

06-1271-CD  
Rt.153, Sec. A02, Town, Of Borges

2006-1271-CD  
In Re: Comm of PA et al

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 153, SECTION A02 R/W,  
IN THE TOWNSHIP OF BOGGS

NO. 2006-1271-CO

EMINENT DOMAIN PROCEEDING  
IN REM

DECLARATION OF TAKING

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

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

**FILED**

AUG 08 2006  
0/10/20/06  
William A. Shaw  
Prothonotary/Clerk of Courts

2 CERT TO

Commonwealth

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 March 6, 2006, titled "Drawings Authorizing Acquisition of Right-of-Way for State Route 0153, Section A02 R/W in Clearfield County", a copy of which plan was filed in the County Recorder's Office as Instrument Number 200611939 on July 18, 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 and temporary construction easements.

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 and temporary construction easements are hereby condemned from the properties 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.	020132
COUNTY	Clearfield
S.R. - SECTION	SR 0153 Section A02
MUNICIPALITY	Boggs Township

<b>*TYPE OF TAKE</b>	
PT-	Partial Take
TT-	Total Take

<b>**TYPE OF DESCRIPTION</b>	
D-	Deed Description
P-	Plan lodged for recording with Notice of Condemnation
R-	Plan now recorded in Recorder's Office

<b>Parcel No.</b>	<b>Claim Number</b>	<b>*Type of Take</b>	<b>Name, Property Interest of Condemnees, Mailing Address, and Location of Condemned Property</b>	<b>Attached Exhibit Number (if any)</b>	<b>**Type of Description</b>	<b>Plan (if any) Recorded in</b>
4	1700251000	PT	<p>Sky Haven Coal, Inc., Joseph A. Owens, President</p> <p>Mailing Address: RD 1 State Park Road Penfield, PA 15849</p> <p>Location of Property Deed Book 964 Page 230</p>		R	Clearfield County Recorder of Deeds Office, Instrument No. 200611939 Sheets 7 & 12
5	1700252000	PT	<p>Joseph A. Owens and Alberta W. Owens, h/w, owners</p> <p>Mailing Address: 5510 State Park Road Penfield, PA 15849</p> <p>Location of Property Deed Book 1525 Page 88</p>		R	Clearfield County Recorder of Deeds Office, Instrument No. 200611939 Sheet 13

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 0153, SECTION A02 R/W,  
IN THE TOWNSHIP OF BOGGS

---

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 0153,  
SECTION A02 R/W,  
IN THE TOWNSHIP OF BOGGS

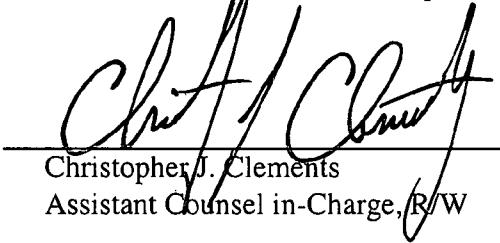
NO.

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: 8.7.06

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 0153, SECTION A02 R/W,  
IN THE TOWNSHIP OF BOGGS

PRAECIPE TO ENTER APPEARANCE

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

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



REMIS PROJ. NO.	020132
COUNTY	Clearfield
S.R. - SECTION	SR 0153 Section A02
MUNICIPALITY	Boggs Township

**\*TYPE OF TAKE**

PT- Partial Take  
TT- Total Take

**\*\*TYPE OF DESCRIPTION**

D- Deed Description  
P- Plan lodged for recording with  
Notice of Condemnation  
R- 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
4	1700251000	PT	<p>Sky Haven Coal, Inc.,  Joseph A. Owens, President</p> <p>Mailing Address:  RD 1 State Park Road  Penfield, PA 15849</p> <p>Location of Property  Deed Book 964 Page 230</p>		R	Clearfield County Recorder of Deeds Office, Instrument No. 200611939 Sheets 7 & 12
5	1700252000	PT	<p>Joseph A. Owens and Alberta W.  Owens, h/w, owners</p> <p>Mailing Address:  5510 State Park Road  Penfield, PA 15849</p> <p>Location of Property  Deed Book 1525 Page 88</p>		R	Clearfield County Recorder of Deeds Office, Instrument No. 200611939 Sheet 13

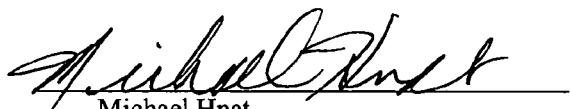
**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**

IN RE: CONDEMNATION BY THE : NO. 1271-CD TERM, 2006  
COMMONWEALTH OF :  
PENNSYLVANIA, DEPARTMENT OF :  
TRANSPORTATION, OF THE :  
RIGHT-OF-WAY FOR STATE :  
ROUTE 0153, SECTION A02 : EMINENT DOMAIN PROCEEDING  
IN THE TOWNSHIP OF BOGGS : IN REM

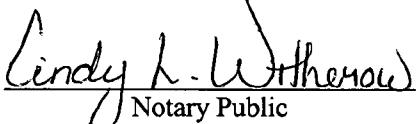
**PROOF OF SERVICE**

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

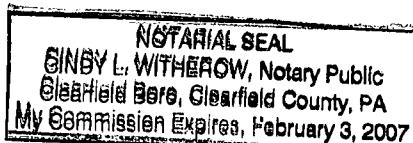
Michael Hnat, being duly sworn according to law, deposes and says that he is District Right-of-Way Administrator of Engineering District 2-0, Department of Transportation, Commonwealth of Pennsylvania, and that on or before August 10, 2006, notice of the filing of the declaration of taking in the above 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

  
Cindy L. Withrow  
Notary Public

My Commission Expires: Feb 3, 2007



**FILED** 2cc  
07/11/2007 Comm. of PA  
AUG 16 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

**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:**

Sky Haven Coal, Inc. ~~CORRECTION~~  
 RD 1 State Park Road  
 Penfield, PA 15849

**2. Article Number  
(Transfer from service label)**

7006 0100 0003 4234 1771

PS Form 3811, February 2004 *8/6/03* Domestic Return Receipt *PLT-RW*

102595-02-M-1540

**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:**

Joseph A. & Alberta W.  
 Owens

5510 State Park Road  
 Penfield, PA 15849

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

*X Alberta Owens*  Agent  
 Addressee

*ALBERTA OWENS* *8/10/03*

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

**3. Service Type**

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**2. Article Number**

(Transfer from service label)

7006 0100 0003 4234 1788

PS Form 3811, February 2004 *8/6/03* Domestic Return Receipt *PLT-RW*

102595-02-M-1540

**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:**

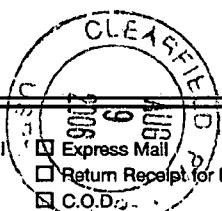
Bell, Sitterblatt & Wood  
 Attn: Ann B. Wood  
 318 East Locust Street  
 P.O. Box 670  
 Clearfield, PA 16830

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

*X Nancy Smeal*  Agent  
 Addressee

*Nancy Smeal* *8/10/03*

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

**3. Service Type**

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**2. Article Number**

(Transfer from service label)

7006 0100 0003 4234 1795

PS Form 3811, February 2004 *8/6/03* Domestic Return Receipt *PLT-RW*

102595-02-M-1540

SCHEDULE OF CONDEMNNEES  
DECLARATION OF TAKING  
NO. 1271-CD – TERM 2006

Sky Haven Coal, Inc.  
Parcel 4  
Claim #: 1700251000  
Date of Service: August 10, 2006 by Certified Mail

Joseph A. & Alberta W. Owens h/w  
Parcel 5  
Claim #: 1700252000  
Date of Service: August 10, 2006 by Certified Mail

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 0153, SECTION A02 R/W,  
IN THE TOWNSHIP OF BOGGS

NO. 1271-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 August 8, 2006, was recorded in the office of the  
Recorder of Deeds of the above county in Inst. # 200613265, 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.

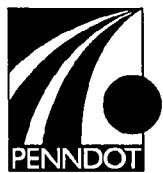
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

BY

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

FILED *2006*  
*Aug 16 2006* Comm. of PA  
William A. Shaw  
Prothonotary/Clerk of Courts

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



REMIS PROJ. NO.	020132
COUNTY	Clearfield
S.R. - SECTION	SR 0153 Section A02
MUNICIPALITY	Boggs Township

*TYPE OF TAKE	
PT-	Partial Take
TT-	Total Take

**TYPE OF DESCRIPTION	
D-	Deed Description
P-	Plan lodged for recording with Notice of Condemnation
R-	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
4	1700251000	PT	<p>Sky Haven Coal, Inc., Joseph A. Owens, President</p> <p>Mailing Address: RD 1 State Park Road Penfield, PA 15849</p> <p>Location of Property Deed Book 964 Page 230</p>		R	<p>Clearfield County Recorder of Deeds Office, Instrument No. 200611939 Sheets 7 &amp; 12</p>
5	1700252000	PT	<p>Joseph A. Owens and Alberta W. Owens, h/w, owners</p> <p>Mailing Address: 5510 State Park Road Penfield, PA 15849</p> <p>Location of Property Deed Book 1525 Page 88</p>		R	<p>Clearfield County Recorder of Deeds Office, Instrument No. 200611939 Sheet 13</p>

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



REMIS PROJ. NO.	020132
COUNTY	Clearfield
S.R. - SECTION	SR 0153 Section A02
MUNICIPALITY	Boggs Township

*TYPE OF TAKE	
PT-	Partial Take
TT-	Total Take

**TYPE OF DESCRIPTION	
D-	Deed Description
P-	Plan lodged for recording with Notice of Condemnation
R-	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
4	1700251000	PT	<p>Sky Haven Coal, Inc., Joseph A. Owens, President</p> <p>Mailing Address: RD 1 State Park Road Penfield, PA 15849</p> <p>Location of Property Deed Book 964 Page 230</p>		R	<p>Clearfield County Recorder of Deeds Office, Instrument No. 200611939 Sheets 7 &amp; 12</p>
5	1700252000	PT	<p>Joseph A. Owens and Alberta W. Owens, h/w, owners</p> <p>Mailing Address: 5510 State Park Road Penfield, PA 15849</p> <p>Location of Property Deed Book 1525 Page 88</p>		R	<p>Clearfield County Recorder of Deeds Office, Instrument No. 200611939 Sheet 13</p>