

BOROUGH OF FOREST CITY
SUSQUEHANNA COUNTY, COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 474 OF 2008

ORDINANCE OF THE BOROUGH OF FOREST CITY, SUSQUEHANNA COUNTY, PENNSYLVANIA, PURSUANT TO 53 P.S. 47201, AND 26 P.S. SECTIONS 1-401 ET SEQ. ESTABLISHING CONDEMNATION OF PRIVATE LANDS FOR THE IMPROVEMENT OF STORM WATER SEWERS WITHIN THE BOROUGH, PROVIDED THROUGH THE CONSTRUCTION AND MAINTAINANCE OF STORM WATER SEWERS AND THE ACCUMULATION AND DISCHARGE OF WATER THEREFROM.

WHEREAS, the Borough of Forest City desires of improving its Storm Water collection pipes by repairing and replacing old, broken preexisting pipes with new, larger pipes of more substantial size and material; and

WHEREAS, the Storm Water runoff pipes historically traveled through the Borough's property, under the neighboring rail road beds and discharged onto adjacent private lands; and

WHEREAS, the current owners of the privately held lands, Forest City Partnership has to this date refused the Borough's request for an easement to place a rip rap on their land to decrease anticipated increased water flow by dissipating the water flow prior to its being discharged onto the land; and

WHEREAS, the legislature of the Commonwealth of Pennsylvania has empowered boroughs with the authority to enter upon private lands and condemn such property as necessary to fulfill these purposes for the general safety, welfare and best interest of the public relating to Storm Sewers and Water Courses; and

WHEREAS, The Pennsylvania Department of Environmental Protection Agency has granted Forest City Borough NPDES Permit for Discharge of Storm water from Construction Activities, Permit Numbered PA1025807001, S.R. 247, Section 501- Forest City Drainage Improvement Project, permit attached hereto, incorporated herein and marked as exhibit "A".
; and

WHEREAS, the Council of the Borough of Forest City believes that it is in the best interests of the Borough and its residents to condemn the necessary portion of the lands owned by Forest City Partnership, known locally as Yucca Flats, and as depicted by a drawing of the necessary land attached hereto, incorporated herein and marked as exhibit "B".


THEREFORE, BE IT ORDAINED AN ENACTED AS FOLLOWS:

1. Pursuant to 53 P.S. Sections 47201 through 47204, and 26 P.S. Sections 1-401, et seq., the Borough of Forest City condemns a portion of the lands of Forest City Partnership as shown on the attached drawing marked as Exhibit "A".

2. EFFECTIVE DATE

This Ordinance shall be effective upon the date of its approval by the Council of the Borough of Forest City and the Mayor.

ORDAINED AND ENACTED this 2nd day of June, 2008.


Forest City Borough Secretary


Forest City Borough Council President

The foregoing Ordinance is approved on the 2nd day of June, 2008.

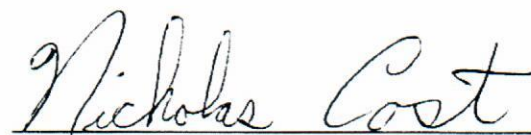

Forest City Borough Mayor

EXHIBIT A

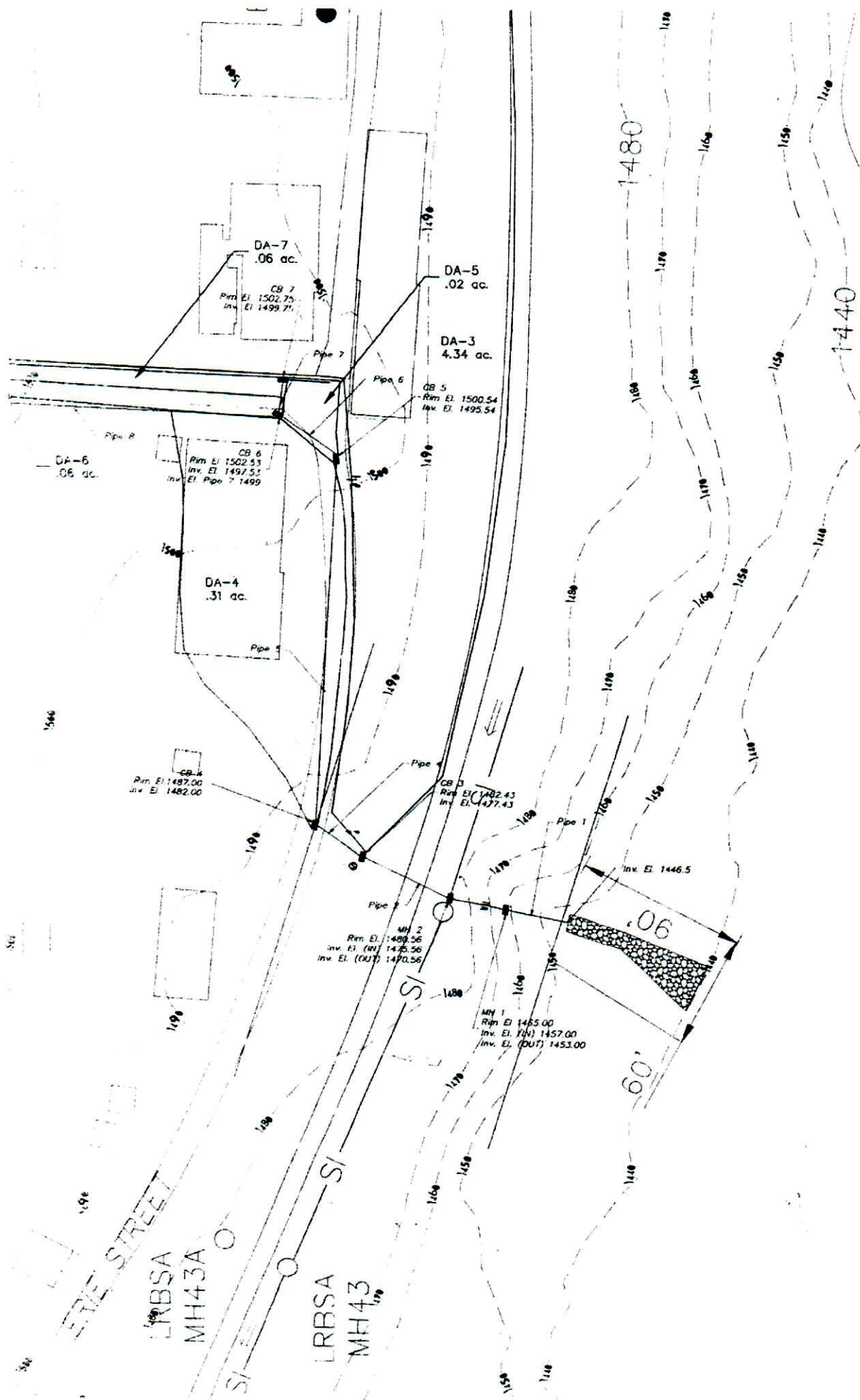


EXHIBIT B



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATERSHED MANAGEMENT

**APPROVAL OF COVERAGE UNDER
THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) INDIVIDUAL
PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES**

NPDES PERMIT NO. PAI025807001 PRIMARY FACILITY ID: 704587
AUTHORIZATION NO. 712597 SUBFACILITY ID: 966016
APS NO. 637479

SITE/PROJECT NAME & ADDRESS		PERMITTEE NAME & ADDRESS	
Name	S.R. 247, Section 501 – Forest City Drainage Improvement Project	Name	Pennsylvania Department of Transportation, Engineering District 4-0
Location	Located Along S.R. 247 (Danoff Street), S.R. 0171 (Main Street), Grand Avenue, and Erie Street	Client ID	62176
Address	Forest City Borough	Address	55 Keystone Industrial Park
City, State, Zip	Susquehanna County	City, State, Zip	Dunmore, PA 18512
		Phone	570-963-4010

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 et seq. ("the Act") and Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 et seq., the Department of Environmental Protection hereby approves the discharge of stormwater to the following surface water(s) Susquehanna River (HQ-CWF)

- Area ☒ 1 to less than 5 acres of earth disturbance with a point source discharge (or)
☐ 5 or more acres of earth disturbance

subject to all effluent limitations, monitoring and reporting requirements and other terms, conditions, criteria and special requirements for the discharge of stormwater from sources composed entirely of stormwater associated, in whole or in part with construction activity, as defined in this permit, to surface waters of the Commonwealth, including municipal separate storm sewers and non-municipal separate storm sewer.

APPROVAL TO DISCHARGE IN ACCORDANCE WITH THE TERMS AND CONDITIONS HEREIN MAY COMMENCE ON THE DATE OF THE APPROVAL OF COVERAGE, AND IS VALID FOR A PERIOD OF FIVE YEARS WHEN CONDUCTED PURSUANT TO SUCH TERMS AND CONDITIONS. COVERAGE MAY BE EXTENDED BY THE DEPARTMENT IF A TIMELY ADMINISTRATIVELY COMPLETE AND ACCEPTABLE PERMIT RENEWAL IS SUBMITTED TO THE DEPARTMENT AT LEAST 180 DAYS PRIOR TO DATE OF COVERAGE TERMINATION, UNLESS PERMISSION FOR SUBMISSION AT A LATER DATE HAS BEEN GRANTED BY THE DEPARTMENT. THE PERMIT MAY BE TERMINATED PRIOR TO THE EXPIRATION DATE UPON NOTICE TO AND APPROVAL BY THE DEPARTMENT. NO CONDITION OF THIS PERMIT SHALL RELEASE THE PERMITTEE OR CO-PERMITTEE FROM ANY RESPONSIBILITY OR REQUIREMENT UNDER PENNSYLVANIA, OR FEDERAL ENVIRONMENTAL STATUTES AND REGULATIONS, OR LOCAL ORDINANCES.

COVERAGE APPROVAL DATE April 7, 2008

COVERAGE EXPIRATION DATE: April 6, 2013

AUTHORIZED BY William J. Ma...

TITLE Environmental Program Manager
Watershed Management Program

**LAW OFFICE OF
PAUL E. SMITH**

**1015 N. Main Street
Forest City, PA 18421**

Member of PA and NJ Bars
E-mail: peslaw@nep.net

Telephone: (570) 785-7070
Fax: (570) 785-7072

Forest City Solicitor

June 23, 2008

Mary F. Evans
Recorder of Deeds/Register of Wills
Susquehanna County Courthouse
Courthouse Square
PO B 218
Montrose, PA 18801

Re: Condemnation

Dear Ms. Evans,

Enclosed for filing please find a an original Notice of Filing of Taking and copy of the front page of the same. Please file the original and return the time stamped copy to me in the enclosed self addressed, stamped envelope.

I thank you for your courtesies in this matter. If you have any questions please do not hesitate to call.

Very Truly Yours,

Paul E. Smith, Esq.

Cc: Sue Coleman, Borough Secretary

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Condemnation of Yucca Flats,
Forest City, Pennsylvania
by the Borough of Forest City,
Condemnor, for Channel Improvement
Of Storm Sewers

:
: IN THE COURT OF COMMON PLEAS
: OF SUSQUEHANNA COUNTY
:

: CONDEMNATION ACTION
:

: NO. 2008-870
:
.....

NOTICE

To: FOREST CITY PARTNERSHIP
PO Box 480
Dunmore, PA 18512

You are hereby notified that a Declaration of Taking has heretofore been filed in the Office of the Prothonotary of the Court of Common Pleas for Susquehanna County, Pennsylvania, as of Court Term and Number 2008-870, whereupon a fee simple or absolute title in premises, a portion of Yucca Flats, Susquehanna County, Commonwealth of Pennsylvania, was condemned by the Condemnor, Borough of Forest City, 535 Main Street, Forest City, County of Susquehanna, Commonwealth of Pennsylvania, to wit:

ALL THAT certain piece or parcel of land, situate lying and being in the Borough of Forest City, County of Susquehanna, Commonwealth of Pennsylvania, and more fully described, to wit:

BEGINNING at a point on the easterly right of way line of lands n/f of the Jefferson Railroad Company, said point being the westerly corner of lands herein described. Said point of beginning being the following described bearings and distances along the said easterly right of way line of the Jefferson Railroad Company with its intersection with the northerly line of SR 0247:

1.) North eleven degrees eight minutes West (N 11° 08' W) a distance of three hundred thirty and forty-four hundredths feet (330.44') to a point; 2.) along a curve to the right having a radius of seven hundred sixteen and seventy-eight hundredths feet (716.78'), an arc distance of five hundred forty-seven and ninety hundredths feet (547.90') with a chord bearing North ten degrees forty-six minutes (N 10° 46' E) a distance of five hundred thirty-four and sixty-six hundredths feet (534.66') to a point; 3.) and, North thirty-two degrees forty-two minutes East (N 32° 42' E) a distance of two hundred eleven and no hundredths feet (211 .00') to a point; 4.) and, along a curve to the left having a radius of one thousand two hundred seventy-three and fifty-seven hundredths feet (1,273.57'), an arc distance of one hundred ten and three hundredths feet (110.03') with a chord bearing North thirty degrees thirteen minutes East (N 30° 13' E) a distance of one hundred nine and ninety-nine hundredths feet (109.99').

THENCE, from said point of beginning, along a curve to the left having a radius of one thousand two hundred seventy-three and fifty-seven hundredths feet (1,273.57'), an arc distance of sixty and no hundredths feet (60.00') with a chord bearing North twenty-six degrees twenty-four minutes East (N 26° 24' E) a distance of sixty and no hundredths feet (60.00) to a corner.

THENCE, thru the lands of FOREST CITY PARTNERSHIP, South sixty-three degrees thirty-six minutes five seconds East (S 63° 36' 05" E) a distance of ninety and no hundredths feet (90.00') to a corner, and, South twenty-six degrees twenty-four minutes one second West (S 26° 24' 01" W) a distance of sixty and no hundredths feet (60.00') to a corner. Said last line being on the approximate elevation of one thousand four hundred forty feet (1,440').

THENCE, continuing thru the lands of t FOREST CITY PARTNERSHIP, North sixty-three degrees thirty-six minutes five seconds West (N 63° 36' 05" W) a distance of ninety and no hundredths feet (90.00') to the point of beginning.

CONTAINING five thousand three hundred eighty-five and sixty-six hundredths square feet of land, more or less (5,385.66 S.F.±). Being the AREA OF CONDEMNATION as shown on a map: "MAP OF LANDS OF FOREST CITY PARTNERSHIP TO BE CONDEMNED" by Frank H. Gardner, PLS, dated 12 JUN 2008.

BEING a portion of PARCEL ONE of lands conveyed from FIRST LEHIGH BANK to FOREST CITY PARTNERSHIP by deed dated 29 OCT 1992 and recorded in Wayne County Book 846 - Page 205.

The condemnation of said premises in which you have a claim or interest was pursuant to 53 P.S. 47201, authorizing Condemnor to condemn for the purpose of engaging in channel improvement through the construction and maintenance of storm sewers and the accumulation and discharge of water there into.

On June 2, 2008, the Council for the Borough of Forest City adopted Ordinance number 474 of 2008, selecting and appropriating said premises and directing the filing of a Declaration of Taking for channel improvements pertaining to storm sewers in the Borough of Forest City, County of Susquehanna, Commonwealth of Pennsylvania 18421.

Just compensation for the condemnation of said premises is secured by the power of taxation of the Condemnor, the Borough of Forest City, where upon the funds raised, or lawful to be so raised, are deemed pledged and made security for the payment of the damages as shall be determined by law.

You are further notified that if you desire to present any objection or defense to the power or the right of the Condemnor to condemn your property, the sufficiency of the security, the procedure of the Condemnor, or the Declaration of Taking, you are required to file preliminary objections within thirty (30) days after service of this notice. All defenses and objections not so presented are deemed waived.

By: _____
Paul E. Smith, Solicitor for the
Borough of Forest City, Condemnor

(534.66') to a point; 3.) and, North thirty-two degrees forty-two minutes East (N 32° 42' E) a distance of two hundred eleven and no hundredths feet (211 .00') to a point; 4.) and, along a curve to the left having a radius of one thousand two hundred seventy-three and fifty-seven hundredths feet (1,273.57'), an arc distance of one hundred ten and three hundredths feet (110.03') with a chord bearing North thirty degrees thirteen minutes East (N 30° 13' E) a distance of one hundred nine and ninety-nine hundredths feet (109.99').

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A copy of the Declaration of Taking is attached hereto and made a part hereof as Exhibit "A".

By: _____
Paul E. Smith, Solicitor for the
Borough of Forest City, Condemnor

**LAW OFFICE OF
PAUL E. SMITH**

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Forest City Solicitor

June 23, 2008

FOREST CITY PARTNERSHIP
PO Box 480
Dunmore, PA 18512

Re: Condemnation

Dear Sir/Madam:

Please be advised I am the solicitor for the Forest City Borough. Enclosed please find a Notice of Taking, a copy of the Declaration of Taking, and a copy of the Notice of Filing with the Recorder of Deeds. Please be guided accordingly.

I thank you for your courtesies in this matter. If you have any questions please do not hesitate to call.

Very Truly Yours,

Paul E. Smith, Esq.

Cc: Sue Coleman, Borough Secretary

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PAUL E. SMITH**

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Fax: (570) 785-7072

Forest City Solicitor

June 23, 2008

Susan Eddleston, Prothonotary
Susquehanna County Courthouse
PO Box 218
Montrose, PA 18801

Re: Condemnation

Dear Ms. Eddleston,

Enclosed for filing please find a an original Notice and copy of the front page of the same. Please file the original and return the time stamped copy to me in the enclosed self addressed, stamped envelope.

I thank you for your courtesies in this matter. If you have any questions please do not hesitate to call.

Very Truly Yours,

Paul E. Smith, Esq.

Cc: Sue Coleman, Borough Secretary