

**In Re: State Route 1009 et al
2006-1015-CD**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: CONDEMNATION BY THE
COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION, OF THE
RIGHT-OF-WAY FOR STATE
ROUTE 1009, SECTION 239 R/W, IN
THE TOWNSHIP OF MORRIS

NO. 06-1015-CD

EMINENT DOMAIN PROCEEDING
IN REM

DECLARATION OF TAKING

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

FILED *13:43 PM* *85.00*
JUN 27 2006 *2cc Piff*
William A. Shaw
Prothonotary/Clerk of Courts

This Declaration of Taking, based on the provisions of Article IV, Section 402, of the Eminent Domain Code, Act of June 22, 1964, P. L. 84, 26 P. S. 1-402, as amended, respectfully represents that:

1. The Condemnor is the Commonwealth of Pennsylvania, Department of Transportation, acting through the Secretary of Transportation.

2. The address of the Condemnor is:

Commonwealth of Pennsylvania
Department of Transportation
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212

3. The Department of Transportation is authorized by the provisions of Section 2003(e) of the Administrative Code of 1929, P. L. 177, 71 P. S. 513(e), as amended, to acquire by gift, purchase, condemnation or otherwise, land in fee simple or such other estate or interest as it shall determine, in the name of the Commonwealth for all transportation purposes.

4. The within condemnation has been authorized by a plan signed by the Secretary of Transportation on May 20, 2003, titled "Drawings Authorizing Acquisition of Right of Way for State Route, 1009 Section 239 R/W in Clearfield County", a copy of which plan was filed in the County Recorder's Office as Instrument Number 200318218 on October 7, 2003. The aforesaid plan was reauthorized and revised by signature of the Secretary of Transportation on September 22, 2004, a copy of which plan was filed in the aforesaid County Recorder's Office as Instrument Number 200415861 on September 27, 2004. The aforesaid plan was further reauthorized and revised by signature of the Secretary of Transportation on March 3, 2006, a copy of which plan was filed in the aforesaid County Recorder's Office as Instrument Number 200603557 on March 8, 2006.

5. The purpose of the within condemnation is to acquire property for transportation purposes.

6. A Schedule of Property Condemned identifying and specifying the location of the property hereby condemned is attached hereto and made a part hereof.

7. Plans showing the property hereby condemned may be inspected in the Recorder's Office of the aforesaid County at the places indicated on the attached Schedule of Property Condemned or, if not shown thereon, on the day of the filing of this document being lodged for record or filed in said Recorder's Offices, where they may be inspected.

8. The nature of the title hereby condemned is fee simple.

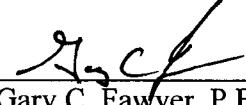
9. In the event there are recoverable minerals (including gas and oil) within the areas, if any, hereby condemned in fee simple, the mineral rights (including rights to gas and oil) in those areas are hereby excepted and reserved from this condemnation,

provided however, that the right of support of the areas condemned is included within the scope of this condemnation, and no access from the surface of such areas for removal purposes will be allowed without permission from the Commonwealth.

10. The payment of just compensation in this matter is secured by the Commonwealth's power of taxation.

11. I, Gary C. Fawver, P.E., Chief, Utilities and Right of Way Section, of the Department of Transportation, do hereby depose, swear and affirm that I am authorized by and do hereby execute this Declaration of Taking on behalf of the Commonwealth of Pennsylvania, Department of Transportation, and that the averments contained and set forth herein are true and correct to the best of my knowledge, information and belief, and are made subject to penalties provided in 18 Pa. C. S. §4904, relating to false swearing to authorities.

WHEREFORE, fee simple title is hereby condemned from the property identified on the attached Schedule of Property Condemned, as indicated on the plans referenced in paragraph 7 above.



Gary C. Fawver, P.E.
Chief, Utilities and Right of Way Section

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
SCHEDULE OF PROPERTY CONDEMNED
(Declaration of Taking)



REMIS PROJ. NO.	020072
COUNTY	Clearfield
S.R. - SECTION	SR 1009, Section 239
MUNICIPALITY	Morris Township

***TYPE OF TAKE**

PT- Partial Take

TT- Total Take

****TYPE OF DESCRIPTION**

D- Deed Description

P- Plan lodged for recording with
Notice of CondemnationR- Plan now recorded in Recorder's
Office

Parcel No.	Claim Number	*Type of Take	Name, Property Interest of Condemnees, Mailing Address, and Location of Condemned Property	Attached Exhibit Number (if any)	**Type of Description	Plan (if any) Recorded in
1	1700134000	PT	<p>Estate of Frank W. Albert</p> <p>Alta Frances Albert, Co-Executrix, P.O. Box 44 Morrisdale, PA. 16858 as her interest may appear</p> <p>Anna Mae (Albert) Pezzulla P.O. Box 204 Morrisdale, PA. 16858 as her interest may appear</p> <p>Location of Condemned Property DB 0338 PG 0261</p>		R	<p>Clearfield County Courthouse Instrument Number 200602557 Sheet 3 0f 3</p>

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

NO.

IN RE: CONDEMNATION BY THE
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
OF RIGHT OF WAY FOR STATE
ROUTE 1009, SECTION 239 R/W,
IN THE TOWNSHIP OF MORRIS

DECLARATION OF TAKING

Christopher J. Clements
Assistant Counsel in-Charge, R/W
ID No. 44699

Commonwealth of Pennsylvania
Department of Transportation
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: CONDEMNATION BY THE
COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION, OF THE RIGHT-
OF-WAY FOR STATE ROUTE 1009,
SECTION 239 R/W, IN THE TOWNSHIP
OF MORRIS

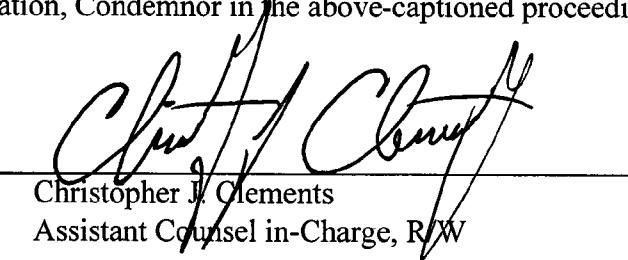
NO.

EMINENT DOMAIN PROCEEDING
IN REM

PRAECIPE TO ENTER APPEARANCE

TO THE PROTHONOTARY OF SAID COURT:

Please enter the appearance of Michael J. Creighton, Assistant Counsel In Charge, 1209 State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania and Christopher J. Clements, Assistant Counsel in-Charge, R/W, Office of Chief Counsel, Department of Transportation, P.O. Box 8212, Harrisburg, PA 17105-8212, as attorneys for the Commonwealth of Pennsylvania, Department of Transportation, Condemnor in the above-captioned proceedings.



Christopher J. Clements
Assistant Counsel in-Charge, R/W

Michael J. Creighton
Assistant Counsel In Charge

Dated: 6.19.06

FILED

JUN 27 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

NO.

IN RE: CONDEMNATION BY THE
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
OF RIGHT OF WAY FOR STATE ROUTE
1009, SECTION 239 R/W,
IN THE
TOWNSHIP OF MORRIS

PRAECLipe TO ENTER APPEALANCE

Filed, _____, 20____

____ A.M. ____ P.M.

Commonwealth of Pennsylvania
Department of Transportation

Office of Chief Counsel
P.O. Box 8212
Harrisburg, Pennsylvania 17105-8212
Telephone No. (717) 787-3128

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: CONDEMNATION BY THE
COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION, OF THE RIGHT-
OF-WAY FOR STATE ROUTE 1009,
SECTION 239 R/W, IN THE
TOWNSHIP OF MORRIS

NO. 1015-CD TERM, 2006

EMINENT DOMAIN PROCEEDING
IN REM

MEMORANDUM TO PROTHONOTARY

You are hereby informed that notice of the condemnation effected by the Declaration of Taking filed to the above term and number on June 27, 2006, was recorded in the office of the Recorder of Deeds of the above county in Inst. # 200610595, Page(s).

The condemnation book and page number, file number, or microfilm number of any property plat filed or microfilmed separately from the said Notice of Condemnation is shown on the list of property condemned which is attached hereto.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

BY Michael Shaw
District Right of Way Administrator
Engineering District No. 2-0

FILED 4CC
01/11/2006 Commonwealth
JUL 12 2006 (GK)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: CONDEMNATION BY THE : NO. 1015-CD TERM, 2006
COMMONWEALTH OF :
PENNSYLVANIA, DEPARTMENT OF :
TRANSPORTATION, OF THE :
RIGHT-OF-WAY FOR STATE :
ROUTE 1009, SECTION 239 : EMINENT DOMAIN PROCEEDING
IN THE TOWNSHIP OF MORRIS : IN REM

PROOF OF SERVICE

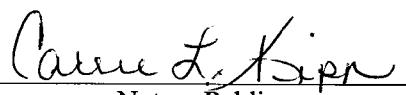
COMMONWEALTH OF PENNSYLVANIA :
: ss:
COUNTY OF CLEARFIELD :
:

Michael Hnat, being duly sworn according to law, deposes and says that he is District Right-of-Way Administrator of Engineering District 2-0, Department of Transportation, Commonwealth of Pennsylvania, and that on or before July 6, 2006, notice of the filing of the declaration of taking in the above matter was served on the condemnees affected thereby in compliance with Article IV, Section 405, of the Eminent Domain Code, Act June 22, 1964, P.L. 84, as amended. A schedule of the condemnees so notified is attached hereto and made part hereof.



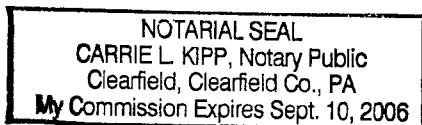
Michael Hnat
District Right-of-Way Administrator

Sworn to and subscribed before me



Carrie L. Kipp
Notary Public

My Commission Expires:



FILED
JUL 27 2006
0/11:45/06
William A. Shaw
Prothonotary/Clerk of Courts
2 CENTS TO PAYEE

SCHEDULE OF PROPERTY OWNERS SERVED

**CLEARFIELD COUNTY
SR 1009, SECTION 239
MORRIS TOWNSHIP**

CLAIM NUMBER 1700134000
ESTATE OF FRANK W. ALBERT
ANNA MAE (ALBERT) PEZZULA
PO BOX 204
MORRISDALE, PA 16858

SERVED BY CERTIFIED MAIL ON 7-06-06

CLAIM NUMBER 1700134000
ESTATE OF FRANK W. ALBERT
ALTA FRANCES ALBERT
PO BOX 44
MORRISDALE, PA 16858

SERVED BY CERTIFIED MAIL ON 6-30-06.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ESTATE of Frank Albert
 Alta Frances Albert
 PO Box 44
 Morrisdale, PA 16855

2. Article Number

(Transfer from service label)

7006 0100 0003 4234 0590

PS Form 3811, February 2004

Domestic Return Receipt *SR 1009-234 CLK* 102595-02-M-1540**COMPLETE THIS SECTION ON DELIVERY****A. Signature**

X *Alta F. Albert* Agent
 Addressee

B. Received by (Printed Name)

ALTA F. ALBERT *63006*

C. Date of Delivery

1-6-06

D. Is delivery address different from item 1? YesIf YES, enter delivery address below: No**3. Service Type**

<input type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee) Yes**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

ESTATE of Frank Albert
 Anna Mae Pezzula
 PO Box 204
 Morrisdale, PA 16855

2. Article Number

(Transfer from service label)

7006 0100 0003 4234 0583

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

X *Lea Pezzula* Agent
 Addressee

B. Received by (Printed Name)

Lea Pezzula *1-6-06*

C. Date of Delivery

1-6-06

D. Is delivery address different from item 1? YesIf YES, enter delivery address below: No**3. Service Type**

<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee) YesDomestic Return Receipt *SR 1009-234 CLK* 102595-02-M-

IN RE: CONDEMNATION BY THE
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION, OF
RIGHT OF WAY FOR STATE ROUTE 1009,
SECTION 239 R/W, IN THE TOWNSHIP OF
MORRIS

CLAIM NO. 1700134000

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PA
:
: EMINENT DOMAIN PROCEEDING
: IN REM
:
:
: NO. 06-1015-CD

FILED
0/11/10 CM cc:ATM Clements
NOV - 6 2006
CR

PETITION TO DEPOSIT ESTIMATED JUST COMPENSATION

William A. Shaw
Prothonotary/Clerk of Courts

TO THE HONORABLE JUDGE OF SAID COURT:

1. The Department of Transportation is an administrative agency of the Commonwealth of Pennsylvania, with offices at P.O. Box 8212, Harrisburg, Pennsylvania, 17105-8212.

2. On June 27, 2006, a Declaration of Taking was filed in the above-captioned case by the Secretary of Transportation.

3. Although the condemnees listed on the attached Proposed Schedule of Distribution were offered the full amount of the Commonwealth's estimated just compensation as payment *pro tanto* of their right of way damage claim, without prejudice to their right to proceed to a final determination of just compensation, the Commonwealth has been unable to make payment because the claimants have not accepted Estimated Just Compensation.

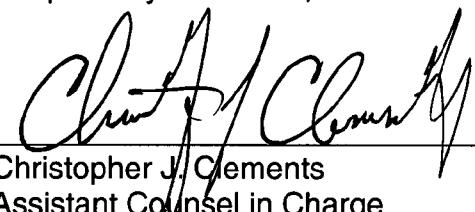
4. A draft made payable to the Prothonotary of this Court representing the total amount of estimated just compensation due the condemnees and the Commonwealth's pro-rata share of taxes on the subject property is attached.

5. I, Christopher J. Clements, Assistant Counsel in Charge, affirm that I am authorized to execute this Petition to Deposit Estimated Just Compensation on behalf of the Commonwealth of Pennsylvania, Department of Transportation, and that the

averments contained and set forth in this Petition are true and correct to the best of my knowledge, information and belief, and are subject to the penalties provided in 18 Pa.C.S.A. 4904, relating to unsworn falsification to authorities.

WHEREFORE, to assure Petitioner's possession of the condemned property, if required, to which it is entitled under Section 307 of the Eminent Domain Code of 2006, as amended, 26 Pa.C.S. Section 307, Petitioner respectfully requests that the Honorable Court direct payment of the estimated just compensation and the Commonwealth's pro-rata share of the taxes on the subject property into Court, to be held until further Order of Court directing payment of said amount, or any part thereof, to the condemnees and/or interested parties entitled thereto pursuant to Section 307, 521 and/or 522 of the Eminent Domain Code, as applicable.

Respectfully submitted,



Christopher J. Clements
Assistant Counsel in Charge
Supreme Court I.D. No. 44699
Commonwealth of Pennsylvania
Department of Transportation
P.O. Box 8212
Harrisburg, PA 17105-8212

PROPOSED SCHEDULE OF DISTRIBUTION

PROPOSED SCHEDULE OF DISTRIBUTION					
NAME(S) & ADDRESS(IES) OF CONDEEMNEE(S); LOCATION OF PROPERTY(IES)	ENCUMBRANCES, TAXES, ETC.				NET DUE TO CONDEEMNEE
	ESTIMATED JUST COMPENSATION	TYPE	DATE OF RECORD	PLACE OF RECORD	
Estate of Frank W. Albert Anna Mae Pezzula, Co-Executrix PO Box 204 Morrisdale, PA 16855	E.J.C. \$9,600.00				
Alta Frances Albert, Co-Executrix PO Box 44 Morrisdale, PA 16855	Commonwealth Pro-Rata Share Real Estate Taxes \$93.00				
Location of Property DB 448 PG 167 Morrisdale, PA	Total <u>\$9,693.00</u>				

CERTIFIED MAIL
COUNTY: Clearfield
S.R. 1009, SECTION 239
CLAIM NO. 1700134000
COURT DOCKET NO. 06-1015-CD

**SCHEDULE OF INTERESTED PARTIES NOTIFIED OF THE PRESENTATION TO
DEPOSIT ESTIMATED JUST COMPENSATION**

<u>NAMES AND ADDRESSES</u>	<u>DATE RECEIVED CERTIFIED MAIL</u>
Estate of Frank W. Albert Anna Mae Pezzula, Co-Executrix P.O. Box 204 Morrisdale, PA 16855	Certified Mail Number 7003 1680 0005 1267 0206 Received on September 21, 2006
Estate of Frank W. Albert Alta Frances Albert, Co-Executrix P.O. Box 44 Morrisdale, PA 16855	Certified Mail Number 7003 1680 0005 1267 0190 Received on September 23, 2006

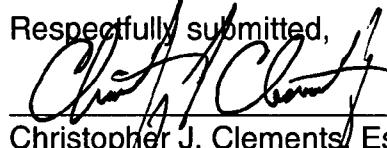
IN RE: CONDEMNATION BY THE : IN THE COURT OF COMMON PLEAS
COMMONWEALTH OF PENNSYLVANIA, : CLEARFIELD COUNTY, PA
DEPARTMENT OF TRANSPORTATION, OF :
RIGHT OF WAY FOR STATE ROUTE 1009, : EMINENT DOMAIN PROCEEDING
SECTION 239 R/W, IN THE TOWNSHIP OF : IN REM
MORRIS :
CLAIM NO. 1700134000 :
: NO. 06-1015-CD

SWORN STATEMENT AS TO NOTICE OF PRESENTATION OF PETITION TO
DEPOSIT ESTIMATED JUST COMPENSATION

I, Christopher J. Clements, Assistant Counsel in Charge of the Right of Way Section, affirm that I am authorized to execute this sworn statement on behalf of the Commonwealth of Pennsylvania, Department of Transportation, that this statement is true and correct to the best of my knowledge, information and belief and that it is made subject to the penalties set forth in 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

In compliance with Section 522 of the Eminent Domain Code of 2006, as amended, condemnees and interested parties were notified of the Department's intent to present a Petition to Deposit Estimated Just Compensation in the above-captioned case to the Clearfield County Court of Common Pleas twenty days after they received said notice. In addition to the notice, the parties received copies of the Petition and the proposed Order.

Respectfully submitted,



Christopher J. Clements, Esquire
Supreme Court I.D. 44699
Commonwealth of Pennsylvania
Department of Transportation
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212

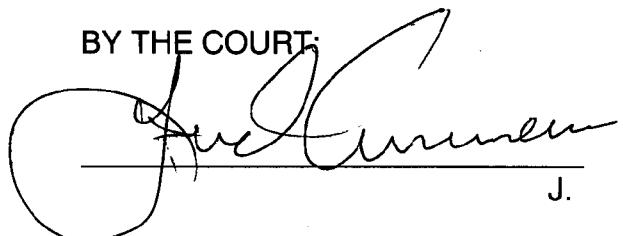
CA

IN RE: CONDEMNATION BY THE : IN THE COURT OF COMMON PLEAS
COMMONWEALTH OF PENNSYLVANIA, : CLEARFIELD COUNTY, PA
DEPARTMENT OF TRANSPORTATION, OF :
RIGHT OF WAY FOR STATE ROUTE 1009, : EMINENT DOMAIN PROCEEDING
SECTION 239 R/W, IN THE TOWNSHIP OF : IN REM
MORRIS :
:
:
:
CLAIM NO. 1700134000 : NO. 06-1015-CD

ORDER

AND NOW, this 6th day of November 2006, upon presentation of the Petition to Deposit Estimated Just Compensation, it is **ORDERED** and **DIRECTED** that the sum of \$9,693.00, representing the amount of just compensation estimated by the Commonwealth of Pennsylvania, Department of Transportation and the Commonwealth's pro-rata share of real estate taxes due the condemnees and/or interested parties on the subject property shown on the attached Proposed Schedule of Distribution, be paid into Court in an interest bearing account. It is further **ORDERED** that the sum shall be held until further Order of Court directing full or partial payment to the condemnees and/or interested parties entitled to is pursuant to Sections 307, 521 and/or 522 of the Eminent Domain Code of 2006, as amended, 26 Pa.C.S. Sections 307, 521 and/or 522, as applicable.

BY THE COURT:



J.

FILED
0/2006 At 4:11pm
NOV - 6 2006 (6W)
11/10/06
William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION-LAW**

IN RE: CONDEMNATION BY THE
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
OF RIGHT OF WAY FOR STATE ROUTE
1009, SECTION 239 R/W, IN THE
TOWNSHIP OF MORRIS

EMINENT DOMAIN PROCEEDING
IN REM

NO: 06-1015-CD

CLAIM NO. 1700134000

CLAIMANT: ESTATE OF FRANK W. ALBERT

**PRAECLPSE FOR ENTRY OF COURT ORDER TO PERMIT THE DEPARTMENT
OF TRANSPORTATION TO DEPOSIT ESTIMATED JUST COMPENSATION**

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (DOT), by and through its attorneys Andrew M. Rapach, Assistant Counsel, and the Office of Chief Counsel, and hereby requests the Honorable Court execute the attached Order to Permit the Department of Transportation to deposit estimated just compensation upon the following averments:

1. On June 27, 2006, a Declaration of Taking was filed in the above-captioned case by the Secretary of Transportation.

2. Thereafter, the Department of Transportation notified the Claimants by its Petition to Deposit Estimated Just Compensation, pursuant to Section 1-522 of the Eminent Domain Code of 1964, 26 P.S. § 1-522, that it intended to deposit estimated just compensation into Court because the Claimant has refused to accept payment.

3. Claimant representative, Anna Mae Pezzula, Co-Executrix, received notice of the Petition to Deposit Estimated Just Compensation and the proposed Order on September 21, 2006.

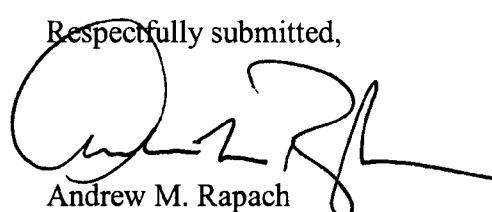
FILED
11:10 NOV - 6 2006 2cc Atty
William A. Shaw
Prothonotary/Clerk of Courts
(6)

4. Claimant representative, Alta Francis Albert, Co-Executrix, received notice of the Petition to Deposit Estimated Just Compensation and the proposed Order on September 23, 2006.

5. More than 20 days have lapsed since the Claimants received notice of the Petition to Deposit Estimated Just Compensation and before presentation to the Court as required by Section 1-522.

THEREFORE, the Commonwealth of Pennsylvania, Department of Transportation requests the Court the attached Order to permit the Department of Transportation to deposit estimated just compensation into court.

Respectfully submitted,



Andrew M. Rapach
Assistant Counsel
Pa. ID #62016

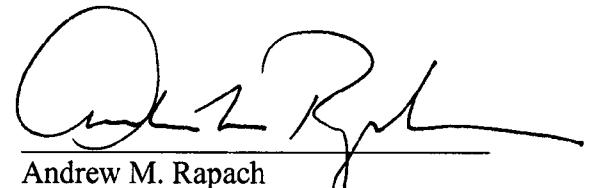
Office of Chief Counsel
Firm #052
1209 State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

412.565.7555

VERIFICATION

I, Andrew M. Rapach, Assistant Counsel, do hereby verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



Andrew M. Rapach
Assistant Counsel
Pa. ID #62016

Office of Chief Counsel
Firm #052
1209 State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

412.565.7555

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION-LAW**

IN RE: CONDEMNATION BY THE
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION,
OF RIGHT OF WAY FOR STATE ROUTE
1009, SECTION 239 R/W, IN THE
TOWNSHIP OF MORRIS

EMINENT DOMAIN PROCEEDING
IN REM

NO: 06-1015-CD

CLAIM NO. 1700134000

CLAIMANT: ESTATE OF FRANK W. ALBERT

PRAECIPE TO DEPOSIT ESTIMATED JUST COMPENSATION

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation (PennDOT), by and through its attorneys Andrew M. Rapach, Assistant Counsel, and the Office of Chief Counsel, and hereby requests the Prothonotary accept for deposit into Court estimated just compensation upon the following averments:

1. On October 17, 2005, a Declaration of Taking was filed in the above-captioned case by the Secretary of Transportation.

2. Thereafter, PennDOT notified the Claimant by its Petition to Deposit Estimated Just Compensation, pursuant to Section 1-522 of the Eminent Domain Code of 1964, 26 P.S. § 1-522, that it intended to deposit estimated just compensation into Court because the Claimants had refused to accept payment.

3. On *November 6, 2006*, the Court of Common Pleas of Clearfield County entered an Order to allow PennDOT to pay estimated just compensation into Court.

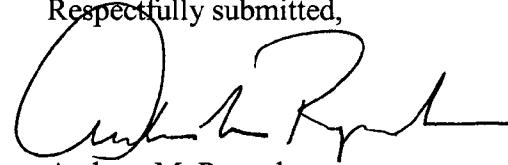
FILED
011:10 AM
NOV - 6 2006
cc: *Att'ys Clements*
GR

William A. Shaw
Prothonotary/Clerk of Courts

4. Attached to the within Praeclipe is check number 00228449, in the amount of \$9,963.00, on behalf of Claimant in the above-captioned case, Estate of Frank W. Albert, Claim No. 1700134000.

THEREFORE, the Commonwealth of Pennsylvania, Department of Transportation deposits estimated just compensation into court.

Respectfully submitted,



Andrew M. Rapach
Assistant Counsel
Pa. ID #62016

Office of Chief Counsel
Firm #052
1209 State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

412.565.7555

VERIFICATION

I, Andrew M. Rapach, Assistant Counsel, do hereby verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



Andrew M. Rapach
Assistant Counsel
Pa. ID #62016

Office of Chief Counsel
Firm #052
1209 State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

412.565.7555



ANDREW M. RAPACH

Assistant Counsel

Pennsylvania Department of Transportation
Governor's Office of General Counsel

1209 Pittsburgh State Office Building
Pittsburgh, PA 15222

Telephone 412.565.7555 Fax 412.565.7778
e-mail ~ arapach@state.pa.us

FILED

NOV - 6 2006

William A. Shaw
Prothonotary/Clerk of Courts

Date: 11/06/2006
Time: 11:33 AM

Clearfield County Court of Common Pleas
Receipt

NO. 1916316
Page 1 of 1

Received of: Commonwealth of Pennsylvania \$ 9,693.00

Department of Transportation
Harrisburg, PA 17104

Nine Thousand Six Hundred Ninety-Three and 00/100 Dollars

Subject: IN RE: State Route 1009, Section 239 R/W, et al.

Case	Litigant type	Amount
2006-01015-CD	Subject	
	Trust account	9,693.00
		Total: 9,693.00
		Balance due: 0.00

Check: 5900228449

Payment Method:	Check	William A. Shaw, Prothonotary/Clerk of Cou
Amount Tendered:	9,693.00	
Change Returned:	0.00	By: _____
Clerk:	BHUDSON	Deputy Clerk

HOLD DOCUMENT TO LIGHT TO VERIFY WATERMARKS

00000 CDC	FUND	008 DEPT	092106 PREP DATE	00785751 VOUCHER	487857 WARRANT	ID
--------------	------	-------------	---------------------	---------------------	-------------------	----

000071 60-86
-213

59 00228449

CHECK NUMBER

10/05/2006

DATE

M&T Bank

WILKES-BARRE, PA

VERIFICATION AVAILABLE - "POSITIVE PAY" PROTECTED

PAY ONLY **1642500**
NINE SIX NINE
THREE CTS CTS

TO THE ORDER OF

000071

ESTATE OF FRANK W ALBERT OR
PROTHONOTARY OF CLEARFIELD CO
PO BOX 8212
C/O AMANDA PHILY CHIEF COUNSEL
HARRISBURG PA 17105-8212

VOID AFTER 180 DAYS

\$ *****9,693.00

Robert P. Casey, Jr.
TREASURER OF PENNSYLVANIA

100228449 1031318619 61000000129438

DO NOT ACCEPT WITHOUT HOLDING TO LIGHT TO VERIFY WATERMARKS.

IN RE: CONDEMNATION BY THE
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION, OF
RIGHT-OF-WAY FOR STATE ROUTE 1009,
SECTION 239 R/W, IN THE TOWNSHIP OF
MORRIS

CLAIM NO. 1700134000

: IN THE COURT OF COMMON PLEAS
: OF CLEARFIELD COUNTY, PA
:
:
: EMINENT DOMAIN PROCEEDING
: IN REM
:
: NO. 06-1015-CD

**PETITION TO PAY CLAIMANT UNDISTRIBUTED ESTIMATED JUST
COMPENSATION PREVIOUSLY DEPOSITED INTO COURT**

TO THE HONORABLE JUDGE OF SAID COURT:

Petitioner, the Department of Transportation of the Commonwealth of Pennsylvania, respectfully represents that:

1. The Department of Transportation ("Commonwealth") is a Department of the Commonwealth of Pennsylvania with offices at P.O. Box 8212, Harrisburg, Pennsylvania 17105-8212.
2. On June 27, 2006 the Commonwealth filed a Declaration of Taking, condemning, *inter alia*, certain real property owned by the Estate of Frank W. Albert, ("claimant").
3. On November 6, 2006 upon Petition of the Commonwealth, this Honorable Court ordered and directed that the sum of \$9,693.00, representing the amount of just compensation estimated by the Commonwealth due to claimant for damages sustained resulting from the condemnation of their property, be deposited into Court. (Exhibit A)
4. At the time the Commonwealth filed its Petition to Deposit Estimated Just Compensation, there were neither liens nor encumbrances against the property as shown on the attached Proposed Schedule of Distribution. (Exhibit B)
5. The sum of \$9,693.00 that was deposited into Court in accordance with this Court's Order remains deposited, as no party in interest has filed a petition.

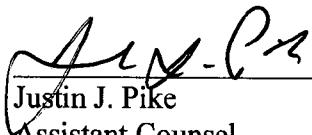
WT *acc Atty*
WT *Farkas*
S A 9 1 205
0/11/40/CP
FRANK K. SPRINGER
PROTHONOTARY, COURT OF COMMON PLEAS

6. Subsequent to the estimated just compensation being deposited into Court, the executrix of the estate on behalf of the claimant entered into a post-condemnation settlement with the Commonwealth and the Commonwealth agreed to present this Petition.

7. I, Justin J. Pike, Assistant Counsel, affirm that I am authorized to execute this Petition to Pay Claimant on behalf of the Commonwealth, that all statements are true and correct to the best of my knowledge, information and belief, and that all statements are made subject to the penalties provided in 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

WHEREFORE, Petitioner respectfully requests that this Honorable Court order and direct that the sum of \$9,693.00, representing the amount deposited into Court as just compensation due claimant, plus any accrued interest, be paid to the Estate of Frank w. Albert as provided in Section 522 of the Eminent Domain Code, 26 Pa.C.S. § 522, as amended.

Respectfully submitted,



Justin J. Pike
Assistant Counsel
I.D. No. 313228
Pennsylvania Department of Transportation
Office of Chief Counsel
P.O. Box 8212
Harrisburg, Pennsylvania 17105-8212
717-787-3128
jupike@pa.gov

IN RE: CONDEMNATION BY THE
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION, OF
RIGHT OF WAY FOR STATE ROUTE 1009,
SECTION 239 R/W, IN THE TOWNSHIP OF
MORRIS.

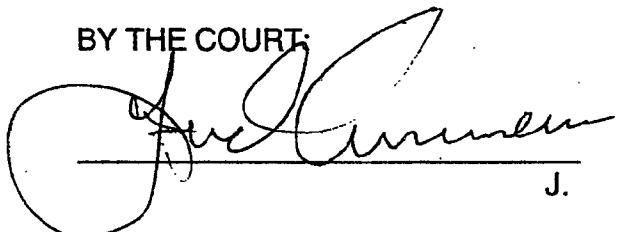
CLAIM NO. 1700134000

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PA
:
: EMINENT DOMAIN PROCEEDING
: IN REM
:
:
: NO. 06-1015-CD

ORDER

AND NOW, this 6th day of November 2006, upon presentation of the Petition to Deposit Estimated Just Compensation, it is ORDERED and DIRECTED that the sum of \$9,693.00, representing the amount of just compensation estimated by the Commonwealth of Pennsylvania, Department of Transportation and the Commonwealth's pro-rata share of real estate taxes due the condemnees and/or interested parties on the subject property shown on the attached Proposed Schedule of Distribution, be paid into Court in an interest bearing account. It is further ORDERED that the sum shall be held until further Order of Court directing full or partial payment to the condemnees and/or interested parties entitled to is pursuant to Sections 307, 521 and/or 522 of the Eminent Domain Code of 2006, as amended, 26 Pa.C.S. Sections 307, 521 and/or 522, as applicable.

BY THE COURT:



J.

I hereby certify that the above is a true copy of the original, and is in my possession.



PROPOSED SCHEDULE OF DISTRIBUTION

NAME(S) & ADDRESS(ES) OF CONDEEMEE(S); LOCATION OF PROPERTY(IES)	ESTIMATED JUST COMPENSATION	ENCUMBRANCES, TAXES, ETC.				NET DUE TO CONDEEMEE	
		TYPE	DATE OF RECORD	PLACE OF RECORD	NAME AND ADDRESS OF LIENOR	RECORD AMOUNT DUE	ACTUAL AMOUNT DUE
Estate of Frank W. Albert Anna Mae Pezzula, Co-Executrix PO Box 204 Morrisdale, PA 16855	E.J.C. \$9,600.00						
Alta Frances Albert, Co-Executrix PO Box 44 Morrisdale, PA 16855	Commonwealth Pro-Rata Share Real Estate Taxes <u>\$93.00</u>						
Location of Property DB 448 PG 167 Morrisdale, PA	Total				<u>\$9,693.00</u>		

EXHIBIT
B

Subject to possible unliened, unpaid municipal claims and taxes.

IN RE: CONDEMNATION BY THE
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION, OF
RIGHT-OF-WAY FOR STATE ROUTE 1009,
SECTION 239 R/W, IN THE TOWNSHIP OF
MORRIS

CLAIM NO. 1700134000

: IN THE COURT OF COMMON PLEAS
: OF CLEARFIELD COUNTY, PA
:
:
: EMINENT DOMAIN PROCEEDING
: IN REM
:
: NO. 06-1015-CD

2cc *Att'y*
JN D. Farkas
S A.M. 04/2015
01/11/2015
C. M. K. SPRINGER
PROTHONOTARY, COMMON PLEASE COURTS

ORDER

AND NOW, April 1st, 2015, upon presentation of the Petition to

Pay Claimant, it is **ORDERED** and **DIRECTED** that the sum of \$9,693.00, representing the amount deposited into Court as estimated just compensation due to claimant, plus any accrued interest, shall be paid to the Estate of Frank W. Albert.

It is further **ORDERED** that the Prothonotary make a check payable to the Estate of Frank W. Albert for \$9,693.00, plus any accrued interest, deliver it to Denise Farkas, Office of Chief Counsel, Pennsylvania Department of Transportation, 301 5th Avenue, Ste. 210, Pittsburgh, PA 15222 and mark the record accordingly.

BY THE COURT:

Just J. Pike

Distribution List: Justin J. Pike, Esquire
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-3128