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BY HAND

Ms. Cynthia T. Brown
Chief of Administration
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001



**RE: FD 36148, Adrian & Blissfield Rail Road Company-
Petition for Declaratory Relief**

Dear Ms. Brown:

On behalf of Petitioner Adrian & Blissfield Rail Road Company, I am enclosing for filing in the above-captioned proceeding an original and ten copies of its Petition for Declaratory Relief. Please date stamp and return one copy of this transmittal letter and the petition. I have submitted the Board's credit card form in payment of the \$1,400 filing fee and am tendering a copy of the filing on a computer disk.

Please contact me if you have any questions.

Sincerely yours,

John D. Heffner

FILED
October 30, 2017
SURFACE
TRANSPORTATION BOARD

Enclosures

cc: Adam C. Smith, Esq.

FEE RECEIVED
October 30, 2017
SURFACE
TRANSPORTATION BOARD

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ORIGINAL

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36148



**ADRIAN & BLISSFIELD RAIL ROAD COMPANY
PETITION FOR DECLARATORY RELIEF**

Submitted by
John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Ave., N.W.
Suite 717
Washington, D.C. 20036
(202) 742-8607
Its counsel

Dated: October 30, 2017

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36148

**ADRIAN & BLISSFIELD RAIL ROAD COMPANY
PETITION FOR DECLARATORY RELIEF**



**I.
INTRODUCTION**

Pursuant to 5 U.S.C. § 554(e) and 49 U.S.C. §§1321 the Adrian & Blissfield Railroad (“ADBF”), a Class III short line railroad operating in the State of Michigan, petitions the Surface Transportation Board (“the Board”) for a declaratory ruling that the initiation of a Michigan state court condemnation proceeding by Consumers Energy Company (“Consumers”) is preempted under the ICC Termination Act (“the ICCTA”). ADBF urges the Board to use its discretion to grant declaratory relief in what it believes is a case of first impression before this agency involving the attempt of a large privately owned utility company to take property belonging to a small common carrier short line railroad.

**II.
STATEMENT OF FACTS**

The facts in this declaratory relief proceeding are very simple and are described in more detail in the verified statement of ADBF’s President, Mark Dobronski, attached hereto. ADBF is a Class III common carrier short line

railroad providing transportation in the State of Michigan as part of the national rail network. It operates 18.91 route miles of track in and through Lenawee County, MI, as well as real property in Adrian, MI, that was formerly owned by the State of Michigan through its Department of Transportation and acquired in 2000.¹ ADBF connects and interchanges traffic in interstate commerce with Norfolk Southern Railway at Adrian. Altogether ADBF presently handles about 2,500 car loads of traffic per year for 10 on-line customers as well as additional off-line customers who use ADBF's transload facility at Adrian. Dobronski verified statement at 1-2.

ADBF and its predecessor railroads have provided continuous common carrier railroad service at Adrian since 1836.² After ADBF acquired its line from the State, its traffic and railroad-related business have grown significantly. In order to accommodate this traffic and future anticipated growth, ADBF embarked upon an ambitious plan to expand its facilities at Adrian. These improvements include constructing a new interchange track capable of handling 100 cars instead of the 6 cars that can presently be accommodated in one switch, upgrading its

¹ Pursuant to authority granted by the Board in *Adrian & Blissfield Rail Road Company-Acquisition Exemption-Michigan Department of Transportation*, FD 33938 (STB-served Nov. 3, 2000).

² Starting with the Erie & Kalamazoo Railroad, ADBF's predecessor carriers have also included the New York Central System, the Penn Central Transportation Company, and the Lenawee County Railway Company.

engine house and adding an adjacent track,³ installing a gantry crane to lift locomotives requiring servicing, and adding two yard tracks to expand its storage capacity and facilitate more flexible switching. ADBF will also be building a radio tower to communicate with train crews. Dobronski verified statement at 1,3,4-8.

Consumers is a Michigan public utility generating, distributing, and selling electricity and natural gas. Consumers and the then owner of ADBF's right of way, the Michigan Department of Transportation, had originally signed a 20 year lease⁴ in 1996 for placement of a 2.5 mile long *longitudinal* wire occupancy on more than 20% of the railroad right of way using wooden poles. This agreement contained no renewal provision and was terminable on 30 days' notice at any time. The agreement specifically provided that it could be terminated before expiration and required Consumers to vacate the property and to restore it to a "clean and slightly (**sic**) condition."

The current dispute arises out of Consumer's plan to condemn a 2.5 mile long *longitudinal* easement across and upon ADBF's property in order to maintain an existing high voltage power line. Consumers' proposed easement⁵ differs in at

³ Those new facilities will enable the railroad to perform mechanical repairs on its own equipment at considerable cost savings instead of contracting that work out and to perform repairs for third parties as well.

⁴ Attached as Exhibit A.

⁵ A copy of the entire easement is attached as Exhibit B.

least two respects from the terminated lease that it would replace. It is permanent and it would give Consumers an absolute veto over how ADBF could use its right of way. The relevant parts of the easement state:

“Access: Consumers shall have the right to unimpaired access, to the extent said access does not interfere with the safety of Owner's [ADBF's] railroad operations and follows generally accepted safety guidelines for railroad property, to said line or lines, and the right of ingress and egress on, over, and through Owner's Land for any and all purposes necessary, convenient, or incidental to the exercise by Consumers of the rights granted hereunder.”

“Buildings/Structures: Owner agrees not to build, create, construct, or permit to be built, created, or constructed, any obstruction, building, septic system, drain field, fuel tank, pond, swimming pool, lake, pit, well, foundation, engineering works, installation or any other type of structure over, under, or on said Easement Area, whether temporary or permanent, natural or man-made, without the express authorization of Consumers, which may be withheld in Consumers' *sole discretion* [emphasis supplied]...”

ADBF had unsuccessfully sought to negotiate an agreement with Consumers which would have given it the ability to occupy the premises in a manner consistent with ADBF's ability to conduct its operations efficiently and safely. However, ADBF could not accept Consumers' terms because they would have made ADBF's operations subordinate to Consumers' control. ADBF then learned of a misrepresentation made by Consumers concerning the number of wires and voltages located on the utility poles. At that point ADBF withdrew all contingent offers for an interest in its real estate and insisted that Consumers first make good on past due rent before proceeding with further discussions.

On July 8, 2016, Consumers initiated litigation in Michigan state court⁶ against ADBF, Norfolk Southern Corporation and Norfolk Southern Railway,⁷ Michigan DOT, and the City of Adrian to condemn railroad property in Adrian.⁸ As relevant to ADBF, that taking would cover 2.5 miles of the railroad's operating right of way and four critical active railroad facilities effectively bisecting the railroad's property. The maps attached to Mr. Dobronski's statement illustrate that the property that Consumers wants to take would occupy more than 20% of the 2.5 miles of ADBF right of way in Adrian as well as affecting its upgraded engine house and storage facility, its existing transload facility, and both its primary and secondary interchanges with Norfolk Southern Railway. Consumers' taking would deprive ADBF of control over its rail line and facilities and forever constrain its ability to expand its railroad and facilities without Consumers' approval.

III. STATE COURT LITIGATION

As noted above, Consumers began its condemnation action by filing suit against ADBF in Michigan State Court. Asserting federal preemption, ADBF then removed the case to Federal District Court for the Eastern District of

⁶ *Consumer's Energy Company v. Adrian & Blissfield Railroad Company, et al.*, Case No. 16-5626-CC, Lenawee County Circuit Court, MI. Copy attached as Exhibit C.

⁷ Norfolk Southern settled by grant of a lease or license for a crossing which did not allow Consumers to hinder railroad operation.

⁸ Consumers resolved its claims against all parties but ADBF.

Michigan, Southern Division. While ADBF urged the Court to find federal jurisdiction on the basis that condemnation constitutes “regulation” as a form of “categorical preemption,” the Court’s December 8, 2016, ruling rejected ADBF’s request. It found Consumers’ condemnation to be “as applied preemption.” Without taking any testimony, the Court went beyond the scope of review of a petition for removal and in *dicta* stated that the burden on ADBF’s operations resulting from the condemnation was not unreasonable.⁹

IV. ARGUMENT

Simply stated, the ICCTA preempts Michigan’s condemnation statute¹⁰ and forbids Consumers from pursuing condemnation of ADBF’s property. The ICCTA and relevant precedent require the Board to issue a ruling to that effect.

Section 10501(a) (1) of the ICCTA, 49 U.S.C. §10101 *et seq*, provides the basis for the preemption over conflicting or inconsistent state or local law such as Michigan’s condemnation statute. The ICCTA gives the Board broad and

⁹ *Consumers Energy Company v. Adrian & Blissfield Railroad Company, et al*, Case No. 16-12938, US District Court, E.D. Mich, Southern Division. However, “If the court rules that the claim is not “completely preempted”, the federal court lacks jurisdiction to rule on the substantive preemption defense.” *Baldrige v. Kentucky-Ohio Transp, Inc.*, 983 F.2d 1341, 1345–46 (6th Cir. 1993)(quoting *Whitman v. Raley’s Inc.*, 886 F.2d 1177, 1180-81 (9th Cir. 1989)). Consumers concedes the Judge’s discussion amounted to *dicta*. Furthermore, the order of remand issued by the Court cannot be appealed, regardless of the inaccuracy of its decision. *Anusbigian v. Trugreen/Chemlawn, Inc.*, 72 F.3d 1253, 1256 (6th Cir. 1996)

¹⁰ MCL §486.252. Copy attached as Exhibit D.

exclusive jurisdiction over “transportation by rail carrier.” *Id.* The statute defines rail transportation expansively to encompass any locomotive, property, facility, structure, or equipment “related to the movement of passengers or property, or both, by rail, regardless of ownership or an agreement concerning use.” 49 U.S.C. § 10102(9). Section 10501(b) states that “the remedies provided under with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law.” As numerous courts have held, “[i]t is difficult to imagine a broader statement of Congress’ intent to preempt state regulatory authority over railroad operations.” *City of Auburn v. United States*, 154 F.3d 1025, 1030 (9th Cir. 1998) (quoting *CSX Transp. Inc. v. Ga. Pub. Serv. Comm’n*, 944 F. Supp. 1573, 1581 (N.D. Ga. 1996)).

Typically preemption falls into either of two major categories, “categorical” referring to matters specifically regulated by the Board such as rates, mergers, service, or entry or exit licensing, or “as applied”, referring to the impact that some form of private, state, or local licensing, regulation, or litigation has on a railroad. Some courts have held that condemnation can constitute a form of regulation. *Soo Line Railroad Company v. City of St. Paul*, 827 F.Supp. 2d 1017, 1022 (cited as *Soo Line*) (U.S. D. C., D. Minn. 2010) (“[b]ecause the City’s proposed condemnation seeking a permanent easement would be an act seeking to control CP’s property, it is a form of regulation”) and *Union Pacific R. Co. v.*

Chicago Transit Authority, 647 F.3d 675 (7th Cir. 2011)(cited as *CTA*)(the court analyzed CTA’s condemnation under the “as applied” test as well as found that it would have serious adverse impacts on the railroad’s present and future operations).

The ICCTA preempts Consumer’s condemnation efforts in two different respects. First, Consumers’ condemnation can be seen as a form of regulation *per se* and, as such, there would be no need to look beyond to see how or if condemnation would affect the railroad’s operations. *See, CTA and Soo Line*.

But even if Consumer’s condemnation efforts do not qualify under that categorical standard, they are preempted in a second respect (“applied preemption”). In the latter case, the Board looks to see whether that “regulation” would have the effect of unreasonably burdening or interfering with rail transportation at present or in the future. *See Franks Inv. Co.*, 593 F.3d at 414; *N.Y. Susquehanna & W. Ry. v. Jackson*, 500 F.3d 238, 252 (3d Cir. 2007); *see also Tri-City R.R.—Pet. for Declaratory Order*, FD 35915, slip op. at 7-8 (STB served Sept. 14, 2016) (finding preemption applied where an at-grade crossing would unreasonably interfere with the petitioner’s present and future railroad operations); *City of Lincoln—Pet. for Declaratory Order*, FD 34425, slip op. at 4 (STB served Aug. 12, 2004), *aff’d sub nom. City of Lincoln v. STB*, 414 F.3d 858 (8th Cir. 2005) (considering a railroad’s future plans to determine whether a city’s

proposed condemnation of railroad right-of-way was preempted). To determine whether the action is preempted as applied, the Board analyzes the facts and circumstances of the case. *E. Ala. Ry.—Pet. for Declaratory Order*, FD 35583, slip op. at 5-7 (cited as *E. Ala. Ry*, STB served Mar. 9, 2012). The Board has stated that “routine, non-conflicting uses, such as non-exclusive easements for at-grade road crossings . . . are not preempted so long as they would not impede rail operations or pose undue safety risks.” *Maumee & W. R.R.—Pet. for Declaratory Order*, FD 34354, slip op. at 2 (STB served Mar. 3, 2004)(cited as *Maumee*); see also *E. Ala. Ry.*, FD 35583, slip op. at 4 (finding that an easement across a railroad’s property for subterranean water and sewer pipes would not unreasonably interfere with rail operations).

“Transportation” referenced in section 10501(a)(1) includes “a locomotive, car, vehicle, vessel, warehouse, wharf, pier, dock, *property*, facility, instrumentality, or equipment of any kind relating to the movement of passengers or property, or both, by rail, regardless of ownership or agreement concerning use.” *CP, supra*, at 1020.

There is no question but that ADBF’s property affected by the proposed easement fits within “transportation” under section 10501(a)(1). The proposed easement specifically forbids ADBF from building, creating, constructing, or permitting “any obstruction, building...installation, or any other type of structure

over, under, or on said Easement Area...without the express authorization of Consumers, which may be withheld in Consumer's *sole discretion* [emphasis supplied]..." Clearly, that language would forbid ADBF from upgrading its engine house, adding or lengthening yard and interchange tracks, erecting radio towers, or using gantry cranes at its transloading facility and engine house" except with Consumers' permission. The question then becomes how would Consumers' proposed easement affect ADBF's ability to use its property. Accordingly, this is the very sort of control forbidden by section 10501(a).

The property acquisition sought by Consumers would not only adversely affect ADBF's operations but would be contrary to ICCTA policy as it would allow Consumers to control ADBF's operations and expansion plans. Under longstanding Board and Interstate Commerce Commission precedent known as the *State of Maine* doctrine,¹¹ a third party such as a right of way owner cannot interfere with or exercise control over a railroad's line absent agency approval. By allowing Consumers to take ADBF's property as it desires would give it an opportunity to second guess or veto ADBF's use of its own property contrary to the ICCTA and pertinent agency precedent.¹²

¹¹ *Maine, Department of Transportation—Acquisition & Operation Exemption—Maine Central Railroad* ("State of Maine"), 8 I.C.C.2d 835 (1991).

¹² For example in *Wisconsin Department of Transportation-Petition for Declaratory Order, et al*, FD 35366 (slip op., STB-served Sept. 26, 2010) the Board initially denied the State's request for a ruling that its acquisition of an actively used rail line was outside the agency's approval jurisdiction under the *State of Maine* doctrine. There the Board held that a

While this dispute appears to be a case of first impression at the Board involving a private utility's attempt to condemn a railroad's right of way, agency precedent involving efforts by political subdivisions to take railroad property through eminent domain compels a finding that Consumer's efforts are preempted.

In *CTA* that agency attempted to condemn a *longitudinal* easement along Union Pacific's right of way to replace an expired license the railroad had previously granted. The Court found that CTA's easement, if granted, would not only adversely affect the railroad's ability to conduct current operations but its *future use* of its property as well. In finding preemption, the Court concluded based upon the specific facts of that case that the condemnation would *unreasonably* interfere with the railroad's operations and would prevent the railroad from expanding track capacity or adding more tracks on its right of way.¹³

A 2017 Board decision involving a petition filed by the City of Ozark, Arkansas,¹⁴ involving an attempt to require the Union Pacific Railroad to reinstall

transaction will not result in the common carrier obligation being imposed on a noncarrier *if* [emphasis supplied] the transaction does not unduly impair the carrier's ability to provide service. The Board found that the easement itself contained ambiguous language that could limit the railroad's right to provide common carrier service. But it stated that "unspecified but clearly envisioned limitations could restrict [the railroad's] ability and authority to provide common carrier service and thereby limit the easement. This is not the permanent, exclusive easement language that *State of Maine* requires." Slip op. at 4

¹³ The two condemnation cases where the Board denied preemption both involved *latitudinal* easements for crossing under or over a rail line as distinguished from the *longitudinal* easement involved here. See, *Maumee* and *E. Ala. Ry.*, *supra*.

¹⁴ *The City of Ozark, Ark.-Petition for Declaratory Order*, FD 36104 (slip op., STB-served July 28, 2017).

a grade crossing reiterates many of the same themes articulated in the *CTA* case. The Board summarized its preemption precedent noting that the ICCTA preempts state and local laws and legal claims that could be used to deny a railroad's ability to conduct its operations, that state or local actions that have the effect of managing or governing rail operations are preempted, and that state or local actions that would have the effect of unreasonably burdening or interfering with rail transportation at the present or in the future would be preempted. It specifically noted that a reinstallation of the crossing would prevent UP from fully utilizing its storage track, cause a significant reduction in line capacity on the rail line, cause a loss of siding storage capacity, prevent local train "meets", increase the number of switching operations, make train operations there less efficient, and pose safety problems for both train crews and the public generally. *Id.* at 5.

Allowing Consumers' condemnation case to proceed in state court with the result that it could take a substantial amount of ADBF's Adrian property would have a similar impact on railroad efficiency, viability, and safety. Consumers asserted in its court pleadings that "this is a garden-variety, state-court action that Consumers initiated to acquire nonexclusive easement rights across [ADBF's] property."¹⁵ Nothing could be further from the truth! There is nothing "garden

¹⁵ Consumers' Brief in Support of Motion to Remand for Lack of Jurisdiction filed in the District Court proceedings at 1.

variety” about the utility company’s taking of *longitudinal* rights along and on ADBF’s property. What we really have is an effort to acquire ADBF’s property “on the cheap” rather than “doing the job right” and at a higher cost. Consumers could easily have removed the power lines from the railroad’s right of way and moved them to an adjacent existing public easement. Consumers’ proposed taking would specifically affect ADBF’s present operations and planned improvements in the following ways as Mr. Dobronski covers in his testimony:

- Upgraded engine house. ADBF would like to be able to expand its existing engine servicing facilities so that it can perform its own locomotive maintenance instead of depending upon outside contractors. However, upgrading this facility will require the railroad to add a track on the south side of the engine house. Consumers’ lines occupy the space that this track would occupy. Moreover, ADBF would need to add a sanding tower and a gantry crane (for lifting engines to facilitate servicing). ADBF stores supplies adjacent to its engine house. Ideally ADBF would like to use a crane there to lift these materials, but it cannot do so due to the power lines and the intended easement. Dobronski verified statement at 4-5.
- Transload facility. ADBF has an existing transload facility where cargo can be transferred between trucks and rail cars. As the photograph

attached to Mr. Dobronski's statement shows, power lines cross over the top of the dock, thereby not only limiting what ADBF can transload but presenting a safety hazard to ADBF employees. Dobronski verified statement at 5-6.

- Interchange tracks. ADBF currently has two interchanges with Norfolk Southern. One interchange severely restricts the number of cars that can be interchanged to six cars at a time. A second interchange track provides more capacity, about 25 cars per switch. ADBF has negotiated a new interchange arrangement with Norfolk Southern Railroad that would significantly expand the amount of traffic that can be interchanged. This new track would be located in the northeast quadrant of crossing between ADBF and Norfolk Southern Railroad. Consumers' existing power lines prevent the construction of this new track as the attached diagram shows. Dobronski verified statement at 6-7.
- Adding sidings. ADBF proposes to add two additional tracks holding 150 cars located between Gulf Street and Center Street in Adrian. Again the attached drawings illustrate that Consumers' existing poles lie in the middle of the right of way that would accommodate such expanded trackage. Dobronski verified statement at 7.

- Radio Tower. As ADBF's business has expanded, it has begun to operate more trains and more traffic requires better two-way communication between train crews and between crews and ADBF's office. To facilitate that communication, ADBF has applied to the Federal Communications Commission for a radio license. Once approved, the next step will be to build a 180 foot high radio tower. The best location for that tower will be adjacent to ADBF's engine house. However, Consumers' power lines are in the way. Dobronski verified statement at 7-8.

V.
RELIEF SOUGHT

ADBF urges the Board to exercise its discretion to grant the relief it has requested in this Petition and any reply that Consumers chooses to file. If the Board proceeds in that manner, ADBF asks that it be permitted to file a rebuttal to any reply evidence or argument submitted by Consumers. Should the Board initiate a proceeding, ADBF requests that the Board institute the following schedule:

Day 0: ADBF Petition filed

Day 30: Board issues procedural order initiating proceeding

Day 60: ADBF Opening evidence and argument due

Day 90: Consumers' evidence and argument due

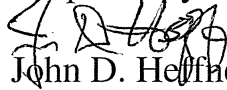
Day 120: ADBF rebuttal evidence and argument due

Day 180: Final Board decision served

VI.
CONCLUSION

Accordingly, ADBF asks the Board to find that the state court condemnation action initiated by Consumers is preempted by the ICCTA. Should the Board institute a proceeding to consider this Petition, ADBF requests the opportunity to file a rebuttal to any reply or comments submitted by Consumers.

Respectfully submitted,



John D. Heffner

Strasburger & Price, LLP

1025 Connecticut Ave., N.W.

Suite 717

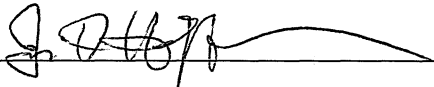
Washington, D.C. 20036

(202)742-8607

Dated: October 30, 2017

CERTIFICATE OF SERVICE

I, John D. Heffner, hereby certify that I have served a copy of the Petition for Declaratory Relief of Adrian & Blissfield Rail Road on Adam C. Smith, Esq., Attorney for Consumers Energy Company, One Energy Plaza, Jackson, MI 49201 by first class U.S Mail and email delivery this 30th day of October 2017.


John D. Heffner

Dated: October 30, 2017

ORIGINAL

EXHIBIT A

LAND RENTAL AGREEMENT

Michigan Law establishes rights and obligations for parties to rental agreements.
This agreement is required to comply with the Truth in Renting Act 454, P.A. of 1978.

Pg 1D540

Inside ROW

NON-FEDERAL

Michigan law establishes rights and obligations for parties to rental agreements. This agreement is required to comply with the Truth in Renting Act, Act 454, P.A. of 1978. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person. Any notice or other communication to the Department may be directed to the Michigan Department of Transportation, Property Management Section. The Department of Transportation is pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the nation. It encourages and supports an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, national origin, age, sex, familial status, marital status, or mental and physical handicap. Persons denied fair housing opportunity for these reasons may file a complaint with the Michigan Civil Rights Commission. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person. Any notice or other communication to the Department may be directed to the Michigan Department of Transportation, Real Estate Division, Property Management Section.

It is hereby agreed that the Michigan Department of Transportation hereafter "DEPARTMENT", does hereby let and rent to Consumers Energy, whose address is 212 West Michigan Avenue, Jackson, Michigan 49201 hereafter "TENANT", the following state-owned land located at from mile post 209.5 to mile post 212.0, City of Adrian, Lenawee County, Michigan, excepting an easement recorded on liber 1560, Page 866 (see attached sketch showing limits of property covered in this agreement) for a term beginning January 26, 1996. This agreement, unless terminated earlier as provided herein, shall expire on January 26, 2016.

RENT

TENANT agrees to pay \$12,500.00 for a twenty(20) year term beginning on January 26, 1996. Payment for the rent shall be made at the time of execution of this agreement by the TENANT. Payments will be made by money order or check to the State of Michigan, Department of Transportation. Mail payments to the Financial Operations Division, Post Office Box 30648, Lansing, Michigan 48909. Payments must include the Control Section Number, Job Number and Parcel Number to insure proper credit.

OCCUPATION OF PREMISES

The TENANT agrees not to rent, sublease or allow use by any persons other than those designated above as tenants.

TENANT'S DUTY TO MAINTAIN PREMISES

TENANT agrees that no structure of any type shall be placed on the property. No use shall be permitted within 10 feet of the edge of a cut or fill slope. All right-of-way markers and stakes shall be protected by the TENANT. The DEPARTMENT assumes no responsibility for the safe condition of the lands.

TENANT will not use or store radioactive, toxic, inflammable or poisonous materials, explosives, or other hazardous materials on the premises and will not permit hazardous or unreasonably objectionable smoke, fumes, vapor or odors to emit from the premises. No junk or garbage shall accumulate on the premises.

UTILITIES AND SERVICES

TENANT shall be responsible for all services commonly known and designated as public utilities and the securing of deposits and payments for all such obligations.

CONTROL SECTION: 4620F1	PARCEL: 119	
JOB NO. NA	FEDERAL ITEM NO. NA	FEDERAL PROJ NO. NA

NOTICE OF TERMINATION

TENANT agrees to vacate the premises within (30) days written notice. TENANT agrees that in the event the TENANT vacates the premises at will or at the request of the DEPARTMENT, that the DEPARTMENT will not be obliged to provide, and the TENANT will not be entitled to receive, relocation assistance and benefits.

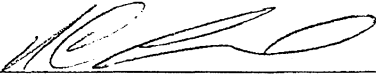
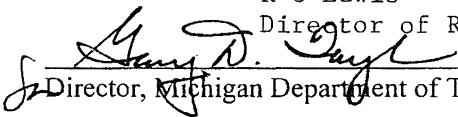
Before the expiration of this agreement, the TENANT shall prepare for vacation of the premises by bringing it to a clean and sightly condition.

LIABILITY INSURANCE

The TENANT agrees to indemnify and save harmless the State of Michigan, the State Transportation Commission, the DEPARTMENT and all of its officers, agents and employees from all claim, demand payments, suits, actions, recoveries and judgements and from losses occurring or resulting to all persons, firms, or corporations furnishing work, services, materials, or supplies to the DEPARTMENT and from all claims for injuries to, or death of, all persons, and for loss of or damage to property, arising from this agreement.

The parties mutually agree that this agreement is subject to the provisions of Act 189 of 1953 as amended (users of Tax-Exempt Property).

Although duly executed, this agreement will not be binding on the parties until accepted by the Department.

<u>CONSUMERS ENERGY COMPANY</u>		<u>1912 10 23 2000</u> <u>DEB</u>	
Tenant's Name		Date	Taxpayer ID Number
By: 		<u>2/29/00</u>	
Tenant's Name	R C Lewis	Date	Taxpayer ID Number
Director of Real Estate & Facilities		<u>3/23/2000</u>	
 Director, Michigan Department of Transportation		Date	

Control 4620F1
Parcel 119

Lease Description

That part of the Michigan Department of Transportation railroad right of way, formerly Penn Central, as located over and across Sections 1, 2, 3 and 10, City of Adrian and Madison Township, Lenawee County, Michigan, as outlined on the attached sheets 1 through 8.

Contains 6.11 acres, more or less.

MDG 7/28/97

JHM 7/29/97

EXHIBIT B

EASEMENT FOR ELECTRIC FACILITIES

ADRIAN & BLISSFIELD RAIL ROAD COMPANY, a Michigan corporation, 38235 North Executive Drive, Westland, Michigan 48185 (hereinafter "Owner")

for good and valuable consideration [exempt from real estate transfer tax pursuant to MCLA 207.505(f) and from State real estate transfer tax pursuant to MCLA 207.526(f)] grants and warrants to

CONSUMERS ENERGY COMPANY, a Michigan corporation, One Energy Plaza, Jackson, Michigan 49201 (hereinafter "Consumers")

a permanent easement to enter Owner's land (hereinafter "Owner's Land") located in the City of Adrian, County of Lenawee, and State of Michigan as more particularly described in the attached Exhibit A to construct, operate, maintain, inspect (including aerial patrol), survey, replace, reconstruct, improve, remove, relocate, change the size of, enlarge, and protect a single line of poles or pole structures (or any combination of same) supporting a line or lines of electric facilities in, on, over, under, across, and through a portion of Owner's Land (hereinafter "Easement Area") as more fully described in the attached Exhibit B, together with any wires, cables, conduits, crossarms, braces, guys, anchors, transformers, electric control circuits and devices, location markers and signs, communication systems, utility lines, protective apparatus and all other equipment, appurtenances, associated fixtures, and facilities, whether above or below grade, useful or incidental to or for the operation or protection thereof, and to conduct such other activities as may be convenient in connection therewith as determined by Consumers for the purpose of transmitting and distributing electricity.

Notwithstanding Consumers' ability to exercise the rights granted in this easement to their fullest extent otherwise allowed by law, Consumers agrees that (1) it will not construct any permanent, above-ground structures that are materially closer to Owner's existing tracks than the existing line of poles supporting Consumers' lines of electrical facilities on Owner's Land, without first obtaining Owner's express, written consent; (2) Consumers will only use the portion of the Easement Area that lies between (a) the existing line of poles supporting Consumers' lines of electrical facilities on Owner's Land, and (b) the closest edge of Owner's existing railroad tracks, for temporary above-ground facilities or other non-permanent uses in connection with Consumers' electrical facilities (such as, but not limited to, access, maintenance, inspection, surveying, replacement, reconstruction, improvement, removal, relocation, modification or vegetation management); and (3) so long as any relocation of Consumers' existing above-ground facilities would not violate any law, code or regulation applicable to Consumers' facilities, if Owner has a reasonable need for Consumers to relocate some or all of its facilities to another location within the Easement Area (or another portion of Owner's Land or adjoining property, provided that Owner grants equivalent additional rights to any necessary land outside the Easement Area) to accommodate Owner's existing or actually planned railroad operations (because all other reasonable alternatives have been exhausted), such relocation will be performed at Consumers' cost provided that Owner's work that required the relocation is actually undertaken or performed.

Access: Consumers shall have the right to unimpaired access, to the extent said access does not interfere with the safety of Owner's railroad operations and follows generally accepted safety guidelines for railroad property, to said line or lines, and the right of ingress and egress on, over, and through Owner's Land for any and all purposes necessary, convenient, or incidental to the exercise by Consumers of the rights granted hereunder. Although Consumers reserves the right to install any new structures

that are allowed by this easement, Consumers agrees that it will not erect any fence, barrier or other similar permanent structure that would unreasonably impair Owner's lawful access to or use of the Easement Area.

Trees and Other Vegetation: Owner shall not plant any trees within the Easement Area. Consumers shall have the right from time to time hereafter to enter Owner's Land to trim, cut down, and otherwise remove and control any trees, brush, roots, and other vegetation within the Easement Area. Consumers shall have the right from time to time hereafter to enter Owner's Land to trim, cut down, and otherwise remove and control any trees, brush, or other vegetation located outside of the Easement Area which are of such a height or are of such a species whose mature height that in falling directly to the ground could come into contact with or land directly above Consumers' facilities.

Buildings/Structures: Owner agrees not to build, create, construct, or permit to be built, created, or constructed, any obstruction, building, septic system, drain field, fuel tank, pond, swimming pool, lake, pit, well, foundation, engineering works, installation or any other type of structure over, under, or on said Easement Area, whether temporary or permanent, natural or man-made, without the express authorization of Consumers, which may be withheld in Consumers' sole discretion, recorded in the register of deeds for the county in which Owner's Land is situated expressly allowing the aforementioned. Notwithstanding the foregoing, Owner may install minor structures related to railroad operations within the Easement Area, provided said structures do not cause Consumers to be in violation of the National Electrical Safety Code as adopted by the Michigan Public Service Commission or any other applicable law, code or regulation, and further provided that said structures do not unreasonably interfere with Consumers' access to its facilities located within the Easement Area. Owner may also install communications facilities (such as wires, cables, antennas or other similar items), which are reasonably necessary for Owner's railroad operations that occur on Owner's Land, on Consumers' poles or pole structures upon execution of Consumers' standard form of attachment or pole-license agreement, or other similar agreement acceptable to Owner and Consumers. If Consumers' then-existing poles, pole structures and/or related facilities would be impaired or interfered with following the addition of Owner's proposed communication facilities, then Owner will only be able to add its communication facilities upon paying for Consumers' actual cost of improving Consumers' facilities as necessary to accommodate Owner's new facilities.

Ground Elevation: Owner shall not materially alter the ground elevation within the Easement Area without the express authorization of Consumers, which may be withheld in Consumers' sole discretion, recorded in the register of deeds for the county in which Owner's Land is situated expressly allowing the aforementioned.

Flagging: Except in case of emergencies or service restoration, Consumers shall notify Owner (in writing to the address above or by phoning (734) 641-2300 or other number provided in writing by Owner) at least 3 business days in advance of the commencement of work activities within the Easement Area, and Owner will then arrange for appropriate flagging services during such activities, at Consumers' expense.

Restoration: Consumers shall reasonably restore disturbed areas of Owner's Land to the condition existing before Consumers' work following completion of work on Owner's Land.

Exercise of Easement: Consumers' nonuse or limited use of this easement shall not preclude Consumers' later use of this easement to its full extent.

Severability: Whenever possible, each provision of this easement shall be interpreted in such a manner as to be effective and valid under applicable law and to provide for the safe and reliable operations of both parties hereto, but if any such provision of this easement is held to be prohibited by or invalid under applicable law or puts either party into a violation under any applicable law, code or regulation, such provision shall be ineffective only to the extent of such prohibition, invalidity, or violation, without invalidating the remainder of such provision or the remaining provisions of this easement; and the parties shall negotiate in good faith to replace such prohibited, invalid, or violated provision with the intent of preserving the original business intent thereof and ensuring the safe and reliable operations of the facilities of both parties hereto.

Successors: This easement shall bind and benefit Owner's and Consumers' respective heirs, successors, lessees, licensees, and assigns.

Counterparts: This easement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. It is not necessary that all parties execute any single counterpart if each party executes at least one counterpart.

Date: _____

Adrian & Blissfield Rail Road Company ("Owner");

By: _____
Its: _____

Acknowledgment

The foregoing instrument was acknowledged before me in _____ County, Michigan,

on _____ by _____
Date Print Name and Title

an authorized representative of Adrian & Blissfield Rail Road Company.

Notary Public

County, Michigan
Acting in _____ County
My Commission expires: _____

Prepared By: Adam C. Smith (P69790)
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201.

After recording, return to:
Debra Dennis, EP7-473
Business Services
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201.

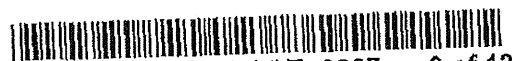
LIBER 2529 PAGE 0267 8 of 13

EXHIBIT A

1 of 3

Owner's Land

That part of the railroad right of way, formerly Penn Central and subsequently owned by the Michigan Department of Transportation and transferred to Owner, as located over and across Sections 1, 2, 3, and 10, City of Adrian and Madison Township, Lenawee County, Michigan, as indicated in the area shown as R.R. Right - of - Way Line on the attached drawing.


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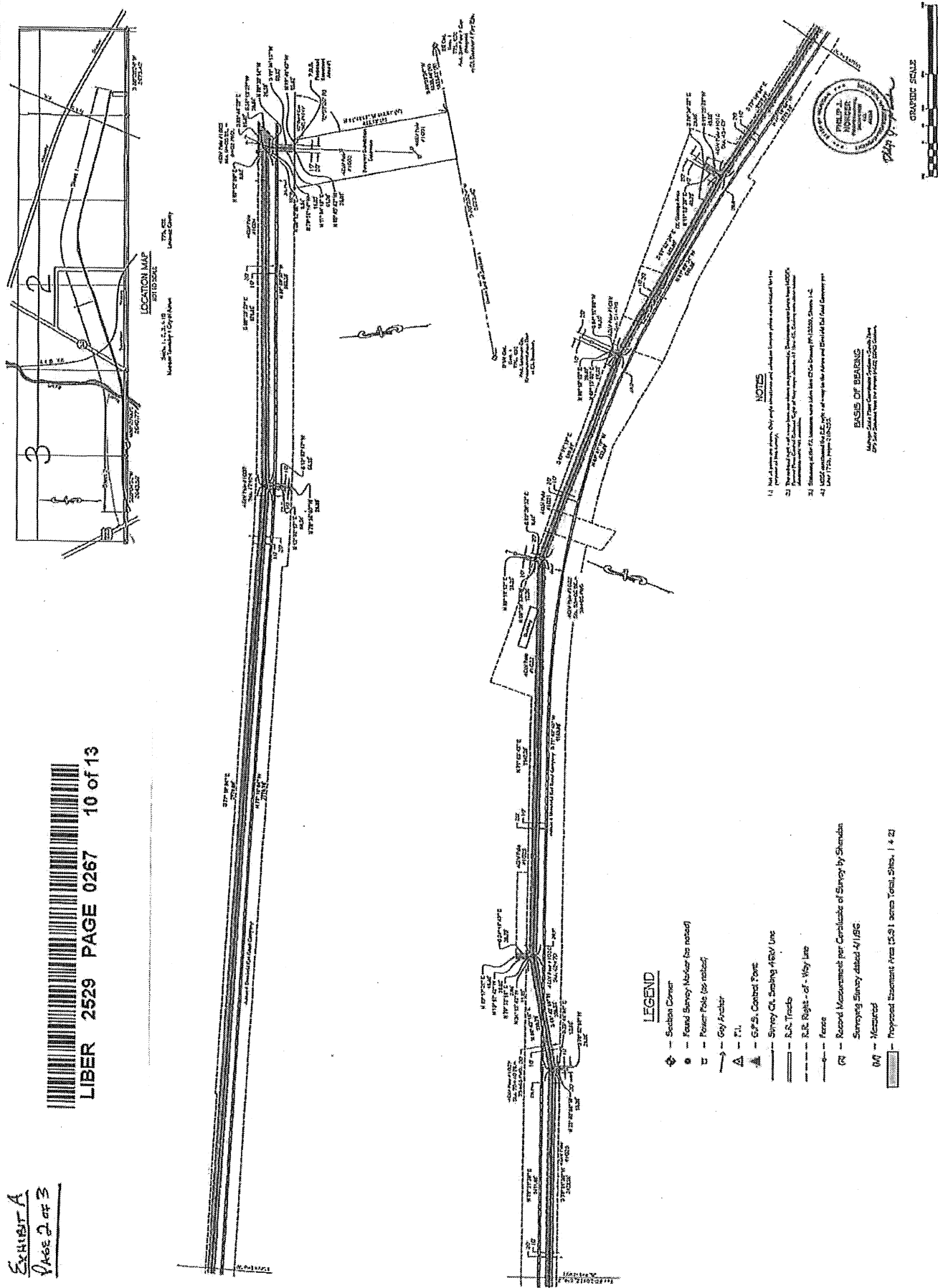
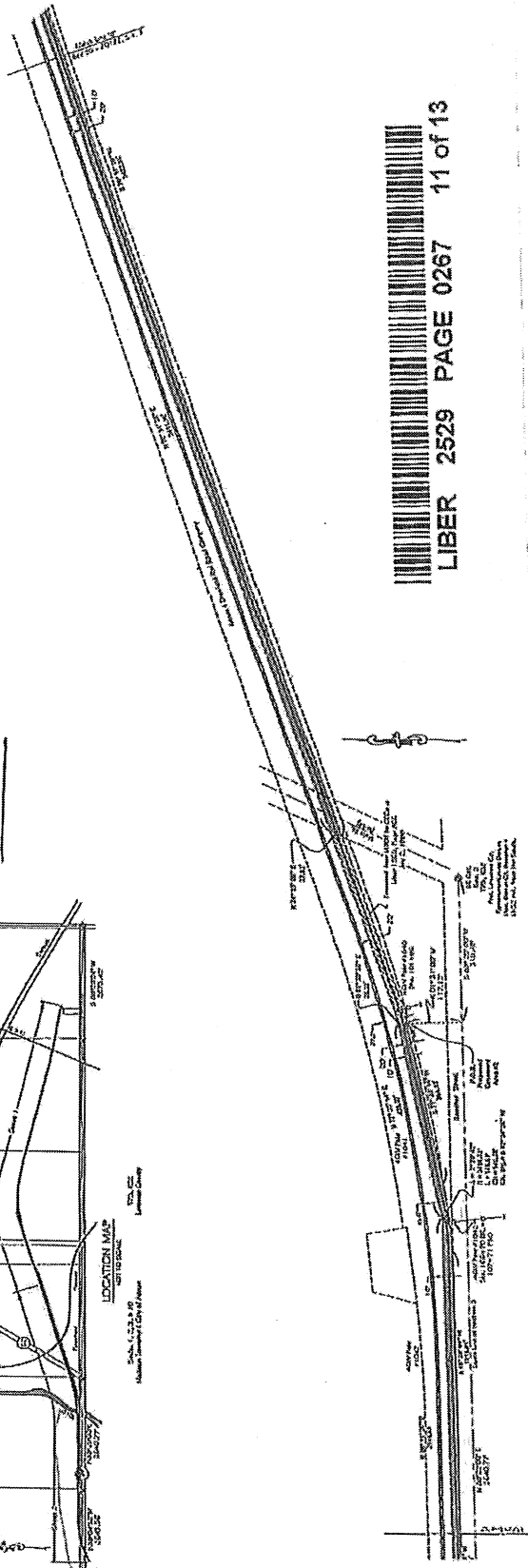
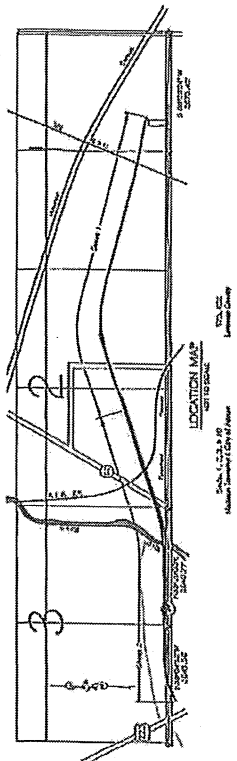
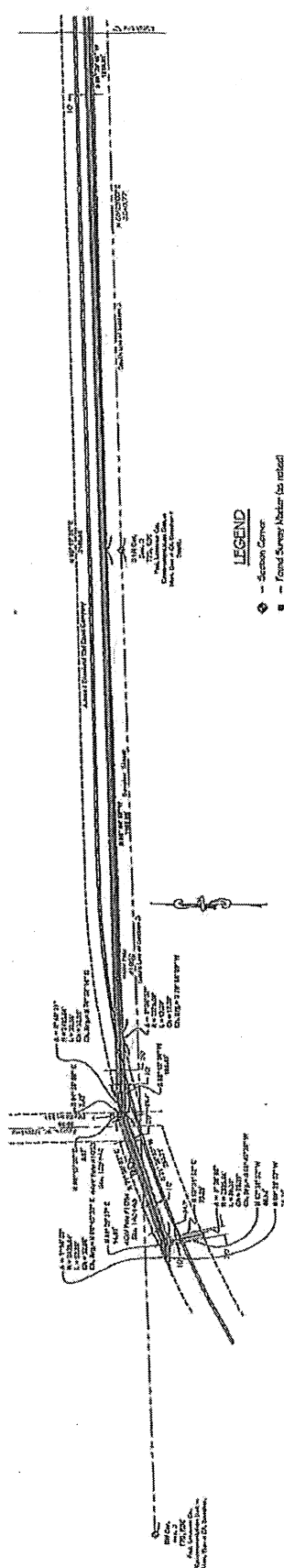
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EXHIBIT A
Page 3 of 3



LIBER 2529 PAGE 0267 11 of 13



- LEGEND**
- Station Center
 - Fenced Survey Marker (as noted)
 - Power Pole (as noted)
 - Guy Anchor
 - P.L.
 - CTS, Control Tower
 - Survey CTS, Existing 46kV Line
 - R.S. Tractor
 - R.S. Right-of-Way Line
 - Fence
 - Received Measurements per Certificate of Survey by Shenandoah Surveying Survey dated 4/18/06
 - Measured
 - Proposed Measurement Area (S.S.) Survey Total: 10+50

- NOTES**
1. All dimensions are shown in feet and inches. All dimensions are shown in feet and inches. All dimensions are shown in feet and inches.
 2. The proposed line is shown in red. The existing line is shown in black. The proposed line is shown in red. The existing line is shown in black.
 3. The proposed line is shown in red. The existing line is shown in black. The proposed line is shown in red. The existing line is shown in black.
 4. The proposed line is shown in red. The existing line is shown in black. The proposed line is shown in red. The existing line is shown in black.

BASIS OF DESIGN
The proposed line is shown in red. The existing line is shown in black. The proposed line is shown in red. The existing line is shown in black.



Consumer's Energy		Beedler - Solovy 46kV Survey	
Project No.	1000000000000000	Sheet No.	2
Scale	1" = 100'	Project Date	10/15/2014
Drawn by	PHILIP J. HOOTEN	Checked by	PHILIP J. HOOTEN
Reviewed by	PHILIP J. HOOTEN	Approved by	PHILIP J. HOOTEN

EXHIBIT BEasement Area

An area of land located in Sections 1 and 2, Town 7 South, Range 3 East, Madison Township and the City of Adrian, Lenawee County, Michigan, said area described as:

Commencing at the Southeast corner of said Section 1, thence South 88°28'24" West, along the South line of said Section 1, 1939.44 feet; thence North 01°48'17" West 442.97 feet to the Southerly line of the Adrian and Blissfield Rail Road Company right-of-way; thence North 80°45'43" West, along said right-of-way line, 15.42 feet to the POINT of BEGINNING; thence continuing North 80°45'43" West, along said right-of-way line, 20.01 feet; thence North 11°04'15" East 61.38 feet; thence North 78°36'14" West 11.03 feet; thence North 08°12'08" East 9.74 feet; thence North 80°59'57" West 962.59'; thence South 12°02'17" West 64.55 feet to the Southerly line of said railroad right-of-way; thence North 78°56'05" West, along said right-of-way line, 20.00 feet; thence North 12°02'17" East 64.51 feet; thence North 77°10'04" West 2770.78 feet; thence North 81°03'34" West 600.58 feet; thence North 89°51'19" West 632.40 feet; thence South 71°03'43" West 1,163.85 feet; thence South 60°43'10" West 330.82 feet; thence South 23°40'04" East 12.66 feet to the Southerly line of said railroad right-of-way; thence South 70°52'18" West, along said right-of-way line, 20.06 feet; thence North 23°40'04" West 10.90 feet; thence South 70°51'30" West 2422.96 feet to a point on the Easterly line of an easement from MDOT to Consumers Energy, recorded in Liber 1560, Page 866; thence North 24°55'00" East, along said Easterly line, 27.83 feet; thence North 70°51'30" East 2411.96 feet; thence North 60°43'10" East 329.79 feet; thence North 24°15'43" West 11.05 feet to the Northerly line of said railroad right-of-way; thence North 70°52'18" East, along said right-of-way line, 2.04 feet to the Westerly line of said railroad right-of-way; thence North 19°07'42" West, along said Westerly line, 29.02' to the Northerly line of said railroad right-of-way; thence North 69°17'21" East, along said right-of-way line, 15.40 feet; thence South 24°15'43" East 38.70 feet; thence North 71°03'43" East 1,147.29 feet; thence North 09°38'52" West 12.36 feet to the Northerly line of said railroad right-of-way; thence North 89°18'12" East, along said right-of-way line, 20.25 feet; thence South 09°38'52" East 8.47 feet; thence South 89°51'19" East 619.61 feet; thence North 04°15'00" East 17.53 feet to the Northerly line of said railroad right-of-way; thence North 89°18'12" East, along said Northerly line 20.07 feet; thence South 04°15'00" West 19.35 feet; thence South 81°03'34" East 582.90 feet; thence North 11°25'28" East 49.78 feet; thence South 78°34'32" East 20.00 feet; thence South 11°25'28" West 49.60 feet; thence South 77°10'04" East 2770.89 feet; thence South 80°59'57" East 971.46 feet; thence North 08°12'08" East 9.02 feet to the Northerly line of said railroad right-of-way; thence South 80°44'29" East 95.83 feet; thence South 56°15'27" West 59.64 feet; thence North 78°36'14" West 20.50 feet; thence South 11°04'15" West 60.63 feet to the POINT of BEGINNING. Said area containing 4.28 acres.

An area of land located in Sections 3 and 10, Town 7 South, Range 3 East, Madison Township and the City of Adrian, Lenawee County, Michigan, said area described as:

Commencing at the Southeast corner of said Section 3, thence South 88°29'00" West, along the South line of said Section, 319.49 feet; thence North 01°31'00" West, perpendicular to said South line, 117.13 feet to a point on the Westerly line of an easement from MDOT to Consumers Energy, recorded in Liber 1560, Page 866 and the POINT of BEGINNING; thence South 77°35'14" West 364.13 feet to a point on the Southerly line of the Adrian and Blissfield Rail Road Company right-of-way; thence along said Southerly right-of-way line, 148.69 feet along the arc of a curve to the right, said curve having a delta angle of 2°29'42", a radius of 3414.33 feet, and chord length of 148.68 feet bearing South 82°34'36" West; thence continuing along said right-of-way line the following three (3) courses; South 88°29'00" West 1816.01 feet; thence South 88°04'52" West 1,107.86 feet to the Southerly right-of-way line of said railroad; thence along said Southerly right-of-way line, 17.20 feet along the arc of a curve to the left, said curve having a delta angle of 0°24'57", a radius of 2370.00 feet, and chord length of 17.20 feet bearing South 79°06'09" West; thence South 88°15'26" West 169.43 feet; thence South 71°50'03" West 295.71 feet; thence South 12°31'52" East 75.29 feet to the Southerly line of said railroad right-of-way; thence along said Southerly right-of-way line, 20.35 feet along the arc of a curve to the left, said curve having a delta angle of 0°30'05", a radius of 2325.64 feet, and chord length of 20.35 feet bearing South 66°45'26" West; thence North 12°31'52" West 80.14 feet; thence South 88°29'37" West 56.20 feet to the Northerly line of said railroad right-of-way; thence along said Northerly right-of-way line, 52.86 feet along the arc of a curve to the right, said curve having a delta angle of 1°14'55", a radius of 2425.64 feet, and chord length of 52.86 feet bearing North 66°15'35" East; thence North 88°29'37" East 14.90 feet; thence North 71°50'03" East 305.36 feet; thence North 88°15'26" East 8.17 feet to the Easterly right-of-way line of Highway M-34 (Madison Street);

thence South $01^{\circ}55'08''$ East, along said Easterly line, 7.47 feet to the Northerly line of said railroad right-of-way; thence along said Northerly right-of-way line, 32.55 feet along the arc of a curve to the right, said curve having a delta angle of $0^{\circ}46'31''$, a radius of 2405.64 feet, and chord length of 32.55 feet bearing North $74^{\circ}59'14''$ East; thence North $88^{\circ}15'26''$ East 3146.69 feet; thence North $77^{\circ}35'14''$ East 439.87 feet to a point Westerly line of the aforementioned easement from MDOT to Consumers Energy; thence South $01^{\circ}59'56''$ East, along said Westerly line, 20.33 feet to the POINT of BEGINNING. Said area containing 1.63 acres.

EXHIBIT C

STATE OF MICHIGAN

IN THE 39th CIRCUIT COURT FOR THE COUNTY OF LENA WEE

CONSUMERS ENERGY COMPANY,

Plaintiff,

v

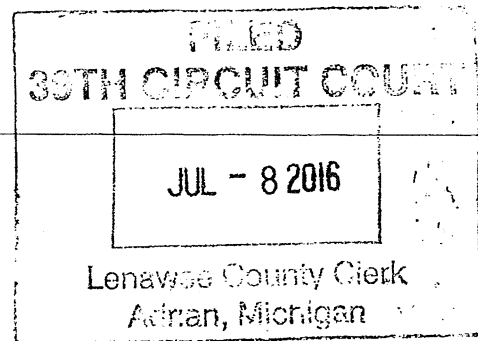
Case No. 16- 5624 -CC
Hon.

**HONORABLE
ANNA MARIE ANZALONE**

ADRIAN & BLISSFIELD RAIL ROAD
COMPANY, CITY OF ADRIAN, MICHIGAN
DEPARTMENT OF TRANSPORTATION,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY,

Defendants.

Adam C Smith (P69790)
Attorney for Plaintiff
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201
(517) 788-0684



**COMPLAINT FOR (1) CONDEMNATION OF INTERESTS IN LAND; AND (2)
TEMPORARY, PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF**

There is no other pending or resolved civil
action arising out of the transaction or
occurrence alleged in this complaint.

Plaintiff Consumers Energy Company ("Consumers Energy"), through its attorneys,
hereby states as follows for its complaint for (1) condemnation of interests in land; and (2)
temporary, preliminary and permanent injunctive relief ("Complaint"):

PARTIES, JURISDICTION AND VENUE

1. Consumers Energy is a Michigan corporation and public utility organized and
existing under Public Act 238 of 1923, MCL 486.251, *et seq.*, as amended, for the purposes of
generating, manufacturing, producing, gathering, storing, transmitting, distributing,

transforming, selling and supplying electric energy and gas to the public generally, with a principal address of One Energy Plaza, Jackson, Michigan 49201.

2. Defendant Adrian & Blissfield Rail Road Company ("A&B") has an address of 38235 N. Executive Drive, Westland, Michigan 48185 and owns the underlying real property located in Lenawee County, Michigan that is at issue in this Complaint, and is further identified as follows ("Property"):

That part of the railroad right of way, formerly Penn Central and subsequently owned by the Michigan Department of Transportation and transferred to Owner, as located over and across Sections 1, 2, 3, and 10, City of Adrian and Madison Township, Lenawee County, Michigan, as indicated in the area shown as R.R. Right – of – Way Line on Exhibit A to the Easement for Electric Facilities (which is itself attached as Exhibit E to this complaint).

3. The Property is currently used as a railroad right-of-way and has a single set of railroad tracks installed on it, along with a single line of poles that support two Consumers Energy electrical lines, as described further below.

4. Defendant City of Adrian has, or claims to have, an interest in the Property as a grantee and/or other relevant relationship to A&B under an easement, grant or other relevant document that falls within the definition of an "owner" under the Michigan Uniform Condemnation Procedures Act, Public Act 87 of 1980, MCL 213.51, *et seq.* ("UCPA"), and has an address of 135 E. Maumee Street, Adrian, MI 49221.

5. Defendant Michigan Department of Transportation has, or claims to have, an interest in the Property as a grantor, seller, secured party and/or other relevant relationship to A&B that falls within the definition of an "owner" under the UCPA, and has an address of 425 W. Ottawa Street, Lansing, MI 48909.

6. Defendant Norfolk Southern Corporation has, or claims to have, an interest in the Property as a grantee and/or other relevant relationship to A&B under an easement, grant or

other relevant document that falls within the definition of an “owner” under the UCPA, and has registered Michigan address of c/o The Corporation Company, 30600 Telegraph Road, Suite 2345, Bingham Farms, MI 48025.

7. Defendant Norfolk Southern Railway Company has, or claims to have, an interest in the Property as a grantee and/or other relevant relationship to A&B under an easement, grant or other relevant document that falls within the definition of an “owner” under the UCPA, and has registered Michigan address of c/o CSC-Lawyers Incorporated Service, 601 Abbot Road, East Lansing, MI 48823.

8. The Defendants named above are the only known persons appearing in the records of the Lenawee County Register of Deeds that meets the definition of an “owner” of the Property under the UCPA.

9. Upon information and belief, none of the Defendants, nor anyone else who may have an interest in the Property as an “owner” as defined under the UCPA, is under the age of 18 or is otherwise incapable of defending themselves.

10. Consumers Energy is authorized to use the power of eminent domain to condemn interests in real property pursuant to Michigan law, including, but not limited to, MCL 486.252 and the UCPA.

11. Consumers Energy is not required by law to obtain a certificate of public necessity before acquiring the interests in the Property described in this Complaint.

12. Upon information and belief, the Property does not lie within a known mineral zone of iron ore, copper, or coal.

13. On July 7, 2016, and pursuant to MCL 213.55(1), Consumers Energy submitted a unitary good faith offer to all Defendants listed above offering to purchase an easement over the

Property and establishing estimated just compensation of \$555,000 for such easement based upon an appraisal dated June 16, 2016. (Exhibit A). As of the date that this Complaint was filed, no Defendant accepted the good faith offer.

14. The Property is located in Lenawee County, Michigan, so venue is proper in this Court, pursuant to MCL 213.55(1).

15. In conjunction with filing this Complaint, or as soon as possible thereafter, Consumers Energy deposited the amount of \$555,000 with the Lenawee County Treasurer as estimated just compensation to be disbursed amongst Defendants as provided by further order of this Court, pursuant to MCL 213.58. (Exhibit B).

GENERAL ALLEGATIONS

16. Consumers Energy incorporates the allegations of all preceding paragraphs as though fully restated here.

17. Consumers Energy is a public utility providing electricity and/or natural gas to nearly 6.8 million of Michigan's 10 million residents, in all 68 Lower Peninsula counties.

18. As relevant to this Complaint, Consumers Energy provides electric service to customers in the City of Adrian and surrounding areas of Adrian, Madison, Rome and Dover Townships, all located in Lenawee County, via Consumers Energy's 46,000 Volt ("46 kV") College Park Line or Consumers Energy's separate 138,000 volt ("138 kV") Solvay Line.

19. The College Park Line and the Solvay Line (collectively, the "Lines") serve a total of approximately 10,000 customers in this area of Lenawee County, including several large industrial customers, plus many other residential, commercial and smaller industrial customers.

20. The 138 kV Solvay Line is a radial line that provides the only electric supply to the single customer served by a dedicated substation for that facility. The 46 kV College Park

Line serves multiple substations, including two additional dedicated substations and multiple general distribution substations.

21. A map showing the routes of the Lines along with the approximate location of the Property is attached to this Complaint. (Exhibit C).

22. An approximately 2.5-mile-long portion of the single set of poles that support the Lines run along one edge of the Property, which is currently owned by A&B.

23. In 1996, Consumers Energy entered into a 20-year agreement with the Michigan Department of Transportation (“MDOT”) for the portion of the Property where the Lines are located. (Exhibit D).

24. Under the MDOT agreement, Consumers Energy made a single payment of \$12,500 to MDOT for the entire 20-year lease term. (Exhibit D at 1).

25. After Consumers Energy and MDOT signed the agreement, and on or about November 29, 2000, A&B purchased a total of approximately 18.91 miles of railroad right-of-way from MDOT in the vicinity of the Property. This included the approximately 2.5 miles where the Property is located.

26. According to public records, A&B acquired the approximately 18.91 miles of right-of-way for a total cost of \$1,725,000.

27. On January 6 and 19, 2016—from one to three weeks before the MDOT agreement was set to expire—A&B contacted Consumers Energy, offered to extend the MDOT agreement and invited Consumers Energy to propose terms for an extension (which could include Consumers Energy submitting to A&B any standard-form agreement that Consumers Energy had used in the past for this type of arrangement).

28. Consumers Energy responded on January 20, 2016 and indicated that the company “would be interested in entering into an easement agreement with [A&B]. We will work on drafting an easement and an offer amount and will be submitting it to you as soon as we are able.”

29. Consumers Energy requested an easement because high-voltage electric facilities such as the Lines are a permanent component of the company’s system and are necessary to continue providing safe, reliable and affordable electricity to customers in Lenawee County, now and in the future.

30. A&B responded on January 21, 2016, established a March 1, 2016 target date for reaching agreement on a permanent agreement (and noted that “as we approach the March 1, 2016 date [A&B] will reassess where the parties are at and whether a further extension is beneficial”). A&B further confirmed that “the railroad will consider your offer for an easement.”

31. On February 26, 2016, Consumers Energy proposed to purchase a permanent easement covering the Property for a total price of \$116,000.

32. On March 22, 2016, A&B responded to Consumers Energy’s offer and confirmed that A&B “is willing to consider accepting a permanent easement” and “has determined that it will enter into permanent easement [sic] for the existing power line at a one-time easement fee of \$660,000.”

33. Given the disparity between Consumers Energy’s initial offer and A&B’s counter-offer for a substantially higher payment in exchange for an easement, Consumers Energy further researched the matter. Following this review, and on May 23, 2016, Consumers Energy made a counter-offer to A&B of \$600,000 in exchange for an easement.

34. Despite the parties' continued discussions towards signing an easement that had continued for over four months and the fact that Consumers Energy's counter-offer was within 10% of A&B's demand, on June 3, 2016, A&B declared that it would not continue negotiations unless Consumers Energy paid it \$156,000 by June 10, 2016, plus an additional \$31,000 by July 1, 2016. A&B claimed Consumers Energy owed these amounts for holdover rent at the rate of \$1,000 per day after the MDOT agreement expired.

35. On June 10, 2016, and in a sign of good faith, Consumers Energy reiterated its \$600,000 counter-offer from May 23 and promised to submit a check to A&B for \$12,500 (the amount of the payment due under the original 20-year agreement) as an advance payment towards the easement the parties had been discussing since January 2016.

36. Consumers Energy sent that check to A&B on June 15, 2016, but A&B refused to cash the check and returned it to Consumers Energy on June 16, 2016.

37. On June 10, 2016, A&B notified Consumers Energy that it would have to vacate the Property by July 10, 2016. If A&B follows through on this threat, Consumers Energy's ability to continue reliably serving the approximately 10,000 customers who receive electricity from the Lines would be impaired.

38. Such impairment would be either (a) direct, by cutting off the sole source of supply for certain customers connected to the Lines; or (b) indirect, through reduced reliability for certain customers caused by eliminating the dual-source, looped circuit that currently exists along the College Park Line and turning it into a single-source, radial line until a new connection could be established.

39. Even if A&B had the right to demand that Consumers Energy's facilities be removed from the Property, it would likely take significant time to accomplish that removal and

establish new facilities to reliably serve the approximately 10,000 customers in the City of Adrian and surrounding townships that receive service from the Lines.

40. Following subsequent correspondence between the parties, representatives of Consumers Energy met with A&B's representatives at A&B's offices in Westland, Michigan on June 21, 2016 to discuss the parties' positions.

41. At this meeting, A&B again changed course and stated that it would only consider a revocable license rather than a permanent easement, despite the fact that the parties' discussions had consistently involved an easement since January 2016.

42. Even though A&B was now stating that it was only willing to offer Consumers Energy an inferior type of right in the Property, A&B more than tripled its last demand and stated it was now seeking a monetary payment of over \$2,000,000.

43. During this meeting, Consumers Energy stated that a revocable license was insufficient for the Lines and that there was no legitimate basis for A&B to demand over \$2,000,000 for an easement, let alone a license.

44. On June 23, 2016, A&B reiterated that it would only consider a revocable license but would accept payment of \$1,750,000 as part of an agreement with Consumers Energy. A&B also made several inaccurate representations in connection with A&B's view of the June 21 meeting.

45. On June 24, 2016, Consumers Energy responded and indicated that while (a) the company disagreed with numerous incorrect assertions by A&B in A&B's June 23, 2016 communication regarding the June 21 meeting; and (b) A&B's demands for such a large payment in exchange for inferior rights under a license were not justified, Consumers Energy

still hoped that the parties would “be able to work toward reasonable agreement terms and a compensation amount more fitting the rights to be conveyed.”

46. On July 5, 2016, Consumers Energy offered to pay A&B \$660,000 for a satisfactory permanent easement, matching A&B’s earlier demand on May 23, 2016.

47. As of the preparation of this Complaint, Consumers Energy has not received any further response from A&B.

48. Accordingly, Consumers Energy has determined that it is necessary to pursue other avenues to acquire permanent easement rights that are comparable to those the parties discussed from late January 2016 through late May 2016, until A&B abruptly changed course starting in early to mid-June 2016.

49. Without the necessary permanent rights for the Lines, Consumers Energy’s ability to meet its obligation to provide adequate and reliable electric service to the approximately 10,000 customers served by these facilities will be in question, because with a license agreement A&B could demand that Consumers Energy remove these facilities at any time in the future.

50. In particular, the ability to continue providing reliable service to these customers requires Consumers Energy to obtain perpetual easement rights and right of way along the existing route for purposes of constructing, operating, maintaining, repairing, inspecting, replacing, improving, enlarging and removing electrical facilities, fixtures and equipment over and across the Property. The form of easement Consumers Energy seeks to obtain in this matter is attached to this Complaint. (Exhibit E).

THE PROPERTY AND INTERESTS TO BE ACQUIRED

51. Consumers Energy incorporates the allegations of all preceding paragraphs as though fully restated here.

52. The overall routes of the Lines in the vicinity of the Property are shown on Exhibit C, along with the approximate location of the 2.5 miles that comprise the Property. Together with the other documents attached to this Complaint, these materials constitute Consumers Energy's plan showing the property rights to be acquired through this action.

53. As part of maintaining and operating the Lines, Consumers Energy has determined that it is necessary to acquire permanent easement rights for right of way across the Property, as stated in the declaration of taking attached to this Complaint. (Exhibit F).

54. The easement rights to be acquired include a perpetual easement and right of way for purposes of constructing, operating, maintaining, repairing, inspecting, replacing, improving, enlarging and removing electrical facilities, fixtures and equipment in, over and across the Property and will cover the same width as the MDOT agreement, which is generally 20 feet wide.

55. Such easement rights only cover a relatively small portion of the Property, which is generally 100 feet wide, or more, through this area.

56. In an effort to minimize the effect of the easement covering the existing Lines, Consumers Energy has voluntarily modified its standard easement language (which was what Consumers Energy originally provided to A&B in February 2016) to include the following limitations on the company's rights under the easement: (1) no permanent, above-ground facilities will be installed any closer to A&B's existing tracks than the existing line of poles supporting the Lines; (2) any area between the existing tracks and the existing line of poles supporting the Lines will only be used by Consumers Energy for temporary above-ground facilities, access, vegetation-management, maintenance or other non-permanent uses; (3) to the extent possible while maintaining compliance with all applicable codes, laws and regulations,

Consumers Energy will relocate its above-ground facilities as reasonably necessary to accommodate any changes in A&B's use of the Property in the future; (4) Consumers Energy will not fence off or otherwise prohibit A&B's ability to access the easement area, except for above-ground facilities allowed under the easement; and (5) as long as the existing poles can support this, Consumers Energy will allow A&B to install communications-related equipment that is reasonably necessary to support A&B's operations on Consumers Energy's poles (or A&B could cover the cost of any enhancements to Consumers Energy's facilities that A&B's attachments make necessary).

57. In accordance with MCL 213.55, Consumers Energy states that within 21 days after a given Defendant is served (or within 28 days after service by mail or outside of Michigan, or within such other date set by the Court), if such Defendant wishes to challenge the necessity of acquisition of all or part of the rights that Consumers Energy seeks to acquire in the Property for the purposes described in this Complaint, the Defendant must file a motion asking that necessity be reviewed, pursuant to MCL 213.56(1).

58. As noted in the good faith offer, Consumers Energy waives the right to bring federal or state cost-recovery actions against the current owners of the Property.

COUNT I—CONDEMNATION

59. Consumers Energy incorporates the allegations of all preceding paragraphs as though fully restated here.

60. Pursuant to MCL 486.252, the UCPA and other applicable Michigan law, Consumers Energy is authorized to use the power of eminent domain to acquire property necessary for conducting its duly authorized business as a public utility.

61. Consumers Energy has made a unitary, good faith offer to Defendants for payment of estimated just compensation of \$555,000 in exchange for the necessary rights to be acquired in the Property, which good faith offer was not accepted.

62. Accordingly, it became necessary for Consumers Energy to file this Complaint for condemnation of the necessary rights regarding the Lines.

63. Consumers Energy has deposited the total estimated just compensation of \$555,000 with the Lenawee County Treasurer, or will do so as soon as practicable after filing this Complaint, with such amount to be disbursed in accordance with the further order of this Court, pursuant to MCL 213.58.

64. Consumers Energy has met all requirements of Michigan law necessary to exercise the power of eminent domain and acquire the stated interests in the Property.

65. If a timely motion to challenge necessity is not filed pursuant to MCL 213.56(1), necessity for the easement to support the Lines will be conclusively presumed to exist, the right to have necessity reviewed or further considered will be waived, and the rights to be acquired in the Property will vest in Consumers Energy as of the date this Complaint was filed with the Court.

66. Upon confirmation of necessity by the Court, the estimated just compensation deposited with the Lenawee County Treasurer will vest in any Defendants who are entitled to same according to their respective interests in the Property, and will be paid in accordance with further orders of the Court, pursuant to MCL 213.58.

WHEREFORE, Consumers Energy respectfully requests that the Court enter an order granting the following relief:

- A. Setting a hearing to (1) enter the default of any Defendant that has been properly served but has not filed a timely response to the Complaint, and if a default is entered, enter judgment and direct payment to such Defendant of the sum of money stated in the declaration of taking to be just compensation for the taking according to the Defendant's interest in the Property; (2) address any motion challenging necessity that any Defendant may file in response to the Complaint; (3) determine the disposition of any Defendant that could not be located or served; and (4) take any other action permitted under the UCPA or applicable Michigan law;
- B. Confirming the necessity of the easement for the Lines, that Consumers Energy's easement rights vested as of the date it filed the Complaint, and that upon entry of the order Consumers Energy may take immediate possession of its easement rights that were acquired;
- C. Establishing dates for any necessary pretrial proceedings and trial to ascertain and determine the amount of just compensation that is owed to any Defendant who has contested the amount of just compensation offered by Consumers Energy for acquisition of rights to the Property;
- D. Ordering the Lenawee County Treasurer to disburse the estimated just compensation of \$555,000 in accordance with the order of the Court;
- E. Taking any further action necessary to effectuate Consumers Energy's acquisition of the necessary rights in the Property; and
- F. Awarding any further relief provided under applicable law.

**COUNT II—TEMPORARY, PRELIMINARY
AND/OR PERMANENT INJUNCTIVE RELIEF**
(against Defendant A&B only)

67. Consumers Energy incorporates the allegations of all preceding paragraphs as though fully restated here.

68. Pursuant to MCR 3.310 and other applicable laws, this Court has jurisdiction to issue temporary, preliminary and/or permanent injunctive relief.

69. For the reasons stated above, the specific facts shown by the affidavit attached as Exhibit G to this Complaint clearly show that Consumers Energy and its customers will suffer immediate and irreparable injury, loss or damage by having to provide notice to A&B given the potential impact on Consumers Energy's ability to continue providing reliable electric service to approximately 10,000 residential, commercial and industrial clients in the City of Adrian and surrounding areas if A&B were to take adverse action regarding the Lines.

70. Furthermore, for the reasons stated above, the specific facts shown by the affidavit attached to this Complaint clearly show that there is risk that notice to A&B by itself may precipitate adverse action, given the numerous recent changes in position that A&B has taken.

71. On the facts of this case, undersigned counsel for Consumers Energy certifies and submits to the Court that he reasonably believes further notice to A&B without an order of this Court could result in A&B pursuing one or more actions that could impact the Lines and Consumers Energy's ability to continue reliably serving the approximately 10,000 customers that rely on the Lines for their source of electricity.

72. If the Court takes any further nonwritten evidence, argument, or other representations made in support of this Complaint and the request for temporary injunctive relief,

Consumers Energy has no objection to the Court making a permanent record or memorandum of such information, as required by MCR 3.310(B)(1)(c).

73. On the facts of this case, security is not required in connection with any temporary injunctive relief because A&B will not incur or suffer any recoverable costs or damage if it is ordered to continue the *status quo*, which is Consumers Energy's Lines remaining in the same location pending resolution of this matter.

74. To the extent that A&B proves it is entitled to some form of monetary damages in further proceedings in this matter, Consumers Energy is a company of substantial size (with \$6.2 billion in 2015 revenues and a parent company whose market capitalization is approximately \$12.7 billion), so there is no risk of Consumers Energy not being able to satisfy any amounts it is ordered to pay A&B in connection with this matter.

75. In addition to temporary injunctive relief, Consumers Energy is also entitled to preliminary and/or permanent injunctive relief, as the case may be, that orders A&B to cease any further actions that could impact the Lines, now or in the future, until Consumers Energy's permanent easement rights are confirmed by an order of this Court.

76. As shown above, Consumers Energy has demonstrated a likelihood of success on the merits that it has the right to acquire permanent easement rights across the Property.

77. Consumers Energy has further demonstrated that it and/or its customers will suffer irreparable harm if A&B takes any action that may impair Consumers Energy's ability to continue using the Lines to reliably serve the approximately 10,000 customers that currently rely on the Lines for their source of electricity, among other potential reasons.

78. Consumers Energy has further demonstrated that the harm to Consumers Energy and/or its customers if A&B is permitted to take action that could impair use of the Lines far

exceeds whatever nominal harm that might result to A&B if an injunction issues permitting Consumers Energy to maintain the *status quo* of having the Lines located on the Property, among other potential reasons.

79. Consumers Energy has further demonstrated that, among other reasons, the public interest favors continuing use of the Lines to provide reliable electricity to the approximately 10,000 customers currently served by the Lines.

80. Consumers Energy has attempted to resolve the parties' current dispute through reasonable means, including by making above-market offers of as much as \$660,000 to A&B for permanent easement rights (when such rights were actually appraised at \$555,000). A&B responded by not only reversing course and stating that it would only grant a revocable license rather than a permanent easement, but further increasing its initial monetary demand of \$660,000 to over \$2,000,000.

81. A&B's recent counter-offer of \$1,750,000 for a revocable license is insufficient for several reasons, as noted above.

82. For all of the above reasons, Consumers Energy has demonstrated that it has taken all reasonable steps in an effort to amicably resolve this dispute and that all relevant considerations support issuance of an order providing appropriate temporary, preliminary and/or permanent injunctive relief.

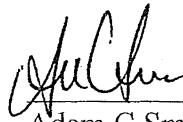
WHEREFORE, Consumers Energy respectfully requests that this Court enter an order in favor of Consumers Energy and against A&B providing Consumers Energy the following relief:

- A. Issuing temporary, preliminary and/or permanent injunctive relief prohibiting A&B from taking any actions that could adversely impact Consumers Energy's ability to continue operating, maintaining, repairing or undertaking any other

necessary acts regarding the Lines as required to continue providing electricity to the approximately 10,000 residential, commercial and industrial customers served by the Lines;

- B. Awarding reasonable costs and attorney's fees to Consumers Energy as provided by law; and
- C. Granting any other relief that the Court deems appropriate.

Respectfully submitted,



Adam C Smith (P69790)
Attorney for Plaintiff
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201
(517) 788-0684

Dated: July 8, 2016

VIA HAND DELIVERY

July 7, 2016

Adrian & Blissfield Rail Road Company
Attn: The Company Corp., Resident Agent
38235 N. Executive Drive
Westland, Michigan 48185

City of Adrian
Attn: Pat Baker, City Clerk
135 E. Maumee Street
Adrian, MI 49221

Michigan Department of Transportation
Attn: Kurt T. Steudle, Director
425 W. Ottawa Street
Lansing, MI 48909

Norfolk Southern Corporation
Attn: The Corporation Co., Resident Agent
30600 Telegraph Road, Suite 2345
Bingham Farms, MI 48025

Norfolk Southern Railway Company
Attn: CSC-Lawyers Inc. Serv., Resident Agent
601 Abbot Road
East Lansing, MI 48823

Re: Easement for Electric Line
Lands in Sections 1, 2, 3 and 10, T7S-R3E, City of Adrian
Lenawee County, Michigan

Dear Adrian & Blissfield Rail Road Company and Other Property Owners:

Consumers Energy Company ("Consumers") is in the process of securing permanent rights for an existing electric line along property owned by the Adrian & Blissfield Rail Road Company ("A&B") in the above-described area. This electric line is necessary to provide adequate service to the electric customers of Consumers, including approximately 10,000 residential, commercial and industrial customers in the City of Adrian and surrounding townships. A&B owns part of the property where the existing electric line is located. We are writing you and the other recipients of this letter because you are each considered to be an "owner" under the terms of the Uniform Condemnation Procedures Act.

A unitary good faith written offer is hereby made in the amount of \$555,000.00 ("Good Faith Offer") for an easement for an electric line, and the form of the easement is enclosed with this letter. Consumers has secured an appraisal of the real property affected by the proposed

easement, which is included with A&B's copy of this letter; all other parties may obtain copies of the appraisal upon request. If your review of the appraisal leads A&B or any other owner to conclude that Consumers has not included items of compensable property or damage for which you intend to claim a right to just compensation, you must file a written claim with Consumers within 90 days from the date of this Good Faith Offer or within 180 days from the date a condemnation complaint is served, whichever is later. The taking of this easement will not require relocation, so no federal or state relocation assistance is included in the Good Faith Offer. If you believe this is incorrect, please contact me as soon as possible.

In order to expedite the acquisition of the proposed easement, Consumers will pay A&B \$105,000.00 in addition to the Good Faith Offer of \$555,000.00 for such easement; for a total payment of \$660,000.00. This offer of an additional \$105,000.00 does not in any way affect the Good Faith Offer provided for herein and is made solely for the purpose of compromise, to avoid the necessity of ongoing legal proceedings, and to expedite the acquisition of the easement. This additional offer will remain in effect for a period of 15 days from the date of this letter. If this additional offer is not accepted within that period, Consumers further reserves the right to claim the amount of any benefits to the parcel because of the electric line as an offset to any just compensation payable for the easement.

Consumers waives the right to bring Federal and/or State recovery actions against the present owner(s) of the property arising out of a release of hazardous substances on the property.

Please call me at (517) 768-5632 if you have any questions.

Sincerely,

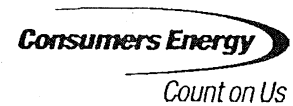


Lindsey M. Kosner

Attachments: Easement for Electric Facilities
Affinity Valuation Group Appraisal (to A&B only)

CONSUMERS ENERGY COMPANY
ONE ENERGY PLAZA
JACKSON, MI 49201

000012



07/07/2016

Page 1

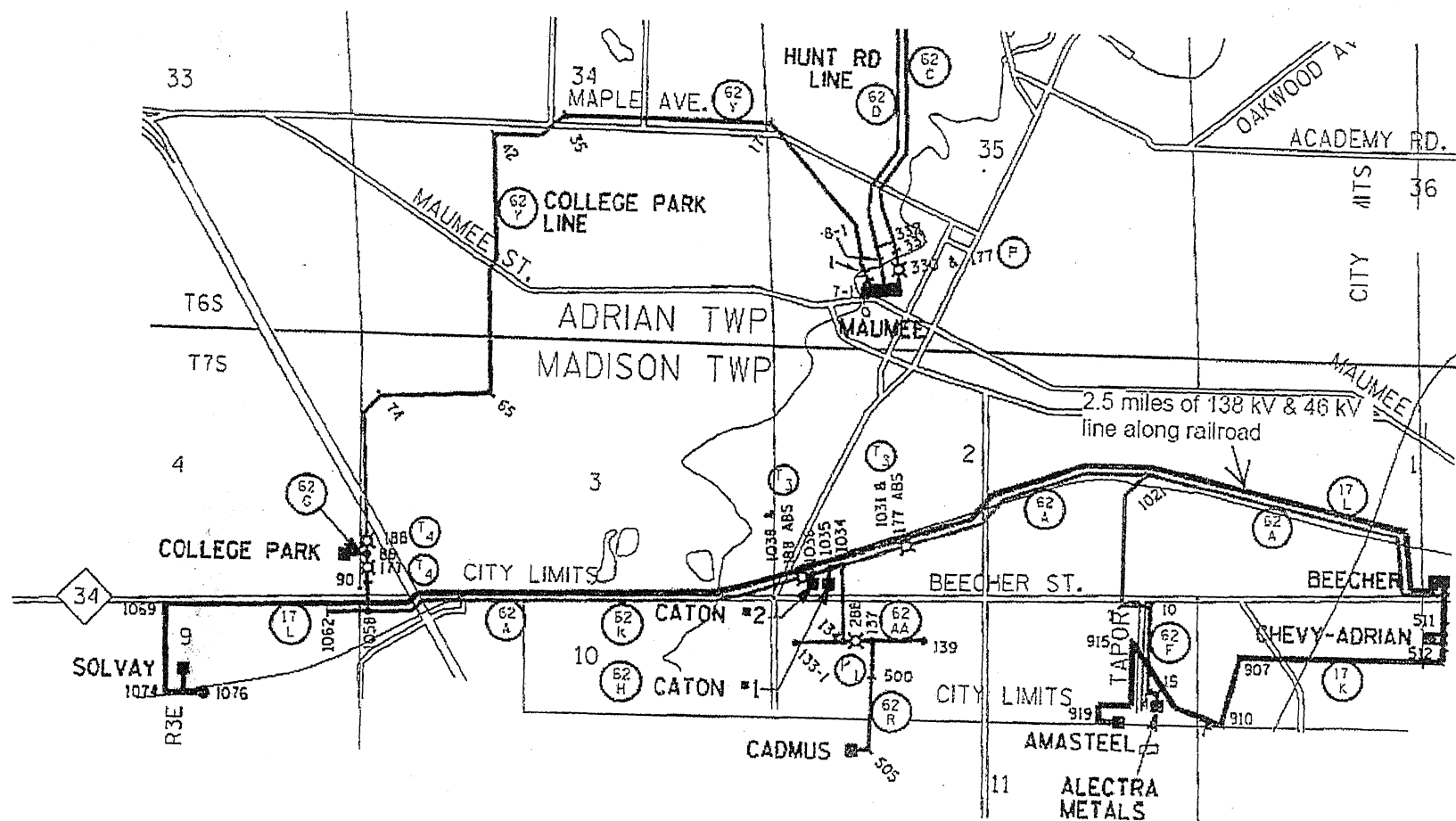
LENAWEE COUNTY TREASURER
301 N. MAIN ST.
ADRIAN, MI 49221

PAYMENT INQUIRIES (517) 788-0741

PO NUMBER	INVOICE NO.	EXTENDED INVOICE NO.	INVOICE DATE	GROSS AMOUNT	DISCOUNT AMOUNT	RETAINER AMT HELD	NET AMOUNT
0000230627			07/05/2016	555,000.00	0.00	0.00	555,000.00
ADDITIONAL MEMO							
ADRIAN & BLISSFIELD SOLVAY LINE##ESTIMATED JUST COMPENSATION UCPA MCL 213.55(5)							
Total							\$555,000.00

DETACH AND RETAIN THIS STUB FOR YOUR RECORDS

CHECK # 1200956198 ATTACHED BELOW



LAND RENTAL AGREEMENT

Michigan Law establishes rights and obligations for parties to rental agreements.
This agreement is required to comply with the Truth in Renting Act 454, P.A. of 1978.

22261 Inside ROW

NON-FEDERAL

Michigan law establishes rights and obligations for parties to rental agreements. This agreement is required to comply with the Truth in Renting Act, Act 454, P.A. of 1978. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person. Any notice or other communication to the Department may be directed to the Michigan Department of Transportation, Property Management Section. The Department of Transportation is pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the nation. It encourages and supports an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, national origin, age, sex, familial status, marital status, or mental and physical handicap. Persons denied fair housing opportunity for these reasons may file a complaint with the Michigan Civil Rights Commission. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person. Any notice or other communication to the Department may be directed to the Michigan Department of Transportation, Real Estate Division, Property Management Section.

It is hereby agreed that the Michigan Department of Transportation hereafter "DEPARTMENT", does hereby let and rent to Consumers Energy, whose address is 212 West Michigan Avenue, Jackson, Michigan 49201 hereafter "TENANT", the following state-owned land located at from mile post 209.5 to mile post 212.0, City of Adrian, Lenawee County, Michigan, excepting an easement recorded on liber 1560, Page 866 (see attached sketch showing limits of property covered in this agreement) for a term beginning January 26, 1996. This agreement, unless terminated earlier as provided herein, shall expire on January 26, 2016.

RENT

TENANT agrees to pay \$12,500.00 for a twenty(20) year term beginning on January 26, 1996. Payment for the rent shall be made at the time of execution of this agreement by the TENANT. Payments will be made by money order or check to the State of Michigan, Department of Transportation. Mail payments to the Financial Operations Division, Post Office Box 30648, Lansing, Michigan 48909. Payments must include the Control Section Number, Job Number and Parcel Number to insure proper credit.

OCCUPATION OF PREMISES

The TENANT agrees not to rent, sublease or allow use by any persons other than those designated above as tenants.

TENANT'S DUTY TO MAINTAIN PREMISES

TENANT agrees that no structure of any type shall be placed on the property. No use shall be permitted within 10 feet of the edge of a cut or fill slope. All right-of-way markers and stakes shall be protected by the TENANT. The DEPARTMENT assumes no responsibility for the safe condition of the lands.

TENANT will not use or store radioactive, toxic, inflammable or poisonous materials, explosives, or other hazardous materials on the premises and will not permit hazardous or unreasonably objectionable smoke, fumes, vapor or odors to emit from the premises. No junk or garbage shall accumulate on the premises.

UTILITIES AND SERVICES

TENANT shall be responsible for all services commonly known and designated as public utilities and the securing of deposits and payments for all such obligations.

CONTROL SECTION: 4620F1	PARCEL: 119	
JOB NO. NA	FEDERAL ITEM NO. NA	FEDERAL PROJ NO. NA

TENANT agrees to vacate the premises upon thirty (30) days written notice. TENANT agrees that in the event the TENANT vacates the premises at will or at the request of the DEPARTMENT, that the DEPARTMENT will not be obliged to provide, and the TENANT will not be entitled to receive, relocation assistance and benefits.

LIABILITY INSURANCE

The TENANT agrees to indemnify and save harmless the State of Michigan, the State Transportation Commission, the DEPARTMENT and all of its officers, agents and employees from all claim, demand payments, suits, actions, recoveries and judgements and from losses occurring or resulting to all persons, firms, or corporations furnishing work, services, materials, or supplies to the DEPARTMENT and from all claims for injuries to, or death of, all persons, and for loss of or damage to property, arising from this agreement.

The parties mutually agree that this agreement is subject to the provisions of Act 189 of 1953 as amended (users of Tax-Exempt Property).

Although duly executed, this agreement will not be binding on the parties until accepted by the Department.

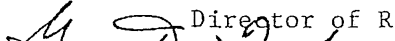
CONSUMERS ENERGY COMPANY

Tenant's Name _____ Date _____ Taxpayer ID Number _____

By:  _____

Tenant's Name R C Lewis Date 2/29/00 Taxpayer ID Number _____

Director of Real Estate & Facilities

 _____

Director, Michigan Department of Transportation Date 3/23/2000

Control 4620F1
Parcel 119

Lease Description

That part of the Michigan Department of Transportation railroad right of way, formerly Penn Central, as located over and across Sections 1, 2, 3 and 10, City of Adrian and Madison Township, Lenawee County, Michigan, as outlined on the attached sheets 1 through 8.

Contains 6.11 acres, more or less.

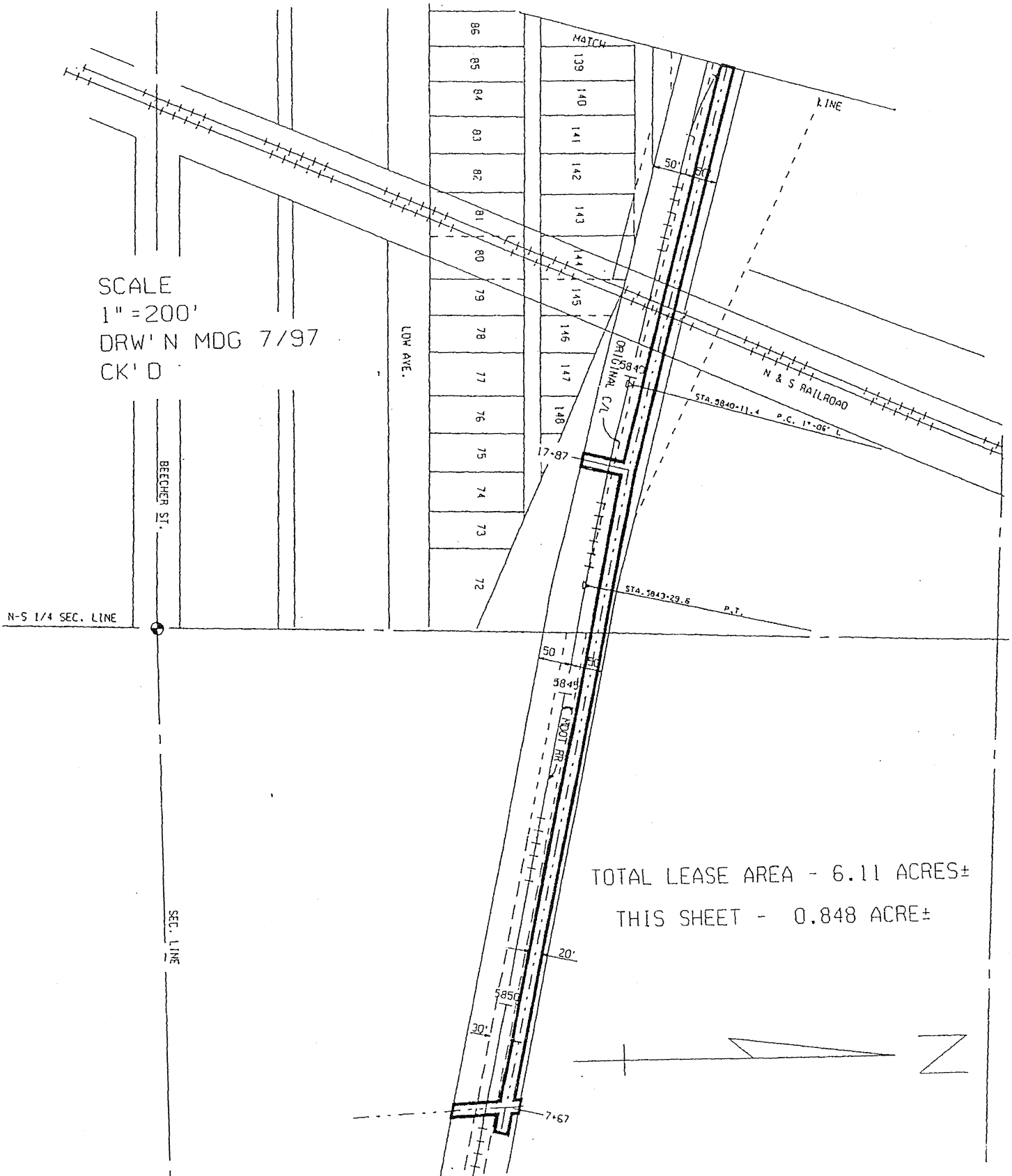
MDG 7/28/97

JHM 7/29/97

SEC. 1, T7S, R3E
CITY OF ADRIAN
LENAWEE COUNTY

CONTROL 4620F1
PARCEL 119

SCALE
1" = 200'
DRW'N MDG 7/97
CK'D



TOTAL LEASE AREA - 6.11 ACRES±
THIS SHEET - 0.848 ACRE±

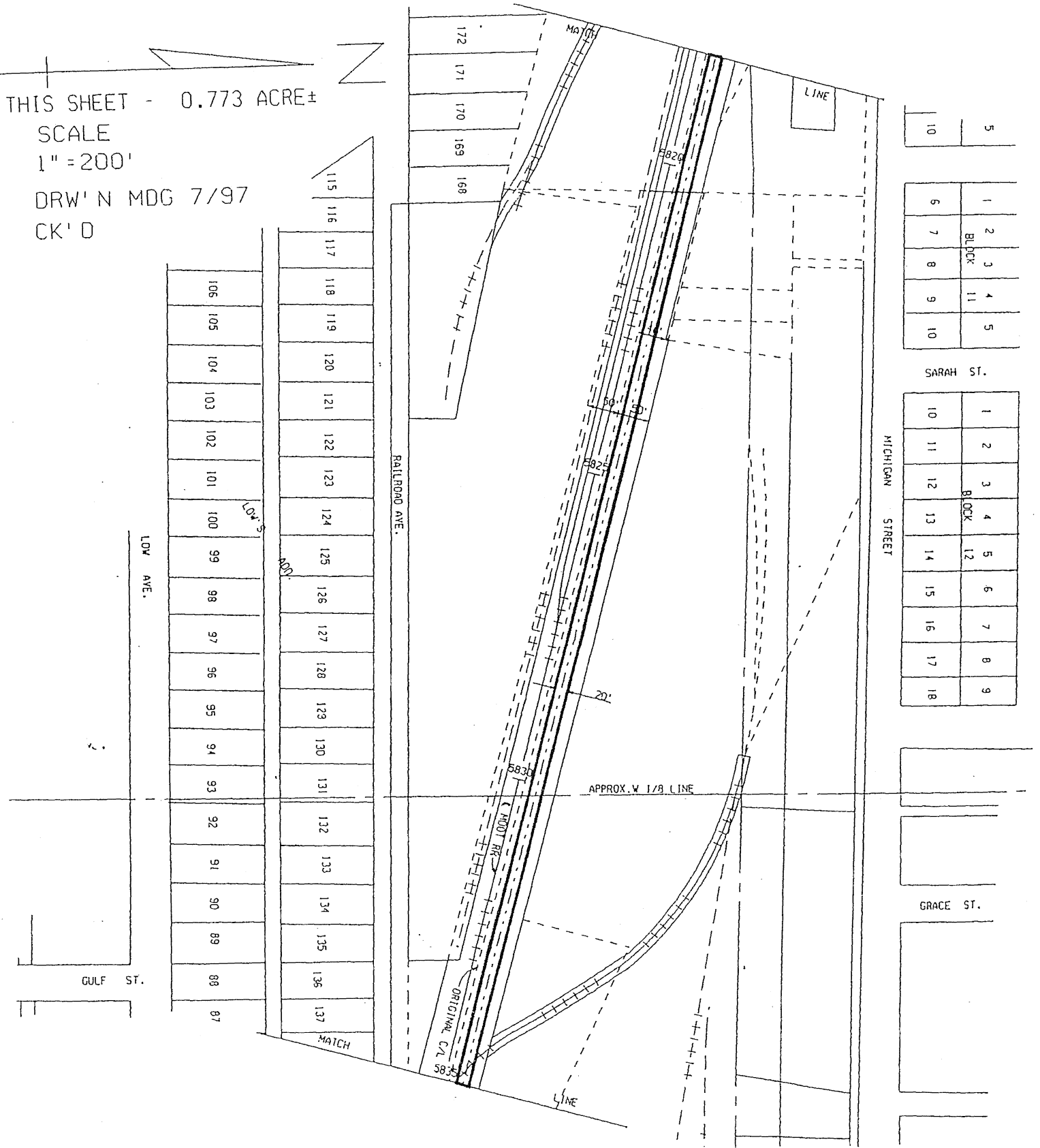
SECS. 1 , T7S , R3E
CITY OF ADRIAN
LENAWEE COUNTY

CONTROL 4620F1
PARCEL 119

THIS SHEET - 0.773 ACRE±

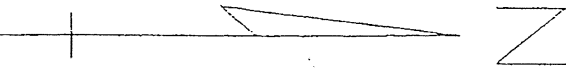
SCALE
1" = 200'

DRW' N MDG 7/97
CK' D



SEC. 1 & 2, T7S, R3E
CITY OF ADRIAN
LENAWEE COUNTY

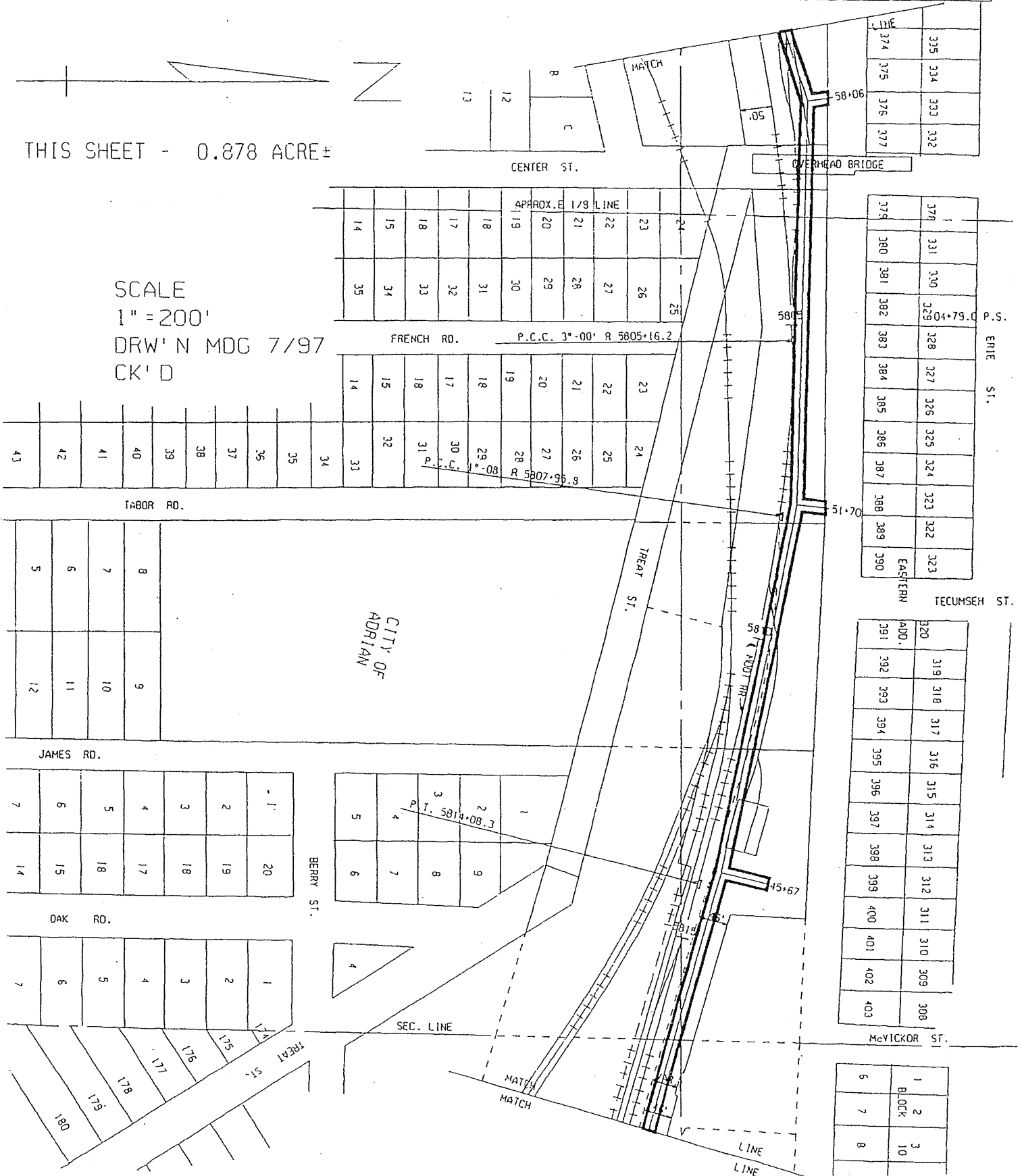
CONTROL 4620F1
PARCEL 119



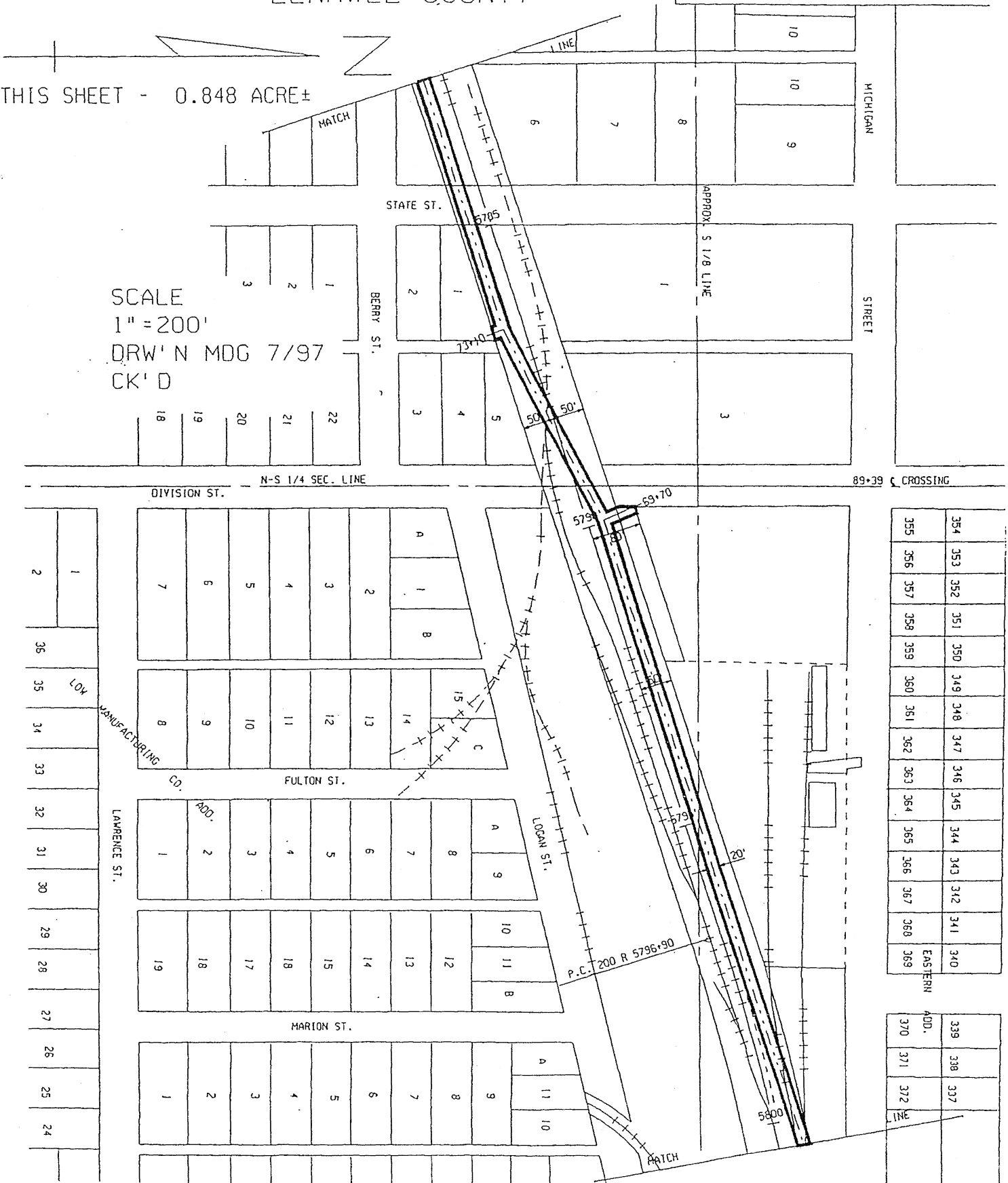
THIS SHEET - 0.878 ACRE±

SCALE
1" = 200'

DRW'N MDG 7/97
CK'D



SCALE
1" = 200'
DRW' N MDG 7/97
CK' D



354	353	352	351	350	349	348	347	346	345	344	343	342	341	340
355	356	357	358	359	360	361	362	363	364	365	366	367	368	369

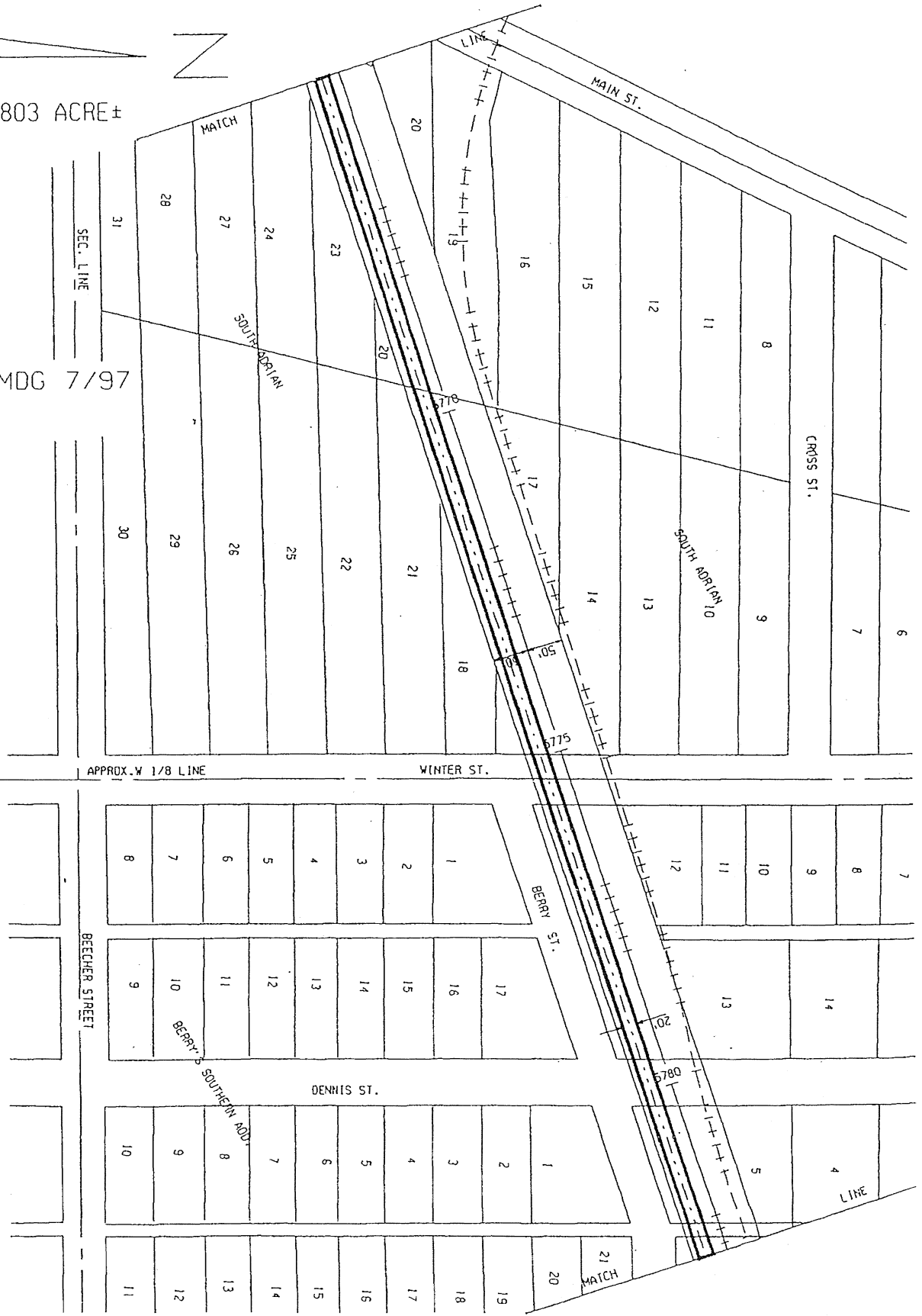
ADD.	339	338	337
370	371	372	LINE

SEC. 2 , T7S , R3E
CITY OF ADRIAN
LENAWEE COUNTY

CONTROL 4620F1
PARCEL 119

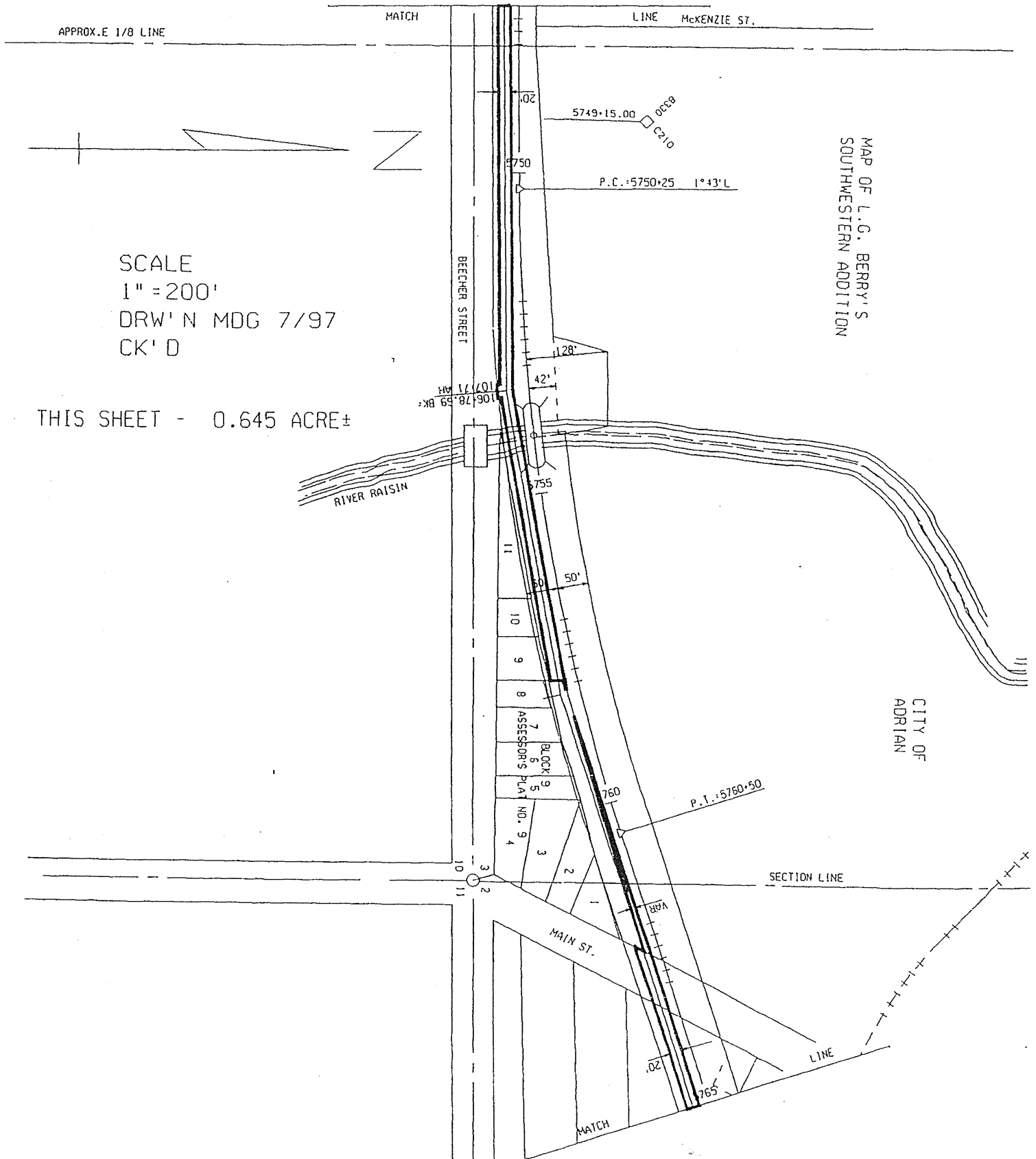
THIS SHEET - 0.803 ACRE±

SCALE
1" = 200'
DRW' N MDG 7/97
CK' D



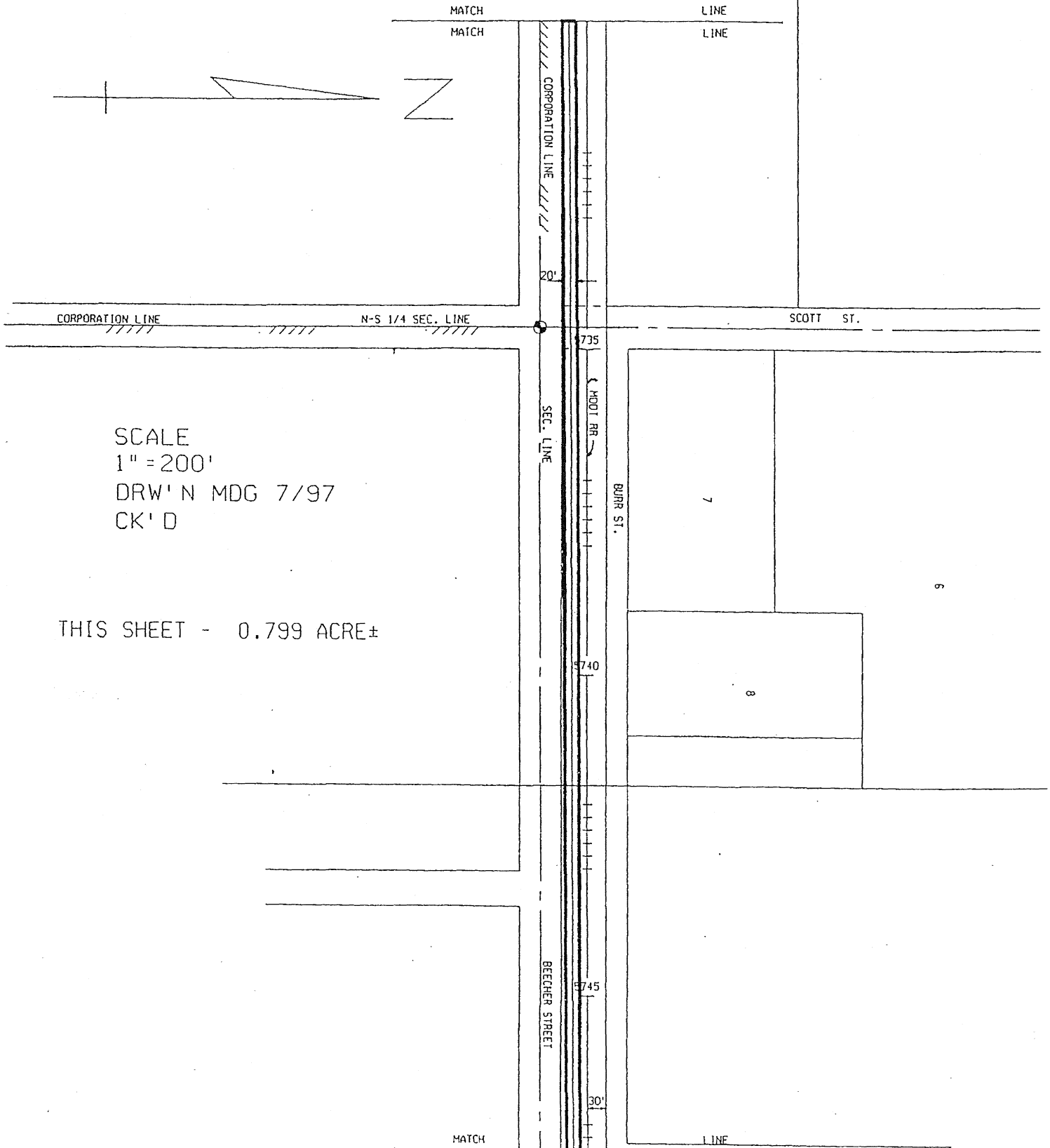
SEC. 2 & 3 , T7S , R3E
CITY OF ADRIAN
LENAWEE COUNTY

CONTROL 4620F1
PARCEL 119



SEC. 3, T7S , R3E
CITY OF ADRIAN
LENAWEE COUNTY

CONTROL 4620F1
PARCEL 119



SCALE
1" = 200'

DRW'N MDG 7/97
CK'D

THIS SHEET - 0.799 ACRE±

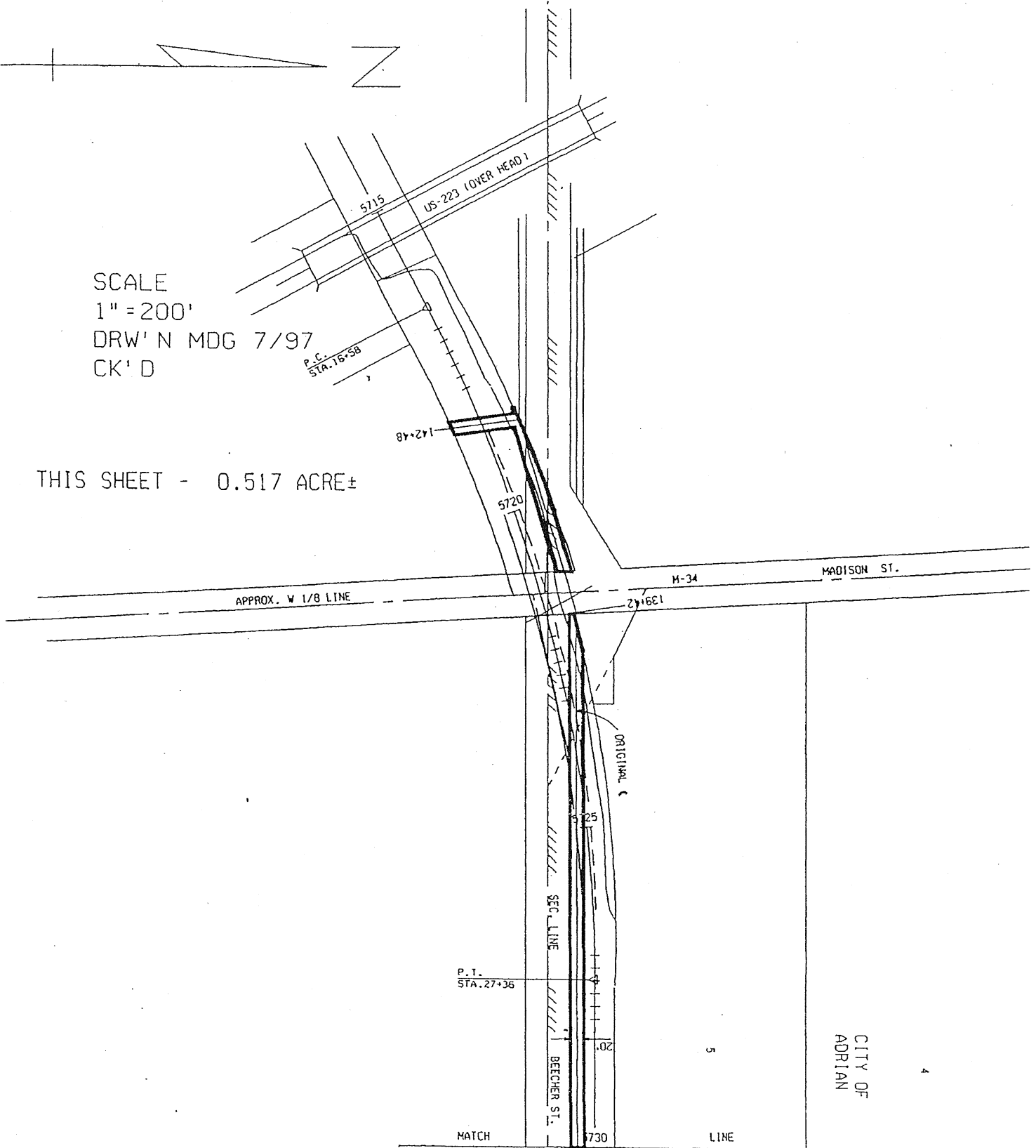
SEC. 3 & 10, T7S, R3E
CITY OF ADRIAN
LENAWEE COUNTY

CONTROL 4620F1
PARCEL 119

SCALE
1" = 200'

DRW'N MDG 7/97
CK'D

THIS SHEET - 0.517 ACRE±



CITY OF
ADRIAN

EASEMENT FOR ELECTRIC FACILITIES

ADRIAN & BLISSFIELD RAIL ROAD COMPANY, a Michigan corporation, 38235 North Executive Drive, Westland, Michigan 48185 (hereinafter "Owner")

for good and valuable consideration [exempt from real estate transfer tax pursuant to MCLA 207.505(f) and from State real estate transfer tax pursuant to MCLA 207.526(f)] grants and warrants to

CONSUMERS ENERGY COMPANY, a Michigan corporation, One Energy Plaza, Jackson, Michigan 49201 (hereinafter "Consumers")

a permanent easement to enter Owner's land (hereinafter "Owner's Land") located in the City of Adrian, County of Lenawee, and State of Michigan as more particularly described in the attached Exhibit A to construct, operate, maintain, inspect (including aerial patrol), survey, replace, reconstruct, improve, remove, relocate, change the size of, enlarge, and protect a single line of poles or pole structures (or any combination of same) supporting a line or lines of electric facilities in, on, over, under, across, and through a portion of Owner's Land (hereinafter "Easement Area") as more fully described in the attached Exhibit B, together with any wires, cables, conduits, crossarms, braces, guys, anchors, transformers, electric control circuits and devices, location markers and signs, communication systems, utility lines, protective apparatus and all other equipment, appurtenances, associated fixtures, and facilities, whether above or below grade, useful or incidental to or for the operation or protection thereof, and to conduct such other activities as may be convenient in connection therewith as determined by Consumers for the purpose of transmitting and distributing electricity.

Notwithstanding Consumers' ability to exercise the rights granted in this easement to their fullest extent otherwise allowed by law, Consumers agrees that (1) it will not construct any permanent, above-ground structures that are materially closer to Owner's existing tracks than the existing line of poles supporting Consumers' lines of electrical facilities on Owner's Land, without first obtaining Owner's express, written consent; (2) Consumers will only use the portion of the Easement Area that lies between (a) the existing line of poles supporting Consumers' lines of electrical facilities on Owner's Land, and (b) the closest edge of Owner's existing railroad tracks, for temporary above-ground facilities or other non-permanent uses in connection with Consumers' electrical facilities (such as, but not limited to, access, maintenance, inspection, surveying, replacement, reconstruction, improvement, removal, relocation, modification or vegetation management); and (3) so long as any relocation of Consumers' existing above-ground facilities would not violate any law, code or regulation applicable to Consumers' facilities, if Owner has a reasonable need for Consumers to relocate some or all of its facilities to another location within the Easement Area (or another portion of Owner's Land or adjoining property, provided that Owner grants equivalent additional rights to any necessary land outside the Easement Area) to accommodate Owner's existing or actually planned railroad operations (because all other reasonable alternatives have been exhausted), such relocation will be performed at Consumers' cost provided that Owner's work that required the relocation is actually undertaken or performed.

Access: Consumers shall have the right to unimpaired access, to the extent said access does not interfere with the safety of Owner's railroad operations and follows generally accepted safety guidelines for railroad property, to said line or lines, and the right of ingress and egress on, over, and through Owner's Land for any and all purposes necessary, convenient, or incidental to the exercise by Consumers of the rights granted hereunder. Although Consumers reserves the right to install any new structures

that are allowed by this easement, Consumers agrees that it will not erect any fence, barrier or other similar permanent structure that would unreasonably impair Owner's lawful access to or use of the Easement Area.

Trees and Other Vegetation: Owner shall not plant any trees within the Easement Area. Consumers shall have the right from time to time hereafter to enter Owner's Land to trim, cut down, and otherwise remove and control any trees, brush, roots, and other vegetation within the Easement Area. Consumers shall have the right from time to time hereafter to enter Owner's Land to trim, cut down, and otherwise remove and control any trees, brush, or other vegetation located outside of the Easement Area which are of such a height or are of such a species whose mature height that in falling directly to the ground could come into contact with or land directly above Consumers' facilities.

Buildings/Structures: Owner agrees not to build, create, construct, or permit to be built, created, or constructed, any obstruction, building, septic system, drain field, fuel tank, pond, swimming pool, lake, pit, well, foundation, engineering works, installation or any other type of structure over, under, or on said Easement Area, whether temporary or permanent, natural or man-made, without the express authorization of Consumers, which may be withheld in Consumers' sole discretion, recorded in the register of deeds for the county in which Owner's Land is situated expressly allowing the aforementioned. Notwithstanding the foregoing, Owner may install minor structures related to railroad operations within the Easement Area, provided said structures do not cause Consumers to be in violation of the National Electrical Safety Code as adopted by the Michigan Public Service Commission or any other applicable law, code or regulation, and further provided that said structures do not unreasonably interfere with Consumers' access to its facilities located within the Easement Area. Owner may also install communications facilities (such as wires, cables, antennas or other similar items), which are reasonably necessary for Owner's railroad operations that occur on Owner's Land, on Consumers' poles or pole structures upon execution of Consumers' standard form of attachment or pole-license agreement, or other similar agreement acceptable to Owner and Consumers. If Consumers' then-existing poles, pole structures and/or related facilities would be impaired or interfered with following the addition of Owner's proposed communication facilities, then Owner will only be able to add its communication facilities upon paying for Consumers' actual cost of improving Consumers' facilities as necessary to accommodate Owner's new facilities.

Ground Elevation: Owner shall not materially alter the ground elevation within the Easement Area without the express authorization of Consumers, which may be withheld in Consumers' sole discretion, recorded in the register of deeds for the county in which Owner's Land is situated expressly allowing the aforementioned.

Flagging: Except in case of emergencies or service restoration, Consumers shall notify Owner (in writing to the address above or by phoning (734) 641-2300 or other number provided in writing by Owner) at least 3 business days in advance of the commencement of work activities within the Easement Area, and Owner will then arrange for appropriate flagging services during such activities, at Consumers' expense.

Restoration: Consumers shall reasonably restore disturbed areas of Owner's Land to the condition existing before Consumers' work following completion of work on Owner's Land.

Exercise of Easement: Consumers' nonuse or limited use of this easement shall not preclude Consumers' later use of this easement to its full extent.

Severability: Whenever possible, each provision of this easement shall be interpreted in such a manner as to be effective and valid under applicable law and to provide for the safe and reliable operations of both parties hereto, but if any such provision of this easement is held to be prohibited by or invalid under applicable law or puts either party into a violation under any applicable law, code or regulation, such provision shall be ineffective only to the extent of such prohibition, invalidity, or violation, without invalidating the remainder of such provision or the remaining provisions of this easement; and the parties shall negotiate in good faith to replace such prohibited, invalid, or violated provision with the intent of preserving the original business intent thereof and ensuring the safe and reliable operations of the facilities of both parties hereto.

Successors: This easement shall bind and benefit Owner's and Consumers' respective heirs, successors, lessees, licensees, and assigns.

Counterparts: This easement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. It is not necessary that all parties execute any single counterpart if each party executes at least one counterpart.

Date: _____

Adrian & Blissfield Rail Road Company ("Owner"):

By: _____
Its: _____

Acknowledgment

The foregoing instrument was acknowledged before me in _____ County, Michigan,

on _____ by _____
Date Print Name and Title

an authorized representative of Adrian & Blissfield Rail Road Company.

Notary Public

County, Michigan
Acting in _____ County
My Commission expires: _____

Prepared By: Adam C. Smith (P69790)
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201

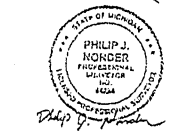
After recording, return to:
Debra Dennis, EP7-473
Business Services
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201

EXHIBIT A

1 of 3

Owner's Land

That part of the railroad right of way, formerly Penn Central and subsequently owned by the Michigan Department of Transportation and transferred to Owner, as located over and across Sections 1, 2, 3, and 10, City of Adrian and Madison Township, Lenawee County, Michigan, as indicated in the area shown as R.R. Right - of - Way Line on the attached drawing.



GRAPHIC SCALE

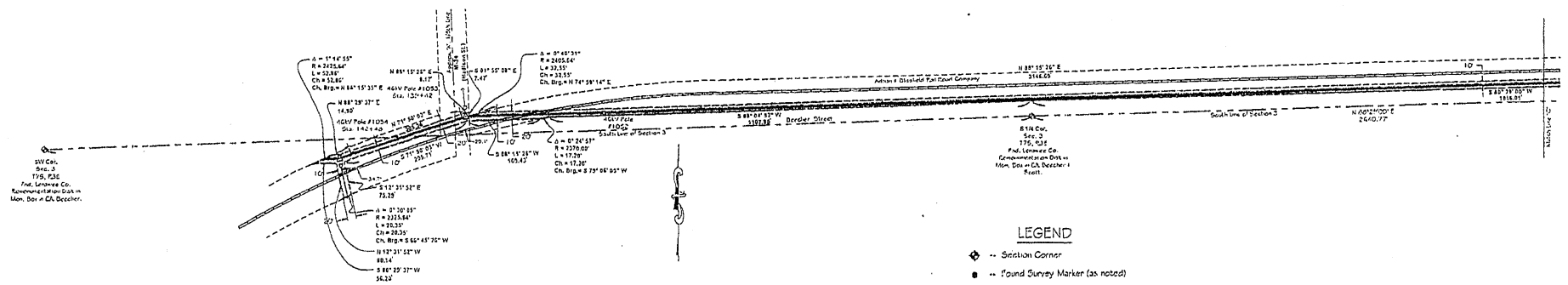
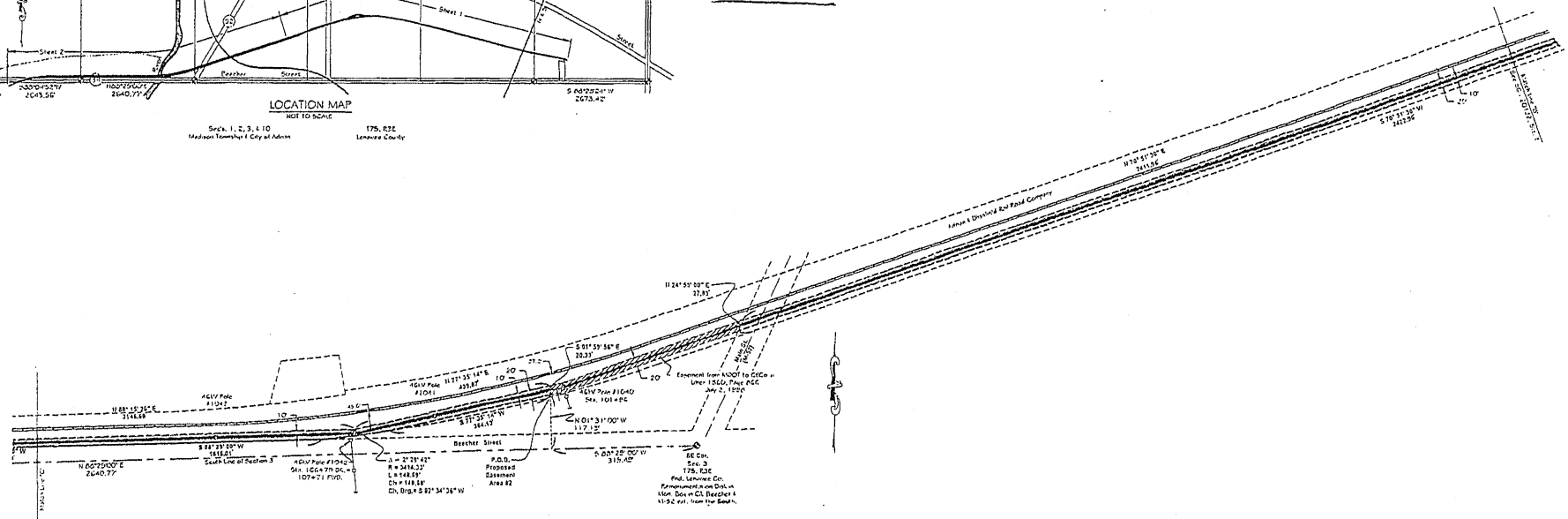
(IN FEET)
1 inch = 100 ft.

[illegible]

LOCATION MAP

Sect's. 1, 2, 3, & 10
Madison Township & City of Adams

175, R2E
Lawrence County



- ◆ -- Section Corner
- -- Found Survey Marker (as noted)
- -- Power Pole (as noted)
- -- Guy Anchor
- △ -- P.I.
- ▲ -- G.P.S. Control Point
- -- Surveyor G.L. Sighting 46KV line
- ==== -- R.R. Tracks
- - - - -- R.R. Right - of - Way Line
- -- Fence

(R) -- Record Measurement per Certificate of Survey by Shendon
 Surveying Survey dated 4/1/96

(U) -- Measured

-- -- Proposed Easement Area (5.91 acres Total, Ohio, 1 & 2)

1. Not all poles are shown. Only major structures and selected tangent poles were located for the purpose of the survey.
2. The railroad right-of-way lines are shown as approximate. Dimensions were taken from MDOT's Former Penn Central Railroad Right of Way maps sheets 41 thru 43. Scanning was done where dimensions were not available.
3. Stationing in the P.I. locations were taken from CPGC Drawing PP-18009, Sheets 1-6.
4. MDOT delineated the R/R, right-of-way to the Adman and Disskell Rail Road Company per letter 1753, pages 21, 40-255.

Michigan State Plane Coordinate System - South Zone
GPS Site Solution from the Adair (ADQ) CORS Station.



(IN FEET)
1 inch = 100 ft

[illegible]

Consumers Energy

Beecher - Solvay 4GkV Survey			
Sec's 1, 2, 3, & 10 Morton Township & City of Auburn		T7S, R3E Lincoln County	
SCALE: 1" = 160'	DRAWING NO.	SHEET	OF
Circle FILE NAME: 2012SGDWG.DWG	SG-20132	2	A

EXHIBIT B

Easement Area

An area of land located in Sections 1 and 2, Town 7 South, Range 3 East, Madison Township and the City of Adrian, Lenawee County, Michigan, said area described as:

Commencing at the Southeast corner of said Section 1, thence South 88°28'24" West, along the South line of said Section 1, 1939.44 feet; thence North 01°48'17" West 442.97 feet to the Southerly line of the Adrian and Blissfield Rail Road Company right-of-way; thence North 80°45'43" West, along said right-of-way line, 15.42 feet to the POINT of BEGINNING; thence continuing North 80°45'43" West, along said right-of-way line, 20.01 feet; thence North 11°04'15" East 61.38 feet; thence North 78°36'14" West 11.03 feet; thence North 08°12'08" East 9.74 feet; thence North 80°59'57" West 962.59'; thence South 12°02'17" West 64.55 feet to the Southerly line of said railroad right-of-way; thence North 78°56'05" West, along said right-of-way line, 20.00 feet; thence North 12°02'17" East 64.51 feet; thence North 77°10'04" West 2770.78 feet; thence North 81°03'34" West 600.58 feet; thence North 89°51'19" West 632.40 feet; thence South 71°03'43" West 1163.85 feet; thence South 60°43'10" West 330.82 feet; thence South 23°40'04" East 12.66 feet to the Southerly line of said railroad right-of-way; thence South 70°52'18" West, along said right-of-way line, 20.06 feet; thence North 23°40'04" West 10.90 feet; thence South 70°51'30" West 2422.96 feet to a point on the Easterly line of an easement from MDOT to Consumers Energy, recorded in Liber 1560, Page 866; thence North 24°55'00" East, along said Easterly line, 27.83 feet; thence North 70°51'30" East 2411.96 feet; thence North 60°43'10" East 329.79 feet; thence North 24°15'43" West 11.05 feet to the Northerly line of said railroad right-of-way; thence North 70°52'18" East, along said right-of-way line, 2.04 feet to the Westerly line of said railroad right-of-way; thence North 19°07'42" West, along said Westerly line, 29.02' to the Northerly line of said railroad right-of-way; thence North 69°17'21" East, along said right-of-way line, 15.40 feet; thence South 24°15'43" East 38.70 feet; thence North 71°03'43" East 1147.29 feet; thence North 09°38'52" West 12.36 feet to the Northerly line of said railroad right-of-way; thence North 89°18'12" East, along said right-of-way line, 20.25 feet; thence South 09°38'52" East 8.47 feet; thence South 89°51'19" East 619.61 feet; thence North 04°15'00" East 17.53 feet to the Northerly line of said railroad right-of-way; thence North 89°18'12" East, along said Northerly line 20.07 feet; thence South 04°15'00" West 19.35 feet; thence South 81°03'34" East 582.90 feet; thence North 11°25'28" East 49.78 feet; thence South 78°34'32" East 20.00 feet; thence South 11°25'28" West 49.60 feet; thence South 77°10'04" East 2770.89 feet; thence South 80°59'57" East 971.46 feet; thence North 08°12'08" East 9.02 feet to the Northerly line of said railroad right-of-way; thence South 80°44'29" East 95.83 feet; thence South 56°15'27" West 59.64 feet; thence North 78°36'14" West 20.50 feet; thence South 11°04'15" West 60.63 feet to the POINT of BEGINNING. Said area containing 4.28 acres.

An area of land located in Sections 3 and 10, Town 7 South, Range 3 East, Madison Township and the City of Adrian, Lenawee County, Michigan, said area described as:

Commencing at the Southeast corner of said Section 3, thence South 88°29'00" West, along the South line of said Section, 319.49 feet; thence North 01°31'00" West, perpendicular to said South line, 117.13 feet to a point on the Westerly line of an easement from MDOT to Consumers Energy, recorded in Liber 1560, Page 866 and the POINT of BEGINNING; thence South 77°35'14" West 364.13 feet to a point on the Southerly line of the Adrian and Blissfield Rail Road Company right-of-way; thence along said Southerly right-of-way line, 148.69 feet along the arc of a curve to the right, said curve having a delta angle of 2°29'42", a radius of 3414.33 feet, and chord length of 148.68 feet bearing South 82°34'36" West; thence continuing along said right-of-way line the following three (3) courses; South 88°29'00" West 1816.01 feet; thence South 88°04'52" West 1107.86 feet to the Southerly right-of-way line of said railroad; thence along said Southerly right-of-way line, 17.20 feet along the arc of a curve to the left, said curve having a delta angle of 0°24'57", a radius of 2370.00 feet, and chord length of 17.20 feet bearing South 79°06'09" West; thence South 88°15'26" West 169.43 feet; thence South 71°50'03" West 295.71 feet; thence South 12°31'52" East 75.29 feet to the Southerly line of said railroad right-of-way; thence along said Southerly right-of-way line, 20.35 feet along the arc of a curve to the left, said curve having a delta angle of 0°30'05", a radius of 2325.64 feet, and chord length of 20.35 feet bearing South 66°45'26" West; thence North 12°31'52" West 80.14 feet; thence South 88°29'37" West 56.20 feet to the Northerly line of said railroad right-of-way; thence along said Northerly right-of-way line, 52.86 feet along the arc of a curve to the right, said curve having a delta angle of 1°14'55", a radius of 2425.64 feet, and chord length of 52.86 feet bearing North 66°15'35" East; thence North 88°29'37" East 14.90 feet; thence North 71°50'03" East 305.36 feet; thence North 88°15'26" East 8.17 feet to the Easterly right-of-way line of Highway M-34 (Madison Street);

thence South $01^{\circ}55'08''$ East, along said Easterly line, 7.47 feet to the Northerly line of said railroad right-of-way; thence along said Northerly right-of-way line, 32.55 feet along the arc of a curve to the right, said curve having a delta angle of $0^{\circ}46'31''$, a radius of 2405.64 feet, and chord length of 32.55 feet bearing North $74^{\circ}59'14''$ East; thence North $88^{\circ}15'26''$ East 3146.69 feet; thence North $77^{\circ}35'14''$ East 439.87 feet to a point Westerly line of the aforementioned easement from MDOT to Consumers Energy; thence South $01^{\circ}59'56''$ East, along said Westerly line, 20.33 feet to the POINT of BEGINNING. Said area containing 1.63 acres.

DECLARATION OF TAKING

STATE OF MICHIGAN)
) SS.
COUNTY OF JACKSON)

I, Mary P. Palkovich, Vice President of Energy Delivery for Consumers Energy Company (“Consumers Energy”), having been duly sworn hereby state and affirm the following in support of this Declaration of Taking:

1. Consumers Energy is a public utility, organized and existing under Public Act 238 of 1923, MCL 486.251, *et seq.*, as amended, with a principal address of One Energy Plaza, Jackson, Michigan 49201.

2. I am authorized by the Board of Directors of Consumers Energy to declare the taking of property by eminent domain under the applicable statutes of the State of Michigan.

3. Based on Consumers Energy’s obligation as a public utility to provide adequate and reliable electric service to its customers in the City of Adrian and surrounding areas of Adrian, Madison, Rome and Dover Townships in Lenawee County, Consumers Energy hereby determines it is necessary to obtain permanent easement rights across certain property described further below for its existing high-voltage electric lines that are supported by a line of existing poles across such property.

4. The relevant Solvay Line is a 138,000 volt ("138 Kv") facility and the relevant College Park Line is a 46,000 volt ("46 kV") facility that are necessary to continue providing safe and reliable electric service to approximately 10,000 residential, commercial and industrial customers in the Adrian, Michigan area. Without permanent rights for this necessary component of its electric system, Consumers Energy is unable to ensure that it will be able to continually meet its obligation to provide adequate and reliable electric service to such customers, now and into the future.

5. To support the Solvay Line and the College Park Line, which will be used to transmit and/or distribute electricity for public use, Consumers Energy has further determined that it is necessary to acquire by condemnation a perpetual easement and right of way for purposes of constructing, operating, maintaining, repairing, inspecting, replacing, improving, enlarging and removing electrical facilities, fixtures and equipment in, over and across the following described lands ("Property"):

That part of the railroad right of way, formerly Penn Central and subsequently owned by the Michigan Department of Transportation and transferred to Owner, as located over and across Sections 1, 2, 3, and 10, City of Adrian and Madison Township, Lenawee County, Michigan, as indicated in the area shown as R.R. Right – of – Way Line on Exhibit A to the Easement for Electric Facilities (which is itself attached as Exhibit 1 to this Declaration of Taking).

6. The rights to be acquired are more fully described on the Easement for Electric Facilities, attached as Exhibit 1 to this Declaration of Taking.

7. The record, fee-simple owner of the Property is Adrian & Blissfield Rail Road Company. Consumers Energy has identified the following persons as having an interest in the Property that is relevant under Michigan law: City of Adrian, Michigan Department of Transportation, Norfolk Southern Corporation and Norfolk Southern Railway Company.

8. Based on an appraisal dated June 16, 2016, Consumers Energy has estimated the amount of just compensation for the easement rights to be acquired is the full and complete sum of \$555,000.00, which sum will be deposited with the Lenawee County Treasurer and will be paid to the above-named interest holders in accordance with applicable law.

9. Consumers Energy waives the right to bring federal or state cost-recovery actions against the current owners of the Property.

Further affiant sayeth naught.

[the remainder of this page intentionally left blank]

CONSUMERS ENERGY COMPANY

Mary P. Palkovich

By: Mary P. Palkovich

Title: Vice President of Energy Delivery

Subscribed and sworn to before me this 7 day of July, 2016.

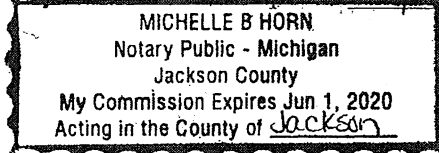
Michelle B. Horn

Michelle B. Horn, Notary Public

State of Michigan, Jackson County

Acting in Jackson County, Michigan

My Commission Expires: 6/1/2020



Prepared by:

Adam C. Smith (P69790)
Consumers Energy Company
One Energy Plaza, EP11-441
Jackson, MI 49201

When recorded, return to:

Consumers Energy Company
Business Services – Real Estate
Attn: Debra Dennis, EP7-436
One Energy Plaza
Jackson, MI 49201-2357

Exhibit 1
to Declaration of Taking
(Easement for Electric Facilities)

EASEMENT FOR ELECTRIC FACILITIES

ADRIAN & BLISSFIELD RAIL ROAD COMPANY, a Michigan corporation, 38235 North Executive Drive, Westland, Michigan 48185 (hereinafter "Owner")

for good and valuable consideration [exempt from real estate transfer tax pursuant to MCLA 207.505(f) and from State real estate transfer tax pursuant to MCLA 207.526(f)] grants and warrants to

CONSUMERS ENERGY COMPANY, a Michigan corporation, One Energy Plaza, Jackson, Michigan 49201 (hereinafter "Consumers")

a permanent easement to enter Owner's land (hereinafter "Owner's Land") located in the City of Adrian, County of Lenawee, and State of Michigan as more particularly described in the attached Exhibit A to construct, operate, maintain, inspect (including aerial patrol), survey, replace, reconstruct, improve, remove, relocate, change the size of, enlarge, and protect a single line of poles or pole structures (or any combination of same) supporting a line or lines of electric facilities in, on, over, under, across, and through a portion of Owner's Land (hereinafter "Easement Area") as more fully described in the attached Exhibit B, together with any wires, cables, conduits, crossarms, braces, guys, anchors, transformers, electric control circuits and devices, location markers and signs, communication systems, utility lines, protective apparatus and all other equipment, appurtenances, associated fixtures, and facilities, whether above or below grade, useful or incidental to or for the operation or protection thereof, and to conduct such other activities as may be convenient in connection therewith as determined by Consumers for the purpose of transmitting and distributing electricity.

Notwithstanding Consumers' ability to exercise the rights granted in this easement to their fullest extent otherwise allowed by law, Consumers agrees that (1) it will not construct any permanent, above-ground structures that are materially closer to Owner's existing tracks than the existing line of poles supporting Consumers' lines of electrical facilities on Owner's Land, without first obtaining Owner's express, written consent; (2) Consumers will only use the portion of the Easement Area that lies between (a) the existing line of poles supporting Consumers' lines of electrical facilities on Owner's Land, and (b) the closest edge of Owner's existing railroad tracks, for temporary above-ground facilities or other non-permanent uses in connection with Consumers' electrical facilities (such as, but not limited to, access, maintenance, inspection, surveying, replacement, reconstruction, improvement, removal, relocation, modification or vegetation management); and (3) so long as any relocation of Consumers' existing above-ground facilities would not violate any law, code or regulation applicable to Consumers' facilities, if Owner has a reasonable need for Consumers to relocate some or all of its facilities to another location within the Easement Area (or another portion of Owner's Land or adjoining property, provided that Owner grants equivalent additional rights to any necessary land outside the Easement Area) to accommodate Owner's existing or actually planned railroad operations (because all other reasonable alternatives have been exhausted), such relocation will be performed at Consumers' cost provided that Owner's work that required the relocation is actually undertaken or performed.

Access: Consumers shall have the right to unimpaired access, to the extent said access does not interfere with the safety of Owner's railroad operations and follows generally accepted safety guidelines for railroad property, to said line or lines, and the right of ingress and egress on, over, and through Owner's Land for any and all purposes necessary, convenient, or incidental to the exercise by Consumers of the rights granted hereunder. Although Consumers reserves the right to install any new structures

that are allowed by this easement, Consumers agrees that it will not erect any fence, barrier or other similar permanent structure that would unreasonably impair Owner's lawful access to or use of the Easement Area.

Trees and Other Vegetation: Owner shall not plant any trees within the Easement Area. Consumers shall have the right from time to time hereafter to enter Owner's Land to trim, cut down, and otherwise remove and control any trees, brush, roots, and other vegetation within the Easement Area. Consumers shall have the right from time to time hereafter to enter Owner's Land to trim, cut down, and otherwise remove and control any trees, brush, or other vegetation located outside of the Easement Area which are of such a height or are of such a species whose mature height that in falling directly to the ground could come into contact with or land directly above Consumers' facilities.

Buildings/Structures: Owner agrees not to build, create, construct, or permit to be built, created, or constructed, any obstruction, building, septic system, drain field, fuel tank, pond, swimming pool, lake, pit, well, foundation, engineering works, installation or any other type of structure over, under, or on said Easement Area, whether temporary or permanent, natural or man-made, without the express authorization of Consumers, which may be withheld in Consumers' sole discretion, recorded in the register of deeds for the county in which Owner's Land is situated expressly allowing the aforementioned. Notwithstanding the foregoing, Owner may install minor structures related to railroad operations within the Easement Area, provided said structures do not cause Consumers to be in violation of the National Electrical Safety Code as adopted by the Michigan Public Service Commission or any other applicable law, code or regulation, and further provided that said structures do not unreasonably interfere with Consumers' access to its facilities located within the Easement Area. Owner may also install communications facilities (such as wires, cables, antennas or other similar items), which are reasonably necessary for Owner's railroad operations that occur on Owner's Land, on Consumers' poles or pole structures upon execution of Consumers' standard form of attachment or pole-license agreement, or other similar agreement acceptable to Owner and Consumers. If Consumers' then-existing poles, pole structures and/or related facilities would be impaired or interfered with following the addition of Owner's proposed communication facilities, then Owner will only be able to add its communication facilities upon paying for Consumers' actual cost of improving Consumers' facilities as necessary to accommodate Owner's new facilities.

Ground Elevation: Owner shall not materially alter the ground elevation within the Easement Area without the express authorization of Consumers, which may be withheld in Consumers' sole discretion, recorded in the register of deeds for the county in which Owner's Land is situated expressly allowing the aforementioned.

Flagging: Except in case of emergencies or service restoration, Consumers shall notify Owner (in writing to the address above or by phoning (734) 641-2300 or other number provided in writing by Owner) at least 3 business days in advance of the commencement of work activities within the Easement Area, and Owner will then arrange for appropriate flagging services during such activities, at Consumers' expense.

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Exercise of Easement: Consumers' nonuse or limited use of this easement shall not preclude Consumers' later use of this easement to its full extent.

Severability: Whenever possible, each provision of this easement shall be interpreted in such a manner as to be effective and valid under applicable law and to provide for the safe and reliable operations of both parties hereto, but if any such provision of this easement is held to be prohibited by or invalid under applicable law or puts either party into a violation under any applicable law, code or regulation, such provision shall be ineffective only to the extent of such prohibition, invalidity, or violation, without invalidating the remainder of such provision or the remaining provisions of this easement; and the parties shall negotiate in good faith to replace such prohibited, invalid, or violated provision with the intent of preserving the original business intent thereof and ensuring the safe and reliable operations of the facilities of both parties hereto.

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Date: _____

Adrian & Blissfield Rail Road Company ("Owner"):

By: _____
Its: _____

Acknowledgment

The foregoing instrument was acknowledged before me in _____ County, Michigan,

on _____ by _____,
Date Print Name and Title

an authorized representative of Adrian & Blissfield Rail Road Company.

Notary Public

County, Michigan
Acting in _____ County
My Commission expires: _____

Prepared By: Adam C. Smith (P69790)
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201

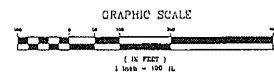
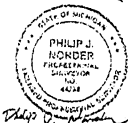
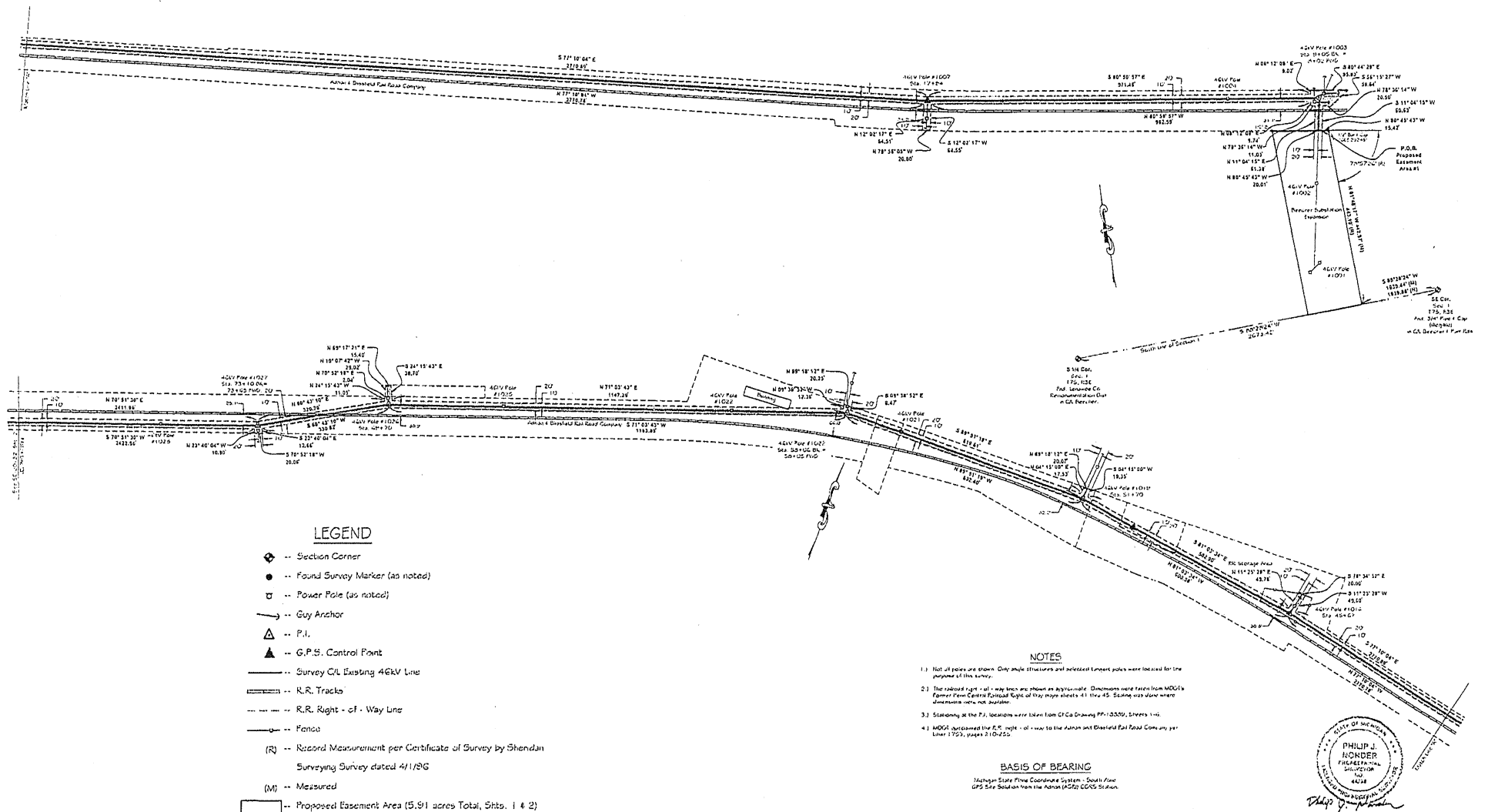
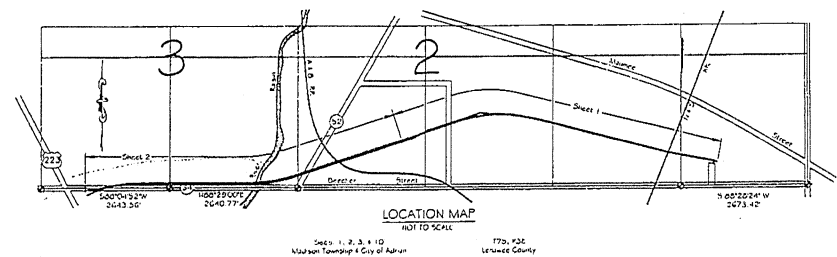
After recording, return to:
Debra Dennis, EP7-473
Business Services
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201

EXHIBIT A

1 of 3

Owner's Land

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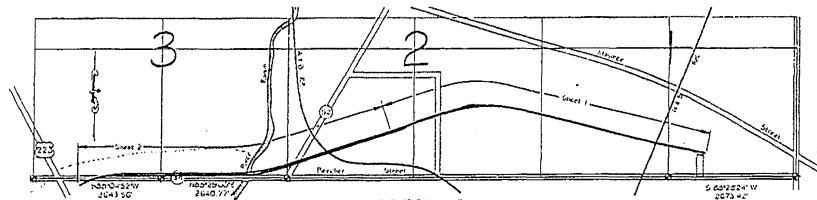
Certificate of Survey by Shendan Surveying Company Sgt. 05060 PMS				Sgt. 05060 PMS				Sgt. 05060 PMS				Sgt. 05060 PMS			
PP-16270, S. 1 & 2				PP-16270, S. 1 & 2				PP-16270, S. 1 & 2				PP-16270, S. 1 & 2			
Beecher - Solway				Beecher - Solway				Beecher - Solway				Beecher - Solway			
FIELD BOOK NO. 1005				FIELD BOOK NO. 1005				FIELD BOOK NO. 1005				FIELD BOOK NO. 1005			
REFERENCE DRAWINGS				REFERENCE DRAWINGS				REFERENCE DRAWINGS				REFERENCE DRAWINGS			
REV	DATE	DESCRIPTION	BY	APP	REV	DATE	DESCRIPTION	BY	APP	REV	DATE	DESCRIPTION	BY	APP	REV

Consumers Energy

Beecher - Solway 46kV Survey

Shts. 1, 2, 3 & 4 Madison Township & City of Adrian SCALE 1" = 100'				Shts. 1, 2, 3 & 4 Madison Township & City of Adrian SCALE 1" = 100'				Shts. 1, 2, 3 & 4 Madison Township & City of Adrian SCALE 1" = 100'				Shts. 1, 2, 3 & 4 Madison Township & City of Adrian SCALE 1" = 100'			
Sht. 1				Sht. 2				Sht. 3				Sht. 4			
Sht. 1				Sht. 2				Sht. 3				Sht. 4			

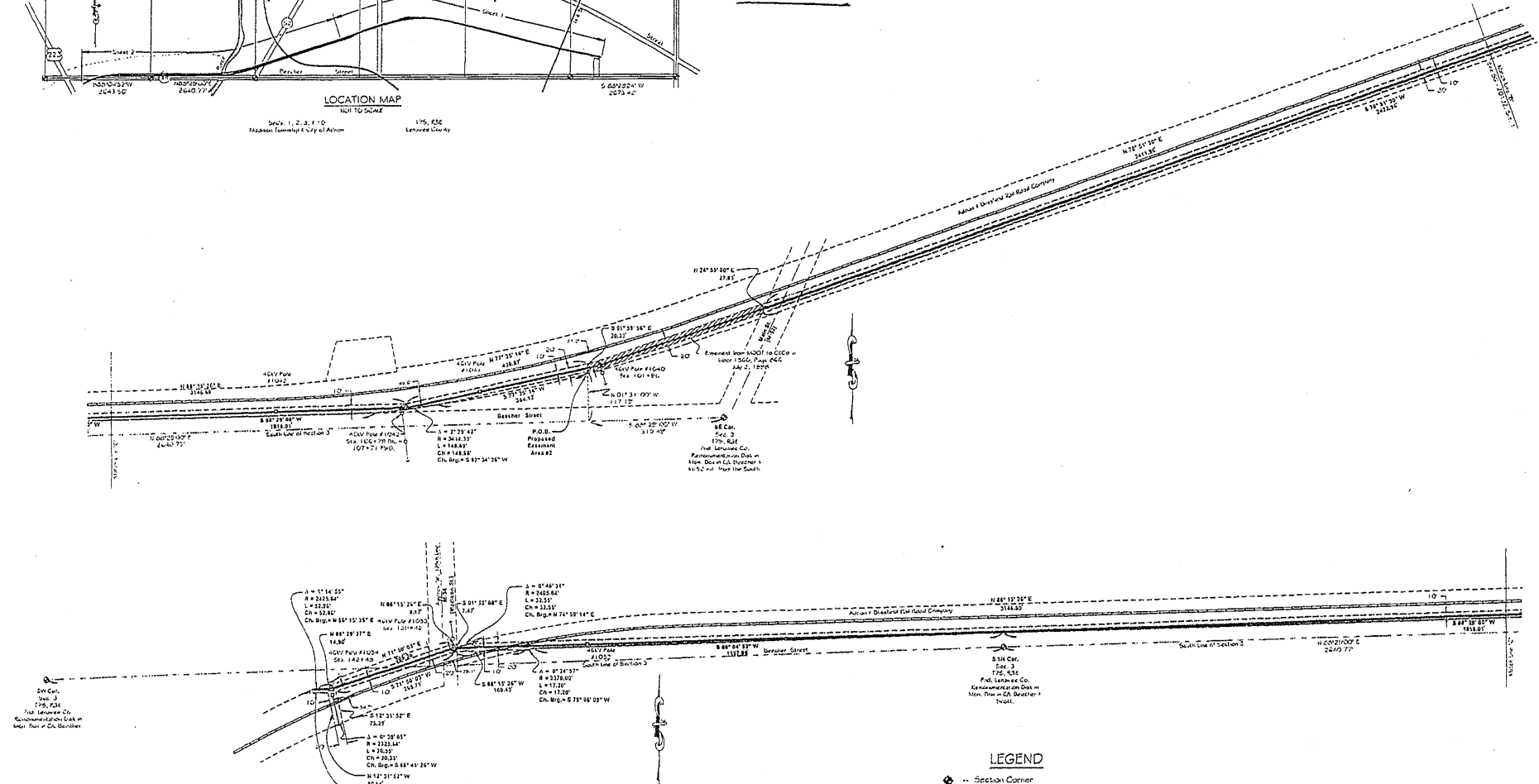
EXHIBIT A
PAGE 3 OF 3



LOCATION MAP
NOT TO SCALE

Box's 1, 2, 3, & 10
Madison Township & City of Adrian

175, R3C
Lenore Cowh



LEGEND

- ◆ Section Corner
 - Found Survey Marker (as noted)
 - Power Pole (as noted)
 - Guy Anchor
 - △ P.I.
 - ▲ S.P.S. Control Point
 - Survey G/L Existing 480V Line
 - ==== R.R. Tracks
 - - - R.R. Right - of - Way Line
 - +--- Fence
- (R) Measured Measurement per Certificate of Survey by Sherrill
Surveying Survey dated 4/1/2016
- (M) Measured
- Proposed Easement Area (5.91 acres Total, Shts. 1 & 2)

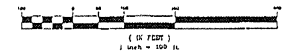
NOTES

- 1) Not all poles are shown. Only angle structures and selected tangent poles were located for the purpose of this survey.
- 2) The railroad right-of-way lines are shown as approximate. Measurements were taken from NDOT's former Penn Central Railroad Right-of-Way maps sheets 111 Hwy 45. Scaling was done where measurements were not available.
- 3) Stationing at the P.I. locations were taken from CPG's Drawing PF-18002, Sheets 1 & 2.
- 4) NDOT questioned the R.R. right-of-way to the Adrian and Glassfield Road Company per Order 1753, pages 210-255.

BASIS OF BEARING

Michigan State Plane Coordinate System - South Zone
GCS State Solution from the ADRI (ADRI) GCS Station

GRAPHIC SCALE



										Unit/Office of Survey by Electrical Surveying Company Cust: 00000456 Declarer - Solay FIELD BOOK: NIG 10955 REFERENCE DRAWINGS:										Dr. Shams Z. Solayah - 06/10/2006 Gen. Meeting: 07/11/2006 Gen. Plan J. Number: PG 07-01-2006										Consumers Energy Beecher - Solvay 46kV Survey Sheet: 1, 2, 3, 4, 10 Headquarters: City of Jackson SCALE: 1" = 100' Scale: Feb. 2006; 2011 Sheet GMS 175, K35 License County																																																	
CDY DATE: →										DISCUSSION										BY: →										REV: →										BY: →										DATE: →										BY: →										DATE: →									

EXHIBIT B

Easement Area

An area of land located in Sections 1 and 2, Town 7 South, Range 3 East, Madison Township and the City of Adrian, Lenawee County, Michigan, said area described as:

Commencing at the Southeast corner of said Section 1, thence South 88°28'24" West, along the South line of said Section 1, 1939.44 feet; thence North 01°48'17" West 442.97 feet to the Southerly line of the Adrian and Blissfield Rail Road Company right-of-way; thence North 80°45'43" West, along said right-of-way line, 15.42 feet to the POINT of BEGINNING; thence continuing North 80°45'43" West, along said right-of-way line, 20.01 feet; thence North 11°04'15" East 61.38 feet; thence North 78°36'14" West 11.03 feet; thence North 08°12'08" East 9.74 feet; thence North 80°59'57" West 962.59'; thence South 12°02'17" West 64.55 feet to the Southerly line of said railroad right-of-way; thence North 78°56'05" West, along said right-of-way line, 20.00 feet; thence North 12°02'17" East 64.51 feet; thence North 77°10'04" West 2770.78 feet; thence North 81°03'34" West 600.58 feet; thence North 89°51'19" West 632.40 feet; thence South 71°03'43" West 1163.85 feet; thence South 60°43'10" West 330.82 feet; thence South 23°40'04" East 12.66 feet to the Southerly line of said railroad right-of-way; thence South 70°52'18" West, along said right-of-way line, 20.06 feet; thence North 23°40'04" West 10.90 feet; thence South 70°51'30" West 2422.96 feet to a point on the Easterly line of an easement from MDOT to Consumers Energy, recorded in Liber 1560, Page 866; thence North 24°55'00" East, along said Easterly line, 27.83 feet; thence North 70°51'30" East 2411.96 feet; thence North 60°43'10" East 329.79 feet; thence North 24°15'43" West 11.05 feet to the Northerly line of said railroad right-of-way; thence North 70°52'18" East, along said right-of-way line, 2.04 feet to the Westerly line of said railroad right-of-way; thence North 19°07'42" West, along said Westerly line, 29.02' to the Northerly line of said railroad right-of-way; thence North 69°17'21" East, along said right-of-way line, 15.40 feet; thence South 24°15'43" East 38.70 feet; thence North 71°03'43" East 1147.29 feet; thence North 09°38'52" West 12.36 feet to the Northerly line of said railroad right-of-way; thence North 89°18'12" East, along said right-of-way line, 20.25 feet; thence South 09°38'52" East 8.47 feet; thence South 89°51'19" East 619.61 feet; thence North 04°15'00" East 17.53 feet to the Northerly line of said railroad right-of-way; thence North 89°18'12" East, along said Northerly line 20.07 feet; thence South 04°15'00" West 19.35 feet; thence South 81°03'34" East 582.90 feet; thence North 11°25'28" East 49.78 feet; thence South 78°34'32" East 20.00 feet; thence South 11°25'28" West 49.60 feet; thence South 77°10'04" East 2770.89 feet; thence South 80°59'57" East 971.46 feet; thence North 08°12'08" East 9.02 feet to the Northerly line of said railroad right-of-way; thence South 80°44'29" East 95.83 feet; thence South 56°15'27" West 59.64 feet; thence North 78°36'14" West 20.50 feet; thence South 11°04'15" West 60.63 feet to the POINT of BEGINNING. Said area containing 4.28 acres.

An area of land located in Sections 3 and 10, Town 7 South, Range 3 East, Madison Township and the City of Adrian, Lenawee County, Michigan, said area described as:

Commencing at the Southeast corner of said Section 3, thence South 88°29'00" West, along the South line of said Section, 319.49 feet; thence North 01°31'00" West, perpendicular to said South line, 117.13 feet to a point on the Westerly line of an easement from MDOT to Consumers Energy, recorded in Liber 1560, Page 866 and the POINT of BEGINNING; thence South 77°35'14" West 364.13 feet to a point on the Southerly line of the Adrian and Blissfield Rail Road Company right-of-way; thence along said Southerly right-of-way line, 148.69 feet along the arc of a curve to the right, said curve having a delta angle of 2°29'42", a radius of 3414.33 feet, and chord length of 148.68 feet bearing South 82°34'36" West; thence continuing along said right-of-way line the following three (3) courses; South 88°29'00" West 1816.01 feet; thence South 88°04'52" West 1107.86 feet to the Southerly right-of-way line of said railroad; thence along said Southerly right-of-way line, 17.20 feet along the arc of a curve to the left, said curve having a delta angle of 0°24'57", a radius of 2370.00 feet, and chord length of 17.20 feet bearing South 79°06'09" West; thence South 88°15'26" West 169.43 feet; thence South 71°50'03" West 295.71 feet; thence South 12°31'52" East 75.29 feet to the Southerly line of said railroad right-of-way; thence along said Southerly right-of-way line, 20.35 feet along the arc of a curve to the left, said curve having a delta angle of 0°30'05", a radius of 2325.64 feet, and chord length of 20.35 feet bearing South 66°45'26" West; thence North 12°31'52" West 80.14 feet; thence South 88°29'37" West 56.20 feet to the Northerly line of said railroad right-of-way; thence along said Northerly right-of-way line, 52.86 feet along the arc of a curve to the right, said curve having a delta angle of 1°14'55", a radius of 2425.64 feet, and chord length of 52.86 feet bearing North 66°15'35" East; thence North 88°29'37" East 14.90 feet; thence North 71°50'03" East 305.36 feet; thence North 88°15'26" East 8.17 feet to the Easterly right-of-way line of Highway M-34 (Madison Street);

thence South $01^{\circ}55'08''$ East, along said Easterly line, 7.47 feet to the Northerly line of said railroad right-of-way; thence along said Northerly right-of-way line, 32.55 feet along the arc of a curve to the right, said curve having a delta angle of $0^{\circ}46'31''$, a radius of 2405.64 feet, and chord length of 32.55 feet bearing North $74^{\circ}59'14''$ East; thence North $88^{\circ}15'26''$ East 3146.69 feet; thence North $77^{\circ}35'14''$ East 439.87 feet to a point Westerly line of the aforementioned easement from MDOT to Consumers Energy; thence South $01^{\circ}59'56''$ East, along said Westerly line, 20.33 feet to the POINT of BEGINNING. Said area containing 1.63 acres.

STATE OF MICHIGAN

IN THE 39th CIRCUIT COURT FOR THE COUNTY OF LENAWE

CONSUMERS ENERGY COMPANY,

Plaintiff,

Case No. 16-_____-CC

v

Hon.

ADRIAN & BLISSFIELD RAIL ROAD
COMPANY, CITY OF ADRIAN, MICHIGAN
DEPARTMENT OF TRANSPORTATION,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY,

Defendants.

Adam C Smith (P69790)
Attorney for Plaintiff
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201
(517) 788-0684

AFFIDAVIT OF DWAYNE C. PARKER

STATE OF MICHIGAN)
)ss.
COUNTY OF JACKSON)

Dwayne C. Parker, having been duly sworn, states as follows:

1. I am currently employed by Consumers Energy Company ("Consumers Energy" or the "Company"), and my present title is Director of Customer & Service Infrastructure – HVD. I have been employed by Consumers Energy since 1981 and have held my current position for approximately two years.

2. I have over 30 years of experience in planning and project management including performing 46,000 volt ("46 kV"), substation, and distribution capacity planning from 1981 to 1983, transmission capacity planning from 1988-1992, and high-voltage distribution ("HVD")

capacity planning from 1992 until 2004. In 2005, I became responsible for overseeing the group that performs HVD capacity planning, and in 2012 I became responsible for groups that perform both HVD capacity and reliability planning for the East side of the Company's electric service area.

3. In my current role for Consumers Energy, and among other responsibilities, I am responsible for overseeing both capacity and reliability planning for the HVD electric system in the Company's service area.

4. Consumers Energy's HVD lines operate at 46 kV and above.

5. Two of the lines that are a part of the Consumers Energy HVD system are the 138,000 volt ("138 kV") Solvay Line and the 46 kV College Park Line (collectively, the "Lines"). Portions of both of the Lines are located in the City of Adrian and extend through surrounding townships within Lenawee County.

6. The Lines are major HVD lines for Consumers Energy and allow it to reliably serve a total of approximately 10,000 customers in this area of Lenawee County, including the dedicated Solvay Substation, which serves a large industrial customer by way of the Solvay Line, and multiple general distribution substations plus two additional, dedicated substations by way of the College Park Line.

7. Because each "customer" represents an individual meter on a given residence, commercial or industrial structure, the actual number of individual people that rely on the Lines for reliable electricity for their relevant homes and businesses is much greater than 10,000.

8. The 138 kV Solvay Line is a radial line that provides the only electric supply to the single customer served by Solvay Substation.

9. One of the parcels of land that the Lines cross along their routes is approximately 2.5 miles of property owned by Adrian & Blissfield Rail Road Company (“Defendant”), which is located in the City of Adrian, Lenawee County (“Property”).

10. Along the Property, the Lines are supported by a single set of poles.

11. Beginning in 1996, Consumers Energy entered into a 20-year agreement with the Michigan Department of Transportation (“MDOT”) to cover the area of the Property required for the Lines.

12. While the MDOT agreement was in effect, MDOT sold the Property and other adjacent real property to Defendant.

13. I understand that throughout the first half of 2016, Consumers Energy and Defendant have had ongoing discussions regarding Consumers Energy acquiring a permanent easement across the Property in connection with the Lines and the supporting set of poles.

14. Consumers Energy requires an easement because HVD facilities such as the Lines are a permanent component of the company’s system and are necessary to continue providing safe, reliable and affordable electricity to customers in Lenawee County, now and in the future.

15. In particular, the ability to continue providing reliable service to these customers requires Consumers Energy to obtain perpetual easement rights and right of way along the existing route for purposes of re-constructing, operating, maintaining, repairing, inspecting, replacing, improving, enlarging and removing electrical facilities, fixtures and equipment over and across the Property.

16. I further understand that in approximately early to mid-June 2016, Defendant changed course and stated that it was only willing to grant Consumers Energy a revocable license rather than a permanent easement.

17. As discussed above, the relevant Lines are a permanent part of Consumers Energy's electric system, and the need for the company to be able to perpetually operate, maintain and take other necessary actions regarding the lines is incongruent with a license that could be revoked at any time in the future.

18. I further understand that on June 10, 2016, Defendant notified Consumers Energy that Consumers Energy would have to vacate the Property by July 10, 2016. If Defendant follows through on this threat, Consumers Energy's ability to continue reliably serving the approximately 10,000 customers who receive electricity from the Lines would be impaired.

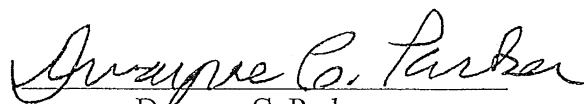
19. Such impairment would be either (a) direct, by cutting off the sole source of supply for certain customers connected to the Lines; or (b) indirect, through reduced reliability for certain customers caused by eliminating the dual-source, looped circuit that currently exists along the College Park Line and turning it into a single-source, radial line until a new connection could be established.

20. Even if Defendant had the right to demand that Consumers Energy's facilities be removed from the Property, it would likely take significant time to accomplish that removal and establish new facilities to reliably serve the approximately 10,000 customers in the City of Adrian and surrounding townships that receive service from the Lines.

21. Without the necessary permanent rights for the Lines, Consumers Energy's ability to meet its obligation to provide adequate and reliable electric service to the approximately 10,000 customers served by these facilities will be in question, because with a license agreement Defendant could demand that Consumers Energy remove these facilities at any time in the future.

22. Given Defendant's change in position on the rights it is willing to grant for the Lines and the unrealistic June 10, 2016 demand that Consumers Energy vacate the Property by July 10, 2016, I am concerned that Defendant may take actions in connection with the Lines that would impair Consumers Energy's ability to continue providing adequate and reliable electricity to the approximately 10,000 residential, commercial and industrial customers that are served by the Lines.

23. I am of legal age and could testify competently to the facts stated in this affidavit based on my own personal knowledge if called to do so.


Dwayne C. Parker

Subscribed and sworn to before me this 5 day of July, 2016.


Michelle B. Horn, Notary Public
State of Michigan, Jackson County
Acting in Jackson County, Michigan
My Commission Expires: 6/1/2020

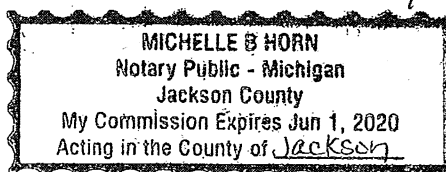
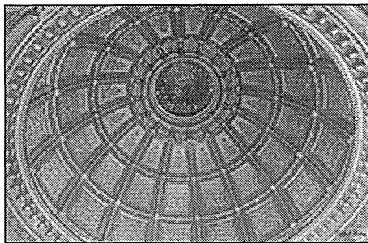


EXHIBIT D



MICHIGAN LEGISLATURE

Michigan Compiled Laws Complete Through PA 131 of 2017
 House: Adjourned until Tuesday, October 31, 2017 1:30:00 PM
 Senate: Adjourned until Tuesday, October 31, 2017 10:00:00 AM

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 SECTIONS

MCL Chapter Index

Chapter 486

Act 238 of 1923

Section 486.252

Section 486.252

friendly link Printer Friendly

ELECTRIC AND GAS CORPORATIONS (EXCERPT) Act 238 of 1923

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486.252 Corporate powers.

Sec. 2.

Every corporation organized as provided in section 1 of this act shall have the following powers:

First, To cause such examinations and surveys for all proposed improvements to be made as may be necessary to prepare for the work to be done.

Second, To acquire by lease, purchase, grant, and donation all such lands, easements, royalties, leaseholds, flowage rights, water power and other property, and any interest therein, as may be necessary to carry out its corporate purposes.

Third, To dam any stream or streams, and to excavate, construct, maintain, repair, and improve any existing stream or canal, or which it may excavate and construct, with water power appurtenant thereto.

Fourth, To flood, flow, and submerge its land and property by constructing the necessary dams in any canal, or in creeks, streams, or other water courses, natural or artificial.

Fifth, To condemn all lands and any and all interests therein, easements, rights of way, and other property other than lands lying within a known mineral zone of iron ore, copper, or coal, which may be necessary to generate, transmit, and transform electric energy for public use in, upon, or across private property.

Sixth, To condemn all lands, easements, rights of way, gas royalties, natural gas leaseholds and other property and any and all interests therein, other than lands lying within a known mineral zone of iron ore, copper, or coal, which may be necessary for pipe line rights of way or for an underground natural gas storage field or fields. However, the right to condemnation hereby granted shall not extend to or include the right to condemn lands, easements, rights of way, gas royalties, natural gas leaseholds, or other property or any interest therein, which are owned, leased, or used by any public utility or natural gas company carrying on the business of producing, gathering, transmitting, storing, selling, or supplying gas within the state. The term "natural gas company", as used

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mcl 486 252

in this act, is hereby defined as a corporation engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale. However, the condemnation of lands, natural gas leaseholds, or other property or any interest therein for an underground natural gas storage field in any formation shall be without prejudice to the right of the owner or owners of such lands, natural gas leaseholds, or other property or interest therein to drill through the formation or formations used or to be used for underground storage of natural gas provided adequate precautions are taken by such owner or owners to prevent the escape of gas stored in such formation or formations. Such condemnation proceedings in all cases shall be brought by petition addressed to the probate court for the county in which the land or any part thereof or interest therein to be condemned is located, and shall conform, as nearly as practicable, to the rules of pleading and practice governing probate court procedure. The petition shall set forth with reasonable certainty the description of each parcel of land and interest therein sought to be acquired, and the name or names of the persons owning or having interest in the land or parcels sought to be condemned insofar as disclosed by the records in the office of the register of deeds in the county in which the lands are situated, and shall specify generally the purpose and necessity of acquiring such lands and interests. Where a project involves more than 1 parcel of land located within a single county, all or any number of such parcels, irrespective of the number of persons owning or having interests therein, may be joined in 1 proceeding. The petition shall request that all persons interested in the respective premises described, or any part thereof, be required to appear and answer the petition, and show cause, if any they have, against the same, and shall pray for the appointment of 3 disinterested freeholders and residents of the county in which the land is situated as commissioners to perform the duties assigned them as hereinafter provided. Where the petitioner seeks to exercise the rights conferred by the provisions of paragraph fifth of this section, for the purpose of acquiring any property or interest therein for use as a water power project, the petitioner shall first have acquired and its petition shall contain the additional allegation that the petitioner has acquired, prior to the filing of such petition, by any means other than by condemnation, at least 90% of the property rights and interests including lands to be overflowed, required for such purpose, within the area proposed for such water power project. Where the petitioner seeks to exercise the rights conferred by the provisions of paragraph sixth of this section, for the purpose of acquiring any property or interest therein for use as a natural gas storage field, the petition shall contain the allegation that more than 75% of the recoverable gas reserves originally in that natural gas storage field were produced before the filing of the petition. Where less than 75% of the recoverable gas reserves originally in the natural gas storage field were produced before the filing of the petition, the petitioner shall first have acquired and its petition shall contain the allegation that the petitioner has acquired, prior to the filing of such petition, by any means other than by condemnation, at least 75%, computed in respect to surface area, of the property rights and interests in the underground field required for storage purposes, and its petition shall also contain an accurate description of the surface area underlaid by the formation or formations to be used for natural gas storage.

The petition shall also contain the allegation that a certificate has been obtained from the public service commission that the present or future public convenience and necessity require or will require the acquiring of any property or interest therein for use as a natural gas storage field. Upon application being filed with the public service commission for a

certificate required by this section, the commission shall set the matter for hearing and shall give reasonable notice of the hearing thereon to all interested parties as in the commission's judgment may be necessary under rules prescribed by the commission. The commission may issue a temporary certificate in case of emergency to assure maintenance of adequate service without notice of hearing pending the determination of an application for a permanent certificate. The commission by rule may exempt from the requirements of this section temporary acts or operations for which the issuance of a certificate is not required in the public interest. Before any certificate is granted, the commission shall examine and inquire into the necessity of the natural gas storage field and determine that the natural gas storage field will serve the present or future public convenience and necessity, and that the field is safe for development and operation of gas storage. The granting of a permanent or temporary certificate by the commission pursuant to this section constitutes a prima facie case in any court of this state that the natural gas storage field so certified is required by the public convenience and necessity.

History: 1923, Act 238, Eff. Aug. 30, 1923 ;-- Am. 1929, Act 253, Eff. Aug. 28, 1929 ;-- CL 1929, 11872 ;-- Am. 1947, Act 356, Eff. Oct. 11, 1947 ;-- CL 1948, 486.252 ;-- Am. 1957, Act 67, Imd. Eff. May 21, 1957 ;-- Am. 1961, Act 69, Eff. Sept. 8, 1961 ;-- Am. 1973, Act 26, Imd. Eff. June 14, 1973

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ORIGINAL

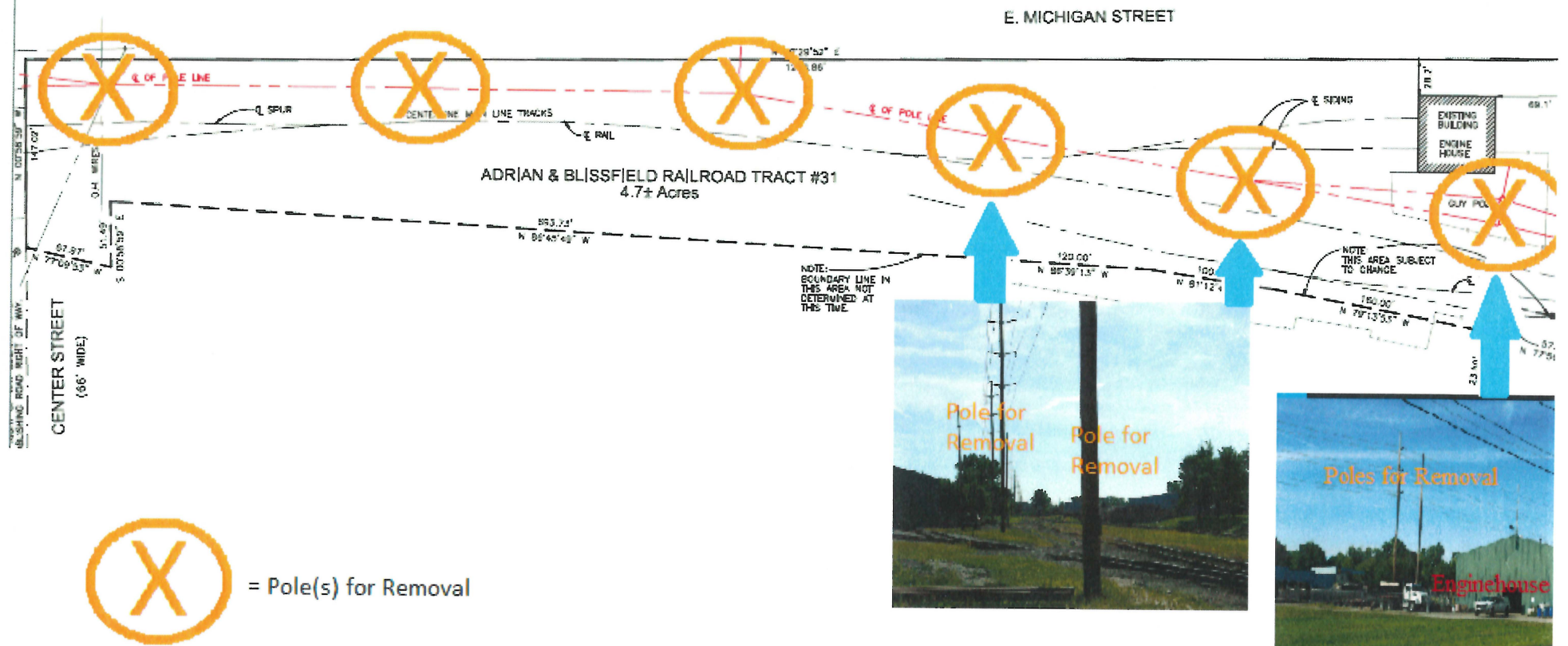
APPENDIX 1

Appendix 1 Photo 1

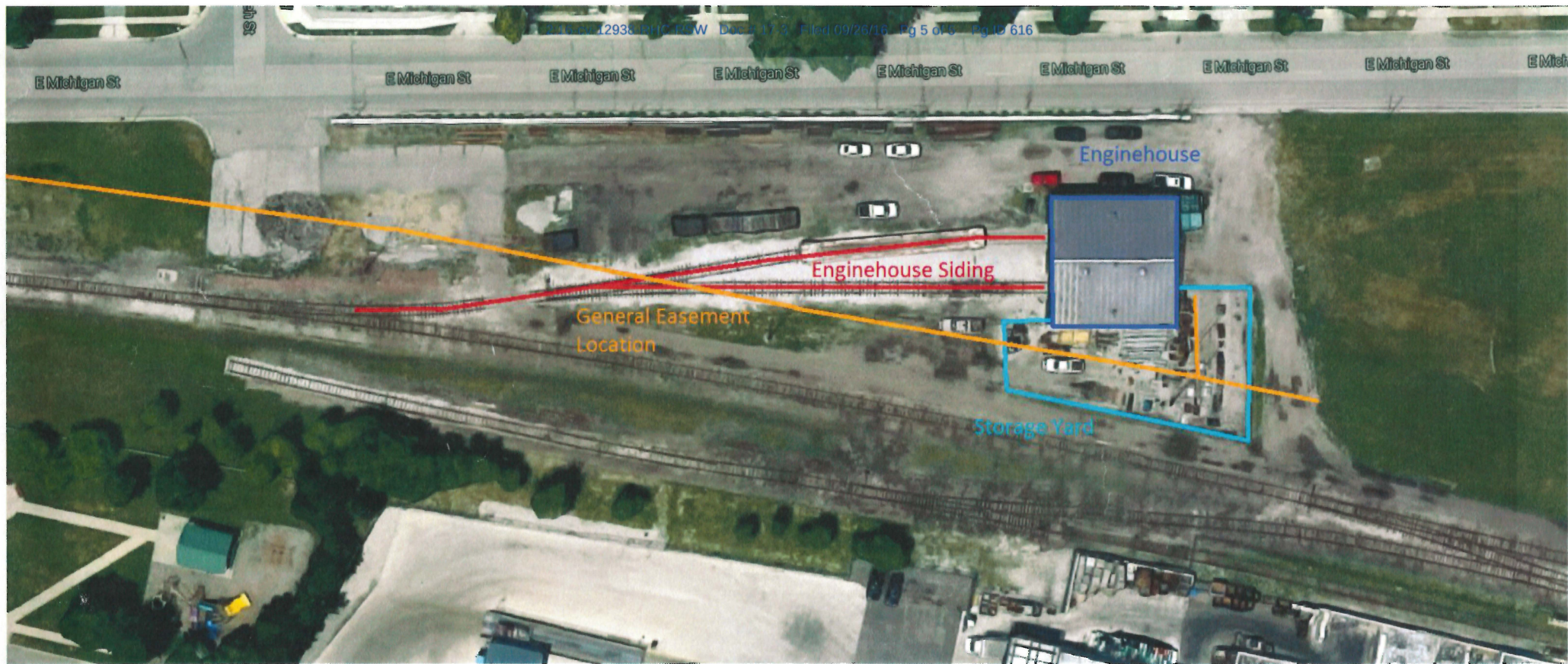


ADRIAN & BLISSFIELD RAILROAD PROPERTY MAP

PART OF THE SOUTHEAST 1/4 OF SECTION 2, TOWN 7 SOUTH, RANGE 3 WEST, CITY OF ADRIAN, LENAWEE COUNTY, STATE OF MICHIGAN.



Appendix 1 photo 3



Appendix 1 Photo 4



Appendix 1

R.A. DUTLER
LAND SURVEYOR LLC

PH. (810) 724-6532
FAX (810) 724-1551
158 EAST THIRD STREET
MILAY CITY, MI. 48444

PREPARED FOR: A&B RAILROAD CO.
OCTOBER 26, 2017
JOB# 071005RR

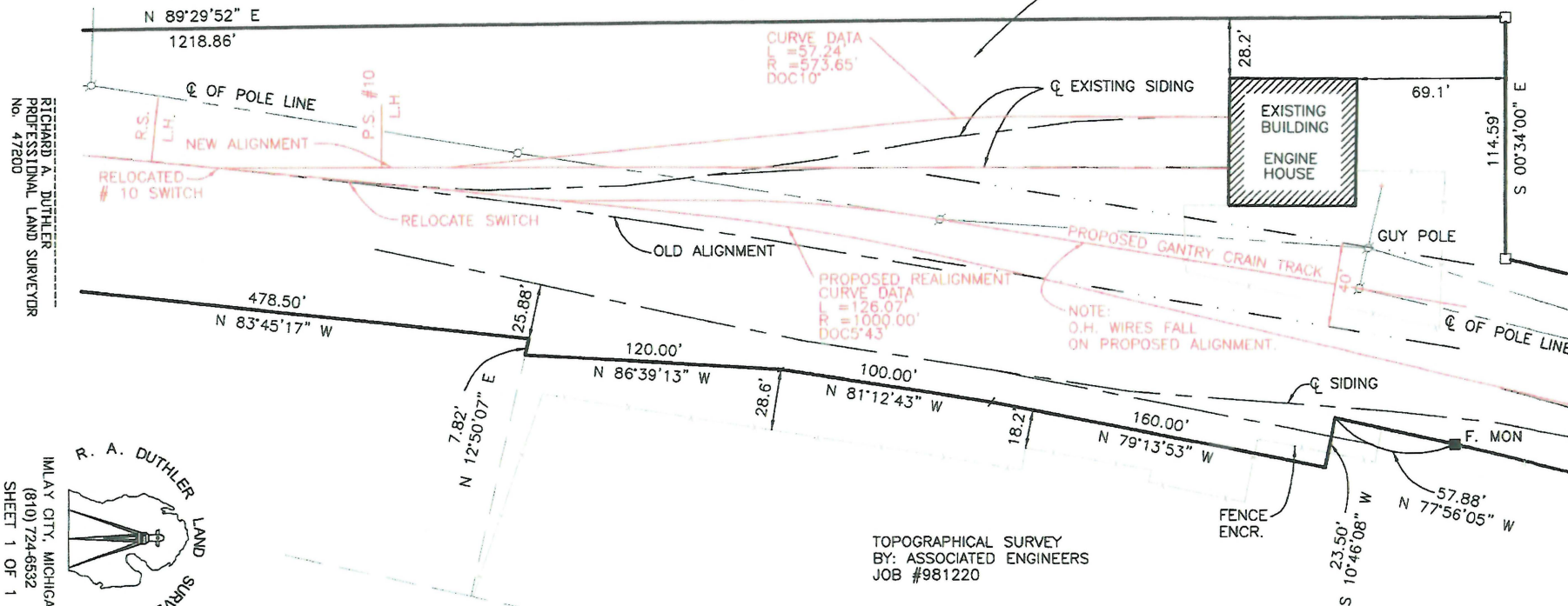


1" = 60'

E. MICHIGAN STREET

ADRIAN & BLISSFIELD RAILROAD TRACT #31
4.416 Acres

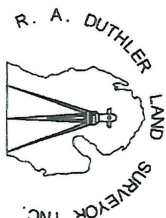
PROPOSED GANTRY CRAN TRACK



TOPOGRAPHICAL SURVEY
BY: ASSOCIATED ENGINEERS
JOB #981220

OMNISOURCE

RICHARD A. DUTLER
PROFESSIONAL LAND SURVEYOR
No. 47200



MILAY CITY, MICHIGAN
(810) 724-6532
SHEET 1 OF 1

APPENDIX 2

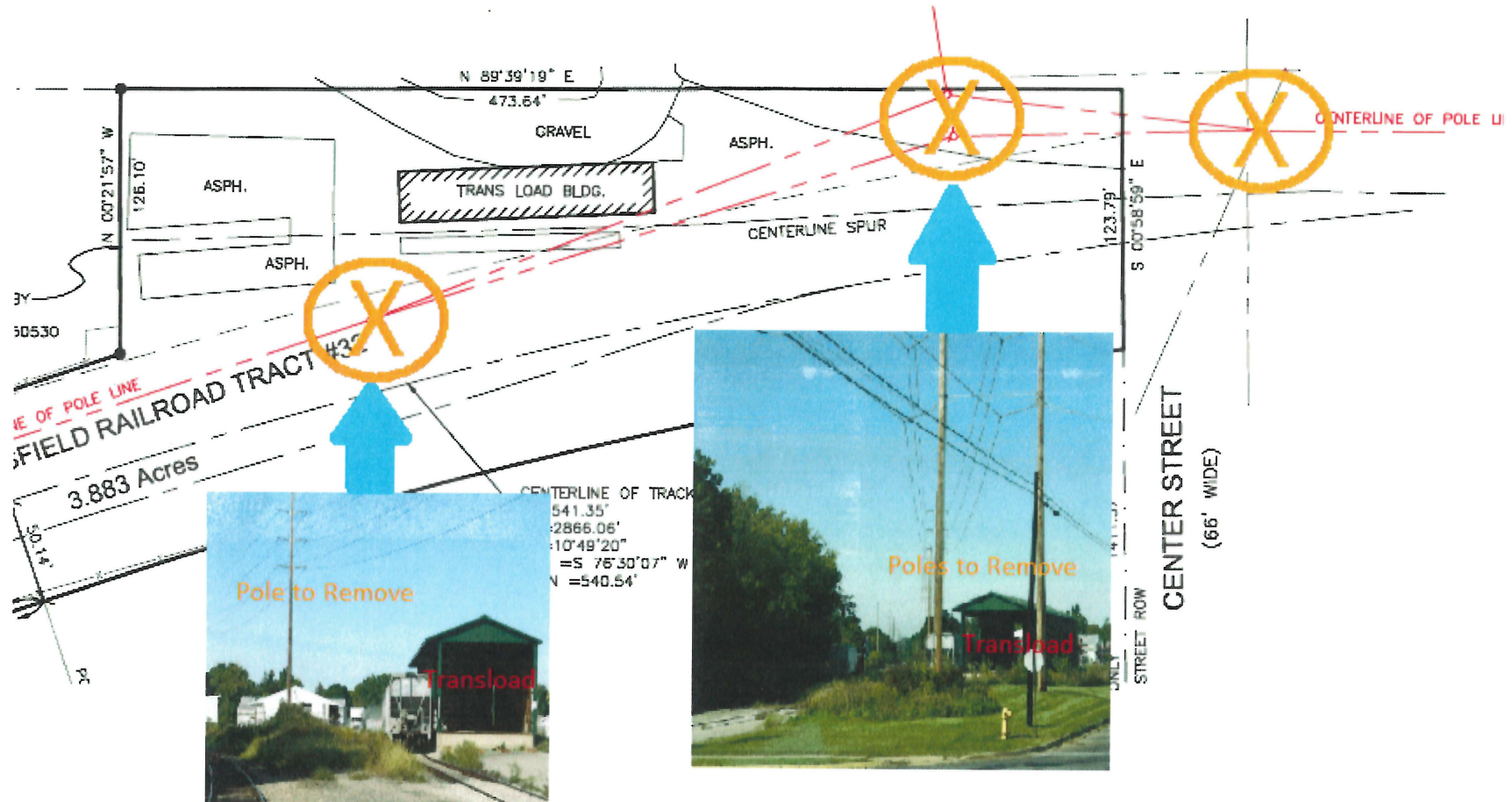
Appendix 2 photo 1



Appendix 2 photo 2



Appendix 2 photo 3



Appendix 2 photo 4



Appendix 2 photo 5

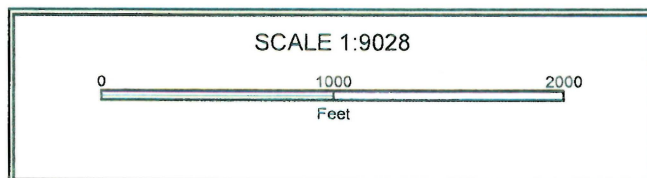
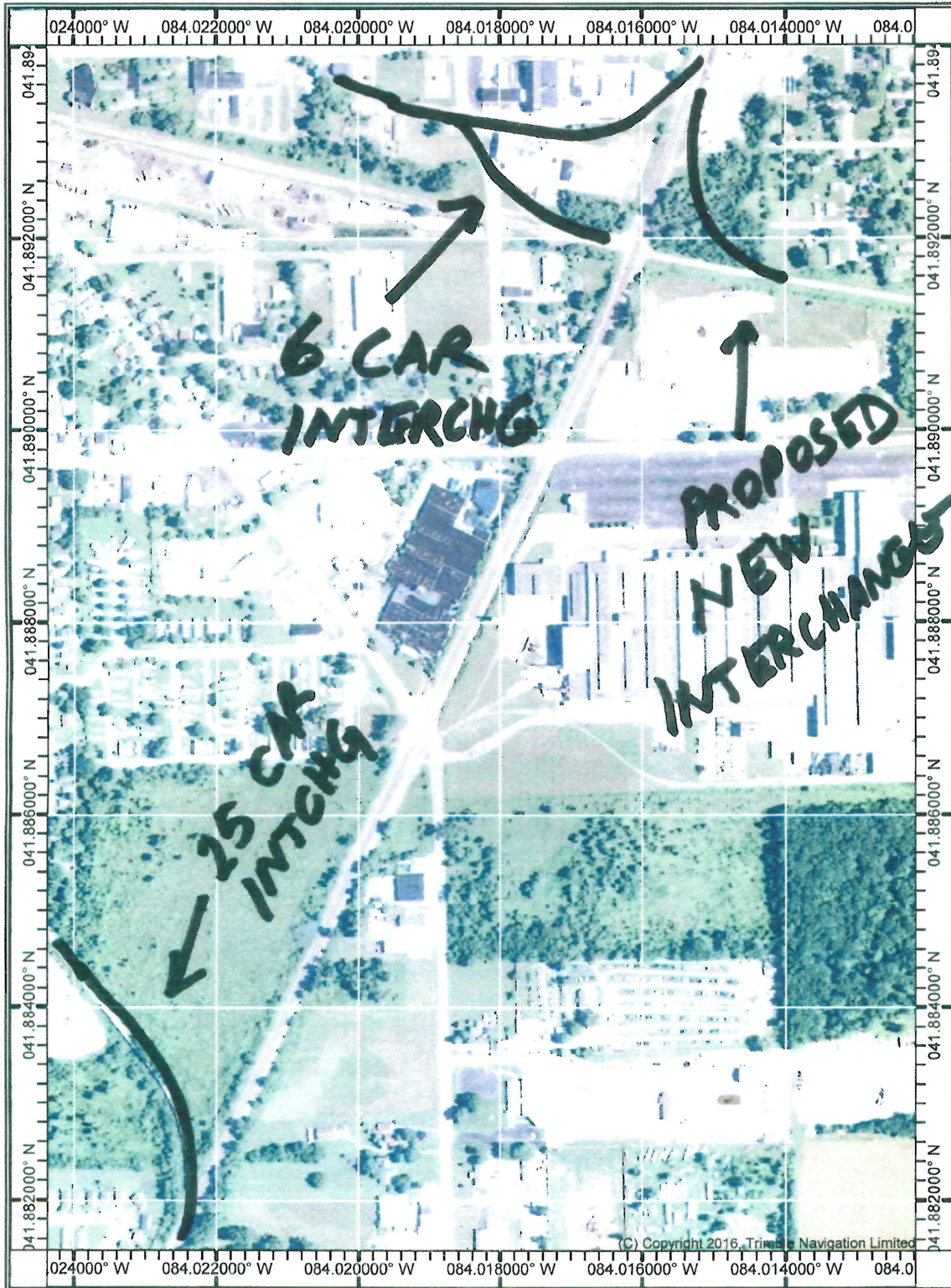


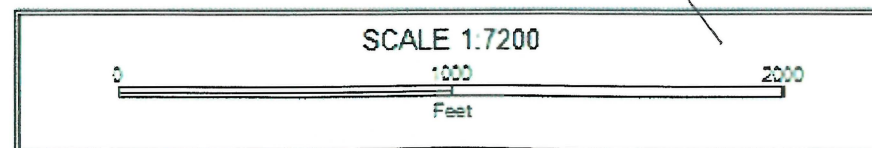
APPENDIX 3

Appx 3



APPENDIX 4





APPENDIX 5

Heffner, John D.

From: mdobronski@abrailroad.com
Sent: Thursday, October 26, 2017 12:13 PM
To: Heffner, John D.
Cc: crdobronski@abrailroad.com; ckovsky@engenius.com
Subject: NS NOW REQUIRES 85 CAR INTERCHANGE

----- Original Message -----

Subject: MAC 85 car unit trains
From: "Heath, Jodi M." <Jodi.Heath@nscorp.com>
Date: Fri, December 09, 2016 5:19 pm
To: Brenda Rice <brice@abrailroad.com>, "lmcccloud@abrailroad.com"
<lmcccloud@abrailroad.com>

Brenda and Larry, after 9/30/17, NS destinations will no longer be quoted in 75 car rates. Many of the NS origins have recently completed – or will soon complete – efforts to expand their facilities to be able to build 85 car trains within 24 hours. This, of course, must be done without any use of the NS mainline.

MAC said that the ADBF is just concerned about possible delays to their bi-weekly dinner train operations. In the past, they said you have had no problems handling 85 car trains out of Blissfield. So, hopefully you can make the necessary adjustments over the coming months with the dinner train.

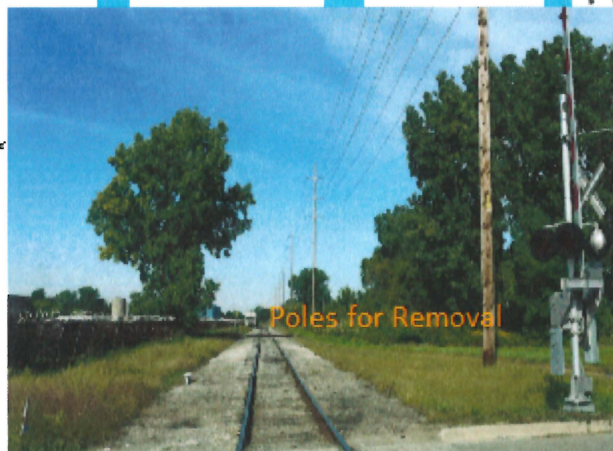
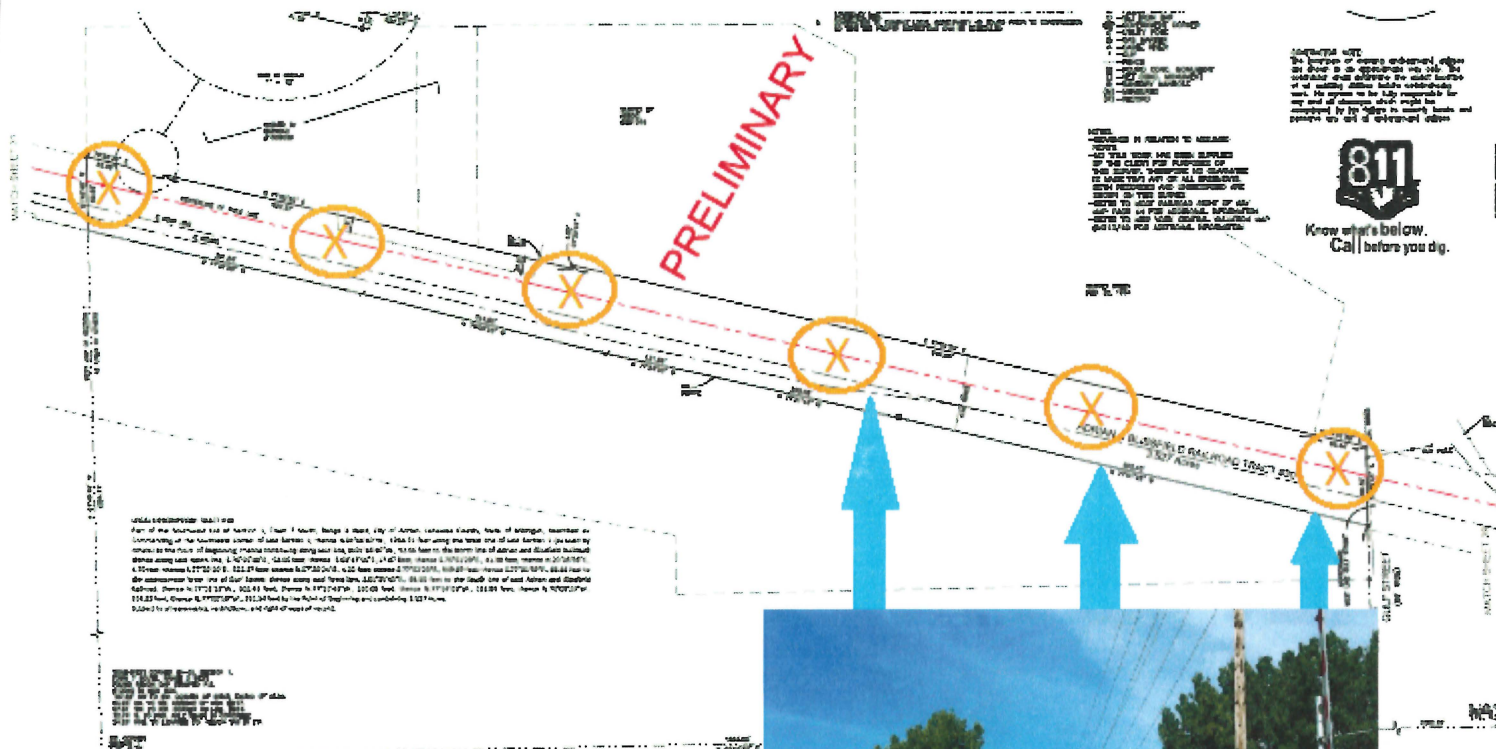
In the meantime, we will need an 85 car unit train rate from you please. Let me know if you have any questions.

Thank you!

Sent from my iPhone

APPENDIX 6

Appendix 6



APPENDIX 7

Appx 2

AERONAUTICS COMMISSION

Rick Fiddler, Chairperson
Russ Kavalhuna, Vice Chair
Mike Trout, Commission Director
Pete Kamarainen
J. David VanderVeen
Roger Salo
Capt. Joe Gasper
Brig. Gen. Len Isabelle
Laura Mester
Kevin Jacobs

STATE OF MICHIGAN



Rick Snyder, Governor

Michigan Department of Transportation

2700 Port Lansing Rd Lansing, MI 48906
Phone: 517-335-9949 Fax: 517-886-0366

Tall Structure Permit

August 25, 2016

Michigan's Tall Structure Act (Act 259, P.S. 1959, as amended by Act 28 P.A. 2016), places authority for review of construction proposals which may affect Michigan airspace with the Michigan Aeronautics Commission (MAC). The Michigan Aeronautics Commission has delegated its authority for airspace reviews and approvals to the Michigan Department of Transportation's Michigan Department of Transportation.

The Michigan Department of Transportation has conducted a review of the following proposal:

FAA Airspace Case Number:	2016-AGL-10407-OE
Structure Type:	Antenna Tower
Height Above Ground:	180'
Top Elevation:	990'
Associated Airport:	Lenawee County
Geographic Coordinates:	41° 53' 37.06" N / 84 ° 1' 30.53" W

Please note that:

1. This permit expires on Friday, August 25, 2017.
2. Obstruction marking and lighting is not required for this structure.
3. Changes to this proposal which increase its top elevation or location will INVALIDATE this PERMIT. Please advise the Michigan Department of Transportation of any modifications immediately.
4. If a Notice of Actual Construction (Form 7460-2) is sent to the FAA, please send a copy to the Michigan Department of Transportation.
5. This permit, issued in accordance with the Michigan Tall Structure Act (Act 259 of 1959), concerns the effect of this proposal on air navigation and does not relieve the proponent of any compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

Under the authority of the Tall Structures Act, this PERMIT is issued to:

ADRIAN & BLISSFIELD RAIL ROAD COMPANY
Attn: HON
38235 N EXECUTIVE DR
WESTLAND, MI 48185-1971

I can be contacted at telephone number 517-335-9949 or email address
MDOT_Tall_Structures@michigan.gov if you have any questions or comments.

Linn P. Smith

Mr. Linn P. Smith
Aviation Planning and Zoning Specialist
Michigan Department of Transportation



Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
10101 Hillwood Parkway
Fort Worth, TX 76177

Aeronautical Study No.
2016-AGL-10407-OE

Issued Date: 08/04/2016

HON. MARK W. DOBRONSKI
ADRIAN & BLISSFIELD RAIL ROAD COMPANY
38235 N EXECUTIVE DR
WESTLAND, MI 48185-1971

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Antenna Tower ADRIAN
Location:	ADRIAN, MI
Latitude:	41-53-37.06N NAD 83
Longitude:	84-01-30.53W
Heights:	810 feet site elevation (SE)
	180 feet above ground level (AGL)
	990 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- ☐ At least 10 days prior to start of construction (7460-2, Part 1)
☒ Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory circular 70/7460-1 L.

This determination expires on 02/04/2018 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates , heights, frequency(ies) and power . Any changes in coordinates , heights, and frequencies or use of greater power will void this determination. Any future construction or alteration , including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (817) 222-5932. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2016-AGL-10407-OE.

Signature Control No: 299273158-300926106

(DNE)

Joan Tengowski
Technician

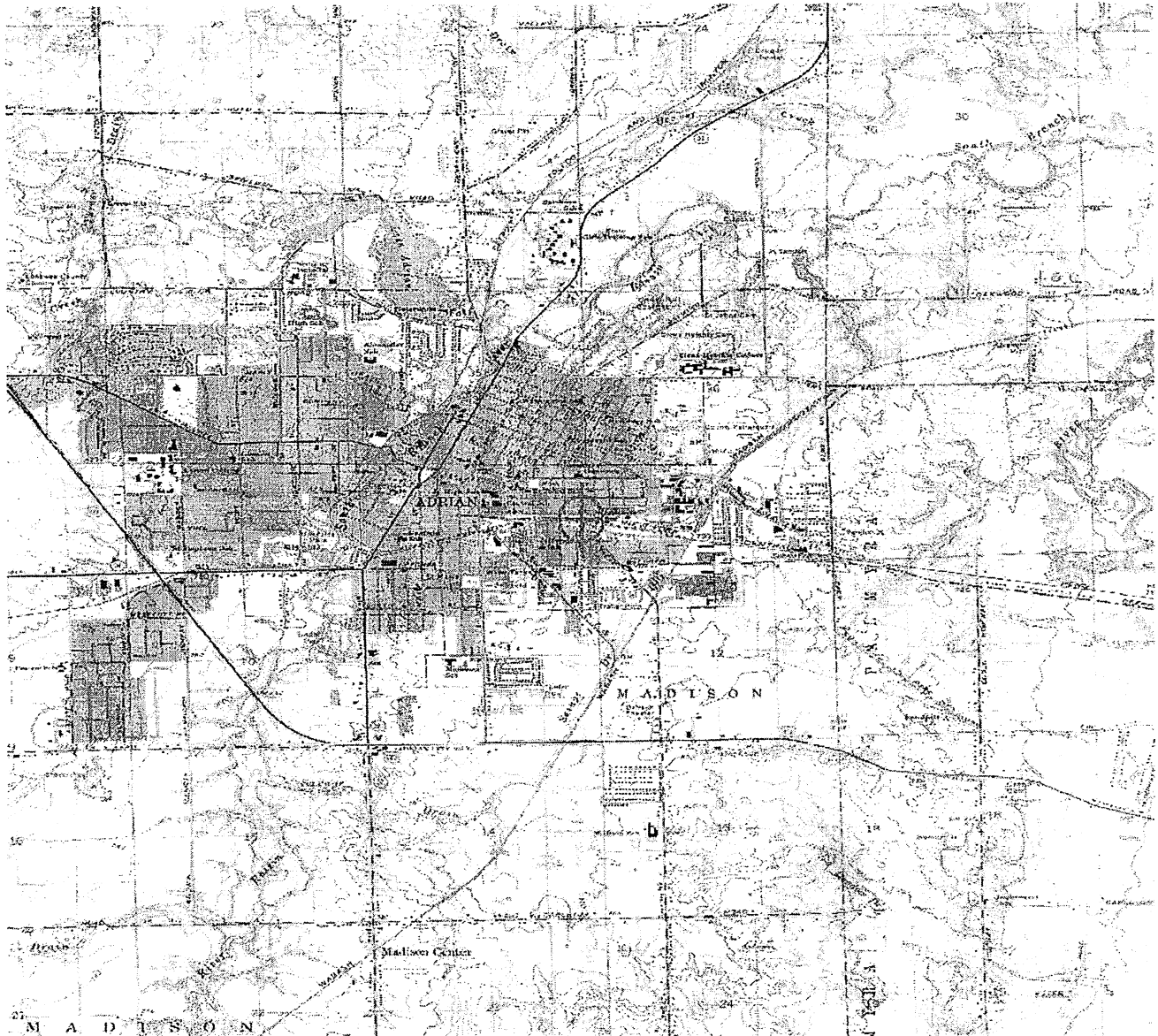
Attachment(s)
Frequency Data
Map(s)

cc: FCC

Frequency Data for ASN 2016-AGL-10407-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
160.215	161.565	MHz	200	W
453	459	MHz	50	W

TOPO Map for ASN 2016-AGL-10407-OE



ASR Application Search

Application A1050767**Application Detail**

File Number A1050767

Constructed

Registration
Number

Dismantled

NEPA

EMI

No

Application Information

Status Returned

Received

10/05/2016

Purpose New

Entered

10/05/2016

Mode Interactive

Antenna Structure

Structure Type LTOWER - Lattice Tower

Location (In NAD83 Coordinates)

Lat/Long 41-53-37.1 N 084-01-30.5 W

Address

828 E MICHIGAN ST

City, State ADRIAN , MI

Zip 49221-3030

County

LENAWEE

Center of
AM ArrayPosition of
Tower in Array**Heights (meters)**

Elevation of Site Above Mean Sea Level

Overall Height Above Ground (AGL)

246.9

54.9

Overall Height Above Mean Sea Level

Overall Height Above Ground w/o
Appurtenances

301.8

54.9

Proposed Marking and/or Lighting

None

FAA Notification

FAA Study 2016-AGL-10407-OE

FAA Issue Date 08/04/2016

Owner & Contact Information

FRN 0008282139

Owner Entity Corporation
Type**Owner**ADRIAN & BLISSFIELD RAIL ROAD COMPANY
Attention To: MARK W DOBRONSKI
38235 N EXECUTIVE DR
WESTLAND , MI 48185-1971P: (734)641-2300
F: (734)641-2323
E: mdobronski@abrailroad.com**Contact**DOBRONSKI , MARK W
38235 N EXECUTIVE DR
WESTLAND , MI 48185-1971P: (734)641-2300
F: (734)641-2323
E: mdobronski@abrailroad.com**Environmental Compliance**

Does the applicant request a Waiver of the Commission's rules for environmental notice?

No

Is another Federal Agency taking responsibility for environmental review?

No

Reason for another Federal Agency taking responsibility for environmental review

Is the applicant submitting an Environmental Assessment?

No

Does the applicant certify to No Significant Environmental Effect pursuant to Section

Basis for Certification

Name of Federal Agency

Local Notice Date

National Notice Date

10/14/2016

Certification

Authorized Party

DOBRONSKI, MARK W

Title

PRESIDENT

Receipt Date

10/05/2016

Comments

Comments

None

History

Date

Event

08/15/2017

Return Letter Sent

08/12/2017

Application Returned

10/05/2016

New Application Received

Trans Log

Date

Description

Existing Value

Requested Value

None

Pleadings

Pleading Type

Description

Date Entered

None

Automated Letters

Date

Description

08/15/2017

Return, Reference 959474

Attachments

Type

Description

Date Entered

None

CLOSE WINDOW



Federal Communications Commission
Wireless Telecommunications Bureau
1270 Fairfield Road
Gettysburg, PA 17325-7245

NOTICE OF RETURN

ATTN: MARK W DOBRONSKI
ADRIAN & BLISSFIELD RAIL ROAD COMPANY
38235 N EXECUTIVE DR
WESTLAND, MI 48185-1971

Date: 08-15-2017
Reference No.: 0959474
File No.: A1050767

Re: ADRIAN & BLISSFIELD RAIL ROAD COMPANY

Your application for antenna structure registration is in a return status for the reason(s) indicated below. You must file an Amendment using FCC Form 854 to provide the requested information before the FCC will resume processing your application. Amending your application without making all the necessary changes and/or providing the requested information will result in dismissal of your application. If you have not filed an Amendment within 60 days of the date at the top of this letter, your application will be Dismissed. Manual filings should be mailed to the address noted above. Overnight couriers and hand deliveries should be sent to Federal Communications Commission, 1280 Fairfield Road, Gettysburg, PA 17325.

You must obtain a registration number before beginning any construction or alteration of the antenna structure. The file number assigned to this application is not an authorization to construct or modify the antenna structure.

To file your Amendment electronically, connect to the Antenna Structure Registration system by pointing your web browser to <http://wireless.fcc.gov/antenna>. **Electronic filing is recommended.** However, if you wish to file your Amendment manually, submit a paper copy of FCC Form 854 (select the purpose code "AM"). **If you file an Amendment electronically, do not manually submit the same Amendment.** Application forms can be obtained from the FCC's website at <http://www.fcc.gov/formpage.html>, by calling the FCC's Forms Distribution Center 800-418-FORM (800-418-3676), or from FCC's Fax Information System by dialing (202) 418-0177. For additional assistance, you may visit the website at <http://esupport.fcc.gov>. You may also call the FCC at (877) 480-3201 (TTY 717-338-2824). To provide quality service and ensure security, all telephone calls are recorded.

Application is returned for failure to be completed within a reasonable period of time (i.e., 10 months).

CRIMINAL

**VERIFIED STATEMENT
OF MARK W. DOBRONSKI**

STATE OF MICHIGAN)
) ss;
COUNTY OF WAYNE)

Mark W. Dobronski, being first duly sworn, does state as follows under the penalty of perjury:

1. I am the duly appointed President of the Adrian & Blissfield Rail Road Company ("ADBF") and have acted as such since July 15, 2003. I have personal knowledge of the matters asserted herein; and if called as a witness, I could competently testify to same.

2. ADBF is a Class III common carrier short line railroad subject to the jurisdiction of the ICC Termination Act ("ICCTA") and the federal Surface Transportation Board. With offices located at 38235 North Executive Drive in Westland, Michigan, ADBF owns and operates approximately 18.91 route miles of railroad track in and through Lenawee County, MI. Through its connection at Adrian with Norfolk Southern Railway, ADBF provides service in interstate and foreign commerce to origins and destinations throughout the United States, Canada, and Mexico.

3. The rail lines today owned and operated by ADBF have been in continual use as an active operating railroad since 1836 and have been operated by ADBF since 1991.

4. In November 2000, ADBF acquired its track and right of way including the real property in Adrian, MI, that is the subject of this proceeding, from the Michigan Department of Transportation ("MIDOT").¹

¹ Prior to that ADBF leased its line from MIDOT.

5. ADBF currently provides service to ten (10) on-line customers handling approximately 2,500 carloads of freight per year and serves an additional unknown number of customers through use of its transload facility at Adrian.²

6. This proceeding concerns an attempt by Consumers Energy Company ("Consumers") to condemn an easement on 2.5 miles of ADBF railroad right of way over which Consumers owns series of high voltage electric transmission lines.

7. The subject power lines were originally constructed by Consumers on or after 1996 pursuant to a 20 year lease granted by the line's former owner, MIDOT. As relevant, that lease did not contain any renewal provision and also provided that ADBF could on 30 days' notice require Consumers to remove its lines and restore the property to its former condition. Upon its expiration, Consumers initially sought to replace the lease with a permanent easement over ADBF's property.

8. The property Consumers proposes to condemn is used on a daily basis by ADBF for its railroad operations, including but not limited to the movement of freight, storage of equipment, transloading of freight, track maintenance, repair of engines, and interchange of offline freight with Norfolk Southern.

9. Initially, the parties began their discussions with Consumers offering to purchase an easement for about \$100,000 pursuant to its standard easement form, which gave Consumers *unfettered* control over the use of the affected railroad right of way. ADBF made an offer to consider an easement for \$660,000, subject to terms dictated by ADBF. Consumers countered with an offer of \$600,000, but subject to the requirements that Consumers *maintained control* over the easement. ADBF learned of a misrepresentation made by Consumers concerning the

² ADBF also operates a dinner train on its property; however, this service represents substantially less than 10% of its total revenues.

number of wires and voltages located on the utility poles at which point, ADBF withdrew all contingent offers for an interest in its real estate and insisted that Consumers first make good on past due rent before proceeding with further discussions. Based on a cost/benefit analysis applied to the true circumstances existing with respect to the number of wires and voltages (not as misrepresented by Consumers), the value of the right to utilize ADBF's property was worth \$1.75 million, which was an offer made to Consumers, but again subject to the requirement that ADBF controlled the easement and its use. Consumers turned down the offer. After further consideration of the matter and before the condemnation action was commenced, ADBF decided that it was in its best interest to forego consideration of allowing Consumers use of its right-of-way and elected instead to concentrate on its own business pursuits, including necessary expansion of facilities as ADBF saw fit and as required by federal laws and regulations.

10. Under current ownership and management ADBF's business has grown substantially since the time the 1996 MIDOT/Consumers lease was executed. That growth has compelled ADBF to establish a new Norfolk Southern interchange location capable of handling more cars, add yard tracks for switching and car storage, expand its engine house and repair capabilities, and erect a radio tower for communications with train crews. As I will show later, the power lines preclude these expansion efforts.

11. Unable to reach agreement, Consumers filed suit in Michigan state court to condemn an easement over ADBF's property. The property that Consumers would condemn would involve taking substantial portions of mainline track, and several critical railroad facilities including (1) mainline track, (2) the engine house and storage facility, (3) transload facility, (4) the primary interchange with Norfolk Southern, and (5) the secondary interchange with Norfolk Southern and (6) the radio tower.

12. More significantly, Consumers' taking would also cause ADBF to give up control of its property and would cede to Consumers its ability to necessarily expand the railroad or any of the critical facilities over which the easement lies. In other words, our future at Adrian would be at Consumers' *sole discretion*. I cannot emphasize enough how giving Consumers control over our property would put ADBF at a disadvantage. This issue really affects the *constantly evolving future use* of our property including matters due to federal regulation such as positive train control ("PTC") that we could not have previously anticipated. Currently ADBF is exempt from PTC requirements as we do not handle hazardous commodities, host scheduled passenger rail service, or operate sufficient trains requiring a PTC system. But recently, we were asked by a customer to handle anhydrous ammonia, a hazardous commodity and that would require ADBF to install PTC. Norfolk Southern has suggested that we interchange some traffic with them at Milan, MI, requiring ADBF to operate over their railroad and requiring that our engines be PTC equipped. The 180' high transmission tower needed for PTC discussed later in my statement would be located at our engine house. Still another evolutionary change would be Norfolk Southern's requirement that we construct an interchange track capable of handling an 85 car unit train. Thus our higher asking price would be to compensate the railroad if it had to relocate some of its facilities and operations on account of the power lines.

13. So that the Board can better understand how Consumers' easement would adversely affect ADBF's plans and operations, I will discuss the relationship between each of these improvements and the proposed easement.

- Upgraded engine house. ADBF needs to be able to expand its existing engine servicing facilities so that we can perform our own locomotive maintenance instead of depending upon outside contractors. Not only can we better ensure the

quality of our maintenance and save money but we can perform profitable maintenance work for third parties. Towards that end we have hired a full-time diesel mechanic and are training two other people. However, upgrading this facility will require the railroad to add a track on the south side of the engine house. As you can see from the picture attached as Appendix 1 to my statement, there are two utility poles to the left of the engine house shed shown in photo #1. These poles carry Consumers' wires and occupy the very same space as the track which the railroad wants to add would occupy as shown in photo #3. Moreover, we would need to add a sanding tower and a gantry crane (for lifting engines to facilitate servicing). ADBF stores supplies adjacent to its engine house. Ideally ADBF would like to use a crane there to lift these materials. Once again as that picture illustrates, Consumers' existing poles lie on top of the right of way that ADBF needs to use for these purposes. Consumers could simply solve this problem by relocating its lines to existing poles located on a public right of way to the other side of the engine house as shown in photo #5 and on the surveyors diagram on the page following photo #5.

- Transload facility. ADBF has an existing transload facility where cargo can be transferred between trucks and rail cars. Transloading provides an important source of traffic for many railroads, big and small, from customers without direct railroad access. As you can see from the four photos attached as Appendix 2, power lines cross over the top of the dock, thereby limiting what ADBF can transload. ADBF must to be able to locate a man-harness there (a safety device which allows a man to walk over the top of railcars without danger of falling to

the ground),³ but cannot do so because of the power lines. We also need to be able to have a crane there to lift items off of cars to the dock, but again cannot due to the power lines and the intended easement. Consumers' existing power lines are shown as the orange line on the map attached as Appendix 4 to my statement and actually cross right over the top of our transload facility. Consumers' power lines are 50 feet above the ground. Given that a typical man-harness is 25 feet off the ground, the remaining distance between the top of an employee's head and the high voltage power line is too close for comfort: roughly 25 feet. Similarly, Consumers' power lines would preclude ADBF from utilizing a crane to transfer cargo between rail cars and trucks. Any contact between an employee or an unloading crane and Consumers' power lines could result in death or severe injury to our employees and damage to our equipment. In fact, it is my understanding the OSHA (Occupational Health and Safety Administration) regulations forbid cranes and similar lifting equipment from being located underneath power lines.

- Interchange tracks. ADBF currently has two current interchanges with Norfolk Southern as illustrated in the map attached here as Appendix 4, page 1. One interchange severely restricts the number of cars that can be interchanged to six cars at a time. A second interchange track provides more capacity, about 25 cars per switch. However, Class I railroads increasingly desire to handle and interchange unit trains of traffic, as many as 100 cars per switch. As noted in paragraph 12 above, Norfolk Southern is now requiring that ADBF be able to

³ ADBF attaches as Appendix 3 a picture of a man-harness.

handle grain trains in minimum 85 car units.⁴ To this end, ADBF has negotiated a new interchange arrangement with Norfolk Southern that would be located in the northeast quadrant of crossing between ADBF and Norfolk Southern.⁵ Consumers' existing power lines prevent the construction of this new track.

- Adding sidings. ADBF proposes to add two additional tracks holding 150 cars located between Gulf Street and Center Street in Adrian. In order to minimize switching operations, these holding tracks must be located near our proposed new Norfolk Southern interchange. As the attached drawings again illustrate, Consumers' existing poles lie right in the middle of the right of way that would accommodate such expanded trackage. See Appendices 4, page 2, and Appendix 6.
- Radio Tower. As ADBF's business has expanded, it has begun to operate more trains and more traffic which requires better two-way communication between train crews and between crews and our office. To facilitate that communication, ADBF has obtained aeronautical obstruction clearance from the Federal Aviation Administration, necessary tall structure permitting from the Michigan Office of Aeronautics and the Lenawee County Airport Authority, and approval of the construction of the tower from the Federal Communications Commission. The next step will be to build a 180 foot high radio tower; however, Consumers has obtained an injunction which prevents us from proceeding. The best location for that tower will be adjacent to our engine house, which is where the dispatch

⁴ See the attached email between Jodi Heath at Norfolk Southern and ADBF advising that its short line connections must now be able to handle 85 car unit trains for grain traffic. Appendix 5.

⁵ Shown as "proposed new interchange" on Appendix 4, page 1.

employee that controls the radio station will be located.⁶ This tower will also be required in connection with the deployment of PTC as discussed in paragraph 12 above. But, once again, Consumers' power lines are in the way.

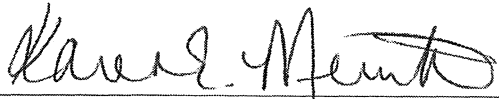
I realize that the easement contains language suggesting that it will take no action that interferes with the safety of ADBF's operations, that it will follow generally accepted safety guidelines for railroad property, and will not erect any fences, barriers, or other similar permanent structures that would unreasonably impair ADBF's lawful access to or use of the easement. However, what concerns me is the language on page two of the easement that clearly gives Consumers *carte blanche* control over ADBF's right of way. While Consumers' easement language might accommodate ADBF's present needs, the point is that it would prevent us from accommodating our *constantly evolving future needs* as shown above. And it is that which we cannot give away.

Further affiant sayeth naught.



Mark W. Dobronski
President
Adrian & Blissfield Rail Road Company

Subscribed and sworn to before me
this 30th day of October, 2017.



Karen E. Merritt, Notary Public
Wayne County, Michigan
Acting in Wayne County, Michigan
My Commission expires November 14, 2019

⁶ The associated permits and other paper work are attached as Appendix 7.

VERIFICATION

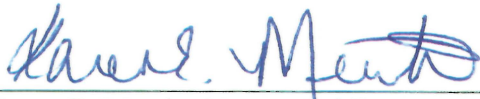
STATE OF MICHIGAN)
) ss;
COUNTY OF WAYNE)

Mark W. Dobronski, being duly sworn according to law, hereby deposes and states that he holds the position of President with petitioner, is authorized to make this Verification, had read the foregoing document, and knows the facts asserted therein are true and accurate as stated, to the best of his knowledge, information and belief.



Mark W. Dobronski
President
Adrian & Blissfield Rail Road Company

Subscribed and sworn to before me
this 30th day of October, 2017.



Karen E. Merritt, Notary Public
Wayne County, Michigan
Acting in Wayne County, Michigan
My Commission expires November 14, 2019