

No.

ARTER

SS. 19 61

~~COMMONWEALTH~~

~~Versus~~

In re: LOCATION OF CHEST TOWNSHIP

ROUTE #411:

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

In Re: Relocation of :  
CHEST TOWNSHIP ROUTE #411 :

PETITION

TO THE HONORABLE JOHN J. PENTZ, PRESIDENT JUDGE OF SAID COURT:

The Petition of Everett Morrison, Edward Spaid and Ashley Brink, Supervisors of the Township of Chest, County of Clearfield, Pennsylvania, respectfully represents:

(1). That the Supervisors above named are desirous of relocating that portion of Chest Township Route #411 located on the property of the Benjamin Coal Company, as shown on the map attached hereto.

(2). That the said relocation of Township Route #411 will eliminate curves and provide a grade of not greater than 8% on said road for the benefit of the traveling public.

(3). That during said relocation, a detour will be opened and maintained for public traffic.

(4). That upon completion of the construction of the relocated road, it is the desire of the Supervisors that the right-of-way of the present road not used, as shown on the map attached hereto, be vacated and abandoned to the owner of the property through which the same passes.

(5). That the present right-of-way of Township Route #411 and the right-of-way of Township Route #411 as relocated will lie wholly within the property set forth in Paragraph (1) hereof.

(6). That attached hereto is a copy of the Agreement between the Supervisors and the owner of the property upon which the relocation will take place, as well as a copy of the Agreement between the Supervisors and the party who will do the actual relocation and construction of the road.

(7). That the relocation of said road will be accomplished without cost to Chest Township, and the party relocating

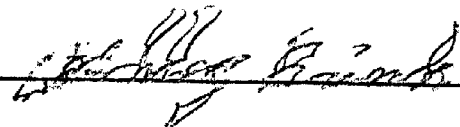
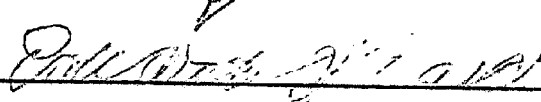
the road has entered into an Agreement with your Petitioners for the relocation of the road without cost to Chest Township and has entered into a Bond in the sum of \$2,000.00 for the faithful performance of the relocation and construction of the said road as shown on the map attached hereto.

(8). That your Petitioners aver that the said relocation is necessary and will be for the benefit of the Township and the residents thereof, as well as the traveling public.

(9). That your Petitioners further aver that the said relocation and the map attached hereto have been submitted to the Pennsylvania Department of Highways and approved by the said Department.

WHEREFORE, your Petitioners pray your Honorable Court that an Order be made approving such relocation and vacation of the unused portion of the old right-of-way without the formality of a view in accordance with the Act of May 1, 1933, P. L. 103, Article XI, Section 1115, as amended (53 P. S. 66115).

And they will ever pray.

Supervisors of Chest Township

STATE OF PENNSYLVANIA :  
: SS.  
COUNTY OF CLEARFIELD :

Before me, the undersigned officer, personally appeared  
, EDWARD SPAID and ASHLEY BRINK, Supervisors of  
Chest Township, who, being duly sworn according to law, depose and  
say that the facts set forth in the foregoing Petition are true  
and correct to the best of their knowledge, information and belief.

*Ashley Brink*  
*Edward Spaid*

Sworn to and subscribed before  
me this *19<sup>th</sup>* day of *July*  
1961.

*Carl F. Zetser*

BY COMMISSION EXPIRES FIRST  
MONDAY IN JANUARY 1962

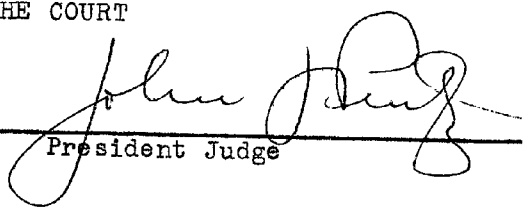
IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

In Re: Relocation of :  
CHEST TOWNSHIP ROUTE #411 :

ORDER OF COURT

NOW, this 34<sup>th</sup> day of July, 1961, the foregoing  
Petition by the Supervisors of Chest Township having been presented,  
and it appearing that the facts therein set forth are true and  
correct, and it further appearing that the proposed relocation of  
Township Route #411 will be a benefit to the Township and the  
traveling public, and it appearing further that the same has been  
approved by the Commonwealth of Pennsylvania, Department of High-  
ways, and it further appearing that the Township will incur no cost  
of any kind or damages of any kind in the relocation of the same;  
NOW, THEREFORE, IT IS ORDERED that the relocated road shall be the  
new road and the relocation of same is approved in accordance with  
the map or draft attached to the Petition, and upon completion of  
said relocation, the unused portion of the present right-of-way  
shall be vacated and revert to the property owner, and such new  
road to have a minimum right-of-way width of thirty-three (33) feet.

BY THE COURT

  
\_\_\_\_\_  
President Judge

AGREEMENT

THIS AGREEMENT, made and entered into this *20<sup>th</sup>* day of *July*, 1961, between the BOARD OF SUPERVISORS OF CHEST TOWNSHIP, Clearfield County, Pennsylvania, Party of the First Part;

A  
N  
D

BENJAMIN COAL COMPANY, a partnership, with offices at LaJose, Clearfield County, Pennsylvania, Party of the Second Part.

WITNESSETH:

WHEREAS, the Party of the Second Part is the owner of land in Chest Township, Clearfield County, Pennsylvania, and

WHEREAS, Chest Township Route #411 crosses the property of the Party of the Second Part situate in Chest Township, Clearfield County, Pennsylvania, as shown on the map attached hereto and made a part hereof, and

WHEREAS, Chest Township Route #411 and its supervision, location and maintenance is under the jurisdiction of the Party of the First Part, and

WHEREAS, the Party of the First Part desires to relocate the section of the said Township Route #411, which is wholly within and upon property of the Party of the Second Part, and

WHEREAS, the proposed new location of the said section of Township Route #411 is wholly within and upon property of the Party of the Second Part.

NOW, THEREFORE, it is agreed as follows:

(1). The Party of the Second Part hereby agrees that the Party of the First Part shall have the right to relocate the section of Chest Township Route #411 which crosses the property of the Party of the Second Part, and that the relocation of the said section of Township Route #411 may be made by the Party of the

First Part, or those acting in behalf of the Party of the First Part, as shown on the map attached hereto and made a part hereof.

(2). The Party of the First Part hereby agrees that the section of Township Route #411 which crosses the property of the Party of the Second Part, as shown on the map attached hereto and made a part hereof, shall be relocated as set forth on said map and upon completion of the relocation the unused portion of the present right-of-way shall be vacated.

(3). The Party of the Second Part hereby agrees that in consideration of the benefits which the Party of the Second Part will receive from the relocation of the said section of Township Route #411, as shown on the map attached hereto and made a part hereof, the Party of the Second Part does hereby grant unto the Party of the First Part a thirty-three (33) foot right-of-way for the relocation of Township Route #411, as shown on the map attached hereto and made a part hereof, and the Party of the Second Part will make no claim against the Party of the First Part for any damage to the property of the Party of the Second Part by reason of the relocation of the said section of Township Route #411.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in proper form the day and year first above written, intending to be legally bound thereby.

WITNESSETH:

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)

Supervisors of Chest Township

BENJAMIN COAL COMPANY

By David Benjamin

STATE OF PENNSYLVANIA :  
: SS.  
COUNTY OF CLEARFIELD :

On this, the *19<sup>th</sup>* day of *July*, 1961, personally appeared before me, the undersigned officer, ~~REDACTED~~, EDWARD SPAID and ASHLEY BRINK, Supervisors of Chest Township, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

Witness my hand and official seal.

*Carl F. Dutra*

MY COMMISSION EXPIRES FIRST  
MONDAY IN JANUARY 1962

STATE OF PENNSYLVANIA :  
: SS.  
COUNTY OF CLEARFIELD :

On this, the *20<sup>th</sup>* day of *July*, 1961, personally appeared before me, the undersigned officer, *David J. Benjamin* who acknowledged himself to be the *partner* of the Benjamin Coal Company, and that as such *David J. Benjamin* being authorized to do so, executed the foregoing Agreement for the purposes therein contained.

Witness my hand and official seal.

*Carl F. Dutra*

MY COMMISSION EXPIRES FIRST  
MONDAY IN JANUARY 1962

AGREEMENT

THIS AGREEMENT, made and entered into this 20<sup>th</sup> day of *July*, 1961, between the BOARD OF SUPERVISORS OF CHEST TOWNSHIP, Clearfield County, Pennsylvania, Party of the First Part;

A  
N  
D

BENJAMIN COAL COMPANY, a partnership, with offices at LaJose, Clearfield County, Pennsylvania, Party of the Second Part.

WITNESSETH:

WHEREAS, the Party of the Second Part is the owner of the surface and owner or lessee of certain coal of certain tracts of land situate in Chest Township, Clearfield County, Pennsylvania, and

WHEREAS, Chest Township Route #411 crosses the property of the said Party of the Second Part situate in Chest Township, Clearfield County, Pennsylvania, as shown on the map attached hereto and made a part hereof, which said road and its supervision, location and maintenance are under the jurisdiction of the Party of the First Part, and

WHEREAS, it is the desire of the Party of the Second Part to remove the overburden and mine the coal from that part of the lands occupied by the said Township Route #411, subject to the approval thereof by the Party of the First Part, and

WHEREAS, the Party of the First Part is agreeable to the removal of the overburden and the mining of coal therefrom, provided the Party of the Second Part agrees, at its own cost and expense, to relocate said Township Route #411 as shown on the map attached hereto and made a part hereof.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, it is understood and agreed as follows:

(1). The Party of the First Part agrees that the Party of the Second Part shall have the right, by the use of earth removing equipment, to remove the overburden and mine coal from that portion of the premises of the Benjamin Coal Company traversed by Township Route #411 between stations No. 25 and No. 49, as shown on the map attached hereto and made a part hereof.

(2). The Party of the Second Part, in consideration of the permission granted it in the preceding paragraph hereof, and the benefits derived by it from the additional work afforded thereby, hereby agrees that within twelve months of completion of mining operations on the said premises, to relocate the said Township Route #411 with a minimum right-of-way width of thirty-three (33) feet and of the length shown on the map attached hereto and made a part hereof, and that during the mining operations a detour shall be maintained in a condition fit for public travel, and to furnish all labor, materials and equipment in doing the aforesaid work.

(3). The Party of the Second Part further agrees that in the constructing of Township Route #411 in its new location, roadbeds shall be constructed of not less than 8 inches of crushed stone, covered with a minimum of 6 inches of red dog, to be prepared or furnished by the Party of the Second Part, and said roadbeds to be constructed in as good or better condition than that presently existing, and to construct ditches on the side of the road for the drainage of said road, and to make such increased lateral fills at points of cuts as shall be necessary to render the finished road safe for public travel.

(4). The Party of the Second Part agrees that the relocation of the said Township Route #411 and all labor, materials and machinery employed in its relocation shall be without expense to the Party of the First Part, and further agrees that upon failure of the Second Party to relocate the said road as agreed, the Party of

By David Benjamin

STATE OF PENNSYLVANIA :  
: SS.  
COUNTY OF CLEARFIELD :

On this, the 19<sup>th</sup> day of July, 1961, personally appeared before me, the undersigned officer, ~~██████████~~, EDWARD SPAID and ASHLEY BRINK, Supervisors of Chest Township, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

Witness my hand and official seal.

Carl F. Dutra

MY COMMISSION EXPIRES FIRST  
MONDAY IN JANUARY 1956/1962

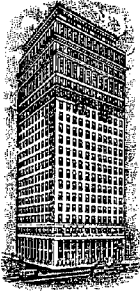
STATE OF PENNSYLVANIA :  
: SS.  
COUNTY OF CLEARFIELD :

On this, the 20 day of July, 1961, personally appeared before me, the undersigned officer, David J. Benjamin who acknowledged himself to be the partner of the Benjamin Coal Company, and that as such David J. Benjamin being authorized to do so, executed the foregoing Agreement for the purposes therein contained.

Witness my hand and official seal.

Carl F. Dutra

MY COMMISSION EXPIRES FIRST  
MONDAY IN JANUARY 1956  
1962



HOME OFFICE BUILDING

# American Surety Company

OF NEW YORK

(A STOCK COMPANY)

ORGANIZED 1884

28-610-594

KNOW ALL MEN BY THESE PRESENTS, THAT WE, BENJAMIN COAL COMPANY, a partnership, with offices at Lajose, Clearfield County, Pennsylvania as Principal and AMERICAN SURETY COMPANY OF NEW YORK, a corporation organized and existing under the laws of the State of New York with its principal office in Pennsylvania at 2 Penn Center Plaza, Philadelphia 2, Pa., as Surety, are held and firmly bound unto the Board of Supervisors of Chest Township, Clearfield County, Pennsylvania in the sum of TWO THOUSAND DOLLARS (\$2,000.00) lawful money of the United States of America for which sum well and truly to be paid, we bind ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

Signed, sealed and dated July 17, 1961

WHEREAS, Benjamin Coal Company and the Board of Supervisors of the Township of Chest have entered into an agreement dated July 20, 1961 for the relocation of a section of Chest Township Route #411 a copy of which agreement is, by reference, made a part hereof.

NOW, THEREFORE, THE CONDITION OF THIS AGREEMENT IS SUCH, THAT if Benjamin Coal Company shall faithfully perform said agreement or in default thereof hold said Board of Supervisors of Chest Township harmless from all loss costs or expense resulting from its failure so to do, then this obligation shall be void, otherwise in full force and effect.

BENJAMIN COAL COMPANY

BY: David J. Benjamin

AMERICAN SURETY COMPANY OF NEW YORK

BY: W. C. Gallagher  
W. C. Gallagher, Attorney-in-fact

AUTHORITY OF SIGNERS FOR SURETY

Transcripts from the By-Laws and Record Book of the Board of Directors

American Surety Company of New York

I, the undersigned, Assistant Secretary of AMERICAN SURETY COMPANY OF NEW YORK, do hereby certify:

That at a meeting of the Board of Directors of AMERICAN SURETY COMPANY OF NEW YORK, held at the office of the Company, No. 100 Broadway, New York City, on the 15th day of March, 1960, the following Attorneys in Fact, inter alia, were appointed:

PLACE

PHILADELPHIA, PA.

ATTORNEYS IN FACT

M. BUSH  
E. M. CANNON  
J. B. FERREN  
B. M. FITZGERALD  
W. C. GALLAGHER  
W. G. KEATING  
J. E. NEETER

I do further certify that the authority of the Attorneys in Fact, listed above, is in full force and effect.

I do further certify that the following transcript from Article IV of the By-Laws of AMERICAN SURETY COMPANY OF NEW YORK is a just, true and correct copy of the original thereof and is still in full force and effect.

ARTICLE IV

Section 4. Attorneys in Fact. (a) Attorneys in Fact for the execution of fidelity and surety bonds and undertakings may be appointed by the Board of Directors or the Executive Committee and Attorneys in Fact so appointed are designated, authorized and empowered to execute and deliver any and all fidelity and surety bonds and undertakings for or on behalf of the Company, in its business and in accordance with its Charter, and any and all riders and other instruments affecting or modifying same; such bonds, undertakings, riders or other instruments, to have in every instance, however, the seal of the Company affixed thereto.

Given under my hand and the seal of the Company at New York, New York  
this 17th day of July, 1961

ASSISTANT SECRETARY

BENJAMIN COAL COMPANY

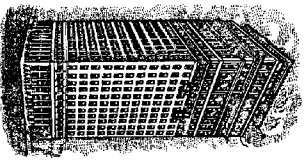
PRINCIPAL

AND  
*American Surety Company*  
OF NEW YORK  
SURETY

BOARD OF COMMISSIONERS

TOWNSHIP OF CHEST

OBLIGEE



**BOND**

**PARKER & CO.**  
INTERNATIONAL, INC.  
INSURANCE  
1616 WALNUT STREET  
PHILADELPHIA 3, PA.

July 1, 1901

Form G-442

IN THE COURT OF QUARTER  
SESSIONS OF CLEARFIELD  
COUNTY, PENNSYLVANIA

Relocation of CHEST TOWNSHIP  
ROUTE #411

**BELL, SILBERBLATT & SWOPE**  
ATTORNEYS AT LAW  
CLEARFIELD TRUST CO. BLDG.  
CLEARFIELD, PENNA.