

FILED

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

JUN 04 2003

William A. Shaw  
Prothonotary

IN RE: CONDEMNATION BY :  
THE MUNICIPAL AUTHORITY OF : No. 03- 810 -CD  
THE TOWNSHIP OF MORRIS OF :  
EASEMENTS TO A PROPERTIES :  
LOCATED IN MORRIS TOWNSHIP, :  
CLEARFIELD COUNTY, :  
PENNSYLVANIA, IDENTIFIED BY :  
CLEARFIELD COUNTY ASSESSMENT :  
MAP NUMBER 124-R9-13 :

**DECLARATION OF TAKING**

NOW COMES, The Municipal Authority of the Township of Morris, Clearfield County, Pennsylvania and files the following Declaration of Taking:

1. The Condemnor is The Municipal Authority of the Township of Morris, a municipal authority with its offices in Morris Township, Clearfield County, Pennsylvania, with a mailing address of P.O. Box 121, Allport, Pennsylvania, 16821.

2. This condemnation is authorized by Section 5607(d)(15) of the Municipal Authorities Act, 53 Pa.C.S. §5607(d)(15), as amended and supplemented;

3. This Declaration of Taking was authorized by resolution duly passed by The Municipal Authority of the Township of Morris at a special meeting held on June 3, 2003. The record thereof, including a copy of the Resolution may be examined at the office of the Authority in Allport, Pennsylvania, 16821, during regular business hours.

4. The purpose of this condemnation is to acquire permanent easements for the purposes of the Authority's extension of its sewer system and related facilities.

5. The property condemned is shown on a plat thereof annexed to this Declaration of Taking as a part hereof, which property is identified by the following easement number, assessment map number and owner(s) as known to the Authority.

<u>Easement Number</u>	<u>Map Number</u>	<u>Owner(s)</u>
37	124-R9-13	Harry W. & Dolly E. Hand

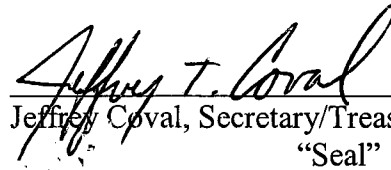
A Copy of the Plat annexed hereto is also being lodged for record concurrent with the filing herewith in the Office of the Recorder of Deeds of Clearfield County in accordance with Section 404 of the Eminent Domain Code, Act of June 22, 1964, Sp. Sess., P.L. 84, Art. I Section 404, as amended, Act of December 5, 1969, P.L. 316, Section 1 and Act of December 29, 1971, P.L. 636, No. 169 Section 2, 26 P.S. Section 1-404.

6. The nature of the title acquired in and to property described in Paragraph 5 hereof are permanent, exclusive and sufficient easements, rights-of-way, rights, and privileges for the purpose of placing, constructing, operating, repairing, maintaining, rebuilding, replacing, relocating and removing sewage facilities over, under, across, upon and through the permanent easement areas as shown on the Plat, with the temporary right during construction to use an additional area of the surface of the property also shown on the Plat to construct and install within the permanent easement areas the facilities to be constructed with rights to do all things necessary, convenient and required to carry out the construction within the permanent easement areas.

7. The construction plans of the Authority showing the facilities to be constructed and installed as well as the condemned property may be inspected at the office of the Authority at Allport, Pennsylvania, 16821, during regular business hours.


8. Just compensation for this condemnation is secured by the Bond of the Authority, without surety, in accordance with Section 403 of the Eminent Domain Code, 26 P.S. Section 1-403(a) which is being filed contemporaneously herewith.

ATTEST:

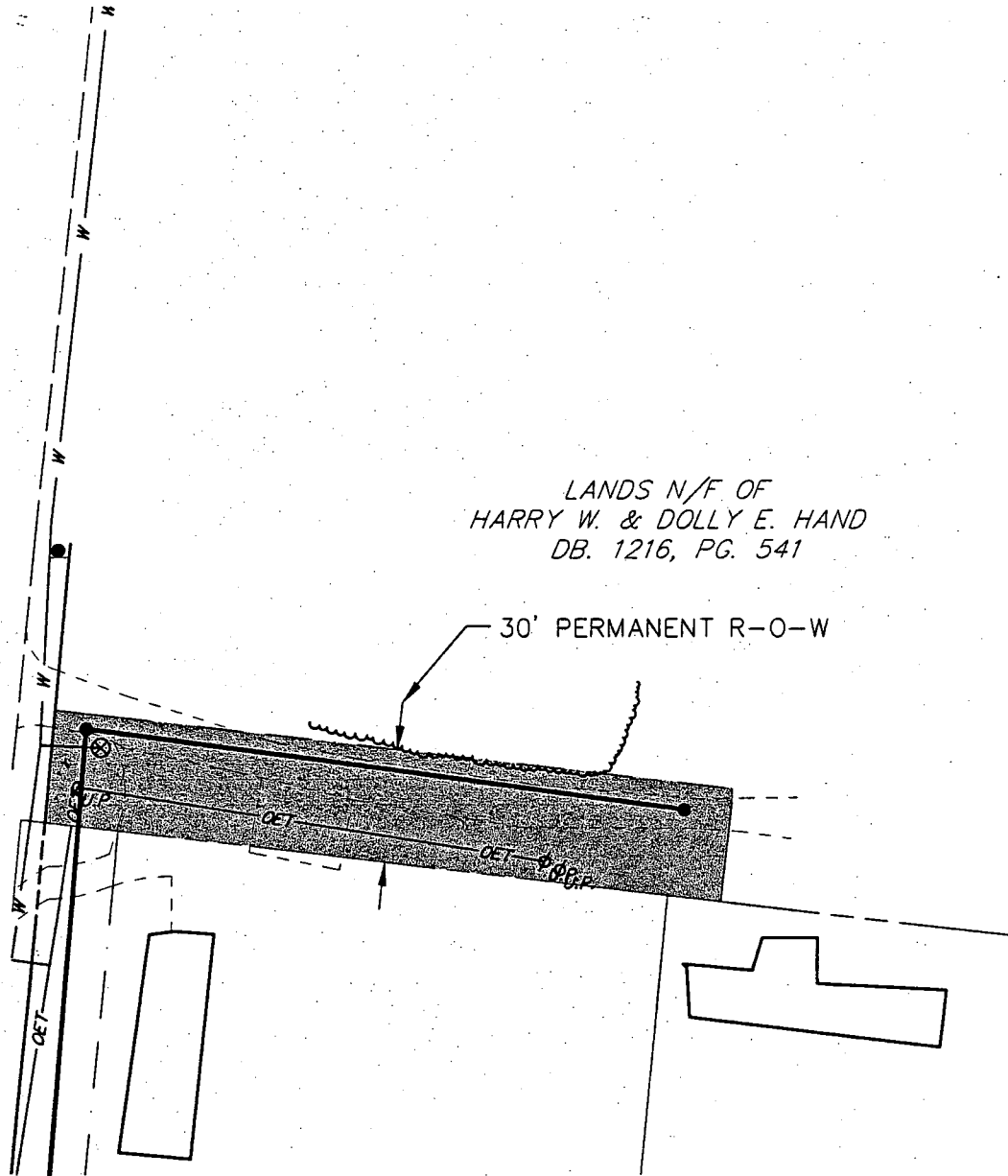
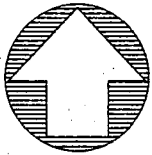
  
\_\_\_\_\_  
Jeffrey Coval, Secretary/Treasurer  
"Seal"

The Municipal Authority of the Township of  
Morris

By:

  
\_\_\_\_\_  
Victor L. Couturiaux, Chairman

ALL PROPERTY LINE INFORMATION IS FROM TAX MAPS & DEEDS. HERBERT, ROWLAND AND GRUBIC INC. ASSUMES NO RESPONSIBILITY FOR ACCURACY OF SAID INFORMATION.



LANDS N/F OF  
HARRY W. & DOLLY E. HAND  
DB. 1216, PG. 541

30' PERMANENT R-O-W

EASEMENT NO. 37

1" = 50'

	SANITARY SEWER W/MANHOLE
	ESTIMATED PROPERTY BOUNDARY
	EXISTING MUNICIPAL R/W
	PROPOSED SANITARY SEWER R/W
	PROPOSED TEMPORARY CONSTRUCTION EASEMENT

TAX MAP NO.: 124-R9  
PARCEL NO.: 13  
PERMANENT R/W: 0 SQ. FT.  
TEMPORARY EASEMENT: 5,543 SQ. FT.

N/F LANDS OF  
HARRY W. & DOLLY E. HAND

MORRIS TOWNSHIP

CLEARFIELD CO.

PERMANENT SANITARY SEWER RIGHT-OF-WAY  
AND  
TEMPORARY CONSTRUCTION EASEMENT  
FOR  
MUNICIPAL AUTHORITY OF THE TOWNSHIP OF MORRIS

FILED

41cc

Atty Kesner

of 10:28:34

JUN 04 2003

Atty pd. 85.00

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION BY  
THE MUNICIPAL AUTHORITY OF  
THE TOWNSHIP OF MORRIS OF  
EASEMENTS TO A PROPERTIES  
LOCATED IN MORRIS TOWNSHIP,  
CLEARFIELD COUNTY,  
PENNSYLVANIA, IDENTIFIED BY  
CLEARFIELD COUNTY ASSESSMENT  
MAP NUMBER 124-R9-13

No. 03-810 -CD

FILED

JUN 04 2003

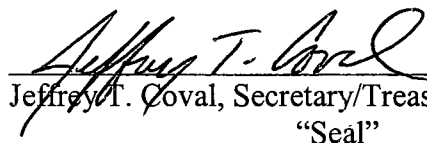
William A. Shaw  
Prothonotary

BOND

KNOW ALL MEN BY THESE PRESENTS, THAT THE MUNICIPAL AUTHORITY  
OF THE TOWNSHIP OF MORRIS, CLEARFIELD COUNTY, PENNSYLVANIA, a municipal  
authority, with a mailing address of P.O. Box 121, Allport, Pennsylvania, 16821, hereafter called  
"OBLIGOR" is held and firmly bound unto the Commonwealth of Pennsylvania, hereinafter  
called "OBLIGEE" for the use and benefit of the owner or owners of the property interests  
condemned, the condition of which shall be that the OBLIGOR shall pay such damages as shall  
be determined by law.

WHEREAS, the Municipal Authority of the Township of Morris, the OBLIGOR herein,  
shall pay or cause to be paid such amount of damages as the said owner(s) of the property  
interest(s) shall be entitled to by reason of such condemnation, after the same shall have been  
agreed upon or assessed in the manner provided by law, then this obligation shall be void;  
otherwise, to remain in full force and effect.

ATTEST:

  
Jeffrey T. Coval, Secretary/Treasurer  
"Seal"

The Municipal Authority of the Township of  
Morris

By:

  
Victor L. Couturiaux, Chairman

FILED 4cc  
of 10:28 AM  
JUN 04 2003  
Atty Kesner

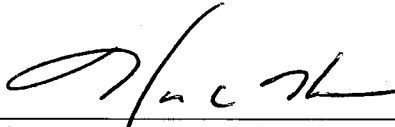
William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION BY :  
THE MUNICIPAL AUTHORITY OF : No. 03-810-CD  
THE TOWNSHIP OF MORRIS OF :  
EASEMENTS TO A PROPERTIES :  
LOCATED IN MORRIS TOWNSHIP, :  
CLEARFIELD COUNTY, :  
PENNSYLVANIA, IDENTIFIED BY :  
CLEARFIELD COUNTY ASSESSMENT :  
MAP NUMBER 124-R9-13 :

**MEMORANDUM OF RECORDING**  
**NOTICE OF CONDEMNATION**

In accordance with Section 404 of the Eminent Domain Code, 26 P.S. Section 1-404, now comes The Municipal Authority of the Township of Morris, by its solicitor, Kim C. Kesner, Esquire and files this Memorandum that on the 4<sup>th</sup> day of June, 2003, a Notice of this condemnation was recorded with the Recorder of Deeds of Clearfield County and is of the record at Instrument Number 200309619.

  
\_\_\_\_\_  
Kim C. Kesner, Esquire  
Solicitor for The Municipal Authority of the  
Township of Morris

**FILED**

JUN 04 2003

William A. Shaw  
Prothonotary

FILED

2cc

EX 9/11/00 ~~at~~ Atty Kesner  
JUN 04 2003

William A. Shaw  
Prothonotary

## AFFIDAVIT OF PROCESS SERVER

In the Court of Common Pleas of Clearfield County, Pennsylvania, - Civil Division  
(NAME OF COURT)

In Re: Condemnation by the Municipal Authority of the Township of Morris of Easements to a  
PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT CASE #  
property located in Morris Township, Clearfield County, Pennsylvania, identified by Clearfield  
County Assessment Map Number 124-R9-13.

I declare that I am a citizen of the United States, over the age of eighteen and not a party to this action. And that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I served HARRY W. HAND AND DOLLY E. HAND

with the (documents) Notice, Declaration of Taking and Bond

by serving HARRY W. HAND  
NAME

HUSBAND  
RELATIONSHIP

at ☒ Home 530 SPRUCE ST. CLEARFIELD PA 16830

☐ Business

on June 9, 2003 at 4:50 P.M.

Thereafter copies of the documents were mailed by prepaid, first class mail on  
from \_\_\_\_\_  
CITY STATE

FILED

JUN 11 2003

William A. Shaw  
Prothonotary

Manner of Service: ☒ By personally delivering copies to the person/authorized agent of entity being served.

☐ By leaving, during office hours, copies at the office of the person/entity being served, leaving same with the person apparently in charge thereof.

☐ By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household 18 or older and explaining the general nature of the papers.

☐ By posting copies in a conspicuous manner to the address of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s).

☐ Unknown at Address ☐ Evading ☐ Moved, Left no Forwarding ☐ Other  
☐ Address Does Not Exist ☐ Service Cancelled by Litigant ☐ Unable to Service in a Timely Fashion

Service Attempts: Service was attempted on ( 1 ) 6-5-03 2:00PM ( 2 ) 6-6-03 4:00PM  
( ) \_\_\_\_\_ ( ) \_\_\_\_\_  
DATE TIME DATE TIME DATE TIME

Description:

Age 60's Sex M Race Wh Hgt. 5'7" Wgt. 140 Hair Yes Glasses Yes

I declare under penalty of perjury that the information contained herein is true and correct and this affidavit was executed on June 10, 2003  
at \_\_\_\_\_  
CITY STATE

State of PA  
County of CLEARFIELD  
Sworn to and subscribed before me this  
day of 6-10, 2003

RICHARD A. IRELAND  
District Justice, State of Pennsylvania  
No. 46-3-02, Clearfield County  
Term Expires Jan. 3, 2006

SIGNATURE OF PROCESS SERVER

NOTARY PUBLIC

Wendy A. Milliv  
Prothonotary

JUN 11 2003

FILED

FILED

JUN 11 2003

0/2:42 p.m.  
William A. Shaw  
Prothonotary  
1 cc to all

JUNE 12-03

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

IN RE: CONDEMNATION BY  
THE MUNICIPAL AUTHORITY OF  
THE TOWNSHIP OF MORRIS OF  
EASEMENTS TO A PROPERTIES  
LOCATED IN MORRIS TOWNSHIP,  
CLEARFIELD COUNTY,  
PENNSYLVANIA, IDENTIFIED BY  
CLEARFIELD COUNTY ASSESSMENT  
MAP NUMBER 124-R9-13

No. 03-810-CD

FILED

JUN 13 2003

0191351 W  
William A. Shaw  
Prothonotary

1 CENT H. HAND

Preliminary Objections  
to the  
Declaration of Taking

Harry W. & Dolly E. Hand do hereby object to the Morris Township taking of Easement #37, Map #124-R9-13 in Clearfield Co., Penna.

#1 The service this line will serve is a 1 story building on 1/2 of lot next to my property. There is a right-of-way from the front 1/2 lot NOTE: they split this property around 1993.

#2 The Township sent me a temporary easement plan showing the sewer line on this right-of-way with an 18 foot temporary construction on Hand property. This I will sign. I see no reason the line should be on my property.

#3 As this line will only service 1 house, I don't understand this action.

#4 Future use of my property will be affected by this action if approved.

#5 Property rights of land owners must and should be protected at all times unless there is no other way.

#6 In this case, the line can and should be on their property as they are the only one to use it.

#7 Attached is Temporary Easement Construction Plan that was sent to me by the Township.

Copies to  
Morris Township

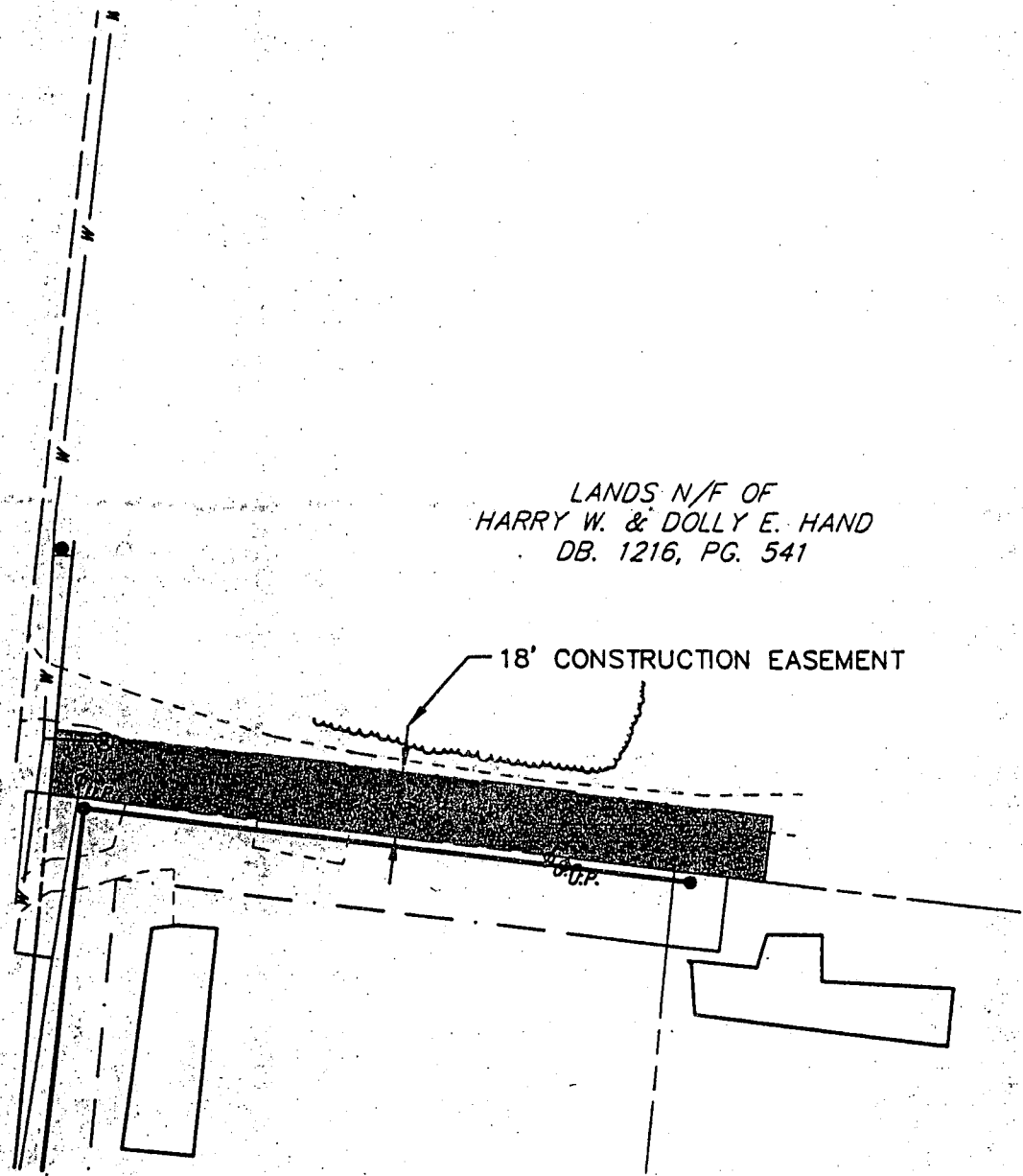
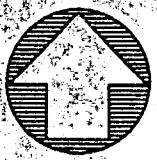
Harry W. Hand

Dolly E. Hand

Harry W. & Dolly E. Hand  
530 Spruce St.  
Clearfield, PA 16830  
Ph. 814-765-8208

100 2

ALL PROPERTY LINE INFORMATION IS FROM TAX MAPS & DEEDS. HERBERT, ROWLAND AND GRUBIC, INC. ASSUMES NO RESPONSIBILITY FOR ACCURACY OF SAID INFORMATION.



LANDS N/F OF  
HARRY W. & DOLLY E. HAND  
DB. 1216, PG. 541

18' CONSTRUCTION EASEMENT

EASEMENT NO. 37

1" = 50'

	SANITARY SEWER W/MANHOLE
	ESTIMATED PROPERTY BOUNDARY
	EXISTING MUNICIPAL R/W
	PROPOSED SANITARY SEWER R/W
	PROPOSED TEMPORARY CONSTRUCTION EASEMENT

TAX MAP NO.:	124-R9
PARCEL NO.	13
PERMANENT R/W:	0 SQ. FT.
TEMPORARY EASEMENT:	3,409 SQ. FT.

N/F LANDS OF <b>HARRY W. &amp; DOLLY E. HAND</b>	
MORRIS TOWNSHIP	CLEARFIELD CO.
PERMANENT SANITARY SEWER RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT FOR MUNICIPAL AUTHORITY OF THE TOWNSHIP OF MORRIS	

9-27-92

**FILED**

**JUN 13 2003**

**William A. Shaw  
Prothonotary**

KIM C. KESNER

23 NORTH SECOND STREET, CLEARFIELD, PA 16830

ATTORNEY AT LAW

[attykesner@usachoice.net](mailto:attykesner@usachoice.net)

(814) 765-1706

FAX (814) 765-7006

June 27, 2003

Marcy Kelley, Deputy Court Administrator  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

**RE: In re: Condemnation by the Municipal Authority of the Township of Morris of Easements to a property located in Morris Township, Clearfield County, Pennsylvania, identified by Clearfield County Assessment Map Number 124-R9-13**

**No. 03-810-CD**

Dear Ms. Kelly:

I serve as Solicitor of the Municipal Authority of the Township of Morris ("MATM") and commenced the above captioned eminent domain proceeding on June 4, 2003 by filing with the Prothonotary a Declaration of Taking. Enclosed is a copy of Preliminary Objections filed pro se by Harry W. and Dolly E. Hand to that Declaration of Taking.

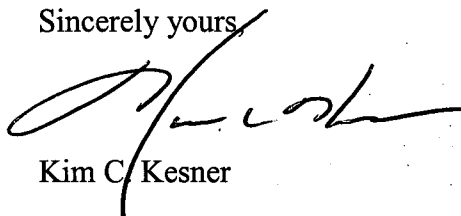
The Pennsylvania Eminent Domain Code states:

(e) The Court shall determine promptly all preliminary objections and make such preliminary and final orders and decrees as justice shall require, including the revesting of title.

26 P.S. §1-406

I would respectfully suggest that this provision places an affirmative obligation on the Court to schedule and determine preliminary objections "promptly". I would therefore, respectfully request that the Court, with notice to the parties, schedule the Hand's Preliminary Objections for determination. Should you require anything further from me in these connections, kindly advise.

Sincerely yours,



Kim C. Kesner

KCK/klz

Enclosure

cc: Victor L. Couturiaux, Chairman  
Municipal Authority of the Township of Morris  
Mr. & Mrs. Harry W. Hand

**VIA HAND DELIVERY**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

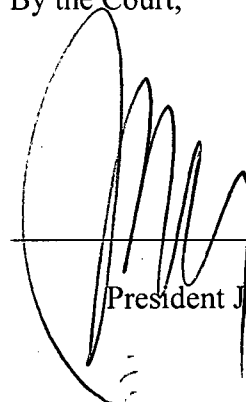
CIVIL ACTION

IN RE: CONDEMNATION BY THE :  
MUNICIPAL AUTHORITY OF THE :  
TOWNSHIP OF MORRIS OF : No. 03 - 810 - CD  
EASEMENT TO A PROPERTY :  
LOCATED IN MORRIS TOWNSHIP, :  
CLEARFIELD COUNTY, :  
PENNSYLVANIA, IDENTIFIED BY :  
CLEARFIELD COUNTY ASSESSMENT :  
MAP NUMBER 124-R9-13 :

**ORDER**

NOW, this 22<sup>nd</sup> day of September, 2003, following argument and briefs into Preliminary Objections filed on behalf of Harry W. and Dolly E. Hand to the above Eminent Domain proceedings, it is the ORDER of this Court that said Objection be and are hereby dismissed.

By the Court,



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

**FILED**

SEP 23 2003

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**  
09:00 AM  
SEP 23 2003

William A. Shaw  
Prothonotary/Clerk of Courts

ICE Atty Kesner  
ICE Harry & Dolly Hand  
530 Spruce St.  
Clearfield, PA 16830

Date: 09/23/2003

Clearfield County Court of Common Pleas

User: DGREGG

Time: 09:15 AM

ROA Report

Page 1 of 1

Case: 2003-00810-CD

Current Judge: John K. Reilly Jr.

IN RE: Morris Township

Civil In RE

Date		Judge
06/04/2003	✓ Filing: Civil Complaint Paid by: Kesner, Kim C (attorney for Morris Township) Receipt number: 1861057 Dated: 06/04/2003 Amount: \$85.00 (Check) 4 cc to Atty. Kesner	No Judge
	✓ Memorandum of Recording Notice of Condemnation. 2 cc to Atty. Kesner.	No Judge
06/11/2003	✓ Affidavit Of Process Server, HARRY W. and DOLLY E. HAND served with: Notice, Declaration of Taking and Bond. Filed 1 cc to Atty	No Judge
06/13/2003	✓ Preliminary Objections to the Declaration of Taking. filed by s/Harry W. & Dolly E. Hand 1 cc H. Hand	No Judge
09/23/2003	✓ ORDER, NOW, this 22nd day of September, 2003, following argument and Briefs into Preliminary Objections filed on behalf of Harry W. and Dolly E. Hand to the above Eminent Domain proceedings, it is the ORDER of this Court that said Objections be and are hereby DISMISSED. by the Court, s/JKR,JR.,P.J. 1 cc Atty Kesner, Harry & Dolly Hand	John K. Reilly Jr.