyed and confirmed, and by these presents do grant, bargain, sell, alien, enfeoff, release, convey and confirm unto the said party of the second part, his heirs and assigns.

All that lot or certain parcel of land in Warrant No. 4230, situated in Sandy Township, Clearfield County, Pennsylvania, and being bounded and described as follows, to wit:

BEGINNING at an iron pipe at the South West corner of the Robert McDonald farm, formerly Mrs. Rhoda A. Moore; thence by land of the said Robert McDonald North 15° 23' West One Thousand and Thirty-Four and Twenty-Two Hundredths (1,034.22) Feet to a post; thence continuing by said Robert McDonald's land North 74° 37' East Eight Hundred and Fifty-Eight (858) Feet to a post; thence still further by said McDonald's land North 1° 57' East Six Hundred and Fifty-Eight (658) Feet to the center of the public road leading Valleyly (concrete) public road to the Hickory Kingdom road; thence by said public road South 86° 45' West One Hundred and Fifty-Eight and Fifty-Three Hundredths (158.53) Feet; thence South 79° 45' West Seventy-Two and Twenty-Six Hundredths (72.26) Feet; thence South 67° 20' West Three Hundred and Forty-Eight and Two Tenths (348.2) Feet; thence South 62° 10' West Five Hundred and Thirty-One and Ninety-Six Hundredths (531.96) Feet; thence South 76° 05' West Twelve Hundred and Twenty-Three and Sixty-Two Hundredths (1,223.62) Feet to a point at the intersection of the center line of the Valleyly (concrete) road and the road leading to Hickory Kingdom road; thence by said Valleyly (concrete) road South 10° 20' East Five Hundred and Ninety-Three and Fifty-Three Hundredths (593.53)

Feet; thence South 9° 05' East One Hundred and Thirty-Two (132) Feet; thence and South 0° 45' East Two Hundred and Sixty-Six and Five Tenths (266.5) Feet to a point in the said concrete road and near the center thereof; thence South 83° 52' East by subdivision line between lots No. 1 land No. 2 and land of the Grantors (John E. DuBois) Fifteen Hundred and Ninety-Nine and Eighteen Hundredths (1,599.18) Feet to the place of beginning. Containing 57.56 acres.

UNDER AND SUBJECT to all exceptions and reservations as contained in prior deeds of conveyance.

BEING the same premises which were conveyed to the Grantors herein by Joe F. Sherman Company by deed dated May 25th, 1951 and recorded at Clearfield, Pa., in Deed Book No. 413, page 7.

88-8-Road.

3305 " 3.50 per  
100% RAY MURKIN  
RENTAL  
Billed

*Kent Atley*

*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 ACTION - LAW

In Re: Petition for a Private : CIVIL DIVISION  
Road in Sandy Township, :  
Clearfield County, : NO. 88-8- ROAD  
Pennsylvania (Amended):  
by Joseph J. Good : Type of Pleading:  
: PETITION TO OPEN  
: PRIVATE ROAD AMENDED  
: UNDER 36 P.S. SECTION  
: 2731  
: Filed on behalf of:  
: JOSEPH J. GOOD

Counsel of Record for  
this Party:

Matthew B. Taladay  
Supreme Court No. 49663  
Robert M. Hanak, P.C.  
311 Main Street  
Reynoldsville, PA 15851

-FILED

NOV 21 1989

RAY WITHEROW  
Prothonotary

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: Petition for a Private : No. 88-8-ROAD  
Road in Sandy Township :  
Clearfield County, : PETITION TO OPEN  
Pennsylvania by : PRIVATE ROAD  
Joseph J. Good : AMENDED  
UNDER 36 P.S.  
SECTION 2731

PETITION TO OPEN PRIVATE ROAD AMENDED  
UNDER 36 P.S. SECTION 2731

AND NOW, comes the Petitioner, Joseph J. Good, by his Attorney Matthew B. Taladay, and files the following Petition pursuant to 36 P.S. Section 2731, averring as follows:

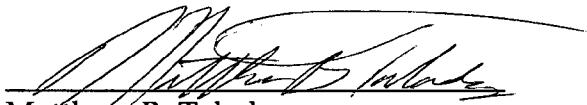
1. Petitioner is Joseph J. Good, an adult individual, who resides at 107 Hill Street, DuBois, Clearfield County, Pennsylvania.
2. The Petitioner owns real estate located in Sandy Township, Clearfield County, which was acquired by him by deed from John Joseph Spinda III and Jill A. Spinda, dated April 8, 1987 and recorded in Clearfield County Deed Book Vol. 1152, page 16.
3. The most proximate public highway to Petitioner's property is Township Road 401 known as the Paul Short Road.
4. Petitioner's property is currently landlocked, having no means of ingress and egress.
5. The only practicable means of ingress and egress to Plaintiff's property from T-401 is an unimproved dirt road which lies upon and across the properties of Weldon G. Frost and Colleen C. Overturf, which parties have claimed exclusive ownership over this road and have denied Petitioner its use.

6. Petitioner requests that a private road be opened from his property to Township Road 401 under 36 P.S. Section 2731. A survey report prepared by Alexander Surveying describing the proposed right-of-way is attached hereto and marked Exhibit "A".

7. Enlargements of the proposed right-of-way taken from the survey map are attached hereto and marked Exhibits "B" and "C".

8. This Honorable Court has previously appointed a Board of View on this matter and it is hereby requested that this amended Petition be forwarded to the Board, and that a view be had by them of the property and a report thereof be made.

WHEREFORE, it is respectfully requested that this Petition to Open a Private Road be granted.



Matthew B. Taladay  
Attorney for Petitioner

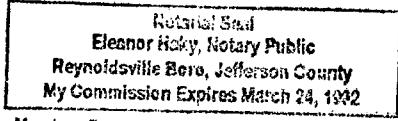
COMMONWEALTH OF PENNSYLVANIA :  
COUNTY OF *Jefferson* SS :  
:

I, JOSEPH J. GOOD, being duly sworn according to law, deposes and says that the facts set forth in the foregoing PETITION TO OPEN PRIVATE ROAD (AMENDED) are true and correct to the best of his knowledge, information and belief.

*Joseph J. Good*  
Joseph J. Good

Sworn to and subscribed  
before me this 17<sup>th</sup> day of  
November, 1989.

*Eleanor Hoky*



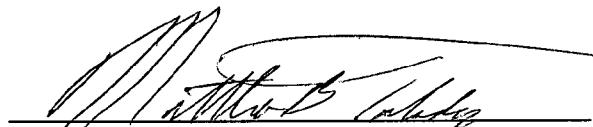
Member, Pennsylvania Association of Notaries

CERTIFICATE OF SERVICE

I, Matthew B. Taladay, Attorney for Joseph J. Good, hereby certify that I have served, by first class mail, postage prepaid, one (1) copy of the Petition to Open Private Road (Amended) has been served by First Class Mail on the following parties:

John J. Cherry  
Attorney at Law  
23 Beaver Drive  
DuBois, PA 15801

Weldon G. Frost  
Mobil North Sea Ltd.  
Mobil Ct.  
3 Clements Inn  
London, England WCZ2EB



\_\_\_\_\_  
Matthew B. Taladay  
Attorney for Joseph J. Good

Date: November 10, 1989

**COPY**

ALEXANDER SURVEYING  
112 CHURCH STREET  
P.O. BOX 378  
FALLS CREEK, PA 15840  
(814) 371-5578

**Date: August 9, 1989**

Prepared  
for:  
JOSEPH J. GOOD

**Surveyor:** Lional Alexander, P.L.S.

**Client Address:** 107 Hill Street  
DuBois, PA 15801

**Location of the Survey:** The property is located along the easterly side of T-401 (aka Paul Short Road), 1000 +/- feet from the intersection of L.R. 17031 and T-401, Sandy Township, Clearfield County, State of Pennsylvania.

**Actions Taken:**

1. Record search in the Clearfield County Courthouse on August 1, 1989.
2. Field reconnaissance and search on August 2, 1989.
3. Field survey on August 2, 1989.
4. Computations completed on August 7, 1989.
5. Plat of survey prepared on August 7, 1989.
6. Review of the results on August 9, 1989.
7. Monuments can be set at a later date.

**Suggested Deed Description:**

Parcels A and B are an intended to grant a twenty foot right-of-way from T-401 to lands now or formerly of Joseph J. Good..

**PARCEL A:**

GRANTORS: RONALD L. AND COLLEEN OVERTURF

GRANTEE: JOSEPH J. GOOD

ALL that certain piece, parcel, or tract of land lying and being situate in Sandy Township, Clearfield County, Pennsylvania, being bounded and described as follows, to wit:

**BEGINNING** at an existing stone monument, said monument being the southern corner of lands now or formerly of Ronald L. and Colleen C. Overturf, a corner of lands now or formerly of Weldon G. Frost, and also being the southeast corner of the herein described parcel;

**THENCE**, N 75 degrees 23 minutes W through lands now or formerly of Ronald L. and Colleen C. Overturf a distance of 12.16 feet to a point, said point being the southwest corner of the herein described parcel;

**THENCE**, N 20 degrees 00 minutes W through lands now or formerly of Ronald L. and Colleen C. Overturf a distance of 91.49 feet to a point;

THENCE, N 36 degrees 10 minutes W through lands now or formerly of Ronald L. and Colleen C. Overturf and through the southern right-of-way for Township Road T-401 a distance of 357.39 feet to a point in Township Road T-401, said point being the northwest corner of the herein described parcel;

THENCE, N 58 degrees 31 minutes E through Township Road T-401 a distance of 10.03 feet to a point, said point being the northeast corner of lands now or formerly of Ronald L. and Colleen C. Overturf and the northeast corner of the herein described parcel;

THENCE, S 36 degrees 10 minutes E through the southern right-of-way for Township Road T-401 and along lands now or formerly of Ronald L. and Colleen C. Overturf and lands now or formerly of Weldon G. Frost a distance of 358.00 feet to a point;

THENCE, S 20 degrees 00 minutes E along lands now or formerly of Ronald L. and Colleen C. Overturf a distance of 99.82 feet to an existing stone monument, said monument being the southeast corner of the herein described parcel, the point of beginning.

CONTAINING 4,537 square feet or 0.10 acres and being subject to any easements that may be of record.

PARCEL B:

GRANTOR: WELDON G. FROST

GRANTEE: JOSEPH J. GOOD

ALL that certain piece, parcel, or tract of land lying and being situate in Sandy Township, Clearfield County, Pennsylvania, being bounded and described as follows, to wit:

BEGINNING at an existing stone monument, said monument being the southern corner of lands now or formerly of Ronald L. and Colleen C. Overturf and a corner of lands now or formerly of Weldon G. Frost;

THENCE, N 20 degrees 00 minutes W along lands now or formerly of Ronald L. and Colleen C. Overturf and lands now or formerly of Weldon G. Frost a distance of 99.82 feet to a point;

THENCE, N 36 degrees 10 minutes W along lands now or formerly of Ronald L. and Colleen C. Overturf and lands now or formerly of Weldon G. Frost and through the southern right-of-way for Township Road T-401 a distance of 358.00 feet to a point in Township Road T-401, said point being the northeast corner of "Parcel A" of this survey and the northwest corner of the herein described parcel;

THENCE, N 58 degrees 31 minutes E through Township Road T-401 a distance of 10.05 feet to a point in Township Road T-401, said point being the northeast corner of the herein described parcel;

THENCE, S 36 degrees 10 minutes E through lands now or formerly of Weldon G. Frost a distance of 358.59 feet to a point;

THENCE, S 20 degrees 00 minutes E through lands now or formerly of Weldon G. Frost a distance of 101.99 feet to a point;

THENCE, S 11 degrees 25 minutes E through lands now or formerly of Weldon G. Frost a distance of 102.63 feet to a point along the eastern line of lands now or formerly of Joseph J. Good, said point being the southeast corner of the herein described parcel;

THENCE, S 69 degrees 01 minutes W along lands now or formerly of Joseph J. Good a distance of 20.28 feet to a point along the eastern line of lands now or formerly of Joseph J. Good, said point being the southwest corner of the herein described parcel;

THENCE, N 11 degrees 25 minutes W through lands now or formerly of Weldon G. Frost a distance of 104.50 feet to a point;

THENCE, N 20 degrees 00 minutes W through lands now or formerly of Weldon G. Frost a distance of 6.16 feet to a point along the southwestern line of lands now or formerly of Ronald L. and Colleen C. Overturf, said point being the southwest corner of "Parcel A" of this survey;

THENCE, S 75 degrees 23 minutes E along lands now or formerly of Ronald L. and Colleen C. Overturf (Parcel A) a distance of 12.16 feet to an existing stone monument, the point of beginning.

CONTAINING 6,689 square feet or 0.15 acres and being subject to any easements that may be of record.



Lional Alexander  
Professional Land Surveyor  
SU-22887-E

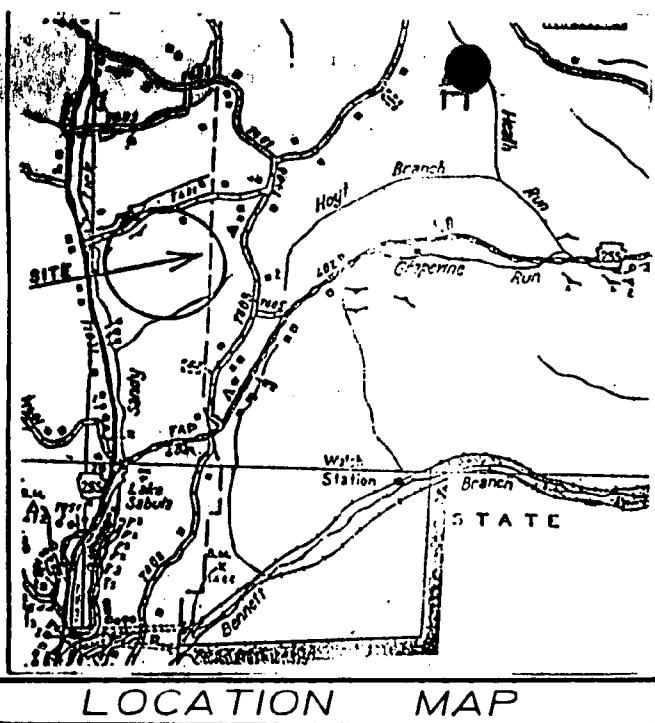
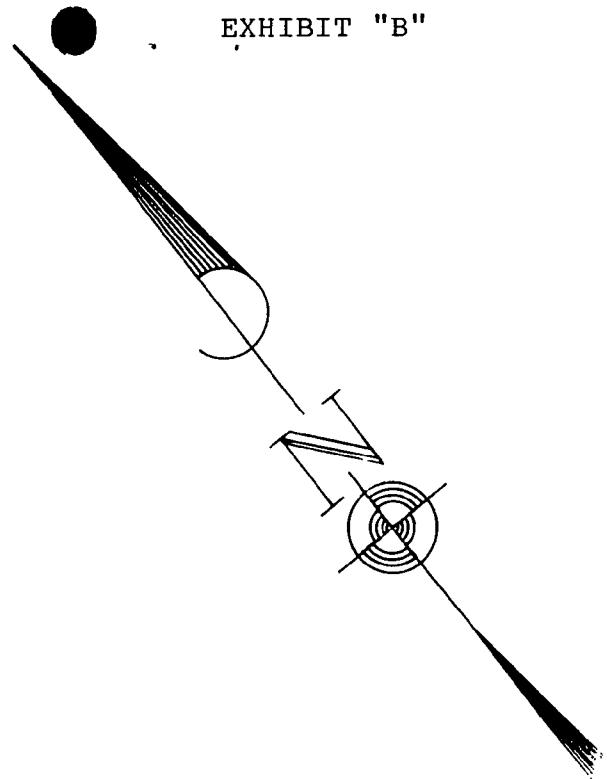


EXHIBIT "B"



LOCATION MAP

Weldon G. Frost

DB 437-479

REFER TO ENLARGEMENT FOR DETAIL

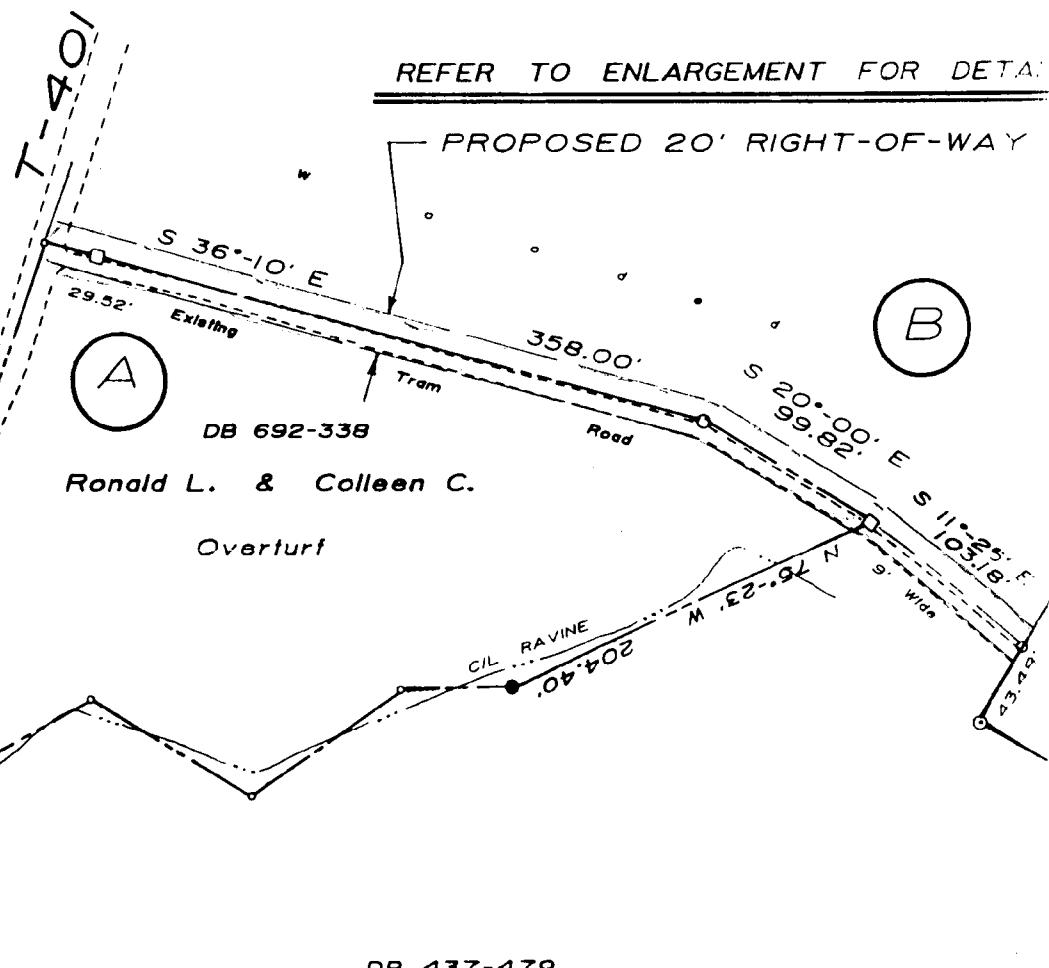
PROPOSED 20' RIGHT-OF-WAY

Ronald L. & Colleen C.

Overturf

DB 692-338

B



DB 437-479

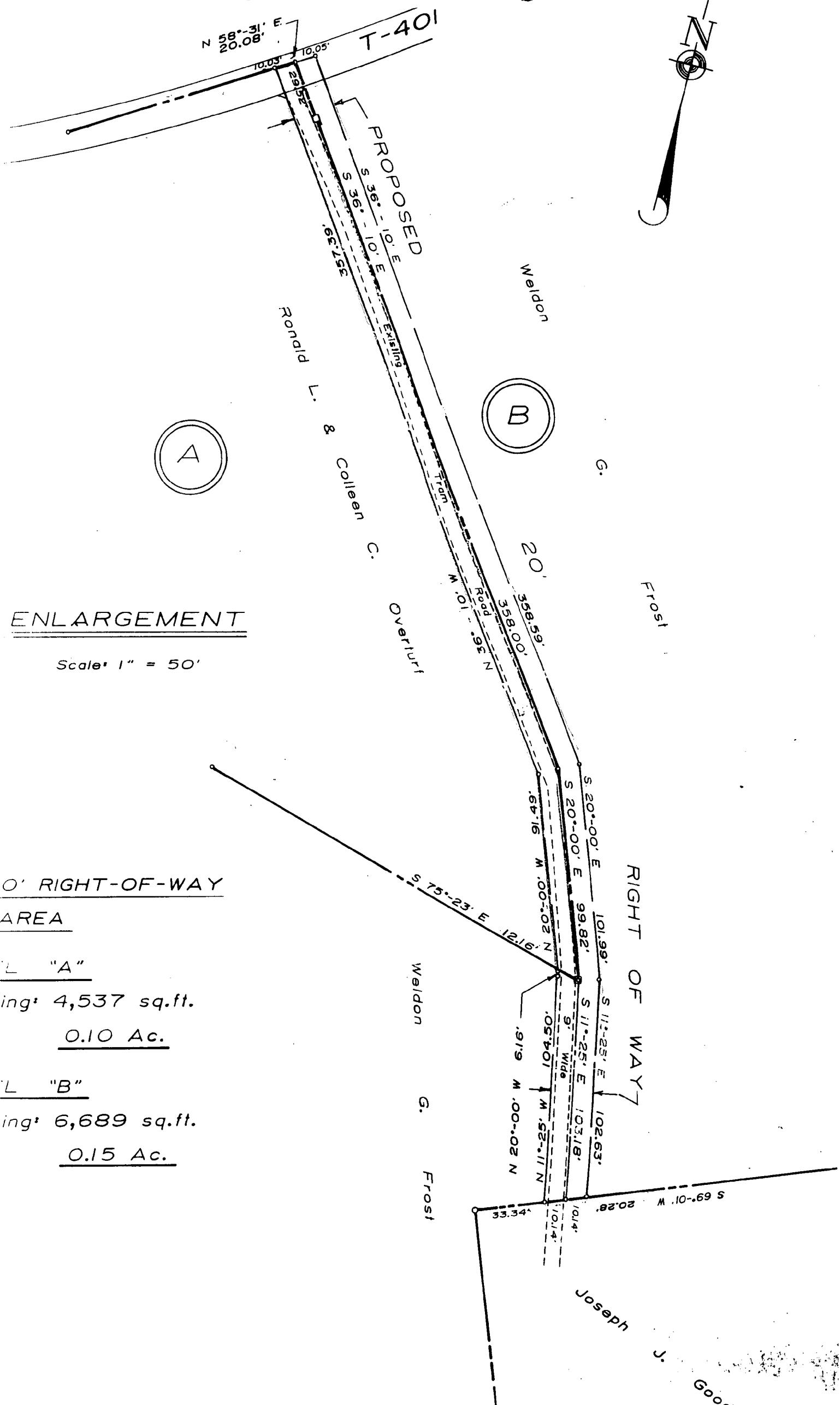
Weldon G. Frost

PROPOSED RIGHT-OF-WAY

S i t u a t i o n

SANDY TOWNSHIP      CLEARFIELD CO.

Pennsylvania



RECORDED  
NOV 21 1968  
M-2300  
RAY WITHEROW  
PROFESSIONAL

1 Cert & Ltr.

*Robert M. Hanak*

ATTORNEY AT LAW

311 MAIN STREET

P. O. BOX 250

REYNOLDSVILLE, PENNSYLVANIA 15851

Attorney ROBERT M. NAK

## Affidavit of Service

IN RE: Petition for Private Road  
in Sandy Twp. Clfd. Co.

vs.

No. 88-8-ROAD

PETITION TO OPEN PRIVATE ROAD, AMENDED

Returnable within \_\_\_\_\_ days  
from date of service hereof.

NOW November 29 19 89 at 1:28 PM o'clock EST

served the within Petition

on Colleen C. Overturf, defendant

at employment, Dr. Fugate's Office, DuBois, Clearfield County, Penna.

by handing to Colleen C. Overturf

a true and attested copy of the original Petition

known to her the contents thereof.

Costs: \$28.80

Surcharge: \$2.00

Paid by: Atty

Sworn to before me this 4

day of Dec A. D. 1989

**FILED**

**DEC 4 1989**

**3:00 PM**

**RAY WITHEROW**

**Prothonotary**

Chester A. Hawkins

CHESTER A. HAWKINS, Sheriff

My Marilyn Hamm

H 3

Prothonotary  
My Commission Expires  
1st Monday in Jan. 1990

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

In Re: Petition for a Private : Civil Division  
Road in Sandy Township, : No. 88-8-ROAD  
Clearfield County, : Type of Pleading: Answer and  
Pennsylvania (Amended), : New Matter to Petition to  
by Joseph J. Good : Open Private Road Amended  
: Under 36 P.S. Section 2731  
:  
: Filed on Behalf of: Colleen  
: C. Overturf  
:  
: Counsel of Record for This  
: Party: Anthony S. Guido, Esq.  
: 996 Beaver Drive  
: P. O. Box 585  
: DuBois, PA 15801  
: (814) 371-7768  
:  
: Supreme Court No. 05877

FILED

DEC 18 1989

RAY WITHEROW  
Prothonotary

44

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

In Re: Petition for a Private : No. 88-8-ROAD  
Road in Sandy Township, :  
Clearfield County, : Answer and New Matter  
Pennsylvania, by Joseph :  
J. Good :  
:

AND NOW, comes COLLEEN C. OVERTURF by her Attorney,  
ANTHONY S. GUIDO, files this Answer and New Matter to the  
Complaint filed by JOSEPH J. GOOD in the above matter as follows:

ANSWER

1. Admitted.

2. Admitted.

3. Admitted. However, the most proximate public highway to the Plaintiff's property is irrelevant pursuant to the opening of a private road under the terms of 36 P.S. Section 2731. In order to lay out a private road, it is incumbent upon the Petitioner to prove that a private road is necessary.

4. Denied. On the contrary, it is averred that Petitioner's property is served by two roads which have been used to gain access to and from the Petitioner's property to the public road, which roads are located on lands now or formerly of Samuel Spicher and lands now or formerly of Ruth Stone. In addition, it is averred that the Petitioner's property is a portion of lands formerly owned by Sam Spicher, and accordingly it is incumbent upon Sam Spicher or the present owners of said

property to provide a right of way to the Petitioner for access to and from his property and the public road.

5. Denied. The Petitioner alleges that the proposed private way is the only practical means of ingress and egress to the Plaintiff's property. As previously averred, one of the mandates of 36 P.S. Section 2731 is for the Petitioner to prove the proposed road is necessary. In further answer thereto, the answers to paragraphs Nos. 3 and 4 are incorporated herein by references thereto as though fully set forth herein.

6. Denied. In answer thereto, the answers to paragraphs Nos. 3, 4 and 5 are incorporated herein by reference thereto.

7. Admitted.

8. Denied. The allegations contained in paragraph No. 8 are not averments of such facts requiring an answer pursuant to the Pennsylvania Rules of Civil Procedure.

NEW MATTER

9. Colleen Overturf hereby incorporates by reference the answers to paragraphs Nos. 1 through 8 of the Petitioner's Petition as though fully set forth herein.

10. The Petitioner's property is now served and has been served by two roads, one which is located on lands now or formerly of Samuel Spicher and the other which is located on the lands now or formerly of Ruth Stone. As a consequence, the

proposed private road is not necessary in view of the fact that Petitioner has other means of ingress and egress to and from his property and the public roads.

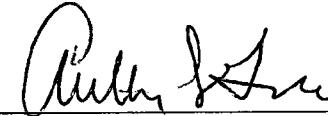
11. The Petitioner's property was formerly part of the said premises now or formerly owned by Samuel Spicher. Accordingly, it is incumbent upon Samuel Spicher or the present owners of said property to provide legal access to and from the Petitioner's property and the public roads.

12. In the event said private road is approved, the property of Colleen Overturf will suffer a severe diminishment in value as a result of said road and will create a nuisance to Colleen Overturf's property.

13. In the event said private road is approved, the proposed road is located adjacent to the swimming pool on Colleen Overturf's property and will destroy the privacy that Colleen Overturf's property presently enjoys. As a consequence, the value of the property owned by Colleen Overturf will be severely diminished in the event said proposed private road is approved.

14. The Plaintiff has failed to aver that the proposed private road is necessary, and therefore, due to said failure, Petitioner's Petition should be dismissed.

WHEREFORE, Colleen Overturf hereby requests that your Honorable Court dismiss the Petition filed by Joseph J. Good in this matter.



\_\_\_\_\_  
Ruth J. Lewis  
Attorney for Colleen C. Overturf

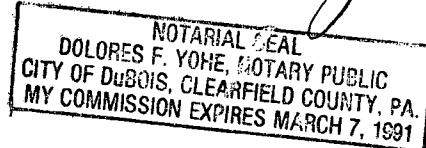
COMMONWEALTH OF PENNSYLVANIA :  
: SS.  
COUNTY OF CLEARFIELD :  
:

Personally appeared before the undersigned, a Notary Public in and for the County and State aforesaid, COLLEEN C. OVERTURF, who, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Answer and New Matter are true and correct to the best of her knowledge, information and belief.

Colleen C. Overturf

Sworn to and subscribed before me this 14 day of December, 1989.

Dolores F. Yohe



ANTHONY S. GUIDO  
ATTORNEY AT LAW  
996 BEAVER DRIVE  
P. O. BOX 585  
DU BOIS, PENNSYLVANIA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA  
CIVIL ACTION - LAW

In Re: Petition for a Private : CIVIL DIVISION  
Road in Sandy Township, :  
Clearfield County, : NO. 88-8- ROAD  
Pennsylvania (Amended):  
by Joseph J. Good : Type of Pleading:  
: ANSWER TO NEW MATTER  
: Filed on behalf of:  
: JOSEPH J. GOOD

Counsel of Record for  
this Party:

Matthew B. Taladay  
Supreme Court No. 49663  
Robert M. Hanak, P.C.  
311 Main Street  
Reynoldsville, PA 15851

FILED

JAN 18 1990

ALLEN D. BIETZ  
Prothonotary

HS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA  
CIVIL ACTION - LAW

In Re: Petition for a Private : CIVIL DIVISION  
Road in Sandy Township,:  
Clearfield County, : NO. 88-8- ROAD  
Pennsylvania (Amended):  
by Joseph J. Good :  
:

ANSWER TO NEW MATTER

AND NOW, comes the Petitioner, Joseph J. Good, by his Attorney Matthew B. Taladay, and hereby responds to New Matter filed on behalf of Colleen C. Overturf as follows:

9. Joseph J. Good hereby incorporates by reference Paragraphs 1 through 8 of his Petition as if set forth in full.

10. Denied. Petitioner's property at this time is landlocked, not accessible by any road, has no other means of ingress or regress, and therefore the proposed roadway is necessary to Petitioner's use and enjoyment of his property.

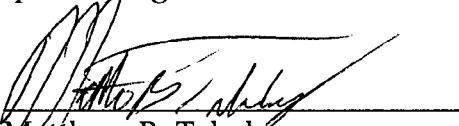
11. It is admitted that Petitioner's property was formally part of a larger tract owned by Samuel Spicher. The remaining allegations of New Matter, Paragraph 11 constitute a conclusion of law to which no response is required. To the extent that a response is required Petitioner has been denied access to his property by all adjacent landowners.

12. It is denied that the proposed road will create a nuisance and result in severe diminishment in value of property of Colleen Overturf. By way of further answer, Petitioner intends to compensate Colleen Overturf for any diminution in property value caused by the proposed private road.

13. Denied as stated. The proposed private road is located on the border of Colleen Overturf's property and is separated from her swimming pool by an area of woods and brush. The proposed roadway would not encroach in the privacy of Colleen Overturf.

14. Denied as stated. Paragraphs 3, 4 and 5 of the Amended Petition aver facts showing the necessity of the proposed roadway.

WHEREFORE, Joseph J. Good requests judgment in his favor.



Matthew B. Taladay  
Attorney for Petitioner

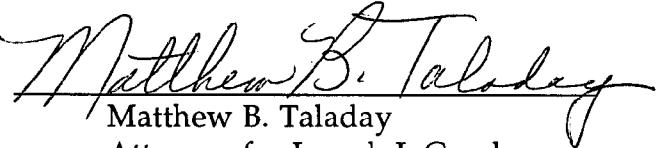
CERTIFICATE OF SERVICE

I, Matthew B. Taladay, Attorney for Joseph J. Good, hereby certify that I have served, by first class mail, postage prepaid, one (1) copy of the Answer to New Matter on the following parties:

John J. Cherry  
Attorney at Law  
23 Beaver Drive  
DuBois, PA 15801

Rick Mattern, Esq.  
Chairman Board of View  
211 East Pine Street  
Clearfield, PA 16830

Anthony S. Guido  
996 Beaver Drive  
P O. Box 585  
DuBois, PA 15801

  
Matthew B. Taladay  
Attorney for Joseph J. Good

Date: January 16, 1990

COMMONWEALTH OF PENNSYLVANIA :  
COUNTY OF *Jefferson* :  
SS :

I, JOSEPH J. GOOD, being duly sworn according to law, deposes and says that the facts set forth in the foregoing ANSWER are true and correct to the best of his knowledge, information and belief.

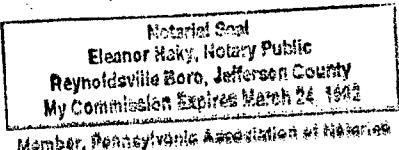


*Joseph J. Good*  
Joseph J. Good

Sworn to and subscribed  
before me this 15<sup>th</sup> day of  
January, 1990.



*Eleanor Maiky*



*Robert M. Hanak*

ATTORNEY AT LAW  
311 MAIN STREET  
P. O. BOX 250

REYNOLDSVILLE, PENNSYLVANIA 15851

1990  
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1-72  
ary

RICK MATTERN  
ATTORNEY, AT LAW  
211 EAST PINE STREET  
CLEARFIELD, PENNSYLVANIA 16830  
(814) 765-6416

CRIMINAL  
CERTIFIED COPY

RICK MATTERN  
ATTORNEY AT LAW  
211 EAST PINE STREET  
CLEARFIELD, PENNSYLVANIA 16830  
(814) 765-6416

*Original copy*  
CERTIFIED COPY

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

IN RE:

PETITION FOR A PRIVATE  
ROAD IN SANDY TOWNSHIP  
CLEARFIELD COUNTY,  
PENNSYLVANIA BY JOSEPH  
J. GOOD

: NO. 88-8-ROAD

: Type of Case: CIVIL

: Type of Pleadings: (PETITION TO  
OPEN PRIVATE ROAD UNDER  
36 P.S.SECTION 2731 )

: REPORT OF VIEWERS, FINDINGS OF  
FACT, CONSCUSIONS OF LAW ON  
ISSUE OF NECESSITY.

: Filed on Behalf of: BOARD OF VIEW  
LEONARD KANTAR, ROBERT  
KESTER and J. RICHARD  
MATTERN, II, CHAIRMAN

: Counsel of Record for this Party:  
J. Richard Mattern II  
Attorney ID# 06817

: J. RICHARD MATTERN II  
211 East Pine Street  
Clearfield, PA 16830  
(814) 765-6416

FILED  
01 1:30 AM  
JAN 11 1991

OB  
ALLEN D. BIETZ  
Prothonotary  
five copies  
sent to atty

#16

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

IN RE: PETITION FOR A :  
PRIVATE ROAD IN SANDY TOWNSHIP :  
CLEARFIELD COUNTY, PENNSYLVANIA : No. 88-8-ROAD  
BY JOSEPH J. GOOD :  
:

REPORT OF VIEWERS, FINDINGS OF  
FACT AND CONCLUSIONS OF LAW  
ON ISSUE OF NECESSITY

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

AND NOW, this 11 day of January, 1991, the Board of View appointed herein makes and enters as part of the Report of Viewers made pursuant to 26 P.S. Section 1-511 and 36 P.S. Section 2731, the following Findings of Fact and Conclusions of Law with respect to the history and procedures of the case and as to the Issue of Necessity.

I. FINDINGS OF FACT - PROCEDURE

1. A Petition to Open a Private Road under 36 P.S. Section 2731 was filed by Matthew B. Taladay, Esquire, on behalf of Joseph J. Good on December 5, 1988 with regard to his real estate located in Sandy Township, Clearfield County, Pennsylvania.

2. That in said Petition, it was alleged that the only means of ingress and egress to Plaintiff's property was from T-401, the Paul Short Road and to cross the property of Weldon Frost.

3. That the Petition of Joseph J. Good requested your Honorable Court appointed Board of View, directing that a view be had by them on the property, and that a report thereof be made by them, and a private road be opened from his property to Township Road T-401.

4. That your Honorable Court dated December 5, 1988, the Court appointed J. Richard Mattern II, Esquire, Robert Kester and Leonard Kantar as a Board of View.

5. That under cover letter of January 30, 1989, Weldon G. Frost filed a sixteen page Answer with J. Richard Mattern II, Board of View Chairman, of which in essence, he vociferously objected to the Petition and any private road being granted across his property.

6. By cover letter dated March 13, 1989, Attorney Taladay forwarded a letter to J. Richard Mattern II, Board of View Chairman, from Weldon Frost dated January 26, 1987, wherein Mr. Frost acknowledged receiving a copy of the Petition to Open the Private Road.

7. That a Notice of View and Hearing setting such for May 31, 1989, was served on Joseph J. Good, Matthew B. Taladay, Esquire, Leonard Kanter and Robert Kester on May 17, 1989, and on Mr. Weldon G. Frost in London, England, on May 18, 1989.

8. A copy of Mr. Weldon G. Frost's sixteen page Answer was forwarded to Attorney Taladay by J. Richard Mattern II on May 22, 1989.

9. On May 22, 1989, Attorney John A. Cherry advised the Chairman, J. Richard Mattern II, that he represented Weldon G. Frost, and that Mr. Frost probably could not make the View and Hearing set for May 31, 1990, but that the scheduled View could be conducted.. He also requested and was sent by J. Richard Mattern II, the aforesaid described Answer of Weldon G. Frost.

10. On May 31, 1989, the Board of View traveled to the property site, prepared to conduct the View. All parties were present except Weldon G. Frost.. Attorney Cherry requested that Attorney Taladay do a search to ascertain if Mr. Good was in fact land locked. As it was pouring down rain with no let up, the View was continued. Also, J. Richard Mattern II, was presented with a Petition for Continuance by Attorney Cherry.

11. That on June 14 and June 16, the Chairman received from Attorney Cherry correspondence indicating the View and Hearing could be rescheduled to July 27, 1989. Your Chairman confirmed this with the other members of the board and Attorney Taladay and set the hearing for July 27, 1989.

12. That a Second Notice of View and Hearing setting such for July 27, 1989 at 9:00 AM and 1:00 PM, respectively, was served on

Joseph J. Good, Matthew B. Taladay, Esquire, Leonard Kanter, Robert Kester and John C. Cherry, Esquire, on July 19, 1989.

13. That on July 27, 1989, Robert Kester had very serious influenza; however, Leonard Kantar and J. Richard Mattern II, went to the Joseph J. Good property in Sandy Township prepared to conduct the View. Again, it was raining, and since only two members of the board were present, a continuance was requested.

14. The View and Hearing were rescheduled by phone calls to all parties for Monday, July 31, 1989, for 10:00 AM and 1:00 PM, respectively.

15. On July 31, 1989, the board met at the office of J. Richard Mattern II, in Clearfield; however, prior to leaving for the View, they were informed by Attorney Taladay and Attorney Cherry, that there was a definite possibility the case would be settled. Attorney Taladay requested a continuance at that time.

16. By cover letter dated September 14, 1989, Attorney Taladay informed Chairman Mattern that negotiations were continuing and there was a possibility of settlement.

17. By cover letter dated December 6, 1989, Chairman Mattern was provided a certified copy of the Amended Petition to Open Private Road which had been filed with the Clearfield County Prothonotary under cover letter dated November 20, 1989.

18. That in said Amended Petition, a request was made to open a Private Road to Joseph J. Good's property from Township Road T- 401 which road would traverse the properties of both Weldon G. Frost and Colleen C. Overturf. A Centerline Survey prepared by Alexander Surveyor describing the proposed right-of-way was attached to the Petition and marked Exhibit A.

19. By cover letter dated July 9, 1990, Chairman Mattern was provided a copy of Joseph Good's Answer to New Matter filed in response to Colleen Overturf's Answer and New Matter which had been filed by Anthony S. Guido, Esquire.

20. Several attempts during February, March, April, May and June of 1990 were made by the Chairman to set up a View and Hearing;

however, it was impossible to arrange a date suitable to all parties and members of the board.

21. A Notice of View and Hearing setting such for August 9 at 10:00 AM and 1:00 PM, respectively, was served on each party of record and each member of the board on July 23, 1990.

22. The View was held on August 9 at 10:00 AM at which time, all parties and their counsel were present. The proposed road in the Amended Petition was examined in detail by the board. Also examined was another road from T-401 across the Spicher property. Most importantly, the board also examined the road leading from the Sebula ball park across the lands of Green Glen, Spicher and Joseph Good, all of which were originally part of the John Dubois tract.

23. The **Hearing** was continued for August 16, 1990, to enable Attorney Taladay to re-examine the courthouse deed indexes to determine if there was any original reservations of right-of-ways across the John Dubois tract which could benefit Joseph J. Good.

At this time, Attorney Guido requested that the board only take testimony with regard to the Issue of Necessity, and further that the board file their report and Findings of Fact with regard to the Issue of Necessity prior to taking any testimony with regard to right-of-way damages.

24. The **Hearing** on the Issue of Necessity was held at the office of Anthony S. Guido on August 16, 1990 at 1:30 PM, at which time, all parties and their counsel were present with the exception of Weldon Frost.

25. That Robert L. Kester conducted additional research at the Clearfield County Courthouse with regard to the John DuBois Tract on 9/19/90

26. That the Board of View met to review the testimony and evidence on September 19, 1990 and to reach a conclusion on the Issue of Necessity.

27. That the Chariman conducted research and made a rough draft of the findings of the Board .

28. The Board of View met December 27th., 1990 to review the rough draft fo their Report and finalized their decision.

29. The Chariman spent an additional two days in preparing the final report on January 8, 10, and filed his report on January 11, 1991.

## II. FINDINGS OF FACT - ISSUE OF NECESSITY

With regard to the proposed Private Road, in the Amended Petition of Joseph J. Good which extends from T-401 and crosses both the Overturf and Frost properties, the **Board** finds the road objectionable for the following reasons:

1. Water already runs down this rather steep hill and road and runs on to the Overturf property flooding it. Pockets of water were visible by the board at the time of the View.
2. The board is of the opinion, that bulldozing a road from T-401 to the Good property would drastically increase the flow of water to the Overturf property despite the use of a ditch because, in effect, the road would become a waterslide.
3. There is also a great possibility that removing soil at the top of the proposed road would create an even greater water run-off problem because there is probable drainage if the seams of minerals are disturbed by a bulldozer.
4. Not only would the water become a problem for the Overturf property, but also there is a high probability that the water would wash stones, dirt and debris on to the Township highway T-401, and the water could present mud and ice problems where the water would drain on to the highway.
5. Disturbing the ground could present problems with the Overturf's source of water for drinking or contaminate it.
6. There is a small stream near the top of the proposed road, the altering of which could be a violation of a DER regulation or a Wetlands Restriction.
7. The presence of a road, especially with a loss of some large trees and the noise of traveling vehicles pulling up a steep hill all would interfere with the peaceful enjoyment and current privacy of the Overturf property.
8. The board also does find that the Joseph J. Good property is not land locked, firstly for the reason that there is an existing road

from the property of Spicher located on T-410 across the lands of Samuel Spicher to the land of Joseph Good. The road has a tight turn and is steep at one point. Nevertheless, the Spichers were the predecessors in title to Joseph Good, and as a matter of law, must provide him access, egress and ingress to his property.

9. / The primary reason that the property is not land locked is because there is a perfectly good road existing across the lands of Chagrin Land Ltd. and Samuel Spicher to the lands of Joseph Good, which road has a very hard shell base and which has been in existence based on undisputed testimony at hearing for over fifty years. The road traverses what was originally the John Dubois Tract. The predecessors in title of John Good, Joseph Spinda III, The Spichers and John Dubois, could not land lock the successors, as a matter of law.

In addition, Green Glen accepted and reserved a right-of-way from T-408 in the sale to the Sebula Fire Company which is binding on Chagrin Land Limited Partnership, see deed dated December 21, 1988, recorded Deed Book Volume 1262 , page 565 on January 10, 1989.

It is therefore apparent that the present road being used from Township Road T-408 into the parcel of Joseph J. Good over the land of Green Glen Corporation, Chagrin Land, Ltd & Sam Spicher is available to Joseph J. Good on the theory that the original grantor, John E. Dubois, could not land lock his grantees or successors by denying him access through land of the grantor.

Supplementing this opinion is the opinion of Robert L. Kester, Surveyor, dated September 19, 1990, consisting of two pages and a Deed Exhibit Volume 236, page 159, said deed dated November 23, 1917, from John E. Dubois to John J. Moore, Jr., This opinion amplifies the Findings of Fact of the board and is adopted by the board as part of its Findings of Facts.

10. Attached hereto are additional items which are made part of this report:

- (a) Notices of Views and Hearings ;
- (b) Copies of Deeds referred to in this Report;
- (c) Schedule of Costs to be paid members of the Board of View

11. A copy of this Report is being forwarded to Counsel of Record: Matthew B. Taladay, Esq., Hon. John A. Cherry, Esq., and Anthony S. Guido, Esquire.

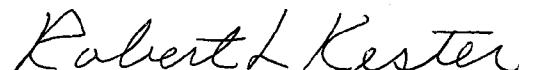
### III. CONCLUSIONS OF LAW

1. The Court and The Board of View have Jurisdiction of the Parties and of the Subject Matter:
2. Based on the Findings of Fact of the Board on the Issue of Necessity that the Proposed Private Road is not a Right-of-Way of Necessity, the Board Concludes and Recommends that the Amended Petition of Joseph Good to Open a Private Road from T-401 traversing the property of Weldon G. Frost and Colleen C. Overturf be Dismissed.
3. These Proceedings conform to the Rules of Court and, specifically, to the Requirements of Law pursuant to 36 P.S. 2731 and the cases decided thereunder.

ALL OF WHICH IS RESPECTFULLY  
SUBMITTED:



J. RICHARD MATTERN II, Chairman



ROBERT L. KESTER



LEONARD KANTAR

BOARD OF VIEW

JANUARY 11th., 1991

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

IN RE:

Petition for a Private Road	:	NO. 88-8 ROAD
in Sandy Township,	:	PETITION TO OPEN
Clearfield County,	:	PRIVATE ROAD
Pennsylvania, by	:	UNDER 36P.S. Section 2731
Joseph J. Good	:	

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

Payable To:	LEONARD KANTAR, 305 George Street, Curwensville, Pa. 16833	
	7 & 1/2 Days @ \$75.00 per day	\$562.50
	90 Miles @ .20¢ per mile	\$ 18.00
		<hr/> \$ 580.50 Total

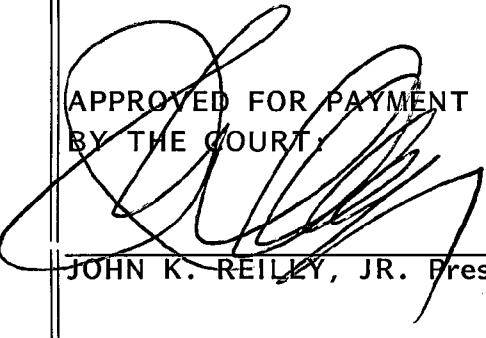
Payable To:	ROBERT L .KESTER, P.O. Box 86, Curwensville, Pa. 16833	
	7 & 1/2 Days @ \$75.00 per day	\$562.50
	222 Miles @ .20¢ per mile	\$ 44.40
	Copy Deeds-Courthouse	\$ 1.00
		<hr/> \$ 607.90 Total

Payable To:	J. RICHARD MATTERN II, Esquire	
	Chairman of Board	
	211 East Pine Street, Clearfield, Pa. 16830	
	13 Days @ \$75.00 per day	\$975.00
	Postage & Express Mail	\$ 17.55
	Photocopy Expense -285 copies	\$ 42.75
	Long Distance Phone Expense	\$ 18.50
		<hr/> \$ 1,053.80

I Certify that all these costs and expense were incurred by the above respectively for services performed in the above-captioned case.

  
J. RICHARD MATTERN II, Chairman

Board of View

  
APPROVED FOR PAYMENT  
BY THE COURT

JOHN K. REILLY, JR. President Judge

FILED

JAN 11 1991

ALLEN D. BIETZ

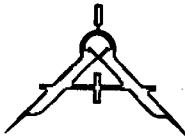
Prothonotary

Three copies to do  
one copy to控

THIS 11th. DAY of JANUARY, 1991

420 THOMPSON STREET  
POST OFFICE BOX 86  
CURWENSVILLE, PA. 16833

814-236-3413



REGISTERED LAND SURVEYOR  
LAND MANAGEMENT  
CARTOGRAPHY

*Robert L. Kester*

September 19, 1990

Richard J. Mattern, III, Esquire  
211 East Pine Street  
Clearfield, PA 16830

RE: PETITION NO. 88-7-ROAD, BY JOSEPH J. GOOD.

Dear Mr. Mattern:

You will recall in our discussion that upon examination of the deed to Joseph J. Good for 18.72 acres in Sandy Township, I mentioned the fact that the description recites that this property was one time part of lands belonging to John E. DuBois. I have taken a few minutes to research the records and find that going back through several deeds through people such as James G. Saffell, Sarah Myrtle McDonald, Rhoda A. Moore and John J. Moore, Jr., that this property indeed was a part of a tract of land belonging to John E. DuBois and Willie G., his wife. By deed dated November 23, 1917, John E. DuBois and Willie G., his wife, conveyed a parcel of land to John J. Moore, Jr., described by metes and bounds containing 18.72 acres, more or less. This description is the same description used in the deed to Joseph J. Good by deed dated April 8, 1987, from John J. Spinda, III, et ux. That deed also contained a new description as a result of a survey by Alexander Surveying. There is no doubt that both descriptions are for the same property. In that deed, there is reference made that this subject parcel is part of lands of now or formerly John E. DuBois.

There was evidence submitted at the hearing held in the office of Anthony Guido by attorney for Mr. Good consisting of a deed between Green Glen Corporation and Chargin Land Limited Partnership dated December 21, 1988. Parcel number seven of that deed describes the residue of land owned by Green Glen Corporation which is located adjoining and south of the subject tract of Joseph J. Good. That deed recites ownership of the Green Glen lands going back to John E. DuBois, Jr., et al, and there is no doubt that the record will show that this title goes back to the ownership of the same John E. DuBois of the deed of November 23, 1917.

In later deeds to Samuel Spicher, et ux, and et al., the Joseph J. Good parcel is included with two other parcels which may also be traced back through the same deeds as the Moore/DuBois parcel, indicating a common source of title between Green Glen Corporation, John J. Moore, Jr., Samuel Spicher, et al.

It is, therefore, apparent that the present road being used from Township Road 408 into the parcel of Joseph J. Good over land of Green Glen Corporation and Samuel Spicher would be available to Joseph J. Good on the theory that the original grantor could not landlock his grantee by denying access through land of the grantor.

Richard J. Mattern, III. Esquire  
RE: Petition No. 88-7-ROAD/Joseph J. Good  
September 19, 1990  
Page Two

This access road is further protected by Green Glen Corporation by being accepted and reserved in the deed to Sabula Fire Company for the parcel of land used as a baseball field adjacent to Township Road T-408.

It, therefore, seems that this road has a long standing history and that the Complaint filed by attorney Matthew B. Taladay is not quite accurate when in Paragraph Three it describes the road requested to Township Road 401 as the only means of ingress and egress to the Plaintiff's property. In the amended Complaint, Paragraph Four states that "Petitioner's property is currently landlocked currently having no ingress and egress". This statement is not entirely correct in light of the record of the conveyance from John E. DuBois and the existence of a well travelled road from Township Road 408, such as was inspected by the Board of View on August 16, 1990.

I trust that this will assist you and clarify our reason for rejecting the claim of necessity for the road requested by Mr. Joseph J. Good.

I am enclosing copy of the deed recorded in Deed Book 236, Page 159, which traces the Good property back to a common title with the Green Glen property. I am also enclosing copy of receipt for the recorded deed and my notes which show that the Good property can be traced back to the land of John E. DuBois.

Sincerely,

*Robert L Kester*

Robert L. Kester

RLK/hg  
ENCS. 3

236/159

## DEED

John E. DuBois et al

to

Jno. J. Moore, Jr.

## This Indenture,

Made the twenty third day of November in the year of our Lord one thousand nine hundred and Seventeen Between John E. DuBois and Willie G. his wife of the city of DuBois, county of Clearfield and state of Pennsylvania parties

of the first part, and state party

of the second part: Witnesseth, That the said parties of the first part,

for and in consideration of the sum of one hundred

eighty seven 20/100 dollars (\$187.20)

lawful money of the United States

of America well and truly paid by the said party of the second part to the said receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, enfeoffed, released, conveyed and confirmed and by these presents do grant, bargain, sell, alien, enfeoff, release, convey and confirm unto the said party of the second part, his heirs and assigns,

All that certain piece or parcel of land situate in Sandy Township, County of Clearfield and state of Pennsylvania, described as follows to wit: beginning at the northwest corner of lands of Mrs. Rhoda A. Moore, formerly "the Jacob Place lands" thence by line of lands of the said Rhoda A. Moore, South 13° West 8.98 chains, to a corner post thence by the same lands, south 89° 44' East 11.7 chains to a corner post, thence by lands of same South 8° 29' East 2.01 chains to a Maple Corner, the southwest corner of the said Mrs. Rhoda A. Moore's lands, thence by lands of grantees of which this is a part, south 62° 56' West 18.39 chains, thence north 2° 59' West 15.67 chains, thence North 69° East 13 chains to the place of beginning, Containing 18.72 acres more or less according to a survey made by H. S. MacNinn

Together With, all and singular, the buildings, improvements, woods, ways,

rights,

liberties, privileges, hereditaments and appurtenances to the same belonging, reversion and reversions remainder and remainders,

or in anywise appertaining, and the

and

rents, issues and profits thereof

of every part and parcel thereof; and also all the estate, right, title, interest, property and demand whatsoever, both in law and equity of the said part of the first part of in and to the said premises with the appurtenances, Subject to the perpetual right hereby expressed to the grantor's heirs and assigns to enter upon and remove the same from the coal, gas, oil, and all minerals which may be found in said lands, without being liable for damages caused to the surface of said lands to the buildings, trees and fixtures erected or caused to the surface of said lands.

To have and to hold *The said* premises with all and singular  
*the appurtenances*  
unto the said party of the second part, his  
heirs and assigns, to the only proper use benefit and behoof of the said  
party of the second part, his heirs and assigns forever.

And the said parties of the first part, their  
heirs, executors and administrators, do by these presents covenant, grant and agree, to and with the said  
party of the second part, his heirs and assigns, forever  
that they the said parties of the first part and their  
heirs, all and singular, the hereditaments and premises hereinabove described and granted, or mentioned and intended so to be  
with the appurtenances unto the said party of the second part, his  
heirs and assigns, against them the said parties of the first part and their  
heirs, and against all and every other person or persons  
whomsoever lawfully claiming or to claim the same or any part thereof,

*SHALL and WILL* *WARRANT and forever DEFEND*

*In witness whereof* *The said parties of the first part* *to these presents*  
hereunto set their hand and seal. Dated the day and year first above written.

Signed, *Sealed and delivered*

*In presence of*

Dorsey D. Neff

John E. DuBois

Willie G. DuBois,



Duly stamped U.S. Rev. \$50.

State of Pennsylvania )  
SS  
County of Clearfield )

On the eighth day of January Anno Domini 1918, before the subscriber a Justice  
of the Peace in and for said state and county personally appeared the above named John E.  
DuBois and Willie G. DuBois, and in due form of law acknowledged the above Indenture to  
be their and each of their act and deed and desired the same might be recorded as such,  
Witness my hand and official seal the day and year aforesaid.

Dorsey D. Neff (off. seal)

Justice of the Peace.

Commission expires first Monday in January 1920.

# This Indenture,

Made the 21st day of December

in the year nineteen hundred and eighty-eight (1988)

Between GREEN GLEN CORPORATION

a corporation organized and operating under the laws of The Commonwealth of Pennsylvania, having its principle office in the City of DuBois, County of Clearfield in said Commonwealth, party of the first part, and Grantor, and SABULA FIRE COMPANY, a nonprofit corporation, of Sandy Township, Clearfield County, Pennsylvania, Grantee and party of the second part.

Witnesseth, That the said party of the first part, for and in consideration of the sum of One (\$1.00)----- Dollars,

lawful money of the United States of America, unto it well and truly paid by the said party of the second part, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold and conveyed and by these presents does grant, bargain, sell and convey unto the said party of the second part, its heirs and assigns forever,

All that certain piece or parcel of real estate located in Huston Township, Clearfield County, Pennsylvania, more fully bounded and described as follows:

BEGINNING at a point at the southern most corner of land herein described, which point is also at the northern line of land of Lewis Bundy, et ux (which point is also a reserved right-of-way on behalf of the Grantor);

THENCE along land of Bundy North 26° 9' West a distance of 298.40 feet to a point;

THENCE along remaining land of the Grantor North 32° 59' West a distance of 408.90 feet to a point;

THENCE along land now or formerly of Patton South 84° 25' East a distance of 714.70 feet to a point at the centerline of Township Route 408;

THENCE along the centerline of Township Route 408, South 37° 42' West a distance of 148.35 feet to a point;

THENCE continuing along the centerline South 37° West along a chord 399.51 feet to a point;

THENCE continuing along the centerline South 14° 10' West a distance of 108.93 feet to a point at the place of beginning;

CONTAINING 4.26 acres, more or less, per a survey of E. James McNight, R.S. dated March 16, 1988, a copy of which is attached hereto and incorporated by reference.

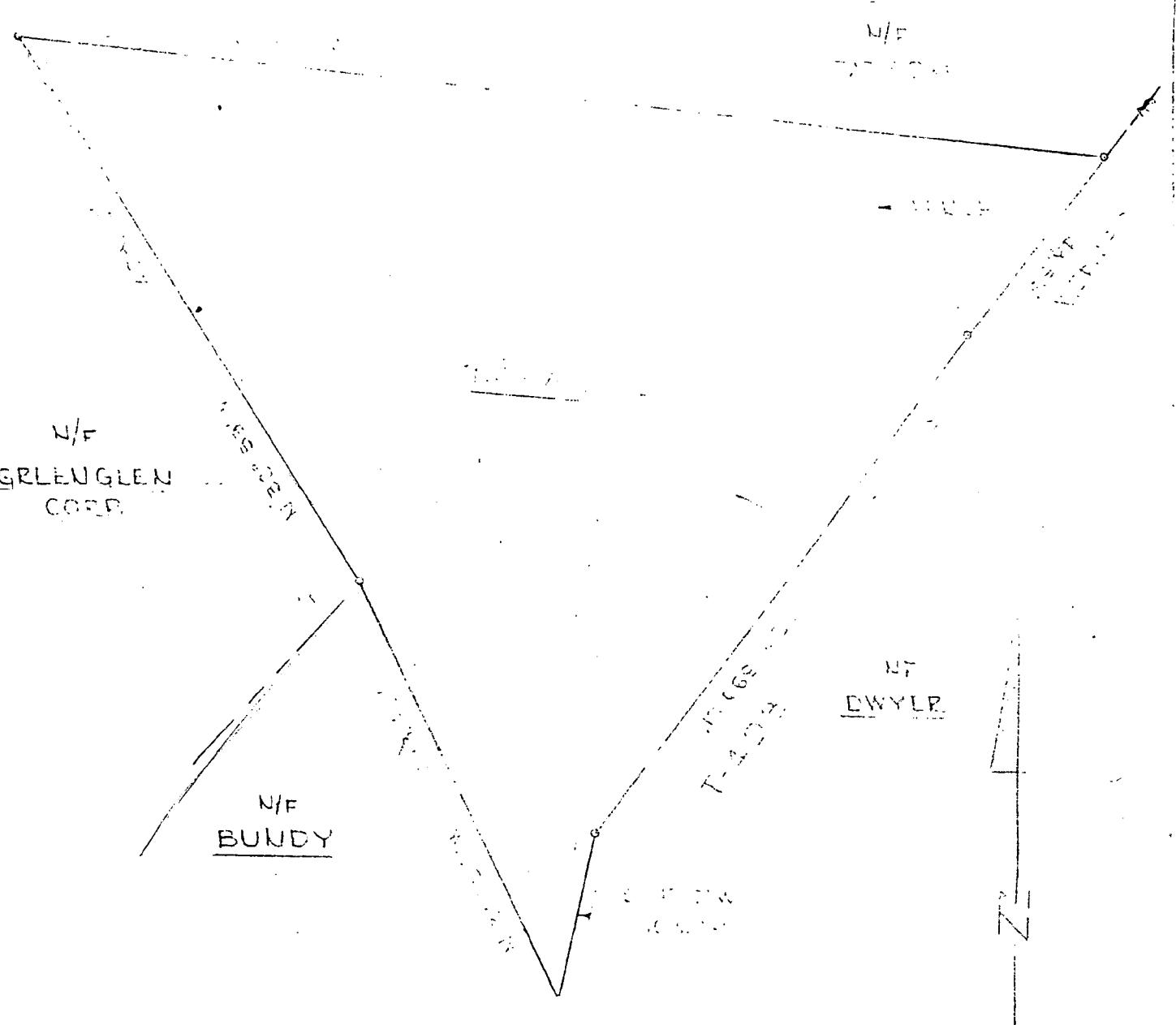
Being part of Clearfield County Tax Map Parcel No. 119-E3-31.

BEING a portion of the premises which John E. DuBois, Jr., et al, granted and conveyed to the Green Glen Corporation by deed dated September 1, 1947, and recorded in the Office of the Recorder of Deeds in and for Clearfield County in Deed Book 393, Page 411.

Further excepting unto the Grantor, its heirs and assigns, an easement and right-of-way 25 feet in width which extends from Township Road 408 along the Southwest boundary of the premises described herein. A present roadway exists and is used by the Grantor. To the degree that such roadway may lie on the premises granted herein, then such grant is subject to the rights of

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Recorded  
1/10/89

continued egress, ingress and regress to other lands of  
the Grantor on or along such Southwest border.



SABULA EAGLE II - TOWER  
HUSTON TWP., CLEARFIELD CO., PENNSYLVANIA

E. JAMES MENIGHT, P.E.  
GENERAL ENGINEER & AS. TECHNICIAN  
NO. 721 NATURE LAKE  
DATE: MAY 11, 1948  
RELEASER: BURGESS CO.  
GENERAL CONTRACTOR: F. J. BURGESS CO.  
SCAFFOLDING: BURGESS CO.  
DRAWS: BURGESS CO.  
CLERK: BURGESS CO.

Together with all and singular, the improvements, privileges, hereditaments and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of the said party of the first part, in law, equity, or otherwise, howsoever, of, in and to the same, and every part thereof,

To Have and to Hold the said hereditaments and premises hereby granted, or mentioned, and intended so to be, with the appurtenances, unto the said party of the second part, its heirs and assigns, to and for the only proper use and behoof of the said party of the second part, its heirs and assigns, forever.

And said party of the first part, its successors and assigns, does by these presents covenant, grant and agree to and with the said party of the second part, its heirs and assigns that the said Corporation, the said party of the first part, its successors and assigns, all and singular, the hereditaments and premises hereinabove described and granted, or mentioned, and intended so to be, with the appurtenances unto the said party of the second part, its heirs and assigns, against said Corporation, the said party of the first part, and its successors, and assigns, and against all and every other person or persons whomsoever, lawfully claiming or to claim the same or any part thereof

SPECIALLY shall and will Warrant and forever Defend.

The GREEN GLEN CORPORATION  
doth hereby constitute and appoint David C. DuBois  
to be its attorney for it, and in its name and as and for its corporate act and deed to acknowledge this Deed, before any person having authority by the laws of the Commonwealth of Pennsylvania to take such acknowledgment, to the intent that the same may be duly recorded.

This Deed is made under and by virtue of a resolution of the Board of Directors of the grantor, duly passed at a regular meeting thereof held on the 21st day of December 1988, a full quorum being present, authorizing and directing the same to be made and done.

In Witness Whereof, The said Corporation, party of the first part, has caused its common and corporate seal to be affixed to these presents by the hand of its President, and the same to be attested by its Secretary. Dated the day and year first above written.

Attest:

  
Walter Jorden  
Secretary

GREEN GLEN CORPORATION  
By   
David C. DuBois  
President

To Recorder of Deeds:

**Certificate of Residence**

I, hereby certify that the correct address and place of residence of the grantee herein is as follows: R. D. 2, DuBois, PA 15801

\_\_\_\_\_  
Attorney or Agent for Grantee

ROBERT L. KESTER

P.O. Box 86

CURWENSVILLE, PENNSYLVANIA 16833

(814) 236-3413

1128/265

821/499 } 341/505 \*

1055/183 } 802/277

\* 208/121 Jas G Sappell should be 308/121

284/29 Sarah Myrtle Mc Donald for Rhoda A.  
Moore 12/27/21

255/162

254/505 John J Moore Jr

236/159

TO MICHAEL R. LYTHE

REGISTER OF WILLS  
RECORDER OF DEEDS



## CLERK OF THE ORPHAN'S COURT

Box 361  
Clearfield, Pa. 16830

Sept 19, 1990

ATTORNEY

Robert Kester

R N° 44040 T

Please return this bill with remittance for receipt.

Make all checks payable to Michael R. Lytle.

cash

2

## Cookies

100

ROBERT L. KESTER  
P.O. BOX 86  
CURWENSVILLE, PENNSYLVANIA 16833  
(814) 236-3413

PA D  
SEP 19 1990  
Michael R. Lytle  
Register & Recorder

The above mentioned instruments are received subject to the provision of Acts of Assembly requiring payment of fees in advance.

*Land as presented*

**THIS DEED**

MADE the 21st day of December in the year nineteen hundred and eighty-eight (1988),

BETWEEN GREEN GLEN CORPORATION, a Pennsylvania business Corporation, of Sandy Township, DuBois, Clearfield County, Pennsylvania, Party of the First Part and GRANTOR,

and

CHAGRIN LAND LIMITED PARTNERSHIP, a limited partnership, with offices at Russel Street, Endeavor, Pennsylvania 16322, Party of the Second Part and GRANTEE;

WITNESSETH, That in consideration of One ----- (\$1.00) ----- Dollar, in hand paid, the receipt whereof is hereby acknowledged, the said Grantor does hereby grant and convey to the said Grantee,

ALL those certain pieces or parcels of real estate located in Sandy Township, Union Township, Huston Township, and Brady Township, Clearfield County, Pennsylvania, more fully bounded and described as follows:

PARCEL NO. 1 Situate in Huston Township.

BEGINNING at a point the Southeast corner of the Tract herein conveyed, which point is also at the common corner of Lady Jane Collieries, Inc., and Osceola Fire Brick Company;

THENCE South 89° 50' West a distance of 4,901.15 feet more or less to a point at lands now or formerly of Farr;

THENCE North 19° 0' West, a distance of 924 feet more or less to a point;

THENCE North 70° 20' East along lands of Riccadonna, Mowrey, Pennsylvania State Forest and others, a distance of 5,524.2 feet more or less to a point;

THENCE in a due Southerly direction along lands of New Shawmut Mining Company and Lady Jane Collieries, Inc., a distance of 2,718.56 feet more or less to a point at the place of beginning.

CONTAINING 226 Acres more or less and being identified as Clearfield County Tax Map Parcel No. 119-H2-3.

South 59° 34' 23" West a distance of 354.60 feet more or less; South 72° 09' 22" West a distance of 299.13 feet more or less; North 73° 47' 15" West a distance of 263.72 feet more or less; North 48° 12' 42" West a distance of 495.54 feet more or less; North 60° 55' 25" West a distance of 281.76 feet more or less North 50° 39' 55" West a distance of 304.80 feet more or less; North 80° 59' 06" West a distance of 580.40 feet more or less; North 51° 31' 34" West a distance of 683.14 feet more or less; North 76° 32' 12" West a distance of 1,023.42 feet more or less; North 34° 02' 39" West a distance of 182.37 feet more or less to a point on the Southeasterly line of Kermit D. and Shirley J. Sherwood;

THENCE by said Southerly line of Sherwood, North 42° 23' 18" East a distance of 166.75 feet more or less to a point; THENCE also by Sherwood's Northeasterly line North 35° 08' 37" West a distance of 159.01 feet more or less to a point on the Southeasterly right-of-way line of PA Route 255 and place of beginning.

Said parcel contains 225 Acres more or less, and is part of Clearfield County Tax Map Parcels No. 119-F3-34, 119-F3-40, and 119-F3-53.

PARCEL NO. 7: Situate in Huston Township and Sandy Township, Clearfield County.

BEGINNING at a point, said point being at the intersection of the Northeasterly line of Lillian and Betty Wells Kessler and the Northwesterly right-of-way line of State Route 255;

THENCE by the Northeasterly line of Lillian and Betty Kessler North 44° 41' 31" West a distance of 443.86 feet more or less to a point;

THENCE also by Kessler land South 48° 55' 01" West a distance of 503.45 feet more or less to a point;

THENCE South 43° 42' 00" East a distance of 422.80 feet more or less to a point on the Northwesterly right-of-way line of State Route 255;

THENCE by said Northwesterly right-of-way line of State Route 255 South 50° 01' 55" West a distance of 224.66 feet more or less to a point on the Northerly line of William and Mary V. Sandstrom and Samuel B. and Elaine L. Spicher;

THENCE by the Northerly line of Sandstrom and Spicher, South 85° 37' 53" West a distance of 793.41 feet more or less to a point on the Northeasterly line of Darrell J. and Shirley Patton;

THENCE by said Patton Northeasterly line and Northerly line North 15° 50' 25" West a distance of 723.53 feet more or less to a point;

THENCE North 89° 14' 11" West a distance of 1,241.36 feet more or

Easterly line of Linda S. McCullough;  
THENCE by said McCullough easterly line North  $72^{\circ} 38' 33''$  East, a distance of 1359.05 feet more or less to a point on the easterly line of an unidentified parcel;  
THENCE by said unidentified parcel North  $5^{\circ} 32' 05''$  East, 469.89 feet, more or less, to a point on the southerly line of John A. Delaney;  
THENCE by said Delaney Southerly line South  $88^{\circ} 22' 09''$  East, a distance of 960.35 feet more or less to a point on the Westerly line of James G. Sherwood;  
THENCE by said Sherwood Westerly and Southerly boundaries South  $0^{\circ} 42' 22''$  West a distance of 267.26 feet more or less to a point;  
THENCE South  $85^{\circ} 53' 56''$  East a distance of 680.42 feet more or less to a point;  
THENCE South  $4^{\circ} 44' 59''$  East a distance of 815.00 feet more or less to a point;  
THENCE South  $85^{\circ} 9' 55''$  North a distance of 716.30 feet more or less;  
THENCE also by said Sherwood westerly line South  $1^{\circ} 9' 53''$  East, 1,262.58 feet, more or less, to a point in the centerline of Pa. Route 255;  
THENCE by the centerline of Pa. Route 255, South  $58^{\circ} 28' 58''$  West, a distance of 478.22 feet, more or less, to a point;  
THENCE South  $49^{\circ} 23' 59''$  West a distance of 496.56 feet, more or less, to a point on the Northeasterly line of land of Lillian and Betty Wells Kessler and point of beginning.  
CONTAINING 355 Acres more or less and being identified as Clearfield County Tax Map Parcel Nos. 128-E3-53 and 119-E3-31.  
Subject to conveyances to Lewis Bundy et ux of 3.7 acres, and a conveyance to the Sabula Fire Company of 4.26 acres.

PARCEL NO. 8: Situate in Sandy Township.

BEGINNING at a point on Sandy Township Rt. 406, said point being approximately 750 feet from the intersection of T.R. 406 and L.R. 17031;  
THENCE by the westerly line of land of B. P. Rokoski South  $2^{\circ} 31' 17''$  East, 1382.92 feet, more or less, to a point on the northerly line of Robert C. and Judy A. Beer;  
THENCE by the northerly line of Beer, South  $82^{\circ} 49' 49''$  West, 226.75 feet, more or less, to a point;  
THENCE also by land of Beer, South  $1^{\circ} 32' 32''$  East, 538.07 feet, more or less, to a point;  
THENCE by same, North  $87^{\circ} 42' 57''$  East, 629.77 feet, more or less, to a point on the centerline of L.R. 17031;  
THENCE by the centerline of L.R. 17031, North  $19^{\circ} 44' 18''$  East, 945.23 feet, more or less, to a point on the southerly line of Ralph and Marjorie R. Nupp;

# This Deed,

MADE the Eighth (8th) day of April  
in the year nineteen hundred and eighty-seven (1987)

BETWEEN JOHN JOSEPH SPINDA, III, and JILL A. SPINDA, his wife, of R. D. #1,  
Box 281, Brockway, Jefferson County, Pennsylvania, GRANTORS, Parties of the  
First Part;

A  
N  
D

JOSEPH J. GOOD, of Sandy Township, Clearfield County, Pennsylvania, GRANTEE,  
Party of the Second Part;

WITNESSETH, That in consideration of TEN THOUSAND and 00/100-----  
-----(\$10,000.00)----- Dollars,

in hand paid, the receipt whereof is hereby acknowledged, the said grantors do hereby grant  
and convey to the said grantee ,

ALL that certain piece, parcel or lot of land lying and being situate in SANDY  
TOWNSHIP, Clearfield County, Pennsylvania, being bounded and described as follows,  
to wit:

BEGINNING at the Northwest corner of lands now or formerly of Mrs.  
Rhoda A. Moore; thence by line of lands of said Rhoda A. Moore,  
South 13° West 8.98 chains to a corner post; thence by the same  
land South 89° 44' East 11.7 chains to a corner post; thence by  
lands of same, South 8° 29' East 2.01 chains to a maple corner, the  
Southwest corner of the said lands now or formerly of Mrs. Rhoda  
A. Moore; thence by lands now or formerly of John E. DuBois, of  
which this is a part, South 62° 56' West 18.39 chains; thence North  
20° 59' West 15.67 chains; thence North 69° East 13 chains to the  
place of beginning. Containing 18.72 acres, more or less,  
according to the survey made by H. S. McMinn.

EXCEPTING AND RESERVING from the above described premises, portion, if any,  
of 3 acre parcel affecting the same as reserved in deed from James G. Saffell,  
et ux., to Samuel Spicher, et ux., dated November 16, 1937, and recorded in  
Deed Book No. 314, page 565.

The above described premises is more accurately described as follows in  
accordance with a survey of Alexander Surveying, Falls Creek, Pennsylvania,  
dated December 4, 1985:

BEGINNING at an existing iron pin (replaced by this survey with a 1"  
iron pipe), said iron pipe being the southeastern most corner of Weldon  
Frost, and being the southwestern most corner of the herein described

EXHIBIT "A"

VOL 1152 PAGE U17

parcel; thence North 20° 59' West along the lands of Weldon Frost a distance of 100.22 feet to a 1" iron pipe set by this survey, said iron pipe being the northwest corner of the herein described parcel; thence North 69° 01' East along the lands of Weldon Frost a distance of 693.74 feet to a 1" iron pipe set by this survey; thence South 17° 50' East along lands intended to be conveyed to Samuel and Martha Spicher a distance of 265.59 feet to a 1" iron pipe set by this survey; thence South 20° 59' East along lands of Samuel and Martha Spicher a distance of 285.54 feet to a 1" iron pipe set by this survey; thence South 89° 43' East along the lands of Samuel Spicher et ux., a distance of 608.50 feet to a 1" iron pipe set by this survey; thence South 08° 30' East along the lands of Samuel Spicher et ux., a distance of 136.36 feet to a 1" iron pipe set by this survey, said iron pipe being the southeast corner of the herein described parcel; thence South 62° 56' West along the lands of Green Glen Corp. a distance of 1223.53 feet to an iron pipe, the place of beginning. Containing 831,125 square feet or 19.08 Acres.

SUBJECT to the perpetual right hereby expressly reserved to enter upon, mine and remove therefrom the coal, gas, oils and other minerals which may be found in said lands without being liable for any damages caused to the surface thereof, or to the buildings thereon by operations carried on beneath the surface of said land.

BEING the same premises which were conveyed to John Joseph Spinda, III, one of the Grantors herein, by deed of Robert Allen Spicher and Rene Spicher, husband and wife, dated January 15, 1986, and recorded in Clearfield County Deeds and Records Book Vol. 1128, page 265, on December 12, 1986.

## 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:

Joseph J. Good



This ..... day of April, 1987

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. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

AND the said grantors will ~~generally~~ hereby conveyed.

WARRANT AND FOR FURTHER DEFEND the property

IN WITNESS WHEREOF, said grantors have hereunto set their hands and seals, the day and year first above-written.

Sealed and delivered in the presence of

*John Joseph Spinda*

(SEAL)

John Joseph Spinda, III

(SEAL)

*Jill A. Spinda*

(SEAL)

Jill A. Spinda

(SEAL)

(SEAL)

(SEAL)

#### CERTIFICATE OF RESIDENCE

I hereby certify, that the precise residence of the grantee herein is as follows:

107 Hill Street  
DuBois, PA 15801

Attorney ~~for~~ <sup>agent</sup> for Grantee

Commonwealth of Pennsylvania

County of CLEARFIELD

} ss.

On this, the day of April, 1987, before me, a Notary Public, the undersigned officer, personally appeared JOHN JOSEPH SPINDA, III, and JILL A. SPINDA, his 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.

My Commission Expires 1/1/11

PAULA M. CHERRY, Notary Public  
DuBois, Clearfield County, Pennsylvania  
My Commission Expires January 16, 1998



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

IN RE:

Petition for a Private : NO. 88-8-ROAD  
Road in Sandy Township, :  
Clearfield County, :  
Pennsylvania, by :  
Joseph J. Good :  
: Type of Case:  
: PETITION TO OPEN PRIVATE ROAD  
: UNDER 36 P.S. SECTION 2731

Type of Pleadings:

NOTICE OF VIEW and HEARING  
May 17, 1989, July 19, 1989 and  
July 23, 1990.

Filed on Behalf of:

BOARD OF VIEW

Counsel of Record for this Party:  
J. Richard Mattern II, Esq.; Chairman  
Attorney ID# 06817

J. RICHARD MATTERN II  
211 East Pine Street  
Clearfield, PA 16830  
(814) 765-6416

RICK MATTERN

LAWYER

211 EAST PINE STREET  
CLEARFIELD, PENNSYLVANIA 16830

May 17, 1989

TELEPHONE  
(814) 765-6416

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

IN RE:

Petition for a Private	:	NO. 88-8-ROAD
Road in Sandy Township	:	PETITION TO OPEN
Clearfield County,	:	PRIVATE ROAD
Pennsylvania by	:	UNDER 36 P.S. SECTION
Joseph J. Good	:	2731

NOTICE OF VIEW AND HEARING

You are hereby notified that J. Richard Mattern II, Esquire, Robert Kester, and Leonard Kantar, Board of View, the above captioned matter will hold a view on Wednesday May 31st., 1989 at 9:00 A.M., at the subject premises, to meet at the property of the Petitioner, Joseph J. Good in Sandy Township, Clearfield County, Pennsylvania; and following this viewing, at 1:00 P.M. there will be a hearing in this matter held on the second floor of the Clearfield County Courthouse, Clearfield, Pennsylvania.

  
J. RICHARD MATTERN II, CHAIRMAN  
BOARD OF VIEW

May 17, 1989

RICK MATTERN

LAWYER  
211 EAST PINE STREET  
CLEARFIELD, PENNSYLVANIA 16830

July 19, 1989

TELEPHONE  
(814) 765-6416

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

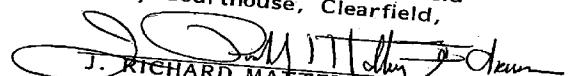
IN RE:

Petition for a Private	:	NO. 88-8-ROAD
Road in Sandy Township	:	PETITION TO OPEN
Clearfield County,	:	PRIVATE ROAD
Pennsylvania by	:	UNDER 36 P.S. SECTION
Joseph J. Good	:	2731

NOTICE OF VIEW AND HEARING

You are hereby notified that J. Richard Mattern II, Esquire, Robert Kester, and Leonard Kantar, Board of View on the above captioned matter will hold a view on Thursday, July 27, 1989 at 9:00 A.M., at the subject premises, to meet at the property of the Petitioner, Joseph J. Good in Sandy Township, Clearfield County, Pennsylvania; and following this viewing, at 1:00 P.M. there will be a hearing in this matter held on the second floor of the Clearfield County Courthouse, Clearfield, Pennsylvania

July 19, 1989

  
J. RICHARD MATTERN II, CHAIRMAN  
BOARD OF VIEW

**RICK MATTERN**

LAWYER

211 EAST PINE STREET  
CLEARFIELD, PENNSYLVANIA 16830

July 23, 1990

TELEPHONE  
(814) 765-6416

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

IN RE:

Petition for a Private	:	NO. 88-8- ROAD
Road in Sandy Township:	:	PETITION TO OPEN
Clearfield County	:	PRIVATE ROAD
Pennsylvania, by	:	UNDER 36 P.S. SECTION 2731
Joseph J. good	:	

**NOTICE OF VIEW AND HEARING**

You are hereby notified that J. Richard Mattern II, Esquire, Robert Kester, and Leonard Kantar, Board of View, in the Above captioned matter, will hold a view on Thursday, August 9th., 1990 at 10:00 A.M., at the subject premises, and meet at the property of the Petitioner, Joseph J. Good in Sandy Township, Clearfield County, Pennsylvania; and following this viewing, at 1:00 P.M. there will be a hearing held on the issue of DuBois, Pennsylvania,

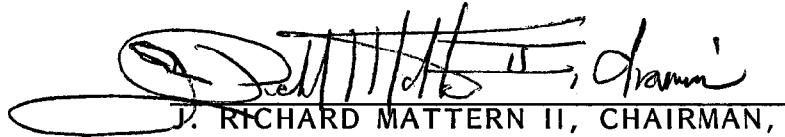
July 23, 1990

  
J. RICHARD MATTERN II, CHAIRMAN  
BOARD OF VIEW

CERTIFICATE OF SERVICE

I, J. Richard Mattern II, Esquire, Chairman of the Board of View, hereby Certify that a true and correct copy of the foregoing Notices of View and Hearing was served by U.S. Mail, first class, this 17th. day of May, 1989, and on July 19, 1989 and July 23, 1990 upon the following:

1. Matthew B. Taladay, Esquire
2. Honorable John A. Cherry, Esquire
3. Anthony S. Guido, Esquire
4. Leonard Kantar
5. Robert L. Kester

  
J. RICHARD MATTERN II, CHAIRMAN,  
BOARD OF VIEW  
211 East Pine Street  
Clearfield, Pa. 16830

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

IN RE:

: NO. 88-8 ROAD

Petition for a Private Road  
In Sandy Township,  
Clearfield County,  
Pennsylvania, by  
Joseph L. Good

Petition To Open Private Road  
Under 36 P.S. Section 2731

ORDER

AND NOW, this 11<sup>th</sup> day of January, 1991, the Findings of Fact, Report and Recommendation of the Board of View is acknowledged. We approve the Board's Recommendation.

The Court concludes it is not necessary to Open the Road  
Petitioned for by Joseph J. Good in his Amended Petition.

Accordingly, it is the ORDER of this Court that the Petition to Open said Road be and is hereby DISMISSED.

It is the further ORDER of this Court that Clearfield County pay the Board of View Members, Leonard Kantar, Robert L. Kester and J. Richard Mattern, II, Esquire, for their services rendered as per the Board of View Schedule of Costs attached to said Report.

Finally, it is the further ORDER of this Court that the Petitioner, Joseph J. Good, reimburse Clearfield County for all costs.

**FILED**

01 1:30 pm  
JAN 11 1991

ALLEN D. BIETZ  
Prothonotary

## Prothonotary

four copies  
Cert to att

BY THE COURT:

~~JOHN K. REILLY~~, President Judge

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

IN RE:

Petition for a Private Road :  
In Sandy Township, :  
Clearfield County, : NO. 88-8 ROAD  
Pennsylvania by :  
Joseph J. Good :  
:

NOTICE OF APPEAL

Notice is hereby given that Joseph J. Good, Petitioner above named hereby appeals to the Superior Court of Pennsylvania from the Order entered in this matter on the 11th day of January, 1991. This order has been entered in the docket as evidenced by the attached copy of the docket entry.

  
Matthew B. Taladay, Esquire  
Supreme Court No. 49663  
Robert M. Hanak, P.C.  
311 Main Street  
P. O. Box 250  
Reynoldsville, PA 15851  
(814) 653-8252

FILED

JAN

1/8

*Robert M. Hanak*

ATTORNEY AT LAW

311 MAIN STREET

P. O. BOX 250

REYNOLDSVILLE, PENNSYLVANIA 15851

11/8/30 am R/30.00  
atm

one copy  
sent to day

*Q*  
*Hez*

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

IN RE:

Petition for a Private Road :  
In Sandy Township, :  
Clearfield County, : NO. 88-8 ROAD  
Pennsylvania by :  
Joseph J. Good :  
:

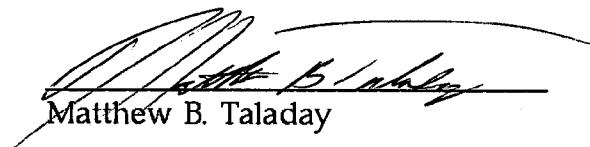
CERTIFICATE OF SERVICE

I hereby certify that on January 22, 1991, I mailed by first class  
mail, postage prepaid, a copy of the Notice of Appeal to the following:

Honorable John K. Reilly, Jr. President Judge Clearfield County Courthouse Second and Market St. P. O. Box 549 Clearfield, PA 16830	Raymond L. Billotte Court Administrator Clearfield County Courthouse Second and Market St. P. O. Box 549 Clearfield, PA 16830
--	--

Anthony Guido, Esquire 996 Beaver Drive P. O. Box 585 DuBois, PA 15801	John A. Cherry, Esquire 23 Beaver Drive DuBois, PA 15801
---	--

Court Reporter  
Clearfield County Courthouse  
Second and Market St.  
P. O. Box 549  
Clearfield, PA 16830

  
Matthew B. Taladay

FILED



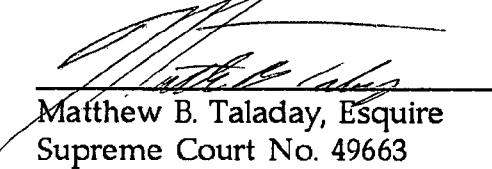
IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE:

Petition for a Private Road :  
In Sandy Township, :  
Clearfield County, : NO. 88-8 ROAD  
Pennsylvania by :  
Joseph J. Good :  
:

NOTICE OF APPEAL

Notice is hereby given that Joseph J. Good, Petitioner above named hereby appeals to the Superior Court of Pennsylvania from the Order entered in this matter on the 11th day of January, 1991. This order has been entered in the docket as evidenced by the attached copy of the docket entry.

  
Matthew B. Taladay, Esquire  
Supreme Court No. 49663  
Robert M. Hanak, P.C.  
311 Main Street  
P. O. Box 250  
Reynoldsville, PA 15851  
(814) 653-8252

FILED  
018:30 AM  
JAN 23 1991

ALLEN D. BIETZ  
Prothonotary

IN RE:  
PETITION FOR A PRIVATE ROAD  
IN SANDY TOWNSHIP, CLEARFIELD  
COUNTY, PENNA.  
BY: JOSEPH J. GOOD

DECEMBER 5, 1988, PETITION TO OPEN PRIVATE ROAD  
UNDER 36 P.S. SECTION 2731 & ORDER, filed

1 copy cert to atty.

AND NOW, this 5th day of December, 1988, upon the Petition of Joseph J. Good and in accordance with 36 P.S. Section 2731, this Court hereby appoints J. Richard Mattern, II, Esq; Robert Kester, and Leonard Kantar, as a Board of View to view the property described in the foregoing Petition and the vicinity where the private road is requested and to report to this Court in accordance with the law.

BY THE COURT: John K. Reilly, Jr President Judge.

NOVEMBER 21, 1989, PETITION TO OPEN PRIVATE ROAD  
AMENDED UNDER 36 P.S. SECTION 2731, filed  
by Joseph J. Good, Esq. 1 cert Shff.

Pro	by Atty.	40 00
Shff	by Atty	28 80
Sur-charge	by Atty	2 00
Pro	by Atty	15 00
88-8-ROAD		

DECEMBER 4, 1989, AFFIDAVIT OF SERVICE, filed  
NOW, November 29, 1989 at 1:28 PM EST served the within Petition on Colleen C. Overturf, defendant at employment, Dr. Fugate's Office, DuBois, Clearfield County, PA by handing to Colleen C. Overturf. /s/ Chester A. Hawkins, Shff by Marilyn Hamm

DECEMBER 18, 1989, ANSWER AND NEW MATTER TO PETITION TO  
OPEN PRIVATE ROAD AMENDE UNDER 36 P.S. SECTION 2731,  
filed by Anthony S. Guido, Esq.

JANUARY 18, 1990, ANSWER TO NEW MATTER, filed by Matthew B. Taladay, Esq.

CERTIFICATE OF SERVICE, filed

I, Matthew B. Taladay, Attorney for Joseph J. Good, Hereby certify that I have served, by first class mail, postage prepaid, one (1) copy of the Answer to New Matter on the following parties:

John J. Cherry, 23 Beaver Dr., DuBois, PA 15801,  
Rick Mattern, Esq, 211 East Pine St, Clearfield, PA 16830  
Anthony S. Guido, Esq. 996 Beaver Dr., PO Box 585, DuBois PA 15801. /s/ Matthew B. Taladay, Esq.

JANUARY 11, 1991, PETITION TO OPEN PRIVATE ROAD UNDER 36 P.S. SECTION 2731, filed by J. Richard Mattern II, Esq. 5 cert/Atty

REPORT OF VIEWERS, FINDINGS OF FACT AND CONCLUSIONS OF LAW ON ISSUE OF NECESSITY, filed by /s/ J. Richard Mattern, II, Esq, Robert L. Kester, Esq; Leonard Kantar, Esq. (Board of View) BOARD OF VIEW SCHEDULE OF COSTS TO BE PAID BY CLEARFIELD COUNTY, filed by J. Richard Mattern, II, Chairman 3 cert/Atty 1 cert/Controller

NOTICE OF VIEW AND HEARING, filed by J. Richard Mattern, II, Chairman, Esq.

CERTIFICATE OF SERVICE, filed

I, J. Richard Mattern, II, Esq, Chairman of the Board of View, hereby Certify that a true and correct copy of the foregoing Notices of View and Hearing was served by US Mail, first class, this 17th day of May, 1989, and on July 19, 1989 and July 23, 1990 upon the following:  
1. Matthew B. Taladay, Esq.; 2. Honorable John A. Cherry, Esq.; 3. Anthony S. Guido, Esq;  
4. Leonard Kantar, 5. Robert L. Kester. /s/ J. Richard Mattern II, Chairman.

JANUARY 11, 1991, ORDER, filed 4 cert/Atty

AND NOW, this 11th day of January, 1991, the Findings of Fact, REport and REcommendaiton of the Board of View is acknowledged. We approve the Board's REcommendaiton.

The Court concludes it is not necessary to Open the Road Petitioned for by Joseph J. Good in his Amended Petiton.

Accordingly, it is the ORDER of this Court that the Petition to Open said Raod be and is hereby DISMISSED.

It is the further ORDER of this Court that Clearfield County pay the Board of View Members Leonard Kantar, Robert L. Kester and J. Richard Mattern, II, Esq for their services rendered as per the Baord of View Schedule of Costs attached to said Report.

Finally it is the further ORDER of this Court that the Petitioner, Joseph J. Good, reimburse Clearfield County for all costs. BY THE COURT: John K. Reilly, Jr., P.J.

JANUARY 23, 1991, NOTICE OF APPEAL, filed by s/Matthew B. Taladay, Esq. One (1) Copy Cert to Atty CERTIFICATE OF SERVICE, filed.

I hereby certify that on January 23, 1991, I mailed by first class mail, postage prepaid, a copy of the Notice of Appeal to the following:

- 1) Honorable John K. Reilly, Jr., President Judge, Clearfield County Courthouse, 2nd & Market St., P.O. Box 549, Clearfield, PA 16830
- 2) Anthony Guido, Esq., 996 Beaver Drive, P.O. Box 585, DuBois, Pa. 15801
- 3) Court Reporter, Clearfield County Courthouse, 2nd & Market St., P.O. Box 549, Clearfield, PA 16830
- 4) Raymond L. Billiotte, Court Administrator, Clearfield County COurthouse, 2nd & Market St., P.O. Box 549, Clearfield, PA 16830
- 5) John A. Cherry, Esquire, 23 Beaver Drive, DuBois, PA 15801. s/MATTHEW B. TALADAY, ESQ.

JANUARY 23, 1991, PETITION FOR RECONSIDERATION, filed by s/Matthew B. Taladay, Esq. CERTIFICATE OF SERVICE, filed.

I hereby certify that on January 22, 1991, I mailed by first class mail, postage prepaid, a copy of the Petition for Reconsideration to the following:

- 1) Anthony Guido, Esq., 996 Beaver Drive, P.O. Box 585, DuBois, PA 15801
- 2) John A. Cherry, Esq., 23 Beaver Drive, DuBois, PA 15801 s/Matthew B. Taladay, Esq.

I hereby certify this to be a true and attested copy of the original statement filed in this case.

Attest:

*Allen D. Brey*  
1-31-91  
Prothonotary

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

IN RE:

Petition for a Private Road :  
In Sandy Township, :  
Clearfield County, : NO. 88-8 ROAD  
Pennsylvania by :  
Joseph J. Good :  
:

CERTIFICATE OF SERVICE

I hereby certify that on February 1, 1991, I mailed by first class  
mail, postage prepaid, a copy of the Notice of Appeal to the following:

Honorable John K. Reilly, Jr. President Judge Clearfield County Courthouse Second and Market St. P. O. Box 549 Clearfield, PA 16830	Raymond L. Billotte Court Administrator Clearfield County Courthouse Second and Market St. P. O. Box 549 Clearfield, PA 16830
--	--

Anthony Guido, Esquire 996 Beaver Drive P. O. Box 585 DuBois, PA 15801	John A. Cherry, Esquire 23 Beaver Drive DuBois, PA 15801
---	--

Court Reporter  
Clearfield County Courthouse  
Second and Market St.  
P. O. Box 549  
Clearfield, PA 16830



Matthew B. Taladay

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

IN RE:

Petition for a Private Road : CIVIL DIVISION  
In Sandy Township, : NO. 88-8 ROAD  
Clearfield County, :  
Pennsylvania by : Type of Pleading:  
Joseph J. Good :  
: PETITION FOR  
: RECONSIDERATION  
: Filed on behalf of:  
: JOSEPH B. GOOD  
: Counsel of Record for  
: this Party:  
: Matthew B. Taladay  
: Robert M. Hanak, P.C.  
: Supreme Court No. 05911  
: 311 Main Street  
: Reynoldsville, PA 15851  
: (814) 653-8252

FILED

JAN 23 1991

ALLEN D. BIETZ  
Prothonotary

# 9

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

IN RE:

Petition for a Private Road :  
In Sandy Township, :  
Clearfield County, : NO. 88-8 ROAD  
Pennsylvania by :  
Joseph J. Good :  
:

PETITION FOR RECONSIDERATION

AND NOW, comes the Petitioner, Joseph J. Good, by his Attorney, Matthew B. Taladay, and hereby petitions this Honorable Court for reconsideration, averring as follows:

1. On December 5, 1988, Petitioner, Joseph Good filed a Petition to Open Private Road to access his property in Sandy Township, pursuant to 36 P.S., Section 2731.
2. The Petitioner had been denied access to his property by all adjoining land owners, and has no passable road to his property.
3. 36 P.S., Section 2731 outlines the exclusive statutorily prescribed remedy for opening private roads. This section mandates that viewers be appointed upon petition in accordance with the laws prevailing at the time the petition is filed. [36 Pa.C.S., Section 2731, Note 13, In Re: Road in Plum Creek Township, Citation 110 PA 544, 1A, 431 (PA 1885)].
4. By Order dated December 5, 1989, the Court appointed J. Richard Mattern, II, Robert Kester and Leonard Kantar as a Board of View, pursuant to applicable rules of procedure.
5. On January 11, 1991, the Board of View submitted its Findings of Fact and Conclusions of Law, recommending that the Court dismiss the

Petition of Joseph Good, finding that the proposed road was not a way of necessity.

6. By Order dated January 11, 1991, this Court dismissed the Petition, and further ordered that Petitioner, Joseph J. Good, reimburse Clearfield County for all costs.

7. Included with the Viewers' Report and Order of Court is a Schedule of Costs submitted by the Board of View and approved for payment by the Court, totalling \$2,242.20.

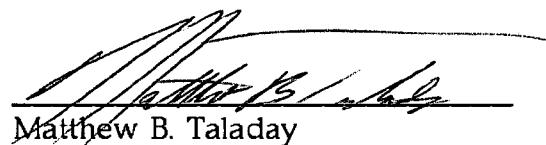
8. The Petitioner hereby requests this Honorable Court to reconsider the Order in so far as it contemplates costs of the Board of View to be borne by the Petitioner.

9. "Viewers appointed by the Court under the Road Laws constitute an independent tribunal set up by law." In Re: Private Road in Monroeville Borough, 204 Pa.Super 512, 205 A.2d, 885 (Pa.Super 1964).

10. The Court's Order, in effect, requires the Petitioner to pay for the costs of a tribunal finding fact in the place of the court.

11. The Petitioner humbly requests that the Court revise the Order previously issued, so as to exclude costs of the Board of View from any costs imposed.

WHEREFORE, Petitioner humbly requests that Motion for Reconsideration be granted.



Matthew B. Taladay

CA

*Robert M. Hanak*

ATTORNEY AT LAW

311 MAIN STREET

P. O. BOX 250

REYNOLDSVILLE, PENNSYLVANIA 15851

RECD  
M 18:30 AM

JULY 1971

ALL INFORMATION

HEREIN IS UNCLASSIFIED

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

IN RE:

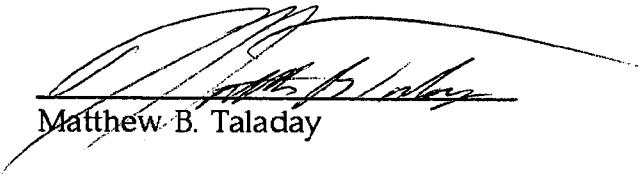
Petition for a Private Road :  
In Sandy Township, :  
Clearfield County, : NO. 88-8 ROAD  
Pennsylvania by :  
Joseph J. Good :  
:

CERTIFICATE OF SERVICE

I hereby certify that on January 22, 1991, I mailed by first class  
mail, postage prepaid, a copy of the Petition for Reconsideration to the  
following:

Anthony Guido, Esquire  
996 Beaver Drive  
P. O. Box 585  
DuBois, PA 15801

John A. Cherry, Esquire  
23 Beaver Drive  
DuBois, PA 15801

  
Matthew B. Taladay

FILED  
1/8:30AM  
JAN 27 1991

ALICE M. FITZ  
PROSECUTOR



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

IN RE: Petition for a Private : No. 88-8-ROAD  
Road in Sandy Township :  
Clearfield County, : PETITION TO OPEN  
Pennsylvania by : PRIVATE ROAD  
Joseph J. Good : UNDER 36 P.S. SECTION  
: 2731

PETITION FOR CONTINUANCE

AND NOW, comes your Petitioner, WELDON G. FROST, by and through his counsel, CHERRY & CHERRY, and hereby moves for a continuance of the hearing in the above captioned matter scheduled for May 31, 1989, and in support thereof avers the following reasons:

1. That your Petitioner's counsel was just contacted and engaged as attorney by WELDON G. FROST, owner of the property over which it is sought to open a private road.
2. The foregoing conference could be held only by telephone, he being resident in London, England.
3. There is need for counsel to check the records both as to ownership and transfer thereof.
4. It is the present opinion that the information received by counsel would indicate a legal right to prevent such road being established over the lands of said WELDON G. FROST.
5. Counsel will require a period of time in order to determine what the records may reveal in these regards; and estimates that he will require at least six to eight weeks to accomplish the same.

#10

6. It is further averred that by arrangement with Board of View, we have agreed to not delay the view itself, in order that there be no further delay than necessary in arriving at a conclusion of the matter.

WHEREFORE, it is respectfully moved that continuance as set forth above be granted.

CHERRY & CHERRY

By John A. Cherry  
John A. Cherry, Esquire  
Attorney for Petitioner

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION  
No. 88-8-ROAD

IN RE: Petition for a Private  
Road in Sandy Township,  
Clearfield County,  
Pennsylvania by  
Joseph J. Good

PETITION FOR CONTINUANCE

5 PM

*Paul E. Cherry*  
23 BEAVER DRIVE  
BOX 15-16  
DUBOIS, PENNSYLVANIA 15801