

DOCKET No. 6

Number	Term	Year
4	May	1926

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Petition of Chas. Eisenhauer et al.  
to assess damages in Cooper Twp.

**Versus**

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IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY

In the matter of the damages to the )  
property of Margaret Eisenhauer, Ella )  
Eisenhauer, Anna Hartle and Charles ) NO.  
Eisenhauer, caused by the building ) FEBRUARY SESSIONS 1926  
of the State Highway from Allport to )  
Kylertown. . . . . )

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

The petition of MARGARET EISENHAUER, ELLA EISENHAUER, ANNA HARTLE and CHARLES EISENHAUER, respectfully represents:

- 1: That they are the owners in fee of a certain tract of land in the Village of Kylertown, Township of Cooper and County of Clearfield.
- 2: That upon the building of the state highway from Allport to Kylertown the said parties in charge of such building caused a drain to be placed under the said road and continued to the sidewalk of the petitioners, leaving, at the side walk of the said petitioners a deep hole which damages their property.

WHEREFORE your petitioners pray your Honorable Court to appoint viewers to view and appraise the damages aforesaid.

Margaret Eisenhauer  
Ella Eisenhauer  
Anna Hartle  
Charles Eisenhauer

STATE OF PENNSYLVANIA )  
COUNTY OF CENTRE ) SS

ELLA EISENHAUER, one of the above petitioners, being duly sworn according to law deposes and says that the facts set forth above are true.

Sworn and subscribed before me )  
this 30th day of January 1926 )

W. G. Schenck

NOTARY PUBLIC  
Commission expires March 9th 1927

Ella Eisenhauer

In the Court of Quarter Sessions of  
Clearfield County

No. 4 *May*  
February Sessions 1926

In the matter of the damages to  
the property of Margaret Eisenhauer,  
Ella Eisenhauer, Anna Hartle and  
Charles Eisenhauer, caused by the  
building of state road from Allport  
to Kylertown

PETITION FOR VIEWERS.

February 2nd 1926

Frank Hutton Esq.  
J. G. Hyde & Son  
Weber are appointed  
viewers to view  
and report.

By the Court

**J. W. RAILEY**  
FEB 2 1926  
GEO. W. RAILEY  
CLERK

To the COMMISSIONERS OF CLEARFIELD COUNTY.

You are hereby notified that the undersigned Viewers appointed by the Court of Quarter Sessions of Clearfield County, Pennsylvania to view the damages alleged to be done certain property of Margarita Eisenhauer and Ellen Eisenhauer in Cooper Township, caused by the construction of the State Highway between Allport and Kylertown in said Township of Cooper, will meet on the premises to be viewed on Monday the 13th day of April 1926 at ten o'clock A.M to attend to the duties assigned them. And that the required Public Hearing will be held in the Court House in the Borough of Clearfield on Wednesday the 14th day of April 1926 at ten o'clock A.M. where all parties interested may attend and be heard.

August Heulin

J. E. Fay

George Weber

Viewers

DuBois, Pa. March 35th 1926

Now March 25 1926 service of this notice is accepted for the  
County Commissioners.

L. C. Morris  
Clear.

Clearfield County, 55:

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 2nd day of February

in the year of our Lord one thousand nine hundred twenty six

Margaret Eisenhauer, Ella Eisenhauer & Anna Hartle & Charles Eisenhauer, Judge of the same Court: Upon the petition of ~~statelyxxxix~~  
~~inhabitants~~ of the Township of Cooper

in said County, setting forth that they are the owners in fee of a certain tract of land in the Village of Kylertown, Twp. of Cooper and County of Clearfield. That upon the building of the state highway from Allport to Kylertown the said parties in charge of such building caused a drain to be placed under the said road and continued to the sidewalk of the petitioners, leaving at the side walk of the said petitioners a deep hole which damages their property

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 Frank Hutton, Esq., J. E. Frye and George Weber

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 Board of Supervisors of the Township of Cooper and that three notices thereof were posted along the route of the proposed road, that the said view would be held on the 12th day of April A. D. 1926, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 14th day of April, 1926, at 10 o'clock A.M. That three viewers appointed by the said order viewed the ground proposed for the above mentioned road, and that there were present at the view Ella Eisenhauer

postponed and  
parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 21st day of April A. D. 1926, when the following appearances were noted: Ella Eisenhauer and Fred Eisenhauer on the part of the petition and A.M. Liveright Esq., Atty for County Commissioners and J.E. Dale, T.F. Weimer and R. McCracken County Commissioners

After the view and hearing above mentioned, the undersigned, the majority of the said viewers, do agree that there is no occasion for a road as desired by the petitioner and that the same is not 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 <sup>Dept.</sup> Beginning Your viewers found that the State Highway, have caused to be constructed in the Village of Kylertown a Concrete Road way and the concrete portion of said Highway end at the intersection of Main and Pine Streets in said Village, The Highway being constructed on Main Street. That a 12 inch Cast Iron pipe is layed across Pine Street and along Main Street: that this drain is covered the width of the Driveway of Pine Street; That at the lower end are Headwalls of concrete about two feet high; that the land at the intersection of the said Streets, and that was formerly used as a foot way and had in fact been cindered and in parts a wooden Walk was in place  
At the place of location of the Headwalls the foot ways were excavated at least three feet below the former surface of the sidewalk which left a dangerous hole in the foot way some 8 feet in length on Main and nearly the same on Pine, which had not been covered nor protected. in addition the bottom of the excavation is some 10 to 12 inches below the outlet pipe which forms a basin for filth and stagnant water. The petitioners asked for damages done their foot walks by this drain and asks that it either be covered and protected or they be awarded damages that they could do it themselves. At the Hearing it developed, that Main Street in Kylertown is a fifty foot street in width and has been so dedicated and the State Highway was constructed well within these limits and that the land where said excavation and drain is located is also within said Fifty feet. The petitioners are not interfered with in access to their property and the drain and

vation complained of is not on their property, but on the right of way of a dedicated Street. This being true your viewers are of the opinion that they are without jurisdiction in this case, and so report.

We do feel and are of the opinion that the condition existing as we found it should be remedied, by the authorities having jurisdiction so to do, that it is dangerous to public foot travel as it now is and its customary in Villages for foot travellers to use the footwalks and not the public driveways

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: no injunction

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

WITNESS our hands and seals this 22nd day of April  
A. D. 1926.

Frank Sutton Seal  
W. C. Gray Seal  
John W. Hobson Seal  
Seal

No. 4 May Sessions, 1926

## ORDER

To view and assess damages to  
Margaret Eisenhauer, Ella Eisenhauer  
Sister of  
Anna Hartle & Chas. Eisenhauer  
township of Cooper  
Clearfield County

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

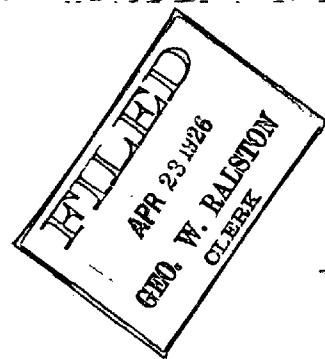
Also, viewers will carefully note the number of days employed and set the amount out at the foot of their return.

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.

May 8<sup>th</sup> Sessions, 1926  
read and confirmed Ni. Si. ~~Read to the~~  
opened 33 feet wide, except where there  
is side hill cutting or embankment and  
bridging, these to be 16 feet wide.  
By the court  
A. P. Richards  
P. J.

Filed \_\_\_\_\_ 19\_\_\_\_\_  
Fees \$1.25 paid by \_\_\_\_\_



## 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\_\_\_\_\_.  
  

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Seal