

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT 1296

T07-0116

This agreement made and entered into, by and between the State of Illinois acting by and through the Illinois Commerce Commission ("Commission"), the Norfolk Southern Railway Company("Company"), Kankakee County ("County"), and the State of Illinois, Department of Transportation ("IDOT" or "Department").

WITNESSETH:

WHEREAS, it has come to the attention of the Commission through application for assistance from the Grade Crossing Protection Fund that inquiry should be made into the matter of improving public safety at the Herscher Road (CH 12) grade crossing of the Company's track located near Union Hill in Kankakee County, Illinois, designated as crossing AAR/DOT #534 413V, railroad milepost 113.33-5E; and

WHEREAS, proper investigation has been made of the circumstances surrounding the aforesaid crossing by a representative of the Commission's Transportation Division, Railroad Section; and

WHEREAS, the physical aspects, including geometrics of the intersection, train movements, vehicular traffic volume, and sight distances and other pertinent data relating to the crossing have been obtained and shown on Exhibit A, attached to the Agreement; and

WHEREAS, the parties are mutually agreeable to accomplish the proposed improvements upon a determination of the Commission by Order.

NOW, THEREFORE in consideration of the premises and of the mutual covenants and agreements as hereinafter contained the parties pray that the Commission enter an Order according to the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law, 625 ILCS 5/18(c)-7401, requiring that certain improvements as hereinafter stated be made and that the cost for the proposed improvements be divided among the parties according to law and that in the interest of the traveling public the Grade Crossing Protection Fund ("GCPF") of the Motor Fuel Tax Law ("MFT") be required to bear a substantial portion of the cost; To Wit the parties agree as follows:

Section 1 All improvements encompassed by this Agreement shall be made in accordance with all applicable State laws, rules, standards, regulations and orders and procedures in general.

Section 2 The parties are of the opinion that the following improvements in the interest of public safety at the aforesaid crossing should be:

- (a) Installation of automatic flashing light signals and gates with a bell, controlled by constant warning time circuitry, and equipped with an event recorder and a remote monitoring system, by the Company.

- (b) Reconstruction or replacement of the existing timber and asphalt crossing surface, in order to comply with the minimum requirements of 92 Ill. Adm. Code Part 1535.203, by the Company. The timbers are split, broken, and the asphalt devil strip is deteriorating.

Section 3 The Company has provided a preliminary cost estimate of \$175,259 (Exhibit B) for the installation of automatic flashing light signals and gates at the subject location. The Company shall, upon issuance of a Commission Order, according to the requirements contained therein, prepare and submit duplicate copies of detailed drawings, detailed circuit plans, cost estimates and any required specifications for the proposed improvements for the approval of the Commission. The Company agrees that an appropriate time for the submission of plans should be ninety (90) days from the date of a Commission Order approving this Agreement.

Section 4 The Company shall upon Order, according to the requirements contained therein, proceed toward the completion of the proposed improvements, accomplishing the work with its own forces or appropriate contracted services and agrees that an appropriate time for the completion of the proposed improvements should be twelve (12) months from the date of a Commission Order approving this Agreement.

Section 5 The parties agree that an equitable division of cost for the proposed improvements is as follows:

- COST DIVISION -				
IMPROVEMENT	EST. COST	GCPF	COUNTY	COMPANY
Install Automatic Flashing Light Signals and Gates	\$175,259	(85%) \$148,970 ¹	(10%) \$17,526 ²	(5%) Remainder ^{1,3}
Reconstruct Crossing Surface	No Estimate Req'd.	0%	0%	100% ⁴
TOTALS	\$175,259	\$148,970	\$17,526	Remainder

Notes:

¹ Total Grade Crossing Protection Fund (GCPF) assistance not to exceed \$148,970; any installation costs above the estimated amount of \$175,259 will be divided between the GCPF and the Company at 95% (GCPF) / 5% (Company) cost division, upon submittal and review of evidence to support the additional cost and subject to approval by the Commission.

² The County's portion of installation costs for the automatic warning devices shall not exceed \$17,526.

³ Company responsible for all future operating and maintenance costs associated with the new automatic warning devices.

⁴ Company responsible for all future maintenance costs associated with the crossing surface.

Section 6 Kankakee County is financially able and willing to pay an equitable portion of the cost for the proposed improvements as may be assigned by the Order and indicates this intent by Resolution incorporated herein by reference as Exhibit D. The County shall submit a certified copy of the Resolution at the same time as the Execution Page of this Agreement is submitted to the Commission.

Section 7 Special Provisions: The Company and the County shall review the Project Manager Information portion of the Project Status Report sheets, attached as Exhibits E-1 and E-2, respectively. If any changes are required, the sheets are to be corrected and sent with this executed Agreement.

The Company and the County shall each, at six (6) month intervals from the date of the Commission Order approving this Agreement, submit to the Director of Processing and Information, Transportation Bureau of the Commission, a Project Status Report, attached as Exhibit E1 (County) and E2 (Company), regarding the progress each has made toward completion of the work required by this Agreement. Each Project Status Report shall include the Commission Order's docket number, the Order date, the project completion date as noted in the Order, crossing information (inventory number and railroad milepost), type of improvement, and the name, title, mailing address, phone number, facsimile number, and electronic mailing address of the County and Company Project Manager.

All bills for work specified in Section 2 of this Agreement authorized for reimbursement from the Grade Crossing Protection Fund shall be submitted to the Fiscal Control Unit, Bureau of Local Roads and Streets, Illinois Department of Transportation, 2300 South Dirksen Parkway, Springfield, Illinois 62764. The Department shall send a copy of all invoices to the Director of Processing and Information, Transportation Bureau of the Commission. All bills shall be submitted no later than twelve (12) months from the completion date specified in the Commission Order approving this Agreement. The final bill for expenditures from the Company shall be clearly marked "Final Bill". The Department shall not obligate any assistance from the Grade Crossing Protection Fund for the cost of proposed improvements described in this Agreement without prior approval by the Commission. The Commission shall, at the end of the 12th month from the completion date specified in this Order or any Supplemental Order, conduct a review to determine if any unused assistance from the Grade Crossing Protection Fund should be deobligated. Upon completion of the review, the Commission shall notify the Department to deobligate all residual funds accountable for installation costs for this project. Notification may be by regular mail, electronic mail, fax, or phone.

SECTION 8 Billing: For all work specified in Section 2 of this Agreement and authorized by an Order of the Commission, the Company shall assure that sufficient documentation for all bills is made available for review by the Department or the Department's representative. The minimum documentation that must be made available is outlined below:

- a) Labor Charges (including additives) - Copies of employee work hours charged to the project.
- b) Equipment Rental - Copies of rental agreements for the equipment used, including the rental rate; and the number of hours the equipment was used on the project.
- c) Material - An itemized list of all materials purchased and installed at the crossing location. If materials purchased are installed at multiple crossing locations, a notation must be made to identify the crossing location.
- d) Engineering - Copies of employee work hours charged to the project.
- e) Supervision - Copies of employee work hours charged to the project.
- f) Incidental Charges - An itemized list of all incidental charges along with a written explanation of those charges.
- g) Service Dates - Invoice shall include the beginning and ending date of the work accomplished for the invoice.

- h) Final or Progressive - Each invoice shall be marked as a Progressive or a Final Invoice.
- i) Reference Numbers - Each invoice shall include the AAR/DOT number, the ICC Order number and the state job number when federal funds are involved.
- j) Locations - Each invoice shall show the location, with the street name and AAR/DOT crossing inventory number.

Section 9 This Agreement shall be binding upon the parties hereto, their successors or assigns. Upon execution of this Agreement by all parties, the Commission shall enter an appropriate Order, within 60 days accepting or rejecting such stipulation according to the provisions contained herein.

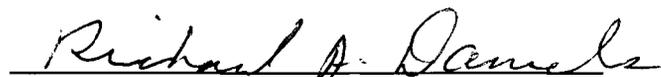
In Witness Whereof, the parties have caused this Agreement to be executed by their duly authorized officers, as of the dates indicated on their respective Execution Pages, attached hereto.

Executed by the Commission this 12th day of October 2007.



Michael E. Stead
Rail Safety Program Administrator

Attest:



Richard A. Daniels
Rail Safety Specialist

Illinois Commerce Commission Stipulated Agreement No. 1296, executed by Commission Staff on October 12, 2007, concerning improvements at the Herscher Road highway-rail grade crossing of the Norfolk Southern Railway Company's track near Union Hill, Kankakee County, Illinois, designated as crossing AAR/DOT #534 413V, railroad milepost 113.33-5E.

Executed by the Norfolk Southern Railway Company this 16th day of October 2007.

NORFOLK SOUTHERN RAILWAY COMPANY
By: ^{ms} Robert A. Baitle
General Manager

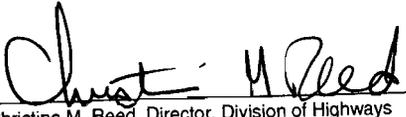
Attest:

[Signature]
Asst. Corporate Secretary

Illinois Commerce Commission Stipulated Agreement No. 1296, executed by Commission Staff on October 12, 2007, concerning improvements at the Herscher Road highway-rail grade crossing of the Norfolk Southern Railway Company's track near Union Hill, Kankakee County, Illinois, designated as crossing AAR/DOT #534 413V, railroad milepost 113.33-5E.

Executed by the Illinois Department of Transportation this 19th day of November, 2007.

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION

By:  _____
Christine M. Reed, Director, Division of Highways

Illinois Commerce Commission Stipulated Agreement No. 1296, executed by Commission Staff on October 12, 2007, concerning improvements at the Herscher Road highway-rail grade crossing of the Norfolk Southern Railway Company's track near Union Hill, Kankakee County, Illinois, designated as crossing AAR/DOT #534 413V, railroad milepost 113.33-5E.

Executed by Kankakee County this 11th day of December 2007.

KANKAKEE COUNTY

By: 
Karl Kruse, County Board Chairman

Attest:


Bruce Clark, County Clerk

**ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT
CROSSING DATA FORM**

GENERAL INFORMATION: See Location Sketch

RAILROAD	Norfolk Southern Railway Company
USDOT#, MILEPOST	534 413V, mp 113.33-5E
STREET, CITY, COUNTY	Herscher Road/Ch 12, n Union Hill, Kankakee County
JURISDICTION (RDWY)	County
LOCATION	Business, rural
STREET SURFACE	asphalt, 20 ft.; good condition

CROSSING DATA: See Location Sketch (Page 3) for roadway profile and track centers

TRACK	SURFACE TYPE	SURFACE WIDTH	SURFACE CONDITION
W-E	timber and asphalt	32 ft.	Bad shape

ROADWAY DATA: See Location Sketch

INTERSECTING ROADS:	no
TRAFFIC CONTROL	no
ADT & SPEED	1550 Vehicles/Day; 55mph unposted
TRAFFIC TYPE	Passenger, Possible School Busses, Hazardous Materials, Other
ADVANCE WARNING	Yes
PAVEMENT MARKING	yes

RAILROAD DATA: See Location Sketch

FREIGHT TRAFFIC	11 Per day @ 40 MPH, Day & Night, including 2 switch mvments
PASSENGER TRAFFIC	None
WARNING DEVICES	Automatic flashing light signals

NOTES:

VISIBILITY STUDY: See Location Sketch

Train Speed	40 mph	MPH
Roadway Speed	55 mph	MPH
Required Stopping Sight Distance (SSD)		
Along Roadway	520	FEET
Along Tracks	432	FEET
Required Clearing Sight Distance (CSD) (Along Tracks)	960	FEET

Distances calculated per American Association of State Highway and Transportation Officials (AASHTO), A Policy on Geometric Design of Highways and Streets, 2001, Fourth Edition.

QUADRANT	CSD (FT)	OBSTRUCTION	SSD (FT)	OBSTRUCTION
NE	*	N/A	N/A	
NW	*	N/A	N/A	
SE	*	N/A	N/A	
SW	*	N/A	N/A	

*Note: Automatic flashing light signal and gates eliminate the need to satisfy minimum Site Distance criteria.

APPROACH GRADES: See Location Sketch

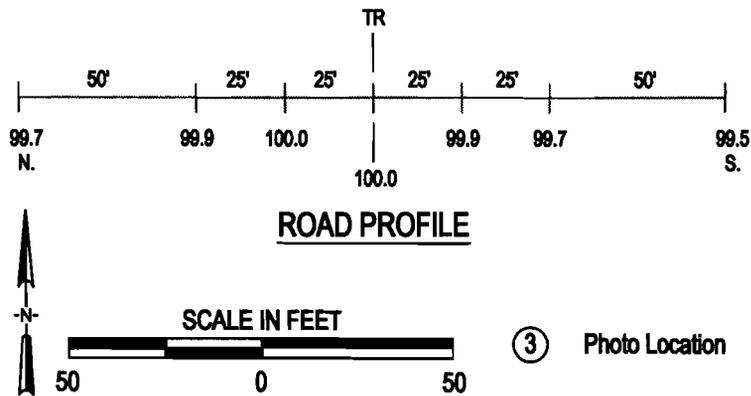
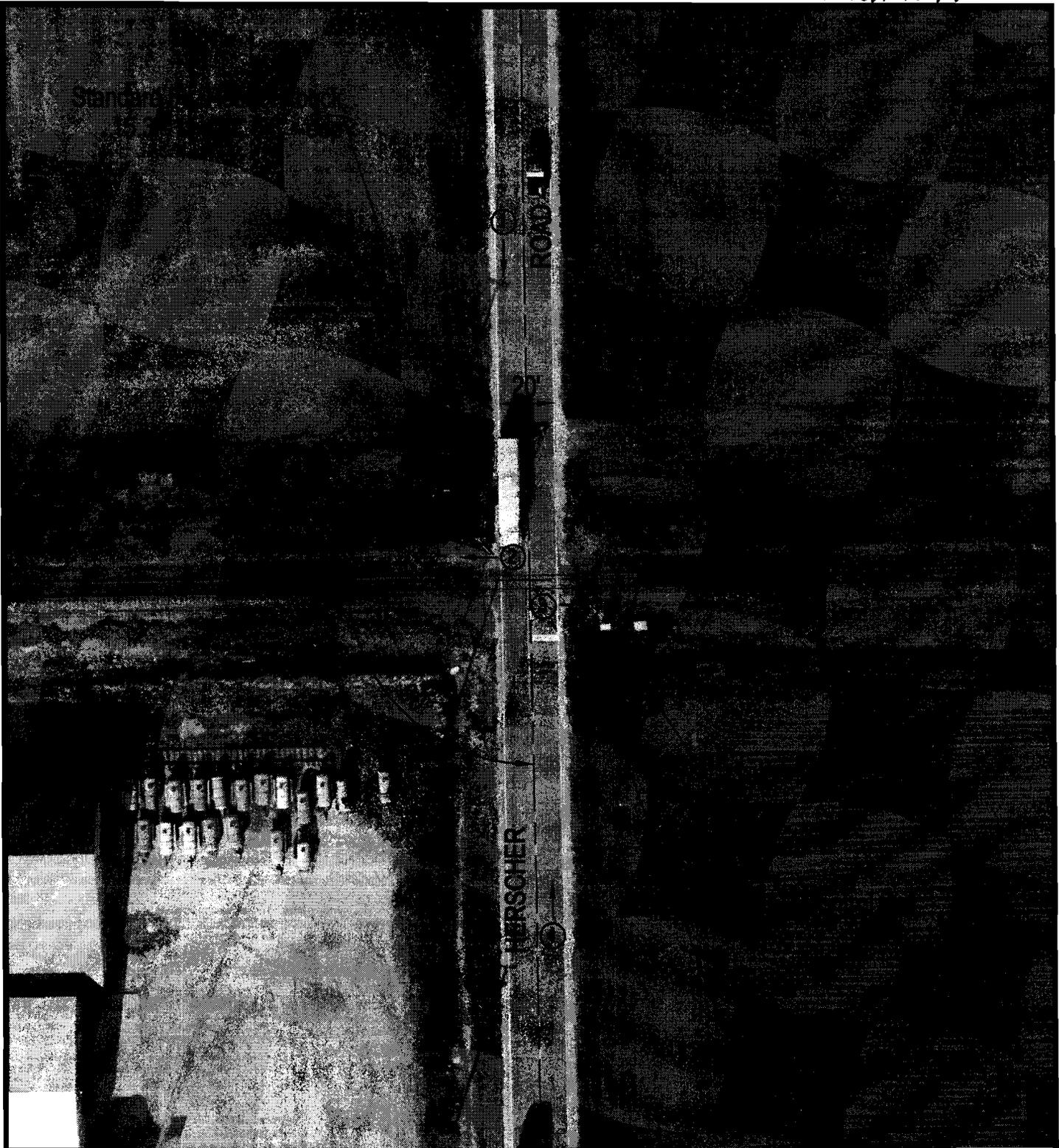
DIRECTION/NORTH			DIRECTION/SOUTH		
DISTANCE (FT)	ELEVATION (FT)	GRADE (%)	DISTANCE (FT)	ELEVATION (FT)	GRADE (%)
See page 3					

Distance measured from outermost rail.

COMMENTS:

See Page 3 for a Location Sketch (Aerial Photo) and profile of the crossing and approaches.

Grade Crossing Protection Fund (GCPF) will pay for 85% of the cost for the automatic flashing light signals and gates. The County will pay for 10%, and the Company will pay for the remaining 5% and maintain the same. The Company needs to reconstruct the crossing surface at their expense. The timbers are split, broken (one is nearly missing), and the asphalt devil strip is deteriorating.



Crossing #: 534413V

Location: Kankakee Co., City of Union Hall (N)

Lat/Long: 41°06'30" / 88°05'45"

Railroad: NS

Street: Herscher Road

Railroad Milepost: 113.33

Crossing Protection: Train Activated Devices

③ Photo Location



Exh B

04-Oct-07

Round Figure Estimate for Grade Crossing Warning Devices

City/State: UNION HILL, IL
MilePost: KS-113.32
State Proj. No.:
S&E Proj. No.: 04.0069
Man Days: 104

Road: CR-1200S
DOT/AAR: 534413V
County: KANKAKEE
AFE:
File Number: 061-04.0495

Purchases - Others	
Meals and Lodging:	\$9,785.32
Rental of Equipment:	\$21,392.80
(2 Trucks, 1 Backhoe w/ Trailer and 1 Pipe-Pusher for 26 Days)	
Construction Supervision Vehicle:	\$1,711.42
Purchases - Other Total:	\$32,889.54
Material And Additives	
Material Cost:	\$69,910.00
Sales and Use Tax:	\$3,496.00
Material Handling Freight:	\$3,495.52
Material Total:	\$76,901.52
Labor And Additives	
Labor Cost:	\$25,168.00
(4 man crew at \$968.00 a day for: 26 days)	
Payroll Tax & Overheads:	\$24,828.23
Preliminary Engineering:	\$8,366.89
Construction Supervision:	\$7,104.93
Labor Total:	\$65,468.05
Project Cost:	\$175,259.11
Scrap / Salvage Credit:	\$0.00
Project Total:	\$175,259.11

Estimated on: 04-Oct-07

Estimated by: enrhr

Estimate valid for 1 year from date of estimate

Exhibit D

**ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT 1296**

Date December 11, 2007

The Kankakee County Board
(Board or Council of Kankakee County)

meeting on December 11, 2007, Resolved to authorize
(Date)

James W. Piekarczyk, P.E., County Engineer to act as its designated agent in the
(Name, Office)

processing of this Stipulated Agreement and that the County is financially willing and able to bear the cost for the proposed improvements as may be assigned to it according to Section 5 of this Agreement.

**ILLINOIS COMMERCE COMMISSION
TRANSPORTATION DIVISION / RAIL SAFETY SECTION**

PROJECT STATUS REPORT:

TYPE: (CHECK ONE)

PROGRESS	<input type="checkbox"/>
COMPLETION	<input type="checkbox"/>

DATE	12-20-07
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PROJECT INFORMATION:

Reporting Party:	Kankakee County
Docket/Order #; Date:	T 07-0116
Status Reports Due:	
Ordered Completion Date:	
Completion Report Due ¹ :	
AAR/DOT#, Milepost:	534 413V; MP 113.33-5E
Street, (in/near) City, County:	Herscher Road/CH 12, near Union Hill, Kankakee County, IL
Railroad Company:	Norfolk Southern Railway Company

¹Completion reports involving changes to the railroad crossing must include an updated USDOT Inventory Form.

PROJECT MANAGER INFORMATION²:

Name:	James Piekarczyk
Title:	County Engineer
Representing:	Kankakee County
Street Address:	750 S. East Avenue, PO Box 825
City, State, Zip:	Kankakee, Illinois 60901
Office Phone:	815-933-1731
Office Fax:	815-933-4499
Cellular Phone:	
E-Mail Address:	jpiekarczyk@co.kankakee.il.us

²Project Manager Information to be submitted by Roadway Authority and Railroad Company

DESCRIPTION OF IMPROVEMENT(S) ORDERED:

- Installation of automatic flashing light signals and gates with a bell, controlled by constant warning time circuitry, and equipped with an event recorder, by the Company.
- Reconstruct the existing crossing surface, by the Company

STATUS OF WORK:

**ILLINOIS COMMERCE COMMISSION
TRANSPORTATION DIVISION / RAIL SAFETY SECTION**

Mail directed to the **Rail Safety Section** or the **Director of Processing and Information**, Transportation Bureau of the Commission should be addressed to:

The Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701-1827

If you have questions contact:

Dick Daniels, Rail Safety Specialist
Phone: (217)-785-8420
Email: rdaniels@icc.illinois.gov

A **Form 3** can be obtained from the Illinois Commerce Commission by calling 217/782-7660 or on the web at:

<http://www.icc.illinois.gov/formswizard.aspx>

The billing address for **Grade Crossing Protection Fund** reimbursement is:

SIGNAL WORK

Illinois Department of Transportation
Fiscal Control Unit
Bureau of Local Roads and Streets
2300 South Dirksen Parkway
Springfield, Illinois 62764

APPROACH/BRIDGE WORK

IDOT, District ##
Address

United States Department of Transportation Inventory Form #6180.71 can be obtained on the web at:

<http://safetydata.fra.dot.gov/OfficeofSafety/Forms/Default.asp>

Submit Inventory forms to:

Federal Railroad Administration Office of Safety 1120 Vermont Avenue, NW Washington, DC 20590	<u>And</u>	Chief of Data Services Illinois Department of Transportation 2300 S. Dirksen Parkway Springfield, IL 62764
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**ILLINOIS COMMERCE COMMISSION
TRANSPORTATION DIVISION / RAIL SAFETY SECTION**

PROJECT STATUS REPORT:

TYPE: (CHECK ONE)

PROGRESS	<input type="checkbox"/>
COMPLETION	<input type="checkbox"/>

DATE	12-20-07
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PROJECT INFORMATION:

Reporting Party:	Norfolk Southern Railway Company
Docket/Order #; Date:	T07-0116
Status Reports Due:	
Ordered Completion Date:	
Completion Report Due ¹ :	
AAR/DOT#, Milepost:	534 413V; MP 113.33-5E
Street, (in/near) City, County:	Herscher Road/CH 12, near Union Hill, Kankakee County, IL
Railroad Company:	Norfolk Southern Railway Company

¹Completion reports involving changes to the railroad crossing must include an updated USDOT Inventory Form.

PROJECT MANAGER INFORMATION²:

Name:	Matt Ludovici
Title:	Material and Construction Coordinator
Representing:	Norfolk Southern
Street Address:	1200 Peachtree Street-8099B
City, State, Zip:	Atlanta, Georgia 30309
Office Phone:	(404) 527-2886
Office Fax:	(404) 653-3664
Cellular Phone:	(770) 891-9827
E-Mail Address:	<u>Matt.Ludovici@nscorp.com</u>

²Project Manager Information to be submitted by Roadway Authority and Railroad Company

DESCRIPTION OF IMPROVEMENT(S) ORDERED:

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