



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

October 29, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: **Docket No. I-2015-2472242**

Dear Secretary Chiavetta:

Enclosed for filing please find the Department's *Petition to Modify Order Dated April 9, 2015*, in the above-captioned matter.

I hereby certify that a copy has been sent to all parties of record as indicated by the Certificate of Service.

Very truly yours,

A handwritten signature in blue ink that reads "Gina M. D'Alfonso".

Gina M. D'Alfonso
Assistant Counsel in Charge

Enclosure

220/GMD:aca

cc: Parties of Record
Mark J. Chappell, P.E., Chief, Utilities and Right-of-Way Section
Gerard Babinski, P.E., District Bridge Engineer, District 4-0

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation upon the Commission's own	:	
Motion to determine the condition and	:	
Disposition of six (6) existing structures	:	Docket No. I-2015-2472242
Carrying various highways above the grade	:	
Of the Canadian Pacific Railroad in	:	Filed Electronically
Great Bend Township, New Milford Township	:	
Brooklyn Township, Hop Bottom Borough	:	
Lathrop Township, Susquehanna County and	:	
Benton Township, Lackawanna County	:	
(264 293 K) in Nicholson	:	
Borough, Wyoming County	:	

PETITION TO MODIFY ORDER DATED APRIL 9, 2015

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation ("Department"), by and through its counsel, Gina M. D'Alfonso, and submits the following in support of its Petition for Protective Order, pursuant to 52 Pa. Code §5.423:

1. A Commission Order in this matter entered April 9, 2015, directed that the Department, within sixty (60) days from service of the Commission Order "submit to Canadian Pacific Railroad, Great Bend Township, New Milford Township, Brooklyn Township, Hop Bottom Borough, Lathrop Township, Benton Township, Lackawanna County, Susquehanna County and this Commission, the most recent NBIS inspection report, including an in-depth load rating analysis of the subject structures." Commission Order ¶4.

2. On or about May 12, 2015, the Department requested an extension of time until September 30, 2015, to submit the in-depth load rating analyses for the subject structures which is incorporated herein and attached hereto as Exhibit "A".

3. Simultaneous with the filing of the May 12, 2015, Motion for Extension of Time referenced above, the Department filed a Petition for Protective Order.

4. The Commission has not acted upon either pleading.

5. The Department has been diligently working towards the completion of the reports, but due to protracted discussions with the consultant performing the work as well as the change of ownership of the rail line, the Department is not able to provide the reports as of yet.

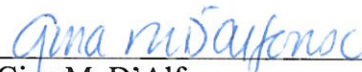
6. The Department respectfully requests that the Order dated April 9, 2015 be modified as follows (modifications are underlined or stricken):

4. That Pennsylvania Department of Transportation, ~~within (60) days from the service of this order,~~ submit to Canadian Pacific Railroad, Great Bend Township, New Milford Township, Brooklyn Township, Hop Bottom Borough, Lathrop Township, Benton Township, Lackawanna County, Susquehanna County and this Commission, the most recent NBIS inspection report within (30) days from the service of the Commission's Protective Order, including and an in-depth load rating analysis of the subject structures by March 31, 2016.

Wherefore, the Department of Transportation respectfully requests that the relief sought in this Petition be granted.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Gina M. D'Alfonso

Assistant Counsel in Charge

Office of Chief Counsel

P.O. Box 8212

Harrisburg, PA 17105-8212

Telephone No. (717) 787-3128

Fax Number (717) 772-2741

gdalfonso@pa.gov

DATED: October 29, 2015


**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Lathrop Township, Susquehanna County and	:	
Benton Township, Lackawanna County	:	
(264 293 K) in Nicholson	:	
Borough, Wyoming County	:	

VERIFICATION

I, Gerard Babinski, P.E., District Bridge Engineer, for the Commonwealth of Pennsylvania, Department of Transportation, in this matter, hereby verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to penalties of 18 Pa. C.S. §4904, relating to the unsworn falsification to authorities.

DATED: 10-28-2015


Gerard Babinski
District Bridge Engineer



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL
May 12, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: **Docket No. I-2015-2472242**

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I hereby certify that a copy has been sent to all parties of record as indicated by the Certificate of Service.

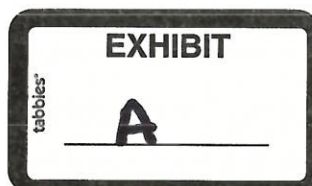
Very truly yours,

Gina M. D'Alfonso
Assistant Counsel in Charge

Enclosure

220/GMD:aca

cc: Parties of Record
Mark J. Chappell, P.E., Chief, Utilities and Right-of-Way Section
Joseph Strok, District Grade Crossing Engineer, District 4-0



PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PETITION TO MODIFY ORDER DATED APRIL 9, 2015

AND NOW, comes the Commonwealth of Pennsylvania, Department of Transportation ("Department"), by and through its counsel, Gina M. D'Alfonso, and submits the following in support of its Petition for Protective Order, pursuant to 52 Pa. Code §5.423:

1. A Commission Order in this matter entered April 9, 2015, directed that the Department, within sixty (60) days from service of the Commission Order "submit to Canadian Pacific Railroad, Great Bend Township, New Milford Township, Brooklyn Township, Hop Bottom Borough, Lathrop Township, Benton Township, Lackawanna County, Susquehanna County and this Commission, the most recent NBIS inspection report, including an in-depth load rating analysis of the subject structures." Commission Order ¶4.

2. The Department requests an extension of time until September 30, 2015 to submit the in-depth load rating analyses for the subject structures.

3. Simultaneous with the filing of this Motion for Extension of Time for the completion of the engineering reports ordered by the Commission, the Department has filed a Petition for Protective Order.

4. The Department will disclose the NBIS inspection report reports for the subject structures as directed in the April 9, 2015, Order within thirty (30) days from the issuance of this Protective Order.

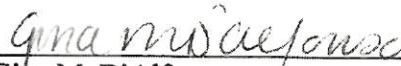
5. The Department respectfully requests that the Order dated April 9, 2015 be modified as follows (modifications are underlined or stricken):

4. That Pennsylvania Department of Transportation, ~~within (60) days from the service of this order,~~ submit to Canadian Pacific Railroad, Great Bend Township, New Milford Township, Brooklyn Township, Hop Bottom Borough, Lathrop Township, Benton Township, Lackawanna County, Susquehanna County and this Commission, the most recent NBIS inspection report within (30) days from the service of the Commission's Protective Order, ~~including and~~ an in-depth load rating analysis of the subject structures by September 30, 2015.

Wherefore, the Department of Transportation respectfully requests that the relief sought in this Petition be granted.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION


Gina M. D'Alfonso
Assistant Counsel in Charge
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212
Telephone No. (717) 787-3128
Fax Number (717) 772-2741
gdalfonso@pa.gov

DATED: May 12, 2015

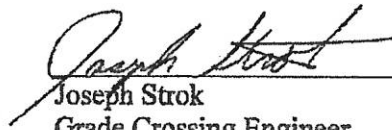
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Benton Township, Lackawanna County	:	
(264 293 K) in Nicholson	:	
Borough, Wyoming County	:	

VERIFICATION

I, Joseph Strok, District Grade Crossing Engineer, for the Commonwealth of Pennsylvania, Department of Transportation, in this matter, hereby verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to penalties of 18 Pa. C.S. §4904, relating to the unsworn falsification to authorities.

DATED: May 12, 2015



Joseph Strok
Grade Crossing Engineer

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Department's *Petition to Modify Order Dated April 9, 2015* was served upon the parties listed below, in accordance with the requirements of §1.54, by First-Class mail, postage prepaid and by electronic mail as indicated this 12th day of May, 2015.

Larry Seamour, Chairman
Benton Township
P.O. Box 29
Fleetville, PA 18420

Tom Bracey
Norfolk Southern Railway Co.
1200 Peachtree Street, NE
Atlanta, GA 30309

Pennsylvania State Police Commissioners
Pennsylvania State Police
3rd Floor Department Headquarters
1800 Elmerton Ave.
Harrisburg PA, 17110

Paul J. Himka
1148 Polovitch Road
Nicholson PA, 18446

Brian O'Conner
153 Halls Road
Great Bend, PA 18821

Alan Hall, Chairman
Susquehanna County
105 Maple Street
Montrose, PA 18801

William Jenkins
Lackawanna County
200 Adams Ave.
Scranton, PA 18501

John Koshinski
350 Greenwood Street
Hop Bottom, PA 18824

Don Shibley
19730 State Route 11
New Milford, PA 18834

Shawn Starling
Norfolk Southern Corporation
1200 Peachtree Street NE
Atlanta, GA 30309

Graham A. Anthony
P.O. Box 23
Brooklyn, PA 18813

Daniel Sabatka
Canadian Pacific
11306 W. Franklin Ave
Franklin Park, PA 60131

Benjamin C. Dunlap, Jr., Esq.
Nauman Smith Shissler & Hall
200 North Third Street, 18th Floor
P.O. Box 840
Harrisburg, PA 17108

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Alicia Adair, Legal Assistant to
Gina M. D'Alfonso
Assistant Counsel in Charge
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212
Telephone No. (717) 787-3128
gdalfonso@pa.gov

DATED: May 12, 2015

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Department's *Petition to Modify Order Dated April 9, 2015* was served upon the parties listed below, in accordance with the requirements of §1.54, by First-Class mail, postage prepaid and by electronic mail as indicated this 29th day of October, 2015.

Larry Seamour, Chairman
Benton Township
P.O. Box 29
Fleetville, PA 18420

Tom Bracey
Norfolk Southern Railway Co.
1200 Peachtree Street, NE
Atlanta, GA 30309

Pennsylvania State Police Commissioners
Pennsylvania State Police
3rd Floor Department Headquarters
1800 Elmerton Ave.
Harrisburg PA, 17110

Paul J. Himka
1148 Polovitch Road
Nicholson PA, 18446

Brian O'Conner
153 Halls Road
Great Bend, PA 18821

Alan Hall, Chairman
Susquehanna County
105 Maple Street
Montrose, PA 18801

William Jenkins
Lackawanna County
200 Adams Ave.
Scranton, PA 18501

John Koshinski
350 Greenwood Street
Hop Bottom, PA 18824

Don Shibley
19730 State Route 11
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1200 Peachtree Street NE
Atlanta, GA 30309

Benjamin C. Dunlap, Jr., Esq.
Nauman Smith Shissler & Hall
200 North Third Street, 18th Floor
P.O. Box 840
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Graham A. Anthony
P.O. Box 23
Brooklyn, PA 18813

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION



Alicia Adair, Legal Assistant to
Gina M. D'Alfonso
Assistant Counsel in Charge
Office of Chief Counsel
P.O. Box 8212
Harrisburg, PA 17105-8212
Telephone No. (717) 787-3128
gdalfonso@pa.gov

DATED: October 29, 2015