

ORIGINAL

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT 1423**

T09-0135

This Agreement made and entered into, by and between the State of Illinois acting by and through the Illinois Commerce Commission ("Commission"), The Indiana Rail Road Company ("Company"), the City of Newton ("City"), and the State of Illinois, Department of Transportation ("IDOT")

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 Alley Street, Church Street, and Stanley Avenue highway-rail grade crossings of the Company's track in Newton, Jasper County, Illinois, designated as crossings AAR/DOT #292 604J, railroad milepost 153.52-X; AAR/DOT #292 607E, railroad milepost 153.70-X; and, AAR/DOT #292 611U, railroad milepost 154.00-X, respectively; and

WHEREAS, proper investigation has been made of the circumstances surrounding the subject crossings 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 other pertinent data relating to the Alley Street, Church Street, and Stanley Avenue crossings have been obtained and shown on Exhibits A-1, A-2, and A-3, respectively, attached to this Agreement; and

WHEREAS, the parties are mutually agreeable to accomplish proposed improvements to the crossing upon 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.

DOCKETED

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) Vacation of the existing Alley Street, Church Street, and Stanley Avenue roadways within the Company's Right-of-Way ("ROW") limits, by the City.
- (b) Closure of the roadways within the Company's ROW limits, by the City.
- (c) Removal of the existing Alley Street, Church Street, and Stanley Avenue grade crossings, including all warning signs and/or automatic warning devices, within the limits of the vacated roadways and the Company ROW, by the Company.
- (d) Installation of permanent traffic barriers, constructed to meet the minimum requirements of 92 Ill. Adm. Code 1535.701 and the most current revision of the Manual on Uniform Traffic Control Devices (MUTCD), or, where permanent traffic barriers are not erected, the removal of the existing roadway approaches and appurtenances, and matching of the adjacent profiles within the limits of the vacated roadways and the Company ROW, by the Company.
- (e) Installation of appropriate regulatory/warning signage to alert motorists of the crossing closures in accordance with the most current revision of the Manual on Uniform Traffic Control Devices (MUTCD), by the City.
- (f) Payment, as detailed *infra*, to the City for voluntary closure of the crossing, by IDOT and the Company.

Section 3 The City shall pass a local ordinance(s) vacating Alley Street, Church Street, and Stanley Avenue with a stipulation that final vacation of the roadways shall not take place until after a Commission Order has been issued authorizing an incentive payment from the GCPF for closure of the crossings. Upon passage of a Commission Order the City shall erect temporary barricades to prevent vehicular access to the crossing. The temporary barricades shall be erected within five (5) business days from the date of the Commission Order. The City will be responsible for all costs to erect and maintain the temporary barricades

Section 4 The Company shall upon Order, according to the requirements contained therein, remove the crossing surface and passive warning signs, install permanent traffic barriers, or, where permanent traffic barriers are not erected, remove the roadway approaches and appurtenances and match the adjacent profiles at the Alley Street, Church Street, and Stanley Avenue highway-rail grade crossings. The work shall be completed within thirty (30) days after the Company receives a copy of the Order. The Company shall provide all parties with notice that the work has been completed within five (5) business days of completion.

The City shall upon Order, according to the requirements contained therein, install

appropriate regulatory/warning signage to alert motorists of the Alley Street, Church Street, and Stanley Avenue crossing closures. The work shall be completed within thirty (30) days after the City receives a copy of the Order. The City shall provide all parties with notice that the work has been completed within five (5) business days of completion.

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

- COST DIVISION TABLE -

IMPROVEMENT	EST. COST	GCPF	CITY	COMPANY	IDOT
Vacate the Alley St., Church St., and Stanley Av. Grade Crossings by Local Ordinance; Erect Signage to Alert Motorists of Crossing Closures.	No Estimate Required	0%	100% ²	0%	0%
Closure of the roadways within the Company's ROW limits	No Estimate Required	0%	100% ²	0%	0%
Remove the existing Alley Street, Church Street, and Stanley Avenue grade crossings, including all warning signs and/or automatic warning devices, within the limits of the vacated roadways and the Company ROW	No Estimate Required	0%	0% ²	100% ³	0%
Install permanent traffic barriers, or, where permanent traffic barriers are not erected, remove the existing roadway approaches and appurtenances, and matching of the adjacent profiles within the limits of the vacated roadways and the Company ROW	No Estimate Required	0%	0% ²	100% ³	0%
Provide Incentive Payment for Voluntary Closure of the Alley Street Grade Crossing.	\$65,000	\$50,000 ^{1,4}	\$0 ⁴	\$7,500 ⁴	\$7,500 ⁴
Provide Incentive Payment for Voluntary Closure of the Church Street Grade Crossing.	\$75,000	\$60,000 ^{1,4}	\$0 ⁴	\$7,500 ⁴	\$7,500 ⁴
Provide Incentive Payment for Voluntary Closure of the Stanley Avenue Grade Crossing.	\$65,000	\$50,000 ^{1,4}	\$0 ⁴	\$7,500 ⁴	\$7,500 ⁴
TOTALS	\$205,000	\$160,000	\$0	\$22,500	\$22,500

[Totals do not reflect costs where no estimates were provided.]

Notes:

- ¹ Total GCPF assistance not to exceed \$50,000 for voluntary closure of the Alley Street grade crossing; total GCPF assistance not to exceed \$60,000 for voluntary closure of the Church Street grade crossing; total GCPF assistance not to exceed \$50,000 for voluntary closure of the Stanley Avenue grade crossing.
- ² The City shall be responsible for all costs associated with the formal vacation of the Alley Street, Church Street, and Stanley Avenue roadways at the crossings, as well as all costs associated with installation and future maintenance of regulatory/warning signage to alert motorists of the closures. The City shall also be responsible for all costs associated with future maintenance of the permanent barricades.
- ³ The Company shall be responsible for all costs associated with removal of the existing grade crossing surfaces and Crossbuck/YIELD warning signs, as well all costs associated with the erection of permanent barricades and/or removal of the roadway approaches and re-establishment of the adjacent profiles.
- ⁴ When the crossings are permanently inaccessible to vehicular traffic and vehicular traffic has been properly diverted from the crossing, the City shall submit a request to the Department and the Company for the voluntary crossing closure incentive payments; the Department and the Company shall issue the payments to the City within 60 days of that request (see Section 7 of the Agreement).

Section 6 The City is financially able and willing to bear 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 B. The City 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 City shall submit a certified copy of the local vacation ordinance(s) to all parties, as evidence that the Alley Street, Church Street, and Stanley Avenue roadways will be vacated. The City shall submit the vacation ordinance(s) to all parties at the same time as the Execution Page of this Agreement is submitted to the Commission. The City will be responsible for all costs to vacate the roadways.

The Company shall upon Order, according to the requirements contained therein, remove the crossing surface and passive warning signs, install permanent traffic barriers being constructed to comply with the minimum requirements of 92 Ill. Adm. Code 1535.701 and the most current revision of the Manual on Uniform Traffic Control Devices (MUTCD), or, where permanent traffic barriers are not erected, remove the roadway approaches and appurtenances and match the adjacent profiles at the Alley Street, Church Street, and Stanley Avenue highway-rail grade crossings. The work shall be completed within thirty (30) days after the Company receives a copy of the Order. The Company shall provide all parties with notice that the work has been completed within five (5) business days of completion. Notification may be by regular mail, electronic mail, facsimile, or phone. The Company will be responsible for all costs for the aforementioned work. Future maintenance of the permanent traffic barriers will be the responsibility of the City.

The Company shall, within five (5) days of the completion of the work required, submit completely updated United States Department of Transportation Inventory Forms (#6180.71) to the Federal Railroad Administration, the Chief of Data Services at the Illinois Department of Transportation, and the Director of Processing and Information, Transportation Bureau of the Commission for the Alley Street, Church Street, and Stanley Avenue grade crossing closures.

The City shall upon Order, according to the requirements contained therein, install appropriate regulatory/warning signage to alert motorists of the Alley Street, Church Street, and Stanley Avenue crossing closures in accordance with the most current revision of the Manual on Uniform Traffic Control Devices (MUTCD). The work shall be completed within thirty (30) days after the City receives a copy of the Order. The City shall provide all parties with notice that the work has been completed within five (5) business days of completion. Notification may be by regular mail, electronic mail, facsimile, or phone. The City will be responsible for all costs for the aforementioned work. Future maintenance of the regulatory/warning signage will be the responsibility of the City.

When the Alley Street, Church Street, and Stanley Avenue crossings are permanently inaccessible to vehicular traffic and vehicular traffic has been properly diverted from the crossings, the City shall submit a request to the Fiscal Control Unit, Bureau of Local Roads and Streets, Illinois Department of Transportation, 2300 S. Dirksen Parkway, Springfield, IL 62764 for the voluntary crossing closure incentive payments from the Grade

Crossing Protection Fund. Subject to availability of funds, within sixty (60) days from receipt of a City request, the Department shall issue a total payment of \$160,000 (\$50,000 for Alley Street, \$60,000 for Church Street, and \$50,000 for Stanley Avenue) from the GCPF to the City. The Department shall notify all parties when the payment has been completed. Notification may be by regular mail, electronic mail, facsimile, or phone. The City must deposit the payment into their Motor Fuel Tax Account and may use the GCPF payment for any purpose that meets IDOT requirements for permissible uses of Motor Fuel Tax Funds.

The City shall submit a request for the federal voluntary crossing closure incentive payments to the Department's Region 4, District 7 Office at the following address: Roger Driskell, Region Engineer, Attn: Maureen Kastl, Local Roads Engineer, 400 West Wabash, Effingham, IL 62401. The request for payment shall include the location and ICC Order number, as well as the IDOT Section# (09-00038-00-SP), IDOT Project# (RRP-079(139)), and IDOT Job# (C-97-008-10). Within sixty (60) days from receipt of the request, the Department shall issue a total payment of \$22,500 (\$7,500 each for Alley Street, Church Street, and Stanley Avenue) to the City. The Department shall notify all parties when the payment has been completed. Notification may be by regular mail, electronic mail, facsimile, or phone. The \$22,500 federal voluntary crossing closure incentive payment shall be used by the City for a roadway safety related expense.

The City shall submit a request to the Company for the Company's voluntary crossing closure incentive payment. Within sixty (60) days from receipt of the request, the Company shall issue a total payment of \$22,500 (\$7,500 each for Alley Street, Church Street, and Stanley Avenue) to the City. The Company shall notify all parties when the payment has been completed. Notification may be by regular mail, electronic mail, facsimile, or phone.

All requests for payment shall be submitted no later than twelve (12) months from the execution date of the Commission Order approving this Agreement. The Department shall not obligate any funds 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 execution date of the Commission Order approving this Agreement, or any Supplemental Order(s) issued for this project, 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 costs for this project. Notification may be by regular mail, electronic mail, fax, or phone.

The Company and the City shall each complete and submit the Project Manager Information portion of the Project Status Report sheet, attached as Exhibits E (Company), and E1 (City), along with this executed Agreement.

The Company and the City 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 Exhibits E and E1, respectively, regarding the progress each has made toward

completion of the work defined by this Agreement. Each Project Status Report shall include the Commission Order 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 Company or City Project Manager.

SECTION 8 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.

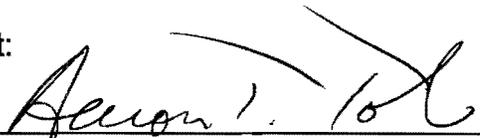
In Witness Whereof, the parties have caused this Agreement to be executed by their duly authorized officers, as of the dates indicated on their respective Execution Pages, attached hereto.

Executed by the Commission this 27th day of October 2009.



Michael E. Stead
Rail Safety Program Administrator

Attest:

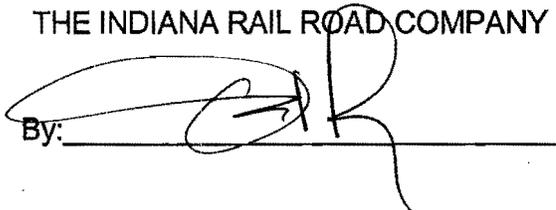


Aaron T. Toliver
Rail Safety Specialist

Illinois Commerce Commission Stipulated Agreement 1423, executed by Commission Staff on October 27, 2009, concerning voluntary closure of the Alley Street, Church Street, and Stanley Avenue highway-rail grade crossings of The Indiana Rail Road Company's track in Newton, Jasper County, Illinois, designated as crossings AAR/DOT #292 604J, railroad milepost 153.52-X; AAR/DOT #292 607E, railroad milepost 153.70-X; and, AAR/DOT #292 611U, railroad milepost 154.00-X, respectively.

Executed by The Indiana Rail Road Company this 30TH day of OCTOBER 2009.

THE INDIANA RAIL ROAD COMPANY

By:  _____

Attest:

Michelle Frasier

Illinois Commerce Commission Stipulated Agreement 1423, executed by Commission Staff on October 27, 2009, concerning voluntary closure of the Alley Street, Church Street, and Stanley Avenue highway-rail grade crossings of The Indiana Rail Road Company's track in Newton, Jasper County, Illinois, designated as crossings AAR/DOT #292 604J, railroad milepost 153.52-X; AAR/DOT #292 607E, railroad milepost 153.70-X; and, AAR/DOT #292 611U, railroad milepost 154.00-X, respectively.

Executed by the Illinois Department of Transportation this 16th day of November 2009.

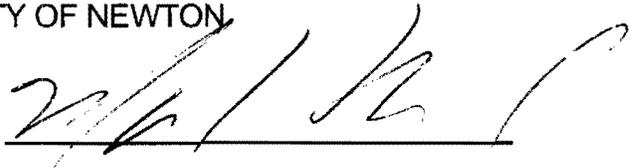
STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION

By: Christine M. Reed
Christine M. Reed, Director of Highways / Chief Engineer

Illinois Commerce Commission Stipulated Agreement 1423, executed by Commission Staff on October 27, 2009, concerning voluntary closure of the Alley Street, Church Street, and Stanley Avenue highway-rail grade crossings of The Indiana Rail Road Company's track in Newton, Jasper County, Illinois, designated as crossings AAR/DOT #292 604J, railroad milepost 153.52-X; AAR/DOT #292 607E, railroad milepost 153.70-X; and, AAR/DOT #292 611U, railroad milepost 154.00-X, respectively.

Executed by the City of Newton this 17th day of November 2009.

CITY OF NEWTON

By: 

Attest:





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

GENERAL INFORMATION: See Location Sketch

RAILROAD	The Indiana Rail Road Company
USDOT#, MILEPOST	292 604J, MP 153.52-X
STREET, CITY, COUNTY	Alley Street in Newton, Jasper County
JURISDICTION (RDWY)	City of Newton
LOCATION	Urban
STREET SURFACE	Chip Seal, 10', Fair Condition

CROSSING DATA: Also see Location Sketch (Page 3) for roadway profile and trk. ctrs.

TRACK (W-E or N-S)	SURFACE TYPE	SURFACE WIDTH	SURFACE CONDITION
W-E	Unconsolidated	16'	Poor

ROADWAY DATA: See Location Sketch

INTERSECTING ROADS:	Decatur St – Edge of Pavement 4' South of Track
TRAFFIC CONTROL	None
ADT & SPEED	20 VPD @ 30mph (unposted)
TRAFFIC TYPE	Passenger Vehicles
ADVANCE WARNING	No
PAVEMENT MARKING	N/A (Chip Seal)

RAILROAD DATA: See Location Sketch

FREIGHT TRAFFIC	6/day @ 30 MPH, 0 Switch Movements, Day & Night
PASSENGER TRAFFIC	None
WARNING DEVICES	Crossbucks with YIELD Signs

NOTES:

VISIBILITY STUDY: See Location Sketch

Train Speed	30	MPH
Roadway Speed	30	MPH
Required Stopping Sight Distance (SSD)		
Along Roadway	222	FEET
Along Tracks	297	FEET
Required Clearing Sight Distance (CSD) (Along Tracks)	721	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	ok	none	obstr	building
NW	ok	none	obstr	building
SE	ok	none	obstr	building
SW	ok	none	obstr	building

*Note: Automatic flashing light signals and gates (AFLS&G) eliminate the need to satisfy minimum Sight Distance criteria.

APPROACH GRADES: See Location Sketch

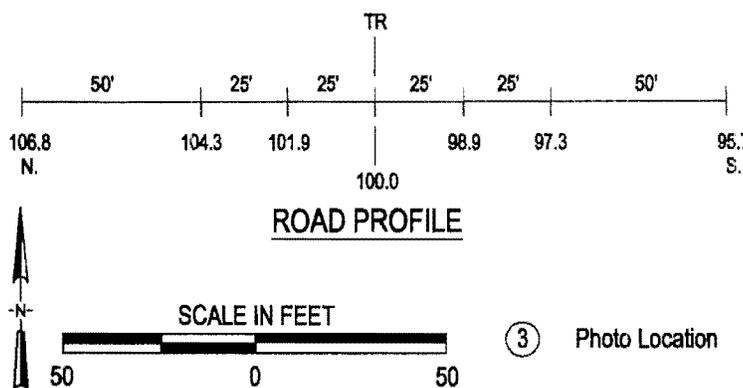
DIRECTION/North			DIRECTION/South		
DISTANCE (FT)	ELEVATION (FT)	GRADE (%)	DISTANCE (FT)	ELEVATION (FT)	GRADE (%)
25	101.9	7.6	25	98.9	4.4
50	104.3	9.6	50	97.3	6.4

Distance measured from outermost rail.

COMMENTS:

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

Approach grades very steep.



Crossing #: 292604J
 Location: Jasper Co., City of Newton (I)
 Lat/Long: 38°59'19" / 88°09'43"
 Railroad: INRD
 Street: Alley
 Railroad Milepost: 153.52
 Crossing Protection: None

③ Photo Location

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

GENERAL INFORMATION: See Location Sketch

RAILROAD	The Indiana Rail Road Company
USDOT#, MILEPOST	292 607E, MP 153.70-X
STREET, CITY, COUNTY	Church Street in Newton, Jasper County
JURISDICTION (RDWY)	City of Newton
LOCATION	Urban
STREET SURFACE	Chip Seal, 15', Good Condition

CROSSING DATA: Also see Location Sketch (Page 3) for roadway profile and trk. ctrs.

TRACK (W-E or N-S)	SURFACE TYPE	SURFACE WIDTH	SURFACE CONDITION
W-E	Timber & Asphalt	24'	Fair

ROADWAY DATA: See Location Sketch

INTERSECTING ROADS:	Decatur St – Edge of Pavement 3' South of Track
TRAFFIC CONTROL	STOP Sign
ADT & SPEED	275 VPD @ 30mph (unposted)
TRAFFIC TYPE	Passenger Vehicles
ADVANCE WARNING	Yes
PAVEMENT MARKING	N/A (Chip Seal)

RAILROAD DATA: See Location Sketch

FREIGHT TRAFFIC	6/day @ 30 MPH, 0 Switch Movements, Day & Night
PASSENGER TRAFFIC	None
WARNING DEVICES	Crossbucks with YIELD Signs

NOTES:

VISIBILITY STUDY: See Location Sketch

Train Speed	30	MPH
Roadway Speed	30	MPH
Required Stopping Sight Distance (SSD)		
Along Roadway	222	FEET
Along Tracks	297	FEET
Required Clearing Sight Distance (CSD) (Along Tracks)	721	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	obstr	trees	obstr	building
NW	obstr	trees	obstr	building
SE	ok	none	ok	none
SW	ok	none	obstr	building

*Note: Automatic flashing light signals and gates (AFLS&G) eliminate the need to satisfy minimum Sight Distance criteria.

APPROACH GRADES: See Location Sketch

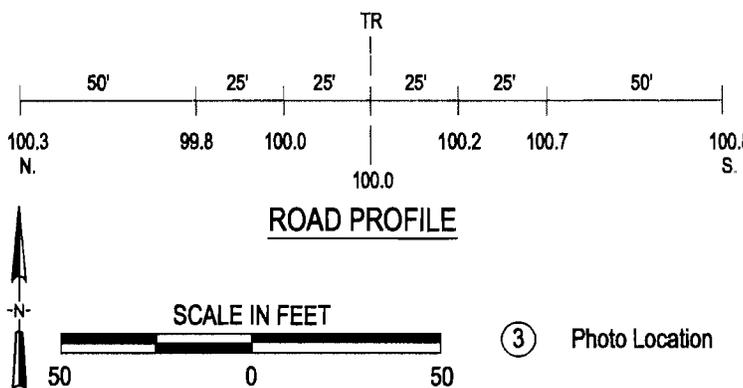
DIRECTION/North			DIRECTION/South		
DISTANCE (FT)	ELEVATION (FT)	GRADE (%)	DISTANCE (FT)	ELEVATION (FT)	GRADE (%)
25	100.0	0.0	25	100.2	0.8
50	99.8	0.8	50	100.7	2.0

Distance measured from outermost rail.

COMMENTS:

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

Visibility is limited.



Crossing #: 292607E
 Location: Jasper Co., City of Newton (I)
 Lat/Long: 38°59'19" / 88°09'54"
 Railroad: INRD
 Street: Church Street
 Railroad Milepost: 153.70
 Crossing Protection: Signs

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

GENERAL INFORMATION: See Location Sketch

RAILROAD	The Indiana Rail Road Company
USDOT#, MILEPOST	292 611U, MP 154.00-X
STREET, CITY, COUNTY	Stanley Avenue in Newton, Jasper County
JURISDICTION (RDWY)	City of Newton
LOCATION	Urban
STREET SURFACE	Chip Seal, 17', Good Condition

CROSSING DATA: Also see Location Sketch (Page 3) for roadway profile and trk. ctrs.

TRACK (W-E or N-S)	SURFACE TYPE	SURFACE WIDTH	SURFACE CONDITION
W-E	Timber & Asphalt	24'	Poor

ROADWAY DATA: See Location Sketch

INTERSECTING ROADS:	Decatur St – Edge of Pavement 5' South of Track
TRAFFIC CONTROL	YIELD Sign on Decatur St.
ADT & SPEED	200 VPD @ 30mph (unposted)
TRAFFIC TYPE	Passenger Vehicles
ADVANCE WARNING	Yes
PAVEMENT MARKING	N/A (Chip Seal)

RAILROAD DATA: See Location Sketch

FREIGHT TRAFFIC	6/day @ 30 MPH, 0 Switch Movements, Day & Night
PASSENGER TRAFFIC	None
WARNING DEVICES	Crossbucks with YIELD Signs

NOTES:

VISIBILITY STUDY: See Location Sketch

Train Speed	30	MPH
Roadway Speed	30	MPH
Required Stopping Sight Distance (SSD)		
Along Roadway	222	FEET
Along Tracks	297	FEET
Required Clearing Sight Distance (CSD) (Along Tracks)	721	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	obstr	trees	obstr	building
NW	obstr	trees	obstr	building
SE	ok	none	obstr	building
SW	ok	none	obstr	building

*Note: Automatic flashing light signals and gates (AFLS&G) eliminate the need to satisfy minimum Sight Distance criteria.

APPROACH GRADES: See Location Sketch

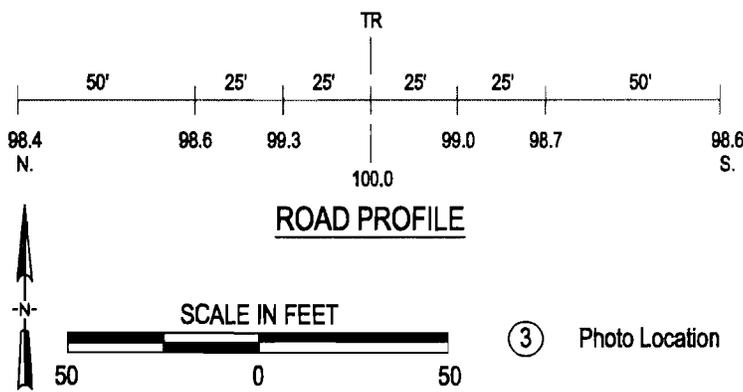
DIRECTION/North			DIRECTION/South		
DISTANCE (FT)	ELEVATION (FT)	GRADE (%)	DISTANCE (FT)	ELEVATION (FT)	GRADE (%)
25	99.3	2.8	25	99.0	4.0
50	98.6	2.8	50	98.7	1.2

Distance measured from outermost rail.

COMMENTS:

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

Visibility is limited.



Crossing #: 292611U

Location: Jasper Co., City of Newton (I)

Lat/Long: 38°59'19" / 88°10'17"

Railroad: INRD

Street: Stanley Avenue

Railroad Milepost: 154.00

Crossing Protection: Signs

Exhibit B

**ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT 1423**

Date November 17, 2009

The Newton City Council meeting on November 17, 2009,

resolved to authorize Mark Bolander, Mayor
(Name, Office)

to act as its designated agent in the processing of this Stipulated Agreement and that the City 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.

CITY OF NEWTON, ILLINOIS

ORDINANCE NO. 09-16

AN ORDINANCE VACATING PORTIONS OF DECATUR STREET
INVOLVING THE ALLEY RAILROAD CROSSING, CHURCH STREET
RAILROAD CROSSING AND STANLEY AVENUE RAILROAD
CROSSING IN THE CITY OF NEWTON, JASPER COUNTY, ILLINOIS

ADOPTED BY THE CITY COUNCIL
OF THE CITY OF NEWTON, ILLINOIS
THIS 17th DAY OF November, 2009

PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF
THE CITY COUNCIL OF THE CITY OF NEWTON,
JASPER COUNTY, ILLINOIS
THIS 17th DAY OF November, 2009



JEAN GHAST, CITY CLERK

ORDINANCE NO. 09- 16

AN ORDINANCE VACATING PORTIONS OF DECATUR STREET INVOLVING THE ALLEY RAILROAD CROSSING, CHURCH STREET RAILROAD CROSSING AND STANLEY AVENUE RAILROAD CROSSING IN THE CITY OF NEWTON, JASPER COUNTY, ILLINOIS

WHEREAS, the City of Newton, Illinois held a public hearing at City Hall, 108 North Van Buren Street, Newton, Illinois on the 3rd day of November, 2009 at 5:45 p.m. for the purpose of examining and hearing reasons for or against vacating portions of Decatur Street, Alley Railroad Crossing as described on Exhibit "A" attached hereto and incorporated herein by this reference, vacating portions of Decatur Street, Church Street Railroad Crossing described on Exhibit "B" attached hereto and incorporated herein by this reference and vacating portions of Decatur Street, Stanley Street Railroad Crossing described on Exhibit "C" attached hereto and incorporated herein by this reference, and

WHEREAS, at said hearing no objections were raised to vacating those portions of Decatur Street as described on Exhibits A, B and C attached, and

WHEREAS, the State of Illinois Department of Transportation and the Indiana Railroad Company are providing financial incentives to the City of Newton to voluntarily vacate the above-described portions of Decatur Street to facilitate the closure of the described railroad crossings pursuant to that certain State of Illinois, Illinois Commerce Commission, Stipulated Agreement 1423 which has been entered into by the City and which Stipulated Agreement 1423 is incorporated herein by this reference as if fully set forth in this Ordinance, and

WHEREAS, the City Council has determined that it is in the public and economic interest of the City of Newton to vacate those portions of Decatur Street as set forth on Exhibits A, B, and C attached with the stipulation that vacation of said portions of Decatur Street shall be null and void if the Illinois Commerce Commission does not enter an Order (Commission Order) authoring incentive payments to the City of Newton, Illinois, from the Grade Crossing Protection Fund (GCPF) for closure of the crossings described in Exhibits A, B and C attached.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Newton, Jasper County, Illinois, that it has been determined that the public and

economic interest of the City of Newton would be served by vacating that portion of Decatur Street, Alley Railroad Crossing, described in Exhibit "A" attached, that portion of Decatur Street, Church Street Railroad Crossing, described in Exhibit "B" attached and that portion of Decatur Street, Stanley Street Railroad Crossing, described in Exhibit C attached, and accordingly, those portions of Decatur Street described in Exhibits A, B, and C attached hereto are hereby vacated subject to the conditions that this vacation of the described portions of Decatur Street shall not be effective until after a) the Illinois Commerce Commission has issued a Commission Order authorizing the closing of the described Alley, Church Street and Stanley Avenue railroad crossings and authorizing incentive payments from the Grade Crossing Protection Fund (GCPF) to the City of Newton, Illinois for closure of the Alley, church Street and Stanley Avenue railroad crossings and b) complete performance of the Illinois Commerce Commission Stipulated Agreement 1423 by all parties thereto. Should said Commission Order not be issued or should said Stipulated Agreement 1423 not be complied with by all parties thereto, the vacations provided for in this Ordinance shall automatically become null and void

PROVIDED HOWEVER, that the City of Newton, Jasper County, Illinois, does hereby except, reserve and retain unto itself a right of way over said streets which includes the right to maintain, operate, repair and replace, by itself or by any licensee, or a holder of a franchise from the City, any poles, wires, pipes, conduits, sewer mains, water mains, or any other facility or equipment for the maintenance or operation of any utility now or hereafter located in any part of the streets vacated by this Ordinance

BE IT FURTHER ORDAINED that the City Clerk shall record in the Office of the Recorder of Jasper County, Illinois, a duly certified copy of this Ordinance.

This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Upon roll call vote the following Alderperson voted yea:

Bob Reisner, Larry Short, Rick Lindemann, Scott Bloomberg,

Harold Bolander, Larry Brooks, David Brown

Upon roll call vote the following Alderperson voted nay:

None

Passed, approved and published in pamphlet form this 17th day of November,
2009.



MARK BOLANDER, MAYOR

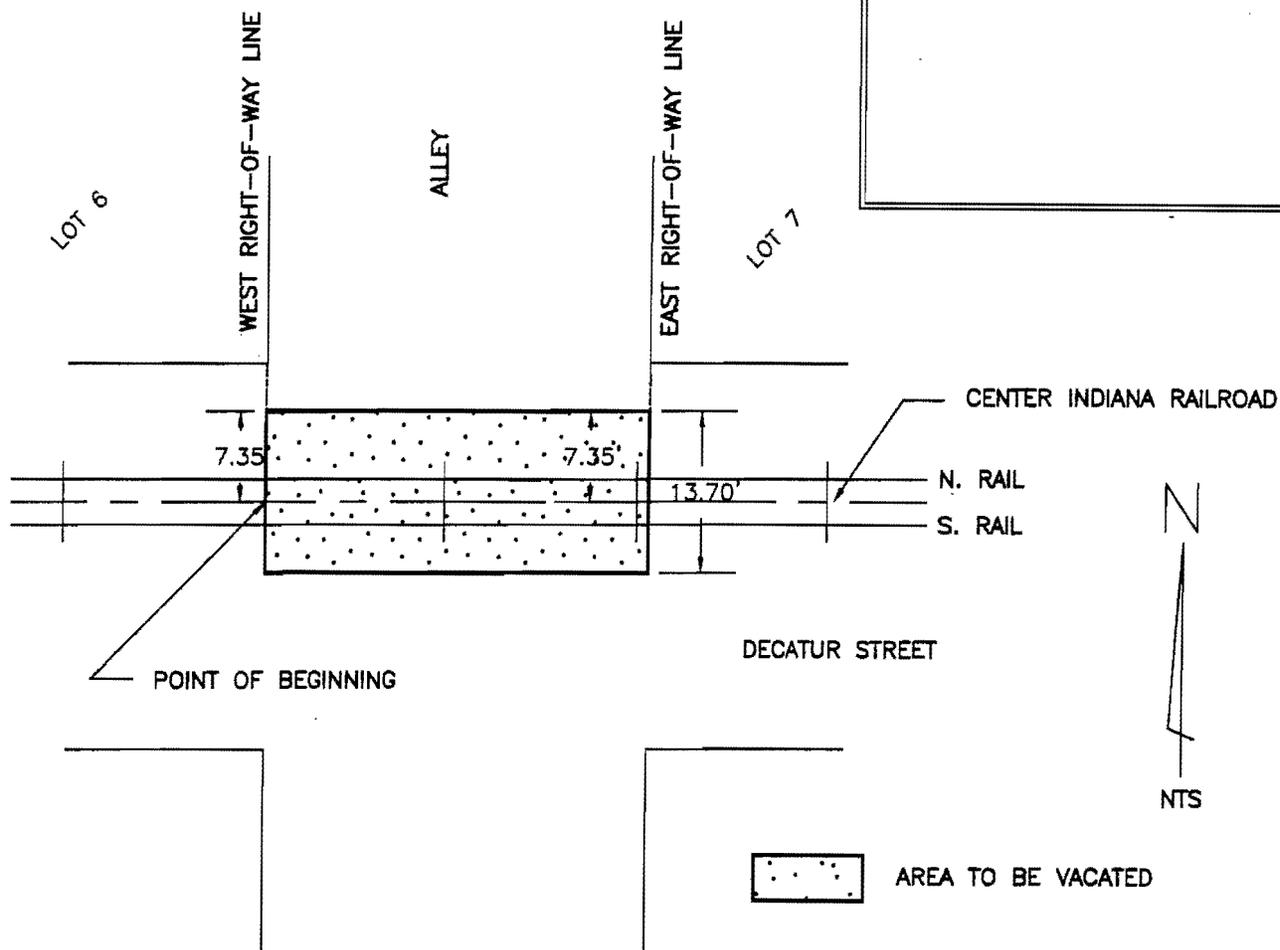
ATTEST:



JEAN GHAST, City Clerk



CITY OF NEWTON
VACATING PORTIONS OF DECATUR STREET
ALLEY RAILROAD CROSSING
BETWEEN LOTS 6 & 7 IN BLOCK 7
OF THE ORIGINAL TOWN, NOW CITY OF NEWTON
JASPER COUNTY, ILLINOIS



DESCRIPTION

A PORTION OF DECATUR STREET LYING NORTH AND SOUTH OF THE INDIANA RAILROAD MORE PARTICULARLY DESCRIBED AS FOLLOWS:

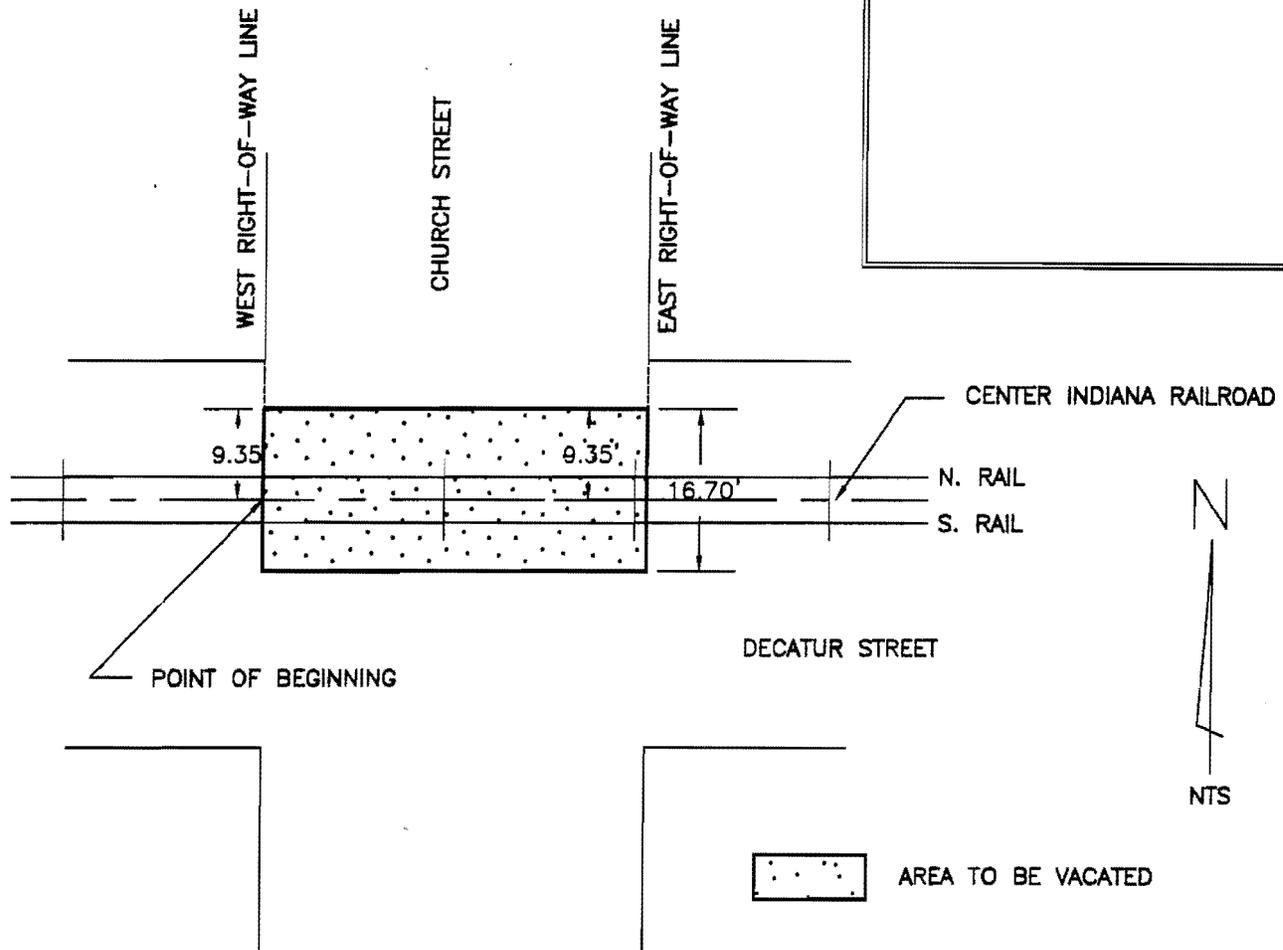
BEGINNING AT THE INTERSECTION OF THE CENTER OF THE INDIANA RAILROAD AND THE SOUTHERLY EXTENTION OF THE WEST RIGHT-OF-WAY LINE OF AN ALLEY BETWEEN LOTS 6 AND 7 IN BLOCK 7 IN THE ORIGINAL TOWN, NOW CITY OF NEWTON, THENCE NORTH 7.35 FEET ALONG SAID WEST LINE EXTENDED, THENCE EAST PARALLEL WITH THE CENTER OF SAID RAILROAD TO THE SOUTHERLY EXTENTION OF THE EAST RIGHT-OF-WAY LINE OF SAID ALLEY, THENCE SOUTH 13.70 FEET ALONG SAID EAST LINE EXTENDED, THENCE WEST PARALLEL WITH THE CENTER OF SAID RAILROAD TO SAID WEST LINE EXTENDED, THENCE NORTH TO THE POINT OF BEGINNING.

CONNOR & CONNOR, Inc.

Phone 209 North Cross Street Fax
 618-544-8623 ROBINSON, ILLINOIS 62454 618-544-3012
 PROFESSIONAL DESIGN FIRM 184-000832

DRAWN BY:DJC

CITY OF NEWTON
VACATING PORTIONS OF DECATUR STREET
CHURCH STREET RAILROAD CROSSING
JASPER COUNTY, ILLINOIS



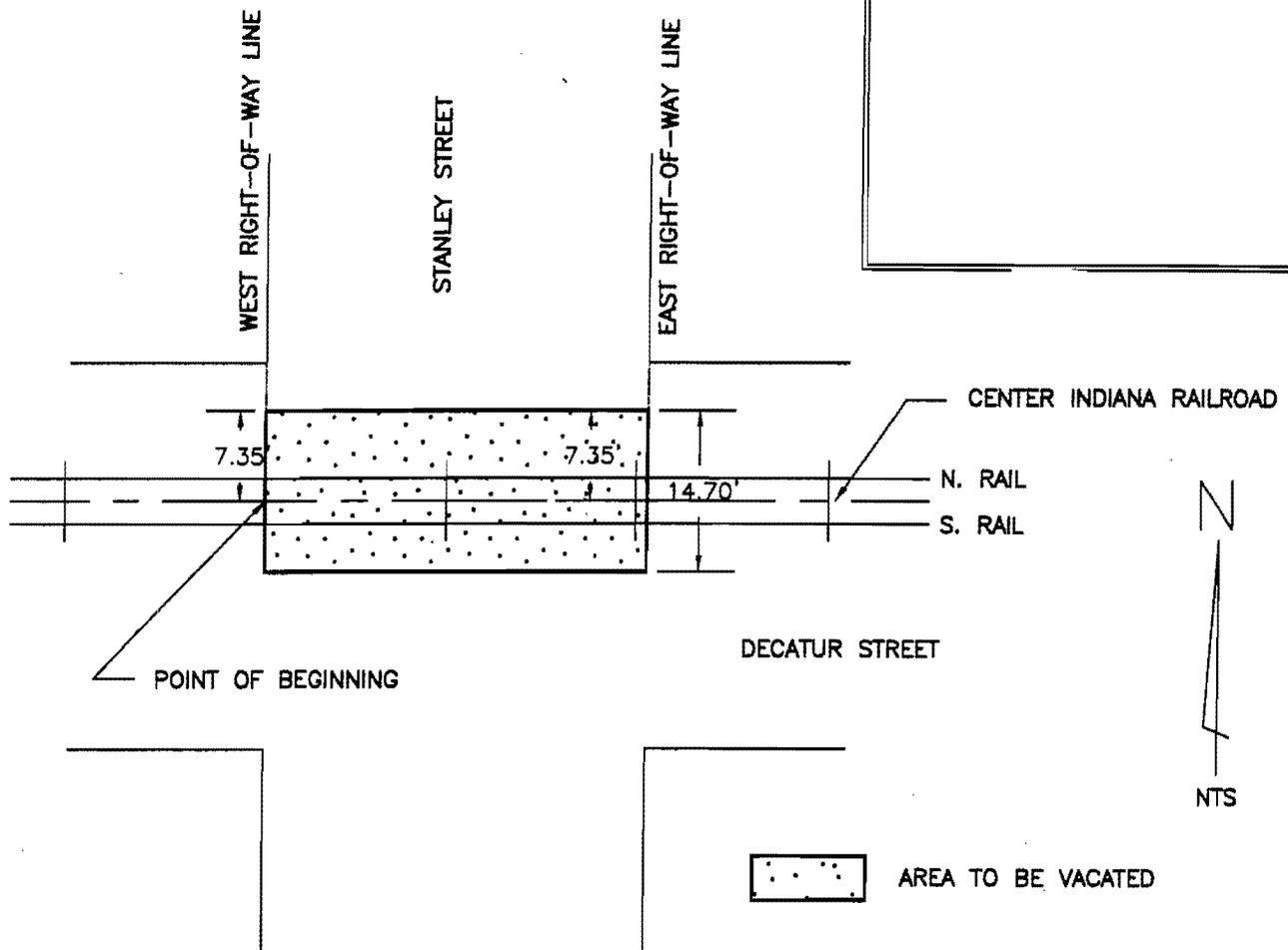
DESCRIPTION

A PORTION OF DECATUR STREET LYING NORTH AND SOUTH OF THE INDIANA RAILROAD MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTER OF THE INDIANA RAILROAD AND THE WEST RIGHT-OF-WAY LINE OF CHURCH STREET EXTENDED, THENCE NORTH 9.35 FEET ALONG SAID WEST LINE EXTENDED, THENCE EAST PARALLEL WITH THE CENTER OF SAID RAILROAD TO THE EAST RIGHT-OF-WAY LINE OF CHURCH STREET EXTENDED, THENCE SOUTH 16.70 FEET ALONG SAID EAST LINE EXTENDED, THENCE WEST PARALLEL WITH THE CENTER OF SAID RAILROAD TO SAID WEST LINE EXTENDED, THENCE NORTH ALONG SAID WEST LINE EXTENDED TO THE POINT OF BEGINNING.

CONNOR & CONNOR, Inc.		
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618-544-8823	ROBINSON, ILLINOIS 62454	618-544-3012
PROFESSIONAL DESIGN FIRM 184-000832		
DRAWN BY:DJC		

CITY OF NEWTON
VACATING PORTIONS OF DECATUR STREET
STANLEY STREET RAILROAD CROSSING
JASPER COUNTY, ILLINOIS



DESCRIPTION

A PORTION OF DECATUR STREET LYING NORTH AND SOUTH OF THE INDIANA RAILROAD MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTER OF THE INDIANA RAILROAD AND THE WEST RIGHT-OF-WAY LINE OF STANLEY STREET EXTENDED, THENCE NORTH 7.35 FEET ALONG SAID WEST LINE EXTENDED, THENCE EAST PARALLEL WITH THE CENTER OF SAID RAILROAD TO THE EAST RIGHT-OF-WAY LINE OF STANLEY STREET EXTENDED, THENCE SOUTH 14.70 FEET ALONG SAID EAST LINE EXTENDED, THENCE WEST PARALLEL WITH THE CENTER OF SAID RAILROAD TO SAID WEST LINE EXTENDED, THENCE NORTH ALONG SAID WEST LINE EXTENDED TO THE POINT OF BEGINNING.

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DRAWN BY:DJC

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

PROJECT STATUS REPORT:

TYPE: (CHECK ONE)

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

DATE	12-2-09
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PROJECT INFORMATION:

Reporting Party:	The Indiana Rail Road Company (INRD)
Docket/Order #; Date:	709-0135
Status Reports Due:	
Ordered Completion Date:	Within 30 days of Order Date
Completion Report Due ¹ :	Within 5 days of Completion Date
AAR/DOT#, Milepost:	Alley Street: 292 604J, railroad milepost 153.52-X Church Street: 292 607E, railroad milepost 153.70-X Stanley Avenue: 292 611U, railroad milepost 154.00-X
Street, (in/near) City, County:	Alley St., Church St., Stanley Av. in Newton, Jasper Co
Railroad Company:	INRD

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

PROJECT MANAGER INFORMATION²:

Name:	Peter J. Ray, P.E.
Title:	Vice President Engineering
Representing:	INRD
Street Address:	101 West Ohio St., Suite 1600
City, State, Zip:	Indianapolis, IN 46204
Office Phone:	317-616-3443
Office Fax:	317-262-3310
Cellular Phone:	
E-Mail Address:	pete.ray@inrd.com

²Project Manager Information to be submitted by INRD and the City of Newton.

DESCRIPTION OF IMPROVEMENT(S) ORDERED:

- (a) Removal of the existing Alley Street, Church Street, and Stanley Avenue grade crossing surfaces and Crossbuck/YIELD warning signs.
- (b) Removal of the existing Alley Street, Church Street, and Stanley Avenue grade crossings, including all warning signs and/or automatic warning devices, within the limits of the vacated roadways and the Company ROW.
- (c) Installation of permanent traffic barriers, constructed to meet the minimum requirements of 92 Ill. Adm. Code 1535.701 and the most current revision of the Manual on Uniform Traffic Control Devices (MUTCD), or, where permanent traffic barriers are not erected, the removal of the existing roadway approaches and appurtenances, and matching of the adjacent profiles within the limits of the vacated roadways and the Company ROW.

STATUS OF WORK: (use additional blank sheet, if necessary)

**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:

Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, IL 62701-1827

If you have questions contact:

Aaron Toliver, Rail Safety Specialist
Phone: (217) 785-8420
Email: atoliver@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/forms/results.aspx?st=4>

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 S. Dirksen Parkway
Springfield, IL 62764

APPROACH/BRIDGE WORK

IDOT, District ##
Address

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

<http://www.fra.dot.gov/us/content/801>

Submit Inventory forms to:

Federal Railroad Administration Office of Safety, MS25 1200 New Jersey Avenue SE Washington, DC 20590-0001	<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	12-2-09
------	---------

PROJECT INFORMATION:

Reporting Party:	City of Newton
Docket/Order #; Date:	709-0135
Status Reports Due:	
Ordered Completion Date:	Within 30 days of Order Date
Completion Report Due ¹ :	Within 5 days of Completion Date
AAR/DOT#, Milepost:	Alley Street: 292 604J, railroad milepost 153.52-X Church Street: 292 607E, railroad milepost 153.70-X Stanley Avenue: 292 611U, railroad milepost 154.00-X
Street, (in/near) City, County:	Alley St., Church St., Stanley Av. in Newton, Jasper Co
Railroad Company:	INRD

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

PROJECT MANAGER INFORMATION²:

Name:	John Stone, P.E.
Title:	Civil Engineer (Connor & Connor, Inc)
Representing:	City of Newton
Street Address:	209 North Cross Street
City, State, Zip:	Robinson, IL 62454
Office Phone:	618-544-8623
Office Fax:	618-544-3012
Cellular Phone:	
E-Mail Address:	jstone@connorengineers.com

²Project Manager Information to be submitted by INRD and the City of Newton.

DESCRIPTION OF IMPROVEMENT(S) ORDERED:

- (a) Vacation of the existing Alley Street, Church Street, and Stanley Avenue roadways within the Company's Right-of-Way ("ROW") limits by local ordinance.
- (b) Installation of appropriate regulatory/warning signage to alert motorists of the crossing closures in accordance with the MUTCD.

STATUS OF WORK: (use additional blank sheet, if necessary)

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

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Federal Railroad Administration Office of Safety, MS25 1200 New Jersey Avenue SE Washington, DC 20590-0001	And	Chief of Data Services Illinois Department of Transportation 2300 S. Dirksen Parkway Springfield, IL 62764
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