

OS-1084-CD

Muddy Run vs Mid-Run Cae 1

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 Any Casey

William A. Shaw
 Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

MUDDY RUN REGIONAL AUTHORITY,	:	
Condemnor	:	
	:	
VS.	:	NO. 05-1084-CD
	:	
MID-PEN COAL COMPANY, et al	:	
Condemnees	:	

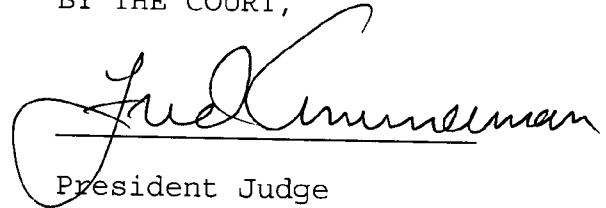
O R D E R

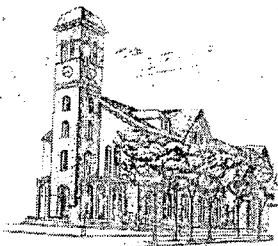
NOW, this 9th day of December, 2005, this being the date set for Rule Returnable relative the Petition filed on behalf of the Muddy Run Regional Authority for Writ of Possession, it is hereby the ORDER of this Court that the said Rule is made absolute and a writ of possession shall issue for all property located in Bigler Township, Beccaria Township, Gulich Township and Ramey Borough, Clearfield County, Pennsylvania, against all Condemnees (with the exception of Lawrence Berzanski) upon payment to the Prothonotary of the sum of One Hundred Seven (\$107.00) Dollars from Muddy Run Regional Authority for the property consisting of rights of way for the use of Condemnees as their interest may appear, without any commissions or fees deductible therefrom.

In regard to the writ of possession made by Lawrence Berzanski, whose property is located in Bigler Township, Clearfield, County, it is the ORDER of this Court that the dispute be referred to a Board of View. This Court shall issue

subsequent Order appointing a specific Board of View in regard to the issues involved.

BY THE COURT,


President Judge



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

X You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

MUDDY RUN REGIONAL
AUTHORITY

-VS-

No. 05-1084-CD

MID-PEN COAL COMPANY, et al.:

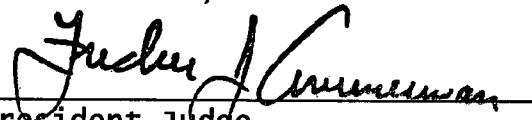
O R D E R

NOW, this 14th day of December, 2005, this being
the date set for argument on the Petition of Defendant
Larry Berzanski for Appointment of Board of View, it is the
ORDER of this Court that the following individuals hereby
be appointed as a Board of View:

1. Peter Smith, Esquire - Chairman
2. Evo Facchine
3. Sam Yost

It is the further directive of this Court that
the Board of View take no action for a period of thirty
(30) days from the date of this Order. Prior to commencing
any activities, the Chairman of the Board of View shall
contact counsel for the Plaintiff and Defendants in order
to determine if the dispute still exists.

BY THE COURT,



President Judge

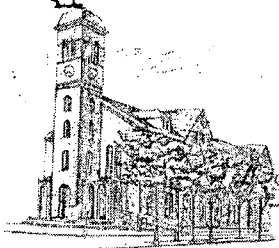
FILED

013:04/01

DEC 15 2005

William A. Shaw
Prothonotary/Clerk of Courts


cc
to Lawrence Berzanski
8931 Perkins Drive
Mentor, OH 44060



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

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Sincerely,

William A. Shaw
Prothonotary

DATE: 12/15/05

X You are responsible for serving all appropriate parties.

 The Prothonotary's office has provided service to the following parties:

 Plaintiff(s)/Attorney(s)

 Defendant(s)/Attorney(s)

 Other

X Special Instructions:

Be sure to serve the viewers.

CA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

MUDDY RUN REGIONAL
AUTHORITY

-VS-

MID-PEN COAL COMPANY, et al.:

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:
:

No. 05-1084-CD

O R D E R

NOW, this 14th day of December, 2005, it being brought to the Court's attention that Mary Louise Rodkey, Defendant in the above captioned action, had not been served with the Plaintiff's writ of possession due to the legal proceedings filed by Ms. Rodkey to No. 05-1582-CD, it is therefore the ORDER of this Court that Mary Louise Rodkey be removed from the provisions of the first paragraph of this Court's Order of December 9, 2005. The writ of possession against the said Mary Louise Rodkey is hereby lifted.

BY THE COURT,



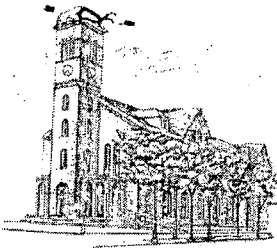
President Judge

FILED

DEC 15 2005

William A. Shaw
Prothonotary/Clerk of Courts

(Enc)
10 CC
Atty Casfley



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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Sincerely,

William A. Shaw
Prothonotary

DATE: 12/15/05

X You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

MUDDY RUN REGIONAL
AUTHORITY

-VS-

MID-PEN COAL COMPANY, et al.:

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No. 05-1084-CD

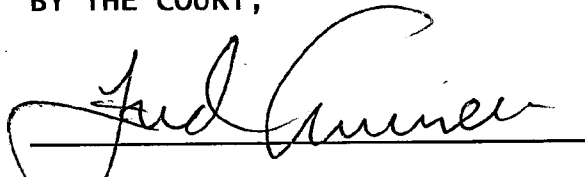
O R D E R

NOW, this 16th day of January, 2006, Defendant Michael S. McClure having requested the matter be referred to Board of View, it is the ORDER of this Court that the following individuals hereby be appointed as a Board of View:

1. Peter Smith, Esquire - Chairman
2. Evo Facchine
3. Sam Yost

It is the further ORDER of this Court that said Board of view hearing be and is hereby included to be heard with the Lawrence Berzanske Board of View hearing scheduled for Thursday, January 19, 2006, at 12:00 noon in Hearing Room No. 3, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT,


President Judge

FILED

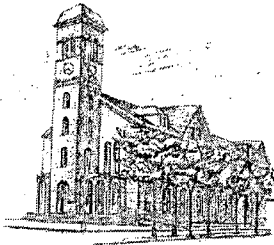
JAN 16 2006

William A. Shaw
Prothonotary/Clerk of Courts

ICC to CIA to
serve on McClure
(no memo)

ICC to Smith, Facchine,
and Yost (no memo)

3cc Atty Castley
(with memo)



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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Sincerely,

William A. Shaw
Prothonotary

DATE: 11/6/06

_____ You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

X Special Instructions:

*Mr. McClure and the Board of View members
have been served.*

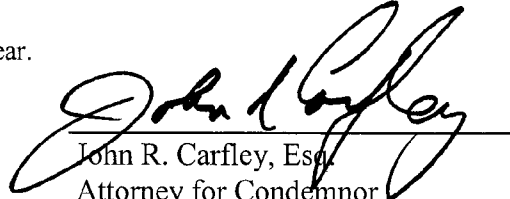
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.
CIVIL DIVISION

MUDDY RUN REGIONAL AUTHORITY	:	
Condemnor	:	
vs.	:	No.: 2005-1084-CD
	:	
	:	Eminent Domain
MID-PEN COAL COMPANY, ET AL.,	:	
Condemnees	:	Proceedings In Rem

PRAECIPE

TO THE PROTHONOTARY:

Please deposit the attached payment in the amount of \$107.00 tendered by the Condemnor in the above captioned action into the Prothonotary's interest-bearing escrow account pending application by the Condemnee to release these funds for the use and benefit of the individuals named in the attached Exhibit "A" as their interest may appear.



John R. Carfley, Esq.
Attorney for Condemnor
ID# 17621
P. O. Box 249
Philipsburg, PA 16866
(814) 342-5581

FILED ^(K)
9/11:43cm TCC ATTy Carfley
DEC 20 2005

William A. Shaw
Prothonotary

107.00
in file

EXHIBIT "A"

1.	Mary Louise Rodkey	4-27	\$1.00
2.	Larry J. & Mariel Kephart	4-40	1.00
3.	Richard Evans et. ux.	4-57	1.00
4.	Paul/Chris Kollar	4-96	1.00
5.	Helen Krom, Trustee	4-98	1.00
6.	Pa. Electric Co.	4-103	1.00
7.	Terry Reynolds et. ux	4-129	1.00
8.	John Lehman et. ux.	4-142	1.00
9.	Albert Zapsky et. al.	4-153	1.00
10.	John Bednarchick et.ux	4-174	1.00
11.	Federal Nat. Mort. Assn.	4-202	1.00
12.	Lester E. & Ada Mast	4-227	1.00
13.	Lester E. & Ada Mast	4-228	1.00
14.	Harold Hubler et. al.	4-239	1.00
15.	Harold Hubler et. al.	4-240	1.00
16.	Harold Hubler et. al	4-242	1.00
17.	David Pyle et. ux.	4-250	1.00
18.	Dorothy Flango	4-257	1.00
19.	Samuel Brink	4-258	1.00
20.	Samuel Rauch et. al.	4-259	1.00
21.	Samuel Brink	4-261	1.00
22.	Albert Zapsky	4-264	1.00
23.	Ellen J. Priselac et. al	4-278	1.00
24.	Joseph/Ellen Priselac	4-280	1.00
25.	John/Alice Demko	4-292	1.00
26.	Jeff/Shelly Holley	4-320	1.00
27.	Joseph/Betty Litzinger	4-332	1.00
28.	Theresa Litzinger	4-333	1.00
29.	Joseph/Ellen Priselac	4-336	1.00
30.	Paul/Kathryn Coleman	5-5	1.00
31.	Charles Laskowsky et.ux	5-10	1.00
32.	Barry Clancy et. ux.	5-18	1.00
33.	Michael J. Kufchock	5-30	1.00
34.	Charles Harnish, Jr.	5-59	1.00
35.	Robert/Diann Harnish	5-62	1.00
36.	Andrew Kitko	5-89	1.00
37.	Andrew Kitko	5-90	1.00
38.	Duane Pataky et. al.	5-98	1.00
39.	Francis Eugene Priselac	5-102	1.00
40.	Kenneth Duke	5-120	1.00
41.	Thomas/Nadine Rowley	5-128	1.00
42.	Frank Latosky	5-136	1.00
43.	Steve/Joy Burns	5-159	1.00
44.	Steve/Joy Burns	5-162	1.00

45.	Thomas Zimmerman et. ux.	5-181	1.00
46.	Michael & Eve Bacher	5-186	1.00
47.	Harley Reitmyer	5-187	1.00
48.	James Capistrant et. ux.	5-191	1.00
49.	Jeffrey W. Pinto	5-192	1.00
50.	Bender, E.P. Coal Co.	5-193	1.00
51.	Leah M. Borders	6-1	1.00
52.	Charles K. & Dawn Soliday	6-23	1.00
53.	Jedd Scott Duncan & Taraleigh Pleskonko	6-32	1.00
54.	Jedd Scott Duncan & Taraleigh Pleskonko	6-34	1.00
55.	Jedd Scott Duncan & Taraleigh Pleskonko	6-35	1.00
56.	Joseph F. Vancas et. ux.	6-36	1.00
57.	Joseph F. Vancas, et ux.	6-41	1.00
58.	Sylvester Finch et. ux.	6-53	1.00
59.	Sylvester Finch et. ux.	6-54	1.00
60.	Steve Churner	6-63	1.00
61.	Dorothy Hamm	6-64	1.00
62.	Dorothy Hamm	6-65	1.00
63.	Dorothy Hamm	6-66	1.00
64.	Michael S. McClure	6-80	1.00
65.	Michael S. McClure	6-81	1.00
66.	Norman Dobish	6-89	1.00
67.	Walter M. Kopilchak	6-97	1.00
68.	Edward Evcic	6-101	1.00
69.	Donna Neals	6-118	1.00
70.	Gerald Dipko	6-122	1.00
71.	Jered W. Maines et. ux.	6-125	1.00
72.	John Sahlaney et. ux.	6-134	1.00
73.	John Sahlaney et. ux.	6-135	1.00
74.	Wasco Lucician Heirs	6-137	1.00
75.	Lee Stuck et. ux.	6-146	1.00
76.	John J. Piestrack	6-150	1.00
77.	Michael Dobish et. ux.	6-152	1.00
78.	Keith Lansberry et. ux.	6-174	1.00
79.	Charles Gardner et. ux.	6-178	1.00
80.	Theo & Gene Holobinko	6-179	1.00
81.	Theo & Gene Holobinko	6-180	1.00
82.	Myrl Williams et. ux.	6-182	1.00
83.	Robert D. Christman et.ux	6-194	1.00
84.	Jedd Scott Duncan & Taraleigh Pleskonko	6-196	1.00
85.	David & Mary Ann Kitko	E6-1	1.00
86.	Mark Walter	7-23	1.00

87.	Douglas Ferguson	7-51	1.00
88.	John/Louise Selvage	7-61	1.00
89.	Jack/Wanda Reiter	7-64	1.00
90.	Samuel/Lucille Lidgett	7-96	1.00
91.	James/Diane Davis	7-97	1.00
92.	Cheryl Pataky	7-102	1.00
93.	E. P. Bender Coal	7-105	1.00
94.	George Gonder	7-118	1.00
95.	Richard Oliver et. ux.	7-121	1.00
96.	Joseph Lidgett et. ux.	7-134	1.00
97.	Frank Latosky	7-144	1.00
98.	Michael Krupa et. ux.	7-150	1.00
99.	Amy Criscitello et. ux.	7-176	1.00
100.	Dean Williams et. ux.	7-185	1.00
101.	Timothy Hertlein et. ux.	7-190	1.00
102.	Richard Oliver et. ux.	7-212	1.00
103.	Duane Stiner et. ux.	7-214	1.00
104.	Stella Vreeland	7-215	1.00
105.	Jerome Latosky	7-251	1.00
106.	Eugene Saupp et. ux.	7-272	1.00
107.	Michael Vilke	7-285	1.00

Carfley

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

MUDDY RUN REGIONAL AUTHORITY, :
Condemnor :
VS. : NO. 05-1084-CD
MID-PEN COAL COMPANY, et al :
Condemnees :

O R D E R

NOW, this 9th day of December, 2005, this being the date set for Rule Returnable relative the Petition filed on behalf of the Muddy Run Regional Authority for Writ of Possession, it is hereby the ORDER of this Court that the said Rule is made absolute and a writ of possession shall issue for all property located in Bigler Township, Beccaria Township, Gulich Township and Ramey Borough, Clearfield County, Pennsylvania, against all Condemnees (with the exception of Lawrence Berzanski) upon payment to the Prothonotary of the sum of One Hundred Seven (\$107.00) Dollars from Muddy Run Regional Authority for the property consisting of rights of way for the use of Condemnees as their interest may appear, without any commissions or fees deductible therefrom.

In regard to the writ of possession made by Lawrence Berzanski, whose property is located in Bigler Township, Clearfield, County, it is the ORDER of this Court that the dispute be referred to a Board of View. This Court shall issue

subsequent Order appointing a specific Board of View in regard to the issues involved.

BY THE COURT,

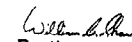
/s/ Fredric J. Ammerman

President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

DEC 14 2005

Attest.


Prothonotary/
Clerk of Courts

Date: 12/20/2005
Time: 12:35 PM

Clearfield County Court of Common Pleas
Receipt

NO. 1911744
Page 1 of 1

Received of: Carfley, Esq., John RE: Muddy R.G.Auth. \$ 107.00

One Hundred Seven and 00/100 Dollars

Case	Litigant type	Amount
2005-01084-CD	Plaintiff	
Trust account		107.00
Total:		107.00
Balance due:		0.00


JOHN R. CARFLEY ESQ. 03-82
ATTORNEY ACCOUNT
222 PRESQUEISLE ST.
PHILIPSBURG, PA 16866

6428

DATE 12-20-05 60-629/313

PAY TO THE ORDER OF Prothonotary \$ 107.00

One hundred seven + 00/100 DOLLARS

 CLEARFIELD BANK & TRUST COMPANY
Philipsburg Office
19 Irwin Drive Extension
Philipsburg, PA 16866

FOR MARA J. R. Carfley MP

⑈006428⑈ ⑆031306294⑆ 1 2 22005 1⑈

Check: 6428 Bank: CB&T

Payment Method: Check

Amount Tendered: 107.00

Change Returned: 0.00

Clerk: BILLSHAW

William A. Shaw, Prothonotary/Clerk of Court

By: _____
Deputy Clerk

VARIABLE RATE CERTIFICATE OF DEPOSIT RECEIPT

CLEARFIELD BANK & TRUST COMPANY
MAIN OFFICE
11 N. SECOND ST, P O BOX 171
CLEARFIELD, PA 16830

A Variable Rate Certificate of Deposit Account was issued in the following title:

CLEARFIELD COUNTY PROTHONOTARY
WILLIAM SHAW PROTHONOTARY
NO 2005 1084 CD
PO BOX 549

CLEARFIELD PA 16830-0549

Social Security Number: 256-00-1024

Variable Rate Certificate of Deposit Account Number: 81151926

Opening date of account: 12/20/05

Opening deposit amount: \$107.00

The account evidenced by this receipt is subject to and further explained in the account disclosures provided to you with this new account.

THANK YOU FOR BANKING WITH CLEARFIELD BANK & TRUST COMPANY.

CLEARFIELD BANK & TRUST COMPANY
MAIN OFFICE
11 N. SECOND ST, P O BOX 171
CLEARFIELD, PA 16830

**TRUTH IN SAVINGS DISCLOSURE
FOR TIME ACCOUNTS**

Terms following a ☒ apply only if checked.

Acct: VARIABLE RATE CERTIFICATE

Acct #: 81151926

Date: DECEMBER 20, 2005

☒ The interest rate and annual percentage yield stated below are accurate as of the date printed above. If you would like more current rate and yield information please call us at (814) 765-7551.

This disclosure contains the rules which govern your deposit account. Unless it would be inconsistent to do so, words and phrases used in this disclosure should be construed so that the singular includes the plural and the plural includes the singular.

☐ **FIXED RATE:**

☐ The interest rate for your account is _____ % with an annual percentage yield of _____ %. We will pay this rate _____.

☐ The interest rate and annual percentage yield for your account depend upon the applicable rate tier. We will pay these rates _____.

☒ **VARIABLE RATE:**

☒ The interest rate for your account is 1.2900 % with an annual percentage yield of .00 %.

Your interest rate and annual percentage yield may change.

☒ The interest rate and annual percentage yield for your account depend upon the applicable rate tier. The interest rate and annual percentage yield for these tiers may change.

Determination of Rate:

☒ At our discretion, we may change the interest rate on your account.

☐ The interest rate for your account _____

☐ The fixed initial rate is not determined by this rule.

☐ The initial interest rate on your account _____

Subsequent rates _____

Frequency of Rate Change:

☒ We may change the interest rate on your account at any time

☐ Your initial interest rate will not change _____

We may change the interest rate on your account at that time and _____ thereafter.

Limitations on Rate Changes:

☐ The interest rate for your account will not _____ by more than _____ each _____.

☐ The interest rate will not be less than _____ % or more than _____ %.

☐ The interest rate will not _____ the interest rate initially disclosed to you.

COMPOUNDING AND CREDITING:

☒ **Frequency** - Interest will be compounded quarterly.

Interest will be paid quarterly added back to the certificate.

☒ **Withdrawal of Interest Before Maturity.** The annual percentage yield assumes that interest remains on deposit until maturity. A withdrawal of interest will reduce earnings.

☐ **Required Interest Distribution.** This account requires the distribution of interest and does not allow interest to remain in the account.

☒ **Effect on Closing an Account.** If you close your account before interest is credited, you will receive the accrued interest.

MINIMUM BALANCE REQUIREMENTS:

☒ **To Open the Account.** You must deposit at least \$ 100.00 to open this account.

☒ **To Obtain the Annual Percentage Yield Disclosed.**

☒ You must maintain a minimum balance of \$ 100.00 in the account each day to obtain the disclosed annual percentage yield.

☐ You must maintain a minimum average daily balance of \$ _____ to obtain the disclosed annual percentage yield. The average daily balance is calculated by adding the principal in the account for each day of the period and dividing that figure by the number of days in the period. The period we use is _____.

BALANCE COMPUTATION METHOD:

☒ **Daily Balance Method.** We use the daily balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day.

☐ **Average Daily Balance Method.** We use the average daily balance method to calculate interest on your account. This method applies a periodic rate to the average daily balance in the account for the period. The average daily balance is calculated by adding the principal in the account for each day of the period and dividing that figure by the number of days in the period.

The period we use is _____.

ACCRUAL OF INTEREST ON NONCASH DEPOSITS:

☒ Interest begins to accrue no later than the business day we receive credit for the deposit of noncash items (for example, checks).

☐ Interest begins to accrue _____

you deposit noncash items (for example, checks).

MATURITY DATE:

☐ Your account will mature on _____.

☐ Your account will mature in _____.

☐ We may accelerate the maturity or call this account, at our option, _____.

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

MUDDY RUN REGIONAL
AUTHORITY,

Plaintiff

vs.

MID-PENN COAL COMPANY,
ET AL.,

Defendants

:
:
:
: No. 05-1084-CD
:
:
:

FILED *no cc*
m/h: 58/81
DEC 20 2005

Shaw
William A. Shaw
Prothonotary/Clerk of Courts

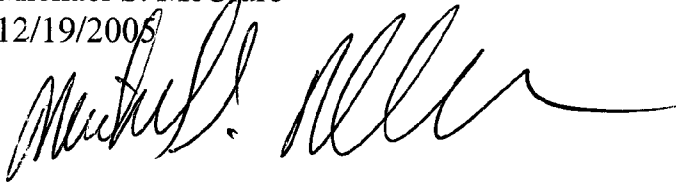
05-1084-CD

Dear Judge Ammerman,

I am asking you to reconsider any order issued by you December 9. 2005 concerning the property of Michael S. McClure named in 05-1084-CD based on a failure of notice. I did not receive notice until after the fact.

I am asking to re-open and for a board of view to determine the value of the property proposed to be taken or used .

Sincerely
Michael S. McClure
12/19/2005

A handwritten signature in black ink, appearing to read "Michael S. McClure", with a long horizontal flourish extending to the right.

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

MUDDY RUN REGIONAL AUTHORITY,

Plaintiff

vs.

MID-PEN COAL COMPANY, et al.,

Defendants

No. 2005-1084-CD

In re: Lawrence Berzanske

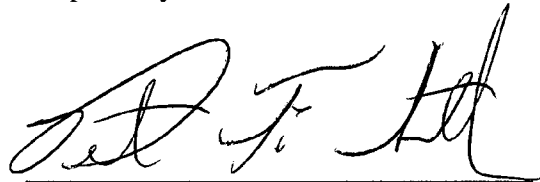
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01 10:33 AM
JAN 11 2006
William A. Shaw
Prothonotary/Clerk of Courts

HEARING NOTICE

Notice is given that a hearing has been scheduled regarding the property of Defendant Lawrence Berzanske for Thursday, January 19, 2006. The proceedings shall be conducted in Courtroom No. 3 at the Clearfield County Courthouse at 12:00 p.m.

The Board of View will convene the proceedings. Stipulations will be received. Motions and other matters will be addressed. Witnesses will be sworn. The Board, the parties and counsel will travel to the subject property for the actual view. They will then return to the Clearfield County Courthouse for testimony and offers of other evidence.

Respectfully submitted,



Date: January 9, 2006

Peter F. Smith, Esquire
Chairman of the Board of View
P. O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

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

MUDDY RUN REGIONAL AUTHORITY,
Plaintiff

No. 2005-1084-CD

vs.

MID-PEN COAL COMPANY, et al.,
Defendant

In re: Lawrence Berzanske

FILED *no cc*
10:33 AM
JAN 11 2006
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, Peter F. Smith, Chairman of the Board of View in this matter, hereby certify that I served
a true and correct copy of the **NOTICE OF HEARING** by U.S. First Class Mail as follows:

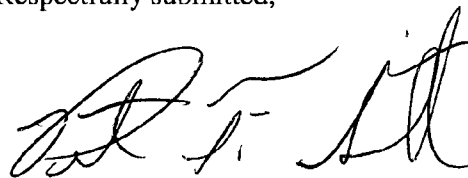
Evo Facchine
407 Patterson Street
DuBois, PA 15801

Samuel Yost
168 Baneyville Road
Clearfield, PA 16830

Lawrence Berzanske, Pro se
8931 Perkins Drive
Mentor, OH 44060

John R. Carfley, Esquire
222 Presqueisle Street
P. O. Box 249
Philipsburg, PA 16866

Respectfully submitted,



Date: January 9, 2006

Peter F. Smith, Esquire
Chairman of the Board of View
P. O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

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

Muddy Run Regional Authority,
Plaintiff

*

*

-vs-

Docket No. 05-1084-CD

*

Mid-Pen Coal Company, et al.,
Defendant

*

Type of Pleading:
PETITION FOR APPOINTMENT OF
BOARD OF VIEW

Filed on behalf of:
DEFENDANT: SAMUEL D. BRINK

Counsel of record for
this party:

Dwight L. Koerber, Jr., Esq.
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

01/31/06
JAN 17 2006

3cc
Amy Koerber

William A. Shaw
Prothonotary/Clerk of Courts

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

Muddy Run Regional Authority,
Plaintiff

*

*

-vs-

Docket No. 05-1084-CD

*

Mid-Pen Coal Company, et al.,
Defendants

*

PETITION FOR APPOINTMENT OF BOARD OF VIEW

COMES NOW, Samuel D. Brink, condemnee in the above-referenced proceeding,
and files the within Petition for Appointment of a Board of View.

1. Petitioner is Samuel D. Brink, who resides at 1382 Punkin Ridge Road,
LaJose, Pennsylvania, 15753 and has a business address of R. R. 1, Box 316-H,
Houtzdale, Pennsylvania, 16651.

2. Respondent is Muddy Run Regional Authority which has an address of P.O.
Box 474, Madera, Pennsylvania, 16661.

3. Petitioner is the owner of certain real estate in Bigler Township, Clearfield
County. Attached hereto is a copy of the survey map identifying Petitioner's property and
the location of the proposed sewer line that would extend through his property.

4. Petitioner seeks a Board of View to determine the amount of damages that
he should be awarded, inasmuch as the Declaration of Taking involves the extension of a
right-of-way that will have a very harmful impact upon the operation of his business as a
trucking company. Among the elements of harm that condemnee will incur because of
the taking of his property, are the following:

A. Substantial interference with business operation because of the location of the right-of-way traversing the entranceway to his business and traversing the entranceway into his maintenance and repair garages.

B. Substantial decline in the value of his property, because the existence of the right-of-way interferes with ongoing expansion plans and impairs the ability to freely operate heavy equipment over condemnee's real estate, without regard to crushing or harming a sewer line.

C. Attorney's fees in the representation of condemnee's case.

D. Appraisal fees in the evaluation of condemnee's case.

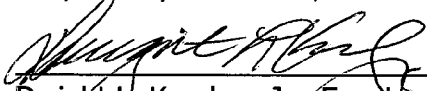
E. Accounting fees, to the extent that they are reimbursable, in the preparation of condemnee's case.

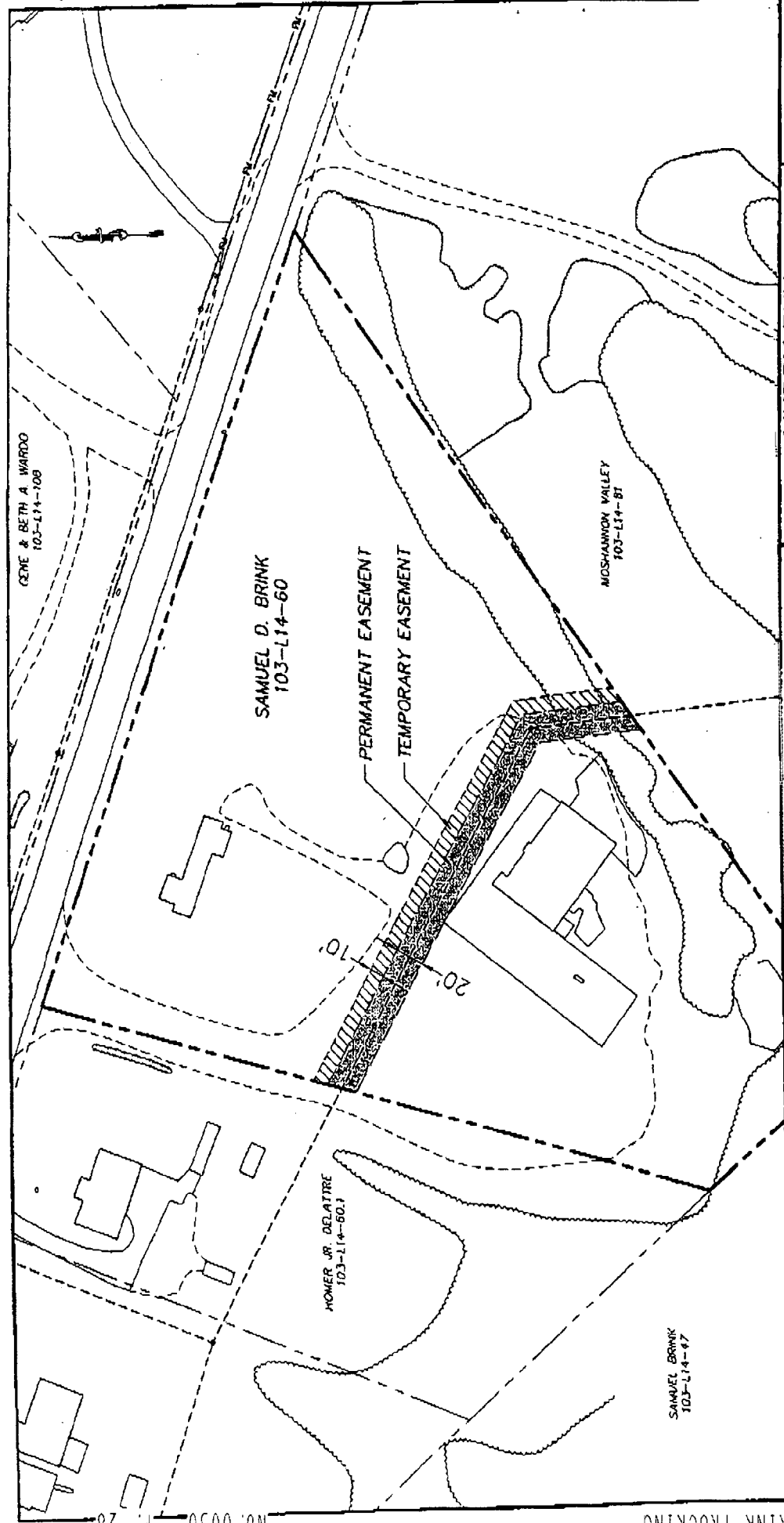
F. Engineering fees, to the extent that they are reimbursable, in the preparation of condemnee's case.

5. Condemnee has vigorously objected to the location of the right-of-way line as it extends across his business property, pointing out the harm that it would produce and pointing out the alternate options available to condemnor in accomplishing its objectives. It is condemnee's position that condemnor has acted in willful disregard of his statutory and constitutional rights in taking his property in a fashion that produces unnecessary inconvenience, business harm, and complications for him in the use of his property, with this conduct warranting an award of punitive damages.

WHEREFORE, condemnee requests this Honorable Court to appoint a Board of View in this matter, empowering it to award the full realm of damages which Petitioner has identified in his Petition.

Respectfully submitted,


Dwight L. Koerber, Jr., Esquire
Attorney for Petitioner, Samuel D. Brink



LEGEND

- PERMANENT EASEMENT
- TEMPORARY EASEMENT
- LEGAL RIGHT OF WAY
- PROPERTY LINE
- SANITARY SEWER/MANHOLE
- SANITARY SEWER FORCEMAIN
- FM

EASEMENT AREA

PERMANENT: 6,859 SQ. FT. (0.16 AC.)
TEMPORARY: 3,533 SQ. FT. (0.08 AC.)

Notes:

- The property information shown on this easement drawing was compiled from tax records of the County Assessment Office and reflects the accuracy ("Positional Uncertainties" and "Positional Tolerances") thereof. No analysis or verification of recorded instruments/deeds of the subject parcel or adjoining properties has been performed.
- The property information shown on this easement drawing has not been verified by an independent title search nor prepared for the benefit of a title insurance company. No title opinion or legal conclusion is offered or implied.
- This easement drawing does not represent a boundary survey or represent the subject parcel's boundary lines. Therefore, no measured boundary lines (measured bearings, angles or distances) are shown.
- Mapping this shows on this easement drawing such as buildings, structures, visible improvements and observable evidence of easements and/or servitudes of all kinds, such as those created by roads, rights-of-way, water courses, drains, telephone, telegraph or electric lines, water, sewer, oil or gas pipelines, surface indications of underground easements or servitudes on or across the subject parcel and on adjoining properties are based on aerial mapping or engineering surveys and reflects the accuracy ("Positional Uncertainties" and "Positional Tolerances") thereof. This information is neither warranted or guaranteed.

MUDDY RUN

REGIONAL AUTHORITY

SANITARY SEWER EASEMENT

PROPERTY OWNER: SAMUEL D. BRINK
ADDRESS: RR1 BOX 154
IRVONA, PA 16658
TAX PARCEL NO.: 103-L14-60
DEED BOOK NO.: 1471
PAGE NO.: 175

DATE: 3-11-05
JOB: 95078
SCALE: 1"=100'
FILE: 4-261
DRAWN BY: JAS
CHK. BY: MVG

SHEET NO:
4-261

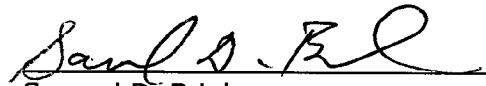
GD&F

GWIN
DOBSON &
FOREMAN
Consulting Engineers

3121 Fairway Drive
Allentown, PA 16602
(248) 943-2244

VERIFICATION

I certify that the statements made in the foregoing document are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


Samuel D. Brink

DATE: 1-12-06

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

Muddy Run Regional Authority,
Plaintiff

*

*

-vs-

Docket No. 05-1084-CD

*

Mid-Pen Coal Company, et al.,
Defendants

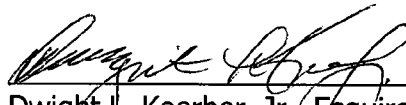
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CERTIFICATE OF SERVICE

I certify that on the 17th day of January 2006, the undersigned served a true and correct copy of the foregoing PETITION for APPOINTMENT OF BOARD OF VIEW in the above-captioned matter by United States First Class Mail upon counsel for Plaintiff as follows:

John R. Carfley, Esquire
P.O. Box 249
222 Presqueisle Street
Philipsburg, PA 16866

Respectfully submitted,



Dwight L. Koerber, Jr., Esquire
Attorney for Petitioner, Samuel D. Brink

CA

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

Muddy Run Regional Authority,
Plaintiff

*

*

-VS-

Docket No. 05-1084-CD

*

Mid-Pen Coal Company, et al.,
Defendants

*

ORDER

AND NOW THIS 18th day of January 2006, upon consideration of the Petition for appointment of Board of View filed on behalf of Samuel D. Brink, condemnee in #4-258 and #4-261, condemnor Muddy Run Regional Authority is hereby ordered to show cause why a Board of View should not be appointed to assess the damage claims advanced by Samuel D. Brink, condemnee, in this matter. Rule Returnable and hearing thereon is hereby set for the 24th day of February 2006, at Courtroom Number 1 of the Court of Common Pleas of Clearfield County. @ 11:00 A.M.

By the Court:

Frederick J. Cummings

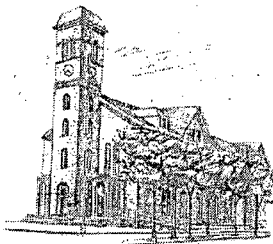
President Judge

FILED

018:41/001
JAN 20 2006

3cc
Atty Koerber

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 11/20/06

X You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

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

Muddy Run Regional Authority,
Plaintiff

*

*

-VS-

Docket No. 05-1084-CD

*

Mid-Pen Coal Company, et al.,
Defendant

*

Type of Pleading:
CERTIFICATE OF SERVICE

Filed on behalf of:
DEFENDANT: SAMUEL D. BRINK

Counsel of record for
this party:

Dwight L. Koerber, Jr., Esq.
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED 300
01/31/2006
JAN 20 2006
LM
William A. Shaw
Prothonotary/Clerk of Courts
Dwight L. Koerber

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

Muddy Run Regional Authority,
Plaintiff

*

*

-vs-

Docket No. 05-1084-CD

*

Mid-Pen Coal Company, et al.,
Defendants


*

CERTIFICATE OF SERVICE

I certify that on the 19th day of January 2006, the undersigned served the original and two copies of the foregoing SET I INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS in the above-captioned matter by United States First Class Mail upon counsel for Condemnor Muddy Run Regional Authority as follows:

John R. Carfley, Esquire
P.O. Box 249
222 Presqueisle Street
Philipsburg, PA 16866

Respectfully submitted,



Dwight L. Koerber, Jr., Esquire
Attorney for Petitioner, Samuel D. Brink

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

Muddy Run Regional Authority,
Plaintiff

*

*

-VS-

Docket No. 05-1084-CD

*

Mid-Pen Coal Company, et al.,
Defendant

*

Type of Pleading:
CERTIFICATE OF SERVICE

Filed on behalf of:
DEFENDANT: SAMUEL D. BRINK

Counsel of record for
this party:

Dwight L. Koerber, Jr., Esq.
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED 300
01/31/2006
JAN 23 2006
Atty Koerber

William A. Shaw
Prothonotary/Clerk of Courts

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

Muddy Run Regional Authority,
Plaintiff

*

*

-VS-

Docket No. 05-1084-CD

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Mid-Pen Coal Company, et al.,
Defendants

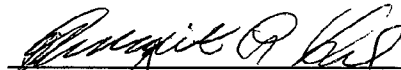
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CERTIFICATE OF SERVICE

I certify that on the 20th day of January 2006, the undersigned served a true and correct copy of the January 18, 2006 Show Cause Order in the above-captioned matter by United States First Class Mail upon counsel for Condemnor Muddy Run Regional Authority as follows:

John R. Carfley, Esquire
P.O. Box 249
222 Presqueisle Street
Philipsburg, PA 16866

Respectfully submitted,



Dwight L. Koerber, Jr., Esquire
Attorney for Petitioner, Samuel D. Brink

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

MUDDY RUN REGIONAL AUTHORITY,
Condemnor

vs.

MID-PEN COAL COMPANY, et al.,
Condemnees

In re: Michael S. McClure

No. 2005-1084-CD

Eminent Domain

Proceedings in Rem

Type of Pleading:
Report of Board of View

Filed by:
BOARD OF VIEW
Evo Facchine
Samuel B. Yost and
Peter F. Smith, Esquire
Chairman of the Board of View
Supreme Court ID #34291
30 South Second Street
P. O. Box 130
Clearfield, PA 16830
(814) 765-5595

FILED 2 cc
2/10/06 4:46 PM
FEB 28 2006
Atty P. Smith
LM

William A. Shaw
Prothonotary/Clerk of Courts

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

MUDDY RUN REGIONAL AUTHORITY,
Condemnor

No. 2005-1084-CD

vs.

MID-PEN COAL COMPANY, et al.,
Condemnees

In re: Michael S. McClure

REPORT OF BOARD OF VIEW

1. The undersigned were appointed to view the subject property of Michael S. McClure by Order dated January 16, 2006.

2. The view was convened on January 19, 2006 at 12:05 p.m.

3. The view and hearing were scheduled by this Honorable Court's Order entered January 16, 2006.

4. The date on which the Declaration of Taking was filed was July 28, 2005.

5. A copy of the plan showing the extent of the taking and the nature of the interest condemned was entered into evidence as the Condemnor's Exhibit 2.

6. The condemnor was present and represented by Attorney John R. Carfley.

7. Mr. McClure attended and represented himself.

8. Witnesses were sworn.

9. The parties, their counsel, witnesses and the Board then traveled to the subject property.

10. The Board finds the following based on the evidence submitted at hearing and their view of the premises affected by these proceedings:

FACTS

Michael S. McClure obtained title to this property by deed at Clearfield County Instrument Number 200304940. The property consists of a house on two lots in the Village of Smoke Run. It is situate in Beccaria Township and identified by Clearfield County Tax Map Number 101-K15-499-5. The property fronts on a public road and slopes downward from the road toward the house. The grade is fairly steep and the house is located approximately 60 yards from the public road.

The house and land are attractive and well-maintained.

The Authority has condemned a strip of land along the western edge of the subject property. The easement parallels the edge of the public road.

The parties returned to the Clearfield County Courthouse where testimony was taken and exhibits admitted.

Jeffrey B. Spencer of Gwin, Dobson and Foreman testified on behalf of the condemnor. He is the project manager for the Muddy Run Regional Authority. Mr. Spencer qualified to testify as an expert witness as to the planning, design, construction and management of municipal sewage systems. Mr. Spencer gave an overview of the project. He testified to the specific characteristics of the right-of-way actually crossing Mr. McClure's property. Mr. Spencer authenticated a proposed Right-of-Way Agreement which was submitted to Mr. McClure in lieu of these proceedings, but which Mr. McClure declined to sign as was his right. That Agreement was admitted as Condemnor's Exhibit 2.

Richard J. Provost, IFAS, of Provost Real Estate Appraisers qualified to testify as an expert witness as to the value of the subject property. Mr. Provost's written report was admitted into evidence as Condemnor's Exhibit 5. Mr. Provost reviewed the three methods which appraisers use to estimate fair market value. Given the nature of this property, Mr. Provost selected the market value approach. He concluded that the damage to the property was slight. His report quantifies the

market value of the portion of Mr. McClure's property under which the sewage line will run and over which the Authority will have a perpetual easement to be \$38.00.

Mr. Provost noted that Pennsylvania law requires appraisers to consider whether or not the property will be enhanced by the public improvement for which the taking has been made. 26 P.S. § 1-606. Mr. Provost testified that he has not observed any increase in value in the marketplace indicating a preference and premium paid for a property with public sewage as opposed to a property with a functioning on-site sewage disposal system.

Mr. McClure was given full opportunity to cross-examine both of the condemnor's witnesses.

Mr. McClure testified himself. He expressed concern about two issues. First, three mature trees grow fairly close to the eastern edge of the property condemned for the Authority's easement. Mr. McClure fears that these trees either will be damaged or killed during construction of the sewage project.

Second, Mr. McClure would like to construct a landing at the edge of the public road to provide off-street parking for the tenants who rent the house on his property. The landing will be constructed with fill material and will not penetrate the subsurface or threaten the integrity of the Authority's sewage lines. On redirect, Mr. Spencer stated that the construction of such a landing for parking would not be a problem.

The Chairman of the Board explained to Mr. McClure that as the property owner, he was qualified under Pennsylvania law to state what he believed the value of the subject property to be. Mr. McClure did not use this opportunity to testify to a specific value. He reiterated his concern about the trees. He offered no substantial evidence that the trees indeed would be damaged or killed.

CONCLUSION

The measure of a condemnee's concerns are the difference between the fair market value of the premises prior to condemnation and their fair market value thereafter. 26 P.S. § 1-602(a); 23 P.L.E. "Eminent Domain" § 91. The landowner has the burden of proof. Braugher v. Commonwealth, 388 Pa. 573, 131 A.2d 341 (1957).

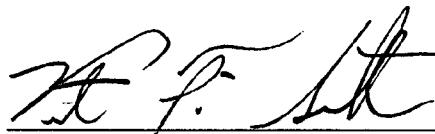
The sincerity of Mr. McClure's testimony is not doubted. Unfortunately, he offered no competent testimony relevant to the issue of his damages. Therefore, he failed to carry his burden of proof.

The Eminent Domain Code requires the condemnor to establish damages with expert testimony. 26 P.S. § 1-702. The Muddy Run Regional Authority fulfilled this duty. The Board accepts Mr. Provost's estimate. The Board finds that Mr. McClure's damages are \$38.00. No issues of other damages or costs were raised, and no evidence was offered in those regards. Therefore, no additional damages are awarded.

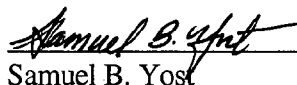
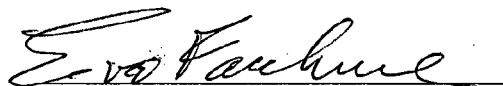
Compensation for delay in payment shall accrue at 6.00% per annum from the date of the taking which occurred when the Declaration of Taking was filed on July 28, 2005.

All fees and costs are to be paid by the Condemnor Authority.

Respectfully submitted,



Peter F. Smith, Esquire
Chairman of the Board of View


Samuel B. Yost
Evo Facchine

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

MUDDY RUN REGIONAL AUTHORITY,
Plaintiff

vs.

MID-PEN COAL COMPANY, et al.,
Defendant

No. 2005-1084-CD

In re: Michael S. McClure

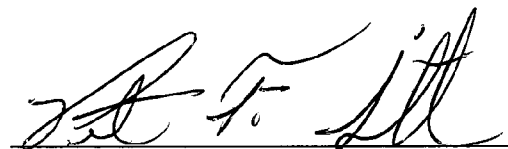
CERTIFICATE OF FILING

I, Peter F. Smith, being a member of the Board of View appointed in the above-captioned matter, certify that I filed the original **REPORT OF BOARD OF VIEW, NOTICE OF FILING OF REPORT BY BOARD OF VIEWERS, MOTION & ORDER FOR PAYMENTS OF FEES & COSTS and CERTIFICATE OF SERVICE** with the Prothonotary of Clearfield County on February 28, 2006.

Respectfully submitted,

Date:

2/28/06



Peter F. Smith, Esquire
Chairman of the Board of View
P. O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

FILED
010:4681
FEB 28 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

MUDDY RUN REGIONAL AUTHORITY,

Condemnor

vs.

MID-PEN COAL COMPANY, et al.,

Condemnees

No. 2005-1084-CD

In re: Michael S. McClure

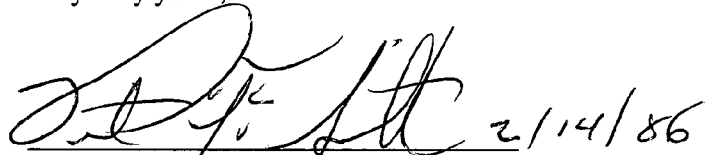
NOTICE OF FILING OF REPORT BY BOARD OF VIEWERS

TO: John R. Carfley, Attorney for Muddy Run Regional Authority, Plaintiff/Condemnor
and
Michael S. McClure, Defendant/Condemnee

Please be advised that the Board of Viewers will file their report, a copy of which is attached, in the office of the Clearfield County Prothonotary on February 27, 2006. If there are any errors in this report, notify the undersigned **in writing** before the above-listed date, and **if well taken**, they will be corrected.

Unless objections to the report or appeals therefrom are filed within 30 days from the date the report is filed, the report will become final.

Very truly yours,



Peter F. Smith, Esquire
Chairman of the Board of View

FILED ^{NO}cc
011046
FEB 28 2006 ^{UM}

William A. Shaw
Prothonotary/Clerk of Courts

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

MUDDY RUN REGIONAL AUTHORITY,

Plaintiff

vs.

MID-PEN COAL COMPANY, et al.,

Defendant

No. 2005-1084-CD

In re: Michael S. McClure

FILED ^{no cc}
01/10/4/06
FEB 28 2006

CERTIFICATE OF SERVICE

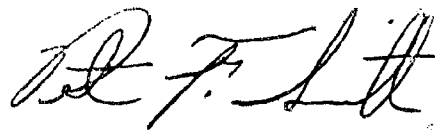
William A. Shaw
Prothonotary/Clerk of Courts

I, Peter F. Smith, Chairman of the Board of View in this matter, hereby certify that the original **REPORT OF BOARD OF VIEW** has been submitted to the Clearfield County Prothonotary and that a true and correct copy of the **REPORT OF THE BOARD OF VIEW** was served by U.S. First Class Mail, Postage Prepaid as follows:

Michael S. McClure, Pro se
1508 Old Turnpike Road
Allport, PA 16821

John R. Carfley, Esquire
222 Presqueisle Street
P. O. Box 249
Philipsburg, PA 16866

Respectfully submitted,



Date: February 28, 2006

Peter F. Smith, Esquire
Chairman of the Board of View
P. O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

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

MUDDY RUN REGIONAL AUTHORITY,
Plaintiff

No. 2005-1084-CD

vs.

MID-PEN COAL COMPANY, et al.,
Defendant

In re: Lawrence Berzanske

CERTIFICATE OF FILING

I, Peter F. Smith, being a member of the Board of View appointed in the above-captioned matter, certify that I filed the original **REPORT OF BOARD OF VIEW, NOTICE OF FILING OF REPORT BY BOARD OF VIEWERS, MOTION & ORDER FOR PAYMENTS OF FEES & COSTS and CERTIFICATE OF SERVICE** with the Prothonotary of Clearfield County on February 28, 2006.

Respectfully submitted,

Date:

2/28/06



Peter F. Smith, Esquire
Chairman of the Board of View
P. O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

FILED No. 2005-1084-CD
010:40/30
FEB 28 2006 *sm*

William A. Shaw
Prothonotary/Clerk of Courts

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

MUDDY RUN REGIONAL AUTHORITY,
Condemnor

vs.

MID-PEN COAL COMPANY, et al.,
Condemnees

In re: Lawrence Berzanske

No. 2005-1084-CD

Eminent Domain

Proceedings in Rem

Type of Pleading:
Report of Board of View

Filed by:
BOARD OF VIEW
Evo Facchine
Samuel B. Yost and
Peter F. Smith, Esquire
Chairman of the Board of View
Supreme Court ID #34291
30 South Second Street
P. O. Box 130
Clearfield, PA 16830
(814) 765-5595

FILED

0110:49/BA
FEB 28 2006

William A. Shaw
Prothonotary/Clerk of Courts

2cc

Atty P. Smith

U/M

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

MUDDY RUN REGIONAL AUTHORITY,
Condemnor

No. 2005-1084-CD

vs.

MID-PEN COAL COMPANY, et al.,
Condemnees

In re: Lawrence Berzanske

REPORT OF BOARD OF VIEW

1. The undersigned were appointed to view the subject property of Lawrence Berzanske by Order dated December 14, 2005.

2. The view was convened on January 19, 2006 at 12:05 p.m.

3. The date and time for the hearing and view were scheduled for a mutually convenient date by the parties.

4. Ten days written notice was given thereof by the Chairman of the Board of View.

5. The date on which the Declaration of Taking was filed was July 28, 2005.

6. A copy of the plan showing the extent of the taking and the nature of the interest condemned was entered into evidence as the Condemnor's Exhibit 1.

7. The condemnor was present and represented by Attorney John R. Carfley.

8. Mr. Berzanske attended and represented himself.

9. Witnesses were sworn.

10. The parties, their counsel, witnesses and the Board then traveled to the subject property.

11. The Board finds the following based on the evidence submitted at hearing and their view of the premises affected by these proceedings:

FACTS

Lawrence Berzanske obtained title to this property by deed in Clearfield County Deed Book 1054, Page 434. The entire property consists of approximately 3.2 acres. It is situate in Beccaria Township and identified by Clearfield County Tax Map Number 101-K15-504-15. The property lies a short distance from the structures which form the center of the Village of Smoke Run. It is bounded by two public thoroughfares: Twigg Street on the north and Cross Roads Boulevard, SR 2002 on the south. The condemned right-of-way for an underground sewage line runs along Cross Roads Boulevard, and the Board viewed the property only from that side.

Upon viewing the property, the Board found an unimproved tract of land with mixed vegetation. The property appears to have a rolling contour and would be suitable for several building lots. The Board did not see evidence of high-value trees or other vegetation in the location of the condemnor's right-of-way. This observation was confirmed by the testimony of condemnor's appraiser and expert witness Richard J. Provost, IFAS. The photographs in Mr. Provost's report do depict some trees and brush, but they are beyond the width of condemnor's right-of-way.

The parties returned to the Clearfield County Courthouse where testimony was taken and exhibits admitted.

Jeffrey B. Spencer of Gwin, Dobson and Foreman testified on behalf of the condemnor. He is the project manager for the Muddy Run Regional Authority. Mr. Spencer qualified to testify as an expert witness as to the planning, design, construction and management of municipal sewage systems. Mr. Spencer gave an overview of the project. He testified to the specific characteristics of

the right-of-way actually crossing Mr. Berzanske's property. Mr. Spencer authenticated a proposed Right-of-Way Agreement which was submitted to Mr. Berzanske in lieu of these proceedings, but which Mr. Berzanske declined to sign as was his right. That Agreement was admitted as Condemnor's Exhibit 1.

Richard J. Provost, IFAS, of Provost Real Estate Appraisers qualified to testify as an expert witness as to the value of the subject property. Mr. Provost's written report was admitted into evidence as Condemnor's Exhibit 4. Mr. Provost reviewed the three methods which appraisers use to estimate fair market value. Given the nature of this property, Mr. Provost selected the market value approach. He concluded that the damage to the property was slight. His report quantifies the market value of the 0.13 acre portion of Mr. Berzanske's property under which the sewage line will run and over which the Authority will have a perpetual easement to be \$227.00.

Mr. Provost noted that Pennsylvania law requires appraisers to consider whether or not the property will be enhanced by the public improvement for which the taking has been made. 26 P.S. § 1-606. Mr. Provost testified that he has not observed any increase in value in the marketplace indicating a preference and premium paid for a property with public sewage as opposed to a property with a functioning on-site sewage disposal system.

Mr. Berzanske was given full opportunity to cross-examine both of the condemnor's witnesses.

Mr. Berzanske testified himself. He believes that the right-of-way condemned is worth far more than Mr. Provost's appraisal. However, Mr. Berzanske offered no expert testimony to support this assertion. The Chairman of the Board explained to Mr. Berzanske that as the property owner, he was qualified under Pennsylvania law to state what he believed the value of the subject property to be. Mr. Berzanske did not suggest a specific value in dollars and cents for the subject property.

Mr. Berzanske dedicated much of his testimony to criticism of the location and dimensions of the right-of-way itself. First, he felt it should be on the other side of the road. Second, he said that several bends should have been designed in the pipeline itself so that it would more closely track the edge of Cross Roads Boulevard.

He also said he has no plans to sell or build upon the property.

The Board Chairman informed Mr. Berzanske that the necessity of the taking and its dimensions are issues which are raised by preliminary objection and not properly before the Board. Id. § 1-406(a); Servico Stores v. Redevelopment Authority of Philadelphia, 455 Pa. 438, 317 A.2d 610 (1974). The Board would observe that if the right-of-way were on the other side of Cross Roads Boulevard, it would pass very close to the front wall and foundation of a house. Second, given the size and nature of Mr. Berzanske's property and the location of a telephone pole, the Board does not find the layout of the right-of-way to be excessive or unreasonable.

CONCLUSION

The measure of a condemnee's damages is the difference between the fair market value of the premises prior to condemnation and their fair market value thereafter. 26 P.S. § 1-602(a); 23 P.L.E. "Eminent Domain" § 91. The landowner has the burden of proof. Braugher v. Commonwealth, 388 Pa. 573, 131 A.2d 341 (1957).

The sincerity of Mr. Berzanske's testimony is not doubted. Unfortunately, he offered no competent testimony relevant to the issue of his damages. Therefore, he failed to carry his burden of proof.

The Eminent Domain Code requires the condemnor to establish damages with expert testimony. 26 P.S. § 1-702. The Muddy Run Regional Authority fulfilled this duty. The Board

accepts Mr. Provost's estimate. The Board finds that Mr. Berzanske's damages are \$227.00. No issues of other damages or costs were raised, and no evidence was offered in those regards. Therefore, no additional damages are awarded.

Compensation for delay in payment shall accrue at 6.00% per annum from the date of the taking which occurred when the Declaration of Taking was filed on July 28, 2005.

All fees and costs are to be paid by the Condemnor Authority.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Peter F. Smith", written over a horizontal line.

Peter F. Smith, Esquire
Chairman of the Board of View

A handwritten signature in dark ink, appearing to read "Samuel B. Yost", written over a horizontal line.

Samuel B. Yost

A handwritten signature in dark ink, appearing to read "Evo Facchine", written over a horizontal line.

Evo Facchine

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

MUDDY RUN REGIONAL AUTHORITY,

Condemnor

vs.

MID-PEN COAL COMPANY, et al.,

Condemnees

No. 2005-1084-CD

In re: Lawrence Berzanske

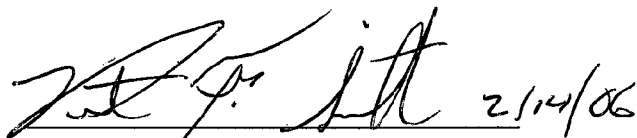
NOTICE OF FILING OF REPORT BY BOARD OF VIEWERS

TO: John R. Carfley, Attorney for Muddy Run Regional Authority, Plaintiff/Condemnor
and
Larry Berzanske, Defendant/Condemnee

Please be advised that the Board of Viewers will file their report, a copy of which is attached, in the office of the Clearfield County Prothonotary on February 27, 2006. If there are any errors in this report, notify the undersigned **in writing** before the above-listed date, and **if well taken**, they will be corrected.

Unless objections to the report or appeals therefrom are filed within 30 days from the date the report is filed, the report will become final.

Very truly yours,



Peter F. Smith, Esquire
Chairman of the Board of View

FILED NO CC
010:49/06
FEB 28 2006

William A. Shaw
Prothonotary/Clerk of Courts

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

MUDDY RUN REGIONAL AUTHORITY,

Plaintiff

vs.

MID-PEN COAL COMPANY, et al.,

Defendant

No. 2005-1084-CD

In re: Lawrence Berzanske

CERTIFICATE OF SERVICE

I, Peter F. Smith, Chairman of the Board of View in this matter, hereby certify that the original **REPORT OF BOARD OF VIEW** has been submitted to the Clearfield County Prothonotary and that a true and correct copy of the **REPORT OF THE BOARD OF VIEW** was served by U.S. First Class Mail, Postage Prepaid as follows:

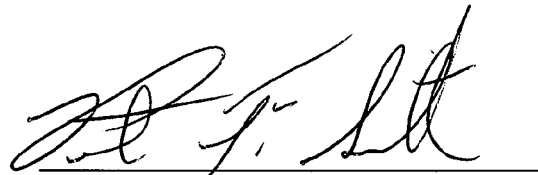
Lawrence Berzanske, Pro se
8931 Perkins Drive
Mentor, OH 44060

John R. Carfley, Esquire
222 Presqueisle Street
P. O. Box 249
Philipsburg, PA 16866

Respectfully submitted,

Date:

2/14/06



Peter F. Smith, Esquire
Chairman of the Board of View
P. O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

FILED NO CC
01/10/49/201
FEB 28 2006 UM

William A. Shaw
Prothonotary/Clerk of Courts

LA

FILED *ICC Whelan memo*
8/9/40 (51)
FEB 27 2006 *to: Koerber*
Castley

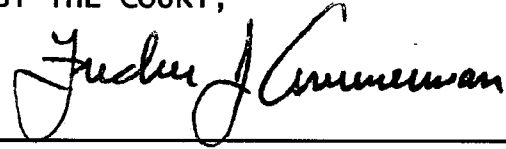
ICC Whelan memo
 William A. Shaw *to: Peter Smith*
 Notary/Clerk of Court *Evo Facchine*
Sam Post
(GR)

MID-PEN COAL COMPANY, et al.:

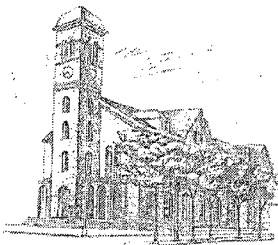
The Court further notes that the nature of the dispute relative the placement of the sewer line on the Brink property is of significance, and the Court recommends

that the parties take all efforts as may be necessary to attempt to resolve the difficulty.

BY THE COURT,

A handwritten signature in cursive script, reading "Frederick J. Cummings", written over a horizontal line.

President Judge



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 2/27/06

_____ You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

X Special Instructions:

The Prothonotary's office has sent certified copies of this order to Dwight L. Koerber Jr., Esq., John R. Castley, Esq., Peter Smith, Esq., Evo Facehine, and Sam Yost. Attorney John Castley is directed to serve any other appropriate parties.

CA

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

MUDDY RUN REGIONAL AUTHORITY,
Condemnor

vs.

MID-PEN COAL COMPANY, et al.,
Condemnees

In re: Lawrence Berzanske

No. 2005-1084-CD

Eminent Domain

Proceedings in Rem

Type of Pleading:
**Motion & Order for
Payment of Fees & Costs**

Filed by:
Peter F. Smith, Esquire
Chairman of the Board of View
Supreme Court ID #34291
30 South Second Street
P. O. Box 130
Clearfield, PA 16830
(814) 765-5595

FILED 3ce
01/04/06
FEB 28 2006
Att. Smith

William A. Shaw
Prothonotary/Clerk of Courts

CA

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

MUDDY RUN REGIONAL AUTHORITY,

Plaintiff

No. 2005-1084-CD

vs.

MID-PEN COAL COMPANY, et al.,

Defendant

In re: Lawrence Berzanske

ORDER

AND NOW, this 28 day of February 2006, upon consideration of the following Motion, it is,

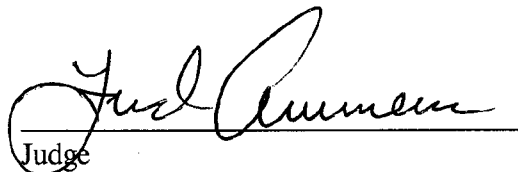
ORDERED, ADJUDGED and DECREED, that the recommendation of the Board of View that all fees and costs in this matter be paid by Condemnor Muddy Run Regional Authority is approved and fees and costs due to the members of the Board of View are to be paid by the Authority as follows:

EVO FACCHINE: \$307.29

SAMUEL B. YOST: \$291.06

PETER F. SMITH: \$1,043.75

By the Court:


Judge

FILED 3cc
01:26:01 Amy Smith
MAR 01 2006 cm

William A. Shaw
Prothonotary/Clerk of Courts

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

MUDDY RUN REGIONAL AUTHORITY,

Plaintiff

vs.

MID-PEN COAL COMPANY, et al.,

Defendant

No. 2005-1084-CD

In re: Michael S. McClure

MOTION FOR PAYMENT OF FEES & COSTS

COMES NOW, Peter F. Smith, both in his capacity as a member of the Board of View appointed in this matter and as an attorney, who states the following in support of this Motion:

1. Evo Facchine, Samuel B. Yost and the Movant were appointed to view the property subject to this condemnation by Order dated January 16, 2006.

2. The property was viewed and hearing conducted on January 19, 2006.

3. The Report of the Board of View was filed with this Honorable Court on February 28, 2006.

4. Board member Evo Facchine dedicated 3.5 hours of service in this matter and traveled 44 miles.

4. Board member Samuel B. Yost dedicated 3.33 hours of service in this matter and traveled 18 miles.

5. Board member Peter F. Smith dedicated 2.5 hours of service in this matter.

6. Mr. Smith also dedicated 3.5 hours of his professional time as an attorney to research applicable law and procedure, counsel the Board and prepare its report.

7. It is respectfully suggested that the Board members be compensated \$85.00 per hour

for their services and reimbursed at the rate of \$0.445 per mile for their services.

8. Clearfield County reimburses \$0.445 per mile.

9. It is further suggested that Mr. Smith be compensated at the rate of \$175.00 per hour for his legal services.

10. These recommendations result in the following fees and costs:

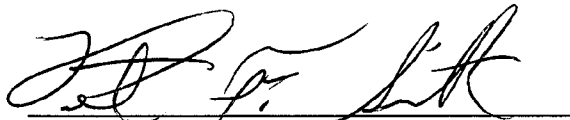
a.	Evo Facchine	\$307.29
b.	Samuel B. Yost	\$291.06
c.	Peter F. Smith	\$1,043.75

WHEREFORE, this Honorable Court is moved to enter an Order directing the Condemnor Muddy Run Regional Authority to pay Evo Facchine \$307.29, Samuel B. Yost \$291.06 and Peter F. Smith \$1,043.75.

Respectfully submitted,

Date:

2/27/06

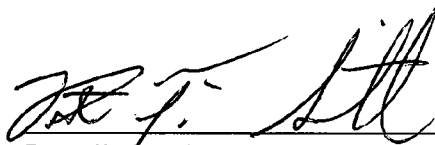


Peter F. Smith, Esquire
Chairman of the Board of View

VERIFICATION

I hereby swear and affirm that I have read the foregoing Motion and it is true and accurate to the best of my information, knowledge and belief. Furthermore, I understand that the same is made pursuant to 18 Pa. S.C.A. 4904, relating to unsworn falsification to authorities.

Dated: 2/27/06

A handwritten signature in dark ink, appearing to read 'Peter F. Smith', written over a horizontal line.

Peter F. Smith, Esquire
Chairman of the Board of View

February 27, 2006

PETER F. SMITH
Attorney
30 South Second Street
P.O. Box 130
Clearfield, PA 16830

(814) 765-5595

Muddy Run Regional Authority vs. Mid-Pen Coal Company, et al.
Eminent Domain

Re: Berzanske

12/22/05	Opened file, got copy of docket and letters	30 min.
01/06/06	Calls Berzanske and Court Administrator, Hearing Notice, letters	30 min.
01/10/06	Conference Prothonotary, notices, Mr. Berzanske's pre-trial	20 min.
01/16/06	Call Court Administrator, reviewed pre-trials and law	25 min.
01/18/06	Memorandum of Law, call Carfley	15 min.
01/19/06	Hearing and View	2 hrs. 30 min.
01/23/06	Drafted report, revised and got citations, Cert. Serv.	1 hr. 10 min.
02/02/06	Forward reports for signatures with letter	10 min.
02/10/06	Letter	05 min.
02/13/06	Finished reports, drafted Motion and Order for payments	25 min.
02/14/06	Drafted Motion for Payment, calls Facchine and Yost	30 min.
02/27/06	Filed Report and Motion for Payment, Cert. Filing and letters	25 min.

TIME & AMOUNT FOR ATTORNEY SERVICES: 4.75 Hours @ \$175.00/hr. = \$831.25

TIME & AMOUNT AS MEMBER OF BOARD OF VIEW: 2.50 Hours @ \$ 85.00/hr. = \$212.50

TOTAL AMOUNT DUE PETER F. SMITH - \$1,043.75

February 16, 2006

SAMUEL B YOST
168 Baneyville Road
Clearfield, PA 16830

Muddy Run Regional Authority vs. Mid-Pen Coal Company, et al.
Eminent Domain

Re: Berzanske

Hearing and View on 1/19/06	2 hrs. 30 min.
Travel Time	20 min.
Calls and Correspondence	30 min.

TIME & AMOUNT AS MEMBER OF BOARD OF VIEW: 3.33 Hours @ \$85.00 = \$283.05
MILEAGE: 18 miles @ 44.5 cents per mile = \$ 8.01

TOTAL AMOUNT DUE SAMUEL B. YOST - \$291.06

February 16, 2006

EVO FACCHINE
407 Patterson Avenue
DuBois, PA 15801

Muddy Run Regional Authority vs. Mid-Pen Coal Company, et al.
Eminent Domain

Re: Berzanske

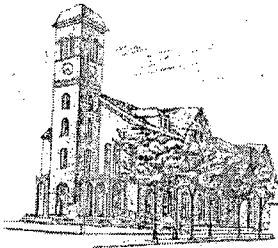
Hearing and View on 1/19/06	2 hrs. 30 min.
Travel Time	30 min.

Calls and Correspondence	30 min.
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TIME & AMOUNT AS MEMBER OF BOARD OF VIEW: 3.5 Hours @ \$85.00 = \$297.50

MILEAGE: 22 miles @ 44.5 cents per mile = \$ 9.79

TOTAL AMOUNT DUE EVO FACCHINE - \$307.29



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 3/1/06

X You are responsible for serving all appropriate parties.

 The Prothonotary's office has provided service to the following parties:

 Plaintiff(s)/Attorney(s)

 Defendant(s)/Attorney(s)

 Other

 Special Instructions:

CA

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

MUDDY RUN REGIONAL AUTHORITY,
Condemnor

vs.

MID-PEN COAL COMPANY, et al.,
Condemnees

In re: Michael S. McClure

No. 2005-1084-CD

Eminent Domain

Proceedings in Rem

Type of Pleading:
**Motion & Order for
Payment of Fees & Costs**

Filed by:
Peter F. Smith, Esquire
Chairman of the Board of View
Supreme Court ID #34291
30 South Second Street
P. O. Box 130
Clearfield, PA 16830
(814) 765-5595

FILED 302
01/10:46/31
FEB 28 2008
William A. Shaw
Prothonotary/Clerk of Courts
Amy Smith

CA

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

MUDDY RUN REGIONAL AUTHORITY,
Plaintiff

No. 2005-1084-CD

vs.

MID-PEN COAL COMPANY, et al.,
Defendant

In re: Michael S. McClure

ORDER

AND NOW, this 28 day of Feb., 2006, upon consideration of the following Motion, it is,

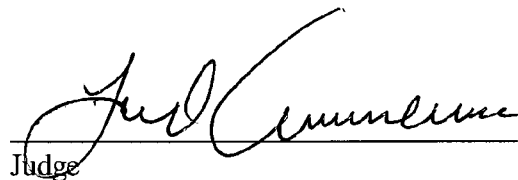
ORDERED, ADJUDGED and DECREED, that the recommendation of the Board of View that all fees and costs in this matter be paid by Condemnor Muddy Run Regional Authority is approved and fees and costs due to the members of the Board of View are to be paid by the Authority as follows:

EVO FACCHINE: \$307.29

SAMUEL B. YOST: \$291.06

PETER F. SMITH: \$825.00

By the Court:


Judge

FILED 3cc
01:23:01
MAR 01 2006
Atty Smith

William A. Shaw
Prothonotary/Clerk of Courts

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

MUDDY RUN REGIONAL AUTHORITY,	:	
Plaintiff	:	No. 2005-1084-CD
	:	
vs.	:	
	:	
MID-PEN COAL COMPANY, et al.,	:	
Defendant	:	

In re: Lawrence Berzanske

MOTION FOR PAYMENT OF FEES & COSTS

COMES NOW, Peter F. Smith, both in his capacity as a member of the Board of View appointed in this matter and as an attorney, who states the following in support of this Motion:

1. Evo Facchine, Samuel B. Yost and the Movant were appointed to view the property subject to this condemnation by Order dated December 14, 2005.
2. The property was viewed and hearing conducted on January 19, 2006.
3. The Report of the Board of View was filed with this Honorable Court on February 28, 2006.
4. Board member Evo Facchine dedicated 3.5 hours of service in this matter and traveled 44 miles.
4. Board member Samuel B. Yost dedicated 3.33 hours of service in this matter and traveled 18 miles.
5. Board member Peter F. Smith dedicated 2.5 hours of service in this matter.
6. Mr. Smith also dedicated 4.75 hours of his professional time as an attorney to research applicable law and procedure, counsel the Board and prepare its report.
7. It is respectfully suggested that the Board members be compensated \$85.00 per hour

for their services and reimbursed at the rate of \$0.445 per mile for their services.

8. Clearfield County reimburses \$0.445 per mile.

9. It is further suggested that Mr. Smith be compensated at the rate of \$175.00 per hour for his legal services.

10. These recommendations result in the following fees and costs:

a.	Evo Facchine	\$307.29
b.	Samuel B. Yost	\$291.06
c.	Peter F. Smith	\$825.00

WHEREFORE, this Honorable Court is moved to enter an Order directing the Condemnor Muddy Run Regional Authority to pay Evo Facchine \$307.29, Samuel B. Yost \$291.06 and Peter F. Smith \$825.00.

Respectfully submitted,

Date:

2/27/06




Peter F. Smith, Esquire
Chairman of the Board of View

VERIFICATION

I hereby swear and affirm that I have read the foregoing Motion and it is true and accurate to the best of my information, knowledge and belief. Furthermore, I understand that the same is made pursuant to 18 Pa. S.C.A. 4904, relating to unsworn falsification to authorities.

Dated: 2/27/06



Peter F. Smith, Esquire
Chairman of the Board of View

February 27, 2006

PETER F. SMITH
Attorney
30 South Second Street
P.O. Box 130
Clearfield, PA 16830

(814) 765-5595

Muddy Run Regional Authority vs. Mid-Pen Coal Company, et al.
Eminent Domain

Re: McClure

01/16/06	Call Court Administrator, forward Order, reviewed pre-trials and law	30 min.
01/18/06	Memorandum of Law, call Carfley	15 min.
01/19/06	Hearing and View	2 hrs. 30 min.
01/23/06	Drafted report, revised and got citations, Cert. Serv.	1 hr. 10 min.
02/02/06	Forward reports for signatures with letter	10 min.
02/10/06	Letter	05 min.
02/13/06	Finished reports, drafted Motion and Order for payments	25 min.
02/14/06	Drafted Motion for Payment, calls Facchine and Yost	30 min.
02/27/06	Filed Report and Motion for Payment, Cert. Filing and letters	25 min.

TIME & AMOUNT FOR ATTORNEY SERVICES: 3.50 Hours @ \$175.00/hr. = \$612.50

TIME & AMOUNT AS MEMBER OF BOARD OF VIEW: 2.50 Hours @ \$ 85.00/hr. = \$212.50

TOTAL AMOUNT DUE PETER F. SMITH - \$825.00

February 16, 2006

SAMUEL B YOST
168 Baneyville Road
Clearfield, PA 16830

Muddy Run Regional Authority vs. Mid-Pen Coal Company, et al.
Eminent Domain

Re: McClure

Hearing and View on 1/19/06	2 hrs. 30 min.
Travel Time	20 min.
Calls and Correspondence	30 min.

TIME & AMOUNT AS MEMBER OF BOARD OF VIEW: 3.33 Hours @ \$85.00 = \$283.05

MILEAGE: 18 miles @ 44.5 cents per mile = \$ 8.01

TOTAL AMOUNT DUE SAMUEL B. YOST - \$291.06

February 16, 2006

EVO FACCHINE
407 Patterson Avenue
DuBois, PA 15801

Muddy Run Regional Authority vs. Mid-Pen Coal Company, et al.
Eminent Domain

Re: McClure

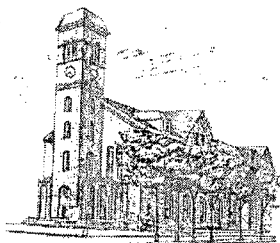
Hearing and View on 1/19/06	2 hrs. 30 min.
Travel Time	30 min.

Calls and Correspondence	30 min.
--------------------------	---------

TIME & AMOUNT AS MEMBER OF BOARD OF VIEW: 3.5 Hours @ \$85.00 = \$297.50

MILEAGE: 22 miles @ 44.5 cents per mile = \$ 9.79

TOTAL AMOUNT DUE EVO FACCHINE - \$307.29



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 3/1/06

X You are responsible for serving all appropriate parties.

 The Prothonotary's office has provided service to the following parties:

 Plaintiff(s)/Attorney(s)

 Defendant(s)/Attorney(s)

 Other

 Special Instructions:

Muddy Run Regional Authority
Condemnor

No. 2005-1084-CD

Vs

Mid-Pen Coal Company et. al
In re: Michael S. McClure
Condemnee

FILED 5cc
012:54301 Michael
MAR 28 2006 McClure

William A. Shaw
Prothonotary/Clerk of Courts

Appeal from the report of the Board of View.

The Board was established by Court order dated January 16, 2006.

View convened January 19, 2006 at 12:05 p.m.

Report filed by the Board of View February 28, 2006.

Michael S. McClure obtained title to the property by deed at Clearfield County Instrument Number 200304940.

The property consists of a house on two lots situate in the Village of Smoke Run in Beccaria Township identified by Clearfield County Tax Map # 101-K15-499-5.

Appeal is made on the following points

- 1) No guarantee of right of way over condemned lands has been granted to condemnee.
- 2) No trees have been granted as restitution for the four trees taken by the condemnation.

I request a jury to hear the matter.

Sincerely



Michael S. McClure
1508 Old Turnpike Road
Allport, PA 16821

Ph. 345-7545

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

MUDDY RUN REGIONAL AUTHORITY,
Plaintiff,

No. 05-1084-CD

v.


MID-PEN COAL COMPANY, et al.,
Defendants.

In Re. Michael S. McClure

ORDER

NOW, this 3rd day of April 2006, it is the ORDER of this Court that a status conference in the above-captioned matter has been scheduled for **April 19, 2006 at 2:00 P.M.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

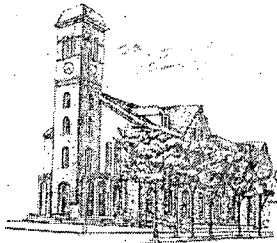
FILED

APR 04 2006

William A. Shaw
Prothonotary/Clerk of Courts

SENT TO CARLEBY
+

MICHAEL S. MCCLURE
3 RD ST. BOX 41
SNOW HILL PA.
16681



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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Sincerely,

William A. Shaw
Prothonotary

DATE: 4-4-06

_____ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

☒ Plaintiff(s)/Attorney(s)

☒ Defendant(s)/Attorney(s) MICHAEL McCLELLAN

_____ Other

_____ Special Instructions:

LA

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

MUDDY RUN REGIONAL,
AUTHORITY

vs.

No. 05-1084-CD

MID-PEN COAL COMPANY, et al.,

IN RE: Michael S. McClure

ORDER

AND NOW, this 19 day of April, 2006, it is the ORDER of the
Court that a status conference in the above-captioned matter has been scheduled for
Thursday, May 11, 2006 at 3:00 P.M. in Courtroom No. 1, Clearfield County
Courthouse, Clearfield, PA.

FILED

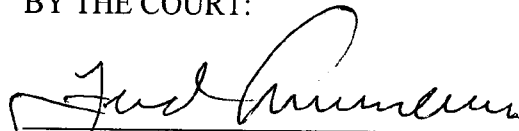
0/8:42am

APR 21 2006

2cc Atty Corfley
1cc Michael McClure
3rd St Box 41
Smoke Run, PA
16808

William A. Shaw
Prothonotary

BY THE COURT:



FREDRIC J. AMMERMAN
President Judge

FILED

APR 21 2006

William A. Shaw
Prothonotary



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary


Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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Sincerely,


William A. Shaw
Prothonotary

DATE: 4-21-06

 You are responsible for serving all appropriate parties.

 The Prothonotary's office has provided service to the following parties:

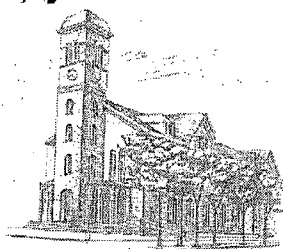
 X Plaintiff(s)/Attorney(s)

 Defendant(s)/Attorney(s)

 Other

 X Special Instructions:

Atty Carfley will serve all parties



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

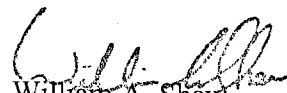
Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,


William A. Shaw
Prothonotary

DATE: 4-21-06

 You are responsible for serving all appropriate parties.

 The Prothonotary's office has provided service to the following parties:

 Plaintiff(s)/Attorney(s)

 X Defendant(s)/Attorney(s) Michael McClure

 Other

was serve by Prothonotary's office

 Special Instructions:

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

MUDDY RUN REGIONAL AUTHORITY, :
Condemnor :
vs. : No.: 2005-1084-CD
MID-PEN COAL COMPANY, ET. AL., : Eminent Domain
Condemnees : Proceedings in Rem
:

STIPULATION

WHEREAS, Muddy Run Regional Authority, (hereinafter "MRRA") is a municipality authority organized under the Municipality Authorities Act of June 19, 2001, P.L. 287 No. 22,53 Pa C.S.A. §5601 et. seq. (the "Act";) and,

WHEREAS, Houtzdale Line Rails to Trails (hereinafter "HLRT") is the owner of certain properties located throughout Bigler Township, Gulich Township and Ramey Borough, including, but not limited to the real property shown on the following Map Sheet Numbers attached to the Declaration of Taking:

1. 103-K14-155 - Map Sheet No. 4-139
2. 103-K15-61 - Map Sheet No. 4-140
3. 17-L15-364-40 - Map Sheet No. 5-19
4. 17-L15-364-40 - Map Sheet No. 5-66
5. 103-K15-61 - Map Sheet No. 5-68

FILED

JUN 05 2006
0/11:25/4 @
William A. Shaw
Prothonotary/Clerk of Courts
1 CEN TO HAN

6. 17-L15-000-77 - Map Sheet No. 5-188

7. 118-L15-93 - Map Sheet No. 5-195

8. 103-K15-61- Map Sheet No. 6-33

The aforesaid maps being attached hereto as Exhibits "A" through "H"; and,

WHEREAS, MRRA has requested that HLRT execute rights of way and has filed this Eminent Domain Action; and,

WHEREAS, certain issues have arisen to delay said transfer, including, but not limited to, agreement on the permanent location of the transmission pipeline and the amount of consideration which would be exchanged in return for these property rights which are the subject of the condemnation; and,

WHEREAS, the parties hereto, recognizing the need for expediency in the completion of this project and in order to insure that the health, safety and welfare of the community would be served in the most expeditious manner.

NOW THEREFORE, intending to be legally bound hereby, the parties do hereby agree as follows:

1. HLRT does hereby grant rights of way to MRRA for those certain properties identified by the within Map Sheet Numbers in a manner to be negotiated which does not

substantially change or increase the cost of MRRA's project, subject to physical modifications of the pipeline location which shall be left to the determination of HLRT and Gwen, Dobson & Foreman (hereinafter "GDF"), the consulting engineers for MRRA.

The effected Sheet Numbers are as follows:

1. 103-K14-155 - Map Sheet No. 4-139
 2. 103-K15-61 - Map Sheet No. 4-140
 3. 17-L15-364-40 - Map Sheet No. 5-19
 4. 17-L15-364-40 - Map Sheet No. 5-66
 5. 103-K15-61 - Map Sheet No. 5-68
 6. 17-L15-000-77 - Map Sheet No. 5-188
 7. 118-L15-93 - Map Sheet No. 5-195
 8. 103-K15-61- Map Sheet No. 6-33
2. Said rights of way and easements shall be agreed to by the parties and with the cooperation of their engineers and legal counsel.
 3. HLRT shall receive compensation for the easements specified on those Map Sheet Numbers objected to and those not objected to as agreed upon by the parties or to be determined by a Board of View duly selected and appointed by

the Court of Common Pleas of Clearfield County, Pennsylvania, provided, however, that said easements shall be subject to such modifications with respect to location as shall be agreed upon by the parties.

4. By signing this Stipulation, HLRT hereby withdraws all Objections filed to the Eminent Domain proceeding and MRRA hereby withdraws all claims set forth under its Answer and New Matter filed to HLRT's Preliminary Objections.
5. Notwithstanding the fact that the actual location of the transmission pipeline may, as yet, be undetermined, and the exact amount of consideration comprising the fair market value for the right of way likewise remains to be determined, for all intents and purposes, this Stipulation shall be construed and viewed as a Right of Way Agreement in lieu of a written instrument sufficient to transfer such qualified ownership of those property rights necessary to vest an easement in and to MRRA, subject to the exceptions and stipulations recognized herein, which exceptions and

stipulations shall be likewise determined through negotiation and further stipulation.

6. This Stipulation is subject to and is to be construed pursuant to the laws of the Commonwealth of Pennsylvania.

7. Time is of the essence in this agreement.

8. No modifications of this Stipulations shall be entered into by the parties, unless presented to the other party for approval and reduced to writing and signed by both parties hereto.

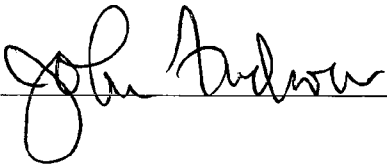
9. The properties of HLRT set forth herein are subject to the following programs which MRRA agrees to comply with and under which they acknowledge those programs in their usage of the rights of way:

a). The Interstate Commerce Commission (ICC) of interim trail use condition (railbanking) by the ICC's Decision and Certificate dated September 22, 1993 to ICC Docket No. AB-167 (Sub No. 1002N) and the ICC's Decision and Notice dated December 6, 1993 to ICC Docket No. AB-167 (Sub No. 1104X).

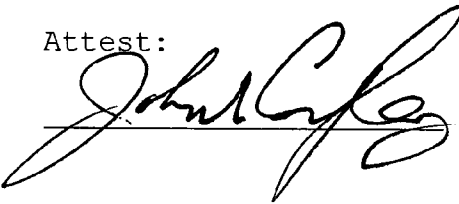
b). The National Trail System Act of
1968.

IN WITNESS WHEREOF, the parties have hereunto set
their hands and seals on the 5th day of October, 2005.

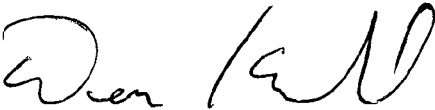
Muddy Run Regional Authority



Attest:



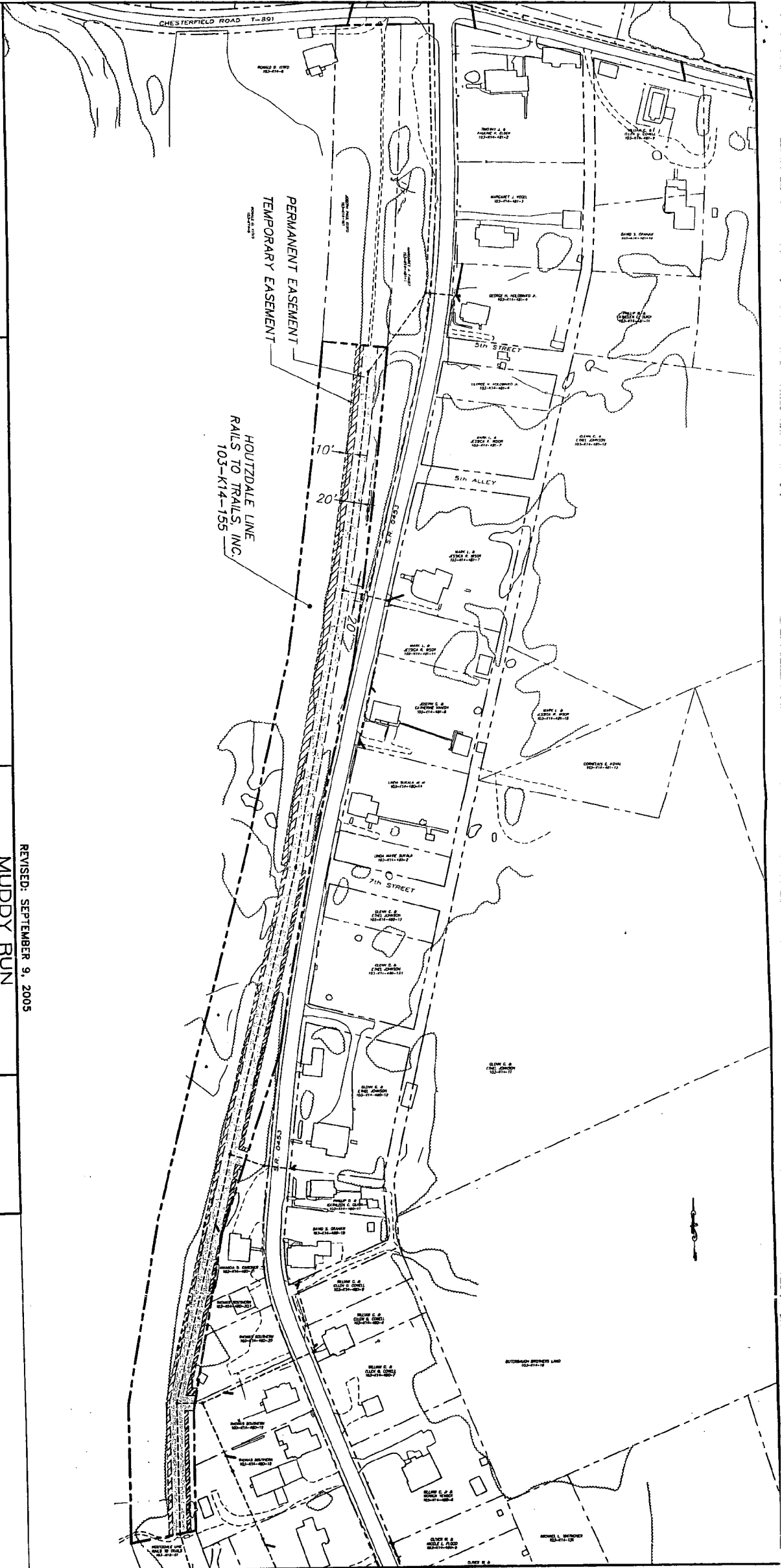
Houtzdale Line Rails to Trails



Dennis Kasubick, President

Attest:





LEGEND

- PERMANENT EASEMENT
 - TEMPORARY EASEMENT
 - LEGAL RIGHT OF WAY
 - PROPERTY LINE
 - SANITARY SEWER/MANHOLE
 - SANITARY SEWER FORCEMAIN
 - EASEMENT AREA
- PERMANENT: 33,204 SQ. FT. (0.76 AC.)
TEMPORARY: 15,934 SQ. FT. (0.37AC.)

Notes:

- The property information shown on this easement drawing was compiled from tax records of the County Assessment Office and reflects the accuracy of "Positional Uncertainties" and "Positional Tolerances" thereof. No analysis or verification of recorded instruments/deeds of the subject parcel or adjoining properties has been performed.
- The property information shown on this easement drawing has not been verified by an independent title search nor prepared for the benefit of a title insurance company. No title opinion or legal conclusion is offered or implied.
- This easement drawing does not represent a boundary survey or represent the subject parcel's boundary lines. Therefore, no measured boundary lines (measured bearings, angles or distances) are shown.
- Mapping data shown on this easement drawing such as buildings, structures, visible improvements and observable evidence of easements and/or servitudes of all kinds, such as those created by roads, rights-of-way, water courses, drains, telephone, telegraph or electric lines; water, sewer, oil or gas pipelines; surface indications of underground easements or servitudes on or across the subject parcel and on adjoining properties are based on aerial mapping or engineering surveys and reflects the accuracy of "Positional Uncertainties" and

REVISED: SEPTEMBER 9, 2005

REGIONAL AUTHORITY
MUDDY RUN
SANITARY SEWER
EASEMENT

PROPERTY OWNER: HOUTZDALE LINE
RAILS TO TRAILS, INC.
ADDRESS: 510 DAVID STREET
HOUTZDALE, PA 16651

TAX PARCEL NO.: 103-K14-155
DEED BOOK NO.: 1664 PAGE NO.: 294

DATE: 3-4-05 JOB: 95078 SCALE: AS SHOWN
DRAWN BY: JAS CHECK BY: MWG



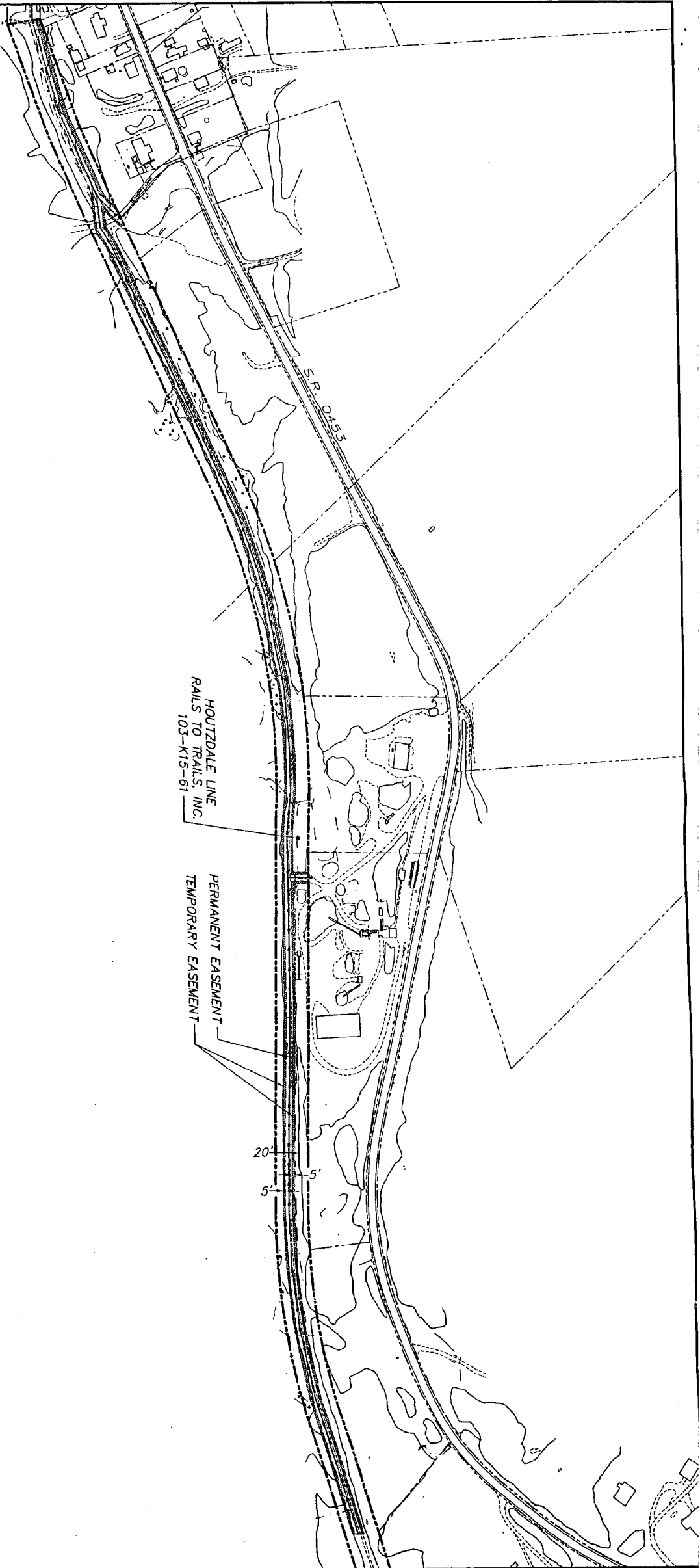
GWIN
DOBSON &
FOREMAN INC.
Consulting Engineers
3121 Fairway Drive
Alliopolis, PA 16602
(814) 943-5214

SHEET NO:

4-139



EXHIBIT "A"



LEGEND

- PERMANENT EASEMENT
 - TEMPORARY EASEMENT
 - LEGAL RIGHT OF WAY
 - PROPERTY LINE
 - SANITARY SEWER/MANHOLE
 - SANITARY SEWER FORCEMAIN
 - EASEMENT AREA
- PERMANENT: 86,746 SQ. FT. (1.99 AC.)
TEMPORARY: 42,569 SQ. FT. (0.98 AC.)

Notes:

- The property information shown on this easement drawing was compiled from tax records of the County Assessment Office and reflects the accuracy ("Positional Uncertainties" and "Positional Tolerances") thereof. No analysis or verification of recorded instruments/deeds of the subject parcel or adjoining properties has been performed.
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**MUDDY RUN
REGIONAL AUTHORITY
SANITARY SEWER
EASEMENT**

PROPERTY OWNER: HOUTZDALE LINE
RAILS TO TRAILS, INC.
ADDRESS: 510 DAVID STREET
HOUTZDALE, PA 16651

TAX PARCEL NO.: 103-K15-61
DEED BOOK NO.: 1664
PAGE NO.: 294

DATE: 3-4-05 JOB: 95078 SCALE: AS SHOWN
DRAWN BY: JAS CHK. BY: MYG

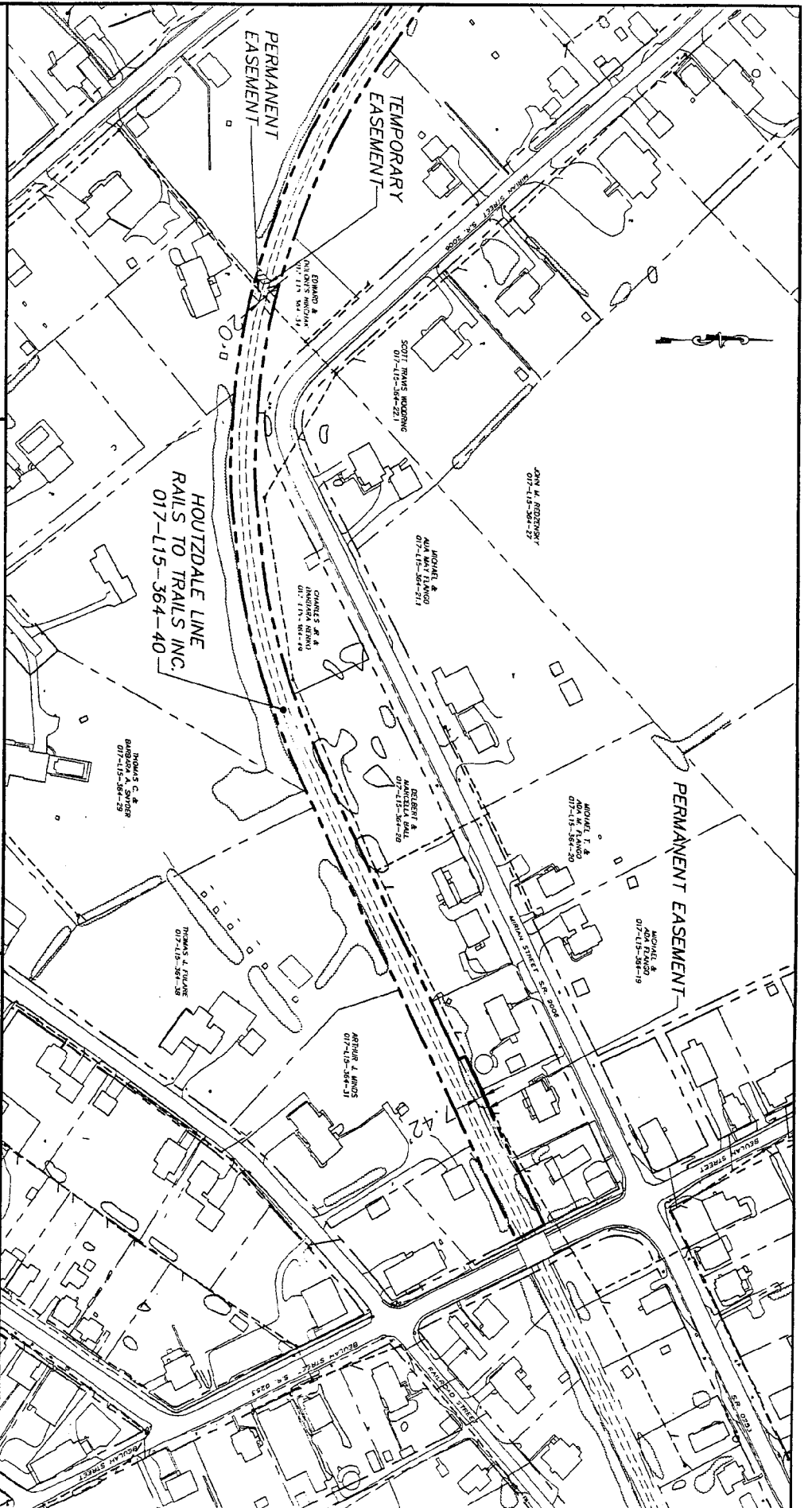
GD&F

**GWYN
DOBSON &
FOREMAN INC.**
Consulting Engineers
3121 Fairway Drive
Allioun, PA 16602
(814) 943-5214

SHEET NO:

4-140





LEGEND

PERMANENT EASEMENT
 TEMPORARY EASEMENT
 LEGAL RIGHT OF WAY
 PROPERTY LINE
 SANITARY SEWER/MANHOLE
 SANITARY SEWER FOREMAIN
 EASEMENT AREA

PERMANENT: 1,969 SQ. FT. (0.05 AC.)
 TEMPORARY: 391 SQ. FT. (0.01 AC.)

Notes:

- The property information shown on this easement drawing was compiled from tax records of the County Assessment Office and reflects the accuracy ("Positional Uncertainties" and "Positional Tolerances") thereof. No analysis or verification of recorded instruments/deeds of the subject parcel or adjoining properties has been performed.
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MUDDY RUN REGIONAL AUTHORITY SANITARY SEWER EASEMENT

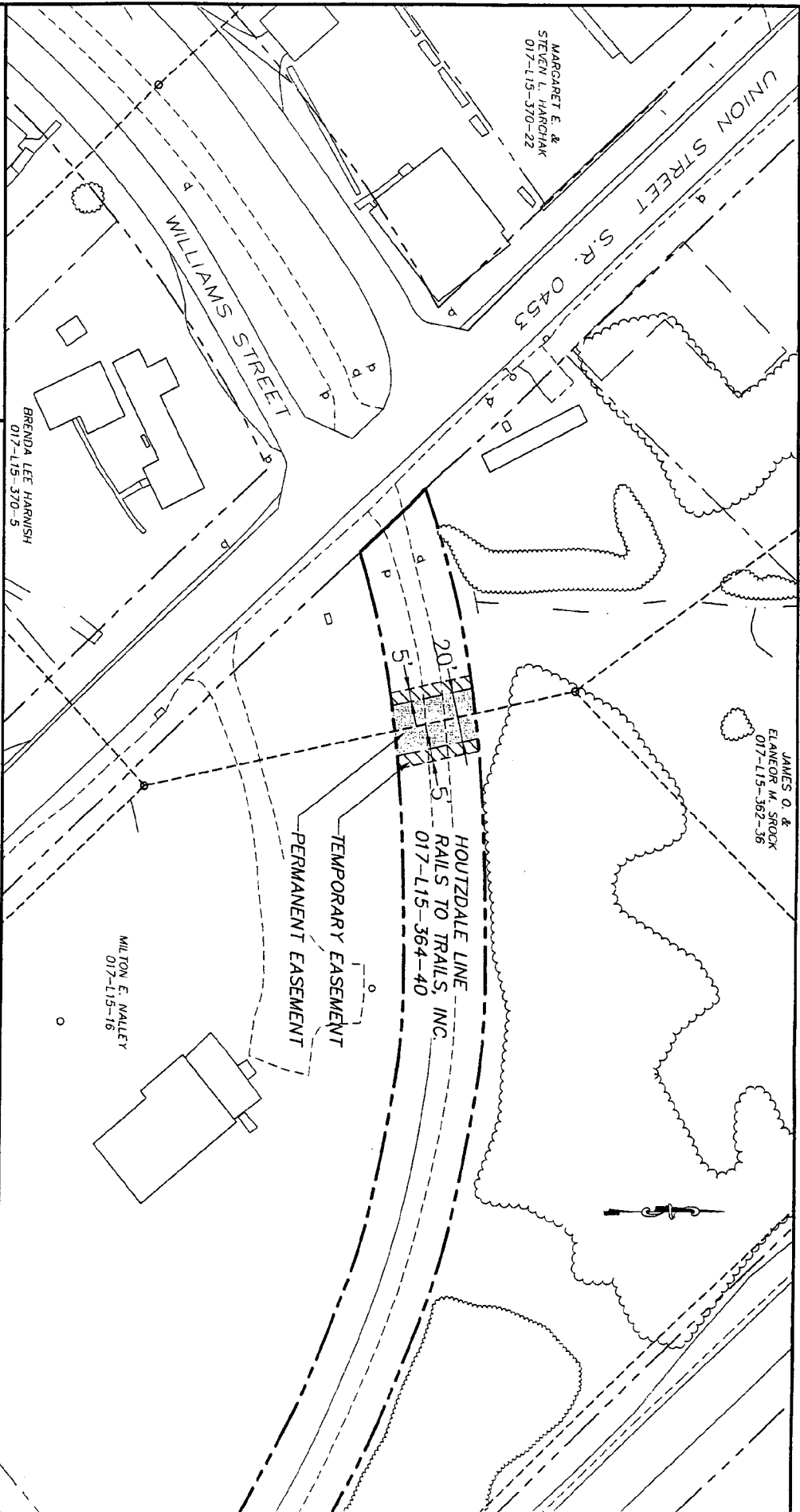
PROPERTY OWNER: HOULTDALE LINE
 RAILS TO TRAILS, INC.
 ADDRESS: 510 DAVID STREET
 HOULTDALE PA 16651
 TAX PARCEL NO.: 017-115-364-40
 DEED BOOK NO.: 1664 PAGE NO.: 294

DATE: 4-1-05 JOB: 95078 SCALE: 1"=200'
 FILE: 5-19 DRAWN BY: JAS CHK. BY: MWC

GD&F
 GWIN
 DOBSON &
 FOREMAN INC.
 Consulting Engineers
 3121 Fairway Drive
 Altoona, PA 16602
 (814) 943-5214

SHEET NO:

5-19



LEGEND

PERMANENT EASEMENT
 TEMPORARY EASEMENT
 LEGAL RIGHT OF WAY
 PROPERTY LINE
 SANITARY SEWER/MANHOLE
 SANITARY SEWER FORCEMAIN
 EASEMENT AREA

PERMANENT: 663 SQ. FT. (0.02 AC.)
 TEMPORARY: 331 SQ. FT. (0.01 AC.)

Notes:

- The property information shown on this easement drawing was compiled from tax records of the County Assessment Office and reflects the accuracy of "Positional Uncertainties" and "Positional Tolerances" thereof. No analysis or verification of recorded instruments/deeds of the subject parcel or adjoining properties has been performed.
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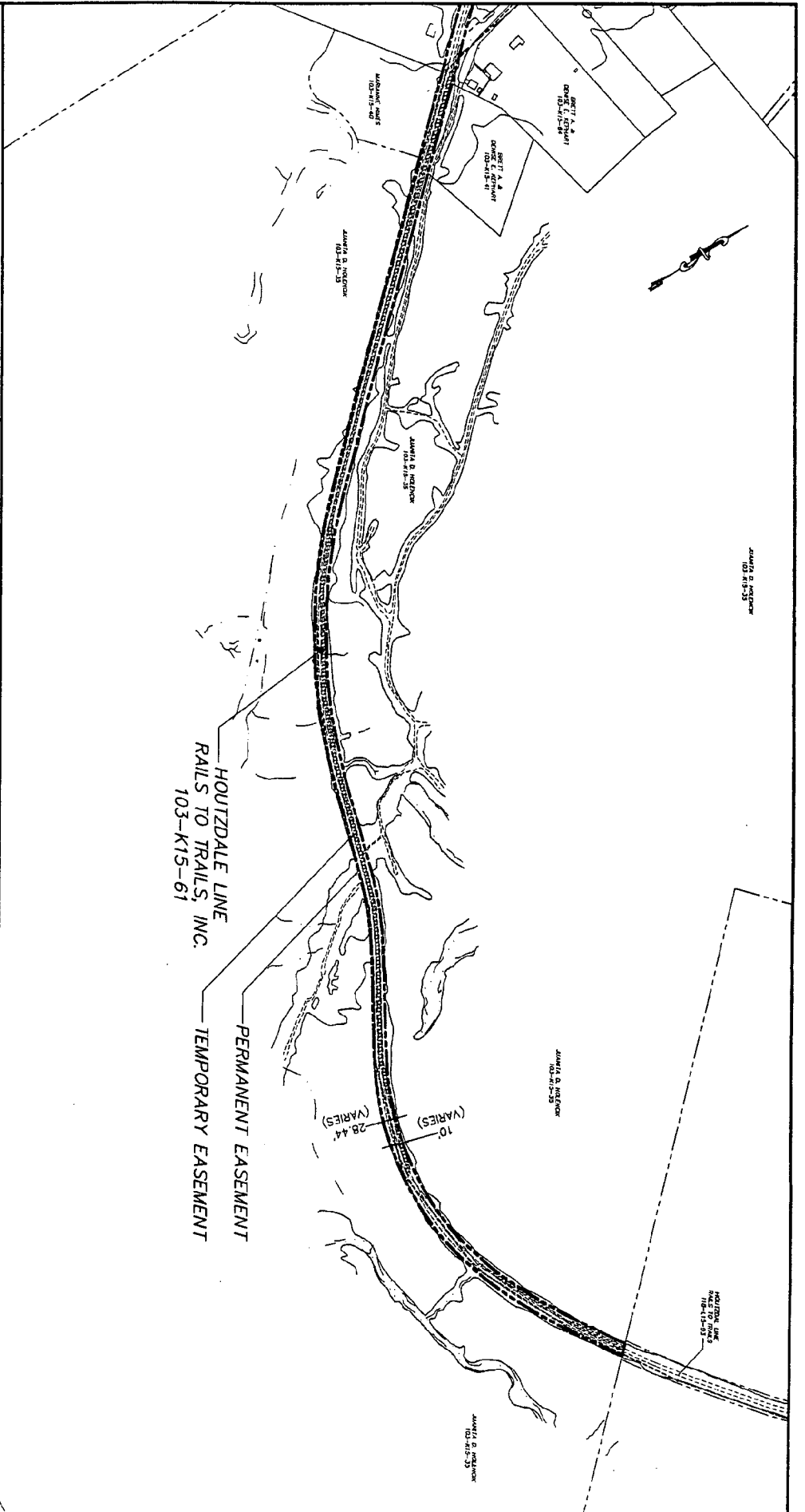
MUDDY RUN REGIONAL AUTHORITY SANITARY SEWER EASEMENT

PROPERTY OWNER: HOUTZDALE LINE
 RAILS TO TRAILS, INC.
 ADDRESS: 510 DAVID ST.
 HOUTZDALE, PA 16851
 TAX PARCEL NO.: 017-L15-364-40
 DEED BOOK NO.: 1864
 PAGE NO.: 294

DATE: 4-1-05
 JOB: 95078
 SCALE: 1"=60'
 FILE: 5-66
 DRAWN BY: JAS
 CHK. BY: MYG

GWIN DOBSON & FOREMAN, INC.
Consulting Engineers
 3121 Fairway Drive
 Altoona, PA 16602
 (814) 943-5214

SHEET NO:
 5-66



LEGEND

- PERMANENT EASEMENT [hatched pattern]
 - TEMPORARY EASEMENT [diagonal line pattern]
 - LEGAL RIGHT OF WAY [dashed line]
 - PROPERTY LINE [solid line]
 - SANITARY SEWER/MANHOLE [circle with cross]
 - SANITARY SEWER FORCEMAIN [line with cross-ticks]
- EASEMENT AREA
- PERMANENT: 66,254 SQ. FT. (1.52 AC.)
 TEMPORARY: 29,663 SQ. FT. (0.68 AC.)

Notes:

- The property information shown on this easement drawing was compiled from tax records of the County Assessment Office and reflects the accuracy of "Positional Uncertainties" and "Positional Tolerances" thereof. No analysis or verification of recorded instruments/deeds of the subject parcel or adjoining properties has been performed.
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MUDDY RUN REGIONAL AUTHORITY SANITARY SEWER EASEMENT

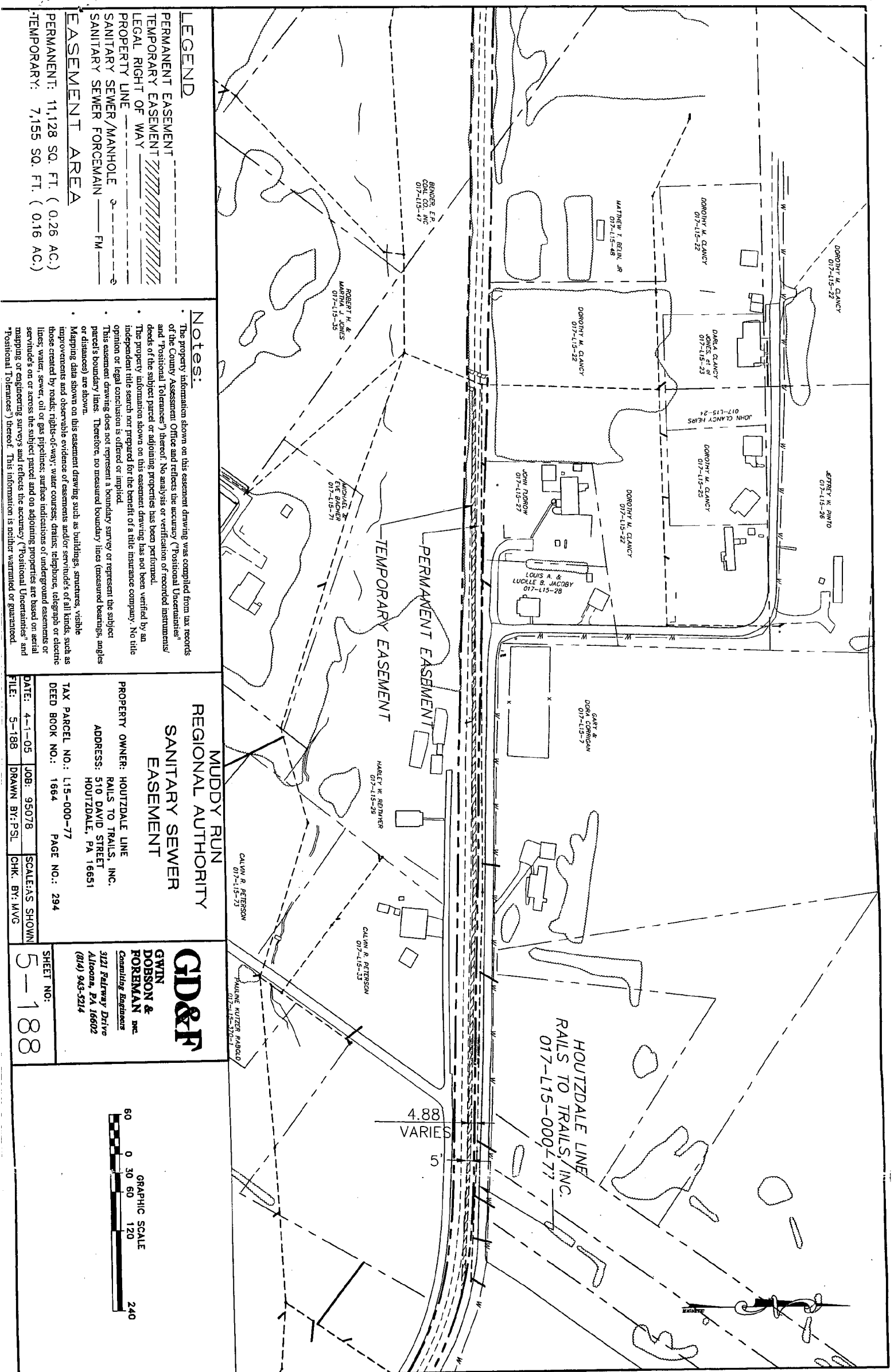
PROPERTY OWNER: HOUTZDALE LINE
RAILS TO TRAILS, INC.
 ADDRESS: 510 DAVID ST.
HOUTZDALE, PA 16651

TAX PARCEL NO.: 103-K15-61
 DEED BOOK NO.: 1664 PAGE NO.: 294

DATE: 4-1-05 JOB: 95078 SCALE: 1"=400'
 FILE: 5-68 DRAWN BY: JAS CHK. BY: MYG

GD&F
 GWIN
 DOBSON &
 FOREMAN INC.
 Consulting Engineers
 3121 Parkway Drive
 Altoona, PA 16602
 (814) 943-5214

SHEET NO:
5-68



LEGEND

- PERMANENT EASEMENT
- TEMPORARY EASEMENT
- LEGAL RIGHT OF WAY
- PROPERTY LINE
- SANITARY SEWER/MANHOLE
- SANITARY SEWER FORCEMAIN

EASEMENT AREA

PERMANENT: 11,128 SQ. FT. (0.26 AC.)
TEMPORARY: 7,155 SQ. FT. (0.16 AC.)

Notes:

- The property information shown on this easement drawing was compiled from tax records of the County Assessment Office and reflects the accuracy ("Positional Uncertainties" and "Positional Tolerances") thereof. No analysis or verification of recorded instruments/deeds of the subject parcel or adjoining properties has been performed.
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MUDDY RUN
REGIONAL AUTHORITY
SANITARY SEWER
EASEMENT

PROPERTY OWNER: HOUTZDALE LINE
RAILS TO TRAILS, INC.
ADDRESS: 510 DAVID STREET
HOUTZDALE, PA 16651

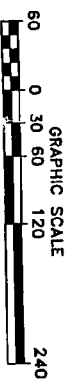
TAX PARCEL NO.: L15-000-77
DEED BOOK NO.: 1664
PAGE NO.: 294

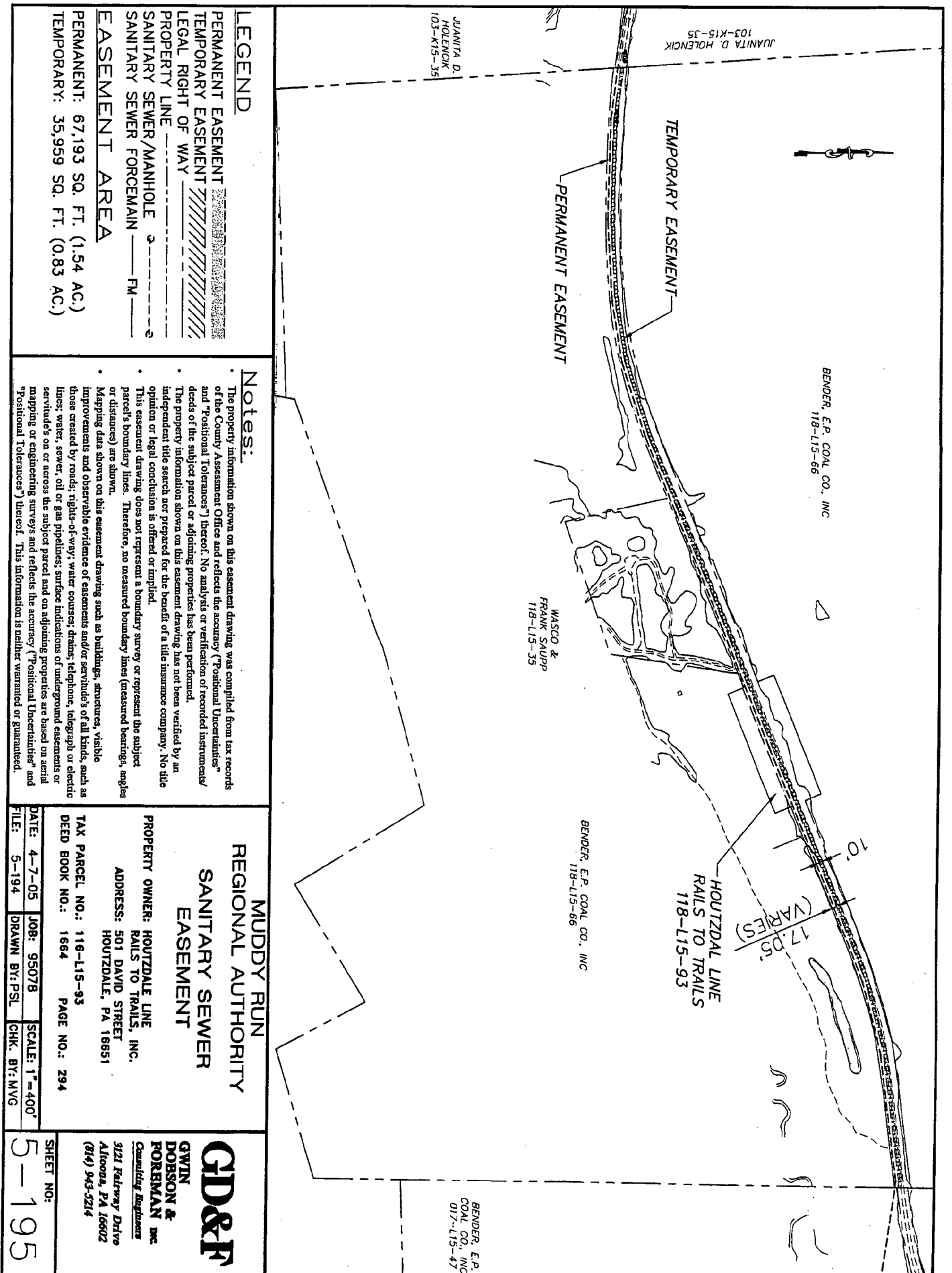
DATE: 4-1-05
JOB: 95078
FILE: 5-188
DRAWN BY: PSL
SCALE: AS SHOWN
CHK. BY: MYG

GD&F

GWIN
DOBSON &
FOREMAN INC.
Consulting Engineers
3121 Fairway Drive
Allentown, PA 16602
(610) 943-5214

SHEET NO:
5-188





LEGEND

- PERMANENT EASEMENT
- TEMPORARY EASEMENT
- LEGAL RIGHT OF WAY
- PROPERTY LINE
- SANITARY SEWER/MANHOLE
- SANITARY SEWER FORCEMAIN
- EASEMENT AREA
- PERMANENT: 67,193 SQ. FT. (1.54 AC.)
- TEMPORARY: 35,959 SQ. FT. (0.83 AC.)

Notes:

- The property information shown on this easement drawing was compiled from tax records of the County Assessment Office and reflects the accuracy ("Positional Uncertainties" and "Positional Tolerances") thereof. No analysis or verification of recorded instruments/deeds of the subject parcel or adjoining properties has been performed.
- The property information shown on this easement drawing has not been verified by an independent title search nor prepared for the benefit of a title insurance company. No title opinion or legal conclusion is offered or implied.
- This easement drawing does not represent a boundary survey or represent the subject parcel's boundary lines. Therefore, no measured boundary lines (measured bearings, angles or distances) are shown.
- Mapping data shown on this easement drawing such as buildings, structures, visible improvements and observable evidence of easements and/or servitudes of all kinds, such as those created by roads, rights-of-way, water courses, drains, telephone, telegraph or electric lines; water, sewer, oil or gas pipelines; surface indications of underground easements or servitudes on or across the subject parcel and on adjoining properties are based on aerial mapping or engineering surveys and reflects the accuracy ("Positional Uncertainties" and "Positional Tolerances") thereof. This information is neither warranted or guaranteed.

REGIONAL AUTHORITY MUDDY RUN SANITARY SEWER EASEMENT

PROPERTY OWNER: HOUTZDAL LINE
RAILS TO TRAILS, INC.
ADDRESS: 501 DAVID STREET
HOUTZDAL, PA 16651
TAX PARCEL NO.: 116-L15-93
DEED BOOK NO.: 1664
PAGE NO.: 294

DATE: 4-7-05
JOB: 95078
SCALE: 1"=400'
FILE: 5-194
DRAWN BY: PSL
CHK. BY: MVG

GD&F

GWIN
DOBSON &
FOREMAN INC.
Consulting Engineers
3121 Parkway Drive
Allentown, PA 16602
(610) 943-5214

SHEET NO:

5-195

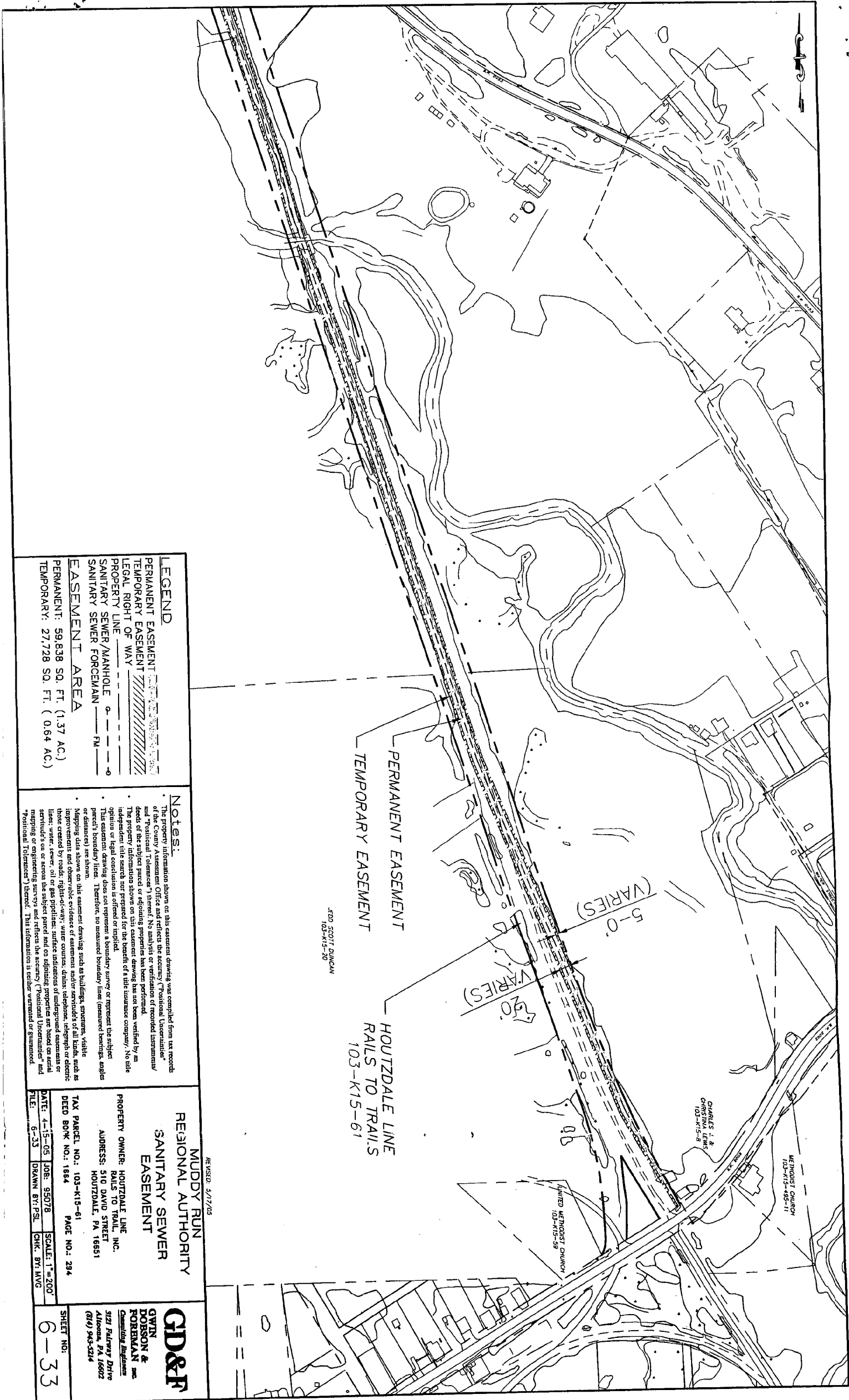


EXHIBIT "H"

LEGEND

- PERMANENT EASEMENT
- TEMPORARY EASEMENT
- LEGAL RIGHT OF WAY
- PROPERTY LINE
- SANITARY SEWER/MANHOLE
- SANITARY SEWER FORCEMAIN
- EASEMENT AREA
- PERMANENT: 59,838 SQ. FT. (1.37 AC.)
- TEMPORARY: 27,728 SQ. FT. (0.64 AC.)

Notes:

- The property information shown on this easement drawing was compiled from tax records of the County Assessment Office and reflects the accuracy of the "Positional Uncertainty" and "Positional Tolerance" thereof. No analysis or verification of recorded instruments/deeds of the subject parcel or adjoining properties has been performed.
- The property information shown on this easement drawing has not been verified by an independent title search nor prepared for the benefit of a title insurance company. No title opinion or legal conclusion is offered or implied.
- This easement drawing does not represent a boundary survey or represent the subject parcel's boundary lines. Therefore, no measured boundary lines (measured bearings, angles or distances) are shown.
- Mapping data shown on this easement drawing such as buildings, structures, visible improvements and observable evidence of easements and/or servitudes of all kinds, such as those created by roads, rights-of-way, water courses, drains, telephone, telegraph or electric lines, water, sewer, oil or gas pipelines; surface indications of underground easements or servitudes on or across the subject parcel and on adjoining properties are based on aerial mapping or engineering surveys and reflect the accuracy of the "Positional Uncertainty" and "Positional Tolerance" thereof. This information is neither warranted or guaranteed.

MUDDY RUN
REGIONAL AUTHORITY
SANITARY SEWER
EASEMENT

PROPERTY OWNER: HOUTZDALE LINE
RAILS TO TRAIL, INC.
ADDRESS: 510 DAVID STREET
HOUTZDALE, PA 16851

TAX PARCEL NO.: 103-K15-61
DEED BOOK NO.: 1864
PAGE NO.: 284

DATE: 4-15-05 JOB: 95078 SCALE: 1"=200'
FILE: 6-33 DRAWN BY: PSL CHK. BY: MVG

GD&F

GWIN
DOBSON &
FOREMAN INC.
Consulting Engineers
5121 Parkway Drive
Allentown, PA 18602
(610) 243-5214

SHEET NO:
6-33

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

MUDDY RUN REGIONAL AUTHORITY
Condemnor

vs.

MID-PEN COAL COMPANY, ET AL.,
Condemnees

No.: 2005-1084-CD

Eminent Domain

Proceedings In Rem

FILED

JUN 05 2006

0 112512
William A. Shaw
Prothonotary/Clerk of Courts

3 sent to Art
(SK)

AMENDMENT TO STIPULATION

WHEREAS, Muddy Run Regional Authority, (hereinafter "MRRA") and Houtzdale Line Rails to Trails (hereinafter "HLRT") entered into a Stipulation on the 5th day of October, 2005 whereby the parties specified conditions relating to the crossing of properties owned by HLRT by MRRA for the purpose of placing sewage transmission and collection lines on properties located throughout Bigler Township, Gulich Township and Ramey Borough as specified in the Stipulation and;

WHEREAS, certain modifications are required and need to be included in said Stipulation which the parties have now set down in this instrument.

NOW THEREFORE, intending to be legally bound hereby, the parties do hereby agree as follows:


1. An additional property owned by HLRT and also identified as Tax Map No. 103-K15-61 which is depicted as Sheet No. 6-207 is to be included in HLRT's grant to MRRA of the right to place sewage transmission and conveyance pipelines through and across this property subject to those terms and conditions otherwise

specified in the original instrument. Said Sheet 6-207 is attached hereto as Exhibit "A".


2. In all other respect, the terms and conditions of the said Stipulation entered into by and between the parties on October 5, 2005 are hereby ratified, affirmed and asserted and shall remain in full force and effect and shall be binding upon the parties unless otherwise modified in writing at some future time.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the 19th day of December, 2005.


Muddy Run Regional Authority




Attest:

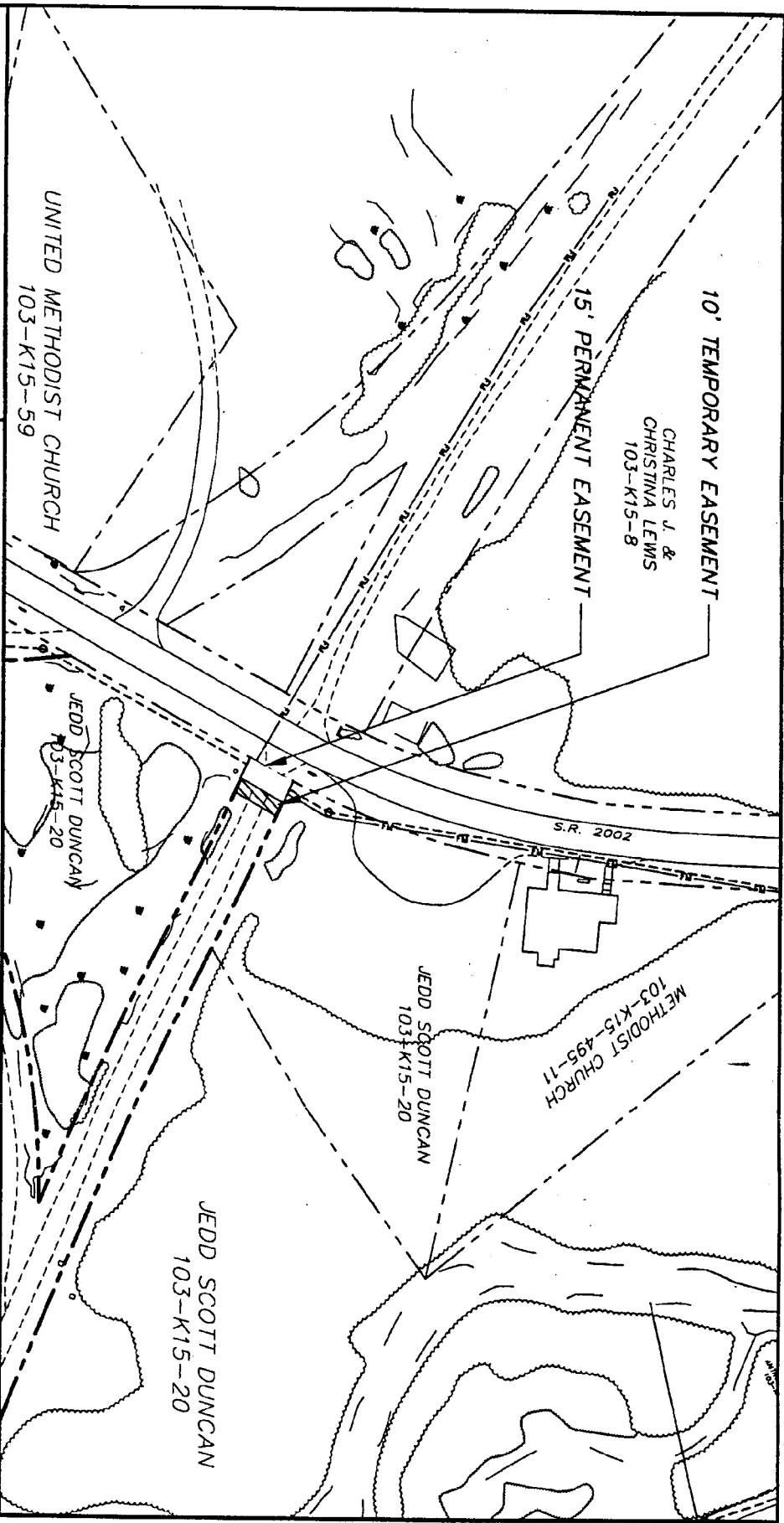


Houtzdale Line Rails to Trails



Attest:





LEGEND

- PERMANENT EASEMENT
- TEMPORARY EASEMENT
- LEGAL RIGHT OF WAY
- PROPERTY LINE
- SANITARY SEWER/MANHOLE
- SANITARY SEWER FORCEMAIN
- EASEMENT AREA
- PERMANENT: 330 SQ. FT. (0.007 AC.)
- TEMPORARY: 510 SQ. FT. (0.011 AC.)

Notes:

- The property information shown on this easement drawing was compiled from tax records of the County Assessment Office and reflects the accuracy ("Potential Uncertainties" and "Potential Tolerances") thereof. No analysis or verification of recorded instruments/ deeds of the subject parcel or adjoining properties has been performed.
- The property information shown on this easement drawing has not been verified by an independent title search nor prepared for the benefit of a title insurance company. No title opinion or legal conclusion is offered or implied.
- This easement drawing does not represent a boundary survey or represent the subject parcel's boundary lines. Therefore, no measured boundary lines (measured bearings, angles or distances) are shown.
- Mapping data shown on this easement drawing such as buildings, structures, visible improvements and observable evidence of easements and/or servitude's of all kinds, such as those created by roads, rights-of-way, water courses, drains, telephone, telegraph or electric lines, water, sewer, oil or gas pipelines, surface indications of underground manure or servitude's on or across the subject parcel and on adjoining properties are based on aerial mapping or engineering surveys and reflect the accuracy ("Potential Uncertainties" and "Potential Tolerances") thereof. This information is neither warranted or guaranteed.

MUDDY RUN REGIONAL AUTHORITY SANITARY SEWER EASEMENT

PROPERTY OWNER: HOUTZDALE LINE
RAILS TO TRAILS, INC.
ADDRESS: 510 DAVID ST.
HOUTZDALE, PA 16651

TAX PARCEL NO.: 103-K15-61
DEED BOOK NO.: 1664
PAGE NO.: 294

DATE: 12/13/05
JOB: 95078
SCALE: 1"=100'
FILE: 6-207
DRAWN BY: M-JH
CHK. BY: MVG

GD&F

GWYN
DOBSON &
FOREMAN INC.
Consulting Engineers
3121 Pulwry Drive
Allentown, PA 16602
(610) 940-9244

SHEET NO:
6-207

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

MUDDY RUN REGIONAL AUTHORITY,
Plaintiff

vs.

MID-PEN COAL COMPANY, et al.,
Defendant

No. 2005-1084-CD

In re: Lawrence Berzanske

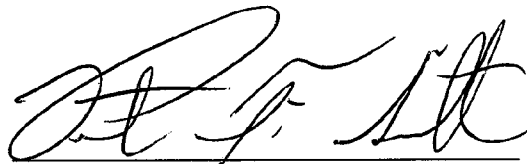
PRAECIPE

To: William A. Shaw, Prothonotary

Dear Sir:

I am Chairman of the Board of View in the above-captioned matter. I submit this Praecipe on behalf of the Board to acknowledge receipt of payment of our fees by the Condemnor pursuant to Judge Ammerman's Order entered in this matter on February 28, 2006.

Respectfully submitted,



Peter F. Smith, Esquire
Chairman of the Board of View
P. O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

Date: June 5, 2006

cc: John R. Carfley, Attorney for Muddy Run Regional Authority

FILED *no cc*
010:4261
JUN 06 2006 *CR*

William A. Shaw
Prothonotary/Clerk of Courts

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

MUDDY RUN REGIONAL AUTHORITY,
Plaintiff

vs.

MID-PEN COAL COMPANY, et al.,
Defendant

No. 2005-1084-CD

In re: Michael S. McClure

PRAECIPE

To: William A. Shaw, Prothonotary

Dear Sir:

I am Chairman of the Board of View in the above-captioned matter. I submit this Praecipe on behalf of the Board to acknowledge receipt of payment of our fees by the Condemnor pursuant to Judge Ammerman's Order entered in this matter on February 28, 2006.

Respectfully submitted,

Date: June 5, 2006



Peter F. Smith, Esquire
Chairman of the Board of View
P. O. Box 130, 30 South Second Street
Clearfield, PA 16830
(814) 765-5595

cc: John R. Carfley, Attorney for Muddy Run Regional Authority

FILED *no cc*
010:4204
JUN 06 2006 *CR*

William A. Shaw
Prothonotary/Clerk of Courts

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

MUDDY RUN REGIONAL AUTHORITY, *
Condemnor *

v. *

MID-PEN COAL COMPANY, ET AL., *
Condemnee *

Docket No. 05-1084-CD

Type of Pleading:
PRAECIPE TO DISCONTINUE

Filed on Behalf of:
Defendant:
Mid-Pen Coal Company, et al.

Counsel of Record for
This Party:

Dwight L. Koerber, Jr., Esquire
PA I.D. 16332

LAW OFFICES OF
DWIGHT L. KOERBER, JR.
110 N. Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED 400 Atty Koerber
01/3/24/2011 w/ 4 Cert. of Disc.
JUN 29 2011
Copy to CIA
William A. Shaw
Prothonotary/Clerk of Courts

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

MUDDY RUN REGIONAL AUTHORITY,

Condemnor

No. 05-1084-CD

Vs.

MID-PEN COAL COMPANY, ET AL.,

EMINENT DOMAIN

Condemnee

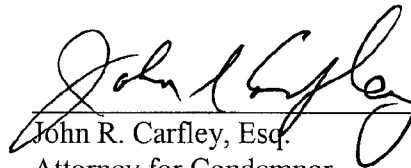
PROCEEDINGS IN REM

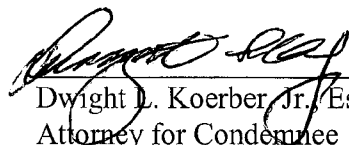
PRAECIPE

To the Prothonotary:

Please mark the above captioned matter settled, discontinued and ended as against
the following named individual:

1. Samuel Brink


John R. Carfley, Esq.
Attorney for Condemnor
222 Presqueisle Street
Philipsburg, PA 16866
(814) 342-5581
ID# 17621


Dwight L. Koerber, Jr., Esq.
Attorney for Condemnee

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

MUDDY RUN REGIONAL AUTHORITY,
Condemnor

v.

MID-PEN COAL COMPANY, ET AL.,
Condemnee

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*
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Docket No. 05-1084-CD


CERTIFICATE OF SERVICE

I certify that on the 29th day of June, 2006, the undersigned served a certified copy of the Praecipe to Discontinue in the above-captioned matter. Such document was served via United States First Class Mail upon the following individuals:

Mr. Samuel D. Brink
4654 Green Acre Road
Houtzdale, PA 16651

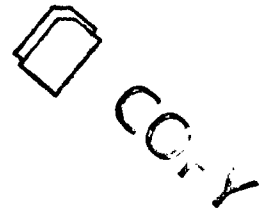
John R. Carfley, Esquire
222 Presqueisle Street
P. O. Box 249
Philipsburg, PA 16866

Peter F. Smith, Esquire
30 South Second Street
P. O. Box 130
Clearfield, PA 16830


Dwight L. Koerber, Jr., Esquire
Attorney for Defendant:
Mid-Pen Coal Company, et al.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Muddy Run Regional Authority

Vs.

No. 2005-01084-CD

Mid-Pen Coal Company,
Samuel Brink et al

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on June 29, 2006, marked:

Settled, Discontinued and Ended against Samuel Brink ONLY

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 29th day of June A.D. 2006.



William A. Shaw, Prothonotary

16
4/20/2012

Lawrence Berzanske
8931 Perkins Dr.
Mentor Oh. 44060
440-255-5173

Prothonotary
P. O. Box 549
Clearfield Pa. 16830

Dear Sir,

I am writing in regard to unclaimed funds in the amount of \$111.16 being held in my name since December 9, 2005. I am requesting these funds be sent to me at my above listed address.

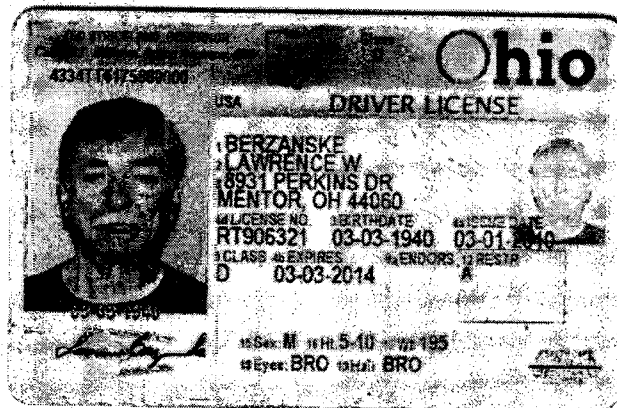
Attached is a photocopy of my driver's license for identification purposes. I have spoken briefly with William Shaw (814-765-2641 ext. 1331) concerning the release of these funds and he advised me to send this written request. He will be able to supply you with any additional information you might need.

If you need anything further please contact me. Thank you for your assistance.

Yours truly,

Lawrence Berzanske

Lawrence Berzanske



04-07-2011

ESCROW MONEY ESCHEATED
FROM
PROTHONOTARY ESCROW ACCOUNT

<u>Case #</u>	<u>Amount Dep.</u>	<u>Date Dep.</u>	<u>Name/Address</u>	<u>Account #</u>	<u>Total Escheated</u>
2005-60-CD	\$ 125.00	04/01/05	F. Elizabeth Potter, Heirs, Karthaus Twp. Clearfield County	81151947	\$ 130.78
2005-60-CD	\$1,500.00	04/01/05	Meryl L. Maney, Jr. & Shirley A. Maney Karthaus Twp. Clearfield County	81151948	\$ 1,569.41
2005-1084-CD	\$ 107.00	12-20-05	Lawrence Berzanski Bigler Township Clearfield County	81151926	\$ 111.16
1999-643-CD	\$12,752.47	01/31/05	Unknown Heirs of Joseph Paul Kitko, Deceased	81151949	\$13,778.31

TOTAL \$15,589.66

Check #1324 Issued from Prothonotary's Escrow Account in the amount of \$15,589.66.

FILED 400

CL: 5381
DEC 14 2005

Atty Carley

William A. Shaw
Prothonotary/Clerk of Courts

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

MUDDY RUN REGIONAL AUTHORITY,
Condemnor

VS.

MID-PEN COAL COMPANY, et al
Condemnees

:
:
:
: NO. 05-1084-CD
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:

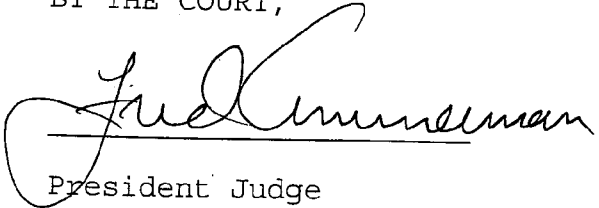
ORDER

NOW, this 9th day of December, 2005, this being the date set for Rule Returnable relative the Petition filed on behalf of the Muddy Run Regional Authority for Writ of Possession, it is hereby the ORDER of this Court that the said Rule is made absolute and a writ of possession shall issue for all property located in Bigler Township, Beccaria Township, Gulich Township and Ramey Borough, Clearfield County, Pennsylvania, against all Condemnees (with the exception of Lawrence Berzanski) upon payment to the Prothonotary of the sum of One Hundred Seven (\$107.00) Dollars from Muddy Run Regional Authority for the property consisting of rights of way for the use of Condemnees as their interest may appear, without any commissions or fees deductible therefrom.

In regard to the writ of possession made by Lawrence Berzanski, whose property is located in Bigler Township, Clearfield, County, it is the ORDER of this Court that the dispute be referred to a Board of View. This Court shall issue

subsequent Order appointing a specific Board of View in regard to the issues involved.

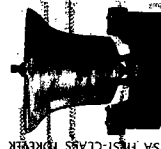
BY THE COURT,


President Judge



Mr Lawrence Berzanske
8931 Perkins Dr
Mentor, OH 44060

Prothonotary
P. O. Box 549
Clearfield Pa. 16830



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

MUDDY RUN REGIONAL AUTHORITY,
Condemnor
vs.
MID-PENN COAL COMPANY, et al,
Condemnees

NO. 05-1084-CD

ORDER

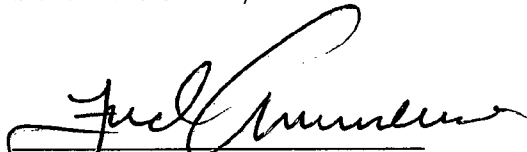
FILED

APR 30 2012
01:40 PM
William A. Shaw
Prothonotary/Clerk of Courts
OFFICE TO CARLEY

NOW, this 27th day of April, 2012, it is the ORDER of this Court that the Treasurer of Clearfield County issue a check to Muddy Run Authority (PO Box 474, Madera, PA 16661) in the amount of \$111.16 relative the monies previously posted by the Muddy Run Regional Authority in the above-captioned condemnation matter.

This is a refund to Muddy Run Authority, as John Carley, Esquire, counsel for Muddy Run Authority, paid to Lawrence Berzanske the amount \$237.84 (\$227.00 plus interest from 2006 – attached check # 7729, dated April 12, 2012) per the finding of the Board of View which was filed February 28, 2006.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

John R. Carfley Law Office
Attorneys at Law
P. O. Box 249
Philipsburg, PA 16866
Delivery address: 222 E. Presqueisle Street
P 814-342-5581
F 814-342-1127

April 12, 2012

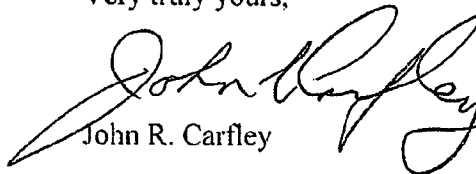
Lawrence Berzanske
8931 Perkins Drive
Mentor, OH 44060

Re: Muddy Run Regional Authority


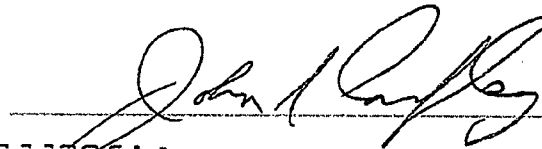
Dear Mr. Berzanske:

Enclosed please find our check in the amount of \$237.84 which represents a replacement check for the one originally mailed to you in 2006. Please destroy the old check and cash this one at your earliest convenience.

Very truly yours,


John R. Carfley

JRC:bjc
Enclosure

JOHN R. CARFLEY ESQ.		03-82	7729
ATTORNEY ACCOUNT			
222 PRESQUEISLE ST.			60-629/313
PHILIPSBURG, PA 16866			03
DATE <u>April 12, 2012</u>			
PAY TO THE ORDER OF <u>Lawrence Berzanske</u>			\$ 237.84
<u>Two hundred thirty-seven and 84/100</u> * * * * *			DOLLARS
 CLEARFIELD BANK Philipsburg Office 19 Irvin Drive Extension Philipsburg, PA 16866			
FOR <u>MRRA - condemnation</u>			
2/2		8143421127	