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19

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(Appearing on behalf of the  
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WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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PROCEEDINGS

(Whereupon A&S Exhibits E, F and G and A&S Group Exhibit A Supplemental were marked for identification as of this date.)

JUDGE DUGGAN: Pursuant to the authority vested in me by the State of Illinois and the Illinois Commerce Commission, I now call Docket T12-0111 for hearing.

May we have the appearances starting with the petitioner, Alton & Southern Railway Company?

MR. SHUMATE: Thank you, Your Honor.

My name is Mack Shumate (S-h-u-m-a-t-e). I'm an attorney for the Alton & Southern Railroad, and our offices are located at 101 North Wacker Drive, Chicago, Illinois, Suite 1920, and it's 60606.

JUDGE DUGGAN: Thank you.

Granite City?

MR. ROBERTSON: Eric Robertson, Lueders, Robertson & Konzen, P.O. Box 735, 1939 Delmar,

1 Granite City, Illinois 62040.

2 JUDGE DUGGAN: Thank you.

3 And Long Lake Fire Protection  
4 District.

5 MR. EVANS: Yes, Your Honor. Eric Evans with  
6 the law firm of Evans & Blasi. We're located at 1512  
7 Johnson Road, Granite City, Illinois 62040.

8 JUDGE DUGGAN: And Mitchell Fire Protection  
9 District.

10 MR. SINCLAIR: Yes, Your Honor. James  
11 Sinclair, Stobbs, Sinclair & Carruthers, 500 Bond  
12 Street, Alton, Illinois 62002.

13 JUDGE DUGGAN: And the Commission railroad  
14 safety specialist.

15 MR. SALADINO: Yes, Your Honor. John Saladino,  
16 Railroad Safety Specialist in the Railroad Section,  
17 Illinois Commerce Commission, 527 East Capitol  
18 Avenue, Springfield, Illinois 62701.

19 JUDGE DUGGAN: Okay. No other parties then I  
20 guess, correct?

21 Is there anybody going to testify  
22 today that was not sworn?

1 Mr. Shumate?

2 MR. SHUMATE: All of my witnesses are sworn in.

3 JUDGE DUGGAN: Okay. So anybody that's going  
4 to give testimony...

5 MR. EVANS: Yes, if you get to us.

6 MR. ROBERTSON: Yes.

7 MR. SHUMATE: Oh, Your Honor, I didn't realize  
8 it. Dave McKernan is here.

9 If you'd stand up, please.

10 And Mr. McKernan will testify as to  
11 three of the new slides. It's very short testimony.  
12 It will take about 60 seconds.

13 JUDGE DUGGAN: Okay. And someone back there is  
14 raising their hand.

15 MR. JUNO: Yes. Joe Juno with Juno &  
16 Associates in Granite City for the City of Granite  
17 City.

18 MR. ROBERTSON: I think he was only asking for  
19 the railroad witnesses first.

20 JUDGE DUGGAN: Well, no, actually, I was  
21 getting to you. I was just taking it in order.

22 MR. ROBERTSON: We have two witnesses, Your

1 Honor, Mr. Juno and Mr. Kulik.

2 JUDGE DUGGAN: Okay. Will those who are going  
3 to testify raise your right hand?

4 (Whereupon the witnesses were  
5 sworn by Judge Duggan.)

6 JUDGE DUGGAN: We do have microphones that  
7 could be turned on. If anybody here feels that you  
8 can't hear or we're not projecting well, including  
9 Laurel, just let us know and we can turn those on.

10 The problem is, once we turn them on,  
11 we can hear everything you say.

12 Now, before we went on the record, we  
13 noted there was a couple of people in the audience in  
14 the gallery here that had asked to make a statement  
15 on the record, a Sue Ann Archer and a Helen Hawkins  
16 who are not parties to the proceeding, and I'll  
17 explain to them right here that this is a proceeding  
18 in which we have the parties of record to present  
19 their case and present it through evidence.

20 We do conduct this proceeding and the  
21 decision and order through evidence. We are having  
22 an evidentiary hearing. What you're saying would not

1 be evidence. There's other ways and proceedings to  
2 address the Commission. There is apparently a way  
3 that you can enter a comment on what we call the  
4 electronic docket of the Commission, and I can give  
5 you that contact number if you'd like.

6 There is a proceeding by which you can  
7 make a motion to address the Commission directly at  
8 one of its public hearings or its monthly sessions.  
9 There's procedures for people to intervene and become  
10 parties.

11 So there are options should you choose  
12 to address them and obtain the information which, as  
13 I said, I can provide you that contact information or  
14 Mr. Saladino can. I believe you've talked with  
15 Mr. Saladino.

16 So that being said, Mr. Shumate, do  
17 you have objections to Ms. Hawkins and Ms. Archer  
18 speaking on the record?

19 MR. SHUMATE: No, we do not, Your Honor.

20 JUDGE DUGGAN: Okay. Mr. Robertson?

21 MR. ROBERTSON: We have no objection, Your  
22 Honor.

1 JUDGE DUGGAN: Okay. Mr. Evans?

2 MR. EVANS: No objection, Your Honor.

3 JUDGE DUGGAN: Mr. Sinclair?

4 MR. SINCLAIR: No objection.

5 JUDGE DUGGAN: Mr. Saladino?

6 MR. SALADINO: No objections, Your Honor.

7 JUDGE DUGGAN: Okay. And, Ms. Hawkins, you  
8 spoke first. Do you want to speak? You could sit or  
9 stand up but the court reporter is going to have to  
10 hear you.

11 MS. HAWKINS: I would just like to say of the  
12 many projects on behalf of my constituents, I've  
13 never experienced a crueler act as the Union Pacific  
14 Railroad closing Morrison Road railway. It appears  
15 that it doesn't matter how many officials such as  
16 Madison County sheriff, Bob Hertz, the County Highway  
17 Superintendent, Gary Stalhut, the County Public  
18 Safety Chairman, Gussie Glasper, the Chouteau  
19 Township Supervisor and Board of Trustees, the  
20 Nameoki Township Supervisor and Board of Trustees,  
21 Trustees of Pontoon Beach, the Fire Chiefs of Long  
22 Lake and Mitchell Fire Districts, and over 1,000

1 people have signed petitions opposing the railroad's  
2 plans.

3 The Granite City School Bus Company  
4 and U.S. mail carriers are all asking that the  
5 Morrison Road crossing stay open for safety reasons.

6 How can big money from the railroad  
7 company cause politicians to do such a reprehensible  
8 act to people who are much less fortunate.

9 Therefore, I am begging you to keep  
10 the Morrison Road railway open for safety and  
11 possibly build an overpass there.

12 Thank you.

13 JUDGE DUGGAN: Why don't you state your name  
14 for the record.

15 MS. HAWKINS: Helen M. Hawkins (H-a-w-k-i-n-s).

16 JUDGE DUGGAN: All right. And you referred to  
17 your constituents, and that's because you are on the  
18 county board, is that correct?

19 MS. HAWKINS: Yes, and I represent all areas  
20 involved, parts of Pontoon Beach, Nameoki Township,  
21 Chouteau Township, and a part of Granite City in my  
22 county board district.

1 JUDGE DUGGAN: Madison County?

2 MS. HAWKINS: Yes.

3 JUDGE DUGGAN: Thank you.

4 MS. HAWKINS: Thank you.

5 JUDGE DUGGAN: And Ms. Archer?

6 MS. ARCHER: Should I stay right here?

7 JUDGE DUGGAN: It probably would be better to  
8 come up where we can hear you.

9 Once again, Ms. Patkes is trying to  
10 take every word down. That's also why she needs the  
11 spellings.

12 So, if you would, state your name and  
13 your interest.

14 MS. ARCHER: Sue Ann Archer, and I am a  
15 resident of the area of the Morrison Road railroad.  
16 We've lived there over 40 years, and I just feel that  
17 for the safety of the residents with getting the  
18 police and the ambulance and sheriffs to us, if they  
19 would close that, it's going to be such a long way to  
20 get help when someone needs help, and it's a big  
21 safety issue, and there's lots of residents in this  
22 area that they're talking about that use that

1 crossing. The college is there. The AMVETS where I  
2 live out on Lakeview Drive, the AMVETS Post 51 is  
3 there, and they have a lot of events going on, and it  
4 just would be a very big hardship for everyone in  
5 that area if they close it.

6 It would be nice if they put an  
7 overpass in there because then the residents in our  
8 area wouldn't have to be worrying about our safety  
9 there, and I have a lot of people that call me all  
10 the time about what's going on, so I just felt like I  
11 needed to say something for the safety.

12 Thank you.

13 JUDGE DUGGAN: Thank you very much.

14 All right. This is a continued  
15 hearing.

16 At the first hearing, Mr. Shumate  
17 presented four or five witnesses and introduced a  
18 group Exhibit A, a supplement to A and Exhibit B and  
19 C. None of them were moved into evidence partially  
20 yet because, of course, no one else had a chance to  
21 cross-examine yet or at least not completely.

22 It's my understanding now,

1 Mr. Shumate, that you're going to withdraw what was  
2 introduced as Group A Supplement at the last hearing  
3 and replace that with a new A Supplement, is that  
4 correct?

5 MR. SHUMATE: That is correct, Your Honor.

6 JUDGE DUGGAN: Okay. Anybody have an objection  
7 why we shouldn't be doing that?

8 Mr. Robertson?

9 MR. ROBERTSON: No objection.

10 JUDGE DUGGAN: And Mr. Evans?

11 MR. EVANS: No objection.

12 JUDGE DUGGAN: Mr. Sinclair?

13 MR. SINCLAIR: No objection.

14 JUDGE DUGGAN: Mr. Saladino?

15 MR. SALADINO: No objections, Your Honor.

16 JUDGE DUGGAN: Okay. Then the previous  
17 identified exhibit is withdrawn, and I presume then  
18 that you will identify the documents in A Supp  
19 through your proper witnesses.

20 Let me get my bearings a little bit,  
21 make sure we're on the same wavelengths before we  
22 start the proceeding.

1                   Once again, the present at-grade  
2 crossing at issue is at Morrison Road in Madison  
3 County. There is an at-grade crossing one mile to  
4 the north and one mile to the South, is that correct,  
5 Mr. Shumate?

6                   MR. SHUMATE: Yes, Your Honor.

7                   JUDGE DUGGAN: Okay. And that just north of  
8 Morrison Road and south of the at-grade crossing one  
9 mile north is what you refer to as the interchange  
10 yard, correct?

11                  MR. SHUMATE: That's correct, Your Honor.

12                  JUDGE DUGGAN: Okay. And presently there are  
13 four tracks parallel to each other running  
14 approximately north and south in this area, correct?

15                  MR. SHUMATE: Yes. I'm going to let the  
16 superintendent of the Alton & Southern answer those  
17 questions to make sure that they are accurate, but  
18 that's correct, Your Honor.

19                  JUDGE DUGGAN: Okay. As I say, I'm just trying  
20 to get a quick review.

21                               And the proposed plan would bring --  
22 excuse me. Two of these tracks, two of these four

1 tracks extend through the Morrison at-grade crossing,  
2 correct?

3 MR. SHUMATE: That's correct.

4 JUDGE DUGGAN: And the plan is to bring two  
5 more tracks down from the interchange area and across  
6 Morrison grade crossing so there would be four tracks  
7 at crossing, is that correct?

8 MR. SHUMATE: That's correct, Your Honor.

9 JUDGE DUGGAN: Okay. And the purpose being to  
10 change out the railroad cars between other engines,  
11 as you say, interchange them, correct?

12 MR. SHUMATE: It's to interchange the trains  
13 with the Union Pacific Railroad, the Norfolk Southern  
14 Railroad, and the Burlington Northern Santa Fe  
15 Railroad, that's correct.

16 JUDGE DUGGAN: Okay. And a significant number  
17 of these trains are more than a mile long, correct?

18 MR. SHUMATE: I don't know that.

19 JUDGE DUGGAN: Okay. All right. If they're  
20 more than a mile long, then they're going to be  
21 blocking the Morrison grade crossing while they're  
22 conducting the interchange, is that correct?

1                   Okay. I tell you what, why don't you  
2 do that on the record if you can't verify that right  
3 now. I just want to be clear about what we're doing  
4 here.

5                   MR. SHUMATE: Your Honor, I can make this  
6 statement; that if the train is more than a mile  
7 long, it will block Morrison Road and could have the  
8 tail end of that on Chain of Rocks Road.

9                   JUDGE DUGGAN: I don't know what Chain of Rocks  
10 Road is.

11                   MR. SHUMATE: That's the at-grade crossing to  
12 the north of Morrison Road that's in the railroad  
13 yard, in the interchange yard.

14                   JUDGE DUGGAN: We'll do this through witnesses  
15 rather than what I thought would be an easy recap  
16 here.

17                   Okay. Well, we can go ahead and take  
18 your evidence, but I would like to get an overview  
19 again.

20                   MR. SHUMATE: I will do that, Your Honor.

21                   JUDGE DUGGAN: I appreciate that.

22                   MR. SHUMATE: One question I do have is that we

1 will put each of the witnesses on again just to  
2 clarify certain elements that we had on the direct.

3 My question is, do you want to do the  
4 cross-examination after we've completed all the  
5 witnesses? I don't think it will take more than 20  
6 minutes, maybe even less time, or do you want to  
7 cross-examine after each witness gives his additional  
8 testimony? Either way is fine with us.

9 JUDGE DUGGAN: Any strong preferences one way  
10 or the other, Mr. Robertson?

11 MR. ROBERTSON: I think I'd rather have them go  
12 through their stuff and then do our cross, but I  
13 could go either way, Your Honor.

14 JUDGE DUGGAN: I think it probably would help  
15 if you had a perspective about the fire protection  
16 districts and everything before you start  
17 cross-examining anybody. It won't hurt.

18 MR. ROBERTSON: I have no objection doing it  
19 that way.

20 JUDGE DUGGAN: Good deal.

21 Mr. Evans?

22 MR. EVANS: I'm fine with that, Your Honor.

1 JUDGE DUGGAN: Okay. Mr. Sinclair?

2 MR. SINCLAIR: That's fine, Your Honor.

3 JUDGE DUGGAN: Great.

4 MR. SHUMATE: Okay. Then I will call as the  
5 first witness for the Alton & Southern Railroad  
6 Mr. Michael McCarthy.

7 JUDGE DUGGAN: Mr. McCarthy, were you sworn the  
8 last time?

9 MR. McCARTHY: Yes, I was.

10 MICHAEL McCARTHY

11 called as a witness herein, on behalf of the  
12 Petitioner, having been previously sworn on his oath,  
13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. SHUMATE:

16 Q. Okay. Mr. McCarthy, I show you a document  
17 that's entitled A&S Group Exhibit A substitution  
18 slides. It goes 47 through 55, both inclusive, and  
19 additional slides 50A, 62, 63, 64, 65 and 66. Are  
20 you familiar with this document?

21 A. Yes.

22 Q. Okay. Now, I'm projecting these slides on

1 the screen also. The first slide is just the title  
2 page.

3 Now I show you what's marked as A&S  
4 Group Exhibit A, substitution slide 47. Can you  
5 relate what that states?

6 A. It says the Morrison Road Fire District.  
7 It just lists the fire protection locations.  
8 Mitchell Fire Department has two locations. It gives  
9 their addresses and their phone numbers.

10 B indicates Long Lake Fire Department,  
11 the same address, phone number; and C, Granite City  
12 Fire Department and its address and phone number.

13 Q. All right. To the best of your knowledge,  
14 are the fire protection districts properly referenced  
15 and their addresses to the best of your knowledge are  
16 correct?

17 A. To the best of my knowledge, yes.

18 Q. I direct your attention to A&S Group  
19 Exhibit A substitution slide No. 48. What is this  
20 document?

21 A. It's a Google map. It's a Google map that  
22 shows the location of the three fire protection

1 districts or the four firehouses that were referenced  
2 in the previous slide 48.

3 Q. And the previous slide failed to reference  
4 Mitchell Fire District Firehouse No. 2, is that  
5 correct?

6 A. Yes.

7 Q. And did it also have an incorrect location  
8 for the Long Lake Fire District?

9 A. I believe one of the dots was incorrect,  
10 yes.

11 Q. Now, to the best of your knowledge, does  
12 this now accurately reflect the locations of the fire  
13 stations?

14 A. To the best of my knowledge, yes.

15 JUDGE DUGGAN: Mr. Shumate, I don't know why I  
16 have such a hard time with some of these maps, but I  
17 see Morrison Road crossing typed on here. Maybe it's  
18 my glasses but I can't find Morrison Road.

19 MR. SHUMATE: Okay. Let me help with that.

20 Okay. I've put the slide on the  
21 screen now, Mr. McCarthy. There is a green arrow  
22 that's crisscrossed in the center of this photograph.

1 Next to it it says Morrison Road crossing; is that  
2 correct?

3 A. It is.

4 Q. Okay. Can you indicate for the judge, even  
5 if you have to go up on the slide, where Morrison  
6 Road is? I know it's not that clear on the slide.

7 A. I can. The arrows or the north, south,  
8 east, west arrows that are in the middle that's just  
9 to the side of the Morrison Road crossing label, the  
10 left side of that indicates --

11 Q. Okay. I'm going to ask you to go up to the  
12 slide if you would and point for the judge where  
13 Morrison Road is, where Chain of Rocks Road is, and  
14 where Pontoon Road is.

15 JUDGE DUGGAN: Let me ask you this. Is there  
16 another map that actually shows this that you can see  
17 it on?

18 THE WITNESS: The next slide.

19 MR. SHUMATE: The next one, Your Honor, but go  
20 ahead. Let's point to the general -- where is Chain  
21 of Rocks Road?

22 JUDGE DUGGAN: Understand this. That you're

1 making a transcript and she can't do pointing, so  
2 you've got to do a word picture here.

3 MR. SHUMATE: Well, let's do this. Let's go to  
4 the next slide then.

5 JUDGE DUGGAN: Okay. There you go.

6 Q. BY MR. SHUMATE: Staying with A&S Group  
7 Exhibit A, substitution slide 48, there are two green  
8 lines that go up and down on the page and then over  
9 in a westerly direction.

10 What do those two green lines depict?

11 A. That is the Alton & Southern's main line  
12 and siding tracks.

13 Q. Is that the current configuration of the  
14 main line and siding tracks?

15 A. Yes.

16 Q. Now I'm going to direct your attention to  
17 what's been marked Alton & Southern Group Exhibit A,  
18 substitution slide 49.

19 Are you familiar with this document?

20 A. Yes, I am.

21 Q. What does it depict?

22 A. It has a red circle. It circles the

1 intersection of the Alton & Southern main line and  
2 Morrison Road. It also depicts the approximate  
3 location of the, there's a red dot on three of the  
4 fire protection districts that we've referenced  
5 earlier and an arrow. In order to get the detail,  
6 the Granite City Fire District was off the map a  
7 little bit, but it shows an arrow in the general  
8 direction of which it's located.

9 Q. Just north of what's referenced as Engineer  
10 Road, is there a road to the north there?

11 A. Yes, there is.

12 Q. And what's the name of that road?

13 A. That road is East Chain of Rocks Road.

14 Q. Okay. And to the south of Morrison Road on  
15 this particular exhibit, does it show the location of  
16 Pontoon Road?

17 A. Yes, it does.

18 Q. And is the distance between East Chain of  
19 Rocks Road and Pontoon Road approximately 2.07 miles?

20 A. Yes.

21 JUDGE DUGGAN: And those are also the points of  
22 at-grade crossings? There's an at grade at East

1 Chain of Rocks Road and Pontoon Road?

2 THE WITNESS: Yes.

3 Q. BY MR. SHUMATE: I now direct your  
4 attention to Alton & Southern Group Exhibit A,  
5 substitution slide 50.

6 What does this depict?

7 A. This is a more detailed look at the  
8 Mitchell Fire District, the location using a Google  
9 map.

10 Q. Okay. Now I'll show you what's been marked  
11 as Alton & Southern Group Exhibit A, substitution  
12 slide 51. I want to show that on the top here.

13 Can you describe for the judge what  
14 this shows? What does this show, substitution slide  
15 51?

16 A. It shows the railroad in the dotted lines  
17 in green and the Mitchell Fire Protection District at  
18 Morrison Road in yellow.

19 Q. And does this show Morrison Road on this  
20 map?

21 A. Yes, it does.

22 Q. Okay. And it shows that the Mitchell Fire

1 District at Morrison Road is on the north side of  
2 Morrison Road?

3 A. Yes.

4 Q. I now direct your attention to substitution  
5 slide 52. What does this show?

6 A. This also is a Google map that shows the  
7 more detailed location of Long Lake Fire Department.

8 Q. I'm now going to show you Alton & Southern  
9 Group Exhibit A, substitution slide No. 53. What  
10 does this show?

11 A. Once again, it shows the railroad in green  
12 and Long Lake Fire Protection District in yellow.

13 Q. Okay. And would you reference the location  
14 of the Long Lake Fire Protection District service  
15 area? Is it on both sides of the Alton & Southern  
16 Railroad in the vicinity of Morrison Road?

17 A. Yes, it is.

18 JUDGE DUGGAN: Now, I'm seeing the fire  
19 districts but I'm not seeing where the fire stations  
20 are located on these exhibits.

21 MR. SHUMATE: The fire stations aren't on  
22 substitution slide 53. The fire station is shown on

1 substitution slide 52, Your Honor.

2 And to get a feel for it, if you look  
3 at substitution slide 49, it shows where the various  
4 fire stations are relative to each other and Morrison  
5 Road. It shows Long Lake Fire Department just north  
6 of Pontoon Road.

7 JUDGE DUGGAN: It's hard to get the perspective  
8 to tie this into this so that I know within this  
9 district...

10 MR. SHUMATE: Well, maybe I can help with that.

11 Q. Mr. McCarthy, directing your attention to  
12 A&S Group Exhibit A, substitution slide 52, there is  
13 an arrow that shows the fire station for the Long  
14 Lake Fire Department; is that correct?

15 A. Yes.

16 Q. Okay. And what is the name of the road  
17 indicated on this Google map just south of the Long  
18 Lake Fire Department station?

19 A. Pontoon Road, located on Pontoon Road.

20 MR. SHUMATE: Okay. Thank you.

21 JUDGE DUGGAN: Well, why don't we just point to  
22 it somewhere here and show me where this.

1                   On 53 and 51, why don't you just tell  
2 me where these fire stations are. Point to it or  
3 something or direct me to it.

4           MR. SHUMATE: Why don't I put 48 up first.

5           JUDGE DUGGAN: Or I can give you the original  
6 exhibit and you can X it.

7           MR. SHUMATE: Your Honor, I have put up A&S  
8 Group Exhibit A, substitution slide 49.

9           JUDGE DUGGAN: Okay. You're showing me the  
10 district. You're not showing me where the fire  
11 department is within the district.

12          MR. SHUMATE: The dots are the fire stations.

13          JUDGE DUGGAN: Okay. Show me 51.

14          MR. SHUMATE: 51, Your Honor?

15          JUDGE DUGGAN: 51.

16          MR. SHUMATE: Okay. There's 51. Oh, that's  
17 58. Excuse me. I'm not there yet. That's 52. This  
18 is 51.

19          JUDGE DUGGAN: There you go. Now, where in  
20 there is the fire department? That's what I want to  
21 know.

22          MR. EVANS: Are we looking for Mitchell or Long

1 Lake?

2 THE WITNESS: You're looking for Long Lake is  
3 what you're looking for, and that would be on slide  
4 53.

5 JUDGE DUGGAN: No, I'm also looking for 51. My  
6 point is I can't tell on 51 or 53 where the fire  
7 station is within the district you're showing me.

8 MR. SHUMATE: We had several slides showing the  
9 location of the fire stations, and then we had  
10 separate slides showing the fire protection  
11 districts.

12 JUDGE DUGGAN: I know. I'm not able to make  
13 that extrapolation and put one over the other.

14 So if someone could simply show me on  
15 51 and 53 where the respective fire stations are,  
16 that would make it a lot more helpful.

17 THE WITNESS: You want 51 first?

18 JUDGE DUGGAN: I don't care which one we do  
19 first.

20 MR. SHUMATE: Is Pontoon Road on there?

21 THE WITNESS: Yes. Pontoon Road is right here.  
22 Long Lake would be right here.

1 JUDGE DUGGAN: Excuse me a second. Let's go  
2 off the record.

3 (Whereupon an off-the-record  
4 discussion transpired at this  
5 time.)

6 JUDGE DUGGAN: On the record.

7 Off the record we had conferences to  
8 locate the fire station or stations with respect to  
9 each of the Exhibits 51, 53 and 55, and I believe  
10 that everybody has their exhibits marked with an X on  
11 each of 51, 53, and 55, 51 actually having two Xs,  
12 each X on 51, 53 and 55 depicting a fire station for  
13 the fire district as represented on the exhibit and  
14 would note that for Granite City, it's not a fire  
15 district but, in fact, it's Granite City's Fire  
16 Department.

17 Is that correct, Mr. Robertson?

18 MR. ROBERTSON: That is correct.

19 JUDGE DUGGAN: And you stipulate to that,  
20 Mr. Shumate?

21 MR. SHUMATE: Yes, Your Honor.

22 JUDGE DUGGAN: All right. Then I'll ask if the

1 parties are stipulating that the Xs on 51, 53 and 55  
2 fairly depict the location of the stations in each of  
3 the respective fire districts.

4 Mr. Shumate?

5 MR. SHUMATE: Yes, Your Honor.

6 JUDGE DUGGAN: Okay. Mr. Robertson?

7 MR. ROBERTSON: Yes.

8 JUDGE DUGGAN: Mr. Evans?

9 MR. EVANS: Yes.

10 JUDGE DUGGAN: And Mr. Sinclair?

11 MR. SINCLAIR: Your Honor, could I actually see  
12 your exhibit because I have not seen the actual  
13 markings for Mitchell. I want to compare it.

14 JUDGE DUGGAN: Off the record.

15 (Whereupon an off-the-record  
16 discussion transpired at this  
17 time.)

18 JUDGE DUGGAN: Back on the record.

19 Off the record there was a revision to  
20 where station 2 was marked on Exhibit 51 for Mitchell  
21 Fire District, and so we've got a corrected copy of  
22 51, so we'll start the stipulation over here.

1 I would ask if the parties can  
2 stipulate that the location of the fire districts as  
3 depicted, excuse me, the fire stations as depicted by  
4 Xs on 51, 53 and 55 fairly depict the location of  
5 those fire stations.

6 Mr. Shumate?

7 MR. SHUMATE: Yes, I concur.

8 JUDGE DUGGAN: Mr. Robertson?

9 MR. ROBERTSON: Yes, sir.

10 JUDGE DUGGAN: Mr. Evans?

11 MR. EVANS: So stipulate.

12 JUDGE DUGGAN: And Mr. Sinclair?

13 MR. SINCLAIR: Yes, sir.

14 JUDGE DUGGAN: Mr. Saladino?

15 MR. SALADINO: Yes, Your Honor.

16 JUDGE DUGGAN: Okay. Thank you very much.

17 Okay. Mr. Shumate, proceed.

18 MR. SHUMATE: All right. Thank you.

19 I still have Mr. Michael McCarthy  
20 here.

21 Q. Mr. McCarthy what's, been marked as A&S  
22 Group Exhibit A supplemental slides and additional

1 slides, I'd now like to direct your attention to  
2 slide number 58, and it's up on the screen right now,  
3 and what does this depict?

4 A. It's a Google map that shows the location,  
5 a more detailed location of Mitchell Fire Department  
6 No. 2.

7 Q. And the original slides we did not indicate  
8 where Mitchell Fire Department No. 2 or their station  
9 No. 2 was, is that correct?

10 A. That's correct.

11 Q. Now I'd like to direct your attention to  
12 what's been marked as Alton & Southern Group Exhibit  
13 A, additional slide No. 62.

14 Did you or people that you work with  
15 prepare this slide?

16 A. Yes.

17 Q. And what does it depict?

18 A. The top half of the page shows the existing  
19 Mitchell tracks, and what it depicts is the current  
20 configuration of the road, and it shows that there is  
21 a bottleneck due to the length of track 1 and 5.

22 Track 6 which extends through the

1 Morrison Road and our main line is the current  
2 configuration. We really don't have the ability to  
3 make concurrent moves or simultaneous moves.

4 Q. I'm going to ask you to take this drawing  
5 and turn it 90 degrees, so Chicago, where it says to  
6 Chicago is pointing toward the top and to St. Louis  
7 to the south, and so Morrison Road is in yellow  
8 there, is that correct?

9 A. That's correct.

10 Q. And then the four blue lines that are on  
11 that map or on this print, those are the tracks as  
12 it's currently configured, right?

13 A. That is correct.

14 Q. Okay. And what's a bottleneck?

15 A. A bottleneck is a place where the track  
16 structure isn't adequate to handle the volume of  
17 trains efficiently, and we'll call that a bottleneck.

18 Q. So currently through the crossing, there's  
19 both the main line and track 6, is that correct?

20 A. That is correct.

21 Q. Okay. Now, you have reference on this  
22 slide to train 1, 15 minutes, train 2, 15 minutes.

1       What does this mean?

2           A.     What this means is currently we can only  
3     make, in most insurances, unless it's a very short  
4     train, we can only really make one train move through  
5     there at a time, and it's showing that train 1 would  
6     have to come in there first. It would block for 15  
7     minutes. Train 2 after that train exits would come  
8     through and block it for 15 minutes.

9           Q.     Okay. So now what's on the bottom half of  
10    the slide?

11          A.     It depicts what the Mitchell tracks will  
12    look like after the construction is done, and it  
13    shows that Mitchell, the tracks 1 and 5 will be  
14    extended through Morrison Road and track 6 will be  
15    lengthened somewhat.

16          Q.     Is that what's indicated by green dots on  
17    this particular slide?

18          A.     Yes, it's indicated by the green dots.

19          Q.     Okay. So through Morrison Road which is  
20    still in yellow, there would then be four tracks  
21    going through that crossing instead of two, is that  
22    correct?

1           A.     That is correct.

2           Q.     Okay.  Now, reference here, it says added  
3     capacity underlined, reduced blocked crossing time.  
4     What do you mean by that?

5           A.     With the new configuration and the extended  
6     tracks, what we can do is have multiple meets.  We  
7     have a set number of trains that we run each day.  
8     We're projecting a maximum of 20 trains a day, and  
9     what this shows is if we can meet two trains at the  
10    same time and process them, this is an illustration  
11    of one going southbound and one going northbound.  
12    That can be done at the same time processing both  
13    trains simultaneously thereby getting the trains  
14    through the crossing simultaneously will reduce the  
15    amount of time that the crossing is blocked  
16    throughout a 24-hour period.

17          Q.     Okay.  In your prior testimony at the first  
18    hearing on this matter, you used the phrase elephant,  
19    like a chain of elephants.

20                    Can you explain using this second half  
21    of the slide what a chain of elephants would be?

22          A.     Well, that's actually represented by what's

1 on the top half of the page. When you do it, when  
2 you have trains that have to go through an area one  
3 at a time, basically nose to tail, just a descriptive  
4 term we use is elephant style, one after another in a  
5 row.

6 The bottom half depicts if you can run  
7 them simultaneously through that crossing, you can  
8 process two trains at once, and if you have a set  
9 number of trains, there will be more time during the  
10 day when the crossing is unoccupied.

11 Q. Now, when you say process the trains, that  
12 means moving the trains through the crossing?

13 A. That's correct.

14 Q. And would the added two tracks, can you  
15 have two trains going in the same direction at the  
16 same time?

17 A. Actually, we can. You can have a run  
18 through train, an interchange train that would move  
19 through that crossing at the same time.

20 Q. And can you have trains going in both  
21 directions at the same time through the crossing?

22 A. Yes. That's what's depicted in this

1 illustration.

2 Q. Okay. Now, there's a question as to what  
3 is the average train size for the 20 trains that will  
4 go through this crossing.

5 What is the length of the trains? Are  
6 they all the same?

7 A. No. They'll vary. Our average train size  
8 will be about 7,000 feet.

9 Q. Okay. At 7,000 feet, is it possible that  
10 both Morrison Road and either Pontoon Road and/or  
11 Chain of Rocks Road could be blocked at the same  
12 time?

13 A. By a moving train as they're entering into  
14 or leaving Mitchell tracks, both crossings can be  
15 occupied at the same time.

16 Q. But if it's a moving train, would one of  
17 them be cleared relatively quickly?

18 A. Yes.

19 Q. Now, in addition to the installation of two  
20 additional tracks at this crossing, will trains be  
21 impacted in any way by the improvements that will be  
22 made?

1           A.    Yes.  We're giving ourselves the ability to  
2    have a maximum speed of 30 miles an hour.

3           Q.    And what's the current maximum speed?

4           A.    15.

5           Q.    So if the train speed is increased, will  
6    that have an impact on the amount of gate down time  
7    for trains to go through the crossing?

8           A.    Yes, it will.

9           Q.    If you had a 7,000-foot train, how long  
10   would that take to go through the crossing at 15 mile  
11   an hour roughly?

12          A.    Well, I calculate it on a 6,500-foot train  
13   because that's what the new oil train business is  
14   averaging, about 6,500 feet.  6,500-foot train moving  
15   at 15 miles an hour through Morrison Road, the time  
16   of occupancy would be 4 minutes and 55 seconds.

17          Q.    And if the train speed was increased to  
18   30 miles per hour, how long would it take to go  
19   through the crossing?

20          A.    2 minutes and 27 seconds.

21          Q.    So it would reduce approximately half the  
22   time?

1           A.    Close, yes.

2           Q.    And also as part of the project with the  
3 addition of these two additional tracks and the other  
4 modifications, will there be a timeout at Morrison  
5 Road for trains that would be stopped just before  
6 Morrison Road?

7           A.    Yes.

8           Q.    Can you explain how that works?

9           A.    In general terms, I'm not a hundred percent  
10 technically proficient but we do use grade crossing  
11 predictor modules on the crossings, and it's got the  
12 capability that if a train stopped short of the  
13 crossing, after a certain amount of time, it will  
14 time out and the gates will go up if it sees no  
15 movement in the train.

16          Q.    And so if a train starts to come from the  
17 opposite direction, will the gates then go down?

18          A.    Yes.

19          Q.    And if another train on another track from  
20 the same direction starts to come toward the  
21 crossing, would the gates then go down?

22          A.    Yes.

1 Q. But if nothing happens and the train just  
2 sits there, approximately how long until the gates go  
3 back up to let traffic go through?

4 A. I do not know the exact timeout amount of  
5 time.

6 Q. Do you know the approximation of it?

7 A. No, I wouldn't say that.

8 Q. Who would know that?

9 A. That would be Mr. Russell Pratt.

10 Q. And he's here today?

11 A. He is.

12 Q. Okay. Now, I want to direct your attention  
13 to what's been called Alton & Southern Group Exhibit  
14 A additional slide 63.

15 A. Yes.

16 Q. Can you tell us what that is?

17 A. That's just a very high level description  
18 of the project that we are proposing for the Mitchell  
19 showing an extension of tracks 1, 5 and 6 so they can  
20 handle longer trains that we're having today.

21 The benefits of it is to support  
22 growth and to interchange the increased volume of

1 trains that we're seeing. The project description is  
2 it's extending Mitchell 1, 5 and 6 for about  
3 9,000-foot long trains which is some of our longer  
4 trains that we are starting to see now in today's  
5 railroad world, and it creates three long slots or  
6 interchange tracks that we can use to do this so we  
7 can do the concurrent simultaneous moves.

8 Also, in the bottom part which is a  
9 graphical representation, in the green is where the  
10 tracks will be extended. It does show the three road  
11 crossings that we've been talking about and the red  
12 dots at each end are the power switches that will be  
13 going in at each end so that a train crew doesn't  
14 have to stop, line a switch. They would be lined for  
15 them automatically before the train gets there.

16 Q. Now, you indicated that the red dots are  
17 power switches, is that correct?

18 A. That's correct.

19 Q. And does that help with the efficiency of  
20 the movement of the trains through the area of  
21 Morrison Road?

22 A. Yes. There will be a person or a

1 yardmaster who handles the dispatching of the trains.  
2 He has the ability to line those switches from a  
3 remote location and have the train lined up so that  
4 when he pulls in there, a train crew doesn't have to  
5 stop at the switch, get off the train, hand line it,  
6 get back on the train and then continue.

7 Q. So will that help with velocity through  
8 Morrison Road so that you don't have an adverse  
9 impact on vehicular traffic?

10 A. Yes.

11 Q. Did you help prepare this particular slide?

12 A. Yes.

13 Q. I'm going to ask you one more question,  
14 quick question.

15 Is there anything else that I have  
16 failed to ask you that you think would be helpful to  
17 the judge and the Illinois Commerce Commission in  
18 reaching a determination with respect to the petition  
19 that's here today?

20 A. The only just piece of information that  
21 I'll bring up, it's probably already been brought  
22 out, is that the increase in volume of trains is

1 already here. The vast majority of it, so we've  
2 already incurred the increased volume, and we are  
3 having more occupancy of the road crossing due to  
4 that increased volume of trains.

5 The capital project that we're  
6 proposing will greatly reduce the impact on the road,  
7 and with the buildout and the capital investment that  
8 we are going to be making, the occupancy time at the  
9 crossing should be the same or even get better due to  
10 the increased capacity that we're putting in.

11 Q. From a standpoint of safety, do you see  
12 whether or not in your opinion and your experience,  
13 whether or not the grade crossing at Morrison Road  
14 will be as safe, less safe, more safe than it is  
15 today?

16 A. I think it will be as safe or safer due to  
17 the investment that we're making.

18 Q. And that includes not only the addition of  
19 the two tracks but also the grade crossing surface  
20 and the signalization system that will be installed?

21 A. That's correct.

22 MR. SHUMATE: Your Honor, I have no further

1 questions for Mr. McCarthy, and to complete our Alton  
2 & Southern Group Exhibit A, I would then bring up  
3 Mr. David McKernan.

4 JUDGE DUGGAN: Okay. Well, let me go ahead and  
5 ask a couple questions of him right now.

6 CROSS-EXAMINATION

7 BY JUDGE DUGGAN:

8 Q. You say the present speed is 15 miles an  
9 hour?

10 A. Yes.

11 Q. And that's 1-5, correct?

12 A. 15, yes.

13 Q. And are any of these trains through trains  
14 on the main line?

15 A. There are some of them on the main line,  
16 yes.

17 Q. And so your main line travels at 15 miles  
18 per hour throughout this intersection?

19 A. Yes.

20 Q. Why is that?

21 A. Because of the type of main line authority  
22 that we have up there.

1                   Also with this project, we're going to  
2                   change the system that we use on the main line.  
3                   That's one of the reasons, and then coming out of the  
4                   siding on the south end, we're making those bigger  
5                   turnouts instead of a smaller turnout which allows  
6                   the train speed to also increase.

7                   Q.    Are you planning on doing more interchange  
8                   operations at this particular location?

9                   A.    The current configuration the way we  
10                  project it to be will be approximately ten trains  
11                  that will not interchange there but will run through.  
12                  The other ten trains will be interchange trains.

13                  Q.    Now, I understand you said that the  
14                  increased traffic is already here.

15                  A.    The majority of it, yes, sir.

16                  Q.    Okay. And I think last time you said it  
17                  was due to -- was it oil, crude oil trains?

18                  A.    Yes, sir.

19                  Q.    Okay.

20                  A.    There are some other but that's the  
21                  majority of it.

22                  Q.    All right. I guess what I'm wondering,

1 because last time you also talked about this gateway  
2 yard that has 1,600 cars in and out a day and 48  
3 trains a day and its relationship to this  
4 interchange.

5 I'm wondering, are you moving some of  
6 the interchange operations up to the Mitchell Road or  
7 Mitchell interchange?

8 A. No. It depends on who gives us the train.  
9 If it's a crew from the Union Pacific, they'll run  
10 through Mitchell yard. It's more of a contractual  
11 union agreement than anything else that they can come  
12 onto our property because they're an owner.

13 The other roads are not owners, and  
14 the interchange point for those railroads  
15 historically and in the future, those interchange  
16 points, there's a number of interchange points, but  
17 Mitchell is at the north end of our railroad, so the  
18 Burlington Northern and the Norfolk Southern would  
19 interchange their cars to us where we would put our  
20 crew on.

21 Q. And is that a different thing than you have  
22 right now?

1           A.    No.  We're just going to have more of them.

2                               Right now we do interchange with the  
3  Norfolk Southern, and we have historically  
4  interchanged with the Burlington Northern there  
5  although not as frequently, but from the Norfolk  
6  Southern we'll have probably three or four trains a  
7  day with them, and that's been historical.

8                               So what we're doing is the increased  
9  business is all interchange type business.  It's  
10 coming from railroads other than the Union Pacific.

11           Q.    Okay.  So you're not moving some  
12 interchange operations.  It's all a function of  
13 increased traffic.

14           A.    Yes, sir.

15           Q.    At the Mitchell location, right?

16           A.    Yes, sir.

17           Q.    And the speed or the time of blocking a  
18 crossing from 4 plus minutes to 2 minutes 27 seconds,  
19 that is for trains that are simply passing on  
20 through.  That doesn't reflect the time that a  
21 crossing may be blocked due to interchange  
22 operations, correct?

1           A.    That is correct.

2           Q.    Okay.  And how long would a crossing be  
3 blocked on an average interchange operation?

4           A.    If the interchange goes well, it's usually  
5 around 15, 20 minutes, 15 minutes.

6           Q.    And what's usually your maximum or your  
7 range?

8           A.    If the other crew isn't there and we would  
9 have to cut the crossing, then it can go a half hour,  
10 45 minutes while we separate the train and cut the  
11 road crossing until the other train gets there, and  
12 then the train would have to be put back together.

13          Q.    So you're saying that after a certain  
14 amount of time, you would automatically decouple  
15 them?

16          A.    Yes, sir.  We would cut the road crossing.

17          Q.    After how long?

18          A.    We should be able to tell the crew, we  
19 should know if it's a good meet because we have  
20 communications with both the Burlington Northern and  
21 the Norfolk Southern, so our goal is to time that  
22 interchange so that the inbound crew and the outbound

1 crew are there at the same time; basically a step on  
2 step off type of operation.

3 If that is not going to happen and we  
4 know that, we will the tell the crew to prepare to  
5 cut that road crossing when the train gets up there.  
6 We'll start that immediately, which we do at times.

7 Q. Okay. So if you don't have people either  
8 at the place or immediately accessible for  
9 simultaneous operation, then you'll go ahead and  
10 separate them across the crossing?

11 A. Right. We'll begin that operation  
12 immediately.

13 Q. Is that just your internal policy or is  
14 that a Service Transportation Board directive?

15 A. It's no directive. It's just how we've  
16 always operated our system. I mean, that's just what  
17 we do.

18 Q. And again, when you do the interchange, do  
19 you block two crossings or do you arrange it so  
20 you're only blocking one crossing?

21 A. You'd only block one crossing.

22 Q. And you're conducting these type operations

1 right now with only the one sidetrack at the at grade  
2 crossing?

3 A. Right. It's 6,500 feet is what our  
4 Mitchell 6 is, and then our main line is what we have  
5 to work up there with right now.

6 Q. So with the same traffic you're seeing now,  
7 if you have two more tracks going across at that at  
8 grade crossing, you believe that you can perform more  
9 functions at once?

10 A. Simultaneously, yes.

11 Q. And what are the number of trains per day?

12 A. Currently right now we're seeing about 17  
13 or 18. Before the buildup of business early this  
14 year, it was probably 10 to 12. We project...and  
15 it's a forecast. It's not, you know, a hard and fast  
16 thing...but from our information right now, the  
17 maximum should be around 20 to 21 trains.

18 Q. Okay. And you're not asking that this  
19 crossing -- you're not asking the Commission to close  
20 this crossing, are you?

21 A. No, we are not.

22 Q. And certainly not in this petition,

1 correct?

2 A. We are not.

3 JUDGE DUGGAN: All right. Thank you.

4 Again, I appreciate your patience.

5 You reserve your cross?

6 MR. ROBERTSON: Yes.

7 JUDGE DUGGAN: Okay. Thank you very much.

8 (Witness excused.)

9 JUDGE DUGGAN: You want to call your next  
10 witness?

11 MR. SHUMATE: Yes. I'd like to call Dave  
12 McKernan, please.

13 DAVID MCKERNAN

14 called as a witness herein, on behalf of the  
15 Petitioner, having been previously sworn on his oath,  
16 was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. SHUMATE:

19 Q. Will you state your name for the record,  
20 please?

21 A. David McKernan (M-c-K-e-r-n-a-n).

22 Q. And, Mr. McKernan, by whom are you

1 currently employed?

2 A. I'm employed by Union Pacific Railroad.

3 Q. And from time to time, do you ever do any  
4 work on the territory referred to here as the Alton &  
5 Southern?

6 A. Yes.

7 Q. And how long have you been with the  
8 railroad or its predecessors?

9 A. 34 years.

10 Q. And are you generally familiar with the  
11 petition that's been filed today?

12 A. Yes, I am.

13 Q. And have you had the opportunity to look at  
14 the crossing which is the subject matter of today's  
15 hearing at Morrison Road?

16 A. Yes, I have.

17 Q. Okay. Now, I'm going to show you three  
18 slides here. The first one is marked as Alton &  
19 Southern Group Exhibit A, additional slide 64. Are  
20 you familiar with that?

21 A. Yes.

22 Q. What is that slide?

1           A.    That is information provided for Morrison  
2    Road, DOT number mile pole operating railroad.

3           Q.    Who produces this information?

4           A.    Most of the information is provided by the  
5    state and/or local road authorities as far as the ADT  
6    (average daily traffic count).  In this case at  
7    Morrison Road, it's 800 vehicles a day.

8           Q.    Okay.  And that's highlighted in yellow on  
9    that slide?

10          A.    Yes, it is.

11          Q.    Okay.  Now I want to direct your attention  
12   to what's been marked as Alton & Southern Group  
13   Exhibit A additional slide 65, and is that a slide  
14   similar to the one we just looked at?

15          A.    Yes, it is.

16          Q.    And what crossing does this cover?

17          A.    This particular is for the Pontoon Road  
18   crossing.

19          Q.    Okay.  And what's the average daily traffic  
20   count on that particular crossing?

21          A.    9,800 vehicles a day.

22          Q.    Okay.  And now I want to direct your

1 attention to what's been marked as Alton & Southern  
2 Group Exhibit A additional slide 66. Is it similar  
3 to the other two slides?

4 A. Yes, it is.

5 Q. And what crossing does it show?

6 A. Chain of Rocks Road.

7 Q. And that's the crossing to the north of  
8 Morrison Road crossing?

9 A. That's correct.

10 Q. And what's the average daily traffic count  
11 on that particular crossing?

12 A. 6,200 vehicles.

13 MR. SHUMATE: Okay. No further questions.

14 JUDGE DUGGAN: Okay. Just to be a little bit  
15 clear about this, where did you get these -- did you  
16 create the document and put this information in there  
17 or is this the format the information was in when you  
18 got it?

19 THE WITNESS: This is the format the  
20 information comes in, and you can get this off of  
21 Illinois Department of Transportation website or the  
22 Illinois Commerce Commission website as well.

1 JUDGE DUGGAN: Okay. Very good. Thank you.

2 (Witness excused.)

3 MR. SHUMATE: Now, Your Honor, I'd like to call  
4 Russell Pratt or recall Mr. Russell Pratt.

5 JUDGE DUGGAN: Okay. Mr. Pratt?

6 Let me do this. Mr. Saladino, what do  
7 you call this document?

8 MR. SALADINO: It is an inventory.

9 MR. MCKERNAN: DOT inventory.

10 MR. SALADINO: Yeah, DOT inventory sheet or  
11 form.

12 JUDGE DUGGAN: Is it agreeable with everybody  
13 to refer to it as the DOT inventory sheet, crossing  
14 inventory sheet?

15 Mr. Shumate?

16 MR. SHUMATE: Yes, sir.

17 JUDGE DUGGAN: Mr. Robertson?

18 MR. ROBERTSON: That's fine.

19 JUDGE DUGGAN: Mr. Evans?

20 MR. EVANS: That's fine.

21 JUDGE DUGGAN: Mr. Sinclair?

22 MR. SINCLAIR: Yes, fine.

1 JUDGE DUGGAN: Thank you.

2 RUSSELL PRATT

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

6 DIRECT EXAMINATION

7 BY MR. SHUMATE:

8 Q. Okay. Would you state your name for the  
9 record, please?

10 A. Russell Pratt; R-u-s-s-e-l-l P-r-a-t-t.

11 Q. And you testified earlier in this matter,  
12 did you not?

13 A. Yes, sir.

14 Q. And just to refresh everybody's  
15 recollection, what is your position?

16 A. I am the Manager of Signal Communications  
17 for the Alton & Southern Railway.

18 Q. And how long have you worked for the Alton  
19 & Southern Railway?

20 A. 22 years.

21 Q. And are you familiar with the petition  
22 that's been filed here today?

1           A.    Yes, sir.

2           Q.    We had some testimony earlier from  
3           Mr. McCarthy indicating that there was going to be  
4           some type of circuit where the train would come and  
5           stop, and if it's stopped near the crossing,  
6           eventually it would time out and the crossing would  
7           open again, is that correct?

8           A.    That is correct.

9           Q.    As a signal person, what do you call that?

10          A.    The new technology is called a crossing  
11          predictor.  It gives adequate warning time when a  
12          train approaches, and if a train stops in the  
13          approach within 30 to 45 seconds, the crossing will  
14          time out and the gates will come up.

15          Q.    And then if the train comes from the other  
16          direction, will the crossing go back down again?

17          A.    That is correct.

18          Q.    And if another train on another track from  
19          the same direction approaches the crossing will the  
20          crossing go down again?

21          A.    Yes, the crossing will go down or remain  
22          down when another train is in the approach.

1 Q. What's the reason for these predictors?

2 Why do you have them?

3 A. Protect the public from the train traffic.

4 Q. Okay. And if the train is stopped, does it  
5 then permit more flow of traffic across the crossing?

6 A. That is correct.

7 Q. Okay. So if the train is stopped just near  
8 a crossing but not at the crossing, after so many  
9 seconds, the gate will go back up and allow traffic  
10 to go through?

11 A. That is correct.

12 Q. And what is the time for that? How long  
13 does the train have to sit there still before the  
14 gates go back up?

15 A. It's a rough estimate, between 30 and 45  
16 seconds depending on the equipment.

17 Q. And that type of equipment will be  
18 installed at Morrison Road as part of this project?

19 A. Yes, sir.

20 Q. Okay. At this particular crossing, when a  
21 train approaches the crossing, how much time will  
22 pass where the gates are activated and the lights are

1 activated before the train actually enters the  
2 crossing?

3 A. The system will be designed that the gates  
4 will be down, lights will be flashing 25 seconds  
5 before a train enters a crossing.

6 Q. And is that in keeping with the federal  
7 code of regulations?

8 A. Yes, sir.

9 Q. I'll ask again, is there anything that I  
10 failed to ask you that you think would be helpful to  
11 the judge in deciding this matter?

12 A. No, sir. I've answered everything.

13 Q. Okay. Before we had some front sheets and  
14 signal designs. Have they changed at all?

15 A. No, sir, nothing has changed. The new  
16 track layout has changed which will change our front  
17 sheet as far as track centers.

18 Q. I see. And what will those new track  
19 centers be?

20 A. My understanding, the new track centers  
21 will be 15 feet from 14 feet.

22 Q. And is that because the railroad, Alton &

1 Southern, was able to acquire some additional  
2 property to be able to accommodate that?

3 A. Yes, sir, that's my understanding from the  
4 last hearing we had that they have made some  
5 acquisitions.

6 Q. So it will be a foot wider?

7 A. Yes, sir.

8 Q. Between each track?

9 A. Yes, sir.

10 MR. SHUMATE: Okay. No further questions, Your  
11 Honor.

12 JUDGE DUGGAN: No questions.

13 MR. SHUMATE: Now I would like to call, Your  
14 Honor, Mr. Jason Haas.

15 JUDGE DUGGAN: Okay. Let's go off the record a  
16 second.

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

20 JUDGE DUGGAN: Back on the record.

21 Mr. Pratt is going to clarify any  
22 changes.

1 Q. BY MR. SHUMATE: Okay. Mr. Pratt, you're  
2 holding what's been marked as Alton & Southern  
3 Exhibit C, is that correct?

4 A. That is correct.

5 Q. And are you familiar with that document?

6 A. Yes, sir.

7 Q. And on page -- what page of the exhibit is  
8 that?

9 A. Well, it's not marked.

10 Q. Count them. Just take your time.

11 (Pause)

12 A. It's on what I've counted as the 13th page.

13 Q. All right. And what is the 13th page?

14 A. The 13th page is the beginning of the new  
15 circuit plans for Morrison Road.

16 Q. And it has an X on it. Why?

17 A. Originally when it was designed, it was  
18 designed for 15-foot track centers.

19 JUDGE DUGGAN: Okay. Hold on. Let's make sure  
20 we all got the same --

21 MR. SHUMATE: Page 13, Your Honor.

22 JUDGE DUGGAN: I know, but they're not

1 numbered.

2 MR. SHUMATE: You've got to count them. It  
3 looks like this.

4 JUDGE DUGGAN: Okay. Hold on.

5 Okay. The painting we're referring to  
6 has handwritten at the bottom of it "see slide 7"  
7 with an X, correct?

8 THE WITNESS: That is correct.

9 JUDGE DUGGAN: All right. Very good. And then  
10 there's a big X across the whole diagram, correct?

11 THE WITNESS: That is correct.

12 JUDGE DUGGAN: Okay.

13 Q. BY MR. SHUMATE: Okay. Mr. Pratt, we were  
14 looking at page 13 now on the Alton & Southern  
15 Exhibit C.

16 What does that show?

17 A. This was the original design for the new  
18 Morrison Road upgrade that depicted the four tracks  
19 through the crossing with 15-foot track centers for  
20 all four tracks.

21 Q. Okay. And then at the previous hearing,  
22 this was scratched out, and it was replaced with what

1 has been marked slide No. 7 to the Alton & Southern  
2 Group Exhibit A consisting of 1 through 61 slides,  
3 correct?

4 A. Yes, sir.

5 Q. And when you look at slide 7, does it show  
6 15-foot track centers or something different?

7 A. It shows something different.

8 Q. What's it show?

9 A. It shows one track having 15-foot centers  
10 and then the other three having 14-foot centers.

11 Q. Okay. And with the acquisition of the  
12 additional property, will the track centers now be 15  
13 foot on each one of them?

14 A. Yes, sir.

15 Q. So what has been depicted as page 13 on  
16 your Exhibit C, Alton & Southern Exhibit C, that is  
17 now accurate again, is that correct?

18 A. That is correct.

19 Q. And then slide number 7 in Alton & Southern  
20 Group Exhibit A should be removed, is that correct?

21 A. That is correct.

22 MR. SHUMATE: Okay.

1 JUDGE DUGGAN: Okay. If that's all the  
2 changes, then very good.

3 MR. SHUMATE: Thank you, Your Honor.

4 (Witness excused.)

5 MR. SHUMATE: Now I'd like to call Mr. Jason  
6 Haas.

7 JASON HAAS

8 called as a witness herein, on behalf of the  
9 Petitioner, having been previously sworn on his oath,  
10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. SHUMATE:

13 Q. Would you spell your name for the record,  
14 please, state it and spell it?

15 A. Name is Jason Haas. Last name is H-a-a-s.

16 Q. And, Mr. Haas, you were under oath and  
17 testified at the earlier hearing on this case?

18 A. That is correct.

19 Q. Okay. And by whom are you currently  
20 employed?

21 A. I'm currently employed by consulting firm  
22 Design Nine, Incorporated out of St. Louis, Missouri.

1 Q. And at the last hearing, you indicated that  
2 you were in the process of working with an  
3 independent engineering firm for a runoff study, is  
4 that correct?

5 A. That is correct.

6 Q. And that is for the drainage of water for  
7 the proposed project?

8 A. It would be a runoff study for the  
9 construction of the new railroad expansion.

10 Q. Okay. Now I'm going to show you here a  
11 document that's been marked as Alton & Southern  
12 Exhibit F.

13 Are you familiar with that document?

14 A. Yes. It was e-mailed me.

15 Q. And what's the date of that document?

16 A. It's dated November 9, 2012.

17 JUDGE DUGGAN: This is going to be an exhibit?

18 MR. SHUMATE: Yes, Your Honor.

19 JUDGE DUGGAN: Do I have it?

20 MR. SHUMATE: It's been marked Exhibit F.

21 Q. Now, Mr. Haas, this particular document,  
22 does it provide an analysis of drainage when the

1 capital project is completed?

2 A. Drainage study, no.

3 Q. What does it show?

4 A. It just shows what the pre- and post  
5 condition will be from runoff as it relates to the  
6 railroad track bed.

7 Q. Okay. So in looking at this, what will be  
8 the impact of water runoff if the two additional  
9 tracks and the other modifications are made to the  
10 crossing as is proposed here by the railroad?

11 A. The summary of the report will be a  
12 precondition runoff of 6.03 acre feet and a post  
13 condition runoff of 6.26 acre feet.

14 Q. And what percentage increase or decrease  
15 does that make?

16 A. This represents about a 3.7 percent  
17 increase in the runoff.

18 Q. Okay. And as time goes on, will this  
19 improve or get worse with regard to runoff?

20 A. As the railroad tracks age, the amount of  
21 runoff will slowly decrease over time.

22 Q. Okay. Now I'm going to show you another

1 document which has been marked as Alton & Southern  
2 Exhibit G.

3 Are you familiar with this document?

4 A. Yes, I am.

5 Q. Did your firm work on this document?

6 A. That is correct.

7 Q. What is this document?

8 A. This document is the grading construction  
9 plans that would be used by the contractor to build  
10 said project.

11 Q. What percent plans are these for the entire  
12 project?

13 A. These would be approximately 99 percent  
14 complete.

15 Q. Okay. And these indicate all the  
16 construction for the project?

17 A. That is correct.

18 Q. So this would have the changes at the  
19 Morrison Road crossing depicted in here?

20 A. Yes, at 15-foot track centers.

21 Q. And would show all four tracks, how they  
22 would be modified?

1 A. That is correct.

2 Q. And it would show the profile, plan and  
3 profile for the Morrison Road grade crossing?

4 A. Yes; it would show the final condition of  
5 the track if constructed.

6 Q. Okay. I'm going to direct your attention  
7 to page 11 of this set of plans.

8 Is that the plan and profile for the  
9 grade surface at Morrison Road if all four tracks are  
10 installed?

11 A. That's correct.

12 Q. And to your knowledge, will the grade of  
13 this road comply with the requirements of the  
14 Illinois Commerce Commission for grade crossings?

15 A. Yes.

16 Q. Now, in your previous testimony, you had  
17 indicated that there was one pipe that was going to  
18 be 18 inches, that existed at 18 inches in width, and  
19 it was going to be replaced with a 30-inch pipe.

20 Has that changed?

21 A. Yes, that has changed.

22 Q. And how has it changed?





1 MR. SHUMATE: I have no further questions.

2 JUDGE DUGGAN: Any other witnesses?

3 MR. SHUMATE: Last but not least, Your Honor,  
4 David Smith.

5 JUDGE DUGGAN: Okay.

6 Let's go off the record.

7 (Whereupon an off-the-record  
8 discussion transpired at this  
9 time.)

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

11 You've got it all as one exhibit?

12 MR. SHUMATE: Yes.

13 JUDGE DUGGAN: So this is going to be Exhibit  
14 E.

15 DAVID SMITH

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

19 DIRECT EXAMINATION

20 BY MR. SHUMATE:

21 Q. Would you state your name for the record  
22 and spell it, please?

1 A. David Smith; D-a-v-i-d S-m-i-t-h.

2 Q. And, Mr. Smith, you are still under oath.

3 Do you understand that?

4 A. Yes, sir.

5 Q. And you testified previously at the  
6 previous hearing in this matter?

7 A. Yes, sir.

8 Q. And you have certified copies of the deeds  
9 that were attached to your affidavit that we can  
10 submit today?

11 A. Yes, sir. They're Exhibit E.

12 Q. Okay. This will be Exhibit E to the  
13 petition by the Alton & Southern Railroad, is that  
14 correct?

15 A. That's correct.

16 Q. Have you compared those deeds to the deeds  
17 that were attached to your affidavit?

18 A. Yes, sir.

19 Q. Are they identical?

20 A. Yes, sir.

21 MR. SHUMATE: No further questions, Your Honor.

22 JUDGE DUGGAN: Thank you.

1                   And the affidavit referred to by you,  
2           Mr. Shumate, was the affidavit previously introduced  
3           as Exhibit B, correct?

4           MR. SHUMATE:   Yes.

5           JUDGE DUGGAN:   And, Mr. Smith, you say that's  
6           all correct, correct?

7           THE WITNESS:   Correct.

8           JUDGE DUGGAN:   Off the record.

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

12          JUDGE DUGGAN:   On the record.

13                              Mr. Shumate, do you have anything  
14           further?

15          MR. SHUMATE:   No, Your Honor.   That concludes  
16           our direct examination and presentation of our  
17           witnesses.   We reserve the right to put into the  
18           record all the exhibits that we've referenced subject  
19           to cross-examination, and that's it.

20          JUDGE DUGGAN:   Very good.

21                              Off the record.

22

1 (Whereupon an off-the-record  
2 discussion transpired at this  
3 time.)

4 JUDGE DUGGAN: On the record.

5 We'll adjourn till 1:30.

6 (Whereupon the lunch recess was  
7 taken from 12:15 p.m. to 1:30  
8 p.m.)

9 JUDGE DUGGAN: Back on the record.

10 Off the record. We've had some  
11 revised exhibits I believe agreed to by the parties,  
12 and that is for the supplemental Exhibit A or, excuse  
13 me, Exhibit A Supplemental.

14 The pages depicting slides 51 and 55  
15 have been modified.

16 53 will stay as is because Long Lake,  
17 which was depicted by 53, thinks that it can better  
18 represent its position on 55 which was originally  
19 intended simply for Granite City.

20 So we'll note that 51 depicting the  
21 fire district for Mitchell Fire District, they have  
22 simply highlighted in yellow a greater area to show

1 the extent of the district, and stations 1 and 2 are  
2 also marked on there as we had previously discussed.

3                   And on 55 which was originally simply  
4 Granite City, we have extended the highlighting of  
5 Granite City to the east side of the tracks showing  
6 portions of Granite City's fire protection area that  
7 are on the east side of the track on the opposite  
8 side of the track from their station, and also,  
9 colored in blue is now the pertinent portions of the  
10 Long Lake Fire Protection District, and the map is  
11 showing that Granite City station is off the map but  
12 to the southwest as depicted by an X and an arrow to  
13 the southwest on my copy indicating that their  
14 station is on the other side of the track for a  
15 portion of Granite City's fire protection area, and  
16 that Long Lake's station is depicted also off the map  
17 on Pontoon Road by an X and an arrow to the right  
18 showing also that Pontoon Road fire station is on the  
19 east side of the tracks while a significant portion  
20 of their fire protection district area is on the left  
21 side of the map.

22                   Now, I'll ask if that is a fair

1 representation, if you have any clarifications,  
2 corrections or additions, and if you agree that these  
3 are the exhibits that we will use to replace existing  
4 51 and 55.

5 Mr. Shumate?

6 MR. SHUMATE: The Union Pacific concurs.

7 JUDGE DUGGAN: Okay. Mr. Robertson?

8 MR. ROBERTSON: No objection, Your Honor.

9 JUDGE DUGGAN: Okay. Mr. Evans?

10 MR. EVANS: No objection, Your Honor.

11 JUDGE DUGGAN: Mr. Sinclair?

12 MR. SINCLAIR: No objection.

13 JUDGE DUGGAN: Okay. That reserves it to still  
14 cross-examination, that issue.

15 So, Mr. Robertson, do you want to  
16 examine Mr. McCarthy I believe?

17 MR. ROBERTSON: That would be fine, Your Honor.

18 Good afternoon, Mr. McCarthy. My name  
19 is Eric Robertson. I represent the City of Granite  
20 City.

21

22

1 MICHAEL McCARTHY

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

5 CROSS-EXAMINATION

6 BY MR. ROBERTSON:

7 Q. On September 13, 2012, you testified that  
8 there are currently 17 to 18 trains a day through the  
9 Morrison Road crossing.

10 Do you recollect that testimony?

11 A. Yes.

12 Q. And by currently, you meant as of  
13 September 13, is that correct?

14 A. That's correct.

15 Q. Now, you also testified that in the future,  
16 the number could grow from 21 to 22 trains a day, is  
17 that correct?

18 A. Yes.

19 Q. And is it correct that the additional two  
20 or three trains per day you are anticipating will  
21 consist of possibly two oil trains, one in and one  
22 out per day?

1           A.    Most likely, yes.

2           Q.    And one unit coal train possibly every  
3 other day, and it might grow to one a day?

4           A.    Correct.

5           Q.    Now, can you tell me what other types of  
6 trains would pass through the expanded Mitchell  
7 interchange yard?

8           A.    We have mixed freight type of trains which  
9 handle all commodities. We have coal, oil. We do  
10 get grain, unit trains of grain, and ethanol would be  
11 the majority of what we see there, autos, automobile  
12 trains.

13          Q.    Now, will the different trains have  
14 different lengths?

15          A.    Yes.

16          Q.    What would be the average length if you  
17 know of a unit coal train?

18          A.    Usually it depends on how many cars they  
19 put on the unit, but it's going to be probably from  
20 65- to 7500 feet.

21          Q.    How about the oil train?

22          A.    About the same.

1 Q. Grain?

2 A. A little shorter but probably in that same  
3 range.

4 Q. And the automobile?

5 A. You know, it just depends on the day of the  
6 week and the volume of traffic, but we've seen them,  
7 we can run them as long as 8,000 feet, and they can  
8 be as short as 3-, 4,000 feet.

9 Q. Now, what about a mixed freight train?

10 A. The same. It can be anywhere from 3-,  
11 4,000 feet to 8,000 feet.

12 Q. Now, does the increased traffic through the  
13 yard consist of, if you know or can say, on average,  
14 the longer type unit trains, of 6,500 to 7,500 or in  
15 some cases 8,000 feet?

16 A. Most of the new, all of the new traffic  
17 will be the unit train commodities.

18 Q. Now, it's my understanding that when you  
19 testified the last time in this hearing, you  
20 testified that Alton & Southern was averaging about  
21 11 trains per day one or two years ago, is that  
22 correct?

1           A.    I think as early as the beginning of this  
2           year, we were in that range through Mitchell.

3           Q.    Okay.  That was my next question.

4                         At what point in time did the number  
5           grow to the current 17 to 18 trains per day?

6           A.    They gradually came on between the  
7           beginning of the year till today.

8           Q.    Now, would you agree that in paragraph 6 of  
9           your July 26 petition asking for expansion of the  
10          crossing, the Alton & Southern indicated there were  
11          approximately ten trains, ten freight trains per day  
12          in and over the Morrison Road grade crossing?

13          A.    Yes.

14          Q.    And would you agree that in the July 26  
15          petition, the Alton & Southern stated that it was  
16          expected that there would be ten additional trains  
17          per day after installation of the additional  
18          interchange tracks at the Michigan interchange yard?

19          A.    I think that I, hopefully I represented  
20          that the increase would come over time, not because  
21          of the construction.

22          Q.    All right.  Do you have a copy of the

1 petition?

2 A. Hang on.

3 Q. And I refer you to paragraph 9.

4 A. Yes. That's what it says in the petition.

5 Q. Okay. Now, you also I believe indicated in  
6 your direct examination that there was a possibility  
7 that the traffic could increase over time to  
8 something in excess of 20 trains per day.

9 Did I misremember that?

10 A. I think that at the time, that was our best  
11 forecast, yes.

12 Q. All right. Do you recollect or to the best  
13 of your recollection, have you ever represented to  
14 the City of Granite City that there could be up to 40  
15 trains per day running through the Morrison Road  
16 grade crossing?

17 A. No.

18 Q. Now, would you refer to slides 14 and 15 of  
19 Alton & Southern Group Exhibit A?

20 A. Are you looking at the grade crossing  
21 inventory page?

22 Q. That's correct.

1           A.    Okay.

2           Q.    Now, would you agree that according to the  
3 Illinois Commerce Commission grade crossing inventory  
4 slides, the information contained therein was last  
5 separated on June 1, 2012. I refer you to slide 15,  
6 the bottom line.

7           A.    Yes.

8           Q.    Would you agree that according to the  
9 Illinois Commerce Commission's grade crossing  
10 inventory slide, the average number of trains per day  
11 was five trains per day for the Morrison Road grade  
12 crossing?

13          A.    That's what it indicates on this.

14          Q.    Now, you have testified that the Alton &  
15 Southern plans to increase the speed at the Morrison  
16 Road grade crossing to 30 miles per hour, is that  
17 correct?

18          A.    That's the maximum speed.

19          Q.    Yes.

20                         Now, how long does it take a freight  
21 train traveling at 30 miles per hour to stop once the  
22 engineer has taken the steps necessary to stop the

1 train?

2 A. I don't have that information.

3 Q. Well, would you agree that it could take a  
4 couple thousand feet?

5 A. Yes.

6 Q. Now, will trains traveling into and out of  
7 the interchange yard be likely to travel at 30 miles  
8 per hour?

9 A. The interchange trains that we would  
10 interchange there would probably not because they're  
11 going to stop and swap crews, so that would be half,  
12 if we see all of the traffic, half of those would  
13 not.

14 Also at that location, that's at the  
15 end of our railroad, and they go out onto another  
16 railroad, so they would have to be lined up with the  
17 signal indication, and then they would probably slow  
18 down before they got off going northbound.

19 Coming southbound, they might be able  
20 to move through there at 30 miles an hour on the main  
21 line.

22 Q. That was my next question.

1                   So about half the traffic in the  
2 interchange yard will not be traveling at 30 miles  
3 per hour?

4           A.     Correct.

5           Q.     What would you anticipate the minimum speed  
6 for those trains to be?

7           A.     Well, they're going to enter it at a higher  
8 speed, and they're going to decelerate to a stop at  
9 the north end.

10          Q.     You can't put a number on it?

11          A.     It would be a mile to stop. They could  
12 probably go anywhere from 15 to 20. I don't think an  
13 engineer is going to handle his train much more  
14 aggressively than that.

15          Q.     All right. And would you also -- in order  
16 to make an interchange of a freight train from one  
17 railroad to another, is it necessary to stop the  
18 train in the interchange area?

19          A.     For the ones that would have to change  
20 crews, yes; for the other half, no.

21          Q.     And as I understand it, the Union Pacific  
22 is the only railroad that has through rights through

1 the yard and into the gateway yard?

2 A. That's correct.

3 Q. And how much of the traffic does the Union  
4 Pacific make up through the interchange area?

5 A. Probably on average 40, 45 percent, 50  
6 percent.

7 Q. Now, do you or can you estimate for us the  
8 distance that a freight train would travel from a  
9 dead stop to reach a speed of 30 miles per hour?

10 A. No. I'm not an operating practices guy.

11 Q. Is there anybody that's testified here  
12 today that could give us that information?

13 A. No.

14 Q. Would you agree that a train traveling at 5  
15 miles per hour will likely take longer to get through  
16 the railroad crossing than a train traveling at  
17 30 miles per hour?

18 A. Absolutely.

19 Q. Now, would you agree that according to  
20 slides 14 and 15, the Illinois Commerce Commission  
21 grade crossing inventory form, the minimum speed for  
22 the Morrison Road grade crossing as of June 1, 2012

1 was 5 miles per hour?

2 A. The minimum speed?

3 Q. Yes, sir.

4 A. Yes, that's correct.

5 Q. And since you testified on September 13th  
6 of this year in this proceeding, have the number of  
7 trains through the Morrison Road crossing increased?

8 A. Yes.

9 Q. How many more trains have passed through  
10 the Morrison Road grade crossing?

11 A. We go on averages, but we're averaging  
12 right now about 17.

13 Q. Just to refresh your recollection, on the  
14 13th, you testified there were currently 17 to 18  
15 trains per day through the crossing on September 13th  
16 and there's been a slight increase and the average is  
17 now 17.

18 That doesn't represent an increase to  
19 me.

20 A. If I said increase, what I meant to  
21 represent was before the new business arrived. So  
22 historically or for many years, it's been about 10 or

1 11, and then we knew by the end of the year, at least  
2 we forecasted at the beginning of the year that it  
3 would increase to somewhere around 20 give or take a  
4 few.

5 And right now in that ramp up process,  
6 right now we're seeing about 17 trains a day, 17, 18  
7 trains a day.

8 Q. Once the new facility is built and in  
9 place, what would be the maximum number of trains  
10 that could be put through the expanded yard in a  
11 24-hour period?

12 A. I really haven't done a study of what the  
13 capacity would be for that because it would be  
14 hypothetical on what type of traffic that would  
15 involve, if it was mixed freight, if it was coming  
16 off the UP or coming off a different railroad, so we  
17 really haven't done a study on that.

18 Q. So you're not able to testify today that  
19 traffic through the yard would be limited to a  
20 certain maximum number of trains?

21 A. At this time, I wouldn't have a maximum  
22 number that we could put through that location.

1           Q.    But there could be more than 20 on in any  
2           given 24-hour period if the railroad had reason to do  
3           that?

4           A.    Right.  There are days.  Like I said, this  
5           is an average.  There might be days today that we're  
6           in excess of 20.

7                         Probably the constraining factor is  
8           after this buildup, it would not be Mitchell yard.  
9           It would be some other point on the railroad.

10           JUDGE DUGGAN:  I didn't understand that last  
11           thing.

12                         You said after this buildup, it may be  
13           at some other point on the railroad?

14           THE WITNESS:  Well, he was asking for what  
15           would be the constraint.  We kind of look at our  
16           railroad as one big long piece, and there probably is  
17           another bottleneck that's going to constrain the  
18           amount of trains that we can take much more so than  
19           Mitchell after we do the expansion.

20           Q.    BY MR. ROBERTSON:  Now, we've heard some  
21           discussion about, I'll refer to it as the 500-foot  
22           rule.

1                   Are you familiar with that?

2           A.    Yes.

3           Q.    And this may be a silly question to a  
4           railroad person, but does the 500-foot rule apply to  
5           all trains?

6           A.    Yes.

7           Q.    And the purpose of that rule is to keep the  
8           visibility for people using the crossing so they can  
9           see a train approaching?

10          A.    That is correct.

11          Q.    And their view would not be blocked, is  
12          that correct?

13          A.    You would have better visibility.

14          Q.    Okay.  Now, during your direct  
15          examination -- hang on a second.

16                   At transcript pages 44 and 45, you  
17          discussed signalization at Morrison Road.  Do you  
18          recollect that?

19          A.    Yes.

20          Q.    Now, during your cross-examination, you  
21          discussed slides 18 through 29 of the Alton &  
22          Southern Group Exhibit A, is that correct?

1 A. Yes.

2 Q. Now, do you agree that those slides show  
3 the grade crossing inventory at Morrison Road, the  
4 railroad's grade crossing inventory?

5 A. It shows the railroad crossing. I'm not  
6 sure what you mean by inventory.

7 Q. Well, that's what I was going to ask you.  
8 Hold on a second. Let me find the transcript.

9 If you'd look at page 45 while I'm  
10 getting the transcript. I'm sorry. Your attorney  
11 referred to it as the grade crossing inventory. If  
12 you look at lines 17 through 20 on page 45.

13 A. Okay. Yes, sir.

14 Q. Is that a term of art?

15 A. No. I believe that those photos are  
16 attached in whatever system that these are housed in,  
17 and they're part of the grade crossing inventory that  
18 the Illinois Commerce Commission keeps, so they're on  
19 the Web.

20 Q. Okay. So the grade crossing inventory, I  
21 want to know what that term includes.

22 That includes the switch gear, I'm

1       sorry, the electronic signal system, the concrete  
2       platforms on the roadway surface?

3                       What does the inventory include? What  
4       equipment is included in that grade crossing  
5       inventory?

6               A.     To the best of my knowledge, although it's  
7       not a database that the railroad maintains, it's not  
8       our database, but it gives crossing information, and  
9       it does include some of the information that you  
10      referred to, the type of crossing surface. It talks  
11      about the city that it's in. It talks about  
12      vehicular traffic. It talks about a lot of different  
13      things that are noted for the crossing that is logged  
14      into the Illinois Commerce Commission's database.

15                    I think in the last few years, they  
16      have been attaching photographs to that to have a  
17      visual depiction of the crossing as well as just an  
18      inventory list of the different things that are on  
19      there.

20               Q.     So it is the physical equipment at the  
21      crossing such as gates and lights, signal box, and  
22      the concrete panels for the crossing surface and

1 other equipment associated with the crossing  
2 maintained by the railroad at that location, is that  
3 correct?

4 A. Yes.

5 Q. Now, it's also my understanding based on  
6 the testimony offered by the Alton & Southern that  
7 the Mitchell yard is going to be expanded and  
8 extended south of Morrison Road.

9 A. I wouldn't phrase it that way, no.

10 There's going to be two tracks that  
11 are going to be extended through Morrison Road.

12 Q. All right. So is that because the yard  
13 already extends through Morrison Road?

14 A. Yes.

15 Q. So a better way would be if you're going to  
16 add two tracks to the yard that already extends  
17 through Morrison Road?

18 A. There are two tracks that are a part of  
19 Mitchell yard that will be extended through Morrison  
20 Road crossing.

21 Q. So Morrison Road crossing is technically a  
22 component or a part of the yard?

1           A.    It intersects the yard.

2           Q.    And it is my understanding that in order to  
3   install the Mitchell interchange yard extension, it  
4   will be necessary to relocate the center point gas  
5   transmission line currently located on the east side  
6   of the existing track.  Is that correct?

7           A.    I believe that's on the west side.

8           Q.    I'm sorry.  You're right.  Excuse me.  I  
9   typed this out wrong last night.  Thank you.  The  
10   west side of the track.

11          A.    Right.

12          Q.    And it will also be necessary to relocate  
13   the electric transmission lines on the east side of  
14   the track, is that correct?

15          A.    There are some utilities at the far south  
16   end of the project closer to Pontoon Road that will  
17   need to be shifted.

18          Q.    Now, if the center point gas line could not  
19   be relocated, would it be possible to construct the  
20   improvement as currently designed?

21          MR. SHUMATE:  Your Honor, that asks for  
22   speculation on his part.  You know, it's all right if

1 he answers it, but I think it's -- I don't know that  
2 he's qualified to answer that. It's a speculative  
3 question.

4 JUDGE DUGGAN: If he doesn't know, he doesn't  
5 know. You're not called upon to speculate.

6 THE WITNESS: Right. And I don't know all the  
7 standards so I don't know if that could be done or  
8 not.

9 Q. BY MR. ROBERTSON: Now, is the gas  
10 transmission line going to be relocated on Alton  
11 Southern's existing 80-foot right-of-way?

12 A. It can be, but with the purchase of  
13 additional land, we are trying to make it so that  
14 they don't have to ever relocate again.

15 Q. Now, I'm going to ask a question that  
16 popped into my head which is against my rule, but  
17 your answer suggests to me that there's a possibility  
18 that the yard could be further expanded some day and  
19 you don't want to have to move the pipeline twice.

20 Is that a possibility?

21 A. To me, as far as future expansion, there's  
22 not really the -- our constraint would be at the

1 north end of the yard and the Pontoon Road on the  
2 south end. It couldn't be made much longer if that's  
3 what you mean as far as expanded. As far as  
4 additional tracks, you're constrained by the 270  
5 overpass. I think this was about the extent of the  
6 build-out that would happen there under today's  
7 circumstances.

8 Q. Now, according to Alton & Southern Group  
9 Exhibit A, slide 56, the Alton & Southern has  
10 designated an area on either side of Morrison Road  
11 that will not be used for train staging. Is that  
12 correct?

13 A. Could you state that again?

14 Q. Yes.

15 Has the Alton & Southern, according to  
16 slide 56, designated an area on either side of  
17 Morrison Road that will not be used for train  
18 staging?

19 A. That was not the purpose of the slide. I  
20 don't really know what you mean by staging. If we're  
21 in a position where we need to break the train if it  
22 is going to be up there for a lengthy period, we know

1 we're not going to be able to move it, then that  
2 shows the distance that we would cut the crossing on  
3 each side of Morrison Road. That's the length.

4 Q. I forgot to write down the citation, but I  
5 had thought you used the term trend staging when you  
6 testified on September 13th.

7 Do you recollect as you sit there  
8 today whether or not you used that term?

9 A. It is a term that we have used in the  
10 railroad. I don't know exactly if I used that term  
11 and how I used it if I did.

12 Q. All right. Can you tell me, what is the  
13 meaning of the term train staging to the best of your  
14 knowledge?

15 A. It could be used in various ways, but  
16 normally, if you stage a train, you are holding it  
17 for some reason for a period of time is usually  
18 staging the train.

19 Q. What is -- is there a process that's  
20 involved with staging a train, for example, in the  
21 Mitchell yard?

22 A. Yes, and we have done that periodically in

1 the past if we have to for a holiday and train  
2 traffic stops for Christmas or Thanksgiving or  
3 something and we have to hold the train until train  
4 operations on the adjacent railroad pick up. We  
5 might drag a train, take a train up to Mitchell,  
6 break the crossing and leave it up there until the  
7 train traffic or the operations begin again.

8 Q. Okay. And can, for example, depending on  
9 the work rules of railroads you interchange with,  
10 could a train be left or more than one train be left  
11 in a yard for say a whole weekend?

12 A. That's a possibility, yes.

13 Q. Is there anything during this -- let me  
14 tell you what I'm trying to figure out.

15 I had in mind that perhaps there was  
16 something physically, a process, that a train crew  
17 would go through in the context of staging a train.

18 A. If you're talking about securing of a  
19 train, then there is a process that you go through  
20 where you make the train secure when you leave it by  
21 having the brake set and the locomotive set up in a  
22 way that the train is secure and can't be moved

1 hopefully by vandalism or something like that.

2 Q. Are there any other railroad employees that  
3 would be involved in a train staging process other  
4 than the train crew of the train involved?

5 A. Usually a train crew is capable of handling  
6 all those duties.

7 Q. Now, how far -- so in general, it would not  
8 necessarily be -- well, a train could, under certain  
9 circumstances, sit there for, in the yard, for a day  
10 or more?

11 A. The purpose of the yard isn't to do that.  
12 There are isolated situations where that might  
13 happen, but this yard would be used for throughput.  
14 That's not the place that we would normally hold a  
15 train for an extended period of time.

16 Q. And I appreciate and understand that  
17 answer, but I don't think it answers my question.

18 Is it possible under certain  
19 circumstances that the train could sit there for a  
20 day or more in the yard?

21 A. Yes.

22 Q. Now, how far south of Morrison Road would

1 the Mitchell interchange yard extend?

2 A. It should be, from the Morrison Road south,  
3 it should be, I don't have it right in front of me,  
4 but I think 3,000, 3,500 feet.

5 Q. And how far north of Morrison Road will the  
6 expanded yard extend?

7 A. There will be no expansion on the north  
8 end. It's all on the south end.

9 Q. All right. And how far north of the road  
10 does the yard, north of Morrison Road, does the yard  
11 extend?

12 A. It is right at the Chain of Rocks Road. It  
13 is almost right up to the edge of Chain of Rocks  
14 Road.

15 Q. That would be about a mile?

16 A. Yes, about a mile north.

17 Q. Now, what specifically will each track in  
18 the interchange yard be used for?

19 A. The three, what we call Mitchell 1, 5 and  
20 6, would do the majority of the interchange business,  
21 and the main line would mainly be left open to run a  
22 through train, but if there's nothing else going on,

1 we would keep the train on the main line as well if  
2 there would be only one move.

3 Q. Are the individual tracks, for instance, is  
4 track 1 and track 5 and track 6, are they exclusively  
5 used for interchange?

6 A. Yes, just through movement of trains.

7 Q. Now, again, this may be a silly question  
8 for a regular person, but when I think of  
9 interchange, I think of a particular function that  
10 you've already talked about at length.

11 Would track 1 and 5 and 6 be used, is  
12 it possible they would be used for any other purpose  
13 other than interchange?

14 A. That is the only purpose for those tracks  
15 that we're putting in.

16 The only other movement that we have  
17 up there, there is an industry at the north end in  
18 Mitchell that we spot a lumber distributor.

19 Q. So it's possible that the track closest to  
20 the lumber distributor could be used for spotting  
21 cars on the portion of trackage that you use to serve  
22 the lumberyard?

1           A.    It's a very low volume.  They might take  
2           two or three cars a night, and we would bring those  
3           up with the specific job, pose empties, spot the  
4           loads in, and then we would take those cars back to  
5           the yard.

6           Q.    Now, at the south end of the extended  
7           Mitchell interchange yard, how many main line tracks  
8           exit the yard?

9           A.    One at this time.

10          Q.    And at the north end of the interchange  
11          yard, is there more than one main line track into the  
12          yard and out of the yard at that point?

13          A.    No.  It's one main line.

14          Q.    So it take it the Alton & Southern and the  
15          railroad carriers using the interchange will not be  
16          able to move more than one train at a time into or  
17          out of the Mitchell interchange yard?

18          A.    That's incorrect.

19          Q.    Okay.  Why?

20          A.    You could have a northbound movement and a  
21          southbound movement.

22          Q.    Okay.  You could have one going out of the

1 north end and one going out of the south end?

2 A. Right.

3 Q. But at those locations, you'd only be able  
4 to move one train in or out at the north end at a  
5 time and one train in or out at the south end at a  
6 time?

7 A. Correct.

8 Q. And that's the condition of the current  
9 Mitchell yard too, is it not?

10 A. That's correct.

11 Q. Can the Alton & Southern store an entire  
12 freight train of any type in the extended Mitchell  
13 interchange yard north of Morrison Road?

14 A. If the train is short enough.

15 Q. Given the averages that you've talked  
16 about, would it be possible to store a 7,000-foot  
17 train north of Morrison Road?

18 A. No, no.

19 Q. Would it be possible to store a 7,000-foot  
20 train south of Morrison Road?

21 A. No.

22 Q. Now, would you agree, subject to check,



CROSS-EXAMINATION

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BY MR. EVANS:

Q. First of all, there was some talk earlier today about changing the grade crossing speeds for the Morrison Road interchange. Are you familiar with that?

A. Yes.

Q. Are there any plans to change the speed at the crossing to the south which I believe is Pontoon Road?

A. All the crossings would be set up for the maximum speed that the trains could travel over that area.

Q. And the same would be true then for Chain of Rocks?

A. Right. Chain of Rocks, that road crossing, yes, if we increase the speed, then the road crossings would also be adjusted for that.

Q. Okay. Is that something that requires an application or is that something the railroad can just arbitrarily adjust?

A. I don't know that answer for sure.

1 Q. Okay. Would someone here today know that  
2 answer?

3 MR. MCKERNAN: Yes.

4 MR. EVANS: All right.

5 Q. And I believe Mr. Robertson talked to you  
6 about the increased growth in trains from July 16th  
7 of this year where the average was five trains to  
8 currently the 17 or 18 we have today.

9 Is that correct?

10 A. That's incorrect. He referred to five  
11 trains a day as being what was recorded in the grade  
12 crossing inventory that the Illinois Commerce  
13 Commission maintains. That is not our number.

14 Q. Okay. Your number is 17 to 18 though?

15 A. What hopefully I've represented is that at  
16 the beginning of the year before we've had the known  
17 business, we were at 10 to 11 trains a day.

18 Currently we're at about 17, maybe 18  
19 trains a day.

20 Q. Okay. But the point I'm trying to get to  
21 is all the growth that you expect is currently on  
22 those lines, correct?

1           A.    There might be a small incremental more, up  
2           to, I think earlier we said 20 trains a day, but  
3           incrementally, as far as our forecasts show right  
4           now, yes.

5           Q.    A very small increase possibly?

6           A.    Right.

7           Q.    Okay.  And currently, as the interchange of  
8           Morrison Road is configured, the train is able to get  
9           all of that traffic through as it's currently  
10          configured, correct?

11          A.    We have been able to move the traffic  
12          through that area, yes.

13          Q.    Okay.  And again, in talking to  
14          Mr. Robertson just so I'm clear on this, the two  
15          additional tracks that you want to run through  
16          Morrison Road would be track 5 and track 1?

17          A.    Yes.

18          Q.    And those I believe you testified would be  
19          solely used for interchanges of trains, correct?

20          A.    Yes.

21          Q.    So the purpose, if I could then summarize,  
22          of this plan to put two more lanes across Morrison

1 Road is solely to allow or to facilitate more  
2 interchanges, is that correct?

3 A. It's to be more efficient, yes. It's to be  
4 more efficient at the business that we do.

5 Q. By allowing more interchanges?

6 A. Yes.

7 MR. EVANS: I think that's all I have.

8 JUDGE DUGGAN: Mr. Sinclair?

9 MR. SINCLAIR: I'm going to break one of my  
10 rules and follow up.

11 CROSS-EXAMINATION

12 BY MR. SINCLAIR:

13 Q. You indicate that you're at capacity now  
14 with a projected capacity or pretty close to it,  
15 correct, with the number of trains going through. Am  
16 I right? I mean, 17, 18. It might go to 20, 21.

17 A. I would say we get incrementally less  
18 efficient with the present track structure we have as  
19 more trains go over.

20 Q. Well, that's not my question.

21 My question is you said you've grown  
22 to 17 or 18 trains a day now and you anticipate going

1 to 20 to 21, and the question was, you're making  
2 those interchanges at this time, and if I understood  
3 it, you're saying you could make more interchanges.  
4 So I'm confused.

5 If you only have a certain -- the  
6 trains are the interchange, right?

7 A. Uh-huh.

8 Q. So potentially, you've got 21 interchanges  
9 a day?

10 A. Yes.

11 Q. Then why would you be more efficient with  
12 more interchanges? You used the term more  
13 interchanges. It implies to me it's more trains,  
14 more than the 20 or 21 that you anticipate.

15 A. Well, to be as succinct as I can, we  
16 anticipate...as of right now, all our forecasts show  
17 at this snapshot in time that we may grow in the very  
18 near future to 20 to 21 trains a day.

19 Q. And in response to Mr. Evans' question, you  
20 said that we would be able to handle more  
21 interchanges. I think that was the term you used if  
22 I heard you correctly.

1           A.    Okay.  Let me -- it would allow us to  
2           handle the interchange that we have right now more  
3           efficiently.

4           Q.    So you're not saying more trains?

5           A.    I think it is gives us the ability to  
6           handle more trains in the future.

7                         Where we're going at right now is to  
8           handle what we were projecting.  I have no idea what  
9           the future is going to bring.

10          Q.    Well, I want to go back to some of your  
11          Exhibit A slides if I could.  Particularly, if you  
12          could look at slide No. 5 in your exhibit, you're  
13          talking about growth drivers.

14                         So if I'm understanding what you're  
15          presenting to the Commerce Commission is that you're  
16          going to have growth on the Alton & Southern Railway,  
17          and that's part of the justification for this  
18          crossing change, is that correct, or this  
19          application, this petition you've got here today?

20          A.    That's why we are trying to make the  
21          capital investment, yes.

22          Q.    How much additional revenue would Alton &

1 Southern generate from the growth drivers that you've  
2 indicated on slide 5?

3 A. I don't have that figure.

4 Q. Does someone have that figure?

5 A. We may be able to get an estimate of  
6 something, but I don't have that figure.

7 Q. But presumably, one of the reasons that  
8 Alton & Southern is presenting this slide No. 5 is  
9 that it shows you're anticipating higher revenues for  
10 the railroad from this project as a result of this  
11 project?

12 A. We anticipate more volume, and we do charge  
13 for every car that we put through, so I would look to  
14 think that our revenues are going to increase.

15 Q. Again, I have to go back and I apologize.

16 Am I correct that what you call the  
17 Mitchell yard now runs roughly from Chain of Rocks  
18 Road to Pontoon?

19 A. Just north of Pontoon, yes.

20 Q. And that's about 8,000 feet?

21 A. I believe probably switch point to switch  
22 point, you're getting pretty close. Usable space for

1 us is probably about 7,600.

2 Q. So that would be what you would call the  
3 yard? When we use that term, that's the distance  
4 we're talking about?

5 A. As far as the length of the yard, yes.

6 Q. When you use the term interchange, am I  
7 correct that you're referring to an entire train  
8 being handed over from one railroad to another?

9 A. It can be one car, but in this instance,  
10 we're talking about the interchange of a train, yes.

11 Q. So when you're using the Mitchell yard, is  
12 it your testimony that all you're doing when you use  
13 the term interchange is swapping an entire train from  
14 one railroad to another?

15 A. From one carrier to another.

16 Q. One carrier to another. There's no -- the  
17 trains aren't being broken up and cars moved from one  
18 train to another. It's not the gateway yard process,  
19 am I correct?

20 A. No. This is an interchange. It's not a  
21 switching yard.

22 Q. Okay. And that would be the term,

1 switching versus interchange?

2 A. Correct.

3 Q. Versus, you used a term with Mr. Robertson,  
4 spotting.

5 A. Well, that would just be spotting to an  
6 industry. Spot a car was referring to an industry  
7 where a customer of ours would have a cut or  
8 individual car or group of cars that go into the  
9 industry for unloading and then release out.

10 Q. That's delivery?

11 A. That's basically delivery.

12 Q. So interchange and switching are two  
13 different things?

14 A. Uh-huh.

15 Q. And there's no switching that's going to  
16 occur in the Mitchell yard?

17 A. No. Except into that industry, that would  
18 be all interchange.

19 Q. When you talked about your growth drivers  
20 on slide No. 5, you reference to crude oil trains, I  
21 believe bulk fertilizer trains for grain and coal  
22 transfers and ethanol transfers. Am I right about

1 that?

2 A. Yes.

3 Q. Would you agree that two of those three  
4 categories of freight that were referenced constitute  
5 hazardous materials?

6 A. Yes.

7 Q. And that would be fertilizer and petroleum  
8 and ethanol?

9 A. I don't believe the type of fertilizer that  
10 is being used for the customer that we have is a  
11 placarded fertilizer.

12 Q. Would a higher volume of those commodities  
13 create a greater risk of danger from a spill in the  
14 area of Mitchell yard?

15 A. I think you have more traffic through  
16 there. The ethanol, we've pretty well seen a decline  
17 in the ethanol, so I don't think you're going to mess  
18 with the market condition.

19 I think you've seen an increase in the  
20 crude oil trains.

21 The fertilizer is very seasonal and  
22 comes and goes with the farming season.

1                   There are more trains so I guess  
2                   there's an incremental chance that you might have an  
3                   incident.

4                   JUDGE DUGGAN:   Excuse me one second.

5                   Off the record.

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

9                   Q.    BY MR. SINCLAIR:   So where we were, you  
10                   agree that a higher volume of traffic carrying these  
11                   commodities, petroleum, fertilizer, and the ethanol,  
12                   present an increased risk from a spill or a hazard  
13                   that would arise from the operation of the trains in  
14                   this area?

15                   A.    Well, I think overall, like I mentioned  
16                   earlier, the ethanol trains have been reduced.  The  
17                   grain and coal really doesn't add anything to it.  
18                   The fertilizer we have is not a placarded commodity.  
19                   About the only change would be the crude oil.

20                   Q.    Would you agree that if a spill were to  
21                   occur, access to the area in the vicinity of the  
22                   Morrison Road crossing could be critical to the

1 safety of the people living in that area?

2 A. Yes. Access is needed.

3 Q. And you'd agree that blockage of that  
4 crossing or closing of that crossing, were that to  
5 occur, would be detrimental then to addressing those  
6 issues of hazardous materials moving through the  
7 Mitchell yard?

8 MR. SHUMATE: Your Honor, I'm going to object  
9 because nowhere in this particular petition are we  
10 saying we're going to close this crossing.

11 JUDGE DUGGAN: What's the relevance?

12 MR. SINCLAIR: The relevance is I want to get  
13 to where the railroad started out with this project.  
14 I'll eventually bring that around.

15 JUDGE DUGGAN: The petition right now is to add  
16 two crossings. It says nothing about closing.

17 If you can tie it up somewhere down  
18 the road, let me know, but right now, we'll sustain  
19 the objection.

20 MR. SINCLAIR: Okay.

21 Q. Mr. McCarthy, you're aware that the  
22 Mitchell Fire Protection District provides fire

1 protection and emergency services to the area within  
2 the vicinity of the Morrison Road crossing?

3 A. Yes, I am.

4 Q. Who's Wesley Lujan (L-u-j-a-n)?

5 A. Wes Lujan is an employee of Union Pacific  
6 Railroad.

7 Q. Are you familiar with the letter that he  
8 wrote in June of 2012 to the Mitchell Fire Protection  
9 District?

10 A. If I can see the letter. I might have seen  
11 it. I don't know.

12 (Pause)

13 Q. Have you seen this letter before?

14 A. Yes, I have once.

15 Q. And I apologize. I misstated. The letter  
16 is written to the Honorable Helen Hawkins and  
17 Mr. Eddie Lee, supervisor of Chouteau Township.

18 So you're familiar with the letter?

19 A. I have seen the letter. It's been awhile.

20 JUDGE DUGGAN: And what was the township again?

21 MR. SINCLAIR: Chouteau.

22 I'll be happy to make this part of the

1 record as an exhibit.

2 JUDGE DUGGAN: We're fine.

3 Q. BY MR. SINCLAIR: And in that letter which  
4 is written on Union Pacific Railroad letterhead,  
5 Mr. Lujan indicates that he will only be  
6 communicating with representatives of Granite City  
7 regarding the matter of the Mitchell yard expansion  
8 on Morrison Road?

9 A. I believe that's what the letter states.

10 Q. Was that the position taken by Alton &  
11 Southern in connection with the Morrison Road  
12 crossing modifications?

13 A. Can I have a moment to read it?

14 Q. Sure, sure.

15 A. Because I have not seen this since June.

16 (Pause)

17 A. Okay.

18 Q. And in this letter, it states that, and I'd  
19 be glad to make this part of the record, but it  
20 indicates that the railroad has decided to negotiate  
21 only with Granite City regarding the potential future  
22 closure of the Morrison Road crossing?

1           A.    It said that, I think the letter indicates  
2           that the road authority entity is Granite City, and I  
3           think what he said in response to letters, a letter  
4           from Ms. Hawkins and Mr. Lee, that that is who he  
5           would be talking to for potential of a road crossing  
6           closure, what this letter brings up.

7           Q.    And was that the intent of Alton & Southern  
8           at the time that this letter was written is to close  
9           the crossing?

10          A.    We made a suggestion. We cannot close  
11          anything. We brought that up as a potential option.

12          Q.    That was the desire of the railroad at the  
13          time though?

14          A.    We thought it was an option at the time.

15          Q.    And that would then eliminate all vehicle  
16          traffic that would be crossing on the tracks, on the  
17          expansion that you're proposing?

18          A.    If you're saying if the road crossing was  
19          closed, then I would say that there wouldn't be any  
20          traffic across it.

21          Q.    And that would then fit the railroad's  
22          desire not to have a problem about blocking the

1 crossing?

2 A. Could you restate your question?

3 Q. Well, you've testified here today and you  
4 brought in slides about how this change that you're  
5 going to make is going to increase the efficiency of  
6 this crossing.

7 A. Yes.

8 Q. But at the time that you initiated this  
9 project, your intent was just to close the crossing  
10 entirely.

11 A. Incorrect.

12 MR. SHUMATE: That's incorrect, Your Honor.  
13 I'm going to object to it because he never testified  
14 to that.

15 The Union Pacific Railroad will  
16 stipulate that it does not have the authority to  
17 close this crossing. Only the road authority has  
18 that authority.

19 JUDGE DUGGAN: Well, I think --

20 MR. SINCLAIR: I think that mischaracterizes my  
21 question.

22 JUDGE DUGGAN: Well, you mischaracterized what

1 he said. He didn't say it was either/or. He just  
2 said it was an option they considered. He didn't say  
3 what they would also be doing in extending the yard.

4 So at any rate, whatever the basis of  
5 his objection was...what's the basis of your  
6 objection?

7 MR. SHUMATE: Stating that the Union Pacific  
8 was going to close the crossing. I said we cannot  
9 close the crossing. We will stipulate to the fact  
10 that because of the number of vehicles at this  
11 particular crossing under the current law, we cannot  
12 close that crossing. It would not be closed by the  
13 Illinois Commerce Commission as a redundant crossing.  
14 It could only be closed if the road is vacated. We  
15 do not have power to vacate the road. Only the road  
16 authority does.

17 JUDGE DUGGAN: Well, I mean, you didn't say  
18 anything inconsistent with what the witness simply  
19 said which is that they simply considered an option  
20 and didn't state it as an intent.

21 I don't think your objection was an  
22 objection to his question necessarily, but I do think

1       that your question mischaracterized what he said  
2       because you presented it as he was saying an  
3       either/or, that we're not going to add the extension  
4       if it was closed, and that's not what he said so I'll  
5       object to your question.

6                        You can ask it again, but I think  
7       you're going to have a problem if you characterize it  
8       that way again.

9                Q.     BY MR. SINCLAIR:  Okay.  My question is  
10       that when you began the process of expanding by  
11       adding the two tracks to the Mitchell yard, the  
12       original desire of the railroad was to close the  
13       crossing entirely, right?

14               A.     That would be an incorrect  
15       characterization.

16               Q.     So the letter, when it says potential  
17       closing, is in error?

18               A.     Well, the letter came after.

19                        Early this year, we had a meeting with  
20       the City of Granite City as well as some other  
21       entities.  We were going to tell them about the  
22       increase in train traffic, and we already had, we had

1 an illustration which is the same one as what we have  
2 illustrated here, about the extension of the tracks,  
3 and that was the project.

4 When I met with the City of Granite  
5 City, we said that there is, we asked if there was a  
6 potential, and if they would consider the closing of  
7 Morrison Road. That's something that we put out  
8 there.

9 But the project was already slated and  
10 approved internally that it was a viable plan, and we  
11 wanted to do this project to handle the growth in  
12 business.

13 Q. And I understand that, and what I'm getting  
14 at is that your preference, the railroad's preference  
15 when it initiated this project was to close the  
16 crossing entirely. You said you put that before  
17 Granite City.

18 A. As a possibility, absolutely, for them to  
19 consider.

20 Q. And that was the railroad's preference.  
21 That was its preferred choice for this project.  
22 Correct?

1           A.    I wouldn't choose -- I wouldn't use the  
2 word preference.  I think that's an incorrect  
3 characterization.

4           Q.    Well, what was it?

5           A.    I think it was an option that they could  
6 consider.

7           Q.    And you suggested that was the option the  
8 railroad would think would be best?

9           A.    I think it's a very viable option, yes.  I  
10 think it would be a good option.

11          Q.    Thank you.

12                         The Mitchell yard, and I want to refer  
13 back to your Exhibit D which was the handwritten  
14 diagram that you prepared at the request of the judge  
15 at the September 13 hearing.

16                         In Exhibit D, you show the current  
17 configuration, the proposed plan, and the final  
18 design in Exhibit D, correct?

19          A.    Can I see it?

20          Q.    Sure.

21          A.    I don't have that in front of me.

22

1 (Whereupon Mr. Sinclair handed a  
2 document to the witness.)

3 A. Yes, this is what I drew.

4 Q. Okay. And when you look at that, that  
5 drawing is not to scale, correct?

6 A. That's correct.

7 Q. And are any of your slides to scale in  
8 Exhibit A?

9 A. No. I don't think in any of our slides  
10 that we have put them to scale.

11 Q. But you've testified that the Mitchell  
12 yard's distance is I think you said 7,600 feet?

13 A. Approximately.

14 Q. Approximately, yeah.

15 How much of an expansion then or how  
16 did you -- let me back up.

17 What was the controlling factor in  
18 deciding how long these two additional track  
19 extensions would be?

20 A. A couple of the factors is that train  
21 lengths over the years and decades are becoming  
22 longer and longer. Railroads are running longer

1 trains, so that is one factor that we have to take  
2 into consideration.

3 Our other factor is that we need to be  
4 able to put a train in there and be able to, if we  
5 need to cut the crossing, to be able to have 500 feet  
6 on either side of that crossing, so we try to make it  
7 a little bit longer than that so that we have that  
8 ability to leave that thousand feet plus open at the  
9 crossing.

10 Q. So with the 500-foot cut, you're saying  
11 that occurs when you put a train on the crossing and  
12 you're going to block the crossing for a period of  
13 time, and you're mandated then to separate the train  
14 into two parts for the thousand feet?

15 A. Yeah. That would be the thousand feet,  
16 yes.

17 JUDGE DUGGAN: To clarify, that's not a  
18 mandate. Isn't that right, Mr. Shumate?

19 MR. SHUMATE: It's not a mandate, Your Honor.

20 JUDGE DUGGAN: Okay. I just didn't want that  
21 to go unchecked.

22 Q. BY MR. SINCLAIR: Is that a practice?

1 A. Yes.

2 Q. Of your railroad, all railroads?

3 A. To me in the State of Illinois, that is the  
4 practice that we use, that I use on the Alton &  
5 Southern. I think they use it in the State of  
6 Illinois, but I am not the expert on that.

7 Q. Okay. I'll accept that.

8 The right-of-way that is currently  
9 owned by Alton & Southern in the Mitchell yard, did I  
10 understand your testimony in September to be that it  
11 was 80 feet, the entire length of the yard?

12 A. Width.

13 Q. I'm sorry. Width. But the entire length  
14 of the yard from Chain of Rocks down to Pontoon?

15 A. I believe, and I hadn't looked at our total  
16 right-of-way but on the north there are some  
17 different widths. I think there at Morrison Road  
18 it's 80 feet. When you go to the north of that where  
19 we obviously have six tracks in there and industry,  
20 it's bigger.

21 Q. North, are you talking Chain of Rocks?

22 A. North up by Chain of Rocks Road to the

1 north in Mitchell yard, it's quite a bit wider than  
2 that.

3 Q. So when you look at your handwritten  
4 Exhibit D and it shows the four track configuration,  
5 at some point, the right-of-way would be wider than  
6 it is on other points north and south?

7 A. Yes.

8 Q. But you don't know what those dimensions  
9 are?

10 A. No, I don't.

11 Q. Does the 80-foot right-of-way that you have  
12 north of Morrison Road max out the number of tracks  
13 that you can put in from Morrison Road north up to  
14 the northern end of the Mitchell yard?

15 A. I would say that's one of the constraints  
16 that we have, but also the overpass at 270, I think  
17 that's another constraint that we would -- probably I  
18 think that would be another constraint.

19 Q. In what way?

20 A. Just width, just being able to have  
21 clearance and accommodate what we --

22 Q. Horizontal clearance or vertical clearance?

1           A.    Width.  I think the height is fine.

2           Q.    Did the railroad do any examination of  
3 moving the Mitchell yard, the four track  
4 configuration, further north beyond 270?

5           A.    We don't have property up there.  Our  
6 railroad ends just north of Chain of Rocks Road.

7           Q.    Okay.  Well, I guess I'm a little confused  
8 because you said 270 is a constraint.

9                         You could run under 270 but you chose  
10 not to?

11          A.    We already have all the tracks I think that  
12 we can fit under...I mean, that's...we didn't really  
13 look at it.  I don't know what our width is there,  
14 but that would be a constraint that we would have to  
15 figure if we were going to put more track in, which  
16 we do not anticipate.

17          Q.    What I'm getting at, if I understand your  
18 testimony, the length of the yard is for the  
19 interchange purposes which is based on the length of  
20 trains?

21          A.    Correct.

22          Q.    So if you get that length on one side of

1 Morrison Road or the other, you achieve what you're  
2 after, correct?

3 A. I think -- I'm confused by what you say as  
4 far as length of train and number of tracks on the  
5 width side. So the length of the tracks that we  
6 build we try to get 9-, 10,000 feet. We try to get  
7 as long we can because technology is getting where  
8 the roads that are giving me trains are getting  
9 longer and longer, so we do try to make our sidings  
10 longer instead of what it's going to be built for  
11 right today for any certain train.

12 Q. And have you maxed out the Mitchell yard or  
13 will you max out the Mitchell yard with this project?

14 A. As far as the number of trains under the  
15 constraints that I see today, and I have not done any  
16 studies, but if we are not maxed out we're very close  
17 to it.

18 Q. And you've anticipated my next question.  
19 No studies have been done on that question?

20 A. No.

21 Q. When the railroad was putting together this  
22 project, did it look at any alternatives other than

1        what we see here today in this petition with regard  
2        to its interchange process?

3            A.     We did not look to -- there was a number of  
4        constraints, but we did not look to change  
5        interchange points.  You know, it's more dictated on  
6        the...it's much dictated on the configuration and the  
7        routes of the carriers that feed into the Alton &  
8        Southern much more than the Alton & Southern  
9        constraints we have ourselves.

10           Q.     So you didn't look at any other location  
11        where you could engage in this increased interchange  
12        process that this project is intended to address?

13           A.     I don't know what the other railroads  
14        consider or what kind of studies that they did.

15                     I was presented with, you're going to  
16        get an increase in business, and I set about trying  
17        to get the infrastructure in place in order to handle  
18        that.  That was the process.

19           Q.     So the answer to the question is no there  
20        wasn't any, there were no other alternatives examined  
21        by Alton & Southern with regard to expanding its  
22        interchange capacity based on the drivers identified?

1           A.    There wasn't a study done to try to build  
2           infrastructure in other places for the interchange.

3           Q.    Now, am I correct from your direct  
4           testimony or maybe counsel's statement so I'll  
5           clarify it, that Alton & Southern is a subsidiary of  
6           Union Pacific?

7           A.    That is correct.

8           Q.    Union Pacific owns Alton & Southern?

9           A.    Yes.

10          Q.    And isn't it correct that Union Pacific  
11          owns property in Mitchell that's north of Chain of  
12          Rocks and I-270 that Alton & Southern could have used  
13          for this interchange project?

14          A.    I am not -- I know that they have track  
15          north of Mitchell, but as far as interchanging with  
16          us, that's not where they would interchange with us.  
17          They'd interchange at the beginning of our railroad  
18          which is at the north end.  It's at Mitchell and has  
19          been for a hundred years.

20          Q.    How long has Union Pacific owned Alton &  
21          Southern?

22          A.    Without having the documents in front of

1 me, I believe it was 19...they were a part owner in  
2 1968.

3 Q. Okay. So since 1968 at least, Union  
4 Pacific and Alton & Southern have had the potential  
5 to use Union Pacific property for Alton & Southern  
6 Railroad activities, correct?

7 A. That's incorrect. It was a joint  
8 ownership, and it was a different type of entity at  
9 the time.

10 I wasn't here so the question that you  
11 ask me is well above my knowledge.

12 Q. And my question then would be who knows  
13 that?

14 A. I don't know who that person would be.

15 Q. But there was no effort made as far as you  
16 know to consider the use of the Union Pacific  
17 property north of Chain of Rocks and I-270 for this  
18 interchange activity?

19 A. I don't know what kind of study that they  
20 did.

21 Q. Would you agree that if there's sufficient  
22 real estate for the installation of the interchange

1 tracks with the lengths that you're looking at here  
2 at the Mitchell yard, that would satisfy the  
3 railroad's desire and perceived need to handle this  
4 higher volume?

5 A. No.

6 Q. Well, you've testified that you plan to  
7 interchange 21 trains a day, correct?

8 A. That's the forecast.

9 Q. That's the forecast.

10 Now it's 17 to 18 trains at the  
11 present time?

12 A. Correct.

13 Q. Is it not correct that as long as the  
14 railroad has the trackage in place to install what  
15 you've shown here on Exhibit D at another location  
16 that it has access to that it can accomplish that  
17 interchange process?

18 A. I'm really unsure. Could you restate the  
19 question?

20 Q. Sure.

21 What I'm saying is you've got 7,600  
22 feet of space that you want to use to interchange

1 trains, correct?

2 A. Yes.

3 Q. If you take that 7,600 feet and put it at  
4 another location with the same four tracks, you can  
5 do the same thing, correct?

6 A. There is just too many factors that would  
7 go into that. You're talking about where the union  
8 agrees that the employees can go. You're looking at  
9 a lot of different factors.

10 I mean, hypothetically, if you can  
11 pick a yard up and move it to a different location,  
12 would it work? It all depends on so many factors  
13 that I really can't answer your question.

14 Q. Okay. And Alton & Southern and, to your  
15 knowledge, Union Pacific didn't look at any of those  
16 factors in connection with this project?

17 A. To the best of my knowledge, I know that I  
18 was not involved in any other look.

19 Q. In your slide No. 5 where you're talking  
20 about the growth drivers, were any studies done to  
21 come to your estimate of 20 to 21 trains per day?

22 A. It was the projections of the carriers who

1 originate the business is what I was given.

2 Q. Okay. So you took their number and said,  
3 this is what we're going to use based on what they  
4 were doing?

5 A. Correct.

6 Q. Alton & Southern didn't do any independent  
7 analysis or study with regard to the number of trains  
8 that would be going through?

9 A. Correct. We were approached with a number.

10 Q. And you've indicated I believe that it  
11 could go higher than 21 to 22 trains?

12 A. I have no indication that it could go  
13 higher. It may go lower.

14 Q. Well, as a business, Alton & Southern would  
15 like to increase, right?

16 A. Absolutely.

17 Q. So if you could get 40 trains per day  
18 through there, that would be, from a business  
19 standpoint, a good thing for Alton & Southern, right?

20 A. Yes.

21 Q. I want to look if we could at your exhibit  
22 today that you brought in if I can find it now. I

1 believe it's slide 62. Let me get to it, yes, slide  
2 62.

3 If I understood your direct testimony  
4 correctly, slide 62 relates to trains that are  
5 through trains going through the Morrison Road  
6 crossing?

7 A. It's trains going through the Morrison Road  
8 crossing, but yes.

9 Q. Well, you're indicating how long it takes a  
10 train to traverse the crossing under the current,  
11 what you have depicted at the top of the exhibit as  
12 current versus what you're projecting for the future,  
13 right?

14 A. Yes.

15 Q. Okay. But as I understood your direct  
16 testimony, you're not talking about interchange  
17 trains. You're talking about trains that are moving  
18 through the yard north or south.

19 A. This was a hypothetical to illustrate that  
20 we could do concurrent or simultaneous moves at the  
21 same time by extending and having more tracks is what  
22 this illustration is to illustrate.

1 Q. And not dealing with the additional  
2 interchange volume that you were going to be engaged  
3 in in the Mitchell yard after the project is  
4 completed?

5 A. One more time?

6 JUDGE DUGGAN: Pardon me. Can you get closer  
7 to the microphone, please?

8 THE WITNESS: Yes, one more time if you can say  
9 that question again, please.

10 Q. BY MR. SINCLAIR: Your Exhibit 62 is  
11 depicting a train going through the Mitchell yard;  
12 not north to south, south to north, not the  
13 interchange process that's going to be conducted in  
14 the Mitchell yard.

15 A. I don't think I really distinguished  
16 between an interchange or a runthrough train. I  
17 think a runthrough train will be much less. I think  
18 an interchange train will be incrementally more.

19 Q. Well, that's what I want to get to because  
20 I think this exhibit is misleading, and I want to  
21 know what the basis of your computation is.

22 I want to know if you're talking about

1 interchange operations or you're talking about  
2 through trains.

3 A. It could be either one.

4 Q. So your testimony is it doesn't matter?

5 A. I think that it doesn't matter if it's  
6 interchange trains or if it is runthrough trains, and  
7 if you can do concurrent and simultaneous moves and  
8 you've got a set number of trains that are going to  
9 be going through there in a day that the total amount  
10 of time that a crossing will be occupied will be  
11 less.

12 Q. But you have indicated I believe in  
13 response to Mr. Robertson's examination that when you  
14 do an interchange, you stop the train, right?

15 A. That's correct.

16 Q. And that's different than a through train?

17 A. That is correct.

18 Q. Now, in your Exhibit A which you presented,  
19 you had no information, at least as I understood the  
20 exhibit, regarding the blockage of the crossing  
21 either now or after the project is completed,  
22 correct?

1 A. I apologize. Can you ask that again?

2 Q. Okay. Let me back up and ask a different  
3 question.

4 Did the railroad do any studies  
5 regarding the blockage of the crossing now versus  
6 after this project?

7 A. No.

8 Q. Did the railroad do any studies to confirm  
9 your statement and your testimony in September at  
10 page 69 of the transcript that vehicle traffic will  
11 be improved at the crossing?

12 A. Where am I going to find that?

13 Q. Page 69 of the transcript I believe.

14 A. And what line are we on?

15 MR. SHUMATE: Can we have the question read  
16 back?

17 (The reporter read back the last  
18 question.)

19 MR. SINCLAIR: And I believe I should have said  
20 page 67.

21 Question: "With the addition of the  
22 additional two tracks, will the adverse effect on the  
246

1 traffic that is trying to cross the crossing, will it  
2 have a positive or negative effect upon the traffic?"

3 Answer: "It will have a positive  
4 effect."

5 A. As far as detailed studies, no. My  
6 response was that, if I'm at the right spot, that by  
7 having more tracks, you're going to be more efficient  
8 at moving the trains through that location.

9 Q. And you answered my question by saying that  
10 there were no studies or analyses done to support  
11 that statement?

12 A. It's historical knowledge. We've done this  
13 for a long time, and I know that by adding capacity  
14 and additional tracks where you're going to be able  
15 to move multiple moves and simultaneous moves through  
16 a location, you will be more efficient than if you  
17 run them through one at a time.

18 Q. But there was no study done on this  
19 crossing with this project?

20 A. In my opinion, there was no study needed.  
21 There was no study done.

22 Q. That's not the question I asked you.

1 A. There was no study done.

2 Q. Thank you.

3 Do you know how many trains you  
4 currently break in the Mitchell yard on any kind of  
5 average?

6 A. No.

7 Q. Would it be correct to say that while a  
8 break is being accomplished, the crossing is blocked?

9 A. Yes.

10 Q. But you don't know how many breaks you do  
11 now?

12 A. There is some days we don't do any, and  
13 there's other days we might do one or two.

14 Q. Did you do any studies regarding whether  
15 that will increase with this project?

16 A. No.

17 Q. Could you take a minute to look at slides  
18 58 through 61 of Exhibit A.

19 You can let me know when you have  
20 those.

21 (Pause)

22 A. Okay. I have it.

1 Q. All right. If you would look at 59 in  
2 particular, please. Do you recognize what that  
3 document is?

4 A. It is a document that shows 2009 real  
5 estate taxes.

6 Q. And do you know why that was included in  
7 Exhibit A?

8 A. I did not testify to it so no.

9 Q. But when you look at slide 59 in Exhibit A,  
10 you see a reference to the Mitchell Fire District,  
11 correct?

12 A. Yes, I see them there.

13 Q. And this appears to be a 2009 real estate  
14 tax bill, correct?

15 A. Correct.

16 Q. And what is the amount of tax paid to the  
17 Mitchell Fire Protection District according to this  
18 bill?

19 A. If you want to point me to someplace, I'll  
20 help you confirm it.

21 Q. Sure. I'll be glad to.

22

1 (Whereupon Mr. Sinclair pointed  
2 it out for the witness.)

3 A. So rates and amount of taxes. Okay. Zero  
4 it says.

5 Q. Zero.

6 Now, this tax bill, which is included  
7 in your Exhibit A, is directed to the Alton &  
8 Southern Railroad, correct?

9 A. Yes.

10 Q. So the railroad pays no real estate taxes  
11 to the Mitchell Fire Protection District or any other  
12 taxing body that's listed on the tax bill, correct?

13 A. I'm not a tax expert. I don't know how the  
14 tax dollars flow and so you've got me at a  
15 disadvantage.

16 Q. Okay. I'll accept that.

17 If there were a collision or, and I  
18 use the term loosely, a train wreck in the Mitchell  
19 yard, you would call, you, the railroad, would call  
20 upon the local emergency services for assistance,  
21 would you not?

22 A. Yes.

1 Q. And that would include the Mitchell Fire  
2 Protection District, the Long Lake Fire Protection  
3 District, the City of Granite City?

4 A. Correct.

5 Q. And you would agree that having access  
6 within the Mitchell yard would be an important  
7 consideration for providing that service?

8 A. Correct.

9 JUDGE DUGGAN: Hold on a second. Off the  
10 record.

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

14 JUDGE DUGGAN: We'll take a five-minute break.

15 (Recess taken.)

16 JUDGE DUGGAN: Back on the record.

17 Mr. Sinclair?

18 MR. SINCLAIR: Yes.

19 Q. Mr. McCarthy, have you had occasion to  
20 review the application of Joseph Juno which is one of  
21 the proposed exhibits by the City of Granite City?

22 A. No, I have not.

1 Q. Okay.

2 A. Oh, is that -- which one?

3 Q. Regarding the blockage of the crossing.

4 A. Yes, I did see that.

5 Q. Do you have any reason to disagree with it?

6 A. I have no information that anything in  
7 there is inaccurate or accurate. I take it at face  
8 value.

9 Q. Thank you.

10 As part of the proceeding, the City of  
11 Granite City served on Alton & Southern requests for  
12 production of documents, and I believe that you  
13 signed the response to that request, is that correct?  
14 I may be incorrect about that.

15 A. I didn't see that.

16 MR. SINCLAIR: No, I believe I'm incorrect  
17 about that. I withdraw that question. I thought  
18 that you had signed the response but you didn't.

19 That's all I have. Thank you.

20 JUDGE DUGGAN: Very good. All right.

21

22

1 CROSS-EXAMINATION

2 BY JUDGE DUGGAN:

3 Q. When you refer to the 7,600-foot track, are  
4 you referring to track 6?

5 A. Yes, sir.

6 Q. Okay. Because presently, the main line, of  
7 course, goes all the way through, and 6 is the only  
8 one of the three interchange tracks that actually  
9 presently crosses south of Morrison at-grade  
10 crossing, correct?

11 A. Correct.

12 Q. And then in any event, if you have a  
13 7,000-foot train and it's one mile from Morrison Road  
14 to Chain of Rocks Road, then, of necessity, part of  
15 that train has to be South of Morrison Road, correct?

16 A. Yes.

17 Q. Okay. Now, I need clarification again on  
18 exactly how the operation is being done there.

19 You're saying this is not a switching  
20 yard, correct?

21 A. That is correct.

22 Q. Okay. So do you just bring in a new crew

1 for the train or do you bring in a new locomotive or  
2 what do you bring in?

3 A. The trains stay intact so the locomotives  
4 and the cars stay as one unit. There would be one  
5 crew that steps off. Take for instance a Burlington  
6 Northern crew, they will step off and Alton &  
7 Southern crew will get on.

8 Q. Okay. So that's why an interchange can  
9 take very little time if the new crew is ready to get  
10 on, correct?

11 A. Correct.

12 Q. Okay. If the new crew is behind time, then  
13 you need to presently, if it's more than 7,000 feet,  
14 you need to get on track 6 for now and it would be  
15 coupled if they're not there yet, is that correct?

16 A. That's correct.

17 Q. So did you say that presently approximately  
18 50 percent of the trains are interchanged?

19 A. Yes.

20 Q. Okay. You have 20, 21 trains a day, so if  
21 approximately 50 percent on average are interchanged,  
22 then ten percent are through trains and ten percent

1 or, excuse me, ten are through trains and ten are  
2 interchanged, right?

3 A. Correct.

4 Q. Okay. And assuming that all these trains  
5 are more than a mile long, more than the distance  
6 between Chain of Rocks and Morrison Road, then, of  
7 course, you need a track that can accommodate that.  
8 Presently you only have one of those tracks, is that  
9 right?

10 A. That's correct.

11 Q. All right. Now, if you have more than one  
12 track and you can do more than one interchange at one  
13 time, that suggests to me that presently some trains  
14 that could be being done at the same time are not  
15 because you have no place to put them, right?

16 A. That is correct.

17 Q. Okay. So where are they? Do they stop and  
18 wait on the track?

19 A. They will be held further back which,  
20 unfortunately, for a southbound train, we're holding  
21 it out on either Union Pacific, a Burlington Northern  
22 train or an NS train on their main line tracks, so

1 they're held back there until we can have a slot to  
2 process them or they're held on our main line until  
3 the train in front of them moves and they can move up  
4 and process. That's how it's being done now, and  
5 it's inefficient and not only specifically at  
6 Mitchell but also it blocks their main line and  
7 reduces their velocity and capacity.

8 Q. Okay. So it is happening now that, in  
9 fact, if you had an additional track that could  
10 accommodate those trains, you would be doing more  
11 than one interchange at a time, is that correct?

12 A. That's correct.

13 Q. And to the extent that you're able to do  
14 more than -- excuse me. Presently since, you can  
15 only do one at a time and let's assume that you're  
16 doing ten a day, then whatever number has not timed  
17 their crew correctly that has to block the crossing,  
18 that number of trains is blocking the crossing per  
19 day, correct, or has to be decoupled or is sitting  
20 there for five minutes waiting for a crew, but at  
21 some point in time, they're going to block the  
22 crossing, correct?

1           A.    Yes.  At some point, they're going to have  
2           to move through the crossing.

3           Q.    Right.  It's either sitting there for five  
4           minutes waiting for the other crew or it's sitting  
5           there waiting till you get it decoupled, right?

6           A.    Correct.

7           Q.    Okay.  And again, assuming there's ten of  
8           those trains, then it's going to happen ten times a  
9           day, right?

10                   Excuse me.  Assuming there's ten a  
11           day, then that will happen ten times a day?

12           A.    Correct.  Ten interchange trains a day is  
13           what you're saying or just ten trains?

14           Q.    Ten trains that you're going to  
15           interchange, that crossing will be blocked ten times  
16           a day for at least time waiting for the crew to get  
17           there or time to decouple the train, correct?

18           A.    Or just moving through.  Remember, 50  
19           percent of the trains are runthrough.

20           Q.    Right.  I'm trying to keep those separate  
21           because I think that was part of the concern as I  
22           understood Mr. Sinclair to have is these are two

1 separate issues.

2                   The main line you say will cut down on  
3 blockage time because it's going to go faster, but  
4 the interchange blockage time should be less because  
5 of what I'm about to get to which is that if you have  
6 ten times now on average that would be blocked due to  
7 an interchange train and if you are presently  
8 experiencing a situation where you could be doing two  
9 at once, then that would be, to the extent they  
10 overlap, then that's less time than ten separate  
11 trains, correct?

12           A.    That is correct.

13           Q.    Okay. Less blocked crossing time than ten  
14 separate trains, correct?

15           A.    That is correct.

16           Q.    Okay. And when you said that you could  
17 switch out one car, is that something that you ever  
18 do at Mitchell?

19           A.    What I indicated is that we have one  
20 industry at the north end of the Mitchell yard. It's  
21 a place where lumber trains load. Been there for  
22 many, many decades, and they'll take like one or two

1 cars a day, and we have a local that goes up, takes  
2 those two cars up, maybe spots two, three, four cars  
3 and pulls back two, three, four cars and takes them  
4 back to the yard, but it's all up at the very north  
5 end. It doesn't really affect Morrison Road.

6 Q. Is that north meaning north next to Chain  
7 of Rocks?

8 A. It's right at Chain of Rocks, yes.

9 Q. Okay. And did I also hear you say  
10 something about six tracks up at Chain of Rocks?

11 A. No. Well, if you count the leads going  
12 into the industry. The industry actually, if it's of  
13 interest, there's an operation on the east side and  
14 the west side, and there's a lead that goes back into  
15 those industries a short distance, and so there are  
16 six tracks across it.

17 Q. Across what?

18 A. The width of our yard at the very north  
19 end. They're very short tracks. They just feed into  
20 the industry.

21 Q. Okay. Is it one industry?

22 A. There's one industry, but they have land on

1 both sides and they have a rail spur that goes into  
2 both sides.

3 Q. Okay. And that's the lumber industry?

4 A. That's the lumber industry.

5 Q. And just so I get it straight, they might  
6 take one or two trains a day to try to attach to one  
7 of your trains?

8 A. No.

9 Q. Or cars?

10 A. No. We'll just bring one or two cars out  
11 of gateway yard. It's a really long move, and we've  
12 got to drag them all the way up there and spot one or  
13 two cars into their industry, and the cars that were  
14 unloaded the day before, we'll pull those out and  
15 bring them back to gateway yard.

16 It's a totally different -- it's  
17 spotting an individual industry.

18 Q. It could be anywhere but the industry just  
19 happens to be near the switching yard?

20 A. Correct.

21 JUDGE DUGGAN: Okay. I don't have anything  
22 else.

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Mr. Saladino?

MR. SALADINO: Thank you, Your Honor. I just  
have a few questions.

CROSS-EXAMINATION

BY MR. SALADINO:

Q. First of all, the petition states that the  
A&S would bear 100 percent of the cost for this  
project, is that correct?

A. That is correct.

Q. And so the A&S is not asking for funding  
from the Grade Crossing Protection Fund which is  
operated by the Commerce Commission, is that correct?

A. That is correct.

Q. The A&S is not asking for funding from  
Granite City or any township in this area, is that  
correct?

A. No, we are not.

Q. That's correct?

A. That is correct.

Q. The A&S also stated that they would  
maintain at their expense all equipment or track  
that's associated with this project, is that correct?

1           A.    That is correct.

2           Q.    And if the Commerce Commission granted the  
3 petition and there were four tracks at the Morrison  
4 Road crossing, there would be four crossing surfaces,  
5 will the A&S maintain those crossing surfaces?

6           A.    Yes.

7           Q.    Okay.  And also, if the petition was  
8 granted and the signals were moved out to accommodate  
9 the four tracks, new cabinets or any signal equipment  
10 that's involved with this would also be maintained by  
11 the A&S, is that correct?

12          A.    That is correct.

13          Q.    I have a question that I hope you can  
14 answer.

15                         During the construction while these  
16 two tracks are being installed, would that require a  
17 road closure at Morrison Road?

18          A.    Yes.  Like most other construction  
19 projects, when we put the track physically through  
20 the crossing, it will be closed for a 24/48 hour  
21 period maybe somewhere along that line.

22          Q.    Okay.  So a possible one to two day

1 duration. You don't think it would be a week or two  
2 weeks or months, anything like that?

3 A. No, no.

4 Q. So your estimate is one to two day  
5 duration?

6 A. For each track.

7 Q. Okay.

8 A. At two different times.

9 Q. And during that duration, has the Alton &  
10 Southern Railroad considered any alternate routes,  
11 detours or temporary crossings to accommodate the  
12 vehicles that currently cross this crossing on a  
13 daily basis?

14 A. I'm not sure of the process. I know that  
15 we have done many of these, and we usually work with  
16 the road authority to figure out the best way to  
17 handle the outage, so I'm not sure what the process  
18 would be on this one.

19 JUDGE DUGGAN: Mr. Saladino, are you asking  
20 about during the construction period or after the  
21 construction period?

22 MR. SALADINO: Your Honor, just during the

1 construction, just during the period in which these  
2 two tracks would be installed. I just want to know  
3 what accommodations have been made for the local  
4 traffic to get from one side to the other.

5 JUDGE DUGGAN: And that's how you answered the  
6 question, correct?

7 THE WITNESS: Yes, sir.

8 JUDGE DUGGAN: Okay.

9 Q. BY MR. SALADINO: And you're familiar with  
10 this area, correct?

11 A. Yes.

12 Q. What do you think in your opinion would be  
13 the best way to handle traffic through this area  
14 during those one or two days when the road is closed?

15 A. I think that our normal process would be to  
16 get with the city. We would either put out a public  
17 notice that it would be closed, and I think they  
18 usually announce an alternate route for that or, if  
19 necessary, I would assume that they could do in  
20 certain cases...I don't know if this would be the  
21 case because we're doing a long construction  
22 process...an alternate crossing of some type, but

1 usually it's a bypass detour route that we try to  
2 accommodate.

3 Q. Okay. And you are aware that if there was  
4 going to be a temporary crossing installed that you  
5 would have to seek permission from the Commerce  
6 Commission to do that?

7 A. Correct.

8 Q. Okay. Concerning the blockage time at the  
9 crossing, does the Alton & Southern have operating  
10 rules concerning what would be an acceptable amount  
11 of time to block this crossing?

12 A. What we do is if we know that, what we try  
13 to do is work out our moves with the adjacent  
14 carriers in advance so we know that prior to a train  
15 getting there, if we're going to need to break the  
16 crossing because, it's going to be blocked for over a  
17 certain amount of time.

18 And really, the criteria is, you know,  
19 the normal train, it takes about 15 minutes to break  
20 it apart, more so to put it back together, so it's  
21 usually about a 45-minute process, the breaking apart  
22 and the putting the train back together.

1                   So if it's going to be somewhat less  
2                   than that, we would try to -- we would in some cases  
3                   not choose to do that, break it, because it would  
4                   take more time. If it's going to go over that amount  
5                   of time, then we look to break it.

6                   Q.    Okay. But do you know if you have anything  
7                   in writing?

8                   A.    No, we don't have a policy, hard and fast  
9                   policy.

10                  Q.    Do you think it would be helpful to have a  
11                  written policy that the operators of the trains would  
12                  know, okay, we know we're going to have a 60-minute  
13                  wait, so according to our policy, here's what we have  
14                  to do? Would that be helpful?

15                  A.    That could be a possibility.

16                  Q.    Okay. In the petition, paragraph 16, it  
17                  says it would be in the best interest of the public  
18                  at large, and it would improve the efficiencies of  
19                  the rail operations in this area.

20                                Could you expand a little bit on that  
21                                statement and explain to me what you feel would  
22                                improve public safety at large at this area by the

1 Commission granting this petition?

2 A. Currently with the growth that we're  
3 having, we have the crossing probably occupied more  
4 than what we would like. We are also probably  
5 breaking the crossing, and that to us, it's safety  
6 not only to the crew but to the traveling public.

7 We think by expanding our capacity  
8 that we'll be able to block the crossing for shorter  
9 durations, less occurrences, and be able to have less  
10 impact on the traveling public by being able to do  
11 simultaneous moves and have more time when the  
12 crossing is unoccupied.

13 Q. Okay. And also in that paragraph, it also  
14 mentions that it would improve rail operations in the  
15 area.

16 So are you talking about this would  
17 improve blockages at other crossings or --

18 A. Yes. We will slow roll a train or we will  
19 stage a train at locations away from Mitchell  
20 currently, Mitchell yard currently until we have an  
21 opportunity to bring that train up and interchange  
22 it.

1                   So what we're doing is we're slowing  
2                   the train traffic down so it's not moving as fast  
3                   over other crossings, and we're holding it at other  
4                   locations which is causing more congestion down the  
5                   line. It's kind of a domino effect not only on our  
6                   railroad but also on the carriers that feed trains  
7                   into us.

8                   Q.     Okay. Thank you.

9                   Has the Alton & Southern considered an  
10                  overpass in place of moving the signals out at this  
11                  crossing, considered the expense that it would cost  
12                  to build an overpass? Has it been considered or  
13                  talked about that you know of?

14                 A.     We have not considered that as an option.

15                 Q.     And if it was brought up, do you have an  
16                  opinion either way as to whether it would be an  
17                  improvement or not?

18                 JUDGE DUGGAN: Again, let me clarify.

19                             Are you talking about an overpass of  
20                  the road, over the tracks, or the tracks over the  
21                  road?

22                 MR. SALADINO: Your Honor, I'm talking about

1 the road overpassing the railroad.

2 JUDGE DUGGAN: Okay.

3 THE WITNESS: I think it would be -- it's  
4 always preferable to separate the at-grade crossing,  
5 to get it over, under, than it is to have trains and  
6 cars crossing at grade.

7 Q. BY MR. SALADINO: And would you say it  
8 would improve safety?

9 A. Absolutely.

10 Q. My final question.

11 If the Commission denies the petition  
12 to allow these two additional tracks, what effect  
13 would that have on the railroad?

14 A. The effect would be that as the train  
15 volume would build up, we would become less and less  
16 efficient. You would have slower train traffic not  
17 only on our railroad but our interchange carriers, so  
18 the velocity would be down. You'd slow the freight  
19 up.

20 We're a common carrier. We have a  
21 fiduciary duty to move the traffic, so that would  
22 slow down. It would be a detriment I think to the

1 motorists who use Morrison Road because you're going  
2 to have more what we call single line movement  
3 through there instead of simultaneous movement, so  
4 the crossing would be blocked more. It would be a  
5 huge detrimental effect.

6 MR. SALADINO: That's all the questions I had,  
7 Your Honor.

8 Thank you, Mr. McCarthy.

9 JUDGE DUGGAN: Unfortunately I've got to ask a  
10 couple here.

11 CROSS-EXAMINATION

12 BY JUDGE DUGGAN:

13 Q. This is back to the time questions that  
14 Mr. Saladino was asking you.

15 You say it takes about 15 minutes to  
16 decouple and a little bit more than that to put them  
17 together.

18 What is the timeframe, where is your  
19 dividing line that you decide to decouple them  
20 because you don't expect the new crew to be here for  
21 a period of time?

22 A. Well, I think that if we're over that

1 45-minute period where it takes to actually cut the  
2 crossing and put it back together, that's definitely  
3 when we start looking to cut that crossing, get the  
4 crew on the ground.

5 We try to know that ahead of time  
6 because it's to our advantage to know ahead of time.  
7 It speeds the process up.

8 Q. Okay. But it's approximately 45 minutes?

9 A. 45 minutes give or take, yes.

10 Q. And who makes that decision?

11 A. It's usually the yardmaster that's  
12 dispatching the territory.

13 Q. Now, you aren't, Alton & Southern Railway  
14 is not the road authority in the area, correct?

15 A. That's correct.

16 Q. I assume that you couldn't do an  
17 interchange if you were to build a railroad bridge  
18 over the road or a railroad underpass under the road.  
19 Could you operate an interchange that way?

20 A. It would be quite a dig but, I mean, there  
21 are areas, I guess there's places in America where  
22 that happens.

1                   You mean just take the tracks  
2 underneath the road?

3           Q.    Yes.

4           A.    I think it would be better to go over, but,  
5 I mean, if that was an option.

6           Q.    Either way, can you operate an interchange  
7 on the slope?

8           A.    There's some inherent risk to that because  
9 of the breaking, because of the potential of a train  
10 rolling on you if everything doesn't go right.

11                   Currently we operate on a flat river  
12 grade, and it adds quite a bit of safety to the  
13 operation.

14           JUDGE DUGGAN:   Okay.   Very good.

15                   Back to you, Mr. Shumate.

16           MR. SHUMATE:   Thank you, and thank you all  
17 because you covered most of the questions I had for  
18 redirect, but just a couple I want to ask.

19                   REDIRECT EXAMINATION

20           BY MR. SHUMATE:

21           Q.    Mr. McCarthy, is the Alton & Southern an  
22 interstate common carrier by railroad?

1 A. Yes.

2 Q. As an interstate common carrier by  
3 railroad, is the Alton & Southern obligated to  
4 provide for public convenience and necessity?

5 A. Yes.

6 Q. If traffic is tendered to the Alton &  
7 Southern Railroad, is it expected to take the trains?

8 A. Yes.

9 Q. Number two. By upgrading the track, will  
10 the movements be safer?

11 A. Yes.

12 Q. Next, I think you've stated this, but with  
13 regard to eliminating at-grade crossings, would it be  
14 the preference of the Union Pacific Railroad to  
15 eliminate all at-grade crossings across its system?

16 A. Yes.

17 Q. There were some questions about directions  
18 of trains if you could obtain the property from the  
19 Union Pacific Railroad to the north.

20 Would that allow the trains to come  
21 through a relocated interchange location or would  
22 they have to back up into it?

1           A.    I'm not sure how another yard would be  
2           configured to come on.  It would still -- I wouldn't  
3           know how to answer that.

4           Q.    Okay.  Is the Alton & Southern a  
5           stand-alone railroad that just happens to be owned  
6           today by the Union Pacific Railroad?

7           A.    Yes.

8           Q.    And it has been owned by other railroads or  
9           other parties in the past, is that correct?

10          A.    That's correct.

11          Q.    If the improvements that we're talking  
12          about today at the Morrison Road crossing and the  
13          rest of the project, if they're not made, will the 20  
14          or so trains that we've talked about still be coming  
15          through the Morrison Road crossing?

16          A.    Yes.

17          Q.    And if the project is completed and the  
18          change is made at Morrison Road crossing, in your  
19          opinion as a railroad operations person, will the  
20          efficiency between vehicles and trains be enhanced as  
21          opposed to what it is today?

22          A.    Yes.

1 MR. SHUMATE: That's all.

2 RE-CROSS-EXAMINATION

3 BY JUDGE DUGGAN:

4 Q. Why is the 30-mile per hour being upgraded?  
5 Is that because you're upgrading the track or  
6 crossing?

7 A. This is pretty sensitive. It's a pretty  
8 time sensitive business.

9 Q. What allows you to move it 30 rather than  
10 15 or could you move it 30 on the present tracks?

11 A. Only on the main track.

12 What we're also doing is on the south  
13 end when we're leaving through there, we're putting  
14 in bigger or longer turnouts so that it can  
15 accommodate a higher speed coming out of 1, 5 and 6  
16 so we're going to be able to exit out that end.

17 Right now we have shorter turnouts  
18 that require lower speed.

19 Q. What about your main line? I was under the  
20 impression that your main line was traveling at 15  
21 right now?

22 A. It is, and that's operational. Our

1 current, that is, our main track authority, the type  
2 of main track authority that we operate right now,  
3 it's in yard limits, and we are going, we're looking  
4 to change it with this project, simultaneous with  
5 this project, to allow us to up our speed on that.

6 Q. Is it a decision that could have been made  
7 at any time or is there something about this project,  
8 not for the interchange trains that are coming off  
9 the other tracks, the main line only, is there any  
10 reason that it couldn't be done now? Is it purely a  
11 decision made by someone or is it something  
12 physically changing that's going to allow the main  
13 line to run at 30?

14 A. We could do that today.

15 JUDGE DUGGAN: Okay. Very good. Thank you.

16 Mr. Robertson?

17 MR. ROBERTSON: Yes, sir.

18 RECROSS-EXAMINATION

19 BY MR. ROBERTSON:

20 Q. What is the function of the Mitchell yard  
21 as it exists today north of Morrison Road?

22 A. It is designated as an interchange yard.

1 Q. And is it still used for interchange  
2 purposes?

3 A. Yes.

4 Q. So that is one of the reasons why you're  
5 able to handle the additional trains that you're  
6 taking today, is that correct?

7 JUDGE DUGGAN: I'm not sure I understand the  
8 question.

9 MR. ROBERTSON: Okay.

10 Q. What I'm saying is, you mentioned -- let me  
11 be more specific. You mentioned you had to leave  
12 some trains out on the main line tracks or by the  
13 railroads before you got a slot for them in your  
14 current interchange yard.

15 A. Correct.

16 Q. So you are able to bring multiple trains  
17 into the current interchange yard?

18 A. If we are very fortunate on train size, we  
19 have, on opportunity, been able to do that, yes.

20 Q. And, in fact, that's been its historic  
21 function?

22 A. Correct.

1 MR. ROBERTSON: I don't have any other -- hang  
2 on just a second.

3 (Pause)

4 MR. ROBERTSON: I don't have anything else,  
5 Your Honor.

6 FURTHER RECROSS-EXAMINATION

7 BY JUDGE DUGGAN:

8 Q. Okay. What are the lengths of the tracks 1  
9 and 5?

10 A. Currently? Off the top of my head I think  
11 they're like 2- or 3,000 feet. About 3,000 feet  
12 would be the longest.

13 Q. For you to do multiple interchanges at the  
14 same time right now, you need at least one train  
15 under that 3,000 feet, correct?

16 A. We could use six in the main line is what  
17 we could use.

18 Q. Six can accommodate a 7,000-foot train,  
19 correct?

20 A. Short of that. It's 67-, 6600 feet.

21 Q. Okay.

22 A. Because of the clearance distance on each

1 end.

2 Q. One in five cannot handle a 6,500-foot  
3 train, correct?

4 A. That's correct.

5 Q. So to interchange more than one train at a  
6 time, at least one of them has to be under  
7 3,000 feet, correct?

8 A. That would be correct.

9 JUDGE DUGGAN: Okay. Thanks.

10 Mr. Evans?

11 MR. EVANS: You've given me a question.

12 RE-CROSS-EXAMINATION

13 BY MR. EVANS:

14 Q. How many trains run through there or do you  
15 have any statistics as to how many trains that run  
16 through there that need to be interchanged are under  
17 3,000 feet?

18 A. Virtually none. It's very inefficient to  
19 run a train that small.

20 Q. Okay. Then I'm going to go to the other  
21 question I was going to ask.

22 Listening to all this talk today, one

1 of the things you guys talked about is that the  
2 trains be able to go this 30 miles an hour. We've  
3 talked about that. We found out it could go 30 miles  
4 an hour today. We've talked about the increased  
5 number of trains going through this intersection, but  
6 we've learned that they're all going through  
7 basically today.

8 So most of the efficiencies, if not  
9 all of the efficiencies, are going to be gained if  
10 there can be simultaneous interchanges between the  
11 trains, correct?

12 A. In part, yes.

13 Q. Okay. And that requires two crews to be  
14 there at the same time, one getting off the train,  
15 one getting on the train?

16 A. Yes, yes.

17 Q. Okay. Does Alton & Southern have any  
18 statistics or anything as to what percentage of the  
19 interchanges actually occur within five to ten  
20 minutes as opposed to an hour, two hours, six hours?  
21 Do you have any statistics on that?

22 A. Not with me. I mean, we don't look at

1 strictly interchange trains. We can see how long a  
2 train dwells at a certain location but not at a  
3 specific location.

4 We have ways to find out how long that  
5 would take, but we don't know what the cause would be  
6 on each individual train.

7 Q. As you sit here today, do you know how many  
8 of these interchanges occur as smoothly and  
9 flawlessly as you'd have us believe they're going to  
10 move through?

11 A. Can you restate your question?

12 Q. Can you tell me how many times a train  
13 pulls in for an interchange and there's a crew  
14 waiting?

15 A. I can't give you a hard fact, no.

16 Q. Can you give me an estimate?

17 A. I would say it happens the majority of the  
18 time because that's what we work toward.

19 Q. Around 50 percent?

20 A. I'd say the majority of the time.

21 Q. So 51 percent?

22 A. I can't give you an exact number.

1 MR. EVANS: Okay. That's all the questions I  
2 have.

3 JUDGE DUGGAN: Mr. Sinclair?

4 MR. SINCLAIR: I just have one clarifying  
5 question.

6 RE-CROSS-EXAMINATION

7 BY MR. SINCLAIR:

8 Q. In response to a question from Mr. Saladino  
9 about your petition, I believe he referenced to  
10 paragraph 16 of the petition, and you verified that  
11 petition, correct?

12 A. Yes.

13 Q. Okay. There was a reference to public  
14 safety that he made I believe in asking a question,  
15 but the petition does not reference to public safety.  
16 Am I correct about that?

17 A. Where exactly are we referring to?

18 Q. Paragraph 16 of your petition. It's on  
19 page 3.

20 A. It mentions it in the last sentence, to  
21 maintain grade crossing safety in the area.

22 MR. SINCLAIR: Okay. Thank you. That's all.

1 JUDGE DUGGAN: Okay. Mr. Saladino?

2 MR. SALADINO: No, Your Honor.

3 JUDGE DUGGAN: Okay. Anything else for this  
4 witness?

5 MR. SHUMATE: No, Your Honor.

6 (Witness excused.)

7 JUDGE DUGGAN: Then we'll call Mr. Smith and  
8 get his questions.

9 And let me find out too, I've got two  
10 copies of what was going to be introduced as Exhibit  
11 E being the certified deeds. One of them has three  
12 stapled sections and the other one only has two. Is  
13 there supposed to be three? How many?

14 MR. SHUMATE: Four pieces would be ---there are  
15 four pieces to Exhibit E, two deeds and two  
16 abstracts, and these are certified originals.

17 JUDGE DUGGAN: Okay. Then I will have him  
18 clarify that, that that's what this constitutes.

19

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22

1 DAVID SMITH

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

5 CROSS-EXAMINATION

6 BY JUDGE DUGGAN:

7 Q. Okay. Mr. Smith, you've previously been  
8 sworn, and earlier today you introduced Exhibit E,  
9 identified that, and possibly I didn't catch that or  
10 the details, but are there, in fact, four different  
11 deeds with four different certifications that  
12 constitute the Exhibit E?

13 MR. SHUMATE: Your Honor, what I handed you is  
14 two deeds and two abstracts related to the deed.

15 JUDGE DUGGAN: Okay. Then let me reask the  
16 question then. Let me ask the question in light of  
17 Mr. Shumate's comment.

18 Does Exhibit E consist of two more  
19 warranty deeds with their certifications and two  
20 abstracts with their certifications?

21 A. I think, sir, that they are for warranty  
22 deeds.

1 JUDGE DUGGAN: Okay. Let's go off the record.  
2 Let's get it straight.

3 (Whereupon an off-the-record  
4 discussion transpired at this  
5 time.)

6 JUDGE DUGGAN: On the record.

7 Q. I'm going to ask that one more time after  
8 clarification off the record here that, in fact,  
9 there are two warranty deeds each with their  
10 certificate, and there are two abstracts of deeds  
11 with their certificates that they are, in fact, true  
12 and correct, correct?

13 A. That's correct, sir.

14 Q. Okay. And that being the case, since  
15 there's four of these, I'm going to go ahead and mark  
16 them as E1, E2, E3 and E4 or else they're going to  
17 get lost in the record.

18 So the one you had on top was a  
19 501/580, correct?

20 A. Yes, sir.

21 Q. Okay. Are they in a particular order?

22 A. No, sir. There's Rapp and then Branding.

1 Q. Okay. Hold on. I see Rapp. You mean  
2 where Rapp is the seller?

3 A. Yes, sir.

4 Q. Okay. So that's your second one, is that  
5 correct?

6 A. No, that's the first one. The 501/580 is  
7 the deed for the Rapp parcel.

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

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

13 JUDGE DUGGAN: Back on the record.

14 Q. After further clarification off the record,  
15 it appears that the four documents submitted as part  
16 of Exhibit E, actually, only two of them are deeds to  
17 Alton & Southern Railroad, is that correct,  
18 Mr. Smith?

19 A. That's correct.

20 Q. Okay. And is it your statement that the  
21 documents constituted in Exhibit E are an abstract of  
22 the warranty deeds to Alton & Southern, is that

1 correct?

2 A. That's correct.

3 Q. Okay. And one of them is for part of the  
4 80-foot wide strip south of Morrison Road, correct?

5 A. Yes, sir.

6 Q. And one of them is the 80-mile strip north  
7 of Morrison Road, correct?

8 A. That's correct.

9 Q. Okay. And the document with the notation  
10 501/580, that is the area north of Morrison Road,  
11 correct?

12 A. That's correct.

13 Q. And the other document that's notation  
14 501/582 is south of Morrison Road, correct?

15 A. That's correct.

16 Q. Okay. Then I'm going to mark the 501/580  
17 as E1 and the 501/582 as E2.

18 Is that agreeable with you?

19 A. Yes, sir.

20 Q. And again, you said that copies of the  
21 deeds are with the affidavit you previously attested  
22 to as Exhibit B I believe, correct?

1           A.     That's correct, A and B.  It's in my  
2     affidavit but it's as my Exhibit A and B.

3           Q.     Okay.  Your exhibit is Exhibit B.  You have  
4     attached exhibits to your exhibit.

5           A.     Yes.

6           Q.     Okay.  But the abstracts as Exhibit E1 and  
7     2 are certified whereas the deed presented with the  
8     deed are not certified by the recorder of deeds,  
9     correct?

10                         The abstracts submitted as E1 and E2  
11     are certified by the recorder of deeds of Madison  
12     County, correct?

13           A.     That's correct.

14           Q.     The deeds submitted with your affidavit are  
15     not certified deeds, correct?

16           A.     That's correct.

17           JUDGE DUGGAN:  Okay.  Very good.  Thanks.

18                         Mr. Robertson?

19           MR. ROBERTSON:  Just to make sure, Your Honor,  
20     it's E1 and E2 that are going into the record, right,  
21     as Exhibit E?

22           JUDGE DUGGAN:  Well, they're going to be

1 offered as exhibits. We're not going to get around  
2 to it today to admit them but...

3 MR. ROBERTSON: Well, if these are the only two  
4 things going into the record, I don't have any  
5 questions.

6 JUDGE DUGGAN: Okay. Very good.

7 MR. ROBERTSON: Is that right, E1 and E2 are  
8 the only thing -- you have some other pages back  
9 there?

10 JUDGE DUGGAN: Okay. Off the record.

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

14 JUDGE DUGGAN: Okay. Back on the record.

15 Mr. Shumate, are you going to offer  
16 into evidence when the time is appropriate the E1 and  
17 E2 as I've previously described and withdraw the  
18 previously proffered E with the four separate  
19 documents?

20 MR. SHUMATE: Yes, Your Honor.

21 JUDGE DUGGAN: Okay. Very good.

22 Then if you have no further questions,

1 Mr. Robertson, Mr. Evans?

2 MR. EVANS: No questions, Your Honor.

3 JUDGE DUGGAN: Mr. Sinclair?

4 MR. SINCLAIR: No questions, Your Honor.

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

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

9 JUDGE DUGGAN: Back on the record.

10 We're going to continue this to  
11 November 27th at 10 a.m. in Springfield, and that  
12 will conclude the hearing for today.

13 (Whereupon the hearing was  
14 continued to November 27, 2012  
15 at 10:00 a.m.)

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