

ORIGINAL

ILLINOIS COMMERCE COMMISSION

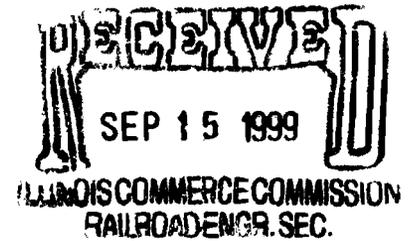
STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

SEP 15 9 11 AM '99

TRANSPORTATION DIV.

SPRINGFIELD TOWNSHIP,)
 SANGAMON COUNTY, ILLINOIS)
)
 Petitioner,)
)
 vs.)
)
 ILLINOIS & MIDLAND RAILROAD,)
 INC., a corporation and STATE OF)
 ILLINOIS, ACTING THROUGH)
 ILLINOIS DEPARTMENT OF)
 TRANSPORTATION,)
)
 Respondents.)

T99-0085



**RESPONSE TO PETITION
AND PETITION FOR CLOSURE**

IN THE MATTER OF THE PETITION OF SPRINGFIELD TOWNSHIP, SANGAMON COUNTY, ILLINOIS FOR AN ORDER OF THE ILLINOIS COMMERCE COMMISSION DIRECTING THE INSTALLATION OF GRADE CROSSING PROTECTION DEVICES AT MIDLAND AND ILLINOIS RAILROAD GRADE CROSSING AT TAINTOR ROAD (EAST OF PEORIA ROAD) SITUATED IN SANGAMON COUNTY, ILLINOIS, AND FOR SUCH OTHER APPROPRIATE RELIEF AS THE COMMISSION MAY DEEM NECESSARY.

ILLINOIS & MIDLAND RAILROAD, INC., a corporation, by and through its attorneys, Graham & Graham, Ltd., hereby states the following in Response to aforementioned Petition of Springfield Township, and in support thereof states the following:

RESPONSE

1. This Respondent admits the allegations contained in Paragraph 1.
2. This Respondent admits the allegations contained in Paragraph 2.
3. This Respondent admits the allegations contained in Paragraph 3.

4. This Respondent has no information upon which to admit or deny the allegations contained in Paragraph 4 and therefore denies same.

5. This Respondent respectfully submits that it is not in the best interest of public safety, its convenience or necessity that public signalization be installed as requested in the Petition, rather that the Taintor Road crossing be closed.

6. This Respondent respectfully denies that there is a need for allocation of the Grade Crossing Protection Fund as requested inasmuch as the public safety, convenience and necessity dictate that the Taintor Road crossing be closed.

7. This Respondent respectfully denies that there is a need for allocation of the Grade Crossing Protection Fund as requested inasmuch as the public safety, convenience and necessity dictate that the Taintor Road crossing be closed.

WHEREFORE, this Petitioner prays that the Petition of Petitioner that is its Request for an Order of the Illinois Commerce Commission directing the installation of automatic grade crossing protection devices at Illinois & Midland grade crossing at Taintor Road, be denied.

PETITION FOR CLOSURE
Pursuant to 92 Ill. Adm. Code Sec. 1536.10

Now comes the Petitioner, ILLINOIS & MIDLAND RAILROAD, INC., with its "Petition for Closure" pursuant to 92 Ill. Administrative Code Sec. 1536.10, with reference to the Railroad Crossing "at grade" of Taintor Road and the Illinois & Midland Railroad, Inc., at or near No. 5th Street and Peoria Road, Springfield, Illinois and in support thereof states the following:

1. The Taintor Crossing is located in the Township of Springfield, where Taintor Road, an Easterly-Westerly 2 lane road, with gravel composition, intersects with the main line of the Illinois & Midland; this railroad crossing lies on the South line of the NW1/4 of the NW1/4 of Sec. 14 Township 15 North Range 5 West of 3rd with the railroad tracks lying parallel to and generally some 300' West of line of East line of the NW1/4 of the NW1/4 of that Sec. 14.

2. That the crossing is presently protected by standard cross buck signs, as well as advance warning signs for the traffic eastbound on Taintor.

3. That the average daily vehicular traffic over this crossing currently is no more than 20 crossings per day. This is estimated because there is only a single family home located at the Northeast quadrant of the intersection of the North/South, Illinois & Midland Railroad track and the East/West Taintor Road. Located at the Southeast quadrant is what was once a meat packing plant and which for the last several years has had no business on the premises though there may be business contemplated now. The Northwest quadrant is a deep ravine having no homes and the Southwest quadrant is a church which has access to public streets along its Westerly and Northerly borders with no reason to travel eastward to cross the Taintor Illinois & Midland Railroad Crossing. (See attached Exhibit 1.)

4. This is the mainline of this Illinois & Midland Railroad, Inc. The rail activity is restricted to freight trains. It consists of 4-6 crossings per 24 hour period; however, on occasion there are several train movements in excess of that.

5. The maximum timetable for speed for the freight trains operating through this crossing is 20 miles per hour inasmuch as it is within yard limits.

6. There have been no railroad vehicular accidents at the crossing for the last 10 years.

7. There is apparently proposed one mobile home park on an 80 acre tract, now devoted to farming, which tract lies to the East of the instant Taintor Road Crossing, on what is essentially the E1/2 of the NW1/4 Sec. 14-where the main access to the City of Springfield for this development would be Taintor Road for vehicles to travel West then to Peoria Road-with vehicular traffic being estimated some 1,500 vehicles a day, across this railroad track. The Easterly border of this 80 acre tract is the Union Pacific Railroad Company.

8. The elevation changes in the Taintor Roadway, from its intersection at Peoria Road some 300' West of the Taintor Road Crossing to the Railroad, is in excess of the standards of the Illinois Commerce Commission regarding grade crossing highway approaches, to-wit:

“Unless the Commission otherwise specifically orders, the grade line of highway approaches to grade crossings hereafter established or substantially reconstructed shall be as follows: From the outer rail of the outermost track coincident with a tangent to the tops of the rails for about 24 inches, thence for a distance of 25 feet ascending or descending at a grade which shall not deviate more than 1% from said tangent, thence to the right-of-way line (and as far beyond as the Commission’s control may extend in any case) at a grade not to exceed 5%. Where super-elevated track or tracks make strict compliance with this Section impractical the grade of approaches shall be constructed so as to provide the best vertical alignment under the circumstances with due regard to surface regularity.” 92 Illinois Administrative Code; Section 1535.204

9. There are seasonal conditions causing concern as to view at the Taintor Road Crossing both with reference to train to vehicle and vehicle to train, which are in conflict with the standards of the Illinois Commerce Commission as follows:

“the alignments of the roadway and railroad and the angle of intersection of those alignments, and whether visibility of trains to motorists approaching the crossing or to motorists stopped at the crossing is adequate according to

Appendix 1, “A Policy on Geometric Design of Highways and Streets”, published by the American Association of State Highway and Transportation Officials (AASHTO) in 1990 (no later editions or amendments included)” 92 Illinois Administrative Code; Section 1536.10(b)9;

and

“the crossing has a permanent or seasonal obstruction(s) whereby the visibility of trains to motorists approaching the crossing or to motorists stopped at the crossing is not adequate per Appendix 1, “A Policy on Geometric Design of Highways and Streets”, incorporated in Section 1536.10 (b) (9) of this Part”, 92 Illinois Administrative Code; Section 1536.20 (d) 1

10. That it is contrary to the best interest of the general public safety, its convenience and necessity that vehicular traffic be permitted over Taintor Road, in pursuit of such development and concentration of population, with that public to then use that Taintor Road Crossing.

11. Rather, public convenience and necessity if there be that for such a large scale development require that Taintor Road Crossing be closed and that alternate vehicular access be diverted to the North over Lincolnshire Drive – one quarter of a mile to the North.

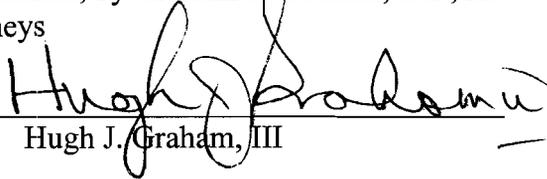
12. That if it is deemed a necessity of the public, its convenience and necessity that that development occur, and as a condition to the closure of the Taintor Road Crossing the Illinois & Midland would consider dedication of a portion of its Easterly right-of-way, upon conditions to be agreed upon, to afford access Northerly to an intersection on Peoria Road North Easterly of the Illinois & Midland overpass at currently existing pavement, some 1,800’ North and East of Taintor Road.

WHEREFORE, it is respectfully requested that the Taintor Road crossing be closed or in the alternative that if any development was to occur the Taintor Road Crossing be closed and that Illinois & Midland dedicate upon conditions to be agreed upon, a portion of its Easterly right of way to permit access, should the Township of Springfield (the developer)

desire to use portions of the Illinois & Midland Railroad, Inc. to afford access to Peoria Road, at a point easterly of the overpass of Illinois & Midland Railroad, Inc. over Peoria Road.

Respectfully submitted,

ILLINOIS & MIDLAND RAILROAD, INC.,
Respondent, by Graham & Graham, Ltd., its
attorneys

By: 
Hugh J. Graham, III

Prepared by:
Graham & Graham, Ltd.
1201 South Eighth Street
Springfield, Illinois 62703
Ph: (217) 523-4569
HJG,III/vch

MASON CITY 27 MI.
CANTRALL 4.4 MI.

40° 27' 273 274 650 000 FEET 275 89° 37' 30" 276



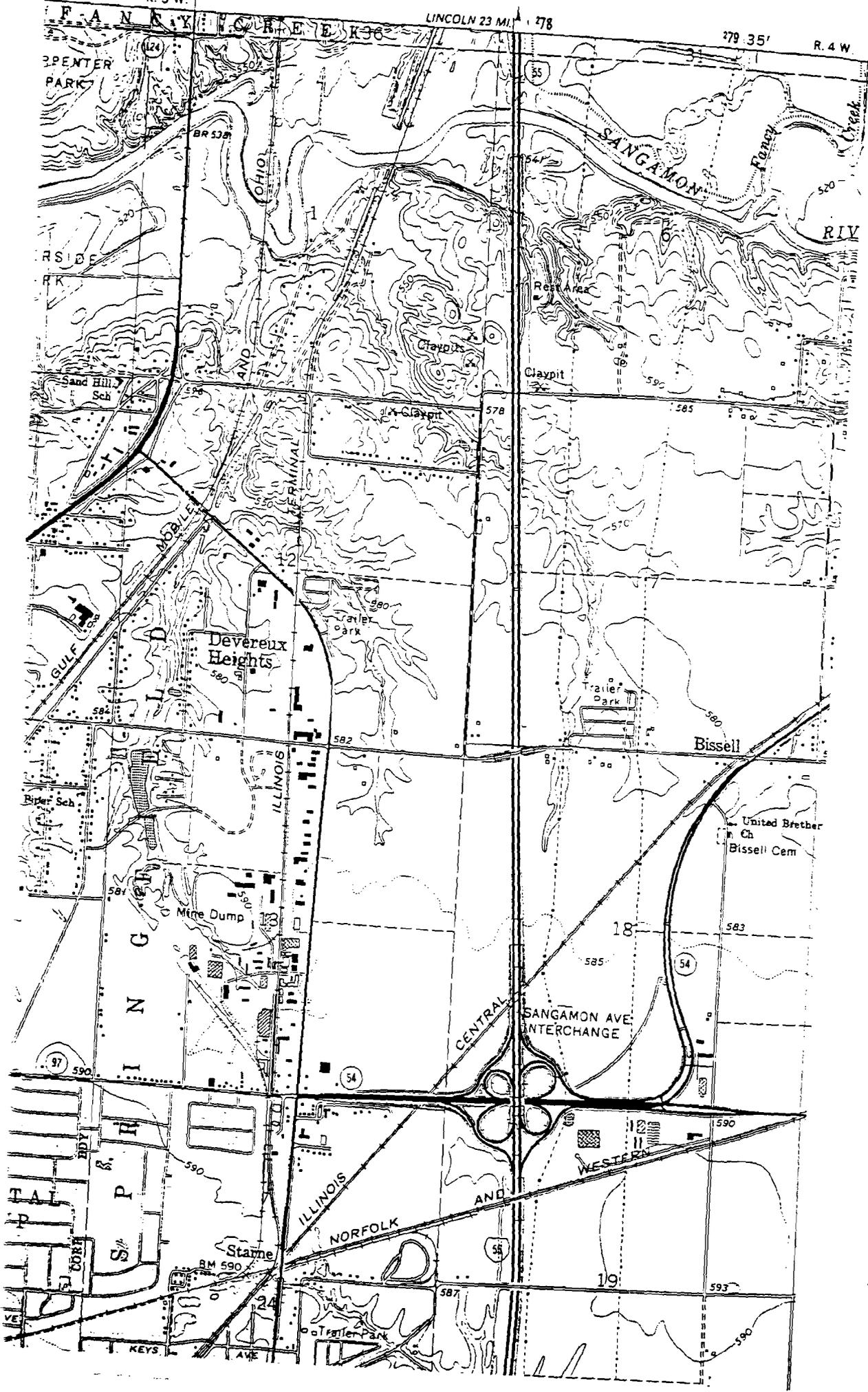
EXHIBIT 1

GEOLOGICAL SURVEY

SHERMAN 1.5 MI.
76000m E.
R. 5 W.

LINCOLN 23 MI. 278

279 35' R. 4 W



STATE OF ILLINOIS)
)
COUNTY OF SANGAMON) SS.

VERIFICATION

I, ALAN JOHNSON, _____, of I&M RAILROAD, being first
duly sworn, state that I have read the foregoing Response to Pctition and Petition for Closure
and that the answers and information contained therein are true and correct to the best of my
information, knowledge and belief.

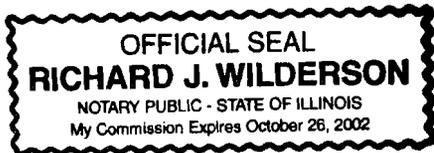


Alan Johnson

Subscribed and sworn to before
me this 14th day of Sept.
1999.



Notary Public



PROOF OF SERVICE

The undersigned hereby certifies that he caused a copy of Response to Petition and Petition for Closure to be served on the following:

Mr. Michael A. Myers
Sorling, Northrup, Hanna,
Cullen & Cochran, Ltd.
Suite 800 Illinois Building
P. O. Box 5131
Springfield, Illinois 62705
(Fx: 522-3173)

Mr. James Slifer, Director
Division of Highways
Illinois Department of
Transportation
2300 South Dirksen Parkway
Springfield, Illinois 62764
(Fx: 782-3971)

Mr. Philip L. Koeberlein, P.E.
Sangamon County Highway Engineer
3303 Terminal Avenue
Springfield, Illinois 62707
(Fx: 753-7999)

Mr. Martin J. Ushman
Springfield Township Supervisor
1633 Tozer Road
Springfield, Illinois 62707
(Fx: 522-7981)

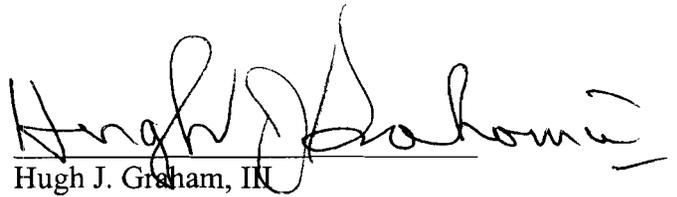
Mr. David Lehman
Springfield Township Clerk
2954 Tozer Road
Springfield, Illinois 62707
(Fx: 522-7981)

Mr. Joe Chernis, Jr.
Springfield Township Highway
Commissioner
2437 Sandhill Road
Springfield, Illinois 62707
(Fx: 522-7981)

Mayor and/or Attorney
City of Springfield
106 Municipal Center West
Springfield, Illinois 62701
(Fx: 789-2109)

City Clerk
City of Springfield
106 Municipal Center West
Springfield, Illinois 62701
(Fx: 789-2109)

by enclosing copies of said Response in envelopes, properly addressed to the above persons
and depositing said envelopes in the United States Mail, postage fully prepaid at Springfield,
Illinois, this 14 day of September, 1999.


Hugh J. Graham, III