

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

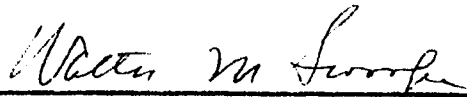
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

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) | : | |

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.

Feb 15-1962

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

In Re:

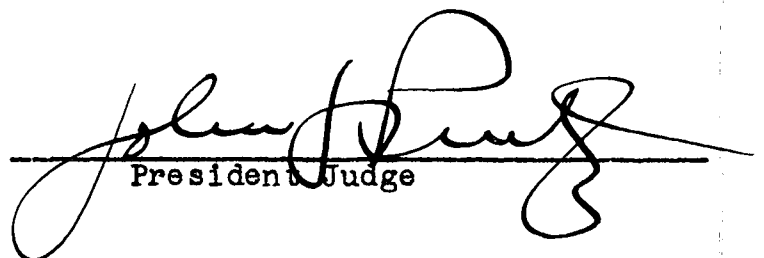
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|-----------------------------|---|-----------------------------|
| PETITION OF COMMONWEALTH OF | : | |
| PENNSYLVANIA, DEPARTMENT OF | : | |
| HIGHWAYS, CONVENING STATE | : | |
| MINING COMMISSION UNDER THE | : | No. 83 September Term, 1961 |
| PROVISIONS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

ORDER OF COURT

NOW, this 15th 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



President Judge

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| 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 & SWOPE ATTORNEYS AT LAW CLEARFIELD TRUST CO. BLDG. CLEARFIELD, PENNA. |

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


In re: :
:
: No. 83 September Term, 1961.
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 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

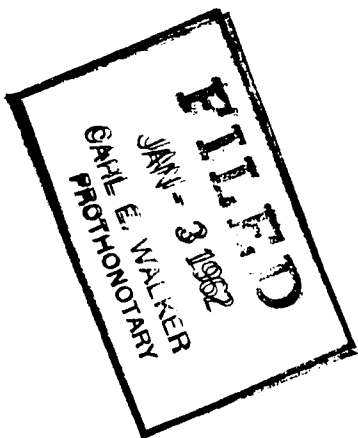

President Judge, Clearfield County
Chairman of State Mining Commission.

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 : No. 83 Septemb er 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) :

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.

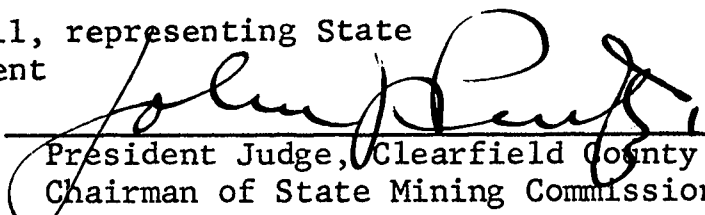
Notice is hereby given to the members of the Commission as follows:

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 COMMMTH
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)

N O T I C E

FILED
DEC 12 1961
WM. T. HAGERTY
PROTHONOTARY

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

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

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

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

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

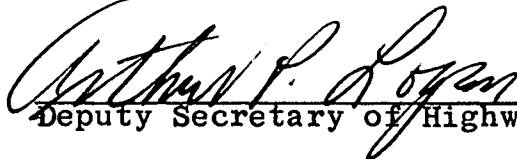
(d). The Secretary of Highways of the Commonwealth of Pennsylvania or his designated representative.

(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

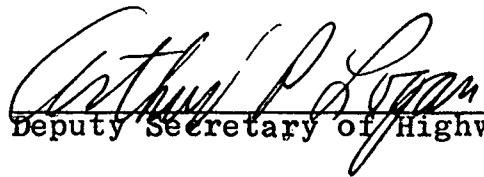

Deputy Secretary of Highways

COMMONWEALTH OF PENNSYLVANIA:

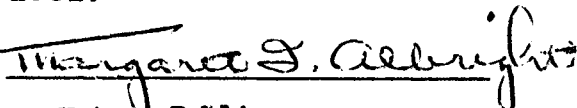
SS:

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 affidavit on its behalf and that the averments contained in the foregoing 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.


Notary Public

My Commission Expires 2/5/64

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

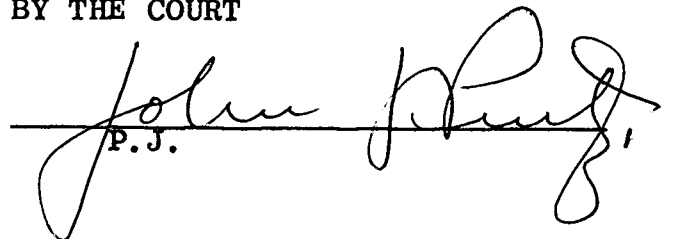
IN RE:

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

O R D E R

NOW, the 14th 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


P.J.

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Cap-over Margin

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|--|--|
| IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA. NO. 12, 1961 | |
| PETITION OF THE COMMONWEALTH OF PENNSYLVANIA, ACTING THROUGH THE DEPARTMENT OF HIGHWAYS, TO CONVEY THE STATE MINING COMMISSION UN- DER THE PROVISIONS OF THE ACT OF JULY 3, 1941, P. L. 259, AS AMENDED | |
| FILED SEP 11 1961 CLERK OF COURT CLEARFIELD, PA. | |
| SMITH, SMITH & WORK ATTORNEYS-AT-LAW CLEARFIELD, PA. | |

Now, Sept. 19, 1961 Service of the within Petition for
State Mining Commission accepted and copy received
Bell, S. Hubbard & Swoope
by: *[Signature]*
Attorneys for Mechanism Fabr.
Mining Co. and Peter Hartman
Felt.

Common Pleas

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

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF HIGHWAYS

-vs-

No. 83 September ~~Sessions~~ ^{TERM}, 1961

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

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

Herbbrandt Woolf
President

Clearfield, Pennsylvania
October 10, 1961

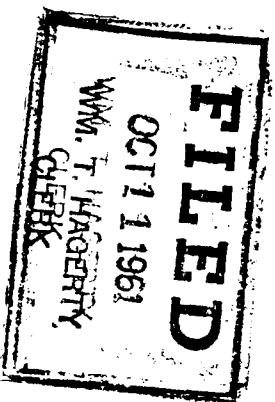
IN THE COURT OF QUARTER
SESSIONS OF CLEARFIELD
COUNTY, PENNSYLVANIA, No. 83
September ~~Sessions~~, 1961

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HIGHWAYS

-VS-

ISABELLE J. VAN VALZAH and
HAROLD J. BOULTON, 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 & SWOOPÉ
ATTORNEYS AT LAW
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PENNA.

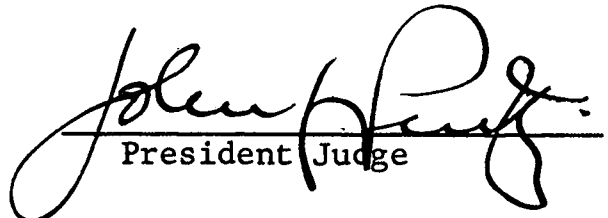
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

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,


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.

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. COM.

O R D E R

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FILED
OCT-6 1961
WM. T. HAGERTY
PROTHONOTARY

JOHN J. PENTZ
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA