

No. 1 Sept Sessions, 1942.

In the Court of Quarter Sessions of
Cambria County, Pennsylvania.

Russell J. Edwards

versus

County of Cambria

PETITION FOR THE APPOINTMENT
OF VIEWERS TO ASSESS DAMAGES.

Filed

Sept 15. 1942

F. J. HARTMANN
ATTORNEY AT LAW
EBENSBURG, PA.

William Mc Grain
Malcolm Thompson
James Mc Carver

Russell J. Edwards
versus
County of Cambria

In the Court of Quarter Sessions of Cambria
County, Pennsylvania.

No. 1 Sept Sessions, 1942.

PETITION FOR THE APPOINTMENT OF VIEWERS
TO ASSESS DAMAGES.

To the Honorable, the Judges of said Court.

The petition of Russell J. Edwards respectfully represents: .

1. That he is the owner of a tract of land, situate in Cambria Township, Cambria County, Pennsylvania, having acquired the same by deed from Ira Bloom and Sadie Bloom, his wife, dated the 22nd day of January, 1924, and recorded in the Recording Office of Cambria County in Deed Book Vol. 379 at page 195, said tract of land containing approximately 481 acres, more or less.

2. That your petitioner was and is now the owner of said tract of land at the time the same was damaged as hereinafter complained of and when part thereof was taken, injured and destroyed.

3. That prior to and at all times subsequent to the acquisition of said land by your petitioner there had been laid out and in use for public travel a public highway leading from the Borough of Ebensburg to the Borough of Carrolltown in said County. Said public highway ran through the tract of land of your petitioner, said road running in a Northerly and Southerly direction, and from which road access was had to the buildings erected on said land.

4. That some time during the year 1940 the Department of Highways of Pennsylvania, by virtue of the powers and authority vested in it, re-located said Highway through the land of your petitioner and supplied the said new Highway, now known as Route No. 219, which took the place of said highway which formerly ran through the land of your petitioner.

5. That in re-locating said road and laying out Route No. 219 the said Highway Department took and appropriated for highway purposes a

part of your petitioner's land, being a strip varying in width and containing about 7 acres.

6. That in the laying out and construction of said Route No. 219 the said Highway Department injured and practically made useless strips of land on both sides of said Highway running part of the length of said road.

7. That in the construction of said Highway certain trees and shrubs were cut down, destroyed and taken away.

8. That in the construction of said Route No. 219 a large amount of water has been drained onto the land of your petitioner on both sides of said new Highway, that the water being so drained has covered a large part of the tillable farm land of said tract of land, and that the water has found its way into the cellar of the dwelling house upon said land.

9. That your petitioner will at all times be deprived of the land appropriated for said Route No. 219 and will be deprived of other lands made useless and burdensome by reason of the construction of said Highway.

10. That your petitioner is in the dairy business and must drive his cattle, being perhaps 35 in number, more or less, across said Highway to pasture lands on the East side of said Highway Route No. 219.

11. That on account of the heavy travel on said Highway both persons driving said cattle across said Highway and the cattle itself are in danger of being injured by the traffic.

12. That part of the lawn and front yard of the dwelling house has been appropriated and that a raise in the grade causes the water from the Highway to wash in upon the yard in front of said building and into the cellar of the dwelling.

13. That an open ditch between the barn and the dwelling house on the West side of said Highway was left open in the construction of said Highway, which makes it not only burdensome but dangerous for passage from the barn to the house and from the house to the barn both to persons and to live stock.

14. That your petitioner by reason of the facts averred in this petition and by reason of many other items of damages not herein specifically set forth has sustained damages and that said damages are payable and owing to him by the said defendant, the County of Cambria, pursuant to law.

15. That your petitioner and the Commissioners of the County of Cambria can neither agree upon the amount of damages nor are they able to arrive at an amicable settlement thereof.

WHEREFORE your petitioner respectfully prays this Court to appoint viewers to examine the said land and premises as well as the land appropriated and taken, injured and destroyed, and to make report of their proceedings according to law. And he will ever pray etc.

Russell J. Edwards

COMMONWEALTH OF PENNSYLVANIA,
COUNTY OF CAMBRIA,

Russell J. Edwards, the petitioner above named, being duly sworn according to law, deposes and says that the facts set forth in the foregoing petition are true and correct, to the best of his knowledge, information and belief.

Russell J. Edwards

Sworn to and subscribed before me this 15 day of September, A.D. 1942.

John L. Hite

Prothonotary

AND NOW, 15 September, A. D. 1942, the Commissioners of Cambria County do hereby waive the provisions of Rule No. 301-1/2 of the Court of Quarter Sessions of Cambria County, and the issuing of a Rule upon them pursuant thereto, to show cause, if any they have, why Viewers should not be appointed for the purpose of awarding damages alleged to have been occasioned to Russell J. Edwards by the re-location of a public highway in Cambria Township, Cambria County, Pennsylvania, by the Department of Highways of the Commonwealth of Pennsylvania, with the same force and effect as if a Rule had been regularly issued and served, together with a copy of the petition, service of a copy of said petition being hereby accepted; and said Commissioners of Cambria County hereby waive all further notice, and consent to the appointment of Viewers forthwith upon presentation of said petition.



Chief Clerk.

DECREE

AND NOW, 15th September, A. D. 1942, the within petition presented, read and considered, the County Commissioners of Cambria County having waived the provisions of Rule No. 301-1/2 of the Court of Quarter Sessions of Cambria County, Pennsylvania, by their stipulation endorsed thereon, upon motion of F. J. Hartmann, Attorney for the petitioner, the Court do now appoint W. M.
Mc Grain, Chairman, Walter Baumgardner and
James Mc Sam, members of the Permanent Board of Viewers of the County of Cambria, as Viewers to view and examine the premises in said petition described, for the purpose of ascertaining the damages, if any, sustained by the petitioner, and make return of their proceedings according to law.

BY THE COURT:

Griffith
J.

IN THE COURT OF QUARTER SESSIONS
OF
CAMBRIA COUNTY, PENNSYLVANIA

No. 1 SEPTEMBER TERM
1942

IN RE: Petition for the appointment of Viewers to assess damages and benefits caused by the acquisition of certain lands of Russell J. Edwards in the Township of Cambria, County of Cambria and State of Pennsylvania, by the State Highway Department for the improvement of State Highway Route No. 219

ORDER OF COURT AND REPORT OF
VIEWERS

Filed Nov. 20, 1942

Wm. J. McGrain
James McCann
Mahlon J. Baumgardner

Viewers

*Approved this 14th
day of Dec. 1942
By the Court*

*McKenrick
Judge*

Certified to

Commissioner & Controller

Report copy d 3/22/43

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

map
IN RE: Petition for the appointment
of Viewers to assess damages and benefits
caused by the acquisition of certain lands
of Russell J. Edwards in the Township of
Cambria, County of Cambria and State of
Pennsylvania, by the State Highway Depart-
ment for the improvement of State Highway
Route No. 219.

No. 1 SEPTEMBER TERM

1942

REPORT OF VIEWERS

To the Honorable, the Judges of the above named Court

We, the undersigned Viewers appointed by the attached order of the above Court, to view certain lands situate in Cambria Township, Cambria County, Pennsylvania, condemned by the Pennsylvania State Highway Department for the purpose of improving State Highway Route No. 219, passing through the lands of your petitioner, Russell J. Edwards, and to ascertain and determine damages done, or that may seem likely to be done, or benefits accruing by the taking of said land, respectfully report as follows:

That we have been duly sworn as members of the permanent board of Viewers of Cambria County as attested by the records of said Court; that due notice was given to the public at least ten days prior to the holding of the View, of the time and place of meeting for viewing the premises and the taking of the testimony, by posting notices on the premises affected and at points adjacent thereto, by service of the said notice on the Commissioners of Cambria County and on Russell J. Edwards, owner of the said lands, evidence of which service is shown by the copies of said notices, properly signed, hereto attached and made a part of this report.

That we met in accordance with the notices given on the 10th day of October, 1942 at 9:30 A. M., at the place indicated and proceeded with the duties of our appointment. We viewed the premises affected in a thorough and careful manner. There were present the three Viewers, George M. Spence, Solicitor for the County Commissioners, Chief Clerk, H. F. Dorr, Russell J. Edwards and other interested parties.

After completing the View of the premises and buildings, the meeting was adjourned to meet again for the purpose of taking testimony on Saturday, the 24th day of October, 1942 at 9:30 A. M. at the Court House in Ebensburg, Pennsylvania. At the request of both sides, two adjournments were made from the 24th of October to the 31st of October, and from the 31st of October to the 7th of November.

On the 7th of November, the meeting convened and proceeded with the taking of testimony. There were present at this meeting, the three Viewers, George M. Spence, Attorney and H. F. Dorr, representing the Commissioners, Frank J. Hartman, Attorney, representing the owner of the land, Russell J. Edwards. The following persons were called and after being sworn, gave testimony in the case: Russell J. Edwards, Ira Bloom, W. S. Anderson, G. Clarence Griffith, Lester Larimer, James Farabaugh, Seth Stephens and W. J. Lauer. After the hearing adjourned, the Viewers held a meeting to go over the testimony submitted and arrive at an award.

That Tuesday, October 27th, at 9:30 A. M., was the time, and the Court House at Ebensburg, the place for a meeting, for the Exhibit of Schedule and the taking of further testimony, if any.

That due notice of the meeting was given to the public, by posting notices on the premises at least ten days prior to said meeting, and by the serving of notices on the Commissioners of Cambria County, and on Russell J. Edwards, owner, copies of which notices properly signed are hereto attached, and made a part of this report.


Two postponements were made necessary, because of the postponement of the meeting called for the taking of testimony. The postponements were made at the request of both sides and agreed to by the Viewers. The first postponement, for the Exhibit of Schedule, was from Tuesday, October 27th to Tuesday, November 3rd, and the second postponement, from Tuesday, November 3rd to Saturday, November 14th 1942.

On Saturday, November 14th, at 9:30 A. M., a meeting was held in the Court House at Ebensburg, Pennsylvania, for the purpose of exhibiting a schedule of damages. Only the three Viewers were present. A copy of the schedule was delivered to all the interested parties. The award was as follows:

NAME	BENEFITS	DAMAGES
Russell J. Edwards	None	\$5400.00

As no testimony was offered, no change was made in the award. The amount is to be paid to Russell J. Edwards, by the County of Cambria, as his interest appears on the record, Unless an appeal is taken within thirty days from the filing of this report, it may be confirmed absolutely.

Respectfully submitted

 (Wm. J. McGrain
VIEWERS) Mahlon J. Baumgardner
(James McCann

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY PENNSYLVANIA

In re: Petition for the appointment of Viewers to assess damages and benefits caused by the acquisition of certain lands of Russell J. Edwards in the Township of Cambria, County of Cambria and State of Pennsylvania by the State Highway Department for the improvement of State Highway Route No. 219

No. 1 September Term 1942

NOTICE OF VIEW AND THE TAKING OF TESTIMONY

We, the undersigned Viewers appointed by the above named Court to view the property of Russell J. Edwards in the Township of Cambria, County of Cambria and State of Pennsylvania, and estimate and determine the damages that have occurred or may seem likely to occur and the benefits accruing from the condemnation of a portion of the said land by the Pennsylvania Department of Highways for the purpose of improving State Highway Route No. 219, passing through the land of the petitioner, will meet on the premises at 9:30 A.M. on Saturday, October 10th 1942, for the purpose of performing the duties of our appointment, at which time and place, all persons interested may appear and be heard if they think proper.

William J. McGrain
Mahlon J. Baumgardner
James McCann
Viewers

*accepted service
9/28/42
H. J. Don
clerk*

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY PENNSYLVANIA

In re: Petition for the appointment
of Viewers to assess damages and ben-
efits caused by the acquisition of
certain lands of Russell J. Edwards
in the Township of Cambria, County of
Cambria and State of Pennsylvania, by
the State Highway Department for the
improvement of State Highway Route No. 219

No. 1 September Term 1942

NOTICE OF VIEW AND THE TAKING OF TESTIMONY

We, the undersigned Viewers appointed by the above named Court to view the property of Russell J. Edwards in the Township of Cambria, County of Cambria and State of Pennsylvania, and estimate and determine the damages that have occurred or may seem likely to occur and the benefits accruing from the condemnation of a portion of the said land by the Pennsylvania Department of Highways for the purpose of improving State Highway Route No. 219, passing through the land of the petitioner, will meet on the premises at 9:30 o'clock on Saturday morning, October 10th 1942, for the purpose of performing the duties of our appointment, at which time and place, all persons interested may appear and be heard if they think proper.

William J. McGrain
Mahlon J. Baumgardner
James McCann
Viewers

Accepted Service
9/28/42

Russell J. Edwards

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN RE: Petition for the appointment
of Viewers to assess damages and bene-
fits caused by the acquisition of
certain lands of Russell J. Edwards in
the Township of Cambria, County of
Cambria and State of Pennsylvania, by
the State Highway Department, for the
improvement of State Highway Route No. 219)

NO. 1 SEPTEMBER TERM

1942

NOTICE OF EXHIBIT OF SCHEDULE

We, the undersigned Viewers, appointed by the above named Court to view the premises and to determine and estimate the damages that have resulted or may seem likely to result, and the benefits accruing from the condemnation of a portion of the land of Russell J. Edwards, in Cambria Township, Cambria County, Pennsylvania, by the Pennsylvania State Highway Department, for the improvement of State Route No. 219, will meet in the Court House at Ebensburg, Pennsylvania, on Tuesday, October 27th 1942, at 9:30 o'clock, A. M., at which time and place, a schedule of damages will be exhibited, exceptions noted, and further testimony, if any, will be heard.

(William J. McGrain
VIEWERS) Mahlon J. Baumgardner
(James McCann

At Service Accepted
Oct 24-42

Russell J. Edwards

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN RE: Petition for the appointment of Viewers to assess damages and benefits caused by the acquisition of certain lands of Russell J. Edwards in the Township of Cambria, County of Cambria and State of Pennsylvania, by the State Highway Department, for the improvement of State Highway Route No. 219

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NO. 1 SEPTU'BER TERM

1942

NOTICE OF EXHIBIT OF SCHEDULE

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VIEWERS

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)
(

William J. McGrain
Carlton J. Baumgardner
James McCann

Spence accepted

*1942 / 7 / 7
Oct 23 Per E M Evans*

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY PENNSYLVANIA

In re: Petition for the appointment
of Viewers to assess damages and ben-
efits caused by the acquisition of
certain lands of Russell J. Edwards
in the Township of Cambria, County of
Cambria and State of Pennsylvania by
the State Highway Department for the
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No. 1 September Term 1942

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William J. McGrain
Mahlon J. Baumgardner
James McCann
Viewers

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA.

In Re: appointment of Viewers to assess damages on land taken by the Dept. of Highways from Russell J. Edwards of the Township of Cambria, County of Cambria, Pennsylvania.

No. 1 Sept. Term, 1942.

Cambria County Commissioners			
To Wm. J. McGrain		Dr.	
Sept. 28, Preparing notices, serving and Posting notices and gathering data-----			\$12.00
Stenographer-----			2.00
20 Miles-----			2.00
Oct. 10th, Day on View-----			12.00
20 Miles-----			2.00
Oct. 13th, Preparing, serving and posting notices for Exhibit of Schedule-----			12.00
20 Miles-----			2.00
Stenographer-----			2.00
Nov. 7th, Day at hearing-----			12.00
16 Miles-----			1.60
Nov. 14th, Day at Exhibit of Schedule-----			12.00
16 Miles-----			1.60
Nov 20 Preparing and filing Report-----			12.00
Stenographer-----			2.00
			<u>87.20</u>
To M. L. Baumgardner		Dr.	
Oct. 10th, Day on View-----			12.00
4 Miles-----			.40
Nov. 7th, Day at Hearing-----			12.00
Nov. 14th, Day at Exhibit of Schedule-----			12.00
			<u>36.40</u>
To James McCann		Dr.	
Oct. 10th, Day on View-----			12.00
36 Miles-----			3.60
Nov. 7th, Day at Hearing-----			12.00
32 Miles-----			3.20
Nov. 14th, Day at Exhibit of Schedule-----			12.00
32 Miles-----			3.20
			<u>46.00</u>

This certifies that the above bills are exact duplicates of Bills filed with the County Commissioners.

Wm J McGrain
Chairman

Russell J. Edwards
versus
County of Cambria

In the Court of Quarter Sessions of Cambria
County, Pennsylvania.

No. 1 Sept Sessions, 1948.

PETITION FOR THE APPOINTMENT OF VIEWERS
TO ASSESS DAMAGES.

To the Honorable, the Judges of said Court.

The petition of Russell J. Edwards respectfully represents:

1. That he is the owner of a tract of land, situate in Cambria Township, Cambria County, Pennsylvania, having acquired the same by deed from Ira Bloom and Sadie Bloom, his wife, dated the 22nd day of January, 1924, and recorded in the Recording Office of Cambria County in Deed Book Vol. 379 at page 195, said tract of land containing approximately 461 acres, more or less.
2. That your petitioner was and is now the owner of said tract of land at the time the same was damaged as hereinafter complained of and when part thereof was taken, injured and destroyed.
3. That prior to and at all times subsequent to the acquisition of said land by your petitioner there had been laid out and in use for public travel a public highway leading from the Borough of Ebensburg to the Borough of Carrolltown in said County. Said public highway ran through the tract of land of your petitioner, said road running in a Northorly and Southerly direction, and from which road access was had to the buildings erected on said land.
4. That some time during the year 1940 the Department of Highways of Pennsylvania, by virtue of the powers and authority vested in it, re-located said Highway through the land of your petitioner and supplied the said new Highway, now known as Route No. 219, which took the place of said highway which formerly ran through the land of your petitioner.
5. That in re-locating said road and laying out Route No. 219 the said Highway Department took and appropriated for highway purposes a

part of your petitioner's land, being a strip varying in width and containing about 7 acres.

6. That in the laying out and construction of said Route No. 219 the said Highway Department injured and practically made useless strips of land on both sides of said Highway running part of the length of said road.

7. That in the construction of said Highway certain trees and shrubs were cut down, destroyed and taken away.

8. That in the construction of said Route No. 219 a large amount of water has been drained onto the land of your petitioner on both sides of said new Highway, that the water being so drained has covered a large part of the tillable farm land of said tract of land, and that the water has found its way into the cellar of the dwelling house upon said land.

9. That your petitioner will at all times be deprived of the land appropriated for said Route No. 219 and will be deprived of other lands made useless and burdensome by reason of the construction of said Highway.

10. That your petitioner is in the dairy business and must drive his cattle, being perhaps 35 in number, more or less, across said Highway to pasture lands on the East side of said Highway Route No. 219.

11. That on account of the heavy travel on said Highway both persons driving said cattle across said Highway and the cattle itself are in danger of being injured by the traffic.

12. That part of the lawn and front yard of the dwelling house has been appropriated and that a raise in the grade causes the water from the Highway to wash in upon the yard in front of said building and into the cellar of the dwelling.

13. That an open ditch between the barn and the dwelling house on the West side of said Highway was left open in the construction of said Highway, which makes it not only burdensome but dangerous for passage from the barn to the house and from the house to the barn both to persons and to live stock.

14. That your petitioner by reason of the facts averred in this petition and by reason of many other items of damages not herein specifically set forth has sustained damages and that said damages are payable and owing to him by the said defendant, the County of Cambria, pursuant to law.

15. That your petitioner and the Commissioners of the County of Cambria can neither agree upon the amount of damages nor are they able to arrive at an amicable settlement thereof.

WHEREFORE your petitioner respectfully prays this Court to appoint viewers to examine the said land and premises, as well as the land appropriated and taken, injured and destroyed, and to make report of their proceedings according to law. And he will ever pray etc.

COMMONWEALTH OF PENNSYLVANIA,

COUNTY OF CAMBRIA,

Russell J. Edwards, the petitioner above named, being duly sworn according to law, deposes and says that the facts set forth in the foregoing petition are true and correct, to the best of his knowledge, information and belief.

Sworn to and subscribed before me this _____ day of September, A.D. 1962.

AED NOW, _____ September, A. D. 1942, the Commissioners of Cambria County do hereby waive the provisions of Rule No. 301-1/2 of the Court of Quarter Sessions of Cambria County, and the issuing of a Rule upon them pursuant thereto, to show cause, if any they have, why Viewers should not be appointed for the purpose of awarding damages alleged to have been occasioned to Russell J. Edwards by the re-location of a public highway in Cambria Township, Cambria County, Pennsylvania, by the Department of Highways of the Commonwealth of Pennsylvania, with the same force and effect as if a Rule had been regularly issued and served, together with a copy of the petition, service of a copy of said petition being hereby accepted; and said Commissioners of Cambria County hereby waive all further notice, and consent to the appointment of Viewers forthwith upon presentation of said petition.

Chief Clerk.

DECREE

AND NOW, 15 September, A. D. 1948, the within petition presented, read and considered, the County Commissioners of Cambria County having waived the provisions of Rule No. 301-1/2 of the Court of Quarter Sessions of Cambria County, Pennsylvania, by their stipulation endorsed thereon, upon motion of F. J. Hartmann, Attorney for the petitioner, the Court do now appoint J. M. McBrain, Chairman, Mallon Baumgardner and James McBrain, members of the Permanent Board of Viewers of the County of Cambria, as Viewers to view and examine the premises in said petition described, for the purpose of ascertaining the damages, if any, sustained by the petitioner, and make return of their proceedings according to law.

BY THE COURT:

Griffith

J.

NOTE. "It shall be the duty of all persons appointed in the several counties of this Commonwealth to view and review any public or private road or bridge, if they shall decide in favor of locating said road or bridge, to endeavor to procure from the person or persons over whose land such location may be made releases from all claims for damages that might arise from the opening of such road or the building of such bridge; and in every case where said viewers shall fail to procure such releases, and it shall appear to them that any damages will be sustained, it shall be their duty to assess the damages and make report thereof signed by a majority of their number, and return the same, together with all releases obtained, to the Court of Quarter Sessions, and the damages so assessed shall be conclusive, or may be subject to appeal, review or modification, as may be provided by existing laws in the different counties of this Commonwealth."

"The persons appointed as aforesaid shall view such ground, and if they shall agree that there is occasion for a road, they shall proceed to lay out the same, having respect to the shortest distance, and the best ground for a road, and in such manner as shall do the least injury to private property, and also be, as far as practicable, agreeable to the desire of the petitioners."

"The viewers, as aforesaid, shall make report at the next term of said Court, and in the said report shall state particularly: First, who of them were present at the view, second, whether they were severally sworn or affirmed; third, whether the road desired be necessary for a public or private road; they shall also annex and return to the Court a plot or draft thereof, stating the courses and distances, and noting briefly the improvements through which it may pass; and, whenever practicable, the viewers shall lay out the said roads at an elevation not exceeding five degrees (except at the crossing of ravines and streams), where, by moderate filling and bridging, the declination of the road may be preserved within that limit."

NO 1 Sept. sessions, 1912

Order to view and assess

damages

Russell Edwards

VS

Cambria County

Viewers

Wm. McGrain

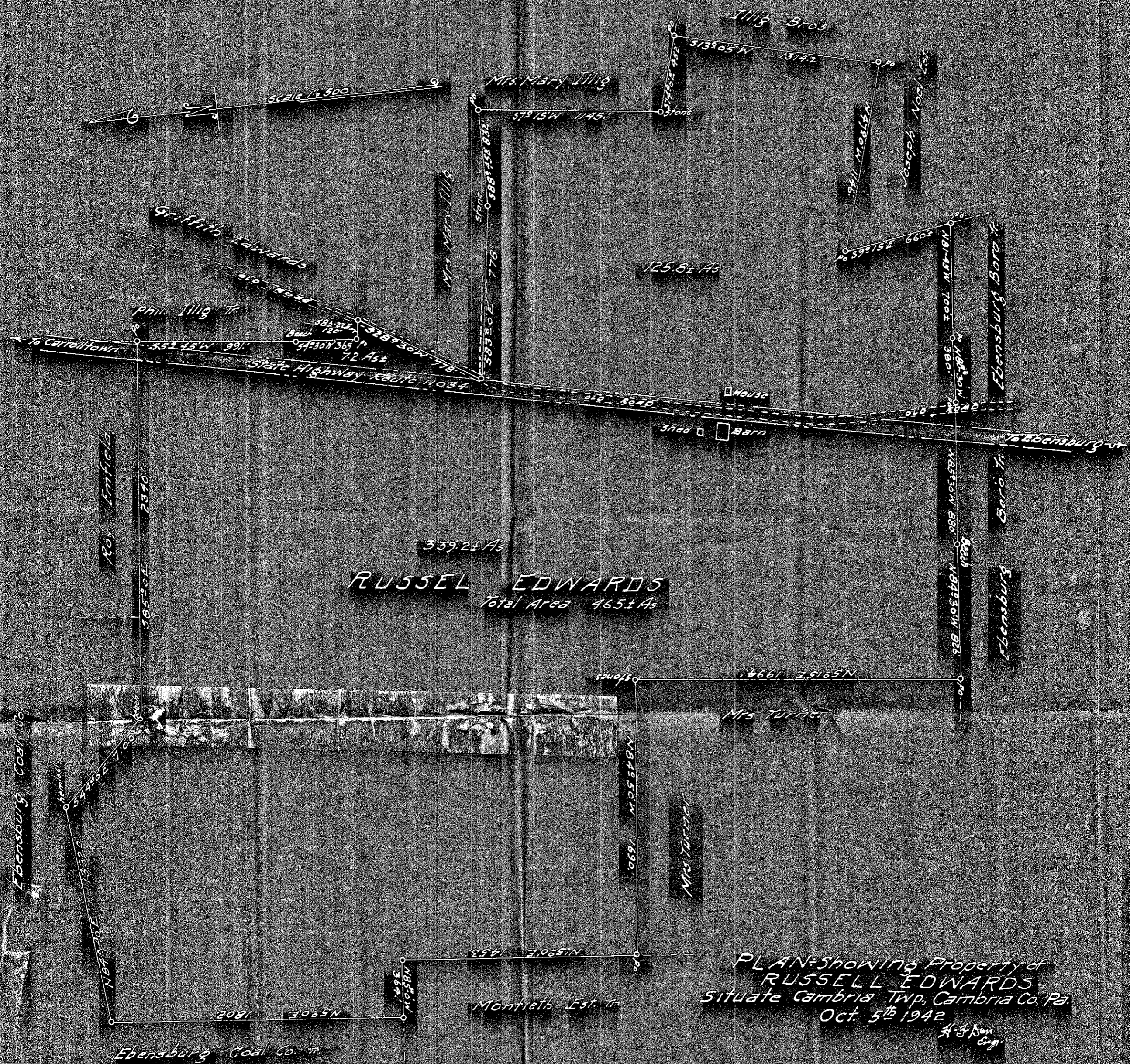
Malhom Baumgardner

James McCann

Clerk Joseph C. Mess 90 cts.

Rat microfilmed

RO#1 Sept. 1942



RUSSELL EDWARDS
Total Area 465± A±

PLAN-Showing Property of
RUSSELL EDWARDS
Situate Cambria Twp, Cambria Co, Pa.
Oct. 5th 1942

H. S. Run
Engr.