

ROAD

DOCKET No. 6

Number  
1

Term  
Sept.

Year  
1935

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Pet. of Charles A. Nelson of Sandy

Twp. to assess damages

Versus

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*7 Sept 1935*

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

PETITION OF CHARLES A. NELSON  
Sandy Township, Clearfield  
County, Pennsy. vs. et al.  
for the appointment of  
viewers to assess damages  
caused by the construction  
of an improved highway.

FILED

MAY 13 1935

W. R. GALLAGHER  
CLERK

LAW OFFICES  
J. MITCHELL CHASE  
CLEARFIELD, PA

COMMONWEALTH OF PENNSYLVANIA

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

PETITION OF CHARLES A. NELSON, of Sandy Township, Clearfield County, Pennsylvania, for the appointment of Viewers to assess damages caused by the construction of an improved highway.

To the Honorable W. Wallace Smith, President Judge  
of said Court:

The petition of Charles A. Nelson of Sandy Township,  
Clearfield County, Pennsylvania respectfully represents:

1. That he is the owner of a certain lot or tracts of  
land containing about 14 acres in Sandy Township, Clearfield  
County, Pennsylvania.

2. That the Department of Highways of Pennsylvania,  
constructed a highway known as route No 17015 through the  
premises of your petitioner and as a result thereof caused  
damages to the property of your petitioner.

3. That your petitioner and the County Commissioners  
of Clearfield County have been unable to agree upon the amount  
of damages your petitioner has suffered.

Your petitioner therefore prays your honorable court  
that viewers be appointed to appraise and determine the amount  
of damages your petitioner has suffered as a result of the  
construction of said highway.

And he will ever pray.

COUNTY OF CLEARFIELD :  
STATE OF PENNSYLVANIA : SS

Charles A. Nelson

Personally appeared before me, W. R. Gallagher,  
Prothonotary, Charles A. Nelson, who being duly sworn according  
to law deposes and says that the facts setforth in the above  
petition are true and correct.

Sworn and subscribed before me this  
11th day of May, A. D. 1935.

Charles A. Nelson

W. R. Gallagher  
Prothonotary.

ORDER OF COURT

Now this ~~30~~ day of May A. D. 1935, the within petition  
having been presented, *A. B. Shaw* Esq., and  
*H. J. Bonsall*, and *Harry E. Reese*, are  
appointed viewers to view and report to the court.

By the Court.

*J. William Smith*  
P. J.

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 ~~13~~ 13th day of May in the year of our Lord one thousand nine hundred thirty five

Charles A. Nelson  
Judge of the same Court: Upon the petition of ~~sandy~~  
~~inhabitants~~ of the Township of Sandy

in said County, setting forth that he is the owner of a certain lot or tract of land containing about 14 acres in Sandy Township.

That the Department of Highways of Penna. constructed a highway known as route No 17015 through the premises of your petitioner and as a result thereof caused damages to the property of your petitioner.

Your petitioner therefore prays that viewers be appointed to appraise and determine the amount of damages your petitioner has suffered as a result of the construction of said highway.

assess damages  
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. B. Shaw, Esq  
H. W. Bonsall and Harry E. Reese

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 <sup>for damages</sup> ~~for a 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 <sup>assess damages</sup> ~~lay out the road~~, and the time and place of hearing

By order of the Court.  
W. WALLACE SMITH

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:

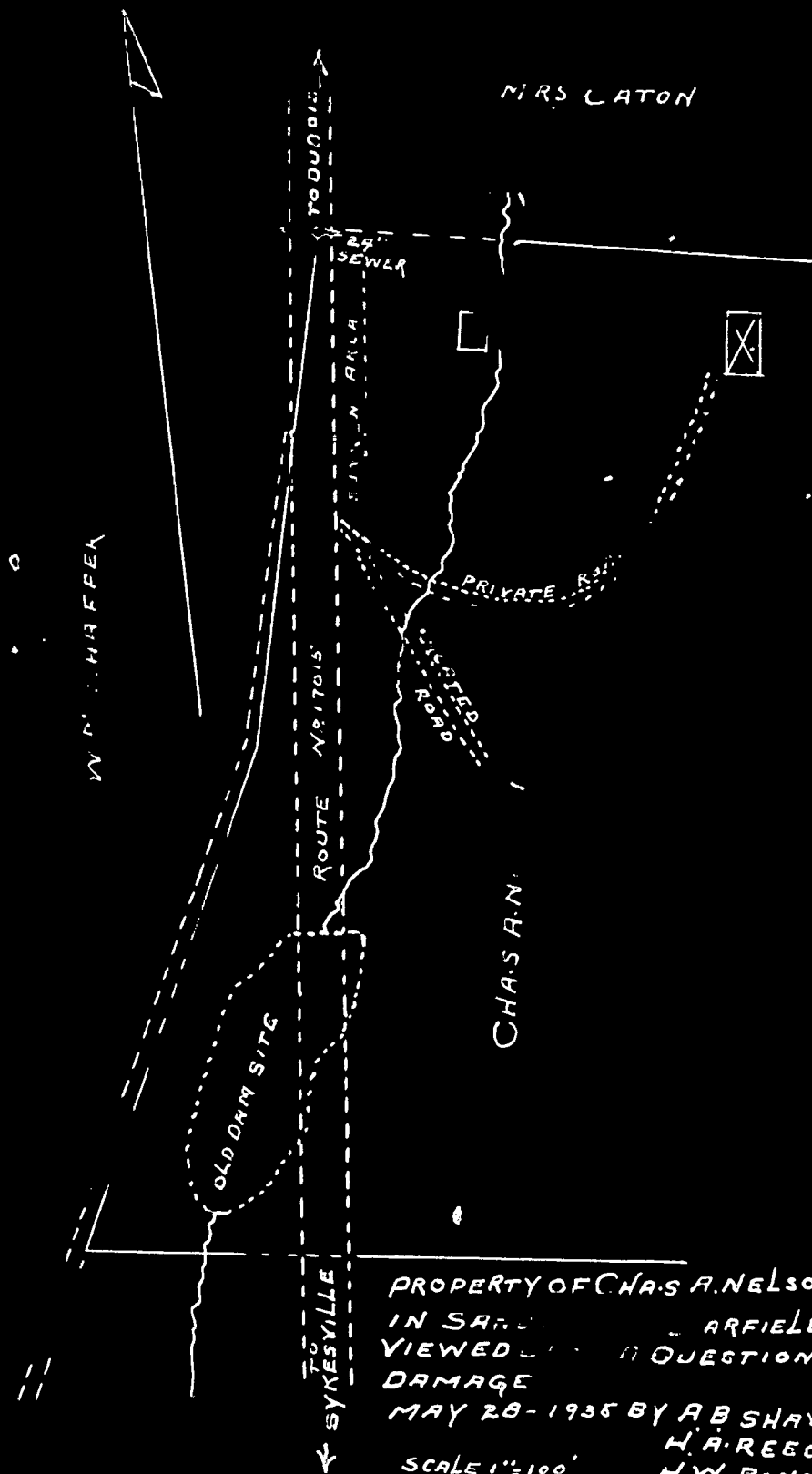
We, the undersigned viewers, duly appointed by your Honorable Court by the foregoing order from and among the County Board of Viewers who have been duly appointed by your Honorable Court and have filed their oaths of office in the Court of Common Pleas of Clearfield County, be leave to report as follows:

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

Sandy and that three notices thereof were posted along the route of the proposed road, that the said view would be held on the 28th day of May A. D. 1935, and the hearing to be held in #2 Court ~~in the Court~~ Room, at the Court House, in Clearfield; Pa., on the 4th day of June, 1935, at 10 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 : Charles A. Nelson, the ~~petitioner and party at interest.~~

~~parties do interest~~ That the hearing was held in ~~the Court Room~~ <sup>#2 Court</sup> Room, in the Court House, at Clearfield, Pa., on the fourth day of June A. D. 1935, when the following appearances were noted: Honorable A. R. Chase, attorney for the petitioner,  
Charles A. Nelson, together with Hugh Jefferies and John Nelson, wit-  
nesses for the petitioner, F. G. Smith, Esquire, of the law firm of  
Liveright & Smith, Solicitors for Clearfield County.

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 unnecessary for a road.~~ And having had respect to the ~~sketch 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 as return for~~ the following described road, to wit: ~~Beginning~~ damage has been sustained by Charles A. Nelson of Sandy Township, Clearfield County, Pennsylvania, the petitioner, by reason of the construction and relocation of State Highway Route #17015 through his premises. That approximately one-half acre of the property of Charles A. Nelson in Sandy Township, Clearfield County, Pennsylvania has been taken in the construction and relocation of said State Highway Route No. 17015 through his property. That in the relocation and construction of the present State Highway through the premises of Charles A. Nelson, the level of the new Highway has been raised approximately four feet above the level of the old Highway which traverses the front of Charles A. Nelson's home or dwelling house. That as a result of the construction and relocation of said Highway, a fill has been made about four feet in height, the base of which is approximately fifty feet from the front of Charles A. Nelson's dwelling house. That by reason of the construction of said Highway and the creation of this fill, and further by reason of the location of the dwelling house and out-buildings of Charles A. Nelson, a declivity or sunken area has been created between said fill and the dwelling house, and as a result of which adequate drainage must be provided for in order to protect the dwelling house and other buildings of Charles A. Nelson from the excessive flow of surface water which is at the present time, and since the construction of State Highway Route #17015 in its present location, causing damage to his property. That an old mill dam, not in use, but located on the premises of Charles A. Nelson has to a certain extent been altered by the relocation and con-



PROPERTY OF CHAS. A. NELSON  
 IN SANDUSKY, ARFIELD CO. PA.  
 VIEWED FOR QUESTION OF  
 DAMAGE  
 MAY 28-1935 BY A.B. SHAW, ESQ.  
 H.A. REEGE.  
 H.W. BONALL

SCALE 1"=100'  
 6/10 A.

# Road Viewers' Notice

NOTICE IS HEREBY GIVEN that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County, Pennsylvania, to view a Road or assess damages, ~~leading from~~ by reason of the construction of State Highway Route #17015 through the premises of Charles A. Nelson, situate in the Township of Sandy, Clearfield County, Pennsylvania... The aforementioned Route #17015 begins at the boundry line in Sandy Township and the City of DuBois at the intersection of Dixon Avenue and South Main Street and extends in a Westerly direction past the Old Speers Mill and ends near "The Cabins" in said Township where it intersects State Highway Route #322.

~~in~~ ..... ~~Township~~ .....  
.....  
.....  
.....  
.....

~~in~~ ..... ~~Township~~, in the County aforesaid, will  
meet at the ~~house~~ premises of ... CHARLES A. NELSON .....  
in ..... SANDY ..... Township, on ..... TUESDAY .....  
the twenty-eighth... day of ..... May ..... , A. D. 19~~2~~35, at 10:30  
o'clock .. A.M., to attend to the duty assigned them, of which time and place afore-  
said, all parties interested will take notice.

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 ROAD AN OPPORTUNITY TO BE HEARD, WILL BE HELD IN #2 COURT ROOM IN THE COURT HOUSE AT CLEARFIELD ON TUESDAY, JUNE 4, 1935 AT 10:00 O'CLOCK A.M. AT WHICH TIME AND PLACE ALL PARTIES INTERESTED MAY ATTEND AND BE HEARD IF THEY SO DESIRE.

..... HARRY E. REESE .....

..... H. W. BONSALE .....

..... A. B. SHAW .....


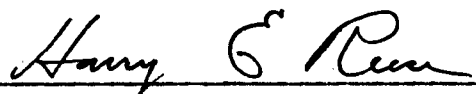

VIEWERS

..... May 17, ..... 1935..

TO THE COUNTY COMMISSIONERS OF CLEARFIELD COUNTY, PENNSYLVANIA:-

NOTICE OF VIEW

You are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County on the 13th day of May, A.D., 1935 to assess the damages and benefits, if any, by reason of the construction of State Highway Route No. 17015 through the premises of Charles A. Nelson, situate in the Township of Sandy, County of Clearfield and State of Pennsylvania, will meet on said premises on Tuesday, the 28th day of May, A.D., 1935 at 10:30 o'clock A.M. to attend the duties assigned them 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 interest in said road an opportunity to be heard, will be held in #2 Court Room in the Court House at Clearfield on Monday, the 3rd day of June, A.D., 1935 at 10:00 o'clock A.M. at which time and place all parties interest may attend and be heard if they so desire.

  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

Viewers.

NOW this *17th* day of May, A.D., 1935 service of the  
above notice is accepted for the Commissioners of Clearfield  
County, Pennsylvania.

*L. C. Norris*  
Clerk.

TO THE SUPERVISORS OF SANDY TOWNSHIP, CLEARFIELD COUNTY, PENN'A:-

NOTICE OF VIEW

You are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County on the 13th day of May, A.D., 1935 to assess the damages and benefits, if any, by reason of the construction of State Highway Route No. 17015 through the premises of Charles A. Nelson, situate in the Township of Sandy, County of Clearfield and State of Pennsylvania, will meet on said premises on Tuesday, the 28th day of May, A.D., 1935 at 10:30 o'clock A.M. to attend the duties assigned them 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 interest in said road an opportunity to be heard, will be held in #2 Court Room in the Court House at Clearfield on Monday, the 3rd day of June, A.D., 1935 at 10:00 o'clock A.M. at which time and place all parties interest may attend and be heard if they so desire.



Harry E. Rees

W. H. Small

Viewers.

NOW this 15<sup>th</sup> day of May, A.D., 1935 service of  
the above notice is accepted for the Supervisors of Sandy Township,  
Clearfield County, Pennsylvania.

Ralph Gray

Serry Brown

Joshua F. Hoover  
Supervisors.

struction of said Highway, and several fruit and shade trees were removed in the construction of said Highway as the uncontradicted testimony offered at this hearing would show the same. That the amount of damage claimed by Charles A. Nelson, and as testified to by his witnesses, ranges from One Thousand (\$1,000.00) Dollars to Fifteen Hundred (\$1,500.00) Dollars. After viewing the property of Charles A. Nelson in Sandy Township, Clearfield County, Pennsylvania and conditions surrounding same, hearing the evidence and taking into consideration the special benefits accruing thereto by reason of the construction of State Highway Route #17015 through the property of the said Charles A. Nelson, your Viewers are of the opinion that the aforementioned estimates are excessive, but that said Charles A. Nelson should be compensated for the land taken and occupied, and the damages and inconvenience caused him in the construction and relocation of said State Highway Route #17015 and do assess to the said Charles A. Nelson damages in the amount of Four Hundred and Seventy (\$470.00) Dollars.

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 and viewed 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 are, the undersigned view-ers, after having considered the damages to be done to them, do assess them damages and make report thereon as follows:~~

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

WITNESS our hands and seals this fourth day of June

A. D. 1955.

*Ed. Reese* Seal  
*H. W. Bousall* Seal  
*[Signature]* Seal

No. 1 Sept Sessions, 19 35

# ORDER

To view and assess damages  
read ~~tax~~ Chas. A. Nelson  
township of Sandy  
Clearfield County

Sessions, 19

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.

FILED  
JUN 5 1935  
W. R. GALLAGHER  
CLERK

Chase & Chase Attorneys  
Filed 19  
Fees \$1.25 paid by

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	AM'T.
A. B. Shaw, Esq.	3	60	\$33.00
H. W. Bonsall	2	74	23.70
H. A. Reese	3	172	38.60

*Now Aug 6<sup>th</sup> 1935 award  
of viewers accepted and  
signed by officers viewed  
Charles Gallager  
By Charles Nelson  
for Charles Nelson.*

*Sett 13/1935  
The time for appeal having  
passed, the award of damages  
is hereby confirmed absolutely.  
W. R. Gallagher*

## 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