

TRAIL EASEMENT

This DEED OF EASEMENT (this "Easement") is made this ____ day of _____, 2008, by and between Louisville Fire Brick Company ("Grantor") and Kentucky Rails to Trails Council, Inc., a Kentucky nonprofit corporation ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner in fee simple of real property located in Carter County, Kentucky (hereinafter "Grantor's Property");

WHEREAS, in accord with the Kentucky Trails System Act, the Grantee desires to acquire a trail easement across Grantor's Property in furtherance of its "Rails to Trails" program, which seeks to establish public multi-use nonmotorized recreation trails along abandoned Kentucky railroad lines, demonstrating the historic, scenic, and natural beauty of the area and promoting the public health by creating recreational opportunities; and

WHEREAS, Grantor is willing to grant a permanent and perpetual trail easement to the Grantee, without any charge or other remuneration, for the installation of a trail (hereinafter the "Trail") solely for recreational purposes.

NOW THEREFORE, in consideration of the mutual covenants by and between the parties hereto and of the public benefit to be derived by the grant of the hereinafter described easement, the Grantor hereby grants and conveys unto the Grantee, its successors, lessees, and assigns, a perpetual, non-exclusive and assignable multi-use public trail easement along with the right, power, and privilege to maintain said multi-use public trail easement and all appurtenances thereto, along and upon Grantors' land hereinafter described (hereinafter the "Trail Easement Area"):

[All that part of the Grantor's land described on Exhibit A][and identified as "Sale Area" on the Plat attached hereto as Exhibit B]

Being a part of the same property conveyed to the Grantor by deed dated September 26, 1991 and recorded in Deed Book 213, Page 724 in the office of the County Court Clerk of Carter County, Kentucky (the "Property").

1. Easement restrictions. The easement grant herein, the Trail Easement Area and the Trail shall be subject to the following restrictions:

(a) Grantee shall have the right but not the obligation, at Grantee's expense, to construct, maintain, use, repair and maintain the Trail within the Trail Easement Area, including the right to install, maintain, repair, and replace steps, trail surfacing, bridges, culverts, and other structures and improvements as permitted herein. Prior to initial Trail installation, Trail relocation, or major maintenance activity, Grantee shall give at least two (2) weeks prior written notice to Grantor by certified mail, return receipt requested. Grantee may relocate the Trail

within the Trail Easement Area at the Grantee's discretion after giving notice to Owners as provided in this Section 1(a).

(b) Said Trail Easement Area shall not to exceed 100 feet in width and the Trail located therein shall not exceed 17 feet in width.

(c) Said easement shall be solely for public recreational purpose.

(d) No advertising of any kind shall be located on, upon, or within said Trail Easement Area.

(e) Any structures or improvements of any kind located within the Trail Easement Area shall be only that are conducive to a trail facility, as may be necessary for the safety of trail users. Such structures may include but not be limited to signage, stairways, steps, bridges, paving or surfacing material, culverts, benches and trash receptacles. Grantee, or Grantor with Grantee's prior written consent, may erect and maintain such fencing and barriers within the Trail Easement Area as may be reasonably necessary to prevent access to the Trail by motor vehicles. Grantee shall have the right to erect reasonable signs or other markings within the Trail Easement Area to inform the public of the Trail location or other Trail features. Grantor shall not erect fences, barriers or signs that impede access to or use of the Trail.

(f) The general topography and elevation of the Grantor's Property in the Trail Easement Area shall be maintained or restored to the approximate level as of the date hereof, except that Grantee may maintain the Trail and Trail Easement Area as shown on the attached Exhibit B, which is incorporated by reference and made a part hereof.

(g) Activities within the Trail Easement Area shall be limited to non-motorized passive recreation and designated for foot and horse travel, rollerskating, skateboarding, and bicycle use and the like.

(h) Use of any motorized vehicle or similar mechanical means of locomotion, including automobiles, motorcycles, snowmobiles, or other all-terrain vehicles shall be prohibited, except that Grantee may utilize reasonable motorized vehicle and equipment in the Trail Easement Area emergencies and for construction or maintenance purposes as appropriate. Grantee may permit motor-driven wheelchairs or all terrain vehicles for the use of handicapped persons within the Trail Easement Area if consistent with the Purposes of this Easement.

(i) Overnight camping and campfires shall not be permitted in the Trail Easement Area. Grantee shall have the right, in its sole discretion, to restrict or limit public use of and access to the Trail Easement Area.

(j) Grantee may clear brush as required to maintain the Trail Easement Area, and may remove dead, dying or diseased vegetation within the Trail Easement Area which poses a safety risk to Trail users after the Trail has been constructed; otherwise Grantee may cut or remove additional vegetation only with the prior written consent of Grantor. Grantee shall not employ herbicides, pesticides, growth inhibitors or other chemicals within the Trail Easement

Area without the prior written consent of Grantor. Grantor shall not harvest any trees in the Trail Easement Area without the prior written consent of Grantee, except that Grantor may remove dead, diseased or dying trees without prior permission of Grantee, provided that Grantor has given Grantee notice of the proposed activity so that Grantee can divert public use of the Trail if necessary.

(k) Except as specifically permitted under this Easement, no rights-of-way, easements of ingress or egress, driveways, roads, utility lines or easements or other servitudes shall be granted, constructed, developed or maintained into, on, over, under, or across the Trail Easement Area without the prior written permission of the Grantee. Holder shall not unreasonably withhold or condition permission, provided that granting permission would not materially impair recreational use of the Trail Easement Area and is not otherwise inconsistent with the purpose of this Easement.”

(l) Except for Trail construction, maintenance or relocation, neither Grantor nor Grantee shall permit or cause any disturbance of the surface of the Trail Easement Area, including but not limited to filling, excavation, removal of topsoil, sand, gravel, rocks or minerals, or change of the topography of the Trail Easement Area in any manner. In no case shall surface mining of subsurface oil, gas, or other minerals be permitted. Further, there shall be no placement, collection, or storage of trash, human waste, ashes, chemicals, hazardous or toxic substances, or any other unsightly or offensive material within the Trail Easement Area, except for trash receptacles located in the Trail Easement Area pursuant to Section 1(e) above.

2. Grantor’s Liability. The Grantor shall be entitled to all limits of liability as set forth in KRS 411.190, KRS 150.645 and such other applicable statutes that may from time to time be enacted. [Grantor may, in Grantor’s discretion and upon advice of counsel, close the Trail to public use in the event that the landowner liability protection afforded by the aforementioned statutes is repealed or altered in a manner which materially increases, in Grantor’s reasonable opinion, Grantor’s potential liability to Trail users and if (a) no other statute or law affords Grantor liability protection which is substantially similar to what is afforded under the aforementioned statutes and (b) Grantee, its successor(s) or assign(s) does not provide reasonable insurance coverage or otherwise agree to hold Grantee harmless against liability of public Trail users.]

3. Manager. Grantee may assign its rights and obligations under this instrument with regard to construction, relocation, maintenance, and management of the Trail and Trail Easement Area to a person, persons, entity, or agency (hereinafter, the “Manager”) and shall notify Grantor if such assignment is made and shall provide Grantor the name, address, and other contact information of the Manager.

4. Miscellaneous Provisions.

(a) [In the event this Easement is extinguished by eminent domain or other legal proceedings, Grantee shall be entitled to any proceeds which pertain to the extinguishment of Grantee’s rights and interests hereunder.]

(b) In any deed conveying an interest in all or part of Grantor’s Property subject to the terms of this Easement, Grantor shall refer to this Easement and shall indicate that the

Easement is binding upon all successors in interest to the Trail Easement Area in perpetuity. Owner shall notify the Grantee of the names and addresses Grantor's successor(s) in interest. (c) The term "Grantor" shall include heirs, successors, and assigns of the original Grantor, [insert name here]. The term Grantee shall include successors and assigns of Kentucky Rails to Trails Council, Inc., a Kentucky nonprofit corporation.

TO HAVE AND TO HOLD said easement, together with all rights, privileges, and appurtenances thereunto belonging to the Grantee, its successors, lessees, and assigns.

IN WITNESS WHEREOF, the Grantor and Grantee have hereunto set their hands the day and year first above written.

GRANTOR(S)

GRANTEE

KENTUCKY RAILS TO TRAILS
COUNCIL, INC.

By:_____

Its:_____

COMMONWEALTH OF KENTUCKY

COUNTY OF FAYETTE

The foregoing instrument was acknowledged before me this _____ day of October, 2003, by _____.

My commission expires:

NOTARY PUBLIC, STATE AT LARGE, KY
COMMONWEALTH OF KENTUCKY)
)

COUNTY OF FAYETTE)

The foregoing instrument was acknowledged before me this ___ day of _____, 2003, by _____ as _____ of Kentucky Rails to Trails Council, Inc., a Kentucky nonprofit corporation, on behalf of said corporation.

My commission expires:

—

NOTARY PUBLIC, STATE AT LARGE, KY

THIS INSTRUMENT PREPARED BY:

STITES & HARBISON

250 West Main Street, Suite 2300

Lexington, KY 40507-1758

Telephone: (859) 226-2300

Exhibits A-1 & A-2

Legal Description

Exhibits B-1 & B-2

Plat showing

Trail Easement Area and

Planned location/width of Trail

EXHIBIT A

Description of property at: Carter County, Kentucky
To: Louisville Fire Brick Works, Inc.
CMT Deed File No.: 21043-007-MAS

All those certain parcels or tracts of land situate in Carter County, Kentucky more particularly described as follows:

PARCEL ONE
The western 1,530 feet of the 4,050-foot long parcel or tract of land situate in Carter County, Kentucky conveyed by C. S. Counts to the Elizabethtown Lexington and Big Sandy Railroad Company by deed dated December 11, 1883 and recorded in Deed Book J Page 336, being 100 feet wide, 50 feet on either side of Grantor's former centerline of railroad track, containing 3.5 acres, more or less; the east and west ends being as shown on fragment print of Grantor's Valuation Section V33 Map 13 marked Exhibit A-1 and Exhibit A-2, respectively, attached hereto and incorporated herein by reference.

PARCEL TWO
All that certain land conveyed by Rant James et. al. to the Chesapeake and Ohio Railway Company of Kentucky, Grantor's predecessor, by deed dated February 7, 1905 and recorded among Carter County land records in Deed Book X Page 11, containing 0.37 of an acre, more or less.

PARCEL THREE
All that certain land conveyed by Louisville Fire Brick Works, Inc. to the Chesapeake and Ohio Railway Company, Grantor's predecessor, by deed dated October 26, 1936 and recorded among Carter County land records in Deed Book 57 Page 552, containing 0.23 of an acre, more or less.

PARCEL FOUR

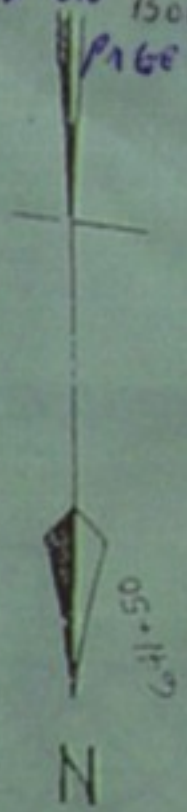
All that certain land conveyed by America Bell Clay et. al. to the Chesapeake and Ohio Railway Company, Grantor's predecessor, by deed dated October 14, 1936 and recorded among Carter County land records in Deed Book 57 Page 541, containing 0.52 of an acre, more or less.

PARCEL FIVE

All that certain land conveyed by A. M. Kelley to the Chesapeake and Ohio Railway Company, Grantor's predecessor, by deed dated October 13, 1936 and recorded among Carter County land records in Deed Book 57 Page 534, containing 0.13 of an acre, more or less.

By Agreement dated July 1, 1902, the Elizabethtown, Lexington and Big Sandy Railroad, the Kentucky and South Atlantic Railroad Company and the Ohio and Big Sandy Railroad Company consolidated to form the Lexington and Big Sandy Railway Company; by Agreement dated July 1, 1904, the Lexington and Big Sandy Railway Company, the Maysville and Big Sandy Railroad Company and The Covington Short Route Transfer Railway Company consolidated to form the Chesapeake and Ohio Railway Company of Kentucky; by Agreement dated May 9, 1906, the Chesapeake and Ohio Railway Company of Kentucky, the Big Sandy Railway Company and The Kinniconnick and Freestone Railroad Company consolidated to form The Chesapeake and Ohio Railway Company of Kentucky; by deed dated July 1, 1907, all properties of the Chesapeake and Ohio Railway Company of Kentucky were conveyed to The Chesapeake and Ohio Railway Company; effective September 2, 1987, The Chesapeake and Ohio Railway Company was merged into CSX Transportation, Inc.

Based on Book 213
Page 729



$\angle = 56^{\circ} - 06'$

$2^{\circ} 5' 15''$ $7^{\circ} 15'$ $7^{\circ} 30'$

637+100
341+47.5

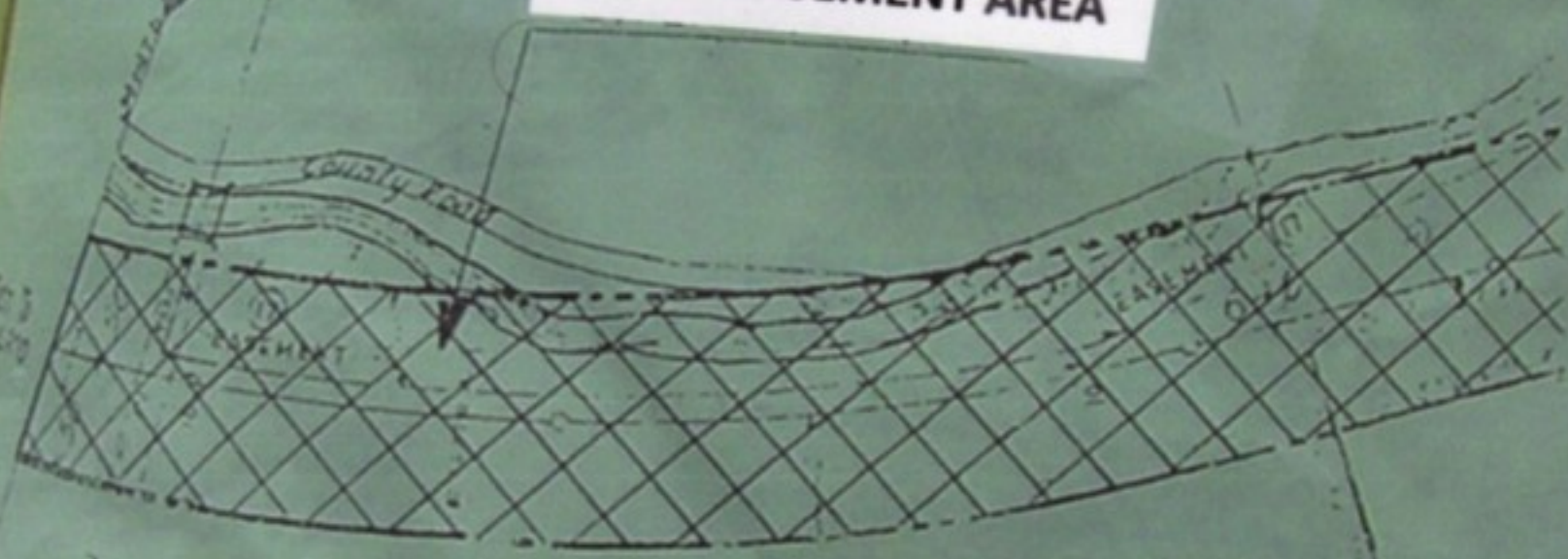
637+00

637+00

Book Carroll 1917

553

TRAIL EASEMENT AREA



"NOTHING IN THIS PLAT SHALL BE TAKEN AS OR DEEMED TO BE A DEDICATION OF ANY LANDS, STREETS, OR ROADWAYS OR THE USE THEREOF, TO THE GENERAL PUBLIC."

1" = 100'

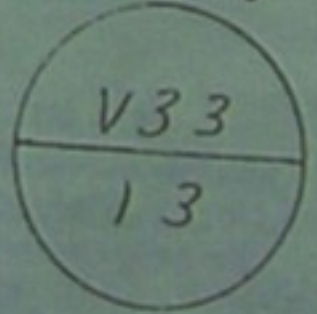
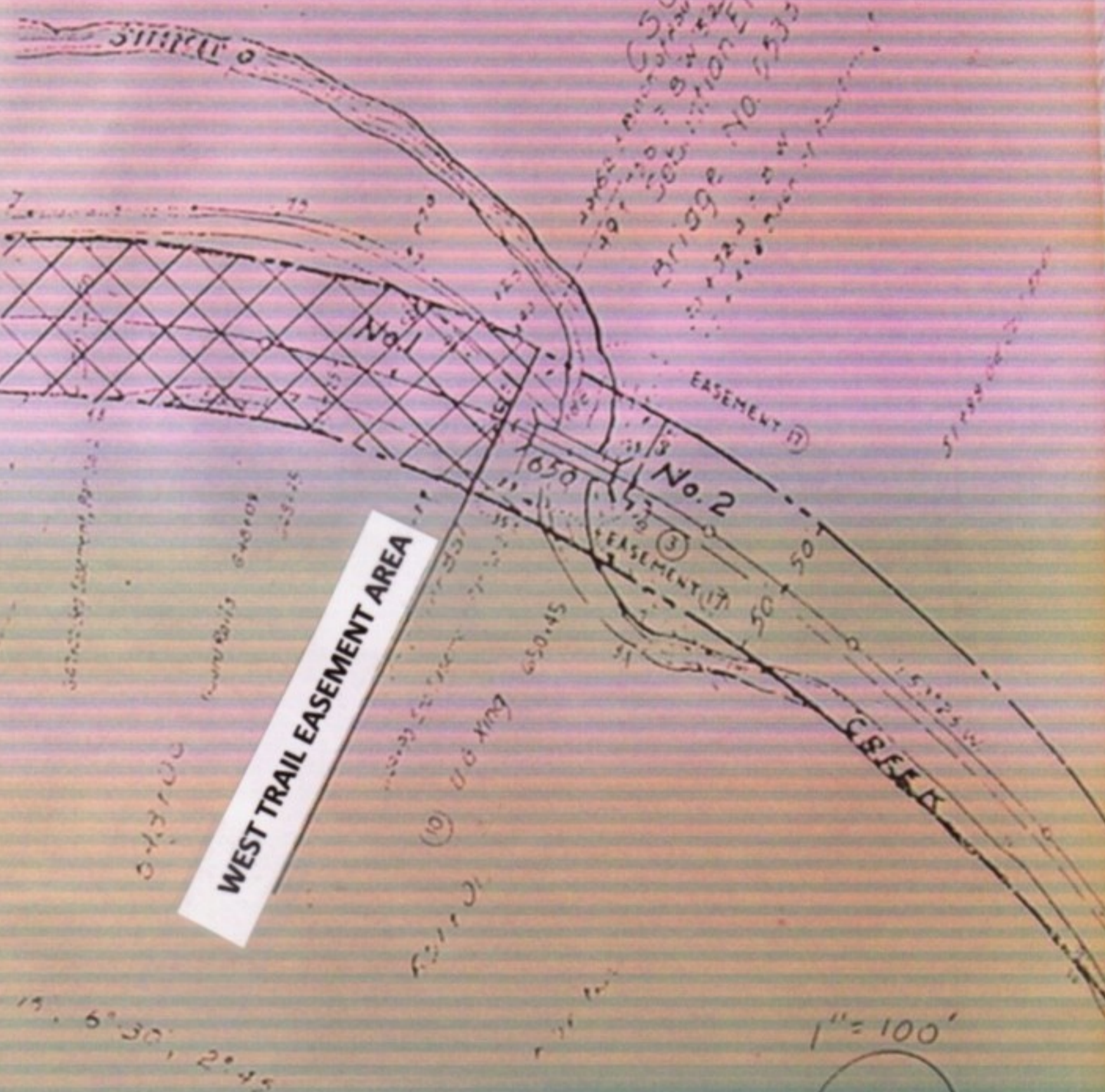


Exhibit B-1

BASD on
DEED BOOK 213
PAGE 730



"NOTHING IN THIS PLAT SHALL BE TAKEN AS OR DECIDED TO BE A DEDICATION OF ANY LANDS, STREETS, OR ROADWAYS OR THE USE THEREOF, TO THE GENERAL PUBLIC."

V33
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