

03-1821-CD

JN RE: MUDDY RUN REGIONAL AUTHORITY, et al.

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

FILED

IN RE: CONDEMNATION BY MUDDY
RUN REGIONAL AUTHORITY
OF PROPERTIES LOCATED IN GLEN HOPE * No. 03- 1824CD
BOROUGH, CLEARFIELD COUNTY,
PENNSYLVANIA *
*
*

DEC 10 2003

William A. Shaw
Prothonotary/Clerk of Courts

DECLARATION OF TAKING

NOW COMES the Muddy Run Regional Authority and files the following Declaration
of Taking:

1. The Condemnor is the Muddy Run Regional Authority a Pennsylvania municipal authority with its office at P.O. Box 474, Madera, PA 16661-0474.
2. This condemnation is authorized by the Municipal Authorities Act of 1945, Act of May 2, 1945, P.L. 382, Section 11, as amended, Act of June 12, 1947, P.L. 571, Section 1, 53 P.S. Section 314.
3. This Declaration of Taking was authorized by resolution duly passed by the Muddy Run Regional Authority at a special meeting held on December 10, 2003. The record thereof, including a copy of the Resolution may be examined at the office of the Authority at P.O. Box 474, Madera, PA 16661-0474.
4. The purpose of this condemnation is to acquire property interests for the construction, operation and maintenance of a sewer system and related facilities to be constructed, operated and maintained by the Authority in Glen Hope Borough.

5. The properties condemned are as shown on plats thereof annexed to this Declaration of Taking as a part hereof, which properties are identified by the following plat numbers and owners as known to the Authority:

| <u>Plat #</u> | <u>Owner(s)</u> |
|-------------------------|---|
| 8-I15-359-26 | Juanita D. Holencik |
| 8-I15-360-33 | Wayne Pusey |
| 8-I15-34 | Charles Kitko, John K. Kitko, David L. Kitko, Kenneth E. & Clementine Kitko, Robert F. & Carol Kitko <i>DLC</i> |

A copy of the Plats are 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 the property described in paragraph 5 hereof is a permanent and sufficient easement, right-of-way, rights, and privileges for the purpose of placing, constructing and/or continuing and maintaining facilities hereafter placed and constructed, operating, repairing, maintaining, rebuilding, replacing, relocating, and removing sewage facilities over, across, upon, and through the easement area as shown on the Plat, with the right to use so much of the surface of the property as may be reasonably necessary to construct and install within the easement and right-of-way the facilities to be constructed as well as the right to ingress and egress over the property for maintenance of the facilities within the easement and right-of-way condemned.

7. The construction plans of the Authority showing the facilities to be constructed and installed and/or heretofore constructed and installed, as well as the condemned properties may be inspected at the office of the Authority at P.O. Box 474, Madera, PA 16661-0474, during regular business hours.

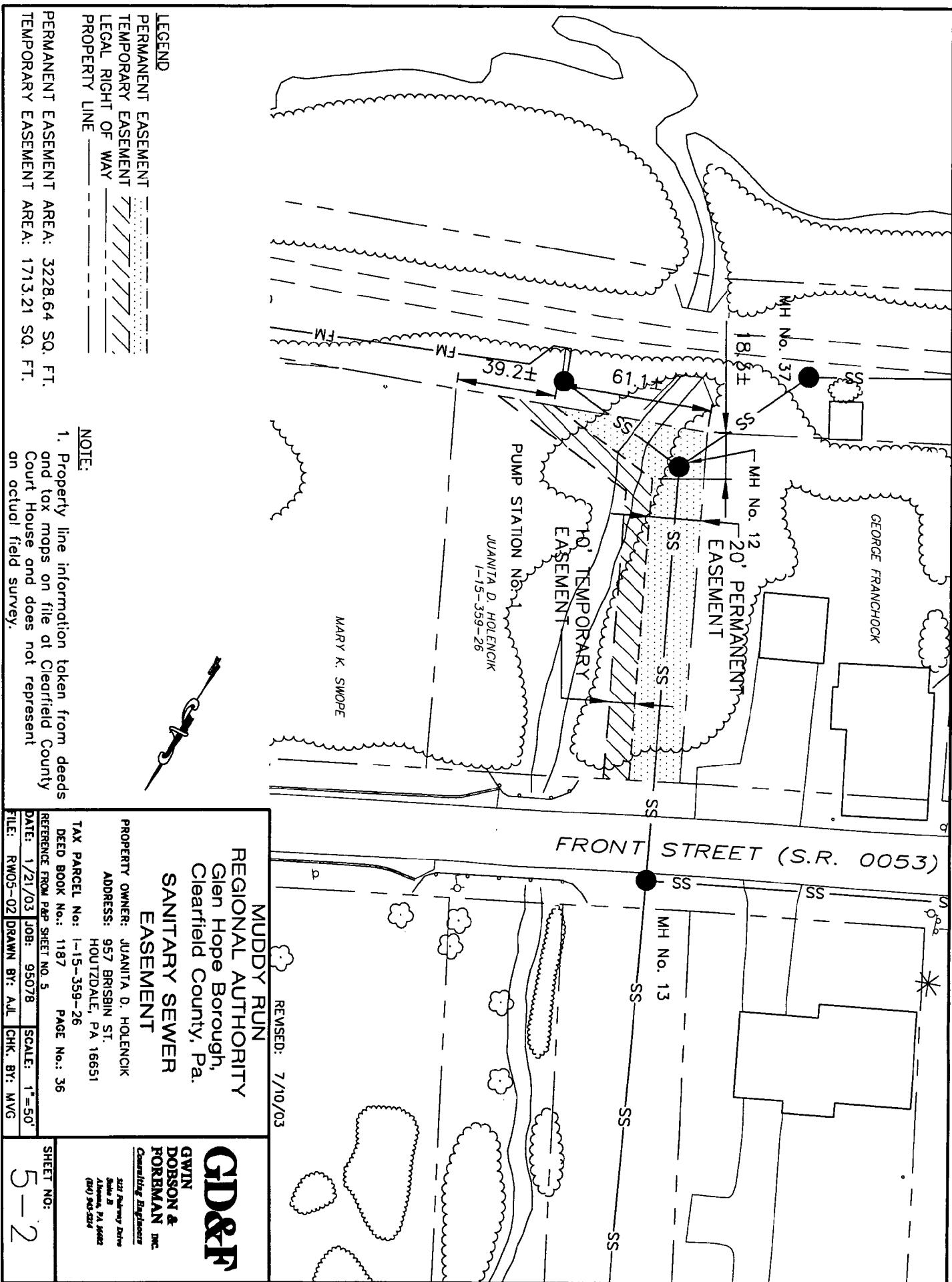
8. Just compensation for this condemnation is secured by the bond of the Authority, without surety, in accordance with Section 403 of the Eminent Domain Code, 26 P.S. Section 1-403(a) which is being filed contemporaneously herewith.

ATTEST:

John W. Fudrow
John. W. Fudrow, Secretary
(SEAL)

MUDGY RUN REGIONAL
AUTHORITY

By: David L. Lumberg
~~George R. Richards, Chairman~~
~~David L. Lumberg~~ Vice Chairman



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

IN RE: CONDEMNATION BY MUDDY
RUN REGIONAL AUTHORITY *
OF PROPERTIES LOCATED IN GLEN HOPE *
BOROUGH, CLEARFIELD COUNTY, *
PENNSYLVANIA *
* No. 03-1821-CD

2150

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William A. Shaw
Prothonotary/Clerk of Courts

BOND

KNOW ALL MEN BY THESE PRESENTS, THAT THE MUDDY RUN REGIONAL AUTHORITY, a Pennsylvania Municipal Authority with its office at P.O. Box 474, Madera, PA, 16661-0474, hereinafter 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 Muddy Run Regional Authority, the OBLIGOR herein, shall pay or cause to be paid such amount of the damages as the said owner or owners of the property interests 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 be in remain and full force and effect.

ATTEST:

MUDGY RUN REGIONAL

John W. Fudrow
John W. Fudrow, Secretary
(SEAL)

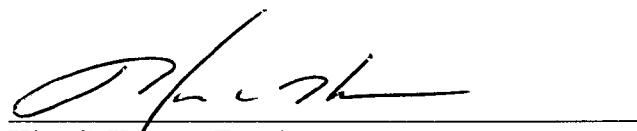
By: David R. Camberg
George R. Richards, Chairman
David L. Camberg, Vice Chairman

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

IN RE: CONDEMNATION BY MUDDY RUN *
REGIONAL AUTHORITY *
OF PROPERTIES LOCATED IN GLEN HOPE * No. 03- 1821 -CD
BOROUGH, CLEARFIELD COUNTY, *
PENNSYLVANIA *
*
*

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 Muddy Run Regional Authority, by its counsel, Kim C. Kesner, Esquire and files this Memorandum that on the 10th day of December, 2003, a Notice of this condemnation was recorded with the Recorder of Deeds of Clearfield County and is of record at as Instrument Number 260322319.



Kim C. Kesner, Esquire
Solicitor for the Muddy Run Regional Authority

FILED

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William A. Shaw
Prothonotary

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

IN RE: Condemnation by Muddy Run : No. 03-1821-CD
Regional Authority of Properties
located in Glen Hope **AFFIDAVIT**
Borough, Clearfield County
Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD

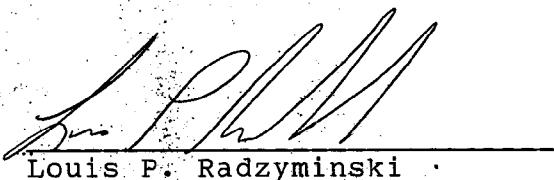
Before me, the undersigned notary public, this day, personally, appeared

Louis P. Radzyminski to me known, who being duly sworn according to
law, deposes the following:

Statement

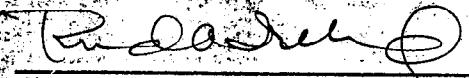
Service of process was performed by hand to hand method
on Juanita D. Holencik, residing at 150 Slab Cabin Rd.
State College PA 16801. Service took place at 2:45 PM,
Thursday, December 11, 2003.

I swear the above to be true and correct.



Louis P. Radzyminski

Subscribed and sworn before me this 12 day of DECEMBER, 2003.



Notary

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

FILED

DEC 15 2003

William A. Shaw
Prothonotary, Clerk of Courts

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

RECEIPT, AGREEMENT AS TO DAMAGES AND RELEASE

This receipt, agreement and release made this 2nd day of April, 2004 by and between Juanita D. Holencik of 150 Slab Cabin Road, State College, Pennsylvania, 16801, hereinafter referred to singularly or in the aggregate as Condemnee:

And

The Muddy Run Regional Authority, P.O. Box 474, Madera, Pennsylvania, 16661-0474, hereinafter referred to as Condemnor.

Recitals

Condemnor has condemned by its declaration of taking an easement in and to property of Condemnee. Easement No. 5-2, Map No. 8-I15-359-26.

Condemnor, in accordance with the Pennsylvania Eminent Domain Code, 26 P.S. Section 1-407, has made an offer to pay to Condemnee the sum of Five Hundred (\$500.00) Dollars as just compensation for the taking.

Section 1-501 of the Pennsylvania Eminent domain Code, 26 P.S. Section 1-501 provides that in any stage of the proceedings the Condemnor and the Condemnee may conclude the Condemnation by an agreement as to damages and that thereupon the Condemnor may make payment of the damages agreed upon.

Condemnee agrees to accept the Condemnor's offer as its damages in full in final settlement of its right to compensation for the taking and any claims it may have under the Pennsylvania Eminent Domain Code for the taking arising from the Condemnation.

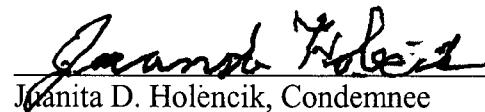
NOW THEREFORE, intending to be legally bound hereby, the Condemnor and the Condemnee agrees as follows:

1. Condemnor agrees to pay and the condemnee agrees to accept the sum of Five Hundred and no/100 (\$500.00) Dollars in full and final payment of Condemnee's damages in accordance with 26 P.S. Section 1-501.

2. Payment shall be made concurrent with the execution of this agreement, receipt of which is hereby acknowledged by Condemnee.

3. In consideration of this payment, Condemnee, on behalf of itself, its heirs, executors, administrators and assigns hereby fully releases Condemnor, its successors and assigns from all rights or claims it has to just compensation and damages including any special damages due it under Article VI and VI-A of the Pennsylvania Eminent Domain Code or otherwise arising from the condemnation and taking. This release is intended by the parties to be a general release of Condemnor by Condemnee and a full and final agreement as to damages.

4. It is agreed that the Condemnor may file a copy of this agreement certified by the Condemnor's solicitor in this proceeding in order to confirm acceptance of payment and final resolution of the Condemnations.



Jeanita D. Holencik, Condemnee

Attest:


John W. Fudrow, Secretary

Muddy Run Regional Authority
By:


James Saupp, Chairman