

DOCKET No. 6

Number

4

Term

Feb

Year

1925

Petition of Howard H. Rowland for

viewers to assess damages in

Decatur Twp

Versus

X

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY

In the matter of the appointment :
of viewers to assess damages to :
Howard H. Rowland re building of : NO. 4 FEBRUARY SESSIONS 1925
State Road from Osceola Mills to :
Houtzdale, Pa. :

TO THE HONORABLE A.R.CHASE, PRESIDENT JUDGE OF SAID COURT:

The petition of ANNA C. ROWLAND respectfully represents:

- 1: That she is the owner of the land and mineral right operated by Howard H. Rowland, situated along the State Highway leading from Osceola Mills to Houtzdale, in the Township of Decatur, County of Clearfield and State of Pennsylvania, as is set forth in the petition heretofore filed to this number and term by the said Howard H. Rowland.
- 2: That she is fully cognizant of the claim of the said Howard H. Rowland for damages to his tramroad caused by the re-location of the State Highway aforesaid and joins in the prayer thereof.
- 3: That she directs that any and all damages as may be assessed in favor of the said Howard H. Rowland be paid to him and that his receipt therefor shall be a full and final release in the same manner as though the same had been executed by me.

WHEREFORE your petitioner prays that she may be joined as a party petitioner in the above proceedings in the manner stated above. And she will ever pray, etc.

STATE OF ~~FLORIDA~~ *Penna*)
COUNTY OF *Centre*) SS

ack Annie C Rowland

ANNA C. ROWLAND, the above named petitioner, being duly sworn according to law deposes and says that the facts set forth in the foregoing petition are true and correct.

Sworn and subscribed before me

this *4* day of *May* A.D. 1925

Mrs. Fleming
Notary Public

Com. Exp. 3/9/27

ack Annie C Rowland

11 May 1925 service accepted for Clearfield County
C. M. Swartz
County Clerk

In the Court of Quarter Sessions of

Clearfield County

No. 4 February Sessions 1925

In the matter of the appointment of viewers to assess damages to Howard H. Rowland re building of State Road from Osceola Mills to Houtzdale, Pa.

PETITION OF ANNA C. ROWLAND FOR LEAVE TO JOIN AS PARTY PETITIONER

And now, May 11th 1925, the within petition read and considered the said Anne C. Rowland is granted leave to join as party petitioner on the terms as set forth in the within petition

By the Court

W. J. Fleming
F. J.

FILED

MAY 11 1925

GEO. W. RALSTON

CLERK

HOWARD FLEMING

ATTORNEY AT LAW

ROSHARON NATIONAL BANK BUILDING
PHILIPSBURG, PENNA.

6/29/85

IN THE COURT OF QUARTER SESSIONS IN AND FOR THE COUNTY OF CLEARFIELD

In the matter of the appointment)
of viewers to assess damages to)
Howard H. Rowland re building of)
State Road from Osceola Mills to)
Houtzdale, Pa.)

NO. _____

FEBRUARY SESSIONS 1925

TO THE HONORABLE A.R.CHASE, PRESIDENT JUDGE OF SAID COURT:

The petition of HOWARD H. ROWLAND respectfully represents:

- 1: That he is the owner of a coal mining operation situated along the State Highway leading from Osceola Mills to Houtzdale, in the Township of Decatur, County of Clearfield and State of Pennsylvania.
- 2: That in connection with the operation of the said coal mines or operation your petitioner had caused to be built a tram road crossing the said State Highway used for the purpose of transporting coal from the mines proper to the tipple along the railroad over which the said coal passes to market.
- 3: That by reason of the change of the location of said highway the grade of said tramroad has been increased to such an extend as to make it necessary for this petitioner to regrade a large portion, if not all of the said tramroad, thereby causing him expense and damage.
- 4: That your petitioner has endeavored to come to an amicable agreement or understanding with the County Commissioners of Clearfield County as to the payment to him, the said petitioner, of necessary and proper damages caused thereby, but is not able to do so.

WHEREFORE your petitioner prays your Honorable Court to appoint viewers to view and assess the damages aforesaid as is provided by law. And he will ever pray, etc.

HHR H. H. Rowland

STATE OF PENNSYLVANIA)
COUNTY OF CENTRE) SS

HOWARD H. ROWLAND, the above named petitioner, being duly sworn according to law, deposes and says that the facts set forth in the foregoing petition are true and correct, according to the best of his knowledge, information and belief.

Sworn and subscribed before me
this 10th day of January A.D. 1925

W. B. [Signature]

NOTARY PUBLIC

Commission expires March 9th 1927

} HOWARD H. ROWLAND

ORDER

And now, January 10th 1925, the foregoing petition read and considered, John Scollins, Esq. Harry Reese, and James Spangle are hereby appointed viewers to view and assess the damages claimed in the foregoing petition

By the Court

A. R. Chase
P.J.

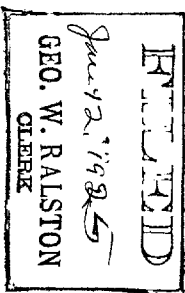
In the Court of Quarter Sessions of

Clearfield County

No. 4 February Sessions 1925

In the matter of the appointment of viewers to assess damages to Howard H. Howland re building of State Road from Osceola Mills to Houtzdale, Pa.

P E T I T I O N



M. WARD FLEMING
ATTORNEY AT LAW
MORGANSON NATIONAL BANK BUILDING
PHILIPSBURG, PENNA.

275

TO:- The County Commissioners of Clearfield County, Pennsylvania:

You are hereby notified that the undersigned viewers, appointed by the Court of Quarter Sessions of Clearfield County, Pennsylvania, to view and assess damages done to the property of Howard H. Rowland in the construction of the State Highway, commonly known as Route No. 234 in Decatur Township, in the County aforesaid, will meet at the mining property of Howard H. Rowland in said Township on Wednesday, the 11th day of February, A.D. 1925 at ten (10) o'clock A. M. to attend to the duties assigned them; all parties interested will take notice.

And that the public hearing as required by Act of Assembly and 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 damages an opportunity to be heard will be held in the Arbitration Room in the Court House in Clearfield on Friday, the 13th day of February, A.D. 1925 at ten (10) o'clock A. M., at which time and place all parties interested may attend and be heard.

John J. Quinn
H. A. Reed
James H. Spangle
Viewers

Dated, January 24, 1925.

Now, January 26th 1925, service of the above notice is accepted for the County Commissioners of Clearfield County.

L. D. Morris
Clerk

RETURN RECEIPT.

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

Robert Shoultz

(Signature or name of addressee.)

Robert Shoultz

(Signature of addressee's agent.)

Date of delivery, 1-30, 1925

Form 3811

GOVERNMENT PRINTING OFFICE

16-4116

Post Office Department

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

REGISTERED ARTICLE



POSTMARK OF DELIVERING OFFICE

No. 951

INSURED PARCEL

No. _____

AND DATE OF DELIVERY

Return to _____

Street and Number,
or Post Office Box.

(NAME OF SENDER)

Post Office at _____

State _____

05-0110

RETURN RECEIPT.

Received from the Postmaster the Registered or Insured Article, the original number which appears on the face of this Card.

(Signature or name of addressee.)

(Signature of addressee's agent.)

Date of delivery, 192
Form 3811

GOVERNMENT PRINTING OFFICE

16-1116

Post Office Department

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

REGISTERED ARTICLE

No. 952

INSURED PARCEL

No.

POSTMARK OF DELIVERING
OFFICE
AND DATE OF DELIVERY

Return to

(NAME OF SENDER)

St.

Post Office at

State

0-5-0116

Post Office Department

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

REGISTERED ART

No. 953

INSURED PARCEL

No.



Return to John Scotland

(NAME OF SENDER)

Post Office at

Chautauque

State

Pa.

05-0116

RETURN RECEIPT.

Received from the Postmaster the Registered or Insured Article, the original
number of which appears on the face of this Card.

Jos C Ashcraft
(Signature of name of addressee's agent.)

(Signature of addressee's agent.)

Date of delivery, _____, 192

FORM 3811

GOVERNMENT PRINTING OFFICE

0-5-0116

TO:- Joseph A. Ashcroft, Robert M. Showers and K. O. Kephart,
Supervisors of Decatur Township, Clearfield County, Pennsylvania:

You are hereby notified that the undersigned viewers,
appointed by the Court of Quarter Sessions of Clearfield County,
Pennsylvania, to view and assess damages done to the property
of Howard H. Rowland in the construction of the State Highway,
commonly known as Route No. 234 in Decatur Township, in the
County aforesaid, will meet at the mining property of Howard
H. Rowland in said Township on Wednesday, the 11th day of
February, A.D. 1925 at ten (10) o'clock A. M. to attend to the
duties assigned them; all parties interested will take notice.

And that the public hearing as required by Act of
Assembly and 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 damages an opportunity to be heard will
be held in the Arbitration Room in the Court House in Clearfield
on Friday, the 13th day of February, A.D. 1925 at ten (10)
o'clock A. M., at which time and place all parties interested
may attend and be heard.

Phil Scaccia
H. A. Reas
James H. Spangle
Viewers

Dated, January 24, 1925

Now, January 1925, service of the above notice is
accepted for the Road Supervisors of Decatur Township.

State of Pennsylvania :
County of Clearfield : SS,

On this 11th day of February, 1925,
before me the subscriber, a Justice of the Peace in and
for said County, personally appeared John Scollins, who
being duly sworn according to law doth depose and say:

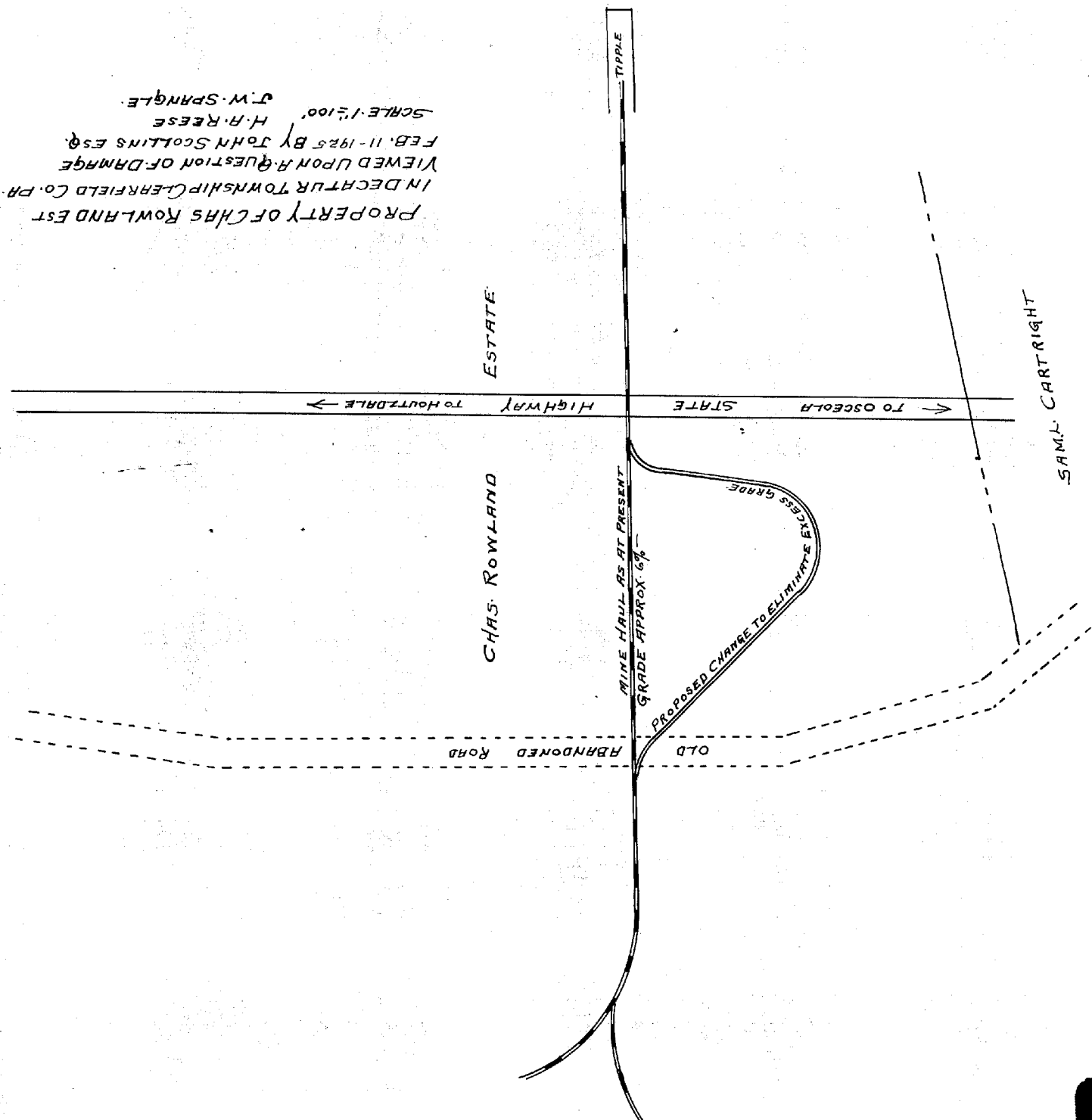
That, on the 29th day of January, 1925, he served copies of the 'within notice upon Joseph A. Ashcroft, Robert N. Showers and K. O. Kephart, Supervisors of Decatur Township, by depositing the same in the post-office in Houtzdale properly addressed, marked "Registered; Return Receipt Requested", with the proper amount of postage prepaid thereon; and attached hereto are the return receipt cards showing deliveries and receipts thereof ~~to~~ the aforesaid Joseph A. Ashcroft, Robert N. Showers and K. O. Kephart.

Mr. Keeling

Sworn and subscribed to before me this 11th day of
February, A.D. 1925.

W. H. Smith J. P.

MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY, 1930



PROPERTY OF CHAS ROWLAND EST
IN DECATUR TOWNSHIP CLEVERFIELD Co. PA.
VIEWED UPON A QUESTION OF DAMAGE
FEB. 11-1925 BY JOHN SCOLLINS ESQ.
H. A. REESE
SCALE 1"=100'
J. W. SPANGLER

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 12 day of January
in the year of our Lord one thousand nine hundred
twenty five

Howard H. Rowland

Judge of the same Court: Upon the petition of sundry ~~xx~~
habitants of the Township of Decatur

in said County, setting forth that he is the owner of a
coal mining operation situated along the State Highway leading from Osceola Mills
to Houtzdale. That in connection with the operation of the said coal mines
your petitioner had caused to be built a tram road crossing the said state
highway used for the purpose of transporting coal from the mines proper to the
tipple along the RR over which the said coal passes to market. That by reason
of the change of the location of said highway the grade of said tramroad has been
increased to such an extent as to make it necessary for this petitioner to regrade
a large portion, thereby causing him expense and damage, and have been unable to
agree with the County Commissioners as to the damage caused thereby.

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 John Scollins, Esq.,
Harry Reese and James Spangle

who have been duly appointed by the Court and filed their oaths of office and are duly quali-
fied 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. Palstun 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 Board of Supervisors of the Township of Decatur and that three notices thereof were posted along the route of the proposed road, that the said view would be held on the 11th day of February A. D. 1925, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 13th day of February, 192 5, at ten o'clock A. M. That the three viewers appointed by the said order viewed the ground proposed for the above mentioned road, and that there were present at the view: Robert Herr and James Evans, citizens of Decatur Township, and Howard H. Rowland,

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 20th day of February A. D. 192 5, when the following ~~agreement of parties in interest,~~ ^{having been continued by} appearances were noted:

Howard H. Rowland, petitioner, and Geo. H. Ayers, witness on behalf of petitioner, Board of County Commissioners with A. M. Liveright, Esc., Solicitor. Petitioner and witness each being duly sworn, examined and cross-examined by counsel and your Board.

~~After the view and hearing above mentioned, the undersigned, the majority of the said viewers, do agree that there is occasion for a road as desired by the petitioner, and that the same is necessary for a road. And having had respect to the shortest distance and the best ground for such road we have laid out in such manner as shall do the least injury to private property, and as far as practicable agreeably to the desire of the petitioner, and do return for use the following described road, to wit Beginning~~

At the hearing above mentioned, A. M. Liveright, Esc., questioned the liability of Clearfield County on the petition presented by Howard H. Rowland, he being a tenant and lessee and Anna C. Rowland the owner of the land and mineral right; whereupon leave granted to amend petition and join Anna C. Rowland, owner of the fee, as a party petitioner.

After the view and hearing, the undersigned, the majority of the said viewers, do agree that damages have been sustained by the petitioners. We further find that Howard H. Rowland is the owner of a coal mining operation situated along the State Highway (Route 234) leading from Osceola Mills to Houtzdale in Decatur Township, Clearfield County, Pennsylvania, on a tract of land owned by Anna C. Rowland; that in the operation of said coal mine the said Howard H. Rowland had caused to be built a tramroad crossing said Highway, used for the purpose of transporting coal from the mines proper to the tippie along the railroad over which the said coal is shipped to market; that by reason of the change of the location of said Highway the grade of said tramroad has been increased to the extent that it is necessary to regrade a large portion thereof to eliminate the excess grade as shown on the map or draft thereof hereto attached and made a part hereof; George H. Ayers testifying that it would be impracticable to haul and transport coal on the new grade (approximating 8%) with safety to the employees, equipment, and users of the highway.

The amount of damage as testified to by Howard H. Rowland is \$650.00; and the estimated recoverable coal tonnage is 90000 to 100000 tons of "D" vein and 26 acres of "E". By agreement of parties in interest, hearing continued until June 29th, 1925.

May 11th, 1925, on petition filed by Anna C. Rowland for leave to join as party petitioner, it was so ordered by the Court.

Now, June 29th, 1925, at the adjourned hearing the following appearances were noted: Howard H. Rowland for petitioners, with Sam Cartwright and Max Grafe, witnesses and wage claimants; Board of County Commissioners with A. M. Liveright, Esq., Solicitor. Howard H. Rowland recalled: petition of Anna C. Rowland and (from Court threcon offered in evidence; and petitioner further as to cost of repairing and re-building the road, to wit: (For labor \$220; Material \$65; Bumping block & Spur \$75 (cost of)) Petitioners authorizing and directing that \$220.00 of the same be paid to Sam Cartwright and Max Grafe in satisfaction of their wage claim for the balance due them for work done and labor expended thereon.

After viewing the premises and conditions in question the evidence, your Board is of the opinion that the petitioners should be compensated for the land taken and occupied for the damages caused to them.

and that a plan or draft of said road showing courses and distances and the properties affected 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: To Howard H. Rowland and Anna C. Rowland \$450.00, out of which award that \$220.00 thereof be paid direct to Sam Cartwright and Max Grafe in satisfaction of their wage claims,

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

WITNESS our hands and seals this 29th day of June
A. D. 1925.

John E. ... Seal
James W. Spangle Seal
Ed. Reese Seal
Seal

No. 4 Feb 1925 Sessions, 19 25

ORDER

To view and assess damages to
Howard H. Rowland use in the
township of Decatur
Clearfield County

Sessions, 19 25,
read and confirmed Ni. Si. Road to be
opened 32 feet wide, except where there
is side hill cutting or embankment and
bridging, there to be 16 feet wide

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.

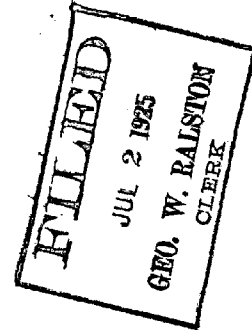
Reviewers cannot interfere with the damages assessed by the original viewers, except so far as the location may be changed by the reviewers.

N. B.—If the viewers believe the parties are not entitled to damages, taking into consideration the advantages as well as the disadvantages of the road, they will report to that effect.

	DAYS	MILES	AMT.
27.00	3	2.00	00
3.00	3	2.00	00
2.75	3	1.75	20

*in the
road Sept 2nd 1925
confirmed absolutely
By the Court
APR 1925
P.P.*

Filed 19
Fees \$1.25 paid by
M. Ward Fleming, Att'y



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 of 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 5.

Seal

Seal

Seal

Seal