

IN THE COURT OF QUARTER SESSIONS  
OF CAMBRIA COUNTY, PENNSYLVANIA

*R. Locket*  
NO. 1 SEPTEMBER SESSIONS, 1962

IN THE MATTER OF THE CHANGE OF  
LOCATION AND LINES OF THE STATE  
HIGHWAY KNOWN AS THE NEW SOLOMON  
RUN ROAD IN THE TOWNSHIP OF  
RICHLAND, CAMBRIA COUNTY,  
PENNSYLVANIA, ROUTE NO. L.R.  
11012, SEC. 5, SERVICE ROAD NO.  
3.

VIEWERS' REPORT

DONALD J. LETIZIA  
ATTORNEY AT LAW  
FIRST NATIONAL BANK BLDG.  
JOHNSTOWN, PENNSYLVANIA

*Filed: April 5, 1963*

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF :  
LOCATION AND LINES OF THE STATE :  
HIGHWAY KNOWN AS THE NEW SOLOMON : NO. 1  
RUN ROAD IN THE TOWNSHIP OF RICH- :  
LAND, CAMBRIA COUNTY, PENNSYLVANIA, : SEPTEMBER SESSIONS, 1962  
ROUTE NO. L. R. 11012, SEC. 5, :  
SERVICE ROAD NO. 3 :

VIEWERS' REPORT

TO THE HONORABLE, THE JUDGES OF THE ABOVE NAMED COURT:

DONALD J. LETIZIA, Esquire, T. L. LOCHER and THEODORE HUNT, three members of the permanent Board of Viewers of Cambria County, Pennsylvania, appointed to view the premises of JOSEPH JAMES CAUFFIEL, to assess damages to his property arising from the improvement and changes to Legislative Route No. 11012, Sec. 5, Service Road No. 3, in the Township of Richland, Cambria County, Pennsylvania, and return the proceedings according to law, respectfully report:

Pursuant to their appointment on August 15, 1962, the Board of View set September 13, 1962, at 9:30 a.m., as the time to view and inspect the premises owned by Joseph James Cauffiel. The View was continued and rescheduled for September 27, 1962, at 9:30 a.m., Due notice thereof was given to the Commonwealth of Pennsylvania, Department of Highways, as shown by acceptance of service of notice hereto attached and made a part hereof. Notice was likewise given to Edward J. Harkins, Attorney for Petitioner, as shown by acceptance of service of notice hereto attached and made a part hereof. The Board of View thereafter set Tuesday, October 30, 1962, at 10:30 a.m., e.s.t., at the Judges Chambers, Park Building, Johnstown, Pennsylvania, as the time and place for hearing. Due notice thereof was given to Edward F. Peduzzi, Attorney for Commonwealth of Pennsylvania, as shown by acceptance of service of notice attached hereto and made a part hereof. Notice was likewise given to Edward J. Harkins, Attorney for Petitioner, as shown by acceptance of service of notice hereto attached

and made a part hereof. The hearing was held at the time and place appointed and a further hearing was scheduled for January 23, 1963, at 2:00 p.m., at the Judges Chambers, Park Building, Johnstown, Pennsylvania. Edward F. Peduzzi, Esquire, appeared at the hearing on behalf of the Commonwealth of Pennsylvania, Department of Highways. The Petitioner, Joseph James Cauffiel, was represented at the hearing by Edward J. Harkins, Esquire, and Gerald K. Gibson, Esquire.

Due notice of the filing of this Report was given to the Petitioners by his Attorney, Edward J. Harkins, as shown by acceptance of service of notice hereto attached and made a part hereof. Due notice was likewise given to the Commonwealth of Pennsylvania, through its attorney, Edward F. Peduzzi, as shown by acceptance of service of notice hereto attached and made a part hereof.

The original papers are attached hereto and made a part of this Report.

The Board of View further reports as follows:

#### I. SERVICE OF PROCESS

The original papers and docket entries show that Joseph James Cauffiel filed a Petition with the Court of Quarter Sessions of Cambria County, Pennsylvania, on October 15, 1962, setting forth that he labored under inconvenience for want of an assessment of damages.

#### II. FINDINGS OF FACT

(1) That Joseph James Cauffiel is the owner of a certain property in the Township of Richland, County of Cambria, and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a chestnut oak and original corner; thence by an original line along land now or late of George Heidingsfelder and Samuel Hoffman, south 34 degrees east 41 perches to a stone; thence by land now or late of David Stull north 25 degrees east 46½ perches to stones; thence by same north 62 degrees west 32.6 perches to stone at edge of Solomon Run on the original line; thence along said original line of land now or late of George Heidingsfelder south 24 degrees west 32.7 perches to beginning.

(2) That situate thereon was a five room house which had been leased to Nellie Makin on November 24, 1947, at \$15.00 per month. N. T. 5, Petitioner's Exhibits 3, 4, 5, 6, 7 & 8.

(3) That Joseph James Cauffiel testified that the loss suffered by him because of the taking by the Department of Highways, amounted to \$7,000. N. T. 34.

(4) That Meade Cauffiel, 406 Coleman Avenue, Johnstown, Pennsylvania, real estate expert; testified that the loss suffered by the Petitioner because of the taking by the Commonwealth of Pennsylvania, amounted to \$20,500. N. T. 11, 12 & 17.

(5) That Meade Cauffiel considered 3.22 acres of coal in arriving at the loss suffered by the Petitioner. N. T. 18, 19 & 24.

(6) That Robert P. Reed, mining engineer, testified that the "C" Coal in that area has a market value of approximately 35 cents a ton royalty. N. T. 32 & 33.

(7) That John Foreman, R.P.E., testified that the "B" Seam was completely mined out, that there was "C" Prime Coal in an area totaling .878 acres, 3.8 feet thick with approximately 1,700 tons per foot acre, valued at 10 cents per ton in place, making a value of the "C" Prime Coal at \$532. N. T. 38, 40, 44, 45, 46, Exhibit 3.

(8) That John J. Mock, real estate expert, testified that the loss suffered by the Petitioner because of the taking by the Commonwealth of Pennsylvania, amounted to \$298.

### III. OPINION

The Board of View has carefully examined the evidence offered in this case, has deducted therefrom certain facts, has carefully examined the law applicable, and is of the opinion that the Petitioner has presented a meritorious case.

The Petitioner alleges that he is the owner of the property referred to herein and that in the construction, reconstruction,

and improvements to State Highway Route No. 11012, Section 5, Service Road No. 3, in the Township of Richland, County of Cambria, and State of Pennsylvania, said property has sustained serious loss and damages and that compensation for such damage has not been fixed or agreed upon between the Commonwealth of Pennsylvania, and the Petitioner.

The power of eminent domain is the power to take property for public use without the owners' consent. Briegel v. Briegel, 2160 A. 581, 307, Pa. (1932). Eminent Domain is an inherited attribute of sovereignty and the provisions for compensation is not part of the power, but a limitation on its use by the Constitution, P. S. Const. Art. 1, Section 10.

The Constitution contains three sections relating to eminent domain, Article 1, Section 10, provides that private property shall not be taken or applied to public use, without authority of law and without just compensation being first made or secured. Article 16, Section 3, provides that "The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the General Assembly from taking the property and franchises of incorporated companies, and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals invested with the power of eminent domain must make compensation for property taken, and prohibits the General Assembly from depriving any person of the right to appeal from any preliminary assessment of damages against any corporation or individual made by viewers or otherwise.

When a tract of land is taken, the owner is entitled to compensation equal to its market value. Market value should be determined on the basis of what price the property would bring if the owner were under no compulsion to sell and a purchaser under no

compulsion to buy, taking into account all considerations that might be brought forward and reasonably be given substantial weight in bargaining for the property, such as location, improvements, productive quality, and the uses to which it may reasonably be put, taking in the light of sales of other property in the vicinity. United States v. 15.3 Acres of Land in the City of Scranton, Com. of Pa., 154 F. Supp. 770 (1957). While the value of the land should not be based upon speculation, everything which gives the land intrinsic value should be considered and it is not to be limited to a particular use, and any use to which the property is adapted or any prospective use may be considered.

In arriving at a just determination of the fair market value the Board has, as criteria, the customarily widely disparate opinions of the real estate experts who testified for their respective sides. It is the province of the Board to weigh the credibility of the valuation witnesses' testimony and to determine what the land taken was fairly worth at the time of the condemnation. The Board has a right to, and did, bring to bear, unsurprising the expert testimony, what they had perceived with respect to the property at the time they formally viewed it.

The Board of View is not required to take arbitrarily the Plaintiff's or the Defendant's figures in arriving at a just sum in condemnation cases, but may exercise deliberation, in awarding a sum between the Plaintiff's and Defendant's figures. Harmony Realty Co. v. Com., 145 A. 2d 541, 395, Pa. 65 (1958).

#### CONCLUSION

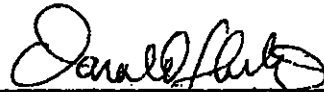
The Board of View reports that after a full and impartial consideration of the testimony and evidence offered to them and acting according to their best judgment, they have estimated and determined the damages sustained by the owners and occupants of the

said property by reason of the condemning of the said property by the Commonwealth of Pennsylvania, Department of Highways, as follows:

JOSEPH JAMES CAUFFIEL -- \$2,354.00

The Board of Viewers have taken into consideration any benefits accruing to the property affected and hereby assess damages as above awarded against the Commonwealth of Pennsylvania, Department of Highways.

Respectfully submitted,



Donald J. Letizia, Chairman



T. L. Locher



Theodore Hunt

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

IN THE MATTER OF THE CHANGE : NO. 1 SEPTEMBER SESSIONS, 1962.  
OF LOCATION AND LINES OF THE :  
STATE HIGHWAY KNOWN AS THE :  
NEW SOLOMON RUN ROAD IN THE :  
TOWNSHIP OF RICHLAND, COUNTY :  
OF CAMBRIA AND STATE OF PENN- :  
SYLVANIA, ROUTE NO. LR 11012, :  
SEC. 5, SERVICE ROAD NO. 3 : - CONDEMNATION -

Judges' Chambers  
Park Building  
Johnstown, Pennsylvania  
January 23, 1963.

BEFORE THE BOARD OF VIEWERS:

DONALD J. LETIZIA, ESQ.,  
Chairman

T.L. LOCHER,  
Member

THEODORE L. HUNT,  
Member

APPEARANCES:

EDWARD F. PEDUZZI, ESQ. appeared for the Commonwealth of  
Pennsylvania, Department of Highways.

EDWARD J. HARKINS, ESQ. and GERALD K. GIBSON, ESQ. appeared  
for Joseph James Cauffiel, Petitioners.

BY THE CHAIRMAN:

This is the time and place scheduled by the Board of View appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania In the Matter of the Change of Location and Lines of the State Highway Known as the New Solomon Run Road in the Township of Richland, Cambria County, Pennsylvania, docketed to No. 1 September Sessions, 1962.

Let the record reflect that Mr. Harkins represents/James Cauffiel, as does Gerald K. Gibson, Esq., and Edward F. Peduzzi appears on behalf of the Commonwealth of Pennsylvania.

The Board at this point would like to make a statement for the record: This is a continued hearing. This hearing was primarily called because the Board felt that it would like to have a little more testimony relative to the situation regarding the claim for coal. After having discussed the testimony taken at the prior hearing it was the concensus of opinion of the Board that a further hearing be scheduled in this matter and we decided and determined that at that time, when the further hearing was held, the testimony would be transcribed. The Board does have notes of the testimony taken at the past hearing. However, if Mr. Peduzzi or Mr. Harkins is concerned in any way that the Board may have missed some pertinent points, I would suggest that I can at this hearing make certain that it is put on the record. We don't feel we have missed anything, however.

JOSEPH JAMES CAUFFIEL, Called, Sworn.

DIRECT EXAMINATION

BY MR. HARKINS:

Q. Your name is Joseph James Cauffiel?

A. Yes, sir.

Q. Where do you live, Mr. Cauffiel?

A. Upper Yoder Township.

Q. Cambria County, Pennsylvania?

A. Cambria County, Pennsylvania.

Q. Are you married?

A. Yes, sir.

Q. What is your business or profession?

A. Real estate salesman.

Q. How long have you been engaged in that business?

A. In the real estate business, with the exception of two years I was in the service, since 1955.

Q. Were you in the service?

A. Yes, I was.

Q. How long?

A. Three years.

Q. What educational background have you for business?

A. I am a graduate of Haverford College and majored in psychology and minored in economics.

Q. Were you also at William & Mary?

A. I was -- I had my freshman year at William & Mary and transferred to Haverford.

Q. Has your occupation or business in real estate included buying and selling property for yourself?

A. Yes, it has.

Q. And for others?

A. Yes.

Q. Has that been in the area of the City of Johnstown and surrounding territory?

A. Almost exclusively.

Q. And has it included an area similar to the area in which your land which was condemned is located?

A. Yes, sir.

Q. Are you married?

A. Yes, sir. . . . 3.

Q. And Mr. Cauffiel, I show you a deed dated the 15th day of June, 1959, recorded in the office for the recording of deeds in and for Cambria County, Pennsylvania, in Deed Book Vol. 731, at Page 172. Who is named as the grantee in that deed?

A. Myself, Joseph James Cauffiel.

Q. Does this deed contain a description of the land affected by this condemnation?

A. Yes, it does.

Q. Will you read the description of that parcel No. 6 into the record, please?

A. "ALL THAT CERTAIN piece, parcel or tract of land, situate, lying and being in the Township of Richland, County of Cambria and State of Pennsylvania, bounded and described as follows:

"BEGINNING at a Chestnut Oak and original corner; thence by an original line, along land now or late of George Heidingsfelder and Samuel Hoffman, South 34' east forty-one (41) perches to a stone; thence by land now or late of David Stull, north 25' east forty-six and one-half (46 1/2) perches to stones; thence by same north 62' west thirty-two and six tenths (32.6) perches to stone at edge of Solomon Run on the original line; thence along said original line by land now or late of George Heidingsfelder, south 24' west thirty-two and seven tenths (32.7) perches to the place of beginning; containing seven (7) acres and seventy-eight (78) perches."

Q. What is the date of this deed?

A. June 15th, 1959.

BY MR. HARKINS: Gentlemen, I offer in evidence the deed referred to by the witness and file a photostatic copy of the same with the Board.

BY THE CHAIRMAN: Any objection?

BY MR. PEDUZZI: I don't think we have any dispute about that. No objection.

BY THE CHAIRMAN: No, because this was in the petition initially.

BY MR. PEDUZZI: That's right.

BY MR. HARKINS:

Q. Mr. Cauffiel, when you bought that land did it have erected on it a house?

A. Yes.

Q. What type of a house?

A. A six room frame -- five rooms, excuse me.

Q. A five room frame house?

A. Yes, sir.

Q. Was it occupied?

A. Yes, it was.

Q. Was it occupied under a lease?

A. I had it leased to Nellie Makin, widow.

Q. What is the date of the lease?

A. 24th of November, 1947.

Q. And that lease was on this land at the time you took title?

A. Yes, sir.

Q. Did that tenant continue in possession?

A. Yes.

Q. What was the amount of rent you received for that building?

A. Fifteen dollars per month.

Q. And did this tenant continue in possession up until near the time of the actual condemnation of this land?

A. Well, within several months.

Q. Within several months of the condemnation?

A. Yes.

BY MR. HARKINS: Members of the Board, I offer in evidence the lease agreement and I desire to file with the Board a copy of it.

BY THE CHAIRMAN: Mr. Peduzzi, this was submitted at the last hearing but we want to make it a part of the record as transcribed. This is a copy of the lease. The last time this was offered as Petitioner's Exhibit No. 3. Do you have any objection to this being offered at this time?

BY MR. PEDUZZI: I have no objection to the lease per se, but I do have an objection to its relevancy in this matter.

BY THE CHAIRMAN: I understand your position and we will take that up at the proper time.

(Exhibit marked Petitioner's Exhibit No. 3).

BY MR. HARKINS:

Q. Mr. Cauffiel, did you personally take photographs of the portion of the land condemned, including the building which you have referred to in your testimony?

A. I did.

BY MR. HARKINS: I offer at this time certificate signed by Henry J. Stolar, County Treasurer of Cambria County, certifying relative to notations of sale of the real estate at tax sale in Cambria County involving the land in question, as Petitioner's Exhibit No. 2.

BY THE CHAIRMAN: This was admitted before.

BY MR. PEDUZZI: No objection.

BY MR. HARKINS:

Q. Mr. Cauffiel, I show you Exhibit No. 4. Is that a picture of the part of your land affected by this condemnation?

A. Yes, it is.

Q. Did you take it yourself?

A. Yes, sir.

Q. On what date?

A. May 21st, 1962.

Q. Does it truly reflect a picture of things that were in front of the camera at the time?

A. Yes.

Q. And does it show some of the land which was taken by the Commonwealth in this case?

A. Some of it.

Q. Does it show some cutting of timber?

A. Yes, it does.

Q. Was that timber cut on your land?

A. Yes, it was.

Q. Does this picture show a portion of your land?

A. Yes, sir.

Q. I show you now Exhibit No. 5. First, may I ask you if you took Exhibits 5, 6, 7, and 8 personally?

A. Yes, I did.

Q. All on the same date?

A. Yes, I did.

Q. Does Exhibit No. 5 show a portion of the building you referred to?

A. Yes.

Q. Is that building there at the present time?

A. No, it isn't.

Q. Why not?

A. Well, at the time I was taking these pictures it was in the process of being torn down.

Q. By whom?

A. By the state.

Q. On the contract of this highway?

A. Yes.

Q. And does that show other timber being cut in that location?

A. Yes.

Q. Does Photograph No. 6 show the building in the process of being destroyed?

A. Yes, it does.

Q. And does it show it fronting on the edge of the Solomon Run Road?

A. Yes, sir, it does.

Q. And off to the side of the road?

A. Yes, sir.

Q. And I show you Exhibit No. 7. That was a picture of the tearing down of the building?

A. Yes, sir.

Q. That's the building that you say was on the land?

A. It was.

Q. And has been destroyed by this taking?

A. Yes.

Q. No. 8 shows the coal entrance of some operation of coal

A. Coal tipple.

Q. Where is that located with reference to the land?

A. Directly across the Solomon Run.

Q. From your land?

A. Yes.

BY MR. HARKINS: Gentlemen, I offer in evidence Exhibits 4 to 8, inclusive.

BY THE CHAIRMAN: Mr. Peduzzi, you have no objection?

BY MR. PEDUZZI: They were admitted before. I have no objection.

BY MR. HARKINS: Members of the Board, I offer in evidence by reference to the record thereof plan  
Pennsylvania  
filed by the/Department of Highways, showing a plan

approved by the Governor of Pennsylvania on May 15, 1961, which includes the land in question, although we do not admit that <sup>it</sup> shows a correct survey of the land taken, but it shows the area of the deed as 7.4875 acres, for legal right-of-way it shows a taking of 1.2856, required right-of-way 1.3330, channel right-of-way .1607, and the residue 4.7082. We offer that plan for two reasons: First, it establishes the time of the condemnation, which was on the date the plan was signed and approved by the Governor, which is May 15th, 1961; and second, for the purpose of showing the area affected, owned by the claimant and affected by this taking.

BY THE CHAIRMAN: MR. Peduzzi, I don't imagine you have any objection to that?

BY MR. PEDUZZI: No.

#### CROSS EXAMINATION

BY MR. PEDUZZI:

Q. You offered in evidence a deed dated ~~nineteen~~ what, forty nine?

A. '59.

Q. The prior owner of this property was Clyde Cauffiel, Trustee, is that right?

A. Yes, sir.

Q. Do you know when she got title to it?

A. No, I don't.

Q. Do you know whether she had title to that property in 1946?

A. I wouldn't know.

Q. Do you know of your own knowledge whether or not that house that you testified to was included in a prior condemnation of the right-of-way in 1946?

A. No, I don't.

Q. That's all.

BY MR. HARKINS: While the witness is still on the stand, members of the Board, I want to offer in evidence a mortgage given by Edgar M. Shaffer to the Home Savings Fund, Johnstown, Pa., dated the 3rd day of March, 1928, recorded in Mortgage Book Vol. 132, and I'll give you the page, supply the page on that, and this is for the purpose of showing that the description in that mortgage was identical to the one that's in the deed of the claimant and recital of title is this: "Being the same tract or piece of land which John George Heidingsfelder, by his deed dated the 2nd day of October, A.D. 1911, and recorded in the Recorder's Office of Cambria County in Deed Book Vol. 234, page 648, conveyed to Julia Kamler, now Julia Greiner, and Henry Greiner, her husband by their deed dated the 2nd day of March, 1928 conveyed to Edgar M. Shaffer, present mortgagor." And the reason for that is the fact that the deed to the claimant and the deed to Edgar M. Shaffer, and his mortgage, calls for a bearing of North 62 West 32.6 perches to stone at edge of Solomon Run.

And I offer that in evidence by reference to the record thereof, and will give to the board a copy of the same, and the place of record of that mortgage is Vol. 132, at page 572.

BY MR. PEDUZZI: I don't know what the purpose of that mortgage is. How does it tie into the present owner?

BY MR. HARKINS: It's very simple.

BY THE CHAIRMAN: Is it in the chain of title?

BY MR. HARKINS: It's in the chain of title. There's a dispute between the claimant and the Commonwealth whether that calls to the Solomon Run Road or Solomon

Run, and I want you to know that the title he has is the same.

BY THE CHAIRMAN: You aren't objecting to this being shown for the purpose that by/sundry conveyances that this property ended up in Mr. Cauffiel?

BY MR. PEDUZZI: No.

BY MR. HARKINS: And I also offer for the same purpose deed of Julia Greiner and her husband to Edgar M. Shaffer, dated the 2nd day of March, 1928, recorded in Deed Book Vol. 425, page 183, where the description is identical to that shown in the deed to the claimant, and it's offered for the same purpose, as a part of the chain of title.

BY THE CHAIRMAN: Any objection, Mr. Peduzzi?

BY MR. PEDUZZI: Just a moment.

BY THE CHAIRMAN: This is the deed into Mr. Shaffer. I would imagine it was after Mr. Shaffer received title to this that this mortgage was recorded.

BY MR. HARKINS: And it was after he received title that the county bought it at tax sale. So we got the entire chain.

BY MR. PEDUZZI: If you continue on with the chain and show that the chain is in the county, and then from the county to Clyde M. Cauffiel.

BY MR. HARKINS: I have already shown that.

R. MEADE CAUFFIEL, Called, Sworn.

DIRECT EXAMINATION

BY MR. HARKINS:

Q. Where do you live, Mr. Cauffiel?

A. 406 Coleman Avenue, Johnstown, Pennsylvania.

Q. How is Joseph James Cauffiel related to you?

A. He is my son.

Q. And what is your business or profession?

A. Real estate, and natural resources.

Q. Where is your office located?

A. In Johnstown, 125 Franklin Street.

Q. Almost directly across the park from this building here?

A. Yes.

Q. How long have you been in the real estate business?

A. Oh, ever since I was old enough --I would say since

I was eighteen years of age.

Q. How old are you now?

A. Sixty.

Q. Have you been in that business constantly?

A. Yes, sir.

Q. Has that business involved the buying and selling of real estate?

A. Yes, sir.

Q. For yourself?

A. Yes, sir.

Q. And others?

A. Yes, sir.

Q. And negotiating loans?

A. Yes, sir.

Q. Have you been in the appraisal of real estate?

A. In a limited way. I don't go in much for appraisals.

Q. What are some of the companies with whom you have been dealing with respect, first, to real estate?

A. Well, New York State Gas, Bethlehem Steel, U.S. Steel, most of the local banks, building and loans, and Peoples Natural Gas, all the gas companies and coal companies, Vinton Coal & Coke.

Q. Has your business experience related to the buying and selling of coal and coal lands and coal interests, as well as real estate?

A. Yes, sir.

Q. Has it been extensive or limited?

A. Extensive.

Q. Are you familiar with the location of this piece of land that your son, Joseph James, owns?

A. Yes, sir.

Q. Was there a building on there before the highway department contracted for changing this road?

A. Yes, sir.

Q. How long had it been there?

A. Well, it had been there since -- the first I seen it, I guess, was in the twenties.

Q. In the nineteen twenties?

A. In the twenties.

Q. At the same location?

A. At the same location.

Q. Joseph James bought it from his mother on the 15th of June, 1959?

A. She held the legal title for him.

Q. This lease was made with Nellie Makin on the 24th of November, 1946. Is this lease for the same house that Joseph talked about?

A. Yes, sir.

Q. And had that house been rented constantly up until near the time of condemnation?

A. Yes, either before or after.

Q. How is that?

A. Before or after the condemnation. I guess she moved out when they put the sign on the building.

Q. Well, up until that time had this house been rented?

A. Yes.

Q. Was it situated along the Solomon Run Road?

A. It was, between Solomon Run Creek and the road, highway.

Q. Between the creek, Solomon Run, and the highway?

A. Yes, sir.

Q. Now, what would be the width of that place between the river, or the creek, and the highway, approximately?

A. You mean to the edge of the creek?

Q. Yes.

A. I would say about forty feet.

Q. Then if you had it surveyed to the edge of the highway compared to a survey to the edge of the creek, there would be a difference of forty feet in that survey?

A. Yes.

Q. Throughout the entire length of the property along the creek?

A. Well, the creek came to a bend and there were a lot of big hemlock trees, twenty some or eighteen, twenty four inches across the stump; they were high, they were right on the bank.

Q. Since you remember the location of the house and the creek or the run, was there any appreciable change in the location of the bank of that run next to the road?

A. No, because the roots of the trees kept it from eroding away.

Q. And it was a pretty narrow valley?

A. There were about twenty one trees there.

Q. It was a narrow valley?

A. Well, it was a high bank.

Q. In all of the years that you knew of this property

would you state whether or not the side of the bank of Solomon Run next to the building we are talking about changed any appreciable distance?

A. None of the trees fell over into the creek.

Q. My question is, was there any change, any appreciable change in the location of the bank?

A. No, there wasn't much of a change up there.

Q. Then that would be a strip about forty feet in width the entire length of the property between the highway and the stream?

A. Brick highway, yes, sir.

Q. The old Solomon Run road?

A. Yes.

Q. Do you believe from your experience in business that you are qualified to express an opinion as to the value of this tract of land owned by your son before the taking?

A. Yes, sir.

Q. And afterward and as affected thereby?

A. Yes.

#### CROSS EXAMINATION

BY MR. PEDUZZI:

Q. Clyde M. Cauffiel acquired title from the county in 1946, right?

A. From the County Commissioners I guess it was in June of '46, and she also had redemption title from Mildred James which is recorded of record.

Q. Well, according to the record I have she got title by deed from the county on July 8th, 1946.

A. Yes.

BY MR. HARKINS: Did you also find, Mr. Peduzzi, that she got a deed from this James woman just referred to in our deed?

BY MR. PEDUZZI: Well, that may be. What are you referring to, Mr. Harkins?

BY MR. HARKINS: If the Board please, this is a deed into claimant and it contains a recital of the deed into Mrs. Clyde M. Cauffiel, Trustee, being the same piece of ground conveyed to Clyde M. Cauffiel, Trustee, Vol. 682, page 543, and recorded on October 10th, 1956, being Property No. 50-0138, assessment records of Cambria County. Now, that's your tax title. And being the same as recorded the 15th of August, 1946, Deed Book Vol. 550, page 372, which Meade Cauffiel says is the title she got from Miss James, who was the record holder at the time she acquired it.

BY MR. PEDUZZI: I don't know, maybe I'm mixed up, but my deed with reference to the county deed is 550, page 372.

Q. Now, do you buy and sell properties, Mr. Cauffiel?

A. Yes, sir.

Q. You stated you are ready to make an appraisement of the fair market value of the property involved here before and after the condemnation?

A. Yes.

Q. In your appraisal are you willing to include the two and a half story frame house?

A. Yes, sir.

Q. Also, are you going to appraise the surface and the coal separately?

BY MR. HARKINS: Members of the Board I think that when I qualify a man as an expert the only proper cross-examination at that time is as to his qualifications, not what he's going to do.

BY MR. PEDUZZI: You are right, Ed.

BY MR. PEDUZZI: Now I won't question him any further.

RE-DIRECT EXAMINATION

BY MR. HARKINS:

Q. Mr. Cauffiel, what in your opinion was the fair market value of the tract of land in question owned by your son, Joseph James Cauffiel, immediately before the condemnation, which we say was on the 15th of May, 1961?

A. Well, figuring the value of the coal that will not be able to be taken out underneath the right-of-way . . . .

Q. Figuring everything, what's the fair market value?

A. And inability to remove any of the coal within three hundred feet of the right-of-way, I came to the conclusion that the total value of the property, timber and everything, was a total of \$26,500.00.

Q. And Mr. Cauffiel, what was the fair market value of this same property immediately after the condemnation and as affected by the condemnation?

A. Well, it wasn't marketable.

Q. No, just the answer to my question, please.

A. After the right-of-way is taken off and the value of the coal under it, it would be worth about \$6,000.00. There would be about three acres left on top of the hill.

Q. Then in your opinion the actual damages of this taking was \$20,500.00?

A. Yes, sir.

RE-CROSS EXAMINATION

BY MR. PEDUZZI:

Q. Now, in your appraisal did you take into consideration that two and a half story frame house?

A. Yes, sir, also the septic tank and water line.

Q. How about your coal appraisalment, what seams of

coal, and what areas?

A. Well, I took the area of 3.22 on the "C" coal, which is owned by the surface owner, and the "A" coal, which is owned by the surface owner, and a very small portion of the outcrop of the "C Prime" coal, which is far less than an acre.

Q. Was it the "A" or the "A Prime" coal that you took into consideration?

A. The Brookville.

Q. What's that?

A. That's six foot South Fork. According to the U.S. Geological Survey . . . . .

Q. Well, was it the "A Prime" coal or the "A" coal?

A. It's the "A" coal. At this point there's a raycline comes in about six or seven hundred feet in this property, and that's where the coal runs over in the Johnstown basin and into the Wilmore basin, all seams, and they're very close together. Now, the "E" coal, top seam, and the "B" coal and the "C Prime", are above the roadway, but they will not be able to be mined after they take right-of- way.

BY MR. HARKINS:

Q. When you say the roadway, you mean the old roadway?

A. The old roadway, or new roadway, because the back end of the property is within three hundred feet of the edge of your right-of-way and according to the mine regulations you can't drill a gas well or open up a mine within, on page 216, -- a man really doesn't own anything within three hundred feet of a right-of-way of the state highway; it shall be the duty of any person, co-partnership, association or corporation; mining or quarrying or about to mine or quarry under any state highway or within three hundred feet, horizontally from the center line of any state highway projected downward, vertically, to notify the department and to furnish copies of maps, drawings or blue-prints and such other information as may be reasonably

required by the secretary. And this is under the Act of -- No. 428, approved June 1, 1945, Pennsylvania Laws, 1242, relative to state highways, subsidence and failure of vertical or lateral support.

BY MR. PEDUZZI:

Q. Now, did you include any coal directly underneath the surface of the highway, of the proposed highway?

A. I included the "C" coal, not the "B"; the "B" is not owned by him.

Q. You did not answer my question.

A. I am answering. I included the "C" coal and the "A" coal, not the "B" coal.

Q. Well, I asked you, did you include in your acreage of coal all the coal that's lying directly underneath the proposed highway?

A. All that he owned, not the one seam that was sold.

Q. All that he owned?

A. Lying underneath the proposed highway. I figured eight feet . . . . .

Q. Do you know whether or not there are any operating mines in this area that produce "A" or "A Prime" coal?

A. Yes, sir. There's one at South Fork, strip, within the last year.

Q. Do you know what district, what mining district you are in?

A. This is Richland Township.

Q. Yes, but what mining district?

A. Do you want a geological answer, or do you want a United Mine Workers answer?

Q. Inspection district?

A. I don't know the inspection district but I do know it's in the Wilmore basin.

Q. In the Wilmore basin?

A. Yes.

BY MR. HARKINS:

Q. And how far from South Fork by a direct line?

A. I would say about three and a half miles. The "A" seam was opened right above Mineral Point.

Q. Is that closer to this than South Fork?

A. Yes.

Q. By how many miles?

A. About a mile.

BY MR. PEDUZZI:

Q. Do you know how much was paid for this entire property to the county by Clyde M. Cauffiel?

BY MR. HARKINS: That is objected to. The price paid is never admissible in evidence.

BY MR. PEDUZZI: It sure is.

BY MR. HARKINS: If you're questioning the owner, yes.

BY MR. PEDUZZI: Well, Clyde M. Cauffiel bought it from the county as trustee for the present owner.

BY MR. HARKINS: And the price paid is not admissible.

BY MR. PEDUZZI: And I say the price she paid is admissible because she bought it as trustee for Joseph James Cauffiel, and subsequently deeded it to him. It's the same -- she bought it as a fiduciary for him.

BY MR. HARKINS: The question is objected to for the reason that this man is an expert witness/<sup>and is called</sup>in order to give an expert opinion.

BY THE CHAIRMAN: We're going to sustain the objection, Mr. Peduzzi, and not permit that.

BY MR. PEDUZZI: The price paid for the property is permissible, properly admissible in evidence, and I am saying that Clyde Cauffiel bought that property from the county as trustee for Joseph James Cauffiel, and in effect it is Joseph James Cauffiel that bought that property.

BY THE CHAIRMAN: Well, it wouldn't make any difference as far as the Board is concerned whether the trustee purchased the property or whether Joseph James Cauffiel bought it initially by himself. My position, and the position of the board is the same, that we will permit you to offer the deed in evidence to show title, but we wouldn't permit you to put into evidence the consideration paid. We will note you an exception, Mr. Peduzzi.

BY MR. PEDUZZI:

Q. Do you know, Mr. Cauffiel, how much coal is in the property taken?

A. You mean just the 3.22 acres, you're talking about, that's underneath your right-of-way? I'm not talking about the seams above the road, except for about .3 or 2.3 of an acre of "C" Prime coal which has been taken out, which was left there as outcrop.

Q. Is there, or was there any coal mined, any of the "C" coal mined prior to this time?

A. The "C Prime" coal was mined within a hundred feet of the highway, was supposed to have been mined. We mined coal for Moxham right up against this property.

Q. Well, your estimate of damages, Mr. Cauffiel, is based on the fact that there is coal there?

A. That's right, underneath the highway.

Q. Well, is there any coal there?

A. Yes, sir.

Q. How do you determine that?

A. Well, I'll determine it with the United States Geological Survey.

Q. What's the date of it?

A. This is dated 1910.

Q. Well, this is 1963.

A. That's right, but the geological formations are not changed within a thousand years.

Q. That is correct, but people do mine coal.

A. There was no coal mined except the "B" coal which was sold to Berwind White.

Q. There was mining of the "C Prime"?

A. There was never any "A" coal sold underneath this property, never any "C" coal, and there was "C Prime" mined, and there was "E" coal on top and "D" coal.

Q. Well, have you made any borings or tests to determine whether there is any coal in that area to which you testified?

A. Well, I have been in the mine right across, it belonged to a man by the name of . . . . .

Q. That won't do.

A. No, but I'm just giving you the exact thickness of the coal.

Q. That does not give me the exact thickness of your coal.

BY THE CHAIRMAN: We have a problem here. Try to answer the question by yes or no. Let us have the last question that was asked.

BY THE REPORTER: Have you made any borings or tests to determine whether there is any coal in that area to which you testified?

BY THE CHAIRMAN: Now, you can answer that question by a yes or no answer, I feel certain.

A. Well, there are -- if you have been in the seams of coal in the mines adjoining this property in your lifetime . . . . .

Q. That does not answer the question. The question calls for a yes or no answer.

A. Well, there are - . . . . .

BY MR. HARKINS: Answer no to that question.

BY THE CHAIRMAN:

Q. Mr. Cauffiel . . . . .

A. "C" coal . . . . .

BY MR. HARKINS:

Q. He asked you if you made any borings . . . . .

BY THE CHAIRMAN:

Q. Just a minute, please. Mr. Cauffiel . . . . .

A. I have never made any test borings.

BY MR. PEDUZZI:

Q. Then you don't know what coal there is there?

A. I know from the record what has not been sold.

BY THE CHAIRMAN:

You have got him to admit that he didn't make any borings, and the record is replete with his knowledge that the coal is there for the reason he says he knows it's there.

BY MR. PEDUZZI:

I am going to place an objection on the record as to his testimony relative to the before and after valuations on this particular property with respect to the surface and also the coal. First of all, he took into consideration the two and a half story frame house, which we contend has been condemned/prior condemnation on May 28th, 1946, at which time the county owned that particular tract of land. Secondly, as to the coal, nothing has been established here to show whether there is any coal in the various seams to which he has testified, other than the fact that he has personal knowledge and has examined some records.

BY THE CHAIRMAN:

We will note your exception and objection to this testimony, Mr. Peduzzi.

BY MR. PEDUZZI:

Another thing too, if the Board please, under the act of

assembly this Board has no jurisdiction to determine and ascertain damages for support coal underlying the highway.

BY THE CHAIRMAN: Mr. Peduzzi, in that direction, I will point out at the proper time you will submit your memorandum by way of an exhibit so that we can get that on the record.

BY MR. PEDUZZI: That's right.

BY THE CHAIRMAN:

Q. I have one question. Mr. Cauffie, I would just like to keep this down to one question and one answer, if I may. My understanding now is that in your arriving at the figure as to the value of this property prior to the taking and the value of the property immediately after and as affected by the taking by the Commonwealth of Pennsylvania, Department of Highways, that you consider there was coal there and that you in effect consider that there was "C" coal and you consider 3.22 acres?

A. That's right.

Q. And you considered there was "A" coal and you considered there was 3.22 acres of "A" coal?

A. Yes.

Q. And you considered there was "C Prime" coal and you only considered there was slightly less than one acre of "C Prime" coal?

A. Yes.

Q. That is all the coal that you took into consideration in arriving at the figure you arrived at?

A. That's right.

#### RE-DIRECT EXAMINATION

BY MR. HARKINS:

Q. Mr. Cauffiel, were you in a mine where the "C" coal was being mined from property adjacent to the property owned by your son?

A. I have been in, yes.

Q. You were actually there yourself?

A. Yes.

Q. Was there "C" coal there?

A. "C" coal there.

Q. And how far up towards this property did you see that coal?

A. I saw it in the Heidingsfelder property/

Q. And where is it in reference to this property?

A. It was right along the creek. He had a mine right below this property.

Q. And how close were you inside of the mine to the line of your son's property?

A. I went up right in back of this property and I have been right to the line.

Q. To the line?

A- Barrier wall.

Q. There was "C" Prime coal being mined right next to this property of your son?

A. Yes, sir.

Q. Then in addition to that was there any mining operation of any "C Prime" coal or "C" coal?

A. There was.

Q. Where at?

A. Within a hundred feet of the highway. It was mined out in back of the "C Prime", the back end of this property.

Q. Then there was some left in there?

A. That's why I only allowed less than an acre for the "C Prime" seam.

Q. And you know that there was coal there in that particular part of the land?

A. Yes, sir.

Q. And you know that you saw coal right up to the edge of

this property in that mining operation?

A. If you go out there you'll see the three seams . . . . .

Q. No, please; you saw the coal right up to the edge of this property?

A. Yes.

Q. That was "C" coal?

A. Yes.

Q. And that's the same coal you say underlies this property in the area taken?

A. That's right. It has never been mined.

Q. And you have your information from the Geological Survey that you furnished the board at the other hearing?

A. Yes, sir.

Q. Do you have it here today?

A. Yes.

Q. Now, can you actually see one of these veins of coal in the hillside where the highway department contractor has cut away from the surface?

A. You can see the "C Prime", the "B" and the "E".

Q. But you're not allowing anything for the "B" or "E"?

A. That's right.

Q. You're only taking into account the "C" and the "A" and a small portion of the "CPrime"?

A. That's right.

Q. Now, was this house occupied by a tenant during all of the time your wife owned it?

A. Yes.

Q. And prior to that time?

A. Well, . . . . .

Q. If you know?

A. I don't know.

Q. All right. Did this house have electric lights?

A. It was wired for electricity.

Q. Did it have water service?

A. It had an inch and a half water line, coming down over the hill.

Q. And did it have sewage facilities?

A. It had a septic tank.

Q. Did you take into account in your valuations before and after the timber on the land taken?

A. I accounted for twenty one saw -- hemlock trees, saw timber.

Q. How big were they?

A. Anything from sixteen inches to twenty four.

RE-CROSS EXAMINATION

BY MR. PEDUZZI:

I want to make objection for the record that his testimony relative to the adjacent mine on the Heidingsfelder property -- I don't think it has anything to do with any coal in this particular property; it is still no proof of the fact that coal exists and how much of it exists.

BY THE CHAIRMAN: Mr. Harkins, you merely offered that to show that this type coal was in the area. You're not offering it to show . . . . .

BY MR. HARKINS: I'm offering it to show that there was "C" coal underneath this land because anybody who was born and raised in a coal area knows that normally a coal vein will run up to its adjacent property and keeps on going until it runs into an outcrop, and certainly that is proof there is coal in there.

BY MR. PEDUZZI: That "C Prime" coal could just as well peter out in this particular property -- the "C" coal, rather, and can fade out in this particular property as well as any place else.

BY THE CHAIRMAN: The board will note your objection and

give it the proper weight at the proper time.

BY MR. HARKINS: And, members of the board, if I may I would like to ask Mr. Peduzzi to state on the record whether or not the plan approved by the Governor, as he states, on May 28th, 1946, was ever recorded in the office for the recording of deeds in Ebensburg, Pennsylvania?

BY MR. PEDUZZI: No, it was not.

BY MR. HARKINS: Now, with respect to his objection, I offer at this time the opinion of the Supreme Court of Pennsylvania in the case of Strong Appeal, being a similar case, where the Commonwealth claimed on Bedford Street Highway, at former condemnation, and the Supreme Court held that the condemnation, alleged condemnation of 1924 was invalid because it failed to secure or give payment as required by the constitution and failed to give notice in accordance with the Act of 1911, and that unless and until the plan was recorded in the office of the Recorder of Deeds in Cambria County, there was no condemnation until the actual moving on the ground, and our contention is that the Plan of 1946 not having been recorded, did not constitute a condemnation, but the condemnation was on the 15th of May, 1961, when the Governor approved the present plan under which they are operating, and after which the contractors went on the ground and actually took it.

BY THE CHAIRMAN: The board is aware of that too, Mr. Harkins.

BY MR. PEDUZZI: May I state for the record that that Strong Appeal has absolutely no application in this particular case, that the county at the time of the condemnation of May 28th, 1946, was the owner of this particular land, and the county conveyed to Clyde Cauffiel as trustee no

right to damages that I can see.

BY THE CHAIRMAN: You distinguish this case, Mr. Peduzzi, as I understand your position, for the simple reason that the county was the owner in question, therefore, it would have been needless to give the county notice.

BY MR. PEDUZZI: I think I have also offered in evidence at the prior hearing a certified copy of the resolution of the county showing that they had approved those plans and that they have accepted the responsibility for the damages, so the county would not naturally pay damages to themselves.

BY THE CHAIRMAN: We understand your position, Mr. Peduzzi.

ROBERT P. REED, Called, Sworn.

DIRECT EXAMINATION

BY MR. HARKINS:

Q. Your full name, please?

A. Robert P. Reed.

Q. Where do you live?

A. Luray Hotel, Johnstown.

Q. How long have you been living in this area?

A. Oh, thirty one or thirty two years.

Q. What is your business or profession?

A. Mining engineer, and I have been coal operator, coal broker.

Q. Graduate of any school?

A. Yes.

Q. What?

A. Carnegie Tech.

Q. Engineering?

A. Yes, sir.

Q. Mining engineer?

A. Yes, sir.

Q. Are you familiar with the land in question in this case?

A. Somewhat, yes.

Q. Have you heard the testimony of the two witnesses who preceded you?

A. Beg pardon?

Q. Have you heard the testimony of the two witnesses that preceded you?

A. Yes, sir.

Q. Have you seen the location on the ground?

A. Yes, sir.

Q. Was it true that you could see an outcrop of coal where the contractor has cut away part of this land?

A. Yes, sir.

Q. What is that vein?

A. Well, I'm not too certain, but I think it's the "C Prime".

Q. "C Prime"?

A. Yes.

Q. Then are you familiar with the coal structures in the area in question?

A. No, sir.

Q. Do you know whether or not the "C" coal is below the "C Prime"?

A. Yes, it is.

Q. Well, then, do you know where the "C Prime" is because you can see it in the outcrop?

A. Yes.

Q. And the "C" is below that?

A. Correct.

Q. Is there an "A" coal below the "C"?

A. I'm not too familiar with that.

Q. You are not?

A. No.

Q. Is there any sign of operation in the area of the "C Prime" coal?

A. Well, if they mined across the hollow, across this little ravine, was in the "C", that would indicate the "C" had been mined.

Q. That would not be on this property?

A. No.

Q. Is it true that if you were in a coal mine where the "C" vein is being mined right up to the edge of this property on another man's land, that you would, as an engineer, consider that that coal would extend underneath . . . . .

A. Well, you would determine that -- I would -- by drilling, if there was any question. There could be a fault.

Q. There could be, but normally would it extend on this land?

A. That's right.

Q. But to be absolutely accurate you would drill?

A. Oh, yes.

Q. But is this true, Mr. Reed, that in this coal area, when they were mining coal you didn't -- if you knew you had a coal opening you kept on going whether you had drill holes or not, didn't you?

A. Yes, sure.

Q. And normally that coal at varying thicknesses would continue until it came to an outcrop?

A. That's right.

Q. And that would be the same rule -- that same rule would apply in this particular area?

A. I would say yes.

Q. Do you know the quality of the "C Prime" in that area?

A. I do not know, no, sir.

Q. Is it a merchantable coal?

A. I would say yes, it is merchantable.

Q. Would the "C" coal be of a merchantable quality?

A. Yes. I would say yes.

Q. And what is the average royalty for "C" coal in the

area in question?

A. Well, small operations, it could be anywhere from fifteen to thirty five cents.

Q. Per ton?

A. Yes, sir.

Q. That's on a royalty basis?

A. Correct.

Q. Now, is there any way that you would have to -- is it possible to determine how many tons of coal are in a given area judging from the thickness of the vein?

A. Oh, yes, you could figure that.

Q. And in this case do you have any way of determining what the gross tonnage of that coal would be in an area of 3.22 acres?

A. Oh, well, how thick would the seam be?

May I recall Mr. Cauffiel, Sr. for one question only?

BY MR. HARKINS: Mr. Cauffiel, what thickness did you testify to the "C" coal?

BY MEADE CAUFFIEL: I estimated eight foot of recoverable coal.

BY MR. HARKINS: How much?

BY MEADE CAUFFIEL: 3.8 or 4.2.

BY MR. PEDUZZI: I object to the estimate. This is purely an estimate.

BY THE CHAIRMAN: We are going to overrule the objection and take it.

BY MR. HARKINS:

Q. You may answer, Mr. Reed?

A. Well, a very rough estimate would be, on eight feet, say eight thousand tons to the acre, three acres . . . . .

Q. 3.22 acres by a thousand would be . . . . .

A. That's certainly far from being accurate, but a rough estimate.

Q. Well, Mr. Reed, as an engineer, and as a coal operator, can you in operating a mine or judging a mine, can you tell before you get to it whether there's a fault in there?

A. Only by drilling.

Q. But is it customary to drill every foot of the way in a coal operation?

A. Well, that depends on the operator.

Q. You mean every foot of the way?

A. Not every foot, no, no, oh, no, every four or five hundred feet or something like that.

Q. Now, . . . . .

A. More for your ~~maxi~~ elevations than for your coal thickness.

Q. According to your statement you estimate one thousand tons per acre and for 3.22 acres, that would be a total of . . .

BY MR. GIBSON: He testified to eight thousand tons to the acre, figuring on an eight foot seam of coal.

BY MR. HARKINS:

Q. And if we would multiply that times 3.22 acres we would get . . . . .

A. Between twenty four thousand . . . . .

Q. 25,760 tons?

A. Yes.

Q. You say the "C" coal in that area should have a market value of approximately thirty five cents a ton royalty?

A. Fifteen to thirty five.

CROSS EXAMINATION

BY MR. PEDUZZI: I have no questions.

JOSEPH JAMES CAUFFIEL, Recalled.

DIRECT EXAMINATION

BY MR. HARKINS:

Q. Mr. Cauffiel, what in your opinion was the fair market value

of the entire tract of land in question before the condemnation which we claim was on May 15th, 1961?

A. \$10,000.00 is the price that I could easily have sold the property for.

Q. At that time?

A. At that time.

Q. In your opinion, then, is \$10,000.00 the market value of this property immediately before the taking?

A. Yes.

Q. And what in your opinion was the fair market value of this same property immediately after the taking and as affected by the taking?

A. \$3,000.00.

Q. Then you claim the damages to your property by reason of this taking was how many dollars?

A. \$7,000.00.

#### CROSS EXAMINATION

BY MR. PEDUZZI:

Q. \$10,000.00 for seven acres? In that particular area?

A. For seven acres?

Q. Yes.

A. Yes, sir.

Q. Over one thousand dollars an acre?

A. Yes, sir.

Q. No improvements? Just wild land?

A. What? There's the house.

Q. Well, I know the house, but . . . . .

A. Can I refer to some other sales in the area?

BY MR. HARKINS: Yes, go ahead.

BY MR. PEDUZZI:

Q. Properties that are comparable, providing they are comparable.

A. I believe your appraiser at the prior hearing used a property in the same area that sold for two thousand dollars an acre. It was comparable ground, no improvements as you said.

Q. Yes, but what kind of ground was it? Was it farm land?

A. Partly, yes.

Q. Do you consider this farm land?

A. Yes, the area. On my property I have over eleven hundred feet of frontage, frontage on both sides of the highway. Now, I don't have -- I actually don't have frontage at all because remaining property is inaccessible because of the cut.

Q. Well, that may be, I am just questioning your valuation prior to the taking.

A. Over one thousand dollars an acre.

BY MR. HARKINS: RE-DIRECT EXAMINATION

Q. Mr. Cauffiel, this is a rather narrow valley down through Solomon Run?

A. Yes.

Q. And are there houses built along that valley on both sides of the Solomon Run up above your property and in towards Johnstown?

A. Above and below.

Q. Above and below?

A. Yes.

Q. Was there enough room between the old Solomon Run Road and the Solomon Run on your property to build houses all along the frontage you had there?

A. Yes. There was a house built there.

Q. Was there room for other houses?

A. Yes.

Q. You had how many feet?

A. Approximately five hundred and forty some feet on both sides of the road.

Q. Five hundred and forty on one side of the road?

A. Yes.

Q. And you had frontage on the other side of the road?

A. Same amount.

Q. And houses could have been built there?

A. On part of them, yes.

Q. There are houses on both sides of Solomon Run Road inbound from your property?

A. And outbound.

Q. And outbound?

A. Yes.

Q. Now, that you say you have lost. Have you lost all of your property on which side of Solomon Run Road? Is it what we call it the creek side?

A. Yes. I had a property that was divided by the old road, and I have a property, all on one side of the new road.

Q. Everything on that side of the road is taken by this condemnation?

A. Yes.

Q. Now, on the other side, the hillside of Solomon Run Road, you say that your property will not be accessible to this highway by reason of this condemnation?

A. Well, it won't be accessible to the main highway because it's a limited access highway. However, there is a service road, service road No. 3. The entrance will be to the side of my property but it won't be accessible to vehicles because of the cut in the bank.

Q. In other words, your entire remaining part of that land is cut off from the highway?

A. Yes. My only access in there now is to get an easement or right-of-way from Mr. Berkey.

Q. You mean an adjoining owner?

A. An adjoining owner.

Q. I want to understand you clearly. All of your land on the creek side of the old Solomon Run Road has been taken by this condemnation?

A. Yes, sir.

Q. And on the other side of the road the remaining property is not accessible to the big highway because it's a limited access?

A. Yes.

Q. And you say that this service road will not be accessible to your remaining land because there's a big high bank that would prevent you from getting . . . .

A. It won't be accessible by vehicle.

Q. It won't be accessible by vehicle, people on goats maybe, but people in vehicles, no? Is that right?

A. That's right.

Q. And therefore, if you're going to use this remaining 4.28 acres of your land, to have access to it, to get in and out by vehicle, you're going to have to acquire an easement or right-of-way from some adjoining owner?

A. Yes, sir.

#### RE-CROSS EXAMINATION

BY MR. PEDUZZI:

Q. One side of your land is mostly hillside, is it not, as it stands -- as it was before?

A. No, there's quite a few acres on top; they're flat.

Q. On top of the hillside?

A. Yes.

Q. Aren't they still there?

A. Yes, but we can't get to them.

Q. How about that service road, do you have access to it?

A. That's what we're just discussing, the cut, the service road will be so steep it will be inaccessible by vehicle.

BY MR. HARKINS: Claimant Rests.

BY THE CHAIRMAN: Now, Mr. Peduzzi, before you get started, will you be good enough to get on record this memorandum you submitted to the board at an earlier date?

BY MR. PEDUZZI: At this time, if the board please, I have submitted, after the prior hearing in this matter, a memorandum in support of the Commonwealth's position.

BY THE CHAIRMAN: I want to get that on record, the fact that he has submitted a memorandum to the board, Mr. Harkins.

BY MR. HARKINS: I have no objection to what you want on the record, but I don't want it admitted as accepting proof of anything.

BY MR. PEDUZZI: No, no, that's my position, no proof of anything.

BY THE CHAIRMAN: A copy of which was given to Mr. Harkins.

BY MR. PEDUZZI: Yes, a copy of which was given to Mr. Harkins, and I would like to offer it in evidence as to place on record the Commonwealth's position in this matter.

BY THE CHAIRMAN: It will be admitted for that purpose only.

BY MR. HARKINS: No objection.

JOHN FOREMAN, Called, Sworn.

DIRECT EXAMINATION

BY MR. PEDUZZI:

Q. What is your name, please?

A. John Foreman.

Q. Where do you live?

A. I live in Altoona, sir.

Q. What is your occupation?

A. A registered professional mining engineer.

Q. What school did you graduate from?

A. I graduated from Penn State.

Q. When?

A. In 1948.

Q. Have you been in the mining engineers since that time?

A. I have, sir.

Q. By whom have you been employed?

A. I have been employed by Eastern Gas and Fuel, by Bethlehem Mines Corporation, by the Garfield Refractories Corporation, and now by Gwin Engineers.

Q. You are with them right now?

A. Yes, sir.

BY MR. PEDUZZI: Any question as to his qualifications?

BY MR. HARKINS: As what?

BY MR. PEDUZZI: As a mining engineer.

BY MR. HARKINS: No. He said he was a graduate of Penn State.

BY MR. PEDUZZI:

Q. Now, Mr. Foreman, are you familiar with the Cauffiel property that is in question at the present time?

A. Yes, sir.

Q. And have you made any examination of the mine records and maps relative to the various seams of coal underlying that property?

A. Yes, sir, I have. The "B" seam, which is owned by the Wilmore Coal Company and mined by the Berwind White Company, as can be seen by the Berwind White Mining map, the property is in the approximate middle of this area, for all intents and purposes the "B" seam is completely mined out.

BY MR. HARKINS: We have no claim for the "B" seam of coal because it is excepted in our chain of title.

BY MR. PEDUZZI: That is right. I concede that, Eddie, but we introduce that for another purpose, which I'll bring out.

Q. Now, in relation to the "B" seam of coal, Mr. Foreman, where is the "A" seam and "A Prime" seam?

BY MR. HARKINS: Which is it, the "A" or "A Prime"?

BY MR. PEDUZZI: Either one or both.

A. In normal sequence, the acquiring of the "A Prime" should be below the "B", then the "A" should be below that. In our work in that area, we drilled several holes, about two hundred to be exact, for the highway and for the purpose of coal investigation. In this particular area, I went down to try to determine -- we did not go too much below the "B" to determine whether there was "A" or "A Prime" in this particular area, but I would like . . .

BY MR. HARKINS:

Q. Did you drill any drill holes in the Cauffiel property?

A. Yes, sir.

Q. Did you go below the "B" seam?

A. Not below the "B" seam, no sir.

BY MR. HARKINS: I object to anything about drill holes below the "B" seam of coal on the Cauffiel property.

BY THE CHAIRMAN: We will sustain the objection.

BY MR. PEDUZZI:

Q. Now, where did you make any drill holes?

A. We made drill hole, No. 55 A on their property line. That hole was drilled for the purpose of determining the elevation of the "C Prime" coal. We determined the elevation of the "C Prime" coal; however, the "C Prime" coal was mined out, as is evidenced by the drill. We found nothing but small voids going down until we hit solid rock formation down at the bottom of the elevation where we estimated the "C Prime" coal to be. On hole No. 62 . . . .

BY MR. HARKINS:

Q. May I ask how far that is from the Cauffiel property?

A. You certainly may. That is two hundred and ten feet from the Cauffiel property line.

BY MR. HARKINS: We object to any testimony of this drill hole No. 62 because, according to Mr. Peduzzi's theory, we might have coal right up against that property line and not have coal on the other side of it.

BY THE CHAIRMAN: We will overrule your objection because according to your theory that is one place it has to be there.

A. With that hole 62, it indicated 3.8 feet of coal.

Q. In the "C Prime"?

A. In the "C Prime".

Q. 3.8 thick?

A. Yes, 3.8 thick. Now, on the lower side of the property, we drilled another hole, which is 55 B . . . . .

BY THE CHAIRMAN:

Q. This is on the property?

A. No. I will give you the distance here again, about a hundred and forty five feet from the property line, hole 55-B. Now in that hole, I carried the hole down through the "B" seam, and in that hole we had 3 feet of "C Prime" coal. We had no "C" coal whatsoever. We had a trace of bone where the "C" coal should have been, but that was all. Then we hit mine voids again down in the "B" seam area.

BY MR. PEDUZZI:

Q. So that is the pattern of the "C" coal, is it?

A. The "C" coal I have established on the coal profile, "C", which comes in and out of there, I have found in this general area, within several hundred feet of this place, "C" coal up to possibly .8 to .9 of a foot from there down to nothing, to nothing of

any minable quality or quantity.

BY MEMBER LOCHER:

Q. John, you mentioned the "C Prime" coal was mined out in drill hole 55-A. That hole was on the Cauffiel property?

A. Yes.

Q. Just where on the property is that?

A. It's on the property line.

Q. Dividing what?

A. May I show you on the print?

Q. Yes.

A. It's on the service road.

BY MR. PEDUZZI:

Q. Is that at station 17 + 25?

A. Yes.

BY MR. HARKINS:

Q. That isn't on the property.

A. Right on the property line.

BY MEMBER LOCHER:

Q. The reason I mentioned that, you testified here your drill hole shows it was mined out. Now, what I would like to know is, what about over here?

A. The "C Prime"?

Q. Yes.

A. Well, the "C Prime", there was 3 foot of coal here and 3.8 over here.

BY MR. HARKINS:

Q. Mined out on the adjacent property?

A. Yes.

BY MEMBER LOCHER:

Q. This word on the record, to say the coal was mined out, is very bad. It indicates that maybe this was mined out. That's what I want to know, whether this coal was mined out or not in

here.

A. Other than what I got from the Wilmore Coal, and they do show mining in that area.

Q. In the "C Prime"?

A. Yes, in the "C Prime".

BY MR. GIBSON:

Q. How far from the outcrop is that coal?

A. Not too far. I would say forty or forty five feet, something like that.

BY MR. PEDUZZI:

Q. Mr. Foreman, have you compiled a map showing the "C Prime" seam of coal in that area?

A. I have, sir.

Q. From your drill holes, from maps of the . . . . .

A. Berwind White and Wilmore Coal Company.

Q. Is that the map that you compiled?

A. This is the map I compiled.

BY MR. GIBSON:

Q. Is that "C Prime"?

A. That's "C Prime", yes, sir.

BY MR. HARKINS:

Q. Is this "C Prime" marked here?

A. Yes.

BY MEMBER LOCHER:

Q. This map, you say, shows mining on the Cauffiel property of the "C Prime"?

A. Yes.

BY MR. HARKINS:

Q. What is that again?

A. This map shows the mining records I got from the Berwind White and Wilmore Coal Company of mining in the Cauffiel property in the "C Prime" seam.

BY MR. HARKINS:

Q. This map would show to the board the part that's mined out and the part that's not mined out?

A. In essence; it's very sketchy.

BY THE CHAIRMAN:

Q. On this map, the area shaded in orange reflects the area taken by the Commonwealth of Pennsylvania, Department of Highways?

A. Yes.

BY MEMBER LOCHER: Of course there was some mining done, dotted lines and so forth here, places started here, no faces shown -- well, it doesn't give us, it doesn't show anything mined out along the crop. It shows an entry going in; now that might have gone clear out here and it might have gone in a hundred feet and stopped. There's nothing definite right now in my mind whether there's coal in there or how much or anything.

A. Well, our position is we are going to concede there is coal from here to here, "C Prime". We are going to say that that area amounts to .87 of an acre and the Commonwealth is stating that we are going to acquire that coal.

BY MR. HARKINS:

Q. At what depth, thickness?

A. 3.6 feet.

Q. 3.6 feet thick within the yellow area and the Commonwealth is taking that?

A. That's right.

BY MR. PEDUZZI:

Q. But, Mr. Foreman, that coal within the yellow area on the map is what is known as support coal for the highway, is that correct?

A. No, not this coal. This is not support coal. This is coal which is for the most part -- I made a brief report I would

like to read into the record, the deposition of this coal as to elevation. This coal will vary for about ten feet below the proposed grade of service road at station 17 + to about 10 feet above the grade at station 22+. The affected area consists of .87 acres as shown accompanying "C Prime" plan. I have now been going through -- I might as well give you the estimate that I had determined for the value of this coal. The average "C Prime" seam thickness is 3.6 feet. I used an estimate of 1700 tons per foot acres, and 3.6 feet would amount to 5320 tons, and I used a value of ten cents a ton in place, or a total value of \$532.00. I might say that this coal, being along the outcrop, would not have much of a possibility of being deep mined to any great extent, and it would have to have been probably strip mined. Now, before the condemnation, at the old location of 11012, there was practically no room to handle any spoil area. Therefore, it had very little possibility -- there is a possibility it could have been stripped, but it probably would not have been an economical procedure. You would have had to carry all the spoil away.

BY MEMBER LOCHER:

Q. Now, that area is .87 acres?

A. Yes.

BY MR. HARKINS: Does this exhibit have a number or anything?

BY THE CHAIRMAN: Commonwealth's Exhibit No. 3.

BY MEMBER LOCHER:

Q. Now, you say, Mr. Foreman, from all your information there is no "C" coal?

A. That's right, sir.

Q. What about the "A"?

BY MR. HARKINS: From all this information it is a very,

very vague question. I object to it.

A. As far as I have discussed now, it has been the "B", the "C" and the "C Prime".

BY MR. HARKINS: May I cross-examine him as to those?

BY THE CHAIRMAN: Yes.

CROSS EXAMINATION BY MR. HARKINS:

Q. You understand that the claimant is making no claim for "B" coal because it is excepted from his deed?

A. That's right.

Q. I understand that your drill holes stopped when you got down through the "B" coal?

A. Yes, sir.

Q. I understand that you have stated that this area marked in orange on the Exhibit No. 3 has an acreage of .87 of an acre?

A. Yes.

Q. And in your opinion the coal would average 3.6 feet in thickness?

A. Yes, sir.

Q. And there is coal there, you agree to that?

A. There is, yes, coal; to what extent I'm not sure.

Q. Well, you estimated 1700 tons to the acre?

A. To the foot acre. That is standard procedure.

Q. All right, but it is there. Why do you back up when I say to you . . . . .

A. I didn't back up.

Q. I thought you did.

A. No, no, no, heaven's no.

Q. Now, will you hold this so that the board can see it and tell me if this outline in blue is the Cauffiel land?

A. That's right, sir.

Q. Show me where your drill hole No. 55-A is?

A. 55-A is right here, sir.

Q. Right on the line?

A. Yes.

Q. That means that if this is mined out to the line that could be the mine that Cauffiel, Sr. said he was in and saw the coal right up to the line?

A. No doubt.

Q. Right. Now then, you drilled hole No. 62 -- 52-A . . . .

A. 55-B.

Q. That's down to the other direction beyond this?

A. That's right.

Q. There's coal in this "C Prime" vein at this drill hole, and also at the other drill hole?

A. Not this one, sir.

Q. It's mined out up there?

A. Yes, at this one.

Q. But you're admitting, apparently, according to the nature of things, that would prove that there would be coal in there?

A. I would say. That close to the outcrop you couldn't hold the roof to do any kind of extensive deep mining under it.

Q. Now, if this is the outcrop of the "C Prime", where would the "E" vein be?

A. The "E" seam would be above it.

Q. Higher in elevation?

A. That's right.

Q. And back farther in the hill?

A. That's right.

Q. And the "D" would be below that?

A. Between the "C Prime" and the "B".

Q. And the only workings that you have shown here are these

dotted areas and so far as you can tell there is coal everywhere except where it was worked out?

A. Yes.

Q. In other words, the nature of coal is that if you have coal at this part of the property and you go up there a thousand feet you have coal up at that edge of the property, you possibly have the same kind of coal in between?

A. That's absolutely right.

Q. Mr. Foreman, may I have you hold this (map) again? Now, when you drilled this hole on the edge of the Cauffiel property,

.....

A. 55-A.

Q. 55-A, you didn't go down to the "C" coal?

A. No, not 55, to the "C Prime".

Q. You didn't go down to the "C" coal?

A. No, sir.

Q. That wouldn't prove anything about the "C" coal there?

A. No, that's right. Some of these other holes here we went down through.

Q. When you drilled this 55-B you didn't go down to -- you did go down to the "C"?

A. We went down below the "B", went down through where the "C" should have been.

Q. But if it is mined out down here at 55-B it don't mean it's mined out at the Cauffiel property?

A. Well, it's not mined out 55-B. There's no coal there.

Q. That wouldn't mean there wouldn't be coal in the Cauffiel property?

A. No, sir, but I think I can through further testimony clear that up.

Q. Would you say that this "C Prime" coal in that area is a marketable coal?

A. It's a very marketable coal.

Q. One of the best in this area?

A. That's right.

Q. Now, if there is "C" coal underneath this Cauffiel land that is likewise a marketable coal?

A. Not too much so. It is not as good as the "C Prime" or the "B". The "B" and "C Prime" are your two leading coals in the area, and possibly your "E" is next.

Q. But the "C" coal is marketable?

A. Where you have thickness to mine it, yes, and where you have quality. The thickness and quality varies through this field. It is not a persistent seam, as the "B" and the "C Prime." The consistency is -- well, as I say there are over two hundred drill holes and we missed the "C" practically every place we went to find it, except below where the "C" did come in to some thickness. But in this area we didn't find anything more than about a foot thick.

Q. Now, if the highway department had wanted you to drill holes on this Cauffiel property there was nothing to prevent it, is there?

A. No, sir. But may I state this . . . . .

Q. No, tell me this, please. Why, when you were out looking for coal on the Cauffiel property did you drill the one hole on the very edge of the property line, and another one some one hundred and fifty feet on the opposite end of the property line, and none at all on the Cauffiel property?

A. Mr. Harkins, may I state this: That the drilling primarily is for support of the highway, in order to determine what has been out, mined out, and what is in place, what we have to do in design criteria for structures and also for the highway, how are we going to handle drainage. That is the main purpose of your

drill holes. Now, we have had some hundred and ninety various properties in this Solomon Run, or this complete highway job. When we laid out our drill holes we did not lay them out with respect to trying to find out how much coal was on each individual property, more so to determine what we're going to run into structurally. The primary purpose of the holes are for highway design. Secondary purpose, of course, is for determining values from the information that we have.

RE-DIRECT EXAMINATION BY MR. PEDUZZI:

Q. Now, Mr. Foreman, with respect to this map, that portion shaded in orange, that is the only portion of that coal that is being taken by the highway department, is that correct?

A. That is correct.

Q. Now, with respect to the remainder of the property, does that taking have any effect on the coal in the remainder of the Cauffiel property? Can it be mined?

A. It can be mined. The "C Prime" coal is in no further or no worse position than what it was with the previous location of 11012.

Q. In other words, the taking does not affect it, the possibility or probability of the actual mining of that "C Prime" coal in the remainder of that tract?

A. No.

Q. It has no effect on it?

A. No.

BY MEMBER LOCHER:

Q. Would they be allowed to put an entry in there?

A. Yes. In answer to a question that came up before, this may be getting in coal commission coal; in coal commission coal where you have <sup>either</sup> one hundred per cent, fifty per cent or twenty five per cent take underneath the highway, and a mining company

has coal on the other side, they can, by submitting a plan to the Department of Highways, in conjunction with the Department of Mines, a plan to go underneath the highway at various locations in order not to disrupt any of their ventilation, drainage or haulage conditions.

Q. I'm not speaking about going in under here, John, this area colored in orange, there is in the outcrop in your right-of-way line, which you know you will not allow them to mine that coal, now we are into a place where you have in effect a high wall?

A. Yes.

Q. Now, could the property owner put an entry into any coal in there? What I'm trying to get at, this coal that you stipulated as .87 of an acre of coal that you are taking from this property

. . . . .

A. Yes, sir.

Q. Now, you are not taking anything from the rest of the property?

A. No, sir.

Q. Supposing, using round figures, there are two acres of coal beyond that, would they be permitted by the highway department to go on the right-of-way and haul coal out from that right-of-way, on that bank or slope of the highway, in order to get that coal out of there?

A. In the service road areas, yes; in the limited access areas, no.

Q. This would be on the service . . . . .

A. This would be on the service road, which the highway department would have no objection to establishing primarily the same type of openings/along 11012 as previously. <sup>that were</sup>

BY MR. PEDUZZI:

Q. Then actually the only coal you considered is in orange?

A. Yes.

Q. Your drill holes show what seams of coal you have gone through?

A. May I say this, in order to establish the persistency or inconsistency of both the Clarion and the Brookville, I would like to . . . . .

Q. What are they?

A. The Clarion is "A Prime" and Brookville is "A". I would like to go back to the most recent records of the Pennsylvania Department of Mines, their annual report. This area is in the Seventh Bituminous Inspection District. In that area, from their own records, the Seventh Bituminous District has a total of 51 mines, 51 operating mines. This encompasses part of the southern Cambria County and Somerset County. Those mines are in the various seams, such as your coal mine in the Pittsburgh seam. There are seven operating mines in the "E" seam, there are 23 operating mines in the "C Prime" seam, and there are 20 operating mines in the "B" seam. There are no operating mines in the "C", "A" or "A Prime" seams in the Seventh Bituminous District. I then went to the next district, the Twenty Fourth District, to determine if there are any operations in those various seams missing. I find that there are two operations in the Clarion seam, in the Twenty Fourth District, which is farther down in Somerset County.

BY MR. HARKINS:

Q. Can you translate this Clarion and what you're using as "A" and "A Prime"?

A. Clarion is the "A Prime".

Q. Can't we refer to it as the "A" and the "A Prime"?

A. Sure. In the Twenty Fourth District there are no mines in the "A"; and the Twenty Fourth District is the adjacent district to the Seventh District in Somerset County, on the other side of the Stonycreek River.

Q BY MR. HARKINS: Well, I object to this Somerset district; we're too far from Somerset.

A. I'm trying to get the closest mines . . . . .

BY THE CHAIRMAN: We're going to overrule the objection, and admit the testimony, Mr. Harkins.

A. In this Twenty Fourth District, there were two mines in the "A Prime". They are Isota Mine, which had 26 inches of Clarion coal, and last year they produced 3520 tons. There is the Sheesley mine, peacock strip, which has 40 inches of coal, and last year they produced 3290 tons. So the total production of "A Prime" coal is 6810 tons. The total production of all coals in the Seventh District was just a little under a million tons, 996,931 tons. And the total production in the Twenty Fourth District, the adjacent district, is 911,167 tons, for a total of these two areas, mined together in the same general field, of 1,908,098 tons. The total "A Prime" coal mined last year from operating mines in the Seventh and Twenty Fourth Districts, amounted to .36 or about one-third of one per cent of the total production of the coal. From there you can see that there is very little evidence of the value of the Clarion, I am sorry, the "A Prime" and "A" coal. In drilling in another section, continuing section of this highway which I was drilling here in October and November, I went through the "A" area, "A Prime" areas; I found in there about, I guess about a mile or so from this property, the bottom of the "B" coal was an elevation of 1640, bottom of the "A Prime" was 1556, or 58 feet between the "B" and the "A Prime", and the bottom of hole was 1539. I went down another 17 feet before I bottomed off. And in that hole I had .4 of a foot of "A Prime" coal. I drilled, I'm not certain, about four or five other holes and the elevation of the "A Prime" coal --this is between Cauffiel's property and Craney, that's the general location -- anywhere, the coal

varied in height anywhere from .3 of a foot to .7 of a foot, which I didn't consider as minable coal. And minerally, this is not underneath the Cauffiel property, but in essence it is within the same general area, and it's within the Seventh Bituminous district.

BY MR. GIBSON:

Q. Is that the "A Prime"?

A. That's "A Prime".

Q. How about the "A"?

A. The "A", there's no <sup>operating</sup> mines in the "A". I never went down to get in the "A".

BY MR. PEDUZZI:

Q. And is the "A" and "A Prime" underneath the "B" seam of coal?

A. That's right, sir.

Q. Now, we have shown by your Berwind White map that the "B" seam of coal is completely mined out?

A. Yes.

Q. The Commonwealth then is willing to waive any support requirements for the "A" or "A Prime" coal?

A. They are.

Q. In other words, the property owner can mine it at will?

A. They can mine all the "A" or "A Prime" they find in their property. They waive all support.

BY THE CHAIRMAN:

Q. In other words, there would be no damage figured on the "A" or "A Prime"?

A. That's right.

BY MR. HARKINS:

Q. Do you have authority to make that statement for the Commonwealth of Pennsylvania?

A. I have authority to make it under the direction of the chief mining engineer of the Commonwealth of Pennsylvania, Mr. Clem Sweeney.

Q. Do you have authority to make it for the Pennsylvania Department of Highways?

A. He is chief engineer for the Department of Highways.

Q. And I can assume that that is a statement stating specifically your authority and that if there is any damage to this highway by reason of mining any coal beneath it, any claim is waived by the Commonwealth of Pennsylvania, Department of Highways?

A. I am willing to have that on the record, yes, sir. May I correct that? That's only "A Prime" and "A" coal.

BY MEMBER LOCHER:

Q. I think what you're getting at, the highway department has in effect a ruling that any coal under a seam which is already mined out, you don't need to leave any for support?

A. That's right.

Q. It isn't confined necessarily to the "A" or "A Prime" coal?

A. No. What I was going to say, if the "C" coal or "D" or "E" had caused some trouble, I wanted to get -- below the "B" coal.

Q. Well, if the "D" coal was mined out under your highway you wouldn't need to leave support in your "C Prime", "C", "B" "A Prime" or "A"?

A. No.

Q. It isn't just this particular case, it's standard procedure of the Highway Department, so that we don't get it wrong that it's only the "A" or "A Prime"? It can be any seam?

A. Yes.

RE-CROSS EXAMINATION BY MR. HARKINS:

Q. In other words, you're not giving us anything because the "B" coal is entirely mined out. Under the standard practice

the Highway Department never requires any support for anything below the mined out "B" seam?

A. That's right.

Q. So you're not giving us anything and you might as well take that off the record. Everything you've discussed about coal beneath the "B" or Miller seam, vein, is based upon some information you got from the book you have in front of you. What's the name of that book?

A. This is the Pennsylvania Department of Mines Mineral Industries Annual Report.

Q. What year?

A. This is the 1961 report. The 1962 report will be ready about the first . . . . .

Q. That's the 1961 report?

A. That's right, sir. The 1962 reports aren't in.

Q. Then you're not using it yet?

A. No, heaven's no. This is the latest report.

Q. And this report and your testimony from it, I didn't object to because it is from a reputable reference book, and would you consider the Geodetic Atlas of the United States in the Johnstown Folio a similar book or publication relative to coal?

A. I would have very many reservations because I have found, and I have worked on geological surveys; this gives you a general picture, a very sketchy picture, and when you come down to pick out details you may find one hundred per cent right or you may find a hundred per cent wrong.

Q. But in some cases this thing states specifically that there's a mine in a certain location. You wouldn't question that, would you?

A. Oh, no, I don't question that.

Q. All right, just in line with your type of testimony,

would you care to look on page 10 of this and refer to the paragraph reading "South Fork" and read what it says about that?

A. Certainly. I agree with that ahundred per cent.

Q. Read it.

A. South Fork -- which is not this area --

Q. Let's strike that out. I just want what the book says.

A. South Fork. A coal bed 60 to 70 feet lower ~~in~~ <sup>than</sup> the Lower Kittanning coal, has been opened near South Fork and Mineral Point. This bed, it is believed, corresponds to the Brookville <sup>are</sup> "A" coal. Most of the openings/falling shut but coal is mined on one bank at South Fork to supply a local brick company. The coal is better known locally as a six foot coal or dirty A, where in the seams it measures only three and a half feet as indicated in section four, figure seven.

Q. That's/<sup>what we</sup>commonly call the "A" coal?

A. That's right.

Q. You heard Mr. Cauffiel, Sr. talk about a mine near Mineral Point?

A. That's right.

Q. And this book is talkin f about the same mine?

A. And I have been in it.

Q. How far is that by -- as the crow flies from the Cauffiel property in Richland Township?

A. I don't know, but it's in another inspection district altogether.

Q. Well, why are inspection districts important when you're talking about . . . . .

A. When you go over an anticline you get into an entirely different picture as far as far as coal structures are concerned, and as far as I'm concerned I never found an "A" seam when I drilled through there; <sup>it may be there</sup> and if it's there all right you can mine it and we waive support.

Q. All right, you're not waiving anything because Mr. Locher brought out that everything below a mined out area or vein is automatically waived, so let's forget about that for the time being. Now then, there's a coal vein called the Middle Kittanning; what is that?

A. That's the "C".

Q. Would you care to read what it says in this book about the Middle Kittanning, just the first paragraph?

A. As a rule the Middle Kittanning coal is not workable in this district, though it is very persistent and hence serves as an additional check on the identity of the beds above and below. There's an opening below Coopersdale where there's about 25 feet above the Lower Kittanning coal at the brick plant of the A.J. Haws & Sons, Ltd., and shows a thickness of 30 inches with more concealed. It is also a workable thickness at the head of Solomon Run.

Q. And that's the particular run that we're talking about?

A. But not where I drilled it in and around the Cauffiel property.

Q. Then this book refers to the Upper Kittanning coal. Would you care to read what it says in this paragraph?

A. Upper Kittanning . . . . .

Q. That's your "C Prime"?

A. Yes.

Q. Read that one paragraph, please.

A. The coal is most extensively exploited of all the beds in the district. It is worked on a commercial scale from Franklin as far west as Coopersdale and as far south beyond Moxham. Many small operations are conducted along Solomon and Sam's Run. I concur a hundred per cent.

Q. Well, keep on reading, please.

A. The mines in operation about Johnstown are noted on an accompanying economic map. One of these mines, Rolling Mill Mine of Cambria Steel Company, is the largest in the area and one of the largest in the state, having a daily output of about 3,000 tons.

Q. Now, Mr. Foreman, on the question of these districts that you are referring to, wouldn't we be better off to consider coal on an anticline and a basin rather than on a manmade district like . . . . .

A. That's right, and as soon as you get over the Ebensburg anticline you are in a different formation.

Q. But here we're not over it.

A. We're right on it.

Q. Aren't we on the Wilmore basin at Solomon Run?

A. No. We're on top of the Ebensburg anticline that runs across the top of Solomon Run.

Q. All right, you have given us district No. 7, I believe, and what's the other number?

A. 24.

Q. How big are those districts?

A. Oh, I don't know.

Q. What are the boundary lines in that book?

A. The boundary lines -- I respectfully refer it to Tell, (Locher), he probably knows more about the limits of the districts than I do.

Q. You brought out . . . . .

A. I know generally where the districts are, but just the exact extent I don't know.

Q. As I understood your discussion of this "A" and "A Prime" you were pointing out there was a very, very little bit of coal mined in those two districts of the "A" and "A Prime".

A. That's right.

Q. That could have been because the miners could have been on strike that year?

A. I went back eight or ten years and used the most recent . . .

Q. But you then used more than one of these books?

A. No, I used this book for this report, but in essence the report for the last eight or ten years has been the same, most of the production was in the "C Prime", the "B" and the "E".

Q. Let us close the discussion with this proposition: First, you will agree with me that in the coal areas, if there's a bed of coal or seam of coal running up to a property and it's also running at the other end of the property, the probability is that that seam of coal is under that property of approximately the same depth of seam?

A. In essence that's right, a general statement.  
from the

Q. That is/the outcrop back out to where it comes out again, is that right?

A. That's right.

Q. Now, you can agree with me that the method of mining when ~~in~~ this book of 1910 was published is far different than the methods that have been adopted since 1910?

A. That's right.

Q. So that the methods of mining in 1910 did not include strip mining?

A. No.

Q. Therefore, in 1910, what people in the industry conceived about the value of coal and coal veins did not include what we know today as strip mining so that there has been a progress in the industry, so that today strip mining coal is worth a lot more than deep coal used to be?

A. I would have reservations as to that. I have done a lot of dealing with strip mining/coal veins and as far as royalties  
and deep mining

are concerned, strip royalties are about the same as deep royalties.

Q. In other words, in the old days there were no strip mine royalties, but today by reason of mining there are?

A. That's right.

Q. Now, ten years from now -- you see the state has taken this man's property from him now, maybe ten years from now there's a development in the mining industry where this "A" coal and "A Prime" coal might become very valuable and be mined by a different method, isn't that true?

A. And if they want to they can mine it.

Q. That's right, but does the fact you have taken all of the one side of his property -- he can't strip that because you have taken that from him?

A. That is mining commission coal; we have no jurisdiction over . . . . .

Q. No, but you have actually taken the coal over on that side of the highway; he can't get in there.

A. He can get in there if he wants to.

Q. How is he going to get in?

A. What are you referring to? There are too many generalities.

Q. Between the edge of Solomon Run Road and Solomon Run.

A. That again, sir, is mining commission coal. That is not this coal, between the edge of Solomon Run Road and Solomon Run is mining commission coal and is outside the jurisdiction of this . . . . .

Q. How does it become mining commission coal?

A. Because it is support coal. It lies directly below the highway.

Q. Who took it from Cauffiel?

A. That has to go before the . . . . .

BY MR. PEDUZZI:

Q. Isn't that the coal that was taken -- show him this map.

BY MR. PEDUZZI: Mr. Harkins, where are you referring to . . . . .

BY MR. HARKINS: I'm referring to any coal beneath the Cauffiel property situate between the old Solomon Run Road and the Solomon Run itself.

A. That would all be within the area of the mining commission.

BY MR. LOCHER:

Q. Not your "A" and "A Prime" coal?

BY MR. PEDUZZI: Ed mentioned about stripping. Now you might forget about stripping the "A" coal.

A. Yes.

BY MR. HARKINS: As of today, yes, but,

Q. Is it true, Mr. Foreman, they strip in the hard coal as deep as 800 feet?

A. Yes, and they have 90 feet of coal to do it too.

Q. But they do it?

A. But that would not be an applicable position here.

Q. Under today's conditions.

A. I don't think you are going to go down 140 feet now to get the dirty "A".

Q. Well, you say there's none there to get anyway.

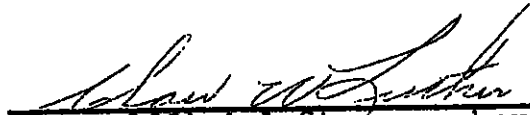
A. Well, you can have it if you want it.

Q. Well, before you and I get any more confused we'll stop this right now.

TESTIMONY CLOSED

STENOGRAPHER'S CERTIFICATE

I hereby certify that the proceedings and evidence had upon the hearing before the Board of Viewers in the above entitled cause are fully and accurately contained in the notes taken by me and that this copy is a true and correct transcript of the same.

  
\_\_\_\_\_  
Official Stenographer

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

IN THE MATTER OF THE CHANGE  
OF LOCATION AND LINES OF THE  
STATE HIGHWAY KNOWN AS THE  
NEW SOLOMON RUN ROAD IN THE  
TOWNSHIP OF RICHLAND, COUNTY  
OF CAMBRIA AND STATE OF PENN-  
SYLVANIA, ROUTE NO. LR 11012,  
SEC. 5, SERVICE ROAD NO. 3

TESTIMONY TAKEN BEFORE BOARD OF  
VIEW ON JANUARY 23, 1963.

CLAIR W. LUTHER  
OFFICIAL STENOGRAPHER  
FOR THE  
FORTY-SEVENTH JUDICIAL DISTRICT  
EBENSBURG, PENNSYLVANIA

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF LOCATION AND LINES OF THE STATE HIGHWAY KNOWN AS THE NEW SOLOMON RUN ROAD IN THE TOWNSHIP OF RICHLAND, CAMBRIA COUNTY, PENNSYLVANIA, ROUTE NO. 1, L.R. 11012, SEC. 5, SERVICE ROAD NO. 3

(  
)  
(  
) NO. 1 SEPTEMBER SESSIONS,  
(  
) 1963  
(

N O T I C E

Notice is hereby given that the undersigned Viewers will file their Report in the above matter in the Court of Quarter Sessions of Cambria County, Pennsylvania, on Monday, April 1, 1963.

You will have thirty (30) days from said date within which to file exceptions to our report, if you so desire. If no exceptions are filed thereto within said thirty (30) days, our Report will be confirmed absolutely by the Court.

DONALD J. LETIZIA

T. L. LOCHER

THEODORE HUNT

BY *Donald J. Letizia*  
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 20<sup>th</sup> day of March, 1963.

*Edward J. Peduzzi*  
Attorney for Commonwealth of Penna.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF :  
LOCATION AND LINE OF THE STATE :  
HIGHWAY KNOWN AS THE NEW SOLOMON :  
RUN ROAD IN THE TOWNSHIP OF RICHLAND, : NO. 1 September Sessions  
CAMBRIA COUNTY, PENNSYLVANIA, ROUTE :  
NO. L. R. 11012, SEC. 5, SERVICE :  
ROAD NO. 3 : 1962

SCHEDULE OF AWARD

From the evidence submitted and the view of the premises affected by the condemning of the said property of the Petitioner, JAMES JOSEPH CAUFFIEL, by the Commonwealth of Pennsylvania, Department of Highways, the Board of View find the damages sustained by the owner and occupant in this proceeding as follows:

JAMES JOSEPH CAUFFIEL ----- \$2,354.00

The Board of View have taken into consideration any benefits accruing to the property affected and hereby assess the damages as above awarded against the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. L. LOCHER

THEODORE HUNT

BY Donald J. Letizia  
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 5<sup>th</sup> day of March, 1963..

Edw. J. ...  
Attorney for James Joseph Cauffiel

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF :  
LOCATION AND LINE OF THE STATE :  
HIGHWAY KNOWN AS THE NEW SOLOMON :  
RUN ROAD IN THE TOWNSHIP OF RICHLAND, : NO. 1 September Sessions  
CAMBRIA COUNTY, PENNSYLVANIA, ROUTE :  
NO. 1, R. 11012, SEC. 5, SERVICE :  
ROAD NO. 3 : 1962

SCHEDULE OF AWARD

From the evidence submitted and the view of the premises affected by the condemning of the said property of the Petitioner, JAMES JOSEPH CAUFFIEL, by the Commonwealth of Pennsylvania, Department of Highways, the Board of View find the damages sustained by the owner and occupant in this proceeding as follows:

JAMES JOSEPH CAUFFIEL ----- \$2,354.00

The Board of View have taken into consideration any benefits accruing to the property affected and hereby assess the damages as above awarded against the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. L. LOCHER

THEODORE HUNT

BY Donald J. Letizia  
Chairman  
(Board of View)

ACCEPTANCE OF SERVICE this 4 day of March, 1963

Edward J. Pedersen  
Attorney for Commonwealth of  
Pennsylvania

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF :  
LOCATION AND LINES OF THE STATE :  
HIGHWAY KNOWN AS THE NEW SOLOMON : : NO. 1 SEPTEMBER SESSIONS, 1962  
RUN ROAD IN THE TOWNSHIP OF RICH- : :  
LAND, CAMBRIA COUNTY, PENNSYLVANIA, : :  
ROUTE NO. L.R. 11012, SEC. 5, SERVICE : :  
ROAD NO. 3 :

NOTICE

The undersigned hereby give notice that they, having been appointed by the Court as a Board of View in the above entitled matter, will hold a meeting on Monday, March 4, 1963, at 10:00 a.m., e.s.t., at the Courthouse, Courtroom No. 4, Ebensburg, Pennsylvania, at which time they will exhibit the Schedule of Damages caused by the condemning of the said property of the Petitioner, JAMES JOSEPH CAUFFIEL, by the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. D. LOCHER

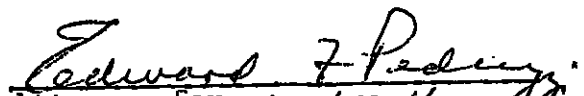
THEODORE HUNT

BY

  
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 26 day of February, 1963.

  
Attorney for Sept 7 Hwy

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF ( )  
LOCATION AND LINES OF THE STATE ) NO. 1  
HIGHWAY KNOWN AS THE NEW SOLOMON ( )  
RUN ROAD IN THE TOWNSHIP OF RICH- ) SEPTEMBER SESSIONS, 1962  
LAND, CAMBRIA COUNTY, PENNSYLVANIA, ( )  
ROUTE NO. L. R. 11012, SEC. 5, SERVICE) ( )  
ROAD NO. 3 ( )

NOTICE OF HEARING

The undersigned hereby give notice that they, having been appointed by the Court as a Board of View in the above entitled matter, will hold a hearing on Wednesday, January 23, 1963, at 2:00 p.m., e.s.t., at the Judges Chambers, Room 204, Park Building, Johnstown, Pennsylvania, at which time testimony will be taken to determine the damages sustained by and assess the benefits accruing to the property owner as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. L. LOCHER

THEODORE HUNT

BY Donald J. Letizia  
Chairman  
(Board of Viewers)

ACCEPTANCE OF SERVICE this 15<sup>th</sup> day of January, 1963.

Edward F. Pedrycz  
Attorney for Dept. Highways

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF :  
LOCATION AND LINES OF THE STATE :  
HIGHWAY KNOWN AS THE NEW SOLOMON : NO. 1  
RUN ROAD IN THE TOWNSHIP OF :  
RICHLAND, CAMBRIA COUNTY, PENN- : SEPTEMBER SESSIONS, 1962  
SYLVANIA, ROUTE NO. L. R. 11012, :  
SEC. 5, SERVICE ROAD NO. 3. :

NOTICE OF HEARING

The undersigned hereby give notice that they, having been appointed by the Court as a Board of View in the above entitled matter, will hold a hearing on Tuesday, October 30, 1962, at 10:30 a.m., e.d.s.t., at the Judges Chambers, Room 204, Park Building, Johnstown, Pennsylvania, at which time testimony will be taken to determine the damages sustained by and assess the benefits accruing to the property owner as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. L. LOCHER

THEODORE HUNT

BY

Donald J. Letizia  
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 30 day of October, 1962.

Edward F. Peduzzi  
Attorney for Dept of Highways.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF :  
LOCATION AND LINES OF THE STATE :  
HIGHWAY KNOWN AS THE NEW SOLOMON : NO. 1  
RUN ROAD IN THE TOWNSHIP OF :  
RICHLAND, CAMBRIA COUNTY, PENN- : SEPTEMBER SESSIONS, 1962  
SYLVANIA, ROUTE NO. L. R. 11012, :  
SEC. 5, SERVICE ROAD NO. 3. :

NOTICE OF HEARING

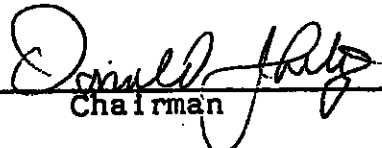
The undersigned hereby give notice that they, having been appointed by the Court as a Board of View in the above entitled matter, will hold a hearing on Tuesday, October 30, 1962, at 10:30 a.m., e.d.s.t., at the Judges Chambers, Room 204, Park Building, Johnstown, Pennsylvania, at which time testimony will be taken to determine the damages sustained by and assess the benefits accruing to the property owner as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. L. LOCHER

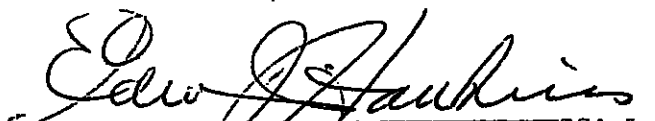
THEODORE HUNT

BY

  
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 27th day of October, 1962.

  
Attorney for Joseph James Cauffiel

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF :  
LOCATION AND LINES OF THE STATE :  
HIGHWAY KNOWN AS THE NEW SOLOMON : NO. 1 SEPTEMBER SESSIONS  
RUN ROAD IN THE TOWNSHIP OF RICH- :  
LAND, CAMBRIA COUNTY, PENNSYLVANIA, :  
ROUTE NO. L.R. 11012, SEC. 5, : 1962  
SERVICE ROAD NO. 3 :

VIEWERS' NOTICE

WE, the undersigned Viewers appointed by the above Court to view and inspect the land and premises owned by JOSEPH JAMES CAUFFIEL, of the Township of Upper Yoder, Cambria County, Pennsylvania, and to determine the damages sustained by and assess the benefits accruing to the property owners as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways, do hereby give notice that we will meet upon the premises on Thursday, September 27, 1962, at 9:30 a.m., e.d.s.t., when and where all persons interested may appear, if they so desire.

DONALD J. LETIZIA

T. L. LOCHER

THEODORE HUNT

BY Donald J. Letizia  
Chairman

(BOARD OF VIEW)

ACCEPTANCE OF SERVICE this 15<sup>th</sup> day of September, 1962.

Edw. J. Hayburn  
Attorney for Joseph James Cauffiel

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF :  
LOCATION AND LINES OF THE STATE :  
HIGHWAY KNOWN AS THE NEW SOLOMON : NO. 1 SEPTEMBER SESSIONS  
RUN ROAD IN THE TOWNSHIP OF RICH- :  
LAND, CAMBRIA COUNTY, PENNSYLVANIA, :  
ROUTE NO. L.R. 11012, SEC. 5, : 1962  
SERVICE ROAD NO. 3 :

VIEWS' NOTICE

WE, the undersigned Viewers appointed by the above Court to view and inspect the land and premises owned by JOSEPH JAMES CAUFFIEL, of the Township of Upper Yoder, Cambria County, Pennsylvania, and to determine the damages sustained by and assess the benefits accruing to the property owners as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways, do hereby give notice that we will meet upon the premises on Thursday, September 27, 1962, at 9:30 a.m., e.d.s.t., when and where all persons interested may appear, if they so desire.

DONALD J. LETIZIA

T. L. LOCHER

THEODORE HUNT

BY

Donald J. Letizia  
Chairman

(BOARD OF VIEW)

ACCEPTANCE OF SERVICE this 15<sup>th</sup> day of September, 1962.

Edmond J. Perry  
Attorney for Dept of Highways

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA  
IN THE MATTER OF THE CHANGE OF :  
LOCATION AND LINES OF THE STATE : NO. 1 SEPTEMBER SESSIONS,  
HIGHWAY KNOWN AS THE NEW SOLOMON :  
RUN ROAD IN THE TOWNSHIP OF RICH- :  
LAND, CAMBRIA COUNTY, PENNSYLVANIA, :  
ROUTE NO, L.R. 11012, SEC. 5, : 1962  
SERVICE ROAD NO. 3 :

NOTICE OF CONTINUED VIEW

Notice is hereby given that the View scheduled for Thursday, September 13, 1962, at 9:30 a.m., e.d.s.t., in the above captioned matter, has been continued until further notice of the Board of Viewers.

DONALD J. LETIZIA

T. L. LOCHER

THEODORE HUNT

BY

Donald J. Letizia  
Chairman

(BOARD OF VIEW)

ACCEPTANCE of service this 6<sup>th</sup> day of September, 1962.

Edward F. Peduzzi  
Attorney for Dept of Highways

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA  
 IN THE MATTER OF THE CHANGE OF :  
 LOCATION AND LINES OF THE STATE : NO. 1 SEPTEMBER SESSIONS,  
 HIGHWAY KNOWN AS THE NEW SOLOMON :  
 RUN ROAD IN THE TOWNSHIP OF RICH- :  
 LAND, CAMBRIA COUNTY, PENNSYLVANIA, :  
 ROUTE NO, L.R. 11012, SEC. 5, : 1962  
 SERVICE ROAD NO. 3 :

NOTICE OF CONTINUED VIEW

Notice is hereby given that the View scheduled for Thursday, September 13, 1962, at 9:30 a.m., e.d.s.t., in the above captioned matter, has been continued until further notice of the Board of Viewers.

DONALD J. LETIZIA  
 T. L. LOCHER  
 THEODORE HUNT

BY *Donald J. Letizia*  
 Chairman  
 (BOARD OF VIEW)

ACCEPTANCE of service this 12th day of September, 1962.

*Edw. J. Hadden*  
 Attorney for *Joseph Campbell*

REGISTERED NO. 11745

Value \$ *4.00* Spec. del'y fee \$ *0.00*  
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INSURED NO.	CITY, ZONE AND STATE <b>JOHNSTOWN, PA</b>

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IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA  
IN THE MATTER OF THE CHANGE OF LOCATION AND LINES OF THE STATE HIGHWAY KNOWN AS THE NEW SOLOMON RUN ROAD IN THE TOWNSHIP OF RICHLAND, CAMBRIA COUNTY, PENNSYLVANIA, ROUTE NO. L.R. 11012, SEC. 5, SERVICE ROAD NO. 3 ( NO. 1 SEPTEMBER SESSIONS, 1962 )

VIEWERS' NOTICE

We, the undersigned Viewers appointed by the above Court to view and inspect the land and premises owned by JOSEPH JAMES CAUFFIEL, of the Township of Upper Yoder, County of Cambria, and State of Pennsylvania, and to determine the damages sustained by and assess the benefits accruing to the property owners as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways, do hereby give notice that we will meet upon the premises on Thursday, September 13, 1962, at 9:30 a.m., e.d.s.t., when and where all persons interested may appear, if they so desire.

DONALD J. LETIZIA

T. L. LOCHER

THEODORE HUNT

BY Donald J. Letizia  
Chairman  
(BOARD OF VIEW)

ACCEPTANCE OF SERVICE this 24 day of August, 1962.

George N. Auster  
Attorney for Commonwealth of  
Pennsylvania, Department of Hgwys.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF ( )  
LOCATION AND LINES OF THE STATE ( )  
HIGHWAY KNOWN AS THE NEW SOLOMON ( NO. 1 SEPTEMBER SESSIONS,  
RUN ROAD IN THE TOWNSHIP OF RICH- )  
LAND, CAMBRIA COUNTY, PENNSYLVANIA, ( 1962  
ROUTE NO. L.R. 11012, SEC. 5, )  
SERVICE ROAD NO. 3 ( )

VIEWERS' NOTICE

We, the undersigned Viewers appointed by the above Court to view and inspect the land and premises owned by JOSEPH JAMES CAUFFIEL, of the Township of Upper Yoder, County of Cambria, and State of Pennsylvania, and to determine the damages sustained by and assess the benefits accruing to the property owners as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways, do hereby give notice that we will meet upon the premises on Thursday, September 13, 1962, at 9:30 a.m., e.d.d.t., when and where all persons interested may appear, if they so desire.

DONALD J. LETIZIA

T. L. LOCHER

THEODORE HUNT

BY \_\_\_\_\_  
Chairman

(BOARD OF VIEW)

ACCEPTANCE OF SERVICE this \_\_\_\_\_ day of August, 1962.

\_\_\_\_\_  
Attorney for

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA  
IN THE MATTER OF THE CHANGE OF ( )  
LOCATION AND LINES OF THE STATE ( )  
HIGHWAY KNOWN AS THE NEW SOLOMON ( NO. 1 SEPTEMBER SESSIONS,  
RUN ROAD IN THE TOWNSHIP OF RICH- )  
LAND, CAMBRIA COUNTY, PENNSYLVANIA, ( 1962 )  
ROUTE NO. L.R. 11012, SEC. 5, )  
SERVICE ROAD NO. 3 ( )

VIEWERS' NOTICE

We, the undersigned Viewers appointed by the above Court to view and inspect the land and premises owned by JOSEPH JAMES CAUFFIEL, of the Township of Upper Yoder, County of Cambria, and State of Pennsylvania, and to determine the damages sustained by and assess the benefits accruing to the property owners as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways, do hereby give notice that we will meet upon the premises on Thursday, September 13, 1962, at 9:30 a.m., e.d.d.t., when and where all persons interested may appear, if they so desire.

DONALD J. LETIZIA

T. L. LOCHER

THEODORE HUNT

BY Donald Letizia  
Chairman

(BOARD OF VIEW)

ACCEPTANCE OF SERVICE this 24th day of August, 1962.

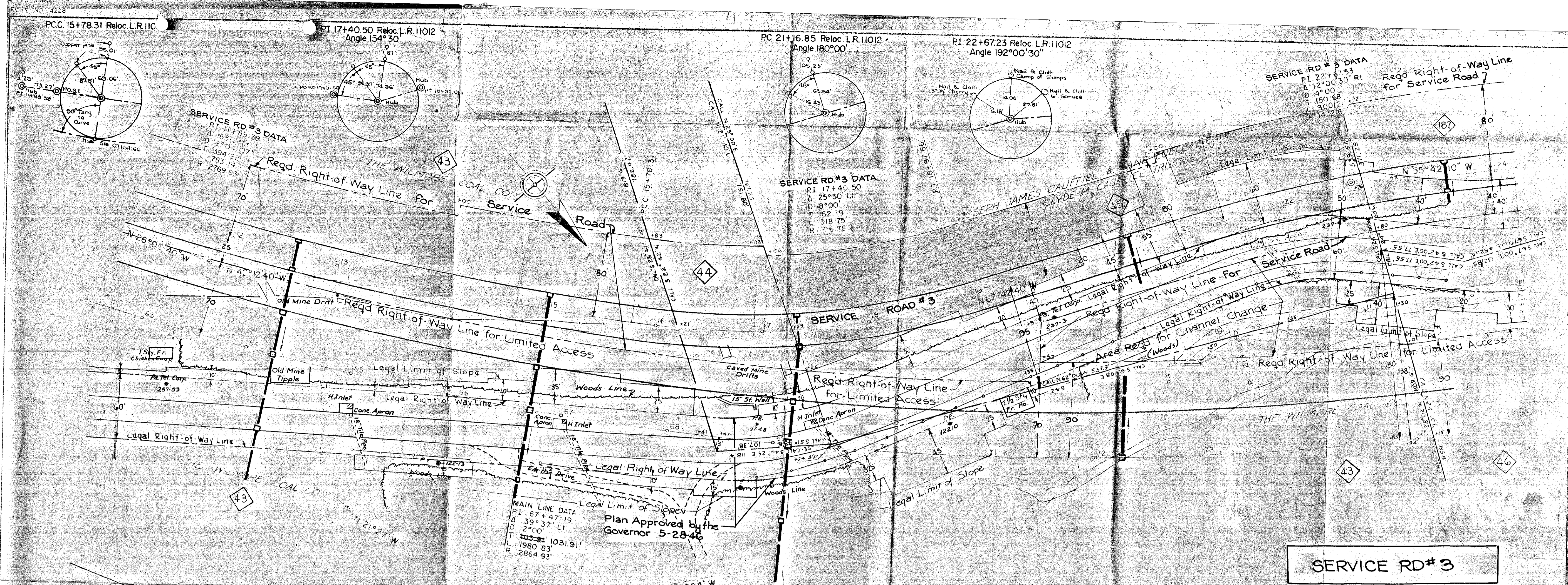
Edw. J. Harris  
Attorney for Joseph Cauffiel

This print is made from sheet No. *68*, of Right-of-way plan for Route No. *11012* Section No. *5 R/w, Cambria* County, approved by the Governor on *May 15*, 19*61* which I we have examined and had explained to me us this day of \_\_\_\_\_, 19\_\_\_\_, and is to be attached to the release herewith execute<sup>d</sup>

Witness \_\_\_\_\_ (Seal)

Witness \_\_\_\_\_ (Seal)

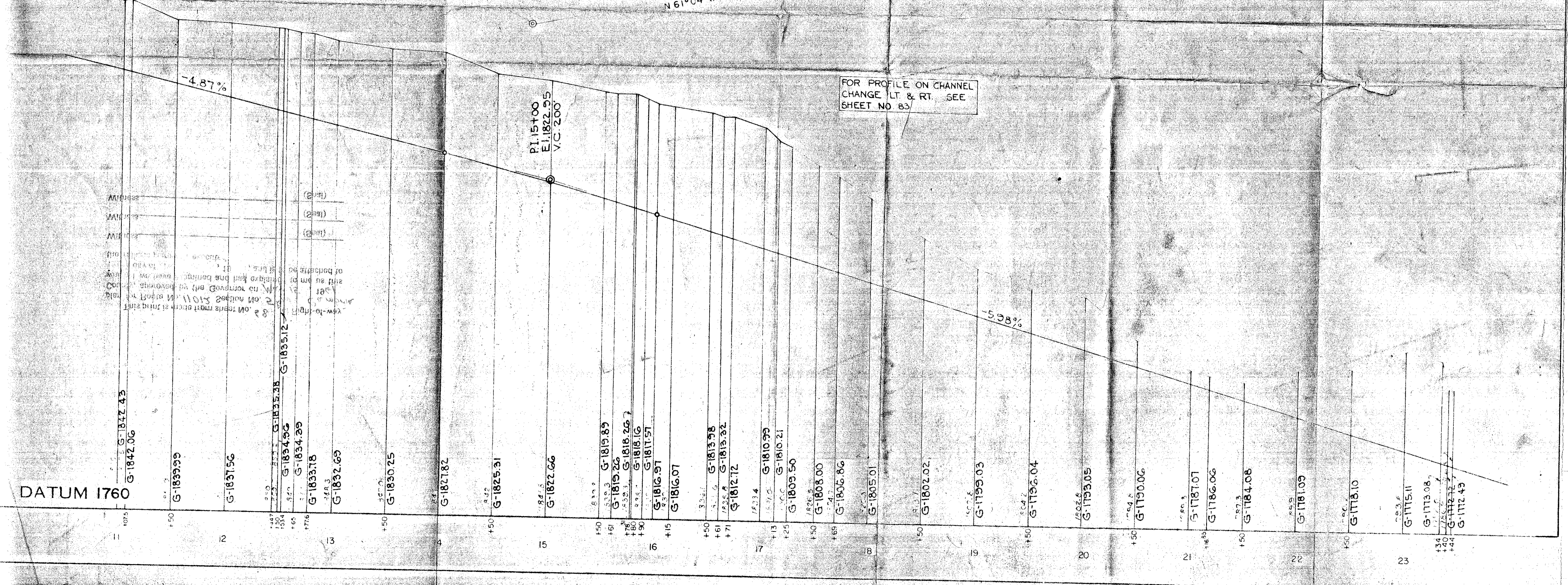
Witness \_\_\_\_\_ (Seal)



MAIN LINE DATA  
 PI 67+47.19  
 Δ 39°37' L  
 D 2°00'  
 T 103.51 1031.91  
 R 1980.83  
 R 2864.93

Plan Approved by the Governor 5-28-46

FOR PROFILE ON CHANNEL CHANGE LT & RT. SEE SHEET NO 83



DATUM 1760

11	12	13	14	15	16	17	18	19	20	21	22	23
G-1842.06	G-1839.99	G-1837.56	G-1835.18	G-1832.69	G-1830.25	G-1827.82	G-1825.31	G-1822.66	G-1819.89	G-1817.26	G-1814.67	G-1812.12
G-1819.89	G-1817.26	G-1814.67	G-1812.12	G-1809.50	G-1806.86	G-1804.21	G-1801.50	G-1798.83	G-1796.04	G-1793.05	G-1790.06	G-1787.07
G-1784.08	G-1781.09	G-1778.10	G-1775.11	G-1772.12	G-1769.13	G-1766.14	G-1763.15	G-1760.16	G-1757.17	G-1754.18	G-1751.19	G-1748.20

# DEED

JULIA GREINER ET VIR.

TO

EDGAR M. SHAFFER

This Indenture MADE THE Second day of March in the year of our Lord one thousand nine hundred and twenty-eight (1928)

Between Julia Greiner, formerly Julia Kamler, and Henry Greiner, her husband, of the City of Johnstown, County of Cambria and State of Pennsylvania, parties of the first part, AND Edgar M. Shaffer, of the Township of Richland, County of Cambria and State of Pennsylvania, party

of the second part; WITNESSETH. That the said parties of the first part for and in

consideraiton of the Sum of Forty-five Hundred (4500) Dollars lawful money of the United States of America, unto them well and truly paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged have granted, bargained, sold, aliened, enfeoffed, released, conveyed, and confirmed, and by these presents do grant, bargain, sell, alien, enfeoff, release, convey, and confirm unto the said party of the second part his heirs and assigns

All that certain piece, parcel or tract of land, situate, lying and being in the Township of Richland, County of Cambria and State of Pennsylvania, bounded and described as follows:

Beginning at a chestnut Oak and original corner; thence, by an original line, along land now or late of George Heidingsfelder and Samuel Hoffman, south thirty-four (34) degrees east forty-one (41) perches to a stone; thence by land now or late of David Stull, north twenty-five (25) degrees east forty-six and one-half (46-1/2) perches to stones; thence by same north sixty-two (62) degrees west thirty-two and six tenths (32.6) perches to stone at edge of Solomon Run on the original line; thence along said original line by land now or late of George Heidingsfelder, south twenty-four (24) degrees west thirty-two and seven tenths (32.7) perches to the place of beginning; containing seven (7) acres and seventy-eight (78) perches.

Being the same tract or piece of land which John George Heidingsfelder, by his deed dated the 2nd day of October, A. D. 1911, and recorded in the Recorder's Office of Cambria County in Deed Book Vol. 234, page 648, conveyed to Julia Kamler, now Julia Greiner, inter-married with Henry Greiner, one of the above named grantors.

Excepting and reserving, however, the coal and mining rights exceptes and reserved in said Deed to Julia Kamler, now Julia Greiner.

C E R T I F I C A T E

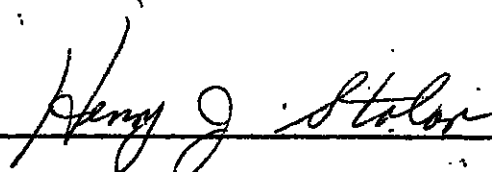
The undersigned does hereby certify that the following entry appears in the Treasurer's Deed Book Vol. 8, page 16, relative to a Treasurer's Sale of real estate.

Property assessed to E. M. Shaffer and designated 8 acres and one house seated was sold to Cambria County at Treasurer's Sale held on the 4th day of April, 1938, for \$42.10.

The following notation appears in the Treasurer's Deed Book:

"Public Sale by County Commissioners to Clyde M. Cauffiel, Trustee deed dated 7-8-46"

I further certify that the Treasurer's Sale Ledger Vol. 5 shows that property of E.M. Shaffer, assessment No. 50-0138, designated 8 acres one house assessed for \$1,800.00 showed County Tax in the amount of \$5.40, School Tax in the amount of \$9.60, and Road Tax in the amount of \$10.40--a total of \$25.40. There was added thereto interest in the amount of \$12.95 and penalty in the amount of \$1.50--a total of \$39.85. The land was sold April 4, 1938, to Cambria County for \$42.10. There is contained in the Treasurer's Sale Ledger a statement "Public Sale to Clyde M. Cauffiel, tru. Deed dated 7-8-46".

  
County Treasurer  
Cambria County  
October 26, 1962

*Det. Exp # 2*

Printed in Elliptical #3

# Article of Agreement

MADE THE 24th day of November 1947, BETWEEN Cauffiel Bros. Inc., Agt. lessor of the first part, and Nellie Makin, Widow lessee of the second part

WITNESSETH, that the said lessor, for and in consideration of the rents and covenants herein-after mentioned and reserved (and on the part of the said lessee to be paid, kept and performed), hath demised, leased and let, and by these presents doth demise, lease and let unto the said lessee. Solomon Run Road house, 5 room single plus 7 acres, RD #2 Johnstown, Pennsylvania.

Lessee to make own interior repairs over and above consideration mentioned below.

to have and to hold the said premises with the appurtenances unto the said lessee from the 8th day of December 1947 for and during the term of month to month thence next ensuing and fully to be completed and ended, the said lessee yielding and paying for the same unto the said lessor the monthly rent or sum of Fifteen dollars in payments of Fifteen Dollars each, payable in advance at the office of Cauffiel Bros. Inc., 145 Franklin Street, Johnstown, Pennsylvania.

4 M  
X  
K  
E

And the said lessee further covenants and agrees that she will use and occupy the said premises as a dwelling and for no other purpose; and that she will not assign this lease or under lease or let said premises, or any part thereof or interest therein to any other person or persons, without the consent of the said lessor had in writing, under penalty of instant forfeiture and right of re-entry for such breach. That lessee will pay for any gas or electric light used upon the premises. All water rents assessed thereon to be paid by lessee. Lessor hereby reserves the right to enter upon the premises at any time with prospective purchasers or renters for the purpose of showing property.

Any removal or attempt at removal of any goods or chattels from the said premises by the lessee while any portion of the rent for the full term shall be unpaid, shall be deemed a fraudulent and clandestine removal, and the whole rent for the entire term shall fall due and be collectible at once and all goods and chattels so removed may be followed for the space of thirty days and seized for the collection of the same by landlord's warrants. It is further agreed that as often as default be made in the payment of any installment of rent when due, that the lessor may proceed by landlord's warrant at any time after such default and make collection of all rent then due with cost of such proceeding, the lessee hereby waiving the benefit of all laws or usages exempting any property from liability for rent, and the lessor not waiving any remedies given by existing laws.

The said lessee further agrees that all household and other goods exempt from levy and sale on execution by the law passed in 1849 exempting certain property to the amount of \$300 from levy sale, shall be liable to be levied on and sold for rent that may be due; and hereby authorize any attorney of any Court of Record, as often as default be made in the payment of said rental, to appear for the said lessee and confess judgment or judgments against me for the amount of rent then unpaid when the right to issue execution on each in-

stallment as same falls due with attorney's commission of five per cent, for collection cost of suit, without stay of execution waiving inquisition and exemption. Any damage to building, fixtures, water and gas pipes, during the term of this lease to be paid by the lessee on demand.

And the said lessee further covenants and agrees not to injure or deface the said premises in any manner, but will keep and preserve the same in good order, and at the expiration of the term of this lease, or the sooner termination of the same, I will without further notice, quietly and peacefully surrender and yield up the premises in good order and condition as the same now are, reasonable use and wear and unavoidable casualties

... lessee to pay the installments of rent as due, keep all the covenants of the lease... the said lessee hereby authorizes and empowers... the immediate issuing of a Writ of... leave of Court; to be...

... agreement have been...  
Cauffiel Bros. Inc.

# 4

May 21, 1962  
11 AM.





0157110

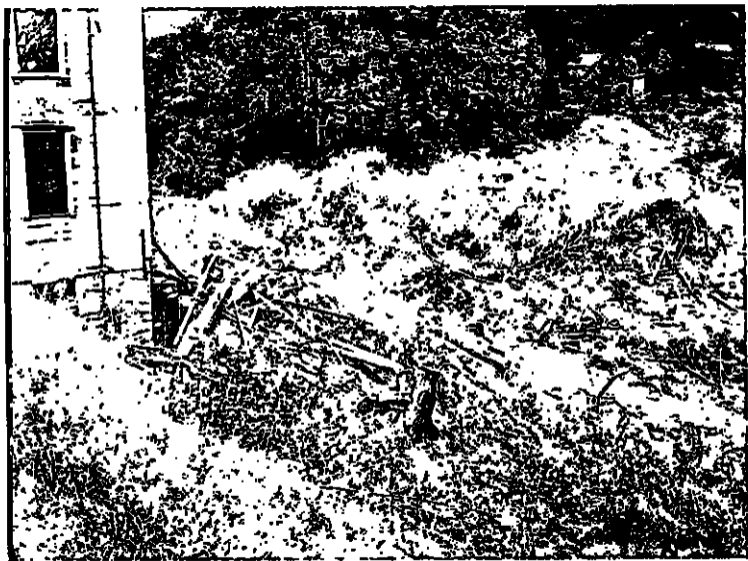
0271113

May 21, 1962

11 AM

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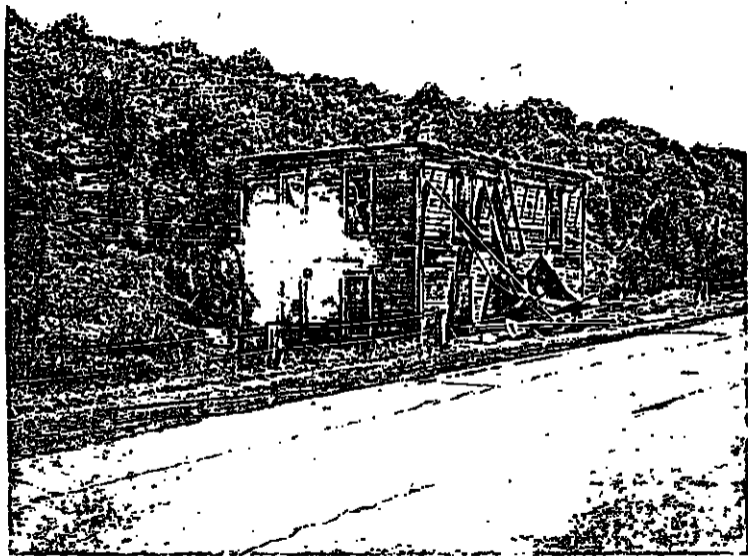




May 21, 1962  
11 AM

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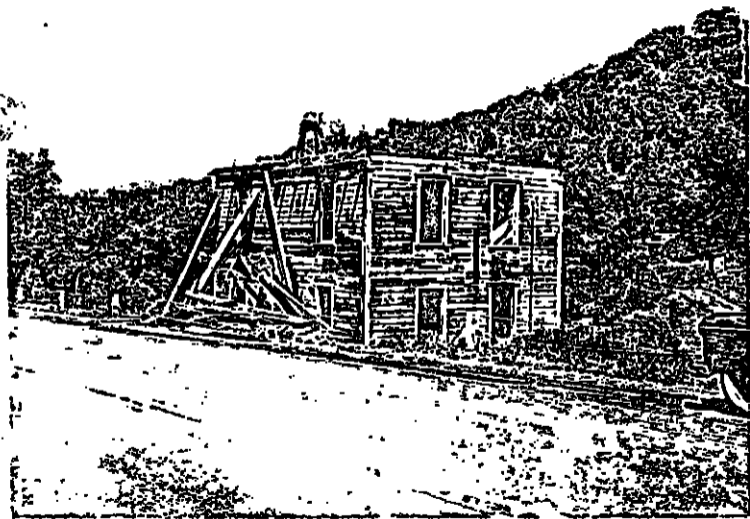


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PT 1113

May 21, 1962  
11 AM





01037100

01037100

May 21, 1962  
11 AM







Office of the County Commissioners

EBENSBURG, PA.

April 10, 1946

Commissioners in session. John Thomas Jr., Cyrus W. Davis, and Frank P. Hollern, present.

On motion by Cyrus W. Davis, seconded by Frank P. Hollern and carried, plans submitted by the Department of Highways for the changing of State Highway Route No. 11012-3 11016-3 in Stonycreek Township and Richland Townships between Station 72-65 and 133-97.85 and 146-50 and 167-82.85 be approved and the County Commissioners agree that the County will assume liability for any and all property damages resulting from the construction of the highway as contemplated by these plans and also all damages arising out of any change or alteration of drainage resulting from the construction or maintenance of the highway.

On motion duly made and seconded, the Board adjourned.

/s/

H. F. Dorr

Chief Clerk

I hereby certify that the foregoing is a true and correct copy of resolution as it appears on the Minutes of the Board of Cambria County Commissioners for the above mentioned date.

Certified this  
3rd day of October  
1962

  
Maurice A. Springer  
Chief Clerk

of loan, etc., in the manner prescribed in said bond; Now, the said mortgagor in consideration of one dollar to him paid by the said mortgagee; and for securing payment and performance as aforesaid; does grant, bargain, sell and convey, unto the said mortgagee and its successors.

ALL THAT CERTAIN piece, parcel or tract of land, situate, lying and being in the Township of Richland, County of Cambria and State of Pennsylvania, bounded and described as follows:

BEGINNING at a Chestnut Oak and original corner; thence by an original line, along land now or late of George Heidingsfelder and Samuel Hoffman, South 34' east forty-one (41) perches to a stone; thence by land now or late of David Stull, north 25' east forty-six and one-half (40 1/2) perches to stones; thence by same north 62' west thirty-two and six tenths (32.6) perches to stone at edge of Solomon Run on the original line; thence along said original line by land now or late of George Heidingsfelder, south 24' west thirty-two and seven tenths (32.7) perches to the place of beginning; containing seven (7) acres and seventy-eight (78) perches.

IT BEING the same tract or piece of land which John George Heidingsfelder by his deed dated the 2nd day of October, A. D. 1911, and recorded in the Recorder's Office of Cambria County in Deed Book, Vol. 234, page 648, conveyed to Julia Kamler now Julia Greiner, and Henry Greiner, her husband, by their deed dated the 2nd day of March, 1928 conveyed to Edgar M. Shaffer, present mortgagor, said deed to be recorded, with the appurtenances; to have the same unto, and for the use of, the said mortgagee, and its successors. Provided however, that if the said mortgagor shall pay and perform according to the condition of the said bond, everything to be paid and performed as aforesaid; then the estate hereby conveyed and granted shall become and be void. But in case of default of such payment or performance, at any time, or in any particular in whole or in part, for the space of six months, every sum to be paid as aforesaid shall then become and be payable forthwith; and a writ of scire facias hereon may forthwith be issued and prosecuted to judgment and execution for the collection of the same; with interest and damages for default, and costs, and with an attorney's commission of five per cent. for collection; and all stay of execution which is, or shall be, given by law, is hereby waived.

WITNESS the hand and seal of the said mortgagor.

Signed and sealed in presence of  
Jos. Cauffiel  
Meade Cauffiel

Edgar M. Shaffer (Seal)

Commonwealth of Pennsylvania | On this third day of March A. D. nineteen  
County of Cambria | ss: hundred and twenty-eight before me a Notary  
Public in and for the said Cambria County, came  
the above named Edgar M. Shaffer and acknowledged the within and foregoing mortgage  
to be his act and deed, and desired it to be recorded as such.

WITNESS my hand and Notarial seal, the day and year aforesaid.

Gladys Potter (Seal)  
Notary Public (N.P. Seal)

My commission expires March 7, 1929.

Recorded March 7th, A. D. 1928 At 9 A. M.  
No. 1123

*Ross Sanner*  
ROSS SANNER, RECORDER.

ASGMT. OF MTGE. UNION NATL. BANK, JOHNSTOWN. TO TITLE TRUST & GUAR. CO.	Charles Chappelle and Richard Chappelle To Union National Bank	Dated 19th August 1926, Real Debt \$1600.00. Mortgag- ing lot in 8th ward of city of Johnstown, Cambria County Pa., recorded 25th August, 1926, in Mtg. Book Vol. 142, page 42.
George Ferris To Union National Bank	Dated 9th January, 1925, Real Debt \$4000.00 Mortgaging lot in 1st Ward of City of John- stown, Cambria County, Pa. Recorded 10th January, 1925, in Mtg. Book Vol. 123, page 25.	
John H. Bowman and Annie J. Bowman To Union National Bank	Dated 1st October, 1924. Real Debt \$3500.00 Mortgaging lot in 8th ward of City of Johns- town, Cambria County, Pa., Recorded 2nd October, 1924, in Mtg. Book Vol. 122, Page 282.	
Augustus E. Koehler and Mary A. Koehler To Union National Bank	Dated 28th February, 1928 Real Debt \$3400.00 Mortgag- ing lot in Borough of Fern- dale, Cambria County, Pa., Recorded 2nd March, 1928, in Mtg. Book Vol. 148 Page 242.	

Now Cert. 31.19.46, by virtue of a Letter  
of Attorney recorded in Letter of Attorney  
Record Book, Vol. 26 Page 19/1 hereby  
enter satisfaction in full of this Mortgage.  
*Charles F. Powell, Recorder of Deeds*  
Attorney in Fact

*For Satisfaction  
See Original  
Mtg. recorded  
in Mtg. Book Vol  
142 page 42  
Ross Sanner*

*Mortgage  
Satisfied  
Feb. 29. 1940*

*mortgage  
Satisfied  
Aug 13, 19*

*For Satisfaction  
See Original Mtg  
Book in Mtg  
Book Vol. 148, page 242*

the said obligation above recited, shall cease, determine and become absolutely null and void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals, the day and year first above written.

Sealed and Delivered  
in the presence of  
Jos. Cauffiel

Emma Lesser (Seal)  
Harry Lesser (Seal)

I hereby certify that the precise residence address of the creditor is  
Miss Kate <sup>Arthur</sup> 340 Vine St., Johnstown, Cambria County, State Penna.

Jos. Cauffiel Agent  
Agent for Creditor,  
Attorney for Creditor.

State of Pennsylvania | On this second day of March A. D. 1928, before me, the  
County of Cambria | ss: subscriber, a Notary Public residing in Johnstown,  
| Cambria County, Pa., personally came the above named,  
Harry Lesser and Emma Lesser, husband and wife, who in due form of law acknowledged  
the foregoing Indenture to be their act and deed, and desired that the same might  
be recorded as such.

WITNESS my hand and Notarial seal the day and year aforesaid.

Kate Arthur (Seal)  
Notary Public (N.P. Seal)

My commission expires March 25, 1929.

Recorded March 7th, A. D. 1928 At 8 A. M.  
No. 1121

*Ross Sanner*  
ROSS SANNER, RECORDER.

MORTGAGE  
EDGAR M. SHAFFER  
TO  
HOME SAVINGS FUND  
Johnstown, Pa.

THIS MORTGAGE  
(NOT TRANSFERABLE)

MADE the third day of March A. D., nineteen hundred and  
twenty-eight by EDGAR M. SHAFFER, of Richland Township,  
County of Cambria, Johnstown R. D. #2, Pennsylvania,  
mortgagor, to HOME SAVINGS FUND, a corporation of Cambria County, Pennsylvania,  
mortgagee,

WITNESSETH, that whereas, the said mortgagor by his bond of even date here-  
with, stands bound unto the said mortgagee in a certain penal sum, conditioned for  
the payment of thirty-five hundred dollars with interest, the premium bid for priority

IN THE COURT OF QUARTER SESSIONS  
OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF  
LOCATION AND LINES OF THE STATE  
HIGHWAY KNOWN AS THE NEW SOLOMON  
RUN ROAD IN THE TOWNSHIP OF  
RICHLAND, CAMBRIA COUNTY,  
PENNSYLVANIA, ROUTE NO. L. R.  
11012, SEC. 5 SERVICE ROAD NO. 3

MEMORANDUM IN SUPPORT OF  
COMMONWEALTH'S POSITION

LAW OFFICES

MYERS, TAYLOR & PEDUZZI

213 S. CENTER STREET - OPPOSITE COURT HOUSE  
EBENSBURG, PENNSYLVANIA

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF :  
LOCATION AND LINES OF THE STATE : No. 1 SEPTEMBER SESSIONS, 1962  
HIGHWAY KNOWN AS THE NEW SOLOMON:  
RUN ROAD IN THE TOWNSHIP OF :  
RICHLAND, CAMBRIA COUNTY, :  
PENNSYLVANIA, ROUTE NO. L. R. :  
11012, SEC. 5 SERVICE ROAD NO. 3:  
:

MEMORANDUM IN SUPPORT OF  
COMMONWEALTH'S POSITION

I. RE: CONDEMNATION OF MAY 28, 1946

The plan of the section of Route No. L.R. 11012 involved in these proceedings, which was offered in evidence to the Board of Viewers, shows thereon in addition to the areas acquired in the present condemnation, the legal right of way lines and the legal limits of slopes as established by the plan approved by the Governor on May 28, 1946. These lines show the extent of the land acquired by the Commonwealth for highway purposes by the condemnation of May 28, 1946.

The Act of June 1, 1945, PL 1242, Art. II, Sec 210, 36 P.S. 670-210 provides that the approval of such plan or plans by the Governor shall be considered to be the Condemnation of an easement for highway purposes from all property within the lines marked as required for right of way and the condemnation of an easement of support or protection from all property within the lines marked as required for slopes.

At the hearing, the property owner claimed damages, as the result of the present condemnation for several pieces of land which were taken in the 1946 condemnation. The areas shown on the above mentioned plan for the legal limits of the slopes, as established in 1946, lies on the northerly side of the highway between stations 69.5 and 72 (approximately), the line running through the center of the 2½ story frame house located on the plan, and West of station 74.

There was no dispute that there was an actual condemnation on May 28, 1946. The property owner contends however, that since the plan of May 28, 1946 was not recorded, then he had no notice of the taking and is therefore entitled to damages because of the present taking; that since he received no notice the Statute of Limitations would not be applicable.

This contention, however, is completely without merit. The owner of the land on the date of the 1946 condemnation was Cambria County, as established by the present property owner's own testimony. The County acquired title at a County Treasurer's Sale held in 1938. Clyde M. Cauffiel, Trustee, acquired title by deed of Cambria County dated July 8, 1946 and recorded August 15, 1946 in Deed Book Volume 550, page 372. The reference to the mortgage given by a former owner to the Home Savings is entirely irrelevant.

A certified copy of a resolution adopted by the Commissioners of Cambria County on April 10, 1946 was offered in evidence. This resolution pertained to this particular highway and provided that the Commissioners had approved the plans and that the County would assume liability for damages. Consequently; since the County was the owner at the time of condemnation on May 28, 1946, its resolution conclusively establishes that as such owner, it had received notice of the taking. Naturally, the County would not assess damages against itself. The County, in conveying the property to Clyde M. Cauffiel, did not assign its right to damages and such rights were not assigned to the present owner. Therefore, the present owner is not entitled to damages for the area of the real estate on which the house was located nor the area lying to the west of station 74.

In summary, any claim for damages for any portion of the land taken as the result of condemnation of May 28, 1946 is now barred by the Statute of Limitations; the owner of the land at the time of the condemnation was Cambria County and, as shown by its resolution, notice of the taking was given to and approved by the County; the present owner cannot recover damages since the County owned the land at the time of condemnation and the County did not assign its right to recover damages to its grantee. See *Hunter v. McKlveen*, 353 Pa 357, which is directly in point.

Therefore, the Commonwealth objects to the testimony of Joseph James Cauffiel and Meade Cauffiel pertaining to the establishment of the value of the land taken under the present condemnation as they included as part of the land taken, the area upon which the house was located and also that area lying west of station 74.

The Commonwealth's testimony relative to value of the surface area acquired by the present condemnation, by its expert witness, is completely in line. According to the map, the area taken consists of 1.2 acres, and the Commonwealth's witness testified that its value was \$298.00. This is better than \$200.00 per acre which is an adequate price considering the location of the land, its topography and other features.

II RE: COAL

The Act of June 1, 1933, P.L. 1409, as amended, 52 P.S. 1501 provides in effect that the property owner, through the Board of Viewers, is entitled to damages for the taking by the Commonwealth of his surface land all coal not required for support of the portion of the highway taken in the eminent domain proceedings. He is also entitled to be compensated for the value of all coal necessary to be left in place for the purpose of furnishing vertical and lateral support of the portion of the highway so taken. The amount of such latter damages, however, must be determined by the State Highway Commission which is given exclusive jurisdiction over the subject matter, see Kerry v. Commonwealth, 381 Pa. 242.

At the hearing before the Board of Viewers, the property owner offered testimony that a six foot seam of "A" Coal underlies the property taken by the present condemnation and also the C and C Prime seams. Meade Cauffiel, a witness for the property owner, testified that a Geological Atlas prepared by the U. S. Government sometime in 1920 showed that the seams were in existence in that area. We do not dispute the fact that the A, B, C and C prime seams of coal did exist in that area, but Meade Cauffiel offered no proof that such seams still exist, that such seams of coal have not been mined. He did state, on cross-examination, that the C seams were mined, but he believes only 35% of the coal was removed. This is highly objectionable as it is speculative and conjectural and not a proper basis on which the Viewers can award damages. Not only is Meade Cauffiel's testimony objectionable as above stated, but it is also objectionable on the ground that he was not qualified as a mining engineer or in some similar capacity so that he could have given testimony as to the amount of coal in place in the various seams. He certainly offered no proof of the fact that he was a ge

geologist, other than his bald statement to that effect, which is ridiculous.

On the other hand, the Commonwealth did show that the B seam had been mined except for that area required for support of the highway. If, therefore, the B seams have been mined, the A seam lying underneath, would provide no support; therefore, the Commonwealth waives the support requirement of the A seam; the owner can mine the same at will, but he is not entitled to damages therefor. Additionally, the Commonwealth did show that extensive mining operations for the C seams were carried on in 1922, that a number of drifts or openings were made in the area and that in all probability the C seams of coal have been extensively mined. These mining operations were known as the Greiner Mines.

Furthermore, service Road No. 3 runs right over a portion of the area taken by the present condemnation and the coal,,if any, underlying that road would support coal and the present Board would not have any jurisdiction to award damages therefor.

It is incumbent on the owner who claims damages to prove his damages. A U. S. Geological Atlas published in 1920 does not prove anything but the fact that the various seams of coal did in fact exist once upon a time, but it is certainly no proof whatsoever that these seams exist at the present time. It is submitted that the property owner did not meet his burden in establishing that the A and C seams of coal have any existence at the present time.

In summary, therefore, the Commonwealth's position relative to the coal, if any, underlying the property taken by the present proceedings is as follows:

1. Since the B coal has been completely mined, the A coal, which is lower than the B, provides no support and the Commonwealth waives any supports requirement for the A coal.
2. The owner did not establish, by an definite evidence, how much, if any, of the C and C prime coal remains in place, and therefore damages would be speculative and conjectural.
3. The coal, if any, underlying Service Road No. 3 is support coal and the present Board has no jurisdiction to assess damages for the coal in that particular area, jurisdiction to

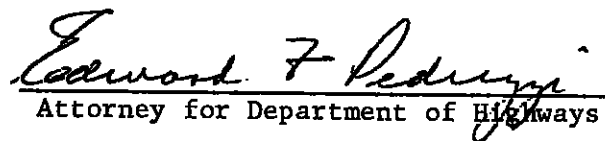
determine such damages is exclusively in the State Mine Commission.

4. The testimony of Meade Cauffiel, not having been qualified as an expert witness with respect to mines and mining, relative to the various seams of coal and their value, is absolutely worthless.

5. If any coal remains unmined, then it can be assumed that such remainder is incapable of being mined and would be of little or no value, when it is considered that a great deal of time has elapsed from the time the original mining operations were conducted to the present time.

It is recommended that the matter of damages relative to the coal be submitted to the State Mine Commission. That body can determine the particular area required for support of Service Road No. 3 and also definitely determine what coal, if any, underlies any of the area taken by the present proceedings. That body may also assume jurisdiction for the isolated coal, if so requested, and determine damages for all the coal required for support or otherwise.

Respectfully submitted,

  
Attorney for Department of Highways

Commonwealth of Pennsylvania, }  
County of Cambria } SS.

At a Court of Quarter Sessions of the Peace of the County of Cambria held at Ebensburg, in the  
said County, on the 15th day of August A. D. 19 62,  
before the Honorable Judge of the said Court: Upon the petition of divers inhabitants of the Town-  
ship of Richland, in the said County, setting forth that they labor under incon-  
venience for want of a n assessment of damages ~~XXXXXXXXXXXXXXXXXXXX~~

SEE ATTACHED COPY OF PETITION

and therefore praying the Court to appoint proper persons to view and lay out the same according  
to law. The Court, upon due consideration had of the premises, do order and appoint

Donald J. Letizia, T. L. Locher

~~XXXXXX~~, and

Theodore Hunt

~~viewers, to view the ground proposed for said road, and if they view the same, and shall  
agree that there is occasion for such 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 desires of the petitioners, and that  
they make a report of their proceedings to the next Court of Quarter Sessions to be held for said  
County, stating particularly whether they judge the same necessary for a public or private road, to-  
gether with a plot or draft thereof, and the courses and distances, and references to the improvements  
through which it may pass.~~

By the Court. /s/ Shettig, J.

Attest:

James T. Fagan, Clerk

Order to view IN THE MATTER OF THE  
CHANGE OF LOCATION AND LINES OF  
THE STATE HIGHWAY KNOWN AS THE  
NEW SOLOMON RUN ROAD IN THE TWP.  
OF RICHLAND, CAMBRIA COUNTY, PA.  
ROUTE NO. L. R. 11012, SEC. 5,  
SERVICE ROAD NO. 3.

Donald J. Letizia

T. L. Locher

Theodore Hunt

VIEWERS

Clerk James T. Fagan, Clerk of

Courts

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."

IN THE COURT OF QUARTER  
SESSIONS OF CAMBRIA COUNTY,  
PENNSYLVANIA

IN THE MATTER OF THE CHANGE  
OF LOCATION AND LINES OF THE  
STATE HIGHWAY KNOWN AS THE  
NEW SOLOMON RUN ROAD IN THE  
TOWNSHIP OF RICHLAND, CAMBRIA  
COUNTY, PENNSYLVANIA, ROUTE  
NO. L. R. 11012, SEC. 5,  
SERVICE ROAD NO. 3

PETITION OF JOSEPH JAMES  
CAUFFIEL FOR THE APPOINT-  
MENT OF VIEWERS

EDWARD J. HARKINS  
1101-1105 FIRST NATIONAL BANK BUILDING  
JOHNSTOWN, PENNSYLVANIA

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF	)	
LOCATION AND LINES OF THE STATE	)	
HIGHWAY KNOWN AS THE NEW SOLOMON	)	No. _____
RUN ROAD IN THE TOWNSHIP OF	)	
RICHLAND, CAMBRIA COUNTY, PENN-	)	_____ Sessions, 1962
SYLVANIA, ROUTE NO. L.R.11012,	)	
SEC. 5, SERVICE ROAD NO. 3	)	

PETITION OF JOSEPH JAMES CAUFFIEL  
FOR THE APPOINTMENT OF VIEWERS

TO THE HONORABLE, THE JUDGES OF THE ABOVE NAMED COURT:

The petition of Joseph James Cauffiel respectfully represents:

1. Your petitioner is a resident of the Township of Upper Yoder, Cambria County, Pennsylvania, his residence address being Upper Yoder Township, R. D. No. 5, Johnstown, Cambria County, Pennsylvania.

2. Your petitioner is the owner of certain property in the Township of Richland, County of Cambria, and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a chestnut oak and original corner; thence by an original line along land now or late of George Heidingsfelder and Samuel Hoffman, south 34 degrees east 41 perches to a stone; thence by land now or late of David Stall north 25 degrees east 46 1/2 perches to stones; thence by same north 62 degrees west 32.6 perches to stone at edge of Solomon Run on the original line; thence along said original line of land now or late of George Heidingsfelder south 24 degrees west 32.7 perches to beginning.

The land was conveyed to petitioner by Clyde M. Cauffiel, Trustee, by deed dated 15 June, 1959, and recorded in Deed Book Vol. 731, page 172, records of Cambria County, Pennsylvania.

3. The Department of Highways of the Commonwealth of Pennsylvania in changing the location and grade of the public highway leading from the City of Johnstown, Cambria County, Penn-

sylvania, to Ragers Corner in Adams Township, Cambria County, Pennsylvania, commonly known as the Solomon Run Road, has made certain changes as designated for Route L.R.11012, Sec. 5, and Service Road No. 3 which affected the land owned by your petitioner in that the new highway is extended over and above part of the land owned by your petitioner and above described, whereby the Commonwealth of Pennsylvania condemned a portion of the land of your petitioner.

4. By said condemnation an area of 1.49 acres, including a channel right of way, has been taken and condemned and a legal right of way of 1.29 acres, leaving a residue according to the records of the Department of Highways of the Commonwealth of Pennsylvania of 4.71 acres.

5. Your petitioner avers that he was the owner of the land hereinabove mentioned at the time of said condemnation, and, therefore, he is the only party entitled to recover damages for the taking thereof. There are no liens except current taxes.

6. The Secretary of Highways of the Commonwealth of Pennsylvania, under authority of law, has caused changes in existing lines and location of the highway hereinabove referred to as the Solomon Run Road to be made at a point on said highway and has changed the grade and location of the highway lines and has condemned property of the petitioner for the same and for the Service Road No. 3 hereinabove mentioned where the same passes along and above the real estate owned by your petitioner and hereinabove described. As a result of said changes, the land owned by your petitioner has been condemned and taken for public use in connection with the changes in lines and location above referred to.

7. The changes in said highway so made by the Secretary

of Highways have not only taken a large portion of the real estate of your petitioner as above set forth, but did cause injury and damage to the remainder thereof. In addition to the area taken as above mentioned, was taken and demolished a six (6) room frame dwelling; all the coal of the "C" seam and the "A" seam beneath said land; the land fronted on and was level with the highway at the front of the property of your petitioner, but access to the highway will be changed and a change of grade will be made so that the access from a public road to the remaining land of petitioner will be affected by the change of lines and change of grade; and the timber on the land condemned and taken will be lost to the petitioner.

8. The approval of the plan making the changes herein-above mentioned was dated the 15th day of May, 1961.

9. Petitioner alleges that the fair market value of the land owned by your petitioner at the time of the condemnation was decreased by reason of the condemnation and by reason of the fact that a certain portion of his land was actually taken for public use, and in addition thereto, he claims that the fair market value immediately after the condemnation and as affected thereby was \$7,000.00 less than the amount of the fair market value immediately before the condemnation.

10. Until this date petitioner and the Secretary of Highways of the Commonwealth of Pennsylvania have been unable to agree upon the amount of compensation to be made for the property taken by the condemnation as aforesaid.

WHEREFORE, your petitioner prays your honorable Court to appoint a Board of Viewers in the manner prescribed by law to ascertain and award just compensation to your petitioner for his property so condemned, in accordance with the Acts of Assembly in such cases made and provided.

And he will ever pray, etc.

Joseph James Cauffiel

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CAMBRIA

}  
} SS:  
}

On this 2nd day of August, 1962, before me, the under-  
signed authority, personally appeared JOSEPH JAMES CAUFFIEL, who  
being by me first duly sworn deposes and says that the facts here-  
inabove set forth of his own knowledge are true and correct, and  
that the facts hereinabove set forth upon information received  
from others, he believes them to be true and correct.

---

Joseph James Cauffiel

Sworn to and subscribed before me  
this 2nd day of August, 1962.

---

Notary Public

My commission expires:

ORDER

AND NOW, TO-WIT, this 15<sup>th</sup> day of August, 1962, on motion of Edward J. Harkins, Attorney for petitioner, the Court appoints Donald L. Stetia, J. L. Docher and Charles James Hunt as a Board of Viewers upon the foregoing petition and further orders that the Board of Viewers perform its duty in accordance with law and the Acts of Assembly in such case made and provided. The Viewers' Report shall be filed with the Court on the 15<sup>th</sup> day of October, 1962.

BY THE COURT

Signed Shetty  
J.

P. Exhibit # 1

Box # 1 Sept. 1962

Not Microfilmed

# This Indenture,

MADE THE fifteenth day of June 1959 of our Lord one thousand nine hundred fifty nine.

BETWEEN Clyde M. Cauffiel, Trustee under Declaration of Trust made January 13, 1945 and recorded Deed Book Volume 535 page 101 AND Jane Luella Cauffiel, single, of the City of Johnstown, County of Cambria and State of Pennsylvania, parties of the first part

A N D

Joseph James Cauffiel of Upper Yoder Township, County of Cambria and State of Pennsylvania, party

of the second part, WITNESSETH that the said parties of the first part, for and in consideration of the sum of One Dollar (\$1.00)

of the United States of America, unto them well and truly paid by the said party of the second part at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, have remised, released and quit-claimed and by these presents do remise, release and forever quit-claim unto the said party of the second part his heirs and assigns the following parcels of real estate all situated in Cambria County, State of Pennsylvania:

This quit-claim conveys all their interest and title in the following:

Number One: Deed Book Volume 603 Page 69 - recorded June 6, 1949  
BEGINNING at a stake on the north side of Joseph Avenue and corner of land of Mary J. Manges, said point being north 52 degrees 15 minutes east 99.1 feet from Louis Street; thence along land of said Mary J. Manges, north 37 degrees 45 minutes west 112.0 feet to a stake at Mangus Alley; thence along said Mangus Alley, north 52 degrees 15 minutes east 40 feet to a stake corner of land of Wm. Knipple; thence along line of land of William Knipple and William Koch, et ux., south 37 degrees 45 minutes east 112.0 feet to a stake on the north side of Joseph Avenue; thence along said Joseph Avenue south 52 degrees 15 minutes west 40 feet to a stake the place of beginning, having erected thereon a two and one-half story double house known as 127-129 Joseph Avenue.

BEING the same lot or piece of ground conveyed to Clyde M. Cauffiel, Trustee.

Number Two: Deed Book Volume 550 Page 608 - recorded Oct. 10, 1946  
ALL that certain lot or piece of ground situate, lying and being in the Fourth Ward of the City of Johnstown, County of Cambria and State of Pennsylvania, bounded and described as follows:  
FRONTING Forty (40) feet on the old Feeder, formerly Cemetery Street, (now Baumer Street) and extending back Seventy-five (75) feet the same width. (House Number on this lot is 71 Baumer Street). It being the same lot of ground conveyed to Clyde M. Cauffiel, Trustee.

Number Three: Deed Book Volume 550 Page 606 - recorded October 10, 1946  
ALL that certain lot or piece of ground situate, lying and being in the Seventh Ward of the City of Johnstown, County of Cambria and State of Pennsylvania, bounded and described as follows, to-wit:  
BEGINNING at the Northeast corner of Poplar and Wood Streets thence along the Eastern side of Wood Street North forty-two (42) feet to land now or formerly of Morris Rosenbloom, thence along said land East Sixty (60) feet on a line parallel to Poplar Street to a post at land now or formerly of Bessie Kline, thence along said land of Bessie Kline by line running South and parallel with Wood Street forty-two (42) feet to Poplar Street, thence along the North side of Poplar Street West Sixty (60) feet to the place of beginning. -237-39 Wood St. This being the same lot of ground conveyed to Clyde M. Cauffiel, Trustee.

P. Exhibit #1

Box #1 Sept. 1962

Not Microfilmed

State of Pennsylvania

ss. BOOK 731 PAGE 170

County of Cambria

On this, the 10th.

day of

June

1918, before me,

the undersigned officer, personally appeared Clyde M. Cauffiel, Trustee, Jane Luella Cauffiel, known as Janie Lou Cauffiel; otherwise Jane Luella Cauffiel

known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.



Notary Public

My Commission Expires March 1919, Title of Office Johnstown, Cambria County, Pa.

State of

County of

On this, the

day of

19

before me,

the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that they executed same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.



Title of Officer.

CERTIFICATE OF RESIDENCE

do hereby certify that the precise residence and complete post office address of the within named grantee is Upper Tader Township, Cambria County, Pa.

8-7

1919

Attorney for

Ruth G. Baker

5164

The law requires that this Deed MUST be recorded.

Deed

CLYDE M. CAUFFIEL, TRUSTEE and JANE LUELLA CAUFFIEL

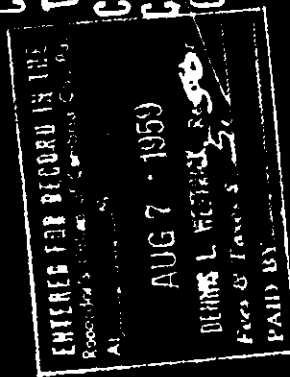
TO

INDEX

JOSEPH JAMES CAUFFIEL

Quit-Claim

CERTIFIED CERTIFIED CERTIFIED CERTIFIED



orig Cauffiel Trustee 145 Franklin St Johnstown Pa

COMMONWEALTH OF PENNSYLVANIA

County of

Cambria

ss.

RECORDED on this 7th day of August

A. D. 1919, in the Recorder's office of the said County, in Deed Book

Vol. 731, Page 172

Given under my hand and the seal of the said office, the date above written.

Dennis L. Wester, Recorder

# 5164

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TOGETHER with all and singular the tenements, hereditaments and appurtenances to the same belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also, all the estate, right, title, interest, property, claim and demand whatsoever, both in law and equity, of the said parties of the first part, of, in, to or out of the said premises, and every part and parcel thereof.

TO HAVE AND TO HOLD the said premises, with all and singular the appurtenances, unto the said party of the second part, his heirs and assigns, to and for the only proper use and behoof of the said party of the second part, his heirs and assigns forever.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered  
in the Presence of

*[Handwritten signatures of witnesses]*

*[Handwritten signature]*   
*[Handwritten signature]*   
(other wise known as Janie Lou Campbell)  
*[Handwritten signature]*   
*[Handwritten signature]* 

Received the day of the date of the above Indenture of the above named

the sum of **One (\$1.00)** Dollars  
lawful money of the United States, being the consideration money above mentioned in full.

Witness:

*[Handwritten witness signatures]*

I hereby certify that the precise residence of the within named grantee is Box No. Route , Upper Yoder Township, Cambria Co., Penna.

*[Handwritten signature]*  
for Grantee

Dated:

---

Not Microfilmed

Number Four: Deed Book Volume 536 Page 166 - recorded April 20, 1945

ALL that certain lot of land situate, lying and being in the 5th Ward of the City of Johnstown, County of Cambria and State of Pennsylvania, bounded and described as follows:

FRONTING 44 feet, more or less, on Haynes Street, and extending back the same width  $49\frac{1}{2}$  feet to land now or formerly of Frank C. Hoerle, and having land formerly of Charles Glock on the Westerly side and land formerly of Luther Bowman on the Easterly side, and being the same lot of land which became vested in Theodore Seigh (otherwise Theodore F. Seigh) by deed of David Dibert, dated April 23, 1887. Known as 217-19 Haynes Street.

Being the same lot of ground conveyed to Clyde M. Cauffiel, Trustee.  
Number Five: Deed Book Volume 532 Page 698 - recorded March 15, 1946

ALL that certain lot or piece of ground situate, lying and being in the Borough of Franklin, in said County of Cambria, in the Commonwealth of Pennsylvania, bounded and described as follows:

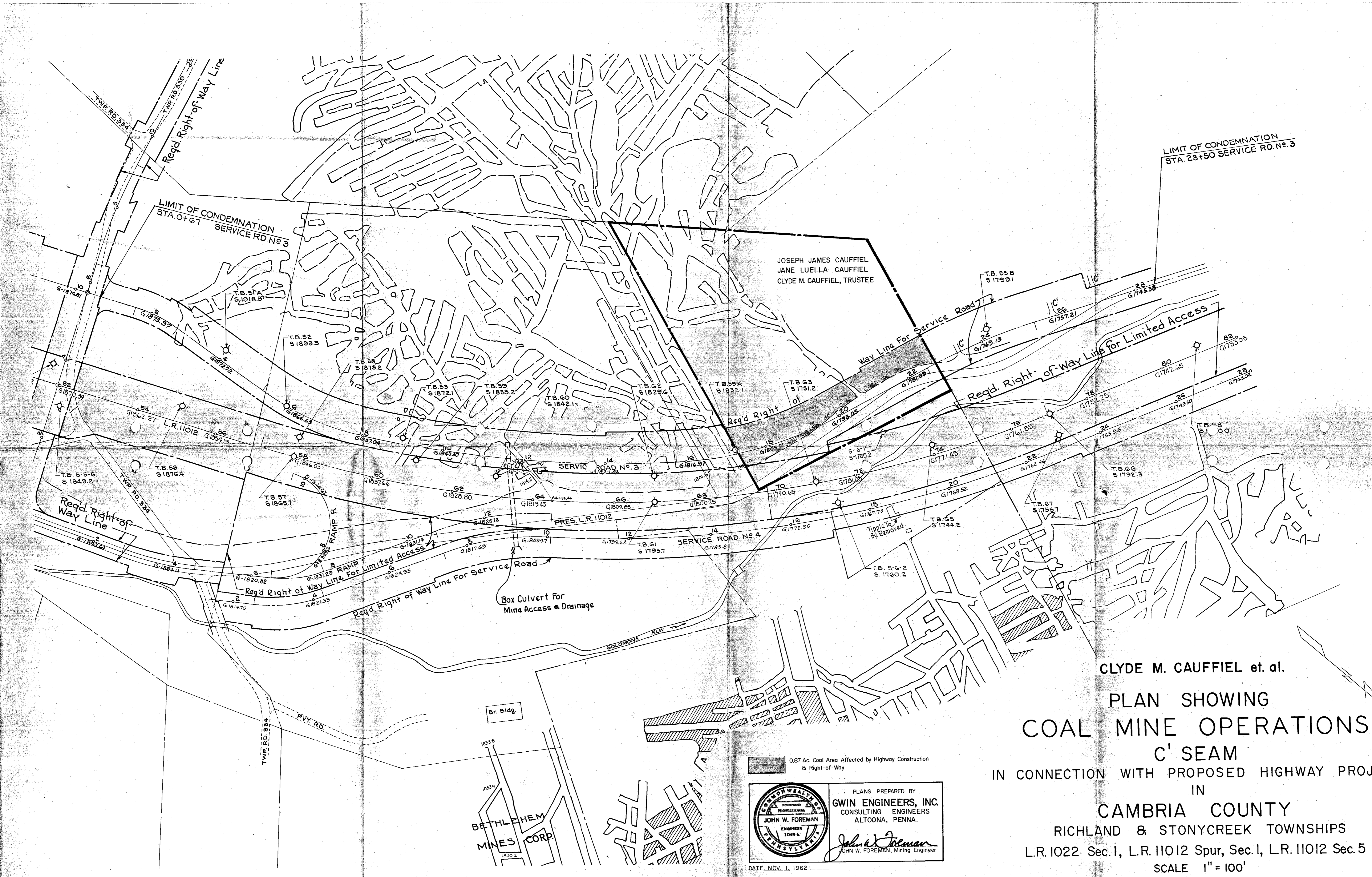
BEGINNING at a point in the northerly line of Pine Street, at the line dividing Lots Nos. 86 and 87, on the hereinafter mentioned plan of lots; thence, along the said northerly line of said Pine Street, South forty-nine degrees twenty-five minutes West ( $S.49^{\circ}25' W.$ ) ninety-five and twenty-five one-hundredths ( $95.25$ ) feet to its intersection with the easterly line of Thorn Street; thence, along the said easterly line of said Thorn Street, North no degrees forty-one minutes thirty seconds East ( $N.0^{\circ}41'30'' E.$ ) one hundred forty-four and thirty-nine one hundredths ( $144.39$ ) feet to a corner of said Lot No. 87; thence, along the said dividing line South forty degrees thirty-five minutes East ( $S.40^{\circ}35' E.$ ) one hundred eight and fifty-two one-hundredths ( $108.52$ ) feet to the place of beginning; being Lot No. 86 on the Plan of Lots of Franklin Borough as laid out by Cambria Iron Company. Known as 145-47 Pine Street.

Number Six: Deed Book Vol. 682 Page 543 - recorded Oct. 10, 1956

ALL that certain piece, parcel or tract of land situate, lying and being in the Township of Richland, County of Cambria and State of Pennsylvania, bounded and described as follows:

BEGINNING at a Chestnut Oak and original corner; thence by an original line along land now or late of George Heidingsfelder and Samuel Hoffman, South  $34^{\circ}$  East 41 perches to a stone, thence by land now or late of David Stull, North  $25^{\circ}$  East  $46\frac{1}{2}$  perches to stones; thence by same North  $62^{\circ}$  West 32.6 perches to stone at edge of Solomon Run on the original line; thence along said original line of land now or late of George Heidingsfelder, South  $24^{\circ}$  West 32.7 perches to the place of beginning; containing 7 acres and 78 perches. Being the same piece of ground conveyed to Clyde M. Cauffiel, Trustee, Vol. 682, Page 543 and recorded October 10, 1956. Being Property No. 50-0138 Assessment Records of Cambria Co. and being the same as recorded the 15th day of August 1946 - Deed Book Vol. 550 Page 372.

This Deed is made under "Limited Declaratory Trust Termination Agreement" dated June 15, 1959 and recorded in Deed Book Vol. 728 Page 415 and 416.



0.87 Ac. Coal Area Affected by Highway Construction & Right-of-Way

PLANS PREPARED BY  
**GWIN ENGINEERS, INC.**  
 CONSULTING ENGINEERS  
 ALTOONA, PENNA.

*John W. Foreman*  
 JOHN W. FOREMAN, Mining Engineer

DATE NOV. 1, 1962

Clyde M. Cauffiel et al.

**PLAN SHOWING  
 COAL MINE OPERATIONS  
 C' SEAM**

IN CONNECTION WITH PROPOSED HIGHWAY PROJECT  
 IN  
**CAMBRIA COUNTY**  
 RICHLAND & STONYPARK TOWNSHIPS  
 L.R. 1022 Sec. 1, L.R. 11012 Spur, Sec. 1, L.R. 11012 Sec. 5  
 SCALE 1" = 100'