

DOCKET NO. 174

NUMBER TERM YEAR

83 September 1961

In re: Peter Karthaus Estate:

Petition of Comth of Pa. acting  
through the Dept. of Highways, al

VERSUS

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

In Re:

PETITION OF COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
HIGHWAYS, CONVENING STATE  
MINING COMMISSION UNDER THE  
PROVISIONS OF THE ACT OF  
JUNE 1, 1933, P. L. 1409,  
as amended, (52 P.S. 1501) : : : : : No. 83 September Term, 1961

**MOTION**

NOW, come Karthaus Estate and Moshannon Falls Mining Company, Inc., by their attorney, Walter M. Swoope, Esquire, and move the Honorable Court to grant a continuance in the hearing set for February 28, 1962, and that such hearing be held on March 28, 1962, at 10:00 a.m. in the Court Room at Clearfield, Pennsylvania.

Walter M. Swoope,  
Attorney for Karthaus Estate and  
Moshannon Falls Mining Co., Inc.

7 Feb 15-1962

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

In Re:

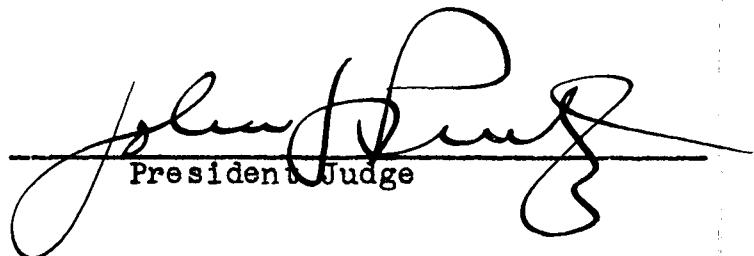
PETITION OF COMMONWEALTH OF	:	
PENNSYLVANIA, DEPARTMENT OF	:	
HIGHWAYS, CONVENING STATE	:	
MINING COMMISSION UNDER THE	:	No. 83 September Term, 1961
PROVISIONS OF THE ACT OF	:	
JUNE 1, 1933, P. L. 1409,	:	
as amended, (52 P.S. 1501)	:	

ORDER OF COURT

NOW, this 15<sup>th</sup> day of February, 1962, the Karthaus Estate and Moshannon Falls Mining Company, Inc., by their attorney, Walter M. Swoope, Esquire, having moved the Court to continue the convening of the State Mining Commission as originally set for February 28, 1962, to March 28, 1962, at 10:00 a.m. in the Court Room at Clearfield, Pennsylvania, and it appearing to the Court that the attorney for the Pennsylvania Department of Highways is not opposed to the continuance,

NOW, THEREFORE, IT IS ORDERED that the convening of the State Mining Commission shall be held in the above captioned case on March 28, 1962, at 10:00 a.m. in the Court Room at Clearfield, Pennsylvania.

BY THE COURT

  
John F. Ding  
President Judge

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENN -  
SYLVANIA, No. 83 September  
Term, 1961

In Re:

PETITION OF COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
HIGHWAYS, CONVENING STATE  
MINING COMMISSION UNDER THE  
PROVISIONS OF THE ACT OF  
JUNE 1, 1933, P. L. 1409,  
as amended, (52 P.S. 1501)

MOTION AND  
ORDER OF COURT

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

In re:

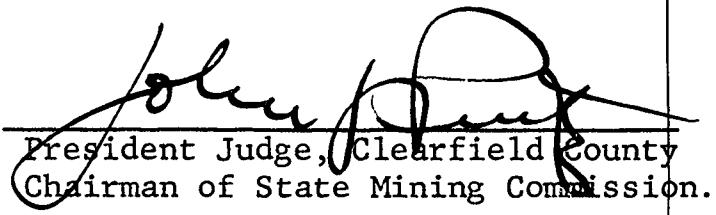
PETITION OF COMMONWEALTH OF : No. 83 September Term, 1961.  
PENNSYLVANIA, DEPARTMENT OF :  
HIGHWAYS, CONVENING STATE MINING :  
COMMISSION UNDER THE PROVISIONS :  
OF THE ACT OF JUNE 1, 1933, :  
P. L. 1409, as amended, (52 PS 1501):

NOTICE OF MEETING

The meeting called for Tuesday, January 16, 1962 of the Coal Commission as above set forth, has been continued at the request of the Department of Highways because of the death of Mr. Robert Wood, Engineer.

The meeting is, therefore, continued from January 16, 1962 to February 28, 1962 at 10:00 o'clock A. M. in the Court Room at Clearfield, Pennsylvania.

January 3, 1962

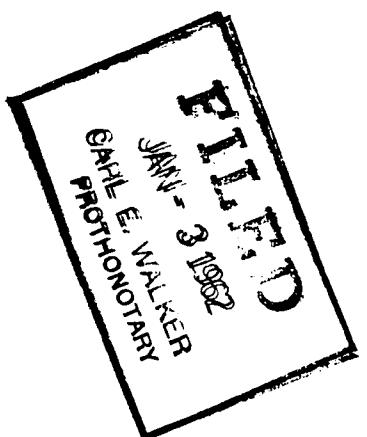
  
John F. Dunn  
President Judge, Clearfield County  
Chairman of State Mining Commission.

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 83 September Term, 1961

In re:

PETITION OF COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
HIGHWAYS, CONVENING STATE  
MINING COMMISSION UNDER THE  
PROVISIONS OF THE ACT OF  
JUNE 1, 1933, P.L. 1409, as  
amended, (52 PS 1501)

NOTICE OF HEARING



JOHN J. PENTZ  
PRESIDENT JUDGE  
CLEARFIELD, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

IN RE:

PETITION OF COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF HIGHWAYS, CONVENING STATE MINING COMMISSION UNDER THE PROVISIONS OF THE ACT OF JUNE 1, 1933, P.L. 1409, as amended, (52 PS 1501) :

: No. 83 September Term, 1961

A meeting of the Coal Commission created by virtue of the petition of the Commonwealth of Pennsylvania, Department of Highways, filed September 14, 1961, will be held on Tuesday, January 16, 1962, for the purpose of ascertaining the value of certain deposits of coal lying in and under lands of the Peter Karthaus Estate, and leased by, or conveyed to Moshannon Falls Mining Company.

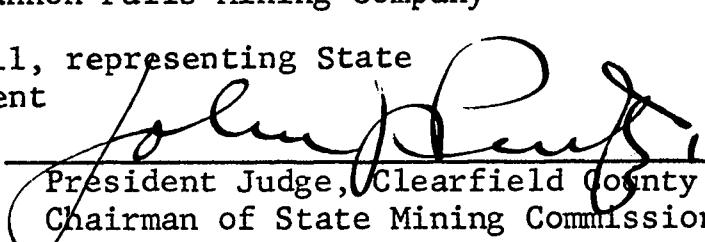
Notice is hereby given to the members of the Commission as follows:

G. F. Moody, representing State Mining Commission

Merle A. Forst, representing Public Utility Commission

William W. Yost, representing Peter Karthaus Estate and Moshannon Falls Mining Company

Raymond F. Campbell, representing State Highway Department

  
President Judge, Clearfield County  
Chairman of State Mining Commission

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 83 September Term, 1961

In re: PETITION OF COMMWTH  
OF PENNA., DEPARTMENT OF HIGH-  
WAYS, CONVENING STATE MINING  
COMMISSION UNDER THE PROVI-  
SIONS OF THE ACT OF JUNE 1,  
1933, P. L. 1409, as  
amended, (52 PS 1501)

NOTICE



JOHN J. PENTZ  
PRESIDENT JUDGE  
CLEARFIELD, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: Peter Karthaus Estate :

PETITION OF THE COMMONWEALTH OF PENNSYLVANIA, ACTING THROUGH THE DEPARTMENT OF HIGHWAYS, TO CONVENE THE STATE MINING COMMISSION UNDER THE PROVISIONS OF THE ACT OF JULY 3, 1941, P. L. 259, AS AMENDED

NO. 82 Sept 1961

TO THE HONORABLE, THE PRESIDENT JUDGE OF THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA:

The Petition of the Commonwealth of Pennsylvania, acting through the Department of Highways, respectfully represents:

(1). That the Department of Highways in pursuance of authority by law vested in it under the provisions of Section 2003, Article XX of the Administrative Code of 1929, approved April 9, 1929, P. L. 177, as amended, has acquired or will acquire certain lands in Covington, Girard and Karthaus Townships, Clearfield County, Pennsylvania for the purpose of constructing an improved highway thereon known as:

(a). Legislative Route 17052-2; 17140-1; 17067  
Peter Karthaus Estate; Claim No. 1701129;  
and between stations:

1088 4 32 - 4 4 96 L.  
1088 4 32 - 5 4 77 R.  
3 4 16 - 4 4 96 L.  
3 4 66 - 5 4 77 R.  
2 4 53 - 3 4 16 L.  
3 4 08 - 3 4 66 R.

(b). Legislative Route 17052-3; 17140-1;  
Peter Karthaus Estate; Claim No. 1701204  
and between stations:

1055 4 50 - 1090 4 80.03 L.  
1055 4 50 - 1090 4 80.03 R.

(c). Legislative Route 17052; 17140-1; 17068-4  
Peter Karthaus Estate; Claim No. 1701133  
and between stations

26 4 50 - 78 4 21 L.  
25 4 47 - 77 4 00 R.  
118 4 05 - 82 4 80 L.  
119 4 64 - 147 4 83 R.

The aforementioned legislative routes and the properties therein involved are more fully described as set forth in Exhibit "A", which is attached hereto and made a part hereof.

(2). That the Commonwealth and the owner of the mineral rights of the Peter Karthaus Estate are not in agreement as to the quantity of coal required to remain in place for vertical and lateral support of the land involved.

(3). That the Commonwealth and the owner of the mineral rights of the Peter Karthaus Estate are not in agreement as to the value and place, if any, of the coal required to remain in place for vertical and lateral support of the land involved.

(4). That the Act of Assembly, approved July 3, 1941, P.L. 259, authorizes the creation of State Mining Commissions and gives to said Commissions exclusive jurisdiction of the mining of coal under lands, easements and rights of way purchased, condemned or otherwise acquired by the Commonwealth, to determine and assess damages, if any, for coal required by the said Commission to be left in place and to allocate among the parties in interest the cost of the proceedings.

(5). The Act of Assembly above referred to provides also that the State Mining Commission shall consist of the following:

(a). The President Judge of the Court of Common Pleas of the County wherein the coal is situate.

(b). A member or a representative of the Public Utility Commission of the Commonwealth of Pennsylvania.

(c). The Secretary of Mines of the Commonwealth of Pennsylvania or his designated representative.

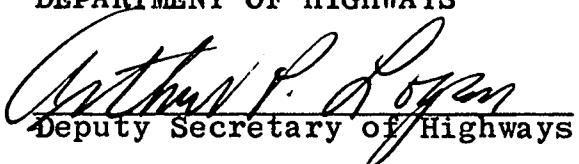
(d). The Secretary of Highways of the Commonwealth of Pennsylvania or his designated representative.

(e). An engineer designated by the owners of said coal.

(6). That your Petitioner, in accordance with the terms of said Act, designated Raymond F. Campbell as its representative on said Commission.

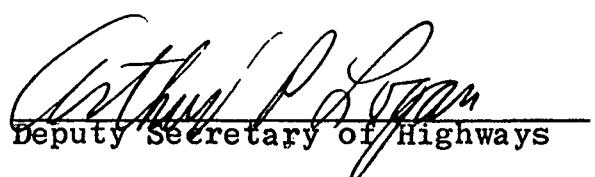
WHEREFORE, your Petitioner prays your Honor as Chairman of the State Mining Commission, created under and by virtue of the Act of Assembly herein referred to, to convene said State Mining Commission and thereafter said State Mining Commission to determine, authorize and direct the underlying or adjacent coal, if any, which may be removed, the underlying or adjacent coal, if any, required to be left in place in order to provide vertical or lateral support for the said land, to determine and assess damages, if any, for the coal in place taken, and to do and determine such other matters and things as come within the jurisdiction of said State Mining Commission under the terms and provisions of said recited Act of Assembly and to fix a date for the meeting of the Commission for the purpose aforesaid.

COMMONWEALTH OF PENNSYLVANIA  
acting through the  
DEPARTMENT OF HIGHWAYS

  
\_\_\_\_\_  
Deputy Secretary of Highways

COMMONWEALTH OF PENNSYLVANIA:  
SS:  
COUNTY OF DAUPHIN :

Personally appeared before me the undersigned authority  
in and for said County and Commonwealth, **Arthur P. Logan**,  
Deputy Secretary of Highways of the Commonwealth of Pennsylvania;  
that he has been authorized by said petitioner to make the affi-  
davit on its behalf and that the averments contained in the fore-  
going petition are true and correct to the best of his knowledge,  
information and belief.

  
Deputy Secretary of Highways

Sworn to and subscribed before  
me this 4th day of August  
1961.

Margaret S. Albright  
Notary Public

My Commission Expires 2/5/64

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

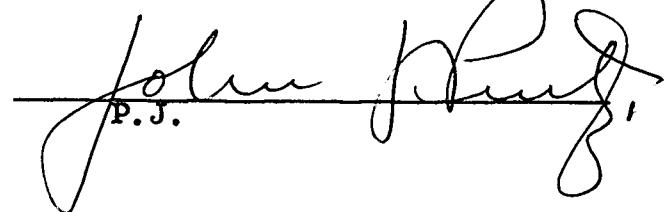
IN RE:

PETITION OF THE COMMONWEALTH :  
OF PENNSYLVANIA, ACTING THROUGH :  
THE DEPARTMENT OF HIGHWAYS, TO :  
CONVENE THE STATE MINING COMMISSION :  
UNDER THE PROVISIONS OF THE :  
ACT OF JULY 3, 1941, P.L. 259, AS :  
AMENDED

O R D E R

NOW, the 14<sup>th</sup> day of September, 1961, on consideration of the attached Petition and on motion of William U. Smith, Attorney for the Petitioner, in accordance with the prayer of said Petition the State Mining Commission is herewith convened to determine in accordance with the prayer of said Petition the underlying or adjacent coal which could have been removed, or the underlying or adjacent coal which is required to be left in place through said condemnation; and to determine and assess damages, if any, for said coal; and to do all other things which are within the jurisdiction of the State Mining Commission.

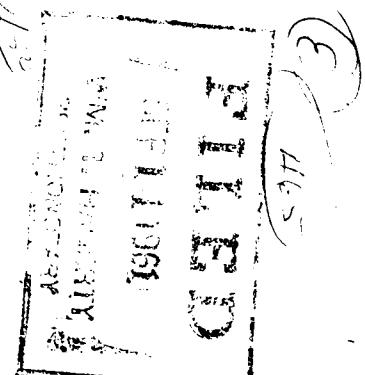
BY THE COURT

  
John J. Flory  
P.J.

### —Cap-over Margin

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.

PETITION OF THE COMMONWEALTH  
OF PENNSYLVANIA, ACTING  
THROUGH THE DEPARTMENT OF  
HIGHWAYS, TO CONVENE THE  
STATE MINING COMMISSION UN-  
DER THE PROVISIONS OF THE  
ACT OF JULY 3, 1941, P. L.  
259, AS AMENDED



SMITH, SMITH & WORK  
ATTORNEYS-AT-LAW  
CLEARFIELD, PA.

Now, Sept. 19, 1961 Service of the within Petitions for  
State Mining Commissions accepted and copy received  
Btl, S. Marshall & Swoope  
by: W. Cook Bell Jr.  
Attorneys for Markman Falls  
Mining Co. and Peter Lanthan  
Edgar.

Common Pleas  
IN THE COURT OF ~~QUARTER~~ SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF HIGHWAYS

-vs-

ISABELLE J. VAN VALZAH and  
HAROLD J. BOULTON, Successor  
Trustees in and for the Estate  
of Peter Karthaus, and MOSHANNON  
FALLS MINING COMPANY, INC.

No. 83 September <sup>TERM</sup> Sessions, 1961

APPOINTMENT OF REPRESENTATIVE TO STATE MINING COMMISSION

NOW, comes Peter Karthaus Estate, by its duly  
authorized representatives, and Moshannon Falls Mining Company,  
Inc., by its duly authorized representative, and does hereby  
appoint William W. Yost, registered engineer, Clearfield,  
Pennsylvania, to be their representative upon the State Mining  
Commission to be convened in the above captioned case.

PETER KARTHAUS ESTATE  
By

Isabelle J. Van Valzah -  
Harold J. Boulton

MOSHANNON FALLS MINING COMPANY, INC.  
By

William W. Yost  
President

Clearfield, Pennsylvania  
October 10, 1961

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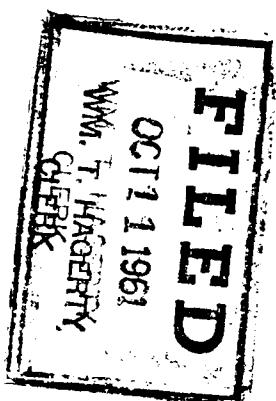
IN THE COURT OF QUARTER  
SESSIONS OF CLEARFIELD  
COUNTY, PENNSYLVANIA, No. 83  
September ~~1961~~, 1961

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF HIGHWAYS

-vs-

ISABELLE J. VAN VALZAH and  
HAROLD J. BOUTON, Successor  
Trustees in and for the Est.  
of Peter Karthaus, and  
MOSHANNON FALLS MINING  
COMPANY, INC.

APPOINTMENT OF REPRESENTA-  
TIVE TO STATE MINING  
COMMISSION



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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

In re: DAMAGES, PETER KARTHAUS :  
ESTATE, STATE MINING : No. 83 September Term, 1961.  
COMMISSION :  
:

O R D E R

NOW, October 6, 1961, the attached notice of appointment of Merle A. Forst to the State Mining Commission by the Pennsylvania Public Utility Commission directed to be filed in the above stated proceedings.

BY THE COURT,

  
John F. Lutz  
President Judge



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Harrisburg, October 3, 1961

IN REPLY PLEASE  
REFER TO OUR FILE

Petition of the Department of Highways of the Commonwealth of Pennsylvania to determine underlying and adjacent coal to be left in place to furnish vertical and lateral support to lands known as the Peter Karthaus Estate in the construction of Legislative Routes Nos. 17052, 17140, 17067 and 17068 in the townships of Covington, Girard and Karthaus, Clearfield County, and to assess damages.

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Hon. John J. Pentz  
President Judge  
Court of Common Pleas  
Courthouse  
Clearfield, Pennsylvania

Dear Sir:

You are hereby advised that the Commission, at its Session of October 2, 1961, designated Merle A. Forst, Chief of its Railroad Engineers, Bureau of Transportation, to serve as a member of the State Mining Commission convened by Order dated September 14, 1961, to consider the instant petition of the Department of Highways.

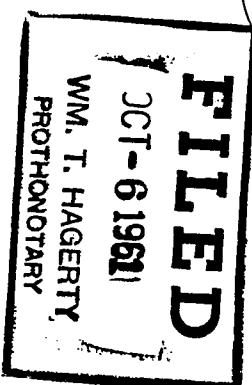
Very truly yours,  
*William P. Roan*  
William P. Roan  
Secretary

CC: William U. Smith, Esquire  
Smith, Smith and Work  
101 N. Second Street  
Clearfield, Pennsylvania

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 83 September Term, 1961

In re: DAMAGES, PETER  
KARTHAUS ESTATE, STATE  
MINING COMMISSION APPOINT  
MENT MERLE A. FORST, REPRE-  
SENTING PA. PUBLIC UTIL. COMM.

O R D E R



JOHN J. PENTZ  
PRESIDENT JUDGE  
CLEARFIELD, PENNSYLVANIA