

DOCKET No. 6

Number	Term	Year
8		Sept ss 1926

Petition of Olive G. Urey, for viewers
to assess damages in Burnside Twp.

Versus

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

In re- Construction of State Highway Route No. 62. { No. September Sessions, 1926.
Petition of Olive G. Urey, et al, for appointment of viewers to assess damages.

To Hon. A. R. Chase, President Judge of said Court.

The petition of Olive G. Urey, of the Borough of Clearfield, County of Clearfield, and State of Pennsylvania, in her own behalf and in behalf of the other owners of the property hereinafter described, respectfully represents:

FIRST. That your petitioner with Clara White, widow of Otis W. White, Harriet M. White, Dora W. Lynch and Frances ". Bovard are the owners of a certain tract or parcel of land situate in the Township of Burnside, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

Beginning at a Pin Oak on the bank of the river, a corner of dam this day conveyed to George Atcheson, thence down the river North forty nine and one fourth degrees East eleven perches, thence North eighty and a half degrees East eighteen perches, thence North one degree West seventeen perches, thence North thirteen degrees West twenty perches, thence North seventy eight and three fourths degrees West seventeen perches, thence North forty six degrees and a half West twenty four and a half perches, thence North seven and a half degrees East twenty five perches, thence North twenty six and a half degrees East thirteen perches, thence North twelve and a half degrees West twenty seven perches, thence North seventy and three fourth degrees West eighteen and two tenths of a perch to the mouth of Cush Creek, thence up said creek South eighty six and three fourths of a degree West six perches, thence North thirteen and a half degrees West twelve perches, thence South sixty five and one fourth degree West eight perches, thence North seventy seven

degrees West twelve perches, thence South thirty seven and a half degrees West six perches, thence South fifty nine degrees East nine perches, thence South ten and a half degrees East four perches to a post, thence North seventy four degrees West two hundred and forty seven perches to a post, thence South twenty three and one fourth degrees West thirty perches to a pine, thence South seventy four degrees East one hundred and sixteen perches to a pine, thence South seventeen degrees West eighty four perches and five tenths of a perch to a post a corner of George Atchesons land, thence by said George Atchesons land South seventy four degrees East two hundred and twenty perches to the Pin Oak and place of beginning. Containing one hundred and sixty three acres and fourteen perches and allowance of six per cent for roads etc. Being the same premises which Fredrick B. Robinson and Willy Ann Robinson, his wife, by their Attorney in fact, Edward Shoemaker, by deed dated January 26, 1844, and recorded at Clearfield, Pennsylvania, in Deed Book "I" at page 287, granted and conveyed to Asa White who died April 1, 1886, intestate, having by his last Will and Testament dated March 25, 1884, duly probated and recorded at Clearfield, Pennsylvania, in Will Book "C" at page 317, devised and bequeathed the above described premises to his son, Otis Wesley White, being the farm or old homestead on which the said Otis Wesley White resided when said will was executed, and the said Otis W. White having died April 28, 1908, intestate, the title to the above described premises vested in the said Clara White, widow, Olive G. White, now Olive G. Urey, Harriet M. White, Dora White, now Dora W. Lynch and Frances W. White, now Frances W. Bovard, his sole surviving heirs under the intestate laws of the State of Pennsylvania.

Excepting and reserving therefrom, four strips of land conveyed out of the above described premises by Otis W. White and wife for railroad right of way, and also excepting and reserving a piece of said land containing .967 of an acre which was conveyed to William A. Stancomb and which is located in the bend of the

river at some distance from said road or highway.

SECOND. That the State Highway Commissioner of the State of Pennsylvania has undertaken, proceeded with and has relocated and constructed an improved State Highway known as Route No. 62 running from Ebensburg to Clearfield through the above described property.

THIRD. That the owners of the above described premises have sustained damages by reason of the change of existing lines and location and the construction of said Highway through said property; that the public road running from Burnside to McGees Mills passed along the Susquehanna River in front of the farm buildings on the above described farm, which said road was taken over by the Highway Department of the State of Pennsylvania and for a number of years the State Highway Department had entire charge of and controlled said road as a part of Route No. 62; that a large frame dwelling house, a large framebarn, a wagon shed, chicken house and a number of other farm buildings had been erected upon said land prior to the time that said road was taken over by the State Highway Department, and that said buildings were erected to conform to the location of said public road. The dwelling house was built about 20 feet from said public road with the front of the house facing on the road, and the barn is located some distance in the rear of the dwelling house and the other buildings were so arranged as to be convenient of access to and from said public road. The garden was located on the north side of the dwelling house and just back of this was a large orchard of productive apple trees, and there were a number of apple trees and shade trees between the house and barn and near the garden. That the State Highway Commissioner of the State of Pennsylvania changed the location of said road almost its entire length through the above described premises and relocated it so that the road now runs between the house and the barn and is in the rear of the dwelling house; that the land through which this road has been constructed is low land lying along the Susquehanna River and is difficult to drain, that the road has been constructed

on a fill running through the entire length of the property, that this fill cuts off the land which lies on the west side of the road from its drainage to the river and no adequate arrangements have been provided for the carrying of the water under the road bed to the Susquehanna River and no approaches have been provided for the convenience and use of the owners of this property and their tenants in passing from one side of the road to the other and for hauling the farm products across said Highway, excepting a small approach near the right of way of the New York Central Railroad Company which has been built out on this land as an approach to accommodate an adjoining property owner; that a wagon shed stood on the ground where the new road was located and the owners of the property were compelled to move said wagon shed off the right of way and that said road was constructed through the orchard on said premises and a number of the productive apple trees and some of the shade trees were cut down, hauled over on the adjoining land near the barn and left there to rot; that some distance south of the above described premises a concrete bridge has been constructed across the Susquehanna River and the openings under this bridge are not of sufficient size to permit the ice to flow through during the ice floods in the spring time and in the opinion of your petitioner, the water will be diverted back on the adjoining lands and will flow in on the flat lying on the west side of the State Highway on the above described premises, that a concrete bridge has been constructed across Cush Creek at the north side of the above described premises and the openings under this bridge are not of sufficient size to permit the passage of ice and water during the spring floods, and in the opinion of your petitioner, the water will be backed up on the low land lying on the west side of said road; that about four pipes have been located on the above described premises for the purpose of carrying drainage through under said road, but said pipes are not of sufficient size to carry the water through under said road and the ditches that have been dug for the purpose of

carrying the water away from said drains have not been properly constructed and will not carry the water to the river, which will result in great damage to the above described property; that a fill has been made where said road has been constructed over the New York Central Railroad at the north side of said property and no arrangements whatever have been made to carry the water from the west side of said fill through under said road to the river and that the above described premises will be greatly damaged on that account; and that the State Highway Commissioner has taken and appropriated a strip of land out of said above described premises about 2100 feet in length and from 50 to 60 feet in width for the construction of said road or State Highway.

FOURTH. That the construction of said road or State Highway through the above described property has been completed and the owners thereof have been unable to agree with the County Commissioners of Clearfield County on the amount of damages to be paid to them for the lands appropriated and for other injuries resulting to said owners from the construction of said road or State Highway as aforesaid.

Your petitioner therefore prays your Honorable Court to appoint viewers to ascertain and assess the damages that the owners of said lands are entitled to receive by reason of the appropriation of their land and the other injuries to their property occasioned by the relocation and construction of said State Highway through the same.

Olive G. Urey

STATE OF PENNSYLVANIA }
COUNTY OF CLEARFIELD } SS:

Olive G. Urey, being duly sworn according to law deposes and says that the facts set forth in the forgoing petition are true and correct to the best of her knowledge and belief.

Olive G. Urey

Sworn and subscribed to before me
this 17 day of May, A. D. 1926.

Geo W. Galston
Notary Public

Now, May 1926, upon presentation of the foregoing
petition, ,
and are appointed viewers to view and
assess the damages to the premises described in the foregoing
petition under the Acts of Assembly relating thereto.

BY THE COURT _____

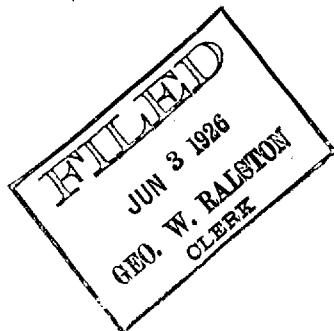
IN THE COURT OF JUDICER
SESSIONS OF CLEARFIELD COUNTY, PA.

No. 8, Sept. Sessions, 1926.

In Re: Construction of
State Highway Route No. 62.

Petition for assessment of Dam-
ages.

FILED
June 3-1926
Geo. W. RALSTON
CLERK
John Schell, Esq.,
Harry Hess and
James Hough are
appointed venire
by the court
by H. R. Hough
14.00 by attorney
Urey.



Beginning at a Pin Oak on the bank of the river, a corner of dam this day conveyed to Geo. Atcheson, thence down the river N. $49\frac{1}{4}^{\circ}$ E. 11 perches, thence N. $80\frac{1}{2}^{\circ}$ E. 18 perches, thence N. 1° W. 17 perches. thence N. 13° W. 20 perches, thence N. $78\frac{3}{4}^{\circ}$ W. 17 perches, thence N. $46\frac{1}{2}^{\circ}$ W. $24\frac{1}{2}$ perches, thence N. $7\frac{1}{2}^{\circ}$ E. 25 perches, thence N. $26\frac{1}{2}^{\circ}$ E. 13 perches, thence N. $12\frac{1}{2}^{\circ}$ W. 27 perches, thence N. $70\frac{3}{4}^{\circ}$ W. 18 2/10 of a perch to the mouth of Cush Creek, thence up said creek S. $86\frac{3}{4}^{\circ}$ W. 6 perches, thence N. $13\frac{1}{2}^{\circ}$ W. 12 perches, thence S. $65\frac{1}{4}^{\circ}$ W. 8 perches, thence N. 77° W 12 perches, thence S. $37\frac{1}{2}^{\circ}$ W. 6 perches, thence S. 59° E. 9 perches, thence S. $10\frac{1}{2}^{\circ}$ E 4 perches to a post, thence 74° W. 247 perches to a post, thence S. $23\frac{1}{4}^{\circ}$ W. 30 perches to a pine, thence S. 74° E. 116 perches to a pine, thence S. 17° W. $8\frac{1}{4}$ perches and 5/10 of a perch to a post at corner of Geo. Atchesons land, thence by said Geo. Atchesons land S. 74° E. 220 perches to the Pin Oak and place of beginning. Containing 163 acres and fourteen perches

That the State Highway Commissioner has undertaken, proceeded with and has relocated and constructed an improved State Highway known as Route No. 62 running from Ebensburg to Clearfield through the above described property.

That the owners of the above described premises have sustained damages by reason of the change of existing lines and location and have been unable to agree with the County Commissioners of Clearfield County on the amount of damages to be paid to them

To the County Commissioners of Clearfield County, Pennsylvania:-

Clearfield County, SS:

Clearfield County, SS: A.D. 1926,
Now, this 19 day of June
service of the above notice is accepted for the Commissioners of Clearfield
County. *L. C. Morris*
Clerk

A.D. 1926,
the Commissioners of Clearing
W. C. Morris
Clerk

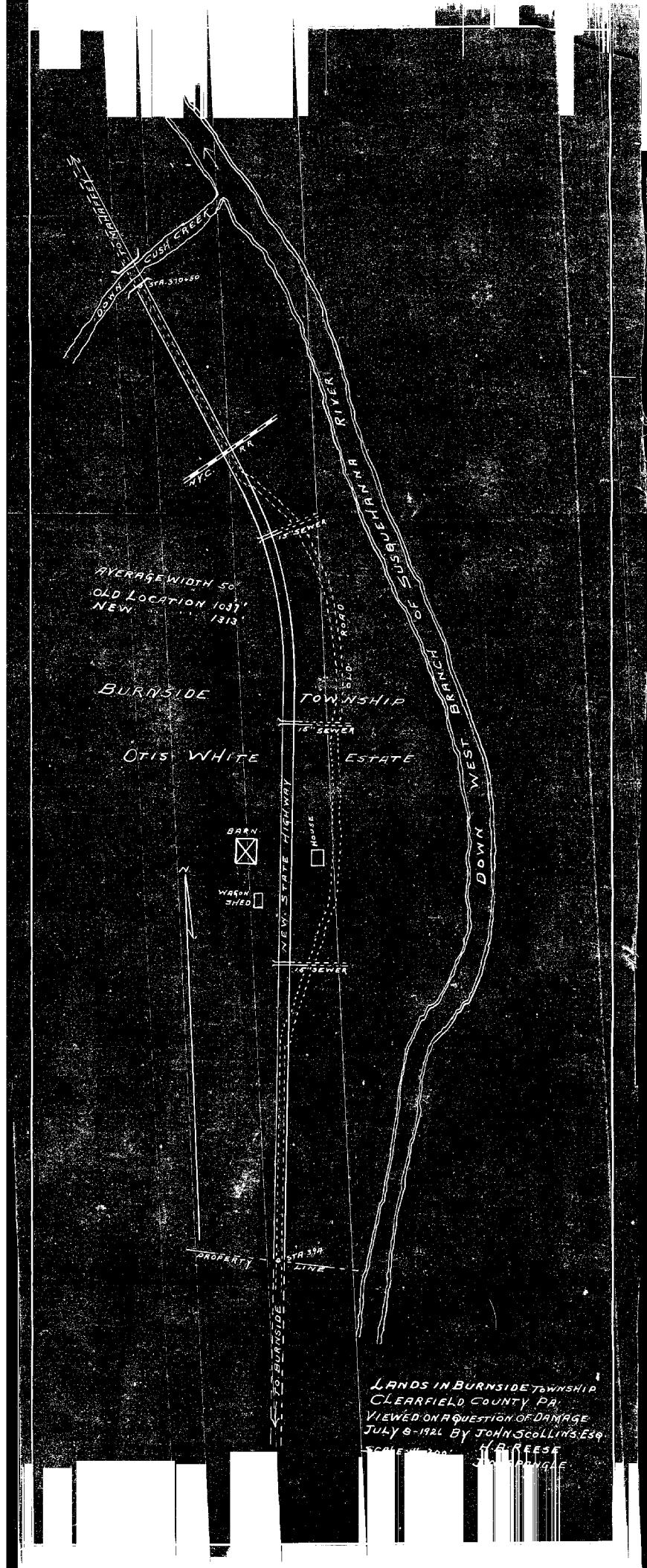
To JOHN M. UREY, Attorney for Petitioners:-

*John Scallions
Harry Reese
James Spangler*

Clearfield County, SS:

Now, this 19th day of June, A.D. 1926, service of the above notice is accepted for Olive G. Urey, Clara White, Harriet K. White, Dora W. Lynch and Frances W. Bovard, within named petitioners.

John M. Urey
Attorney for Petitioners



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

Olive G. Urey, Clara White, Harriet M. White, Dora W. Lynch and Frances W. Bovard, ~~of the same~~ of the same Court: Upon the petition of ~~sussexwick~~ ~~habitants~~ of the Township of Burnside

in said County, setting forth that they are the owners of a certain tract or parcel of land situate in the Township of Burnside bounded and described as follows:

assess damages

and therefore, praying the Court to appoint proper persons to view and ~~fix~~ ~~mark~~ 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 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~~ ~~lay out~~ the same, and a majority of the actual ~~viewers~~ ~~lay out~~ agree that there is occasion for ~~such road~~ ~~damages~~ 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 ~~said damages~~ ~~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 ~~damages~~

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~~ ~~lay out~~ 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. Palston, 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~~ ~~White, Dora W. Lynch and Frances W. Bovard, petitioners;~~ and that ~~three~~ notices hereof were posted along the route of the proposed road, that the said view would be held on the 8th day of July A. D. 1926, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 9th day of July, 1926, at ten 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 Olive G. Urey, with John M. Urey, Esq., Attorney for petitioners, and Frank Urey,

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 9th day of July A. D. 1926, when the following appearances were noted: John M. Urey, Esq., Attorney for petitioners; J. E. Dale and B. W. McCracken, County Commissioners, with Frank G. Smith, Esq., for County Solicitor; Chas. McGee, Miles Wrigley, D. E. Baird and Frank Urey, witnesses on behalf of petitioners; Olive G. Urey, petitioner, and witnesses 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 ~~engineering damages have been sustained by the petitioners.~~

We further find that Route No. 62 of the Pennsylvania State System of Highways leading from Ebensburg to Clearfield (via Burnside and Mahaffey) has been relocated, regraded and improved as a permanent highway, and that by the relocation, regrading and construction thereof a strip of petitioners' land was taken as shown on map or draft thereof hereto attached and made a part hereof, approximately 3 acres in area. That the relocation and change of grade did result in inconvenience and damage to petitioners for the reason that the large and commodious buildings erected upon said premises do not now conform with the location of said highway; that the road has been constructed with a fill running the entire length of the property, cutting off a large area of surface on the West side thereof with inadequate drainage facilities; that seven new crossings and approaches will necessarily have to be constructed to accomodate petitioners in making use of said premises for farming; that petitioners were compelled to and did move a wagon shed from the said right-of-way, and six productive apple trees, as well as some shade trees, were cut down and removed, and a part of petitioners' garden destroyed by and with the authority of the Department of Highways.

The amount of damage as testified to by the petitioners and one witness is \$5820.00; and that by the other witnesses from \$3000 to \$4000.00.

After viewing the premises and conditions and hearing the evidence and taking into consideration the benefits accruing thereto by reason of the improvement of Route 62 as a permanent highway, your viewers are of the opinion that the foregoing estimates are excessive; but that the petitioners should be

compensated for the land taken and occupied and 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 Olive G. Urey, Clara White, Harriet M. White, Dora W. Lynch and Frances W. Bovard: the sum of Eighteen Hundred Thirty-seven and 50/100 (\$1837.50) Dollars,

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

WITNESS our hands and seals this 21st day of August
A. D. 1926.

John Scollard Seal
J. A. Reese Seal
James W. Spangle Seal
Seal

No. 8 Sept Sessions, 19 26

ORDER

To view and assess damages to a
road for OLIVE G. UREY et al
in the
township of Burnsides

Clearfield County

Now Sept 11, 1926

read and confirmed Ni. Si. Road to be
opened 33 feet wide, except where there
is side hill cutting or embankment and
bridging, there to be 16 feet wide.

By the Court
John M. Urey

19 26
Filed _____
Fees \$1.25 paid by _____

John M. Urey, Atty.,

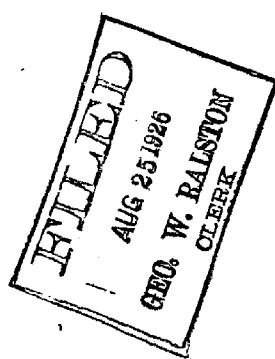
NOTE.—In case of a private road, the release
must be executed in favor of the petitioner for
said road.

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

Viewers 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.

	DAY	MILES	AMT.



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. 1926 _____.

Seal

Seal

Seal

Seal