

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission :
On Its Own Motion :
v. : T11-0011
Kansas City Southern Railway Company :
Citation with respect to Kansas City Southern Railway :
Company's failure to maintain the Madison Avenue :
(AAR/DOT 542 255T, railroad milepost 246.83-OL), :
South Roxana, Madison County highway-rail grade :
crossing surface in accordance with the requirements :
of 92 Ill. Adm. Code Part 1535.203.

CITATION ORDER

By the Commission:

WHEREAS, it has come to the attention of the Illinois Commerce Commission ("Commission") via complaints from the public, and local and state governmental officials that existing conditions at the Madison Avenue (AAR/DOT 542 255T, railroad milepost 246.83-OL) highway-rail grade crossing of the Kansas City Southern Railway Company's ("KCS") track, located in South Roxana, Madison County, do not meet the minimum requirements of 92 Ill. Adm. Code Part 1535.203; and

WHEREAS, Commission staff has sent KCS letters dated July 7, 2008, and August 7, 2008, (attached as Exhibits A and A1) listing the location where repairs were required in order to have the surface at the Madison Avenue crossing ("the crossing") meet the minimum requirements of 92 Ill. Adm. Code Part 1535.203; and

WHEREAS, Staff has received electronic correspondence from KCS indicating that repairs would be made (attached as Exhibit B); and

WHEREAS, the KCS has not made any repair of the surface at the crossing; and

WHEREAS, it appears that formal proceedings should be instituted by Citation Order for the purpose of obtaining information from KCS regarding its plans to repair the crossing surface, as well as their future willingness to respond to Staff's requests for information; and

WHEREAS, proper notice should be given to the KCS 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 by the Illinois Commerce Commission that a proceedings be initiated to determine whether the Kansas City Southern Railway Company has failed to maintain the Madison Avenue crossing to the minimum standards of the 92 Ill. Adm. Code, Part 1535.203.

IT IS FURTHER ORDERED that the Kansas City Southern Railway Company appear at a time and place, established by a duly appointed Administrative Law Judge, in order present evidence as to the alleged failure to comply with the requirements of law alleged by Staff.

IT IS FURTHER ORDERED that the Chief Clerk serve a copy of this Order on the designated agent of the Kansas City Southern Railway Company.

IT IS FURTHER ORDERED that failure of the Kansas City Southern Railway Company to appear may result in findings that it has failed to comply with the requirements of 92 Ill. Adm. Code, Part 1535.203.

IT IS FURTHER ORDERED that the Kansas City Southern Railway Company be, and it is hereby, required and directed to prepare a schedule specifying how and when KCS will make repairs to the subject crossing surface to be presented at said hearing, and also develop and submit a plan showing how the railroad will respond to future Commission Staff grade crossing complaint letters in a more expedient manner.

By Order of the Commission this 20th day of January 2011.


MANUEL FLORES
ACTING CHAIRMAN

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



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

Michael E. Stead

Rail Safety Program Administrator

July 7, 2008

Mr. Lee Peek
Director of Engineering
Kansas City Southern Railway Co.
P.O. Box 219335
Kansas City, MO 64121-9335

R06-284

Dear Mr. Peek:

On June 17, 2008, a representative of this office inspected the Madison Avenue (**AAR/DOT #542 255T, railroad milepost 246.83-OL**) highway-rail grade crossing of the Kansas City Southern (KCS) track in Roxana, Madison 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 crossing do not meet minimum requirements of 92 Ill. Adm. Code (IAC) 1535.203. Findings from the inspection are summarized below:

- The south end of the existing full-depth timber surface has settled and the approaches are humped. Milling of the approaches or raising the crossing surface is needed to alleviate the problem.
- There is a pothole in the southeast approach.
- There is a damaged field timber in the northwest quadrant
- It appears that the track is seldom, if ever, used. The KCS may want to consider removing the track to eliminate maintenance and repairs.
- Photos of the crossing are enclosed for your information.

According to 92 IAC 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 these matters. If you have any questions, please contact Joe VonDeBur, Railroad Safety Specialist, at (217) 557-1286 or jvondebu@icc.illinois.gov.

Very truly yours,

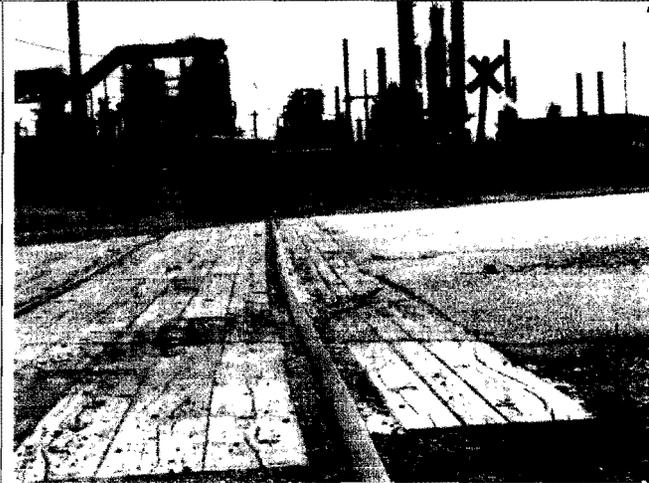
Michael E. Stead
Rail Safety Program Administrator

Enclosure
cc: Complainant
JJV

Inspection Photos (6/17/08): Madison Avenue, Roxana, IL (AAR/DOT #542 255T, railroad milepost 246.83-OL)



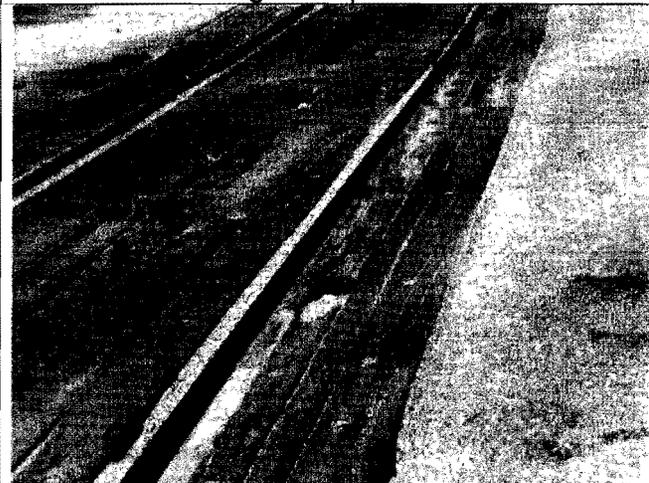
Looking Northeast – Note pothole in southeast approach.



Looking Northeast – Note concrete traffic barrier and fence/gate at plant entrance.



Looking Southwest at uneven crossing surface.



Looking Southwest at damaged timber in NW quadrant.

August 7, 2008

Mr. Lee Peek
Director of Engineering
Kansas City Southern Railway Company
P.O. Box 219335
Kansas City, MO 64121-9335

R06-284

Dear Mr. Peek:

On July 7, 2008, you were notified, by letter (copy enclosed), of poor surface conditions at the Madison Avenue (**AAR/DOT #542 255T, railroad milepost 246.83-OL**) highway-rail grade crossing of the Kansas City Southern (KCS) track in Roxana, Madison County, Illinois. The letter also asked that you notify this office of your plans to repair the crossing.

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 crossing surface is properly repaired and satisfies the requirements of 92 Ill. Adm. Code Part 1535. Failure of your company to respond will likely result in the initiation of Citation proceedings by this office.

If you have any questions, please contact Joe VonDeBur, Railroad Safety Specialist, at (217) 557-1286 or jvondebu@icc.illinois.gov.

Very truly yours,



Michael E. Stead
Rail Safety Program Administrator

Enclosure

cc: Complainant

JJV

EXHIBIT A1