



BUREAU OF ADMINISTRATION
DEPARTMENT OF HIGHWAYS
Wally S. Kos, P.E.
Superintendent
Cook County Administration Building
69 West Washington Street 23rd Floor
Chicago, Illinois 60602-3007
Telephone (312) 603-1600-01
Fax (312) 603-9945

MURLEAN COLLINS	1 st Dist.	PETER N. SILVESTRI	9 th Dist.
BOBBIE L. STEELE	2 nd Dist.	MIKE CUGLEY	10 th Dist.
BERRY BUTLER	3 rd Dist.	JOHN P. DALEY	11 th Dist.
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MURPHY	6 th Dist.	GREGG GOSLIN	14 th Dist.
MARIO MORENO	7 th Dist.	CARL R. HANSEN	15 th Dist.
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		ELIZABETH ANN DOODY GORMAN	17 th Dist.

September 15, 2004

Mr. E. Hunter Harrison
President and Chief Executive Officer
Canadian National Railway
935 de La Gauchetiere Street West
Montreal, Quebec Canada

H3B 2M9

CERTIFIED MAIL

Re: 171st Street
Ashland Avenue and Wood Street
Village of East Hazel Crest
Village of Hazel Crest
City of Harvey

Dear Mr. Harrison:

Allow me to introduce myself and the purpose of this letter. I am the Cook County Highway Superintendent. The County Highway Department has jurisdiction of some 600 miles of roadway in a county that includes the City of Chicago and over 160 municipal jurisdictions. The purpose of this letter is to ascertain the Canadian National / Illinois Central Railroad's position relative to a project being undertaken by the County in concert with several local communities.

The project involves the roadway reconstruction along 171st Street between Ashland Avenue and Wood Street in the Village of East Hazel Crest, the Village of Hazel Crest and City of Harvey. We are approaching the final stages of plan preparation. Over the past several years, a number of meetings were held with CN/IC officials to review project scope, highway, local and railroad concerns, prior agreements, etc. Mr. Tom Zeinz from your Homewood, Illinois office was our primary contact.

As background, we reviewed two agreements from 1918 when the railroad yard was constructed that necessitated a series of structures to carry the railroad over 171st Street in lieu of the prior at-grade crossings. Pursuant to this agreement the roadway was lowered into a subway condition within these structures.

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City of Harvey

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It appears that the roadway along with the railroad structures were constructed, or caused to be constructed, by the railroad. As drainage patterns were altered by the fill for the railroad yard, a drainage outfall, via a ditch on your property, was constructed at that time to serve surrounding drainage needs.

More recently, 171st Street was completely reconstructed immediately east and west of our proposed project limits. The remaining segment has a myriad of existing issues. Of concern to the local jurisdictions is the substandard clearance on all underpasses that preclude legal height trucks from accessing this roadway. While vertical clearances are posted, trucks frequently become wedged within this area causing temporary roadway closures and disruption of police, fire or emergency services. Due to the railroad yard construction, the normal local street grid pattern was severed and today the nearest railroad crossing is 1¼ miles to the north. The project scope is intended to further lower the roadway to provide legal height clearances.

Of equal local concern in providing for essential community services is the flooding within the underpass area that occasionally necessitates roadway closure. A substantial portion of the runoff to this area is derived from Railroad property. The original agreement specified a roadway profile with a crest centered about these series of structures draining to the farthest outside structure. Yet our survey found the roadway profiles to be essentially 'flat' within the entire subway area without surface evidence of any drainage structures. The ditch that is the outfall for this roadway segment, other nearby roadways, as well as your property, has not received proper maintenance and is essentially "filled" by trees, shrubs and possibly debris. The project scope includes installation of a functional roadway subway drainage system, detention basin as well as a pump station to convey flows to the above noted ditch.

Other improvements include a reconstructed roadway, lighting, sidewalks, landscaping, etc. It is imperative that 171st Street be reconstructed prior to major widening of the underpass area along US 6. The Illinois Department of Transportation is in the plan and development stage and anticipates completing contract plans within two years.

The Village of East Hazel Crest, in an effort to move forward on this remaining segment, secured federal funding for preliminary engineering, and acted as the lead agency in that endeavor.

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Village of East Hazel Crest
Village of Hazel Crest
City of Harvey

Federal design approval was received some two years ago. The Villages have been successful in securing Federal funds allocated to this local Mayoral Council.

These funds are generally applied towards local roadways but given the importance of this project, Council approval was received to apply these funds toward this County route.

In addition, special Federal funding of \$760,000.00 was obtained by U.S. Congressman Jessie Jackson, Jr.. During this time, the Cook County Highway Department agreed to a level of cost participation and plan preparation activities began and further coordination with the railroad ensued.

Cost participation from the CN/IC Railroad was an element that was discussed at length. In our interpretation of the original agreements, which provide that the Railroad shall have responsibility for satisfactory and adequate provisions for drainage and maintenance of the subway, the costs associated with the subway drainage and lighting was the railroad's responsibility. In addition, it is our position that the ditch needed to be reinstated to its as-built condition thru the railroad property and along Center Street to its intercept of the Union Calumet ditch. While final plan costs are not yet available, preliminary estimates for the subway related drainage system, detention and pump station and subway lighting is \$2.15 Million. The cost of the clearing and regrading the ditch is not included in our plans as the railroad indicated it would explore whether it could undertake this work, or a portion thereof with its forces or under contract. The railroad position relative to cost participation stated by Mr. Zeinz was that the railroad has no interest in cost participation for subway related drainage as there is no benefit to the operating railroad. As to subway lighting, some inference was made that perhaps the lighting was intended for pedestrians only and some consideration may be possible.

During these meetings, it was clear that the County and railroad had differing views on cost responsibilities. Nonetheless, elements that could be the basis for future negotiations were explored. The Cook County Highway Department indicated that it would be willing to accept future subway drainage maintenance responsibilities, lighting and pump station maintenance subject to a cost agreement.

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Ashland Avenue and Wood Street

Village of East Hazel Crest

Village of Hazel Crest

City of Harvey

The Village of East Hazel Crest indicated it could take over maintenance of the detention area. The railroad indicated that it would repair any concrete defects on the railroad bridges (spalling concrete was cited as a local concern) as well as review ditch options for regrading and cleaning. During these meetings, the local community probed the County for assurances that the needed safety improvements would not be held in abeyance in light of the differences in cost participation opinions of the County and Railroad.

My response was that the County had these same safety concerns and that while ultimately the courts may need to rule on this matter, the County was willing to move forward with this project. We would "up-front" the railroad share and let litigation pursue a separate course.

In the absence of any County-Railroad agreement, plats for easements within railroad property were prepared. The easements areas involve detention site work and regrading along driveways servicing railroad property. In the case of the detention site, the railroad indicated early in the project design stage that it was willing to convey this easement to East Hazel Crest for considerations received from the Village by the railroad that were unrelated to this project.

This brings me to the reason for this letter. The easement documents recently received by the Cook County Highway Department prepared by your staff inserted language that would apparently preclude the Cook County Highway Department from pursuing future legal relief for railroad cost participation (copy attached). In essence, the conditional language included in the easement agreements would nullify the Railroad's maintenance and drainage obligations under the 1918 agreements. We do not intend to sign such a document. We do not intend to dismiss this matter and pass on these costs to the taxpayers without the opportunity to express our position in the appropriate judicial or administrative forum. While the County indicated to the local jurisdictions that it would continue moving this project forward to construction, the language inserted by the Railroad effectively stops this project and will require immediate movement toward litigation by the County.

Re: 171st Street
Ashland Avenue and Wood Street
Village of East Hazel Crest
Village of Hazel Crest
City of Harvey

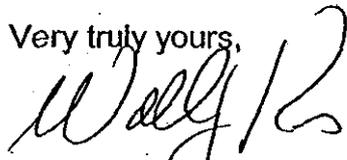
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September 15 2004

In the absence of any meaningful dialogue in prior years by the Railroad toward cost participation, I have assumed that resolution through litigation would take place over time. I have also assumed that since all parties were participating in plan review and coordination that advancement of this project for a construction letting late this year was possible, notwithstanding differences in cost responsibilities. Given the Railroad's inclusion of the above noted language in the easement documents, I can only infer that the Railroad does not desire this project to move forward, unless the County waives its right to pursue future legal remedies.

I am requesting clarification on this matter within the next 30 days. If necessary, we are prepared to take immediate legal action.

Very truly yours,



Wally S. Kos, P.E.
Superintendent of Highways
Cook County, Illinois

cc: Gordon Trafton, Senior Vice President, United States Region
Canadian National Railway

James Krevdaras, Senior Manager, United States
Public and Government Affairs
Canadian National Railway

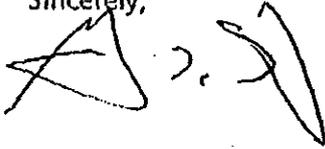
Thomas Zeinz, Manager Public Works, United States Region
Canadian National Railway

Mayor Thomas A Brown, Village of East Hazel Crest
Mayor Eric Kellogg Jr., City of Harvey
President William A. Brown, Village of Hazel Crest

build it, what it will cost, who is paying for it, and who is going to be responsible for maintaining it into the future. In fact, since part of the proposed project funding is from Federal sources, funding rules require such an agreement be in place prior to the start of construction as a condition of receiving those funds.

CN will continue to cooperate with the various agencies on this project but cannot be expected to fund projects associated with highway improvements that have no benefits to us. If Cook County believes that CN should pay for a significant portion of the detention pond and pump station improvements, it appears the most expedient way to resolve this matter would be for the County to file a petition with the Illinois Commerce Commission. Please advise Tom Zienz on how you would like to proceed.

Sincerely,

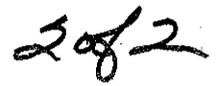
A handwritten signature in black ink, appearing to be "A. J.", written over the word "Sincerely,".

cc: James Kvedaras
Thomas Zeinz
Mayor Thomas A. Brown, Village of East Hazel Crest
Mayor Eric Kellogg Jr., City of Harvey
President William A. Brown, Village of Hazel Crest

A handwritten number "3" enclosed in a hand-drawn circle.

REC'D. FIL. BUR.

OCT 15 2004

A handwritten number "2082" in black ink.

cc: Kos
Snyder
Johnson, M.
General File

October 26, 2004

Mr. Gordon T. Trafton
Senior Vice President – United States Region
Canadian National Railway
17641 South Ashland Avenue
Homewood, Illinois 60430

Re: 171st Street
Ashland Avenue to Wood Street
Village of East Hazel Crest
Village of Hazel Crest
City of Harvey

Dear Mr. Trafton:

I have received your letter dated October 8, 2004 concerning our 171st Street Project.

As we had briefly discussed last week in our telephone conversation, the County was unaware of your "practice" governing issuance of easements until we received the contingency language earlier this summer associated with the right-of-way documents.

We will proceed with filing a petition with the Illinois Commerce Commission.

Sincerely,

WS/K

Wally S. Kos, P.E.
Superintendent of Highways
Cook County, Illinois

cc: President Thomas Brown
Village of East Hazel Crest

President William Browne, Village of Hazel Crest

Mayor Eric J. Kellogg Jr., City of Harvey

Thomas Zeinz, Manager Public Works
United States Region Canadian National Railway

bc: Assistant States Attorney Bill Motto



Kramer Tree Specialists, Inc.

701 Church Street

West Chicago, Illinois 60185

03-09-5012

September 24 2003

Cook County Highway Department
Mr. Bhanu Vyas, Permit Division
69 W. Washington Street
Chicago, IL 60602

Dear Mr. Vyas,

We are requesting a permit to close the west lane (the southbound lane) of Center Street from approximately 167th Street north to approximately 162nd Street.

We will be removing all trees/brush/bushes (all woody vegetation) from the creek bed and creek banks. We will also be removing all the garbage and trash.

We will be doing this work for the Canadian National Railroad. Our contact at the C.N.R.R. is John Henriksen, Field Engineer, 17550 S. Ashland Ave, Homewood, IL 60430. The phone number to reach John is 708-957-6581.

This creek cleaning is to be done in conjunction with the lowering of 171st Street in Harvey and East Hazel Crest project.

The work we are doing (clearing of the creek bed and banks) is likely to begin late November and will take 7 to 10 weeks to complete.

We are requesting a permit to close the west (southbound) lane from 8:00 a.m. until 4:00 p.m. Monday through Saturday.

Our equipment and machines will take up approximately 250 feet. We will have flagmen at each end of our equipment to co-ordinate the traffic.

We plan not to be on site working during snow days. We will not be interfering with your snowplow operations.

All our equipment and machines as well as signs, road cones, etc will be removed from the site each day at 4:00 p.m. leaving the roadway completely open until our requested 8:00 a.m. start time the next day.

If you require any additional information to consider our permit request, please contact me.

Thank you for considering our request.

Sincerely,

Joe Kramer
Kramer Tree Specialists, Inc.

RECD. FIL. BUR. ③ OCT 01 2003

202
SEP 25 2003



From the desk of
Wally S. Kos
Superintendent
Cook County Highway Department
(312) 603-1600
Fax (312) 603-9945

10.6.03

Bhanu ✓

This work was committed by
the CN RR to clean drainage
ditch in advance of our 171st
street project.

Plse process ASAP

cc: T. Beyas
C. Snyder

OCT 06 2003

THE BOARD OF COMMISSIONERS
JOHN H. STROGER, JR., PRESIDENT



COOK COUNTY
BUREAU OF ADMINISTRATION
DEPARTMENT OF HIGHWAYS
Wally S. Kos, P.E.
Superintendent
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69 West Washington Street 23rd Floor
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		ELIZABETH ANN DOODY GORMAN	17 th Dist.

October 7, 2003

CN^{rr} Railroad
401 Kairy Street
Antioch, Illinois 60002

Attention: Mr. John Henriksen

CC: SNYDER
VAN DER AA
VYAS
WILLIAMS/SEKULA
DISTRICT V

Re: County Highway: CENTER STREET
Section Number: W52-0909
Permit Number: 03-09-5012

Gentlemen:

This letter is in response to KRAMER TREE SPECIALIST communication of SEPTEMBER 24, 2003 regarding the above county highway. You may accept this letter permit as permission and authority to: CLOSE LANES ON CENTER STREET.

The letter/map attached hereto shall be a part of this permit. The permit is issued, subject to the following conditions:

1. Highway Permit Bond and insurance requirements have been fulfilled or in lieu of bond and insurance, an approved Hold Harmless Agreement must be on file with the Cook County Highway Department, Permit Division.
2. The detour route shall be conspicuously marked and all signing shall be in accordance with the "Manual on Uniform Traffic Control Devices."
3. Notification has been given to any and all municipalities involved in this permit. Permittee must notify local FIRE and POLICE DEPARTMENTS, as well as local HOSPITALS of this detour.
4. Signs are to be erected, maintained and removed by the Permittee.
5. All cleaning of pavement and right of way shall be the responsibility of the permittee.
6. This PERMIT will expire on APRIL 30, 2004.

If you have any further questions, please contact my office at, 312-603-1670.

Very truly yours,

Wally S. Kos/BV

Wally S. Kos, P.E.
Superintendent of Highways
Cook County, Illinois

H H

cc: Plummer
Kelly
Brush
Beck
File

Messrs H. Riedl and T. McHugh

Edwin A. Beck

September 8, 1965

Thornton Township General (16-8-19-65)

On August 25, 1965, the State's Department of Public Works and Buildings approved the addition of 171st Street (Dixie Highway to Halsted Street) to the County Highway System.

The situation described in the attached correspondence, from the Thornton Township Highway Department, should be resolved by the Maintenance Division.

Edwin A. Beck

C
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P
Y

STATE OF ILLINOIS, }
COUNTY OF COOK } 35

I, EDWARD J. BARRETT, County Clerk of Cook County, in the State aforesaid and keeper of the records and files of said Cook County, do hereby certify that the Board of Cook County Commissioners at their regular meeting held on the *12* day of *August*, 19*65*, passed the following resolution:

RESOLUTION

BE IT RESOLVED, by the Board of County Commissioners of Cook County, that the Division of Highways, Department of Public Works and Buildings, be, and hereby is requested to add to the System of County Highways, the following described highway:-

C. H. No. 193 - 171ST. STREET

Beginning at the intersection of 171st Street and Dixie Highway on the center of Section 30 in Thornton Township and thence extending in an Easterly direction along 171st Street, being also the East and West 1/4 line of Sections 30 and 29 to a point, said point being approximately 1320 feet West of the East line of Section 29, Thornton Township; thence continuing in a general Northeasterly direction to a junction with Halsted Street on the West line of Section 29, Township 36 North, Range 14 East of the