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As Info

Lehigh Valley Railroad Company

ROBERT C. HALDEMAN, TRUSTEE
Claim Department

DIRECTOR INSURANCE

SEP 25 1974

415 Brighton Street, Bethlehem, Pa. 18015

C. S. Haum
General Claim Agent

Ex. 1
Sept. 20, 1974
L.S.1752-71

File. file.
JTE.

Re: Elizabeth A. Knickerbocker, Individually and Elizabeth A. Knickerbocker, as Executrix of the Estate of Joseph W. Knickerbocker, Deceased, vs John F. Nash and Robert C. Haldeman, Trustees of Lehigh Valley Railroad Company.

Northwoods Sportsmen Association, Inc. vs John F. Nash and Robert C. Haldeman, Trustees of Lehigh Valley Railroad Company.

Alvin F. Getman and Arline H. Getman vs John F. Nash and Robert C. Haldeman, Trustees of the Lehigh Valley Railroad Company.

Mr. G. A. Royce
Director-Insurance
Penn Central Transportation Company
Room 321, Penn Central Sta.-30th Street
Philadelphia, Pennsylvania 19104

Dear Mr. Royce:

This is to advise we have settled the suits involving Northwoods Sportsmen Association, Inc., and Getman. The only case open is the Knickerbocker suit and we do not anticipate that it will involve excess funds.

Very truly yours,

C S Haum

C. S. Haum,
General Claim Agent.

CSH:FB

This is the Derriment & Pollution
Case of 12/6/70. M-M'L Precauser advised
to close file by Dec 1/30/74 LTR

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can go in
the "Closed" file.

Jan
1/30

JK
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Room 221,
Penn Central Sta., 30th St.,
Philadelphia, Pa. 19104

January 30, 1974. Dear

Mrs. Shirley Gianoulias,
Claim Department,
Marsh & McLennan, Inc.,
1221 Avenue of the Americas,
New York, N.Y. 10020

Dear Mrs. Gianoulias:

Lehigh Valley Railroad Company
Accident of December 6, 1970
--- Settlement and Finalization ---

We have been advised by Mr. C. S. Baum that all claims but one arising out of the subject accident have been settled for a total of \$35,000. The Knickerbocker case remains open. It has a potential of perhaps \$10,000.

I see no possibility whatsoever that this loss can involve our excess liability insurance. I suggest you close your file and advise underwriters accordingly.

Yours very truly,

G. A. Bayes
Director-Insurance.

cc: Mr. E. T. Brooks
Mr. W. M. Ayrovalainen

cc: Mr. C. S. Baum,
General Claim Agent,
Lehigh Valley Railroad Co.,
415 Brighton Street,
Bethlehem, Pa. 19015

Lehigh Valley Railroad Company

JOHN F. NASH and ROBERT C. HALDEMAN, TRUSTEES

Claim Department

415 Brighton Street, Bethlehem, Pa. 18015

C. S. Haum
General Claim Agent

Jan. 29, 1974.
L.S.175 $\frac{1}{2}$ -71

DIRECTOR-INSURANCE
JAN 30 1974

Re: Lehigh Valley Railroad Company
Derailment of Train COJ-32 at
North LeRoy, N.Y., Dec. 6, 1970
and subsequent pollution of
drinking water wells in vicinity
of Gulf Road Crossing.

Mr. G. A. Royce
Director - Insurance
Penn Central Transportation Company
Room 321, Penn Central Sta.-30th Street
Philadelphia, Pennsylvania 19104

Dear Mr. Royce:

In connection with our prior correspondence, wish
to advise we have settled all but one of the claims in this
accident for \$35,000. I believe the last case will be closed
without insurance involvement.

Very truly yours,

C. S. Haum

C. S. Haum,
General Claim Agent.

CSH:FB

HE
CR
EMH

Room 321,
Penn Central Sta.-30th St.,
Philadelphia, Pa. 19106

May 11, 1973. R-R

Mrs. Shirley Gianoulias,
Claim Department,
Marsh & McLennan, Inc.,
1221 Avenue of the Americas,
New York, N.Y. 10020

Dear Mrs. Gianoulias:

Lehigh Valley Railroad Company
Accident of December 6, 1970
Derailed and Pollution

In furtherance of my letter of March 2, 1973, I now enclose copies of the following:

(1) Complaints of:

Elizabeth A. Knickerbocker, Individually and
Elizabeth A. Knickerbocker, as Executrix of the
Estate of Joseph W. Knickerbocker, Deceased
(Five causes of action - Total Ad Damnum \$470,000.)

Northwoods Sportsmen Association, Inc.
(Three causes of action - Total Ad Damnum \$450,000.)

Alvin F. Getman and Arline H. Getman
(Three causes of action - Total Ad Damnum \$450,000.)

(2) Report of Investigation by Lehigh Valley Railroad Claim Department, with transmittal letter from Mr. C. S. Haun, General Claim Agent, dated May 9, 1973.

Yours very truly,

G. A. Joyce
Director-Insurance

Enc.

cc: Mr. E. J. Brooks
Mr. K. M. Ayravainen

bcc: Mr. C. S. Haun

Lehigh Valley Railroad Company

JOHN F. NASH and ROBERT C. HALDEMAN, TRUSTEES
Claim Department

415 Brighton Street, Bethlehem, Pa. 18015

DIRECTOR - INSURANCE
MAY 10 1973

C. S. Haum
General Claim Agent

May 9, 1973
L.S.175¹-71

Re: Elizabeth A. Knickerbocker, Individually and
Elizabeth A. Knickerbocker, as Executrix of the
Estate of Joseph W. Knickerbocker, Deceased, vs
John F. Nash and Robert C. Haldeman, Trustees of
Lehigh Valley Railroad Company.

Northwoods Sportsmen Association, Inc. vs John F.
Nash and Robert C. Haldeman, Trustees of Lehigh
Valley Railroad Company.

Alvin F. Getman and Arline H. Getman vs John F.
Nash and Robert C. Haldeman, Trustees of the
Lehigh Valley Railroad Company.

Mr. G. A. Royce
Director-Insurance
Penn Central Transportation Company
Room 321, Penn Central Sta.-30th Street
Philadelphia, Pennsylvania 19104

Dear Mr. Royce:

In connection with my letter of March 2, 1973, you will
now find attached our report of investigation in these matters.

We are still attempting to get some special damage figures
but Attorney Chase does not appear to be in any hurry.

Very truly yours,



C. S. Haum,
General Claim Agent.

CSH:FB

Buffalo, N.Y., March 15, 1973

Re: Elizabeth A. Knickerbocker, Individually and Elizabeth A. Knickerbocker, as Executrix of the Estate of Joseph W. Knickerbocker, Deceased vs John F. Nash and Robert C. Haldeman, Trustees of Lehigh Valley Railroad Company.

Alvin F. Getman and Arline H. Getman vs John F. Nash and Robert C. Haldeman, Trustees of the Lehigh Valley Railroad Company.

Northwoods Sportsmen Association, Inc. vs John F. Nash and Robert C. Haldeman, Trustees of Lehigh Valley Railroad Company.

Mr. Haun:

Attached herewith is report of my investigation relative the above mentioned matter.

At about 3:15 A.M. on December 6, 1970 train COJ-32 was enroute to Manchester, N.Y. from Niagara Falls, N.Y. and consisted of engines 411-413-410 and 111 cars. The lead engine was being operated by Engineer Joseph Giambrone at a speed of approximately 40 miles an hour with Fireman Joseph Ryan in the cab with him. As the train approached the Gulf Road Crossing at North ElRoy, N.Y. and when it was in the vicinity of this crossing car MHLX 80039, the 61st car in the train caused the train to derail account of a burnt off journal. Altogether 28 cars were derailed including 2 tank car loads of trichlorethylene which was spilled on the ground, and a car of cyanide crystals that was ruptured and a portion was also spilled on the ground near the crossing. Most of the cyanide was recovered by personnel from Cyanamid of Canada, Limited, the shipper and no one suffered any ill effects from it. All of the trichlorethylene seeped into the ground which amounted to approximately 35,000 gallons from both cars and was lost. The other members of the crew at the time of the derailment were conductor Charles Daw who was riding in the rear unit, head trainman William Schutt was also in the rear unit and flagman Robert Warner was alone in the caboose. No member of the crew sustained any injuries at the time of the derailment.

As you know the train which derailed passed by the hot journal detector located east of Upton, N.Y. approximately 18 miles from the Gulf Road Crossing and did not detect the hot journal on car MHLX 80039. Also, as you further know this derailment is the subject of a products liability suit brought by Lehigh against Servo Corp., of America, the manufacturer of the detector.

As result of the derailment and the trichlorethylene seeping into the ground

drinking water wells in the vicinity of Gulf Road Crossing were contaminated. We were notified of this contamination on December 21, 1970 when Mr. Mark Krull, a Technician from the Genesee County Health Department called and told me about the polluted wells. After being notified of this pollution I contacted the DuPont Company in Niagara Falls, N.Y. where I was referred to Mr. Andy Jones the Superintendent, who after our telephone conversation drove to North LeRoy to check the polluted wells. Samples of water were collected from the Knickerbocker Hotel and the Arthur Tyler residence and were taken back to Niagara Falls, N.Y. where they were tested and found that there was trichlorethylene in the water. Subsequently we received complaints from the Northwoods Sportsmen Club, Alvin Getman, and from the Maxwells, Yaunchzees and Mancusos on the Church Road and samples of water was obtained from each, tested and showed trichlorethylene in the water. There was also the Michel and the Moore Families on the Heid Road whose water was tested, but no contamination was found. All of the people whose wells were polluted and mentioned above were told by the Genesee County Health Officer that the water should not be used for human consumption.

These people obtained water from friends or relatives so it could be used for drinking and cooking. However, they did continue to use the well water for personal needs such as bathing, washing clothes, dishes, etc. The Getman's had a cistern from which they used water for their personal needs other than cooking and drinking. All of the people with the contaminated wells obtained water from outside sources for human consumption until June, 1971 when we started to supply water to them from the "7" Springs Water Co. in Batavia, N.Y. and have continued to do so to the present time.

The attached reports show that many experts and agencies were contacted to clear up the trichlorethylene in the water and many recommendations were offered to eliminate the contamination. These included pumping the water out of the wells, drilling new wells, flushing the wells with water which was carried out, and it appeared from subsequent tests that this was helpful, but did not completely eliminate the contamination from the water. Also, a charcoal filter was installed at the Tyler residence to filter the trichlorethylene out of the water and a Chlorinator to remove the cyanide. The Tyler residence was chosen as their well showed the most contamination at that time. This method was suggested by Mr. George Marshall, A Geologist whom we consulted and approved by Mr. Markellis, Genesee County Health Officer. Mr. Markellis agreed that if the Charcoal filter proved satisfactory for a period of 10 days and tests showed that the trichloroethylene was filtered out of the water the filters would be used on the other wells. However, he did not approve using the filters even though the results were positive.

These reports further show that tests were recommended by Mr. Daniel Stone, Assistant Sanitary Engineer, State of New York, Department of

Health whom Mr. Markellis consulted, after not giving his approval for the installation of the Charcoal filters. These tests were conducted by the Lake Ontario Environmental Laboratory at Oswego, N.Y. and showed that the Charcoal Filtration is an effective method of removing the trichlorethylene from the water. With this positive conclusion from the Laboratory at Oswego, N.Y. the people with the contaminated wells were told by Dr. Victoria Markellis, Commissioner of Health, Genesee County that the proposed Charcoal Filtration method can provide a safe potable water supply.

I had contacted all of the people involved with the polluted wells and all were agreeable to have the filters installed. To date these filters have not been installed. However it is anticipated that 2 charcoal filters will be installed on each well with a water meter as recommended. Attached reports further show that the analysis for cyanide performed by the New York State Division of Laboratories and Research show a low level cyanide present below the drinking water standards, and in view of this the installation of Chlorinators was not recommended. The water samples most recently obtained in August, 1972 still showed the presence of trichlorethylene in the water.

On February 9, 1971 attorney Frank O. Casaceli wrote a letter to me advising that he represented Mr. and Mrs. Alvin Getman and Mr. and Mrs. Joseph Knickerbocker. Attorney Casaceli gave me permission to continue obtaining samples from his clients, and since he could not recommend any solution to the contamination he advised his clients to cooperate with us in attempting to clear up the problem. Subsequently attorney Lawrence D. Chase took over the handling of these clients and as you know has recently brought suit in behalf of the above 2 clients and also in behalf of the Northwoods Sportmen Association, Inc.

Attorney Chase, after taking over the handling of the above named cases continued to have his clients cooperate with us in finding a solution and was most anxious to have the filters installed even before they were approved by Dr. Markellis. He was not very cooperative in giving us the amount of damages, and as you know refused to meet with us in Rochester, N.Y. when we met with attorney Paul Boylan and A. Matthew Gordon to discuss this matter.

Mr. Knickerbocker died on July 15, 1972 and a copy of the death certificate which is attached shows the cause of death as Ventricular Fibrillation & Arterio-Sclerotic Heart Disease. Before his death he and his wife operated the Knickerbocker Hotel which is more of a tavern in the country than a hotel. Samples of their water showed the least amount of contamination of any of the wells that were effected. They did have trouble with the odor from the trichlorethylene in their basement, and on occasion this would also appear in the bar area of the first floor. Mrs. Knickerbocker

has continued to operate the hotel after her husbands death. However, I understand that she is attempting to sell the building and the business. From what I can gather she lives in the upper portion of the building, and for a short period of time there was another family that lived in the upper part, but I have not seen them around for a long time.

Mr. and Mrs. Getman live by themselves and he is employed as a butcher in Rochester, N.Y. As far as I know she is not employed anyplace, and is usually home during the day. Mrs. Getman also raises beagle dogs in a kennel behind her house. The Getmans did not have any odor from the trichlorethylene in their home.

The Northwoods Sportsmen Association, Inc. is an old farmhouse to which some new additions have been added. It is a meeting place for Sportsmen and as far as can be determined no one lives in the building. There is a bar on the first floor with other rooms for recreation, and there are meeting rooms upstairs. There is also a kitchen on the first floor where food is prepared. I do not know how many members there are in this club.

As you know attorney A. Matthew Gordon represents the Tylers and attorney Paul Boylan has been retained by the Maxwells, Yaunchzees and the Manousos, and we have been handling the claims with these attorneys in behalf of their clients.

I will review this file completely with Mr. Robinson and will arrange with him to get what ever information we may need to handle these claims and if this can not be arranged with attorney Chase we will proceed to take depositions from his clients. I will keep you advised of any new developments in these cases.

N. Sobanski
N. Sobanski

STATE OF NEW YORK
SUPREME COURT : COUNTY OF GENESEE

ELIZABETH A. KNICKERBOCKER, Individually
and ELIZABETH A. KNICKERBOCKER, as Executrix
of the Estate of JOSEPH W. KNICKERBOCKER,
Deceased,

Plaintiffs,

COMPLAINT

-vs-

JOHN F. NASH and ROBERT C. HALDEMAN, Trustees of
LE HIGH VALLEY RAILROAD COMPANY
466 Lexington Avenue
New York, New York

Defendants.

The Plaintiff, by her attorney, complains of
the Defendant and alleges:

AS A FIRST CAUSE OF ACTION
IN TRESPASS

1. That the Plaintiff Elizabeth A. Knickerbocker, individually, is, and at all times hereinafter mentioned was, a resident of the Town of LeRoy, County of Genesee, and State of New York.
2. That Elizabeth A. Knickerbocker is also Executrix of the Estate of Joseph W. Knickerbocker who died on July 15th, 1972 at LeRoy, New York, pursuant to Letters Testamentary issued by the Hon. Glenn R. Morton of the Surrogate's Court of the County of Genesee.
3. That at all times hereinafter mentioned, the Plaintiff and Plaintiff's testate were the owners, as tenants by the entirety, of real property and improvements thereon, located in the area of and to the northwest of the intersection of the Lehigh Valley Railroad track and Gulf Road in the Town of LeRoy, County of Genesee and State of New York, with improvements thereon, constituting three-quarters of an acre, more or less.

4. That the improvements upon the Plaintiff's property included the "Knickerbocker Hotel" being a restaurant with liquor license issued by the New York State Alcoholic Beverage Control Board, and four boarding rooms, all of which was at all times hereinafter mentioned a going business for the source of Plaintiff's support, and the Plaintiff's private residence.

5. That upon information and belief, the Lehigh Valley Railroad Company is organized under the laws of the State of ~~Pennsylvania~~ ^{Pennsylvania} with offices at 415 Brighton Street, Bethlehem, Pennsylvania, and 466 Lexington Avenue, New York, New York, and is licensed to do business in the State of New York and also licensed by the Interstate Commerce Commission.

6. That the Lehigh Valley Railroad is a public common carrier regularly engaged in the business of transporting persons and freight upon rails located in the State of New York and particularly on or in the vicinity of the land of the Plaintiff herein.

7. That on July 24th, 1970, the Lehigh Valley Railroad Company filed a Petition for reorganization under the Federal Bankruptcy Law in the Eastern District Court for the State of Pennsylvania, and Trustees were appointed, to wit: R.C. Haldeman and John F. Nash whose addresses are 415 Brighton Street, Bethlehem, Pennsylvania 18015.

8. That on December 6th, 1970 at approximately 3:32 in the A.M. thereof approximately 25 cars owned by or in the control of the Lehigh Valley Railroad Company derailed at and in the vicinity of the Plaintiff's property, spilling crystalline cyanide, carbon tetrachloride, and trichlorethylene, and other noxious, hazardous and dangerous substances, chemicals and pollutants, upon the Plaintiff's property.

9. That by reason of the spillage as aforesaid, the Plaintiff's property, at its surface and the subterranean water and wells of said property, were polluted and the pollutants caused a noxious and loathsome odor, and contaminated the water supply.

10. That by reason of the spillage and pollution as aforesaid, there was an impairment of the use of their land by the Plaintiff and her intestate, as well as an impairment of the comfortable enjoyment thereof, supplanted instead by discomfort, annoyance and inconvenience in the use of said property including, but not limited to: deprivation of the use of the water of said property for all purposes; injury to business, including loss of income therefrom and loss of goodwill thereof; sickness and unhealthiness caused by the noxious odors; the loss of trees and vegetation; the inconvenience and labor of toting bottled water; the anxieties of running out of water and the danger of breaking glass or from glass already broken; and the Plaintiff may be obliged to expend sums to procure and transport the water of which she has been deprived.

11. That by reason of the foregoing the Plaintiff and her testate have been damaged in the sum of \$100,000.00.

12. That the foregoing pollution and damages are continuing, and upon information and belief, may be permanent.

13. Also, by reason of the foregoing, the value of the Plaintiff's capital asset and real property have been severely diminished, and the Plaintiff is damaged in the sum of \$50,000.00 thereby.

AS A SECOND CAUSE OF ACTION
IN NEGLIGENCE

14. The Plaintiff repeats and realleges Paragraphs "1" through "13" as if fully repeated and republished herein.

15. In addition to, or as an alternative to, the First Cause of Action, the derailment aforementioned was caused solely and wholly by reason of the negligence of the Defendant Corporation, its agents or employees, in that they negligently maintained and cared for the equipment and rolling stock, and in particular the "journal box" on one of the cars which constituted the train derailment on December 6th, 1970.

16. By reason of the negligent maintenance of the Defendants, the aforementioned journal box was inadequately oiled, causing the same to heat up and "freeze" with the result of skidding wheels and the consequent derailment of the train.

AS A THIRD CAUSE OF ACTION
IN RES IPSA LOQUITUR

17. The Plaintiff repeats and realleges Paragraphs "1" through "16" as if fully repeated and republished herein.

18. That the derailment as aforementioned, and the consequent trespass and damages caused thereby, would not have occurred, in ordinary circumstance and experience, but for the negligence on the part of the Defendant, its agents or employees.

19. That the train and the cars of which the train consisted were wholly and solely in the control and possession of the Defendants and they alone may be expected to have the specific knowledge of the items constituting the negligence on the part of the Defendant, its agents or employees.

AS A FOURTH CAUSE OF ACTION
FOR PERSONAL INJURIES
TO PLAINTIFF, ELIZABETH A. KNICKERBOCKER

20. The Plaintiff repeats and realleges Paragraphs "1" through "19" as if fully repeated and republished herein.

21. That by reason of the foregoing and by reason of constant exposure to the polluted water and noxious fumes, the Plaintiff was sickened, nauseated, and caused physical illness and pain and suffering by reason of her prolonged exposure to the contaminants and pollutants.

22. That the Plaintiff endured much mental anguish and suffering as the business of "Knickerbocker Hotel", which was her source of income for living, depreciated, and deteriorated because the premises became offensive to the public and customers of the business.

AS A FIFTH CAUSE OF ACTION
FOR PERSONAL INJURIES
TO JOSEPH W. KNICKERBOCKER, DECEASED

23. The Plaintiff repeats and realleges Paragraphs "1" through "22" as if fully repeated and republished herein.

24. That prior to the derailment and pollution set forth herein, the Plaintiff Joseph W. Knickerbocker was severely afflicted with the disease emphysema and under physicians care for that condition.

25. That by reason of the foregoing and by reason of constant exposure to the polluted water and noxious fumes, the Plaintiff's pre-existing condition was aggravated and he was sickened and nauseated thereby and caused physical illness and pain and suffering by reason of his prolonged exposure to the contaminants and pollutants.

26. That the Plaintiff endured much mental anguish and suffering as the business of the "Knickerbocker Hotel", which was his source of income for living, depreciated and deteriorated because the premises became offensive to the public and customers of the business.

WHEREFORE, The Plaintiff demands Judgment on the First Cause of Action, against the Defendant, in the sum of One Hundred and Fifty Thousand Dollars (\$150,000.00), together with the costs and disbursements of this action and with interest from the 6th day of December, 1970;

WHEREFORE, on the Second Cause of Action, the Plaintiff demands Judgment against the Defendant in the sum of One Hundred and Fifty Thousand Dollars (\$150,000.00), together with the costs and disbursements of this action and with interest from the 6th day of December, 1970;

WHEREFORE, on the Third Cause of Action, the Plaintiff demands Judgment against the Defendant in the sum of One Hundred and Fifty Thousand Dollars (\$150,000.00), together with the costs and disbursements of this Action and with interest from the 6th day of December, 1970;

WHEREFORE, on the Fourth Cause of Action, the Plaintiff demands Judgment against the Defendant in the sum of Ten Thousand Dollars (\$10,000.00), together with the costs and disbursements of this action and with interest from the 6th day of December, 1970;

WHEREFORE, on the Fifth Cause of Action, the Plaintiff demands Judgment against the Defendant in the sum of Ten Thousand Dollars (\$10,000.00), together with the costs and disbursements of this action and with interest from the 6th day of December, 1970.

Dated: Rochester, New York
January 25, 1973

LAWRENCE D. CHASE, ESQ.
Attorney for Plaintiff
600 Wilder Building
Rochester, New York 14614
Telephone: 232-3070

STATE OF NEW YORK
SUPREME COURT : COUNTY OF GENESEE

NORTHWOODS SPORTSMEN ASSOCIATION, INC.
Gulf Road
LeRoy, New York

Plaintiffs,

-vs-

COMPLAINT

JOHN F. NASH and ROBERT C. HALDEMAN
Trustees of LEHIGH VALLEY RAILROAD CO^{pany}
466 Lexington Avenue
New York, New York

Defendants.

The Plaintiff, by its attorney, complains
of the Defendant and alleges:

AS A FIRST CAUSE OF ACTION
IN TRESPASS

1. The Plaintiff is a domestic corporation,
organized under the laws of the State of New York, with its
principle offices at Gulf Road in the Town of LeRoy, County of
Genesee, and State of New York.

2. That at all times hereinafter mentioned,
and now, the Plaintiff Corporation is the owner of certain
real property with improvements thereon, in the vicinity of
the Gulf Road Intersection of the Lehigh Valley Railroad Track
in the Town of LeRoy, County of Genesee, and State of New York,
amounting in all to approximately 165 acres with club house and
deep well located thereon.

3. That the Northwoods Sportsmen Association,
Inc. is a membership corporation devoted to the conservation and
preservation of nature and its wildlife and committed to the
enlightenment of its members and the public in the field of
environmental conservation.

4. That upon information and belief, the
Lehigh Valley Railroad Company is organized under the laws of
the State of ^{Pennsylvania} ~~Pennsylvania~~ with offices at 415 Brighton Street,
Bethlehem, Pennsylvania, and 466 Lexington Avenue, New York,
New York, and is licensed to do business in the State of New

York and also licensed by the Interstate Commerce Commission.

5. That the Lehigh Valley Railroad is a public common carrier regularly engaged in the business of transporting persons and freight upon rails located in the State of New York and particularly on or in the vicinity of the land of the Plaintiff herein.

6. That on July 24th, 1970, the Lehigh Valley Railroad Company filed a Petition for reorganization under the Federal Bankruptcy Law in the Eastern District Court for the State of Pennsylvania, and Trustees were appointed, to wit: R.C. Haldeman and John F. Nash whose addresses are 415 Brighton Street, Bethlehem, Pennsylvania 18015.

7. That on December 6th, 1970 at approximately 3:32 in the A.M. thereof, approximately 25 cars owned by or in the control of the Lehigh Valley Railroad Company derailed at and in the vicinity of the Plaintiff's property, spilling crystalline cyanide, carbon tetrachloride, and trichlorethylene, and other noxious, hazardous and dangerous substances, chemicals and pollutants, upon the Plaintiff's property.

8. That by reason of the spillage as aforesaid, the Plaintiff's property, at its surface and the subterranean water and wells of said property, were polluted and the pollutants caused a noxious and loathsome odor, and contaminated the water supply.

9. That by reason of the spillage and pollution as aforesaid, the Plaintiff's land which was previously devoted to the use, accommodation, and comfort of large numbers of people was impaired in its value and usefulness by reason of the pollution of the subterranean waters including the Plaintiff's deep well which had been a source of water for the community even in periods of extreme dryness, and the Plaintiff, by its agents, was put to the trouble, labor and

inconvenience of toting bottled water to and from the premises and may at any time hereafter be put to the expense of procuring and transporting such water, and the value of the use of the property has been diminished on a continual basis since the derailment of December 6th, 1970.

10. That by reason of the foregoing, the Plaintiff has been damaged in the sum of \$150,000.00.

11. That the foregoing pollution and damages are continuing, and upon information and belief, may be permanent.

**AS A SECOND CAUSE OF ACTION
IN NEGLIGENCE**

12. The Plaintiff repeats and realleges Paragraphs "1" through "11" as if fully repeated and republished herein.

13. In addition to, or as an alternative to, the First Cause of Action, the derailment aforementioned was caused solely and wholly by reason of the negligence of the Defendant Corporation, its agents or employees, in that they negligently maintained and cared for the equipment and rolling stock, and in particular the "journal box" on one of the cars which constituted the train derailment on December 6th, 1970.

14. By reason of the negligent maintenance of the Defendants, the aforementioned journal box was inadequately oiled, causing the same to heat up and "freeze" with the result of skidding wheels and the consequent derailment of the train.

**AS A THIRD CAUSE OF ACTION
IN RES IPSA LOQUITUR**

15. The Plaintiff repeats and realleges Paragraphs "1" through "14" as if fully repeated and republished herein.

16. That the derailment as aforementioned, and the consequent trespass and damages caused thereby, would not have occurred, in ordinary circumstance and experience, but for the negligence on the part of the Defendant, its agents or employees.

17. That the train and the cars of which the train consisted were wholly and solely in the control and possession of the Defendants and they alone may be expected to have the specific knowledge of the items constituting the negligence on the part of the Defendant, its agents or employees.

WHEREFORE, The Plaintiff demands Judgment on the First Cause of Action, against the Defendant, in the sum of One Hundred and Fifty Thousand Dollars (\$150,000.00), together with the costs and disbursements of this action and interest from the 6th day of December, 1970;

WHEREFORE, the Plaintiff, on the Second Cause of Action, demands Judgment against the Defendant in the sum of One Hundred and Fifty Thousand Dollars (\$150,000.00), together with the costs and disbursements of this action and interest from the 6th day of December, 1970;

WHEREFORE, on the Third Cause of Action, the Plaintiff demands Judgment against the Defendant in the sum of One Hundred and Fifty Thousand Dollars (\$150,000.00), together with the costs and disbursements of this Action and with interest from the 6th day of December, 1970.

Dated: Rochester, New York
January 26, 1973

LAWRENCE D. CHASE, ESQ.
Attorney for Plaintiff
600 Wilder Building
Rochester, New York 14614
Telephone: 232-3070

STATE OF NEW YORK
SUPREME COURT

COUNTY OF GENESEE

ALVIN F. GETMAN and
ARLINE II. GETMAN
8339 Gulf Road
LeRoy, New York 14482

Plaintiffs,

COMPLAINT

-vs-

JOHN F. NASII and ROBERT C. HALDEMAN,
Trustees of the LEHIGH VALLEY RAILROAD COMPANY
466 Lexington Avenue
New York, New York

Defendants.

The Plaintiffs, by their attorney, complain
of the Defendant and allege:

AS A FIRST CAUSE OF ACTION
IN TRESPASS

1. That the Plaintiffs, Alvin F. Getman and Arline II. Getman, at all times hereinafter mentioned are residents of the Town of LeRoy, County of Genesee, and State of New York.
2. That at all times hereinafter mentioned, the Plaintiffs were the owners of real property and improvements thereon, located in the area of and to the northwest of the intersection of the Lehigh Valley Railroad track and Gulf Road in the Town of LeRoy, County of Genesee and State of New York, with improvements thereon, constituting 30 acres, more or less.
3. That the improvements upon the Plaintiff's property included a two story frame dwelling constituting the Plaintiffs' residence, together with a large building constituting an active dog kennel.
4. That upon information and belief, the Lehigh Valley Railroad Company is organized under the laws of ~~Pennsylvania~~ the State of Delaware with offices at 415 Brighton Street, Bethlehem, Pennsylvania, and 466 Lexington Avenue, New York.

New York, and is licensed to do business in the State of New York and also licensed by the Interstate Commerce Commission.

5. That the Lehigh Valley Railroad is a public common carrier regularly engaged in the business of transporting persons and freight upon rails located in the State of New York and particularly on or in the vicinity of the land of the Plaintiffs herein.

6. That on July 24th, 1970, the Lehigh Valley Railroad Company filed a Petition for reorganization under the Federal Bankruptcy Law in the Eastern District Court for the State of Pennsylvania, and Trustees were appointed, to wit: R.C. Haldeman and John F. Nash whose addresses are 415 Brighton Street, Bethlehem, Pennsylvania 18015.

7. That on December 6th, 1970 at approximately 3:32 in the A.M. thereof, approximately 25 cars, owned by, or in the control of, the Lehigh Valley Railroad Company derailed at and in the vicinity of the Plaintiffs' property, spilling crystalline cyanide, carbon tetrachloride, and trichlorethylene, and other noxious, hazardous and dangerous substances, chemicals and pollutants, upon the Plaintiffs' property.

8. That by reason of the spillage as aforesaid, the Plaintiffs' property, at its surface and the subterranean water and wells of said property, were polluted and the pollutants caused a noxious and loathsome odor, and contaminated the water supply.

9. That by reason of the spillage and pollution as aforesaid, there was an impairment of the use of their land by the Plaintiffs, as well as an impairment of the comfortable enjoyment thereof, supplanted instead by discomfort, annoyance and inconvenience in the use of said property including, but not limited to: deprivation of the use of the water of said property for all purposes, sickness and unhealthiness.

caused by the noxious odors; the loss of trees and vegetation; the inconvenience and labor of toting bottled water; the anxieties of running out of water and the danger of breaking glass or from glass already broken; and the Plaintiffs may be obliged to expend sums to procure and transport the water of which they have been deprived.

10. That by reason of the foregoing, the Plaintiffs have been damaged in the sum of \$100,000.00.

11. That the foregoing pollution and damages are continuing, and upon information and belief, may be permanent.

12. Also, by reason of the foregoing, the value of the Plaintiffs' real property has been severely diminished, and the Plaintiffs are damaged in the sum of \$50,000.00 thereby.

AS A SECOND CAUSE OF ACTION
IN NEGLIGENCE

13. The Plaintiffs repeat and reallege Paragraphs "1" through "12" as if fully repeated and republished herein.

14. In addition to, or as an alternative to, the First Cause of Action, the derailment aforementioned was caused solely and wholly by reason of the negligence of the Defendant Corporation, its agents or employees, in that they negligently maintained and cared for the equipment and rolling stock, and in particular the "journal box" on one of the cars which constituted the train derailment on December 6th, 1970.

15. By reason of the negligent maintenance of the Defendants, the aforementioned journal box was inadequately oiled, causing the same to heat up and "freeze" with the result of skidding wheels and the consequent derailment of the train.

AS A THIRD CAUSE OF ACTION
IN RES IPSA LOQUITUR

16. The Plaintiffs repeat and reallege
Paragraphs "1" through "15" as if fully repeated and republished
herein.

17. That the derailment as aforementioned,
and the consequent trespass and damages caused thereby, would
not have occurred, in ordinary circumstance and experience, but
for the negligence on the part of the Defendant, its agents or
employees.

18. That the train and the cars of which the
train consisted were wholly and solely in the control and
possession of the Defendants and they alone may be expected to
have the specific knowledge of the items constituting the
negligence on the part of the Defendant, its agents or
employees.

WHEREFORE, The Plaintiffs demand Judgment on
the First Cause of Action, against the Defendant, in the sum of
One Hundred and Fifty Thousand Dollars (\$150,000.00), together
with the costs and disbursements of this action and interest
from the 6th day of December, 1970;

WHEREFORE, on the Second Cause of Action, the
Plaintiffs demand Judgment against the Defendant in the sum of
One Hundred and Fifty Thousand Dollars (\$150,000.00), together
with the costs and disbursements of this action and with
interest from the 6th day of December 1970;

WHEREFORE, on the Third Cause of Action, the
Plaintiffs demand Judgment against the Defendant in the sum of
One Hundred and Fifty Thousand Dollars (\$150,000.00), together
with the costs and disbursements of this action and interest
from the 6th day of December, 1970.

Dated: Rochester, New York
January 26, 1973

LAWRENCE D. CHASE, ESQ.
Attorney for Plaintiffs
600 Wilder Building
Rochester, New York 14614
Telephone: 232-3070

Lehigh Valley Railroad Company

JOHN F. NASH and ROBERT C. HALDEMAN, TRUSTEES
Claim Department

415 Brighton Street, Bethlehem, Pa. 18015

DIRECTOR - INSURANCE

MAR - 6 1973

C. S. Haum
General Claim Agent

March 2, 1973.

Let me see
file, please

From
96

Attached

Re: Elizabeth A. Knickerbocker, Individually and Elizabeth A. Knickerbocker, as Executrix of the Estate of Joseph W. Knickerbocker, Deceased, vs John F. Nash and Robert C. Haldeman, Trustees of Lehigh Valley Railroad Company.

Northwoods Sportsmen Association, Inc. vs John F. Nash and Robert C. Haldeman Trustees of Lehigh Valley Railroad Company.

Alvin F. Getman and Arline H. Getman vs John F. Nash and Robert C. Haldeman, Trustees of the Lehigh Valley Railroad Company.

Mr. G. A. Royce
Director-Insurance
Penn Central Transportation Company
Room 321, Penn Central Sta.-30th Street
Philadelphia, Pennsylvania 19104

Dear Mr. Royce:

In connection with our prior correspondence, you will now find attached copies of Complaints filed in the above actions. I still do not feel the cases will involve our excess insurance.

Very truly yours,

C. S. Haum
per 28

C. S. Haum,
General Claim Agent.

CSH:FB

cc: Mr. Kaswinkel

ATC
cc
EMTA

Room 321,
Penn Central Sta.-30th St.,
Philadelphia, Pa. 19104

March 2, 1973. B-n

Mrs. Shirley Giancolis,
Claim Department,
Marsh & McLennan, Inc.,
1221 Avenue of the Americas,
New York, N.Y. 10020

Dear Mrs. Giancolis:

Lehigh Valley Railroad Company
Accident of December 6, 1970
—Perniment & Pollution

Upon receipt of your letter of February 16, 1973, I
inquired as to status from Mr. C. S. Baum, General Claim Agent,
Lehigh Valley Railroad Company, with the following response:

"... I have had a recent conference with two of
the attorneys and at present it looks like three
cases can be closed for about \$5,000. each, and
a fourth case involving alleged personal injury
they are around \$20,000. ..."

From the above, it would appear that the total liability
loss will not be much more than \$35,000. This is a long way from
involving our excess liability insurance, but it may be prudent
to hold your file open a while longer.

Yours very truly,

G. A. Boyce
Director-Insurance

cc: Mr. E. J. Brooks
Mr. W. M. Aycockson

bcc: Mr. C. S. Baum

JK
SATH

Room 321,
Penn Central Sta.-30th St.,
Philadelphia, Pa. 19104

February 26, 1973. B-n

Mr. C. S. Baum,
General Claim Agent,
Lehigh Valley Railroad Company,
425 Brighton Street,
Bethlehem, Pa. 18015

Dear Mr. Baum:

Lehigh Valley Railroad Company
Derailment of Train COJ-32 at North Leroy, N.Y.,
Dec. 6, 1970, and subsequent pollution of drinking
water wells in vicinity of Gulf Road Crossing (U.S. 175)-71)

The insurance companies are bugging us again for a status report, updating your response of October 18, 1972.

I would appreciate anything you can tell me at this time.

Yours very truly,

G. A. Royce
Director-Insurance

Encl.

MARSH & McLENNAN

February 16, 1973

DIRECTOR - INSURANCE

FEB 26 1973

Mr. G. A. Royce
Director-Insurance
Penn Central Transportation Company
Room 321, Penn Central Station
30th Street
Philadelphia, Pennsylvania 19104

Re: Lehigh Valley Railroad Company
accident of December 6, 1970
Derailment and Pollution

Dear Mr. Royce:

Reference is made to the above captioned matter and your letter of October 20th, 1972.

Kindly advise us of the up-to-date status.

Thank you for your kind cooperation.

Very truly yours,

Shirley Gianoulis
(Mrs.) Shirley Gianoulis

6000
Room 321,
Penn Central Sta.-30th St.,
Philadelphia, Pa. 19104

October 20, 1972. B-n

Miss Shirley Sundbeck,
Marsh & McLennan, Inc.,
1221 Avenue of the Americas,
New York, N.Y. 10020

Dear Miss Sundbeck:

Lehigh Valley Railroad Company
Accident - 12/6/70
Location - North Leroy, N.Y.
Derailed & Pollution

In response to your letter of October 10th, enclosed is copy
of status report from Mr. C. S. Baum, General Claim Agent, Lehigh
Valley Railroad Company.

Yours very truly,

G. A. Royce
Director-Insurance

Enc.

cc: Mr. E. J. Brooks
Mr. W. M. Ayrobinson

Lehigh Valley Railroad Company
JOHN F. NASH and ROBERT C. HALDEMAN, TRUSTEES
Claim Department

415 Brighton Street, Bethlehem, Pa. 18015

C. S. Haum
General Claim Agent

Oct. 18, 1972
L.S.1752-71

Re: Lehigh Valley Railroad Company
Derailment of Train COJ-32 at North
Leroy, N.Y., Dec. 6, 1970 and subse-
quent pollution of drinking water
wells in vicinity of Gulf Road Crossing.

DIRECTOR - INSURANCE
OCT 20 1972

Mr. G. A. Royce
Director-Insurance
Penn Central Transportation Company
Room 321, Penn Central Sta.-30th Street
Philadelphia, Pennsylvania 19104

Dear Mr. Royce:

As per your request of the 12th instant, wish to advise the State has finally approved the filters and are now in the process of notifying the home owners that the water will be fit to use.

We then should be able to get some damage figures together from all parties involved.

Very truly yours,

C. S. Haum

C. S. Haum,
General Claim Agent.

CSH:FB

Free

Room 321,
Penn Central Sta. - 30th St.,
Philadelphia, Pa. 19104

October 12, 1972. S-n

Mr. C. S. Baum,
General Claim Agent,
Lehigh Valley Railroad Company,
415 Brighton Street,
Bethlehem, Pa. 18015

Dear Mr. Baum:

Lehigh Valley Railroad Company
Derailment of Train COJ-32 at
North Leroy, N.Y., Dec. 6, 1970
and subsequent pollution of
drinking water wells in vicinity
of Gulf Road Crossing

The last report we have on the captioned is your
February 15, 1972 letter.

We again have an inquiry from our brokers, copy attached,
inquiring as to status.

Your advices would be appreciated.

Yours very truly,

G. A. Royce
Director-Insurance

Enc.

MARSH & McLENNAN

October 10, 1972

DIRECTOR - INSURANCE

OCT 12 1972

Mr. G. A. Royce,
Director-Insurance
Penn Central Transportation Company
Room 321
Penn Central Station - 30th Street
Philadelphia, Pennsylvania 19104

Re: Date of Loss: December 6, 1970
Derailment and Pollution
North LeRoy, New York

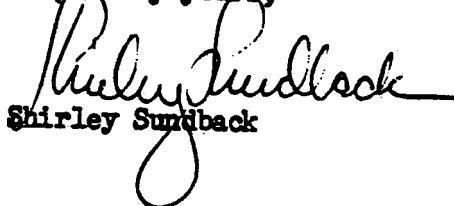
Dear Mr. Royce:

Please refer to the above captioned matter and advise us
of the present status, since your letter of February 17th.

We would appreciate your early reply, so we might answer
inquiries from excess underwriters.

Thank you,

Very truly yours,


Shirley Sundback

NOTE
Room 321,
Penn Central Sta., 30th St.,
Philadelphia, Pa. 19104

February 17, 1972. a-b

Mr. C. E. Oesbald,
Claim Department,
Marsh & McLennan, Inc.,
70 Pine Street,
New York, N.Y. 10005

Dear Mr. Oesbald:

Lehigh Valley Railroad Company
Accident: 12/6/70
Location: North Leroy, N.Y.
Derailed and Pollution

In response to your letter of February 9th, I enclose copy of status report on this accident from Mr. C. S. Hsu, General Claim Agent, Lehigh Valley Railroad Company.

Yours very truly,

G. A. Royce
G. A. Royce,
Director-Insurance.

Encl.

cc: Mr. R. A. DeVilbiss
Mr. E. J. Brooks

Encl.

Lehigh Valley Railroad Company

JOHN F. NASH and ROBERT C. HALDEMAN, TRUSTEES
Claim Department

415 Brighton Street, Bethlehem, Pa. 18015

C. S. Haum
General Claim Agent

Feb. 15, 1972
L.S.1751-71

DIRECTOR - INSURANCE

FEB 16 1972

Re: Lehigh Valley Railroad Company derailment
of Train COJ-32 at North LeRoy, N.Y., Dec.
6, 1970 and subsequent pollution of drink-
ing water wells in vicinity of Gulf Road
Crossing.

Mr. G. A. Royce
Director-Insurance
Penn Central Transportation Company
Room 321, Penn Central Sta.-30th Street
Philadelphia, Pennsylvania 19104

Dear Mr. Royce:

Referring to your letter of February 11, wish to advise the filters did work out very well but the State Department of Health refused to approve the water for use until we made exhaustive tests and the results were to their satisfaction. There are only two or three places that do this type testing and arrangements were made to have the tests conducted. We are still awaiting a report and are still supplying drinking water.

Three others have retained an attorney but inasmuch as we do not have an answer on the condition of the water we cannot put any figures on these claims.

The flushing operation did not clear the chemical out of the water.

Very truly yours,



C. S. Haum,
General Claim Agent.

CSH:FB

ACK

CLOSE OUT FILE IN
MAY 1971 A/C

PER LETTER TO LVR
5-21-71

GAR 5-21-71

STE
SA
3/16

Room 321,
Penn Central Sta., 30th St.,
Philadelphia, Pa. 19104

February 11, 1972. Sub

Mr. C. S. Baum,
General Claim Agent,
Lehigh Valley Railroad Company,
415 Brighton Street,
Bethlehem, Pa. 18015

Dear Mr. Baum:

Lehigh Valley Railroad Company
Derailment of Train COJ-32 at
North LeRoy, N.Y., Dec. 6, 1970
and subsequent pollution of
drinking water wells in vicinity
of Gulf Road Crossing.

Please refer to your letters of March 1, 1971 and
May 14, 1971, on this subject.

We now have an inquiry from our brokers, copy attached,
inquiring as to status. I would appreciate any information you
may be able to give me.

Yours very truly,

G. A. Royce,
Director-Insurance

Encl.

CHICAGO
DETROIT
MINNEAPOLIS
ST. LOUIS
NEW ORLEANS
INDIANAPOLIS
TULSA
ST. PAUL
KALAMAZOO
DULUTH
MILWAUKEE
LOS ANGELES
SAN FRANCISCO
SEATTLE
PORTLAND
PHOENIX
SAN DIEGO
OAKLAND
SPOKANE
JUNEAU
MELBOURNE
SYDNEY

ESTABLISHED 1871

MARSH & MCLENNAN

INCORPORATED

INSURANCE

70 PINE STREET NEW YORK 10004

AREA CODE 212 943-2000

DIRECTOR - INSURANCE

FEB 10 1972

NEW YORK
BOSTON
PITTSBURGH
PHILADELPHIA
ATLANTA
ROCHESTER
MIAMI
BUFFALO
SYRACUSE
RICHMOND
CHARLESTON
TORONTO
MONTREAL
QUEBEC
VANCOUVER
CALGARY
WINNIPEG
EDMONTON
WINDSOR
CARACAS
SAO PAULO
BRUSSELS
LONDON
ROME

February 9, 1972

Penn Central Transportation Co.
Room 321, Penn Central Station
30th Street
Philadelphia, Pennsylvania 19104

Attention: Mr. G. A. Royce, Director-Insurance

Dear Mr. Royce:

Lehigh Valley Railroad
Accident: 12/6/70
Location: North LeRoy, New York

In your last correspondence of May 18, you advised us concerning the filters, one potential claim of illness, and the attempt to flush the underground water.

So that we might answer inquiries from various excess underwriters, we would appreciate a current status concerning this pollution claim.

Very truly yours,

MARSH & MCLENNAN

By:

C. H. Osebold
C. H. Osebold
Claim Department

CHO:nsc

ME
file

Room 321,
Penn Central Sta.-30th St.,
Philadelphia, Pa. 19106

May 18, 1971. S-b

Mr. C. H. Oehold,
Claims Department,
Marsh & McLennan, Inc.,
70 Pine Street,
New York, N.Y. 10003

Dear Mr. Oehold:

Deraiment & Pollution
Accident - December 6, 1970
Lehigh Valley Railroad Company

In response to your letter of May 7th, we enclose copy of letter dated May 14th from Mr. C. S. Baum, General Claim Agent, Lehigh Valley Railroad Company.

We believe this letter answers your questions. From all appearances, it looks as if any liability loss arising out of this accident will be minimal and it is unlikely that the loss will involve our excess liability insurance.

Yours very truly,

G. A. Royce
G. A. Royce,
Director-Insurance.

Enccl.

cc: Mr. E. J. Brooks

Enccl.

Lehigh Valley Railroad Company

JOHN F. NASH and ROBERT C. HALDEMAN, TRUSTEES
Claim Department

415 Brighton Street, Bethlehem, Pa. 18015

C. S. Haum
General Claim Agent

DIRECTOR - INSURANCE

MAY 17 1971

May 14, 1971.

Re: Lehigh Valley Railroad Company
Derailment of Train COJ-32 at
North LeRoy, N.Y., Dec. 6, 1970
and subsequent pollution of
drinking water wells in vicinity
of Gulf Road Crossing.

Mr. G. A. Royce
Director - Insurance
Penn Central Transportation Company
Room 321
Penn Central Sta - 30th Street
Philadelphia, Pennsylvania 19104

Dear Mr. Royce:

Referring to your letter of May 11th, wish to advise we have installed filters on one water system and at present the tests indicate this will clear the chemicals out of the water. If the Health Department approves after testing we will install them on all systems and keep them checked. We are flooding an area with fresh water so that it will follow the same course underground as the chemicals did to flush out the wells. It is expected this should be cleared up by the summer.

We have one person claiming an illness but it appears of a minor nature and is questionable as to its connection with water.

Very truly yours,



C. S. Haum,
General Claim Agent.

CSH:FB

cc: Mr. Kaswinkel

ACK

HE
SUGGEST
SEPARATE
L.V.R.R.
P.O.O.
FILE ON THIS.

Room 321,
Penn Central Sta., 30th St.,
Philadelphia, Pa. 19106

May 11, 1971. R.R.

Mr. C. S. Baum,
General Claim Agent,
Lehigh Valley Railroad Co.,
415 Brighton Street,
Bethlehem, Pa. 18015

Dear Mr. Baum:

Lehigh Valley Railroad Company
Derailment of Train COJ-32 at North LeRoy, N.Y.,
December 6, 1970, and subsequent pollution of
drinking water wells in vicinity of Gulf Road Crossing

As a protective measure, we reported this accident to Marsh & McLennan, Inc., brokers on our blanket excess liability insurance, limits \$23,000,000. excess of \$2,000,000. any one occurrence, under which Lehigh Valley Railroad Co. is also an insured. Copy of my letter of March 5, 1971, was sent to Mr. Kaswinkel.

I now have been asked additional questions which I hope you can answer. See Marsh & McLennan's letter of May 7th, copy enclosed.

Please advise promptly.

Yours very truly,

G. A. Royce

G. A. Royce
Director-Insurance.

Enclos:

cc: Mr. G. W. Kaswinkel

SEE 431-70

CHICAGO
DETROIT
MINNEAPOLIS
ST. LOUIS
NEW ORLEANS
INDIANAPOLIS
TULSA
ST. PAUL
KALAMAZOO
DULUTH
MILWAUKEE
LOS ANGELES
SAN FRANCISCO
SEATTLE
PORTLAND
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SAN DIEGO
OAKLAND
SPokane
JUNEAU
MELBOURNE
SYDNEY

ESTABLISHED 1871

MARSH & MCLENNAN

INCORPORATED

INSURANCE

70 PINE STREET NEW YORK 10005

AREA CODE 212 943-2000

DIRECTOR INSURANCE

MAY 11 1971

May 7, 1971

NEW YORK
BOSTON
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PHILADELPHIA
ATLANTA
ROCHESTER
MIAMI
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RICHMOND
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QUEBEC
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WINNIPEG
EDMONTON
WINDSOR
CARACAS
SAO PAULO
BRUSSELS
LONDON
ROME

Penn Central Company
Room 321
Penn Central Station - 30th Street
Philadelphia, Pennsylvania 19104

Attention: Mr. G. A. Royce

Gentlemen:

Derailment and Pollution
Accident - December 6, 1970
Lehigh Valley Railroad

We write with reference to your March 5 report and the correspondence concerning the above referenced claim. This matter has been reported to underwriters as a precautionary measure. So that their records will be up-to-date, they have requested clarification on two points.

Since the correspondence of February 23, has there been any action taken to eliminate the pollution? Is any action contemplated at this time?

Secondly, have there in fact been any injuries resulting from this pollution?

Very truly yours,

MARSH & MCLENNAN

By:



C. H. Osebold
Claims Department

CHO:hm

CHICAGO
DETROIT
MINNEAPOLIS
ST. LOUIS
NEW ORLEANS
INDIANAPOLIS
TULSA
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SYDNEY

ESTABLISHED 1871

MARSH & MCLENNAN

INCORPORATED

INSURANCE

70 PINE STREET NEW YORK 10005

AREA CODE 212 943-2000

DIRECTOR - INSURANCE

MAR 12 1971

NEW YORK
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QUEBEC
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EDMONTON
WINDSOR
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SAO PAULO
BRUSSELS
LONDON
ROME

March 10, 1971

Mr. G. A. Royce
Director-Insurance
Penn Central Company
Room 321
Penn Central Sta. - 30th St.
Philadelphia, Pa. 19104

Excess Liability Insurance
Lehigh Valley Railroad Company
Derailment of Train COJ-32 at North LeRoy, N. Y.
December 6, 1970, and subsequent pollution of
drinking water wells in vicinity of Gulf Road Crossing

Dear Mr. Royce:

In the absence of John Brooks, we are acknowledging your letter of March 5 under this heading.

We expect to make a routine report to underwriters but not until after Mr. Brooks' return from London. Pending any further word from us, you will know that this matter is having our attention.

Sincerely,



R. A. DeVilbiss
Senior Vice President

RAD/gg

431-4003
70 ACK
FILE

Room 321,
Penn Central Sta.-30th St.,
Philadelphia, Pa. 19104

March 5, 1971. a.m.

Mr. E. J. Brooks,
Vice President,
Marsh & McLennan, Inc.,
70 Pine Street,
New York, N.Y. 10005

Dear Mr. Brooks:

Lehigh Valley Railroad Company
Derailment of Train COJ-32 at North Ledyard, N.Y.,
December 6, 1970, and subsequent pollution of
drinking water wells in vicinity of Gulf Road Crossing

Enclosed are copies of correspondence and report of the
following occurrence.

It does not appear from the report that there has been a
great deal of actual claim or suit activity to date, so that it is
difficult to evaluate this accident as it relates to Penn Central
Transportation Company's excess liability insurance, under which
the Lehigh Valley Railroad is covered as a subsidiary company. At
this point I find it hard to believe that any loss resulting would
come near our \$2,000,000. retention.

However, I am reporting this accident because of its unusual
nature and as a precautionary measure. If anything of consequence
develops, I will let you know.

Yours very truly,

G. A. Royce
G. A. Royce,
Director-Insurance.

Encl.

cc: Mr. R. A. DeVille

cc: Mr. G. W. Kaswinkel

Please keep me informed.

G. A. Royce

JOHN F. NASH and ROBERT C. HALDEMAN, TRUSTEES
LEHIGH VALLEY RAILROAD COMPANY

425 BRIGHTON STREET
BETHLEHEM, PA. 18015

DIRECTOR - INSURANCE

MAR 3 1971

G. W. KASWINKEL
MANAGER OF INSURANCE
MANAGER INDUSTRIAL DEVELOPMENT

March 2, 1971

Mr. James L. Schmeler
Vice President
Michigan Mutual Liability Co.
28 W. Adams
Detroit, Michigan

Re: ERF35RR-0-3028
February 18, 1970-1973
50,000 + 250,000

Dear Mr. Schmeler:

Confirming my conversation today with Mr. J.R. Fleming of the Wilkerson Agency re above policy which was terminated as of February 18, 1971; information received re possible claim arising from pollution of water wells as a result of a derailment of our train COJ-32 at North LeRoy, New York on December 6, 1970.

The attached is self-explanatory re the situation from date of occurrence to present; any question you have please contact:

Mr. C. S. Hause
General Claim Agent
Lehigh Valley Railroad Co.
415 Brighton St.
Bethlehem, Pa. 18015

(215) 868-1461 Ext. 325

Very truly yours,



cc: Mr. G. A. Royce - For
notification of excess
carriers if you believe it is
necessary at present.

GK:sr

cc: Mr. J. R. Fleming, Vice Pres.
Wilkerson Agency

JOHN F. NASH and ROBERT C. HALDEMAN, TRUSTEES
LEHIGH VALLEY RAILROAD COMPANY
425 BRIGHTON STREET
BETHLEHEM, PA. 18015

G. W. KASWINKEL
MANAGER OF INSURANCE
MANAGER INDUSTRIAL DEVELOPMENT

March 1, 1972

Mr. J. R. Fleming
Vice President
Wilkerson Agency
16547 E. Warren Avenue
Detroit, Michigan

DIRECTOR - INSURANCE
MAR 3 1971

Re: The Mutual Fire, Marine and Inland
Insurance Company
No. R 5085
February 18, 1970-1971

200,000 x 300,000

Dear Mr. Fleming:

Confirming our conversation today re above policy,
information received re possible claim arising from pollution
of water wells as a result of a derailment of our train
COJ-32 at North LeRoy, New York on December 6, 1970.

The attached is self-explanatory re the situation
from date of occurrence to present; any question you have
please contact:

Mr. C. S. Baum
General Claim Agent
Lehigh Valley Railroad Co.
415 Brighton St.
Bethlehem, Pa. 18015

(215) 868-1461 Ext. 325

Very truly yours,
G. W. Kaswinkel

GK:mr

cc: Mr. G. A. Royce

JOHN F. NASH and ROBERT C. HALDEMAN, TRUSTEES
LEHIGH VALLEY RAILROAD COMPANY
425 BRIGHTON STREET
BETHLEHEM, PA. 18015

G. W. KASWINKEL
MANAGER OF INSURANCE
MANAGER INDUSTRIAL DEVELOPMENT

March 1, 1971

Mr. V. G. Rutledge
Parker & Co. International, Inc.
1616 Walnut Street
Philadelphia, Pa. 19103

DIRECTOR - INSURANCE

MAR 3 1971

Re: Confirmation of Insurance
Excess Liability
Effective November 20, 1970

1,500,000 x 500,000

Dear Vince:

Confirming my conversation today with your
secretary re above, information received re possible claim
arising from pollution of water wells as a result of a
derailment of our train COJ-32 at North LeRoy, New York
on December 6, 1970.

The attached is self-explanatory re the situation
from date of occurrence to present; any question you have
please contact:

Mr. C. S. Baum
General Claim Agent
Lehigh Valley Railroad Co.
415 Brighton St.
Bethlehem, Pa. 18015

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Very truly yours,

G.W. Kaswinkel

GA:SP

cc: Mr. G. A. Royce

Buffalo, N.Y., February 23, 1971

Re: Derailment of train COJ-32 at No. LeRoy, N.Y., December 6, 1970 and subsequent pollution of drinking water wells in the vicinity of Gulf Road Crossing.

Mr. Baum:

As result of the above derailment 2 tank cars loaded with trichloroethylene and 1 covered hopper loaded with cyanide crystals were spilled at the Gulf Road Crossing. The cars loaded with the trichloroethylene were GATX 81443 and GATX 81468 had a capacity of 18,000 gallons and were being shipped by DuPont out of Niagara Falls, N.Y. The covered hopper loaded with the cyanide was the LW-50272 and shipped by the American Cyanamid Co., Niagara Falls, Ontario, Canada. The contents of the tank cars were spilled on the ground, and there was approximately 6.5 to 7.0 tons of cyanide which remained on the ground. However the cyanide that remained on the ground was treated by chemicals to neutralize it by technicians from the American Cyanamid Co. To date no one that worked around the area of the derailment was affected by the trichloroethylene or the cyanide.

On December 21, 1970 Mr. Mark Krull and Environmental Health Technician from the Genesee County Health Department called and told me that some of the water wells in the area were polluted. I immediately called the DuPont Company in Niagara Falls and talked with Mr. Andy Jones the Superintendent who wanted to go to the area of the derailment. I met Mr. Jones and Mr. Krull at No. LeRoy in the evening of December 21st. We went to the residence of Arthur Tyler on the Gulf Road and the water was checked by Mr. Jones and found to have an odor of trichloroethylene as well as the taste of it. A sample of this water was taken to be analyzed. Mr. Tyler also told us that he went to St. Jerome Hospital in Batavia on December 12, 1970 after feeling groggy and sick to his stomach. He

was examined and released with diagnosis of a virus.

We also went to the Knickerbocker Hotel on December 21, 1970 where the complaint was not polluted water but odors in the basement. Mr. Jones checked the basement and found that there were odors of trichlorethylene. Mrs. Knickerbocker told us that she first noticed the odors on December 14, 1970. A water sample was taken from the kitchen to be tested.

The samples of water that were taken from Tyler's on December 21st showed 33 parts per million of trichlorethylene and the Knickerbocker sample showed less than 2 parts per million. The health department sample of water taken from Tyler on December 22nd also showed .06 parts per million of cyanide.

The Tylers and the Knickerbockers were the first that complained about the pollution. However Mr. and Mrs. Alvin Getman who also live on the Gulf Road started to complain in the early part of January of 1971 and a sample of their water on January 6, 1971 showed to contain 12 parts per million of the trichlorethylene. As soon as these 3 families complained about their water they were immediately told by the Genesee Health Department not to use it for drinking, cooking or give it to their livestock. These people have been bringing water in from private sources for their needs.

In the beginning it was felt that the underground flow of water would wash the trichlorethylene away and the water in the wells would clear up. Mr. Jones advised that there was nothing that could be put into the ground or the wells that would neutralize the tri as it is referred to by the DuPont people and the only thing that we could do was wait. It was also felt that it would take several weeks of time for the situation to clear up.

Mr. Krull has been obtaining samples for me every week or 10 days which has been checked by the DuPont people and the situation has not shown any signs of clearing up. Tylers water has gone from the 33 parts per million of tri to 100 parts per million and the most recent check which was made on February 1, 1971 it showed 65 parts per million. However, Getman's water which showed low in the beginning has shot up to 171 parts

per million of tri. The Knickerbocker's pollution has remained at low level of 2 parts per million of tri, but their problem is the odors in the basement and in the bar-room of the hotel. Mr. Krull has advised that the Knickerbockers told him that these odors and fumes are irritating to the eyes and also bothering Mr. Knickerbocker who has emphysema.

Around the middle of January, 1971 Mr. Krull advised that there were 6 families who live about 1/2 to 3/4 of a mile from the crossing complaining that there was odors in their water. We had the water checked for trichloroethylene and all the samples showed less than 2 parts per million of tri in the water. The water would not be harmful to drink under those conditions but the Health Department advised the people not to drink the water.

On February 3, 1971 I talked with a Mr. George Hartenstein who is a Geologist at Avon, N.Y. about the pollution of the water. He suggested that the wells be pumped out and in this way they would probably flush themselves of the tri. However he could not state that this would definitely solve the problem. The Genesee County Health Department advised that that there was no place in the area where the water that was pumped out could be run off without causing more problems and if any pumping was to be done the water would have to be hauled away.

I talked with a local water well driller who advised that drilling a new well in the same locality of the old well would not help as the tri would follow the water into the new well. However a new well some distance away from the existing well might be satisfactory.

On February 8, 1971 I had a meeting with Mr. C. A. Markellis, Genesee County Health Officer at his office in Batavia, N.Y. The outcome of this meeting produced several suggestions by Mr. Markellis. One was to drilling new wells approximately 500 feet away from the existing one and the other suggestion was the running of the Village of Leloy water out to the Gulf Road area. He agreed with me that not knowing how the underground current of water is flowing we may not be any better off with a new well. He also suggested that I contact Ecology & Environment, Inc in Buffalo to see what they had to offer.

I contacted this organization and talked with a Mr. Neumeier, the president, and explained our problem to him. He advised that he would discuss the matter with his associates and would call me. He talked with me on February 22, 1971 and advised that it would be necessary for him to check the wells in the area, check the soil, check and see if the tri is in the bottom of the wells and do other tests. This would cost at least \$2,000.

I also contacted the Village of LeRoy, N.Y. about the possibility of running city water out to the area. I was told that it costs about \$12.00 a foot to run the water and from where their water is now it would cost well over \$100,000 to run the city water out to the Gulf Road area.

On February 23, 1971 I talked with George L. Marshall, Engineering Geologist who recently did some work for us to get his opinion in the matter. He advised that it would cost about \$500 for him to make a full inspection of the area and if he could not find a solution for us he would not charge any money. However if he had to contact someone else to help him find a solution there would be a charge for that and his fee of \$500.

I recently received a letter from attorney Frank O. Casacoli in Rochester, N.Y. who advised that he has been retained by Mr. & Mrs. Alvin Getman and Mr. & Mrs. Joseph Knickerbocker and a letter from attorney John J. Glavin also of Rochester, N.Y. advising that he has been retained by the Tylers. Copies of these letters are attached with a copy of the follow up letter from attorney Casacoli advising that we had his permission to go on his clients property to pursue the solution to the problem. Attorney Glavin is also supposed to send me a follow up letter giving me authority to go onto his clients property and when this is received I will forward a copy to you.

Mr. Glavin also advised recently that Mr. Tyler has been in the hospital for a period of 16 days and the diagnosis was an enlarged liver. He was not sure whether or not it was from pork he had slaughtered and eaten or a physical condition. He is to give me copies of the hospital reports and I am going to obtain an authorization from him for the medical records.

A reporter by the name of Al McWilliams from the Batavia, N.Y. Daily News called me today. He told me that he had been in contact with some of the people in the area and wanted to know what the Railroad is doing to find a solution to the water pollution. I explained to him that we have been in constant touch with the Health Department and the pollution problem; that we have talked with a number of experts and have been attempting to find a solution. He agreed that it is a difficult problem and one that has no easy solution. I will obtain his writeup in the paper and will forward a copy to you.

Two of the families that complained about odor in their water in the middle of January recently complained to Mr. Krull again about their water. He has obtained samples from these people and I will have it checked. With the article appearing in the Batavia Daily News of February 23, 1971 we will, no doubt, have more complaints from the area residents.

As a matter of further information on the parts per million of the tri in the water. If we equate 1 part per million it would be the same as .00001 percent in the water, which is very low and 50 parts per million in percentage would be .00050.

It would appear from all the facts to date that perhaps we should call upon Mr. Marshall to see what solution he could find for us as he is the least expensive.

N. Sozanski
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