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6 (Appearing on behalf of the
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(Appearing on behalf of
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PROCEEDINGS

JUDGE DUGGAN: Pursuant to the authority vested in me by the State of Illinois and the Illinois Commerce Commission, I now call Docket T13-0121.

May I have the appearances, starting with Petitioner, your name, who you represent, address, and telephone number.

MR. SEGATTO: Randy Segatto of Barber, Segatto, Hoffee, Wilke & Cate, 831 East Monroe, 62705, Springfield, Illinois, area code 217-544-4868. I represent the Petitioner, the Village of Williamsville.

JUDGE DUGGAN: Very good. And IDOT?

MS. KUNTZ: Jennifer Kuntz, 2300 South Dirksen Parkway, Springfield, Illinois 62764, 217-782-3215.

JUDGE DUGGAN: Okay. And let the record show that for Union Pacific, the attorney Max Shumate, S-h-u-m-a-t-e, was unavailable today, that Commission Staff has been in communications with John Venice, V-e-n-i-c-e, of Union Pacific, who is here today, and my understanding is that UP has requested that the hearing proceed without

1 Mr. Shumate present or representation -- or legal
2 representation, but that -- and Mr. Venice
3 understands that his role would be limited to
4 non-legal participation. He can make a
5 representation on behalf of the Union Pacific, and,
6 of course, if he wants to testify, he can testify.

7 But is that a fair representation,
8 Mr. Venice, that you on behalf of Union Pacific ask
9 that we proceed without legal representation for
10 Union Pacific?

11 MR. VENICE: Yes, that's correct, Your
12 Honor.

13 JUDGE DUGGAN: Okay. And what is your
14 position with Union Pacific?

15 MR. VENICE: Your Honor, I'm the
16 Manager of Special Projects in the Engineering
17 Department.

18 JUDGE DUGGAN: All right. And as long
19 as we're talking with you, then you're familiar
20 with the project that's the subject of this
21 petition here today?

22 MR. VENICE: Yes, I am, sir.

23 JUDGE DUGGAN: Okay. And you've
24 examined the Petition and the exhibits?

1 MR. VENICE: I have, yes.

2 JUDGE DUGGAN: That includes the
3 Amended Petition?

4 MR. VENICE: Yes, I did.

5 JUDGE DUGGAN: Okay. And are you in a
6 position to state what Union Pacific's position is
7 with regard to that Petition?

8 MR. VENICE: Yes. The Union Pacific
9 Railroad is in full support of the Petition.

10 JUDGE DUGGAN: Very good. Thank you.

11 Okay. Then we'll also note that
12 Sangamon County was added as a party by the Amended
13 Petition and that they were served, as the proof of
14 service indicates, through the Highway Department
15 of Sangamon County, and they also received notice
16 of this hearing. All this indicated on the
17 Commission's e-Docket, with that notice of hearing
18 again sent to the Sangamon County Highway
19 Department.

20 That unless somebody can show me some
21 authority before we're done today why Sangamon
22 County should not have been served -- or, should
23 have been served -- excuse me. If anybody can show
24 me why they should not have been served by the

1 Sangamon County State's Attorney, then what we'll
2 probably do at the end of today's hearing is go
3 ahead and provide that service through the State's
4 Attorney of Sangamon County with the copy of the
5 Petition by Mr. Segatto and, of course, amended
6 proof of service with that, and then we'll also set
7 a new hearing date with them on the service list,
8 at which time they would have the opportunity to
9 appear and request the right to examine and present
10 witnesses as they choose. If they do not appear at
11 that hearing, then we'll have it marked heard and
12 taken.

13 However, in the meantime, the
14 representation was again made prior to going on the
15 record that in fact some of the people involved in
16 the project have talked with Tim Zahrn, I think
17 it's Z-a-h-r-n, the County Engineer, who is fully
18 aware of the project and states they have no
19 objection, especially because their interest in the
20 project is limited to a connection of the -- to
21 Illinois Route 31?

22 MR. SALADINO: County Highway.

23 JUDGE DUGGAN: County Highway 31 which
24 is under their jurisdiction. So it's just that

1 connecting portion of this particular project with
2 this road that would be of interest to them and why
3 they were made a party. And they were -- and
4 Mr. Zahrn informed the Petitioners that they would
5 not be appearing today.

6 Now, is all that pretty fair and
7 accurate, Mr. Segatto?

8 MR. SEGATTO: Yes.

9 JUDGE DUGGAN: Ms. Kuntz, as far as you
10 know?

11 MS. KUNTZ: Yes, Your Honor.

12 JUDGE DUGGAN: Mr. Saladino?

13 MR. SALADINO: Yes, Your Honor.

14 JUDGE DUGGAN: Very good. Okay. All
15 right. Want to raise your right hand?

16 MR. SALADINO: Your Honor, I still have
17 to make an appearance.

18 JUDGE DUGGAN: Oh, sure, go ahead.

19 MR. SALADINO: If you don't mind.

20 JUDGE DUGGAN: No.

21 MR. SALADINO: Representing the Staff
22 of the Illinois Commerce Commission Railroad Safety
23 Section, my name is John Saladino, S-a-l-a-d-i-n-o,
24 527 East Capitol Avenue, Springfield, Illinois

1 62701, and the phone number is 217-785-8423.

2 JUDGE DUGGAN: Very good. Okay. Do
3 you want to raise your right hand?

4 MICHAEL TRELLO,
5 of lawful age, produced, sworn, and examined on
6 behalf of the Petitioner, testifies and says:

7 JUDGE DUGGAN: Thank you very much.

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. SEGATTO:

10 Q. Could you state your name for the
11 record?

12 A. Michael Trello.

13 Q. And, Mr. Trello, where do you work?

14 A. At Kuhn & Trello Consulting Engineers.

15 Q. What's the address there?

16 A. 630 East Washington, Springfield,
17 Illinois 62701.

18 Q. And is Kuhn & Trello the engineers for
19 the Village of Williamsville?

20 A. We are.

21 Q. Are you associated with -- you're
22 familiar with the Amended Petition for Order
23 granting authority to construct a new grade
24 separation structure, and to permanently close an

1 existing highway-rail grade crossing and an
2 existing pedestrian-rail grade crossing, and for
3 apportionment of the eligible costs?

4 A. I'm aware of it.

5 Q. And are you familiar with the exhibits
6 and the contents of that Petition?

7 A. I am.

8 Q. And why is -- what is the scope, I
9 guess, of this project that's being submitted?

10 A. The scope of the project is to extend
11 Oak Street in Williamsville, Illinois, to the east
12 over the Union Pacific Railroad and touching back
13 down and intersecting with County Highway 31 to the
14 east --

15 Q. And so that --

16 A. -- to provide access to both sides of
17 the town when the rail -- when trains are going
18 through.

19 Q. And basically under the -- as stated in
20 the Petition, the town is basically almost divided
21 in a third and two-thirds, with two-thirds of it
22 being east of the railroad and a third of the town
23 being west of the railroad; is that correct?

24 A. That's correct.

1 Q. And the emergency service vehicles,
2 including the police station, the fire station, are
3 located on the east side of the railroad tracks?

4 A. That is correct.

5 Q. And at the present time for them to
6 provide emergency services to the west side if the
7 railroad crossings were blocked, they would be
8 forced to take alternate routes which would include
9 driving a few miles up the road or down the road to
10 get to another rail crossing?

11 A. That's correct.

12 Q. Is the primary purpose of this Petition
13 then to -- for public safety and to provide
14 accessibility?

15 A. Yes, it is.

16 Q. And this project became somewhat
17 available based because of the high speed rail --

18 A. Correct.

19 Q. -- project going through the State of
20 Illinois?

21 I'm going to ask you to look at the
22 Amended Petition and there are certain exhibits
23 that are attached to it. Could you go to Exhibit 1
24 -- or, A of the Amended Petition? Exhibit A, what

1 is -- what exactly is this?

2 A. Exhibit A is a type, size, and location
3 drawing of the structure that's going to span over
4 the railroad tracks.

5 Q. There's three sets of plans or --

6 A. Sheet -- sheet 1 and 2 is the actual
7 plan. Sheet 1 showing the elevation and plan view
8 of the structure. Sheet 2 shows a cross-section of
9 the superstructure and some other details of the
10 project itself.

11 Q. Then there is an IDOT -- or, Illinois
12 Department of Transportation Structure Report, is
13 that correct?

14 A. Right.

15 Q. That's part of this?

16 A. The Structure Report is provided. It
17 gives general information like location, span
18 lengths, you know, what it's going over, traffic
19 counts, anticipated traffic counts on the bridge
20 itself and what might be under it, and then --

21 Q. Then there's an Illinois Department of
22 Transportation Preliminary Bridge Design and
23 Hydraulic Report?

24 A. Correct. That has some of the same

1 information. This -- there really is no hydraulics
2 other than some ditch drainage. This would be more
3 applicable.

4 Q. Associated with the project?

5 A. Correct.

6 Q. Now, based on your information, are
7 these accurate and -- from what we have today as we
8 sit here, accurate as to what the plans will be?

9 A. Yes.

10 Q. Have there been any changes to your
11 knowledge since these documents were filed with --

12 A. No.

13 Q. -- the Commission?

14 A. Not of this plan, no.

15 Q. Then there is an Exhibit B. What --
16 and that is made up of four sheets of paper; is
17 that correct?

18 A. That's correct.

19 Q. What does the first sheet of the
20 preliminary plans demonstrate?

21 A. This is the plan and profile of the
22 construction limits. The top is the plan view, you
23 know, where the -- where the bridge is going to
24 cross the railroad's right of way as well as Ameren

1 and Elm Street and where it's going to tie back
2 into both Oak Street to the west and Walnut Street
3 to the east.

4 JUDGE DUGGAN: You said Ameren and Oak
5 Street?

6 A. Elm Street.

7 JUDGE DUGGAN: Okay. When you're
8 referring to Ameren, then --

9 A. The right of way. Their right of way.
10 Correct. And then Elm Street which is a Village
11 road, which is also marked as Historic Route 66.

12 The bottom portion of sheet 1 is the
13 profile view showing the grade elevation change.

14 Sheet 2 is a blowup of the east end of
15 the project, and it's showing the profile of Oak
16 Street and the Oak Street connector there.

17 Sheet 3 would be the intersection on
18 the east side of the project where our overpass is
19 going to intersect with County Highway 31, which is
20 Walnut Street.

21 Q. And have you had any conversations with
22 the County Highway Department concerning this
23 intersection or somebody from your firm?

24 A. Yes. Yeah.

1 Q. And what was said with respect to your
2 knowledge of whether the County Engineer is in
3 support of this?

4 A. They are in support of the project.

5 And then sheet 4 is just an extension
6 north on County Highway 31. This is the portion
7 that right now is being planned to be widened and
8 overlaid, which is -- would be ineligible for the
9 Grade Crossing Protection funds.

10 Q. Again, do those fairly and accurately
11 represent the plans as we sit here today and there
12 hasn't been any changes since the date of filing
13 the Petition?

14 A. That is correct.

15 Q. The Amended Petition.

16 Exhibit C, what is this document?

17 A. This is a project location. It's a
18 sketch map. But it shows the Village of
19 Williamsville and it's showing us -- on the left
20 side of the sheet is Interstate 55 as it runs along
21 west of the Village, and what we're showing on the
22 bottom portion is our proposed overpass. And then
23 we're also -- as you come up the rail to the north,
24 we're calling out the crossings, the two crossings

1 that we're going to close, the crossing at Main
2 Street that will remain open, and then the Lester
3 Road crossing to the north, which is not in the
4 Village but would be the closest at-grade crossing.

5 Q. Exhibit E, what is -- is that an aerial
6 map showing effectively the same information as the
7 sketch map?

8 A. It absolutely is. We're also pointing
9 out where the high school, the middle school, the
10 fire station, the police station, the village hall,
11 the library, and the post office are located,
12 showing that most of those are on the east side of
13 the tracks.

14 Q. Exhibit F, are these -- this is a
15 letter from Williamsville Police Department; is
16 that correct?

17 A. That is correct.

18 Q. And one from the Williamsville Fire
19 Protection District?

20 A. Correct.

21 Q. And the Williamsville Fire Protection
22 District -- I don't know if you can answer this --
23 is a separate public entity and not part of the
24 Village itself; is that --

1 A. That's -- that I -- I don't know for
2 sure.

3 Q. Okay. If I told you it was a separate
4 public entity and is not under it, would you have
5 any reason to doubt me?

6 A. I would not.

7 Q. Are these -- these documents from each
8 of the -- the Chief of Police and the Chief of the
9 Fire Protection District in support of the Petition
10 as filed --

11 A. Yes.

12 Q. -- or the Amended Petition as filed?

13 And based on the letters what -- what
14 is the reason that they are supporting it?

15 A. A reliable way to get to the other side
16 of the tracks when there's traffic on the tracks.

17 Q. Speaking of support, and I -- a
18 document was filed after the filing date but -- as
19 Exhibit I is what I called it, was a letter from
20 Ameren. Do you have a copy or copies of those?

21 A. I do have copies of those.

22 MR. SEGATTO: I don't know, Mr. Hearing
23 -- or, I don't know if it ever made the --

24 MR. SALADINO: e-Docket.

1 MR. SEGATTO: -- the e-Docket, but we
2 have it today. It was sent out by -- to all the
3 parties by me pursuant to notice on the 18th of
4 February.

5 JUDGE DUGGAN: All right. Well, unless
6 I hear an objection, go ahead.

7 Q. Okay. And according to that letter did
8 -- is Ameren in support of this project?

9 A. Yeah, Ameren is in support. They are
10 aware there's conflicts, but they will work with us
11 to remedy those.

12 Q. And that's because we have to cross an
13 Ameren right of way?

14 A. We're crossing an Ameren right of way;
15 correct.

16 Q. I'm going to ask you to go back to the
17 Amended Petition and get to Exhibit G, and what is
18 that?

19 A. This the division of costs as we had it
20 on January 30th of this year.

21 Q. And where are the funds coming from for
22 this project?

23 A. Okay. Of the eligible costs, we're
24 requesting 60 percent from the Grade Protection

1 Fund. We received through IDOT through the
2 Crossing Hazard Elimination High Speed Rail
3 Corridors Initiative 2.4 million. Also through the
4 IDOT High Speed Rail we received 577,000. That was
5 for closing the two at-grade crossings. We are in
6 negotiation with the UP to pick up five percent of
7 the eligible costs, and then the Village would pick
8 up the remainder.

9 Q. And these estimates are based on your
10 latest figures; is that correct?

11 A. That's correct.

12 Q. And these figures that you're talking
13 about today, these are just for what we'd consider
14 the eligible construction costs?

15 A. That is correct.

16 Q. They don't include any ineligible
17 costs; is that correct?

18 A. That's correct.

19 Q. You spoke briefly about grade closings.
20 What are those two? If you need to refer to part
21 of the map, you can.

22 A. Well, we've got the at-grade crossing
23 at Conrey Street, a vehicular crossing, that the
24 Village will voluntarily close.

1 Q. And to your knowledge is there a -- is
2 there a pending motion to vacate that street or do
3 you not know that at this time?

4 A. Not to my knowledge.

5 Q. And where is that in relation to --

6 A. It is -- it's north of the proposed
7 overpass maybe about 800 feet.

8 Q. Is that presently being used or is that
9 an emergency crossing now?

10 A. It's emergency only crossing right now.

11 Q. And then there is another crossing that
12 the Village is going to vacate; is that --

13 A. That's correct. It's an at-grade
14 pedestrian crossing at Pine and Flagg Streets.

15 Q. And is that north of the existing Main
16 Street crossing then?

17 A. It is.

18 Q. When do you -- if everything goes
19 right, when do you hope to have a bid letting on
20 this project?

21 A. We're hoping for a spring of 2015
22 letting, maybe April of 2015.

23 Q. And then if it was let, do you have an
24 estimate on the time frame for the construction?

1 A. It would be complete by the fall of
2 2016.

3 Q. And as of today as we sit here, we
4 don't have an agreement with Union Pacific; is that
5 correct?

6 A. That's correct.

7 Q. But based on what you've been advised,
8 that agreement will probably be done when we get to
9 the 30 percent phase -- construction plans phase
10 completed?

11 A. It's my understanding that they can't
12 enter an agreement until they've signed off on
13 design plans, which we have not started yet.

14 Q. Once the road is completed -- or, the
15 overpass is completed, will the Village have the
16 ownership and maintenance of that?

17 A. Yes.

18 Q. And I guess they would have the
19 ownership from the beginning of Elm Street to where
20 it connects to County Highway 31, but the County
21 would still have control of the County Highway part
22 of it; correct?

23 A. That's correct.

24 Q. And after we get the plans completed,

1 will there be another hearing associated with this
2 project with the Commission to finalize it?

3 A. Yes.

4 MR. SEGATTO: I have no further
5 questions.

6 JUDGE DUGGAN: Ms. Kuntz?

7 MS. KUNTZ: Just a couple questions.

8 CROSS-EXAMINATION

9 QUESTIONS BY MS. KUNTZ:

10 Q. You mentioned -- in Exhibit G I believe
11 you mentioned there is a Crossing Hazard
12 Elimination High Speed Rail Corridors Initiative.
13 Is that federal money?

14 A. Yes, that is.

15 Q. And I think you said and you used the
16 words the Village received money through IDOT. Did
17 the feds award IDOT the money or did they award the
18 Village the money?

19 A. That was a grant that had to be -- IDOT
20 had to do it on behalf of the Village. The Village
21 couldn't go for that money directly.

22 Q. So IDOT received the federal award and
23 IDOT will reimburse the Village?

24 A. Correct.

1 Q. Okay. And you said the estimated
2 letting is going to be in the spring of 2015; is
3 that right?

4 A. Correct.

5 Q. Is that going to be a state letting?

6 A. Yes.

7 MS. KUNTZ: I don't believe I have
8 anything else. Thank you.

9 JUDGE DUGGAN: Mr. Saladino?

10 MR. SALADINO: Yes, Your Honor, I have
11 some questions.

12 CROSS-EXAMINATION

13 QUESTIONS BY MR. SALADINO:

14 Q. Mr. Trello, can you tell me what the
15 horizontal and vertical clearances are going to be
16 over the railroad tracks?

17 A. Sure.

18 Q. I believe it would be Exhibit A.

19 A. Exhibit A. We'll have a 23 foot 4 inch
20 minimum vertical clearance over the track, and we
21 will be spanning their right of way, which in that
22 area is a hundred foot.

23 Q. Okay. So there's no piers within the
24 railroad's right of way?

1 A. There is not.

2 Q. Once the project's complete, will there
3 be any impact to the railroad's operations that
4 this structure would affect the railroad's
5 operations that you know of?

6 A. Other than, you know, maybe maintenance
7 or a bridge inspection of that span.

8 Q. Okay. And would the maintenance of the
9 structure, if you know, would that be a part of an
10 agreement that you may have with the railroad?

11 A. Yes, it would.

12 Q. The Village would?

13 A. Correct.

14 Q. Thank you. The current status of the
15 design for this project, what percent would you say
16 it is?

17 A. We're going to turn in our Preliminary
18 Design Report within the next couple weeks.

19 Q. And you turn it in to?

20 A. To Department of Transportation Local
21 Roads District 6.

22 Q. Okay. And if I'm correct, the Village
23 is just seeking with an Order from the Commission
24 today the \$900,000 for the preliminary engineering?

1 A. Correct.

2 Q. Is that correct?

3 A. That's correct.

4 Q. And that the Village would, once plans
5 are near completion, would file a Supplemental
6 Petition with the Commission seeking the remainder
7 of the Grade Crossing Protection funds; is that
8 correct?

9 A. That's correct.

10 Q. Do you happen to know how many trains
11 are on the track at this location?

12 A. I do not.

13 Q. Do you happen to know the speed of
14 trains at this location?

15 A. Well, going through town they'd have to
16 slow down. I don't know what the speed would be,
17 though, no.

18 Q. Do you know if Amtrak uses this line?

19 A. Amtrak does use that line.

20 Q. Okay. And if I said Amtrak usually
21 travels at a speed of 79 miles an hour, would --
22 would that sound accurate?

23 A. I'd believe you.

24 Q. So it's possible today that Amtrak

1 trains could be traveling through the Village of
2 Williamsville at 79 miles an hour?

3 A. Correct.

4 Q. And do you know with the high speed
5 rail if that would increase to 110?

6 A. It would.

7 Q. And so is that really a mitigating
8 factor in this that trains could possibly be
9 traveling through the middle of the Village at 110
10 miles an hour? This would offer a safe alternative
11 for kids on bicycles, school buses, hazardous
12 materials, anything to traverse on a grade
13 separation and traverse from the west side to the
14 east side or vice versa; is that correct?

15 A. That's correct.

16 Q. With your Exhibit A page 2 where you
17 have a cross-section of the bridge structure
18 itself --

19 A. Uh-huh.

20 Q. -- would you explain the -- how many
21 lanes of traffic there are, sidewalks, et cetera --

22 A. Sure.

23 Q. -- represented by that?

24 A. You'd have two traffic lanes, one in

1 each direction. You've got one sidewalk. And then
2 on the travel lanes there would be striped bike
3 paths as well.

4 Q. Okay. And so the drawing -- the
5 cross-section from Exhibit A page 2 shows two
6 four-foot shoulders. Is that what you're talking
7 about the bike --

8 A. That's correct.

9 Q. -- bike lanes?

10 A. Yes.

11 Q. Is the four-foot shoulders?

12 A. Right, right.

13 Q. And do you know, is that required by
14 the current IDOT standards?

15 A. Yes.

16 Q. I don't know if you've already stated
17 this, but what's the overall cost of the project?
18 I think it was Exhibit G.

19 A. Our estimate is \$9,013,000.

20 MR. SALADINO: That's all the questions
21 I have, Your Honor. Thank you.

22 EXAMINATION

23 QUESTIONS BY JUDGE DUGGAN:

24 Q. Okay. I'm not very good at reading

1 these design plans, so I'm going to ask you,
2 where's the sidewalk in relation to the two -- the
3 four-foot shoulders?

4 A. The sidewalk is right next to one of
5 the four-foot shoulders.

6 Q. Okay. So there's a four-foot shoulder
7 which constitutes a bike lane and then right next
8 to it is a sidewalk?

9 A. Correct. But it's -- there's a
10 nine-inch curb. It's on sheet 2.

11 Q. Okay. Why don't you just tell me in
12 order from one side to the other what they are?

13 A. Okay. You've got -- looking south
14 you've got a five-foot sidewalk.

15 Q. Hang on. Looking south. Go ahead.

16 A. You've got the five-foot sidewalk and
17 then a drop-down nine-inch curb, four-foot
18 shoulder, twelve-foot drive lane, second
19 twelve-foot drive lane, another four-foot shoulder.

20 Q. Okay. And what -- what's the height on
21 the sides that would protect bicycles or
22 pedestrians?

23 A. From the -- you've got -- over the --
24 over the rail you actually have the bridge fence

1 railing which is eight foot minimum, and then on
2 the sidewalk side -- or, I'm sorry -- any span away
3 from over the railroad tracks you've got just a
4 two-beam rail that's -- that's probably -- I don't
5 have that measured on there, but you're probably
6 looking four foot, three and a half, four foot.

7 Q. And that's --

8 A. It would be --

9 Q. -- in addition to the nine inches from
10 the road surface?

11 A. You're wanting to know between the road
12 surface and the sidewalk?

13 Q. Well, okay, on one side, apparently on
14 the north side, you've got a five-foot sidewalk --

15 A. Right.

16 Q. -- that is nine inches above the road
17 surface.

18 A. Right.

19 Q. Okay. So your approximate four-foot
20 two-beam rail on the north side, is that in
21 addition to the nine inches or is it four inches --
22 or is it from the street level, the deck level?

23 A. That's from the top of the sidewalk.

24 Q. Okay. And then on the other side it's

1 just the four feet because you don't have the extra
2 nine inches on the south side; right?

3 A. That's correct.

4 JUDGE DUGGAN: Okay.

5 MR. SALADINO: Show him the plan sheet.

6 JUDGE DUGGAN: Don't show me anything.

7 MR. SALADINO: Okay. I'm sorry.

8 Q. What did you refer to the bridge rail
9 -- the eight-foot rail, you called it a fence rail?

10 A. Correct.

11 Q. Okay. And then that would not be in
12 addition to the other four foot that is at the
13 non-rail portion?

14 A. Uh-huh.

15 Q. That would be just eight foot. And
16 again, eight foot plus nine inches on the north,
17 eight foot without the nine inches on the south?

18 A. That's correct.

19 Q. Okay. Now, I thought you were asked
20 about the number of trains in the ADT, the average
21 daily traffic. I thought some of that information
22 was part of your Exhibit A. In your Structure
23 Report I see an ADT of 75, an ADTT of 16.

24 A. That is on the actual overpass.

1 Q. Oh, those are projected?

2 A. That's projected. In the Petition
3 itself, number 7 of the Petition, item 7.

4 Q. That's not evidence.

5 A. No? Okay.

6 Q. That's why we're here.

7 A. Gotcha. Okay. The average number of
8 trains per day is 10.

9 Q. Okay. And you're getting the
10 information out of the Petition?

11 A. Right.

12 Q. Okay.

13 A. Right.

14 Q. And you don't know whether that would
15 include both Amtrak and freight or not? As far as
16 you know that's the total?

17 A. That's the total as far as I know;
18 correct.

19 Q. Okay. Do you know on the Structure
20 Report again, part of Exhibit A, what the third
21 number is? The ADTT, do you know what that number
22 is?

23 A. Average daily truck traffic.

24 Q. Okay. Now, this CHEHSR in Exhibit G, I

1 got that refers to Crossing Hazard and what's the
2 E?

3 A. We have that right --

4 Q. Okay. So you're telling me the code is
5 on Exhibit G underneath; correct?

6 A. Correct.

7 Q. Okay. And then as I understood it from
8 Ms. Kuntz's questioning -- actually, I wasn't sure.
9 Is that amount also administered or processed
10 through IDOT?

11 A. Correct. The 2.2 million is a federal
12 grant that's administered through the IDOT and then
13 the IDOT High Speed Rail, the 577, is also
14 administered through IDOT. It's from a different
15 fund, though.

16 Q. Okay. So it's your understanding that
17 UP is actually going to contribute \$450,000?

18 A. That's five percent of our current
19 estimate.

20 Q. But it's your understanding that --

21 A. Our understanding is we'll negotiate
22 that once -- once plans have been made and they
23 deem eligible.

24 JUDGE DUGGAN: Mr. Venice, do you know

1 what UP's position is on the representations in
2 Exhibit G?

3 MR. VENICE: Yes, Your Honor. As far
4 as the Union Pacific's support, we support the
5 project and we will pay five percent of the cost.
6 The exact dollar amount has not been finally
7 determined as yet due to the early nature of the
8 design here, but we are committed to support the
9 project with five percent.

10 JUDGE DUGGAN: Of the GCPF Eligible
11 Construction portion? Or of what? Five percent of
12 what?

13 MR. VENICE: Well, the five percent
14 figure represents what's -- what would be touchdown
15 to touchdown of the bridge. It would not include
16 decorative items, roadway lighting, things of that
17 nature, but it would be in essence five percent of
18 the bridge cost itself.

19 JUDGE DUGGAN: Well, the bridge -- you
20 mean touchdown to touchdown?

21 MR. VENICE: That's correct, yes, Your
22 Honor.

23 JUDGE DUGGAN: Well, in their Exhibit G
24 they have your contribution under GCPF Eligible

1 Construction. And I think before we went on the
2 record there was some discussion that part of what
3 would be GCPF eligible included portions that are
4 beyond touchdown to touchdown, but -- so this may
5 not precisely represent what UP intended. Is that
6 right or not? Let's go off the record.

7 (Discussion off the record.)

8 JUDGE DUGGAN: Back on the record.

9 All right. Off the record we tried to
10 clarify that which we were discussing before going
11 off the record.

12 And I believe, Mr. Venice, that you
13 stated off the record that you would adopt the
14 Staff's interpretation that UP's normal policy
15 would be five percent of the project costs,
16 including the bridge, the elevated portions,
17 anything that constitutes the bridge, and the
18 connections with the existing road; is that
19 correct?

20 MR. VENICE: That's correct. Yes, Your
21 Honor.

22 JUDGE DUGGAN: Very good. Okay. Thank
23 you.

24 And while I'm thinking about it then,

1 also off the record we discussed that the
2 Petition's request and its prayer for relief should
3 be modified or is more accurately defined by
4 paragraph 19 in that they are not asking for an
5 allocation of all costs at this time. I mean it
6 does say allocating the costs of the initial phase,
7 and at paragraph 19 the Petition basically defines
8 and refers to the initial phase as the matters
9 contained in paragraph 19 in the total amount of
10 900,000, which they are asking for the Commission
11 to fund 100 percent -- or, reimburse 100 percent
12 from the Grade Crossing Protection Fund, and that
13 that is the entire request in addition to the
14 authorizing the authority to proceed, but that is
15 the entire actual allocation that is being
16 requested in this order.

17 Is that correct, Mr. Segatto?

18 MR. SEGATTO: Correct, Your Honor.

19 JUDGE DUGGAN: Let's go off the record
20 again.

21 (Discussion off the record.)

22 JUDGE DUGGAN: Okay. Back on the
23 record.

24 Again off the record we discussed my

1 understanding of the requests in the Petition
2 versus my understanding of the Commission's
3 authority.

4 And let me ask, Mr. Segatto, you're the
5 attorney for the Village here and you're the
6 attorney for the Village in general; correct?

7 MR. SEGATTO: Yes.

8 JUDGE DUGGAN: Okay. And in that
9 position then you've got knowledge and you can make
10 representations on behalf of the City that the City
11 has requested that you draft ordinances which will
12 abandon the right of ways?

13 MR. SEGATTO: Right. At the time that
14 the new overpass is constructed, we would abandon
15 those right of ways.

16 JUDGE DUGGAN: Okay. And that being
17 Flagg Street and Conrey Street referred to in
18 paragraphs D and E of the Petition; correct?

19 MR. SEGATTO: Correct.

20 JUDGE DUGGAN: Okay. Whereas, the
21 Petition is asking the Commission for the
22 authorization to grant closure of those two
23 crossings. In fact, if it were the Commission
24 granting the closure, the Administrative Rules

1 require certain procedures including a public
2 notice and some calculations involving the nearest
3 alternative routes. However, when the City is
4 vacating or abandoning a road, then the Commission
5 cannot stop you from doing that, which effectively
6 abandons a crossing.

7 In this case it's my understanding that
8 the only extent of the road that you're going to
9 abandon is by virtue of ceding or giving back the
10 right of way the City has over the tracks at these
11 points to UP; is that correct?

12 MR. SEGATTO: That's correct.

13 JUDGE DUGGAN: Okay. And it's also
14 correct from I think Mr. Saladino's understanding
15 of past Commission practice that if they abandon --
16 if the City abandons the right of way across the
17 tracks that that is sufficient -- that the
18 Commission has treated that as consistent with an
19 abandonment of the road for our purposes; correct?

20 MR. SALADINO: That's correct, Your
21 Honor.

22 JUDGE DUGGAN: Very good. So that the
23 Order would not grant the authority. The Order
24 would only make note of your representation.

1 And then I think there's another
2 representation being made that the high speed rail
3 funds from IDOT, as set out in the Exhibit G I
4 think, the allocations, will be dependent on
5 closing those crossings. Is that your
6 understanding, Ms. Kuntz?

7 MS. KUNTZ: Yes, Your Honor.

8 JUDGE DUGGAN: Okay. So since I'm not
9 sure where the line is between evidence and who can
10 represent something, we'll just say is everybody
11 agreeable that that -- if you had a witness to come
12 testify, they could testify accordingly?

13 MS. KUNTZ: Yes, Your Honor.

14 JUDGE DUGGAN: Okay. Is everybody
15 willing to stipulate to that? Mr. Saladino?

16 MR. SALADINO: Yes, Your Honor.

17 JUDGE DUGGAN: Mr. Segatto?

18 MR. SEGATTO: Yes, Your Honor.

19 JUDGE DUGGAN: Mr. Venice can't do it.

20 Okay.

21 Okay. So I can put that in the Order
22 then.

23 You testified to the -- excuse me, back
24 to the witness here.

1 Q. (by Judge Duggan) You testified
2 regarding the clearances. You testified to the
3 vertical, and then with regard to the horizontal
4 you simply testified that the -- it would span the
5 railroad right of way. Do you in fact know the
6 distance from the outer tracks to the nearest
7 structural support?

8 A. Roughly 60 feet.

9 Q. Is that on both sides or one side?

10 A. That's basically splitting it in half.
11 Both sides. The span's 120 foot. The rail crosses
12 right about the center of the span.

13 Q. So 30 feet on each side?

14 A. No, no. There we go. 58 foot 4
15 inches.

16 Q. On which side?

17 A. On both sides. It's symmetric.

18 Q. You say the span is how long?

19 A. It's a 120-foot span.

20 Q. How does that leave room for the
21 tracks? If you have a 58-foot clearance from the
22 outer track on each side --

23 A. That's from the center line of the
24 track.

1 Q. Okay. And how many tracks are there?

2 A. One.

3 Q. Oh, there's only one track?

4 A. Correct.

5 Q. Okay. And that's --

6 JUDGE DUGGAN: What's the width of the
7 track, John?

8 MR. SALADINO: Approximately four feet.

9 JUDGE DUGGAN: Okay. So 120, so that
10 gives you the fifty-eight four. Right?

11 MR. SALADINO: Uh-huh.

12 JUDGE DUGGAN: Okay. There's only one
13 track there. All right.

14 Q. Now, with the Ameren, does Ameren have
15 aboveground utilities at this -- in this right of
16 way?

17 A. They have a -- I believe it's a 34
18 kilovolt overhead line that they're going to have
19 to adjust. And we're talking with Ameren. They're
20 going to put 90-foot poles in and take it up over
21 our overpass. And then there's also a gas line
22 through there, but it will not affect it. It's
23 underground and they're not going to affect it.

24 Q. Okay. You talked about one of these

1 crossings. I believe it's the south -- the
2 southern at-grade vehicular crossing at -- is it
3 Conrey --

4 A. Conrey, yeah.

5 Q. -- as being an emergency only?

6 A. Correct.

7 Q. How does a crossing be an emergency
8 only crossing?

9 MR. SEGATTO: It's padlocked.

10 JUDGE DUGGAN: I'm sorry?

11 MR. SEGATTO: It's padlocked with a key
12 to the fire department, police department, and I
13 believe the village hall.

14 JUDGE DUGGAN: There's a gate? Or
15 excuse me, a --

16 MR. SEGATTO: There's a gate, yes.

17 JUDGE DUGGAN: Okay. Are those normal
18 railroad crossing gates or some other type of gate?

19 MR. SEGATTO: I think just a normal
20 two-pronged railroad gate. It's been a while since
21 I've driven down there.

22 JUDGE DUGGAN: Okay.

23 MR. SEGATTO: But I think that that was
24 -- that was changed when they put in the Main

1 Street crossing.

2 Q. And the representations of the relative
3 locations shown on Exhibit E, they are correct?

4 A. Yes.

5 Q. So how far is it to the nearest grade
6 separation? Do you have any idea?

7 A. The nearest at-grade?

8 Q. No, the nearest grade -- excuse me, a
9 bridge grade separation.

10 A. I'd say Sherman, Meredith Drive in
11 Sherman. Five miles.

12 Q. So to the south?

13 A. To the south, correct. I do not know
14 of one to the north.

15 MR. SEGATTO: Might be Lincoln.

16 JUDGE DUGGAN: Okay. I don't have
17 anything else.

18 MR. SEGATTO: I don't have anything,
19 Judge.

20 JUDGE DUGGAN: Ms. Kuntz, anything
21 else?

22 MS. KUNTZ: No, Your Honor.

23 JUDGE DUGGAN: Mr. Saladino, anything
24 else?

1 MR. SALADINO: No questions, Your
2 Honor.

3 JUDGE DUGGAN: Okay. Staff's position?

4 MR. SALADINO: Thank you, Your Honor.
5 Staff has no objections to the Village's Petition,
6 would recommend that an Order be issued. The
7 structure allows for improved mobility within the
8 Village. We believe it improves safety and
9 convenience to the traveling public.

10 Currently, we have \$900,000 programmed
11 in the Grade Crossing Protection Fund for fiscal
12 year 2014, which expires July 1st of 2014. So we
13 would prefer to have an Order before July 1st.

14 Staff would recommend that if an Order
15 is issued that there be a limit of the \$900,000
16 placed not to exceed for the preliminary
17 engineering from the Grade Crossing Protection
18 Fund.

19 We would also recommend that the
20 Village be required to submit a Supplemental
21 Petition at a future date requesting the additional
22 funds from the Grade Crossing Protection Fund. And
23 we would stipulate that we would like the Order to
24 show that the Grade Crossing Protection funds will

1 not exceed 60 percent of the overall eligible
2 expenses.

3 JUDGE DUGGAN: Is that necessary at
4 this time? I mean are you binding yourself?

5 MR. SALADINO: I just want to make sure
6 it doesn't go over the 60 percent. So we would
7 like something in the Order. That way the
8 Commissioners know that we're not exceeding 60
9 percent without giving them an explanation as to
10 why. So I would ask that something be placed in
11 the Order.

12 JUDGE DUGGAN: Well, I thought that we
13 weren't authorizing any more money.

14 MR. SALADINO: We're not authorizing
15 it, but I want to make sure that the cost -- if we
16 do a cost division table in the Order that it
17 stipulates that the Village has to ask for the
18 remaining funds and that the funds that they
19 request don't exceed the 60 percent of the eligible
20 costs.

21 JUDGE DUGGAN: Well, any cost
22 allocation table we put in is going to be very
23 clear that it is only the present numbers upon
24 which we agree to give the 900,000 and the rest of

1 the allocations are not binding at all.

2 MR. SALADINO: That's correct. They're
3 not binding, but I want --

4 JUDGE DUGGAN: And we're not ordering
5 that allocation.

6 MR. SALADINO: Are we going to be
7 showing that in the cost division table? I would
8 like to have a cost division table that shows the
9 estimated cost as of January 30th, 2014. So that
10 way if the costs increase or decrease before the
11 Village submits a Supplemental Petition that they
12 would then be required to explain what the
13 differences were caused by. If there was an
14 increase in costs, we would just like to know why.
15 And so if we have a baseline in the original Order
16 of their original estimate, then we have something
17 to go off of.

18 JUDGE DUGGAN: Okay. Again, I have no
19 problem putting a -- again, to me the only
20 relevance of that allocation table now is that this
21 is the information upon which Staff and the
22 Commission is acting upon to agree to pay the 900
23 because we think that in the future this is how
24 much more we're going to be able to pay based upon

1 the estimate of the total costs, but we're not
2 allocating any other funds now as I understand it.

3 MR. SALADINO: That's correct.

4 JUDGE DUGGAN: If I'm wrong --

5 MR. SALADINO: You're absolutely
6 correct.

7 JUDGE DUGGAN: Okay.

8 MR. SALADINO: Everything you said.

9 JUDGE DUGGAN: So the purpose of
10 putting it in there is only to give the context as
11 to why we're ordering the 900,000. And then any
12 statement as to -- for the purpose of saying that
13 we're acting in reliance upon these numbers, so if
14 you're going to change these numbers, you've got
15 tell us why, I mean that's kind of inherent.

16 I try to avoid meaningless language to
17 some extent. And I'm not sure why telling them
18 they can't exceed 60 percent or why we would tie
19 their hands when the Commission could come back and
20 say we're going to allow them to request more
21 anyway.

22 MR. SALADINO: Well --

23 JUDGE DUGGAN: If there's an ulterior
24 goal --

1 MR. SALADINO: I prefer to have as much
2 information in the Order as possible so that way I
3 have a baseline at which to refer to when they file
4 a Supplemental Petition. But it's up to you. I
5 have no objections with --

6 JUDGE DUGGAN: I mean if we say this is
7 the information we're relying upon right now, then
8 we know we're relying upon it and they know we're
9 relying upon it. If they change it, yeah, I mean
10 you've got an absolute right for the Commission and
11 everybody to explain it.

12 MR. SALADINO: That's fine. Whatever
13 Your Honor would like to do, that's fine.

14 JUDGE DUGGAN: Yeah, to me that's more
15 straightforward.

16 MR. SALADINO: I'm just making a
17 recommendation.

18 JUDGE DUGGAN: Okay.

19 MR. SALADINO: I also -- if we're done
20 with that.

21 JUDGE DUGGAN: Yeah.

22 MR. SALADINO: I also would recommend
23 that we set a time frame, if there's an Order that
24 basically says the Village has two years from the

1 approval of final plans by IDOT to have this
2 project completed, that way we have a definitive
3 completion date. So probably 24 months would be my
4 recommendation.

5 JUDGE DUGGAN: For them to do what?

6 MR. SALADINO: For them to -- for the
7 project to be completed.

8 JUDGE DUGGAN: Okay. Well, they
9 represented the fall of 2016. So if we put in
10 December 31st, 2016, that's less than the 24
11 months. Is that --

12 MR. SALADINO: That would be greater.
13 Isn't this 2014?

14 JUDGE DUGGAN: Yeah.

15 MR. SALADINO: That would be
16 approximately 30 months or so --

17 JUDGE DUGGAN: Oh, I see what you're
18 saying.

19 MR. SALADINO: -- or 32 or 3 months
20 from today. And I'm stipulating 24 months or two
21 years from the date that IDOT approves the plans,
22 which will probably be sometime in late 2014 or
23 2015.

24 JUDGE DUGGAN: Well, why don't we just

1 say when they said it would be completed? They
2 said the fall of 2016.

3 MR. SALADINO: If I give them two
4 years, it gives them a little more leeway. That
5 way if plans don't get approved until July of 2015
6 and then they let it, it gives them until 2017 to
7 have the project completed.

8 JUDGE DUGGAN: Well, then you've got --

9 MR. SALADINO: That's my
10 recommendation.

11 JUDGE DUGGAN: No, no. I'm just trying
12 to see how to make it work. But then they're
13 basing it on something that's not of record, which
14 is whenever IDOT approved of this thing. Is there
15 a record -- does somebody have to file a progress
16 report stating what it is or something we can rely
17 upon so that we know when that two years is up?

18 MR. SALADINO: I would also recommend
19 that the Village files a progress report every six
20 months to let us know at what stage we are.

21 JUDGE DUGGAN: Okay. So they would
22 have to file something stating when IDOT approved
23 it is really what we're interested in at this
24 point.

1 MR. SALADINO: Correct.

2 JUDGE DUGGAN: If you want general
3 progress reports, then -- you want that, too?

4 MR. SALADINO: I do. I would like to
5 know everything that's going on with the project.

6 JUDGE DUGGAN: Okay.

7 MR. SALADINO: So I have an idea for
8 when we're going to need to program the remaining
9 funds, we've got an idea as to if it's going to be
10 in fiscal year 2015 or fiscal year 2016. So I'd
11 like to know every six months what's the status of
12 the project as of today.

13 JUDGE DUGGAN: Okay.

14 MR. SALADINO: And have it filed.

15 JUDGE DUGGAN: But specifically, in
16 addition to in general, we want information as to
17 when IDOT approved whatever the standard is your
18 trigger point?

19 MR. SALADINO: That's correct.

20 JUDGE DUGGAN: All right. So tell me
21 what that -- 24 months from when IDOT does what?

22 MR. SALADINO: Approves final plans.

23 JUDGE DUGGAN: Okay. Is that clear
24 enough?

1 MR. SEGATTO: Yes.

2 MR. TRELLO: Perfect.

3 JUDGE DUGGAN: And the progress reports
4 or the status reports, whatever you're calling them
5 -- do you want them progress, do you want status?

6 MR. SALADINO: Project status report.

7 JUDGE DUGGAN: Okay. Is that --

8 MR. SALADINO: Every six months.

9 JUDGE DUGGAN: Is there a definition as
10 to what's to be included in that and how they're
11 filed, where they're filed, e-Docket?

12 MR. SALADINO: I believe the language
13 that's normally in an Order will specify what
14 information is required.

15 JUDGE DUGGAN: Okay.

16 MR. SALADINO: And it's typical.

17 JUDGE DUGGAN: And who it's served upon
18 and everything. Okay.

19 MR. SALADINO: It has to be filed in
20 the docket, so it would be served on all parties of
21 record.

22 JUDGE DUGGAN: All right. Any
23 objection to what Mr. Saladino just requested as
24 far as conditions in terms of the Order? Mr.

1 Segatto?

2 MR. SEGATTO: No, Your Honor.

3 JUDGE DUGGAN: Okay. Ms. Kuntz?

4 MS. KUNTZ: No, Your Honor.

5 JUDGE DUGGAN: Okay.

6 MR. SEGATTO: Judge, a matter for
7 housekeeping. When should I move to admit the
8 exhibits?

9 JUDGE DUGGAN: Well, as long as you
10 brought it up, we can do it now. So you're moving
11 Exhibits A through --

12 MR. SEGATTO: A, B, C, E, F, G, and
13 what I referred to as Exhibit I.

14 JUDGE DUGGAN: Okay. There's no H;
15 right?

16 MR. SEGATTO: There is no H. The H
17 that's referred -- and the reason being is the H
18 that was referred to in the Amended Petition
19 referred to an agreement with UP that will be filed
20 with the next Petition. So I was wondering if
21 we --

22 JUDGE DUGGAN: Okay. Because you made
23 a reference in the --

24 MR. SEGATTO: In the Petition, I just

1 didn't want to --

2 JUDGE DUGGAN: To H.

3 MR. SEGATTO: Yes.

4 JUDGE DUGGAN: All right.

5 MR. SEGATTO: And as we discussed
6 earlier, Exhibit D had some outdated cost
7 estimates.

8 JUDGE DUGGAN: Okay. I don't think
9 anybody else has seen the Exhibit I. Has anybody
10 else got I? You've all got it?

11 MR. SALADINO: Yes, Your Honor.

12 JUDGE DUGGAN: Okay. All right. Then
13 -- did you have the original or just submitted
14 copies?

15 MR. SEGATTO: Those are just copies.

16 JUDGE DUGGAN: Is this what you're
17 submitting?

18 MR. SEGATTO: Yeah.

19 JUDGE DUGGAN: Or did you file
20 something on e-Docket?

21 MR. SEGATTO: I believe we did. I was
22 gone on vacation and somebody filed it when I got
23 it, so I'm hoping they did.

24 JUDGE DUGGAN: Okay.

1 MR. SEGATTO: If they didn't, we --

2 JUDGE DUGGAN: All right. Any

3 objection to the exhibits, Ms. Kuntz?

4 MS. KUNTZ: No, Your Honor.

5 JUDGE DUGGAN: Mr. Saladino?

6 MR. SALADINO: No, Your Honor.

7 JUDGE DUGGAN: Very good. Then the
8 exhibits listed by Mr. Segatto will be admitted.
9 And I'll also note that those exhibits which are
10 attached to the Amended Petition will constitute
11 the exhibits -- the hearing exhibits, and that the
12 Exhibit I, which was -- unfortunately, that was
13 probably filed as a pre-filed exhibit, so I will go
14 ahead and take the hard copy of I as the hearing
15 exhibit.

16 (Petitioner's Exhibits A, B, C, E,
17 F, G, and I admitted.)

18 JUDGE DUGGAN: And also grant leave to
19 amend the Complaint with the Amended Complaint,
20 which leave is granted as of the date that Amended
21 Complaint was filed on e-Docket, and also with
22 leave to add Sangamon County as a party.

23 Now, were you intending to add the
24 Highway Department as the party or Sangamon County

1 or both? Because you've got both down here.

2 MR. SEGATTO: Yeah. I think I put down
3 Sangamon County's Department --

4 JUDGE DUGGAN: Well --

5 MR. SEGATTO: -- of Highway Engineer.

6 JUDGE DUGGAN: Okay. It says "and
7 County of Sangamon, Illinois" and then you don't
8 have an "and" but you have "Sangamon County Highway
9 Department."

10 MR. SEGATTO: Yeah.

11 JUDGE DUGGAN: So me looking at that,
12 it kind of looks like both are --

13 MR. SEGATTO: Both.

14 JUDGE DUGGAN: -- parties. So I'll say
15 leave is --

16 MR. SEGATTO: I think if we -- if we
17 add the County of Sangamon, then that would do the
18 Highway Department.

19 JUDGE DUGGAN: Yeah.

20 MR. SEGATTO: If that's who we're
21 serving, we would serve the State's Attorney.

22 JUDGE DUGGAN: Yeah. I mean again, I
23 don't know if they're a separate jurisdictional
24 entity or not.

1 MR. SEGATTO: I don't either, but I
2 don't think so.

3 JUDGE DUGGAN: I would tend to doubt
4 it. So County of Sangamon should be the proper
5 party.

6 MR. SEGATTO: Uh-huh.

7 JUDGE DUGGAN: But at this point it's
8 easier to leave it as it is and interpret it as two
9 different parties and just do your notice that way
10 and we've got ourselves covered.

11 MR. SEGATTO: Yeah.

12 JUDGE DUGGAN: Except that then if I've
13 got to get waivers, I've got to get waivers from
14 both the Highway Department and the County. Okay.
15 Here's the deal. Unless we have reason to change
16 our minds, right now let's just go ahead and say
17 the County of Sangamon and the Highway Department
18 are parties, I guess.

19 But when I say waiver, what I was going
20 to get at was, you know, as I think you're aware, I
21 can't talk to parties, and we don't have UP here
22 and we don't have Sangamon County here, so -- but
23 we can -- those of us who are here can waiver the
24 ex parte prohibition. And that's why John went and

1 got that -- asked UP for their written waiver. But
2 now we're going to have to ask Sangamon County and
3 we may as well ask the Sangamon County Highway
4 Department so we get two waivers to make sure we're
5 covered. But I'm sure that the State's Attorney
6 can waive it both on behalf of the County and the
7 Highway Department, so we get one waiver. I don't
8 know. We'll get it done.

9 So that's the question. Do the parties
10 who are present waive the ex parte prohibition so
11 that Mr. Saladino and I can talk and we can all
12 talk amongst each other for the purposes of
13 whatever's necessary to fix any holes in the
14 proceedings and to draft an Order primarily? Do
15 you waive the ex parte?

16 MR. SEGATTO: Yes, Your Honor.

17 JUDGE DUGGAN: Okay. Ms. Kuntz?

18 MS. KUNTZ: Yes, Your Honor.

19 JUDGE DUGGAN: Mr. Saladino?

20 MR. SALADINO: Yes, Your Honor.

21 And I would like to bring up that I
22 received an e-mail from a filing that was
23 supposedly filed today in e-Docket from Mack
24 Shumate with the Union Pacific and it was a Notice

1 Waiver of Ex Parte Communications. And so I just
2 wanted to make you aware of that.

3 JUDGE DUGGAN: Very good. Thanks.

4 So somebody's got to contact Sangamon
5 County and ask for this waiver. And the only
6 hesitation I have in asking you to do that is
7 because I have a specific format.

8 Did he do that in that format? Yeah.
9 So you can pull this off e-Docket or you can make a
10 copy on the way out here and --

11 MR. SEGATTO: I received that today.

12 JUDGE DUGGAN: Okay. So just the
13 paragraph 1, you know, is the essence of it. And
14 then maybe you can -- when you communicate with --
15 like I said, you're going to re-serve the Petition
16 -- or, you're going serve it initially on Sangamon
17 County State's Attorney, file a proof of service,
18 and then talk to whoever it is.

19 MR. SEGATTO: It would be Dwayne Gab I
20 imagine.

21 JUDGE DUGGAN: And then see if he can
22 fix up an ex parte for Sangamon County and the
23 Highway Department and -- actually, if they were
24 separate documents, that would make it clearer and

1 easier to catch it.

2 MR. SEGATTO: My gut -- and I looked
3 down there on our things. We named them as the
4 County, but I think the County Highway Department
5 is under the jurisdiction of the County itself.

6 JUDGE DUGGAN: Yeah. It's just the way
7 it reads I couldn't -- it's vague as to who the
8 intended party is on my part. To me, I think the
9 County is a party and the Highway Department is,
10 and for that reason, let's just cover our tracks
11 and bases and then we don't have to worry about it.
12 So, if you can get that, you contact them and then
13 get a waiver from them.

14 And you're hard filing things. You're
15 not e filing them, so --

16 MR. SEGATTO: Yeah.

17 JUDGE DUGGAN: And again, the waiver
18 needs to be served on everybody, too. You've got
19 to have the proof of service on everybody. So if
20 you can get that done, then we'll be good.

21 And then like I said, I'll set the next
22 hearing date. And we really can't talk to draft
23 the Order until we get the waiver from Sangamon
24 County. But when we get that, then we can -- that

1 way John can make sure his language is in there,
2 and we'll talk and circulate an Order. Okay?

3 Okay. Anything else?

4 Mr. Venice, do you have anything, any
5 other comments, anything to add today?

6 MR. VENICE: No, sir, Your Honor.

7 Thank you.

8 JUDGE DUGGAN: Very good. Anything
9 further, Mr. Segatto?

10 MR. SEGATTO: No, Your Honor.

11 JUDGE DUGGAN: Ms. Kuntz?

12 MS. KUNTZ: No, Your Honor.

13 JUDGE DUGGAN: Mr. Saladino?

14 MR. SALADINO: No, Your Honor.

15 JUDGE DUGGAN: Very good. Okay. Then
16 that concludes the hearing for today and I will set
17 another hearing for the purposes of the County to
18 appear as they choose. Thanks.

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