Introduction & Changing Rules of the Game:
One quick case study

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• A specialty tax assessment case which develops a modern approach to rail right-of-way and indirectly, multimodal freight transportation, and marketplace and technical realities. Pennsylvania has property tax exemptions for “Public Utility Realty” (“PURTA”, defined by statute)

• Several years ago, Northampton County unexpectedly removed PURTA exemption status for much of LVRM’s intermodal facility in Bethlehem.
• With involvement by PA Department of Revenue, County took the view that railroad right-of-way (and thereby exempt under PURTA) was limited to “the rails and the areas in between”.

• Resulted in increased tax obligation.

• No recognition of operational need for engineered aisles for packers, container car storage, or operations areas.
• LVRM appealed assessment determination, lost; appealed to trial court, and lost again (CSX decision from Delaware County).

• After CSX decision, Court allowed LVRM to present additional testimony on intermodal transit and nature of the technology; LVRM invoked statutory construction laws and history of intermodal transit in an additional trial hearing to establish that the largest area of intermodal facility as necessary under PURTA statute.
• Taxing authority cited 19th Century cases to support narrow definition of railroad right-of-way as exempt “public utility realty”.

• Among others, 1869 case cited by County to support “traditional” limited government view of railroad right-of-way.

1869 was the same year that the Golden Spike was driven at Promontory Point, Utah.

Law was not keeping up with technology but Commonwealth Court took a more expansive view.
• Commonwealth Court held that intermodal facilities were akin to railroad “switching yards”.

• A very scholarly and historical review is contained in the LVRM opinion.

• Moral of the Story: Industry needs to be proactive; legislature, local government, industry representatives must be educated on changing face of freight transportation.

• Latest Commonwealth Court opinion in LVRM vs. Northampton County Assessment is a worthwhile read – thought provoking.
WITH A TIP OF THE HAT TO THE VISIONARIES, ENGINEERS, AND LABORERS WHO MADE CROSS-COUNTRY TRANSPORTATION A REALITY