

Road DOCKET No. 5

Number	Term	Year
5	Dec	1923

Petition of Miles R. Potter for Appt.

of Viewers to assess damages in Pike  
Twp.

**Versus**

X

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

In re: Construction of State :  
Highway between Clearfield and :  
Curwensville :  
:

PETITION.

To the Honorable Singleton Bell, President Judge of said Court.

The petition of Miles R. Porter respectfully represents:-

(1). That he is the owner of a farm in the Township of Pike, Clearfield County, Pennsylvania, containing approximately one hundred and fifty-three acres and title to which was acquired by Will of Robert Porter.

(2). That the State Highway Commissioner of the State of Pennsylvania has undertaken and proceeded with the construction of an improved State Highway through a portion of said premises, a change of width and of existing lines and locations being occasioned thereby.

(3). That the petitioner has sustained damage by reason of said road construction and of the changes in the lines and locations of said road and although repeatedly requesting action by the County Commissioners of Clearfield County has been unable to reach any agreement with said County Commissioners of Clearfield County as to the damage sustained by him.

(4). That the said damages consist of the taking of a strip of ground from said property at or adjacent to the hill known locally as Hog Back, and the rendering useless of a large piece of ground by reason of the cuts made by the former road location and the road as now improved ; and by the filling in of the roadway over part of the premises in such a way as to make another part thereof utterly useless and inaccessible; that by reason of the taking of ground as mentioned and the change in the location of said road the petitioner has been permanently deprived of any practical use for two acres or more of ground.

YOUR PETITIONER THEREFORE PRAYS THE COURT to appoint viewers to ascertain and assess his damages as provided by the

Act of April 6, 1921 amending Section 16 of the Act of May 31, 1911, P.L. 468, and as provided by other pertinent Acts of Assembly.

x Miles R. Porter

STATE OF PENNSYLVANIA :  
: SS  
COUNTY OF CLEARFIELD :

Miles R. Porter, the petitioner above named, being duly sworn according to law, deposes and says that the facts stated in the foregoing petition are true and correct.

Sworn and Subscribed before me x Miles R. Porter  
this 25 day of October, 1923.

J. A. Tracy  
Taxary Receiver

MY COMMISSION EXPIRES  
MARCH 26, 1927

ORDER.

AND NOW October 26, 1923, on presentation of the foregoing petition the Court hereby appoints A. G. Kramer E. D. Bellot and J. B. Michaels viewers to ascertain and assess the damages, if any, which the petitioner may have sustained as set forth in the above petition.

By the Court,

Stephen Bell  
President Judge.

Now Oct. 26" 1923

Service accepted for County Commissioners  
L. C. Morris  
Please

5 Dec 10 1923

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

In re: Construction of  
State Highway between  
Clearfield and Curwensville

PETITION.

**FILED**

OCT 26 1923

Geo. W. P. PAGSTON

SMITH & SMITH

ATTORNEYS AT LAW

CLEARFIELD, PENNSYLVANIA

CLEARFIELD REPUBLICAN, CLEARFIELD, PA.

reason of the cuts made by the former road location and the road as now improved; and by the filling in of the roadway over part of the premises in such a way as to make another part thereof utterly useless and inaccessible; that by reason of the taking of ground as mentioned and the change in the location of said road the petitioner has been permanently deprived of any practical use for two acres or more of ground

Clearfield County, ss:

At a Court of Quarter Sessions of the Peace of the County of Clearfield, held at Clearfield, Pa., in and for said County, on the 26th day of October in the year of our Lord one thousand nine hundred twenty three

MILES R. PORTER

Judge of the same Court: Upon the petition of ~~sunday~~ in-habitants of the Township of PIKE

in said County, setting forth that he is the owner of a farm in the Twp. of Pike, containing approximately 153 acres and title to which was acquired by Will of Robert Porter. That the State Highway Commissioner of the State of Penna. has undertaken and proceeded with the construction of an improved Highway through a portion of said premises, a change of width and of existing lines and locations being occasioned thereby. The said damages consist of the taking of a strip of ground from said property at or adjacent to the hill known locally as Hog Back, and the rendering useless of a large piece of ground by

and therefore, praying the Court to appoint proper persons to view and lay out the road between the points mentioned, whereupon the Court upon due consideration had of the premises, do order and appoint from and among the County Board of Viewers A. G. Kramer Esq  
E. D. Billotte Esq and J. S. Michaels

who have been duly appointed by the Court and filed their oaths of office and are duly qualified to perform the duties of their appointment with impartiality and according to the best of their judgement, are to view the ground proposed for the said road, and if they view the same, and a majority of the actual viewers agree that there is occasion for such road they shall proceed to lay out the same, as agreeable to the desire of the petitioner as may be, having respect to the best ground for a road and the shortest distance, in such a manner as to do the least injury to private property; and shall make report thereof, stating particularly whether they judge the same necessary for a public or private road, together with a plot or draft thereof, and the courses and distances and references to the improvements through which the same may pass; (and wherever practicable, the viewers shall lay out the said road at an elevation not exceeding five degrees, except at the crossing of ravines and streams, when by moderate filling and bridging the declination of the road may be preserved within that limit,) to the next Court of Quarter Sessions to be held for the said County.

And if the viewers aforesaid shall decide in favor of locating a public road, they shall obtain from the persons through whose lands the said road shall pass, releases from any damages that may arise to them on opening the same; but if the owner or owners of such land refuse to release their claim to damages, the said viewers shall assess the same, taking into view the advantages as well as disadvantages arising from said location, and make report of such assessments; which report they shall in like manner transmit to the next Court of Quarter Sessions, with the draft or plot aforesaid. In which said reports they shall state that they have been sworn or affirmed according to law, and that due and legal notice was given of the time when, and place where, they should meet, to view and lay out said road, and the time and place of hearing.

By order of the Court.

Geo W. Ralston, Clerk.

# RETURN OF VIEWERS

To the Honorable the Judge of the Court of Quarter Sessions of the Peace for the County of Clearfield:

We, the undersigned viewers, duly appointed by your Honorable Court by the foregoing order from and among the County Board of Viewers who have been duly appointed by your Honorable Court and have filed their oaths of office in the Court of Common Pleas of Clearfield County, be leave to report as follows:

That notice of the time of view and of the hearing day was duly served according to law upon the Commissioners of Clearfield County and the Attorney, W. Wallace Smith, Esq., the Attorney of the claimant that the said view would be held on the 22d day of November

A. D. 1923, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 23d day of November, 1923, at nine o'clock A. M. That

The viewers appointed by the said order viewed the premises of the claimant in the presence of the claimant

That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 23d day of November A. D. 1923, when the following appearances were noted: Miles R. Porter the claimant with his Attorney W. Wallace Smith Esq and his witness Roy Reed; And Jesse E. Dale, T. R. Weimer and M. L. Farrell the County Commissioners with their Attorney A. H. Woodward Esq and L. C. Norris the Commissioners Clerk.

After the view and hearing above mentioned, the undersigned, viewers, do agree to the following for the compensation for the road. And having had respect to the length and width of the old road and the new road we have widened in such manner as to make the new road as wide as the old road and as wide as the new road

That the claimant is the owner of some three and a half acres of land, situate on the west side of the River; through which the State Highway Commissioner constructed a State Highway, leading from Curwensville to Clearfield on Route Number sixty two (62).

The distance that the said Highway passes through the land of the claimant is eight hundred and thirteen (813) feet in length and forty five (45) feet in width: Four hundred and thirteen (413) feet is over the old road bed that has been in use a number of years; the balance of the road; four hundred (400) feet in length is changed from the old road bed over onto the land of the claimant four hundred (400) feet in length by forty five (45) feet in width taking 87/100 of an acre of land on a steep side hill. And that the only injury to the claimant's property over the old road bed is caused by the widening of the road about ten feet (10) in width and the filling up of the road bed some five or six feet in height making the access to the claimants land on the North west side of the road; about one acre and a quarter very difficult of access on account of the fill of the State Highway and the wire fence along the north side of the State Highway; part of said land lays low and swampy and the balance a steep side hill and of very little value; And as to the timber on the said hill the viewers are fully convinced, that a very small quantity thereof was destroyed by the construction of the said State Highway, further then what stood on the land actually used for the said highway to wit 84/100 of an Acre. That the principal part thereof was no doubt destroyed by the Railroads; The

TO:- T. R. WEIMER, JESSE. E. DALE AND M. L. FARRELL.

County Commissioners of Clearfield County, Pennsylvania.

You are hereby notified, that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County Penna, to view and assess the damages sustained by Miles R Porter by the construction of the improved State Highway on Route No 62, from Curwensville to Clearfield, through the Township of Pike in the County aforesaid through the tract of land of the said Miles R Porter by the amount of the land appropriated; by the cut made by the change of the location of the road from its former location and in the change of the location of the road from its former location and in the change of the width of the road and by having a portion of the land of the petitioner cut off from the rest of his land.

And that the said viewers in pursuance of the authority and power in them vested by the aforesaid order of Court, will meet on the premises of the said petitioner in Pike Township Clearfield County Pa on Thursday the (8th) eighth day of November A. D 1923 at one thirty (1.30) o'clock P. M. to attend to the duty assigned them, of which time and place you will please take notice

And that the public hearing as required by the Act of Assembly and the Rules of Court to be held by the viewers before the filing of their report in Court, in order to give all parties interested in the said proceedings a chance to be heard by the viewers, will be held by the viewers in the Arbitration Room in the Court House in Clearfield Pa on Friday the ninth (9th) day of November A. D. 1923 at nine (9) o'clock A. M. when and where all parties interested may attend and be heard.

A. G. Kraemer

E. A. Billotte

J. L. Michaels

VIEWERS.

Now October 29, 1923 service accepted for the County Commissioners of Clearfield County Pa.

H. C. Morris Clerk

TO:- T. R. WEIMER, JESSE. E. DALE AND M. L. FARRELL.  
COUNTY, COMMISSIONERS OF CLEARFIELD COUNTY, PENNSYLVANIA.

You are hereby notified, that the view in the application of Miles R Porter for the assessment of damages caused to his property in Pike Township Clearfield County Pa, by the construction of the State Highway from Curwensville to Clearfield, Route No 62 which was adjourned from November 8th will be held by the viewers on Thursday November the 22d 1923 at one thirty (1.30) o'clock P. M. And that the hearing will be held the following day; Friday November 23d in the Arbitration Room in the Court House in Clearfield Pa, at nine (9) o'clock A. M. of which time set for the view and hearing, please take notice.

A. G. Kramer,  
E. N. Billott,  
J. S. Michaels,

VIEWERS.

Now November 19 1923 service accepted for the County Commissioners of Clearfield County Pa.

L. C. Morris  
Clerk.

TO: Miles, R. Porter.

You are hereby notified, that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County Penna, to view and assess the damages you have sustained by the construction of the improved State Highway on Route No 62 from Curwensville to Clearfield, through the Township of Pike in the County aforesaid through your tract of land by the amount of land appropriated; by the cut made by the change of the location of the road from its former location and in the change of the width of the road and by having a portion of your land cut off from the rest of your farm.

And that the said viewers in pursuance of the authority and power in them vested by the aforesaid order of Court, will meet on your aforesaid premises or farm in Pike Township Clearfield County Pa on Thursday the eighth (8) day of November A. D. 1923 at one thirty (1.30) o'clock P. M. to attend to the duty assigned them, of which time and place you will please take notice

And that the public hearing as required by the Act of Assembly and the Rules of court to be held by the viewers before the filing of their report in Court, in order to give all parties interested in the said proceedings a chance to be heard by the viewers, will be held by the viewers in the Arbitration Room in the Court House in Clearfield Pa on Friday November the ninth (9th) 1923 at nine (9) o'clock A. M. when and where all parties interested may attend and be heard.

A G Kramer.

E D Billotte.

J S Michaels.

VIEWERS

Now October 19 1923 service accepted for Miles R Porter and personal service waived.

W. Wallace Smith

TO:- MILES, R. PORTER.

You are hereby notified, that the view in your application for the assessment of damages caused to your property in Pike Township Clearfield County Pa, by the construction of the State Highway from Curwensville to Clearfield; Route No 62 which was adjourned from November 8th will be held by the viewers on Thursday November the 22d 1923 at one thirty (1.30) o'clock P. M And that the hearing will be held the following day; Friday November 23d in the Arbitration Room in the Court House in Clearfield Pa, at nine (9) o'clock A. M. of which time set for the view and hearing; please take notice.

A G Kramer  
E D Billotte  
J D Michaels

VIEWERS.

Now November 19, 1923 service accepted for Miles R Porter and personal service waived.

H. Hallen Smith

The P. R. R. at the foot of the hill on the south and south west the lower side of the hill and the B. R. & P. Railroad on the North West or upper side on the top of the hill not over three hundred (300) feet apart And as to the coal the viewers cannot see how said coal could mined or taken out on account of the close position of the Pennsylvania Railroad right at the foot of the hill the natural place for the taking out of the coal along the south western side of the hill at the outcrop of the coal. The viewers are therefore fully convinced that the entire value of the property of the claimant, taken, injured and destroyed by the construction of the State Highway through his land does not exceed the sum of two hundred (\$200.00) dollars.

And as to the benefits the said road is to the claimant being away from his buildings on a piece of land disconnected from the rest of his farm all the benefits the claimant derives from the said Highway are by no means special but the general benefits that all property owners living near or close to the said road derive therefrom.

They therefore assess the damages in favor of the said claimant at the sum of Two Hundred (\$200.00) Dollars.

and that a plan or draft of said road showing courses and distances and the properties effected is hereto attached and made a part hereof, said road being at an elevation not exceeding five degrees, excepting

when it was not practical to preserve it within that limit.

The undersigned further report that they endeavored to procure from all the owners of the land over which the said road passes releases in writing of all claims to damages that may arise from opening the same, and that they procured such releases from

the following persons having refused to release the damages to which they respectfully may be entitled by reason of the location and opening of the said road, we, the undersigned viewers, after having considered the advantages to be derived to them, do assess them damages and make report thereof as follows:

WITNESS our hands and seals this 28th day of November, 1923.

A. D. 1923.

A. G. Kramer Seal  
E. B. Billotte Seal  
J. S. Michael Seal  
Seal

No. 5 Dec Sessions, 1923

## ORDER

NOTE.—In case of a private road, the release must be executed in favor of the petitioner for said road.

Also, viewers will carefully note the number of days employed and set the amount out at the foot of their return.

Reviewers cannot interfere with the damages assessed by the original viewers, except so far as the location may be changed by the reviewers.

To view assess damages to the property for MILES R. PORTER use in the  
township of PIKE  
Clearfield County

## RELEASE OF DAMAGES

Know all Men by these Presents, that we, the undersigned, owners of lands through which the road located by the viewers, under the annexed order, passes for and in consideration of the sum of one dollar to us respectively paid by \_\_\_\_\_

at and before the ensealing and delivery hereof, have remised, released and forever quit-claimed, and do hereby remise, release and forever quit-claim to the said \_\_\_\_\_

*all damages that may arise to us respectfully by reason of the location and opening of the said road, so that neither we nor any af us, nor any person claiming under us, can or may hereafter ask, sue for, demand, have or receive any damages for injuries arising or growing out of the location and opening of the road aforesaid.*

*Witness our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_*  
*A. D. 192 \_\_\_\_\_.*

A. D. 192 \_\_\_\_.

Seals

Seal.

Seal.

Seal.

Filed 19 Fees \$1.25 paid by 12

Smith & Smith, Attorney.