

RICHARD R. WILSON, P.C.

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Attorney at Law
A Professional Corporation
P.O. Box 752
Ebensburg, PA 15931

851 12th Street,
Oakmont, PA 15139
(814) 935-8601

300642

May 20, 2020

Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

ENTERED
Office of Proceedings
May 20, 2020
Part of
Public Record

Re: Wilmington and Northern Railroad Company and Lessee Reading Company –
Abandonment in Chester County, PA – Chester County Petition for Declaratory
Order; Finance Docket No. 36400

Dear Ms. Brown:

Chester County hereby submits a Petition for Declaratory Order. The filing fee for this pleading has been submitted in accordance with the Board's efilings requirements.

If there are any questions regarding this submission, please contact the undersigned directly by telephone at 814-935-8601 or by email at rrwesq@rrwilson.net.

Very truly yours,

RICHARD R. WILSON, P.C.



Richard R. Wilson, Esq.
Special Council for Chester County

RRW/bab
Enclosures

xc: Kristen S. Camp, Esq. – kcamp@buckleyllp.com
David Stauffer, RLA – dstauffer@chesco.org

FEE RECEIVED
May 20, 2020
SURFACE
TRANSPORTATION BOARD

FILED
May 20, 2020
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 36400

WILMINGTON AND NORTHERN RAILROAD COMPANY AND LESSEE
READING RAILROAD COMPANY – ABANDONMENT IN
CHESTER COUNTY, PA

CHESTER COUNTY PETITION FOR DECLARATORY ORDER

Richard R. Wilson, Esq.
Richard R. Wilson, P.C.
851 12th Street
Oakmont, PA 15139
(814) 935-8601 - Telephone
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Special Council for Chester County

May 20, 2020

BEFORE THE
SURFACE TRANSPORTATION BOARD

WILMINGTON AND NORTHERN RAILROAD COMPANY AND LESSEE
READING RAILROAD COMPANY – ABANDONMENT IN
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CHESTER COUNTY PETITION FOR DECLARATORY ORDER

I. INTRODUCTION

Chester County (“the County”) requests the Board to assist with a future trail project that involves a railroad right of way formerly owned by the Wilmington and Northern Railroad Company (“Railroad”) in Warwick and West Nantmeal Township in northern Chester County. The County acquired this former railroad right of way from the Friends of St. Peters Village and Trailway by means of a quit claim deed dated July 22, 2014 recorded with the Chester County Recorder of Deeds on November 6, 2014 in Deed Book No. 9012, Page 95 (“Quit Claim Deed”)(Exhibit A). See map at Exhibit D

II. BACKGROUND

The County is trying to determine what property interest it acquired under the Quit Claim Deed which obviously depends on whether the right of way had been abandoned. The County previously contacted the National Archives and obtained a copy of the ICC Certificate and Order which authorized the abandonment of the right of way. (Exhibit B). One of the conditions of the Order authorizing abandonment required the Railroad to submit a journal entry showing the retirement of the line from service within

60 days of the abandonment authorization order. The journal entry required by the Order is attached as Exhibit C. Based on these documents, it appears that while the Railroad was authorized to abandon the line, the documentary evidence submitted by the Railroad as required by the ICC Order did not include a dated copy of the journal entry from which it could be determined if it was filed within sixty (60) days of the authorization order.

As indicated above, the County is planning to construct a recreational trail along the railroad right of way and in order to do so must know with certainty if the right of way is subject to reversionary interests which would have vested in adjacent property owners subsequent to a consummated abandonment of the right of way with a timely submission of the journal entry within sixty days of the ICC abandonment order of November 10, 1970. Since the journal entry submission is not dated, it cannot be determined with certainty whether the abandonment authorization for this line was timely exercised by the Railroad. If it was not timely exercised by the Railroad, the abandonment authorization would not have been legally consummated and any reversionary interest adjacent to the line would not have vested.

III. RELIEF SOUGHT

To resolve this matter, the County requests that the Board determine that the line was not legally abandoned because there was no indication that the Railroad timely filed its journal entry with the ICC. Since the abandonment authorization was not

consummated in accordance with the ICC order of November 10, 1970, the Board continued to retain residual jurisdiction over this line.

Respectfully submitted,



Richard R. Wilson, P.C.
Richard R. Wilson, Esq.
Special Council for Chester County
851 12th Street
Oakmont, PA 15139
(814) 935-8601 - Telephone
rrwesq@rrwilson.net

VERIFICATION

I, David Stauffer, RLA - Capital Projects Coordinator for Chester County, PA, verify that the statements made in the foregoing Petition for Declaratory Relief are true and accurate to the best of my knowledge, information and belief.

 4/15/20
David Stauffer

EXHIBIT A

Prepared by:
Thomas C. Abrahamsen, Esquire
2 N. High St.
Suite 150
West Chester, PA 19380

Return to:
Thomas C. Abrahamsen, Esquire
2 N. High St.
Suite 150
West Chester, PA 19380

DPI#
19-6-10

19-5-52

19-5-30

19-4-55

19-4-76

23-1-3

DEED

THIS QUIT - CLAIM DEED, made this 22nd day of July 2014

Between:

FRIENDS OF ST. PETERS VILLAGE AND TRAILWAY, a Pennsylvania
Non Profit Corporation (Grantor)

AND

The COUNTY Of CHESTER in the Commonwealth of Pennsylvania
(Grantee)

WITNESSETH that the Grantor for and in consideration of the sum
of One Dollar (\$1.00) lawful money of the United States of
America, unto the Grantor well and truly paid by the Grantee at
or before the sealing and delivery hereof, the receipt whereof
is hereby acknowledged has remised released and quit-claimed and
by these presents does remise, release and quit-claim unto the
Grantee, its successors and assigns, all right, title and
interest of Grantor in and to:

RECORDED
CHESTER CO.

2014 NOV -6 A

EX A

412

5/2

QCD

All that certain portion of the French Creek Branch of the Wilmington & Northern Railroad Company right-of-way (of variable width) situate partly in the Township of Warwick and partly in the Township of West Nantmeal in the County of Chester and Commonwealth of Pennsylvania, as follows, to-wit:

BEGINNING at a point in the centerline of said French Creek Branch at Engineering Station 34+71, more or less, thence extending along said right-of-way 27,601.2 lineal feet, more or less, to Engineering Station 310+72.2, more or less, to the place of ending.

Containing 41.82 acres, more or less (but described in the records of the Chief Assessor of the County of Chester, Pennsylvania as 25.76 acres.

SUBJECT, however to any easements or agreements of record to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in on under, over and through the premises conveyed by this Indenture and to the rights to maintain, use, repair, renew and remove the same.

BEING the same premises conveyed by French & Pickering Creeks Conservation Trust, Inc., a Pennsylvania Non Profit Corporation and conservancy possessing tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code to Friends of St. Peters Village and Trailway, a Pennsylvania Non Profit Corporation by indenture dated December 22, 2008, and recorded January 9, 2009, in the Office of the Recorder of Deeds of the County of Chester, Pennsylvania in Record Book 7570 at page 1099.

TOGETHER with all and singular the buildings and improvements, ways, streets, alleys, driveways, passages, waters, water courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever unto the hereby quit claimed premises belonging or in any wise appertaining and the reversions, remainders, rents, issues and profits thereof and also all the estate, right, title, interest, property, claim and demand whatsoever of the said Grantor, if any, as well at law as in

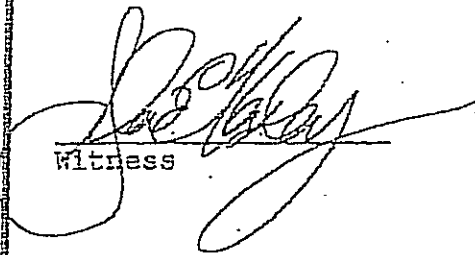
equity or otherwise howsoever, of, in and to the same and every part thereof.

TO HAVE AND TO HOLD the said lot or piece of ground described with the buildings and improvements thereon erected, hereditaments and premises hereby granted or mentioned and intended so to be with the appurtenances, unto the said Grantee, its successor and assigns, to and for the only proper use and behoof of said Grantee, its successors and assigns, forever.

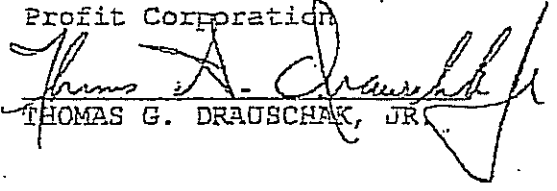
AND said Grantor hereby represents that the foregoing conveyance is a quit claim, without warranty, of all of the Grantor's right, title and interest in the above described premises.

IN WITNESS WHEREOF, the party of the first part has executed by its duly authorized officer. Dated the day and year first above written.

SEALED AND DELIVERED
IN THE PRESENCE OF US:


Witness

FRIENDS OF ST. PETERS VILLAGE AND
TRAILWAY, a Pennsylvania Non
Profit Corporation


THOMAS G. DRAUSCHAK, JR.

Commonwealth of Pennsylvania
County Of Chester

On this 27th day of July, 2014, before me, a Notary Public for the Commonwealth of Pennsylvania, the undersigned Officer, personally appeared:
Thomas G. Drauschak, Jr. who acknowledged himself to be the President of Friends of St. Peters Village and Trailway, a Pennsylvania Non Profit corporation and that he, as such officer, being authorized to do so, executed the foregoing deed for the purposes therein contained by signing the name of the corporation by himself as such officer:

I hereunto set my hand and official seal.

Dawnmarie T. Mayfield
Notary Public

The address of the above named Grantee is:

313 West Market St.
Suite 6202
West Chester, PA 19380

Kathryn A. Fidanza

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
DAWNMARIE T. MAYFIELD, Notary Public
City of Philadelphia, Phila. County
My Commission Expires July 12, 2017

REV-3 EX (04-10)



pennsylvania
DEPARTMENT OF REVENUE
Bureau of Individual Taxes
PO BOX 286503
Harrisburg, PA 17128-0503

REALTY TRANSFER TAX STATEMENT OF VALUE

See reverse for instructions.

RECORDER'S USE ONLY

State Tax Paid

Book Number

Page Number

Date Recorded

Complete each section and file in duplicate with Recorder of Deeds when (1) the full value/consideration is not set forth in the deed, (2) the deed is without consideration or by gift, or (3) a tax exemption is claimed. A Statement of Value is not required if the transfer is wholly exempt from tax based on family relationship or public utility easement. If more space is needed, attach additional sheets.

A. CORRESPONDENT - All inquiries may be directed to the following person:

Name: Kristin S. Camp, Esquire Telephone Number: (610) 436-4400
Mailing Address: 118 West Market Street, Suite 300 City: West Chester State: PA ZIP Code: 19382

B. TRANSFER DATA

Grantor(s)/Lessor(s): Friends of St. Peter's Village and Trailway
Mailing Address: 134 Hares Hill Road

City: Phoenixville State: PA ZIP Code: 19460

C. Date of Acceptance of Document

07/22/14

Grantee(s)/Lessee(s): County of Chester

Mailing Address: 313 West Market Street, Suite 6202

City: West Chester State: PA ZIP Code: 19380

D. REAL ESTATE LOCATION

Street Address: See attached sheet City, Township, Borough: See attached sheet

County: Chester School District: See attached sheet Tax Parcel Number: See attached sheet

E. VALUATION DATA - WAS TRANSACTION PART OF AN ASSIGNMENT OR RELOCATION? ☐ Y ☒ N

1. Actual Cash Consideration 1.00	2. Other Consideration +0.00	3. Total Consideration = 1.00
4. County Assessed Value 24,020	5. Common Level Ratio Factor x 1.73	6. Fair Market Value = 41,554.60

F. EXEMPTION DATA

1a. Amount of Exemption Claimed 100%	1b. Percentage of Grantor's Interest in Real Estate 100%	1c. Percentage of Grantor's Interest Conveyed 100%
---	---	---

Check Appropriate Box Below for Exemption Claimed.

- ☐ Will or Intestate succession. (Name of Decedent) (Estate File Number)
- ☐ Transfer to a trust. (Attach complete copy of trust agreement identifying all beneficiaries.)
- ☐ Transfer from a trust. Date of transfer into the trust. If trust was amended attach a copy of original and amended trust.
- ☐ Transfer between principal and agent/straw party. (Attach complete copy of agency/straw party agreement.)
- ☐ Transfers to the commonwealth, the U.S. and instrumentalities by gift, dedication, condemnation or in lieu of condemnation. (If condemnation or in lieu of condemnation, attach copy of resolution.)
- ☐ Transfer from mortgagor to a holder of a mortgage in default. (Attach copy of mortgage and note/assignment.)
- ☐ Corrective or confirmatory deed. (Attach complete copy of the deed to be corrected or confirmed.)
- ☐ Statutory corporate consolidation, merger or division. (Attach copy of articles.)
- ☐ Other (Please explain exemption claimed.)

Under penalties of law, I declare that I have examined this statement, including accompanying information, and to the best of my knowledge and belief, it is true, correct and complete.

Signature of Correspondent or Responsible Party

Kristin S. Camp

Date

11/3/2014

FAILURE TO COMPLETE THIS FORM PROPERLY OR ATTACH REQUESTED DOCUMENTATION MAY RESULT IN THE RECORDER'S REFUSAL TO RECORD THE DEED.

Addendum to Realty Transfer Tax Statement of Value

D. Real Estate Location:

Street Address:

Portion of French Creek Branch of the Wilmington & Northern
Railroad Company right of way

City, Township, Borough:

Partially in West Nantmeal Township
Partially in Warwick Township

School District:

Owen J. Roberts School District
Twin Valley School District

Tax Parcel Nos.

19-6-10
19-5-52
19-5-30
19-4-55
19-4-76
23-1-3

COUNTY OF CHESTER
COMMONWEALTH OF PENNSYLVANIA
RESOLUTION NO. 47-14

RESOLUTION OF THE CHESTER COUNTY COMMISSIONERS
AUTHORIZING EXECUTION AND RECORDING OF A DEED FOR
RIGHT OF WAY PARCELS FROM FRIENDS OF ST. PETERS VILLAGE
AND TRAILWAY.

BE AND IT IS HEREBY RESOLVED, by the authority of the Board of County Commissioners of Chester County, that the Board accepts the attached Deed conveying certain tracts or parcels of ground more particularly described in the foregoing Deed to the County for use as a public recreational trail.

ATTEST:

Janelle Swab

CHESTER COUNTY

Ryan A. Costello
Ryan A. Costello, Chairman

Kathy Cozzone
Kathy Cozzone, Commissioner

Terence Farrell
Terence Farrell, Commissioner

1. JANELLE SWAB, Chief Clerk of the Board of County

Commissioners of Chester County do hereby certify that the foregoing is a true and correct copy of the Resolution adopted at a regular (special) meeting of the Board, held on the 28th day of OCTOBER, 2014.

(SEAL)

Janelle Swab
Chief Clerk

Chester County
Rick Loughery, Recorder
313 W. Market Street
Ste. 3302
West Chester, PA 19382

Receipt: 14-31647

Product	Name	Extended
QCD	Quit Claim Deed	\$140.00
	Document #	11375326
	Book/Page:	B: 9012 P: 55
	Requested By:	BUCKLEY BRION
	Consideration:	\$1.00
	Consideration:	\$0.00
	# Total Pages	6
	Total Pages - Deeds	\$17.00
	TOTAL UPI NUMBERS - \$10	\$60.00
	HOUSING-29	\$17.00
	CO REC FUND	\$2.00
	RE REC FUND	\$3.00
	WRIT TAX	\$0.50
	AOPCACCOUNT-29	\$35.50
	Tech Fee - Cap	\$3.00
	Tech Fee - GF	\$2.00
	106-OWEN J. ROBERTS S.D.	\$0.00
	111-TWIN VALLEY S.D.	\$0.00
	19-WARWICK TOWNSHIP	\$0.00
	23-WESTNANTMEALTOWNSHIP	\$0.00
Total		\$140.00
Tender (Recording Check)		\$140.00
Check #	3791	
Paid By	BUCKLEY BRION	

Thank You!

11/6/14 10:37 AM mmoore

EXHIBIT B



NATIONAL
ARCHIVES

February 6, 2015

Kristin S. Camp
118 W. Market Street, Suite 300
West Chester, PA 19382-2928

Dear Ms. Camp-

This is in response to your email request of January 21, 2015.

The records of the Interstate Commerce Commission (Record Group 134) are in the custody of this unit. I have enclosed a free paper copy of the decision and order, and the journal entry from Finance Docket #26327, in the matter of a Reading Company and a Wilmington and Northern Railroad abandonment in Chester County, PA.

Sincerely,

DAVID A. PFEIFFER
Archivist, Textual Reference Archives II Branch (RDT2)
National Archives at College Park
david.pfeiffer@nara.gov

Enclosure

RDT2 15-14567

SERVICE DATE
NOVEMBER 10, 1970

CERTIFICATE AND ORDER

At a Session of the INTERSTATE COMMERCE COMMISSION, Review Board Number 5, held at its office in Washington, D. C., on the 4th day of November, 1970.

Finance Docket No. 26327

WILMINGTON & NORTHERN RAILROAD CO. AND LESSEE READING CO. -
ABANDONMENT IN CHESTER COUNTY, PA.

Upon consideration of the application filed under section 1(18) of the Interstate Commerce Act, by the Reading Company and The Wilmington and Northern Railroad Company, lessor, for the former to abandon operations and the latter to abandon (1) that portion of the French Creek Branch which extends in a general easterly direction from engineering station 140 + 68 to the end of the Branch at engineering station 310 + 63.2, a distance of 3.22 miles, and (2) the Falls Extension Branch which extends in a general southerly direction from engineering station 0 + 00 (beginning point of said Branch being the point of switch at engineering station 304 + 79 in the French Creek Branch) to the end of the Branch at engineering station 15 + 67, a distance of 0.29 miles, in Chester County, Pennsylvania, and of a protest to said application filed by the Railway Labor Executives' Association and the Congress of Railway Unions on the ground that the proposed abandonment, if permitted, would have an adverse effect upon the employees of the applicant; and

It appearing, That the interest of employees will be protected by the imposition of appropriate conditions; that there is extremely limited demand for rail service in the area served by the line in the last three years; that there is no prospect for developing substantial traffic in the future; and that continued maintenance and operation of the line would impose an undue and unnecessary burden upon applicant and upon interstate commerce;

It is hereby certified, That, subject to the same conditions for the protection of employees as set forth in Chicago, B. & Q. R. Co. Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by The Wilmington and Northern Railroad Company and abandonment of operations thereover by Reading Company (lessee) of the line described above;

It is ordered, That this certificate and order shall take effect and be in force from and after 35 days from the date of service hereof, and that tariffs applicable to the line herein permitted to be abandoned may be canceled upon notice to this Commission and to the general public by not less than 10 days' filing and posting in a manner prescribed in section 6 of the Interstate Commerce Act;

F. D. No. 26327

It is further ordered, That, when filing schedules canceling tariffs applicable to said line, the applicant shall in such schedules refer to this certificate and order by date and docket number;

It is further ordered, That, if the authority granted is exercised, applicant shall submit for the consideration and approval of the Commission, within 60 days thereof, two copies of the journal entries showing the retirement of the line from service; and

It is further ordered, That if the authority granted in this certificate and order is not exercised within one year from its effective date, it shall be of no further force or effect.

By the Commission, Review Board Number 5.

Robert L. Oswald
ROBERT L. OSWALD,
Secretary.

SEAL)

EXHIBIT C

READING COMPANY

Journal Entry

Month _____

70 - Extraordinary Items		\$ 33,421.91
Retirement	\$ 46,721.91	
Consideration	13,300.00	
(To be sold "as is where is")		
701 - Cash		13,300.00
Consideration (Sold "as is where is")		
737 - Miscellaneous Physical Property		409.28
Land Cost		
785 - Accrued Depreciation		9,195.32
Retirement	9,195.32	
Salvage		
731 - Road and Equipment Property		\$ 56,326.51
Cost of Property to be Retired		
Depreciable	Non-Depreciable	
1 \$ 212.06	\$ 929.48	
2	409.28	
3 1,709.00	5,295.37	
6 6,778.96		
8	9,979.31	
9	11,463.51	
10	7,884.41	
11	1,703.34	
12	7,000.17	
13	89.52	
39	207.52	
76 419.21	1,836.05	
77 76.09	333.23	
\$ 9,195.32	\$ 47,131.19	

To record proposed accounting in connection with the abandonment of the French Creek Branch and the Falls Extension Branch. Authority granted by the Interstate Commerce Commission in a report and certificate of Public Convenience dated November 11, 1970. Finance Docket No. 26327.

APE 487

Correct _____

GENERAL BOOKKEEPER

Title _____

EXHIBIT D

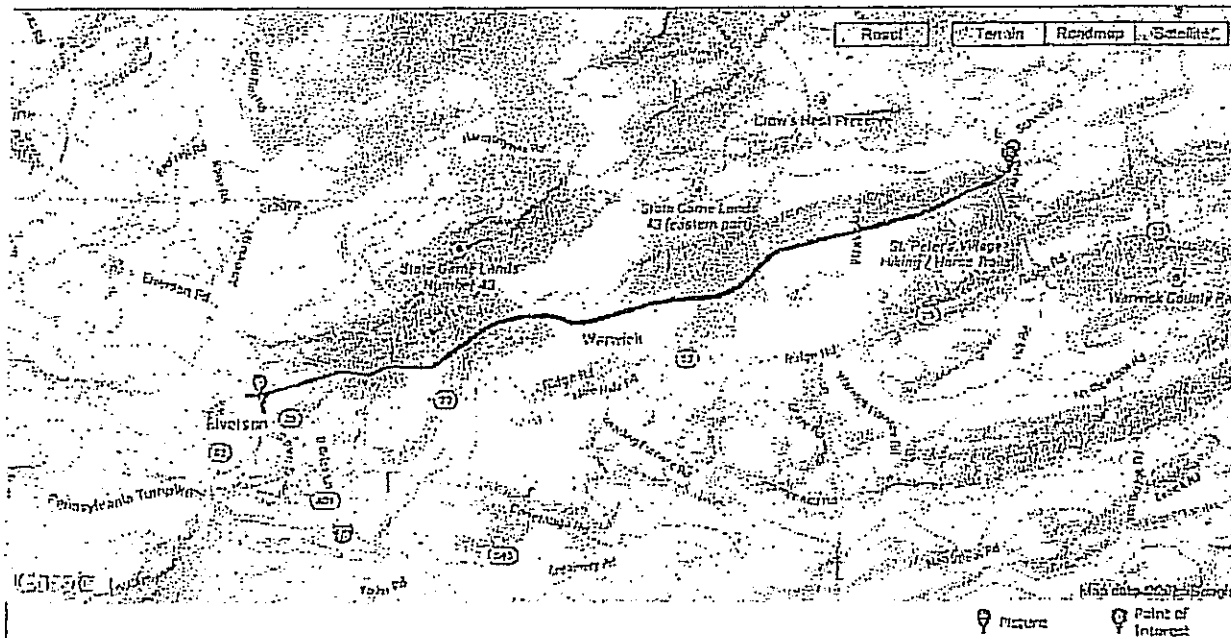
Abandoned Rails: The Warwick Branch

Elverson to Saint Peters

Quick Info: State: Pennsylvania Railroads: P&B, D&D, W&A, W&L

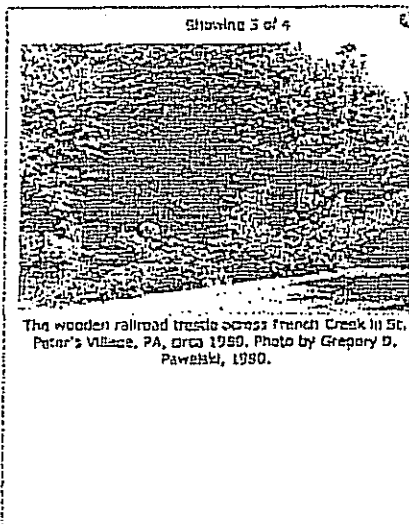
Link: <http://a-r.us/27/>

The Warwick Branch



This short spur line branched from the Wilmington and Northern's line at Elverson, and headed east to serve a black granite quarry at Saint Peters. The line passed through the small town of Warwick, which gave this branch line its name. The line once connected with the end of The Delaware River and Lancaster Railroad at Saint Peter's via a switchback.

Date of abandonment is not known; it appears on a 1948 railroad map under the Reading Railroad.



The wooden railroad trestle across French Creek in St. Peter's Village, PA, circa 1980. Photo by Gregory D. Pawelski, 1980.

Comments

Add your comment

I have walked sections of the Wilmington & Northern line from Elverson pa to Saint Peters Village. Some remains of the Railroad artifacts and some fascinating culverts. Took photos and saw some migrating and resident bird along the way.

Richard Wolf
St. Petersburg, PA
5/7/2012

I grew up on a farm that was at Kenny's Crossing on the now abandoned Wilmington and Northern Railroad. In the late 1940s I remember riding in my parents car on Rt 23 close to Warwick and I could see railroad cars on the St Peters spur.

I have a great interest in the above mentioned railroad and the St Peters spur. Although I now living in Colorado I visit the Elverson-Warwick area almost every year. If you go to the following Website there is some info that is interesting:

CERTIFICATE OF SERVICE

I hereby certify that I have this 20th day of May, 2020 served a copy of the Petition for Declaratory Relief upon the following by first class United States Mail, postage prepaid:

David Stauffer
dstauffer@chesco.org
Chester County Department of Facilities & Parks
313 West Market Street, Ste. 5402
West Chester, PA 19380-0991



Richard R. Wilson, Esq.