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No. 1 December Sessions, 1959

IN THE COURT OF QUARTER
SESSIONS OF CAMBRIA COUNTY,
PENNSYLVANIA

IN RE: PETITION OF GEORGE
W. GRIFFITH AND THOMAS F.
GRIFFITH FOR THE APPOINT-
MENT OF VIEWERS

Hodged - Aug. 1, 1960

TESTIMONY

J. T. F.

Filed - Aug. 16, 1960

ELSIE PORADA
OFFICIAL STENOGRAPHER
FOR THE
FORTY-SEVENTH JUDICIAL DISTRICT
PENNSYLVANIA

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(EXHIBITS FILED WITH VIEWERS)

3 was changed to add three tracts of land. At this time, if counsel for the Commonwealth has no objection, I would also offer for use in this hearing a blueprint map for the prime purpose of showing the boundaries and the extent of the Webster Griffith Estate farm. It also shows in dotted lines the location of the limited access highway or the land which has been taken in this proceeding. The petitioners acquired title to this farm by inheritance through their father's estate. The estate proceedings are on record in the office of the Register of Wills of Cambria County and, if necessary, can be provided to the Viewers by certified copies. There is one exception to that last statement and that is that a tract containing approximately nine and one-tenth acres was acquired by the petitioners by deed in 1945. This area lies to the north of the tract and will be later identified, if necessary.

BY MR. SMORTO:

From whom was that purchased.

BY MR. ROSE:

Emma Eastman. Webster Griffith acquired title to the various tracts of land by several and sundry deeds, all of which are of record in Cambria County and can be produced or certified copies furnished if the Board so desires. I don't believe that there is any contest to the ownership of this farm.

BY MR. SMORTO:

We don't contend that they don't own it.

BY MR. ROSE:

On the blueprint map which I hand you now, we have located for identification purposes only the several farm dwellings

and buildings which we think would be relevant. I believe there is a tenth building known as a tool shed which is not shown, but I call that to your attention. It's a small building and it may not be located on this blueprint map. The locations are only approximate. They are close but not exact. We have a white map which I believe the Commonwealth furnished, which showed primarily the cultivated portion of the farm, showing the highway going across here and the northern part of the farm; but in addition to that area the Griffith farm consisted of three additional tracts, primarily timber tracts, although with this one exception, that on your map in this western area of this one tract it was not cultivated. It was in timber. Whereas an area, I think we can agree, of equivalent size in the southern portion of this tract was cultivated. So one off-sets the other.

(Off record discussion)

Now, if it please the Board, I am going to offer into evidence seven photographs which were taken of certain portions of the Griffith farm and they will later be identified. These were taken before construction began.

WALLACE EMERSON WILLIAMS called, sworn.

DIRECT EXAMINATION

BY MR. ROSE:

Q. What is your full name, please? A. Wallace Emerson Williams.

Q. Where do you live, Mr. Williams? A. 312 Palliser Street in Southmont.

Q. And what is your occupation? A. I'm a real estate

broker and contractor.

Q. How long have you been in the profession of being a real estate broker? A. 21 years.

Q. Are you a member of any professional or trade associations? A. Yes, I'm a member of the Cambria County Board of Realtors, Pennsylvania Real Estate Association and the National Association of Real Estate Boards. In addition, I am a member of the American Society of Appraisers, a Pittsburgh Chapter.

Q. Have you appraised and sold real estate in Cambria County? A. I have.

Q. Have you sold and appraised real estate in Cambria Township in Cambria County? A. I have.

Q. Have you appraised or sold real estate in the vicinity of the Griffith farm? A. I have.

Q. Have you handled transactions involving....

BY MR. SMORTO:

We admit the qualifications of Mr. Williams as a realtor and being familiar with property in this immediate locality.

BY MR. ROSE:

Q. Mr. Rose, are you familiar with the Webster Griffith farm? A. I'm as familiar with it as I can be. I'm making inspections of the premises and making inquiry.

Q. Will you tell the Board, Mr. Williams, to what extent you made inspection? A. Directly following May 5th, I was contacted by Judge Griffith and asked to make an inspection of the farm for the purpose of ascertaining what effect the construction of the highway would have on their holdings. Subsequent to that call, which was after construction had begun on

the farm, I met with the Judge and his brother, and we made quite an extensive inspection of the premises. We drove over it, walked over it. I left them and in clear weather following that I came back and flew over it to ascertain its location with relation to the other real estate and improvements in the area. Following that I came back and went over the farm again and examined the actual acreage, buildings that was there.

Q. Are you acquainted, Mr. Williams, generally with other farms in this area? A. I am acquainted with farms that are in the general area. I would answer yes to that.

Q. Did you make an examination or have you made an examination of the Griffith farm more recently than May of 1958?

A. Yes, I was there at a time, I believe, when the Viewers went over the property and subsequent to the May 8th occasion, and the first, second and third inspections. I have been back and made a further inspection since cuts have been made on the farm.

Q. Have you made a study of the map furnished by the Highway Department showing the location of the proposed new highway? A. I have examined it.

Q. And you are familiar with most of the items contained on that map? A. I am.

Q. Are you acquainted, Mr. Williams, generally with prices at which real estate is being sold in the vicinity of this farm? A. I would say that I've examined transfers that have occurred.

Q. Do you believe, Mr. Williams, as a result of your experience and your knowledge of sales and lands generally in this area that you are competent to give an opinion as to the fair market value of the Griffith farm immediately before the

taking in May of 1958? A. Yes.

Q. Do you believe that you're competent to testify to the fair market value of the remaining land after the taking by the Commonwealth of Pennsylvania for state highway purposes?

A. Yes.

BY MR. ROSE:

Cross-examine.

BY MR. SMORTO:

We admitted his qualifications.

BY MR. ROSE:

Q. Now, Mr. Williams, will you give us your opinion of the fair market value of the Webster Griffith farm in Cambria Township, of which a part was taken for state highway purposes on May 5th, 1958, before the taking--immediately before the taking, Mr. Williams? A. In my opinion, it was worth \$120,000.00.

Q. Now will you give us your opinion of the fair market value of the remainder of this tract or farm after a part had been condemned and taken for state highway purposes and as affected by that taking. A. The value after, \$49,500.00.

BY MR. ROSE:

Cross-examine.

CROSS-EXAMINATION

BY MR. SMORTO:

Q. Mr. Williams, what is the total acreage of the farm itself? A. Calculated to the nearest acre, the land that I considered was 478 acres.

Q. And how much of that was under cultivation?

A. Approximately 145 acres.

Q. And how much of that was pasturage land? Do you have

an idea of approximately how much? A. Well, that would vary from time to time. At the time I inspected the property, the evidence of that portion that was to be devoted that year to pasturage was not evident because I believe there had been some curtailment with relation to the dairy operation. In other words, I did not inspect this property prior to May 5th.

Q. Do you have an idea approximately how much that was despite the curtailment? A. I couldn't answer you on that particular thing.

Q. Then, as I understand, we have 145 acres under cultivation, an indefinite amount as to pasturage, and then the balance would be what--the balance of the farm would be utilized for what purpose, if any? A. Well, a portion of it is or was in what we call woodland--a portion was in timber, a portion of it was in streams and water courses; roads.

Q. Now this is what we know as a dairy farm, is that correct? A. That is my opinion of it.

Q. And what kind of buildings were on this property? A. At the time of my inspection I found that there was a variety of buildings on the land.

Q. Dwelling house? A. Correct. There were dwelling houses, and, as I recall it, a four car garage. There were two buildings definitely barns. One was an equipment shed, a brick milk house and a small tool house. There being 10 buildings definitely in evidence.

Q. Now you stated that the fair market value of this property before the taking was \$120,000.00. How did you arrive at the figure that this farm would be worth, \$120,000.00? Could you give me your approach to that figure? A. Taking into consideration its location, its size, shape and topography

I arrived at the uses as the property had improved and the uses to which it might be adaptable.

Q. Well, the one use that we know to which it has been used is that of a dairy farm. Would you, in arriving at this figure of \$120,000.00, say that this farm merely as a dairy farm would have a market value in this immediate territory of \$120,000.00?

A. As a dairy farm?

Q. Yes. A. Only?

Q. Yes. A. No, I would not express that opinion.

Q. All right, what would the market value be as a dairy farm in itself? A. Well, it would be impossible to quote you the use of the property as a dairy farm because in my opinion it had other uses as well.

Q. Do you have an idea generally, at least, as to what it would be if it were only a dairy farm? A. No.

BY MR. ROSE:

Excuse me. I don't mean to interrupt you in your cross-examination, but are you restricting your question to the 145 acres? Is that what you...

BY MR. SMORTO:

No, I mean generally, first of all as a dairy farm. We're looking at this entire topography now as a dairy farm.

BY MR. ROSE:

Well, I'm confused and I don't want the witness to be confused, and I think what you're asking is what is the value of the dairy farm which was, I think he testified to, 145 acres of cultivated land.

BY MR. SMORTO:

Well, of course, I had in mind 145 acres of cultivated land, the pasturage land, everything that would be appurtenant to the dairy farm as he has seen it on this

property.

BY MR. ROSE:

All right, just so we understand it.

BY MR. SMORTO:

Q. Well, now, you say this figure of \$120,000.00 is based not only on the fact that it's presently or was at the time used as a dairy farm but because it also had certain other possible uses as of the time of the taking of this property by the state, is that correct? A. Will you please state your question again?

BY MR. ROSE:

I want to find out one thing. Are you asking him to divide this thing now, or are you asking him of the Griffith farm? That, I think, is important. I don't think you can divide it.

BY MR. SMORTO:

Well, in other words, as I understand it, he reaches a figure of \$120,000.00, not merely because....

BY MR. ROSE:

For the whole farm.

BY MR. SMORTO:

For the whole farm, that's right, and not merely because it was a dairy farm.

Q. Now what other use would you say makes the value of this farm reach a figure of \$120,000.00? A. Well, there are many uses on a tract of this area that could be contemplated. The proximity of Ebensburg, and I believe this to be a community that's permanent and growing, with fine people, it has certain uses with relation to present and future dwelling sites.

Q. When you take that into consideration are you taking

into consideration the value of this land for lots because of the highway which is now being built, or as of the value of those lots as would be reflected on the market without such a highway at this point?

A. My opinion would be reflected both before and after.

Q. Well, that's exactly what I'm driving at. Would not these lots be worth more after the taking than they were before this road was even planned? In reaching this \$120,000.00 figure you state that one of the influencing factors in setting this value was the proximity of this farm to Ebensburg and the value of parts of this farm for building sites. Now I want to know if this \$120,000.00 figure is based on the value of those lots unaffected by the improvement made because of the presence of this highway through this property?

A. In the before figure the total of \$120,000.00 established reflected the desirability of the land as it was from the standpoint of location, size, shape and topography. Since the taking, the location, size, shape and topography have once again been considered, and the opinion of \$49,500.00 reflects that there has been damage to the land taken and consequential damage to the portion that remains as well as severance damage that definitely exists.

Q. So that in this \$49,000.00 figure then you have taken into consideration the fact that a certain amount of available home sites or residential sites have been taken?

A. More than that. I have reflected any increment that might attach to this land by virtue of a limited access, four lane highway. If there was an consequential improvement to this property I have endeavored to reflect it in the final opinion of \$49,500.00.

Q. So that although certain lots have been taken, valuable

lots, you have taken into consideration the fact that the highway passing through this territory has now increased the remaining lots? A. In value?

Q. Yes. A. No.

Q. I see. You don't feel that this highway, then, has increased the value as a home site of this particular farm?

A. I do not.

Q. Now then, you spoke of severance. Now how much land has been severed, in your opinion, and where, because of this highway? A. I think there are two severances. Under present use of the dairy farm the area that lies to the north of the four lane highway is severed from the dairy operation. I believe the land that lies, and I believe that is south--I think Ebensburg and the farm are north--south. The area to the south having an adaptability to be laid out for future development is now severed from the Borough of Ebensburg, and so I believe that there is a present severance with relation to the area to the north, and I think that there is a calculable severance with the land that lays to the south of the highway.

Q. So that, Mr. Williams, you say that because of the cut through of this highway that portion of the farm towards Ebensburg has been severed from the farm itself so that it cannot be used for dairy purposes, and you have taken that into consideration as a part of this \$49,000.00 loss, because you state that was severed?

BY MR. ROSE:

You don't mean \$49,000.00?

BY MR. SMORTO:

Q. In other words, it would be a loss, as I see it, of \$70,500.00. I have the white map here so that you won't be

confused and the Viewers perhaps. I'm speaking of the piece that you stated had been severed for dairy purposes as the piece north towards Ebensburg, consisting of three acres, 17 acres and an L-shaped addition of 3.81 acres, which had been added to the territory this morning. Now that had been used for pasturage purposes. Now do you consider that as having been severed from the farm itself for dairy purposes? A. Yes.

Q. The highway department has proposed some underpass plan for the passage of cattle from the barn area to the pasturage area. In view of the fact that a passage had been planned for the passage of the cattle from the barn area to the pasturage area, why would you consider that area as having been severed for the purposes of a dairy farm? A. The passage that I saw on the engineer's drawings, in my opinion, did not seem a practical solution to a very serious problem of endeavoring to operate a dairy. It appeared to be a substitute.

Q. So that you feel, then, that the passageway is impractical, is that what you have in mind, and that's why you consider this land as having been severed? A. I feel it's impractical.

Q. Then the other piece that had been severed, when we look to the left of this white map, is an almost triangular piece of land consisting of 5 acres and 58 perches. That, you believe, has been severed? A. I do.

Q. This land, of course, consists of considerable acreage in timber. That would not be affected, would it, by the taking of this particular land by the Pennsylvania Department of Highways? A. In a sense it is affected because the apparent point of removal of timber is through the area where the severance occurs of 5 acres 58 perches onto Summerhill Road.

Q. And that would be the area adjacent to what is known as the Evans property and is now separated by the highway from the property known as the Bender property? A. That is right.

Q. Now this area that has been severed north of the highway at the point where the...

BY GEORGE W. GRIFFITH:

By the way, may I interrupt just a minute. You call it Bender. On our map we show it Kokoski. It is all Kokoski now. At one time it was part Kokoski and partly Bender, but now it's all Kokoski. John Kokoski is the owner.

BY MR. SMORTO:

Q. The 5 acre 58 perches piece has been severed by this highway and was at one time contiguous to what is known as the Kokoski property today. The Kokoski property includes what at one time was known as the Bender property. In other words, in order to identify this on the record, the 5 acres 58 perches piece has now been severed by this highway from the contiguous properties which at one time were Kokoski and Bender and now are solely Kokoski, is that correct? A. The portion that is considered severed would be that portion which lies northerly from the projected highway improvement and would now be between the highway and the Summerhill Road.

Q. Now with respect to these properties north of that highway at the point where the buildings are located, and at the point where the passageway for cattle has been established, would not that territory, although not usable for dairy purposes, in your opinion, would that not be now a site for land or dwelling properties--lots? A. Well, in calculating the value of the property for dwelling purposes, you would have to take into consideration its location, size, shape and topography.

Of course, you have some consequential things as a result of this taking which also must be taken into consideration. In that area I believe that the maps indicate a discharge of water into the one elongated piece which connects with the highway and in order to use it for residential purposes, under present circumstances, that's the after, it would be necessary to handle the drain water situation before you could effect any entrance to contemplate the other use.

Q. So that, in order to get it clear in my mind what you consider as severed, you consider as severed the 5 acre piece which we stated was north of the highway at a point across from the Kokoski property, and then the entire area north of the highway at a point near the so-called barn and dwelling properties on this Griffith farm? You consider that area, north of the highway, completely severed, despite the fact that a cattle passage will be erected by the Pennsylvania Department of Highways in accordance with the map or the proposed plan that you saw?

A. May I ask you again, you are referring to the parcel between the proposed new highway and the Summerhill Road?

Q. Yes. A. As well as the other parcels that were in the tillable area?

Q. That's right. A. I considered that they are severed.

Q. In other words they're both severed? A. I consider that they are severed.

Q. And that is one of the important elements which you have taken into consideration when you come to the conclusion that there has been an approximate loss in market value of \$70,000.00?

A. There are many important elements as well as this one.

Q. All right. Now what is the other important element, in

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addition to the severance, which you have taken into consideration?
A. There's consequential losses that attached to the property. The fact that there has been a substantial cut has, in my opinion, interrupted and upset the natural drainage with relation to this property. I also believe that the character, nature or limitations with relation to this highway, being a limited access highway, has posed certain problems with relation to the ownership of this property subsequent to the taking. Third, there has been a change of grades with relation to the farm and the access roads that exist as projected on the map furnished by the highway, and it will be an inconvenience to the future owners of the property subsequent to the taking either in expense to correct them or in inconvenience to try to live with it. The drainage, the field tile have been cut, and there are wet fields that will have their limits of usefulness unless the field tile is corrected. There will be swampy areas unless substantial facilities for drainage are installed; and directly subsequent to the taking of this property these buildings were all without water. I'm speaking of the domestic variety. That's for the human beings as well as the animals. I believe that due consideration must be taken for the fact that there are a number of buildings on this property that directly following the taking their usefulness is questioned and there is evidence that they would fall in the depreciating category of over improvements. This does not represent all of the factors that have been considered, but will give you a few.

BY MR. SMORTO:

That's all.

RE-DIRECT EXAMINATION

BY MR. ROSE:

Q. Mr. Williams, looking at the map which Mr. Smorto placed in front of you, I am going to ask you to refer to the areas which you state, in your opinion, are severed, and we're going to ask you to calculate, if you will, the total acres which have, in your judgment, been severed. Now let's take at the northwestern part of the tract the area marked 5 acres and 58 perches. Do you see that tract? A. Yes.

Q. What are the other tracts that you added to that to determine the total acreage severed? A. I calculated as severed the portion to the north between the new improved highway and the Summerhill Road out of the section 5.58 perches.

Q. 5 acres 58 perches? A. Right.

Q. All right, now what's the next tract that you considered severed? A. That would be north of the farm across the highway, three acres and approximately 107 perches.

Q. Now on that particular tract does that 107 perches not also include a portion which was actually taken by virtue of the cut. I mean 3 acres and 107 perches. Isn't that somewhat diminished by the area contained in the width of the cut itself?

A. Yes. I had the maps that I worked with and looked at, and it's my opinion that it's probably around 3 acres and 30 perches.

Q. Let me ask it this way: On the map that Mr. Smorto questioned you from, there's no area shown on there which shows the area within the cut, the depth of the cut. That is not shown on this map, is it? A. No.

Q. Just the width of the highway itself is shown? A. That is correct.

Q. But isn't there additional area which is in effect taken by virtue of the land removed for a cut? A. That is correct.

Q. So in addition to the 11 odd acres actually taken, there was some additional acreage taken in the cut itself, isn't that so? A. That is correct.

Q. Now you have testified that there was 5 acres 58 perches, approximately, severed on the northwestern part and directly north you started by saying there was a 3 acre 107 perch tract. Now I'm pointing to another area north of the highway and what is it shown on this map? A. 17 acres.

Q. I'm pointing to another area and what is it? A. 3.81 acres.

Q. All right, now did you add the total figures together and what do you get for total acreage severed? A. I get 29 acres.

Q. Is that approximately? A. Approximately.

Q. Approximately 29 acres. And then do you get in addition to the 29 acres actually severed, do you get eleven and some odd acres actually taken.... A. That is correct.

Q. Either by the right-of-way itself or by reason of the areas within the cuts? A. The slope areas, that's right.

Q. Isn't it true, Mr. Williams, that there is another area across and to the north of the proposed highway, but to the east of the Wilmore Road, which is severed? Hasn't there been a severance there? A. If you can show me on the map what you have reference to.

Q. We have talked only.... A. We've talked these (indicating on map)

Q. Now have you considered, or is it your testimony, that there is an area to the northeast of the proposed new highway, but to the east of the Wilmore Road, which has been severed? A. That's right.

Q. And has that been included in your calculation in arriving at the market value before and the market value afterwards? A. That is in my calculation.

Q. Did you also include areas taken in the widening of the Wilmore Road in your calculations? A. No, I didn't.

Q. You didn't? A. No.

Q. Wasn't the Wilmore Road to be widened? A. On the prints that I examined with relation to the State it was rather indefinite as to the areas that were involved there.

Q. Wasn't it pointed out to you by the engineer at the view itself that there was to be some widening and filling at that point? A. At that time it was rather indefinite because at the view the question was asked "What will the elevation of the Wilmore Road be?" and at that time there was no direct concrete evidence of what was to be considered.

Q. So that played no part in your estimation? A. Absolutely no part.

Q. Mr. Williams, you discussed this cattle pass and I believe you said you thought it was impractical. Is that your testimony? A. I said I thought it was impractical.

Q. If it was constructed in accordance with the State Highway plans, would there be additional damage to the farm by reason of excavation and getting to that underpass? A. I feel that --it is my opinion that any further cuts will only add to the drainage problem and to the problems that are going to exist with relation to this farm.

Q. Can you describe --first of all, did you actually inspect the site of the proposed underpass? A. I did.

Q. Can you describe the area as it lies south of the location of the underpass generally? I'm not asking you to be specific. A. That would be on the high side of the land

and endeavoring to place it with relation to location and if there had been evidence of the construction that's in place then my problem would be much easier, but there's no evidence of the underpass as to location, and the only thing I could do is refer to the map and it shows it on the upper side 14 feet underground.

Q. What would you have to do to get to that underpass?

A. You would have to build a substantial approach or teach cows to walk down steps.

Q. Does the ground rise abruptly at that location?

A. It does.

Q. So there would be considerable excavation, then, to get to the 14 foot depth to use the underpass, isn't that so?

A. That is correct.

Q. When I've used the word underpass I think the word, perhaps, is cattle pass, isn't that what we're talking about?

A. That's my interpretation. I don't think it would accommodate any machinery or equipment. It appears to be designed purely for the passage of cattle.

BY MR. ROSE:

No further questions.

FRANK N. GENOVESE called, sworn.

DIRECT EXAMINATION

BY MR. ROSE:

Q. Will you state your full name, please? A. Frank N. Genovese.

Q. Your address? A. 617 Penn Avenue, Westmont.

Q. What is your occupation, Mr. Genovese? A. I'm a real estate broker.

Q. How long have you been in the business? A. 13 years.

BY MR. SMORTO:

The qualifications of Mr. Genovese are admitted.

BY MR. ROSE:

Q. Mr. Genovese, are you familiar with the farm known as the Webster Griffith Estate farm? A. About two months ago I was asked by Mr. Williams to view the property with him in relation to arriving at a figure as to its actual value before and after. Now I made several inspections of the property. I looked at several of the maps, and, of course, at that time the cut had been made and I noticed the severances, etc. However, I did make an inspection, as I said, of the maps and the photographs that were submitted to me and I finally came to my conclusions as to my opinion of the farm. Yes, I walked over it and I drove over it, and I think --well, I have already formed my opinion, yes.

Q. Mr. Genovese, do you believe, as a result of your experience and your knowledge, and from your inspection, that you are qualified and can express an opinion as to the fair market value of the Griffith farm immediately before the taking by the highway in May of 1958? A. Yes.

Q. And do you believe that you're competent to testify as to the fair market value of the farm remaining after the taking by the State for highway purposes? A. Yes.

Q. Will you give us your opinion of the fair market value of the Griffith farm in Cambria Township of which a part was taken by the State for highway purposes on May 5th, 1958, before the taking? A. Before the taking, \$131,000.00.

Q. Will you give us your opinion of the fair market value of the remainder of the farm after a portion of it had been taken by the State for highway purposes and as affected by that taking? A. Yes. Afterwards it was \$55,000.00.

BY MR. ROSE:

Cross-examine.

CROSS-EXAMINATION

BY MR. SMORTO:

Q. Mr. Genovese, if I were to ask you the same questions that I asked Mr. Williams on cross-examination, would your answers be substantially the same? A. Just about.

BY MR. SMORTO:

That's all.

BY MR. ROSE:

No further questions, thank you.

We rest.

HOWARD E. BRENEMAN called, sworn.

DIRECT EXAMINATION

BY MR. SMORTO:

Q. Your full name is.... A. Howard E. Breneman.

Q. Where do you live, Mr. Breneman? A. I live in Hollidaysburg, Pennsylvania.

Q. What is your occupation? A. I am employed by the Pennsylvania Department of Highways as District Right-of-way engineer.

Q.. Then your profession is that of engineer, that's right?
A. That's right.

Q. And you are a graduate of what school? A. Penn State.

Q. Penn State University; and how long have you been connected with the Pennsylvania Department of Highways?

A. I've been employed by the department for over 33 years.

Q. And are you a registered engineer? A. I am.

Q. Mr. Breneman, do you have before you a set of plans which have been prepared by the Pennsylvania Department of

Highways in connection with the taking of this particular property?

A. I have.

Q. It has been agreed upon here that there has been certain taking in the opening remarks by Mr. Rose through what was known as the Webster Griffith farm. Now can you tell us what is the plan in connection with this proposed cattle passageway?

A. The plan, a copy of which is recorded in the Cambria County Courthouse, definitely shows a construction of a concrete cattle pass at station 1183 plus, which cattle pass will be 96 feet in length. That is also equipped with concrete end walls and entrance and egress from the pike.

Q. Now you stated that the length of that passageway will be 96 feet. What is the width of the passageway?

A. That

passageway is 4 feet in width and 6 feet high.

Q. And you say that will be constructed out of what material?

A. That will be reinforced concrete pipe with a flat base.

Q. How wide did you say?

A. Four feet.

Q. And what will be the height of the passage?

A. The

height will be six feet.

Q. As I understand the plan, is there a slope towards the 17 acre piece, which is north of the proposed highway?

A. That installation will be provided with a definite slope that way for drainage. In other words, it is not advisable to carry a flat for any water or ice to lie in the base of it.

Q. It has been testified here by Mr. Williams and Mr. Genovese that despite the installation of this passageway that the land north of the passageway would be considered by them as severed from the property in question. What is your opinion on that?

A. It is not what I would interpret as a severed piece

of ground insofar as pasture land because cattle can make use of this underpass and reach the other tract. Nevertheless, the farm itself has been split by the new highway.

Q. Now with respect to the five acre piece which was north of the Kokoski property, do you consider that as having been severed? A. Definitely. Yes, to be explicit.

Q. So that you also agree that the highway going through the property has split the Griffith property? A. It has.

Q. However, with respect to the land north of the highway for pasturage purposes you feel that there has not been a severance because of the cattle passageway? A. By the provision of installation of a cattle pass, it has its usage over there for pasturing.

BY MR. SMORTO:

Cross-examine.

CROSS-EXAMINATION

BY MR. ROSE:

Q. Mr. Breneman, can you get a tractor through this underpass? A. Not in four feet.

Q. Can you get any farm machinery that you know of through there? A. That's rather an absurd question when I specified it's only four feet in width.

Q. Well, isn't this underpass a rather absurd underpass? A. It is not.

Q. First, are you going on the premise that the northern boundary or the northern lots which are remaining are used exclusively for pasturage? A. That was their usage at the time of condemnation.

Q. Do you know whether or not they had ever been used for cultivation? A. Yes.

Q. You do know that? A. Yes, for cultivation.

Q. Had they ever been cultivated, plowed, planted in corn, hay?

A. I do not recall seeing corn. I think the time I traversed the field there it was planted with alfalfa.

Q. How would you get a plow over there now, Mr. Breneman?

A. The only way you could get a plow over there is go across the crossover of Route 11026.

Q. Now what kind of a highway is being built here by the State?

A. The main highway?

Q. Yes, sir. A. It's a limited access highway.

Q. And by limited access that means what? A. That you are not permitted to get on except at certain cross-overs.

Q. How many lanes will it have? A. Four lanes.

Q. How wide will each concrete lane be? A. 12 feet.

Q. And how wide will the medial strip be? A. 16 feet.

Q. What is the total width that you would have to traverse from the southern side of the Griffith farm across the highway over to the northern part of the farm now, when this thing is constructed? A. You mean what is the width of the right-of-way as condemned?

Q. Yes. A. 140 feet.

Q. What would the traveled portion represent, Mr. Breneman? A. To cross the highway?

Q. Yes, sir. A. That would be the same.

Q. Are you suggesting, therefore, that on this four-lane, east-west main highway, that if they want to get farm machinery across they just simply take it across the Wilmore Road?

Isn't there a safety factor that enters into this thing?

A. Safety factor is something that in construction is not provided for.

Q. But isn't that a factor, though, in considering that

there has been a severance here, Mr. Breneman? A. A person crossing there at any time would have to observe traffic in either direction, whether it was machinery or whatsoever.

Q. But not necessarily hauling a load full of manure, or a corn cutter?

A. That would probably be a little longer than the average passenger automobile.

Q. And it would be more dangerous, wouldn't it?

A. Yes.

Q. And isn't that a factor, then, when we say and we argue that there has been in effect a severance here, because it's almost impractical for them to take machinery across this limited access highway to get to the northern tracts?

A. The term severance, I don't think, is applicable to what you're bringing out. It is an inconvenience.

Q. It's also a dog-gone dangerous inconvenience, isn't it?

A. Yes, but it is not a severance. Severance in terminology does not mean that.

Q. Now assuming that the cattle pass will be constructed isn't there additional land which is going to have to then be taken away from cultivation or from pasture and devoted to this cattle pass besides the 90 feet you told us about? A. Well, the 96 feet, of course, lies within the area out of 140. The rest of your approaches going out there will be within the condemned area.

Q. I beg your pardon, sir. I didn't hear what you said.

A. I said that certain a certain part of those entrance and exits from your cattle pass lie within the condemned area.

Q. Did the highway change its grade since this map was made--change its plan? Is the road to be built in accordance with the grade shown? A. Absolutely.

Q. Then in effect the bottom of this cattle pass will be how many feet below the surface of the road? A. That I can't answer you. I don't have the detail on the elevation of the bottom of it.

Q. Isn't the present contour shown on this map that you have in front of you? A. Yes.

Q. Can you not measure then from the shown elevation of the proposed road to the bottom of the proposed underpass? Can't you scale that out? A. It's not very practical right there. The low line at the cattle pass is exactly 10 feet as shown on our construction sections from the finished road elevation.

Q. Now, Mr. Breneman, have you personally examined the site of this proposed cattle underpass? A. I have been over it several times, but not within the last several months.

Q. Well, did you examine then the terrain at the location of this underpass as it lies to the south of the highway? A. To the south of it? I know the slope goes a gradual slope away from the highway.

Q. Is it a gradual or a substantial slope? A. I can't recall.

Q. And you don't have any idea, do you, of the area of land and earth to be removed to ^{even} get into that approach, do you? A. I do.

Q. What is it? A. One-twelfth of an acre.

Q. Do you have a plan of that or... A. We have taken that from our construction sections here.

Q. Do you have a topographical map showing exactly how far back the cut would have to be to get into that....

A. I do not have a topographical map. It's covered by cross-sections and elevations.

Q. There's a pretty substantial cut there to get down to the bottom of the underpass, isn't there? A. No. In fact they can come out from the entrance of that pipe, which is back within the condemned area. Cattle can come out there very readily within 75 feet from that point.

Q. 75 feet south? A. South.

Q. And isn't that in effect going to deprive the owners of the use of some of their land just to get ready for that....

A. That is nominal with me because your deepest cut is right at the entrance to your pipe.

Q. I don't agree with that. I looked at it and I find that there's a substantial hill as you stand on this roadway and look up towards that entryway. Now isn't that the truth, that there's a pretty substantial hill going up there? A. As I said, I haven't been over there the last several months. I don't recall it.

Q. One more thing, Mr. Breneman. There will be a widening, will there not, of Route 11026 in order to accommodate the intersection with the new proposed highway, won't there?

A. Yes, your pavement will be replaced and it will be wider than it was previously.

Q. How much wider? A. Your present traveled roadway on 11026 at this point is 16 feet, and your new construction will provide an 18 foot surface roadway.

Q. You'll take a foot on each side? A. That's right.

Q. Are you going to do any elevating of the roadway for an approach? A. It will be adjusted, yes, both left and right.

Q. Will that have any affect on the accessibility to the cultivated area shown to the east of Route 11026 on your map?

Will the elevation interfere with ingress and egress to that tract? A. I would say not because it only extends 150 feet south of the new construction.

Q. It extends that far south but how much of a rise will it have? A. Well, the rise when it comes out 150 feet it will come out to the existing grade of the old road.

Q. Isn't it a fact, Mr. Breneman, when you examine that and realize that there's to be an elevation that it will require some ramping from this field to get onto the Wilmore Road now?

A. It would if you go right in at that point, but you have access to the field from up here within 150 feet from the right-of-way.

Q. Did you examine that 150 feet from the right-of-way with that thought in mind? A. No, I frankly didn't.

Q. Now in addition, Mr. Breneman, to the widening and the elevation of the approach of Route 11026 and the Wilmore Road, what effect does this highway have on the Summerhill Road with the Griffith property? Would you look at your drawing.

A. You're speaking of that little severed portion on the western end?

Q. Yes, sir, I am. A. The severance of that tract there is completely land-locked.

Q. Completely landlocked? A. Yes.

Q. In other words, that tract no longer has any frontage on... A. That's out here. (indicating)

Q. It has removed any frontage on the Summerhill Road, hasn't it? A. The land itself is still there.

Q. But it has no access to it? A. It has no access to it.

BY MR. ROSE:

That's all.

ELSE FORADA, OFFICIAL STENOGRAPHER FORTY-SEVENTH JUDICIAL DISTRICT, EBERSBURG, PA.

PAUL D. WASHINGTON called, sworn.

BY MR. ROSE:

We will admit Mr. Washington's qualifications as a real estate broker.

DIRECT EXAMINATION

BY MR. SMORTO:

Q. What is your full name? A. Paul D. Washington.

Q. Where do you live? A. Cresson.

Q. What is your occupation? A. Real estate broker and insurance agent.

Q. Are you employed by the Commonwealth of Pennsylvania?

A. Yes, sir.

Q. In what capacity? A. As a fee appraiser.

Q. Mr. Washington, in that capacity have you had occasion to examine the property in question? A. Yes, sir.

Q. Did you view this property prior to the taking or the installation of the road? A. I did.

Q. And you have seen it thereafter? A. Yes, sir.

Q. What, in your opinion, was the fair market value of this farm prior to the condemnation or taking? A. \$89,064.00.

Q. And what was the market value after the taking? A. \$72,628.00.

Q. And what was the amount of damage by reason of the taking? A. \$16,436.00.

BY MR. SMORTO:

You may cross-examine.

CROSS-EXAMINATION

BY MR. ROSE:

Q. Mr. Washington, where did you get the \$64.00 in the \$89,064.00? A. Do you want me to go into the detail?

Q. That's an odd figure. Does that represent some specific

item that you think is a measure of damage here? A. No, that isn't a specific item. That's the way the total came out to the whole. In other words, the whole....

Q. You took in various components and from them you arrived at a figure, is that so? A. Yes, that's correct. In other words, it worked out to that figure. It could be dropped. It doesn't make that much difference.

Q. In other words, this is more than just an estimate. This is a real, honest to goodness calculation in your mind?

A. Well, no, it's an estimate; but the figures just happened to come out that way.

Q. You didn't bother to round them off? A. That is correct.

Q. Mr. Washington, did you examine other properties in the location before you arrived at your opinion? A. You mean other farm properties?

Q. Yes, sir. A. Yes.

Q. How many other properties and transactions involving those properties did you study? A. Why I didn't study any of them in particular, but there was one that I did consider in particular.

Q. I ask you to repeat the answer. I didn't hear you. A. I say I didn't study all of them in particular but there is one that I did consider that's not too far removed from the subject property.

Q. In other words, your comparison, then, with the prices paid for other sales in this locality is based primarily on one?

A. No; no.

Q. You said "in particular". Maybe ... A. Well, in particular I considered the one. I considered other....

Q. Why is that one so outstanding? A. It happens to be a dairy farm.

Q. It happens to be a dairy farm? A. Yes.

Q. There were no other dairy farms about that you could consider? A. Yes, there is one other one but it isn't too close to the subject property. It's also a dairy farm.

Q. Is your \$89,064.00 figure based on approximately 150 acres as a dairy farm or on the whole tract of 450 some odd acres?

A. Would you....

Q. You fixed a value on this farm before the taking of \$89,064.00, didn't you? A. Yes.

Q. Now when you placed that value was that the value of the entire farm? A. Yes, sir.

Q. Including the four hundred and some odd acres within its confines? A. Yes, sir.

Q. Includes the timber? A. Yes, sir.

Q. The surface? A. Yes, sir.

Q. You considered the fact that it was a dairy farm?
A. Yes, sir.

Q. What would you say was the highest and best use that this land could be placed to? A. Well, in my opinion, at the present time...

Q. No, before the taking in May of 1958, to be specific.
A. Well, I would say at that time the highest and best use would be its present use.

Q. As a? A. As a dairy farm.

Q. And your figures, then, are based upon that use?
A. Yes, sir, that is correct.

Q. Did you examine all the buildings? A. Yes, sir; I examined some from the interior and some from the exterior,

but I did measure and examine them.

Q. What are these buildings for? A. Why except the dwellings they're farm buildings, and there's a brick milk house, silos, garage.

Q. Did you examine the barn? A. Yes, sir.

Q. Did you examine the stanchion area of the barn and the area for the cattle? A. Yes, sir, I walked from one end to the other and I measured the barn.

Q. Is this barn adequate for a farm of this size before the taking--was it adequate? A. I would say yes, it was very adequate.

Q. Considering there has been some land taken away, is it still adequate? A. It would be more than adequate.

Q. More than adequate? A. Yes.

Q. In other words, we have too much barn and too much milk house for the size of the remaining area, don't we?

A. That is my opinion.

Q. Did that have any effect in your thinking when you went to assess the damages here? A. It did.

Q. And you considered that? A. I did consider it.

Q. Did that play a major part or a small part of your thinking? A. A small part.

Q. Only a small part? A. Yes, sir.

Q. Now do you consider that there is a severance here, Mr. Washington? A. I do.

Q. You do consider that there's a severance? A. Yes, sir.

Q. By a severance I'm referring to the matters which both Mr. Williams and Mr. Breneman testified to regarding the properties which lie to the north of the highway. A. I

understand that.

Q. Do you agree, Mr. Washington, that it's impractical now to regard that area to the north of the highway as a part of a dairy farm? A. No. No, it isn't entirely impractical.

Q. Is it partially? A. It might be, but I am of the opinion that the land can still be used.

Q. For dairy purposes? A. Well, it could be used for pasture or it could be cultivated.

Q. Would you recommend in your mind, and don't you think-- well, would you recommend that you take farm machinery across this new highway after it's built? A. Well, that seems to be the only means of access to that part of that land.

Q. First would you say that it would be a safe proposition to take, let's say, a manure spreader across a four-lane highway? A. Well, in my opinion there would be a certain amount of hazard.

Q. Would it be hazardous to take a hay wagon across? A. I would say it would be.

Q. And doesn't that very fact render this impractical for use for farm purposes on the northern part of the remaining farm? A. Well, it could still be used.

Q. Well, you can drive an automobile at 100 miles an hour but sometimes it isn't desirable, so isn't that a major fact here, Mr. Washington? A. Well, it's a fact, but I can't say that it's a major fact. In other words, the equipment can still be transported across the highway.

Q. Well, you can transport it by way of Wilmore and Johnstown and come back, too. We know we can get it across, but is it practical? Is it practical any more? A. Well, I would say that it's more or less a hazard. I wouldn't say it's

impractical.

Q. This wasn't considered in your thinking as strictly an area for pasture only, was it? A. No.

Q. Did you consider the possibility that it was used for cultivation? A. I did.

Q. You've been in the farm area most of your life, haven't you, in your real estate work--rural area? A. Well, I have done quite a bit of rural and farm appraising and, likewise, I have sold a few farms.

Q. It's not uncommon, is it, for farmers to transfer pasture into cultivated areas? It's good farming practice, is it not? A. It is very good to rotate, that is correct.

Q. So you can't just limit this area to the north of the highway to pasture land, can you? A. That's right. It should be rotated.

Q. So then there is a factor here involved in taking machinery from the southern portion of the farm over to the northern portion of the farm? A. Yes, there is.

Q. Mr. Washington, did you notice that at one time in the area marked red on the state highway map that a water storage tank had been erected by the Griffiths? A. Yes, sir.

Q. And did you know the use of that tank? A. Yes, I did.

Q. What was that use? A. The use was for the purpose of maintaining a water supply for the various buildings, including the dwellings, barn, milk house, etc.

Q. Was it explained to you how water got into that tank? A. Yes, sir, it was.

Q. How? A. Why the water was pumped from a spring up to the cistern and then the flow was by gravity to the various buildings.

Q. Did someone point out to you the location of that cistern before the actual construction? A. Yes, sir. I was there before actual construction began.

Q. Would it be fair if I said that that was located in the portion which we are familiar with, known as the cut area, and on top of the hill? A. That is correct, that's where it was located.

Q. Now do you know that that cistern or the water storage tank was moved? A. Yes, sir, I do.

Q. Did you consider the cost of moving that? A. I did.

Q. What cost did you attribute to the moving of that equipment? A. \$3600.00.

BY MR. SMORTO:

Just a minute. Any cost that is involved here should be taken into consideration, as I see it, with respect to the market value of the property after.

BY MR. ROSE:

That's right.

BY MR. SMORTO:

In other words, it isn't to be considered as a specific....

BY MR. ROSE:

item of damage. I think he's qualified to testify on items which can be calculated as to what figures he attached to those items as going into the market value, and not as a specific item of damage, and I think the Board is familiar with those rules.

BY MR. SMORTO:

All right.

BY MR. ROSE:

Q. Now, Mr. Washington, what did you allow for the cost

of removal of that cistern and relocating it? A. \$3600.00.

Q. \$3600.00? A. Yes, sir.

Q. Did that include the reconnection and rerunning of pipes from the dwellings and buildings up to that water tank?

A. Would you repeat the question?

Q. Did your price that you used, or your estimate you used, include the cost of running new lines or replacing those lines to and from the buildings? A. I believe it does.

Q. Did this cost include a labor factor? A. Yes.

Q. Does it include farm labor? A. I believe.

Q. Does it? A. I believe so.

Q. Will you look? A. Yes.

Q. In other words, if you were to do this on the labor market you would probably pay more than the amount used in your estimate for the laboring part of the job? A. Well, that might be possible.

Q. Now you attributed \$3600.00 to the cost of moving the water tank. Then I take it that exclusive of the water tank, it is your opinion that the damage to the Griffith farm, exclusive of that, was \$13,836.00, and I arrived at that by a simple subtraction. A. That was included in the original

damages, that is \$3600.00 was included in that.

Q. In other words, Mr. Washington, you would tell us, then, that exclusive of the water tank the taking caused damage, then, only in the amount of \$14,000.00 roughly, is that right?

A. Yes. Of course, they took this but it was replaced.

Q. Did you consider in your estimate the fact that there would be an additional taking along the Wilmore Road on both sides, or a widening? A. Truthfully, no.

(Off record discussion)

BY MR. ROSE:

We can stipulate on the record here that Mr. Breneman in his testimony that one foot on each side was to be added referred to the paved portion of the highway, that's on the Wilmore Road; but the real taking for the additional right-of-way will be 17 feet. Is that right?

BY MR. SMORTO:

Yes.

BY MR. ROSE:

Q. All right. Now, Mr. Washington, you have heard a stipulation which describes a taking of an additional 17 feet of property on the Wilmore Road. Now that taking, if you will look at the highway map, will run to the north of the roadway and to the south of the roadway along the Wilmore Road, and I'm going to ask you to point to it here. With my finger I'm describing the shaded area in green lying to the south and along the Wilmore Road, which I think Mr. Breneman described as a distance of 150 feet.

BY MR. BRENEMAN:

Approximately.

BY MR. ROSE:

Q. And I'm also describing and pointing to an area along the Wilmore Road to the north, which I unfortunately didn't ask Mr. Breneman how far, but I presume that that's somewhat more than 150 feet.

BY MR. BRENEMAN:

It is.

BY MR. ROSE:

Q. Now did you consider that taking in your analysis, Mr. Washington? A. I considered it in this respect, Mr.

Rose: It's included in the land as being taken.

Q. But you didn't fix any value or particular value on that loss, did you? A. Not on this particular loss.

Q. And were you to do so you would have to increase your loss, wouldn't you? A. Well, now, that depends on the approach that the highway might provide to get into the lands adjoining.

Q. You were at the view, were you not? A. Yes, sir, I was.

Q. Didn't you hear the engineer at that time describe, and Mr. Breneman here today also describe, that there would be an elevation of the Wilmore Road in order to meet the new highway?

A. That's right.

Q. Now did you calculate the affect that elevation would have on means of access to and from the various fields?

A. No, I did not.

Q. Do you think that would not be an item of damage?

A. Well, unless, as Mr. Breneman pointed out, the land would be accessible further out from the intersection.

Q. Well, if there were no such access further out would you be satisfied that the Griffiths' market value after would be lessened? A. You mean with that access?

Q. Yes, sir. A. Well, I would have to say yes.

Q. Did you examine the field which your finger was pointing to when you were at the view? This field lies to the east of the Wilmore Road and now to the south of the proposed new highway. Did you examine that? A. You mean before the...

Q. After the taking. Did you examine it recently, on the view? A. Yes, I did.

Q. Did someone point out to you the stream which now

runs down through that field? A. Yes, sir.

Q. Did you make any estimate of the cost of bridging that stream? A. No, sir.

Q. Do you think that was an element of damage? A. It could be.

Q. Well, isn't it? A. I'm just trying to visualize the stream. Is the course of that stream changed?

Q. Here's the stream right here (indicating on map).

(Off record discussion)

BY MR. ROSE:

We can stipulate I don't think the course of the stream was altered, but we're going to testify, if necessary, that the flow was increased tremendously.

BY MR. BRENEMAN:

We have no figures on any increase of flow but there is a change in the outlet there on account of a sewage manhole necessitated in the relocation of....

BY MR. ROSE:

a stream under the highway.

BY MR. BRENEMAN:

Piping it here (indicating). You see, here's your old sewer and your sewer manholes. That present stream was there, so in the construction by placing the stream through a pipe we had to move it a little bit here (indicating).

BY MR. ROSE:

Q. Well, I ask you, then, to answer my question, Mr. Washington. Did you calculate the cost, Mr. Washington, of bridging the stream so as to come from this portion of the field to that portion (indicating)? A. No, I did not.

Q. Don't you think that you should have? A. I would

rather refrain from answering that question until I could make a more detailed inspection.

Q. Well, the point is that your figures don't reflect that?

A. That is right, they do not.

Q. All right. Now in connection with drainage, as long as we're on that subject, Mr. Washington, did you examine the location of the proposed drain to be constructed by the highway department up and down the new roadway as it's built on the Griffith farm?

A. I did.

Q. Did you note, for example, where the water will drain?

A. Generally I did.

Q. Where will it drain, generally? A. Well, it comes down around to what is now the bridge that crosses over just before you turn into the farm.

Q. Now with my pencil I'm going to point to some heavy dotted black lines within the area which we have for the want of a better word identified as the cut area, and do you agree that those are to be sewer lines?

A. That's the way it was explained to me.

Q. And was it also explained, then, that that sewer will drain, therefore, into this northern piece?

A. Right.

Q. And which way, then, does the land take that drainage?

A. It runs down this way (indicating).

Q. Towards the east? A. That's right, east.

Q. And will it then, in your opinion, put all of that drainage into one area located to the northeast of the Griffith farm, and particularly to that area north and west of the Wilmore Road?

A. That's right. It's sort of a basin in there.

Q. That becomes sort of a basin? A. That's right.

Q. Have you any thoughts that that might become swampy?

A. It could. Now here's one drain provided here (indicating).

Q. Do you know what field drain is or field tile?

A. Yes, sir.

Q. Do you know what it's used for? A. Yes, sir.

Q. Did you include any cost for putting field tile by the Griffiths for draining this area if it's practical at all? Did you include that in your estimate? A. In my over-all estimate.

Q. You did include that? A. Yes, sir.

Q. Did you figure any specific number of feet of drain tile or anything like that? A. No, sir.

Q. In other words you just guessed at that amount? A. I estimated that.

Q. Well, was that your best estimate, then? A. Yes.

Q. Isn't it logical that we can assume, with all this drainage going down here, that there's going to be more water down that streamway? A. Yes.

Q. And wouldn't that also be an additional reason why the Griffiths would have to bridge on this lower field from one end to the other to get to this (indicating)? A. There's no means of access?

Q. There is no means of access there, Mr. Washington. A. In other words, the highway has been cut right off?

Q. Yes, sir. Isn't all of that part of this picture, Mr. Washington, and shouldn't you have calculated that when you arrived at your figures? A. Well, I guess I should have.

Q. And then these figures you've given don't reflect any of those items, do they? A. No, it don't reflect this item.

BY MR. SMORTO:

Q. By "this item", you're pointing to that item which is cut off by the stream as well as the highway, is that right?

A. No. This item here, he's asking about a bridge. You see, I didn't consider a bridge.

Q. What I have in mind is by "this" you're speaking of that piece of land which Mr. Rose contends has been severed by reason of the alteration of the road leading from Ebensburg to Wilmore. It's a piece of land east of that particular road? A. That's right.

BY MR. ROSE:

Q. All right. Now, Mr. Washington, in connection with the severance, as long as we're talking about severance here, let's go down to the other end of the roadway and take a look at the Summerhill portion of the Griffith farm, the Summerhill Road portion. Now, Mr. Washington, will you agree that the construction of this limited access highway will separate the balance of the Griffith farm from a tract formerly located along the old Summerhill Road? A. Yes, sir, that's correct.

Q. Now that's completely severed and there's no other way to get to it, is there, from the Griffith farm? A. Well, not to the farm proper; but...

Q. From the Griffith farm. A. From the Summerhill Road.

Q. Did you consider the fact, Mr. Washington, that at one time, and up until the time of taking, there was a lane which came from the Summerhill Road into the Griffith Farm through this tract? A. Yes, I did consider it.

Q. And that lane was cut off completely, wasn't it?

A. Yes.

Q. So that now it's impossible, is it not, to go from the

Griffith farm to the Summerhill Road unless you go to Ebensburg?

A. I guess that would be the closest way to go.

Q. And did you consider that as an item in arriving at your figures? A. I did.

Q. Did you also, Mr. Washington, examine this area before construction by the State Highway, for reconstruction and relocation by the State Highway, of the old Summerhill Road?

Did you examine it before? A. Yes, I did.

Q. The Griffith farm abutted on that road, didn't it?

A. Yes.

Q. It had frontage on that road? A. That's right.

Q. It had access to that road, didn't it? A. Yes.

Q. Does it now? A. No.

Q. Did you consider that as an item of damage? A. Yes, sir, I did.

Q. How about fencing, Mr. Washington? Did you consider fencing? A. I did.

Q. Where did you consider that there would be refencing?

A. I considered the part where the cut is extending from the road, that is the Wilmore Road, up to the land of Wolfes.

Q. I'm going to show you the white map used by the Commonwealth in examination of Mr. Williams and ask you what area along that highway did you consider necessary to fence?

A. This are (indicating)

Q. You're pointing to the area which you can identify as the cut, are you not? A. That's right.

Q. Is that the only area which you think required fencing?

A. No. All along here (indicating).

Q. Did you consider the whole length of the property?

A. Oh, no, no.

Q. Why not? A. Well, this part out here is cultivated and it isn't likely that there would be cattle crossing over there.

Q. How about people, Mr. Washington? A. Well, now, people could cross it.

Q. Isn't there a safety factor involved here? A. There could be.

Q. Isn't there particularly a safety factor up on that knob, up on top of the cut? A. Oh, yeah. Well, I considered fencing that.

Q. What kind of fencing? A. Why three strand barbed wire.

Q. Three strand barbed wire fencing? A. Yes.

Q. Did you get an estimate of value on the cost of that fencing? A. I more or less used a table for an estimate on it.

Q. Whose table? A. Why a professional appraisal table.

Q. A professional appraisal table? A. Yes.

Q. How many feet of fencing would be required, in your judgment? A. I don't have it itemized here, but I included that together with other damage.

Q. But you said that you calculated this damage.

A. Well, I calculated it in bulk with other damage.

Q. You didn't fix a specific figure for fencing?

A. No, sir, not specific--only on one piece of fencing that was actually taken. That was along the Wilmore Road.

Q. Now you're talking about good fence which was going to be removed in the process of building the highway? A. That is right.

Q. But you didn't fix a price on the cost of replacing and putting up new fencing to take care of the alteration of the farm

itself? A. No. I included that together with other damage.

Q. That's all part of this \$14,000.00 figure, is it?

A. That is right.

Q. And you don't care to express an opinion to how many feet you used? A. No--because I'm not certain.

Q. You're not what? A. I'm not certain.

Q. Don't you think you should have? A. Well, perhaps I should.

Q. Isn't this a very, very real and expensive item in this taking, the cost of replacing and building fences? Isn't that a tremendous expense here? A. Well, it depends on the type of fence that is used.

Q. Well, didn't you consider, for example, the safety element? Assuming we're not going to even use this for a dairy farm any more, isn't there a safety element involved with a 60 foot gulch up there? A. That's right; but I considered it as a dairy farm.

Q. Well, assuming it's no longer used as a dairy farm, wouldn't that be a factor, and a tremendous factor, in this case? A. Well, it depends on the use.

Q. Mr. Washington, I'm going back to the initial line of questioning a little bit that I asked you and that has to do with comparing the transaction with other transactions. Did you take into consideration the fact that this farm, even though its highest and best use by your testimony is for a dairy farm, did you take into consideration the fact that it's located practically on the boundary of Ebensburg Borough? A. I did.

Q. And what affect did that calculation have on your overall estimate here? A. Not any.

Q. In other words it makes no difference to you whether the farm is located near Ebensburg or whether it was located up in the mountains of Dean Township, it would have the same value, is that so? A. Oh, no, sir.

Q. All right. Then the point is it should have had some value, shouldn't it? A. No, a farm in Dean Township would have a lesser value.

Q. That's right; but you just said a minute ago that you didn't take that into consideration, did you? A. I didn't take it into consideration from any other standpoint than a dairy farm.

Q. You didn't consider its location then, did you? A. You mean as to the value?

Q. Yes, sir. A. No, sir.

Q. But you should have, shouldn't you? A. Not necessarily.

Q. Didn't you say if it were located in the mountains of Dean Township it would have less value? A. That is correct.

Q. Then you should have taken that as a factor, shouldn't you? A. Not necessarily.

Q. Why? A. Because the values in Dean Township, and the terrain, and your soil, is much different than this farm.

BY MR. ROSE:

That's all, Mr. Washington, thank you very much.

(12:15 P.M. PROCEEDINGS RECESSED UNTIL 1:45 P.M.)

PAUL D. WASHINGTON recalled.

BY MR. WENDEKIER:

Q. Mr. Washington, you stated that you considered as to market value of this property its use as a dairy farm before

the appropriation by the Highway Department? A. Yes, sir; I did.

Q. And you considered it as a dairy farm after the appropriation, is that right? A. Yes, sir; I did.

Q. And in your opinion is it feasible to operate that as a dairy farm after the taking? A. Yes, sir.

Q. Is it just as feasible to operate it as a dairy farm after the taking as it was before? A. In other words, just as feasible --they wouldn't have quite the land to operate with.

Q. Well, would the land that is remaining be sufficient to support a herd of the size that was on the farm prior to the taking? A. In my opinion, no.

Q. It would have to be reduced? A. The herd would have to be reduced, in my opinion.

Q. Do you have any idea how greatly it would have to be reduced? A. No, I don't.

BY MR. WENDEKIER:

All right.

DELL COMISKEY called, sworn.

DIRECT EXAMINATION

BY MR. SMORTO:

Q. What is your full name? A. Dell Comiskey.

Q. Where do you live? A. 304 Main Street, Johnstown.

Q. What is your occupation? A. Real estate broker.

BY MR. ROSE:

We will admit Mr. Comiskey's qualifications as a real estate broker.

BY MR. SMORTO:

Q. Mr. Comiskey, did you examine the property in question prior to the taking? A. I did.

Q. Did you examine it after the taking? A. I did.

Q. What, in your opinion, was the market value of this property before the taking? A. \$112,800.00.

Q. And what was its market value after the taking? A. \$90,150.00.

Q. In considering the market value prior to taking and after taking, did you take in consideration the land, the topography, terrain, as well as its proximity to Ebensburg? A. I did.

BY MR. SMORTO:

You may cross-examine.

CROSS-EXAMINATION

BY MR. ROSE:

Q. Mr. Comiskey, I take it, then, that your figure or your value placed upon this farm before the taking is relatively close to the figure placed and testified to by Mr. Williams. The calculation I have is around \$7200.00 in difference.

A. I don't know. I....

Q. Do you remember Mr. Williams' testimony was \$120,000.00?

A. I don't recall. I heard it, but I forgot what it was.

Q. He testified it was \$120,000.00--the value before. So, then, your principal disagreement would be over the value of the farm after the taking? A. Yes.

Q. What, Mr. Comiskey, would you say was the best use of the Griffith property before the taking? A. Well, of course, that's a matter of opinion. It has great potentiality, I believe, even before the highway, knowing that the highway was going in; but prior to the condemnation, I would say, the use that it was being used for--a dairy farm.

Q. Did the taking affect this use, in your judgment?

A. Well, it had some affect, yes. That's where your damage comes in.

Q. Would you say that was the greatest element of damage?

A. Beg your pardon?

Q. Would you say that that is the greatest item of damage?

A. The what?

Q. The taking of the use as a dairy farm? A. In my opinion, yes.

Q. Do you agree with Mr. Washington when he states that it is no longer practical, after condemnation, to support a herd of the same size that was supported before? A. Well, I have to beg to differ with Mr. Washington on that. I think it still could be used as a dairy farm.

Q. Would it support the same size herd? A. I imagine it would. I think it should.

Q. Do you know? A. Well, you've taken 11 acres away. That's the only thing you're going to lose; and I think the same herd could be raised there.

Q. Do you think it's practical to take farm machinery across the highway over to the northern section? A. Well, it may not be practical but I've seen it done many, many times.

Q. Is that an element, in your mind, of going into the market value of this property afterwards? A. Well, I don't think it would have that much affect, no.

Q. Would you want to take a hay wagon across that highway? A. If that's the only way I could get across that's the way she'd go.

Q. Do you think that's practical in the operation of a dairy farm? A. It may not be practical but....

Q. Is that a permanent thing or just a temporary....

A. Well, this would be permanent now.

Q. Did you examine the highway drawings concerning this cattle pass? A. Yes, I did.

Q. Did you include in your calculations the area which would have to be altered to get the cattle into this cattle pass?

A. Yeah, I took that into consideration.

Q. Did you stand at the site and look at the proposed location of this cattle pass? A. I did.

Q. Did you do so since the highway has been cut through?

A. I have.

Q. Would you describe the topography of the land to the south of this cattle pass? A. It's uphill.

Q. Is it considerably uphill? A. Yes, it's pretty hilly there.

Q. Going to have to be quite a cut, isn't there, to get down into that cattle pass? A. That's correct.

Q. Did you calculate and consider all that? A. I did.

Q. Did you estimate the depth of this cut? A. I'm only estimating it from sight. I think it would be about 12 feet--10-12 feet.

Q. Mr. Comiskey, did you examine the highway drawings with reference to the drainage of the highway? A. I did.

Q. Are you satisfied that the drainage will be to the northeastern portion of the remaining part of the farm?

A. I believe so.

Q. Will that require, in your judgment, any additional draining by the owners? A. Well, I don't believe so. Usually the highway department takes care of that. They have all along here.

Q. Do you see anything on the map which indicates that the

highway department is going to put in any drainage system?

A. No.

Q. Then you can't presume, can you, that the highway department is going to put anything in? A. If there's drainage to

be had there I imagine they'll do what they did in every other case.

Q. And is it on that assumption that you fixed a value here?

A. Right.

Q. If the fact were that the highway department was not going to put any additional drainage in, would that change your opinion as to damage? A. If in my opinion it would take

additional drainage, the damage would be greater, yes.

Q. Mr. Comiskey, you have heard Mr. Washington testify concerning the stream which runs down through a portion of the property. A. Yes, I heard him.

Q. In your judgment, would the gathering and the accumulation of this water from the highway drainage increase the flow in that stream? A. Oh, it would at certain times of the

year, perhaps.

Q. Would that have any affect on that lower pasture there to the right of the Wilmore Road as you come toward Ebensburg?

A. It may have some; but I don't think enough to worry about.

Q. Well, it certainly does disrupt and change the natural drainage, doesn't it? A. Well, yes, to some extent.

Q. And there would have to be some compensation for it, wouldn't there? A. Well, if it was caused by washouts

and that, yes.

Q. Did you consider, Mr. Comiskey, the widening and the elevation of a portion of the Wilmore Road as we've described today?

A. Yeah, I've taken that into consideration.

Q. You took that all into consideration? A. I did.

Q. Had you taken it into consideration before you testified today, before you came today, or after you heard the testimony today? A. No, when I made the inspections. I went over there several times.

Q. Did you include in your estimation the moving of the water tank from the top of the hill? A. Yes, I did.

Q. Did you have the same figures that Mr. Washington had? A. I had.

Q. Did you also note that that was based upon the use of farm labor? A. Well, I didn't know what kind of labor put it in but \$3600.00 is what the negotiator or the right-of-way engineering department gave me.

Q. You didn't get that from Mr. Washington? A. No.

Q. How about fences, Mr. Comiskey? Did you calculate the placing of fences? A. I took that into consideration, yes, sir.

Q. Did you fix a cost per foot value of putting fences up? A. I have 2600 feet at a cost of \$3900.00.

Q. So included in your total damage of \$22,650.00 you included in that damage an item of \$3600.00 for a water tank? A. Ummm.

Q. And how much did you say for.... A. \$3900.00. \$7500.00, the two items.

Q. Which leaves a net loss then in market value, subtracting the \$7500.00 from the \$22,650.00 of \$15,150.00, is that right? A. If it comes out to that figure, yeah, that's it.

Q. And that's the figure that you came to thinking about all of the items but not counting the water tank or not counting

fencing? A. That's correct.

Q. Did you examine the buildings on the premises?

A. I did.

Q. Did you examine the machinery housed there?

A. Every building that was on it, including the manure pit.

Q. You went inside the barns, both of them? A. I did.

Q. Is there now too much barn there for the remaining dairy farm? A. Yes. I took that into consideration, too.

Q. That's part of the \$15,000.00? A. That's part of it.

Q. In other words, is it your opinion that this farm as it remains is over-gearred, over-buildinged, over-machined?

A. Well, as I....

Q. It could support a much larger farm, couldn't it?

A. It was a larger farm than what it was at the time, and the herd was reduced.

Q. And isn't that an element of damage in your mind?

A. I took that into consideration.

Q. You say you did take that into consideration?

A. Ummmm.

Q. How about the isolation of the farm from the Summerhill Road. Did that play any part in your.... A. I took that into consideration.

Q. Are you satisfied that there is no longer access from the farm to the Summerhill Road? A. Well, down the road a piece you can get access to it.

Q. From where? A. On the Wilmore Road.

Q. I'm talking about the Summerhill Road. A. What was your question?

Q. Are you satisfied that the farm has no longer any connection with the Summerhill Road? A. I believe you can

still get over on that.

Q. From where? A. From the Summerhill Road to the....

Q. To the farm proper? A. Yeah.

Q. How? A. Well, there would have to be a few changes made, perhaps. Is that where you're talking about, what I heard mentioned here about....

Q. I'll show you on the map. Here to the west of the property is the Summerhill Road. It runs along this northwestern portion of the Griffith farm, or did at one time (indicating). Did you examine that since the taking? A. Yes, I did.

Q. Did you examine that since the construction?
A. Yes.

Q. Now will you agree that the farm is separated now from that Summerhill Road? A. Yeah, I'll agree to that. I didn't understand it until I seen the map.

Q. Did you also consider the fact that it's no longer accessible from this tract to the Summerhill Road by reason of the relocation of the Summerhill Road? A. Correct.

Q. Now has that entered into your figuring and calculation?
A. It did.

Q. How many acres of land did you consider as having been actually taken? A. Eleven.

Q. Eleven even--equal? A. Yes.

Q. There was a little more than eleven, wasn't there, Mr. Comiskey? A. Well, that's what was given to me by the highway department.

Q. Did you include the areas in the slopes of the cuts?
A. I'm taking just what the highway department gave me--11 acres.

(Off record discussion)

BY HOWARD E. BRENNEMAN:

To add to my testimony, there were nine and seven-tenth acres condemned for right-of-way purposes and one and three-tenth acres of slope area, making a total of eleven acres.
(Off record discussion)

BY MR. ROSE:

Q. In any event, Mr. Comiskey, your testimony is based entirely upon the figure of eleven acres furnished to you by the Commonwealth? A. Correct.

Q. Mr. Comiskey, are you in your consideration thinking of the whole 450 acres or just the area contained in that white map of about one hundred forty-five or fifty acres?

A. I'm thinking of 544 acres, more or less.

Q. You're thinking of the entire farm... A. That's correct.

Q. It's affect on the entire farm? A. Correct.

BY MR. ROSE:

That's all.

BY MR. SMORTO:

Commonwealth rests.

REBUTTAL ON PART OF PETITIONERS:

THOMAS F. GRIFFITH called, sworn.

DIRECT EXAMINATION

BY MR. ROSE:

Q. Your first task might be to identify, if you will, these photographs, and I'm going to show you No. 1 and ask you to state where the photographer was standing and the direction he was facing, and what part of the farm it shows, in case the Board will use these in their study? A. Well, he was standing up in the field at the right going down, below where the new highway is. It faces east, as you can see Lake Rowena over there.

Q. You see an automobile in the background. Is that the Wilmore Road? A. This is the Wilmore Road and this is the Schenkle Mill Road, they call it (indicating).

Q. Are you standing at a point near the old water tank? A. No, not up the hill. When this was taken it wasn't up the hill that far.

Q. Does the roadway run from where the photographer was standing directly away and to the east through the middle of the picture? A. No. The road would start at the east over in here (indicating), and coming toward the west would run about where this thing is, roughly (indicating).

Q. You're pointing to a telegraph pole down on the Wilmore Road? A. To that double telegraph pole. It's off the road. It's down along a stream. It comes this way (indicating).

Q. Starting at the east the.... A. Starting at the east, the new road comes very close to the Schenkle Mill Road, as it's called here. So coming west in through the farm it comes through this field here (indicating) and close to the double poles for the Bell Telephone--close to that; and up through this way (indicating). In other words, where the picture is taken the road is off to the left or the north of the person taking the picture.

A. All right. Now once again assuming that you're the photographer, picture No. 2 shows what? A. Well, that is taken in the same region upon the hill above the farm buildings and faces east. You see, this is more or less an extension of this picture here (indicating) if you put them together. They almost fit together.

Q. Now picture 3 shows what? A. That is facing west. It shows where --up in here is where the cut is (indicating).

This is the edge of the Wolfe ground up here (indicating).
Up in here is the cut--from here to here about is the cut
(indicating), so you're looking west in this picture, up the
hill. This is the fence of ours down here by the old line,
going for the cows (indicating)

Q. That shows the hill before the road was cut through it?

A. Yes.

Q. Now I hand you picture 4 and ask you to identify it?

A. Well, picture 4 somewhat matches picture 1, because you can
see this house--one of these houses over here are on the
Schenkle Mill Road, and that shows it except it's turned
differently. This picture is taken just where the lane presently--
the present lane we had went into the farm building. This is
close to Wilmore Road, and this would be going south, and you're
close to the road where that's taken. This faces east, of course,
also.

Q. That shows the field east of the Wilmore Road as it was
before the taking? A. That is right.

Q. All right, here's picture No. 5. I don't know if you
can identify that. A. 5 again looks up the hill, but it

really doesn't show too much. It's too close a view. It shows
the crops more than anything else. It looks toward the west
but it's not a very good picture. It's too close.

Q. All right, Mr. Griffith, No. 6? A. Well, this
again --this is a large view facing east from just at the lane,
which is now cut off, going to the farm. This is the same tree,
if you can match that tree here, see--on there (indicating).
This shows a field cultivated here with corn, and it's facing
west. This is the same tree but we're down in here taking it
the other way (indicating). This is one of our farm houses

here (indicating). More or less west.

Q. And No. 7? A. This is up near the cut--faces the Wolfe property. Part of our grounds in the foreground and these are Wolfe's trees back here (indicating). This is our ground in the foreground, just in the foreground.

BY MR. WENDEKIER:

Q. That's looking.... A. It would be more or less southwest.

BY MR. ROSE:

Q. Mr. Griffith, I forgot to identify you. You are one of the petitioners here and one of the owners of the Griffith farm? A. That's right.

Q. You have been familiar with this farm for how many years? A. All my life.

Q. There has been some testimony, Mr. Griffith, about the parcel of land lying now to the east of the Wilmore Road where there's a stream going through it. Did you obtain estimates of the cost of bridging that stream in order that you can get your machinery in and out of that field? A. The field to the east of the small stream?

Q. Yes, sir. A. That was cut off by the....

Q. Yes, sir.

BY MR. SMORTO:

Now this estimate, of course....

BY MR. ROSE:

Not as a separate item of damage but in consideration of the whole. I think it's awfully useful to the credibility of the witnesses.

BY THE WITNESS:

A. Well, in length from the new highway to the little

Conemaugh River would be, I suppose, 600 feet. Something like that. I just haven't measured it.

Q. Do you believe it's necessary to bridge that stream now? A. Well, it should be.

Q. Could you get your machinery over to plow without doing it? A. Well, of course, you'd have to have some part of access. I mean you have to have a roadway over.

Q. Do you have any access now? A. Well, it's partly there. We have a pipe in for a short distance already, just in case we have to go across.

Q. What kind of a pipe? A. A forty-two inch, fourteen feet in length, galvanized pipe, treated with anti-corrosive material.

Q. Is that the pipe that was recommended to you by other people? A. Yes. It was put in, but the head wall hasn't been built by the men or anything.

Q. How much did that pipe cost? A. The pipe delivered on the ground was \$190.00, as near as I can tell. I haven't gotten a bill but that was the estimate.

Q. How much is that pipe per foot, or is it calculable? A. Well, it would be 14 feet into \$190.00. That would be about fifteen to sixteen dollars a foot.

Q. Mr. Griffith, did you also obtain prices on tile or field drains to gather the water from the outlet provided by the State at its highway drains to divert the water into the stream through the outer field lying a little to the north of the highway?

A. Yes, I had a quotation on not the same pipe as they use, which I believe is concrete or an asbestos concrete in texture. This is the same kind of pipe, only small--two foot in diameter pipe. The same kind of pipe as we just talked about--the 42

inch pipe. In fact that is the same as the highway --the 54 inch pipe put under the road to carry this stream. It's the same character pipe. That was quoted to me by a Johnstown firm of \$5.58 a foot delivered on the ground.

Q. Do you have any idea how much of that pipe you would need?

A. Well, it looks like we'll need about 800 feet to carry that to the streams.

Q. From the three outlets left by the Commonwealth?

A. That's right, on the left side of the road. There's another one on the east side should be taken care of, too.

Q. On the west side of the Wilmore Road?

A. That's right.

Q. And you say you will need a little bit on the east side, too?

A. Yes, about 100 foot of that.

Q. About 100 feet there?

A. Yes.

Q. Now did you also obtain the cost of replacing fence or building fence along the highway?

A. Yes, somewhat I did.

Q. What kind of figures did you get on fencing?

A. Well, fence that would be satisfactory without too much yearly repair would be about 60¢ a foot for the fence, without any posts, or work, or anything else.

Q. Where did you contemplate this fence would be needed--from where to where?

A. Well, it would be needed from the west end of the property at the Wolfe line to the extreme east end where it goes onto Mike Trahanovsky's property adjoining.

Q. Approximately how many feet would you use?

A. That would be 4800 feet in round numbers.

Q. And that does not include installation or posts?

A. No--or gates, or labor.

BY MR. ROSE:

That's all.

CROSS-EXAMINATION

BY MR. SMORTO:

Q. Mr. Griffith, referring to the field east of the Wilmore Road, which I believe is traversed by a stream --in other words, it would be the piece towards the Trahanovsky property, what is your approach now to that field, the piece beyond the stream that traverses it?

A. You mean taking the whole field to the south of the highway and to the east of the Wilmore Road and the small stream that goes through that?

Q. Yes. Now how do you get to.... A. That's where we put the pipe in.

Q. Well, now, before the taking, were you able to get to the other side? A. Oh, yes. We came up to the Schenkle Mill Road, and then the little stream crossed under the Wilmore Road. Then we went into it on the Schenkle Mill Road. You know where that is, I mean what we call the Schenkle Mill Road?

Q. Well, would you be able to get there now, after the taking? A. Across the non-access highway, no.

(Off record discussion)

Q. I understand the problem now. As I understand the problem that you are faced with now, previously, before the taking, you could go down this Schenkle Mill Road and then you could have access to all of the property east of the Wilmore Road, but now, since the taking, because you would be prevented from going across this non-access road, you will be unable to reach a portion of this tract east of the Wilmore Road. Now how much would the area of that particular field which you can't reach, unless you bridge the creek, be? A. Oh, eight, nine acres, I would say, without measuring it.

Q. And that's used for pasturage purposes? A. No, that

was always cultivated.

Q. And it's because of not being able to get to it that you have to bridge this creek? A. Yes. I'll qualify that. Once in every great few years when it's a cut-over hay field, we could, if we'd dig a little place in the stream and watch the cows across. That's the reason we didn't do it, because it's down across a little stream, and we hardly ever wanted to do that. That's only been done once or twice since I've been down there. It was hard for cows to get across.

BY MR. SMORTO:

That's all.

RE-DIRECT EXAMINATION

BY MR. ROSE:

Q. Mr. Griffith, I have one more question. Did you have any idea what labor would cost to erect that fence? A. The fence?

Q. Yes. A. You mean the 4800 feet of fence?

Q. Yes. A. Well, I would say the posts and the digging of the post holes, I mean the purchase of the posts I'm talking about, the digging of the post holes and the labor of stringing the fence would be \$2500.00 without the permanent upkeep.

Q. Tom, you have been familiar with this farm, as you have testified, all your life and now you had a highway thrust down the middle of it for all practical purposes; and you've heard the testimony, and you've examined the site and seen the drawings for this cattle pass. You also have heard testimony that it will be a cut to get into it, and you have an idea in your own mind, and from the drawings, exactly how deep this pass is going to be and what it's going to mean. Tom, are you satisfied, from your experience in the farming business and the dairy business,

that this is going to be a satisfactory and a practical arrangement?
A. No, it won't be.

Q. You don't think it will be? A. No.

Q. Now you say that after you've weighed all the consequences of this taking, and all the testimony you've heard, but you still feel that way?
A. That's right.

Q. Is that not one of the items that you think is of major importance in your claim for damage here?
A. Yes, it would be a great deal of importance, that's right.

Q. In other words, you don't think it's practical any more to have a cattle or a dairy farm?
A. No.

BY MR. ROSE:

That's all.

I would like to suggest to the Board that in addition to the matters brought out by the testimony, as the Board well knows, the petitioners here believe they should be compensated for detention damage, which we think is very definitely a part of this since the taking in May of 1958, and we ask that the Board consider that in their calculation.

THOMAS F. GRIFFITH recalled.

BY MR. WENDEKIER:

Q. Tom, on that 42 inch galvanized pipe, what was the cost of that?
A. \$190.00 for 14 foot length. Well, it was two lengths, but it came to 14 feet together that was needed.

Q. That's the total cost?
A. Well, that's just the pipe without any labor. We haven't finished with the labor yet. It's in the process.

BY MR. ROSE:

You understand that? We take the position that it will take more than one length of that pipe to do the job

down there?


BY MR. WENDEKIER:

Yes, I understand.

(HEARING CLOSED)


STENOGRAPHER'S CERTIFICATE

I hereby certify that the proceedings and evidence taken upon the hearing before the Board of Viewers of the within 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

CERTIFICATE OF BOARD OF VIEWERS

The foregoing record of the proceedings and evidence taken upon the hearing before the Board of Viewers of the within cause is hereby approved and directed to be filed.


CHAIRMAN
BOARD OF VIEWERS

ELSIE PORADA, OFFICIAL STENOGRAPHER FORTY-SEVENTH JUDICIAL DISTRICT, EBENSBERG, PA.

GEORGE W. GRIFFITH and THOMAS :: IN THE COURT OF QUARTER
 F. GRIFFITH :: SESSIONS OF CAMBRIA COUNTY,
 :: PENNSYLVANIA
 ::
 vs. :: No. 1 December Sessions, 1959
 ::
 :: Road Docket
 DEPARTMENT OF HIGHWAYS, ::
 COMMONWEALTH OF PENNSYLVANIA ::

VIEWERS' NOTICE

We, the undersigned Viewers appointed by the above Court to view and inspect the land and premises owned by George W. Griffith and Thomas F. Griffith, of 503 and 416, respectively, West Horner Street in Ebensburg Borough, Cambria County, Pennsylvania, and to determine and estimate the damages or benefits that have resulted or that may seem likely to result to the land and property of the petitioners and owners by reason of the appropriation by above named respondent of a certain right of way through and across the land of George W. Griffith and Thomas F. Griffith, do hereby give notice that we will meet upon the premises on Friday, November 27, 1959, at 9:30 o'clock A.M., E.S.T., when and where all persons interested may appear if they so desire.

The premises to be viewed are:

ALL those certain tracts of land situated in Cambria Township, Cambria County, Pennsylvania, bounded and described as follows:

1. Beginning at a post in the Schenkel Mill road, corner of land formerly of James B. Adams and land formerly of Ann McDonald, deceased; thence by last mentioned land South 6 degrees 45 minutes West 1004 feet to a post in line of John A. Jones Estate; thence by same North 85 degrees 30 minutes West 382 feet to a post; thence by same South 36 degrees 10 minutes West 696 feet to a post; thence still by same South 19 degrees 5 minutes West 1034 feet to a post in line of road leading from Ebensburg to Wilmore and other land of petitioners; thence by other land of petitioners the following four courses and distances:

North 25 degrees West a distance of 868 feet to a post; thence North 21 degrees 45 minutes East a distance of 931 feet to a sugar; thence North 85 degrees 15 minutes West a distance of 644 feet to a post; thence North 4 degrees 30 minutes East a distance of 800 feet to a post in line of land of Donald Wolf, formerly Thomas L. Jones Estate;

thence by the same North 4 degrees 30 minutes East a distance of 687 feet to a post in line of land formerly of Abel Lloyd Estate; thence by same South 85 degrees 25 minutes East a distance of 530 feet to a post on other land of petitioners (Tract #2 below); thence by same the two following courses and distances:

South 4 degrees 30 minutes West 506 feet to a post; and South 85 degrees 25 minutes East 445 feet to a post in the middle of the road leading from Ebensburg to Wilmore;

thence along the Schenkel Mill road and land formerly of James B. Adams South 85 degrees 55 minutes East 920 feet to a post the place of beginning. Containing 68 Acres and 148 perches.

2. Beginning at corner of road leading from Ebensburg to Wilmore, the Schenkel Mill road and other land of the petitioners (Tract #1 above); thence by other land of the petitioners North 85 degrees 25 minutes West 445 feet to a post; thence by same North 4 degrees 30 minutes East 506 feet to a post; thence by land formerly of Abel Lloyd Estate South 85 degrees 25 minutes East, a distance of 200 feet to a post in line of land of James B. Adams; thence by same South 4 degrees 30 minutes West a distance of 257 feet to a post; thence still by same South 85 degrees 25 minutes East a distance of 229 feet to a post in the road leading from Ebensburg to Wilmore; thence by said road South 4 degrees 30 minutes West a distance of 252 feet to a post in said road, the place of beginning. Containing 3.81 Acres.

3. Beginning at a post corner of other land of petitioners (Tract #1 above) and land of Donald Wolf, formerly Thomas L. Jones Estate; thence along other land of the petitioners South 7 degrees West a distance of 800 feet to a post; thence by other land of petitioners (Tract #4 below) North 83 degrees 30 minutes West a distance of 500 feet to a post; thence by land of Donald Wolf, formerly Thomas L. Jones Estate, the two following courses and distances:

North 7 degrees East a distance of 800 feet to a post and South 83 degrees East a distance of 500 feet to a post, the place of beginning. Containing 9.18 Acres.

4. Beginning at a post, corner of Tracts #'s 1 and 3 above; thence by Tract # 1 the two following courses and distances:

South 83 degrees 30 minutes East a distance of 673 feet to a sugar; and South 21 degrees 45 minutes West a distance of 931 feet to other land of petitioners;

thence by same North 87 degrees 15 minutes West a distance of 1281 feet to other land of the petitioners (Tract #5 below); thence by same North 4 degrees 45 minutes East 946 feet to a post on line of Donald Wolf, formerly Thomas L. Jones Estate; thence by same South 81 degrees East a distance of 626 feet to a post in line of Tract #3; thence by same South 83 degrees 30 minutes East a distance of 500 feet to a post, the place of beginning. Containing 28 Acres 35 Perches.

5. Beginning at a post, corner of land of Donald Wolf, formerly Thomas L. Jones Estate and other land of petitioners (Tract #4); thence by said Tract #4 South 4 degrees 45 minutes West a distance of 946 feet to a post in line of other land of petitioners; thence by same the following three courses and distances:

North 86 degrees 30 minutes West a distance of 1140 feet; North 32 degrees West a distance of 435 feet; North 4 degrees East a distance of 235 feet to a post in line of land of John Kokoski; thence by same the following three courses and distances:

North 4 degrees 45 minutes East 386 feet to a post; North 84 degrees West 270.8 feet to a post; and North 44 degrees 55 minutes West 142.4 feet to a post in the center of the road leading from Ebensburg to Summerhill;

thence by said road North 53 degrees 49 minutes East a distance of 590 feet to a post in line of land of Donald Wolf, formerly Thomas L. Jones Estate; thence by same the four following courses and distances:

South 57 degrees East 165 feet; South 50 degrees East 396 feet; South 46 degrees 30 minutes East 206.25 feet; and South approximately 75 degrees East a distance of 710 feet to a post in line of Tract #4, the place of beginning.

Containing approximately 36 Acres.

Leopold Wendkier
Raymond Niebauer
Joseph Elder

Board of View

GEORGE W. GRIFFITH and THOMAS
F. GRIFFITH

vs.

DEPARTMENT OF HIGHWAYS,
COMMONWEALTH OF PENNSYLVANIA

:: IN THE COURT OF QUARTER
:: SESSIONS OF CAMBRIA COUNTY,
:: PENNSYLVANIA
::
:: No. 1 December Sessions, 1959
::
:: Road Docket
::
::

Because of the inability of a representative of the Engineering Department of the Pennsylvania Department of Highways to attend the view of the premises as originally scheduled for 9:30 o'clock A. M. on Friday, November 27, 1959, and also the inability of one of the members of the Board of View to attend the above view, the premises will be viewed on Friday, December 4, 1959, at 9:30 o'clock A. M.

Leopold Wendehier
Raymond Niebauer
John Elder

Board of View

GEORGE W. GRIFFITH and THOMAS GRIFFITH :: IN THE COURT OF QUARTER SESSIONS
:: OF CAMBRIA COUNTY, PENNSYLVANIA
vs. :: No. 1 December Sessions, 1959
DEPARTMENT OF HIGHWAYS, COMMONWEALTH OF PENNSYLVANIA :: Road Docket

NOTICE

Ebensburg, Pennsylvania
February 2, 1960

The undersigned, Board of View appointed in the above entitled matter, hereby give notice that they have prepared their schedule of awards in this matter and that they will meet in the Cambria County Courthouse in Courtroom No. 4, on Monday, February 15, 1960, at 4:15 o'clock P. M., for the purpose of exhibiting the same and of hearing objections thereto.

BOARD OF VIEW

Leopold J. Wendler
Raymond Niebauer
Joseph Elder

GEORGE W. GRIFFITH and THOMAS GRIFFITH :: IN THE COURT OF QUARTER SESSIONS
 ::
 :: OF CAMBRIA COUNTY, PENNSYLVANIA
 ::
 vs. ::
 :: No. 1 December Sessions, 1959
 ::
 DEPARTMENT OF HIGHWAYS, ::
 COMMONWEALTH OF PENNSYLVANIA :: Road Docket

SCHEDULE OF AWARD

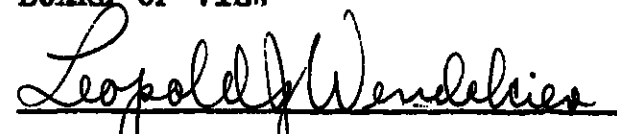
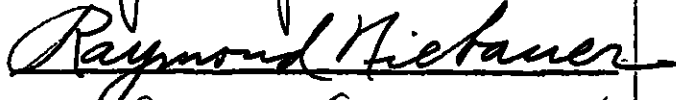
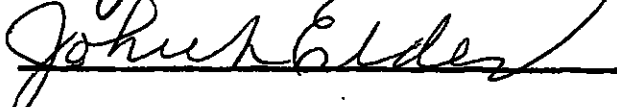
From the evidence submitted and from the view of the premises affected by the appropriation by the Department of Highways of the Commonwealth of Pennsylvania of a seventy (70) foot right-of-way, the Board of View find that the owners and occupants of the premises have sustained the following damages:

George Griffith and Thomas Griffith	\$38,500.00
Delay in payment from May 5, 1958	<u>4,000.00</u>
Total Damages	\$42,500.00

The award above set forth includes damages for delay in payment from the date of the injury in this proceeding to the date of filing of the report.

The Board of View have considered the benefits, if any there be, accruing to the property affected and hereby assess the damages, as above awarded, against the Commonwealth of Pennsylvania Department of Highways.

BOARD OF VIEW

Road Docket
No. 1 December Sessions, 1959

IN THE COURT OF QUARTER
SESSIONS OF CAMBRIA COUNTY,
PENNSYLVANIA

GEORGE W. GRIFFITH and
THOMAS GRIFFITH

vs.

DEPARTMENT OF HIGHWAYS,
COMMONWEALTH OF PENNSYLVANIA

Filed - Feb 23, 1960

VIEWERS' REPORT

LEOPOLD J. WENDEKIER
Attorney-At-Law
PATTON, PENNSYLVANIA

GEORGE W. GRIFFITH and THOMAS GRIFFITH :: IN THE COURT OF QUARTER SESSIONS
::
OF CAMBRIA COUNTY, PENNSYLVANIA
vs. ::
No. 1 December Sessions, 1959
DEPARTMENT OF HIGHWAYS, ::
COMMONWEALTH OF PENNSYLVANIA :: Road Docket

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

The undersigned Board of View, appointed by your Honorable Court to assess damages and benefits, if any, caused by the appropriation of a right-of-way in Cambria Township for the purpose of constructing and maintaining a limited-access highway, respectfully

REPORT

That in pursuance of their appointment the Board of View caused notice to be served upon the owners and occupants of land affected in the above proceeding, as well as counsel of record for said owners and occupants, and upon counsel for the Commonwealth of Pennsylvania, Department of Highways that they would meet upon the premises on Friday, November 27, 1959, at 9:30 o'clock A. M., e. s. t., for the purpose of viewing the premises and of hearing such parties as desired to be heard. Such notices were duly served by person service and by posting upon the premises more than ten (10) days prior to the date of said meeting.

At the request of counsel for the Department of Highways, and for good cause shown, the view as above scheduled was continued until Friday, December 4, 1959, at 9:30 o'clock A. M., e. s. t., and all parties were so notified. The Board of View proceeded with the view at the appointed time and place. In attendance were George W. Griffith and Thomas F. Griffith, the owners, Robert G. Rose, Esq., their counsel, Mr. William E. Williams and Mr. Frank N. Genovese, appraisers for the owners, Arnold D. Smorto, Esq., counsel for the Department of Highways, Mr. Elmer T. Mock and Mr. R. D. Wicker of the Department of Highways, and Mr. Paul D. Washington, appraiser for the Department.

A meeting for the purpose of taking the testimony of witnesses was held in the Cambria County Courthouse in Courtroom No. 4, on January 6, 1960, at 10:00 o'clock A. M., e. s. t. All the above named persons attended this meeting except Mr. Mock and Mr. Wicker. In addition thereto, Mr. Howard E. Breneman, for the Department of Highways, and Mr. Dell Comiskey, realtor, also appeared.

Evidence was presented for the benefit of the Board of View by the parties and their witnesses. However, the Board feels constrained, at this time, to state that a great deal of the evidence presented was inconclusive and of little assistance to the Board. It appeared that the parties were withholding their "ammunition" pending an appeal to the Courts, thereby indicating their lack of confidence in the Board of View. Having been thus deprived of the valuable assistance which could have been given to them, the Board of View proceeded to a determination of the damages largely upon the basis of its own determination.

From the evidence submitted to them and from examination of the premises and locality in question, the Board of View find the following

FACTS

1. The premises appropriated by the Commonwealth of Pennsylvania Department of Highways for a right-of-way for a limited access highway is approximately 11 acres.
2. In addition thereto, the right-of-way has severed from the balance of the premises approximately 29 acres of land lying to the North of the right-of-way.
3. The widening of Legislative Route No. 11026 will result in an appropriation of additional land, the exact amount of which has not been calculated.
4. As a result of these appropriations, the marketability of the premises affected thereby has been substantially reduced.

5. The cattle underpass proposed by the Department of Highways to reduce the loss of the owners by the appropriation is impractical and would not serve to reduce the damages suffered by the owners.

6. The owners of the premises have been financially injured by the appropriation.

CONCLUSIONS OF LAW

No questions of law were raised in this proceeding for consideration of the Board of View.

CONCLUSION

The Board of View reports that after a full and impartial consideration of all the testimony and evidence submitted to them and after a careful view of the premises, and acting according to their best judgment, they have estimated and determined the damages sustained by the owners and occupants of said property by reason of the appropriation of a seventy (70) foot right-of-way for a limited-access highway as follows:

George W. Griffith and Thomas Griffith--	\$38,500.00
Delay in payment from May 5, 1958-----	<u>4,000.00</u>
Total damages-----	\$42,500.00

The award above set forth includes damages for delay in payment from the date of the injury in this proceeding to the date of filing of the report.

The Board of View have considered the benefits, if any there be, accruing to the property affected and hereby assess the damages, as above awarded, against the Commonwealth of Pennsylvania Department of Highways.

Leopold W. Wendelker
Raymond Niebauer
John Elder
Board of View

February 23 , 1960

Appeal from Viewers Report taken in Prothonotary's
Office.

IN THE COURT OF QUARTER
SESSIONS OF CAMBRIA COUNTY,
PENNSYLVANIA

IN RE: PETITION OF
GEORGE W. GRIFFITH AND
THOMAS F. GRIFFITH FOR THE
APPOINTMENT OF VIEWERS

Filed - Oct. 16, 1959

And now, October 16, 1959, notice having been given to the County Commissioners of Cambria County of the intended presentation to Court of the within Petition for the Appointment of Viewers, the issuance of a Rule as required by Cambria County Rule of Court #301 $\frac{1}{2}$ is hereby waived and the appointment of Viewers forthwith is consented to.

Thomas F. Griffith
Chief Clerk

14-OVER MARGIN

IN RE: PETITION OF
GEORGE W. GRIFFITH AND
THOMAS F. GRIFFITH
FOR THE APPOINTMENT OF
VIEWERS

IN THE COURT OF QUARTER SESSIONS OF
CAMBRIA COUNTY, PENNSYLVANIA
NO. / DECEMBER SESSIONS, 1959
ROAD DOCKET

IN RE: PETITION OF GEORGE W. GRIFFITH AND
THOMAS F. GRIFFITH FOR THE APPOINTMENT OF
VIEWERS TO ASSESS DAMAGES ARISING FROM THE
CONSTRUCTION OF EBENSBURG BY-PASS TO
STATE HIGHWAY U. S. ROUTE 22 IN CAMBRIA
TOWNSHIP, A LIMITED ACCESS HIGHWAY.

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The Petition of George W. Griffith and Thomas F. Griffith
respectfully represents:

1. That they reside at 503 and 419, respectively,
West Horner Street in the Borough of Ebensburg, Cambria County,
Pennsylvania.
2. That the respondent is the Department of Highways,
Commonwealth of Pennsylvania.
3. That the petitioners are the owners of five certain
tracts of land which was used as a dairy farm situated in the
Township of Cambria, County of Cambria, and State of Pennsylvania,
bounded and described as follows:
 1. BEGINNING at a post in the Schenkel Mill road,
corner of land formerly of James B. Adams and
land formerly of Ann McDonald, deceased; thence
by last mentioned land South 6 degrees 45
minutes West 1004 feet to a post in line of
John A. Jones Estate; thence by same North 85
degrees 30 minutes West 382 feet to a post;
thence by same South 36 degrees ten minutes West 696
feet to a post; thence still by same South 19 de-
grees 5 minutes West 1034 feet to a post in line
of road leading from Ebensburg to Wilmore and other
land of petitioners; thence by other land of the
petitioners the following four courses and dis-
tances:

North 25 degrees West a distance of 868 feet to a post;
thence North 21 degrees 45 minutes East a distance of 931 feet to a sugar;
thence North 85 degrees 15 minutes West a distance of 644 feet to a post;
thence North 4 degrees 30 minutes East a distance of 800 feet to a post in line of land of Donald Wolf, formerly Thomas L. Jones Estate;

thence by the same North 4 degrees 30 minutes East a distance of 687 feet to a post in line of land formerly of Abel Lloyd Estate; thence by same South 85 degrees 25 minutes East a distance of 530 feet to a post on other land of petitioners (Tract #2 below); thence by same the two following courses and distances:

South 4 degrees 30 minutes West 506 feet to a post; and
South 85 degrees 25 minutes East 445 feet to a post in the middle of the road leading from Eensburg to Wilmore;

thence along the Schenkel Mill road and land formerly of James B. Adams South 85 degrees 55 minutes East 920 feet to a post the place of beginning.
Containing 68 Acres and 148 Perches.

2. BEGINNING at corner of road leading from Eensburg to Wilmore, the Schenkel Mill road and other land of the petitioners (Tract #1 above); thence by other land of the petitioners North 85 degrees 25 minutes West 445 feet to a post; thence by same North 4 degrees 30 minutes East 506 feet to a post; thence by land formerly of Abel Lloyd Estate South 85 degrees 25 minutes East, a distance of 200 feet to a post in line of land of James B. Adams; thence by same South 4 degrees 30 minutes West a distance of 257 feet to a post; thence still by same South 85 degrees 25 minutes East a distance of 229 feet to a post in the road leading from Eensburg to Wilmore; thence by said road South 4 degrees 30 minutes West a distance of 252 feet to a post in said road, the place of beginning.
Containing 3.81 Acres.

3. BEGINNING at a post corner of other land of petitioners (Tract #1 above) and land of Donald Wolf, formerly Thomas L. Jones Estate; thence along other land of the petitioners South 7 degrees West a distance of 800 feet to a post ; thence by other land of petitioners (Tract #4 below) North 83 degrees 30 minutes West a distance of 500 feet to a post; thence by land of Donald Wolf, formerly Thomas L. Jones Estate, the two following courses and distances:

North 7 degrees East a distance of 800 feet to a post and South 83 degrees East a distance of 500 feet to a post, the place of beginning. Containing 9.18 Acres.

4. BEGINNING at a post, corner of Tracts #'s 1 and 3 above; thence by Tract #1 the two following courses and distances:

South 83 degrees 30 minutes East a distance of 673 feet to a sugar; and
South 21 degrees 45 minutes West a distance of 931 feet to other land of petitioners;

thence by same North 87 degrees 15 minutes West a distance of 1281 feet to other land of the petitioners (Tract #5 below); thence by same North 4 degrees 45 minutes East 946 feet to a post on line of Donald Wolf, formerly Thomas L. Jones Estate; thence by same South 81 degrees East a distance of 626 feet to a post in line of Tract #3; thence by same South 83 degrees 30 minutes East a distance of 500 feet to a post; the place of beginning.
Containing 28 Acres 35 Perches.

5. BEGINNING at a post, corner of land of Donald Wolf, formerly Thomas L. Jones Estate and other land of petitioners (Tract #4); thence by said Tract #4 South 4 degrees 45 minutes West a distance of 946 feet to a post in line of other land of petitioners; thence by same the following three courses and distances:

North 86 degrees 30 minutes West a distance of 1140 feet;
North 32 degrees West a distance of 435 feet;
North 4 degrees East a distance of 235 feet to a post in line of land of John Kokoski;
thence by same the three following courses and distances:

North 4 degrees 45 minutes East 386 feet to a post;
North 84 degrees West 270.8 feet to a post; and
North 44 degrees 55 minutes West 142.4 feet to a post in the center of the road leading from Ebensburg to Summerhill;

thence by said road North 53 degrees 49 minutes East a distance of 590 feet to a post in line of land of Donald Wolf, formerly Thomas L. Jones Estate; thence by same the four following courses and distances:

South 57 degrees East 165 feet;
South 50 degrees East 396 feet;
South 46 degrees 30 minutes East 206.25 feet; and
South approximately 75 degrees East a distance of 710 feet to a post in line of Tract #4, the place of beginning.

Containing approximately 36 Acres.

4. That in the construction by the Department of Highways of the Commonwealth of Pennsylvania, of a limited Access State Highway, known as U. S. Route 22, through petitioners' property, above described, said property has sustained serious loss and damage arising out of the outright appropriation of a large portion of petitioners' property and the severance of a still larger portion and for other reasons.

5. That respondent has not agreed with the petitioners as to the amount of damages sustained or made any payment to them on account thereof, although respondent took petitioners' land more than seventeen months ago, that is, on the 5th day of May, 1958.

6. WHEREFORE, your petitioners pray your Honorable Court, pursuant to the Acts of Assembly in such cases made and provided, to appoint three viewers from the members of the Board of Permanent Viewers of Cambria County to view the above described premises, take such testimony as may be necessary, determine the extent of the damage, assess the benefits, if any, and report the same to your Honorable Court according to law.

George W. Griffith
Thomas G. Griffith

STATE OF PENNSYLVANIA |
 | SS
COUNTY OF CAMBRIA |

Before me, the subscriber, a Notary Public in and for said County and State, personally appeared George W. Griffith and Thomas F. Griffith, who being duly sworn according to law depose and say that they are the petitioners named in the foregoing petition and that the statements therein set forth are true and correct.

George W. Griffith
Thomas F. Griffith

Sworn and subscribed to

before me this 16th

day of October, 1959.

Vernon Williams
Notary Public

My Comm. expires July 24, 1961

IN RE: PETITION OF
GEORGE W. GRIFFITH AND
THOMAS F. GRIFFITH
FOR THE APPOINTMENT OF
VIEWERS

IN THE COURT OF QUARTER SESSIONS OF
CAMBRIA COUNTY, PENNSYLVANIA
NO. _____ DECEMBER SESSIONS, 1959
ROAD DOCKET

IN RE: PETITION OF GEORGE W. GRIFFITH AND
THOMAS F. GRIFFITH FOR THE APPOINTMENT
OF VIEWERS TO ASSESS DAMAGES ARISING FROM
THE CONSTRUCTION OF EBENSBURG BY-PASS TO
STATE HIGHWAY U. S. ROUTE 22 IN CAMBRIA
TOWNSHIP, A LIMITED ACCESS HIGHWAY.

DECRE E

And now, October 16, 1959, the within petition read
and considered and Leopold J. Wendelker, John L. Elder
and Raymond Niebauer, three members of the Permanent
Board of Viewers of Cambria County, be and they hereby are
appointed to view the premises described in the within petition,
take such testimony as necessary, determine the extent of the
damage to the premises described in the within petition, assess
the benefits, if any, and report the same to the court according
to law.

BY THE COURT

McDonald

J.

D.D. 1 Dec. 1959

Enter appearance

Armed & Dangerous

Webster Guffie's
Estate

v.

Pa Dept of Crim

Viewers

(Condemnation)

Filed Nov. 16, 1959

And now, to-wit: This 4th day of January, 1960, I hereby accept
service of the within amended petition and acknowledge receipt of
a copy of the same.



Attorney for Commonwealth of
Pennsylvania

IN THE COURT OF QUARTER SESSIONS
OF
CAMBRIA COUNTY, PENNSYLVANIA
No. 1 December Sessions, 1959
ROAD DOCKET

IN RE: PETITION OF GEORGE W.
GRIFFITH AND THOMAS F. GRIFFITH
FOR THE APPOINTMENT OF VIEWERS

Filed: Jan. 5, 1960

AMENDED PETITION

LAW OFFICES
SPENCE, CUSTER, SAYLOR & WOLFE
JOHNSTOWN BANK AND TRUST BUILDING
JOHNSTOWN, PA.

IN RE: PETITION OF GEORGE W.
GRIFFITH AND THOMAS F. GRIFFITH
FOR THE APPOINTMENT OF VIEWERS

Y
Y
Y
Y
Y
Y

IN THE COURT OF QUARTER SESSIONS
OF
CAMBRIA COUNTY, PENNSYLVANIA

No. 1 December Sessions, 1959
ROAD DOCKET

IN RE: AMENDED PETITION OF GEORGE W. GRIFFITH
AND THOMAS F. GRIFFITH FOR THE APPOINTMENT OF
VIEWERS TO ASSESS DAMAGES ARISING FROM THE
CONSTRUCTION OF EBENSBURG BY-PASS TO STATE
HIGHWAY U. S. ROUTE 22 IN CAMBRIA TOWNSHIP, A
LIMITED ACCESS HIGHWAY.

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The amended petition of George W. Griffith and Thomas F.

Griffith respectfully represents:

3. That Paragraph 3 of the original petition is amended
to add the following described tracts of land:

6. BEGINNING at a post in township road and land now or
formerly of heirs of James Myers, deceased; thence along
land of said heirs of James Myers, deceased, North 84°
7' West 1733 feet to post and stones; thence along same
South 5° West 1002 feet to post; thence along land of
party of the second part hereto North 84° West 1303 feet
to post; thence along land of estate of Thomas Griffith,
deceased, the following five courses and distances:
North 28° 30' East 798 feet to post; thence partly by
old road North 47° 40' East 839 feet to post and stones;
thence North 47° West 1472 feet to post; thence North
31° West 461 feet to post and stones; thence North 33°
West 324 feet to post in line of land now or formerly
of Miriam Young; thence along land of said Miriam Young
South 86° 30' East 1140 feet to post in line of land now
or formerly of Festus Tibbott; thence along land of said
Festus Tibbott, South 87° 15' East 1281 feet to post;
thence along lands of the estate of Thomas Griffith,
deceased, and now or formerly of John A. Jones partly in
line of township road, South 29° East 2440 feet to post
in said township road and the place of beginning.
Containing 126 acres and 61 perches, more or less.

7. BEGINNING at a post at a corner of land now or
formerly of Marian Young and Webster Griffith, thence
South 33° East 324 feet to stones, thence South 31° East
461 feet to a post, thence South 47° East 1472 feet to
stones, thence South along an old road 47° 40' West 839

feet to a post, thence South 28° 30' West 798 feet to a post, all of which courses are along lands of Webster Griffith, thence by another tract of Webster Griffith North 86° 20' West 1310 feet to a post, thence along land now or formerly of George McKay, William Lloyd Estate, et al, North 4° 45' East 2652 feet to stones, thence by land now or formerly of William Lloyd's Estate North 5° 15' East 810 feet to a post, thence by land now or formerly of Bert Bender South 86° 45' East 326 feet to a post, thence by land of Marian Young South 3° 45' West 239 feet to stones, thence by same South 33° East 400 feet to the place of beginning. Containing 103 acres and 18 perches.

8. BEGINNING at a beech on the corner of land now or formerly belonging to the estate of E. Roberts, deceased, and land now or formerly of John McBride; thence along land of said John McBride North 2 3/4° East 110 perches to a beech, thence along land of the estate of Thomas Griffith, deceased, and land now or formerly of L. J. Driggs South 89 1/2° East 156 perches to a post; thence along land now or formerly of James Myers, deceased, South 2 1/2° West 75 perches to a hemlock; thence along land of the estate of said Thomas Griffith, deceased, North 87 1/2° West 18 perches to a beech; thence along same land South 2 1/2° West 35 perches to a post; thence along land belonging to the estate of E. Roberts, deceased, North 88° West 138 perches to a beech and the place of beginning. Containing 103 acres and 50 perches, more or less.

George W. Griffith

Thomas G. Griffith

STATE OF PENNSYLVANIA X
 X SS
COUNTY OF CAMBRIA X

Before me, the subscriber, a Notary Public in and for said County and State, personally appeared George W. Griffith and Thomas F. Griffith, who being duly sworn according to law, depose and say that they are the petitioners named in the foregoing amended petition and that the statements therein set forth are true and correct.

George W. Griffith

Thomas F. Griffith

Sworn and subscribed to before
me this 4th day of
January, 1960.

Verna Williams
Notary Public

My Comm. expires: July 24, 1961

IN RE: PETITION OF GEORGE W.
GRIFFITH AND THOMAS F.
GRIFFITH FOR THE APPOINTMENT
OF VIEWERS

Y
Y
Y
Y
Y
Y

IN THE COURT OF QUARTER SESSIONS
OF
CAMBRIA COUNTY, PENNSYLVANIA

No. 1 December Sessions, 1959
ROAD DOCKET

IN RE: AMENDED PETITION OF GEORGE W. GRIFFITH
AND THOMAS F. GRIFFITH FOR THE APPOINTMENT OF
VIEWERS TO ASSESS DAMAGES ARISING FROM THE
CONSTRUCTION OF EBENSBURG BY-PASS TO STATE
HIGHWAY U. S. ROUTE 22 IN CAMBRIA TOWNSHIP, A
LIMITED ACCESS HIGHWAY.

D E C R E E

And now, January 4th, 1960, the within amended petition
is hereby approved and ordered filed.

BY THE COURT



J.