

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

UNION PACIFIC RAILROAD COMPANY )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 TOWNSHIP OF GENEVA, STATE OF )  
 ILLINOIS, and ILLINOIS DEPARTMENT OF )  
 TRANSPORTATION, )  
 )  
 Respondents. )

T01- 0040

PETITION

Petitioner, Union Pacific Railroad Company, represents to the Illinois Commerce Commission (hereinafter "Commission") as follows:

1. Petitioner, Union Pacific Railroad Company (hereinafter "Railroad") is a Delaware corporation engaged in the business of providing common carrier freight service by railroad, owning and operating railroad tracks and equipment in the State of Illinois, and is authorized to do business in the State of Illinois, with offices at 101 North Wacker Drive, Room 1920, Chicago, Illinois 60606.

2. The Township of Geneva, Illinois (hereinafter "Geneva Township") is a political subdivision of the State of Illinois, located in the County of Kane, with offices at 2202 Gary Lane, Geneva, Illinois 60134, and is vested with responsibility for maintenance of township roads within its Township limits.

3. Railroad operates multiple lines of track through the Township of Geneva, in what is commonly referred to as the Geneva Subdivision, including, but not limited to, Milepost 33.75.

4. Old Kirk Road, at Milepost 33.75 (D.O.T. No. 174 986H), is a Geneva Township Road located in and maintained by Geneva Township.

**DOCKETED**

5. Railroad's track through Geneva Township crosses Old Kirk Road at grade. A triple main track crosses Old Kirk Road. This grade crossing is shown on the map marked Exhibit "A" and hereby made a part hereof, and is designated by the United States Department of Transportation and by railroad milepost location as follows:

| <b>STREET</b> | <b>U.S. DOT #</b> | <b>RAILROAD MILEPOST</b> |
|---------------|-------------------|--------------------------|
| Old Kirk Road | 174 986H          | 33.75                    |

The above Railroad milepost designates a milepost location on Railroad's Geneva **Subdivision**.

6. Old Kirk Road crossing is currently protected by bells, gates and flashing light signals.

7. Railroad operates over one hundred (100) through freight and commuter passenger trains per day on the track over the above listed grade crossing (hereinafter referred to as "Subject Crossing"), at a maximum timetable speed of 70 M.P.H.

8. The Railroad believes that public safety would benefit from the closure of the Subject Crossing at Old Kirk Road. The overhead bridge crossing at Kirk Road, which is only 600' to the west of the Subject Crossing was established as an overpass project on April 22, 1964 by Commission Order Number 50293 as supplemented by X-Resolution approved October 9, 1996 by the Railroad Safety Program Administrator of the Commission (see X-I 0885 approved October 9, 1996). In addition, Railroad's Chicago Commuter Grade Crossing Steering Committee has determined that the Subject Crossing should be closed. See Exhibit "A" which is attached hereto and hereby made a part hereof.

9. Closing the Old Kirk Road crossing would have minimal impact on the

public's convenience and necessity as other crossings, including the Kirk Road bridge which is in very close proximity to the Subject Crossing (600 feet to the west) and provide vastly superior, convenient, necessary and substantially safer access across the Railroad's tracks.

10. The Railroad proposes that the closure of Old Kirk Road Crossing be at the Railroad's sole cost and expense.

11. The Railroad will make the necessary road closing upgrades to Township Road 244 in the vicinity of the crossing.

12. The most recent vehicle traffic count for the Subject Crossing was performed by Niemeyer & Associates, P.C. on March 10 and 11, 1999. The results of this vehicle traffic count are attached hereto as Exhibit "B" and by this reference hereby made a part hereof. A prior vehicle traffic count dated November 7, 1994 with a Highway Grade Crossing Physical Characteristic Data Report showing the physical characteristics of the Subject Crossing is attached hereto as Exhibit "C" and hereby made a part hereof.

13. A general print of the area currently **served** by the Subject Crossing (the "Area") is attached hereto as Exhibit "D" and by this reference hereby made a part hereof. Based on this print and a field inspection of the Area it appears that there are approximately twenty-eight (28) residences, one (1) church and one (1) day care center which could possibly use the crossing for ingress or egress. However, this same geographical area is more safely and adequately **served** for purposes of ingress and egress by two additional road intersections, one of which is controlled by highway traffic signals at Kirk Road adjacent to the western limit of the Area. These access points to the Area are on Kirk Road which has a full grade separation of the Petitioner's

trackage. Clearly, emergency vehicles and school buses would utilize the two bridge served Kirk Road entrances to the Area over the Old Kirk Road Crossing so as not to be delayed by train movements several of which run in excess of fourteen (14) minutes to clear and occupy the Subject Crossing for at least three (3) hours in the aggregate on a daily basis. A track chart showing the proximity of the Subject Crossing to the bridge at Kirk Road is attached hereto as Exhibit "E" and hereby made a part hereof.

14. The Highway Grade Crossing Physical Characteristics Data Sheet for the Subject Crossing attached hereto as part of Exhibit "C", includes a grade crossing visibility statement, a top of road profile which details the substantial depression in which the Subject Crossing is located and a Four Quadrant vision survey for Old Kirk Road. These documents detail the undesirable location of the Subject Crossing, its close proximity to the Kirk Road Overpass, approximately 600 feet to the west and geographically explains the tendency of this area to flood during storm events.

15. It is important to note that the Kirk Road Overpass was substantially widened and modified in 1997 and 1998. It was widened to four (4) lanes, a bicycle trail was added to the west side and the deck and substructure were both rehabilitated. As such, the Kirk Road Overpass is the preferred and safer route to the Area.

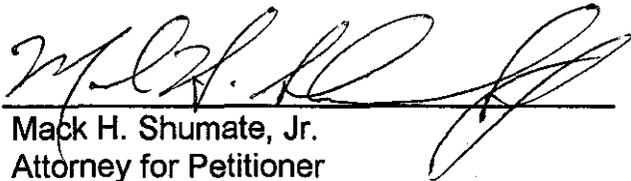
16. To the north of the Subject Crossing the residents are commercial and industrial, their vehicles almost exclusively travel north approximately  $\frac{1}{8}$  of a mile to access Route 38 (Roosevelt Road). Old Kirk Road to the south of the Subject Crossing is weight restricted and the larger trucks used by the industrial residents would not be permitted on the residential township roads.

17. The Area is posted throughout prohibiting street parking for minor league baseball games and activities at the Kane County Baseball field, home of the Kane

County Cougars, located on the western side of Kirk Road and not included in the Area, It is obvious that the residents of the Area are sensitive to substantial unpermitted and undesired through traffic during the spring and summer months. Elimination of the Subject Crossing would eliminate this nuisance.

WHEREFORE, Railroad prays that the Commission make such investigation and hold such hearings as it deems necessary and enter an Order authorizing the closure of the grade crossing at Old Kirk Road in the Township of Geneva, State of Illinois, with contribution being required from the Railroad in the form of 100% of the railroad crossing closure costs for Old Kirk Road.

UNION PACIFIC RAILROAD COMPANY

By:   
Mack H. Shumate, Jr.  
Attorney for Petitioner

Mack H. Shumate, Jr.  
Attorney for Petitioner  
Union Pacific Railroad Company  
101 North Wacker Drive, Room 1920  
Chicago, IL 60606  
312/853-8455

G:\Law\Commerce\Commstat\Commil\T00-kirk\003

PROOF OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing instrument was served by depositing same in the United States Post Office Mailbox at 101 North **Wacker** Drive, Chicago, Illinois 60606 on May 22, 2001, in an envelope with postage fully prepaid to and in the following manner addressed:

Mr. James C. Slifer  
Director Division of Highways  
Illinois Department of Transportation  
2300 South Dirksen Parkway  
Springfield, IL 62764

Mr. John **Carlson**  
Geneva Township Road Commission  
Geneva Township  
2202 Gray Lane  
Geneva, IL 60134

Robert Berry  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62794-9280

  
Mack H. Shumate, Jr.



RECEIVED<sup>A</sup>

SEP 30 1999

LAW DEPARTMENT  
UNION PACIFIC RR CO.

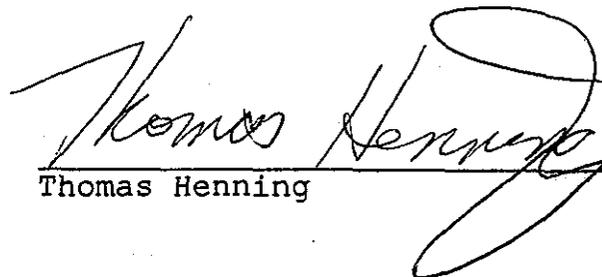
**TO:** Mack Shumate  
**FROM :** Chicago/Commuter Grade Crossing Steering Committee  
**RE:** Old Kirk Road

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One responsibility of the Chicago/Commuter Grade Crossing Steering Committee is to reduce the number of grade crossings in our Service Units. We have been advised that you have been given the material necessary to petition the ICC for the closure of Old Kirk Road. ✓

As the Co-Chairmen of the Grade Crossing Steering Committee, we are requesting that you petition the ICC as soon as possible seeking authority to close Old Kirk Road.

  
Randy Perry

  
Thomas Henning

cc: Ron Cuchna

(TAZ92099.008)

**N&A**

**I' Niemeyer & Associates, P. C.**

Engineers

*Crossings*

EXHIBIT

B

6420 Giant Oaks Road, Wonder Lake, Illinois 60094 • (815) 653-9400

FAX (815) 728.0220

**RECEIVED**

MAR 22 1999

LABORATORY  
UNION PACIFIC RR CO.

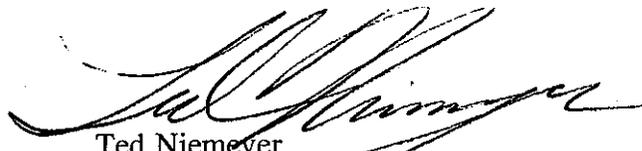
MR. JERRY E. LIENEMANN  
Manager Field Engineers  
Union Pacific Railroad Company  
500 West Madison Street, Suite 3610  
Chicago, Illinois 60661

Dear Jerry:

I am enclosing herewith consolidated vehicle traffic count sheet for Old Kirk Road taken on March 10 and 11, 1999, by Geoff Burke, Bill Schmiegelt, and John Sierzega of Niemeyer & Associates, P.C. for Union Pacific Railroad Company. I am also enclosing copy of the three individual count sheets used in the field by Geoff, Bill and John.

If You need any additional information please do not hesitate to call or write.

Sincerely yours,

  
Ted Niemeyer  
Principal

TMN/tmn  
enclosures

VEHICLE TRAFFIC COUNT

| HOURS                 | HIGHWAY TRAFFIC |             |               |          |        | GATES DOWN OR TRAFFIC DELAY |         | UNUSUAL CONDITIONS AFFECTING TRAFFIC OVER CROSSING<br>(Other Remarks) |
|-----------------------|-----------------|-------------|---------------|----------|--------|-----------------------------|---------|---|
|                       | pedestrians     | automobiles | School Busses | bicycles | trucks | minutes                     | seconds |   |
| 12:01 A.M. TO 1 A.M.  | 0               | 2           | 0             | 0        | 2      | 9                           | 55      | FRT 7 MIN 45 SEC<br>PASS 2 10   |
| 1 A.M. TO 2 A.M.      | 0               | 0           | 0             | 0        | 0      | 5                           | 0       | P 4 25<br>P 0 35  |
| 2 A.M. TO 3 A.M.      | 0               | 0           | 0             | 0        | 0      | 4                           | 40      | FREIGHT ONLY  |
| 3 A.M. TO 4 A.M.      | 0               | 2           | 0             | 0        | 1      | 9                           | 5       | FREIGHT ONLY  |
| 4 A.M. TO 5 A.M.      | 0               | 2           | 0             | 0        | 0      | 4                           | 20      | P 3 MIN 50 SEC<br>P 0 30  |
| 5 A.M. TO 6 A.M.      | 0               | 16          | 0             | 0        | 0      | 3                           | 30      | P 2 30<br>P 0 0   |
| 6 A.M. TO 7 A.M.      | 0               | 128         | 0             | 0        | 0      | 4                           | 25      | P 3 10<br>P 1 15  |
| 7 A.M. TO 8 A.M.      | 0               | 82          | 1             | 0        | 5      | 1                           | 55      | PASSENGER ONLY  |
| 8 A.M. TO 9 A.M.      | 0               | 38          | 0             | 0        | 2      | 6                           | 26      | F 5 35<br>P 0 51  |
| 9 A.M. TO 10 A.M.     | 0               | 16          | 0             | 0        | 6      | 7                           | 23      | F 6 15<br>P 1 8   |
| 10 A.M. TO 11 A.M.    | 0               | 10          | 0             | 0        | 6      | 13                          | 30      | F 12 40<br>P 0 30   |
| 11 A.M. TO 12:01 P.M. | 0               | 8           | 0             | 0        | 6      | 4                           | 50      | F 4 15<br>P 0 35  |
| 12:01 P.M. TO 1 P.M.  | 2               | 16          | 0             | 0        | 10     | 5                           | 45      | F 5 45<br>P 0 45  |
| 1 P.M. TO 2 P.M.      | 0               | 17          | 0             | 0        | 15     | 14                          | 55      | F 13 40<br>P 1 15   |
| 2 P.M. TO 3 P.M.      | 0               | 11          | 0             | 0        | 13     | 4                           | 0       | F 3 15<br>P 0 35  |
| 3 P.M. TO 4 P.M.      | 0               | 29          | 0             | 0        | 25     | 4                           | 45      | F 0 35<br>P 0 55  |
| 4 P.M. TO 5 P.M.      | 0               | 48          | 0             | 0        | 28     | 6                           | 45      | F 5 40<br>P 5 40  |
| 5 P.M. TO 6 P.M.      | 0               | 31          | 0             | 0        | 20     | 7                           | 15      | F 4 30<br>P 2 20  |
| 6 P.M. TO 7 P.M.      | 0               | 20          | 0             | 0        | 12     | 3                           | 40      | PASSENGER ONLY  |
| 7 P.M. TO 8 P.M.      | 0               | 11          | 0             | 0        | 6      | 8                           | 40      | F 6 35<br>P 2 15  |
| 8 P.M. TO 9 P.M.      | 0               | 13          | 0             | 0        | 3      | 7                           | 30      | F 6 0<br>P 1 30   |
| 9 P.M. TO 10 P.M.     | 0               | 10          | 0             | 0        | 1      | 11                          | 25      | F 1 35<br>P 1 30  |
| 10 P.M. TO 11 P.M.    | 0               | 1           | 0             | 0        | 3      | 12                          | 35      | F 1 15<br>P 1 20  |
| 11 P.M. TO 12:01 A.M. | 0               | 3           | 0             | 0        | 0      | 14                          | 0       | F 12 20<br>P 1 4  |
| TOTAL                 | 2               | 514         | 1             | 0        | 164    | 176                         | 14      |   |

FOR Old Kirk Road 174 986 H Geneva 1.85 mile E. IL  
 (Name or description of Highway Crossing) Crossing ID No. Town (Show distance from) State

START DATE March 10, 1999 RECORDER 4:01 A.M. TO 12:01 P.M. J. Sierzega  
 DAY OF WEEK Wednesday - Thursday RECORDER 12:01 P.M. TO 8:00 P.M. G. Burke  
 WEATHER CONDITIONS P Cloudy - snow - mid 20s RECORDER 8:00 P.M. TO 4:00 A.M. W. Schmiedt

TYPE OF PROTECTION PRESENTLY PROVIDED, INDICATING HOURS OF EMPLOYEES. Flashing lights, gates & bell