

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

EVANSVILLE WESTERN RAILWAY, INC., an )  
operating subsidiary of Four Rivers )  
Transportation, Inc., a Delaware ) DOCKET NO.  
Corporation, and OENEUS, LLC, a ) T10-0153  
Delaware limited liability company, )  
d/b/a Savatran, LLC )

-vs-

ILLINOIS DEPARTMENT OF TRANSPORTATION; )  
MT. VERNON TOWNSHIP, JEFFERSON COUNTY, )  
ILLINOIS; JEFFERSON COUNTY, ILLINOIS; )  
NORFOLK SOUTHERN RAILWAY COMPANY; CITY )  
OF MT. VERNON, ILLINOIS )

Petition for an order authorizing the )  
construction of a new at grade rail )  
crossing of Liberty Road (1250N) in )  
Mt. Vernon Township, Jefferson County, )  
Illinois. )

Wednesday, November 10, 2010  
Springfield, Illinois

Met, pursuant to notice, at 10:30 a.m.

BEFORE:

TIMOTHY DUGGAN, ALJ

APPEARANCES:

KYLE HUTSON & WILLIAM BROOM  
BARRETT, TWOMEY, BROOM, HUGHES & HOKE, LLP  
100 North Illinois Avenue  
Carbondale, Illinois 62902-3747

(Appearing on behalf of Petitioners.)

SULLIVAN REPORTING CO., by  
Laurel Patkes, Reporter  
CSR #084-001340

1 APPEARANCES: (CONT'D.)

2 NEIL FLYNN  
3 600 S. Second Street  
4 Suite 102  
5 Springfield, Illinois 62704

6 (Appearing on behalf of Norfolk  
7 Southern Railway Company.)

8 JASON JOHNSON  
9 2300 S. Dirksen Pkwy.  
10 Springfield, Illinois 62764

11 (Appearing on behalf of  
12 Department of Transportation.)

13 AARON TOLIVER  
14 527 E. Capitol Ave.  
15 Springfield, Illinois 62701

16 (Appearing on behalf of Illinois  
17 Commerce Commission Rail Safety  
18 Section.)

19

20

21

22

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

I N D E X

WITNESS

DIRECT

CROSS

ROBERT BUCHANAN

By Hutson	7	
By Mr. Flynn		22
By Mr. Toliver		25
By Judge Duggan		31/44
By Mr. Johnson		43

TERRY MOORE

By Mr. Hutson	38	
By Judge Duggan		39/45

STEVE SCHNAKE

By Mr. Hutson	47	
By Judge Duggan		48

EXHIBITS

MARKED

ADMITTED

Petitioner's Exhibit A	10	21
Petitioner's Exhibit B	15	21



1 practice in the State of Illinois, and I'm appearing  
2 on behalf of respondent Norfolk Southern Railway  
3 Company.

4 JUDGE DUGGAN: Mr. Toliver?

5 MR. TOLIVER: Aaron Toliver, Rail Safety  
6 Specialist with the Illinois Commerce Commission Rail  
7 Safety Section; address, 527 East Capitol Avenue,  
8 Springfield, Illinois 62701.

9 JUDGE DUGGAN: Okay. Without entering  
10 appearances, we'll make note of entry -- I've  
11 forgotten your name.

12 MR. JOHNSON: Jason Johnson. I'm Rail Safety  
13 Technician with the Illinois Department of  
14 Transportation, Bureau of Local Roads and Streets.  
15 My address is 2300 South Dirksen Parkway, Room 205,  
16 Springfield, Illinois 62764. Phone number is  
17 (217)557-1399.

18 JUDGE DUGGAN: Okay. And we also have a  
19 township, is it township road commissioner?

20 MR. MOORE: Township highway commissioner.

21 JUDGE DUGGAN: Okay. And that's for Mount  
22 Vernon Township?

1 MR. MOORE: Yes.

2 JUDGE DUGGAN: Okay. And what's your name?

3 MR. MOORE: Terry Moore.

4 JUDGE DUGGAN: Terry -- last name, please?

5 MR. MOORE: Moore.

6 JUDGE DUGGAN: Can you spell that?

7 MR. MOORE: M-o-o-r-e.

8 JUDGE DUGGAN: And are you here on behalf of  
9 the county?

10 MR. SCHNAKE: Yes.

11 JUDGE DUGGAN: Okay. What's your name?

12 MR. SCHNAKE: My name is Steve Schnake  
13 (S-c-h-n-a-k-e).

14 JUDGE DUGGAN: And what's your role with the  
15 county?

16 MR. SCHNAKE: I'm Jefferson County engineer.

17 JUDGE DUGGAN: All right. Thanks.

18 Okay. You want to proceed? Who's  
19 going to testify then -- you two and you?

20 Okay. Will all those who think they  
21 might be testifying raise their right hand?  
22

1 (Whereupon the witnesses were  
2 sworn by Judge Duggan.)

3 JUDGE DUGGAN: You want to proceed.

4 MR. HUTSON: Yes. I'll first call Mr. Robbie  
5 Buchanan.

6 ROBERT BUCHANAN  
7 called as a witness herein, on behalf of Petitioner,  
8 having been first duly sworn on his oath, was  
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 BY HUTSON:

12 Q. Would you please state your name for the  
13 record?

14 A. My name is Robert Buchanan.

15 Q. And what's your occupation?

16 A. I am the vice president and general manager  
17 of the Evansville Western Railway.

18 Q. And what kind of experience do you have  
19 with railroads?

20 A. Well, I have worked on the railroad for 36  
21 years, and I started out at the bottom of the barrel.  
22 I started driving spikes, and I'm all the way up to

1 vice president and general manager now. So I started  
2 at the bottom and I think I worked my way close to  
3 the top.

4 Q. And what are some of your duties currently?

5 A. My duties are to see that the trains are  
6 moved at a timely schedule. I take care of the  
7 transportation, mechanical, and the engineering part  
8 on the Evansville Western.

9 Q. Where is Evansville Western Railway's  
10 principal office?

11 A. It is in Mount Vernon, Indiana.

12 Q. And where does the Evansville Western rail  
13 line run?

14 A. It runs from Evans, Indiana to Okawville,  
15 Illinois.

16 Q. And how long is that rail line?

17 A. It's about 125 miles.

18 Q. Does Evansville Western serve any  
19 particular industry or industries?

20 A. Yes. We take care of an electrical  
21 generating plant that's on our line. We do a  
22 transloading that's on our plant. We take care of

1 Sabic which is a plastic distributor. We take care  
2 of GAF which is a shingles, ADM, and then we take  
3 care of about five elevators that run from  
4 McLeansboro over to Okawville, and we have also two  
5 ethanol plants that's on our railroad that has just  
6 now come up here.

7 Q. Do you also transload or do coal mine  
8 transporting?

9 A. Uh-huh, yes. We have a couple coal mines  
10 on our railroad, and they transload from the rail to  
11 the barge, put it on the Ohio River.

12 Q. And what does petitioner Savatran do?

13 A. They are a mining and a sales. They sell  
14 their coal and they mine it. That's what their  
15 primary principal business is.

16 Q. And Evansville Western has purchased  
17 property in the vicinity of Mount Vernon, Illinois,  
18 is that correct?

19 A. That is correct.

20 Q. And what is Evansville Western doing with  
21 that property?

22 A. Building a railroad. Of course, Savatran

1 is building a railroad on the property to connect  
2 with NS.

3 Q. So Savatran is connecting this new track?

4 A. That's right.

5 Q. I'm going to hand you what's been marked as  
6 Exhibit A for purposes of identification.

7 Can you please state what that is?

8 A. This here is the track layout from the NS  
9 over to the Evansville Western. That is the property  
10 that we have bought, and this is the railroad the way  
11 that it's going to be laid out, the connection with  
12 the NS with the Evansville Western.

13 Q. And does that fairly and accurately depict  
14 the new track in this location?

15 A. That is correct.

16 Q. And the track on this picture is in green  
17 and the land owned by Evansville Western is in red?

18 A. That's right.

19 Q. And this track is east of Mount Vernon,  
20 Illinois?

21 A. That's right; it's east.

22 Q. And how long will the new track be?

1           A.    It's about a mile and a half long.

2           Q.    And the Norfolk Southern line in the  
3 vicinity of Mount Vernon runs in a generally  
4 east-west direction and is parallel to the Evansville  
5 Western line, is that correct?

6           A.    That's correct.

7           Q.    And the new track will then run in a  
8 north-south direction?

9           A.    That's right.

10          Q.    And who would be doing the actual  
11 construction of the rail line?

12          A.    Savatran.

13          Q.    And who will own the rail line after it's  
14 complete?

15          A.    We will own the property.  They'll own the  
16 rail line.

17          Q.    Savatran?

18          A.    Savatran will own the rail line.

19          Q.    And what is the function of this new track?

20          A.    It is to market their coal to be able to go  
21 to other locations that they did not have the market  
22 for because they had no infrastructure for it.

1 Q. Do you know approximately how many trains  
2 will be using the new track on a daily basis?

3 A. I'm going to say, and I'm kind of guessing  
4 at this right now, but I'm going to say probably two  
5 trains a day.

6 Q. What is the design speed for this new  
7 track?

8 A. 20 miles an hour.

9 Q. So trains will not travel more than  
10 20 miles an hour on this new track, is that right?

11 A. Yeah, that's correct.

12 Q. And would both Evansville Western and  
13 Norfolk Southern operate freight trains including  
14 coal trains over the proposed track?

15 A. That's correct.

16 Q. And is it true that the trains will not  
17 occupy the new track until they had clearance to  
18 proceed onto the Norfolk Southern mainline to the  
19 north or the Evansville Western mainline to the  
20 south?

21 A. That's correct.

22 Q. And who will be responsible for

1        dispatching, maintaining, and otherwise controlling  
2        all railroad operations over the new track?

3            A.     Evansville Western.

4            Q.     Will this new track create a more efficient  
5        interchange between Evansville Western and Norfolk  
6        Southern which will, in turn, permit Illinois coal to  
7        reach new markets in a more cost efficient and timely  
8        manner?

9            A.     That's correct.    There is not one right  
10       now, so yes, it will.

11          Q.     And do you anticipate that this  
12       construction could result in the creation of mining  
13       and transportation jobs?

14          A.     Exactly, yes.

15          Q.     And will the new track cross any roads?

16          A.     It will.    It will cross Liberty Road.

17          Q.     And is that in Mount Vernon Township?

18          A.     That's in Mount Vernon Township, that's  
19       correct.

20          Q.     And particularly, is that between North  
21       Liebengood Lane to the west and North Chestnut Lane  
22       to the east?

1           A.    That's correct.

2           Q.    And Evansville Western and Savatran have  
3   filed a petition in this matter requesting  
4   authorization from the Illinois Commerce Commission  
5   to install and construct a grade crossing over  
6   Liberty Road and put up automatic flashing lights and  
7   gates at the crossing, is that correct?

8           A.    That's correct.

9           Q.    And have you reviewed the petition filed in  
10   this matter?

11          A.    Yes.

12          Q.    And to your knowledge, is everything stated  
13   in this petition true and correct?

14          A.    Yes.

15          Q.    And this petition is related to the  
16   Illinois Commerce Commission Docket No. T08-0083  
17   whereby Savatran was granted authorization as part of  
18   its construction of a private rail spur that connects  
19   to the Evansville Western Railway to construct 13  
20   highway rail grade crossings, is that correct?

21          A.    That's correct.

22          Q.    And in your opinion, would this proposed

1 grade crossing be for the public safety and  
2 convenience?

3 A. Tell me that again now.

4 Q. In your opinion, would this proposed grade  
5 crossing that this petition is proposing be for the  
6 public safety and convenience?

7 A. The way that it is installed, yes.

8 Q. And I'm going to hand you what's been  
9 marked Exhibit B.

10 Can you explain what that is?

11 A. Well, this here gives us an idea of our  
12 property lines. If you look at the very top of  
13 Exhibit B, you can see where the property lines are.  
14 The yellow is the property lines. You can see that  
15 we had to go each way from Liberty Road in order to  
16 raise the crossing to what needed to be raised where  
17 we could feather out the crossing where the crossing  
18 could be feathered out with blacktop or dense grade.

19 And the rest of this is kind of the  
20 profiles, and this is how everything is kind of done  
21 above sea level, so it kind of gives you an idea of  
22 what the profiles are down through here.

1 Q. And have you been to the location of the  
2 proposed crossing?

3 A. Yes.

4 Q. What kind of road is Liberty Road at where  
5 the proposed crossing is going to be?

6 A. It's a chip and seal road.

7 Am I correct in saying that? That's  
8 what it looks like to me.

9 MR. MOORE: Yes.

10 Q. Is it a rural road?

11 A. Yeah, it's a county road.

12 Q. How many lanes?

13 A. Two lanes.

14 Q. And Liberty Road runs in an east-west  
15 direction, is that correct?

16 A. That's correct.

17 Q. And do you know approximately how wide  
18 Liberty Road is?

19 A. I'm going to say it's probably, and I'm  
20 just guessing, probably 20 feet wide. I've never  
21 measured it but somewhere in that neighborhood.

22 Q. Okay. And do you know what kind of

1 material it is paved with?

2 A. Chip and seal.

3 Q. Are there any lane markings that you're  
4 aware of?

5 A. No.

6 Q. And what does the area immediately  
7 surrounding the proposed grade crossing consist of?

8 A. There's an old building setting to the east  
9 of there, and then there's a house setting to the  
10 east of there on the, I guess you would say the house  
11 is on the northwest corner or northeast corner, I'm  
12 sorry, and the old building is on the northwest  
13 corner.

14 Q. But for the most part, is this rural farm  
15 area?

16 A. Yes, yes. It's all -- there was only two  
17 things that's around there in that area.

18 Q. And is it relatively flat?

19 A. Yeah.

20 Q. Are there any vision obstructions that  
21 you're aware of?

22 A. Not that I'm aware of.

1                   There's a couple trees that need to be  
2 taken out, and we have to do that in order to move  
3 the pole line. The pole line has to be moved in  
4 there, so there's no -- I mean, if there is anything,  
5 it will be taken out.

6           Q.    And have you or any of your company's  
7 engineers investigated the average two-way traffic  
8 count across Liberty Road?

9           A.    I talked to Mr. Moore over there, and he  
10 said there's about 1,200 vehicles a day and 20  
11 percent of them being truck traffic.

12          Q.    And you got that information from the  
13 township?

14          A.    Yeah. I got it from road superintendent.

15          Q.    And do you know what the speed limit on  
16 Liberty Road is at the proposed crossing?

17          A.    55 mile an hour.

18          Q.    And who will bear the cost of constructing  
19 and maintaining the track at the grade crossing?

20          A.    Construction will be the Savatran's.

21          Q.    And the maintenance will be?

22          A.    Will be the Evansville Western's.

1           Q.    And what the will the proposed crossing be  
2 constructed out of?

3           A.    It will be out of a composite.  It's called  
4 a composite crossing.  It's made by Endurance, and it  
5 is made out of recycled glass and rubber and  
6 everything.  It's a very good crossing.

7                    I have talked to the people that  
8 manufactured it, and they are approved through  
9 Illinois to use that kind of crossing.

10                   To me, they're better than concrete  
11 crossings.

12           Q.    And what is the size of the proposed  
13 crossing?

14           A.    40-foot.

15           JUDGE DUGGAN:  The size of the proposed what?

16           MR. HUTSON:  The proposed crossing.

17           Q.    Do Evansville Western and Savatran propose  
18 to install automatic flashing light signals and gates  
19 at the proposed crossing?

20           A.    That's correct.

21           Q.    And will the cost of constructing and  
22 maintaining the flashing light signals and gates be

1 borne solely by Evansville Western and/or Savatran?

2 A. That's correct.

3 Q. Is any money being requested from the Grade  
4 Crossing Protection Fund?

5 A. No.

6 Q. Do you know the cost of constructing the  
7 grade crossing?

8 A. Not right off the top of my head, no.

9 Q. And when will the construction of the grade  
10 crossing begin?

11 A. It would begin probably within a week after  
12 we get permission to start on it.

13 Q. And do you know when the grade crossing  
14 will be completed?

15 A. Probably within two weeks after we give  
16 them permission to do it.

17 Q. So as soon as possible, construction will  
18 begin?

19 A. Yes.

20 Q. Have you had a chance to look at the draft  
21 agreed order?

22 A. Yes.

1 Q. And do you approve of what's stated in  
2 there?

3 A. Yes.

4 MR. HUTSON: That's all the questions I have.

5 I'd move to have the exhibits admitted  
6 into evidence, Your Honor.

7 JUDGE DUGGAN: Okay. Let me see them.

8 MR. BROOM: We have multiple copies of the  
9 exhibits.

10 JUDGE DUGGAN: Any objections to the exhibits?

11 MR. FLYNN: No objection, Your Honor.

12 MR. TOLIVER: No objection.

13 JUDGE DUGGAN: All right. Exhibits A and B are  
14 admitted into evidence.

15 (Whereupon Petitioner's Exhibits  
16 A & B were admitted into  
17 evidence at this time.)

18 JUDGE DUGGAN: Mr. Flynn?

19 MR. FLYNN: Thank you, Your Honor. Just a  
20 couple of follow-up questions.

21 And at the outset I'd just note for  
22 the record, Your Honor, that Norfolk Southern is

1 supportive of the petition that's been filed in this  
2 matter.

3 Just a couple of quick questions if I  
4 could, sir.

5 CROSS-EXAMINATION

6 BY MR. FLYNN:

7 Q. Did I understand you correctly that with  
8 respect to the track, Savatran will own the track but  
9 the Evansville Western Railway will own the  
10 right-of-way? Is that correct?

11 A. Yeah.

12 You know, some of this has been done  
13 higher than me, so I'm asking Bill here for his  
14 expertise because he's probably talked to our  
15 attorney more than I have.

16 JUDGE DUGGAN: If we need to go off the record  
17 to clarify something, we can do that.

18 MR. FLYNN: Could we, Your Honor?

19 JUDGE DUGGAN: Yeah. We're off the record.

20 (Whereupon an off-the-record  
21 discussion transpired at this  
22 time.)

1 MR. FLYNN: Thank you.

2 Q. If I understood, Robbie, you also said that  
3 the dispatching on the connecting track will be  
4 handled by Evansville Western, is that correct?

5 A. That's correct.

6 Q. And if I understood the testimony and  
7 understand the petition, the approximate length of  
8 the connecting track is approximately one and a half  
9 miles?

10 A. Altogether, that's right.

11 Q. Okay. Between or on the connecting track,  
12 is it contemplated that that track will be used at  
13 any time for the storage of rail cars?

14 A. No.

15 Q. And if I understand the drawing of the  
16 exhibit correctly, as the connecting track goes to  
17 the north and approaches the Norfolk Southern  
18 mainline, the track, if you will, forks or provides  
19 for a Y, is that correct?

20 A. Yes.

21 Q. So that the cars when they're heading north  
22 to interchange with the NS line could go in either

1 direction?

2 A. Yes.

3 Q. At the crossing, the proposed crossing at  
4 Liberty Road, the signalization that will be  
5 installed is automatic flashing light signals and  
6 gates?

7 A. Yes.

8 Q. With constant warning time circuitry?

9 A. Yes.

10 Q. Thank you.

11 With respect to funding, again, no  
12 request is made of the Grade Crossing Protection  
13 Fund?

14 A. No.

15 Q. No financial responsibility needing a  
16 petition that would involve Norfolk Southern?

17 A. No.

18 Q. So if I understand then the petition, the  
19 only specific authority that the petitioners are  
20 seeking from the Commission in this petition is the  
21 right to establish a new at-grade crossing at Liberty  
22 Road and for the Commission to direct the

1 installation of automatic flashing light signals and  
2 gates at that proposed new crossing, is that correct?

3 A. That's correct.

4 MR. FLYNN: Thank you, Mr. Buchanan.

5 That's all I have, Your Honor.

6 JUDGE DUGGAN: Thank you.

7 Mr. Toliver?

8 CROSS-EXAMINATION

9 BY MR. TOLIVER:

10 Q. As far as the dispatching again, the  
11 trains, this says the trains would not occupy the  
12 proposed track (this is the petition) until they had  
13 clearance to proceed onto the Norfolk Southern  
14 mainline to the north or the Evansville Western  
15 mainline to the south.

16 Does that mean that any trains that  
17 operate through this crossing would be moving --

18 A. Through it.

19 Q. Would be moving through the crossing.

20 So there would not be any stopped  
21 trains or switching movements, is that correct?

22 A. That's correct, unless there was an

1 emergency.

2 Q. Okay. An emergency on the railway?

3 A. That's right.

4 Q. Okay. All right. So you don't foresee any  
5 crossing blockages with stopped trains?

6 A. No.

7 Q. All right. Now, with respect to the Y area  
8 that Mr. Flynn mentioned that's going to hook up with  
9 the Norfolk Southern's mainline track, are there  
10 going to be any circuitry modifications required to  
11 any of the crossing circuitry on Norfolk Southern's  
12 existing track?

13 A. You know, they're doing that, but when  
14 you're going east out of there, I'd say no, not when  
15 it comes to crossing protection I don't think, but NS  
16 is kind of doing that particular part of it, so I  
17 don't see a problem with that I don't think, but  
18 there could be because there is one crossing back  
19 there, Liebengood, that they might have to do some  
20 circuitry change.

21 Q. But if there are circuitry changes  
22 necessary, you are in contact with Norfolk Southern's

1 engineering department on those circuitry changes?

2 A. Oh, yeah, and they're going to make sure  
3 that it is done right too.

4 But the answer to your question is  
5 yes, I am in contact with them.

6 Q. Okay. I guess the reason I'm asking that  
7 is the Commission would require a Form 1 or Form 3 to  
8 be filed for any circuitry modifications on the  
9 existing either Liebengood or Chestnut crossings that  
10 already exist so I guess I wanted to put that out  
11 there. We have not seen any such filings come  
12 through our office yet so we would need to see  
13 something.

14 All right. And then one other matter.

15 As far as the Liberty Road proposed  
16 crossing, who would be responsible for assigning the  
17 AAR-DOT code identification?

18 A. We would be.

19 Q. Evansville Western?

20 A. Yeah. We'll have to apply for a new number  
21 for that one.

22 Q. All right. And will there be any type of

1 emergency notification sign at that location as well?

2 A. Yes, sir.

3 Q. All right. Now, as far as the roadway  
4 width, you said you were guessing that it was  
5 20 feet. I think that the petition says 22 feet.  
6 Does that sound approximately correct?

7 A. Uh-huh.

8 JUDGE DUGGAN: You have to actually say yes.

9 A. Yes. I'm sorry. I think I'm talking to  
10 him. I forget. I'm sorry.

11 Q. Okay. And the proposed roadway approaches  
12 to the crossing would also be 22 feet in width, is  
13 that correct?

14 A. Yes.

15 Q. Okay. And I'm looking at Exhibit B I  
16 believe, the construction plans, and there's a little  
17 square up in the corner that shows the roadway  
18 cross-section.

19 So there's four-foot earth shoulders  
20 proposed at that location also, is that correct?

21 A. I'd say that's right, yes.

22 Q. Okay. So the total width of the roadway

1 would be 30 feet?

2 A. Yeah, or 28 or 26, whatever, yeah.

3 Q. Okay. And you testified previously that  
4 the crossing width will be 40 feet?

5 A. That's what we've got the crossing for  
6 where we'd have plenty to do what we need to do there  
7 at the crossing.

8 Q. So it would include the roadway and the  
9 shoulders?

10 A. Yes.

11 Q. Plenty of length there?

12 A. Yeah.

13 MR. TOLIVER: Okay. That's all the questions I  
14 have, Your Honor.

15 JUDGE DUGGAN: Let me go off the record a  
16 second.

17 (Whereupon an off-the-record  
18 discussion transpired at this  
19 time.)

20 JUDGE DUGGAN: I have a few hopefully  
21 clarifying questions.

22

1 CROSS-EXAMINATION

2 BY JUDGE DUGGAN:

3 Q. You testified to the points between which  
4 the Evansville Western railway runs. What are those  
5 two points again?

6 A. Pardon?

7 Q. You testified to the towns between which  
8 Evansville --

9 A. Oh, it's between Evansville, Indiana and  
10 Okawville, Illinois.

11 Q. And Okawville is O-k-a-w-v-i-l-l-e, is that  
12 correct?

13 A. That's right.

14 Q. All right. Thank you.

15 You're discussing Chestnut and another  
16 town. I don't know if it's L-i-v-e-n or L-i-b-e-n,  
17 or what's this other town?

18 MR. BROOM: How do you spell Liebengood?

19 JUDGE DUGGAN: Off the record.

20 (Whereupon an off-the-record  
21 discussion transpired at this  
22 time.)

1           JUDGE DUGGAN: I think we've clarified off the  
2 record the spelling of Liebengood is  
3 L-i-e-b-e-n-g-o-o-d, and also that the relevance was  
4 whether bringing other trains connecting with another  
5 track could affect the automatic circuitry, and that  
6 doesn't have to be dealt with here.

7           Q. You referred to this road as Liberty Road,  
8 correct?

9           A. Yes.

10          Q. And do you have any knowledge of the  
11 township designation of that road as 1250 North?

12          A. That's the address that we kind of put on  
13 it for material and stuff being delivered there, so  
14 that's --

15          Q. Where did you get that address from?

16          A. I don't know where we got it from to be  
17 honest with you. I don't want to tell you something  
18 that I'm not sure of.

19          Q. All right. Now, you deal with Savatran, is  
20 that correct?

21          A. That's correct.

22          Q. And there's nobody here on their behalf

1 today, is that correct?

2 A. That's correct.

3 Q. Okay. But is it your understanding that  
4 that is another name for OENUS, LLC?

5 A. Yes.

6 Q. And again, pardon me for being redundant or  
7 repetitive but I'm trying to clarify as much for the  
8 record as myself here. Evansville Western Railway,  
9 Inc. will, in fact, own the land that is shown  
10 between the two red lines on Exhibit A, is that  
11 correct?

12 A. That's correct.

13 Q. Okay. But that somehow Savatran is going  
14 to own the track?

15 A. That's correct.

16 Q. Now, also it's your understanding that  
17 Evansville Western Railway, Inc. is a subsidiary of  
18 Four Rivers Transportation, Inc., is that correct?

19 A. That's correct.

20 Q. When you say chip and seal, is that the  
21 same or is that a form of a bituminous surface?

22 A. I'd say so, yes.

1           Q.    And you state the intent is not to occupy a  
2 proposed track unless they're actually already  
3 authorized to enter a track on the south and the  
4 north, correct?

5           A.    That's correct.

6           Q.    Okay.  And is there anything to stop your  
7 policy from changing that?

8           A.    No, no, because ours is going to be yard  
9 limits, and they're going to have to have permission  
10 to come out onto our railroad.  They'll have to have  
11 permission to do that before they come out onto our  
12 main.  So they'll get that before they ever get off  
13 of their main.

14                        By the same token, you'll have it  
15 before you come, the NS, will come off of their  
16 mainline because they don't want to clog up their  
17 mainline.  I know that probably don't make sense  
18 but...

19           Q.    When you say you, you mean Norfolk Southern  
20 Railway?

21           A.    When I mean us, I mean EVWR.

22           Q.    You were just looking at Neil and saying

1     you.

2             A.    Yeah, NS.

3             Q.    And when you said you, you meant Norfolk  
4     Southern Railway, is that correct?

5             A.    Yes.

6             Q.    Okay.

7             A.    I'm sorry.

8             Q.    Okay.  My question was, I know you don't  
9     have -- you can stop Norfolk Southern from coming on  
10    your railway but you could go ahead and put your own  
11    trains on your railway, correct?

12            A.    I could do what now?

13            Q.    Okay.  Is there anything stopping you from  
14    storing Evansville Western Railway trains on this one  
15    and a half mile track that's being questioned?

16            A.    Let me go a step further in saying we're  
17    building a 10,000 foot siding back about a mile and a  
18    half away from this where, if we run into this  
19    problem, we've got a place to store a train.

20            Q.    Okay.

21            A.    Then that way they won't block everything  
22    when we go up there, okay?

1           Q.    I guess what I'm trying to do is this.  I  
2 understand that you're stating an intention in here.

3           A.    Right.

4           Q.    But I'm trying clarify that it is just  
5 that, a stated intention, but there's nothing, in  
6 fact, to stop you from putting a train on this one  
7 and a half mile stretch that you're intending to  
8 build, correct?

9           A.    Us; I mean, the Evansville Western.

10          Q.    Okay.  So there is nothing to stop you from  
11 putting a train there?

12          A.    No.  I guess you would say no.

13          Q.    Thank you.

14                    You were talking about other  
15 structures in the area, and, I don't know, are they  
16 shown on Exhibit A or not?

17          A.    Such as?

18          Q.    Well, I thought you referred to two  
19 buildings.  I think a building and a house is what  
20 you referred to.

21          A.    Yeah, yeah.  They are -- I can show you the  
22 house.  Can I come up and show you?

1 Q. Sure.

2 Is it underneath the arrow?

3 A. Yeah.

4 Q. So the house you referred to is

5 underneath --

6 A. The house is over here, and the barn is

7 over here.

8 Q. Okay. I've got to state this so it's on

9 the record.

10 A. And this barn we can tear down. This barn,

11 it's old, and we'll probably end up tearing it down.

12 That will help the site.

13 Q. The barn is within the property?

14 A. That we purchased.

15 Q. Okay. And the house is outside of that

16 property?

17 A. That's right. That's correct.

18 Q. The house is shown on Exhibit A as being

19 directly underneath that black arrow, correct?

20 A. That's right, that's right.

21 Q. Okay. Was there any other other than these

22 other structures back over here to the west?

1           A.    This is a subdivision back over this way,  
2   okay?

3           JUDGE DUGGAN:   Okay.  Thanks.  I think that's  
4   all I have.

5                            Do you have any other follow-up?

6           MR. HUTSON:   No, Your Honor.

7                            (Witness excused.)

8           JUDGE DUGGAN:   Okay.  Were you going to call  
9   any other witnesses?

10          MR. HUTSON:   Yes; Mr. Moore.

11          JUDGE DUGGAN:   You can testify from where  
12   you're at as long as you talk loud enough for  
13   everybody to hear you.

14          MR. MOORE:   Well, I have no problem with the  
15   project.

16          JUDGE DUGGAN:   Oh, I think -- well, however you  
17   want to do it.  He can either ask you a question or  
18   you can state your position I guess.

19          MR. HUTSON:   I'll go ahead and ask.

20

21

22

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

TERRY MOORE

called as a witness herein, on behalf of the  
Petitioners, having been first duly sworn on his  
oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HUTSON:

Q. Just state your name for the record.

A. Okay. Terry Moore.

Q. And who are you with Mr. Moore?

A. I'm highway commissioner, Mount Vernon  
Township.

Q. And have you had a chance to review the  
petition and the draft agreed order in this matter?

A. Yes, I have.

Q. And do you have any objections to either  
one of those?

A. No.

Q. Do you have anything else to state  
Mr. Moore?

A. No.

MR. HUTSON: No further questions, Your Honor.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

CROSS-EXAMINATION

BY JUDGE DUGGAN:

Q. I'm not sure we got your position. One more time. Your position is, excuse me, I mean the office that you hold?

A. I'm an elected highway commissioner.

Q. Of...

A. Mount Vernon Township.

Q. Okay. And you're familiar with Liberty Road, correct?

A. Yes.

Q. And do you know, do you ever refer to that as 1250 North?

A. Yes.

Q. Okay. Is that the official designation to your knowledge?

A. That is a reference number for the, I guess the 911 location.

Q. All right.

A. The road does have a number, but I'm not familiar with what it is at this time.

Q. Okay. Do you know if that 1250 North is

1 assigned by the Department of Transportation, State  
2 of Illinois?

3 If you don't know, that's fine.

4 A. You know, I don't think so. I think it's  
5 just been a local thing.

6 Q. Okay. And then you're aware of location in  
7 which this Evansville Western Railway is requesting  
8 that they have permission to build a track over  
9 Liberty Road, right?

10 A. Yes.

11 Q. And is that within your Mount Vernon  
12 Township?

13 A. Yes.

14 Q. And it's not otherwise within any  
15 incorporated village or incorporated municipality?

16 A. No. It's outside the city, outside the  
17 city of Mount Vernon.

18 Q. All right. How far is that from Mount  
19 Vernon?

20 A. I'd say it's approximately a mile.

21 JUDGE DUGGAN: All right. Thank you.

22 Mr. Flynn, do you have any questions

1 of Mr. Moore?

2 MR. FLYNN: I have no questions of Mr. Moore,  
3 Your Honor.

4 JUDGE DUGGAN: Mr. Toliver?

5 MR. TOLIVER: No questions, Your Honor.

6 JUDGE DUGGAN: Mr. Johnson, I don't mean to be  
7 excluding you but is there any information you want  
8 out of these individuals?

9 MR. JOHNSON: No. I just maybe had a question  
10 for Mr. Buchanan.

11 JUDGE DUGGAN: Okay. Well, is anybody else  
12 going to have any questions for Mr. Moore?

13 MR. JOHNSON: I can't think of anything I have  
14 for Mr. Moore.

15 MR. TOLIVER: No.

16 JUDGE DUGGAN: Then if anybody else doesn't  
17 have any questions of Mr. Moore, go ahead with what  
18 you had for Mr. Buchanan.

19 MR. JOHNSON: Okay.

20

21

22

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

ROBERT BUCHANAN

recalled as a witness herein, on behalf of the  
Petitioners, having been previously sworn on his  
oath, was examined and testified as follows:

CROSS-EXAMINATION

BY MR. JOHNSON:

Q. Mr. Buchanan, is the purpose of the new  
rail line to facilitate the movement of loaded and  
empty and loaded coal trains to and from the Savatran  
mine?

A. Yes, and they have mines in southern  
Illinois that they are putting in also; one up here  
around Hillsboro and they're putting in another one,  
well, there's already one operating over around  
Carlinville.

Q. Do you know the locations of the mines that  
are going to be the source for the coal trains using  
this new line?

A. Most of them will come off of the, whether  
it be the Carlinville mine or the Hillsboro mine.

Q. Is Savatran also developing a mine near  
this location?

1           A.    They are.  They did one around Benton,  
2 Illinois also called Sugar Camp.

3           Q.    Do you know if that's the mine that they  
4 are trying to serve -- scratch that.

5                    Are you familiar with the petition of  
6 Savatran that is requesting construction of a new  
7 rail line to service the coal mine?

8           A.    You know, I know that there is some that  
9 they're talking about building to our railroad.  
10 They're working on it right now.

11                   Now, if there's another one, you know,  
12 I'm not sure about it.  I just don't know.

13           Q.    The rail line that they're proposing to  
14 construct, do you know where it will connect onto  
15 your track?

16           A.    Yeah, around McLeansboro, Illinois.

17           Q.    And is that east of this new proposed line  
18 or west of the proposed line?

19           A.    Yes.  It will be east of this new proposed  
20 line.

21           Q.    Some of the coal trains coming off of that  
22 new Savatran line would utilize this new connection?



1 go to, and they've got other markets to go to too, so  
2 this would give them another market to be able to  
3 market that Illinois Basin coal that they could bring  
4 up here and be able to do something with it.

5 JUDGE DUGGAN: Okay. Thank you.

6 Any follow-up with Mr. Buchanan?

7 MR. FLYNN: Nothing further, Your Honor. Thank  
8 you.

9 JUDGE DUGGAN: Aaron?

10 MR. TOLIVER: No, Your Honor.

11 JUDGE DUGGAN: Okay. Mr. Hutson?

12 MR. HUTSON: No, Your Honor.

13 JUDGE DUGGAN: Then I go back to a question I  
14 forgot to ask Mr. Moore.

15 TERRY MOORE

16 recalled as a witness herein, on behalf of the  
17 Petitioners, having been previously sworn on his  
18 oath, was examined and testified as follows:

19 CROSS-EXAMINATION

20 BY JUDGE DUGGAN:

21 Q. You're the one providing the traffic count  
22 that was testified to about the 1,200 vehicles, 20

1 percent of which is trucks, is that correct?

2 A. Yes.

3 Q. That's 1,200 vehicles per what?

4 A. Per day.

5 Q. And when you refer to trucks, you're  
6 talking about semi-trailers?

7 A. Yes.

8 Q. And is it your testimony that the speed  
9 limit at this crossing is 55 miles per hour?

10 A. Yes.

11 JUDGE DUGGAN: Okay. I don't have anything  
12 else of Mr. Buchanan.

13 Questions of Mr. Buchanan, Mr. Flynn?

14 MR. FLYNN: Nothing further, Your Honor.

15 JUDGE DUGGAN: Mr. Toliver?

16 MR. TOLIVER: Nothing, Your Honor.

17 JUDGE DUGGAN: Mr. Hutson?

18 MR. HUTSON: Nothing, Your Honor.

19 JUDGE DUGGAN: All right. Call your next  
20 witness.

21 MR. HUTSON: We call Steve Schnake.

22

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

STEVE SCHNAKE

called as a witness herein, on behalf of the  
Petitioners, having been first duly sworn on his  
oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HUTSON:

Q. Please state your name.

A. Steve Schnake.

Q. And who are you with?

A. Jefferson County highway engineer.

Q. And how long have you been there?

A. Twelve years.

Q. Have you had a chance to review the draft  
agreed order and petition in this matter?

A. Yes, I have.

Q. Do you have any objections to either one of  
those?

A. No, I do not.

Q. Anything further you'd like to add?

A. No.

MR. HUTSON: No further questions, Your Honor.

JUDGE DUGGAN: Okay.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

CROSS-EXAMINATION

BY JUDGE DUGGAN:

Q. Do you know about the 1250 North designation, the source of that?

A. Terry Moore is correct. It's a 911 designation, a rural reference number.

The State of Illinois does designate township roads with what's referred to as a TR number, and I do not know the TR number for this road.

Q. All right. And it goes by the name of Liberty Road, correct?

A. That's correct.

Q. So Liberty Road is designated as 1250 North?

A. Correct.

Q. Okay. And again, you have no objection as long as the safety features are installed as proposed by the Commerce Commission?

A. No. The grades are fine. They meet IDOT standards; I've looked at that. And the width of the road is fine.

1 Q. So that's in accordance with the designs  
2 proposed in Exhibit B, is that correct?

3 A. Yes.

4 Q. Okay. And I don't know if the materials  
5 are shown in Exhibit B.

6 Where do we find the materials  
7 specifications that are being proposed?

8 Let's go off the record.

9 (Whereupon an off-the-record  
10 discussion transpired at this  
11 time.)

12 JUDGE DUGGAN: Let's go back on the record.

13 Mr. Schnake, on behalf of Jefferson  
14 County and your statement that you're not objecting  
15 to the proposed plan, is that dependent on any specs  
16 or is it just dependent upon them making sure that  
17 they meet the standards promulgated by the Illinois  
18 Department of Transportation and the Illinois  
19 Commerce Commission?

20 MR. SCHNAKE: Yes.

21 JUDGE DUGGAN: Okay. As long as they meet the  
22 Illinois Department of Transportation standards and

1 Illinois Commerce Commission, you're satisfied  
2 regardless of any other specifications, is that  
3 correct?

4 MR. SCHNAKE: That's correct.

5 JUDGE DUGGAN: Okay.

6 And, Mr. Moore, same question to you.

7 MR. MOORE: Yes.

8 JUDGE DUGGAN: That you have no objection so  
9 long as they meet the Illinois Department of  
10 Transportation standards and Illinois Commerce  
11 Commission standards; is that correct?

12 MR. MOORE: Yes.

13 JUDGE DUGGAN: Okay. Any other questions of  
14 these two witnesses one more time?

15 MR. FLYNN: I have nothing.

16 MR. JOHNSON: No, Your Honor.

17 MR. TOLIVER: No, Your Honor.

18 MR. HUTSON: No, Your Honor.

19 JUDGE DUGGAN: All right.

20 Now, Mr. Toliver, railroad  
21 specifications, is there anything that -- I think we  
22 probably need your testimony as to what your belief

1 is that should be installed here.

2 If, in fact, that's what you want the  
3 order to require, then you're going to have to tell  
4 us what you want to order to require.

5 MR. TOLIVER: You mean as far as the crossing  
6 surface goes and the width of the crossing surface?

7 JUDGE DUGGAN: Everything that you want, that  
8 you believe should be the case, whether it's  
9 specifications of materials, widths, whatever, safety  
10 features, and gates, lights.

11 If you have documentation or something  
12 or just say just meet a certain requirement, that's  
13 fine.

14 MR. TOLIVER: I would like everything to  
15 conform to 92 Illinois Administrative Code Part 1535.

16 JUDGE DUGGAN: And then what about the widths  
17 that you did raise earlier?

18 MR. TOLIVER: That is part of Illinois  
19 Administrative Code Part 1535. The width of the  
20 crossing needs to include a reasonable width of  
21 usable shoulder, and so 40 feet was the testimony.  
22 That would satisfy the Administrative Code

1 requirement.

2 JUDGE DUGGAN: Okay. 40 feet was the width of  
3 the crossing or --

4 MR. TOLIVER: Crossing surface, proposed  
5 crossing surface, and the roadway was going to be  
6 30 feet including the shoulders.

7 So the 40-foot crossing width was  
8 going to be plenty to encompass the roadway and the  
9 shoulders.

10 JUDGE DUGGAN: Okay. Again, I thought we had a  
11 20 or 22-foot road.

12 MR. TOLIVER: The roadway width includes the  
13 shoulders, so the 22 feet is the traveled way, what's  
14 referred to as the traveled way.

15 The shoulders are indicated on Exhibit  
16 B as four foot each, so that would now add another  
17 eight feet to the width and resulting in a 30-foot  
18 total roadway width, and so the 40-foot crossing  
19 width would be plenty of room for that.

20 JUDGE DUGGAN: You lost me. You went too fast  
21 for me.

22 MR. TOLIVER: Okay. 22 feet is called a

1 traveled way, so there's two 11-foot lanes. That's  
2 22 feet. Then there's two four-foot shoulders, so  
3 that's eight more feet.

4 JUDGE DUGGAN: You're getting those dimensions  
5 from Exhibit B, correct?

6 MR. TOLIVER: Exhibit B. That's what they're  
7 proposing.

8 JUDGE DUGGAN: Okay. And that's not what's  
9 there. That's what's being proposed.

10 MR. TOLIVER: That's proposed.

11 JUDGE DUGGAN: Okay. And that's my point is  
12 they're not required to do that unless you put on the  
13 record that that's what you wanted.

14 Then I rule that they're required to  
15 do that or that the permission is dependent upon  
16 them, in fact, building the roadway as specified in  
17 Exhibit B, because right now they're not required to  
18 do that.

19 MR. TOLIVER: Well, the roadway has to meet the  
20 Illinois Department of Transportation standards for  
21 the proposed traffic level, right?

22 I'm asking the county engineer, Steve

1 Schnake.

2                   So I'm assuming that 22 feet and  
3 four-foot shoulders is a requirement of the Illinois  
4 Department of Transportation in their local roads  
5 manual.

6           JUDGE DUGGAN: All right.

7           MR. TOLIVER: Maybe that's not a correct  
8 assumption. I don't know.

9           JUDGE DUGGAN: Let's go off the record.

10                               (Whereupon an off-the-record  
11 discussion transpired at this  
12 time.)

13           JUDGE DUGGAN: Let's go back on the record.

14                   So, Mr. Toliver, off the record I  
15 think we clarified that it may not be so clear that  
16 IDOT requires a four-foot shoulder on this type of  
17 road.

18                               Whether they do or not, does staff  
19 have a recommendation as to the design specifications  
20 of the road at the crossing?

21           MR. TOLIVER: Yes. Staff recommends that the  
22 roadway be constructed as shown in the design plans

1 marked as Exhibit B.

2 JUDGE DUGGAN: Okay.

3 Are there any other matters that are  
4 not on the record that staff is requesting?

5 MR. TOLIVER: No, Your Honor.

6 JUDGE DUGGAN: Okay. You've already discussed  
7 the automatic flashing lights, correct?

8 MR. TOLIVER: Yes.

9 JUDGE DUGGAN: Okay. Gates/no gates?

10 MR. TOLIVER: We would require gates or  
11 recommend gates and constant warning time circuitry  
12 as well as the automatic flashing light signals.

13 JUDGE DUGGAN: Okay. No type of detection  
14 system?

15 MR. TOLIVER: Constant warning time.

16 JUDGE DUGGAN: Okay. Anything else?

17 MR. TOLIVER: No, Your Honor.

18 JUDGE DUGGAN: Okay. Any questions of  
19 Mr. Toliver to clarify what he's recommending?

20 MR. HUTSON: No, Your Honor.

21 JUDGE DUGGAN: Mr. Flynn?

22 MR. FLYNN: Nothing further, Your Honor. Thank

1 you.

2 JUDGE DUGGAN: Any comments or information you  
3 need, Mr. Johnson?

4 MR. JOHNSON: No, Your Honor.

5 JUDGE DUGGAN: Okay. We're not going to make a  
6 copy of your material specifications because  
7 everybody is satisfied with the DOT and the  
8 Commission standards.

9 So if there's nothing else, then we'll  
10 proceed to proposed order issue.

11 So it's my understanding that an  
12 agreed order is being prepared, is that correct,  
13 Mr. Hutson?

14 MR. HUTSON: Yes, Your Honor.

15 JUDGE DUGGAN: Okay. Well, let's do this. I  
16 don't think there's any need to waive a proposed  
17 order because basically I'll get what you guys give  
18 me. I'll submit it as provided or make changes.

19 Either way, I'll go ahead and run it  
20 as a proposed order, and if you guys want it back  
21 fast, you can shoot me a statement the next day  
22 saying that we waive any brief on exceptions, and if

1 you waive brief on exceptions, if I get waivers for  
2 briefs on exceptions from everybody, then we can  
3 proceed on that.

4 Let's go off the record.

5 (Whereupon an off-the-record  
6 discussion transpired at this  
7 time.)

8 JUDGE DUGGAN: On the record.

9 Okay. In an off-the-record  
10 discussion, it appears that the parties believe they  
11 may have a document they can submit as an agreed  
12 order, and so I think the parties are wanting to  
13 waive a proposed order understanding I may still  
14 submit one.

15 So we'll start with Mr. Hutson.

16 Again, do you waive a proposed order?

17 MR. HUTSON: Yes, Your Honor.

18 JUDGE DUGGAN: And Mr. Flynn?

19 MR. FLYNN: Your Honor, with the understanding  
20 that the document that's been circulated today, if  
21 that's the document we're working off of, Norfolk  
22 Southern would have no objection to this being

1 entered, and in the interest of expediting the final  
2 outcome of the order, we would waive, yes.

3 JUDGE DUGGAN: Is that a conditional waiver?

4 MR. FLYNN: Yes, Your Honor.

5 JUDGE DUGGAN: I have no way of knowing if  
6 that's what you circulated today, but we'll take that  
7 for the weight it deserves.

8 Mr. Toliver?

9 MR. TOLIVER: Staff wishes to waive a proposed  
10 order.

11 JUDGE DUGGAN: Okay.

12 And Mr. Moore?

13 A proposed order is basically I would  
14 submit to you ahead of time, because you are named as  
15 a party, I would submit to you what I intend to  
16 submit to the Commission for approval, and if you had  
17 a problem with that order of any type whatsoever, you  
18 could file a brief on exceptions telling me here's  
19 your concern, that it didn't reflect what you had  
20 hoped.

21 So if you waive that proposed order,  
22 then you would have no chance to review it prior to

1 me submitting it to the Commission.

2 MR. MOORE: I can waive it.

3 JUDGE DUGGAN: Okay. And Mr. Schnake?

4 MR. SCHNAKE: Yes, I waive.

5 JUDGE DUGGAN: Waive a proposed order?

6 MR. SCHNAKE: Yes.

7 JUDGE DUGGAN: Okay. Thank you.

8 Mr. Johnson, I don't know if you have  
9 to or not because you're not a party but I'll ask  
10 anyway.

11 MR. JOHNSON: Well, actually, Your Honor, I was  
12 listed as a respondent.

13 JUDGE DUGGAN: Oh, you are. I'm sorry. Okay.

14 MR. JOHNSON: Yes. IDOT would be willing to  
15 waive a proposed order.

16 JUDGE DUGGAN: Okay. Thank you.

17 All right. If there's nothing else,  
18 then I'll mark the record heard and taken.

19 HEARD AND TAKEN

20

21

22