

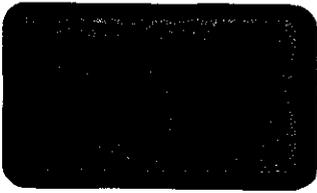
OFFICIAL FILE

I.C.C. DOCKET NO. 704-0875

Plaintiff's Exhibit No. 9

Witness _____

Date 4/20/01 Reporter Djm





March 4, 2004

Mr. Arthur Osten, Jr.
Village Administrator
Village of Fox River Grove
305 Illinois Street
Fox River Grove, IL 60021

RE: U.S. 14 at Algonquin Road

Dear Mr. Osten:

Recently, Mr. Jason Fluhr provided Union Pacific Manager of Field Engineering, Tom Andryuk, with construction plans for reconfiguring the intersection of U.S. 14 and Algonquin Road in Fox River Grove. This to advise that Union Pacific cannot support the addition of a right turn lane at the intersection of U.S. 14 and Algonquin Road in the Village, as depicted in the plans.

The inadequate storage space between U.S. 14 and the railroad tracks already has a tragic history, which makes the proposed alterations to that same space immediately suspect. More particularly, Union Pacific has the following objections to the plans, as forwarded:

- By adding a right turn lane for eastbound U.S. 14, the plans further burden an intersection, which already presents inadequate storage space and turning radii for the semi-tractor trailers which are presently allowed to travel both north and south on Algonquin Road. Merging the proposed right turn lane with the existing southbound lane immediately prior to the railroad tracks, as the plans indicate, could not only lead to vehicular collisions in the storage area immediately adjacent to the tracks; but to dangerous intersection congestion, as longer vehicles turning left onto Algonquin from westbound U.S. 14 are denied

Post-it® Fax Note	7671	Date	3/8/04	# of pages	4
To	Peter Rosenthal	From	Art Osten		
Co./Dept.		Co.			
Phone #	See e-mail	Phone #			
Fax #		Fax #			

George H. Brant
Senior Trial Counsel, Law Department

UNION PACIFIC RAILROAD
101 N. Wacker Dr., Rm. 1920, Chicago, IL 60606-1718
ph. (312) 777-2051 fx. (312) 777-2065

Mr. Arthur Osten, Jr.
March 4, 2004
Page 2

access to the already inadequate storage space by vehicles using the proposed right turn lane.

- Moving the railroad's northern signal mast and gate to a point south and west of their present location, as proposed by the plans, could compromise the effectiveness of the railroad signals by rendering them less visible to U.S. 14 motorists. In addition, the projected relocation of the signal mast would also require the railroad to deploy a much longer railroad gate which will be more vulnerable to damage from high winds and from vehicular traffic.
- Extending the pedestrian crosswalk through the projected right turn lane, as depicted by the plans, will also lengthen the time needed for pedestrians to traverse the crosswalk, and may also require them to negotiate their way through vehicular traffic which may turn right independent of the traffic light display. The safety of both pedestrians in the crosswalk and northbound motorists could also be compromised when the traffic signal display for northbound Algonquin turns green upon the approach of a train, and northbound motorists on Algonquin Road are confronted with pedestrians still remaining in the extended crosswalk.
- Despite the potential complications resulting from extending the pedestrian crosswalk, the plans do not include any timing charts for the traffic signal displays to be programmed for the intersection. Instead, the plans merely indicate that the traffic signal equipment will match "the existing system." Yet, in some instances, the plans indicate that "Eagle" signal equipment will be deployed at the reconstructed intersection, and in others "Econolite." Certainly, any changeover to equipment of a different manufacturer creates an additional opportunity for error that would be minimized by the publication of the intended timing for the traffic signal sequences

Mr. Arthur Osten, Jr.
March 4, 2004
Page 3

in the plans. Given all of the aforementioned concerns, Union Pacific does not believe that the traffic signals should be changed over or reprogrammed in a project such as this without memorializing in the plans the timing of each traffic signal display to be programmed into the new signals at all times of day and night, with particular attention paid to the railroad preemption sequence and its relationship to the pedestrian signal displays. Thus, Union Pacific could never concur in plans such as these which do not include such specifics.

As a result of the bus/train collision of October 25, 1995, the National Transportation Safety Board recommended, among other things, that railroads and public entities be sensitive to the importance of exchanging information regarding proposed engineering changes at or about railroad/highway grade crossings. I certainly understand that the mailing to Union Pacific was responsive to that mandate, and this reply is intended to be in that same spirit.

Nonetheless, I was chagrined to learn from Mr. Fluhr's transmittal letter that the changes which are proposed in the plans have apparently been the subject of earlier discussions had between the Village, IDOT and the Illinois Commerce Commission in which the railroad was not invited to participate. Indeed, Mr. Fluhr's transmittal letter projects that construction is to begin as early as July of 2004, and further represents that all interested governmental entities have already achieved a consensus in favor of the plans.

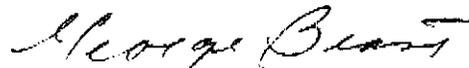
I'm afraid "working around" the railroad in such a manner is not without risk. Union Pacific will not be rushed into providing its uninformed assent to such a questionable intersection reconfiguration, just so that proposed project deadlines can be met. In Union Pacific's view, the proposed plans raise substantial public safety concerns, and public safety "trumps" the availability of federal funds. Thus, Union Pacific will not voluntarily consent to a taking of its right-of-way, so that U.S. 14 may be expanded further south to accommodate an additional right turn lane; and Union Pacific

Mr. Arthur Osten, Jr.
March 4, 2004
Page 4

will not agree to the other intersection design changes the plans illustrate. Instead, if the Village intends to proceed in this matter, according to the plans you have made available, Union Pacific will insist upon a public hearing before the Illinois Commerce Commission where its exceptions to the proposed taking and to the plans, themselves, may receive a full and complete airing and become a matter of public record.

Again, although Union Pacific greatly appreciated receiving the intersection reconfiguration plans, I regret that Union Pacific was notified at such a late date. In the future, I recommend that the railroad be provided with more timely notice, so that its concerns are not overlooked nor its resolve underestimated.

Sincerely,



George H. Brant
Senior Trial Counsel

cc: J. J. Fluhr, P.E.
S. J. Tasch, Mayor, Village of Fox River Grove
R. Polston, Police Chief, Village of Fox River Grove
J. Kos, District Engineer, District 1, IDOT
M. Stead, Rail Safety Program Administrator, ILCC
P. A. Pagano, Executive Director, Metra
R. Tidwell, Deputy Executive Director, Metra
M. C. Noland, General Counsel, Metra
G. G. Larson, Superintendent, Commuter Operations, UP
T. N. Andryuk, Manager-Field Engineering, UP
M. W. Payette, AVP-Government Affairs, Central Region, UP
T. A. Zapler, Special Representative, UP
R. J. Cuchna, General Solicitor, UP
M. H. Shumate, Jr., Senior General Attorney, UP
T. W. Cushing, General Attorney, UP

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OFFICIAL FILE

COURT DOCKET NO. 704-0075

Plaintiff's Exhibit No. 10

Witness _____

Date 4/21/05 Reporter Djm



ADT (Average Daily Traffic)

2004 US Route 14 ADT - 36,600 (8.5% trucks)

2004 Algonquin Road ADT - 2,987 (2.3% trucks)

12-Hour manual truck count on April 6-7, 2004 (6am-6pm)

<u>Right turn (US 14 to Algonquin)</u>		<u>Left Turn (US 14 to Algonquin)</u>	
PV (<28')	= 1245 (98.7%)	PV (<28')	= 1206 (7.9%)
B-40 (bus, 40')	= 2 (0.2%)	B-40 (bus, 40')	= 7 (0.5%)
SU (28'-40')	= 12 (0.9%)	SU (28'-40')	= 17 (1.4%)
MU (>40')	= 3 (0.2%)	MU (>40')	= 2 (0.2%)

OFFICIAL FILE

I.G.C. DOCKET NO. 704-0075
Plaintiff's Exhibit No. 11

Witness _____

Date 4/25/05 Reporter Djw



Village of Fox River Grove, Illinois
U.S. Route 14 Right Turn Lane at Algonquin Road
March 17, 2004, updated March 25, 2005
Jason J. Fluhr, P.E.

The following is a brief summary of the highlights of the project, followed by a more detailed timeline.

Summary: In late 2000, a 20' radius was originally proposed at the intersection, which accommodated a B-40 (bus) with encroachment into opposing lanes of traffic (into the striped out area in front of stop bar). This design did not require any traffic signals or RR signals to be relocated. The ICC commented on this original design. After B&W addressed the ICC's comments, the ICC stated that they "concur with our disposition of comments" and that the design must be approved by IDOT. During IDOT's review of the Project Development Report (PDR) in late 2001, IDOT Bureau of Programming denied the variance for 20' radius and required the design to accommodate a WB-55 vehicle. In February 2002, The Village, B&W, ICC and IDOT held meeting to discuss this issue. IDOT would not back off from this requirement so the Village wrote a letter to IDOT's District Engineer to request the variance. In April 2002, IDOT's district engineer granted the variance but required the radius to be increased to 30' to accommodate a bus with no encroachment into the opposing lanes of traffic. This design required the traffic signals and RR signal to be relocated. In July 2002, it was discovered that the original reconstruction plans of US 14 (1988) incorrectly showed that IDOT owned the land required to construct the right turn lane (UPRR owned the land), so B&W made a phone call to UPRR and sent a fax of the plan drawing to them which showed the ROW that needed to be acquired from the railroad and the RR signal that needed to be relocated for the project. In September 2002 IDOT agreed to purchase the land from UPRR. After the initial land acquisition process was complete, IDOT approved the PDR in March 2003. In January 2004 Phase II design began and B&W made contact with UPRR and sent preliminary plans to UPRR for their review. In March 2004, UPRR objected to the improvements and put the ROW acquisition process on hold. (In an unrelated matter) IDOT Bureau of Traffic objected to the B-40 design vehicle variance and said that IDOT Central Office never formally approved the variance. After several phone calls, a meeting, and a truck study that showed very few trucks make the right turn movement, IDOT backed off their objection and said that a variance was not necessary because trucks (WB-55) are not the predominant movement at the intersection. UPRR sent a letter to the village stating their concerns with the improvements. The ICC said they did not grant their approval on the new intersection geometrics. The Village petitioned the ICC for a hearing in late 2004.

Chronology of Project

01/13/99 – ICC responds favorably to Village's request to add right turn lane but directs Village to IDOT for the improvement since US 14 is state route

07/24/00 – Phase I joint agreement executed

- 10/05/00 – IDOT Kickoff Meeting held with B&W and Brian Vercruysse (IDOT) – B-40 will be design vehicle, 100' storage, 100' taper for right turn lane – 20' radius.
- 10/06/00 – Preliminary geometry Plan sheet sent to Dan Powers (ICC)
- 12/08/00 – ICC submitted comments to B&W regarding proposed improvements
- 12/19/00 – Revised preliminary design drawing sent to Dan Powers (ICC)
- 01/30/01 – ICC concurred with disposition of comments
- 02/15/01 – Submitted initial draft PDR to IDOT and to Jerry Lienemann (UPRR)
- 04/10/01 – FHWA/IDOT/LOCAL AGENCY Coordination Meeting held – Use 3R guidelines; CE II exclusion granted – See what programming says about the proposed geometry when they review IDS.
- 05/01/01 – Dan Powers (ICC) opposed IDOT's comment to straighten out crosswalk because it would move pedestrians closer to stopped vehicles.
- 08/11/01 – Partial PDR submitted to IDOT with disposition of comments from Traffic and Programming
- 10/12/01 – IDOT returned comments from Geometric and IDS review to B&W
- 10/25/01 – IDOT returned comments from Traffic and Programming review to B&W
IDOT will not allow any variances from a WB-55 vehicle.
- 12/10/01 – B&W told Village that conforming to IDOT's design standard of accommodating a WB-55 vehicle could cost at least an extra \$115,000.
- 02/14/02 – Meeting at IDOT held between Village, Baxter & Woodman, ICC, and IDOT to discuss IDOT Programming, Geometric and Traffic comments from 10/12/01 and 10/25/01 – IDOT concurs with crosswalk placement. IDOT Geometrics will not grant variance for B-40 design vehicle.
- 03/04/02 – Village wrote letter to Jon Kos, IDOT District Engineer, requesting variance for bus turn radius
- 04/02/02 – Jon Kos (IDOT) sent letter to Village stating B-40 design vehicle variance is granted so long as bus does not encroach into opposing traffic on Algonquin Rd. Also attached was IDOT's recommended geometrics at the intersection which will result in RR signal being relocated (1st indication of RR relocation work necessary).

- 04/22/02 – Steve Brink (IDOT) forwarded e-mail to B&W from Mike Matkovic (IDOT) stating that B-40 will be design vehicle and any truck restrictions will be the Village's decision.
- 05/13/02 - Revised PDR submitted to Alex Househ (IDOT)
- 06/25/02 – Comments on PDR received from Steve Brink (IDOT)
- 07/03/02 – Revised PDR submitted to Alex Househ (IDOT) with disposition of Comments
- 07/02 - Original plans incorrectly showed that IDOT owned ROW for right turn lane. B&W discovers that plats indicate the UPRR owns land where right turn lane is proposed.
- 07/11/02 – B&W sent fax of existing and proposed Plan sheet, and map, aerial, picture of project location to Jim Harrel (UPRR) showing RR signal relocation and ROW needed from RR
- 7/29/02 – Mike Matkovic (IDOT) states in e-mail to Alex Househ that B-40 design vehicle is still valid even though ROW is now needed “since it remains a considerable improvement over existing conditions”.
- 9/25/02 – John Kos, IDOT District Engineer responds to Village's request to purchase ROW in a letter stating that IDOT will prepare the plat of highway and appraisal for the parcel necessary for the right turn lane.
- 10/02/02 – Environmental Survey Request submitted to IDOT
- 12/06/02 - Cultural sign-off received for ROW
- 12/13/02 – Biological sign-off received for ROW
- 01/10/03 – Final Environmental Site Assessment is approved for land acquisition
- 03/10/03 – Alex Househ, from IDOT tells Jason Fluhr via telephone that PDR is approved. Village receives signed PDR cover approved by Jon Kos (IDOT) and Darrell Lewis (IDOT)

PHASE I (PDR) COMPLETE. PHASE II DESIGN BEGINS IN EARLY 2004.

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- 01/20/04 – B&W contacts Tom Andryuk (UPRR) regarding proposed improvements and

sends copy of approved IDS and pictures of intersection to Tom

02/02/04 – Preliminary Phase II Plans sent to IDOT, ICC, UPRR

02/19/04 – Plans revised to accommodate UPRR guidelines for new RR signal location

03/04/04 – IDOT Bureau of Land Acquisition informs B&W that UPRR has put the land acquisition process on hold

03/04/04 – UPRR sends letter to Village objecting to proposed improvements and ROW Transfer

03/17/04 – IDOT Bureau of Geometrics tells B&W that their comments dated 10/12/01 were never formally addressed with a disposition and variance for turning movement must be granted by Central Office – not District 1.

3/23/04 – Meeting held at Village Hall between Village, B&W, UPRR and IDOT to discuss improvements and to discuss Geometric's previous comments – It turns out that IDOT had an old IDS with a 20' radius, not the current 30' radius which was designed in concurrence with Mike Matkovic's (IDOT) approval in March 2003. IDOT approves geometry because it is similar to geometry at US 14 and Foxmoor, but asks B&W to do a truck classification count to determine the predominant truck movement so a variance on the design vehicle can be granted by Central Office.

4/07/04 – 24-Hour truck study performed at intersection and a memo was prepared for IDOT with the results – 5 MU vehicles made left turn from US 14 to Algonquin; 3 MU's made right turn from US 14 to Algonquin Rd; 2 buses (less than 40' long) made right turn from US 14 to Algonquin.

4/14/04 – Village sends letter to UPRR addressing railroad's concerns

4/21/04 – IDOT Central Office says no variance for design vehicle is needed since the predominant vehicle making the right turn is a bus (SU-30 is actually the predominant vehicle making the turn according to B&W's truck study). No changes necessary to the PDR.

5/10/04 – UPRR sends second letter stating that the intersection improvements should address the inadequate turning radius for semi-tractor trailers by either restricting those vehicles from using Algonquin Rd. or making Algonquin Rd. a one-way street.

11/03/04 – Village petitions ICC for hearing to approve the proposed improvements

3/16/05 – ICC hearing is scheduled for April 28, 2005

Village of Fox River Grove, Illinois
U.S. Route 14 Right Turn Lane at Algonquin Road
March 17, 2004, updated March 25, 2005
Jason J. Fluhr, P.E.

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- 5/10/04 – UPRR sends second letter stating that the intersection improvements should address the inadequate turning radius for semi-tractor trailers by either restricting those vehicles from using Algonquin Rd. or making Algonquin Rd. a one-way street.
- 11/03/04 – Village petitions ICC for hearing to approve the proposed improvements
- 3/16/05 – ICC hearing is scheduled for April 28, 2005

OFFICIAL FILE

I.C.C. DOCKET NO. 704-0075

Plaintiff's Exhibit No. 10

Witness _____

Date 4/25/01 Reporter DM



STATE OF ILLINOIS



ILLINOIS COMMERCE COMMISSION

January 28, 1998

Mr. Robert H. Polston
Chief of Police
Village of Fox River Grove
408 Northwest Highway
Fox River Grove, IL 60021

Dear Chief Polston:

We received your letter of January 13, 1999, requesting that a roadway improvement adding eastbound right turn lanes to US 14 at three intersections in Fox River Grove be considered for the Commission's highway/railroad crossing multi-year safety improvement program. We agree that eastbound right turn lanes could improve the safety of the roadway intersections by providing storage for right turning vehicles waiting in the presence of a train and freeing up the eastbound through lanes.

Since US 14 is under State jurisdiction, such a roadway improvement would be the responsibility of the Illinois Department of Transportation. Therefore, we are forwarding a copy of your request to IDOT via this letter for their consideration.

If you have any questions concerning this matter, please contact Stan Milewski of our staff at (217) 557-4284.

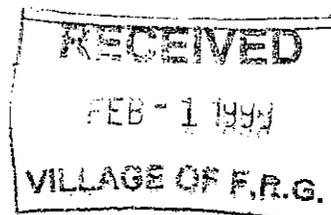
Very truly yours,

A handwritten signature in cursive script, appearing to read "Michael E. Stead".

Michael E. Stead
Acting Railroad Safety Program Administrator

SM

cc: Ken Wood, IDOT w/enclosure



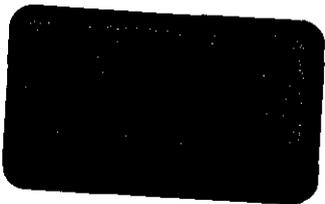
OFFICIAL FILE

I.C.C. DOCKET NO. 704-0075

Plaintiff's Exhibit No. 13

Witness _____

Date 4/10/02 Reporter Djm



Jason J. Fluhr

From: Adair, Wynnyth J. [AdairWJ@dot.il.gov]
Sent: Thursday, May 13, 2004 8:37 AM
To: Jason J. Fluhr
Subject: FW: Fox River Grove: US 14 at Algonquin Road Section No.: 00-00017-00-CH

FYI

Wynnyth Adair

BLR&S

847.705.4236

-----Original Message-----

From: Crim, Charles L
Sent: Thursday, April 15, 2004 2:31 PM
To: Adair, Wynnyth J.
Subject: RE: Fox River Grove: US 14 at Algonquin Road Section No.: 00-00017-00-CH

-----Original Message-----

From: Adair, Wynnyth J.
Sent: Thursday, April 15, 2004 12:40 PM
To: Crim, Charles L
Cc: Skvarla, James D.
Subject: Fox River Grove: US 14 at Algonquin Road Section No.: 00-00017-00-CH

Chuck,

Thank you for your help in clearing up the design vehicle issue. Now we can progress forward. My next question is, is the PDR in Springfield still valid? It is if there are no changes. Will the PDR need to be amended to reflect such changes? What changes are you referring to? Also, the IDS in the PDR is for a 30' Radius turn. The consultant gave us contract plans with a 35' Radius turn. Which Radius turn should the consultant use in the contract plans? The plans should have the same radius as the PDR. If they can provide a 35' R without changing the proposed right of way limits, I would have no problem with a 35' R. We need to document the change. A letter from the district transmitting the revision and stating the flatter radius does not require any additional right of way beyond what was previously surveyed and cleared would be provided for our information and files. If the 35 requires more right of way than the 30, an addendum to the ESR is needed and an addendum to the PDR seeking our approval is also needed. Any guidance in the matter will be appreciated.

Thanks, Wynnyth

5/13/2004