

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

|   |   |          |
|---|---|----------|
| Illinois Commerce Commission                            | : |          |
| On Its Own Motion                                       | : |          |
|   | : |          |
| v.  | : | T10-0165 |
|   | : |          |
| Dakota, Minnesota & Eastern Railroad Corporation        | : |          |
|   | : |          |
| Citation with respect to Dakota, Minnesota & Eastern    | : |          |
| Railroad Corporation's failure to maintain the Pacific  | : |          |
| Street (AAR/DOT #372 327Y, railroad milepost 75.28-     | : |          |
| C) and the Fivepoints Road (AAR/DOT #372 296C,          | : |          |
| railroad milepost 62.72-C) highway-rail grade crossing  | : |          |
| surfaces in accordance with the requirements of 92 Ill. | : |          |
| Adm. Code Part 1535.203.                                | : |          |

CITATION

By the Commission:

WHEREAS, it has come to the attention of the Illinois Commerce Commission ("Commission") via complaints from the public, local governmental officials, and state representatives that existing conditions at the Pacific Street (AAR/DOT #372 327Y, railroad milepost 75.28-C) and the Fivepoints Road (AAR/DOT #372 296C, railroad milepost 62.72-C) public highway-rail grade crossings of Dakota, Minnesota & Eastern Railroad Corporation's ("DME") track, owned and operated by Dakota, Minnesota & Eastern Railroad Corporation's, do not meet the minimum requirements of 92 Ill. Adm. Code Part 1535; and

WHEREAS, Commission staff has sent Dakota, Minnesota & Eastern Railroad Corporation letters dated January 30, 2008, February 22, 2010, and April 21, 2010, respectively, (attached as Exhibits A thru C) listing both locations where repairs were required in order to have the surfaces at the subject crossings meet the minimum requirements of 92 Ill. Adm. Code Part 1535.203; and

WHEREAS, Staff has also sent electronic mail messages and placed telephone calls to Dakota, Minnesota & Eastern Railroad Corporation representatives requesting information on when repairs to the subject crossings would be completed; and

WHEREAS, the Dakota, Minnesota & Eastern Railroad Corporation has not submitted any correspondence to Staff explaining how the railroad intends to repair the surfaces at the subject crossings; and

WHEREAS, it appears that formal proceedings should be instituted by Citation for the purpose of obtaining information from Dakota, Minnesota & Eastern Railroad Corporation regarding its plans to repair the crossing surfaces listed in letters sent by Staff, as well as their future willingness to respond to Staff's requests for information; and

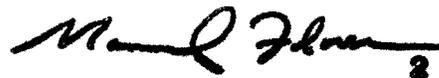
WHEREAS, proper notice should be given to the Dakota, Minnesota & Eastern Railroad Corporation with respect to said proceedings; and

WHEREAS, a hearing or hearings should be held for the purpose of taking testimony from all the parties involved regarding the issues so raised.

IT IS THEREFORE ORDERED that Dakota, Minnesota & Eastern Railroad Corporation is cited and hereby required to appear at a hearing to be held at the Commission's offices, Leland Building, 527 East Capitol Avenue, Springfield, Illinois, on December 7, 2010, at 10:00 a.m. to show cause, if any there be, why an Order should not be issued requiring the DME to make the appropriate repairs to the crossing surfaces mentioned in Staff's letters dated January 30, 2008, February 22, 2010, and April 21, 2010, respectively, (attached as Exhibits A thru C), attached hereto and made a part hereof; and requiring such other or further relief as the Commission may, under the circumstances, deem necessary to comply with the Law.

IT IS FURTHER ORDERED that the Dakota, Minnesota & Eastern Railroad Corporation be, and it is hereby, required and directed to prepare a schedule specifying how and when DME will make repairs to the subject crossing surfaces to be presented at said hearing, and also develop and submit a plan showing the railroad will respond to future Commission Staff grade crossing complaint letters in a more expedient manner.

By Order of the Commission this 4<sup>th</sup> day of November 2010.



MANUEL FLORES  
ACTING CHAIRMAN

|                          |
|--------------------------|
| JUDGE                    |
| SECTION CHIEF <i>MES</i> |
| ORDERS SUPERVISOR        |



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

*Michael E. Stead*

*Rail Safety Program Administrator*

January 30, 2008

Mr. Tom Goffinet  
Engineer of Maintenance  
Iowa, Chicago and Eastern Railroad Corporation  
506 Garfield Avenue  
Dubuque, IA 52001

Dear Mr. Goffinet:

On January 29, 2008, a representative of this office inspected the Pacific Street (**AAR/DOT #372 327Y, railroad milepost 75.28**) highway-rail grade crossing of Iowa, Chicago and Eastern Railroad's (ICE) track in Monroe Center, Ogle County. The inspection was conducted in response to a rough surface complaint we recently received.

Results of the inspection indicate that existing conditions at the Pacific Street crossing, does not meet the minimum requirements of 92 Illinois Administrative Code (IAC) 1535.207. Problems with the crossings include:

- Existing timbers are more than 1" above the pavement surface. Surface aggregate needs to be replaced with hot mix asphalt. Photos are enclosed for your information.

According to 92 Illinois Administrative Code, Section 1535.203: "Every grade crossing shall be constructed and maintained in such manner that it will not interfere with the reasonably safe use of the roadway when traveled in the usual and ordinary manner." Please advise this office within the next 30 days of your company's plans to ensure that the crossing surface is properly repaired and meets the requirements of 92 IAC 1535.

Thank you for your prompt attention to this matter. If you have any questions, please contact John Saladino, Railroad Safety Specialist, at (217) 785-8423 or [jsaladino@icc.illinois.gov](mailto:jsaladino@icc.illinois.gov).

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael E. Stead".

Michael E. Stead  
Rail Safety Program Administrator

JRS



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

*Michael E. Stead*

*Rail Safety Program Administrator*



STATE OF ILLINOIS



ILLINOIS COMMERCE COMMISSION  
TRANSPORTATION DIVISION / RAIL SAFETY SECTION

Michael E. Stead

Rail Safety Program Administrator

February 22, 2010

Ms. Beth Lynn  
Manager Engineering Projects  
Dakota Minnesota & Eastern Railroad  
140 N. Phillips  
Sioux Falls, SD. 57104

R08-0017  
SECOND NOTICE

Dear Ms. Lynn:

On January 30, 2008, this office notified your company by letter (copy enclosed) of poor surface conditions at the Pacific Street (**AAR/DOT #372 327Y, railroad milepost 75.28**) highway-rail grade crossing of Dakota Minnesota & Eastern Railroad's track in Monroe Center, Ogle County, Illinois. The letter also asked that your company notify this office of your plans to repair the crossings.

Despite informal communication from a representative of your company that repairs would be scheduled, as of this date we have not received any indication that repairs have been scheduled or completed. Please notify this office immediately of the status of your company's plans to ensure that the surfaces at all of the crossings noted above are properly repaired and satisfy the requirements of 92 Ill. Adm. Code (IAC) Part 1535. Failure to respond to this notice will likely result in the initiation of Citation proceedings by this office.

Thank you for your prompt attention to this matter. If you have any questions, please contact John Saladino, Railroad Safety Specialist, at (217) 785-8423 or [jsaladino@icc.illinois.gov](mailto:jsaladino@icc.illinois.gov).

Very truly yours,

Michael E. Stead  
Rail Safety Program Administrator

Enclosure  
JRS



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

Michael E. Stead

Rail Safety Program Administrator

April 21, 2010

Ms. Beth Lynn  
Engineering Department  
Dakota Minnesota & Eastern Railroad  
140 N. Phillips  
Sioux Falls, SD 57104

**R10-0047**

Dear Ms. Lynn:

On April 20, 2010, a representative of this office inspected the Five Points Road/Main Street (**AAR/DOT #372 296C, railroad milepost 62.72-C**) highway-rail grade crossing of Dakota, Minnesota & Eastern Railroad's (DME) track in Kingston, De Kalb County. The inspection was conducted in response to a rough surface complaint we recently received.

Results of the inspection indicate that existing conditions at the Five Points Road/Main Street crossing, do not meet the minimum requirements of 92 Ill. Adm. Code (IAC) 1535.203. Problems with the crossing include:

- The existing timber and asphalt surface has several rotten and split timbers that need to be replaced. In addition, the asphalt has several potholes that need to be filled immediately. This crossing needs to be scheduled for reconstruction in the near future to meet the requirements of 92 IAC 1535.
- Photos are enclosed for your information.

According to 92 Ill. Adm. Code 1535.203: *"Every grade crossing shall be constructed and maintained in such manner that it will not interfere with the reasonably safe use of the roadway when traveled in the usual and ordinary manner."* Please advise this office within the next 30 days of your company's plans to ensure that the crossing surface is properly repaired and meets the requirements of 92 IAC 1535.

Thank you for your prompt attention to this matter. If you have any questions, please contact John Saladino, Railroad Safety Specialist, at (217) 785-8423 or [jsaladino@icc.illinois.gov](mailto:jsaladino@icc.illinois.gov).

Very truly yours,

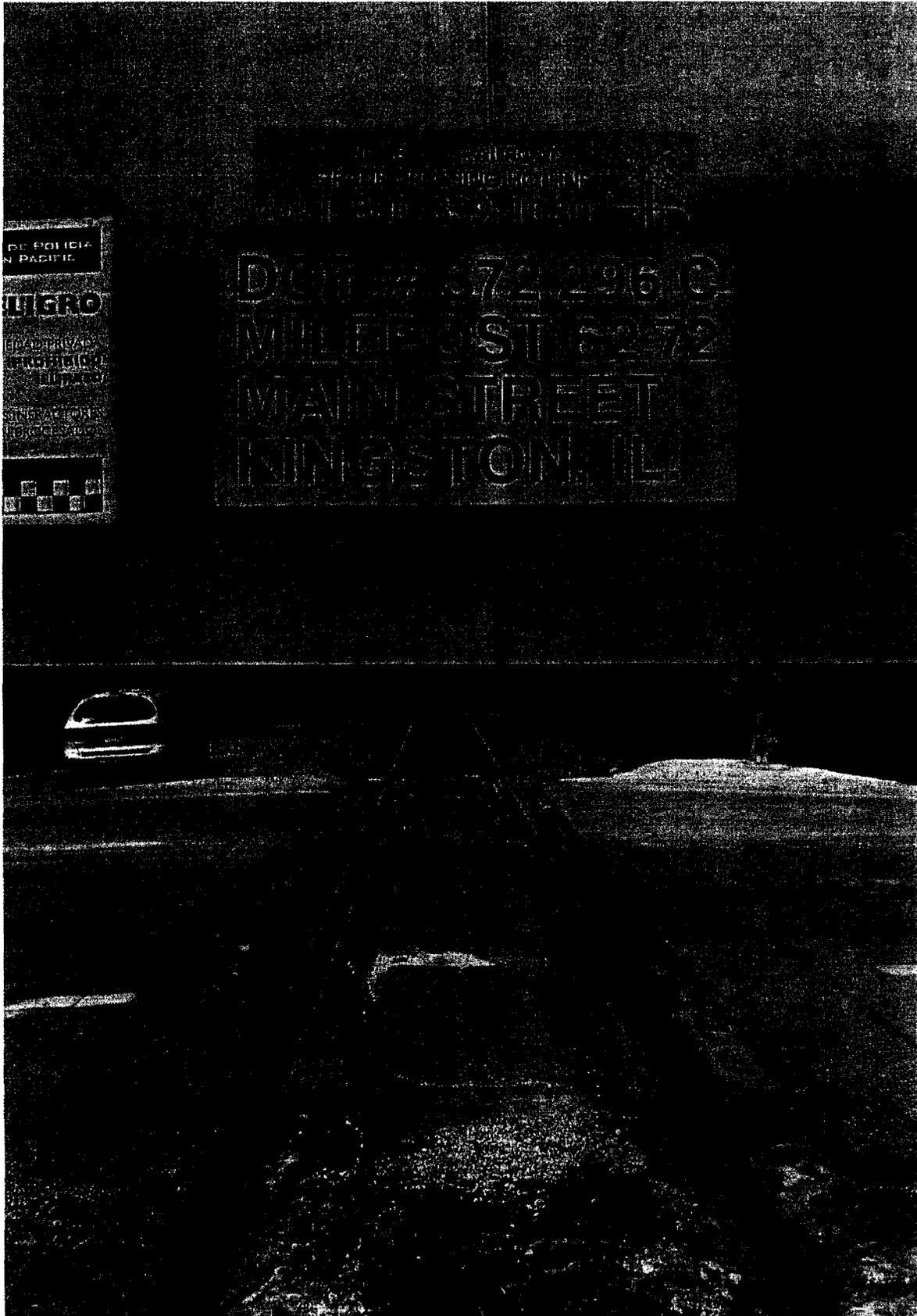


Michael E. Stead  
Rail Safety Program Administrator

Enclosure

cc: William Lorence, De Kalb County Engineer  
JRS

AAR/DOT #372 296C, mp 62.72-C Kingston, IL  
R10-047



AAR/DOT #372 296C, mp 62.72-C Kingston, IL  
R10-047

