

ROAD

DOCKET No. ~~xxx6~~

Number Term Year

2 DEC 1933

Petition for private road in Pike

Two for Ray W. Owens

Versus

In the Court of Quarter Sessions of Clearfield County, Pennsylvania.

In re Petition for Private)

Road in Pike Township)

)

To the Honorable A. R. Chase, President Judge of said Court:

The petition of Ray W. Owens of Pike Township respectfully represents:

That your petitioner is the owner and lessee of a vein of coal on lands of A. B. Owens in Pike Township, Clearfield County, Pennsylvania, and labors under great inconvenience for want of a private road leading from his mine, through and across about 33 feet of land of Sadie McGarry and David McGarry, to a public road, which public road leads from Olanta to Clearfield, at a point about 200 yards from the State highway, for the purpose of transporting coal and other commodities to and from said mine. The proposed private road to be 33 feet wide and will cross about 33 feet in length of the said property of Sadie McGarry and David McGarry.

Your petitioner, therefore, prays the Court to appoint Viewers to view and locate such private road and to assess the damages, if any, sustained therefrom by the said Sadie McGarry and David McGarry, or others, owners of land through which said road may pass, and make report of their proceedings to the Court, and that the Court will make such further order in the premises as may be just and requisite in accordance with the Act of Assembly in such case made and provided.

And he will ever pray, etc.

Ray W. Owens

State of Pennsylvania)

)SS:

County of Clearfield)

On the 22nd day of September A.D. 1933, before me, the Prothonotary of the Court of Common Pleas of Clearfield County, personally came Ray W. Owens, who being duly sworn according to law doth depose and say that the facts set forth in the foregoing petition are true to the best of his knowledge, information and belief.

Sworn and subscribed to before
me this 22nd day of September, 1933.

W. R. Gallagher, Prothonotary

Ray W. Owens

2 Dec 1933

In re Petition for
private road in Rice Town-
ship,

Act No Sept 26 1933
That the petition read
as follows is hereby
considered unmeritorious:

John Selle by Harry
Kane of Jack Nichols

are appointed Viewers to view
and lay out said road and to
assess the damages, if any,
to owners of the land.

By the const

R. J.

Walter Welch
Secretary of Law
Sept 26 1933

RECEIVED

That your petitioner is the owner and leasee of a vein of coal on lands of A. B. Owens in Pike township and labors under great inconvenience for eant of a private road leading from his mine through said acrees about 33 feet of land of Sadie McGarry and David McGarry, to a public road, which public road leads from Olanta to Clearfield, at a point about 200 yards from the State highway, for the purpose of transporting coal and other commodities to and from said mine. The proposed private road to be 33 feet wide and will cross about 33 feet in length of the said property of Sadie McGarry and David McGarry.

Your petitioner, therefore prays the Court to appoint viewers to view and locate such private road and to assess the damages, if any, sustained by the said Sadie McGarry and David McGarry, or others, owners of land through which said road may pass, and make report of their proceedings to the Court

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 September in the year of our Lord one thousand nine hundred thirty three

Ray W. Owens

Judge of the same Court: Upon the petition of ~~subscribers~~
~~habitants~~ of the Township of Pike in said County, setting forth that

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 Jack 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.

W. R. Gallagher, 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

Pike and that three notices thereof were posted along the route of the proposed road, that the said view would be held on the 23rd day of October Grand Jury A. D. 1933, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 27th day of October, 1933, 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 Ray W. Owens A. B. Owens David McGarry, H. F. VanValzah, Frank Thompson and Frank Bloom, Supervisors of Pike Township.

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 27th day of October A. D. 1933, when the following appearances were noted: Walter Welch, Esq., for petitioner; C. R. Kramer, Esq., for Sadie and David McGarry, Owners of the Land-exceptants. Ray W. Owens, A. B. Owens, David McGarry, H. F. Van Valzah, Philip McGarry and Thomas Dorden, 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 no occasion for a road as desired by the petitioner, and that the same is not necessary for a private 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 private use the following described road, to wit Beginning at a post North 88 degrees 15 minutes West 44 feet from the common corner of lands of D. & S. McGarry and A. B. Owens, on common division line of said lands: thence running North 52 degrees 10 minutes East 56 feet, and ending in the common division line of the lands of D. & S. McGarry and A. B. Owens, at a post North 2 degrees 45 minutes East 36 feet from the said common corner of said lands: said common corner, being a compromise established by the said owners, with pointers cut and knotted in the surrounding trees; the width of said private road being 16½ feet on either side of said line and thirty-three (33) feet in width.

We further find that said private road, across the corner of the lands of D. & S. McGarry is necessary to reach the bituminous coal mine of the petitioner opened and developed on the lands of the said A. B. Owens tract of 40 acres, leased to petitioner for mining and operating custom-coal.

We further find that the proposed road is of uniform grade and provides the most practical out-let for said Mine to the public highway; that the said Mine where opened and located affords natural drainage, and is bounded by steep hills averaging from 15% to 25% in grade.

We further find that the proposed road runs through some sparsely wooded land of the said D. & S. McGarry and render useless a triangular piece, comprising approximately .4 of an acre, for any purpose.

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 were unable to procure such releases from D. & S. McGarry

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: D. & S. McGarry, THIRTY (\$30) DOLLARS
2-7-34 Pd ap 450

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

WITNESS our hands and seals this 29th day of November
A. D. 1933.

John Holland Seal
Kid Reese Seal
J. S. Michaels Seal
✓ Seal

No. 2 Dec Sessions; 1933

ORDER

To view road for private use in township of Pike Clearfield County for Ray W. Owens

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.
H. A. Reese	3	120	38.50
J. S. Michaels	2	116	20.80
John Scollins	3	112	28.10

Heck Sessions, 1933.
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
of A. H. Glass.
1st 6. 15 34. Certified
to the Clerk of Court
by

Filed

Fees \$1.25 paid by

Walter Welch, Attorney

Dec 4. 1933
W. R. Gallagher
Clerk

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_____.

Seal

Seal

Seal

Seal

To: Sadie McGarry and David McGarry of the Township of Pike, County of Clearfield, Pennsylvania:

You are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County, to No. 2, December Term, 1933, to view and lay out a private road and assess damages, if any, sustained by Sadie McGarry and David McGarry, or others, owners of land through which said road may pass: which said proposed road leads from the Mine of Ray W. Owens on lands of the A. B. Owens tract in Pike Township, and across approximately 33 feet of the lands of Sadie McGarry and David McGarry, to a public road leading from Olanta to Clearfield, at a point about 200 yards from the State Highway: for the purpose of transporting coal and other commodities to and from said Mine, will meet at the Mine of Ray W. Owens, in said Township, on Monday, the 23rd day of October, A.D. 1933, at 11 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 the Rules of Court to be held by the Viewers before the filing of their report, in order to give all parties interested in the said private road an opportunity to be heard, will be held in the Grand Jury Room in the Court House, in Clearfield, on Friday, the 27th day of October, A.D. 1933, at 10 o'clock A.M., or as soon thereafter as counsel can be heard, at which time and place all parties interested may attend and be heard.

John E. Collins
A. A. Reed
J. S. Michael
Board of Viewers.

Dated, October 11, 1933.

Clearfield Co Pa
Now Oct. 16th 1933 notice was served on
Sadie McGarry, David McGarry as the original.
They did not acknowledge it.
Sworn & Subscribed this the 20th of Oct. Ray W. Owens
or for me. J. A. Woods
My com Justice of the Peace
Date Jan 1, 1933

To: J. Frank Thompson, Frank Bloom and John C. Smeal, Supervisors of Pike Township
Clearfield County, Pennsylvania.

You are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County, to No. 2, December Term, 1933, to view and lay out a private road and assess damages, if any, sustained by Sadie McGarry and David McGarry, or others, owners of land through which said road may pass; which said proposed road leads from the Mine of Ray W. Owens, on lands of the A. B. Owens tract in Pike Township, and across approximately 30 feet of the lands of Sadie McGarry and David McGarry, to a public road leading from Glantz to Clearfield, at a point about 200 yards from the State Highway; for the purpose of transporting coal and other commodities to and from said Mine, will meet at the Mine of Ray S. Owens, in said Township, on Monday, the 23rd day of October, A.D. 1933, at 11 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 the Rules of Court to be held by the Viewers before the filing of their report, in order to give all parties interested in the said private road an opportunity to be heard, will be held in the Grand Jury Room in the Court House, in Clearfield, on Friday, the 27th day of October, A.D. 1933, at 30 o'clock A.M., or as soon thereafter as counsel can be heard, at which time and place all parties interested may attend and be heard.

John Smeal
A. A. Reese
J. S. Michaels
Board of Viewers.

Dated, October 11, 1933.

Clearfield County, SS:

Now, October 16th, 1933, we accept service of the above Notice, and acknowledge receipt of a copy thereof, for the Township of Pike.

John C. Smeal
J. Frank Thompson
Frank Bloom
Board of Supervisors.

To: The Board of County Commissioners of Clearfield County, Pennsylvania:

You are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County, to No. 2, December Term, 1933, to view and lay out a private road and assess damages, if any, sustained by Sadie McGarry and David McGarry, or others, owners of land through which said road may pass: which said proposed road leads from the Mine of Ray W. Owens, on lands of the A. B. Owens tract in Pike Township, and across approximately 33 feet of the lands of Sadie McGarry and David McGarry, to a public road leading from Olanta to Clearfield, at a point about 200 yards from the State Highway: for the purpose of transporting coal and other commodities to and from said Mine, will meet at the Mine of Ray W. Owens, in said Township, on Monday, the 23rd day of October, A.D. 1933, at 11 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 the Rules of Court to be held by the Viewers before the filing of their report, in order to give all parties interested in the said private road an opportunity to be heard, will be held in the Grand Jury Room in the Court House, in Clearfield, on Friday, the 27th day of October, A.D. 1933, at 10 o'clock A.M., or as soon thereafter as counsel can be heard, at which time and place all parties interested may attend and be heard.

John Scudder
W A Reed
J B Michaels
Board of Viewers.

Dated, October 11, 1933.

Clearfield County, SS:

Now, October 12, 1933, Service of the above Notice accepted for the County Commissioners of Clearfield County, Pennsylvania, by copy.

L. C. Morris
Clerk

Know all Men by these Presents,

THAT we Ray W. Owens, prihcipal and
and sureties are held and firmly bound.
unto Sadie McGary and David McGary to their heirs, executors, ad-
ministrators or assigns, in the sum of One Hundred
Dollars, lawful money, for the payment of which
sum, well and truly to be made, we do bind ourselves, our and each of our heirs, ex-
ecutors and administrators, jointly and severally, firmly by these presents; and we
~~do hereby confess judgment for the above sum, without stay of execution or appeal,~~
~~waving the right of exemption and appraisement, and the right of inquisition on~~
~~real estate, with five per cent. added as Attorney's commission for collection. Sealed~~
~~with our seals and dated this~~ 22nd day of September
~~A. D., One Thousand Nine Hundred and~~ thirty-three.

THE CONDITION OF THIS OBLIGATION IS SUCH

That Whereas a petition has been presented to the Court of Quarter Sessions of Clearfield County, by the said Ray W. Owens for a private road in Pike Township through, over and across certain land owned by the said Sadie McGary and David McGary, for the purpose of transporting coal and other commodities from his mine to the public road.

Now the Condition of this obligation is such that the said Ray W., Owens will pay all costs in said proceeding and all damages that may be assessed to the owners of said land, and upon compliance with such order of the Court and payment of such costs and damages, this bond to be null and void, otherwise to be and remain in full force and effect.

In presence of

Ray W. Owens



In the Court of Quarter Sessions
of Clearfield County, Penna.
No. 2 December Sessions, 1933

BOND

In re Petition for Private
Road in Pike Township.

TO

John L. Chase
Bond affirmed.
By the Court.

FILED

SEP 26 1933

W. R. GALLAGHER
CLERK