

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Norfolk Southern Railway Company, the City of :
Springfield, the Village of Grandview, and the State :
of Illinois, Department of Transportation. :

Stipulated Agreement regarding improving public :
safety at the Wolfe Street highway-rail grade :
crossing of the Norfolk Southern Railway :
Company's track located in the Village of :
Grandview, designated as crossing AAR/DOT #479 :
307M, railroad milepost 412.12-WC; and the 19th :
Street, North Grand Avenue, 13th/Reservoir Streets, :
11th/Division Streets, Enterprise Street, Enos :
Avenue, Miller Street, Carpenter Street, Reynolds :
Street, Jefferson Street, Washington Street, Adams :
Street, Monroe Street, Capitol Avenue, and Jackson :
Street highway-rail grade crossings of the Norfolk :
Southern Railway Company's track located in the :
City of Springfield, Sangamon County, Illinois, :
designated as crossings AAR/DOT #479 309B, :
railroad milepost 412.75-WC, AAR/DOT #479 :
313R, railroad milepost 413.04-WC, AAR/DOT :
#479 312J, railroad milepost 413.22-WC, AAR/DOT :
#479 319G, railroad milepost 413.38-WC, :
AAR/DOT #479 320B, railroad milepost 413.48-WC, :
AAR/DOT #479 322P, railroad milepost 413.69-WC, :
AAR/DOT #479 323W, railroad milepost 413.77- :
WC, AAR/DOT #479 324D, railroad milepost :
413.85-WC, AAR/DOT #479 325K, railroad milepost :
413.93-WC, AAR/DOT #479 328F, railroad milepost :
414.20-WC, AAR/DOT #479 329M, railroad :
milepost 414.24-WC, AAR/DOT #479 330G railroad :
milepost 414.32-WC, AAR/DOT #479 331N, :
railroad milepost 414.39-WC, AAR/DOT #479 332V, :
railroad milepost 414.47-WC, and AAR/DOT #479 :
334J, railroad milepost 414.55-WC, respectively. :

T06-0029

THIRD SUPPLEMENTAL ORDER

By the Commission:

PROCEDURAL HISTORY

On May 17, 2006, the Illinois Commerce Commission entered its original Order in the above captioned matter. The Village of Grandview ("Village"), the City of Springfield

("City"), and the Norfolk Southern Railway Company ("Company"), were required to make safety improvements at the Wolfe Street highway-rail grade crossing of the Company's track located in the Village of Grandview, designated as crossing AAR/DOT #479 307M, railroad milepost 412.12-WC; and the 19th Street, North Grand Avenue, 13th/Reservoir Streets, 11th/Division Streets, Enterprise Street, Enos Avenue, Miller Street, Carpenter Street, Reynolds Street, Jefferson Street, Washington Street, Adams Street, Monroe Street, Capitol Avenue, and Jackson Street highway-rail grade crossings of the Company's track located in the City of Springfield, Sangamon County, designated as crossings AAR/DOT #479 309B, railroad milepost 412.75-WC, AAR/DOT #479 313R, railroad milepost 413.04-WC, AAR/DOT #479 312J, railroad milepost 413.22-WC, AAR/DOT #479 319G, railroad milepost 413.38-WC, AAR/DOT #479 320B, railroad milepost 413.48-WC, AAR/DOT #479 322P, railroad milepost 413.69-WC, AAR/DOT #479 323W, railroad milepost 413.77-WC, AAR/DOT #479 324D, railroad milepost 413.85-WC, AAR/DOT #479 325K, railroad milepost 413.93-WC, AAR/DOT #479 328F, railroad milepost 414.20-WC, AAR/DOT #479 329M, railroad milepost 414.24-WC, AAR/DOT #479 330G, railroad milepost 414.32-WC, AAR/DOT #479 331N, railroad milepost 414.39-WC, AAR/DOT #479 332V, railroad milepost 414.47-WC, and AAR/DOT #479 334J, railroad milepost 414.55-WC, respectively; on or before November 17, 2007.

On September 14, 2007, the City of Springfield filed a Supplemental Petition for a one-year extension of time to complete a portion of the Order, namely to acquire clear title to the property in the Northwest Quadrant of the 11th and Division intersection. The original Order directed the City to remove the permanent sight restriction (building) located in the Northwest Quadrant of the 11th and Division Street grade crossing by purchasing the land and demolishing the structure. On October 28, 2007, the Commission entered its First Supplemental Order granting the requested extension of time.

On October 26, 2007, the Norfolk Southern Railway Company filed a Supplemental Petition for a 60 day extension of time (until January 17, 2008) to complete the project. The Norfolk Southern stated that it has already completed all work required of it by the Commission in this docket except for the installation of a radio wave collector tower, and the subsequent programming work, necessary for the proper operation of event recorders that were installed at each crossing. The radio wave collector tower is necessary in order for the event recorders function properly and "communicate" as a single system. The Norfolk Southern Railway Company maintains that it has been diligent, has exercised good faith, and has made all reasonable efforts to complete the required work in accordance with the Commission's Order. On November 28, 2007, the Commission entered its Second Supplemental Order granting the requested extension of time, to and including January 17, 2008.

On October 20, 2008, the City of Springfield filed a Supplemental Petition for a six month extension of time, until June 17, 2009, to complete a portion of the Order, namely to acquire clear title to the property in the Northwest Quadrant of the 11th and Division intersection. The City stated in its Supplemental Petition that the 11th and Division title

acquisition has been slowed by various parties with security interest in the property. Ultimately, foreclosure on the property is required before the City can obtain the title and subsequently pass an Ordinance forbidding further development and planting on the 11th and Division property, as originally ordered by the Commission. Foreclosure proceedings for the 11th and Division property are currently scheduled for a November 6, 2008 court date.

Staff of the Rail Safety Section has reviewed the City's Supplemental Petition and believes that it is fair and reasonable to grant the City additional time, to and including June 17, 2009, to complete the 11th and Division property acquisition and to pass an ordinance through its Council and Mayor forbidding any future building or planting on that property.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, having given due consideration to the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) The Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) The recitals of fact, as set forth in the prefatory portion of this Third Supplemental Order, are supported by investigation by Commission Staff and are hereby adopted as findings of fact;
- (3) The City has already removed the sight restriction (building) in the Northwest Quadrant of the 11th and Division railroad crossing, thus addressing the safety concern mentioned in the original Order;
- (4) Staff believes that the City will possibly need up to an additional six months to foreclose on the property and pass an ordinance through its Council and Mayor forbidding any future building or planting on said property;
- (5) All other terms and conditions of the original Order dated May 17, 2006, are hereby affirmed and shall remain in full force and effect except as herein modified.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that an extension of time, to and including June 17, 2009, is hereby granted to the City of Springfield to complete the property acquisition at the northwest corner of 11th and Division Streets, and pass an ordinance forbidding further development and planting on said property as set forth in the original Order dated May 17, 2006.

IT IS FURTHER ORDERED that all other terms and conditions of the original Order, dated May 3, 2006, are hereby affirmed and shall remain in full force and effect except as herein modified.

IT IS FURTHER ORDERED that, subject to Section 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to the Administrative Review Law.

By Order of the Commission this 13th day of November 2008.



CHARLES E. BOX
Chairman

JUDGE
SECTION CHIEF <i>mes</i>
ORDERS SUPERVISOR